



# City of Santa Fe, New Mexico

## LEGISLATIVE SUMMARY

Bill No. 2016-4

### Santa Fe Homes Program Update

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**SPONSOR(S):** Mayor Gonzales

**SUMMARY:** The proposed bill including a definition for alternate means of compliance, and amending the definition of extreme hardship; amending the requirements for Santa Fe Homes Program rental units; amending the process by which a developer of rental housing is allowed to pay a fee-in-lieu instead of seeking an alternate means of compliance with the requirements of the Santa Fe Homes Program; and establishing an effective date for the amendments.

**PREPARED BY:** Rebecca Seligman, Legislative Liaison Assistant

**FISCAL IMPACT:** No

**DATE:** December 11, 2015

**ATTACHMENTS:** Bill  
FIR

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**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2016-4**

**INTRODUCED BY:**

Mayor Javier M. Gonzales

**AN ORDINANCE**

**INCLUDING A DEFINITION FOR ALTERNATE MEANS OF COMPLIANCE, AND AMENDING THE DEFINITION OF EXTREME HARDSHIP; AMENDING THE REQUIREMENTS FOR SANTA FE HOMES PROGRAM RENTAL UNITS; AMENDING THE PROCESS BY WHICH A DEVELOPER OF RENTAL HOUSING IS ALLOWED TO PAY A FEE-IN-LIEU INSTEAD OF SEEKING AN ALTERNATE MEANS OF COMPLIANCE WITH THE REQUIREMENTS OF THE SANTA FE HOMES PROGRAM; AND ESTABLISHING AN EFFECTIVE DATE FOR THE AMENDMENTS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

**Section 1. Subsection 26-1.5 SFCC 1987 (being Ord. #2005-30 (as amended)) is amended to read:**

**26-1.5 Definitions.**

*Administrative procedures* means the procedures adopted by the governing body which set forth how the Santa Fe Homes Program shall be administered.

*Affordable home price* means the highest price at which an SFHP home may be sold

1 pursuant to subsection 26-1.16 of this chapter. For purposes of this chapter, the price of an SFHP  
2 home cannot exceed the maximum established price, including the base price and any fees  
3 charged of the buyer by the seller or a related entity, minus any of the buyer's closing costs or  
4 financing costs paid by the seller, as indicated by the settlement statement for the sale. The cost of  
5 allowable option upgrades may be in addition to the affordable home prices, as permitted by  
6 subsection 26-1.16F.

7 *Affordable manufactured home lot price* means the highest price at which an SFHP  
8 manufactured home lot may be sold pursuant to subsection 26-1.16 of this chapter.

9 *Affordable rent* means the highest monthly rent that may be charged for an SFHP rental  
10 unit pursuant to subsection 26-1.24 of this chapter.

11 *Allowable option upgrades* means additions and/or modifications to the standard features  
12 of an SFHP home chosen solely at the option of the SFHP buyer to upgrade the standard features  
13 of the SFHP home.

14 *Alternate Means of Compliance* means that SFHP Developer has proposed complying  
15 with the SFHP requirements through off-site construction, cash payment in lieu of constructing or  
16 creating the required SFHP units or manufactured home lots or dedication of land suitable for  
17 construction or creation of inclusionary units of equivalent or greater value than would be  
18 required for onsite construction, rather than constructing the required units pursuant to subsection  
19 26-1.33.

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

23 *Area median income (AMI)* means the median income for the Santa Fe metropolitan  
24 statistical area as adjusted for various household sizes and published and revised periodically by  
25 the United States Department of Housing and Urban Development. However, that in the event of

1 a discrepancy between the AMI established by HUD and HUD's Program Income limits, the  
2 higher of the two shall be used to establish AMI for the purpose of SFHP.

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

7 *City* means the city of Santa Fe or its agent.

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

12 *Energy efficiency adjustment* means the amount that may be added to the affordable  
13 home price of a for-sale SFHP Unit that meets energy efficiency standards pursuant to subsection  
14 26-1.16 H. SFCC 1987.

15 *Extreme hardship* means a condition occurring as a direct consequence of the SFHP  
16 Ordinance which [~~:(a) deprives a property owner of all economically viable use of the subject~~  
17 ~~property taken as a whole; or (b)] would require the property owner to lose money on the  
18 development taken as a whole and/or affects the financing viability of the project and the property  
19 owner can demonstrate to the governing body's satisfaction that said loss would be an  
20 unavoidable consequence of the SFHP requirement for construction of SFHP units [~~; or (c) the~~  
21 ~~property owner can demonstrate to the council's satisfaction that complying with the~~  
22 ~~requirements of this chapter would constitute taking property in violation of the Constitution of~~  
23 ~~the United States or New Mexico]~~.~~

24 *Income qualified* means a buyer or renter whose household income does not exceed the  
25 amount which establish eligibility to buy or rent a Santa Fe Homes program unit, within income

1 ranges established for the program or under specific development agreements.

2 *Income range* means the range of annual incomes used in the determination of eligibility  
3 of an SFHP home buyer or an SFHP tenant. The income ranges are:

4 Income range 1: fifty percent (50%) or less of area median income

5 Income range 2: more than fifty percent (50%) but not more than sixty-five percent  
6 (65%) of area median income

7 Income range 3: more than sixty-five percent (65%) but not more than eighty percent  
8 (80%) of area median income

9 Income range 4: more than eighty percent (80%) but not more than one hundred percent  
10 (100%) of area median income

11 *Land use department* means the land use department of the city, its agent or successor.

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

14 *Maximum option upgrade allowance* means the maximum amount paid by the SFHP  
15 buyer for allowable option upgrades pursuant to subsection 26-1.16.

16 *Median income* means the area median income as defined.

17 *Office of affordable housing* means the department created by subsection 26-1.6 to  
18 administer the Santa Fe Homes Program and other affordable housing programs.

19 *SFHP* means Santa Fe Homes Program.

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

24 *SFHP developer* means an owner of a property subject to any SFHP requirements, who is  
25 carrying out any phase of developing the subject tract, or as defined in this section, certain

1 successors in title.

2 *SFHP development* means a tract of land or any improvements thereon which are subject  
3 to an SFHP agreement.

4 *SFHP home* means a dwelling unit marketed and sold to satisfy SFHP requirements.

5 *SFHP home buyer* means a purchaser of an SFHP home or the entire household  
6 occupying an SFHP home or the purchaser or entire household occupying an SFHP manufactured  
7 home lot.

8 *SFHP manufactured home lot* means a lot which is marketed and either sold or rented for  
9 the purposes of the placement of a manufactured home and to satisfy SFHP requirements.

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

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

14 *SFHP rental unit* means a rental unit marketed and leased specifically to satisfy SFHP  
15 requirements.

16 *SFHP tenant* means a person who is a lessee of an SFHP rental unit, or a manufactured  
17 home rental lot, or the entire household occupying an SFHP rental unit or SFHP manufactured  
18 home lot.

19 *SFHP unit* means a dwelling unit required to be provided on site by an SFHP developer  
20 or an SFHP property owner to satisfy the SFHP requirements.

21 *Unit* means a dwelling unit.

22 **Section 2. Subsection 26-1.22 SFCC 1987 (being Ord. #2005-30 (as amended))**  
23 **is amended to read:**

24 **26-1.22 Requirements for SFHP Rental Units.**

25 A. If a SFHP developer obtains a residential building permit for multifamily

1 residential development between January 1, 2016 and December 31, 2017, then a fee associated  
2 with such development shall be assessed in accordance with SFHP administrative procedures. A  
3 modification to a SFHP agreement or HOP agreement to construct rental units and create  
4 manufactured home lots for rent that was entered into prior to January 1, 2017 shall be made to  
5 reflect the modified requirement; and if applicable, an annexation agreement, subdivision plat or  
6 development plan shall be administratively amended to reflect the modified requirement and the  
7 amended document shall be recorded or filed, as applicable by the owner or development.  
8 Incentives for SFHP Developers as set forth in subsection 14-8.11 SFCC 1987 (Ord. #2005-  
9 30(A), §63) will not be available for these projects.

