



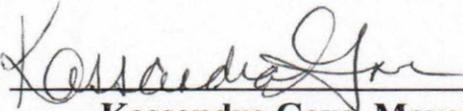
CITY OF AMESBURY
IN THE YEAR TWO THOUSAND TWENTY ONE

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AMESBURY CITY CLERK

SPONSORED BY:



Kassandra Gove, Mayor

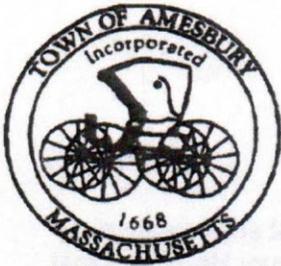
BILL No. 2021-003

An Order to extend the duration of the Amesbury Housing Trust.

Summary: In 2012 the City of Amesbury accepted MGL Chapter 44, Section 55C in order to establish a municipal affordable housing trust as the Amesbury Housing Trust. This order (2012-046) included a ten (10) year sunset clause terminating the trust on December 31, 2022. However, the Housing Trust was never appointed. Mayor Gove is appointing Trust members, subject to Council approval, in January 2021. She is seeking extension of this order for an additional ten (10) years.

Be it Ordered by the City Council of the City of Amesbury assembled, and by the authority of the same, as follows:

That, in accordance with the provisions of City Council Bill No. 2012-046, as approved on October 9, 2012, the duration of the Amesbury Housing Trust shall be extended to and terminate on December 31, 2032, unless its duration is further extended by majority vote of the City Council and approval of the Mayor.



The City of Amesbury

IN THE YEAR TWO THOUSAND AND TWELVE

**SPONSORED BY: Councilor Robert W. Lavoie, District 4 Councilor BILL: 2012 - 046
Councilor Joseph McMilleon, District 5 Councilor**

At the meeting of the Amesbury City Council held on October 9, 2012, in the City Hall Auditorium the following action was taken:

An Order to accept Massachusetts General Law Chapter 44, Section 55C, establishing a municipal affordable housing trust fund and establish the Amesbury Housing Trust

Summary: the purpose of this Bill is to accept Massachusetts General Law Chapter 44, Section 55C, establishing a municipal affordable housing trust fund and to establish the Amesbury Housing Trust by adopting the format of The Amesbury Housing Trust attached hereto. In January 2005, the state legislature passed legislation allowing the creation of municipal housing trusts, which are a vehicle for cities and towns to better plan for, fund and develop affordable housing to benefit low and moderate income households. This new mechanism addresses the statewide issue of housing production, but more importantly, gives cities and towns greater control and flexibility in creating housing that is right for each community.

The Trust will focus solely on affordable housing development and preservation. It will not be a policy maker, but will implement the recommendations of the Mayor and the City Council. Ideas will continue to be generated by the Amesbury Housing Authority, the Planning Board and other housing advocacy groups.

Creation of the Amesbury Housing Trust will give greater local control over the development of affordable housing in Amesbury and is a pro-active step in progress toward the goals of creating diverse housing for people of all income levels.

Be it Ordered by the Municipal Council assembled, and by the authority of the same as follows:

The city of Amesbury hereby accepts Massachusetts General Law Chapter 44, Section 55C, establishing a municipal affordable housing trust fund and request that the Mayor develop a declaration of trust along customary lines adopted by other cities and towns who have accepted Massachusetts General Law Chapter 44, Section 55C so that said declaration of trust would establish the Amesbury Housing Trust. Said Declaration of Trust shall be submitted to the Amesbury City Council for its review and approval.



Provided, however, that the Trustees of the proposed Amesbury Housing Trust shall receive no salary and shall remain uncompensated for their services, and that the Amesbury Housing Trust contain a ten-year sunset clause terminating the trust on December 31, 2022 unless the duration of the Amesbury Housing Trust is extended by a majority vote of the City Council And Mayoral approval in accordance with M.G.L. Chapter 4, s 4B) all as set forth on the attached revision to the Amesbury Housing Trust.

Councilor Lavoie moved to accept Massachusetts General Law Chapter 44, Section 55C, establishing a municipal affordable housing trust fund and establish the Amesbury Housing Trust as amended. Councilor Gilday seconded. Roll Call - Voted Unanimous (9-Yes)

Witness my hand and seal for the City of Amesbury this 10th day of October, 2012

Bonijo Kitchin
City Clerk

Thatcher W. Kezer III
Thatcher W. Kezer III, Mayor

Oct 11, 2012
Date



AMESBURY HOUSING TRUST

THIS DECLARATION OF TRUST is executed as of the _____ day of _____, 2012 by _____, member of the City Council; _____ of the Planning Board; and _____, hereinafter called the Temporary Trustees, who shall serve in such capacity pursuant to the provisions of M.G.L. Chapter 44, s 55C until the permanent Trustees are appointed pursuant to Article IV hereunder.

WHEREAS, The City Council of Amesbury, with Mayoral approval, has authorized the establishment of a Housing Trust pursuant to the provisions of M.G.L. Chapter 44, s 55C; and

WHEREAS, It is the intention of the Trustees, to establish a comprehensive trust in accordance with the provisions of M.G.L. Chapter 44, s 55C authorizing the establishment of thereof; and

WHEREAS, All monies received by the Trust shall be considered available for the purposes of accomplishing the mission of providing for the preservation and creation of affordable housing in the City of Amesbury for the benefit of low and moderate income households.

THEREFORE, in consideration of the agreements contained in this Trust, and the requirements of M.G.L. Chapter 44, s 55C, the Trustees hereby acknowledge and agree for themselves and their successors in trust to hold the same, together with such other property and funds as may be added thereto, for the purposes hereof in trust for the benefit of the City of Amesbury, in the manner and under the terms and conditions set forth herein.

ARTICLE I TRUSTEES

The regular Trustees shall be appointed in accordance with Article IV hereof to replace the Temporary Trustees established and appointed in the first paragraph of this document.

ARTICLE II PURPOSE OF TRUST

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the City of Amesbury for the benefit of low and moderate income households.

ARTICLE III POWERS OF TRUSTEES

The Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of M.G.L. Chapter 44, s 55C (Municipal Affordable Housing Trust Fund) as outlined below except that it shall have no ability to borrow money, or mortgage or pledge Trust assets, purchase, sell, lease, exchange, transfer or convey any interest in real property without prior approval of the Amesbury City Council with Mayoral approval:

- 1) to accept and receive real property, personal property or money, by gift, grant, contributions, devise, or transfer from any person, firm, corporation or other public entity or organization or tendered to the Trust in connection with provisions of any ordinance or by-law or any General Law or Special Act of the Commonwealth or any other source including money from M.G.L Chapter 44B (Community Preservation);



- 2) with City Council And Mayoral approval of a Trustee recommendation, 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 undertaking relative to Trust property as the Trustees deem advisable notwithstanding the length of any such lease or contract;
- 3) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Trustees engage for the accomplishment of the purposes of the Trust;
- 4) with City Council And Mayoral approval of a Trustee recommendation, 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 to the extent of the Trust's assets; and subject to 2/3 vote at any Regular or Special City Council meeting with Mayoral approval, to do the same for greater than the extent of the Trust's assets.
- 5) to construct, manage or improve real property; and to abandon any property which the Trustees determine not to be worth retaining;
- 6) with City Council And Mayoral approval of a Trustee recommendation, to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- 7) to hold all or part of the Trust property uninvested for such purposes and for such time as the Trustees may deem appropriate; and
- 8) to become the lottery and monitoring agent for affordable housing and accept compensation for those services into the Fund,
- 9) to monitor the expiring use of any affordable housing in Amesbury;
- 10) to compensate City employees for services provided as authorized by the Mayor, including but not limited to dedicated staff to Trustees, engineering support for project specific activities, and other city services, as requested by the Trustees to the Mayor;
- 11) to employ advisors and agents, including but not limited to accountants, appraisers and lawyers as the Trustees deem necessary;
- 12) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
- 13) to participate or join or form a partnership, corporation or any other legally organized entity to accomplish the purposes of this Trust and 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 of property, by or between any corporation, and any other corporation, person or entity,

