

CITY of ALBUQUERQUE

TWENTY THIRD COUNCIL

COUNCIL BILL NO. O-19-62 ENACTMENT NO. _____

SPONSORED BY: **Isaac Benton**

1 **ORDINANCE**

2 AMENDING CHAPTER 14, ARTICLE 9, ROA 1994 AS AMENDED, THE
3 WORKFORCE HOUSING OPPORTUNITY ACT.

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

6 Section 1. That Chapter 14, Article 9, ROA 1994 is hereby amended and
7 replaced as follows:

8 § 14-9-1 SHORT TITLE.

9 Sections 14-9-1 through 14-9-8 of this article may be cited as the Workforce Housing
10 Opportunity Act.

11 § 14-9-2 FINDINGS.

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

15 (B) The City's Five Year Consolidated Plan 2018 – 2022 shows that 20,370
16 renter households are severely cost-burdened and 12,300 homeowner households
17 are severely cost-burdened; and

18 (C) There are currently 5,500 households on the Section 8 lottery pool of the
19 Albuquerque Housing Authority; and

20 (D) On any given night in Albuquerque, at least 1,320 people are sleeping
21 outside or in shelters, including families with children, veterans and people with
22 disabilities and their path to independent living depends upon permanent, affordable
23 housing; and

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

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1 (F) The Workforce Housing Trust Fund created in accordance with the City's
2 Workforce Housing Opportunity Act, and the state's Affordable Housing Act and
3 Rules, has created over 900 units of affordable housing over the period of 2007 to
4 present, generated over four times the City contribution in private investments and
5 supported near 1,500 construction jobs; and

6 (G) In order to maintain production of workforce housing to meet the needs of
7 working families an adequate and stable source of funding is required.

8 § 14-9-3 APPLICABILITY.

9 This article is applicable to any Workforce Housing Project or Workforce Housing
10 Subdivision assisted with Workforce Housing Trust funds. Other funds leveraged for
11 a Trust Fund assisted project or subdivision will be subject to this article as well as
12 the requirements and terms of the other funding source(s). When there is a conflict
13 the most restrictive requirements and terms shall apply.

14 § 14-9-4 DEFINITIONS.

15 For the purpose of this article, the following definitions shall apply unless the
16 context clearly indicates or requires a different meaning.

17 AFFORDABLE HOUSING PLAN. The Affordable Housing Plan is that
18 component of the City's Five Year Consolidated Plan approved by the MFA prior to
19 adoption by the City Council which defines and documents affordable housing needs
20 in Albuquerque and establishes housing priorities for all City housing funds,
21 including but not limited to, Workforce Housing Trust Funds, Community
22 Development Block Grant funds and HOME Investment Partnerships funds.

23 PERMANENT AFFORDABILITY. Permanent Affordability is defined as two
24 consecutive ninety-nine (99) year periods in during which a rental property funded
25 through Workforce Housing Trust Funds will be restricted to renting a certain number
26 of apartment units to low and moderate income households. Restrictive covenants or
27 land use restrictions are filed on the assisted property to ensure compliance.

28 WORKFORCE HOUSING. Dwelling units serving residents and their families
29 whose annual 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. For rental housing monthly
32 housing payment should not exceed 30% of the imputed income limit applicable to
33 such unit or 35% under special conditions to be defined in the Workforce Housing

1 Plan. For homeownership the home should be purchased under a Qualified
2 Residential Mortgage as defined by the Consumer Financial Protection Bureau. A
3 Qualified Residential Mortgage is a mortgage with terms that take into account the
4 borrower's ability to repay the loan and includes loans that meet the standards of
5 Fannie Mae, Freddie Mac, Federal Housing Administration or Veterans
6 Administration. Subprime loans and similar loans contain terms, including but not
7 limited to interest rates higher than prime loans, adjustable interest rates or
8 mortgage terms over 30 years, which may cause the borrower to have difficulty
9 repaying a mortgage. "Dwelling unit" is used in this article as defined in the
10 Integrated Development Ordinance (see § 14-16-7).

