



## **VIRGINIA DEPARTMENT OF HISTORIC RESOURCES**

### **Historic Preservation Easement Program**

#### ***POLICY #9***

#### ***Easement Requirements***

As an easement holding organization, the Department of Historic Resources will work with property owners and their legal counsel to develop easement language that serves to protect the property subject to the easement and provide helpful guidance.

The Department will continue to update the standard language to be included in all easements (template language) as necessary to reflect changes in federal and state law and preservation procedures and practices. It is the policy of the Department to develop language for each easement that will be both flexible and strong enough to remain in force in perpetuity.

In addition to stipulations already included in the templates used by DHR, easements accepted after December 31, 2008 will include the following stipulations, as appropriate.

- The Department will require that the donors of easements ensure that the property subject to the easement is adequately insured against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance.
- Each easement will include a stipulation regarding extinguishment.
- Consistent with the Internal Revenue Code requirements enacted with the Pension Protection Act of 2006, easements will stipulate that the height of easement properties may not be altered.
- Any restrictions on a property that are already in force (e.g. zoning, review by Architectural Review Board) will be identified in an easement property.
- The Department will require that easements clearly state that the staff of the Department will be granted access to properties under easement, upon reasonable notification, in order to conduct an inspection of the features of the property that are protected by the easement.

- Easements will require that an owner of an easement property must notify the Department when the property is for sale
- Easements will reference the Secretary of the Interior's Standards as the benchmark by which alterations to a property will be measured against.
- In order to derive the maximum public benefit from properties under easement, it is the policy of the Department to provide recommendations for public access in the easement document. The level of access and the type of access will be considered on a case-by-case basis.
- In cases where an easement is to be co-held by DHR and other organizations or in cases where the property is subject to other levels of review (e.g. Architectural Review Board), every attempt will be made to sub-ordinate and clearly define responsibilities in the easement.