

Current Use, Deed Restrictions and Conservation Easements

-Erika Rowland, Executive Director

Just as there are many types of trails through the forest—old woods roads to single-track—there are many pathways to conserving land and achieving forestry, wildlife, and management goals for your property.

Several options for conserving and managing open lands leave property in the hands of private landowners and on the tax rolls of local municipalities. Roughly half of the lands conserved in our area are owned by individuals, families, and private landowners whose property taxes support our towns.



Mud Pond, on the border of the new Rohr North Conservation Easement. Photo by Aidan Black

Conservation easements, Maine's Current Land Use Taxation Program, and deed restrictions are examples of the options available. The different tools achieve similar outcomes and can help protect important conservation values. All involve limitations on land uses; the differences between them are related to who is responsible for upholding the use limits, the effects on property and income taxes, and how long the limitations remain in effect.

Conservation easements are agreements between a landowner and conservation organization that permanently extinguishes some

property uses specifically to protect conservation values. Land trusts* and conservation entities, such as town conservation commissions and public agencies, administer and manage (i.e., "hold") conservation easements. Maine state statutes and the IRS regulate conservation easement practices.

The Current Use Taxation Program is offered through the Maine Revenue Service Tax Division. The application is administered at the town level because of the direct impact on property taxes. Anyone may apply, but properties need

to meet certain criteria to qualify.

In contrast to conservation easements and Maine's Current Use Program, deed restrictions are developed entirely between private parties—typically current owners or developers—with minimal required uniformity. Deed restrictions are the realm of landowners and their lawyers, although the tool can be part of larger land trust conservation projects.

The reserves owned by the GLLT take advantage of different tax options offered by the state and local government, while providing a recreational resource to our communities with public access,



Haying, an allowed land use, on the Rodgerston Conservation Easement. Photo by Erika Rowland

maintained trails and scenic vistas. In this way, GLLT and other landowners protect important conservation values in the area while sustaining municipal budgets with tax payments.

Just as the forest is easier to navigate with trail markers, navigating these options for managing your land can be easier with help. GLLT can answer questions about choosing a good fit for your property goals. We are able to provide information about all these options, and offer particular expertise in conservation easements. Please don't hesitate to get in touch with us at (207)-925-1056 or info@gllt.org. If we don't know the answer, we can likely point you in the right direction.

**Land trusts are community-based, usually 501(c)(3) nonprofits, and work with landowners to conserve land using acquisition, conservation easements, or other interests in real property.*

FAQs

Q. Does my deed change?

A. Deed restrictions and conservation easements are a legally-binding part of property deeds and the chain of title. Current Use Programs are not linked to a property's deed.

Q. How long do these changes last?

A. Conservation easements are permanent. Deed restrictions are intended to be permanent but may be removed through legal action. Current Use Program have a penalty for withdrawal.

Q. Who makes sure the plans are followed?

A. Land trust staff visit conservation easement properties once a year to verify that limitations are followed. Towns oversee Current Use Programs. The landowner who put deed restrictions in place, as well as neighbors, may take legal enforcement action if current landowners do not adhere to restriction.

Q. Who is eligible to use conservation tools?

A. Property tax reductions through the Current Use Programs are open to any qualifying, privately-owned property, including those with deed restrictions. A conservation easement is the only tool of the three that offers potential income tax benefits, as well as enhanced property tax reductions through the Current Use Program. Land trusts employ all of these tools in conservation work.

Table: A comparison of common options available to private landowners for conserving and managing land.

Options	Deed Restrictions	Current Use Taxation	Conservation Easements
Description	A clause in a deed for a property that limits the uses of the property.	A state program that changes the assessed value of land that is managed in particular ways, which may reduce property taxes.	A voluntary agreement between a private landowner and a qualified conservation organization that permanently limits property uses to protect conservation values.
Examples	Declaration of Covenants, Conditions and Restrictions for a property owner	<ul style="list-style-type: none"> • Tree Growth • Open Space • Farmland 	Typical restrictions include <ul style="list-style-type: none"> • no or limited development • sustainable forest management • no or limited resource extraction • limits on commercial uses.
Property tax implications	None based on the deed restrictions, but a current use designation may affect taxes.	Designed to reduce property taxes. Property value is assessed based on current use rather than top potential market value.	None related to the conservation easement, but a landowner may apply for a "Permanently Protected" Open Space designation.
How long does it last?	Restrictions run with the deed but may be legally challenged.	Until the landowner changes the classification. There is a penalty for withdrawal.	In perpetuity (forever).
Who ensures restrictions are upheld?	<ul style="list-style-type: none"> • homeowners associations • neighbors • previous owners. 	Local municipality	A land trust or other conservation organization (e.g., state agency) who holds the conservation easement.
Does it affect income tax?	No	No	Following donation or sale of a conservation easement at below market value, the difference from the market value is considered a charitable donation to be claimed on federal income taxes.
Contacts for more information	Your attorney.	www.maine.gov/revenue/propertytax/propertytaxbenefits/current_use.htm Or your town office.	<ul style="list-style-type: none"> • Greater Lovell Land Trust or other conservation organization • your attorney and tax advisor • Maine Land Trust Network www.mltn.org