

(Published in the Topeka Metro News July 29, 2019)

**ORDINANCE NO. 20194**

AN ORDINANCE introduced by City Manager Brent Trout, concerning affordable housing and the Topeka Housing Trust Fund, amending City of Topeka Code § 2.105.010 and § 2.105.070 and repealing original sections.

WHEREAS, the Governing Body of the City of Topeka has recognized that the community has a significant need to maintain the quantity and enhance the quality of affordable housing throughout the community; and

WHEREAS, for decades, the City of Topeka has partnered with both the state and federal government related to the provision of quality affordable housing for persons of low to moderate incomes through housing assistance (funding), as well as a wide range of housing programs and policies; and

WHEREAS, the Governing Body wishes to implement another tool that can be used to complement its current efforts by establishing a Topeka Housing Trust Fund.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 2.105.010, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Affordable Housing” means housing available to low to moderate income (LMI) individuals and families enabling LMI households to pay no more than 30% of household income for gross housing costs, including utilities.

29 “Affordable Housing Review Committee” or “Committee” means a nine-member  
30 committee established for the purpose of administering the manner in which funds held  
31 in the Housing Trust Fund are accepted and allocated. The Committee shall be made  
32 up of the following individuals: (1) Director of Administrative and Financial Services, or  
33 his/her designee; (2) Director of Neighborhood Relations; (3) Director of Planning and  
34 Development; (4) Housing and Credit Counseling, Inc. (HCCI) representative; (5)  
35 Kansas Housing Resource Corporation (KHRC) representative; (6) Federal Home Loan  
36 Bank (FHLB) representative; (7) Citizen’s Advisory Council Chairperson, or his/her  
37 designee; (8) an affordable housing provider recommended by the Mayor and appointed  
38 by the Governing Body; and (9) a poverty advocate recommended by the Mayor and  
39 appointed by the Governing Body. The Director of Neighborhood Relations or his/her  
40 designee, will serve as the Chairperson of the Committee.

41 “Area Median Income” or “AMI” means the area median income, adjusted for  
42 household size, for the Shawnee County as determined by the U.S. Department of  
43 Housing and Urban Development.

44 “Blighted property” means any property adversely affected by detrimental  
45 environmental conditions, topographic problems, uncontrolled vegetation, inaccessibility  
46 or substandard structures.

47 “Citizen advisory council (CAC)” refers to an advisory group consisting of a  
48 representative from each neighborhood improvement association and three at-large  
49 members appointed by the governing body that provides advice to the Department of  
50 Neighborhood Relations as to neighborhood and community needs and the allocation of  
51 city, federal and Topeka housing trust funds.

52 “City” means the City of Topeka, Kansas.

53 “Dilapidated home” means a substandard dwelling, the repair of which would cost  
54 more than ~~fifty~~50 percent (50%) of the replacement cost of the structure.

55 “Emergency Shelter” means any facility, the primary purpose of which is to  
56 provide temporary or transitional shelter for the homeless.

57 “Extremely low income” means the household annual adjusted income is thirty  
58 percent (30%) or less of the area median income as determined by HUD.

59 “Gap funding” means the amount of money needed to fund the proposed project  
60 or program that is not currently provided by cash, equity or debt where at least two  
61 sources have been secured and all possible sources, including developer funds and  
62 private financing, have been pursued and optimized.

63 “Homeowner” means a person whose customary and usual abode is in a  
64 dwelling to which such person has title, a life estate or is buying under a land sales  
65 contract.

66 “Housing and neighborhood development” shall include the terms and programs  
67 associated with community development, housing development, neighborhood  
68 development, economic development or any other term or program utilized with the  
69 intent of improving any aspect of the city of Topeka.

70 “Housing Trust Fund” or “Fund” means a public/private financial resource that  
71 can accept and disburse funds for acquisition, rehabilitation and development of  
72 affordable housing including transitional housing projects, programs furthering  
73 affordable housing in the community, and/or emergency shelter and supportive services  
74 related to affordable housing.

75 “HUD” means U.S. Department of Housing and Urban Development.

76 “Low and moderate income (LMI)” means the household annual adjusted income  
77 does not exceed eighty percent (80%) of the area median income.

78 ~~“Low income” means household annual adjusted income does not exceed fifty~~  
79 ~~percent (50%) of the area’s median income but is above thirty percent (30%) of the area~~  
80 ~~median income.~~

81 “Low-moderate area benefit activity (LMA)” is an activity, which is available to  
82 benefit all residents of an area, which is primarily residential, where at least fifty-one  
83 percent (51%) of the residents are low-moderate income (LMI) persons. In order to  
84 qualify on an area benefit basis, an activity must meet the identified needs of low-  
85 moderate income persons residing in an area. (LMA benefit activities are subject to  
86 other applicable HUD rules, regulations and guidelines.)

87 “Low to moderate income” (LMI) means households with incomes at or below  
88 eighty percent (80%) of the Area Median Income (AMI), as determined by the  
89 Department of Housing and Urban Development.