10 B. Effective January 1, 2018, and thereafter, fifteen percent (15%) of the total  
11 number of dwelling units offered for rent in a SFHP development shall be delivered as described  
12 in this section.

13 C. The marketing, leasing and occupancy of an SFHP rental unit and SFHP  
14 manufactured home lot that is rented shall conform to the criteria set forth in the administrative  
15 procedures. Rental rates shall be in accordance with the rates set forth in subsection 26-1.24.  
16 SFHP rental units shall be built to comply with the minimum size, unit type(s) and other  
17 structural requirements set forth in subsection 26-1.25. The location of the SFHP rental units shall  
18 be approved by the office of affordable housing. The units or manufactured home lots shall have  
19 compatible exterior architectural and landscaping appearance with other units in the development.

20 **Section 3. Subsection 26-1.33 SFCC 1987 (being Ord. #2005-30 (as amended))**  
21 **is amended to read:**

22 **26-1.33 Alternate Means of Compliance.**

23 A. One of the goals and purposes of the SFHP is to foster economic integration by  
24 requiring that developers provide required SFHP units and manufactured home lots on the  
25 property proposed for development. However, it is recognized that at times this approach may not

1 feasible for a variety of reasons. In this event, the applicant may seek permission from the  
2 governing body to comply with the SFHP through any one or combination of the following  
3 alternative means acceptable to the city in its sole discretion: off-site construction, cash payment  
4 in lieu of constructing or creating the required SFHP units or manufactured home lots or  
5 dedication of land suitable for construction or creation of inclusionary units of equivalent or  
6 greater value than would be required for onsite construction.

7 B. The city may approve an alternate means of compliance for the following,  
8 provided that any approval must be based on a finding that the purposes of this chapter would be  
9 better served by implementation of the proposed alternative(s). In determining whether the  
10 purposes of this chapter would be better served under the proposed alternative, ~~[the city]~~ staff  
11 from the Land Use Department and the Office of Affordable Housing shall consider the factors  
12 listed in subsection 26-1.33C below. Consideration of these factors will provide basis for staff's  
13 recommendation regarding the approval or denial of alternate compliance to the Governing Body.

14 (1) SFHP for-sale projects ~~[of eleven (11) units or more, provided that the~~  
15 ~~project meets the definition of extreme hardship];~~

16 (2) SFHP ~~[projects of ten (10) units or fewer]~~ rental projects; and

17 (3) SFHP projects that meet the definition of a vacation time share project as  
18 set forth in Section 14-12 SFCC 1987.

19 C. In determining whether the purposes of this chapter would be better served under  
20 the proposed alternative, the city shall consider the following:

21 (1) The extent to which the proposed alternate results in a benefit that  
22 responds directly to a community-wide documented need;

23 ~~[(1)2]~~ Whether implementation of an alternative would overly concentrate  
24 SFHP units within any specific area and if so must reject the alternative unless the  
25 undesirable concentration of the SFHP units is offset by other identified benefits that

1 flow from implementation of the alternative in issue; and

2 ([2]3) The extent to which other factors affect the feasibility of prompt  
3 construction of the SFHP units on the property, such as costs and delays, the need for  
4 appraisal, site design, zoning, infrastructure, clear title, grading and environmental  
5 review; and

6 ([3]4) The potential of leveraging funds for other needed affordable housing  
7 programs described in the city's housing plans.

8 D. The value of the fee in lieu contribution shall be established pursuant to  
9 administrative procedures.

10 E. The governing body, at its sole discretion, may grant a waiver of the SFHP  
11 requirements. Any approval of a waiver for any sized project shall be based on the finding that  
12 the condition of extreme hardship, as defined, cannot be sufficiently alleviated by the alternate  
13 means of compliance described in paragraph B.

14 **Section 4. Subsection 26-1.36 SFCC 1987 (being Ord. #2005-30 (as amended))**  
15 **is amended to read:**

16 **26-1.36 Effective Date.**

17 The effective date of this chapter shall be February 20, 2016 (ten (10) days after passage  
18 of this chapter).

19 APPROVED AS TO FORM:

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21  
22 KELLEY A. BRENNAN, CITY ATTORNEY

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24  
25 *M/Legislation/Bills 2016/Santa Fe Homes Program Update*

## City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

**Section A.      General Information**

(Check) Bill:   X                        Resolution: \_\_\_\_\_

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): AN ORDINANCE INCLUDING A DEFINITION FOR ALTERNATE MEANS OF COMPLIANCE, AND AMENDING THE DEFINITION OF EXTREME HARDSHIP; AMENDING THE REQUIREMENTS FOR SANTA FE HOMES PROGRAM RENTAL UNITS; AMENDING THE PROCESS BY WHICH A DEVELOPER OF RENTAL HOUSING IS ALLOWED TO PAY A FEE-IN-LIEU INSTEAD OF SEEKING AN ALTERNATE MEANS OF COMPLIANCE WITH THE REQUIREMENTS OF THE SANTA FE HOMES PROGRAM; AND ESTABLISHING AN EFFECTIVE DATE FOR THE AMENDMENTS.

Sponsor(s): Mayor Javier M. Gonzales

Reviewing Department(s): Housing and Community Development

Persons Completing FIR: Alexandra Ladd      Date: 12/15/15      Phone: 955-6346

Reviewed by City Attorney: *Valley A. Brennan*      Date: 12/23/15  
(Signature)

Reviewed by Finance Director: *[Signature]*      Date: 12-23-2015  
(Signature)

**Section B.      Summary**

Briefly explain the purpose and major provisions of the bill/resolution:  
**The bill removes the requirement of requesting City Council approval of a proposed alternate means of compliance for multi-family rental development. The developer can opt to pay a fee-in-lieu of providing units on site. The fee is determined via the Administrative Procedures for the Santa Fe Homes Program.**

**Section C.      Fiscal Impact**

**Note:** Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)\*

**1. Projected Expenditures:**

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate:      "A" if current budget and level of staffing will absorb the costs  
                      "N" if new, additional, or increased budget or staffing will be required

Finance Director: \_\_\_\_\_

- c. Indicate: "R" -- if recurring annual costs  
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

X  Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
	Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____
	All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Total:	\$ _____			\$ _____			

\* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. \*\*For fringe benefits contact the Finance Dept.

**2. Revenue Sources:**

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
	_____	\$ _____	_____	\$ _____	_____	_____
	_____	\$ _____	_____	\$ _____	_____	_____
	_____	\$ _____	_____	\$ _____	_____	_____
	Total:	\$ _____		\$ _____		

**3. Expenditure/Revenue Narrative:**

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

The proposed bill will allow fees to be collected for deposit into the Affordable Housing Trust Fund; however, given the unpredictable pattern of real estate development, there is no way to analyze how much will be generated.

**Section D.      General Narrative**

**1. Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None identified.

**2. Consequences of Not Enacting This Bill/Resolution:**

Are there consequences of not enacting this bill/resolution? If so, describe.

Santa Fe's supply of rental housing is very constricted at present time, due in some part to the inclusionary requirements related to the SFHP Ordinance. Without responding to market conditions and incentivizing multi-family rental development, rents will continue to rise affecting affordability across all income ranges, but with particular consequence for very low income renters.

**3. Technical Issues:**

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None identified.

**4. Community Impact:**

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The bill has the potential to generate income for the Affordable Housing Trust Fund which in turn would be used to support programs and projects to assist very low income renters. The bill also has the potential to make market-rate multi-family development more financially feasible. Adding inventory to the rental market will alleviate to a small degree the upward trend in rents that has been fueled by record high occupancy rates and a shortage of available units.