



**SOUTHBOROUGH COMMUNITY PRESERVATION COMMITTEE**  
**17 Common Street, Southborough, Massachusetts 01772**

## **APPLICATION HANDBOOK**

**May 23, 2024**

## **1.0 ABOUT COMMUNITY PRESERVATION**

### **1.1 The Community Preservation Act**

M.G.L. Ch. 44B, the Community Preservation Act (CPA), was signed into law on September 14, 2000.

The CPA is a smart growth tool that helps communities preserve open space and historic sites, create affordable housing, and develop outdoor recreational facilities. CPA also helps strengthen the state and local economies by expanding housing opportunities and construction jobs for the Commonwealth's workforce, and by supporting the tourism industry through preservation of the Commonwealth's historic and natural resources.

CPA allows communities to create a local Community Preservation Fund for open space protection, historic preservation, affordable housing, and outdoor recreation. Community preservation monies are raised locally through the imposition of a surcharge of not more than 3% of the tax levy against real property, and municipalities must adopt CPA by ballot referendum.

The CPA statute also creates a statewide Community Preservation Trust Fund, administered by the Department of Revenue (DOR), which provides distributions each year to communities that have adopted CPA. These annual disbursements serve as an incentive for communities to pass CPA.

Each CPA community creates a local Community Preservation Committee (CPC) upon adoption of the Act, and this five-to-nine-member board makes recommendations on CPA projects to the community's legislative body.

Property taxes traditionally fund the day-to-day operating needs of safety, health, schools, roads, maintenance, and more. But until CPA was enacted, there was no steady funding source for upholding and improving a community's character and quality of life. The Community Preservation Act gives a community the funds needed to preserve its past and control its future.

### **1.2 The Southborough Community Preservation Committee**

#### **1.2.1 Establishment of the Committee**

On May 12, 2003, a ballot referendum was approved by the voters of Southborough adopting the CPA and creating the Community Preservation Committee (CPC).

CPC is a nine-member committee comprised as follows:

- 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 Conservation 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
- One member of the Open Space Preservation Commission as designated by the Commission
- One member of the Southborough Housing Opportunity Partnership Committee as designated by the Committee

- Two members-at-large appointed by the Select Board

### 1.2.2 CPA Funding Sources

The Southborough Community Preservation Trust is funded by a 1% tax surcharge (with the first \$100,000 value exemption) on all residential property in Southborough. Certain exemptions from the tax surcharge are available to seniors and lower-income residents ([see exemptions here](#)).

In addition to the Southborough tax surcharge, the Massachusetts Department of Revenue (DOR) makes distributions each year to CPA communities from the Massachusetts CPA Trust Fund. These funds come from fees paid to the Commonwealth's Registry of Deeds, as well as occasional contributions of state surplus funds. The communities adopting a higher Surcharge receive a higher distribution rate from the state Trust Fund.

### 1.2.3 Projects Eligible for Funding

To be eligible for funding, projects must serve a public good, and fall into at least one of the following four categories:

- The acquisition, creation, and preservation of open space
- The acquisition, preservation, rehabilitation, and restoration of historic resources
- The acquisition, creation, and preservation of land for recreational use
- The acquisition, creation, preservation, and support of community housing

### 1.2.4 Duties of the Committee

The CPC accepts project proposals from the community in the form of a formal application package, and then conducts a thorough review of each proposal. The aim of this review process is to ensure the project meets the requirements of the CPA legislation, guidance from DOR, and to select the most compelling projects which may reasonably be funded through the available budget.

Once the CPC has voted on a slate of projects to recommend, as well as specific dollar amounts, it brings these recommendations to the community's legislative body, Town Meeting, in the form of a warrant article(s).

If funding is awarded by Town Meeting, CPC and the Town Treasurer direct the disbursement of funds to grant recipients in accordance with the approved warrant article(s).

