



Conservation Easements

Frequently Asked Questions

The Upper Valley Land Trust permanently protects specific parcels of land using voluntary, legally binding agreements known as conservation easements. A conservation easement is a deed that specifies the types and locations of activities permitted on a particular parcel of land. A conservation easement "runs with the land" so all future owners of the parcel are bound to the terms of the conservation easement.

UVLT works directly with landowners to draft restrictions appropriate to the unique characteristics of each property and the landowner's goals. For instance, a landowner may choose to conserve some, but not all, of their land; or a landowner may wish to specify timber or habitat management standards to continue their investment in good stewardship.

Land subject to a conservation easement remains in private ownership and can be sold, given, or inherited at any time. A conservation easement assures landowners that the natural resource values of their land will be protected forever, no matter who the future owners are.

Conservation easements are usually donated to UVLT, and easement donors may realize income tax, estate tax, and gift tax benefits. When funds are available, UVLT may purchase conservation easements. This is sometimes called "selling development rights."

Who Can Grant an Easement?

Any owner of property with conservation values may grant a conservation easement if UVLT accepts. If the property belongs to more than one person, all owners must consent. If

the property is mortgaged, the owner must obtain an agreement from the lender to partially subordinate its interest so that the easement cannot be extinguished in the event of foreclosure.

How Restrictive is a Conservation Easement?

Each conservation easement is designed to limit or prohibit development and other activities in order to protect the significant natural values of that particular property.

Agricultural and forestry activities are usually permitted and encouraged on conserved lands, and structures such as culverts, bridges, barns, sheds, fences, and dams necessary for farming and forestry are allowed. Habitat management and improvement, such as creating ponds and wetlands or establishing plant species to benefit wildlife, is also usually permitted.

Depending on the characteristics of the property and the landowner's wishes, future residential or commercial construction may be prohibited entirely – or limited to a site where it will have the least impact on the natural values of the property. Additional restrictions usually include prohibition of mining, excavation, advertising billboards, and dumps.

How Much Land Must Be Included in a Conservation Easement?

The appropriate amount of acreage depends on the purposes of the easement and the natural values of the land, the landowner's objectives, and UVLT land protection goals and priorities. The restrictions must convey meaningful conservation benefits consistent

with UVLT's mission as a charitable organization.

How are Conservation Easements Enforced?

When UVLT accepts a conservation easement, it takes on a duty of stewardship – the right and responsibility to defend the terms of the easement against any future violation. UVLT representatives visit conserved properties periodically to verify compliance, using written records and photographs to document the condition of the property.

Does a Conservation Easement Require Public Access to the Property?

A conservation easement does not allow access to the public unless the landowner specifically provides for it in the document. Public access is more often granted when the property has a history of public use and is perceived to be a recreational resource. Some landowners provide public access rights to a limited area, such as hiking along a defined corridor. Landowners may limit access to specific purposes (education or hunting, for instance) or permit only certain types of activities such as hiking or skiing. Vermont and New Hampshire state laws protect landowners who offer public access from liability.

Conservation easements do permit regular access by UVLT for the purpose of monitoring the use and activities on the property to ensure that the terms and conditions of the conservation easement are upheld.

Are There Financial Incentives to Donating a Conservation Easement?

Income Taxes: The donation of a conservation easement constitutes a charitable gift which may be deductible for federal income tax purposes if the property meets conservation standards established by the federal government. The value of the gift, determined by an appraisal, is equal to the difference between the fair market value of the property before and after the easement is donated.

Estate Taxes: A conservation easement can be a useful estate planning tool, enabling heirs to keep land they would otherwise have to sell. State and federal inheritance taxes on real estate are often so high that the heirs are forced to sell some or all of the land just to pay the taxes. Because an easement reduces the value of the property, the inheritance taxes are also reduced.

Gift Taxes: When a landowner gives land to a family member, the gift is subject to gift taxes if its value exceeds the maximum tax-free amount. Lowering the value of the land through a conservation easement may allow the landowner to give more land free of tax, or may help reduce the amount of tax owed.

Property Taxes: Most property subject to a conservation easement is eligible for preferential tax treatment under current use taxation. Landowners whose property is already enrolled in a current use program will generally not see a further reduction in their property taxes.



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