CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2010-49

INTRODUCED BY:

Councilor Wurzburger
Councilor Romero

A RESOLUTION

AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES PROGRAM IN ORDER TO ELIMINATE THE FIRST-TIME HOMEBUYER STATUS REQUIREMENT; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY.

WHEREAS, on August 15, 2005, the Governing Body adopted Resolution No. 2005-69, administrative procedures for implementing the Santa Fe Homes Program; and

WHEREAS, the Governing Body has amended the administrative procedures for implementing the Santa Fe Homes Program by Resolution No. 2007-99, Resolution No. 2008-73 and Resolution No. 2009-74; and

WHEREAS, the Governing Body desires to amend the administrative procedures to eliminate the first-time homebuyer status requirement; to update area median income and related numerical data; and make other related changes as are necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the administrative procedures for the Santa Fe Homes Program are amended to read as shown on the attached exhibit A.

AND BE IT FURTHER RESOLVED that staff is directed to monitor the changes to the SFHP administrative procedures adopted by this resolution and regularly report to the Governing Body as to their impact and that within 18 months staff shall make a report to the Governing Body regarding their analysis and recommendations. This report will include a review of the home warranty provisions.

PASSED, APPROVED, and ADOPTED this 9th day of June, 2010.

David Coss

DAVID COSS, MAYOR

ATTEST:

Yolanda Y. Vigil

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

Geno Zamora

GENO ZAMORA, CITY ATTORNEY

Jp/ca/jpmb/2010 res/SFHP admin proc rev

Administrative Procedures for the City of Santa Fe
Santa Fe Homes Program (SFHP)

1. PURPOSE

The purpose of these administrative procedures is to establish procedures for the City of Santa Fe (herein "City") staff, boards, commissions or committees, the Governing Body and any agent of the City to implement and administer the Santa Fe Homes Program (SFHP).

2. AUTHORITY

The SFHP ordinance is enacted pursuant to the express statutory authority conferred upon municipalities to enact a housing code (N.M. Stat. Ann. 3-17-6 A (8) (1978)), to enact ordinances pursuant to its police power (N.M. Stat. Ann. 3-17-1 B (1978)), to enact zoning ordinances in general (N.M. Stat. Ann. 3-21-1 B(2) (1978)), and pursuant to any and all such other authority as may be applicable including but not limited to the City's recognized authority to protect the general welfare of its citizens.

The SFHP ordinance is adopted pursuant to the City of Santa Fe's powers under its municipal charter which was adopted effective March 15, 1998 pursuant to the Municipal Chart Act [§§ 3-15-1 to 3-15-16 NMSA 1978] and Article 10 Section 6 of the New Mexico State Constitution.

Chapter 14, Land Development, Article 8, Division 11; and Section 26-1, herein, are collectively called the Santa Fe Homes Program (SFHP). The administrative procedures were first adopted by Resolution No. 2005-69. The administrative procedures were amended by Resolution No. 2007-99, Resolution No. 2008-73, Resolution No. 2009-74 and Resolution No. 2010-49. All changes to the administrative procedures other than changes to area median income and related numerical data shall be reviewed and approved by resolution of the governing body.

3. SCOPE

This document and its attachment (the "administrative procedures") set forth responsibilities, procedures, standards for administrative actions necessary to implement the SFHP ordinance, which include but are not limited to the following:

3.1 Submitting and reviewing applicable residential development proposals and determining conditions of approval related to the provisions of SFHP Units or alternate means of compliance.

3.2 Reviewing and executing agreements (herein called "SFHP agreements") with property owners to ensure compliance with the SFHP ordinance and these administrative procedures.

3.3 Monitoring the performance of residential property owners subject to such agreements, and any successors in title that are still subject to such agreements or other requirements of the SFHP ordinance and these administrative procedures (herein, collectively called

"the applicant" or "applicants") and taking appropriate action in the event of noncompliance.

4. RESPONSIBILITY FOR ADMINISTRATION

4.1 **Office of Affordable Housing** – This city office or its agent shall be responsible for the following functions with regard to administration of the SFHP ordinance and these administrative procedures (herein, collectively called "SFHP") set forth below. In addition, the Office of Affordable Housing shall be responsible for administering all prior affordable housing agreements and the prior affordable housing program (Housing Opportunity Program) until such time as all obligations under such agreements and program have been satisfied.

4.1.1 Administering all functions of SFHP except for those which are specifically described as the responsibilities of other city departments and providing overall coordination among city departments.

4.1.2 Providing forms, information, technical assistance and certifications with regard to compliance with the SFHP ordinance.

4.1.3 Approving SFHP proposals for complying with SFHP from an applicant.

4.1.4 Recommending to the City Manager approval of SFHP Agreements based on their conformance with SFHP.

4.1.5 Ensuring that homebuyers and renters benefiting from SFHP are certified as eligible under SFHP.

4.1.6 Monitoring compliance with SFHP agreements.

4.1.7 Determining when sanctions for noncompliance should be invoked, and requesting the city manager to direct that appropriate city departments take appropriate action.

4.1.8 Performing other functions as required by SFHP.

4.1.9 Performing other functions not specifically described in the SFHP ordinance or these administrative procedures, but essential for successful administration of SFHP and within the powers and abilities of the office.

4.1.10 Ensuring the proceeds of liens are directed to the appropriate City trust fund.

4.1.11 Preparing the Affordable Housing provisions of annexation agreements.

4.1.12 Office of Affordable Housing responsibilities do not include or supersede those responsibilities of the Land Use Department as set forth in Section 14-8.11 SFCC 2005.

4.2 **Staff** – Administration of the SFHP shall be delegated to one or more staff in the Office of Affordable Housing. The staff shall be responsible for the day-to-day administration of the office's responsibilities, and shall specifically be responsible for:

4.2.1 Recommending approval or disapproval of SFHP proposals, making recommendations to the Governing Body regarding fee-in-lieu contributions, and making recommendations to the Governing Body on appeals of decisions regarding SFHP requirements.

4.2.2 Assuring that monitoring of compliance with SFHP agreements takes place, and in the event of noncompliance, requesting that the city manager request action by appropriate departments with regard to the department's responsibilities for administering SFHP.

4.2.3 Coordinating, training and monitoring the office's staff and any appropriate agent of the office with regard to the office's or agent's responsibilities for administering SFHP.

4.2.4 Performing other duties as described in the SFHP ordinance or these administrative procedures.

4.3 **Land Use Department** – This city department or its designees shall be responsible for the following functions with regard to administration of SFHP:

4.3.1 Administering those parts of the ordinance that permit or require the City to approve density bonuses and certain other development incentives.

4.3.2 Requiring that applicants prepare SFHP proposals with the Office of Affordable Housing as a part of the development review process and prior to review of development applications and/or plans by the review body.

4.3.3 Where applicable and upon the City Manager's instruction, invoking sanctions for non-compliance with agreements, upon the request of the Office of Affordable Housing.

4.3.4 Performing other functions described as the responsibility of the Land Use Department in the SFHP ordinance or these administrative procedures.

4.4 **Public Utilities Department** – This city department or its designees shall require that as a condition of approval or availability, for the extension of or connection to city utilities to residential developments located outside the city limits, applicants prepare SFHP proposals with the Office of Affordable Housing.

4.5 **City Attorney's Office** – This office or its agent shall be responsible for the following functions with regard to administration of SFHP:

4.5.1 Providing legal assistance when requested by the Office of Affordable Housing, Land Use Department, Public Utilities Department or City Manager.

4.5.2 Assisting in the preparation and execution of SFHP agreements.

4.5.3 When requested by the City Manager or Governing Body, pursuing such legal actions as may be necessary to enforce agreements, if such actions are permitted by common law, state statutes, any ordinance and/or any agreement.

4.6 **City Manager** – Except those SFHP agreements which are included within an annexation agreement and signed by the Mayor, the City Manager shall have the sole authority to execute SFHP agreements on behalf of the City, after reviewing the recommendations of the Office of Affordable Housing and the results of any successful appeals.

4.7 **Planning Commission** – This city commission shall be responsible for reviewing and approving certain development incentives described herein and for referring SFHP proposals back to the Office of Affordable Housing along with a statement as to the nature, reason and need for any changes in the SFHP proposal whenever the development incentives therein are denied in whole or in part.

4.8 **Governing Body** – The Governing Body shall be responsible for reviewing, and approving or denying, appeals of decisions of city departments or commissions with respect to SFHP requirements and for approving or denying requests for alternate means of compliance.

5. APPLICABILITY

5.1 **Developments and Actions Subject to SFHP** – Except as provided in this paragraph, SFHP applies to any applications for development, including but not limited to, annexation, rezoning, subdivision plat, increase in density, development plan, extension of or connection to city utilities for land outside the city limits, and building permits, which proposes two or more dwelling units or buildings or portions of buildings which may be used for both non-residential and residential purposes. SFHP applies to the residential portion of the development.

5.1.1 The SFHP applies to new construction and to the conversion of existing rental units to ownership units.

5.1.2 The SFHP shall apply to vacation time share projects.

5.1.3 The SFHP shall not apply to a family transfer as set forth in 14-3.7(E)(3)(b) or a division of land into two lots as set forth in 14-2.3(E)(1)(a).

5.1.4 It shall be the responsibility of the applicant to determine the applicability of SFHP to the proposed development and comply with the requirements of SFHP.

5.2 **Developments Not Subject to SFHP** – The SFHP shall not apply to the following:

5.2.1 Any development or portion thereof which, upon effective date of the SFHP ordinance, was subject to any formal, written and binding agreement with the City of Santa Fe for providing affordable housing which agreement has been performed or remains in effect and may be performed by and after the effective date of the SFHP ordinance.

5.2.2 Dwelling units or manufactured home lots for an elementary, middle, or high school, community college, private four year college or related institution where coursework leads to an associate of arts, bachelors or vocational degree or certification, hospital or similar institution to be used exclusively by its employees or enrolled students and their families. If the dwelling units are no longer used exclusively by its employees or enrolled students, the SFHP shall apply at the time the units are converted.

5.3 **Applicability of Requirements for For-Sale and Rental Housing** – SFHP developments will be subject to requirements for for-sale or rental housing, as follows:

5.3.1 For-sale housing – Developments will be subject solely to the SFHP requirements for for-sale housing if 100% of the dwelling units or manufactured home lots in the development are proposed to be sold.

5.3.2 Rental housing – Developments will be subject solely to the SFHP requirements for rental housing if 100% of the dwelling units or manufactured home lots in the development will be held by one ownership entity and are proposed to be rented.

5.3.3 Combination For-sale and Rental housing – In developments proposing both for-sale and rental housing, the requirements for both for-sale and rental housing shall apply. Requirements for for-sale housing shall apply to dwelling units or manufactured home lots proposed for sale and requirements for rental housing shall apply to dwelling units or manufactured home lots proposed to be rented.

5.3.4 Declaration of Proposed Mix – In any development proposing both for-sale and rental housing, the developer shall indicate in the SFHP proposal and SFHP agreement (subject to confirmation by the Office of Affordable Housing) the anticipated number of for-sale and rental dwelling units or manufactured home lots. An applicant may not change this proposed mix without receiving written approval from the Office of Affordable Housing in the form of a revised SFHP proposal.

5.4 **Applicability to Annexations** -- Because annexations typically present more complex approval issues than rezonings, subdivision approvals or multiple-family development plan approvals, they are subject to applications of SFHP requirements as follows:

5.4.1 Applicants and the Office of Affordable Housing shall negotiate the number of SFHP units required or alternate means of compliance and any pertinent development incentives for the purposes of certifying a SFHP proposal to the Land Use Department or the Public Utilities Department (if development request is for the extension of or connection to city utilities beyond the city limits.

5.4.2 The negotiated agreement may exceed the requirements of SFHP but in no case shall the agreement provide for less affordable housing, higher home prices, or a lesser in-lieu contribution than required by SFHP.

5.4.3 All other SFHP requirements, including the requirement for a SFHP agreement, shall apply.

5.4.4 A complete SFHP agreement shall be included in the annexation agreement approved by the Governing Body.

5.5 **Applicability to Developments Proposed for Lot Sales** -- Developments in which the developer does not intend to directly sell homes but rather lots to builders or individual owners are still subject to SFHP requirements

6. DEFINITIONS

Affordable Home Price means the highest price at which an SFHP Home may be sold pursuant to Section 8.2. For purposes of this ordinance, the price of an SFHP home cannot exceed the maximum established price, including the base price and any fees charged of the buyer by the seller or a related entity, minus any of the buyer's closing costs or financing costs paid by the seller, as indicated by the settlement statement for the sale.

Affordable Manufactured Home Lot Price means the highest price at which an SFHP Manufactured Home Lot may be sold pursuant to Subsection 8.7.

Affordable Rent means the highest monthly rent that may be charged for a SFHP rental unit or SFHP manufactured home lot pursuant to Section 9.2.

Allowable Option Upgrades are additions and/or modifications to the standard features of an SFHP home chosen solely at the option of the SFHP buyer to upgrade the standard features of the SFHP home.

Alternate Means of Compliance means compliance with the SFHP ordinance by payment of in-lieu contributions as approved.

AMI means Area Median Income.

Area Median Income means the median income for the Santa Fe metropolitan statistical area as adjusted for various household sizes and published and revised periodically by the United States Department of Housing and Urban Development (HUD) provided, however, that in the event of a discrepancy between the Area Median Income established by HUD and HUD's Program Income Limits, the higher of the two shall be used to establish Area Median Income for purpose of SFHP.

Applicant means a property owner or agent of a property owner who submits a development request to the city which is subject to any SFHP requirements, or any successor in title that is subject to SFHP requirements.

Certified means a buyer or renter of a Santa Fe Homes Program Unit whose income has been verified by the City or its agent as meeting the income limits and other criteria which establish eligibility to buy or rent under the program. Buyers shall also receive a certificate verifying they have completed homebuyer training courses as part of the certification process.

City means the city of Santa Fe or its agent.

City Attorney's Office means the City Attorney's Office of the City of Santa Fe, its agent or successor.

City Code means Santa Fe City Code 1987 (SFCC 1987).

County means Santa Fe County

Dwelling Unit means one (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sleeping and bathroom facilities.

Energy Efficiency Adjustment means the amount that may be added to the Affordable Home Price of a for-sale SFHP Unit that meets energy efficiency standards pursuant to Section 8.2.6

Extreme Hardship means a condition occurring as a direct consequence of the SFHP ordinance which: (a) deprives a property owner of all economically viable use of the subject property taken as a whole; or (b) would require the property owner to lose money on the development taken as a whole and the property owner can demonstrate to the Governing Body's satisfaction that said loss would be an unavoidable consequence of the SFHP requirement for construction of SFHP units; or (c) the property owner can demonstrate to the council's satisfaction that complying with the requirements of this Chapter would constitute taking property in violation of the Constitution of the United States or New Mexico.

Fractional Unit Fee means the fee charged to developers to satisfy the required housing obligation in the event that the formulas provided in Sections 8 and 9 result in a fraction.

Housing Expense Ratio means the ratio of housing costs, including mortgage payments, hazard insurance, private mortgage insurance and taxes, to household monthly income.

Income Qualified means a buyer or renter whose household income does not exceed the amount which establishes eligibility to buy or rent a Santa Fe Homes Program unit, within income ranges established for the program or under specific development agreements.

Income Range means the range of annual incomes used in the determination of eligibility of an SFHP home buyer or an SFHP tenant. The Income Ranges are:

Income Range 1: 50% of Area Median Income or lower

Income Range 2: More than 50% but not more than 65% of Area Median Income

Income Range 3: More than 65% but not more than 80% of Area Median Income

Income Range 4: More than 80% but not more than 100% of Area Median Income

Manufactured Home Lot means a lot which is marketed and either sold or rented for the purposes of the placement of a manufactured home.

Maximum Option Upgrade Allowance means the maximum price paid by the SFHP buyer for Allowable Option Upgrades pursuant to Section 8.2.4.

Median Income means the Area Median Income as defined.

Office of Affordable Housing, means the Office of Affordable Housing of the City, its agent or successor.

Land Use Department means the Land Use Department of the city, its agent or successor.

Public Utilities Department means the Public Utilities Department of the city of Santa Fe, its agent or successor.

SFHP means the Santa Fe Homes Program

SFHP Agreement means an agreement between a property owner of record and the city whereby the city confers benefits in the form of development incentives to the property owner in exchange for compliance with SFHP with regard to providing required SFHP units or alternate means of compliance.

SFHP Developer means an owner of a property subject to any SFHP requirements, who is carrying out any phase of developing the subject tract, or as defined in this section, certain successors in title.

SFHP Development means a tract of land or any improvements thereon which are subject to a SFHP agreement.

SFHP Home means a dwelling unit marketed and sold to satisfy SFHP requirements.

SFHP Home Buyer means a purchaser of a SFHP home or the entire household occupying a SFHP home or the purchaser or entire household occupying a SFHP manufactured home lot.

SFHP Manufactured Home Lot means a lot which is marketed and either sold or rented for the purposes of the placement of a manufactured home and to satisfy SFHP requirements.

SFHP Property owner means the owner of any property which is subject to SFHP requirements, or as defined in this section, certain successors in title.

SFHP Proposal means a proposal by a property owner of record made to the city detailing the property owner's plan for complying with SFHP.

SFHP Rental Unit means a rental unit marketed and leased specifically to satisfy SFHP requirements.

SFHP Tenant means a person who is a lessee of a SFHP rental unit, or a manufactured home rental lot, or the entire household occupying a SFHP rental unit or SFHP manufactured home lot.

SFHP Unit means a dwelling unit or manufactured home lot required to be provided on site by a SFHP developer or a SFHP property owner to satisfy the SFHP requirements.

Unit means a dwelling unit as defined in Chapter 14 SFCC 1987.

Vacation Time Share Project means any real property, consisting of one or more dwelling units, that is subject to timeshare use, interval use or a private vacation/residential club as defined in Chapter 14 SFCC 1987.

7. SFHP PROPOSALS AND AGREEMENTS

Following are standards and procedures for preparation, review and approval of SFHP proposals and agreements:

7.1 **Requirement for SFHP Proposals and Agreements** – SFHP proposals and agreements shall be required by the City for all residential developments described in Section 5 of this document. SFHP proposals shall be approved by the Office of Affordable Housing prior to the Planning Commission's, or, in case of development as described in Section 5.1.2, the Extraterritorial Commission's consideration of an applicant's proposal.

7.2 **Scope and Content of SFHP Proposals and Agreements** – SFHP proposals and agreements shall include all of the following:

7.2.1 The development request (subdivision plat, development plan, etc)

7.2.2 The applicant's plan for providing required affordable housing or alternate means of compliance as required by SFHP. This shall include a specific description of the number of SFHP units to be constructed or created and the sale or rental prices of those units. This shall also include a timetable for delivering required SFHP units or alternate means of compliance.

7.2.3 The applicability of proposed elements of the agreement to successors in title, and the legal mechanisms by which obligations will be passed on to the successors.

7.2.4 The responsibility of the City or its agent for performing income certifications in selling or renting SFHP units, and the responsibility of the City or its agent for certifying homes sales as complying with SFHP.

7.2.5 The applicant's requirements for providing the City or its agent with reports on its compliance with the SFHP agreement.

7.2.6 Provisions granting access to the City or its agent to inspect records and developments sites and the opportunity to interview SFHP buyers or renters.

7.2.7 The City's obligation to give notice in writing and in a timely fashion of violations including what actions are needed to correct the violation and time frame for compliance.

7.2.8 The City's right to impose sanctions or take other actions after notice of violation has been given and not complied with.

7.2.9 The expiration date of the agreement and any conditions under which it may be terminated earlier than that date.

7.2.10 The responsibility of the applicant, a successor or the City to record regulatory agreements or liens in the public records that will ensure long-term affordability of SFHP units provided pursuant to SFHP.

7.2.11 A declaration by the applicant of the make-up of the development with respect to rental SFHP units and for-sale SFHP units.

7.2.12 Development incentives to be granted by the city in consideration of the applicant's agreement to construct or create SFHP units.

7.2.13 The name of the qualified organization or organizations that has been engaged to provide marketing services, income verifications, training, maintenance of waiting lists or other allocation process, and home purchase and finance counseling to prospective SFHP buyers and SFHP tenants.

7.2.14 Other terms and conditions necessary to implement the requirements of the SFHP with regard to the subject development.

7.2.15 In developments where demand is expected to outstrip supply, a description of a fair and equitable method to be used for the allocation of SFHP units.

7.3 **Pre-Submission Conference** – Prior to submitting any development request to which SFHP applies, the prospective applicant shall schedule and hold a pre-submission conference with the Office of Affordable Housing with regard to the development proposal and SFHP requirements.

7.4 **Submission of SFHP Proposals** – A SFHP proposal shall be submitted with any development request to the City to which SFHP applies.

7.5 **Review of SFHP Proposals** – After submittal, each SFHP proposal shall be reviewed by the Office of Affordable Housing. After review, the Office of Affordable Housing shall take one of two actions with regard to a SFHP proposal:

7.5.1 Approve the SFHP proposal if the proposal meets SFHP requirements.

7.5.2 Disapprove the SFHP proposal and refer it back to the applicant if it does not meet SFHP requirements. In this case, the Office of Affordable Housing shall make written comments regarding the proposal's deficiencies.

7.6 **Re-submittal of SFHP Proposals After Disapproval** -- If a SFHP proposal has been disapproved, an applicant may resubmit revised proposals so long as changes to the SFHP proposal are substantive.

7.7 **Re-submittal of Revised Proposals After Issuance of Certificate of Compliance** – If the applicant wishes to resubmit or amend a SFHP proposal due to changes in the development request as the development proposal proceeds through the development review process or due to the final determination by the reviewing body that any or all development incentives included in the SFHP proposal will not be granted or for other reasons, the developer must resubmit a new or amended SHFP proposal for approval by the Office of Affordable Housing.

7.8 **Appeals** – An applicant may appeal actions of the City with regard to SFHP as follows:

7.8.1 An applicant may appeal if:

a. The applicant believes that City staff misinterpreted the SFHP requirements in disapproving the SFHP proposal, and the proposal as written conforms to SFHP requirements; or

b. The applicant is aggrieved by any other action of the City with regard to SFHP.

7.8.2 All such appeals shall be made on forms provided by the Office of Affordable Housing, and must be accompanied by a description of the City action which is being appealed and the grounds for appeal. If the applicant is appealing staff disapproval of a SFHP proposal, the appeal must be accompanied by:

a. A proposed SFHP proposal that has been disapproved by staff; and

b. Staff comments on the SFHP proposal, including the reasons for disapproval of the proposal.

7.8.3 Appeals of staff decisions shall be heard by the Governing Body.

7.8.4 If a SFHP proposal is subject to appeal, the outcome of the appeal process may determine whether the applicant is entitled to certain development incentives. In this case, the applicant may choose one of the following options with regard to continued processing of the development proposal:

a. Processing may be suspended until the appeal is heard and decided.

b. Processing may be continued. In this case, the applicant may determine whether to incorporate into his or her development proposal any development incentives which are subject to the outcome of the appeal.

7.9 **Approval of Development Proposals Subject to SFHP** – No development proposal subject to SFHP requirements may be heard by the review body unless a SFHP proposal has been approved as to compliance with SFHP by the Office of Affordable Housing or appealed as set forth in Section 7.8. Such SFHP proposal presented by the applicant shall correspond to the development proposal as approved by City.

7.10 **Execution of SFHP Agreements** – After all development approvals (except for building permits) have been received, the SFHP agreement may be executed by the City Manager and the applicant. The SFHP agreement shall be filed in the Santa Fe County Clerk's office prior to any permits being issued or the start of any work. The agreement shall be referred to and recorded as follows:

7.10.1 It shall be referred to in the annexation agreement or the rezoning ordinance and referred to on the annexation plat, final subdivision plot, or final development plan as appropriate. It shall be included as a condition of approval for the extension of or connection to city utilities beyond the city limits.

7.10.2 The agreement shall be recorded at the County Clerk's office at the time of recording the annexation plat, rezoning ordinance, final subdivision plat, final development plan, as appropriate, or prior to issuance of a building permit if the previous documents are not required, in which case a copy of the agreement shall be included with the submittal for a building permit.

7.11 **Noncompliance with Agreements** – It shall be unlawful for any property owner subject to SFHP to violate any provision of or fail to comply with any of the requirements of SFHP or an SFHP agreement. Whenever the city finds that a property owner has violated or is violating a requirement of SFHP or of an SFHP agreement, the city shall issue a written notice of violation. The notice of violation shall:

7.11.1 Set forth the specific violation found;

7.11.2 Establish a specific and reasonable period of time for the correction of the violation found;

7.11.3 State that failure to comply with the notice may result in the following sanctions, depending upon which is deemed most effective and appropriate considering the nature of the noncompliance:

a. Withholding of the recording of plats or plans

b. Withholding of building permits

c. Issuing stop work orders

d. Revoking building permits

e. Withholding or revoking certificates of occupancy

7.11.4 The notice shall be hand delivered to the property owner or mailed registered mail, return receipt requested to the last known address.

7.11.5 The Notice shall inform the property owner that he may request a hearing prior to any sanction being imposed.

7.12 **Non-Compliance Hearings** – In the event that a property owner notified of a violation requests a hearing, the hearing shall be conducted by the director of the Office of Affordable Housing after giving notice to the person requesting the hearing.

7.12.1 All parties shall be allowed to respond and present evidence and argument on all issues involved.

7.12.2 A record of the hearing shall be made

7.12.3 Findings of fact shall be based exclusively on the evidence presented and on matters officially noticed

7.12.4 Notice of the final decision shall be in writing and hand delivered to the property owner or mailed registered mail, return receipt requested to the last-known address.

7.12.5 Decisions by the director of the Office of Affordable Housing shall be final and may be appealed in district court.

7.13 **Legal Action and Potential Fines** – If a property owner fails to comply with , the final decision of the director of the Office of Affordable Housing, the Office of Affordable Housing shall notify the City Manager and the Land Use Department of the non-compliance and request that applicable sanctions be imposed.

7.14 **Enforcement outside the City Limits** – If after having been given notice as set forth in section 7.11, a property owner subject to a SFHP agreement fails to comply with the SFHP, the Office of Affordable Housing may request that the City Manager authorize the City Attorney's Office to pursue enforcement of specific performance requirements in accordance with the SFHP agreement in an appropriate court of law.

8. REQUREMENTS FOR FOR-SALE HOUSING

SFHP homes and manufactured home lots shall be marketed, sold and occupied according to these criteria:

8.1 **Eligible Buyers** – Following are general eligibility criteria for purchasing SFHP units:

8.1.1 SFHP homes shall be sold to and occupied by an eligible owner-occupant household. An eligible owner-occupant household for a SFHP home shall meet eligibility requirements as follows:

a. Income – The household income of a SFHP buyer shall not exceed the defined Income Ranges as set forth in Section 6, except as otherwise provided in this Section.

b. Liquid Assets – If the SFHP buyer has liquid assets exceeding $25,000, additional income shall be imputed at the rate of 20% of the liquid assets exceeding $25,000. This imputed income shall be added to the yearly income of the SFHP buyer for the purpose of determining income eligibility. Liquid assets include cash, cash equivalents, stocks, bonds, real estate, and other assets readily converted to cash. Liquid assets do not include retirement funds that are not readily accessible without the payment of a penalty, trust funds not controlled by the potential purchaser, personal property such as furniture or automobiles, educational accounts committed to a dependent, or other assets not readily accessible to the purchaser.

c. Minimum household size – The household size may not be smaller than the following minimum household sizes.

Unit Size	*Minimum Household Size*
Efficiency/Studio	1 person household
1 Bedroom	1 person household
2 Bedrooms	1 person household
3 Bedrooms	2 person household
4 bedrooms	3 person household

The Office of Affordable Housing may approve a smaller household size upon the request of the developer or the SFHP homebuyer.

d. Eligible Financing – to be eligible, SFHP buyers must finance the purchase of the home or manufactured home lot with a fully amortizing prime mortgage loan, which is defined as a mortgage loan with an interest rate that does not exceed 100 basis points above the New Mexico Mortgage Finance Authority Mortgage Saver rate and does not charge in excess of a 2% origination fee.

8.1.2 SFHP manufactured home lots shall be sold to and occupied by an eligible owner-occupant household. An eligible owner-occupant household for a SFHP manufactured home lot shall meet eligibility requirements as follows:

a. Income – The household income of a SFHP manufactured home lot buyer shall not exceed the defined Income Ranges for a 3 person household, as set forth in Section 6, regardless of the household size of the SFHP buyer, except as allowed by Section 8.1.4.

b. Liquid Assets – If the SFHP buyer has liquid assets exceeding $25,000, additional income shall be imputed on the liquid assets exceeding $25,000. This imputed income shall be added to the yearly income of the SFHP buyer for the purpose of determining income eligibility. Liquid assets include cash, cash equivalents, stocks, bonds, real estate, and other assets readily converted to cash. Liquid assets do not include retirement funds that are not readily accessible without the payment of a penalty, trust funds not controlled by the potential purchaser, personal property such as furniture or automobiles, educational accounts committed to a dependent, or other assets not readily accessible to the purchaser. Additional income shall be imputed at the following rates:

1. For an SFHP Buyer age 64 or younger, 20%

2. For an SFHP Buyer age 65 or older, 10%

8.1.3 A household's eligibility shall have been certified by the City or its agent no more than 90 days prior to a purchase contract being executed for a SFHP home or SFHP manufactured home lot. Such certification is valid for 6 months following the execution of the purchase contract. If the 6 months elapses before closing of the unit for which the SFHP buyer is under contract, the household's eligibility shall be re-certified and such certification shall be valid for an additional 90 day period.

8.1.4 If a potential SFHP buyer, who was initially determined to be eligible for an SFHP unit and has executed a purchase contract for such unit, is subsequently determined upon recertification not to be eligible for the SFHP unit for which s/he has signed a purchase contract because of an increase in the household income, the Office of Affordable Housing, at its sole discretion, may approve the sale of the SFHP unit to the potential SFHP buyer if one of the following conditions is met:

a. If the potential SFHP buyer's income does not exceed the maximum AMI percentage for the original income range by more than 5 percentage points, the potential SFHP buyer may be allowed to purchase the SFHP unit or manufactured unit at the original SFHP home price or SFHP manufactured home lot price.

b. If the potential SFHP buyer's income exceeds the maximum AMI percentage for the original income range by more than 5 percentage points, and the income is within a higher SFHP income range, the SFHP buyer may be allowed to purchase the SFHP home or SFHP manufactured unit at the SFHP price applicable for the new income range, provided that the developer replaces the SFHP unit in the lower income range with a unit that was originally intended for the higher income range.

8.1.5 Emergency workers, first responders, teachers or related educational employees -- An eligible buyer meeting this criteria working in Santa Fe County whose household income exceeds 100% of AMI but does not exceed 120% of AMI shall be eligible to purchase an SHFP unit in Income Range 4. The status of the buyer as an emergency worker or first responder shall be noted on the certificate of eligibility and shall be subject to verification by the office of affordable housing. The office of affordable housing shall maintain a list of occupations that meet the requirement of emergency worker or first responder, which shall include:

a. Police officers

b. Nurses

c. Emergency Medical Technicians

d. Firefighters

e. Other health or safety worker whose services would be crucial to community safety in an emergency situation.

All other eligibility requirements of SFHP shall apply.

8.2 SFHP Home Prices

8.2.1 Sale prices of SFHP homes being sold to an eligible owner-occupant pursuant to a SFHP agreement shall be at or below the following amounts:

Income Range	*Affordable Home Price Studio*	*Affordable Home Price 1 bedroom*	*Affordable Home Price 2 bedroom*	*Affordable Home Price 3 bedroom*	*Affordable Home Price 4 bedroom*
Income Range 2	$84,750	$92,000	$105,250	$118,250	$131,500
Income Range 3	$112,500	$119,500	$136,750	$153,750	$170,750
Income Range 4	$140,000	$147,250	$168,250	$189,250	$210,250

8.2.2 The actual sale price shall include all of the following costs to the buyer as described on the settlement sheet for the sale:

a. The sales price of the home;

b. Any sales commission which is payable by the buyer; and

c. Any other settlement costs charged to the buyer, which in Santa Fe are normally charged to the seller.

8.2.3 The SFHP Affordable Home Prices and Affordable Manufactured Home Lot Prices are effective for a specific SFHP Home or Manufactured Home Lot only if the SFHP buyer will not be required to pay a monthly fee such as a homeowners' association fee, condominium fee or common area fee. If a SFHP home or manufactured home lot is proposed with such fees, the developer shall lower the SFHP home price or SFHP manufactured home lot price so that the buyer's mortgage or manufactured home loan principal amount and, accordingly, the buyer's monthly mortgage payments, are reduced by the amount of the fee that exceeds seventy-five dollars ($75). The adjusted prices shall be reflected in the SFHP Agreement.

8.2.4 The actual sale price of a SFHP home may not be achieved by use of subsidies from any source other than the developer, so that, given the scarcity of subsidy

funds, all SFHP applicants will be treated equally and fairly. However, the City encourages the use of such subsidies to reduce prices of SFHP homes from the maximum amounts allowed by SFHP or a lesser amount downward, or to fund or partially fund down payments and closing costs of qualified buyers. The restriction on use of subsidies shall not apply to non-profit affordable housing organizations.

8.2.5 Allowable Option Upgrades

a. The Affordable Home Price may be increased at the request of the SFHP home buyer by the price of Allowable Option Upgrades, not to exceed the Maximum Option Upgrade Allowance.

b. At the time of the enactment of SFHP, the Maximum Option Upgrade Allowance shall be $5,000. Beginning in 2006 and every year thereafter, the Office of Affordable Housing shall review and adjust the Maximum Option Upgrade Allowance based on changes in the Area Median Income for the previous 12 months.

c. The following features are considered standard features that must be included in a SFHP home and for which the builder shall not charge extra:

New kitchen range

New kitchen refrigerator

Hookups for clothes washer, dryer, and built-in dishwasher

Central heating systems.

d. The SFHP home shall include a home warranty meeting the requirements of state law. No SFHP Developer or general contractor, subcontractor or other professional shall be permitted to request that an SFHP homebuyer sign a waiver of any warranty required by state law. Any such waiver shall be considered null and void.

8.2.6 Energy Efficiency Adjustment

a. Upon approval of the Office of Affordable Housing, the Affordable Home Price may be increased by the amount of the applicable Energy Efficiency Adjustment based on the energy efficiency, as determined by the Home Energy Rating System (HERS) Index and the Residential Green Building Code (RGBC), of the SFHP Unit as provided herein:

HERS Index Range	Allowable Adjustment
69 – 66	$3,000

66-61	$3,500
60 – 56	$4,000
55 to 51	$4,500
50 or below	$5,000
50 or below + RGBC Gold	$6,500

b. The SFHP Developer shall receive approval from the Office of Affordable Housing to utilize the Energy Efficiency Adjustment prior to executing a purchase contract for a SFHP Unit to which the adjustment will be made. The SFHP Developer shall provide the Office of Affordable Housing with an Energy Star Home Report, prepared by a certified HERS Rater, that shows the expected HERS Index for any floor plan for which an Energy Efficiency Adjustment is requested. The SFHP Developer shall include the anticipated HERS Index for each floor plan in the request for approval.

c. For each SFHP Unit upon which the SFHP Developer utilizes an Energy Efficiency Adjustment, the SFHP Developer shall submit prior to closing to the Office of Affordable Housing documentation provided by the HERS Rater, such as the Energy Star Certificate, for the specific SFHP Unit showing the final HERS Index that was achieved. If this HERS Index falls above the range (i.e. is less efficient) anticipated in the Energy Efficiency Adjustment Approval, the SFHP Developer shall be required to execute a purchase contract addendum with the SFHP Buyer to reduce the sales price of the SFHP Unit by the amount of the Energy Efficiency Adjustment in excess of the amount allowable for the actual HERS Index achieved. The SFHP Developer shall provide evidence of the appropriate purchase contract addendum. . If this HERS Index falls below the range (i.e. is more efficient) anticipated in the Energy Efficiency Adjustment Approval, there will be no adjustment in the price.
In the event that the SFHP Developer makes changes to the floor plan that impact the HERS Rating, to the extent that the rating falls into a different range than the range approved in the original Approval, the SFHP Developer shall submit a new Approval request along with the updated Energy Star Home Report. Changes to the Approval shall apply only to SFHP Units subject to a purchase contract with an SFHP Homebuyer. In the event that the SFHP Developer submits a new Approval request for a floor plan that was the subject of a previous approval application (whether approved or denied), the SFHP Developer shall note on that Approval request that the floor plan is being re-submitted due to changes in the floor plan that impact the HERS Index.

d. Each SFHP purchaser who buys a home that is subject to the Energy Efficiency Adjustment will sign an agreement to allow the City or its agents to obtain energy cost information from the utility companies.

8.3 Adjustment of SFHP Home Prices

8.3.1 Beginning in 2006 and annually thereafter, the Office of Affordable Housing shall review and adjust the Affordable Home Price in each Income Range and for each unit size by the same percentage change as the percentage change in Area Median Income from the previous 12 months.

8.3.2 The Office of Affordable Housing shall publish new Affordable Home Prices immediately upon adjustment and, within 30 days, shall report to the Governing Body the new Affordable Home Prices.

8.3.3 Beginning in 2007 and every two years thereafter, the Office of Affordable Housing shall review the factors and assumptions used to determine housing expense ratios in Section 8.6 and shall report to the Governing Body on whether or not housing expense ratios associated with the Affordable Home Prices, as adjusted for changes in AMI, are still at or below 33% for households within each applicable Income Range. The Office of Affordable Housing may make recommendations to the Governing Body to amend the SFHP ordinance at any time if it determines that the housing expense ratios associated with the affordable home prices exceed 33% due to changes in factors such as average interest rates or taxes. Nothing herein shall prevent the Governing Body from amending the SFHP ordinance without such a recommendation from the Office of Affordable Housing.

8.3.4 The SFHP home prices and the SFHP manufactured lot prices approved by the Governing Body on June 9, 2010 shall remain in effect for two years after which time the prices may be adjusted as set forth in these administrative procedures unless otherwise amended by the Governing Body.

8.4 **Establishment of SFHP Home Prices** - SFHP home prices are established to maintain a target housing expense ratio of no more than 33% for the assumed household size with the lowest household income in each applicable Income Range, with the exception of the affordable home price for a studio. The affordable home price for a studio home is based on an estimated marginal cost savings between a studio and a 1 bedroom home of $70 per square foot. Since the assumed household size for a studio is 1 person the housing expense ratio for the lowest income household will be lower than 33%

8.5 **Factors in Determining Housing Expense Ratios** -- The following assumptions are used in the determination of housing expense ratios:

8.5.1 Assumed household sizes:

Unit Size	*Assumed household size*
1 Bedroom	1 person
2 Bedroom	2 person
3 Bedroom	3 person

4 Bedroom	4 person

(Note: These assumed household sizes are for determination of housing expense ratios only. Minimum household sizes are contained in Section 8.1)

8.5.2 Interest rate: 5.04% (Note interest rate shall be the annual average interest rate for the prior year available from http://www.freddiemac.com/pmms/pmms30.htm.)

8.5.3 Term of loan: 30 years

8.5.4 Private mortgage insurance: 0.075% of home price per month

8.5.5 Hazard insurance: 0.0283% of home price per month

8.5.6 Taxes: 0.0467% of home price per month

8.6 **Sample Determination of Housing Expense Ratio** - For purposes of example, following are steps used to determine the housing expense ratio for a 3 bedroom home and a 3 person household in Income Range 3:

8.6.1 Determine Home Size: 3 Bedroom

8.6.2 Determine Applicable Income Range: Income Range 3 (more than 65% but not more than 80%)

8.6.3 Determine Home Price: $153,750

8.6.4 Determine Assumed Household size: 3 person

8.6.5 Determine median income for 3 person household (as published by HUD): $59,400

8.6.6 Determine lowest income for applicable Income Range: 65% x $59,400 = $38,610

8.6.7 Determine monthly income: $38,610 / 12 = $3,218

8.6.8 Determine Principal and Interest Payment (using mortgage payment calculator): $828

8.6.9 Determine Private Mortgage Insurance: 0.075% x $153,750 = $115

8.6.10 Determine Hazard Insurance: 0.0283% x $153,750 = $44

8.6.11 Determine taxes: 0.0467% x $153,750 = $72

8.6.12 Determine total monthly payment: $828 + $115 + $44 + $72 = $1,059

8.6.13 Determine housing expense ratio: $1,059 / $3,218 = 33%

8.7 SFHP Manufactured Home Lot Prices

8.7.1 SFHP manufactured home lot prices are established as 25% of the cost of a 3 bedroom home. SFHP manufactured home lot prices apply to all households, regardless of size, with a household income within each applicable Income Range.

8.7.2 Sale prices of SFHP manufactured home lots being sold to an eligible owner-occupant pursuant to a SFHP agreement shall be at or below the following amounts:

Income Range	*Affordable Manufactured Home Lot Price*
Income Range 2	$29,563
Income Range 3	$38,438
Income Range 4	$47,313

8.7.3 Beginning in 2006 and annually thereafter, the Office of Affordable Housing shall review and adjust the Affordable Manufactured Home Lot Price in each Income Range by the same percentage change as the percentage change in Area Median Income from the previous 12 months.

8.7.4 The Office of Affordable Housing shall publish new Affordable Manufactured Home Lot Prices immediately upon adjustment and, within 30 days, shall report to the Governing Body the new Affordable Manufactured Home Lot Prices.

8.8 **Required Number of SFHP Units in a Development** – Thirty percent of the total number of dwelling units or manufactured home lots offered for sale in an SFHP development shall be SFHP Homes or SFHP Manufactured Home Lots, as follows:

8.8.1 Ten percent (10%) of the total dwelling units or manufactured home lots shall be sold at or below the Affordable Home Price or Affordable Manufactured Home Lot Price, as applicable, for Income Range 2;

8.8.2 Ten percent (10%) of the total dwelling units or manufactured home lots shall be sold at or below the Affordable Home Price or Affordable Manufactured Home Lot Price, as applicable, for Income Range 3; and

8.8.3 Ten percent (10%) of the total dwelling units or manufactured home lots shall be sold at or below the Affordable Home Price or Affordable Manufactured Home Lot Price, as applicable, for Income Range 4.

8.8.4 If an applicant exceeds the percentage in Income Range 2 or Income Range 3 as set forth above, the requirement in any higher Income Range may be reduced by the same percentage.

8.8.5 The whole number resulting from the formula shall be the number of SFHP units required to be constructed or created and the remaining fraction may be satisfied with the fractional unit fee described in Section 8.9.

8.8.6 In the event that two or fewer SFHP Homes or SFHP manufactured home lots are required, the SFHP Homes or manufactured home lots shall be affordable to income range 3 or income range 2.

8.8.7 The required number of SFHP Dwelling Units or SFHP Manufactured Home Lots shall be determined based on the total number of units proposed, including any units proposed as a result of the density bonus described in Section 13.2.

8.9 **Providing "Fractions" of Homes** –If the calculation described in Section 8.8 results in a fraction, the whole number resulting from the formula shall be the number of SFHP units required to be constructed or created and the remaining fraction may be satisfied with the fractional unit fee. The fee shall be the base fractional fee multiplied by remaining fraction. The base fractional fee shall be half of the Affordable Home Price of a 3 Bedroom Unit in Income Range 2. This contribution is not and shall not be used as an alternate means of compliance. The contribution shall be made prior to recording the SFHP Agreement. The proceeds of the fee shall be credited to the housing trust fund approved by the governing body.

8.10 **Minimum Structural Requirements for SFHP Homes** - SFHP homes shall be built to conform to local, state and federal laws, and these additional criteria concerning design, equipment and physical features:

8.10.1 Minimum Sizes

a. Minimum Bathrooms and Floor Area - SFHP homes shall be constructed according to the minimum requirements for bathrooms and square footage of habitable residential space described below:

Unit Type	Minimum Number of Bathrooms	Minimum Square Footage
Studio	1	750 square feet
1 Bedroom	1	850 square feet
2 Bedrooms	1	1,000 square feet
3 Bedrooms	2	1,150 square feet
4 Bedrooms	2	1,250 square feet

Minimum floor areas of habitable residential space include partitions, closets, heated utility rooms, halls and stairways but exclude attics, porches, unfinished basements, garages and unheated storage space.

b. The minimum sizes specified shall not apply to units converted from existing rental units to ownership units. In such developments, the minimum sizes shall be the same as the sizes of the non-SFHP Homes.

c. The applicant may request smaller minimum sizes if he demonstrates, subject to confirmation by the Office of Affordable Housing, that the required sizes are larger than the sizes of the non-SFHP Homes.

8.10.2 Equipment and equipment hookups – Each home shall, at a minimum, include:

a. a new kitchen range and refrigerator,

b. hookups for a clothes washer, dryer and built-in dishwasher,

c. central heating systems. Resistance electric heating is not permitted unless the applicable homes have exceptionally low heat loads and the City approves this alternate in the SFHP Agreement or otherwise in writing.

8.10.3 Design and location – The proposed design and location of the affordable units shall be reviewed and approved by the Office of Affordable Housing in order to achieve architectural and landscaping integration with other units in the development.

8.10.4 Minimum warranty – The seller of an SFHP home shall provide a warranty of at least one year covering defects in materials and workmanship, in addition to any manufacturers' warranties or warranties provided by a contractor or subcontractor, such as warranties on roofing and appliances. The minimum one year warranty on defects in materials and workmanship does not preclude the seller or any person from providing a warranty of a longer period. No developer, seller, general contractor, subcontractor shall be permitted to request that an SFHP homebuyer sign a wavier of any required or standard warranty. Any such waiver shall be considered null and void.

8.11 Required Mix Of Unit Types

8.11.1 So that SFHP Homes will serve a wide range of household sizes, the mix of unit types in for-sale SFHP developments shall be determined in accordance with the following:

Unit Size	Required percentage of SFHP Homes
Studio, 1 Bedroom and 2 Bedroom	25%
3 Bedroom	50%
4 Bedroom	25%

If fractions result from this formula, round up for .5 or more and round down for less than .5. If rounding results in a total that is more than the total number of SFHP units required, the smallest required unit(s) will be eliminated so that the total equals the required number. The Office of Affordable Housing shall have the authority to further specify the required percentage of studio, 1-bedroom and 2-bedroom homes, taking into consideration the type of non-SFHP units offered for sale in the development.

8.11.2 The SFHP developer may request approval from the Office of Affordable Housing to provide a mix of unit sizes that varies from the above. Factors that may be considered as a basis for approval of a different unit size mix include, but are not limited to:

a. A different mix would better match the mix of non-SFHP homes within the development

b. A different mix would better match the consumer demand for SFHP homes

8.11.3 The mix of type of SFHP Homes in a development converted from existing rental units to ownership units shall be in proportion to the mix of non- SFHP Homes offered for sale.

8.11.4 In a development of detached ownership units, the SFHP units shall be detached. In a development with a mix of detached and attached ownership units, the proportion of detached SFHP ownership units shall be no less than the proportion of detached non-SFHP ownership units.

8.12 **Marketing To and Certifying Buyers for SFHP Homes** – SFHP developers shall market SFHP homes or SFHP manufactured home lots in accordance with the following requirements:

8.12.1 An SFHP Home may not be marketed and sold to a household that does not meet the eligibility requirements described in Section 8.1.2.

8.12.2 Marketing Materials – Brochures, advertisements and other marketing materials shall clearly state the policies of the SFHP program with regard to pricing of

SFHP homes, long term affordability liens, and buyer eligibility (both of the program in general and the eligibility to buy specific homes).

8.12.3 Purchase contracts – SFHP developers and SFHP buyers may execute only purchase contracts that are approved for form by the City and include language provided by the City, which will require that an appropriate disclosure form be provided to and explained to the SFHP buyer prior to execution of the contract. The disclosure form will explain any deed restriction, restrictive covenants and/or liens that are placed on the SFHP home to ensure long-term affordability.

8.13 **Allocation of SFHP Units**– SFHP is established to benefit all residents of the City and, as such, it is the policy of the City that all eligible potential buyers have the same opportunity to purchase SFHP homes or SFHP manufactured home lots.

8.13.1 The City or its agent shall maintain lists of prospective SFHP buyers who have passed preliminary prequalifications for financing. The city or its agent shall maintain information on basic homebuyer characteristics, such as household size and income by AMI to monitor the match between production and affordable housing demand. For SFHP developments for which the city or its agent expects immediate effective demand to outstrip the supply, the city or its agent shall establish and maintain an equitable process for allocating rights to purchase the homes or manufactured home lots. In developments where the city or its agent has established such a process, the developer shall be required to follow the process when selecting SFHP buyers. For developments other than those described above, the developer shall establish and maintain an equitable process of marketing homes and manufactured home lots, including waiting lists where demand exceeds supply.

8.13.2 For each development with SFHP homes or SFHP manufactured home lots for sale, including annexations subject to SFHP, the office of affordable housing shall designate a qualified organization(s) to provide income certifications and maintenance of waiting lists. The Office of Affordable Housing shall establish a fair and competitive process for selecting the organization or organizations providing these services, which process shall provide an opportunity for the developer to provide input as to the organization(s) selected. The organization and the SFHP developer shall enter into a written agreement that describes the scope of services and, if appropriate, fee structure. The SFHP developer may not terminate such agreement with the organization without the consent of the office of affordable housing._Notwithstanding those requirements, and in order to assure access to SFHP homes and manufactured home lots by all potentially qualified SFHP buyers, any other service provider operating a homebuyer training, counseling and certification program approved by the Office of Affordable Housing may refer its clients to the selected organization for possible purchase of the SFHP homes or manufactured home lots. A SFHP developer may enter into agreements with outside entities to provide marketing or other services, which agreement shall not require approval from the Office of Affordable Housing.

8.13.3 Prior to executing a purchase contract for any SFHP Home or SFHP manufactured home lot, the prospective SFHP buyer shall be certified as meeting the SFHP requirements described in Section 8.1.2 by the city or its agent.

8.14 **Filing of Deed Restrictions and Liens** - A SFHP developer selling a SFHP Home or SFHP Manufactured Home Lot shall cause to be recorded in the County land records, simultaneous with the recording of the deed of sale, a form of deed restriction, or restrictive covenant, or other legal instrument that fulfills the requirements of Section 12 with regard to controls placed on the occupancy and resale of SFHP homes. The effect of the recordation of said deed restriction shall be to create, in accordance with state law, an obligation that runs with the property. The City must approve the form of such deed restrictions prior to recordation. Initial affordability shall be achieved by including in the SFHP agreement terms of an escrow instruction requiring certification of SFHP compliance by an escrow agent.

8.15 **Verification and Certification by the City of Completed Sales** - City staff may determine if each completed SFHP sale in a SFHP development complies with the ordinance, or if not, that appropriate action is taken. The procedures are as follows:

8.15.1 Notice of sale of a SFHP Unit – The City must receive notice of the sale in writing and also be given: (a) a copy of the settlement sheet for the sale of the property, (b) copies of any legal instruments related to the City's long-term affordability requirements in the exact form that they will be executed and filed to meet requires of the SFHP Agreement, and (c) bills, statements or other documents indicating any other costs associated with the sale of the SFHP home or SFHP manufactured home lot. The City must approve the form and content of any legal instruments related to long-term affordability prior to recordation.

8.15.2 Sales in compliance – Sales in compliance will be certified as such and shall count toward fulfillment of the developer's SFHP Agreement.

8.15.3 Sales not in compliance – When a sale is found to be not in compliance with the SFHP Ordinance or a SFHP agreement or the information is insufficient to determine compliance, the owner will be notified in writing and have the opportunity to rectify the noncompliance or information lacking with respect to that SFHP home. However, in the event of such noncompliance, the City shall not certify any sale of a SFHP home, and reserves the right not to certify the sale of any further non-SFHP units, while recognizing that this will create an encumbrance and title flaw if any sale is made without such certification.

8.16 **Rental Prohibition** – SFHP Homes and SFHP Manufactured Home Lots shall not be rented to a second party, except as approved in writing by the Office of Affordable Housing for instances in which the owner is under duress by reason of unemployment, family medical emergencies, or inability to sell the home for an amount equal to or greater than the original sale price, or other unique circumstances of family hardship. In

providing written permission, the Office of Affordable Housing shall specify a limit on the rental, not to exceed 18 months.

9. REQUIREMENTS FOR SFHP RENTAL HOUSING

SFHP rental units shall be marketed, leased, and occupied according to these criteria:

9.1 Eligible Renters – Following are general eligibility criteria for leasing SFHP units:

9.1.1 SFHP rental units shall be leased to and occupied by an eligible owner-occupant household. An eligible owner-occupant household for a SFHP rental unit shall meet eligibility requirements as follows:

a. Income – The household income of a SFHP tenant shall not exceed the defined Income Ranges as set forth in Section 6.

b. Liquid Assets – If the SFHP tenant has liquid assets exceeding $25,000, additional income shall be imputed on the liquid assets exceeding $25,000. This imputed income shall be added to the yearly income of the SFHP tenant for the purpose of determining income eligibility. Liquid assets include cash, cash equivalents, stocks, bonds, real estate, and other assets readily converted to cash. Liquid assets do not include retirement funds that are not readily accessible without the payment of a penalty, trust funds not controlled by the potential purchaser, personal property such as furniture or automobiles, educational accounts committed to a dependent, or other assets not readily accessible to the purchaser. Additional income shall be imputed at the following rates:

1. For an SFHP tenant age 64 or younger, 20%

2. For an SFHP tenant age 65 or older, 10%

c. Minimum household size – The household size may not be smaller than the following minimum household sizes.

Unit Size	*Minimum Household Size*
Efficiency/Studio	1 person household
1 Bedroom	1 person household
2 Bedrooms	1 person household
3 Bedrooms	2 person household
4 bedrooms	3 person household

The Office of Affordable Housing may approve a smaller household size upon the request of the developer or the SFHP tenant.

9.1.2 SFHP rental manufactured home lots shall be leased and occupied by an eligible household. An eligible household for a SFHP rental manufactured home lot shall meet eligibility requirements as follows:

a. Income – The household income of a SFHP manufactured home lot tenant shall not exceed the defined Income Ranges for a 3 person household, as set forth in Section 6, regardless of the household size of the SFHP tenant.

b. Liquid Assets – If the SFHP tenant has liquid assets exceeding $25,000, additional income shall be imputed at the rate of 20% of the liquid assets exceeding $25,000. This imputed income shall be added to the yearly income of the SFHP tenant for the purpose of determining income eligibility. Liquid assets include cash, cash equivalents, stocks, bonds, real estate, and other assets readily converted to cash. Liquid assets do not include retirement funds that are not readily accessible without the payment of a penalty, trust funds not controlled by the potential purchaser, personal property such as furniture or automobiles, educational accounts committed to a dependent, or other assets not readily accessible to the purchaser.

9.1.3 A household's eligibility shall have been certified by the City or its agent no more than 90 days prior to a lease being executed for a SFHP rental unit or SFHP rental manufactured home lot.

9.1.4 Use of rent subsidies by tenants – No owner or agent of a rental development subject to SFHP may discriminate against a SFHP tenant for proposing to use federal or other rent subsidies, nor can such subsidies be sued to achieve a required SFHP contract rent.

9.2 SFHP Rental Rates

9.2.1 The monthly rent of a SFHP rental unit for both rent and utilities being rented pursuant to a SFHP Agreement shall be at or below the following amounts:

Income Range	Affordable Rent Efficiency/Studio or 1 Bedroom	Affordable Rent 2 Bedrooms	Affordable Rent 3 Bedrooms	Affordable Rent 4 Bedrooms
Income Range 1	$346	$396	$445	$495
Income Range 2	$577	$660	$742	$825
Income Range 3	$750	$858	$965	$1,073

9.2.2 There shall be no side agreements obligating SFHP tenants to pay the property owner for any add-on features or services.

9.2.3 Security deposits may not exceed the sum of two months' rent at the SFHP rental rate for a unit.

9.2.4 SFHP Rental Rates shall include utilities and shall be lowered by the amounts equal to the Santa Fe Civic Housing Authority Utility Allowances for any utilities that are paid by the SFHP tenant separately from rent.

9.3 **Adjustment of SFHP Rental Rates**

9.3.1 Beginning in 2006 and annually thereafter, the Office of Affordable Housing shall review and adjust the Affordable Rent in each Income Range and for each unit size by the same percentage change as the percentage change in Area Median Income from the previous 12 months.

9.3.2 The Office of Affordable Housing shall publish new Affordable Rents immediately upon adjustment and, within 30 days, shall report to the Governing Body the new Affordable Rents.

9.3.3 Beginning in 2007 and every two years thereafter, the Office of Affordable Housing shall review the factors and assumptions used to determine housing expense ratios in Section 9.5 and shall report to the Governing Body on whether or not housing expense ratios associated with the rental rates, as adjusted for changes in AMI, are still at or below 30% for households within each applicable Income Range. The Office of Affordable Housing may make recommendations to the Governing Body to amend the SFHP ordinance at any time if it determines that the housing expense ratios associated with the affordable rents exceed 30% due to changes in market factors. Nothing herein shall prevent the Governing Body from amending the SFHP ordinance without such a recommendation from the Office of Affordable Housing.

9.4 **Establishment of SFHP Rental Rates** - SFHP rents are established to maintain a target housing expense ratio of no more than 30% for the assumed household size with the lowest household income in each applicable Income Range.

9.5 **Factors in Determining Housing Expense Ratios** - The following assumptions are used in the determination of housing expense ratios:

9.5.1 Assumed household sizes:

Unit Size	*Assumed household size*
Studio or 1 Bedroom	1 person
2 Bedroom	2 person
3 Bedroom	3 person
4 Bedroom	4 person

(Note: These assumed household sizes are for determination of housing expense ratios only. Minimum household sizes are contained in Section 8.1)

9.6 **Sample Determination of Housing Expense Ratio** - For purposes of example, following are steps used to determine the housing expense ratio for a 2-bedroom rental unit and a 2-person household in Income Range 2:

9.6.1 Determine Unit Size: 2 Bedroom

9.6.2 Determine Applicable Income Range: Income Range 2 (more than 50% but not more than 65%)

9.6.3 Determine Affordable Rent: $660

9.6.4 Determine Assumed Household size: 2 person

9.6.5 Determine median income for 2 person household (as published by HUD): $52,800

9.6.6 Determine lowest income for applicable Income Range: 50% x $52,800 = $26,400

9.6.7 Determine monthly income: $26,400/ 12 = $2,200

9.6.8 Determine housing expense ratio: $660/ $2,200= 30%

9.7 **SFHP Manufactured Home Lot Rental Rates**

9.7.1 SFHP manufactured home lot rents are established as 30% of the rent of a 3 bedroom rental unit. SFHP manufactured home lot rents apply to all households, regardless of size, with a household income within each applicable Income Range.

9.7.2 Rents of SFHP manufactured home lots being leased to an eligible tenant pursuant to a SFHP agreement shall be at or below the following amounts:

Income Range	Affordable Manufactured Home Lot Rent
Income Range 1	$134
Income Range 2	$223
Income Range 3	$290

9.7.3 Beginning in 2006 and annually thereafter, the Office of Affordable Housing shall review and adjust the Affordable Manufactured Home Lot Rent in each Income Range by the same percentage change as the percentage change in Area Median Income from the previous 12 months.

9.7.4 The Office of Affordable Housing shall publish new Affordable Manufactured Home Lot Rents immediately upon adjustment and, within 30 days, shall report to the Governing Body the new Affordable Manufactured Home Lot Rents.

9.8 **Required Number of SFHP Rental Units in a Development**

9.8.1 Fifteen percent of the total number of dwelling units and SFHP manufactured home lots offered for rent in an SFHP development shall be SFHP rental units or SFHP rental manufactured lots, as follows:

a. Five percent (5%) of the total dwelling units or manufactured home lots shall be rented at or below the affordable rent for Income Range 1.
b. Five percent (5%) of the total dwelling units or manufactured home lots shall be rented at or below the affordable rent for Income Range 2.
c. Five percent (5%) of the total dwelling units or manufactured home lots shall be rented at or below the affordable rent for Income Range 3.

9.8.2 If an applicant exceeds the percentage in Income Range 1 or Income Range 2 as set forth above, the requirement in any higher income range may be reduced by the same percentage.

9.8.3 The whole number resulting from this calculation shall be the number of SFHP rental units required to be constructed or SFHP manufactured home lots to be created and the remaining fraction may be satisfied with the fractional unit fee described in Section 9.9.

9.8.4 In the event that two or fewer SFHP rental units or SFHP manufactured home lots are required, the SFHP rental units or manufactured home lots shall be affordable to Income Range 1 or Income Range 2.

9.9 **Providing "Fractions" of Units** – If the calculation described in Section 9.8 results in a fraction, the whole number resulting from the formula shall be the number of SFHP units required to be constructed or created and the remaining fraction may be satisfied with the fractional unit fee. The fee shall be the base fractional fee multiplied by remaining fraction. The base fractional fee shall be half of the Affordable Home Price of a 3 Bedroom Unit in Income Range 2. This contribution is not and shall not be used as an alternate means of compliance. The contribution shall be made prior to recording the SFHP Agreement.

9.10 **Minimum Structural Requirements for SFHP Rental Units** - SFHP rental units shall be built to conform to local, state and federal laws, and these additional criteria concerning design, equipment and physical features:

9.10.1 Minimum Floor Size

a. Minimum Bathrooms and Floor Area – SFHP rental units shall be constructed according to the minimum requirements for bathrooms and square footage of habitable residential space described below:

Unit Type	Minimum Bathrooms	Minimum Square
Efficiency/Studio	1	700 square feet
1 Bedroom	1	850 square feet
2 Bedrooms	1	1000 square feet
3 Bedrooms	2	1150 square feet
4 Bedrooms	2	1250 square feet

Minimum floor areas of habitable residential space include partitions, closets, heated utility rooms, halls and stairways but exclude attics, porches, unfinished basements, garages and unheated storage space.

b. The applicant may request smaller minimum sizes if it demonstrates, subject to confirmation by the Office of Affordable Housing, that the sizes above are larger than the sizes of the non-SFHP rental units.

9.10.2 Equipment and equipment hookups – Each unit shall, at a minimum, include (a) a new kitchen range and refrigerator, (b) hookups for a clothes washer, dryer or a laundry on site which charges no more than prevailing market prices for use of washers and dryers, (c) central heating systems. Resistance electric heating is not permitted unless the applicable units have exceptionally low heat loads and the City approves this alternate in the SFHP Agreement or otherwise in writing.

9.10.3 Design and location – The proposed design and location of the affordable units shall be reviewed and approved by the Office of Affordable Housing in order to achieve spatial integration with, dispersion throughout and similar exterior architectural and landscaping appearance with other units in the development.

9.11 **Required Mix Of Unit Types** – So that SFHP Rental Units will serve a wide range of household sizes, the mix of unit types in for-rent SFHP developments shall match the mix of non-SFHP unit types.

9.12 **Marketing To and Certifying Tenants for SFHP Rental Units** – SFHP developers shall market SFHP rental units or SFHP manufactured home lots in accordance with the following requirements:

9.12.1 An SFHP rental unit may not be marketed and leased to a household which has an income higher that exceeds the defined Income Ranges as set forth in Section 6.

9.12.2 An SFHP Rental Unit may not be marketed and leased to a household which is smaller than the minimum household size established in Section 9.1 unless a smaller household size is approved by the Office of Affordable Housing.

9.12.3 Marketing Materials – Brochures, advertisements and other marketing materials shall clearly state the policies of the SFHP program with regard to pricing of SFHP rental units and tenant eligibility (both of the program in general and the **eligibility to buy specific homes).**

9.12.4 Leases– Rental property owners and SFHP tenants may execute only leases which are approved for form by the City and which must be provided to and explained to the renter prior to execution of the contract. The disclosure form and lease language must prevent any household that leases a SFHP rental unit from subleasing the unit without the written approval of the City, and describe other terms of occupancy as regulated herein.

9.13 **Allocation of SFHP Units** – SFHP is established to benefit all residents of the City and, as such, it is the policy of the City that all eligible potential renters have the same opportunity to lease SFHP rental units or SFHP manufactured home lots.

9.13.1 For SFHP developments for which the City or its agent expects immediate effective demand to outstrip the supply, the city or its agent shall establish and maintain an equitable process for allocating rights to lease the homes or manufactured home lots. In developments where the city or its agent has established such a process, the developer shall be required to follow the process when selecting SFHP tenants. For developments other than those described above, the developer shall establish and maintain an equitable process of marketing rental units and manufactured home lots, including waiting lists where demand exceeds supply.

9.13.2 Prior to executing a lease for any SFHP Rental Unit or SFHP manufactured home lot, the prospective SFHP tenant shall be certified as meeting the SFHP requirements described in Section 9.1 by the city or its agent.

9.14 **Monitoring by the City of SFHP Leases** – SFHP Agreements involving rental housing shall provide for annual monitoring and certification of leased SFHP units by the City or its agent as follows:

9.14.1 Monitoring – The City shall have the right to inspect and photocopy all accounting and occupancy records with regard to any SFHP rental unit. It shall further have the right to contact and interview any SFHP tenant with regard to compliance issues.

9.14.2 Recordkeeping – Owners of SFHP rental properties shall keep adequate records of all payments of rent and data concerning tenants, in accordance with standard practices of the rental housing industry. If disputes arise over what constitutes

adequate recordkeeping, the City under its SFHP Agreement shall have the right to require owners to adopt financial and information management practices that are recommended by a certified public accountant and/or property management manuals published by the Institute of Real Estate Management.

9.14.3 Access to records – The City shall have access to all relevant financial and tenant information records during normal business hours, upon providing verbal or written notice and least two business days prior to a proposed monitoring visit.

9.14.4 Certification – Upon completion of this annual monitoring activity, the City shall certify that the property owner is in compliance with the SFHP Agreement, or shall issue findings of non-compliance.

9.14.5 Noncompliance – Upon findings of noncompliance with the SFHP Agreement, the procedures set forth in Section 7.11 shall apply.

9.15 **Vacancies and Changes in Income and Household Size After Occupancy -** The following policies and procedures shall be included in the lease provisions for SFHP tenants:

9.15.1 Property owners must ensure that tenants are eligible upon initial execution of a lease. If an SFHP tenant vacates the SFHP rental unit or manufactured home lot, the property owner must rent the unit, or another unit, to a tenant in the same Income Range.

9.15.2 Income

a. The property owner shall not be required to certify the income of an SFHP tenant after the initial execution of the lease but may do so at his choosing no more than once every 12 months. If the income of the household has increased to a level at which the household is no longer qualified as a SFHP tenant, the property owner shall allow the tenant to continue to rent the unit or another comparable unit on the property, but the property owner may increase the rent to the prevailing rent for that type and quality of unit on the property. In this instance, the property owner must rent the unit or another unit to a tenant in the same Income Range that the household was in at the time of the initial execution of the lease.

b. If the income of a SFHP tenant has increased so that its household income falls within another Income Range, the property owner may adjust the rent accordingly but must remain in overall compliance with the SFHP Agreement with respect to the number of required SFHP Rental Units in each Income Range and the required mix of unit types.

9.15.3 If the household size of a SFHP tenant increases, the follow provisions will apply:

a. If the SFHP tenant is eligible for a larger unit, the SFHP tenant may elect to move into the next available unit of appropriate size.

b. The SFHP tenant's rental rate will be adjusted in accordance with the size of the unit being occupied.

9.15.4 Nothing in these procedures shall be construed so as to penalize qualifying renters for changes in family size.

9.16 **Term of Compliance** - Rental housing developments subject to SFHP (or portions thereof completed and occupied at different times) shall maintain required occupancy and rental rates in SFHP units for a period of 20 years after the date of issuance of a certificate of occupancy for the entire development of portions thereof. This requirement shall be made applicable to successors in title, if any, by means of a deed restriction.

9.17 **Allowed and Disallowed Use of Subsidy** - Prospective tenants who may be income eligible and have rent subsidy, such as a Section 8 Voucher, are eligible to rent a SFHP; however, under no circumstances shall rents in excess of those allowed under the SFHP be charged. SFHP developers may use any type of capital development subsidy (grants, low-interest loans, tax credits, etc) to achieve the required rents.

9.18 **Simplified Compliance – Low Income Housing Tax Credit Projects** – Notwithstanding any other terms of SFHP or a SFHP Agreement, if rental units in a SFHP development have been awarded tax credits under the federal Low-Income Housing Tax Credit program, such units shall be deemed to comply with all tenant certification and rental requirements of the SFHP program, so long as the project is in good standing with regard to the monitoring standards of that program. For such projects in good standing, the only monitoring required by the City shall be delivery to the Office of Affordable Housing (within 10 days of their receipt) of all copies of the monitoring agency's reports and correspondence with regard to compliance monitoring.

10. **TIMING OF COMPLIANCE** – Require SFHP Units or alternate means of compliance shall be provided in a timely fashion, as follows:

10.1 **Timing of Providing SFHP Units for Sale** – In a SFHP development, completed SFHP homes or SFHP manufactured home lots shall be sold in proportion to the sale of unimproved lots or non-SFHP units. This principle shall be reflected in each SFHP Agreement providing for-sale units.

10.2 **Timing of Providing Rental Units** – In a SFHP development, the required number of SFHP rental units or SFHP rental manufactured home lots shall be leased as each building or phase of the project is offered for rent. A phase shall be defined as a group of units which are completed and ready for occupancy within a period of one year. This principle shall be reflected in each SFHP agreement providing for on-site rental housing or rental manufactured home lots.

10.3 **Earlier Delivery** - A developer may sell or lease affordable units earlier than required herein.

10.4 **Timing of Alternate Means of Compliance** – In developments where the governing body has approved an in-lieu contribution as an alternate means of compliance, the in-lieu contribution shall be due and deliverable after approval of the development request and before the recordation of the SFHP agreement. An applicant may propose an alternative to this timing requirement as part of the request for alternative means of compliance, subject to approval from the governing body.

11. ALTERNATE MEANS OF COMPLIANCE

11.1 Criteria for Allowing Alternate Means of Compliance

11.1.1 One of the goals and purposes of the SFHP is to foster economic integration by requiring that developers provide required SFHP units and manufactured home lots on the property proposed for development. However, it is recognized that at times this approach may not be feasible for a variety of reasons. In this event, the applicant may seek permission from the governing body to comply with the SFHP through an alternate means of compliance

11.1.2 Any approval of an alternate means of compliance must be based on a finding that one of the following is true:

a. For SFHP projects of eleven (11) units or more, that the project meets the definition of extreme hardship and that the purposes of this chapter would be better served by implementation of the proposed alternative(s);

b. For SFHP projects of ten (10) units for fewer, that the purposes of this chapter would be better served by implementation of the proposed alternative(s); or

c. For vacation time share projects, that the purposes of this chapter would be better served by implementation of the proposed alternative(s).

11.1.3 For the purposes of determining whether the purposes of this chapter would be better served under the proposed alternative, the city shall consider all of the following:

a. whether implementation of an alternative would overly concentrate SFHP units within any specific area and if so, the City must reject the alternative unless the undesirable concentration of the SFHP units is offset by other identified benefits that flow from implementation of the alternative in issue; and

b. the extent to which other factors affect the feasibility of prompt construction of the SFHP units on the property, such as costs and delays, the need for appraisal, site design, zoning, infrastructure, clear title, grading and environmental review; and

c. the potential of leveraging funds for other needed affordable housing programs described in the city's housing plans.

11.2 **Allowable Alternate Means of Compliance** - The City, in its sole discretion, may select one or a combination of the following alternative means of compliance: off –site construction, cash payment in lieu of constructing or creating the required SFHP units or manufactured home lots, or dedication of land suitable for construction or creation of inclusionary units of equivalent or greater value than would be required for onsite construction.

11.3 **Determination of In-Lieu Contribution Values** -- The value of the fee in lieu contribution per SFHP unit required (including any fraction of a unit) shall be as follows for the four quadrants of the city established by the Realtors Association Multiple Listing Service:

NE	$240,000
NW	$200,000
SE	$240,000
SW	$160,000

11.4 **Waiver of SFHP requirements** -- The governing body, at its sole discretion, may grant a waiver of the SFHP requirements. Any approval of a waiver for a project of any size must be based on the finding that the condition of extreme hardship, as defined, cannot be sufficiently alleviated by the alternate means of compliance described in this Section.

11.4.1 In requesting a waiver of SFHP requirements, the developer shall provide detailed information regarding the proposed development to demonstrate the condition of extreme hardship.

12. RESTRICTIONS ON RESALES OF AFFORDABLE FOR-SALE UNITS

The following terms and conditions restricting the resale of SFHP Homes shall be incorporated in the documentation of each sale of a SFHP Home:

12.1 **Purpose** - In recognition of the consideration granted by the City to SFHP developers, the City shall impose resale controls which are designed to achieve the following purposes:

12.1.1 Reducing the potential for windfall profits by an owner-occupant

12.1.2 Recapturing any such windfall profits for use in an approved housing trust fund that finances affordable housing programs in Santa Fe.

12.1.3 Providing incentives for owner-occupants to resell to lower-income households, which are most in need of affordable housing.

12.1.4 Maintaining the affordability of SFHP homes to subsequent buyers to a reasonable extent, while considering the sellers' rights to reasonable returns on equity.

12.1.5 Preventing speculative profits on SFHP homes gained from renting them to another household (Any rental homes of homes intended for owner occupancy must be approved by the City in writing.)

12.2 **Required Resale Control Mechanisms** -- The City will require that the following mechanisms be used to control the resale of a SFHP home or SFHP manufactured home lot:

12.2.1 Mortgage liens – Each SFHP Home and SFHP Manufactured Home Lot which is sold at an effective price below market value shall have a second mortgage lien which is payable to the City or its agent. Such a lien will be subordinate to any lien for purchase financing or home equity financing, whether a first, second, third, or other subordinate loan. It will be non-amortizing, carry a rate of zero percent interest and be due only upon resale or conversion of the property to a unit that at the time of resale would not qualify as a SFHP unit. If a unit is sold at a loss, the loan may, at the City's sole discretion, be forgiven to the extent that sale proceeds are insufficient to pay all superior liens and then the City lien. The lien will be assumable by a buyer certified as meeting the eligibility requirements pursuant to Section 8.1.2. Such lien will also be expressly and automatically subordinate to any lien for home equity financing, so long as the lender certifies to the City in writing within 30 days after making the loan that the total of all recorded debt on the property (including the home equity loan and the city loan) does not exceed 95% of the appraised value of the property.

a. The amount of the lien will be the difference between the SFHP price and the initial market value of the SFHP home or SFHP manufactured home lot. In order to provide additional equity to the SFHP buyer at the time of purchase, the initial market value shall be determined as 95% of the appraised value of the SFHP home or SFHP manufactured home lot.

b. The lien described in this section 12-2.1 shall not apply to any SFHP Home if the affordable home price is within $10,000 of the appraised value.

c. Shared appreciation requirements – The City will require a separate agreement which will entitle the City to a share of the appreciation realized in any resale. The city's share of appreciation, if any, will be in proportion to the ratio of the SFHP lien to the initial market value at the time of the SFHP buyer's initial purchase. The value of improvements shall be deducted from the gross appreciation pursuant to Section 13.4. For purpose of example, following are steps used to determine the city's share of appreciation:

1. Determine SFHP Affordable Home Price (example: 3 Bedroom Home in Income Range 3): $153,750

2. Determine appraised value of SFHP home: $220,000

3. Determine initial market value of SFHP home: $220,000 X 95% = $209,000

4. Determine amount of lien: $209,000 - $153,750 = $55,250 minus $10,000 (buyer incentive) =$45,250

5. Determine city's share of appreciation (proportion of lien to initial market value): $45,250/$209,000 = 22%

12.2.2 Right of first refusal requirements – In any lien described in Section 13.2.1 the City shall also require the right of first refusal to repurchase the home for a formula price, or to assign such right to its agent.

12.2.3 The SFHP developer shall pay the City's agent for an appraisal to determine the value of the lien.

12.3 Deductions from gross appreciation for improvements

12.3.1 The SFHP homebuyer may deduct from the gross appreciation the cost of improvements made to the home that add to the value of the home or prolong its useful life. Improvements that are no longer part of the home shall not be deducted from gross appreciation. Repairs that maintain the home in good condition but do not add to its value or prolong its life shall not be deducted from gross appreciation. Examples of improvements that may be deducted from gross appreciation include, but are not limited to:

Additions
Bedroom
Bathroom
Deck
Garage
Porch
Patio

Lawn & Grounds
Landscaping
Driveway
Walkway
Fence
Retaining wall
Irrigation system

Miscellaneous
Storm windows, doors
New roof
Central vacuum
Wiring upgrades
Security system

Heating & Air Conditioning
Heating system
Central air conditioning
Furnace
Duct work
Central humidifier
Filtration system

Plumbing
Septic system
Water heater
Soft water system

Filtration system

Interior Improvements
Built-in appliances
Kitchen modernization
Flooring
Wall-to-wall carpeting

Insulation
Attic
Walls, floor
Pipes, ductwork

12.3.2 The SFHP homebuyer must provide the Office of Affordable Housing with receipts and other records for all improvements that are deducted from the gross appreciation.

12.4 Deduction from Gross Appreciation for Seller Paid Closing Costs

To help off-set the cost of seller paid closing costs, the SFHP homebuyer may deduct from the gross appreciation an amount equal to seller paid closing costs multiplied by the city's percentage share of appreciation as determined by Section 12.2. Seller paid closing costs shall include costs of owner's title policy, survey or improvement location report, one half of the closing fee, and sales commission.

12.5 Example of Shared Appreciation Calculation

For purposes of example, following is a sample determination of the total amount to be repaid to the city upon resale of an SFHP home, assuming an initial SFHP Price of $153,750, an initial Appraised Value of $220,000 and a subsequent resale price of $300,000:

12.5.1 Determine SFHP Affordable Home Price (example: 3 Bedroom Home in Income Range 3): $153,750

12.5.2 Determine appraised value of SFHP home: $220,000

12.5.3 Determine initial market value of SFHP home: $220,000 X 95% = $209,000

12.5.4 Determine amount of lien: $209,000 - $153,750 = $55,250 minus $10,000 (buyer incentive) = $45,250

12.5.5 Determine city's share of appreciation (proportion of lien to initial market value): $45,250/$209,000 = 22%

12.5.6 Determine resale price: $300,000

12.5.7 Determine gross appreciation: $300,000 - $209,000 = $91,000

12.5.8 Determine allowable improvement costs deduction from gross appreciation (example): $10,000

12.5.9 Determine total seller paid closing costs from settlement statement: example $9,950

12.5.10 Determine city's share of seller paid closing costs: 22% * $9,950 = $2,189

12.5.11 Determine net appreciation: $91,000 - $10,000 - $2,189 = $78,811

12.5.12 Determine city's share of net appreciation (net appreciation multiplied by city's share of appreciation from step 5): $78,811 * 22% = $17,338

12.5.13 Determine total repaid to city upon resale (share of appreciation plus initial lien): $17,338 + $45,250 = $62,588.

13. INCENTIVES FOR SFHP DEVELOPERS

The following development incentives do not apply to applications for residential developments located outside the City limits that are requesting the extension of or connection to City utilities. Projects located outside the City limits may be entitled to incentives set forth in the applicable land use regulations.

13.1 **Fee Waivers** Fees for SFHP developments subject to and complying with the SFHP requirements shall be waived or reduced as follows:

13.1.1 Development review and building permit fees shall be waived or reduced proportionately to the number of SFHP units certified by the Office of Affordable Housing.

13.1.2 Impact fees as set forth in Section 14-8.14 SFCC 1987 and utility expansion charges as set forth in Chapters 22 and 25 SFCC 1987 shall be waived or reduced at the time of building permit application for SFHP units.

13.2 **Density Bonus** -- Any developer who is subject to and complying with SFHP shall be entitled to an additional density bonus of 15 percent over the density allowed by the zoning district.

13.2.1 A density bonus is the right to build the described percentage of residential units, in addition to those that are otherwise allowed by the zoning district, in accordance with the following standards and procedures

a. Base units allowed shall mean the total number of units that would otherwise be allowed by the zoning district.

b. In calculating any bonus unit(s), the base units allowed in the development shall be multiplied by 15 percent. If the result is other than a whole number, the number shall be rounded down if less than 0.5, and rounded up if 0.5 or more.

c. Any such bonus will not require an amendment to the_General Plan or a rezoning or approval by the Governing Body unless appealed pursuant to §14-3.17 SFCC 1987.

d. Except where the Planning Commission may be authorized to grant a variance or waiver as set forth in Chapter 14, such a density increase shall not negate, supersede or limit other City code provisions that limit the number of units that can be built on the site.

14. SEPARABILITY

The provisions of these administrative procedures are separable and the invalidity of any part of these provisions shell not affect the validity of the rest of these provisions.