

DECLARATION OF TRUST
TOWN OF WAKEFIELD

AFFORDABLE HOUSING TRUST

Pursuant to the vote under Article 14 of the 2023 Annual Town Meeting of the Town of Wakefield (the “Town”), the Town hereby establishes the Town of Wakefield Affordable Housing Trust for the benefit of all the inhabitants of the Town in the manner and under the terms and conditions set forth herein.

ARTICLE FIRST: Name of the Trust

The trust shall be called the “Town of Wakefield Affordable Housing Trust Fund”, hereinafter referred to as “the Trust”.

ARTICLE SECOND: Purpose

The purpose of the Trust shall be to provide for the creation and preservation of affordable housing in the Town for the benefit of low- and moderate-income households and for the funding of community housing.

ARTICLE THIRD: Trustees and Tenure

There shall be a Board of Trustees, hereinafter referred to as “the Board”, consisting of nine (9) Trustees who shall be appointed by the Town Council, consisting of the following: one (1) member of the Town Council; one (1) member of the Housing Authority; one (1) member of the Planning Board; one (1) member of the Finance Committee; 1 (one) member of the Council on Aging; one (1) member of the Commission on Disabilities; and three other members, each of whom, to the extent possible, shall have a background or interest in affordable housing, finance, law (including land use and zoning law), real estate, and/or real estate development. The Town Council shall appoint the Trustees for a term of two years, except that three of the initial trustee appointments shall be for a term of one year, provided that said Trustees may be re-appointed at the discretion of the Town Council. Any member of the Board of Trustees who at the time of his or her appointment as such was a member of another public body which is required to be represented on the Board of Trustees (i.e., the Town Council, Planning Board, Council on Aging, Housing Authority, Finance Committee or Commission on Disabilities) shall be deemed to have vacated his or her position on the Board of Trustees upon ceasing to serve as a member of such other public body. Vacancies shall be filled by the Town Council for the remainder of the unexpired term. The Trustees shall designate a chair, vice chair, treasurer, and clerk. Only persons who are residents of the Town shall be eligible to be a Trustee. Trustees shall serve for a term of two years, except that three of the initial trustee appointments shall be for a term of one year and may be reappointed at the discretion of the Town Council. Trustees may be re-appointed by the Town Council for succeeding terms, and there is no limit on the number of terms which a Trustee can serve. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Town Council to fill such vacancy provided that, in each case, the said appointment and acceptance shall be in writing and filed with the Town Clerk. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder. Trustees may be removed at any time for cause by a majority vote of the Town Council upon compliance with the applicable provisions of the Open Meeting Law. Cause shall include, but not be limited to, violation of any local, state or federal law; non-participation in business of the Trust; incapacity to perform the

duties of a Trustee; and acts of the Trustee that, in the opinion of the Town Council, are grossly negligent or detrimental to the Town or the Trust.

ARTICLE FOURTH: Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place within Wakefield as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, G.L. c. 30A, §§ 18 through 25. A quorum at any meeting shall be a majority of the Trustees of a fully constituted Board of Trustees. Minutes of all meetings shall be recorded and filed with the Town Clerk in accordance with the provisions of the said G.L. c. 30A, §§ 18 through 25.

ARTICLE FIFTH: Powers of Trustees

The Powers of the Trustees, all of which shall be carried on in furtherance of the purposes set forth in Massachusetts G.L. c. 44, § 55C, shall be the following, except that any exercise of the powers described in subsections (1), (2), (3), (4), (11) and (14 – with respect only to abandonment of real property), below, shall require a two-third (2/3) vote of the Board of Trustees and prior approval of the Town Council:

- (1) to accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property tendered to the Trust in connection with the provisions of G.L. c. 44B (if adopted by the Town of Wakefield), any zoning ordinance or by-law or any other statute, by-law or regulation provided, however, that any such money received from the said c. 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the Trust shall ensure that all expenditures of funds received from the said c. 44B are reported to the Wakefield Community Preservation Committee for inclusion in the community preservation initiatives report, form CP-3, to the department of revenue;
- (2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise and to make such contracts and enter into such undertakings relative to trust property as the Board deems advisable notwithstanding the length of any such lease or contract;
- (4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incidental to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
- (5) To employ advisors and agents, such as accountants, appraisers and lawyers, as the Board deems necessary;
- (6) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;

(7) to apportion receipts and charges between income and principal as the Board deems advisable; to amortize premiums and establish sinking funds for such purpose and to create reserves for depreciation, depletion or otherwise;

(8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest and to consent to any contract, lease, mortgage, purchase or sale or property, by or between any corporation and any other corporation or person;

(9) to deposit any security with any protective reorganization committee and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;

