

Affordable Housing Trust
Thursday, September 9, 2021 10:00 AM
Harwich Town Hall
Griffin Room
732 Main Street
Harwich, MA 02645
AGENDA – Revised 9/7/21 8:30 a.m.

I. CALL TO ORDER

II. NEW BUSINESS

- A. Discussion and possible vote to request the Board of Selectmen to allow the appointment of Special Counsel for future legal issues encountered by the Trust
- B. Discussion and possible vote to request FY2023 funding from CPC
- C. Discussion about a request from Catherine Childs to acquire a small section of the Marceline property to square off her abutting lot.
- D. Discussion and possible vote to amend JM Goldson contract for the resumption of workshops and focus groups of stakeholders to complete the Trust's guiding Action Plan.
- E. Discussion regarding a Housing Coordinator and general staff support
- F. Discussion and possible vote to begin the process of amending the Harwich Affordable Housing Trust organization document to reflect the Town Charter and Mass General Law chapter 44, section 55C, which the Town voted to accept at its 2018 Annual Town Meeting. The proposed changes would 1) clarify the term of the Board of Selectman representative, 2) clarify who would designate a representative in the absence of the Town Administrator's active participation, 3) allow the Trust to organize annually in the manner prescribed by the Town Charter for all other Town Committees and 4) allow the Trust to select the chair, vice-chair and clerk from among its members by majority vote of the Trust membership.
- G. Annual reorganization of the Harwich Affordable Housing Trust
 - a. Chair
 - b. Vice Chair
 - c. Clerk
- H. Discussion and possible vote to seek tax title research relative to a parcel of land consisting of 2 acres, more or less, located off Pleasant Lake Avenue, Route 124, identified as Assessor's Map 82, Parcel R5 2
- I. Discussion and possible vote to procure appraisal services relative to a parcel of land consisting of 2 acres, more or less, located off Pleasant Lake Avenue, Route 124, identified as Assessor's Map 82, Parcel R5

III. ADJOURN TO EXECUTIVE SESSION - review and approve past Executive Session minutes.

- A. Pursuant to MGL Chapter 30A, section 22 (g) (1): Approve and release Executive Session Minutes from January 5, 2021, March 12, 2021 and May 20, 2021. REVISED – May 20, 2021 date was added

**Per the Attorney General's Office – Boards/Commissions may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following "New Business".

Authorized Posting Officer: Posted by: _____
Danielle Delaney, Executive Assistant

Town Clerk: _____
Date: _____

Catherine L.M. Childs
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August 19, 2021

Town of Harwich

Board of Selectmen

Donald F. Howell

RE: 446 Queen Anne Rd – Harwich

Dear Mr. Howell,

I would like to request an administration review, on the next agenda. I would like to acquire a portion of the Marceline land recently purchased by the Town of Harwich.

I currently own 446 Queen Anne Road; My intent is to square off the two parcel's that form an oddly shaded triangle protruding, into my property.

Thank you for your time I look forward to hearing from you.

Sincerely,

Catherine Childs

AMEND THE CODE OF HARWICH GENERAL BYLAWS – CHAPTER 140
HARWICH AFFORDABLE HOUSING TRUST

ARTICLE 40: To see if the Town will vote to accept the provisions of M.G.L. ch.44, §55C to establish an Affordable Housing Trust Fund; and further to amend the Code of the Town of Harwich to add a new Chapter 140 “Harwich Affordable Housing Trust” to read as follows:

Affordable Housing Trust

Section 140-1 – Appointments – As authorized by Chapter 44, §55C, the Board of Selectmen shall appoint 5 Trustees, one of whom shall be the Town Administrator or designee, and one of whom shall be a member of the Board of Selectmen; the remaining three (3) Trustees shall be appointed by the Board of Selectmen for two-year staggered terms.

Section 140-2 – Duties and Responsibilities

- A. The Trust shall possess all of the powers and authority set forth in M.G.L. c.44, §55C. The Selectman member of the Trust shall report to the full Board of Selectmen on purchases or sales of real property.
- B. In addition, the Affordable Housing Trust shall work with the Harwich Housing Committee to develop an affordable housing plan, which shall be updated each year and a copy presented to the Board of Selectmen.

Section 140-3 – Removal – A member may be removed from the Trust by the Board of Selectmen by a majority vote for cause after a public meeting or by failure to reappoint.

And to act fully thereon. By request of Town Administrator and Board of Selectmen.

Explanation: The Affordable Housing Trust, allowed under MGL Chapter 44, Section 55 C, would expedite the Town’s ability to partner with private developers and convert existing housing to affordable housing. The purpose of the Trust is to provide a public benefit and a suitable living environment by increasing the access to and availability of safe and decent affordable housing to Harwich residents, while maintaining quality of life for all. Additionally, the Trust will provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate-income households. Yarmouth, Norwell, Lincoln, Dartmouth, Cambridge, Upton, Sudbury, Georgetown and Scituate are some examples of successful Affordable Housing Trusts.

A key part in establishing the Trust and one of the most effective ways our community can jump-start a housing effort is to fund the hiring of a part time Housing Coordinator. Funding for this has been requested through a CPA request. The Housing Coordinator would work closely with the Trust to provide support services for housing-related programs, projects, and affordable housing initiatives.

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



Chapter 1: WHAT IS A MUNICIPAL AFFORDABLE HOUSING TRUST?	4
Chapter 2: FIGURE OUT IF A TRUST CAN HELP YOUR COMMUNITY	7
Chapter 3: NAIL DOWN VISION & ROLE OF YOUR BOARD OF TRUSTEES	10
Chapter 4: STRATEGIES FOR GAINING SUPPORT AND APPROVAL	17
Chapter 5: ESTABLISHING YOUR LOCAL HOUSING TRUST AND GETTING TO WORK	21
Chapter 6: COMMUNITY EXAMPLES & BEST PRACTICES	30
APPENDIX	35

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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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@RHSOhousing.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

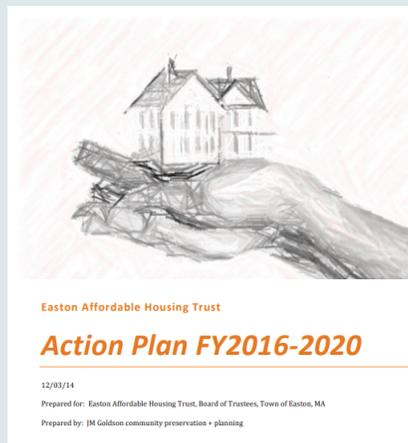
Having an action plan in place is not only important for the internal operations of the trust, but in conveying its mission and goals to the public. Internally, the action plan can serve to clarify the efforts of the trust by really considering the need in the community, types of projects it has the 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.

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.



Nine-unit group home, Carlisle.

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
160 Federal Street, Boston, MA 02110
Tel: 617-330-9955 | www.mhp.net

successor shall be appointed by the Board of Selectmen to fill such vacancy for the remainder of the unexpired term, provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk and recorded with the Barnstable County Registry of Deeds and, if applicable, the Barnstable County Registry District of Land Court. Upon the appointment of any succeeding Trustee and the filing and recording of such appointment or a certificate 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.

O F F I C I A L O F F I C I A L
A R T I C L E I V – P O W E R S O F T R U S T E E S

The Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of the Act as outlined below:

- (1) to accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property tendered to the Trust in connection with provisions of any zoning ordinance or by-law or any other ordinance or by-law or any general or special law or any other source, including money from the Community Preservation Act, Chapter 44B of the General Laws (the “CPA”); provided, however, that any such money received under the CPA shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of the Act 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 the CPA are reported to the Harwich Community Preservation Committee (the “CPC”) 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 of Trustees 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 income 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;

(16) to extend the time for payment of any obligation to the Trust;

(17) to designate the Selectmen member of the Board to report to the full Board of Selectmen on acquisition and dispositions of real property by the Trustees;

(18) the Trust shall have the following additional duties:

- (a) The Trust shall oversee all funds under its control and use the funds to create and preserve affordable housing opportunities in the Town of Harwich; and
- (b) The Trust shall work with the Harwich Housing Committee to develop an affordable housing plan, which shall be updated each year and a copy presented to the Board of Selectmen.

