

**TOWN of SCITUATE
COMMUNITY PRESERVATION COMMITTEE
2008-2009**

**Fiscal 2009 Application Process
Fiscal 2009 Application for Eligibility (Optional)
Fiscal 2009 Application for Funding**

Thank you for your interest in Scituate's Community Preservation Act. We hope this document will provide a helpful overview of the application process.

An Application for Eligibility is optional and those applications received by September 30, 2008 will receive an initial determination of eligibility by October 15, 2008. This determination is of eligibility ONLY and is preliminary. Eligibility and the decision on funding of an application are subject to further review by the Community Preservation Committee ("CPC" or "Committee") during the Application for Funding process. Applications for Funding are accepted throughout the year, but those applications not received by November 1, 2009 (the "2009 Application Deadline") may not be eligible for consideration at the next annual Town Meeting, but rather deferred to the annual Town Meeting occurring in fiscal 2010. Completed applications are made available to all members of the Committee prior to discussion and a formal vote of the Committee at an ensuing meeting. The Committee may, in its discretion, request that applicants appear and make a presentation regarding their project applications at a CPC meeting and be available to respond to questions regarding their proposed project. Project applications voted on favorably by the Committee will be recommended by the Committee to Town Meeting. We encourage you to read and understand the attached and to fill out the enclosed application thoughtfully and completely in order to ensure that the Committee receives full and complete information in evaluating your project.

Sincerely,
Scituate Community Preservation Committee
John G. Bulman
John Bulman, Chairman

Community Preservation Committee Members

John Bulman, Chairman –At large
Frank Snow – Vice Chairman – Conservation Commission Representative
Nancy Ivas - Recreation Commission Representative
Peter Leavitt – Historical Commission Representative
William Limbacher - Planning Board Representative
Joshua McKain - At large
Paul Scott - At large
George Trafton, Housing Authority Representative
Joseph Wood - At large

SCITUATE COMMUNITY PRESERVATION COMMITTEE

Fiscal 2009 APPLICATION FOR FUNDING

Project Name:

CPA funding requested: \$ _____ (REQUIRED)

Total project cost: \$ _____ (REQUIRED)

**Basis for project cost i.e. Appraisal,
construction estimate, etc. – please attach
all documentation supporting estimated
project cost and basis)**

Category (check all that apply): __Open Space __Historical __Housing __Recreation

Lot and Plat: _____ *

Assessors Map #: _____ *

Number of acres in parcel: _____ *

Number of proposed housing units: _____ *

Current Zoning Classification _____ *

(* REQUIRED IF APPLICABLE TO PROPOSED PROJECT)

Name of Applicant: _____

Contact Name: _____

Address: _____

Phone #: _____ E-Mail: _____

By signing below, the Applicant agrees to the terms and conditions and all other requirements of this Application and agrees to be bound thereby if funding is granted for the Project.

Applicant's Signature: _____ Date: _____

Printed Name _____

Title _____

Application Requirements:

A complete application consists of this application (the "Application"), accompanied by the following:

1. A detailed description of the project explaining how your proposal benefits the Town of Scituate and how it meets Community Preservation Act ("CPA") goals and selection criteria outlined at the end of this Application. Are there any special permits, variances or other approvals required? Are there any legal ramifications or impediments to this project?
2. A detailed project budget including any additional revenue sources. Please attach documentation supporting the project budget and the manner derived, as well as a detailed description of any revenue sources and basis for revenue estimates. Will there be any annual costs to the Town of Scituate once the project is completed?
3. A project time line.
4. Additional supporting information such as photographs, plot plans, and maps (if applicable).

Please send 12 copies of your completed Application to: The Community Preservation Committee, Scituate Town Hall, 600 Chief Justice Cushing Highway, Scituate, MA 02066. Applications may also be dropped off at the Town Clerk's office on the first floor of Scituate Town Hall. Applications are deemed received based upon (i) the postmark, if mailed; or (ii) the time and date stamp from the Town Clerk, if hand delivered. Absent evidence of the filing date as listed above, Applications will be deemed received when actually received by the Community Preservation Committee (the "CPC").

Applications are accepted throughout the year, but those received after the Fiscal 2009 Application Deadline, absent a waiver by vote of the CPC, will be deferred to the annual Town Meeting in fiscal 2010.

Eligibility for Funding

The Town of Scituate is pleased to be able to make CPA funds available as a resource to applicants who propose projects that will benefit the Town of Scituate, meet the requirement of the CPA, including generally one or more of the following components:

1. The acquisition, creation and preservation of open space;
2. The acquisition and preservation of historical resources;
3. The creation, preservation and support of community housing; and/or
4. The acquisition, creation and preservation of land for recreational use.

The Community Preservation Committee ("CPC" or the "Committee") encourages applicants to propose projects that encompass more than one of the above categories. Use of CPA funds may **not** include uses not allowed by the CPA, including maintenance of real or personal property or **use of land for a stadium, gymnasium or similar structures.**

The recording of a deed restriction affecting the real property portion of any a project is required on any projects utilizing CPA funding, by the CPA and the rules of the CPC.

Notwithstanding anything to the contrary in this Application, **ALL** proposed projects must meet the requirements of the CPA set forth in M.G.L. 44B, Chapter 267 of the Acts of 2000 and Chapter 165 of the Acts of 2002, as it may be amended. Copies of the CPA are available at Clerk's Office in Scituate Town Hall and on-line at www.massachusettslaws.com. Information about the CPA is also available on the Community Preservation Coalition website at <http://www.communitypreservation.org>

Proposal Review Process

Application for Eligibility: (optional)

The Application for Eligibility is optional and may assist by providing applicants with a determination of whether or not a project qualifies for CPA funding, before completing the more detailed Application for Funding. The CPC meets on the 2nd Monday of each month at St. Mary's Parish Center. An Application for Eligibility must be submitted by the end of the preceding month for consideration at the upcoming CPC meeting. A complete description of the project must be provided in order for a determination of eligibility to be made. The Committee may request that you attend and present your project in order to make such determination. All determinations of project eligibility are preliminary and are subject to review by the CPC in the Application for Funding Process.

Application for Funding:

1. Upon receipt of completed Applications, copies are distributed to all CPC members. The Committee reviews each Application to determine if the Application qualifies for CPA funding.
2. At the request of the Applicant or a CPC member, the CPC may schedule an interview and/or site visit with the Applicant, which may be attended by any CPC member.
3. The CPC will evaluate all applications using the following criteria:
 - How the project meets the goals of the CPA
 - How the project benefits the Town of Scituate and its residents
 - The project's consistency with the Town of Scituate's Master Plan, Open Space and Recreation Plan, and other planning documents
 - The project's feasibility and affordability
 - Urgency, need or opportunity for the project
 - How the project serves a currently under-served population
 - How the project meets multiple needs and serves multiple populations
 - How or if the project addresses multiple categories of the CPA
 - Whether or not the project has means of financial support for future maintenance
 - How the project enhances Town of Scituate assets
 - Whether or not the project has multiple sources of funding
 - Other relevant considerations consistent with the CPA
4. The CPC will vote on which applications to recommend to Town Meeting. Please note that satisfying all criteria does not guarantee that the CPC will recommend a proposal to Town Meeting. Only applications recommended by the CPC are available for consideration at Town Meeting.
5. Town Meeting approval is required to approve a project for funding. CPC recommendation of a project does not guarantee Town Meeting approval of funding.
6. Applications approved by Town Meeting are funded by the CPC and implemented by the Applicant.
7. Upon a final decision on an Application, the Committee will notify the Applicant of its action on the Application.

Terms and Conditions Applicable to Projects Awarded CPA Funding

1. The person/entity submitting the application (the “Applicant”), by affixing his/her/its signature to its Application with the Town of Scituate Community Preservation CPC (“CPC”), expressly agrees to be bound by the terms and conditions set forth herein (the Terms and Conditions”). In the event of any conflict between these terms and conditions and any other Laws, including but not limited to all rules regarding the CPC or the Community Preservation Act (the “CPA”), the provisions hereof shall be automatically revised only to the extent necessary to comply with such Laws. All rights of the CPC hereunder shall be also for the benefit of the Town of Scituate (the “Town”).

2. The funds provided to the Applicant by the CPC (the “Proceeds”) shall be used by the Applicant only for the project and purposes (the “Project”) set forth in its Application, subject to any modifications expressly set forth in the vote of the CPC and/or the Town in approving such Application (“Eligible Project Costs”). No expenditure not expressly authorized is permitted.

3. Capitalized terms not otherwise defined and used herein have the meanings defined below:

- “Application” means the Application from the Applicant to the CPC for the Project.
- “Default” means any default of the Applicant of its Obligations.
- “Eligible Project Costs” means costs directly related to the Project as approved by the CPC and/ the Town as defined above.
- “Expenses” means all costs incurred by the CPC or the Town in connection with exercising any rights provided herein.
- “Governmental Authority” means the United States, the Commonwealth of Massachusetts, the Town, or any of their subdivisions, or agencies, including any local authority having jurisdiction over any aspect of the Project.
- “Laws” means any current or future federal, state and local laws, statutes, rules, ordinances, regulations, codes, decisions, interpretations, orders, or decrees of any court or Governmental Authority having jurisdiction.
- “Obligations” means all duties of payment, performance, completion or otherwise owed by the Applicant to the CPC or the Town, including the obligation to strictly observe and perform all of the provisions hereof, time being of the essence.

