

Berkshire Community Land Trust, Inc.

**BYLAWS
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ARTICLE I – GENERAL

SECTION 1 – Name

The name of the corporation is BERKSHIRE COMMUNITY LAND TRUST, INC.

SECTION 2 – Purposes

The purposes of the corporation are:

A. Education, research, and the promotion of and appreciation for community access to land and other natural resources in Berkshire County and environs for sustainable:

1. Affordable housing,
2. Farming,
3. Economic diversity, and
4. Open space for recreation.

B. Enhancement of the community by acquiring by gift or purchase land and interests in land in Berkshire County and environs so as to:

1. Retain and convey interest in land in order to
 - a. Encourage access to land and other natural resources for community-defined purposes including affordable housing, farming, economic diversity and recreation,
 - b. Appropriately conserve the ecological resources of the land.
2. Retain for the community any unearned increment in the market value of the land.

C. Raising of funds to further the objectives of the organization;

D. And any other purposes allowed by law.

SECTION – 3 Offices

The principal office of the corporation shall be in South Egremont, Massachusetts.

ARTICLE II – MEMBERS

SECTION 1 – Initial Membership

The incorporators of the corporation shall constitute the initial membership of the corporation.

SECTION 2 – General Membership

There is one and only one class of members, comprising any person who is a resident of the Berkshire region, who is interested in actively furthering the purposes of Berkshire Community Land Trust, and who has paid his/her annual dues.

SECTION 3 – Dues

An annual fee, as initially established by the Board of Trustees, is expected of each member, to be submitted no later than the annual meeting of the General Membership. These fees may be changed at any General Membership meeting by the decision-making procedure outlined in Article V, Section 1.

SECTION 4 – Voting Rights

The membership constitutes one body acting as a whole by way of consensus. That failing, matters will be resolved by voting in accordance with the Decision Making procedure outlined in Article V, Section 1.

SECTION 5 – Meetings

A. Annual Meeting

1. Time and Place

The annual meeting of the membership shall be held on the second Sunday of March of each year at the office of the corporation, or at such a time and location as chosen by the Board of Trustees. Notice of the annual meeting shall be afforded the members of the corporation not later than 30 days prior thereto.

2. Business

At the annual meeting of the membership:

- a. The President shall report on the affairs of the corporation,
- b. The Treasurer shall report on the financial condition of the corporation,
- c. The members shall conduct such business as may properly come before them; and
- d. At each annual meeting of the membership, the members shall select new members of the Board of Trustees in accordance with Article III, Section 2. If, for any reason, the annual meeting shall not be so held, or being so held, shall be adjourned without

completing the election of Trustees, as the case may be, the election of Trustees may be held at a special meeting.

B. Regular Meetings

Regular meetings of the membership may be held as such times and places as the membership may establish at the annual meeting or at any regular meeting and notice thereof shall not be required.

C. Special Meetings

Any officer of the corporation may and, at the direction of any ten members of the corporation, any officer shall call a special meeting of the membership and notice thereof shall be afforded each of the members of the corporation not later than ten days prior thereto. At a special meeting of the membership, only that matter for which the meeting was called, as stated in the notice of the meeting may be acted upon by the membership.

SECTION 6 – Member Quorum

A quorum for any action of the General Membership is 20 percent of the members entitled to vote.

SECTION 7 – Action in Lieu of Meeting

The membership may take any action which it might lawfully take at any meeting of the membership in the absence of such a meeting but with the same effect as if adopted or taken at such a meeting by causing notice of the proposed action to be given to all members and a written statement of the action to be written into the records of the corporation over the signatures of 75 percent of the members of the corporation and such statement shall specify the effective date of such action.

SECTION 8 – Veto by Membership

Veto decision by the membership to nullify any action by the Board of Trustees shall be expressed by a 75 percent majority of the membership of the corporation.

SECTION 9 – Expulsion

The membership may expel any member at any time by a Special Meeting in accordance with the decision-making procedures outlined in Article V, Section 1, but, for the purpose of determining whether a quorum or consensus has been reached, or for the purpose of a vote, the position of the member, the removal of whom is being decided upon, shall not be considered, but said member shall be given notice of the proposed expulsion and an opportunity to be heard.

