

C. 7E AFFORDABLE HOUSING TRUST FUND BY-LAW

ANNOTATED WITH NOTES

THIS BY-LAW WAS INITIALLY ADOPTED IN 2017, BUT NO MEMBERS WERE APPOINTED UNTIL 2023. AT THE SUGGESTION OF THE GOVERNMENT AND BY-LAW COMMITTEE, THE SELECT BOARD ACTIVATED THE COMMITTEE WITH 5 MEMBERS WITH THE UNDERSTANDING THAT THE BY-LAW WOULD BE BROUGHT TO FTM 2023 WITH SUGGESTED AMENDMENTS.

ITEMS IN BOLD TO BE ADDED. THOSE CROSSED OUT TO BE REMOVED.

E. Affordable Housing Trust Fund

Section 1. Establishment of Trust.

There shall be a Rockport Affordable Housing Trust, ~~the purpose of which that shall be to provide for the preservation and creation of affordable housing in the Town of Rockport for the benefit of low and moderate income households and for the funding of community housing as defined in and in accordance with the provisions of M.G.L. c. 44B Community Preservation. Massachusetts General Laws Chapter 44B (“Chapter 44B”)~~. The Trust shall be governed by a Board of Trustees in accordance with **M.G.L. C. 44, §55C Municipal Affordable Housing Trust Fund** ~~General Laws Chapter 44, Section § 55C (“Section 55C”)~~, as revised from time to time, and the authority granted by Town Meeting.

Section 2. Name of the Trust

ADDED THE ACRONYM SO IT WOULD NOT BE ABBREVIATED AS RAHT (and pronounced RAT)

The Trust shall be called the "Rockport Affordable Housing Trust" herein referred to as the “Trust” **and known by the acronym “RAFHT”. (Pronounced RAFT)**

~~Section 2. Purpose~~

PURPOSE CLAUSE REDUNDANT.

~~The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Rockport for the benefit of low and moderate income households and for the funding of community housing as defined in Chapter 44 B.~~

Section 3. Board of Trustees

REDUCED THE NUMBER OF TRUSTEES FROM 9 AS IT WAS TOO CUMBERSOME AND IT WAS DIFFICULT TO GET OTHER BOARD MEMBERS TO AGREE TO SERVE ON MULTIPLE BOARDS. MEMBERS

WILL BE APPOINTED BY SELECT BOARD, NOT DESIGNATED BY OTHER COMMITTEES. CONFORMS TO STATE LAW.

There shall be a Board of Trustees (the "Board") consisting **of five (5) to seven (7) ~~nine (9)~~** Trustees who shall be appointed by the ~~Board of Selectmen~~ **Select Board**. The members of the Board shall **include** ~~be comprised of as follows:~~

REQUIRED BY STATE LAW THAT A SELECT BOARD MEMBER BE APPOINTED AS A MEMBER. CANNOT JUST APPOINT A DESIGNEE. (FYI: DOES NOT NEED TO BE THE CHAIR)

~~one (1) members~~ **member** of the ~~Board of Selectmen~~ **Select Board**, ~~or its designees; and~~

ROCKPORT DOES NOT ACTUALLY HAVE A COMMUNITY DEVELOPMENT OFFICE.

~~one (1) member of the Community Development Office of Fair Housing or its designee;~~

NO STATE LAW REQUIRMENT THAT MEMBERS SERVE ON OTHER BOARDS. THERE WAS A PROBLEM ORIGINALLY IN GETTING SUCH MEMBERS TO AGREE TO SERVE ON MULTPLE BOARDS WHICH WAS ONE OF THE REASONS NO BOARD DID NOT GET ACTIVATED YEARS AGO SELECT BOARD CAN STILL APPOINT THESE PEOPLE, BUT SHOULD NOT BE REQUIRED TO.

~~one (1) member of the Planning Board or its designee;~~

~~one (1) Housing Authority member from the Community Preservation Committee or it's designee; and~~

ADDITIONAL GUIDANCE FOR THE SELECT BOARD ON SKILLS TO LOOK FOR IN APPOINTEES.

four (4) to six (6) ~~five (5)~~ residents **members** at large, who to the extent possible, shall have backgrounds or interests in affordable housing, and specifically those with financial, legal, real estate, **architectural, social service** or development expertise.

CREATES STAGGERED TERMS/ CAUSE FOR REMOVAL NOW TIES INTO THE REGULAR BY-LAWS DEFINITION OF CAUSE FOR REMOVAL FROM C. 1 OF THE CODE OF BY-LAWS PREVIOUSLY ADOPTED BY TOWN MEETING

Only residents of the Town ~~of Rockport~~ shall be eligible to hold the office of Trustee. The Trustees shall serve for a term ~~not to exceed~~ **of two (2) years**, with initial terms of **two (2) or three (3), as the case may be, of the at large ~~five (5)~~ resident members being to be** for two (2) years and **for the other two (2) or three (3), as the case may be,** at large ~~four~~ **members being** for one (1) year, **to provide staggered terms**. Any Trustee may resign by filing with the Town Clerk a written resignation, signed under the pains and penalties of perjury. Any vacancy in the office of Trustee shall be filled by the ~~Board of Selectmen~~ **Select Board** in writing for the remainder of the unexpired term. Upon the appointment of any Trustee and the filing of such appointment and Trustee's acceptance with the Town Clerk, the title to the Trust estate shall thereupon and without the

necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder. Trustees may be removed by the ~~Board of Selectmen~~ **Select Board** at any time for cause following the opportunity for a hearing. For purposes of this by-law, **(in addition to the definition of “cause” under c. 1 § 2 (iii) of the By-Laws)**, the term “cause” shall include but not be limited to violation of any local, state, or federal law. ~~incapacity to perform the duties of a Trustee; and acts of a Trustee, that in the opinion of the Board of Selectmen, are negligent or detrimental to the Town of Rockport or the Trust.~~

Section 4. Meetings of the Trust

The Board shall meet at least quarterly in the Town of ~~Rockport~~ at such time and at such place as the Trustees shall determine.

Section 5. Powers of the Board

The Board shall have all of the powers and duties set forth in **M.G.L. c 44 §~~Section~~ 55C**, which powers and duties shall be carried out in accordance with and in furtherance of the provisions of said law. Notwithstanding the first sentence of this paragraph, however, the Board shall have no ability to borrow money, or mortgage or pledge Trust assets, purchase, sell, lease, exchange, transfer or convey any interest in real property, without the prior approval of the ~~Rockport Board of Selectmen~~ **Select Board**. Further, any borrowing by the Trust shall be pre-approved by a two-thirds (**2/3rds**) vote at **Town Meeting**. The Board, an individual Trustee, or any agent or office of the Trust shall not have the authority to bind the Town of ~~Rockport~~, except in the manner specifically authorized herein.

Section 6. Acts of Trustees

Provided that a quorum of the Board is present, a majority of those Trustees present and voting may exercise any or all of the powers of the Board hereunder, except as otherwise provided, and such Trustees may execute on behalf of the Board 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 Board with respect to the Trust Estate.

Section 7. Status of Trust and Board of Trustees

ADDED PUBLIC RECORDS LAW THAT WAS LEFT OUT IN ORIGINAL DRAFT. THESE REFLECT OTHER APPLICABLE STATE LAWS THAT THE TRUSTEES MUST FOLLOW.

The Trust is a public employer and the members of the Board are public employees for purposes of ~~General Laws Chapter~~ **M.G.L. c. 258** relative to liability and indemnification. The Trust shall be deemed a municipal agency and the members of the Board of Trustees special municipal employees for purposes

of ~~General Laws Chapter~~ **M.G.L. c. 268A**, the Conflict of Interest Law. The Trust is a governmental body for purposes of ~~Massachusetts General Laws Chapter~~ **M.G.L. c. 30A**, §§18-25, the Open Meeting Law and **M.G.L. c. 66, the Public Records Law**. The Trust is also a board of the Town for purposes of **M.G.L. c. 30B** ~~General Laws Chapter~~, procurement, and **M.G.L. c. 40**, §15, ~~General Laws Chapter~~ abandonment of rights in realty, provided, however, that 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 8. Custodian of Funds

The Town of ~~Rockport~~ Treasurer shall be the custodian of the funds of the Trust. The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities. Cost associated with the independent audit shall be borne by the Trust.

Section 9. Duration of the Trust

This Trust shall continue until terminated by a vote of the ~~Rockport~~ Town Meeting. Upon termination of the Trust, the Board, with the approval of the ~~Board of Selectmen~~ **Select Board**, may sell all or any portion of the Trust property, both real and personal, and, following the payment of all obligations and liabilities of the Trust and the Trustees, shall transfer to the Town the net assets of the Trust which shall be held by the ~~Board of Selectmen~~ **Select Board** for affordable housing purposes.

Section 10. Compensation of Trustees

MAKES CLEAR THAT TOWN'S STANDARD PRACTICE WILL APPLY TO EXPENSES.

Trustees shall not receive a salary, stipend, bonus or other means of compensation for their service as a Trustee, nor shall they be eligible for any benefits from the Town of ~~Rockport~~. Trustees may be compensated for reasonable out-of-pocket expenses for travel and other Trust-related expenses. All such out-of-pocket expenses shall be fully documented with receipts for expenses prior to payment by the Trust **in accordance with the Town's standard financial practice.**

Section 11. Annual Report

ADDED FINANCE COMMITTEE TO RECEIVE THE ANNUAL REPORT AS IT RELATES TO FINANCIAL MATTERS OF WHICH THEY SHOULD BE INFORMED.

The Trustees shall prepare an annual report describing the activities of the Trust on a calendar year basis. The annual report shall be submitted to the ~~Rockport~~

~~Board of Selectmen~~ **Select Board and to the Finance Committee** by December 31st of each year as well as be included in the Town's Annual Report. The annual report shall list all financial transactions conducted by the Trust including all revenues and costs, provide a balance sheet of liabilities and assets of the Trust, list an inventory of all affordable housing units created, sold, and/or managed by the Trust, and any other pertinent information related to the business of the Trust.

Section 12. Policies, Rules and Regulations.

THIS IS A STANDARD PHRASE GBL ADDS TO ALL COMMITTEES POWERS. COMMITTEES ACTUALLY HAVE THIS POWER AUTOMATICALLY, BUT TO MAKE CLEAR TO THE PUBLIC THEY POSSESS IT.

The Trustees may establish such policies, rules and regulations as they deem necessary to carry out the terms of the Trust and that do not conflict with the terms of the by-law or the enabling statute M.G.L. c. 44 § 55C or M.G.L. c. 44B or any other applicable law.