

CITY OF NEWTON

IN CITY COUNCIL

ORDINANCE NO.

December , 2021

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON That:

1. Section 55C of Massachusetts General Laws Chapter 44 be and is hereby accepted; and
2. 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** by INSERTING after Art. IX. Newton Farm Commission in Chapter 7 a new Art. X as follows:

**Article X.**

**AFFORDABLE HOUSING TRUST**

**Sec. 7-100. Establishment and purpose**

There is hereby established under General Laws Chapter 44, Section 55C a Municipal Housing Trust Fund (the "Trust") for the purpose of 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. 7-101. Board of trustees – Composition; eligibility; appointment; terms of office; term limits .**

- A. There shall be a board of trustees which shall consist of seven (7) trustees, including the Mayor, a City Councilor designated by the City Council President, and the remaining five (5) Trustees to be appointed by the Mayor and confirmed by City Council as follows:
  1. A member of the Community Preservation Committee; and

2. Four (4) Newton residents. In making such appointments, the Mayor shall be guided by the goal that the board of trustees be geographically, culturally, ethnically, and linguistically diverse and each appointee 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; and
  - 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. Trustees shall serve for terms of two (2) years or until their successors shall take office. Initial appointments shall be so appointed that, as nearly as possible, the terms of an equal number of members shall expire every year. Any odd numbered initial appointment shall be for a term of one year.
- 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 board of trustees.
- 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. 7-102. Powers and duties**

The board of trustees shall be possessed of all the powers and subject to duties in accordance with the provisions of General Laws Chapter 44, Section 55C, as it may be amended from time to time.

No real property purchased in whole in or in part with Community Preservation Act (CPA) funds shall be acquired by the board of trustees for a price exceeding the value of the property as determined by the board of trustees through procedures customarily accepted by the appraising profession as valid.

**Sec. 7-103. Funding Sources and Uses**

- A. The Trust may receive funding from any or all of the following sources:
  - 1. CPA funds
  - 2. Inclusionary zoning payments
  - 3. Negotiated developer fees
  - 4. Payments from special bylaws/ordinances
  - 5. Private donations
  - 6. Grants
  
- 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. 7-104. 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.

- 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. 7-105. 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. 7-106.**

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.

Approved as to legal form and character:

\_\_\_\_\_  
City Solicitor

Under Suspension of Rules  
Readings Waived and Adopted

EXECUTIVE DEPARTMENT  
Approved:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

DRAFT