



American Farmland Trust
SAVING THE LAND THAT SUSTAINS US

NORTH CAROLINA FARMLAND PRESERVATION PRIMER

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Tips, disclaimers, etc.

- [Blue underlined text links to additional information and resources. \(To access press CTRL key and click the link simultaneously\).](#)
- If you provide your email on the sign-in sheet, I will send you my PowerPoint (with links).
- I am not an attorney, financial advisor/planner, or tax professional – please consult a qualified professional to discuss your own unique circumstances.



Introduction

- Founded in 1980
- AFT's mission is to:
 - Protect Farmland
 - Promote sound farming practices
 - Keep farmers on the land
- Our work includes:
 - On-the-ground projects
 - Research
 - Advocacy
- We also maintain the [Farmland Information Center \(FIC\)](#) a clearinghouse for farmland protection information.





What is the future of your farm?

- Keep the farm, continue farming
 - [Estate plan \(will, succession plan, trust, etc.\)](#)
 - No estate planning or will
- Sell the farm
 - Sell to another farmer/land seeker
 - Sell to a non-ag individual or entity
- Protect the farm
 - Non-permanent protection
 - Permanent protection/preservation



Keep and maintain as a farm



- Estate plan and/or will in place
 - Leave assets to an heir(s)
 - May or may not choose to uniformly divided
- No will or estate plan
 - Courts may decide
 - Fragmentation probable
 - Risk for [Heirs Property](#)



Leaving the farm to your heirs

Assumes clear title and will/estate plan, etc.



- Heir 1 inherits the cattle business and associated land



- Heir 2 inherits row crop business and associated land



- Heir 3 inherits a retirement account or financial asset



- Heir 4 inherits the farmhouse and an acre surrounding



Leaving the farm to your heirs

Assumes will leaves estate to all heirs or no will, land may or may not have clear title.



- “I leave my farm to all of my heirs equally.”



- The judicial system likely decides who inherits your estate, they may also intercede in heirs' property cases.



- Your property is likely to be divided, and your farm/land could become more fragmented over time.



Sell the farm



- Sell to another farmer or land seeker
 - Direct sale to farmer or land seeker
 - Entity (i.e., land trust)
- Sell to a non-ag individual or entity
 - Developer
 - Undetermined User



Sell the farm

Assumes the land is sold to someone who will keep it in agricultural production



- Family or employee **purchases** the farm/business



- New farmer purchases the farm (change of commodity)



- Entity charged with land protection or preservation





The question remains:

“What is the future of your farm?”

- Keep the farm, continue farming
 - Will and long-term plan
 - No estate/succession planning
- Sell the farm
 - Farmer/land seeker
 - Non-ag individual or entity
- Protect the farm
 - Non-permanent protection
 - Permanent protection/preservation



Sell the farm

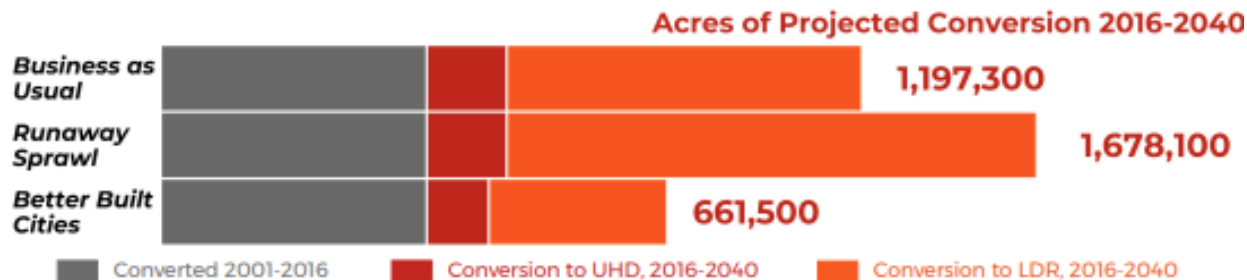
Assumes land is sold for non-agricultural use



- Intended use unknown



- Developer: houses, shopping center, industrial use, etc.



