

# **COMMUNITY PRESERVATION ACT**

## **Town of Hatfield**

### **COMMUNITY HOUSING PROJECT GUIDELINES**

The Community Preservation Act requires that a participating community ".shall spend, or set aside for later spending, not less than 10 per cent of the annual revenues in the Community Preservation Fund for community housing. A city or town must either spend or reserve not less than 10% of current CPA revenues annually expended for the creation, preservation, and support of community housing, and for the rehabilitation or restoration of community housing that is acquired or created under the Act

Additionally, each year the city or town must also spend or set aside 10% for open space and 10 % historical preservation. The remaining 70% of CPA receipts may be divided among all the other permissible use categories (open space, historical preservation, and community housing) or permitted recreational uses on a discretionary basis.

With respect to the permissible purposes for which CPA funds may be spent on community housing, the Act requires that wherever possible, preference be given to the adaptive reuse or rehabilitation of existing buildings, replacement of existing housing, or construction of new buildings on previously developed or disturbed sites. Community housing means housing for low and moderate income individuals and families, including seniors.

**Preference** will be given to project proposals based on the degree to which they address the following criteria:

- Promotes the goal of having 10 percent of Hatfield's housing stock considered affordable
- Ensures long-term affordability
- Promotes the use of existing buildings or construction on town-owned land
- Attracts matching funds or grant opportunities to complete construction.
- Converts market-rate housing to affordable housing
- Intermingles affordable and market-rate housing
- Requires limited management by the Town of Hatfield
- Does not create a significantly greater impact on town or natural resources than market-rate housing on the same site
- Provides housing that is harmonious in design and style with the surrounding neighborhood
- Promotes a socioeconomic environment that encourages a diversity of income, ethnicity, religion and age
- Gives priority to local residents, Town employees, and employees of local businesses

**Potential allowable uses** to which this housing funding may be applied include creation, preservation, support, or rehabilitation and restoration of community housing:

### **Creation**

- Convert existing non-residential properties to community housing (schools, mills, churches office buildings, warehouses, etc)
- Create in-law apartments and other ancillary housing
- Acquire real property (land and/or buildings) for new housing development, both rental and homeownership.
- Grant or loan funds for the creation of community housing to non-profit or for-profit parties (provided that the funds are not used by the private party to acquire a real estate interest and that the municipality establishes sufficient safeguards to ensure that the funds are used primarily for the creation of community housing and that any benefit to the private entity is merely incidental). It is anticipated that many local CPA housing initiatives will utilize private non-profit or for-profit intermediaries for the creation of community housing
- Restore "brown fields" sites for housing or other mitigation of contaminated sites in preparation for housing development

### **Preservation**

- Refinance "expiring use" properties which are at risk of going market rate
- Acquire a preservation restriction to limit the occupancy of certain units in a privately owned rental building to persons of low or moderate income housing

### **Support**

- Modify existing homes, including accessibility improvements that allow the disabled or senior citizens to continue to live in their homes
- Provide a match for state Home Modifications funds to adapt the homes of elderly and disabled town residents, including the installation of such safety measures as ramps and bars
- Assist the local housing authority to support its low income rental properties
- Use as a subsidy to write down interest rates for first-time homebuyer programs such as the Massachusetts Housing Partnership's Soft Second Program or the state's Self Help Program that has specific matching requirements; this subsidy makes the Soft Second Program the most affordable mortgage in the state
- Fund a housing trust or a housing authority to support a particular community housing initiative. Income from an endowment for local affordable housing can be applied directly or matched with state or federal funding
- Provide matching funds under the Housing Innovations Fund which helps to build limited equity coops, housing for people with AIDS, etc

## **Rehabilitation and Restoration of Community Housing Created Using CPA Funds**

- Make site improvements such as water/sewer connections, well installation, septic installation or repair, or other underground utilities associated with the creation of affordable housing
- Rehabilitate or restore existing public or private property being converted to affordable housing units in a mixed income residential environment

*As noted above, if a CPA assisted community housing project serves individuals and families earning less than 80% of HUD area median income, any newly created units may count toward a city's or town's Chapter 40B affordable housing inventory. If CPA funds are used in conjunction with established rental or homeownership programs, the eligibility of this housing under 40B is generally assured. However, innovative new programs using CPA will require a determination by DHCD as to whether the amount or form of funding will qualify the housing.*

Every housing opportunity should be considered and evaluated. Existing housing that has the following attributes, in order of priority, will be viewed as a more desirable proposal:

- Rehabilitation costs are not prohibitive
- Is structurally sound
- Is free of lead paint, asbestos, pollutants, and other hazards
- Septic system complies with Title 5 and passes inspection or has an existing town sewer connection
- Complies with relevant building and sanitary codes.

When choosing between two or more community housing proposals:

- Multi-unit is preferable to single unit
- Three or more bedrooms is preferable to two bedrooms, and one-bedroom units are likely to be appropriate only in a multi-unit building
- Units with handicapped accessibility are desirable
- The age and style of the building, and the likely maintenance costs and requirements, should be considered (e.g., post-WWII ranch or cape may be preferable to historic Victorian, except when the desire to take advantage of multiple-goal opportunities, such as combining housing and historic preservation may overcome this consideration).

Location of the housing unit(s) is not critical; however, the following characteristics are favored:

- Located on a site not prone to flooding or burdened with cumbersome restrictions
- Located near conveniences (e.g., shopping) for handicapped and/or elder units
- Not located on a major road.

While undeveloped and developed parcels should be considered for multiple uses, the privacy of persons residing in community housing should be respected by ensuring adequate living room (indoors and out) and not intruding into that space with public access and related easements.

Finally, because of the scarcity of housing opportunities in Hatfield, any site or structure that does not score highly according to the above criteria should be reviewed to determine whether use for community housing is feasible and practical.

### **Hatfield Community Housing Qualifications General Requirements**

1. The units must serve households at or below 80% of the area median household income (refer to DHCD/HUD tables).
2. The units must be subject to Use Restrictions of a substantial duration to ensure that the units remain available exclusively to persons with qualifying incomes.
3. The units must be rented or sold on a fair and open basis.

### **Determining Rental/Sales Prices**

Affordable units must be priced at levels affordable to buyers with a range of incomes of at least 10% below the maximum listed income. Rent must include heat and utilities or include a utility allowance. Sale prices are based upon principal, interest, and insurance payments assuming a 5% down payment and the low or moderate families spending no more than 30% of their income on housing costs.

### **Marketing**

All units must have a marketing plan approved by DHCD. The three elements are of the plan are as follows:

1. Affirmative marketing to minority households whereby the percentage of minority ownership is equal to the greater of the percentage of income eligible minority households in the community *and* the percentage of income eligible minority households in the regional planning area.
2. 70% local preference as freely determined by the community.
3. Buyer/tenant selection process must be fair and equitable, such as a lottery.
4. Preference may be given to single handicapped individuals.

Section 12 (a) of the Act requires that **real property interest** that is purchased with monies from the Community Preservation Fund shall be bound by a **permanent deed restriction** that meets the requirements of Chapter 184,

limiting the use of the interest to the purpose for which it was acquired. The deed restriction shall **run with the land and shall be enforceable** by the city or town or the commonwealth. The deed restriction may also run to the benefit of a nonprofit, charitable corporation or foundation selected by the city or town with the right to enforce the restriction.

Section 12 (b) of the Act requires that if real property interests are acquired using CPA funds, the property must be **owned and managed by the municipality** (unless the interest has a term of less than 30 years or involves only a security interest such as a mortgage). Direct municipal ownership may constrain the development of community housing by limiting the availability of financing from certain federal and state housing assistance programs and by limiting the potential for private investment. Therefore, municipalities should consider creative ways to acquire and improve real property for community housing under the CPA that do not involve municipal ownership. The legislative body **may also delegate** management of such property to a nonprofit organization created under Chapter 180 or Chapter 203.

### **CPA Definitions**

**Acquire.** Obtain by gift, purchase, devise, grant, rental, rental purchase, lease or otherwise. "Acquire" shall not include a taking by eminent domain, except as provided in this chapter.

**Assets.** The cash, savings, and valuable things you own that you can use to pay for the things you need.

**Annual income.** A family's or person's gross annual income less such reasonable allowances for dependents, other than a spouse, and for medical expenses as the housing authority or, in the event that there is no housing authority, the department of housing and community development, determines.

**Community housing.** Low and moderate income housing for individuals and families, including low or moderate income senior housing. Community housing is defined to include housing for persons or families earning up to 100% or less of the locality's area-wide median income. Applicable area-wide median income (as further differentiated by household size) is established annually by the United States Department of Housing and Urban Development (HUD). HUD income limits are available from its website: <http://www.huduser.org>. However, for housing units created with CPA funds to be counted toward a community's Chapter 40B affordable housing inventory, the units must serve those earning less than 80% of area median income.

**Low income housing.** Housing for those persons and families whose annual income is less than 80 per cent of the area-wide median income. The area-wide median income shall be the area wide median income as determined by the

United States Department of Housing and Urban Development. For income limits in Massachusetts communities, see the HUD 2006 Median Family Incomes.

**Low or moderate income senior housing.** Housing for those persons having reached the age of 60 or over who would qualify for low or moderate income housing.

**Maintenance.** The upkeep of real or personal property.

**Moderate income housing.** Housing for those persons and families whose annual income is less than 100 per cent of the area-wide median income. The area-wide median income shall be the area-wide median income as determined by the United States Department of Housing and Urban Development.

**Preservation.** Protection of personal or real property from injury, harm or destruction, but not including maintenance.

**Qualifying Families.** Families at or below 80% of the current area median income qualify for affordable housing. The passbook values of any assets are included as income. An applicant may not own any residential property unless, in the case of elderly units, it will be sold to create income to provide a down payment or monthly housing expenses. Allowable assets shall not exceed \$50,000. Affordable unit applicants must meet the program income limits in effect at the time they apply for a unit and must continue to meet the program income limits in effect at the time of all subsequent reviews.

**Real property.** Land, buildings, appurtenant structures and fixtures attached to buildings or land, including, where applicable, real property interests.

**Real property interest.** A present or future legal or equitable interest in or to real property, including easements and restrictions, and any beneficial interest therein, including the interest of a beneficiary in a trust which holds a legal or equitable interest in real property, but shall not include an interest, which is limited to the following: an estate at will or at sufferance and any estate for years having a term of less than 30 years; the reversionary right, condition or right of entry for condition broken; the interest of a mortgagee or other secured party in a mortgage or security agreement.

**Rehabilitation.** The remodeling, reconstruction, and making of extraordinary repairs to historic resources, open spaces, lands for recreational use, and community housing for the purpose of making such historic resources, open spaces, lands for recreational use, and community housing functional for their intended use including, but not limited to, improvements to comply with the Americans with Disabilities Act and other federal, state or local building or access codes. With respect to historic resources, rehabilitation shall have the additional meaning of work to comply with the *Standards for Rehabilitation* stated in the

United States Secretary of the Interior's Standards for the Treatment of Historic Properties codified in 36 C.F.R. Part 68.

Further information and resources are available at the Community Preservation Coalition web site at: <http://www.communitypreservation.org/>  
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