

# Coastal Mountains Land Trust

## *Stewardship Practices*

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## Purpose

The purpose of these Practices is to document the methods and actions taken to implement the Policies of the Board of Directors (hereinafter the “Board”) concerning stewardship of Coastal Mountains Land Trust’s (hereinafter the “Land Trust”) system of conservation lands.

### 2. Adoption and Review of Practices

Staff prepare these stewardship practices to document the processes of implementing the Policies of the Board. The Stewardship Committee (hereinafter “StewComm”) reviews these Practices for consistency with Board Policies and the strategic plans of the Land Trust.

### 3. Stewardship Committee

The StewComm operates under a job description approved by the Board. In summary, its duties are to ensure that the conservation values of the Land Trust's Conservation Easements and Preserves are sustained and to keep the Board informed of issues pertaining to its responsibilities in these matters.

The Conservation Lands Manager (hereinafter “CLM”) is the Chair of the StewComm and prepares the agenda and distributes it to members of the StewComm. The StewComm meets on a regular schedule, usually once per month. The CLM records the minutes of each StewComm Meeting and prepares the minutes and submits them to the Executive Director for distribution to the Board.

### 4. Stewardship Volunteers

The Land Trust’s stewardship program relies upon the work of many volunteers to monitor and manage the conservation lands protected by the organization. Practices for the volunteer program are covered in the operations practices manual (See *General Management Practices*).

### 5. Types of Conservation Lands

#### 5.1 Conservation Easements

A Conservation Easement is a legal agreement that guides future land use of a given property as ownership changes, protecting a property’s conservation values by limiting the type and scope of development and management that can take place. Easement lands remain in private ownership while providing such public benefits as open space, scenic vistas and wildlife habitat. Easements allow landowners to help preserve important aspects of their community and contribute to the region’s quality of life.

Easements are custom-fit to the interests of the landowner and the Land Trust, with the Land Trust ensuring that the public benefits and conservation values of the property are conserved. For instance, some of our easements allow forest management and harvest, provided the forestry practices are sustainable and do not have a negative ecological impact on the land. Similarly, agricultural land can be protected by an easement that allows sound farming practices while restricting farm fields from ever being developed for houses or commercial

buildings. Other easements keep all or part of the property "forever wild" with a maximum level of protection--most important for critical wildlife habitats, mature forests, and land close to brooks and ponds.

The Land Trust holds numerous Conservation Easements throughout the Western Penobscot Bay region of Maine and serves to monitor and enforce the terms of those conservation easements in order to ensure that the conservation values are protected in perpetuity.

## 5.2 Preserves

A Preserve is a property owned in fee by the Land Trust which is managed for the purpose of protecting the unique conservation values of that particular piece of land. Land Trust Preserves are private property owned by the non-profit corporation and are managed to provide public benefits including the protection of biodiversity, scenic landscapes, and agricultural, forest, and water resources. Additionally, Preserves are also meant to promote awareness of the value of land conservation to provide opportunities for the public to enjoy and experience natural lands.

The Land Trust owns numerous Preserves throughout the Western Penobscot Bay region of Maine and is committed to protecting the conservation values found on those properties in perpetuity.

## 6. Conservation Easement Stewardship

### 6.1 Conservation Easement Drafting and Acquisition

The CLM participates in the consideration of potential new Conservation Easement acquisitions by representing stewardship responsibilities and issues as a member of the Land Preservation Committee. During easement negotiation and drafting, the CLM works with the Conservation Project Manager to review easement language to ensure that the stewardship obligations implied by such language are an acceptable burden for the organization relative to the public conservation benefits provided by the conserved property.

### 6.2 Funding Conservation Easement Stewardship

Each time the Land Trust agrees to hold a Conservation Easement, the organization accepts the perpetual responsibility of ensuring that the integrity and terms of the Conservation Easement are not violated. Stewardship responsibilities include monitoring and enforcement of the terms of the restrictions. In order to meet these responsibilities, the Land Trust must have adequate financial resources to provide for legal defense of the Conservation Easement and to provide a secure source of income from investment of funds to help support professional stewardship of these conservation lands. These funds are provided by a deposit to the Conservation Lands Defense Fund and to the Land Trust Endowment for each completed Conservation Easement. In consultation with the Executive Director, the CLM maintains a protected properties database which tracks the status of all allocations and contributions to these accounts.

#### 6.2.1. Calculating Conservation Easement Stewardship Costs

During the review phase of any potential new Conservation Easement, the CLM produces a stewardship cost estimate for the property proposed for protection. Based upon a review of the property with the Conservation Project Manager and a site visit, if deemed

necessary, the CLM produces a stewardship budget that includes an estimate of the initial stewardship costs, annual recurring stewardship costs, and legal defense costs, as set by Board policy. For an explanation of how these costs are calculated, see Appendix 1: *Conservation Lands Defense Fund Calculations*. Conservation Easement stewardship calculations are completed by completing the *Conservation Easement Stewardship Cost Analysis Form* (See Appendix 2.) All stewardship calculations for Conservation Easements are reviewed by the Executive Director and Conservation Project Manager. The Conservation Projects Manager is responsible for requesting a stewardship endowment contribution from the landowner for each transaction, although it is not an absolute prerequisite for acceptance of an easement.

### 6.3 Conservation Easement Baseline Documentation

The purpose of preparing baseline documentation for Conservation Easements is to accurately portray the condition of a given property as of the recording date of the Conservation Easement. Baseline documentation is also a legally required component of the Conservation Easement process [U.S. Treasury regulations 1.170A-14(g)(5)(1)] if a tax deduction is taken for the easement. It is the Land Trust's policy to complete baseline documentation for all Conservation Easements.

Each set of baseline documentation contains a detailed description of the property, deeds for the property, site maps, photographs and other materials. Both the grantor and the preparer attest to the accuracy of the baseline documentation by signing an acknowledgement of the condition of the property upon completion of the conservation easement (*see Land Protection Practices for sample acknowledgement*).

#### 6.3.1 Baseline Documentation Preparation

Conservation Easement baseline documentation folders are prepared by the Conservation Project Manager in consultation with the CLM prior to the final signature of the Conservation Easement by the grantor and the Land Trust. For each Conservation Easement, the Conservation Project Manager produces 3 full copies of baseline documentation including:

- the Original - to be kept in a fireproof safe in the Land Trust basement
- the Backup copy - to be kept offsite at location approved by the StewComm.
- the Landowner's Copy - to be given to landowner upon signature of the acknowledgement and property conditions report. It is the expectation of the Land Trust that this copy will be passed to the next owner when the subject property is sold.

Each of these full baseline documentation copies contains the items outlined in the *Conservation Easement Baseline Documentation Checklist* (see Appendix 3.)