SECTION 10 – Benefits to Members

A member can work actively with other members to promote the purposes of the corporation. A member has the right to attend Board and General membership meetings.

ARTICLE III – TRUSTEES

SECTION 1 – Initial Board of Trustees

The incorporators of the corporation shall constitute the initial nine-member Board of Trustees. Three initial incorporators (being one from each category of Trustee) will end their terms at the first Annual Meeting. Three initial incorporators will have terms ending at the second Annual Meeting. Three initial incorporators will have terms ending at the third Annual Meeting.

SECTION 2 – Successor Board of Trustees

A. Size

The Board of Trustees shall consist of nine or more members, but always in multiples of three with the same number of board members in each of the three categories specified in Article III, Section 2.B.

B. Composition

1. Elected Representatives from the General Membership

One third of the Board of Trustees shall be elected by and from the general membership,

2. Leaseholder Representatives from Partner Organizations

One third of the Board of Trustees shall be elected by and from the leaseholding members of the board(s) of trustees of 501(c)(2) partner community land trusts, or other partner community land trusts which may not be a 501(c)(2) but are designated as partners by the Board of Trustees; and

3. Appointed Representatives with Relevant Expertise

One third of the Board of Trustees shall be appointed by the Board of Trustees itself from residents of Berkshire County or environs who offer expertise relevant to the organization's activities.

In no way shall more than one third of the members of the Board of Trustees be leaseholders on land owned by board-designated partner organizations, except upon the resignation of any Trustee from the other categories of Board members, and then only until the appointment or election of a successor).

C. Selection

1. Elected Representatives from the General Membership

A nominating committee appointed by The Board of Trustees shall put forward candidate(s) from among the general membership for election at the Annual Meeting. Nominations may also be made by members and must include the nominee's name, address, and biographical information. Such nominations must be received at the formal address of the corporation by no later than two weeks before the Annual Meeting. The full slate submitted at the Annual Meeting for consideration will include all such nominees. Representatives will be elected according to the

decision-making process described in Article V, Section 1.

2. Leaseholder Representatives from Partner Organizations

In advance of the Annual Meeting, the Representative(s) from Partner Organizations shall be chosen by and from the lease-holding board members of community land trusts designated as partners by the Board of Trustees of Berkshire Community Land Trust, Inc.

3. Appointed Representatives with Relevant Expertise

In advance of the Annual Meeting, the sitting Board of Trustees shall select the Representative(s) who offer expertise relevant to the organization's activities and who are residents of Berkshire County or environs.

D. Vacancy

Vacancies on the Board of Trustees must be filled within thirty days of the official notice of the vacancy.

1. Elected Representatives from the General Membership

If any elected representative on the Board of Trustees shall vacate that office for any reason, before the expiration of his or her term, the Board of Trustees may appoint a replacement from among the general membership accordance with Article III, Section 2.B, to succeed him or her until the next Annual Meeting, where he/she or another candidate may be elected to serve out the remainder of the original term.

2. Representatives from Partner Organizations

If any Representative from Partner Organizations on the Board of Trustees shall vacate that office for any reason, before the expiration of their term, their replacement will be chosen by and from the lease-holding board members of community land trusts designated as partners by the Board of Trustees of Berkshire Community Land Trust, Inc. to serve out the remainder of the original term.

3. Appointed Representatives with Relevant Expertise

If any Representative with Relevant Expertise on the Board of Trustees shall vacate that office for any reason, before the expiration of their term, their replacement will be chosen by the members of the Board of Trustees in accordance with Article III, Section 2.B.

E. Terms of Office

1. The term of office of a regularly selected member of the Board of Trustees shall commence at the adjournment of the Annual Meeting at which he or she was selected.

2. The term of office of a member of the Board of Trustees selected to fill a vacancy shall commence at the time of his or her acceptance of that office.

3. Except as otherwise specifically provided for pursuant to the provision of these bylaws, each regularly selected member of the Board of Trustees shall serve for a term of three years unless he or she shall be removed from office as hereinafter provided for.

SECTION 3 – Duties of the Board of Trustees

The Board of Trustees shall:

- A. Be responsible for the general management of the affairs of the corporation;
- B. Determine the compensation and duties (in addition to those imposed by law and these bylaws) of the employees and agents of the corporation;
- C. Select all officers of the corporation; and
- D. Determine by whom and in what manner deeds, contracts and other instruments shall be executed on behalf of the corporation.

SECTION 4 – Powers of the Board of Trustees

The Board of Trustees may:

- A. Create such offices in addition to those created pursuant to the provisions of Article IV of these bylaws as it may determine to be necessary and desirable for the conduct of the affairs of the corporation.
- B. Appoint the officers to fill such offices, establish the term of service, duties and compensation, if any, of such officers and discharge such officers;
- C. Create such committees as it may determine to be necessary and desirable for the conduct of the affairs of the corporation and delegate authority to such committees;
- D. Appoint the chairperson(s) and member(s) of any committee(s) so created;
- E. Borrow funds and issue promissory notes or other evidences of indebtedness and, except as limited pursuant to the provisions of Section 5 of this Article III below, to mortgage assets of the corporation as collateral security for the payment or satisfaction thereof; and
- F. Convey the right to use the land consistent with the purposes of the Corporation, and on such terms and conditions as will conserve the resources of the land and protect the environment of the community, but the decision to make such a conveyance shall require the unanimous assent of the members of the Board of Trustees.

SECTION 5 – Limitation on Power of the Board of Trustees

Except as otherwise provided for pursuant to the provisions of Article III, Section 4.F above and except to give a purchase money mortgage, the Board of Trustees may not sell or otherwise alienate or encumber any land or interest(s) in land except in accordance with the unanimous assent of the members of the Board of Trustees expressed at two consecutive meetings of the Board of Trustees.

SECTION 6 – Meetings

A. Annual Meeting

1. Time and place

The annual meeting of the Board of Trustees shall be held on the 2nd Sunday of May of each year at the office of the clerk or at such a time and location as chosen by the Board of Trustees. Notice of the annual meeting shall be afforded to the members of Board of Trustees not later than 10 days prior thereto.

2. Business

At the annual meeting of the Board of Trustees:

- a. The President shall report on the affairs of the corporation,
- b. The Treasurer shall report on the financial condition of the corporation; and
- c. The Board of Trustees shall conduct such business as may properly come before it.

B. Regular meetings

1. Regular meetings of the Board of Trustees may be held at such times and places as the Board of Trustees may establish at the annual meeting and notice thereof shall not be required.

C. Special Meetings

1. The President, Treasurer, Clerk or any three Trustees may call a special meeting of the Board of Trustees and notice thereof shall be afforded each of the members of the Board of Trustees not later than seven days prior thereto.

2. At a special meeting of the Board of Trustees, only that matter or those matters for which the meeting was called, as stated in the notice of the meeting, may be called upon by the Board of Trustees unless all of the Trustees shall be present at the meeting and shall consent to taking action on other matters.

SECTION 7 – Quorum for Trustees

A majority of the members of the Board of Trustees then holding office shall constitute a quorum for any meeting.

SECTION 8 – Action in Lieu of Meeting

The Board of Trustees may take any action which it might lawfully take at any meeting of the Board of Trustees in the absence of such a meeting but with the same effect as if adopted or taken at such a meeting by causing notice to be given to each Board member and a written statement of the action to be entered into the records of the corporation over the signatures of each and every one of the members of the Board of Trustees then in office, and the Board of Trustees may specify the effective date of such action.

SECTION 9 – Removal

The Board of Trustees may remove a Trustee at any time by consensus of all members of the Board of Trustees but for the purpose of determining whether or not consensus has been reached, the position of the member the removal of who is being decided upon shall not be considered. If the person so removed is a member of the corporation, the removal of such person as a Trustee by the Board of Trustees shall not affect the status of that person as a member of the corporation.

ARTICLE IV – OFFICERS

SECTION 1 – Designation

The officers of the corporation shall include a President, a Vice President, a Treasurer, and a Clerk.

SECTION 2 – Duties of the President

The President shall:

- A. Call to order all of the meetings of the Board of Trustees and of the membership;
- B. Supervise the activities of the Clerk of the corporation in the conduct of that office;
- C. Act in the role of facilitator for consensus decision-making, and where necessary to decide when consensus is not achieved, and
- D. Perform such other duties as the Board of Trustees may impose.

SECTION 3 – Duties of the Vice President

The Vice President shall perform the duties of the President in the case that the President is unavailable to perform those duties, or must recuse himself/herself from discussion or a vote, or in the case of a vacancy in the office of the President.

SECTION 4 — Treasurer

The Treasurer shall:

- A. Have custody of the funds of the corporation,
- B. Deposit all money of the corporation to the credit of the corporation in such depositories as the Board of Trustees may designate;
- C. Maintain all assets of the corporation other than money in the name of the corporation;
- D. Disburse such funds of the corporation as the Board of Trustees may order

and/or authorize and, if required, take proper vouchers for such disbursements;

E. Keep full and accurate accounts of receipts and disbursements in books of the corporation maintained for that purpose;

F. Render an accounting of his or her transactions as Treasurer and of the financial condition of the corporation to the Board of Trustees at the annual meeting of the Board of Trustees, at the regular meetings of the Board of Trustees, and, whenever in addition thereto, the Board of Trustees may require;

G. If required by the Board of Trustees, give the corporation a bond in a sum and with one or more sureties satisfactory to the Board of Trustees for the faithful performance of duties of the office of Treasurer and for the restoration to the corporation, in the event he or she shall vacate the office of Treasurer, for any reason, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control that may belong to the corporation; and

H. Perform the duties of the President in the case that the President and Vice President are unavailable to perform those duties, or must recuse themselves from discussion or a vote, or in the case of a vacancy in the office of the President and the Vice President.

I. Perform such other duties as the Board of Trustees may impose.

SECTION 5 – Duties of the Clerk

The Clerk shall:

A. Maintain custody of the records of the discussion of and of the action taken on all issues coming before meetings of the Board of Trustees;

B. Maintain the official records of the membership of the Corporation

C. Give notice or cause notice to be given of all meetings of the Board of Trustees; and

D. Perform such other duties as the Board of Trustees or the President may impose.

SECTION 6 – Tenure

The officers of the corporation, unless removed as hereinafter provided for, shall hold office for one year and thereafter until their successors are chosen and qualified in their stead.

SECTION 7 – Removal

The Board of Trustees may remove any officer at any time by the consensus of the Board of Trustees.

ARTICLE V – GOVERNANCE

SECTION 1 – Decision Making

A quorum is required for all decisions. Consensus will be the method of decision making at all meetings, except as herein otherwise specifically provided for. If consensus is not achieved, the matter will be decided as follows:

A. Board of Trustees

In case of the Board of Trustees' failure to achieve consensus the matter will be decided by a vote of a 75 percent majority of the entire board. If such a 75 percent majority is not obtained, the Board of Trustees may schedule a special meeting not more than 30 days later for reconsideration of the undecided matter. If no special meeting is scheduled, or if at such special meeting there still is not a 75 percent majority of the entire board or a consensus, the matter will be referred by written notice to each and every member. A special meeting of the general membership shall be scheduled forthwith to decide the matter.

B. General Membership

Decisions of the general membership will be made at annual meetings and special meetings. In the case of the general membership's failure to achieve consensus the matter will then be decided by majority, except in the case of a special meeting when a 75 percent majority is required.

C. Leaseholder Representatives from Partner Organizations

Failing consensus in the selection of Leaseholder Representatives from Partner Organizations to the Board of Trustees the matter will be decided by a majority of lease-holding members of the board(s) of trustees of designated partner community land trusts.

SECTION 2 – Inspection of Records

Any Trustee, officer or member of the corporation, either in person or by his or her agent or attorney, may inspect the books and records of the corporation for any purpose at any reasonable time.

SECTION 3 – Arbitration

Questions and disputes regarding these Bylaws may be resolved in accordance with rules established by the American Arbitration Association.

SECTION 4 – Disposition of Corporate Assets in the Event of Dissolution

In the event the corporation is dissolved, the assets of the corporation shall be distributed

to the conservation land trust Berkshire Natural Resources Council, Inc. in Pittsfield, Massachusetts, or its successor(s) or assign(s), but only after notice to and approval by the Public Charities Division of the Attorney General of the Commonwealth.

SECTION 5 – Amendments

Except as hereinafter otherwise specifically provided for, these Bylaws may be altered or amended, in whole or in part, by the consensus of the members of the Board of Trustees, but notice of a proposal to alter or amend the Bylaws at any regular or special meeting of the Board of Trustees shall be afforded each of the members of the Board of Trustees not later than seven days prior to the meeting at which it is proposed to take such action.

Nevertheless:

- A. The provisions of Article III, Section 2 of these Bylaws relating to the size, composition, and selection of successor Boards of Trustees may not be amended except in accordance with the unanimous assent of the members of the Board of Trustees expressed at two consecutive Annual Meetings of the Board of Trustees; and
- B. The provisions of Article III, Section 5 of these Bylaws relating to limitations on the power of the Board of Trustees to sell or otherwise alienate or encumber any land or interests in land; and Article III, Section 5 of these Bylaws relating to the disposition of the assets of the corporation in the event of the dissolution of the corporation may not be amended.

Notice must be given to the general membership of any amendments or alterations to the Bylaws. Alterations and amendments will not go into effect until three weeks after the notice is given.

SECTION 6 – Requirements of the Commonwealth of Massachusetts

- A. The corporation and individuals acting on behalf of the corporation with respect to employment and all other activities shall not discriminate in any regard to race, class, religion, gender, age, physical disability, sexual orientation, place of origin or heritage and nationality.
- B. The corporation shall not operate contrary to the confines and regulations of the Internal Revenue Code Section 501(c)(3) as they are not constituted or hereafter amended from time to time, or to allow any attempt to influence legislation, or intervene or participate in a political campaign on behalf of any candidate for public office.
- C. No permanent or temporary agent performing on behalf of this corporation shall receive any pecuniary benefit from the said corporation except such reasonable compensation for services rendered to the corporation.

- D. Any action taken by a member of the Board of Directors who has a real or perceived conflict of interest may be invalidated. Any member of the Board of Directors who perceives himself or herself as having a conflict of interest regarding any matter must disclose the existence of his or her conflict of interest to the Board of Directors. In such case, any member of the Board of Directors may call for full disclosure of said conflict of interest by the particular board member and abstention of voting on the matter.
- E. It is anticipated at this time that the members of the Board of Directors shall not be personally liable for any debt, liability, or obligation of the corporation. It is noted that all persons, Corporations, or other entities extending credit to, contracting with or having any claim against the Corporation, may look only to the funds and property of the Corporation for the payment of any such contract or claim, or for the payment of any debt, damages, judgment, or decree, or of any money that may otherwise become due or payable to them from the Corporation. This provision of liability cannot be nullified by any provision in these Articles of Organization or the By-Laws of the Corporation.
- F. Indemnification if the Board of Directors, employees, or other agents of the Corporation and persons who serve as its Directors, officers, employees, or volunteers shall be provided by the Corporation to the extent of any liability insurance carried by the Corporation and covering the claim. Such indemnification shall be on condition that the person claiming indemnification cooperates in all ways required by the terms of the liability insurance policy and the limitations of liability set forth in Massachusetts General Law, Chapter 180, Section 3, paragraph 3. The limits and coverage of such policy shall be in the sole discretion of the Corporation.
- G. The rights of indemnification is solely for the benefit of the person to whom indemnification is extended under the provisions hereof, and no other person or entity shall have any right or claim, including a third-party beneficiary or for reliance on such indemnification, in respect hereto. No person or organization has a right to join the Corporation as a party otherwise in a suit seeking damages from the person claiming indemnification or to sue the Corporation under this section.
- H. The Corporation may be a partner in any business enterprise, which said Corporation would have power to conduct by itself.
- I. The Corporation may make contracts of guarantee and surety ship, whether or not in furtherance of the contracting corporation's purposes;

provided, however, that such contracts are necessary or convenient to the conduct, promotion or attainment of the Corporation.

- J. All assets obtained through the Corporation, financial and material, shall be used solely for the activities of the said Corporation as outlined in Article II of the Articles of Organization and upon dissolution, by vote of a majority of its Board of Directors of the Corporation, any assets remaining after payment of all lawful debts and responsibilities shall be used or distributed for its charitable purposes consistent with Section 501 (c) (3) of the Internal Revenue Code and the regulations thereunder as they exist or may be amended from time to time as responsibility by the Board of Directors or failing such responsibility by a court of competent jurisdiction.