



saratoga
PLAN

Preserving Land and Nature

using conservation easements to conserve agricultural lands

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Aerial view of Fish Creek, Saratoga County, N.Y.

FARMS DEFINE THE CHARACTER AND LIFESTYLE OF OUR COMMUNITIES, and are a testament to the hard work of many generations who have managed the land to make it productive. Fertile lands used for farming are one of a family's – and a community's – most valued and valuable assets.

THERE ARE MANY REASONS WHY PEOPLE CHOOSE TO CONSERVE THEIR LAND.

A love of the land is first and foremost. Honoring ancestors who worked the land in the past or a desire to feed generations in the future are other reasons. While developing business plans, retirement plans, transition plans, or estate plans, land conservation may come into play. Orderly transfers between farmland owners, whether in the family or not, can involve land conservation, too. Whatever the reasons, conserving one's farmland reflects a love of the land and an understanding of its importance to the long-term health of the economy, environment, and social fabric of the community.



There's a need to conserve productive farmland for the next generation of farmers.

While many farmers in NYS are retiring, the number of younger farmers pursuing a life in agriculture has been increasing.

COMPETITION FOR FARMLAND.

Productive land is a limited commodity and, as development chips away at it, hardships are created that diminish satisfaction and profitability of the agricultural industry. Residential and commercial development in an agricultural area can cause operational headaches for farmers who must accommodate and educate more non-farming neighbors and leapfrog developments to get to distant fields. When competing with developers, who also desire well-drained, level land, not only do land prices surge, but competition between existing farmers for crucial and vulnerable fields to rent intensifies. This puts farmers just starting out at a further disadvantage for access to land, with farmland being increasingly scarce in the future.

WHY COMMUNITIES STRIVE TO RETAIN FARMS.

Conserving agricultural land is often identified as one of a community's highest priorities because of the comprehensive package of benefits that it offers a community:

Local sources and secure supplies of food, fiber and fuel are essential. New York State can only feed 31% of its population with the land currently under production, and is losing farms at the alarming rate of 2 per week.

Protected properties remain in private ownership and management and on the tax roles.

Lower costs for municipal services and school budgets mean lower taxes for everyone else.

Farms provide environmental services, such as conserving soil and water resources, replenishing groundwater reserves, protecting air quality, and moderating climate.

The agricultural industry provides rural economic activity and jobs.

Most farms possess wildlife habitats such as woodlands, hedgerows and wetlands for native plants and animals.

Farms offer opportunities for recreation such as hunting, horseback riding, hiking, snowmobiling, fishing, agritourism and educational activities, and some even offer limited public access for these types of activities.

A beautiful, scenic agrarian landscape provides aesthetic, mental and spiritual inspiration and nourishment, stress relief and a sense of wellbeing, boosting public health and quality of life.

Cherished rural traditions and lifestyles keep us connected to the land and to each other.

As a society, we have recognized the many public benefits and essential services that agricultural lands provide to our communities. Therefore, we have established ways to permanently conserve farmland and ensure that it will always be available to produce food and fiber. Conserving farmland is a strictly voluntary decision on the part of the landowner. There are a number of programs and tax benefits that provide incentives or compensation to farmland owners in exchange for conserving their farmland.



NYS farms can only feed 30% of its population now, and we're losing farms at a rate of two per week. Conserving farmland will ensure a secure source of locally produced food for the future, in the fastest growing county in NYS.

HOW DOES SARATOGA PLAN HELP TO CONSERVE FARMLAND?

Saratoga PLAN preserves the rural character, natural habitats, and scenic beauty of Saratoga County so these irreplaceable assets are accessible to all and survive for future generations. As a private, independent, nonprofit land trust, Saratoga PLAN, which stands for preserving land and nature, has assisted dozens of landowners and municipalities in Saratoga County since 2003 with accomplishing their goals for conserving farmland, woodlands, waters, and trails. Saratoga PLAN is an accredited land trust which meets the highest level of standards and practices established for land trusts in the U.S.

Saratoga PLAN provides free, confidential consultation services to help farmland owners conserve their land. Every tract of land is different and every individual landowner's interests and circumstances are unique. Therefore, various conservation options and incentive programs may apply for each situation. Conserving farmland, just like developing it, is a permanent action and needs to be carried out thoughtfully. Saratoga PLAN's experienced staff helps landowners understand their options, develop a plan of action, and work through the steps to accomplish their farmland conservation goals.

WHEN A LANDOWNER WISHES TO PROTECT HIS OR HER LAND from future development, and wishes to continue owning, using and managing the land, as in the case of agricultural properties, the best solution is what is known as a conservation easement. This fact sheet will describe how agricultural land can be conserved by using a conservation easement and how Saratoga PLAN helps landowners to work through the easement process.

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*Land
conservation
organizations
make it
economically
viable to pass
land on to the
next generation
of farmers.*



The 128 acre Foster Sheep Farm, located on the western bank of the Hudson River in the Town of Northumberland, produces sheep, llamas, alpacas, beef cattle, angora rabbits, hay, pasture, and row crops on its fertile soils. Its woodlands and floodplains produce timber and wildlife habitat and buffer the river from pollutants. The farm's development rights were purchased through federal grant funds. The Fosters continue to own and manage the land, while Saratoga PLAN holds the conservation easement, ensuring that it will always be available to produce food and fiber in the future.

AGRICULTURAL CONSERVATION EASEMENTS



A conservation easement is a voluntary, legally binding, and perpetual agreement between a private landowner and a qualified land trust such as Saratoga PLAN or a government entity. The conservation easement document specifies the conservation values of the property that is being protected and the restrictions and limits to development, management, and use of the land that are put in place to protect those conservation values. The conservation easement also specifies the rights retained by the property owner.

Each conservation easement is tailored to fit the needs of the landowner and the land, with the land trust or municipality accepting responsibility to enforce its terms over time. Conservation easements generally allow for current residential and commercial uses or future development within specified areas of the property.

The landowner continues to own the property and retains the rights to sell or transfer title to the land. The landowner continues to manage and use the property, as long as the use is consistent with the conservation easement and protects the conservation values of the land and does not impair its future use for farming.

Conservation easements are recorded in the county clerk's office and remain tied to the title to the property like a deed, even when the property ownership changes. In New York State, conservation easements are also registered with the Department of Environmental Conservation.

Agricultural conservation easements generally permit adequate development of farm-related structures, typical farming practices that can evolve over time, wood harvests, and hunting, horseback riding, fishing, and other recreational uses. Depending on the property, future subdivision is an option that may be allowed if it is for agricultural purposes and does not impair the agricultural viability of the property.



Conservation easements are carefully tailored to fulfill the needs of the landowner and protect the values of the land while not impairing its future use for farming.

If natural resources such as native plants or animals and their habitats are conservation values also being protected by a conservation easement, then the terms of an easement will allow the types of management that might be needed such as streamside buffers, invasive species control or prescribed burning on certain areas of the property. If scenic values are being protected by a conservation easement, then there may be restrictions on the placement or types of agricultural structures that can be built on the property. Mining is an activity specifically prohibited by all conservation easements.

Conservation easements can be:

- a. donated;
- b. sold;
- c. bargain sold, which is a combined sale and donation; or,
- d. transferred to another property, if the local community has established a system for transferring development rights between properties.

The land trust or municipality holds the conservation interest and accepts the responsibility to see that its terms are upheld over time by current and subsequent landowners. The development rights are extinguished, allowing no one to re-use them (unless acquired as part of a municipality's transfer of development rights program).

Since conservation easements are placed on properties when their development rights are conveyed, and development rights are extinguished when conservation easements are placed on properties, the two terms are often used interchangeably.

Tax incentives are offered for lands protected by conservation easements because conservation values such as water and air quality, climate moderation, food and timber production, wildlife habitat, and scenic views benefit the public. Public benefits may include public access to some lands with conservation easements. Public access is not required in conservation easements but can be accommodated, if the owner or community wishes, and the owner agrees.

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Agricultural lands that are in production drive the local economy. In 2007, farming in the Hudson Valley Region had a total gross economic impact of \$810 million.

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There are about 11,000+ horses in Saratoga County, which contributes to equine industry's over \$4 billion in statewide economic impact.

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DONATION OF DEVELOPMENT RIGHTS

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Landowners can donate development rights on all or some of their property in order to ensure that, in the future, their land is never developed or only developed to the extent they specify. Easements can also be donated as a bequest or by heirs receiving the land given to them through someone's will. Certain income, property and estate tax benefits apply to most easement donations.

INCOME TAXES

The value of the donation can be claimed as a charitable deduction on the donor's federal and state income tax returns. To claim a charitable deduction for an easement donation, a qualified appraiser must be hired by the donor to determine the value of the donation of development rights. Appraisers determine value by comparing the "highest and best use" from recent sales of similar properties with and without development rights removed.

In past years, there has been a series of U.S. tax laws which enhanced the charitable deduction for donations of conservation easements. In 2015, there is a bill in both houses of Congress right now to make these enhanced charitable deduction incentives permanent. The enhanced deduction enables the donor to write off up to 50% of their Adjusted Gross Income (or 100%, if a bona fide farmer) and to carry the deduction forward for up to 15 years, or until the value of the easement donation has been claimed.

PROPERTY TAXES

Local assessors might lower property assessments due to the removal of their development potential. It is up to the discretion of each local assessor to make that determination.

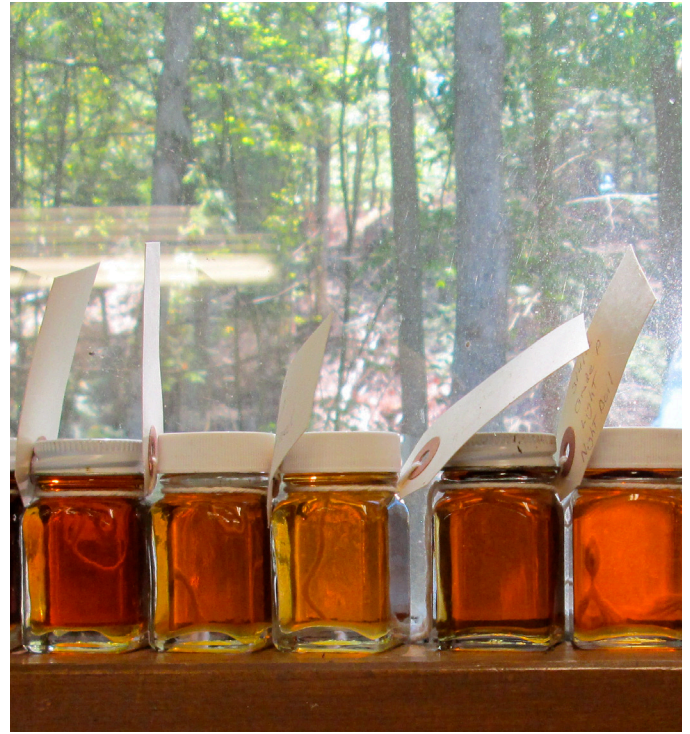
PROPERTY TAX CREDIT

Easement donations also make the property owner eligible for a NYS income tax credit (rebate) for 25% of the county, town and school taxes that they pay on the land (not including improvements), even if they have an agricultural assessment, for a maximum of \$5,000 per year. If receiving the Farm School Tax Credit already, landowners cannot receive the school tax credit rebate twice.

ESTATE TAXES

For some easement donors, estate taxes are also lowered. If this is a consideration, the specific tax rules can be discussed. Conservation easements can also be donated as a bequest, or by heirs while settling an estate. PLAN can assist by providing information to your estate planning attorney or executor for the rules pertaining to donating a conservation easement post-mortem.

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Farms in Saratoga County produce an large diversity of products. From livestock, eggs, vegetables, and fruit, to hay, honey, maple, yogurt and cheese; the fertile lands of the county can sustain a great range of farming.

PURCHASE OF DEVELOPMENT RIGHTS

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Some landowners want to conserve their land but have a need to extract some equity from their property. It is not uncommon to hear farmers say “My land is my retirement.” Other farmers wish to extract some equity for their development rights in order to buy more land, to make improvements on the farm, or to pay down debt in order to make their business more profitable, or make improvements on the farm. Sometimes, getting cash out of the farm enables a farmer to pass the land down to farming heirs while giving the cash portion to non-farming heirs.

Land trusts and municipalities are able to fully or partially compensate a landowner for the financial value of a conservation easement through “purchase of development rights” (PDR) programs. The value of development rights retired by the proposed conservation easement must be determined by a qualified real estate appraiser with the credentials to value agricultural conservation easements.

Private grants, public funds from federal, state, county, or local sources, a partial donation of the value by the landowner (a “bargain sale”), or some combination of these can be used to reach the appraised value of the development rights. Funding sources have varying conservation objectives, award criteria, match requirements, easement restrictions, and application timetables.

It often takes cooperative partnerships to gather enough resources for PDR projects. Public PDR funding programs are administered by the New York State Department of Agriculture and Markets, USDA’s Natural Resource Conservation Service, and the Saratoga County. Some local towns contribute toward PDR projects, too. Occasionally, a private foundation with a particular conservation interest helps with matching funds. Many times landowners contribute something toward the project costs and Saratoga PLAN raises private funds from supportive community members, too.

Saratoga PLAN can help landowners find the right funding match for a property owner and, as a nonprofit organization, can apply for grants directly or in partnership with a municipality by acting as its conservation agent. The Saratoga County Planning Department and Saratoga PLAN collaborate closely on conservation projects with landowners, developers and partnering municipalities to make it all work for the landowner.

Funding for purchasing development rights is very competitive, has multiple criteria and limitations, and takes several years to complete the process. Landowners should also investigate whether they will owe capital gains tax on the compensation they receive when they sell development rights.

In addition to seeking grant funds and fundraising, Saratoga PLAN helps landowners think through site planning, easement restrictions, finances, and future land ownership aspects of conservation easement projects. Our goal is no surprises later! Once funding is in place, Saratoga PLAN manages the easement process, which includes easement drafting, title search and clearances, mortgage subordination, appraisal, survey, environmental site assessment, approvals, mapping, photographing and describing in a property baseline report.

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A conservation easement on the 82 acre Creekside Farm, located along the Snook Kill, gave Susan Miller peace of mind that the land will remain working agricultural land generation after generation.

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TRANSFER OF DEVELOPMENT RIGHTS

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New York State law defines transfer of development rights (TDR) as “the process by which development rights are transferred from one lot, parcel or area of land in a sending district to another lot, parcel or area of land in one or more receiving districts.”

The purpose of a TDR program is to enable and encourage flexibility of design and careful management of land while protecting the natural, scenic, historic or agricultural qualities of a community. Municipalities are given much flexibility in designing TDR programs to achieve their goals. TDR programs seek to provide a mechanism for a voluntary exchange to steer development toward more suitable areas and away from areas that a community wants to conserve, without taking away property rights or reducing property values.

Landowners in “sending” districts sell the development rights on their land either directly to landowners wishing to develop more intensely in “receiving” areas or to development rights banks established by the municipality. Instead of creating geographic sending and receiving districts that can differentially affect property values, sending districts can be defined by resources such as stream buffers or productive agricultural soils. In this way, no one area is burdened unduly with either the loss or the increase in development, but resources, wherever they occur within the municipality, can be protected.

The end result for the farmland owner, though, is the same – the landowner sending or selling development rights has a conservation easement placed on the property. Clifton Park is the only municipality in Saratoga County with a TDR program at this time; they call it a density incentive overlay area. The towns of Stillwater and Ballston are working on establishing TDR programs.

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Farms have a tremendous impact on the local economy, with farmers spending between 60% and 75% of their expenses locally.



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FOR FURTHER INFORMATION ON HOW YOU OR YOUR COMMUNITY
CAN CONSERVE FARMLAND, CALL 518-587-5554 OR VISIT

SARATOGAPLAN.ORG



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