

INTRODUCED: September 27, 2021

AN ORDINANCE No. 2021-285

To amend City Code §§ 16-51, concerning the creation of the Affordable Housing Trust Fund, 16-52, concerning definitions for the Affordable Housing Trust Fund, 16-53, concerning the purpose of the Affordable Housing Trust Fund, 16-80, concerning the creation of the Affordable Housing Trust Fund Oversight Board, 16-81, concerning the composition, appointment, and terms of office for the Affordable Housing Trust Fund Oversight Board, 16-82, concerning the prohibition on award of grants or loans where Affordable Housing Trust Fund Oversight Board members are involved, 16-83, concerning the duties of the Affordable Housing Trust Fund Oversight Board, 16-84, concerning the conduct of affairs for the Affordable Housing Trust Fund Oversight Board, 16-112, concerning program administration for the Affordable Housing Trust Fund, 16-113, concerning the general administration of the Affordable Housing Trust Fund, and 16-114, concerning regulations for the administration of the Affordable Housing Trust Fund, for the purpose of modifying the operations and administration of the Affordable Housing Trust Fund.

\_\_\_\_\_  
Patron – Mayor Stoney

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: NOV 8 2021 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 16-51, 16-52, 16-53, 16-80, 16-81, 16-82, 16-83, 16-84, 16-112, 16-113, and 16-114, of the Code of the City of Richmond (2020) be and hereby are **amended** as follows:

AYES:            9            NOES:            0            ABSTAIN:        \_\_\_\_\_

ADOPTED:        NOV 8 2021        REJECTED:        \_\_\_\_\_        STRICKEN:        \_\_\_\_\_

**Sec. 16-51. Created.**

There shall be created a fund identified as the Affordable Housing Trust Fund. The fund shall be funded through annual appropriations made by the City Council and such other sources of revenue as the Council may appropriate thereto from time to time. The purpose of the fund shall be to aid in meeting the needs of low and moderate income households in the [City] city by providing loans and grants to for-profit and nonprofit housing developers and organizations for the acquisition, capital and other related costs necessary for the creation and preservation of affordable rental and owner-occupied housing in the [City] city in accordance with Code of Virginia, § 15.2-958.5.

**Sec. 16-52. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Affordable housing* means housing that a household can afford without paying more than 30 percent of income for rent or 35 percent of income for mortgage payments.

*Affordable Housing Trust Fund or fund* means a community revitalization fund created by section 16-51 pursuant to authority granted by Code of Virginia, § 15.2-958.5.

*Area median income* means the median income determined annually for the Richmond-Petersburg Metropolitan Statistical Area by the United States Department of Housing and Urban Development.

*Construction-related activities* means any of the following:

- (1) Predevelopment activities, including, but not limited to, architectural services, engineering services, attorney's fees, appraisals and title reports.

(2) On-site construction activities involving the building, altering, repairing, improving or demolishing of any structure or building on real property.

~~[Housing-related support services means any of the following:~~

~~(1) Homeownership counseling services, including, but not limited to, money management counseling, credit counseling, voucher holder training, pre-ownership training and post-ownership training.~~

~~(2) Down payment assistance.~~

~~(3) Landlord training for landlords that rent to low and moderate income households.~~

~~(4) Mortgage default assistance and counseling.]~~

*Low and moderate income* means gross household income adjusted for family size that is at or below 80 percent of area median income, as “area median income” is defined by the United States Department of Housing and Urban Development.

*Recipient* means a legal entity who receives one or more grants or loans from the fund under the provisions of this article.

**Sec. 16-53. Purpose.**

The purpose of all expenditures from the fund shall be to accomplish one or more of the following goals:

(1) Promote the development of affordable housing in mixed-income neighborhoods in the [City] city.

(2) Provide funding for the rehabilitation of vacant buildings for residential purposes or the rehabilitation of residential properties in communities with high foreclosure rates or blighted properties, including owner-occupied blighted properties.

(3) Support the productive reuse of properties declared surplus by the City for residential purposes.

(4) Implement universal design principles and accessibility for disabled persons.

(5) Promote energy efficient and sustainable design in newly constructed and rehabilitated affordable housing in the city.

~~[(5)]~~ (6) Provide for the Chief Administrative Officer or the designee thereof to administer the fund and the programs for which the fund pays.

~~[(6)]~~ (7) Leverage funds from other sources to accomplish all of the purposes set forth in this section.

(8) Advance any housing-related plan implemented by the City in accordance with applicable law or otherwise adopted by the Council.

**Sec. 16-80. Created.**

There is hereby created a board of the City of Richmond with indefinite duration to be known as the Affordable Housing Trust Fund ~~[Oversight]~~ Supervisory Board, for the purpose of overseeing the administration of the Affordable Housing Trust Fund established by section 16-

51 and the programs for which the fund provides. For purposes of section 2-773, the Board shall be classified as supervisory.

**Sec. 16-81. Composition; appointment; terms of office.**

(a) *Composition.* The Board shall consist of [~~ten~~] 12 members, each of whom shall either reside in the City of Richmond or have a principal place of employment within the [~~City~~] city of Richmond. One member shall be selected from each of the following categories:

(1) A representative from Richmonders Involved to Strengthen our Communities.

(2) A [~~resident of the City of Richmond or a~~] representative of a service provider assisting low-income individuals or families.

(3) A [~~representative from the Richmond Association of Realtors~~] person licensed by the Virginia Real Estate Board as a real estate salesperson or a real estate broker.

(4) A representative from an organization dedicated to promoting affordable housing.

(5) A lender from a financial institution with affordable housing financing experience.

(6) A builder or developer with experience constructing affordable housing projects.

(7) A [~~representative of the Richmond Redevelopment Housing Authority~~] person with professional experience with, or knowledge of, public housing.

(8) An attorney specializing in housing matters.

(9) A housing counselor.

(10) A member of the City Council, who shall be a non-voting member of the Board.

(11) A representative of a charitable institution.

(12) A representative of a business, the principal office of which is located within the city, focusing on the construction of residential structures.

(b) *Appointment.* Of the [~~ten~~] 12 members, the City Council shall appoint [~~six~~] seven members, including the members designated in subsections (a)(1) through (4), (9) [~~and~~], (10), and (11) of this section, and the Mayor, by a writing submitted to the City Clerk, shall appoint [~~four~~] five members, including the members designated in subsections (a)(5) through (8), and (12) of this section. All appointments shall otherwise be governed by sections 2-767 and 2-768.

(c) *Terms of office.* Each member shall be appointed for a term of three years, except for the initial members, of whom one member appointed by the City Council and one member appointed by the Mayor shall be appointed to one-year terms, two members appointed by the City Council and one member appointed by the Mayor shall be appointed to two-year terms, and two members appointed by the City Council and two members appointed by the Mayor shall be appointed to three-year terms, to facilitate the staggering of member terms. In addition, the initial appointment of the first member pursuant to subdivision (a)(11) of this section shall be for a term of three years, and the initial appointment of the first member appointed pursuant to subdivision (a)(12) shall be for a term of two years. The member of the City Council shall be appointed by resolution of the City Council in the same manner as appointments to standing committees of the City Council and shall be made for a term that shall expire as provided in such resolution. Any member may be appointed to a third term after one year from the date of the last day of such member's second full term.

**Sec. 16-82. Prohibition on award of grants or loans where Board members are involved.**

No grants or loans from the Affordable Housing Trust Fund shall be awarded to persons serving on the Board or to other legal entities of which such person is a member or in which such a person has a personal interest as the State and Local Government Conflict of Interests Act defines that term.

**Sec. 16-83. Duties.**

The Board shall perform the following duties:

(1) Review proposed amendments to the regulations, operational policies and procedures provided for in section 16-114, and submit to the City Council and the Mayor a report containing the Board's advice and recommendations concerning the appropriateness of the amendments to such regulations, operational policies and procedures with respect to the following:

a. The ways in which the City may ensure the sustainability and proper use of the fund over time and any conditions under which the Council should establish an Oversight Board or Board of Trustees to oversee the fund.

b. Potential dedicated revenue sources for the fund.

c. The ratio of grants to loans to be disbursed from the fund.

d. In accordance with the advice of the City Attorney or the designee thereof, the ways in which the City may lawfully encourage recipients of disbursements from the fund to employ individuals of low and moderate income households in the projects for which funds are expended in accordance with the purposes of the fund.

e. In accordance with the advice of the City Attorney or the designee thereof, the ways in which the City may lawfully encourage minority business enterprises, as

defined in Chapter 21, to participate in the City's efforts to accomplish the purposes set forth in section 16-51.

f. Any other factors or considerations, as the Board may identify, affecting the City's ability to achieve the purposes of the fund.

(2) Review and approve annual program allocations within the Affordable Housing Trust Fund as proposed by departments of the City and receive recommendations of staff [recommendations] and any appropriate committee created pursuant to section 16-84(c) for projects to be funded by the Affordable Housing Trust Fund.

**Sec. 16-84. Conduct of affairs.**

(a) *Quorum.* [~~Six~~] Fifty-one percent of the voting members of the Board who have been appointed shall constitute a quorum.

(b) *Officers.* The member of the City Council appointed to the Board shall serve as Chairperson of the Board and shall ensure that the City Council is regularly informed about Board activities, that the Board meets regularly in accordance with this division and that the duties of the Board are performed. The Board may select from among its membership such other officers as the Board deems necessary to discharge its duties, including, but not limited to, a Vice Chairperson and Secretary.

(c) *Committees.* The Board may establish, and dissolve, committees to the Board as the Board, consisting of only Board members, deems necessary to assist with its duties. Any committees created pursuant to this subsection shall only make recommendations to the Board subject to the Board's consideration and approval and shall meet at least once annually and as often as may be necessary to perform their duties as assigned by the Board.



~~[(e)]~~ (d) *Meetings*. The Board shall meet at least quarterly and as often as it deems necessary in order to perform the duties provided for in this division.

~~[(d)]~~ (e) *Reporting*. On an annual basis, the Board shall deliver to the City Council and the Mayor a brief summary of the Board's activities for the preceding year.

~~[(e)]~~ (f) *Freedom of Information*. Board meetings and records shall be subject to the provisions of the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.).

~~[(f)]~~ (g) *Procedures*. The Board may adopt bylaws or rules of procedure not inconsistent with this division to govern the conduct of its meetings and operations.

~~[(g)]~~ (h) *Staff and resources*. The ~~[Council Chief of Staff and the]~~ Department of Housing and Community Development shall provide such staff and resources as may be necessary to assist the Board in the duties imposed by this division.

**Sec. 16-112. Eligibility criteria.**

An application for a loan or grant from the fund must show a direct relationship to one or more of the following:

- (1) The provision of housing to low and moderate income households in the city.
- (2) Construction-related activities for construction ~~[producing]~~ or rehabilitation of units for sale or rent to low and moderate income households.
- (3) ~~[Housing-related support services provided to low and moderate income.~~
- ~~(4)]~~ Compliance with all applicable laws.
- ~~[(5)]~~ (4) The applicant's ability to leverage funds from other sources.

**Sec. 16-113. Administration—Generally.**

~~[The]~~ In accordance with this article, Chief Administrative Officer or the designee thereof shall administer the fund and, in accordance with all applicable laws and regulations, may contract with a service provider for a cost that shall remain within a standard percentage, as the Chief Administrative Officer or the designee thereof shall determine, of the balance of the fund. In addition, subject to the approval of the Board, a percentage of the fund, not to exceed seven percent, may be used for administrative and operating expenses of the Board, including, but not limited to, the funding of additional City employees for purposes of administrating the fund. The Chief Administrative Officer or the designee thereof shall evaluate loan and grant applications in accordance with the provisions of this article. In addition, the Chief Administrative Officer or the designee thereof shall evaluate each application for grants or loans from the fund based upon the eligibility criteria set forth in section 16-112 and the purposes of the fund set forth in section 16-53 and make ~~[semiannual]~~ annual reports to the City Council and the Mayor concerning the results of each grant or loan evaluation.

**Sec. 16-114. Administration—Regulations.**

The Chief Administrative Officer or the designee thereof shall prepare regulations, operational policies and procedures suitable to the Mayor and approved by the City Attorney or the designee thereof as to form and legality to implement the programs for which the fund pays and shall submit such regulations, operational policies and procedures to the Affordable Housing Trust Fund Advisory Board established by Ordinance No. 2012-155-128, adopted July 23, 2012, for advice. After the Board has provided the Council and the Mayor with advice concerning such regulations, operational policies and procedures, the Mayor shall propose a resolution for the consideration of the Council to approve the regulations, operational policies and procedures to implement the programs for which the fund pays. These regulations, operational policies and

procedures shall become effective upon the adoption of such resolution. The Chief Administrative Officer or the designee thereof may amend such regulations, operational policies and procedures from time to time, as the Chief Administrative Officer or the designee thereof may deem necessary. The regulations, operational policies and procedures, and any amendments thereto, established pursuant to this section shall be subject to the review and approval of the City Attorney or the designee thereof as to form and legality and provide, at a minimum, the following:

(1) Grants and loans from the fund shall be awarded based on a fixed application process designed to determine qualification under the eligibility criteria set forth in section 16-112.

(2) Recipients shall meet minimum qualifications determined by the Chief Administrative Officer or the designee thereof.

(3) Development, sales, rental, maintenance and management agreements, whenever applicable, shall accompany grants or loans made from the fund for each project involving construction or rehabilitation of affordable housing to ensure compliance with the program requirements applicable to the fund.

(4) The Chief Administrative Officer or the designee thereof shall regularly monitor recipients to ensure compliance with the program requirements applicable to the fund, including compliance with any affordability periods required as a condition of any grant or loan for construction or renovation of affordable units.

(5) Penalties, including repayment of any loans from the fund, as defined by the Chief Administrative Officer or the designee thereof in accordance with this article shall apply when the City finds that recipients are not in compliance with the program requirements.

(6) The Chief Administrative Officer or the designee thereof shall ensure that at least 30 percent of the fund is used only for ~~[the construction or rehabilitation of housing, or housing-related support services, for]~~ funding for proposals to serve households with a gross household income, adjusted for family size, that is no greater than 30 percent of area median income. For any funding for proposals to serve households with a mix of incomes, only the portion of the funds serving the household with an income of no greater than 30 percent of area median income shall count toward satisfying this requirement.

(7) The ways in which the City may ensure the sustainability and proper use of the fund over time and any conditions under which the Council should establish an Oversight Board or Board of Trustees to administer the fund.

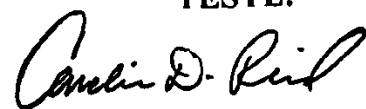
(8) The ratio of grants to loans to be disbursed from the fund.

(9) In accordance with the advice of the City Attorney or the designee thereof, the ways in which the City may lawfully encourage recipients of disbursements from the fund to employ individuals of low and moderate income households in the projects for which funds are expended in accordance with the purposes of the fund.

(10) In accordance with the advice of the City Attorney or the designee thereof, the ways in which the City may lawfully encourage minority business enterprises, as defined in Chapter 21, to participate in the City's efforts to accomplish the purposes set forth in section 16-51.

§ 2. This ordinance shall be in force and effect upon adoption.