Additionally, the Land Trust produces two abbreviated monitoring copies (an Office/Field Copy and a Volunteer Monitoring Copy) of baseline documentation for Staff and volunteer use. These field monitoring copies of baseline documentation include the items outlined in *Conservation Easement Monitoring Folder Checklist* (See Appendix 4). The Office/Field copy is stored in the Land Trust's office files and the Volunteer Monitoring copy is held offsite by the volunteer assigned to the property or at location approved by the StewComm if monitored by Staff.

#### 6.3.2 Baseline Documentation Updates

Although baseline documentation is created to provide reference information to describe the conditions of the conserved property at the time when the Conservation Easement was signed, changes on the property brought about by the landowner's exercising of retained rights or violating the terms of the Conservation Easement may necessitate the creation of supplemental baseline documentation. As such, on an as needed basis, the CLM creates supplemental baseline documentation folders to document that condition of a property at a given point in time. These supplemental baseline documentation folders contain those items found on the *Conservation Easement Baseline Documentation Checklist* deemed necessary to describe the changes to the Conservation Easement property. The Land Trust will also seek the signature of the landowner to acknowledge the changed condition of the property.

### 6.4 Conservation Easement Correspondence File Maintenance

The Land Trust maintains correspondence files for each Conservation Easement held by the organization. All correspondence related to the negotiation, acquisition, and stewardship of each Conservation Easement is filed within these folders, which are maintained in the Land Trust office. A backup copy of each correspondence folder is kept offsite at a location approved by the StewComm.

#### 6.4.1 Conservation Easement Correspondence File Standards

All correspondence related to an individual Conservation Easement is filed within a classification folder with 2 dividers designated for the property. These classification folders are organized in the following manner:

- Inside cover:
- Copy of the Conservation Easement
  - Copy of any amendments to Conservation Easement
  - Copy of any deed restrictions for property (if applicable)  
(covenants, rights-of-ways, etc.)
  - Copy of Conservation Easement checklist
  - Copy of land protection criteria worksheet
  - Copy of *Conservation Easement Stewardship Cost Analysis Form*
  - Copy of IRS 8283 form (if applicable)
  - Copy of closing statement if Conservation Easement was purchased
- Inside two dividers: All past and current correspondence between land owner and Land Trust including for example, letters, telephone notes, and emails.
- Inside back cover: Completed monitoring reports and letters related to monitoring.

A miscellaneous file folder is maintained for those Conservation Easements with additional large related materials such as appraisals, extra maps, and early drafts of Conservation Easements.

#### 6.5 Conservation Easement Monitoring

The purpose of the Land Trust's Conservation Easement monitoring program is to ensure the long term protection of the conservation values protected by the Conservation Easements the organization holds. Directed by the CLM, easement monitoring is a Staff managed process organized to observe and document the ecological and human changes which occur on the protected property. Volunteer stewards also participate in the monitoring of those Conservation Easements which are not likely to require complex oversight of restricted or retained rights. The Conservation Easement monitoring program is designed to:

- maintain a strong positive relationship with each landowner,
- prevent potential easement violations before they arise,
- document landowner requests and actions to exercise a retained right as defined by the Conservation Easement and,
- document potential violations of the restricted rights as defined by the Conservation Easement.

##### 6.5.1 Annual Conservation Easement Monitoring Program

Monitoring of each Conservation Easement held by the Land Trust occurs at least once every calendar year. The primary monitoring inspection takes place in the fall after the leaves fall and before deer hunting season opens, between September 15<sup>th</sup> and November 1<sup>st</sup>. Additionally, a second monitoring visit is scheduled in the spring for those properties on which there is any activity to exercise a retained right such as forest management, agriculture, construction, or a suspected violation is anticipated. The spring inspection visit is scheduled to

occur after the snow has melted but before the black flies and leaves emerge, between April 1<sup>st</sup> and May 15<sup>th</sup>.

#### 6.5.2 Schedule of Easement Monitoring Procedures

- Routine Easement Check-ins: Throughout the year, the Land Trust Staff relies on open communications with easement landowners and routine drive-bys of easement properties to keep up to date on which easement properties are active and require more frequent monitoring and landowner contact.
- Notice of Spring Monitoring: On April 1<sup>st</sup>, the CLM reviews the Conservation Easements held by the Land Trust and determine which are active and require a spring monitoring visit. Approximately 10 days prior to the inspection visit, the CLM or Volunteer Steward should contact the owners of the property by mail or by telephone to notify them of the time of the visit.
- Spring Monitoring: Between April 1<sup>st</sup> and May 15<sup>th</sup>, any “active” Conservation Easement is monitored by the CLM (and the assigned Volunteer Stewards when appropriate).
- Spring Monitoring Follow-up: After the inspection visit, the CLM completes the *Conservation Easement Stewardship Monitoring Report*, (See Appendix 5) including only information that is directly relevant to the terms of the Conservation Easement, signs the report, and files it at the Land Trust office by May 15<sup>th</sup>.
- StewComm Review - Spring: The CLM reviews all reports and provides a summary report to the StewComm.
- Notice of Fall Monitoring: On September 1<sup>st</sup>, the CLM sends all Volunteer Stewards a copy of the *Instructions for Conservation Easement Monitoring* (See Appendix 6), a copy of the *Conservation Easement Monitoring Observation Form* (See Appendix 7) and a copy of the *Conservation Easement Monitoring Report Form*. Approximately 10 days prior to the inspection visit, the Steward contacts the owners of the property by mail or by telephone to notify them of the time of the visit.
- Fall Monitoring: Between September 15<sup>th</sup> and November 1<sup>st</sup>, all Volunteer Stewards conduct the inspection visit by walking the boundaries and the interior of the property, with special attention to areas that have been developed or utilized for agriculture, forest harvest, and other resource uses. The Steward fills out the *Conservation Easement Monitoring Observation Form* during the inspection visit, noting in detail any instances in which the conditions on the property are not in compliance with the restricted and retained rights specified in the Conservation Easement.
- Fall Monitoring Follow-up: After the inspection visit, the Steward completes the *Conservation Easement Monitoring Report*, including only information that is directly relevant to the terms of the Conservation Easement, signs the report, and returns it to the Land Trust office. The submitted report should be a paper version, not a computer file or e-mail, to provide an original signed report. The deadline for forms is November 1<sup>st</sup>. If conditions on the property are not in compliance with the Conservation Easement, the Steward promptly notifies the CLM or Executive Director. All contact with property owners concerning failure to comply is carried out by Staff. If additional information is necessary, the CLM communicates with the respective Steward to clarify any issues prior to the completion of a final report.
- StewComm Review - Fall: The CLM reviews all reports and provides a summary report to the StewComm.

- **Monitoring Report Filing:** By the end of the year, the CLM sends a letter summarizing the results of the year's monitoring visits and a copy of the *Conservation Easement Monitoring Report Form* to the owner of each protected property. The CLM also places the original *Conservation Easement Monitoring Observation Form*, and *Conservation Easement Monitoring Report Form* and any related correspondence in the office binder for the Conservation Easement and copies in the back-up off-site binder. Stewards should not add report copies to the baseline documentation binders that they hold.
- **Registration of Monitoring:** Also by the end of the year, CLM prepares the *Notice of Conservation Easement Inspections* for Knox and Waldo counties and registers them with the respective Registry of Deeds.

### 6.5.3 Monitoring Database

The CLM maintains a database that stores current contact information for each of the owners of property under a Conservation Easement. The monitoring database also contains the contact information for each of the volunteers that monitor Conservation Easements. The CLM is responsible for ensuring that this database is updated as any changes in property ownership occur.

## 6.6 Landowner Relationships/Outreach

To reduce the likelihood of violations, the Land Trust works proactively to maintain regular contact with the owners of land under Conservation Easement through monitoring visits, telephone conversations, and written correspondence. The goal is to engage landowners in a positive cooperative relationship to promote responsible stewardship of the conservation values protected on their property.

### 6.6.1 Annual Owner Outreach/Education

The CLM or designated Volunteer Steward directly contacts the owner of each property under Conservation Easement prior to his/her monitoring inspection of the property. The landowner should be invited at that time to join the Steward or CLM for the regular easement inspection. Additionally, each landowner also receives a follow-up letter and copy of the easement inspection form at year's end. The CLM also answers landowner questions regarding the management and stewardship of their land. The Land Trust serves as a source of information regarding natural history and technical land management questions for landowners to the extent feasible.

### 6.6.2 New Owner Procedure

One of the easiest, least expensive, and most effective ways of preventing Conservation Easement violations is to maintain a good relationship with the owner of the subject property. In most cases a very good relationship is developed with the original owner during the development of the Easement. This relationship may not be passed on to subsequent owners and a good working relationship must be developed with each of them. The basis for this is a good understanding of the easement and regular, clear communication between the Land Trust and the property owner. Outlined below are steps which help build understanding of the Land Trust and a strong Land Trust/owner relationship. These actions should be taken every time a property changes hands, including from one family member to another.

6.6.2.1 Contact the Listing Broker by mail as soon as we are aware that the property is on the market.

- explain the easement
- include a copy of the easement
- offer to meet with the broker

6.6.2.2 Contact the new owner by letter

- explain Conservation Easements in general
- explain The Land Trust's mission and accomplishments
- request a personal meeting with the new owner
- include a copy of the Easement, the latest newsletter, and membership information

#### 6.6.2.3 Meet on the property with the new owner and the property Steward

- walk the protected property
- go over the Easement in more detail
- explain the covenants and restrictions
- discuss landowner obligations (boundaries, etc.)
- explain the procedure for requesting permission to exercise a retained right (if necessary)
- explain the inspection schedule
- provide a copy of a sample monitoring report

6.6.2.4 The CLM should send a letter to the landowner summarizing the meeting and file a copy in the Land Trust's easement correspondence file. This acts as documentation of the meeting should the landowner later claim ignorance of the Easement.

In case a new owner is unable or unwilling to meet with the CLM, the CLM should write a detailed letter explaining the Easement, the restricted and retained rights, and the Land Trust program. A copy of the Easement and a membership solicitation should accompany the letter. A copy of the letter should be kept in the Land Trust's Easement correspondence file.

#### 6.6.3 Estoppel Certificates

Upon request, the Land Trust provides landowners with an estoppel certificate for the purpose of certifying to a potential buyer or lender that the condition of the property is in compliance with the terms and conditions of the Conservation Easement. Estoppel certificates are only provided following a special Conservation Easement monitoring visit attended by at least two Land Trust representatives (See Appendix 8. for *The Land Trust's Estoppel Certificate Sample Form*).

#### 6.7 Enforcement/Violations of Conservation Easements

The best way to deal with potential violations of Conservation Easements is to avoid them in the first place. In an effort to avoid violations of Conservation Easements, the StewComm has developed the following practices to establish a clear procedure for evaluating those problems that are potential violations. The two primary goals of these practices are to protect the conservation values of the land and to conserve the Land Trust's financial resources.

##### 6.7.1 Practice for Preventing Potential Violations of Conservation Easements

###### 6.7.1.1 Avoiding Potential Violations

- Avoiding Easement violations begins with ensuring that current and future landowners properly understand the Conservation Easement affecting their property.
- Properly mark boundaries and post signage: Marking boundaries and posting signs help maintain community awareness about the existence and purpose of the Conservation Easement.
- Educate brokers: To improve Conservation Easement compliance, the Land Trust should always contact the listing brokers of Easement properties and inform them about Easements in general and specific limitations of the subject Easement.
- Meet with new owners: New buyers of Easement properties should meet with the Land Trust Staff prior to or shortly after settlement in order that they may properly understand the terms of the Conservation Easement.

#### 6.7.1.2 Sources of Violations Notification

Notice of potential violations can come from various sources. By having a well organized monitoring protocol and by relying on the concerns of additional interested parties, the Land Trust should and can notice most potential violations early enough to avoid problems.

- Easement Stewards : All Conservation Easements held by the Land Trust are monitored at least once a year by either Staff or Volunteer Stewards.
- Staff & Board observation: Staff and Board members alike are a great source of information about changes on Easement properties.
- Third party observers (i.e. neighbors, easement donors, towns): Other members of the community also serve as an important source of information about changes noticed on either Conservation Easement lands.

#### 6.7.1.3 Responding to Potential Violations

Monitors should report and describe potential violation to the CLM. It is very important, no matter the source, that all potential violations be communicated directly to the CLM. Volunteers should not be involved in communicating with landowners about potential violations.

The following are the proper steps to be taken by staff in order to address potential violations efficiently and effectively:

- Visit site, physically inspect potential violation/infraction
- Document all details in narrative and photographs
- Evaluate potential violation
- Inform StewComm about potential violation
- Call and request a meeting with landowner--face-to-face discussion has no substitute
- Send a letter only if unable to get an appointment by phone
- Prepare for the meeting: review all relevant documents--conservation easement, boundary survey, property history, baseline documentation and monitoring records, etc., and obtain professional analysis and interpretation if necessary.

### 6.8 Reserved and Permitted Rights and Approvals

Requests for approval that are consistent with the overall purposes of the Conservation Easement are generally permitted. Our goal is to be as flexible and permissive as possible within the terms of the Conservation Easement and applicable laws.

#### 6.8.1 Criteria concerning violation considerations

- Is the use expressly permitted by the Conservation Easement?
- Is it consistent with the overall purposes of the Conservation Easement?
- Will it threaten the conservation values protected by the Conservation Easement?
- Are there any feasible alternatives available to achieve a similar purpose? If so, negotiate with the land owner.
- Are there any issues regarding private benefit?
- Is it consistent with any other written expressions of the original Grantor's intent?

#### 6.8.2 Requesting Approval for Exercise of a Retained Right

Most Conservation Easements allow certain actions to be taken by the grantor or the grantee a) without notice to the other party, b) with notice only, or c) with permission required

from the grantor or grantee. The Land Trust, for example, holds many Conservation Easements that allow for agricultural and/or forestry to take place under the guidance of an approved agricultural or forest management plan.

In the event of a request to exercise a retained right or for an approval, the CLM should ask for the request to be made in writing and should determine whether or not it requires StewComm approval.

When a notice is received, the CLM reviews the Conservation Easement to verify that the planned activity is allowed or permitted with permission. A reply letter is then sent to the landowner acknowledging receipt of notice and asking for clarification of the proposed activity if necessary. A site visit may also be scheduled if deemed necessary by the Land Trust in order to determine the nature and significance of the request.

In the event of a request for approval (as opposed to a simple notice), a written response is required. The response should specify how the decision addressed the protections of the conservation values of the property and any conditions being placed on the action to protect these values (See Appendix 9 Approval Letter, for a sample document of an approval letter for easement activity).

There shall be no charge for landowner requested approvals of reserved rights that expressly allowed within the Conservation Easement. The landowner shall pay all Staff costs related to review of any approval request which is extraordinary or not clearly permitted within the easement.

#### 6.9 Registry of Conservation Easements in Statewide Database

The CLM registers all Conservation Easements in a statewide registry of conservation lands managed by a statewide non-profit organization or state government agency if available. The purpose of the registry is to assure that conserved lands are known to state authorities should the Land Trust dissolve its corporation in such a manner that the conservation lands were not transferred to qualified holders or owners. The Land Trust anticipates that should this unlikely event occur, the information in the registry will provide the opportunity for the Attorney General of the State of Maine to assign the Conservation Easements to a successor qualified holder or owner.

A registry is currently accessible at the following website: [www.conservelands.net](http://www.conservelands.net)

#### 6.10 Becoming a Backup Holder for Conservation Easements

The Land Trust might accept stewardship responsibility for Conservation Easements from other conservation organizations or public entities by conveyance if we feel that we are able to provide adequate stewardship services and that the documentation, Legal Defense, and Endowment support is sufficient for us to be able to steward the Easement effectively. The StewComm and Land Preservation Committee review such requests and make recommendations as appropriate to the Board.

#### 6.11 Accepting Transfer of a Conservation Easement

Before accepting a Conservation Easement from another holder, the Land Preservation Committee and StewComm examine the following to determine how closely the project meets our standards for Conservation Easements and supporting documents and Endowment.

- Does the resource conserved meet the requirements of the Land Trust's project selection criteria?

- Is the recorded Conservation Easement essentially equivalent in structure, language, intent, function, configuration and enforceability to the Land Trust's standard Conservation Easement?
- Is a full Land Trust Endowment and Conservation Lands Defense Fund contribution or allocation available based on the current method of calculating those costs?
- Does the baseline documentation meet our current standards for the property conserved?
- Will the Conservation Easement be held solely by the Land Trust?
- Are there outstanding violations or a probability of future violations?
- Was annual monitoring sufficiently carried out in past years?

The Land Trust may waive in whole or in part any one of these guidelines should there be compelling reasons for the committees to do so. If done, such reasons are documented and provided with any recommendations to the Board for accepting the Conservation Easement.

#### 6.12 Conservation Easement Amendments

The Land Trust's Board policies outline the conditions under which the Board can consider amending a Conservation Easement. When a Conservation Easement amendment is proposed to the Land Trust, the following procedure will be followed:

- The Land Trust's Amendment Policy is presented and explained to the landowner requesting an amendment.
- If the landowner wishes to proceed with their amendment request they should submit a proposal outlining the changes they wish to make to the easement along with an advance payment of \$1,000 for Land Trust expenses.
- The Land Preservation Committee and StewComm review the proposed changes and ensure that they are consistent with the purpose of the easement and the Land Trust's amendment policy. This review should include obtaining any necessary appraisals, ecological evaluations, or other professional consultation.
- Any necessary changes to the amendment proposal should be negotiated with the landowner by Land Trust Staff.
- Land Trust Staff and a qualified attorney prepare a final copy of the amendment and any other documents necessary to maintain or enhance the conservation value of the original Conservation Easement.
- Land Trust Staff prepare any necessary baseline documentation for the amendment.
- The landowner reviews the final draft of the amendment and, if necessary, supplementary documents and baseline documentation, and reimburses the Land Trust for all expenses in excess of the \$1000 initial payment incurred in the amendment process, including Staff time and attorney review.
- The Board reviews and votes on the proposed amendment.
- If granted, the amendment, new baseline documentation acknowledgement, and supplementary documents are signed by an officer of the Board and the landowner. The Land Trust registers the amendment at the appropriate registry of deeds.

#### 6.13 Condemnation

The CLM informs the StewComm and the Board of any potential condemnation proceedings and should the Board so direct should consult with a qualified attorney to provide advice and response options for the Board's consideration.

#### 6.14 Extinguishment

The CLM informs the StewComm and the Board if a court seeks to extinguish an Easement and should the Board so direct should consult with a qualified attorney to provide advice and response options for the Board's consideration.

### 7. Preserve Stewardship

#### 7.1 Preserve Acquisitions

The CLM participates in the consideration of potential Preserve acquisitions by representing stewardship responsibilities as a member of the Land Preservation Committee. During acquisition negotiations, the CLM works with the Conservation Project Manager to evaluate whether or not the stewardship obligations are an acceptable burden for the organization relative to the public conservation benefits provided by the conserved property.

#### 7.2 Funding for Preserve Stewardship

Each time the Land Trust agrees to accept a gift of or purchase a fee interest in a property, the organization accepts the perpetual responsibility of protecting the conservation values of the property. These responsibilities include monitoring and managing the Preserve. In order to meet these responsibilities the Land Trust must have adequate financial resources to provide for legal defense of the Preserve and to provide a secure source of income from investment of funds to help support professional stewardship of these conservation lands. These funds are provided by a deposit made to the Conservation Lands Defense Fund and to the Land Trust Endowment for each Preserve acquired by the Land Trust. In consultation with the Executive Director, the CLM maintains a protected properties database which tracks the status of all allocations and contributions to these accounts.

##### 7.2.1 Calculating Preserve Stewardship Costs

Each time the Land Trust considers acquisition of a Preserve as a gift or through a fee purchase, the CLM calculates estimated stewardship cost for the potential Preserve. Each stewardship calculation should include an estimate of the initial stewardship costs, Preserve infrastructure/management costs, annual recurring stewardship costs, and legal defense costs as set by Board policy. For an explanation of how these costs are calculated, see Appendix 1: *Conservation Lands Defense Fund Calculations*. Preserve stewardship calculations are completed using the *Preserve Stewardship Cost Analysis Form* (See Appendix 10.) All stewardship calculations for Preserves are reviewed by the Executive Director and Conservation Project Manager. The Conservation Projects Manager is responsible for requesting a stewardship endowment contribution from the landowner for each transaction, although it is not an absolute requirement.

#### 7.3 Preserve Baseline Documentation

The purpose of preparing baseline documentation for Preserves is to provide a basis for the long-term management of the conservation values of the property. Unlike Conservation Easement baseline documentation, Preserve baseline documentation is an open file to which the latest information about the nature of the Preserve can be added. Preserve baseline documentation contains a description of the property, site maps, photographs and other materials. It is the Land Trust's policy to complete baseline documentation for all Preserves.

### 7.3.1 Preserve Baseline Documentation Preparation

Preserve Baseline documentation folders are prepared by the Conservation Lands Manager within a period of two years after the property is protected. For each Preserve, the CLM produces 2 full copies of baseline documentation including:

- the Original – to be kept in a fireproof safe in the Land Trust basement
- the Backup copy – to be kept offsite at a location approved by the StewComm.

Each of these full baseline documentation copies contains the items outlined in the *Preserve Baseline Documentation Checklist* (see Appendix 10.)

Additionally, the Land Trust produces two abbreviated monitoring copies of Preserve baseline documentation for stewardship Staff and volunteer use (called Office/Field Copy and Volunteer Monitoring Copy). These field monitoring copies include the items outlined in *Preserve Monitoring Folder Checklist* (See Appendix 11). The Office/Field Copy is stored in the Land Trust's office files and the Volunteer Monitoring Copy is stored remotely with the volunteer assigned to the Preserve.

### 7.4 Preserve Correspondence File Maintenance

The Land Trust maintains correspondence files for each Preserve owned and managed by the organization. All correspondence related to the negotiation, acquisition, stewardship, and management of each Preserve is filed within a classification folder maintained at the Land Trust office. A backup copy of each correspondence folder is kept offsite at a location approved by the StewComm.

#### 7.4.1 Preserve Correspondence File Standards

All correspondence related to an individual Conservation Easement is filed within a classification folder with 2 dividers designated for the property. These classification folders are organized in the following manner:

- Inside cover:
- Copy of the deed
  - Copy of land protection criteria worksheet
  - Copy of fee purchase process checklist
  - Copy of *Preserve Stewardship Cost Estimate Form*
  - Copy of any deed restrictions for property (covenants, right-of-ways, etc.)
  - Copy of hazardous waste inspection checklist
  - Copy of closing statement (if applicable)
  - Copy of IRS 8283 form (if applicable)
- Inside 2 dividers:
- All past and ongoing correspondence between land owner and Land Trust including letters, telephone notes, emails, etc.
- Inside back cover:
- Completed monitoring reports and letters related to monitoring.

A miscellaneous file folder is maintained for those Preserves with additional large related materials such as appraisals, extra maps, and early drafts of documents related to the Preserve.

## 7.5 Preserve Stewardship Principles

### 7.5.1 Donor's Wishes and Stakeholders

Unless stated in the Deed to the Land Trust, Donors' wishes in regards to management of a Preserve are only considered and incorporated into the management plan to the extent that they do not compromise the management objectives of the Land Trust.

### 7.5.2 Stakeholders

The StewComm informs donors and other stakeholders (e.g., members, neighbors, local officials) about projects on the Preserve and encourages their participation in them.

## 7.6 Use Guidelines for Preserves

### 7.6.1 Principles for Managing and Promoting Public Access on Land Trust Conservation Lands

- All Land Trust Preserves are open for public access. (Note: Conservation Easement properties are private property. Unless specifically stipulated in the language of the Conservation Easement, access to easement properties is a right managed by the private landowner and not the Land Trust).
- Promoting awareness about and enjoyment of natural lands fosters continued support for land conservation and stewardship objectives.
- Public access is planned and managed in order to protect the conservation values of each Preserve.
- The Land Trust promotes access only to those Preserves that are suited for larger volumes of public use and will work proactively to provide information to the public about use of these Preserves.
- The Land Trust should be the primary source of information about access to its Preserves.
- Preserves are managed for public benefit, not for exclusive personal benefit.
- Access to Preserves is for low impact forms of recreation only, with the exception of those forms of recreation that are permitted under a written management agreement with an organized user group.
- Hunting is permitted on all Preserves except those where hunting creates a significant risk to public safety or on Preserves granted to the Land Trust with covenants prohibiting hunting. Such Preserves currently include: Hodson, Harkness, McPheters and Young's Neck. Trapping and predator hunting are not permitted on any Preserves, except some subject to Land for Maine's Future statutes (currently the Beech Hill Preserve).
- Dogs are welcome on all Preserves (except Hodson) but must be kept on leash at all times.

### 7.6.2 Practices for Distributing Information about Public Access to Preserves

As a steward of conservation properties throughout the Western Penobscot Bay Region, the Land Trust is frequently asked to provide general information regarding its Preserves and public access to these Preserves to a wide range of users and interests. Given the need to balance the priorities of ecological protection with public access on each of these protected areas, the Land Trust has established a system for rating each Preserve based on its suitability for public access promotion. The following table summarizes the Preserve promotion rating system for the Land Trust's network of conservation Preserves. Each Preserve is rated according to the specific stewardship needs and challenges of the individual property. A complete list of

our Preserves and their associated ratings is available from the Membership and Outreach Coordinator or from the Conservation Lands Manager.

Promotion Rating	Description
1	These Preserves are well suited for broad public access and are suitable for promotion to a statewide, New England, or national audience.
2	These Preserves should be promoted only within the local community.
3	These Preserves are not suited for any kind of promotion.

The following is a summary of practices regarding specific kinds of requests for promotion of the Land Trust’s Preserves.

7.6.2.1 Individual Requests: The Land Trust proactively works to provide its membership and the general public with information about access to and stewardship of its Preserves, based on the promotion rating system:

- The Land Trust makes available individual public access guides for each of its Preserves with a 1 or 2 rating.
- Upon request, the Land Trust provides information to individuals requesting information about those Preserves with a 3 rating. These individuals will be told that these Preserves are not well suited for broad promotion.

7.6.2.2 Group Requests: The Land Trust requires that groups larger than 12 request permission to visit Land Trust property.

7.6.2.3 Commercial or Personal Use Requests: Examples: Weddings, Outfitters, Movie productions, Artistic endeavors, etc. The Land Trust typically prohibits uses of its Preserves or publicly-accessible Conservation Easements that benefit commercial or exclusively personal interests. The CLM evaluates all such requests with the StewComm. If a determination is made that the use will be allowed, the CLM provides permission in writing with appropriate limitations.

7.6.2.4 Publication Requests, re: Guidebooks, Chamber of Commerce, Websites

- The Land Trust does not want information published about its Preserves without its permission.
- The Land Trust prefers that individual Preserves not be listed in guidebooks. Only a Preserve with a #1 rating should be considered for listing. Instead, the Land Trust will ask that the following information be listed:
- Coastal Mountains Land Trust mission
- The following text shall be suggested to guidebooks that would like to list information about Coastal Mountains Land Trust: “Information about the Land Trust, including maps of trails and Preserves, are available at the office which is open to the public (open 8:30am – 5:00pm M-F) and is located at 101 Mt. Battie Street, Camden, Maine 04843. 236-7091.

#### 7.6.2.5 Digital Data Requests, re: realtors, map makers, other Land Trusts.

- The Land Trust provides digital information regarding Land Trust Preserves and Conservation Easements at a cost of \$50/hr. for the Staff time required to process the request. Fees may be waived for projects that are deemed to further the Land Trust's mission.
- The Land Trust will complete a memorandum of understanding (MOU) with all organizations seeking digital information from the Land Trust to guide the appropriate use of such information.

#### 7.6.3 General Preserve Guidelines

The Land Trust maintains the following general guidelines for all of its Preserves:

- Preserves are open to the public as a natural area for low-impact recreation.
- Removal of native vegetation is strictly prohibited.
- No fires are allowed.
- Camping is not allowed.
- Groups larger than 12 must obtain permission before using the Preserve.
- Bicycles are not permitted on the Preserve except in parking areas.
- Permanent tree stands are not permitted on the Preserve.
- Horses are not permitted on the Preserve.
- Preserves are open for visitors during daylight hours.
- Dogs MUST be on a leash at all times.

#### 7.6.4 Hunting Practices

The following principles summarize the hunting guidelines on Preserves.

- Most types of hunting are allowed on all Preserves except for the Harkness, Hodson, McPheters and Young's Neck Preserves due to donor restrictions or public safety reasons. For public safety reasons and because it is a working farm, hunting is limited on the Beech Hill Preserve in Rockport to the forested portions of the property.
- Predator hunting is not allowed on Preserves. The organization believes that predator species are an uncommon, important element of functioning ecosystems and merit protection.
- For public and pet safety reasons and given the indiscriminate nature of traps, the Land Trust does not allow trapping on its Preserves, except those properties supported through the Land for Maine's Future program.
- Use of ATVs or other motorized vehicles is strictly prohibited on Land Trust properties without permission. The Land Trust has a wheeled deer carrier available to borrow for those in need of assistance removing a killed deer from the woods.
- Hunting with dogs is permitted as long as dogs are under the control of the owner and do not impact public safety or public enjoyment of the Preserve by others (Note: this is an exception to the above rule regarding dogs).
- Permanent or fixed deer stands are not permitted on Preserves.
- The Land Trust posts information at its trailhead kiosks on a seasonal basis to alert all users of its Preserves that hunting is permitted and that users should wear appropriate colored clothing during hunting season.

#### 7.6.5 Motorized Vehicles

Guidelines for vehicular access to and use of Preserves by motorized or wheeled vehicles are described in our Board Policies.

#### 7.6.6 Environmental Art Installations

In order to evaluate requests that the Land Trust host art installations on our Preserves, the StewComm has developed the following guidelines and procedures for considering, evaluating, and approving such requests.

- All proposals for the installation and development of art installations on land trust property must be submitted in writing for review by the StewComm.
- All proposals shall identify how the proposed project will benefit the mission of the Land Trust.
- Proposals should include a full description of any proposed project, a list of materials to be used, a summary of the methodology used for installation, and an outline of any plans for public presentation of the artwork.
- Proposals should also identify any potential ecological impacts stemming from the design, development, and presentation of any art project.
- Art projects shall be reviewed based upon the Preserve management plan and any second-layer easements or declarations of trust covering the site proposed for the project.
- Artists will agree to have all public information and grant documents for the project reviewed by the Executive Director prior to distribution.
- Artists will agree to submit a report at an agreed upon interval describing the progress and status of all projects for the duration of the project.
- The StewComm retains the right at its sole discretion to terminate hosting of such installations at any time.

#### 7.7 Land Management Procedures

##### 7.7.1 Boundary surveys

When financially feasible, the Land Trust obtains a professional survey for each of its Preserves in order to provide the legal boundary information necessary to effectively steward the Preserve.

##### 7.7.2 Boundary Marking Procedures

The purpose for marking the boundaries of the Preserves is to make boundary lines highly visible to owners of abutting properties and to the general public. The benefits of well-marked boundaries include improved efficiency and effectiveness of the stewardship process, decreased potential of trespass activities, less incursion by Preserve visitors onto neighboring properties, and increased awareness of the public concerning the size of the Land Trust's Preserve system.

Preserve boundaries will be marked in the following manner:

- Determine the location of the boundary using a professional survey of the Preserve. If a survey is not available, the abutting land owners must be contacted to confirm the location of the boundaries prior to marking. As soon as feasible, the Land Trust will have a professional survey of the property conducted.
- Boundaries should be "brushed-out" prior to marking. Shrubs and small trees within a couple of feet of the line should be cut near ground level and all branches should be

removed on large trees up to 6 feet above ground. It should be possible to see clearly for several hundred feet down the boundary if the topography allows.

- Boundaries are marked using a combination of red-painted blazes and white Coastal Mountains Land Trust aluminum medallions.
- Blazes should be cut on boundary trees about 5 feet off the ground and painted using red enamel spray paint. The frequency of marking will be determined to some extent by the frequency of trees located on or within “arms length” of the boundary line, but ideally a tree will be marked every 50 feet. If the boundary is a stone wall without frequent trees, a large stone within the wall can be selected and painted. Trees that are within “arms length” of the line should be blazed on each side of the tree where the line meets the tree – i.e., not on the sides that face the abutter or the Preserve. Trees that are outside “arms length” of the line should be blazed and painted on the side that faces the line. Stewards should mark corner trees with three vertical blazes, each on top of the other.
- White aluminum Land Trust medallions should be installed at an interval sufficient to inform those approaching the property of the Land Trust’s ownership. Along roads and high public use areas such as roads or trails, medallions should be hung every 100 yards or 5th tree (approximately) by nailing a white diamond immediately above the blaze. All of the white diamonds should face out from the Preserve boundary toward the abutting property. White medallions should also be placed on a tree above corner pins or blazes.
- Boundary lines should be "brushed-out" annually. The red-painted blazes will need to be repainted every few years so their condition should be observed during the annual brushing.

