



## TOWN OF LEE MASSACHUSETTS

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### COMMUNITY PRESERVATION COMMITTEE

# COMMUNITY PRESERVATION PLAN

## INTRODUCTION

The Town of Lee Community Preservation Committee (“Committee”) is pleased to present the 2023-2024 Town of Lee Community Preservation Plan (“Plan”). This Plan describes the Community Preservation Act (“CPA”); reviews the allowable uses of CPA funds; summarizes the open space and recreation, affordable housing, and historic preservation needs and priorities of the Town; and guides applicants seeking CPA funds.

The CPA was adopted by the voters of Lee in 2020 (Massachusetts General Law Chapter 44B). It is a tool that communities use to fund projects that preserve open space and historic resources, create affordable housing, or develop outdoor recreational facilities. The CPA also provides for a significant annual contribution of State funds to each participating municipality.

The Town of Lee (“Town”) formed the Committee to implement the CPA law locally. By law, the Committee administers the Community Preservation Fund, writes and adopts a Community Preservation Plan based on community input, receives proposals from the community for expenditures from the fund, and recommends projects to Town Meeting to be considered for funding. Town Meeting then votes to appropriate the CPA funds for the projects it approves. The Committee is comprised of nine members: four citizens-at-large and one member each from the Conservation Commission, Historical Commission, Youth Commission, Housing Authority, and Planning Board. The names of the members and the Boards they represent are listed on the CPC page of the Town website, [www.lee.ma.us](http://www.lee.ma.us).

This Plan was developed by the Committee after reviewing the Town’s Master Plan, holding a public hearing, and during public meetings held by the Committee. This Plan was approved at the June 14, 2023 meeting. Annually hereafter, the Plan will be reviewed and discussed at a public hearing and amended if necessary.

## ALLOWABLE SPENDING PURPOSES OF CPA FUNDS

This section is intended to guide both the CPC and applicants on the allowable uses of CPA funds, which are spelled out in the CPA statute, MGL Chapter 44B. The following activities may be funded by CPA:

**Open Space:** Land to protect existing and future well fields, aquifers and recharge areas, watershed land, agricultural land, grasslands, fields, forest land, wetland, river, stream, lake and pond frontage, land to protect scenic vistas, land for wildlife or nature preserve, and land for recreation use.

**Historic Resources:** Building, structure, vessel, real property, document or artifact listed on the state register of historic places or determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of the city or town.

**Recreational Land:** Land for 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, but does not include horse or dog racing or the use of land for a stadium, gymnasium or similar structure.

**Community Housing:** Housing for low and moderate income individuals and families, including low or moderate income seniors. Moderate income is less than 100%, and low income is less than 80%, of US HUD Area Wide Median Income.

ALLOWABLE SPENDING CHART

	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 and/or Restore	No (unless acquired or created with CPA \$\$)	Yes	Yes	No (unless acquired or created with CPA \$\$)

## FUNDING PROCESS

The Town Administrator, Town Boards, Committees and Departments, civic organizations and nonprofits, residents, businesses, and property owners may bring proposals for funding to the Committee. The Committee will give favorable consideration to those proposals that are eligible CPA activities; that best meet the guidelines of this Plan; and that are consistent with the goals of other applicable town plans and studies, such as the Master Plan or Open Space and Recreation Plan. The Committee does not have the power to appropriate funds for particular projects, only to make recommendations to Town Meeting voters. **Under the law, the power to appropriate CPA funds is reserved solely for Town Meeting voters, acting only upon the recommendations of the Committee.** Voters at Town Meeting may vote for or against projects recommended by the Committee, or may approve projects recommended by the Committee with reduced CPA funding. Project funding cannot be increased by Town Meeting voters, nor can new projects be proposed and funded at Town Meeting.

The Committee will strive to take a town-wide and long-range perspective in evaluating projects. The Committee is dedicated to a transparent process through which organizations and citizens may gain access to CPA funds for projects that will enhance Lee. Applicants should note that the Committee may

choose to recommend to Town Meeting that some or all of the CPA funds be “banked” for future projects or opportunities that are likely to become “ripe” for funding in the not-too-distant future.

Those seeking CPA funding will follow a two-step application process; the application due dates are set forth in the application forms. In the first step, applicants submit a brief project description to allow the Committee to determine if the project is eligible for CPA funding. If the Committee determines the project fits the eligibility requirements, the applicant will be invited to proceed to the second step of submitting a full application. The Committee will review the full application at public meetings, make its decisions no later than the end of February, coordinate with the Finance Committee and Select Board as they develop the Town budget, and transmit its recommendations to Town Meeting. All recommendations must be approved by Town Meeting in order to receive funding. Applicants whose projects are being recommended to Town Meeting are expected to attend Town Meeting (usually the second Thursday of May).

