

# Affordable Housing Trust Bylaw Committee Charge

## **Purpose**

The purpose of the Affordable Housing Trust (AHT) Bylaw Committee is to advise the Select Board on development of a draft bylaw for consideration by 2022 Annual Town Meeting. This bylaw will implement the vote taken under Article 12 of the 2021 Special Town Meeting to establish an Affordable Housing Trust.

## **Background**

Massachusetts General Laws Chapter 44, Section 55C allows the Town to create an Affordable Housing Trust to collect funds to be used to create and preserve affordable housing for low to moderate income residents and families. The AHTB will identify how the Trust will be established and funded, as well as how it will operate in the furtherance of the town of West Newbury's affordable housing goals.

## **Membership**

The AHT Bylaw Committee will be comprised of five members appointed by the Select Board. The term of office will run from December 1, 2021 to April 30, 2022, unless the term is extended by vote of the Select Board. Committee members are eligible for membership on the Trust once it is established. The Committee membership will be as follows:

- One representative from the Select Board;
- One representative from the Planning Board;
- One representative with a financial background or experience;
- One representative with a legal background or experience;
- One at large representative from the community with an interest in affordable housing.

## **Duties and Responsibilities**

- To become familiar with the issues surrounding the creation and funding of affordable housing in West Newbury, including review of the Housing Production Plan as well as regional housing documents;
- To examine how other similar communities in Massachusetts have structured their local Affordable Housing Trust;
- To solicit public input on the types of affordable housing initiatives to be considered for West Newbury, including holding at least one public hearing early in the process;
- To detail the membership of the AHT, including public official and community representation and how the 2-year terms required by statute will be staggered to maintain continuity;
- To identify and evaluate possible sources of funding for the AHT, including but not limited to:
  - Inclusionary Housing payments;

# Affordable Housing Trust Bylaw Committee Charge

- Community Preservation Act fund transfers;
  - Real Estate Transfer Taxes;
  - Building Permit Surcharges;
  - Municipal funds;
  - Private donations;
  - Resale of affordable units.
- To identify the priorities of the AHT and whether any initiatives allowed under the Affordable Housing regulations would be excluded from consideration in West Newbury;
  - To determine whether the AHT will solicit project ideas, initiate projects or do both in the establishment of affordable housing;
  - To draft a bylaw that incorporates the findings of the Committee's work and prepare a draft for discussion with the Select Board by March 1, 2022;
  - To perform such other duties as the Select Board may request, including such tasks as the committee may propose to the Board as modifications to this committee charge.

## **Other Considerations**

The AHT Bylaw Committee is responsible for conducting its activities in compliance with all relevant State and local laws and regulations, including but not limited to, the Open Meeting Law, Public Records Law and Conflict of Interest Law. The Committee must consult with the Town Manager concerning the allocation of town staff or financial resources toward this effort.

## **Attachments**

- A. Copy of M.G.L. c.44, Section 55C;
- B. Article 12 - Authorization to Accept M.G.L. c.44, Section 55C - Municipal Affordable Housing Trust Fund - Warrant Article & Vote from 2021 Special Town Meeting – October 23, 2021
- C. Affordable Housing Trust Resource List

# Affordable Housing Trust Bylaw Committee Charge

## **M.G.L. c.44, Section 55C**

### **Part I ADMINISTRATION OF THE GOVERNMENT**

#### **Title VII CITIES, TOWNS AND DISTRICTS**

#### **Chapter 44 MUNICIPAL FINANCE**

#### **Section 55C MUNICIPAL AFFORDABLE HOUSING TRUST FUND**

(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

# Affordable Housing Trust Bylaw Committee Charge

contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or bylaw, exaction fee, or private contributions shall be paid

## Affordable Housing Trust Bylaw Committee Charge

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 trustee's 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

# Affordable Housing Trust Bylaw Committee Charge

## **Article 12 - Authorization to Accept M.G.L. c.44, Section 55C - Municipal Affordable Housing Trust Fund - Warrant Article & Vote from 2021 Special Town Meeting – October 23, 2021**

Warrant article, motion and vote to be added

# Affordable Housing Trust Bylaw Committee Charge

## Affordable Housing Trust Resources

### Potential Trust Membership

2015 MPH Affordable Housing Trust Operations Manual

[https://www.mhp.net/writable/resources/documents/MAHT-Ops-Manual\\_final.pdf](https://www.mhp.net/writable/resources/documents/MAHT-Ops-Manual_final.pdf)

#### Public official representation

- Affordable Housing Committee
- Board of Selectmen/Mayor/ Town Administrator (required by statute)
- Community Preservation Committee
- Housing Authority Commission
- Housing Partnership
- Planning Board

#### Community representation

- Affordable housing recipient
- Architect
- Banker
- Business leader
- Community religious leader
- Housing advocate
- Housing developer
- Planner
- Real estate broker
- Real estate attorney

### Examples of Bylaws/Declarations Establishing Affordable Housing Trusts

Arlington

<https://www.arlingtonma.gov/home/showdocument?id=53237>

Concord

<https://concordma.gov/DocumentCenter/View/32585/2020-TM-Article-13---Affordable-Housing-Trust-Bylaw>

Ipswich

<https://ecode360.com/30685668>

Grafton

<https://www.grafton-ma.gov/sites/g/files/vyhlf4461/f/uploads/article35.pdf>

# Affordable Housing Trust Bylaw Committee Charge

Groton

[https://portal.grotonma.gov/storage/Affordable\\_Housing\\_Trust/Declaration%20of%20Trust/Declaration\\_of\\_Trust.pdf](https://portal.grotonma.gov/storage/Affordable_Housing_Trust/Declaration%20of%20Trust/Declaration_of_Trust.pdf)

Newburyport

<https://www.cityofnewburyport.com/sites/g/files/vyhlf7106/f/uploads/naht-declarationtrust-02-18-10-executed.pdf>

Stow

[https://www.stow-ma.gov/sites/g/files/vyhlf1286/f/uploads/housing\\_trust\\_bylaw\\_section\\_18.pdf](https://www.stow-ma.gov/sites/g/files/vyhlf1286/f/uploads/housing_trust_bylaw_section_18.pdf)

Sudbury

<https://s3-us-west-2.amazonaws.com/cdn.sudbury.ma.us/wp-content/uploads/sites/304/2014/08/SudburyHousingTrustFINAL.pdf?version=876be43563d3199fe692d90a0b2a524c>

Yarmouth

<https://ecode360.com/9083113>

## **Other Resources:**

Electronic presentation by Concord MA <https://concordma.gov/DocumentCenter/View/24028/Article-13-Affordable-Housing-Trust-Bylaw---Public-Hearing-February-24-2020>

2015 MPH Affordable Housing Trust Operations Manual

[https://www.mhp.net/writable/resources/documents/MAHT-Ops-Manual\\_final.pdf](https://www.mhp.net/writable/resources/documents/MAHT-Ops-Manual_final.pdf)

2013 MPH Municipal Affordable Housing Trusts Guidebook

[https://www.mhp.net/writable/resources/documents/municipal\\_affordable\\_housing\\_trust\\_guidebook.pdf](https://www.mhp.net/writable/resources/documents/municipal_affordable_housing_trust_guidebook.pdf)

<https://www.housingtoolbox.org/>

<http://www.massaffordablehomes.org/>

<https://www.chapa.org/>

<https://www.mass.gov/orgs/housing-and-community-development>