90 “Low-moderate income household” is established by the combined income of all  
91 persons residing in a housing unit to determine, using Section 8 income guidelines, if  
92 the household income meets the HUD median annual family income limits. (LMI  
93 households are subject to other applicable HUD rules, regulations and guidelines.)

94 “Low-moderate income housing activity (LMH)” is an activity which assists in the  
95 acquisition, construction, or improvement of permanent residential structures (including  
96 homeownership) only to the extent that a LMI household occupies the housing unit. The  
97 housing unit may be occupied by either owner or renter upon completion and may be

98 either one family or multi-unit structures. (LMH benefit activities are subject to other  
99 applicable HUD rules, regulations and guidelines.)

100 “Low-moderate income job activity (LMJ)” is an activity which creates or retains  
101 jobs for low-moderate benefit only three ways: be located in a predominantly LMI area  
102 and serve LMI income residents; or involves facilities designed for use by predominantly  
103 LMI persons; or involves the employment of persons, either to create or retain jobs,  
104 principally for LMI persons. (LMJ benefit activities are subject to other applicable HUD  
105 rules, regulations and guidelines.)

106 “Low-moderate income limited clientele activity (LMC)” is an activity which  
107 provides benefit to a specific group of persons rather than everyone in an area  
108 generally. It may benefit persons without regard to the area in which they reside. To  
109 qualify under this activity clientele must meet one of the following: benefit a clientele  
110 who are generally presumed, by HUD, to be principally LMI persons; or be of such  
111 nature and in such location that it may be concluded that the activity’s clientele will be  
112 LMI persons; or the activity removes architectural barriers to the mobility or accessibility  
113 of elderly or severely disabled persons; or the activity requires information on family size  
114 and income, as to determine LMI status. (LMC benefit activities are subject to other  
115 applicable HUD rules, regulations and guidelines.)

116 “Neighborhood Improvement Association (NIA)” means an organization whose  
117 boundaries include a census block group or multiple census block groups where at least  
118 fifty-one~~51~~ percent (51%) of the household annual incomes are at or below eighty~~80~~  
119 percent (80%) of the area median income as determined by the United States Census.  
120 The ~~Mayer~~City Manager must certify these boundaries before the NIA can receive

funding from the department of neighborhood relations.

“Rehabilitation” means repair of a substandard dwelling to conform to the minimum code or property rehabilitation standards established for housing and neighborhood development purposes.

“Substandard home” means a dwelling which does not conform to the city’s minimum housing code.

“Supportive Services” means housing related or other services that assist individuals and families to locate, obtain or retain affordable, quality, permanent housing. Eligible activities include: deposit/rental or utility assistance; tenant counseling; credit counseling; payment of application fees; outreach services; life skills training; and/or minor home repair.

Section 2. That section 2.105.070, Topeka housing trust fund, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Topeka housing trust fund.**

(a) Established; Purpose.

The Director of Neighborhood Relations is hereby authorized to establish the Topeka Housing Trust Fund. The purpose of the trust fund shall be to encourage and support the acquisition, rehabilitation and development of affordable housing and/or emergency shelter and supportive services necessary to maintain independent living with dignity in the Topeka community. Monies placed in the Housing Trust Fund through donations or otherwise will provide resources that can be used to address community, neighborhood, housing, and economic development needs of the City that cannot be fully met with federal, state, or local funds; primarily through gap funding for affordable

~~housing projects and housing related services. will be to allow the city to access other resources to address the community, neighborhood, housing and economic development needs of the city that cannot be fully met with federal, state or local funds. Trust fund resources shall be used only for the following purposes: programs, education relating to housing and economic development for citizens and program participants, and, as a last resort, for emergency operations of the department should other sources be discontinued or temporarily unavailable. All expenditure decisions will be made by the city council with recommendations by the director. The director will seek advice from the citizen advisory council on the process for allocating program and education funds.~~

(b) Eligible Applicants. Eligible Applicants shall include, but not be limited to:

(1) Private entities.

(2) Public entities.

(3) Non-profit entities.

(4) For-profit entities.

(c) Eligible Uses. Eligible Uses shall include, but not be limited to:

(1) Property acquisition.

(2) New construction of affordable housing.

(3) Rehabilitation of existing housing.

(4) Supportive services.

(d) Application Period. Applications requesting an allocation of monies from the Housing Trust Fund will be accepted year-round in order to accommodate the varying needs of affordable housing providers, developers and supportive services providers. The City may from time to time, and as funding levels allow, issue a request

167 for proposals seeking applicants who may be desirous of receiving proceeds from the  
168 Housing Trust Fund in order to support the acquisition, rehabilitation and development  
169 of affordable housing and/or emergency shelter and supportive services necessary to  
170 maintain independent living with dignity in the community.

171 (e) Affordable Housing Review Committee; Responsibilities. This Committee  
172 shall be responsible for:

173 (1) Ensuring that strong preference will be given to unrestricted  
174 donations. Donor-advised, or otherwise restricted, funds may be considered; but  
175 must go through the same review and approval process as the funding-decision  
176 process.