Applicants should be aware that the Committee may withhold some or all funds until applicable permits and approvals are in place. Successful applicants must enter into an agreement or contract with the Town governing the terms of payment and project timeline. The Committee may also require performance or completion bonds and may withhold funds for nonperformance.

### ***Recent CPA Project Funding***

*TBD*

### **Minimum Annual Allocations**

CPA requirements and this Plan will guide the Committee’s actions and funding recommendations. Pursuant to MGL Chapter 44B, each fiscal year the community must, at a minimum, spend or reserve a minimum of 10% of its annual CPA funds for each of the CPA’s three main purposes: open space and recreation, historic preservation, and community housing. CPA funds that are not expended in one year may be banked and carried over to subsequent years. The remaining 70% of funds may be allocated to any one or a combination of the allowable uses at the discretion of the Committee and subject to the approval of Town Meeting. Up to 5% of the annual CPA funds may be used for the CPC’s costs to administer the CPA program.

### **Local or Regional Projects**

CPA funds may be spent anywhere in Massachusetts, meaning communities are not confined to expending funds only within their jurisdiction. For example, this flexible provision allows a community to purchase land surrounding its water supply even if located in another city or town.

CPA funding may also support inter-community cooperation on regional housing needs, allowing development in one community that serves several towns. Notwithstanding, the Committee will generally view local projects more favorably than regional projects.

### Maintenance

CPA funds cannot be used for routine maintenance of existing facilities. For example, communities cannot use CPA funds for maintenance of a park (mowing the lawn or emptying trash barrels) or for maintenance of an historic building (cleaning the common areas or paying for utilities).

### No Supplanting of Existing Funding

CPA funds may only augment municipal funds, not replace existing funding. In other words, CPA funds may not be appropriated to pay for project costs that have already been appropriated from another source. Any CPA eligible costs for a project that are identified in a municipality's capital improvement program are eligible for funding under the CPA, assuming the municipality has not made a prior funding commitment to pay for such costs.

## PROJECT SELECTION CONSIDERATIONS

Projects shall clearly demonstrate how they are consistent with this Plan and, when appropriate, consistent with other town and state plans such as the Master Plan or Open Space and Recreation Plan.

Depending on the eligibility and strength of applications, the Committee may recommend partial funding, full funding, or choose to not recommend an application. The Committee will use the following criteria to evaluate applications:

### Town Projects

Generally, Town-sponsored projects which would otherwise have to be funded through the capital budget will be viewed favorably. For example, repairs to a Town-owned historic building for community benefit would be preferred over repairs to a historic building that is not publicly owned or used.

### Public Benefit

CPA projects shall benefit the public. All applicants must clearly demonstrate how the project will benefit the public, such as by providing public access or incorporating educational components into their project (Please note that CPA funds generally cannot be used to fund educational materials)

### Leveraging (Use of Multiple Funding Sources)

CPA funds may be used as matching monies for state and federal grant programs that require a local match. CPA funds may also be used as matching or seed monies to acquire grants from private

organizations or individuals. Projects may use other funds to supplement CPA and those that leverage additional funds from sources other than CPA will be viewed more favorably than those that do not.

#### Multiple Community Preservation Purposes

Projects that serve more than one of the purposes of the CPA will be viewed more favorably than those that do not. For example, a project that creates affordable housing in a preserved historic building with a new riverfront recreational resource would meet all three of the CPA purposes.

#### Community Input and Support

Projects that can demonstrate that they have been developed through a participatory process in which the public has had the opportunity to provide input will be viewed more favorably than those that have not had public input. Evidence of public/community support (i.e., with unique letters) is strongly encouraged.

#### Project Team

Applicants should demonstrate the relevant experience of their team, including project managers, engineers, contractors, and other associated personnel.

#### Viability of Applicant

All applicants must demonstrate that they have the staff and other resources necessary to see the proposed project successfully through to completion.

### AFFORDABLE HOUSING

Current housing stock in Lee is expensive and limited. The COVID-19 pandemic has made the housing situation worse by decreasing the amount of available housing and increasing the price of housing.

The metric of measuring whether housing is “affordable” is if a household spends not more than 30 percent of their household income on housing costs (leaving other income available for other things like food, transportation, education, savings, entertainment, and so on). By that definition, much of Lee’s housing is unaffordable. The Town of Lee currently has 171 affordable housing units. According to the 2020 US Census, the median house hold income is \$73,750 per year, the median home value in Lee is \$280,700, the median rent is \$1064 and the population of 5,700 people includes 27.9% over 65 years old and 17.9% under 18 years old.

The Town has recently created a smart growth overlay district on the northern end of Main Street that will lead to the creation of over 100 new affordable housing units as part of the “Eagle Mill” project. There is potential to expand this project in the future as well.

