

Appendix P

Sample Term Easements/Tax Abatement Law

**Local Law No. 1 of 2004, a local law amending Chapter 125,
Conservation Easement of the Town Code, as adopted by Local Law No. 12 of 1996**

Chapter 125, CONSERVATION EASEMENT

[HISTORY: Adopted by the Town Board of the Town of Clifton Park 12-16-1996 by L.L. No. 12-1996. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental Conservation Commission -- See Ch. 13.
Farming -- See Ch. 102.
Freshwater wetlands and stream protection -- See Ch. 124.
Land development -- See Ch. 141.
Parks and preserves -- See Ch. 152.
Subdivision of land -- See Ch. 179.
Zoning -- See Ch. 208.
Planned development districts -- See Ch. A217.

§ 125-1. Title.

This chapter shall hereinafter be known and cited as the "Conservation Easement Law of the Town of Clifton Park."

§ 125-2. Purpose.

It is the purpose of this chapter to provide for the acquisition of interests or rights in real property for the preservation of historic buildings and landmarks and open space and areas which shall constitute a public purpose for which public funds may be expended or advanced after due notice and a public hearing, by which the Town of Clifton Park may acquire, by purchase, gift, grant, bequest, devise, lease or otherwise, the fee or any lesser interest, development right, easement, covenant or other contractual right necessary to acquire open space or open area or historic buildings or landmarks as the same are defined in § 125-5 herein.

§ 125-3. Legislative authority.

In accordance with § 247 of the General Municipal Law of the State of New York, the Town Board of the Town of Clifton Park has the authority to acquire such interests or rights in land. Pursuant to the above authority, the Town Board has prepared and adopted this chapter setting forth standards to be followed in the acquisition of such interest.

§ 125-4. Jurisdiction.

This chapter shall apply to the entire area of the Town of Clifton Park.

§ 125-5. Definitions.

For the purpose of this chapter, the terms used herein are defined as follows:
FARM or FARMING -- As defined in §§ 208-7 and 208-8 of the Town Code.
HISTORIC BUILDINGS OR LANDMARKS -- As described in Article XIII of Chapter 208 of the Town Code.
LOT -- As defined in § 208-7 of the Town Code.

OPEN SPACE or OPEN AREA -- Any space or area characterized by natural scenic beauty or whose existing openness, natural condition or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development or would maintain or enhance the conservation of natural or scenic resources. For the purposes of this section, natural resources shall include but not be limited to agricultural lands defined as open lands actually used in bona fide agricultural production.

§ 125-6. Procedure for granting easement.

A. Proposal by owner. Any owner or owners of land which constitutes an historic building or landmark for an historic conservation easement or a minimum of 15 acres per lot, or a minimum of 7.5 acres each for any two adjoining lots for a conservation easement may submit a proposal to the Town Clerk, who shall refer such application to the Town Board. The Town Board shall refer such application to the Historic Preservation Commission or to the Environmental Specialist, as appropriate, and the Planning Board for review and comments within 45 days if deemed necessary and/or appropriate. Such proposal shall be submitted on a conservation easement application form available in the Town Clerk's office. It must include a copy of a full size tax map showing the property, if the entire parcel is being encumbered, or a copy of a survey map and metes and bounds description of the proposed area if it is part of a parcel.

B. Review by Historic Preservation Commission or Environmental Specialist in conjunction with the Planning Board. Upon receipt of such proposal, the Historic Preservation Commission or Environmental Specialist and Planning Board shall investigate the area to determine if the proposal would be of benefit to the people of the Town of Clifton Park. If the Historic Preservation Commission or Environmental Specialist and Planning Board, if such a referral has been made by the Town Board, determines that it is in the public interest to accept such a proposal, each shall recommend to the Town Board that it hold a public hearing for the purpose of determining whether or not the town should accept such proposal.

C. Public hearing by Town Board. The Town Board shall, within 45 days of receipt of such advisory opinion, hold a public hearing concerning such proposal at a place within the Town of Clifton Park. At least 10 days' notice of the time and place of such hearing shall be published in a paper of general circulation in such town, by the Town Clerk. A written notice of such proposal shall be mailed by the applicant to all adjacent property owners and to any municipality whose boundaries are within 500 feet of the boundaries of said proposed area and to the school district in which it is located. Receipts of mailing shall be submitted to the Town Clerk's office prior to the date of the public hearing.

