# Regenerative Governance Blueprint: Legal and Financial Mechanics for Anti-Capture Structures

## PART 1: COMMUNITY LAND TRUST (CLT) - COMPLETE LEGAL ARCHITECTURE

### 1.1 CLT Structure (Detailed) and Legal Formation

The Community Land Trust (CLT) is a sophisticated legal mechanism designed for the permanent stewardship of land and the perpetual separation of land value from the improvements located upon it. This separation is the core strategy for implementing anti-speculation governance in real estate. The structure is tripartite, involving three distinct legal components that work in concert to enforce long-term affordability.1

First, the **Land Trust** is a nonprofit corporation that acquires and holds the land in perpetuity, placing it into a permanent trust for the benefit of the community. In the United States, most CLTs organize as 501(c)(3) tax-exempt organizations to secure this permanent asset lock and utilize the tax benefits associated with charitable purposes, such as providing affordable housing or combating community deterioration.1

Second, the **Ground Lease** is the binding legal instrument that governs the use of the land. It establishes a long-term, typically 99-year, leasehold relationship that is perpetually renewable. This lease grants the leaseholder exclusive use of the land parcel while reserving substantial rights for the CLT, including the right to monitor compliance and, critically, the preemptive right to repurchase the improvements.1

Third, the **Leaseholder/Homeowner** purchases and owns the building or structure (the improvements) situated on the land. The leaseholder enjoys all the traditional benefits of homeownership—security of tenure, pride of ownership, and the ability to build equity—but the resale price of the improvements is permanently restricted by the ground lease formula, protecting future generations of buyers from market speculation.1

#### Legal Formation Steps (US Focus)

The process of forming a CLT begins not with legal filings, but with establishing a strong community vision and coalition, which lays the foundation for legal defensibility and mission fidelity.4

Phase 1: Foundation (Months 1-6): Vision, Incorporation, and Board Recruitment

The organizing group must first clearly define its charitable purpose—for instance, the relief of the underprivileged or the elimination of community deterioration.3 This purpose guides the drafting of the foundational legal documents. The group then files the Articles of Incorporation with the relevant Secretary of State, formally establishing the non-profit entity. Simultaneously, the organizers must recruit the initial tripartite board of directors, ensuring diverse representation from the start.

Phase 2: Tax Status and Operational Setup (Months 6-12): Bylaws and 501(c)(3)

The organization adopts its Bylaws, which codify the tripartite governance structure and the anti-speculation mandates. Securing 501(c)(3) tax-exempt status requires filing Form 1023 with the IRS. This step is pivotal, as it confirms the organization’s perpetual commitment to a charitable purpose and establishes the permanent asset lock necessary to guarantee non-private inurement.2 Initial funding, often in the form of grants or publicly dedicated land, is secured during this phase to fund the first projects.5

#### Legal Template: Model Articles of Incorporation (Purpose and Dissolution)

**"Article II. Purpose and Mission:** The Corporation is organized exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, specifically including, but not limited to, the relief of the poor and distressed, and combating community deterioration by providing permanent, affordable access to land and housing.

**Article VIII. Dissolution and Asset Lock:** Upon dissolution of the Corporation, whether voluntary or involuntary, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3), or corresponding section of any future federal tax code, to an organization with a similar mission of perpetual land stewardship and affordability. No assets or earnings shall inure to the benefit of any private individual or shareholder."

### 1.2 The Ground Lease (Line by Line)

The Ground Lease is the contractual engine of permanent affordability, explicitly codifying the legal enforcement rights of the CLT.

The **Lease Term and Renewal Provisions** grant security of tenure. The standard 99-year term, which is perpetually renewable, ensures that leaseholders and their mortgage lenders have sufficient confidence in the long-term stability of the arrangement, treating it functionally as permanent homeownership.

**Use Restrictions** are mandatory to ensure mission fidelity.1 The lease must explicitly restrict the parcel's use to the charitable purpose for which the land was acquired (e.g., owner-occupied residential, mixed-use housing, or non-speculative commercial). This prevents the leaseholder from converting the asset to a market-rate rental or other use that would violate the anti-speculation principle.

#### Formula: The Anti-Speculation Resale Formula

The resale formula is the cornerstone of the CLT model, designed to capture the unearned increment of land value for the community while providing the seller a fair return on their investment.1 The formula rejects the market premium based on speculation, ensuring affordability for the subsequent buyer.6

| **Formula Component** | **Description** | **Legal Justification** |
| --- | --- | --- |
| Initial Price () | Original purchase price paid by the seller for the improvements. | Guarantees recovery of the principal investment. |
| Value of Approved Improvements () | Cost of documented, pre-approved capital investments (e.g., HVAC, roof replacement). | Guarantees a fair return on tangible investments made by the leaseholder.6 |
| Inflation Adjustment () | Calculated by: | Provides a guaranteed, modest, non-speculative return on equity over time.6 |
| **Resale Price Cap** |  | Explicitly excludes market appreciation/speculation premium.1 |

Example Calculation (Illustrative):

Assume a homeowner bought a CLT home for $150,000. Over 10 years, they made $10,000 in approved improvements, and the CPI Index Factor applied to the initial price is 28% (representing 2.5% inflation compounded over 10 years).

This calculation ensures the seller receives a return but that the subsequent buyer obtains the home for significantly less than the prevailing market rate.

**Transfer Restrictions and Right of First Refusal (ROFR):** To enforce the formula, the CLT must retain a legally mandatory, preemptive right of first refusal (ROFR) to repurchase the home upon the leaseholder’s intent to sell. This right allows the CLT to enforce the price calculation or select the next qualified, low-to-moderate income buyer who meets the eligibility criteria.6

**Inheritance Provisions:** While leaseholders can bequeath their home, the heir must meet the CLT’s standard eligibility requirements (e.g., income limits and residency) within a specified transition period. If the heir does not meet these requirements, the CLT retains the right to repurchase the home at the formula-determined price, protecting the affordability restriction across generations.