DEVELOPMENT CHOICES MATTER

By choosing the *Better Built Cities* scenario instead of *Runaway Sprawl*, North Carolinians can save

1,016,500 acres
of farmland.

That's the equivalent of saving

7,400 farms,

\$1.1 billion

in farm output, and

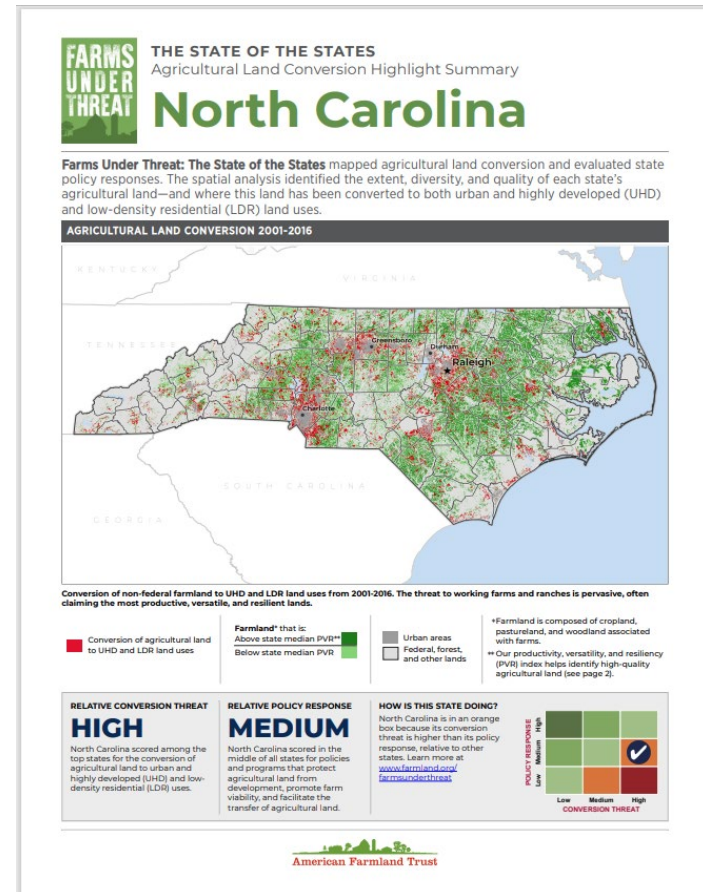
15,700 jobs

based on county averages.¹

¹ Census of Agriculture 2017

Farmland Loss in NC

- AFT's FUT: State of the States report, ranked North Carolina is second most threatened for farmland loss.
- The FUT 2040: Choosing an Abundant Future report analyzed spatial data to project farmland conversion from 2016 to 2040.
 - Business-as-usual = 1,197,300 acres lost
 - Runaway sprawl = 1,678,100 acres lost
 - Better Built Cities = 661,500 acres lost





Protect the farm



- Supportive programs
- Short-term or term-limited protection
 - Term easements
 - Term conservation agreements
- Permanent or perpetual protection
 - Conservation Easement
 - Transfer of land to conservation entity





Resources that Support Farm Viability

Non-exhaustive list of programs & organizations in NC that offer financial, technical, & network support



- **Technical:** [NRCS](#), [SWCD's](#), [AFT SE Regional Program](#), [NCSU Extension](#), [NCAT Extension](#), [CFSA](#)



- **Financial Incentives:** [PUV Tax Deferment](#), Cost Share and Incentive Programs ([Farm Bill](#), [State](#)), Grants ([AgVentures](#), [Brighter Future Fund](#))



- **Network:** [Find a Farm](#)/[Find a Farmer](#) to lease, rent, buy, or sell



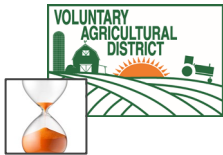


Short-term & Term-limited Protection

Programs that offer either revocable or a term-limited agreement



- [Voluntary Agricultural District \(VAD\)](#)



- [Enhanced Voluntary Agricultural District \(EVAD\)](#)



- Term-limited Program Contracts: CRP, CREP, EQIP



Permanent/Perpetual Protection

You are ceding your development rights, not (necessarily) ownership of your farm/land



- Place a perpetual easement on the property and retain ownership – eventual transfer (**with restrictions**) as outlined above in [“What is the future of your farm?”](#)



- Donate or sell the **property** to a land trust or other entity charged with the protection of land



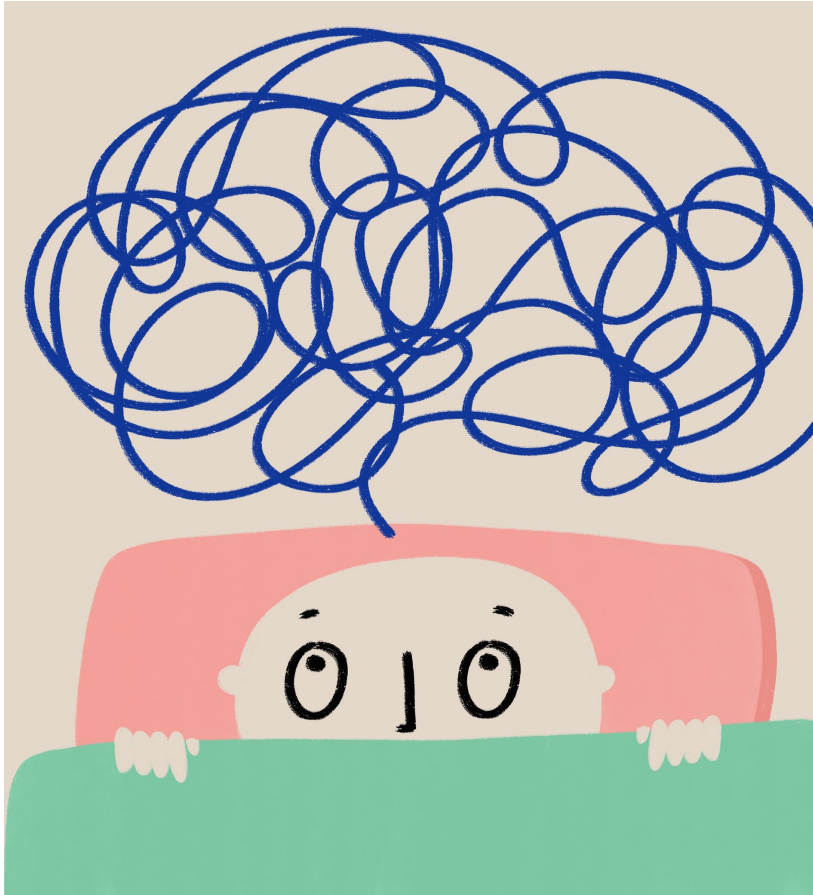


Perpetual Conservation Easements

- **Conservation Easement**
 - “Conservation easements are deed restrictions landowners voluntarily place on their property to protect important natural and cultural resources by limiting certain activities and uses.”
 - **Agricultural (Working Land) Easement**
 - “[Agricultural conservation easements](#) (ACEs) are a type of conservation easement designed to keep land available for farming and ranching.”



Common Misconceptions



An easement means...

- I am giving up ownership of my farm.
- I cannot sell or leave my farm to my heirs.
- I can no longer farm or use my land for recreation.
- I am also giving up timber, water, mineral, and or other rights.
- My land automatically becomes open to the public or government property.
- I must place all my land under easement.
- I can be forced to agree to a **conservation** easement.

What CAN I do, generally?



Decide if an easement is right for you!

- Protect AND retain ownership of your land.
- Sell, donate, or leave your land to heirs.
- Continue using your land.
- Limit access to your property.
- Protect only a portion of your land.
- Choose which eligible entity to work with.



