

## Section 10 - Glossary of Terms

**Disclaimer:** The materials produced and distributed by the Community Conservation Committee of the North Carolina Association of Soil and Water Conservation Districts area intended to serve only as general guidance for local soil and water conservation districts involved in working lands preservation. These materials, including example conservation easement documents and all support documents, should not be used in lieu of professional legal advice. The Community Conservation Committee recommends that all legal documents be reviewed by an attorney licensed to practice in the state of North Carolina.

**1031 Exchange:** Also known as a “Like-Kind Exchange.” A structured exchange, enabled by the Federal Internal Revenue Code, whereby taxes on capital gains realized from the sale of property can be deferred when sale proceeds are used to purchase property of like kind.

**Accountant:** One who is skilled in the practice of accounting; a professional with skills in accounting, auditing, financial management and/or tax law.

**Accreditation (as it relates to land stewardship):** A certification program designed for land trusts by the Land Trust Alliance. Accreditation is a means for verifying that an organization meets high standards in land protection operations. A landowner donation of an easement, or land in exchange for an income tax deduction requires working with a qualified land protection agency, or nonprofit. Currently accreditation does not apply to government agencies including SWCD, due to differing operation guidelines, as required of nongovernmental organizations.

**Acre:** A measure of land equaling 160 square rods, or 4840 square yards, or 43,560 square feet.

**Administrator:** A person appointed by the court to manage and settle the estate of a deceased person who died intestate (without a will). Also known as a personal representative.

**Ad valorem:** Literally, “according to value”, the designation of an assessment of taxes against property.

**Agriculture** The science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products; farming; the use of land for growing crops.

North Carolina Law defines agriculture, "§ 106-581.1. Agriculture defined. For purposes of this Article, the terms "agriculture", "agricultural", and "farming" shall refer to all of the following:

- (1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants, the plants.
- (2) The planting and production of trees and timber.
- (3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, deer, elk, and other animals for individual and public use, consumption, and marketing.

For purposes of this Article, aquaculture is considered a form of agriculture pursuant to Aquaculture as defined in G.S. 106-758.

(5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.

(6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm."

**Agriculture (Conservation) Easement:** A conservation easement that restricts farmland from being developed. This type of easement is a voluntary deed restriction placed by the landowner on their property to protect valuable agricultural resources including; soil, water quality, wildlife habitat, historic sites and scenic views. Agricultural use of land with this type of an easement can include; row crops, grazing livestock, allowance for farm buildings and it should include the requirement of a farm management plan and/or a conservation plan to ensure water quality protection.

**Alimony:** An allowance to a spouse for support given by another spouse due to a separation or divorce.

**Annexation:** The process by which land outside of any incorporated municipality is taken into the legal boundaries of a municipality.

**Annual Site Visit (Monitoring):** A conservation organization visits all land for all easements annually to ensure the terms of the agreement are being upheld.

**Appraisal:** The estimated sale value of property as determined by an appraiser, based upon the sale of comparable property in the surrounding area.

**Appraiser (qualified in land protection):** A professional who is familiar with values associated with both the local real estate market and conservation agreement lands.

**Appreciation:** The increase in the value of property due to economic or related causes that may be temporary or permanent.

**Appurtenance:** A feature on a parcel of land, such as a right, privilege, improvement or fixture that passes with the land. For example, an easement is an appurtenance.

**Arbitration:** A process intended to settle disputed questions of law or fact, by one or more arbitrators by whose decisions the parties agree to be bound. An "arbitration clause" can be found in contracts between parties.

**Assessment:** A charge against real estate made by a unit of government to cover the proportionate cost of an improvement, such as a water line or sewer.

**Assignment:** the transfer of one's rights under a contract to another person.

**Assignment of Lease:** A transfer by a lessee (tenant) of all interest under a lease for the balance of the term of the lease. May be restricted by terms of a lease.

**Attorney at Law:** A lawyer, licensed to practice law, an officer of the court employed by a party to manage a matter before the court.

**Attorney in Fact:** one who is authorized to perform certain legal acts for another under a power of attorney. See Power of Attorney.

**Bargain Sale:** The sale of property to a charitable organization (viz. a land trust or government agency) for less than its fair market value. This approach gives the landowner opportunity to exchange value not paid for in cash for a reduction in state and federal income tax.

**Baseline Document:** An organized collection of detailed information on a property, including photographs, surveys, resource inventories, etc. A sufficient amount of data is collected to depict the condition of the property at the time that it is subjected to a conservation agreement. A baseline document is one of the requirements for making donation of an easement eligible to exchange for a reduction in state and federal taxes.

**Basis:** The original purchase price of land (or value when it was inherited) plus the costs of certain improvements minus depreciation.

**Beneficiary:** One for whose benefit a trust is created, for who's benefit property or funds are placed in trust or the recipient of funds from an insurance fund or annuity contract.

**Boiler plate:** Language considered standard to contracts and other written agreements, designed to limit liability for certain contingencies such as loss or damage to property, or non-performance of contract. Paragraphs of boiler-plate can appear identical in any number of contracts.

**Bundle of Legal Rights concept:** Establishes real estate ownership, consists of right to sell, to mortgage, to lease, to will, to regain possession at end of a lease (reversion); to build and remove improvements, to control use within the law. Such legal rights in land can be transferred.

**Bequests:** The action of a landowner leaving land, a conservation easement or other assets to a land trust or government agency in their will. Donation by bequest can reduce the estate tax for the donor's heirs by removing the value of the donation from the taxable estate.

**Buying Time:** Conservation organizations do not always have the resources on hand to conserve a highly desirable property. Landowners are not always prepared to take an action that would permanently conserve their property. Several approaches exist for dealing with these

types of situations such as, Installment Sale, Option, Right of First Refusal, Conservation Buyer, Limited Development, as well as Purchase and Resale.

**Capital:** A portion of accumulated wealth used or production of additional wealth.

**Capitalization:** A process used by appraisers to convert a property's actual or projected net income into an estimate of property value.

**Capital Gain:** Profit that results from the sale or exchange of an asset over its value when first acquired by seller (see Basis).

**Cartway:** An access road to real property created by a special proceeding authorized by state statute to allow use of the property for certain commercial purposes, such as agriculture.

**Caveat Emptor:** "Let the buyer beware," legal term to describe the duty of a buyer of property to examine the property, and the property purchase is subject to conditions which are readily ascertainable upon inspection.

**Chain:** A surveyor term for a distance measuring sixty-six (66) feet. Commonly seen in property descriptions in older deeds.

**Chain of Title:** A history of conveyances and encumbrances affecting the title to particular real property, found in the deed registry of the county where the property is located.

**Charitable Deduction:** The value of a donation to a nonprofit organization, or agency that can be used to decrease the amount of taxes that are due from an individual. An easement or land donation must be permanent to qualify.

**Charitable Gift Annuity:** A method of donating assets, including land, directly to a qualified conservation organization which is then responsible for making annual payments to the donor. In one variant to this option, donors can defer their annuity payments to a later date, such as at the time of retirement.

**Charitable Remainder Trust:** A method of donating land to a third-party trust (managed by a bank or financial institution). The trust is responsible for handling the donor's annual payments and, upon his/her death, transfers the remaining assets to the designated conservation group.

**Codicil:** A written supplement or amendment to an existing will.

**Conservancy:** A land trust is a nonprofit organization which actively works to protect land through land transactions that include buying or accepting donated land or conservation easements. A conservancy actively works to protect natural resources but may or may not actually acquire land or easements.

**Conservation Buyer:** An individual, or organization who desires to own a specific property and preserve its natural values. To be effective in the long-term, the transaction would include

placing a conservation easement on the property. This method requires little or no financing by the conservation organization but this approach entails identifying one, or more interested conservation buyers.

**Conservation Easement:** A voluntary legal agreement between a landowner and a conservation organization, or government entity. Through this agreement the owner gives up some rights for the purpose of preserving conservation values on the land. The landowner retains ownership and the duty to maintain the land. The conservation organization is given the right to enforce the terms of the easement. Conservation easements are usually perpetual, but may be for a limited term. If the conservation easement is properly drafted, executed and recorded, it runs with the land and binds successors to the title to its terms. Four primary categories of conservation easements exist that a SWCD is likely to work with; Forever Wild easements, forestry (timber) easements, agricultural easements and open space easements.

**Conservation Easement Holder:** A nonprofit organization or government agency that accepts a conservation easement and assumes the long-term legal responsibility for stewardship.

**Conservation Easement Monitoring Fund:** A dedicated fund managed to support stewardship activities today and in the future.

**Conservation Group (Conservation Partner, Conservation Organization):** Nonprofit organizations and governmental agencies including SWCDs whose mission includes land protection.

**Conservation Tax Credit:** A credit against North Carolina income tax owed, available to individuals and business entities, for the donation of real property, in perpetuity and for a conservation purpose, to an IRS or DOR qualified entity.

**Conservation Values:** The aspects of a tract of land, such as scenic views, cultural resources, historic structures, wildlife habitat, water features and water quality benefits, agricultural use, rare plant species, wetlands and similar features worthy of long-term conservation and/or preservation.

**Contingent beneficiary:** The person to who the proceeds of a life insurance policy are payable in the event that the primary beneficiary dies before the insured.

**Contract:** A legally enforceable agreement or engagement between two or more competent parties upon a legal consideration to do or refrain from doing some act. Contracts for real property or for value above a certain amount must be in writing.

**Corporation:** A complex business entity owned by shareholders who bear no liability for business debts beyond the price paid for their share of ownership.

**Covenant:** A deed or land restriction that is intended to limit the use of the land by the current owner and all future owners. It is a non-possessory interest in land in one form as an agreement between adjoining landowners to do something (affirmative covenant) or to refrain from doing

something (restrictive covenant) with relation to the land. Each covenant has two sides: the burden and the benefit. The burden is the promiser's duty to perform the promise and the benefit is the promisee's right to enforce the promise.

**Credit:** (see Tax Credit)

**Decedent:** Someone who has passed away..

**Deduction:** (see Tax Deduction)

**Deed:** A legal instrument that demonstrates ownership of land, it is a method for transferring title of real estate from one person or organization to another.

**Deed Restrictions:** Terms or covenants placed in the deed to the property that restricts certain use of the property.

**Deed of Trust:** A recorded deed held in place of a mortgage to announce in a chain of title that there is a lien on a property. A trustee holds title until the lien is paid.

**Department of Revenue (DOR):** NC Department of Revenue, state tax agency, that has established guidelines for taking a credit against income tax owed in exchange for donating real property.

**Development Rights:** The term applied to a landowner's right, subject to governmental restrictions such as zoning, to subdivide and sell property for residential or commercial development.

**Devise:** Land is conveyed to a conservation organization upon the death of the landowner through the landowner's will. This method results in no income tax benefits, but estate tax benefits remain.

**Devisee:** A person to whom lands or other real property are given by a will.

**Dominant tenement [CK]:** A parcel of land that carries a right to use all or a portion of a neighboring parcel of land.

**Donation:** Land given to a land trust or conservation agency for specific purposes.

**Donor:** A person who voluntarily donates land, or rights associated with land ownership, such as development rights.

**Donee:** A recipient of a gift, such as an easement, or land.

**Easement:** A non-possessor interest in the real property of another for a limited purpose.

**Easement Grantee:** The party responsible for monitoring land to ensure that an easement is honored.

**Easement Grantor:** A landowner, a donor.

**Ecosystem:** A community of plants and animals.

**Eminent Domain:** The right of a government entity, or utility to take private property for public use in exchange for compensation of its market value to the land owner.

**Endowment Fund:** A financial asset or other property that has a stated purpose of use. Most endowments are designed to keep the principal amount intact, while using the investment income it generates from dividends for charitable efforts. Endowment funds provide ongoing benefits for those that receive them. Endowment funds as they relate to conservation easements can pay for stewardship activities such as monitoring and legal defense.

**Equity:** The interest or value an owner has in real estate over and above the debts against the real estate.

**Escheat:** The reverting of property to the state when there are no persons legally entitled to hold title or when there are no heirs to inherit property.

**Estate Tax:** A federal tax on the value of all assets owned at the time of death. This tax is paid out of the estate of the deceased, before assets are transferred to the heirs. The amount of the tax is based upon the total value of the estate and any applicable deductions.

**Executor:** A man chosen by the maker of a will to carry out the terms of the will.

**Executrix:** A woman chosen by the maker of a will to carry out the terms of the will.

**Extra Territorial Jurisdiction (ETJ):** The legal ability of a municipality to exercise authority beyond its normal boundaries. Land included within an ETJ can be removed from a county VAD or EVAD.

**Fair Market Value:** The price that a willing buyer would pay a willing seller at a time when, neither party is under any compulsion to buy or sell and both being fully informed of the relevant facts.

**Farmland Protection Program:** A program that uses public monies for the purpose of purchasing development rights from farmland.

**Fee Simple:** Absolute ownership of property, with unconditional power of disposition during one's lifetime, and descending to one's heirs or devisees and legal representatives upon one's death.

**Fee Simple Purchase:** The purchase of land through cash payment.

**Fee Simple (Fee Simple Interest):** Absolute title (all rights, title, and interest) to land, free of any other claims against the title, which one can keep, sell, trade, or donate.

**Farmland Preservation Easement:** An agreement by which a landowner typically gives up land development rights in exchange for payment or some other consideration, allowing the property to remain in agricultural use but protected from commercial, industrial or residential development.

**Fiduciary:** A relationship based upon trust or confidence.

**Fixture:** An item of personal property affixed to a building or structure on land in such a manner that it becomes a part of the building, structure of real estate. Fixtures affixed to real estate become appurtenances of that real estate, and thus pass with transfer of that real estate. See Appurtenances.

**Forestry Easement:** (see Working Forest Easement)

**Forever Wild Conservation Easement:** A deed restriction that prohibits development or activity that can alter the land from its natural state. This type of easement limits land to very low impact uses, such as picnicking, photography, low impact camping, hiking, hunting, fishing and bird watching.

**Grantee:** A person, or entity who receives a grant.

**Grantor:** A person, or entity who makes a grant.

**Grant:** To transfer property or land by deed.

**Ground lease:** The separation of ownership of land from ownership of buildings and improvements to the land.

**Guardian:** A person appointed by a court who has custody and care of a minor or incompetent adult. A guardian can be named in a will.

**Healthcare Power of Attorney:** A written grant of authority from one individual to another to make decisions regarding significant health care decisions in the event the first individual is unable to express their wishes for care.

**Heir:** A person appointed by statute to succeed to the estate of a deceased person in the case of intestacy.

**Heir Property:** Land that is owned as tenants in common by two or more people who have inherited the land through intestacy. Heir property may have owners with varying fractional interests from several generations.



**Highest and best use:** That use of property which will, as of the date of an appraisal, support the highest market value for the property, or that use which will produce the maximum net return on the property over the period encompassing the foreseeable useful life of the property.

**Holographic will:** A will written in the handwriting of the person who creates it and signed by that person. This type of will is valid in North Carolina without the witness signatures, but must be found where one might keep an important document.

**Homestead:** Real property owned by a person under special legal restrictions and exemptions from claims of creditors.

**Impact Fees:** Fees required of a developer for land disturbing activities that are assessed based upon a formula by a governmental unit.

**Improvements to land:** Structures erected on a site to enable its utilization for a certain purpose (i.e. a barn for farming).

**Income Tax Credit:** A decrease in state income tax due in exchange for a permanent donation of an easement or land to a qualified land protection agency or nongovernmental organization.

**Income Tax Deduction:** A decrease in federal income tax due in exchange for a permanent donation of an easement or land to a qualified land protection agency or nongovernmental organization.

**Inherit:** To succeed in ownership of property by devise or law at the death of the property's owner.

**Inheritance Tax:** A tax paid by estate beneficiaries to the state and federal government. The percentage of tax paid is determined by the size of the inheritance, as well as the beneficiary's relationship to the deceased.

**Internal Revenue Service (IRS):** The Federal tax agency, that has established guidelines for taking a deduction against income tax owed in exchange for donating real property.