- 14) to apportion receipts and charges between incomes and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- 15) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Trustees may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Trustees may deem necessary and appropriate;
- 16) to carry property for accounting purposes other than acquisition date values;
- 17) to make distributions or divisions of principal in kind;
- 18) to extend the time for payment of any obligation to the Trust,
- 19) to establish criteria and/or qualifications for recipients and expenditures in accordance with Trust's stated purposes;
- 20) to compromise, defend, enforce, release, settle or otherwise adjust claims in favor 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 this act, to continue to hold the same for such period of time as the Trustees may deem appropriate;

Notwithstanding anything to the contrary herein, City Council and Mayoral approval shall be required for any of the following actions:

- a) to purchase real or personal property;
- a) to sell, lease, exchange, transfer or convey any personal, mixed, or real property; and
- b) to borrow money, or to mortgage or pledge Trust assets as collateral to the extent of the Trust's assets.

Notwithstanding anything to the contrary herein, the Trustees may not borrow, mortgage or pledge greater than the current Trust assets unless approved by a 2/3 vote at any Regular or Special Amesbury City Council Meeting with Mayoral approval.

The Trustees shall have full power and authority, at any time and from time to time and without the necessity of applying to any court for leave to do so, to expend the 100% of the Trust funds, both principal and interest, to the extent that all funds hereunder may be expended if the Trustees deem such expenditure appropriate. All expenditures shall be made in conformance with the terms of this Trust and M.G.L. Chapter 44, s 55C.

ARTICLE IV APPOINTMENT AND TENURE OF TRUSTEES

There shall be a Board of Trustees consisting of not less than five and not more than nine Trustees appointed by the Mayor with City Council approval. At least one of the Trustees shall be a member of the City Council, who shall serve as the representative of the City Council.



Notwithstanding anything to the contrary herein, and even if Massachusetts law would otherwise allow for the Trustees to be compensated, the Trustees of this Trust shall receive no salary and shall remain uncompensated for their services, in keeping with the volunteer nature of the service to Amesbury rendered by many of the other boards and commissions appointed to serve the city of Amesbury. However, if authorized by rule or regulation lawfully adopted by the Trustees, Trustees may receive reimbursement of their reasonable and lawful expenses.

The Trustees shall be appointed for a two (2) year term, such term to end on April 30 of the expiration year or until such time as a successor is appointed, should said appointment be delayed. Two of the initial Trustee appointments shall be for a term of one (1) year, and may be re-appointed at the discretion of the Mayor with City Council approval. Trustees may be appointed for no more than five (5) consecutive terms.

In the event of a vacancy in the position of Trustee, the appointment shall be made in the same manner as the original appointment.

All Trustees must be current residents of Amesbury upon initial appointment. Any Trustee who ceases to be a resident of the City of Amesbury shall promptly provide a written notification of the change in residence to the Trust and to the City Clerk. Said Trustee may continue to serve with the approval of the remaining Trustees, and may be reappointed by the Mayor with City Council approval.

Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the City 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 Mayor with City Council approval to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the City Clerk. No such appointment shall be required so long as there are five (5) Trustees in office. 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.

ARTICLE V MEETINGS OF THE TRUSTEES

The Trust shall meet at least quarterly at such time and such place as the Trustees shall determine. Special meetings may be called by the Chairperson or by any two (2) Trustees. Notice of any meeting of the Trust shall be filed with the City Clerk and posted in accordance with the Open Meeting Law, M.G.L. Chapter 39, s 23A, 23B and 23C.

A quorum of the Board of Trustees shall be the majority of the number of authorized Trustees.

The Trustees shall Regularly elect one (1) Trustee who shall not be a member of the City Council to serve as Chairperson. The Chairperson may establish sub-committees and/or ad hoc task related committees to carry out the purposes of the Trust. Chairpersons of the sub-committees may be selected by the members of the sub-committees.

If any Trustee is absent from five (5) consecutive regularly scheduled meetings of the Trust, except in the case of illness, his position shall be deemed vacant and shall be filled with a new appointment as set forth above.



