City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 9 **Ordinance/Resolution#** 2536 **Council District:** N/A

For Meeting of October 19, 2009
(Adoption Date)

TITLE: AN ORDINANCE REPEALING AND REPLACING THE DEFINITION OF "PERSONS OF LOW OR MODERATE INCOME" IN SECTION 13-102 OF THE CITY OF LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED. THE REPLACEMENT DEFINITION PROVIDES EXPANDED ELIGIBILITY TO QUALIFIED PERSONS AND FAMILIES UNDER THE CITY'S AFFORDABLE HOUSING GENERAL OVERSIGHT ORDINANCE AND THE STATE AFFORDABLE HOUSING ACT.

PURPOSE(S) OF ACTION: To amend the definition of "persons of low or moderate income" in the Municipal Code to provide expanded opportunities for qualified families.

Name of Drafter: David Dollahon		**Department:** Community Development		**Phone:** 528-3060	
Department	**Signature**	**Phone**	**Department**	**Signature**	**Phone**
Community Development		528-3066	Budget		541-2107
			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: With the adoption of the City's Affordable Housing General Oversight Ordinance in 2319, the definition of "persons of low or moderate income" was restricted to the standards established by the U.S. Department of Housing and Urban Development, i.e. those persons making less than 80% of the area median income. This definition was used for ease and consistency between any City-established programs and HUD's program guidelines. The City is not required, by the state Affordable Housing Act, to use HUD's definition. As Staff works to expand into new programs (i.e. the land bank and housing trust fund proposed by the Affordable Housing Strategies Plan adopted by Council on August 17, 2009), we propose to amend the definition to expand affordable housing opportunities to a greater number of qualified families and individuals.

The ordinance, if adopted by Council as presented, would accomplish the following:

1) Increase the income limits from 80% to 120% of area median income;
2) Restrict for homeownership projects, the families housing expenses to no more than 40% of their total income; and
3) For rental or multi-family housing projects, restrict the projects to two of three conditions:
   a. Rent limits equal to fair market rent or subsidy program rent limits, AND

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b. Rent to specific special needs populations by guaranteeing that 51% of all available units are made available to those populations, OR
c. Establish percentages of income by households spent on rents based on the amount of City and/or State investment into the total project's development cost.

4) The amendment provides City Council authority to waive the income, housing expense, and rent limits for any affordable housing projects as part of any approved grant agreement.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
N/A	N/A	N/A

1. Ordinance
2. Exhibits "A" – Replacement definition of Persons of Low or Moderate Income of Section 13-102 of the Las Cruces Municipal Code, 1997, as amended
3. Attachment "B" – Section 13-102 definition of Persons of Low or Moderate Income shown in Legislative format

OPTIONS / ALTERNATIVES:

1. Vote YES and approve the Ordinance. Such action will increase the income level along with other restrictions related to the definition of "Persons of low or moderate income" within the City's Municipal Code.

2. Vote NO and disapprove the Ordinance. Such action will not increase the income level related to the definition of "Persons of low or moderate income" within the City's Municipal Code, thus restricting the income limit to those persons making less than 80% of area median income.

3. Modify the Ordinance and vote YES to approve the modified Ordinance. This action will be based on the Council's discretion.

4. Table or Postpone action on the requested Ordinance. Direction would be required of the Council to staff.

COUNCIL BILL NO. 10-007
ORDINANCE NO. 2536

AN ORDINANCE REPEALING AND REPLACING THE DEFINITION OF "PERSONS OF LOW OR MODERATE INCOME" IN SECTION 13-102 OF THE CITY OF LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED. THE REPLACEMENT DEFINITION PROVIDES EXPANDED ELIGIBILITY TO QUALIFIED PERSONS AND FAMILIES UNDER THE CITY'S AFFORDABLE HOUSING GENERAL OVERSIGHT ORDINANCE AND THE STATE AFFORDABLE HOUSING ACT.

The City Council is informed that:

WHEREAS, the City of Las Cruces Municipal Code, 1997, as amended, defines "Persons of Low or Moderate Income," within Section 13-102, Definitions, of Chapter 13, Housing; and

WHEREAS, this definition of "Persons of Low or Moderate Income" is currently limited to those persons or families making less than 80% of area median income adjusted for family size; and

WHEREAS, the City Council has the authority to amend this definition to a less stringent requirement, as well as provide waivers to this requirement as needed for City- and State-funded affordable housing projects; and

NOW THEREFORE, Be it ordained by the governing body of the City of Las Cruces:

(I)

THAT the current definition of "Persons of Low and Moderate Income" within Section 13-102 of the Las Cruces Municipal Code, is hereby repealed in its entirety.

(II)

THAT the definition of "Persons of Low and Moderate Income" within Section 13-102 of the Las Cruces Municipal Code, is hereby replaced as shown in Exhibit "A," attached hereto and made part of this Ordinance.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this_____ day of _____ 2009.

(SEAL)

ATTEST:

_____
City Clerk

Moved by: _____

Seconded by: _____

Approved as to Form:

_____
City Attorney

APPROVED:

_____
Mayor

VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Archuleta:	_____
Councillor Small:	_____
Councillor Jones:	_____
Councillor Thomas:	_____

Exhibit "A"

Sec. 13-102. Definitions.

Persons of low or moderate income shall mean one or more persons or a family who has a total annual gross income for the household that does not exceed 120 percent of the median annual income adjusted for family size for households within the Las Cruces Metropolitan Statistical Area (MSA), which include the city, as determined by HUD, on an annual basis, and with the following conditions. For purposes of this definition:

(1) "Annual gross income" shall mean the annual anticipated income from assets, regular cash or non-cash contributions, and any other resources and benefits determined to be income by HUD, as defined in 24 CFR Section 5.609;

(2) "Family" shall mean, but not be limited to, a single person, a group of persons consisting of the head of a household; his or her spouse, if any; and children, if any, as allowed under 24 CFR section 5.609; and

(3) "Adjusted for family size" shall mean adjusted in a manner which results in an income eligibility level that is lower for households having fewer than four people, or higher for households that have more than four people, than the base income eligibility based upon a formula established by HUD for the Las Cruces MSA.

(4) For affordable housing projects that involve homeownership opportunities, is limited to qualified families that pay no more than forty percent (40%) of the families' annual gross income for their housing expenses, including principal, interest, taxes, and insurance.

(5) For affordable housing projects that involve rental or multi-family projects are:

a. limited by rents that do not exceed the established fair market rent or other rental program subsidy rent limitations, AND

b. projects that serve special needs populations in which at least fifty-one percent (51%) or more of all available units are rented to those specific populations intended to be served by the project (i.e. homeless, victims of domestic violence, disabled adults, homeless or disabled veterans, migrant workers, and any other CDBG qualified presumed benefit clientele), OR

c. limits the maximum percent of a person's annual gross income spent on rent and utilities in accordance with a rent subsidy program or limits the maximum percent of a person's annual gross income that may be paid for housing expenses, including allowed utility allowances, as prescribed by the following chart:

	Maximum % of Income from Clients toward Affordable Rents based on the % of Investment from City and/or State funds toward the project's total development		
	% of Total Investment		
Client's % of Median Income	<= 30%	31-55%	55%
0-30% AMI	30%	30%	25%
31-50% AMI	40%	35%	30%
51-80% AMI	50%	45%	35%
80 – 120% AMI	N/A	N/A	40%

(6) As part of any affordable housing grant agreement, the City Council may waive or amend the income, housing and/or rent limits established under this Section, provided that other criteria are established and installed to insure that the project qualifies as affordable housing. Such waivers and amendments may be accomplished within the affordable housing grant agreement.

Attachment "B"

Sec. 13-102. Definitions.

Persons of low or moderate income shall mean one or more persons or a family who has a total annual gross income for the household that does not exceed ~~80~~ **120** percent of the median annual income adjusted for family size for households within the Las Cruces Metropolitan Statistical Area (MSA), which include the city, as determined by HUD, on an annual basis, **and with the following conditions.** For purposes of this definition:

(1) "Annual gross income" shall mean the annual anticipated income from assets, regular cash or non-cash contributions, and any other resources and benefits determined to be income by HUD, as defined in 24 CFR Section 5.609;

(2) "Family" shall mean, but not be limited to, a single person, a group of persons consisting of the head of a household; his or her spouse, if any; and children, if any, as allowed under 24 CFR section 5.609; and

(3) "Adjusted for family size" shall mean adjusted in a manner which results in an income eligibility level that is lower for households having fewer than four people, or higher for households that have more than four people, than the base income eligibility based upon a formula established by HUD for the Las Cruces MSA.

(4) **For affordable housing projects that involve homeownership opportunities, is limited to qualified families that pay no more than forty percent (40%) of the families' annual gross income for their housing expenses, including principal, interest, taxes, and insurance.**

(5) **For affordable housing projects that involve rental or multi-family projects are:**

a. **limited by rents that do not exceed the established fair market rent or other rental program subsidy rent limitations, AND**

b. **projects that serve special needs populations in which at least fifty-one percent (51%) or more of all available units are rented to those specific populations intended to be served by the project (i.e. homeless, victims of domestic violence, disabled adults, homeless or disabled veterans, migrant workers, and any other CDBG qualified presumed benefit clientele), OR**

c. **limits the maximum percent of a person's annual gross income spent on rent and utilities in accordance with a rent subsidy program or limits the maximum percent of a person's annual gross income that may be paid for housing expenses, including allowed utility allowances, as prescribed by the following chart:**

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(6) **As part of any affordable housing grant agreement, the City Council may waive or amend the income, housing and/or rent limits established under this Section, provided that other criteria are established and installed to insure that the project qualifies as affordable housing. Such waivers and amendments may be accomplished within the affordable housing grant agreement.**