

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

**2007 Winter
Supp.**

**West Group
Publisher**

To approve, with modifications, a plan to design and implement a workforce housing production program in the District of Columbia; and to create a public/private partnership between the District of Columbia and New Town Development, LLC for the purpose of economic, social, and cultural revitalization, of creating a substantial number of workforce housing units, of creating a project labor agreement with a job training program for District residents, and of preserving certain buildings and business operations presently located on the approximately 24-acre site in Ward 5 that is bounded by Florida Avenue N.E., on the south, 6th Street, N.E., on the east, Penn Street, N.E., on the north, and the railroad tracks and metrorail on the west, hereinafter designated as “New Town at Capital City Market Project” in accordance with New Town at the Capital City Market: A Neighborhood Revitalization Initiative and Development Plan presented to the District government by New Town Development, LLC, and to authorize the Mayor to use tax incentives, economic and other development initiatives that may be provided by existing laws and regulations, and other existing laws and regulations to achieve the purpose and goals of this legislation within the footprint of New Town at the Capital City Market.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Workforce Housing Production Program Approval Act of 2006”.

TITLE I. PLAN APPROVAL.

Sec. 101. Findings.

(a) The District of Columbia faces a severe shortage of affordable housing. Recent increases in housing prices have far outpaced the growth in wages and salaries of many workers. District government employees have not been immune from these pressures. Only 37% of the District government workforce earning more than \$40,000 resides in the District.

(b) The Washington region’s growth in housing prices has outpaced most other metropolitan areas in the country. It ranks 2nd in house price increases for the 3-year period between 2002 and 2005. In July 2005, the District of Columbia had the highest average sales price in the region at about \$543,700, which was higher than the richer surrounding jurisdictions of northern Virginia and suburban Maryland.

(c) The Mayor and the Council established the Comprehensive Housing Strategy Task Force in 2003 to help the city respond to the critical housing problems created by the housing boom.

(d) The Comprehensive Housing Strategy Task Force report of 2006 recommended a

specific tool for solving the growing workforce housing problem. The report recommended the formation of one or more community land trusts run by public, nonprofit, or other community-based entities whose mission would be to acquire land and hold it long-term while providing long-term leases to developers of housing for both rental and for-sale units. This approach advances the important objective of creating 'permanent affordability' or guaranteeing that units remain affordable indefinitely.

(e) The Deed Transfer and Recordation Emergency Amendment Act of 2006, effective August 8, 2006 (D.C. Act 16-477; 53 DCR 7068) ("emergency act") established the Mayor's Comprehensive Housing Task Force Fund. For fiscal year 2007 only, an amount of \$5 million was allocated for the production of workforce housing; provided, that eligibility for purchase or rental of workforce housing shall be limited to households with incomes not exceeding 120% of the area median income as defined in section 2(1) of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-22; D.C. Official Code §42-2801(1)) ("AMI"); and, provided further, that all housing units developed with funds from the Fund shall be leased or sold on to eligible households for the life of the unit. The emergency act required the Mayor to submit to the Council, for review, a workforce housing development plan.

(f) The Office of the Deputy Mayor for Planning and Economic Development ("ODMPED") initiated work on the development plan beginning in July 2006.

(g) The District of Columbia Workforce Housing Land Trust Design and Implementation Plan ("Plan") is the product of a collaborative effort between the District government, private lenders, nonprofit housing advocates, and for-profit and nonprofit developers. The Plan was submitted by the Mayor to the Council for approval as required by the emergency act.

(h) The Plan recommends the formation of a nonprofit community land trust that will provide high leverage for subsidy dollars and create permanent affordability in 10,000 housing units in Washington, D.C., beginning with a 1,000-unit pilot program financed in part with New Markets Tax Credits.

(i) The land trust is designed to maximize unit production; leverage public and private resources; provide permanent affordability; ensure flexibility and portability; promote wealth building; and ensure efficient administration.

(j) Once approved, the Plan will efficiently support the New Communities and Great Streets Initiatives as well as instrumentalities such as the Anacostia Waterfront Corporation and the National Capital Revitalization Corporation in achieving affordable housing development objectives.

Sec. 102. Establishment of land trust and pilot program.

(a) A nonprofit community land trust shall be formed pursuant to the Plan recommendation.

(b) The Office of the Deputy Mayor for Planning and Economic Development shall issue a request for proposal inviting organizations which are tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, approved August 6, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), to submit proposals for development and administration of the nonprofit community land trust consistent with this title and rules promulgated pursuant to this title.

(b) The land trust shall develop a pilot program to develop 1,000 units of workforce housing within 3 years of the effective date of this title.

(c)(1) The land trust shall develop units affordable to households not to exceed 120% of AMI.

(2) The land trust's portfolio shall have an average not to exceed 80% of AMI.

(3) The 80% portfolio average requirement shall be evaluated for compliance on an annual basis, beginning 12 months after the effective date of this title.

(d) The land trust shall offer the qualified housing units for sale to prospective buyers pursuant to procedures developed by the land trust and based upon the following priority list in the following order:

- (1) Employees of the District of Columbia and its instrumentalities;
- (2) District residents who are first-time homebuyers;
- (3) Other District residents; and
- (4) The general public.

(e)(1) The Mayor may take any action reasonably necessary or appropriate in accordance with this title in connection with the preparation, execution, and issuance of a trust instrument to be entered into by the District and a trustee to be selected by the Mayor pursuant to the process as established in subsection (a) of this section.

(2) The trust instrument shall govern the expenditure of funds authorized under this title and shall set forth the terms and conditions precedent to such expenditure, including evidence of firm funding commitments of private equity and debt.

(f) The Office of the Deputy Mayor for Planning and Economic Development shall aggressively market the pilot program to employees of the District government.

(g)(1) On or before June 28, 2007, the Mayor shall, pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), issue proposed rules to implement the provisions of this title.

(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.

(3) If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(h) Within one year after the effective date of this title, the Mayor shall submit a report to the Council on the status of the workforce housing pilot program. At the conclusion of the pilot program, or within 3 years after the effective date of this title, whichever is sooner, the Mayor shall submit a final report of the pilot program, which report shall include recommendations for a permanent workforce housing program.

(i) For the purposes of this section, the term "household" means all the persons who occupy a housing unit, whose occupants may be a single family, one person living alone, 2 or more families living together, or any other group of related or unrelated persons who share living arrangements.

(j)(1) The land trust shall require that all units developed under the program remain perpetually affordable.

(2) To guarantee permanent affordability, the land trust may:

- (A) Utilize the long-term affordability approach outlined in the Plan,
- (B) Base future price increases and return to sellers on an annual inflator

index; or

(C) Any other method designed to assure permanent affordability consistent with this title.

(2) District funds provided to the land trust shall be redistributed as loans payable to the land trust in a manner determined by the land trust.

(k) Funds authorized for fiscal year 2007 shall be committed prior to October 1, 2007.

Sec. 103. Approval of the Plan.

The Plan, as amended by this title, is approved.

TITLE II. NEW TOWN AT CAPITAL CITY MARKET.

Sec. 201. Short title.

The title may be cited as the "New Town at Capital City Market Revitalization Development and Public/Private Partnership Act of 2006".

Sec. 202. Definitions.

For the purposes of this title, the term:

(1) "Capital City Market" "Market" means the approximately 24-acre site bounded by Florida Avenue N.E., on the south, 6th Street, N.E., on the east, Penn Street, N.E., on the north, and the railroad tracks and Metro rail on the west in northeast Washington, D.C., in Ward 5.

(2) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia.

(3) "Developer" means the New Town Development, LLC, a District of Columbia limited liability company.

(4) "DHCD" means the Department of Housing and Community Development.

(5) "Partnership" means the public/private partnership between the District and Developer to revitalize and develop the Capital City Market into a mixed-use, urban residential, retail, restaurants, entertainment, support facilities, office, government facilities, above and below-grade parking community; to create a substantial amount of workforce housing for teachers, policemen, firemen, and other District of Columbia residents; to preserve specific historic buildings; and to maintain the Market's historic retail and wholesale functions on the existing site in northeast Washington, D.C.

(6) "Revitalization Initiative and Development Plan" means the Initial Conceptual Plan for New Town at the Capital City Market: "A Neighborhood Revitalization Initiative and Development Plan".

(7) "Washington Beef Properties" means Parcel 129/32 and lots 5, 800, and 802 in square 3587.

(8) "Workforce housing" means housing units set aside for eligible renters or purchasers as defined by the appropriate agency of the District of Columbia and who are at 50% to 120% of the Area Median Income.

Sec. 203. Findings.

(a) The Revitalization and Development Plan presented by the Developer can be used as a model for developing large tracts of underutilized land to create workforce housing, needed community facilities and services, and jobs, and to increase the District's tax base.

