

## Conservation Easements

A **conservation easement** is a voluntary and legally binding agreement between a private landowner and a government entity or qualified land trust. Conservation easements specify the restrictions on development, management, and/or land use. The land trust or government entity holds the conservation easement or interest and enforces the restrictions against the current and subsequent landowners. The conservation easement restrictions are made in perpetuity, meaning development or other rights are permanently extinguished. Further, the government or land trust cannot re-sell, give away or transfer these conservation or development rights.



A conservation easement may appeal to a landowner because of its characteristics. For example the conservation easement is voluntary; it offers considerable flexibility, and the landowner (and any future owner) retains the right to use, sell and transfer the property consistent with the conservation easement. A conservation easement can be flexible; it is possible to conserve a portion of the property, while the remainder of the property has no such restriction. Additionally, a full or partial donation of a conservation easement can qualify the landowner for local, state and federal tax benefits.

The value of the conservation easement is determined as the difference between the value of the land at its “highest and best use” (usually commercial or residential development) and at its less intensive use (usually agricultural or open space). A qualified appraiser is needed to determine these values. In exchange for placing the conservation easement on the property, the landowner may qualify for tax benefits including reduced property and/or estate taxes. In some instances property owners can receive payments for placing the conservation easement on their property (see the fact sheet on Purchase of Development Rights).

- Two specialized conservation easements are:
- 1) agricultural conservation easement
  - 2) preservation easement.





The **agricultural conservation easement** permanently limits the type of non-agricultural development that can occur to the land. Many agricultural conservation easements allow limited, future non-agricultural development to occur, as long as the agricultural resources are not compromised. Common examples of this limited development include: 1) retaining the right to subdivide residential building lots for one or more heirs, and 2) allowing for the construction of structures necessary for agricultural production, distribution and sales, etc.

A **preservation easement** protects significant historic, natural, archaeological, or cultural resources. Historic preservation easements can be used to protect historic structures, historic landscapes, battlefields, archaeological sites, etc. As with other conservation easements, preservation is in perpetuity, and the landowner may be eligible for tax benefits.

If the reader is familiar with deed restrictions, you may question the similarities and differences between deed restrictions and conservation easements. There are important and significant limitations to deed restrictions in regards to providing the same protections as conservation easements. Conservation easements use a third party enforcer (e.g. land trust, municipality) to insure the land protections are put into effect, whereas deed restrictions rely on neighboring property owners to assure compliance with the restrictions. Conservation easements are permanent, in perpetuity. By contrast, deed restrictions can be removed by the written agreement of all neighboring property owners. Conservation easements qualify landowners for local, state or federal tax benefits, while deed restrictions do not.



Some examples of conservation easements in Saratoga Counties are:

- The Ritson Farm in the Town of Saratoga to Saratoga P.L.A.N.
- The Reilly Farm in the Town of Halfmoon to Saratoga P.L.A.N.
- The Carver Farm in the Town of Greenfield to Saratoga P.L.A.N.
- The Hennig Property in the Town of Providence to Saratoga P.L.A.N.
- The Larmon Property in the Town of Saratoga to Saratoga P.L.A.N.
- The Wing Road Farm in the Town of Greenfield to Saratoga P.L.A.N.
- The Creekside Farm in the Town of Wilton to Saratoga P.L.A.N.

*Saratoga P.L.A.N. (preserving land and nature) is a nonprofit conservation organization working to protect our environment, economy and way of life for present and future generations in Saratoga County. As a land trust, Saratoga P.L.A.N. protects farmland, forestland, waters, natural areas, trail corridors, and historic sites. As a community partner, Saratoga P.L.A.N. provides technical assistance to municipalities to balance growth and conservation and to foster regional cooperation through community planning and implementation. This fact sheet is one of a series entitled "Tools for Community Planning and Conservation." Other titles from the series can be found on Saratoga P.L.A.N.'s website: [www.saratogaplan.org](http://www.saratogaplan.org).*