**Default and Foreclosure Protections:** The ground lease typically requires that the CLT be notified of any pending default or foreclosure action by a mortgage holder. This critical provision allows the CLT the option to step in, cure the default by paying the outstanding balance, and repurchase the building at the formula price. This mechanism protects the public subsidy and the permanent affordability covenant from being lost to the predatory practices of the speculative market.

### 1.3 Governance Structure: Anti-Capture Design

The classic tripartite board structure is the primary governance defense against organizational capture, ensuring balanced power and continuous accountability to the mission beneficiaries.7

The board must be structured as follows:

* **One-Third Leaseholders:** Directors elected exclusively by residents who hold a CLT ground lease. This group ensures accountability to the core users and guarantees that organizational priorities reflect the lived experiences and needs of the residents.
* **One-Third Community Representatives:** Directors elected by the general membership residing within the CLT’s designated service area. This ensures the CLT remains rooted in and accountable to the broader geographic community it is intended to serve.
* **One-Third Public Interest/Expertise:** Directors selected by the other two classes, or appointed by local public agencies, who possess necessary business, legal, financial, or technical expertise. This category ensures professional competency and external credibility.7

**Resistance to Capture:** The structural brilliance of the tripartite board lies in its ability to resist professionalization capture. Traditional non-profits are susceptible to mission drift when the organization’s management—composed of highly specialized staff—prioritizes financial viability, grant compliance, or scaling efficiency over politically difficult grassroots demands.8 The expertise becomes a self-serving mechanism rather than a tool for community benefit.

The tripartite structure legally prevents this managerial dominance. The rule mandates that expert directors (the ‘public interest’ third) cannot unilaterally overrule the beneficiaries (the ‘leaseholder’ third) or the general community representatives. This legal requirement forces organizational expertise and professional judgment to remain subordinated to democratic, user-based accountability, perpetually binding the organization back to its foundational social mission.

**Governance Procedures:** Voting procedures adhere to the one person, one vote principle. Simple majorities are used for operational decisions, but core mission changes, such as altering the resale formula or the dissolution clause, require a mandatory supermajority vote (often 75% or 80%), usually including an affirmative vote from the Leaseholder class.6 **Term limits and rotation** are essential governance safeguards, preventing the entrenchment of individuals or factions and ensuring the continuous incorporation of evolving community interests.

### 1.4 Stewardship and Resale

The CLT’s ongoing operational work is defined by its perpetual stewardship obligations. The **Stewardship Fee** is an annual charge, typically a small percentage (0.1% to 0.5%) of the home’s initial value, paid by the leaseholder to the CLT. This fee funds the CLT’s administrative costs, including annual lease compliance monitoring, providing required pre-purchase and post-purchase counseling, administering the complex resale formula, and defending the ground lease in legal actions, thereby covering the cost of permanent affordability.

**Pre-Purchase Counseling Requirements** are mandatory. Prospective buyers must undergo education sessions to ensure they fully comprehend the unique hybrid legal structure, the limitations imposed by the ground lease, and the long-term implications of the non-speculative resale formula.

The **Resale Approval Process** dictates that when a leaseholder intends to sell, the CLT must first exercise its Right of First Refusal (ROFR). Once the approved resale price is calculated using the formula, the CLT screens the next buyer, ensuring they meet the required income and residency qualifications. This process is the administrative defense **preventing speculation schemes**, ensuring that no private party can profit from the publicly created affordability or circumvent the mission restrictions.

### 1.5 Anti-Degeneration Provisions

To ensure the CLT’s mission survives market pressures and organizational fatigue, robust anti-degeneration provisions must be baked into the foundational legal documents.

The **Mission Lock** must be explicitly stated in the Articles of Incorporation: the land, once acquired, cannot be sold or transferred out of permanent community stewardship, except to another similar non-profit entity dedicated to perpetual affordability.1 This clause is a non-negotiable legal constraint.

The **Dissolution Clause (Asset Lock)** is required for maintaining 501(c)(3) status: if the CLT ceases operation, its assets must be legally transferred to another tax-exempt organization with a similar public or charitable mission.2 This restriction permanently prevents private inurement, ensuring that residual wealth remains collectively dedicated to public benefit.9

**Amendment Restrictions** protect the core mission elements. Any attempt to alter the resale formula, the tripartite governance structure, or the dissolution clause must be subject to a **supermajority requirement** (e.g., a 75% affirmative vote) of both the board and the membership. This intentionally high barrier makes mission erosion difficult and requires broad consensus before structural changes can occur.6

**External Oversight** provisions, while not always required, add an extra layer of defense. These clauses designate an independent entity—such as a local municipal agency, a state land trust authority, or a national CLT network—as an accountability partner with the right to conduct an annual mission audit or even possess a conditional veto power over mission-critical decisions.

## PART 2: COOPERATIVE LEGAL STRUCTURES

### 2.1 Worker Cooperative Basics

Worker cooperatives are enterprises founded on the principle that ownership, control, and surplus allocation are based on labor (patronage) rather than capital investment. This is a fundamental reversal of the conventional corporate model where capital employs labor.

The defining characteristic is **One Worker, One Vote**.10 Regardless of how much capital an individual member has invested or how long they have worked, each member holds a single, non-transferable membership share entitling them to precisely one vote, ensuring democratic control remains paramount.

**Patronage Dividends** refer to the mechanism by which profits (or surplus) are distributed. Unlike conventional dividends, which are paid based on shares owned, patronage dividends are distributed based on the member’s proportional contribution of labor (i.e., hours worked or total wages).12

#### Internal Capital Accounts (ICA)

The **Internal Capital Accounts (ICA)** system is the essential financial architecture that decouples democratic control from the capitalization needs of the business, serving as the financial embodiment of the permanent asset lock.12

**Shares vs. Accounts:** In an ICA cooperative, the membership share retains a low, fixed value (e.g., $500), preventing it from becoming a speculative asset or a barrier to entry for new workers.12 The cooperative’s growing net worth is instead tracked in the Internal Capital Account system.

**Allocation:** Net income is divided into two parts:

1. **Individual Net Income:** This portion is tracked in the member’s ICA, representing their retained equity claim, and is designated for future payout upon exit.12
2. **Collective Net Income (Indivisible Reserves):** This portion is retained by the cooperative as a whole, recording unindividualized retained earnings. No individual member has a claim on this value, ensuring the collective wealth remains permanently locked within the enterprise for generational use.12

**Function Upon Member Exit:** Upon a member’s retirement or termination, the balance of their Individual Capital Account is paid out in cash over a defined, often extended, period (e.g., 5 to 10 years). The Indivisible Reserves are never paid out to the exiting member. This mechanism prevents the capitalization of the business from becoming a speculative instrument, thereby sustaining the democratic structure over time.12

**IRS Classification Considerations:** Cooperatives often operate under Subchapter T of the Internal Revenue Code. This classification allows the co-op to deduct patronage dividends (including the portion retained in ICAs via Written Notices of Allocation - WNAs) from its taxable income, provided certain requirements (like paying out at least 20% in cash) are met.12 This treatment is crucial for financial viability.

### 2.2 Multi-Stakeholder Cooperatives (MSCs)

Multi-Stakeholder Cooperatives (MSCs), also known as solidarity co-ops, formally integrate two or more stakeholder groups into the governance structure, aligning diverse interests (workers, users, community) around a broader social mission.14

#### Quebec Solidarity Coop Model (Detailed)

The Quebec solidarity cooperative model, recognized in the Quebec Cooperatives Act, provides a sophisticated legal template for achieving this balance.11 It is often used for social services, healthcare, and community development where the well-being of the consumer is inseparable from the working conditions of the provider.14

**Stakeholder Classes:**

1. **Workers:** Those who contribute labor to the enterprise.
2. **Users/Consumers:** Those who utilize the co-op’s goods or services.
3. **Community/Supporting Members:** External non-users, often organizations or individuals who provide essential support, funding, or expertise.14

**Voting Allocation Among Classes:** Governance in the Quebec model involves a balanced board of directors to ensure no single class can dominate.11 For example, the bylaws may mandate that the board be split equally, or at least guarantee significant minority representation for workers (e.g., a mandatory 1/3 of the board seats). This legal distribution of control structurally prevents the co-op from prioritizing consumer price savings over worker wages, or vice versa, thereby institutionalizing the alignment of economic and social goals.

#### Table: MSC Governance and Financial Allocation (Quebec Model Focus)

| **Stakeholder Class** | **Governance Role (Board Seats)** | **Claim on Surplus (Patronage)** | **Capital Return** |
| --- | --- | --- | --- |
| Workers | Mandatory Minimum (e.g., 1/3 of board) | Allocation based on work contributed (Wages/Hours) | Limited interest on capital shares 11 |
| Users/Consumers | Defined by Bylaws | Allocation based on goods/services utilized | Limited interest on capital shares |
| Supporting/Community | Defined by Bylaws (Non-voting roles common) | Generally no patronage distribution 16 | May purchase preferred shares with limited dividend rate 16 |

**When to Use this Structure:** This structure is essential when a truly transformational approach—one where market dynamics are inherently corrected—is required. By legally binding the interests of labor, capital providers, and beneficiaries, the MSC model minimizes the externalized costs typical of single-stakeholder enterprises.16

### 2.3 Cooperative Bylaws (Anti-Degeneration Focus)

Bylaws must function as an enforceable contract against the internal erosion of democratic principles (degeneration).

* **Non-Transferable Shares:** This is a crucial defense against financial speculation. Equity shares (specifically the voting membership share and often the ICA equity) must be legally prohibited from being sold, traded, or transferred outside the cooperative, except back to the co-op at par value.17

#### Legal Template: Non-Transferability of Shares Clause

**"Section X. Non-Transferability of Membership Shares.** No member share or certificate of ownership in this Cooperative shall be sold, transferred, assigned, pledged, or otherwise alienated by any member, except back to the Cooperative at par value, as defined in these Bylaws. This restriction is material to the Cooperative's function as a democratically controlled and non-speculative enterprise and shall be conspicuously noted on all membership documents." 17

* **Limited Return on Equity:** To ensure capital is rewarded but not prioritized over labor, interest or dividends paid on any member capital shares must be strictly capped, typically at a rate no higher than 8% per year.11
* **Wage Solidarity Ratio:** This mandatory provision codifies economic equity within the enterprise.20 It establishes a maximum ratio between the highest-paid member (including all compensation and bonuses) and the lowest-paid worker/member (e.g., a maximum ratio of 6:1 or 3:1).

#### Formula/Template: Wage Solidarity Ratio

**"Section Y. Wage Ratio Restriction.** The maximum ratio between the annual remuneration (including salary, wages, and all bonuses) of the highest-paid member of staff and the lowest-paid member of staff shall not exceed \*\*\*\*. This ratio may only be amended by a Class Resolution requiring a supermajority (2/3rds) vote of all member-owners." 20

* **Asset Lock (Indivisible Reserves):** As mandated in many international cooperative models (e.g., Quebec, Italy), the bylaws must legally require that a fixed portion of the annual surplus (patronage) be permanently allocated to Indivisible Reserves. These reserves constitute collective net income that cannot be distributed to individual members upon exit or dissolution, thus acting as the final defense against de-mutualization.11

### 2.4 Membership and Governance

**Membership Criteria and Process:** Bylaws must clearly define eligibility (e.g., must be a current employee working a minimum number of hours), requiring a probationary period (often six months to one year) before full membership rights (including voting) are granted.

**Decision-Making:** The **General Assembly (GA)**, comprising all members, remains the highest governing authority under the one member, one vote principle.21 The bylaws must detail procedures for meetings, quorum requirements, and methods for proxy voting or representation if allowed by state law.

**Management vs. Governance:** A clear separation must be maintained. The **Board of Directors** (elected by the GA) is responsible for governance—setting broad policy, securing long-term capital, and hiring the general manager. **Management** is responsible for the day-to-day execution of operations. Confusing these roles is a pathway to managerial capture.

**Conflict of Interest Policies:** Robust policies are required to prevent self-dealing, particularly concerning transactions or contracts involving members of the board or management that could result in "excess benefit transactions," threatening the non-profit intent of the cooperative structure.2

## PART 3: NON-EXTRACTIVE FINANCE

### 3.1 What Makes Finance Extractive

Extractive finance is characterized by maximizing Return on Investment (ROI) for external capital providers, often at the expense of community stability, worker wages, and the original mission. Key indicators of extraction include:

* **High Interest Rates:** Charging above the necessary rate required for organizational viability.
* **Equity Demands:** Requiring equity stakes that demand exponential ROI, pressuring the enterprise toward maximizing shareholder value over community value.
* **Control Provisions:** Inserting veto rights, mandatory board seats, or demanding certain financial covenants that effectively grant investors operational control, undermining democratic governance.
* **Exit Requirements:** Mandates for future forced sales or Initial Public Offerings (IPOs) that liquidate the entity’s collective assets for private gain.
* **Collateral Threat:** Using mission-critical assets (like CLT land or worker co-op machinery) as collateral, the seizure of which threatens the organization's core purpose.22

### 3.2 Subordinated Capital: The Mechanism of Structural Subordination

Non-extractive finance is ultimately about ensuring that capital is structurally prevented from extracting more than the community or workers receive.22 This is achieved through **subordinated capital**, which is debt or equity positioned structurally junior to other financial claims, including labor and collective reserves.23

**Definition:** Subordinated capital accepts lower repayment priority and capped returns, explicitly placing the stability and longevity of the regenerative enterprise above the short-term demands of the investor.22 This structural subordination transforms capital into a tool that serves the people, rather than a master that controls them.

**Mechanisms of Subordination:**

1. **Interest Rate Capped:** The loan bears interest capped at a rate that reflects cost of capital and risk, but is deliberately below speculative market rates (e.g., 2% to 5% fixed rate).
2. **Repayment Hierarchy:** The note must explicitly state it is unsecured and junior in right of payment to general creditors, depositors, and, crucially, to the cooperative’s mandatory patronage payouts to members.23
3. **Non-Control:** The capital provider receives zero voting rights, no board seats, and no operational veto powers, preserving the democratic control of the organization.
4. **No Forced Liquidation:** The note cannot trigger a default that results in the forced sale of core mission assets.

#### Legal Template: Model Promissory Note with Subordination Clause

**"Section 4. Subordination and Priority of Payment.** This obligation is unsecured and shall be subordinate and junior in right of payment to all obligations of the Borrower to its depositors and general creditors, except those obligations ranking on parity with, or explicitly subordinated to, this Note. Furthermore, this Note is explicitly subordinated to the Borrower’s legal obligation to pay all mandatory cash patronage dividends due to its member-owners and to the permanent retention of Indivisible Reserves. In the event of any insolvency, liquidation, or similar proceedings, all obligations owed to general creditors shall be entitled to be paid in full before any payment shall be made on this Subordinated Note." 23

**Example: Seed Commons Model (Detailed):** Seed Commons operates as a national cooperative network of local loan funds, designed explicitly for non-extractive finance.22 The organization is governed democratically by its member loan funds, ensuring that capital deployment decisions are decentralized and rooted in local community trust and democratic process, rather than abstract financial metrics.24 This cooperative structure guarantees that the financial system itself remains subordinate to the needs of the workers and communities it serves.

### 3.3 Patient Capital Sources

Patient capital is characterized by a long-term investment horizon and an acceptance of below-market or capped returns in favor of mission objectives.

* **Community Development Financial Institutions (CDFIs):** Certified by the U.S. Treasury, CDFIs have a primary mission of promoting community development in economically distressed markets.28 They are essential providers of long-term, mission-aligned capital and often participate in the CDFI Bond Guarantee Program, which offers them a source of long-term, patient capital.28
* **Cooperative Development Funds:** Specialized funds dedicated exclusively to financing the formation and expansion of cooperatives, explicitly understanding and embracing co-op legal and financial structures (e.g., ICA systems).
* **Foundations with Program-Related Investments (PRIs):** PRIs are mission investments made by private foundations.30 Legally, PRIs must have a primary purpose of advancing the foundation’s charitable objectives, and the production of income or appreciation of property **cannot be a significant purpose**.30 This legal mandate transforms the foundation’s capital into a fiduciary constraint against extraction, making them ideal partners for subordinated debt or high-risk, high-social-return projects.
* **Religious Organizations and Crowdfunding (Non-Equity):** Certain religious orders or community-focused organizations utilize mission-aligned revolving loan funds. Non-equity crowdfunding (e.g., community loans or bonds) allows local residents to provide patient capital with fixed, low returns, keeping control local.

### 3.4 Revenue-Based Financing (RBF)

Revenue-Based Financing (RBF) is a financing alternative to traditional equity, where investors receive a fixed percentage of the borrower's gross revenues until a predetermined repayment cap (often 1.5x to 3x the original investment) is reached.32

**Non-Extractive Function:** RBF is non-dilutive—the business retains 100% ownership and democratic control.33 Payments fluctuate with performance, reducing strain during lean months, aligning the funder with the company's success without conferring speculative ownership rights.32

**When Appropriate:** RBF is appropriate for established enterprises with reliable revenue streams but whose mission dictates against selling equity or taking on high-interest, fixed-payment debt. The non-ownership structure makes it highly compatible with permanent community and worker ownership structures.

### 3.5 Solidarity Finance Networks

Solidarity finance focuses on building resilient, locally controlled financial infrastructure that pools resources and shares risk based on mutual aid rather than extraction.

* **Credit Unions (Cooperative Depositories):** These are member-owned, nonprofit financial cooperatives.29 Their structure inherently restricts profit distribution and mandates a focus on serving the members and local community, qualifying many as CDFIs.29
* **Mutual Aid Funds and Local Currencies:** These operate on localized networks of trust and reciprocity, providing flexible capital that is entirely subordinate to community needs.
* **How to Form Solidarity Finance Cooperative:** Formation typically involves legal registration under state cooperative laws or, for depositories, compliance with strict regulatory requirements (e.g., FDIC/NCUA insurance for credit unions).

**Example: Caja Laboral (Mondragon):** Caja Laboral is the cooperative bank and financial engine of the Mondragon Federation in Spain. It provides shared banking services, investment capital, and, critically, maintains a Solidarity Fund used for cross-subsidization, risk pooling, and the development of new co-ops within the network. This network financing structure ensures that financial success is shared across the entire ecosystem, preventing the failure of one co-op from cascading through the local economy.

## PART 4: LEGAL PROTECTIONS AGAINST MISSION DRIFT

Mission drift occurs when the organization subtly shifts its priorities away from its founding regenerative purpose (e.g., maximizing affordability or worker democracy) toward organizational self-preservation, financial convenience, or managerial priorities.9 Legal safeguards must be implemented to prevent assets from converting to private benefit.

### 4.1 Asset Locks

An asset lock is a permanent legal restriction preventing the entity's residual value from being distributed to private individuals, members, or shareholders.

**Charitable Purpose Restrictions (US 501(c)(3) Status):** For CLTs and mission-driven co-ops, achieving 501(c)(3) status is the strongest asset lock available in the US.2 This status mandates that the organization be operated exclusively for exempt purposes (e.g., charitable or educational) and that "none of its earnings may inure to any private shareholder or individual".2 This permanent restriction is monitored by the IRS, which enforces rules against "excess benefit transactions".2

#### Legal Template: Permanent Asset Lock (For Bylaws/Charter)

"All assets and revenue of the organization are permanently dedicated to the Corporation’s exempt purposes and shall not, in whole or in part, inure to the benefit of any individual, director, officer, member, or shareholder, except as reasonable compensation for services rendered or benefits conferred as furtherance of the charitable mission. Upon the winding down or dissolution of the organization, its assets must be transferred to another organization with a similar charitable mission."

### 4.2 Legal Covenants on Property

**Conservation Easements and Affordability Covenants:** These are deed restrictions recorded against the property, legally binding all future owners. Conservation easements are used to permanently restrict land use (e.g., for agriculture or habitat protection), held and monitored by a third-party land trust. Affordability covenants limit resale prices to specified income levels.

**Deed Restrictions vs. Ground Lease:** While deed restrictions are powerful, the ground lease model used by CLTs offers superior enforceability. The ground lease grants the CLT a direct ownership interest (the land itself) and the contractual leverage of the Right of First Refusal, allowing the CLT to proactively monitor and correct compliance issues, rather than relying solely on legal action to enforce a deed restriction.

### 4.3 Governance Safeguards

Governance structures must be designed to make mission change legally difficult, ensuring that the democratic will of the current generation cannot easily dismantle the legacy of affordability and control.

* **Supermajority Requirements for Mission Changes:** As detailed in Part 1.5, requiring a supermajority (e.g., 75%) for any amendment to core founding documents—mission statement, dissolution clause, or fundamental financial policies—is an essential barrier to drift.6
* **Independent Voting Class (Mission Guardians):** An advanced safeguard involves creating a legally independent class of voting members or directors (often non-compensated) whose sole fiduciary duty is to monitor and, if necessary, veto decisions that fundamentally violate the anti-extractive mission. This class provides an external check against internal managerial consensus.

**Organizational Defense Against Professionalization Capture:** Mission drift is often driven by the subtle pressure of organizational scaling, where highly compensated, professional staff prioritize market-compatible efficiency over difficult democratic accountability.8 The creation of governance safeguards, such as mandatory resident control and external oversight, acts as a perpetual structural mechanism to force the organization back toward its original democratic and affordability mandate, even when it is inconvenient for management.7 This intentionally limits the autonomy of the Professional Managerial Class (PMC) within the structure, forcing their expertise to serve the community, rather than allowing their expertise to define the community’s mission.34

## PART 5: HYBRID LEGAL STRUCTURES

### 5.1 CLT + Housing Cooperative

Layering a Community Land Trust (CLT) and a Housing Cooperative creates maximum permanence and maximum democratic control for residents.

**Why Layer These Structures:** The CLT provides the permanent asset lock on the land, guaranteeing the affordability restriction in perpetuity. The Housing Cooperative (typically a limited-equity co-op) provides the internal democratic structure, ensuring residents collectively manage the property, operations, and maintenance.

**Legal Relationship:** The CLT owns the land outright. The Housing Cooperative acts as the *single leaseholder* under the CLT’s 99-year ground lease. Residents own shares in the Cooperative, which grants them the right to occupy a specific unit. Since the residents control the co-op, they indirectly control the leasehold, maximizing democratic engagement.

**Governance Integration:** The governance must interlink. The Cooperative’s board will typically appoint the mandatory leaseholder directors to the CLT’s tripartite board, ensuring resident representation at both the operational (Co-op) and stewardship (CLT) levels. The CLT retains the right to audit the co-op's financials and operations to ensure compliance with the affordability and anti-speculation standards mandated by the ground lease.

### 5.2 CLT + Commercial Space

CLTs are not limited to housing. They can steward commercial or industrial land to protect local businesses from displacement and maintain affordability.

**Mechanism:** The CLT uses a commercial ground lease. To achieve anti-displacement goals, the rental rates or lease renewal terms are typically tied to non-speculative metrics, such as the local Cost of Living Index or a fixed percentage of the tenant's operating revenue, rather than prevailing market rent increases.

**Community Benefit Agreements (CBAs):** Commercial ground leases often include mandatory CBAs, requiring tenants to adhere to social metrics like local hiring targets, living wage standards, or the provision of specific public goods and services.

**Example: Dudley Street Neighborhood Initiative (DSNI):** DSNI in Roxbury, Massachusetts, pioneered the urban CLT model by acquiring land via eminent domain authority and stewarding it for housing, commercial, and community facilities. Governance is dictated by a resident-led tripartite board, ensuring that all commercial development serves the community’s economic and social goals.

### 5.3 Federation Structures: Scaling Regenerative Models

Scaling regenerative models requires coordinated financial and legal infrastructure that pools risk and resources across multiple entities.

**Second-Degree Cooperative:** This structure involves a cooperative whose members are other cooperatives (e.g., a shared services cooperative or a cooperative loan fund like Seed Commons).24 This allows smaller entities to gain economies of scale in purchasing, marketing, or technical assistance.

**Solidarity Mechanisms:** Successful federations require mandatory, legally enforceable mechanisms for mutual support. This includes:

* **Indivisible Capital Contributions:** Member co-ops must contribute a portion of their annual surplus to a centralized reserve fund.
* **Shared Services and Resources:** Central entities provide financial oversight, legal support, and management training.
* **Cross-Subsidization:** The central fund pools risk, allowing highly profitable co-ops to financially support the start-up or restructuring of newer, struggling co-ops, ensuring systemic resilience.

**Example: Mondragon Federation (Detailed):** Mondragon’s resilience is built on this integrated federation model. The core legal mechanism is the mandatory contribution to the cooperative bank (Caja Laboral) and to the Social Fund, which guarantees worker redeployment and supports social welfare programs across the entire network. This integrated approach ensures that the ecosystem, not the individual enterprise, is the primary locus of economic stability.

## PART 6: REGULATORY & ZONING STRATEGIES

### 6.1 Working Within Existing Law

Regenerative structures must actively engage with and leverage conventional zoning law.

* **As-of-Right Development:** Seeking to frame CLT or co-op projects so they do not require special approvals (variances), which can be subject to local political capture or delay.
* **Inclusionary Zoning:** Policies that mandate a percentage of new residential development be affordable. CLTs can strategically acquire or partner on land designated for Inclusionary Zoning programs, leveraging public sector mandates.
* **Community Benefit Agreements (CBAs):** CLTs or co-ops can negotiate CBAs with larger private developers, exchanging community support for permits in return for specific concessions, such as land dedication to the CLT or subsidized space for worker co-ops.

### 6.2 Policy Advocacy for Legal Change

Legal reform is necessary to simplify and derisk the formation of regenerative entities.

* **Model CLT Enabling Legislation:** Advocacy for state-level laws that explicitly recognize the legal enforceability of the CLT ground lease and resale formula against third-party claims, particularly in states where the ground lease is not explicitly mentioned in cooperative or non-profit statutes.
* **Cooperative Conversion Laws:** Policy campaigns to secure a legal **Right of First Refusal (ROFR)** for tenants (in rental housing) or workers (in private businesses) when their asset is put up for sale. This lowers the transaction costs and legal hurdles for converting extractive businesses into co-ops or CLTs.
* **Value Capture Mechanisms:** Advocating for systemic changes, such as a Land Value Tax (LVT), which shifts the tax burden onto the unimproved value of the land rather than improvements. LVT penalizes speculation and vacancy while incentivizing the productive, mission-aligned stewardship promoted by CLTs.

## PART 7: FINANCIAL MODELING

Financial models for regenerative structures must validate viability over decades, accepting capped returns and prioritizing long-term affordability.

### 7.1 CLT + Coop Housing Pro Forma

A robust financial model requires a 30-year cash flow projection to secure long-term patient capital.35

**Development Budget (Line Items):** Must clearly itemize all costs: Land Acquisition (if purchased), Soft Costs (legal, architectural, community engagement), Hard Costs (construction), and Project Financing Fees. Subsidies (public grants or foundation PRIs) must be itemized as non-repayable capital.

**Operating Budget (Annual):** Projects annual income, which typically includes mortgage payments from leaseholders, annual stewardship fees, and rental income from any mixed-use commercial space. Expenses must account for CLT staff salaries, property management, and adequate reserve funding for future ground lease defense.

**30-Year Cash Flow Projection:** This projection must demonstrate the ability to service debt (often patient, subordinated capital) reliably, even with permanently capped resale revenue, validating the long-term financial stability to lenders.37

**Sensitivity Analysis:** Essential for demonstrating risk mitigation. The model must analyze how the project performs under various scenarios, such as fluctuations in the CPI adjustment factor (affecting the resale price cap) and varying market interest rates (affecting debt service coverage).

#### Excel Template Description: Key Inputs for CLT Housing

The model must be driven by inputs that reflect mission constraints, not market returns:

| **Input Variable** | **Source of Variable/Constraint** | **Constraint to Model** |
| --- | --- | --- |
| Initial Home Price | Development Cost / Required Subsidy Level | Must ensure affordability to the target Area Median Income (AMI) population. |
| Resale Increase Rate | CPI/Local Index/Fixed % | Legal cap enforced by Ground Lease.6 |
| Stewardship Fee % | Annual operating needs of CLT | Needs to cover ongoing permanent stewardship and legal defense. |
| Debt Service Interest Rate | Patient Capital terms (Subordinated Note) | Interest rate capped (e.g., 4% max).23 |
| Subsidy/Grant Capital | Government or Foundation PRIs | Modeled as equity that demands no return or repayment. |

### 7.2 Worker Cooperative Financial Model: Integrating ICA

The co-op financial model requires integrating the Internal Capital Accounts (ICA) system to accurately reflect member equity as a future liability rather than a speculative asset.12

**Startup Capital Requirements:** The model must account for the blend of low, fixed-value Member Equity Buy-in (non-speculative) and external patient debt (subordinated capital).

**Profit Allocation Formula:** The model is mandatory for Subchapter T compliance and anti-degeneration strategy. It must automatically allocate annual surplus into the three required buckets 12:

#### Worker Cooperative Surplus Allocation (Subchapter T Compliance)

| **Allocation Bucket** | **Purpose** | **Minimum/Mandatory %** | **Legal Function (Anti-Degeneration)** |
| --- | --- | --- | --- |
| **Cash Patronage Dividend** | Immediate distribution to member-workers (must be paid out). | Minimum 20% of Patronage Dividend (IRS requirement). | Ensures tax deductibility; provides immediate economic benefit. |
| **Written Notices of Allocation (WNA)** | Retained earnings allocated to Individual Capital Accounts (ICAs). | Defined by Board (up to 80% retained). | Builds internal member equity; funds growth; models capital as a long-term liability, not a speculative asset.12 |
| **Indivisible Reserves** | Collective Net Income (Non-allocable surplus). | Defined by Bylaws/State Law (e.g., 5-10% of gross surplus). | Permanent asset lock; cannot be claimed by exiting members; protects inter-generational stability.11 |

**Internal Capital Accounts (ICA) Mechanics:** The model tracks the ICA balance for each member, projecting its mandatory repayment schedule upon exit (typically modeled as a liability repaid over 5 to 10 years post-retirement).12

### 7.3 Solidarity Economy Ecosystem

Modeling a federated ecosystem requires accounting for shared financial resources and pooled risks.

**Cross-Subsidization:** The model must quantify the mandatory contributions from profitable entities to shared funds, projecting how those funds are then used to provide subsidized loans or grants to new co-ops or community projects. This demonstrates the network's internal capacity for systemic resilience and mutual support (e.g., the Evergreen Cooperatives in Cleveland).

## PART 8: IMPLEMENTATION CHECKLISTS

### 8.1 Forming a CLT (Step-by-Step)

The CLT roadmap emphasizes initial community organizing as the bedrock for the legal structure.4

| **Phase** | **Duration** | **Specific Tasks** | **Resources Needed** |
| --- | --- | --- | --- |
| **M1-3: Vision & Coalition** | 3 Months | Convene core organizing group; conduct community visioning sessions; define target area and beneficiaries; recruit diverse leadership for the prospective tripartite board.4 | Community organizers, initial steering committee, technical assistance consultation. |
| **M4-6: Legal Foundation** | 3 Months | Draft, file, and secure approval for Articles of Incorporation; adopt Model Bylaws (codifying tripartite governance and anti-speculation); establish banking relationships; file IRS Form 1023 for 501(c)(3) status.39 | Incorporation fees, specialized CLT legal counsel, seed funding for capacity. |
| **M7-12: Capacity & Land Acquisition** | 6 Months | Secure initial land parcel (donation or public transfer); finalize and adopt the 99-year Ground Lease terms; hire Executive Director/staff to manage stewardship; establish relationships with patient capital providers (CDFIs/PRIs).5 | Grants/PRIs for operating costs, land appraisal/surveyor, initial debt financing. |
| **Year 2: Project Launch** | 12 Months | Secure construction financing; execute first Ground Lease with a qualified buyer or developer; establish mandatory pre-purchase counseling protocols; begin ongoing stewardship and compliance monitoring. | Construction loans, CLT technical assistance network support. |

**Common Pitfalls and Solutions:** A common pitfall is securing land without the dedicated, long-term operational funding necessary for perpetual stewardship. The solution is securing multi-year operating grants or, ideally, dedicating a percentage of the initial public subsidy to a permanent stewardship endowment.

### 8.2 Converting to Cooperative

Cooperative conversion involves complex legal and financial steps, moving an existing business or housing complex from a traditional extractive model to a democratic, worker- or resident-owned structure.

**Legal Steps by State/Country:** Requires a feasibility study and extensive member education to explain the ICA system and democratic duties. Legally, the entity must amend or restate its Articles of Incorporation to adopt cooperative principles (one person, one vote; limited return on capital). For housing, this involves converting existing rental property to a Limited-Equity Housing Cooperative structure.

**Financing the Conversion:** The primary financial challenge is buying out the equity of the retiring owners (the "selling price" of the business or property). This typically requires significant patient capital, often provided by CDFIs or specialized co-op funds, structured as subordinated debt to maintain the new entity's financial stability.

## PART 9: FAILURE MODE ANALYSIS

### 9.1 CLT Mission Drift: Professionalization Capture

Mission drift is the highest structural risk for CLTs and other regenerative models built on perpetual commitment. It occurs not through malicious action but when the daily pressures of maintaining a complex organization override the radical, difficult mandates of the mission.9

**Warning Signs (The Jacobin Critique Application):** The professionalization of staff and governance can lead to capture.8 Highly specialized staff, often belonging to the Professional Managerial Class (PMC), may prioritize organizational efficiency, ease of grant compliance, and rapid scaling (metrics that look good on a resume) over the politically difficult process of maintaining deep affordability and robust resident democracy.34 This creates a systemic separation between the institutional priorities and the needs of the working-class beneficiaries, subtly leading to increased prices or looser affordability requirements to ease financial pressure.

**Prevention: Mandatory Resident Control Provisions:** The essential structural defense is the mandatory requirement for resident control (the 1/3 leaseholders on the board).7 This mandate forces the organization to constantly listen to and be accountable to the ultimate beneficiaries, functioning as a non-market brake on managerial autonomy. Furthermore, requiring supermajority membership votes for mission changes ensures that professional convenience cannot unilaterally compromise the founding principles.

### 9.2 Cooperative Degeneration

Cooperative degeneration occurs when the structural features designed to prevent speculation are compromised, leading to the co-op functioning as a private, extractive enterprise.

**Plywood Co-ops (Case Study):** Historically, many U.S. plywood cooperatives degenerated because they failed to implement the ICA system correctly. They allowed the value of their membership shares (the right to vote and work) to be tied to the rapidly appreciating market value of the company’s assets. Long-term members sold their shares upon retirement for exorbitant, speculative prices, transforming the membership fee into an inaccessible barrier that excluded new workers—effectively acting as a private transfer of speculative wealth.

**Prevention Mechanisms:** The two strongest legal defenses are:

1. **The ICA System:** By keeping the membership share value fixed and low, and allocating equity into the ICA (a non-transferable liability), the co-op legally prevents the sale of voting rights for a speculative premium.12
2. **Indivisible Reserves (Asset Lock):** The mandatory creation of indivisible reserves ensures that a substantial portion of the collectively created wealth is legally locked into the enterprise for perpetual use, creating a structural barrier against de-mutualization or sale to investors.12

**Mondragon's Challenges:** Even the most successful federations face challenges, including internal tension regarding the Wage Solidarity Ratio. As some manufacturing co-ops became highly skilled and profitable, internal wage gaps sometimes exceeded the target ratios, leading to an erosion of internal solidarity and economic equity—a clear warning sign that legal structures must be perpetually monitored and enforced against internal pressures.

## PART 10: JURISDICTION-SPECIFIC GUIDES

### 10.1 United States

**State-by-State Cooperative Law Variations:** US law is highly fragmented. Worker cooperatives must consult their specific state’s corporation law (e.g., General Business Corporation law, specific Cooperative Acts, or LLC statutes) to ensure their bylaws (especially the one-member, one-vote rule and patronage dividend allocation) are legally compliant. Some states (e.g., California, New York) have specific, robust statutes for worker co-ops, while others require extensive customization of general corporate filings.

**CLT-Friendly vs. Hostile Jurisdictions:** CLT legal enforceability is strongest in jurisdictions with dedicated CLT-enabling legislation or case law confirming the validity of the 99-year ground lease and the preemptive right of repurchase against common law claims. Tax considerations, specifically state-level property tax exemptions for the land owned by the 501(c)(3) CLT, are crucial for financial viability.

**Securities Law (Reg CF, Reg A+):** Fundraising for cooperatives through community loan funds or member investment requires careful navigation of federal and state securities regulations. Direct member loans or member shares may be exempt under specific co-op securities exemptions, but broader community offerings often necessitate compliance with Regulation Crowdfunding (Reg CF) or Regulation A+ requirements.

### 10.2 International

**UK (Community Interest Companies - CICs):** The CIC is a purpose-built corporate form for social enterprises, simplifying the legal structure compared to the US hybrid approach. The CIC Act mandates a statutory **asset lock** and restricts the distribution of profits to shareholders, which is overseen by the CICs Regulator.19 This provides clear regulatory oversight and legal certainty for mission-driven businesses.

**Canada (Quebec Solidarity Coop Model):** Quebec provides statutory recognition for the multi-stakeholder model, legally mandating balanced board representation for workers, users, and supporting members, thereby codifying a broad social mission into law.11

**Spain (Mondragon Legal Framework):** The Mondragon federation operates under specialized co-op statutes in the Basque region, characterized by strong financial solidarity requirements, mandatory contributions to centralized mutual support funds (Caja Laboral), and enforced democratic governance rules.

**Italy (Bologna Social Co-ops):** Italian law facilitates the creation of social cooperatives that provide public services (e.g., elderly care, integration of marginalized workers). These co-ops are legally required to dedicate the majority of their surplus to **indivisible reserves**, strengthening their permanent collective asset lock.

## CONCLUSION: THE LEGAL AND FINANCIAL MECHANICS OF PERMANENCE

Regenerative governance requires specific, non-negotiable legal and financial mechanics designed to create structural permanence and resist economic capture. The report demonstrates that implementing anti-extractive finance is not merely a matter of philanthropic intent but a task of rigorous legal engineering.

The core finding is that both the CLT and the Cooperative models rely on the same fundamental principle: the **permanent decoupling of control and value from speculative capital accumulation.**

1. **Legal Decoupling (CLT):** Achieved by separating the land (held by the 501(c)(3) asset lock) from the improvements (controlled by the anti-speculation Ground Lease and Resale Formula). Governance is protected by the tripartite board, which structurally subordinates professional expertise to the interests of the beneficiaries.
2. **Financial Decoupling (Cooperative):** Achieved through the Internal Capital Account (ICA) system, where equity growth is converted into a non-transferable, non-speculative liability that must be paid out to labor (patronage) rather than capital investment. This is enforced by mandatory Non-Transferable Shares and Indivisible Reserves.
3. **Capital Subordination:** Non-extractive finance, epitomized by the Seed Commons model and foundation Program-Related Investments (PRIs), requires capital to be explicitly and legally subordinated to the claims of the community, workers, and the organization’s long-term mission (capped returns, no control rights, junior repayment priority).

The implementation of these structures requires practitioners to move beyond conceptual frameworks and rigorously apply these legal and financial blueprints. The robustness of the anti-capture structures—enforced via supermajority amendments, asset locks, and mandatory democratic participation—will determine the longevity and resilience of the regenerative enterprise against market pressure and internal managerial drift.

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