

TOWN OF



HARWICH

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**TOWN OF HARWICH
SPECIAL TOWN MEETING
DECEMBER 13, 2004**

ATTORNEY GENERAL

ADOPT COMMUNITY PRESERVATION COMMITTEE BY-LAW

ARTICLE 2. To see if the Town will vote to adopt a Community Preservation Committee By-law, as follows; and to act fully thereon. By request of the Board of Selectmen.

Community Preservation Committee By-law

Section 1. Establishment – In order to comply with the provisions of the Massachusetts General Laws Chapter 44B Community Preservation, The Town of Harwich does establish a Community Preservation Committee.

Section 2. Purpose – The committee is charged with the responsibility to study the community preservation needs of the Town, consulting with related Town bodies and organizations, and holding public hearings duly posted and published. The committee will issue a report stating its findings and making recommendations to the Board of Selectmen and Town Meeting on projects to be funded by resources in the Community Preservation Fund.

Section 3. Composition and Appointment of Committee – The Community Preservation Committee shall consist of nine (9) members appointed by the Board of Selectmen. The Conservation Commission, the Planning Board, the Historical Commission, the Housing Authority, the Youth and Recreation Commission, the Real Estate and Open Space Committee and the Housing Committee shall each nominate one of their members to serve on the committee. Two members shall be appointed from the general public.

Section 4. Terms of Service – Appointments to the committee shall be for three year terms and shall be staggered so each year three positions become available. For those members nominated by one of the committees listed in Section 3, continued membership on the Community Preservation Committee is contingent on continued membership on the nominating committee.

Section 5. Effective Date – This by-law shall become effective at the beginning of the fiscal year following the adoption of the provisions of Section 298 of Chapter 149 of the Acts of 2004 at a regular or special Harwich Town Meeting and further approved in an adoption referendum placed before the voters of the Town at a regular municipal or state election. The responsibilities of the Real Estate and Open Space Committee relative to the Cape Cod Land Bank Act having been fulfilled shall transfer to the Community Preservation Committee at this time.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

There was no positive motion from the Finance Committee.

MOTION: (Donald F. Howell, Chairman-Board of Selectmen) I move that this article be accepted and adopted with the following change: That the By-Law appearing in the Warrant be replaced in its entirety with the language contained in the amended By-Law supplied with this Warrant this evening as corrected.

Duly seconded

PROPOSED AMENDMENT TO ARTICLE 2 COMMUNITY PRESERVATION COMMITTEE BYLAW

Section 1: Establishment

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44B. The composition of the committee, the designating authority and the term of office for the committee members shall be as follows:

- One member of the Conservation Commission as designated by the Commission for a term of three years.
- One member of the Historical Commission as designated by the Commission for a term of three years.
- One member of the Planning Board as designated by the Board for a term of three years.
- One member of the Youth and Recreation Commission as designated by the Commission for an initial term of one year and thereafter for a term of three years.
- One member of the Housing Authority as designated by the Authority for an initial term of two years and thereafter for a term of three years.
- One member of the Real Estate and Open Space Committee as designated by the Committee for an initial term of one year and thereafter for a term of three years,
- One member of the Housing Committee as designated by the Committee for an initial term of two years and thereafter for a term of three years.
- Two members to be appointed by the Board of Selectmen, one member to be appointed for a term of one year and thereafter for a term of three years and one member to be appointed for a term of two years and thereafter for a term of three years.

After the above named commissions, boards, and committees have designated their members, the Board of Selectmen shall confirm their appointment as members of the Community Preservation

Committee. Membership on the Community Preservation Committee of those members designated by any of the above named town agencies is contingent on the members continued service on the designating body.

Should any of the Commissions, Boards, or Committees who have designating authority under this Section be no longer in existence for what ever reason, the designating authority for that Commission, Board, or Committee shall become the responsibility of the Board of Selectmen.

Section 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 existing municipal boards, including the conservation commission, the historical commission, the planning board, the youth and recreation commission, the real estate and open space committee 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 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 town.
2. The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space; for the acquisition, preservation, rehabilitation and restoration 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 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 recommendation 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 revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending for general purposes that are consistent with community preservation. The Community Preservation Committee may recommend the issuance of general obligation bonds or notes in anticipation of revenues to be raised pursuant to Section 3 of the Act, 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. The Town shall make every effort to limit the administrative costs of issuing such bonds by cooperating with other cities and towns using methods including, but not limited to, common issuance of bonds or

common retention of bond counsel. Except as otherwise provided in this Section, bonds or notes issued pursuant to this section shall be subject to the applicable provisions of MGL Chapter 44B. The maturities of each issue of bonds or notes issued under this section 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.

As provided in the Massachusetts Community Preservation Act, no expenditures shall be made from the Community Preservation Fund without the approval of Town Meeting.

The Community Preservation Committee may submit an annual administrative and operating budget for the Community Preservation Committee, which cannot exceed five percent (5%) of the annual revenues in the Community Preservation Fund, to Town Meeting for approval.

Section 3: Requirement 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. Recommendations to the Town Meeting shall include their anticipated costs.

Section 4: Amendments

This Section may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL, Chapter 44B.

Section 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.

Section 6: Effective Date

This by-law shall take effect upon approval by the Attorney General of the Commonwealth, after all requirements of G.L. c.40, S. 32 have been met, and after the modified Community Preservation Act has been approved at our regular Town Election. Each designating authority shall have thirty days after approval of the modified Community Preservation Act to make their initial designations.

ACTION: It is a vote.

A true copy: Attest:

Anita M. Doucett
Town Clerk