

NON-PROFIT BYLAWS OF BERKSHIRE COUNTY HISTORICAL SOCIETY, INC.

PREAMBLE

The following Bylaws shall be subject to, and governed by, the Non-Profit Corporation Act of Massachusetts and the Articles of Incorporation of Berkshire County Historical Society, Inc. In the event of a direct conflict between the herein contained provisions of these Bylaws and the mandatory provisions of the Non-Profit Corporation Act of Massachusetts, said Non-Profit Corporation Act shall be the prevailing controlling law. In the event of a direct conflict between the provisions of these Bylaws and the Articles of Incorporation of the Historical Society, it shall then be these Bylaws which shall be controlling. See the Articles of incorporation of the Berkshire County Historical Society, Inc.

ARTICLE 1 – NAME

The legal name of the Non-Profit Corporation/Organization shall be known as Berkshire County Historical Society, Inc., and shall herein be referred to as the "Historical Society."

ARTICLE 2 – PURPOSE

The general purposes for which this Historical Society has been established are as follows:

The Historical Society is established within the meaning of IRS Publication 557 Section 501(c) (3) Organization of the Internal Revenue Code of 1986, as amended (the "Code") or the corresponding section of any future federal tax code and shall be operated to collect, preserve and disseminate the history of Berkshire County, Massachusetts, and to utilize its collections for research, education, exhibit, and to loan its collections as appropriate. Furthermore, the society is committed to the preservation and interpretation of Arrowhead, the home of author Herman Melville, as a registered National Historic Landmark and museum. In addition the Historical Society also sponsors programs to bring together people interested in history, especially in the history of Berkshire County, as a means of better understanding our local, state and national heritage.

Additionally, the Historical Society has been formed for the purpose of performing all things incidental to, or appropriate in, the foregoing purposes. However, the Historical Society shall not, except to an insubstantial degree, engage in any activity or the exercise of any powers which are not in furtherance of its primary non-profit purposes.

The Berkshire County Historical Society, Inc. is a Not-For-Profit Corporation as defined by the General Statutes of the Commonwealth of Massachusetts.

The Historical Society shall hold and may exercise all such powers as may be conferred upon any nonprofit organization by the laws of the State of Massachusetts and as may be necessary or expedient for the administration of the affairs and attainment of the purposes of the Historical Society. At no time and in no event shall the Historical Society participate in any activities which have not been permitted to be carried out by a Historical Society exempt under Section 501(c) of the Internal Revenue Code of 1986.

ARTICLE 3 – OFFICES

The principal office of the Historical Society shall be located at Arrowhead, 780 Holmes Road, Pittsfield, Massachusetts 01201.

The Historical Society may have other such offices as the Board of Directors may determine or deem necessary, or as the affairs of the Historical Society may find a need for from time to time.

ARTICLE 4 – ASSETS & INUREMENT

4.1 Dedication of Assets.

The properties and assets of the Historical Society are irrevocably dedicated to and for non-profit purposes only, including but not limited to collections, acquisitions and other such properties and assets as may be, from time to time, determined by the Board of Directors of the Historical Society.

4.2 Inurement.

No part of the net earnings of the Historical Society shall inure to the benefit of any member, individual or entity and no substantial part of the Historical Society's activities shall be to carry on propaganda or otherwise attempt to influence legislation. The Historical Society shall not participate in, not intervene in (including the distribution of statements) in any political campaign on behalf of any candidate for public office, shall not engage in any "prohibited transaction" within the meaning of the Internal Revenue Code or in any illegal business or practice and shall not be and "action organization" within the meaning of the Internal Revenue Code.

ARTICLE 5 – MEMBERS

5.1 Membership.

Any person, firm, association, trust, corporation, or other entity or organization shall be eligible for membership in the Society upon payment of dues as prescribed in this Article 5.

5.2. Classifications.

The classifications of members shall be set by the Board of Directors from time to time as the Board deems appropriate.

5.3 Dues.

The schedule of dues for membership shall be set by the Board of Directors from time to time as the Board deems appropriate.

5.4 Voting.

Each member shall be entitled to one (1) vote at any meeting of the membership of the Historical Society at which he/she/it is present in person or by proxy. Each firm, association, trust, corporation, organization or other entity shall designate one (1) person to cast its vote.

5.5 Membership Rights.

All members in good standing shall be entitled to the rights of their classification, if any, and shall exercise all residual power required by the General Laws of the Commonwealth of Massachusetts to be exercised by members.

5.6 No Grant of Interest.

Membership confers no legal or equitable interest in the real or personal property or income of the Historical Society.

5.7 Members Meetings

5.7.1 Annual General Meeting.

The Annual General Meeting of the members shall be held between April 15 and May 15 of each year, at a place to be selected by the President for the purpose of electing officers and directors, and for such purposes as may be stated in a written notice sent to members ten (10) days prior to the Annual General Meeting. A quorum at the Annual General Meeting shall be 35 members eligible to vote.

5.7.2 Regular or Special Meetings.

Meetings of the members may be requested at any time by the President or by at least two Directors or by application of three or more members who are entitled to vote and shall be called by the Secretary of the Board, or in the absence of a Secretary by another officer, stating the time, place and purpose of the special meeting, which shall be sent to all members at least ten (10) days in advance of the meeting. Business subject to a vote, brought before such a meeting, will be passed by a simple majority of voting members present.

5.7.3 Notice.

A ten (10) day written notice of the Annual General Meeting, any regular meeting and any special meeting shall be given in hand or by mail or electronic mail to each member entitled to vote thereat, at his/her/its address or e-mail address as it appears on the books of the Historical Society. Each notice shall state the date, time, place and purpose of the meeting.

5.7.4 Minutes

The Secretary shall be responsible for the recording of all minutes of each and every meeting of the membership in which business shall be transacted in such order as the Board may determine from time to time. However, in the event that the Secretary is unavailable, the Board Chair shall appoint an individual to act as Secretary at the meeting. The Secretary, or the individual appointed to act as Secretary, shall prepare the minutes of the meetings, which shall be delivered to the Historical Society to be placed in the minute books.

ARTICLE 6 – BOARD OF DIRECTORS

6.1 General Powers and Responsibilities.

The Historical Society shall be governed by a volunteer Board of Directors (the "Board"), which shall have all the rights, powers, privileges and limitations of liability of directors of a non-profit corporation organized under the General Laws of the Commonwealth of Massachusetts. Specifically, the Board shall establish policies and directives governing business and programs of the Historical Society. The Board shall secure adequate funding for the Historical Society, shall monitor finances of the Historical Society, create and update a long-range plan for the organization, select and support the organization's board officers, adopt key operating policies, and approve contracts as appropriate. Additionally, the Board shall have the authority to engage the professional services of an Executive Director and shall delegate to the Executive Director and Historical Society staff, subject to the provisions of these Bylaws, authority and responsibility to see that the policies and directives are appropriately followed. The Board shall have the duty to oversee and review the performance of the Executive Director.

6.2 Number of Directors

The Board shall have up to 24, but no fewer than 8, Board members, of whom four (4) shall be officers of the Historical Society. The number of Board members may be increased beyond 24 members or decreased to less than 8 members by the affirmative vote of a two-thirds majority of the then serving Board of Directors.

6.3 Qualifications.

A Board member need not be a resident of the State of Massachusetts. All Board members must be paid-in members of the Berkshire County Historical Society, Inc. Board members shall assume a reasonable financial commitment to the Historical Society as their individual ability allows.

6.4 Obligations and Duties.

6.4.1 Obligations.

Board members shall attend meetings regularly and participate in discussion at these meetings. Board members shall be informed about the mission and vision of the Historical Society and support this mission and vision. Board members shall contribute time and money to the Historical Society to the best of their ability. Board members shall

serve on at least one (1) committee when invited, unless excused for good cause. Board members shall encourage others to support the Historical Society and serve as a spokesperson in support of the Historical Society's mission and vision. Board members shall maintain confidentiality of board discussions.

6.4.2 Duties

The Board of Directors, through its members, shall authorize all transactions, contracts, agreements, purchases and expenditures of the Historical Society, including the purchase, sale, lease or mortgage of any or all real and/or personal property of the Historical Society by a majority vote. Any such transactions, contracts, agreements, purchases and expenditures shall be effectuated as described in Article 11 herein below.

6.5 Board Compensation.

The Board shall receive no compensation other than for reasonable, documented expenses.

6.6 Board Elections.

The Nominating Committee shall present nomination(s) for new and renewing Board members at the annual meeting. Recommendations from the Nominating Committee shall be made known to the Board in writing before nominations are made and voted on. New and renewing Board members shall be approved by a majority of those Board members at a Board meeting at which a quorum is present.

6.7 Term of Board.

All appointments to the Board shall be for a term of two (2) years. No person shall serve more than three (3) consecutive terms unless a majority of the Board, during the course of a Board meeting at which a quorum is present, votes to appoint a Board member to one (1) additional year. No person shall serve more than seven (7) consecutive years. After serving the maximum total number of consecutive years on the Board, a member may be eligible for reconsideration as a Board member after one (1) year has passed since the conclusion of such Board member's service.