11 WORKFORCE HOUSING MEETING THE REQUIREMENTS OF THE
12 WORKFORCE HOUSING OPPORTUNITY ACT. Workforce housing projects,
13 subdivisions, and programs that receive funds and/or land from the Workforce
14 Housing Trust Fund as the result of meeting eligibility criteria pursuant to the
15 Affordable Housing Plan.

16 WORKFORCE HOUSING PROJECT or WORKFORCE HOUSING
17 SUBDIVISION. The entire development in which at least 30% of the dwelling units
18 meet the definition of workforce housing.

19 § 14-9-5 CREATION AND ADMINISTRATION OF THE WORKFORCE
20 HOUSING TRUST FUND.

21 (A) Beginning with the 2017 General Obligation Bond Program, the Mayor is
22 authorized and directed to set aside up to 8% of the biannual General Obligation
23 Bond Capital Improvement Program, up to a maximum of \$10,000,000 per two-year
24 cycle, to be directed to the Trust Fund for the purpose of providing workforce
25 housing. This set aside shall be presented as a separate bond question which solely
26 addresses permanently affordable rental housing and affordable homeownership
27 assistance which includes the contribution of land upon which the unit will be
28 constructed, down payment assistance loan or any other type of direct or indirect
29 financial assistance that enables the homebuyer to qualify for a Qualified Mortgage.
30 If this question is turned down by the voters no CIP funds from that election shall be
31 spent on workforce housing. All interest earnings of funds in the Trust Fund shall be
32 re- appropriated to the Trust Fund. No funds in the Trust Fund can be appropriated

1 or used for any other purpose than as described in the Workforce Housing
2 Opportunity Act.

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

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

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

12 (2) Workforce Housing Plan and Needs Assessment. The Committee, with
13 the staff support of the Department of Family and Community Services (the
14 Department) or its successor and technical support from representatives of the
15 Office of Economic Development and the Planning Department, shall develop a Five
16 Year Workforce Housing Plan also known as the Affordable Housing Plan, which
17 shall be updated every five years. The Affordable Housing Plan shall be in
18 accordance with the Affordable Housing Act (NMSA 1978, § 62-7-1 et.seq. (Act),
19 and the Affordable Housing Act Rules (Rules). The Affordable Housing Plan shall be
20 based on a thorough needs assessment conducted by the Department showing the
21 housing conditions of families at and below 80% of Area Median I
22 ncome broken out by community planning areas, income classification, special
23 needs, seniors, and homeless, and addressing the displacement of low income
24 families. The Affordable Housing Plan shall identify the change in the City of
25 Albuquerque of the number of market rate, affordable and non-affordable housing
26 units, by income category and tenure, over the previous five years. The Affordable
27 Housing Plan shall include all resources available to address affordable housing
28 needs including, but not limited to, CDBG, HOME, other grants, the City General
29 Fund, Enterprise Funds, other City Housing Funds, State of New Mexico, and Low
30 Income Housing Tax Credits, and New Market Tax Credits, five year goals and
31 objectives and one year objectives, recommended strategies for implementation and
32 standards for monitoring and evaluation of completed projects. The Affordable
33 Housing Plan shall include a matrix showing the annual and five year housing

1 production goals and objectives and organizations committed to its production. The
2 Affordable Housing Plan shall address expansion of the capacity of the non-profit
3 housing development organizations and identify resources necessary to carry out
4 needed expansion. The Affordable Housing Plan shall identify, based on housing
5 market data standards, City neighborhoods as "stable", "disinvesting", or
6 "gentrifying" and shall make it clear that different housing and affordable housing
7 strategies are being pursued within the different categories of neighborhoods. The
8 Committee shall hold at least three public hearings on the draft Affordable Housing
9 Plan prior to making recommendations to the Mayor and the Council. The Affordable
10 Housing Plan shall serve as the housing component of the Consolidated Plan after
11 review and comment by Committee and submitted for review and approval to the
12 New Mexico Mortgage Finance Authority. The Affordable Housing Plan shall be
13 conveyed by the Mayor to the Council by a resolution every five years in accordance
14 with requirements promulgated by the U.S. Department of Housing and Urban
15 Development and shall be adopted by the Council with or without amendments. The
16 Affordable Housing Plan shall be reviewed and progress evaluated annually by the
17 Committee and a report sent to the Council.

18 (3) Priorities and Uses of Funds. When feasible and practical available, funds
19 in any General Obligation Bond biannual program shall be used for land acquisition
20 for workforce housing projects and subdivisions only in areas designated as
21 Metropolitan Redevelopment Areas, Centers and Corridors, and within 660 feet of
22 an area mapped in Centers and Corridors per the Comprehensive Plan. Funds in
23 any General Obligation Bond biannual program may be used for zero to low interest
24 or, in certain cases, loans that may be forgivable for multi-family rental projects that
25 meet the requirements of the Workforce Housing Opportunity Act and fall within the
26 geographic areas described above. Funds may be used for scattered site, single-
27 family housing purchase, homeownership assistance, rehab, lease-to-own and
28 resale of existing housing stock. The priorities for use of all funds shall be
29 determined by reference to the program elements as shown in § 14-9-5, but in all
30 cases the following requirements shall be met.

31 (a) Resources shall be allocated according to need in any General
32 Obligation Bond biannual program with the goal that 50% of all resources benefiting
33 families at or below 50% of AMI and 30% of all resources benefiting families at or

1 below 30% AMI. Loans that may be forgivable may be considered for use only in
2 multi-family rental projects benefiting families whose income is at or below 30% AMI.
3 Income Averaging as defined under Section 42 of the IRS Code as authorized by the
4 Consolidated Appropriations Act of 2018 is permissible for multi-family rental
5 projects utilizing Low Income Housing Tax Credits subject to approval by the New
6 Mexico Mortgage Finance Authority.

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

9 (c) Workforce housing projects shall be accomplished by City
10 approved builders and developers including an individual; a government housing
11 agency; a for-profit organization, including a corporation, limited liability company,
12 partnership, joint venture, syndicate or association or a nonprofit organization.
13 Criteria for approval of projects shall be promulgated by the Family and Community
14 Services Department.

15 (d) Projects receiving funding or land under the Workforce Housing
16 Opportunity Act shall leverage non-City funds by at least a 4:1 ratio (non-City to City
17 resources). The Affordable Housing Plan may make exception to this ratio for certain
18 hard to develop projects as defined in the Affordable Housing Plan and that would
19 otherwise be financially impact without such an exception. Federal and state funds
20 flowing through the City are not considered City funds for purposes of this
21 requirement.

22 (e) Any Workforce Housing Trust funds used to benefit an individual or
23 a household directly, such as homeownership assistance or homeowner housing
24 rehabilitation will be subject to recapture or resale provisions at the time of sale or
25 refinancing of the affected property.

26 (4) Project Priorities. The Committee shall develop a policy-based ranking
27 system so that proposed projects can be prioritized. The system of ranking shall be
28 included in the Affordable Housing Plan. Priority shall be given to financially sound
29 proposals that rank the highest according to the priorities based on guidelines found
30 in the Program Elements. Priority with respect to newly constructed projects shall
31 also be given to proposals that demonstrate a commitment to energy efficiency and
32 utility conservation. The Committee can establish minimum standards below which a
33 project will not be approved. The Department shall issue a standing request for

1 proposals so that developers have adequate time to secure land and formulate
2 proposals for City consideration.

3 § 14-9-6 PROGRAM ELEMENTS.

4 The following elements, among others, shall be used to develop a priority setting
5 and project ranking system for development under this article.

6 (A) Neighborhood conditions. Workforce housing should be designed, located
7 and integrated into the community so as to serve to stabilize that neighborhood, with
8 the long term goal of creating "stable" mixed-income neighborhoods, not
9 "disinvesting" or "gentrifying" ones. Thus, in a disinvesting neighborhood, the goal is
10 to increase housing and other investment, enhance the neighborhood image,
11 preserve a mixed-income environment by upgrading the existing housing inventory,
12 encourage higher income families and serve as a catalyst for additional investment.
13 In a neighborhood with increasing housing prices the goal is to preserve a mixed
14 income environment and avoid the dislocation of low income residents by creating a
15 reserve of permanent affordable rental workforce housing protected from price
16 increases and danger of converting to market rate housing, allowing renters to own
17 their housing, and otherwise financially insulating low income residents from
18 financial burdens of gentrification while accruing its benefits.

19 (B) Design and Location Criteria. Access to public transportation; jobs and
20 housing balance; pedestrian access to shopping, schools and recreation; retail in
21 close proximity to residential; energy efficient construction; water conservation;
22 Universal Design Standards, quality design and construction all enhance the value
23 of workforce housing and, as required, the standards of the applicable zone in the
24 Integrated Development Ordinance.

25 (C) Preservation. Mechanisms are available for preserving existing and new
26 workforce housing. Neighborhoods with rising land values will most benefit from a
27 balance of tools that work toward permanently affordable rental housing, in addition
28 to a shorter term mechanism that will achieve the goals of attracting investment into
29 neighborhoods that are experiencing declining land values. All rental housing shall
30 be permanently affordable. Trust Funds used for homeownership assistance shall
31 be subject to recapture or resale provisions. No funds from sources other than the
32 biannual General Obligation Bond Capital Improvement Program or interest earnings
33 of such shall be considered as part of the Trust Fund nor shall such funds from other

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1 sources be subject to the requirement of permanent affordability. Rental projects
2 funded in part from the Trust Fund and in part from other sources shall be subject to
3 the requirement of permanent affordability.

4 Trust funds used for homeownership assistance shall be subject to recapture or
5 resale provisions. Homebuyer assistance is a direct subsidy to the homebuyer and
6 includes funds for down payment, closing costs, rehabilitation costs or other financial
7 assistance provided directly to the homebuyer. The maximum homeownership
8 assistance for any individual homebuyer will be \$20,000. This maximum amount
9 may be adjusted annually by the Department of Family and Community Services by
10 a maximum of 5%. The homeownership assistance must be repaid if it is provided
11 directly to the homebuyer. Upon resale the seller may sell to any willing buyer at
12 any price. If the new buyer of the property has an income at or below 80% AMI, the
13 homeownership assistance may be assumed by the new buyer. The
14 homeownership assistance will be secured by a promissory note and mortgage.
15 The terms of the promissory note will be at zero percent interest with the repayment
16 of the principal balance due upon the resale, refinance or failure to occupy the
17 property. Once the Trust Funds are repaid to the City the property is no longer
18 subject to any Trust Fund restrictions. The funds returned to the City shall be
19 deposited in the Trust Fund account and shall be used for future Trust Fund eligible
20 activities.

21 Rental properties shall enter into a monitoring agreement with the City or other
22 entity as approved by the City to provide an annual audit of compliance with
23 affordability requirements and the Affordable Housing Act, NMSA 1978, § 6-27-1 et
24 seq. Audits will take into account the requirements of all funding sources and those
25 requirements may conflict. Federal requirements preempt these ordinances. For
26 purposes of this ordinance, income eligible families will not be evicted from their
27 rental dwelling unit if over time their income increases above the eligible level.
28 However, provisions should be made to relocate the family within a mixed income
29 workforce housing project to a market rate dwelling or adjust their rents appropriately
30 if their income warrants such a change.

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

1 Comprehensive Plan. This requirement for consistency and support is not intended
2 to mandate the development of workforce housing, specific distribution or locations
3 for workforce housing but may be a factor in such decisions.

4 §14-9-7 NOTIFICATION OF TENANTS.

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

11 § 14-9-8 RULES AND REGULATIONS.

12 The Department of Family and Community Services or its successor, or another City
13 department as designated by the Mayor, shall establish rules and regulations to
14 provide for implementation of this article. The Mayor, shall publish a draft of the rules
15 and regulations for public comment within 120 days of the adoption of the Workforce
16 Housing Plan.

17 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, word or
18 phrase of this ordinance is for any reason held to be invalid or unenforceable by any
19 court of competent jurisdiction, such decision shall not affect the validity of the
20 remaining provisions of this ordinance. The Council hereby declares that it would
21 have passed this ordinance and each section, paragraph, sentence, clause, word or
22 phrase thereof irrespective of any provision being declared unconstitutional or
23 otherwise invalid.

24 SECTION 3. COMPILATION. The amendments set forth in Section 1 above
25 shall amend, be incorporated in and made part of the Revised Ordinances of
26 Albuquerque, New Mexico, 1994.

27 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five days after
28 publication by title and general summary.

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