**A TRUE COPY:  
TESTE:**



**Carolin D. Reed  
City Clerk**



# CITY OF RICHMOND

INTRACITY CORRESPONDENCE

## O&R REQUEST

**DATE:** August 18, 2021

**EDITION:** 1

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor

**THROUGH:** J. E. Lincoln Saunders, Acting Chief Administrative Officer

**THROUGH:** Sharon L. Ebert, Deputy Chief Administrative Officer of Economic Development and Planning

**FROM:** Sherrill Hampton, Director, Housing and Community Development

**RE:** Amendments to the Affordable Housing Trust Fund Ordinance as Recommended by the AHTF Board.

**ORD. OR RES. No.** \_\_\_\_\_

**PURPOSE:** The purpose of this request is to amend sections 16-51 through 16-53, 16-80, 16-81 a & b, 16-83, 16-84 and Sections 16-112 through 16-114 of the Affordable Housing Trust Fund (AHTF) ordinance as recommended by the AHTF Board.

**REASON:** The Affordable Housing Trust Fund and its Board were created by City ordinance and includes a provision by which the AHTF Board may make recommended changes to the policies and procedures it deems appropriate to enhance alignment with the purpose of the AHTF. The AHTF Board is proposing the recommendations included in this O&R because they would improve the operations and administration of the AHTF, as well as add clarity to several sections contained in the current Ordinance.

**RECOMMENDATION:** Approval is recommended by the City Council. The Affordable Housing Trust Fund Board approved the recommended changes during their regular Board meeting on July 21, 2021 (July 21, 2021 AHTF Meeting Minutes attached.)

**BACKGROUND:** The Affordable Housing Trust Fund (AHTF) Board was created in 2012 as an Advisory Board. City Council in 2014 changed the Board from an advisory board to a supervisory board with the responsibility of providing gap funding to for-profit and nonprofit developers to create affordable housing units. The Board has been monitoring its data and the type of projects that have been funded over the years. On June 29-30, 2021, the Board hosted a day-and-a half retreat with the agenda to align its priorities and funding with the housing

strategies and plans that had been adopted by City Council. This required the Board to take a look at how funding is prioritized, the impact that the Fund was making on the goal to provide 1,000 affordable units a year for the next 10 years. It also reviewed needed enhancements to governance.

This summer, Board Committees were established in order to review specific areas and worked with staff from the Housing and Community Development Department to bring recommendations on specific areas of concern. At its July meeting, the full Board considered the findings and recommendations from each committee and voted to approve and forward those recommendations to City Council for consideration and adoption.

The AHTF Board is recommending that the following sections of the current ordinance be revised:

1. To amend City Code, Article 3, Division 1 - Affordable Housing Trust Fund, §16-51-16-53; concerning the creation of the fund, definitions and the purpose of all expenditures from the fund.

#### **§16-51 Creation of the Affordable Housing Trust Fund**

- The proposed amendment is offered to provide clarity that the Fund is created to develop and preserve affordable rental and owner-occupied housing, along with the provision of funding for housing-related and/or support services for the homeless.

#### **§16-52 Definitions**

- This amendment proposes to include terms that are frequently used by the Affordable Housing Trust Fund but are not included in the original definitions within the Ordinance.

#### **§16-53 Purpose**

- The proposed amendment adds language that shows the commitment to incorporate energy efficiency and sustainability techniques as well as promoting accessibility and stability under the purpose section that outlines goals that should be accomplished by the expenditures from the Fund.

2. To amend Division 2 - Affordable Housing Trust Fund Oversight Board, §16-80-16-85; concerning the creation of the board, composition, appointment, the duties and the conduct of affairs.

#### **§16-80 Creation of the Board**

- The proposed amendment provides consistency with the name of the Board. The Board is known as the Affordable Housing Trust Fund Oversight Board to provide oversight of the administration of the Trust Fund. The Board is classified as a Supervisory Board. The amendment is to add consistency with the classification and to have the Board to be known as the Affordable Housing Trust Fund (AHTF) Supervisory Board.

### **§16-81(a) Composition**

- This amendment increases the size of the Board from ten to twelve.
  - The proposed amendment adds a representative from the health sector.
  - The proposed amendment removes the RRHA representative from the Board. This allows RRHA to submit an application for funding to further affordable housing development or transform public housing into mixed-income communities through funding from the Trust Fund without posing a conflict of interest.
  - The proposed amendment adds a representative with personal or professional experience with or knowledge of public housing.
  - The proposed amendment adds a representative from the philanthropic sector with demonstrated interest in affordable housing.
  - The proposed amendment adds a member of the business community or corporate sector with demonstrated interest in affordable housing.

### **§16-81 (b) Appointment**

- The proposed amendment increases City Council appointments from six to seven members, and increases the Mayor's appointments from four to five.

### **§16-83 Duties**

- The proposed amendment adds language to encourage minority business enterprises as required by the newly adopted policy of the Office of Minority Business (OMB).
- The proposed amendment spells out the responsibility of the Board as it relates to rating and ranking of grant applications. This amendment also clarifies that the Board has the final funding decision.

### **§16-84 Conduct of Affairs**

- The proposed amendment clarifies the quorum and spells out what happens in the event of a tie vote. Under the amendment, a quorum is considered 51% of the sitting and voting members of the Board.
- The proposed amendment adds to the list of officers that may be elected and provides for the ability of the Board to have a secretary, if needed.
- The proposed amendment adds that “up to seven percent (7%) of the annual allocation” may be used for administrative and operating expenses to assist the Board in the duties imposed by the division.

3. To amend Division 3 – Program Administration, §16-112-16-114; concerning the eligibility criteria, administration-generally, and administration-regulations.

### **§16-112 Eligibility Criteria**

- The proposed amendment adds language to this section to include that an application must show a direct relationship to meeting goals in any housing-related or other applicable plans in effect in the City.

- The proposed amendment includes adding language to say construction or rehabilitation of units for sale to, rent and/or owned by low and moderate income households in the City.

#### **§16-113 Administration-Generally**

- The proposed amendment includes adding the words “the AHTF **shall** administer the Fund” instead of the Chief Administrative Officer or his or her designee.....

#### **§16-114 Administration-Regulations**

- The proposed amendment includes deleting the information that relates to the start-up of the Trust Fund concerning the preparing of regulations, operational policies and procedures suitable to the Mayor and approved by the City Attorney or the designee thereof as to form and legality to implement the programs. This amendment is requested as the AHTF has been in operation since 2014.
- The proposed amendment adds language to include up to a 30-year affordability period for newly constructed and/or renovated units, as applicable.
- The proposed amendment includes adding language that allows the Board the flexibility to determine the priorities annually based on identified community needs, market trends and conditions.

**FISCAL IMPACT/COST:** N/A

**FISCAL IMPLICATIONS:** The proposed amendment would allow up to seven percent (7%) of the annual allocation to be used for administrative and operating expenses to assist the Board in the duties. It is anticipated that a majority of these funds would help defray the costs of one full time program manager as well as pay for a portion of the salaries of the department’s Deputy Director and Director.

**BUDGET AMENDMENT NECESSARY:** No

**REVENUE TO CITY:** N/A

**DESIRED EFFECTIVE DATE:** September 27, 2021

**REQUESTED INTRODUCTION DATE:** September 13, 2021

**CITY COUNCIL PUBLIC HEARING DATE:** September 27, 2021

**REQUESTED AGENDA:** Consent Agenda

**RECOMMENDED COUNCIL COMMITTEE:** Land Use, Housing and Transportation Committee

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** None

**AFFECTED AGENCIES:** Housing & Community Development, City Attorney’s Office



**RELATIONSHIP TO EXISTING ORD. OR RES.:** Ordinance #2014-167-160

**REQUIRED CHANGES TO WORK PROGRAM(S):** The Housing and Community Development staff will implement and monitor the policies and procedures of the Affordable Housing Trust Fund, if the recommended changes are adopted.

**ATTACHMENTS:** Draft Minutes from the July 21, 2021 AHTF Board Meeting and a copy of Ordinance #2014-167-160.

**STAFF:** Michelle B. Peters, Deputy Director II – 646-3975