

# **AYER AFFORDABLE HOUSING TRUST**

## **Section 1**

### **Purpose**

The purpose of the Ayer Affordable Housing Trust (the “Trust”) is to provide for the creation and preservation of affordable housing in Ayer, 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 G.L. Chapter 44B. The Trust shall be governed by a Board of Trustees (the “Board”) in accordance with G.L. c. 44, §55C, as amended from time to time, and the authority granted by Town Meeting.

## **Section 2**

### **Name of the Trust**

This Trust shall be called the “Ayer Affordable Housing Trust”, herein referred to as the Trust.

## **Section 3**

### **Board of Trustees**

There shall be a Board of Trustees, which shall consist of seven (7) Trustees, to be appointed by the Select Board, in consultation with the Ayer Affordable Housing Committee, for terms not to exceed two (2) years, but may be reappointed at the discretion of the Select Board for succeeding terms, with no limits on the number of terms that a Trustee can serve. To the extent possible, the Board of Trustees should include members with experience in banking, real estate, real estate law and residential development. Trustees must be residents of the Town. At least one member of the Board of Trustees shall be a member of the Select Board. It is recommended that the Board of Trustees include a member of the Ayer Affordable Housing Committee, a member of the Ayer Community Preservation Committee (CPC) and/or a member of the Ayer Planning Board. In order to stagger the terms of the Trustees, the first three Trustees appointed shall have terms of one year, and the remaining four shall have terms of two years. Thereafter, all Trustees shall be appointed for two (2) year terms.

## **Section 4**

### **Tenure of Trustees**

Only persons who are residents of the Town shall be eligible to hold the office of Trustee. Any Trustee who ceases to be a resident of the Town shall cease to be a Trustee hereunder provided that a written notification of the change in residence has been filed with 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 Select Board, in consultation with the remaining Trustees, to fill such vacancy, provided that in each case said written appointment and the written acceptance by the Trustee so appointed are filed with the Town Clerk, but no such appointment shall be required so long as there are at least five (5) Trustees in office. Upon the appointment of any succeeding Trustee and the filing of such appointment or a certificate of such appointment, the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

## **Section 5**

### **Meetings of the Trust**

Meetings of the Trust shall be held not less than quarterly at such time and at such place as the Trustees shall determine. Special meetings may be called by the Chair of the Trustees or by a quorum of the Board of Trustees. The fiscal year for the Board of Trustees shall correspond to the fiscal year of the Town of Ayer (July 1<sup>st</sup> – June 30). Notice of Trust meeting shall be given in compliance with the Open Meeting Law, G.L. c. 30A, §§18-25, as may be amended from time-to-time. A quorum of the Board of Trustees shall be the majority of the number of Trustees then serving under this Trust. Agendas and minutes will be posted on the Town of Ayer's website.

## **Section 6**

### **Powers of the Board of Trustees**

The powers of the Board of Trustees, all of which shall be carried on in furtherance of the purposes set forth in G. L. c. 44, §55C, shall include the following:

- a) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with any bylaw or any general or special law or any other source, including money from G.L. c. 44B, the Community Preservation Act; provided, however, that any such money received from Chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that Chapter when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the Trust shall ensure that all expenditures of funds received from said Chapter 44B are reported to the Community Preservation Committee of the Town for

inclusion in the community preservation initiatives report, form CP-3, to the Department of Revenue.

- b) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- c) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Board deems advisable notwithstanding the length of any such lease or contract;
- d) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements, rental agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
- e) to employ advisors and agents, such as accountants, appraisers and lawyers as the Board deems necessary;
- f) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;
- g) to apportion receipts and charges between income and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- h) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- i) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
- j) to carry property for accounting purposes other than acquisition date values;
- k) to borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge Trust assets as collateral;
- l) to make distributions or divisions of principal in kind;
- m) 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. c. 44, § 55C, to continue to hold the same for such period of time as the Board may deem appropriate;

- n) to manage or improve real property; and to abandon any property which the Board determines not to be worth retaining;
- o) to hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate;
- p) to extend the time for payment of any obligation to the Trust;
- q) to become the lottery and monitoring agent for affordable housing and accept compensation for those services into the Trust Fund;
- r) to monitor the expiring use of any affordable housing in the Town; and
- s) to develop, setup and oversee the Trust program guidelines.

## **Section 7**

### **Acts of Trustees**

Provided that a quorum of the Board is present, a majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate. No one dealing with the Trustees need inquire concerning the validity of anything the Trustees purport to do or see to the application of anything paid to or upon the order of the Trustees.

## **Section 8**

### **Liability**

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town of Ayer.

## **Section 9**

### **Amendments**

The provisions of this Bylaw can only be amended by a vote of the Ayer Town Meeting.

## **Section 10**

### **Funding the Trust**

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning bylaw, exaction fee, or private contributions shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. The Trustees will open up an account to maintain the funds. General revenues appropriated into the Trust become Trust property and no further appropriated shall be required to expend such

funds. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the Board within 1 year of the date they were appropriated into the Trust, remain Trust property.

### **Section 11**

#### **Public Entity of the Town**

The Trust is a public employer and the members of the Board are public employees for purposes of G.L. c. 258, the Tort Claims Act. The Trust shall be deemed a municipal agency and the Trustees special municipal employees, for purposes of G.L. c. 268A, the Conflict of Interest Law. The Trust is a public body for purposes of G.L. c. 30A, the Open Meeting Law.

### **Section 12**

#### **Tax-Exempt**

Pursuant to G.L. c. 44, §55C, the Trust is exempt from G.L. c. 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 political subdivision thereof.

### **Section 13**

#### **Accounts**

The bank accounts of the Trust shall be maintained by the Town Treasurer. Expenditures by the Trust shall be processed through the warrant but shall be controlled by the provisions of G.L. c. 44, §55C. The Town's Office of Community and Economic Development will provide administrative support to the Trust and maintain the books and records of said Trust. An annual audit, by an independent auditor in accordance with accepted accounting practices, will be required. The Trust shall be audited as part of the Town audit. Cost associated with the independent audit shall be borne by the Trust. The results of the audit shall be provided to the Select Board and included in the Town's Annual Report.

### **Section 14**

#### **Procurement**

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

## **Section 15**

### **Duration of the Trust**

This Trust shall continue so long as authorized under the Laws of the Commonwealth of Massachusetts. However, it may be terminated by a vote of Town Meeting. Upon termination of the Trust, subject to the payment of or making provision for the payment of all obligations and liabilities of the Trust, the net assets of the Trust shall be transferred to the Town of Ayer and held by the Select Board for affordable housing purposes. In making any such distribution, the Trustees may, subject to the prior approval of the Select Board, 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 16**

### **Annual Report**

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 Select Board by: **(DATE TO BE PROVIDED BY TOWN MANAGER OFFICE)** of each year and will 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 17**

### **Compensation of Trustees**

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. 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.

## **Section 18**

### **Declaration of Trust**

The Trustees are authorized to execute a Declaration of Trust and Certificates of Trustees for the Ayer Affordable Housing Trust Fund, consistent with G.L. c. 44, §55C and this bylaw and to be recorded with the Middlesex South District Registry of Deeds and/or filed with the Middlesex South Registry District of the Land Court.