D. Determination. The Town Board, after receiving the reports of the Historic Preservation Commission or Environmental Specialist and the Clifton Park Planning Board and after such public hearing, may adopt the proposal or any modification thereof it deems appropriate or may reject it in its entirety.

E. Recording agreement. If such proposal is adopted by the Town Board, it shall be executed by the owner or owners in written form and in a form suitable for recording in the Town Clerk's office.

F. Cancellation. Said agreement may not be canceled by either party. However, the owner or owners thereof may petition the Town Board for cancellation upon good cause shown, and such cancellation may be granted only upon payment of the penalties provided in § 125-8 herein.

G. The owner shall pay to the town a fee of \$15 which shall be deemed a reasonable sum to cover the costs of administration, no part of which shall be returnable to the applicant.

§ 125-7. Valuation for taxation.

After acquisition of any such interest pursuant to this chapter, the valuation placed upon such area for purposes of real estate taxation shall take into account and be limited by the limitation on the future use of the land.

§ 125-8. Penalty for violation or cancellation.

In the following paragraph "substantial" will be defined as a 100% increase in the density of the parcel which will trigger a review and final determination by the combined efforts of the Town Assessor, Director of Planning and Environmental Specialist. The determination of substantial as it relates to historic structures will be referred to the Historic Preservation Commission, as it has expertise in this area and will review the project to make a determination on the penalty.

If there is a substantial violation of the terms and conditions of the easement agreement or if said agreement is canceled by the Town Board upon petition, the then owner or owners of said property must pay to the Town of Clifton Park the following amounts:

A. All taxes granted abatement under and pursuant to the Historic Preservation Commission or Environmental Specialist easement agreement, said taxes to include the state, county, town, school districts and all special improvement districts and other taxing units to which the property is subject. Said back taxes shall be limited as follows: Any easement broken before its 11th year will be subject to a five-year maximum rollback; an easement broken between its 11th and 15th year will be subject to a four-year maximum rollback; an easement broken in its 16th year or later will be subject to a three-year maximum rollback.

B. The penalty assessed on the basis of the previous year's tax abatement multiplied by a factor equal to the term of the easement divided by the current year of the easement. This factor shall not exceed five.

C. Property covered by a conservation easement that is destroyed by fire or natural disaster will not be penalized unless the future use of the land or buildings is changed.

§ 125-9. Types of Easements.

In applying for the easement, the applicant should state the type of easement proposed. The following types of easements may be proposed:

a Conservation easement: the applicant agrees that land under easement will not be developed, built upon or otherwise changed during the term of the easement.

b Conservation easement (farming purposes): the same as Subsection a, except that farm structures as described in §§ 208-7 and 208-8 of the Town Code which are used as part of an active agricultural operation, are permitted, and are granted the same percentage(%) of easement value remaining taxable on the land. The land and buildings under easement shall be principally and actively used for farming purposes for the term of the easement, but approved farming easement applicants can also apply for other tax saving programs without penalty. The conservation easement will be applied first, and can not be shifted from one program to another.

c Conservation easement (historic preservation): the applicant shall preserve the Historic Building or Landmark as described in Article XIII of Chapter 208 of the Town Code.

Land covered by a conservation easement may be sold at any time, but the terms and conditions of the easement shall run with the land and continue until its expiration.

§ 125-10. Duration.

Easements proposed must be subject to a minimum term of 15 years. There is no maximum term.

§ 125-11. Valuation percentages.

The assessor is legally required to take into account and be limited by the limitation on the future use of the land resulting from the easement. The following table of tax assessment is presently in use.

Percent of Pre-Easement Value Remaining Taxable

Years	Conservation	Farming Purposes	Historic Preservation
15	20	15	15
16	19	14	14
17	18	13	13
18	17	12	12
19	16	11	11
20	15	10	10
21	14	10	10
22	13	10	10
23	12	10	10
24	11	10	10
25±	10	10	10

§ 125-12. Exceptions.

Other than for historic preservation easements, it will be required that a parcel which include a principal dwelling exclude a one acre, (43,560 square feet) area with a maximum of three acres (130,680 square feet) encompassing the dwellings and designate that area as an exception to the easement.

§ 125-13. Cancellation.

The easement may be canceled by applying to the Town Board. At the time of such cancellation or if the terms of the easement have been violated by the landowner, the town will assess rollback taxes and a penalty as outlined in § 125-8 of this chapter. The penalty shall be assessed against all the land under easement, except in the case of the death of a sole owner in which case the penalty will be assessed only against that portion which is to be developed or changed in use within one year of the date of death. Thereafter, the penalty and back taxes will be levied upon the land under easement.

TOWN OF CLIFTON PARK – CONSERVATION EASEMENT

PENALTY MULTIPLIER

(Applied to the previous year's tax reduction)

	15	5.0	5.0	5.0	3.8	3.0	2.5	2.1	1.9	1.7	1.5	1.4	1.3	1.2	1.1	1.0
	14	5.0	5.0	4.7	3.5	2.8	2.3	2.0	1.8	1.6	1.4	1.3	1.2	1.1	1.0	
	13	5.0	5.0	4.3	3.3	2.6	2.2	1.9	1.6	1.4	1.3	1.2	1.1	1.0		
	12	5.0	5.0	4.0	3.0	2.4	2.0	1.7	1.5	1.3	1.2	1.1	1.0			
	11	5.0	5.0	3.7	2.6	2.2	1.8	1.6	1.4	1.2	1.1	1.0				
	10	5.0	5.0	3.3	2.5	2.0	1.7	1.4	1.3	1.1	1.0					
Easement	9	5.0	4.5	3.0	2.3	1.8	1.5	1.3	1.1	1.0						
Term	8	5.0	4.0	2.7	2.0	1.6	1.3	1.1	1.0							
	7	5.0	3.5	2.3	1.8	1.4	1.2	1.0								
	6	5.0	3.0	2.0	1.5	1.2	1.0									
	5	5.0	2.5	1.7	1.3	1.0										
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	

Current Year Of Easement

CONSERVATION EASEMENT

125 Attachment 1

Policy Statement

Clifton Park continues to grow. Each year, more and more people are buying land and building homes in the town as the area continues to expand. Pressures to find buildable land will necessarily move sights westward.

People want to live in Clifton Park for many reasons. The town is a wonderful place to live. It is convenient to job centers, it has an excellent school system and well-managed, active recreation programs; but, most of all, Clifton Park is exceptionally scenic, with lots of historic landmarks, wooded hills and rolling fields.

Many of Clifton Park's first suburban residents came here to escape the crowded urban environment of the city, but the city has followed. In a few cases, not much thought was given to the need to preserve some of Clifton Park's original character - the very historic and environmental quality that attracts people to the town.

Open space and historic conservation is more than aesthetics. There are other needs for open space in Clifton Park. Open space areas can help to meet basic human needs for places to relax or play, to meet with friends and neighbors, to enclose neighborhoods so they can be easily identified as social communities, to link homes with shopping centers so they can be safely reached by walking or cycling.

Rural areas with valuable mineral, agricultural and forest lands need to be set aside for sand, gravel, food and timber production, especially when the future supplies of these goods from other areas are becoming more and more uncertain.

Finally, many open lands in Clifton Park play important parts in the ecological system; they absorb floodwaters, prevent soil erosion, provide habitat for wildlife, help cleanse the air of pollutants and moderate the climate by providing shade and windbreaks. They help to reduce dust and noise pollution and provide visual relief from the often cluttered urban landscape. These wetlands must be protected.

Our commitment is to the citizens of Clifton Park, those who live here now and those who will live here in future years. On your behalf, we are dedicated to keeping Clifton Park as a community of people who have a close relationship with the land. Open land is a part of our lives, and we are all part of the Clifton Park environment. What we do with our lands and landmarks will shape our future and our children's future.

We are committed to Clifton Park's future as a community with coexisting suburban, rural and agricultural areas which welcomes development interests consistent with the preservation of these characteristics.

CLIFTON PARK CODE

We are also concerned with our lands which represent valuable areas of regulated resource. We want to maintain farming and forest production as a viable way of life. We believe suburban and rural interests can coexist in harmony but that Clifton Park's future growth should be related to the existing characteristics.

Our neighborhoods and communities should be separated as distinct areas instead of mindless extensions of suburban sprawl.

Parks and recreation areas should be closely related to neighborhoods and communities; places people can walk or cycle to, rather than drive.

Commercial and employment centers should be screened from, but linked to, residential areas.

Development should minimize disturbance to the land; neighborhoods with trees, streams and soils left intact.

It is this Board's intention and desire to preserve open space and historic landmarks whether they are isolated or adjacent to residential or commercial development.