

*Conserving Your Land*



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# Introduction

*The Lakes Region Conservation Trust (LRCT) is an independent, nonprofit, member-supported organization dedicated to the permanent protection, stewardship, and respectful use of lands that define the character of the region and its quality of life.*

*Founded in 1979 to conserve the natural heritage of New Hampshire's Lakes Region, our conservation and stewardship work preserves community character, conserves critical wildlife habitat and diverse ecosystems, protects natural landmarks and scenic landscapes, and provides outdoor recreation opportunities for people of all ages.*

*Together with our dedicated community of supporters, we have conserved more than 150 properties totaling over 27,000 acres. These conserved lands encompass many of the special places that define this unique and spectacular part of New England, affording everyone abundant opportunities to explore and connect with the natural world and establishing a legacy of conservation for our children and grandchildren to inherit and enjoy.*



LRCT works in the 32-town Lakes Region of central New Hampshire as defined by the Lakes Region Planning Commission.

LRCT's focus area also includes the portion of any neighboring municipality containing an extension of a geographic feature, such as a lake, watershed, ridgeline, mountain range.

This region includes the towns around six of the ten largest lakes in New Hampshire:

- Lake Winnepesaukee
- Squam Lake
- Lake Winnisquam
- Newfound Lake
- Ossipee Lake
- Lake Wentworth

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# *Land Conservation Options*

The Lakes Region Conservation Trust works with landowners and local volunteers to protect land with significant conservation value. As described below, LRCT utilizes a variety of protection methods to achieve its conservation goals.

Prior to LRCT's approval of a land conservation project, each project is reviewed by LRCT staff, and evaluated by LRCT's Lands Committee to determine whether the proposed project is consistent with LRCT's conservation priorities.

## Retaining Ownership & Conserving Your Land

### Conservation Easements

If you would like to maintain the ownership of your property, but know that it will be protected a conservation easement may be the right option to pursue. A conservation easement is legal document, recorded at the registry of deeds, which specifies limitations on the future use of the property. With a conservation easement, the landowner retains title and use of the land, with the exception of those rights that are relinquished or restricted under the easement, such as the right to develop or subdivide the property.

A conservation easement is permanent and legally binding on the current owner as well as all future owners of the land. Provided that the conservation easement meets certain requirements, a gift of a conservation easement may result in tax advantages for the donor.

Conservation easements may be donated, sold through a bargain sale, or under special circumstances sold at a price equal to its value if a donation is not an option.

### Donation of Remainder Interest/Reservation of Life Tenancy

If you would like to maintain ownership of your property for the rest of your life, but would like to know that it will be protected when you're gone, a donation of remainder interest may be best option. This type of donation conveys title to the land to LRCT, but the donor retains use of the property for him/herself and/or other designated persons during said person(s) lifetime(s).

### Donation of Land by Bequest (Will)

If you would like to maintain ownership of your property for the rest of your life, but would like to know that it will be protected when you're gone, a donation by bequest may be best option. With this type of donation, the donor bequeaths the land to LRCT, removing it from the donor's estate at the time of death. The donor retains all rights to the land during his or her lifetime.



## Conveying Ownership & Conserving Your Land

### Standard Fee Simple Land Donation

In donating land to LRCT, the donor relinquishes full title and ownership of the land at the time of the gift. No rights are retained. Land donors may realize significant tax advantages in return for their generosity.

### Bargain Sale of Land

A bargain sale is a sale of your property to LRCT at a price less than its value. In some circumstances, LRCT will consider purchasing land at a bargain sale price if a donation is not an option. A bargain sale may have certain tax advantages for a landowner.

Before deciding to purchase land or a conservation easement, LRCT would have to establish both the significant conservation value of the property and the potential for volunteer fundraising for the purchase.

### Sale of Land

In special circumstances, LRCT will consider purchasing land at a price equal to its value if a donation is not an option. Before deciding to purchase land or a conservation easement, LRCT would have to establish both the significant conservation value of the property and the potential for volunteer fundraising for the purchase.



**White Homestead CE, Sandwich**

With all land protection options, securing funding for long-term stewardship of the property is critical to the success of a conservation project. Consequently, regardless of whether a gift or purchase is being considered, LRCT must carefully consider the availability of funding for future stewardship of the property. In addition, a conservation easement holder is obligated to monitor the property regularly to ensure compliance with the easement, so LRCT must consider the availability of funds to cover such work, either from the easement grantor or from other sources.

*Your tax advisor and/or attorney can best determine the merits and consequences of the various land protection options available to you. The Lakes Region Conservation Trust advises you to consult such a professional prior to making decisions regarding your land.*



# What is a Conservation Easement?

A conservation easement is a legal agreement between a landowner (the “grantor”) and a land conservation organization, such as the Lakes Region Conservation Trust (LRCT), or a governmental entity (the “grantee”) that can be utilized by the landowner to ensure the permanent protection of the conservation values of his or her land.

In simple terms, a conservation easement is a legally enforceable commitment made by the landowner that he or she, and all future owners, will never develop the land. It may help to think about the ownership of land as the holding of a bundle of rights, such as the right to build a new house, to develop the land commercially, to subdivide the land, to cut timber, to farm, and to sell the land or pass it on to heirs.

A conservation easement separates the rights to build, develop, or subdivide from the actual ownership and other uses of the land. Thus, the landowner gives up these “development rights” but can continue to use and enjoy the land in other ways as before.

The landowner can still convey the land to anyone at whatever price they agree on and has the satisfaction of protecting the land forever from further development. In addition, he or she may benefit from significant tax advantages, and the community receives and enjoys the benefits of permanently conserved land.

The grantee that receives and holds the conservation easement does not have the right to exercise the development rights given up by the landowner; those rights are essentially extinguished. The conservation easement holder’s responsibility is to monitor the land to ensure compliance with the terms of the easement and to enforce the easement terms, if necessary.

The decision by a landowner to create a conservation easement is strictly voluntary, and to a certain degree, a conservation easement is flexible and can be tailored to suit the particular property and the landowner’s needs and objectives.

A conservation easement is governed by requirements of the United States Internal Revenue Code and New Hampshire law, and it is recorded at the county registry of deeds.

Once the conservation easement has been granted, the restrictions on specified uses and activities “run with the land” and are binding in perpetuity on all future owners of the property. Consequently, as with all important decisions regarding legal and tax matters, it is important for a landowner considering a conservation easement to seek appropriate legal and/or tax counsel.



Harris CE, Meredith

## Conservation Easements Examples

- *A landowner may place a conservation easement on a portion of his/her land, reserving full development options for the balance of the property.*
- *A conservation easement may specifically provide for and encourage certain activities on the land, such as agriculture, recreation, and timber management, provided those activities are consistent with the protection of open space and environmental quality.*

## Possible Tax Advantages of Donating a Conservation Easement

In donating a conservation easement, a landowner and his or her heirs may be eligible for a number of tax advantages, as follows:

### 1. Income Taxes:

A landowner's donation of a conservation easement may constitute a charitable gift that is deductible for federal income tax purposes.

- The easement must be donated to an eligible tax-exempt organization or governmental entity and must remain in effect in perpetuity.
- It must also serve one or more "conservation purposes" and meet certain other standards under the Internal Revenue Code.

The value of the gift, determined by a qualified appraiser, is equal to the difference between the fair market value of the property before and after the easement takes effect. The amount that landowner can deduct is based upon the value of the gift when it is made and is further defined by the landowner's particular tax situation.

### 2. Estate and Inheritance Taxes:

Federal estate and state inheritance taxes may be imposed upon the value of a person's assets after he or she passes away, even if the assets were left to heirs under a valid will. Such taxes can be substantial, sometimes forcing heirs to sell inherited property to pay taxes, a result neither the landowner nor the heirs intended.

When a landowner donates a conservation easement while still living, the value of his or her taxable assets is lowered, thereby reducing potential estate tax liability.

A landowner may find that a conservation easement is an effective way to protect heirs from burdensome estate taxes on highly valued land, ensure that the family can continue owning and enjoying the land, and secure the land from unwanted development in the future.

### 3. Gift Taxes:

When a landowner intends to give all or part of his or her land to a child or other person during his or her lifetime, the gift will be subject to federal gift taxes if its value exceeds a certain amount.

Granting a conservation easement prior to giving land to others may reduce or even eliminate the gift tax by lowering the value of the land.

### 4. Property Taxes:

Local property taxes are ordinarily based upon the value of the "highest and best" use of the land, which often is development. Since a conservation easement permanently removes development rights from the property, New Hampshire law requires towns to assess land subject to a conservation easement based upon the more limited uses allowed by the easement, and in no case at an amount exceeding the value that would be assessed under the New Hampshire current use assessment program.

Consequently, a conservation easement may result in a substantial reduction in the property's assessed value. Of course, if the land is already enrolled in current use, a conservation easement is not likely to have any material effect on property taxes.

In addition to the tax advantages outlined above, survey and appraisal costs and legal fees associated with the charitable gift of a conservation easement also may be tax deductible. A landowner should consult with his or her legal or tax advisor for information on the applicability of any of these tax advantages.



# *Elements of a Conservation Easement*



Set forth below is an outline of the elements of LRCT's standard conservation easement. This outline has been prepared to assist landowners in understanding the elements of a typical conservation easement.

Please note that the terms of each conservation easement are tailored to the property in question. Consequently, for some properties, certain provisions of the standard conservation easement may not be appropriate and/or additional provisions may be needed.

## Introductory Provisions

- Identification of property owner granting conservation easement ("grantor") and conservation organization that will hold easement ("grantee").
- Identification of land affected by conservation easement ("property").

## Purposes of Conservation Easement

- Reference to NH statutes regarding conservation easements (RSA 477:45-47).
- List of conservation easement purposes (typically using terminology that tracks wording in Internal Revenue Code and IRS regulations).
- Discussion of how purposes are consistent with conservation goals, policies, and objectives of state and municipal statutes, ordinances, and master plans.
- Statement of consistency with Internal Revenue Code.

## Unique and Significant Qualities of Property

- Description of property's conservation values.
- Reference to baseline documentation of property's conservation values as of date of conservation easement, which serves as baseline for future easement monitoring.

## Use Limitations Applicable To The Property

- List of restrictions applicable to property.
- Typical provisions include:
  - maintenance as open space in perpetuity;
  - authorization for agriculture and forestry, subject to certain requirements including forest management plan for timbering;
  - no permanent and temporary structures, except as specifically authorized;
  - no signs, with certain exceptions;
  - no excavation and alterations of land surface, surface waters, and groundwater, with certain exceptions;

- no dumping or storage of waste;
- no underground or aboveground storage tanks;
- no commercial recreational activity;
- no motorized or mechanized vehicles, except as specifically provided (e.g., certain vehicles on specified trails; use of such vehicles by grantor only; construction, logging, agricultural, and trail maintenance vehicles for activities allowed under conservation easement; emergency vehicles);
- no alteration of stone walls or other boundary markers;
- no new rights of way or access easements, except as specifically provided; and
- no subdivision or separate conveyance of parts of property, and no use of property in aggregation with another parcel to satisfy zoning or other requirements applicable to other parcel.



#### Reserved Rights of Grantor

- List of rights retained by landowner.
- Typical provisions include:
  - repair and maintenance of existing roads, bridges, and rights-of-way, and construction of new trails, boardwalks, and pedestrian bridges in accordance with specified requirements;
  - posting of signs for certain purposes (e.g., describing permitted uses; identifying trails, property boundaries, points of interest; establishing reasonable limitations on public recreational access; prohibiting hunting, fishing, trapping, camping, snowmobiling, motorized and wheeled vehicles; temporarily preventing access to areas where timbering or other authorized activities are being conducted);
  - construction of ponds for agriculture, fire protection, or wildlife habitat enhancement, in accordance with certain requirements;
  - maintenance of existing utilities, replacement of overhead utility lines with buried lines in same location, and installation of utilities to serve structure allowed under conservation easement, in accordance with certain requirements;
  - construction and maintenance of certain ancillary structures and improvements for forest management, agricultural, habitat management, conservation, or noncommercial outdoor recreational uses; and
  - archaeological investigations, with grantee's approval and in accordance with certain requirements.

