

HOUSE No. 4059

The Commonwealth of Massachusetts

PRESENTED BY:

Sarah K. Peake

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a housing trust fund in the town of Chatham.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-----------------------|-------------------------|------------------|
| <i>Sarah K. Peake</i> | <i>4th Barnstable</i> | <i>7/28/2021</i> |
| <i>Julian Cyr</i> | <i>Cape and Islands</i> | <i>7/28/2021</i> |

HOUSE No. 4059

By Ms. Peake of Provincetown, a petition (accompanied by bill, House, No. 4059) of Sarah K. Peake and Julian Cyr (by vote of the town) that the town of Chatham be authorized to establish a housing trust fund in said town. Housing. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act establishing a housing trust fund in the town of Chatham.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. There shall be a municipal trust to be known as the Chatham Housing Trust.
2 The purpose of the trust is to provide for the creation and preservation of both affordable and
3 attainable housing in Chatham for the benefit of year-round residents of the town. For purposes
4 of this act, “affordable housing” is defined as housing developments that meet the needs of
5 households with incomes up to 100 per cent area median household income as most recently
6 determined by the United States Department of Housing and Urban Development, adjusted for
7 household size and “attainable housing” is defined as housing developments that meet the needs
8 of households with incomes up to 200 per cent of the area median household income as most
9 recently determined by the United State Department of Housing and Urban Development,
10 adjusted for household size.

11 SECTION 2. (a) The trust shall be managed by a 7-member board of trustees appointed
12 by the select board which board of trustees, upon appointment, shall take the place of, and

13 assume the statutory powers and duties of, the Chatham Affordable Housing Trust board of
14 trustees created and appointed pursuant to the provisions of Section 55C of Chapter 44 of the
15 General Laws. In selecting members of the board of trustees, the select board shall:

16 (i) designate 2 of its members to serve on the board of trustees;

17 (ii) appoint 1 member of the Chatham Community Housing Partnership to serve on the
18 board of trustees; and

19 (iii) appoint the remaining 4 members to the board of trustees from the community at
20 large, considering a broad range of expertise, including education and experience in real estate
21 development and financing.

22 (b) Members of the board of trustees shall be sworn to the faithful performance of their
23 official duties. A majority of the 7 members shall constitute a quorum for the transaction of any
24 business. The board of trustees shall elect from among its members a chairman, vice-chairman,
25 clerk, and such other officers as it shall deem necessary, and shall determine their respective
26 duties.

27 (c) The original members of the board of trustees shall be appointed within 60 days
28 following the effective date of this act. The term of each appointment shall be established by the
29 select board or pursuant to a bylaw adopted hereunder. In the event of a vacancy on the board of
30 trustees, a successor member shall be appointed to complete the unexpired term.

31 (d) Any member of the board of trustees may be removed by the select board for cause
32 after reasonable notice and a public hearing by the select board unless such notice and hearing
33 are expressly waived in writing by the member subject to removal.

34 (e) The members of the board of trustees shall not receive compensation for the
35 performance of their duties, but each member shall be reimbursed by the trust for expenses
36 incurred in the performance of the member's duties.

37

38 SECTION 3. (a) There shall be established a trust fund to be known as the Housing Trust
39 Fund. The fund shall be separate and apart from the General Fund and the Affordable Housing
40 Trust Fund of the town of Chatham.

41 (b) The town treasurer shall be the custodian of the trust fund.

42 (c) The trust fund shall receive and hold all gifts and grants made to the trust fund as well
43 as money appropriated by the town to the trust. The trust fund shall also receive all revenues
44 from the sale or lease of trust property and any rental income generated from properties in the
45 custody of the trust.

46 (d) Money in the trust fund shall be available for expenditure by the trust for the
47 attainable housing purposes set forth in this act without the need for further appropriation by
48 town meeting.

49 (e) By a 2/3 vote, the town may borrow money in aid of the trust, in accordance with
50 chapter 44, to be used by the trust for any capital related purpose consistent with this act and for
51 which the town is authorized to borrow.

52 (f) Funds appropriated or dedicated by the town to the Affordable Housing Trust Fund for
53 the creation of affordable housing prior to the effective date of this act shall remain in in the
54 Affordable Housing Trust Fund, which shall be maintained by the Town as a separate account

55 and expended for affordable housing purposes authorized by section 55C of chapter 44 of the
56 General Laws.

57 SECTION 4. (a) The trust, by and through its board of trustees, may:

58 (i) accept and receive real property, personal property or money, by gift, grant,
59 contribution, devise or transfer from any person, firm, corporation or other public or private
60 entity, including but not limited to money, grants of funds or other property tendered to the trust
61 in connection with any ordinance or by-law or any general or special law or any other source,
62 including money from chapter 44B; provided, however, that any such money received from
63 chapter 44B shall be used exclusively for community housing, as defined in said chapter 44B or
64 any special law relating thereto, and shall remain subject to all the rules, regulations and
65 limitations of that chapter when expended by the trust, and such funds shall be accounted for
66 separately by the trust; and provided further, that at the end of each fiscal year, the trust shall
67 ensure that all expenditures of funds received from said chapter 44B are reported to the
68 community preservation committee of the town for inclusion in the community preservation
69 initiatives report, form CP-3, to the department of revenue;

70 (ii) purchase and retain real or personal property, including, but not limited to,
71 investments that yield a high rate of income or no income;

72 (iii) sell, lease, exchange, transfer or convey personal, mixed or real property at public
73 auction or by private contract for such consideration and on such terms, and to make such
74 contracts and enter into such undertakings relative to trust property as the board deems advisable
75 notwithstanding the length of any such lease or contract;