In addition, the Town provides affordable housing through the Lee Housing Authority at Brown Memorial Court (48 units) and Clark Court (16 units). Berkshire housing also operates senior housing at Crossway (50 units) and Hyde Place (41 units). They also provide affordable housing 57 Main Street (16 units).

To address Lee's housing needs, the Committee plans to support the aforementioned efforts. The affordable housing funding priorities for the coming year are to:

- Create more affordable rental and homeownership housing, preferably in a manner that will ensure affordable units throughout the town.
- Rehabilitate vacant historic buildings and reuse abandoned sites in order to create new affordable housing.
- Preserve affordable housing resources.
- Ensure long term affordability
- Investigate opportunities to create an affordable housing trust.
- Ensure that development contributes to character of the Town.
- Include a long-term maintenance plan (CPA funds are not eligible for maintenance)
- Include mixed use or multiple uses that are desired or needed in the particular location
- Provide housing that is harmonious in design and style with the surrounding neighborhood
- Encourage mixed-income projects in which a variety of unit sizes accommodate a diversity of ages and family sizes among its residents
- All projects are encouraged to utilize the services of local or regional businesses and nonprofit organizations

## HISTORIC PRESERVATION

Lee's history and cultural resources are important contributors to town. They provide a small town feeling, a sense of place, and are vital to tourism sector. The Town has many historic resources including but not limited to the Kilbon Memorial Fountain, Fairmont Cemetery (with stones from the 1700's), The Congregational Church, St. Mary's Church, Town Hall, Lee Library and the Central Fire Station.

Historic resource preservation helps Lee be a more sustainable community. It reuses existing buildings and directs growth pressures to locations where infrastructure already exists. It also creates jobs and increases property tax revenue and tourism. It preserves important educational opportunities and resources.

Historic resources have other benefits as well. For example, cemeteries have historic significance in their own right, and they double as accessible open space which many people use for walking and contemplation. Historic mill buildings are becoming opportunities for housing units.

Many historic resources, including town-owned buildings and structures are in need of preservation, rehabilitation and/or restoration. These include but are not limited to the historic stones at Fairmont Cemetery, The Congregation Church and The Lee Library Cupola.

The Committee and all projects are bound by the CPA law, which states that historic funds may be spent only on resources that are on the state register of historic places, or which have been determined by the

Historical Commission to be significant to Lee's history, culture, architecture or archeology. All CPA-funded historic projects must comply with the US Secretary of the Interior's standards for the treatment of historic properties.

To address the needs of Lee's historic resources, the Committee's historic preservation funding priorities for the coming year are to:

- Preserve, rehabilitate and/or restore Town-owned historic buildings and structures
- Support the Historical Commissions Inventory to Identify and document historic resources throughout town.
- Preserve buildings in a Local Historic District
- Preserve buildings and sites that are listed in the National Register of Historic Places including designated National Historic Landmarks
- Preserve artifacts, documents or other records that are significant to the history and culture of the town

The Committee also strongly encourages historic preservation projects that:

- Preserve a threatened historic resource
- Include a long-term maintenance plan (CPA funds are not eligible for maintenance)
- Be endorsed by the Lee Historical Commission
- Allow for public access to the historical asset

### **OPEN SPACE AND RECREATION**

Lee's natural resources, including its agricultural land, water bodies and waterways, and scenic landscapes are as important to the character and legacy of the Town as its historic resources. Significant tracts of town are permanently preserved, and most residents live within a short walk of a park, playground or open space resource.

While the CPA program is new in Lee and funds have not yet been approved for distribution, there are many opportunities in our community for funds to be requested. Some examples are:

- Bike Path from Lee Bank to Big Y
- Opportunities for the town property on Stockbridge Rd.
- Improve and enhance maps and signage for town forests and trails
- Enhance and improve existing town parks
- Explore opportunities for unused land at East Lee Park
- Trail bridge replacement at Longcope Park
- Potential uses and improvements for Edith Wharton Park
- Create new open space and recreational resources
- Create access to, and increase recreational use of, the Housatonic River
- Protect biodiversity, habitat, and natural resources



- Create and/or conserve agricultural land and agricultural soil
- Create and support community gardens and community supported agriculture

There are also the mounting realities of climate change that need to be addressed. Our area is already experiencing a hotter and a wetter climate, and the natural resources on which our community and our economy depend – for food, recreation, and scenery for example – will be stressed by changing temperatures and precipitation patterns. Agriculture, fields, and forests will be more susceptible to invasive species as well as, extreme drought and extreme precipitation. A variety of measures will be needed to protect natural resources, as well as to protect low income and disadvantaged people in our community who will be impacted first, worst, and longest by the climate change crisis.