#### Affirmative Rights of Grantee

- List of rights granted to conservation organization.
- Typical provisions include:
  - inspection for compliance with conservation easement and action to address noncompliance;
  - maintenance of boundaries;
  - conducting scientific and educational observations and studies;
  - allowing public access, to extent allowed by conservation easement, for nonmotorized, non-mechanized recreational and educational activities (e.g., hiking, snowshoeing, cross-country skiing, picnicking, nature observation and study; possibly horseback riding, hunting, fishing);
  - construction and maintenance of trails, posting of associated signs and markings, to extent allowed by conservation easement, and posting of signs and other action to prohibit or restrict unauthorized recreational activities; and
  - mowing of agricultural lands to maintain them in arable state and preserve scenic views, if grantor fails to do so.

### Representations and Responsibilities of Grantor

- Representations regarding clear title to property and no knowledge of contamination or underground storage tanks.
- Responsibilities as owner, including maintenance of comprehensive general liability insurance coverage, keeping grantee's interest in property free of liens, payment of taxes, and obtaining governmental permits and approvals as needed for exercising grantor's retained rights.

### Burdens and Benefits of Conservation Easement

- Perpetual nature of conservation easement and its enforceability against future owners and tenants.
- Allowing transfer of conservation easement only to state or federal government, subdivision thereof, or qualified land conservation organization that agrees to enforce easement and is capable of doing so.
- Obligation not to perform, or knowingly allow others to perform, action inconsistent with purposes of conservation easement, except that grantor is not obligated to restore property after events over which grantor had no control.
- List of any existing easements and rights-of-way.
- Confirmation that conservation easement does not grant enforceable access rights directly to public (i.e., public access opportunities arise only because of decisions of grantor or grantee to allow access, if permitted by conservation easement).

### Transfer of Property

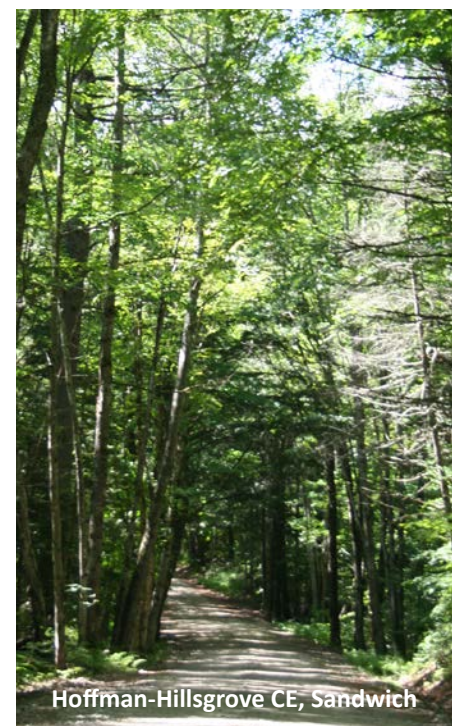
- Right of first refusal for grantee if grantor decides to sell (optional provision).
- Written notice to grantee of pending transfer of property.
- Incorporation of or reference to conservation easement in deed or other instrument conveying interest in property.
- Conservation easement terms survive any merger of fee and easement interest (i.e., if grantee becomes owner of property).

### Resolution of Disputes

- Procedures regarding resolution by informal dialogue, referral to mediation, use of arbitration, and pursuant of judicial resolution.

### Breach of Easement

- Procedures to be followed if grantee determines breach of conservation easement has occurred or is threatened, including written notice to grantor, grantor's obligation to act, grantee's right to act if grantor fails to perform or in emergency, grantee's right to recover damages from party directly or primarily responsible, grantor's responsibility for enforcement and restoration costs if grantor is directly or primarily responsible, and allocation of parties' legal fees and other costs.
- Prohibition of action against grantor where damage results from causes beyond grantor's control or from grantor's prudent action under emergency conditions.
- Parties' right to pursue remedies against third parties.



Hoffman-Hillsgrove CE, Sandwich

### Condemnation or Extinguishment

- Procedures to be followed by parties in seeking recovery if all or part of property is taken by eminent domain, or if conservation easement is extinguished in whole or part by judicial proceedings and property is then sold.

### Discretionary Consent

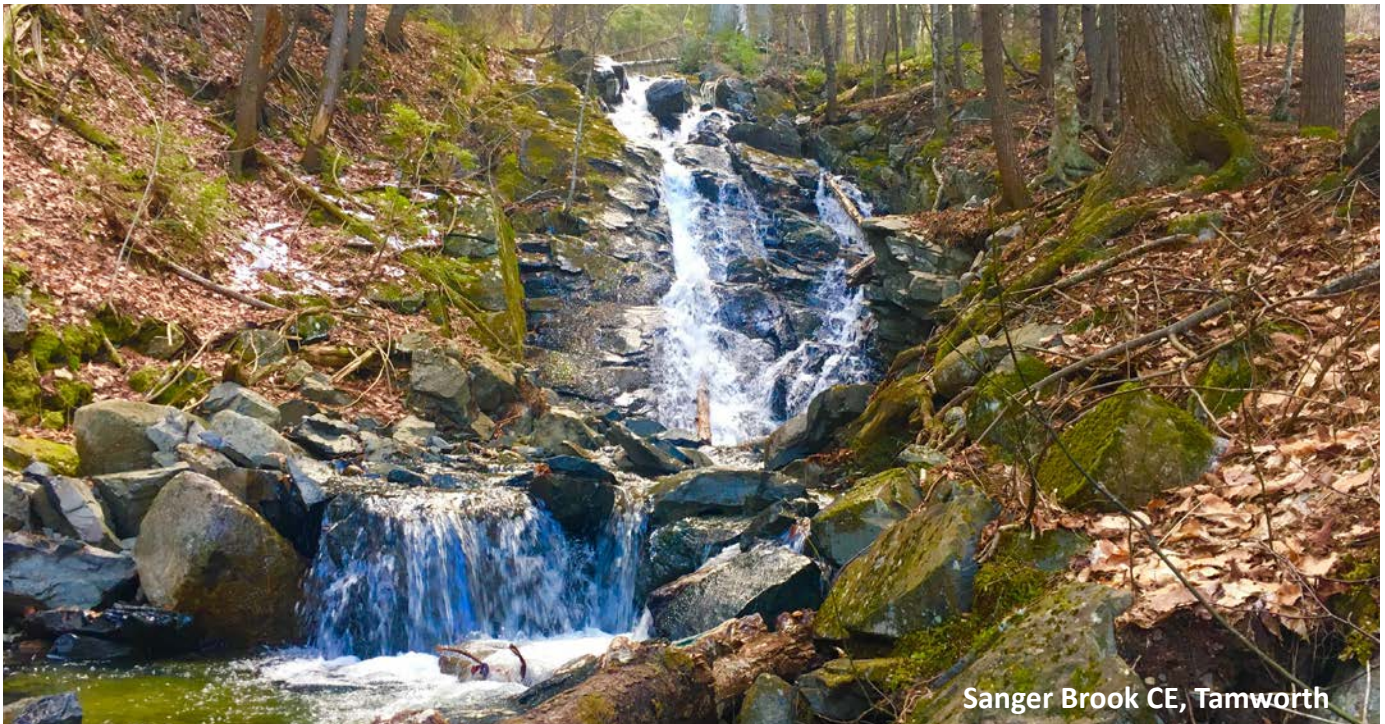
- Authorization for grantee to allow activities that are otherwise prohibited by conservation easement where there are unforeseen or changed circumstances and certain other requirements are met.

### Miscellaneous Provisions

- Miscellaneous and administrative provisions addressing notice between parties, recording of documents in future to assure perpetual enforceability of conservation ++easement, and execution, interpretation, and amendment of conservation easement.

### Other Provisions

- Grantee's agreement to be bound by, enforce, and assume rights and responsibilities of conservation easement.
- Notarized signatures.
- Exhibit A—Legal description of property.
- Exhibit B—Existing encumbrances on property.





# *Donating a Conservation Easement*

The following provides a summary of the steps and requirements involved in donating a conservation easement to the Lakes Region Conservation Trust (LRCT), including the information needed from you as well as LRCT's responsibilities.

Please be advised that it is not unusual for a conservation easement donation to require a year or more to be completed, an important consideration if you wish to claim a tax deduction for your donation within a particular year.



Humphrey CE, Alexandria

## *Legal and Financial Advice:*

*While LRCT will provide introductory information and specialized advice concerning the permanent protection of land by means of a conservation easement, it is important that you understand that LRCT cannot provide you with legal and financial advice.*

*Therefore, you should consult with your own advisors, as you determine prudent, to review the legal and financial implications of, and requirements applicable to, the proposed conservation easement gift. LRCT, is of course, ready and willing to assist in this review, but ultimately you should rely on your own advisors regarding such matters.*

## Initial Landowner Contact

LRCT uses a Property Information Form (PIF) to gather and document information about a potential project in a standardized format for review by LRCT's Lands Committee and staff.

You will be asked to fill out the first two pages of the PIF, which provides contact information, your objectives and your desired timeframe, and basic information about the property.

## LRCT Lands Committee Site Visit and Review

If LRCT determines that it is interested in and able to pursue the conservation of your property, two or more members of LRCT's Land's Committee will request an opportunity to visit the property, during which they will add their own observations, photographs, and initial assessment of certain LRCT natural resource criteria to the PIF. They will report their findings at a regularly scheduled meeting of the LRCT Lands Committee.

This committee considers whether additional information is needed to determine if the proposed easement meets the LRCT conservation criteria. Generally the committee discusses a proposed project several times to ensure that it has sufficient information to recommend a property for conservation to the LRCT Board.

## Agreement on Conservation Easement Terms; Preparation of Conservation Easement

LRCT will provide you with our conservation easement overview and model conservation easement deed. Typically, we will prepare a draft easement for your review and then we can review it together to identify and resolve any outstanding issues and questions and to agree on the terms of the easement. Among the key topics that need to be addressed are:

- the geographic scope of the easement (e.g., it is often prudent to exclude an area around existing structures so that the structures can be easily used, maintained, and modified in the future),
- the restrictions on property uses and activities,
- the rights that you wish to retain for yourself and future owners, and
- the rights of the easement holder (e.g., in most cases, it is important to LRCT for the conservation easement to allow some public access to the land for low-impact public recreational activities (e.g., hiking, snowshoeing, cross-country skiing) and nature observation).

## LRCT Lands Committee Recommendation

After gathering sufficient information and discussing the conservation easement project at one or more regularly-scheduled meetings, the LRCT Lands Committee will consider the proposed grant of a conservation easement and decide whether LRCT should accept the easement. If the Lands Committee decides that LRCT should accept the easement, it will make a formal recommendation, including any conditions or contingencies, to the LRCT Board of Trustees.

## LRCT Board of Trustees Approval

While there may be continuing conversations between you and LRCT staff or members of the Lands Committee, the next formal step for LRCT is for the Board, at a regularly-scheduled meeting, to examine the recommendation of the Lands Committee and to vote whether to accept the proposed conservation easement donation. While approval by the Board of Trustees is required for LRCT to accept a conservation easement, it isn't necessary for us to have completed work on the conservation easement language for the Board to vote on whether to accept the easement.



Grey Rocks-Cockermouth River CE, Hebron

## Confirmation of Boundaries of Land Subject to Conservation Easement

Prior to conveyance of the conservation easement, it will be necessary to have a legal description of the boundaries of the land subject to the easement and have assurance that the boundaries can be found in the field. This ensures that you and LRCT have the same understanding of what land is restricted and that LRCT will be able to monitor that land in the future for compliance with the easement terms. Whether any survey work or boundary blazing is needed will depend on the quality of the existing boundary description and markings.

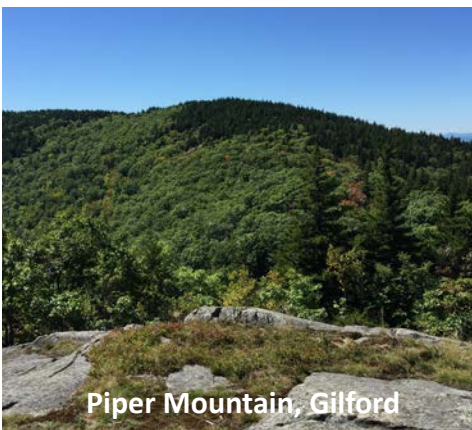
If a portion of a parcel is to be excluded from an easement (and thus the easement boundaries will not follow the parcel boundaries), you will need to obtain a survey which defines the area to be excluded from the easement and to have the boundaries of that area marked. Whether any other survey or boundary blazing would be needed for any other parts of the easement boundaries will depend on the quality of the existing description and boundary markings.

