

**TOWN OF CHATHAM**  
**AFFORDABLE HOUSING TRUST FUND (AHTF)**  
*(created pursuant to MGL Chapter 44, Section 55C)*  
*Revised 8/5/08*  
**Guidelines for the Disbursement of CPA Funds**  
**Transferred to the AHTF**

**Background:**

In 2006, on the recommendation of the Affordable Housing Committee (AHC), Chatham Town Meeting approved Article 16 creating an Affordable Housing Trust Fund (AHTF) for the specific purpose of establishing a mechanism for the Town to receive funds to plan for and create affordable housing. The Trust is managed by a Board of Trustees, made up of members of the Board of Selectmen and two (2) appointees, who appropriate funds for the creation and preservation of affordable housing in Chatham. The Trust Fund can be funded through contributions from developers under the Inclusionary Zoning Bylaw, as well as funds appropriated under the Community Preservation Act (CPA), MGL Chapter 44B and Chapter 267 of the Acts 2000 as amended, and other sources.

Details of the Trust are as follows:

Management of the Trust - Administered by a Board of Trustees (the "Trustees") which includes seven (7) trustees, including all of the members of the Board of Selectmen, with the remaining two (2) members to be appointed by the Board of Selectmen. Trustees serve for a term not to exceed two years. A quorum of the board of trustees shall be the majority of the number of authorized trustees, four (4), except when voting to appropriate funds and in that instance the minimum necessary members present shall be five (5).

Powers of Trustees - As stated in the Act, the Trustees may undertake any activity that would operate to create and preserve affordable housing for the benefit of low and moderate income households. Their powers include, but are not limited to, the right to receive, purchase, and convey real or personal property; to exchange deeds, contracts, and various other legal documents in connection with the Trust's activities; to employ and compensate advisors and agents; (**note: Eliminating the Trust's ability to borrow money requires amending §10-5. Affordable Housing Trust Fund of the General Bylaws.**) to make distributions or divisions of principal in kind; to conduct itself in its discretion with respect to legal claims by or against the Trust; to manage or improve real property and to abandon property when the Trustees deem advisable; and to extend the time for payment of any obligation to the Trust.

Trust Assets - The Act provides that any money paid to the Trust through grants, a zoning ordinance or by-law, as an exaction fee, or from private contributions shall be deposited directly into the Trust's account and need not be appropriated or accepted and approved into the Trust. When general revenues of a municipality are appropriated to the Trust, the Trust retains money so appropriated as Trust property and may expend it without further appropriation. Moreover, funds remaining in the Trust at the expiration of a fiscal year stay with the Trust, irrespective of when such money was received. The Trustees are required to obtain an independent audit of all books and records on an annual basis, in accordance with accepted accounting practices.

Legal Status of the Trust - The Trust is deemed to be a public employer and municipal agency pursuant to MGL Chapter 268A. Likewise, Trustees are classified under the Act as public employees and special municipal employees in accordance with the terms of MGL Chapter 268A. As a governmental body, the Trust must comply with the open meeting requirements set forth under MGL Chapter 39 and is likewise subject to MGL Chapter 40, Section 15A and MGL Chapter 30B with the exception that agreements and conveyances between a Trust and other public instrumentalities are excluded from the application of Chapter 30B.

Community Preservation Act - Section 2 of Chapter 491 of the Acts of 2004, "Municipal Affordable Housing Trust Fund" bill (effective April 7, 2005) amended Section 5 of the Community Preservation Act (MGL Chapter 44B) by giving cities and towns the right to appropriate money from the Community Preservation Act funds into an affordable housing trust. Funds paid to the AHTF are specifically limited to affordable housing purposes and not for general administrative expenses.

### **Funding Philosophy:**

The Trustees will review funding requests with a number of factors in mind including, but not limited to such things as: amount leveraged by the funds; other sources of funds available to the applicant; percentage of countable affordable units created; percentage of actual affordable units; diversity of income within the development; location of the development; type of housing being created; other benefits derived from the development (open space, public safety, historic restoration, etc.); and the septic treatment (on sewer or denitrified system).

## **Activities Eligible under the AHTF:**

### **Predevelopment Activities:**

Only the Town and/or non-profit developers are eligible for funding in this category.

Local non-profits may be given preference.

### **Eligible Activities Include But Are Not Limited To:**

1. Architect and Engineering fees, legal fees, permits, appraisals, 21E Reports, etc.
2. Interest costs associated with site acquisition.
3. Costs associated with examining the feasibility of improving the project: septic upgrade, creating additional open space; designing passive recreation space into the project, etc.

### **Development Activities:**

For-profit and non-profit developers, and the Town are eligible for funding in this category. Local entities may be given preference.

### **Eligible Activities:**

1. Funds in this category can be used to reduce or subsidize any project cost.
2. Development grants shall be limited to \$10,000 per affordable unit and \$150,000 per project.
3. Development loans shall be limited to \$15,000 per affordable unit and \$300,000 per project if used alone. If used in combination with a CPA housing grant, the combined total cannot exceed \$400,000.
4. A project that is eligible for CPA Open Space and/or Historic Preservation funds under CPA shall receive those in excess of any limits established for AHTF funds.
5. Funds in this category can be used to write down the cost of existing housing and/or fund the redevelopment of existing housing or commercial properties for conversion to affordable housing. The funding limits above may be exceeded for adaptive reuse, infill, or redevelopment projects with a unanimous vote of the Trust.

**Eligibility Criteria:**

1. This list of Eligibility Criteria applies to any CPA funds awarded to a project, whether they are pre-development funds, a development grant, or a development 15-year loan.
2. Project must have at least 25% of the units affordable to families at 80% or below Barnstable County AMI.
3. All financial transactions undertaken by the Trust must comply with the CPA guidelines.
4. Projects providing additional benefit(s) to the community (open space, historic preservation, public safety, economic revitalization) will also receive additional points.
5. All affordable units must be deed restricted in perpetuity.
6. All projects must have a local (Chatham) preference in the selection process to the extent allowed by law and by the funding agencies.
7. Both new construction projects and redevelopment projects are eligible for funding.
8. Funding for projects providing 100% of its units affordable and deed restricted for incomes up to 80% of AMI can be exceeded with a unanimous vote of the Trust

**Funding Guidelines:**

1. Funding for predevelopment and purchase interest costs will be zero-interest loans for six months, with interest accruing thereafter. The loan and the accrued interest are due and payable at the time of construction financing. The CPC and the Affordable Housing Committee must be convinced the project has an excellent chance of completion before awarding predevelopment loans.
2. Funding for project improvements will be conditional on an increased number of affordable units and may be awarded as a grant.
3. Funding for septic upgrade will also be conditional on increasing the number of affordable units and may be awarded as a grant.
4. Funding for redevelopment costs may be a grant, a loan, or a combination of both.
5. All loans shall be in the form of a mortgage against the property and may be subordinated to other lenders to the project.

6. Grant funding shall be limited to \$10,000 per unit and \$150,000 per project.
7. A project may receive both grant funds and loan funds, however the combination of the two is limited to \$400,000 per project.
8. Funding shall be contingent upon providing an affordable deed restriction in perpetuity.

**Application Process:**

Entities interested in utilizing AHTF money must first present their proposal at a meeting of the Affordable Housing Committee for a recommendation to be forwarded to the Trustees. At least five (5) Committee members must vote in the affirmative on a proposed project to garner a favorable recommendation to the Trustees.

Representatives of the housing groups in support of the application, and the project developer must also present the project to the CPC (for informational purposes). The CPC shall not endorse or deny the project; the presentation is solely to keep the CPC apprised of any action to use the Chatham Affordable Housing Trust Fund.

After receiving an affirmative recommendation from the AHC, the project proponent must then present the proposal to the Trustees and be granted approval in order to access the funds. The presentation to the Board of Trustees may be made concurrently with the presentation to the CPC. The project proponent must enter into a contract with the Town outlining the purpose, scope, timeframe, and funding limit for the project. The project proponent shall submit an original copy of the signed contract to the CPC.

**Only those projects that receive the approval of the Board of Trustees may access the Development Fund monies.**

These Guidelines shall be reviewed and updated a minimum of once a year by the Board of Selectmen, the CPC and the AHC and approved by the Board of Selectmen and the Trust.

## Founding Sources