

CITY of ALBUQUERQUE

SEVENTEENTH COUNCIL

COUNCIL BILL NO. F/S (2) O-06-8 ENACTMENT NO. _____

SPONSORED BY: Debbie O'Malley & Isaac Benton

1 ORDINANCE

2 DEFINING AFFORDABLE HOUSING OPPORTUNITIES FOR ALBUQUERQUE'S
3 WORKING FAMILIES; DIRECTING AN ON-GOING FIVE YEAR STRATEGIC
4 WORKFORCE HOUSING PLAN AND NEEDS ASSESSMENT; REQUIRING
5 PROGRAM ELEMENTS; PROVIDING FUNDING IN THE CITY CAPITAL
6 IMPROVEMENT PROGRAM AND GENERAL OBLIGATION BOND PROGRAM;
7 CREATING A WORKFORCE HOUSING TRUST FUND; ASSURING THAT
8 RESOURCES ARE DIRECTED TO FAMILIES ACCORDING TO INCOME AND
9 NEED; PROVIDING FOR A PACKAGE OF INCENTIVES TO SUPPORT THE
10 EFFICIENT AND COST EFFECTIVE PRODUCTION OF WORKFORCE HOUSING;
11 REQUIRING NOTIFICATION OF RESIDENTS IN LAND USE ACTIONS THAT MAY
12 RESULT IN DISPLACEMENT; REQUIRING THE REPLACEMENT OF
13 AFFORDABLE HOUSING LOST TO NUISANCE ABATEMENT DEMOLITION
14 ACTIONS, AND REQUIRING THE REHABILITATION OF AFFORDABLE
15 HOUSING BOARDED-UP THROUGH NUISANCE ABATEMENT ACTIONS;
16 REQUIRING WORKFORCE HOUSING BE INCLUDED AS AN ELEMENT IN CITY
17 PLANS AND INCORPORATED INTO THE PLANNED GROWTH STRATEGY
18 IMPLEMENTATION.

19 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
20 ALBUQUERQUE:

21 Section 1. SHORT TITLE. This Ordinance may be cited as the Workforce
22 Housing Opportunity Act (the "Act").

23 Section 2. FINDINGS.

24 (A) The Albuquerque/Bernalillo County Comprehensive Plan's goal is to
25 increase the supply of affordable housing and ameliorate the problems of
26 homelessness and displacement; and

1 (B) The City's Five Year Consolidated Plan 2003 to 2007 shows that 33% of
2 all households in Albuquerque have some housing affordability problem and
3 nearly 80% of households whose income is under 50% of median income are
4 rent burdened or living in overcrowded conditions; and

5 (C) Through a combination of forces including rapidly rising land prices,
6 slow wage growth, declining real wages, increasing utility costs and increasing
7 construction costs we find that hard working families, after paying the rent, are
8 having difficulty paying for the necessities of life; and

9 (D) There are an estimated 3,000 homeless individuals in Albuquerque
10 whose path to independent living depends upon permanent, affordable
11 housing; and

12 (E) The City of Albuquerque adopted R-05-255 calling for an update and
13 review of City affordable housing policy, interviews with Stakeholders, analysis
14 of best practices in other cities and consideration of innovative approaches to
15 addressing Albuquerque's affordable housing needs; and

16 (F) Working families having safe, decent and affordably priced housing in
17 stable neighborhoods is advantageous for personal success in school and
18 work and is therefore a prerequisite for the economic success of our
19 community.

20 (G) Albuquerque can look to other regional western cities for models of
21 innovative and successful approaches to producing affordable housing to meet
22 the needs of its working families; and

23 (H) An increase in commitment to Workforce Housing will allow affordable
24 housing providers including the City to leverage additional funding from
25 foundations, financial intermediaries and other community resources; and

26 (I) Meeting the housing needs of working families through well designed,
27 quality built housing and apartments leads to stable, mixed income, diverse
28 neighborhoods and adds to the economic vitality of the community.

29 Section 3. DEFINITIONS.

30 (A) *Workforce Housing*. Dwelling units serving residents and their families
31 whose annualized income is at or below 80% of the Area Median Income for
32 Albuquerque (AMI) as adjusted for household size and determined by the U.S.
33 Department of Housing and Urban Development, and whose monthly housing

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1 payment does not exceed 30% of the household's gross monthly income under
2 city eligibility standards or 35% under special conditions to be defined in the
3 Workforce Housing Plan. Dwelling unit is used in this Act as defined in the
4 Comprehensive City Zoning Code.

5 (B) *A Workforce Housing Project or a Workforce Housing Subdivision* is
6 the entire development in which at least 30% of the dwelling units meet the
7 definition of Workforce Housing.

8 (C) *Workforce Housing meeting the requirements of the Workforce Housing*
9 *Opportunity Act* are Workforce Housing Projects and Subdivisions that receive
10 funds and/or land from the Workforce Housing Trust Fund as the result of
11 meeting eligibility criteria pursuant to that Plan.

12 Section 4. CREATION AND ADMINISTRATION OF THE WORKFORCE
13 HOUSING TRUST FUND (TRUST FUND).

14 (A) The Mayor is authorized and directed to set aside at least eight percent
15 (8%) of the biannual General Obligation Bond Capital Improvement Program to
16 be directed to the Trust Fund for the purpose of providing Workforce Housing.
17 All interest earnings of funds in the Trust Fund shall be re-appropriated to the
18 Trust Fund. No funds in the Trust Fund can be appropriated or used for any
19 other purpose than as described in the Workforce Housing Opportunity Act.

20 (B) The Fund income and interest earnings shall be appropriated for the
21 purposes set forth in this Act after recommendation by the Mayor and approval
22 of the Council.

23 (C) Programming and Selection. The projects funded by the Trust Fund
24 shall be selected and programmed as provided below:

25 (1) *The Affordable Housing Committee (the "Committee")*. The
26 Affordable Housing Committee shall serve as the advisory committee to
27 develop the Workforce Housing Plan and Needs Assessment and shall
28 conduct an annual review of Plan progress.

29 (2) *Workforce Housing Plan and Needs Assessment*. The
30 Committee, with the staff support of the Department of Family and Community
31 Services (the Department) or its successor and technical support from
32 representatives of the Office of Economic Development and the Planning
33 Department, shall develop a Five Year Workforce Housing Plan (the Plan),

1 which shall be updated every five years. The Plan shall be based on a
2 thorough needs assessment conducted by the Department showing the
3 housing conditions of families at and below 80% of median income broken out
4 by community planning areas, income classification, special needs, seniors,
5 homeless and addressing the displacement of low income families. The Plan
6 shall identify the change in the City of Albuquerque of the number of market
7 rate and affordable housing units, by income category and tenure, over the
8 previous five years. The Plan shall include all resources available to address
9 affordable housing needs including, but not limited to, CDBG, HOME, other
10 grants, the City General Fund, Enterprise Funds, other City Housing Funds,
11 State of New Mexico, and Low Income Housing Tax Credits, five year goals
12 and objectives and one year objectives, recommended strategies for
13 implementation and standards for monitoring and evaluation of completed
14 projects. The Plan shall include a matrix showing the annual and five year
15 housing production goals and objectives and organizations committed to its
16 production. The Plan shall address expansion of the capacity of the non-profit
17 housing development organizations and identify resources necessary to carry
18 out needed expansion. The Plan shall identify, based on housing market data
19 standards, City neighborhoods as “Stable” “Disinvesting”, or “Gentrifying”
20 and shall make it clear that different housing and affordable housing
21 strategies are being pursued within the different categories of neighborhoods.
22 The Committee shall hold at least three public hearings on the draft plan prior
23 to making recommendations to the Mayor and the Council. The Plan shall
24 serve as the housing component of the Consolidated Plan after review and
25 comment by the Albuquerque Citizen Team. The final draft Plan shall be
26 conveyed by the Mayor to the Council by a resolution within 12 months of the
27 enactment of this Ordinance and shall be adopted by the Council with or
28 without amendments. The Plan shall be reviewed and progress evaluated
29 annually by the Committee and a report sent to the Council.

30 (3) *Priorities and Uses of Funds.* At least fifty (50) percent of the
31 available funds in any five year program shall be used for land acquisition for
32 Workforce Housing Projects and Subdivisions in areas designated as
33 Metropolitan Redevelopment Areas, Centers and Corridors and land zoned for

1 mixed use development under the yet to be approved zones called for in the
2 adopted Planned Growth Strategy (Planned Village Development, Transit
3 Oriented Development Centers and Corridors, Commercial Center, Campus,
4 Infill Development, and Conservation Subdivision). Up to fifty (50) percent of
5 the available funds in any five year program may be used for zero to low
6 interest or, in certain cases, loans that may be forgivable that meet the
7 requirements of the Workforce Housing Opportunity Act and fall within the
8 geographic areas described above. At least 25% of the funds shall be used for
9 scattered site, single-family housing purchase, rehab, lease-to-own and resale
10 of existing housing stock. The priorities for use of all funds shall be
11 determined by reference to the Program Elements as shown in Section 5 but in
12 all cases the following requirements shall be met.

- 13 a) Resources shall be allocated according to need in any five
14 year program with at least 50% of all resources benefiting
15 families at or below 50% of AMI and at least 30% of all
16 resources benefiting families at or below 30% AMI. Loans
17 that may be forgivable may be considered for use only in
18 projects benefiting families whose income is at or below
19 30% AMI.
- 20 b) Not more than 20% of resources shall be used for project
21 related soft development costs as defined by the Plan.
- 22 c) Projects shall be sponsored by City approved, locally
23 based, non-profit housing development organizations. It is
24 recognized that non-profits will partner with for-profit
25 builders and developers to accomplish Workforce Housing
26 projects. The rationale for requiring non-profit sponsorship
27 is to expand capacity of community based organizations
28 that have a long term interest in serving working families
29 with affordable housing. Sponsorship shall be
30 demonstrated by substantial involvement of the non-profit
31 in the project as indicated by at least 20% of development
32 fee going to the non-profit and a long term management
33 and ownership role if rental housing. Criteria for approval

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of non-profits and sponsorship shall be included in the Workforce Housing Plan.

- d) Projects receiving funding or land under the Workforce Housing Opportunity Act shall leverage non-City funds by at least a 4:1 ratio (non-City to City resources). The Plan may make exception to this ratio for certain hard to develop projects to be defined. Federal and State funds flowing through the City are not considered City funds for purposes of this requirement.

(4) *Project Priorities.* The Committee shall develop a policy-based ranking system so that proposed projects can be prioritized. The system of ranking shall be included in the Workforce Housing Plan. Priority shall be given to financially sound proposals that rank the highest according to the priorities based on guidelines found in the Program Elements. Priority with respect to newly constructed projects shall also be given to proposals that demonstrate a commitment to energy efficiency and utility conservation. The Committee can establish minimum standards below which a project will not be approved. The Department shall issue a standing request for proposals so that developers have adequate time to secure land and formulate proposals for City consideration.

Section 5. PROGRAM ELEMENTS. The following elements, among others, shall be used to develop a priority setting and project ranking system for development under the Act.

(A) *Neighborhood Conditions.* Workforce Housing should be designed, located and integrated into the community so as to serve to stabilize that neighborhood, with the long term goal of creating “Stable” neighborhoods, not “Disinvesting” or “Gentrifying” ones. Thus, in a disinvesting neighborhood, the goal is to increase housing and other investment, enhance the neighborhood image, upgrade the existing housing inventory, encourage higher income families and serve as a catalyst for additional investment. In a neighborhood with increasing housing prices the goal is to preserve a mixed income environment and avoid the dislocation of low income residents by creating a reserve of permanent workforce housing protected from price

1 increases and danger of converting to market rate housing, allowing renters to
2 own their housing, and otherwise financially insulating low income residents
3 from financial burdens of gentrification while accruing its benefits.

4 (B) *Design and Location Criteria.* Access to public transportation; jobs
5 and housing balance; pedestrian access to shopping, schools and recreation;
6 retail in close proximity to residential; energy efficient construction; water
7 conservation; Universal Design Standards, quality design and construction all
8 enhance the value of Workforce Housing and, as required, the design
9 standards in the approved zones called for in the adopted Planned Growth
10 Strategy.

11 (C) *Preservation.* Mechanisms are available for preserving existing and
12 new Workforce Housing. Neighborhoods with rising land values will most
13 benefit from tools that work for permanent affordability while shorter term
14 mechanisms will achieve goals of attracting investment into neighborhoods
15 that are experiencing declining land values. All rental housing shall be
16 permanently affordable. All ownership housing shall remain permanently
17 affordable through restrictions imposed on resale. Rental properties shall
18 enter into a monitoring agreement with the City or other entity as approved by
19 the City to provide an annual audit of compliance with affordability
20 requirements. Income eligible families will not be evicted from their dwelling
21 unit if over time their income increases above the eligible level. However,
22 provision should be made to relocate the family within a mixed income
23 Workforce Housing project to a market rate dwelling or adjust their rents
24 appropriately if their income warrants such a change. No funds from sources
25 other than the biannual General Obligation Bond Capital Improvement Program
26 or interest earnings of such funds shall be considered as part of the Trust Fund
27 nor shall such funds from other sources be subject to the requirement for
28 permanent affordability. Projects funded in part from the Trust Fund and in part
29 from other sources shall be subject to the requirement of permanent
30 affordability.