## Preparation of Conservation Easement Deed

We will need to work together with our attorneys to reach agreement on the specific language of the conservation easement, most importantly the provisions specifying the restricted uses and activities, the rights retained by the owner, and the rights of the easement holder. Since a conservation easement imposes legal restrictions that will apply to the property forever, with both you and LRCT having limited ability to modify the document in the future, careful discussion and scrutiny are vital to ensuring our mutual satisfaction with the long-term implications of the easement.

## Appraisal of Conservation Easement

If you choose to claim a federal income tax deduction for the conservation easement donation, you will likely need to obtain an appraisal. For a charitable donation of a property interest valued at over \$5,000 for which an income tax deduction will be claimed, the U.S. Internal Revenue Service requires an appraisal meeting specified requirements. The donor claiming the tax deduction is responsible for determining the value of the donation and should use a qualified appraiser who follows the Uniform Standards of Professional Appraisal Practice. The appraisal of the proposed conservation easement will tell you the value of the easement based on the value of the property and the restrictions contained in the easement, and thus what the tax benefits of the easement gift may be. You should consult with your advisors about the specifics of the appraisal requirements. Please note, however, several key requirements:



Piper Mountain, Gilford

- the appraisal cannot be made earlier than 60 days before the date of conveyance of the conservation easement;
- it must state the fair market value as of the date of the donation; and
- it must be received by the donor on or before the due date (including any extensions) of the tax return on which the deduction is claimed.

If it would be helpful, we can provide you with the names of local appraisers with whom we have worked on other land conservation transactions, but you should work with an appraiser with whom you are comfortable and who will give you the best advice for your situation.

## Environmental Evaluation

LRCT will evaluate or arrange for evaluation of the potential for presence of environmental contamination (i.e., hazardous waste, hazardous materials, petroleum products) on the property. If the evaluation identifies the presence of such contamination, we will need to determine whether the condition can be remedied or whether the potential for liability makes it impossible for LRCT to accept the conservation easement.



## Title Search and Resolution of Title Issues

LRCT will have its attorney perform a title search to determine whether there are any title defects or interests in the land that need to be resolved, subordinated, or otherwise considered and addressed before conveyance of the conservation easement to LRCT. If your deed and any other title information (e.g., information on any known liens, mortgages, rights-of-way, or other interests held by other parties) is readily available, we ask that you provide us with copies.

Once LRCT's attorney has completed the title search, we will let you know if any title issues have been identified. In such case, it will be necessary for these issues to be resolved to LRCT's satisfaction or waived by LRCT before the transaction can be completed. In particular, if the property is subject to an existing mortgage, the mortgage would need to be discharged or subordinated to the conservation easement.

## Baseline Documentation

Documentation describing the property needs to be compiled for each conservation easement that LRCT accepts, in order to provide a baseline for future monitoring of the property to confirm compliance with the easement. In addition, where a charitable deduction is claimed for a donated conservation easement, a record of the condition of the property at the time of the easement conveyance is required to comply with IRS regulations. This is a requirement for the owner of the land who is claiming the tax deduction, but ordinarily LRCT will take responsibility for preparing the baseline documentation and then ask you to review it and confirm that it accurately describes the property. The baseline documentation typically includes photographs, available surveys, written descriptions, and other information to provide a full description of the property and its conservation values.

## Closing

You and LRCT will both sign the conservation easement deed, and then it will be recorded by our attorney at the appropriate county Registry of Deeds. LRCT will be responsible for the fees for recording the conservation easement deed, but we would ask that you be responsible for fees for recording any mortgage subordination or other document needed to resolve a title issue. Once the conservation easement deed is recorded, it is part of the recorded title to the land, restricting the land's use by current and future owners in perpetuity.

### LRCT Letter Acknowledging Conservation Easement Donation; IRS Form 8283

After completion of the transaction, LRCT will provide you with a letter acknowledging the conservation easement donation. Such a letter is one of the items required for you to claim a federal income tax deduction for your gift. If you wish to claim such a deduction, you will be responsible for preparing IRS Form 8283 (Noncash Charitable Contributions), which specifies information regarding the conservation easement that has been donated and its appraised value. Once the form has been signed by your appraiser, please forward it and a copy of your appraisal to LRCT, and we will sign the form and return it to you. While LRCT is not responsible for evaluating the appraiser's analysis or conclusions, as a matter of policy LRCT will not knowingly participate in a project where there are significant questions about the deductibility of a property or conservation easement donation. The completed Form 8283 is to be submitted to the IRS with your tax return. In the case of contributions of property for which a deduction of more than \$500,000 is claimed, the appraisal itself must also be filed with the tax return.

### LRCT Publicity Regarding Conserved Land

LRCT customarily publicizes the completion of a land conservation project and sometimes wishes to publicize a project while it is underway, particularly if it is important to generate community interest in and support for the project. Typically LRCT publicizes the project in its newsletter, *The Legacy*, and also issues a press release, including a photograph, description of the property, and information on how LRCT worked with the owner to protect the land. In any event, the fact of a conveyance of property ordinarily becomes a matter of public record as soon as the transaction has been completed. If you have reservations about having the transaction or your involvement publicized, please let us know.



Knights Pond, Alton

## LRCT Costs Associated with Accepting Conservation Easement

As indicated above, significant LRCT staff and volunteer committee member time goes into evaluating a proposed conservation easement gift, reviewing any necessary survey work, and working with the landowner to develop the conservation easement and complete the transaction. LRCT also incurs expenses for:

- LRCT's attorney's assistance with the transaction, including closing costs;
- a title search;
- an environmental evaluation;
- recording fees;
- staff travel time and supplies; and
- the baseline documentation (prepared either by staff or an outside consultant).

Unlike some land trusts, LRCT does not charge a fee for assisting landowners in preserving their properties through the use of conservation easements. We do ask easement landowners to consider the costs that LRCT incurs during this process as you contemplate current and future charitable giving.

