

Newton Affordable Housing Trust

Priorities, Goals & Guidelines

Introduction

The Newton Affordable Housing Trust was established on December 6, 2021 under City Ordinance No. B-93 for the purpose of creating and preserving affordable housing in Newton for the benefit of low and moderate income households. This ordinance was established in accordance with the Municipal Affordable Housing Trust Law (MGL c.44 s.55C).

The Trust will help people with modest incomes afford the cost of housing in Newton. The Trust's goal is to support and expand the supply of affordable housing by constructing new affordable housing, preserving existing affordable housing, and converting existing buildings/units into affordable housing, with an emphasis on providing housing for Extremely Low, Very Low, and Low Income households.

The Mission of Newton's Affordable Housing Trust (NAHT) is to preserve existing affordable housing and create new affordable homes that are affordable in perpetuity to low and moderate income households. The Trust has the ability to create a streamlined process to provide funding to new affordable housing communities and take advantage of development opportunities which might otherwise not be available to the City.

The Newton Affordable Housing Trust is an important, nimble resource for the City of Newton's use in expanding and preserving its affordable housing stock. This document describes the purpose the Newton Affordable Housing Trust, explains the priorities and goals for the future uses of the Trust funds, and establishes a process and criteria for Trustees to use in reviewing funding applications.

Goals of the Trust

In 2022 the Trustees reviewed the current housing needs and goals of the City detailed in the plans and needs assessments found in the [Newton Comprehensive Plan](#), [the FY21-25 Consolidated Plan for the City of Newton Housing and Community Development Program](#), [the FY23 Annual Action Plan](#), and [Newton Leads 2040: A Blueprint to Promote Affordable, Diverse Housing and Economic Growth](#). Based on these reviews, the Trustees developed an updated set of goals and procedures to guide the deliberations of the Trustees.

Consistent with the requirements of the ordinance and bylaws, the Trustees have the following goals for the future allocation of Trust funds:

- ☐ Preserve existing affordable housing and encourage innovative efforts to acquire and preserve unassisted stock for affordable housing
- ☐ Be a unique, nimble and flexible source of financing which provides funding expeditiously

- ☐ Create rental housing for Extremely Low, Very Low, and Low incomes households
- ☐ Make special efforts to ensure housing opportunities for households with incomes below 30% and between 31% and 50% of the Area Median Income (AMI)
- ☐ Ensure that any housing created through the Trust is affordable in perpetuity through the use of deed restrictions
- ☐ Be a voice for affordable housing in Newton and encourage awareness through public forums and outreach and through innovations in grants and loans
- ☐ Effectively leverage state, federal and private funds including by being the first dollars in to demonstrate local commitment and support
- ☐ Create homeownership units for households with incomes up to 100% AMI
- ☐ Support affordability for first-time homebuyers with incomes up to 100% AMI through loans, such as downpayment and closing cost assistance, that can supplement and further other City initiatives
- ☐ Support housing stability for households with incomes up to 100% AMI through a variety of activities including eviction and homelessness prevention
- ☐ Support projects and programs with measurable goals and positive outcomes
- ☐ As opportunities arise, support development projects that foster community development goals as documented in other City plans, including transit-oriented development, mixed-use and mixed-income projects, and sustainable design as well as the goals of the Community Preservation Committee as described in the Community Preservation Plan

Eligible Purposes

The purposes of the Trust, as documented in its ordinance, enabling legislation and bylaws, are as follows:

- To assist in the creation of new affordable homeownership and rental homes (or housing) in Newton; and,
- To assist in the preservation of existing affordable homeownership and rental homes (or housing) in Newton.

Newton's ordinance provides the Trust with all of the powers allowed by the state enabling legislation (MGL c.44 s.55C) including those listed below. (Note: the following list is intended to be illustrative and not to limit the discretion of the Trustees.)

