



DEED RESTRICTIONS

A tool for land conservation in Massachusetts

M.G.L.c. 184, Sections 23-30

RELEVANT STATUTES

Section 23

- Restrictions unlimited in time are limited to 30 years
- Except gifts or devises for public, charitable, or religious purposes not limited to 30 years
- This section does not apply to deed, grant, or gift to Commonwealth or those having the benefit of Section 32

Section 27

- No restriction is enforceable unless the person seeking enforcement is (1) a party to the restriction and it is stated to be for her benefit OR (2) is an owner of benefitted land AND a notice of restriction is recorded after 30 years

Section 30

- No restriction shall be enforced unless determined at the time of the proceeding to be a benefit to person claiming right of enforcement.



Deed Restrictions

LIMITATIONS

- » Not perpetual - commonly see a term of “200 years”
- » Do not qualify for most grants or garner a tax deduction
- » Must follow statutory requirements to create a valid DR, but no third-party approval needed
- » Require recording Notice of Restriction to extend beyond 30 years
- » Still needs a BDR and monitoring to be effective
- » At the time of enforcement, must establish that the purpose of the deed restriction is still valid

Deed Restrictions

POSSIBLE USES

- **Cannot obtain local or state approval**
- **No available CR holder**
- **Granting the fee interest another nonprofit**
- **Other?**