



## **SCOPE**

This policy addresses the enforcement of the terms of the conservation easements held by the Avalonia Land Conservancy, Inc. Its implementation is the responsibility of the Stewardship Committee.

## **DEFINITION**

Each conservation easement is written with specific language regarding what actions the property owners may or may not take with respect to the easement. By accepting a grant of conservation easement, Avalonia

- has contractual obligations as outlined in the easement agreement.
- has a legal commitment to protect the conservation purposes of the donation in order to maintain its tax-exempt status and ability to accept tax-deductible easement gift donations.

## **PURPOSE**

The purpose of this policy is to ensure that all Avalonia volunteers and employees understand the range of possible responses to violations of the terms of its easements.

Violations:

- must be evaluated in light of the specific terms of each easement at issue.
- must be fully documented, including photographs.
- may range from minor problems, which result in minimal impact to conservation values, to more severe problems that grossly exceed the reserved rights as described in the easement, including but not limited to, unauthorized construction or alteration of natural water courses and wetlands.

Responses to violations:

- shall depend on the nature and severity of the violation (see Procedures for Enforcement of Conservation Easements).
- shall attempt to correct the violation with the greatest degree of cooperation and the least expense.
- shall begin with personal contact with the property owner in an attempt to work out a reparation plan.
- may require recourse to legal means as a last resort if the owner is not cooperative.

Responses to violations should be guided by the following principles:

- Maintain the conservation purpose of the conservation easement.
  - Maintain Avalonia's public image both in its ability to achieve its mission overall and in its ability to enforce specific easements.
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- Protect Avalonia's legal rights and economic value (if any) in the easement.
- Maintain the most constructive working relationship possible with the landowner.
- Maintain professionalism and integrity.
- Where consistent with the foregoing objectives, balance the harm caused by the violation with the cost/benefit of the selected enforcement response.
- Use litigation as a last resort and only when there is a meritorious legal basis for judicial action.
- Maintain consistent responses to similar easement violations.

Violations may be prevented or minimized by:

- regular monitoring.
- training of monitors.
- maintaining good relationships with the property owner.
- maintaining up-to-date records of transfers in property ownership
- contacting new owners (and real estate agents) to explain Avalonia's mission, the restrictions created by a conservation easement on their property and the concept and purpose of conservation easements in general.
- drafting sound conservation easements.
- maintaining good relations with local officials and notifying local land use officers, tax authorities, conservation agents and conservation commissions of properties with conservation easements.