- Funds to assist in the development of affordable housing such as site acquisition, site clearance, site improvements, and/or option payments
- Funds to assist in the preservation of existing affordable housing
- Funds to assist new homeowners, such as loans and/or grants for down payments or closing costs
- Seed money for new programs or new organizations, such as limited equity cooperatives, a community land trust and/or a community loan fund that directly create or preserve affordable housing

- Any other programs or projects that fulfill the purpose of the Trust

In setting criteria, the Trustees agree to consider the following:

- Current Trust assets
- Ensure affordable housing in perpetuity
- Community need for the proposal
- Proponent’s organizational capacity to facilitate the program or project
- Other sources of funding available for the program
- Such other criteria as may be included in the Rules and Regulations

Funding for the Trust may come from the following funding sources:

- Community Preservation Act Funds
- Inclusionary Zoning Payments
- Negotiated Developer Fees
- Payments from Special Ordinances
- Private Donations
- Grants
- Other future sources not yet contemplated

Community Preservation Act funds have the following requirements with regard to eligible housing activities:

- ☐ Acquisition, creation, preservation, and support of housing affordable to households with incomes up to 100% AMI
- “Support” of affordable housing includes 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 affordable housing, or to an entity that owns, operates or manages such housing, for the purpose of making housing affordable
- Rehabilitation of affordable housing units is only permitted if the housing was created with CPA funds. However, preservation of affordable units, defined as the “protection of personal or real property from injury, harm or destruction” is allowed
- ☐ The CPA statute also states a preference for the reuse of existing buildings or construction of new buildings on previously developed sites with respect to affordable housing

Income Criteria

The Trust’s ordinance states that the Trust funds shall be used to create or preserve housing that is affordable to low and moderate households as defined by the Department of Housing and Urban Development (HUD), with an emphasis on housing for Extremely Low (30% AMI), Very Low (50% AMI), and Low Income (80% AMI) households.

The Trust regularly reviews its allocation of funds by income category to ensure that the income requirements of the Trust are met. In addition, the Trust encourages deeper affordability where possible consistent with project feasibility. Many housing development loans and grant-funded programs serve households with incomes below 30% of AMI. The Trust also seeks to encourage projects and programs that serve homeless households and offer adequate, sustainable support services which are thoughtfully designed to be effective and responsive and which demonstrate experience with the client community.

Current Types of Assistance

The Trust will offer grants and loans in the categories listed below. Depending upon the amount of funding available and the demand for the funds, the Trust may limit the types of awards from year to year.

Loans

Pre-Development and Development Loans (collectively Development Loans) are available in two categories:

- ☐ Short term (less than 36 months) financing for acquisition or development hard and soft costs.
- ☐ Longer term (30-50 years) gap financing. These can be subordinate debt and may leverage state, federal and private money.

Grants

Grants are available on a limited basis for programs that support activities and services that help Newton residents with housing problems. Priority is given to programs that help Extremely Low, Very Low, and Low Income households to sustain or gain access to affordable housing, and/or which preserve or increase the supply of affordable housing.

ALLOCATION OF FUNDS BY PROGRAM ACTIVITY

The amount of money in the Trust may vary from year to year depending upon new inclusionary zoning payments, repayment of existing loans, and allocation of CPA funds. The Trust will allocate funding annually pursuant to the requests it receives and at its sole discretion.

Terms of Assistance

The Affordable Housing Trust anticipates that any financing will be repaid with the exception of funds that are explicitly given in the form of a grant.

Long and short term loans may or may not carry interest. These loans may be repayable on a current basis if cash flow permits, pursuant to standard DHCD and/or Trust cash flow sharing requirements. In addition, if an affordable housing project financed by the Trust realizes significant cash flow (due to higher than underwritten mobile voucher holders, higher rents, or other reasons), at the request of the Trust, the housing's sponsor shall work with the Trust and

other financing partners to utilize the excess cash flow to write down the rents of other residents that do not have rental subsidies. If there are other loans on the project, these loans shall be pari passu with other state and local financing and subordinate to first mortgage financing, otherwise they shall be secured by a first mortgage. The Trust intends to utilize MassDocs loan documents in conjunction with other MassDocs financing partners.

The contribution per unit may be a range based on the unit size, land and construction costs, and availability of Trust funds, but should suggest a starting point for developers to create proformas and begin conversations with the City. The terms sheet may authorize a higher level of subsidy for units that are affordable to Extremely Low income households, contain a higher percentage of three-bedroom units, and /or have extraordinary costs. It is important that the Trust terms include language that any provision may be waived or modified if required for project feasibility.

AMOUNT OF LOAN

The amount of the loan will depend on a number of factors including the amount of Trust funding available, the minimum amount necessary for feasibility, the demand for the funds, and how well the project meets the established criteria. The Trustees intend to establish standard funding guidelines that will incorporate suggested per unit maximum ranges based on unit size, level of affordability, and maximum total annual requests per project. The standard funding guidelines will be made available through the City's Housing Division.

REPAYMENT TERMS

Loans are generally intended to fill short or long term gaps and/or to provide more flexible, streamlined access to funding that enables developers to seize housing opportunities. Permanent loans will generally have a 30 year term which can be extended to 50 years if necessary for project feasibility. The repayment terms will be different for projects that utilize Low-Income Housing Tax Credit (LIHTC) financing and those that utilize a simpler financing structure.

CRITERIA FOR EVALUATION OF LOAN REQUESTS

The Trust will evaluate development project loan requests on a rolling basis but may periodically issue RFPs for projects. In addition to specific criteria that may be established in these RFPs, the Trust will generally evaluate projects based on the following criteria:

Development Loans

- Ability to promote socioeconomic and racial diversity
- Capacity of the development entity. When equivalent impacts and effectiveness are demonstrated for comparable entities, Newton-based organizations may be given preference.
- Total number of units/homes
- Percentage of affordable units/homes
- Percentage of units serving Extremely Low, Very Low, and Low income or homeless households

- Level of services and amenities provided to residents
- Amount of NAHT funds invested per unit
- Leverage of State, Federal and other funds

Grant Requests

- Well-founded approach to the grant program goals
- Measurable impact on the affordability and diversity of housing in Newton
- Clearly defined plan to achieve successful outcomes for program activities
- Ability to leverage the grant funds and to continue the proposed activity beyond the funding period
- Capacity to administer the grant and deliver the services funded by the grant
- Preference may be given to non-profit organizations that demonstrate their ability to provide needed and effective services to Newton residents. When equivalent impacts and effectiveness are demonstrated for comparable programs, Newton-based organizations may be given preference.

The Process for Applying to the Trust

The Trust will review new applications on a timely basis. All funding applications must be reviewed at a public hearing during a publicly noticed Trust meeting. Whenever possible, the Trust will review applications during their regularly scheduled meeting but additional meetings may be scheduled as needed.

Funding Requests

Applicants for Trust development project loans may apply on a rolling basis. Before submitting an application, applicants should contact Trust staff to review the potential project and its eligibility for funding.

The Staff and Chair will review the request and determine if funding is available at the time of the request and if so, invite an application.

Staff of the Trust and Newton Housing Division will review the application and may request additional information. The application will be evaluated according to the criteria noted above. Staff will also provide a recommendation to the Trust as to the amount of the loan and terms for repayment.

The Trust will review applications at the Trust's regular meetings at which the applicant will be asked to make a brief presentation about the project and answer any questions. Depending on the demand, amount, and availability of funds, the Trust may also from time to time issue a Request for Proposals (RFP) for development loan proposals.

SOURCES of TRUST FUNDING

The Trust may receive funding from any of the sources listed in the ordinance but is anticipated to be primarily funded through the two sources listed below:

Community Preservation Act Funds

The City of Newton adopted the Community Preservation Act (CPA) through a city-wide vote in 2001. Newton's CPA funding is comprised of a 1% local surcharge on local property taxes and a variable annual distribution from the statewide Community Preservation Trust Fund. A minimum of 10% of the City's annual CPA funding is required to be spent or set aside for the acquisition, creation, preservation, support, restoration, and/or rehabilitation of community housing. "Community housing" is the term used by the Community Preservation Act (MGL c.44B) to describe housing that is affordable to households with incomes up to 100% AMI. While this level of affordability is allowed by the Trust's ordinance as well, the Trust's guidelines include a preference for projects which provide housing for Extremely Low (30% AMI), Very Low (50% AMI), and Low Income (80% AMI) households.

The importance of steady annual allocations of CPA funds to address the City's housing needs and to enhance the success, effectiveness, and reach of the Newton Affordable Housing Trust cannot be overstated. The Community Preservation Committee (CPC) regularly sets target goals for the use of its funding by category and has committed to allocating its target goal for community housing funds to the Trust on an annual basis. The CPC's current target for community housing spending is 35% of its annual funding. In the future, the Trust will serve as the CPC's designated "housing arm" and will report to the CPC on a regular basis on the Trust's uses of CPA funds.

Inclusionary Zoning Funds

In addition, developers subject to the City's Inclusionary Zoning (IZ) ordinance can make a cash payment in lieu of required affordable units. The ordinance calls for any funding received from a developer to be equally divided between the Newton Housing Authority and the City, with all City funds to be deposited directly into the NAHT fund for use in future affordable housing projects. IZ funds are received infrequently by the City and are not considered to be a regular or reliable source of ongoing funding for the Trust.

Trust Bylaws

Members

The ordinance establishing the Trust calls for seven Trustees. Three of the Trustees are ex-officio and include the following:

- The Mayor
- A member of the City Council
- A member of the Community Preservation Committee

The other four members are residents of Newton who are appointed by the Mayor and subject to the approval of the City Council. In making these appointments, the Mayor is guided by the goal that the Trustees be geographically, culturally, ethnically, and linguistically diverse and that each appointee have one or more of the following qualifications:

- Experience with affordable housing production, planning, architecture, law, lending, business, property management, social and human services, capital planning, and construction management
- Professional experience in affordable housing finance and development
- Professional participation as a funder, developer or consultant in successfully completed projects that include deed-restricted affordable housing
- Experience with all-affordable, mixed-income housing, and/or mixed-use development projects that include housing
- Familiarity with Massachusetts and HUD affordable housing funding sources and regulatory requirements, specifically CDBG and HOME, LIHTC, and 40B.

All Trustees serve for staggered terms of two years, with the exception of several of the initial Trustees who were first appointed for one year terms.

Meetings

- 1) The Trust will meet on a regular basis a minimum of four times each year. Additional meetings may be held at the call of the Chair or at the request of two permanent members.
- 2) A quorum of four voting members is necessary to hold a meeting.
- 3) At the beginning of each meeting, the voting members shall be named by the Chair.
- 4) All meetings shall be recorded and minutes shall be published on the AHT webpage. Records of Action for all votes of the Trust shall be recorded with the minutes and additional copies shall be on file with the Planning and Development Department.
- 5) There shall be one organizational meeting per year in July at which a Chair and Vice Chair shall be elected from the permanent members. The City Clerk shall be notified of these elections.
- 6) The Trust reserves the right to amend its rules and regulations at anytime.
- 7) If the Chair or Staff determines that a special meeting is necessary to meet the time frames of a specific proposal, the Chair or Staff shall schedule such special meeting.

Chair

- 1) The Chair shall conduct the meetings and hearings in accordance with the Open Meeting Law (M.G.L. c. 30A, §§ 18-25). In the absence of the Chair, the Vice Chair shall preside.
- 2) In the absence of the Chair and Vice Chair, an Acting Chair shall be elected by the quorum of the Trustees present.
- 3) The Chair shall work with Staff to publish the agenda for meetings and hearings 7 days prior to the scheduled meeting or hearing time.

Secretary

- 1) A Trustee or Staff shall serve as the Secretary. The Secretary shall take minutes at all regular meetings and hearings, which proceedings shall also be recorded. The Secretary shall also draft letters, notices, and other written materials.
- 2) The Secretary shall publish minutes, including decisions made by the Trust, and shall distribute copies of the minutes to all permanent and alternate members as well as the City Clerk and other officials requesting minutes.

Public Hearings and Decisions

- 1) Notice of all meetings shall be duly posted with the City Clerk in compliance with the Open Meeting Law (M.G.L. c. 30A, §§ 18-25). Notices will be posted at least 7 days before the meeting. Notices shall include the date, time, and location of the public meeting and/or public hearing. Notice of a public hearing shall be filed with the City Clerk who posts all City meetings and sent to the applicant and to any other City officials and persons who have requested routine notification.
- 2) The Trust anticipates following the set agenda, using Roberts Rules of Order for public meetings. Applicants will have an opportunity to give a brief presentation on their project followed by questions and comments from the Trustees and interested members of the public. A majority vote is required for any decision of the Trust and each Trustee's vote shall be recorded in the minutes.

Annual Report

Within four months of the close of each fiscal year, the Trust will submit an annual report to the CPC and City Council on how and where the Trust funding has been used. This report will include information on any loans and grants awarded during the year and detail the Trust's efforts in supporting affordable housing in Newton over the previous year.

In the case of any CPA funding, the Trust will work closely with the Community Preservation Program Manager to see that all CPA funding is documented and the uses confirmed as requested by the CPA funding legislation.