

Maine Coast Heritage Trust staff uses this document in its land conservation efforts. It is designed for internal MCHT use, and is provided here as a reference or guide. Each land trust has its own mission, priorities, and organizational characteristics that should direct how it does its work and what documents it uses. Please feel free to use the ideas, processes, and even specific text contained in this document, but be sure to tailor them for your organization. Land trusts should always use a lawyer knowledgeable in land transactions when working on a conservation easement or preserve acquisition. MCHT does not guarantee or provide advice as to the tax consequences of any project or action.

MCHT Guiding Principles and Land Project Criteria and IRS Checklist for Project

MAINE COAST HERITAGE TRUST Land Protection Guiding Principles and Project Criteria 10/30/16

Mission Statement

Maine Coast Heritage Trust conserves and stewards Maine's coastal lands and islands for their renowned scenic beauty, ecological value, outdoor recreational opportunities and contribution to community well-being. MCHT provides statewide conservation leadership through its work with land trusts, coastal communities and other partners.

Maine Coast Heritage Trust (MCHT) seeks to permanently protect a broad range of conservation values inherent in land for the benefit of Maine's people and wildlife. The Trust recognizes that the success of our work is directly dependent on the long term health of the natural environment, and that conservation in turn plays a vital role in ensuring that natural and human communities are sustainable. The Trust also recognizes that the long term success of our work is dependent on the support of communities in which we work.

MCHT uses the following GUIDING PRINCIPLES and LAND PROJECT CRITERIA to evaluate land protection projects. The GUIDING PRINCIPLES inform MCHT project decisions with the goal of strategically evaluating prospective projects in relation to regional and statewide land protection objectives. The LAND PROJECT CRITERIA provide an objective method for assessing the conservation values of an individual project, as well as project feasibility.

Guiding Principles

- MCHT will focus its land protection work along the coast or on inland properties that have direct and significant links to the coast or to coastal communities.
- Priority Islands or land that lies within a Whole Place or Initiative Area designated by MCHT will receive particular emphasis as focus areas for all aspects of land protection efforts. These focus areas shall:
 - Have multiple conservation values or one value of regional or statewide significance (such as a seabird nesting island on the USFWS priority islands list).
 - Recognize differences in regional priority land types and therefore employ tailored approaches in different geographical areas as appropriate.

Land Project Criteria

ECOLOGICAL -- lands that currently support, or offer potential to restore significant native plant or animal habitat, ecological diversity, terrestrial or aquatic connectivity, rare and exemplary natural communities, water resources, and other critical habitats. Priority will be given to:

- ❖ Seabird, waterfowl or wading bird nesting islands
- ❖ High-value migratory shorebird, waterfowl or wading bird feeding or roosting habitat

- ❖ Habitat for rare, threatened, or endangered plants or animals
- ❖ Area with potential to support significant habitats as the sea level rises
- ❖ Lands that protect surface and groundwater quality
- ❖ Lands that protect habitat essential for marine fisheries including diadromous fish runs or shellfish beds
- ❖ Large, unfragmented blocks of upland or freshwater wetland habitat
- ❖ Rare or exemplary natural communities
- ❖ Inland areas with direct and significant influence on coastal habitat functions

COMMUNITY WELL BEING – working landscapes and lands that protect and provide sustainable uses for the health, economic and social benefit of Maine residents. Priority will be given to lands that:

- ❖ Promote Public Health, e.g. drinking water supply and opportunities for exercise
- ❖ Support youth engagement programs

- ❖ Provide shore access for recreational and water-dependent economic uses
- ❖ Provide opportunities for public access to shoreline areas, greenways, water trails, and outstanding lakes, rivers and ponds
- ❖ Protect working farms, forests and local food production
- ❖ Have exemplary cultural, archaeological or historic resources that help create or preserve a sense of heritage and community
- ❖ Have scenic significance important from public vantage points
- ❖ Support smart growth that enhances the economy, protects the environment and avoids sprawl

Feasibility and Other Factors to be Considered

To best direct its resources, MCHT considers the following factors in deciding whether a property becomes an active project:

- Likelihood that the conservation value (s) will be significantly diminished if no action is taken.
- Vulnerability of existing resource values to climate change, and long-term resiliency of the property
- Degree of existing or potential protection on the property itself and on adjacent properties
- Landowner willingness and ability to work within a timeframe that meets MCHT's needs.
- Consistency of project with community planning objectives
- Degree of local community support
- Strength and sustainability of current or potential partnerships
- Opportunities that enable MCHT to demonstrate leadership
- Funding feasibility

Public Benefit: The following is based on IRS language regarding Public Benefit for Conservation Easements

(26 CFR 1.170A-14 (d)(1) et seq.)

[If you check a box, please elaborate briefly based on code from attached sheet, see example below]

- preservation of land areas for outdoor recreation by, or for the education of, the general public (for ex. A.3, 5. and B.2)

- protection of a relatively natural habitat of fish, wildlife, or plants, or a similar ecosystem.

preservation of open space, including farmland and forest land, providing a significant public benefit, pursuant to a clearly delineated state and local governmental policy.

preservation of open space for the scenic enjoyment of the general public, providing a significant public benefit.

**Attachment: IRS Public benefit test language
for use in filling out MCHT Criteria and IRS Checklist**

The information below should guide you in checking and answering the boxes:

A. Significant public benefit-- All contributions made for the preservation of open space must yield a significant public benefit. Among the factors to be considered are:

- (1) The uniqueness of the property to the area;
- (2) The intensity of land development in the vicinity of the property (both existing development and foreseeable trends of development);
- (3) The consistency of the proposed open space use with public programs (whether Federal, state or local) for conservation in the region, including programs for outdoor recreation, irrigation or water supply protection, water quality maintenance or enhancement, flood prevention and control, erosion control, shoreline protection, and protection of land areas included in, or related to, a government approved master plan or land management area;
- (4) The consistency of the proposed open space use with existing private conservation programs in the area, as evidenced by other land, protected by easement or fee ownership by organizations [referred to in Sec. 1.170A-14(c)(1),] in close proximity to the property;
- (5) The likelihood that development of the property would lead to or contribute to degradation of the scenic, natural, or historic character of the area;
- (6) The opportunity for the general public to use the property or to appreciate its scenic values;
- (7) The importance of the property in preserving a local or regional landscape or resource that attracts tourism or commerce to the area;

(8) The likelihood that the donee will acquire equally desirable and valuable substitute property or property rights;

(9) The cost to the donee of enforcing the terms of the conservation restriction;

(10) The population density in the area of the property; and

(11) The consistency of the proposed open space use with a legislatively mandated program identifying particular parcels of land for future protection.

B. Scenic Enjoyment Test for Conservation Purpose of Scenic Value -- if the primary Conservation Purpose is Scenic Enjoyment by the general public, because development of the property would impair the scenic character of the local rural or urban landscape or would interfere with a scenic panorama that can be enjoyed from a park, nature preserve, road, waterbody, trail, or historic structure or land area, and such area or transportation way is open to, or utilized by, the public.

Among the factors to be considered are:

(1) The compatibility of the land use with other land in the vicinity;

(2) The degree of contrast and variety provided by the visual scene;

(3) The openness of the land (which would be a more significant factor in an urban or densely populated setting or in a heavily wooded area);

(4) Relief from urban closeness;

(5) The harmonious variety of shapes and textures;

(6) The degree to which the land use maintains the scale and character of the urban landscape to preserve open space, visual enjoyment, and sunlight for the surrounding area;

(7) The consistency of the proposed scenic view with a methodical state scenic identification program, such as a state landscape inventory; and

(8) The consistency of the proposed scenic view with a regional or local landscape inventory made pursuant to a sufficiently rigorous review process, especially if the donation is endorsed by an appropriate state or local governmental agency.

Access. To satisfy the requirement of scenic enjoyment by the general public, visual (rather than physical) access to or across the property by the general public is sufficient.