(19) The Trustees shall have full power and authority, at any time and from time to time to expend Trust funds, both principal and interest, as the Board deems appropriate. All expenditures shall be made in conformance with the terms of this Trust and the Act.

N O T
A N
O F F I C I A L
C O P Y

ARTICLE V – REMOVAL OF TRUSTEES

N O T

A member of the Board may be removed from the Trust by the Board of Selectmen by a majority vote after a public meeting or by failure to reappoint.

O F F I C I A L
C O P Y

ARTICLE VI – MEETINGS OF THE TRUSTEES

The Board of Trustees 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 three (3) Trustees. Notice of any meeting of the Trust shall be filed with the Town Clerk and posted in accordance with the Open Meeting Law, Chapter 30A, Sections 18-25 of the General Laws.

A quorum of the Board of Trustees shall be the majority of the full Board of Trustees but less than a quorum may, subject to the requirements of the Open Meeting Law, continue a meeting to a time, date and place certain.

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.

ARTICLE VII – ACTS OF TRUSTEES

Any action of the Board of Trustees shall be approved by a majority of those present and voting at a duly called meeting, provided that a quorum is present, and any and all instruments executed by such majority shall be binding upon the Trust, and shall be conclusive evidence that such action has been duly authorized. 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 property. No one dealing with the Trustees need inquire concerning the validity of any act of the Trustees or see to the application of anything paid to or upon the order of the Trustees. No Trustee shall be liable for the act, negligence or default of any other Trustee or any employee, agent, or representative of the Trust selected with reasonable care, nor for errors in judgment, nor mistakes of law or fact made in good faith nor in reliance in good faith on advice of counsel nor for other acts or omissions in good faith

ARTICLE VIII – LIABILITY; CONFLICT OF INTEREST

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town of Harwich, except in the manner specifically authorized herein. The Trust is a public employer and the Trustees are public employees for the purposes of Chapter 258 of the General Laws. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of Chapter 268A of the General Laws.

meeting called for that purpose and approved in writing by the Board of Selectmen, provided that in each case, a certificate of amendment has been recorded with the Barnstable County Registry of Deeds and the Barnstable County Registry District of Land Court.

ARTICLE XIV – RECORD 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 the Registry of Deeds and Registry District 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 XIII and an instrument of termination pursuant to Article X hereof shall be conclusive only if it appears that the delegations, amendments or termination have been executed by all of the Trustees and the Board of Selectmen. 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 Trustee hereunder as to the identity of the then current Trustees or as to the existence or nonexistence 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 XV – 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.

638933/HARW/0001

[signature page follows]

Signed by the Town of Harwich Board of Selectmen under Seal as of this 9th day of July, 2018.
 NOT AN OFFICIAL COPY

NOT AN OFFICIAL COPY

NOT AN OFFICIAL TOWN OF HARWICH, By its Board of Selectmen

NOT AN OFFICIAL Julie Kavanagh
L. Ballantine

Larry Ballantine
[Signature]
Edward McManus

[Signature]
Donald Howell

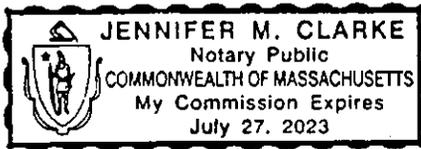
THE COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this 9 day of July, 2018, before me, the undersigned notary public, personally appeared Harwich Board of Selectmen, member(s) of the Harwich Board of Selectmen, as aforesaid, who proved to me through satisfactory evidence of identification, which was in person, 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 on behalf of the Town of Harwich.

[Signature]
Notary Public
My Commission Expires: July 27, 2023

638933/HARW/0001



BARNSTABLE REGISTRY OF DEEDS
John F. Meade, Register