### 7.7.3 Signs

The Land Trust maintains a wide variety of Preserve and trail signage throughout the Land Trust’s system of conservation lands. The CLM works in coordination with volunteer carpenters to maintain and produce appropriate signs to guide and inform the public.

### 7.7.4 Parking

The Land Trust maintains clean and safe parking lot areas on the Preserves where public access is promoted.

### 7.7.5 Construction and Management of Trails

The Land Trust maintains many miles of trails throughout its system of conservation lands. The CLM works with volunteers to monitor, maintain and create trails to allow the public to enjoy and experience our conservation lands. All trails are planned as part of the management planning process and are sited based upon the results of a careful ecological inventory for each of our properties.

### 7.7.6 Active Management – Forestry, Agriculture, etc.

The Land Trust actively manages portions of its conservation properties for forestry and agriculture. In those cases in which the Land Trust manages a Preserve, all management activities are guided by careful plans set forth in the Preserve’s management plan with consideration of the conservation values of the Preserve. Additionally, in those cases where

forest or agricultural management is identified as a goal for a Preserve, the Land Trust works to demonstrate best management practices.

#### 7.7.7 Invasive Species Management

In general and where feasible, the Land Trust will attempt to control and/or eradicate non-native species identified as invasive in Maine by the Maine Natural Areas Program or another authority on the subject. Mechanical control will be the preferred method of removal in all cases where mechanical methods have a reasonable chance of success. In cases where there are no known successful methods of mechanical control, organic herbicides and biological controls may be considered for use when recommended by an authority on the control of invasive species. Non-organic herbicides may only be considered in cases where no other methods of control are known to work and such herbicides are recommended by an authority on the control of invasive species.

#### 7.7.8 Ecological inventory

Within two years of acquisition, the Land Trust completes a thorough ecological inventory of each Preserve. The purpose of these ecological assessments is to provide the baseline information for stewardship of the ecological resources of the Preserve. Ecological inventories serve as the foundation for the management plans the CLM develops for each Preserve. Depending upon the size and complexity of the Preserve, ecological assessments are either completed by stewardship Staff, volunteer naturalists or by contracted ecological consultants. Each ecological inventory should contain the information listed in Appendix 13: *Ecological Inventory/Site Assessment Outline*.

#### 7.7.9 Management Planning

Within two years of acquisition, the CLM completes a management plan outlining the stewardship goals and strategies for protecting the conservation values of each of its Preserves over a 10-year period. Each management plan should outline the goals of the individual Preserve and a schedule for implementation needed to meet those goals. The plan should also specifically address the human and financial resources necessary to fulfill the plan.

Management plans may take many forms, ranging from “let nature take its course” non-interference to active intervention. When possible, management practices should be non-intrusive, and should mimic natural processes that have been suspended or altered by human activity. The StewComm reviews and approves all management plans to ensure the highest quality management plan possible with reference to sound conservation science and practices. Management plans will be reviewed periodically and revised as needed, based on changed conditions on the Preserve or in the surrounding environment. All Preserves will be actively monitored to prevent misuse, to observe the natural succession, and to evaluate active management efforts.

For an outline of the elements to be covered within the content of a Land Trust management plan see Appendix 14: *Management Plan Outline*.

#### 7.8 Preserve Monitoring

The purpose of the Land Trust’s Preserve monitoring program is to ensure the long term protection of the conservation values of the Land Trust’s Preserves. Under the direction of the CLM, Preserve monitoring is a year-round volunteer driven program designed:

- To maintain a positive relationship with the community that benefits from the Preserves,

- To monitor Preserve boundaries and the activities of abutting landowners that might have an impact on Preserves,
- To monitor and document public usage of Preserves and its impacts,
- To monitor and document the condition of Preserve infrastructure such as signs, gates and information kiosks, and
- To observe and document ecological changes on Preserves.

#### 7.8.1 Annual Preserve Monitoring Program

Monitoring of the Land Trust Preserves is a year-round activity. Volunteer Preserve stewards are responsible for visiting their assigned Preserves throughout the year on a schedule suited to the particular size and pattern of public use of each Preserve. Although each visit does not have to involve a complete walk of the property, stewards should maintain an awareness of the overall status and patterns of use on their Preserve.

Formal monitoring of Preserves occurs once every year in the fall after the leaves drop and before deer hunting season opens. Volunteer stewards complete and file a full Preserve monitoring report after the fall inspection. Additionally, Preserve stewards are asked to monitor each spring, but will not need to submit a field report unless there is an urgent problem or issue that needs to be addressed.

#### 7.8.2 Schedule of Preserve Monitoring Procedures

The annual procedures for Preserve monitoring are summarized as follows:

- Routine Visits: Throughout the year, Volunteer Stewards check in on the status of their assigned Preserve by doing site walks and parking lot drive-bys on a routine basis.
- Notice of Spring Monitoring: On April 1<sup>st</sup>, the CLM sends all Preserve stewards a letter reminding them of the need to conduct a spring visit to their assigned Preserve.
- Spring Monitoring: Each Volunteer Preserve Steward conducts a thorough inspection of the Preserve and will contact the CLM if there are issues of concern. Prior to the inspection visit, the Preserve Steward reviews the baseline documentation folder for the Preserve.
- Notice of Fall Monitoring: On September 1<sup>st</sup>, the CLM sends to all Preserve Stewards a copy of *Instructions for Preserve Monitoring*, (See Appendix 15) and a copy of the *Preserve Monitoring Report Form*, (see Appendix 16)
- Fall Monitoring: Between September 15<sup>th</sup> and November 1<sup>st</sup>, Preserve stewards inspect their assigned property and return the monitoring form to the Land Trust office. Prior to the inspection visit, the Preserve Steward reviews the *Instructions for Preserve Monitoring* and the baseline documentation folder for the Preserve.
- Monitoring Follow-up: If conditions on the property are not in compliance with the conservation purposes of the Preserve, the Preserve Manager should promptly notify the CLM or Executive Director of the Land Trust. Contact with individuals responsible for noncompliance will be conducted by Staff at the Land Trust Office. If additional information is necessary, the CLM should communicate with the respective Preserve Manager to clarify any issues and complete a final satisfactory report.
- StewComm Review: The CLM reviews all reports and provide a summary report to the StewComm.
- Record Keeping: The CLM will place the original *Preserve Monitoring Report* and any related correspondence in the office binder for the Preserve and copies in the back-up

off-site binder. Preserve Managers should not add report copies to the baseline documentation binders that they hold.

