



AGENDA

City of Portsmouth Housing Blue Ribbon Committee Conference Room A at City Hall*

October 3rd 2024
5:30 p.m.

- I. Roll Call (5 minutes)
- II. Meeting Minutes (10 minutes)
 - a. Thursday, June 13th
 - b. Thursday, June 27th
 - c. Thursday, July 18th
- III. Working Group Updates (30 minutes)
 - a. Zoning Working Group.
 - b. Parking and Transportation Working Group.
 - c. Financial Working Group.
- IV. Initial Discussions on Programming and Funds of a Workforce Housing Trust (45 minutes)
 - a. Review of trusts in other municipalities.
 - b. Potential programming of a Workforce Housing Trust in Portsmouth.
 - c. Potential use of Workforce Housing Trust funds.
- V. Public Comments (30 minutes)

Attachments

- a. Motion to establish Portsmouth Housing Endowment Fund Trust (March 11, 1993).
- b. Motion to establish Workforce Housing Trust Fund (August 14, 2009).
- c. Examples of affordable / workforce housing trusts in New Hampshire municipalities.
- d. Examples of affordable / workforce housing trusts in Massachusetts municipalities

**Members of the public also have the option to join this meeting over Zoom. Please register in advance for this Zoom meeting:*

Register in advance for this meeting:

https://us06web.zoom.us/webinar/register/WN_SNWjhJ75Qm2GZR1YcCOftA

After registering, you will receive a confirmation email containing information about joining the meeting.



MEETING NOTES - DRAFT

City of Portsmouth Housing Blue Ribbon Committee Conference Room A at City Hall*

**Thursday, June 13th 2024
5:30 p.m.**

I. Meeting Called to Order by Co-Chairperson Joanna Kelly at 5:30p.m.

Co-Chair Kelley calls roll call:

Attending: Assistant Mayor Joanna Kelley, Councilor John Tabor, Councilor Beth Moreau, School Board Representative Byron Matto, Erik Anderson, Megan Corsetti, Mary Loane, Dagan Migirditch, John O’Leary, Jennifer Stebbins Thomas, Planning Manager Peter Stith, and Housing Navigator Howard Snyder.

Absent: City Manager Karen Conard, Tracey Kozak, Planning and Sustainability Director Peter Britz.

II. Approval of 5/30/2024 Meeting Minutes

Co-Chair Kelley: Motion to approve minutes.

John O’Leary: So moved.

Megan Corsetti: Second.

In favor: All.

Opposed: None.

Motion approved unanimously.

III. Co-Chair Remarks

Co-Chair Kelley: Start conversation with city owned lands.

Co-Chair Tabor: Recaps last meetings activities with committee members sharing elements of work plan. Highlights other discussion topics and highlights Commerce Way rezoning. Land Use Committee’s start with city owned land evaluation and asks about other criteria that the committee could use in their evaluation.

Co-Chair Kelley: Notes importance and process of how the current list was created.

John O’Leary: Mentions Lang Road property near Rye and importance of transportation.



Megan Corsetti: Discusses criteria such as transportation and schools.

Howard Snyder: Reviews planning staff review process, criteria of city owned land and the memorandum that was created by staff. General discussion of current property list by the committee follows.

John O'Leary: Process has been done numerous times. Different criteria for different efforts but same properties. Let us start where we are now.

Co-Chair Kelley: Leads general discussion on other criteria that the committee could add to the evaluation table.

Howard Snyder: Outlines the idea of density that could be applied to various levels on each property.

John O'Leary: Considerations to be made for other restrictions or tools on the land such as covenants.

Byron Matto: Requests electronic file.

John O'Leary: Assessed and other values would be helpful to have.

Co-Chair Kelley: Summer meeting schedule needs to be established.

Co-Chair Kelley: Motion to establish meeting dates of July 11th and August 8th.

Councilor Beth Moreau: So moved.

Jennifer Stebbins Thomas: Second.

In favor: All.

Opposed: None.

Motion approved unanimously.

IV. Working Groups

Co-Chair Kelley: Review of working groups and members. Zoning working group consists of Co-Chair Kelley, Councilor Beth Moreau, Jennifer Stebbins Thomas.

Co-Chair Tabor: Leads discussion on other potential working groups, members interested in participating, and general assignments and process of each group:

- Zoning Working Group: Starting with Commerce Way and shared housing in the downtown. Develop definitions of housing types and what in the zoning needs to be removed to allow for a desired housing type such as "community living." (The Zoning working group consists of Co-Chair Kelley, Councilor Beth Moreau, Jennifer Stebbins Thomas, Tracey Kozak)



- Parking and Transportation Working Group: Parking in the downtown area and if needed in zoning ordinance or move to site plan. (The Parking and Transportation Working Group consists of Mary Loane, Councilor Beth Moreau, Byron Matto, and Co-Chair Tabor.)
- Financial Working Group: Financial structures of a housing trust, revolving loan fund, recommendations on homebuyer programs. (The Financial Working Group consists of Jennifer Stebbins Thomas, Megan Corsetti, and Byron Matto, Dagan Migirditch, Co-Chair Tabor.)

V. Housing Navigator Update

Howard Snyder: Presentation on Commerce Way, and opportunities with a potential zoning change.

Megan Corsetti: Mentions with change there is value in changing for housing but questions how to be for affordable. Discussion on zoning incentives, by-right development, city zoning regulations, and challenges of inclusionary, and demographics wanting to be served.

Howard Snyder: Updates to Work Plan and addition of ranking criteria. Notes addition of goals from land use committee, places to live dialogue effort and those provided by Tracey Kozak.

Howard Snyder: Sherburne School RFQ Updates.

VI. Public Comment

Jim Smalley @ 352 Kearsarge Way: Discusses his thinking on how incentives in zoning is bad economics, opinions on Christmas tree shop housing development. Asks if all of the city owned properties being considered for housing? Maybe some should be sold. Commerce Way may be hard but should be a challenge that is worked on.

Co-Chair Kelley: Mentions Andrew Samonas, member of the planning board, will be joining the committee.

Co-Chair Kelley: Motion to adjourn.

Mary Loane: So moved.

Jennifer Stebbins Thomas: Second.

In favor: All.

Opposed: None.

Motion approved unanimously.

Meeting adorns at 7:08p.m.



MEETING MINUTES - DRAFT

City of Portsmouth Housing Blue Ribbon Committee Conference Room A at City Hall*

**Thursday, June 27th 2024
5:30 p.m.**

I. Roll Call

Meeting Called to Order by Co-Chair Kelly at 5:30p.m.

Co-Chair Kelly calls roll call:

Attending: Assistant Mayor Joanna Kelley, Councilor John Tabor, Councilor Beth Moreau, Erik Anderson, Megan Corsetti, Tracey Kozak, Mary Loane, Dagan Migirditch, John O'Leary, Planning and Sustainability Director Peter Britz, and Housing Navigator Howard Snyder.

Absent: City Manager Karen Conard, School Board Representative Byron Matto, Jennifer Stebbins Thomas, Planning Manager Peter Stith

II. Approval of 6/13/2024 Meeting Minutes

No meeting minutes presented.

III. Committee Member Remarks

John O'Leary: Opens discussion on his previous inquiry about tax abatements and what the response to it will be. Considerations should be made regarding this due to committee's review of zoning changes at Commerce Way. Asks about the difference between commercial and residential in terms of services, impacts of children on the school system and what will the city compromise for what levels of units and bedrooms. Ends with what the fiscal impact will be of additional housing.

Erik Anderson: States agreement with John O'Leary's items.

Co-Chair Kelly: Notes school enrollment has been decreasing in Portsmouth.

Co-Chair Tabor: Mentions committee's reporting to City Council needs to have answers and we need to review potential impacts such as what is the city's relationship with recent development and school age children?

Erik Anderson: Asks for an update on the Sherburne school RFQ process.



Co-Chair Kelly: Updates will be provided by the City Manager at the next City Council meeting.

Erik Anderson: States concern on what the proposal will be and any dialogue with the committee would be helpful.

IV. City Owned Land

Co-Chair Tabor: Review of previous land use committee's and the housing committee's previous efforts regarding on city owned land. General consensus was reached regarding committee making visits to the site and ranking the sites based on new criteria.

V. Housing Navigator Update

Howard Snyder: Reviews city owned land datasets and findings provided in the packet including initial list provided to the Land Use Committee, planning and sustainability department's memorandum, and current evaluation matrix that includes three additional criteria provided by the committee at the last meeting.

Howard Snyder: Briefing on Service Credit Union Charrette and reviews power point presentation developed during the charrette and presented to the public at the end of the effort.

VI. Public Comment

Jim Smalley @ 352 Kearsarge Way: Discusses previous observations and his current thoughts made regarding tax abatement. Comments also made on infrastructure costs and value.

Dagan Migirditch: Requests information on structure of working groups and a future conversation about how they will function.

Co-Chair Kelly: Mention on next meeting is scheduled for July 11th.

Co-Chair Kelly: Motion to adjourn

Councilor Moreau: So moved.

Tracey Kozak: Second.

In favor: All.

Opposed: None.

Motion approved unanimously.

Meeting adjourned at 6:46p.m.



MEETING MINUTES - DRAFT

City of Portsmouth Housing Blue Ribbon Committee Conference Room A at City Hall*

**Thursday, July 18th 2024
5:30 p.m.**

I. Roll Call

Meeting Called to Order by Co-Chair Kelly at 5:30p.m.

Co-Chair Kelly calls roll call:

Attending: Megan Corsetti, Tracey Kozak, Mary Loane, School Board Representative Byron Matto, Councilor Beth Moreau, Jennifer Stebbins Thomas, and Housing Navigator Howard Snyder.

Absent: City Manager Karen Conard, Assistant Mayor Joanna Kelley, Councilor John Tabor, Erik Anderson, Dagan Migirditch, John O'Leary, Planning Manager Peter Stith, Planning and Sustainability Director Peter Britz.

II. Site Walk: Falkland Way (30 minutes) – 5:30p.m. to 6:05p.m.

Public Comment: Always used for open space. History of Atlantic Heights development and neighborhood explained. Gentle density of area. Flooding issues exist in the area. Not known what is buried under the lawn area. Past and recent development does not fit into neighborhood character. State does not allow recreation under highway so now we use this lawn area. Concerns voiced over density that would not match neighborhood. Questions were raised about how people were noticed and individual residents of PHA were not notified.

III. Site Walk: Lower Parking Lot at 1 Junkins Avenue (30 minutes) – 6:20p.m. to 6:55p.m.

Public Comment: Parking area well used, especially during farmers market. Traffic concerns. Parking will be needed especially if the new police station is added to city hall. Neighborhood impact would be substantial. Questions raised about what type of housing and density as area is within historic district. Concerns were voiced about capacity of existing infrastructure and impact on city services. All the city owned properties will have different criteria due to the neighborhood they are within. Exploration should be done of housing opportunities at other properties before the lower lot.



Co-Chair Kelly: Mention on next meeting is scheduled for July 11th.

Co-Chair Kelly: Motion to adjourn

Councilor Moreau: So moved.

Tracey Kozak: Second.

In favor: All.

Opposed: None.

Motion approved unanimously.

Meeting adjourned at 6:46p.m.



ATTACHMENTS

City of Portsmouth Housing Blue Ribbon Committee

Thursday, October 3rd 2024

Attachments

- a. Motion to establish Portsmouth Housing Endowment Fund Trust (March 11, 1993).
- b. Motion to establish Workforce Housing Trust Fund (August 14, 2009).
- c. State of NH Enabling Legislation RSA 31:19a.
- d. NH Housing Finance Authority Affordable Housing Trust Rule and Fact Sheet.
- e. Nashua Housing Trust Fund Committee
- f. Massachusetts Municipal Affordable Housing Trust Guidebook and Fact Sheet.
- g. Gloucester Affordable Housing Trust Strategic Plan.
- h. Amesbury Declaration of Affordable Housing Trust.

PORTSMOUTH HOUSING ENDOWMENT FUND TRUST

WITNESSETH:

WHEREAS, the City has established a program known as the Portsmouth Housing Endowment Fund (hereinafter PHEF); and

WHEREAS, the PHEF is a program designed to assist first time home buyers within the City of Portsmouth (hereinafter City); and

WHEREAS, the City is in receipt of approximately Seven Hundred and Five Thousand, Three Hundred and Fifty Dollars and Sixty Eight Cents (\$705,350.68) to fund this program;

WHEREAS, the Trustees of the Trust Fund (hereinafter Trustees) are charged by City Charter with investing and managing City trust funds;

NOW THEREFORE:

1. The City shall transfer the sum of \$705,350.68 on or about April 2, 1993 to the Trustees, which shall be known as the corpus of the Trust and may be added to from time to time as the City may determine;
2. The Trustees may hold said funds, together with all additions thereto, either in savings or special notice account or in such investments as allowed by the Laws of the State of New Hampshire; provided, nevertheless, that said funds shall not be collectively invested with other funds held by such Trustees;
3. The Trustees shall quarterly, or more frequently as required, make payments of the interest in amounts sufficient to cover current expenses of the program, to the servicing lender designated by the City;

4. Current expenses of the program are those associated directly with City mortgage assistance to qualified participants in the program, costs associated with advertising the availability of the program, and any bank fees that may be charged on the account by the servicing lender.

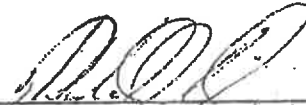
5. Any other expense may only be authorized by the City Council.

6. Any payment out of the Trust corpus shall be subject to approval by the Portsmouth City Council.

IN WITNESS WHEREOF the City has authorized the creation of this Trust this 11 day of March, 1993.

CITY OF PORTSMOUTH

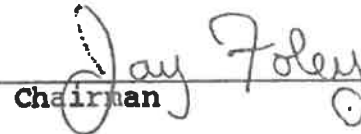
BY



Thaddéus J. Jankowski, Jr.
Acting City Manager

TRUSTEES OF THE TRUST FUND

BY


Chairman

[Go to previous versions of this Section](#) ↓

2023 New Hampshire Revised Statutes

Title III - Towns, Cities, Village Districts, and Unincorporated Places

Chapter 31 - Powers and Duties of Towns

Section 31:19-a - Trust Funds Created by Towns.

Universal Citation: NH Rev Stat § 31:19-a (2023) [?](#)[< Previous](#)[Next >](#)**31:19-a Trust Funds Created by Towns. -**

I. A town may at any annual or special meeting grant and vote such sums of money as it deems necessary to create trust funds for the maintenance and operation of the town; and any other public purpose that is not foreign to the town's institution or incompatible with the objects of its organization. The town may appoint agents to expend any funds in the trust for the purposes of the trust. An annual accounting and report of the activities of the trust shall be presented to the selectmen and published in the annual report.

II. Trust funds created pursuant to this section shall be revocable by majority vote of the legal voters present and voting at any annual meeting, unless the vote creating the trust expressly provides that the trust shall be irrevocable, and upon revocation the trustees of trust funds holding the account for said trust shall pay all the moneys in such fund to the town treasurer.

III. Notwithstanding any other provision of this chapter, any trust fund created under this section shall be subject to the same provisions concerning custody, investment, expenditure, change of purpose, and audit as are reserve funds established under RSA 34:1, 34:1-a, 35:1 or 35:1-c. The legal validity of such a fund properly established shall not be affected by its designation as a "trust," "reserve," "capital reserve," or any other designation.

IV. The local legislative body may authorize the acceptance of privately donated gifts, legacies, and devises to be utilized for the same purposes as a trust fund created under this section; provided, however, that such gifts, legacies, or devises shall be invested and accounted for separately from, and not commingled with, amounts appropriated under paragraph I, and shall be subject to the custody and investment provisions applicable to trust funds accepted under RSA 31:19.

V. A trust fund created under the provisions of this section that is established for the purpose of maintaining health insurance funds for the benefit of employees and retired employees of any town shall be exempt from the provisions of RSA 35:8 or 34:4, and, when so established, the town may name its own trustees who may expend any funds in the trust for the payment of health claims or health insurance premiums for the benefit of any employees or retired employees of the town. An annual accounting and report of the activities of the trust shall be presented to the selectmen and published in the annual report.

Source. 1983, 264:2. 1991, 231:1. 1993, 176:1, 2. 1995, 20:2, 3, eff. June 11, 1995. 1998, 44:1, eff. July 4, 1998.

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CITY OF PORTSMOUTH
WORKFORCE HOUSING TRUST FUND

WHEREAS, on January 26 2009, the Portsmouth City Council accepted the report of its Blue Ribbon Committee on Housing dated November 18, 2008, "A Road Map to Affordable Housing"; and

WHEREAS, one recommendation of the said report is to, "establish a Workforce Housing Trust Fund to facilitate Workforce Housing activities"; and

WHEREAS, the primary purpose of the Workforce Housing Trust Fund is to create new, and retain existing units, of workforce housing affordable to households earning between 80% and 120% of median family income, or such other criteria as may be deemed appropriate from time to time by the Portsmouth City Council; and

WHEREAS, the Blue Ribbon Committee on Housing has also recognized the need to retain existing units of housing affordable to households earning less than 80% of median family income; and

WHEREAS, the City Council of the City of Portsmouth desires to implement the foregoing recommendations of its Blue Ribbon Committee on Housing within the City;

NOW THEN, the City Council of the City of Portsmouth hereby authorizes the creation of this City of Portsmouth Workforce Housing Trust Fund under the following terms and conditions:

1. The City of Portsmouth Workforce Housing Trust Fund (the Trust) is established in accordance with the Workforce Housing principles announced in, "A Road Map to Affordable Housing".
2. The primary purpose of the Workforce Housing Trust Fund shall be to fund the creation of additional units of workforce housing affordable to those households earning between 80% and 120% of median family income as determined by

appropriate governmental entities, or such other criteria as may be deemed appropriate from time to time by the Portsmouth City Council.

3. The Workforce Housing Trust Fund shall be used by the City to facilitate activities consistent with the purposes for which the Trust is established. These activities may be in partnership with public, non-profit, and private housing developers.

Workforce Housing Trust Funds may be used for activities such as:

- Acquire land;
- Purchase and rehabilitate existing housing;
- Construct new housing;
- Retain existing housing; and
- Provide housing subsidies through programs such as the City's existing, first time homebuyer program, HomeTown.

4. The City of Portsmouth Workforce Housing Trust Fund is intended to provide a repository and an ongoing funding source from which the City of Portsmouth may authorize the expenditure of those sums deemed appropriate by the City Council for the purposes for which the Trust exists.
5. The Trustees of Trust Funds are authorized to accept, invest, reinvest and disburse funds or non-cash assets allocated to the City of Portsmouth Workforce Housing Trust Fund in accordance with the terms and conditions of this Trust document.
6. The Trustees of Trust Funds shall disburse funds from the Trust only when provided with written authorization by the City Manager of the City of Portsmouth certifying that the expenditure has been authorized by a majority vote of the Portsmouth City Council.
7. All funds with the Trust, whether designated as the corpus or income produced thereby, shall be available for expenditure by the City Council in the sole discretion of the City Council.
8. The Trustees may receive contributions to the corpus of the Trust from the City of Portsmouth or from any other person or entity making contributions thereto. Except, however, the Trustees shall not be required to accept any contributions deemed inappropriate by the Trustees.
9. The Trustees shall have the complete discretion to hold, liquidate or otherwise transfer any stocks or other non-cash assets contributed to the Trust, as long as any proceeds received from the transfer of such assets are paid into the Trust, except, however, that prior to the disposition by the Trustees of any real estate

the Trustees shall first request an advisory report from the Planning Board of the City of Portsmouth.

10. The funds in the Trust shall be held by the Trustees of Trust Funds of the City of Portsmouth to be invested and reinvested by the Trustees without restriction against pooling the assets of this Trust with any other Trust Funds held by the Trustees or the City, so long as the funds are the subject of separate accounting.
11. In the event that the Portsmouth City Council determines that the need for municipal support of workforce housing has ceased to exist, or for such other reasons deemed appropriate by the City Council, this Trust may be discontinued by a 2/3 vote of the City Council. In that case any funds held by the Trustees under the terms of this Trust shall be disbursed in accordance with the direction of the Portsmouth City Council to a housing related purpose or entity.

CITY OF PORTSMOUTH

Dated: 8-14-09



John P. Bohenko, City Manager

Pursuant to vote by the Portsmouth City Council on March 16, 2009.

Accepted by the Trustees of Trust Funds.

Dated: 9/3/09



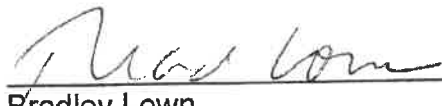
Lea Aeschliman, Chairman

Dated: 9/3/09



Phyllis/Eldridge

Dated: 9/3/09



Bradley Lown



NEW HAMPSHIRE AFFORDABLE HOUSING FUND

FACT SHEET

A VALUABLE FUNDING TOOL FOR CREATING HOUSING SINCE 1988

- Provides flexibility to developers; AHF financing has fewer regulatory restrictions than most federal funding
- Supports the creation of multifamily housing developments that may not have other resources, such as supportive housing for vulnerable and underserved populations
- Allows New Hampshire Housing to support local housing needs more effectively and to meet important public goals
- Enables housing developers to significantly leverage their total project financing



66
General Occupancy
2,810 Units

38
Supportive Housing
464 Units

11
Age-Restricted
310 Units

4
Manufactured
Housing Co-ops
72 Units

A KEY INVESTMENT IN NH'S AFFORDABLE HOUSING STOCK

AFFORDABLE HOUSING FUND allocation to date: **\$93 MILLION**

119 PROJECTS, leveraging more than **\$500 MILLION** to support
the development or preservation of **3,600+ HOUSING UNITS** statewide.



WHAT IS THE AFFORDABLE HOUSING FUND?

The Affordable Housing Fund (AHF) was created by the Legislature in 1988 and is codified as RSA 204-C:56 – 62. It is administered by New Hampshire Housing to facilitate the purchase and rehabilitation or construction of affordable housing, primarily for low- and moderate-income households.

The AHF is used to finance the construction of multifamily housing developments. It has received varying allocations from the state since 1988. In FY20, it began receiving an annual \$5 million allocation from Real Estate Transfer Tax revenues (RSA 78-13:13).

The AHF is a true revolving loan fund, and as such, it is replenished through program income including loan repayments, as well as through the allocation of certain tax-exempt bond fees and earnings, and legislative appropriations.

HOW IS THE FUND USED?

- The AHF provides loans and grants to support the creation of housing for: families and individuals, seniors, individuals with supportive housing needs, and manufactured housing cooperatives.
- Funds are typically used to provide zero rate or below market-rate loans to cover financing gaps or to fund projects that cannot support debt. Most projects financed by the AHF have other resources as part of their full funding package, the most common being federal Low-Income Housing Tax Credits.
- Many of these developments serve households with somewhat lower incomes, including those with incomes at or below 60% of the area median (“workforce housing,” as defined by RSA 674). These are income levels common to entry-level employment positions and jobs in service-related

industries (in the Manchester area, 60% median income for a household of three people is \$54,540; Portsmouth/Rochester area is \$62,856; Belknap County is \$51,354; Coos County is \$37,854).

- The AHF provides more flexible funding with fewer regulatory restrictions to developers.
- It supports local housing needs while still meeting important public goals.

WHAT ARE THE REQUIREMENTS OF FINANCING THROUGH THE FUND?

- Both for-profit and non-profit sponsored housing developments are eligible for financing.
- By statute, at least half of the units must be affordable to households with incomes at or below 80% of area median income. It is these working families that often have the hardest time finding an affordable place to live.
- All new construction projects funded by the AHF and other financing programs are built to meet New Hampshire Housing’s Design and Construction Standards. These standards include flexible, cost-effective measures that help development teams build comfortable, safe, energy-efficient, and durable buildings.

MULTIFAMILY HOUSING DEVELOPMENTS FINANCED BY THE AFFORDABLE HOUSING FUND



DEPOT AND MAIN

74 UNITS

SALEM

Workforce Housing (General Occupancy)



434 UNION STREET

11 UNITS

MANCHESTER

Recovery Housing (Supportive Housing)



APPLE RIDGE APARTMENTS

34 UNITS

ROCHESTER

Workforce Housing (General Occupancy)



MONAHAN MANOR

216 UNITS

NASHUA (FORMERLY BRONSTEIN APTS)

Workforce Housing (General Occupancy)

MULTIFAMILY HOUSING DEVELOPMENTS FINANCED BY THE AFFORDABLE HOUSING FUND



RUTH GRIFFIN PLACE

64 UNITS

PORTSMOUTH
Workforce Housing (General Occupancy)



GILFORD VILLAGE KNOLLS III

24 UNITS

GILFORD
Age-Restricted Housing



BEDFORD VILLAGE MANOR AT RIDDLEBROOK

93 UNITS

BEDFORD
Workforce Housing (General Occupancy)

**NEW HAMPSHIRE HOUSING FINANCE AUTHORITY
AFFORDABLE HOUSING FUND PROGRAM RULES**

HFA 113

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**NEW HAMPSHIRE HOUSING FINANCE AUTHORITY
AFFORDABLE HOUSING FUND PROGRAM RULES
HFA 113**

HFA 113 PART ONE: Overview, Purpose, Availability

HFA 113.01 Overview and Purpose

- (a) The Affordable Housing Fund Program is operated by the Authority for the purpose of providing loans and grants for the construction, rehabilitation, and/or acquisition of housing affordable to households of low and moderate income. Funds in the Affordable Housing Fund will generally be combined with other Authority managed funds including, without limitation, federal HOME Investment Partnerships Program funds as part of the Authority's capital subsidy resource.
- (b) The Affordable Housing Fund provides flexible financing for use in the pre-development and/or development of affordable housing. The primary uses of the Affordable Housing Fund are:
 - (1) Predevelopment loans for certain non-profit developers seeking funding for project specific pre-development expenses in accordance with HFA 108.
 - (2) Permanent financing provided in the form of first mortgage loans, subordinate mortgage loans, and grants. The rates and terms of this financing source are determined by the ability of the project to support debt.

HFA 113.02 Applicability

- (a) These rules only apply to the Affordable Housing Fund Program.
- (b) The provisions of HFA 101 are incorporated into these HFA 113 rules.
- (c) The Authority may combine Affordable Housing Fund Program funds with other Authority funding sources, which may impact the eligibility requirements and the other loan terms, depending on the funding source. Whenever there is a conflict between these rules and the rules for a specific funding source, the stricter requirement, as determined by the Authority, shall apply.

HFA 113 PART TWO: Definitions

HFA 113.03 Definitions

The words or terms defined in HFA 101 are incorporated into these HFA 113 Rules.

HFA 113 PART THREE: General Rules

HFA 113.04 Developer Eligibility

The following organizations are eligible to apply:

- (1) Non-profit corporations;
- (2) Consumer cooperatives created pursuant to RSA 301-A;
- (3) Public housing authorities created pursuant to RSA 203;
- (4) Regional planning commissions created pursuant to RSA 36;
- (5) Units of local government;
- (6) The Authority; and
- (7) Limited partnerships, general partnerships, corporations, proprietorships, and other business organizations.

HFA 113.05 Project Eligibility

- (a) Affordable housing projects financed by the Affordable Housing Fund Program may be purchase and rehabilitation or construction. For projects that include property purchase and new construction, Affordable Housing Fund dollars may be used to pay for construction but not for property acquisition.
- (b) All projects must meet one of the following minimum income targeting restrictions for occupying households for the length of the mortgage but in no case less than 30 years. Although, projects may target a higher percentage of the units than the minimum.
 - (1) 20% of the units must be rented to households with incomes at or below 50% of the area median income (AMI) as adjusted for household size and published from time to time by HUD.
 - (2) 40% of the units must be rented to households with incomes at or below 60% of the area median income as adjusted for household size and published from time to time by HUD.
 - (3) 50% of the units must be rented to households with incomes at or below 80% of the area median income as adjusted for household size, published from time to time by HUD, and found on the Authority's Website. In no case may more than 50% of the units of a project be occupied by households with incomes above 80% AMI.

- (c) Household eligibility is determined at the time of initial occupancy. If a qualifying household becomes over-income during occupancy at the project, then the unit will continue to be considered eligible provided the next available unit at the project is occupied by another eligible household.
- (d) In order to ensure affordability, the rent and utility cost for a unit in one of the above targeting categories may not exceed 30% of the maximum income for that category. For limited equity cooperatives, the household's monthly occupancy cost may instead be limited to 1/12 of the household's pro rata share of the annual operating expense of the project.
- (e) All projects must be constructed or rehabilitated in accordance with HFA 111 and the Authority's Technical Standards.

HFA 113.06 Application Process

- (a) Applications may be accepted in conjunction with other Authority program applications.
- (b) Applications must be submitted on a form provided by the Authority. All requested documentation must accompany the Application. The Authority, in its sole discretion, may reject any Application it deems incomplete.

HFA 113.07 Application Review

- (a) Each Application will be reviewed under the following general criteria. Failure to comply with any of the general criteria may, at the sole discretion of the Authority, result in the rejection of the Application.
 - (1) Project location must be considered feasible and appropriate;
 - (2) Project and design characteristics must be appropriate for the neighborhood and satisfy a market need;
 - (3) Developer, and the development team, must have the appropriate ability or experience to successfully complete the project;
 - (4) Developer, and every member of the development team, must be compliant with, and not in default of, any Authority program;
 - (5) Development costs, including, but not limited to, acquisition, construction, and intermediary expenses are not excessive as determined by the Authority; and,

- (6) Project must be determined financially feasible due to reasonable costs and adequate financing sources as determined by the Authority.
- (b) Upon review of the Application, site visit, and review of other material available, the Authority may require the preparation of other third party reports. These reports may include, but are not limited to:
 - (1) Market studies;
 - (2) Environmental reviews;
 - (3) Appraisals; and
 - (4) Engineering reports.

Such reports will be commissioned by the Authority but the cost will be borne by the Developer. Before the Authority authorizes any third party contracts, the Developer will have deposited with the Authority adequate funds to cover the costs of said reports.

- (c) All Applications meeting the general criteria will be underwritten, in accordance with the Authority's underwriting policy, to ensure that no more than the minimum amount of subsidy that is necessary is included in the project.
- (d) The interest rate and other loan terms shall be flexible based on the ability of the project to support debt. Loans with interest rates as low as 0%, deferred payment loans, loans payable only as cash flow allows, and grants are permitted. No Application shall be rejected solely or primarily because of the level of assistance requested to make the proposal feasible.
- (e) Prior to any Application for new construction being recommended for approval, the Authority shall hold a public hearing in the community in which the proposed project is to be located.

HFA 113.08 Financing Recommendation and Approval

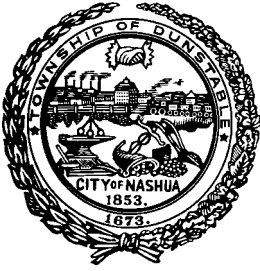
- (a) Projects that have failed to meet the criteria for the Affordable Housing Fund Program may be rejected by Authority staff or the Developer may be asked to modify the Application.
- (b) Any recommendation to fund an Application is subject to the availability of funds in the Affordable Housing Fund Program.
- (c) Financing commitment will be made by the Authority's Board of Directors.

HFA 113.09 Anti-Displacement and Relocation Policy

Involuntary permanent displacement of tenants is strongly discouraged. The Authority may reject an Application that fails to minimize permanent displacement of tenants. A formal relocation plan must be submitted with the Application if any temporary or permanent relocation is anticipated.

HFA 113.10 Compliance

- (a) All projects receiving Affordable Housing Fund Program funds must maintain income and rent targeting for the longer of the financing term or thirty years. The income and rent targeting will be enforced by the recording of a LURA, which will continue in effect even if the loan is prepaid and will include the extended use requirements of HFA 113.11. A regulatory agreement will be recorded and run with the mortgage.
- (b) These agreements may also contain other conditions which the Authority may impose on the project including, but not limited to, the following requirements:
 - (1) To fund and maintain tax and insurance escrows;
 - (2) To fund and maintain a replacement reserve account;
 - (3) To execute a management agreement in a form acceptable to the Authority;
 - (4) To provide tenant leases or occupancy agreements acceptable to the Authority;
 - (5) To provide regular financial data on the project;
 - (6) To provide regular reporting on tenant income and eligibility compliance;
 - (7) To obtain and keep in force such insurance coverage as the Authority may from time to time require; and
 - (8) To maintain the housing in a safe, decent, and sanitary condition and in good repair.



ORDINANCE

ESTABLISHING A HOUSING TRUST FUND COMMITTEE

CITY OF NASHUA

In the Year Two Thousand and Twenty Two

WHEREAS, the City completed a city-wide Housing Study in the fall of 2021 which made the following findings:

1. The city is expected to grow its population and employment base and the existing housing stock will not accommodate this growth.
2. Housing prices (sales and rentals) are outpacing what most Nashua residents can afford.
3. Making affordable housing available in more locations across the City would provide more housing choice for the City's most vulnerable residents. Providing affordable housing in more locations throughout the City would improve housing choices for the City's most vulnerable residents.
4. The City must employ strategies that improve the quality of the housing stock and encourage a mix of new market-rate and affordable housing to improve quality of life for all residents in the community.
5. The City will need additional resources to address the housing opportunities and challenges ahead.

WHEREAS, the Housing Study recommended the establishment of a Housing Trust Fund and a committee to make recommendations to the Mayor; and

WHEREAS, the City established a Housing Trust Fund under R-21-118 on April 13, 2021.

NOW THEREFORE, *The City of Nashua ordains* that Part I "Administrative Legislation", Chapter 12 "Boards, Committees and Commissions" of the Nashua Revised Ordinances, as amended, is hereby further amended by adding the following new underlined article and italicized language and deleting the struck-through language:

“ARTICLE XIII
Housing Trust Fund Committee

§ 12-44. Establishment.

The Housing Trust Fund Committee for the City of Nashua is hereby established. The functions of the Committee shall include the following responsibilities:

- A. Making recommendations to the Mayor as the agent to expend for funds from the Housing Trust Fund.
- B. Developing the guidelines for the Housing Trust Fund. The guidelines shall support the creation of affordable housing units and housing development or redevelopment projects with unique financial, environmental, or other challenges that impact the provision of affordable housing.
- C. Developing the criteria for project eligibility and assist in the determination of eligible applicants for expenditure of Housing Trust Fund monies.
- D. Identifying opportunities and potential barriers to implementing the City’s affordable housing goals and making recommendations to address those challenges.
- E. Improving housing access with respect to City residents at all life stages, household compositions, physical abilities, and socioeconomic levels.
- F. Guiding and supporting outreach and engagement initiatives and activities related to affordable housing. This may include assistance in the creation and distribution of affordable housing literature and community education on housing, generally.
- G. Recommend policies, ordinance changes, or modifications to the City’s housing programs.

§ 12-45. Membership; terms.

- A. The Committee shall consist of seven (7) members. The members are as follows:
 - (1) One (1) member of the Board of Aldermen who will also serve as liaison between the Committee and Board of Aldermen, and will be appointed by the president of the Board of Aldermen. The term of this member shall be two (2) years.
 - (2) One (1) member shall be a Nashua resident of a low-income neighborhood or a low-income community resident, and will be appointed by the Mayor subject to the approval of the Board of Aldermen.
 - (3) One (1) member shall be a licensed New Hampshire attorney in good standing who practices in the City and will be appointed by the Mayor subject to the approval of the Board of Aldermen.

- (4) One (1) member shall be a finance professional with experience in housing lending in the City or State of New Hampshire and will be appointed by the Mayor subject to the approval of the Board of Aldermen.
- (5) One (1) member shall be a representative of a housing advocacy group and will be appointed by the Mayor subject to the approval of the Board of Aldermen.
- (6) One (1) member shall be the Community Development Division Director or his or her designee. The term of this member shall be indefinite.
- (7) One (1) member shall be the Economic Development Division Director or his or her designee. The term of this member shall be indefinite.
- B. Unless otherwise indicated, the terms of the members shall be for three (3) years and initial appointments shall be staggered so that subsequent appointments shall not occur at the same time.**

§ 12-46. Chairperson; bylaws; compensation.

The Community Development Division Director or designee shall serve as chairperson, with the Economic Development Director or designee as vice chairperson. The Committee shall establish its bylaws for the orderly conduct of business and regular dates and times for meetings and the orderly conduct of business. The members of the Committee shall serve without compensation. Each member of the Committee shall hold office until his/her successor is appointed and approved, unless sooner removed. The Planning Department shall serve as staff to the Committee.”

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This legislation shall take effect upon passage.

LEGISLATIVE YEAR 2022

ORDINANCE: O-22-017

PURPOSE: Establishing a Housing Trust Fund Committee

SPONSOR(S): Mayor Jim Donchess

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: Anticipated costs would be associated staff time and fulfilling public meeting requirements of the committee.

ANALYSIS

This ordinance establishes a Housing Trust Fund Committee as described in the legislation. This new Committee is a “public body” under the Right-to-Know Law.

Approved as to form: Office of Corporation Counsel

By: _____

Date: _____

SPECIAL BOARD OF ALDERMEN

APRIL 8, 2021

7:00 PM

Join Zoom Meeting: <https://us02web.zoom.us/j/89388820492?pwd=c1R2NUFvdU9OUeIPY0gzaytrd1JEZz09>
Meeting ID: 893 8882 0492 Passcode: 264334

Join by telephone: 1-929-205-6099
Meeting ID: 893 8882 0492 Passcode: 264334

If for some reason you cannot connect to Zoom, please contact us at (603) 821-2049 and they will help you with connectivity. The public may also view the meeting via Channel 16.

PRESIDENT LORI WILSHIRE CALLS ASSEMBLY TO ORDER

PRAYER OFFERED BY CITY CLERK SUSAN K. LOVERING

PLEDGE TO THE FLAG LED BY ALDERMAN-AT-LARGE BRANDON MICHAEL LAWS

ROLL CALL

PUBLIC HEARING

R-21-118

**ESTABLISHING A HOUSING EXPENDABLE TRUST FUND FUNDED BY
APPROPRIATIONS AND MAKING A SUPPLEMENTAL APPROPRIATION OF \$30,000
INTO THE EXPENDABLE TRUST FUND**

Testimony in Favor

Testimony in Opposition

Testimony in Favor

Testimony in Opposition

ADJOURNMENT



RESOLUTION

ESTABLISHING A HOUSING EXPENDABLE TRUST FUND FUNDED BY APPROPRIATIONS AND MAKING A SUPPLEMENTAL APPROPRIATION OF \$30,000 INTO THE EXPENDABLE TRUST FUND

CITY OF NASHUA

In the Year Two Thousand and Twenty-One

RESOLVED by the Board of Aldermen of the City of Nashua that pursuant to RSA 31:19-a, the City of Nashua hereby establishes a housing expendable trust fund, funded by appropriations, that will be used for the following purposes:

- Supporting moderate and lower income housing development with gap financing, for both renters and owners with a priority on one and two bedroom units
- Supporting the preservation of affordable housing units
- Supporting a First Time Homebuyer Program
- Supporting the creation of new Accessory Dwelling Units
- Educating the public on the need for and benefits of housing

The Mayor is appointed as the agent to expend. Any balance remaining in the expendable trust fund at each fiscal year end will not lapse or be closed out to the General Fund, but will remain in this expendable trust fund.

It is the intention of the City that annual appropriations into this trust fund will be presented in the annual budget beginning with the proposed FY2022 annual budget, and will include, but not be limited to, an annual \$10,000 per year payment from Nashua Plaza Housing Associates, LP ("Clocktower") under an Agreement with the City dated November 25, 1998.

FURTHERMORE, BE IT RESOLVED by the Board of Aldermen of the City of Nashua to appropriate \$30,000 of Fiscal Year 2021 unanticipated revenue from Department #118 "Other General Government", Accounting Classification #45 "Miscellaneous Revenue", Account #45880 "Revenue from Clocktower" into this new housing expendable trust fund, which represents a recently received three year payment from Clocktower under the agreement referenced above.

LEGISLATIVE YEAR 2021

RESOLUTION: R-21-118

PURPOSE: Establishing a housing expendable trust fund funded by appropriations and making a supplemental appropriation of \$30,000 into the expendable trust fund

SPONSOR(S): Mayor Jim Donchess
Alderwoman-at-Large Shoshanna Kelly

COMMITTEE ASSIGNMENT: Budget Review Committee

FISCAL NOTE: Establishes a restricted fund to account for appropriations designated for a specific purpose. Proposed current year appropriation reduces year end general fund surplus. Future appropriations to this fund are through the annual budget process.

ANALYSIS

This legislation establishes a non-lapsing housing expendable trust fund, funded by appropriations, to be used for the purposes listed in the legislation. There is a stated non-binding intention that annual appropriations into this trust fund will be presented in the annual budget beginning with the proposed FY2022 annual budget, and will include, but not be limited to, an annual \$10,000 per year payment from Nashua Plaza Housing Associates, LP ("Clocktower") under an Agreement with the City dated November 25, 1998. RSA 31:19-a, I provides for an annual accounting and report of the activities of the trust.

This legislation also appropriates \$30,000 of FY2021 unanticipated revenue from Other General Government – Miscellaneous Revenue – Revenue from Clocktower into the new expendable trust fund. The \$30,000 is a recently received three year payment from Clocktower under the noted agreement. Charter Sec. 53 permits specific non-budget, supplementary appropriations. There should be notice and a public hearing. A two-thirds vote is required under Charter Sec. 56-b for an item or amount not in the mayor's budget. A roll call is required under Charter Sec. 49.

Approved as to account structure, numbers, and amount:

Financial Services Division

By: /s/John Griffin

Approved as to form:

Office of Corporation Counsel

By: Dowley Clarke

Date: 11 February 2021



City of Nashua
 Community Development Division
 City Hall, 229 Main Street, PO Box 2019
 Nashua, New Hampshire 03061-2019
 www.nashuanh.gov

| | |
|-------------------------|----------|
| Community Development | 589-3095 |
| Planning and Zoning | 589-3090 |
| Building Safety | 589-3080 |
| Code Enforcement | 589-3100 |
| Urban Programs | 589-3085 |
| Conservation Commission | 589-3105 |
| Transportation | 880-0100 |
| Sustainability | 589-3092 |

HOUSING TRUST FUND APPLICATION

Application Instructions:

All applicants must complete the required fields on Pages 1 thru 3. Required attachments for all projects are listed on Page 3. Development applicants must complete Pages 4 and 5. Housing Program applicants must complete Page 6. Application scoring criteria for all projects can be found on Pages 7 and 8.

Applications are due on July 15, 2024 by 5:00pm. Applications should be submitted by email to HTF@NashuaNh.gov

Please direct application questions to:
 Housing Trust Fund Committee
 Phone: 603-589-3095 Email: HTF@NashuaNh.gov

1. Applicant Overview:

Applicant: _____
 Applicant Contact Person Name & Title: _____
 Applicant Telephone: _____
 Applicant Mailing Address: _____
 Applicant E-mail Address: _____
 Applicant Signature (or attached letter of authorization): _____

If Applicable:

Property Owner of Record: _____
 Property Owner Contact Person Name & Title: _____
 Property Owner Telephone: _____
 Property Owner Mailing Address: _____
 Property Owner E-mail Address: _____
 Property Owner Signature (or attached letter of authorization): _____

2. Project Type (check one)

- Development
- Program

3. Partial Awards

Is your organization able to complete the project if a partial award is granted?

- Yes
- No
- Maybe

4. Project Summary and Alignment with Housing Needs:

Please summarize the proposed project for which Housing Trust Fund monies are being requested. For Development applications, include any available details about the location, size, type, and affordability of the proposed housing. For Housing Program requests, include any details about how the program will increase the availability of safe and affordable housing units, how the program will facilitate placement of housing-cost-burden individuals, and the anticipated number of individuals or families to be served. All narratives should include a description of how the proposed project addresses the City of Nashua’s housing needs as identified in the Notice of Funding Availability (NOFA).

5. Budget Summary:

Project/Program Name: _____
 Project/Program Location: _____
 Project Street Address (if applicable): _____
 Assessor's Map & Lot# (if applicable): _____

Total Housing Trust Funds Requested: _____
 Total Project Cost: _____
 Total Existing Units (if applicable): _____
 Total Proposed Units: _____
 Total Proposed Affordable Housing Units (<80% of AMI): _____
 Total Proposed Affordable Housing Units (<60% of AMI): _____
 Total Proposed Affordable Housing Units (<40% of AMI): _____
 Total Pre-Development Cost Per Proposed Affordable Unit (<80% of AMI): _____

6. Project Timeline

Please outline a project timeline.

Development

| Task | Date |
|--------------------------------|-------------|
| Property Acquisition | |
| Environmental Review | |
| Feasibility Study | |
| Permitting | |
| Appraisals | |
| Construction Start | |
| Construction Completion | |
| First Certificate of Occupancy | |
| Last Certificate of Occupancy | |
| Permanent Loan Closing | |
| Full Lease Up | |
| Other _____ | |
| Other _____ | |
| Other _____ | |

Housing Programs

| Task | Date |
|-------------------------------------|-------------|
| Onboarding of Staff (if applicable) | |
| Implementation of Program | |
| Other _____ | |
| Other _____ | |
| Other _____ | |

7. Required Development Application Attachments:

- A. Organizational overview document
- B. Legal evidence of site control (if applicable)
- C. Consultant Quotations (if applicable)
- D. Development Team Resumes (if applicable)
- E. Title Review for subject property (if applicable)
- F. Property map including at a minimum: property lines, existing/proposed building footprint (if applicable), parking, and other possible site improvements.
- G. Verification of additional funding sources

8. Required Program Application Attachments:

- H. Organizational overview document
- I. Itemized budget breakdown
- J. Verification of additional funding sources
- K. Program Funding Sustainability Plan

Development Projects

Please only fill out this page if you are a development applicant.

1. Development Team Overview

| | |
|---------------------------|--|
| Owner(s) | |
| Guarantor | |
| Development Consultant(s) | |
| Developer | |
| Architect | |
| Attorney(s) | |
| Engineer(s) | |
| Management Partner | |
| Service Provider(s) | |
| Construction Manager | |
| Contractors(s) | |
| Contractor (s) | |
| Contractor(s) | |
| Other _____ | |
| Other _____ | |
| Other _____ | |

2. Development Capacity and Experience:

Please provide an overview of the relevant experience and background of project team members that demonstrate the capacity of the organization to successfully execute the proposed project. Resumes for key project team members shall be attached.

3. Funding Sources:

Please check all sources for the project identified that apply, including the dollar amount, and the status of funds.

| Source | Amount (\$) | Status (Committed/Identified/Award Pending) |
|-----------------------------|-------------|---|
| City of Nashua Trust Fund | \$ | |
| Developer Equity | \$ | |
| 1 st Mortgage | \$ | |
| Bridge Loan | \$ | |
| Other Private Bank Loan | \$ | |
| Other Public Funding Source | \$ | |
| Other _____ | \$ | |
| Other _____ | \$ | |
| Other _____ | \$ | |
| Other _____ | \$ | |

Development Projects Continued

Please only fill out this page if you are a Development applicant.

4. Funding Uses:

Please complete for all components for which funding is being requested. Quotations for all funding uses shall be provided as an attachment to the application.

| Use | Funding Type (private money/grants/other) | Full Budget | Consultant Name (if selected) |
|--|---|-------------|-------------------------------|
| Land/Property Acquisition | \$ | \$ | |
| Environmental Review | \$ | \$ | |
| Land/Lot Infrastructure (cleaning, excavation, roads, drainage, utilities) | \$ | \$ | |
| Feasibility Study | \$ | \$ | |
| Appraisals | \$ | \$ | |
| Soft Costs (architecture, engineering, legal, permits, fees) | \$ | \$ | |
| Engineering | \$ | \$ | |
| Home Construction (exterior, interior, finishes, appliances, etc.) | \$ | \$ | |
| Development Expenses | \$ | \$ | |
| Developer Fee | \$ | \$ | |
| Contingency Funds | \$ | \$ | |
| Other | \$ | \$ | |
| Other | \$ | \$ | |
| Other | \$ | \$ | |

5. Pro Forma Budget:

Please complete for all applicable revenue and expenses.

| Budget | Amount (\$) | Consultant Name (if selected) |
|---------------------------------|-------------|-------------------------------|
| Income (Rents) | \$ | |
| Less (Vacancy) | \$ | |
| Management Fees | \$ | |
| Administration | \$ | |
| Maintenance/Operations | \$ | |
| Resident Services | \$ | |
| Utilities | \$ | |
| Security | \$ | |
| Taxes | \$ | |
| Insurance | \$ | |
| Replacement Reserve | \$ | |
| Operating Reserve | \$ | |
| Other | \$ | |
| Other | \$ | |
| Total Operating Expenses | \$ | |

Housing Program Projects

Please only fill out this page if you are a Housing Program applicant.

1. Organization Capacity and Experience:

Please provide an overview of the relevant experience and background of your organization that demonstrate the capacity of the organization to successfully execute the proposed program.

2. Funding Sources:

Please check all sources for the program identified that apply, including the dollar amount, and the status of funds.

| Source | Amount (\$) | Status (Committed/Identified/Award Pending) |
|-----------------------------|-------------|---|
| City of Nashua Trust Fund | \$ | |
| Other Public Funding Source | \$ | |
| Other _____ | \$ | |
| Other _____ | \$ | |
| Other _____ | \$ | |
| Other _____ | \$ | |

3. Funding Uses:

Please complete for all components for which funding is being requested. Quotations for all funding uses shall be provided as an attachment to the application.

| Use | Amount (\$) | Consultant Name (if selected) |
|----------------------|-------------|-------------------------------|
| Administrative costs | \$ | |
| Direct program funds | \$ | |
| Other _____ | \$ | |
| Other _____ | \$ | |
| Other _____ | \$ | |

4. Operating Budget:

Please complete for all applicable revenue and expenses.

| Budget | Amount (\$) | Consultant Name (if selected) |
|---------------------------------|-------------|-------------------------------|
| Program Income | \$ | |
| Less | \$ | |
| Administration | \$ | |
| Program Services | \$ | |
| Taxes | \$ | |
| Insurance | \$ | |
| Replacement Reserve | \$ | |
| Operating Reserve | \$ | |
| Other | \$ | |
| Other | \$ | |
| Total Operating Expenses | \$ | |

Development Projects

APPLICATION SCORING CRITERIA

The following point scoring system shall be used to score applications for Fund resources. **The maximum application score is 120 points.**

| CRITERIA | MAXIMUM SCORE | SCORE |
|---|---------------|-------|
| Development Team Capacity | 20 | |
| Development Feasibility and Project Readiness | 15 | |
| Financial Feasibility | 15 | |
| Project Timeline | 15 | |
| Project Affordability | 15 | |
| Project Innovation | 10 | |
| Community Engagement | 10 | |

Bonus Point Opportunities

- The project includes more than 20% of rental units that are affordable to households at or below 80% of Area Median Income (AMI)
- Projects that propose the creation of affordable housing residences for current residents of Nashua, those who are working with a local agency to be placed in housing, or housing for vulnerable populations and offer support services
- The project subcontracts with Nashua-based businesses or minority owned businesses.
- Project consists of mixed income rental units
- The project site is within close proximity to public transportation services or other amenities outside of the downtown D1 District

Program Projects

APPLICATION SCORING CRITERIA

The following point scoring system shall be used to score applications for Fund resources. **The maximum application score is 120 points.**

| CRITERIA | DESCRIPTION | MAXIMUM SCORE | SCORE |
|---------------------------|-------------|---------------|-------|
| Program Team Capacity | | 20 | |
| Project Sustainability | | 15 | |
| Financial Feasibility | | 15 | |
| Project Timeline | | 15 | |
| Organization Partnerships | | 15 | |
| Project Innovation | | 10 | |
| Community Impact | | 10 | |

Bonus Point Opportunities

- The project has matching funds available.
- Projects that increase access to affordable housing residences for current residents of Nashua, those who are working with a local agency to be placed in housing, or housing for vulnerable populations and offer support services
- The project prioritizes aiding diverse, high-risk, and vulnerable populations.
- The project assists individuals of varying income levels (low income and moderate income).

DISCLAIMER: *“Scoring of applications will be a factor in award funding but may not be the sole determinant.”*

Please direct application questions to:

Housing Trust Fund Committee

Phone: 603-589-3095 Email: HTF@NashuaNh.gov

Municipal Affordable Housing Trust

HOW TO ENVISION, GAIN SUPPORT, and UTILIZE A LOCAL TRUST
TO ACHIEVE YOUR HOUSING GOALS



UPDATED GUIDEBOOK V.3

*Prepared by: The Massachusetts Housing Partnership
Updated 2018*

Table of Contents



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NOTE TO READERS

As it pertains to compliance with the Community Preservation Act (CPA), any recommendations in this manual are based on what we at MHP believe to be fair and accurate interpretations of the allowable uses in the CPA statute (MGL Chapter 44B).

Currently, the state Department of Revenue (DOR) and state Department of Housing and Community Development (DHCD) have different interpretations regarding some uses of CPA funds for affordable housing. For example, they differ as to whether CPA funds can be used to preserve existing affordable housing that was not created or acquired with CPA funds. They also differ on what types of housing support activities qualify for CPA funds, as well as show certain uses and programs must be structured to qualify for CPA support.

We advise communities to seek legal advice from their local municipal or special counsel when implementing CPA on the local level.

Susan Connelly
MHP Director of Community Assistance
June 2018

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Special thanks for creating this guidebook

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Cover photo

Benfield Farms, Carlisle. *Photo by Greig Cranna*

Introduction:

ENVISIONING YOUR LOCAL HOUSING TRUST

Establishing a municipal affordable housing trust fund signals a community's readiness to address its housing needs. Communities with municipal housing trust funds have thought long and hard about what kind of affordable housing they need and are well prepared to use local funds to achieve their goals.

Although the concept is not new, communities have shown increased interest in forming their own municipal affordable housing trust fund. This is largely due to increased availability of local funding sources like the Community Preservation Act.

Recognizing this, the state legislature in 2005 passed the Municipal Affordable Housing Trust Fund Law (MGL c.44 s.55C). This new law effectively simplified the process of establishing a local housing trust fund. Previously, only cities could create trusts through their own resolution, but towns needed to gain approval from the legislature through an often time-consuming process called a home rule petition.¹ Under the 2005 law, all communities can now create a local housing trust through their local legislative body.²

The law, which was amended in 2016, also sets guidelines on what local housing trusts can do and specifies who can serve on a local housing trust board and what powers a community can grant the board. Prior to the 2005 law, there were no guidelines and local housing trusts often differed from community to community.

Since the law passed, approximately 98 communities in Massachusetts have established municipal affordable housing trust funds, raising the overall total of communities with local housing trusts to approximately 109.³ Given this heightened interest, the Massachusetts Housing Partnership (MHP) has created this guidebook to help communities understand what a trust can do, how to set one up to fit your community's needs, and how a trust can operate. This updated version includes more recent community examples and attempts to clarify some issues that operating trusts have faced, including how to properly use and track the use of CPA funds within a housing trust.

While it is the intention of this guidebook to promote a clear understanding of a municipal affordable housing trust, it is not meant to be prescriptive or provide specific legal advice. What we hope to do is help your community understand how it can use a local housing trust to envision and achieve its own affordable housing goals. Should you wish to proceed with establishing a municipal affordable housing trust, your city solicitor or town counsel should be consulted.

If you have any questions, contact MHP at info@mhp.net

¹ Municipalities that created housing trusts through home rule petition prior to 2005 include Brookline, Cambridge, and Provincetown.

² In Massachusetts, the term "local legislative body" refers to a municipality's city council, board of aldermen or town meeting, depending on the local form of government.

³ These figures are based on MHP's research and work with trusts across the state as of 2018.

Chapter 1



WHAT IS A MUNICIPAL AFFORDABLE HOUSING TRUST?

To best understand what a municipal affordable housing trust is, it's necessary to have a basic understanding of what it can do, what funds can be used in the trust and how to set up a board of trustees.

WHAT CAN A LOCAL HOUSING TRUST DO?



A local housing trust⁴ allows municipalities to collect funds for affordable housing, segregate them out of the general municipal budget into a trust fund, and use the funds for local initiatives to create and preserve affordable housing. Examples of what a local affordable housing trust can do include:

- Provide financial support for the construction of affordable homes by private developers (non-profit or for-profit);
- Rehabilitate existing homes to convert to affordable housing;
- Increase affordability in new housing development projects;
- Develop surplus municipal land or buildings;
- Preserve properties faced with expiring affordability restrictions;
- Support rent assistance for low- and moderate-income households.

⁴ For brevity's sake, this guidebook uses short-hand references such as local housing trust and local trust when explaining how a municipal affordable housing trust (MAHT) works.

WHAT FUNDS CAN LOCAL HOUSING TRUSTS USE?



The sources of funding vary among housing trusts and can include:

- Community Preservation Act (CPA) funds;
- Inclusionary zoning payments;⁵
- Negotiated developer fees;
- The municipality's general fund;
- Tax title sales;
- Payments from special bylaws/ordinances;
- Cell tower lease payments;
- Private donations.

In most communities with housing trusts, CPA funds are the most common source of funds. Some communities appropriate CPA funds to their trusts in excess of the 10 percent minimum annual expenditure for community housing required by the CPA statute.

In addition, some communities have used additional sources to increase the trust's capital. Andover designated its housing trust as the recipient of the town's HOME Investment Partnership Program (federal HOME funds) allocation. Lincoln received a bequest from a local land owner to be used for affordable housing. Medfield bonded \$1 million to fund their new trust.

It is helpful to identify likely funding sources in advance and test the political appetite for using those sources to capitalize a housing trust.

Some CPA communities appropriate CPA funds to their trusts in excess of the 10 percent minimum annual requirement that the law necessitates for community housing.



GUIDELINES FOR SETTING UP A BOARD OF TRUSTEES



The trust statute requires that municipalities create a board of trustees with a minimum of five members. While there is no maximum requirement, many boards range between five and nine members. The board's composition could include members with expertise in affordable housing development, real estate development, banking, finance, and real estate law. Chapter 3 discusses board membership in more detail.

⁵ Inclusionary zoning requires that residential developers include a specified amount of affordable dwelling units in their developments. Some inclusionary zoning bylaws/ordinances allow a developer to provide cash payments to the municipality in lieu of producing affordable housing units. A payment of this sort is earmarked for affordable housing and could be allocated to the municipality's affordable housing trust. Otherwise, these payments go into the general fund and must be appropriated by town meeting for affordable housing purposes.

Per statute, one trustee must be the chief executive officer of the municipality. For board of selectmen, a minimum of one member shall be designated as a trustee. The chief executive officer will then appoint the remainder of the trustees.⁶ The statute also requires that trustees' terms shall not exceed two years.

2016 AMENDMENT TO TRUST STATUTE

- Expands the allowable uses for Municipal Affordable Housing Trust expenditures to match those for community housing under CPA.
- All rules and restrictions of Chapter 44b, the Community Preservation Act, remain in force even after CPA funds are transferred to a Municipal Affordable Housing Trust;
- Trusts track CPA funds separately from other funding sources and annually report on the use of those funds in the municipalities' CP-3 reporting to the Department of Revenue.

⁶In a city, the mayor may appoint trustees with city council confirmation; in a Plan D or E municipality, the city manager may appoint trustees with confirmation by the board of selectmen/city council.

Chapter 2



FIGURE OUT IF A TRUST CAN HELP YOUR COMMUNITY

Now that you know the basics, the next step is to understand how a local affordable housing trust can help meet your community's specific housing needs. A good first step would be for your chief executive officer to establish a municipal task force charged with evaluating whether a housing trust could work for your community. Identifying your community's housing needs and funding resources are generally the initial steps to formulating community goals and a housing agenda. While it is not necessary to have completed a formal housing needs assessment to justify the need for a trust in your community, it can be very useful.

As you understand your community's affordable housing needs and goals, a key issue for your task force is to think through whether a trust can drive your affordable housing agenda. Three possible answers to this question are:

1. Yes, a housing trust can advance your local housing goals:

By establishing designated funds and creating a board to oversee its use, a community could rely on its housing trust board to advocate and execute its affordable housing agenda.

