

Trail Easements

INTRODUCTION

Trail easements are legal agreements between two entities that reserve a corridor of land for the purpose of creating, maintaining, and providing public trail access on privately owned property. Ownership remains with the private property owner but reserves its use as a public trail. As a planning tool, trail easements can help implement elements of a comprehensive trail network or connect two or more disconnected areas of public open space. The legal agreement clearly outlines each party's responsibilities (maintenance, repair, liability), as well as the location, surface type, width, hours and seasonal use restrictions, amenities (landscaping, lighting, trash cans, benches, etc.) and permissible recreational uses (bicycling, equestrian, walking, e-bikes, scooters, etc.) of the trail. A trail easement may be purchased by the Grantee or donated by the Grantor. In the case of a donation, the Grantor may qualify for certain tax benefits of a charitable donation of a partial interest in real estate (the portion of property under the trail easement).



APPLICABILITY

A trail easement can be used to support the following Goals:

- **Transportation:** A trail easement can help provide a safe transportation alternative for accessing local commercial centers or places of interest such as schools, places of worship, and public parks.
- **Connecting Links:** A trail easement can be used to close trail “gaps” on private property, furthering the existing network of trails.
- **Recreation:** Facilitates an interconnected network for pedestrians, bicyclists, equestrians and more, encouraging residents to get outside, exercise, and connect with nature.

IMPLEMENTATION

- Trail Easement Agreement: A legally binding agreement between two or more entities that outlines the responsibilities and expectations for all. Municipalities tend to be the best Holder or Grantee as they are best positioned, geographically, to regularly maintain the trail.
- Trail easements can also be granted as part of a broader conservation easement agreement with the private property owner. A higher easement purchase price may be offered if a trail easement is also conveyed.
- During the subdivision and land development process, municipalities may wish to consider seeking a permanent trail easement to help implement long-term connectivity goals of the community.



Example of a trail easement plan.



- If a trail easement is sought on land in Pennsylvania that may qualify for an agricultural easement, it is important to execute the trail easement prior to any agricultural easement. The Commonwealth of Pennsylvania restricts public trails on agricultural property that has been eased with state funds. In Delaware, it depends on what the original landowner agreed to when the easement was established, so it is key to review the original easement agreement to understand what may or may not be permissible.

WeConserve PA has a comprehensive review of trail easements and considerations when considering an agreement, including model documents for download and use. Use the search term "Trail Easements" in WeConservePA's digital Library.