



# Donating a Conservation Easement

A conservation easement is a legal document that will impose restrictions on your land permanently. You should anticipate and provide for time to consult with family members and legal and financial advisors and to carefully review the terms of the legal documents.

Similarly, a conservation easement involves a permanent commitment from the land trust. The proposed easement must be assessed against UVLT's conservation policies and accepted by a formal vote of the Board of Trustees.

## **Initial Review**

If you are considering a conservation easement, UVLT staff can meet with you to discuss your conservation objectives. To prepare for an initial discussion, you should gather deeds, surveys, or other maps you may have. UVLT staff will review these with you and ask you to describe your goals. Our staff will also discuss possible tax and financial aspects of an easement donation, the steps necessary to complete a gift, the costs you may anticipate and a likely timetable for a project. UVLT's Lands Committee will review your proposed project for conformance with land trust standards and policies.

## **Resource Assessment & Easement Terms**

A conservation easement requires detailed information about the property that will be protected. Prior to drafting the easement deed, UVLT staff will complete a worksheet summarizing the natural resources present on your property and the public benefits that will result from their conservation. UVLT will visit your property to verify the boundaries, map any areas of special concern (including areas

to be excluded from the easement), and assess areas that may need special protections such as riparian buffers or trails for public access.

If your property has not been surveyed and if the boundaries are vague or poorly described, or the property is subject to a boundary line dispute, or you are excluding a portion of the property from the easement, a map from a licensed surveyor may be required.

## **Landowner Review**

Based on field visits, deeds, and surveys, UVLT will prepare a draft conservation easement deed and conservation map for your property relying upon professional standards and practices for conservation easements. Our staff will discuss the structure and content of the draft document with you and answer your questions. Keep in mind that UVLT staff do not represent you - you should carefully review the draft conservation easement and discuss it with your own advisors.

When you are comfortable with the conservation project, UVLT staff will submit it to the Board of Trustees for acceptance.

## **Appraisal**

If you plan to claim a tax deduction for your charitable gift of an easement, you must obtain an appraisal. UVLT staff can provide information about Internal Revenue Service appraisal requirements and share a list of appraisers experienced at valuing conservation easements in the Upper Valley. Some landowners wish to know the value of the gift prior to finalizing the easement. In other cases the appraisal may be completed after the documents are recorded.

## **Mortgage Subordination**

If you have used your property to secure a loan, you will need to obtain an agreement

from the mortgage holder so that the easement is not extinguished in the event of a foreclosure. This is called a "mortgage subordination." Your lending agency may wish to review the easement documents or the appraisal prior to subordinating its interests.

### **Baseline Documentation**

The Internal Revenue Service requires that a land trust receiving a donated conservation easement maintain "documentation sufficient to establish the condition of the property at the time of the gift." UVLT assembles maps and photographs into a report that you will countersign at the time of closing.

### **Sign, Record, and Celebrate**

When the final easement draft has been reviewed, the baseline documentation report is compiled and you have obtained any necessary appraisals or mortgage subordinations, you are ready for a closing. In addition to the easement deed and the baseline documentation report, you will need to sign a transfer tax return for the department of revenue in your state. You may come to UVLT's office to sign the documents, or make arrangements with a notary public. Later, if you claim an income tax deduction you must file IRS Form 8283.

UVLT will see that your conservation easement deed is recorded and will provide the recorded copies to you. We will usually notify your town's conservation commission and your neighbors of your conservation easement gift. The story of your gift may appear in UVLT communications and press releases.

The recording of the conservation easement formalizes the beginning of UVLT's permanent relationship with your land. UVLT will visit your property periodically to verify and document compliance with the terms of the easement. As time passes, we will also be glad to answer any questions you may have about easement terms or provisions.

### **Conservation Project Costs**

Donating a conservation easement involves complex legal, real estate, and financial planning and you will incur expenses related to the gift. If you claim a tax deduction for the gift, some of these costs will also be deductible. Often, the tax benefits obtained through the gift of an easement far exceed the costs. But if costs pose a barrier to conserving your land, please let UVLT seek other arrangements.

***Appraisal:*** If you will claim an income tax deduction for your charitable gift, you will need a qualified appraisal to substantiate the value of the easement. UVLT cannot pay for the appraisal without becoming the appraiser's client - thus putting your tax deduction at risk.

***Legal and other professional fees:*** Although UVLT will draft the necessary documents, you should obtain your own legal counsel. If you are considering tax and estate planning issues, you may also wish to consult a financial planning professional.

***Survey:*** Depending on the quality of existing maps, the conditions of your boundaries, and the terms of your easement, some survey work may be necessary.

***UVLT's Stewardship Endowment and project costs:*** For each conservation easement UVLT accepts, an addition must be made to the Stewardship Endowment to provide for our permanent monitoring and enforcement obligations. The amount required will be based on the specific terms of your conservation easement. UVLT will have other costs as well -- depending on your property's size and character, complexity of the conservation easement, and the number of revisions and review sessions involved, UVLT staff may spend 60 hours or more on your project. We ask that you consider sharing your tax benefit by making a contribution toward these costs.

Prior to spending substantial staff time on a conservation easement project, UVLT will review expected costs with you to reach an understanding as to how these will be funded.