

**TOWN OF BILLERICA
COMMUNITY PRESERVATION COMMITTEE**



COMMUNITY PRESERVATION PLAN

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A Brief Introduction to the Community Preservation Act

From the Community Preservation Coalition, a nonprofit which helps municipalities understand, adopt and implement the Community Preservation Act (CPA), and advocates for CPA at the state level:



The Community Preservation Act (CPA) is a smart growth tool that helps communities preserve open space and historic sites, create affordable housing, and develop outdoor recreational facilities. CPA also helps strengthen the state and local economies by expanding housing opportunities and construction jobs for the Commonwealth's workforce, and by supporting the tourism industry through preservation of the Commonwealth's historic and natural resources.

Over a decade of work went into the creation of the CPA; it was ultimately signed into law by Governor Paul Cellucci and Lieutenant Governor Jane Swift on September 14, 2000.

CPA allows communities to create a local Community Preservation Fund for open space protection, historic preservation, affordable housing and outdoor recreation. Community preservation monies are raised locally through the imposition of a surcharge of not more than 3% of the tax levy against real property, and municipalities must adopt CPA by ballot referendum.

The CPA statute also creates a statewide Community Preservation Trust Fund, administered by the Department of Revenue (DOR), which provides distributions each year to communities that have adopted CPA. These annual disbursements serve as an incentive for communities to pass CPA.

Each CPA community creates a local Community Preservation Committee (CPC) upon adoption of the Act, and this five-to-nine-member board makes recommendations on CPA projects to the community's legislative body.

Property taxes traditionally fund the day-to-day operating needs of safety, health, schools, roads, maintenance, and more. But until CPA was enacted, there was no steady funding source for preserving and improving a community's character and quality of life.

The Community Preservation Act gives a community the funds needed to control its future. ”

- <http://www.communitypreservation.org>

Ballot Text for Community Preservation Act November 2016 Ballot Question

QUESTION 5

Shall the Town of Billerica accept sections 3 to 7, inclusive of Chapter 44B of the General Laws, as proposed by a petition signed by at least 5 percent of the registered voters of this town, a summary of which appears below?

SUMMARY

Sections 3 to 7 of Chapter 44B of the General Laws of Massachusetts, also known as the Community Preservation Act ("Act"), establishes a dedicated funding source for the acquisition, creation and preservation of open space; acquisition, preservation, rehabilitation and restoration of historic resources; acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; acquisition, creation, preservation and support of community housing; and rehabilitation or restoration of open space and community housing acquired or created as provided under said Act.

In Billerica, the funding source for these community preservation purposes will be a surcharge of 1% on the annual tax levy on real property beginning in fiscal year 2018, and by annual distributions made by the state from a trust fund created by the Act. Only communities that adopt the Community Preservation Act receive a distribution from this state trust fund.

If approved, the following will be exempt from the surcharge: property owned and occupied as a domicile by a person who would qualify for low income housing or low or moderate income senior housing in the Town of Billerica, as defined in Section 2 of said Act; \$100,000 of the value of each taxable parcel of residential property; \$100,000 of the value of each taxable parcel of class three, commercial property, and class four industrial property as defined in G.L. 59, §2A. A taxpayer receiving a regular property tax abatement or exemption will also receive a pro rata reduction in surcharge.

Upon acceptance by the voters, a Community Preservation Act Committee will be established by by-law, composed of local citizens, to study community preservation resources, possibilities and needs, and to make annual recommendations to Town Meeting on the use of the funds. All expenditures must be approved by Town Meeting. At least 10% of the funds for each fiscal year will be spent or reserved for later spending on each of the Act's three community preservation purposes: (1) open space and recreation, (2) historic resources and (3) affordable housing.

Billerica Community Preservation Act Background

On November 8, 2016 Billerica's residents voted to implement the Community Preservation Act (CPA) in Billerica. 2016 Fall Town Meeting passed a local Bylaw to form a Community Preservation Committee (CPC).

The enactment of the CPA led to the establishment of the CPC, consisting of nine members: a member of the Conservation Commission, member of the Historical Commission, member of the Planning Board, member of the Recreation Commission, member of the Housing Authority Board, one citizen of Billerica appointed by the Town Manager, and one at-large member appointed by the Board of Select Board. Town Meeting later expanded the committee to include the Chief Assessor and a member of the Finance Committee.

With the adoption of CPA, Billerica collects a 1% surcharge on property tax bills, although there are opportunities for exemptions through the Assessor's Office. In addition, there is an annual disbursement from the Statewide Community Preservation Trust Fund. The Trust Fund's revenues are derived from fees collected at the Registry of Deeds, and from State budget surplus funds.

The CPA enables cities and towns in Massachusetts to create a local dedicated fund for open space and recreation, historic preservation, and community housing. Input from residents and community boards and committees will determine what types of CPA projects will most benefit the community each year. All CPA projects as recommended by CPC must be approved by Billerica's Town Meeting by a majority vote. Public input at the Community Preservation Committee (CPC's) meetings is encouraged. The state legislation and the local by laws are included at the back of this document for further reference.

Each fiscal year, CPA communities must spend, or set aside for future spending, the following share of their annual CPA revenues on three core areas:

10% for open space and recreation 10% for community housing 10% for historic resources

A community can use up to 5% for CPC administrative expenses; at the end of the fiscal year unused funds roll over into the CPA Fund balance. The remaining 65-70 percent of the revenues may be spent or reserved for future projects in any of these areas.

In order to administer the fund and support projects, such as the restoration and preservation of historic libraries, schools, and other resources and artifacts; the creation and restoration of ball fields, playgrounds, and recreational trails; the purchase of open space; or using CPA funds to address housing needs, the Town of Billerica created a local Community Preservation Committee (CPC). The current membership will be updated on the Town's website, as necessary.

The members of the CPC must adopt a Community Preservation Plan, and update it on an annual basis, that outlines goals and priorities. Through public outreach and input from boards and commissions, this plan will guide project eligibility, application, review, and disbursement of funds.

Needs Assessment

The Community Preservation Committee is tasked with performing a needs assessment to help their decisions. The Town of Billerica had devoted the time and effort through staff and resident's time to develop documents like the Billerica Master Plan, Open Space and Recreation Plan, and Town of Billerica Housing Production Plan, 2021-2025, and the Committee used those documents as a basis for the needs assessment.

A. Billerica's Master Plan (2018)

“ Shaping Billerica's Future: Vision for Tomorrow

In the next 10 to 15 years the Town of Billerica will be known by its residents, workers, visitors, and investors as a healthy and well-connected Smart Growth community that embraces its rich places and unique land use patterns while becoming more balanced in terms of its commercial, residential, industrial, and institutional land uses. A community that is inter-linked, with an accessible and ever-expanding open space and recreation network.

Our land use sectors will better transition between our residential neighborhoods and natural resource areas with environmental sensitivity and our community character and quality of life will be enhanced through an integrated land use pattern.

Billerica will have advanced projects focused on providing a more complete transportation system that will better serve the Town's entire population.

Billerica will be renowned for its abundant natural resources and open spaces with their environmental integrities preserved and enhanced. Our connection to the Concord and Shawsheen Rivers, forests, and open lands will be widely known, accessible, and appreciated by residents and visitors alike; our critical wildlife habitats within our landscapes and ponds will be restored for ecological balances at a local and regional level; and our wetlands will be protected as valuable green infrastructures to enhance our climate resilience. Together, these resources are woven and connected within the community fabric and help define the unique characters of Billerica.

Billerica will be known for its work to preserve and enhance its historic resources. The town will be a recognized leader in providing physical and educational links between the town's historic resources and the Concord and Shawsheen Rivers, which help define Billerica's heritage and have resulted in unique architecture and special places like Faulkner Mills. The historic character of the town's diverse neighborhoods are preserved through the responsible design of both alterations to older buildings and new construction, enhancing each neighborhood's quality of life. The town's residents interact with these resources on a regular basis, making Billerica's heritage an active economic and cultural benefit.

Billerica will be known for being proactive in maintaining and developing its infrastructure and public services, with continued support and improvements of the school system, fire station, parks and recreation, library, and water and sewer. ”

B. Billerica's *Open Space and Recreation Plan (2018)*

“ The Open Space and Recreation Plan is intended to serve as a guide for Billerica's citizens and local officials, as they work together over the next five years to protect the town's natural, cultural and historic resources, preserve remaining open space, and provide recreational opportunities for the town's residents. Such a coordinated and well-planned effort will allow these special places and opportunities to be enjoyed by future generations. The Plan attempts to be specific enough to guide future decision-making while providing the flexibility needed to respond to changing opportunities, programs and constraints.

The Open Space and Recreation Plan focuses upon the following four goals:

Goal 1: Preserve and enhance important natural resources.

Goal 2: Preserve and enhance important agricultural, cultural, and historic resources.

Goal 3: Improve, expand, and increase access to active and passive recreational opportunities.

Goal 4: Improve public awareness of conservation and recreational resources and their social, economic, and environmental benefits to the Town. ”

CPA projects must align with the Town's *Master Plan*, and those open space and recreation applications should address the goals of the Open Space and Recreation Plan as well. Projects that address as many of the following criteria as possible will receive preference:

Open Space

- Permanently protect important wildlife habitat.
- Preserve habitat for threatened or endangered species of plants or animals.
- Provide opportunities for passive recreation and environmental education.
- Protect or enhance wildlife corridors, promote connectivity of habitat, or prevent fragmentation of habitats.
- Provide connections or access to existing trails, water bodies, or recreational locations.
- Preserve important surface water bodies, including wetlands, vernal pools, or riparian zones.
- Receive support from municipal departments.

Recreation

- Improve the health and well-being of as many residents in as many age groups as possible.
- Promote unique opportunities to residents, visitors, and businesses to spend time in Billerica and thereby support the local economy.
- Connect to other cultural and recreational resources.
- Leverage existing recreational locations for multiple uses.
- Maximize the land already owned by the Town of Billerica.
- Receive support from municipal departments.

C. Historic Preservation

“The purpose of this By-Law is to promote the educational, cultural, economic, and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history and architectural heritage of the Town of Billerica, through the maintenance and improvement of settings for such buildings and places, through the encouragement of design compatible therewith, and through the prevention of development which would impair or be unduly detrimental to the locally or nationally significant structures of the districts.”

-*Historic District Commission By-Law (June 7, 1990)*

“Historic resources serve many roles, including creating a tangible link to a town’s heritage, and providing distinctive characteristics to a town’s many neighborhoods. They inspire pride in a town’s history, provide solid building stock, and serve as a catalyst for economic development...The abundance of natural resources in the town, and their interrelationship with historic resources, provides an opportunity for symbiotic partnerships in which entities combine their efforts, which will enhance the enjoyment of both sets of resources. Vacant, high-profile buildings such as the Howe School afford the opportunity to turn an unused property into a true public gem, continuing to serve Billerica’s residents through its evolving use. Projects on this scale require detailed planning for both construction and ongoing operations, a challenge made less onerous by programs such as the Community Preservation Act and the Massachusetts Preservation Projects Fund.”

-*Billerica Master Plan (2018)*

Billerica’s *Master Plan* identifies two main goals tied to historic preservation:

Goal 1: Enhance Billerica’s civic education programs and instill pride in the town’s rich heritage.

Goal 2: Develop programming and key projects to promote opportunities for everyday interactions with the town’s history and resources.

CPA projects must align with the Town’s *Master Plan*, and projects that address as many of the following criteria as possible will receive preference:

Historic Preservation

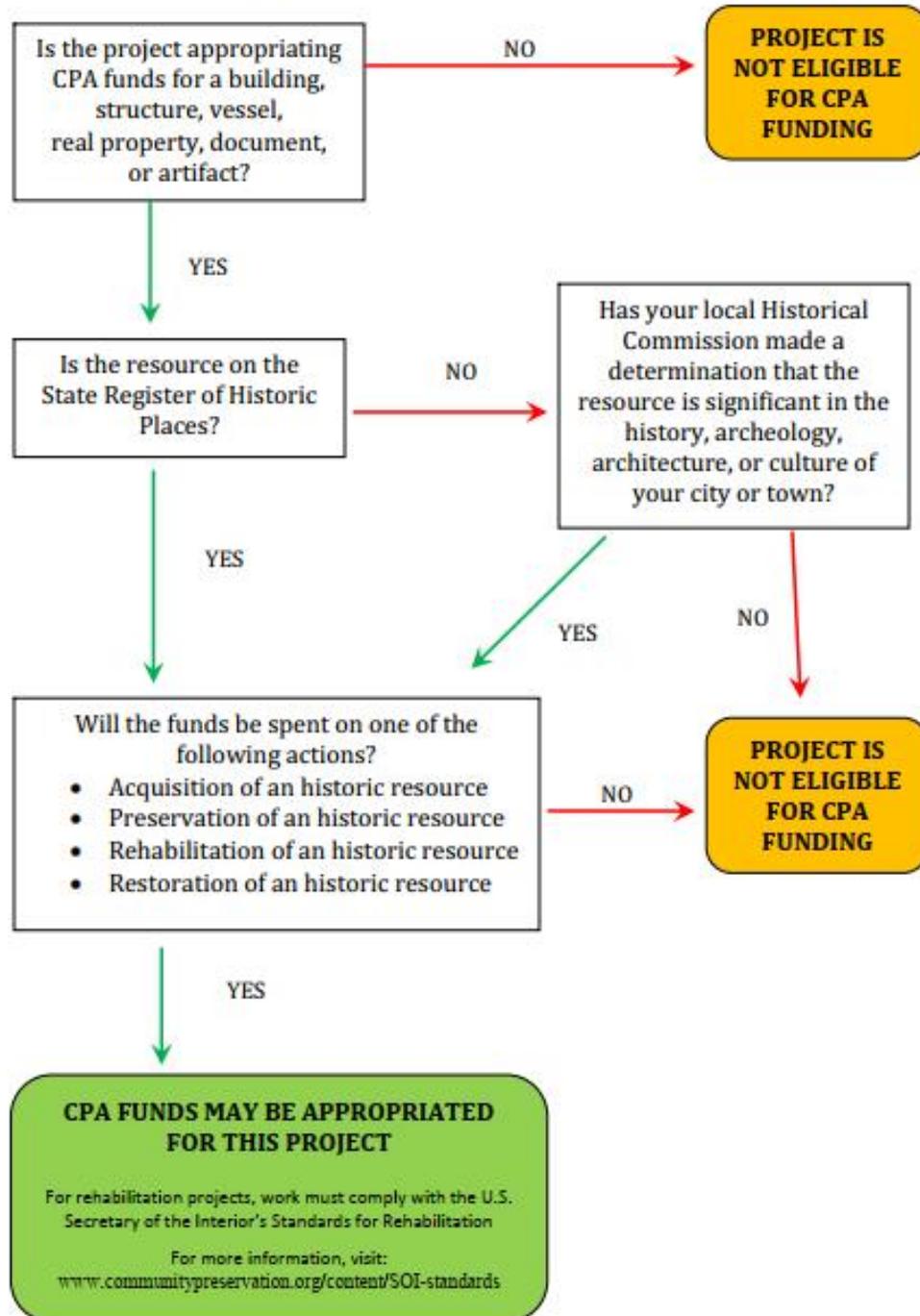
- Protect, preserve, enhance, restore and/or rehabilitate town-owned properties, features, or resources of historical significance.
- Protect, preserve, enhance, restore and/or rehabilitate historic, cultural, architectural, or archaeological resources of significance, especially those that are threatened.
- Protect, preserve, enhance, restore and/or rehabilitate the historical function of a property or site.
- Project demonstrates a public benefit that is significant in the history, archeology, architecture, or culture of the town.
- Project demonstrates the ability to provide permanent protection for maintaining the historic resource.
- Receive support from municipal departments.