To address these needs, the Committee’s open space and recreation funding priorities for the coming year are to:

- Support projects designed to help mitigate the impacts of climate change on our community.
- Support projects that preserve and rehabilitate/restore Town-owned open spaces, parks and recreational assets
- Support existing and the development of long-envisioned recreation connections
- Preserve and/or connect open space or recreation resources

## GLOSSARY

*From the text of the Community Preservation Act (MGL Ch. 44B, sec. 2)*

Acquire: obtain by gift, purchase, devise, grant, rental, rental purchase, lease or otherwise. “Acquire” shall not include a taking by eminent domain, except as provided in this chapter.

Annual income: a family’s or person’s gross annual income less such reasonable allowances for dependents, other than a spouse, and for medical expenses as the housing authority or, in the event that there is no housing authority, the department of housing and community development, determines.

Capital improvement: reconstruction or alteration of real property that: (1) materially adds to the value of the real property, or appreciably prolongs the useful life of the real property; (2) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself; and (3) is intended to become a permanent installation or is intended to remain there for an indefinite period of time.

Community housing: low and moderate income housing for individuals and families, including low or moderate income senior housing.

Community preservation: the acquisition, creation and preservation of open space, the acquisition, creation and preservation of historic resources and the creation and preservation of community housing.

Community preservation committee: the committee established by the legislative body of a city or town to make recommendations for community preservation, as provided in section 5.

Community Preservation Fund: the municipal fund established under section 7.

CP: community preservation.

Historic resources: a building, structure, vessel real property, document or artifact that is listed on the state register of historic places or has been determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of a city or town.

Legislative body: the agency of municipal government which is empowered to enact ordinances or by-laws, adopt an annual budget and other spending authorizations, loan orders, bond authorizations and other financial matters and whether styled as a city council, board of aldermen, town council, town meeting or by any other title.

Low income housing: housing for those persons and families whose annual income is less than 80 per cent of the areawide median income. The areawide median income shall be the areawide median income as determined by the United States Department of Housing and Urban Development.

Low or moderate income senior housing: housing for those persons having reached the age of 60 or over who would qualify for low or moderate income housing.

Maintenance: incidental repairs which neither materially add to the value of the property nor appreciably prolong the property's life, but keep the property in a condition of fitness, efficiency or readiness.

Moderate income housing: housing for those persons and families whose annual income is less than 100 per cent of the areawide median income. The areawide median income shall be the areawide median income as determined by the United States Department of Housing and Urban Development.

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.

Preservation: protection of personal or real property from injury, harm or destruction.

Real property: land, buildings, appurtenant structures and fixtures attached to buildings or land, including, where applicable, real property interests.

Real property interest: a present or future legal or equitable interest in or to real property, including easements and restrictions, and any beneficial interest therein, including the interest of a beneficiary in a trust which holds a legal or equitable interest in real property, but shall not include an interest which is limited to the following: an estate at will or at sufferance and any estate for years having a term of less than 30 years; the reversionary right, condition or right of entry for condition broken; the interest of a mortgagee or other secured party in a mortgage or security agreement.

Recreational use: 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, gymnasium or similar structure.

Rehabilitation: capital improvements, or the making of extraordinary repairs, to historic resources, open spaces, lands for recreational use and community housing for the purpose of making such historic resources, open spaces, lands for recreational use and community housing functional for their intended uses, including, but not limited to, improvements to comply with the Americans with Disabilities Act and other federal, state or local building or access codes; provided, that with respect to historic resources, "rehabilitation" shall comply with the Standards for Rehabilitation stated in the United States Secretary of the Interior's Standards for the Treatment of Historic Properties codified in 36 C.F.R. Part 68; and provided further, that with respect to land for recreational use. Rehabilitation shall include the replacement of playground equipment and other capital improvements to the land or the facilities thereon which make the land or the related facilities more functional for the intended recreational use.

Support of community housing: shall include, but not be limited to, programs that provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing, or to an entity that owns, operates or manages such housing, for the purpose of making housing affordable.

### **REFERENCES**

Community Preservation Act: Massachusetts General Laws Chapter 44B, as amended by St. 2012, c.139, §§ 69-83. See <http://www.communitypreservation.org/content/text-legislation>

Lee CPA Bylaw. See <https://ecode360.com/LE1695/laws/LF1642628.pdf>

*Other useful information:*

Bio Map II. See <https://maps.massgis.state.ma.us/dfg/biomap2.htm>

Conservation Assessment and Prioritization System (CAPS). See <http://www.umass.edu/landeco/research/caps/data/iei/iei.html>

Massachusetts Cultural Resource Information System (MACRIS). See <http://mhc-macris.net/>

Community Preservation Coalition. See <http://www.communitypreservation.org/>