ARTICLE VI ACTS OF TRUSTEES

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. 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 VII TREASURER/COLLECTOR AS CUSTODIAN

The City of Amesbury Treasurer/Collector shall be the custodian of the Trust's funds and shall maintain separate accounts and records for said funds.

He or she shall invest the funds in the manner authorized by M.G.L Chapter 44, s 55 (Public Funds on Deposit; Limitations; Investments,) s 55A, (Liability of Depositor for Losses Due to Bankruptcy), s 55B (Investment of Public Funds).

Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust.

Expenditures by the Trust shall be processed through the warrant but shall be controlled by the provisions of M.G.L. Chapter 44, s.55C. The yearly approved budget, and any approved budget revisions will be recorded by the City Treasurer/Collector.

As custodian, the Treasurer/Collector shall issue checks as directed by the Trustees.

In accordance with M.G.L. Chapter 44, s.55C (Municipal Affordable Housing Trust Fund), the books and records of the Trust shall be audited Regularly by an independent auditor in accordance with accepted accounting practices. The Trust shall be audited as part of the City audit.



ARTICLE VIII DURATION OF THE TRUST

This Trust shall continue so long as authorized under the Laws of the Commonwealth of Massachusetts; provided, however, that unless extended by a majority vote of the City Council and Mayoral approval in accordance with M.G.L. Chapter 4, s 4B, this Trust shall terminate on December 31, 2022. Notwithstanding the foregoing, the Trust may be terminated by a majority vote of the City Council And Mayoral approval in accordance with M.G.L. Chapter 4, s 4B, provided that an instrument of termination together with a certified copy of the City Council And Mayoral approval vote are duly recorded with the Essex South District Registry of Deeds and the Land Court. 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 City and held by the City for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the City Council and Mayoral approval, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

ARTICLE IX CONSTRUCTION OF TERMS

In the construction hereof, whether or not so expressed, words used in the singular or in the plural respectively include both the plural and singular, words denoting males include females and words denoting persons include individuals, firms, associations, companies, trusts and corporations unless a contrary intention is to be inferred from or required by the subject matter or context. All the powers and provisions of the Trust herein contained shall take effect and be construed according to the laws of the Commonwealth of Massachusetts.

Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

ARTICLE X RECORDING

This Declaration of Trust shall be recorded with the Essex South District Registry of Deeds and the Land Court.

ARTICLE XI AMENDMENTS

The Declaration of Trust may be amended from time to time except as to those provisions specifically required under M.G.L. Chapter 44, s 5C, by an instrument in writing signed by all of the Trustees and approved at a meeting called for that purpose, and approved by the City Council And the Mayor provided that in each case, a certificate of amendment has been recorded with the Middlesex South District Registry of Deeds and the Land Court.

ARTICLE XII RECORD TO BE CONCLUSIVE, CERTIFICATE AS TO FACTS

Every contract, deed, mortgage, lease and other instrument executed by a majority of the Trustees as appears from instruments or certificates recorded with the Registry of Deeds and Land Registration Office to be Trustees hereunder shall be conclusive evidence in favor of any person relying thereon or claiming there under, that at the time of the delivery thereof this Trust was in full force and effect and that the execution and delivery of such instrument was duly authorized by the Trustees except that instruments of amendment pursuant to Article XI and an



instrument of termination pursuant to Article VIII hereof shall be conclusive only if it appears that the delegations, amendments or termination have been executed by all of the Trustees. Any person dealing with the Trust property or the Trustees may always rely on a certificate signed by any person appearing from instruments or certificates so recorded to be Trustee hereunder as to the identity of the then current Trustees or as to the existence or non-existence of any fact or facts which constitute conditions precedent to acts by the Trustees or in any other manner germane to the affairs of the Trust.

ARTICLE XIII 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 of any such article.

IN WITNESS WHEREOF the said Trustees have hereunto set their hands and seals on the day and year first hereinabove set forth.



COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS. _____, 2012

On this _____ day of _____, 2012, before me, the undersigned notary public, personally appeared the above-named _____, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

_____, Notary Public

My commission expires _____