76 (iv) execute, acknowledge, and deliver deeds, assignments, transfers, pledges, leases,
77 covenants, contracts, promissory notes, releases and other instruments sealed or unsealed,
78 necessary, proper or incident to a transaction in which the board engages for the accomplishment
79 of the purposes of the trust;

80 (v) employ advisors and agents, such as accountants, appraisers, design and housing
81 development professionals, and lawyers, as the board deems necessary;

82 (vi) pay reasonable compensation and expenses to all such advisors and agents and to
83 apportion such compensation between income and principal as the board deems advisable;

84 (vii) apportion receipts and charges between income and principal as the board deems
85 advisable, amortize premiums and establish sinking funds for such purpose and create reserves
86 for depreciation depletion or otherwise;

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

91 (ix) deposit any security with a protective reorganization committee and delegate to that
92 committee such powers and authority with relation thereto as the board may deem proper and
93 pay, out of trust property, the portion of expenses and compensation of such committee as the
94 board may deem necessary and appropriate;

95 (x) carry property for accounting purposes other than acquisition date values;

96 (xi) borrow money on such terms and conditions and from such sources as the board
97 deems advisable, and mortgage and pledge trust assets as collateral;

98 (xii) make distributions or divisions of principal in kind;

99 (xiii) comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in
100 favor or against the trust, including claims for taxes, accept any property, either in total or partial
101 satisfaction of any indebtedness or other obligation and, subject to this act, continue to hold the
102 same for such period of time as the board may deem appropriate;

103 (xiv) manage or improve real property and abandon any property which the board
104 determines is not worth retaining;

105 (xv) hold all or part of the trust property uninvested for
106 such purposes and for such time as the board may deem
107 appropriate; and

108 (xvi) extend the time for payment of any obligation to the trust.

109 (b) Notwithstanding any general or special law to the contrary, all moneys paid to the
110 trust in accordance with any zoning by-law, exaction fee, or private contributions shall be paid
111 directly into the trust and need not be appropriated or accepted and approved into the trust.
112 General revenues appropriated into the trust become trust property and may be expended without
113 further appropriation. All money remaining in the trust at the end of a fiscal year, whether or not
114 expended by the board within 1 year of the date the money was appropriated into the trust, shall
115 remain trust property.

116 (c) The trust is a public employer, and the members of the board are municipal employees
117 for the purposes of chapter 258 of the General Laws.

118 (d) The trust shall be deemed a municipal agency and the trustees special municipal
119 employees, for the purposes of chapter 268A of the General Laws.

120 (e) The trust is exempt from chapters 59 and 62 of the General Laws, and from any other
121 General Law concerning payment of taxes based upon or measured by property or income
122 imposed by the commonwealth or a political subdivision of the Commonwealth.

123 (f) The books and records of the trust shall be audited annually by an independent auditor
124 in accordance with generally accepted accounting practices.

125 (g) The trust is a public body for the purposes of sections 18 to 25, inclusive, of chapter
126 30A of the General Laws.

127 (h) The trust is a board of the town for the purposes of chapters 30B and section 15A of
128 chapter 40 of the General Laws; provided, however, that agreements and conveyances between
129 the trust and agencies, boards, commissions, authorities, departments, and public
130 instrumentalities of the town shall be exempt from said chapter 30B.

131 (i) The trust may procure insurance against loss in connection with its properties and
132 other assets and operations in such amount and from such insurers as it deems desirable.

133 (j) The trust may act and do things necessary or convenient to carry out the powers
134 expressly granted in this act or in any by-law consistent with this act enacted by the town.

135 (k) The board of trustees shall be considered a town board subject to the charter and by-
136 laws of the town except as may be otherwise expressly provided in this act.

137 (l) The board of trustees may, further, exercise all of the powers and duties vested in
138 municipal affordable housing trust boards of trustees by section 55C of chapter 44 of the General
139 Laws, as amended from time to time.

140 SECTION 5. The financial records of the trust shall be subject to control and oversight by
141 the town's finance department and subject to yearly audits by the accounting firm employed by
142 the town for the purposes of the regular town audit.

143 SECTION 6. Attainable housing units created by the trust or financed in whole, or in
144 part, with trust funds shall, to the maximum extent allowed by law, be offered to:

145 (i) current year-round residents of the Town of Chatham;

146 (ii) municipal employees;

147 (iii) employees of local businesses; and

148 (iv) households with children attending schools in the town of Chatham who comply with
149 the attainable housing income eligibility limit of 200 per cent of the area median household
150 income as most recently determined by the United State Department of Housing and Urban
151 Development, adjusted for household size. The trust may enact regulations establishing
152 additional preference criteria based on income eligibility and/or alternative or additional
153 definitions for "attainable housing".

154 SECTION 6A. Affordable housing units created by the trust or financed in whole, or in
155 part, with Affordable Housing Trust funds shall, to the maximum extent allowed by law, be
156 offered to:

157 (i) current year-round residents of the Town of Chatham;

158 (ii) municipal employees;

159 (iii) employees of local businesses; and

160 (iv) households with children attending schools in the town of Chatham who comply with

161 the affordable housing income eligibility limit of 100 per cent of the area median household

162 income as most recently determined by the United State Department of Housing and Urban

163 Development, adjusted for household size. The trust may enact regulations establishing

164 additional preference criteria based on income eligibility and/or alternative or additional

165 definitions for "affordable housing."

166 SECTION 7. This act, being necessary for the welfare of the Commonwealth and the

167 Town of Chatham and its inhabitants, shall be liberally construed to effect its purpose.

168 SECTION 8. This act shall take effect upon its passage.