



ASPEN VALLY LAND TRUST

# Policy Manual

Updated June 10, 2008

**MISSION STATEMENT:**

*To permanently preserve open lands for agriculture, wildlife, scenic enjoyment and recreation.*

Aspen Valley Land Trust

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## **1. Conserved Lands Policies.**

*(Adopted prior to 1999; amended at a regular Board meeting 9/17/2002; amended at a regular Board meeting 10/14/2003; amended at a regular Board meeting 6/14/2005; amended by majority vote 4/21/2008)*

### **1.1. Focus Area.** *(Amended by majority vote 4/21/2008)*

The Trust's current focus area is the greater Roaring Fork Valley (including the Crystal and Fryingpan Valleys and parts of Colorado River Valley west of Glenwood Springs), including all or parts of Pitkin, Garfield, Eagle, Mesa and Gunnison Counties.

### **1.2. Conservation Easements.** *(Originally adopted at a regular Board meeting 6/12/1998; amended at a regular Board meeting 9/9/2003)*

The Trust is primarily concerned with the preservation of land that is retained in private ownership. In certain instances, through donation or public support, the Trust may own properties that are open for public access. The Trust accepts and holds the following types of easements:

- 1.2.1. Agricultural Easements.** Emphasize the protection of lands and essential water rights associated with the continued viability of agricultural production.
- 1.2.2. Open Space Easements.** Emphasize the preservation of open tracts of land for the scenic enjoyment of the general public, especially lands identified by federal, state or local governmental conservation policy.
- 1.2.3. Wildlife Habitat Easements.** Emphasize the conservation of native vegetation and open spaces inhabited by native species of wildlife.
- 1.2.4. Recreation Easements.** Emphasize the conservation of land for public active and passive recreational opportunities that are managed in cooperation with public agencies.
- 1.2.5. Historic Easements.** Emphasize the preservation of structures or land features which have a significant historic value as defined by the designation of historic sites by local, state or federal governmental agencies.

### **1.3. Project Selection.** All proposed conservation projects will be reviewed subject to the following procedures:

#### **1.3.1. Conservation Criteria.** *(Originally adopted at a regular Board meeting 10/14/2003)*

The Trust has adopted criteria for acceptance of conservation projects. The Conservation Criteria will be periodically updated to reflect changes in the organization's mission or other circumstances and shall be made available to landowners.

#### **1.3.2. Site Inspection.** *(Originally adopted at a regular Board meeting 3/16/1999; amended at a regular Board meeting 9/17/2002)*

The Trust will inspect proposed conservation properties before accepting donations of land or easements to ensure that they meet the Trust's Conservation Criteria, to assess the conservation values of the property and to identify any potential threats to those values.

#### **1.3.3. Conservation Purposes Test.** *(Amended by majority vote 4/21/2008)*

The Trust will evaluate each proposed conservation project to determine its compliance with the Internal Revenue Service's Conservation Purposes

criteria, regardless of whether tax benefits are being claimed for a donation. The Conservation Purposes, as defined in I.R.C. 170(h), are:

**1.3.3.1.** Protection of open space, including farmland and forest land, that preserves scenic views for the general public;

**1.3.3.2.** Protection of open space, including farmland and forest land, pursuant to a “clearly delineated” governmental policy;

**1.3.3.3.** Protection of important, relatively natural habitat of fish, wildlife, or plants;

**1.3.3.4.** Preservation for outdoor recreation by, or the education of, the general public;

**1.3.3.5.** Preservation to protect historic property (listed in the National Register or located in a registered historic district).

**1.3.4. Selection of Best Conservation Tool.** *(Adopted at a regular Board meeting 3/16/1999)*

The Trust will work with the landowner to evaluate and select the conservation tool that will best protect the conservation values of the property.

**1.3.5. Consideration of Partnerships.** *(Amended by majority vote 4/21/2008; amended at a regular Board meeting 6/10/2008)*

The Trust will evaluate whether it has the skills and resources to protect the conservation values of the property effectively or whether it should refer the project to, or engage in a partnership with, another conservation organization. In the event the Trust partners with another agency or organization on a transaction, a contract or Memorandum of Understanding will be executed outlining the responsibilities of each party, and naming a lead partner to supervise and coordinate each project.

**1.3.6. Evaluation of Risk.** The Trust will evaluate potential threats to the conservation values of a property and whether it can adequately reduce these risks. The Trust will modify or turn down projects where the risks outweigh the benefits.

**1.3.7. Easement Committee.** *(Originally adopted at a regular Board meeting 6/14/2005; amended at a regular Board meeting 10/10/2006; amended by majority vote 4/21/2008; amended at a regular Board meeting 6/10/2008)*

The Executive Director or designee shall have the authority to accept and sign easements pursuant to Section 1.5.4 herein, except in cases that require additional Board oversight. Specifically, the Board shall appoint an Easement Committee that shall review and decide whether to accept easement projects that meet one or more of the following criteria. Easement Committee decisions may be appealed to the full Board upon request of the potential client or deferred to a majority vote of the full Board if desired by the Committee. Criteria requiring Easement Committee review includes:

**1.3.7.1.** The proposed easement is part of a planned phasing project with a total acreage of less than 70 acres;

**1.3.7.2.** The proposed easement is less than 50 acres;

**1.3.7.3.** The proposed easement or an adjacent parcel under the same ownership is subject to retained development rights of more than one home per 70 acres;

**1.3.7.4.** The proposed easement agreement differs significantly from the Trust’s model deed of conservation easement, described in Section

1.5.1 herein, unless required by a funding agency or lead partner, provided that partner is a governmental land conservation agency.

**1.3.7.5.** The donor or grantor of the proposed easement is an insider to the Trust, as defined in Section 3, except for previous donors of land or easements that have no additional conflicts of interest with the Trust.

**1.4. Conservation Easement Requirements.** *(Originally adopted at a regular Board meeting 4/20/1999; re-adopted at a regular Board meeting 9/9/2003; amended by majority vote 4/21/2008; amended at a regular Board meeting 6/10/2008)*

The following documentation is required for acceptance of a conservation easement or donation of land:

**1.4.1. Title Investigation and Subordination.** *(Adopted at a regular Board meeting 11/12/2002; amended at a regular Board meeting 5/20/2003; amended at a regular Board meeting 10/14/2003; amended by majority vote 4/21/2008)*

The Trust requires a recent title commitment for each property being considered for a conservation easement. Title insurance for the full amount of the purchase price shall be required for easements purchased by the Trust *(adopted at a regular Board meeting 10/14/2003)*. Documentation of water rights must be provided, if appurtenant to the Property. Pursuit of a conservation easement is contingent on title review by legal counsel to assure that clear title is held by the prospective grantor, and to identify potential issues which would impact preservation and protection of conservation values. The Trust requires that all mortgages and liens that could result in extinguishment of the easement be subordinated or otherwise eliminated.

**1.4.2. Engagement Letter.** If the Trust decides to pursue acquisition of a conservation easement, the Trust will send an engagement letter to the prospective grantor outlining the easement process, the responsibilities of both the Trust and the landowner, financial expectations, Internal Revenue Service and Colorado Department of Revenue regulations, and the need for the grantor to secure independent legal and accounting advice.

**1.4.3. Property Boundaries.** The Trust shall require an accurate legal description for all properties. A survey shall be required if the title company does not have a legal description for the property. If the easement contains restrictions that are specific to certain areas on the property, the locations shall be clearly described in the easement and supporting materials so that they can be identified in the field.

**1.4.4. Mineral Rights.** *(Amended by majority vote 4/21/2008)*

When the easement grantor does not own all of the mineral rights underlying their property, the Trust shall require a “letter of remoteness” from a qualified geologist pursuant to IRS Treasury Regs §1.170A-14(g)(4)(ii)(3). Where mineral development exists or is probable, the Trust will require copies of all leases, surface use agreements and related mineral documents.

**1.4.5. Retained Rights.** *(Amended at a regular Board meeting 6/10/2008)*

Staff will complete an analysis concerning the impacts of reserved rights on the conservation values of the property and reject projects with reserved rights that impair the long term conservation values of the property.

Projects meeting certain criteria shall be subject to review and approval of the Easement Committee according to Section 1.3.7 herein.

**1.4.6. Baseline Documentation Report.** *(Originally adopted (in part) at a regular Board meeting 3/16/1999; re-adopted at a regular Board meeting 10/14/2003; amended procedurally 7/18/2005; amended and adopted by majority vote 4/21/2008)*

The Trust requires baseline documentation for all conservation easements it accepts, in accordance with IRS Treasury Regulations. The Trust will maintain a set of criteria for the contents of baseline documentation that will be updated periodically to comply with industry standards. The baseline document must be signed by the landowner and the Executive Director or her designee at the time of closing, or no later than three months from closing if ground conditions prevent timely completion of a full report. In this event, the minimum information required by Treasury Regs. § 1.170A-14(g)(5)(i) will be required at the time of closing.

**1.4.7. Appraisals and Tax Benefits.** *(Originally adopted at a regular Board meeting 6/10/2008)*

Easements intended to qualify as a charitable conservation contribution under Internal Revenue Code § 170(h) and accompanying Treasury Department and state regulations must be accompanied by a qualified appraisal paid for and contracted by the donor, with a complete copy provided to the Trust. The Trust shall review donations for consistency with tax code and legal requirements on its own behalf, but shall not make any assurances of deductibility, stated or actual donation value, or tax benefits. The Trust shall not knowingly participate in projects where it has significant reservations about the tax deduction, and shall sign tax forms acknowledging conservation donations pursuant to Section 1.5.7 herein.

**1.5. Easement Transactions.** *(Amended at a regular Board meeting 9/9/2003; amended at a regular Board meeting 6/10/2008)*

**1.5.1. Model Easement Form.** *(Amended at a regular Board meeting 6/10/2008)*

The Trust shall adopt a model deed of conservation easement which shall be updated as necessary with legal guidance and approved by the Board, and which shall be used in drafting all easements. Easements that differ significantly from the model must be approved by the Easement Committee as being consistent with the Trust's mission, pursuant to Section 1.3.7 above, unless a funding agency or lead partner requires that the Trust use a different form of easement consistent with the Trust's mission, provided that agency or partner is a governmental land conservation agency.

**1.5.2. Easement Drafting.** Every easement is tailored to the specific property and identifies the important conservation values protected and the public benefit served; allows only permitted uses and/or reserved rights that will not significantly impair the conservation values; and contains only restrictions that the Trust is capable of monitoring and enforcing.

