

Model Documents



The Pennsylvania Land Trust Association develops and maintains model documents to help users complete projects and manage their operations efficiently and effectively.

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Introduction

The Pennsylvania Land Trust Association maintains a suite of model legal documents and accompanying commentaries to help land trusts, governments, landowners, and donors (as well as their respective legal counsels) implement conservation transactions and other conservation-related activities. The models and commentaries are the products of thorough research and analysis of best practices, scrutiny by legal professionals, real-world testing, and user feedback. They feature plain language, consistent form, easy-to-read formatting, and incorporation of best practices. The models are used regularly, reviewed for potential improvement, and updated to reflect advances in knowledge and remain state-of-the-art legal documents.

Each model is written to be fair to all parties in advancing the purpose of that particular document. The models conform to Pennsylvania law but can be easily adapted for use in other states.

Thanks to the generosity of the Association's donors, the models are available free-of-charge at ConservationTools.org.

Why Use Model Documents?

Model documents provide several benefits:

- They help avoid the legal costs of reinventing the wheel, allowing model users to save money and focus their resources on addressing issues unique to a project.
- By working within a common model framework, users from different organizations are better able to share ideas and help one another with drafting and other implementation issues.
- Use of a model adds credibility during negotiations, since all parties have equal access to a widely accepted legal document and its commentary.
- The research and development invested into each state-of-the-art model—a greater dedication of time and resources than any one or small group of users would commit on their own—enable people to accomplish their work as effectively and efficiently as possible.

Those who have worked with a particular version of a legal document for years may doubt the value of familiarizing themselves with a new version. However, the benefits of using a regularly updated, thoroughly vetted model usually outweigh the time saved by using a familiar version that has not been strengthened by insight from years of scrutiny and use across the country.

The Models in Brief

The Association's suite of model documents includes the following items:

Conservation Easements

[Model Grant of Conservation Easement and Declaration of Covenants](#)

Shaped by numerous cycles of practitioner review and continuing user feedback, no easement document in the nation has undergone greater public scrutiny and testing.

[Model Grant of Conservation Easement and Declaration of Covenants for Riparian Buffer Protection](#)

An easement tailored for riparian buffer projects.

Access Easements

[Model Trail Easement Agreement](#)

The document of choice for most trail projects.

[Model Grant of Trail Easement](#)

A short form to use when brevity is crucial.

[Model Grant of Fishing and Boating Access Easement](#)

Ensures public access for fishing or boating.

[Model Fishing Access Agreement](#)

Hybrid easement provides for both resource protection and public access for fishing.

[Model Grant of Access Easement for Environmental Stewardship](#)

Provides access to undertake AMD remediation or other environmental restoration and stewardship projects.

Supporting Documents to Easement Transactions

[Model Mortgage Subordination](#)

Protects easements from bank foreclosures and is necessary for charitable tax deductions.

[Model Stewardship Funding Covenant](#)

Structures and guarantees payments for easement stewardship.

[Model Conservation Easement Donation Agreement](#)

Spells out the terms for donating and accepting easements and related contributions.

Other Real Estate Documents

[Model Grant of Purchase Option](#)

Creates the right but not the obligation to purchase land or easements.

[Model Grant of Right of First Offer](#)

Ensures that the landowner will first offer the property to the grantee before others have an opportunity to purchase.

[Model Grant of Right of First Refusal](#)

Gives the grantee the opportunity to match any offer from a prospective buyer.

[Model Conservation Transaction Addendum](#)

Ensures that issues specific to conservation are properly addressed when using a standard real estate purchase agreement.

Models Specific to Local Government

[Model Declaration of Public Trust](#)

Provides local governments a tool to unambiguously and permanently dedicate land to public recreation and open space purposes.

[Model Maintenance and Operation Agreement](#)

Helps local governments and private recreation groups establish partnerships for providing recreational opportunities on public lands.

[Model Riparian Buffer Protection Overlay District](#)

Helps local governments draft practical, science-based, legally enforceable regulations to protect riparian buffers.

Other Models

[Model Release Agreement](#)

Having volunteers and other participants in an organization's activities sign a well-crafted release is a significant step to managing risk.

[Model Policy for Conservation Easement Amendment](#)

Serves as a highly detailed policy or, for organizations that prefer a short policy, as guidance on appropriately addressing potential amendments.

[Model Stewardship Cost Calculator](#)

Helps organizations understand the long-term costs associated with holding a conservation easement.

[Model Checklist for Real Estate Transactions](#)

Organizes and expedites the closing of property transactions for conservation projects.

Using a Model Document

Review the Commentary

Most of the model documents are accompanied by an expansive commentary. (Most are also backed by a guide that explores more broadly the situations where

the model is applicable.) When using a model document, review the associated commentary! The commentary provides optional and alternative provisions, the reasoning behind each of the model's provisions, and guidance in applying the model to particular circumstances.

