



Guide to a Conservation Easement Deed

PREAMBLE

Defines Grantor of the easement as current and/or all future landowners; defines the Forest Society; describes the Property to be protected and the easement.

1. PURPOSES

Declares the natural resources being protected by the easement and acknowledges that the purposes are consistent with the town's master plan (if applicable), state law, and certain rules of the Internal Revenue Service.

2. USE LIMITATIONS

This section outlines what land uses are prohibited under the easement:

- A. Prohibits industrial and commercial activity, except agriculture and forestry.
- B. Prohibits subdivision of land.
- C. Prohibits buildings and structures, except as necessary for approved uses.
- D. Prohibits disturbance of soil, except as needed for approved uses.
- E. Prohibits signs and billboards, except as needed for approved uses.
- F. Prohibits mining and excavation, except as needed for approved uses.
- G. Prohibits dumping, burning or burial of man-made waste and hazardous material.
- H. Requires written prior approval from Forest Society before right-of-ways are created by landowner.

3. RESERVED RIGHTS OF THE GRANTOR

This section can explicitly allow certain rights that may otherwise be prohibited or restricted by the terms of Section 2. These exceptions may include: the right to maintain the existing utilities on the Property, or the right to build a pond, cabin, septic system, or withdraw a house lot, or other necessary provisions.

4. NOTIFICATION OF TRANSFER OR OTHER ACTIVITIES

- A. Requires landowner to notify the Forest Society in writing if land is sold or transferred.
- B. The Forest Society is not responsible for maintaining the Property or paying taxes.

5. BENEFITS, BURDENS

States that the easement stays with the property forever; the Forest Society may only convey the easement to another qualified public or non-profit conservation group that agrees to and is capable of protecting the purposes of the easement.

This guide

is a summary of the Forest Society's model conservation easement deed.

This guide is NOT a legal document. Landowners are strongly urged to read the conservation easement very carefully and to have it thoroughly reviewed by legal counsel.

These sections can all be tailored somewhat to meet the distinctive characteristics of the land and the objectives of the landowner.





6. AFFIRMATIVE RIGHTS OF GRANTEE

This section affirms the Forest Society's rights under the easement:

- A. To access the Property for inspection to determine compliance and to enforce the easement.
- C. To place signs to identify the Property to facilitate monitoring.

7. RESOLUTION OF DISAGREEMENTS

This section outlines the process by which a dispute would be resolved.

- A. Open communication is used first to resolve disagreements between Grantor and Grantee.
- B. If informal dialogue does not resolve disagreement; mediation between parties will be used.
- C. If mediation is bypassed, or disagreement is not resolved by mediation, arbitration will be conducted.
- D. If action is causing damage to the Property, Forest Society may seek a court order to halt action and require restoration of the Property.

8. BREACH OF EASEMENT – GRANTEE'S REMEDIES

This section outlines the legal responsibilities of each party in the case of a violation of the easement.

Some of the responsibilities listed include: the provision that the Forest Society will notify landowner in writing if a violation occurs on the Property; and if landowner is found to be responsible for breach of easement, all restoration costs will be paid by landowner. This easement does not entitle the Forest Society to take action against the landowner if the Property is altered by a third party or by natural disaster.

This section also states that the Forest Society and the landowner have the right to take legal action, separately or collectively, against a third party to restore the Property.

9. EXECUTORY INTEREST

If the Forest Society fails to enforce the terms easement, the executory interest holder, or backup organization, has the right to enforce the easement or take over the easement for good.

10. NOTICES

This section states that all notices and communications required by the terms of the easement will be in writing with return receipt requested.

11. SEVERABILITY

States that if one part of the easement document is found to be invalid, the other parts are not affected.

12. CONDEMNATION/EXTINGUISHMENT

Easement land can be taken by eminent domain by a public entity. This section states that both the landowner and the Forest Society can act to recover financial damages; outlines how damages would be divided; and requires the Forest Society to use any proceeds for its conservation purposes.

13. ADDITIONAL EASEMENTS

This section allows the landowner to transfer additional easements on the land to other qualified entities, but only if such additions clarify or strengthen the conservation purposes and if the Forest Society is duly notified.