

City of Santa Fe, New Mexico

memo

Date: January 13, 2014

To: Community Development Commission – January 15, 2014
Finance Committee – January 21, 2014
Public Works Committee – January 27, 2014
City Council – February 26, 2014

Via: Kate Noble, Interim Director *KW*
Housing and Community Development Department

From: Alexandra Ladd, Special Projects Manager *AL*
Housing and Community Development Department

Re: Amendments to the Santa Fe Homes Program (SFHP) – Chapter 26

ACTION REQUESTED

Recommend approval of the proposed amendments to the Santa Fe Homes Program (SFHP) for the purposes of responding to market conditions, making necessary corrections, and other changes as needed. The amendments accomplish the following:

- 1) update the Findings to reflect new data including the 2013 Housing Needs Assessment (Ch. 26-1.4);
- 2) make permanent the 20% threshold requirement and eliminate the sunset date of June 2014 for reinstating the original 30% requirement (Ch. 26-1.15; *Note: Ch. 14-8.11(F)* is also amended; **Planning Commission recommended extending sunset date to June 8, 2016 rather than making reduction permanent, 1/9/14**);
- 3) clarify applicability to specify conversion from commercial uses to residential is also subject to SFHP (Ch. 26-1.8(A)1; *Note: Ch. 14-8.11(D)* is also amended; **approved by Planning Commission 1/9/14**);
- 4) correct language that allows a developer of small project (2-10 units) to pay a fee in lieu of constructing a unit (Ch. 26-1.8(A)4);
- 5) change the mix of units by income tier from 10% each in the income ranges 2 and 3 to: 5% (income range 2); 10% (income range 3); 5% (income range 4) (Ch. 26-1.15);
- 6) delete home sales pricing information from code and reference administrative procedures (Ch. 26-1.16);
- 7) address design, unit types, dispersal of units in guidelines presented in the administrative procedures (Ch. 26-1.17);

- 8) eliminate shared appreciation, clarify the affordability lien and describe how it is subordinate and reduced by the city if home values decline (Ch. 26-1.18);
- 9) address household sizes in administrative procedures and add "veterans" to list of eligible homebuyers (first responders, teachers, health workers, etc.) who are allowed to exceed income limits and still qualify for an affordable home in Tier 4 (Ch. 26-1.21);
- 10) remove rental rate schedule from code and references admin procedures instead (Ch. 26-1.24);
- 11) Use Fair Market Rents (FMR) to determine rental amount at SFHP rental property covered by housing choice/rental assistance voucher (Ch. 26-1.28);
- 12) include other subsidy programs for simplified compliance in addition to Low Income Housing Tax Credit (LIHTC) (Ch.26-1.31).

BACKGROUND

The City of Santa Fe has a long history of supporting affordable housing through a combination of regulation, policy development, grant administration, and financial support for its nonprofit partners. The City adopted its first inclusionary zoning program, the Housing Opportunity Program (HOP) in 1998 and has been an entitlement community for Community Development Block Grant (CDBG) funds since the 1980s. Santa Fe was the first community in New Mexico to secure funds through the Neighborhood Stabilization Program (NSP) that were used to purchase homes in foreclosure for renters with mental illness. In FY 2013-14, the City will pass through to its subrecipients \$1.3 million in HUD rental assistance funds for very low renters with disabilities.

Additionally, the City has used its own resources to support affordable housing, most significantly to purchase Tierra Contenta and to create the Tierra Contenta Corporation development entity. The end result is a community that is not only houses 10% of the city's population, but has won national recognition for its high quality design, integration of housing types and uses, and most importantly, the achievement of its 46% affordability levels.

As a direct result of the City's proactive and integrative approach to affordable housing, since the early 1990s, approximately 3,300 affordable homes, townhouses and apartments have been made available for low- and moderate-income residents to buy or rent. Of this total, 390 homes were built as a result of annexation agreements or other negotiations; 540 homes were priced affordably because of City incentives through the Housing Opportunity Program (HOP); approximately 90 homes were built in compliance with HOP's regulations; over 1,000 multi-family homes were built for renters with low- and moderate-incomes; 27 homes were sold as required by SFHP; and 1,150 affordably-priced homes and apartments were built in Tierra Contenta.

ITEM AND ISSUE

In 2005, HOP was replaced by the SFHP ordinance, which required that 30% of all new developments be sold at affordable prices to income-qualified homebuyers and that 15% of all new rental units are rented to income-qualified renters. The affordability of the homeownership home is maintained through the establishment of a lien held by the City. The lien amount is based on the difference between 95% of the appraised value of the home and the effective/affordable home sales price. The lien may also include the value of fee waivers or reductions granted when the development proposal went through the permitting process. When the home is sold or transferred, the lien is either recycled to another income-qualified homebuyer or paid back to the City and placed in the Affordable Housing Trust Fund (AHTF) where it is used to support homebuyer activities.

In 2011, in response to the economic recession, the requirement was lowered to 20% for homeownership developments and other incentives were put in place to support local builders (Ord. 2011-17). While there are indications that the market is making a slow recovery, the primary purpose of these amendments is to

make permanent the reduced requirement put in place in 2011. A specific description for each part of the ordinance to be amended is provided in the following section.

- 1) **Update the Findings to reflect new data including the 2013 Housing Needs Assessment (Ch. 26-1.4).** *No additional explanation necessary.*
- 2) **Make permanent the 20% threshold requirement and eliminate the sunset date of June 2014 for reinstating the original 30% requirement (Ch. 26-1.15; Note: Ch. 14-8.11(F) is also amended).** *Other inclusionary zoning programs with a 30% requirement are generally located in areas with very high valued markets and zoning that allows much higher densities than are customary in Santa Fe. Local builders, developers, and housing advocates concur that 20% in Santa Fe’s market is achievable.*
- 3) **Clarify applicability to specify conversion from commercial uses to residential is also subject to SFHP (Ch. 26-1.8(A)1; Note: Ch. 14-8.11(D) is also amended).** *No additional explanation necessary.*
- 4) **Correct language that allows a developer of small project (2-10 units) to pay a fee in lieu of constructing a unit (Ch. 26-1.8(A)4).** *Ordinance 2011-17 lowered the SFHP requirement for homeownership housing from 30% to 20% and provided other incentives to support the construction industry. One of those incentives was to allow a builder of a small scale development (2 – 10 homes) the option of paying a fee rather than building the obligated unit(s), without necessitating a request for an alternate means of compliance. However, the exact language that was adopted in the bill omitted specifying that paying the fee was allowed, even though it was clearly the intention of the sponsors of the amendment that this be the case. The amendment corrects this deficiency.*
- 5) **Change the mix of units by income tier from 10% each in the income ranges 2 and 3 to: 5% (income range 2); 10% (income range 3); 5% (income range 4) (Ch. 26-1.15).** *Under the original SFHP requirement, the 30% were distributed evenly among three income tiers. The City maintains a pricing schedule which calculates a home sales price that is affordable to each particular tier. The income tiers are based HUD’s “Area Median Income” (AMI) data that is released annually for every governmental jurisdiction in the country. Affordability is then determined by setting home prices that are affordable to earners at various percentages of the AMI.*

When the 2011 amendment was made, the obligation was removed entirely from the highest tier and kept at 10% each for the lowest and middle tier. The justification for this was that the higher income earners were better able to afford market rate homes when the overall market values were depressed. Given recent market data that shows the market is in recovery, it seems timely to reestablish the requirement in the highest tier. The higher tier represents an important homebuyer demographic – both first time homebuyers but also “move up” homebuyers. Also, this income tier doesn’t qualify for CDBG downpayment assistance and other HUD funds that are reserved for buyers at 80% AMI and below. This amendment redistributes the requirement as illustrated in the following table:

Income Tier	% of AMI	Orig Req'm	2011 Amendment	2014 Amendment	2013 AMI (3 person HH)
1	<50%	5% Rental	5% Rental	5% Rental	<\$29,400
2	50-65%	5% Rental 10% Homeowner	5% Rental 10% Homeowner	5% Rental 5% Homeowner	\$29,400-38,250
3	65-80%	5% Rental 10% Homeowner	5% Rental 10% Homeowner	5% Rental 10% Homeowner	\$38,250-47,050
4	80-100%	10% Homeowner	10% Homeowner	5% Homeowner	\$47,050-58,800
5	100-120%	No requirement	No requirement	No requirement	\$58,800-\$70,600
	Total	15% Rental 30% Homeowner	15% Rental 20% Homeowner	15% Rental 20% Homeowner	

- 6) **Delete home sales pricing information from code and reference administrative procedures (Ch. 26-1.16).** *Pricing schedules are updated annually. By removing the specific pricing information from the code and referencing it in the administrative procedures, the pricing schedule can be updated administratively instead of requiring a code amendment.*
- 7) **Address design, unit types, dispersal of units in guidelines presented in the administrative procedures (Ch. 26-1.17).** *The original table in the ordinance was somewhat restrictive. Even though the ordinance contains language that allows a developer to deviate from the City's standard, referring to a "guideline" in the administrative procedures provides more flexibility. A developer proposing an alternative to the City's standard can be approved administratively if staff determines that the proposal meets the intent of the ordinance.*
- 8) **Eliminate shared appreciation, clarify the affordability lien and describe how it is subordinate and reduced by the city if values decline (Ch. 26-1.18).** *The current code requires that for every affordability lien held by the City, an equity share is calculated pursuant to the proportion of the City's lien to the market value of the home. When the affordable homeowner sells the home, the lien is paid back and the remaining equity in the form of market appreciation is split between the seller and the City according to the percentage established at the time of purchase. While this mechanism can generate additional revenue for the City, it only works when the market is appreciating. The shared equity obligation is difficult for homebuyers to understand and it creates uncertainty for them when they sell their homes because they don't know how much equity they will take away from the home until the transaction is complete. This makes it cumbersome, if not prohibitive for "move up" buyers to finance the purchase of a bigger home that might better meet the needs of a growing family, etc. Likewise, in recent years, homeowners with a lien who sell their homes for less than their initial appraisal value have not had enough in their sales proceeds to pay back the City's lien in its entirety. The language proposed in the amendment seeks to clarify how this situation is handled, as well as how the lien works.*
- 9) **Address household sizes in administrative procedures and add "veterans" to list of eligible homebuyers (first responders, teachers, health workers, etc.) who are allowed to exceed income limits and still qualify for an affordable home in Tier 4 (Ch. 26-1.21).** *Similar to #7, referring to a "guideline" in the administrative procedures provides more flexibility. The ordinance provides a way to increase home buying opportunities for "essential workers" in that it allows them to purchase a Tier 4 home, even if they earn slightly too much to qualify and this specific amendment adds "veterans" to the approved category of occupations.*
- 10) **Remove rental rate schedule from code and references admin procedures instead (Ch. 26-1.24).** *Rental rate schedules are updated annually. By removing the specific pricing information from the code and referencing it in the administrative procedures, the rental rate schedule can be updated administratively instead of requiring a code amendment.*
- 11) **Use Fair Market Rents (FMR) to determine rental amount at SFHP rental property covered by housing choice/ rental assistance voucher (Ch. 26-1.28).** *The current ordinance prohibits SFHP landlords from not accepting rental vouchers but it doesn't allow the landlord to use the voucher to cover the cost of any portion of managing the unit above the affordable rent levels. This amendment proposes using the FMR, set annually by HUD and the standard for rental subsidy programs, as a maximum rental amount for units occupied by voucher holders.*
- 12) **Include other subsidy programs for simplified compliance in addition to Low Income Housing Tax Credit (LIHTC) (Ch.26-1.31).** *Changes in the way that tax credits are allocated suggest that Santa Fe will not be the site of as many LIHTC-funded projects in the near future. In response, developers are turning to other federal subsidy programs. This language increases the flexibility in how the SFHP requirement interacts with subsidized development projects.*

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2014-5
Santa Fe Homes Program – Fees

Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2014-5:

1. On page 17, lines 5 – 6, *delete* “The lien will be forgiven by the City or its agent when the first position financing is paid off or 30 years, whichever comes first.”

2. On page 23, line 6, *insert* the following new section:

“Section 16. Subsection 26-1.33 (being Ord. #2005-30(A), §62, as amended) is amended to read:

26-1.33 Alternate Means of Compliance.

A. 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 any one or combination of the following alternative means acceptable to the city in its sole discretion: 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.

B. The ~~[governing body]~~ city may approve an alternate means of compliance for the following provided that any approval must be based on a finding that the purposes of this chapter would be better served by implementation of the proposed alternative(s). In determining whether the purposes of this chapter would be better served under the proposed alternative, the city shall consider ~~[all of]~~ the factors listed in subsection ~~[26-1.33-C]~~ 26-1.33(C) below.

(1) SFHP projects of eleven (11) units or more, provided that the project meets the definition of extreme hardship;

(2) SFHP projects of ten (10) units or fewer; and

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

C. In determining whether the purposes of this chapter would be better served under the proposed alternative, the city shall consider ~~[all of]~~ the following:

(1) Whether implementation of an alternative would overly concentrate SFHP units within any specific area and if so 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,

(2) 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,

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

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

E. The governing body, at its sole discretion, may grant a waiver of the SFHP requirements. Any approval of a waiver for any sized project shall 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 paragraph B

Respectfully submitted,

Rebecca Wurzbürger, Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

Yolanda Y. Vigil, City Clerk

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2014-5
Santa Fe Homes Program - Fees

Mayor and Members of the City Council:

I propose the following amendment(s) to Bill No. 2014-5:

1. On page 17, line 5, after "the", *delete* "primary" and *insert* in lieu thereof: "first portion"
2. On page 17, line 9, after "value", *insert* ", through no fault of the seller,"

Respectfully submitted,

Chris Calvert, Councilor

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

Yolanda Y. Vigil, City Clerk

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-5

3 INTRODUCED BY:

4
5 Councilor Rebecca Wurzbarger

6
7
8
9
10 AN ORDINANCE

11 RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION
12 14-8.11 SFCC 1987 TO MAKE PERMANENT THE CURRENT PERCENTAGE
13 REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987 TO UPDATE
14 THE LEGISLATIVE FINDINGS, TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN
15 LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH
16 TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE
17 REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE
18 SFHP ORDINANCE.

19
20 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

21 Section 1. Section 14-8.11(D) SFCC 1987 (being Ord. No. Ord. No. 2011-37 § 11) is
22 amended to read:

23 (D) Applicability

24 (1) Except as set forth in this Subsection 14-8.11(D), the *SFHP* shall apply to
25 any *application* for *development*, including annexation, rezoning, subdivision

1 *plat*, increase in *density*, *development* plan, extension of or connection to *city*
2 utilities for land outside the city limits, and construction *permits* that propose
3 two or more *dwelling units* or *buildings* or portions of *buildings* that may be
4 used for both *nonresidential* and *residential* purposes and *manufactured*
5 *home lots*. *SFHP* applies to the *residential* portion of the *development*.

6 (a) The *SFHP* applies to *new* construction, ~~and~~ to the conversion of
7 existing rental units to ownership units and the conversion of
8 commercial uses to residential uses.

9 (b) The *SFHP* does not apply to a *family* transfer as set forth in Section
10 14-3.7(F)(2) or a division of land into two *lots* as set forth in Section
11 14-3.7(D) (Summary Procedure).

12 (c) The *applicant* is responsible for determining the applicability of
13 *SFHP* to the proposed *development* and complying with the
14 requirements of *SFHP*.

15 (2) The *SFHP* applies to dwelling units in vacation time share projects.

16 (3) The *SFHP* does not apply to:

17 (a) a *development* or portion of a *development* that is subject to a formal
18 written and binding agreement entered into prior to August 15, 2005
19 with the *city* or Santa Fe County in which the signatories agreed to
20 provide affordable housing or payment in lieu thereof; or

21 (b) *dwelling unit* or *manufactured home lots* for an elementary, middle
22 or high school; *college* or *university*; *hospital*; or similar institution
23 to be used exclusively by its *employees* or enrolled students and their
24 families. If the *dwelling units* or *manufactured homes* are no longer
25 exclusively used by its *employees* or enrolled students and their

families, the *SFHP* shall apply at the time the units are converted.

(4) Petitioners for annexation[s] and the office of affordable housing shall negotiate all terms for providing affordable housing on site, including the distribution of *development* types and the number of *SFHP* units required or alternate means of compliance. The number of *SFHP* units required or alternate means of compliance may be in excess of that required by *SFHP*. These terms shall be included in the annexation agreement. To the extent practicable, all other *SFHP* requirements apply to annexations. In no case shall the agreement provide for less affordable housing or a lesser in-lieu contribution than required by *SFHP*. As the *property* is developed, a separate *SFHP* agreement in compliance with the annexation agreement shall be recorded with each subdivision *plat* or *development* plan.

(5) All provisions of the prior ordinance, titled Housing Opportunity Program (HOP), remain in effect with respect to any agreements executed by the *city* and others which were required by HOP or incorporated HOP provisions by reference. However, the office of affordable housing is responsible for administering such agreements according to the administrative procedures for the *SFHP* ordinance until such time as all obligations under the agreements have been satisfied except for sale prices or rental rates. Sale prices and rental rates shall be based on the prior HOP administrative procedures and annually updated by staff.

Section 2. Section 14-8.11(F) SFCC 1987 (being Ord. No. 2012-11 § 25) is amended

to read:

(F) Santa Fe Homes Program Requirements

(1) [If a *SFHP* developer obtains a residential construction permit for a *SFHP*

1 development between June 8, 2011 through] Effective June 7, 2014, and
2 thereafter, [then] twenty percent of the total number of dwelling units or
3 manufactured home lots in an SFHP development shall be SFHP units and
4 meet all requirements of Section 26-1 SFCC 1987. A modification to a SFHP
5 agreement or HOP agreement that was entered into prior to June 8, 2011
6 shall be made to reflect the twenty percent requirement; and if applicable, an
7 annexation agreement, subdivision plat or development plan shall be
8 administratively amended to reflect the reduction and redistribution of SFHP
9 or HOP lots and the amended annexation agreement, subdivision plat or
10 development plan shall be recorded or filed, as applicable, by the owner or
11 developer.

12 ~~[(2) Effective June 8, 2014, and thereafter, thirty percent of the total number of~~
13 ~~dwelling units or manufactured home lots in an SFHP development shall be~~
14 ~~SFHP units and meet all requirements of Section 26-1 SFCC 1987.]~~

15 ~~[(3) Fifteen percent of the total number of dwelling units or manufactured home~~
16 ~~lots offered for rent in an SFHP development shall be SFHP units and meet~~
17 ~~all requirements of Section 26-1 SFCC 1987.~~

18 ~~[(4) However, the governing body may approve alternative means of compliance~~
19 ~~as provided in Section 26-1.33 SFCC 1987 (SFHP – Alternate Means of~~
20 ~~Compliance).~~

21 **Section 3. Subsection 26-1.4 SFCC 1987 (being Ord. #2005-30(A), § 33) is amended**

22 **to read:**

23 **26-1.4 Findings.**

24 The governing body finds and determines that:

25 A. Affordable housing furthers geographic and community balance through providing a

1 range of housing opportunities throughout the city; and

2 B. New residential development has not provided sufficient housing opportunities for
3 households with incomes below the area median income; and

4 C. The amount of land in the city available for new residential development is severely
5 limited by geography and topography; and

6 D. Inclusionary housing programs represent an extension of cities' police powers to
7 regulate land use, ensuring that the limited supply of developable land provides housing opportunities
8 for all incomes; and

9 E. Santa Fe is facing a growing shortage of housing that is affordable to a wide range of
10 our population affecting the ability of new graduates, senior citizens, families with children, and
11 employees in industries and services that are vital to a healthy economy to remain living in the city;
12 and

13 F. The lack of affordable housing is detrimental to the health, safety and welfare of the
14 city's residents; and

15 G. Federal and state funds for the construction of new affordable housing are
16 insufficient to fully address the problems of affordable housing within the city and the private housing
17 market has not provided adequate affordable housing opportunities for persons and households with
18 incomes below the area median income; and

19 H. The city has previously adopted the Housing Opportunity Program in an attempt to
20 address the affordable housing needs. This program has achieved limited effectiveness in stemming
21 the growing affordable housing crisis in the city; and

22 I. The governing body in partnership with the regional planning authority established
23 an affordable housing task force that was charged with recommending appropriate affordable housing
24 policy and programs for the region. The task force recommendations included the implementation of
25 a broadly applicable program to increase the supply of affordable housing particularly for those

1 households with incomes less than the area median income; and

2 J. Based on the findings of the task force the governing body finds that it is necessary to
3 adopt a new inclusionary zoning ordinance to replace the Housing Opportunity Program in order to
4 address the city's housing crisis; and

5 K. ~~[According to the "2004 Housing Needs Study" prepared for the Santa Fe county~~
6 ~~land use department by Prior and Associates, twenty-eight and one-half percent (28.5%) of all new~~
7 ~~homes in central Santa Fe county will need to be made affordable to households with incomes below~~
8 ~~the median income if the area is going to simply maintain its existing homeownership rate and sixty-~~
9 ~~six and two-tenths percent (66.2%) of new rental units will need to be affordable to households~~
10 ~~earning below eighty percent (80%) of the median income to meet the projected demand;]~~ According
11 to the Housing Needs Assessment, updated in 2013, the greatest mismatch between need and
12 available services and affordable housing inventory is for renter households earning less than thirty
13 percent (30%) of the Area Median Income (AMI) with as many as three thousand (3,000) renter
14 households in Santa Fe likely to be "cost burdened" or paying more than one-third (1/3) of their
15 incomes toward rents; and

16 L. ~~[According to the "Recommendations for an Affordable Housing Strategy in Santa~~
17 ~~Fe" developed by the regional planning authority's affordable housing task force there are currently~~
18 ~~seven thousand five hundred eleven (7,511) renters living in Santa Fe who are in need of homes that~~
19 ~~are affordable to households with incomes below the median income while very few homes are on the~~
20 ~~market that could help meet this need.]~~ The 2010 Census indicates that:

21 (1) Santa Fe's population is aging, with fifty percent (50%) of the overall
22 population aged fifty-five (55) years or older;

23 (2) Households are smaller, with single person households comprising forty
24 percent (40%) of overall households; and

25 (3) The median age is forty-four (44) years old, compared to forty (40) years old

1 in 2000.

2 All factors that indicate housing demand is likely to shift to smaller units that can accommodate the
3 needs of aging households and are located close to transit, services and amenities; and

4 M. Home sales prices continue to rise and were sixty-five percent (65%) higher in 2010
5 than in 2000, increasing the gap between what buyers can afford and how much homes are priced,
6 with only fourteen percent (14%) of current renters able to afford the median-priced home,
7 necessitating the continued implementation of the city's inclusionary zoning and other affordable
8 housing programs that improve the capacity of lower- and moderate-income Santa Fe residents to buy
9 homes; and

10 N. The city's support of affordable housing through regulation, policy development and
11 administrative funding has achieved significant results, serving the needs of the homeless to the
12 homeowner.

13 **Section 4. Subsection 26-1.8 SFCC 1987 (being Ord. #2005-30(A), §37, as amended)**
14 **is amended to read:**

15 **26-1.8 Applicability.**

16 A. Except as set forth in this paragraph the SFHP shall apply to any application for
17 development including, but not limited to, annexation, rezoning, subdivision plat, increase in density,
18 development plan, extension of or connection to city utilities for land outside the city limits, and
19 building permits which propose[s] two (2) or more dwelling units or buildings or portions of
20 buildings which may be used for both nonresidential and residential purposes and manufactured home
21 lots. SFHP applies to the residential portion of the development.

22 (1) The SFHP applies to new construction, [~~and~~] to the conversion of existing
23 rental units to ownership units and the conversion of commercial uses to residential uses.

24 (2) The SFHP shall not apply to a family transfer as set forth in subsection 14-
25 3.7(E)(3)(b) or a division of land into two (2) lots as set forth in subsection 14-2.3(E)(1)(a).

1 (3) It shall be the responsibility of the applicant to determine the applicability of
2 SFHP to the proposed development and comply with the requirements of SFHP.

3 (4) If a SFHP developer obtains a residential building permit for a SFHP
4 development with two (2) through ten (10) total units ~~between June 8, 2011 and June 7, 2014,~~
5 then a seventy percent (70%) reduction in fees associated with such development shall be
6 assessed and the developer has the option to pay a fee in lieu of providing the required
7 percentage of units in accordance with the SFHP administrative procedures.

8 B. The SFHP shall apply to dwelling units in vacation time share projects as defined in
9 Article 14-12 SFCC 1987.

10 C. In addition to paragraph A.(2) above, the SFHP shall not apply to the following:

11 (1) Any development or portion thereof which is subject to any formal, written
12 and binding agreement entered into prior to August 15, 2005, with the city or Santa Fe county
13 which if within said agreement the signatories agreed to provide affordable housing or
14 payment in lieu thereof; or

15 (2) Dwelling units or manufactured home lots for an elementary, middle or high
16 school, community college, private four (4) year college or related institutions where
17 coursework leads to an associate of arts, bachelors or vocational degree or certification,
18 hospital or similar institution to be used exclusively by its employees or enrolled students and
19 their families. If the dwelling units are no longer used exclusively by its employees or
20 enrolled students, the SFHP shall apply at the time the units are converted.

21 D. Petitioners for annexations and the office of affordable housing shall negotiate all
22 terms for providing affordable housing on site including the distribution of development types and the
23 number of SFHP units required or alternate means of compliance. The number of SFHP units
24 required or alternate means of compliance may be in excess of that required by SFHP. These terms
25 shall be included in the annexation agreement. To the extent practicable, all other SFHP requirements

1 shall apply to annexations. In no case shall the agreement provide for less affordable housing or a
2 lesser in-lieu contribution than required by SFHP. As the property is developed, a separate SFHP
3 agreement in compliance with the annexation agreement shall be recorded with each subdivision plat
4 or development plan.

5 E. All provisions of the prior ordinance, titled Housing Opportunity Program (HOP)
6 remain in full force and effect with respect to any and all agreements executed by the city and others
7 which were required by HOP or incorporated HOP provisions by reference. Accordingly, the office of
8 affordable housing will continue to use and annually update the administrative procedures for the
9 HOP ordinance until such time as all obligations under such agreements have been satisfied.

10 **Section 5. Subsection 26-1.15 SFCC 1987 (being Ord. #2005-30(A), §44, as**
11 **amended) is amended to read:**

12 **26-1.15 Required Number of For Sale SFHP Homes in a Development.**

13 A. If a SFHP developer obtains a residential building permit for a SFHP development,
14 [~~between June 8, 2011 and June 7, 2014, then~~] twenty percent (20%) of the total number of dwelling
15 units or manufactured home lots offered for sale in an SFHP development shall be SFHP Homes, as
16 follows:

17 (1) [~~Ten (10%)~~] Five percent (5%) of the total dwelling units or manufactured
18 home lots shall be sold at or below the affordable home price or affordable manufactured
19 home lot price, as applicable, for income range 2.

20 (2) Ten percent (10%) of the total dwelling units or manufactured home lots
21 shall be sold at or below the affordable home price or affordable manufactured home lot
22 price, as applicable, for income range 3, and

23 (3) [~~Zero (0%)~~] Five percent (5%) of the total dwelling units or manufactured
24 home lots shall be sold at or below the affordable home price or affordable manufactured
25 home lot price, as applicable, for income range 4.

1 A modification to a SFHP agreement or HOP agreement that was entered into prior to June 8,
2 2011 shall be made to reflect the twenty percent requirement; and if applicable, an annexation
3 agreement, subdivision plat or development plan shall be administratively amended to reflect the
4 reduction and redistribution of SFHP or HOP lots and the amended annexation agreement,
5 subdivision plat or development plan shall be recorded or filed, as applicable, by the owner or
6 developer. Fifteen percent of the total number of dwelling units or manufactured home lots offered
7 for rent in an SFHP development shall be SFHP units and meet all requirements of §26-1 SFCC 1987.

8 ~~[B. Effective June 8, 2014, and thereafter, thirty percent (30%) of the total number of~~
9 ~~dwelling units or manufactured home lots offered for sale in an SFHP development shall be SFHP~~
10 ~~Homes, as follows:~~

11 ~~(1) Ten percent (10%) of the total dwelling units or manufactured home lots~~
12 ~~shall be sold at or below the affordable home price or affordable manufactured home lot~~
13 ~~price, as applicable, for income range 2.~~

14 ~~(2) Ten percent (10%) of the total dwelling units or manufactured home lots~~
15 ~~shall be sold at or below the affordable home price or affordable manufactured home lot~~
16 ~~price, as applicable, for income range 3, and~~

17 ~~(3) Ten percent (10%) of the total dwelling units or manufactured home lots~~
18 ~~shall be sold at or below the affordable home price or affordable manufactured home lot~~
19 ~~price, as applicable, for income range 4.]~~

20 ~~[E]B.~~ If an applicant exceeds the percentage in income range 2 or income range 3 as set
21 forth above, the requirement in any higher income range may be reduced by the same percentage.

22 ~~[D]C.~~ The whole number resulting from this calculation shall be the number of SFHP
23 homes required to be constructed or SFHP manufactured home lots to be created. If the calculation
24 described results in a fraction of a unit, this obligation shall be satisfied as set forth in the
25 administrative procedures. Nothing herein shall prohibit a developer from building a greater number

1 of SFHP homes or creating a greater number of SFHP manufactured home lots than specified herein.
2 Such additional units shall meet all the requirements as an SFHP home or manufactured home lot to
3 be considered an SFHP home or manufactured home lot. The SFHP developer shall receive the fee
4 waivers described in subsection 14-8.11 G,(2) for such additional units so long as those units meet all
5 SFHP requirements.

6 ~~[E]D.~~ In any development with a mix of rental and ownership units or manufactured home
7 lots, the number of SFHP rental units or rental manufactured home lots shall be in the same
8 proportion as the number of non-SFHP rental units or rental manufactured home lots and likewise
9 with ownership units or ownership manufactured home lots.

10 ~~[F]E.~~ In any development with a mix of detached and attached ownership units, the
11 mix of SFHP units shall be in the same proportion as the mix of non-SFHP units.

12 ~~[G]E.~~ In the event that two (2) or fewer SFHP Homes or SFHP manufactured home lots are
13 required, the SFHP Homes or manufactured home lots shall be affordable to income range 3 or
14 ~~[income range-2] lower.~~

15 ~~[H] The Governing Body by adoption of a resolution may approve the temporary~~
16 ~~modification to the requirements of this Section. This authority shall not be used for a specific SFHP~~
17 ~~development or for an individual economic situation, but shall apply to all SFHP development due to~~
18 ~~broad economic downturns.]~~

19 **Section 6. Subsection 26-1.16 SFCC 1987 (being Ord. #2005-30(A), §45, as**
20 **amended) is amended to read:**

21 **26-1.16. Determination of Affordable Home Price.**

22 A. To ensure the SFHP homes are affordable, the affordable home prices ~~[below]~~ are
23 calculated to ensure that the sum of principal and interest payments, taxes, property insurance and
24 mortgage insurance does not exceed thirty-three percent (33%) of the monthly income of the assumed
25 household size in each applicable income range. The affordable price shall be determined at the

1 midpoint in each income range as determined by the current pricing schedule based on HUD's area
 2 median income (AMI) figures for Santa Fe city.

