Approved as to form and legality

Daniel Rossi
Daniel Rossi (Sep 30, 2026 11:10:23 PDT)
Deputy City Attorney

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING CHAPTER 15.62 OF THE OAKLAND MUNICIPAL CODE TO ALLOW AFFORDABLE HOUSING TRUST FUNDS FROM FUNDS DISTRIBUTED TO THE CITY UNDER REDEVELOPMENT DISSOLUTION LAWS TO BE USED FOR OPERATING AND RENTAL SUBSIDIES FOR HOUSING SERVING PEOPLE EXPERIENCING HOMELESSNESS AND HOUSEHOLDS WITH EXTREMELY LOW INCOMES, AND REMOVING THE 2027 SUNSET DATE ON USING SUCH FUNDS FOR ANTI-DISPLACEMENT AND HOMELESSNESS PREVENTION SERVICES

WHEREAS, Chapter 15.62 of the Oakland Municipal Code establishes an Affordable Housing Trust Fund; and

WHEREAS, a portion of Affordable Housing Trust Funds comes from a set-aside of 25% of funds distributed to the City of Oakland (City) as a taxing entity under the laws dissolving redevelopment agencies; and

WHEREAS, Section 15.62.040 of the Oakland Municipal Code provides that funds deposited into the Affordable Housing Trust Fund must be used to increase, improve and preserve the supply of affordable housing in the City by funding affordable housing development projects; and

WHEREAS, the affordable housing crisis in Oakland has contributed to the problems of displacement and homelessness in the City; and

WHEREAS, in 2017, the City Council amended Section 15.62.040 of the Oakland Municipal Code to expand the use of Affordable Housing Trust Funds from former redevelopment funds to include anti-displacement and homelessness prevention services for a period of 10 years; and

WHEREAS, Oakland's median rents have remained at unaffordably high levels for many Oakland residents since the 2017 Council action; and

WHEREAS, Oakland's escalating housing costs and lack of sufficient resources to enforce renters' protections and support for low income homeowners are pushing more people into homelessness, and, per the 2023 Homeless Point-In-Time count and survey, 80% of respondents said they lived in Alameda County before becoming homeless and 77.9% had lived here for 10 years or more; and

WHEREAS, the COVID-19 health pandemic has resulted in ever greater housing insecurity and homelessness, with the greatest impacts experienced among low income and Black and Brown residents; and

WHEREAS, the City has successfully created new housing serving residents experiencing homelessness utilizing programs such as the State of California's Homekey Program, but finds that funding for operating subsidies has been insufficient, yet is a critical component to ensure the viability and long-term sustainability of permanent housing solutions that reduce homelessness in Oakland; and

WHEREAS, Oakland Housing Authority Section 8 vouchers are not available in amounts sufficient to support the number of housing units serving people experiencing homelessness, and further it is reported that Section 8 vouchers across the country only meet approximately 25% of the need for this critical resource; and

WHEREAS, Council wishes to allow that portion of the Affordable Housing Trust Fund that comes from funds distributed to the City as a taxing entity under the redevelopment dissolution laws also to be used to ensure the sustainability of housing serving people experiencing homelessness and households with extremely low incomes over the long term; and

WHEREAS, Council further wishes to ensure that anti-displacement and homelessness prevention activities can be funded beyond 2027; and

WHEREAS, these amendments to the rules governing the Affordable Housing Trust Fund would give flexibility for the City Council to allocate redevelopment dissolution funds for anti-displacement and homelessness prevention services, given that the City is poised to have about $200 million to $250 million in new funds dedicated to affordable housing development from local bond measures and a new housing impact fee; now, therefore,

The Council of the City of Oakland does hereby ordain as follows:

SECTION 1. Section 15.62.040 of the Oakland Municipal Code is amended to read as follows (deleted text is indicated with ~~strikeout text~~, and added text is indicated with double underlining):

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 setaside 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 setaside 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 setaside of funds distributed to the City as a taxing entity under the Dissolution Laws may also be used for financial assistance to ensure the sustainable operation of housing serving people experiencing homelessness and extremely low income households, which may include, but is not limited to, capitalized operating reserve subsidies or other forms of operating or rental subsidies.

~~D~~E. 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.

~~E~~F. 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 (50) percent of the estimated revenue budgeted from said funds.

SECTION 2. The following is added to the definitions set forth in Section 15.62.020 of the Oakland Municipal Code:

"Extremely low income households" shall be as defined in California Health and Safety Code Section 50106 and its implementing regulations.

SECTION 3. The provisions of this Ordinance are severable, and if any clause, sentence, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is held to be invalid, such holding shall not impair or invalidate the remainder of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such provisions not been included.

SECTION 4. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of the City Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

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

NOTICE AND DIGEST

ORDINANCE AMENDING CHAPTER 15.62 OF THE OAKLAND MUNICIPAL CODE TO ALLOW AFFORDABLE HOUSING TRUST FUNDS FROM FUNDS DISTRIBUTED TO THE CITY UNDER REDEVELOPMENT DISSOLUTION LAWS TO BE USED FOR OPERATING AND RENTAL SUBSIDIES FOR HOUSING SERVING PEOPLE EXPERIENCING HOMELESSNESS AND HOUSEHOLDS WITH EXTREMELY LOW INCOMES, AND REMOVING THE 2027 SUNSET DATE ON USING SUCH FUNDS FOR ANTI-DISPLACEMENT AND HOMELESS PREVENTION SERVICES

This Ordinance amends Chapter 15.62 of the Oakland Municipal Code to allow the use of that portion of the Affordable Housing Trust Fund that comes from a set aside of 25% of funds distributed to the City as a taxing entity under the laws dissolving redevelopment agencies to be used for financial assistance to ensure the sustainable operation of housing serving people experiencing homelessness and households with extremely low incomes, which may include, but is not limited to, capitalized operating reserve subsidies or other forms of operating or rental subsidies. This Ordinance also removes the June 30, 2027, sunset date on authority to use such funds for anti-displacement and homelessness prevention services.