

## **ORDINANCE NO. 1170**

### **AN ORDINANCE ALLOWING THE DEDICATION OF LAND AND INFRASTRUCTURE IMPROVEMENTS TO AN AFFORDABLE/WORKFORCE HOUSING PROJECT FOR SUBSEQUENT TRANSFER TO A QUALIFIED PURCHASER.**

**WHEREAS**, the Town of Silver City (the "Town") is a municipal corporation duly organized and existing under the laws of the Territory and State of New Mexico (the "State"); and

**WHEREAS**, as permitted by the Affordable Housing Act, NMSA 1978 § 6-27-1 et seq. (the "Act") the Town of Silver City adopted Ordinance No. 1169 (the "Ordinance") establishing an affordable housing program; and

**WHEREAS**, as required by the Act and the Ordinance, the Town submitted to the New Mexico Mortgage Finance Authority ("MFA") a Housing Analysis and Strategic Plan; and

**WHEREAS**, the Town Council ("Council"), the governing body of the Town, desires to implement an affordable/workforce housing project; and

**WHEREAS**, the Town is willing to grant twenty-seven and a half acres to Vistas de Plata, a Town owned development (the "Project") and act as the developer; and

**WHEREAS**, Town staff with assistance of the Southwest New Mexico Council of Governments (SWNMCOG) has acquired Federal and State grants for pre-development work and infrastructure development; and

**WHEREAS**, the Town's Housing Plan has determined that any affordable / workforce housing project shall be limited to families making no greater than one hundred and twenty percent of the Area Median Income (AMI), based on Housing and Urban

Development's (HUD) current HOME income guidelines as reviewed and certified by Town staff, the mortgage lender or the MFA; and

**WHEREAS**, the Project will consist of fifty-six units in four phases of energy efficient, affordable/workforce housing; and

**WHEREAS**, the Town desires to transfer at least one lot in each of four phases to Habitat for Humanity Gila Region, to be used for the construction of housing for persons or families earning no greater than fifty percent of Area Median Income; and

**WHEREAS**, the New Mexico Mortgage Finance Authority has reviewed and approved the form and terms of this Ordinance prior to final adoption hereof; and

**WHEREAS**, all requirements as presented in the "Affordable Housing Act" and the Affordable Housing Act Rules, (the "Rules"), shall be maintained;

**BE IT ORDAINED BY THE TOWN COUNCIL, OF THE TOWN OF SILVER CITY, NEW MEXICO:**

**Section 1. SHORT TITLE.** Affordable/workforce housing, project donation.

**Section 2. PURPOSE.** This ordinance is adopted to implement a portion of the Town's Affordable Housing Program by donating 27 +acres to the Project known as Vistas de Plata, a Town owned development, which in turn will construct homes for persons or families making no greater than one hundred and twenty percent of AMI or less based on HUD's HOME Income Limits. Further, the Town shall grant at least one lot in each of four phases to Habitat for Humanity Gila Region, to be used for the construction of housing for persons or families earning no greater than fifty percent of AMI.

**Section 3. DEFINITIONS.**

A . "Lot" shall be an individual parcel of land within the subdivision.

B. “Subdivision Land” shall be the twenty-seven and a half acre tract of land located on recently vacated portions of Reynolds Street, Newsham Street, Durango Street, Market Street, Kelly Street, 6<sup>th</sup> Street, 7<sup>th</sup> Street, 8<sup>th</sup> Street, College Street, 10<sup>th</sup> Street, and all of Block 114, 115, 116, 117, 118, 119, 150, 151, 152, 153, 154, 155, 188, 189, 190, 191, and 192, including parts of Blocks 218 and 219, Section 2 of the Fraser Survey.

C. "Affordability Period" shall mean: A period in which the homes must remain affordable as required by the New Mexico Mortgage Finance Authority (MFA).

D. “Qualifying Grantee” shall mean an individual who is qualified to receive assistance pursuant to the Act and is approved by the Town of Silver City. A grantee becomes qualified following certification, through the application process, that they meet HUD’s current Income requirements, for persons or families making no greater than one hundred and twenty percent of the AMI.

#### **Section 4. DONATION OF LAND.**

A. The Town or the Project, as the case may be, shall transfer the sub-divided lots to the homeowners as the homes are completed. Construction shall begin after the homeowner has been selected, their application reviewed and approved, and a loan approved by Overland Mortgage or another legitimate lender of the prospective owners choice.

B. (HUD) has stipulated that six homes must be built within Vistas de Plata for persons or families earning no greater than eighty percent of the AMI.

C. The Town shall transfer at least one Lot in each of four phases to Habitat for Humanity, Gila Region, which will in turn construct a home for persons or a family earning no greater than fifty percent of the AMI, pursuant to HUD’s current HOME income criteria

**Section 5. DONATION OF INFRASTRUCTURE.** The Town shall subsidize the development of infrastructure servicing the Subdivision Land to the extent of and limited to its

receipt of Federal and State grants designated for this purpose.

**Section 6. AFFORDABILITY PERIOD.**

A. If the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds that have been awarded, loaned, donated, or otherwise conveyed to the Qualifying Grantee is from \$1 to \$14,999, then the Affordability Period shall be not less than five (5) years. If a home is sold within five years following the purchase, it must be sold to persons or a family making no greater than one hundred and twenty percent of the AMI.

B. If the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds is from \$15,000 up to and including \$39,999, then the Affordability Period shall be not less than ten (10) years. If a home is sold within the ten years following the purchase, it must be sold to persons or a family making no greater than one hundred and twenty percent of the AMI.

C. If the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds is from \$40,000 up to and including \$99,999, then the Affordability Period shall be not less than fifteen (15) years. If any home is sold within fifteen years following the purchase, it must be sold to persons or a family making no greater than one hundred and twenty percent of the AMI.

**Section 7. DISCRIMINATION PROHIBITED.** The development, construction, occupancy and operation of an Affordable Housing Program or an Affordable Housing Project financed or assisted under the Act shall be undertaken in a manner consistent with principles of non-discrimination and equal opportunity, and the Town shall require compliance by all Qualifying Grantees with all applicable federal and State laws and regulations relating to affirmative action, non-discrimination and equal opportunity.

**Section 8 ADMINISTRATION.** The Town shall administer any Affordable Housing programs in accordance with provisions of the Act, the Rules, Chapter 9 of the Town of Silver City Municipal Code (Affordable Housing Program).

The Town, in establishing, funding and administering the Affordable Housing Programs, and by making, executing, delivering and performing any award, contract, grant or any other activity or transaction contemplated by the Act, shall not violate any provision of law, rule or regulation or any decree, writ, order, injunction, judgment, determination or award. Furthermore, this ordinance will not contravene the provisions of, or otherwise cause, a default under any of its agreements, indentures, or other instruments to which it may be bound. Any proposed amendment to the Ordinance and/or the regulations shall be submitted to the MFA for review.

**Section 9. TERMINATION.** The Council may repeal this Ordinance and terminate the Town's Affordable Housing Program and any or all contracts undertaken in its authority. Termination shall be by ordinance at a public hearing or in accordance with the terms of the contract. If an ordinance or a contract is repealed or terminated, all contract provisions of the contract regarding termination shall be satisfied.

**Section 10. REPEALER.** All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with this Ordinance are repealed by this Ordinance but only to the extent of that inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, previously repealed.

**Section 11. SEVERABILITY.** If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Section 12. RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE DATE.** This Ordinance, immediately upon its final passage and approval,

shall be recorded in the office of the Grant County Clerk and in the ordinance book of the Town, kept for that purpose, and shall be there authenticated by the signature of the Mayor or Mayor Pro-Tem and attested to by the Town Manager or Town Clerk. This Ordinance shall be in full force and effect five (5) days after publication in accordance with Section 3-17-5 NMSA, 1978.

**PASSED, APPROVED, AND ADOPTED** on this 21st day of February,  
2011.

(Seal)

/s/ \_\_\_\_\_

James R. Marshall, Mayor

Attest:

/s/ \_\_\_\_\_

Ann L. Mackie, Town Clerk