

# City and Town

Amy Pitter, Commissioner • Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs



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## **Governor Patrick Signs Changes to Community Preservation Act**

Gov. Deval Patrick has signed into law an expansion of the Community Preservation Act (CPA) and a \$25 million transfer from the state's FY13 budget surplus to the statewide CPA Trust Fund, for distribution to communities in the fall of 2013.

The one-time transfer would supplement the existing source of revenue from the fund which comes from surcharges on fees paid to the record certain documents at the Registry of Deeds. Matching CPA grants paid from the trust to cities and towns adopting the CPA have decreased in recent years due to more participating communities and lower Registry collections reflecting a softened housing market.

The amendments, signed as part of the budget the governor signed on July 8, contains a number of changes relative to allowable CPA expenditures for recreation and housing assistance to individuals. The law also provides more options for paying into a CPA fund. The amendments are found in Chapter 139 of the Acts of 2012, Sections 69-83, 155 and 218. They took effect on July 1, 2012.

Here are highlights of these new provisions.

### CPA Fund Uses:

- Permit rehabilitation of existing recreational land not created or acquired with CPA funds
- Expand the definition of rehabilitation to allow for capital improvements and replacement of recreational equipment
- Add definition of capital improvement as reconstructions or alterations that materially add value or prolong the property's life, are part of the real estate and are intended as permanent or indefinite installations
- Prohibit use of CPA funds to acquire artificial turf for athletic fields
- Allow communities to include allowable recreational projects in meeting their annual 10% open space spending requirement
- Define prohibited maintenance, as incidental repairs that do not add value or prolong the property's life but keep the property in a condition of fitness, efficiency or readiness
- Add definition of support of community housing as including grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance provided directly to

individuals who qualify for community housing or entities that own or operate community housing

- Allow communities to use in the first year only some of their CPA administrative and operating expenses to cover costs associated with tax billing software upgrades, but in an amount including other administrative expenses not greater than 5% of the annual revenues in the CPA fund

#### Other Revenue Sources

- Allow communities to adopt the CPA at ballot with a minimum 1% property tax surcharge and then dedicate additional municipal revenue sources (such as local option tax revenue) to their CPA fund up to the full 3% of the real estate tax levy against real property
- Allow communities that have already accepted CPA at a surcharge level above the 1% the option of reducing their CPA surcharge to 1% while committing additional municipal revenues their CPA Preservation Fund

#### Surcharge Exemptions

- Add a new optional commercial exemption for the first \$100,000 of property value for commercial and industrial properties, mirroring current exemption for residential property

#### Property Restrictions

- Clarify that a real property interest acquired (rather than simply purchased) by a city or town by any mechanism using CPA funds must be bound by a separately recorded permanent restriction limiting its use to the CPA purpose for which it was acquired
- Clarify that CPA funds may be appropriated to non-profit organizations to hold, monitor, and enforce restrictions limiting the use of land to CPA purposes

*The above summary was prepared by DLS staff.*

## **New Info Available on the Technical Assistance Site**

The DLS [Technical Assistance Section](#) has posted new articles and information of local interest to its webpage. An article on legal services provides a useful, in depth guide to securing the services of legal counsel for cities and towns. Also added is the description of a step-by-step process for establishing a successful local government study committee. Did you know that M.G.L. Chapter 150E allows a town manager, town administrator or selectmen to participate and vote, as a member of the school committee, on school employee collective bargaining agreements? Read about it at the TA website as well as an article on how the special education circuit breaker works. These are newly added to a wide range of resources available to local officials on matters of municipal government and finance.

## Catching Up with the Community Innovation Challenge Grants

**Tim Dodd, Local Government Program Manager, Executive Office for Administration and Finance**

*(Each month, City and Town will highlight grant recipients and provide project updates from the Community Innovation Challenge Grant Program.)*

### **Southeastern Fire Department Electronic Records and E-Permitting**

With the use of CIC funds, the fire departments in Taunton, Dighton, Fairhaven, Freetown, Lakeville, North Attleboro, Seekonk, Somerset, Swansea, Wareham, and Westport will install an online electronic permitting solution from GeoTMS. Residents, business owners, and contractors will be able to submit applications, pay the required fee, and schedule inspections online 24/7.

