



TOWN OF CONCORD

**COMMUNITY PRESERVATION PLAN
2025 (FY26)**

Concord Community Preservation Committee

Approved xxx

FY25 Concord Community Preservation Committee

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Updated June 2008, January 2010, July 2015, June 2017, July 2019, April 2021, November 2022

**TOWN OF CONCORD
COMMUNITY PRESERVATION PLAN**

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THE COMMUNITY PRESERVATION ACT IN CONCORD -INTRODUCTION

The Town of Concord Community Preservation Committee (“the CPC” or “Committee”) is pleased to present the 2025 *Town of Concord Community Preservation Plan* (“the Plan”). This Plan describes the process for administering the Community Preservation Act (“CPA”) in the Town of Concord. The Plan presents a description of the CPA as it applies to the Town of Concord, a definition of CPA goals, and a methodology and procedure by which the CPA will be administered. As such, it represents an informational document for the citizens of the Town, a guideline and instructional document for applicants seeking project funding through the CPA, and a guidance document for this and future Committees in making recommendations to Town Meeting for project funding. The Committee recognizes that this document may be modified by future Committees in response to changing goals and its experience with the CPA over time.

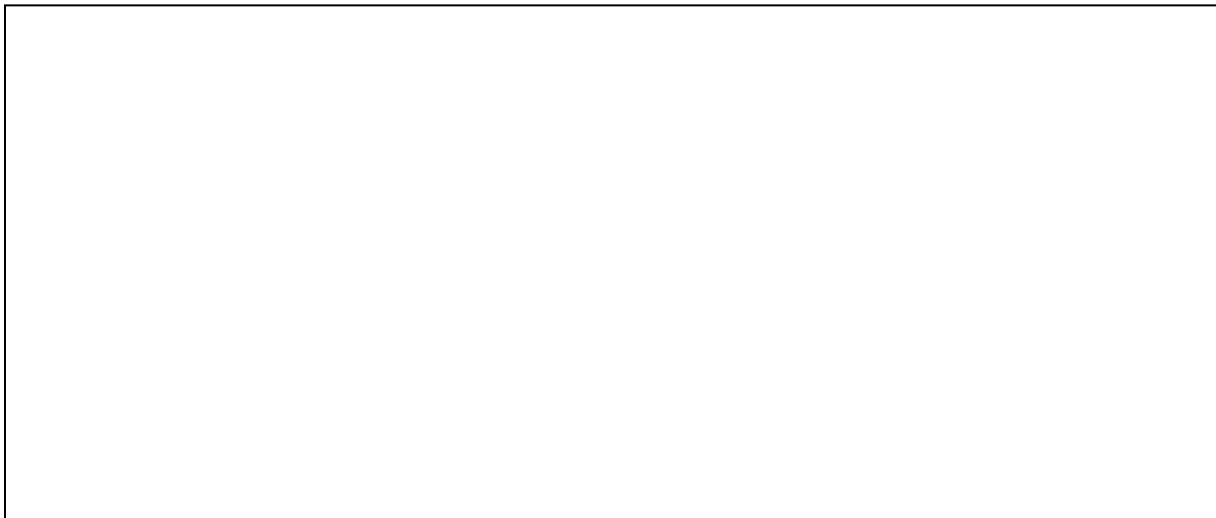
Since Concord’s adoption of the CPA in 2004, the Town has collected CPA funds and appropriated CPA dollars at the 2006 through 2024 Annual Town Meetings as follows:

| Fund Revenues: | | Appropriations: | |
|----------------|-------------|------------------------------------|-------------|
| YE 6/30/05 | \$ 651,573 | 2006 Annual Town Meeting: | \$ 651,573 |
| YE 6/30/06 | \$1,412,422 | 2006 Annual Town Meeting: | \$1,013,427 |
| YE 6/30/07 | \$1,587,841 | 2007 Annual Town Meeting for FY08: | \$2,931,383 |
| YE 6/30/08 | \$1,698,926 | 2008 Annual Town Meeting for FY09: | \$2,242,500 |
| YE 6/30/09 | \$1,390,002 | 2009 Annual Town Meeting for FY10: | \$1,352,893 |
| YE 6/30/10 | \$1,152,993 | 2010 Annual Town Meeting for FY11: | \$1,106,100 |
| YE 6/30/11 | \$1,106,325 | 2011 Annual Town Meeting for FY12: | \$1,084,320 |
| YE 6/30/12 | \$1,134,479 | 2012 Annual Town Meeting for FY13: | \$1,265,226 |
| YE 6/30/13 | \$1,178,290 | 2013 Annual Town Meeting for FY14: | \$1,636,500 |
| YE 6/30/14 | \$1,463,073 | 2014 Annual Town Meeting for FY15: | \$1,323,875 |
| YE 6/30/15 | \$1,337,698 | 2015 Annual Town Meeting for FY16: | \$1,802,921 |
| YE 6/30/16 | \$1,396,071 | 2016 Annual Town Meeting for FY17: | \$1,630,844 |
| YE 6/30/17 | \$1,357,376 | 2017 Annual Town Meeting for FY18: | \$1,676,340 |
| YE 6/30/18 | \$1,177,303 | 2018 Annual Town Meeting for FY19: | \$1,861,038 |
| YE 6/30/19 | \$1,419,886 | 2019 Annual Town Meeting for FY20: | \$1,811,419 |
| YE 6/30/20 | \$1,715,777 | 2020 Annual Town Meeting for FY21: | \$1,960,000 |
| YE 6/30/21 | \$1,725,719 | 2021 Annual Town Meeting for FY22: | \$1,769,891 |
| YE 6/30/22 | \$1,815,773 | 2022 Annual Town Meeting for FY23: | \$2,153,741 |
| YE 6/30/23 | \$1,847,153 | 2023 Annual Town Meeting for FY24: | \$1,839,680 |
| YE 6/30/24 | \$1,877,062 | 2024 Annual Town Meeting for FY25: | \$1,878,320 |

The Community Preservation Act allows funds to be allocated to four project categories: Community Housing, Historic Preservation, Open Space, and Recreation. The pie chart on the next page shows the percentage of CPA funds which have been allocated to each category from the beginning of the program through the 2024 Annual Town Meeting:

The Committee wishes to thank the multitude of citizens, Town committee members, staff, elected officials, and State officials, as well as members of neighboring town Community Preservation Committees for their help in the development of this plan.

For additional information on the CPA statute and how it is being applied in towns across the Commonwealth, visit the Community Preservation Coalition's website at www.communitypreservation.org. For information on Concord's Community Preservation activities, visit the Town's website at <http://www.concordma.gov/906/Community-Preservation-Committee>.



OVERVIEW

The Community Preservation Act, M.G.L. c. 44B (see Appendix), allows Massachusetts cities and towns to raise monies through a surcharge of up to 3% of the tax levy on real property. These funds are to be used to acquire, create and preserve open space; acquire and preserve historic resources; create, preserve and support community housing; and acquire and preserve land for recreational use. The Act also provides a significant State matching fund which has distributed \$948.99 million statewide over the life of the program. In addition to Concord, 188 other cities and towns across the state have adopted the CPA to date.

Concord adopted the Community Preservation Act at the 2004 Town Meeting (see Appendix) and it was ratified at the polls in November 2004. Concord voters agreed to fund the CPA account through a 1.5% surcharge on all real estate property tax bills with two exemptions:

1. Residential property owned and occupied by any person who qualifies for low- or moderate-income housing (earning less than 80% of Area Median Income), or low or moderate-income senior housing (earning less than 100% of Area Median Income and 60 years of age or older).
2. The first \$100,000 of taxable value of residential real property.

Regular Review of Bylaw and Administrative Practices

The Town of Concord Community Preservation Committee Bylaw (See Appendix) directs the Community Preservation Committee (CPC) to “review the administration of this Bylaw, making recommendations, as needed, for changes in the Bylaw and in administrative practice to improve the operations of the Community Preservation Committee.” The Bylaw established November 1, 2008 as the point of time for beginning these reviews and requires that the CPC complete a review of the Plan at least every five years. From its inception, the CPC has conducted such reviews on a yearly basis in order to ensure that Concord’s CPA program was adequately addressing the needs of the community and potential applicants. The review is typically completed during the spring and summer months. These proposed recommendations are incorporated into the draft CPC Plan, which is subject to public review and comment prior to its adoption by the CPC. Thus each annual Community Preservation Plan serves as a record of these reviews and is intended to meet the requirements as set forth in the Bylaw. Following best practices established by the State Community Preservation Coalition, a separate Concord Community Preservation Act Procedures Manual addresses administrative and procedural practices and forms which may need to be adjusted more frequently than once a year.

Community Preservation Committee: Formation and Responsibilities

Pursuant to the Community Preservation Act, the Community Preservation Committee Bylaw adopted at the 2004 Town Meeting, and Concord Administrative Policy and Procedure #10, the Concord Community Preservation Committee was appointed in January 2005 to administer the CPA. The CPC is comprised of nine members. The Historical Commission, Housing Authority, Natural Resources Commission, Planning Board, and Recreation Commission each designate a member from their boards, and four at-large members are appointed by the Select Board.

The CPA requires the CPC to study Concord's "needs, possibilities and resources" for community preservation. In conducting the study, the CPC consults with Town boards including the Natural Resources Commission, Historical Commission, Planning Board, Recreation Commission and Housing Authority, as well as other boards, groups, or individuals that advance one or more community preservation objectives.

In conducting the study for this Plan, the CPC was fortunate to have available the current *Comprehensive Long Range Plan, Open Space and Recreation Plan, Recreation Facilities Strategic Plan, Housing Production Plan*, and other relevant documents. In addition to consulting with boards, committees, organizations, and individuals, the CPC must hold one or more public hearings as part of the study. The CPC updates this plan and asks for public comment regularly to reflect desired changes in goals or emphasis. This Plan outlines the standards by which the CPC will solicit, review, and recommend proposals for CPA funding. For information on the review process, as distinguished from the review standards, please see the CPC Procedures Manual.

All citizens are welcome to attend the CPC's meetings. The times and locations of these meetings are posted at 141 Keyes Road, the Town House, and on the Town website: www.concordma.gov/906/Community-Preservation-Committee. Comments and questions are welcome and may be submitted to the Community Preservation Committee, c/o Planning Division, 141 Keyes Road, Concord, MA 01742 or by email to planningdivision@concordma.gov. For further information on the CPC and its meeting schedule, contact Ann Clifford, Senior Planner, at 978-318-3290 or by email at aclifford@concordma.gov.

CPA Funding Requirements

The CPA mandates that each fiscal year Concord spend, or set aside for later spending, at least 10% of the annual revenues in the Town of Concord Community Preservation Fund for each three CPA interests: community housing, historic preservation, and open space. Beyond these required allocations, Concord Town Meeting decides, based upon the CPC's recommendations, how much of the remaining 70% of the funds should be spent on the three purposes identified above, as well as for recreation and administration. The spending mix for the remaining 70% of the Fund can be modified each year, and any monies not appropriated remain in the Fund for future distribution. Additionally, the Act permits the Committee to spend up to 5% of the annual revenues on its administration and operating expenses.

The CP Fund is a special revenue fund subject to appropriation. A recommendation by the CPC and an appropriation by the legislative body of the city or town are both required to spend any monies belonging to the fund. G.L. c. 44B, § 7. (See Section IVD-4 above for the four instances where a prior recommendation of the CPC is not required for an appropriation of the legislative body.) Appropriations are by majority vote, except in the case of borrowing (G.L. c. 44B, § 11 and G.L. c. 44, § 2) and eminent domain (G.L. c. 44B, § 5(e)) where a two-thirds vote is required.

Town Meeting may approve, reduce or reject any amount of spending appropriation recommended by the CPC. At the CPC's recommendation, Town Meeting may also decide to set aside all or part of the annual Fund revenues for later spending by allocating revenues to a reserve account for one or more community preservation purpose categories. Town Meeting may not, however, increase any

recommended appropriation or reservation, nor reduce the appropriation or reservation below the required 10% for each of community housing, historic preservation and open space. In addition, Town Meeting may not appropriate or reserve any CPA fund monies on its own initiative without a prior recommendation by the CPC.

Explanation of Fiscal Year Sources for Available CPA Funds

Concord's General Budget appropriations are made each year by the Annual Town Meeting based upon projected revenues of the UPCOMING FISCAL YEAR plus the State match. The Town of Concord Fiscal Year, or Budget Year, extends from July 1st through June 30th and projections are typically available from the Finance Department in November.

Often, these projected revenues are augmented by an allocation from Free Cash, which is a portion of the Unreserved Fund Balance of CPA funds from the PRIOR FISCAL YEAR.

For example, the Spring 2023 Town Meeting appropriated CPA funds based on projected fund revenues for FY24 (June 1, 2023 -- June 30, 2024), plus all or part of the unreserved CPA fund balance from FY22 (July 1, 2021 – June 30, 2022).

There also may be funds set aside in CPA reserve accounts earmarked for housing, historic preservation and open space.

HOW CPA FUNDS CAN BE USED

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 include “a building, structure, vessel or real property [including landscapes], 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 reserve funds for housing, historic preservation and open space to be used for future needs in those categories and primarily for future real property acquisitions. The amount of such set-asides is not based upon a formula, but is determined by the CPC each year, balancing current priorities with potential future opportunities. In appropriate circumstances (see Page 31), the CPC may recommend an appropriation from the reserve outside of the Standard Application Process, which is described in the CPC Procedures Manual.

ATTACHMENT V-2 - COMMUNITY PRESERVATION FUND ALLOWABLE PROJECT SPENDING PURPOSES (G.L. c. 44B, § 5)

| | OPEN SPACE | HISTORIC RESOURCES | RECREATIONAL LAND | COMMUNITY HOUSING |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | 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 not include horse or dog racing or the use of land for a stadium, gymnasium or similar structure | Housing for low income individuals and families and 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 - 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 - Programs providing 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 it, for the purpose of making the housing affordable | | | | Yes, provided the housing asset itself is made affordable by the expenditure |
| REHABILITATION AND RESTORATION - 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 open space asset acquired or created with CP funds | Yes, provided that rehabilitation complies with Secretary of Interior's Standards for Treatment of Historic Properties | Yes (includes replacement of playground equipment) | Yes, if housing asset acquired or created with CP funds |
| APPROPRIATIONS TO AFFORDABLE HOUSING TRUST G.L. c. 44, § 55C | | | | Yes; however, trust is required to spend CPA funds for CPA community housing purposes. |
| Maintenance expenditures are prohibited for all assets even if they could otherwise be considered acquisition, creation, preservation, support, rehabilitation or restoration Maintenance means incidental repairs that do not materially add to value of property or appreciably prolong property's life, but keep property in condition of fitness, efficiency or readiness | | | | |

Source: Bureau of Municipal Finance Law Informational Guideline Release (IGR) No. 19-14, Dec 2019

NEEDS ASSESSMENT

INTRODUCTION

An important part of this plan is an assessment of community needs that may be consistent with the Community Preservation Act criteria. These needs fall into the categories outlined in the Act: community housing, historic preservation, open space and recreation. Fortunately, Concord has conducted numerous studies on all of these issues in recent years and completed *Envision Concord: Bridge to 2030 – Comprehensive Long Range Plan* in August 2018. The CPC has determined that these existing studies, which have involved extensive citizen effort and have been subject to public review, provide a basis for the needs assessment required for this plan. The CPC has reviewed these studies, which are listed in this chapter, as well as the Town Manager’s capital budget, in order to complete the assessment.

The purpose of the needs assessment is to present a framework of community needs. It is not necessarily all-inclusive. It presents community preservation goals, and identifies certain buildings, lands and projects that are consistent with these goals and the Act. The projects noted in subsequent sections of this chapter have generally been identified as priorities in other studies, and therefore reflect current community priorities.

COMMUNITY HOUSING

NEEDS AND RESOURCES ASSESSMENT

Concord is a desirable community in which people want to reside because of its natural and open spaces, good schools, vibrant village centers, rich history and traditions, active commitment to sustainability, active agricultural uses and proximity to highways and public transportation. The community is concerned about preserving economic and social diversity, along with a diversity of the housing stock, while remaining mindful of the Town's rural and historic traditions, including the preservation of its open space. Through zoning amendments made at Town Meeting over the years, though, Concord has become zoned almost exclusively for single-family residences. Town Meeting and private actors have also conserved much land, making open land for development scarce and causing the price of land to rise. High land prices contribute to ever-increasing housing costs, making the Town unaffordable to some who currently reside in the community, and to many others who would like to move into the community.

The Housing Needs Assessment relies upon the following documents that provide a detailed assessment of the housing needs, characteristics, and recommendations for goals and actions. The excerpts from these reports reflect the material relevant to the provision of community housing under the CPA.

- **2004 Community Development Plan 2004 – EO 418**
- **2013 Analysis of Impediments to Fair Housing Choice**
- **2018 Envision Concord: Bridge to 2030, Comprehensive Long Range Plan**
- **FY2023-FY2028 Housing Production Plan**

Housing Affordability

While the trend has been towards the construction of larger and more expensive single family houses both in traditional subdivisions located at a distance from town centers and through the replacement of existing homes in older neighborhoods, there is a recognized need for other types of housing including but not limited to:

- “Community Housing” for moderate and low income renters or buyers
- Smaller houses, condominiums and apartments for elderly residents, “empty nesters”, people in changed circumstances due to divorce or loss of a partner, young adults, students, young families and single-person households of all income levels
- Housing adapted for the disabled
- Housing for artists seeking low cost live/work and work space
- Housing within walking distance of the village centers and public transportation
- Farm worker housing

CPA funds may be expended “for the acquisition, creation, preservation and support of community housing and for the rehabilitation or restoration of community housing acquired with CPA funds,” but not including maintenance. The CPA statute defines “Community Housing” as housing for low- and moderate-income individuals and families, including senior housing. Low-income housing is for

households whose annual income is less than 80% of the area-wide median income (or AMI). Moderate income housing is for households whose annual income is less than 100% of the area-wide median income. The area-wide median income is determined annually by the United States Department of Housing and Urban Development (HUD). The Concord Housing Authority and the Concord Housing Development Corporation are the local agencies primarily responsible for implementation of Community Housing projects.

Affordable Housing is defined in the Concord Housing Production Plan as “housing targeted to and affordable by households that meet specific income eligibility levels, typically households earning below 80% of the metropolitan area’s median income. A 1969 State law, called the Comprehensive Permit Law (Chapter 40B), created a standard for communities to provide a minimum of 10% of their housing inventory as units counted on the State’s Subsidized Housing Inventory (SHI). Under affordability guidelines, monthly housing ownership costs (including mortgage payment, insurance, and taxes) or rental costs (rent plus utilities) cannot exceed 30% of a household’s income.

In Massachusetts, the terms Community Housing and Affordable Housing apply to housing units made affordable to low-and moderate- income households by a recorded deed rider that restricts sale prices and rents to income-eligible households.

The following chart compares the qualifying income for CPA eligible projects (100% AMI) and 40B projects (80% AMI).

| | INCOME LIMITS | | | | | |
|-----------------------|----------------------|-----------|-----------|-----------|-----------|-----------|
| HOUSEHOLD SIZE | 1 | 2 | 3 | 4 | 5 | 6 |
| 100% AMI, 2022 | \$98,200 | \$112,200 | \$126,200 | \$140,200 | \$151,500 | \$162,700 |
| 80% AMI, 2022 | \$78,300 | \$89,500 | \$100,700 | \$111,850 | \$120,800 | \$129,750 |
| 50% AMI, 2022 | \$49,100 | \$56,100 | \$63,100 | \$70,100 | \$75,750 | \$81,350 |

Concord’s estimated area-wide median income in 2023 is \$149,300 for a family of four. However, for housing units created with CPA funds to be counted toward Concord’s 10% affordable housing goal, the units must serve those households whose annual income is less than 80% of the area-wide median income. In 2023, according to the Massachusetts Department of Housing and Community Development, this is about \$106,650 for a family of four. CPA funds also can be used for housing units serving households of 80% - 100% of the Area Median Income even though they will not count toward Concord’s 10% affordable housing goal under Chapter 40B.

Housing Conditions and Trends

In May 2023, Concord fell below its 10% goal under the State’s Chapter 40B, and by December 2023, two comprehensive permit applications had been filed with the Zoning Board of Appeals for a total 417 rental units, of which 55 would be affordable, although all would count toward the 10% goal.

Under Chapter 40B, a community’s 10% goal is based on a numerator (the number of countable SHI units) divided by a denominator (the number of year-round housing units as determined by the latest decennial US Census).

With the 2010 Census, Concord’s goal had been 10% of its 6,852 year-round units, or 685.2 units; but with 2020 US Census figures released on May 25th, its goal became 10% of 7,172 year-round housing units, or 717.2 units. And while Concord’s 715 SHI units scored 10.43% of the 2010 Census total, they scored only 9.97% based on 2020’s.

As of March 2024, Concord reached 717 units, or 9.997%. Only half of those units are affordable at 80% of AMI; the rest are unrestricted. Concord also has 42 restricted units not counted on the SHI—35 moderate income, and 7 low income / non-SHI eligible.

Since 2013, Concord has a net add of 2 units on the SHI, composed of adding 21 units, and losing 11 units at the confidential DDS Group homes and 8 at Peter Bulkeley.

Concord has had more substantial population growth in the past two decades than in prior recent decades. Following a population boom between 1960 and 1970, population growth was modest for a few decades, but has grown 9% between 2000 and 2020.

The percentage of white residents in Concord dropped from 91.6% in 2000 to 83% in 2020. The number of residents who identify as “other” or mixed race has seen the most growth – from 549 residents in 2000 to 1,501 residents in 2020. There was a decrease in the percentage of Black or African-American residents between 2010 and 2020 – from 3.8% of Concord’s population in 2010, to 3% in 2020.

Younger households comprise a smaller and smaller percentage of Concord’s population. Older households (55+) were a little less than half (46%) of Concord’s population in 2000, but were 57% of households in 2010, and 61% of households in 2020.

Household size is increasing, as well as the number of non-family households.

Although 70% of Concord’s households have incomes over \$100,000, 25% (1,619) of households have incomes less than \$75K. The great majority of lower income households are 65+.

| | | | | | | |
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HOUSING OPPORTUNITIES

1. Village Centers

Current zoning allows for mixed-use development of commercial properties in the three Village Centers: Concord Center, the Thoreau Depot Area, and West Concord Center. Promoting second-story residential over retail or as stand-alone buildings within the redevelopment of a larger project could provide small units for rental or ownership, adding to the Town's diversity of housing types. Brookside Square, a mixed-use development on industrial-zoned land on Beharrell Street in West Concord, follows the residential-over-retail model. The Bradford Street area in West Concord has also seen recent development and revitalization efforts. These properties are ideal for developments that meet smart growth principles because they are in close proximity to both commercial center services and commuter rail/mass transit. Both the West Concord Master Plan and the West Concord Design Guidelines for the West Concord business and industrial districts encourage these types of development and are available online for review.

2. State-Owned Land

Surplus State land can offer many opportunities for meeting housing and other town-wide goals for open space. Legislation sponsored by State Representative Cory Atkins and Senator Susan Fargo (Chapter 117 of the Acts of 2010) has conveyed approximately 12 acres of land associated with the Department of Corrections to the Concord Housing Development Corporation for the future development of affordable housing and open space.

Most notable is the announcement in January 2024 that MCI-Concord is closing and the land may become available to the Town. The Town is working proactively with the state and its legislators to put together a framework and process to evaluate and provide input and design on this significant 50+ acre property.

3. Chapter 61, 61A and 61B Land

Under the provisions of Massachusetts General Laws Chapter 61, 61A and 61B, property owners of land used for and classified as forestry, agriculture and private recreation can be assessed annually by the Town at a rate significantly less than that assessed for developable or unclassified vacant land. These privately owned properties become available intermittently. The Town is developing a plan to identify these parcels and prioritize them for future acquisition taking into consideration parcels which could be suitable for housing or a mix of housing and open space.

4. Town-Owned Sites

The Town itself owns properties which could be suitable for affordable housing development, both on vacant sites and by the reuse of existing structures. Prior to 2005, the Affordable Housing Committee identified and studied the development and feasibility of some of these sites as listed in the Housing Production Plan. As other sites become available or are identified, applicants are encouraged to pursue creative solutions that meet both the Town's affordable housing goals and the preservation and conservation needs of the community.

5. Housing Purchase Program

Elderly residents are often forced to choose between leaving the community and staying in a home which may no longer meet their needs. The Concord Housing Development Corporation's Small Grants

Program provides funding for income eligible residents who need to make health, safety or accessibility improvements to their existing homes. Projects that encourage residents to remain in the community by providing smaller scale or handicap accessible units that can be adapted to meet changing needs is another potential means of addressing this issue. In addition, new programs could be developed to work in conjunction with elderly housing programs to purchase homes from the elderly for use as future affordable housing.

6. Work with Community Housing Groups

Community housing groups work throughout Concord to fulfill their mission of providing and maintaining affordable housing within the community. Projects that support their missions by maintaining the affordability of existing units (such as the Emerson Annex), and that consider subsidizing market-rate condominiums to make them affordable, are within the goals of the community.

In this category, the Concord Housing Development Corporation has partnered with the Town, Sudbury Valley Trustees, and the Concord Land Conservation Trust to purchase 7 acres of land in West Concord for open space and affordable housing purposes, in a project called Assabet River Bluff.

7. Retaining Currently Affordable Housing Units

Retaining currently affordable housing stock is of utmost importance to Concord. Many currently affordable units have deed restrictions with terms that expire after 20 or 40 years, while others are in perpetuity. Concord's affordable housing program has been in existence for approximately 20 years and it is anticipated that there will be an ongoing need for funds to renew these expiring affordability restrictions. There may also be opportunities to convert these limited-term restrictions into restrictions in perpetuity, which would be greatly advantageous to the Town. Concord is currently working with the Regional Housing Services Office to monitor the existing restrictions and negotiate changes to the deed restrictions when needed, and with the Concord Housing Development Corporation to fund buying down affordable properties when necessary.

8. Concord Municipal Affordable Housing Trust

The Concord Municipal Affordable Housing Trust (CMAHT) was established by the Town's [Affordable Housing Trust Bylaw](#) to provide for the preservation and creation of affordable housing in the Town of Concord for the benefit of low- and moderate-income households and for the funding of community housing, as defined in the Community Preservation Act, MGL c. 44B. The CMAHT Board of Trustees consists of five members appointed by the Select Board, including one member of the Select Board and the Town Manager.

The Concord Municipal Affordable Housing Trust complements the Town's existing affordable housing efforts, entities and programs, and can act quickly when affordable housing opportunities arise. The CMAHT's Board of Trustees is authorized to develop policy goals and statements, consistent with the Town's adopted housing goals, and subject to approval by the Select Board, to serve as guidelines for the Trust. Select Board approval is also needed for the Trust to borrow money; mortgage or pledge trust assets; purchase, accept, sell, lease, exchange, transfer, abandon, or convey interest in real, personal, or mixed property; or to amend the Trust.

The Concord Municipal Affordable Housing Trust seeks to implement the Housing Production Plan's production strategies to create affordable housing units in Concord and to advance HPP priority production projects by inviting applications for Trust funding on a rolling basis as each of those priority projects becomes ready to proceed. As described in CMAHT's [funding guidelines](#), the Trust will maintain and periodically update-- in coordination with its Roundtable partners-- a list of HPP priority production projects for which the Trust may allocate or reserve available and projected Trust funds, and invite priority project sponsors to complete and submit funding applications to the Trust on a rolling basis as each project becomes ready to proceed.

GOALS FROM THE 2018 COMPREHENSIVE LONG-RANGE PLAN

GOAL 1: Develop realistic, achievable targets for preserving or creating housing of all types (beyond the State Housing Inventory).

GOAL 2: Develop additional, self-sustaining funding mechanisms to support achieving the housing targets developed in Goal 1.

CRITERIA FOR COMMUNITY HOUSING PROJECTS

The Community Preservation Act states, "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." In addition to the requirements of the Act itself and the general criteria for Concord Community Preservation Act funding, projects involving community housing that address as many of the following criteria as possible will receive preference. In particular, projects that:

1. Address objectives in the 2018 *Comprehensive Long Range Plan* or the *Housing Production Plan*.
2. Contribute to the Town's State Housing Inventory units to maintain its goal of 10% affordability consistent with Chapter 40B.
3. Ensure long term affordability through deed restrictions or other mechanisms.
4. Create new affordable housing opportunities by buying down the purchase price of condominium and other housing units; new construction; the reuse of non-residential buildings or the use of Town or State-owned land; or the conversion of market rate housing to affordable units.
5. Give priority to local residents, Town and school employees, Hanscom AFB military personnel and other groups with a "Concord Connection" in accordance with State guidelines.
6. Receive support from local organizations and institutions that advocate for affordable housing.
7. Distribute community housing throughout the town.

8. Encourage mixed-income developments that are harmonious in design and scale with the surrounding community.
9. Leverage funds available for affordable housing through the utilization of state, federal, and other funding resources.
10. Avoid compromising resources identified on the Town's *Historic Resources Master Plan*.
11. Collaborate when appropriate with the Concord Municipal Affordable Housing Trust.

HISTORIC PRESERVATION

NEEDS AND RESOURCES ASSESSMENT

The Town of Concord is part of the larger New England heritage and has a responsibility to protect historic resources and settings of national, regional, and local significance. The Town reflects all stages in America's history and is distinguished as the first Colonial inland settlement in Massachusetts, for its significant role in starting the American Revolution, for America's rich transcendental literary culture, and for its innovative agricultural practices.

The historical assets of Concord include rich archaeology and Native American artifacts, stone walls which once bounded Concord's farm fields, and world-famous sites such as the North Bridge. The entire range of Concord's historical assets is intrinsic to our Town character and sense of history. The CPA can play a critical role in supporting projects that preserve Concord's historic assets.

Concord has developed a thorough record of its cultural and historic assets as shown in the following documents. It is recommended that applicants refer to these documents when planning an historic preservation project under the CPA as many of these reports are also the basis for the CPC's needs assessment. These reports also provide further historic documentation; in particular, they describe the importance of Concord's cultural landscapes and the settings of its historic buildings.

- **1995 Survey of Historical and Architectural Resources**
- **2001 Historic Resources Master Plan**
- **2005 Comprehensive Long Range Plan**
- **2006 Concord Reconnaissance Report – Massachusetts Heritage Landscape Program**
- **2015 Open Space and Recreation Plan**
- **2018 *Envision Concord: Bridge to 2030* Comprehensive Long Range Plan**

Please note that under the current Community Preservation Act legislation, it is not permissible to appropriate CPA funds for educational or interpretive projects. Examples of these types of projects may include, but are not limited to, the creation of signage, pamphlets, videos, books, or exhibits.

Historic Landscapes

In the broader context, preserving Concord's historic legacy overlaps with the other purposes of the Community Preservation legislation, especially with regards to land conservation. Farming is central to Concord's history. The events of April 19, 1775 took place in Concord's countryside. Its natural areas were vital to the 19th Century experience and the writings of the Transcendentalists, and were earlier inhabited by generations of Native Americans who also left their mark. Concord has a deep tradition of caring for its rural landscapes, paths, roadways, stone walls, waterways, farms and wildlife.

Concord's scenic and cultural landscapes are the most ephemeral yet defining of the Town's historic resources. Some, such as its farmlands, are easily identified and clearly evoke Concord's farming heritage. Today only about 8% of the land in Concord is still in agricultural use, though, and our remaining farmland should be considered to be severely endangered. The protection of these agricultural lands is important for their historic, cultural, economic and environmental significance.

Historic Cemeteries, Statues and Memorials

In addition to historic landscapes, there are many cultural icons that are important to the Town's heritage. The cemeteries of Concord are a visual and cultural reminder of its past. Statues, memorials, and pathways throughout the burial grounds are in need of preservation and restoration. Other memorials around town such as statues, plaques, and monuments are also showing their age and require attention.

Protecting Buildings

Most historic buildings in Concord are non-profit or privately owned and may be eligible for CPA funds provided that a public purpose can be demonstrated. Others - such as the Town House, the Wheeler-Harrington House, the Cemetery Deed House, the West Concord Fire Station, 141 Keyes Road, 51 Walden Street, the Harvey Wheeler Community Center, the Hunt Gym, and the Emerson Umbrella - are Town-owned. Whether in public or private ownership, it is important to the Town that its historic assets be preserved.

The Town has often come to the rescue of, or exercised stewardship over, historic buildings. Recent examples include the Town's leadership in saving both the Barrett Farm House and the Thoreau Birth House; its rehabilitation of 141 Keyes Road, the Harvey Wheeler Community Center and the Hunt Gym; and its strong support for the restoration of the Robbins House and its relocation to Town-owned property. At the Town House, rehabilitation projects have included retrofitting the building to add necessary fire suppression systems; increasing its accessibility by installing a new at-grade side entrance; completing a full restoration of its masonry exterior and restoring original exterior paint colors; and preserving its significant interior fixtures with the restoration of the Memories of Antietam painting in the Public Hearing Room.

There are many historic structures such as barns, water towers, root cellars, carriage houses, and wells that warrant preservation as they contribute to the story of Concord's development through the centuries. Our historic and cultural landscapes greatly profit from their continued presence.

Traditionally, cultural and religious institutions and events have played an important role in the vibrancy and livability of Concord. The Concord Museum, the four historic house museums, and the Concord Art Association are open to the public and draw visitors from around the world. These museums are under a variety of ownerships and all are important to the historic character of the Town.

Concord's public libraries - the Main Library in Concord Center and Fowler Branch Library in West Concord - are without equal and are privately owned by the Concord Free Public Library Corporation in an unusual arrangement with the Town. The Town provides funding for staffing, book acquisitions, and utility costs, but the Corporation depends largely on private donations and grants for both capital improvements and facility maintenance. The recent restoration of the Main Library and expansions of both library branches have been undertaken almost entirely with private funding.

Concord is also home to several religious institutions that own their own facilities for worship space, while a number of other religious communities gather in other buildings for services. Many of these facilities were built in the late 19th or early 20th century, and are of particular historic, cultural, and architectural significance.

HISTORIC PRESERVATION OPPORTUNITIES

1. High Priority Historic Sites, Archival Collections and Artifacts

Concord has a rich history that is well documented in Town documents, as well as an extensive collection of historically significant properties that are recognized for their significance both locally and nationally. The CPC encourages proposals that serve to further protect or restore properties and artifacts that have already been identified as high priority historic sites in existing Town documents.

2. Unprotected Historic Sites

There are significant historic properties and byways that are not protected by local, state or national districts and are not funded by state, federal or non-profit organizations. These properties-- some humble and reflective of an earlier period, some part of a neighborhood—should be appreciated and protected with regard for the earlier cultural period of which they were a part.

3. Agricultural Lands

Farming and agriculture are central elements of the development and history of Concord, and the preservation of their landscapes and activities is key to sustaining the historic character of the Town. Projects that protect these agricultural lands --particularly those visible to the public, contiguous to other farmlands, or that contribute to the setting of an historic building or area-- are important to the historic preservation, as well as the conservation, goals of the CPC.

4. Cemetery and Landscape Elements

Concord's cemeteries, monuments, and landscape elements are important structures within this historic setting that are often neglected or forgotten. The Town's cemeteries and monuments are tangible links to Concord's past that serve both to remind and to educate the public; some are also significant works of public art. Paths, stone walls, fences and gates, found both within the Town's cemeteries and public areas as well as throughout its agricultural landscapes, are key elements of the historic setting of the community. Projects that support their protection, restoration and preservation are important to retaining Concord's history, cultural heritage and overall character.

5. Heritage Awareness Organizations

Concord's civic institutions, museums, and historic houses contain a wealth of information on Concord's heritage which is not always readily available to the public. Proposals that seek to improve access to these resources or which work to preserve them for future generations are supported by the CPC as being significant to the preservation of Concord's history.

6. Local and National Register Historic Districts

Concord was one of the first communities in Massachusetts to recognize the need to study and protect its historic resources, and as a result, many of its early structures and landscapes have been retained and protected. However, there are still areas within the Town that lack such documentation and protection, and the CPC encourages proposals that seek to work with areas that are currently insufficiently protected. Such projects could include the further research and study that would be needed to document and

prepare applications to support, establish or expand local and national historic districts in historically significant areas.

7. Significant Town-owned Buildings

As noted above, while much of Concord has been well studied and documented, not all of its historic structures and areas have received the study, recognition, or protection they may warrant. Several of the Town-owned buildings, such as the Town House, could be eligible for inclusion on the National Register and the CPC supports projects that are focused on these goals.

8. Further Protection of Historically Significant Private Properties

A wide variety of preservation tools exist that could be applied in Concord towards the further preservation of its historically significant, privately-owned buildings and landscapes located outside of the existing historic districts. The CPC supports proposals that develop new methods for researching and consulting on these properties for their future preservation.

GOALS FROM THE 2018 COMPREHENSIVE LONG RANGE PLAN

- GOAL 1:** Foster better collaboration between cultural organizations, historical groups, and local businesses for coordinated programs and events that will bring residents and visitors into town to experience Concord's rich historic and cultural resource offerings.
- GOAL 2:** Promote education and awareness among residents, Town officials, the business community, and visitors regarding the existence, variety, and value of Concord's historical and cultural resources. Based on coordinated materials developed under Goal 1, make information more widely and easily available with proactive community engagement.
- GOAL 3:** Undertake additional survey and study work to identify historic resources that are not adequately documented, not fully understood, or currently unavailable.
- GOAL 4:** Review effectiveness of regulatory tools to better protect and preserve historic character and cultural resources.

CRITERIA FOR HISTORIC PRESERVATION PROJECTS

In addition to the general criteria for CPA funding, projects involving historic preservation that address as many of the following criteria as possible will receive preference. In particular projects that:

1. Address objectives or projects identified in the *Historic Resources Master Plan, the Survey of Historical and Architectural Resources, 2018 Comprehensive Long Range Plan, 2015 Open Space and Recreation Plan, and the Concord Reconnaissance Report – Massachusetts Heritage Landscape Program, 2006.*
2. Increase the level of citizen knowledge about Concord's historic and cultural resources, and available historic protection mechanisms, such as projects that take into account the potential needs of the Concord 250 Celebration.

3. Supplement project funding for historic buildings that provide public access, allow public functions, and depend on public funding for their preservation.
4. Provide funds for historic resources that are eligible for National Register status or are within the historic districts.
5. Help ensure that a threatened historic resource is saved.
6. Preserve the settings of historic buildings or cultural landscapes, such as farmland.
7. Enable multipurpose projects that will help preserve historic landscapes and other historic resources while meeting the criteria for other CPA interests.
8. Include an historic preservation restriction.
9. Meet the Secretary of the Interior Standards for the Treatment of Historic Properties (see Appendix VI), which is mandatory for *all* historic preservation projects funded under the CPA.

OPEN SPACE

NEEDS AND RESOURCES ASSESSMENT

Concord has a long history of conservation planning which has led to the preservation of a significant amount of the remaining open space within its borders. According to the 2015 *Open Space and Recreation Plan*, 38% (6,120 acres) of Concord's land is permanently protected open space, 34% (5,277 acres) is densely developed and/or roads, and 28% (4,449 acres) is unprotected or only temporarily protected lands. Since 2004, approximately 415 acres of previously undeveloped land have been preserved by Town purchase and/or Conservation Restrictions. In comparison, 105 acres of similar lands were developed for residential purposes during this same time frame. Of the 10 Chapter 61A protected agricultural sites that became available during this period, half were preserved and half have been sold for development. Concord has managed to maintain its percentage of protected land vs. developed land over the last 10 years, but the protection of surviving open space continues to be a challenge. With the high cost of undeveloped land, preservation comes with a hefty price tag which may benefit from the use of Community Preservation Act funds in combination with other funding sources.

The basis for the open space needs assessment relies upon the following documents that provide a more detailed assessment of the Town's needs and resources:

- **2005 Comprehensive Long Range Plan**
- **2008 Rare Wildlife Habitat and Vernal Pools in Concord**
- **2015 Open Space and Recreation Plan**
- **2018 *Envision Concord: Bridge to 2030* Comprehensive Long Range Plan**

Concord has some 953 acres of rivers and ponds, and 3,399 acres of wetlands within its borders. Farmlands have dwindled to approximately 1,590 acres. Other open areas include the four burial grounds and cemeteries, country clubs, sports clubs and private school campuses. The 2015 *Open Space and Recreation Plan* also identifies a number of special sites that are ecological habitats, important geological features, important historical or recreational sites with open space value, important water or scenic resources, and unique environments, as well as resources that are associated with institutional, educational or public works uses.

Approximately 12.7%, or 2,029.6 acres, of Concord's forest, agricultural and recreational lands receive preferential tax treatment under Ch. 61. Only 798 acres of these lands are protected by permanent Conservation Restrictions and/or Agricultural Preservation Restrictions. Each of the 1959, 1972-73 and 1987 *Long Range Plans* and the 1985, 1992, 2004 and 2015 *Open Space Plans* have identified the large unbuilt patterns of open land as Concord's principal asset. Open space remains one of Concord's highest priorities because it provides such a range of conspicuous benefits to the Town and its citizens.

In the 2015 *Open Space and Recreation Plan*, the Town updated its list of "Properties of Conservation Interest" to include 79 properties/areas representing a mix of public (town, state and federal) and private (non-profit, corporate, or individual) lands both with and without permanent protection. The 2015 *Plan* recognizes that the majority of these parcels are protected with conservation restrictions or other measures, but 19 are still privately owned and unprotected. It is this set of unprotected lands of conservation interest that provides the best opportunity for acquisition with the assistance of CPA funds.

The 2015 *Open Space and Recreation Plan* has established four goals which are central to Concord's open space and recreation planning. The Plan also identifies objectives for achieving each goal. Below is a list of the four goals along with their CPA-eligible objectives:

Goal 1: Protect Water Resources and Biodiversity

- Protect Concord's large natural areas and major wildlife corridors.
- Manage quantity and quality of groundwater and surface water to protect the Town's water resources.
- Protect and/or monitor Concord's streams, rivers, ponds and wetlands.
- Prioritize remaining parcels along waterways for protection if and when they become available.

Goal 2: Improve Connectivity and Access to Recreational Resources

- Reduce major impacts of Route 2 as a barrier to wildlife and passive recreation.
- Meet active recreation use needs.
- Continue developing the local/regional trail network for transportation and nature-based recreation.
- Provide neighborhood-oriented opportunities for recreation and gardening by creating informal playing fields, expanding community garden locations, improving and maintaining playgrounds, etc.

Goal 3: Protect Agricultural Land, including Fields, Meadows, and Orchards

- Prioritize agricultural land to protect based on threat of development, proximity to other farmland, lot size, overlap with other OSRP goals, and prime agricultural soils.
- Promote conservation programs that protect farmland such as Agricultural Preservation Restrictions.

Goal 4: Improve Collaboration and Management

- Think regionally and work collaboratively with neighboring towns.
- Continue to partner with land trusts, government entities, and individuals to make full use of available funds and programs to acquire and/or protect important land parcels.
- Secure funding and partner with other entities for open space land protection.

Concord's 2015 *Open Space and Recreation Plan* identifies nine large swaths of natural vegetation that dominate the open landscape, as well as five large agricultural areas and one large built area. The swaths of natural vegetation lie largely in the following areas:

1. **Estabrook Woods Area**—Harvard University’s Estabrook Woods, Middlesex School land, Bateman’s Pond, Punkatasset Town Conservation land, and areas north to Carlisle
2. **Great Meadows and Ball’s Hill Area**—Great Meadows National Wildlife Refuge, continuous vegetation to the north and west of Concord River
3. **Walden Woods/Town Forest Area**—Fairyland Pond, Hapgood Wright Town Forest, Brister’s Hill, Walden Pond State Reservation, Fairhaven Hill, Lincoln line to Fairhaven Bay
4. **Second Division Brook Area**—Old Rifle Range Town Conservation land, Musketaquid Sportsmen’s Club, Kennedy’s Pond, areas south to near the Sudbury line
5. **Virginia Road Woods**—Bedford Levels, Elm Brook, Pine Hill, areas north to Bedford, Minute Man National Historical Park.
6. **Annursnac Hill/Strawberry Hill Road**—Annursnac Town conservation land and woodland north of Strawberry Hill Road
7. **Jennie Dugan Kames**—brook, golf course and woods within Concord Country Club, extending eastward across the Sudbury River towards the Concord Land Conservation Trust’s Soutter Land
8. **Hanscom**—protection of grassland birds, the fastest declining suite of birds in North America.
9. **White Pond**—sensitive deep glacial kettle pond

Agricultural land is concentrated in the following areas:

1. **Nine Acre Corner**
2. **Lexington Road (including Minute Man National Historical Park)**
3. **Monument Street (including Minute Man National Historical Park)**
4. **Williams Road/Sudbury Road/Route 2**
5. **Reformatory Farms/Barrett’s Mill Road**

In addition to the 14 areas noted above, of paramount importance to the Town are the lands along its three rivers -- Sudbury, Assabet and Concord, and its brooks--Spencer, Second Division, Elm, Jennie Dugan, Mill, Saw, and Nashoba. These watercourses assume importance as major wildlife and water protection corridors as well as their more visible aesthetic and recreational value.

OPEN SPACE OPPORTUNITIES

Based on recommendations from the planning documents mentioned above, the following opportunities for open space acquisition or rehabilitation fit the criteria of the CPA:

1. 2015 Open Space and Recreation Plan

Large and small tracts contained within and contiguous to large natural or agricultural areas have been identified in the Inventory of Lands (Section 5) of the *2015 Open Space and Recreation Plan*. The preservation and conservation of these tracts is supported by the CPC under the open space acquisition criteria of the CPA. The plan also includes a Seven-year Action Plan with specific activities related to CPA eligible goals.

2. Conservation Protection Areas

In addition to the list noted above, a number of parcels have been deemed to be a priority for possible conservation protection, including Town- and school-owned open spaces; parcels or portions of parcels that are contiguous to already protected large open tracts or agricultural spaces; parcels contiguous to rivers, streams or containing wetlands; and smaller parcels that receive high recreational use within their neighborhoods or are on the Historic Resource Master Plan's list of scenic viewsheds. Willow Guzzle is a potential project in this category.

3. Water Resources

Also important to the open space needs of the community is the protection and restoration of Concord's various rivers, brooks, streams and ponds. The CPC supports projects that work towards this goal, including the protection and rehabilitation of the White Pond Reservation.

4. State and Federal Public Lands

The State may in the future be interested in selling the Massachusetts Correctional Institution – Concord (MCI-Concord) adjacent to the Route 2 Rotary. Further conservation opportunities could also exist on other state and federal public lands within Town borders. The CPC supports the consideration of these resources for possible conservation or recreation purposes.

5. Private and Unprotected Farmland

Private and otherwise unprotected farmland may come on the market from time to time that is contiguous to protected farmland, historic landscapes or publicly owned land, the loss of which would be a detriment to these resources. These sites include those listed above in the *2015 Open Space and Recreation Plan*, as well as other known agricultural areas such as those found in the vicinity of Old Bedford Road and Bedford Street. The CPC supports the consideration of these opportunities, and also supports potential joint projects that meet both housing and open space needs on suitable sites, with the awareness that the CPA legislation states a preference for construction on previously developed sites whenever possible.

6. Chapter 61 Lands

Chapter 61 land provides preferential tax treatment to property owners without requiring that the land be permanently restricted. Property owners may at any time choose to leave this program and develop the properties for other uses. Concord has 411.18 acres of forested land under the Chapter 61 program; 331.51 acres of agricultural land under Chapter 61A; and 430.52 acres of land used for recreation under Chapter 61B. The CPC supports opportunities which would give permanent protection to these properties for their continued contributions to Concord's available open space. As noted above, the CPC also supports joint projects which consider open space restrictions in conjunction with other uses for these sites.

7. Neighborhood Opportunities

Passive and active recreational opportunities and small green pockets exist within or near many of Concord's neighborhoods. The CPC supports the protection of these neighborhood resources and projects that address such neighborhood needs.

8. Handicap Accessibility

Increasing the handicap accessibility of all of the Town's open space resources is an ongoing goal and challenge. The CPC supports projects that meet the CPA criteria for open space that provide or enhance handicap accessibility at these sites to the extent feasible.

9. Local and Regional Trail Networks

The local/regional trail network that allows for environmentally sensitive transportation and nature-based recreation is another important component of the Town's open space resources. The CPC supports projects that both solidify this network and meet the CPA criteria for open space, such as the Bruce Freeman Rail Trail, which links Concord to Acton and will soon link to Sudbury.

10. Nature Corridors

Other important open space resources are the common wildlife, water and human corridors that run through Concord. Projects that work with regional towns and agencies to identify and protect these corridors are supported by the CPC under the open space criteria of the CPA, in particular projects that strengthen wildlife habitat connectivity along the Sudbury River Valley and Concord River Valley.

GOALS FROM THE 2018 COMPREHENSIVE LONG RANGE PLAN

- GOAL 1:** Provide responsible management of conservation lands, including protection, preservation and restoration.
- GOAL 2:** Enhance connections and access to bike paths and walking trails between open spaces and the village centers, the locations of institutions and organizations, and recreation sites.
- GOAL 3:** Ensure all Concord residents understand the value of conservation lands, natural resources, open space, agricultural activities and recreational amenities.

OPEN SPACE CRITERIA FOR PROJECT REVIEW

In addition to the general criteria for CPA funding, projects involving open space that address as many of the following criteria as possible will receive preference. In particular projects that:

1. Address objectives or projects identified specifically or that fit within the goals or action plan of the *2015 Open Space and Recreation Plan* and the *2018 Comprehensive Long Range Plan*.
2. Identify and secure additional funding and the support of other entities for open space land protection.
3. Provide conservation restrictions with public access.
4. Provide connections with existing trails or potential trail linkages with open space.

5. Protect drinking water quantity and quality.
6. Provide flood control/storage.
7. Improve trail access, preservation and safety in partnership with the Town.

RECREATION

NEEDS AND RESOURCES ASSESSMENT

Concord has long enjoyed a popular and well-run recreation program designed to meet the year-round interests of the community. Direct program costs are sustained by user fees, but capital costs and some administrative expenses are supported by the Town. Recreational facilities of the Concord Carlisle High School are utilized by residents of both towns. Private schools in Concord also may share the use of their facilities with the Recreation Department.

The basis for the recreation needs assessment relies upon information provided in the following well-detailed documents that provide good background information on the available facilities in Town, as well as the recreational needs of the community. These documents should be used as a reference in projects proposed for CPA funding.

- **2015 Open Space and Recreation Plan**
- **2018 *Envision Concord: Bridge to 2030* Comprehensive Long Range Plan**
- **2024 Recreation Facilities Strategic Plan**

Concord is an active community where all ages are able to enjoy the Town's facilities. Its youth sports programs continue to grow, including soccer, baseball, lacrosse, Pop Warner football, and flag football. Adults can participate in men's and women's basketball and soccer, co-ed basketball and volleyball, group exercise, and many more activities.

In July 2012, amendments to the Community Preservation Act legislation were signed into law, which provide greater latitude in the use of CPA funds for recreation projects. CPA funds may now be used for the "rehabilitation" of lands for recreational use defined as "capital improvements, or the making of extraordinary repairs." Such improvements may include assistance in complying with the Americans with Disabilities Act or meeting other federal, state, or local building or access codes; replacement of existing playground equipment; and other improvements which make the site more functional for its intended recreational use. The July 2012 amendments also prohibit the use of CPA funds to acquire artificial turf for any athletic fields.

RECREATION OPPORTUNITIES

The Recreation Commission completed the Town's first Recreation Facilities Plan in 2014 to assess existing facilities and determine potential locations for new facilities. The CPA recently funded an update to the Recreation Facilities Plan which is currently underway. The updated plan, completed in 2024, will provide a new template to guide the CPC in fulfilling the Town's recreation needs and potential opportunities. In the meantime, Recreation opportunities identified in the current (2014) Facilities Plan and other planning documents include the following:

1. Connectivity between Parks and Facilities

Surveys conducted for the new Facilities Plan revealed the need for trails for walking and biking between facilities and parks. The Town is currently working on a program to develop connections and improve access between existing park and playground facilities.

2. Waterway Access

Surveys have also recognized a need for improved access to Concord's waterways and increased opportunities for boating and kayaking. Consideration should be given to working with other groups to increase access to open space and waterways for passive, non-motorized recreation. These access points would provide opportunities for passive recreation such as boating or walking.

3. Existing Park Improvements and New Park Development

Many of Concord's existing neighborhood parks are in need of facility updates and amenities such as water fountains, benches, park and picnic shelters, and bike racks. Additionally, the Recreation Facilities Plan notes that Concord's neighborhood parks provide only .62 acres of park land/thousand population which is below the National standard of 3.5 acres of neighborhood park land/thousand population.

4. New Playgrounds

The Recreation Facilities Plan states that there is a need for 2.9 additional playgrounds. Several areas have been considered for new playground areas. Another potential option is to enhance the playground at Emerson Park.

5. Multi-Purpose and Youth Soccer Fields.

The Town currently has a deficit of 1.8 fields. No new soccer fields are currently proposed.

6. Baseball Diamonds and Softball Fields

The Town has a need for approximately 1.8 adult and 1.2 youth softball fields. Several sites have been explored for new 60 and 90 foot baseball diamonds but an appropriate site has not yet been located.

7. Outdoor Basketball Courts

The Recreation Department has identified a need to create a new, lighted outdoor basketball court at a site yet to be determined.

8. Shared Use of Available Facilities

In addition to Concord's town-owned facilities, a number of additional facilities exist that are owned by private schools in the area and by the Town of Carlisle. The shared use of recreational facilities will help to ease field demand and overuse, and projects are encouraged that lead towards this goal.

9. Bruce Freeman Rail Trail

A contract for the design and engineering for Phase 2B (the bridge over Route 2) was awarded in Spring 2017 and completed in 2023. The Bruce Freeman Rail Trail Advisory Committee is now disbanded, since the project is complete.**GOALS FROM THE 2018 COMPREHENSIVE LONG RANGE PLAN**

GOAL 1: Provide responsible management of recreation amenities, including programming of open spaces, public spaces, trails, and recreational facilities to encourage use by all residents.

GOAL 2: Ensure all Concord residents understand the value of conservation lands, natural resources, open space, agricultural activities and recreational amenities.

CRITERIA FOR PROJECT REVIEW

In addition to the general criteria for CPA funding, recreation projects must meet any or all of the following goals. Projects involving recreation that address as many of these criteria as possible will receive preference. In particular projects that:

1. Address objectives or projects identified in the *2018 Comprehensive Long Range Plan, Recreation Facilities Strategic Plan, the 2015 Open Space and Recreation Plan* and the *Playing Fields Study*.
2. Utilize Town-owned land when possible to fulfill identified current and future recreational needs.
3. Ensure universal accessibility to recreational activities.
4. Expand programs or facilities for special needs, youth, young adults and seniors seeking new recreational health and fitness opportunities.
5. Consider interests and needs of Concord youth sports organizations, both those sponsored by the Town and by private organizations.

GENERAL SELECTION CRITERIA

The Community Preservation Committee (CPC) is responsible for reviewing all projects proposed for Community Preservation Act funding and for making recommendations to Town Meeting. In order to be considered eligible for review by the CPC, a project must at a minimum meet the statutory requirements of the CPA.

If a submitted project is deemed to be eligible for consideration by the CPC, it will be evaluated in relation to the General Selection Criteria and the specific criteria identified in the Needs Assessment for the appropriate use category (Community Housing, Historic Preservation, Open Space and Recreation). Recommendations for funding will be based on how well the project meets these criteria, recognizing that all criteria may not apply to every project.

The CPC will also give consideration to the urgency of the project, especially to those projects whose successful implementation is constrained by scheduling factors not in the control of the applicant. In these special situations, such as the imminent placing of land on the market or an indication of an intention to do so, the CPC will consider an application outside of the normal schedule outlined in this document. See the CPC Procedures Manual for more information concerning these special cases.

The following factors will be considered (*not* presented in order of priority or weight):

- a. The project's eligibility for CPA funding under the CPA legislation.
- b. The project's consistency with Town-wide planning efforts and reports that have received broad-based scrutiny and input. Specifically, the 2018 Comprehensive Long Range Plan's Systems Checklist (which can be found on Page 240 of the plan):
<https://www.concordma.gov/DocumentCenter/View/15258/Section-5---Implementation-Actions>
- c. The project's support by relevant Town departments, boards and committees and community groups and its consistency with recent Town Meeting actions.
- d. The extent to which the project preserves, protects or enhances existing Town-owned open space, recreation, historic and/or housing assets, and has the necessary Town support and approval.
- e. The extent to which the project serves multiple or underserved populations and/or is open to the public
- f. Whether or not the project fulfills more than one purpose of the legislation: housing, historic preservation, open space or recreation.
- g. Administrative and financial management capabilities of the applicant. Applicants must have a federal tax identification number. Those which have previously received CPA funds should be prepared to demonstrate that they are in good standing with all paperwork and project conditions or requirements of the previous funding allocation. Applicants should be prepared to

provide a status report on any open projects which includes information on expenditures, key project milestones, and the anticipated project completion date.

- h. The extent to which the applicant has successfully implemented projects of a similar type and scale or otherwise demonstrated the ability and competency to implement such a project. Whenever possible, prior applicants should seek to expend all previous CPA funds and complete the project or project phase before requesting additional funds. When it is not advisable or possible to complete a previous phase first, applicants should be prepared to explain why an expedited process is advantageous or necessary.
- i. Whether or not the applicant has site control or written consent by the property owner to submit an application.
- j. Demonstrated financial need.
- k. Whether or not there will be multiple sources of funding for the project, including leveraging of other public and/or private funding.
- l. The feasibility of the project plan and whether or not the most reasonable approach for implementing the project has been selected.
- m. The urgency of the project, the flexibility of the schedule and the impact of any delay in initiating the project.
- n. The provision for maintenance of the project.
- o. The inclusion of an appropriate permanent deed restriction, preservation restriction, or conservation restriction.
- p. According to the Community Preservation Act and Department of Revenue guidance, "CPC fund monies may not be spent to supplant funds being used for existing expenses, even if they serve community preservation purposes. The CP fund is a supplementary funding sources intended to increase available resources for community preservation acquisitions and initiatives." Accordingly, the CPC generally will not recommend that Town Meeting appropriate CPA funds for expenses incurred by a project prior to the Town Meeting vote on CPC recommendations. The CPC may waive this requirement for a project involving the acquisition of land for one or more CPA-related interests if such a project is the focus of ongoing or pending active fundraising related to defraying the costs associated with this specific acquisition.
- q. The project incorporates design features that reduce the impact on the environment including but not limited to reduced energy consumption, enhanced energy and water conservation and the use of recyclable materials.
- r. The project addresses the following four sustainability principles (based on the American Planning Association's Four Sustainability Objectives) adopted by the Select Board on July 25, 2011:

- 1) Reduce dependence upon fossil fuels, underground metals, and minerals;
 - 2) Reduce dependence upon synthetic chemicals and other manufactured substances;
 - 3) Reduce encroachment upon nature; and
 - 4) Meet human needs fairly and efficiently
- s. The use of qualified vendors which are located in Concord is encouraged when applicable.
- t. Land acquisition projects for which CPA funds are sought must also adhere to the requirements of Article 35 of the 2008 Annual Town Meeting (see APP #54 of the Town of Concord, Aug. 2008). This article includes a requirement that affordable housing representatives be present at the start of any discussions with the Town concerning these acquisitions and the probable uses of the land. The Concord Housing Authority (CHA) has a permanent representative on the CPC. As a result, discussions with the CPC that include the CHA representative address the provisions of Article 35. Applicants are also encouraged to consult with the Concord Housing Development Corporation as early as possible about possible land acquisition projects.

Appendix I

COMMUNITY PRESERVATION ACT General Laws Chapter 44B (including all amendments through July 2021)

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 per cent 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 per cent 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 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.

“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.F.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 per cent 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.

(b½) 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 per cent of the real estate tax levy against real property, and making an additional commitment of funds by dedicating revenue not greater than 2 per cent 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 20A½ 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 per cent 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 per cent 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.

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 per cent 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 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, wherever 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.

(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.

(4) The community preservation committee may recommend and the legislative body of a city or town may approve appropriations from the fund to acquire land, or real property interests therein, held for railroad purposes to be used by the city or town for recreational use as a rail trail as defined in section 35A of chapter 82. Notwithstanding subsection (a) of section 12, land, or real property interests therein, acquired pursuant to this paragraph shall remain subject to any property interest, including restrictions or reversionary interests, required to be held by the grantor or the United States pursuant to the federal National Trails System Act of 1968, as amended. Notwithstanding the definition of real property interest in section 2, land, or real property interests therein, acquired pursuant to this paragraph shall be considered a real property interest for purposes of this chapter, and a conservation restriction that meets the requirements of sections 31 to 33, inclusive, of chapter 184 shall be required.

(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 and 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 per cent of the annual revenues in the Community Preservation Fund for open space, not less than 10 per cent of the annual revenues for historic resources and not less than 10 per cent 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 per cent 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 do not exceed 5 per cent 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 (b½) 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 \$50; 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 \$50 surcharge. The fee for recording a municipal lien certificate shall be subject to a surcharge of \$25; 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 \$25 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 \$50. The fees for so registering, filing or entering a municipal lien certificate shall be subject to a surcharge of \$25. 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 per cent 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 (b½) 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 per cent but not greater than 100 per cent 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 (b½) 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 per cent 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 per cent 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 is 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 1 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 per cent of the base figure. |
| decile 2 | 130 per cent of the base figure. |
| decile 3 | 120 per cent of the base figure. |
| decile 4 | 110 per cent of the base figure. |
| decile 5 | 100 per cent of the base figure. |
| decile 6 | 90 per cent of the base figure. |

| | |
|-----------|---------------------------------|
| decile 7 | 80 per cent of the base figure. |
| decile 8 | 70 per cent of the base figure. |
| decile 9 | 60 per cent of the base figure. |
| decile 10 | 50 per cent 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 (b½) 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 per cent 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 (b½) of said section 3 shall be eligible to receive additional state monies through the equity and surplus distributions.

(2) If less than 10 per cent 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 non-profit 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 grantor's 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 per cent and committing additional municipal funds pursuant to subsection (b½) 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.

Appendix II

TOWN OF CONCORD COMMUNITY PRESERVATION COMMITTEE BYLAW

Chapter 1. Establishment

- (1) There is hereby established a Community Preservation Committee consisting of nine voting members pursuant to Massachusetts General Laws Chapter 44B. The Committee shall consist of the following members:
 - One member of the Historical Commission as designated by the Commission
 - One member of the Housing Authority as designated by the Authority
 - One member of the Natural Resources Commission as designated by the Commission
 - One member of the Planning Board as designated by the Board
 - One member of the Recreation Commission as designated by the Commission
 - Four at-large members to be designated by the Board of Selectmen
- (2) Terms for the four at-large members will begin on June 1 of each year and will be staggered four-year terms. 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 Section (1) above for the unexpired term.
- (3) Should any commission, authority or board designating a member for the Community Preservation Committee cease to exist for whatever reason the Board of Selectmen will determine the appropriate alternative designating commission, authority or board.

Chapter 2. Duties

- (1) The Community Preservation Committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with town boards and others including, *inter alia*, the Historical Commission, the Housing Authority, the Natural Resources Commission, the Planning Board and the Recreation Commission in conducting such studies. As part of its studies 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, including on the Town's web page, and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town. The Committee will file an annual report on its activities to the Town Clerk.
- (2) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, rehabilitation, restoration and preservation of historic resources; for the acquisition, creation and preservation of land for recreational use; for the creation, preservation and support of community housing; and for the rehabilitation or restoration of such open space, land for recreational use and community housing that is acquired or created as provided in this section. 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.

- (3) The Community Preservation Committee may include in its recommendations 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 funds 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.

Chapter 3. Requirements for a quorum and cost estimates

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. Meetings will be held in accordance with the open meeting law. Recommendations to the Town Meeting shall include their anticipated costs.

Chapter 4. Amendments

The Community Preservation Committee 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 Community Preservation Committee. The first review shall be completed at least by November 1, 2008 and subsequent reviews shall be completed in no more than five-year intervals. This Bylaw 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.

Chapter 5. Severability

In case any section, paragraph or part of this By-law 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.

Chapter 6. Effective Date

This vote shall take effect and this Bylaw shall be submitted to the Attorney-General of the Commonwealth only upon certification that a majority of voters have approved a ballot question accepting sections 3 to 7, inclusive, of Massachusetts General Laws Chapter 44B. Upon approval of this Bylaw by the Attorney General of the Commonwealth, the Board of Selectmen shall request the Historical Commission, the Housing Authority, the Natural Resources Commission, the Planning Board and the Recreation Commission to designate a member to serve on the Community Preservation Committee. The Board of Selectmen will designate four at-large members of the Community Preservation Committee.

Chapter 7. Exemption Application Deadline

The application deadline for exemption from the surcharge shall be the same as for personal exemption applications, 90 days following the issuance of the actual tax bill.

Article 38, Annual Town Meeting, April 2004
Article 44, Annual Town Meeting, April 2005