(10) to carry property for accounting purposes other than acquisition date values;

(11) to borrow money on such terms and conditions and from such sources as the Trustees deem advisable, to mortgage and pledge Trust assets as collateral, provided any debt issued by the Trust shall not be deemed to constitute a debt or liability of the Town or a pledge of the faith and credit of the Town, but shall be payable solely from the revenues, funds and/or assets of the Trust. Any debt instrument executed by the Trust shall contain on the face thereof a statement to the effect that the Town is not obligated to pay the same or the interest thereof, and that the Trust is obligated to repay such debt solely from revenues, funds and/or assets of the Trust, and that neither the faith and credit nor the taxing power of the Town is pledged to the payment of the principal of or the interest on such debt. The issuance of debt by the Trust shall not directly or indirectly or contingently obligate the Town to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment;

(12) to make distributions or divisions of principal in kind;

(13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor of or against the Trust, including claims for taxes and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation and subject to the provisions of G.L. c. 44, § 55C, to continue to hold the same for such period of time as the Board may deem appropriate;

(14) to manage or improve real property and to abandon any property which the Board determined not to be worth retaining;

(15) to hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate;

(16) to extend the time for payment of any obligation to the Trust;

(17) to implement or facilitate recommendations of various planning studies related to affordable housing, as may be applicable to the Town;

(18) to seek funding resources for affordable housing and promote public and private efforts to increase and improve the affordable housing stock in Wakefield;

(19) to provide grants or loans to assist low- or moderate-income homebuyers to purchase or homeowners to rehabilitate a dwelling unit in Wakefield;

(20) to make recommendations on proposals to Town Meeting, subject to approval by the Town Council, when such proposals create or support affordable housing for low- and moderate-income households; and

(21) notwithstanding any provision hereof to the contrary, the Chair of the Board of Trustees is hereby authorized to execute and deliver discharges and releases of mortgages held by the Trust without a specific authorizing vote of the Board provided that sufficient proof has been made to him or her that all underlying obligations have been paid in full without any amount remaining owed to the Trust, and any person may rely upon the Chair's notarized signature on such a discharge or release.

ARTICLE SIXTH: Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, monies paid to the Trust in accordance with any Town zoning by-law, exaction fee, or private contribution need not be appropriated by Town Meeting in order to become Trust property. General revenues appropriated by the Town Meeting for payment into the Trust become Trust property and these funds need not be further appropriated to be expended. All monies remaining in the Trust at the end of any fiscal year, whether or not expended by the Board within one year of the date they were appropriated into the Trust, together with any interest thereon, shall remain Trust property.

ARTICLE SEVENTH: Acts of Trustees

A majority of a fully constituted Board of Trustees may exercise any or all of the powers of the Trustees hereunder, unless otherwise provided, and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. The Trustees may, by instrument executed by all the Trustees, delegate to any attorney, agent or employee such other powers and duties as they deem advisable, including power to execute, acknowledge or deliver instruments as fully as the Trustees might themselves and to sign and endorse checks for the account of the Trustees of the Trust. The Trustees shall not delegate the authority to amend or terminate the Trust and no such delegation shall be effective. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust estate.

ARTICLE EIGHTH: Liability

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein. The Trust is a public employer and the Trustees are public employees for the purposes of G.L. c. 258.

ARTICLE NINTH: Taxes

The Trust is exempt from G.L. c. 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.

ARTICLE TENTH: Treasurer as Custodian

The Town Treasurer shall be the custodian of the funds of the Trust and shall maintain separate accounts and records for said funds. The Treasurer shall invest the funds in the manner authorized by G.L. c. 44, § 55, § 55A, and § 55B. Any income or proceeds received from the investment funds shall be credited to and become part of the Trust fund.

Expenditures by the Board of Trustees shall be controlled by the provisions of G.L. c. 44, § 55C. The yearly approved budget, and any approved budget revisions will be recorded by the Treasurer. As custodian, the Treasurer shall issue checks as directed by the Board. In accordance with G.L. c. 44, § 55C, the books and records of the Trust fund shall be audited annually by an independent auditor in accordance with accepted accounting practices.

ARTICLE ELEVENTH: Governmental Body

The Trust is a governmental body for purposes of G.L. c. 30A, §§ 18 through 25.

ARTICLE TWELFTH: Board of the Town

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

ARTICLE THIRTEENTH: Duration of the Trust

The Trust shall be of indefinite duration until terminated by a vote of the Wakefield Town Meeting. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Town Council for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Town Council, sell all or any portion of the Trust property, subject to any restrictions thereto, and distribute the net proceeds thereof to the Town. The powers of the Trustees shall continue until the affairs of the Trust are concluded. Once the Town Meeting has voted to terminate the Trust, all financial transactions made on behalf of the Trust shall be approved by the Town Council.

ARTICLE FOURTEENTH: Registry of Deeds

The Town Council may authorize the Trustees to execute, deliver and record with the Registry of Deeds any documents required for any conveyance authorized hereunder.

ARTICLE FIFTEENTH: Titles

The titles to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language or any such Article.

ARTICLE SIXTEENTH: Compensation of Trustees

Trustees shall not receive a salary, stipend, bonus, or other means of compensation for their service as a Trustee. Trustees may be compensated for reasonable out-of-pocket expenses for travel and other Trust-related expenses. All such out-of-pocket expenses shall be fully documented with receipts for expenses prior to payment by the Trust.

ARTICLE SEVENTEENTH: Amendments

This Declaration of Trust may be amended from time to time except as to those provisions specifically required under G.L. c. 44, § 55C and the By-laws of the Town, by an instrument in writing signed by all of the Trustees and approved at a meeting called for that purpose, with the prior approval of the Town Council, provided that in each case, a certificate of amendment has been recorded with the Registry of Deeds and filed with the Land Registration Office.

ARTICLE EIGHTEENTH: Conflicts of Interest

The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of G.L. c. 268A.

ARTICLE NINETEENTH: Annual Report

The Trustees shall prepare an annual report describing the activities of the Trust on a fiscal year basis beginning on July 1 and ending on June 30. The annual report shall be submitted to the Wakefield Town Council by August 1 of each year. The annual report shall list all financial transactions conducted by the Trust including all revenues and costs, provide a balance sheet of liabilities and assets to the Trust, list an inventory of all affordable housing units created, sold, and or managed by the Trust, and any other pertinent information related to the business of the Trust. An electronic copy of the annual report shall be submitted to the Town Council together with so many hard copies as the Town Council may request.

THE TOWN COUNCIL, for themselves and their successors, hereby acknowledge and agree to the terms of the Trust, and the Trustees named hereunder, hereby acknowledge and agree for themselves and their successors to hold the Trust property for the purposes hereof in Trust for the benefit of all of the inhabitants of the Town of Wakefield, Massachusetts, in the manner and under the terms and conditions set forth herein.

Jonathan P. Chines
Jonathan P. Chines

Michael J. McLane
Michael J. McLane

Mehreen N. Butt
Mehreen N. Butt

Anne P. Danehy
Anne P. Danehy

Edward F. Dombroski, Jr.
Edward F. Dombroski, Jr.

Julie Smith-Galvin
Julie Smith-Galvin

Robert E. Vincent II
Robert E. Vincent II

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex:

On this 14th day of August, 2023, before me, the undersigned notary public, personally appeared the members of the Town of Wakefield Town Council and proved to me through satisfactory evidence of identification, which was personal knowledge, to be the persons whose names are signed on the preceding document, and acknowledged to me that they signed it voluntarily as members of the Town Council for the Town of Wakefield for its stated purpose.

Sherri A. Dalton
(Official signature and seal of notary)
Print Name: Sherri A. Dalton
My Commission Expires: May 18, 2029

The Town Council, pursuant to G.L. c. 44 §55C (b), do hereby certify that we have this day duly appointed the following individuals as Trustees of the Town of Wakefield Affordable Housing Trust, and do so with all the powers and subject to all the restrictions upon the Trustees, with all of the powers, rights and interests regarding the Trust property and subject to the restrictions and duties of a Trustee of the Trust, except as the same shall have been heretofore modified by amendment. We hereby appoint:

- | | |
|----|----|
| 1. | 6. |
| 2. | 7. |
| 3. | 8. |
| 4. | 9. |
| 5. | |

as original Trustees of the Town of Wakefield Affordable Housing Trust.

Executed as a sealed instrument this ____ day of _____, 2023

_____	_____
_____	_____
_____	_____

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex:

On this ____ day of _____, 2023, before me, the undersigned notary public, personally appeared the members of the Town of Wakefield Town Council and proved to me through satisfactory evidence of identification, which was personal knowledge, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily as members of the Town Council of the Town of Wakefield for its stated purpose.

 (Official signature and seal of notary)
 Print Name:
 My Commission Expires:

Acceptance of Appointment:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex:

On this ___ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, _____, _____, _____, _____, _____, _____, _____, _____, _____, and proved to me through satisfactory evidence of identification, which was personal knowledge, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily as the Board of Trustees of the Town of Wakefield Affordable Housing Trust for its stated purpose.

 (Official signature and seal of notary)
 Print Name:
 My Commission Expires: