

Natural Legacies:

Your Educational Guide to Conservation in BC



A Landowners Guide to Implementing a Conservation Covenant

If you are considering on implementing a conservation covenant to protect the ecological or heritage values of your land in regards to long-term preservation, you should talk to your local land trust about the best options for your situation.

Because conservation covenants are intended to last indefinitely, all parties should give them very careful consideration before they are implemented. There are also costs associated with establishing and maintaining the conservation covenant.

Choosing a Covenant Holder:

Landowners will want to choose the covenant holder(s) carefully to ensure that they provide the best “fit” for protecting the values that are important to them, and that the organization has the capacity to manage and monitor the covenant over the long term. Landowners should carefully consider which conservation organization(s) they would like to work with in developing the covenant, as they will need to develop and maintain a long-term relationship with this group.

IMPLEMENTING A CONSERVATION COVENANT



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The B.C. Minister of Environment has the authority to designate “any person” as a covenant holder under the *Land Title Act*. Potential covenant holders include:

- Local governments (municipalities, regional districts and the Islands Trust Fund);
- The Crown or a Crown corporation or agency;
- A local non-government conservation organization (such as a local land trust or conservancy);
- A provincial or national conservation organization (such as the Nature Conservancy of Canada); or
- Any other person designated by the Minister of Environment

In practice, it may be helpful to have two covenant holders (in addition to the landowner), creating greater security in case one of the organizations is not able to fulfill its obligations

Landowners should carefully review the goals and track record of the organization they wish to partner with. Do you prefer a local organization with people you know, or a provincial or national organization?

Steps in Developing a Conservation Covenant:

1. Before you enter into a conservation covenant:
 - a) Identify the values you wish to protect and which conservation organization(s) you intend to work with as a covenant holder.
 - b) With the proposed covenant holder, discuss whether a conservation covenant is the best tool for achieving long term protection.
 - c) Discuss the area of land that the covenant will apply to (all of the property or just some of it).
 - d) Identify the types of management practices that will best protect the values of the covenant area.
 - e) Determine your expectations if and when you no longer own the land (if you move or die).
 - f) Discuss the legal advice that you will need to get (this must be independent legal advice).
 - g) Discuss the financial considerations. Who is paying for legal and financial advice, appraisals, land title fees, etc.? Will there be a stipend to the covenant holder
2. The landowner should also get independent advice on the possible legal and tax implications of covenanting the property at an early stage.
3. In developing the conservation covenant, there will be a need to conduct an environmental assessment and survey of the property in order to prepare baseline information showing the site condition. There should also be an appraisal of the property value for tax purposes.

Additional steps may be required if the land is in the Agricultural Land Reserve or if there is an outstanding mortgage on the property.

4. The landowner and covenant holder will then negotiate a draft agreement, including a management plan and management agreement, which each party can check with their legal and financial advisors.
5. Once the conservation covenant is executed, it will be registered at the Land Titles Office and remain on the title of the property.

For information on preparing baseline inventories see the <i>LTABC Guide to Baseline Inventories</i> http://ltabc.ca/images/LTABC_Guide_to_Baseline_Inventories_2006.pdf

Useful Resources:

West Coast Environmental Law website on conservation covenants <http://wcel.org/conservation-covenants> -

West Coast Environmental Law. 2000. Greening Your Title: A Guide to Best Practices for Conservation Covenants
<http://wcel.org/sites/default/files/publications/Greening%20Your%20Title.pdf> – a comprehensive and detailed

guide on conservation covenants.

Examples of covenant restrictions http://blog.conservancy.bc.ca/wp-content/uploads/2009/09/Covenant_restrictions_examples.pdf (from TLC The Land Conservancy of BC)

Agricultural land Commission. 2003. Guidelines for Conservation Covenants in the ALR. http://www.alc.gov.bc.ca/legislation/policies/Guidelines_convenants_Dec03.pdf

BC Assessment Authority website on Conservation Covenants
<http://www.bcasessment.ca/public/Fact%20Sheets/Conservation%20Covenants.aspx>

Land Trust Alliance of BC. 2006. Property Assessments on Conservation Lands: A guide for land trusts and covenant holders, case studies and resources. http://ltabc.ca/images/Property_Tax_Info_Kit_rev_2010.pdf. Updated 2010. *Case studies of the impacts of conservation covenants on assessed value of land.*