

CODE OF THE TOWN OF DENNIS

Chapter 19

ARTICLE VII

Dennis Affordable Housing Trust Fund

[HISTORY: Adopted 9-26-2006 STM, Art. 27; amended in its entirety 5-6-2008 ATM, Art. 25, amended in its entirety 11-13-12 STM, Art. 6., amended section 19-11, 2-27-13 STM, Art. 5]

ARTICLE I

Section 19-8: Authority; establishment.

In accordance with the provisions of G.L. c. 44, §55C, as amended, the Town of Dennis hereby establishes a trust to be known as the "Dennis Affordable Housing Trust Fund" (the "Trust").

Section 19-9: Purpose.

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Dennis (the "Town") for the benefit of low and moderate income households. In furtherance of this purpose, the Trustees are hereby authorized, in accordance with the procedures set forth herein, to acquire by gift, purchase or otherwise real estate and personal property, both tangible and intangible, of every sort and description; to use such property, both real and personal, in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property held by the Trust and the net earnings thereof shall be used exclusively for benefit of all the inhabitants of the Town for the preservation and creation in the Town of affordable housing for the purposes for which this Trust was formed, and no part of the activities of the Trust shall consist of propaganda or otherwise an attempt to influence legislation, or participation in or intervention in (including the publication or distributions of statements) any political campaign on behalf of any candidate for public office and no part of the net earnings of this Trust shall inure, or be payable to or for the benefit of any private individual or corporation.

To achieve this purpose the trust shall employ a broad range of housing initiatives, including but not limited to (a) provide rental assistance, (b) purchase real property to be managed by an outside agency for affordable housing, (c) undertake new construction which may include outside not-for-profit agencies, and (d) undertake buy-downs, which may include taking subordinate mortgages on properties that will be deeded in

perpetuity as Affordable Housing with note payments based on the family's income levels.

Section 19-10: Tenure of Trustees.

There shall be a Board of Trustees (the "Board") consisting of seven Trustees who shall be appointed by the Board of Selectmen. Only persons who are residents and registered voters of the Town shall be eligible to hold the office of Trustee. Trustees shall serve for a term of two years. Any Trustee who ceases to be a resident of the Town shall cease to be a Trustee hereunder and shall promptly provide a written notification of the change in residence to the Board and to the Town Clerk. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. No such appointment shall be required so long as there are at least five Trustees in office. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Any Trustee may be removed by the Board of Selectmen for cause, or no cause. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

Section 19-11: Meetings of the Trust.

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, G.L. Chapter 30A, §§18-25. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

Section 19-12: Powers of Trustees.

The Board of Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of G.L. Chapter 44, Section 55C:

- (1) To accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation, grants of funds or other property tendered to the Trust in connection with provisions of any zoning by-law or any other by-law or any general law or special act of the Commonwealth or any other source including money from G.L. c. 44B;
- (2) To purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income, subject to the Board of Selectmen's approval of the Trustees' recommendation thereof;
- (3) To sell, lease, exchange, transfer or convey any real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to Trust real property as the Trustees deem advisable notwithstanding

- the length of any such lease or contract, subject to the Board of Selectmen's approval of the Trustees' recommendation thereof;
- (4) To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incidental to any transaction in which the Board engages for the accomplishment of the purposes of the Trust, subject to the Board of Selectmen's approval of the Trustees' recommendation thereof;
 - (5) To employ advisors and agents, such as accountants, appraisers and lawyers as the Trustees deem necessary;
 - (6) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
 - (7) To apportion receipts and charges between income and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
 - (8) To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution, to vote any securities or certificates of interest, and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
 - (9) To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
 - (10) To carry property for accounting purposes other than acquisition date values;
 - (11) To borrow money on such terms and conditions and from such sources
 - a. as the Trustees deem advisable, and to mortgage and pledge Trust
 - b. assets as collateral to the extent of the value of the Trust's assets,
 - c. subject to the Board of Selectmen and Finance Committee's approval of
 - d. the Trustees' recommendation thereof; and if the amount to be
 - e. borrowed, mortgaged, pledged is greater than the value of the Trust's
 - f. assets, then it will be subject to a favorable two-thirds (2/3) vote of a
 - g. special or annual town meeting; To make distributions or divisions of
 - h. principal in kind;
 - (12) To compromise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of G.L. Chapter 44, Section 55C, to continue to hold the same for such period of time as the Board may deem appropriate;
 - (13) To construct, manage or improve real property and, to abandon any property which the Trustees determine not to be worth retaining, subject to the Board of Selectmen's approval of the Trustees' recommendation thereof;

- (14) To hold all or part of the Trust property uninvested for such purposes and for such time as the Trustees may deem appropriate;
- (15) To extend the time for payment of any obligation to the Trust;
- (16) To become the lottery and monitoring agent for affordable housing and accept compensation for those services into the Fund; and
- (17) To monitor the expiring use of any affordable housing in the Town.
- (18) To be authorized to review, supplement and assist in the implementation of policies that affect the availability of affordable housing; to institute guidelines and coordinate Town-sponsored affordable housing proposals; to promulgate equal access to housing of a wide range of housing types in the Town of Dennis;
- (19) To encourage and assist the Town toward meeting its 10% goal for affordable housing units as set forth in Chapter 40B of the General Laws; assist in the preparation of housing plans as provided in the Town of Dennis Comprehensive Plan; and to encourage development of affordable housing for low- and moderate-income persons and families using various types of situations and ownership programs, zoning, legislation and rentals;
- (20) To be authorized to review and comment on all affordable housing proposals brought before the Town of Dennis, act on fair housing issues and encourage affordable housing projects relating to existing housing stock; and
- (21) To employ a broad range of housing initiatives, including but not limited to: Rental Assistance Vouchers; Renter's Revolving Loan Program; Mortgage Buy-downs for Affordable Units; Purchase of Affordable Units for Rental to Qualified Individuals; Land Acquisition for Production of both Scattered Site and Multi-Unit Housing with Non-Profit and For-Profit Developers.
- (22) Other such duties and responsibilities as may from time to time be authorized by the legislative body of the Town of Dennis.

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning by-law, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the Board within one year of the date they were appropriated into the Trust, remain Trust property.

Section 19-13: Acts of Trustees.

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

Section 19-14: Liability.

The Trust is a public employer and the Trustees are public employees for the purposes of G.L. Chapter 258. The Trust shall be deemed a municipal agency and the Trustees

special municipal employees for the purposes of G.L. Chapter 268A. Notwithstanding the foregoing, neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein.

Section 19-15: Taxes.

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

Section 19-16: Accounts.

The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities. Upon receipt of the audit by the Trustees, a copy shall be provided forthwith to the Board of Selectmen.

Rental income that the Trust receives from properties within its portfolio shall be deposited into a separate account (The Account), managed by the Town Treasurer. Trust members shall approve all expenses prior to Treasurer's disbursement of funds for projects already approved by the Board of Selectmen. The Trust shall have unrestricted access to the accounting and financial records for funds dedicated for Trust use.

Section 19-17: Governmental Body.

The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of G.L. Chapter 39.

Section 19-18: Board of the Town.

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

Section 19-19: Duration of the Trust.

This Trust shall be of indefinite duration. However, it may be terminated by a majority vote of an annual or special town meeting, in accordance with G.L. c. 4, §4B, provided that an instrument of termination together with a certified copy of the town Meeting vote are recorded with the Barnstable County Registry of Deeds and the Barnstable Registry District of the Land Court. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Board of Selectmen for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

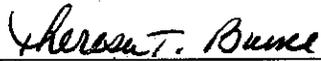
Section 19-20: Amendments.

This Trust may be amended from time to time except as to those provision specifically required under G.L. c. 44, §55C, by an instrument in writing signed by all of the Trustees and approved at a meeting called for that purpose, provided that in each case, a certificate of amendment has been recorded with said Deeds and said Registry District of the Land Court.

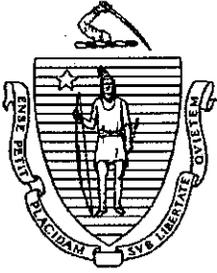
Section 19-21: Titles.

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

A True Copy, Attest:



Theresa T. Bunce, Dennis Town Clerk



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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February 28, 2013

Ms. Theresa T. Bunce, Town Clerk
Town of Dennis
P.O. Box 2060
South Dennis, MA 02660

**Re: Dennis Special Town Meeting of February 27, 2013 ----- Case # 6621
Warrant Article # 5 (General)**

Dear Ms. Bunce:

Article # 5 - We approve the amendments adopted under this Article at the Dennis Special Town Meeting that convened on February 27, 2013.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MARTHA COAKLEY
ATTORNEY GENERAL

Kelli E. Gunagan

by: Kelli E. Gunagan, Assistant Attorney General
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cc: Town Counsel John Giorgio (via electronic mail)