Finally, the CPA requires that the CPC:

- Conduct a yearly public forum to get input from the general public about perceived community needs
- Keep records of all CPC meetings, proposals, and recommendations
- Submit a CPA budget to the legislative body (Town Meeting) annually

## 2.0 APPLYING FOR CPA FUNDS

The CPC encourages those contemplating open space, historical preservation, community housing or recreation projects to seek funding from the Southborough CPA fund.

## 2.1 Preparing the Application Package

Prior to applying, it is strongly advised that the applicant read through this entire document. The application document itself is available at the Southborough CPC [website](#). Applicants are strongly encouraged to fill out the application with a great deal of specificity.

The application package will contain the completed application form and all attachments necessary to supply the information required by the application.

## 2.2 Determining Project Funding Eligibility

The CPA, DOR regulations, and the Anti-Aid Amendment to the Massachusetts Constitution are very strict about which projects are eligible for CPA funding, and every year the CPC reviews projects which may benefit the town or community organizations within the town, but which are not eligible. Applicants should be prepared to explain how their application meets CPA funding requirements.

### 2.2.1 Allowable Project Categories

The chart below summarizes the allowable uses of CPA funds in each of the CPA project categories: open space, historic preservation, recreation, and housing. This chart is critical for determining whether a proposed project is eligible for CPA funding.

|                                   | Open Space  | Historic | Recreation | Housing   |
|-----------------------------------|---|----------|------------|---|
| Acquire                           | Yes   | Yes      | Yes        | Yes   |
| Create                            | Yes   | No       | Yes        | Yes   |
| Preserve                          | Yes   | Yes      | Yes        | Yes   |
| Support                           | No  | No       | No         | Yes   |
| Rehabilitate<br>and/or<br>Restore | No<br>(unless acquired or<br>created with CPA \$\$) | Yes      | Yes        | No<br>(unless acquired or<br>created with CPA \$\$) |

### 2.2.2 Open Space Eligibility

CPA funds may be used for the acquisition, creation, and preservation of open space. The CPA says that 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.”

The CPC may recommend a grant award to acquire, create, or preserve land for reasons including:

- Provide opportunities for passive recreation and environmental education
- Preserve scenic views and/or lands bordering a scenic road
- Provide connections with existing trails or potential trail linkages
- Provide connections to existing open space areas
- Permanently protect important wildlife habitat, including areas that:
  - Are of local significance for biodiversity
  - Contain a variety of habitats, with a diversity of geologic features and types of vegetation
  - Contain any significant habitat type that is in danger of vanishing from Southborough
  - Preserve habitat for threatened or endangered species of plants or animals
- Protect or enhance wildlife corridors, promote connectivity or habitat, or prevent fragmentation of habitats
- Preserve important surface water bodies, including wetlands, vernal pools, or riparian zones
- Protect drinking water quantity and quality
- Preserve Southborough’s rural and agricultural character
- Other reasons allowable under the CPA and supported by the CPC

The CPC may only recommend the award of money to rehabilitate or restore open space if the lands were acquired or created with CPA funds.

### 2.2.3 Historic Preservation Eligibility

CPA funds may be used for the acquisition, preservation, rehabilitation, and restoration of historic resources. Historic resources are “a building, structure, vessel or real property, document or artifact that is listed on the state register of historic places or has been determined by the Historical Commission to be significant in the history, archaeology, architecture or culture of the town.”

The CPC may recommend a grant award for historical preservation projects that:

- Protect, preserve, enhance, restore, and/or rehabilitate historic, cultural, architectural or archaeological resources of significance, especially those that are threatened
- Protect, preserve, enhance, restore and/or rehabilitate town-owned properties, features or resources of historical significance
- Protect, preserve, enhance, restore and/or rehabilitate the historical function of a property or site that is listed on the National Register of Historic Places or the State Register of Historic Places
- Contribute to our understanding of the historical development of our community’s heritage, culture, and character

- Demonstrate the ability to provide permanent protection and maintenance of the historic resource
  - For the preservation of a historic building or structure, a preservation restriction is required
  - For the preservation of a historic landscape, a conservation restriction is required
- Are otherwise eligible under the CPA and supported by CPC

The CPA requires that all historical preservation projects are on property listed on the State Register of Historic Places or are determined to be “significant in the history, archaeology, architecture or culture of the town” by a vote of the Southborough Historical Commission.

