

## **Easement Committee Guidelines for Amendments**

All Amendments requests to easements must follow these guidelines. In reviewing grantor requests, WAC shall consider the following criteria:

1. Potential or likely impacts to water quality;
2. Potential or likely impacts to agriculture or forested lands;
3. Potential or likely impacts on WAC stewardship resources;

WAC will only consider amendment requests to easements if the request satisfies one of the following categories:

### **I. *Updates to Standard Language and Format***

The standard language and format of conservation easements are periodically revised to reflect new standard clauses, statutory changes, changes in policy, or to improve enforcement and administration, or enhance the protection of the conservation values of the protected property, or consolidate the legal documents in order to simplify the protection process . Amendments for any of these purposes will be recommended so long as the changes are consistent with the conservation purposes intent of the original conservation easement. Updates may be initiated by either WAC or landowners.

### **II. *Correction of Error***

- A. WAC may initiate an amendment request to correct an error or oversight in an original conservation easement so long as sufficient written or documented information to support such a claim that error occurred in the development of the easement is provided....
- B. Landowners may initiate an amendment request to correct an error so long as landowner can provide sufficient written or documented information to WAC to support claim that error occurred in the development of the easement.

### **III. *Clarification of an Ambiguity***

- A. WAC may initiate an amendment request to seek clarification of ambiguous language.
- B. Landowner may initiate an amendment request to seek clarification of ambiguous language.

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#### **IV. Amendments to Leverage Additional Conservation**

WAC will consider amendment requests to add additional land to a conservation easement, where a determination is made by the easement committee that adding land via an amendment would be more effective and efficient than through the creation of a new easement.

#### **V. Changes to Reserved Rights**

Reserved rights are those activities in the deed of conservation easement that require written approval of the grantee.

- A. WAC will consider requests from land owners to extinguish reserved Rights in order to promote greater conservation
- B. WAC or landowner may initiate modification of reserved rights,  
, so long as:
  - 1) The modification does not result in a negative impact on conservation purposes of the easement as determined by the easement committee and
  - 2) The modification does not result in private benefit for the landowner as determined by an appraisal conducted by a New York state certified appraiser. WAC will not accept cash for modification for changes to reserved rights
  - 3) WAC may accept extinguishing reserved rights or land as a primary value in exchange for modification of a reserved right(s) so long as a New York State certified appraiser has determined that the value of the reserved right requested by the land owner is equivalent in value to the proposed land offering or reserved right offering.
  - 4) All costs for such requests, including appraisal fees, are paid for by the landowner.

#### **VI. Amendments to Reconfigure Conservation Easements:**

WAC will consider proposals from grantors to amend conservation easements (CEs) to reconfigure defined use areas under the following scenarios:

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- 1) Modification of boundary lines for the following designated use areas only: Agricultural Conservation Easement Areas (ACEAs), Forestry Conservation Easement Areas (FCEAs), and Resource Protection Areas (RPAs).
- 2) Moving an Acceptable Development Area (ADA) or modifying boundary lines for ADAs that do not contain any pre-existing structures, so long as the size of the ADA does not increase.
- 3) Modification of boundary lines defining ADAs that contain existing structures. (Modification of Future Acceptable Development Areas (FADAs), provided size is not increased, would not require a CE amendment.)

Value and compensation: if private benefit, as defined by Section 170(h) of the U.S. Internal Revenue Code, is anticipated from a reconfiguration, the land owner must offset that potential benefit by adding land to the easement, the value of which, determined by a state certified appraiser at sole cost to the land owner, would be equivalent to the value of the potential benefit to the landowner from a reconfiguration. WAC will not accept cash for reconfiguration.

## **VII. Merging Two or More Separate Easements into One Easement**

WAC will consider merging two or more easements together to create one easement, so long as the merger is consistent with the conservation purposes of the easement and no private benefit will be received by the landowner as the result of the merger as determined by a New York State Certified appraiser at sole cost to the land owner.

## **VIII. Exchange of Land**

Exchange of lands entails extinguishing an easement on one parcel of land in exchange for establishing a easement on another parcel of land outside the boundaries of the existing easement.

- 1) WAC will not consider the exchange of lands as described above.

## **IX. Creation of New Acceptable Development Areas**

WAC will not consider the creation of a new acceptable development area, or moving a residential development right into a newly proposed acceptable development area.

## **X. Requests not Identified by these Guidelines**

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Amendment requests from landowners that are not clearly addressed by these guidelines shall be presented to the Easement Committee for review and consideration as they are requested.