



TOWN OF HUDSON

Conservation Commission



William Collins, Chairman David Morin, Selectmen Liaison

12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6008 • Fax: 603-594-1142

CONSERVATION COMMISSION MEETING AGENDA June 10, 2024

The Town of Hudson Conservation Commission will hold its next meeting on **June 10, 2024** at 7:00 p.m. in the Buxton Meeting Room, located in Town Hall 12 School Street, Hudson, NH.

- ✓ Call to Order
- ✓ Pledge of Allegiance
- ✓ Roll Call
- ✓ Alternates
- ✓ Public Input Related to Non-Agenda Items

I. New Business:

- a. Welcome new alternate member, Mike Catanzaro
- b. Conditional Use Permit Application – Miara Transportation, 12 Bockes Rd
Map 136, Lot 1

II. Old Business:

None

III. Other Business:

- a. Update to Article IX Wetland Buffer
- b. Musquash Bridge Cost for rerouted trail – motion
- c. Things to do List for 2024/2025

IV. Financial Status:

Current Report

V. Correspondence

- a. Correspondence a: Town Engineer E. Dhima
- b. Correspondence b: Engineering Asst DStickney for Amy Smagula NHDES

VI. Approval of Minutes:

- a. Meeting Minutes – April 8, 2024 and May 13, 2024

VII. Commissioner's Comments:

Next Regular Meeting: Monday July 8, 2024 at 7:00 p.m.

William Collins

William Collins, Chairman

Fellow Commission members, an update to Zoning Ordinance 334, Article IX Wetland Conservation District passed town vote this past March. The update changes the current 50 foot buffer to 75 foot for **Non-Residential** Site Plan and Conditional Use Applications being reviewed. I will get an official copy of the revised language when available but for now please refer to the changes noted below....Source is Town Website

Amend Article IX - Wetland Conservation District, Section 334-35.A.3 Boundaries to increase wetland buffer from 50 feet to 75 feet for nonresidential uses.

Existing Article IX - Wetland Conservation District, Section 334-35.A.3 reads as follows:

§ 334-35 Boundaries. A. The Wetlands Conservation Overlay District includes all of the following:

- (1) Surface waters.
- (2) Wetlands of any size.
- (3) A fifty-foot-wide buffer around wetlands and surface waters.

Amend Article IX - Wetland Conservation District, Section 334-35.A.3 to read as follows (language to be added shown in italics, language to be removed shown in ~~strikeout~~):

§ 334-35 Boundaries. A. The Wetlands Conservation Overlay District includes all of the following:

- (1) Surface waters.
- (2) Wetlands of any size.
- (3) **A fifty-foot-wide buffer around wetlands and surface waters for residential uses and a seventy-five foot buffer around wetlands and surface waters for nonresidential uses.**

Two 12ft span by 30"W bridges

description	dimen	count	QTY	Price		Note
decking	2x6x10	1	12	\$ 9.48	\$ 113.76	2 deck boards per ft
stringers	2x12x12	1	6	\$ 35.48	\$ 212.88	3 stringers per bridge
stringers	2x12x10	1	2	\$ 30.68	\$ 61.36	2 cross bracing and 2 rim joist per bridge
					\$ 388.00	

description	dimen	count	QTY	Price		Note
deck screws 5LB	3.0 inch star	365	2	\$ 37.50	\$ 75.00	

total \$ 463.00

option for landing bridge

description	dimen	count	QTY	Price		Note
substructure - stone	random					free
substructure - PT	4x4x8	1	2	\$ 11.08	\$ 22.16	substruce for landing bridge
rebar to pin substructure	1/2 dia by 2'	1	8	\$ 4.92	\$ 39.36	pin substructure into earth
					\$ 61.52	

total with option \$ 524.52

Recently, members of the Conservation Commission were out at the Musquash Pond Conservation Area to evaluate current conditions along the southern portion of the Hamblett-Nash Trail. It was determined by members present that it would be best to close roughly two hundred feet of the trail due to deteriorating conditions and re-route this segment towards the uplands closer to the pond. The motion below covers the expenses required to construct a bridge needed for a stream crossing on the re-routed Hamblett-Nash Trail.

_____ move to spend not more than \$600.00 from the Conservation Fund to cover the cost of materials for construction of a bridge along the re-routed Hamblett-Nash Trail located in the Musquash Pond Conservation Area. Motion Second _____

Any Discussions?

All those in Favor _____, Against _____, Abstaining _____

Hudson Conservation Trail Work Days 2024/2025

Below are some suggested activities for our trail work days during 2024 and 2025.
We can add to the list as new projects and tasks popup.

Pelham Road Conservation Area

1. Install kiosk at Pelham Road (Boy Scout, in process)
2. Install trail markers along the three trails
3. Remove old automobile
4. Expose some of the unique features
5. Build bridges where needed

Hudson Town Forest

1. Parking Area fill
2. New Gate
3. Update Map in Kiosk
4. Trails Signs and Blazing

**Ref item #3 nearest point to extract is Tiffany Cir. Distance 710 feet
other option would be to cut up and haul out piece by piece**

Musquash Pond Conservation Area

1. Trail Signs and Blazing
2. Update Trail Map with re-route of Hamblett-Nash
3. Update Maps in Kiosks
4. Create Path from Parking to Kiosk
5. Make Rules Signs more visible
6. Trails and Bridge in Northern End

Rangers Town Forest

1. Install a Kiosk
2. Mark out some loop trails
3. Apply for grant in 2025
4. Clean up debris west side of property

Robinson Pond Recreation Area

1. Update map in Kiosk
2. Evaluate the work out stations
3. Trail Signs or blazing?

Colburn Town Forest

1. Install two Kiosks, Musquash Rd. Trigate Rd.
2. New maps both ends
3. Trails Signs and Blazing

Parker Preserve

1. Open up the Easment
2. Install ConCom entry point sign
3. Create small loop trail
4. Record GPS data of property

Southern end of Robinson Pond

No immediate plans to create trails or pond access.

Remove No Trespass Signs (Stabler property)
Install Conservation Markers (Stabler, Berrigan)

Run: 6/03/24
12:43PM

Expenditure Report - Including Carry Forward Activity
Conservation Committee
 Town of Hudson, NH
 As Of: May 2024, GL Year 2024

Page: 1
 bmckee
 ReportSortedExpenditure
 Conservation

Account Number	Budget	Prior Year Encumbered	Budget & PY Adjustments	Net Budget	MTD Exp	YTD Exp	Encumbered	Balance Available	%Used
Conservation Fund									
06-0000-6500-000-000	Purchase Property								
	0.00	0.00	0.00	0.00	0.00	328,452.00	0.00	-328,452.00	0.000
06-4619-5586-202-000	Conserv Comm, Sm. Equipment Mtce								
	2,300.00	0.00	0.00	2,300.00	0.00	331.56	0.00	1,968.44	14.416
06-4619-5586-217-000	Conserv Comm, Assoc Dues/Fees								
	1,327.00	0.00	0.00	1,327.00	0.00	1,225.00	0.00	102.00	92.313
06-4619-5586-235-000	Conserv Comm, Registration Fees								
	500.00	0.00	0.00	500.00	0.00	0.00	0.00	500.00	0.000
06-4619-5586-252-000	Conserv Comm, Prof Services								
	48,626.00	28,000.00	0.00	76,626.00	3,120.00	9,160.00	205,090.00	-137,624.00	279.605
Total Conservation Fund									
Selected Year	52,753.00	0.00	0.00	52,753.00	3,120.00	334,368.56	181,890.00	-463,505.56	978.634
Prior Year	0.00	28,000.00	0.00	28,000.00	0.00	4,800.00	23,200.00	0.00	100.000
Sort Total	52,753.00	28,000.00	0.00	80,753.00	3,120.00	339,168.56	205,090.00	-463,505.56	673.979

Run: 6/03/24
12:43PM

Expenditure Report - Including Carry Forward Activity
Conservation Committee
 Town of Hudson, NH
 As Of: May 2024, GL Year 2024

Page: 2
 bmckee
 ReportSortedExpenditure
 Conservation

Account Number	Prior Year		Budget & PY		MTD Exp	YTD Exp	Encumbered	Balance	
	Budget	Encumbered	Adjustments	Net Budget				Available	%Used
Selected Year	52,753.00	0.00	0.00	52,753.00	3,120.00	334,368.56	181,890.00	-463,505.56	978.634
Prior Year	0.00	28,000.00	0.00	28,000.00	0.00	4,800.00	23,200.00	0.00	100.000
Grand Total	52,753.00	28,000.00	0.00	80,753.00	3,120.00	339,168.56	205,090.00	-463,505.56	673.979

Run: 6/03/24
12:46PM

Revenue Report

Page: 1
bmckee
ReportSortedRevenue

Town of Hudson, NH
As Of: May 2024, GL Year 2024

Account Number		Est Rev	MTD Rev	YTD Rev	Balance	%Coll
Forest Management Fund						
18-3501-4704-000-000	Sale of Town Property	0.00	0.00	28,185.52	-28,185.52	0.000
Totals	Forest Management Fund	0.00	0.00	28,185.52	-28,185.52	0.000
Grand Total		0.00	0.00	28,185.52	-28,185.52	0.000

**Town of Hudson, NH
Conservation Cash Flow
Fiscal Year 2024**

	<u>July</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>June</u>
Conservation												
Beginning Bal.	764,609.09	766,596.24	768,588.55	770,603.72	772,691.53	774,717.46	776,816.41	778,915.30	780,884.08	782,993.96	785,041.30	-
Income												
Deposits	-	-	-	-	-	-	-	-	-	-	-	-
Interest	1,987.15	1,992.31	2,015.17	2,087.81	2,025.93	2,098.95	2,098.89	1,968.78	2,109.88	2,047.34	2,121.11	-
Total Income	1,987.15	1,992.31	2,015.17	2,087.81	2,025.93	2,098.95	2,098.89	1,968.78	2,109.88	2,047.34	2,121.11	-
Expenditures												
Expenditures	-	-	-	-	-	-	-	-	-	-	-	-
Bank Charges	-	-	-	-	-	-	-	-	-	-	-	-
Total Expend.	-	-	-	-	-	-	-	-	-	-	-	-
Ending Balance	766,596.24	768,588.55	770,603.72	772,691.53	774,717.46	776,816.41	778,915.30	780,884.08	782,993.96	785,041.30	787,162.41	-

Correspondence a:

Elvis Dhima <edhima@hudsonnh.gov>

Bill

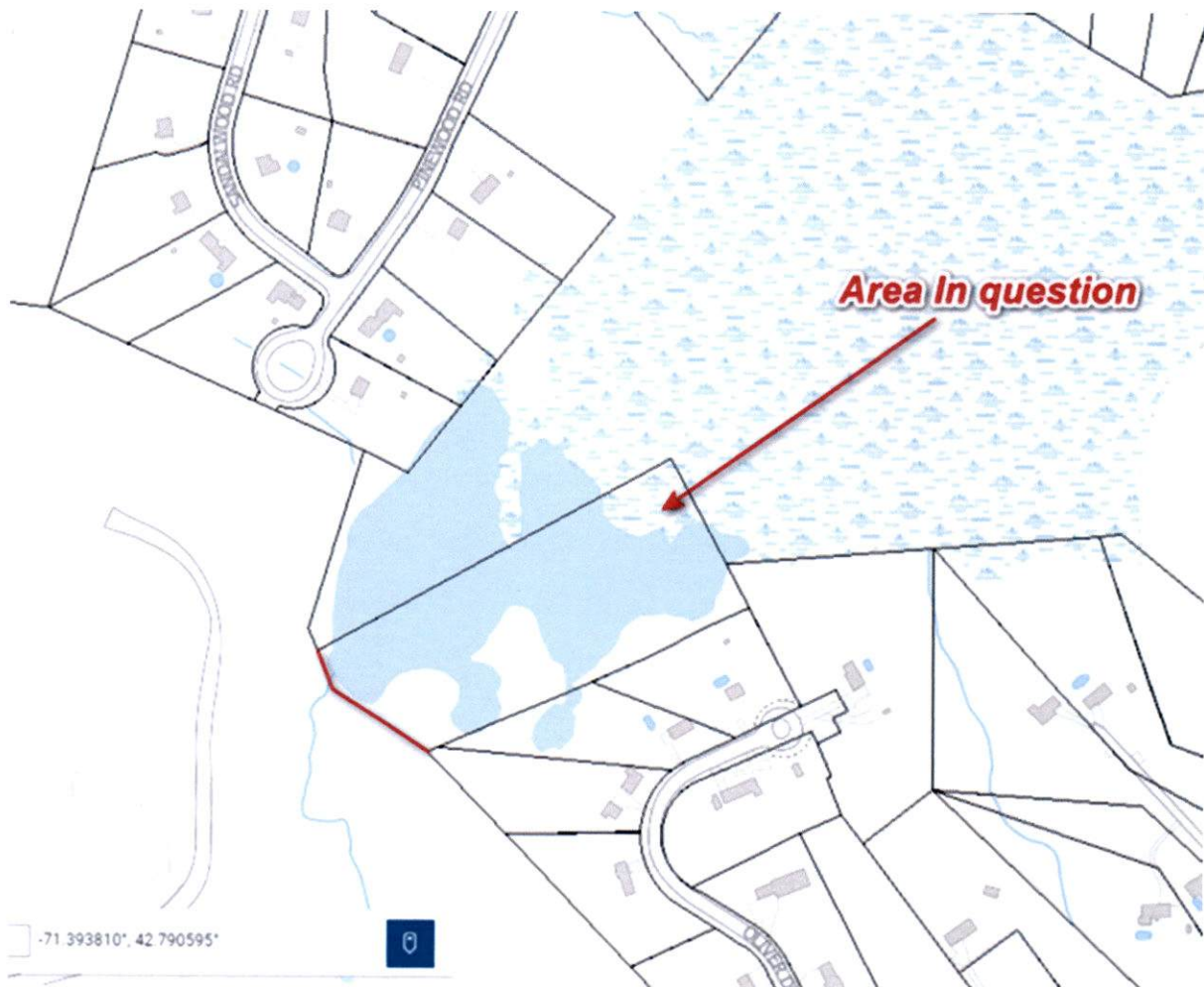
As you recall, Brox went in front of CC and BOS a while back for a donation of land and 10K, as part of their wetland permit. It appears that they received the permit and now are ready to go to PB and carve out the 6 acres and hand it over in addition to 10K

When it gets approval from PB, I'll let you know so you can do the honors at BOS

E

Elvis Dhima, P.E.
Town Engineer

12 School Street
Hudson, NH 03051
Phone: (603) 886-6008



Correspondence b.

Doreena Stickney <dstickney@hudsonnh.gov>

Hey Bill,

Just passing this along as an FYI.

Thanks,

Doreena Stickney
Engineering Administrative Aide

12 School Street
Ph: 603-886-6008
Fax: 603-594-1142

From: Smagula, Amy <Amy.P.Smagula@des.nh.gov>
Sent: Wednesday, May 29, 2024 3:15 PM
To: Dhima, Elvis <edhima@hudsonnh.gov>; Stickney, Doreena <dstickney@hudsonnh.gov>
Cc: Peter Beisler <pbeisler@solitudelake.com>
Subject: Robinson and Otternic Milfoil/Fanwort Management

EXTERNAL: Do not open attachments or click links unless you recognize and trust the sender.

Hi Everyone,

I surveyed both Robinson and Otternic Ponds today, and found milfoil and fanwort in both, though fanwort dominated.

To that end, attached please find my recommendation for management, including maps for:

- Milfoil treatment in Robinson
- Milfoil treatment in Otternic
- Fanwort treatment in Robinson
- Fanwort treatment in Otternic

Please let me know if you have any questions. I think milfoil treatment will be around June 18, and Fanwort Treatment will be around July 11th or so.

Amy

Amy P. Smagula
Limnologist/Exotic Species Program Coordinator
Watershed Management Bureau
Water Division, NH Department of Environmental Services
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095
Phone: (603) 271-2248
Email: Amy.Smagula@des.nh.gov

Find Lake Information: [Lake Information Mapper](#)

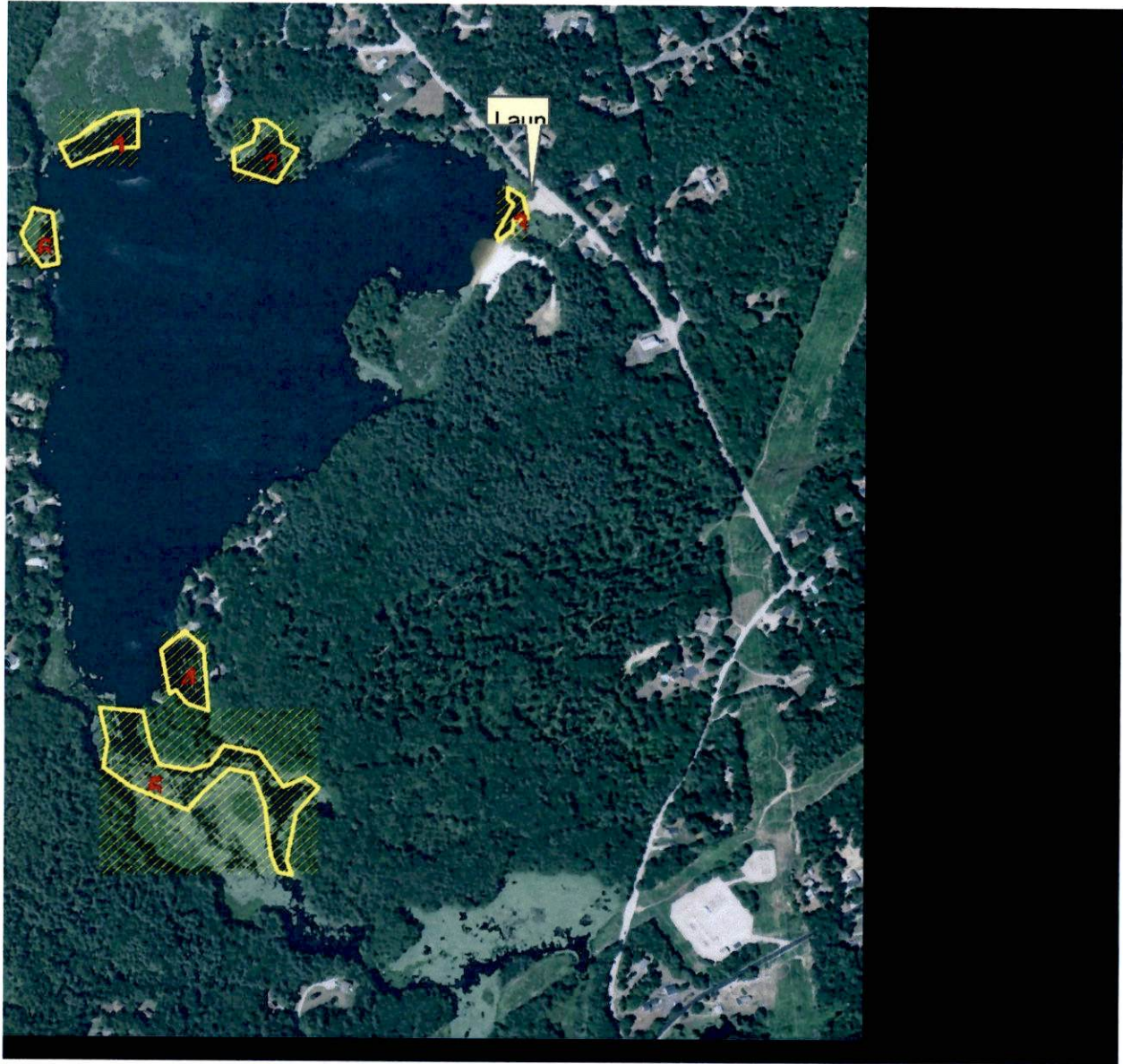
Report an algae bloom: [Bloom Report form](#)

Check for green filamentous algae: [green filamentous algae fact sheet](#)

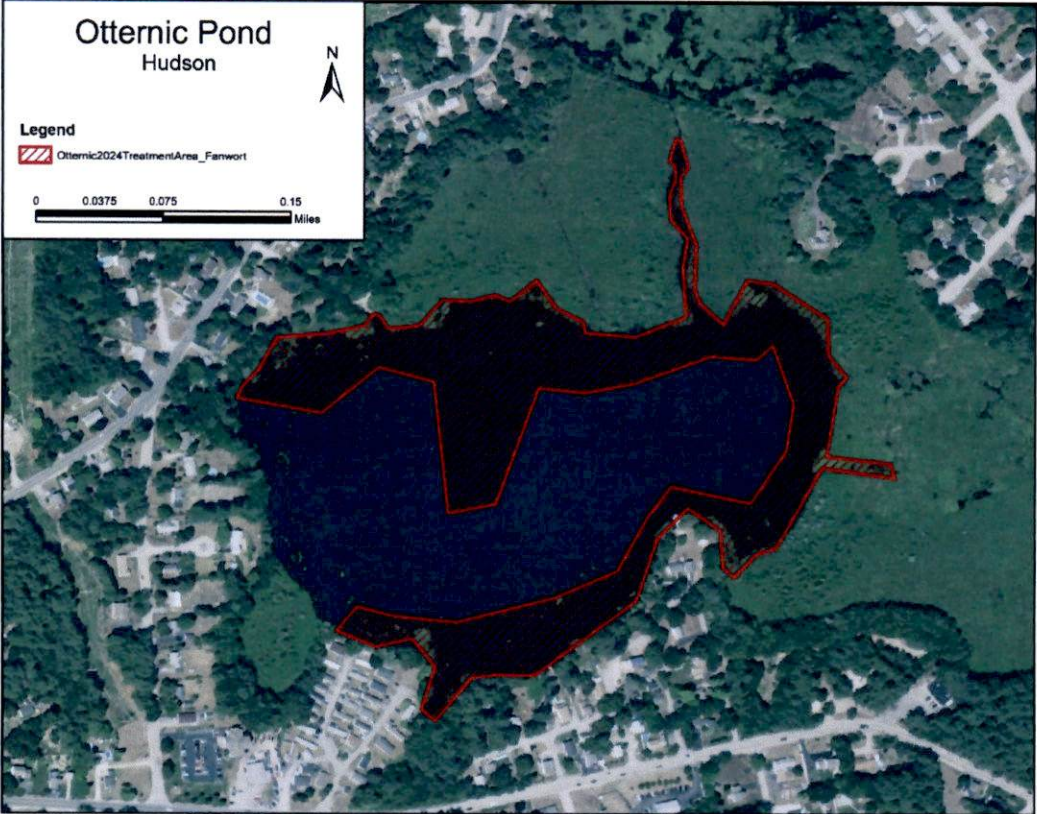
Robinson Pond Fanworth Treatment Area 2024



