

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE NO. 02-270

**AN ORDINANCE AUTHORIZING THE ESTABLISHMENT OF
A HOMEBUYER ASSISTANCE PROGRAM AND AMENDING CHAPTER 14, ARTICLE VII OF
THE CODE OF THE INCORPORATED COUNTY OF LOS ALAMOS TO ADD A DIVISION 3
TO INCLUDE NEW SECTIONS NUMBERED 14-264 THROUGH 14-273.**

WHEREAS, the Incorporated County of Los Alamos (the "County") adopted Ordinance No. 551 establishing an Affordable Housing Program pursuant to the New Mexico Affordable Housing Act, NMSA 1978, § 6-27-1 *et seq.* (the "Affordable Housing Ordinance"); and

WHEREAS, the County Council approved the Los Alamos County Affordable Housing Plan (the "Plan") which generally outlines the various housing programs which may be established under authority of the State law and the Affordable Housing Ordinance; and

WHEREAS, the County adopted Ordinance No. 664 re-establishing the Affordable Housing Program in order to ensure compliance with the State's latest rules and regulations and to enhance the methods available to the County to assist qualified County residents in acquiring or improving housing within the County; and

WHEREAS, the County now seeks to create a Homebuyer Assistance Program; and

WHEREAS, the Homebuyer Assistance Program must be implemented by ordinance and by adoption of rules and regulations which establish guidelines to assist in the administration of the program; and

WHEREAS, the County's Community Development Department is charged with administering all of the County's Affordable Housing Programs; and

WHEREAS, there continues to be a demonstrated need in the community for affordable housing and home ownership opportunities and low income and very low income households have the greatest difficulty obtaining financing from lenders; and

WHEREAS, the Community Development Department acts as the County's liaison with the New Mexico Mortgage Finance Authority ("MFA") and MFA must approve any ordinances enacted under authority of the New Mexico Affordable Housing Act ("Act") and the County's Affordable Housing Ordinance and the rules and regulations associated with the County's Affordable Housing Programs; and

WHEREAS, the MFA has approved, by letter dated December 23rd, 2016, the Homebuyer Assistance Program as authorized by Code Ordinance No. 02-270 and implemented through the proposed rules and regulations for the Homebuyer Assistance Program; and

WHEREAS, future amendments to this Code Ordinance or the Homebuyer Assistance Program rules and regulations must be approved by the MFA; and

WHEREAS, other State and Federal funding sources are expected to be used for this Homebuyer Assistance Program and this Ordinance only applies to the use of County funds.

BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS:

Section 1. Article VII of Chapter 14 of the Los Alamos County Code of Ordinances is amended by deleting the following text and then adding a Division 3 to include new Sections numbered 14-264 through 14-273 to read as follows:

~~Secs. 14-264—299. Reserved.~~

Secs. 14-264-265. Reserved.

Division 3. Homebuyer Assistance Program

Sec. 14-266. Authority.

(a) *Loan origination.* The County is authorized to originate Deferred Payment Loans directly to low income households and very low income households in accordance with the requirements of this Ordinance and the Program rules and regulations approved by the Council and the MFA. The Deferred Payment Loans shall be made to income qualified residential households under this Homebuyer Assistance Program.

(b) *Qualifying homebuyer assistance program.*

- (1) *Downpayment and Closing Costs Assistance Program.* Origination of loans to income qualified residential households to assist with downpayment and closing costs.

Sec. 14-267. Definitions. The following definitions apply to this division unless otherwise provided.

Affordable housing and Affordable housing unit means residential housing located within the County for households of low and very low income.

Affordability period means that amount of time represented by the term of a mortgage which secures a Deferred Payment Loan made from County funds to a very low income household or low income household holding title to a home they will purchase and occupy as their primary residence and which shall equal the following time periods:

- (1) With a Deferred Payment Loan up to Fourteen Thousand Nine Hundred Ninety-Nine And No 00/100 Dollars (\$14,999.00) then the Affordability Period shall be ten (10) years;
- (2) With a Deferred Payment Loan from Fifteen Thousand And No 00/100 Dollars (\$15,000.00) to Twenty-Five Thousand And No 00/100 Dollars (\$25,000.00), then the Affordability Period shall be fifteen (15) years.

Deferred payment loan is a non-amortizing loan, meaning that no payments are due during the loan term until the property is sold, vacated, or where the title is otherwise transferred to another residential household who does not qualify for the Program.

Eligible Buyer means a household earning less than eighty (80) percent of the Los Alamos County Area Median Income as calculated by the United States Department of Housing and Urban Development, prior to its downward cap adjustment to the national low income limit.

Loan review committee is a committee appointed by the County Manager to work on the review and analysis of loan applications, provide recommendations on Deferred Payment Loan

approvals to the County Manager who will make the final approvals, and to receive appeals from loan applicants regarding loan decisions.

Low income household means a household earning less than eighty (80) percent of the Los Alamos County Area Median Income, as calculated by the United States Department of Housing and Urban Development, prior to its downward cap adjustment to the national low income limit.

MFA is the New Mexico Mortgage Finance Authority.

Program means the Los Alamos County Homebuyer Assistance Program.

Qualifying recipient means a person or persons of low or very low income who is qualified to receive a deferred payment homebuyer assistance loan from the County pursuant to the Act, MFA Rules, this Code Ordinance, and is approved by the County or designated party as a qualifying recipient.

Total subsidy is the combination of financial assistance received by a recipient in the Home Buyer Assistance Program only in the form of a deferred payment loan from the County and from other funding sources which may be in various forms.

Very low income household means a household earning less than fifty (50) percent of Los Alamos County Area Median Income, as defined by the United States Department of Housing and Urban Development.

Sec. 14-268. Total subsidy available by program.

(a) The Program provides zero (0) percent Deferred Payment Loans from County funds to Very Low Income Households and provides interest bearing Deferred Payment Loans to Low Income Households up to a maximum Program subsidy per property of Twenty-Five Thousand And No 00/100 Dollars (\$25,000.00).

Sec. 14-269. Long term affordability controls.

(a) County subsidy is provided in the form of a Deferred Payment Loan, secured by a mortgage and promissory note in the amount of the subsidy, and/or any other agreement(s) which the County may require.

(b) The covenants which the County may require include but are not limited to:

(i) Require the qualifying recipient or recipients to occupy the Affordable Housing Unit as a primary residence.

(ii) Provide adequate security against the loss of public funds or property in the event the Qualifying Recipient fails to occupy Affordable Housing Unit as a primary residence.

(c) The terms of the promissory note and associated affordability requirements will be detailed within the Homebuyer Assistance Program approved policies and procedures and will conform to all requirements of the New Mexico Affordable Housing Act and other applicable local, state, or federal laws and ordinances.

(d) The mortgage securing the Deferred Payment Loan will be, generally, subordinate to all pre-existing mortgages on the Affordable Housing Unit, provided that the loan to value ratio of all the mortgages secured by the Affordable Housing Unit is equal to one hundred (100) percent, as determined by the mortgage lender's appraisal.

Sec. 14-270. Applicant and property eligibility requirements.

(a) County subsidy is only provided to residents of the County who are Qualified Recipients and who have applied, been screened, and subsequently selected to participate in the Program.

(b) County subsidy is only provided within the County to Qualified Recipients who intend to purchase a home whose value is less than the maximum value established in the Program rules and regulations. Value shall be established by mortgage lender's appraisal of the property.

Sec. 14-271. Establishment of loan review committee, loan approval, and budget.

(a) A Loan Review Committee is established to serve as an advisory committee to the program. This committee shall consist of three (3) to five (5) members with knowledge of affordable housing, homeownership programs, and finance and shall provide review and analysis to the County Manager for all proposed Deferred Payment Loan applications selected for approval and which use County funds. All loan applications will be reviewed against the standards mandated under the Homebuyer Assistance Program policies and procedures, as approved by MFA, and other applicable federal or state lending eligibility criteria. All loan reviews by the Loan Committee will be conducted with the assistance and oversight of County staff or designated agent.

(b) The Loan Review Committee shall also receive and review appeals from applicants about the Loan Review Committee's decisions against the Homebuyer Assistance Program policies and procedures. All loan appeal reviews by the Loan Committee will be conducted with the assistance and oversight of County staff or designated agent.

(c) From time to time, and at least annually, staff who are designated to administer the Homebuyer Assistance Program shall submit a budget to the County Council for consideration and approval.

Sec. 14-272. County and homeowner responsibility for Program execution.

The following are the minimal responsibilities of the parties in Program execution:

(a) The County or designated agent is responsible for the following tasks: Accepting applications; maintaining a waiting list; making a preliminary determination of recipient eligibility for County and other assistance programs; recommending a total financing plan for the homebuyer; preparing and submitting applications for assistance under County and other assistance programs; evaluating and recommending loan applications for County subsidy; and preparing a mortgage note and other required agreements between the selected applicant and the County. Only the County Manager may approve a loan application.

(b) Homeowner is responsible for the following: Completing the Homebuyer Assistance application; obtaining first mortgage private financing; completing any required homebuyer training program; selecting a home and securing a contract to purchase the home; and in coordination with the County or its agent, executing all required Program documents and complying with the terms of any mortgage and promissory note, which mortgage shall include any other agreement(s) which the County may require.

Sec. 14-273. Funds Available Under Program.

(a) Total Subsidy offered under this Program is subject to the availability of County and other funding sources. Nothing in this Ordinance shall be construed as a promise or an obligation of the County to provide any subsidy for any income qualifying household, individual, or property.

(b) Any funds received by the County under this Program for Home Buyer Assistance Program loan repayments shall be retained for the purpose of providing additional loans for Homebuyer Assistance under this Program unless otherwise directed by Council.

Secs. 14-273-299. Reserved.

Section 2. Effective Date. This Ordinance shall become effective thirty (30) days after notice is published following its adoption.

Section 3. Severability. Should any section, paragraph, clause or provision of this ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 4. Repealer. All ordinances or resolutions, or parts thereof, inconsistent here with are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

PASSED AND ADOPTED this _____, day of _____ 2017.

INCORPORATED COUNTY OF LOS ALAMOS

David Izraelevitz, Council Chair

ATTEST:

Naomi Maestas
Los Alamos County Clerk