

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO.

July , 2021

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended with respect to **the creation of the Newton Affordable Housing Trust Fund.**

PURPOSE: The purpose of the Newton Municipal Affordable Housing Trust (Trust) is to provide for the creation and preservation of affordable housing for the benefit of low and moderate income households as defined by the Department of Housing and Urban Development (HUD) and for the funding of community housing, as defined in and in accordance with the provisions of chapter 44B, the Community Preservation Act. Preservation and creation of affordable housing shall include but not be limited to programs designed to further housing rehabilitation and/or development opportunities and those that are designed to directly assist low and moderate homeowners and renters.

Sec. . Establishment, duties and organization.

- A. The Trust is hereby established to carry out the functions and duties of such a municipal affordable housing trust as provided in General Laws Chapter 44, Section 55C, the Municipal Affordable Housing Trust Fund, including,
1. To accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the Community Preservation Committee for inclusion in the community preservation initiatives report, form CP-3, to the Department of Revenue;

2. To purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
3. To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;
4. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the Trust;
5. To employ advisors and agents, such as accountants, appraisers and lawyers as the Trust deems necessary;
6. To fund grant positions for municipal employees through specified grants established by the Trust, whose positions are in furtherance of the purposes set forth in MGL c. 44, § 55C, and in this article;
7. To apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
8. To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
9. To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;
10. To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor of or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this article, to continue to hold the same for such period of time as the Trust may deem appropriate;
11. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trust deems advisable;
12. To carry property for accounting purposes other than acquisition date values;
13. To borrow money on such terms and conditions and from such sources as the Trust deems advisable, to mortgage and pledge trust assets as collateral;
14. To make distributions or divisions of principal in kind;
15. (14) to manage or improve real property; and to abandon any property which the Trust determined not to be worth retaining;

16. To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;
17. To hold all or part of the Trust property uninvested for such purposes and for such time as the Trust may deem appropriate;
18. To extend the time for payment of any obligation to the Trust; and,
19. To create guidelines and principles for the Trustees as to strategies for the investment and expenditure of Trust funds.

The powers and duties enumerated above are intended to encompass all powers and duties of the Trustees.

Sec. . Composition; eligibility, terms of office, term limits.

- A. The committee shall consist of seven (7) members appointed by the Mayor and confirmed by City Council as follows:
 1. The Mayor
 2. A City Council member to be chosen in consultation with the City Council President
 3. A member of the Community Preservation Committee appointed by the Mayor and approved by City Council
 4. Four (4) Newton residents appointed by the Mayor and approved by City Council. In making such appointments, the Mayor shall be guided by the goal that the membership be geographically, culturally, ethnically, and linguistically diverse and have one or more of the following qualifications:
 - a. Experience with affordable housing production, planning, architecture, law, lending, business, property management, social and human services, capital planning, and construction management
 - b. Professional experience in affordable housing finance and development
 - c. Professional participation as a funder, developer or consultant in successfully completed projects that include deed-restricted affordable housing
 - d. Experience with all-affordable, mixed-income housing, and/or mixed-use development projects that include housing
 - e. Familiarity with Massachusetts and HUD affordable housing funding sources and regulatory requirements, specifically CDBG and HOME, LIHTC, and 40B
- B. Trustees shall serve without compensation.

- C. Members shall serve for terms of two (2) years or until their successors shall take office. Appointments shall allow for staggered terms.
- D. The Trust shall annually elect one of its members to serve as chairperson and may elect such other officers, adopt procedural rules and regulations, and establish any subcommittees as it deems appropriate. (Ord. No. W-66, 11-19-01; Rev. Ord. 2007, § 2-350)
- E. Trustees who remove their residence from the City shall be considered to have resigned from the Trust.
- F. The Trustees shall consider the state of housing needs in Newton across the affordability spectrum. It may make recommendations to the Mayor and City Council on the options available to the City to create new affordable housing to address those needs and to maintain existing affordable housing stock. The Trust may support implementation of these recommendations as appropriate and measure progress toward their fulfillment.

Sec.. Funding Sources and Uses

- A. The Trust may receive funding from any or all of the following sources:
 - 1. Community Preservation Act (CPA) funds
 - 2. Inclusionary zoning payments
 - 3. Negotiated developer fees
 - 4. Payments from special bylaws/ordinances
 - 5. Private donations
- B. Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning ordinance or private contributions shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property, and to be expended these funds need not be further appropriated. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the trustees within one year of the date they were appropriated into the Trust, remain Trust property.
- C. The Trust will submit an annual application for CPA funding for all community housing uses allowed by the CPA legislation. Once the City Council has approved CPA funding for Trust activities, no further review or approval will be necessary for the Trust to expend the funding so long as the proposed use is an allowed use for community housing funds under the Community Preservation Act legislation.

- D. The Trust is authorized to expend any or all of its allocated funding to meet the affordable housing goals of the City by a majority vote of the Trustees. No further reviews or approvals are necessary for the expenditure of Trust funds.
- E. The Trust will submit annual reports to the CPC and City Council on how and where Trust funding has been used. In the case of CPA funding, the Trust will work closely with the Community Preservation Program Manager to see that all CPA funding is documented and the uses confirmed as required by the CPA funding legislation.

Sec. Administration and operations

- A. The Trust shall meet on a regular basis at least four (4) times a year or as needed to enact the duties of the Trust. All meetings must be publicly noticed as required by Open Meeting Law.
- B. The Trust shall establish an application process for projects requesting Affordable Housing Trust funds and develop clear review requirements and procedures for all projects based on the established program guidelines and the City's affordable housing goals.
- C. The Trust may expend funding on an annual or rolling basis at the Trustees discretion so long as it follows an established funding process.
- D. The Trust shall evaluate all requests for project funding from the Affordable Housing Trust fund in the established process, in accordance with the goals of the City and the guidelines and procedures established by the Trust.
- E. The City shall provide staff support to the Trust to oversee all of the administrative duties and requirements for operating and administering the Trust Fund as stated above.

Sec. Legal Status

- A. The Trust is a public employer and Trustees are public employees for purposes of Chapter 258 of the Massachusetts General Laws.
- B. The Trust shall be deemed a municipal agency and the Trustees shall be deemed as special municipal employees for purposes of Chapter 268A of the Massachusetts General Laws.
- C. The Trust is exempt from Chapters 59 and 62 of the Massachusetts General Laws, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

- D. The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of Chapter 39 of the Massachusetts General Laws.
- E. The Trust is a Board of the City for the purposes of Massachusetts General Law Chapter 30B and MGL c. 40, § 15A; but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the City shall be exempt from said Chapter 30B of the Massachusetts General Laws.

Sec. The provisions of this Article shall be interpreted and applied at all times consistently with the provisions of Chapter 44, Section 55C, of the General Laws, as may be from time to time amended, and with the provisions of any relevant general or special law.

Secs. . Reserved.

Approved as to legal form and character:

City Solicitor

Under Suspension of Rules
Readings Waived and Adopted

EXECUTIVE DEPARTMENT
Approved:

City Clerk

Mayor