Get Legal Counsel

The models and commentaries save you the legal costs of reinventing wheels. However, be sure to involve legal counsel before completing a project. A good attorney will ensure that, given particular circumstances, the easement document does what you intend it to do.

Get Updates

Check [ConservationTools.org](https://www.conservatortools.org) periodically for updates to the models and commentaries.

Adapt to Your State

Users outside of Pennsylvania need to take care to modify a model to account for differences in state laws.

Start from the Model

You should feel free to create your own version of a model by incorporating additional or alternative provisions (from the commentary or otherwise) that reflect your policies and preferences (and state laws). That version or the then-current version of the model (available at [ConservationTools.org](https://www.conservatortools.org)) should be used as the starting point for each new endeavor. You should generally avoid using a document prepared for one project as a starting point for another. A model serves in part to remind users of the issues that need to be considered in the drafting process. The value of a model is lost, and errors and omissions become very likely, when a document prepared for one circumstance is used as a starting point for another.

Users Can Help

Provide Feedback

The Association posts each new model edition for everyone to view and use—at no charge. In exchange,

users are asked to [share their experiences and comments](#) with the model's developers to better inform future editions. The model's developers address every [suggestion](#) received.

Submit a Testimonial

If you have found a model document helpful, please consider [submitting](#) a testimonial to help the Association demonstrate the value of the models to those who make them financially possible.

The Models in Greater Detail

Conservation Easements

Model Grant of Conservation Easement and Declaration of Covenants

[Link to library item](#)

The Model Grant of Conservation Easement and Declaration of Covenants is a state-of-the-art legal document that can be customized to nearly any situation. The seventh edition was published in 2017. The model is informed by many years of regular and heavy use by land trusts, governments, and landowners across the nation. No easement document has benefited from more real-world testing, user scrutiny, and cycles of peer review. The model's expansive commentary explains the reasoning behind every provision, instructs on applying the model to particular circumstances, and provides alternative and optional provisions to address a variety of circumstances and preferences. The library includes a Quick Start Guide to introduce new users to the model.

Model Grant of Conservation Easement and Declaration of Covenants for Riparian Buffer Protection

[Link to library item](#)

The Model Grant of Conservation Easement and Declaration of Covenants for Riparian Buffer Protection provides users with a model grant of conservation easement tailored specifically for the protection of a riparian buffer along a waterway. It shares a development platform with the *Model Grant of Conservation Easement and Declaration of Covenants*.

Access Easements

If conservation of natural resources is a goal of a trail or fishing access easement project, the following models pair easily with the model conservation easements listed above. Alternatively, the model conservation easement documents include optional provisions for combining conservation and public access objectives in a single document.

Model Trail Easement Agreement

[Link to library item](#)

By donating or selling a trail easement to a nonprofit organization or government, landowners may allow their land to be used for a public trail without having to subdivide or lose ownership of the land. The *Model Trail Easement Agreement* sets the terms by which a trail is built, maintained, and used, while clarifying the landowner's rights and establishing who may be liable if an accident occurs on the trail. Used widely across the United States, this model is the Association's preferred trail easement form.

Model Grant of Trail Easement

[Link to library item](#)

Sometimes brevity is the paramount concern of landowners. The *Model Grant of Trail Easement* is brief—one page (excluding signatures), compared to nearly five for the *Model Trail Easement Agreement*. However, if establishing certainty as to landowner and holder rights and responsibilities and other trail matters is of significant concern, the *Model Trail Easement Agreement* is the better choice.

Model Grant of Fishing and Boating Access Easement

[Link to library item](#)

The *Model Grant of Fishing and Boating Access Easement* secures public access to waterways while respecting the needs of the landowners providing the access. Users may customize the model to accommodate the forms of public access most appropriate to the property (e.g., fishing, boating, or other recreational and educational uses.) The model may be used alone or in tandem with a conservation easement to provide natural resource protections.

Model Fishing Access Agreement

[Link to library item](#)

The hybrid easement document provides for both resource protection and public access for fishing. The *Model Fishing Access Agreement* is a tool for conservation organizations and governments to build cooperative relationships with private landowners to provide conservation and recreation benefits to the public while keeping properties in the control of the owners.

Model Grant of Access Easement Access for Environmental Stewardship

[Link to library item](#)

The *Model Grant of Access for Environmental Stewardship* secures access through and to property for the purpose of remediating the effects of abandoned mine drainage, or for other environmental restoration and stewardship projects.

Supporting Documents to Easement Transactions

Model Mortgage Subordination

[Link to library item](#)

When a mortgage precedes an easement on a property, there is no guarantee of perpetual enforceability of the easement unless the mortgage holder signs a mortgage subordination, which allows the easement to survive a foreclosure of the mortgage. The *Model Mortgage Subordination*, although it ultimately may not be used in the form presented, presents a highly instructional guide to the matters to be addressed in a subordination form.

