

CITY of ALBUQUERQUE

SEVENTEENTH COUNCIL

COUNCIL BILL NO. F/S(3) 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 WORKFORCE HOUSING
13 RECOMMENDATION BE INCLUDED AS AN ELEMENT IN CITY PLANS AND
14 INCORPORATED INTO THE PLANNED GROWTH STRATEGY
15 IMPLEMENTATION.

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

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

20 Section 2. FINDINGS.

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

24 (B) The City's Five Year Consolidated Plan 2003 to 2007 shows that 33% of
25 all households in Albuquerque have some housing affordability problem and

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1 nearly 80% of households whose income is under 50% of median income are
2 rent burdened or living in overcrowded conditions; and

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

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

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

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

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

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

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

27 Section 3. DEFINITIONS.

28 (A) *Workforce Housing*. Dwelling units serving residents and their families
29 whose annualized income is at or below 80% of the Area Median Income for
30 Albuquerque (AMI) as adjusted for household size and determined by the U.S.
31 Department of Housing and Urban Development, and whose monthly housing
32 payment does not exceed 30% of the imputed income limit applicable to such
33 unit or 35% under special conditions to be defined in the Workforce Housing

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1 Plan. Dwelling unit is used in this Act as defined in the Comprehensive City
2 Zoning Code.

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

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

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

12 (A) The Mayor is authorized and directed to set aside eight percent (8%) of
13 the biannual General Obligation Bond Capital Improvement Program, up to a
14 maximum of \$10,000,000 per two-year cycle, to be directed to the Trust Fund
15 for the purpose of providing Workforce Housing. This set aside shall be
16 presented as a separate bond question for the 2007 CIP and subsequent CIP
17 bond programs which solely addresses permanently affordable housing. If this
18 question is turned down by the voters no CIP funds from that election shall be
19 spent on Workforce Housing. The set aside shall not be included in any bond
20 cycle that begins six years after the enactment date of this ordinance unless
21 extended by the Council. All interest earnings of funds in the Trust Fund shall
22 be re-appropriated to the Trust Fund. No funds in the Trust Fund can be
23 appropriated or used for any other purpose than as described in the Workforce
24 Housing Opportunity Act.

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

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

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

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

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

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

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

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

26 c) Projects shall be sponsored by City approved, locally
27 based, non-profit housing development organizations. It is recognized that
28 non-profits will partner with for-profit builders and developers to accomplish
29 Workforce Housing projects. Criteria for approval of non-profits and
30 sponsorship shall be included in the Workforce Housing Plan.

31 d) Projects receiving funding or land under the Workforce
32 Housing Opportunity Act shall leverage non-City funds by at least a 4:1 ratio
33 (non-City to City resources). The Plan may make exception to this ratio for

1 certain hard to develop projects to be defined. Federal and State funds flowing
2 through the City are not considered City funds for purposes of this
3 requirement.

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

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

18 (A) *Neighborhood Conditions.* Workforce Housing should be designed,
19 located and integrated into the community so as to serve to stabilize that
20 neighborhood, with the long term goal of creating “Stable” neighborhoods,
21 not “Disinvesting” or “Gentrifying” ones. Thus, in a disinvesting
22 neighborhood, the goal is to increase housing and other investment, enhance
23 the neighborhood image, upgrade the existing housing inventory, encourage
24 higher income families and serve as a catalyst for additional investment. In a
25 neighborhood with increasing housing prices the goal is to preserve a mixed
26 income environment and avoid the dislocation of low income residents by
27 creating a reserve of permanent workforce housing protected from price
28 increases and danger of converting to market rate housing, allowing renters to
29 own their housing, and otherwise financially insulating low income residents
30 from financial burdens of gentrification while accruing its benefits.

31 (B) *Design and Location Criteria.* Access to public transportation; jobs
32 and housing balance; pedestrian access to shopping, schools and recreation;
33 retail in close proximity to residential; energy efficient construction; water

1 conservation; Universal Design Standards, quality design and construction all
2 enhance the value of Workforce Housing and, as required, the design
3 standards in the approved zones called for in the adopted Planned Growth
4 Strategy.

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

25 (D) *Link to Growth Management Plan.* In developing and adopting the
26 Plan, there should be consistency with and support for the City's growth
27 management plan as defined by the Planned Growth Strategy. This
28 requirement for consistency and support is not intended to mandate the
29 development of workforce housing, specific distribution or locations for
30 Workforce Housing but may be a factor in such decisions.

31 Section 6. NOTIFICATION OF TENANTS. In all City land use actions that
32 will result in the displacement of tenants, subject to federal and state law as
33 appropriate, the applicant is required to notify the residents affected by first

1 class mail at least two weeks prior to the public hearing on the action. If
2 names of tenants impacted by displacement cannot be readily obtained in a
3 City directory then applicant may address tenants as "Resident" in required
4 notifications.

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

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

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

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

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