6.8 Vacancies

A vacancy on the Board of Directors may exist at the occurrence of the following conditions:

- a) The death, resignation, or removal of any director; or
- b) The declaration by resolution of the Board of a vacancy in the office of a director who has been declared of unsound mind by a final order of court, convicted of a felony, found by final order or judgment of any court to have breached a duty pursuant to the Corporation Code and/or Act of the law dealing with the standards of conduct for a director,
- c) The Board member's unexcused absence from two (2) consecutive meetings of the Board of Directors, or a total of three (3) meetings of the Board during any one calendar year;
- d) An increase in the authorized number of directors; or

- e) The failure of the directors, at any annual or other meeting of directors at which director(s) are to be elected, to elect the full authorized number of directors.

The Board of Directors, by way of affirmative vote of a majority of the directors then currently in office, may remove any director with or without cause at any regular or special meeting, provided that the director to be removed has been notified in writing in the manner set forth in this Article 6 that such action would be considered at the meeting.

Any vacancy on the Board may be filled by vote of a simple majority of the directors then in office, whether or not the number of directors then in office is less than a quorum, or by vote of a sole remaining director. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

A Board member elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

6.9 Resignation

Except as provided in this paragraph, any director may resign effective upon giving written notice to the President, the secretary of the Historical Society, or the Board of Directors. The resignation shall take effect upon receipt thereof unless the notice specifies a later time for the effectiveness of the resignation. If the resignation is effective at a future time, a successor may be designated to take office when the resignation becomes effective. Unless the Attorney General of Massachusetts is first notified, no director may resign when the Historical Society would then be left without a duly elected director in charge of its affairs.

6.10 Meetings

6.10.1 Regular Meetings.

Regular Meetings of the Board shall be set by the Board of Directors from time to time as the Board deems appropriate. The Board will meet a minimum of four (4) times in any fiscal year.

6.10.2 Special Meetings of the Board.

Special meetings of the Board may be requested at any time by the President or by at least two (2) Directors and shall be called by the Secretary of the Board, or in the absence of a Secretary by another officer, stating the time, place and purpose of the special meeting, which shall be sent to all Board members at least ten (10) days in advance of the meeting.

6.10.3 Quorum.

At any meeting of the Board, seventy-five (75%) percent of the Board members shall constitute a quorum for the transaction of any business. *[Amended at Board meeting 11/10/2015 to sixty-six (66%) percent of Board members shall constitute a quorum.]*

When a quorum is present the affirmative vote of at least a majority of the Board members represented and entitled to vote shall be necessary to the decision of any question brought before the meeting, unless a larger vote is required by law, by the

Articles of Incorporation of the Historical Society or by these By-laws. At any meeting where a quorum is not present, said meeting may be adjourned to the next regular Board meeting, adjourned to a fixed date, or recessed until a quorum may be assembled. At any adjourned or recessed meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting. If at any time the Board consists of an even number of members and a vote results in a tie, then the vote of the Board Chair shall be the deciding vote.

6.10.4 Notice.

A ten (10) day written notice of any regular Board meeting and any Special Board Meeting shall be given by mail or electronic mail or in hand to each Board member at his/her/its address or e-mail address as it appears on the books of the Historical Society. Each notice shall state the date, time, place and purpose of the meeting.

6.11 Minutes.

The Secretary shall be responsible for the recording of all minutes of each and every meeting of the Board in which business shall be transacted in such order as the Board may determine from time to time. However, in the event that the Secretary is unavailable, the President shall appoint an individual to act as Secretary at the meeting. The Secretary, or the individual appointed to act as Secretary, shall prepare the minutes of the meetings, which shall be delivered to the Historical Society to be placed in the minute books. A copy of the minutes shall be delivered to each Board member via either regular mail, hand delivered, emailed, or faxed at least seven (7) days prior to the next scheduled Board meeting

6.12 Proxy

A Board member who is unable to attend a meeting of the Board or a Board Committee may vote by written proxy given to any other voting member of the Board or Committee who is in attendance at the meeting in question. However, a vote by proxy shall not be counted toward the number of Board members needed to be present to constitute a quorum for the transaction of business. No proxy shall be valid after three (3) months from the date of execution. Each proxy shall be revocable unless expressly stated therein to be irrevocable or unless made irrevocable by law.

6.13 Board of Advisors.

The President, with the consent of a majority of the Board, may appoint former officers, directors or other individuals with special skills or interests to a non-voting Board of Advisors or to any Committee. Each member of this Board of Advisors will serve a term of one year, with no limitations on the number of terms to which he or she may be reappointed by the President, and will be available for providing advice and counsel as needed by the Regular slate of officers and directors. The President and officers of the Board of Directors will serve as *ex-officio* members of the Board of Advisors.