Model Stewardship Funding Covenant

[Link to library item](#)

The *Model Stewardship Funding Covenant* is used by land trusts to secure payment of deferred contributions and other conservation commitments made by owners of eased lands; these commitments can be made binding on both present and future owners of the eased land. The model offers 10 ways to structure stewardship funding arrangements so they are both affordable for landowners and adequate to support long-term stewardship.

Model Conservation Easement Donation Agreement

[Link to library item](#)

The *Model Conservation Easement Donation Agreement* spells out the steps in the easement process and the commitments and expectations of the land trust and landowner. It addresses IRS Notice 2017-10 and Land Trust Alliance advisories regarding pass-through entities and tax shelters.

Other Real Estate Documents

Model Grant of Purchase Option

[Link to library item](#)

A purchase option assures the option holder of the right to purchase property at a certain price within a certain time period but does not obligate them to do so. In granting an option, the landowner gives up the right to sell freely during the option period. The *Model Grant of Purchase Option* can help a conservation organization buy the time needed to research a deal, raise funds, assemble adjacent parcels, handle messy ownership situations, and more.

Model Grant of Right of First Offer

[Link to library item](#)

The *Model Grant of Right of First Offer* allows a conservation organization to document a landowner commitment to turn first to that organization before looking elsewhere for a purchaser. It includes both a right of first offer and a right of first negotiation. It can be structured so that either the landowner or the organization makes the first offer. Unlike the purchase option, it does not generally require the landowner to accept the organization's offer.

Model Grant of Right of First Refusal

[Link to library item](#)

The *Model Grant of Right of First Refusal* may be used separately or together with the *Model Grant of Right of First Offer* to assure that, after exposure to the market, the conservation organization is afforded an opportunity to match a competing bid the landowner is ready to accept.

Model Conservation Transaction Addendum

[Link to library item](#)

Standard purchase and sale agreements, such as the agreement for vacant land published by the Board of Realtors, do not contain all the provisions that a conservation organization wants to have when committing to a real estate transaction. The *Model Conservation Transaction Addendum* provides supplemental provisions that conservation organizations should consider incorporating into their purchase and sale agreements.

Models Specific to Local Government

Model Declaration of Public Trust

[Link to library item](#)

This set of models and accompanying commentary helps local governments formally dedicate lands to public recreation and conservation purposes and clarify appropriate and inappropriate uses of the land. The *Model Declaration of Public Trust* includes an option to grant a conservation easement to a qualified holder as added protection for the land.

Model Maintenance and Operation Agreement

[Link to library item](#)

Local governments and nonprofits may decide to partner to offer recreational opportunities for the public in parks or other spaces. The *Model Maintenance and Operation Agreement* is designed to help both parties define their partnerships and lessen the possibility of misunderstandings when carrying out their respective activities, tasks, and duties.

Model Riparian Buffer Protection Overlay District

[Link to library item](#)

Municipalities use the *Model Riparian Buffer Protection Overlay District* to ensure their land use regulations protect and restore riparian buffers. Local governments can adapt the model to their particular circumstances. The model is accompanied by a letter from attorney Fronefield Crawford, Jr. attesting to the model's legal defensibility and reasonableness vis-à-vis private property rights.

Other Models

Model Release Agreement

[Link to library item](#)

The risk of being held responsible for injuries or property damage associated with organizing volunteer, educational, recreational, and other events and activities (or opening up property for the same) may be minimized by having participants sign a release agreement. The *Model Release Agreement* helps nonprofits minimize these risks. The guide [Release of Liability](#) provides commentary for the model.

Model Policy for Conservation Easement Amendment

[Link to library item](#)

Every easement-holding land trust should have a policy regarding amending conservation easements in order to help guide responsible consideration of potential amendments. The *Model Policy for Conservation Easement Amendment* is designed to help land trusts develop such a policy. Land trusts should adapt the model to match their organizational culture.

Model Stewardship Cost Calculator

[Link to library item](#)

Land trusts can use the *Model Stewardship Cost Calculator* to estimate the annual costs of stewardship for a conservation easement, as well as the initial investment in a stewardship fund that will be needed to cover the costs.

Model Checklist for Real Estate Transactions

[Link to library item](#)

The *Model Checklist for Real Estate Transactions* helps users organize and expedite the closing of property transactions for conservation projects. It also provides a system for establishing easily referenced records for transactions.

Resources at ConservationTools.org

To find related resources, see the right column of the online edition at

<https://conservationtools.org/guides/92>.

Submit Comments

Help improve the next edition of this guide. Email your suggestions to the Pennsylvania Land Trust Association at info@conserveland.org.

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