3 ~~[B. Except as provided in this section below, at the time of enactment of this chapter, the~~
 4 ~~affordable home price for each income range shall be:~~

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]

5
 6 ~~[C]B. [Except as provided in this section below, the]~~ The affordable manufactured home lot
 7 price shall be twenty-five percent (25%) of the affordable home price for a 3 bedroom home for each
 8 applicable income range, determined by the current SFHP pricing schedule in effect at the time of the
 9 SFHP development application. [as follows:]

Income Range	[Affordable Manufactured Home Lot Price
-	-
Income Range 2	\$29,563
Income Range 3	\$38,438
Income Range 4	\$47,313]

10
 11 ~~[D.]C.~~ Beginning in 2006 and every year thereafter, the office of affordable housing shall
 12 review and adjust the affordable home price and affordable manufactured home lot for each
 13 applicable income range and home size based on the changes in area median income from the
 14 previous twelve (12) months, as determined by HUD. The price schedule will be adjusted within
 15 thirty (30) days of the release of the HUD data. However, every three (3) years thereafter at a
 16 minimum, the governing body shall review the methodology for calculating annual increases and
 17 make appropriate adjustments if necessary. The office of affordable housing shall report to the
 18 governing body within thirty (30) days of adjusting the affordable home price and affordable
 19 manufactured home lot price.

1 ~~[E.]~~D. The affordable home price and affordable manufactured home lot price shall be
2 reduced pursuant to administrative procedures in order to limit the impact on SFHP home buyers of
3 fees assessed by condominium, common area, or homeowner associations. The affordable home price
4 or affordable manufactured home lot price shall be reduced so that the buyer's mortgage or
5 manufactured home loan principal amount and, accordingly, the buyer's monthly mortgage payments,
6 are reduced by an amount equal to the assessed fee in excess of ~~[seventy five dollars (\$75.00)]~~ an
7 allowable base fee, established pursuant to administrative procedures and updated annually according
8 to the HUD's AMI figures.

9 [F]E. Pursuant to administrative procedures, the affordable home price may be increased at
10 the request of the SFHP home buyer by the price of allowable option upgrades, not to exceed the
11 maximum option upgrade allowance.

12 [G]F. ~~[At the time of the enactment of this chapter, the maximum option upgrade allowance~~
13 ~~shall be no greater than five thousand dollars (\$5,000.).]~~ Beginning in 2006 and every year thereafter,
14 the office of affordable housing shall review and adjust the maximum option upgrade allowance
15 based on changes in the area median income for the previous twelve (12) months. Permissible items
16 to be included in the maximum option upgrade allowance shall be determined pursuant to
17 administrative procedures.

18 [H]G. Pursuant to administrative procedures, the affordable home price may be increased
19 by the amount of the approved energy efficiency adjustment.

20 **Section 7. Subsection 26-1.17 SFCC 1987 (being Ord. #2005-30(A), §46, as**
21 **amended) is amended to read:**

22 **26-1.17. Design, Unit Types, Siting, Warranty Requirements for SFHP homes.**

23 A. The SFHP homes shall be constructed according to the ~~[minimum requirements]~~
24 guidelines for bathrooms and areas of habitable residential space described ~~[below]~~ in the
25 administrative procedures and any deviation from the guideline is subject to city approval:

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Unit Type	[Minimum Number of Bathrooms	Minimum Area
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]

Habitable space shall be defined and calculated in accordance with the city's building code, except that the minimum area of SFHP homes may be greater than minimum building code requirements.

B. The distribution of SFHP homes [~~shall meet the following distribution:~~] is presented in a guideline in the administrative procedures.

~~[(1) The distribution of SFHP unit sizes shall be as follows:~~

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

(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~~] guideline presented in the administrative procedures. Factors that may be considered as a basis for approving 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.

C. ~~[The minimum sizes specified in this subsection shall not apply to units converted~~

1 ~~from existing rental units to ownership units.]~~ In [such] developments^[5] where units are converted
2 from existing rental units to ownership units, the mix of size and type of SFHP Homes offered for
3 sale shall be in proportion to the mix of non-SFHP homes offered for sale.

4 D. SFHP homes at different price levels and of different home sizes shall be dispersed
5 [evenly] among the non-SFHP homes and be evidenced by designation of home lots at time of plat
6 recording for each phase of development on the basis that the proposed dispersal takes full advantage
7 of affordable housing opportunities that would not otherwise be maximized.

8 E. The SFHP homes shall be similar in architectural and landscaping appearance to the
9 non-SFHP homes.

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

17 **Section 8. Subsection 26-1.18 SFCC 1987 (being Ord. #2005-30(A), §47, as**
18 **amended) is amended to read:**

19 **26-1.18. Affordability Controls on SFHP Homes; Rental Prohibition.**

20 A. An SFHP developer selling a SFHP home or manufactured home lot shall cause to be
21 recorded, in the county clerk's office, simultaneous with the recording of the deed of sale, a form of
22 deed restriction, restrictive covenant or other legal instrument that fulfills the requirements set forth in
23 the administrative procedures with regard to controls placed on the occupancy and subsequent resales
24 of SFHP homes and SFHP manufactured home lots. In order to maintain affordability, the SFHP
25 developer shall impose resale controls consisting of mortgage liens, which include [shared

1 ~~appreciation described below, and]~~ right of first refusal requirements as set forth in the administrative
2 procedures. The effect of the recordation of said document(s) shall be to create, in accordance with
3 state law, an obligation that runs with the property. The city shall approve the form of such
4 documents prior to recordation. Initial affordability shall be achieved by including in the SFHP
5 agreement terms of an escrow instruction requiring certification of SFHP compliance by the escrow
6 agent.

7 B. The amount of the above-described lien will be the difference between the SFHP
8 price and the initial market value of the SFHP home or SFHP manufactured home lot. In order to
9 provide additional equity to the SFHP buyer at the time of purchase, the initial market value shall be
10 determined as ninety-five percent (95%) of the appraised value of the SFHP home or SFHP
11 manufactured home lot.

12 C. ~~[An SFHP lien will provide for shared appreciation by requiring the buyer to repay~~
13 ~~the original amount of the lien plus a share of appreciation, if any, upon resale of the home or~~
14 ~~manufactured home lot or violation of the occupancy requirements as described herein and by the~~
15 ~~administrative procedures. The city's share of appreciation, if any, will be in proportion to the ratio of~~
16 ~~the SFHP lien to the initial market value at the time of the SFHP buyer's initial purchase. The~~
17 ~~administrative procedures shall provide for a deduction from gross appreciation to account for capital~~
18 ~~improvements and repairs made during time of ownership and for a proportion of closing costs~~
19 ~~incurred upon resale. For purpose of example, following are steps used to determine the city's share of~~
20 ~~appreciation:~~

21 (1) ~~Determine SFHP affordable home price (example: 3 bedroom home in~~
22 ~~income range 3): \$142,000~~

23 (2) ~~Determine appraised value of SFHP home: \$220,000~~

24 (3) ~~Determine initial market value of SFHP home: $\$220,000 \times 95\% = \$209,000$~~

25 (4) ~~Determine amount of lien: $\$209,000 - \$142,000 = \$67,000$~~

1 ~~(5) — Determine city's share of appreciation (proportion of lien to initial market~~
2 ~~value): \$67,000/\$209,000 = 32%]~~

3 The affordability lien, as described, is non-interest bearing, no payment due until sale or
4 transfer, and subordinate to the buyer's first position financing and other sources of subsidized
5 assistance. The lien will be forgiven by the City or its agent when the primary financing is paid off or
6 30 years, whichever comes first.

7 D. Upon resale of an SFHP home or manufactured home lot, the affordability lien may
8 be assumed by another SFHP buyer as approved by the city or its agent, or the seller must repay the
9 SFHP lien to the city or its agent. In the event that the home has lost value and the sales proceeds are
10 not enough to pay off the seller's primary financing and other assistance to which the affordability
11 lien is subordinate, the city will reduce the amount of the lien due to ensure that all other obligations
12 are met, however, in no event, shall the city release more than the total amount of the lien.

13 E. The proceeds of repayment of SFHP liens resulting from SFHP agreements or
14 annexations and held by the City shall be credited to a housing trust fund approved by the governing
15 body and managed by the office of affordable housing, which may include funds from other sources.
16 Uses of housing trust fund monies may include down payment assistance, as well as subsidies for
17 low-income rental, emergency and special needs housing. Funding from the trust fund must be
18 awarded through a competitive process.

19 F. An SFHP home buyer or SFHP manufactured home lot buyer shall not rent the SFHP
20 unit or manufactured home lot to a second party, except as approved in writing by the office of
21 affordable housing for instances in which the owner is under duress by reason of unemployment,
22 family medical emergencies, or inability to sell the home for an amount equal to or greater than the
23 original sale price, or other unique circumstances of family hardship. The city, at its sole discretion
24 will approve or disapprove the request to rent a SFHP home pursuant to administrative procedures.

25 Section 9. Subsection 26-1.21 SFCC 1987 (being Ord. #2005-30(A), §50, as

1 amended) is amended to read:

2 **26-1.21. Eligibility of SFHP Buyers.**

3 A. The household income of an SFHP homebuyer shall not exceed the defined income
4 ranges as set forth in subsection 26-1.5 except as set forth in paragraph E. below.

5 B. The household income of an SFHP manufactured home lot buyer shall not exceed the
6 defined income ranges as set forth in subsection 26-1.5 for a 3-person household, regardless of the
7 household size of the SFHP buyer except as set forth in paragraph E. below.

8 C. SFHP homebuyers and SFHP manufactured home lot buyers shall also meet
9 additional eligibility criteria established in the administrative procedures.

10 D. ~~[A SFHP home may not be sold to a household which is smaller than the following~~
11 ~~household]~~ Household sizes are provided as a guideline for SFHP homes in the administrative
12 procedures unless the office of affordable housing approves in writing a smaller minimum household
13 size[.].

