



An independent program of the Land Trust Alliance

# Accreditation Requirements Manual

March ~~2018~~2021



Sound Finances  
Ethical Conduct  
Responsible Governance  
Lasting Stewardship

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## **Requirements Manual**

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March ~~2018~~ 2021 Edition, ~~updated June 2020~~

The ~~2018~~ 2021 *Requirements Manual* replaces prior editions of the Manual. The Commission's [website](#) contains a history of the Manual. ~~The June 2020 updates include numbering of the requirements and aligning the documents to the 2019 versions of the applications.~~

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# Introduction

## Standards, Indicator Elements, and Requirements

The accreditation seal is a mark of distinction in land conservation. It is awarded to [eligible](#) land trusts meeting the highest national standards for excellence and conservation permanence. [To be eligible, a land trust must be a U.S.-based 501\(c\)\(3\) tax-exempt public charity or quasi-governmental organization, have been incorporated for at least two years, and have completed at least two direct conservation easement or conservation property acquisition projects.](#)

Through a rigorous review process, the Land Trust Accreditation Commission verifies a land trust's compliance with *Land Trust Standards and Practices* (Standards) by evaluating a sample of the elements within the Standards, which are called the "indicator elements."

[Click here](#) for a copy of the 2017 Standards.

[Click here](#) for the list of indicator elements.

The *Requirements Manual* (Manual) provides land trusts greater specificity about how the indicator elements are verified through the "requirements" and enables commissioners to make decisions that are fair and consistent and that accommodate the diverse nature of land trusts.

### Indicator Elements Organized in Four Groups

The Manual organizes the indicator elements into four groups.

- Governance
- Finance
- Transactions
- Stewardship

This format makes it easier for you to compile the documentation needed for the accreditation application and addresses feedback from past applicants about redundancy. It also streamlines the Commission's review. Within each of the four groups listed above, you will find [the following two](#) sections: "Indicator Elements," [and](#) "Requirements," [and](#) "Documents." See more in the "[How to Use this Manual](#)" section below.

### Risk-Based Approach Ties Rigor of Review to Risk

[In response to land trust feedback,](#) the Commission developed the requirements with a risk-based mindset [in response to land trust feedback to ensure](#) that the accreditation review should focus more on high-risk areas to make the best use of land trusts' time. The requirements take into account risk to an individual land trust and risk to the land trust

community. The Commission considers four types of risk – conservation, financial, operational, and reputational – as well as the frequency and impact of the risk.

## What is New?

The Manual was first published in 2012 and was last updated in 2018 to reflect the revised Standards and indicator elements. The 2021 edition of the Manual is largely unchanged from the 2018 one but includes updates to respond to feedback on the 2018 Manual, clarify expectations, address additional areas of risk in the land trust community, and reflect changes that impact the land trust community (such as accounting standards or Tax Court decisions). New requirements are phased-in as noted. Additional details about the updates are described in the document, "Summary of Changes to the 2021 Requirements Manual," available on the Commission's website.

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## Accreditation Application

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The accreditation application includes pre-application materials, targeted verification documents, application questions, application documents, and documentation from land and easement projects. To learn what documents are [required](#) and when, use the links below. The actual application is completed using an online application (Accreditation Management System).

[Click here for a reference copy of the first-time application.](#)

[Click here for a reference copy of the renewal application.](#)

Because the accreditation application is used to verify your land trust meets the accreditation requirements, it is essential your land trust has all of the applicable documents. Some documents only need to be provided if the situation applies to your land trust. These are generally noted with a statement: "*If your land trust...*"

*For example, in the Transactions group of documents, "Documentation of transaction approval delegation" is only required if the full board does not approve each land and conservation easement transaction.*

Be sure [your land trust retains](#) documentation of meeting the accreditation requirements.

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## **How to Use this Manual**

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### **1. Read this Introduction in its Entirety**

The introduction explains the format of the Manual and the individual sections.

### **2. Review the Indicator Elements**

The indicator elements are found at the beginning of each group: Governance, Finance, Transactions, and Stewardship.

### 3. Examine the Requirements

A list of requirements is provided for each group of indicator elements; the requirements are separated into subcategories and numbered for easier reference. The requirements specify what the Commission will verify within the accreditation application and application documents provided for each group of indicator elements. You can think of the requirements as the “grading key” for the documents you provide.

#### Bold Font

The bold font is one key to understanding how the Commission uses a risk lens in evaluating your accreditation application and application documents.

- Requirements in bold font ~~are verified for every land trust during review of the accreditation application. These requirements~~ correspond to areas where individual land trusts or the land trust community face frequent or high conservation, financial, operational, or reputational risk. Each land trust must have documents demonstrating all the bold requirements are met; if not, corrective action will be required.

*For example, in the “Governance: Strategic Goals” section, there is a bold requirement: “Strategic goals (or plan) established by board.” Each land trust must show that its board developed strategic goals or a strategic plan. If the board has not, it will need to establish strategic goals or a strategic plan before the land trust can be awarded accreditation or have accreditation renewed.*

- Requirements that are not ~~bolded in bold font~~ are just as important, but corrective action is situational and depends on risk. Corrective action for non-bold requirements may be required after the application reviewers assess the information in the accreditation application in the context of the land trust’s specific facts and circumstances and determine the level of risk. In the Commission’s experience, ~~most~~ many land trusts are acceptable in these areas. However, there are occasions where the risk may be high if the requirements are not met. If a potential high-risk area is identified, the land trust may be asked for clarification, additional documentation, and/or corrective action.

*For example, in the “Governance: Board Structure and Operations” section, there is a non-bold requirement: “Land trust generally operates in accordance with its bylaws.” ~~Most bylaws will be found acceptable. However, if the application reviewers were to flag that the number of board members is not consistent with the bylaws, then they will look at the risk in the context of the rest of the application documents. If the bylaws call for a board of 9-15 members and the land trust has 16 board members and shows a highly-functioning board, then this is likely low risk and would not require any action. If, however, the land~~*

*trust only had four board members and appeared to be controlled by a single individual, then this would likely be high risk and require corrective action.*

### Detail of Review

The words used in the requirements are another key to understanding how a risk lens is used and what level of detail the application reviewers will use when evaluating the application documents.

