

# Maine's Tree Growth and Farm and Open Space Laws



*Your local land trust in  
S. Berwick, Berwick, N. Berwick,  
Wells, Ogunquit, and Eliot.*

Maine has two programs that help landowners preserve undeveloped lands and reduce property tax burdens by taxing the land on the basis of its current use rather than its higher development value. These are the **Tree Growth** and **Farm and Open Space** laws. They are similar in that they can be applicable to small tracts of land (5 to 10 acres), they require 'active' participation by the landowners to maintain their status, including an initial application, and they exact a penalty if the land is withdrawn from the program.

Not all of a parcel needs to be placed in a program as long as the minimum acreage is met. A portion of a property can be left out to allow for other uses without incurring a withdrawal penalty. The withdrawal penalty does not have to be paid when the land is sold, given away, or inherited as long as its use remains the same. If it does become necessary to withdraw a portion of the property, the penalty is restricted only to the portion withdrawn for other uses, not the whole parcel.

**Tree Growth tax law:** The purpose of this current use tax classification program is to provide an incentive to maintain land in actively managed timber production. The program requires as few as ten acres of forest land to be eligible for the Tree Growth program. It should be land whose primary purpose is the growing of trees for commercial harvest, although secondary uses are permitted such as recreation, education, and wildlife conservation.

Under this program, a *Forest Management and Harvest Plan* must be developed by a licensed forester who inventories the types of wood available and details specific steps to be implemented by the landowner to improve the land for commercial harvest. The Plan takes into consideration the present condition of the land as well as the financial goals and personal preferences of the landowner. The forester and landowner agree on both long- and short-term objectives and improvements. Every ten years the plan must be re-certified by a forester to assure compliance.

An individual is allowed a credit against Maine income taxes for a plan developed for a parcel of land greater than ten acres. Financial assistance for the preparation of a plan may also be available from Federal and State sources. Additionally, many landowners begin generating income immediately from the sale of thinned pulp and cordwoods.

Applications for **Tree Growth** may be obtained from your town's tax assessor or the Maine Forest Service and need to be filed by April 1st to be considered for the following tax year. Once an application is approved, the assessor values the acreage based on rates set annually by the State. The rates for 2007 for York County are \$392.80/acre for land in softwoods, \$138.50/acre for hardwoods and \$227.00/acre for mixed wood. Property taxes are figured by multiplying the valuation by the acreage, dividing by a thousand, and multiplying it by the tax rate for your town.

If a property is voluntarily removed from use as forest land there is a sliding scale penalty assessed based on the number of years in the program. It is a significant penalty designed to assure that landowners in the program are serious about long-term tree growth. Landowners are advised to understand this before entering into or removing property from the Tree Growth program.

**Farm and Open Space tax law:** The purpose of this program is to provide an incentive for the keeping of land in farming, horticultural, or open space uses by basing property valuations on the current use rather than potential uses.

The **Farm Use** portion of the law requires a minimum of 5 acres of land used for farming, agriculture, or horticultural activities. It must produce an income of \$2000 per year for one of the two, or three of the five years preceding the application. The value of homegrown commodities used in the household may be counted as part of this income figure. (The income provision may be waived in special cases.)

The landowner must then provide annual income reports to the town assessor that confirm continued agricultural use. Valuations of farmland are set by the local assessor but the State issues recommended guidelines. The valuation is different for every type of cropland and other agricultural uses.

The **Open Space** portion of the law has NO minimum lot size requirement, but the tract must be preserved or restricted in use to provide a public benefit by conserving scenic resources, enhancing public recreation opportunities, promoting game management, or preserving wildlife or wildlife habitat.

Valuation guidelines have been set by the State to assist the landowner and assessor and depend on the level of protection placed on a particular parcel. The suggested reductions are from fair market value and are: 20% for all Open Space land; and an additional 30% for permanently protected land (with a conservation easement); and an additional 20% for “forever wild” lands. For allowing public access, a further reduction of 25% may be added to the above reductions.

Withdrawal from the Open Space tax program incurs a penalty. This penalty is 30% of the difference between the tax program assessment and the fair market assessment. If the land has been in the tax program for more than 10 years the penalty percentage drops one percent for each year to a 20% minimum.

Application to both programs is made to the town assessor by April 1st of the year in which classification is requested. The Farm and Open Space programs both assess a high penalty for removal of the lands from protection. Like the Tree Growth Program, the sliding scale lessens the penalty the longer the land is left in the program, but the penalty should be seriously considered before applying to these programs.

**For more information and assistance:**

Maine Forest Service (list of foresters) 1-800-367-0223

Small Woodland Owners Association of Maine (management plan information) 207-626-0005

State of Maine, Property Tax Division (application forms and answers) 207-289-2011

Local tax assessor (application forms and answers)