

Prepared by (Landowner's name and address):

Tax map parcel: _____

After recordation, return to: County of Fluvanna
132 Main Street
Palmyra, VA 22963

This instrument is exempt from Clerk's fees pursuant to Virginia Code Sections 17.1-266 and 17.1-279(E)



OPEN SPACE USE AGREEMENT

THIS AGREEMENT, made this _____ day of _____, _____, by and between _____, party(ies) of the first part, hereinafter called the Grantor (whether one or more), and the **COUNTY OF FLUVANNA**, a political subdivision of the Commonwealth of Virginia, party of the second part, hereinafter called the County:

WITNESSETH

WHEREAS, the Grantor owns certain real estate, described below, hereinafter called the Property; and

WHEREAS, the County is the local governing body having real estate tax jurisdiction over the Property; and

WHEREAS, the County has determined:

- A. That it is in the public interest that the Property should be provided or preserved for conservation of agricultural and forestal land and of wildlife; and

- B. That the Property meets the applicable criteria for real estate devoted to open-space use as prescribed in Article 4 (Section 58.1-3230 et. seq.) of Chapter 32 of Title 58.1 of the Code of Virginia, and the standards for classifying such real estate prescribed by the Director of the Virginia Department of Conservation and Recreation; and
- C. That the provisions of this agreement meet the requirements and standards prescribed under section 58.1-3233 of the Code of Virginia for recorded commitments by landowners not to change an open-space use to a non-qualifying use; and

WHEREAS, the Grantor is willing to make a written recorded commitment to preserve and protect the open-space uses of the Property during the term of this agreement in order for the Property to be taxed on the basis of a use assessment, and the Grantor has submitted an application for such taxation to the Commissioner of the Revenue of the County pursuant to Section 58.1-3234 of the Code of Virginia and Section 20-4-2(d) of the Fluvanna County Code; and

WHEREAS, the County is willing to extend the tax for the Property on the basis of a use assessment commencing with the next succeeding tax year and continuing for the term of this agreement, in consideration of the Grantor's commitment to preserve and protect the open-space uses of the property, and on the condition that the Grantor's application is satisfactory and that all other requirements of Article 4, Chapter 32, Title 58.1 of the Code of Virginia and Section 20-4-2(d) of the Fluvanna County Code are complied with.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual benefits, covenants and terms herein contained, the parties hereby **COVENANT** and **AGREE** as follows:

- 1. This agreement shall apply to all the following described real estate:
 - 2. The Grantor agrees that during the term of this agreement:
 - A. There shall be no change in the use or uses of the Property that exist as of the date of this agreement to any use that would not qualify as open-space use. The qualifying use for the Property is conservation of agricultural and forestal land and of wildlife.
 - B. There shall be no display of billboards, signs or other advertisements on the property except to (i) state solely the name of the Grantor and the address of the Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced pursuant to the permitted use of the Property, or (iv) provide warnings. No sign shall exceed four feet by four feet.
 - C. There shall be no construction, placement or maintenance of any structure on the Property unless such structure is either:

