

Santa Fe Conservation Trust

POLICY FOR USES AND ACTIVITIES OTHERWISE PROHIBITED ON CONSERVED PROPERTIES

Policy: 4.12

Adopted on: 08/25/2020

SFCT recognizes increased landowner interest in and societal trends embracing uses and related activities traditionally prohibited on conserved properties. The purpose of this policy is to provide guidance on how SFCT will interpret and respond to such requests, notwithstanding SFCT's general prohibition on commercial activities in many of its conservation easements.

Since every conservation easement is unique, SFCT will analyze each requested use on a case-by case basis. Primarily, if, , any of the prohibited activities listed in the conservation easement are deemed desirable by **both** the landowner and SFCT, SFCT may, in its sole discretion, grant consent for such activities, subject to the limitations contained herein.

Landowners must request in writing and obtain written consent from SFCT for activities otherwise prohibited by their conservation easement. Discretionary consent, as determined solely by SFCT, may be granted, or withheld under the following conditions and circumstances.

A. Written Request. Landowner's request for consent for otherwise prohibited uses and related activities shall:


1. Be in writing, signed by the landowner or the landowner's legal representative, and submitted with sufficient notice that SFCT is able to review, research, and respond appropriately; and
2. Include a sketch or annotated photograph of the proposed location and ecological footprint; and
3. Describe the proposed use in sufficient detail to allow SFCT to judge the consistency of the activity with the purpose and conservation values of the conservation easement.


B. Sole Discretion of SFCT. After a review period, which may include a site visit to determine the impact and to confirm that there are no existing conservation easement violations, SFCT may give its full, partial, or conditioned consent, if it determines, in its sole discretion, that such uses and related activities:

1. Do not violate the purpose of the conservation easement; and
2. Enhance or do not materially impair the conservation values; and
3. Are *de minimis*- limited in nature, frequency, duration, and scope; and

4. Are contained within a previously developed portion of the property, or an approved building envelope; and
 5. Do not require the construction of permanent structures or facilities even within an approved building envelope; and
 6. Do not impact the scenic views of the property from public trails, roadways, parks, and waterways, or adjacent historic or cultural areas; and
 7. Do not disturb or remove protected cultural resources; and
 8. Do not necessitate the installation of permanent signage or lighting for promotional or operational purposes; and
 9. Do not permanently impact vegetation, soil, or surface hydrology, including spills and noxious weed dispersal- any impact must be remediated and restored to prior conditions, or it will be considered a violation of the conservation easement; and
 10. Must obtain required permits and be conducted, and remediated if necessary, in compliance with local, state, and federal laws, ordinances, guidelines, and regulations.
- C. **Mitigating Circumstances.** SFCT reserves the right to approve a use or activity that otherwise does not satisfy all of the above approval guidelines, if it promotes the perpetual conservation of the property, raises the public's awareness of conservation, and encourages future conservation projects.
- D. **Rejection.** Conversely, SFCT reserves the right, in its sole discretion, to reject a proposed use or activity that it determines does not comport with the spirit and intent of the conservation easement or SFCT's mission, such that it could jeopardize SFCT's goodwill in the community.
- E. **Inspection. Withdrawal.** SFCT reserves the right to inspect and withhold, suspend, or withdraw approval if, in its sole discretion, SFCT determines that conservation values are impaired or in danger of impairment.
- F. **Stewardship Fund.** SFCT may request stewardship funding to compensate SFCT for additional monitoring and oversight, especially if environmental remediation is required.
- G. **Agreement.** In addition to the stipulations above, SFCT reserves the right to require a formal agreement, such as Licensing Agreement, or similar contract to protect SFCT from any liability associated with a proposed use. This may include, but is not limited to, providing SFCT indemnification from liability and listing SFCT as an additional insured.
- H. **No Right or Power to Agree.** Notwithstanding the foregoing, SFCT and the landowner have no right or power to agree to any uses and related activities that would result in the termination of the conservation easement.
- I. **No Precedent.** Consent granted to an applicant for an activity otherwise prohibited shall not serve as precedent for any other application. Each application shall be considered

separately and individually, and SFCT's discretion to consider and grant or deny an application shall be sole and unilateral.



Brant Goodman, Secretary

Date