#### 2.2.4 Recreation Eligibility

CPA funds may be used for the acquisition, creation, preservation, rehabilitation and restoration of facilities or 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.”

The CPC may recommend a grant award to acquire, create, or preserve land or recreational facilities for the following purposes:

- Parks and playgrounds
- Athletic fields
- Community gardens
- Trails
- Projects that are otherwise eligible under the CPA and supported by CPC

The intention of CPA funds for recreation is specifically to encourage outdoor recreation. Some indoor structures are permitted, but only when they enable or support outdoor recreational opportunities. For example, an indoor lunchroom is not allowed, but a roof over a group of picnic tables, which allows for shade and weather protection for hikers who would like to picnic, may be allowed. Accessible indoor restrooms at a park may be allowed if the Applicant can make a convincing case that such restrooms will allow greater usage of the park.

#### 2.2.5 Community Housing Eligibility

CPA funds may be used for 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 with CPA funds. 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 CPC may recommend a grant award to acquire, create, preserve or support a community housing project for the following reasons:

- To acquire or create property or housing for low- or moderate-income individuals, including low-income seniors
- To preserve moderate or low-income housing. Preservation means to protect from injury, harm, or destruction
- To support a community's Affordable Housing Trust
- To provide grants, loans, rental assistance, security deposits, interest-rate write downs, or other forms of assistance directly to either individuals or to families who are eligible for community housing, or to entities that own, operate, or manage such housing
- Other reasons allowable under the CPA and supported by the CPC

### **2.3 Public vs. Private Projects and the Anti Aid Amendment**

A public project is a project that is being done on behalf of a municipal agency, on a municipally held or managed public asset. Examples include buildings, documents, parks, and playgrounds owned by the Town.

A private project is a project that is being done on behalf of a private, non-governmental organization. This includes non-profit organizations. CPA funds can be used to fund a project on private property, if the project is advancing a public good. Applicants seeking funds for a private project must demonstrate that the project comports with the Massachusetts Anti-Aid Amendment, which reads, in part:

“No grant, appropriation or use of public money or property or loan of credit shall be made or authorized by the Commonwealth or any political subdivision thereof for the purpose of founding, maintaining or aiding any infirmary, hospital, institution, primary or secondary school, or charitable or religious undertaking which is not publicly owned and under the exclusive control, order and supervision of public officers or public agents authorized by the Commonwealth or federal authority or both...”

A three-part test is used to determine compliance with the Anti-Aid Amendment:

1. Is the grant for the purpose of aiding the private institution?

The applicant must demonstrate that the primary purpose of the grant is to aid the Town.

2. Will the grant have the effect of substantially aiding the institution?

If awarded, will the grant have the effect of substantially aiding the institution, or will the primary benefit of the grant accrue to the Town?

3. Does the grant avoid the risks of the political and economic abuses that prompted the passage of the anti-aid amendment?

The 1917 constitutional convention that drafted the amendment was concerned about aid to sectarian institutions and, more generally, with halting the politically divisive and financially wasteful practice of direct aid to private schools and institutions.

The public benefit of a grant to a private institution must be permanent. In the case of the historical preservation of a privately owned vessel, document or artifact, the applicant must show how the public benefit will be preserved in the event of financial hardship or dissolution of the institution. This can be achieved by:

- Demonstrating the long-term financial viability of the institution by providing financial documentation to the CPC
- Entering into an agreement with the CPC that if the institution becomes unable to preserve and maintain the vessel, document or artifact, ownership of the vessel, document or artifact will be transferred to the Town.
- Other means proposed by the CPC and found acceptable by the applicant

In the case of historical preservation of a building a preservation restriction is required.

