CITY of ALBUQUERQUE
SEVENTEENTH COUNCIL

COUNCIL BILL NO. F/S (3) O-06-8 ENACTMENT NO. _____

SPONSORED BY: Debbie O'Malley & Isaac Benton

ORDINANCE

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

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

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

Section 2. FINDINGS.

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

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

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

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

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

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

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

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

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

Section 3. DEFINITIONS.

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

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payment does not exceed 30% of the imputed income limit applicable to such unit or 35% under special conditions to be defined in the Workforce Housing Plan. Dwelling unit is used in this Act as defined in the Comprehensive City Zoning Code.

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

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

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

(A) The Mayor is authorized and directed to set aside eight percent (8%) of the biannual General Obligation Bond Capital Improvement Program, up to a maximum of $10,000,000 per two-year cycle, to be directed to the Trust Fund for the purpose of providing Workforce Housing. There shall be a separate bond question for the 2007 CIP and subsequent CIP bond programs which solely addresses permanently affordable housing. If this question is turned down by the voters no CIP funds from that election shall be spent on Workforce Housing. All interest earnings of funds in the Trust Fund shall be re-appropriated to the Trust Fund. No funds in the Trust Fund can be appropriated or used for any other purpose than as described in the Workforce Housing Opportunity Act.

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

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

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

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(2) *Workforce Housing Plan and Needs Assessment*. The Committee, with the staff support of the Department of Family and Community Services (the Department) or its successor and technical support from representatives of the Office of Economic Development and the Planning Department, shall develop a Five Year Workforce Housing Plan (the Plan), which shall be updated every five years. The Plan shall be based on a thorough needs assessment conducted by the Department showing the housing conditions of families at and below 80% of median income broken out by community planning areas, income classification, special needs, seniors, homeless and addressing the displacement of low income families. The Plan shall identify the change in the City of Albuquerque of the number of market rate, affordable and non-affordable housing units, by income category and tenure, over the previous five years. The Plan shall include all resources available to address affordable housing needs including, but not limited to, CDBG, HOME, other grants, the City General Fund, Enterprise Funds, other City Housing Funds, State of New Mexico, and Low Income Housing Tax Credits, five year goals and objectives and one year objectives, recommended strategies for implementation and standards for monitoring and evaluation of completed projects. The Plan shall include a matrix showing the annual and five year housing production goals and objectives and organizations committed to its production. The Plan shall address expansion of the capacity of the non-profit housing development organizations and identify resources necessary to carry out needed expansion. The Plan shall identify, based on housing market data standards, City neighborhoods as "Stable", " Disinvesting", or "Gentrifying" and shall make it clear that different housing and affordable housing strategies are being pursued within the different categories of neighborhoods. The Committee shall hold at least three public hearings on the draft plan prior to making recommendations to the Mayor and the Council. The Plan shall serve as the housing component of the Consolidated Plan after review and comment by the Albuquerque Citizen Team. The Plan shall be conveyed by the Mayor to the Council by a resolution within 12 months of the enactment of this Ordinance and shall be adopted by the Council with or without amendments. The Plan shall be reviewed and

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progress evaluated annually by the Committee and a report sent to the Council.

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

a) Resources shall be allocated according to need in any five year program with at least 50% of all resources benefiting families at or below 50% of AMI and at least 30% of all resources benefiting families at or below 30% AMI. Loans that may be forgivable may be considered for use only in projects benefiting families whose income is at or below 30% AMI.

b) Not more than 20% of resources shall be used for project related soft development costs as defined by the Plan.

c) Projects shall be sponsored by City approved, locally based, non-profit housing development organizations. It is recognized that non-profits will partner with for-profit builders and developers to accomplish Workforce Housing projects. The rationale for requiring non-profit sponsorship is to expand capacity of community based organizations that have a long term interest in serving working families with affordable housing. Sponsorship shall be demonstrated by substantial involvement of the non-profit in the project as indicated by at least 20% of development fee going to

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the non-profit and a long term management and ownership role if rental housing. Criteria for approval 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

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

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

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

(D) *Link to Growth Management Plan*. In developing and adopting the Plan, there should be consistency with and support for the City's growth management plan as defined by the Planned Growth Strategy. This

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requirement for consistency and support is not intended to mandate the development of workforce housing, specific distribution or locations for Workforce Housing but may be a factor in such decisions.

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

Section 7. RULES AND REGULATIONS. The Department of Family and Community Services or its successor, or another city department as designated by the Mayor, shall establish rules and regulations to provide for implementation of this Act. The Mayor, shall publish a draft of the rules and regulations for public comment within 120 days of the adoption of the Workforce Housing Plan.

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

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Section 9. COMPILATION. This ordinance shall be incorporated in and compiled as part of the Revised Ordinances of Albuquerque, New Mexico 1994.

Section 10. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.

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