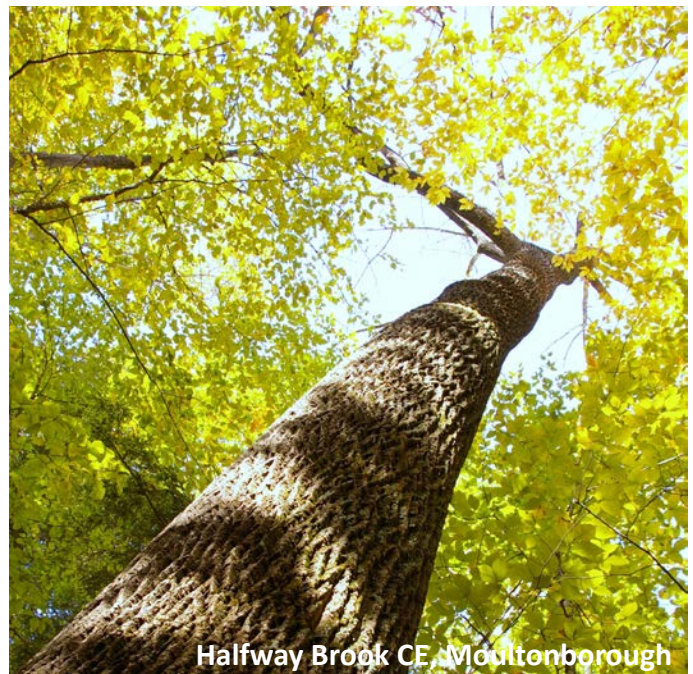
In accepting a conservation easement, LRCT also takes on long-term stewardship responsibilities to ensure that the integrity and terms of the conservation easement are not violated. These stewardship responsibilities include:

- annual monitoring of compliance with the easement restrictions through inspection of the property;
- documenting the annual monitoring;
- communicating with the owner;
- reviewing the easement terms and monitoring process with the new owner whenever if ownership of the property is transferred in the future; and
- enforcing the terms of the easement if necessary.

These are permanent responsibilities, and thus adequate funding for performing these responsibilities is critical.

## Easement Stewardship Funding

In an effort to secure the funding needed for LRCT's long-term easement stewardship responsibilities, LRCT has adopted a Policy on Conservation Easement Stewardship Contributions, a copy of which will be provided to you. For the reasons outlined in the Policy, LRCT works to secure the needed stewardship endowment funds, at the time of easement conveyance or in the future, from (1) the conservation easement donor and/or (2) from individuals and/or groups identified by the donor who may be interested in providing financial support for the conservation project, such as neighbors or other community residents who enjoy or appreciate the scenic beauty and natural values of the land.



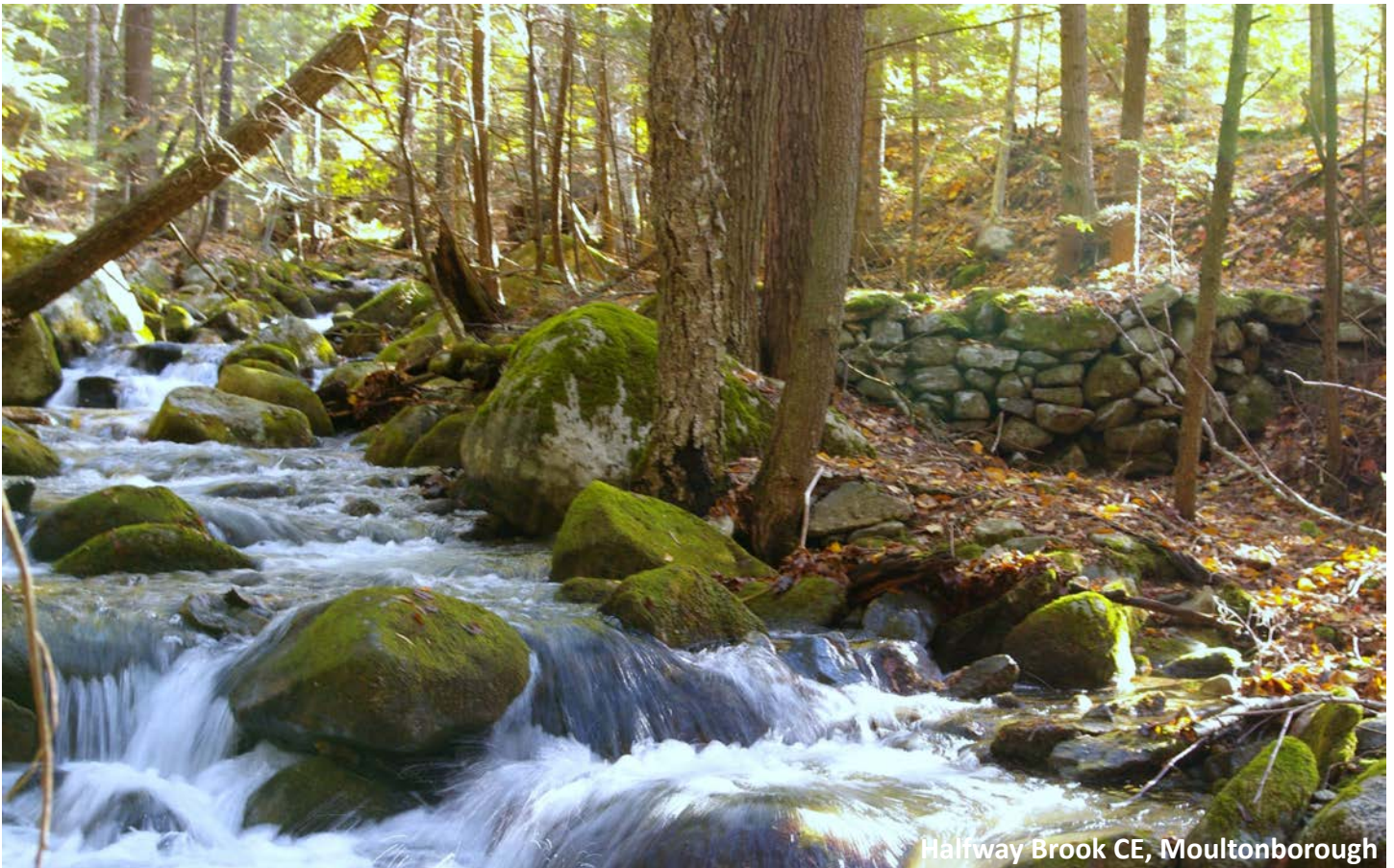
Halfway Brook CE, Moultonborough

## Owner's Potential Costs Associated with Donating Conservation Easement

The costs of conserving your property by donating a conservation easement may include:

- fees of any legal and financial advisors that you choose to use;
- costs of obtaining an appraisal if you choose to claim a charitable deduction for your donation;
- costs of any surveying and boundary marking that is needed for the easement;
- recording fees for any documents needed to resolve a title issue; and
- an easement stewardship contribution, unless an alternative source of such funds can be identified as discussed above.

We hope that the foregoing is helpful to you in understanding LRCT's process for considering and accepting a conservation easement. If you have any questions about the process, please feel free to contact us. Thank you for your interest in conserving important lands in the Lakes Region.





# Donating Land

The following provides a summary of the steps and requirements involved in donating land to the Lakes Region Conservation Trust (LRCT), including the information needed from you as well as LRCT's responsibilities. The information is provided in a generally linear sequence, starting with information-gathering, and ending with LRCT publicity of the completed project. Please be advised that it is not unusual for a land donation to require at least several months to be completed, an important consideration if you wish to claim a tax deduction for your donation within a particular year.

## *Legal and Financial Advice:*

*While LRCT will provide introductory information and specialized advice concerning the protection of land by means of donation to LRCT, it is important that you understand that LRCT cannot provide you with legal and financial advice. Therefore, you should consult with your own advisors, as you determine prudent, to review the legal and financial implications of, and requirements applicable to, the proposed land gift. LRCT, is of course, ready and willing to assist in this review, but ultimately you should rely on your own advisors regarding such matters.*

## Initial Landowner Contact

LRCT uses a Property Information Form (PIF) to gather and document information about a potential project in a standardized format for review by LRCT's Lands Committee and staff. You will be asked to fill out the first two pages of the PIF, which provides contact information, your objectives and your desired timeframe, and basic information about the property.

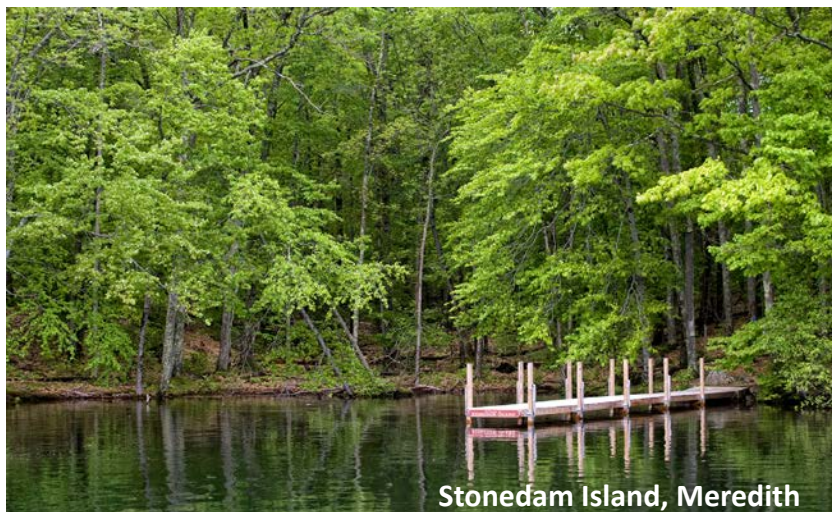
## LRCT Lands Committee Site Visit and Review

If LRCT determines that it is interested in and able to pursue the conservation of your property, two or more members of LRCT's Land's Committee will request an opportunity to visit the property, during which they will add their own observations, photographs, and initial assessment of certain LRCT natural resource criteria to the PIF. They will report their findings at a regularly scheduled meeting of the LRCT Lands Committee.

The Lands Committee considers whether additional information is needed to determine if the land meets the LRCT conservation criteria, and the committee may need to discuss a proposed project several times to ensure that it has sufficient information to recommend a property for conservation to the LRCT Board.



Shad Path CE, Laconia



Stonedam Island, Meredith

### LRCT Lands Committee Recommendation

After gathering sufficient information and discussing the conservation project at one or more regularly-scheduled meetings, the LRCT Lands Committee will consider the proposed land gift and decide whether LRCT should accept it. If the Lands Committee decides that LRCT should accept the land, it will make a formal recommendation, including any conditions or contingencies, to the LRCT Board of Trustees.

### LRCT Board of Trustees Approval

While there may be continuing conversations between you and LRCT staff or members of the Lands Committee, the next formal step for LRCT is for the Board, at a regularly-scheduled meeting, to examine the recommendation of the Lands Committee and to vote whether to accept the proposed land donation. While approval by the Board of Trustees is required for LRCT to accept a parcel of land, it isn't necessary for us to have completed all of the necessary legal work (e.g., drafting of the deed; title search) for the Board to vote on whether to accept the land.

### Confirmation of Boundaries of Land

Prior to conveyance of the land, it will be necessary to have a legal description of the property boundaries and have assurance that the boundaries can be found in the field. This ensures that you and LRCT have the same understanding of what land is being conveyed and that LRCT will be able to manage the land in the future without the potential for disputes with abutters. Whether any survey work or boundary blazing is needed will depend on the quality of the existing boundary description and markings. If a survey of the property is readily available, we ask that you provide us with a copy.

### Preparation of Deed

We will need to work together with our attorneys to finalize the specific language of the deed, particularly if the deed will contain any unusual restrictions or reservations or any easements or rights-of-way held by third parties. Careful discussion and scrutiny are vital to ensuring our mutual satisfaction with the long-term implications of the conveyance of the property.

## Appraisal of Land

If you choose to claim a federal income tax deduction for the land donation, you will likely need to obtain an appraisal. For a charitable donation of a property interest valued at over \$5,000 for which an income tax deduction will be claimed, the U.S. Internal Revenue Service requires an appraisal meeting specified requirements. The donor claiming the tax deduction is responsible for determining the value of the donation and should use a qualified appraiser who follows the Uniform Standards of Professional Appraisal Practice. The appraisal will tell you the value of the property and thus what the tax benefits of the land gift may be. You should consult with your advisors about the specifics of the appraisal requirements. Please note, however, several key requirements:

- the appraisal cannot be made earlier than 60 days before the date of conveyance of the property;
- it must state the fair market value as of the date of the donation; and
- it must be received by the donor on or before the due date (including any extensions) of the tax return on which the deduction is claimed.

If it would be helpful, we can provide you with the names of local appraisers with whom we have worked on other land conservation transactions, but you should work with an appraiser with whom you are comfortable and who will give you the best advice for your situation.

