



Land Trust Starter Kit

**A Resource Guide to Assist Those Interested in Starting a Land Trust
in Ontario**

June 2014



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Ontario Land Trust Alliance

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Preface

You are walking down a rugged trail, roots, rocks and soil underfoot, a canopy of mixed green above. The simple presence of patterned rocks, beautiful flowers, colourful birds and wildlife tracks, leave you in wonder of their existence. They are the visible signs of the intricate systems of life that make your view so full and detailed, yet peaceful and easy to enjoy. Its stark contrast to the town or city in which you live or work leaves you joyous and thankful that this wonderful escape from your fast-paced life exists.

Land trusts provide an effective means to protect important land and the intrinsic values it offers for the benefit of the public and future generations. The effort of land trusts is often measured in "bucks and acres" for the numbers of dollars they raise to carry out programs and the number of acres they secure for permanent protection year after year; but they do so much more.

Land trusts truly are community organizations stemming from a need identified by local citizens, then brought to fruition and carried on year after year thanks to the efforts of the community. The work is rewarding and interesting, and the overwhelmingly positive results justify the effort and funds invested by volunteers and donors. The positive impact is hard to measure, but is realized by each person who becomes involved, engaged and informed by the work of a land trust; who experiences a deeper connection with people, places and wildlife; and who experiences the quiet calm of a nature reserve protected forever as described (however inadequately) above.

While the information provided on the pages that follow may seem quite daunting, the end results more than justify the means. And, as a true 'team effort', the very process of setting up and running a land trust can, in and of itself, be very rewarding! Good luck with your endeavour.

Purpose of this Guide

This Land Trust Starter Kit is intended to pull together critical information and resources to provide guidance and support for those considering starting a land trust in Ontario.

The Ontario Land Trust Alliance (OLTA) frequently receives inquiries from individuals and/or community groups concerned about their local environment and interested in exploring the possibility of forming their own land trust. While OLTA can direct them, on an ad hoc basis, to the myriad of resources that exist to provide guidance, we lack one comprehensive package that we can provide to help get them on their way. This Kit is intended to fill that gap.

This Kit is not intended to reiterate detailed information available elsewhere. It instead provides pertinent background information, answers questions, poses more questions, and provides links to key resources and documents. Step-by-step checklists and tables are also included to provide additional guidance. **Finally, although it has undergone review**

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for general completeness and accuracy, it is intended to be used as guide only and not to replace the need for engaging legal counsel and other professionals in your process.

Most of the information contained in this document is specific to Ontario and/or Canada. However, where appropriate, resources from other jurisdictions are also included. The US Land Trust Alliance, in particular, has published numerous fact sheets, guidebooks, and background documents that are very informative for context and principles. Many are referenced here, but caution should be exercised when using these as guidance as operational and legislative facts may not be applicable in Canada.

Organization of this Guide

This Guide is organized into five sections as follows:

[Section 1: Understanding land trusts;](#)

[Section 2: Making the decision to start a land trust;](#)

[Section 3: Creating an effective, charitable corporation;](#)

[Section 4: Running your organization to maintain incorporation and charitable status; and](#)

[Section 5: Ensuring capacity to deliver sound conservation.](#)

Each section will walk you through both the required and recommended steps to accomplishing each individual task.

There are also three appendices containing checklists and additional details/resources:

[Appendix 1: Guide to the Formation of an Effective Land Trust](#)

[Appendix 2: Understanding Governing Legislation and Guiding Resources](#)

[Appendix 3: Guide to the Legal Steps to Forming a Land Trust](#)

The information provided herein is purposely concise; however, for those interested, elaboration on many of the topics can be found in the 'additional resources' provided at the end of the guide.

Acknowledgements

Our sincerest thanks to Stewart Hilts and Ron Reid, along with Ontario Nature (previously Federation of Ontario Naturalists) for publishing *Creative Conservation: A Handbook for Ontario Land Trusts* in 1993 and supporting its use as a guide to help create this Kit.

Special thanks also to Paul Peterson, Ron Reid, Ric Symmes and Kristie Virgoe for sharing personal experiences to help create this Kit. Responses were helpful in framing key concepts and questions to consider.

Finally, creation of this Kit was made possible thanks to the generous financial support of TD Bank Financial Group. OLTA appreciates the investment TD Bank has made in this important work.

Complementary Background Resources

It would be counterproductive to create a step-by-step Land Trust Starter Kit that requires the user to wade through pages of narrative - and that is not our intent here. Instead, the substantive information contained within this Kit lies in the links and resources, with only key points are offered within the text. However, for those desiring additional detail and context, the following resources, while somewhat dated, provide excellent, detailed background information on the conceptual steps to forming a land trust. They are highly recommended complementary resources.

- Hilts, Stewart and Ron Reid. 1993. **Creative Conservation: A Handbook for Ontario Land Trusts.** Federation of Ontario Land Trusts (now Ontario Nature). 171 pp. available through the [Ontario Land Trust Alliance](#); and
- The Land Trust Alliance. 2000. **Starting A Land Trust: A Guide to Forming a Land Conservation Organization.** 219 pp. available through [the Land Trust Alliance](#).
- Pro Bono Net. 2013. **The Charity Start-Up Toolbox.** available through [LawHelpOntario.org](#)

Further, the [Canadian Land Trust Standards and Practices](#) and the associated [Background document](#) offer ethical and technical guidelines to operating a responsible land trust; both should be part of every land trust's library of resources from the very beginning.

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Section 1: Understanding Land Trusts

Land trusts have been operating in various parts of the world for hundreds of years. In Ontario, the first land trust was created in the early 1900s, and what is now known as the 'land trust movement' began in earnest in the 1990s. There are now two umbrella associations loosely modelled after the Land Trust Alliance in the United States available to support the work of Ontario land trusts, the [Ontario Land Trust Alliance](#) and the [Canadian Land Trust Alliance](#).

1.a. What is a Land Trust?

A land trust is a non-profit, non-government, non-advocacy, community-based organization that has as one of its charitable objects¹ the acquisition and management of land for the purpose of conservation. The US [Land Trust Alliance Fact Sheet: What is a Land Trust?](#), and [Ontario Nature's Land Trusts web page](#) offer more details.

1.b. What Does a Land Trust Do?

While the activities in which land trusts are engaged are as varied as the organizations themselves, there are some common elements. A simple description of what a land trust does is offered in the US [Land Trust Alliance Fact Sheet: Basic Facts and Resources for Landowners](#).

The following list provides a summary of the typical activities and programs carried out by local and regional land trusts in Ontario:

- **Land Securement** - Acquire land, or interest in land, for the purpose of preserving its values (e.g., ecological, recreational, agricultural, or other values). Land acquisition is based on mission, goals and objectives, as well as land selection criteria, policies and procedures.
- **Land Stewardship** - Manage land in a way that maintains and/or improves the values it was acquired to protect.
- **Public Outreach and Education** - Inform community members and membership base of programs, purpose and related science and studies.
- **Science** - Conduct studies and landscape assessments of properties, landscapes, landforms and values (e.g., assess the viability of specific bird populations),

¹ The purpose of an organization that has been approved by the Canada Revenue Agency, based on common law, to be charitable. It should be noted that the charitable objects associated with a land trust is not one of CRA's model objects and as such must be approved by CRA as part of the charitable application process.

which are generally conducted to inform land securement and stewardship programs, and are generally coupled with public outreach components.

- **Operate Charitable Organization** - Carry out the daily administrative requirements to maintain incorporation and charitable registration, and to ensure sound management and long term organizational stability. Typical administrative duties include holding regular board meetings, keeping minutes, managing finances, holding annual general meetings, and maintaining membership programs.
- **Raise Funds** - Build and maintain financial stability through private fundraising, submitting grant and funding proposals to government agencies and private foundations, and hosting events.

1.c. Diversity of Land Trusts

While bound together by common objectives, there is tremendous diversity among land trusts working in Ontario and elsewhere. An overview of the variability among land trusts can be found in the US [Land Trust Alliance Fact Sheet: What is a Land Trust?](#) For more specific insights into the breadth and scope of land trusts in Ontario and elsewhere in Canada, it is recommended that readers visit the websites of various land trust organizations - easily accomplished by clicking through via the member directories of the [Ontario Land Trust Alliance](#), [Land Trust Alliance of British Columbia](#) and [Canadian Land Trust Alliance](#) websites, and conduct related online searches. Similar themes arise with varying levels of size, community base and focus of interest.

Section 2: Making the Decision to Start a Land Trust

2.a. Is starting a land trust right for you?

There are a number of factors to consider when deciding whether or not to form a new land trust. To help with this decision, you should complete the following steps:

- Familiarize yourself with land trusts currently operating in Ontario (and possibly in or near your area of interest) by reviewing the [Ontario Land Trust Alliance Members Map](#) and [contact the Ontario Land Trust Alliance](#) to learn more about opportunities and/or advances in your area.
- Assemble a group of individuals who believes in the proposed land trust's cause and mission and are willing to dedicate themselves to its initial undertakings. These founding members will likely form the organization's first board of directors. A board of directors is a legal requirement both for incorporation and charitable registration (Charity Village).

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- Complete the checklist found in [Appendix 1: Guide to the Formation of an Effective Land Trust](#) to initiate discussion and work toward clarifying the issues or needs that your land trust will address. This checklist will help answer the initial question, "Is starting a land trust right for you?" and will point you to next steps to consider.

In order to offer tax benefits to donors of cash and land, land trusts must apply to CRA to become registered charities. To assist you making this decision, you should undertake the following:

- Review information on the Canada Revenue Agency Web site. It offers guidance to [make an informed decision](#) to become a registered charity, outlines [advantages](#) and [obligations](#) of charitable registration and offers [other background information](#).
- Complete CRA's online [decision tree](#), which offers case-specific considerations in answering the question to be, or not to be a charity.

2.b. Other land conservation options/organizations

Establishing a land trust is an involved process and a long-term commitment and may not be the only option in certain situations. There are a number of ways in which a group or individuals can work to protect land without necessarily forming a new land trust. Land conservation can be advanced by becoming involved in Ontario's land use planning process and participating in discussions, public meetings and appeals. If there are just one or two properties to be protected, then you may be better to work with an existing organization to achieve protection. This saves the cost in dollars and volunteer effort needed to set up and operate a new organization. Alternatively, you might want to bring conservation opportunities to the attention of other organizations operating in your area that might have an interest. The following may be helpful to contact:

- Provincial or national Land Trusts (i.e., [Ducks Unlimited Canada](#), [Nature Conservancy of Canada](#), [Ontario Heritage Trust](#), [Ontario Nature](#) or [Ontario Farmland Trust](#));
- [Local Conservation Authority](#);
- Local or regional government land acquisition programs (e.g., the County of Simcoe acquires lands for forest management activities); and/or
- Ontario Ministry of Natural Resources and Forestry.

2.c. Potential for partnerships with existing organizations

When considering developing a new land trust, it is beneficial for the forming group to explore the potential to partner with an existing organization or group instead of creating a new charity. A partnership could mean the expansion of an adjacent land trust's working area, or the expansion of a local conservation group's or charity's mission. Regardless, the partnership could save time, money and effort, and should complement the positive work and strong reputation of the existing group. Complete the following steps to help guide the exploration of such a partnership:

- Become familiar with the focus of other conservation groups and charities working in your area. This may be accomplished by searching the [Canada Revenue Agency's Charity Listing](#), following the links provided in Section [2.b. Other land conservation options/organizations](#), and undertaking other web searches. Local community foundations and other known community groups might also have insights.
- Identify the organization(s) with goals that align closely with protecting the distinctive values of the community.
- Initiate informal conversation with contacts from each organization to gain an understanding of the group dynamics and momentum and ask how land securement and stewardship might complement their work. This will enable you to gauge the potential interest in partnerships.
- Discuss your findings with your land trust's founding members and determine how to move forward with each partnership opportunity.
- Initiate formal discussions with groups focusing on the most likely partnership first.
- Pursue partnerships if both groups realize the potential for benefits.
- If a partnership is formed it should be formalized in a written agreement between the partners.

In pursuing partnership opportunities, be aware of how the current reputation, record of success, momentum, dynamics, operations, volunteers, board and members of a potential partner organization will respond to the introduction of a new group of expertise and a new, potentially time-consuming and resource-intensive, land acquisition program. Will a renewed energy complement the existing purpose or draw from it? Will the partnership create the desired land conservation organization? Will the ultimate result be an effective land trust?

These steps are not overly time consuming nor are they a heavy draw on resources. Even if they do not result in formal partnerships being established, the exercise should help

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foster good working relationships and open the lines of communication with others working in your area. Each experience brings heightened knowledge and understanding, so this may help inform outreach and communications moving forward with the formation of the land trust. A further benefit will be the increased awareness and buy-in from like-minded community members.

What is the most important ingredient in forming a land trust?

People with the belief that a land trust is a vital community need and that it can be successful.

Ron Reid, The Couchiching Conservancy

Assembling the core talent and motivating those interested to action. It means finding someone who can simply call the meeting and make the organizing and follow-up a high priority. Also, getting legal advice to get through the long and arduous charitable application procedure.

Ric Symmes, Huronia Land Conservancy

It is important to do it for the right reasons and not to talk about it too widely - if you advertise then lose momentum, you can lose face in the community.

Create a strong group who understands it will be a long, boring process.

Also, have a road map to take you through the process step-by-step, and a good point person who can go through those steps and communicate progress clearly to the group.

Kristie Virgoe, Muskoka Conservancy

Section 3: Creating an effective, charitable corporation

After working through the analysis presented in [Section 2](#) of this guide, if starting a new land trust is right for you, you are now tasked with setting up an effective, charitable, land conservation corporation. The lengthy legal process involved will require leadership, advisors, time, money and patience. It is beneficial to seek advice from experienced land trust professionals to help guide the process. Feel free to [contact the Ontario Land Trust Alliance](#) which can help connect you with these professionals. Obtaining your own legal counsel is also highly recommended.

3.a. Setting up an effective organization

By the time you have decided to start a new land trust, the steps to setting up an effective organization may have already been set in motion. A group of founding members may have been assembled, and mission, scope and potential barriers may have already been

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identified. If you have not yet done so, work through [Appendix 1: Guide the Formation of an Effective Land Trust](#). Then, complete the following steps:

- Build an understanding of the information outlined in [Appendix 2: Governing Legislation and Guiding Resources](#).
- Agree upon and write a mission statement to describe what your land trust aims to achieve.
- Choose a name for the organization and figure out important logistics, such as where the organization will be housed, how it will be financed, what role each person will play, and what their responsibilities will be.
- Appoint a leader to chair meetings and track tasks.
- Begin to foster community support by approaching and providing information to local government offices, political figures and key community representatives. Sharing too widely in public forums at this point may create the perception that the organization lacks action, a barrier that will be difficult to overcome once the land trust is created and ready for action.
- Raise initial seed funds to carry out legal steps of forming a land trust - approach people who are likely to believe in the mission and local need for a Land Trust. Emphasize the professional organizational structure and likelihood of success. Be clear that the land trust is not officially created yet and that no tax receipt can be issued for this early support.
- Follow the steps laid out in [Appendix 3: Guide to the Legal Steps to Forming a Land Trust](#). Additional information on some key steps and considerations is provided below in Sections [3.b.](#) and [3.c.](#)

sources: Charity Village; Hiltz and Reid, 1993

3.b. Applying for charitable registration

If your organization wants to be able to offer tax benefits to donors of land and cash, it is necessary to become a registered charity with Canada Revenue Agency. For this reason, charitable registration is considered here as an essential step in setting up your land trust.

In order to be registered as a charity, you must draft charitable objects. If the intent is to incorporate the land trust in Ontario, the Office of the Public Guardian and Trustee's (OPGT) provides pre-approved standard objects and provisions (available by viewing Appendix A in this [link](#)) but typically these are not applicable verbatim to a land trust and you will have to modify/write your own. Fortunately, the Canada Revenue Agency (CRA) will accept applications for pre-approval of charitable objects to ensure what you have drafted is acceptable. This preliminary step is highly recommended in order to avoid having to change your letters patent (and pay the associated fee) after the fact should CRA suggest amendments to draft charitable objects (often the case). So, while

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applying for charitable status is often considered a secondary step to incorporation, it is referenced first here in order to flag the pre-approval of your charitable objects by CRA.

It is highly beneficial to gain legal advice to draft charitable objects. CRA describes what constitutes a [charitable object](#) and offers [model objects](#) as examples.

Please see [Appendix 3: Guide to the Legal Steps to Forming a Land Trust](#) for details on applying for pre-approval of charitable objects as well as eventually applying for charitable registration.

3.c. Incorporating your Land Trust

When you incorporate a business, either for-profit or not-for-profit, you create a separate legal entity. This means, among other things, that the business can acquire assets and enter into contracts (Industry Canada) - both key components of a land trust's ability to acquire land. Therefore, incorporation is a necessary step to forming a new land trust.

In Ontario, a not-for-profit organization can be incorporated either under provincial or under federal legislation, and the method chosen will affect the application process. While the federal legislation has been recently updated to become the Canada Not-for-profit Corporations Act the Ontario *Corporations Act* continues to govern the incorporation of provincial not-for-profit and charitable corporations in Ontario. The *Ontario Not-for-Profit Corporations Act* (ONCA) was given royal assent on October 25, 2010 and is meant to replace the current *Ontario Corporations Act* however as of the date of this document, the Ontario government has stated that ONCA is not expected to come into force until some time in 2016 . [Appendix 3: Guide to the Legal Steps to Forming a Land Trust](#) provides more detail on this important step and things to consider. Frequently asked questions about each method of incorporation are answered by [Corporations Canada](#) and the Ontario Office of the Public Guardian and Trustee in the [Not-for-Profit Incorporator's Handbook](#).

As mentioned in the previous section, in Ontario, the Office of the Public Guardian and Trustee (OPGT) has pre-approved standard charitable objects and provisions (available by viewing Appendix A in this [link](#)), but typically these are not used verbatim by land trusts. Therefore, when applying for provincial incorporation, the charitable objects must be approved by OPGT separately before the application for incorporation can be considered by Service Ontario's Companies and Personal Property Security Branch. The application for pre-approval of charitable objects to the OPGT should happen after CRA responds to the application for pre-approval of charitable objects outlined in [section 3.b.](#) above. The pre-approval of charitable objects by OPGT is an additional, more time-consuming, more costly step necessary for provincial incorporation but not federal incorporation. The federal incorporation application process is the same regardless of stated charitable objects. In either case, if the land trust wishes to participate in [Environment Canada's Ecological Gifts Program](#) (critical if you want to offer enhanced tax benefits to potential donors of ecologically sensitive lands), make sure that the

dissolution/distribution of assets upon wind up clause is in a form acceptable to Environment Canada to save costly amendments to incorporation documents later on.

Please refer to [Appendix 3: Guide to the Legal Steps to Forming a Land Trust](#) for details on applying for either provincial or federal incorporation, as well as the associated steps and required documentation.

Section 4: Running your organization to maintain incorporation and charitable status

Maintaining incorporation and charitable registration of your organization comes down to two basic components: following basic operating guidelines and reporting. These two components are discussed separately here with considerations for provincial incorporation, federal incorporation and charitable registration requirements. Because most land trusts immediately become registered charities in order to offer tax benefits to their donors, the tables and text provided in this section summarizes obligations of registered charities. Not-for-profit organization's operating guidelines and reporting obligations have not been considered in isolation. If you are administering a not-for-profit organization, you should seek operating guidelines and reporting requirements from the agency that provided your incorporation papers (i.e., provincially, the Office of the Public Guardian and Trustee; and federally, Corporations Canada).

4.a. Basic guidelines to operating an incorporated, charitable, land trust

There are several resources available to guide the initial steps and ongoing operations of an incorporated, charitable, land trust. It is beneficial to refer to, review, and print or otherwise maintain easy access to the checklists and information provided in this list:

- Both the provincial and federal government agencies responsible for incorporation provide comprehensive guides to operating charities, including lists of typical next steps following incorporation and legal obligations of ongoing operations:
 - for **Provincial Incorporation** – see sections 4 and 5 of the [Not-for-profit Incorporator's Handbook](#); and
 - for **Federal Incorporation** – see Corporations Canada's "[how to operate a federal not-for-profit incorporation](#)" and "[next steps following Incorporation](#)" Web pages.
- The Canada Revenue Agency (CRA) provides detailed information on [operating a registered charity](#) including a checklist of [basic guidelines for maintaining charitable](#) registration and an entire [resource manual](#) of additional checklists and information. Agents are available at the [Charities Directorate office](#) to answer questions and navigate the extensive CRA web site.

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- Once by-laws are finalized and adopted, they will serve as a guide to the ongoing legal duties of the land trust.
- The [Canadian Land Trust Standards and Practices](#) and the associated [Background document](#) offer ethical and technical guidelines.

Other beneficial initial steps to consider that are not covered in the resources above are as follows:

- Obtain directors and liability and commercial general liability insurance.
- Clearly define roles, responsibilities and expectancies of directors ([legal duties of directors](#) are outlined by the Ministry of the Attorney General).
- Set up an effective structure of committees and working groups to support the work of the Board and organization.
- Create a system to track tasks and responsibilities.
- Develop a membership program including terms of membership, costs, etc.
- Set up a system for clear and transparent communication with the public and membership.
- Create policies, plans and procedures based on examples from other organizations **as they become necessary**.

4.b. Reporting Responsibilities

4.b.1. Annual Reporting Responsibilities

The annual reporting responsibilities to maintain incorporation and charitable registration of land trusts and tax filing requirements are summarized in Table 1 below. Canada Revenue Agency (CRA) outlines when a charity is able, not able or required to register to charge HST in the [Basic GST/HST Guidelines for Charities](#). Applying for GST/HST rebates (beneficial but not mandatory) is included in Table 1 as well.

Tax and/or accounting advice is highly recommended to complete these annual reporting responsibilities, especially financial statements, charitable information returns (T3010-1) and HST returns and/or rebates. Many accountants will prepare all forms required by CRA with input from staff/board members on key topics like Board of Directors details. However, to save money, the forms can also be completed in-house and reviewed by a qualified accountant.

For more information on reporting requirements to maintain a land trust's legal and charitable status, please view the appropriate links below:

- [Charitable Registration](#)
- [Provincial Incorporation](#)
- [Federal Incorporation](#)

Table 1: Annual Reporting Responsibilities for Charitable Land Trusts

Report	Inclusions	Government Agency	Requirement/ to maintain:	Fee	deadline
Annual Return	form rc232	Canada Revenue Agency	Mandatory/ Provincial Incorporation	None	File with Information Return to CRA outlined below.
Annual Summary	form 4022	Corporations Canada	Mandatory/ Federal Incorporation	\$40	June 1
Information Return (see instructions and checklist)	T3010-1 , TF725 , T1235 and RC232 OR RC232-WS , copy of financial statements and T1236 and/or T2081 if applicable.	Canada Revenue Agency	Mandatory/ Charitable Registration	None	No later than six months after fiscal year end.
If registered for charging HST, HST Return	Personalized form will be received in the mail	Canada Revenue Agency	Mandatory/ HST registration	None	Within three months of fiscal year end.
HST Public Service Bodies' Rebate (see instructions)	Forms GST 66 and RC7066 SCH (personalized forms sent annually after first return)	Canada Revenue Agency	Beneficial/ Financially	None	Within four years of HST return deadline.

sources: CRA, 2012; Industry Canada, 2012; and Government of Ontario

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4.b.2. Special Reporting Responsibilities

There are also additional special requirements for reporting organizational changes to the various government authorities. These are outlined below in Table 2. Because reporting changes in membership on your Board of Directors is necessary to maintain incorporation and charitable registration, it is highly beneficial, and efficient, to keep an up-to-date chart of your Board of Directors (track name, date of birth, contact information, date of inception onto board, position, date of every change in position and date of resignation).

Table 2: Special Reporting Responsibilities for Land Trusts

Special Reporting Requirement	Form	Government Agency/ legislation	Needed to Maintain:	Deadline
Change in Board of Directors or corporation's head office	Initial Filing/Notice of Change Form 1	Corporations Information Act	Provincial Incorporation	Within 15 days of change
Variable, reporting requirements under Canada Not-for-profit Act are outline by Corporations Canada including change in office address and change in directors	Also variable	Corporations Canada	Federal Incorporation	Varies with specific nature of change to organization - some have fees
Change in Board of Directors or corporation's head office	Initial Filing/Notice of Change Form 2	Corporations Information Act	Federal Incorporation	Within 15 days of change
Changing the Charities Mode of Operation or Legal Structure	Variable, generally in letter form	Canada Revenue Agency	Charitable Registration	None given

sources: CRA, 2012; Industry Canada, 2012; and Government of Ontario

4.c. Tracking operating and reporting tasks

Given the multitude of reporting requirements your land trust will have, it is beneficial to develop a system to track the responsibilities and completion of administrative tasks such as the reporting obligations. Complete the two following steps to create an annual administrative calendar from the simple [template](#) provided on Charity Central's web site.

- Add all of the annual reporting dates to the annual administrative calendar with deadlines based on fiscal year end; and
- Add reminders to begin working on associated tasks (e.g., completing forms, tracking information, completing financial statements and having them audited or reviewed) within reasonable amounts of time of the reporting deadlines to the same calendar.

4.d. Typical internal documents to guide land trust operations

As your organization matures, it will be important for you to develop policies, procedures and plans to guide your operations. While it is unrealistic (and likely unnecessary) that these all be put in place immediately upon your establishment, it will be important for your organization to become familiar with the scope of documents that will benefit your operations and work towards their development and approval over time, as they become necessary. Often, organizations aim to have key documents developed and approved sometime in the first five (or so) years of operation.

The [Canadian Land Trust Standards and Practices](#) and associated [Background document](#) provides a comprehensive overview of the policies, procedures and plans a land trust should consider to guide its operations. The Ontario Land Trust Alliance (OLTA) also maintains an online Information Library that contains sample policies, templates and related materials to benefit its members. Further, OLTA may also be available to undertake an 'organizational assessment' of your land trust to assess progress towards meeting the standards and practices and make recommendations for improvement for your organization to consider ([contact the Ontario Land Trust Alliance](#) for more information).

Below is a list of important systems, strategies, documents, plans, policies and/or procedures for new land trusts to develop **as they become necessary**:

Operation

- Conflict of Interest Policy and Procedure
- Record Keeping Policy
- Budget - key to identify where money will come from and where it will be spent.
- Financial Management and Reporting Policy
- Financial Tracking System
- Board Manual - define roles and responsibilities, key policies, list of contacts, properties, and more, to inform new board members.

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- Strategic Plan and Vision - the plan and the process of its creation are beneficial to ensure the board, members and community agree upon the direction the organization is heading, and knowingly work toward a commonly understood set of goals and objectives.
- Annual Work Plan - beneficial to track tasks and progress toward goals.

Development

- Communications Strategy - beneficial to identify how exactly to build awareness in the community.
- Fundraising and Development Policy, Practices and Plan - these should consider how to ensure legal obligations are met, to avoid offending donors, to set accurate fundraising targets and meet them, among other subjects.
- Case for Support - beneficial to inform potential donors as well as funding agencies.
- Corporate Membership Program

Land Protection

- Land Acquisition Strategy - it is important to, in the least, identify general priorities to avoid wasting precious resources; experience and opportunity can help narrow priorities as time passes.
- Maps - either a digital or paper reference to property boundaries, existing protected areas and priority areas for securement (potentially identified in the land acquisition strategy suggested above), is beneficial facilitate discussion around opportunities as accurately as possible during meetings.
- Land Selection Criteria, Policy and Procedure - extremely important to maintain transparency, to increase efficiency and to ensure knowledge and experience is transferred. As with most policies, it is likely most practical to complete this set of documents in conjunction with your first land acquisition project.
- Land Stewardship Policy
- Management Plan for each property secured — may be rudimentary at first.
- Public Access Policy – which properties and under what circumstances to allow certain kinds of public access (e.g., Specified areas, with approved guide, for research purposes, for foot traffic on trails, etc.)
- Signage Policy
- Landowner Contact Manual – procedure for contact and specific policy around record keeping.

Section 5: Building Capacity to Deliver Sound Conservation

Once established, land trusts can benefit from a range of programs, services, government legislation, organizations and agencies to help them build their capacity to deliver sound conservation and maximize benefits to their donors and other stakeholders. The following checklist highlights several of these opportunities, and provides a link and short description of the benefits:

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- 1. Adopt the [Canadian Land Trust Standards and Practices](#) using the [sample board adoption resolution](#) available - they serve as ethical and technical guide for the effective operation of a land trust, and provide 'ideals' to work continually toward achieving.
- 2. Become a member of the [Ontario Land Trust Alliance](#) - In addition to being part of a network of experienced professionals, members benefit from a range of programs and services including training workshops and webinars, an annual conference, online resource library, access to funding programs, newsletters and bulletins, and more. Also, consider working through the Ontario Land Trust Alliance organizational assessment to help assess the capacity of your land trust and prioritize the creation of guiding documents and procedures to meet best standards and practices. Feel free to contact OLTA for more information.
- 3. [Apply to become an eligible recipient organization](#) under [Environment Canada's Ecological Gifts Program](#) (EGP) - The EGP is a federal tax incentive program that offers beneficial tax treatment to donors of land, or interest in land, that is certified as ecologically sensitive by the Minister of Environment.
- 4. If your land trust anticipates working with American donors or landowners, consider becoming a [cash and/or land grantee](#) of the [American Friends of Canadian Land Trusts](#) (AFoCLT) - AFoCLT is a U.S. charity that supports conservation in Canada by facilitating donations of land and funding from US taxpayers to Canadian conservation organizations with the same tax benefits that Canadian donors enjoy.
- 5. Become familiar with the [Ontario Ministry of Natural Resources Conservation Land Tax Incentive Program](#) - In particular, the [Community Conservation Lands category](#) under the program was created to offer land conservation organizations a way to make land conservation more financially feasible. Land trusts can apply to receive exemption from property taxes for each property they own that meets the program's criteria. The deadline for annual applications is July 31.

For additional steps to running a land trust in its initial and ongoing stages, refer to *Creative Conservation: A Handbook For Ontario Land Trusts*. While slightly outdated in terms of the specific facts, it is highly recommended for its conceptual guidance. It can be made available upon request through the [Ontario Land Trust Alliance](#).

Additional Resources

Below is a variety of resources (some already referenced in this guide) that may be of benefit to you as you establish and run your land trust. Good luck with your endeavour.

- Ontario Land Trust Alliance's online Information Library features templates and examples of typical operating documents for land trusts (e.g., policies, procedures, checklists, etc.), and it is available to members through the [Ontario Land Trust Alliance Members site](#)
- *Creative Conservation: a Handbook for Ontario Land Trusts*, by Stew Hilts and Ron Reid and published by the Federation of Ontario Naturalists (now Ontario Nature) in 1993
- [Canadian Land Trust Standards and Practices](#)
- [Background to the Canadian Land Trust Standards and Practices](#)
- [Not-for-profit Incorporators Handbook](#)
- [Starting a Land Trust: a Guide to Forming Land Conservation Organization](#), published by the US Land Trust Alliance in 1990
- [US Land Trust Alliance: frequently asked questions](#)
- [Canada Revenue Agency's Guide to Registering a Charity for Income Tax Purposes](#)
- The Muttart Foundation's [Board Building: Recruiting and Developing Effective Board Members for Not-for-profit Organizations](#)
- Other information links can be found at [Imagine Canada's Non Profit Library under Starting a Charity](#)
- Charity Central's [Governing Documents: Constitution](#)
- Ontario Land Trust Alliance's [Land Securement Manual](#)
- [Nova Scotia Nature Trust's Conservation Options for Landowners](#)

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References

- Hilts, Stewart and Ron Reid. 1993. Creative Conservation: A Handbook for Ontario Land Trusts. Federation of Ontario Land Trusts. 171 pp.
- Charity Village. n.dat. Starting a Non-profit. referenced September 20, 2012. available online < <https://charityvillage.com/topics/quickguides/starting-a-nonprofit.aspx>>
- Industry Canada. 2012. Corporations Canada. referenced December 31, 2012. available online < <http://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/home> >
- Canada Revenue Agency (CRA). 2012. Canada Revenue Agency. referenced December 31, 2012. available online < <http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rtrn/ctao-eng.html> >
- Government of Ontario. n. dat. Not-For-Profit Incorporator's Handbook. Ministry of Government Services, ServiceOntario and the Office of the Public Guardian and Trustee for Ontario, Charitable Property Program of the Ministry of the Attorney General. Queens Printer for Ontario. 46 pp. + appendices A - G

Appendix 1: Guide to the Formation of an Effective Land Trust

This document is intended to help guide preliminary discussions around the key question: *Is forming a land trust right for you?* It should also be used as a checklist to guide the formation of an effective land trust. Think deeply about how a land trust would impact the community, how the community could impact a land trust and, undoubtedly, additional community-specific questions will materialize.

Follow the steps and brainstorm the questions presented below with the group of founding members. If possible, pose the questions to various community stakeholder groups as well or, alternatively, have the founding members consider how other stakeholder groups might answer the questions. Remember that there are no right answers. The questions posed here are simply intended to help identify if and where a land trust could focus its efforts and address community concerns. Also, remember that sharing too widely in public forums at this point may create the perception that the organization lacks direction or action, a barrier that will be difficult to overcome once the land trust is created and ready for action. By all means consult other stakeholders, but do so among a trusted group who understands the context for your questions.

Some land trusts are being formed to address a specific threat such as the potential of development on high-value land. This is common and admirable; however, it is still beneficial to consider the steps and broader questions here, as the rally to save one land could build momentum for a long-lasting effective land trust.

The nine steps listed here are detailed in the checklist to follow:

1. Gain insight from someone from a successful land trust
2. Define the distinctive features of your community
3. Define threats to those distinctive features
4. Assess the need for a new land trust, other land conservation options and/or partnerships
5. Determine the likelihood of success
6. Define your geographic focus
7. Specify the theme of your activity
8. Focus efforts as much as possible
9. Choose categories of land for priority protection where threats are greatest

Checklist to Guide the Formation of an Effective Land Trust:

- 1**
- Have someone from an established and successful land trust meet with your key people to explain how a land trust works, answer questions and build enthusiasm. Make sure you have an idea of the ‘positives’ as well as the long laundry list of administrative necessities.

- 2**
- Define the distinctive features of your community:
 - Is it an attractive place to live or visit?
 - If you had visitors from another country, where would you take them within your community?
 - Where would you get out of the car?
 - Would that choice change with the seasons?
 - Are there distinctive sounds or smells that you associate with your community?
 - What features of the country-side contribute to quality of life in the towns?
 - What features are important to the farm community, if relevant?
 - What features are important to other stakeholder groups?

- 3**
- Define threats to those distinctive features:
 - Are woodlots being cleared?
 - Are wetlands being filled or drained?
 - Are strip-developments from urban areas encroaching on natural lands?
 - Are residential estates popping up amid the farmlands?
 - Are scenic shorelines being subdivided and developed into cottage lots?
 - What other land use changes are occurring in the community?

- 4**
- Assess the need for a new land trust:
 - Will land acquisition and stewardship activities achieve protection of your community's distinctive values?
 - Will outreach and education help achieve protection of your community's distinctive values?
 - Are there high-value lands still unprotected?
 - Are there existing organizations (local, regional or provincial) that can protect these high-value lands?
 - Explore other land conservation options/organizations ([Section 2.b.](#))
 - Are there existing organizations or groups who might be willing to expand their operations to protect these high-value lands?
 - Explore the potential for partnerships with existing organizations ([Section 2.c.](#))

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- Determine the likelihood of success:
 - Are there enough people who care about protecting these significant lands to populate the Board, join as members, and serve as volunteers?
 - Do those interested have the required skills and enthusiasm to achieve success for the organization?
 - Does anyone within the group of interested people possess the necessary leadership skills to build and maintain momentum?
The leader should be someone who can follow steps, communicate clearly, keep organized to call meetings, and chair a meeting effectively. When chairing meetings, the leader should keep discussions focused; by talking too broadly, momentum can be lost.
 - Are there potential donors/supporters within the community?
 - Is there potential to build financial capacity to sustain the land trust?
 - What is the potential to receive grants from foundations and government funds?
 - Will the political bodies in the community see a land trust as a help or a problem?
 - What are the various stakeholder groups in your community?
 - Are those various stakeholder groups likely to view a land trust in a positive or negative way?
 - Have there been any recent political events that have banded people together to approve of/oppose a land trust and its mission?
 - Are there opportunities for local, regional, provincial, national or even international partnerships?
 - Has there been negative publicity with charities currently or previously operating in your community that could be passed on to a new charity?

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- Define your geographic focus:
 - What do people in your community identify with?
This could be a specific landform, political region, watershed boundary, etc. For example, Muskoka is defined by a political boundary and familiar to people for its rock formations, lakes and forests. This could also be linked to the distinctive features outlined previously.
 - What geographic boundaries can be most practically described and easily identified with to define your working area?
 - Are there existing land trusts or land conservation organizations working in adjacent communities that could help define your boundaries?

7

- Specify the theme of your activity:
 - Consider, once more, the distinctive values of your community.
 - Choose whether to focus broadly on preserving the character of your community based on local need, or whether to define scope more narrowly (e.g., natural lands, cultural lands, etc.)
 - What distinctive values would the various stakeholder groups be most likely to support protecting?

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- Consider focusing efforts even more narrowly on a specific size or significance of project (e.g., tender fruit land vs. all agricultural lands, or natural areas with high ecological significance, such as rare species habitat).
 - If it is important to your group, consider linking your focus to [Environment Canada's Ecological Gifts Program criteria](#), which provides beneficial tax treatment to donors of ecologically sensitive land or interests in such land, or [Ontario Ministry of Natural Resources Conservation Land Tax Incentive Program criteria](#), which eliminates property taxes on 'community conservation lands'.

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- Choose categories of land for priority action where current threats are greatest. *This could be focused more narrowly over time as priorities and capacity to protect land change. Initially, areas of particular interest or vague descriptions can be identified. Later, priority landscapes/landforms (e.g., watershed, escarpment or moraine), or critical resources (e.g., high quality scenic vistas, recreational trail connections or lands in X proximity to towns or urban centres) can be defined.*

Appendix 2: Understanding Governing Legislation and Guiding Resources

Most of the critical information you need to know - legal or otherwise - to assist you in forming a land trust is outlined in the Land Trust Starter Kit and the information links contained within it. However, there are several pieces of legislation and guiding resources that are beneficial to review in order to broaden your understanding of the process involved in forming a land trust. These are referenced below, along with some initial points to provide context.

1. While it is beneficial for you to have a solid understanding of governing legislation as you move forward with forming your land trust, this knowledge does not replace the need to obtain professional legal, accounting and tax advice.
2. Only the most recent governing legislation is referenced in this Starter Kit. During the creation of this document, charitable corporations were dealing with a new legislative framework as follows:
 - Federal - The *Canada Not-for-Profit Corporations Act* replaced part II of the *Canada Corporations Act* (old Act). Organizations previously incorporated and currently operating under the old Act must submit letters of continuance as outlined in Corporations Canada's [Transition Guide](#) before October 17, 2014 or they will be dissolved.
 - Provincial - The *Ontario Not-for-Profit Corporations Act* (ONCA) was given royal assent on October 25, 2010 and is meant to replace the current *Ontario Corporations Act*. As of the date of this document, the Ontario government has stated that ONCA is not expected to come into force until 2016 as a result of technical amendments and technological upgrades that must be made before the ONCA can come into force. Organizations incorporated and operating under the current *Corporations Act* will have a three-year transition period once ONCA is in force and should complete the tasks outlined in the [Transition Checklist](#).
3. Legislation and guiding resources are generally listed according to the order they will be needed during the process of forming and initially operating a Land Trust.
4. Links are provided to full legislation as well as comprehensive summaries if available.

List of Governing Legislation and Guiding Resources:

- **Starting and operating a Canadian Corporation** - [Not-for-profit Corporations Act](#) and [regulations](#) as well as a [summary](#) by Imagine Canada and [Background paper](#) by Industry Canada
- **Starting and operating a Corporation in Ontario** - [Ontario Not-for-Profit Corporations Act](#), its [proposed regulations](#) and an [analysis](#) and [summary](#) of the new Act
- **Starting and operating a charity** - [Income Tax Act](#) , with background information from Canada Revenue Agency's [Interpretation Bulletins](#) and [operating a registered charity](#) web page
- **Operating a responsible Land Trust** - [Canadian Land Trust Alliance Standards and Practices](#) and the [Background to the Canadian Land Trust Alliance Standards and Practices](#)
- **Accepting conservation easements on land** - [Conservation Land Act](#)
- **Accepting Ecological Gifts** - [Environment Canada's Ecological Gifts Program Handbook](#)
- **Applying for municipal tax-exemption for conservation lands:** [Conservation Land Tax Incentive Program Community Conservation Lands Guide](#)
- **Administering acquired lands and informing local planning decisions:** [The Planning Act](#), the [Citizen's Guide to the Planning Act](#) and the [Provincial Policy Statement](#), as well as local Official Plan and zoning bylaw especially with respect to individual properties

Charity Village's [Tip Sheet on Legal Requirements for Non-profit Organizations and Registered Charities](#) is also very helpful.

Appendix 3: Guide to the Legal Steps to Forming a Land Trust

This document provides a recommended step-by-step process to guide the necessary steps to forming a land trust. **Legal advice is highly recommended - this is not intended to replace the need to obtain formal legal counsel.** The nine steps listed here are detailed in the checklist to follow:

1. Decide whether to apply for provincial or federal incorporation
2. Draft Application for Incorporation of a Corporation without Share Capital [Form 2] if incorporating in Ontario or Application for Articles of Incorporation [Form 4001] if incorporating federally
3. Draft by-laws
4. Draft Application to Register a Charity under the Income Tax Act [Form T2050]
5. Seek pre-approval of draft governing documents from Canada Revenue Agency (CRA)
6. Amend documents as needed if directed by CRA
7. Once CRA has approved, apply for incorporation
8. Submit certified documents to CRA with final Application to Register a Charity under the Income Tax Act
9. File additional documents

Checklist

Decide whether to apply for provincial or federal incorporation

1

<p>Key considerations</p>	<ul style="list-style-type: none"> • Whether to incorporate federally or provincially depends upon what the organization intends to do and where it intends to do it. If the organization intends to carry on its activities in more than one province, then it would be advisable to incorporate federally to avoid the need to register in various provinces. If the organization intends to carry on activities only in Ontario then the incorporation may be done through the provincial process. • In order for the corporation to be considered for registration as a charity under the <i>Income Tax Act</i> the corporation must be considered to be carrying on a charitable activity as reflected in the corporation’s charitable objects or purposes. If incorporating a charitable corporation in Ontario, the Office of the Public Guardian and Trustee (OPGT) must approve the corporation’s objects and has provided pre-approved standard objects for charities (see Appendix A in this link). However, the charitable objects of land trusts are not covered by any of these pre-approved objects. As a result, the OPGT must pre-approve the land trust’s custom-made charitable objects prior to incorporation, which results in additional processing time and expense. • The process for incorporation provincially is currently based on the provisions of the <i>Ontario Corporations Act</i>. This process will change once the <i>Ontario Not-for-profit Corporations Act</i> comes into force (which will not be until 2016).
<p>Provincial Incorporation Details</p>	<p>The cost for the OPGT to pre-approve the land trust’s charitable objects and for Service Ontario to issue Letters Patent is \$305 for standard service or \$405 for expedited service.²</p>
<p>Federal Incorporation Details</p>	<p>The cost for filing Articles of Incorporation through Corporations Canada is \$200 if filed online or \$250 if filed by email, fax or regular mail.³</p>

² Based on fees published at the time of writing.

³ Based on fees published at the time of writing.

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- Draft Application for Incorporation of a Corporation without Share Capital [Form 2] if incorporating in Ontario or Application for Articles of Incorporation [Form 4001] if incorporating federally:

2

<p>Key Considerations</p>	<ul style="list-style-type: none"> • In order for the corporation to be considered for registration as a charity under the <i>Income Tax Act</i> the corporation must be considered to be carrying on a charitable activity as reflected in the corporation’s charitable objects or purposes. Examples of charitable objects specific to land trusts can be sought from the Ontario Land Trust Alliance⁴ or from CRA’s model objects generally (see http://www.cra-arc.gc.ca/chrts-gvng/chrts/pplyng/mdl/mdl-bjcts-eng.html) • It must be determined that the proposed name of the land trust is available (meaning, not being used by another entity in Canada) by obtaining a NUANS corporate name search and conducting a Trade-mark search: <ul style="list-style-type: none"> • For a NUANS corporate name search go to Industry Canada's NUANS Corporate Name Search (fee applicable) • For a Trade-mark search go to Canadian Intellectual Property Office’s Trade-mark database (http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h_wr03082.html) (no fee)
<p>Additional Resources</p>	<ul style="list-style-type: none"> • See Corporations Canada Questions and Answers, Articles of Incorporation (form 4001 instructions) and Initial Registered Office Address and First Board of Directors (form 4002 instructions) for federal incorporation • See Not-for-profit Incorporators Handbook and Application for Incorporation of a Corporation Without Share Capital Form 2 Corporations Act for incorporation in Ontario

⁴ The nature and wording of any charitable objects provided by Ontario Land Trust Alliance is not guaranteed and should be reviewed by legal counsel prior to registration. This document may contain links to other websites over which Ontario Land Trust Alliance has no control. OLTA provides no endorsement, representation or warranty of any kind regarding the products, services, content or appropriateness of such websites.

Draft By-laws:

3

Guiding Resources	<ul style="list-style-type: none"> • See Corporations Canada’s By-law Builder for federal corporations • See Not-for-profit Incorporators Handbook for incorporation in Ontario
Additional Resources	<ul style="list-style-type: none"> • Law Help Ontario • Ontario Ministry of Agriculture, Food and Rural Affairs Factsheet Starting an Organization

Draft Application to Register a Charity under the *Income Tax Act*:

4

Key considerations	<ul style="list-style-type: none"> • Draft Form T2050 Application to Register a Charity Under the Income Tax Act • Compile all supporting documents required in Application • The expected response time can vary with large lags in time between receipt of the Application and response from CRA
Additional Resources	<ul style="list-style-type: none"> • See Guide T4063 Registering a Charity for Income Tax Purposes and CRA's Web site for a checklist of items to include with your application

Seek pre-approval of draft governing documents from Canada Revenue Agency:

5

Key Considerations	<ul style="list-style-type: none"> • Canada Revenue Agency Charities Directorate will review draft governing documents on a one-time basis if they are received with a complete Application. To request this review, prepare a cover letter requesting pre-approval of the draft governing documents which must outline the land trust’s charitable objects and include draft incorporation documents (either provincial or federal as outlined above), draft by-laws (if available), NUANS search and a completed Application to Register a Charity Under the <i>Income Tax Act</i>. • There is no cost for this review but this process could take up to one year for a full response. • The alternative would be to incorporate and organize the corporation (either federally or provincially) and then apply to CRA for charitable registration. The issue with this process is that there would be additional time and expense incurred if CRA required the corporation to amend its Letters Patent or Articles of Incorporation in order satisfy the CRA requirements for charitable registration.
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- Amend documents as needed if directed by CRA:

6

Key Considerations	CRA will often respond back with suggested changes to the specific wording of the draft charitable objects and/or governing documents. Ensure the charitable objects are copied exactly as instructed by CRA into the governing documents and charitable registration applications; this will avoid costly and time-consuming steps to amend letters patent later and/or hold up the charitable registration process.
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- Once CRA has approved, apply for incorporation either provincially or federally.

7

Key Consideration	Once CRA has provided its approval, submit all documents to the relevant body for incorporation. Take note of the timeframe provided by CRA in its approving correspondence.
Apply for Provincial Incorporation	<ul style="list-style-type: none"> • Ensure exact wording of objects as pre-approved by CRA (above) is found in Application for Incorporation of a Corporation without Share Capital • Submit Application for Incorporation of a Corporation without Share Capital to Office of the Public Guardian and Trustee Charitable Property Program with applicable fee (by mail only) • Ensure all items included with Application as provided for in Not-for-profit Incorporation Requirements
Apply for Federal Incorporation	<ul style="list-style-type: none"> • Ensure exact wording of objects as pre-approved by CRA (above) is found in Articles of Incorporation • Submit Articles of Incorporation and Initial Registered Office Address and First Board of Directors forms to Corporations Canada with applicable fee either online or by fax, mail or email • Ensure all items included with form as provided for in form 4001 instructions and form 4002 instructions

- Submit certified documents to CRA with final Application to Register a Charity under the *Income Tax Act*:**

8

Key Considerations	Submit registered Articles of Incorporation (federal) or Letters Patent (Ontario) to CRA within timeframe provided for by CRA in its approval correspondence (above)
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- File additional documents:**

9

Provincial Incorporation	File Form 1 Initial Return/Notice of Change by an Ontario Corporation with Service Ontario's Companies and Personal Property Security Branch – see Checklist for Completing Form 1 Initial Return/Notice of Change Under the Corporations Information Act for additional information
Federal Incorporation	By-laws must be sent to Corporations Canada within 12 months of incorporation