**1.5.3. Legal Review.** *(Originally adopted at a regular Board meeting 3/16/1999, amended at a regular Board meeting 6/10/2008)*

The Trust shall obtain a legal review of each easement transaction, appropriate to its complexity, by an attorney experienced with real estate law and conservation easements. The Trust shall advise clients to obtain

their own legal and financial counsel, and shall not act in an advisory capacity to its clients.

**1.5.4. Board Approval.** *(Originally adopted at a regular Board meeting 5/20/2003; amended at a regular meeting of the Board 10/14/2003; amended at a regular Board meeting 6/14/2005; amended at a regular Board meeting 10/16/2007; amended by majority vote 4/21/2008; amended at a regular Board meeting 6/10/2008)*

The Executive Director or designee has the authority to accept and sign easements that meet the Trust's criteria for acceptance defined in Section 1.3 herein. Easements that meet certain criteria requiring review by the Easement Committee, as described in Section 1.3.7, shall be brought to the Easement Committee, which shall have the ultimate authority to approve or deny the acceptance of easements based on thorough review of the proposed project or easement language in question. The Executive Director shall provide appropriate information about and inform the Board of all easements that have been executed at the next regular board meeting.

**1.5.5. Monitoring and Legal Defense Fund.** *(Originally adopted at a regular Board meeting 4/20/1999; re-adopted at a regular Board meeting 9/17/2002; amended at a regular Board meeting 8/9/2005; amended at a regular Board meeting on 12/12/2006; amended by majority vote 4/21/2008)*

At the time the easement is accepted, the Trust requires a fee be paid to the Monitoring and Legal Defense Fund ("Fund") of an amount determined by the Board to cover ongoing monitoring costs and legal defense of easements. The Board has the option of waiving an easement grantor's monitoring fee on a case-by-case basis, provided that the Fund is made whole. The Trust shall ensure that adequate funds for stewardship and monitoring are placed in the Fund for properties the Trust owns in fee.

**1.5.6. Transaction Costs.** *(Adopted at a regular meeting of the Board on 8/24/2004; amended at a regular Board meeting 12/12/2006; amended by majority vote 4/21/2008)*

When acreage is added to an existing easement, the Trust will not require another Monitoring and Legal Defense Fund fee but shall require a transaction fee of an amount determined by the Board for each additional easement phase to cover administrative costs, The Board has the option of waiving this fee on a case-by-case basis. In addition, staff has the option of providing need-based, revolving no-interest loans to prospective easement grantors to cover qualified expenses associated with conservation easement transactions pursuant to the terms of a formally executed agreement, which shall be repayable by April 15 of the year following donation unless otherwise provided by written agreement.

**1.5.7. IRS Form 8283.** *(Originally adopted at a regular Board meeting 9/9/2003)*

The Trust will sign a conservation easement donor's IRS Form 8283 Non-cash Charitable Contributions subject to the following conditions: 1) Section B, Part 1 "Information on Donated Property" is complete, and 2) Part 3, "Declaration of Appraiser" is complete. If the Trust believes that no gift has been made or the property has not been accurately described, it shall not sign the form. If the Trust has significant reservations about the value of the gift, it may seek additional substantiation of value or may disclose its reservations to the donor. By signing IRS Form 8283, the Trust does not vouch for the accuracy of the appraisal nor warrant that the easement qualifies for an income tax deduction pursuant to the Internal Revenue Code § 170(h).

**1.5.8. Transfer of Tax Credits.** *(Originally adopted at a regular Board meeting 6/10/2008)*

The Trust may help facilitate the sale or transfer of conservation tax credits resulting from qualified easement donations to the Trust that meet federal and state tax code requirements and the due diligence requirements of Section 1.4 above. The purpose of the Trust's role in facilitating such sales is to help its donors realize a larger proportion of cash from their tax credits than may otherwise be possible. By facilitating such transactions, the Trust does not guarantee the deductibility or value of a donation or state tax credit to either party in accordance with Section 1.5.7 above. The Trust may charge reasonable fees for its services, to be evaluated and set annually by the Board, for the purposes of covering staff time and expenses associated with facilitation of tax credit transfers and land conservation transactions.

**1.6. Amending Easements.**

*(Adopted at a regular Board meeting 6/12/1998; re-approved at a regular Board Meeting 8/20/2002; re-approved at a regular Board meeting 9/9/2003; amended at a regular Board meeting 7/12/2005)*

The Trust will not normally amend easements, except under the following conditions:

**1.6.1. Private Inurement Prohibited.** *(Amended by majority vote 4/21/2008)*

The Trust is prohibited from allowing any private inurement to a landowner or any other individual or entity that is greater than the benefit to the general public, including through the amendment of easements.

**1.6.2. Cost of Amending Easements.** Transaction costs of processing proposed easement amendments shall be borne by the landowner or the party requesting the amendment if not the landowner.

**1.6.3. Circumstances for Considering Amendment.** *(Amended by majority vote 4/21/2008)*

Any amendment must honor the conservation values of the property which is burdened by the original easement and comply with the intended purpose of the original easement. Accordingly, any amendment must either enhance or have neutral impact on the conservation values of the property, but shall not diminish the conservation values. Any amendment proposed for consideration must meet one or more of the following criteria:

**1.6.3.1.** To clarify an error or ambiguity or unforeseen circumstance;

**1.6.3.2.** To strengthen the purposes or long term viability of the easement;

**1.6.3.3.** When the circumstances of the property have changed through force of nature so greatly as to render the purposes of the easement non-existent.

**1.6.4. Approving Amendments.** *(Amended at a regular Board meeting 6/10/2008)*

Easement amendments are to be made at the sole discretion of the Trust and those amendments considered to be "substantial" as defined hereafter must be approved by a majority of the Board. "Substantial" amendments requiring Board approval are:

**1.6.4.1.** Amendments that may negatively impact the conservation values of the Property;

**1.6.4.2.** Amendments whose benefits to a landowner, donor or other private party are not clearly outweighed by the benefit to the public via furtherance of conservation purposes, as demonstrated by appraisal if

necessary, or that may present an actual or perceived conflict of interest to the Trust, as defined in Section 3 herein;

- 1.6.4.3.** Amendments that contradict the original language of the easement but that may be justified through a change in circumstances, or recognition as being consistent with the donor's original intent;

**1.7. Transfer of Easements.**

*(Practice adopted 7/18/2005; policy adopted by majority vote 4/21/2008)*

Under certain circumstances the Trust may assign easements to another qualified entity or the Trust may accept the transfer of an easement from another entity, according to the following policies.

**1.7.1 Assignment of Easements.** The Trust will only transfer its easements to another organization that is qualified to hold conservation easements under IRS Treasury regulations and that has a similar mission to the Trust. The transferee must accept the easement in writing and agree to enforce the terms of the easement. Easement transfers must be approved by a two-thirds vote of the Trust's Board.

**1.7.2 Acceptance of Assigned Easements.** The Trust will accept transfers of easements from other entities when the easement meets the Trust's current Conservation Criteria, there are no unresolved violations on the easement, the Trust's attorney has reviewed and approved of the easement deed, and adequate funding is available either from the transferring organization or other sources to monitor and defend the easement.

**1.8. Requirements for Accepting Fee Title to Properties.**

*(Adopted procedurally 7/12/2005; policy amended and adopted by majority vote 4/21/2008)*

The Trust may hold two types of properties in fee title. This policy includes properties that are donated solely to generate financial resources for the Trust (trade lands) and properties that are donated or purchased for the purpose of conservation (conservation properties).

**1.8.1. Title Investigation.** Before accepting a donation of fee title to property, the Trust requires a recent title commitment. Properties purchased by the Trust must have title insurance for the full amount of the purchase price. All properties must have documentation of water rights, if appurtenant to the property, and must have legal review of the title and associated documents.

**1.8.2. Property Boundaries.** The Trust shall require an accurate legal description for all properties. A survey must be provided to the Trust if required by the title company or necessary under other circumstances

**1.8.3. Hazardous Materials or Environmental Assessment.** *(Originally adopted (in part) at a regular Board meeting 10/14/2003; amended by majority vote 4/21/2008)*

The Trust will require a Phase I Environmental Site Assessment or other appropriate environmental assessment on properties it will own.

**1.8.4. Assessment of Value.** The Trust will obtain a qualified real estate appraisal for properties it purchases.

**1.8.5. IRS Form 8282.** *(Originally adopted at a regular Board meeting 9/9/2003)*

If the Trust sells or otherwise disposes of a fee property within two years of receiving it, the Trust shall sign and submit IRS Form 8282, reporting the proceeds received from the sale of the contributed property.

## **1.9. Sale of Properties Owned in Fee Title.**

*(Originally adopted at a regular Board meeting 3/16/1999; amended at a regular Board meeting 5/16/2000; re-approved at regular Board meeting 8/20/2002; re-approved at a regular Board meeting 9/9/2003)*

**1.9.1. Properties Covered by this Policy.** The Trust owns certain properties in fee title. This policy includes those properties that have been donated solely to generate financial resources for the Trust (trade lands), along with those properties that have been donated for the purpose of conservation (conservation properties).

**1.9.2. Sale Considerations.** Property owned in fee title can be considered for sale if:

**1.9.2.1.** The property is a trade land and was accepted for the purpose of generating revenue for Trust conservation activities; or

**1.9.2.2.** The property is a conservation property in which case it can only be sold with a conservation easement on the property that preserves the conservation values of the property;

**1.9.2.3.** If the Trust determines that a property originally accepted as a trade land has conservation values, the Trust can decide to burden the property with a conservation easement.

**1.9.3. Sale Authorization.** The Board of Directors can authorize property sales only by Resolution at a regular meeting. Proposed property sale Resolutions must receive two readings at two separate regular or special Board meetings, and must pass at the second reading by an affirmative vote of at least 75% of all members of the Board.

## **1.10. Transferable Development Rights.**

*(Adopted 2/16/1999; approved at a regular Board meeting 7/18/2000; re-adopted at regular Board meeting on 8/20/2002; re-adopted at a regular Board meeting 9/9/2003; amended by majority vote 4/21/2008)*

The Trust accepts easements on parcels on which the owner retains Transferable Development Rights (TDRs). The Trust may accept the donation of TDRs as a trade asset that may be sold, or as a restricted asset that is to be held in perpetuity and not exercised.

### **1.10.1. Sale of TDRs.**

*(Originally adopted at a regular Board meeting 7/18/2000; amended by majority vote 4/21/2008)*

Any TDR sales considered by the Trust must comply with the policy concerning Fee Property Sales (Policy 1.9).

### **1.10.2. TDR Sale Proceeds.** *(Amended by majority vote 4/21/2008)*

Any proceeds received from the sale of TDRs shall be used by the Trust to further the Trust's mission.

## **1.11. Monitoring Easements and Trust Fee Properties.**

*(Adopted (in part) at a regular Board meeting 10/26/2000; amended at a regular Board meeting 9/17/2002; re-adopted at a regular Board meeting 9/9/2003; amended by majority vote 4/21/2008)*

The Trust holds conservation easements and conservation fee properties, and commits itself to their perpetual stewardship. The Trust must regularly monitor its easements and conservation properties, maintain contact with easement landowners, and enforce easement terms when they are violated.

### **1.11.1. Monitoring Funding.** *(Originally adopted at a regular Board meeting 9/17/2002; re-adopted at a regular Board meeting 9/9/2003; amended by majority vote 4/21/2008)*

The Trust shall ensure there is adequate funding for management of fee properties and monitoring and enforcement of conservation easements according to Section 1.5.5, herein.

**1.11.2. Monitoring.** *(Originally adopted at a regular Board meeting 9/17/2002; re-adopted at a regular Board meeting 9/9/2003; amended by majority vote 4/21/2008)*

The Trust shall monitor its conservation easement and fee properties regularly, at least annually, in a manner appropriate to the size and restrictions of each property. Monitoring reports documenting each visit will be kept on file at the Trust with a copy provided to landowners.

**1.11.3. Landowner Contact.** *(Originally adopted at a regular Board meeting 9/17/2002; re-adopted at a regular Board meeting 9/9/2003)*

The Trust shall inform new owners of easement-restricted properties about the easement's existence and restrictions and make grantors and new owners aware of its monitoring policies.

**1.11.4. Enforcement of Easements.** *(Originally adopted at a regular Board meeting 9/17/2002; re-adopted at a regular Board meeting 9/9/2003; practice amended 7/18/2005; amended and re-adopted by majority vote 4/21/2008)*

The Trust shall enforce the terms of its conservation easements and take necessary steps to see that violations are documented and remedied according to the terms of the conservation easement deed and the Trust's Violation and Enforcement Procedure.

## **1.12. Easements in Contemplation of Property Development.**

*(Adopted at a regular Board meeting 11/12/2002; re-adopted at a regular Board meeting 9/9/2003)*

If a person or entity whose primary motive is to develop real estate (the Developer) requests that the Trust accept an easement before the development has been approved, the Trust must consider the following prior to accepting the easement:

**1.12.1. Bona Fide Conservation Value.** *(Amended by majority vote 4/21/2008)*

The easement must have bona fide conservation value, which can be protected and preserved in light of potential adjacent development.

**1.12.2. Development Input.** The Trust will review the development's impact on conservation values relative to the easement and communicate this to the Developer.

**1.12.3. Public Acknowledgment.** The Trust must be willing to publicly acknowledge, support, and protect the conservation easement.

**1.12.4. Monitoring Expense.** *(Amended by majority vote 4/21/2008)*

The Developer must provide for costs of monitoring and legal defense of the easement.

**1.12.5. Real Estate Transfer Fee.** *(Originally adopted at a regular Board meeting 9/9/2003)*

The Trust will request the developer to remit a fee of at least one-quarter of one percent from the sale of all properties in the development.

## **2. Board and Staff Member Policies.**

*(Adopted at a regular Board meeting 3/16/1999; re-adopted at a regular Board meeting 8/20/200; re-adopted at a regular Board meeting 9/9/2003; amended by majority vote 4/21/2008; amended at a regular Board meeting 6/10/2008)*

### **2.1. Board of Directors.**

*(Amended at a regular Board meeting 5/20/2003; amended by majority vote 4/21/2008)*

The Board of Directors is responsible for determining Trust policy. All Board decisions are made at regular or special meetings, or by email, telephone or fax *(as approved at a regular Board meeting 5/20/2003)*, in a manner consistent with the by-laws of the Trust. Members are appointed by the Board and may serve on the Board for a maximum of two consecutive three-year terms.

- 2.1.1. Board Meeting Attendance.** Members must be able to attend all regular and special meetings of the Board. Members are allowed up to three absences per year unless prior arrangements are made with the President. Members who regularly miss meetings are assumed to have resigned from the Board.
- 2.1.2. Board Meeting Agendas.** *(Amended by majority vote 4/21/2008)*  
The staff shall prepare and mail or email the Board meeting agenda prior to scheduled Board meetings.
- 2.1.3. Board Member Compensation.** *(Re-adopted at a regular Board meeting 9/17/2002, amended at a regular Board meeting 6/10/2008)*  
Board members are not compensated by virtue of being a Board member. A Board member may not be hired or be compensated for professional services rendered to the Trust, except that Board members will be eligible for reimbursement for any out-of-pocket expenses arising from Trust activities and Board training, such as travel expenses and conference registration fees.
- 2.2. Trust Dealings with Board and Staff.** *(Originally adopted at a regular Board meeting 6/10/2008)*
- 2.2.1. Nepotism.** *(Re-adopted at a regular Board meeting 9/17/2002, amended at a regular Board meeting 6/10/2008)*  
Trust shall not hire or compensate Board members pursuant to Section 2.1.3 above, and shall not hire any business or professional entity in which a Board member, staff member or their families (spouses, siblings, spouses of siblings, direct ancestors, direct descendents and spouses of direct descendents) or business associates holds an ownership interest, unless disclosed to and approved by the Board as consistent with Trust's conflict of interest policy, described in Section 3 herein.
- 2.2.2. Property Donations to Trust.** *(Originally adopted at a regular Board meeting 6/10/2008)*  
The Trust may accept donations of land or interests in land from Board and staff members and their families or business associates if the donation meets the Trust's policies and all applicable criteria for the acceptance of a land or easement donation.
- 2.2.3. Property Purchase and Exchange.** *(Originally adopted at a regular Board meeting 6/10/2008)*  
Trust may not buy, sell or exchange land or interests in land with Board members, staff members or their families and business associates.
- 2.3. Lines of Authority.** *(Adopted at a regular Board meeting 9/17/2002)*  
The Trust speaks with a unified voice.
- 2.3.1. Trust Communications.** *(Amended by majority vote 4/21/2008)*  
Executive Director is responsible for communicating Trust business to all third persons, such as media outlets, attorneys or other consultants hired by the Trust, or to individuals who are contributing conservation easements to the Trust or are otherwise engaged in property transactions with the Trust (Trust Communications). All Trust Communications shall be in accordance with Trust policies.
- 2.3.2. Employee Communications.** If Board members are concerned with the performance of a Trust employee, the Board member shall bring that concern to the attention of the Board President. The Board President shall bring the concern to the attention of the Executive Director, who shall address the issue with the employee as the Executive Director sees fit.

**2.3.3. Personnel Decisions.** The Board is responsible for hiring, evaluating and terminating the employment of the Executive Director. The Executive Director is responsible for hiring, evaluating and terminating employment of all other Trust employees.

**2.4. Whistleblower Policy.**

*(Originally adopted at a regular Board meeting 10/11/2005; amended by majority vote 4/21/2008)*

The Trust requires board members, officers and employees to observe high standards of business and personal ethics in the conduct of their duties. As representatives of the Trust, they must practice honesty and integrity in fulfilling their responsibilities and complying with all applicable laws and regulations.

**2.4.1. Reporting Responsibility.** It is the responsibility of all board members, officers and employees to report violations or suspected violations of laws and policies in accordance with this policy.

**2.4.2. No Retaliation.** No board member, officer or employee who in good faith reports a violation of laws or policies shall suffer harassment, retaliation or adverse employment consequence. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment.

**2.4.3. Acting in Good Faith.** Anyone filing a complaint concerning a violation or suspected violation of the code must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of law or policy. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

**2.4.4. Confidentiality.** Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible.

**3. Conflicts of Interest.** *(Originally adopted at a regular Board member 3/16/1999; amended at a regular Board meeting 5/20/2003; amended by majority vote 4/21/2008; amended at a regular Board meeting 6/10/2008)*

A conflict of interest exists whenever an “insider” to the Trust, as defined below, has a material interest in a transaction under consideration by the Board. To avoid both real and perceived conflicts of interest, insiders must disclose any conflict of interest and must recuse themselves from Board or committee discussions and refrain from voting on topics related to the conflict. Insiders may not use knowledge of the Trust’s operations for personal or business use, and must acknowledge that all internal Trust communications, Board and committee meetings are confidential. The meeting minutes will reflect any conflicts of interest. “Insiders” to the Trust include: 1) Board and staff members, 2) substantial contributors (cash or in-kind donors of \$20,000 or more, and land or conservation easement donors), 3) business associates and families (spouses, siblings, spouses of siblings, direct ancestors, direct descendents and spouses of direct descendents) of the above, and 4) parties who with ability to influence decisions of the Trust, and those with access to information not available to the general public, which may include regular or key consultants and advisors, and regular or key volunteers.

#### **4. Financial Policies.**

*(Originally adopted 7/20/1999; re-adopted at a regular Board meeting 1/15/2002; re-adopted at a regular Board meeting 9/17/2002 and again 9/9/2003; amended and re-adopted at a regular Board meeting 12/12/2006)*

##### **4.1. Financial Condition and Activities.** At no time can the Trust be financially insolvent.

###### **4.1.1. Authority to Expend Funds.** *(Originally adopted at a regular Board meeting 9/21/1999; amended at a regular Board meeting 10/11/2005; amended by majority vote 4/21/2008)*

Staff authority to expend funds is limited to approved budget amounts. Checks or fund transfers that exceed \$2,500 require the approval of the Executive Director and a Board officer. Expenditures for items not within the approved annual budget that exceed \$50,000 must be approved by the entire Board *(Originally adopted at a regular Board meeting 12/12/2006)*. Staff authority to expend funds is limited to approved budget amounts. Checks or fund transfers that exceed \$2,500 require the joint signatures of the Executive Director and a member of the Executive Committee of the Board.

###### **4.1.2. Annual Budget.** *(Originally adopted at a regular Board meeting 4/16/2002)*

The Board shall adopt an annual budget that authorizes staff expenditures. The Executive Director may not sign checks that exceed the authorized budget. The Finance Committee must approve expenditures not within the annual budget prior to disbursement.

###### **4.1.3. Budget Updates.** *(Amended by majority vote 4/21/2008)*

The staff shall provide the Finance Committee with a monthly profit and loss statement, balance sheet and budget comparison information that is current as of the end of the prior month. On a quarterly basis, the Finance Committee will receive and review a profit and loss statement with comparisons to the annual budget.

###### **4.1.4. Financial Reports.** *(Amended by majority vote 4/21/2008)*

The Finance Committee will make quarterly financial reports to the Board. Staff will provide all necessary information to the Committee at least one week prior to the scheduled Board meeting. Financial reports will meet Generally Accepted Accounting Principles (GAAP) standards.

##### **4.2. Fund Account Management.**

*(Adopted at a regular Board meeting 1/15/2002 (except 3.2.5-3.2.8), and partially amended at a regular Board meeting on 8/19/2003; amended at a regular Board meeting 12/12/2006; amended by majority vote 4/21/2008)*

The Finance Committee is responsible for the Trust's investments. The Finance Committee makes investment determinations with a Board-approved investment guideline that includes an asset allocation plan.

###### **4.2.1. Custodial Account.** *(Re-adopted at a regular Board meeting 12/12/2006)*

All marketable securities shall be held in a custodial account.

###### **4.2.2. Fund Investment.** *(Amended at a regular Board meeting 12/12/2006)*

The Operating Account and Monitoring Investment Account shall be held in separate accounts.

###### **4.2.3. Fund Withdrawals.** *(Amended at a regular Board meeting 12/12/2006)*

Fund withdrawals must be approved by the Executive Director and one board officer.

**4.2.4 Asset Allocation.**

*(Amended at a regular Board meeting 8/19/2003, and amended at a regular Board meeting 12/12/2006)*

The Board has adopted the following asset allocation for all of its accounts:

	<b>Short-term Operating Account</b>	<b>Operating Investment Account</b>	<b>Monitoring Investment Account</b>
Equities	0%	60%	80%
Fixed Income	0%	40%	20%
Cash Equivalents	100%	0%	0%

The asset allocation will be rebalanced quarterly and can vary up to 10% from the target if approved by the Finance Committee.

**4.2.5. Short-term Operating Account.** *(Originally adopted at a regular Board meeting 12/12/2006)*

The Short-term Operating Account shall be used for the investment of funds which are expected to be used or disbursed in the near term.

**4.2.6 Operating Investment Account.** *(Originally adopted at a regular Board meeting 12/12/2006)*

The Operating Investment Account shall be used to invest longer term funds that are available to the Trust for general operating purposes. If any operating funds are restricted or earmarked for future acquisitions or other specific use, whether by the action of the Board or a third party, the restricted funds shall be invested in accordance with the investment time horizon for those funds.

**4.2.7 Monitoring Investment Account.** *(Adopted at a regular meeting of the Board on 1/15/2001; partially amended at a regular Board meeting 6/8/2004; amended at a regular Board meeting 12/12/2006; amended by majority vote 4/21/2008; amended at a regular Board meeting 6/10/2008)*

Monitoring and Legal Defense Funds shall be placed in the Monitoring Investment Account, the interest and principal of which may be used to fund the supervision and monitoring of conservation easements and fee properties, to provide for legal defense in cases of easement violations, and to fund stewardship of fee properties. The amount of monitoring contributions requested from conservation easement donors shall be adjusted for costs and inflation, with approval of the Board pursuant to Section 1.5.5 herein. The Trust shall have a target spending amount of 5% of the fund’s value per year on monitoring and stewardship responsibilities.

**4.2.8 River Valley Ranch Open Space Fund.** *(Adopted at a regular meeting of the Board on 1/15/2001; partially amended at a regular Board meeting 6/8/2004; re-adopted at a regular Board meeting 12/12/2006)*

Funds from the River Valley Ranch Open Space Fund must be spent on and in support of open space projects within a seven-mile radius of the Town of Carbondale. Projects outside of this area must be funded through other sources.

**5. Records Policy.**

*(Originally adopted at a regular Board meeting 8/9/2005; amended by majority vote 4/21/2008)*

**5.1. Records Policy Goals.** *(Amended by majority vote 4/21/2008)*

The Trust will maintain secure and authentic records in perpetuity to fulfill the Trust’s conservation easement stewardship responsibilities as well as legal needs. Information essential to the interpretation and defense of the easement is stored in a

secure storage facility. The Executive Director shall promulgate a Records Management Procedure that supports this policy and shall review and update it as needed.

**5.2. Recordation.** The Trust shall ensure that all land and easement transactions are legally recorded at the appropriate county records office according to local and state law.

**5.3. Off-Site Storage.** *(Amended by majority vote 4/21/2008)* Essential documents are stored in a secure off-site storage facility that is protected from natural disasters. Access to the documents stored in this facility is restricted to the Executive Director and Board President. Original documents placed in the off-site storage facility shall include: conservation easement deeds and easement amendments, baseline reports and photo documentation, critical correspondence, property deeds for property owned by the Trust and other original documents related to interests in real property. Annual conservation easement monitoring documentation will be added annually to the off-site storage facility.

**5.4. Digital Data Back-Up.** *(Amended by majority vote 4/21/2008)* In addition to the off-site archive storage of physical documents, the Trust maintains a back-up system for all digital data. Data is backed up weekly and stored off-site on a weekly basis. A digital back up is archived at the secure off-site storage facility on an annual basis.

## **6. Sopris Capital Policies.**

*(Adopted at a regular Board meeting 11/20/2001; re-adopted at a regular Board meeting 9/9/2003; amended at a regular Board meeting 9/9/2003; amended by majority vote 4/21/2008)*

### **6.1. Sopris Capital Property Goals.** *(Amended by majority vote 4/21/2008)*

The Sopris Capital Fund may be funded at the discretion of the Board and will be used to take an active, financial role in the protection or conservation of targeted properties deemed to have immediate development or other threats or to have such significant conservation values that preservation is a recognized community objective.

**6.1.1. Conceptual Approval.** Before significant Trust resources are expended on a project, the Special Projects Committee or Executive Committee must approve the project conceptual plan.

**6.1.2. Signing Contracts.** *(Amended by majority vote 4/21/2008)* The Trust Board must approve all contracts to purchase or sell. A Board officer shall sign all contracts in addition to the Executive Director before the contract can be validly executed.

**6.1.3. Board Resolution.** The Board Resolution authorizing the Trust or a Sopris Capital entity to enter into a contract shall be attached to and made an exhibit to be incorporated by reference to all contracts.

**6.1.4. Contract Changes.** The Board must approve all substantial contract changes.

**6.1.5. Board Requirements.** The Board shall not authorize taking title to a property unless a determination is made that significant conservation values will be achieved by this purchase. A conservation easement must be approved by the Board before title is transferred to another party.

- 6.2. Sopris Capital Risk Management Policies.**
- 6.2.1. Limited Development Permissible.** Limited development is permitted on properties purchased or brokered by the Trust.
  - 6.2.2. Risk Management.** A Sopris Capital project cannot pose unnecessary risk to the Trust.
    - 6.2.2.1. Protective Entity.** Whenever the Trust takes title to property, an LLC or other limited liability entity will be created to insulate the Trust from risk. The Trust will stay out of the chain of title unless it is impossible to do so.
    - 6.2.2.2. Insurance.** The Trust must protect itself from liability for injury to third parties on property owned by the Trust.
    - 6.2.2.3. Contract.** Contracts with developers and other parties will address risks posed to the Trust by Sopris Capital projects.
    - 6.2.2.4. Lenders.** The Trust's financial statements will clearly specify which assets are restricted and unavailable to satisfy lender or contract claims.
    - 6.2.2.5. Development Partners.** The developer should have a good reputation among developers and within the general Roaring Fork community. Sopris Capital should not be the developer of a land project if another acceptable conservation-oriented developer can develop the project.
  - 6.2.3. Project Approval.** Approval by the Trust's Board is required of all Sopris Capital projects.
  - 6.2.4. Minimize Development.** Development will be minimized on Sopris Capital projects.
  - 6.2.5. Wildlife Impacts.** Wildlife impacts will be minimized within the overall constraints of the project.
  - 6.2.6. Development Standards.** Sopris Capital projects should meet the highest quality development standards.
  - 6.2.7. Board Participation.** The Trust's Board of Directors or an Ad Hoc Committee set up for that purpose will oversee each Sopris Capital project.
- 6.3. Sopris Capital Program Objectives.** The Sopris Capital Program's primary purpose is to purchase property in order to protect its conservation values. Potential projects will be evaluated according the following criteria:
- 6.3.1.** Property that contains significant conservation values as defined by the Trust.
  - 6.3.2.** Property for which traditional voluntary conservation tools are not applicable.
  - 6.3.3.** Property for which regulatory constraints will not sufficiently protect the identified conservation values.
  - 6.3.4.** Property that could suffer a significant degradation of conservation values but for the Trust's intervention through the Sopris Capital Program.
  - 6.3.5.** Property for which a development project would promote conservation and avoid unnecessary political controversy.

- 6.3.6. Development of this property by Sopris Capital would further the goal of clustering human habitation, both on the property and in the valley as a whole.
- 6.3.7. Property for which conservation patterns of regional significance on adjacent properties can be enhanced.

**7. Conservation Technical Assistance Program.**

*(Adopted at a regular Board meeting 9/9/003; entirely amended by majority vote 4/21/2008)*

- 7.1. **Goals.** The Trust recognizes that there are some properties in the region which have outstanding conservation values and which would not be conserved without financial assistance from the Trust. The goal of the Conservation Technical Assistance (CTA) Program is to provide funding for the cost of completing a conservation easement transaction to those who lack the financial ability to pay those costs.
- 7.2. **Project Selection.** The Property possesses unique conservation values of importance to the Trust and the people of the region and complies with the Trust's project selection criteria.
- 7.3. **Ownership of Work.** The work that the Trust pays for is the property of the Trust. Agreements with clients will indicate this arrangement and agreements with consultants will be entered into between the consultant and the Trust, with the exception of the appraisal, which is owned by the client who enters into a separate contractual agreement with a qualified conservation easement appraiser.
- 7.4. **Projects.**
  - 7.4.1. **Agreement.** At the request of a landowner, the Trust will enter into a Technical Assistance Agreement with the client.
  - 7.4.2. **Budget.** The Budget shall outline the services to be provided under the Agreement and expected costs for such services and approved by the Board.
  - 7.4.3. **Components.** The Trust agrees to pay for services required for the execution of a conservation easement and the landowner may be reimbursed by the Trust for a qualified conservation easement appraisal.
  - 7.4.4. **Payment.** The Trust agrees to pay transaction costs necessary for the execution of the conservation easement as they come due directly to those consultants hired on clients' behalf. Landowners may be reimbursed by the Trust for a qualified conservation easement appraisal. If client does not grant the anticipated conservation easement to the Trust for any reason, they shall be required to repay all transaction costs incurred by the Trust on their behalf.
  - 7.4.5. **Monitoring and Legal Defense Fees.** The Trust agrees to pay the landowner's customary Monitoring and Legal Defense fund fee for the conservation easement.