## Environmental Evaluation

LRCT will evaluate or arrange for evaluation of the potential for presence of environmental contamination (i.e., hazardous waste, hazardous materials, petroleum products) on the property. If the evaluation identifies the presence of such contamination, we will need to determine whether the condition can be remedied or whether the potential for liability makes it impossible for LRCT to accept the land.



## Title Search and Resolution of Title Issues

LRCT will have its attorney perform a title search to determine whether there are any title defects or interests in the land that need to be resolved, subordinated, or otherwise considered and addressed before conveyance of the land to LRCT. If your deed and any other title information (e.g., information on any known liens, mortgages, rights-of-way, or other interests held by other parties) is readily available, we ask that you provide us with copies.

Once LRCT's attorney has completed the title search, we will let you know if any title issues have been identified. In such case, it will be necessary for these issues to be resolved to LRCT's satisfaction or waived by LRCT before the transaction can be completed. In particular, if the property is subject to an existing mortgage, the mortgage would need to be discharged.

## Baseline Documentation

For some land acquisition projects, it may be necessary to prepare baseline data documenting the condition of the property as of the date the property is conveyed, including man-made structures, vegetative cover (e.g., fields, forest, any unique flora or fauna), land use history, and distinct natural features. For example, such documentation may be needed to satisfy a funding source for the project or in connection with a conservation easement that will be granted to another conservation organization. The report ordinarily includes topographic and aerial base maps of the property, along with a detailed boundary map if a survey does not exist, and photos of the property. If a forest management plan or other document describing the property's natural resources is readily available, we ask that you provide us with a copy.

## Management Plan

LRCT is required by national land trust standards to prepare a management plan for each owned property. We may ask you for information about the property that will assist in our preparation of such a plan.

## Closing

Ordinarily we will meet with LRCT's attorney for you to sign the deed and for us both to sign various other documents that are required for conveyance of real estate in New Hampshire. (If necessary, we can each complete our documents in different locations and the documents can be transmitted by mail.) The deed will then be recorded by our attorney at the appropriate county Registry of Deeds. LRCT will be responsible for the fees for recording the deed, but we would ask that you be responsible for fees for recording any mortgage subordination or other document needed to resolve a title issue.

## LRCT Letter Acknowledging Land Donation; IRS Form 8283

After completion of the transaction, LRCT will provide you with a letter acknowledging the land donation. Such a letter is one of the items required for you to claim a federal income tax deduction for your gift. If you wish to claim such a deduction, you will be responsible for preparing IRS Form 8283 (Noncash Charitable Contributions), which specifies information regarding the property that has been donated and its appraised value. Once the form has been signed by your appraiser, please forward it and a copy of your appraisal to LRCT, and we will sign the form and return it to you. While LRCT is not responsible for evaluating the appraiser's analysis or conclusions, as a matter of policy LRCT will not knowingly participate in a project where there are significant questions about the deductibility of a property donation. The completed Form 8283 is to be submitted to the IRS with your tax return. In the case of contributions of property for which a deduction of more than \$500,000 is claimed, the appraisal itself must also be filed with the tax return.



**Patten Brook CE, Alexandria**

## LRCT Publicity Regarding Conserved Land

LRCT customarily publicizes the completion of a land conservation project and sometimes wishes to publicize a project while it is underway, particularly if it is important to generate community interest in and support for the project. Typically LRCT publicizes the project in its newsletter, *The Legacy*, and also issues a press release, including a photograph, description of the property, and information on how LRCT worked with the owner to protect the land. In any event, the fact of a conveyance of property ordinarily becomes a matter of public record as soon as the transaction has been completed. If you have reservations about having the transaction or your involvement publicized, please let us know.

## LRCT Costs Associated with Accepting Land

As indicated above, significant LRCT staff and volunteer committee member time goes into evaluating a proposed land gift, reviewing any necessary survey work, and working with the landowner to complete the transaction. LRCT also incurs expenses for:

- LRCT's attorney's assistance with the transaction, including closing costs;
- an environmental evaluation;
- a title search;
- recording fees;
- staff travel time and supplies;
- the baseline documentation, if needed (prepared either by staff or an outside consultant); and
- the management plan.

Unlike some land trusts, LRCT does not charge a fee for assisting landowners in preserving their properties. We do ask landowners to consider the costs that LRCT incurs during this process as you contemplate current and future charitable giving.

In accepting a parcel of land, LRCT also takes on long-term stewardship responsibilities to ensure that the property is properly managed and cared for and that the terms of any conservation easement on the land are not violated. These stewardship responsibilities include:

- annual or more frequent inspection of the property through LRCT's property adopter program;
- planning and maintenance of any improvements on the property (e.g., trails, kiosks);
- ensuring compliance with the any restrictions that apply to the property through a conservation easement held by another conservation organization and associated communication with the easement holder;
- monitoring the impacts of any public use of the property that LRCT allows; and
- responding to and resolving any conflicts among users of the land or damage to the property by abutters or visitors to the property.

These are permanent responsibilities, and thus adequate funding for performing these responsibilities is critical.



Red Hill, Moultonborough

## Fee Land Stewardship Funding

In an effort to secure the funding needed for LRCT's long-term stewardship responsibilities, LRCT has adopted a Policy on Fee Land Stewardship Contributions, a copy of which will be provided to you. For the reasons outlined in the Policy, LRCT works to secure the needed stewardship endowment funds, at the time of land conveyance or in the future, from (1) the land donor and/or (2) from individuals and/or groups identified by the donor or by LRCT who may be interested in providing financial support for the conservation project, such as neighbors or other community residents who enjoy or appreciate the scenic beauty and natural values of the land.

## Owner's Potential Costs Associated with Donating Conservation Easement

The costs of donating a parcel of land may include:

- fees of any legal and financial advisors that you choose to use;
- costs of obtaining an appraisal if you choose to claim a charitable deduction for your donation;
- costs of any surveying and boundary marking that is needed;
- recording fees for any documents needed to resolve a title issue; and
- a fee land stewardship contribution, unless an alternative source of such funds can be identified as discussed above.

We hope that the foregoing is helpful to you in understanding LRCT's process for considering and accepting a parcel of land. If you have any questions about the process, please feel free to contact us. Thank you for your interest in conserving important lands in the Lakes Region.



Timber Island CE, Gilford