ARTICLE 7 – STANDARD OF CARE OF THE BOARD OF DIRECTORS

7.1 General.

A director shall perform all the duties of a director, including, but not limited to, duties as a member of any committee of the Board on which the director may serve, in such a manner as the director deems to be in the best interest of the Historical Society and with such care, including reasonable inquiry, as an ordinary, prudent, and reasonable person in a similar situation may exercise under similar circumstances.

In the performance of the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

- a) One or more officers or employees of the Historical Society whom the director deems to be reliable and competent in the matters presented;
- b) Counsel, independent accountants, or other persons, as to the matters which the director deems to be within such person's professional or expert competence;
- c) A committee of the Board upon which the director does not serve, as to matters within its designated authority, which committee the director deems to merit confidence, so long as in any such case the director acts in good faith, after reasonable inquiry when the need may be indicated by the circumstances, and without knowledge that would cause such reliance to be unwarranted.

Except as herein provided in this Article 7 - Standard of Care, any person who performs the duties of a director in accordance with the above shall have no liability based upon any failure or alleged failure to discharge that person's obligations as a director, including, without limitation of the following, any actions or omissions which exceed or defeat a public or charitable purpose to which the Historical Society, or assets held by it, are dedicated.

7.2 Loans

The Historical Society shall not make any loan of money or property to, or guarantee the obligation of, any director or officer, unless approved by the Massachusetts Attorney General; provided, however, that the Historical Society may advance money to a director or officer of the Historical Society or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such officer or director so long as such individual would be entitled to be reimbursed for such expenses absent that advance.

7.3 Conflict of Interest

The purpose of the Conflict of Interest policy is to protect the Historical Society's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of one of its officers or directors, or that might otherwise result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable corporations/organizations and is not intended as an exclusive statement of responsibilities. The Board of Directors should avoid even the appearance of a conflict of interest at all times and in all matters.

7.4 Restriction on Interested Directors.

Not more than twenty percent (20%) of the persons serving on the Board of Directors at any time may be interested persons. An interested person is (1) any person currently being compensated by the Historical Society for services rendered to it within the previous twelve (12) months, whether as an independent contractor, or otherwise, excluding any reasonable compensation paid to a director; and (2) any brother, sister, parent, ancestor, descendent, spouse, brother-in-law, sister-in-law, son-in-law, mother-in-law, or father-in-law of any such person. However, any violation of the provisions of this section shall not affect the validity or enforceability of any transaction entered into by the interested person.

7.5 Duty to Disclose.

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors who are considering the proposed transaction or arrangement.

7.6 Establishing a Conflict of Interest

After the disclosure of the financial interest and all material facts, and after any discussion with the interested person, the interested person shall leave the Board meeting while the potential conflict of interest is discussed and voted upon. The remaining Board members shall decide if a conflict of interest exists.

7.7 Addressing a Conflict of Interest

In the event that the Board should establish that a proposed transaction or arrangement establishes a conflict of interest, the Board shall then proceed with the following actions:

- a) Any interested person may render a request or report at the Board meeting, but upon completion of said request or report the individual shall be excused while the Board discusses the information and/or material presented and then votes on the transaction or arrangement proposed involving the possible conflict of interest.
- b) The President of the Board shall, if deemed necessary and appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c) After exercising due diligence, the Board shall determine whether the Historical Society can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- d) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the best interest of the Historical Society, for its own benefit, and whether it is fair and reasonable. It shall make its decision as to whether to enter into the transaction arrangement in conformity with this determination.

7.8 Violations of Conflict of Interest Policy.

Should the Board have reasonable cause to believe an interested person has failed to disclose actual or possible conflicts of interest, the Board shall then inform the

interested person of the basis for such belief and afford the interested person an opportunity to explain the alleged failure to disclose.

If, after hearing the interested person's explanation, and after making further investigation as may be warranted in consideration of the circumstances, the Board determines the interested person intentionally failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

7.9 Procedures and Records.

All minutes of the Board Meetings, when applicable, shall contain the following information:

- a) The names of all the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's decision as to whether a conflict of interest in fact existed.
- b) The names of the persons who were present for discussions and any votes relating to the transaction or arrangement, the content of the discussions, including any alternatives to the proposed transaction or arrangement, and a record of any vote taken in connection with the proceedings.

7.10 Acknowledgement of Conflict of Interest Policy

Each director, principal officer, and member of a committee with Board delegated powers shall be required to sign a statement which affirms that such person:

- a) Has received a copy of the conflict of interest policy;
- b) Has read and understands the policy;
- c) Has agreed to comply with the policy; and
- d) Understands that the Historical Society is a charitable and/ or not for profit organization, and in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

7.11 Violation of Loyalty - Self-Dealing Contracts

A self-dealing contract is any contract or transaction (i) between this Historical Society and one or more of its Directors, or between this Historical Society and any corporation, firm, or association in which one or more of the Directors has a material financial interest ("Interested Director"), or (ii) between this Historical Society and a corporation, firm, or association of which one or more of its directors are Directors of this Historical Society. Said self-dealing shall not be void or voidable because such Director(s) of corporation, firm, or association are parties or because said Director(s) are present at the meeting of the Board of Directors or committee which authorizes, approves or ratifies the self-dealing contract, if:

- a) All material facts are fully disclosed to or otherwise known by the members of the Board and the self-dealing contract is approved by the Interested Director in good faith (without including the vote of any membership owned by said interested Director(s));
- b) All material facts are fully disclosed to or otherwise known by the Board of Directors or committee, and the Board of Directors or committee authorizes, approves, or

ratifies the self-dealing contract in good faith—without counting the vote of the interested Director(s)—and the contract is just and reasonable as to the Historical Society at the time it is authorized, approved, or ratified; or

- c) As to contracts not approved as provided in above sections (a) and/or (b), the person asserting the validity of the self-dealing contract sustains the burden of proving that the contract was just and reasonable as to the Historical Society at the time it was authorized, approved, or ratified.

Interested Director(s) may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof, which authorizes, approves, or ratifies a contract or transaction as provided for and contained in this section.

7.12 Indemnification.

To the fullest extent permitted by law, the Historical Society shall indemnify its "agents," as described by law, including its directors, officers, employees and volunteers, and including persons formerly occupying any such position, and their heirs, executors and administrators, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any "proceeding," and including any litigation or action by or in the right of the Historical Society, by reason of the fact that the person is or was a person as described in the General Laws of Massachusetts regarding Non-Profit Corporations. Such right of indemnification shall not be deemed exclusive of any other right to which such persons may be entitled apart from this Article.

To the fullest extent permitted by law, and, except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification in defending any "proceeding" shall be advanced by the Historical Society of an undertaking by or on behalf of that person to repay such amount unless it is ultimately determined that the person is entitled to be indemnified by the Historical Society for those expenses.

The Historical Society shall have the power to purchase and maintain insurance on behalf of any agent of the Historical Society, to the fullest extent permitted by law, against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, or to give other indemnification to the extent permitted by law.

ARTICLE 8 – OFFICERS

8.1 Officers and Duties.

The Board shall elect officers of the Historical Society which shall include a, President who shall act as the Chair of the Board of Directors, Vice President, a Secretary, a Treasurer, and such other officers as the Board may designate by resolution. The same person may hold any number of offices, except that neither the Secretary nor the Treasurer may serve concurrently as the chairperson of the Board or the President. In addition to the duties in accordance with this Article 8, officers shall conduct all other duties typically pertaining to their offices and other such duties which may be required

by law, Articles of Incorporation, or by these bylaws, subject to control of the Board of Directors, and they shall perform any other such additional duties which the Board of Directors may assign to them at their discretion.

The officers will be selected by the Board at its annual meeting, and shall serve the needs of the Board.

8.1.1 President – Chair of the Board of Directors.

It shall be the responsibility of the President of the Board, when present, to preside over all meetings of the Board of Directors, membership and Executive Committee. The President is authorized to execute, in the name of the Historical Society, any and all contracts or other documents which may be authorized, either generally or specifically, by the Board to be executed by the Historical Society in accordance with Article 11 herein below. The President shall have the authority to sign all payroll checks and checks up to \$2000.00 and may sign checks over \$2000.00 with the Treasurer or another officer as required by Article 11.

8.1.2 Vice President.

In the absence of the President or in the event of his/her inability or refusal to act, it shall then be the responsibility of the Vice President to perform all the duties of the President, and in doing so shall have all authority and powers of, and shall be subject to all of the restrictions on, the President.

8.1.3 Secretary

The Secretary, or his/her designee, shall be the custodian of all records and documents of the Historical Society, and the corporate seal which are required to be kept at the principal office of the Historical Society, and shall act as secretary at all meetings of the Board of Directors and membership meetings and shall keep the minutes of all such meetings on file in hard copy or electronic format. S/he shall attend to the giving and serving of all notices of the Historical Society and shall see that the seal of the Historical Society, if any, is affixed to all documents, the execution of which on behalf of the Historical Society under its seal is duly authorized in accordance with the provisions of these bylaws.

8.1.4 Treasurer

It shall be the responsibility of the Treasurer to keep and maintain, or cause to be kept and maintained, adequate and accurate accounts of all the properties and business transactions of the Historical Society, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements.

The Treasurer shall be responsible for ensuring the deposit of, or cause to be deposited, all money and other valuables as may be designated by the Board of Directors. Furthermore, the Treasurer shall disburse, or cause to be disbursed, the funds of the Historical Society, as may be ordered by the Board of Directors, and shall render to the President, officers and directors, whenever they request it, an account of all the Treasurer's transactions as treasurer and of the financial condition of the Historical Society.

The Treasurer shall give the Historical Society a bond, if so requested and required by the Board of Directors, in the amount and with the surety or sureties specified by the Board for faithful performance of the duties of the Treasurer's office and for restoration to the Historical Society of all its books, papers, vouchers, money and other property of every kind in the Treasurer's possession or under the Treasurer's control upon the Treasurer's death, resignation, retirement, or removal from office. The Historical Society shall pay the cost of such a bond.

The Treasurer shall have the authority to sign all payroll checks and checks up to \$2000.00 and may sign checks over \$2000.00 with the President as required by Article 11.

8.2 Resignation and Vacancies.

All officers have the right to resign at any time by providing notice in writing to the Board of Directors, President and/or Secretary of the Historical Society, without bias or predisposition to all rights, if any, of the Historical Society under any contract to which said officer is a part thereof. All resignations shall become effective upon the date on which the written notice of resignation is received or at any time later as may be specified within the resignation; and unless otherwise indicated within the written notice, a stated acceptance of the resignation shall not be required to make the resignation effective.

Without any bias or predisposition to the rights of any officer that may be under any contract of employment, any officer may be removed with or without cause by the Board.

Any and all vacancies in any office because of death, resignation, disqualification, removal, or for any other cause, shall be filled in accordance to the herein prescribed bylaws for regular appointments to such office for any unexpired term of the office.

ARTICLE 9 – COMMITTEES

9.1 Meetings and Actions of Committees

Meetings and actions of all committees shall be governed by, and held and taken in accordance with, the provisions of Article 6 - Board of Directors of these bylaws concerning meetings and actions of the directors, with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee. Special meetings of committees may also be called by resolution of the Board of Directors. Notice of special meetings of committees shall also be given to any and all alternate members, who shall have the right to attend all meetings of the committee. Minutes shall be kept of each meeting of any committee and shall be filed with the Historical Society records. The Board of Directors may adopt rules not consistent with the provisions of these bylaws for the governance of any committee.

9.2 Committees of Directors

The Board of Directors may, by resolution adopted by a majority of the directors then in office, provided that a quorum is present, designate one or more committees to exercise all or a portion of the authority of the Board, to the extent of the powers specifically delegated in the resolution of the Board or in these bylaws. Each such committee shall consist of two (2) or more directors, and may also include persons who are not on the Board, to serve at the pleasure of the Board. The Board may designate one or more alternative members of any committee who may replace any absent member at any meeting of the committee. The appointment of members or alternate members of a committee requires the vote of a majority of the directors then in office, provided that a quorum is present. The Board of Directors may also designate one or more advisory committees that do not have the authority of the Board. However, no committee, regardless of Board resolution, may:

- a) Approve of any action that, pursuant to applicable Law, would also require the affirmative vote of the members of the Board if this were a membership vote.
- b) Fill vacancies on, or remove the members of, the Board of Directors or any committee that has the authority of the Board.
- c) Amend or repeal the Articles of Incorporation or bylaws or adopt new bylaws.
- d) Amend or repeal any resolution of the Board of Directors that by its express terms is not so amendable or repealable.
- e) Appoint any other committees of the Board of Directors or their members.
- f) Approve a plan of merger, consolidation, voluntary dissolution, bankruptcy, or reorganization; or a plan for the sale, lease, or exchange of all or considerably all of the property and assets of the Historical Society otherwise than in the usual and regular course of its business; or revoke any such plan.
- g) Approve any self-dealing transaction, except as provided pursuant to law.

Unless otherwise authorized by the Board of Directors, no committee shall compel the Historical Society in a contract or agreement or expend Corporation/Organization funds.

9.3 Executive Committee

Pursuant to this Article 9 - Committee of Directors, the Board may appoint an Executive Committee which shall consist of the Officers of the Corporation. The Executive Committee shall be empowered to act on urgent matters that require an immediate decision when it is impossible or impractical to obtain a decision from the full board, provided further that these decisions and actions are consistent with existing Board policy and these Bylaws. A majority of the Committee members shall constitute a quorum. Actions taken by the Executive Committee shall be reported to the Board at its next meeting, provided, however, that the Executive Committee shall not have the authority of the Board in reference to those matters enumerated in Article 9.2 - Committee of Directors. The Secretary of the Historical Society shall send to each director a summary report of the business conducted in any meeting of the Executive Committee.

9.4 Audit Committee

The Board, at its sole discretion, shall appoint an Audit Committee, which shall otherwise govern any committee's operations, and may be comprised of two (2) or more persons including persons other than directors of the Historical Society.

The membership of the Audit Committee shall **not** include the following persons:

- a) The President of the Board;
- b) The Treasurer of the Historical Society;
- c) Any employee of the Historical Society; or
- d) Any person with a material financial interest in any entity doing business with the Historical Society.

In the event that the Board should appoint a Finance Committee, the members of said Finance Committee must comprise less than one-half (1/2) of the membership of the Audit Committee, and the Chair of the Finance Committee shall not serve on the Audit Committee.

The Audit Committee shall make recommendations to the Board of Directors regarding the hiring and termination of an auditor, who shall be an independent certified public accountant, and may be authorized by the Board to negotiate the auditor's salary.

The Audit Committee shall consult with the auditor to assure its members that the financial affairs of the Historical Society are in order, and after review shall determine whether to accept the audit.

It shall be the responsibility of the Audit Committee to ensure that the auditor's firm adheres to the standards for auditor independence, as set forth in the latest version of the Government Auditing Standards, which have been published by the Comptroller General of the United States, or any standards established and published by the Attorney General of Massachusetts.

9.5 Other Committees.

The Board may create or dissolve other committees as needed, i.e. Finance, Safety, Governance, Collections and other committees as needed.

ARTICLE -10-EXECUTIVE DIRECTOR

10.1 General.

A search committee comprised of Board Members and non-members chosen by the Board, shall develop a job description for the Executive Director to be approved by the Board, interview candidates, verify references, and make its recommendation to the Full Board. The full Board shall make the final selection of the Executive Director and shall hire the new Executive Director.

10.2 Duties.

The Executive Director shall report directly and routinely to the Board of Directors as required by the Board. The Executive Director shall manage the day-to-day running of the Society and shall further the best interests of the Society in accordance with the direction, policies and decisions of the Board and according to these by-laws.

The Director shall be an *ex officio* member of all committees, but shall have no vote. He/she shall hire such staff as the Board shall authorize. The Board may authorize the

Executive Director to sign payroll checks and other checks up to \$2000.00, except in cases in which he or she is the payee. The Executive Director, or a designee such as a Curator, shall be responsible for the preservation, cataloguing, exhibition and/or loan of the collections of the Society.

10.3 Review

The full Board shall annually review and assess the Executive Director's performance, and inform him or her of its conclusions in writing.

ARTICLE 11 – EXECUTION OF CORPORATE INSTRUMENTS

The Board of Directors may, at its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute any corporate instrument or document, or to sign the corporate name without limitation, except when otherwise provided by law, and such execution or signature shall be binding upon the Historical Society.

Unless otherwise specifically determined by the Board of Directors or otherwise required by law, formal contracts of the Historical Society, promissory notes, deeds of trust, mortgages, other evidences of indebtedness of the Historical Society, other corporate/organization instruments or documents, memberships in other corporations/organizations, and certificates of shares of stock owned by the Historical Society shall be executed, signed, and/or endorsed by the President, and one (1) other officer.

All checks and drafts drawn on banks or other depositories on funds to the credit of the Historical Society, or in special accounts of the Historical Society, shall be signed by such person or persons as the Board of Directors shall authorize to do so. However, all checks and drafts over \$2000.00 (except payroll checks) shall require the signature of the President and one (1) other officer.

No loans or advances shall be contracted on behalf of the Historical Society and no note or other evidence of indebtedness shall be issued in its name unless and except as the specific transaction is authorized by the Board of Directors. Without the express and specific authorization of the Board, no officer or other agent of the Historical Society may enter into any contract or execute and deliver any instrument in the name of and on behalf of the Historical Society.

ARTICLE 12 – RECORDS AND REPORTS

12.1 Maintenance and Inspection of Articles and Bylaws

The Historical Society shall keep at its principal office the original or a copy of its Articles of Incorporation and bylaws as amended to date, which shall be open to inspection by the directors at all reasonable times during office hours.

12.2 Maintenance and Inspection of Federal Tax Exemption Application and Annual Information Returns.

The Historical Society shall keep at its principal office a copy of its federal tax exemption application and its annual information returns for seven (7) years from their date of filing, which shall be open to public inspection and copying to the extent required by law.

12.3 Maintenance and Inspection of Other Corporate Records.

The Historical Society shall keep adequate and correct books and records of accounts and written minutes of the proceedings of the Board and committees of the Board. All such records shall be kept at a place or places as designated by the Board and committees of the Board, or in the absence of such designation, at the principal office of the Historical Society. The minutes shall be kept in written or typed form, and other books and records shall be kept either in written or typed form or in any form capable of being converted into written, typed, or printed form. Upon leaving office, each officer, employee, or agent of the Historical Society shall turn over to his or her successor or the President, in good order, such corporate/organization monies, books, records, minutes, lists, documents, contracts or other property of the Historical Society as have been in the custody of such officer, employee, or agent during his or her term of office. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of every kind and the physical properties of the Historical Society and each of its subsidiary corporations/organizations. The inspection may be made in person or by an agent or attorney, and shall include the right to copy and make extracts of documents.

12.4 Preparation of Annual Financial Statements.

The Historical Society shall prepare annual financial statements using generally accepted accounting principles. Such statements shall be audited by an independent certified public accountant, in conformity with generally accepted accounting standards, under supervision of the Audit Committee established by these bylaws. The Historical Society shall make these financial statements available to the Massachusetts Attorney General and members of the public for inspection no later than 50 days after the close of the fiscal year to which the statements relate.

12.5 Reports

The Board shall ensure an annual report is sent to all directors within 50 days after the end of the fiscal year of the Historical Society, which shall contain the following information:

- a) The assets and liabilities, including trust funds, of this corporation at the end of the fiscal year.
- b) The principal changes in assets and liabilities, including trust funds, during the fiscal year.
- c) The expenses or disbursements of the Historical Society for both general and restricted purposes during the fiscal year.
- d) The information required by General Law of Massachusetts regarding Non-Profit Corporations and concerning certain self-dealing transactions involving more than \$50,000 or indemnifications involving more than \$10,000 which took place during the fiscal year.

The report shall be accompanied by any pertinent report from an independent accountant or, if there is no such report, the certificate of an authorized officer of the Historical Society that such statements were prepared without audit from the books and records of the Historical Society.

ARTICLE 13 – FISCAL YEAR

The fiscal year for this Historical Society shall end on December 31st.

ARTICLE 14 – AMENDMENTS AND REVISIONS

These bylaws may be adopted, amended, or repealed by the vote of a two-thirds majority of the directors then in office. Such action is authorized only at a duly called and held meeting of the Board of Directors for which written notice of such meeting, setting forth the proposed bylaw revisions with explanations therefore, is given in accordance with these bylaws. If any provision of these bylaws requires the vote of a larger portion of the Board than is otherwise required by law, that provision may not be altered, amended or repealed by that greater vote.

ARTICLE 15 – CORPORATE/ORGANIZATION SEAL

The Board of Directors shall adopt, use, and alter a corporate/organization seal. Said seal shall have a corporate seal bearing the name of the Historical Society, the state of incorporation, year of incorporation and the words “Corporate Seal.”

The seal shall be kept at the principal office of the Historical Society. Failure to affix the seal to any corporate/organization instrument, however, shall not affect the validity of that instrument.

ARTICLE 16 - DISSOLUTION OF THE HISTORICAL SOCIETY

The Berkshire County Historical Society, Inc. is a Not-For-Profit Corporation as defined by the General Laws of the Commonwealth of Massachusetts. Membership confers no legal or equitable interest in or to the real or personal property or income of the Corporation. The Corporation may be dissolved by the Board of Directors if approved by a two-thirds (2/3) vote of the members, in good standing, present at a meeting called according to the procedures specified in Article 5 of these bylaws. In the case of dissolution, all property and assets of the Corporation shall be distributed according to a resolution, proposed by the Directors and in accordance with the Society’s Collection Development Policy, which states: “the collections shall be transferred to a Massachusetts Corporation or other entity which is organized and operated exclusively for educational or charitable purposes within the meaning of the Internal Revenue Code”, approved by a majority of the members or in accordance with the General Laws of Massachusetts.

ARTICLE 17 – CONSTRUCTION AND DEFINITIONS

Unless the context otherwise requires, the general provisions, rules of construction, and definitions contained in the General Laws of Massachusetts regarding Non-Profit Corporations as amended from time to time shall govern the construction of these bylaws. Without limiting the generality of the foregoing, the masculine gender includes the feminine and neuter, the singular number includes the plural and the plural number includes the singular, and the term "person" includes a Historical Society as well as a natural person. If any competent court of law shall deem any portion of these bylaws invalid or inoperative, then so far as is reasonable and possible (i) the remainder of these bylaws shall be considered valid and operative, and (ii) effect shall be given to the intent manifested by the portion deemed invalid or inoperative.

CERTIFICATE OF SECRETARY

I _____, certify that I am the current elected and acting Secretary of the Berkshire County Historical Society, and the above bylaws are the bylaws of this Historical Society as adopted by the Board of Directors on **April 13, 2015**, and that they have not been amended or modified since the above.

EXECUTED on this day of _____, in the County of Berkshire in the State of Massachusetts.

(Duly Elected Secretary)

By-laws passed at the Berkshire County Historical Society Annual Meeting, May 6, 2015.

Section 6.10.3 amended at board meeting 11/9/2015. Instead of 75% of Board members constituting a quorum, it is now 66%.