The Secretary of the Interior's Standards for Rehabilitation

The Standards (Department of Interior regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Qualifying Historic Projects for CPA Funding



D. Town of Billerica Housing Production Plan, 2021-2025



Based on findings from the comprehensive needs assessment and previous affordable housing efforts, the Billerica Affordable Housing Trust developed the following goals:

1. Provide a variety of housing opportunities that serve all socio-economic groups within the community, especially those below 80% of the area median income.
2. Protect the quality of life and maintain the residential and historic character of the town through housing development.
3. Create diverse rental units, in terms of types of units (duplexes vs. multi-family) and number of bedrooms (three or more) for residents.
4. Support the creation of workforce housing units and broaden the range of potential homebuyers and tenants.
5. Develop rental and ownership options for senior citizens, disabled residents and veterans that allow them to live independently.
6. Receive credit on the Subsidized Housing Inventory (SHI) for the affordable housing units developed under the inclusionary provisions within the Town's Zoning Bylaw.
7. Update the zoning bylaws, development review processes and permitting policies so they are clear and consistent.
8. Ensure consistency in the interpretation and administration of affordable housing requirements by the Affordable Housing Trust, Affordable Housing Committee, Housing Authority, Select Board, Planning Board and Zoning Board of Appeals.
9. Ensure that affordable housing development in Billerica adheres to the Commonwealth's Sustainable Development Principles.
10. Utilize the DHCD-approved Housing Production Plan as a management tool to develop new housing opportunities in meeting the Town's annual housing production goals.
Update the Housing Goals on a regular basis.



Billerica's *Master Plan* also addresses land use goals that are informative for not only open space but for housing as well:



- Goal 1:** Promote better and higher use of the Town's commercial centers, industrial clusters, and underutilized brownfield areas, and seek places for mixed use.
- Goal 2:** Preserve and strategically utilize the Town's natural resources and open spaces to improve quality of life and healthy living in Town.
- Goal 3:** Encourage diversified housing developments that are also contributive to Billerica's state-mandated affordable housing stock and proactive to address specific housing needs in Town, particularly that of the seniors.
- Goal 4:** Improve the design and connectivity of our public realms, including gateway areas, streets and sidewalks, parks and open spaces, and civic places, to reinforce our community character while fostering a healthy and active lifestyle.



CPA projects must align with the Town's *Master Plan*, and those community housing applications should address the goals of the Housing Production Plan as well. Projects that address as many of the following criteria as possible will receive preference:

Housing

- Contribute to the goal of achieving and maintaining 10% affordable housing.
- Promote a socioeconomic environment that encourages a diversity of income, ethnicity, religion and age.

- Provide housing that is harmonious in design and scale with the surrounding community.
- Ensure long-term affordability.
- Promote use of existing buildings or construction on previously developed or Town-owned sites.
- Convert market rate to affordable units.

Community Preservation Committee Process

The Community Preservation Committee (CPC) invites applications for CPA funding on a rolling basis; all projects will be reviewed at Spring Town Meeting and must be submitted by December 31. No application for the following Spring Town Meeting will be accepted after this deadline. The CPC is responsible for reviewing all applications and making recommendations to Town Meeting as to which applications should be considered for funding.

The CPC will adhere to a standard schedule and aim to answer application questions at their public meetings. There are questions that may come up in between those meetings, and those questions can be addressed to the Community Preservation Coordinator who will coordinate with the CPC to provide answers in a timely manner.

Guiding Principles

To facilitate the process of meeting its goals, the CPC has adopted the following Guiding Principles:

1. Protect Billerica's character through strategic use of Community Preservation funds to be compatible with the goals identified in Billerica's Master, Open Space and Recreation, and Housing Production plans.
2. The strategic planning will also use the professional expertise from all applicable town-sanctioned boards and entities, as well as from private citizens.
3. Plan for development and redevelopment should be in areas where adequate infrastructure is already available or can be upgraded without causing damage to natural resources.
4. Implement the duties of the Billerica Community Preservation Committee as set forth in Article 42 of the Town of Billerica's By-laws: *"The CPC shall make recommendations to Town Meeting for the acquisition creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space and community housing that is acquired or created with Community Preservation Funds."*

Allowable Uses

Chart 1
COMMUNITY PRESERVATION FUND ALLOWABLE SPENDING PURPOSES (G.L. c. 44B, § 5)

| | OPEN SPACE | HISTORIC RESOURCES | RECREATIONAL LAND | COMMUNITY HOUSING |
|---|--|--|---|---|
| DEFINITIONS (G.L. c. 44B, § 2) | Land to protect existing and future wet fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, fresh and salt water marshes and other wetlands, ocean, river, stream, lake and pond frontage, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use | Building, structure, vessel, real property, document or artifact listed on the state register of historic places or determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of the city or town | Land for active or passive recreational use including, but not limited to, the use of land for community gardens, trails, and noncommercial youth and adult sports, and the use of land as a park, playground or athletic field Does <u>not</u> include horse or dog racing or the use of land for a stadium, gymnasium or similar structure. | Housing for low and moderate income individuals and families, including low or moderate income seniors Moderate income is less than 100%, and low income is less than 80%, of US HUD Area Wide Median Income |
| ACQUISITION Obtain property interest by gift, purchase, devise, grant, rental, rental purchase, lease or otherwise. Only includes eminent domain taking as provided by G.L. c. 44B | Yes | Yes | Yes | Yes |
| CREATION To bring into being or cause to exist. <i>Seideman v. City of Newton</i> , 452 Mass. 472 (2008) | Yes | | Yes | Yes |
| PRESERVATION Protect personal or real property from injury, harm or destruction | Yes | Yes | Yes | Yes |
| SUPPORT Provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing, or to entity that owns, operates or manages such housing, for the purpose of making housing affordable | | | | Yes, includes funding for community's affordable housing trust |
| REHABILITATION AND RESTORATION Make capital improvements, or extraordinary repairs to make assets functional for intended use, including improvements to comply with federal, state or local building or access codes or federal standards for rehabilitation of historic properties | Yes if acquired or created with CP funds | Yes | Yes | Yes if acquired or created with CP funds |

Source: Department of Revenue (DOR) 10-5-2012 conference, "Recent Developments in Municipal Law," Workshop B - Local Finances

Application Process

- 1) Because of the complexities of the CPA law, the committee requires all project applicants to begin the application process by submitting a one-page Project Eligibility Determination Form. No funding application will be accepted unless the Project Eligibility Determination Form has been submitted and approved. Once a project has been determined to be eligible, if it is not funded in the course of one funding cycle, an additional eligibility form is not necessary should an applicant choose to submit a new application in a future funding cycle. However, any applicant wishing to re-apply for funding must submit a new and up-to-date application following the timeline of any given funding cycle.
- 2) If the project is deemed to be eligible, project applications must be submitted in writing and electronically to the Community Preservation Committee. The applications can be turned in at the Planning Department.
- 3) Requests must be received by December 31st for the following Spring Town Meeting. Complex projects may need more advance time.
- 4) Projects should include letters of support from municipal departments, commissions, or boards.
- 5) The applicant should obtain (and include) quotes for the work whenever possible when requesting funding from the CPC. If not available, estimates may be used provided the basis of the estimate is fully explained.
- 6) Applicants must be present at a designated CPC meeting to answer questions.
- 7) Applicants will work with the Community Preservation Committee through the Review and Public Comment process. This process includes the following steps:
 - A. Each application is reviewed by the CPC and staff to determine its CPA eligibility, whether the project is sufficiently developed in terms of work plan and timing, whether it is consistent with the goals set forth in this Plan.
 - B. Meetings are held with applicants to review the proposals and address any questions. Where appropriate, a site visit will also be scheduled.
 - C. Notification is sent to applicants of the funding recommendation decisions.
 - D. A public forum is held to allow the CPC to receive public input on the proposed projects before recommendations are made for Town Meeting.
 - E. The CPC provides the project funding recommendations to Town Meeting. Final recommendations will be in the form of one or more warrant article to be voted on at Town Meeting. The CPC may recommend a project as proposed by the applicant, may modify the project, or may recommend partial funding or funding for only a portion or phase of the proposed project. The CPC's recommendation to Town Meeting may include detailed project scopes, conditions, and other specifications as the CPC, in its sole discretion, deems appropriate to ensure
 - F. CPA compliance and project performance: Please note that the CPC recommendation may be modified at any time prior to Town Meeting, especially following the Finance Committee public hearing. Thus, the CPC can alter or withdraw its Town Meeting Warrant Article(s) as additional information becomes available or as the scope of the project changes.
 - G. Applicants shall be expected to attend Town Meeting which will determine whether to accept, reduce or reject the CPC recommendations.

Special Application Process

Purpose

For any use eligible for CPA funding, under special circumstances as determined by the CPC, the CPC will consider a special application outside of the Standard Application Process on Page 10 if it meets the criteria listed below. By way of example, the most common of these circumstances might be the imminent placing of real property on the market, but they could include time-sensitive stabilization or restoration of an historic asset damaged by flood or fire, or other emergency situations. The principle warranting special consideration outside of the Standard Application Process is that a unique opportunity is presented that, if missed, is likely to remove or make unavailable to the Town and its citizens a valuable resource within the Town.

In all such cases, the CPC will adhere to the procedures applicable under the Standard Application Process, except for the submission and hearing deadlines outlined in that process, and in all such cases, the CPC will hold a public forum to review such an application. If the timing of the application is such that the CPC cannot meet the deadline for the Spring Town Meeting, the CPC may consider bringing the application forward at Fall Town Meeting by a Committee vote or the applicant or the Select Board can commit to calling a Special Town Meeting. The only purpose would be to consider the appropriation of CPA funds for the project described in the application. The CPC will consider such an application as expeditiously as possible but will itself not recommend holding a Special Town Meeting or making any other changes in the Town's calendar. The proponents and supporters of such an application will be responsible for calling a Special Town Meeting or securing other necessary changes in the Town's calendar.

Selection Criteria Checklist

The CPC will consider a proposal under the Special Application Process only if the project meets the Qualifying Historic Projects for CPA Funding, the Specific Criteria referred to in the Needs Assessments, and as many as possible of the following additional criteria:

- The proponents were previously unaware of the unique circumstances or opportunity to undertake the project at the given time; or the proponents did not have authority to identify such opportunity prior to the Standard Application Deadline (for example, the potential sale was still confidential).
- The proponents have either: (a) a letter of intent signed by the current owner of the real property expressing an interest in selling to the applicant; or (b) legal control (an option, signed purchase and sale agreement or legal title) of the real property.
- The project is supported by one or more Town Boards with responsibility for projects of a similar nature.
- Failure to secure CPA funding will create a high likelihood that the project will not be able to be carried out for the benefit of the Town, because the opportunity is unique or of very short duration.
- Appropriation of CPA funding will contribute materially to the likelihood of success for the project.
- The project holds a high priority in Billerica's *Master Plan*, *Open Space and Recreation Plan*, *Housing Production Plan*, or in other planning documents currently accepted and utilized by the Town.

Selection Criteria Checklist

The Community Preservation Committee understands that an application does not need to be all-inclusive and meet each and every category preference listed below. Each project will be unique and the narrative should stress the benefits to the community; however, those projects which are able to check more boxes may be rated higher as the Committee analyzes submissions.

General Preferences

- Project is eligible for Community Preservation Act (CPA) funding according to the requirements described in the CPA legislation. Specifically:
 - The acquisition, creation, and preservation of open space.
 - The acquisition, preservation, rehabilitation, and restoration of historic resources.
 - The acquisition, creation, and preservation of land for recreational use.
 - The creation, preservation, and support of community housing
- Project application is consistent with the current *Master Plan* and other planning documents adopted by the Town.
- The project preserves the essential character of the Town as described in the *Master Plan*.
- Project demonstrates practicality and feasibility and demonstrates that it can be implemented expeditiously and within budget.
- Project produces an advantageous cost/benefit value.
- Project attempts to leverage additional public and/or private funds.
- Project preserves or utilizes currently owned Town assets.
- Project receives endorsement by other municipal boards or departments.
- Projects demonstrate a commitment by identifying matching funds of +/- 50% of project cost where possible.

Open Space and Recreation Project Preferences:

- Aims to permanently protect important wildlife habitat.
- Aims to preserve habitat for threatened or endangered species of plants or animals.
- Provides opportunities for passive recreation and environmental education.
- Protects or enhance wildlife corridors, promote connectivity of habitat, or prevent fragmentation of habitats.
- Provides connections or access to existing trails, water bodies, or recreational locations.
- Preserves important surface water bodies, including wetlands, vernal pools, or riparian zones.
- Improves the health and well-being of as many residents in as many age groups as possible.
- Promotes unique opportunities to residents, visitors, and businesses to spend time in Billerica and thereby support the local economy.
- Connects to other cultural and recreational resources.
- Leverages existing recreational locations for multiple uses.
- Maximizes the land already owned by the Town of Billerica.

Historic Preservation Project Preferences:

- Protects, preserves, enhances, restores and/or rehabilitates Town-owned properties, features or resources of historical significance.
- Protects, preserves, enhances, restores and/or rehabilitates historic, cultural, architectural, or archeological resources of significance, especially those that are threatened.
- Protects, preserves, enhances, restores and/or rehabilitates the historical function of a property or site.
- Demonstrates a public benefit.
- Demonstrates the ability to provide permanent protection for maintaining the historic resource.

Housing Project Preferences:

- Contributes to the goal of achieving and maintaining 10% affordable housing.
- Promotes a socioeconomic environment that encourages a diversity of income, ethnicity, religion, and age.
- Provides housing that is harmonious in design and scale with the surrounding community.
- Ensures long-term affordability.
- Promotes use of existing buildings or construction on previously developed or Town-owned sites.
- Converts market rate to affordable units.

Application Requirements and Attachments

Submit 1 hard copy of the application and any attachments in hard copy and electronic format.

(The application should be as concise as possible, and copies should be double-sided whenever possible.)

1. Approved Eligibility Form
2. Cover Sheet
3. Brief Project Summary – Introduce the project with a brief summary which notes the category, goals, project scope, and budget at the start of each application packet. This summary should be a maximum of one paragraph in length and be suitable for distribution to other Boards and Commissions as a reasonable depiction of the overall project.
4. Map – Indicate the location of the project using a Town GIS map. Include additional maps as helpful including aerial, zoning, vegetation, and abutting buildings.
5. Narrative – Expand on the information presented in the project summary and provide a complete description of the project and its proposed use relative to the CPA. Describe what agency or organization will be responsible, what kind of community support has been given to the project, and why Town Meeting should support it. Include an implementation plan describing the steps or phases for completion and the processes needed for approval. Summarize the goals of the project and how they will be measured.
6. CPC's Selection Criteria and Needs Assessment – Address the issues raised in the CPC's General Selection Criteria and the Specific Use Criteria in the Needs Assessment.
7. Budget – Outline the total budget for the project and how CPA funds will be spent. Describe all funding sources. Where applicable, describe how much of the proposed CPA funding should be ascribed to each of the four CPA purposes. Make sure to consider any administrative expenses required to complete the project (appraisals, environmental assessments, bidding requirements, copying, legal notices, etc.) and explain how they have been accounted for in this budget. This is particularly necessary for construction and land acquisition projects and can include up to 10% of the budget. Please Note: Non-Profit Organizations should also include a current financial statement.
8. Feasibility – Summarize and attach any feasibility reports that may have been prepared. Explain all further actions that will be required for completion of the project such as zoning, environmental assessment, permits, restrictions, agreements, or other potential impediments to implementation.
9. Statement of Sustainability – If the project incorporates sustainable design features, explain how they will reduce impacts on the environment including, but not limited to, reducing energy consumption, enhancing energy and water conservation, and the use of recyclable materials.
10. Timeline – Describe the major milestones and when the project will be completed. Include an estimate of when the CPA funds requested will be needed.
11. Architectural plans, site plans, photographs, if appropriate.
12. Letters of Support from Town Departments, Commissions, Boards, and/or residents.

| FY | Application Name | Article # Date Voted | Status | Community Housing | Historic Resources | Open Space Recreation | |
|---------------|---|-------------------------|----------|----------------------|-----------------------|--------------------------|-----------------------|
| 2019 | Housing Authority-Affordable Housing Trust Affordable Unit Purchasing | Art. 25 -10/2/18 | Complete | \$160,000.00 | | | |
| 2019 | Clara Sexton Memorial Museum Preservation | Art. 25 -10/2/18 | Complete | | \$101,000.00 | | |
| 2019 | Middlesex Canal Museum | Art. 25 -10/2/18 | Complete | | \$100,000.00 | | |
| 2019 | Billerica Public Library Preservation Assessment | Art. 25 -10/2/18 | Complete | | \$6,135.00 | | |
| 2019 | Yankee Doodle Bike Path Design | Art. 25 -10/2/18 | Complete | | | \$367,000.00 | |
| 2019 | Billerica Recreation Disc Golf-Design Work | Art. 25 -10/2/18 | Complete | | | \$17,806.00 | |
| 2019 | Peggy Hannon Rizza Complex Design-Design Work | Art. 25 -10/2/18 | On Going | | | \$433,200.00 | |
| 2019 | Howe School-Design Work | Art. 25 -10/2/18 | On Going | | \$420,000.00 | | |
| 2019 | Total | | | \$160,000.00 | \$627,135.00 | \$818,006.00 | \$1,605,141.00 |
| 2020 | Housing Authority-Potential Purchase of Affordable Housing Unit | Art.24-5/7/19 | Complete | \$90,000.00 | | | |
| 2020 | Billerica Public Library-Great Deed Preservation | Art.24-5/7/19 | Complete | | \$7,180.00 | | |
| 2020 | Billerica Fire Dept. 1926 Maxim Ladder Truck Restoration | Art.24-5/7/19 | On Going | | \$29,000.00 | | |
| 2020 | First Parish Steeple Rehab. & Restoration | Art.24-5/7/19 | Complete | | \$52,877.00 | | |
| 2020 | Total | | | \$90,000.00 | \$89,057.00 | \$0.00 | \$179,057.00 |
| 2021 | Billerica Public Library-Purchase of Archival Furniture of Supplies | Art. 30-6/20/20 | Complete | | \$9,303.10 | | |
| 2021 | Katie Durand Memorial Park/Carter Ave | Art. 30-6/20/20 | On Going | | | \$75,000.00 | |
| 2021 | Sheridan Street/River Access-Design & Construction | Art. 30-6/20/20 | On Going | | | \$40,000.00 | |
| 2021 | Purchase of the Thomas Talbot Lodge/Masonic Hall | Art. 31 -6/20/20 | Complete | | \$683,000.00 | | |
| 2021 | Total | | | \$0.00 | \$692,303.10 | \$115,000.00 | \$807,303.10 |
| 2022 | Middlesex Canal-Museum Construction | Art. 16 -5/8/21 | On Going | | \$280,000.00 | | |
| 2022 | Katie Durand Memorial Park/Carter Ave | Art. 16 -5/8/21 | On Going | | | \$100,000.00 | |
| 2022 | Thomas Talbot Lodge/Masonic Hall Structural Repairs | Art. 16 -5/8/21 | On Going | | \$200,000.00 | | |
| 2022 | Housing Authority-Potential Purchase of Affordable Housing | Art. 16 -5/8/21 | Complete | \$200,000.00 | | | |
| 2022 | Yankee Doodle Bike Path-Design work | Art. 5-10/5/21 | On Going | | | \$350,000.00 | |
| 2022 | Total | | | \$200,000.00 | \$480,000.00 | \$450,000.00 | \$1,130,000.00 |
| 2023 | Clara Sexton House-Barn Renovation | Art. 14 -5/3/22 | On Going | | \$158,055.00 | | |
| 2023 | PHR Skate-Design & Consulting of Skate Park | Art. 14 -5/3/22 | On Going | | | \$20,000.00 | |
| 2023 | PHR Tennis/Skate-8 Tennis courts, four double as pickle ball resurfaced & painted line | Art. 14 -5/3/22 | On Going | | | \$75,000.00 | |
| 2023 | Howe School-Towards the Completion of the Project | Art. 14 -5/3/22 | On Going | | \$500,000.00 | | |
| 2023 | Invasive Species Control-DPW, Vietnam Veterans Park, Winnings Pond, Nuttings Lake, Howe & Vining School | Art. 14 -5/3/22 | On Going | | | \$70,000.00 | |
| 2023 | Total | | | \$0.00 | \$658,055.00 | \$165,000.00 | \$823,055.00 |
| Total= | | | | | | | \$4,544,556.10 |

Allocations

Date Received:

Community Preservation Fund Eligibility Form



TOWN OF BILLERICA
COMMUNITY PRESERVATION COMMITTEE
365 BOSTON ROAD, BILLERICA MA 01821

The purpose of this form is to make sure that all project applications applying for Community Preservation Act funding are eligible for funding. This form must be approved in order for an application to be accepted.

| | | | | | |
|---|--|---|--------|---------------------------------------|--|
| Project Title: | | | | | |
| Project Sponsor/Organization: | | | | | |
| Contact Name: | | | | | |
| Mailing Address: | | | | | |
| Daytime phone #: | | | Fax #: | | |
| E-mail address: | | | | | |
| | | | | | |
| CPA Program Area (check those that apply): | | | | | |
| <input type="checkbox"/> Open Space | | <input type="checkbox"/> Historic Preservation | | | |
| <input type="checkbox"/> Community Housing | | <input type="checkbox"/> Recreation | | | |
| Project Purpose (check those that apply): | | | | | |
| <input type="checkbox"/> Acquisition | | <input type="checkbox"/> Creation | | <input type="checkbox"/> Preservation | |
| <input type="checkbox"/> Support | | <input type="checkbox"/> Rehabilitation/Restoration | | | |
| Project Summary: Please provide a brief description of the project. | | | | | |
| | | | | | |
| | | | | | |
| For CPC Use <input type="checkbox"/> Eligible <input type="checkbox"/> Not Eligible Date: _____ | | | | | |
| Reviewer: _____ | | | | | |

COMPLETE AND SUBMIT THE PROJECT ELIGIBILITY FORM.
DO NOT PROCEED UNTIL ELIGIBILITY HAS BEEN DETERMINED.

Date Received:

Community Preservation Fund Application



TOWN OF BILLERICA
COMMUNITY PRESERVATION COMMITTEE
365 BOSTON ROAD, BILLERICA MA 01821
Application for CPA Funding

Applicant: _____

Co-Applicant (if applicable): _____

Project Name: _____

Project Location/Address: _____

Purpose: (Select all that apply)

_____ Open Space
_____ Community Housing

_____ Historic Preservation
_____ Recreation

Total Project Budget: \$ _____ Amount of CPA Funds Requested: \$ _____

Amount from Other Funding Sources: \$ _____

Project Previously Voted as Eligible by the CPC? _____

Please check which of the following is included with this Application:

___ One Paragraph Project Summary *

___ Map (if applicable)

___ Narrative *

___ Letter of Support from a Municipal Department, Commission, or Board*

Selection Criteria and Needs Assessment

___ Detailed Project Budget *

___ Architectural plans, site plans, photographs (if appropriate)

___ Feasibility Assessment

___ Copy of Audit or most recent Financial

___ Statement of Sustainability (if applicable)

___ Information (Non-Profit Organizations Only)*

___ Other Letters of Support (if any)

___ Timeline *

* Required Documentation

The Contact Person for this Project is: _____

All Correspondence should be mailed to: _____

The Contact Person can be reached by phone at: _____ or by email at: _____

Signature of Applicant: _____

APPENDICES

COMMUNITY PRESERVATION ACT General Laws Chapter 44B

Section 1. This chapter shall be known and may be cited as the Massachusetts Community Preservation Act.

Section 2. As used in this chapter, the following words shall, unless the context clearly indicates a different meaning, have the following meanings:

"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.

"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.

"Capital improvement", reconstruction or alteration of real property that: (1) materially adds to the value of the real property or appreciably prolongs the useful life of the real property; (2) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself; and (3) is intended to become a permanent installation or is intended to remain there for an indefinite period of time.

"Community housing", low- and moderate-income housing for individuals and families, including low or moderate income senior housing.

"Community preservation", the acquisition, creation and preservation of open space, the acquisition, creation and preservation of historic resources and the creation and preservation of community housing.

"Community preservation committee", the committee established by the legislative body of a city or town to make recommendations for community preservation, as provided in section 5.

"Community Preservation Fund", the municipal fund established under section 7.

"CP", community preservation.

"Historic resources", a building, structure, vessel real property, document or artifact that is listed on the state register of historic places or has been determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of a city or town.

"Legislative body", the agency of municipal government which is empowered to enact ordinances or by-laws, adopt an annual budget and other spending authorizations, loan orders, bond authorizations and other financial matters and whether styled as a city council, board of aldermen, town council, town meeting or by any other title.

"Low-income housing", housing for those persons and families whose annual income is less than 80 percent of the areawide median income. The areawide median income shall be the areawide median income as determined by the United States Department of Housing and Urban Development.

"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", incidental repairs which neither materially add to the value of the property nor appreciably prolong the property's life, but keep the property in a condition of fitness, efficiency, or readiness.

"Moderate income housing", housing for those persons and families whose annual income is less than 100 percent of the areawide median income. The areawide median income shall be the areawide median income as determined by the United States Department of Housing and Urban Development.

"Open space", shall include, but not be limited to, land to protect existing and future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, fresh and saltwater marshes and other wetlands, ocean, river, stream, lake and pond frontage, beaches, dunes and other coastal lands, lands to protect scenic vistas, land for wildlife or nature preserve and land for recreational use.

"Preservation", protection of personal or real property from injury, harm, or destruction.

"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.

"Recreational use", active or passive recreational use including, but not limited to, the use of land for community gardens, trails, and noncommercial youth and adult sports, and the use of land as a park, playground, or athletic field. "Recreational use" shall not include horse or dog racing or the use of land for a stadium, gymnasium, or similar structure.

"Rehabilitation", capital improvements, or the 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 uses including, but not limited to, improvements to comply with the Americans with Disabilities Act and other federal, state or local building or access codes; provided, that with respect to historic resources, "rehabilitation" shall 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.P.R. Part 68; and provided further, that with respect to land for recreational use, "rehabilitation" shall include the replacement of playground equipment and other capital improvements to the land or the facilities thereon which make the land or the related facilities more functional for the intended recreational use.

"Support of community housing", shall include, but not be limited to, programs that provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing or to an entity that owns, operates, or manages such housing, for the purpose of making housing affordable.

- Section 3.**
- (a)** Sections 3 to 7, inclusive, shall take effect in any city or town upon the approval by the legislative body and their acceptance by the voters of a ballot question as set forth in this section.
 - (b)** Notwithstanding the provisions of chapter 59 or any other general or special law to the contrary, the legislative body may vote to accept sections 3 to 7, inclusive, by approving a surcharge on real property of not more than 3 percent of the real estate tax levy against real property, as determined annually by the board of assessors. The amount of the surcharge

shall not be included in a calculation of total taxes assessed for purposes of section 21C of said chapter 59.

(b 1/2) Notwithstanding chapter 59 or any other general or special law to the contrary, as an alternative to subsection (b), the legislative body may vote to accept sections 3 to 7, inclusive, by approving a surcharge on real property of not less than 1 percent of the real estate tax levy against real property and making an additional commitment of funds by dedicating revenue not greater than 2 percent of the real estate tax levy against real property; provided, however, that additional funds so committed shall come from other sources of municipal revenue including, but not limited to, hotel excises pursuant to chapter 64G, linkage fees and inclusionary zoning payments, however authorized, the sale of municipal property pursuant to section 3 of chapter 40, parking fines and surcharges pursuant to sections 20, 20A and 20A 1/2 of chapter 90, existing dedicated housing, open space and historic preservation funds, however authorized, and gifts received from private sources for community preservation purposes; and provided further, that additional funds so committed shall not include any federal or state funds. The total funds committed to purposes authorized under this chapter by means of this subsection shall not exceed 3 percent of the real estate tax levy against real property, less exemptions, adopted. In the event that the municipality shall no longer dedicate all or part of the additional funds to community preservation, the surcharge of not less than 1 percent shall remain in effect but may be reduced pursuant to section 16.

