

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 15.62 "AFFORDABLE HOUSING TRUST FUND" TO ALLOW FUNDS DISTRIBUTED TO THE CITY UNDER REDEVELOPMENT DISSOLUTION LAWS TO BE USED FOR ANY LAWFUL PURPOSE UPON A DECLARATION OF EXTREME FISCAL NECESSITY BY THE CITY COUNCIL

WHEREAS, Oakland Municipal Code ("OMC") Chapter 15.62 establishes the Affordable Housing Trust Fund; and

WHEREAS, a portion of the funds in the Affordable Housing Trust Fund are a set-aside of 25% of funds distributed to the City as a taxing entity under the laws dissolving redevelopment agencies; and

WHEREAS, OMC section 15.62.040 provides that the funds in the Affordable Housing Trust Fund shall be used only for specified purposes; and

WHEREAS, the City Administrator recommends that the requirements of ~~Oakland Municipal Code~~ ("OMC") Chapter 15.62 are suspended upon a declaration of extreme fiscal necessity by the City Council so that the Affordable Housing Trust Fund revenue may be used for any lawful government purposes as provided in the Ordinance ~~adopted by the voters~~; and

WHEREAS, pursuant to Resolution No. 90327 C.M.S., the City Council declared an extreme fiscal necessity for the fiscal year 2024-2025 budget cycle; and now, therefore, be it

WHEREAS, the City Administrator recommends amending OMC section 15.62.040 to allow the portion of funds in the Affordable Housing Trust Fund that come from funds distributed to the City as a taxing entity under the redevelopment dissolution to be used for any lawful purpose upon a declaration of fiscal necessity by the City Council

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Amendments to Section 15.62.040 of the Oakland Municipal Code. Oakland Municipal Code section 15.62.040, "Use of Funds", is hereby amended to read as follows (deleted text is indicated with ~~strikeout text~~, and added text is indicated with double underline text):

15.62.040 Use of Funds

A. Funds deposited into the Affordable Housing Trust Fund, and all interest and investment earnings thereon, shall be used to increase, improve, and preserve the supply of affordable housing in the City, with priority given to housing for very low-income households. For purposes of this paragraph, to "preserve" affordable housing means to acquire, finance, refinance, or rehabilitate housing that is at imminent risk of loss to the affordable housing supply (including housing that is restricted to affordable housing or housing that is otherwise provided at an affordable rent or an affordable housing cost to lower income households or very low income households) due to termination of use restrictions, non-renewal of subsidy contract, mortgage or tax default or foreclosure, rent increases, conversion to market-rate housing or other uses, demolition, or physical conditions that are likely to result in vacation of the property.

Funds may also be used to cover reasonable administrative or related expenses of the City not reimbursed through processing fees. No portion of the Affordable Housing Trust Fund may be diverted to other purposes by way of loan or otherwise.

Funds in the Affordable Housing Trust Fund shall be used in accordance with the adopted housing element to the City's General Plan, the Consolidated Plan, and subsequent housing plans adopted by the City Council, to subsidize or assist the City, other government entities, nonprofit organizations, private organizations or firms, or individuals in the construction, preservation or substantial rehabilitation of affordable housing. Monies in the Affordable Housing Trust Fund may be disbursed, hypothecated, collateralized or otherwise employed for these purposes from time to time as the City Administrator so determines is appropriate to accomplish the purposes of the Affordable Housing Trust Fund. Eligible uses include, but are not limited to, assistance with staff costs or other administrative costs attributable to a specific affordable housing project, equity participation in affordable housing projects, loans and grants (including, predevelopment loans or grants) to affordable housing projects, or other public/private partnership arrangements. Monies from the Affordable Housing Trust Fund may be extended for the benefit of rental housing, owner occupied housing, limited equity cooperatives, mutual housing developments, or other types of affordable housing projects. Not more than fifteen percent (15%) of the funds deposited into the Affordable Housing Trust Fund from Affordable Housing Impact Fees may be used for housing affordable to moderate income households unless this limit is waived by the City Council with a specific finding that the waiver is in the best interests of the City.

B. Notwithstanding the provisions of Subsection A. above, funds deposited into the Affordable Housing Trust Fund from fines and penalties received under the Foreclosed and Defaulted Residential Property Registration Program pursuant to Section 8.54.620 of this Code, or from fines, penalties, or other funds under other programs that designate the use of funds deposited into the Affordable Housing Trust Fund for foreclosure prevention or mitigation purposes, may be used for foreclosure prevention and mitigation activities, including but not limited to homebuyer or tenant assistance, rehabilitation, housing counseling, education, outreach, and advocacy activities, along with staff costs or other administrative costs attributable to such activities. Upon a finding by the City Council or the City Administrator that funds are no longer needed for foreclosure prevention or mitigation activities, such funds may also be used for other eligible Affordable Housing Trust Fund uses or for other low income or very low-income tenant or homebuyer assistance. Funds received pursuant to Section 8.54.620 shall be appropriated to a separate project. For funds received under the Foreclosed and Defaulted Residential Property Registration Program or other programs that designate the use of funds for foreclosure prevention or mitigation purposes, the City Administrator or his or her designee is authorized to award grants and enter into grant contracts or service contracts without returning to the City Council in amounts not to exceed one hundred thousand dollars (\$100,000.00).

C. Notwithstanding the provisions of Subsection A. above, until June 30, 2027, funds deposited into the Affordable Housing Trust Fund from the set aside of funds distributed to the City as a taxing entity under the Dissolution Laws may also be used for services and interventions aimed at: preventing displacement of low-income renters from their homes; preventing the displacement of low-income, senior, or disabled homeowners from their homes; rehousing for homeless residents; or protecting low-income renters from poor housing conditions leading to displacement. These services and activities may include, but are not limited to, housing counseling and outreach, rapid-rehousing, legal services, and housing assistance funds for tenants and homeowners who are lower income households or very low-income households and who are at risk of losing their home or becoming homeless. Notwithstanding the above, until June 30, 2018, funds deposited into the Affordable Housing Trust Fund from the set aside of funds distributed to the City as a taxing entity under the Dissolution Laws may also be used for services for homeless residents.

D. Notwithstanding the provisions of Subsection A. above, funds deposited into the Affordable Housing Trust Fund from the Downtown Oakland Specific Plan Zoning Incentive Program may be used toward any project to increase, improve, and preserve the supply of affordable housing in the City, including in the Downtown District (D-DT) whenever possible to preserve, protect and produce affordable housing toward the explicit goal to maintain downtown as a mixed-income community.

E. Notwithstanding the provisions of Subsection A, above, upon a declaration of Extreme Fiscal Necessity by the City Council, the City Council may appropriate funds deposited into the Affordable Housing Trust Fund from the set-aside of funds distributed to the City as a taxing entity under the laws dissolving redevelopment agencies for any lawful purpose. In any given fiscal year, the amount the Council may appropriate shall not exceed fifty percent of the estimated revenue budgeted from said funds.

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 3. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

3387445v1/ARM

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 15.62 “AFFORDABLE HOUSING TRUST FUND” TO ALLOW FUNDS DISTRIBUTED TO THE CITY UNDER REDEVELOPMENT DISSOLUTION LAWS TO BE USED FOR ANY LAWFUL PURPOSE UPON A DECLARATION OF EXTREME FISCAL NECESSITY BY THE CITY COUNCIL

This Ordinance would amend Oakland Municipal Code section 15.62.040, which provides for the use of funds in the Affordable Housing Trust Fund, to allow the City Council, upon a declaration of extreme fiscal necessity, to appropriate funds deposited into the Affordable Housing Trust Fund from the set-aside of funds distributed to the City as a taxing entity under the laws dissolving redevelopment agencies in order to use those funds for any lawful purpose.