

Town of Wareham Affordable Housing Trust

There shall be a Municipal Affordable Housing Trust, the purpose of which shall be to provide for the preservation and creation of affordable housing in the Town of Wareham for the benefit of low- and moderate-income households. The Trust shall be governed by Trustees in accordance with Mass. General Laws Chapter 44, Section 55C and the authority granted by Town Meeting, as revised from time to time.

Pursuant to a vote at the Spring 2006 Wareham Annual Town Meeting (Article 23 of the April 24, 2006 Town Meeting; Approved by the Attorney General August 24, 2006) and pursuant to the provisions of Mass. General Laws Chapter 44, Section 55C, the Town of Wareham established the specific powers of the Municipal Affordable Housing Trust for the benefit of all of the inhabitants of the Town of Wareham in the manner and under the terms and conditions set forth herein.

A. Name of the Trust

The Trust shall be called the "Wareham Affordable Housing Trust", herein referred to as the Trust.

B. Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Wareham for the benefit of low- and moderate-income households.

C. Tenure of Trustees

There shall be a Board of Trustees consisting of (5) Trustees who shall be appointed by the Board of Selectmen. One of the Trustees shall be a member of the Board of Selectmen. Only persons who are residents of the Town of Wareham shall be eligible to hold the office of Trustee. The Board of Selectmen may reappoint trustees for succeeding terms consistent with the town by-laws. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to fulfill the duties of a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill the remainder of the term of such vacancy provided that said appointment and acceptance in writing by the newly appointed Trustee are filed with the Town Clerk. Upon the appointment of any Trustee and the filing of such appointment with the Town Clerk, 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. Reference to the

Trustee shall mean the Trustee or Trustees for the time being hereunder. Trustees may be removed at any time for cause by a majority vote of the Board of Selectmen following a properly noticed public hearing. Cause shall include, but not be limited to, violation of any local, state, or federal law; non-participation in business of the Trust; incapacity to perform the duties of a Trustee; acts of the Trustee, that in the opinion of the Board of Selectmen, are negligent or detrimental to the Town of Wareham or the Trust.

D. Meetings of the Trust

The Trust shall meet at least once per month at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the

- provisions of the Open Meeting Law, Mass. General Laws [c. 30A, §§ 18-25 \(Effective July 1, 2010\)](#). A quorum at any meeting shall be a majority of the Trustees qualified and present in person. Minutes of all meetings shall be kept with the Town Clerk in accordance with the provisions of the Open Meeting Law, Mass. General Laws c. 30A, §§ 18-25.

E. Powers of Trustees

The Powers of the Trust shall be the following, except that any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property is subject to a two-thirds (2/3rds) vote of the Trustees:

- (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 bylaw or any other bylaw;
- (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 undertakings relative to trust property as the Trust 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 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 Trust 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 Trust deems advisable;
- (7) to apportion receipts and charges between incomes and principal as the Trust 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 Trust may deem proper and to pay out of Trust property, such portion of expenses and compensation of such committee as the Trust may deem necessary and appropriate;

(10) Loans and encumbrances;

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

(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 state statutes, to continue to hold the same for such period of time as the Trust may deem appropriate;

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

(15) to hold all or part of the Trust property un-invested for such purposes and for such time as the Trust may deem appropriate;

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

(17) to adopt rules and regulations governing the conduct of the Trust and the Trustees, consistent with the General Laws.

F. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all monies paid to the Trust in accordance with any Town of Wareham zoning bylaw, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust.

Funds appropriated by the Town of Wareham Town Meeting for payment into the Trust become Trust property and these funds need not be further appropriated to be expended except as set forth in paragraph E herein. All monies remaining in the Trust at the end of any fiscal year, whether or not expended by the Trust, remain Trust property.

G. Acts of Trustees

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder, unless otherwise provided, and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate. Any disbursements by

the Trust shall be approved by a majority vote of the Board of Trustees prior to finalizing the transaction.

H. Liability

Neither the Trustees nor any agent or office of the Trust shall have the authority to bind the Town of Wareham, except in the manner specifically authorized herein. The Trust is a public employer and the Trustees are public employees for the purposes of General Laws Chapter 268A. The Trustees shall be provided the same indemnification and the same scope and degree of municipal liability insurance coverage as is provided to other appointed board and commission members within the Town of Wareham.

I. Taxes

The Trust is exempt from General Laws Chapter 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 subdivision thereto.

J. Custodian of Funds

The Town of Wareham Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities. Cost associated with the independent audit shall be borne by the Trust.

K. Governmental Body

The Trust is a governmental body and therefore is subject to compliance with the Open Meeting Law and State Ethics Law.

L. Board of the Town

The Trust is a board of the Town for purposes of General Laws Chapter 30B and Section 15A of General Laws Chapter 40; but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from said Chapter 30B.

M. Duration of the Trust

This Trust shall be of indefinite duration until terminated by a vote of the Wareham Town Meeting. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town of Wareham and held by the Board of Selectmen to be expended solely for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, sell all or any portion of the Trust property

and distribute the net proceeds thereof to the Town of Wareham. The powers of the Trustees shall continue until the affairs of the Trust are concluded. Once the Wareham Town Meeting has voted to terminate the Trust, the Board of Selectmen shall approve all financial transactions made on behalf of the Trust.

