



Parks & Open Space

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CONSERVATION EASEMENT TERMINATION PRACTICES

(Situations when Boulder County Might Terminate a Conservation Easement)

Conservation easements are versatile real estate tools that are used for a variety of purposes. Boulder County holds over 800 conservation easements and each of them are different. While conservation easements tend to be permanent restrictions on future use of a property—including most of the conservation easements that Boulder County holds—some conservation easements intentionally and legally cover durations shorter than perpetuity.

When Has and Might the County Terminated Conservation Easements?

Boulder County has terminated or allowed extinguishment of conservation easements when:

- The conservation easement was intended to protect a property only temporarily during interim steps in land use regulatory processes where the landowner and county agreed to protect the property while the processes were occurring.
- The county acquired property in a phased acquisition. For example, the county has acquired a temporary conservation easement and then later acquired a permanent conservation easement or fee title to the land. The county has also sometimes acquired a conservation easement from one landowner and then later bought the property from a subsequent landowner. In any situation in which the county acquires fee title to land encumbered by a conservation easement, the conservation easement interest merges automatically (by common law) with fee title when the county acquires the property because no landowner can simultaneously own the property and an encumbrance against the property.
- The county, local municipality, and landowner agreed the property was suitable for development. Some conservation easements acquired by regulatory means contemplated this possibility. For example, conservation easements on some properties near cities were made terminable to allow the properties to be later developed if deemed appropriate by the Board of County Commissioners.
- Some county-held conservation easement interests have been taken from open space by condemning authorities under the threat of eminent domain.

What Public Notice Occurs When the County Might Terminate a Conservation Easement?

When Boulder County anticipates the potential future termination of a conservation easement being acquired, the county notifies the public through its general public notices of upcoming public hearings and meetings. Sometimes the county needs to sign termination documents, in which case, the county notifies the public again through its general public notices of potential signatures to occur at a business meeting.

When Boulder County has not pre-approved a termination, Parks & Open Space notifies the public of upcoming public hearings and business meetings through specific methods that are standardized to several common ‘disposition’ scenarios. For example, when open space sales and use taxes were used to acquire the conservation easement, Boulder County notifies adjacent landowners and follows sales tax language requiring public notices in the local newspaper, review by the Parks & Open Space Advisory Committee, county commissioner consideration at a public hearing, and a 60-day waiting period before termination. For more information, contact the Real Estate Division Manager at Parks & Open Space.

How Does Boulder County Use Proceeds from Termination of a Conservation Easement?

Boulder County reinvests termination proceeds in acquiring future open space interests so there is no net loss of open space in Boulder County.