- 1) on the Property as of the date of this agreement; or
 - 2) related to and compatible with the open-space uses of the Property which this agreement is intended to protect or provide for.
- D. There shall be no dumping, storage, or accumulations of trash, garbage, ashes, waste, junk, abandoned property or other unsightly or offensive material on the Property.
 - E. There shall be no filling, excavating, mining, drilling, removal of topsoil, sand, gravel, rock, minerals, or other materials which alters the topography of the Property, except as required in the construction of permissible building structures and features under this agreement.
 - F. There shall be no construction or placement of fences, screens, hedges, walls or other similar barriers which materially obstruct the public's view of scenic areas of the Property.
 - G. There shall be no removal or destruction of trees, shrubs, plants and other vegetation, except that the Grantor may: (1) engage in agricultural, horticultural or silvicultural activities, provided that there shall be no cutting of trees, other than selective cutting and salvage of dead or dying trees, within 100 feet of a scenic river, a scenic highway, a Virginia Byway or public property listed in the approved State Comprehensive Outdoor Recreation Plan (Virginia Outdoors Plan); and (2) remove vegetation which constitutes a safety, a health or an ecological hazard, e.g., vegetation classified as a noxious weed pursuant to the Code of Virginia (1950), as amended.
 - H. There shall be no alteration or manipulation of natural water courses, shores, marshes, swamps, wetlands or other water bodies, nor any activities or uses which adversely affect water quality, level or flow.
 - I. On areas of the Property that are being provided or preserved for conservation of land, floodways or other natural resources, or that are to be left in a relatively natural or undeveloped state, there shall be no operation of dune buggies, all-terrain vehicles, motorcycles, motorbikes, snowmobiles or other motor vehicles, except to the extent necessary to inspect, protect or preserve the area.
 - J. There shall be no industrial or commercial activities, conducted on the Property, except for the continuation of agricultural, horticultural or silvicultural activities; or activities that are conducted in a residence or an associated outbuilding such as a garage, smokehouse, small shop or similar structure which is permitted on the property.
 - K. There shall be no separation or split-off of lots, pieces or parcels from the Property. The Property may be sold or transferred during the term of this agreement only as the same entire parcel that is the subject of this agreement, provided, however, that the Grantor may grant to a public body or bodies open-space, conservation or historic preservation easements which apply to all or part of the Property.
3. This agreement shall be effective upon acceptance by the County, provided, however, that the real estate tax for the Property shall not be extended on the basis of its use value until the next succeeding tax year following timely application by the Grantor for the use assessment and taxation in accordance with Section 20-4-2(d) of the Fluvanna County Code. Thereafter, this agreement shall remain in effect for a term of _____ (_____) consecutive tax years.

4. Nothing contained herein shall be construed as giving to the public a right to enter upon or to use the Property or any portion thereof, except as the Grantor may otherwise allow, consistent with the provisions of this agreement.
5. The County shall have the right at all reasonable times to enter the Property to determine whether the Grantor is complying with the provisions of this agreement.
6. Nothing in this agreement shall be construed to create in the public or member thereof a right to maintain a suit for any damages against the Grantor for any violation of this agreement.
7. Nothing in this agreement shall be construed to permit Grantor to conduct any activity or to build or maintain any improvement which is otherwise prohibited by law.
8. If any provision of this agreement is determined to be invalid by a court of competent jurisdiction, the remainder of the agreement shall not be affected thereby.
9. The provisions of this agreement shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.
10. Words of one gender used herein shall include the other gender, and words in the singular shall include words in the plural, whenever the sense requires.
11. This agreement may be terminated in the manner provided in Section 15.2-4314 of the Code of Virginia for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.
12. Upon termination of this agreement, the Property shall thereafter be assessed and taxed at its fair market value, regardless of its actual use, unless the County determines otherwise in accordance with applicable law.
13. Upon execution of this agreement, it shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, at the Grantor's expense. The Grantor, as evidenced by the Grantor's signature below, hereby authorizes the County to deliver this agreement to the Clerk's Office for recordation.
14. NOTICE: WHEN THE OPEN SPACE USE OR USES BY WHICH THE PROPERTY QUALIFIED FOR ASSESSMENT AND TAXATION ON THE BASIS OF USE CHANGES TO A NONQUALIFYING USE OR USES, OR WHEN THE ZONING FOR THE PROPERTY CHANGES TO A MORE INTENSIVE USE AT THE REQUEST OF THE GRANTOR, THE PROPERTY, OR SUCH PORTION OF THE PROPERTY WHICH NO LONGER QUALIFIES SHALL BE SUBJECT TO ROLLBACK TAXES IN ACCORDANCE WITH SECTION 58.1-3237 OF THE CODE OF VIRGINIA. THE GRANTOR SHALL BE SUBJECT TO ALL OF THE OBLIGATIONS AND LIABILITIES OF SAID CODE SECTION.

Witness the following duly authorized signatures and seals.

_____(SEAL)
Landowner

STATE OF _____

CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____,
_____, by _____.

Notary Public

[SEAL]

My commission expires:
Notary registration number:

_____(SEAL)
Landowner

STATE OF _____

CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____,
_____, by _____.

Notary Public

[SEAL]

My commission expires:
Notary registration number:

COUNTY OF FLUVANNA, VIRGINIA

By: _____(SEAL)
County Administrator

STATE OF VIRGINIA

COUNTY OF FLUVANNA, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____,
_____, by Eric M. Dahl, County Administrator, on behalf of the County of Fluvanna, Virginia.

Notary Public

[SEAL]

My commission expires:
Notary registration number:

Approved as to form:

Fluvanna County Attorney