N. Compensation of Trustees

Trustees shall not receive a salary, stipend, bonus or other means of compensation for their service as a Trustee, nor shall they be eligible for any benefits from the Town of Wareham. Trustees may be compensated for reasonable out-of-pocket expenses for travel and other Trust-related expenses. All such out-of-pocket expenses shall be fully documented with receipts for expenses prior to payment by the Trust.

O. Amendments

The policies and procedures of this Trust can only be amended by a unanimous vote of the full board of the Wareham Affordable Housing Trust.

R. Conflicts of Interest

The Trust shall be considered a public employer and the Trustees shall be subject to the conflict of interest provisions of General Laws Chapter 268A

S. Annual Report

The Trustees shall prepare an annual report describing the activities of the Trust on a calendar year basis. The annual report shall be submitted to the Wareham Board of Selectmen by July 31 of each year. The annual report shall list all financial transactions conducted by the Trust including all revenues and costs, provide a balance sheet of liabilities and assets of the Trust, list an inventory of all affordable housing units created, sold, and/or managed by the Trust, and any other pertinent information related to the business of the Trust. Ten paper copies and an electronic copy of the annual report shall be submitted to the Board of Selectmen.

Eligible Applicants:

Not-for-profits, for-profit corporations, individual citizens as well as units of local government may seek Trust Fund dollars.

Use of funds:

Projects eligible for consideration include, but are not limited to:

- Acquisition and rehabilitation of existing housing for persons @ or below 80% of area median income.
- New construction (single family and multifamily) for persons at or below 80% of Area median income.
- Adaptive reuse of non-residential buildings
- Special housing needs for the:
 - elderly
 - physically disabled
 - families
- *Home Repair***

(**Provides grants or loans for home repair and maintenance. Serves individuals/family with maintenance and housing preservation needs in exchange for an affordable housing deed restriction.)

- Debt consolidation
- Technical Assistance (for non-profit organizations only)

Terms

In exchange for a low income housing deed restriction, grants & loans are available to not-for-profit applicants, for-profit corporations, individual citizens as well as units of local government.

What are the basic application requirements?

Following is a list of general guidelines for the application process.

- * The application must be complete and on the form prescribed by the AHFT.
- * The project must be financially feasible. (To be determined)
- * The application must contain evidence of site control. (To be determined)

- * The development team or homeowner must have the capacity to complete the project.

- * The project must add or preserve at least one unit of affordable Housing at or below 80% of median income to the Wareham affordable housing stock.

* The applicant must agree to having an affordable housing deed restriction placed on the subject property for a length of time determined by the Trustees.

Eligible Projects

Projects which have met the basic requirements will be further evaluated to determine that they meet the Affordable Housing Trust Fund funding criteria. These criteria include:

- Produce new affordable housing units
- Provide new affordability thru preservation of existing housing stock
- Create units affordable to households with a range of incomes, particularly units for households with incomes below 60% of area median income
- Include affordable units for the elderly
- Include affordable units for the disabled and the homeless.
- Propose the longest term of affordability
- Are sponsored by non-profit organizations.
- Units that need to be brought up to state building and sanitary codes

Funding preferences include projects/developments/rents that:

Produce a greater level of affordability:

Projects or developments whose sponsor agrees to preserve or create units for those persons at or below 60% of median area income will be ranked higher for approval than those that agree to preserve or create units at or below 80% of median income.

Readiness to Proceed:

Projects which have appropriate zoning, local approvals, and fully prepared plans will be given priority.

Percentage of Affordable Units:

Priority will be given to projects which provide a greater percentage of affordable units for households at or below 60% of median income.

Community Impact:

Projects that are part of a larger neighborhood revitalization plan will be given priority.

- Projects utilizing town/donated land/buildings.
- Projects that target use of existing structures.
- Will reduce environmental impacts through use of innovative strategies and/or technologies

Special Needs Housing:

Added priority will be given to projects which address the housing needs of a targeted population. Examples of these projects might include, but are not limited to:

- projects which promote homeownership
- projects which prevent homelessness
- projects which help the physically disabled and the elderly maintain their home in compliance with state sanitary code regulations, and Wareham Board of Health regulations

Rental Units:

- ***Mixed-Income Developments:***
Applications proposing mixed-income developments (with a combination of low, and/or very low and market units) are encouraged.
- ***Rent Impact:***
Priority will be given to projects which have a greater percentage of apartments or home ownership units that are deemed affordable at: 1) at or between 80% and 61% of median, 2) at or between 60% and 40% of median.
- ***Non-permitted Unit Immunity***

In no case shall any unit that has an AHFT deed restriction placed on it, be allowed to participate in any federal or state rental subsidy program where a unit, despite being in compliance with the AHFT affordability restriction, would receive the full market rent for the area.

Rental Rates

The rents that may be charged on AHFT units having a deed restriction may not be greater than the Fair Market Rents established by HUD and/or MassHousing. When a difference exists between fair market rents, the lower rent shall be charged.

Affirmative Marketing: To be considered AHFT, all applicants are required to include policies and procedures for the affirmative marketing of housing opportunities for projects with three or more units.

- ***Affordability Periods:***

The affordability period is the length of time the units will remain affordable to low- and very-low income households.

- ***Leveraging of Other Funds:***

The AHFT reserves the right to reject any and all applications; to waive any requirements of this application format, to waive any minor informalities in applications; to modify or amend any application, if otherwise permitted by law; and to effect any agreement deemed by the AHFT to be in its best interest.