31 (D) *Link to Growth Management Plan.* By prioritizing locations for
32 Workforce Housing to support infill, redevelopment and neighborhoods that
33 require remediation of infrastructure deficiencies the Workforce Housing Plan

1 should support the City growth management plan as defined by the Planned
2 Growth Strategy. Thus, Centers and Corridors as approved in the
3 Albuquerque Bernalillo County Comprehensive Plan, Metropolitan
4 Redevelopment Areas and development in approved mixed-use zones called
5 for in the adopted Planned Growth Strategy (Planned Village Development,
6 Transit Oriented Development Centers and Corridors, Commercial Center,
7 Campus, Infill Development, and Conservation Subdivision) provide location
8 sensitive opportunities for development of Workforce Housing. Additional
9 criteria such as low enrollment schools shall be considered in developing a
10 priority ranking system. The Planned Growth Strategy Land Use Assumptions
11 shall be expanded to include targets for the inclusion of affordable housing,
12 according to the income categories contained in this Act, within the PGS
13 subareas. PGS growth management implementation techniques shall include
14 provisions for affordable housing.

15 Section 6. NOTIFICATION OF TENANTS. In all City land use actions that
16 will result in the displacement of tenants, subject to federal and state law as
17 appropriate, the applicant is required to notify the residents affected by first
18 class mail at least two weeks prior to the public hearing on the action. If
19 names of tenants impacted by displacement cannot be readily obtained in a
20 City directory then applicant may address tenants as "Resident" in required
21 notifications.

22 Section 7. WORKFORCE HOUSING REQUIRED ELEMENT IN PLANS. All
23 Plans which address an area that does or may include housing (e.g.
24 Metropolitan Redevelopment Plans, Neighborhood Sector Plans, Area Plans,
25 Corridor Plans) shall include a section addressing the need for Workforce
26 Housing and the means by which that need will be addressed in the plan area
27 and in accordance with the Five Year Workforce Housing Plan. This Section is
28 applicable to plans adopted after the effective date of this Act and to existing
29 plans that undergo a significant revision after the effective date of this Act, as
30 determined by the Planning Department, or its successor.

31 Section 8. RULES AND REGULATIONS. The Department of Family and
32 Community Services or its successor, or another city department as
33 designated by the Mayor, shall establish rules and regulations to provide for

1 implementation of this Act. The Mayor, shall publish a draft of the rules and
2 regulations for public comment within 120 days of the adoption of the
3 Workforce Housing Plan.

4 Section 9. SEVERABILITY. If any section, paragraph, sentence, clause,
5 word or phrase of the Workforce Housing Opportunity Act is for any reason
6 held to be invalid or unenforceable by any court of competent jurisdiction,
7 such decision shall not affect the validity of the remaining provisions of this
8 ordinance. The Council hereby declares that it would have passed this
9 ordinance and each section, paragraph, sentence, clause, word or phrase
10 thereof irrespective of any provision being declared unconstitutional or
11 otherwise invalid. The Council further declares that certain provisions of this
12 ordinance, specifically the provisions related to zero to low interest loans that
13 may be forgivable, may violate Article 9, Section 14 of the New Mexico
14 Constitution and that an election will be held in November of 2006 on a
15 constitutional amendment to change that section. It is the Council's intention
16 that any provision herein determined to violate Article 9, Section 14 of the New
17 Mexico Constitution as of the date of adoption of this Ordinance shall become
18 effective, to the extent applicable, upon adoption and implementation of the
19 proposed constitutional amendment.

20 Section 10. COMPILATION. This ordinance shall be incorporated in and
21 compiled as part of the Revised Ordinances of Albuquerque, New Mexico 1994.

22 Section 11. EFFECTIVE DATE. This ordinance shall take effect five days
23 after publication by title and general summary.
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