

## **Bonnet Shores LAND TRUST Charter**

State of Rhode Island

In General Assembly

January Session, A.D. 1991<sup>21</sup>

It is enacted by the General Assembly as follows:

SECTION 1. The Bonnet Shores Fire District Council is hereby authorized to establish the Bonnet Shores Land Trust (hereinafter called the trust), a body politic and corporate and a public instrumentality. The trust shall have the authority to

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<sup>21</sup> As required by the Fire District Charter, this legislation creating the Bonnet Shores Land Trust was approved, 47-4, by Bonnet Shores Fire District voters at a Special Meeting of the Fire District held on November 21, 1991.

acquire, hold, and manage real property and interests therein including development rights situated within the Bonnet Shores Fire District consisting of open, agricultural, recreational, historical or littoral property, including existing and future wellfields and aquifer recharge areas, fresh water marshes and adjoining uplands, wildlife, habitats, land or buildings providing access to or views of water bodies, or for bicycling and hiking paths, or for future public recreational use, and land for agricultural use, or air space thereof. With the exception of property acquired for public historical preservation or recreational purposes, the trust shall hold all property or development rights solely as open space for agricultural uses or for water purposes or for public access or to prevent the accelerated residential or commercial development thereof, as the trustees may determine.

SECTION 2. The trust shall be administered by five (5) trustees to be elected at the Annual Meeting of the Bonnet Shores Fire District.<sup>22</sup> The trustees who are first appointed shall be designated to serve for terms of one (1) for one (1) year, two (2) for two (2) years and two (2) for three years<sup>23</sup> respectively. Thereafter, trustees shall be elected<sup>24</sup> as aforesaid for a term of office of three (3)<sup>25</sup> years, and at the expiration of

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<sup>22</sup> The phrase, “appointed by the Bonnet Shores Fire District Council” was replaced with “elected at the Annual Meeting of the Bonnet Shores Fire District” via legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722).

<sup>23</sup> The initial terms for trustees were changed via legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722).

<sup>24</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed the requirement that trustees be “appointed” to require that trustees be “elected.”

<sup>25</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed trustees’ terms from five to three years.

such term they shall be ineligible for re-election within one (1) year, except that all vacancies occurring during a term shall be filled by a person appointed by the Bonnet Shores Fire District Council. The appointed trustee shall serve until the following annual meeting at which time a trustee will be elected to serve the remainder of the unexpired term.<sup>26</sup>

SECTION 3. The trustees shall annually elect a chairman, vice-chairman from their members and shall appoint a secretary who may either be a member or a non-member. The trustees shall not be paid for their services.<sup>27</sup> Copies of all meeting minutes shall be submitted to the Fire District Council secretary.<sup>28</sup>

SECTION 4. The trustees shall adopt reasonable rules and regulations governing the conduct of trust affairs, including the acquisition and management of its holdings, not inconsistent with the provisions of this act. All rules and regulations of the trust are subject to the approval of the Bonnet Shores Fire District Council.<sup>29</sup> Decisions of the trustees shall be by majority of those present and voting, excepting in decisions of the acquisition of land, easements, rights of way and other uses referred to in section one of this

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<sup>26</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) imposed these term limits on trustees.

<sup>27</sup> This ban on compensation for trustees was added via legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722).

<sup>28</sup> The Fire District does not have a secretary; it is assumed that this reference refers to the Fire District Clerk.

<sup>29</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed the oversight of the trust's rules and regulations from the Narragansett Town Council to the Bonnet Shores Fire District Council.

trust, which must be by majority vote of all trustees. The trustees shall prepare an operating budget that must be sent to the Fire District Council for review and approval and then be presented to the annual meeting of the Bonnet Shores Fire District for final approval.

The funds authorized in this budget will be paid by the Fire District treasurer in accordance with the accepted accounting procedures that are in place for the Fire District at that time.

All funds that are released for land acquisition or other purposes referred to in section one of this trust can only be released after approval by a majority of the trustees and by a majority vote of the Bonnet Shores Fire District Council.<sup>30</sup>

SECTION 5. The trust shall have the power to:

- (a) [P]urchase, receive by gift, or otherwise acquire fee simple or lesser interests in real property, including development rights as defined in section 42-82-2 of the general laws, or any interest in real property consistent with purposes of this act, including other development rights of any kind whatsoever, but only with the prior approval of the Bonnet Shores Fire District Council.<sup>31</sup>

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<sup>30</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) added this requirement for dual approval for the release of funds by both the Land Trust *and* the Fire District Council.

<sup>31</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) added this requirement for dual approval for the acquisition of property by both the Land Trust *and* the Fire District Council.