### 7.8.3 Monitoring Database

The CLM maintains a database that stores current contact information for each of the volunteers assigned to monitor and steward a given Preserve. The CLM is responsible for ensuring that this database is maintained with current information.

### 7.9 Property Tax Exemption

The Land Trust seeks and maintains property tax exemption from each Town for each of the Preserves it owns throughout its service region. During the acquisition process for new Preserves, the Conservation Projects Manager ensures that property tax exemption is granted for each Land Trust Preserve. The CLM is responsible for ensuring that the Land Trust maintains its tax exempt status over time.

### 7.10 Enforcement of Infractions on Preserves

The best way to deal with potential infractions of our Preserves is to avoid them in the first place. In an effort to avoid infractions to Preserves, the StewComm has developed the following practices to establish a clear procedure for evaluating those problems that are potentially Preserve infractions. The two primary goals of these practices are to protect the conservation values of the land and to conserve the Land Trust's financial resources.

#### 7.10.1 Practice for Preventing Potential Infractions on Preserves

##### 7.10.1.1 Avoiding Potential Infractions

For Preserves, it is crucial that users, abutters, and the community at large understand the property's status as conservation land. Key steps to avoid violations/infractions include:

- Properly mark boundaries and post signage: Marking boundaries and posting signs help maintain community awareness about the existence and purpose of the Conservation Easement or Preserve land.
- Communicate with abutting owners: Land Trust Staff should maintain open communication with abutters of Preserve lands in order to guarantee that they respect boundaries and use restrictions for those protected properties.

##### 7.10.1.2 Sources of Infraction Notifications

Notice of potential violations can come from various sources. By having a well organized monitoring protocol and by relying on the concerns of additional interested parties, the Land Trust should and can notice most potential infractions early enough to avoid problems.

- Preserve Stewards: All Preserves held by the Land Trust are monitored year round by either Staff or Volunteer Stewards.
- Staff & Board observation: Staff and Board members alike are a great source of information about changes on Preserve lands.
- Third party observers (i.e. neighbors, easement donors, towns): Other members of the community also serve as an important source of information about changes noticed on Preserves.

### 7.10.1.3 Responding to Preserve Infractions

The following are the proper steps to be taken in order to address potential violations efficiently and effectively:

- Report and describe potential violation to the CLM: It is very important, no matter the source, that all potential Preserve infractions be communicated directly to the CLM. Volunteers should not be involved in communicating with landowners about potential violations.
- Staff review
- Visit site, physically inspect potential violation/infraction
- Document all details in narrative and photographs
- Evaluate potential violation
- Inform StewComm about potential violation
- Call and request a meeting with violator: A face-to-face discussion has no substitute
- Send a letter: (if unable to get an appointment by phone.)
- Prepare for the meeting: review all relevant documents--deed of the Preserve, boundary survey, property history, ecological inventory, management plan, baseline documentation and monitoring records, etc., and obtain professional analysis and interpretation if necessary

### 7.11 Community Outreach

The Land Trust believes that community outreach on behalf of each of its Preserves directly benefits long-term stewardship of conservation lands. At the local scale, Staff routinely host neighborhood meetings to introduce Preserves to abutters and neighbors soon after acquisition. At the community level, Staff engages the public in our Preserves by hosting educational events and inviting the community to participate as volunteer stewards for the Preserve. The Land Trust's newsletter and press releases regularly include stewardship information.

### 7.12 Contingency Backup

The Land Trust utilizes three methods to provide assurance that all Preserves will be permanently conserved. These methods are completed within the financial fiscal year of acquisition when possible.

#### 7.12.1 Conservation Easement held by a second party

When a qualified holder of Conservation Easements--another land trust, municipal government, or state government agency--is willing to hold a Conservation Easement on a Land Trust Preserve, Staff prepare the Conservation Easement and baseline documentation with the second party organization. The Land Preservation Committee reviews the Conservation Easement and recommends action by the Board concerning its approval. If approved, the Conservation Easement is recorded in the applicable county registry of deeds.

#### 7.12.2 Declaration of Trust

If it is not feasible or appropriate for a second party to hold a Conservation Easement on a Preserve, Land Protection staff prepares a declaration of trust for the Preserve. The CLM participates in the review of declarations of trust as a member of the Land Preservation Committee and recommends action by the Board concerning its approval. If approved, the declaration of trust is recorded in the applicable county registry of deeds (See Appendix 17: *Declaration of Trust*).

### 7.12.3 Registry of Preserves in Statewide Database

The CLM registers all Preserves in a statewide registry of conservation lands managed by a statewide non-profit organization or state government agency if available. The purpose of the registry is to assure that conserved lands are known to state authorities should the Land Trust dissolve its corporation in such a manner that the conservation lands were not transferred to qualified holders or owners. The Land Trust anticipates that should this unlikely event occur, the information in the registry will provide the opportunity for the Attorney General of the State of Maine to assign the Preserves to a successor qualified holder or owner.

A registry is currently accessible at the following website: [www.conservelands.net](http://www.conservelands.net)

### 7.13 Transfer of Conservation Land

As discussed in Board policy section 9.8 *Transfer of Assets*, the Land Trust reserves the right to transfer conservation lands to other organizations if the recipient is qualified to own and hold land conservation interests. The most likely situation for this to occur would be for the Land Trust to transfer a conservation property to an abutting conservation organization, such as Camden Hills State Park.

Staff maintains records of all Preserves and the related deposits to the Endowment and Conservation Lands Defense Fund. The original copy of such records will be transferred to any successor owner of the Preserve. The Board determines the amount of funds to be transferred to the successor owner for stewardship of the transferred Preserve. Before the Land Trust transfers ownership of a conservation property to another suitable holder, the CLM examines the following factors to ensure that the public conservation benefits of the project are permanently protected and that stewardship obligations will be met:

- Is the proposed new owner a qualified non-profit organization or town, state or federal agency capable of managing the property for public benefit?
- Can the proposed new owner demonstrate the financial and professional resources needed to oversee perpetual stewardship of the conservation property?
- Can the Land Trust provide the new owner with sufficient baseline documentation and background information necessary to suitably steward the property?
- Are there any outstanding violations or is there a probability of future violations?
- Has monitoring been completed on an annual basis in recent years?

In order to ensure permanent conservation of the property, will the Land Trust...

- hold a Conservation Easement on the property transferred?
- include covenants in the transfer deed permanently restricting the management of the property?
- record a declaration of trust protecting the property prior to its transfer?

#### 7.14 Condemnation

The CLM informs the StewComm and the Board of any potential condemnation proceedings for their review and should the Board so direct will consult with a qualified attorney to provide advice and response options for the Board's consideration.