In the case of historical preservation of a landscape or the acquisition of open space, a conservation restriction is required.

In the case of a community housing project, any land or housing purchased with CPA funds (including purchases by a housing trust using CPA funds) must have a permanent deed restriction placed upon it limiting use of the property to community housing. Additionally, if the property is sold the proceeds must be returned to the CPA fund.

## **2.4 Property Owner Permission**

If the Applicant is not the owner of the property for which they are seeking CPA funds, it is required that they receive permission from the owner(s) of the property/building before applying for a CPC grant to do work there. For instance, if a project is requesting funds to do work on a building or on land owned by the Town, the Applicant must show written permission from the Select Board. If a project is to be done on the grounds of one of Southborough's schools, written permission from the School Committee is required.

Alternatively, if funds are being petitioned for a project done on private property, permission must be given by the owner or board of the organization.

## **2.4 Applicants with Existing Projects**

Applicants with ongoing, previously approved CPA-funded projects who wish to apply for a grant recommendation for a new project will be required to show that existing projects are in good standing with respect to commitments to the CPC, including up-to-date quarterly reporting.

## **2.5 Scope of Work, Schedule, and Budget**

It is the responsibility of the applicant to prepare a detailed scope of work that captures all the tasks that may reasonably be required to successfully complete the project. This work includes project management and administrative tasks necessary for successful completion.



The applicant must prepare a realistic schedule that lists anticipated project start and completion dates as well as major project milestones. When preparing the schedule, applicants should be aware that awarded CPA funds may be spent under the direction of the CPC and Town Treasurer only after the beginning of the new fiscal year (July 1<sup>st</sup>) following the Town Meeting where the award was made.

Applicants must prepare a detailed project budget. Back up must be provided for all cost estimates in the form of written estimates from contractors, vendors, or service providers. In certain situations, for instance when a large project will be put out to bid, written estimates from contractors, vendors or service providers may not be available. In these cases, the CPC may, at its discretion, accept written estimates prepared by professionals with experience in the relevant field, for example architects, engineers, or historical preservationists.

Applicants should consider any administrative expenses required to complete the project (appraisals, environmental assessments, bidding requirements, copying, legal notices, etc.) and explain how they have been accounted for in this budget. This is particularly necessary for construction and land acquisition projects and for all project types administrative expenses can comprise up to 10% of the total budget.

For most projects, the CPC requests that the applicant include a contingency of 10% or 15%, depending on project scope, in the project funding request. This is intended only to cover unforeseen costs, and may be used only with prior permission from the CPC.

## **2.6 Review by Other Town Bodies**

A copy of the completed application package must be submitted for review to the Town body (or bodies) with jurisdiction over the subject matter of the project. The applicant will be expected to present the application to the reviewing body and to seek a vote of support from the project. It is important to note that a vote of “no support” does not prevent the CPC from recommending the award of a grant, nor does a positive vote by the reviewing body to support the project guarantee a grant recommendation. Rather, the CPC is seeking input from the appropriate subject matter experts before making its decision.

### **Project Type**

### **Required Review**

|                         |  |
|-------------------------|--|
| Open Space              | Open Space Preservation Commission                     |
| Historical Preservation | Historical Commission*                                 |
| Recreation              | Recreation Commission                                  |
| Community Housing       | Southborough Housing Opportunity Partnership Committee |

\* The CPA requires that all historical preservation projects be on property listed on the State Register of Historic Places or are determined to be “significant in the history, archaeology, architecture or culture of the town” by a vote of the Southborough Historical Commission.

For projects of more than one type, the application package must be provided to each pertinent commission or committee for review.

## **2.7 Application Schedule**

The submission of a completed CPA application package is the beginning of a process that typically ends at Annual Town Meeting. CPC has a limited window to evaluate applications, meet with applicants, request and approve modifications, draft warrant articles, receive reviews from Town Counsel and the Town Advisory Committee, and finally help applicants prepare effective presentations for Town Meeting.

#### 2.7.1 Filing Window

CPA application packages are accepted by CPC each year from the date of the annual CPC Public Forum (usually held in June) until August 31<sup>st</sup>. After receipt by CPC, the application will be reviewed to ensure that it is complete. Incomplete, provisional, or placeholder applications will not be considered by the CPC.

In extraordinary instances, CPC may elect at its sole discretion to vote to accept an application package outside of this July 1 to August 31 filing window.

#### 2.7.2 CPC Internal Review

After receipt of a completed application package, the CPC will schedule a meeting to perform an internal review of the application. Questions, comments, and requests for additional information from the committee will be forwarded to the applicant so that the application package may be modified by the applicant to address any concerns of the CPC. Failure to provide requested information in a timely manner may result in the application not being considered by the CPC.

#### 2.7.3 Application Presentation

After performing its internal review, the CPC will invite the applicant to a meeting to give a formal presentation of the application. At this meeting, the Committee generally discusses details of budget, schedule, preservation/conservation restrictions, grant agreements, and various project-specific items. It is not uncommon for additional changes to be made to an application package pursuant to questions raised at this meeting, and for the applicant to be invited back to an additional meeting(s).

#### 2.7.4 CPC Recommendation to Town Meeting and Additional Review

Upon resolution of all outstanding questions and concerns, the committee will conduct a vote to recommend (or not recommend) to Town Meeting the award of the grant request described in the application package. If the CPC votes to recommend the grant, the Committee will draft an article for the Town Meeting warrant.

The draft warrant article is submitted by the CPC to the Town Administrator who then forwards it to Town Counsel, the Select Board, and the Advisory Committee. Both the Advisory Committee and the Select Board may ask for the applicant to appear at a meeting to discuss the grant request. A positive recommendation from these two bodies has historically been helpful in building support for Town Meeting to make a grant award; the applicant is strongly encouraged to meet with these bodies if invited.

### 2.8 Grant Funding Award

Town Meeting may vote to fully fund the project, partially fund it, or not fund it at all. Town Meeting may not vote to fund the project more than the amount recommended by the CPC.

Funds are available on July 1st, at the start of the Town's new fiscal year after the Town Meeting vote. Recipients receive notice of the award, and soon after that, a Grant Agreement is signed between the Applicant and the CPC.

### **3.0 POST AWARD**

#### **3.1 Grant Agreement**

After the grant award, but before any disbursement, the CPC will provide a Grant Agreement to the Applicant. The Grant Agreement is the binding contract between the Town and the Applicant. It indicates the amount of Town funds that will be paid to the applicant, and specifies any terms and conditions of funding.

The Applicant, and/or their authorized representatives, must sign the grant agreement and return it to the CPC. The CPC Chair will then sign the Grant Agreement, and a copy will be returned to the applicant.

Per the recommendations of MA DOR, the Grant Agreement will address some or all of the following:

- Name of grantee
- Non-assignability of grant (without advance written approval of municipality)
- Detailed description of any restoration, rehabilitation or other work to be performed by the grantee
- Construction specifications and standards
- Relevant historic rehabilitation standards
- Time periods for performance
- Total project budget and listing of all funding sources required for project completion
- Requirement for commitment of total project funding sources before release of CPA funding
- Designation of who will inspect and approve any required work
- Provision for periodic release of funding payments as work is completed and approved
- Return of grant funds not used to the Community Preservation Fund
- Grantee reporting requirements
- Grantee matching fund requirements
- Timing of execution, delivery and recording of required preservation restriction documents or easements for public access/use including conservation and deed restrictions
- Remedies for any breach or non-performance of grantee, including return of CPA funds
- Designation of responsibility for continued maintenance of assets or improvements funded with CPA funds

#### **3.2 Project Requirements**

##### **3.2.1 Insurance and Indemnification**

For construction projects, CPA funding recipients may be asked to instruct their general liability insurer to add the Town of Southborough as an additional insured entity, as related to this specific CPA funded project, and to require that all contractors on the project do the same. Proof of this coverage must be submitted to the Town prior to the first request for reimbursement.

### 3.2.2 Reporting Requirements

It is the responsibility of the Applicant to report the status of the project back to the CPC quarterly, until the project is considered completed by the CPC. Reporting may be done in writing, by appearing at a CPC meeting, or both.

Additionally, the Southborough Affordable Housing Trust Fund Committee (AHTFC) is required (MGL ch. 44, sec. 55c) to report expenditures of CPA funds to the CPC annually. The CPC requires that this reporting be submitted on or before September 1<sup>st</sup> each year, so that the Committee is able to include information from the AHTFC in its annual CP-3 report to the DOR, which is due on September 15<sup>th</sup> of each year.

### 3.2.3 Fund Disbursement Requests

Periodic fund disbursement requests should be made not more than once monthly unless an alternative schedule has been agreed upon by the CPC. Disbursement requests should be submitted to the CPC Consultant. Before submitting the first invoice, applicants must meet with the CPC consultant to ensure Town funding requirements are met, including:

- Valid insurance policy on file with Town Accountant
- W-9 submitted to Town Accountant
- All vendors pre-approved by Town Accountant and have a vendor number assigned

### 3.2.4 Crediting the CPA

CPA grant recipients are required to acknowledge the Community Preservation Act in press releases, publicity materials, news, and written or oral announcements about work supported by CPA funds. Additionally, the CPC requires signage in the form of a sign or plaque affixed on or adjacent to CPA-funded work.

When a project is being funded by multiple sources, the Applicant must identify which aspects of the project were funded with CPA funds.

### 3.2.5 Changes to Projects

Any significant changes to a project, including to the timeline, shall require prior approval from the CPC. This ensures that the project is still CPA-eligible, and that it still meets the needs and expectations of the Town. All project changes must be within the original scope and budget agreed upon during the application process and approved by Town Meeting.

The non-supplanting clause of the CPA forbids using CPA funds to reimburse expenditures that have already been made. Therefore, no work performed or supplies purchased before the beginning of the new

fiscal year (the July 1<sup>st</sup> after a Town Meeting vote to appropriate CPA funding) are eligible for payment with CPA funds.

### **3.3 Closing Out Projects**

Once a project has been completed, or all of its CPA funds expended, the CPC will begin the process of officially closing the project.

The Closing Process begins once the CPC receives written notice of a project's completion from the Applicant, as outlined in their Grant Agreement. The CPC will then review the Grant Agreement to make sure that all terms and conditions have been met. The Applicant will generate a final summary of the CPA-funded portion of the project, which includes a list of all expenditures. This report should be submitted to the CPC.

Once the work has been certified as complete and the project has been closed, the CPC will work with the Accounting Department to return any unexpended funds to the general Southborough CPA fund account for reallocation at a future Town Meeting to other CPA eligible projects.

## RESOURCES

M.G.L. Ch. 44B [The Community Preservation Act](#)

Southborough Town Code, Section 9, Article IV [Community Preservation Committee](#)

Southborough Assessor's Office CPA tax surcharge [CPA tax surcharge exemption information](#)

Southborough Community Preservation Committee [webpage](#)

Community Preservation Coalition [website](#)

Community Housing Presentation by Shelly Goehring, Senior Program Manager at the Massachusetts Housing Partnership (MHP) [video](#) begins at 40:17

Massachusetts Department of Revenue Community Preservation guidance [document](#)

Affordable Housing Trust Fund CPA Reporting [Form](#)