(c) All exemptions and abatement of real property authorized by said chapter 59 or any other law for which a taxpayer qualifies as eligible shall not be affected by this chapter. The surcharge to be paid by a taxpayer receiving an exemption or abatement of real property authorized by said chapter 59 or any other law shall be reduced in proportion to the amount of such exemption or abatement.

(d) Any amount of the surcharge not paid by the due date shall bear interest at the rate per annum provided in section 57 of said chapter 59.

(e) The legislative body may also vote to accept one or more of the following exemptions:

(1) for property owned and occupied as a domicile by a person who would qualify for low-income housing or low- or moderate-income senior housing in the city or town;

(2) for class three, commercial, and class four, industrial, properties as defined in section 2A of said chapter 59, in cities or towns with classified tax rates.

(3) for \$100,000 of the value of each taxable parcel of residential real property; or

(4) for \$100,000 of the value of each taxable parcel of class three, commercial property, and class four, industrial property as defined in section 2A of said chapter 59.

[Paragraph added in subsection (e) by 2016, 218, Sec. 100 effective November 7, 2016.]

A person claiming an exemption provided under this subsection may apply to the board of assessors, in writing, on a form approved by the commissioner of revenue, on or before the deadline for an application for exemption under section 59 of chapter 59. Any person aggrieved by the decision of the assessors, or by their failure to act, upon such application, may appeal as provided in sections 64 to 65B,

inclusive, of chapter 59. Applications for exemption under this chapter shall be open for inspection only as provided in section 60 of chapter 59.

(f) Upon approval by the legislative body, the actions of the body shall be submitted for acceptance to the voters of a city or town at the next regular municipal or state election. The city or town clerk or the state secretary shall place it on the ballot in the form of the following question:

"Shall this (city or town) accept sections 3 to 7, inclusive of chapter 44B of the General Laws, as approved by its legislative body, a summary of which appears below"

(Set forth here a fair, concise summary, and purpose of the law to be acted upon, as determined by the city solicitor or town counsel, including in said summary the percentage of the surcharge to be imposed.)

If a majority of the voters voting on said question vote in the affirmative, then its provisions shall take effect in the city or town, but not otherwise.

(g) The final date for notifying or filing a petition with the city or town clerk or the state secretary to place such a question on the ballot shall be 35 days before the city or town election or 60 days before the state election.

(h) If the legislative body does not vote to accept sections 3 to 7, inclusive, at least 90 days before a regular city or town election or 120 days before a state election, then a question seeking said acceptance through approval of a particular surcharge rate with exemption or exemptions, may be so placed on the ballot when a petition signed by at least 5 percent of the registered voters of the city or town requesting such action is filed with the registrars, who shall have seven days after receipt of such petition to certify its signatures. Upon certification of the signatures, the city or town clerk or the state secretary shall cause the question to be placed on the ballot at the next regular city or town election held more than 35 days after such certification or at the next regular state election held more than 60 days after such certification.

(i) With respect to real property owned by a cooperative corporation, as defined in section 4 of chapter 157B, that portion which is occupied by a member under a proprietary lease as the member's domicile shall be considered real property owned by that member for the purposes of exemptions provided under this section. The member's portion of the real estate shall be represented by the member's share or shares of stock in the cooperative corporation, and the percentage of that portion to the whole shall be determined by the percentage of the member's shares to the total outstanding stock of the corporation, including shares owned by the corporation. This portion of the real property shall be eligible for any exemption provided in this section if the member meets all requirements for the exemption. Any exemption so provided shall reduce the taxable valuation of the real property owned by the cooperative corporation, and the reduction in taxes realized by this exemption shall be credited by the cooperative corporation against the amount of the taxes otherwise payable by or chargeable to the member. Nothing in this subsection shall be construed to affect the tax status of any manufactured home or mobile home under this chapter, but this subsection shall apply to the land on which the manufactured home or mobile home is located if all other requirements of this clause are met. This subsection shall take effect in a city or town upon its acceptance by the city or town.

Section 4.

(a) Upon acceptance of sections 3 to 7, inclusive, and upon the assessors' warrant to the tax collector, the accepted surcharge shall be imposed.

(b) After receipt of the warrant, the tax collector shall collect the surcharge in the amount and according to the computation specified in the warrant and shall pay the amounts so collected, quarterly or semi-annually, according to the schedule for collection of property taxes for the tax on real property, to the city's or town's treasurer. The tax collector shall cause appropriate books and accounts to be kept with respect to such surcharge, which shall be subject to public examination upon reasonable request from time to time.

(c) The remedies provided by chapter 60 for the collection of taxes upon real estate shall apply to the surcharge on real property pursuant to this chapter.

Section 5.

(a) A city or town that accepts sections 3 to 7, inclusive, shall establish by ordinance or by-law a community preservation committee. The committee shall consist of not less than five nor more than nine members. The ordinance or by-law shall determine the composition of the committee, the length of its term and the method of selecting its members, whether by election or appointment or by a combination thereof. The committee shall include, but not be limited to, one member of the conservation commission established under section 8C of chapter 40 as designated by the commission, one member of the historical commission established under section 8D of said chapter 40 as designated by the commission, one member of the planning board established under section 81A of chapter 41 as designated by the board, one member of the board of park commissioners established under section 2 of chapter 45 as designated by the board and one member of the housing authority established under section 3 of chapter 121B as designated by the authority, or persons, as determined by the ordinance or by-law, acting in the capacity of or performing like duties of the commissions, board or authority if they have not been established in the city or town. If there are no persons acting in the capacity of or performing like duties of any such commission, board or authority, the ordinance or by-law shall designate those persons.

(b)(1) The community preservation committee shall study the needs, possibilities and resources of the city or town regarding community preservation, including the consideration of regional projects for community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the board of park commissioners and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the city or town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city or town.

(2) The community preservation committee shall make recommendations to the legislative body for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space and community housing that is acquired or created as provided in this section; provided, however, that funds expended pursuant to this chapter shall not be used for maintenance. With respect to community housing, the community preservation committee shall recommend, whenever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. With respect to recreational use, the acquisition of artificial turf for athletic fields shall be prohibited; provided, however, that any project approved by a municipality for the acquisition of artificial turf for athletic fields prior to July 1, 2012, shall be a permitted use of community preservation funding.

(3) The community preservation committee may include in its recommendation to the legislative body a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

(c) The community preservation committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the legislative body shall include their anticipated costs.

(d) After receiving recommendations from the community preservation committee, the legislative body shall take such action and approve such appropriations from the Community Preservation Fund as set forth in section 7, and such additional non-Community Preservation Fund appropriations as it deems appropriate to carry out the recommendations of the community preservation committee. In the case of a city, the ordinance shall provide for the mechanisms under which the legislative body may approve, or veto appropriations made pursuant to this chapter, in accordance with the city charter.

(e) For the purposes of community preservation and upon the recommendation of the community preservation committee, a city or town may take by eminent domain under chapter 79, the fee or any lesser interest in real property or waters located in such city or town if such taking has first been approved by a two-thirds vote of the legislative body. Upon a like recommendation and vote, a city or town may expend monies in the Community Preservation Fund, if any, for the purpose of paying, in whole or in part, any damages for which a city or town may be liable by reason of a taking for the purposes of community preservation.

(f) Section 16 of chapter 30B shall not apply to the acquisition by a city or town, of real property or an interest therein, as authorized by this chapter for the purposes of community preservation and upon recommendation of the community preservation committee and, notwithstanding section 14 of chapter 40, for purposes of this chapter, no such real property, or interest therein, shall be acquired by any city or town for a price exceeding the value of the property as determined by such city or town through procedures customarily accepted by the appraising profession as valid.

A city or town may appropriate money in any year from the Community Preservation Fund to an affordable housing trust fund.

Section 6. In each fiscal year and upon the recommendation of the community preservation committee, the legislative body shall spend, or set aside for later spending, not less than 10 percent of the annual revenues in the Community Preservation Fund for open space, not less than 10 percent of the annual revenues for historic resources and not less than 10 percent of the annual revenues for community housing. In each fiscal year, the legislative body shall make appropriations from the Community Preservation Fund as it deems necessary for the administrative and operating expenses of the community preservation committee and such appropriations shall not exceed 5 percent of the annual revenues in the Community Preservation Fund. The legislative body may also make appropriations from the Community Preservation Fund as it deems necessary for costs associated with tax billing software and outside vendors necessary to integrate such software for the first year that a city or town implements this chapter; provided, however, that the total of any administrative and operating expenses of the community preservation committee and the first year

implementation expenses shall not exceed 5 percent of the annual revenues in the Community Preservation Fund.

Funds that are set aside shall be held in the Community Preservation Fund and spent in that year or later years; provided, however, that funds set aside for a specific purpose shall be spent only for the specific purpose. Any funds set aside may be expended in any city or town. The community preservation funds shall not replace existing operating funds, only augment them.

Section 7. Notwithstanding the provisions of section 53 of chapter 44 or any other general or special law to the contrary, a city or town that accepts sections 3 to 7, inclusive, shall establish a separate account to be known as the Community Preservation Fund of which the municipal treasurer shall be the custodian. The authority to approve expenditures from the fund shall be limited to the legislative body and the municipal treasurer shall pay such expenses in accordance with chapter 41.

The following monies shall be deposited in the fund: (i) all funds collected from the real property surcharge or bond proceeds in anticipation of revenue pursuant to sections 4 and 11; (ii) additional funds appropriated or dedicated from allowable municipal sources pursuant to subsection (b1/2) of section 3, if applicable; (iii) all funds received from the commonwealth or any other source for such purposes; and (iv) proceeds from the disposal of real property acquired with funds from the Community Preservation Fund. The treasurer may deposit or invest the proceeds of the fund in savings banks, trust companies incorporated under the laws of the commonwealth, banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks, or may invest the proceeds in paid up shares and accounts of and in co-operative banks or in shares of savings and loan associations or in shares of federal savings and loan associations doing business in the commonwealth or in the manner authorized by section 54 of chapter 44, and any income therefrom shall be credited to the fund. The expenditure of revenues from the fund shall be limited to implementing the recommendations of the community preservation committee and providing administrative and operating expenses to the committee.

Section 8. (a) Except as otherwise provided, the fees of the registers of deeds to be paid when a document or instrument is recorded shall be subject to a surcharge of \$20; provided, however, that if the document or instrument to be filed includes multiple references to a document or instrument intending or attempting to assign, discharge, release, partially release, subordinate or notice any other document or instrument, each reference shall be separately indexed and separately assessed an additional \$20 surcharge. The fee for recording a municipal lien certificate shall be subject to a surcharge of \$10; provided, however, that if the certificate includes multiple references to a document or instrument intending or attempting to assign, discharge, release, partially release, subordinate or notice any other document or instrument, each reference shall be separately indexed and separately assessed an additional \$10 surcharge. The surcharges imposed shall be used for community preservation purposes. No surcharge shall apply to a declaration of homestead under chapter 188. No surcharge shall apply to the fees charged for additional pages, photostatic copies, abstract cards, or additional square feet for the recording of plans.

(b) The fees of the assistant recorder, except as otherwise provided, to be paid when the instrument is left for registering, filing, or entering with respect to registered land shall be subject to a surcharge of \$20. The fees for registering, filing, or entering a municipal lien certificate shall be subject to a surcharge of \$10. The surcharges shall be imposed for the purposes of community preservation. No surcharge shall apply to a declaration of homestead of chapter 188. No surcharge shall apply to the fees charged for additional lots shown on plans, for indexing instruments recorded while a petition for registering is pending, for additional certificates of sewer assessments, for old age assistance liens, for duplicates and for photocopies.

(c) All surcharges on fees collected pursuant to this section shall be forwarded to the Massachusetts Community Preservation Trust Fund, established in section 9.

Section 9.

(a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Massachusetts Community Preservation Trust Fund, for the benefit of cities and towns that have accepted sections 3 to 7, inclusive, and pursuant to said sections 3 to 7, inclusive, have imposed a surcharge on their real property tax levy, subject to any exemptions adopted by a municipality. The fund shall consist of all revenues received by the commonwealth: (1) under the provisions of section 8; (2) from public and private sources as gifts, grants and donations to further community preservation programs; (3) from damages, penalties, costs or interest received on account of litigation or settlement thereof for a violation of section 15; or (4) all other monies credited to or transferred to from any other fund or source pursuant to law.

(b) The state treasurer shall deposit the fund in accordance with the provisions of section 10 in such manner as will secure the highest interest rate available consistent with the safety of the fund and with the requirement that all amounts on deposit be available for withdrawal without penalty for such withdrawal at any time. All interest accrued and earnings shall be deposited into the fund. The fund shall be expended solely for the administration and implementation of this chapter. Any unexpended balances shall be redeposited for future use consistent with the provisions of this chapter.

(c) The state treasurer shall make all disbursements and expenditures from the fund without further appropriation, as directed by the commissioner of revenue in accordance with said section 10. The department of revenue shall report by source all amounts credited to said fund and all expenditures from said fund. The commissioner of revenue shall assign personnel of the department as it may need to administer and manage the fund disbursements and any expense incurred by the department shall be deemed an operating and administrative expense of the program. The operating and administrative expenses shall not exceed 5 percent of the annual total revenue received under the provisions of said section 10.

Section 10.

(a) The commissioner of revenue shall annually on or before November 15 disburse monies from the fund established in section 9 to a city or town that has accepted sections 3 to 7, inclusive, and notified the commissioner of its acceptance. The community shall notify the commissioner of the date and terms on which the voters accepted said sections 3 to 7, inclusive. The municipal tax collecting authority shall certify to the commissioner the amount the city or town has raised through June 30 by imposing a surcharge on its real property levy and shall certify the percentage of the surcharge applied. In the event a city or town accepts said sections 3 to 7, inclusive, pursuant to subsection (b1/2) of section 3 the municipal tax collecting authority shall certify to the commissioner by October 30, the maximum additional funds the city or town intends to transfer to the Community Preservation Fund from allowable municipal sources for the following fiscal year. Once certified, the city or town may choose to transfer less than the certified amount during the following fiscal year.

(b) The commissioner shall multiply the amount remaining in the fund after any disbursements for operating and administrative expenses pursuant to subsection (c) of section 9 by 80 percent. This amount distributed in the first-round distribution shall be known as the match distribution. The first-round total shall be distributed to each city or town accepting said sections 3 to 7, inclusive, in an amount not less than 5 percent but not greater than 100 percent of the total amount raised by the additional surcharge on real

property by each city or town and, if applicable, the additional funds committed from allowable municipal sources pursuant to subsection (b1/2) of section 3. The percentage shall be the same for each city and town and shall be determined by the commissioner annually in a manner that distributes the maximum amount available to each participating city or town.

(c) The commissioner shall further divide the remaining 20 percent of the fund in a second-round distribution, known as the equity distribution. The commissioner shall determine the equity distribution in several steps. The first step shall be to divide the remaining 20 percent of the fund by the number of cities and towns that have accepted said sections 3 to 7, inclusive. This dividend shall be known as the base figure for equity distribution. This base figure shall be determined solely for purposes of performing the calculation for equity distribution and shall not be added to the amount received by a participant.

(d) Each city and town in the commonwealth shall be assigned a community preservation rank for purposes of the equity distribution. The commissioner shall determine each community's rank by first determining the city or town's equalized property valuation per capita ranking, ranking cities, and towns from highest to lowest valuation. The commissioner shall also determine the population of each city or town and rank each from largest to smallest in population. The commissioner shall add each equalized property valuation rank and population rank and divide the sum by 2. The dividend shall be the community preservation raw score for that city or town.

(e) The commissioner shall then order each city or town by community preservation raw score, from the lowest raw score to the highest raw score. This order shall be the community preservation rank for each city or town. If more than one city or town has the same community preservation raw score, the city or town with the higher equalized valuation rank shall receive the higher community preservation rank.

(f) After determining the community preservation rank for each city and town, the commissioner shall divide all cities or towns into deciles according to their community preservation ranking, with approximately the same number of cities and towns in each decile, and the cities or towns with the highest community preservation rank shall be placed in the lowest decile category, starting with decile 10. Percentages shall be assigned to each decile as follows:

| | |
|-----------|--------------------------------|
| decile 1 | 140 percent of the base figure |
| decile 2 | 130 percent of the base figure |
| decile 3 | 120 percent of the base figure |
| decile 4 | 110 percent of the base figure |
| decile 5 | 100 percent of the base figure |
| decile 6 | 90 percent of the base figure |
| decile 7 | 80 percent of the base figure |
| decile 8 | 70 percent of the base figure |
| decile 9 | 60 percent of the base figure |
| decile 10 | 50 percent of the base figure |

After assigning each city and town to a decile according to their community preservation rank, the commissioner shall multiply the percentage assigned to that decile by the base figure to determine the second-round equity distribution for each participant.

(g) Notwithstanding any other provision of this section, the total state contribution for each city and town shall not exceed the actual amount raised by the city or town's surcharge on its real property levy and, if applicable, additional funds committed from allowable municipal sources pursuant to subsection (b1/2) of section 3.

(h) When there are monies remaining in the Massachusetts Community Preservation Trust Fund after the first and second round distributions and any necessary administrative expenses have been paid in accordance with section 9, the commissioner may conduct a third-round surplus distribution. Any remaining surplus in the fund may be distributed by dividing the amount of the surplus by the number of cities and towns that have accepted sections 3 to 7, inclusive. The resulting dividend shall be the surplus base figure. The commissioner shall then use the decile categories and percentages as defined in this section to determine a surplus equity distribution for each participant.

(i) The commissioner shall determine each participant's total state grant by adding the amount received in the first-round distribution with the amounts received in any later round of distributions, with the exception of a city or town that has already received a grant equal to 100 percent of the amount the community raised by its surcharge on its real property levy.

(1) Only those cities and towns that adopt the maximum surcharge pursuant to subsection (b) of section 3 and those cities and towns that adopt the maximum surcharge and additional funds committed from allowable municipal sources such that the total funds are the equivalent of 3 percent of the real estate tax levy against real property pursuant to subsection (b1/2) of said section 3 shall be eligible to receive additional state monies through the equity and surplus distributions.

(2) If less than 10 percent of the cities and towns have accepted sections 3 to 7, inclusive, and imposed and collected a surcharge on their real property levy, the commissioner may calculate the state grant with only 1 round of distributions or in any other equitable manner.

(j) After distributing the Massachusetts Community Preservation Trust Fund in accordance with this section, the commissioner shall keep any remaining funds in the trust for distribution in the following year.

Section 11. A city or town that accepts sections 3 to 7, inclusive, may issue, from time to time, general obligation bonds or notes in anticipation of revenues to be raised pursuant to section 3, the proceeds of which shall be deposited in the Community Preservation Fund. Bonds or notes so issued may be at such rates of interest as shall be necessary and shall be repaid as soon after such revenues are collected as is expedient. Cities or towns that choose to issue bonds pursuant to this section shall make every effort to limit the administrative costs of issuing such bonds by cooperating among each other using methods including, but not limited to, common issuance of bonds or common retention of bond counsel. Except as otherwise provided in this chapter, bonds or notes issued pursuant to this section shall be subject to the applicable provisions of chapter 44. The maturities of each issue of bonds or notes issued under this chapter may be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue bonds or notes or, in the alternative, in accordance with a schedule providing for a more rapid amortization of principal.

Section 12. **(a)** A real property interest that is acquired with monies from the Community Preservation Fund shall be bound by a permanent restriction, recorded as a separate instrument, that meets the requirements of sections 31 to 33, inclusive, of chapter 184 limiting the use of the interest to the purpose for which it was acquired. The permanent restriction shall run with

the land and shall be enforceable by the city or town or the commonwealth. The permanent restriction may also run to the benefit of a nonprofit organization, charitable corporation or foundation selected by the city or town with the right to enforce the restriction. The legislative body may appropriate monies from the Community Preservation Fund to pay a nonprofit organization created pursuant to chapter 180 to hold, monitor and enforce the deed restriction on the property.

(b) Real property interests acquired under this chapter shall be owned and managed by the city or town, but the legislative body may delegate management of such property to the conservation commission, the historical commission, the board of park commissioners or the housing authority, or, in the case of interests to acquire sites for future wellhead development by a water district, a water supply district or a fire district. The legislative body may also delegate management of such property to a nonprofit organization created under chapter 180 or chapter 203.

Section 13. The community preservation committee shall keep a full and accurate account of all of its actions, including its recommendations and the action taken on them and records of all appropriations or expenditures made from the Community Preservation Fund. The committee shall also keep records of any real property interests acquired, disposed of or improved by the city or town upon its recommendation, including the names and addresses of the grantors or grantees and the nature of the consideration. The records and accounts shall be public records.

Section 14. Notwithstanding the provisions of any general or special law to the contrary, every city and town may accept sections 3 to 7, inclusive, and may thereupon receive state grants under section 10. A city or town that accepts said sections 3 to 7, inclusive, shall not be precluded from participating in state grant programs.

State grant programs may include local adoption of this chapter among the criteria for selection of grant recipients. Funds in the Community Preservation Fund may be made available and used by the city or town as the local share for state or federal grants upon recommendation of the community preservation committee and the legislative body, as provided for in section 5, if such grants and such local share are used in a manner consistent with the recommendations of the community preservation committee.

Section 15. (a) A person who, without permission, knowingly carries away or steals, mutilates, destroys, damages, causes to be damaged or cuts any tree, shrub, grass, or any other portion of real property purchased by a city or town with funds derived from this chapter shall be liable to the city or town in tort for such actions.

(b) Damages, including punitive damages for willful or wanton violation of this chapter or any rule or regulation issued or adopted hereunder, may be recovered in a civil action brought by the city or town or, upon request of the city or town, by the attorney general. The city or town or, upon request of the city or town, the attorney general, may bring an action for injunctive relief against any person violating this chapter or any rule or regulation issued hereunder. The superior court shall have jurisdiction to enjoin violations, to award damages and to grant such further relief as it may deem appropriate.

(c) Any damages, penalties, costs or interest thereon recovered pursuant to this section shall be deposited into the Community Preservation Fund of the city or town in which the violation occurred.

Section 16. (a) At any time after imposition of the surcharge, the legislative body may approve and the voters may accept an amendment to the amount and computation of the surcharge, or to the amount of exemption or exemptions, in the same manner and within the limitations set

forth in this chapter, including reducing the surcharge to 1 percent and committing additional municipal funds pursuant to subsection (b1/2) of section 3.

(b) At any time after the expiration of five years after the date on which sections 3 to 7, inclusive, have been accepted in a city or town, said sections may be revoked in the same manner as they were accepted by such city or town, but the surcharge imposed under section 3 shall remain in effect in any such city or town, with respect to unpaid taxes on past transactions and with respect to taxes due on future transactions, until all contractual obligations incurred by the city or town prior to such termination shall have been fully discharged.

Section 17. The commissioner of revenue shall have the authority to promulgate rules and regulations to effect the purposes of this chapter.

Town General By-Laws

42. COMMUNITY PRESERVATION COMMITTEE

42.1 Establishment

There is hereby established a Community Preservation Committee (hereinafter referred to as "CPC") consisting of nine (9) members pursuant to MGL Chapter 44B.

- The Chief Assessor
- One member of the Finance Committee, as designated by the Finance Committee, for a term of three years
- One member of the Conservation Commission (created by Section 8C of Chapter 40) as designated by the Conservation Commission for a term of three years.
- One member of the Historical Commission (created by Section 8D of Chapter 40) as designated by the Historical Commission for a term of three years.
- One member of the Planning Board (created by Section 81a of Chapter 41) as designated by the Planning Board for a term of two years and thereafter for a term of three years.
- One member of the Recreation Commission (created by Section 2 of Chapter 45) as designated by the Recreation Commission for a term of two years and thereafter for a term of three years.
- One member of the Housing Authority Board (created by Section 3 of Chapter 121B) as designated by its Board of Commissioners for a term of one year and thereafter for a term of three years.
- One at-large member, a citizen of Billerica, to be appointed by the Town Manager for an initial term of one year and thereafter for three years.
- One at-large member, to be appointed by the Select Board, for an initial term of two years, and thereafter for a term of three years.

Amended: Article 34, AFTM 10/2017

Any vacancy on the Community Preservation Committee shall be filled by the commission, authority or board that designated the member who creates the vacancy by designating another member in accordance with the above for the unexpired term.

Should any of the Commissions, Boards or Committees who have appointment authority under this Chapter be no longer in existence for whatever reason, the appointment authority for that Commission, Board or Committee shall become the responsibility of the Select Board.

42.2 Duties

42.2.1 The CPC shall study the needs, possibilities, and resources of the town regarding community preservation. The committee shall consult with the Town Manager, existing municipal boards, including the Select Board, the Conservation Commission, the Historical Commission, the Planning Board, the Recreation Commissioners and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities, and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town. The committee may, after proper appropriation, incur expenses as permitted by state law using funds from the community preservation fund to pay such expenses.

42.2.2 The CPC shall make recommendations to Town Meeting for the acquisition creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, preservation, rehabilitation and restoration of land

for recreational use; for the acquisition, creation, preservation and support of community housing; and for the rehabilitation or restoration of open space and community housing that is acquired or created with Community Preservation Funds. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

42.2.3 The CPC may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or recommended action to set aside for later spending funds for general purposes that are consistent with community preservation.

42.3: Requirement for a Quorum and Cost Estimates

The CPC Committee shall not meet or conduct business without the presence of a quorum and shall keep a written record of its proceedings. A majority of the members of the CPC shall constitute a quorum. The CPC shall approve its actions by majority vote of the quorum. Recommendations to the Town Meeting shall include their anticipated costs.

42.4 Amendments

The CPC shall from time to time, review the administration of this By-Law, making recommendations, as needed, for changes in the By-law and in administrative practice to improve the operations of the CPC. This By-law may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not be in conflict with Chapter 44B of the Massachusetts General Laws.

42.5 Severability

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect.

42.6 Effective Date

Following municipal acceptance of the Community Preservation Act and Town Meeting approval of this by-law, this Section shall take effect. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments.

Amended: Article 48, AFTM 10/2016

Amended: Article 34, AFTM 10/2017

BILLERICA, MASSACHUSETTS
COMMUNITY PRESERVATION ACT
GRANT AGREEMENT TEMPLATE

THIS GRANT AGREEMENT (this “Agreement”) is entered into on this _____ day of _____, 201____, by and between the Town of Billerica (the “Town”), a municipal corporation duly organized under the laws of Massachusetts and acting by and through its Select Board, having a usual place of business at Billerica Town Hall, 365 Boston Road, Billerica, MA 01821, and _____ (“Grantee”), having a usual place of business at _____, collectively the “Parties.”

WHEREAS, Grantee is the owner of certain property located at _____, shown on Assessors Map _____ as Parcel _____, and described in a deed recorded with the Middlesex North District Registry of Deeds / Registry District of the Land Court in Book _____, Page _____ (the “Property”); and

WHEREAS, Grantee submitted an application, a copy of which is attached hereto as Exhibit A and incorporated herein (the “Proposal”) to the Community Preservation Committee (the “CPC”) for funds under G.L. c.44B, §1, et seq., the Community Preservation Act (the “CPA”), in the amount of \$ _____ for the purpose of _____ (the “Project”), which work is more specifically described in the Proposal and in Exhibit B, attached hereto and incorporated herein (the “Scope of Work”); and

WHEREAS, the CPC reviewed and approved the Proposal and recommended that Town Meeting appropriate the funds therein requested for the purposes of performing the Scope of Work; and

WHEREAS, Town Meeting thereafter appropriated \$ _____ by vote under Article _____ of the _____ Annual/Special Town Meeting to fund the Work, a copy of which vote is attached hereto as Exhibit C.

NOW THEREFORE, the Town and Grantee wish to set forth in this Grant Agreement the terms and conditions of the Grant, and hereby agree as follows:

Agreement

1. Recitals. The recitals above are true and accurate and are incorporated herein by reference.
2. Funding. As recommended by the CPC under Article _____ of the _____ Annual/Special Town Meeting, and as appropriated by said Town Meeting, the Town shall grant to Grantee up to the sum of \$ _____ (the “Funds” or the “Grant Amount”) on the condition that Grantee shall use the Funds only for the purposes of the Project, as set forth more particularly in the Proposal and Scope of Work and documents attached thereto, and in accordance with the terms of this Agreement.