**Installment Contract:** Purchase of real estate upon an installment basis, where upon default, payments are forfeited.

**Installment Sale:** A variation of a bargain sale when the landowner and the recipient organization agree upon terms in which the property is transferred over an extended period of time, rather than all at once.

**Intestate:** To die without a valid will. Property of the decedent is passed to heirs at law according to a statutory scheme.

**Joint Tenancy:** Property held by two or more persons together whereby the death of one owner transfers that interest to the other owners.

**Land Contract:** A contract for the purchase of real estate upon an installment basis, whereby the seller retains title until the last installment payment is made by the purchaser.

**Land Donation:** A simple conservation option that does not require financing and price negotiations.

**Land Exchange:** A public agency or nonprofit agency exchanging developable land for land with a high conservation value.

**Landowner:** An owner of land and its associated or deeded rights.

**Lawyer:** An active member of the North Carolina Bar who has earned the right to practice law in North Carolina, which may include real estate law.

**Lease:** A contract, written or oral, for the possession of property in return for payment of consideration, such as money (i.e. rent).

**Leasehold:** The interest a lessee has in real estate by virtue of a lease.

**Lease-Option Agreement:** An agreement to lease property that also extends to the lessee, an option to purchase the leasehold interest at a future date.

**Lease-Purchase Agreement:** An agreement to lease property that also binds the parties to complete a purchase and sale of the leasehold interest at a future date.

**Legacy:** A disposition of personal property under a will.

**Legal Costs:** Financial costs associated with employment of professional services to ensure that a land conservation agreement is put together in a legal and correct manner. This approach is necessary to make certain that the land owner is ensured of all benefits from a tax, financial and legal perspective with regard to state and federal law.

**Legatee:** A person who receives personal property under a will.

**Lessee:** The person who leases property from the owner of the property.

**Lessor:** The person who owns property and leases it to a non-owner for use.

**Liability:** In law, an obligation of one party to another, usually to compensate financially. It is an aspect of tort law that results from damage, injury, or a wrongful act that is done willfully in the eyes of the law.

**Life Estate:** The right of a person to make full use of land during some measuring lifetime. Typically, an owner will convey land to a third party and reserve for himself the right to live on the property and make full use of it for the duration of his lifetime.

**Life Tenancy (life estate, life interest):** See reserved life estate.

**Limited Development:** The development of one portion of a property to finance the protection of another portion. This approach to land protection can be complex, time-consuming, controversial and financially risky.

**Limited partnership:** A partnership in which at least one partner has a liability limited to the loss of the capital contribution that he has made to the partnership.

**Living Will:** Land that is donated to a conservation agency or other organization at the death of the owner.

**Loans:** A crisis situation may warrant a conservation organization buying a property using a loan to finance the purchase. Loans may be obtained from banks, individuals, foundations, businesses and state trust funds. A loan may be available from the seller or adjacent landowners who would benefit from the transaction. The Conservation Fund and the Trust for Public Land have helped with some of these type projects.

**Management Agreement:** An agreement between the landowner and a government agency or conservation organization whereby the owner assumes responsibility for managing the property pursuant to a plan prepared by the agency or conservancy. Generally, the agency or conservancy also provides technical advice and other management assistance to the owner. Nothing is recorded on the public record and there are no tax benefits to the owner.

**Market value:** The highest price which a willing buyer would pay, and the lowest willing seller would accept.

**Mediation:** The act of a third person to settle the dispute of two contending parties.

**Metes and bounds:** A description in a deed of the location of a parcel of land where the boundaries are defined by directions and distances.

**Metropolitan Transportation Organization (MTO):** Beginning in 1962 MTOs were established to oversee federal transportation issues.

**Mineral deed:** A deed transferring mineral rights, severed from surface rights, to a grantee.

**Mineral lease:** A lease entitling the lessee to explore for minerals and mine them if discovered.

**Monitor (Monitoring) (see Annual Site Visit):** The periodic (generally annual) inspection of property covered by a conservation easement. Monitoring includes the regular and systematic gathering of information about a conserved property to identify changes over time, if any, and compliance with the terms of the conservation agreement.

**Nature Preserve:** Properties open to the public for environmental education and low-impact recreation, such as hiking, bird-watching, photography, fishing, and enjoying nature.

**Nonconforming use:** A use of land that predates zoning, and is not in accordance with the uses prescribed for the area by a zoning ordinance. Such use may be continued, but generally not expanded.

**Nonprofit:** An organization that operates for the purpose of assisting other individuals, groups, or causes rather than garnering profits for themselves. Nonprofits have various designations that are awarded by the federal government; land trusts in North Carolina are designated as 501c3 organizations who can qualify a land donor for tax deductions and credits.

**Nongovernmental Organization (NGO):** A charitable organization that is committed to one or more causes that address and improve the world around us. A land trust is one example of an NGO.

**Nuncupative will:** An oral will declared and dictated by a testator in his or her last illness in front of witnesses and thereafter reduced to writing.

**Open Space:** Public and private undeveloped land such as a park, farm and forest land.

**Open Space Easement:** A deed restriction that limits use of the land so that it will not be developed. Open space uses can include farming, forestry and parks.

**Option:** An option grants an exclusive right to purchase a particular property under certain terms and conditions by a certain date. Acquiring an option through sale or donation from a landowner gives a land conservation organization time to raise funds for the ultimate purchase of the property without fear that the property will be sold to another bidder in the meantime. If funds are not raised before the option expires, there is a forfeiture of all money that has been paid for the option and the landowner is free to sell the property to another party.

**Option To Purchase:** The right for a stated period of time, to acquire a specific property at a specific contract price.

**Outright Donation:** The donation of land to a qualified charitable land conservation management organization, or agency.

**Outright Purchase:** The acquisition of land by an individual, organization, or a government agency.

**Partition:** A division made of real property among those who own it in undivided shares. Can be voluntary or court ordered by a special proceeding.

**Partnership:** A voluntary contract between two or more persons to place money, labor, skill or a combination thereof for the purpose of making a profit, with the understanding of a proportional sharing of profits and losses between them. Partnerships can be created

under written contract or implied by law due to actions of the parties.

**Partnership Agreement:** A document which embodies the terms and conditions of a partnership.

**Percentage lease:** A lease of commercial business property in which the rental is based upon the volume of sales made upon the leased premises.

**Permanent Easement (Perpetuity):** An easement that is written so that it does not expire. Only a permanent easement qualifies a landowner for a tax break. Most land trusts in North Carolina are chartered to only work with permanent easements. In certain instances easement land can be subject to condemnation, so that the land can be put to other uses.

**Personality:** Personal property (i.e. not real estate)

**Power of attorney:** An instrument authorizing a person to act as the agent or attorney in fact of the person granting it; such power may be limited or general according to the terms of the instrument.

**Present Use Valuation (PUV):** In accordance with North Carolina law, PUV is the value of property in its current use as agricultural land, horticultural land, or forestland. Land meeting the eligibility requirements of PUV is taxed at the lower present-use value, as opposed to the higher market value of the land.

**Preservation:** Leaving a resource undisturbed and free from harm or damage, such as preserving wetlands by forbidding development on or near them.

**Probate:** The judicial process by which the validity of a will is formally determined, and that oversees the execution of the will.

**Property:** Land that comes with a right for the owner to rent, lease, sell, mortgage, transfer, or exchange. Land is sometimes referred to as real property.

**Purchase at Fair Market Value:** Securing land and conservation easements at full market value of similar land in a given area.

**Purchase and Resale:** The act of a conservation organization purchasing land and reselling it subject to a conservation easement. This approach allows recovery of most, if not all of the expenses associated with the original purchase. Unlike most government agencies, land trusts can usually move swiftly to complete critical land transactions.

**Purchase of Development Rights (PDRs):** The purchase by a non-profit conservation organization or governmental entity of the right to develop (for non-agricultural uses) a certain parcel of land. The landowner retains all other rights of ownership and a conservation easement is placed on the property. The development rights are “retired” by the purchaser. This is helpful to a landowner who wants to continue farming but needs access to some of the cash value of his

property's development potential. PDR programs can be administered by municipal, state, county and the federal government. Several PDR programs are currently ongoing in NC and across the US.

**Purchase Leaseback:** An arrangement whereby a land purchase is made and then the land is leased, or sold to the previous owner, or a new one with deed restrictions designed to protect the natural features of the property.

**Qualified Entity (QE):** A public (governmental) agency, or nonprofit conservation organization that has been certified as a charitable organization under 501(c)3 of the Internal Revenue Code, that is capable of taking a donation of real property for conservation purposes. Permanent donation of land or an easement to a QE can be exchanged for a decrease in income taxes due.

**Quit Claim Deed:** A deed given when the grantee already has, or claims, complete or partial title to the property and the grantor has a possible interest that otherwise would constitute a cloud upon the title.

**Real property:** Lands and tenements, including the earth's surface, the air above, the ground below, and all improvements and appurtenances to the land, including the rights, interests and benefits inherent in ownership (see Bundle of Rights concept).

**Remainder estate:** An estate in property created at the same time and by the same instrument as another estate and limited to arise immediately upon the termination of the other estate.

**Remainder Interest (Reserved Life Estate):** A future interest in property that does not vest in the grantee until a prior interest is extinguished. The remainder is the balance of the interest in a property after a life estate is granted or reserved. The remainder-man (holder of the remainder interest) must join in the execution of a deed or conservation easement.

**Residuary estate:** Wealth which remains of an estate after debts, administrative expenses, legacies and devises have been satisfied.

**Restrictive Covenant:** A component in a deed or lease that restricts free use or occupancy of property.

**Right of First Refusal:** An agreement between a landowner and conservation agency or organization that gives them the opportunity to match any third party offer to purchase a specific piece of property. This approach places no obligation on the land conservation organization to acquire the property, nor does it obligate the landowner to sell the property.

**Right of Way:** A strip of land with a granted right that allows access for a specific use.

**Rights:** The allowed uses of a piece of property by the owner, or the holder of designated rights. Every piece of property comes with rights that may be sold, or donated and are noted in the property title.

**Riparian:** Pertaining to the banks of a river, stream, and waterway.

**Riparian owner:** One who owns lands bounding upon a river or water course.

**Share lease:** A type of farm lease where the landlord and tenant share production expenses and divide income on an agreed basis.

**Sole proprietorship:** A form of business in which one person owns all the assets of the business, and is solely liable for all the debts of the business.

**Statute of frauds:** A state law that provides that certain contracts, including contracts for the sale of land, must be in writing in order to be legally enforceable.

**Stewardship:** Planning for and taking necessary action over the term of a conservation easement to successfully preserve and protect a property's conservation values. It may include managing the resource, performing regular maintenance and upkeep, educating those who come into contact with the resource and securing a reliable funding source to carry out all necessary activities.

**Stewardship Endowment:** Funds held by a conservation agency, or organization for the purpose of covering the costs of land stewardship. Stewardship funds normally come from grant funding, or from individuals who donate land to the organization. Endowment funds can be invested to grow so that the principle is maintained and not expended.

**Survey:** The process by which the quantity and boundaries of a piece of land are ascertained, resulting in a statement of the courses, distances, and quantity of land. A survey can include grades, contours, structures and other physical features of the land.

**Tax Credit:** A dollar-for-dollar reduction in the income tax payment required of a person. North Carolina awards tax credits in exchange for permanent donation of land, or easement on land with conservation values. A tax credit means that specific actions as spelled out in state tax law are followed.

**Tax Deduction:** Making a permanent donation of land with conservation values, or an easement that reduces the amount of federal tax that is due on income. A tax deduction means that specific actions as spelled out in federal tax law are followed.

**Temporary Easement (Temporal Easement):** This is an easement which is time limited and not permanent. This type of donation does not qualify an individual for a decrease in state and federal income taxes that are due.

**Tenancy at will:** A license to use or occupy lands at the will of the owner.

**Tenancy by the entirety:** A form of joint tenancy held by husband and wife, with right of survivorship. Upon the death of one spouse the other spouse owns the entire property.

**Tenancy for years:** A non-freehold estate created by the leasing of property for any fixed, definite period of time, whether such period be one week, one monthly, one year, ten years, or any other definite period of time.

**Tenancy in common:** A form of estate held by two or more persons, each of whom is considered as being possessed of the whole of an undivided part. Ownership interest transfers to legal heirs upon death of owner.

**Tenant:** A person who holds real estate under a lease.

**Tenants by the Entireties:** A special form of joint tenancy for husband and wife recognized in North Carolina. When a married couple owns property as tenants by the entireties, upon the death of one spouse, the surviving spouse succeeds to full ownership of the property without the property passing through the decedent's estate.

**Testate:** The condition of an owner who leaves a valid will at death.

**Toolbox:** A collection of land protection tools, estate planning, as well as other techniques and ordinances. A few examples are the VAD, EVAD and county agriculture protection plan.

**Trade Lands:** Land that has no specific conservation value may still be donated to a land conservation agency, or organization for its monetary value. The entity can then sell the property to finance other land protection projects, or possibly trade the land for property with a conservation value.

**Transfer of Development Rights (TDRs):** A technique for guiding growth away from sensitive resources and towards planned growth areas in a town, county, or region through the transfer of development rights from one location to another. Under these scenarios properties are assigned a specific number of development rights with marketable value.

**Trust:** A relationship, evidenced by a written instrument, where one person (a trustee) holds legal title to property for the benefit of another person (a beneficiary).

**Trust Agreement:** An instrument used to transfer title of property to a trustee so that the trustee can manage the property for another's benefit. Common trust agreements used for natural resource conservation are the charitable remainder trust, the testamentary trust, and the living trust. If a landowner is interested in setting up a trust, refer him to financial and legal advisors.

**Undivided Interests.** A portion of an entire interest in a property. Landowners may donate undivided interests in property over a period of time. An owner of undivided interests in a property becomes a co-owner of the property, sharing in *all* ownership rights. While a conservation organization may be uncomfortable with a co-ownership arrangement, even when temporary, a landowner may find the donation of undivided interests over time preferable for tax purposes.



**Undivided ownership:** Ownership of a fractional interest in property by sharing possession of the whole (undivided) property with one or more co-owners (co-tenants).

**Undivided Partial Interests (UPI):** The landowner grants a shared, percentage ownership in their property to a land conservation agency or organization (LCAO) over several years until the LCAO has full ownership. The LCAO will eventually own the land but there is a joint ownership in the interim. Benefits of the UPI for the landowner include potential income tax deductions spread out over several years and estate tax benefits.

**Voluntary Agricultural District (VAD):** This program has been described as the first step a county should take in farmland protection. A VAD operates under authority of NC General Statute and county ordinance. Farmers voluntarily enroll their farms in a county VAD and agree to restrict non-farm use and development of their land. Signs are posted in the area, in addition counties post notice of the program in the Register of Deeds and some have a VAD layer within the county GIS system. These actions are intended to put prospective homeowners on notice when they are in an established agricultural area and its association with odors, dust, and noises. Goals of this program include establishing a county board and reducing nuisance lawsuits against farms that often occur when development sprawls into rural areas.

**Will:** A written document which, when property executed (signed and witnessed) is effective at the death of the maker to dispose of property according to the terms of the document.

**Working Forest Conservation Easement (Timber Conservation Easement, Silvicultural Easement):** A voluntary deed restriction placed by the landowner on his or her property to protect valuable forest resources (conservation values) that can include trees, wildlife habitat, historic sites and scenic views. This type of easement limits use of the land to uses no more intense than commercial forestry in accordance with an approved forestry management plan. Details of the easement are determined prior to the agreement by negotiation between the grantor and the grantee.

**Working Lands:** Farm, forest and horticultural land that is kept in its intended use for the purpose of generating income and making it affordable for the landowner to continue owning the land over an extended period of time.

**Zoning:** A system of land use regulations which designates permitted uses of land based upon location. Zoning commonly includes regulation on the kinds of activities which will be acceptable on particular lots (such as open space, residential, agricultural, commercial or industrial) and the densities at which those activities can be performed. Towns and cities in North Carolina are allowed to zone farmland, whereas counties are not allowed to take this action under NC law.

**Zoning Ordinance:** The exercise of police power of a municipality or county in regulating and controlling character and use of property.