- (b) Accept gifts, grants or loans of funds or resources or services from any source, public or private, and comply, subject to the provisions of this act, with any terms and conditions thereof;
- (c) Accept from state and/or federal agencies,<sup>32</sup> grants or resources for use in carrying out the trust's purposes and enter into agreements with such agencies respecting any such loans or grants;<sup>33</sup>
- (d) Administer and manage land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural and scenic resources thereof, including conveyance of any such land or interests in land to, and contracts with, nonprofit organizations, provided such land shall continue to be used in a manner consistent with the purpose of this act and with the terms of any grant or devise by which such land was acquired by the trust;
- (e) Incur debt, only after authorization in each instance by vote of the Bonnet Shores Fire District Council and a vote at the annual or special meeting of the Bonnet Shores Fire

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<sup>32</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) removed the reference to federal "loans" in this subsection.

<sup>33</sup> The 1991 legislation included a section (former section d) that empowered the Land Trust to "[e]mploy counsel, auditors, engineers, private consultants, advisors, secretaries or other personnel needed to perform its duties." This section was removed via legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722). This change also led to a re-lettering of the subsections of Section 5 from 5e-5h to 5d-5g.

District<sup>34</sup> in accordance with section six of this act. The trust shall be obligated to pay debt service on all such debt to the extent funds are available and to reimburse the Fire District for any funds the Fire District expended to pay such debt service. Whenever the Fire District shall have been required to pay over any sums of money to the trust, the trust shall be precluded from acquiring any additional property until the trust shall have repaid the Fire District in full and for all sums paid to the trust hereunder and to reimburse the Fire District for any Fire District funds expended to pay such debt service;

- (f) Dispose of all and any portion of its real property or interests therein held by it, whenever in the opinion of the trustees said lands or properties have become unsuitable or have ceased to be used for the purpose set forth in this act. Such disposition shall be made only by a vote of the trustees in which at least four (4) members vote in favor of such disposition as well as five (5) members of the Bonnet Shores Fire District Council vote in favor of such disposition<sup>35</sup> and further only after having been approved by a two-thirds (2/3) vote at the annual meeting of the Bonnet Shores Fire District. Nothing in this

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<sup>34</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) added the requirement that the Land Trust needed the approval of Fire District voters at an annual/special meeting before incurring debt.

<sup>35</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) added the requirement that a supermajority of council members, as well as supermajorities of land trustees and Fire District voters, approve the disposition of property held by the Land Trust.

- subsection shall be construed to authorize the sale, lease or conveyance of lands or improvements held by the trust as part of a charitable trust or acquired by gift or devise for the public use, whether or not such gift or devise is subject to a condition subsequent or reverter;
- (g) Otherwise do all things necessary for the performance of its duties, the fulfillment of its obligation and the conduct of its business.

SECTION 6. All funds collected for the purpose of financing the activities of the trust under this act, subsections (b) and (c) of Section 5<sup>36</sup>, shall be deposited in a fund to be set up as a revolving or sinking account by the treasurer of the Bonnet Shores Fire District. Additional moneys or other liquid assets received as voluntary contributions, grants or funds<sup>37</sup> appropriated to the trust by vote of the annual or special meeting of the Fire District,<sup>38</sup> or proceeds from disposal of real property or interests shall be deposited in<sup>39</sup> said account. All operating expenses lawfully incurred by the trust in carrying out the provisions of this act shall be evidenced by proper vouchers and shall be paid by the treasurer of the Fire District

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<sup>36</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) clarified that subsections (b) and (c) were from Section 5.

<sup>37</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed the phrase, "grants or loans funds," to "grants or funds."

<sup>38</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed the phrase, "annual municipal or special appropriation process used by the town," to "annual or special meeting of the Fire District."

<sup>39</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) changed the word, "into," to "in."

with approval of the Bonnet Shores Fire District Council<sup>40</sup> only upon submission of warrants duly approved by the trust of the Fire District Council. The treasurer of the Fire District shall prudently invest available assets of the funds, and all income thereon shall accrue to the fund.

Upon termination or dissolution of the trust, the title of all funds and other properties owned by the trust which remain after payment or making provision for payment of all bonds, notes and other obligations of the trust shall rest in the Bonnet Shores Fire District.

SECTION 7. The trust and all its revenues, income, and real and personal property used by the trust for furtherance of its public purposes, shall be exempt from taxation and from betterment and special assessments, and the trust shall not be required to pay any tax, excise or assessment to the state or any of its political subdivisions.

SECTION 8. Severability. – The provisions of this act and any ordinance thereunder are severable, and if any provision hereof shall be held invalid in any circumstances such invalidity shall not affect any other provisions or circumstances. This act and any ordinance thereunder shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act and any ordinance thereunder, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

SECTION 9. This act shall take effect upon passage.

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<sup>40</sup> Legislation approved by the R.I. General Assembly on July 21, 1992 (Chapter 491, 92-H 9722) added the requirement that the Fire District Council approve the Land Trust's activities described in this section.