



GILMER COUNTY ASSESSORS OFFICE

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PLEASE NOTE:

A \$25.00 RECORDING FEE (CASH OR CHECK MADE PAYABLE TO "THE CLERK OF SUPERIOR COURT OF GILMER COUNTY") IS REQUIRED WITH EACH APPLICATION.

IMPORTANT

This booklet is provided for informational purposes only. Any statements contained herein shall not expressly or impliedly amend, modify, supersede or repeal the current regulations as outlined in the Official Code of Georgia Annotated, Section 48-5-7.4 concerning the legislative intent, qualifications and administration of the Conservation Use Program (also known as the Current Use Valuation Assessment). The state legislation is subject to changes, corrections, and/or revisions annually and it is the responsibility of every property owner who enters into the Conservation Use Program covenant to familiarize themselves with the current regulations and policies and any future changes to them. The Gilmer County Board of Assessors is not liable for any typographical error that may be contained within the content of these pages.

A BRIEF EXPLANATION OF THE CONSERVATION USE PROGRAM

The Conservation Use Program, also known as the Current Use Valuation Assessment, is a state legislated, county administered program that can provide some relief from property tax burdens to certain qualified, active agricultural properties. The name "Conservation Use" can be somewhat misleading as to the actual intent of the state legislation and to what actually qualifies a property for this program. Contrary to the belief that a property must remain unused or idle in order to qualify, the law states clearly that at least one half or more of the property must currently and continuously be devoted to a qualifying use. If your property is qualified and is entered into the covenant, the ownership and the qualifying use both must be maintained throughout the 10 year life of the covenant in order to receive the property tax savings that the program produces. However, if the ownership does not remain consistent or use of your property is not properly maintained, substantial penalties may be assessed as a result of a covenant breach. Therefore, you must be aware of the commitment you are making by entering your property into this covenant.

FREQUENTLY ASKED QUESTIONS:

- **How does my property qualify for the covenant?**

If you qualify under the ownership requirements outlined in O.C.G.A. 48-5-7.4(a) and at least half of your property is currently active in a bona fide agricultural use, then your property may be eligible for the Conservation Use Program. Such agricultural uses that qualify a property for the covenant can include such activity as crop production and/or support, livestock production and/or management, production of marketable plants, trees, fowl and/or animals, marketable horticulture, floriculture, forestry, dairy, poultry and/or apiarian products. In other words, if the primary use of at least half of your property is for marketable farm or timber products, then the property should be able to qualify for the program.

- **How many acres in size must my property be in order to qualify for the covenant?**

As stated above, the primary requirement of your property to qualify for the Conservation Use Program is that at least half of the property be currently and actively devoted to a qualifying use. There is no minimum size requirement in the state regulations. **However, state law does require that any property that is less than 10 acres in size provide additional proof that, indeed, the property is currently and actively being used for a qualifying purpose.** Recent changes to the law now specifically allow the applicant to provide proof that he or she has filed with the Internal Revenue Service certain Forms and Schedules reporting farm related income or loss in lieu of other supporting documentation. Supporting documents can include photographs that clearly depict the qualifying use. Copies of recent feed bills, livestock sales/purchases, etc. Copies of recent crop sales, seed purchases, hay cutting contracts, etc. Copies of recent timber harvest and or timber cruises made

showing recommendations and proof that recommendations were followed. Law states the value of all residences and the underlying property (not to exceed 2 acres) will be excluded from the covenant.

- **When can I apply for the program?**

You can apply for a Conservation Use Program covenant during the same time that property value returns are filed. In Gilmer County, this period lasts from January 1 until April 1 of each year. Once an application has been filed and if the property is approved for the program, you need not file again during the entire 10-year covenant period. At the end of the filing period, the Board of Assessors' office will field review all applications that have been properly filed and determine whether or not the property is indeed qualified to enter into the Conservation Use Program covenant. If it is determined that your property meets all the requirements outlined under Georgia code, when you receive your "Annual Notice of Assessment" it will indicate that your property is now under the covenant. These notices have historically been sent out by the Gilmer County Board of Assessors between the months of May and July. Additionally, Georgia law states that an application for the Conservation Use Program covenant may also be filed during the 45-day appeal period that is associated with an "Annual Notice of Assessment." In other words, you must apply for the program between January 1 and April 1 of that year or within the 45-day appeal period in order to be considered for the program for that year.

- **What are the property tax savings if my property is entered into this covenant?**

The property tax savings that you may enjoy if your property is entered into the Conservation Use Program will depend on a number of factors. The size of the property you enter, the type of qualifying use, the amount of the fair market value of the land that the Board of Assessors may determine on the property, and of course, the millage rate set by the county commissioners and the school board for each year. But primarily, the Conservation Use values are determined according to the soil types within your property boundaries. The Board of Assessors' office uses a set of USDA Soil Survey Maps to break down your property into the various types of soils that may be located on it. Each of these soil types has been assigned a value by the State Department of Revenue and each year these values may fluctuate slightly, up or down, according to law.

- **What are the penalties if the covenant agreement is broken?**

If your Conservation Use Program covenant is breached, the law states that the penalty that can be imposed shall be twice the property tax savings that the property has enjoyed over the life of the covenant *plus interest*. The amount of property taxes saved is simply the difference between the amount of property taxes that would have been paid had your property not been entered into the covenant and the amount of property taxes you actually paid based on the covenant values. For example, if you had paid \$1,500 each year had your property not been entered into the Conservation Use Program covenant, but because your property had been entered into the covenant you only actually had to pay \$500 each year, the property tax savings would be \$1,000 for each year. Now, if your covenant were breached in the third year of its life, the total penalty would be figured like this:

Year One:	
\$1000	(amount of savings for Year One)
+ x%	(the applicable interest rate for Year One)
<u>+\$1000</u>	(penalty prescribed by law)
Total amount due for Year One	
Year Two:	
\$1000	(amount of savings for Year Two)
+ y%	(the applicable interest rate for Year Two)
<u>+\$1000</u>	(penalty prescribed by law)
Total amount due for Year Two	
Year Three:	
\$1000	(amount of savings for year Three)
+ z%	(the applicable interest rate for Year Three)
<u>+\$1000</u>	(penalty prescribed by law)
Total amount due for Year Three	
Add the amounts for Years One, Two and Three for Total Penalty Due.	

If a penalty is assessed against your property for a breach of a Conservation Use Program covenant, it will constitute a lien **against the entire property that was originally entered into the covenant**. What this means is that if you entered 80 acres into the covenant and after three years sold off 7 acres and caused a breach of the covenant, the penalty would stand as a lien against the entire 80 acres which was entered into the covenant, not just the 73 remaining acres or the 7 acres that may have caused the breach. This is *very important* to understand because, for instance, let's say after three years into your covenant you transfer ownership of 20 acres of your 80 acres to a new, qualified owner who elects to properly continue your covenant

However, two years later this new owner decides to sell off another 5 acres to yet another new owner who is *not* qualified to continue the covenant, thus causing a breach. The penalty assessed will be against the *entire* 80 acres that was originally entered into the covenant by you, including your remaining 60 acres, the first new owner's remaining 15 acres and the final new owner's 5 acres. So you can see, the situation regarding penalties associated with this program can have far reaching effects.

- **Can my Conservation Use Program covenant be broken without a penalty?**

Generally, the answer to this question is "no". There are a few exceptions that are prescribed by law, but all the proper conditions must be met in order to prevent breach penalties from being assessed. Therefore, it is strongly suggested that before any deeds are filed with regard to your property that is under the covenant or a change in the use of the property occurs, you contact the assessors' office in order to best determine whether or not such an action could cause a breach.

- **What are my appeal rights in regard to the values placed on my property that is in the Conservation Use Program?**

If you apply for the Conservation Use Program and are accepted into it, then you will receive an “Annual Notice of Assessment” each year to inform you of the Conservation Use value change that the state updates annually. These types of changes are not subject to appeal. However, if you receive a notice where the **fair market value** changes from the previous year, *that value*, according to Georgia law, may be appealed in writing within the 45-day legal time period.

CAN	CANNOT
<p>Convey to a child or other relative within the 4th degree of civil reckoning (1st cousin) up to five (5) acres per year provided they make residence on the property within 2 years and the Assessor’s Office is notified.</p> <p>Anything over 5 acres (whether gift or purchase by relative) must file a covenant application and follow the guidelines established by the Board of Assessors and must be approved in order not to breach the covenant.</p>	<p>Sell any or all of the parcel covered by the covenant to an individual or entity who is unqualified (i.e. a Developer) or unwilling to continue the covenant (without breach and associated penalty – as prescribed in GA code 48-5-7.4)</p>
<p>Sell to an individual who is willing and qualified to continue the covenant for the duration of the covenant period.</p>	<p>Open or operate a business unrelated to Agricultural purposes (e.g.: auto repair, carpentry or construction business)</p>
<p>Allow all or part of a property which has been in covenant for one year to be used as a site for farm weddings or nonprofit equestrian performance events to which spectator admission is not contingent upon an admission fee but which may charge an entry fee from each participant. (SB 145)</p>	
<p>Cut or selectively thin timber. It would be wise to acquire a timber management plan from a forestry service in order to select the best and most timely harvest of the timber.</p> <p>Must notify the Assessor’s Office of any change in qualifying use of the land – timber to agricultural and vice versa. This will not constitute a breach but will reclassify the conservation rate per acre.</p>	<p>Rent any residence located on the property. If hired help resides on the property, the owner must show that rent is in lieu of monetary compensation for hired help. (This rule does not apply to covenants that began after May 1, 2012 where the acreage surrounding the home has been excluded from the covenant.)</p>
<p>Rent or lease pasture to an individual to farm (grow crops) or herd livestock.</p>	<p>Have over 2000 acres covered by the Conservation Use Covenant in all of Georgia.</p>
<p>Lease the property to a hunting club.</p>	
<p>Sell the property under extreme health reasons – provided documentation from a health care provider is furnished to the Assessor’s Office.</p>	
<p>Add newly acquired property to an existing covenant for the remainder of the life of the covenant.</p> <ul style="list-style-type: none"> - Acreage added cannot exceed 50 acres - Acquired property after the beginning date of the covenant - Must be contiguous 	

EFFECTIVE JANUARY 2003 – Synopsis of State of Georgia Code 48-5-7.4(q) (3) (2003). If your conservation use valuation covenant has been in effect for at least thirteen (13) years without lapse (10 years under the original covenant and 3 years under the renewal covenant) and you or any owner listed on the deed for the property under conservation use valuation reaches the age of sixty-five (65) as of January 1 of the 14th year, election may be made to discontinue without breach penalty the conservation use valuation covenant provided written notice is provided to the Board of Tax Assessors.

CONSERVATION USE APPLICATION COMPLETION CHECKLIST

FIRST PAGE

- VERIFY OWNER'S MAILING ADDRESS IS CORRECT
- ENTER THE NUMBER OF ACRES OF **AGRICULTURAL LAND** THIS PARCEL HAS (IF ANY).
"AGRICULTURAL" IS DEFINED AS PASTURE, FIELDS, ETC.
- ENTER THE NUMBER OF ACRES OF TIMBER LAND THIS PARCEL HAS (IF ANY).
- "AUTHORIZED SIGNATURE"** SECTION. OWNER'S SIGNATURE MUST BE **NOTARIZED**. ALL OWNERS MUST SIGN THE TOP "SIGNATURE OF TAXPAYER OR TAXPAYER'S AUTHORIZED REPRESENTATIVE" LINE

SECOND PAGE – "CURRENT USE ASSESSMENT QUESTIONNAIRE"

- IF MORE THAN ONE OWNER, FILL IN ALL OF THE INFORMATION REQUESTED IN THIS SECTION
- "CHECK APPROPRIATE OWNERSHIP TYPE"
- "CHECK ALL BONA FIDE USES THAT APPLY AND THE PERCENTAGE USE, AS THEY RELATE TO THE PROPERTY DESCRIBED IN THIS APPLICATION"
- ANSWER THE SIX (6) YES OR NO QUESTIONS

FOR ALL APPLICATIONS

- ENCLOSE ALL ADDITIONAL INFORMATION REQUIRED FOR YOUR APPLICATION TO BE COMPLETE
- ENCLOSE **CASH OR A MONEY ORDER** MADE PAYABLE TO: **"THE CLERK OF COURT"** IN THE AMOUNT OF **\$25.00** FOR **EACH COMPLETED APPLICATION** TO COVER RECORDING FEES
- MAKE SURE YOU HAVE SIGNED AND HAD YOUR SIGNATURE NOTARIZED ON PAGE ONE OF EACH COMPLETED APPLICATION
- MAIL OR BRING IN YOUR COMPLETED APPLICATION TO THE GILMER COUNTY ASSESSOR'S OFFICE, GILMER COUNTY COURTHOUSE, 1 BROAD STREET, SUITE 104, ELLIJAY, GA 30540 **Applications cannot be accepted prior to January 1, but must be received in office before April 1 or postmarked on or before April 1st.**
- PLEASE ENCLOSE THE COMPLETED AFFIDAVIT WITH A VALID PHONE NUMBER WHERE YOU CAN BE REACHED DURING NORMAL BUSINESS HOURS.



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Owner's Affidavit

Parcel Number:

I, _____, the undersigned does hereby acknowledge the following:

1. Receipt of a written copy of the Rules and Regulations of Conservation Use Property, Chapter 560-11-6 and Georgia Code 48-5-7.4 is being acknowledged along with a copy of the CUVA Application
2. I understand that there are penalties involved if a Breach should occur.
3. In the case of a Planned Unit Development Covenants, Conditions, Restrictions and Amendments must be provided.
4. This notice is given to provide reasonable notice to the property owner that this office shall conduct and provide proof of a visual onsite inspection of the property.
5. I hereby state if an Operation Agreement is required to be provided, that the ownership interest percentage has not been amended.
6. If the property is owned by two or more individuals, all owners must sign the conservation application.
7. I am aware that to be considered a complete application and to be accepted for submission, I must provide a \$25 filing fee to cover the costs of recording the application should it be approved.
8. I understand if there is a change in the use of the property I am to notify the Tax Assessors Office.
9. I understand if there is a change in ownership by deed or by death I am to notify the Tax Assessors Office.

Gate code

Phone Number

Receipt Number

Owner's Signature or other Authorized Representative

Date

Notary Public

Date