



# Delaware Highlands Conservancy

... a land trust working with landowners to conserve the natural and cultural heritage of the Upper Delaware River region.

## **BY-LAWS DELAWARE HIGHLANDS CONSERVANCY**

Approved October 20, 2018

### ARTICLE I: NAME, PRINCIPAL OFFICE AND PURPOSE

- 1.01. **NAME:** The name of the Corporation is the DELAWARE HIGHLANDS CONSERVANCY (hereinafter “Conservancy”).
- 1.02. **ADDRESS:** The primary post office address of the Conservancy is P.O. Box 218, Hawley, PA 18428. The secondary post office address is P.O. Box 219, Narrowsburg, NY 12764
- 1.03. **PURPOSE:** The purposes of the Conservancy are:
- (a) to fulfill our mission: To conserve the forests, farmland, clean water and wildlife habitat of the Upper Delaware River region;
  - (b) to acquire, protect, and conserve Natural Resources for the benefit of people and wildlife. “Natural Resources” means land, clean water, and wildlife habitat including, but not limited to, streams, marshlands, swamps, woodlands, farmlands, parks, and other open spaces, and plant life;
  - (c) to protect and conserve ecosystems to enhance sustainability and resiliency of our natural resources as the Earth’s climate changes;
  - (d) to acquire, protect, and conserve unique historic and scenic sites;
  - (e) to promote, by way of educating the public and otherwise: (i) the protection and conservation of Natural Resources; and (ii) the scientific study of environmental stewardship;
  - (f) to acquire, by gift, purchase, or otherwise, interests in real or personal property, both tangible and intangible, for use by the Board of Directors to further these purposes;
  - (g) to use any and all corporate assets, and net earnings and proceeds thereof, as deemed necessary by the Board of Directors, to further the purposes of the Conservancy;

- (h) to do any and all things permitted by the laws of the Commonwealth of Pennsylvania and the State of New York as now or hereafter enacted (“Governing Law”); and
- (i) to carry on all activities as are permitted a corporation formed exclusively for charitable, scientific and educational purposes, and that are exempt from federal income tax under Section 501 (c)(3) of the Internal Revenue Code, as amended. (Political activities are not permitted under Section 501 (c)(3).)

ARTICLE II: BOARD OF DIRECTORS

2.01 NUMBER AND TERM: The number of members which shall constitute the full Board of Directors shall be at least seven (7) and no more than twenty-one (21). Membership on the Board of Directors should include, to the extent practicable, persons who represent the diverse characteristics of the Delaware Highlands Conservancy’s constituency and who are supportive of the Conservancy’s goals. Directors shall be members of the Conservancy. Paid staff may not serve on the Board of Directors.

Directors are elected for three-year terms; any member of the Board of Directors may serve three consecutive three-year terms. A Director who has served three consecutive three-year terms may become eligible for election to the Board of Directors following an absence from the Board of Directors for at least one year.

2.02 NOMINATIONS: Nominations of candidates for the Board of Directors shall be made by a Governance Committee, pursuant to the provisions of Section 5.02. The nominations of the Governance Committee shall be announced to the Directors currently in office by including the nominations with the agenda of the Annual Board Meeting sent to the Directors currently in office pursuant to the provisions of Section 2.11

2.03 RESIGNATION, REMOVAL, OR LEAVE of ABSENCE: Any Director may resign at any time. Such resignation shall be made in writing and shall take effect at the time of its receipt by the chair of the Governance Committee, unless some other time is fixed in the resignation. The acceptance of a resignation shall not be required to make it effective.

Any Director may be removed with or without cause, by a vote of two thirds (2/3) of all of the active Directors. The vote will be held at a meeting called specifically for the purpose of removing a Director. The notification of such meeting must provide three days notice and must state that the removal of a Director is the purpose for which the meeting is being called.

A Director may request a leave of absence. The Board of Directors will review the request on an individual basis. A Director on leave of absence is not considered an active member of the Board of Directors.

2.04 VACANCIES: A vacancy on the Board of Directors, no matter how arising, may be filled by appointment of a Director by the Board of Directors, to fill such vacancy until the next

Annual Board Meeting, when an election for the full term of that Director position will be held. The Director's three term limit begins at the time of election at the Annual Board Meeting. The appointed term served leading up to the election at the Annual Board Meeting shall not be deemed part of the Director's first three-year term.

- 2.05 POWERS: The Board of Directors shall have and exercise full power and authority to do any and all things deemed necessary or expedient in the government, management, and control of the business and affairs of the Conservancy. Decisions will be made by a simple majority of those Directors present, provided there is a quorum, unless a specific policy requires a super majority vote of the Board of Directors or as set forth in Section 2.03 or 10.01.
- 2.06 BORROWING MONEY AND REAL ESTATE TRANSACTIONS: The Board of Directors shall have power to borrow money and to purchase any interest in property, real or personal. The Board of Directors shall have the power to sell any interest, lease away, or otherwise dispose of any interest in property, real or personal, owned by the Conservancy subject to the Conservancy's Financial Management Policy.
- 2.07 DUTIES: Individual Directors shall:
- approve policy, guidelines and budgets for the Conservancy;
  - be responsible for long range planning for the Conservancy;
  - establish the dates, times and places of meetings;
  - approve formation of & monitor progress of committees and serve on at least one;
  - participate in Conservancy fundraising activities;
  - review financial reports;
  - review the independent annual financial audit;
  - employ the Executive Director who shall manage, on a day to day basis, the activities of the Conservancy within the established policies, guidelines, procedures and budgets; and
  - plan and execute such other appropriate measures to best promote the purposes of and financially stabilize the Conservancy.
- 2.08 REGULAR MEETINGS: Regular Meetings of the Board of Directors may be held at such time as determined by the Board of Directors, and may be adjourned by the Directors present to any other time. Regular Meetings may be held by means of conference telephone or similar communications equipment, provided all persons participating in the meeting can hear each other.
- 2.09 NOTICE OF REGULAR MEETINGS: Written notice of Regular Meetings of the Board of Directors shall be given before the beginning of the calendar year and shall state the date and hour of meeting. Additional notice is provided including any changes of date and hour at least five days in advance of the date originally scheduled for such Regular Meeting. Such written notice may be made by email.
- 2.10 ANNUAL BOARD MEETING: There shall be an Annual Board Meeting of the Board of Directors during the month of October. This meeting is for the purpose of the election of

Directors, the annual election of Officers from among the Board of Directors, and the transaction of such other business as may properly come before the meeting. Each Annual Board Meeting shall be at such hour as designated by the Board of Directors.

- 2.11 NOTICE OF ANNUAL BOARD MEETING: Written notice of the meeting shall be given to Directors at least 10 days before the date of the meeting. Such written notice may be made by email. The Annual Board Meeting shall also be publicized so that members of the Conservancy have an opportunity to attend.
- 2.12 SPECIAL MEETINGS: Special Meetings of the Board of Directors may be called at any time by the President or by one-third of the Directors by written or oral request presented to the Secretary of the Conservancy. Such written request may be made by email. Special Meetings may be held by means of conference telephone or similar communications equipment, provided all persons participating in the meeting can hear each other.
- 2.13 NOTICE OF SPECIAL MEETINGS: Written notice of the date and hour of each Special Meeting shall be given to all Directors by the Secretary of the Conservancy at least three business days prior to the Special Meeting date. Such written notice may be made by email.
- 2.14 QUORUM: A number representing a majority of the currently active Board of Directors shall constitute a quorum for the transaction of business at any Regular, Annual, or Special Meeting of the Board of Directors. For purposes of calculating quorum, related parties attending the same meeting shall be considered a single entity.
- 2.15 PARTICIPATION IN MEETINGS: One or more persons may attend a meeting of the Board of Directors or a committee of the Board of Directors by means of conference telephone or similar communications equipment, provided all persons participating in the meeting can hear each other. The Board of Directors may also approve a policy or action by unanimous written consent, which may be given by email. Telephone polling of votes for Executive Committee or other committees is permissible, however written confirmation of such votes must be received at the Conservancy's principal office within five business days after such vote is taken and must be maintained with the minutes of the relevant meeting. Such written confirmation may be made by email.
- 2.16 EX-OFFICIO MEMBERS: Individuals may become ex-officio members of the Board of Directors by appointment by the majority of the Directors present at any Regular or Annual Board Meeting. Ex-officio members do not have the power to vote.
- 2.17 ATTENDANCE: If an active Director misses three (3) consecutive meetings without prior notification, they shall be deemed to have resigned and shall be notified by the chair of the Governance Committee.

### ARTICLE III: OFFICERS

- 3.01 **PRINCIPAL OFFICERS:** The principal officers of the Conservancy, to be elected by the Board of Directors from its own membership at its Annual Board Meeting, shall be a President, a Vice President, a Secretary, and a Treasurer. The Governance Committee established pursuant to Sections 2.02 and 5.02 shall make nominations of the principal officers prior to said meeting. Such officers shall hold office (i) until the next Annual Board Meeting for the election of officers and until their successors are elected and accept the position or (ii) until their death, resignation, or removal. The Board of Director's presiding officer and the Treasurer cannot be the same person. The offices of Secretary and Treasurer may be held by the same person. The Board of Directors may designate one or more persons to act as Assistant Secretary and Assistant Treasurer these positions must be filled by Conservancy members or staff.
- 3.02 **VACANCIES:** If for any reason any principal office is vacant, the Executive Committee shall appoint a Director to fill such office until the next Annual Board Meeting.
- 3.03 **EXECUTIVE DIRECTOR:** An Executive Director may be hired by, and shall serve at the pleasure of, the Board of Directors on such terms, including compensation, as the Board of Directors shall prescribe. As the chief executive and operating officer of the Conservancy, the Executive Director shall have the general charge of the administration of the Conservancy's operations and programs, and, specifically, shall perform such duties as may from time to time be assigned to them by the Board of Directors, by the Executive Committee or the President. The Executive Director will be responsible to the Board of Directors.
- 3.04 **OTHER OFFICERS, AGENTS, AND EMPLOYEES:** In addition to the position of Executive Director, the Board of Directors or the Executive Committee may appoint or retain subordinate officers, agents, and employees of the Conservancy, designate their duties, and prescribe their compensation (if any). Such subordinate officers, agents, and employees of the Conservancy shall hold their offices or maintain their employment subject to the pleasure of the Board of Directors.

#### ARTICLE IV: DUTIES OF OFFICERS

- 4.01 **PRESIDENT:** The President shall preside at all meetings of the Board of Directors and Executive Committee. The President shall perform all duties and functions as may be prescribed in these By-Laws or as directed by the Board of Directors. The President is a voting member of the Executive Committee. The President can be appointed to Board of Director committees as a voting member. In all other cases, the President is a non-voting ex-officio member of all Board of Director committees.
- 4.02 **VICE PRESIDENT:** The Vice President shall perform the duties of President when for any reason the President is unable to perform the President's duties, and in addition shall perform such duties as may be prescribed by resolution of the Board of Directors or by the President.

- 4.03 PRESIDENT PRO TEMPORE. In the absence of both President and Vice President, the duties pertaining to the office of the President shall be performed by a President Pro Tempore elected by the Board of Directors.
- 4.04 SECRETARY: The Secretary shall, under the direction of the President, be responsible for the minutes of the Board of Directors. The Secretary shall notify Directors of all Regular Meetings and Special Meetings of the Board of Directors. In the event of temporary absence or disability of the Secretary, or if the Secretary so delegates, the duties may be performed by an Assistant Secretary, the Treasurer, or an Assistant Treasurer.
- 4.05 TREASURER: The Treasurer shall, in addition to the usual duties devolving upon the office of Treasurer, make a financial report at each Annual Board Meeting. In the event of temporary absence or disability of the Treasurer, or if the Treasurer so delegates, the duties may be performed by an Assistant Treasurer, the Secretary, or an Assistant Secretary. Signing authority is set forth in the provisions of Section 8.01.

#### ARTICLE V: COMMITTEES

- 5.01 EXECUTIVE COMMITTEE: There shall be an Executive Committee which shall consist of the President, Vice President, Secretary, Treasurer, and at least one other member of the Board of Directors nominated and elected by the Board of Directors and designated as the Director at Large. The President shall be chair of the Executive Committee. The Executive Committee shall have and may exercise, during intervals between meetings of the Board of Directors, any and all powers vested in the Board of Directors, except for the ability to enter into real property transactions or to amend the By-Laws. All votes occurring in Executive Committee shall be reported to the Board of Directors at the next Board meeting.
- 5.02 GOVERNANCE COMMITTEE: There shall be a Governance Committee, whose duties shall include: the nomination of Directors for election at such Annual Board Meeting and for the nomination of Officers for election by the Directors pursuant to Section 3.01; the annual collection of information regarding potential conflicts of interest from all Directors, staff, agents, and volunteers of the Conservancy, and the evaluation of that information with the assistance of the Legal Committee; and provision of oversight of the Board of Directors operations. This Committee shall consist of three Directors.
- 5.03 LAND PROTECTION COMMITTEE: There shall be a Land Protection Committee whose duties shall include: the oversight of the Conservancy's land protection policies and guidelines; the evaluation of lands to be protected and the strategies to implement a land protection project; ensuring ongoing stewardship and annual monitoring of all current conservation easements; and making recommendations to the Board of Directors related to land protection. The committee must contain at least one member of the Board of Directors who shall serve as chair.

- 5.04 **LEGAL COMMITTEE:** There shall be a Legal Committee whose duties shall include: review of material contracts and other legal agreements (including Conservation Easements) binding the Conservancy; retention of outside counsel and oversight of any litigation to which the Conservancy is a party; evaluation of potential conflicts of interest; and providing advice on enforcement of conservation easements and any matters referred to it by the Board, the Executive Director or any of the Conservancy's other committees. The committee shall consist of the Executive Director, any staff designated by the Executive Director, and other members of the Conservancy who are admitted to the bar or who have a legal education.
- 5.05 **FINANCE COMMITTEE:** There shall be a Finance Committee whose duties shall include the oversight of the Conservancy's financial information so that the Board of Directors has the reports needed to make decisions about allocation of financial resources toward the Conservancy's activities. The Treasurer shall serve as the chair of the Finance Committee.
- 5.06 **DEVELOPMENT COMMITTEE:** There shall be a Development Committee whose duties shall include advising the Board of Directors on the creation, implementation, and evaluation of the Conservancy's fundraising strategy. The committee must contain at least one member of the Board of Directors who shall serve as chair.
- 5.07 **OTHER COMMITTEES:** The President shall, with the advice and consent of the Board of Directors, create such other committees as may be deemed necessary or desirable and appoint their members. Any committee may create such sub-committees as may be deemed necessary or desirable. Creation of sub-committees shall be reported to the Board of Directors at the next Board meeting. Any committee, other than the Executive and Governance Committees, may, at the discretion of the President, include individuals who are not members of the Board of Directors; such persons shall, however, be members of the Conservancy.
- 5.08 **VACANCIES:** A vacancy in the chair for any committee, however arising, may be filled by the President with the advice and consent of the Board of Directors. A vacancy in chair for any sub-committee may be filled by the committee that created the sub-committee.
- 5.09 **MEETINGS:** Each committee and subcommittee shall meet a minimum of twice per year. The date and time of such meetings shall be set by the chair of each committee or subcommittee.
- 5.10 **QUORUM:** A majority of the members of the Executive Committee, or any other committee or subcommittee, shall constitute a quorum for the transaction of business at a meeting of any committee or subcommittee. For purposes of calculating quorum, related parties attending the same meeting shall be considered a single entity.
- 5.11 **RULES AND RECORDS:** Each committee and subcommittee shall prescribe its own rules and keep written records of all its meetings.

## ARTICLE VI: MEMBERSHIP

- 6.01 **POWER TO GOVERN:** The Conservancy shall have non-voting members. All powers provided under Governing Law are vested in and exercised by the Board of Directors.
- 6.02 **CRITERIA FOR MEMBERSHIP:** Notwithstanding Section 1 of this Article VI, the Board of Directors may from time to time determine the criteria for and benefits of one or more classes of non-voting membership in the Conservancy. Members of the Conservancy shall be those individuals or entities that at the time of reference meet all of the criteria for any class of membership, which shall include, at a minimum, an annual monetary donation or in-kind services to the Conservancy.
- 6.03 **INTEREST IN CORPORATE ASSETS:** No member of the Conservancy shall have any interest in or right to the assets, rights or privileges of the Conservancy, whether during or following the cessation of membership

## ARTICLE VII: FISCAL POLICIES

- 7.01 **FISCAL YEAR:** The Fiscal year for all business transactions shall correspond with the calendar year.
- 7.02 **DEPOSITORIES:** The Board of Directors may establish such accounts with banks, trust companies, and other fiduciary institutions as it deems appropriate.
- 7.03 **AUDIT:** There shall be an annual financial statement of accounts prepared by the Conservancy's independent CPA as soon as possible after the close of each fiscal year. This statement can either be compiled, reviewed, or audited, based upon Conservancy accreditation, federal law, and grant requirements. The statement will be reviewed by the Finance Committee and then presented to the Board of Directors.
- 7.04 **DISSOLUTION:** Upon dissolution, the Conservancy's assets shall be transferred to one or more organizations which have the same or similar purposes carrying on the same or similar activities and which are described In Section 501(c)3 of the Internal Revenue Code or any corresponding future provision of the Internal Revenue Code.

## ARTICLE VIII: CONTRACTS, NOTES, CHECKS, ETC.

- 8.01 **SIGNING AUTHORITY:** All contracts and agreements authorized by the Board of Directors or the Executive Committee and all checks, drafts, or wire transfer authorizations shall, except for those in an amount greater than Ten Thousand (\$10,000.00) Dollars, be signed (or approved) by one of the following: President, Vice President, Secretary, Treasurer, or Assistant Secretary, Assistant Treasurer, Executive Director, or other signers as designated and approved by the Board of Directors. Contracts and agreements, as well as checks, drafts, or wire transfer authorizations in

excess of Ten Thousand (\$10,000.00) Dollars, shall be signed by any two (2) of such persons unless otherwise pre-authorized by the Board of Directors (i.e., easement closings). The Board of Directors may also authorize any one of such persons or the Executive Director to regularly sign checks, drafts, and orders for the payment of money that occur on a regular basis (i.e., payroll, payroll withholding tax, etc.).

#### ARTICLE IX: INDEMNIFICATION OF DIRECTORS, OFFICERS AND EMPLOYEES

- 9.01 **REQUIREMENT TO MAINTAIN INSURANCE:** The Conservancy shall purchase and maintain insurance to indemnify the Conservancy and its Directors, Officers, and Agents to the full extent such indemnification is required by law.
- 9.02 **INDEMNIFICATION IN ACTIONS BROUGHT AGAINST CONSERVANCY:** The Conservancy shall indemnify any person who was, or is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Conservancy) by reason of the fact that they are or were a Director, officer, committee member, or employee of the Conservancy, or are or were serving at the request of the Conservancy as a Director, officer, committee member, or employee of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including reasonable costs and attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by them in connection with such action, suit or proceeding if they acted in good faith and in a manner they reasonably believed to be in, or not opposed to, the best interests of the Conservancy and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which they reasonably believed to be in, or not opposed to, the best interests of the Conservancy, and, with respect to any criminal action or proceeding, had reasonable cause to believe that their conduct was unlawful.
- 9.03 **INDEMNIFICATION IN ACTIONS BROUGHT BY THE CONSERVANCY:** The Conservancy shall indemnify any person who was or is a party to or is threatened to be made a party to any threatened, pending or completed action, or suit by or in the right of the Conservancy to procure a judgment in its favor by reason of the fact that they are or were a Director, officer, committee member, or employee of the Conservancy, or are or were serving at the request of the Conservancy as a Director, officer, committee member, or employee of another Conservancy, partnership, joint venture, trust, or other enterprise against expenses (including reasonable costs and attorneys' fees) actually and reasonably incurred by them in connection with the defense or settlement of such action or suit if they acted in good faith and in a manner they reasonably believed to be in, or not opposed to, the best interests of the Conservancy and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of their duty to the Conservancy unless and only to the extent that the court of common pleas of the county

in which the registered office of the Conservancy is located or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court of common pleas or such other court shall deemed proper.

- 9.04 **INDEMNIFICATION FOR EXPENSES INCURRED:** To the extent that a Director, officer, committee member, or employee of the Conservancy has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 9.02 and 9.03 or in defense of any claim, issue or matter therein, they shall be indemnified against expenses (including reasonable costs and attorneys' fees) actually and reasonably incurred by them in connection therewith.
- 9.05 **BOARD APPROVAL OF INDEMNIFICATION:** Any indemnification under Sections 9.02 and 9.03 (unless ordered by a court) shall be made by the Conservancy only as authorized in the specific case upon a determination that the indemnification of the Director, officer, committee member, or employee is proper in the circumstances because they have met the applicable standard of conduct set forth in Sections 9.02 and 9.03. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable a majority vote of a quorum is not obtainable, or even if obtainable a majority vote of a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion.
- 9.06 **GOVERNING LAW:** In accordance with and to the fullest extent permitted by Pennsylvania law, specifically 42 Pa. C.S.A. Section 8332.2, and 15 Pa. C.S.A. Sections 5741 et seq., no person who is or was a Director or Officer of the Conservancy shall be personally liable for monetary damages as such for any action taken, or any failure to take any action, as a Director, unless:
- (a) The Director or Officer has breached or failed to perform the duties of the office as defined in 15 Pa. C.S.A. Section 5741 (relating to standard of care and justifiable reliance); or
  - (b) The breach or failure to perform constitutes self-dealing, willful misconduct, or recklessness.

These sections of PA law were adopted to provide liability protection for persons who serves, without compensation, as a Director or Officer of a nonprofit corporation.

- 9.07 **CHANGE IN GOVERNING LAW:** If Governing Law hereafter is amended to authorize the further elimination of, or limitation on, the liability of Directors, then the liability of a Director of the Conservancy in addition to limitation on personal liability provided herein, shall be limited to the fullest extent permitted by law.

#### ARTICLE X: AMENDMENTS

10.01 BY-LAWS: The power to make, supplement, amend, and repeal these By-Laws, in whole or in part, shall be vested only in the Board of Directors and may be exercised only at a Special Meeting called specifically for this purpose and after notice of the proposed change(s) in the By-Laws has been given to the Board of Directors. Changes in the By-Laws may be proposed by the President or by one-third of the active Directors by submitting the proposed change(s) to the Secretary so that notice of the proposed change(s) can be provided to the Board of Directors with the notice of the Special Meeting pursuant to Sections 2.12 of these By-Laws. The notification of such meeting must state the purpose for the meeting is to make, supplement, amend, and/or repeal the By-Laws and the proposed changes shall be included in the notification. Notwithstanding the requirements of Section 2.12, written notice of the date and hour of such Special Meeting for amending these By-Laws shall be given to all Directors by the Secretary of the Conservancy at least ten business days prior to the Special Meeting date. Such written notice may be made by email. A two-thirds vote of the active Directors shall be necessary to change these By-Laws.

Revision History:

Replaces version approved October 18, 2014

Replaces version approved October 23, 2010