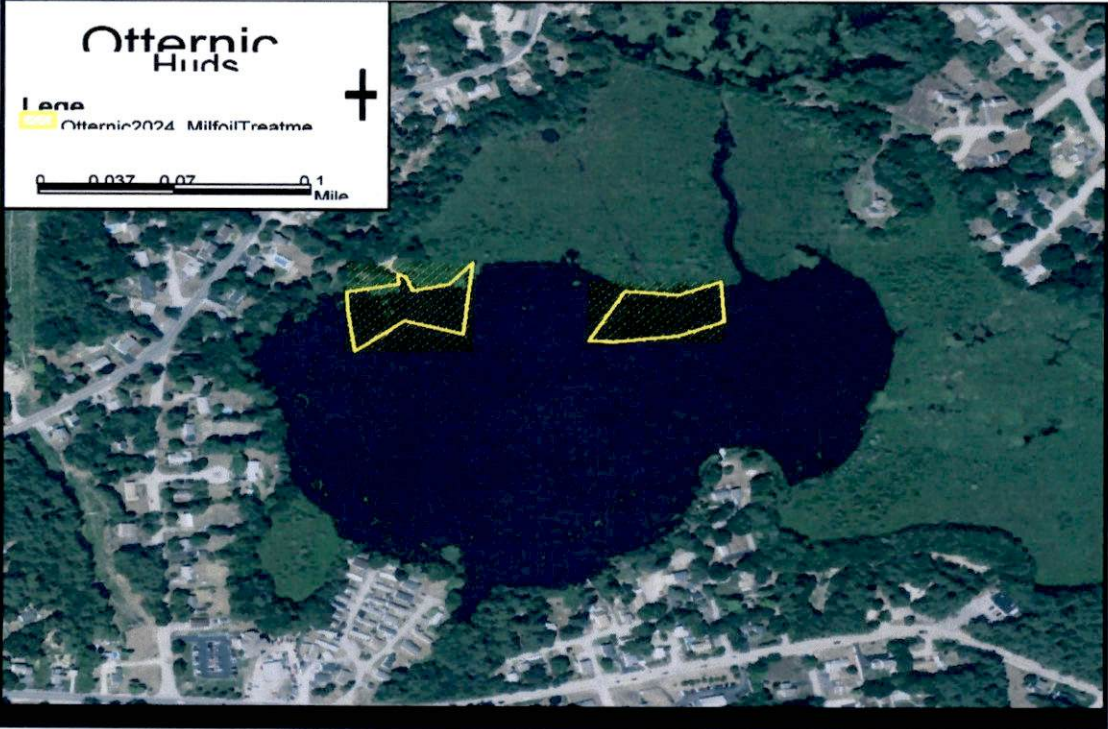
Robinson Pond Milfoil Treatment Area 2024



Otternic Pond Fanworth Treatment Area 2024



Otternic Pond Milfoil Treatment Area 2024





TOWN OF HUDSON

Conservation Commission



William Collins, Chairman David Morin, Selectmen Liaison

12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6008 • Fax: 603-594-1142

DATE: April 8, 2024

MEETING MINUTES: Below is a listing of minutes for the Hudson Conservation Commission. Minutes are not a verbatim record of each meeting, but rather represent a summary of the discussion and actions taken at the meeting. All Conservation Commission meetings are televised live and repeated during the following week on HCTV, cable television channel 22. Official copies of the minutes are available to read and copy at the Town Engineer's Office during regular business hours (Monday through Friday, 8:00 A.M. to 4:30 P.M.).

Should you have any questions concerning these minutes or wish to see the original recording, please contact the Town Engineer's Office at 603-886-6008.

In attendance = X Alternates Seated = S Partial Attendance = P Excused Absence = E

William Collins Chairman <u> X </u>	Carl Murphy Vice-Chair <u> X </u>	Ken Dickinson Clerk <u> X </u>	Brian Pinsonneault Member <u> X </u>
John Walter Member <u> X </u>	Linda Krisciunas Alternate <u> E </u>	David Morin Selectman Rep <u> X </u>	Elvis Dhima Town Engineer <u> X </u>

.....
CALL TO ORDER BY CHAIRPERSON AT 07:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

SEATING OF ALTERNATES:

Public Input Related to Non-Agenda Items: none

I. New Business:
All members welcomed John Walter as a newly appointed member of the Commission.

II. Old Business: none

III. Other Business

a. Robinson Pond-VHB Reports:

Garrison Beck from VHB made a visual presentation to the Commission regarding the Federal MS4 permit requirements and the proposed improvements at Robinson Pond Recreation Area (beach and boat launch improvements). The Commission asked several questions which were answered by Mr. Beck, i.e. Mr. Beck explained that an Alum treatment would be effective; however it is very expensive. Mr. Dhima provided additional info regarding this item. All commissioners were generally in acceptance of the plan. VHB will move forward with a proposal to provide engineering plans at our next regular meeting in May.

b. Robinson Pond and Ottarnic Pond Long Term Management Plans:

Chairman Collins reviewed management plans prepared by Amy Smagula, State Limnologist @ NHDES. The Commission asked several questions. Chairman Collins asked all Commission members to further review the reports in effort to further discuss at our regular meeting in May.

c. Musquash Pond Invasive Species Treatment Work:

Chairman Collins reviewed proposed contract as prepared by Eric Radlof of Full Circle Forestry. Mr. Dickinson asked if the work schedule (timeframe to perform the work) could be verified by Mr. Radlof. Chairman Collins agreed to contact him in effort to obtain confirmation regarding this matter. Chairman Collins entertained a motion to approve the contract and schedule the work.

Mr. Pinsonneault moved to accept the motion, seconded by Mr. Murphy.

Motion Carried 5/0/0

d. April Trail Work Day: Sunday, April 14th, 9 AM-12 PM. Meet at Woodland Dr. trail entrance. Chariman Collins looks forward to installing timber steps into the steepest portion of the slope.

e. Open Space Continued Discussion:

Chairman Collins sent letters to local landowners as discussed last month. Mr. Collins is waiting on responses and will work on sending more letters as time allows. A brief discussion followed.

f. Pond Treatments:

Chairman Collins noted that grant contracts/paperwork had been received from NHDES recently regarding Milfoil and Fanwort herbicide treatments at both Robinson and Ottarnic Ponds. Solitude anticipates performing treatments in June and July. Town of Hudson contribution for professional services is approx. \$36,000. Mr. Collins noted that he had extreme difficulty paddling at Ottarnic Pond last summer due to the extreme level of invasive weed growth. Mr. Dickinson noted that he spoke with a landowner who lives on Robinson Pond while hiking around it. They are actively using

Robinson Pond throughout the year and care about its water quality. Mr. Dickinson expressed that it would be a good year to perform treatments early in the season as it has been generally warmer and wetter than usual. Although the cost is higher now, it has been at least two years since any herbicide treatment has been performed. Mr. Collins noted that plans and maps for both ponds are forthcoming.

IV. Financial Status:

Conservation Fund Balance = \$780,884. Forestry Fund Balance = approx. \$44,000. Chairman Collins will review our financial reports with the Finance Director in effort to further refine them.

V. Correspondence:

Chairman Collins reviewed our monthly correspondence which included the following:

- a) NH Lakes-Lake Host Impact Report and Donation Thank You Letter.
Mr. Walter noted two active bills 1) septic setback ordinance 2) wake board setback ordinance

VI. Approval of Minutes:

Mr. Pinsonneault moved to accept the March 11, 2024 regular meeting minutes, seconded by Mr. Murphy.
Motion Carried 4/0/1 (Mr. Walter abstained as he was not active in March.)

VII. Commissioner's Comments:

Mr. Dhima thanked the board for our motions.

Mr. Pinsonneault reminded everyone of Turkey Hunting Season and wished everyone safe hunting.

Mr. Dickinson intends to create a map for Mr. Dhima to review in effort to update pg. 17 of our Open Space Master Plan. Mr. Dhima will comment upon its creation.

All members further welcomed Mr. Walter to the Commission.

VIII. Motion to adjourn:

Mr. Pinsonneault moved to adjourn our regular meeting at 9:11 PM; seconded by Mr. Walter.

Motion Carried 5/0/0

Ken Dickinson

Ken Dickinson, Clerk



TOWN OF HUDSON

Conservation Commission



William Collins, Chairman David Morin, Selectmen Liaison

12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6008 • Fax: 603-594-1142

DATE: May 13, 2024

MEETING MINUTES: Below is a listing of minutes for the Hudson Conservation Commission. Minutes are not a verbatim record of each meeting, but rather represent a summary of the discussion and actions taken at the meeting. All Conservation Commission meetings are televised live and repeated during the following week on HCTV, cable television channel 22. Official copies of the minutes are available to read and copy at the Town Engineer's Office during regular business hours (Monday through Friday, 8:00 A.M. to 4:30 P.M.).

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In attendance = X Alternates Seated = S Partial Attendance = P Excused Absence = E

William Collins Chairman <u> X </u>	Carl Murphy Vice-Chair <u> X </u>	Ken Dickinson Clerk <u> X </u>	Brian Pinsonneault Member <u> E </u>
John Walter Member <u> X </u>	Linda Krisciunas Alternate <u> E </u>	David Morin Selectman Rep <u> E </u>	Elvis Dhima Town Engineer <u> X </u>

CALL TO ORDER BY CHAIRPERSON AT 07:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

SEATING OF ALTERNATES:

Public Input Related to Non-Agenda Items: none

I. New Business:

Chairman Collins informed us that a representative from the Conservation Commission is needed to serve on ZORC with other members of the Planning Board and ZBA. Mr. Walter and Mr. Dickinson both expressed interest in attending future ZORC meetings. ZORC’s first meeting is scheduled for June 3, 2024 at 7pm.

II. Old Business:

a. Trail Map GIS Cell Phone App Training:

Ryan Friedman, GIS Planner @ NRPC provided a training session to the Commission in effort to educate everyone on proper usage of the “ArcGIS Field Maps” cell phone application that can be used to locate trails at each conservation area in both Hudson and other towns within the NRPC region.

b. Proposal for Engineering Services at Robinson Pond Recreation Area:

Garrison Beck from VHB presented a comprehensive design, permitting and engineering proposal for proposed improvements at Robinson Pond Recreation Area (beach and boat launch improvements). The Commission asked several questions which were answered by Mr. Beck. Mr. Dhima provided additional info regarding this item. All commissioners were generally satisfied with their responses. Two motions were accepted as follows:

Motion to waive the bid process and award the engineering design proposal to VHB, Inc.
Motion by Mr. Walter to accept the proposal; seconded by Mr. Murphy.

Motion Carried 4/0/0

Motion by Mr. Dickinson to approve the contract for design, engineering and permitting services to VHB, Inc. for the amount not to exceed \$108,750; seconded by Mr. Walter.

Motion Carried 4/0/0

III. Other Business

a. Trail Grant Program:

Get ideas together for 2027 implementation.

b. Trail Workday Scheduling:

Sunday, May 19th, 9 AM-12 PM at Musquash Conservation Area.
Sunday, June 16th, 9 AM-12 PM Location: TBD

c. Musquash Pond Invasive Species Treatment Work:

Chairman Collins reviewed

IV. Financial Status:

Conservation Fund Balance = \$785,041. Forestry Fund Balance = approx. \$44,000.

V. Correspondence:

Chairman Collins reviewed our monthly correspondence which included the following:

- a) 2024 Lakes Congress.
- b) Phone call regarding request to accommodate mountain bicyclists at Musquash Conservation Area.
- c) Proposal Culvert Repair Project located at 77 Lowell Rd.
Presentation by Town Engineer, Elvis Dhima. Mr. Dhima explained that a dewatering system will be required during the culvert repair construction period. Construction will impact the existing parking lot that serves T-Bones and other businesses located at 77 Lowell Road. No members had concerns about the proposed work. All members generally agreed that it is necessary to avoid culvert failure.

VI. Approval of Minutes:

Deferred to June

VII. Commissioner's Comments:

Bill Collins will be on travel in June. Vice chairman Mr. Murphy will chair our regular June meeting.

VIII. Motion to adjourn:

Mr. Walter moved to adjourn our regular meeting at 9:39 PM; seconded by Mr. Murphy.

Motion Carried 4/0/0

Ken Dickinson

Ken Dickinson
Conservation Commission Clerk



**A CONSERVATION LAND STEWARDSHIP GUIDE FOR
MUNICIPAL LCIP PROPERTIES**



Conservation Land Stewardship Program

State of New Hampshire

April 2024

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COVER IMAGE : THE SCENIC LIVINGSTONE CONSERVATION EASEMENT IN FOREGROUND - CARROLL, NH

INTRODUCTION

Land conservation has a special place in New Hampshire. The mosaic of properties that have been protected across the state provide many benefits, including clean water, wildlife habitat, economic health, productive working lands, and outdoor recreation opportunities.

Conserved lands in your municipality may also embody a number of important community values, including providing quiet or scenic spaces, outdoor classrooms, sustainable timber management, as well as protecting physical and biological diversity and maintaining landscape connectivity.

New Hampshire municipalities own outright, or hold conservation easements on, over 250 Land Conservation Investment Program (LCIP) properties across the state. Each municipality is responsible for stewardship and monitoring of these properties.

We have prepared this handbook to:

- Answer questions you may have about stewardship of your municipality's LCIP properties,
- Help you understand your rights and responsibilities as either the owner or the Holder of a Conservation Easement (CE) or a conserved town-owned Property,
- Outline the role of and assistance available from the Conservation Land Stewardship Program, and
- Foster a partnership with open communication.

Caring for a conserved Property can be a complicated undertaking. There are a number of necessary obligations and important actions required on the part of municipalities. Most important are open communication and an ethical commitment to ongoing protection of the land.

Every Property is unique, so this guide serves only as a general overview. It is also a working document and subject to updates. See our website (www.clsp.nh.gov) for the most current version. We hope you find it helpful, and we welcome your questions and feedback. Thank you for working with us in our efforts to conserve the New Hampshire landscape.

WHAT IS STEWARDSHIP?

For the Conservation Land Stewardship Program (and for the purposes of this brochure), the term stewardship means the ethical and legal duty to monitor and enforce a conservation easement and manage accordingly fee-owned properties, in perpetuity. When an organization or government entity agrees to hold an easement, it takes on a stewardship responsibility of the Property, in perpetuity.

ABOUT THE LAND CONSERVATION INVESTMENT PROGRAM (LCIP)

The LCIP, along with its private partner, the Trust for New Hampshire Lands, protected just over 100,000 acres of land across New Hampshire between 1986 and 1993 utilizing funds appropriated by the State Legislature and Governor. Beginning in 1994 the LCIP transitioned to solely a stewardship and monitoring program. Approximately 25,000 acres were protected in 78 municipalities as part of the acquisitions. Approximately one-third of the municipal properties are fee-owned by towns as conservation properties, and the other two-thirds are conservation easements with the municipality being the Grantee interest.

ABOUT THE CONSERVATION LAND STEWARDSHIP PROGRAM (CLSP)

The authority for the LCIP was transferred from the LCIP Board of Directors to the Council on Resources and Development (CORD) in accordance with RSA 162-C. CORD is given certain powers and duties by virtue of RSA 162-C and as such possesses an authority for certain decision making. CLSP and CORD act together to fulfill the requirements of RSA 162-C.

The name of the program was changed from the LCIP to the Conservation Land Stewardship Program (CLSP) in 2002 to reflect the change in focus from purchasing new land to stewarding conserved land. The name change also reduces confusion with LCHIP, the New Hampshire Land and Community Heritage Investment Program.

CLSP is an independent State Agency administratively attached to the Department of Administrative Services. We support and maintain an interest in the properties protected by the 78 municipalities that participated in the LCIP. CLSP directly oversees the state-held conservation easements acquired through the LCIP on behalf of three state agencies: the NH Fish and Game Department; the Department of Natural and Cultural Resources; and the Department of Agriculture, Markets and Food. CLSP also monitors non-LCIP properties for state agencies through contracts and memoranda of understanding. CLSP continues to grow as new conservation easement lands are acquired by, or donated to, the state.

CLSP is responsible for collecting monitoring and field visit information for each LCIP property and providing an annual summary to CORD. CLSP relies on municipalities to submit their reports in order to provide status updates to CORD. The annual report is presented by CORD to the speaker of the house, the president of the senate, the governor, the house clerk, the senate clerk, and the state library. A copy of the report can be found on our website.

CLSP has created this guide as a resource specifically for municipalities managing fee-owned lands and conservation easements acquired through the LCIP. This guide is not applicable to all conserved properties in your municipality, although the information may be useful when managing your other protected lands.

The information contained in this brochure should not be considered legal advice. **If you have questions about a particular situation in your town, you are advised to contact your municipal attorney.**

CONTACT US

Conservation Land Stewardship Program

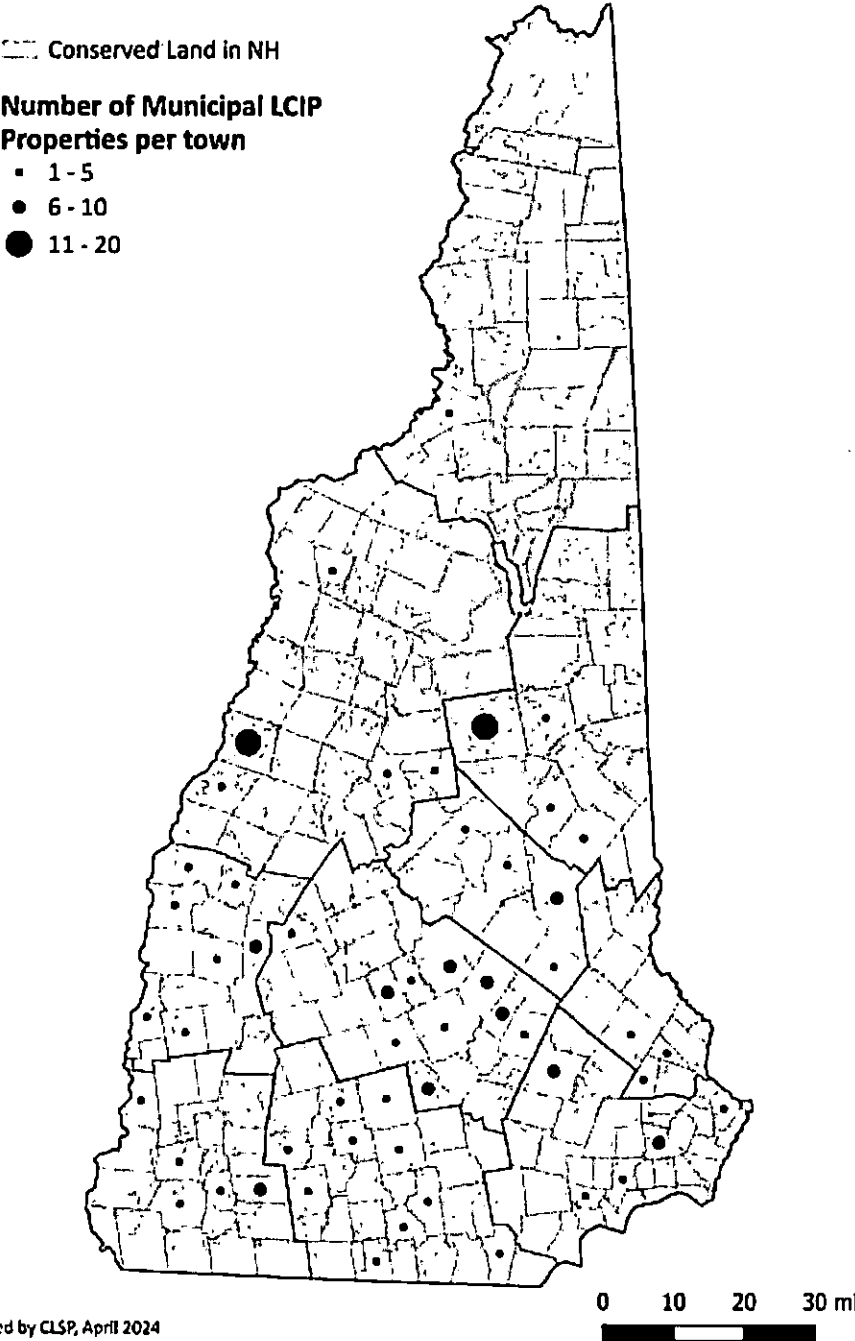
Website: www.clsp.nh.gov

Email: info@clsp.nh.gov



MAP OF MUNICIPAL LCIP PROPERTIES IN NEW HAMPSHIRE

Over 70 cities and towns in New Hampshire participated in the LCIP. These municipalities own and/or hold conservation easements on protected properties throughout the state.



WHAT DOES PROPERTY MEAN?

This guide uses the term Property as shorthand for “real property” – the physical land (the surface and what lies below and above it), structures or improvements fixed to the land (including but not limited to crops, buildings, machinery, wells, dams, ponds, mines, canals, and roads), and all the rights of ownership. See [26 CFR § 1.856-10](#) for a more detailed description of how the IRS defines real property. Real property was used historically to distinguish between immovable property, which would transfer title along with the land, and personal or movable property, to which a person would retain title. Property rights consist of three basic elements: the exclusive right to choose how property will be used, the exclusive right to any benefits derived from property, and the right to exchange property with someone else on terms that are mutually agreeable to the two parties.

Real property must be legally described with verifiable boundaries – often referred to as metes and bounds in a CE. A metes and bounds legal description starts from a point of beginning, then traces the outline of the property’s boundary lines until there is closure in the legal description. Natural monuments and artificial monuments can both be used as metes and bounds (www.law.cornell.edu/).

When a conservation easement deed refers to a “Property” (with a capital “P”), it is referring to the entire area of land protected under the easement, whether that Property is a single tax parcel or multiple map/tax lots, and regardless of parcel separation by roads, ROWs, non-easement-encumbered properties, or other barriers. A detailed description of the metes and bounds encompassing the entire Property is typically included as an appendix in the deed and should be consulted when necessary.

SUBDIVISION

Conservation easements often include specific language regarding subdivision. A subdivision is the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land, often for the purpose of sale or building development. The subdivision process is regulated by the municipality and may be restricted by a conservation easement. Many LCIP conservation easements include restrictions on subdivision to keep the entire conservation easement Property under singular ownership.

If your municipality is considering a subdivision of a conservation easement Property, carefully review the property deed and conservation easement and consult legal counsel to ensure compliance with the conservation easement terms in order to avoid the potentially costly repercussions of a violation.

LCIP PROPERTIES ARE PROTECTED FOREVER

The conservation value of all LCIP properties – CEs and fee-owned – is protected **in perpetuity** and runs with the land forever. Good stewardship, regular monitoring, and open communication makes caring for conserved land more enjoyable and less expensive. Together, these actions can keep a minor problem from becoming a costly mess requiring litigation; they are essential components of effective long-term land management and protecting the conservation values set forth.

WHAT IS A FEE-OWNED PROPERTY?

LCIP fee-owned parcels are fully owned and managed by the municipality. Municipal governments are charged with managing the land in a manner consistent with the Purposes for protecting the land in the first place, and in a manner that does not compromise the conservation values of the property. The specific day-to-day management decisions are left up to the municipality. If management practices or activities on the property begin to compromise the conservation purposes or values of the property, CLSP may reach out to help ensure the municipality understands its responsibilities. CLSP staff conduct a Field Visit to each of the municipal properties protected through the LCIP approximately once every 4-6 years. Properties may be visited more often if a municipality requests assistance or a concern is identified by CLSP.

The LCIP statute clearly states the "conservation value of these lands be protected in perpetuity." This applies to both conservation easements and fee-owned parcels acquired through the program. Municipalities may manage their LCIP easements and fee-owned parcels in similar ways. Ultimately the spirit behind why the public pursued conservation of these properties is the same. Each municipality signed a Project Agreement that articulates their responsibility to monitor both CE and fee-owned properties. This agreement is considered a binding contract. CLSP expects annual monitoring to occur and inspection reports to be sent to the CLSP office.

For most municipalities, the monitoring is conducted by volunteers on the conservation commission. CLSP strongly advises regular communications be maintained with the Board of Selectmen and other town officials as appropriate – sharing issues, concerns, and questions in a timely fashion. We suggest sharing a status report on these lands annually, as may appear in a town report.



Land management techniques may yield benefits to a myriad of wildlife species, from tiny pollinators to large mammals.

WHAT IS A CONSERVATION EASEMENT (CE)?

A Conservation Easement (CE) is a written legal agreement between the landowner ("Grantor") and the Holder of the easement ("Grantee" or "Holder"). The Grantor owns and manages the land, and the CE provides the Holder the affirmative right to periodically assess the condition of the Property to ensure it is maintained according to the terms of the legal agreement. Property with a CE can be bought, sold and inherited. Every CE is unique, reflecting the special qualities of the land and the interests of the original Grantor, ensuring the land is permanently protected through all subsequent changes in Property ownership. The CE is tied in perpetuity to the land and binds all future owners to its terms and restrictions.

Many rights come with owning Property, including the rights to manage resources, subdivide, develop, or change how the Property is used. These rights as a whole are often referred to as a 'bundle of rights' (see sidebar on right). A CE permanently limits or excludes one or more of the rights in the bundle in order to protect the Property's important natural and cultural resources or conservation values. Two examples of rights which CEs often limit are the right to build a structure and the right to subdivide.

Where state funds were a part of acquiring interest in a Property, such as purchasing a conservation easement, the state also has some rights. An example of one of these affirmative rights is typically to allow transitory non-commercial pedestrian public access (See *Public Access* on page 19).

A CE provides specific guidelines for what is allowed and what is not allowed on a Property. The land remains privately owned and managed, but the municipality holds an interest in the property. Regular monitoring of the conserved properties, usually by the conservation commission, can help identify potential issues and keep problems from arising.

WHAT IS A 'BUNDLE OF RIGHTS'?

A bundle of rights is a set of legal rights attached to the ownership of a Property. When a person purchases a Property, they buy all the rights previously held by the seller, except those which are reserved or limited in the sale, for example by a conservation easement. The 'bundle of rights' can be pictured as a bundle of sticks that can be separated out and given to different parties.

The bundle of rights varies by state; on land **without** a conservation easement, landowner rights usually include the right to:

- Transfer ownership to another qualified party at will (e.g., sell, lease).
- Manage the use of the Property in any means deemed legal within the jurisdiction in which the Property exists (e.g., build and improve, excavate, conduct commercial activities).
- Limit who may or may not enter the Property (e.g., rights of way, motorized vehicles, the public).
- Participate in any activities the owner enjoys while on the Property (within the confines of the law).

The Holder of a CE is responsible for enforcing the restrictions on the use of certain rights the owners have set aside.

ANATOMY OF A CONSERVATION EASEMENT

Every Conservation Easement (CE) deed is unique. **Always** consult the full CE deed for specific easement terms. The following is a general summary of a typical easement; it **does not** list all provisions of a CE. The language used in a CE reflects the era when the CE was written; the more recently a CE was established, typically the more detailed the agreement. **If you are at all uncertain regarding the interpretation of a CE consult with your Board of Selectmen or town counsel as appropriate. CLSP may also be brought into the conversation.**

- I. **Opening:** Identifies Grantor (landowner(s)) and Holder (easement Holder often referred to as "Grantee" in older CEs)

- II. **Purposes:** States the major conservation goals and objectives of the easement, as well as the conservation values protected by the CE. If state or local funding was used to purchase the CE or the Property, this section will explain how the goals and objectives of the CE are linked to federal, state, or local government objectives for land conservation. This is a defining part of the CE.

- III. **Use Limitations:** Outlines activities and land uses that are restricted to protect the conservation values of a Property and meet the conservation purposes of the CE. Some use limitations examples include:
 - a. Maintain Property as open space. No industrial or commercial activities except agriculture and forestry.
 - b. No dwellings.
 - c. No dumping of environmentally hazardous materials.
 - d. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat.
 - e. No mining, quarrying, or excavation of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property.
 - f. No subdivision.

- IV. **Forestry and Stewardship Planning:** Guides how the Property will be managed, taking into consideration the purposes, use limitations, and reserved rights. Some examples include:
 - a. Forestry and wildlife habitat management activities shall be conducted in accordance with a stewardship plan, prepared by a licensed professional forester, a certified wildlife biologist, or other qualified person.
 - b. Plans must have been prepared or updated within 10 years of any forestry or wildlife habitat management activity.
 - c. Grantor and Holder must meet certain submission and review deadlines.
 - d. Plan outlines Grantor/landowner goals and objectives and addresses long-term protection of conservation purposes and values of the CE.

- V. **Reserved Rights of Grantor/Landowner:** All conservation easements allow some rights to be retained by the Landowner. Some examples include:
- a. Utilities. Right to maintain, repair, and replace existing utilities.
 - b. Ponds. Right to create ponds for allowed conservation purposes.
 - c. Posting. Right to post against vehicles, against hunting on active livestock fields, or against access to forestland during harvesting.
- VI. **Affirmative Rights/Obligations of Grantee/Holder:** The Holder bears responsibility for enforcing the terms of the CE on the protected Property. Some examples of rights and obligations granted to the Holder include:
- a. Access to the Property for easement monitoring. The Holder will regularly inspect the Property for compliance with the CE with reasonable notice, in a reasonable manner, and at reasonable times.
 - b. Dealing with violations of the CE. If the Holder determines the CE has been violated or will be violated, the Holder will notify the landowner and give the landowner a defined period of time to stop/cure the violation.
 - c. Public pedestrian access for non-commercial hunting, fishing, and transitory passive recreational purposes, but no camping or fires.
 - d. Right to post signs identifying the Property as State of New Hampshire easement land.
- VII. **Additional Sections:** There are additional sections in almost every CE that are of a more administrative nature and typically include but are not limited to:
- a. Notification of Transfer - Grantor agrees to notify the Holder in writing before the transfer of title to any part of the Property.
 - b. Benefits and Burdens - The benefits and burdens of owning a CE run with the Property and shall be enforceable against all future owners and tenants in perpetuity.
 - c. Breach of Easement – When a breach of the CE comes to the attention of the Holder, the Holder will notify the Grantor and the Grantor will have an opportunity to correct the issue.

AGRICULTURE OR AGRITOURISM?

Most LCIP CEs, especially earlier CEs, define "Agriculture" very narrowly. Usually it is described as "ancillary" farm-related activities such as PYO fruit, hayrides, etc. That original definition stays with the CE and does not change over time or change with the addition of new legislation such as that of "Agritourism." Agriculture and Agritourism are both defined in RSA 21:34-a. As of 2016, Agritourism is considered a form of marketing.

You cannot substitute a currently accepted definition for the definition that existed when the CE was written.

To avoid difficult and costly situations, it is incumbent upon the landowner to communicate new or upcoming activities and events that occur between monitoring visits. For state-held CEs, CLSP requests this information from the landowner in advance of each monitoring visit. If a landowner engages in an activity or event not allowed by the CE that is discovered after the fact, the landowner is responsible for any required corrective measures, including legal fees of the Municipality. *"It's better to beg forgiveness than to ask permission"* **does not** apply to conservation easements. **If you have any questions, please contact CLSP. We are here to help.**

EXERCISING RESERVED RIGHTS

A typical CE has a few standard reserved rights. Exercising these reserved rights often requires landowners to notify the CE Holder. Every conservation easement is unique. Prior notification from the landowner gives the Municipality the opportunity to ensure a planned activity or use is carried out in a way consistent with the terms of the CE. If the described activity is not in compliance, the Municipality can work with the landowner to refine the plans and protect a Property's conservation values within the context of the CE.

Decisions about reserved rights or otherwise interpreting the CE lie with the CE Holder and the Holder is responsible for upholding obligations as outlined in the CE or project agreement. The Holder should be prepared to consult legal counsel when necessary.

As a CE Holder, a Municipality should have a formal process in place for reviewing and approving reserved rights and should ensure landowners know about the process and know when they should use it. The Municipality might consider creating a form to gather information from a landowner, especially when an activity is outside of commonly allowed practices such as normal forestry or agricultural activities.

Having a process helps the landowner and CE Holder more fully understand the scope, scale, and impacts of the activity. The form becomes a written record that should be added to the Property file. It is a key communication device that can protect both the landowner and the Municipality. CLSP suggests engaging the Board of Selectmen and/or town counsel when reviewing a request.

EXAMPLES OF RESERVED RIGHTS

EXAMPLES OF RESERVED RIGHTS

- The right to maintain, repair or replace utilities on the Property that serve the Property.
- The right to create ponds for the purpose of agriculture, fire protection, or wildlife habitat.
- The right to post against vehicles, motorized or otherwise.

CAN A CONSERVATION EASEMENT BE REMOVED OR CHANGED?

All LCIP CEs are considered in the "public trust" in perpetuity and run with the land. A CE or any portion thereof cannot be removed. The bar for changing a conservation easement has been set extremely high, and rigorous standards are in place to prevent conservation values being eroded. Typically, amendments are only granted for public safety or public benefit purposes, e.g., straightening a dangerous curve in a road or replacing a failed culvert on a public highway.

Amendments to conservation easements are generally not even considered unless the prospect of amendments is specifically contained in the CE deed or the purpose is to strengthen the CE. Examples that would be favorably considered include adding acreage to a Property or eliminating a reserved right. Any amendment consideration needs agreement from the CE Holder and is subject to full legal review.

For a Property protected through the Land Conservation Investment Program, any amendment would require the consideration of the Council on Resources and Development (CORD) that is chaired by the Director of NH Business and Economic Affairs. For non-LCIP properties the Grantee agency would have this responsibility. Proposed amendments and terminations may also be subject to review by the NH Department of Justice (DOJ). Under state law, many if not most conservation easements constitute charitable trusts. The Charitable Trusts Unit of the DOJ developed a guiding document, available on their website, for landowners called *Amending or Terminating Conservation Easements: Conforming to State Charitable Trust Requirements* (link provided in Resources section). Some circumstances might also require consideration of Internal Revenue Service laws and rules.



Agricultural lands, large and small, are important resources throughout New Hampshire.

MANAGING FEE-OWNED LANDS

Every Property is unique and municipal interests vary, but we urge you to manage municipally owned land like you would any other important asset. Your first responsibility is to do no harm; beyond that you have a number of choices for how you manage fee-owned properties to conserve their natural resources and features. Creating a management plan for a Property provides a foundation for future decision-making. These long-term plans run the gamut from land management to forest stewardship, resource management to agricultural management. Management style can range from "leave it alone" to a very hands-on approach. At the very least, a Property's management plan contains the municipality's goals and objectives for the Property, an inventory of the Property, and a timeline of recommendations for reaching the stated goals. Plans are usually designed to cover a limited time period, often 10 years, and should be reviewed and updated if necessary, at the end of that time.

A management plan should focus on maintaining the long-term health of municipally owned land within the context of surrounding lands. Consider the Property's limitations and opportunities. "Land health is the capacity for self-renewal in the soils, waters, plants, and animals that collectively comprise the land;" decisions you make today determine the future health of your Property (Aldo Leopold 1944).

The creation of a management plan helps a Municipality become better acquainted with its land, leads to explicit statements about the scope of allowed activities on a Property, sets guidelines for accomplishing landowner goals over time, and importantly, ensures public understanding of the land's use and management. Municipally owned lands are town resources, and a plan helps communicate the values of these resources to the taxpayers and community at large. Having a management plan in place may also mean the municipality is eligible for some government cost-share programs and grants.

If you are new to land management, we recommend contacting the University of New Hampshire Cooperative Extension (UNHCE). UNHCE has an office in every county in the state, staffed with knowledgeable people with local expertise. Cooperative Extension field specialists are available to talk with municipalities about their land and provide advice and direction. They do not write management plans; however UNHCE developed a form to help land owners and managers identify their property goals and objectives: <https://extension.unh.edu/natural-resources/forests-trees/woodlot-management/landowner-goals-objectives>.

The more extensive a municipality's management goals are, the more we advocate bringing in a professional natural resource consultant or forester to work with you on a management plan. (See page 27 for more information.) Another excellent resource is *Good Forestry in the Granite State: Recommended Voluntary Forest Management practices for New Hampshire*. This guide provides practical advice to ensure municipal forests are healthy and productive. The NH Wildlife Action Plan is



Matt Tarr, UNHCE Wildlife State Specialist
Photo courtesy of UNH Cooperative Extension

another great source of useful information when planning. Both guides are available online, see Resources section for links.

WHAT IS A PROJECT AGREEMENT?

For every municipal property protected through the LCIP (both fee-owned and as easements), a Project Agreement was signed by the Board of Selectmen. Municipalities are obligated to monitor and create a monitoring report annually for each Property. Additionally, there are IRS rules regarding the monitoring of properties for which a tax deduction was taken. **The Project Agreement is considered a binding contract, and the Board of Selectmen are ultimately responsible for decisions made with regard to the Property.**

The State of NH has an ownership stake in every LCIP property. This is also referred to as The Public Trust, an underlying principle of the program. No property or interest in a property may be removed from the Public Trust. It is the responsibility of CLSP to visit each property periodically to ensure the conservation purposes and values remain intact. If there is an issue, we advise on methods for resolving it. If the issue cannot be resolved, the matter is referred to the Office of the Attorney General.

WHAT IS A WARRANTY DEED?

A warranty deed is used to transfer or convey ownership of real property in New Hampshire, from one person or entity to another. This type of deed guarantees the title to the property is free of any hidden encumbrances and that the owner has full right and title to sell the property to the buyer.

For the majority of the fee owned LCIP properties, the deed is a simple warranty deed. In some cases, the deed will reference the purposes or creating legislation of the LCIP. When the deed does not, the Project Agreement dictates that the municipality must use the Property for the agreed upon conservation purposes.

PURPOSES OF LCIP PROPERTIES

LCIP properties were conveyed subject to the public trust and for conservation purposes consistent with the requirements of RSA 162-C and the now superseded RSA 221-A. Deed language, project agreement provisions, and the statutory protections attached to LCIP-funded properties all require municipal owners and CE Holders to carefully manage the property consistent with the conservation purposes of RSA 162-C and former RSA 221-A. **Use of LCIP properties for private benefit is inconsistent with the conservation purposes set forth in the applicable deeds, project agreements, and controlling statutes.**

WHAT IS A TOWN FOREST?

Town forests are more than town-owned lands with trees on them. A Town Forest is established through a vote by the legislative body of a city or town (RSA 31:110). Town Forests are managed by a municipality's forest committee or conservation commission (RSA 31:112). A forest committee is a special committee dedicated to ensuring a Town Forest's continued viability as a forest.

A Town Forest designation does not provide the same legal protections as a conservation easement. More New Hampshire towns are realizing if they want to protect a municipally owned property in perpetuity from development, they need to put a conservation easement on it.

ROLES OF MUNICIPALITIES

MONITORING

Municipalities are obligated to annually monitor (1) all Properties in which they are the Holder (Grantee) of a conservation easement and (2) all of the municipality's fee-owned conservation parcels. During a municipality's annual monitoring inspection, any issues and changes to a Property, including boundary encroachments, should be documented and included in the Property's annual monitoring report.

The benefits of a good municipal stewardship program include:

- Protecting conservation values in perpetuity.
- Cultivating good relationships with landowners and users of municipal open spaces.
- Minimizing the potential for land use or management issues.
- Following municipal, state, and federal regulations.
- Boosting community support for open space protection.

Stewardship of municipal lands held in fee (owned outright) and conservation easements requires a structured program at the municipal level. Many municipalities, as well as private land trusts, have existing programs and procedures that can be adapted.

Members of a conservation commission can and often do monitor Properties within their town. This can be a challenging role if you are monitoring your friends and neighbors. **You must avoid conflicts of interest when monitoring conservation Properties.**

A conflict of interest occurs when an individual has private interests that could improperly influence, or be seen to influence, their decisions or actions in the performance of their public duties. Being both a citizen of a town and a town authority can lead to conflict between private interests (e.g. financial interests, personal or family relationships, cultural activities) and public duties.

Avoid complacency when a landowner is well-known to you or your municipality. Consider which hat you are wearing when you monitor a property and ensure you are doing your due diligence as a sworn town official. Partnering up for monitoring visits can help overcome potential or perceived conflicts of interest. Or better yet, avoid a situation entirely if you are at all concerned it could be perceived as a conflict of interest.

CHARITABLE TRUST REQUIREMENTS

Conservation easements are considered charitable trusts, therefore charitable trust principles apply. A CE Holder is a fiduciary for the easement and must act in the best interests of the CE when dealing with the Property. In New Hampshire, the Charitable Trusts Unit at the Department of Justice oversees all charitable trusts.

Duties of Holders of Charitable Trust Conservation Easements

Duty of Loyalty – prohibits engaging in conflicts of interest transactions with respect to the conserved Property or neighboring properties.

Duty of Care – requires active monitoring and enforcement of the easement.

Duty of Obedience – requires adherence to the conservation values set forth in the easement deed.

For more information see:
<https://www.doj.nh.gov/charitable-trusts/conservation-easements.htm>

COMMUNICATION IS KEY

The most important aspect of conservation easement monitoring is the relationship with the landowner. Open and timely communication is the cornerstone of a beneficial relationship.

The most essential action in the monitoring process is speaking with the landowner to hear from them what activities they conducted in the past year, and what plans they have for the coming year.

This can be done through a personal conversation with your fellow community member. However, in cases where tracking the conversation may be important, communicating through email will provide you with a written, dated record. Carefully documenting the conversation with the landowner in the Monitoring Inspection Report is crucial to both protect the municipality's interest and to inform the monitoring process through successive owners.

If in any given year you are not able to conduct the field portion of your monitoring, **it is essential a conversation with the landowner still takes place.**

A well-crafted monitoring report provides valuable information to the municipality, the landowner, and the State of NH. Annual monitoring provides an ongoing record of the Property's condition and use over time, establishes a record of stewardship, ensures potential violations are detected early, and helps maintain a good relationship between municipalities and landowners. Reach out to CLSP for examples of good, thorough monitoring reports.

A copy of a Property's annual report must be submitted to CLSP. A municipality may revisit a Property multiple times within a year if conditions warrant, e.g., a major management activity is underway, or the landowner requests a visit to review a project plan. CLSP staff conduct periodic field visits (every 4-6 years) to these properties, as well (see page 24 for more information).

An annual monitoring visit can be made at any time of year. The municipal monitoring agent should notify easement landowners prior to a monitoring visit. Landowners are not required to accompany municipal staff during the visit; however, meeting with landowners provides opportunities to build and maintain good relationships in your community and to answer questions landowners might have about reserved rights or proposed changes to their Properties. If you are unable to connect with the landowner, the conserved Property must still be visited. It is valuable to report if a landowner has not or will not communicate with the town if a good faith attempt to contact them has been made.

Good communication between landowners and municipalities is an extremely important aspect of successful land protection. The municipality and the landowners are partners. Landowners are your best information resource, and you should strive to be theirs. If any questions or issues arise out of the monitoring visit, it can be helpful to make a special note of this to the landowner and follow up.

UNH Cooperative Extension has put together a concise and helpful guide, *How to Monitor Conservation Easements*, available online (link provided in Resources section). The guide explains how to read conservation easement deeds, provides best practices for monitoring CEs, and reviews important safety tips.

RECORD KEEPING

We strongly recommend keeping track of municipal CE and fee-owned Properties and their stewardship documentation like any other asset. This information can be especially important to future landowners, board members, commissioners, and other municipal staff. The people responsible for municipal conserved properties will change over time. Ensure the work you do now remains accessible and useful into the future.

A Property's record should include copies of any existing baseline documentation report (BDR; see *sidebar this page*) and natural resource inventory (NRI; see *sidebar next page*). An accurate monitoring record is especially useful to all parties when a Property is changing hands.

Many municipal Project Agreements refer to BDRs, but BDRs were not created for all municipal LCIP properties. Each property does have an acquisition file providing some of the same information as a BDR – deed, survey, CE agreement, photos – but the file is not a full record of the initial conditions of the property. Each annual monitoring report provides a snapshot of current conditions of the property, so it is important to refer to previous reports before visiting a property, to understand its history.

Keep a copy of all monitoring reports and maintain up-to-date records of the correct legal ownership of all your Properties. Other key records to keep:

- Final documentation of action on property owner requests for approval to exercise reserved rights.
- Final documentation of exercised reserved rights.
- Documentation of violations and their resolution.
- Documentation of action on amendment requests.
- Documentation relating to the interpretation of any of the easement's terms.

GUIDELINES FOR STORING RECORDS

Safe storage of stewardship records is essential. CLSP offers these recommendations to keep your files safe and secure.

- **Use archival quality materials.** It is important to use materials that help ensure your records will last. Some easement holders recommend using acid-free paper and archival quality storage sleeves for photos. Proper storage in a cool, dry place is essential regardless.
- **Store records in a safe place.** Store original records in a safe, locked, fireproof location. Be sure key people in the organization know where the records are stored and can access them if necessary. They should not be openly accessible. Avoid storing any records at your home.

BASILINE DOCUMENTATION REPORT

A baseline documentation report (BDR) should be created for every CE, as required by law (26 CFR §1.170A-14(g)(5)(i)). A BDR records the condition of all features on the Property protected or affected by the terms of the CE at the time of the CE's creation.

A BDR consists of text, maps, and photos and is typically reviewed and signed by the originating landowner, easement Holder, and any other parties with an interest in the CE.

Municipalities should reference the BDR during the monitoring process to identify changes to the Property (natural or manmade). As a landowner exercises reserved rights, changes occur on the land, and monitoring visits are made, municipalities should add descriptions and photos to the Property's file to create a record of the protected Property over time.

- **Digital Records require a secure duplicate backup copy.**
- **Sign and date photos, notes, and recordkeeping forms when appropriate.** Besides helping your successors get back to the source if they have questions about an easement file, this also helps establish the file as legally admissible evidence.

Stewardship records belong to the town. The town should provide adequate and secure storage to preserve these documents and ensure private information is protected. Annual monitoring of easements and fee-owned properties is in the best interest of the Town, to protect the boundaries of the property as well as any property rights. The monitoring process includes maintenance of complete records, available for inspection under RSA 91-A, the Right-to-Know Law.

- **Consider using a computer database.** Organizations with many easements have begun to keep some of their records, such as property information and monitoring history, in a database. A database or spreadsheet can be useful for tracking regular monitoring and flagging easements that need special attention.
- **Provide for continuity.** The file for each easement should be sufficiently self-explanatory so a new steward can understand the easement's terms, history of acquisition and monitoring, and any enforcement actions or property owner issues. Always keep future stewards in mind. Records need to make sense to the steward in charge 20 years from now.
- **Keep records that can stand up in court.** Few easements have gone to court, so there is limited experience for defining minimum legal standards for recordkeeping. However, too much recordkeeping is better than too little. Thorough records help establish who caused a violation, when it occurred, and what damage it caused. Good records place you in a sound position for negotiating with the violator for reparation. They also prove to the court and the public that you are doing your job. It is a good idea to go over the requirements of admissible evidence in your jurisdiction with town counsel and make sure your recordkeeping is adequate for use in court.

It is never too late to upgrade recordkeeping and storage, even for older easement files. As easement holders learn through experience, they often add written information or photos to old, inadequate files, while setting higher standards for new stewardship records.

NATURAL RESOURCE INVENTORY

A natural resource inventory (NRI) identifies and describes natural resources within a given area, such as forests, and farmlands, water, soils, plants, and wildlife. Cultural resources, such as historic, scenic, and recreational assets are often included in an NRI.

To protect these resources, a municipality should identify, map, and describe where on the landscape they currently exist.

An NRI provides the building blocks for comprehensive land use and conservation planning. Conducting an NRI helps a community understand where resources are located and define which are significant to the community and why (UNH CE). The Natural Resources Inventory website offers advice, examples and other support: <https://extension.unh.edu/nhnri/guide>

SUBMITTING REPORTS

CLSP recommends submitting draft Monitoring Inspection Reports (MIRs) to your Conservation Commission for discussion and/or finalization, submitting copies of final reports to the Board of Selectmen and/or Town Administrator, submitting a copy of the final report to CLSP, and filing the report and any associated materials in a safe and secure storage manner.

Annual monitoring reports should be submitted to CLSP via email, to info@clsp.nh.gov. If electronic submission is not possible, mail to:

Conservation Land Stewardship Program

Attn: Charlotte Harding
Johnson Hall, 3rd Floor

107 Pleasant Street

Concord, NH 03301

CLSP keeps the annual MIRs submitted by municipalities in order to reference them prior to our field visits. After a field visit, past MIRs may be discarded by CLSP. **CLSP does not serve as archival storage for a municipality's MIRs.**



Red Hill Pond is a central feature that connects multiple conservation easement ownerships in Sandwich.

INVENTORY OF CONSERVATION PROPERTIES

CLSP recommends municipalities build as complete and accurate a list of **all** conservation land within their borders as possible and have a clear understanding of which properties the municipalities have associated responsibilities for. A property inventory is a valuable part of your municipality's management strategy. Understanding what properties you own and have responsibility for benefits you and CLSP. An inventory can help you highlight the value of conservation land to your community and the benefits they receive from these properties. Find a link to NH's Regional Planning Commissions below under Resources.

LANDOWNER LIABILITY & DUTY OF CARE

In NH, the Landowner Liability Law ([NH Rev Stat § 508:14](#)) and Duty of Care Law ([NH Rev Stat § 212:34](#)) protect landowners, in most cases, from liability when someone gets hurt on their property. Landowners are protected whether or not they give permission to use the land or post "No Trespassing" signs. **However**, a landowner is not protected if they charge a fee to enter the property, maliciously fail to warn about a dangerous condition, or intentionally hurt a recreational user.

The first paragraph of RSA 508:14 states "An owner, occupant, or lessee of land, including the state or any political subdivision, who without charge permits any person to use land for recreational purposes or as a spectator of recreational activity, shall not be liable for personal injury or property damage in the absence of intentionally caused injury or damage."

PUBLIC ACCESS

Municipalities need to know which of their LCIP properties require public access and which do not. Some donated conservation easements do not allow any public access, while CEs purchased with public funds almost universally allow for some level of public access. This access right is typically limited to transitory, pedestrian activities and may not extend to bicycles, motorized vehicles, horses, pets, etc. Unless specifically articulated in the CE, there is no right conveyed to members of the public to create or maintain trails, disturb vegetation, boundaries including stone walls, or other features. In some CEs a specific right is granted for a defined trail corridor for pedestrians and/or snowmobiles, and on occasion construction of a parking area or mowing. Carefully review every Property's CE agreement regarding public access.

Reserved rights of landowners usually include the right to temporarily close public access for certain activities, for example closing a trail for safety during a timber harvest or to protect agricultural crops; however, broadly posting against all access is typically not allowed.

Some changes to RSA 207 (General Provisions as to Fish and Game) took effect on January 1, 2024 and may impact municipalities. Section 207:36-a requires all tree stands or observation blinds to be clearly labeled with the owner's name and contact information. Section 63 was added covering Game Cameras. For the full text of these statutes, go to <https://gencourt.state.nh.us/rsa/html/nhtoc.htm>

If a municipality experiences conflict with members of the public concerning access to an LCIP property, document the issue as fully as possible, check the CE deed, and if you still have questions contact CLSP. Inform CLSP when conflicts arise. It is helpful for CLSP to know what is going on regarding LCIP properties, so we are not caught unaware if someone reaches out to us.

COMMUNICATION WITH LANDOWNERS

Every Conservation Easement Property will change ownership through the years. To ensure perpetual protection of the land, we advise you to convey to the realtor handling the sale and to prospective new landowners that a CE exists on the Property. The realtor and any prospective new owner of the Property must understand the significance of the easement:

- Why the CE exists,
- How it works,
- Specific restrictions and allowances, and
- The municipality's monitoring protocol.

Although many CEs have a section in the Deed requiring the Grantor to notify the Holder in writing within 10 days after the transfer of the title of the Property, this is often **not** the reality. Usually, Conservation Commission members find out via word of mouth, or when the annual monitoring visit is conducted. Sometimes the property is transferred to another family member who knows the property well and who shares the original Grantor's conservation values. Other times the new owner may be unaware the CE exists and what it means. **Do not assume the buyer of a CE property has conservation interests at heart or understands the Conservation Easement Deed and its implications.** Check to make sure any transferring documents reference the CE properly, so it remains in the chain of title.

The landowner relationship is a crucial aspect of the protection of CEs. A municipality must make the effort to establish a good working relationship with a new landowner as soon as possible. Clear, courteous and timely communication results in better understanding and willingness to comply with the limitations of the Conservation Easement Deed. Below are several recommendations for creating a smooth and timely landowner transition.

- **Ask the municipal administration to flag or color code property cards and conservation easement tax cards, so staff will know to notify the Conservation Commission of a change in ownership as well as other changes such as new construction.**
- Update Commission files with the new owner information. If there is a backup interest in the property, such as an executory interest holder or the CLSP/LCIP program, notify them as well. This can be done at the time of the first monitoring if it occurs soon after the transfer.
- Contact the new owner and welcome them to the community. This may best be done through a standardized letter. Include other conservation information you think the owner may find useful. A customizable letter template is available on request.
- Schedule a monitoring visit with the new landowner(s) as soon after the transfer as possible. Each CE and its owner are unique. If the landowner cannot meet with you within a short time, it is best to conduct a thorough monitoring of the property anyway, creating a new baseline benchmark for the condition of the property.
- Send a follow-up thank you letter to the landowner; you may consider including a copy of the monitoring report.

This small effort will result in huge benefits to the Conservation Commission, and by extension the municipality and community. It is imperative you are consistent in your approach and implementation.

Our office will gladly assist you regarding your LCIP CE properties. And of course, you may apply the same strategies to all other CEs you have in your municipality. We recommend staying in regular contact with your municipal departments, boards, and committees.

BOUNDARY MAINTENANCE

Knowing the location of the boundaries on your municipality's CE and fee-owned Properties is essential for preserving Property conservation values, conducting monitoring visits, and informing neighbors and others which Properties are protected. Placing boundary tags along Property boundaries is recommended and is a good proactive management tool. CLSP recommends hanging tags with aluminum nails for safety reasons. If you hang a tag on a living tree, drive the nail in only enough so that it cannot be easily pulled out, allowing the tree to grow many years without popping the tag off.



Property tag available from
CLSP

A municipality may find it useful to develop its own boundary tags; CLSP has a boundary tag available for conservation easements free of charge. Tags and other markers identifying easement boundaries lets current and subsequent landowners—and neighbors—know where the easement borders are and helps protect municipal Property from trespass and third party encroachments. Consult your town's Project Agreements. Some directly assign boundary maintenance to the town.



Example of well-blazed witness trees (and flagging) around a boundary corner marked by an iron pin.

A boundary survey should be recorded at the time a CE is established or when a municipality takes ownership of a Property. A professionally surveyed Property will have its corners marked with permanent survey monuments (e.g., iron pins, drill holes, stone posts). Other information such as surveys of abutting properties, municipal parcel maps, and GIS data can be used to identify boundaries for monitoring and enforcement purposes.

Only licensed land surveyors can set or alter permanent boundary markers such as iron pins or monuments. A forester can assist a municipality with boundary maintenance, such as repainting blazes if it is identified as a landowner goal in a stewardship plan.

VIOLATIONS AND ENFORCEMENT

The best way to avoid most violations is through open, timely, and honest communication. One of your primary goals should be maintaining a positive working relationship with landowners and community members. This will help you solve problems efficiently and effectively. Due to the individual and unique characteristics of each Property, violations can range from minor, inadvertent infractions like

improperly posting bounds to major issues that significantly degrade protected conservation values. A permitted activity can become a violation if executed improperly. If conservation values have been compromised, it is likely that remediation may need to be considered. Most violations occur on CEs, but they happen on fee-owned properties as well. Pay close attention to notification requirements in the CE deed.

If you identify a potential violation on a protected property during a site visit DO NOT attempt to solve the problem during the visit or confront the landowner.

1. Your safety is your top priority. Assess the situation before documenting the issue.
2. Record the location of the issue as accurately as possible. Identify the location of the nearest boundaries. Use photographs to thoroughly record the issue. Note the names of any witnesses present.
3. After the visit, write up a report detailing the issue and its location. Avoid making conclusions in your report – keep it as objective as possible. Information to include where applicable:
 - a. description of the person(s) observed conducting the activity;
 - b. types and models of equipment being used to conduct the activity;
 - c. description of any changes in the land or alterations of manmade features (include size, e.g. square feet of any buildings);
 - d. documented or recorded statements made by the person(s) observed conducting the activity, whether addressed to you or to someone else;
 - e. written or recorded description of any feelings that you experienced if you felt you were in danger or your safety was at risk; and describe the conditions responsible for that experience (note: this information may serve as legal evidence in the event of litigation, so honesty and accuracy of your written description is imperative);
 - f. list of questions and/or follow-up items that you may have; and
 - g. description of any other factors that you deem relevant, including suggestions or general comments.

(From Tutein E, Andreozi H, Malin C. 2015. *How To Monitor Conservation Easements: A step-by-step guide to monitoring conservation easements*. UNH Cooperative Extension)

Discuss your report with the Conservation Commission and/or other relevant town authorities. Review the property deed, survey, the conservation easement or project agreement, and past monitoring reports. If necessary, make a second site visit to confirm the issue and answer any questions resulting from the discussion. Remember, town counsel is there to help you when necessary.

For municipal CEs, **prior to any formal notification to a landowner**, thoroughly read the CE and

1. Review all notification timelines and requirements.
2. Determine which activities are allowed or prohibited on a Property.

Do not hesitate to contact your town counsel if you need help interpreting the easement. We recommend communicating as soon as possible with easement landowners in an attempt to resolve

violations (oftentimes these are accidental) prior to taking legal action. You may also contact CLSP with questions or concerns.

Municipalities have an obligation to prevent private non-recreational and non-conservation use of fee owned LCIP properties. Such impermissible uses must be stopped as soon as they are discovered because the properties are for conservation purposes only.

"Third party" violations on LCIP properties are violations by anyone other than the landowner, Grantor, or Holder. Third party violations most often come in the form of boundary encroachment. Municipalities should work with landowners to resolve third party issues, as the event may have criminal implications. There may be other law enforcement resources available to you as well. For example, State Forest Rangers (through the Division of Forests and Lands) may be able to assist in the event of a timber trespass and a Fish and Game Conservation Officer may be able to help if there has been documented unauthorized ATV use. If you find a third party violation on a CE or fee-owned Property, document it as described above and begin the review process with the Conservation Commission or other relevant town authorities. Notify CLSP as recommended.

Well-marked and maintained boundaries are the best deterrent to third party encroachments.

CLSP staff do not give legal advice. You should be prepared to engage municipal legal counsel early in the process. The Municipality is the CE Holder and is responsible for enforcing the terms of the CE on the protected Property. Funding for legal enforcement of CEs should be included in the Municipal budget. Pay close attention to the enforcement requirements in the CE. Thoroughly reviewing a potential issue to determine its status is essential. **For state-held CEs, CLSP first considers a potential issue as "Under Review" prior to setting any violation or enforcement notifications in motion, as CEs often have set time, notification, and response requirements.**

LEASES ON PROTECTED PROPERTIES

Landowners and municipalities should be cautious of leases involving protected Properties. If there is a CE violation on a leased property, **the landowner, NOT the lessee,** is considered the responsible party.

ROLE OF CLSP

You, the municipality, are responsible for monitoring and managing your LCIP properties.

TECHNICAL SUPPORT

- CLSP can provide training to help you do your job well.
- CLSP has a boundary tag that can be supplied free to municipalities for marking boundaries.
- CLSP tracks the submission of monitoring reports and stores the copies in a safe place for a limited time.
- CLSP staff are happy to discuss land conservation issues with you and provide general guidance. We do not provide legal advice.

ANNUAL REPORT

CLSP is responsible for collecting monitoring and field visit information for each LCIP property and providing an annual summary to CORD. CLSP relies on municipalities to submit their reports in order to provide these annual updates to CORD. A copy of the report can be found on our website: <https://www.clsp.nh.gov/resource-center/cls-lcip-reports>

FIELD VISITS

CLSP staff visit municipal properties approximately every 4-6 years to ensure the land is being used for LCIP purposes. We can visit sooner if needed or requested by a municipality. Field visits are quick checks to confirm properties are still being used for LCIP purposes. CLSP will attempt to contact a municipality prior to a field visit and will ask the municipality to notify landowners that CLSP will be visiting.

When Town officials participate in a CLSP Field Visit to a Property, the CLSP Field Visit Report may be submitted as the annual Municipal Inspection Report for the Property. Towns who are unable to join CLSP on a Field Visit must follow their usual annual monitoring process and return a copy of the municipal monitoring report to CLSP.

We email a copy of each field visit report to the municipality and recommend you add it to the Property's record and share the report with your Conservation Commission and Board of Selectmen. A municipality can reference the CLSP Field Visit Report in its annual monitoring report.

If CLSP is concerned about a municipality's compliance with its responsibilities, we will bring it to the attention of the municipality so you can work on resolving the issue. Should you not resolve the issue in a timely manner, we have an obligation to refer it to the Attorney General's office.

CONCLUSION

We value you highly as a vital and integral part of the conservation community in New Hampshire and look forward to working together with you. We are in this together and your municipal work is critical to conservation efforts. Keep in mind that your actions today, upholding the terms and responsibilities of your municipality's conservation agreements, may be of critical importance decades from now. We hope the information in this brochure is helpful to you. If you have any questions, please contact us. We thank you for the work you do, so often as a volunteer.

Lastly, we consider this guide a living, working document that will change over the course of time. We welcome your feedback so that we can make it as useful to you and your successors as possible.

Conservation Land Stewardship Program

Website: www.clsp.nh.gov/

Email: info@clsp.nh.gov



Trail connecting several conservation land ownerships in Deerfield.

RESOURCES AVAILABLE TO MUNICIPALITIES

University of New Hampshire Cooperative Extension (UNHCE)

EXTENSION.UNH.EDU

UNHCE has an office in every county, staffed with knowledgeable people with local expertise, to answer your questions about how to best steward, conserve and protect your land. Find contact information for your county office on the UNHCE website, as well as upcoming Conservation Training classes. Remember, UNHCE county foresters are available to visit your properties, free of charge, and help your municipality achieve its conservation objectives.

- Locate your municipality's natural resources: <https://extension.unh.edu/natural-resources>
 - Land Conservation
 - Forests & Trees
 - NH BioBlitz
 - Geospatial Technologies
- Good Forestry in the Granite State, free online: <https://extension.unh.edu/goodforestry/index.htm>
- Useful Training Guides: <https://naturegroupie.org/training-guides>
 - How to Monitor Conservation Easements
 - Outdoor Skills for Conservation Volunteers (includes how to use a compass and read a survey map)

NH Association of Conservation Commissions (NHACC)

WWW.NHACC.ORG/

NHACC supports local conservation commissions by being available to answer questions from best practices for trail building to providing examples of language for conservation easements, as well as publishing educational materials, and putting on programs and workshops.

NH Association of Regional Planning Commissions (NHARPC)

WWW.NHARPC.ORG/

NHARPC represents the nine regional planning commissions (RPCs) in the state of New Hampshire. RPCs support local municipalities in their planning and community development responsibilities, including helping communities prepare natural resource inventories and open space plans.

NH DEPARTMENT OF JUSTICE

- Charitable Trusts: www.doj.nh.gov/charitable-trusts/conservation-easements.htm
- Amending or Terminating Conservation Easements: Conforming to State Charitable Trust Requirements, by Doscher P, Knowles T, McLaughlin N. 2010. Center for Land Conservation Assistance.
<https://www.doj.nh.gov/charitable-trusts/documents/conservation-easements-guidelines.pdf>

GRANIT

WWW.GRANIT.UNH.EDU

GRANIT is New Hampshire's statewide Geographic Information System (GIS) clearinghouse. Use GRANITView (an online mapping tool) to enhance your stewardship management planning. The data is presented as layers you can add and overlap on a map, allowing you to see what natural and

human-made resources border and intersect with your Property. Available layers include recreational trails, public lands, wetlands, utility lines, and soil types.

Land & Community Heritage Investment Program (LCHIP) WWW.LCHIP.ORG/INDEX.PHP

LCHIP is an independent state authority that makes matching grants to NH communities and non-profits to conserve and preserve New Hampshire's most important natural, cultural and historic resources.

New Hampshire Land Trust Coalition (NHLTC) NHLTC.ORG/

The NHLTC advocates for land conservation in New Hampshire and organizes workshops, events and other educational opportunities for the public on the values of private land conservation. Their website provides links to a variety of funding sources for land conservation projects.

ARTICLE: The Roles and Responsibilities of Municipalities in Monitoring and Enforcing Conservation Easements

By Donovan T, Knowles T. 2015 Sep-Oct. Town and City Magazine. NH Municipal Association.

<https://www.nhmunicipal.org/town-city-article/roles-and-responsibilities-municipalities-monitoring-and-enforcing-conservation>

Puzzled by Survey Maps? Here's 8 Pieces to Get You Started

UNHCE (1 min): <https://youtu.be/1rZizZ1N6RE>

Identifying Survey Boundary Markers on Property Lines

Brown & Co. Real Estate (8 min): <https://www.youtube.com/watch?v=LBNkIHCNmEI>

How to Find Your Boundary Line

Maryland Dept of Natural Resources (3 min): <https://www.youtube.com/watch?v=MNos58xfxQQ>

PROCURING PROFESSIONAL SERVICES

Municipalities with a fee interest in LCIP properties or that hold easements on LCIP properties have legal obligations to maintain, monitor and enforce the conditions and terms of the Project Agreement or Conservation Easement. If a municipality finds it does not have the in-house resources or time to fulfill these responsibilities, it can consider other ways to get the work done.

For example, blazing boundary lines is incredibly helpful for reducing boundary encroachments and maintaining good community relations, but it must be done by a licensed surveyor or forester. A municipality can hire help to meet annual monitoring responsibilities. Monitoring requires someone able to navigate the outdoors safely, be personable, and have good documentation skills. UNH Cooperative Extension can provide guidance for towns wanting to hire a consultant, or you may consider advertising for college interns with an appropriate background.

Hiring a professional can be the smart, expedient way to go, saving you time and adding value to the final plan or report. Taking Action for Wildlife, a partnership among UNH Cooperative Extension, the NH Fish & Game Department and NH Association of Conservation Commission, has a list of professional natural resource consultants on their website: takingactionforwildlife.org/natural-resources-consultants. Of course, Taking Action for Wildlife does not endorse any specific consultants. Municipalities need to make their own decisions when hiring a consultant.