

GLOCESTER LAND TRUST  
LAND ACQUISITION POLICY AND GUIDELINES

INTRODUCTION AND FOCUS AREA

It is the policy of the Gloucester Land Trust ("GLT") to seek, acquire and hold parcels of generally unimproved land, as well as to accept conservation easements or restrictions on lands for preservation generally in their natural state, within the Town of Gloucester. This policy conforms to the following statement of purpose within GLT's Founding Legislation.

CHAPTER 548

87-H 7155A

Approved Jul. 1, 1987.

**AN ACT RELATING TO THE PRESERVATION OF FARM LAND AND  
OPEN SPACE IN THE TOWN OF GLOUCESTER AND ESTABLISHING A  
LAND TRUST**

**It is enacted by the General Assembly as follows:**

**SECTION 1.** There is hereby established the Gloucester land trust (hereinafter called the trust), a body politic and corporate and a public instrumentality. The trust shall have the authority to acquire, hold and manage real property and interests therein situated in the town of Gloucester, consisting of open, agricultural or littoral property, including existing and future wellfields and aquifer recharge areas, fresh water marshes and adjoining uplands, wildlife habitats, land providing access to or views of the lakes and ponds, land for bicycling and hiking paths and for future public recreational use and land for agricultural use. With the exception of property acquired for public recreational purposes, the trust shall hold all property solely as open space or for agricultural uses or for water purposes as the trustees may determine.

**SECTION 2.** The trust shall be administered by seven (7) trustees, five (5) of whom shall be appointed by the town council. The trustees who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4) and five (5) years respectively. Thereafter trustees shall be appointed as aforesaid for a term of office of five (5) years, except that all vacancies occurring during a term shall be filled for the unexpired term. In addition to the five (5) trustees appointed by the town council, the current chairperson or member designee of the Gloucester Conservation Commission and Gloucester Planning Board shall also be trustees. Trustees shall be electors of the town of Gloucester, shall serve without compensation and shall hold office until their successors have been named. No trustee may be an elected officer of the town.

**SECTION 3.** The members of the trust shall elect a chairperson, vice-chairperson and treasurer from amongst its members. The trustees shall elect or appoint a secretary who need not be a voting member of the trust. The term of office of the office of the chairperson, vice-chairperson, treasurer and secretary, unless otherwise prescribed by the Gloucester town council, shall be for the calendar year.

**SECTION 4.** The trustees may adopt reasonable rules and regulations governing the conduct of trust affairs, including the acquisition and management of its holdings, not inconsistent with the provisions of this act. All rules and regulations of the trust are subject to the approval of the town council. Decisions of the trustees shall be by majority vote of those present and voting, and no business shall be transacted without four (4) members present. The trustees shall keep accurate records of their meetings and actions and shall file an annual report which shall

be printed in the annual town report. All meetings of the trust shall be open to the public in accordance with chapter 46 of title 42 of the general laws.

SECTION 5. The trust shall have the power to:

(a) Purchase, receive by gift or otherwise acquire fee simple or lesser interests in real property, including development rights as defined in section 42-82-2 of the general laws, or any interest in real property consistent with purposes of this act;

(b) Accept gifts, grants or loans of funds or services from any source, public or private, and comply, subject to the provisions of this act, with any terms and conditions thereof;

(c) Accept from state and/or federal agencies, loans or grants for use in carrying out the trust's purposes and enter into agreements with such agencies respecting any such loans or grants;

(d) Employ counsel, auditors, engineers, appraisers, private consultants, advisors, secretaries or other personnel needed to perform its duties;

(e) Administer and manage land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural and scenic resources thereof, including conveyance of any such land or interests in land to, and contracts with, nonprofit organizations, provided such land shall continue to be used in a manner consistent with the purposes of this act and with the terms of any grant or devise by which such land was acquired by the trust;

(f) Dispose of all or any portion of its real property or interests therein held by it, whenever in the opinion of the trustees said lands or properties have become unsuitable or have ceased to be used for the purposes set forth in this act. Such disposition shall be made only by a vote of the trustees in which at least five (5) members vote in favor of such a disposition and further only after having been approved by a two thirds ( $\frac{2}{3}$ ) vote of an annual or special financial town meeting of the town of Gloucester. Nothing in this subsection shall be construed to authorize the sale, lease or conveyance of lands or improvements held by the trust as part of a charitable trust or acquired by gift or devise for the public use, whether or not such gift, or devise is subject to a condition subsequent or reverter;

(g) Otherwise do all things necessary for the performance of its duties, the fulfillment of its obligation and the conduct of its business.

SECTION 6. All funds collected by the trust shall be deposited in a fund to be set up as a revolving or sinking account by the treasurer of the town of Gloucester. Additional monies or other liquid assets received as voluntary contributions, grants or loans, funds appropriated to the trust by vote of a financial town meeting of the town of Gloucester, or proceeds from disposal of real property or interests shall be deposited into said account. All expenses lawfully incurred by the trust in carrying out the provisions of this act shall be evidenced by proper vouchers and shall be paid by the treasurer of the town of Gloucester only upon submission of warrants duly approved by the trust. The treasurer of the town of Gloucester shall prudently invest available assets of the funds, and all income thereon shall accrue to the fund. Upon termination or dissolution of the trust, the title of all funds and other properties owned by the trust which remain after payment or making provision for payment of all bonds, notes and other obligations of

the trust shall vest in the town of Gloucester which shall manage the lands of the dissolved trust in the open space function for which they were donated or purchased to the best interest of the purposes of the trust. If in the opinion of the town council said lands no longer function in the purposes set forth in this act, the town may dispose of those properties provided that a two thirds ( $\frac{2}{3}$ ) vote of an annual or special financial town meeting of the town of Gloucester shall affirm said disposal.

SECTION 7. The trust and all its revenues, income, and real and personal property used by the trust for furtherance of its public purposes, shall be exempt from taxation and from betterments and special assessments, and the trust shall not be required to pay any tax, excise or assessment to the state or any of its political subdivisions.

SECTION 8. Nothing in this act shall affect the eligibility of the town to receive funds under any other state land acquisition program.

SECTION 9. The provisions of this act are severable, and if any provision hereof shall be held invalid in any circumstances such invalidity shall not affect any other provisions or circumstances. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

SECTION 10. This section shall take effect upon passage.

**Chapter 121  
2012 -- H 8046  
Enacted 05/30/12**

**A N A C T  
RELATING TO THE PRESERVATION OF FARM LAND AND OPEN SPACE IN THE  
TOWN OF GLOUCESTER AND ESTABLISHING A LAND TRUST**

**Introduced By:** Representatives Chippendale, and Winfield  
**Date Introduced:** April 04, 2012

It is enacted by the General Assembly as follows:

SECTION 1. Section 2 of Chapter 548 of the 1987 Public Laws entitled "An Act Relating to the Preservation of Farm Land and Open Space in the Town of Gloucester and Establishing a Land Trust", as amended, is hereby further amended to read as follows:

SECTION 2. The trust shall be administered by seven (7) trustees, ~~five (5)~~ of whom shall be appointed by the town council. ~~The trustees who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4) and five (5) years respectively. Thereafter, trustees shall be appointed as aforesaid for a term of office of five (5) years, except that all vacancies occurring during a term shall be filled for the unexpired term. In addition to the five (5) trustees appointed by the town council, the current chairperson or member designee of the Gloucester Conservation Commission and Gloucester Planning Board shall also be trustees. One (1) trustee shall be a member of the Gloucester Planning Board and one (1) trustee shall be a member of the Gloucester Conservation Commission, each of whom shall serve a term of one (1) year. The other trustees who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4) and five (5) years respectively. Thereafter, trustees other than those trustees who are appointed for a one (1) year term as set forth above shall be appointed as aforesaid for a term of office of five (5) years, except that all vacancies occurring during a term shall be filled for the unexpired term.~~ Trustees shall be electors of the town of Gloucester, shall serve without compensation and shall hold office until their successors have been named. No trustee may be an elected officer of the town. Trustees may be removed by the town council in accordance with applicable town procedures.

SECTION 3. This act shall take effect upon passage.

=====  
LC02370  
=====

As well as GLT's mission statement,

The Gloucester Land Trust is dedicated to the preservation of Gloucester's natural resources, rural heritage, and scenic beauty as an environmental, educational, and recreational resource for all who live, work, or visit in the Town of Gloucester. Our members recognize the historical significance and cultural heritage of our community and endeavor to protect it for the education and enjoyment for present and future generations.

To aid its efforts consistent with this policy, make the best use of its resources, and best be ready to act upon opportunities when they arise, GLT shall through its Acquisition Committee compile a strategic analysis of properties in Gloucester for potential acquisition as fee or easement holdings. Such analysis may involve inventories of natural resources and local and regional public policy, where aligned with GLT's mission, priorities and guidelines outlined herein.

#### PROJECT SELECTION CRITERIA

Please refer to the Gloucester Land Trust Property Selection Criteria, incorporated herein by reference.

#### PROJECT PLANNING PROCESS

GLT's Acquisition Committee is responsible for coordinating project planning, ensuring full investigation of property characteristics and risks, conducting due diligence and negotiations, overseeing legal review and technical expertise, ensuring proper notifications to landowners and/or donors, collecting necessary documentation, and presenting project information to the Board of Trustees for its review and determinations. The Acquisitions Committee is made up of members of the Board of Trustees. The committee meets regularly to discuss potential and pending projects, and reports to the Board at each regular meeting.

GLT's project planning process generally proceeds through the following steps. GLT uses a project planning checklist to help guide its progress and ensure completion of all steps:

1. Initial Information. Leads on potential acquisitions are brought to the attention of the Acquisition Committee Chair. The Chair or delegee conducts preliminary research, collecting tax and other maps and land ownership records including recorded deeds.
2. Landowner Contact. The Chair or delegee contacts the landowner to collect additional information about the property and the landowner's preliminary goals for the transaction, and to make an appointment for a site visit.
3. Site Visit(s). GLT conducts one or more site visits to determine if the property meets its selection criteria, collect information about the property's conservation values, conduct environmental risk review, identify any management-related issues, and plan the project. Key features are evaluated including site access, type and condition of conservation resources, on and offsite threats to conservation resources, existing land and intensity of activity, existing improvements and their condition, visible rights-of-way and encumbrances, safety and environmental hazards, adjacent land use, and property boundaries. Site visits may include any or all of the GLT Trustees, and Land Management Consultants. Site visits are documented within a narrative report and photographs

4. Committee Determination to Proceed. The committee considers all preliminary information, ensuring that the project is consistent with GLT's mission, meets its selection criteria, and that GLT has the capacity and resources required to conduct the project and fulfill its stewardship obligations. The committee also discusses the potential and most appropriate means of protecting the property, including consideration of available conservation mechanisms and partnership opportunities with other conservation organizations, public agencies, or aligned entities.
5. Board Approval to Proceed. The Acquisition Committee recommends the project to the Board, providing a summary of all information gathered and its discussion and preliminary determination. An affirmative vote of **a majority is required to proceed with the transaction.**
6. Legal and Professional Representation. GLT retains qualified counsel to provide legal review of the project. Formal due diligence and drafting commences. Where necessary or desired the committee may seek additional technical expertise including the advice of financial, real estate, tax, scientific, and land and water management professionals, including obtaining an environmental review to supplement its site inspections or conduct further research into areas of concern.
7. Title Investigation and Insurance. GLT investigates title to each property for which it intends to acquire title or an easement to be sure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights and/or other encumbrances or matters of record that may affect the transaction. Mortgages, liens and other encumbrances that could result in extinguishment of an easement or significantly undermine a property's conservation values are discharged or subordinated.  
  
GLT obtains title insurance as recommended by its legal counsel.
8. Landowner Notifications. The Chair or his / her delegee makes written notifications to the landowner and landowner's attorney regarding tax and appraisal requirements, and considerations of independent legal and tax representation.

9. Survey. The Chair or his / her delegee arrange for a property survey by a qualified surveyor to determine the parcel boundaries, major natural features and structures, and other locations important to the property's description and identification, and to ensure that conservation easement parcels are created in accordance with applicable zoning and land use regulations.
10. Appraisal. The Chair or his / her delegee arrange for an appraisal when planning the purchase of land or easements.
11. Baseline Documentation Report. In the case of a conservation easement, the Chair or his / her delegee arrange for the preparation of a baseline documentation report and its review and signature, on or before closing, by the landowner. The Baseline Documentation Report **[is formatted in accordance with GLT's template document and]** contains, at a minimum, landowner and locational information, a summary of the conservation easement agreement, a descriptive overview of the property including vegetation and improvements, maps, photographs, and the date of preparation, author's name and credentials.
12. Final Approval by Board. At the completion of all project planning, the Acquisition Committee presents the project to the Board for its vote to approve the project. The committee presents sufficient information to allow the Board to make its determination, providing maps, photos, an analysis of the property's conservation values, public benefit, and fit with GLT's mission, policies, strategic plan and current holdings. In the case of a conservation easement, the committee summarizes for the Board the terms of the easement agreement including any reserved rights, as well as any significant deviations from GLT's standard easement agreement. The project must be approved by **an affirmative majority vote of the full board then serving?**

In limited circumstances, the Board may vote to approve a project prior to the finalization of some points of negotiation or other detail. The Board may vote to approve a project subject to the final determination of narrowly defined parameters as specified within the resolution approving the project and documented in detail within the meeting minutes.

13. Project Documentation. GLT documents the intended purposes of each land and easement transaction, the intended uses of the property and the roles, rights and responsibilities of all parties involved in the acquisition and future management of the land or easement. Generally this information will be recorded in the legal agreements produced within the transaction.

Where the landowner plans to claim an income tax deduction in connection with the project, GLT requires that the landowner provide a copy of the appraisal, and that IRS Form 8283 be completed and signed by the appraiser and landowner prior to GLT signing the form. GLT does not affirm the values



indicated on the form, but does review all information provided by the landowner for consistency with tax code requirements and to identify obvious errors. If GLT has significant reservations about the value of the gift, particularly as it may impact GLT's credibility, it may seek additional substantiation of value or may disclose its reservations to the donor rather than sign the form.

All irreplaceable documents (e.g. original deeds, conservation easements, signed baseline documentation reports, title insurance policies, IRS Form 8283, and important correspondence) and other project records are filed and retained pursuant to GLT's Record Retention Policy.

14. Recording. GLT records all property transactions at the appropriate land records office.

#### LAND STEWARDSHIP PLANNING

In connection with each transaction, GLT shall prepare an estimate of expected and potential stewardship costs as part of the project planning process. Such estimate shall include start up, monitoring, enforcement and administration costs as well as likely and possible costs associated with the characteristics and risks particular to the property under consideration. GLT shall use experience-based information from its current and past stewardship program to inform such estimates, however each property shall be considered on a case-by-case basis.

The stewardship costs estimate is a critically important element in GLT's determination to accept or reject the project. GLT will either secure funds for stewardship or develop a realistic plan for providing for stewardship expenses in the project plan prior to closing. In the case of an easement donation GLT's policy is to request a stewardship contribution from the donor in conjunction with the easement gift. For donated fee parcels and property purchases, fundraising campaigns or other funding requests shall include funds for stewardship. In the event funds for estimated stewardship costs are not secured prior to closing, GLT shall commit to covering such costs through its operating budget or reserves.

Stewardship costs associated with easement properties include annual monitoring, landowner relations, administration (e.g., posting, updating baseline information, record maintenance), grantee approvals, and professional and legal services associated with enforcement.

Stewardship costs associated with fee properties include preparation of a management plan, monitoring, maintenance activities specific to the property (e.g., mowing, invasives control, boundary posting and signage, trails, gates, parking areas, storm cleanup), habitat and other restoration work, administration, and enforcement of property rights.

#### CONSERVATION EASEMENT, BASELINE DOCUMENTATION REPORT, AND MANAGEMENT PLAN TEMPLATES

**[Consider adding once accomplished – section would reference purpose, minimum contents, and periodic review of templates, and mention professional expertise consulted in drafting and reviewing as appropriate]**