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]

14
15 E. An eligible buyer meeting the criteria of armed services veteran, emergency worker,
16 first responder, teacher or related educational employees in Santa Fe County whose household
17 income exceeds one hundred percent (100%) of area median income (AMI) but does not exceed one
18 hundred twenty percent (120%) of AMI shall be eligible to purchase an SFHP unit in income range 4.

19 (1) The status of the buyer as a veteran, emergency worker or first responder
20 ~~[shall be noted on the certificate of eligibility and]~~ shall be verified by the office of affordable
21 housing.

22 (2) The office of affordable housing shall maintain a list of occupations that

1 meet the requirement of emergency worker, first responder or essential worker, and the
2 verification of veteran status pursuant to administrative procedures. [~~which shall include:~~

3 (a) ~~Police officers;~~

4 (b) ~~Nurses;~~

5 (c) ~~Emergency medical technicians;~~

6 (d) ~~Firefighters;~~

7 (e) ~~Other health and safety workers whose services are crucial to~~
8 ~~community safety in an emergency situation; and~~

9 (f) ~~Teachers and related educational employees.]~~

10 (3) All other eligibility requirements shall apply.

11 **Section 10. Subsection 26-1.22 SFCC 1987 (being Ord. #2005-30(A), §51) is**
12 **amended to read:**

13 **26-1.22. Requirements for SFHP Rental Units**

14 A. The marketing, leasing and occupancy of an SFHP rental unit and SFHP
15 manufactured home lot that is rented shall conform to the criteria set forth in the administrative
16 procedures. Rental rates shall be in accordance with the rates set forth in subsection 26-1.24. SFHP
17 rental units shall be built to comply with the minimum size, unit type(s) and other structural
18 requirements set forth in subsection 26-1.25. The location of the SFHP rental units shall be approved
19 by the office of affordable housing. [~~The units or manufactured home lots shall be dispersed~~
20 ~~throughout the development; however, if multiple SFHP units or manufactured home lots are~~
21 ~~required, the units or manufactured home lots may be grouped provided that the groups are dispersed~~
22 ~~throughout the development.] The units or manufactured home lots shall have compatible exterior
23 architectural and landscaping appearance with other units in the development.~~

24 **Section 11. Subsection 26-1.24 SFCC 1987 (being Ord. #2005-30(A), §53, as**
25 **amended) is amended to read:**

1 **26-1.24. Determination of Affordable Rent.**

2 A. To ensure that rental rates do not exceed thirty percent (30%) of the monthly income
 3 for both rent and utilities for households in each applicable income range, the affordable rent for
 4 SFHP rental dwelling units [~~shall equal the rental rate,~~] is determined annually, based on HUD
 5 income limits, pursuant to the administrative procedutes [~~as set forth below. These rents include~~
 6 ~~utilities and shall be adjusted if utilities are provided separately~~].

7 B. Affordable rental rates shall be determined for each income range [~~as follows:~~]
 8 pursuant to the SFHP rental rate schedule in the administrative procedures. The required rental rates
 9 include utilities and shall be adjusted if utilities are provided separately.

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

10
 11 C. The affordable rent for manufactured home lots shall not exceed thirty percent (30%)
 12 of the affordable rent for a 3 bedroom dwelling unit for each applicable income range [~~as follows:~~],
 13 pursuant to SFHP rental rate schedule.

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

14
 15 D. Beginning in 2006 and every year thereafter, affordable rent and affordable
 16 manufactured home lot rent for each applicable income range shall be adjusted by the percentage
 17 change in area median income from the previous twelve (12) months, as per HUD's annual
 18 determination of income limits, and the office of affordable housing shall issue an updated schedule
 19 of affordable rents and affordable manufactured home lot rent for each applicable income range. The

1 office of affordable housing shall report to the governing body within thirty (30) days of adjusting
2 affordable rents and affordable manufactured home lot rent.

3 **Section 12. Subsection 26-1.28 SFCC 1987 (being Ord. #2005-30(A), §57, as**
4 **amended) is amended to read:**

5 **26-1.28. Allowed and Disallowed Uses of Subsidies.**

6 Prospective tenants who may be income eligible and have rent subsidy, such as a Section 8
7 Voucher, are eligible to rent a SFHP unit; however, under no circumstances shall rents in excess of
8 ~~[those allowed under the SFHP]~~ Fair Market Rent (FMR) as established annually by HUD, be
9 charged. Developers of SFHP rental units may use any type of capital development subsidy to
10 achieve the required rents.

11 **Section 13. Subsection 26-1.29 SFCC 1987 (being Ord. #2005-30(A), §58) is**
12 **amended to read:**

13 **26-1.29. Term of Compliance.**

14 Rental housing developments and manufactured home lot developments subject to SFHP (or
15 portions thereof completed and occupied at different times) shall maintain required occupancy and
16 rental rates in SFHP units for a period of ~~[(twenty-20)]~~ ten (10) years after the date of issuance of a
17 certificate of occupancy for the entire development or portions thereof. This requirement shall be
18 made applicable to successors in title, if any, by means of a deed restriction. (Ord. #2005-30(A), §58)

19 **Section 14. Subsection 26-1.30 SFCC 1987 (being Ord. #2005-30(A), §44, as amended)**
20 **is amended to read:**

21 **26-1.30. Monitoring by the City of SFHP Leases and Enforcement of**
22 **Agreements.**

23 SFHP agreements involving SFHP rental units shall provide for annual monitoring and
24 certification of leased SFHP rental units by the city or its agents, as set forth in the administrative
25 procedures. The city shall have the right to inspect and photocopy all accounting and occupancy

1 records with regard to any SFHP rental unit. It shall further have the right to contact and interview
2 any SFHP tenant with regard to compliance issues. Owners of SFHP rental units shall keep adequate
3 records of all payments of rent and data concerning tenants, in accordance with standard practices of
4 the rental housing industry. If disputes arise over what constitutes adequate record keeping, the city or
5 its agents under its SFHP agreement shall have the right to require owners to adopt financial and
6 information management practices that are recommended by a certified public accountant and/or
7 property management manuals published by the institute of real estate management. The city, or its
8 agents shall have access to all relevant financial and tenant information records during normal
9 business hours, upon providing verbal or written notice at least two (2) business days prior to a
10 proposed monitoring visit. Upon completion of this annual monitoring activity, the city, or its agents
11 shall certify that the property owner is in compliance with the SFHP agreement, or shall issue
12 findings of noncompliance. Upon findings of noncompliance with the SFHP agreement, the city, or
13 its agents shall issue orders for bringing the SFHP development into compliance. Such orders shall
14 give the property owner twelve (12) months to reach compliance, but may also require actions to
15 compensate for noncompliance. If a property owner willfully and continually refuses to comply with
16 SFHP agreements or related orders from the city, the city or its agents may invoke sanctions set forth
17 in subsection 26-1.19.

18 **Section 15. Subsection 26-1.31 SFCC 1987 (being Ord. #2005-30(A), §60) is**
19 **amended to read:**

20 **26-1.31. Simplified Compliance and Low-Income Housing Tax Credit Projects.**

21 Notwithstanding any other terms of SFHP or a SFHP agreement, if rental units in a SFHP
22 development have been awarded tax credits under the federal low-income housing tax credit program,
23 or have received substantial subsidy under another local, state or federal funding program that enables
24 the project to serve renters or meets other emerging needs as identified in the city's annual action plan
25 and approved by HUD, such units shall be deemed to comply with all tenant certification and rental

1 requirements of the SFHP program, so long as the project is in good standing with regard to the
2 monitoring standards of that program. For such projects in good standing, the only monitoring
3 required by the city shall be delivery to the office of affordable housing, within ten (10) days of
4 receipt, all copies of the monitoring agency's reports and correspondence with regard to compliance
5 monitoring.

6 **Section 16. Review.** This Ordinance shall be reviewed by the governing body one year
7 from the date of adoption and thereafter on an annual basis with particular attention given to
8 quantifying the economic benefits of this policy change.

9 APPROVED AS TO FORM:

10 
11 Kelley A. Brennan
12 KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

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25 *M/Melissa/2014 Bills/SFHP_Fees*

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

Short Title(s): AN ORDINANCE RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION 14-8.11 SFCC 1987 TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987 TO UPDATE THE LEGISLATIVE FINDINGS, TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE SFHP ORDINANCE.

Sponsor(s): Councilor Wurzburger
Reviewing Department(s): Housing and Community Development
Person Completing FIR: Alexandra Ladd Date: 1/13/14 Phone: 955-6346
Reviewed by City Attorney: Valley A. Deewan Date: 1/14/14
(Signature)
Reviewed by Finance Director: [Signature] Date: 1/15/14
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution.

The bill proposes to amend the SFHP ordinance so that the current affordability requirement of 20% for homeownership projects is made permanent. Other changes include: revising the percentage allotted to the designated income tiers, removing the shared equity requirement from the affordable housing lien agreements, making unit/household size and type agreements "guidelines" that are housed in the administrative procedures and removing the pricing/rental schedules from the ordinance to be made an attachment to the administrative procedures that is updated annually.

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
- 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 _____ _13/14_	"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.)

There is no fiscal impact or revenue generated from the proposed bill.

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.

This bill does not conflict with any City Code, approved ordinances or adopted policies. It includes sections of Chapter 26, the Santa Fe Homes Program (SFHP) and Chapter 14 that address the City's affordability requirement.

2. Consequences of Not Enacting This Bill/Resolution:

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

If the bill is not enacted, the current requirement of the SFHP for developers to provide 20% of their homeownership units at regulated prices to income qualified buyers will sunset on June 8, 2014 and revert to the original requirement of 30%. Another important outcome of this amendment is to remove the pricing/rental schedules, household/unit/size/type requirements from the code so that they are referenced in the administrative procedures and can more easily be kept current without having to do a code amendment.

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.

This bill is proposed concurrently with a bill proposed by Councilor Calvert that makes additional amendments to Chapter 26, allowing veterans to be considered "essential" for the purposes of income qualification. At some point, the two bills will need to become part of the same ordinance.

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 better align the City's regulation to current market and development realities. Santa Fe's overall economic health benefits from the vitality of the construction industry, not only through the production of affordable units, but also by the creation of jobs and generation of business for related professional services. Easing the requirement for SFHP may support the continued recovery of our local housing market.