177 (2) Conducting a review of applications requesting an allocation of  
178 monies from the Housing Trust Fund, as set out in TMC 2.105.070(f) below, and  
179 then making a recommendation to the City Manager regarding whether or not to  
180 allocate funding.

181 (3) Preparing an Annual Report, in conjunction with the Department of  
182 Administrative and Financial Services, not later than July 1st of each year,  
183 concerning the activities of the preceding calendar year. Such reports shall be  
184 prepared by the Chairperson of the Affordable Housing Review Committee, shall  
185 cover all financial transactions involving monies raised and received, including  
186 gifts and donations and shall thereafter be posted on the City's website.

187 (f) Review of Applications. Each application requesting an allocation of  
188 monies held in the Housing Trust Fund must be fully completed, with any required  
189 documentation attached. The Affordable Housing Review Committee shall review any



190 fully-completed application within thirty (30) days of the date on which it is submitted.

191 The following factors will be considered as part of such review:

192           (1) Would the project increase the supply of affordable rental housing,  
193 including the funding of rental assistance programs, for qualified households  
194 earning eighty percent (80%) or less AMI? Funding for projects that will serve  
195 households at fifty percent (50%) or less and thirty percent (30%) or less AMI are  
196 preferred, to the extent possible.

197           (2) Would the project increase the supply of for-sale housing for  
198 qualified households earning eighty percent (80%) or less of AMI?

199           (3) Would the project support homebuyer assistance programs,  
200 including by way of example down payment and mortgage assistance programs,  
201 for qualified households earning eighty percent (80%) or less of AMI?

202           (4) Would the project preserve rental housing, including the funding of  
203 rental assistance programs, for qualified households earning eighty percent  
204 (80%) or less of AMI? Funding for projects that will serve households at fifty  
205 percent (50%) or less and thirty percent (30%) or less AMI are preferred, to the  
206 extent possible.

207           (5) Would the project provide for the development of permanent  
208 supportive housing for homeless persons, and for supportive services associated  
209 with such housing?

210           (6) Would proposals for supportive services in combination with  
211 categories (1) through (5) above or stand-alone, enhance access to or success in  
212 safe affordable housing for households at eighty percent (80%) or less AMI?

213           (7) Would the project be a strategic investment leading to the  
214           stabilization or revitalization of a neighborhood or promote a mixed-income  
215           approach to affordable housing either by project or location?

216           (8) Would the project, if new construction, be compatible with the  
217           design character of the neighborhood and/or advance high quality design  
218           standards including “Crime Prevention Through Environmental Design?”

219           (9) Have total development and project costs and courses of funds  
220           been submitted?

221           (10) Have future operational costs and provision for any applicant-  
222           provided or partner-provided supportive services been submitted and  
223           satisfactorily addressed?

224           (11) Does the experience and financial stability of the applicant indicate  
225           likely project success?

226           (12) Do all elements of the proposal comply with City ordinances and  
227           other applicable laws and regulations?

228           (13) Are there other sources available that could fund this proposal (i.e.,  
229           are Housing Trust Fund dollars really needed)?

230           (g) Funding Recommendation; Decision. The Committee, after considering  
231           each of the factors noted in TMC 2.105.070(f) above, shall forward its recommendation  
232           regarding whether or not to allocate funding to the City Manager within thirty (30) days  
233           of the last date on which it met to consider the application. The City Manager shall  
234           review the recommendation and may return it to the Committee for further review. At  
235           such time as the City Manager feels the proposal is ready for action, the City Manager

236 shall forward the proposal to the Governing Body with a recommendation. The decision  
237 of the Governing Body shall be final.

238 (h) Administration of Fund.

239 (1) The Housing Trust Fund application and review process shall be  
240 administered by the Director of Neighborhood Relations or his/her designee, who  
241 may promulgate rules and regulations governing the processes and procedures  
242 associated with the same; provided, however, that such rules and regulations  
243 must remain consistent with this Chapter.

244 (2) The Housing Trust Fund account and monies shall be administered  
245 by the Director of Financial Services or his/her designee, who may promulgate  
246 rules and regulations governing the processes and procedures associated with  
247 donations to and expenditures from such Fund; provided, however, that such  
248 rules and regulations must remain consistent with this Chapter.

249 Section 3. That original § 2.105.010 and § 2.105.070 of The Code of the City  
250 of Topeka, Kansas, are hereby specifically repealed.

251 Section 4. This ordinance shall take effect and be in force from and after its  
252 passage, approval and publication in the official City newspaper.

253 Section 5. This ordinance shall supersede all ordinances, resolutions or rules,  
254 or portions thereof, which are in conflict with the provisions of this ordinance.

255 Section 6. Should any section, clause or phrase of this ordinance be declared  
256 invalid by a court of competent jurisdiction, the same shall not affect the validity of this  
257 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.  
258

PASSED AND APPROVED by the Governing Body on July 23, 2019.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk