

**ORDINANCE NO. 20460**

AN ORDINANCE introduced by Interim City Manager Richard U. Nienstedt, concerning the Housing Trust Fund, amending § 2.25.010 and § 2.25.070 of the Topeka Municipal Code and repealing original sections.

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

Section 1. That section 2.25.010, 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 percent of household income for gross housing costs, including utilities.

“Affordable Housing Trust Fund Review Committee” or “Committee” means an ~~nine~~eleven-member committee established for the purpose of administering the manner in which funds held in the housing trust fund are accepted and allocated. The Committee shall be made up of the following individuals: (1) Director of Administrative and Financial Services, or designee; (2) Director of Planning and Development, or designee; (3) ~~Division Director of Housing Services~~City Manager, or designee; (4) Housing and Credit Counseling, Inc. (HCCI) representative; (5) Kansas Housing Resource Corporation (KHRC) representative; (6) ~~Federal Home Loan Bank (FHLB)~~a local financial institution representative; (7) Citizen Advisory Council (CAC) Chairperson, or designee from the CAC; (8) an affordable housing provider

~~recommended~~appointed by the Mayor and ~~appointed~~approved by the City Council; and  
(9) a poverty advocate ~~recommended~~appointed by the Mayor and ~~appointed~~approved  
by the City Council; and (10) two residents of the City appointed by the Mayor and  
approved by the City Council. The Director of Planning and Development, or designee,  
will serve as the Chairperson of the Committee.

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

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

“Citizen Advisory Council (CAC)” refers to an advisory group consisting of a  
representative from each neighborhood improvement association and three at-large  
members appointed by the Governing Body which provides recommendations to the  
City Manager as to neighborhood and community needs and the allocation of City,  
Federal and Topeka housing funds.

“City” means the City of Topeka, Kansas.

“Dilapidated home” means a substandard dwelling, the repair of which would cost  
more than 50 percent of the replacement cost of the structure.

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

“Extremely low income” means the household annual adjusted income is 30  
percent or less of the area median income as determined by HUD.

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

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

58           “Housing and neighborhood development” shall include the terms and programs  
59 associated with community development, housing development, neighborhood  
60 development, economic development or any other term or program utilized with the  
61 intent of improving any aspect of the City of Topeka.

62           “Housing trust fund” or “fund” means a public/private financial resource that can  
63 accept and disburse funds for acquisition, rehabilitation and development of affordable  
64 housing including transitional housing projects, programs furthering affordable housing  
65 in the community, and/or emergency shelter and supportive services related to  
66 affordable housing.

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

68           “Low and moderate income (LMI)” means the household annual adjusted income  
69 does not exceed 80 percent of the area median income.

70           “Low-moderate area benefit activity (LMA)” is an activity that is available to  
71 benefit all residents of an area, which is primarily residential, where at least 51 percent  
72 of the residents are low-moderate income (LMI) persons. In order to qualify on an area  
73 benefit basis, an activity must meet the identified needs of low-moderate income

persons residing in an area. (LMA benefit activities are subject to other applicable HUD rules, regulations and guidelines.)

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

“Low-moderate income housing activity (LMH)” is an activity that assists in the acquisition, construction, or improvement of permanent residential structures (including homeownership) only to the extent that an LMI household occupies the housing unit. The housing unit may be occupied by either owner or renter upon completion and may be either one-family or multi-unit structures. (LMH benefit activities are subject to other applicable HUD rules, regulations and guidelines.)

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

“Low-moderate income limited clientele activity (LMC)” is an activity that provides benefit to a specific group of persons rather than everyone in an area generally. It may benefit persons without regard to the area in which they reside. To qualify under this activity clientele must meet one of the following: benefit a clientele who are generally presumed, by HUD, to be principally LMI persons; or be of such nature and in such

location that it may be concluded that the activity's clientele will be LMI persons; or the activity removes architectural barriers to the mobility or accessibility of elderly or severely disabled persons; or the activity requires information on family size and income, as to determine LMI status. (LMC benefit activities are subject to other applicable HUD rules, regulations and guidelines.)

"Neighborhood improvement association (NIA)" means an organization whose boundaries include a census block group or multiple census block groups where at least 51 percent of the household annual incomes are at or below 80 percent of the area median income as determined by the United States Census. The City Manager must certify these boundaries before the NIA can receive funding.

"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 that does not conform to the City's International Property Maintenance Code (IPMC).

"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 2.25.070, 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 City Manager 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.

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

(1) Private entities.

(2) Public entities.

(3) Nonprofit 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 for

proposals seeking applicants who may be desirous of receiving proceeds from the housing trust fund in order to 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 community.

(e) *Affordable Housing Trust Fund Review Committee – Responsibilities.* This Committee shall be responsible for:

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

(2) Conducting a review of applications requesting an allocation of monies from the housing trust fund, as set out in subsection (f) of this section, and then making a recommendation to the City Manager regarding whether or not to allocate funding.

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

(f) *Review of Applications.* Each application requesting an allocation of monies held in the housing trust fund must be fully completed, with any required documentation

166 attached. The Affordable Housing Trust Fund Review Committee shall review any fully  
167 completed application within 30 days of the date on which it is submitted. The following  
168 factors will be considered as part of such review:

169 (1) Would the project increase the supply of affordable rental housing,  
170 including the funding of rental assistance programs, for qualified households  
171 earning 80 percent or less AMI? Funding for projects that will serve households  
172 at 50 percent or less and 30 percent or less AMI are preferred, to the extent  
173 possible.

174 (2) Would the project increase the supply of for-sale housing for qualified  
175 households earning 80 percent or less of AMI?

176 (3) Would the project support homebuyer assistance programs, including  
177 by way of example down payment and mortgage assistance programs, for  
178 qualified households earning 80 percent or less of AMI?

179 (4) Would the project preserve rental housing, including the funding of  
180 rental assistance programs, for qualified households earning 80 percent or less  
181 of AMI? Funding for projects that will serve households at 50 percent or less and  
182 30 percent or less AMI are preferred, to the extent possible.

183 (5) Would the project provide for the development of permanent  
184 supportive housing for ~~homeless~~ unsheltered persons, and for supportive services  
185 associated with such housing?

186 (6) Would proposals for supportive services, in combination with  
187 categories in subsections (f)(1) through (f)(5) of this section or stand-alone,  
188 enhance access to or success in safe affordable housing for households at 80

189 percent or less AMI?

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

193 (8) Would the project, if new construction, be compatible with the design  
194 character of the neighborhood and/or advance high-quality design standards  
195 including “crime prevention through environmental design”?

196 (9) Have total development and project costs and courses of funds been  
197 submitted?

198 (10) Have future operational costs and provision for any applicant-  
199 provided or partner-provided supportive services been submitted and  
200 satisfactorily addressed?

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

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

205 (13) Are there other sources available that could fund this proposal (i.e.,  
206 are housing trust fund dollars really needed)?

207 (14) How does the request meet a priority need identified in the Citywide  
208 Housing Market Study and Strategy or any addendums and updates?

209 (g) *Funding Recommendation – Decision.* The Committee, after considering  
210 each of the factors noted in subsection (f) of this section, shall forward its  
211 recommendation regarding whether or not to allocate funding to the City Manager within

30 days of the last date on which it met to consider the application. The City Manager shall review the recommendation and may return it to the Committee for further review. At such time as the City Manager believes the proposal is ready for action, the City Manager shall forward the proposal to the Governing Body with a recommendation. The decision of the Governing Body shall be final.

(h) *Administration of Housing Trust Fund.*

(1) The housing trust fund application and review process shall be administered by the Director of Planning and Development or designee, who may promulgate rules and regulations governing the processes and procedures associated with the same; provided, however, that such rules and regulations must remain consistent with this chapter.

(2) The housing trust fund account and monies shall be administered by the Director of Administrative and Financial Services or designee, who may promulgate rules and regulations governing the processes and procedures associated with donations to and expenditures from such fund; provided, however, that such rules and regulations must remain consistent with this chapter.

Section 3. That original § 2.25.010 and 2.25.070 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

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

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

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

PASSED AND APPROVED by the Governing Body on October 17, 2023.

CITY OF TOPEKA, KANSAS

ATTEST:

Michael A. Padilla, Mayor

Brenda Younger, City Clerk