The inconvenience of formerly required trips to the fire station, and clerical work required of Fire Fighters will be greatly reduced. Gary Silvia, Chief of the Freetown Fire Department, said, "We estimate the savings of 365 man hours per year through on-line permitting. The reduced paperwork due to electronic (e-Permitting) will allow the Freetown FD to assign more important tasks and duties to our fire fighters and EMTs."

Municipalities that are interested in learning more about this program may contact Ross Perry at Southeastern Regional Planning & Economic Development District in Taunton at [rperry@srpedd.org](mailto:rperry@srpedd.org).

### **Franklin County Regional Dog Officer Control and Kennel**

Planning for the Franklin County Regional Dog Control and Adoption Center began a year ago. The planning group was composed of staff from the Franklin Regional Council of Governments (FRCOG), the Franklin County Sheriff's Office, and local town officials and animal control officers. The program is run by the Sheriff's Office, whose is funding the position of program director. The goal of the program is to provide a professional and efficient regional dog kennel and adoption center to 12 towns in Franklin County. CIC funding has allowed the program to begin full-scale implementation by revamping, repairing and expanding the kennel in Turners Falls, and purchasing large-item supplies.

## **SJC Rules in Favor of Saugus**

In a case of interest to municipalities, the Massachusetts Supreme Judicial Court (SJC) in [Denver Street LLC vs. Town of Saugus - SJC 10927](#) overturned a lower court ruling by concluding that charges imposed on a developer to mitigate storm water inflow and infiltration is a fee and not a tax, and is therefore allowed to stand. The SJC applied the facts of the case to the well-established

standard for a fee set out in [Emerson College v. Boston, 462 NE 2d 1098 \(1984\)](#). The court ruled that the charge was sufficiently particularized to the developer, that the developer could have chosen to avoid the fee and that the fee amount was not excessive, but reasonably reflective of costs.

## **July and August Municipal Calendar**

### **July 1: Collector**

Mail Annual Preliminary Tax Bills - For communities issuing annual preliminary tax bills, the preliminary quarterly or semi-annual bills should be mailed by this date.

### **July 15: Accountant**

Certification Date for Free Cash: Anytime after Books are Closed

Two weeks after the close of a fiscal year, all accounts are closed out and the resulting balance sheet and supplemental documentation submitted to DOR. Free cash is certified any time after this date.

### **July 15: Accountant**

Report Community Preservation Fund Balance: Anytime after Books are Closed

After the close of a fiscal year, the fund balance is submitted to DOR (Form CP-2) and notice given to the Community Preservation Committee and other financial officers. The fund balance may be appropriated anytime after that report.

### **July 15: School Business Officials**

Certification Date for Excess and Deficiency (E&D) Fund

Two weeks after the close of a fiscal year, all accounts are closed and the resulting balance sheet (a pre-closing trial balance or audited financial statements will not be accepted unless requested by the Director of Accounts) and supplemental documentation are submitted to DOR. E&D Fund is certified any time after this date.

### **July 15: Assessors**

Deadline for Appealing Commissioner's Pipeline Valuations to ATB

### **July 20: DOR/BLA**

Notification of Changes in Proposed EQVs (even numbered years only)

### **July 20: DOR/BLA**

Notification of Changes in Proposed State-Owned Land (SOL) Valuations (every 4th year after 2005)

Smart Growth School Cost Reimbursement Report to DLS - Local Reporting Officers report (a) local smart growth property tax and

excise tax revenue for prior fiscal year or (b) municipality's waiver of reimbursement.

## **AUGUST**

### **August 1: Taxpayer**

Quarterly Tax Bills Deadline for Paying 1st Quarterly Tax Bill Without Interest

According to M.G.L. Ch. 59, Sec. 57C, this is the deadline for receipt of the 1<sup>st</sup> Quarter preliminary tax payment without interest, unless the preliminary bills were mailed after July 1. If mailed by August 1, the 1st Quarterly payment is due August 1, or 30 days after the bills were mailed, whichever is later, and the 2nd Quarterly payment is due November 1. If mailed after August 1, the preliminary tax is due as a single installment on November 1, or 30 days after the bills were mailed, whichever is later.

### **August 1: Taxpayer**

Annual Boat Excise Return Due

### **August 1: Accountant**

Notification of Total Receipts of Preceding Year

The total actual local receipts (e.g., motor vehicle excise, fines, fees, water/sewer charges) of the previous fiscal year must be included on Schedule A of the Tax Rate Recapitulation Sheet (Recap) which is submitted by the Assessors to DOR. On the Recap, the Accountant certifies the previous fiscal year's actual revenues, and the Assessors use this information to project the next fiscal year's revenues. Any estimates of local receipts on the Recap that differ significantly from the previous year's actual receipts must be accompanied by documentation justifying the change in order to be approved by the Commissioner of Revenue.

### **August 10: Assessors**

Deadline for Appealing EQVs to ATB (even numbered years only)

### **August 10: Assessors**

Deadline for Appealing SOL Valuations to ATB (every 4th year after 2005)

### **August 15: Assessors**

Deadline to Vote to Seek Approval for Authorization to Issue Optional Preliminary Tax Bills

For semi-annual communities issuing optional preliminary property tax bills, the Assessors must vote to seek authorization to issue the bills from DOR by this date. After receiving approval, Assessors must submit a Pro-forma Tax Rate Recap Sheet to DOR for review and issue the tax bills by October 1.

### **August 31: DOR/BOA**

Issue Instructions for Determining Local and District Tax Rates

A copy of the Tax Rate Recap Sheet and its instructions are forwarded to the town.

## August 31: Assessors

Begin Work on Tax Rate Recapitulation Sheet (to set tax rate for semi-annual bills)

Until the Tax Rate Recap Sheet is completed and certified by the Commissioner of Revenue, the community may not set a tax rate nor send out its property tax bills (unless it issues preliminary quarterly tax bills or requests from DOR the authority to send out preliminary tax notices if DOR requirements are met). Communities should begin gathering the information in enough time for the tax rate to be set and tax bills mailed by October 1. The Tax Rate Recap Sheet provides Mayors or Selectmen with a ready-made financial management tool because the town's most important financial management information is summarized on this form. The Mayor or Selectmen should review the Recap Sheet in preliminary form in order to understand the following financial information:

**Page 1 (Tax Rate Summary)** The proposed tax levy should be compared to the levy limit. If a town does not levy to its limit, the remaining levy is referred to as excess levy capacity. Excess levy capacity is lost to the community for the current fiscal year although it will always remain in the levy limit calculation;

**Page 2 (Amount To Be Raised)** This section includes appropriations and other local expenditures not appropriated. These include overlay deficits, revenue deficits, state and county charges, Cherry Sheet offset items, and the allowance for abatements and exemptions. By comparing this information to the prior year(s), any significant changes can be determined;

**Page 2 (Estimated Receipts & Revenues From Other Sources)** In particular, Section C shows the amount appropriated from free cash and other available funds. By comparing the amounts appropriated to the balances in these accounts (available from the Accountant/Auditor), the Mayor or Selectmen can get a sense of how their non-property tax revenues are being used;

**Page 3, Schedule A (Local Receipts Not Allocated)** By comparing these figures to prior year(s), the Mayor or Selectmen can determine any changes in these revenues;

**Page 4, Schedule B (Certification of Appropriations and Source of Funding)** This section includes financial votes of City/Town Council or Town Meeting not previously reported on last year's recap.

**City & Town** is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.

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