

ARTICLE X ACCEPTANCE OF LEGISLATION/ BYLAW AMENDMENT / TYNGSBOROUGH AFFORDABLE HOUSING TRUST

To see if the Town will establish a new bylaw for the administration of the Tyngsborough Affordable Housing Trust; or take any action related thereto.

This Bylaw was created based on the Declaration of Trust accepted by the Select Board and filed with the Registry of Deeds. It was also cross referenced with language drafted by Arlington, MA's Affordable Housing Trust.

SECTION 1: Name of the Trust

The trust shall be called the "Town of Tyngsborough Affordable Housing Trust Fund."

SECTION 2: Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Tyngsborough for the benefit of low and moderate income households. In furtherance of this purpose, the Trustees are hereby authorized, in accordance with the procedures set forth herein, to acquire by gift, purchase or otherwise real property, personal property, or money, both tangible and intangible, of every sort and description; to use such property, both real and personal, and money in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property and money held by the Trust and the net earnings thereof shall be used exclusively for the preservation and creation in the Town of Tyngsborough of affordable housing for the purposes for which this Trust was formed.

SECTION 3: Board of Trustees

- A. Composition. There shall be a board of trustees of the Tyngsborough Affordable Housing Trust Fund, in this section called the board, which shall include not less than five (5) nor more than seven (7) Trustees, who shall be appointed by the Board of Selectmen (Selectmen). At least one of the Trustees shall be a member of the Selectmen, or its designee. One member of the Trustees shall be the Town Administrator or his or her designee. Only persons who are residents of the Town of Tyngsborough shall be eligible to hold the office of Trustee. Of the Select Board appointees, at least one shall be a tenant who earns a low- or moderate-income, and resides in subsidized housing as defined by G.L. c.40B or who received state- or federally-sponsored rental subsidies and demonstrates knowledge of tenant issues.
- B. Appointment of Trustees. Trustees shall serve for a term not to exceed two years, except that two 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. Any Trustee who ceases to be a

resident of the Town of Tyngsborough shall cease to be a Trustee hereunder and shall promptly provide a written notification of the change in residence to the Board and to the Town Clerk. 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 be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. No such appointment shall be required so long as there are five trustees in office. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

C. Officers. The Trustees shall designate a chair, vice chair, treasurer, and clerk.

D. Removal. A Trustee may be removed by the Select Board for cause following a hearing.

E. Declaration of Trust. The Trustees are authorized to execute a Declaration of Trust and Certificate of Trust for the Tyngsborough Affordable Housing Trust Fund, to be recorded with the Middlesex North Registry of Deeds and filed with the Middlesex North Registry District of the Land Court, following approval of the Select Board.

SECTION 4: Meetings of the Trust

The Trust shall meet at least quarterly 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, M.G.L. c. 30A, §§ 18-25. A quorum at any meeting shall be a majority of the Trustees, qualified and present in person.

SECTION 5: Powers of Trustees

(Does predicating the approval of Select Board on so many of these complicate transactions?)

The powers of the board of trustees, all of which shall be carried on in furtherance of the purposes set forth in General Laws Chapter 44 Section 55C, shall include the following:

A. With the approval of the Selectmen, 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 Tyngsborough Community Preservation Act Committee for inclusion in the community preservation initiatives report, form CP-3, to the Department of Revenue;

- B. With the approval of the Selectmen, to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- C. With the approval of the Selectmen 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 real or personal trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- D. 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;
- E. To employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;
- F. 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;
- G. 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;
- H. With the approval of the Selectmen, 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;
- I. With the approval of the Selectmen, 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;
- J. To carry property for accounting purposes other than acquisition date values;
- K. With the approval of the Selectmen and the approval of Town Meeting by a two-thirds majority vote, to incur debt, to borrow money on such terms and conditions and from such

sources as the board deems advisable, and to mortgage and pledge trust assets as collateral; however, the Trust borrowing shall not exceed \$15,000,000 at any one time without Town Meeting approval.

- L. With the approval of the Selectmen, to disburse Trust funds for the purpose of making loans or grants in furtherance of the creation or preservation of affordable housing in the Town upon such terms as the board shall deem most appropriate to carry out such purposes;
- M. To make distributions or divisions of principal in kind;
- N. 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 M.G.L. c. 44, § 55C, to continue to hold the same for such period of time as the board may deem appropriate;
- O. To manage or improve real property; and with the approval of the Selectmen, to abandon any property which the board determines not to be worth retaining;
- P. To hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and
- Q. To extend the time for payment of any obligation to the trust.

SECTION 6: Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning by-law, exaction fee, or private contribution, or other by-law 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 at the end of any fiscal year, whether or not expended by the Trustees within one year of the date they were appropriated into the Trust, remain Trust property.

SECTION 7: Acts of Trustees

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder 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.

SECTION 8: Liability

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

SECTION 9: Taxes

The Trust is exempt from M.G.L. c. 59 and c. 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any of its subdivisions.

SECTION 10: Custodian of Funds

The Town 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.

SECTION 11: Governmental Body

The Trust is a governmental body for purposes of Sections of M.G.L. c. 30A §§ 18-25.

SECTION 12: Board of the Town

The Trust is a board of the Town for purposes of M.G.L. c. 30B and M.G.L. c. 40, § 15A but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from Chapter 30B.

SECTION 13: Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. 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 and held by the Board of Selectmen 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 or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

SECTION 14: Recordings

The Trustees have the authority to execute, deliver, and record with the applicable Registry of Deeds any documents required for any conveyance here authorized.

SECTION 15: Titles

The title to the various Sections herein are for convenience only and are not to be considered part of said Sections nor shall they affect the meaning or the language of any such Section.

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