3. Conditions.

- a) Work on the Project (the “Work”), as set forth in the Proposal, the Scope of Work, and this Agreement, shall be completed by _____.
- b) Any remaining Funds shall be returned to the Community Preservation General Fund if the Project has not been completed as provided for in Section 3(a). The Town may grant extensions of the completion deadline for good cause.
- c) Grantee agrees that: (i) _____ [describe the Work/Project]; (ii) prior to the receipt of any Funds, Grantee shall grant and deliver to the Town a recordable _____ [conservation/affordable housing/historic preservation] restriction on the Property on terms acceptable to the Town [and meeting the requirements of G.L. c. 184, Sections 31-33,] surviving the foreclosure of any lien or other encumbrance on the Property, and substantially in the form of the _____ Restriction attached hereto as Exhibit D and incorporated herein (the “Restriction”); (iii) the Restriction shall be conveyed to the Town free of liens, easements and restrictions that would interfere with the Town’s exercise of its rights under the Restriction, and all mortgages on the Property, if any, shall have been subordinated to the Restriction, as evidenced by the mortgagee(s) execution of the Restriction and/or separate subordination agreement, at the Town’s option; and (iv) Grantee shall promptly record/file the Restriction with the Middlesex North District Registry of Deeds / Registry District of the Land Court at its sole cost and expense.
- d) Grantee shall seek the approval of, and work closely with, the _____ in the implementation of the Project. All Work must be approved by the _____; such approval shall not be in lieu of any local permit, license, or approval that is applicable to the Property, the Building, and/or the Project.
- e) [For historic preservation projects: Grantee shall perform the Work in accordance with “The Secretary of the Interior’s Standards for the Treatment of Historic Properties” (36 CFR 67 and 68), as these may be amended from time to time (the “Secretary’s Standards”).]

4. Budget/Other Sources of Funding. Prior to the commencement of any work, Grantee must submit a complete budget for the Project, including all final bids that account for: (a) the expenditure of all Funds awarded under this Agreement, and (b) all other sources of funding, if necessary, to complete the Project as described herein. Reimbursement for funds spent will not commence unless sufficient sources of funding have been secured to complete the work/phase of work and the Project budget has been approved by the Town. If the Town determines that funds have been spent on goods and/or services not included in the Project budget or otherwise not authorized under the Act, reimbursement may not be authorized. The Town’s consent shall not be unreasonably withheld.

5. Contract Documents. The Contract Documents consist of this Agreement, the Proposal, the Scope of Work, and all documents attached hereto or referenced therein, including, without

limitation, the Restriction. The Contract Documents constitute the entire agreement between the parties concerning the Project.

6. The Work. The Work shall be performed in a good and workmanlike manner, by contractors who are licensed in their respective disciplines, or by Grantee if so licensed, and shall conform to all applicable laws, bylaws, rules and regulations. Grantee shall be responsible for obtaining from federal, state and local agencies all relevant permits, licenses, and approvals prior to commencing the Work. No local permit or license or fee is waived by the award of this grant. The Town shall have the right to review plans and specifications showing the Work to be done for compliance with the Contract Documents.
7. Contact. Grantee shall identify in writing a contact person responsible for administration of the Work. The contact person is _____, who can be reached at _____ [phone] and _____ [email].
8. Payment. Provided that the Restriction granted to the Town has been recorded, the Town shall disburse an amount not to exceed 75% of the Grant Amount (or \$_____) to Grantee for the cost of performing the Work, which disbursements shall be apportioned based on the Work done and made no more than once a month and paid only upon the presentment of detailed invoices from Grantee or Grantee's contractor listing in detail the Work performed and the cost thereof. The Town shall have the right to ask for supplementary information. Prior to any payment, the Town shall have the right to enter the Property to inspect the Work. No payment shall be made until the Town reasonably determines that the Work has been done in a good and workmanlike manner and substantially in compliance with the Contract Documents and with legal requirements applicable to the Work. The balance of the Grant Amount (or \$_____) shall be paid following 100% completion of the Work. Grantee shall use all such sums only for the purpose of performing the Work, as described in the Contract Documents. The entire cost of performing the Work in excess of the Grant Amount shall be paid by Grantee. Notwithstanding anything herein to the contrary, if the actual total cost of performing the Work is less than the Grant Amount (the difference between the two amounts referred to hereinafter as the "Excess"), the Town shall have no obligation to pay the Excess.
9. Reports; Inspections; Record-Keeping. Grantee agrees to keep, for a period of six (6) years after the Project is completed, such records with respect to the utilization of the Funds as are kept in the normal course of business and such additional records as may be required by the Town. During normal business hours and as often as the Town may deem necessary, the Town shall have full and free access to such records and may examine and copy such records. Grantee shall provide the Town with progress reports at three (3)-month intervals beginning sixty (60) days from the date of the signing of this Agreement for as long as the Funds remain unexpended, and with final notification within thirty (30) days after the Project has been completed. The Town reserves the right to require supplementary information from Grantee regarding the quarterly reports or final notification. Grantee shall submit a final report to the CPC and the Town, including digital photographs and other documents [if applicable], within thirty (30) days from the Project completion date.

The Town shall have the right, upon reasonable prior notice to Grantee, to enter the Property, including the Building, for the purpose of inspecting the work of Grantee and/or ensuring that Grantee is in compliance with the Restriction. Grantee further agrees to meet from time to time with _____ or its designee(s), upon reasonable request, to discuss expenditures under this Grant Agreement.

10. Termination. In the event Grantee fails to fulfill any of its obligations under this Agreement (including the provision requiring Grantee to comply with the Restriction), as determined by the Town, and such failure is not cured within forty-five (45) days after the Town has given written notice to Grantee specifying such failure, the Town shall have the right, in its sole discretion, to terminate this Agreement upon written notice to Grantee. Upon receipt of said termination notice, Grantee shall cease to incur additional expenses in connection with this Agreement. Upon termination, the Town shall be free to pursue any rights or remedies provided within this Agreement, including without limitation, recapture of Funds as set forth in Section 16 below. Upon the expiration or earlier termination of this Agreement, all rights and obligations of the parties hereunder shall expire and be of no further force and effect, except that the provisions of Sections 9, 10, 11, 12, 13, and 20 shall survive said expiration or earlier termination.
11. Return of Funds. In the event Grantee fails to fulfill any of its obligations under this Agreement and the Agreement is terminated pursuant to Section 10, any funds paid to Grantee under this Agreement and not yet expended shall be returned forthwith to the Town without further expenditure thereof. If Grantee fails to fulfill its obligations under the terms of this Agreement as a result of negligent or intentional acts or omissions of Grantee, Grantee shall be liable to repay to the Town the entire amount of the Grant Amount provided under this Agreement, and the Town may take such steps as are necessary, including legal action, to recover such funds. Any funds so returned or recovered shall be placed in the Town Community Preservation Fund. In the event that the Town takes legal action under this Agreement, Grantee shall pay any and all costs, including reasonable attorneys' fees, expended by the Town in enforcing this Agreement.
12. Liability of the Town. The Town's sole obligation hereunder shall be to make the payment specified in Section 8 of this Agreement, provided that Grantee complies with the terms hereof, including the conditions set forth in Section 3, and the Town shall be under no further obligation or liability. Nothing in this Agreement shall be construed to render the Town liable for any other obligation under this Agreement or to render any elected or appointed official or employee of the Town, or their successors in office, personally liable for any obligation under this Agreement.
13. Indemnification. Grantee shall indemnify, defend, and hold the Town and its departments, officers, employees, representatives and agents harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, of any nature whatsoever arising as a result of (a) any injury to person or property resulting from the Work, (b) the quality of the Work, (c) Grantee's performance of the Work or the negligence or misconduct of Grantee or Grantee's agents, employees, contractors and invitees, (d) the failure of any contractor hired by Grantee to perform the Work or any other

act or omission of any such contractor, and (e) any and all claims for the payment by the Town of any amount in excess of the Grant Amount.

14. CPA Signage. Prior to commencement of construction on the Property or reimbursement of these funds, Grantee shall prepare and install, at its own cost and expense unless provided by the Town, a temporary sign placed at the Property, which identifies the Project and acknowledges the CPA grant. The sign shall contain the following phrase: "Project Funded in part by Community Preservation Funds." The sign and language must be approved by the Town.
15. Independent Status. Grantee acknowledges and agrees that it is acting in a capacity independent of the Town and shall not be considered an employee or agent of the Town for any purpose.
16. Successors and Assigns. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Grantee shall not assign, subcontract or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the Town.
17. Compliance with Laws. Grantee shall comply with all federal, state and local laws, rules, regulations and orders applicable to the Work performed pursuant to this Agreement. Grantee and Grantee's contractors shall indemnify and hold the Town harmless for and against any and all fines, penalties or monetary liabilities incurred by the Town as a result of the failure of Grantee to comply with the previous sentence.
18. Notice. Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.
19. Severability. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
20. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and Grantee submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

Exhibits:

Exhibit A: Proposal

Exhibit B: Scope of Work

Exhibit C: Town Meeting Vote

Exhibit D: Restriction

IN WITNESS THEREOF, the Parties hereto have executed this Grant Agreement effective on the day written above:

GRANTEE:

By: _____
Name:
Title:

TOWN:

TOWN OF BILLERICA,
By its Select Board

649446/BILL/0190

Exhibit A

Proposal

Exhibit B

Scope of Work

Exhibit C

Town Meeting Vote

Exhibit D

Restriction

HISTORIC PRESERVATION RESTRICTION AGREEMENT

between

THE TOWN OF BILLERICA
acting by and through the Billerica Historical Commission

and

THIS PRESERVATION AGREEMENT (this "Agreement") is made on this ____ day of _____, 201__, by and between _____ ("Grantor"), having an address of _____, MA _____, and the **Town of Billerica**, a municipality of the Commonwealth of Massachusetts, acting by and through the Billerica Historical Commission pursuant to G.L. c. 40, § 8D ("Grantee" or the "Town"), having an address of Billerica Town Hall, 365 Boston Road, Billerica, MA 01821.

WITNESSETH:

WHEREAS, Grantor is owner in fee simple of certain real property, located at _____, Billerica, Middlesex County, Massachusetts, described in a deed recorded/filed with the Middlesex North District Registry of Deeds / Registry District of the Land Court (the "Registry") in Book _____, Page _____ or filed as Document No. _____ and noted on Certificate of Title No. _____ (hereinafter referred to as the "Property"), said Property including the building known as the "_____" (the "Building"), which Property and which Building are described more particularly in Exhibits A, B, and C, attached hereto and incorporated herein;

[briefly describe other buildings on the Property, if any]

WHEREAS, Grantee is a municipality and is interested in the preservation and conservation of sites, buildings, and objects of local, state and national significance in the Town of Billerica and is authorized to accept and hold preservation restrictions under the Massachusetts General Laws, Chapter 184, Sections 31, 32 and 33 (the "Act");

WHEREAS, the Billerica Historical Commission is a governmental body whose purposes include the preservation and protection of buildings, structures, vessels, real property, documents or artifacts that are listed or eligible for listing on the state register of historic places or have been determined by the Billerica Historical Commission to be significant in the history, archeology, architecture or culture of the Town;

WHEREAS, Grantee has designated the Billerica Historical Commission to administer, manage, and enforce preservation agreements.

[Describe the building and/or protected features, such as the type of building, uses, when built etc. See below for examples]

[Revise as needed] WHEREAS, the Building is a _____-story wood frame structure, designed by _____ and constructed in _____ for use as a _____
[describe unique features];

[Revise as needed] WHEREAS, the original _____ century house and its subsequent additions have been determined to represent an architectural resource of considerable importance to the Town, being an important example of _____ century domestic construction exceptionally well preserved on the exterior;

[Revise as needed] WHEREAS, the Building stands as a significant example of _____ architecture, important in design and setting and possessing integrity of materials and workmanship.

[If applicable] WHEREAS, the Property is located within the _____ Historic District and is a contributing building within the historic district.

[Revise as needed] WHEREAS, because of its architectural, historic and cultural significance, including its important local associations with the development of the Town of Billerica, the Building was listed in the State and National Registers of Historic Places on _____ as _____
[is Building listed in the State and/or National Registers? If so, when was it registered, and what category is it listed under/what unique style/features does the Building represent?];

WHEREAS, Grantor and Grantee recognize the architectural, historic, and cultural values (hereinafter “preservation values”) and significance of the Building, and have the common purpose of preserving the aforesaid preservation values and significance of the Building;

WHEREAS, the Building’s preservation values are documented in Exhibits A, B and C (hereinafter, collectively “Baseline Documentation”) attached hereto and incorporated herein by reference, which Baseline Documentation the parties agree provides an accurate representation of the Building as of the date of this Preservation Restriction Agreement;

WHEREAS, the Baseline Documentation includes the following:

1. Property Description and Description of the Building (Exhibit A),
2. Photographs as prepared in _____ by _____ (Exhibit B), and
3. Drawings of Building (Exhibit C) (*optional*)

WHEREAS, Grantor is going to undertake work to rehabilitate the Building, as set forth in Grantor’s Application to the Billerica Community Preservation Committee (“CPC”) for Community Preservation Act funds (the “Work”), as set forth more particularly in the Grant Agreement between Grantor and Grantee (the “Grant Agreement”) and in Exhibit D;

WHEREAS, Grantor and Grantee recognize the architectural, historic, and cultural values (hereinafter “preservation values”) and significance of the Property, and have the common purpose of preserving the aforesaid preservation values and significance of the Property and the Building;

WHEREAS, the grant of a preservation restriction on the Property by Grantor to Grantee will assist in the preservation and maintenance of the Building and its architectural, historic and cultural features for the benefit of the people of the Town of Billerica, County of Middlesex, Commonwealth of Massachusetts, and United States of America; and

WHEREAS, to that end, Grantor desires to grant to Grantee, and Grantee desires to accept a preservation restriction in gross and in perpetuity on the Property and the Building pursuant to the Act.

NOW, THEREFORE, in consideration of _____ Thousand and 00/100 (\$_____,000.00) Dollars, which funds are to be used for the rehabilitation, restoration, and preservation of the Building and the performance of the Work, as specified more particularly in the Grant Agreement, the receipt of which is hereby acknowledged, Grantor does hereby irrevocably grant and convey unto the Grantee a restriction in gross and in perpetuity over the Property and the Building described in Exhibits A, B, and C, all as set forth more particularly herein.

PURPOSE

1.1 Purpose. It is the purpose of this Agreement to ensure that the features and characteristics that embody the architectural, historic and cultural significance of the exterior of the Building will be forever retained and maintained substantially in their current condition and to prevent any use or change in the Property that will significantly impair or interfere with the Building's preservation values (the "Purpose").

1.2 Improvements. Grantor agrees to make the improvements to the Building as set forth in the Scope of Work.

GRANTOR'S COVENANTS

[this Restriction protects exterior features only – if interior and/or other features are involved, this Restriction needs to be revised]

2.1 Covenant to Maintain. Grantor agrees at all times to maintain the exterior of the Building in as good structural condition and sound state of repair as that existing on the date of this Agreement and/or the completion of the Work and otherwise in the condition required by this Preservation Restriction Agreement, and shall comply with all federal, state and local laws, codes and by-laws applicable to the Property and/or the Building. Grantor's obligation to maintain shall require replacement, repair, reconstruction and where necessary replacement in kind by Grantor whenever necessary to preserve the Building in a good, sound and attractive condition and state of repair and also require that the Property's landscaping be maintained in good and neat appearance. Subject to the casualty provisions of Sections 6 and 7, this obligation to maintain shall require replacement, rebuilding, repair and reconstruction of the Building whenever necessary in accordance with The Secretary of Interior's Standards for the Treatment of Historical Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (36 CFR 67), as these may be amended from time to time (hereinafter the "Secretary's Standards"). For the purpose of identifying categories of Major

Maintenance requiring review and approval by Grantee and Minor Maintenance that does not require such review, copies of maintenance guidelines are attached hereto and incorporated herein by reference as Exhibit E and hereinafter referred to as the "Restriction Guidelines."

2.2. Prohibited Activities.

[Use if applicable and revise as needed] The following acts or uses are expressly forbidden on, over, or under the Property, except as otherwise conditioned in this Section:

- (a) The Building shall not be moved, demolished, removed or razed except as described in Sections 6 and 7;
- (b) No barrier shall be constructed, erected or allowed to grow on the Property which would impair the visibility from the street of the Property or the Building without the prior approval of Grantee;
- (c) The dumping of ashes, trash, rubbish, or any other unsightly or offensive materials is prohibited on the Property; and
- (d) No above ground utility transmission lines, except those reasonably necessary for the existing Building, may be created on the Property, subject to utility easements already recorded.
- (e) The Property shall not be divided or subdivided in law or in fact and the Property shall not be devised or conveyed except as a unit; [and]
- (f) No other buildings or structures, including camping accommodations, mobile homes or cell towers, shall be erected or placed on the Property hereafter except for temporary structures required for maintenance or rehabilitation of the Property, such as construction trailers.
- (g) *is there anything else you wish to prohibit?*

GRANTOR'S CONDITIONAL RIGHTS

3.1 Conditional Rights Requiring Approval by Grantee. Without prior express written approval of the Grantee, which approval shall not be unreasonably withheld but which may be subject to such reasonable conditions as Grantee in its discretion may determine, Grantor shall not make any changes to the exterior of the Building, including additions to and the alteration, partial removal, construction, remodeling, or other physical or structural change to the façades of the Building, and any change in design, material or color thereof. Activities by Grantor to maintain the exterior of the building, which are intended to be performed in accordance with Section 2.1, and which are minor in nature, shall not require Grantee's prior approval. For the purposes of this Section, the interpretation of what constitutes ordinary maintenance of a minor nature is governed by the Restriction Guidelines which are attached to this Agreement and incorporated by reference. For purposes of this Agreement, the exterior of the building shall be defined as all surfaces (including but not limited to walls, roofs, foundations, windows including sash and enframements, doors, gutters, downspouts, and associated hardware and visible details) which are in contact with the exterior of the Building. Subject to this restriction are any activities, including construction or alteration or any internal structural features that act as support for external surfaces, construction or alteration of which may alter the exterior appearance of the building or threaten the structural stability or integrity of the exterior of the Building.

3.2 Review of the Grantor's Request for Approval. Should Grantor wish to exercise the conditional rights set out or referred to in Section 3.1, Grantor shall submit to Grantee, for Grantee's approval, two copies of information (including plans, specifications, and designs, where appropriate) identifying the proposed activity with reasonable specificity. In connection therewith, Grantor shall also submit to Grantee a timetable for the proposed activity sufficient to permit Grantee to monitor such activity. Within sixty (60) days of Grantee's receipt of any plan or written request for approval hereunder, Grantee shall certify in writing that (a) it approves the plan or request, or (b) it disapproves the plan or request as submitted in which case Grantee shall provide Grantor with written suggestions for modification or a written explanation for Grantee's disapproval. Any failure by Grantee to act within sixty (60) days of receipt of Grantor's submission or resubmission of plans or requests shall be deemed to constitute approval by Grantee of the plan or request as submitted and to permit Grantor to undertake the proposed activity in accordance with the plan or request submitted.

3.3 Conditional Rights Requiring the Approval of the Massachusetts Historical Commission. The conduct of archeological activities on the Property, including without limitation, survey, excavation and artifact retrieval, may occur only following the submission of an archeological field investigation prepared by Grantor and approved in writing by the State Archeologist of the Massachusetts Historical Commission (G.L. Ch.9, Section 27C, 950 CMR 70.00).

STANDARDS FOR REVIEW

4. Secretary's Standards. Grantee shall apply Secretary's Standards whenever (a) exercising any authority created by this Agreement to inspect the building; (b) reviewing any construction, alteration, repair or maintenance; (c) reviewing casualty damage or (d) reconstructing or approving reconstruction of the Building following casualty damage.

GRANTOR'S RESERVED RIGHTS

5. Grantor's Rights Not Requiring Further Approval by Grantee. Subject to the provisions of Sections 2.1, 2.2, and 3.1, the following rights, uses, and activities of or by Grantor on, over, or under the Property are permitted by this Agreement and by Grantee without further approval by Grantee:

- (a) The right to engage in all those acts and uses that: (i) are permitted by governmental statute or regulation; (ii) do not substantially impair the conservation and preservation values of the building; and (iii) are not inconsistent with the Purpose of this Preservation Restriction Agreement.
- (b) Pursuant to the provisions of Section 2.1, the right to maintain and repair the building strictly according to the Secretary's Standards. As used in this subsection the right to maintain and repair shall mean the use by Grantor of in-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of the building. The right to maintain and repair as used in this subsection shall not include the right to make changes in

appearance, materials, and workmanship from that existing prior to the maintenance and repair without the prior approval of Grantee in accordance with the provisions of Sections 3.1 and 3.2; and

- (c) The right to make changes of any kind to the interior of the Building, provided such changes do not alter materially the appearance of the exterior of the Building in contravention of this Preservation Restriction Agreement

CASUALTY DAMAGE OR DESTRUCTION; INSURANCE

6. Casualty Damage or Destruction. In the event that the Building or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify Grantee in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has been completed. No repairs or reconstruction of any type other than temporary emergency work to prevent further damage to the Building and to protect public safety shall be undertaken by Grantor without Grantee's prior written approval of the work. Within thirty (30) days of the date of damage or destruction, Grantor at Grantor's expense shall submit to Grantee a written report prepared by a qualified restoration architect and an engineer who are acceptable to Grantee, which report shall include the following: (a) an assessment of the nature and extent of the damage; (b) a determination of the feasibility of the restoration of the Building and/or reconstruction of damaged or destroyed portions of the Building; and (c) a report of such restoration and/or reconstruction work necessary to return the Building to the condition existing at the date thereof.

7. Review After Casualty Damage or Destruction. If, after reviewing the report provided in Section 6 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Section 8, Grantor and Grantee agree that the Purpose of this Agreement will be served by such restoration/reconstruction, Grantor and Grantee shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the Building in accordance with plans and specifications consented to by the parties to at least the total of the casualty insurance proceeds available to the Grantor.

If, after reviewing the report and assessing the availability of the insurance proceeds after satisfaction of any mortgagee's/lender's claims under Section 8, Grantor and Grantee agree that restoration/reconstruction of the Building is impractical or impossible, or agree that the Purpose of this Agreement would not be served by such restoration/ reconstruction, Grantor may with prior written consent of Grantee, alter, demolish, remove or raze the Building and/or construct new improvements on the Property. In such event, Grantor and Grantee may agree to extinguish this Agreement in accordance with the laws of the Commonwealth of Massachusetts and Section 21 hereof.

If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under Section 8, Grantor and Grantee are unable to agree that the Purpose of this Agreement will or will not be served by such restoration/reconstruction, the matter may be referred by either party to binding arbitration and settled in accordance with the Commonwealth of Massachusetts arbitration statute then in effect, and all other applicable laws, rules, and regulations.

8. Insurance. Grantor shall keep the Building insured by an insurance company rated “A1” or better by Best’s for the full replacement value against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage. Property damage insurance shall include change in condition and building ordinance coverage, in form and amount sufficient to replace fully the damaged Building without cost or expense to Grantor or contribution or coinsurance from Grantor. Grantor shall deliver to Grantee, within ten (10) business days of Grantee’s written request therefore, certificates of such insurance coverage. Provided, however, that whenever the Property is encumbered with a mortgage or deed of trust nothing contained in this Section shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

INDEMNIFICATION; TAXES

9. Indemnification. Grantor hereby agrees to indemnify, hold harmless and defend at its own cost and expense, Grantee, its agents, directors, employees and independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses and expenditures (including reasonable attorneys’ fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person on or about the Property; physical damage to the Property or the Building; the presence or release in, on, or about the Property, at any time, of any substance now or hereafter defined, listed or otherwise classified pursuant to any law, ordinance or regulation as a hazardous, toxic, polluting or contaminating substance; or other injury or damage occurring on or about the Property, unless such injury or damage is caused by Grantee or agent, employee or contractor of Grantee. In the event that Grantor is required to indemnify Grantee pursuant to the terms of this Section, the amount of such indemnity until discharged shall constitute a lien on the Property with the same effect and priority as a mechanic’s lien, provided, however, that nothing contained herein shall jeopardize the priority of any recorded first priority mortgage given in connection with a promissory note secured by the Property.

10. Taxes; Insurance. Grantor shall pay all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges which may become a lien on the Property. Grantor shall keep the Building insured by an insurance company rated “A” or better by Best’s for the full replacement value against loss from perils commonly insured under standard fire and extended coverage policies. Said insurance shall be in form and amount sufficient to fully restore or repair the protected features of damaged Building without cost or expense to Grantor or contribution or coinsurance from Grantor. Grantor shall deliver to the Town, within ten (10) business days of the Town’s written request therefor, certificates of such insurance coverage, provided, however, that whenever the Premises are encumbered with a mortgage or deed of trust, nothing contained in this Section shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

ADMINISTRATION AND ENFORCEMENT

11. Written Notice. Any notice Grantor or Grantee may desire or be required to give to the other party shall be in writing and shall be mailed postage prepaid by overnight courier, facsimile transmission, registered or certified mail with return receipt requested or hand delivered; if to Grantor, at _____, and if to Grantee, at Billerica Town Hall, 365 Boston

Road, Billerica, MA 0182, Attention: Billerica Historical Commission. Each party may change its address set forth herein by a notice to such effect to the other party given pursuant hereto.

12. Evidence of Compliance. Upon request by Grantor, Grantee shall promptly furnish Grantor with certification that, to the best of Grantee's knowledge, Grantor is in compliance with the obligations of Grantor contained herein, or that otherwise evidences the status of this Agreement to the extent of Grantee's knowledge thereof.

13. Inspection. With the consent of Grantor, representatives of Grantee shall be permitted at all reasonable times to inspect the Property, including the interior of the Building. Grantor covenants not to unreasonably withhold consent in determining dates and times for such inspections.

14. Grantee's Remedies. The rights hereby granted shall include the right to enforce this Agreement by appropriate legal proceedings and to institute suit(s) to enjoin any violation of the terms of this Agreement by ex parte, temporary, preliminary and/or permanent injunction, including without limitation prohibitory and/or mandatory injunctive relief and to require the restoration of the Property and/or the Building to the condition and appearance required under this Agreement (it being agreed that Grantee may have no adequate remedy at law), which rights shall be in addition to, and not in substitution of, all other legal and other equitable remedies available to Grantee to enforce Grantor's obligation hereunder. Except in the case of an emergency, Grantee agrees that no such enforcement actions will be taken unless (a) Grantee has sent written notice to Grantor, specifying Grantor's failure to comply with the terms of this Preservation Restriction Agreement, and (b) Grantor fails to cure the same within thirty (30) days from the date of the Grantee's notice, or, if such cure cannot reasonably be completed within said thirty (30) days, Grantor has commenced to cure said default within said thirty (30) day period and is pursuing said cure diligently to completion.

In the event Grantor is found to have violated any of Grantor's obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with Grantee's enforcement of the terms of this Preservation Restriction Agreement, including all reasonable court costs, and attorneys', architectural, engineering and expert witness fees, together with interest thereon at the prime lending rate.

Exercise by Grantee of one remedy hereunder shall not have the effect of waiving or limiting the use of any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

By its acceptance, Grantee does not undertake any liability or obligation relating to the condition of the Property or the Building, including with respect to compliance with hazardous materials or other environmental laws and regulations. Nothing herein shall impose upon the Grantee any affirmative obligation or liability relating to the condition of the Property or the Building.

15. Notice from Government Authorities. Grantor shall deliver to Grantee copies of any notice of violation or lien relating to the Property or the Building received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by Grantee,

Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

16. Notice of Proposed Sale. Grantor shall promptly notify Grantee in writing of any proposed sale of the Property and provide the opportunity for the Grantee to explain the terms of this Agreement to potential new owners prior to sale closing.

17. Liens. Any lien on the Property created pursuant to any Section of this Agreement may be confirmed by judgment and foreclosed by Grantee in the same manner as a mechanic's lien, provided, however, that no lien created pursuant to this Agreement shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property.

BINDING EFFECT; ASSIGNMENT

18. Runs with the Land. Except as provided in Sections 7 and 21, the rights and obligations created or imposed by this Agreement shall be in effect in perpetuity, and shall be deemed as a binding servitude upon the Property. Grantor agrees that this Agreement shall also be considered an "other restriction held by a governmental body," as that term is used in G.L. c. 184, §26, and thus not subject to the limitations on the enforceability of restrictions in G.L. c. 184, §§26-30, and, in any event, shall bind and run with the Property for a period of ninety-nine (99) years. To the extent this Agreement is deemed subject to said statutes, this Agreement may, during said term of years, be renewed for successive twenty (20) year periods by filing a notice of the continued enforceability of said Agreement prior to thirty (30) years from the date of imposition of the Agreement, and thereafter by filing a notice of continuation prior to the end of each such twenty (20) year renewal period, as allowed by law pursuant to G.L. c. 184, §§ 26-30. The Grantor hereby appoints the Town as Grantor's agent to execute and record such notices and agrees that Grantor shall execute and record such a notice upon request.

This Agreement shall extend to and be binding upon Grantor and Grantee, their respective successors in interest and all persons hereafter claiming under or through Grantor or Grantee, and the words "Grantor" and "Grantee" when used herein shall include all such persons. Any right, title or interest herein granted to Grantee shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all successors and assigns.

Anything contained herein to the contrary notwithstanding, an owner of the Property shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in the Property by reason of bona fide transfer. The restrictions, stipulations and covenants contained in this Agreement shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in the Property or any part hereof, including by way of example but not limitation, a lease of all or a portion of the Property.

19. Assignment. Grantee may, at its discretion without prior notice to Grantor, convey, assign or transfer this Agreement to a unit of federal, state or local government or to a similar local, state or national organization that qualifies under the Act, as amended, whose purposes,

inter alia, are to promote preservation of historical, cultural or architectural resources, provided that any such conveyance, assignment or transfer requires that the Purpose for which this Agreement was granted will continue to be carried out.

20. Recording and Effective Date. Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this Agreement in the land records of the Registry. Grantor and Grantee intend that the restrictions arising under this Agreement take effect on the day and year this instrument is executed by Grantor and Grantee.

EXTINGUISHMENT

21.1. Extinguishment. Grantor and Grantee hereby recognize that an unexpected change in conditions affecting the Property may make impossible the continued ownership or use of the Property for the Purpose of this Agreement and necessitate extinguishment of this Preservation Restriction Agreement. Such a change in conditions may include, but is not limited to, partial or total destruction of the Building resulting from casualty. An extinguishment must meet all the requirements of the Act for extinguishment, including a public hearing to determine that such extinguishment is in the public interest, and approval by Grantee (or the then holder of this Agreement, if it has been assigned pursuant to Section 19), and the Massachusetts Historical Commission, if this Agreement has been approved by the Massachusetts Historical Commission.

21.2 Proceeds. Grantor and Grantee agree that this Agreement gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Agreement, determined at the time of the gift, bears to the value of the unrestricted Property at that time. Such proportionate value of the Grantee's property right shall remain constant. Grantor shall pay Grantee its share of any proceeds from the sale or conveyance of the Property.

21.3 Condemnation. If all or any part of the Property is taken under the power of eminent domain by public, corporate or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and the Grantee shall join in appropriate proceedings at the time of such taking to recover the full value of the Property that is subject to the taking and all incidental and direct damages from the taking. All expenses reasonably incurred by Grantor and the Grantee in connection with such taking shall be paid out of the recovered proceeds. Such recovered proceeds shall be paid to the parties in accordance with the provisions of 21.3.

INTERPRETATION

22. Interpretation. The following provisions shall govern the effectiveness, interpretation and duration of this Preservation Restriction Agreement:

- (a) Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of property shall not apply in the construction or interpretation of this Agreement and this instrument shall be interpreted broadly to affect its Purpose and the transfer of rights and the restrictions on use herein contained.

- (b) This instrument is executed in two counterparts, one of which is to be retained by the Grantor and the other, after recording, to be retained by Grantee. In the event of any disparity between the counterparts produced, the recorded counterpart retained by the Grantee shall in all cases govern. Except as provided in the preceding sentence, each counterpart shall constitute the agreement of the parties.
- (c) This instrument is made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of this Agreement according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this instrument whether this instrument is enforceable by reason of statute, common law or private agreement either in existence now or at any time subsequent hereto.
- (d) Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods or use. In the event of any conflict between any such ordinance or regulation and the terms hereof Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable government entity to accommodate the purpose of both this Agreement and such ordinance or regulation.

AMENDMENT

23. Amendment. If circumstances arise under which an amendment to or modification of this Agreement would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Preservation Restriction Agreement, provided that no amendment shall be made that will adversely affect the qualifications of this Agreement or the status of Grantee under the Act, or any applicable laws, including any other laws of the Commonwealth of Massachusetts. Any such amendment shall be consistent with the protection of the preservation values of the Property and the Purposes of this Agreement; shall not affect its perpetual duration; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall architectural, historic, natural habitat, and open space values protected by this Agreement. Any such amendment shall comply with the provisions of the Act and shall be recorded in the land records/files of the Registry. Nothing in this Section shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

24. Additional Changes. Grantor agrees to make such changes to this Agreement as are reasonably necessary to obtain the approval of the Massachusetts Historical Commission under Section 32 of Chapter 184 of the General Laws of the Commonwealth of Massachusetts.

25. Mortgage Subordination. At the time of the conveyance of this Agreement, the Property is subject to a Mortgage recorded/filed with the Registry in Book _____, Page _____ or Document No. _____ (hereinafter "the Mortgage") and held by _____ (hereinafter, "Mortgagee"). The Mortgagee joins in the execution of this Agreement to evidence its agreement to subordinate the Mortgage to this Agreement under the following conditions and stipulations:

- a. The Mortgagee and its assignees shall have a prior claim to all insurance proceeds as a result of any casualty, hazard or accident occurring to or about the Property and all proceeds of condemnation proceedings, and shall be entitled to same in preference to the proceeds until the Mortgage is satisfied in full and discharged, notwithstanding that the Mortgage is subordinate in priority to this Agreement.
 - b. If the Mortgagee receives an assignment of the leases, rents, and profits of the Property as security or additional security for the loan secured by the Mortgage, then the Mortgagee shall have a prior claim to the leases, rents, and profits of the Property and shall be entitled to receive same in preference to the Town until the Mortgagee's debt is paid off or otherwise satisfied, notwithstanding that the Mortgage is subordinate in priority to the Agreement.
 - c. The Mortgagee or purchaser in foreclosure shall have no obligation, debt, or liability under this Agreement until the Mortgagee or a purchaser in foreclosure under it obtains ownership of the Property. In the event of foreclosure or deed in lieu of foreclosure, this Agreement shall not be extinguished.
 - d. Nothing contained in this Section or in this Agreement shall be construed to give any Mortgagee the right to violate the terms of this Agreement or to extinguish this Agreement by taking title to the Property by foreclosure or otherwise.
25. Recitals. The recitals to this Agreement are incorporated herein and made a part hereof.

IN WITNESS WHEREOF, Grantor has set its hand under seal on the day and year first set forth below.

GRANTOR:

By: _____
Name:
Title:

By: _____
Name:
Title:

MORTGAGEE:

By: _____
Name:
Title:

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this _____ day of _____, 201__, before me, the undersigned Notary Public, personally appeared _____, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose as _____ of _____.

(Official Signature and Seal of Notary)
My term expires:

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this _____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, _____ of _____, as aforesaid, who proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of _____ [mortgagee].

(Official Signature and Seal of Notary)
My term expires:

ACCEPTANCE OF PRESERVATION RESTRICTION

Acceptance of this Agreement by the Town of Billerica , acting by and through its Billerica Historical Commission pursuant to the authority granted to said Commission under G.L. c.40, § 8D, is acknowledged this _____ day of _____, 201__.

TOWN OF BILLERICA,
Historical Commission

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 201__, before me, the undersigned Notary Public, personally appeared _____, member of the Billerica Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Town of Billerica.

(Official Signature and Seal of Notary)
My term expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, member of the Billerica Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Town of Billerica.

(Official Signature and Seal of Notary)
My term expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared _____, member of the Billerica Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Town of Billerica.

(Official Signature and Seal of Notary)
My term expires:

514795.2/PEMB/0001

APPROVAL BY THE MASSACHUSETTS HISTORICAL COMMISSION
COMMONWEALTH OF MASSACHUSETTS

The undersigned Executive Director and Clerk of the Massachusetts Historical Commission hereby certifies that the foregoing Agreement to the Town of Billerica, acting by and through the Billerica Historical Commission (Grantee), has been approved by the Massachusetts Historical Commission in the public interest pursuant to G.L. Chapter 184, Section 32.

MASSACHUSETTS HISTORICAL COMMISSION

By: _____
Brona Simon, Executive Director and Clerk

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this _____ day of _____, 201____, before me, the undersigned Notary Public, personally appeared Brona Simon, Executive Director and Clerk of the Massachusetts Historical Commission, as aforesaid, who proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose on behalf of the Massachusetts Historical Commission.

(Official Signature and Seal of Notary)
My commission expires:

EXHIBIT A

Description of the Property

Insert legal description of property

Description of the Building

EXAMPLE of details to be provided: The Days Lumberyard Building is a two-story wood frame structure, constructed in the early 1900's. As originally constructed, the Building consisted of two (2) structures, which were joined into a single structure in 2006, with the construction of the so-called "Link," which connected the two structures into one (1) large, continuous "U"-shaped structure that is now the Building. The south wing of the Building is approximately twenty feet (20') wide; the Link is nearly thirty feet (30') wide; and the north wing is forty feet (40') wide. The foundation is reinforced concrete slab on grade, except under the Link addition, which has an eight-foot (8') deep basement. The Building is clad with cedar shingles. The Building has a single-ply synthetic rubber roofing membrane with an almost flat/shed shape. There is an exterior elevated walkway along the south and the west elevations of the courtyard portion of the "U". To meet accessibility code requirements, there is a new exterior lift, also clad with cedar shingles. The building elevations are characterized by a complex variety of single and multiple window bays and entry configurations on both floors, which are full depicted in the series of photographs that comprise Exhibit B.

The first floor of the Building was originally a lumberyard storage and office space. The second floor served as artists' spaces, which Frank Days, Sr., the owner of the property, rented out for \$50.00 per year. The first artist to move into one of the second floor studios was Ross Moffett, in 1914. Other artists who lived and worked in the second floor studios, or taught classes there, included some of the most revered and prominent figures in the history of Billerica arts: Charles Hawthorne, Edwin Dickinson, Henry Hensche, Lillian Orlowsky, Philip Malicoat, Myron Stout and Hans Hofmann. The Building captures, in many ways, the best of what Billerica embodies – a community with a legacy of nurturing the artists among us. The Fine Arts Work Center bought the Days Lumberyard site in 1972 and has continued to foster this legacy in the Building. The studios are still used as living and working space for artists, and the design of the contemplated renovation project gives paramount importance to the studios' preservation. The renovation project preserves the second-floor artists' studios and the shingled exterior appearance of the Building. The renovation plan also includes the addition of an archival library and a meeting room. This renovation project represents the final phase of the Fine Arts Work Center's multi-year, multi-building project, dating from 2004.

The Property as a whole is the site of two primary structures (the Building and the Barn), a parking lot that accommodates twenty (20) vehicles, a small courtyard area in front of the Link, and a garbage/recycling staging area next to the Barn. The Barn is a three (3) story structure clad in cedar shingles with an exterior stairwell on the west elevation and second and third floor decks. The Barn is a historic, gable-roofed building with a central cupola, and is depicted in the series of photographs that comprise Exhibit B, but is not subject to the terms of this Preservation Restriction Agreement. There is a newly installed sidewalk traversing the north elevation of the Building from Pearl Street to the lift. Eight

(8) planting beds have been installed between the sidewalk and the parking lot. A wood walkway connects the parking lot with the Building in front of the Link.

EXHIBIT B

Photographs of the Building

Please see the attached.

List of photographs:

For examples of details to be included:

1. South wing – north elevation
2. South wing – north elevation
3. South wing – north elevation
4. West wing – east elevation
5. North wing – south elevation
6. North wing – east elevation
7. North wing – north elevation
8. North wing – north elevation
9. North wing – north elevation
10. West wing – west elevation
11. South wing – south elevation
12. South wing – south elevation
13. South wing – south elevation
14. South wing – east elevation
15. Barn – south elevation
16. Barn – east elevation
17. Barn – north elevation
18. Barn – west elevation

EXHIBIT C

Architect's Drawings of the Building

Please see the attached.

EXHIBIT D

Scope of Work

Please see the attached.

EXHIBIT E

Restriction Guidelines

The purpose of these Preservation Guidelines is to clarify the terms of this Historic Preservation Restriction that deal with maintenance and alteration to the Building. Under Section 3, prior permission from the Grantee is required for any Minor Maintenance that is reasonably expected to materially change the appearance, materials, colors, or workmanship from that existing prior to the maintenance and for any Major Maintenance. Minor Maintenance that is part of ordinary maintenance and repair and does not materially change the appearance, materials, colors, or workmanship from that existing prior to the maintenance does not require Grantee review and approval.

In an effort to explain what constitutes Minor Maintenance and Major Maintenance, the following list is provided. The list is by no means comprehensive. It is a sampling of common structural alterations.

PAINT

Minor: Exterior or interior hand scraping and repainting of non-decorative and non-significant surfaces as part of periodic maintenance.

Major: Painting or fully stripping decorative surfaces or distinctive stylistic features, including murals, stenciling, wallpaper, ornamental woodwork, stone, and decorative or significant original plaster.

WINDOWS AND DOORS

Minor: Regular maintenance including caulking, painting, and necessary reglazing. Repair or in-kind replacement of existing individual decayed window parts.

Major: Wholesale replacement of units; change in fenestration or materials; alteration of profile or setback of windows. The addition of storm windows is also considered a major change; however, with notification it is commonly acceptable.

EXTERIOR

Minor: Spot repair of existing cladding and roofing including in-kind replacement of clapboard, shingles, slates, etc.

Major: Large scale repair or replacement of cladding or roofing. Change involving inappropriate removal or addition of materials or building elements (i.e., removal of chimney or cornice detailing; installation of architectural detail which does not have a historical basis); altering or demolishing building additions; spot repointing of masonry. Structural stabilization of the property is also considered a major alteration.

LANDSCAPING/OUTBUILDINGS

Minor: Routine maintenance of outbuildings and landscape including lawn mowing, pruning, planting, painting, and repair.

Major: Moving or subdividing buildings or property; altering of property; altering or removing significant landscape features such as gardens, vistas, walks, plantings, walls, fences, and ground disturbances affecting archaeological resources.

WALLS/PARTITIONS

Minor: Making fully reversible changes (i.e. sealing off doors in situ, leaving doors and door openings fully exposed) to the spatial arrangement of a non-significant portion of the building.

Major: Creating new openings in walls or permanently sealing off existing openings; adding permanent partitions which obscure significant original room arrangement; demolishing existing walls; removing or altering stylistic features; altering primary staircases.

HEATING/AIR CONDITIONING/ELECTRICAL/PLUMBING SYSTEMS

Minor: Repair of existing systems.

Major: Installing or upgrading systems which will result in major appearance changes (i.e. dropped ceilings, disfigured walls or floors, exposed wiring, ducts and piping); the removal of substantial quantities of original plaster or other materials in the course of construction.

Changes classified as Major Maintenance are not necessarily unacceptable. Under the Historic Preservation Restriction, such changes must be reviewed by the Grantee in order to assess their impact on the historic integrity of the Property, Building, and other structures.

It is the responsibility of the Grantor to notify Grantee in writing when any Minor Maintenance that is reasonably expected to materially change the appearance, materials, colors or workmanship from that existing prior to the maintenance or any Major Maintenance is contemplated. Substantial alterations may necessitate review of plans and specifications.

The intent of this Historic Preservation Restriction is to enable the Commission to review proposed alterations and assess their impact on the integrity of the Property, the Building, and other structures, not to preclude future change. The Commission will attempt to work with the Grantor to develop mutually satisfactory solutions which are in the best interests of the Property.