



Centre for Land Conservation

Centre pour la conservation des terres

# Canadian Land Trust Standards and Practices

2019

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## Updates

The Canadian Land Trust Standards and Practices were originally published by the Canadian Land Trust Alliance (CLTA). In May 2019, the CLTA changed its name to the Centre for Land Conservation (CLC). The CLC is now the official licensee of the Canadian Land Trust Standards and Practices and the document has been updated accordingly. No revisions were made to the document beyond edits needed to reflect the change in name.

## Acknowledgements

This document was revised and modified based on the U.S. 2015 revisions of Land Trust Standards and Practices under the direction of the former Canadian Land Trust Alliance (CLTA) Board Members, with assistance from an Expert Committee.

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The CLTA would like to thank all the land trusts across the country that reviewed this document and provided input.

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## Introduction

The need for standards and practices is imperative for all land trusts, regardless of where they operate. A strong land trust community depends on the long-term viability and management of its organizations. By working towards a consistent set of standards and practices, land trusts can continue to thrive and be successful in perpetuity.

*Land Trust Standards and Practices* are the ethical and technical guidelines for the responsible operation of a land trust. The U.S. Land Trust Alliance released an updated version in 2017 that was informed by conservationists and land trust professionals throughout the United States. These many voices were an invaluable asset throughout the revision process.

The Centre for Land Conservation recognizes the advantage in using such a rigorously-developed set of Standards and Practices to maintain alignment of industry practices in Canada with the most current, internationally-recognized standards. Further, the recent U.S. revision had to be tailored to the Canadian context. A 15-month consultation within the Canadian land trust community was designed to develop practices that are more readable, accessible and up-to-date.

The Centre for Land Conservation acknowledges that emerging practices, such as engagement of Indigenous communities, may not have been fully explored or resolved under this revision. The scope of the 2018 revision was limited to updating *Canadian Land Trust Standards and Practices* as a result of the US 2017 revisions (from which *Canadian Land Trust Standards and Practices* are both licensed and derived), as well as changes to relevant Canadian legislation. Given the very limited resources and time available to the former CLTA, the significant and emerging question of Indigenous community engagement could not be appropriately addressed at this time.

The Centre for Land Conservation recognizes that, going forward, the manner in which land trusts engage with Indigenous communities is a high priority at the governance and operational levels of work undertaken by Canadian land trusts, and should be further explored. With this in mind, the CLC encourages all Canadian land trusts to actively reach out to and engage with Indigenous partners when engaging in their land conservation activities.

While the *Canadian Land Trust Standards and Practices* are designed primarily for land trusts with charitable status, they also provide important guidance for any organization or government agency that holds lands or conservation agreements for the benefit of the public.

Implementing the *Canadian Land Trust Standards and Practices* helps land trusts uphold public trust and build strong and effective land conservation programs. Securing the confidence and support of donors and landowners is key to sustaining land trusts over the long term. This is as true for individual organizations as it is for the land trust community as a whole.

## STANDARD 1

# Ethics, Mission and Community Engagement

Land trusts maintain high ethical standards and have a mission committed to conservation, community service and serving the public interest<sup>1</sup>.

## PRACTICES

### A. Ethics

1. Adopt a written code of ethics and/or values statement and adhere to it in implementing the land trust's mission, in its governance and in its operations
2. Adopt a written whistleblower policy that protects individuals who come forward with information on illegal practices or unethical behavior
3. Do not participate in transactions that are potentially fraudulent or abusive

### B. Mission, Planning and Evaluation

1. Adopt a mission that advances conservation and serves the public interest
2. Establish strategic goals for implementing the mission, and then review and update them, as needed, at least once every five years
  - a) Revisit the mission during the strategic review to confirm it is relevant
3. Review programs and activities at least annually to ensure they are advancing the strategic goals and make adjustments, as appropriate

### C. Community Engagement

1. Develop an inclusive, welcoming organizational culture that respects diversity
2. Seek to engage people who are representative of the community in which the land trust works and foster opportunities to connect them with the land
3. Develop an understanding of the land trust's community, and communicate the land trust's work, services and impact in a manner that resonates with and engages that community
4. Build, maintain and enhance relationships with community leaders and other groups interacting with the land trust community
  - a) When applicable, engage with local Indigenous communities to discuss how traditional knowledge and practices can inform the land trust's programs and activities.

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<sup>1</sup>In this context, serving the public interest is understood as benefitting the public in general or a sufficient segment of the public, as opposed to conferring private benefits to individuals, corporations or a limited group of persons.

## STANDARD 2

### Compliance with Laws

Land trusts fulfill their legal requirements as not-for-profit organizations and comply with all laws and regulations.

#### PRACTICES

##### A. Compliance with Laws

1. Comply with all applicable federal, provincial and municipal laws and regulations

##### B. Not-for-profit Incorporation and Bylaws

1. Incorporate or organize according to the requirements of provincial or federal law and maintain legal status
2. Operate in accordance with established bylaws
3. Review the bylaws at least once every five years to ensure consistency with current operations, the organizing documents and provincial and/or federal law

##### C. Tax Status

1. Maintain status as a non-profit, registered charity or qualified donee under the *Income Tax Act* (Canada)
  - a) File a complete and accurate annual information return with the Canada Revenue Agency and/or federal/provincial government
2. Comply with applicable rules regarding business activity and private or undue benefit
3. Where applicable, comply with federal requirements regarding political activities

## STANDARD 3

### Board Accountability

Land trust boards act ethically in conducting the affairs of the organization and carry out their legal and financial responsibilities as required by law.

#### PRACTICES

##### A. Board Responsibility

1. Individual board members are informed of and understand their role and their responsibilities as not-for-profit board members, including their legal and fiduciary duties
2. The board reviews and approves the land trust's mission and strategic plans, and is responsible for evaluating them
3. The board provides oversight of the land trust's finances and operations by:
  - a) Reviewing and approving an annual budget
  - b) Working to ensure sufficient financial resources are available for the long-term operations of the land trust
  - c) Receiving and reviewing financial reports and statements in a form and with a frequency appropriate for the scale of the land trust's financial activity
  - d) Reviewing the independently prepared financial audit, review or compilation
  - e) Adopting written policies or procedures for the responsible and prudent investment, management and use of financial assets
4. The board hires, oversees and evaluates, at least annually, the performance of any executive director (or chief staff person)
5. The board may delegate decision-making and management functions to committees, provided that committees have clearly defined roles and report to the board or staff

##### B. Board Composition and Structure

1. Have a board of sufficient size, skills, backgrounds and experiences to conduct its work effectively
2. Have a board substantially composed of independent members to reduce risk arising from conflicts of interest
3. Have a board development process that includes procedures for recruiting and training board members
4. Ensure the board's presiding officer and treasurer are not the same individual
5. If, in rare circumstances, a staff member serves on the board, clearly define the staff role and ensure that any exercise of decision-making authority complies with rules regarding conflicts of interest



C. Board Governance

1. Provide board members with written expectations for their service on the board
2. The board meets a minimum of three times per year and maintains adopted minutes of each meeting
3. Provide board members with sufficient and timely informational materials prior to each meeting to make informed decisions
4. Board members evaluate their performance annually as a group and as individuals at least once every three years
5. Adopt procedures for removing board members who are not fulfilling their responsibilities
6. Have governing documents that contain policies and procedures (such as provisions for a quorum and adequate meeting notices) to encourage broad participation and to prevent a minority of board members from acting for the land trust without proper delegation of authority

D. Board Approval of Transactions

1. The board reviews and approves every land and conservation agreement transaction
  - a) However, the board may delegate decision-making authority on transactions if:
    - i. It establishes written policies or has bylaw provisions that define the limits to the authority given to the delegated entity
    - ii. The delegated entity provides timely notification in writing to the full board of any completed transactions

## STANDARD 4

### Conflicts of Interest

Land trusts have policies and procedures to avoid or manage real or perceived conflicts of interest.

#### PRACTICES

##### A. Dealing with Conflicts of Interest

1. Adopt a written conflict of interest policy that addresses, for all insiders, how conflicts are identified and avoided or managed
2. Document the disclosure and management of actual and potential conflicts
3. When engaging in any transaction with an insider,
  - a) Follow the conflict of interest policy
  - b) Contemporaneously document that there is no private or undue benefit

##### B. Payments to Board Members

1. Do not financially compensate board members for board service, except for reimbursement of expenses<sup>2</sup>
2. If, in limited circumstances<sup>3</sup>, the land trust compensates a board member for professional services that would otherwise be contracted out,
  - a) Document the circumstances surrounding the decision to do so
  - b) Document how the land trust uses appropriate comparability data to determine the amount to be paid and to confirm that there is no private or undue benefit
3. Do not provide loans to members, directors, officers or trustees

##### C. Land and Conservation Agreement Transactions with Insiders

1. When engaging in land and conservation agreement transactions with insiders
  - a) Follow all transaction policies and procedures
  - b) For land and conservation agreement transactions with insiders, obtain an independent appraisal by a qualified appraiser to justify the purchase or sale price

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<sup>2</sup> This best practice is not a legal requirement. Some land trusts may be able to/choose to pay an honorarium.

<sup>3</sup> Special regulation applies in Ontario. Land trusts should obtain legal advice or consult with the Ontario Land Trust Alliance.

## STANDARD 5

# Fundraising

Land trusts conduct fundraising activities in a lawful, ethical and responsible manner.

### PRACTICES

#### A. Legal and Ethical Practices

1. Conduct an analysis of provincial and federal charitable fundraising laws and register where the land trust determines it is appropriate
2. Do not compensate internal or external fundraisers based on a commission or a percentage of the amount raised

#### B. Accountability to Donors

1. Provide accurate fundraising materials and other communications to donors and the public
2. Provide timely written acknowledgment of all gifts, including land and conservation agreements, in keeping with Canada Revenue Agency charitable receipting requirements, as appropriate
3. Maintain financial and other systems to document and comply with any donor restrictions on gifts
4. Have a written policy or procedure to ensure donor privacy concerns are honored

#### C. Fundraising Plan

1. Develop and implement a fundraising plan or program appropriate to the land trust's size and scope to secure adequate support for its activities

#### D. Non-conservation Real Property for Resale

1. When acquiring non-conservation real property with the intent of selling it to advance the land trust's mission,
  - a) Obtain a written acknowledgment from any donor of the land trust's intent to sell before accepting the property
  - b) Follow applicable transaction policies and procedures
  - c) Maintain the property while in the land trust's ownership in a manner that retains the land trust's public credibility, manages community expectations and minimizes risk

## STANDARD 6

# Financial Oversight

Land trusts are responsible and accountable for how they manage their finances and assets.

### PRACTICES

#### A. Fiscal Health

1. Establish a financial plan for the long-term operations of the land trust by
  - a) Developing an annual budget that reflects the land trust's annual programs and activities
  - b) Developing and implementing a strategy to address any deficit-spending trends
  - c) Assessing the nature and variability of revenue and seeking to diversify funding sources
2. Build and maintain sufficient operating reserves to sustain operations
3. Adopt and implement a plan to build and maintain dedicated or restricted funds sufficient to cover the long-term costs of stewarding and defending the land trust's land and conservation agreements

#### B. Financial Records

1. Keep financial records in accordance with Generally Accepted Accounting Principles (GAAP) and, where applicable, Canada Revenue Agency requirements

#### C. Independent Financial Evaluation

1. Obtain an annual financial audit, review or compilation by an independent certified public accountant or a qualified accounting professional, in a manner appropriate for the scale of the land trust

#### D. Written Internal Controls

1. Establish written internal controls and accounting procedures, including segregation of duties, in a form appropriate for the scale of the land trust, to prevent the misuse or loss of funds

#### E. Risk Management and Insurance

1. Routinely assess and manage risks so that they do not jeopardize the land trust's financial health and its ability to carry out its mission and legal responsibilities
2. Carry general liability, directors' and officers' liability, property and other insurance, all as appropriate to the land trust's risk exposure or as required by law

## STANDARD 7

### Human Resources

Land trusts have sufficient skilled personnel to carry out their programs, whether volunteers (including board members), staff and/or consultants/contractors.

#### PRACTICES

##### A. Capacity

1. Regularly evaluate whether the land trust has sufficient volunteers, staff and/or consultants/contractors to achieve its strategic goals and carry out its programs, and then add capacity as needed

##### B. Volunteers

1. Provide volunteers with training, supervision and recognition

##### C. Consultants or Contractors

1. Clearly define relationships with consultants or contractors, ensure they are consistent with provincial and federal law and document them in a written contract, as appropriate

##### D. Transition Planning

1. Develop a written process or plan to provide for continuity in the leadership and management of the land trust's functions

##### E. Staff

1. Have a written job description for each staff member and conduct periodic performance reviews
2. Document the lines of authority, communication and responsibility between board and staff
3. Ensure staff have appropriate training and experience for their responsibilities and/or opportunities to gain the necessary knowledge and skills
4. Adopt written personnel policies that conform to provincial and federal laws
5. Provide fair and equitable compensation and benefits

F. Occupational Health and Safety

1. Provide staff and volunteers with safe working conditions
2. Comply with provincial and federal occupational health and safety regulations

## STANDARD 8

# Evaluating and Selecting Conservation Projects

In advance of every land and conservation agreement transaction, land trusts carefully evaluate and select their conservation projects.

## PRACTICES

- A. Strategic Conservation Planning
  - 1. Identify specific conservation priorities consistent with the land trust's mission and goals
  
- B. Project Selection Criteria
  - 1. Develop and implement a written process to select land and conservation agreement projects
  - 2. Develop and apply written project-selection criteria that are consistent with the land trust's conservation priorities
  - 3. Document the conservation benefit of every land and conservation agreement project
  
- C. Project Evaluation
  - 1. Visually inspect properties before buying or accepting donations of conservation land or conservation agreements to determine and document whether:
    - a) There are important conservation values on the property
    - b) The project meets the land trust's project-selection criteria
  - 2. Evaluate and document potential threats to the conservation values on the property and structure the project to best protect those conservation values
  - 3. Evaluate and document any current or potential risks and liabilities associated with the project, including to the land trust's reputation or to the land trust community, and modify or decline the project if the risks outweigh the benefits
  
- D. Project Planning
  - 1. Individually plan all land and conservation agreement projects so that:
    - a) The land trust identifies the best available conservation strategy for the property
    - b) The property's important conservation values are protected
    - c) The project furthers the land trust's mission and goals
  - 2. Assess the stewardship implications of each project and the land trust's capacity to meet those obligations

E. Partnership Documentation

1. When engaging in a partnership on a joint acquisition or long-term stewardship project or when co-holding conservation agreement, create written agreements to clarify:
  - a) The goals of the project
  - b) The roles and responsibilities of each party
  - c) Legal and financial arrangements
  - d) Communications to the public and between parties



## STANDARD 9

# Ensuring Sound Transactions

Land trusts work diligently to see that every land and conservation agreement transaction is legally, ethically and technically sound.

## PRACTICES

### A. Legal Review and Technical Expertise

1. Obtain a legal review of every land and conservation agreement transaction, appropriate to its complexity, by a lawyer or notary experienced in real estate law
2. As dictated by the project, secure appropriate technical expertise, such as in financial, real estate, tax, scientific, indigenous and land and water management matters

### B. Legal and Financial Advice

1. Do not give individualized legal, financial or tax advice when providing transaction-related information
2. Recommend in writing that each party to a land or conservation agreement transaction obtain independent legal, financial and tax advice

### C. Environmental Due Diligence

1. For every land and conservation agreement transaction, conduct or obtain a preliminary environmental investigation to identify whether there are any conditions that pose environmental risks
2. If evidence of environmental risks is found, conduct or obtain a more thorough investigation, such as a Phase 1 assessment, and take steps to address any significant concerns

### D. Determining Property Boundaries

1. Determine both the legal description and physical boundaries of each property or conservation agreement
2. If a conservation agreement contains restrictions or permitted rights that are specific to certain zones or areas within the property, include the locations of these areas in the agreement document so that they can be identified in the field

E. Conservation Agreement Drafting

1. For every conservation agreement<sup>4</sup>,
  - a) Individually tailor it to the specific property
  - b) Identify the conservation values being protected
  - c) Allow only uses and permitted rights that are consistent with the conservation purposes and that will not significantly impair the protected conservation values
  - d) Avoid restrictions and permitted rights that the land trust cannot monitor and/or enforce
  - e) Include all necessary and appropriate provisions to ensure it is legally enforceable
2. Review each conservation agreement for
  - a) Consistency with enabling legislation<sup>5</sup> of conservation agreements and other provincial and federal applicable legislation
  - b) Internal consistency, omissions and absence of errors within the conservation agreement documents

F. Title Investigation and Registration

1. Prior to closing and preferably early in the process, have a title company, lawyer or notary investigate title for each property or conservation agreement the land trust intends to acquire
  - a) Update the title at or just prior to closing
2. Evaluate any encumbrance and title exception and document how the land trust addressed mortgages, liens, severed mineral rights and other encumbrances prior to closing
  - a) Mortgages, liens and other encumbrances that could result in extinguishment of the conservation agreement or significantly undermine the important conservation values on the property are discharged or properly subordinated to the conservation agreement
3. Promptly register land and conservation agreement transaction documents, including baseline documentation reports or summaries when required, at the appropriate registration office

G. Recordkeeping

1. Adopt a written records policy that governs how and when organization and transaction records are created, collected, retained, stored and destroyed
2. Keep originals of all documents essential to the defense of each real property transaction in a secure manner and protected from damage or loss

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<sup>4</sup> Future interpretation of conservation agreements rests on how clearly the document explains the core elements and their intent. The core elements include provisions, schedules, definitions and other components which may impact the enforceability and readability of the conservation agreement.

<sup>5</sup> Federal or provincial legislation that sets out the legislative rules for conservation agreements and that gives specific powers to certain body, individuals or organizations with respect to conservation agreements.

3. Create and keep copies of these documents in a manner such that both originals and copies are not destroyed in a single calamity

#### H. Purchasing Land or Conservation Agreements

1. When buying land, conservation agreements or other real property interests, below, at or, in limited circumstances, above the appraised value, contemporaneously document:
  - a) The justification for the purchase price
  - b) That there is no private or undue benefit
2. Obtain an independent appraisal by a qualified appraiser in advance of closing to support the purchase price based on the fair market value
  - a) However, a short narrative, a letter of opinion or other documentation from a qualified real estate professional may be obtained in the limited circumstances when:
    - i. A property has a very low economic value
    - ii. A full appraisal is not feasible before a public auction
    - iii. Or the amount paid is significantly below the fair market value

#### I. Selling or Transferring Land or Conservation Agreements

1. When selling land, conservation agreements or other real property interests,
  - a) Establish protections as appropriate to the property
  - b) If the sale is to a party other than another charitable organization or public agency, obtain an independent appraisal by a qualified appraiser or a short narrative, a letter of opinion or other documentation from a qualified real estate professional to determine the value of the asset and to support the selling price
  - c) Select buyers in a manner that avoids any actual or appearance of impropriety
2. When selling or transferring conservation land or conservation agreements to another charitable organization or public agency, consider whether the new holder can fulfill the long-term stewardship and enforcement responsibilities
3. For the sale or transfer of land or conservation agreements certified as ecological gifts, request authorization from the Minister of Environment and Climate Change Canada, or its replacement.

## STANDARD 10

# Tax Benefits and Appraisals

Land trusts work diligently to see that every charitable gift of land or conservation agreement meets provincial and federal tax law requirements, to avoid fraudulent or abusive transactions and to uphold public confidence in land conservation.

## PRACTICES

### A. Landowner Notification

1. Inform potential land or conservation agreement donors who may claim a provincial or federal income tax deduction or credit, in writing and early in project discussions, of the following:
  - a) Canada Revenue Agency strongly recommends an independent appraisal prepared by a qualified appraiser for gifts of property valued at more than \$1,000, including information on the timing of the appraisal
  - b) As the beneficiary of the tax receipt, the donor has the primary responsibility for any determination of the value of the donation (even in the case where the appraisal has been arranged for or commissioned by the land trust)
  - c) An independent appraiser who is certified by the Appraisal Institute of Canada and who follows the Canadian Uniform Standards of Professional Appraisal Practice should perform the appraisal, or, in Québec, Les normes de pratique professionnelle des évaluateurs agréés (Les normes de pratique)
  - d) The land trust requires a copy of the completed appraisal in order to issue a charitable donation receipt
  - e) The land trust will not participate in projects where it has significant concerns about the potential for false receipting, tax avoidance, tax abuse or tax fraud
2. Where appropriate, inform potential donors about the Ecological Gifts Program including:
  - a) The increased tax benefits associated with making a gift under the program
  - b) The consequences of unauthorized disposition or change in land use of ecological gifts
  - c) That appraisals of ecological gifts must comply with the Ecological Gifts Program Guidelines for Appraisals and will be reviewed independently by the Appraisal Review Panel
3. Do not make assurances as to:
  - a) Individualized legal or tax implications
  - b) Whether a particular land or conservation agreement donation will be eligible for a donation tax deduction or credit
  - c) What monetary value of the donation the Canada Revenue Agency and/or province will accept
  - d) What the resulting tax benefits of the deduction or credit will be, if any

B. Legal Requirements: Land Trust Responsibilities

1. If the land trust holds charitable donations of land or conservation agreements, it meets the requirements for a qualified donee under the applicable provisions of the Income Tax Act
2. Issue donation tax receipts only in accordance with the provisions of the Income Tax Regulations

C. Avoiding Fraudulent or Abusive Transactions

1. Review, on the land trust's own behalf, each transaction for consistency with provincial and federal income tax deduction or credit requirements
2. Evaluate any appraisal to determine whether the land trust has substantial concerns about the appraised value or the appraisal
3. Discuss substantial concerns about the appraisal, the appraised value or other terms of the transaction with legal counsel and take appropriate action, such as:
  - a) Documenting that the land trust has shared those concerns with the donor
  - b) Seeking additional substantiation of value
  - c) Withdrawing from the transaction prior to closing

## STANDARD 11

# Conservation Agreement Stewardship

Land trusts have a program of responsible stewardship for their conservation agreements.

### PRACTICES

- A. Funding Conservation Agreement Stewardship
  - 1. Estimate the long-term stewardship and enforcement expenses of each conservation agreement transaction
  - 2. Track stewardship and enforcement costs
  
- B. Baseline Documentation Report
  - 1. For each conservation agreement, have a baseline documentation report signed-off by the necessary technical expertise, with written descriptions, maps and photographs, that documents:
    - a) The conservation values protected by the agreement
    - b) The relevant conditions of the property as necessary to monitor and enforce the agreement
  - 2. Prepare the baseline documentation report prior to closing and have it signed by the landowner and land trust at or prior to closing
    - a) Baseline documentation reports that require technical data collection are prepared with the support of professional(s) having appropriate background and expertise
    - b) In the event that seasonal conditions prevent the completion of a full baseline documentation report by closing, the landowner and land trust sign a schedule for finalizing the full report and an acknowledgement of interim data at closing
  - 3. In the limited circumstances when there are significant changes to the land (such as a result of a wildfire or bank erosion) or the conservation agreement (such as a result of an amendment or the exercise of a permitted right), document those changes in an appropriate manner, such as through monitoring reports, a baseline supplement or current conditions report
  - 4. The landowner and the land trust each hold at least one original copy of the signed baseline documentation report
  
- C. Conservation Agreement Compliance Monitoring
  - 1. Adopt a written policy and/or procedure for compliance monitoring of conservation agreements that establishes consistent monitoring protocols and recordkeeping procedures
  - 2. Monitor each conservation agreement property at least once per calendar year

- a) If the land trust uses aerial monitoring, conduct on-the-ground monitoring at least once every five years
- b) Promptly document the outcomes of annual compliance monitoring activities for each conservation agreement, including communications to and from owners of conservation agreement properties
- c) Conduct on-the-ground verification in a timely manner for any suspected violation or breach of conservation agreements

D. Landowner Relationships

1. Maintain regular contact with owners of conservation agreement properties to maintain relationships and avoid potential agreement conflicts
2. Establish systems to track changes in land ownership
3. When the property changes hands, attempt to meet with the new owner or property manager to ensure the new owner obtains:
  - a) A copy of the conservation agreement documents
  - b) Information in writing about the conservation agreement
  - c) Copies of the land trust's stewardship policies and procedures

E. Conservation Agreement Enforcement

1. Adopt a written policy and develop written procedures for documenting and responding to potential conservation agreement violations
2. Investigate potential violations in a timely manner and promptly document all actions taken
3. Involve pertinent parties, authorities and legal counsel as appropriate to the severity of the violation and the nature of the proposed resolution
  - a) For conservation agreements that have been certified as an ecological gift, report violations that have impacted the natural features of the property to Environment and Climate Change Canada

F. Approvals and Permitted Rights

1. Respond to landowner required notices or requests for interpretation or approvals in a timely and consistent manner, as specified in the conservation agreement deed or in a written procedure
2. Establish written procedures to guide the land trust's decision-making regarding approvals and permitted rights
3. Maintain a permanent record of all notices, approvals, denials, interpretations and the exercise of any significant permitted rights

#### G. Contingency Strategy

1. Establish a contingency plan for all conservation agreements in the event the land trust ceases to exist or can no longer steward and administer them
2. Maintain contact with the backup holder as appropriate to ensure the ability of the holder to hold conservation agreements is still valid

#### H. Amendments

1. Adopt and follow a written policy or procedure addressing conservation agreement amendments so that they are consistent with the following principles:
  - a) Are consistent with the land trust's mission
  - b) Comply with all applicable provincial and federal laws
  - c) Do not jeopardize the land trust's charitable status
  - d) Do not result in a private or undue benefit
  - e) Are consistent with the conservation purpose(s) and intent of the conservation agreement
  - f) Are consistent with the documented intent of the donor, grantor and any funding source
  - g) Have a net beneficial or neutral effect on the relevant conservation values protected by the conservation agreement
2. Evaluate all conservation agreement amendment proposals with due diligence sufficient to satisfy the above principles
3. If an amendment is used to adjust conservation agreement boundaries (such as to remedy disputes or encroachment) and results in a *de minimis* extinguishment, document how the land trust's actions address the terms of J.1. below
4. Request authorization from the Minister of Environment and Climate Change Canada for amendments to conservation agreements certified as ecological gifts

#### I. Expropriation

1. If a conservation agreement is threatened with expropriation,
  - a) Work diligently to avoid a net loss to conservation values and document the actions taken
  - b) Have or obtain appropriate documentation of the percentage of the full value of the property represented by the conservation agreement
  - c) In circumstances where a net loss of conservation values cannot be avoided, document the land trust's attempts to receive its proportional share of the proceeds and use any proceeds in a manner consistent with the conservation agreement deed
  - d) Provide prompt notification to relevant parties, including the expropriating authority and Environment and Climate Change Canada, if the conservation agreement is certified as an ecological gift



J. Partial or Full Extinguishment

1. In the rare case that it is necessary to extinguish a conservation agreement, in whole or in part,
  - a) Follow the terms of the conservation agreement with respect to taking appropriate action, and obtain provincial authorization when required by law
  - b) Ensure there is no undue benefit
  - c) Take steps to avoid or to mitigate harm to conservation values and/or use any proceeds in a manner consistent with the conservation agreement deed
  - d) Consider the land trust's actions in the context of its reputation and the impact on the land conservation community at large
  - e) Provide prompt notification relevant parties, including donors and funders involved in the land transaction
  - f) Request prior authorization from Environment and Climate Change Canada if the conservation agreement is certified as an ecological gift

## STANDARD 12

### Land Stewardship

Land trusts have a program of responsible stewardship for lands held for conservation purposes.

#### PRACTICES

##### A. Funding Land Stewardship

1. Determine the immediate financial and management implications of each conservation property acquisition or contractual stewardship commitment and estimate the long-term implications
2. Anticipate and track costs associated with long-term land management, stewardship and enforcement of conservation properties

##### B. Land Management and Stewardship

1. Develop a written land management plan for each conservation property within 12 months after acquiring the land to:
  - a) Identify the property's conservation values, including any significant cultural, Indigenous, historical and natural features, and identify threats to those features
  - b) Identify the overall management goals for the property
  - c) Identify activities and timeline to achieve the goals and to reduce any risks or threats to the conservation values
  - d) Specify the uses that are appropriate for the property, in keeping with the property's conservation values, any restrictions and donor or funder requirements
2. Manage each conservation property in accordance with its management plan, and review and update the plan periodically
3. Perform administrative duties (such as paying insurance, filing required forms, keeping records) in a timely and responsible manner
4. Maintain the property in a manner that retains the land trust's public credibility, manages community expectations and minimizes risk consistent with the land trust's mission

##### C. Inspecting Land Trust Properties

1. Determine the boundaries of land trust properties and physically mark them to the extent possible or necessary
2. Inspect properties at least once per calendar year for potential management problems and promptly document the outcomes of the inspection
3. Address management problems, including encroachments, trespass and other ownership challenges, in an appropriate and timely manner and document the action taken

- a) For lands that have been certified as an ecological gift, report detected changes or impacts to the natural features of the property to Environment and Climate Change Canada

D. Contingency Strategy

1. Establish a contingency plan for conservation lands in the event the land trust ceases to exist or can no longer own or manage them

E. Expropriation

1. If a conservation property is threatened with expropriation:
  - a) Work diligently to avoid a net loss to conservation values and document the actions taken
  - b) Provide prompt notification to relevant parties, including expropriating authority and Environment and Climate Change Canada, if the conservation agreement is certified as an ecological gift

## GLOSSARY

**Board:** The governing entity that manages the business of the land trust. The term ‘board members’ is used interchangeably to refer to the administrators, governors, directors or trustees that compose the board.

**Capacity:** The ability to perform all the actions required to acquire and manage conservation land and manage other programs by having adequate human and financial resources and organizational systems in place.

**Conflict of interest:** A conflict of interest arises when an employee, director, officer, manager or other “insider,” is in a position, or perceived to be in a position, to be able to benefit personally (or to create a benefit to a family member or other organization with which he or she is associated) from a decision he or she could make or influence.

**Conservation agreement:** A legally binding agreement voluntarily entered into between a landowner and a land trust to restrict the use of subject real property to protect the conservation values of the property, and may include a servitude for the use and benefit of dominant land, a covenant or an easement.

**Conservation values:** The key values on a site that are the focus of protection efforts. Important conservation values are determined during property evaluation and project planning.

**Enabling legislation:** The collection of federal or provincial rules imposed by authority that gives appropriate officials the authority to implement or enforce the law.

**GAAP:** The Chartered Professional Accountants of Canada (CPA) issues Generally Accepted Accounting Principles (GAAP). CPA Canada Handbook: Standard and Guidance Collection provides standards for financial statements for Not-for-Profit Organizations.

**Independent board member:** Independent board member means an individual serving on a board who does not have a material or pecuniary relationship with the company or related persons.

**Independent appraisal:** An independent appraisal prepared in compliance with the Canadian Uniform Standards of Professional Appraisal Practice by a qualified appraiser who has verifiable conservation agreement or conservation real estate experience.

**Insiders:** Board and staff members, substantial contributors, parties related to the above within the meaning of the *Income Tax Act* (Canada), those who have an ability to influence decisions of the organization and those with access to information not available to the general public.

**Land:** Conservation properties held in fee simple ownership and any interest or right, including subsurface, surface, air, mineral, water and development rights and any other interests or rights in real property. Conservation agreements are excluded from this definition and are treated separately.

**Land trust:** A not-for-profit conservation organization that, as all or part of its mission, actively works to conserve land by acquiring land or conservation agreements (or assisting with their acquisition) and/or stewarding/managing land or conservation agreements. May include other types of conservation organizations, including federal, provincial or municipal entities.

**Phase I assessment:** A formal investigation conducted by a qualified environmental consultant or engineer into the presence or absence of hazardous and toxic materials on or near a property.

**Policy:** A written, board-adopted document specifying a course of action to guide and determine present and future decisions.

**Preliminary environmental investigation:** An informal investigation conducted by land trust staff, consultant or volunteer into the presence or absence of hazardous and toxic materials or other environmental threats on or near a property.

**Private or undue benefit:** A private benefit includes any part of the income, rights, property or resources of a land trust that comes to benefit, directly or indirectly, any member, director/trustee, staff member, or other person other than a reasonable compensation for property acquired or services rendered to the land trust. For registered charities, private benefits are called “undue benefits” and are prohibited.

**Public benefit:** In the context of the Canadian Land Trust Standards and Practices, serving the public interest is understood as benefitting the public in general or a sufficient segment of the public, as opposed to conferring private benefits to individuals, corporations or a limited group of persons.

**Qualified donee:** Under the *Income Tax Act* (Canada), qualified donees are organizations that can issue official donation receipts for gifts they receive from individuals and corporations. Registered charities can also make gifts to them.

**Short narrative:** A written estimation of a property’s value most often prepared by a qualified appraiser and occasionally prepared by a highly experienced real estate professional. A letter of opinion is not considered an acceptable type of appraisal.