Retaining Ownership

- **An easement removes development rights to protected property, not ownership.**
 - However, you may be eligible include a limited number of building envelopes in your easement terms.
- **You can sell your property.**
 - The easement follows the land, so all included restrictions will carry over to the future owner(s).
- **You can leave your property to your heirs or choose to donate your protected land.**
 - Again, easement follows the land, so restrictions you agreed to will carry forward in perpetuity.



Continued Use

You can continue....

- Living on your land
- Farming, with an agricultural easement
- Using your land for recreation (activity must not harm the protected resource)
 - Unless you agree to such access, your property **does not** become accessible to the public for recreation, etc.



What CAN'T I do?



***You cannot restore your development rights once the easement is recorded.**

What you cannot do, depends on what you and the entity agree to.

Conservation easements are **voluntary**; however, some uses may be incompatible with an easement.

- You may not be able to subdivide land under easement.
- You cannot build permanent structures, beyond those outlined in the easement.
- Potential changes to agricultural use should also be outlined in advance.
- Commercial uses are also largely or wholly restricted.

What about the financial side?

- **What am I giving up?**
 - You are ceding, either by sale or donation (of easement, not land), some or all your development rights. By way of doing this you are also reducing the property's value.
- **Are there financial benefits?**
 - There are **potentially** [tax benefits](#). You should consult your tax or other qualified professional to discuss your specific property and circumstances.
- **What costs are involved?**
 - Transaction costs (legal fees, survey, appraisal, baseline studies, etc.)
 - Easement purchase cost (this is compensation for the easement value, value can be all or partially donated, reducing the need for funding for expense)
 - Long-term stewardship and monitoring
- **Is there financial help?**
 - Yes!
 - Federal, State, and Local [Purchase of Agricultural Conservation Easement \(PACE\)](#) programs provide qualified participants with funding to cover all or part of, the [easement value](#), transaction costs, and stewardship & monitoring costs.





PACE Programs in NC

- **Federal** – Agricultural Conservation Easement Program
 - [Agricultural Land Easement \(ACEP-ALE\)](#)
 - [Wetland Reserve Easement \(ACEP-WRE\)](#)
- **State**
 - [NC Ag. Development and Farmland Preservation Trust Fund](#)
- **Local**
 - Contact your county SWCD or Farmland Preservation Program (where applicable) to learn about potential local funding
- **Eastern NC Sentinel Landscape***
 - Contact the NC Farmland Preservation Division





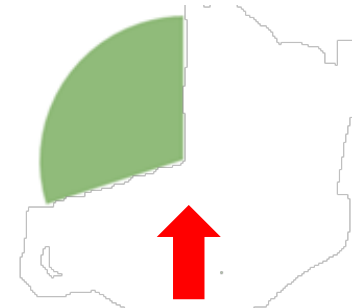
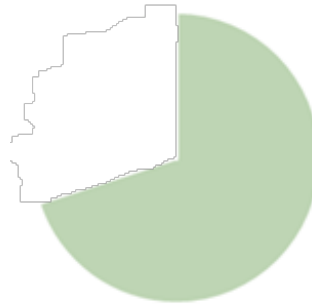
Other Programs

- Buy, Protect, Sell (BPS)
 - Programs in which land trusts purchase land from a farmer/landowner, place an easement on the land, and then sell it at the reduced value.
- Buy, Protect, Sell - plus (BPS+)
 - Buy, Protect, Sell – plus program is the same as above, but add an additional layer of support. BPS+ programs provide technical support to the new farmers to help with implement conservation practices, addressing soil health, and even farm business technical assistance.



What is the Easement Value?

VALUES ARE FOR EXAMPLE ONLY



This is the purchase price/monetary value of the easement.



Who pays for what?

Fully donated easement

- Landowner opts to donate the **value of the easement** to the entity, no exchange of funds.

Partially donated/purchased easement

- The landowner is compensated for a portion of the easement value; this frequently involves a grant or other PACE program funding.

Fully purchased easement

- The landowner is fully compensated for the easement value; this also generally involves grants or other PACE program(s) funding.



Who holds the easement?

- Eligible Entities in North Carolina (eligibility varies among programs)
 - [Land Trusts](#)
 - [Soil and Water Conservation Districts](#)
 - [County Government](#)
 - [Federal Government](#)
- Easements **cannot** be held by individuals. And individuals cannot generally apply to PACE programs.
- Holding an easement **does not equal** ownership of the land.





Other Considerations

- A conservation easement must serve to protect a conservation value; eligible values may vary by program.
 - USDA-NRCS ACEP-ALE requires that land have prime or important soils, historical/archeological value, protect grazing land, or otherwise support the program.
- Minimum acreage limits may apply.
 - NC ADFP Trust Fund follows PUV guidelines.
- Many if not most programs require following of a stewardship or conservation plan (includes forest management plans).
- Programs may have varying eligibility requirements.
 - ACEP-ALE require FSA record establishment, HEL and wetland compliance, as well as AGI limits.
- Land should be privately owned, and title should either be clear or clearing resolved prior to close of an easement.





What to Expect

- It will take time. It won't be a fast process.
- For PACE program participation:
 - There could be a wait list for an organization to be eligible to apply for funds for your project.
 - Grant cycles are a few times a year or less. If you are pairing funding, cycle timelines may differ.
- Closing an easement through ACEP-ALE is typically a multi-year process.
 - Once funding is secured, detailed property surveys must be completed, appraisals conducted and other transactional work and agency reviews.



What can I do to prepare?

- Begin thinking about what portion of your land (specifically) you want to protect. Including access for ingress/egress.
- If warranted, begin conversations with your family about your goals/desires.
- Consider reviewing [land eligibility checklists](#) to determine what programs(s) are options.
- If you know you have heirs' property or cloudy title begin working on a resolution.
- Establish a record with FSA and ensure you are in compliance.
- Consider attending a [workshop](#) hosted by a land trust, soil and water, or cooperative extension to gain more in-depth knowledge.

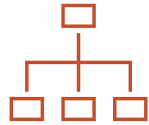




How to Get Started



Begin by considering YOUR goals and YOUR needs.



Consider estate and succession planning if you haven't already.



Seek to resolve any title issues as needed.



Consult an entity in your area to discuss protecting your farm.



Consider building a farm transfer team for support.



Helpful Resources

- **Farmland Preservation, Programs, and Policy**
 - [Farm Law for Operators and Landowners](#)
- **Heirs' Property**
 - [Heirs Property | NC State Extension](#)
 - [Heirs Property Program | North Carolina A&T State University](#)
 - [Guide to ACEP-ALE for Heirs' Property Landowners](#)
 - [Land Loss Prevention Project](#)
 - [Heirs' Property Project - Wake Forest Law](#)
 - [Preserving Legacy – Securing Agricultural Land Ownership in North Carolina Through Legal Protection](#)
- **Farm Succession and Transfer Planning**
 - [AFT Fundamental Considerations in Family Farm Transfer Planning Fact Sheet](#)
 - [Farm Transfer Toolkit - FIC](#)
 - [Southeast Land Transfer Navigators](#)
 - [Farm Transition and Legacy Planning | NC State Extension](#)
 - [North Carolina Agricultural Mediation | NCAMP and FARMVA Agricultural Mediation](#)
 - [International Farm Transition Network | Supporting farmers in the process of transitioning in and out of farming](#)
 - [So You Inherited a Farm Workbook](#)
 - [Your Land, Your Georgia: Planning For Your Legacy](#) (Developed for Georgia, general concepts may still be helpful in NC)
- **Conservation Easements and Land Trusts**
 - [FIC Farmland Protection Directory](#)
 - [Find a Land Trust - Land Trust Alliance](#)
 - [AFT ACEP-ALE Toolkit for Landowners](#) / [AFT ACEP-WRE Toolkit for Landowners](#)



Questions???



THANK YOU!

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