- If a requirement uses the word “exists,” this means the application reviewers will simply verify if the document is present or not. Application reviewers will skim the document to make sure there are no high-risk concerns; on the rare occasion that something is flagged as high-risk, the land trust may be asked for clarification, additional documentation, and/or corrective action.

*For example, in the “Stewardship: Conservation Easement Enforcement and Amendment Policies” section, there is a requirement: “Violation policy and/or procedures exist.” Each land trust must show that it has a conservation easement violation policy and/or procedures. Application reviewers will skim these, and most documents will be found acceptable. However, if the policy were to state that the land trust would take no action to resolve a major violation so long as the landowner paid the land trust, then this would be flagged as high risk and require corrective action.*

- If a requirement uses words like “sufficient,” “appropriate,” or “generally,” this means the application reviewers will consider the facts and circumstances and evaluate whether or not there are high-risk concerns; some variation in how land trusts meet the requirement is expected.

*For example, in the “Stewardship: Conservation Easement Enforcement and Conservation Property Ownership Challenges” section, there is a requirement: “Board informed or involved in resolution as appropriate to scale of violation or ownership challenge.” The application reviewers will evaluate the extent and nature of the violation or ownership challenge and what steps the land trust is taking to resolve the issue. If the land trust were to face a major violation or ownership challenge (such as a third party constructing a house that will involve legal action and significant expense to resolve), then the application reviewers will look at the high-risk nature of this issue and will likely expect to see the board involved in some way. However, if the land trust were to have a more moderate violation or ownership challenge (such as a temporary structure that was removed upon request), then the application reviewers will look at the lower-risk nature of this issue and would likely find it acceptable that the board was only informed of the issue. In this way, what is appropriate is viewed in the context of the specific facts and circumstances.*

There may be areas not listed as a specific requirement but that relate directly to other areas in the 2017 Standards that, if not addressed, put the land trust or accreditation program at such

high risk that clarification, additional documentation, and/or corrective action may be needed. Similarly, if a land trust's documents do not show it meets the requirements, the Commission may require alternative documentation or corrective action to confirm compliance.

#### ~~4. Review the List of Required Documents~~

~~The accreditation application includes pre-application materials, targeted verification documents, application questions, application documents, and documentation from land and easement projects. The Manual includes a list of the application documents; please use the final accreditation application when preparing your land trust's online application.~~

~~[Click here](#) for a reference copy of the first-time application.~~

~~[Click here](#) for a reference copy of the renewal application.~~

~~Because the accreditation application is used to verify your land trust meets the accreditation requirements, it is essential your land trust has all of the applicable documents. Some documents only need to be provided if the situation applies to your land trust. These are generally noted with a statement: "If your land trust..."~~

~~*For example, in the Transactions group of documents, "Documentation of transaction approval delegation" is only required if the full board does not approve each land and conservation easement transaction.*~~

#### ~~5.4. Review the Definitions and Lists of Examples~~

~~The requirements and application documents include some definitions and lists of examples.~~

- ~~➤ Definitions [or specific clarification of terms](#) are given for terms noted with the symbol <sup>?</sup>. [Definitions to](#) help your land trust understand how to meet the requirements.~~

~~*For example, in the "Governance: Conflicts of Interest and Other Policies" section, there is a requirement that a conflict of interest policy applies to all insiders<sup>?</sup>. The question mark signals that a definition is given for the term insiders. To meet the requirement, a land trust's conflict of interest policy needs to apply to all insiders listed in the definition.*~~

- ~~➤ Examples are provided to help your land trust understand the requirement or the types of documents expected in the application.~~

~~*For example, in the "Finance: Financial Records and Financial Health" section, there is a requirement: "Form 990 substantially complete and accurate." The parenthetical "such as" examples highlight what the application reviewers look for in a Form 990.*~~

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## Evaluating Land Trusts against the Requirements

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### Expectations Differ for First-Time and Renewal



- If you are a first-time applicant, your land trust needs to show compliance with the requirements in its ~~current~~ recent work, except when a longer period is noted.
- If your land trust is already accredited, your land trust needs to show compliance with the requirements over your entire accredited term when you apply for renewal.

*For example, in the "Transactions: Baseline Documentation Reports" section, a first-time applicant is required to have a complete baseline documentation report signed at or before closing for at least its most recent conservation easement<sup>s</sup>. An accredited land trust will need to show in its application that it had a complete baseline documentation report signed at or before closing for every conservation easement it accepted over its accredited term.*

### **Phasing in Requirements**

In order to ensure land trusts have time to implement any new requirements, the Commission may decide to phase in a requirement. ~~The 2017 Standards included several new indicator elements for which the Commission developed corresponding requirements;~~ these are noted throughout with a "Starting or Started in ..." notation. Accredited land trusts are expected to begin meeting these requirements ~~in 2019, 2020, or~~ as noted.

*For example, in the "Transactions: Project Due Diligence" section there is a requirement for visually inspecting properties before closing. Each land trust will need to have documentation of this activity for projects starting in 2019. A land trust does not have to go back and document its visual inspections retroactively for projects before that time.*

### **Facts and Circumstances Matter**

Each land trust is different, and the application reviewers evaluate the documents with your land trust's unique facts and circumstances in mind.

*For example, in the "Transactions: Project Review and Approval" section, the information provided to the board before it makes a decision to accept a conservation property for an all-volunteer land trust that meets monthly and visits every potential property before acquiring it would likely look very different from the materials provided to a board that meets quarterly and relies on staff to vet conservation acquisitions.*

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## **Help Reviewers Understand Your Story**

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### **Isolated and Rare Things Happen**

Your land trust may have isolated or rare circumstances when it is not able to implement the indicator elements and show compliance with the requirements; this does not necessarily preclude it from being accredited or renewed. The Commission will review the facts and circumstances and may make allowances if:

- There is documentation that your land trust is typically compliant and has a system to achieve compliance;
- The situation was clearly an isolated or rare event;
- The circumstances preventing your land trust from complying were clearly explained;
- Your land trust took alternative steps to meet the intent of the practice and/or mitigate risks associated with the non-compliance; and
- The non-compliance does not put your land trust or the accreditation program at risk.

*For example, in the "Transactions: Baseline Documentation Reports" section, baseline documentation reports need to be signed at or before closing. However, a land trust could explain the circumstances for its one baseline that was not signed until two weeks after closing. The baseline was mailed to the landowner before closing, but the landowner left the country before signing it. The A subsequent email from the landowner included an landowner apologized apology for the oversight and committed commitment to signing it as soon as he returned. The land trust's 10 other baselines completed that year were completed and signed before closing. The application reviewers could find this non-compliance was isolated and rare and determine that no additional clarification, additional documentation and/or corrective action is needed.*

### Explanations Help

You can save your land trust time and help the application reviewers by explaining upfront areas of where your land trust did not meet the requirements. You should include relevant facts, circumstances, and explanations. The online application has a place for you to upload this information. You can reach out to the Commission's [help desk](#) if you have questions about what information would be important to include.

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## For More Resources and Information

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Members of tThe Land Trust Alliance have access to The Learning Center has-for background information on and resources for The Learning Center for each of the indicator elements. This includes definitions, examples, and links to additional information that can help your land trust be successful in the accreditation process.

- The narratives for the indicator elements have call-outs with more information specifically related to accreditation.
- There are five introductory online courses on accreditation: Introduction to Accreditation and the Requirements Manual, along with courses on Governance, Finance, Transactions, and Stewardship.
- You can also use The Learning Center to search for sample documents, such as conflict of interest or recordkeeping policies, strategic plans, board recruitment tools, internal controls, financial procedures, communication about tax code requirements, easement drafting, management plans, baseline documentation reports, amendment policies, procedures for approving permitted rights, and lots more!

- [The Land Trust Alliance also hosts webinars each year that include topics related to the indicator elements, such as financial management of restricted gifts, current conditions reports, review of appraisals, and many more.](#)

[To make it easier for you to access these materials, the Manual includes links as shown below. It is most helpful if you log into The Learning Center before clicking on the links in the Manual.](#)

## Governance

Learn more about this group

← LINK TO ONLINE COURSE

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### Indicator Elements - [Compiled Guidance for Governance Indicator Elements](#)

← LINK TO NARRATIVES  
COMPILED FOR THIS GROUP

<p><b>1B2.</b> Establish strategic goals for implementing the mission, and then review and update them, as needed, at least once every five years</p> <p><b>2B1.</b> Incorporate or organize according to the requirements of state law and maintain legal status</p>	<p><b>3C2.</b> The board meets a minimum of three times per year and maintains adopted minutes of each meeting</p> <p><b>3C3.</b> Provide board members with sufficient and timely informational materials prior to each meeting to make informed decisions</p>
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← LINKS TO INFORMATION ABOUT  
SPECIFIC INDICATOR ELEMENTS

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# Governance

## Learn more about this group

### Indicator Elements - Compiled Guidance for Governance Indicator Elements

- |  |  |
|--|--|
| <b>1B2.</b> Establish strategic goals for implementing the mission, and then review and update them, as needed, at least once every five years | <b>3C2.</b> The board meets a minimum of three times per year and maintains adopted minutes of each meeting  |
| <b>2B1.</b> Incorporate or organize according to the requirements of state law and maintain legal status                                       | <b>3C3.</b> Provide board members with sufficient and timely informational materials prior to each meeting to make informed decisions                            |
| <b>2B2.</b> Operate in accordance with established bylaws  | <b>4A1.</b> Adopt a written conflict of interest policy that addresses, for all insiders, how conflicts are identified and avoided or managed                    |
| <b>2C1(b).</b> Do not knowingly engage in prohibited activities, such as private inurement or impermissible private benefit                    | <b>4A2.</b> Document the disclosure and management of actual and potential conflicts   |
| <b>3A3.</b> The board hires, oversees and evaluates, at least annually, the performance of any executive director (or chief staff person)      | <b>9G1.</b> Adopt a written records policy that governs how and when organization and transaction records are created, collected, retained, stored and destroyed |
| <b>3B1.</b> Have a board of sufficient size, skills, backgrounds and experience to conduct its work effectively                                |  |
| <b>3B3.</b> Have a board development process that includes procedures for recruiting and training board members                                |  |

## Requirements

### I. Organizational Documents <sup>2B1, 2B2</sup>

1. Land trust **is in good standing**
  - ~~1. In existence for at least two years~~
  - ~~2. In good standing~~
- ~~3.2.~~ Bylaws include significant operational provisions.

### II. Board Structure and Operations <sup>2B2, 3A3, 3B1, 3B3, (also 3A2 in Finance)</sup>

1. Board recruitment procedures exist.
2. New board members trained.
3. Board of sufficient size, skills, backgrounds and experience to conduct its work effectively.
4. Land trust generally operates in accordance with its bylaws.
5. Board provides sufficient oversight over operations.
6. If your land trust has staff, board sufficiently oversees and evaluates performance of the chief staff person.

### III. Board Meetings <sup>3C2, 3C3</sup>

1. **Board meets at least three times per year.**
2. **Board members provided with sufficient informational materials several days before each meeting to make informed decisions.**
3. Board meeting minutes sufficiently document board discussion and action.
4. Board adopts its meeting minutes.

### IV. Strategic Goals <sup>1B2</sup>

1. **Strategic goals (or plan) established by board.**
2. Strategic goals (or plan) reviewed by board within past five years.

### V. Conflicts of Interest and Other Policies <sup>2C1(b), 4A1, 4A2, 9G1</sup>

1. **Records policy covers organization, transaction and stewardship records?**  
(?Related records are also addressed in "Transactions: Recordkeeping" and "Stewardship: Conservation Easement Stewardship Records.")
2. **Conflict of interest policy:**
  - a. **Applies to all insiders?**  
(?Board members; staff (if any); substantial contributors; parties related to board members, staff and substantial contributors; those who have ability to influence the decisions of the land trust; those with access to information not available to the general public.)
  - b. **Addresses how conflicts are identified and avoided or managed**
3. Meeting minutes or other records document conflicted party absent for the vote.
4. **Transactions with insiders appropriately managed so they do not result in private inurement.**

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# Finance

## Learn more about this group

### Indicator Elements - Compiled Guidance for Finance Indicator Elements

- |  |  |
|--|--|
| <b>2C1(a).</b> File a complete and accurate annual information return (Form 990 or equivalent) with the Internal Revenue Service   | <b>6A4.</b> Build and maintain sufficient operating reserves to sustain operations   |
| <b>3A2.</b> The board provides oversight of the land trust's finances and operations by: (a) Reviewing and approving an annual budget, (b) Working to ensure that sufficient financial resources are available, (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 externally prepared financial audit, review or compilation | <b>6A5.</b> 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 easements; (a) If funds are insufficient, adopt a plan to secure these funds and a policy committing the funds to this purpose |
| <b>5B2.</b> Provide timely written acknowledgment of all gifts, including land and conservation easements, in keeping with IRS charitable contribution substantiation requirements   | <b>6C1.</b> 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  |
| <b>5B3.</b> Maintain financial and other systems to document and comply with any donor restrictions on gifts   | <b>6D1.</b> 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  |
| <b>6A2.</b> Develop and implement a strategy to address any deficit-spending trends  | <b>6E2.</b> 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  |
| <b>6A3.</b> Assess the nature and variability of revenue and seek to diversify funding sources   |  |

### Requirements

#### I. Financial Records and Financial Health <sup>2C1(a), 3A2(b), 6A2, 6A3, 6A4, 6C1</sup>

- Annual audited, reviewed or compiled financial statements, obtained at the following level based on total annual support and revenue<sup>?</sup>, include footnotes and disclosures and show ~~unrestricted, board-designated and restricted net assets~~ net assets without donor restrictions, with board-designation and with donor restrictions.**

(<sup>?</sup>Excludes value of donated properties/easements but includes moneys from grants, from special fundraising, and for the purchase of land and easements.)

- >\$750,000: Audit by independent CPA
- ~~—\$100,250~~,000 - \$750,000: Review by independent CPA
- <~~—\$100,250~~,000: Compilation by CPA; if not using a CPA, the compilation must be prepared by an independent qualified accountant Threshold applies to fiscal years ending 12/31/2020 and beyond; for earlier fiscal years, review expected when support and revenue exceeded \$100,000

~~2.—Audit does not have “Going Concern” statement.~~

~~3.—Appropriate action taken to address any recommendations for significant changes to financial procedures listed in the management letter or correspondence that accompanied the most recent audit, review or compilation.~~

~~4.2.~~ **Form 990 substantially complete and accurate.** (Such as financial statements generally reconcile with audit, review or compilation; fundraising, management and general and program service expenses segregated; insider transactions and/or family or business relationships between board members appropriately reported; relevant schedules completed.)

~~5.3.~~ **Public support test met**, unless a quasi-governmental entity.

~~6.4.~~ **Operating surplus<sup>2</sup> exists at the end of last fiscal year, unless statement from board officer sufficiently explains reason for deficit.**

(~~Unrestricted net assets~~ Net assets without donor restrictions, excluding land, property and equipment, show an increase at end of fiscal year.)

~~7.5.~~ **Substantial spending deficits not a trend.**

~~8.6.~~ A concentrated or sole source of funding not overly relied on.

~~9.7.~~ **Operating reserves (net assets without donor restrictions)<sup>2</sup> at the end of last fiscal year sufficiently cover three months of operating expenses, unless there is a specific board evaluation of operating reserve needs and a feasible plan to address the needs.**

(~~Unrestricted net assets at end of fiscal year; Exclude~~ ing land, property, and equipment, and any net assets board-designated for stewardship and defense but including any restricted net assets with donor restrictions or board-designated funds specified for an operations operating reserve.)

~~10.8.~~ Debt or lease payment obligations generally can be met.

## II. Board Oversight <sup>3A2</sup>

1. Board approves annual budget.

2. Board reviews annual audit, review or compilation.

3. Board reviews periodic financial reports periodically through the year that include the following:

a. ~~Unrestricted, board-designated and restricted net assets~~ Net assets without donor restriction, with board-designation, and with donor restriction

b. Actual year-to-date unrestricted and restricted revenue and expenses for the reporting period as compared to budget with a level of detail about revenue with restrictions appropriate to the scale of the land trust’s financial activity

4. Board works to ensure sufficient financial resources are available.

## III. Gift Acknowledgement and Donor Restrictions <sup>5B2, 5B3</sup>

1. **Gift acknowledgement letter for any gift<sup>7</sup> greater than \$250 provided contemporaneous to the gift.**  
(<sup>7</sup>Cash, land or conservation easements, even if donor indicates deduction may not be taken.)
2. **Gift acknowledgement letters include the following:**
  - a. **Detailed gift description of the gift**
  - b. **Statement that no goods or services were provided and/or a good faith estimate of the value of any goods and services provided**
3. **Donor-restricted moneys are appropriately classified, tracked, and used; financial records show the following:**
  - a. ~~Business process system exists for determining restrictions on gifts/grants and for tracking receipt, use and acknowledgement of restricted gifts/grants.~~
    - a. **Gifts/grants solicited using the term "endowment" or solicited for other specific purposes are donor restricted in accordance with the solicitation donor/grantor materials.**
    - a-b. **The receipt and use of funds in accordance with donor/grantor restrictions**
5. ~~Donor-restricted moneys are appropriately tracked and used.~~

#### IV. Internal Controls <sup>6D1</sup>

1. ~~Internal control questions and supporting documentation complete.~~ Starting in 2019
2. ~~Internal control certification complete.~~ Starting in 2019
3. ~~1. Written internal controls and accounting procedures address risk of misuse, loss, or misstatement of funds.~~
4. ~~2. Action taken to address significant internal control concerns. Appropriate action taken to address any significant internal control issues and/or recommendations for significant changes to financial procedures listed in the management letter or correspondence that accompanied the most recent audit, review or compilation.~~

#### V. Stewardship and Defense Funding <sup>6A5</sup>

1. **Has at least \$3,500 per conservation easement in board-designated or restricted stewardship funding.** If a first-time applicant does not have the full amount, a feasible plan with specific funding targets and timelines exists so that the land trust will have the full amount before its first renewal.
2. **Has sufficient financial resources to cover conservation property stewardship.**
3. **Has amount specified by the Legal Defense Reserves Calculator in board-designated or restricted defense funding<sup>7</sup>.** If an applicant does not have the full amount, it has at least half of the required funds, and a feasible plan with specific funding targets and timelines exists so that the land trust will have the full amount before its next renewal.  
(<sup>7</sup>Stewardship and defense moneys can be co-mingled, but the total required is the sum of the stewardship and defense amounts.)

#### VI. Insurance <sup>6E2</sup>

1. **Board or delegated entity evaluates<sup>2</sup> insurance needs at least every five years to determine risk exposure and needs for at least the following:** Starting Started in 2019



- a. Directors and officers liability insurance
- b. Property insurance
- c. Insurance required by law (Such as workers' compensation insurance.)

(?Example evaluation documentation includes board or committee meeting minutes, analysis of insurance needs by delegated staff member, recommendations from insurance provider given to the board, report presented to the board or delegated committee)

2. **General liability insurance policy exists.**
3. General liability insurance covers significant risks.

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# Transactions

## [Learn more about this group](#)

### Indicator Elements - [Compiled Guidance for Transactions Indicator Elements](#)

*For all conservation land or conservation easement transactions:*

- 1A3.** Do not knowingly participate in transactions that are potentially fraudulent or abusive
- 3D1.** The board reviews and approves every land and conservation easement transaction; (a) However, the board may delegate decision-making authority on transactions if: (i) It establishes written policies or has bylaws provisions that define the limits to the authority given to the delegated entity and (ii) The delegated entity provides timely notification in writing to the full board of any completed transactions
- 8B2.** Develop and apply written project-selection criteria that are consistent with the land trust's conservation priorities
- 8C1.** Visually inspect properties before buying or accepting donations of conservation land or conservation easements 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
- 9F1.** Prior to closing and preferably early in the process, have a title company or attorney investigate title for each property or conservation easement the land trust intends to acquire
- 9F1(a).** Update the title at or just prior to closing
- 9F2.** Evaluate the title exceptions and document how the land trust addressed mortgages, liens, severed mineral rights and other encumbrances prior to closing
- 9F3.** Promptly record land and conservation easement transaction documents at the appropriate records office
- 9G2.** Keep originals of all documents essential to the defense of each real property transaction in a secure manner and protected from damage or loss
- 9G3.** Create and keep copies of these documents in a manner such that both originals and copies are not destroyed in a single calamity
- 9H1.** When buying land, conservation easements or other real property interests, obtain an independent appraisal by a qualified appraiser in advance of closing to support the purchase price; (a) However, a letter of opinion 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 market value
- 9H2.** In limited circumstances where acquiring land, conservation easements or other real property interests above the appraised value is warranted, contemporaneously document: (a) The justification for the purchase price, (b) That there is no private inurement or impermissible private benefit

*In addition, if a tax-deductible transaction:*

- 9E2.** Review, on the land trust's own behalf, each potentially tax-deductible conservation easement for consistency with the Treasury Department regulations (U.S.C. §1.170A-14), especially the conservation purposes test of IRC §170(h)
- 10A1.** Inform potential land or conservation easement donors who may claim a federal or state income tax deduction (or state tax credit), in writing and early in project discussions, that: (a) The project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and any other federal or state requirements, (b) The donor is responsible for any determination of the value of the donation, (c) The Treasury Department regulations require the donor to obtain a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000, (d) Prior to making the decision to sign the IRS Form 8283, the land trust will request a copy of the completed appraisal, (e) The land trust is not providing individualized legal or tax advice
- 10B2.** Sign the Form 8283 only if the information in Section B, Part I, "Information on Donated Property," is complete and is an accurate representation of the gift; (a) Refuse to

sign the Form 8283 if the land trust believes no gift has been made or the property has not been accurately described

- 10C2.** Evaluate the Form 8283 and any appraisal to determine whether the land trust has substantial concerns about the appraised value or the appraisal
- 10C3.** 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, (d) Or refusing to sign the Form 8283
- 10C4.** When engaging in transactions with pass-through entities of unrelated parties, particularly those offered or assembled by a third party or described as a syndication by the IRS: (a) Require a copy of the appraisal prior to closing, (b) Decline to participate in the transaction if the appraisal indicates an increase in value of more than 2.5 times the basis in the property within 36 months of the pass-through entity's acquisition of the property, the value of the donation is \$1 million or greater and the terms of the transaction do not satisfy the Land Trust Alliance Tax Shelter Advisory

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*In addition, if a conservation easement:*

- 9D2.** If a conservation easement contains restrictions or permitted rights that are specific to certain zones or areas within the property, include the locations of these areas in the easement document so that they can be identified in the field
- 9E1.** For every conservation easement, (a) Individually tailor it to the specific property, (b) Identify the conservation values being protected, (c) Allow only uses and permitted rights that are not

inconsistent 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 enforce, (e) Include all necessary and appropriate provisions to ensure it is legally enforceable

- 11B1.** For each conservation easement, have a baseline documentation report, with written descriptions, maps and photographs, that documents: (a) The

- |   |   |
|---|---|
| <p>conservation values protected by the easement, (b) The relevant conditions of the property as necessary to monitor and enforce the easement</p> <p><b>11B2.</b> Prepare the report prior to closing and have it signed by the landowner and land trust at or prior to closing; (a) In the event that seasonal conditions prevent the</p> | <p>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 [that for donations and bargain sales meets Treasury Regulations §1.170A-14(g)(5)(i)] at closing</p> |
|---|---|

## Requirements

### I. Project Due Diligence <sup>8B2, 8C1, 9F1, 9F1(a), 9F2, 9F3, 9H1, 9H2</sup>

1. **Project-selection criteria exist.**
2. Approved projects generally consistent with project-selection criteria.
3. **Visual inspection to document the property's conservation values completed before closing.** <sup>Starting Started in 2019</sup>
4. **Title investigation by title company or attorney identifies ownership and encumbrances<sup>2</sup> for each project.**  
(?Includes mortgages, severed mineral rights, severed water rights, tax liens or judgments, easements, use agreements, covenants or other restrictions. If mineral rights are excluded from the title investigation, then a risk analysis of the potentially severed mineral rights.)
5. Title investigation updated by title company or attorney **generally** within 30 days **of before** closing.
6. **Encumbrances or severed mineral rights shown<sup>2</sup> in the title investigation appropriately addressed so they will not result in extinguishment of the conservation easement or significantly undermine the conservation values.**  
(?Example documentation includes: ~~Such as a~~ mortgage subordination recorded before or contemporaneous to the conservation easement; mortgage discharge before closing; mineral remoteness report; water rights due diligence report; memo to file with analysis of how substantial access easements or rights-of-way could impact project.)
7. **Independent appraisal<sup>2</sup> by qualified appraiser obtained prior to closing for each purchase or bargain-sale purchase.** If the property has a very low economic value, a full appraisal is not feasible before a public auction, or the amount paid is significantly below market value, a letter of opinion from a qualified real estate professional can be obtained instead of an independent appraisal.  
(?The following are *not* independent appraisals: landowner's appraisal [unless the land trust is listed as an intended user]; appraisal for an adjacent property; tax assessment; summary of comparable sales by individuals other than qualified appraisers.)
8. If purchased above appraised value, documentation appropriately justifies the purchase price and confirms there was no private inurement or impermissible private benefit.

### II. Project Review and Approval <sup>3D1, (also 3C3 in Governance)</sup>

1. **Board or delegated entity reviews each project.**
2. **Board or delegated entity receives sufficient materials describing the project **several days** in advance of the decision-making meeting.** (Such as project location, project size,

analysis of how the project meets the project-selection criteria, number/type of reserved rights retained.)

3. **Board or delegated entity approves each project before closing.**
4. If project significantly changes after approval, then notice of change provided to board or delegated entity before closing. (Such as significant changes in size, restrictions, number/type of reserved rights.)
5. **If decision-making authority delegated, delegation policy or bylaws provisions define limits given to delegated entity.** (Such as requiring full board approval if a conflicted party is involved, requiring committee review before a final decision is made.)
6. If decision-making authority delegated, timely notification of completed transactions provided to the board.

### **III. Conservation Easement and Fee Title Deeds** <sup>9D2, 9E1, 9E2, 9F3</sup>

1. **Conservation easements are perpetual and include the following:**
  - a. Name of grantor and grantee
  - b. Legal description
  - c. Identification of protected conservation values
  - d. Locations of specific zones or areas, if restrictions or permitted rights are specific to such areas (Such as building envelopes, building exclusion zones)
  - e. Control over future exercise of significant reserved-permitted rights, including designation of when grantee review or approval is required and how review or approval is obtained
  - f. Right of entry that does not unduly limit access to monitor
  - g. Right to enforce and to take immediate action
  - h. Extinguishment and proceeds provisions
  - i. Baseline documentation report reference
2. **Tax-deductible conservation easements also include the following consistent with the Treasury Department Regulations and Tax Court decisions:**
  - a. Identification of conservation purposes
  - b. Prohibition on surface mining
  - c. Limitation on assignment
  - d. Approval provisions that do not allow lack of grantee's response to grantor's request to be automatic approval of the activity Starting in 2022
  - e. Extinguishment provisions that require:
    - i. Grantee be entitled to at least the proportionate value<sup>?</sup> of the conservation easement at the time of the gift  
(<sup>?</sup>Must not subtract a) the value of permitted improvements since the time of the gift or b) the satisfaction of any and all prior claims) Starting in 2022
    - ii. Grantee to use proceeds in a manner consistent with the conservation purposes
    - iii. Extinguishment can only occur for unexpected changes that make continued use of the property impossible or impractical for conservation purposes
    - iv. Extinguishment can only be accomplished by judicial proceedings
3. Permitted rights in conservation easements:

- a. Are generally consistent with conservation purposes
- b. Do not significantly impair protected conservation values
- c. Are not so broad that they negate other conservation easement provisions
- 4. Restrictions and permitted rights generally can be monitored or enforced.
- 5. Conservation easements and fee title deeds submitted for recording generally within a week after the final signature(s). ~~Starting~~ Started in 2019

#### IV. Baseline Documentation Reports <sup>11B1, 11B2</sup>

1. **Every conservation easement has a baseline documentation report (or current conditions report) that includes the following:**
  - a. **Date of completion**
  - b. **Written descriptions, maps and photographs that document the following:**
    - i. **Protected conservation values**
    - ii. **Relevant conditions of the property as necessary to monitor and enforce the conservation easement**
  - c. **Acknowledgement attesting to the accuracy of the report signed by the following:**
    - i. **Land trust**
    - ii. **Landowner**, for all easements completed in 2004 or later (or documented attempt to obtain signature)

If a first-time applicant has a baseline documentation report (or current conditions report) for each conservation easement but one or more are missing some of the required content above, a feasible plan with strategies and timelines to upgrade them before its first renewal exists.

2. **Baseline documentation reports are complete and signed by the land trust and landowner at or before closing.** If seasonal conditions prevent this, interim data and a schedule for finalizing the full report are signed by the land trust and landowner at or before closing.
3. Baseline documentation reports are distinct documents that represent the property's condition at a point in time.

#### V. Tax Deduction <sup>1A3, 9E2, 10A1, 10B2, 10C2, 10C3, 10C4</sup>

1. **Written notification to potential land or conservation easement donors includes the following:**
  - a. **The project must meet the requirements of Internal Revenue Code §170 and the accompanying Treasury Department regulations and any other federal or state requirements**
  - b. **The donor is required to obtain a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000**
  - c. **The land trust will request a copy of the completed appraisal**
2. Notification of tax code requirements provided to potential donors before closing.
3. Individualized legal or tax advice not provided.
4. Land trust evaluates each transaction and takes actions to resolve substantial concerns? with the appraisal, appraised value, or other terms of the transaction to ensure the land

trust does not knowingly participate in potentially fraudulent or abusive transactions, the Form 8283 and landowner's appraisal (as detailed below) and documents show the including the following:

~~a. Did not knowingly participate in potentially fraudulent or abusive transactions~~

~~b.a. \_\_\_\_\_ Involving legal counsel as appropriate, especially in potentially fraudulent or abusive transactions~~

~~c.b. \_\_\_\_\_ Took Taking appropriate action to resolve substantial concerns<sup>2</sup> with the appraisal, appraised value or other terms of the transaction including one or more of the following: (Such as documenting concerns were shared with the donor, seeking an independent additional substantiation of value, withdrawing from the transaction prior to closing, asking to see the landowner's appraisal prior to closing, documenting the board's decision to proceed with the transaction and/or with signing the Form 8283, refusing to sign the Form 8283~~

~~c. Signed the Form 8283 only when a gift was received~~

~~(<sup>2</sup>If the title investigation or other documentation shows the property has been held for a short period, the landowner appears to have inflated expectations for the value of the donation, the appraised value does not appear defensible in light of the land trust's knowledge of local land values, the appraisal appears to contain unjustified extraordinary assumptions, the appraised value is significantly in excess of the donor's cost or adjusted basis [if recent].)~~

~~5. Landowner's qualified appraisal includes the following:~~

~~a. Property description for the gift that was donated~~

~~b. Effective date not substantially more than 60 days before the donation~~

~~c. Value for the entire contiguous parcel, if clearly applies~~

~~d. Consideration of enhancement, if clearly applies~~

~~6. Form 8283 includes the following:~~

~~a. Name of landowner(s) that matches landowner(s) in title investigation~~

~~b. Gift description~~

~~c. Appraised Fair market value of donation that matches value in appraisal appraised value~~

~~d. Amount received in a bargain sale, if any~~

~~e. Donor's cost or adjusted basis <sup>Starting in 2019</sup>~~

~~f. Date of gift<sup>2</sup>~~

~~(<sup>2</sup>For conservation easements, year of gift needs to match year conservation easement recorded.)~~

~~6. Land trust evaluates the Form 8283 and any landowner's appraisal and addresses concerns before signing the Form 8283 for the following:~~

~~a. Landowner's appraisal is qualified<sup>2</sup> and includes the following:~~

~~i. Property description for the gift that was donated<sup>2</sup>~~

~~ii. Effective date not more than 60 days before the donation~~

~~iii. Statement the appraisal was prepared for income tax purposes~~

~~iv. Value for the entire contiguous parcel, if clearly applies~~

~~v. Consideration of enhancement, if clearly applies~~

~~(<sup>2</sup>A "qualified appraisal" is defined by Treasury Department Regulations and contains specific items, such as the qualifications of the appraiser, the method of valuation used to determine fair market value [such as the comparable sales approach or income approach], and the specific basis for the valuation [such as inclusion of comparable sales transactions])~~

(<sup>?</sup>The property description should reflect the terms of any agreement or understanding entered into (or expected to be entered into) that relates to the use, sale or other disposition of the donated property)

b. Form 8283 includes the following:

- i. Name of landowner(s) that matches landowner(s) in title investigation
- ii. Detailed gift description (or supplemental statement)
- iii. Appraised fair market value that matches value(s) in appraisal
- iv. Amount received in a bargain sale, if any
- v. Donor's cost or adjusted basis Started in 2019
- vi. Date of gift<sup>?</sup>

(<sup>?</sup>For conservation easements, year of gift needs to match year conservation easement recorded.)

6. If the land trust pays for the landowner's appraisal, payment to landowner appropriately acknowledged. (Such as on the Form 8283, gift acknowledgement letter, other tax forms.)
7. **The land trust follows the then current [Land Trust Alliance Tax Shelter Advisory](#), including the following:**
  - a. Comprehensive due diligence and analysis of transactions with pass-through entities of unrelated parties (particularly those offered or assembled by a third-party) conducted before closing to determine if a transaction meets the terms of the Advisory or is otherwise potentially fraudulent or abusive
  - b. Does not participate in a transaction with a pass-through entity of unrelated parties when a) the appraisal indicates an increase in value of more than 2.5 times the basis in the property within 36 months of the pass-through entity's acquisition of the property and b) the value of the donation is \$1 million or greater

**VI. Recordkeeping** 9G2, 9G3, (also 11F3 in Stewardship)

1. **Originals<sup>2</sup> of the following records are retained, kept generally secure and protected from damage or loss:**
  - a. Legal agreements, deeds, conservation easements, amendments
  - b. Critical correspondence, including those related to project goals, tax and legal matters, enforcement, other matters essential to the project
  - c. Baseline documentation reports
  - d. Title insurance policies or evidence of title investigation
  - e. Surveys, if any
  - f. Appraisals used to substantiate the purchase price or used by the landowner to substantiate the value on the Form 8283
  - g. Forms 8283
  - h. Conservation easement monitoring reports
  - i. Fee property inspection reports
  - j. Contracts and leases in effect for long-term land management activities
  - k. Conservation easement stewardship records, including substantive notices, approvals, denials, interpretations, exercise of significant permitted rights Starting

Started in 2019

(<sup>?</sup>Originals can be electronic or paper)

2. **Copies retained of the following records:**



- a. **Critical correspondence** (see above)
  - b. **Baseline documentation reports**
  - c. **Title insurance policies**, if any
  - d. **Unrecorded surveys**, if any
3. **Originals and copies are stored in locations that could not be destroyed in a single calamity.**
  4. Copies are replicas of signed originals.

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# Stewardship

[Learn more about this group](#)

## Indicator Elements - [Compiled Guidance for Stewardship Indicator Elements](#)

- 11B3.** When there are significant changes to the land or the conservation easement (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
- 11C2.** Monitor each conservation easement 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 annual monitoring activities for each conservation easement
- 11E1.** Adopt a written policy and develop written procedures for documenting and responding to potential conservation easement violations
- 11E2.** Investigate potential violations in a timely manner and promptly document all actions taken
- 11F3.** Maintain a permanent record of all notices, approvals, denials, interpretations, and the exercise of any significant permitted rights
- 11H1.** Adopt and follow a written policy or procedure addressing conservation easement amendments that is consistent with the Land Trust Alliance Amendment Principles
- 11J1.** In the rare case that it is necessary to extinguish a conservation easement, in whole or in part, (a) Follow the terms of the conservation easement with respect to taking appropriate action and obtain judicial or regulatory review when required by law or specified in the easement deed, (b) Ensure there is no private inurement or impermissible private benefit, (c) Take steps to avoid or mitigate harm to conservation values and/or use any proceeds in a manner consistent with the conservation easement deed, (d) Consider the land trust's actions in the context of its reputation and the impact on the land conservation community at large
- 12B1.** 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 and natural features or those that have significant community value, (b) Identify the overall management goals for the property, (c) Identify activities 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
- 12C2.** Inspect properties at least once per calendar year for potential management problems and promptly document the inspection
- 12C3.** Address management problems, including encroachments, trespass and other ownership challenges, in an appropriate and timely manner and document the actions taken

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## Requirements

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### I. Conservation Easement Monitoring and Conservation Property Inspections <sup>11C2, 12C2</sup>

1. Each conservation easement monitored once per calendar year. (Monitoring shown over accredited term at renewal; shown over last three years at first-time.)
2. Each conservation property inspected once per calendar year. (Inspections shown over accredited term at renewal; shown over last three years at first-time. <sup>Starting in 2021 for first-time</sup>)
3. Monitoring or inspection reports include the following: <sup>Starting Started in 2020 for fee inspection reports</sup>
  - a. Inspection date
  - b. Property inspected
  - c. Name of inspector
  - d. Observations related to property's condition and conservation values
  - e. Observations related to any potential conservation easement violations or conservation property ownership challenges
  - f. **Date report completed** <sup>Starting in 2022</sup>
4. Monitoring or inspection reports completed generally within three months of the monitoring or inspection date/event.
5. Monitoring or inspection methodology sufficient to identify conservation easement violations or conservation property ownership challenges.
6. If aerially monitoring conservation easements, on-the-ground monitoring occurs at least once every five years.

### II. Conservation Property Management Plans <sup>12B1</sup>

1. Every conservation property has a management plan that includes the following:
  - a. **Date plan completed or updated** <sup>Starting with plans created or updated in 2022 and beyond</sup>
  - a.b. Identification of conservation values (such as cultural, natural, or community values)
  - b.c. Management goals
  - d. **Activities to achieve management goals**  
If a first-time applicant has a management plan for each conservation property but one or more are missing some of the required content above, a feasible plan with strategies and timelines to upgrade the plans before its first renewal exists.
2. Management plan has sufficient detail to effectively protect and manage the property. (Such as maps with location of key property features or specific activities, summaries of restrictions or donor/funder requirements that inform uses, maps that show property location and boundaries.)
- ~~2~~3. Management plan does not allow uses that adversely impact the conservation values and/or violate restrictions on the property.
- ~~3~~4. Management plans generally completed within 12 months of acquisition.
- ~~4~~5. Management plans generally updated within 12 months of new parcels being added to the property. (Such as with updated maps, new property information.)

6. Relevant sections<sup>2</sup> of mManagement plans generally updated<sup>2</sup> after significant changes to the conservation values or natural features. (Such as after wildfires, hurricanes.)  
(Depending on nature of change, updates to sections on conservation values, management goals, activities to achieve goals, or maps)

### III. Conservation Easement Enforcement and Amendment Policies <sup>11E1, 11H1</sup>

1. Violation policy and/or procedures exist.
2. Amendment policy and/or procedures:
  - a. Require amendments to have a net beneficial or neutral effect on the protected conservation values
  - b. Prohibit impermissible private benefit and private inurement

### IV. Conservation Easement Amendments and Extinguishments <sup>11H1, 11J1</sup>

1. Amendments generally consistent with the Land Trust Alliance Amendment Principles, including having documented the following:
  - a. Having a net beneficial or neutral effect on the protected conservation values
  - b. Not resulting in private inurement or impermissible private benefit
2. Extinguishment actions are documented to show:
  - a. Followed conservation easement terms with respect to obtaining judicial or regulatory review (or obtained written legal counsel determination why judicial or regulatory review not needed)
  - b. Did not result in private inurement or impermissible private benefit
  - c. Took steps to avoid or mitigate harm to conservation values
  - d. Used any proceeds appropriately
  - e. Did not put land trust's or land trust community's reputation in jeopardy
3. Board informed or involved as appropriate to scale of amendment or extinguishment.
4. If co-held, co-holder involved in amendment or extinguishment according to terms of conservation easement or other agreement.

### V. Conservation Easement Enforcement and Conservation Property Ownership Challenges <sup>11E2, 12C3</sup>

1. Enforcement action or actions taken to address ownership challenges are documented to show:
  - a. Were timely
  - b. Were consistent with conservation values and/or restrictions
  - c. Did not result in private inurement or impermissible private benefit
2. Board informed or involved in resolution as appropriate to scale of violation or ownership challenge.
3. If co-held, co-holder involved in enforcement, ownership challenge, or resolution according to terms of conservation easement, deed, or other agreement.

### VI. Conservation Easement Stewardship Records <sup>11B3, 11F3</sup>

1. **Significant changes to the land** (such as resulting from natural disaster or exercise of a permitted right) or **changes to the conservation easement** (such as resulting from an

amendment) **sufficiently documented**. (Such as with documentation that includes the date, written descriptions and photographs and/or maps.) ~~Starting~~ Started in 2019

2. Substantive notices, approvals, denials, interpretations and the exercise of significant permitted rights sufficiently documented. ~~Starting~~ Started in 2019
3. **Approved activities consistent with conservation easement purposes and terms.**
4. **Approved activities do not result in private inurement or impermissible private benefit.**

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