(b) The Market was originally located on the National Mall where the Federal Triangle Complex now exists and was relocated to its present site shortly after World War I upon passage of the Union Station Act of 1910 and adoption of the MacMillan Plan for the Mall.

(c) While the Market has an active retail and wholesale business of local, national, and international food and meat products, the Market now is an underutilized resource of its neighborhood and the city.

(d) The Market has deteriorated and has deteriorating structures, defective and inadequate street layout, excessive vacant land, vacant buildings, unsanitary and unsafe

conditions, diversity of ownership, and is becoming an attractive place for criminal activity and homeless inhabitants.

(e) The Market is located less than 350 yards from the new Metro entrance of New York/Florida Avenues Metro station.

(f) The Market's present condition, uses, and zoning substantially impair the sound growth of an underutilized site near a metrorail station and prevent the development of new housing and much needed workforce housing.

(g) The Market is an ideal site for transit-oriented development that will increase pedestrian-friendly residential density adjacent to transit facilities that is consistent with the District's goals of maximizing transit usage while reducing automobile dependency.

(h) The New Town at the Capital City Market Project will accomplish neighborhood revitalization and historic preservation and provide workforce housing and jobs.

(i) The Revitalization and Development Plan will create a substantial number of workforce housing units for renters and buyers that fall between 50% to 120% of the Area Median Income.

(j) The Revitalization and Development Plan will create a planned community of housing, office, retail wholesale, local, national and international restaurants, entertainment, recreational and support facilities, and government facilities.

(k) The Revitalization and Development Plan will help reduce traffic congestion, enhance the environment and improve the District's air quality by better planning for and deployment of vehicular traffic, green roof development, and other environmental initiatives.

(l) The Revitalization and Development Plan will allow existing property owners or lessees to invest in the project, become fee simple owners in the new retail and warehouse facility, allow existing property owners to do a like-kind property exchange under section 1031 of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 302; 26 U.S.C. § 1031), and participate in other revitalization and development options.

(m) The Revitalization and Development Plan will allow the present retailers and wholesalers to continue their businesses in the new revitalized Capital City Market.

(n) The Revitalization and Development Plan will be carried out in such a way that it will cause minimal interference to the existing operators of retail and wholesale establishments and allow them to continue to operate during construction.

(o) The Revitalization and Development Plan will preserve the original Market buildings (Union Market) bounded by 4th and 5th Streets and Morse and Penn Streets unless it is found to be impractical to do so by the Developer and the Office of Planning.

(p) The Developer has agreed to require construction contractors to enter into a project labor agreement for the project with a training component for District residents.

(q) The construction of the project will take more than 5 years, which will allow District residents to be trained as apprentices for jobs created by the development and become full-fledged journeyman on the project.

(r) The Revitalization and Development Plan provides for a workforce housing set-aside of a minimum of 20% and a goal of 40%, which will have a significant impact on increasing the District's workforce housing supply by approximately 320 or 640 units, respectively.

(s) The Mayor is authorized to negotiate a land swap or sale with Gallaudet University and to use other means, such as property tax abatement, tax increment financing, and PILOT programs, to assist the Developer in achieving the 40% goal of workforce housing and other community needs.

(t) The Revitalization and Development Plan calls for 40% of the workforce housing to

be set aside for teachers, policemen, firemen, and other critical District of Columbia employees and the remaining 60% to be set-aside for District of Columbia residents who are first-time home purchasers and are at 50% to 120% of the Area Median Income.

(u) The Revitalization and Development Plan will relocate the retail and wholesale operations of the existing Market into modern facilities in the northeast portion of the site which will allow for convenient ingress and egress access for large trailer trucks to and from New York Avenue and Florida Avenue while screening them from residential areas and pedestrian traffic.

(v) The Revitalization and Development Plan provides that the new facilities for the existing retail and wholesale operations will be constructed as condominiums or cooperatives to allow the retailers and wholesalers to own their retail or wholesale facilities.

(w) The Revitalization and Development Plan will provide enhanced services for the residents of New Town, the surrounding neighborhoods, and visitors, including, among other things, a state-of-the-art YMCA with a daycare center, teen center; programs for senior citizens, swimming pool, indoor basketball courts, and a fitness center; a state-of-the-art community health clinic and a state-of-the-art public library branch if the District determines they are needed; and an outdoor amphitheater (designed to convert to an ice skating rink in winter) to showcase local and national entertainers to District citizens and visitors.

(x) The Revitalization and Development Plan provides that the YMCA, library, and community health clinic will all operate on a 20-year lease-to-purchase agreement with ownership transferring to the leaseholders for \$1 at lease expiration.

(y) The Revitalization and Development Plan will create an array of new retail and restaurant businesses and create hundreds of new permanent jobs as well as hundreds of construction jobs.

(z) The Revitalization and Development Plan and its proposed concept is supported by the 3 Advisory Neighborhood Commissions in Ward 5 and the Brentwood Community Association, Inc.

(aa) The Developer is committed to enter into a First-Source Employment Agreement and a Local, Small, and Disadvantaged Business Enterprise Memorandum of Understanding with the appropriate District government agencies.

(bb) The Capital City Market footprint area is currently zoned C-1 for low-density, light-industry and commercial uses and must be re-zoned as C-3-C with an overlay to allow the height and density necessary to achieve the goals of the project and to allow residential and warehouse uses to co-exist as part of New Town at the Capital City Market.

(cc) Certain alleys within the footprint of the Capital City Market will have to be closed.

(dd) The Market is, or Revitalization and Development Plan will be, designated as a renewal area sufficient to be eligible for the most favorable HUD-guaranteed financing programs.

(ee) On May 7, 2002, the Council unanimously passed the Request for Proposals for the Disposition of the Washington Beef Properties, 1240-1248 4th Street, N.E., Lots 5, 800, and 802 in Square 3587 Approval Resolution of 2002, effective May 7, 2002 (Res. 14-440; 49 DCR 5760).

(ff) On June 11, 2002, DHCD issued a request for proposals for the Washington Beef Properties located on the Capital City Market site.

(gg) On July 8, 2003, the Council unanimously passed the Unsolicited Proposal Submitted by Sang Oh & Company for the Negotiated Purchase and Disposition of Surplus Property at 375 Morse Street, N.E., also known as the Ironworks Parcel, Emergency Approval

Resolution of 2003, effective July 8, 2003 (Res. 15-214; 50 DCR 6941).

(hh) On February 26, 2004, pursuant to that certain Land Disposition Agreement between Sang Oh & Company, Inc., and DHCD, Sang Oh & Company, Inc., was granted the development rights to the Washington Beef Properties.

(ii) Working with DHCD, ANC 5B, and the Ward 5 community, Sang Oh & Company, Inc., has completed architectural drawings for a proposed 11-story retail office and condominium building with a 20% percent affordable housing unit set-aside at 80% percent of the Area Median Income, and with community amenities for the Ward 5 community, that is, a 100-seat community meeting room, an office for ANC 5B, and space and signage for a Metropolitan Police Department substation.

(jj) The proposed development is consistent with the purposes and goals of the Revitalization and Development Plan and with architectural designs for New Town at the Capital City Market concept.

(kk) Sang Oh & Company, Inc., has completed demolition of the structures on the Washington Beef Properties site and has submitted its PUD application to the Zoning Commission.

Sec. 204. Office of Planning.

The Developer shall work with the Office of Planning and other appropriate agencies prior to and during the zoning process to ensure that the District's planning and other policy objectives and goals, to the extent that the project is not jeopardized financially, are achieved to the fullest extent possible.

Sec. 205. Authority of the Deputy Mayor for Economic Development.

The Deputy Mayor for Economic Development shall have the authority and responsibility of ensuring that the District's interests and goals, to the fullest extent possible, are achieved as set forth in this act. When the project is approved for construction, the Deputy Mayor and the Developer will develop a timetable for the development of the project and will provide detailed quarterly reports to the Mayor and the Council.

Sec. 206. Development of conceptual plan.

The Council directs the Mayor through the appropriate agencies working with the Developer, the affected community (Ward 5), and the landowners and renters of the Capital City Market to develop a Final Conceptual Plan and an Agreement between the District and the Developer within 180 days of the effective date of this title. Once the Final Conceptual Plan and the Agreement have received affirmative written approval from property owners representing 50% or more of the site of the Capital City Market, the Mayor shall submit the Final Conceptual Plan and Agreement to the Council for approval within 30 days of such affirmative written approval.

Sec. 207. Eminent domain.

The Mayor shall not use eminent domain for any aspect of the revitalization or development of this site without the prior approval of the Council.

TITLE III. FISCAL IMPACT STATEMENT; EFFECTIVE DATE.

Sec. 301. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia