

Land Trust Accreditation Commission Requests Public Comment on Colorado Open Lands' Application

Colorado Open Lands is requesting comments to complete their accreditation process with the Land Trust Accreditation Commission, an independent program of the national organization, Land Trust Alliance.

Colorado Open Lands recently applied for accreditation with the Land Trust Accreditation Commission. This new program provides the assurance of quality and permanence of land conservation the public is looking for and publicly recognizes a land trust's ability to protect important natural places and working lands forever. Colorado Open Lands is proud to be a participant in the pilot year of this new program!

Colorado Open Lands' application for accreditation has been received by the Land Trust Accreditation Commission. As part of the application process, the Commission accepts signed, written comments from the public on pending applications.

Comments must relate to Colorado Open Lands' compliance with the national quality standards, known as Standards & Practices. These standards address the ethical and technical operations of a land trust. Below, you will find the Standards & Practices as they apply to our application.

To learn more about the accreditation program and to **submit a comment online**, visit www.landtrustaccreditation.org, click on current applicants, and then click on [comments](#).

Comments may also be faxed or mailed to:

Land Trust Accreditation Commission
Attn: Public Comments
112 Spring Street, Suite 204
Saratoga Springs, NY 12866
(Or fax it to) 518-587-3183



Comments on Colorado Open Lands' application will be most useful if received by **December 12, 2007**. We appreciate your comments to our application as they will help us to build a better and stronger organization.

We invite public comment on the following practices:

Standard 1: Mission

The land trust has a clear mission that serves a public interest, and all programs support that mission.

Practices

- A. Mission. The board adopts, and periodically reviews, a mission statement that specifies the public interest(s) served by the organization.
- B. Planning and Evaluation. The land trust regularly establishes strategic goals for implementing its mission and routinely evaluates programs, goals and activities to be sure they are consistent with the mission.

- D. Ethics. The land trust upholds high standards of ethics in implementing its mission and in its governance and operations.



Standard 2: Compliance with Laws

The land trust fulfills its legal requirements as a nonprofit tax-exempt organization and complies with all laws.

Practices

- A. Compliance with Laws. The land trust complies with all applicable federal, state and local laws.
- B. Nonprofit Incorporation and Bylaws. The land trust has incorporated according to the requirements of state law and maintains its corporate status. It operates under bylaws based on its corporate charter or articles of incorporation. The board periodically reviews the bylaws.
- C. Tax Exemption. The land trust has qualified for federal tax-exempt status and complies with requirements for retaining this status, including prohibitions on private inurement and political campaign activity, and limitations and reporting on lobbying and unrelated business income. If the land trust holds, or intends to hold, conservation easements, it also meets the Internal Revenue Code's (IRC) public support test for public charities. Where applicable, state tax-exemption requirements are met.
- D. Records Policy. The land trust has adopted a written records policy that governs how organization and transaction records are created, collected, retained, stored and disposed. (See 9G.)

Standard 3: Board Accountability

The land trust board acts ethically in conducting the affairs of the organization and carries out the board's legal and financial responsibilities as required by law.

Practices

- B. Board Composition. The board is of sufficient size to conduct its work effectively. The board is composed of members with diverse skills, backgrounds and experiences who are committed to board service. There is a systematic process for recruiting, training and evaluating board members.
- C. Board Governance. The land trust provides board members with clear expectations for their service and informs them about the board's legal and fiduciary responsibilities. The board meets regularly enough to conduct its business and fulfill its duties, with a

minimum of three meetings per year. Board members are provided with adequate information to make good decisions. Board members attend a majority of meetings and stay informed about the land trust's mission, goals, programs and achievements.

- F. Board Approval of Land Transactions. The board reviews and approves every land and easement transaction, and the land trust provides the board with timely and adequate information prior to final approval. However, the board may delegate decision-making authority on transactions if it establishes policies defining the limits to that authority, the criteria for transactions, the procedures for managing conflicts of interest, and the timely notification of the full board of any completed transactions, and if the board periodically evaluates the effectiveness of these policies.

Standard 4: Conflicts of Interest

The land trust has policies and procedures to avoid or manage real or perceived conflicts of interest.

Practices

- A. Dealing with Conflicts of Interest. The land trust has a written conflict of interest policy to ensure that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal or other means. The conflict of interest policy applies to insiders (see definitions), including board and staff members, substantial contributors, parties related to the above, those who have an ability to influence decisions of the organization and those with access to information not available to the general public. Federal and state conflict disclosure laws are followed.
- C. Transactions with Insiders. When engaging in land and easement transactions with insiders (see definitions), the land trust: follows its conflict of interest policy; documents that the project meets the land trust's mission; follows all transaction policies and procedures; and ensures that there is no private inurement or impermissible private benefit. For purchases and sales of property to insiders, the land trust obtains a qualified independent appraisal prepared in compliance with the Uniform Standards of Professional Appraisal Practice by a state-licensed or state-certified appraiser who has verifiable conservation easement or conservation real estate experience. When selling property to insiders, the land trust widely markets the property in a manner sufficient to ensure that the property is sold at or above fair market value and to avoid the reality or perception that the sale inappropriately benefited an insider.



Standard 5: Fundraising

The land trust conducts fundraising activities in an ethical and responsible manner.

Practices

- A. Legal and Ethical Practices. The land trust complies with all charitable solicitation laws, does not engage in commission-based fundraising, and limits fundraising costs to a reasonable percentage of overall expenses.
- B. Accountability to Donors. The land trust is accountable to its donors and provides written acknowledgement of gifts as required by law, ensures that donor funds are used as specified, keeps accurate records, honors donor privacy concerns and advises donors to seek independent legal and financial advice for substantial gifts.

Standard 6: Financial and Asset Management

The land trust manages its finances and assets in a responsible and accountable way.

Practices

- A. Annual Budget. The land trust prepares an annual budget that is reviewed and approved by the board, or is consistent with board policy. The budget is based on programs planned for the year. Annual revenue is greater than or equal to expenses, unless reserves are deliberately drawn upon.
- B. Financial Records. The land trust keeps accurate financial records, in a form appropriate to its scale of operations and in accordance with Generally Accepted Accounting Principles (GAAP) or alternative reporting method acceptable to a qualified financial advisor.
- D. Financial Review or Audit. The land trust has an annual financial review or audit, by a qualified financial advisor, in a manner appropriate for the scale of the organization and consistent with state law.
- F. Investment and Management of Financial Assets and Dedicated Funds. The land trust has a system for the responsible and prudent investment and management of its financial assets, and has established policies on allowable uses of dedicated funds and investment of funds.

Standard 7: Volunteers, Staff and Consultants

The land trust has volunteers, staff and/or consultants with appropriate skills and in sufficient numbers to carry out its programs.

Practices

- A. Capacity. The land trust regularly evaluates its programs, activities and long-term responsibilities and has sufficient volunteers, staff and/or consultants to carry out its work, particularly when managing an active program of easements.



Standard 8: Evaluating and Selecting Conservation Projects

The land trust carefully evaluates and selects its conservation projects.

Practices

- B. Project Selection and Criteria. The land trust has a defined process for selecting land and easement projects, including written selection criteria that are consistent with its mission. For each project, the land trust evaluates its capacity to perform any perpetual stewardship responsibilities.
- D. Public Benefit of Transactions. The land trust evaluates and clearly documents the public benefit of every land and easement transaction and how the benefits are consistent with the mission of the organization. All projects conform to applicable federal and state charitable trust laws. If the transaction involves public purchase or tax incentive programs, the land trust satisfies any federal, state or local requirements for public benefit.
- E. Site Inspection. The land trust inspects properties before buying or accepting donations of land or easements to be sure they meet the organization's criteria, to identify the important conservation values on the property and to reveal any potential threats to those values.
- G. Project Planning. All land and easement projects are individually planned so that the property's important conservation values are identified and protected, the project furthers the land trust's mission and goals, and the project reflects the capacity of the organization to meet future stewardship obligations.



Standard 9: Ensuring Sound Transactions

The land trust works diligently to see that every land and easement transaction is legally, ethically and technically sound.

Practices

- A. Legal Review and Technical Expertise. The land trust obtains a legal review of every land and easement transaction, appropriate to its complexity, by an attorney experienced with real estate law. As dictated by the project, the land trust secures appropriate expertise in financial, real estate, tax, scientific, and land and water management matters.
- E. Easement Drafting. Every easement is tailored for the property according to project planning (see 8G) and: identifies the important conservation values protected and public benefit served; allows only permitted uses and/or reserved rights that will not significantly

impair the important conservation values; contains only restrictions that the land trust is capable of monitoring; and is enforceable.

- **G. Recordkeeping.** Pursuant to its records policy (see 2D), the land trust keeps originals of all irreplaceable documents essential to the defense of each transaction (such as legal agreements, critical correspondence and appraisals) in one location, and copies in a separate location. Original documents are protected from daily use and are secure from fire, floods and other damage.
- **H. Title Investigation and Subordination.** The land trust investigates title to each property for which it intends to acquire title or an easement to be sure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights and/or other encumbrances or matters of record that may affect the transaction. Mortgages, liens and other encumbrances that could result in extinguishment of the easement or significantly undermine the important conservation values on the property are discharged or properly subordinated to the easement.
- **J. Purchasing Land.** If the land trust buys land, easements or other real property, it obtains a qualified independent appraisal to justify the purchase price. However, the land trust may choose to obtain a letter of opinion (see definitions) from a qualified real estate professional in the limited circumstances when a property has a very low economic value or a full appraisal is not feasible before a public auction. In limited circumstances where acquiring above the appraised value is warranted, the land trust documents the justification for the purchase price and that there is no private inurement or impermissible private benefit. If negotiating for a purchase below the appraised value, the land trust ensures that its communications with the landowner are honest and forthright.
- **K. Selling Land or Easements.** If the land trust sells land or easements, it first documents the important conservation values, plans the project according to practice 8G, and drafts protection agreements as appropriate to the property. The land trust obtains a qualified independent appraisal that reflects the plans for the project and protection agreements and justifies the selling price. (The land trust may choose to obtain a letter of opinion from a qualified real estate professional in the limited circumstance when a property has a very low economic value.) The land trust markets the property and selects buyers in a manner that avoids any appearance of impropriety and preserves the public's confidence in the land trust, and in the case of selling to an insider (see definitions) follows practice 4C. (See 6H for sales of other assets.)
- **L. Transfers and Exchanges of Land.** If the land trust transfers or exchanges conservation land or easements, the land trust considers whether the new holder can fulfill the long-

term stewardship and enforcement responsibilities, ensures that the transaction does not result in a net loss of important conservation values and, for donated properties, ensures that the transfer is in keeping with the donor's intent. If transferring to a party other than another nonprofit organization or public agency, the consideration is based on a qualified independent appraisal (or letter of opinion when the property has a very low economic value) in order to prevent private inurement or impermissible private benefit.

Standard 10: Tax Benefits

The land trust works diligently to see that every charitable gift of land or easements meets federal and state tax law requirements.

Practices

- A. Tax Code Requirements. The land trust notifies (preferably in writing) potential land or easement donors who may claim a federal or state income tax deduction, or state tax credit, that the project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and/or any other federal or state requirements. The land trust on its own behalf reviews each transaction for consistency with these requirements.
- B. Appraisals. The land trust informs potential land or easement donors (preferably in writing) of the following: IRC appraisal requirements for a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000, including information on the timing of the appraisal; that the donor is responsible for any determination of the value of the donation; that the donor should use a qualified appraiser who follows Uniform Standards of Professional Appraisal Practice; that the land trust will request a copy of the completed appraisal; and that the land trust will not knowingly participate in projects where it has significant concerns about the tax deduction.

Standard 11: Conservation Easement Stewardship

The land trust has a program of responsible stewardship for its easements.

Practices

- A. Funding Easement Stewardship. The land trust determines the long-term stewardship and enforcement expenses of each easement transaction and secures the dedicated or operating funds to cover current and future expenses. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose. (See 6G.)
- B. Baseline Documentation Report. For every easement, the land trust has a baseline documentation report (that includes a baseline map) prepared prior to closing and signed



by the landowner at closing. The report documents the important conservation values protected by the easement and the relevant conditions of the property as necessary to monitor and enforce the easement. In the event that seasonal conditions prevent the completion of a full baseline documentation report by closing, 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)] are signed by the landowner at closing.

- C. Easement Monitoring. The land trust monitors its easement properties regularly, at least annually, in a manner appropriate to the size and restrictions of each property, and keeps documentation (such as reports, updated photographs and maps) of each monitoring activity.
- D. Landowner Relationships. The land trust maintains regular contact with owners of easement properties. When possible, it provides landowners with information on property management and/or referrals to resource managers. The land trust strives to promptly build a positive working relationship with new owners of easement property and informs them about the easement's existence and restrictions and the land trust's stewardship policies and procedures. The land trust establishes and implements systems to track changes in land ownership.
- E. Enforcement of Easements. The land trust has a written policy and/or procedure detailing how it will respond to a potential violation of an easement, including the role of all parties involved (such as board members, volunteers, staff and partners) in any enforcement action. The land trust takes necessary and consistent steps to see that violations are resolved and has available, or has a strategy to secure, the financial and legal resources for enforcement and defense. (See 6G and 11A.)
- I. Amendments. The land trust recognizes that amendments are not routine, but can serve to strengthen an easement or improve its enforceability. The land trust has a written policy or procedure guiding amendment requests that: includes a prohibition against private inurement and impermissible private benefit; requires compliance with the land trust's conflict of interest policy; requires compliance with any funding requirements; addresses the role of the board; and contains a requirement that all amendments result in either a positive or not less than neutral conservation outcome and are consistent with the organization's mission.

Standard 12: Fee Land Stewardship

The land trust has a program of responsible stewardship for the land it holds in fee for conservation purposes.

Practices

- **A. Funding Land Stewardship.** The land trust determines the immediate and long-term financial and management implications of each land transaction and secures the dedicated and/or operating funds needed to manage the property, including funds for liability insurance, maintenance, improvements, monitoring, enforcement and other costs. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose. (See 6G.)
- **C. Land Management.** The land trust inventories the natural and cultural features of each property prior to developing a management plan that identifies its conservation goals for the property and how it plans to achieve them. Permitted activities are compatible with the conservation goals, stewardship principles and public benefit mission of the organization. Permitted activities occur only when the activity poses no significant threat to the important conservation values, reduces threats or restores ecological processes, and/or advances learning and demonstration opportunities.
- **D. Monitoring Land Trust Properties.** The land trust marks its boundaries and regularly monitors its properties for potential management problems (such as trespass, misuse or overuse, vandalism or safety hazards) and takes action to rectify such problems.
- **E. Land Stewardship Administration.** The land trust performs administrative duties in a timely and responsible manner. This includes establishing policies and procedures, keeping essential records, filing forms, paying insurance, paying any taxes and/or securing appropriate tax exemptions, budgeting, and maintaining files.