2. Yes, but how will the trust work with our existing affordable housing committee and Community Preservation Committee?

Many communities already have affordable housing committees at the time that they chose to adopt the trust statute. Careful consideration should be given to what role the committee will play after the trust is formed. For example, does the affordable housing committee set policy and direction and the trust execute those policies through its programs?

3. No, some communities may not need a local housing trust:

Despite its utility, a local housing trust may not be a good fit for every community. Some communities already have a non-profit housing trust or community development corporation that performs a similar function in the community.

HELP ASSESSING YOUR HOUSING NEEDS

A way to guide your local housing trust vision is by pursuing a state-certified Housing Production Plan (HPP). By following HPP guidelines, a community is ensuring that it is producing housing in a manner consistent with the Chapter 40B statute and regulations.

HPPs must be approved by the state Department of Housing and Community Development (DHCD). If a community meets its production goals and receives DHCD certification of its HPP, a decision by the zoning board of appeals relative to a comprehensive permit application will be deemed “consistent with local needs” under MGL Chapter 40B.

“Consistent with local needs” means the ZBA’s decision will be upheld by the Housing Appeals Committee. For more information, go to www.mass.gov/dhcd and search for “housing production plan.”

CITIES AND TOWNS MAY HAVE DIFFERENT NEEDS



Related to the question of whether a housing trust can help your community is your community’s form of government.

In cities, the frequency of city council or board of aldermen meetings combined with the support of professional housing staff, can give cities the ability to identify and respond quickly to opportunities. Thus, the value of a trust in a city may lie in having a way to segregate funds for affordable housing out of the city’s general fund. In addition, the board of trustee’s oversight, planning, and advocacy role can provide extra support for a municipality’s housing goals.

Towns realize an additional benefit in establishing a local housing trust because the trust, if properly funded, does not typically need town meeting approval to take advantage of time sensitive real estate opportunities to preserve and create affordable housing.

For example, Andover’s Affordable Housing Trust Fund has made it possible for the town to create affordable housing more efficiently. As Lisa Schwarz, Andover Senior Planner, explains: “With our housing trust, we’ve definitely been able to help projects get off the ground that wouldn’t have had that chance without the trust. Even though we don’t have to go back to town meeting for every decision, we still maintain strong communication with town meeting members and our town officials so that we are working together to support Andover’s housing goals.”



Andover used its local trust fund resources to help develop this property on Cheever Road into an affordable homeownership opportunity.

Cheever Circle is an example of Andover’s ability to spark the creation of affordable housing with its local trust. With support from the Affordable Housing Trust, the Andover Community Trust, a non-profit 501(c)(3), signed a purchase and sale with a private owner. A modestly-priced three-bedroom home was built on the property, thanks in part to cooperation from the Andover Housing Partnership, the Andover Affordable Housing Trust, and the Andover Board of Selectmen. The home was sold to an income-eligible family, with a ground lease and permanent affordability restrictions. The home, the fourth affordable home developed with support from the trust, received a historic preservation award for its contextual design in an established neighborhood.

Chapter 3



NAIL DOWN VISION & ROLE OF YOUR BOARD OF TRUSTEES

If your initial efforts indicate that a trust could help your community, the next steps would be to detail what you hope to accomplish and how your trust and board of trustees will work with other municipal and private entities. Having a clear understanding of your goals and how your trust will work with the community will help you when you move onto gaining wider support and local legislative approval.

SHAPE YOUR TRUST WITH A VISION STATEMENT

A community's initial vision can often shape how a local housing trust will be structured. The following sample language may be helpful as an example of a vision:

Our trust will help people with modest incomes afford the cost of housing in our community. We will help people with three key initiatives: convert existing buildings to affordable homes, provide rent assistance for low- and moderate-income households, and fund the construction of new affordable homes.

WHAT WOULD YOUR COMMUNITY HOPE TO ACCOMPLISH THROUGH A HOUSING TRUST?



Creating a vision is a good first step. For instance, you might picture your housing trust converting a market-rate property to affordable units or accepting publicly-owned land for the development of affordable housing. You may picture it facilitating pre-development work or providing funds to buy additional affordable units in a private development. Or you may picture setting up a rental program that can provide housing assistance to low- or moderate-income households.

To create a vision, there is no need to start from scratch. Work with local planners or other municipal officials to identify and review past housing plans. These plans can include the Comprehensive (or Master) Plan, Community Development Plan, Housing Production Plan,

Community Preservation Plan, or other related documents. Reading through these sources, you will likely identify multiple initiatives that a housing trust could facilitate.

Your regional planning agency may also be helpful. To find the agency responsible for your community, go to www.mass.gov and search for “Regional Planning Agencies.”

Establishing a vision helps you in two ways: it gets your community to focus on its goals and it can serve as a road map for your board of trustees after your community has approved your local housing trust. A strong vision will give your newly formed board a starting point to develop a more detailed action plan.

Within the parameters of the statute, the local legislative body has the authority to customize the housing trust to meet local needs. To a certain extent, each locality can customize the board of trustee’s membership, terms, level of oversight, and powers.

Communities can tailor the housing trust documents to allow for:

- The full-spectrum of powers listed in the statute;
- More narrowly focused powers;
- More detailed descriptions of the statutory powers tailored to your municipality.

SAMPLE BYLAW LANGUAGE FOR BOARD OF TRUSTEE MEMBERSHIP

The following are examples of possible bylaw language regarding Board of Trustee Membership:

To meet the minimum statutory requirements:

There shall be a Board of Trustees consisting of not less than five and not more than nine Trustees appointed by the Board of Selectmen. At least one of the Trustees shall be a member of the Board of Selectmen, who shall serve as the representative of the Board of Selectmen.

To include members from other municipal entities:

The Board of Trustees shall consist of one selectman and one member nominated by the Selectmen from each of the following town entities: Planning Board, Community Preservation Committee, Housing Authority, and Affordable Housing Partnership.

Regarding the role of the Town Administrator:

There shall be a Board of Trustees of the (insert municipality) Affordable Housing Trust, at least one of which shall be a member of the Board of Selectmen...The town administrator shall be eligible for appointment as a (non-voting/voting) trustee...

To set up staggered terms:

Trustees shall serve for a term of two years except that three of the initial trustee appointments shall be for a term of one year, and may be re-appointed at the discretion of the Board of Selectmen/Mayor.

HOW WOULD YOUR LOCAL TRUST COORDINATE WITH OTHER BOARDS?



Once the municipality has approved the affordable housing trust, it must designate the members of the board of trustees. Before doing so, the municipality should decide if and how the activities of the trustees will be supported by municipal staff and how the trustees are expected to coordinate with existing municipal boards, committees, and commissions. There should also be a discussion of the interplay between the trust and local entities such as the local housing partnership or affordable housing committee, local housing developers, and the regional planning agency.

Engaging these groups can help to confirm the preliminary vision, build a coalition of support, and identify ways to coordinate the trust's activities with these other entities.

It is important that the housing trust reinforces rather than duplicates the work of other local groups. For instance, Medway's Affordable Housing Committee pre-dates its housing trust. When the housing trust was created, the town identified the committee as the housing policy and advocacy arm and the housing trust as primarily a funding entity.

Some communities have also appointed members of other boards and commissions as trustees to facilitate additional coordination between boards. Other communities have simply combined their housing partnership or affordable housing committee with the housing trust, creating one entity. Prior to initiating any changes it is wise to consult with municipal counsel regarding roles and responsibilities.

DETERMINING THE MEMBERSHIP OF YOUR BOARD



In addition to the minimum membership requirements laid out by the statute, some communities have created boards with more specific membership requirements. By specifying the proposed composition of the board in advance, the legislative body has more clarity about how the housing trust would operate and how the board's membership may overlap with other entities. Establishing membership requirements during your "visioning" stage can help garner more community support. Here are some examples of membership options that communities can consider when visualizing their local housing trust fund board:

Other Boards & Committees: The bylaw/ordinance can specify that the board include members of various municipal entities, such as the planning board, housing authority, housing partnership or other affordable housing committee, community preservation committee, or finance committee. This representation could strengthen communications among boards with related missions. However it could also make it difficult for the trust to secure meeting quorums if members are overcommitted in the community.

Balance of Public & Private Sector Representation: Incorporating a balanced mix of public and private sector representation can heighten the capabilities of the board of trustees. The members of the board should be individuals who have expertise in affordable housing development and preservation, such as attorneys, development or housing professionals, real estate professionals, bankers or finance professionals, advocates, or others who are active in related community issues, including an affordable housing tenant or owner. For example, as

a matter of policy Plymouth's selectmen seek individuals that are members of various town entities, including the housing authority and affordable housing committee, in addition to a banker and lawyer.

Town Manager/Administrator: The statute specifies that selectmen can appoint the town manager/administrator as a member or chair of the board of trustees with or without voting power.

Terms: The statute allows a maximum term of two years for trustees. Communities often reiterate this maximum term within the local bylaws/ordinance. Communities commonly build in a requirement for staggered terms with some initial one-year appointments in addition to the two-year appointments. Staggering terms enables the board to maintain a collective memory.

REMEMBER A MAHT IS A MUNICIPAL BODY

Keep in mind that a housing trust is a municipal body and is subject to procurement, designer selection, and public construction laws.

M.G.L. Chapter 30B, establishes procedures to follow for the acquisition of supplies and services, dispositions of surplus supplies, and real property acquisitions (except when using CPA funds) and dispositions by local governmental bodies. The Inspector General's Office has an extensive Chapter 30B assistance program to assist public entities that includes attorneys available by phone, printed guidance including procurement bulletins, and the Chapter 30B Manual. They also offer a seminar on procurement regularly. Find out more about it on their website at www.mass.gov/ig/mcppo

M.G.L. Chapter 7, also known as the designer selection law, contains procedures for selecting designers for building projects through an advertised, competitive, qualifications-based selection process.

M.G.L. Chapter 149 s.44A-M governs all contracts for the construction, reconstruction, installation, demolition, maintenance or repair of a building.

You can find manuals for both 30B and 149 at www.mass.gov/ig/publications/manuals

Chapter 268A, the Conflict of Interest Law, covers all municipal employees, whether elected or appointed, full or part-time, paid or unpaid and provides a general code of ethics.

AS MUNICIPAL BODY, TRUST SUBJECT TO STATE LAWS



A housing trust is a municipal body and is subject to various laws applicable to municipal bodies including those relevant to the purchase of real property, procurement, designer selection, and public construction laws under MA General Laws, Chapter 30B, Chapter 7, and Chapter 149.

M.G.L. Chapter 30B, establishes procedures to follow for the acquisition of supplies and services, dispositions of surplus supplies, and real property acquisitions and dispositions by local governmental bodies.

As a branch of municipal government, a municipal housing trust must comply with the provisions of Chapter 30B when undertaking such activities as hiring consultants, purchasing property and leasing or disposing of property to a non-municipal entity. The Inspector General's Office oversees Chapter 30B and their publication "The 30B Manual" is a comprehensive summary of the legal requirements and recommended procedures for public entities procuring goods and services or dealing with real property. Please visit the Inspector General's website (www.mass.gov/ig) for manuals and additional information on Chapter 30B.

Exceptions to note: (1) Agreements and conveyances between the trust and agencies and boards of a town are exempt from 30B (Section 1(b)(7)) and (2) Section 16 of Chapter 30B does not apply to the acquisition of real property with CPA funds.

Most trusts will likely not undertake construction of affordable housing, however if a trust were to undertake an affordable housing development, it must be in full compliance with the state's designer selection and public construction statutes as described below.

M.G.L. Chapter 7, also known as the designer selection law, contains procedures for selecting designers for building projects through an advertised, competitive, qualifications-based selection process. Contracts for services in connection with a building project that will be undertaken by a municipal trust, are subject to the designer selection law including such activities as feasibility studies, surveys soil tests, preparation of drawings and plans. The designer selection law must be used when contracting for a project that has an estimated construction cost of more than \$100,000 and an estimated design fee of \$10,000 or more.

M.G.L. Chapter 149 s.44A-M governs all contracts for the construction, reconstruction, installation, demolition, maintenance or repair of a building. If a municipal trust undertakes any type of construction on new or existing properties owned or controlled by the trust, the trust must comply with this Chapter. The IG's manual "Designing and Constructing Public Facilities" is a comprehensive overview of the policies and procedures that must be followed by public bodies such as a municipal trust in the design and construction of a building.

Please see the Inspector General's manual on "Designing and Constructing Public Facilities" at www.mass.gov/ig/publications/manuals.

M.G.L. Chapter 268A, also known as the Conflict of Interest Law, covers all municipal employees, whether elected or appointed, full or part-time, paid or unpaid. The law provides a general code of ethics for all public employees and prohibits you from using or attempting to use your official position to secure an unwarranted privilege or from giving the impression that you can be improperly influenced in the performance of your official duties. The law prohibits trust members from disclosing confidential information obtained on the job and from accepting outside employment that will impair your independence of judgment in the exercise of your official duties. You can find more information about the law at www.mass.gov/ethics.

COORDINATOR CAN HELP PUT TRUST TO WORK

To maximize the effectiveness of its local housing trust, the Town of Medway decided to hire a housing coordinator. The following is the job description.

Community Housing Coordinator:

Statement of Duties

- Manages affordable housing activities as described in the town's affordable housing trust action plan and its housing production plan.

Supervision

- Works under the supervision of the Town Administrator and the general policy direction of the Medway Affordable Housing Trust Board of Trustees.

Job Responsibilities

- Drafts and recommends policies and action plans for the MAHT Board of Trustees
- Coordinates the implementation of the MAHT Action Plan and the Medway HPP
- Researches funding sources available to supplement CPA funds
- Develops and implements affordable housing programs and projects in compliance with state and local requirements
- Monitors housing inventory, including identification of compliance violations
- Performs community outreach and education
- Coordinates with town boards, committees, community groups, and public agencies
- Prepares and coordinates housing grants and loan applications
- Markets new affordable housing opportunities including developing marketing plans, administering lotteries, qualifying applicants to certify eligibility, and locating eligible buyers
- Assists in the preparation of Requests for Proposals (RFP) for housing projects
- Provides administrative support for the trust

Other trusts that have hired a housing coordinator include Brewster, Easton, Sudbury, and Holliston. If funded with CPA resources, all job responsibilities must be allowable under the CPA.

WHAT POWERS SHOULD BE GRANTED TO THE BOARD



The purpose of establishing an affordable housing trust is to create a municipal entity that has the ability to undertake a variety of affordable housing real estate activities to create and preserve affordable housing. Subsection (c) of the statute specifies 16 powers that a municipality may grant a board.

The statute also allows a city or town to omit, modify or grant additional powers that are consistent with the statute. This provision provides flexibility for municipalities to customize

board powers. The list below summarizes some of the primary powers that a municipality can give the board of trustees (for the full list of powers, refer to subsection c of the statute in Appendix A):

- Accept and receive property or money by gift, grant, etc.;
- Purchase and retain property;
- Sell and lease property;
- Employ and pay advisors;
- Borrow money and mortgage or pledge trust assets as collateral;
- Manage or improve property;
- Various accounting and fund administration capabilities.

Communities have adopted various combinations of powers for its board. Some have adopted all the powers allowed under the statute. Others have given the board additional powers. A community has the option of including powers they don't envision using right away, but would provide flexibility in the future.

A few communities have adopted a housing trust with more narrow powers. In Westford, the extent of borrowing is limited to 80 percent of the trust's assets and any purchase, sale or lease of any interest in real property requires a two-thirds vote of the board of trustees. Boxborough's trust does not have the ability to buy real estate because the town already had a board with that power.



Sudbury's local trust bought land that is now the site of an affordable duplex home built by the Greater Worcester Habitat for Humanity. For more information about this effort, contact MHP at info@mhp.net or Elizabeth Rust of Regional Housing Services at Liz@RHShousing.org

Chapter 4



STRATEGIES FOR GAINING SUPPORT AND APPROVAL

Communities can use a variety of outreach strategies to build community support for a housing trust. This section describes several common outreach strategies. Some of the suggestions are obvious but are summarized here to serve as a checklist of examples of what other communities have done to communicate their vision and gain support for their local housing trust.

ENGAGE KEY MUNICIPAL OFFICIALS AND STAKEHOLDERS



Gaining political support from municipal officials and other stakeholders helps build the foundation for broader public outreach efforts. You can directly engage a variety of community groups by attending their meetings to present, answer questions, and ask for feedback on the proposal. Some of the groups to consider engaging at this stage of outreach include:

- Chief executive officers, including the board of selectmen, mayor, city council, or town manager/administrator;
- Planning board and planning director;
- Community preservation committee;
- Housing partnership/other affordable housing committee;
- Housing authority board and executive director;
- Council on aging and senior center board/leadership;
- School committee;
- Other local groups (League of Women Voters, Rotary Club, Chamber of Commerce).

Gaining support from municipal officials will partly hinge on proper education and being receptive to suggestions and feedback. It can be helpful to create a formal presentation that clarifies the following:

- The need for affordable housing;
- What a housing trust is and why it is important;
- What the housing trust could accomplish;
- Potential sources of funding;
- The proposed framework for membership, powers, and operations.

It may also be helpful to include information about other local housing trusts. Inviting a representative from a nearby housing trust to answer questions can also be helpful. Members of the Lenox Municipal Housing Trust were extremely helpful when Williamstown was contemplating the formation of a municipal trust in 2012.

As these municipal officials and stakeholders offer feedback, it may be important to revise and refine your proposal or plans to alleviate concerns and build support. When you meet with local groups, don't forget to ask for letters of support from municipal officials, boards, and other stakeholder groups, if appropriate. Getting formal votes and/or official letters of support can be important as you broaden your public outreach.

EDUCATE THE PUBLIC THROUGH MEDIA



Educating the broader public is a critical step as you move toward gaining approval from your legislative body. Current data reflecting your community's housing needs in a master plan, housing needs analysis or housing production plan should support your community conversation about affordable housing and creating a housing trust. Your education efforts could include the following:

Local newspapers: You can submit press releases, notices to announce community meetings, and letters to the editor or opinion pieces authored by key proponents.

Local cable station: If your community has a local cable station, it can be helpful to submit notices for the bulletin board. In addition, if your community has a cable show regarding municipal happenings, it can also be helpful to appear as a guest on the show to talk about housing trusts and invite the public to the community meeting(s).

Internet/email tools: Many municipalities and community groups utilize Listserv, blogs, social networking tools (such as Facebook and Twitter), online calendars, website announcements, or the like to connect with the public. Campaigns for adoption of a trust might set up a Facebook page looking for "likes" which then demonstrates the depth of local support to the selectmen and Town Meeting. The Town of Easton uses an online calendar (www.easton.ma.us), and both Sudbury (www.sudbury.ma.us/CHO) and Westport (www.westport-ma.com/affordable-housing-trust-fund) have very informative websites complete with housing news, upcoming meetings, agendas, and plans.

Newsletters: The Westport Affordable Housing Trust publishes a short newsletter that it sends to supporters describing their progress on projects as well as loan and grant programs residents might have an interest in.

REQUEST FOR TOWN MEETING VOTE

Here's an example of how Wenham wrote its trust proposal for consideration at town meeting:

ARTICLE 11: Municipal Affordable Housing Trust

To see if the Town will vote to authorize the Board of Selectmen to accept the provisions of Massachusetts General Laws Chapter 44, Section 55C, and to establish a trust to be known as the Wenham Affordable Housing Trust Fund, whose purpose shall be to provide for the creation and preservation of affordable housing in the Town of Wenham for the benefit of low and moderate income households, substantially in a form which is on file with the Town Clerk and available for inspection. . .

Town of Wenham Warrant Article May 2009 Town Meeting

Other communities, such as Williamstown have included much more detailed language including the trust's powers and membership in the warrant article.

COMMUNITY MEETINGS



Holding one or more well-advertised community meeting can provide a forum for feedback. Employing a few basic tactics can help increase participation at community meetings:

Meeting time: Make sure you choose a date and time carefully to minimize conflicts with other community events and meetings. Avoid meetings during summer months, on holidays, and during school vacation weeks.

Meeting location: Choose a location that is well known and accessible.

Meeting notice: The typical meeting notices in local newspapers usually do not attract widespread attention. So if you submit a meeting notice for consideration as a short article and/or as a listing in a local calendar, try to follow it up with other articles and letters to the editor. Everything you submit should always include the time, date and place of the meeting. You should also call the reporter or editor responsible for coverage and see if you can get a feature story written on your initiative.

Refreshments: If you have the budget, offering food can sometimes increase participation. Remember to note this in your press release.

Use the phone: It is “old school” but often issuing a personal invitation can be very effective in enlisting attendance and support.

Direct appeals: Calling or emailing a few key stakeholders to ask for their commitment to participate can also improve participation at community meetings.

When you hold a community meeting, be prepared. Use the presentation and/or handout materials that you previously used in speaking with municipal officials. Also, if applicable, you should show how you've already revised and refined the proposal based on the feedback of the municipal officials. By doing this, you will be stressing to the community at large that your vision is a collaboration with the community, balancing local input with identified local housing needs.

Be sure to schedule time during the meeting to encourage questions and discussion. If valid concerns and suggestions arise during community meetings, you should incorporate any appropriate revisions into the housing trust proposal. Before seeking official adoption, communicate through the various local media outlets to show that you have responded to comments raised during these community meetings.



The Carlisle Affordable Housing Trust took a leadership role in getting the Benfield Farms development started in Carlisle by funding some of the predevelopment tasks.

THE FINAL STEP: SEEKING ADOPTION



“Acceptance shall be by majority vote of the municipal legislative body...” MGL c.44 s.55C(a)

The authority to create a municipal affordable housing trust lies with the municipal legislative body (town meeting, city council, or board of aldermen). Acceptance requires a simple majority vote. The process to request official consideration of the adoption of a housing trust will vary depending on the form of government and local bylaws. Here are some considerations:

When to submit: A council/board order or warrant article will need to be submitted before a certain date to be considered in a convening of the legislative body. Check with your municipal clerk to ensure you submit on time.

Content of request: Some communities require general language for consideration by town meeting and detailed information must be available for inspection with the town clerk. Other communities will include full powers of the trust in the warrant article. The city solicitor or town counsel should review the proposed warrant article or vote in advance.

Education and reinforcement: It is advisable to supplement the formal submission to the legislative body with further information to educate voting members, reinforce the importance of creating a trust, and to emphasize community support. If the format of the legislative body meeting allows, it may be a good idea to give a presentation that explains what a housing trust is, the importance of it for your community, the general framework of the proposal, and the open and inclusive process that was conducted to inform the proposal.

After the vote: If the legislative body’s vote is favorable, there are a number of steps to ensure that the housing trust is properly established and the board of trustees are equipped to perform their function (see Chapter 5 for details).

If the vote is not favorable, refine your proposal to address valid concerns, conduct more outreach, and try again. It is often beneficial to organize supporters to speak in favor of adopting a housing trust at the legislative body meeting, particularly if the vote is anticipated to be contentious. The more methodical, organized, and outspoken advocates are with education and reinforcement, the stronger the support for adopting a trust is likely to be.

Chapter 5



ESTABLISHING YOUR LOCAL HOUSING TRUST AND GETTING TO WORK

After your legislative body adopts a municipal affordable housing trust, your role as advocate for the trust is not over. Harness the momentum generated from the adoption campaign to launch the trust— encouraging appointments to the board of trustees, ensuring sufficient funding, and identifying viable projects.

This chapter describes how to transform the housing trust from a concept into a functioning reality, including:

- Make the trust official;
- Create an action plan;
- Create a budget;
- Secure funding;
- Housing trust initiatives.

MAKE THE TRUST OFFICIAL



Once your legislative body adopts a municipal affordable housing trust, here are some first steps:

Approval of bylaws: In a town, after the municipal legislative body votes to adopt the trust, the municipal clerk must certify the bylaw. Once certified, the bylaw must be submitted to the Attorney General of the Commonwealth of Massachusetts. In a city, the bylaw does not need to be certified before being sent to the Attorney General's Office. The Attorney General is statutorily required to approve bylaws for consistency with state law within 90 days from the clerk's submission of a certified copy of the bylaw, a request for approval, a statement explaining the purpose, and adequate proof that all procedural requirements have been met. The request and the proof must be submitted within 30 days after final adjournment of the town meeting at which the bylaw was adopted.

Establishing the board of trustees: The municipality’s chief executive officer is required to appoint the members of the board of trustees per the requirements adopted through your local affordable housing trust bylaw. As discussed in earlier chapters, one key to establishing a strong board of trustees is to include broad representation from the public and private sectors.

You should work closely with your chief executive officer(s) to suggest members, informally assist in the selection process, and advocate for prompt appointments to minimize the time required to create the board.

Declaration of trust: The first order of business for the new board of trustees is to execute the Declaration of Trust (declaration), which sets the trust’s authority, rules and regulations. It should be recorded at the Registry of Deeds/Land Court District. While a declaration is not legally required under the statute, it is strongly recommended because, once recorded, it will provide record notice of the establishment of the trust and its powers and authority to hold and convey title to real estate. Note that a declaration will not be accepted by the Land Court Registry District unless the declaration is filed with a deed to a specific piece of property.⁷ However, the Registry of Deeds will accepted a declaration as a stand-alone document, which is why so many boards record the declaration shortly after board appointment. Any Declaration of Trust should be reviewed by the city solicitor or town counsel.

OPEN MEETING LAW: *know the rules*

The Open Meeting Law (M.G.L c30A, subsection 19(a)) requires that all meetings of public bodies be open to the public. A Municipal Affordable Housing Trust is considered a public body. It is important to note:

- Members of public bodies, whether they are elected, appointed or have taken an oath of office, must hold a certification that shows they understand the Open Meeting Law and the consequences of violating it. The certificate must be held where the body maintains its official records.
- Meetings are defined as “a deliberation by a public body with respect to any matter within the body’s jurisdiction.”
- A deliberation is defined as “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.”
- Public bodies must provide the public notice of the meeting 48 hours in advance with the municipal clerk and it must be visible to the public at all hours.
- The public is permitted to attend meetings of public bodies.
- Public bodies are required to create and maintain accurate minutes of all meetings. The minutes must state the date, time and place of the meeting, a list of members present or absent and the decisions made and a record of all votes.
- The minutes are public records, are subject to disclosure and must be maintained in accordance with the Secretary of State’s record retention schedule.

The Attorney General’s Office provides trainings on the Open Meeting Law and also has a website: www.mass.gov/ago/openmeeting.

⁷You can determine if a property is registered online through your local registry of deeds website. Links can be found at www.sec.state.ma.us/rod/rodidx.htm.

Organize and orient the board: As with any new municipal board, there are steps required to organize the board and to orient its new members to their duties and responsibilities. Robert’s Rules of Order (www.robertsrules.com) can be helpful as you go through this process.

- Set a regular meeting schedule—meeting monthly is typical;
- Designate officers: chair, vice chair, treasurer, and clerk;
- Review trust’s bylaws and declaration to ensure all trustees understand the board’s powers and limitations;
- Review the Massachusetts Open Meeting Law (MGL c.30A s.19-24). Meetings of the board of trustees must be properly noticed and open to the public. In addition, the board must create a written record of all meetings and make it available as a public record. The board should also know the conditions under which it can hold an executive session and how to properly open, close, and record an executive session;
- Understand the obligations under the Conflict of Interest Law (MGL c.286A);
- Consult your municipal finance officer to determine preference as to whether a separate bank account or municipal account should hold trust funds;
- Review the procedures of your municipal treasurer (who is usually designated as custodian of the trust funds);
- Determine plans for audits of trust funds as required in subsection (h) of the Municipal Affordable Housing Trust statute;
- Post agendas in a timely matter, according to the Open Meeting Law;
- Consider where meeting minutes, accounting and votes should be maintained, as well as making sure this information can be accessed by the public;
- Establish a webpage for the trust where trust membership, purpose, agendas, minutes, and other information can be posted. The Town of Westport has a very well organized and up-to-date website (www.westport-ma.com/affordable-housing-trust-fund) that explains its mission and includes links to RFPs, their Action Plan, meeting minutes and meeting agendas. It also lists the members of the trust and a contact person (in this case, the Housing Specialist).

MODELS OF TRUSTS



Trusts typically operate in one of two ways: as a funding entity or as an active initiator of projects (sometimes trusts act as a mixture of both). A trust that acts primarily as a funding entity would solicit proposals or applications either by announcing a funding round and providing an application form or by issuing a Request for Proposals (RFP). Whereas a trust that is an active initiator of projects may, for example, acquire property, contract for predevelopment work on the site, and solicit a developer to construct affordable units.

Westford and Yarmouth are examples of trusts that act primarily as funding entities. In Westford, the trust adopted formal application procedures, an application form, submission requirements, and two funding rounds per year. The Yarmouth trust has solicited project proposals through a RFP, which is described in greater detail in Chapter 6.

Examples of trusts that directly initiate projects include the trusts in Carlisle, Bourne, and Sudbury. These trusts have acquired property for affordable housing development and then disposed of the property to a developer.

CREATE AN ACTION PLAN



Although not mandated, creating an action plan can provide a deliberate focus to the trust's work and use of resources. An action plan would state the board's goals and priorities, usually for a period of one to five years. If your community established a vision for your trust, you can use this as the foundation for your plan. Your community's planner or a planning consultant can be helpful in crafting an action plan.

Andover Senior Planner Lisa Schwarz says this action plan is important. "Andover's trustees got off to a strong start, setting their own criteria by asking themselves what is their purpose, their goals and what did they want to fund."

Another good source to guide your early visioning is to consult another community's action plan. See below for good examples.

ACTION PLANS ARE AN IMPORTANT TOOL

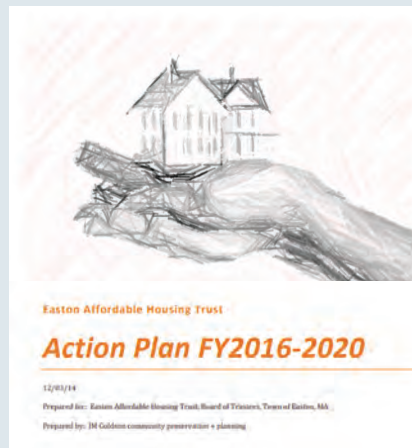
Having an action plan in place is not only important for the internal operations of the trust, but in conveying its mission and goals to the public. Internally, the action plan can serve to clarify the efforts of the trust by really considering the need in the community, types of projects it has the capacity to undertake, and the kinds of projects that will best serve the need. The plan can prioritize short and long term goals, serve as a measuring stick of the progress of the trust, and provide current and projected annual budgets.

Externally, an action plan makes clear the intent of the trust. It can spell out the role of the trust with respect to other entities in the community and give details about how the trustees will achieve their goals. In some cases, having an action plan was key to the trust's efforts to get funding.

Check out examples of Trust Action Plans on the MHP website: www.housingtoolbox.org/

Examples of Action Plans include:

- Town of Easton
- Town of Grafton
- Town of Westford



The role of current plans: The trust has a vital role in the support and achievement of your community's established housing objectives. If your community has current plans and documents that provide an analysis of housing needs or identify the community's affordable housing goals, it is critical to use this data to develop the trust's priorities and work plan.

In most communities, there are one or more existing plans to draw from, such as an affordable housing production plan, comprehensive plan, community development plan, community preservation plan, or other documents. If your community is just getting started, the board of trustees can spearhead an affordable housing needs analysis to incorporate into the trust's action plan.

You can find information about affordable housing, including needs analyses, on the Housing Toolbox website (www.housingtoolbox.org/).

Getting ideas from other communities: Learning about the programs and projects initiated by other housing trusts can provide your community with ideas for its own housing initiatives. You can use this information to assist the board's work on the action plan. However, do not assume that what another community is doing is necessarily in line with the governing statute. Each community is responsible for implementing statutes according to the law.

Create a dialogue: The process of creating the action plan provides an ideal opportunity for the trust to engage the community. The intent of this community outreach would be threefold: generate feedback and ideas from members of the community, provide information about the community's affordable housing needs and the role of the trust, and generate support for trust activities and projects.

Through the planning process, the housing trust can directly engage other housing advocates and community partners. These groups can include the housing partnership or other affordable housing committee, housing authority, planning board, community preservation committee, board of selectmen/mayor, town administrator, school committee, finance committee, other municipal officials, regional non-profit agencies, and housing developers. It may be wise to also include stakeholders from the business community, such as business owners and managers. Holding a planning workshop can be a useful forum to generate ideas and discuss priorities to incorporate into the plan.

CREATE A BUDGET



Developing a budget is essential to determine the level of funding required to implement the action plan. The board of trustees should create a one- to five-year budget that corresponds to the action plan and includes estimated amounts and sources of income (if known, and if not, ideas of possible sources), estimated costs for the housing trust's operations and estimated costs for project and program initiatives.

Operating costs can include anticipated legal fees, title searches, recording fees, administrative assistance or housing coordinator or consulting costs, advertising, postage, copying, and similar operating costs.

Estimating costs for potential projects and initiatives may be less precise at the early stages, unless the housing trust already has specific projects in mind. However, the housing trust should be familiar with relevant data to support project cost estimates. Examples of types of data include:

- Local property values;
- Market rents;

- Housing stock analysis;
- Area median incomes;
- Affordability gap for target income groups;
- Ranges of rehab costs;
- Fees for architectural and engineering services;
- Survey, soil testing, and appraisal work;
- Carrying costs such as taxes, mortgage interest, insurance, utilities.

Budgeting strategies: One primary aim in creating a budget is to build credibility with your community and funders. There is not a universal strategy for creating a budget. However, when developing a multiple-year budget, one strategy that may be helpful is to start smaller in year one with pilot programs or seed money for projects and increase the level of your requests, or line items, in future years when you can show proven success with projects or programs. If you have a specific project in mind or can demonstrate a high demand for a program concept, the budget may be able to support a more substantial funding request.

SECURE FUNDING



When seeking revenue from CPA funds, inclusionary zoning payments, negotiated developer payments, federal HOME funding, or other funds, the housing trust should demonstrate and communicate its capability, accountability, and priorities to key decision-makers.

For example, if your housing trust is targeting CPA funds, you must have the support of the community preservation committee, because it is that committee that is charged with making funding recommendations to town meeting or the city council.

The following strategies can help the housing trust establish its written and verbal communication with potential funders:

- Emphasize the housing trust's professional expertise, affordable housing experience, and representation on the board of other municipal boards and committees;
- Describe the inclusive process that the housing trust used to develop the action plan and entities that contributed to developing the plan;
- Demonstrate that the action plan will support the community's established housing objectives;
- Show that the budget is realistic and reasonable to achieve the housing trust's priorities;
- Describe the housing trust's plans for annual reporting to the community and any other accountability measures it has adopted;
- Be open and responsive to questions and suggestions.

TRUSTS AND CPA



The most common form of funding for trusts in Massachusetts is CPA funds. In 2016, amendments to the trust statute expanded the purpose of trusts to allow all eligible community housing initiatives as defined in the CPA statute (M.G.L. 44B). These allowable uses are outlined in the chart below.

Other important changes regarding CPA and trusts in the 2016 amendments are as follows:

- Clarifies that all rules and restrictions of Chapter 44b, the Community Preservation Act, remain in force even after CPA funds are transferred to a Municipal Affordable Housing Trust;
- Requires that trusts track CPA funds separately from other funding sources and annually report on the use of those funds in the municipalities' CP-3 reporting to the Department of Revenue; and
- Authorizes MAHTs to execute grant agreements. Most communities require a grant agreement between the municipality and the trust to establish conditions for the transfer of CPA funds. Trusts previously did not have explicit authority to execute grant agreements.

The trust statute does not include definitions for key terms such as “creation,” “preservation” and “low- and moderate-income.” A trust can consult existing programs and statutes in the state to adopt definitions for terms. For activities that fall under “community housing” with CPA, the CPA statute defines appropriate terms including moderate income which is households earning less than 100 percent of the area median income.

Important note: Each funding source has restrictions and requirements for uses of funds. Certain programs and projects may not be eligible under all funding programs. It will be particularly important to secure funds from sources that will enable the housing trust to accomplish its priority initiatives. Once funds are secured, particularly if secured from multiple sources, the board of trustees will need an accounting system that tracks revenue by original funding source. The board of trustees must be prepared to demonstrate that the funds were used in compliance with the requirements of each funding source. See below chart for details about allowable spending purposes with CPA funds.

| ALLOWABLE SPENDING WITH CPA | | | | |
|--------------------------------------|--|----------|--------------------|--|
| | Open Space | Historic | Recreation | Housing |
| Acquire | Yes | Yes | Yes | Yes |
| Create | Yes | No | Yes | Yes |
| Preserve | Yes | Yes | Yes | Yes |
| Support | No | No | No | Yes |
| Rehabilitation and/or Restore | Yes, if acquired or created with CPA funds | Yes | Yes (new 7/8/2012) | Yes, if acquired or created with CPA funds |

POTENTIAL LOCAL HOUSING PROGRAMS

Here are a few examples of programs that can be funded with a local housing trust:

- Homebuyers Assistance: provide down payment, closing cost, interest-rate write down, or other financial assistance to income-qualified homebuyers (affordability restrictions may be required).
- Rental Assistance: provide local vouchers (modeled after federal Section 8 Housing Choice Vouchers) that subsidize the rental costs for income-qualified households.
- Home Preservation/Purchase, Rehab: acquire below-market homes, rehab as necessary, and resell at affordable prices with long-term deed restrictions to income-qualified households.
- Predevelopment financing for new construction of affordable rental housing (30B procurement and public construction could be triggered here.)

HOUSING TRUST INITIATIVES



Housing trust funds can be used in various ways but always subject to the powers granted to the board of trustees under the local bylaw.

Once the housing trust is funded and the board of trustees has arranged for any agreed upon staff-support, it is ready to implement the action plan. Trusts can foster the development of affordable housing, create programs to assist income-qualified households in accessing housing and undertake other activities to support and preserve affordable housing.

Develop affordable housing: Housing trust funds can be used to produce new units of affordable housing, through either conversion of existing buildings or through new construction.

As described previously in this chapter, local affordable housing trusts usually operate in one of two basic models: as a funding entity or more directly initiating development.

If the housing trust is functioning as a funding entity, it would not hold title to the property. Instead, it would offer loans or grants to subsidize affordable housing developments and can be one of multiple funding sources for a project. In the role of funding entity, the board may issue an annual request for proposals or advertise funding rounds and make applications available to the public.

Other trusts perform a more direct role to foster development through acquisitions, predevelopment activities, developer selection, and conveyance of property.

Development activities and investments should reflect the affordable housing needs identified in the community's housing needs assessment or housing production plan.

Establish housing programs: Housing programs come in many forms. Essentially, the intent of housing programs is to enable low- and moderate- income households to purchase or rent a home. Depending on how the program is structured, the program may or may not result in an income-restricted unit.

In order to establish a first-time homebuyer or rental assistance program, the board will need to decide on the structure of the program and designate an entity responsible for the administration and monitoring of the program. The board will need to create program guidelines and a formal application process as well as documents like grant or loan agreements and deed riders. They will also need to market the program. Or, the board can contract with another entity to create, implement and manage the program.

If the trust wants to create “Local Action Units” (LAUs) that count towards the state’s Subsidized Housing Inventory, contact the Massachusetts Department of Housing and Community Development (DHCD) prior to establishing your program. The DHCD staff will review four key aspects of the program: if and how affordable units are created; if the sale or rent price meets DHCD’s affordability thresholds; if the affirmative fair marketing and lottery plans meet state and funding program requirements; and how units will remain affordable.

For more information, go to www.mass.gov/dhcd and enter “Local Initiative Program” in the search box.

OTHER INITIATIVES



If allowed by the terms of your local bylaw, your local affordable housing trust can also undertake other initiatives to create and preserve affordable housing including:

- Preserve expiring use restrictions;
- Support initiatives of the local or regional housing authority or other housing agencies or organizations;
- Fund affordable housing plans or studies;
- Hold, manage, rehabilitate, and lease property

For specific examples, please see the next chapter of community profiles.

WEBSITE DETAILS DEVELOPMENT PROCESS

The Housing Toolbox for Massachusetts Communities (www.housingtoolbox.org) is designed to be a one-stop resource for local boards, committees, planners, municipal staff and volunteers.

Developed by MHP and the Citizens’ Housing and Planning Association (CHAPA), the site explains how to create and execute an effective affordable housing strategy. The toolbox is organized in six sections. It begins with Assessing Needs and continues with sections on building Local Support and understanding the importance of Land Use. It then moves into a section that explains Fair Housing laws and how to administer them, and finishes with overviews of the Development Process and Financing and Funding.

The Housing Toolbox is also designed to be responsive to community needs and can be updated regularly.

Learn more by visiting www.housingtoolbox.org

Chapter 6



COMMUNITY EXAMPLES & BEST PRACTICES

Having explained the basics of what an affordable housing trust is and how to establish one in your community, it is now time to learn about how trusts are used in practice. The following are just a few examples of how communities have used local trusts to pursue their affordable housing goals.

Carlisle: Major role in two developments Established: 2006

The Carlisle Affordable Housing Trust (CAHT) played a major role in the development of Benfield Farms senior rental housing and the Toward Independent Learning and Living, Inc. (TILL, Inc.) group home.



Nine-unit group home, Carlisle.

For Benfield Farms, CAHT supported the development of the Community Preservation Act (CPA) mandated affordable housing and conservation restrictions; supporting the development of easement agreements; providing input and review on proposed development options for the Request for Proposal; and supporting a 2008 Town Meeting vote for a \$425,000 Benfield Farms infrastructure grant, which was distributed through CAHT to the non-profit developer, Neighborhood of Affordable Housing (NOAH). The 26-unit development was completed in 2014.

For TILL's group home, the CAHT's support included proposing that the CAHT be authorized to purchase the five-acre property with municipal funds for the purpose of developing a group home. The CAHT then supported a 2012 Carlisle Special Town Meeting article for a property tax override to purchase the property. Following this, the CAHT conducted a Master Plan effort for the site. In 2014, the CAHT entered into a 99-year ground lease with the Carlisle Housing Authority for the development of a duplex nine-unit group home. The duplex was completed in 2016.

Eastham: Rental Assistance Program

Established: 2008

The Eastham Affordable Housing Trust (EAHT), responding to their Housing Production Plan, knew that rental housing was a particular need in their community. Initiating a Rental Assistance Program would be a way to help families stay in their apartments and encourage others to locate to Eastham. Not having the capacity to administer the program themselves, the EAHT wrote an RFP to contract for the services and partnered with both the Harwich Ecumenical Council for the Homeless (HECH) and the Homeless Prevention Council.

HECH finds eligible families and calculates their need. In order to apply for the assistance, a family must be at or below 60 percent of area median income (AMI). Funding is available through a contract with the property owner and it will pay the owner up to \$350 per month to help cover the gap between the family's income and rent and utilities. They are eligible for up to three years of assistance, but each year the amount they receive is reduced.

Note: While well-intentioned, short-term rental assistance programs may be disruptive for some households who are unable to increase income to sufficiently cover local market rents.

Leverett: Buy Down Program

Established: 2007

As a small community, challenged by limited infrastructure, the Leverett Affordable Housing Trust has created the Leverett Homeownership Assistance Program to assist homebuyers and create local affordable housing. Homebuyers can access up to 20 percent, or \$50,000, of the sale price of a home in town with a maximum home value of \$275,000. The program is available for households earning up to 100 percent AMI and an affordability restriction is placed on the home at the time of purchase. Awards are distributed through a lottery and the Franklin County Regional Housing & Redevelopment Authority manages the program for the trust.



Medway: Establishing an Action Plan

Established: 2008

Under the direction of the Medway Community Preservation Committee and the Affordable Housing Committee, the Medway Affordable Housing Trust found that having an action plan in place for their activities helped them gain credibility in their community. The action plan, adopted in February 2011, was created with the assistance of a planning consultant. It clearly states their goals and vision and the types of projects the trust will support. As a result, the Medway community understands that the trust is responsible and committed and that they are “not going away,” which has helped to recruit trust members. The action plan provides a way to evaluate the progress of the trust against its stated goals and objectives. Other trusts that have adopted action plans include Easton, Grafton, and Westport.

Newburyport: Preservation

Established: 2009

When affordable homeownership units that are deed restricted go on sale, the Newburyport Affordable Housing Trust (NAHT) helps to find eligible buyers. Potential buyers must meet certain income requirements (80 percent of AMI). Applications are reviewed by the NAHT.

The NAHT also offers up to \$25,000 for eligible buyers for down payment assistance and/or closing costs for the purchase of deed-restricted affordable units. Home buyers must provide a down payment equal to a minimum of three percent of the property's purchase price and be approved for a mortgage with a lender. The loan is interest free and must be paid back at resale or refinance of the property.

Norfolk: Small-scale homeownership program

Established: 2006

Norfolk's housing trust has put most of their attention into a small scale homeownership program. Each year they seek to purchase three modest homes in the \$300,000 price range. The program manager oversees necessary home improvements, works under the state's Local Action Unit (LAU) program to assure the homes are added to the state's Subsidized Housing Inventory (SHI) and then runs a joint lottery to sell the homes. Averaging three homes a year, the trust has created over 20 affordable homeownership opportunities through this initiative.

Norwell: Redevelopment of Municipal Parcels

Established: 2007

Before the new police station opened in late 2014, the community began talking about using the existing lot for affordable housing. In 2015, Town Meeting voted to transfer the parcel to the Norwell Community Housing Trust who then issued a RFP (request for proposals) for affordable housing at 40 River Street. A developer was chosen in 2016 and a ground breaking for Herring Brook Hill, 18 rental units for low and moderate income seniors, was held in April 2018. The community has contributed \$1.2 million in CPA resources.



18 senior units to be built at old Norwell police station site.

Plymouth: First-time Homebuyer Program

Established: 2007

The Plymouth Affordable Housing Trust funds a first-time homebuyer program called the American Dream Buy-Down Program. The program is administered by the Plymouth Community Development Department which qualifies all applicants and markets the program on behalf of the Trust, which approves the loans. Income eligible homebuyers (60 to 80 percent of AMI) ready to make Plymouth their home are able to apply for a 15-year deferred loan from the program of up to \$30,000 to buy down the purchase price of the home. The new owners are required to have a deed restriction on the home for 15 years. If the household re-finances the first mortgage for any purpose other than lowering their monthly payment, the deferred loan would be recaptured and recycled into the program for another eligible applicant.

Stow: Grants to Developers

Established: 2005

Funded entirely by inclusionary zoning fees to date,* the Stow Affordable Housing Trust has put together a grant program that makes small grants to non-profit organizations seeking to create, preserve, or refinance affordable housing units for families earning 80 percent or less of area median income (AMI). The units must be eligible for inclusion on the state's SHI and a minimum of 25 percent of the units in a given development must be affordable.

Due to the limited funds available, the grants have been relatively small, but have had an impact on the pre-development phase of two projects; Pilot Grove, a 37-unit family rental development and Plantation Apartments, an extension of an existing senior living development.

*The zoning bylaw creating the inclusionary zoning must state that payments go to the trust, otherwise the money goes to the general fund and would have to be appropriated by town meeting.

Sudbury: Habitat for Humanity

Established: 2005

The first project that the Sudbury Affordable Housing Trust (SAHT) funded was the development of a duplex by Habitat for Humanity on tax-title land purchased at auction by the trust.⁸ The project received broad community support as demonstrated through the strong commitment from the project's bi-weekly building volunteers.

Westford: Using annual funding rounds

Established: 2005

Another way to solicit applications, short of issuing an RFP, is to hold one or more annual funding rounds with formal submission requirements and review criteria. One town that has adopted this process is Westford. It is important that this funding process is transparent and that good records are kept on how and why the trust selected certain projects to fund.



Stony Brook II, Westford

One project the Westford Affordable Housing Trust provided pre-development funding to is a 36-unit development called Stony Brook II. Initiated by the Westford Housing Authority and Common Ground Development Corp., the development is an expansion of an existing project on Farmer's Way.

The Trust made two grants totaling \$400,000. The first \$100,000 was used for predevelopment expenses including legal, architectural, civil engineering, and administrative costs associated with securing permits. The additional \$300,000 was allocated to site work and was contingent upon the project being awarded state funding.

The development consists of one-, two-, and three-bedroom units and was completed in 2016.

Yarmouth: Put out an RFP for projects

Established: 2007

The Yarmouth Affordable Housing Trust (YAHT) didn't wait for projects to come to them, they actively sought them out. When the YAHT determined that they had a sum of money available, they decided to put out a RFP with the hope that it would result in more opportunities to create affordable housing. They used their Housing Production Plan to help guide them in creating selection criteria and the town's chief procurement officer reviewed the RFP and approved the trust as the selection committee.

⁸ Refer to intergovernmental real property transactions under Chapter 30B.

In creating and advertising the RFP, the trust followed the rules of M.G.L.c30B starting with the proper public notice of the issuance of the RFP and kept records of requests. It carefully documented the receipt of responses, the opening of proposals and the compliance of those proposals with the conditions of the RFP. While not legally required to follow 30B to solicit proposals for funding, the trust determined that this approach insured fairness and competitive responses. It also gave the trust an opportunity to prioritize from a group of applications rather than accepting applications on a rolling basis. It should be noted that while Yarmouth used an RFP, other communities have found success using a Notice of Funding Availability (NOFA).



Yarmouth Commons: 69 apartments on former motel site.

The Yarmouth Affordable Housing Trust also has a successful Buy Down Program to assist qualifying home-buyers under which they've created 15 new affordable units at the time of this writing and have 22 more underway. They have also built three affordable units on town-owned land, preserved seven units, assisted Habitat for Humanity with building six new homes and created nine affordable rental homes. Yet the most significant initiative to date may be assisting in the redevelopment of two motels, creating a total of 109 affordable rental units!

PUT YOUR TRUST MONEY TO WORK THROUGH MASSDOCS

MassDocs is the state's loan closing document system. MassDocs makes it possible for just one set of loan documents to be needed for affordable housing rental developments financed by multiple funding sources.

Many locally-initiated affordable housing developments in Massachusetts use local funds from the Community Preservation Act or the local trust fund in combination with state and federal funds.

Before MassDocs, each funder needed their own closing documents. With MassDocs, all funders agree to a single set of closing documents. MassDocs makes it easier for communities to deliver local housing trust funds to a projects. For more information on how to join, go to <https://www.massdocs.com>.

Appendix



MUNICIPAL AFFORDABLE HOUSING TRUST MGL CHAPTER 44, SECTION 55C

Last updated August 2016

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter44/Section55C>

Section 55C. (a) Notwithstanding section 53 or any other general or special law to the contrary, a city or town that accepts this section may establish a trust to be known as the Municipal Affordable Housing Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate income households and for the funding of community housing, as defined in and in accordance with the provisions of chapter 44B. Acceptance shall be by majority vote of the municipal legislative body under section 4 of chapter 4.

(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board. Trustees shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the board of selectmen, shall serve for a term not to exceed 2 years, and are designated as public agents for purposes of the constitution of the commonwealth. Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

(c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but a city or town may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section:

(1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the trust, and such funds shall be accounted for separately by the trust; and provided further, that at the end of each fiscal year, the trust shall ensure that all expenditures of funds received from said chapter 44B are reported

to the community preservation committee of the city or town for inclusion in the community preservation initiatives report, form CP-3, to the department of revenue.

(2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

(3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;

(4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;

(5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;

(6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;

(7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

(8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

(9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;

(10) to carry property for accounting purposes other than acquisition date values;

(11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;

(12) to make distributions or divisions of principal in kind;

(13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;

(14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

(15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

(16) to extend the time for payment of any obligation to the trust.

(d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.

(e) The trust is a public employer and the members of the board are public employees for purposes of chapter 258.

(f) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of chapter 268A.

(g) The trust is exempt from chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

(h) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.

(i) The trust is a governmental body for purposes of sections 23A, 23B and 23C of chapter 39.

(j) The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.



Massachusetts Housing Partnership
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MUNICIPAL AFFORDABLE HOUSING TRUST FUND OPERATIONS MANUAL

How to effectively operate
your local trust



**Massachusetts
Housing Partnership**
Moving affordable housing forward

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INTRODUCTION

Responding to a need

Operations manual aimed at helping communities run effective municipal housing trusts

Roughly 140 Massachusetts communities have established Municipal Affordable Housing Trusts (MAHT)¹. The interest in housing trusts is largely due to the availability of local funding sources, especially Community Preservation Act (CPA) funds, and local recognition of the importance of addressing affordable housing needs. Recognizing this need, the state legislature passed the Municipal Affordable Housing Trust Fund Law (MGL c.44 §.55C) in 2005, which simplified the process of establishing a local housing trust fund. The 2005 statute enabled municipalities to adopt local housing trust funds by majority vote of the local legislative body.²

This publication is a companion to MHP's Municipal Affordable Housing Trust guidebook (released in 2009 and updated in 2013 and 2018) and is intended to help municipal officials delve into the details of how to operate new or established housing trusts. Through various training sessions and other technical assistance for housing trust communities, MHP's Community Assistance team identified a need to provide more information to help officials operate housing trusts most effectively. The Community Assistance team also saw a need for more thorough understanding of legal considerations especially issues involving CPA funds, MA Open Meeting Law, Procurement laws, the Anti-Aid Amendment, and Conflict of Interest Law.

Housing trust communities wanted more information on sources of revenue, how to more effectively use trust funds, and how to troubleshoot management and communication issues. Some communities needed more capital for the trust fund while others had plenty of capital but needed help identifying how to put it to use.

This publication provides factual information, tips for best practices, sample documents, and highlights successful trust-funded initiatives. Woven throughout the publication is a central message:

The most effective housing trusts are operated with transparency, strong communication, clear and strategic priorities, and professional capacity.

¹ This figure is based on the results of a survey completed by MHP in 2015 and our continuing work with trusts.

² In Massachusetts, the term "local legislative body" refers to a municipality's city/town council or town meeting, depending on the form of government.

GETTING STARTED

Basic steps to help ensure that a trust will operate effectively

When a community adopts a Municipal Affordable Housing Trust (housing trust) there are multiple required and recommended steps to make the housing trust official, functional, and effective. This section describes the basics of getting started, including how to establish an effective board of Trustees (board), identify funding priorities, and develop a framework to operate effectively.

This section describes the following steps to get started:

Step 1: Submit housing trust bylaw to Attorney General

Step 2: Establish the Board of Trustees

Step 3: Record a Declaration of Trust

Step 4: Set up the trust fund account

Step 5: Ensure transparency

Step 6: Identify priorities

Step 7: Set a budget

Step 8: Determine operating approach

STEP 1 - Submit housing trust bylaw to Attorney General³

Once a vote is taken to adopt the trust, the municipal clerk must certify the housing trust bylaw and submit it to the Attorney General of Massachusetts (AG) within 30 days of adjournment of the local legislative body. The AG is statutorily required to approve the bylaw for consistency with state law within 90 days from the clerk's request for approval. (Cities are not required to submit adopted ordinances to the AG.)

More information from the office of the Attorney General [here](#).

For more information on gaining support for and establishing a Municipal Affordable Housing Trust in your community, check out [MHP's 2018 Guidebook](#):

STEP 2- Establish a Board of Trustees

After the AG approves the housing trust bylaw, the municipality may appoint the Board of Trustees (board). The municipality's chief executive officer (i.e., select board, mayor or town manager) is required by statute to appoint the members of the board per the requirements adopted through the local bylaw. The board has fiduciary responsibility for overseeing the use and management of the housing trust.

The board must include a minimum of five board members (trustees) with voting power, including the chief executive officer. Where the municipality's chief executive officer is a multi-member board, such as a select board, it must designate a minimum of one member to serve as a trustee. In the case of Plan D or Plan E municipalities, the mayor or city manager shall appoint trustees, subject to confirmation by the city/town council. Select boards shall appoint trustees in towns. The town manager or municipal administrator can be appointed to serve as trustee with or without the power to vote.

The trustees can serve terms of up to two years. Municipalities often stagger the initial terms to avoid abrupt transitions of membership. Terms are outlined in the housing trust bylaw.

Once appointed, one of the first official duties that the board will undertake is to elect officers including chair, clerk, and treasurer. Some boards also elect a vice chair.

BEST PRACTICES TIP: Membership composition is important because trust boards are "working boards." Trustees must be actively engaged to support identifying, and achieving, board goals.

One key to establishing a strong and effective board is to include broad representation from both the public and private sectors, such as appointing representatives from other local board or commissions, community representation, and residents with professional and lived expertise.

Membership requirements for board composition beyond the minimum statutory requirements can be included in the housing trust bylaw. For example, Ayer's bylaw suggests experience that members should have and recommends boards to be represented (see below).

Ayer Affordable Housing Trust Bylaw Section 3 | Board of Trustees

There shall be a Board of Trustees, which shall consist of seven (7) Trustees, to be appointed by the Select Board, in consultation with the Ayer Affordable Housing Committee, for terms not to exceed two (2) years, but may be reappointed at the discretion of the Select Board for succeeding terms, with no limits on the number of terms that a Trustee can serve. To the extent possible, the Board of Trustees should include members with experience in banking, real estate, real estate law, and residential development. Trustees must be residents of the Town. At least one member of the Board of Trustees shall be a member of the Select Board. It is recommended that the Board of Trustees include a member of the Ayer Affordable Housing Committee, a member of the Ayer Community Preservation Committee (CPC), and/or a member of the Ayer Planning Board. In order to stagger the terms of the Trustees, the first three Trustees appointed shall have terms of one year, and the remaining four shall have terms of two years. Thereafter, all Trustees shall be appointed for two (2) year terms.

Many communities have found it helpful to include a member of the Community Preservation Committee (CPC) and the housing partnership (or affordable housing committee) on the board. Doing so can help increase communications with local bodies, which is important for furthering transparency and collaboration.

The initial care given to create a strong board with balanced membership is also required when replacing members so that the board remains strong and effective through membership transitions. Keep in mind that the more prescriptive a community is in directing board membership the more challenging it may be to fill board seats in the long run.

Trustees should be knowledgeable in key areas to perform their duties effectively and responsibly. To equip the trustees with the information they need, new trustees should be provided with a comprehensive orientation packet that includes the following information, as relevant:

- MA Open Meeting Law
- MA Procurement laws
- MA Conflict of Interest Law
- MA Anti-Aid Amendment
- Information on Fair Housing laws
 - [Mass Fair Housing, Federal and State Fair Housing Laws](#)
 - [MA Analysis of Impediments to Fair Housing Choice](#)
- Local housing trust bylaw
- Local Affordable Housing Plan or related housing element of a Master Plan
- Local Community Preservation Plan and application
- Information on local affordable housing initiatives

See Chapter II, Legal Considerations, for additional information including the MA Open Meeting Law, Procurement Laws, the Anti-Aid Amendment, and the Conflict of Interest Law.

STEP 3 - Record Declaration of Trust

A Declaration of Trust (declaration) establishes the board's authority, rules, and regulations. A recorded declaration provides notice of the establishment of the housing trust and the board's powers and authority to hold and convey title to real estate. A declaration is required when a housing trust acquires any interest in real property, by deed, restriction or mortgage.

Note that a declaration will not be accepted by the Land Court Registry District unless the declaration is filed with the deed to a specific piece of property. However, the Registry of Deeds will accept a declaration as a stand-alone document, which is why many boards record the declaration at the Registry of Deeds shortly after board appointment. The city solicitor/town counsel or an attorney engaged by the board may draft the declaration. If prepared by outside counsel, the city solicitor/town counsel should review the declaration prior to registering it.

STEP 4- Set-up the trust fund account

The board must work with municipal officials, particularly the municipal treasurer, to set up the trust fund account. While some boards have considered setting up a separate account through a bank, it is more common to set up an account as a municipal account through the municipal treasurer. However, unlike other municipal funds, all moneys in the trust fund at the end of the year, whether or not committed by the board, remain trust property. It is important to track funds by revenue source (e.g., CPA funds and Inclusionary Zoning payments) to assure that any restrictions on uses are followed. As of 2016, trusts are now required to track CPA income and expenditures separately to expedite an annual report of allocations to the CPC.

STEP 5- Ensure transparency

Transparency and visibility through strong public communications can greatly enhance the effectiveness of the board. The primary ways to ensure transparency and visibility are through regular reporting, publicizing milestones, and maintaining an up-to-date online presence.

REPORT REGULARLY

Reporting to municipal entities is critical to maintaining public understanding of trust goals and initiatives. Boards will typically report annually to the local legislative body and may be included in the community's annual report. If housing trust revenue includes CPA funds, the board must also report regularly to the community preservation committee. The trust must annually report to the CPC how it has allocated CPA resources, ideally in time for the CPC to include this information in its yearly CP-3 report to the state in September. In addition, boards may benefit from making regular presentations to the Chief Executive Officer (e.g., select board).

If the municipality also has an affordable housing committee or housing partnership, it can be helpful to hold joint meetings or present updates at regularly scheduled meetings of these entities to facilitate coordination.

PUBLICIZE MILESTONES

The board can increase visibility by hosting events that celebrate project milestones, issuing press releases, flyers, and town Facebook and web announcements. Events and milestones to mark can include applications round deadlines, project awards, and groundbreaking/ribbon cutting events.

MAINTAIN AN ONLINE PRESENCE

Webpage: As a municipal entity, the board should establish a webpage as part of the municipal website. Minimally, the webpage would describe the background and purpose of the housing trust, include a list of trustees and contact information. The webpage can be most helpful when it also includes information about the housing trust's priorities, funded initiatives, as well as agendas, minutes and meeting schedules. It can be used as a public filing

cabinet for all public documents related to the housing trust, including the Declaration of Trust, trust bylaw, applications for funding, and the like.

The webpage can also include links to other housing resources, such as how the Town of Easton's [housing trust's page](#) provides resources for renters, homeowners, seniors, as well as households facing foreclosure, people with disabilities and households seeking other assistance with housing costs. In Easton, the board utilized trust funds to hire a housing coordinator whose duties include creating a website and [brochure](#) regarding other housing funds and assistance that could benefit low/moderate-income residents.



In addition, websites can include an email subscription options where residents can voluntarily sign up for email alerts when the webpage is updated.

BEST PRACTICES TIP: Keep the webpage up to date by designating the responsibility and making it part of the calendar of annual events.

Municipal webpages often become out of date. The board chair or housing trust staff may be able to secure municipal permission to have direct access to the webpage to ensure the site is updated regularly with agendas, minutes and other documents. Alternatively, the board may create a private website that is linked to the official municipal website to enable direct access to keep the site updated.

Social media Some communities effectively utilize social media tools like Facebook and Twitter to keep the public informed. The board can also use social media to communicate with the public regarding the board's meeting schedule, trust fund allocations, application process and deadlines, events, announcements, and links to media coverage. Boards can also collaborate with other municipal entities such as the housing partnership/affordable housing committee, planning department, housing authority, or community preservation committee to coordinate social media efforts.

For example, the Town of Bridgewater's Community Preservation Committee uses Facebook regularly as one of multiple ways to keep the public informed including announcements of meetings, links to local news coverage, and event invitations.

Examples of Municipal Facebook and Twitter accounts:

[Bridgewater CPC Facebook](#)

[City of Chelsea Facebook](#)

[Town of Reading X](#)

STEP 6- Identify priorities

The housing trust statute allows trusts “to provide for the creation and preservation of affordable housing in municipalities for the benefit of low- and moderate-income households and for the funding of community housing, as defined in and in accordance with the provisions of chapter 44B.” Within this purpose many different types of initiatives could be funded that serve local and regional housing needs.

It will be important for the board to understand the community’s housing needs, environmental considerations, and regulatory constraints to identify priority housing initiatives. Some housing trusts have hired a consultant to help identify priorities through strategic planning, resulting in a housing trust action plan or strategic visioning plan, like [Amherst](#). Other communities have accomplished prioritization more informally, such as [Brewster](#).

DETERMINING NEEDS & PRIORITIES

Your community may have a current affordable housing plan, housing production plan or housing element of a master plan that documents the local and regional housing needs and recommends housing initiatives for the community to undertake. If there are no such current documents, the board should identify housing needs and priority initiatives. To accomplish this, the board could commission a housing plan or undertake the analysis internally.



A helpful tool to begin understanding housing needs is MHP’s resource, [DataTown](#).

BEST PRACTICES TIP: Engage with the community to identify priorities.

To guide the board in the identification of priority initiatives for the housing trust fund, the board will benefit from engaging community members and other public and private stakeholders. This type of engagement can be accomplished through meetings, interactive workshops, and/or surveys. Engagement is most effective with an educational component to describe the local and regional affordable housing needs and development constraints in addition to generating and prioritizing ideas for housing trust initiatives.

Through the outreach process, the housing trust can directly engage other housing advocates and community partners by attending their meetings or conducting interviews. Critical local stakeholders can include the housing partnership/affordable housing committee, housing authority, planning board, community preservation committee, select board/mayor, town administrator, school committee, finance committee, other municipal officials, regional non-profit agencies, regional planning agency, real-estate agency/brokers, and housing developers.

Holding community meetings or workshops can also be useful for discussing ideas and priorities with town officials, stakeholders, and other community members. For example, in the process of developing an action plan, Easton, Medway, and Westport held workshops to get ideas for trust-funded housing projects and programs and to prioritize options. This was instrumental in assisting the board with its next step – budgeting.

Through such strategic planning, boards can establish benchmarks for allocating trust funds for different activities, target populations or housing types. After a planning process in 2008, Somerville’s board adopted income criteria for the allocation of trust funds where at least 20 percent of the funds serve households below 50 percent of the area median income (AMI), 20 percent serve incomes between 51 percent and 80 percent AMI and at least 10 percent serve incomes between 81 and 110 percent AMI. Furthermore, the board sets benchmarks to allocate funds by program activity, most recently allocating 65 percent of its annual budget for development project loans.

STEP 7 - Set a budget

Although this manual portrays steps in neat categories, setting priorities and a budget is often a fluid process. Initial priorities will often be greater than a reasonable budget would accommodate, which necessitates further prioritization.

When budgeting for priority initiatives, it will be important to develop an estimate of potential funding. Knowing the likely funding sources and approximate level of funding will be helpful at this stage. For example, if seeking CPA funds, identifying the balance of the CPA housing reserve could be important information for setting a proposed housing trust budget. It is important to note that the CPA housing reserve is the minimum amount of funds available for affordable housing initiatives and that some communities allocate a greater share of CPA funds to housing trusts or separately fund housing initiatives.

Housing trust budgets often depict multiple years, with the caveat that future budgets are likely to change. The budget indicates estimated revenue as well as expenditures by initiative. The trust’s budget should accomplish two things: track the money it uses in a clear, concise way and convey work the trust is supporting. A sample budget on the following page uses notes and tracks money by source to help track use restrictions that often come with different sources.

BEST PRACTICES TIP: It is often critical to affordable housing development success that housing trust funds are the first dollars committed.

In creating a housing trust budget, recognize that the trust resources are typically one of multiple funding sources for any given development and will be helpful as the first dollars committed to demonstrate local support and enable leveraging of other public and private funds.

**Mainville Municipal Affordable Housing Trust Fund
Financial summary***

| Sources | FY 2022 | FY 2023 | FY 2024 projected | |
|---|--------------------|------------------|----------------------|---|
| Carry forward – CPA | \$ 75,000 | \$ 63,000 | \$288,000 | |
| Carry forward – other | 2,654 | 39,803 | 34,877 | |
| CPA | | | | |
| Town meeting vote 4/12/21 – Hillside project | 1,343,000 | | | |
| Town meeting vote 4/14/22 – general housing support | | 250,000 | | |
| Planned town meeting ask (Wilson School & general) | | | 300,000 | |
| Fee revenue | | | | |
| Hillside Lottery | | 43,500 | | |
| Other revenue (interest, etc.) | | | | |
| Interest | 7,090 | 3,074 | 4,230 | |
| Inclusionary Zoning payment** (9/1/22) | \$30,059 | | | |
| Sub-total | \$1,457,803 | \$399,377 | \$627,107 | |
| Uses | FY 2022 | FY 2023 | FY 2024 projected | Outcomes |
| CPA | | | | |
| Support Hillside Street rental housing | \$1,343,000 | | | 38 family units affordable from 60 to 100% AMI |
| Housing Production Plan (ABC Associates) | 12,000 | | | |
| Site analysis & feasibility for Wilson School (1-2-3 Co.) | | \$ 25,000 | | |
| Wilson School affordable rental housing | | | \$500,000 | support the school conversion to rental housing |
| Fee revenue | | | | |
| Hillside Lottery expenses (including staff time) | | 18,000 | | |
| Other revenue | | | | |
| Development consultant for Wilson School (XYZ Co.) | | 8,000 | 12,000 | |
| Sub-total | 1,355,000 | 51,000 | 512,000 | |
| NET | \$ 102,803 | \$348,377 | \$115,107 | |
| Sub-totals by sources | | | | |
| CPA | \$ 63,000 | \$288,000 | \$ 88,000 | |
| Fee revenue | | 25,500 | 25,500 | |
| Other | 39,803 | 34,877 | 27,107 | |

*Previous year budgets can be found on our web page at www.townofmainville.com/trust

**Money must be used to support housing at or below 80 percent AMI (payment from Main St. condo project)

STEP 8- Determine operating approach

The board of trustees will operate in one of three ways:

1. as a funding entity that solicits project ideas to consider for funding
2. an active initiator of projects and programs, or
3. a hybrid of both. Most boards operate with a hybrid approach - both soliciting and initiating projects.

A board that acts as a funding entity would solicit proposals either by announcing a funding round and providing an application form or by issuing a Notice of Funds Available (NOFA). Whereas a board that is an active initiator of projects may initiate a housing assistance program or affordable housing development on trust-acquired property.

Beverly and Yarmouth are examples of trusts that have acted as funding entities. After establishing a trust, Beverly completed a housing plan and developed guidelines for the trust, along with an application process: [Beverly Affordable Housing Trust Fund](#). The trust then released a [NOFA](#) to solicit housing development proposals for funding.

Examples where the board initiates projects include the trusts in Norwell, Orleans and Westport. These boards acquired property for affordable housing development and, in some cases, funded predevelopment activities before issuing an RFP for development.

Boards have also initiated housing programs, such as Norfolk's Buy Down Program, which creates affordable units through the acquisition and rehabilitation of market rate units. During the COVID-19 pandemic, trusts were often the local entity that initiated emergency rental assistance (ERA) programs as in Amherst, Brewster, Stow and Westborough.



Anchor Point, Beverly, MA

LEGAL CONSIDERATIONS

What to be familiar with when operating a trust

At minimum, board members should be familiar with laws and contracts with which they much comply.

BYLAW

Trustees should become familiar with the local bylaw that directs the work of the trust since many communities provide additional guidance beyond the state statute. Ideally this is easily accessible on the trust's municipal webpage.

GRANT AGREEMENT

Grant agreements (sometimes referred to as “award letters”) are used when allocating public resources. They should spell out the funding amount, the intended use of the funds and provide parameters for funds being returned to the trust if a project is not completed. Additionally, grant agreements between community preservation committees (CPC) and trusts typically state that the trust will use the CPA funds in accordance with eligible activities in the CPA statute. The Community Preservation Coalition's website is an excellent resource for more information. Sample grant agreements can be found [here](#).

ANTI-AID AMENDMENT

The Anti-Aid Amendment to the Massachusetts Constitution (Mass. Const. Amend. Article 46, §2, as amended by Article 103) generally prohibits the granting of public funds to private organizations except when the funds are used for a designated public purpose and the benefits accrue to the public. To comply with the law, all trust funded projects or programs should include some type of affordability restriction recorded through a deed restriction, mortgage or contract that is commensurate with the assistance provided. For example, many down payment assistance programs offer forgivable second mortgages. A trust may provide \$10,000 for down payment assistance to a first-time homebuyer, with 20 percent forgiven annually over five years and a requirement that a portion of those funds be repaid if the property is sold before the term of the restriction.

OPEN MEETING LAW

Commonly known as the “Open Meeting Law,” M.G.L. c.30A §§.18-25 requires that meetings of public bodies be held in public. Within two weeks of appointment, all members of public bodies must complete a Certificate of Receipt of Open Meeting Law Materials, acknowledging the statutory requirements.

All meetings of a public body, with certain exceptions, must be open to the public, properly noticed, and recorded. The Open Meeting Law provides for particular circumstances under which a meeting may be held in executive session including consideration of purchasing, leasing or value of real property if an open session may have a detrimental effect on the negotiating position.

Note that a public meeting includes a deliberation involving a quorum of the public body. Thus, it is important to avoid communicating by email or phone, for example, with a quorum of the board on substantive matters. Even an expression of opinion on matters within the body's jurisdiction to a quorum of the public body is a deliberation even if no other public body member responds.

[For more information](#) including "The Open Meeting Law Guide".

PROCUREMENT LAWS

The state Procurement laws are multiple state statutes that deal with various aspects of municipal procurement including building and public works construction, design and other services, supplies, and real property. In addition, prevailing wage laws apply for construction projects undertaken by public entities in the state as well as some limited services provided to them.

Paragraph (j) of the Municipal Affordable Housing Trust statute, states the following:

The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments, and public instrumentalities of the city or town shall be exempt from said chapter 30B.

Note that Section 15A of chapter 40, referred to in the excerpt above, specifies that to transfer municipally owned land from custody of one municipal board to another (including the Board of Trustees), the legislative body of the municipality must approve the transfer with a two-thirds vote. In municipalities that have accepted the provisions of Section 15A, a land transfer for the purpose of constructing low- and moderate-income housing requires only a majority vote of the legislative body.

The key procurement areas that apply to housing trust activities consist of the following:

- Capital construction or improvement projects;
- Acquisition, disposition, or lease of real property;
- Contracting for professional services.

Note that prevailing wage may apply even in the case of a discounted or donated service.

Construction or capital improvement projects

From time to time, the board may undertake construction or capital improvement activities. For example, if the board acquires an existing building to resell as affordable housing and undertakes rehabilitation of the building, then the board would be subject to the public construction and bidding requirements of M.G.L. c.149 §44A-M and c.30 §39M including prevailing wage requirements.

Real property disposition, lease, or acquisition

In exercising its power to acquire, lease, or dispose of real property, the board must comply with the provisions of M.G.L. c.30B §16 (more detail on M.G.L. c. 30B below). Section 16 includes various requirements pertaining to the acquisition, leasing, and disposition of real property including public notice, solicitation of proposals, property value determination, and disclosures. M.G.L. c.30B requires a fair and competitive process.

The CPA statute, M.G.L. c.44B §5, exempts acquisition of real property or an interest therein from the 30B Procurement Law. Based on consultation with the Inspector General's Office, this exception to M.G.L. c.30B §16 extends to trusts solely using CPA funds to acquire real property. However, we strongly recommend that trusts consult municipal counsel for a final determination as to the applicability of M.G.L. c.30B or any other state statutes.

In addition, CPA funded projects carried out by municipalities are exempt from the requirements of M.G.L. c.40 §14, which would otherwise prohibit cities from acquiring land for a price more than 25 percent above its "average assessed valuation during the previous three years." Instead, while using CPA funds, trusts are bound by the requirement in M.G.L. c.44B §5(f) that the acquisition price of real property cannot exceed the value of the property as determined through procedures customarily accepted as valid by the appraising profession.

CPA eligibility is described further in Section IV under "Eligible initiatives."

Contracting professional services

Contracting professional services includes hiring housing consultants, planners, appraisers, landscape architects, engineers, etc. There may be situations where the board will want to contract for professional services. For example:

- The preparation of an action plan, budget, and/or application packet;
- Predevelopment activities (e.g., soil testing, appraisals, preliminary design, surveys);
- To assist with disposition or acquisition of property.

There are two key areas of the law regarding procurement of professional services. The first, M.G.L. c.7 §.28A.5-38O, known as the Designer Selection Law, applies when procuring design services for public building projects. The second, M.G.L. c.30B, applies to other professional services and establishes three monetary thresholds that trigger different selection and procurement procedures, with the most latitude established for contract amounts under \$10,000. For contracts between \$10,000 and \$50,000, three written quotes must be solicited. For contracts at and over \$50,000, sealed bids or proposals through a request for proposal process are required.

The Inspector General provides guidance on the Procurement laws and makes available a Chapter 30B Attorney of the Day at (617) 722-8838. The Inspector General has published "The Chapter 30B Manual" and the "Designing and Constructing Public Facilities" manual as well as other helpful publications available on its [website](#).

See Appendix B for the Inspector General's procurement charts covering building and public works construction, construction material procurement, design services, and procurement of supplies and services.

CONFLICT OF INTEREST LAW

M.G.L. Chapter 268A, also known as the Conflict of Interest Law, covers all municipal employees, whether elected or appointed, full or part-time, paid or unpaid. The law provides a general code of ethics for all public employees and prohibits using or attempting to use an official position to secure an unwarranted privilege or from giving the impression that you can be improperly influenced in the performance of your official duties.

The law prohibits trust members from disclosing confidential information obtained on the job and from accepting outside employment that will impair independence of judgment in the exercise of official duties.

Under M.G.L. c. 268A §27, every municipal employee must receive a summary of the law's requirements at the commencement of employment and must acknowledge receipt of that summary in writing within 30 days thereafter. In addition, under M.G.L. c. 268A §28, every municipal employee must complete the State Ethics Commission online training program within 30 days after becoming a municipal employee and every two years thereafter.

Your municipality should be collecting your certificate of completion. The online training takes approximately 45 minutes and can be found [here](#).

BEST PRACTICES TIP: Identify who will certify that online training is completed; make it a part of you calendar. [More information on the Conflict of Interest Law](#)

FAIR HOUSING

The Fair Housing Act⁴, prohibits discrimination for housing-related transactions on the basis of race, color, national origin, religion, sex, disability, and familial status including children under the age of 18, pregnant women, and people securing custody of children. In addition to the federally-protected classes, Massachusetts, under M.G.L. c. 151B, includes marital status, age, sexual orientation, gender identity, military status (veteran or member of the armed forces), receipt of public assistance and/or housing subsidy, genetic information, and ancestry. Multiple other laws relate to Fair Housing including federal laws such as Section 504 of the Rehabilitation Act of 1972, Title II of the American with Disabilities Act and Massachusetts state law (MGL c.151B).

It is important for board members to understand that even when a practice or policy isn't intended to discriminate or limit housing opportunities for protected classes, it may still have a discriminatory effect. Municipalities are obligated to evaluate their rules, regulations, policies, and actions to not only ensure against discriminatory effects but to also affirmatively further fair housing. In February 2013, the US Department of Housing and Urban Development (HUD) issued the "Final Rule on the Implementation of the Fair Housing Act Discriminatory Effects Standard." While this rule was replaced in 2020, HUD has proposed restoring the 2013 rule on the grounds that it better reflects decades of case law and is more in line with the Fair Housing Act's purpose of eradicating housing discrimination in the housing market.

⁴ Title VIII of the Civil Rights Act of 1968, as amended.

More information of Fair Housing laws and considerations:

- [HUD–Fair Housing Laws and Presidential Executive Orders](#)
- [EOHLC Fair Housing and Civil Rights Information](#)

PUBLIC EMPLOYEES/MUNICIPAL AGENCY

For certain purposes, the housing trust is an extension of the municipality and is subject to the same laws and regulations. It is important that trustees are treated as public employees for the purposes of M.G.L. c. 258, which provides statutory protection for public employees including the trustees against liability for acts taken within the scope of their employment. M.G.L. c. 258 makes the housing trust itself responsible for the actions of its employees (including the trustees and any other trust employees), but limits liability in most instances.

To ensure efficiency and compliance, board members should have a binder of resources which at minimum includes the following:

- MAHTF law (MGL C.44 §55C)
- Housing trust bylaw (certified and AG-approved)
- Declaration of Trust (recorded)
- Massachusetts Open Meeting Law
- Massachusetts Procurement Laws
- Massachusetts Conflict of Interest Law
- Information and resources on Fair Housing
- Local and/or regional affordable housing needs, analyses, plans, etc.
- Housing trust action plan and budget

SOURCES OF REVENUE

Range of options to fund a local trust fund

There is a range of potential funding sources that can provide revenue to housing trusts. Many trusts rely on CPA funds, while others have multiple sources of funds. If funding sources are limited, the board might consider advocating for municipal action to secure one or more reliable sources of funding.

A description of a variety of potential revenue sources to capitalize the housing trust follows, including:

- Community Preservation Act (CPA)
- Inclusionary zoning
- Special bylaws
- Voluntary developer payments
- Municipal/tax title property
- Private donations
- Cell tower payments
- Tax override
- Municipal bond
- Resale of affordable units
- Other municipal funds

COMMUNITY PRESERVATION ACT (CPA)

The most prevalent source of funds for housing trusts is the CPA, M.G.L. c.44B §.6, which requires that at least 10 percent of total annual CPA revenue, including revenue raised from the local surcharge and the state Community Preservation Trust Fund distribution, be spent or reserved for affordable housing.⁵ CPA communities without annual debt service payments on other projects may elect to spend up to 75 percent of total annual CPA revenue on affordable housing, or even up to 80 percent if the community does not allocate any funding to a CPA administrative account. Section 5(f) of the CPA statute expressly permits municipalities to appropriate CPA funds to an affordable housing trust fund, and a number of housing trusts rely on annual CPA appropriations.

BEST PRACTICES TIP: It is highly recommended that trusts receiving CPA funds from the municipality execute a grant agreement between the trust and municipality or CPC as described in Section II “Grant Agreement” section of this manual.

⁵ For purposes of consistency, this publication uses the term “affordable housing” whereas the CPA statute uses the term “community housing.”

The board is typically required to submit a budget, taking into account the level of funds set aside in the CPA affordable housing reserve and/or annual 10 percent affordable housing requirement.

A CPA appropriation requires a CPC recommendation and majority vote of the local legislative body (i.e., town meeting or town/city council). Therefore, strong communication with the Community Preservation Committee and the local legislative body is critical.

For example, Westport's Board of Trustees and its housing coordinator consultant work together to effectively inform and advocate for CPA funds in three primary ways: basing CPA requests on the Trust's Action Plan, submitting thorough annual CPA applications, and giving specific and complete presentations to the CPC. Other communities, like Brewster, require a representative from the CPC to sit on the trust board to help support strong communication between the entities.



Noquochoke Village, Westport, MA

INCLUSIONARY ZONING

Some communities have adopted inclusionary zoning (IZ) bylaws that require new residential development to include a minimum number of affordable units. IZ bylaws can also provide for alternatives to the creation of affordable units with cash in-lieu payments and/or land donations. Most IZ bylaws specifically designate the housing trust to receive any cash payments or land donations, thus providing a source of revenue and/or assets for the trust.

IZ bylaws utilize a formula to calculate the amount of cash payment per unit of affordable housing otherwise required by the bylaw. The formulas vary by community. Formulas can be tied to the affordable purchase price of a unit, the difference between the community's median sales price and affordable purchase price or calculating per unit cost from regional construction and sales reports.

An IZ bylaw can also provide an option for an in-lieu land or cash donation made to the housing trust. The Town of Westport adopted an IZ Bylaw that provides for cash payment (only applicable for homeownership developments) and land donation as alternatives to unit development, both of which would be designated for the housing trust. Westport's calculation for cash payment is based on the difference between the median single-family home sales price in Westport for the most recent calendar year and the price affordable to a qualified purchaser, based on applicable guidelines of the state Executive Office of Housing and Livable Communities (EOHLC), formerly the state Department of Housing and Community Development.

See below for [Westport's IZ Bylaw](#) land donation provision, Article 13.5.3.
[For more information on Inclusionary Zoning](#)

DONATIONS OF LAND: An applicant may offer, and the Board of Trustees of the Westport Affordable Housing Trust Fund (Trustees) with the approval of the SPGQ, may accept donations of land in fee simple, on or off-site, that the SSPGA and Trustees determine are suitable for the construction of an equivalent number of affordable housing units. The SPGA may require the applicant to submit an appraisal or other data relevant to the determination of suitability for an equivalent number of affordable housing units. If the SPGA issues a Special Permit to authorize donations of land in lieu of units and the Board of Trustees of the Westport Affordable Housing Trust Fund votes to accept said donation shall be made to the Westport Affordable Housing Trust Fund prior to the issuance of any building permits for the development or prior to the sale of any lots, if applicable.

SPECIAL BYLAWS

In addition to inclusionary zoning bylaws discussed above, other types of special bylaws can also provide public benefits in the form of cash payments to a housing trust for affordable housing purposes. For example, the City of Newburyport adopted a bylaw (known as "Section 6C") that allows issuance of a special permit to develop two single-family homes in a district that allows two-family homes by right or with a special permit. In recognition of the increase in property value from the granting of the special permit, the applicant must pay the trust \$20 per square foot of the second residential structure.

Another example is the City of Somerville's Affordable Housing Linkage Ordinance, which requires that large-scale commercial developments mitigate their potential negative impact on the supply of affordable housing by contributing a fee to the housing trust.

VOLUNTARY DEVELOPER PAYMENTS

Municipalities that have received voluntary developer payments for community benefits, including for affordable housing, can direct these funds to the municipal affordable housing trust. The City of Salem and towns of Westford, Andover, and Norfolk are examples of communities that have secured developer payments for the housing trust. For example, one developer in the town of Norfolk provided \$10,000 to the town upon the sale of each market rate unit in a mixed-income development that the town approved through a comprehensive permit. The town then allocated the resources to the trust. Note that given the legal complexities in such negotiated payments, it is important to work closely with the municipal counsel.

MUNICIPAL/TAX TITLE PROPERTY

Municipalities will occasionally dispose of surplus municipal property or properties foreclosed for non-payment of taxes. These properties can sometimes provide revenue from the proceeds of the sale or potential developable land that can be transferred to the trust to facilitate development of affordable housing.

Property sale

In Massachusetts, a municipal chief executive officer (i.e., Selectboard, Mayor or Town Manager) has the authority to direct proceeds from the auction of tax-foreclosed properties to specific purposes including for affordable housing as an allocation to the housing trust.

For example, the Town of Provincetown allocated revenue generated from the sale of a tax-foreclosed property to the housing trust as a way to support local affordable housing initiatives. The Trust received roughly \$147,000 in proceeds from the sale after the mortgage, condo fees, and other expenses were paid off.

Title transfer

Surplus municipal property and property acquired in tax foreclosure can be sold under M.G.L. c.30B through a Request for Proposals (RFP) for a specified purpose including affordable housing. For tax-foreclosed properties, which are typically auctioned per M.G.L. c. 60, the tax title custodian transfers the custody of the property to another municipal entity, such as the housing trust, to enable disposition through c.30B (check with municipal counsel for local process to transfer custody).

A growing number of communities are transferring surplus parcels or property acquired through tax foreclosure to trusts. The City of Chelsea has transferred an initial lot acquired through tax-foreclosure to the trust for the development of affordable home ownership units. Norwell's Town Meeting voted to transfer a municipal surplus site to its trust in 2015. The trust then released an RFP for affordable, age-restricted housing. A non-profit community development corporation was chosen as the developer and today an 18 unit building has replaced a former police station.

PRIVATE DONATIONS

Under the housing trust statute, a housing trust has the authority to accept private donations as trust revenue. To solicit or encourage such private donations, the board could broadcast the trust's ability to accept donations in press releases, at public events, on the application packet, and on their website. Wellfleet has outlined on the [town's housing website](#) a variety of ways that people can donate to the local housing trust, from cash donations to planned giving and participating in the summer Wellfleet Housing Angels program.

CELL TOWER PAYMENTS

A municipality can designate revenue from the lease of municipal land for cell towers for a special purpose including for affordable housing and allocate the proceeds to the housing trust. For example, the Town of Harwich uses the proceeds from a lease of town property for a cell tower to fund the housing trust. This arrangement generates approximately \$50,000 per year.

TAX OVERRIDE

As the Affordable Housing Committee (AHC) in Orleans was leading the effort to create a trust, town staff and the Finance Committee chair urged the AHC to also propose a permanent tax override to support the new trust. The request was set at \$275,000 and the town voted overwhelmingly to support the effort with 71 percent of voters in favor.

MUNICIPAL BOND

Medfield voted to establish a housing trust and pass a one million dollar municipal (non-CPA) bond to support the trust during the same spring.

RESALE OF AFFORDABLE UNITS

In older deed riders for affordable units, particularly under the Local Initiative Program (LIP) and Homeownership Opportunity Program (HOP), if a qualified buyer is unable to be secured and the unit is sold at market rate, the housing trust was often designated to receive the difference between the affordable and market rate price.

The City of Newburyport secured revenue for the housing trust in this way under a deed rider for a project created with funding through the New England Fund that predated the state's universal deed rider. The state's universal deed rider has greater assurances for permanence of affordability, and therefore would not provide revenue in this way. Other communities have also generated revenue from the sale of affordable units with older deed riders including Andover and Hudson.

Similarly, a trust can step in to purchase an affordable unit under the municipality's option to purchase when no eligible buyer is found upon resale. If the unit is not marketable or does not meet local housing needs, the trust may have the ability to sell the unit as market rate and retain the sale proceeds, depending on the requirements of the deed rider.

OTHER MUNICIPAL FUNDS

The municipality may appropriate other municipal funds to the housing trust, although this is often challenging given other demands on municipal funds. However, there may be circumstances that enable the municipality to appropriate funds, such as free cash, to the housing trust. For example, the Towns of Truro and Brookline and City of Revere have appropriated free cash to the housing trust.

ELIGIBLE INITIATIVES

Familiarize members with trust's opportunities and constraints

PURPOSE

With changes made in 2016 to the housing trust statute (M.G.L. c.44 §.55C), the purpose of trusts was expanded to allow all eligible community housing initiatives under CPA (M.G.L. c.44B), :

. . . to provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate income households and for the funding of community housing, as defined in and in accordance with provisions of chapter 44B.

This allows trusts to engage in all allowable community housing initiatives under CPA with all funding sources. Specifically, trusts can now fund activities that “support” community housing as defined in the CPA statute.

However, the trust statute does not include definitions for key terms such as “creation,” “preservation,” and “low-and moderate-income.” A community can consult existing programs and statutes in the state to adopt definitions for terms. For activities that fall under “community housing” with CPA, the CPA statute defines appropriate terms including moderate income which is households earning less than 100 percent of the area median income. Ultimately, interpretation of purpose, and activities that are eligible for trust funds, is the responsibility of the board, on behalf of the municipality, with municipal counsel.

BOARD POWERS & RESPONSIBILITIES

The board has a fiduciary obligation to oversee the use and management of the housing trust funds and has broad powers to accomplish this. Per the statute, the board is vested with a range of powers and responsibilities, and is considered a municipal agency and public employer. It is important to note that the housing trust statute gives a municipality the authority to expand or limit the powers that a housing trust would otherwise have, consistent with Section 55C⁶.

Powers

The statute gives a board 16 primary powers and permits the powers to be limited or expanded. The key powers listed in the statute are briefly summarized here⁷:

- Accept and receive real property, personal property, or money, by gift, grant, or contribution including money, grants, and CPA funds;

⁶The statute says, “...a city or town may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section...”

⁷For a full description of the Board of Trustee’s powers, refer to the statute (M.G.L. c.44 §.55C [c] 1-16).

- Purchase and retain real or personal property, including investments;
- Sell, lease, convey, etc. any personal, mixed, or real property at public auction or by private contract;
- Execute deeds, assignments, transfers, etc., related to any transaction of the trustees for the accomplishment of the purposes of the trust;
- Employ advisors and agents, such as accountants, appraisers, and lawyers;
- Borrow money and to mortgage and pledge trust assets as collateral;
- Manage or improve real property;
- Abandon any property the trustees deem appropriate.

Expenditure of trust funds

Trust revenue from any source, including municipal appropriations, becomes trust property and the board needs no further authorization from the local legislative body to expend these funds for the purpose of creating and preserving affordable housing unless required through the housing trust bylaw.

LOW/MODERATE INCOME

The board will need a clear understanding of local and regional housing needs to target trust funds to projects and programs that will best support those needs, including households of various income levels. While the housing trust statute does not provide a definition of “low-and moderate-income,” trusts are advised to use their judgement and consult other definitions commonly used in state and federal programs. A trust should consult with municipal counsel if they chose to use a definition that limits eligibility to a higher percent of median income than is used in state affordable housing programs.

At the federal level, for purposes of the Office of Community Development and Planning (CDP), which is responsible for overseeing the Community Development Block Grant (CDBG) program, the U.S. Department of Housing and Urban Development (HUD) uses the term “low and moderate income” to mean income at or below 80 percent of the area median income (AMI), with adjustments for household size. At the state level, Massachusetts programs tend to apply a higher limit for “moderate income.” Thus, the Community Preservation Act allows CPA funds to be used to assist housing for households with incomes below 100 percent AMI, while the Massachusetts Affordable Housing Trust Fund can be used to benefit households with incomes at or below 110 percent of AMI. Therefore, boards can allocate trust funds to create or preserve housing that is affordable for a variety of household income levels.

SUBSIDIZED HOUSING INVENTORY (SHI)

Affordable under M.G.L. c.40B

M.G.L. c. 40B, the Massachusetts “Anti-Snob Zoning Act,” permits developers of housing in which at least 20 percent or 25 percent of the units are set aside for “income eligible households” to obtain a “comprehensive permit,” granting waivers from local zoning and other regulatory requirements. Unless the community achieves a minimum threshold of affordable housing units, a denial of a comprehensive permit by local authorities may be overturned by

the state Housing Appeals Committee if the Committee determines that the development would be “consistent with local needs.” EOHLC maintains a Subsidized Housing Inventory (SHI) to measure a community’s stock of low- or moderate-income housing for purposes of M.G.L. c.40B.

The Massachusetts Comprehensive Permit Regulations (760 C.M.R. 56) define an “income eligible household” as a household whose income does not exceed 80 percent of AMI. Units created or preserved through trust funds that are affordable to households with incomes at or below 80 percent AMI could be eligible for inclusion on the SHI. To be counted as affordable housing on the SHI, units must meet the following criteria:

1. Units must be created through an eligible subsidy program, including [LIP \(Local Initiative Program\)](#)
2. Units must be affordable to households with incomes at or below 80 percent AMI (as determined and updated annually by HUD) and households are subject to asset limitations.
3. Units must be restricted by a use restriction that runs with the land and is not less than 15 years for rehabilitate housing units and 30 years for newly created units. The state has developed a [universal deed rider](#) that covers the required term for a use restriction and is required for ownership units.
4. Units must be subject to an Affirmative Fair Marketing and Resident Selection Plan that meets EOHLC’s requirements. Such a Plan will require broad and inclusive regional marketing of the units as well as fair resident selection that is primarily accomplished by accepting applications, verifying income and assets and holding a lottery to select a resident for an available unit or to establish an ordered waiting list.

Affirmative Marketing Guidelines can be found on [EOHLC’s website](#).

State’s Subsidized Housing Inventory

While housing developed under Chapter 40B is eligible for inclusion on the inventory, many other types of housing also qualify to count toward a community’s affordable housing stock, such as units created under the Local Action Unit program (including Inclusionary Zoning units or other local initiatives).

For more information see [“40B Planning”](#)

Affordable under CPA

When CPA funds are allocated to a housing trust, the board must ensure the use of funds complies with CPA requirements. The CPA statute, M.G.L. c. 44B, allows for use of funds for housing that is affordable to households whose annual income is less than 100 percent AMI. The CPA statute defines “low-income housing” as housing for households earning less than 80 percent of AMI and “moderate-income housing” as housing for households with less than 100 percent of AMI.

The interpretation of the CPA language regarding the calculation of 80 percent of AMI is not the same as HUD’s published income limits. This difference will not affect the trust in

a project using only CPA funds under a grant agreement. However, if other non-CPA funds that use HUD’s calculation are incorporated in the project, the lower of the income limits should be used.

In addition, the CPA statute allows for funding of “low- or moderate-income senior housing” as housing for persons of at least 60 years of age who qualify for low or moderate-income housing.

CPA COMPLIANCE

The most common funding source for housing trusts in Massachusetts is CPA funds. Therefore, it is critical to understand the eligible uses and limitations of CPA funds since the requirements of CPA follow the funds. Below are key eligibility and management issues to keep in mind.

Eligible CPA activities

Section 5(b)(2) of the CPA statute states the following regarding eligible affordable housing activities:

The community preservation committee shall make recommendations to the legislative body for the... **acquisition, creation, preservation and support** of community housing... and for **rehabilitation or restoration** of... community housing that is acquired or created as provided in this section; provided, however, that funds expended pursuant to this chapter shall not be used for maintenance.

| Community Housing | |
|-----------------------------|--|
| Acquire | YES |
| Create | YES |
| Preserve | YES |
| Support | YES |
| Rehabilitate and/or Restore | YES, if acquired or created with CPA funds |

The [Massachusetts DOR](#) and the [Community Preservation Coalition](#) provide guidance and information on the eligible uses of CPA.

Mixed-use/mixed-income projects

CPA funds for mixed-income and mixed-use projects must be allocated in proportion to the overall qualifying units. For example, in a mixed-income project, if 50 percent of the units were affordable to households with income less than 100 percent AMI and the remainder were market rate units, then only 50 percent of total predevelopment and/or construction costs would be eligible for CPA funding. Likewise, if a project is mixed-use, for example office or retail use and affordable housing, only predevelopment and construction costs associated with the affordable housing would be eligible for CPA funds.

It’s important to remember that if CPA funds are used to purchase the land, then the site must be used for CPA-eligible activities. The exception is if the land is proportionally subdivided by use based on the funds that purchased the site.

Accounting

Eligibility requirements for CPA funds may differ from other sources of housing trust revenue. Therefore, if the trust has multiple sources of revenue, it is critical to account for use of trust funds by revenue source to ensure appropriate use of funds. The board's votes and commitment letters should identify the revenue source(s) to be awarded to each trust-funded initiative.

In addition, to properly track trust fund expenditures by revenue source, the municipality may need to establish a separate accounting mechanism. For example, the Town of Westford designed a relational database using QuickBooks accounting software to track the use of its housing trust funds. The Land Use Management Department staff worked with the Town Treasurer to create the database, which it has also found useful to track other funds including performance bonds and escrow accounts. To track the housing trust funds, department staff is responsible for creating a new record for each trust-funded initiative that identifies the source of funds. The database enables staff to track expenditures by project and to easily create regular reports for the board and other town officials.

State reporting requirements

In 2016, changes were made to the trust statute to direct trustees to track CPA funds separately from other income and annually report back to the local CPC on all expenditures of CPA funds in that fiscal year.

"...money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations, and limitations of that chapter when expended by the trust, and such funds shall be accounted for separately by the trust; and provided further, that at the end of each fiscal year, the trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the community preservation committee of the city or town for inclusion in the community preservation initiatives report, form CP-3, to the department of revenue."

Section 13 of the CPA statute requires all Community Preservation Committees to keep detailed records of CPA expenditures, which include housing trust expenditures. The requirements include keeping records of any real property interests acquired, disposed of or improved with CPA funds by the municipality, including the names and addresses of the grantors or grantees and the nature of the consideration.

By September 15 of each year, the CPC is required to submit annual reports to the state through the CP-3 online reporting tool. The board should provide the CPC with complete information on all CPA-funded housing trust expenditures each year prior to this deadline. MHP, with assistance from the Community Preservation Coalition, created [a fillable form](#), along with [instructions](#), for housing trusts to use for this annual report to CPCs.

More information & technical assistance

CPA and eligible activities can be found at the following resources:

- [Community Preservation Coalition](#)
- [Department of Revenue](#)
- The Massachusetts Housing Partnership's "CPA and Affordable Housing" [guidebook](#)

CREATION

Activities to create affordable housing include new housing construction, re-use of non-residential buildings for affordable housing, and conversion of market rate units to affordable units through affordability restrictions.

New construction

Housing trust funds can support increased affordability in private 40B developments, housing development on surplus municipal property or tax-foreclosed properties, or other public or private housing developments. Some examples of communities that have allocated trust funds for housing development costs include Amherst, Beverly, Groton, Hudson, Westport, and Yarmouth.

With regard to a mixed-income or mixed-use project, as discussed in the CPA section, the trust funds would need to be allocated only to the portion of the project that creates affordable units. The board in Groton, for example, invested \$400,000 in a development in the town center with three affordable units and 15 market rate units, an investment of \$133,333 per affordable unit.



Yarmouth Commons, Yarmouth, MA

Boards can also allocate housing trust funds to create affordable units in existing buildings, such as the conversion of surplus libraries, fire stations, schools, or other buildings. Sometimes these projects can also include historic preservation components and utilize historic preservation CPA funds.

Conversion of market rate housing

Boards have used trust funds to convert market rate units to affordable units in a variety of ways including through acquisition or “buying down” existing single-family houses and condominiums as well as supporting the purchase of multifamily developments for conversion to affordable housing.

Remember that this type of work is subject to Ch. 308.
Check with your legal counsel for more information.

Some boards have purchased housing units, rehabilitated the properties if necessary to bring to code or improve marketability, and sold them subject to affordability restrictions. The Southborough Board of Trustees undertook this type of project by purchasing a modest single-family house with housing trust funds, working with a regional technical high school to rehabilitate the house, and selling it to a low/moderate-income household subject to an affordability restriction as an ownership unit.

The Wenham Board of Trustees was also successful using housing trust funds to purchase a single-family home that, with some rehabilitation, the board sold to a low/moderate-income household with a permanent affordability restriction. This type of initiative can convert an existing market rate home to one that is included on the SHI as an affordable Local Action Unit under the EOHLC LIP program.

Another model provides a subsidy to first-time homebuyers with low/moderate incomes to purchase a home within a specified price range. In Leverett, a homebuyer can access up to \$50,000 to purchase a home with a maximum sale price of \$275,000. The program is available for households earning up to 100 percent AMI and a deed restriction is placed on the home.

Many communities have created these homebuyer opportunities through the state's LIP program if the income eligibility is limited to households earning up to 80 percent AMI. EOHLC can provide sample documents including program guidelines, applications, and marketing plans. The units must be marketed per an Affirmative Fair Housing Marketing Plan that is approved by EOHLC. All applicants must be verified for income and asset levels and then a lottery is held. For ongoing programs, the lottery may be used to create a ready-buyer list. Households on the ready-buyer list can be authorized to search for a home within the terms of the program guidelines or simply be qualified for a house the trust is selling.

Don't forget: In order to comply with the Anti-Aid Amendment, trust-funded projects or programs should include an affordability restriction recorded through a deed restriction, mortgage or contract.

PRESERVATION

Preservation of affordable units refers to initiatives to perpetuate existing affordable units in light of affordability restrictions that would otherwise expire, preventing the loss of affordable units. Preservation typically involves refinancing or purchasing properties whose restrictions will expire in the near future. Both rental units and homeownership units can have expiring affordability restrictions.

Rental units—preservation of affordability

Properties that receive public funding, such as long-term project-based Section 8 assistance, federal or state Low-Income Housing Tax Credits, and Section 202 funding (for elderly housing), are required to commit to income and rent restrictions for an extended period. In most cases, however, those restrictions are time-limited, and there is a high volume of properties in the Commonwealth whose existing use restrictions have expired or will expire in coming years.

There are often sizable costs to preserve rental projects, particularly in the case of large developments with substantial deferred maintenance or other capital needs, and the state has adopted a variety of initiatives to help preserve these valuable resources. Because of the costs involved, housing trust funds alone are not likely to be able to preserve these types of properties absent a commitment of significant additional state and federal resources. However,

communities facing the loss of affordable rental units have used housing trust funds to bridge the gap between the cost of purchasing, and refinancing expiring use rental properties and the aggregate amount of other available sources. Trusts can identify properties using the Community Economic Development Assistance Corporation's (CEDAC) [website](#).

Homeownership unit preservation

Housing trust funds can help preserve long-term affordability of homeownership units, which, like rental housing, can be subject to expiring restrictions. Even properties with existing restrictions may be sold to market rate buyers if the restrictions do not survive foreclosure, or if an eligible buyer is not located within the specified schedule. Under the state's universal deed rider, long-term affordability restrictions would remain in place even after sale to a purchaser who is not income-eligible, albeit with the deed rider still in place restricting resale by that purchaser. Under older forms of restriction, the first sale to a non-income-eligible buyer may terminate the restriction.

Finding an eligible buyer under the state's Universal Deed Rider

The state's Universal Deed Rider requires that an eligible purchaser be located within 90 days of notification to the monitoring agent and municipality of the owner's plans to sell plus 60 additional days if the original eligible purchaser cannot complete the purchase.

In lieu of sale to an eligible purchaser, the monitoring agent or municipality (including the Trust) has the right to purchase the property at the affordable price.

Acquisition & rehabilitation In situations where an eligible buyer is unable to be located within the specified schedule, housing trust funds can be used to acquire and rehabilitate the unit at risk. This preservation strategy allows for additional time to ultimately resell to an eligible buyer and the opportunity to make improvements to bring the unit up to code or to increase its marketability.

In addition, the board may determine that the resale price will need to be further reduced, below the maximum permitted under the deed rider, and may elect to subsidize that lower price to enhance marketability to a low-income buyer.

Monitoring & reserves A key aspect of preservation of affordable homebuyer units is monitoring. If the community is actively monitoring the affordable units and maintaining a regularly updated waiting list of eligible buyers, then it will be poised to effectively foster resales. The board can engage staff or consultant services to perform this monitoring function.

In addition, the board can set aside (or reserve) housing trust funds in anticipation of stepping in when and if units are at risk during resale due to lack of eligible buyers or rehabilitation needs.

For example, in accordance with its Action Plan, the Medway Affordable Housing Trust budgeted reserve funds for acquisition or to buy-down the price of up to two units over five years to preserve the affordable housing restrictions. The reserve can act as a revolving fund in that all or some of the revenue can be returned to the reserve upon resale of the units, in

the case of an acquisition. In other words, proceeds from the sale of such units are allocated to the trust and may be used for further acquisitions.

SUPPORT

Given the complexities of affordable housing, “support” was included in the CPA statute to further assist communities in meeting their affordable housing needs. Over the past 20 years we have seen CPA funds used to support affordable housing through predevelopment activities, site improvements, and financial assistance for qualifying households. In addition, communities have used CPA funds for housing plans and to expand professional capacity to implement CPA-eligible housing initiatives. With modifications to the trust statute, all allowable “support” activities under CPA are now allowable activities for housing trusts.

Predevelopment

Trust funding is an important resource to help jump start a development project. A board, committee of the municipality or the project sponsor may apply for funds to finance predevelopment activities. These activities may be needed to determine project feasibility, plan for the number of housing units to be built or preserved, and/or create preliminary site plans for the best use of a parcel. Preliminary investigations can set up realistic expectations regarding a wide range of site development issues and enable the community to assess what housing can be accommodated on a particular parcel. Predevelopment analysis promotes better project planning and helps municipalities set realistic expectations regarding the number of units it can develop and the financial feasibility.

Predevelopment analysis can also provide valuable supportive documentation for request for proposals (RFPs). Having experienced professionals undertake the analysis adds credibility and can help the developer gain additional local approvals and funding necessary for the development to proceed.

Predevelopment activities, also referred to as “soft costs,” may include preliminary environmental or financial feasibility studies, surveys, site planning, and design studies. Some communities that have used housing trust funds for predevelopment activities include Barnstable, Boxborough, Hanover, Salem, and Weston.

Financing assistance to qualifying households

Trusts may provide subsidies to eligible households to lower the cost of obtaining affordable housing. This was clarified in the 2012 amendments to M.G.L. Ch. 44b, adding a definition for “support of community housing”:

“Support of community housing”, shall include, but not be limited to, programs that provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing or to an entity that owns, operates or manages such housing, for the purpose of making housing affordable.

Rental assistance Some communities offer direct assistance in the form of rental vouchers. One model subsidizes the difference between market rents and what a household can afford to pay (typically based on 30-40 percent of monthly gross income). Other programs set a maximum amount per award, such as Eastham and Provincetown that fund up to \$350 per

month for up to three years, toward an eligible tenant's rent. Lease agreements secure the lease term and voucher payments are made directly to the landlord.

Professional capacity

Increasing the supply, and access to, affordable housing is complex work. The most effective trusts tend to have paid professional support to assist in implementing action plans and goals. Professional capacity, sometimes referred to as a housing coordinator, can range from a part-time staff person or consultant to a full-time position reporting to a municipal official (e.g., planner or town administrator). In some cases, a trust hires a consultant based on an agreed-upon scope of services and fee schedule. Multiple boards have allocated trust funds to support staff time in this way, including Easton, Ipswich, Manchester-by-the-Sea, Medway, Somerville, Sudbury, and Westport.

Planning support

In addition, some boards have hired planning consultants to complete housing production plans, housing needs studies, or housing trust action plans. Housing production plans and housing needs studies provide a thorough analysis of local and regional housing needs and can help boards focus and prioritize housing trust initiatives to address the most pressing housing needs. Action plans can help the board determine funding priorities and a supporting budget.

Communities that have allocated housing trust funds to prepare housing plans include Belmont, Boxborough, Dennis, Marion, Newburyport, Provincetown, Stow, and Truro.

BEST PRACTICES TIP: Remember to contact your [regional planning agency \(RPA\)](#) to see if they have done a housing needs analysis for your area.

UNDERTAKING INITIATIVES

Boards can solicit proposals and initiate activities

IDENTIFYING PRIORITIES

Housing needs in every community are significant. Trust boards are volunteer entities, and most have limited staff support. To focus the work of the trust, boards should establish a mission statement that clarifies its role in the community. Ideally, mission statements are revisited periodically to assure that it continues to reflect the work of the trust.

Then the board can identify goals and strategies to address identified housing needs in the community. To do this, trustees can draw on existing plans in the community, including a current housing plan, master plan, community preservation plan, and/or regional housing or master plans. Trustees can prioritize ideas based on greatest local needs, feasibility, and professional capacity required. If housing data is older than five years, the board should consider engaging the regional planning agency or a housing consultant to update the community's understanding of local housing challenges.

Holding community meetings or workshops could also assist with prioritization of ideas for housing initiatives if this was not done with existing planning processes. Community engagement can also help build local support as stakeholders learn about local housing needs.

BEST PRACTICE TIP: When creating goals, using specific, measurable, achievable, relevant and time-bound (SMART) goals can help assure your objectives are met in the time frame you establish. Wellfleet's trust settled on just two goals with several strategies for reaching each one.

Wellfleet Affordable Housing Trust Goals & Strategies

Create 100 units of low/moderate income rental and homeownership housing units over the next five years.

- Issue RFP for one home at Freeman Avenue in 2021
- Provide funds to support ADU creation in 2022
- Provide funds to support 46 units at Lawrence Road 2024
- Complete 4 units at Old Kings Highway and 8 units at Paine Hollow Rd by 2024
- Acquire property for the creation of at least 20 new homes by 2025

Raise \$1 million annually from 2022-2027 for a total of \$5 million.

- Request 80% of short-term rental tax revenue
- Annual request for CPA funds
- Fundraising for donations
- Secure 1-2 additional revenue streams

SOLICITING PROPOSALS

Implementing a deliberate and public process to solicit proposals can generate project proposals to help meet the community's housing needs. The board could be specific in the type of proposals it solicits. For example, if there is a great need for affordable rental housing in the community, the board could specifically solicit proposals to create affordable rental housing. Alternatively, the board could simply ask for proposals for the broad purpose to create affordable housing.

Application process

It is a best practice to have a formal application process that is clearly defined and easily accessible. This allows trustees to fairly compare applications and it provides applicants with clarity in what the trust expects in proposals.

The Westford application allows for a voluntary pre-application in the form of a one-page summary of the project. Some communities allow for a simple pre-application, either voluntary or required, so the board can give the applicant feedback on eligibility before completing the lengthier full application.

Typically, full applications require the following information:

- Basic information about the sponsor, project, and budget
- Project summary narrative
- Sources and uses of funds
- Target population
- Type of housing (ownership, rental, and building type)
- Unit composition (# of bedrooms and income limits)
- Attachments including project budgets, team qualifications, community need, community support, evidence of site control and/or property value, site plans, permitting requirements, proposed timeline and Fair Housing documentation

When to solicit proposals

Boards can solicit projects on a rolling basis throughout the year or hold one or more funding rounds during the year. Some boards may prefer to hold funding rounds with scheduled deadlines for application submission to enable the board to compare project proposals. Other boards may prefer the flexibility of accepting applications on a rolling basis, which can allow a streamlined approval process. Ultimately, a trust's model for accepting applications may depend on funding sources and when funds are available. Boards that implement funding rounds can also accept time-sensitive projects off-cycle on an as-needed basis. Boards should be aware of the timing of state funding resources.

Evaluating proposals

Funding priorities It is helpful to applicants if the board clearly states its funding priorities. Board priorities should be based upon established community housing needs and goals as identified through planning documents such as the local housing plan, master plan, and regional or statewide plans related to development and preservation. In [Beverly's Notice of Funding Availability \(NOFA\)](#), released in December 2017, the city listed the three activities they were interested in funding, identified as needs in their housing plan: predevelopment activities, development activities and housing preservation or improvement activities.

Selection criteria It is also helpful to establish selection criteria to assist the board in its review of proposals and to provide transparency to applicants regarding how projects will be weighted and selected for funding. The selection criteria can help to structure and focus the board’s deliberations when reviewing applications and to allow objective comparison of multiple proposals. See below for details on Beverly’s selection criteria.

| Total Points | Beverly Affordable Housing Trust Fund Selection Criteria |
|--------------|---|
| 10 | The funding request is reasonable as a portion of the overall project costs and on a per-unit basis and adheres to the Trust’s Funding Guidelines. |
| 10 | The applicant has demonstrated significant leveraging of the requested Trust Funds with other public and/or private funding sources. |
| 10 | The project provides long-term affordability. |
| 10 | The project maximizes the number of households served at a range of incomes and household types. |
| 10 | The applicant is qualified to undertake the project and has demonstrated success in similar capacity with comparable projects. |
| 10 | The applicant has demonstrated appropriate site control. |
| 10 | The project provides additional public benefits such as open space, historic preservation, public safety, economic development, etc. |
| 10 | The project meets demonstrated community needs. |
| 10 | The applicant has demonstrated project support by other City boards, committees, other pertinent organizations, and Beverly citizens, as appropriate. |
| 10 | The project is consistent with goals and objectives of City planning policy documents including but not limited to the Beverly Comprehensive Master Plan, and Beverly Community Housing Plan. |

INITIATING PROJECTS & PROGRAMS

The other method for boards to undertake affordable housing efforts is to actively initiate projects or programs. Based on the identified priorities, the board could originate a project or program idea and take steps through direct actions, as well as allocation of housing trust funds, to help the idea take shape. Trust initiatives could include funding a home ownership “buy down” program, establishing a rental assistance effort or disposing of municipal land for affordable housing development. Some housing trusts have funded feasibility studies and predevelopment activities on municipal sites before releasing an RFP. Others have acquired land or buildings to support the development of affordable housing. During the COVID-19 pandemic, several housing trusts initiated emergency rental assistance programs by procuring program administrators and funding assistance.

Limitations of board’s role & responsibilities

The board’s capacity to initiate and foster projects and programs has limitations. As a volunteer board, the trust will be most effective identifying priorities and desirable initiatives, and then engaging professions (e.g., municipal staff, non-profit organizations, consultants, or developers) to assist with implementation.

The role and responsibilities of the board may vary depending on the nature of the initiative, as described below for development projects, programs, and monitoring/resales.

DEVELOPMENT PROJECTS

To initiate a development project, boards can undertake a variety of initiatives. For example, housing trust funds can be used to identify buildable property, determine feasibility, and acquire property for new development.

Land acquisition Boards can acquire property by outright purchase, at auction or by transference of tax-foreclosed properties, transference of other surplus municipal property, or donation. The trust must comply with the provisions of MGL Ch. 30B when acquiring property with the exception of property being acquired with only CPA funds; in that instance the 30B exemption in the CPA statute applies (see Section II, “Real property disposition, lease, or acquisition.”) The board can offer trust property to a qualified developer for a price below fair market value through an RFP process in compliance with M.G.L. c.30B if the primary purpose of the disposition is for affordable housing and the use of the property is restricted. By subsidizing the cost of land acquisition in this way, the board can give a substantial boost to a development’s feasibility. Boards that have acquired property and used their disposition powers to foster affordable housing development include Chelsea, Dennis, Norwell, Orleans, Sudbury, and Westport.

Predevelopment activities Boards can help minimize a developer’s risk by gathering information about the site and community before issuing a request for proposals. The board must procure third-party services for pre-development due diligence activities, in accordance with M.G.L. Ch. 30B. This may include activities that help clarify site feasibility such as soil analysis, site survey, environmental studies (usually a Phase 1 Environmental Site Assessment), wetlands delineation, title work, and housing needs assessment for the community and area. For example, the Barnstable Housing Trust awarded the Barnstable Housing Authority pre-development money for site assessment activities for an authority owned site, which led to the development of 12 affordable rental units.

Boards should be aware that if they expend money on architectural work during the pre-development process, they are subject to the state’s designer selection law, M.G.L. Ch. 7. With both architectural and site planning work, boards run the risk that those plans will not prove economically feasible or marketable and may trigger conformance with public construction laws. In some instances, communities have expended considerable sums on planning only to have difficulty finding a developer willing to carry out their development plan.

BEST PRACTICE TIP: MHP encourages communities to articulate broader design guidelines, versus being prescriptive and paying for actual architectural plans.

Private affordable housing developments Boards can allocate housing trust funds to support private affordable housing developments. These funds help fill funding gaps and show local support for a development to assist the developer in applying for state and federal resources. Sometimes the trust resources may buy greater affordability or additional affordable units in proposed private development projects. In other words, the board could pro-

vide funds to increase the share of affordable units in a mixed-income development beyond the minimum 20 percent or 25 percent required through the state’s Local Initiative Program (LIP). Or the housing trust funds could deepen affordability by reducing the housing costs for one or multiple units to be affordable to households with lower income levels than originally proposed.



The McElwain School Apartments, Bridgewater, MA

AFFORDABLE HOUSING PROGRAMS

The board can perform a critical role getting programs off the ground. Initially, boards will often research similar programs in other communities to identify successful models and best practices. Boards, either through the trustees or staff/consultants, can also create the program structure, documents, and Affirmative Fair Housing Marketing Plan. In addition, boards can allocate housing trust funds to market programs, perform income verification, select qualified applicants, and for other program implementation needs. If a program is not to be implemented in-house (through municipal/housing trust staff), the board can issue an RFP to select a consultant or organization to implement the program.

Monitoring & resales Housing trust funds can also be allocated to monitor existing affordable homeownership units and to assist with resale of the units by finding eligible buyers and/or by stepping in to acquire units in jeopardy due to lack of eligible buyers. The board of trustees, through its qualified staff or consultant, can perform these functions.

FUNDING PROJECTS

Setting up procedures for awarding funds, tracking payments, and expenditures

BOARD VOTE

The board vote to award housing trust funds should include the amount of funding awarded, a description of the project, any conditions of funding including income limits, and the funding source (e.g., CPA, HOME, CDBG, and Inclusionary Zoning).

As described in Section IV, the board will need to track sources of funds because each funding source has different eligibility and annual reporting requirements. Board votes should be in written form in the board minutes and should describe all critical aspects of the vote.

AWARD LETTER

After a board vote to approve a housing trust expenditure, it is best practice to notify the awardee in writing about the terms of the approval, to clarify what the permitted use of the funds are, what restrictions or conditions may accompany them and to describe how the funds will be distributed. This can be done through an award letter (sometimes referred to as a grant agreement) that includes the structure of the funds (i.e., loan or grant) and other terms, as described in this [sample award letter](#) from the Town of Westport.

An award letter is appropriate and advised for both private award recipients, such as a developer or organization, as well as municipal award recipients, such as the planning department or other municipal entity. The more clarity the board can provide with respect to its expectations for the use of funds, the less likely it will be that misunderstandings arise. It is much more difficult to undo an improper use of the funds than it is to ensure clear understanding from the beginning.

A note on the importance of tracking requirements of revenue sources

It is important to note that various state and federal programs impose substantive requirements, which may include the obligation to pay prevailing wage rates for construction or to seek environmental clearance from the federal or state government before funding. A board utilizing state or federal sources to fund its activities should be sure to develop familiarity with the specific requirements accompanying the use of such source(s).

REQUIRE AFFORDABILITY RESTRICTION

Housing trust funds can be awarded as a repayable loan, a deferred forgivable loan, or as payment for a contract with affordability restrictions (i.e., a contract with a landlord when providing rental assistance). Outright grants to individuals are not allowable as per the Anti-Aid Amendment to the Massachusetts Constitution. Trust funds can be loaned for development projects for short-term financing for acquisition or development soft costs or longer-term gap financing, which can help leverage state, federal, and private money. Trust funds can also be used for programs that provide loans to individuals. These programs can be formed to help with down payment or closing costs for ownership or rental assistance. In homeowner loans, a variety of structures can be used, including forgiveness over time tied to the length of time the original borrower remains in the home, or a “shared equity” arrangement in which the trust will share in the “upside” from rising property values.

Loans can also be structured to require repayment only to the extent of available cash flow and proceeds on sale or refinancing, such as was done for a development project in Groton.

The Westford Board of Trustees worked with MHP for approval to issue loans as part of [MassDocs](#). MassDocs helps to make affordable housing development more efficient by providing a common set of loan documents for projects using a variety of state and local funds and can be a good source for boards that are interested in issuing loans. The City of Somerville uses MassDocs for housing trust loans for development projects.

TERMS OF FUNDING AWARD

The award letter should clearly describe the terms of the funding award and may include the following considerations:

1. Any conditions of funding such as commitments of other funds or zoning relief.
2. Expected project/program start and completion dates.
3. The formula for phased payments (or other funding structure as explained above).
4. The level and type of affordability including number of affordable units, target populations, and the affordability levels (e.g., at or below 60 percent AMI or 80 percent AMI).
5. If the units are expected to count on the Subsidized Housing Inventory (SHI), under what program and who should be responsible for the state’s approval process.
6. The term of any deed restrictions (e.g., 30 year or perpetual).
7. The procedure for requesting payments (described more below).
8. Any requirements for submitting project status reports to the board.
9. Repayment requirements if project does not proceed as proposed.

ISSUING PAYMENTS

Payments from the housing trust fund are issued through the municipality’s customary procedures for issuing payments from other municipal accounts. Typically, invoices may be submitted after the award letter is issued and signed by the awardee. The board should work

with municipal officials to determine to which municipal office to direct awardees to submit payment requests.

BEST PRACTICES TIP: Require trustee approval of payments.

It is a good practice to require that a member of the board, such as the treasurer or chair, or a member of the board's staff, sign-off on invoices prior to processing payments. This practice provides a reasonable layer of oversight to ensure payments are for approved expenditures and to monitor the use of funds. The board, which has a greater familiarity with the project, will be more likely than the municipal accountant or treasurer to identify any issues.

TRACKING EXPENDITURES & CONDITIONS

The board will benefit from detailed tracking of all housing trust expenditures to ensure transparency and provide for easy reporting. The board, through its treasurer, should work closely with the municipal accountant (or comptroller) to issue regular revenue and expenditure reports that clearly account for sources of revenue, particularly the use of CPA revenue. For housing trusts with CPA allocations, the board of trustees will need to issue a report to the Community Preservation Committee on an annual basis (prior to September 15) documenting all expenditures of CPA funds, as described in more detail in Section IV.

The board should also create a tracking system for conditions of approved grants, including time constraints, triggers for repayments, and other funding or permitting approvals needed to leverage trust funding. The tracking system should note the source of funding and any corresponding conditions for use. The board should designate someone to be responsible for the tracking and reporting of the trust's activities. Tracking reports should be part of the regular board package and changes should be reviewed regularly.

The more time and effort spent to create an operating structure for the trust that reflects relative laws and regulations, the more productive and successful the trust will be in the long run. Consistent training and information sharing with the board is imperative to long-term success. And it cannot be stressed enough that the most effective housing trusts are operated with transparency, strong communication, clear and strategic priorities, and professional capacity.

The following are examples from communities around the state that reflect the range of activities possible for trusts.

DEVELOPMENT

There is a growing portfolio of trusts that have supported the creation of affordable housing. These developments vary from very small to substantial in size. Sometimes the developments involve municipal land that was either transferred to the trust or that the trust was engaged in the disposition of for affordable housing. Other times the trust allocates funds to a privately initiated development. To support the creation of affordable housing, communities often need to be actively engaged through advocacy, zoning changes, and funding.

Chelsea

In 2019, the City of Chelsea filed legislation to allow the transfer of property taken for non-payment of property tax to the local affordable housing trust fund, specifically to expand the local stock of affordable housing. The act was passed in 2020, [Session Law - Acts of 2020 Chapter 192](#) and the trust has prioritized using tax title properties for homeownership.

The first property transferred to the trust was 41-43 Orange Street, two parcels with a combined area of 0.13 acre. Initial due diligence was performed, including Phase I and Phase II environmental site assessment and a site survey. The trust engaged the community using the online platform, co-Urbanize. Then an RFP was released in late 2022 to convey the property for the design, construction and sale of affordable homeownership units at the site.

The chosen proposal is a partnership of two organizations that will provide ongoing support to the homeowners. And the city will require a deed restriction that is similar to one used for Chelsea's inclusionary zoning program. For Chelsea, this program is a neighborhood stabilization strategy, designed to use municipal land to support lower income households in becoming homeowners.

Medway

When a regional non-profit housing developer, Metro West Collaborative Development (CD), originally proposed a 32-unit affordable housing development on an empty parcel in Medway, town leaders encouraged the agency to expand its original concept. They asked Metro West CD to do more.

Metro West CD expanded the development to three additional adjacent parcels to allow for a 92-unit intergenerational campus, developed in two phases. Medway granted a Comprehensive (Chapter 40B) permit and committed more than \$2 million in CPA and trust fund resources.

Phase one of the development created 48-units of rental housing for families and individuals and phase two includes 44 units of rental housing for seniors. The development includes laundry rooms, management offices and community spaces. Outside the site provides play areas and equipment, a bus shelter, and bike storage.



Glen Brook Way, 92-unit development in Medway (photos courtesy of Metro West Collaborative Development)

PROGRAMS

Many trusts support programs that increase access to affordable housing for low-and-moderate income households. Programs can be structured in a myriad of ways, but a best practice is to hire a professional consultant or organization with expertise to implement the program.

Homeownership “Buy-down”

These programs are small-scale homeownership initiatives that assist income-qualified households in purchasing an existing home in the community. They are structured in a variety of ways and may focus on different income levels depending on the funding source and interest of the community.

In Norfolk, the trust has historically taken ownership of modest homes, invested in necessary repairs and then held a lottery to sell the homes to an income-qualified household. Appropriate procurement practices must be followed when the trust expects to take title of a home. Sudbury’s trust instead negotiates a sale price, identifies a buyer through a lottery and then contributes the difference between the negotiated sale price and the price affordable to a household earning 80 percent of the area median income. Both of these communities work with EOHLC through the Local Action Unit (LAU) program to add the homes to the SHI.

Other trust “buy-down” programs, such as Leverett, Wellfleet, and Yarmouth, run a lottery to allocate a “voucher” worth a set amount that the buyer then uses when searching for a home to purchase. During a lottery round in 2020, Yarmouth offered two grants worth up

to 35 percent of the home price, or up to \$150,000, and one grant of up to 35 percent of the home price, or up to \$100,000 (whichever was less).

Buy down programs require significant program management, best provided by paid, experienced support. And if the trust intends to add units to the SHI, an [Affirmative Fair Housing Marketing Plan](#) will be required by EOHLIC.

While these programs add units slowly and for a high cost per unit, they can be a useful piece of a comprehensive housing strategy.

Rehabilitation*

Rehabilitation programs can be challenging because the funding allocation is often not great enough to justify an affordable deed restriction, but the community needs to show a public benefit as per the Anti-aid Amendment to the Massachusetts Constitution. Some communities may require a shorter-term restriction or allow the loan to be forgiven overtime with a requirement that it be repaid if the home is sold before the end of the term of the agreement.

Most trust administered rehabilitation programs are small in scale (under \$5,000 allocations), such as Easton and Scituate. Westport has a Housing Rehabilitation Program that offers up to \$50,000 for work that eliminates or corrects safety code violations, reduces homeowners energy costs, improves accessibility for persons with disabilities or other necessary building repairs. Funds are structured as zero interest loans that are forgivable at a rate of 10 percent per year over 10 years. In addition, homes rehabilitated through the program are subject to an Affordable Housing Restriction that restricts resale of the home for 10 years.

**CPA funds can only be used for rehabilitation expenses if housing was acquired or created using CPA resources.*

Rental Assistance

During the COVID-19 pandemic, several housing trusts initiated local emergency rental assistance programs. Most local programs contracted with consultants or non-profit organizations to manage program design, marketing, application screening, due diligence, and fund allocation. A few communities had internal capacity to manage the program.

Some housing trusts continue to invest in rental assistance. Gloucester's housing trust contracts with a regional non-profit to offer up to \$4,500 per eligible household that is experiencing housing instability due to a temporary barrier such as job loss, rent increase health or mental crisis, and loss of daycare. [The program](#) allows funds to be used for current rent or rent arrears. Household earning up to 80 percent area median income with no more than \$10,000 in assets may be eligible for support.

ADMINISTRATIVE

Staff and Professional Support

Many housing trusts have administrative support. In some communities, this may be a municipal staff person that provides assistance with communicating between boards, posting meeting agendas and minutes, and other tasks to support the creation of affordable housing. Planning and Community Development departments or town planners often work with housing trusts on projects such as updating a housing production plan or needs analysis,

identifying municipal sites for affordable housing, and developing policy parameters for efforts like inclusionary zoning.

Trusts often hire a consultant or non-profit organization to run programs such as rental assistance or buy down initiatives.

Collaborative Housing Efforts

Shared housing services organizations (SHSO) are collaborative, multi-jurisdictional organizations that provide cost-effective and proactive management and monitoring of affordable housing for participating member communities. An SHSO augments existing staff's capacity by providing the expertise and staffing needed to manage and monitor affordable housing on a continual basis. It also provides a platform for regional sharing of ideas, approaches, and strategies.

There are currently three [SHSO organizations](#) in MA: Regional Housing Services Office (based in Concord), Assabet Regional Housing Consortium (with Hudson the lead community and Metro West Collaborative Development the service provider) and Metro North Regional Housing Services Office (based in Reading).

Additionally, communities on Cape Cod have exhibited a willingness to invest in affordable housing developments in neighboring communities, knowing that more affordable rental housing benefits the whole region. In Eastham, the 65-unit multifamily development, Village at Nauset Green, received \$100,000 each from Wellfleet and Orleans, along with significant funding from Eastham. All 65 units will be credited to Eastham on the SHI.



Village at Nauset Green, Eastham, MA

APPENDIX A

MAHT FUND LAW (M.G.L. c. 44, § 55C)

General Law - Part I, Title VII, Chapter 44, Section 55C

Section 55C. (a) Notwithstanding section 53 or any other general or special law to the contrary, a city or town that accepts this section may establish a trust to be known as the Municipal Affordable Housing Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of affordable housing in municipalities for the benefit of low- and moderate-income households and for the funding of community housing, as defined in and in accordance with the provisions of chapter 44B. Acceptance shall be by majority vote of the municipal legislative body under section 4 of chapter 4.

(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board. Trustees shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the board of selectmen, shall serve for a term not to exceed 2 years, and are designated as public agents for purposes of the constitution of the commonwealth. Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

(c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but a city or town may, by ordinance or bylaw, omit or modify any of these powers and may grant to the board additional powers consistent with this section:

(1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or bylaw or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the trust, and such funds shall be accounted for separately by the trust; and provided further, that at the end of each fiscal year, the trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the community preservation committee of the city or town for inclusion in the community preservation initiatives report, form CP-3, to the department of revenue.

(2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

(3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;

(4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;

(5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;

(6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;

(7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

(8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

(9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;

(10) to carry property for accounting purposes other than acquisition date values;

(11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;

(12) to make distributions or divisions of principal in kind;

(13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;

(14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

(15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

(16) to extend the time for payment of any obligation to the trust.

(d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or bylaw, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.

(e) The trust is a public employer and the members of the board are public employees for purposes of chapter 258.

(f) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of chapter 268A.

(g) The trust is exempt from chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

(h) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.

(i) The trust is a governmental body for purposes of sections 23A, 23B and 23C of chapter 39.

(j) The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.

APPENDIX B

INSPECTOR GENERAL PROCUREMENT CHARTS



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The Office of the Inspector General (Office) created the following charts for the easy reference of Massachusetts public procurement procedures. The charts are meant to provide a general overview of the principal public procurement statutes and are not a substitute for reviewing the statute or obtaining the advice of legal counsel. Also, your local rules may include stricter or additional requirements that you must follow. Contact your chief procurement officer or legal counsel for advice on your local rules and procurement procedures. For more information about the procurement laws, consult the statutes, review our procurement manuals and related information or contact the Chapter 30B Technical Assistance hotline. For more information about the resources mass.gov/ig

Note: The Office updated the charts to reflect the changes to M.G.L. c. 30B effective November 25, 2022, pursuant to the passage of [Chapter 198 of the Acts of 2022](#), *An Act Relative to School Operational Efficiency*.

The charts include:

- [M.G.L. c. 149](#) – Building Construction Contracts
- [M.G.L. c. 30, § 39M](#), or [M.G.L. c. 30B](#) – Public Works (non-building) Construction Contracts (with labor)
- [M.G.L. c. 30, § 39M](#), or [M.G.L. c. 30B](#) – Construction Materials Procurements (without labor)
- [M.G.L. c. 7C, §§ 44-58](#) – Design Services for Public Building Projects:
 - Cities, Towns, Regional School Districts and Horace Mann Charter Schools
- [M.G.L. c. 30B](#) – Procurement of Supplies and Services

Any suggestions for the charts or questions concerning M.G.L. c. 30B (Chapter 30B) may be directed to this Office by calling (617) 722-8838 or by emailing us at 30BHotline@mass.gov. Questions concerning M.G.L. c. 149, M.G.L. c. 30, § 39M, and M.G.L. c. 7C should be directed to the Office of the Attorney General by calling (617) 963-2371 or your legal counsel. Thank you.

Additional information is available from the following sources:

- Prevailing wage rate sheets may be requested online at <http://www.mass.gov/lwd/labor-standards/prevailing-wage-program/> or by calling the Department of Labor Standards at (617) 626-6953.
- *Central Register* advertisements must be submitted to the Secretary of the State's Office online at <http://www.sec.state.ma.us/spr/sprcentral/infosubmit.htm>.
- *Goods and Services Bulletin* advertisements must be submitted the Secretary of the State's Office online at <http://www.sec.state.ma.us/sprpublicforms/GSSubmissionform.aspx>.
- COMMBUYS postings must be completed at www.commbuys.com.

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M.G.L. c. 149 – Building Construction Contracts

| Estimated Contract Amount | Under \$10,000 | \$10,000 to \$50,000 | Over \$50,000 to \$150,000 | Over \$150,000 | Over \$10,000,000 |
|--|---|--|--|--|---|
| Procurement Procedure | Sound business practices (as defined in M.G.L. c. 30B, § 2). ¹ | Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work. | Sealed bids (using M.G.L. c. 30, § 39M). | Sealed bids (using M.G.L. c. 149, §§ 44A – 44J). | Solicit statements of qualifications prior to soliciting sealed bids (using M.G.L. c. 149, §§ 44A – 44J). |
| Notice/Advertising Requirements | None. | Post a notice at least two weeks before responses are due on 1) your jurisdiction’s website; 2) COMMBUYS; 3) in the <i>Central Register</i> ; and 4) in a conspicuous place near your office. ² | Post a notice 1) in your jurisdiction’s office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. ³ | Post a notice 1) in your jurisdiction’s office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. ⁴ | Advertise the request for qualifications at least two weeks before responses are due (1) in a newspaper; (2) in the <i>Central Register</i> ; and (3) on COMMBUYS. ⁵ |
| DCAMM Certification | No. | No. | No. | Yes. General bidders if more than \$150,000 and filed sub-bidders if more than \$25,000. | Yes. General bidders if more than \$150,000 and filed sub-bidders if more than \$25,000. |
| OSHA Training | No. | Yes. | Yes. | Yes. | Yes. |
| Prequalification | No. | No. | No. | Optional. ⁶ | Yes. |
| Bid Sub-bids | No. | No. | No. | Yes, if more than \$25,000. | Yes, if more than \$25,000. |
| Filed Deposit | No. | No. | 5% of the value of the total bid. | 5% of the value of the total bid or sub-bid. | 5% of the value of the total bid or sub-bid. |
| Payment Bond | No. | 50% payment bond if contract is >\$25,000. ⁷ | 50% payment bond. | 100% payment bond. | 100% payment bond. |
| Performance Bond | No. | No. | No. | 100% performance bond. | 100% performance bond. |
| Prevailing Wage | Yes. | Yes. | Yes. | Yes. | Yes. |
| Contractor Evaluation | No. | No. | No. | Yes. | Yes. |
| OSD or Blanket Contract Option | Yes. | Yes. | No. | No. | No. |

¹ M.G.L. c. 149, § 44A(2)(A), as amended by Chapter 218 of the Acts of 2016, M.G.L. c. 30B, § 2, defines sound business practices as “ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.”

² M.G.L. c. 149, § 44A(2)(B), as amended by Chapter 218 of the Acts of 2016.

³ M.G.L. c. 149, § 44J, as amended by Chapter 218 of the Acts of 2016.

⁴ M.G.L. c. 149, § 44J, as amended by Chapter 218 of the Acts of 2016.

⁵ The advertising procedures listed pertain only to the request for qualifications. Within 14 days of the completion of the prequalification process, you are required to post a notice in your jurisdiction and on COMMBUYS listing those general contractors and subcontractors that have been prequalified. A copy of the notice must be sent via first class mail, postage pre-paid, to all prequalified general and subcontractors along with an invitation to bid. The invitation to bid must have a deadline of at least two weeks. Although you may only consider bids from those general and subcontractors who have been prequalified, the advertising requirements for building construction contracts over \$150,000 apply.

⁶ If you decide to use the optional prequalification process for projects over \$100,000, follow the procedures listed in the “Over \$10,000,000” column. (Note: The prequalification threshold was not raised in 2016.)

⁷ M.G.L. c. 149, § 29.

M.G.L. c. 30, § 39M, or M.G.L. c. 30B, § 5 – Public Works (Non-Building) Construction Contracts (With Labor)

| Estimated Contract Amount | Under \$10,000 | \$10,000 to \$50,000 | \$50,000 or less | Over \$50,000 |
|--|---|--|--|--|
| | M.G.L. c. 30, § 39M | M.G.L. c. 30, § 39M | M.G.L. c. 30B, § 5 Option ¹ | M.G.L. c. 30, § 39M |
| Procurement Procedure | Sound business practices (as defined in M.G.L. c. 30B, § 2). ² | Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work. ³ | Sealed bids. | Sealed bids. |
| Notice/Advertising Requirements | None. | Post a notice at least two weeks before responses are due on 1) your jurisdiction’s website; 2) COMMBUYS; 3) in the <i>Central Register</i> ; and 4) in a conspicuous place near your office. ⁴ | Post a notice at least two weeks before bids are due 1) in your jurisdiction’s office, and publish 2) in a newspaper; 3) on COMMBUYS; and 4) in the <i>Central Register</i> . ⁵ | Post a notice 1) in your jurisdiction’s office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. ⁶ |
| OSHA Training | No. | Yes. | Yes. | Yes. |
| Prequalification | No. | No. | No. | Maybe. ⁷ |
| Bid Deposit | No. | No. | No. | 5% of the value of the total bid. |
| Payment Bond | No. | 50% payment bond if contract is more than \$25,000. ⁸ | 50% payment bond if contract is more than \$25,000. ⁹ | 50% payment bond. |
| Performance Bond | No. | No. | No. | No. |
| Prevailing Wage | Yes. | Yes. | Yes. | Yes. |
| OSD or Blanket Contract Option | Yes. | Yes. | No. | No. |

¹ Authorized by M.G.L. c. 30, § 39M(d).

² M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016, M.G.L. c. 30B, § 2, defines sound business practices as “ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.”

³ M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.

⁴ M.G.L. c. 30, § 39M, as amended by Chapter 218 of the Acts of 2016.

⁵ M.G.L. c. 30B, § 5, and M.G.L. c. 9, § 20A.

⁶ M.G.L. c. 149, § 44J.

⁷ Although M.G.L. c. 30, § 39M, does not mandate a contractor prequalification process, prequalification of bidders by the Massachusetts Department of Transportation is required for contracts of \$50,000 or more (1) if the awarding authority receives State Aid funds under M.G.L. c. 90, § 34; or (2) the work is on a state road, regardless of whether the awarding authority receives State Aid funds under M.G.L. c. 90, § 34.

⁸ M.G.L. c. 149, § 29.

⁹ M.G.L. c. 149, § 29.

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M.G.L. c. 30, § 39M, or M.G.L. c. 30B, § 5 – Construction Materials Procurements (Without Labor)

| Estimated Contract Amount | Under \$10,000 | \$10,000 to \$50,000 | Over \$50,000 | Any Amount |
|--|---|--|--|--|
| | M.G.L. c. 30, § 39M | M.G.L. c. 30, § 39M | M.G.L. c. 30, § 39M | M.G.L. c. 30B, § 5 Option ¹ |
| Procurement Procedure | Sound business practices (as defined in M.G.L. c. 30B, § 2). ² | Use a written scope-of-work statement to solicit written responses from no fewer than 3 persons who customarily perform such work. | Sealed bids. | Sealed bids. |
| Notice/Advertising Requirements | None. | Post a notice at least two weeks before responses are due on 1) your jurisdiction's website; 2) COMMBUYS; 3) in the <i>Central Register</i> ; and 4) in a conspicuous place near your office. ³ | Post a notice 1) in your jurisdiction's office for at least one week before bids are due; and, at least two weeks before bids are due, publish 2) in the <i>Central Register</i> ; 3) in a newspaper; and 4) on COMMBUYS. ⁴ | Post a notice at least two weeks before bids are due 1) in your jurisdiction's office, and publish 2) in a newspaper; 3) on COMMBUYS; and 4) in the <i>Central Register</i> . ⁵ |
| OSHA Training | No. | No. | No. | No. |
| Prequalification | No. | No. | No. | No. |
| Bid Deposit | No. | No. | 5% of the value of the total bid. | No. |
| Payment Bond | No. | 50% payment bond if contract is more than \$25,000. ⁶ | 50% payment bond. | 50% payment bond if contract is more than \$25,000. ⁷ |
| Performance Bond | No. | No. | No. | No. |
| Prevailing Wage | No. | No. | No. | No. |
| OSD Option | Yes. | Yes. | Yes. | No. |
| Blanket Contract Option | Yes. | Yes. | No. | No. |

¹ Authorized by [M.G.L. c. 30, § 39M\(d\)](#).

² [M.G.L. c. 30, § 39M](#), as amended by Chapter 218 of the Acts of 2016. M.G.L. c. 30B, § 2, defines sound business practices as "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes."

³ [M.G.L. c. 30, § 39M](#), as amended by Chapter 218 of the Acts of 2016.

⁴ [M.G.L. c. 149, § 44J](#).

⁵ [M.G.L. c. 30B, § 5](#), and [M.G.L. c. 9, § 20A](#). (Note: If the procurement will exceed \$100,000, and the materials will be purchased for the purpose of stockpiled inventory and will not be used in conjunction with a specific project, at least two weeks before bids or proposals are due, publish in the *Goods and Services Bulletin*.)

⁶ [M.G.L. c. 149, § 29](#).

⁷ [M.G.L. c. 149, § 29](#). (Note: If the materials will be purchased for the purpose of stockpiled inventory and will not be used in conjunction with a specific project, you do not need to obtain a payment bond.)

**M.G.L. c. 7C, §§ 44-58 – Design Services for Public Building Projects:
Cities, Towns, Regional School Districts and Horace Mann Charter Schools¹**

| Estimated Design Fee (EDF)/Estimated Construction Cost (ECC) | EDF less than \$30,000 or ECC less than \$300,000 | EDF \$30,000 or more and ECC \$300,000 or more |
|---|---|---|
| Procurement Procedure | None. Recommend soliciting qualifications and prices from at least three designers. | Qualifications-based selection process. Jurisdiction must either (1) set the design fee; or (2) set a not-to-exceed fee limit and then negotiate the fee with the top-ranked designer within the fee limit. |
| Advertising Required | No. | Advertise in the <i>Central Register</i> and your local newspaper at least two weeks before the deadline for filing applications. |
| Designer Selection Board¹ | No. | No – adopt selection procedure in writing. ^{2,3} |
| Designer Application | No. | Yes. See Designer Selection Procedures for Municipalities . Use "Standard Designer Application Form for Municipalities and Public Agencies not within DSB Jurisdiction (Updated July 2016)" |
| Designer Evaluation (Submit to DCAMM and Designer Selection Board) | No. | Yes. See Designer Evaluation Forms & Information for Municipalities and Agencies |
| Registration | Yes. | Yes. |
| Insurance | No. | At a minimum, the lesser of \$1 million or 10% of the project's estimated cost of construction. ⁴ |
| Prevailing Wage | No. | No. |

¹ Executive Departments of the Commonwealth and Commonwealth charter schools are subject to the jurisdiction of the Designer Selection Board when the design fee is \$30,000 or more and the estimated construction cost is \$300,000 or more.

² Cities, towns, school districts and Horace Mann charter schools are required to adopt their own procedures for selecting designers for building projects. These procedures must conform to the purposes and intent of the designer selection process as outlined in [M.G.L. c. 7C, §§ 44 – 58](#), and noted herein. See this Office's [Model Designer Selection Procedures for Municipalities and Other Local Public Agencies](#).

³ Housing Authorities must follow the procedures established by the Department of Housing and Community Development for the design of state-funded housing. Projects requesting funding from the Massachusetts School Building Authority (MSBA) are subject to MSBA rules.

⁴ [M.G.L. c. 7C, § 51](#).

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M.G.L. c. 30B – Procurement of Supplies and Services

| Estimated Contract Amount | Under \$10,000 | \$10,000 to \$50,000 | Over \$50,000 |
|--|--|--|---|
| Procurement Procedure | Sound business practices. ¹ | Use a written purchase description to solicit written price quotations from no fewer than 3 persons who customarily provide the supply or service. ² As of November 25, 2022, the price quotation threshold changed for municipal or regional school districts only from \$10,000 to \$100,000. ³ NOTE: A governmental body may require that any procurement in an amount of not more than \$50,000 be subject to sealed bid procedures under M.G.L. c. 30B, § 5. | Sealed bids or sealed proposals (M.G.L. c. 30B, §§ 5 or 6). NOTE: At more than \$100,000 a municipal or regional school district must use a sealed bid or sealed proposal. |
| Notice/Advertising Requirements | None. | None. | Post a notice at least two weeks before bids or proposals are due in (1) your jurisdiction's office, and publish at least two weeks before bids or proposals are due in a (2) newspaper, and (3) on COMMBUYS. If the procurement will exceed \$100,000, at least two weeks before bids or proposals are due, publish in the <i>Goods and Services Bulletin</i> . |
| Award contract to: | Responsible and responsive person offering the best price. | Responsible and responsive person offering the needed quality of supply or service at the lowest price quotation. | Under § 5, the responsible ⁴ and responsive ⁵ bidder offering the best price. Under § 6, the most advantageous proposal from a responsible and responsive proposer taking into consideration price and non-price proposals. |
| Written Contract Required⁶ | No. | Yes. | Yes. |
| Maximum Contract Term⁷ | Three years, unless majority vote authorizes longer. | | |
| OSD Option | Yes. | | |

¹ M.G.L. c. 30B, § 2, defines sound business practices as "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes."

² M.G.L. c. 30B, § 4, as amended by Chapter 218 of the Acts of 2016, requiring the procurement officer to record the names of all persons from whom quotations were sought and submitted with the date and amount of each quotation.

³ M.G.L. c. 30B, § 5, as amended by Chapter 198 of the Acts of 2022, authorizing a procurement officer for "a municipal or regional school district" to procure a supply or service at more than \$100,000 with a sealed bid procedure.

⁴ M.G.L. c. 30B, § 2, defines a responsible bidder or offeror as "a person who has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance."

⁵ M.G.L. c. 30B, § 2, defines a responsive bidder or offeror as "a person who has submitted a bid or proposal which conforms in all respects to the invitation for bids or request for proposals."

⁶ M.G.L. c. 30B, § 17(a), states that all "contracts in the amount of \$10,000 or more shall be in writing, and the governmental body shall make no payment for a supply or service rendered prior to the execution of such contract."

⁷ M.G.L. c. 30B, § 12(b), states "Unless authorized by majority vote, a procurement officer shall not award a contract for a term exceeding three years, including any renewal, extension, or option."



AMESBURY AFFORDABLE HOUSING TRUST

DECLARATION OF TRUST

THIS DECLARATION OF TRUST is executed as of the 30th day of June, 2021 by **Kassandra Gove, Steve Stanganelli, Nancy Frick, Kerry Hamel-Pope, Margaret Hoffman, and Floris Pamphile, as Trustees of the Amesbury Housing Trust**, hereinafter called the Trustees.

WHEREAS, The City Council of Amesbury, with Mayoral approval, has authorized the establishment of an affordable housing trust fund pursuant to the provisions of General Laws Chapter 44, Section 55C; and

WHEREAS, it is the intention of the Trustees to establish a comprehensive trust in accordance with the provisions of General Laws Chapter 44, Section 55C; and

WHEREAS, all monies received by the Trust shall be considered available for the purposes of accomplishing the mission of providing for the preservation and creation of affordable housing in the City of Amesbury for the benefit of low and moderate income households.

THEREFORE, in consideration of the agreements contained in this Trust, and the requirements of General Laws Chapter 44, Section 55C, the Trustees hereby acknowledge and agree for themselves and their successors in trust to hold the same, together with such other property and funds as may be added thereto, for the purposes hereof in trust for the benefit of the City of Amesbury, in the manner and under the terms and conditions set forth herein.

ARTICLE I: ESTABLISHMENT OF TRUST

Pursuant to the authority of General Laws Chapter 44, Section 55C, there is hereby created a local municipal affordable housing trust fund to be known as the "Amesbury Housing Trust" (the "Trust").

ARTICLE II: PURPOSE OF TRUST

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the City of Amesbury for the benefit of low and moderate income households and for the funding of community housing, as defined in and in accordance with the provisions of General Laws Chapter 44B.

ARTICLE III: APPOINTMENT AND TENURE OF TRUSTEES

There shall be a Board of Trustees (the "Board") consisting of no fewer than five and no more than nine Trustees, and one of the Trustees shall be the Mayor. The remaining Trustees shall be appointed by the Mayor with City Council approval. At least one of the Trustees shall be a member of the City Council, who shall serve as the representative of the City Council. Notwithstanding anything to the contrary herein, and even if Massachusetts law would otherwise allow for the Trustees to be compensated, the Trustees of this Trust shall receive no salary and shall remain uncompensated for their services, in keeping with the volunteer nature of the service to Amesbury rendered by many of the other boards and commissions appointed to serve the city of Amesbury. However, if authorized by rule or regulation lawfully adopted by the Board, Trustees may receive reimbursement of their reasonable and lawful expenses.

Trustees shall be appointed for a two (2) year term, such term to end on April 30 of the expiration year or until such time as a successor is appointed, should said appointment be delayed. Two of the initial Trustee appointments shall be for a term of one (1) year, and may be re-appointed at the discretion of the Mayor with City Council approval. Trustees may be appointed for no more than five (5) consecutive terms. In the event of a vacancy in the position of Trustee, the appointment shall be made in the same manner as the original appointment.

All Trustees must be current residents of Amesbury upon initial appointment. Any Trustee who ceases to be a resident of the City of Amesbury shall promptly provide a written notification of the change in residence to the Trust and to the City Clerk. Said Trustee may continue to serve with the approval of the remaining Trustees, and may be reappointed by the Mayor with City Council approval. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the City Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Mayor with City Council approval to fill such vacancy provided that, in each case, the appointment and acceptance in writing by the Trustee so appointed is filed with the City Clerk. No such appointment shall be required so long as there are five (5) Trustees then in office. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees.

ARTICLE IV: MEETINGS OF THE TRUSTEES

The Board shall meet at least quarterly at such time and such place as the Trustees shall determine. Special meetings may be called by the Chairperson or by any two (2) Trustees. Notice of any meeting of the Trust shall be filed with the City Clerk and posted in accordance with the Open Meeting Law, General Laws Chapter 39, Sections 23A, 23B and 23C.

A quorum of the Board shall be the majority of the number of authorized Trustees.

The Board shall regularly elect one (1) Trustee who shall not be a member of the City Council to serve as Chairperson. The Chairperson may establish sub-committees and/or ad hoc task related committees to carry out the purposes of the Trust. Chairpersons of the sub-committees may be selected by the members of the sub-committees.

If any Trustee is absent from five (5) consecutive regularly scheduled meetings of the Trust, except in the case of illness, his position shall be deemed vacant and shall be filled with a new appointment as set forth above.

ARTICLE V: ACTS OF TRUSTEES

A majority of the Trustees may exercise any or all of the powers of the Trustees hereunder, provided a quorum is present, and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust estate.

ARTICLE VI: POWERS OF TRUSTEES

The Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of General Laws Chapter 44, Section 55C (Municipal Affordable Housing Trust Fund) as outlined below except that it shall have no ability to borrow money, or mortgage or pledge Trust assets, purchase, sell, lease, exchange, transfer or convey any interest in real property without prior approval of the Amesbury City Council with Mayoral approval:

1. To accept and receive real property, personal property or money, by gift, grant, contributions, devise, or transfer from any person, firm, corporation or other public entity or organization or tendered to the Trust in connection with provisions of any ordinance or by-law or any General Law or Special Act of the Commonwealth or any other source including money from General Laws Chapter 44B (Community Preservation);
2. With City Council and Mayoral approval of a Board recommendation, to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Board deems advisable notwithstanding the length of any such lease or contract;
3. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
4. With City Council and Mayoral approval of a Board recommendation, to borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge Trust assets as collateral to the extent of the

Trust's assets; and subject to 2/3 vote at any regular or special City Council meeting with Mayoral approval, to do the same for greater than the extent of the Trust's assets;

5. To construct, manage or improve real property; and to abandon any property which the Board determines not to be worth retaining;
6. With City Council and Mayoral approval of a Board recommendation, to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
7. To hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate;
8. To become the lottery and monitoring agent for affordable housing and accept compensation for those services into the Fund;
9. To monitor the expiring use of any affordable housing in Amesbury;
10. To compensate City employees for services provided as authorized by the Mayor, including but not limited to dedicated staff to the Board, engineering support for project specific activities, and other City services, as requested by the Board to the Mayor;
11. To employ advisors and agents, including but not limited to accountants, appraisers and lawyers as the Board deems necessary;
12. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;
13. To participate or join or form a partnership, corporation or any other legally organized entity to accomplish the purposes of this Trust and to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or entity;
14. To apportion receipts and charges between incomes and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
15. To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
16. To carry property for accounting purposes other than acquisition date values;

17. To make distributions or divisions of principal in kind;
18. To extend the time for payment of any obligation to the Trust;
19. To establish criteria and/or qualifications for recipients and expenditures in accordance with the Trust's stated purposes; and
20. To compromise, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Board may deem appropriate.

Notwithstanding anything to the contrary herein, City Council and Mayoral approval shall be required for any of the following actions:

- (a) To purchase real or personal property;
- (b) To sell, lease, exchange, transfer or convey any personal, mixed, or real property; and
- (c) To borrow money, or to mortgage or pledge Trust assets as collateral to the extent of the Trust's assets.

Notwithstanding anything to the contrary herein, the Board may not borrow, mortgage or pledge greater than the current Trust assets unless approved by a 2/3 vote at any Regular or Special Amesbury City Council Meeting with Mayoral approval.

The Board shall have full power and authority, at any time and from time to time and without the necessity of applying to any court for leave to do so, to expend the 100% of the Trust funds, both principal and interest, to the extent that all funds hereunder may be expended if the Board deem such expenditure appropriate. All expenditures shall be made in conformance with the terms of this Trust and General Laws Chapter 44, Section 55C.

ARTICLE VII: LIABILITY OF TRUST

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the City, except in the manner specifically authorized herein. The Trust is a public employer and the Trustees are public employees for the purposes of General Laws Chapter 268A. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of General Laws Chapter 268A.

ARTICLE VIII: TREASURER/COLLECTOR AS CUSTODIAN

The City of Amesbury Treasurer/Collector shall be the custodian of the Trust's funds and shall maintain separate accounts and records for said funds. He or she shall invest the funds in the manner authorized by General Laws 44, Section 55 (Public Funds on Deposit; Limitations;

Investments), Section 55A (Liability of Depositor for Losses Due to Bankruptcy), and Section 55B (Investment of Public Funds).

Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust.

Expenditures by the Board shall be processed through the warrant but shall be controlled by the provisions of General Laws Chapter 44, Section 55C. The yearly approved budget, and any approved budget revisions will be recorded by the City Treasurer/Collector.

As custodian, the Treasurer/Collector shall issue checks as directed by the Board. In accordance with General Laws Chapter 44, Section 55C, the books and records of the Trust shall be audited regularly by an independent auditor in accordance with accepted accounting practices. The Trust shall be audited as part of the City audit.

ARTICLE IX: DURATION OF THE TRUST

In accordance with the provisions of City Council Bill No. 2012-046, as approved on October 9, 2012, the duration of the Amesbury Housing Trust shall be extended to and terminate on December 31, 2032, unless its duration is further extended by majority vote of the City Council and approval of the Mayor. Notwithstanding the foregoing, the Trust may be terminated by a majority vote of the City Council, provided that an instrument of termination together with a certified copy of the City Council vote are duly recorded with the Essex South District Registry of Deeds and the Land Court.

Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the City and held by the City for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the City Council, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind.

The powers of the Trustees shall continue until the affairs of the Trust are concluded.

ARTICLE X: RECORDING

This Declaration of Trust shall be recorded with the Essex South District Registry of Deeds and the Land Registration Office.

ARTICLE XI: AMENDMENTS

This Declaration of Trust may be amended from time to time except as to those provisions specifically required under General Laws Chapter 44, Section 55C, by instrument in writing signed by the City Council and by 2/3rds of the Trustees and approved at a meeting called for that purpose, provided that in each case, a certificate of amendment has been recorded with the Essex South District Registry of Deeds and filed with the Land Registration Office.

ARTICLE XII: RECORDS TO BE CONCLUSIVE, CERTIFICATE AS TO FACTS

Every contract, deed, mortgage, lease, and other instrument executed by a majority of the Trustees as appears from instruments or certificates recorded with said Registry of Deeds and Land Registration Office to be Trustees hereunder shall be conclusive evidence in favor of any person relying thereon or claiming thereunder, that at the time of the delivery thereof this Trust was in full force and effect and that the execution and delivery of such instrument was duly authorized by the Trustees except that instruments of amendment pursuant to Article XI shall be conclusive only if it appears that amendments have been executed by the City Council and by 2/3rds of the Trustees and an instrument of termination pursuant to Article IX shall be conclusive only if it appears that the termination has been effected by the required vote of City Council. Any person dealing with the Trust property or the Trustees may always rely on a certificate signed by any person appearing from instruments or certificates so recorded to be a Trustee hereunder as to the identity of the then current Trustees or as to the existence or non-existence of any fact or facts which constitute conditions precedent to acts by the Trustees or in any other manner germane to the affairs of the Trust.

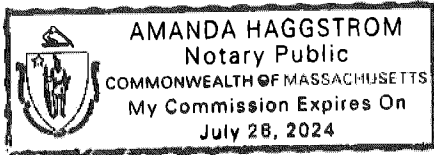
ARTICLE XIII: TITLES

The titles to the various articles herein are for convenience only and are not to be considered part of said articles nor shall they affect the meaning or the language of any such article.

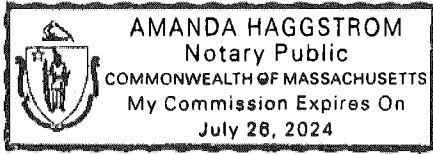
[signature pages follow]

IN WITNESS WHEREOF, the Trustees of the Amesbury Housing Trust have hereunto set their hands and seals on the day and year first hereinabove set forth.

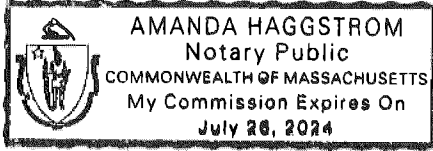
AMESBURY HOUSING TRUST,
By its Board of Trustees



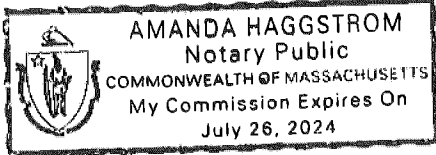
Kassandra Gove
Kassandra Gove, Trustee



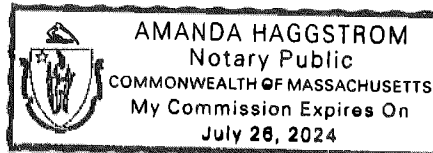
Nancy Frick
Nancy Frick, Trustee



Kerry Hamel-Pope
Kerry Hamel-Pope, Trustee



Margaret R. Hoffman
Margaret Hoffman, Trustee



Floris Pamphile
Floris Pamphile, Trustee
Steve Stanganelli
Steve Stanganelli, Trustee

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this 30 day of JUNE, 2021, before me, the undersigned notary public, personally appeared the above-named Gove, Frick, Hamel-Pope, + Stanganelli, Trustee of the Amesbury Housing Trust, as aforesaid, who proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose as Trustee of the Amesbury Housing Trust.

Amanda Haggstrom
Notary Public
My commission expires: 7/28/24.

CITY OF GLOUCESTER

AFFORDABLE HOUSING TRUST STRATEGIC PLAN

FY2024-2028

PREPARED FOR:

Gloucester Affordable Housing Trust

City of Gloucester
3 Pond Road, 2nd Floor
Gloucester, MA 01930

PREPARED BY:

JM Goldson LLC

2/14/23

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INTRODUCTION

The Gloucester Affordable Housing Trust Fund (Trust) was established in 2006 per MGL c.44 s.55C, the state's Municipal Affordable Housing Trust Law. The purpose of the Trust is to protect, preserve, and enhance the economic and social diversity of the City, to provide affordable rental and homeownership



Harbor Village, an Action & North Shore CDC project. Trust funds support the creation of this affordable housing development
Source: harborvillagegloucester.com

options for people of all ages and income levels, and to accommodate the changing housing needs of individuals and families.¹

The Trust Fund has seven trustees, plus the mayor as an Ex-Officio member. The trustees are appointed by the mayor and approved by the City Council for a term not to exceed two years. The trustees may exceed their term limit until their successors have been appointed and qualified, up to six months. The mayor, or a designee, must serve as an ex officio member and Community Development Director may serve as an ex officio trustee. The [Trust ordinance](#) requires that the Trust board members have no fewer than five trustees, including the mayor, and that the trustees have knowledge or expertise in areas such as affordable housing, real estate, real estate finance, or housing construction. The Trust ordinance requires quarterly written reports to the mayor and City Council and an annual audit.



Central Grammar School Affordable Housing. Trust funds support the rehab of this property.
Source: centralgrammarapartments.com

The Trust has the power to disburse funds to create affordable housing through purchase and disposition of real property as well as subsidizing private construction and to preserve existing affordable housing units by extending the term of affordability. Note that the Trust ordinance requires City Council approval to accept or receive property, purchase or dispose of property, disburse trust funds, and to borrow money. In addition, with Community Preservation Act funds, the Trust has the power to fund rental or homeownership assistance programs.

To date the Trust has supported the construction of 162 affordable housing units. The Trust currently has a balance of \$255,002.31, with \$209,9050 encumbered (for the YMCA 44-unit development project and the consulting contract for this strategic plan), leaving an available balance of approximately \$45,052.

¹ See the Gloucester Code of Ordinances Section 2-601, Affordable Housing Trust – Purpose, accessed 1/5/23: https://library.municode.com/ma/gloucester/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTVIFI_DIV4TRFU_S2-601AFHOTRFUUR
Gloucester Affordable Housing Trust Strategic Plan FY25-FY28

3 FRAMEWORKS: TRUST BOARD'S APPROACH

1. Initiator – initiates projects and facilitates implementation directly
2. Funder – takes applications and determines which to fund
3. Hybrid – some combination of both above

*Some Trusts also take on an advocacy role (like a Housing Partnership)



Trusts typically operate in one of three ways – as a funder, an initiator, or a hybrid of both. The Gloucester Trust has primarily been approaching its role as a funder – taking funding requests from third parties under consideration as they were received.

TRUST FUNDING SOURCES

EXISTING

- **Inclusionary Housing In Lieu Payments:** The Trust accepts and administers cash payments made by developments and projects aiming to satisfy the City's Inclusionary Housing Requirements in Section 5.11 of the Zoning Ordinance. Section 5.11 allows for a cash payment to the Trust in lieu of creating onsite units.²
- **Community Impact Fee for Short-Term Rentals:** In 2019, the City adopted the Community Impact fee for Short Term Rentals (CI fee) by adding 3 percent onto the 6 percent of rental fees that Gloucester collects from the local lodging excise task. The City allocated \$50,828 to the Trust from the Short-Term Rental fees in 2022. The Mayor intends that this revenue stream can provide consistent funding to the Trust.³
- **American Rescue Plan Act (ARPA) funds:** The City has committed to a one-time investment of \$1.5M from Covid Local Fiscal Recovery Funds in the Trust. To help address the City's affordable housing shortage. Treasury updated its guidance to clarify that Recovery Funds may be used to finance the development, repair, or operation of any affordable rental housing unit that provides long-term affordability of 20 years or more to households at or below 65 percent of the local area median income.⁴ For more information regarding eligible uses of ARPA funds for affordable housing

² Per Section 5.11.5 of the Zoning Ordinance the in-lieu fee shall be equal to the median of qualified housing unit sale prices in Gloucester over the three years preceding the application. The fee is paid to the Gloucester Affordable Housing Trust.

³ City of Gloucester, Press Release dated 11/22/22, accessed 1/5/23: <https://www.gloucester-ma.gov/DocumentCenter/View/8892/11222022---Press-Release---Covid-Local-Fiscal-Recover-Funds-Affordable-Housing>

⁴ Cortina, Julia, *Treasury Releases Updated ARPA Recovery Fund Guidance Providing Additional Flexibility to Use Funds for Affordable Housing*, National Association of Counties Blog, 7/28/22, accessed 1/5/23, <https://www.naco.org/blog/treasury-releases-updated-arpa-recovery-fund-guidance-providing-additional-flexibility-use>

production and preservation, refer to the U.S. Department of Treasury's *Affordable Housing How-To Guide*: <https://home.treasury.gov/system/files/136/Affordable-Housing-How-To-Guide.pdf>.

POTENTIAL

- **Community Preservation Act (CPA) funds:** In 2008 Gloucester citizens voted to adopt the CPA with a 1% tax surcharge. The Community Preservation Act (MGL c.44B) allows any Massachusetts municipality to adopt a property tax surcharge, the revenues from which are matched by state funds. This fund can be used to create, preserve, or support community housing as well as preserve open space and historic sites and develop outdoor recreational facilities. The Trust can request CPA funds for eligible CPA purposes. If CPA funds are appropriated to the Trust, the Trust must comply with CPA reporting requirements. In 2022, the City generated a total of \$1,097,739 in CPA funds (\$775,640 from the local surcharge and \$322,099 from the state trust fund distribution). The total CPA revenue generated to date is \$9,953,547. The statute requires the City to spend or set aside at least 10 percent of total annual CPA revenue for community housing purposes.
- **Private Donations:** The Trust can accept private donations of real property and money to support Trust initiatives. These donations may be eligible as a charitable contribution for a federal income tax deduction. Gifts to local government entities are tax deductible if used for a public purpose.

2017 HOUSING PRODUCTION PLAN: HOUSING NEEDS & DEMAND ASSESSMENT

As stated in the 2017 Housing Production Plan (HPP), MAPC projected that between 2010 and 2030 Gloucester's population would decline and the number of households will increase.⁵ However, according to the U.S. Decennial Census data between 2010 and 2020, the population increased from 28,872 to 29,750 people (a 3 percent increase). According to the American Community Survey 5-Year Estimates, the number of households also increase – there were about 12,253 total households per the 2010 estimates and 13,410 per the 2020 estimates (a 9.4 percent increase). This limited analysis indicates a need for more housing production.

According to the 2017 HPP, overall, Gloucester's population is projected to age, with the share of householders aged 60 years and older growing from 38% of total householders in 2010 to 58% of householders in 2030. As Gloucester's share of seniors grows, the City will need to consider options for changing housing preferences among that cohort, as well of younger householders entering the market (such as affordable supportive housing, shared housing, and multigenerational housing).

Based on trends identified for the 2017 HPP, MAPC projected that Gloucester would need 434 new multifamily units and 192 new single-family units between 2010 and 2020.

Gloucester is also in need of more affordable units. According to the 2017 HPP, three out of five Gloucester households are cost-burdened, meaning they spend more than 30 percent of their income on housing, and one in five spend more than 50 percent on housing. As of December 2020, 7.6 percent of Gloucester's housing is included in the Subsidized Housing Inventory, which is short of the 10 percent state goal.

⁵ Note that the 2017 HPP has expired.

WHAT WE HEARD THROUGH INTERVIEWS

As part of the strategic planning process, the planning consultant conducted 12 interviews in November 2022 with local officials and other community housing advocates. Some key take aways are summarized below.

Local Housing Needs:

- Tenant stabilization, especially preservation of existing year-round multi-family rental housing stock
- Rental units affordable to households with up to 50 percent of the Area Median Income
- Supportive housing options, particularly for formerly unhoused households, those at risk of housing instability, and senior populations.
- Senior age-restricted affordable housing.

What has been working well?

- **Noncontroversial** – been cautious and demonstrated good judgement
- **Expedient** – original board members largely agreed and made decisions efficiently
- **City Staff** – good support by city staff
- **Members** – good people on the Trust, various professional perspectives and expertise
- **Leverage** – spread relatively small amount of funds out over several projects as seed money
- **Full Membership** – the trust membership is full again and ready to move to next chapter of Trust's work

What could be improved?

- **Transparency** – make it easy for residents and developers to find information about how to apply for trust funds and what the funding priorities are
- **Clear strategy & be proactive** - create an action plan with a vision for what the trust wants to accomplish and how they will do this
- **Trust building & unity toward common goals** – work to build trust among members, listen to each other, agree on common goals and strategy to move forward together as a team
- **Increased & consistent revenue stream** – work to secure a reliable funding source (CPA funds)
- **Lack of visibility in the community** – need more political capital – build trust with visibility & leadership on housing issues
- **Advocacy & education** – the Trust can step up as an advocate for zoning reform and to advocate for land use approvals of housing developments; proactively work to educate public about housing needs
- **Capacity** – increase dedicated professional staff support to implement initiatives at the next level in coming years

What should the Trust's priorities be in the coming five years?

- Proactive to seek development partners and actively identify site opportunities
- Advocacy & leadership – especially zoning & land use decisions
- Rental assistance program
- House vulnerable populations (rental <= 50% AMI)
- Smaller projects (infill lots - +/- 6 units)
- Development on City-owned land
- Habitat-type projects
- Down payment assistance
- Homebuyer program/buy-down
- Create formal application and process with funding criteria (Local One Stop)
- Actively participate in housing planning initiatives
- Initial seed money (continue approach)
- Find projects – broker (connect landowners and developers)

GOALS AND GUIDELINES

MISSION

The Gloucester Affordable Housing Trust Fund’s mission is to increase and preserve affordable housing in the City of Gloucester. In doing so, it is also the policy of the City and Affordable Housing Trust to protect, preserve, and enhance the economic and social diversity of the City, to provide affordable rental and home-ownership options for people of all ages and income levels, and to accommodate the changing housing needs of families and individuals.

GOALS OF THE TRUST

As part of the strategic planning process, the Trustees developed a set of goals to guide the deliberations of the Trustees over the coming five years (FY24-28) Consistent with the requirements of the Trust Ordinance the Trustees will prioritize allocation the Trust funds and the Trustees’ efforts for the following purposes.



FUNDING GOALS

Funding goals describe the Trust’s priorities for allocating Trust funding over the five-year strategic planning period.

1. Prioritize Trust resources to support the addition of at least 60 units of affordable housing between FY24-FY28, especially units affordable to households at or below 60 percent of the Area Median Income and populations vulnerable to housing instability.
2. Allocate Trust funding to preserve existing housing stock to protect year-round rental housing options and help to prevent displacement.
3. Utilize Trust funds to provide rental housing stability and support.



OPERATIONAL GOALS

Operational goals describe how the Trust will approach its work to be most effective and serve the City in the best way possible.

4. Operate as both a funder, soliciting funding requests from third parties, and initiator, directly initiating projects and programs.
5. Work to ensure a consistent and robust stream of funding to support the Trust’s initiatives including an annual allocation of at least 10 percent of Gloucester’s Community Preservation Act funds.
6. Ensure transparency of the Trust’s operations, including through an informative website and a formalized application and funding process.
7. Advocate for local approval of housing development, and adoption of zoning reforms to increase affordable housing and needed housing options.
8. Work to inform community members and City officials of housing needs, Trust initiatives, and best practices to promote housing preservation, stability, and production.

FIVE-YEAR PRIORITY ACTIONS

The priority actions for the Trust are intended to actualize the Trust's goals, as stated in the previous section. Directly below lists the priority actions and indicates short term, medium term, long term, and ongoing initiatives that the Trust plans to focus its funding, time, and energy on over the five-year strategic planning period.

SHORT TERM – YEAR 1 (FY24)

1. Collaborate with the Community Preservation Committee to advocate for local policy to ensure that at least 10 percent of CPA funds are allocated to the Trust annually to support the implementation of this strategic plan and create a regular and predictable funding source.
2. Work with the Community Development Department to create a local one-stop application for housing development funding requests and create an updated Trust website to include all application materials and guidance on process and funding rounds. Implement first funding round using the new application materials.
3. Actively outreach to local and regional non-profit and mission-driven developers to promote understanding of funding and application process and criteria and encourage qualified and competitive applications for housing production.
4. Hire a housing coordinator to support Trust initiatives, review of applications for funding, and the general implementation of this strategic plan.
5. Seek amendment to the Trust Ordinance to reduce the required reporting from quarterly to annually.
6. Establish subcommittees to focus on components of the Trust's work. For example, subcommittee topics could include a) Trust Funding; b) Application & Funding Process; c) Land Acquisition & Development Partners; d) Housing Stability/Short-Term Rental Study & Initiatives; and e) Zoning & Advocacy.

MEDIUM TERM – YEARS 2-4 (FY25-27)

7. Evaluate the feasibility of seeking a non-profit local or regional organization to create a local multi-family acquisition program to create affordable year-round rental housing by preserving the existing rental housing stock and/or consider funding a Right of First refusal program.
8. Advance and expand local understanding of housing needs through an informative annual public forum.
9. Support and promote opportunities to create housing through reuse or redevelopment of City properties
10. If warranted, given results of the short-term rental impact study, advocate for local adoption of reasonable restrictions on short-term rentals.
11. Study needs for expanded assistance with housing stability and consider a collaboration with a qualified local entity to expand an existing program focused on housing stability such as an ongoing local rental assistance or support program.

LONG TERM – YEAR 5 (FY28)

12. Consider providing funding to support the City's existing downpayment assistance program for first-time homebuyers.
13. Seek opportunity to support the Housing Authority to increase elderly public housing units.
14. Consider proposals to create additional affordable units or more deeply affordable units in private affordable and mixed-income housing developments
15. Monitor and consider the need to create an updated Housing Production Plan (HPP) and perform annual review of status of HPP goals and strategies.

ONGOING

16. Seek opportunities to acquire developable land to pursue partnerships with private mission-based developers to create affordable housing (through 30B-compliant land disposition process). Land acquisition could be through private donation, transfer of City-owned property, or through purchase.
17. Advocate for zoning amendments to promote affordable housing production and creation and preservation of housing options including considerations for complying with the state's MBTA Communities multi-family zoning requirements.
18. Participate in the creation of an updated local Comprehensive Plan and advocate for incorporation of appropriate affordable housing goals and policies.
19. Advocate for local approval of affordable housing development including attending and speaking at zoning and planning board meetings, community meetings, and other related events.

Criteria for Evaluation of Funding Requests

The Trust will evaluate development project loan requests on a rolling basis but may periodically issue RFPs for projects. In addition to specific criteria that may be established in these RFPs, the Trust will generally evaluate projects based on the following criteria.

Housing Development Projects

- Measurable positive impact of the project on the quality of life in Gloucester including the project's ability to preserve economic diversity
- Capacity of the development entity
- Preference for non-profit or mission-based developers
- Maximize percentage of units affordable to households at or below 60 percent AMI
- Maximize percentage of units serving households or individuals transitioning from homeless or at risk of housing instability
- Minimize the amount of Trust funds invested per unit, with a targeted maximum per unit allocation of \$50,000
- Maximize leveraging of other public and private funds.

Tenancy Stabilization Projects

- Gloucester residents whose household income is below 50% of AMI
- Assistance will help to stabilize the housing situation in a sustainable way based on an analysis of the household budget

ANNUAL REPORT, UPDATE STRATEGIC PLAN, & AUDIT

Each year the Trust will provide a written report to the mayor and City Council listing the projects and initiatives supported with Trust funds that year. Additionally, within three months of the close of each fiscal year, the Trust review and update this strategic plan as needed. An annual audit will be completed as required by statute.

YEAR-1 (FY24) ACTION PLAN

The matrix below lays out actions for the Trust to focus on each month from March 2023 (after adoption of this Strategic Plan) through FY24 (July 2023-June 2024). The actions included consist of the Short-Term Actions (Actions 1-7) as described in the Strategic Plan.

| Actions | March '23 | April | May | June | July | Aug | Sept | Oct | Nov | Dec | Jan '24 | Feb | Mar | Apr | May | June | |
|---|---|--|--|---|--|--|---|-----------|------------------------------|-----|--|--|----------------------------|-------------------------------|--|------|--|
| 1. Collaborate with the Community Preservation Committee | Submit CPA application for funding | Attend CPC meetings as needed to present application and answer questions. | | | | | City Council award CPA funding | | | | | Proactively present progress report to CPC | | Submit for Year 2 CPA funding | Attend CPC meetings as needed to present application and answer questions. | | |
| 2. Create a local one-stop application and create an updated Trust website. Implement funding round. | Initial website updates (including Strategic Plan link) | Staff draft one-stop for Trust review | Revise one-stop & discuss funding process | Finalize one-stop and create scoring criteria | Post one-stop, funding process, and scoring criteria | Issue notice of fund availability (NOFA) | | | Accept applications & review | | Vote on funding awards and recommend to City Council | Present recommendations at City Council | City Council vote to award | | Revise One-Stop as needed | | |
| 3. Actively outreach to encourage competitive applications. | | | Compile list of builders/ developers & initiate conversations | | | Send NOFA to builders/ developers | Reach out to answer any questions | | | | | | | | | | |
| 4. Hire a housing coordinator. | | | Prepare job description | Post job notice | | Review candidates | Interview & select finalist | Job offer | Position start | | | | | | | | |
| 5. Seek amendment to the Trust Ordinance | Draft amendment and submit for City Council consideration | | | City Council vote on amendment | | | | | | | | | | | | | |
| 6. Establish subcommittees | Discuss & determine subcommittee topics of focus | | Prepare & discuss descriptions of each subcommittee to clarify purpose of each | | Form subcommittees | | Subcommittees to meet regularly between Trust meeting and report to Trust each meeting on progress. Meetings of subcommittees must be properly posted and open to the public per the Open Meeting Law. | | | | | | | | | | |