4. The disbursement shall be either by payment of invoices to the vendor or directly to the Applicant, at the CPC’s or Town’s election on each occasion. The Applicant shall present all invoices, or other satisfactory proof of payments to pay/reimburse the vendor/Applicant for payments made for Eligible Project Costs. The obligation of the CPC or the Town to disburse the Proceeds is at all times subject to, among other limitations of Law, satisfaction of the following conditions as of the date the disbursement is made:

- The CPC shall have received a fully and properly completed request for disbursement with all supporting documentation in the form required by the CPC and/or the Town, as it may be amended periodically.
- No representation or warranty of the Applicant shall be or have become materially incorrect or inaccurate and there shall be no Default, and no event shall exist which with the giving of notice or the passage of time, would constitute a Default.
- The Applicant shall have provided satisfactory evidence of Eligible Project Costs incurred in the request for disbursement.
- The Applicant’s right to request funds under this Application shall terminate no later than three (3) years after the date of approval of this Application by the Town.

- The Applicant shall execute and record any deed restriction or other form of restriction required by the CPC, the CPA or applicable Laws to protect any repayment of CPC funds in the event of any transfer or other use of the property triggering repayment obligation pursuant to CPC regulations, the CPA or applicable Laws.
- Disbursement of Proceeds is subject to approval and all requirements of the Town, the continuing availability of funds for the Project, and compliance with the provisions hereof, the CPA and all other Laws.
- The Applicant shall be required to obtain a certificate from the CPC (a “Certificate of Completion”) evidencing that the Applicant has met its Obligations with respect to the Project. The CPC may withhold disbursement of a portion of the Proceeds pending the Applicant meeting the requirements for issuance of a Certificate of Completion.
- The Applicant must conspicuously credit the CPC as a funding source for the Project. This credit must appear on any promotional materials involving the Project (i.e. press releases, brochures, etc.) In addition, a banner or sign will be provided to the Applicant by the CPC as part of the Eligible Project Costs and the Applicant is required to display the sign on the Project for up to six months after a Certificate of Completion is granted.

5. The Applicant represents and warrants as follows:

- If the Applicant is an entity, such entity is duly organized, validly existing, and in good standing under the laws of the Commonwealth of Massachusetts and has the power to consummate the transactions contemplated by this Application. The person executing this Application on behalf of such entity has executed and delivered it in the manner and form that complies with all requirements necessary to make it valid, legally binding, and enforceable act of the Applicant.
- This Application has been duly executed by the Applicant and will not violate any Laws, any provision of the Applicant’s organizational documents, nor result in a breach, of any other agreement binding on the Applicant; and constitutes the valid and legally binding obligation of the Applicant, fully enforceable against the Applicant in accordance with its terms.
- All information in the Application was true and complete in all material respects as of the date of (i) of the Application; and (ii) as of the date of its approval by the CPC. The Applicant is aware of no event or other fact that should have been, and has not been, reported in the Application as material information, or to make the Application not misleading.
- The Applicant has obtained, or expects to obtain prior to the commencement of construction of the Project, all approvals and/or permits from all Governmental Authorities for the Project.

6. The Applicant covenants as follows:

- The Applicant shall use the Proceeds for Eligible Project Costs and for no other purpose.
- Any duly authorized representative of the CPC shall, at reasonable times, have access to all portions of the Project.
- The Applicant shall keep any books, records, and documents (collectively the “Project Records”) required to reasonably document all transactions and in accordance with the rules and procedures now or hereafter applicable to such Proceeds under the CPA, made by the CPC, if any, and as may be reasonably necessary to disclose fully the disposition of the Proceeds, all costs incurred to complete the Project and the source of all funds expended towards the Project. All Project Records shall be maintained at the offices of the Applicant

within Massachusetts for five (5) years after the date of the last disbursement of Proceeds. All such Project Records shall be made available for inspection, copying, audit and examination at all reasonable times by any duly authorized representative of the CPC.

- The Applicant releases the CPC, the Town, their respective members, employees, agents and representatives from, and agrees to protect, indemnify and save them harmless against, any claims asserted against, any of them, arising in connection with the Proceeds or the Project. All money expended by the CPC or the Town as a result of such claims, together with attorney's fees and costs and interest at judgment rate from the date of such payment, shall constitute an indebtedness of the Applicant and shall be immediately and without notice due and payable by the Applicant to the CPC. This Section shall survive the termination of this Application.
- The Applicant will comply with the CPA and all other applicable Laws.

7. The following events shall constitute a Default under this Application:

- Any Proceeds are used for any purpose other than Eligible Project Costs; or
- The Applicant breaches any Obligation, covenant, representation, warranty, or other provision hereof or any other document submitted in connection with the Application; or
- Any statement made (or omission) in any Application, presentation to the CPC or the Town, certificate or other document furnished in connection with the Application was incorrect or misleading in any material respect when made.

8. Upon the occurrence of any Default, the CPC or the Town may:

- Require immediate repayment of all or any portions of the Proceeds; and
- Proceed to protect and enforce all rights and remedies under this Application or by applicable Laws; and
- Suspend or terminate the Applicant's authority to receive any undisbursed Proceeds at any time

9. Miscellaneous.

- All remedies provided for herein or by Laws are cumulative and are in addition to any other rights and remedies available. The exercise of any right or remedy shall not constitute a cure or waiver of any Default, nor invalidate any act done pursuant to any notice of Default, nor prejudice the CPC or the Town in the exercise of those rights. The failure of the CPC or the Town to insist upon performance of any term shall not constitute a waiver of any such term. No act of the CPC or the Town shall be construed as an election to proceed under any provision in this Application to the exclusion of any other provision.
- If the CPC or the Town suspends or terminates this Application, the rights and remedies available to the CPC or the Town shall survive the suspension or termination.
- No benefit or burden of the Applicant under this Application may be assigned without the written consent of the CPC.
- This Application shall inure to the benefit of, and shall be binding upon the Applicant and their successors and assigns.
- The invalidity of any provision herein shall not affect the validity of the remaining provisions.
- This Application constitutes the entire agreement between the Applicant and the Town and supersedes all prior oral and written agreements, representations, and negotiations between the parties concerning the Application and the Obligations. The provision hereof may be amended only in writing executed by the Town and the Applicant.

- The headings used herein are for convenience only and do not constitute a part of this Application.
- The Applicant acknowledges that nothing in this Application, and no act of the CPC or the Town or the Applicant, shall be deemed to create any relationship of third-party beneficiary, principal and agent, limited or general partnership, joint venture, or any other relationship between the Applicant and the CPC or the Town.
- This Application shall be governed by the laws of the Commonwealth of Massachusetts.
- This Application shall remain in force and effect until the date the Applicant has no Obligations under this Application.
- If performance of any obligation under this Application would require the performing party to violate any Law, then the performance shall be reduced to the level permitted by Law.

Considerations for Applicants to Consider and Address in their Applications for Categories of CPA Projects

Open Space Goals and Criteria

Due to increased and ongoing development pressure in Scituate, the preservation of open space is becoming increasingly important. With property values rising in recent years, the acquisition of open space has become increasingly difficult and urgent. The CPA is a proactive tool for the community to preserve our quality of life, the purity of our water, control property taxes and find a balance between economic development and preservation.

The CPC solicits input from the Town's Open Space Committee, Conservation Commission, Recreation Commission, as well as other Town boards, committees and the public, in identifying goals for open space protection, which include:

- Goal 1: Protecting aquifer and aquifer recharge areas to preserve quality and quantity of future water supply.
- Goal 2: Balancing open space with development demand to reduce service demands and tax burden on the Town.
- Goal 3: Increasing the Town's ability to protect environmentally sensitive, historic and culturally significant properties.
- Goal 4: Improving public access and trail linkages to existing conservation, recreational and other land uses.
- Goal 5: Protecting rare, unique and endangered wildlife habitat.
- Goal 6: Preserving the Town's rural character.
- Goal 7: Utilizing open space protection strategies (purchasing development rights as an option to outright purchases of property) that maximize protection at the lowest public cost.
- Goal 8: Enhancing the quality and variety of passive and active recreational opportunities for all age groups and abilities.

The following are examples of the types of open space (and recreation) projects that the CPC might consider funding:

- Purchasing land or interest in land (development rights) to protect public drinking water supply, preserve natural resources, maintain scenic views, build green belts and trail systems, and enhance active and passive recreational opportunities.
- Purchasing community-enhancing green space outright or purchasing development rights through mechanisms such as permanent conservation restrictions or agricultural preservation restrictions.
- Matching or augmenting funds available under various land trust or conservation programs.
- Exercising rights of first refusal when lands are removed from temporary agricultural and forest land restrictions (e.g., Chapter 61, 61A).
- Purchasing land for public active recreation facilities such as community gardens, play grounds, trail networks and ball fields.
- Securing parcels of land that, when preserved, are deemed to have a significantly positive net fiscal impact on town finances.

Historic Preservation Goals and Criteria

The Town of Scituate has a rich diversity of historic resources. The Town's CPA goals for preserving these historic resources include:

Goal 1: Protecting historical resources.

Goal 2: Optimizing the use and enjoyment of the Town's historic resources for residents and visitors

Goal 3: Recognizing, preserving and enhancing the historic heritage and character of the Town of Scituate for current and future generations.

In order for a historic resource to be eligible for CPA funding, it must first be determined to be not just "old" but of historic significance. The burden of proving historic significance is the responsibility of the Applicant. In order to be of historic significance, a property must have retained its physical character and integrity and must (1) be associated with significant people, (2) be architecturally significant, or (3) have the potential to yield important historical or archaeological information. According to the CPA, there are three (3) ways a resource can qualify as historically significant:

1. Listing on the State Register of Historic Places,
2. A written determination by the Massachusetts Historical Commission that a resource is eligible for listing on the State Register of Historic Places, or
3. A written determination by the Scituate Historical Society that a resource is significant for its history, archeology, architecture, or cultural value.

In deciding whether or not to recommend funding for specific historic resource projects, the CPC will consider:

- Level of historical significance
- Public benefit
- Public support
- Appropriateness & professionalism of proposed work (rehabilitation work is expected to comply with Standards for Rehabilitation stated in the United States Secretary of the Interior's Standards for the Treatment of Historic Properties)
- Level of additional financial or in-kind services beyond CPA funds committed to the project
- Administrative and financial management capabilities of the Applicant in order to ensure that the project is carried out in a timely manner, and that the historic resource can be maintained for continued public benefit.

PLEASE NOTE: The CPA specifically excludes funding for maintenance. The CPA does allow for the remodeling, reconstruction and making of extraordinary repairs to historic resources for the purpose of making such historic resources functional for their intended use, including but not limited to improvements needed to comply with Americans with Disabilities Act and other federal, state or local building or access codes.

Community Housing Goals and Criteria

CPA funds may be used to create or preserve community housing defined as housing for low and moderate income individuals and families, including low or moderate income senior housing. The CPA requires the CPC to recommend, wherever possible, the adaptive reuse of existing buildings or construction of new buildings on previously developed sites.

Individuals and family incomes shall be based on the area wide median income as determined by the United States Department of Housing and Urban Development (HUD). Low income is defined as an annual income of less than 80% of the area wide median income. Moderate income is defined as less than 100% of the area wide median income. Low or moderate senior income is defined as low or moderate income for persons over 60.

At present, approximately 4.53% of Scituate's housing units are classified as affordable housing by the State's Department of Housing and Community Development (DHCD) (for the purposes of M.G.L. Chapter 40B). As long as the Town does not meet or exceed the State's goal of 10% of its available housing stock deemed affordable, the Town will be required to accept applications for additional affordable housing units under the provisions of Chapter 40B.

The CPC's goals for community housing are as follows:

- Goal 1: The CPA requires the Committee to recommend, wherever possible, the adaptive reuse of existing buildings or construction of new buildings on previously developed sites.
- Goal 2: Meet local housing needs for eligible low and moderate-income individuals and families. The preservation and creation of community housing is a proven method for promoting diversity, allowing individuals and families with more limited means to afford to live in Town. The Town can utilize CPA funds to offer current and future residents a wide range of housing options in renovated, converted and existing residential buildings, mixed-use developments, and senior residential developments, supportive housing alternatives and live-work space.
- Goal 3: Ensure the new community housing meets or exceeds surrounding community standards with regard to density, architectural character, landscaping, pedestrian and other amenities, while conserving, as much as possible, the natural landscape.
- Goal 4: Work toward meeting the 10% State standard for community housing. In order to ensure future community housing development is consistent with the needs and character of the Town, the Town must work toward meeting the State's 10% housing standard. Until that milestone is achieved, the Town will be required to accept Chapter 40B applications.
- Goal 5: Leverage other public and private resources to the greatest extent possible: Scituate does not receive federal or state funding for community housing on an entitlement basis. We need to be creative in leveraging public and private resources to make community housing development possible. Combining CPA funds with the various private, state and federal resources that are available on a non-entitlement "competitive" basis will demonstrate creativity. This will include Federal Home Bank Funds, State HOME funds, Housing Stabilization funds, and Housing Innovations funds, and Federal Low Income Housing Tax Credits.