

PROJECT ELIGIBILITY REQUIREMENTS

Community Preservation Act funds must be used for community preservation purposes that have a public benefit. **Community Preservation** is defined in Chapter 44B, section 2 as “the acquisition, creation and preservation of open space, the acquisition, creation and preservation of historic resources and the creation and preservation of community housing.” In addition, a portion of the funds may be used for recreation purposes.

Fund monies may be spent to undertake the following community preservation purposes:

The acquisition, creation and preservation of open space. Open space, as defined by the CPA, “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 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.”

The acquisition, creation, preservation and support of community housing. The CPA defines community housing as “low and moderate income housing for individuals and families, including low and moderate income seniors.” Under Section 5(b)(2), funds may be used for the acquisition, creation, preservation and support of community housing and for the rehabilitation or restoration of such housing that is acquired or created. That section also requires the Community Preservation Committee to recommend, wherever possible, the reuse of existing buildings or the construction of new buildings on previously developed sites.

The acquisition, preservation, rehabilitation and restoration of historic resources. Historic resources are historical structures and landscapes including “a building, structure, vessel or real property, document or artifact that is listed or eligible for listing on the state register of historic places or has been determined by the Historical Commission to be significant in the history, archeology, architecture or culture of the town.”

The acquisition, creation, preservation, rehabilitation and restoration of land for recreational use. Recreational use is defined in the CPA as “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, artificial turf field, gymnasium or similar structure.” Recreational uses do however include open air structures and park-like amenities such as pergolas, walkways and playground equipment so long as those activities take place on land dedicated to recreation.

Reserve Funds. Each year, the CPC will consider setting aside for future spending a portion of the annual receipts of the Concord Community Preservation Act Fund in order to build a reserve to be used primarily for future real property acquisitions, and/or other perceived needs. The amount of such set-aside is not based upon a formula, but is determined by the CPC each year, balancing current priorities with potential future opportunities. In appropriate circumstances, the CPC may recommend an appropriation from the reserve outside of the Standard Application Process annual cycle.

**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 well 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