Form adopted: 01/12/05; revised 8/24/05; 4/17/08

F. NEW BUSINESS

- 1. AN ORDINANCE RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION 14-8.11 SFCC 1987, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987, TO UPDATE THE LEGISLATIVE FINDINGS, TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENT WITH TWO THROUGH TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE SFHP ORDINANCE (COUNCILOR WURZBURGER). (ALEXANDRA LADD)**

A Memorandum dated December 20, 2013, with attachment, to the Planning Commission – January 9, 2014, from Alexandra Ladd, Special Projects Manager, Housing and Community Development Department, regarding *Amendments to the Santa Fe Homes Program (SFHP) – Chapter 14*, is incorporated herewith to these minutes as Exhibit "2."

The staff report was presented by Alexandra Ladd. Please see Exhibit "2" for specifics of this presentation. Ms. Ladd said she is asking for input and a recommendation from the Commission on the Ordinance, specifically Items #1 and #2 on page one of her Memorandum [Exhibit "2"].

Public Hearing

Speaking to the Request

There was no one speaking to this request.

The Public Testimony Portion of the Public Hearing Was Closed

Chair Spray asked Ms. Brennan if the Commission is being asked for a specific recommendation only for the two items in Section 1 and Section 2 of the Ordinance.

Ms. Brennan said, "It is correct Chair Spray that you have the jurisdiction to review changes, Ordinance Changes in Chapter 14, and to the extent this affects Chapter 14, those are the sections that you are reviewing.

The Commission commented and asked questions as follows:

- Commissioner Lindell said, referring to the chart on page 3 of 4, said in 2011, "we took the Tier 2... we were at 10% requirement on home sales and the change now is to make that 5%. Am I reading that right."

Ms. Ladd said, "Yes. I can explain the rationale behind that. When the 2011 amendment was made reducing the requirement from 30% to 20%, previously the 10% had been distributed across those

3 income ranges. In 2011, it was taken out of the highest, at that time, which was income Tier 4. They just struck out the 10% from there and left 10% in Tiers 2 and 3. But one of the things that is also in the Ordinance, is a sort of encouragement, an incentive for essential workers. So what City Council had decided was that it was very important to provide housing for the people who felt like they couldn't afford what they wanted in our community, teachers, police officers, firefighters. But many of them made too much money to qualify under the program. So what the City Council decided, and this was before 2011, was that those types of essential workers could earn more and buy the Tier 4 house, so they could earn in the Tier 5. But once the City struck the 10% out of Tier 4, that becomes sort of a moot point. There's no way to provide that incentive for them. So that was one rationale."

Ms. Ladd continued, "The other is that for homebuyers to qualify for many of the HUD down-payment assistance sources, CDBG and the Homes Program, as well as some of the programs that the MFA runs from the State level, is they can't earn more than 80%, so by striking the requirement out of Tier 4, these people can't qualify for a lot of the down-payment assistance either, because they earn just a little too much. But they still don't really earn enough to afford a market rate home. So the other part of that rationale was let's get some homes priced for them, so if they're not able to get down-payment assistance, they will still be able to buy a house in that income range."

- Commissioner Lindell said, "My inclination is to want to talk about going back to 30%, rather than the 20%, but this is.... We had a sunset of June 2014 on the amendment we're looking at, and now we're being asked to codify that permanently, correct."

Ms. Ladd said this is correct.

- Commissioner Lindell said, "I really hope the Commission makes a recommendation not to do that. Maybe we could look to extend this for a couple more years, but once we have codified those rates we've got them. That's it. And I think going back ends up... it's very, very hard for affordable housing with that. I think that 5% with the 50-65 ami which is the Area Average Median Income... I've worked in affordable housing for years, and it makes it very, very, very tough for those folks to have any consideration of buying a home. So a compromise position that I would propose on this is that we extend... is it an amendment that we have at this point... what was it before that we had."

Ms. Ladd said it was an Ordinance, but it had a sunset date in it.

- Commissioner Lindell said, "I would ask that we would extend the sunset date on that Ordinance and watch over the next couple years to see what happens with the market, because, I think to make this permanent.... I think that it's a mistake and I don't think we know in the next couple years where the market's going to end up. I know things are moving in the right direction right now, but I also know that when people are in that 50-65 ami, that's a very, very tough income range to purchase a home."

- Commissioner Harris said, "I just had a couple of specific questions. I was not part of the Commission in working on this previously, and I find it somewhat complex, it's hard to follow."

Ms. Ladd said, "I find it complex."

- Commissioner Harris said, "My instinct is to go with the 10%. I think that we have still a relatively flat market, and I think that 20%.... I always have a hard time sorting out exactly who pays for this. What's your experience Ms. Ladd."

Ms. Ladd said, "The private developer subsidizes the units that they provide."

- Commissioner Harris said, "In most peoples' understanding, it's really coming out of the developer's pocket. Is that what you think."

Ms. Ladd said yes, and there are other subsidy sources layered on top of that.

- Mr. Harris said, "Just reading through this I know there's a mix there. Granted, it is dependent upon the market place, but it seems to me most likely..... and you have to understand that I've been part of the business, although I haven't really developed property for 10 years. The last development we did was 22 units on an acre, so it was very dense and we had an average sale price of around \$200,000, but that preceded these requirements. But my own experience is, if the market place will bear it, that the subsidy essentially would go to, in this 80%... or it would have to be drawn from the housing prices in the other 70-80%, if the market will bear it. I don't know if the market will bear it right now, quite frankly, and to me, that's an argument for extending it to 20%. If we had a much better market, and the people I've talked to have said it's not terribly robust out there, then perhaps it's appropriate to increase it knowing that most likely the developer is going to try to spread that subsidy of 20-30% to the remaining buyers. In fact, I think that's really how it works. That's, quite frankly, what I would try to do if I were to develop a property under this rule."

Ms. Ladd said, "I did a lot of research on what inclusionary zoning programs looked like in other communities. And the community is aware a 30% requirement works. Our community does not support super, super high density development, and have very high values, so San Francisco is a good example. And it's so hard to know, because this program was adopted at the 30% and then, virtually two years later, the market pretty much crashed for everything. So I would never venture a guess as to what the effect on either of those things was. I do know that if you were looking at it objectively, we don't really support the kind of density here that makes the 30% super, super easy to do. And I've talked to a lot of the local development community and even the nonprofits, and the 20% number sort of anecdotally works for everybody in a way that the 30% number also anecdotally did not. For what that's worth."

- Commissioner Harris said, "That's kind of my instinct too, but again, I haven't run any numbers on any *pro forma* associated with development, but I think it would be a hard, difficult problem. On

page 11, there is a reference back to Chapter 14, 14-8.11(G)(2), and I copied that and forgot to bring it. But basically, I'm sure Ms. Baer probably knows what I'm referring to. This reference allows for a 15% increase in density. Correct."

[STENOGRAPHER'S NOTE: There was no audible response to the Commissioner's question, but someone seemed to indicate he is correct.]

- Commissioner Harris continued, "Describe to me how that would work. So let's just say we have a situation at the 20%, that's today's mark, and then, please explain how would that work.

Ms. Baer said, "If someone wants to increase their density over the base zoning it allows, then they can go 15% higher as long as they provide those extra units in compliance with the Santa Fe Homes Program."

- Commissioner Harris said, "So the extra units... does that mean.... but still you're at a 20% mark."

Ms. Baer said, "No. That's in addition to the 20% or whatever it is previously that required, as a baseline, if you want to add density over what would normally be allowed, then you have to make those additional units also in compliance."

- Commissioner Harris said, "So, if you had a 10 unit subdivision, zoned appropriately, and you're working against the 20% mark, today's number, but the increased density, the 15%, and I realize point five rounds up and things like that, but those additional units, 15% or however many there are, have to be part of the affordable housing program. Is that what it says."

Ms. Baer said, "That's correct, unless it's a portion of a unit and then you can pay the fee on the portion."

- Commissioner Harris said, "Quite frankly, I looked at it with a developer's frame of reference and thought well, there's a tradeoff. It's not necessarily an incentive to go ahead and develop that property, but there is a tradeoff to the costs associated with meeting the 10% affordable. That's what I took it, but it seems like I misinterpreted that a bit, because you're still providing those extra units at below market rate."

Ms. Baer said that's correct.

- Commissioner Lindell said, "So let's take Commissioner Harris's example of 10 units.... so let's go back to Commissioner Harris's example of 10 units, so they would have to provide 2 units as affordable units. Correct."

Ms. Baer said, "Currently, if you're going up to 10 units you actually don't have to do that. That's the current regulation, because the number is so few. If you used 100 units, that's a good example. So you have 100 units you're allowed under whatever the density is, and then you would have to provide 20 that were within the program."

- Commissioner Lindell said, "What about my 15 units that fall into my bonus category. My extra density category. Can those all just be regular market units."

Ms. Baer said, "No, those also have to be in compliance with the Santa Fe Homes Program."

- Commissioner Lindell said, "Then every one of those has to be affordable."

Ms. Baer said, "Yes, and I would defer to Ms. Ladd to explain how the various tiers work, because that's beyond me."

- Commissioner Lindell said, "I do know how that works. My point is this. I'm not opposed to the 20%. I have no opposition to that whatsoever. What I'm opposed to, is changing within the Ordinance how the percentages are broken down within the different ami's. That's my opposition to this. I'm perfectly willing to extend what we already have, but I really don't want to make it permanent, and I really don't want to make the change to, particularly in the 50-65% ami, to take that down to 5%. Thank you."

- Chair Spray said, "On page 2 of your presentation, the second paragraph had a nice breakdown of the pro-active and integrative approach to affordable housing. I'd like to ask a couple of questions about that to give me some context in working with that. We've got 3,300 affordable homes that have been made available, as I'm reading from that. About 1/3 of that, 1,150, were built in Tierra Contenta. That's accurate, right."

Ms. Ladd said yes.

- Chair Spray asked, "Can you elaborate for me a little bit on the 390 homes that were built as the result of annexation agreements and other negotiations."

Ms. Ladd said, "The first example, or the most obvious example is Nava Adé, and that happened before HOP, the inclusionary zoning program. And there have been a couple of others, but I can't think of the names off the top of my head. I can look that up for you if you want to know what the other ones were. There aren't too many, but they are big enough that they resulted in a number of units."

- Chair Spray said, "I am curious as to how the law works with the HOP and the Homes Program, which we talk about in some of the next lines here. 540 homes were priced affordably because of City incentives. Were they sold. I don't know what does that mean exactly, 540 homes were priced..."

Ms. Ladd said, "That refers to the Type A and Type B for the HOP Program. So those were developments where the developer agreed to keep the sales prices at a certain level. So, for the Type A's, they got all the incentives because they were basically affordably priced, so they got all

of the qualifying incentives. For a Type B, they didn't have to provide any housing and they got a limited number of the incentives. The idea was the market creating the affordable housing without the regulations."

- Chair Spray said, "Then approximately 90 homes were built in compliance with HOP's regulations. How is that different."

Ms. Ladd said, "That is the percentage requirement of HOP. HOP is a little complicated in that there were 4 tiers of development. So the developer would come in, propose their project, and according to the proposed price of the homes, they were either a Type A, Type B, Type C, or Type D. Type D being the super high end project and C being highish and then B being medium market priced, and A being actually at an affordable level. For a type C development, the developer provided 11% of the units at an affordable price and the price was affordable to.... they averaged them over the affordable units so buyers earning 65% of area ami were served through HOP. And for the Type D development, the developer provided 16% affordably priced units."

- Chair Spray said, "Then the 1,000 multi-family homes, that's apartments."

Ms. Ladd said, "Yes, and that's mostly low income housing tax credits."

- Chair Spray said, "And those were built for renters with low and moderate incomes. Was that the result of the SFHP."

Ms. Ladd said, "No. Low income housing tax credit projects aren't subject [to this requirement]."

- Chair Spray said, "Okay, so that was part of that. The one thing I'm seeing from the project is 27 homes were sold as required. I don't want to say that's it, but that is it."

Ms. Ladd said, "Yes. A chunk of it are the homes that the Santa Fe Community Housing Trust built for the senior co-housing project on Cerrillos, there was sort of a big chunk of that."

- Chair Spray said, "Out of all this stuff, and all this effort and all this political energy expended to that, that's what we have. That's all we got from that."

Ms. Ladd said, "Yes. We still have Cen-Tex providing some homes through the program, and I think their requirement is actually from their annexation agreement. There's a couple of small projects off Lopez Lane, Casa Bonitas, so there are a few, and they are moving forward."

- Chair Spray said, "There are FHP requirements as part of that, and they'll build some more out of that. This is my opinion, of course, but there's not an overwhelming number. And it would appear that the market has adjusted appropriately, because we all remember what it was a few years ago. The market has made the adjustment and has provided, I assume, that other level of affordable housing."

Ms. Ladd said, "It's so hard to know exactly what is going on, because of what happened in the market, and the Land Use staff can verify this. The number of building permits for single family homes just pretty much dropped off the map over the last few years. People were accessing housing in different ways, and then suddenly houses that people wouldn't have been on the buy for before, they could afford. And a lot of that had to do with what was going on with short sales and foreclosure."

- Chair Spray said, "There is complexity in the law itself, but I think it relates to the efficacy of the entire effort as well. There's so many pieces here from different areas, some of which were done in counting the 3,300 without this at all, whether you sunset it or whatever you do with it..... whatever percentage Commissioner Lindell talks about. I just don't think.... those are very surprising to me."

Ms. Ladd said, "We usually talk about affordable housing in the way that there is a toolbox to achieve affordability, because you can have a home that's priced affordably, but if your home buyer is not trained and doesn't have down payment assistance to buy down their mortgage, then they get into an unaffordable payment. So you're sort of looking at it from a lot of different ways."

- Chair Spray said, "As you know, I was a former Chair of the Affordable Housing Roundtable, and I am familiar with those issues, but this is a great opportunity to be able to look at it, and I thank you for doing that and for shedding some light on that."

Ms. Baer said, "I need to correct a comment I just made, because I'm looking at the specific language in the Code. Chapter 14 doesn't specify that the additional 15% need to be within the affordable homes program. So, since we don't administer that program, it's not something we typically calculate. We just calculate the number of housing you can build. So I would ask Ms. Ladd to clarify whether that additional 15% bonus has to comply or doesn't."

- Chair Spray asked Ms. Ladd to comment.

Ms. Ladd said, "Since I've started in this job, I don't think we've had a single situation where anyone has gotten that far and actually wanted the density bonus. I can't think of a good example of where the density bonus was utilized. In the past, usually the developer was given quite a bit of flexibility in terms of how those units were priced, and they were always encouraged to throw in an affordable unit, and I think for the most part, there was willingness to do that. I would have to go back through the files to try to find one."

Mr. O'Reilly said, "I don't believe in the past, the density bonus was ever applied in a way that required all of the density to comply with the Ordinance. Speaking from personal experience working in the private sector, there were people in the past in Ms. Ladd's position long ago, who would do a new calculation as to the total density and then take 20% of that total. So if the density allowed 100, they would go to 115 and then take 20% of the 115, and that's how they did that. I also seem to remember a time when they would calculate the 20% or 30% or whatever based on the 100 and then the 15% density bonus could be anything the developer wanted."

Mr. O'Reilly continued, "In the original days of the inclusionary zoning ordinance, almost 20 years ago, the intent of the density bonus was to offset losses the developer might take in having to provide houses at the low market rate. And so the idea that all of that bonus be used to provide 100% affordable houses, would have been in conflict with that. That's why I say, we're not exactly sure how the affordable housing office has applied this specifically in the past, but I cannot recall a density bonus where the entire bonus had to be used for the affordable program."

- Commissioner Harris said, "I am relieved to hear there seems to be quite a bit more flexibility, and maybe it's worth it, not necessarily now, to have a discussion of Chapter 14 to say how that percentage can be used. To me, it's a tradeoff. And as you said, 20 years ago the thinking was that there are costs to the developer associated with this and the density increase is a trade-off. To my way of thinking, I think it should be a 20% increase. If there's a 20% requirement for affordable housing, then I would think it would be worth consideration for a 20% increase. And I realize there are problems with that by the time you meet parking, streets, landscaping.... it would be hard to achieve. I am glad to hear that all of the percentage isn't going to a certain program. Quite frankly, I think it should go to the market place overall."

Mr. O'Reilly said, "We are at a disadvantage because the staff who were here when the original ordinance was created aren't here any more. The original inclusionary zoning ordinance had two tiers at 11% and then 17%. And I believe that the 15% density bonus was a holdover from the time when the requirements were even lower than they are now, and that's why they picked that number which was between the 11% and 17% when the Ordinance came into being. That is the ordinance which was amended in 2005 when we went to 30%"

- Commissioner Lindell said, "It is my understanding that there is a 15% density bonus that can be built at market rate. Secondly, on the affordable unit, there is consideration on those units in terms of fees. Is that not correct?"

Mr. O'Reilly asked, "Were you asking if fees are waived for the affordable units?"

- Commissioner Lindell said yes.

Mr. O'Reilly said, "Oh yes indeed. For any affordable units there are waivers of all kinds of fees, starting at the development approval level through building permit, utility expansion charges, impact fees. All of those things are either waived or reduced for affordable units."

- Commissioner Harris said, "I noticed this as well, but the reduction in impact fees or the whole fee structure is applicable only to the affordable units. Correct."

Mr. O'Reilly said, "This is correct. Taking the example of the 100 units. If the development application fee for 100 unit subdivision was \$20,000 and 20% of it had to be affordable, we would charge the \$20,000 minus 20% – we would subtract \$4,000 from that. And then it moves on from there when you get into other fees, and utility expansion charges, all of which are reduced or waived completely for affordable units."

- Commissioner Harris said, "In closing, I also was struck by the paragraph referenced by Chair Spray, and I'm glad he walked you through this Ms. Ladd. What it seems to say... and I realize there is a toolbox.... but what it seems to say that is this whole program hasn't necessarily worked that well. That would be my take. If it only ended up with 27 homes. To me, it's a very generous program. There are other incentives for the homebuyer. They get a little of the 5% of equity on the 95% appraised value, and they can do upgrades to the tune of \$5,000. There are a number of things in there that really incentivize the potential buyer. And I have to wonder if there are some real structural problems in the Ordinance so that it doesn't deliver the results people expected that it would."

Ms. Ladd said, "This is my opinion, but I think that the non-profits who are creating our affordable buyers for the most part, in order to be eligible for most of our subsidy sources, the buyers have to go through those programs, including a private developer who builds affordably priced homes. Their buyers need to be certified through the non-profits as well. I think what happens is that the non-profits steer the buyers toward the housing they are building, understandably so, and most of those houses have been in Tierra Contenta, so the 27 units are not all the production since the Ordinance was passed. There is a force moving buyers away from the SF Homes Program homes which haven't been created."

- Commissioner Lindell said, "Having worked in affordable housing, there are many more than 27 homes that were sold. And however the numbers are broken down or wherever that 27 comes from, what I do know personally is that there were more than 27 houses sold through that program. I personally in 5 years sold more than 150. So whatever the source, certainly Cen-Tex participated in that program and a lot were sold through that program. Homewise is building their own homes, and most of their homes fall within that. And as Ms. Ladd was saying, those may not be reflected, but it is a lot more than 27 homes. And even if it was only 27 homes, there still are 27 families that got a home that never thought they would have a home, and each home is a major, major victory for the City."
- Chair Spray said, "There may be some confusion on how those are counted, what is part of the program and what is the efficacy of the program. I would agree with those 27 folks it would be great. Perhaps, it would have been easier simply to cut them a check to be able to do that, and not have to do that, and they might have qualified in a different way. "

Ms. Ladd said, "I just wanted to clarify that for most of the Cen-Tex homes, those properties were brought into the annexation agreements from years and years and years ago. So, to say that the Santa Fe Homes Program hasn't had any influence on those, I probably shouldn't have represented it that way, although that is the way the data is tracked, because we take the SF Homes Program requirements and put them on top of what the original annexation agreement said. So yes, the Santa Fe Homes Program is creating that affordability, but the requirement came from something else, if that makes any sense."

- Commissioner Villarreal asked Ms. Ladd to explain the process to get input on the Ordinance, noting Ms. Ladd says, "Local builders, developers and housing advocates concur with their discussion. How did you all facilitate that process."

Ms. Ladd said, "We did a big focus group meeting last March, to just toss it out there and say what do you guys think. And the rest of the input was less formal than that, based pretty much on me having conversations. And Council Wurzbarger feels very strongly about this, and she's pretty hooked in with that community. And I sent the proposed changes in draft form to many of the non-profit advocates and developers to ask if there are any red flags and how does this look. And I got pretty much universally positive feedback to that."

- Commissioner Villarreal said, "When you're talking about housing advocates, you're talking about the non-profits that provide affordable housing options, not necessarily the general public, like what anyone would think about that if it were to change. Did you have any kind of general public input as well?"

Ms. Ladd said, "Other than advertising the forum as a public meeting, we did not have specific public input, but as you can see, we are going to four other committees."

- Commissioner Villarreal said, "I was thinking about the paragraph that Chair Spray was talking about, the breakdown. Since the 1990's I think about how many people since the 1990's have actually moved away from Santa Fe to live somewhere else, to be able to live affordably, and then have to commute to Santa Fe. It would be interesting to find out that number in comparison to the number which was provided for affordable housing. I do agree with my colleague, Commissioner Lindell, about maybe not looking at the permanency factor tonight. And I would be open to looking at an amendment if possible."

- Chair Spray said there is nothing to amend at this time.

- Commissioner Villarreal said she is speaking of another option.

Ms. Baer said, "What's interesting about the density bonus is that in the places where it works, where you see it working, is in cities where you get the density by going vertical. And you simply can't do that in Santa Fe and that's why we don't see it more often."

MOTION: Commissioner Lindell moved, seconded by Commissioner Villarreal, that this Commission recommend to the City Council, with respect to Item #1 of Action Requested, to recommend to the City Council to leave the Ordinance as it currently stands, and extend the sunset period another two years to 2016; and with respect to Item #2 of Action Requested, to recommend approval to the City Council to clarify applicability to specify conversion from commercial uses to residential is also subject to SFHP (Chapter 14-8.11(D))."

CLARIFICATION OF MOTION BY CITY ATTORNEY BRENNAN. Ms. Brennan said, "As I understand, the motion, it is to basically extend the Sunset provision and keep it the way it is. But when you say include the second point, do you mean recommend approval of that provision."

Commissioner Lindell and Villarreal said, "Yes."

DISCUSSION: Commissioner Schackel-Bordegary said, "I'll try, I'll stumble through this. This is admittedly one of the more complex areas of planning. And this is a planning issue, because it is difficult to quantify the results of the individual tools within the tool box, and leaves it to policymaking bodies to decide which tool to sharpen, which to throw in the basement, and which to pull out. And I guess I'm definitely in a quandary about this because I, first of all, feel I don't fully understand it. But I understand the bigger picture, that shows on the one hand..... and I'm inclined to go with more tools and more strength in encouraging a desired result which is affordable housing. And Lord knows that's the number one issue in this town, and goes hand in hand with livable and meaningful employment. We don't solve one without also working on the other. So I tend to want to be more pragmatic in expanding chances for more affordable housing."

Commissioner Schackel-Bordegary continued, "That said, it is difficult to quantify and tease out what has led to the affordable housing we have now in Santa Fe, and what didn't lead to more now. On the other hand, I also believe in symbolism, and the fact that Santa Fe had one of the first inclusionary zoning ordinances in the country and what we've learned over the past 20 years. Although, obviously, we still don't really know. We can tinker with things, and it resonates with me that in Santa Fe, in this stage and particularly at this time with our economy, we're slogging along. Some improvements in some markets, not these markets. The higher end markets. That we would not make that statement, in this year, 2014, maybe in 2016, to reduce the requirement from 30% to 20%. I don't know, but those are two sides of this issue.

Commissioner Schackel-Bordegary continued, "And I can appreciate the expertise and knowledge of both Commissioners who have spoken on this. Commissioner Harris from the building private sector side, and Commissioner Lindell who has helped people get into homes and who knows how that particular area works. So I would like to hear from the rest of the Commission where we see this right now in our community. Thank you."

Chair Spray asked Ms. Brennan if the motion on the floor is appropriate, and if she heard what he said.

Ms. Brennan said, "Yes. If your question is, is the motion appropriate to extend the sunset, yes, as a recommendation. You're being asked to evaluate this portion of the Ordinance."

CLARIFICATION OF REQUESTED ACTION: Chair Spray said, "As I understand it, a yes vote on this motion means that we are asking that the 20% threshold be kept in place through June 2016, and that we recommend approving the clarification of the applicability of specific conversion from commercial uses to residential."

VOTE: The motion was approved on the following Roll Call vote:

For: Commissioners Villarreal, Lindell, Ortiz and Pava.

Against: Commissioners Harris and Schackel Bordegary.

[4-2]

2. **CASE #2013-119. LOT 6A, PLAZA LA PRENSA, SOUTHWEST BUSINESS PARK FINAL SUBDIVISION PLAT. JAMES W. SIEBERT AND ASSOCIATES, INC., AGENTS FOR CARMEL LLC, FINAL LLC, SF SOUTH LLC, AND STATE PROPERTIES OF NM LLC, REQUEST FINAL SUBDIVISION PLAT APPROVAL FOR 3 LOTS ON 6.54± ACRES, LOCATED AT 37 PLAZA LA PRENSA. THE PROPERTY IS ZONED BIP (BUSINESS INDUSTRIAL PARK) AND IS LOCATED WITHIN THE PHASE 2 ANNEXATION AREA. (TAMARA BAER, CASE MANAGER)**

A Memorandum, with attachments, prepared December 30, 2013, for the meeting of January 9, 2014, is incorporated herewith to these minutes as Exhibit "3."

An aerial photograph and photographs of the site, presented for the record by Jim Siebert, are incorporated collectively herewith to these minutes as Exhibit "4."

Recommendation: The Land Use Department recommends Approval with conditions as outlined in this report [Exhibit "3."]

Tamara Baer presented information in this case. Please see Exhibit "3," for specifics of this presentation.

Public Hearing

Presentation by the Applicant

Jim Siebert, 915 Mercer, Agent for the owner was sworn. Mr. Siebert said, "Just to give you a little history. If you recall, on this project there are 3 existing buildings on this property now. And what we are doing is dividing those 3 buildings into 3 lots to allow for the future sale to the individual governmental entities that either are in there now or could be in the future."

Mr. Siebert handed out some exhibits [Exhibit "4"].

Mr. Siebert said, "We are asking for consideration of the one condition that says the homes must be site built. And we have no objections, and in fact the covenants already provide that manufactured homes are not permitted. We would like the opportunity to provide modular homes on the site, because modular homes in this particular area are not that uncommon. What we have done is to show where there are actually existing mobile homes adjoining this particular residential subdivision. Now some of these mobile homes are on permanent foundations, some are not, but I think what we are trying to inform you is that modular units would be in keeping in the residential character of the area."

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 02/12/14
ITEM FROM FINANCE COMMITTEE MEETING OF 02/03/14

ISSUE:

22. Santa Fe Homes Program. (Alexandra Ladd)

A. Request for Approval of An Ordinance Relating to the City of Santa Fe Housing Code, chapter 26, SFCC 1987; Amending Subsection 26-1.21 to Include Veterans in the List of Professions to Qualify for Expanded Eligibility Standards for Santa Fe Homes Program (SFHP) Homes. (Councilors Calvert and Bushee) (Alexandra Ladd)

Committee Review:

Public Works Committee (approved)	01/06/14
Finance Committee (no quorum)	01/21/14
City Council (request to publish)	01/29/14
City Council (public hearing)	02/26/14

Fiscal Impact – No

B. Request for Approval of an Ordinance Relating to the Santa Fe Homes Program ("SFHP"); Amending Section 14-8.11 SFCC 1987 to Make Permanent the Current Percentage Requirements of the SFHP; Amending Section 26-1 SFCC 1987 to Update the Legislative Findings, to Establish the Schedule for Payments in Lieu of Constructing Units for SFHP Developments With Two Through Ten Total Units, to Make Permanent the Current Percentage Requirements of the SFHP and to make Various Changes to the SFHP Ordinance. (Councilor Wurzburger) (Alexandra Ladd)

Committee Review:

Planning Commission (approved)	01/09/14
Community Development Commission (no quorum)	01/15/14
Finance Committee (no quorum)	01/21/14
City Council (request to publish)	01/29/14
Public Works Committee (scheduled)	02/10/14
City Council (public hearing)	02/26/14

Fiscal Impact – No

FINANCE COMMITTEE ACTION: APPROVED AS DISCUSSION ITEM

SPECIAL CONDITIONS OR AMENDMENTS

Add Councilors Ives and Dimas as co-sponsors to item A.

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR BUSHEE	X		
COUNCILOR CALVERT	Excused		
COUNCILOR DIMAS	X		
COUNCILOR IVES	X		
CHAIRPERSON DOMINGUEZ			

22. SANTA FE HOMES PROGRAM. (ALEXANDRA LADD)

- B. REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION 14-8.11 SFCC 1987, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987, TO UPDATE THE LEGISLATIVE FINDINGS TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE SFHP ORDINANCE (COUNCILOR WURZBURGER). (ALEXANDRA LADD) Committee Review: Planning Commission (approved) 01/09/14; Community Development Commission (no quorum) 01/15/14; Finance Committee (no quorum) 01/21/14; City Council (request to publish) 01/29/14; Public Works Committee (scheduled) 02/10/14; and City Council (public hearing) 02/26/14. Fiscal Impact – No.**

Councilor Bushee asked if there are any real issues, and asked when we can consider going back to 30% as a requirement.

Ms. Ladd said, "The quick summary is removing the sunset date and keeping the 20% permanent. That's the big thing. There are a couple of smaller items. One of the other items the sponsor wanted to change was not requiring homebuyers with an affordability lien also to have a shared appreciation agreement with the City. That's the other policy issue, I think. And yes, just lots of little cleanups and trying to make the Ordinance itself a little more clean cut and less bogged down with details that have to be updated all the time anyway."

Responding to Councilor Bushee, Mr. Ladd said, "We sent out the redline to all of the local advocates and developers, not all the developers, but the ones that I've worked with. Last March we did a forum, a focus group with all of those groups, and had developers representatives, private sector planners, the non-profits and advocate groups, all sat and talked about some of these things. They were instrumental on the front end and then they've all see the redline to the Ordinance changes."

Councilor Bushee asked if there is a report from that forum and if the Affordable Housing Roundtable still exists.

Ms. Ladd staff wrote up notes and she can provide those. She said the Roundtable still exists, it's inactive, it hasn't met. Responding to Councilor Bushee, Ms. Ladd said the City never funded the Roundtable.

Councilor Bushee said we funded staffing.

Ms. Ladd we provided funding to the Roundtable to disburse for affordable housing projects. We provided funding to Enterprise which did a lot of other work and they did staff it for us. She said they met once a month.

Councilor Bushee asked why it is inactive.

Mr. Ladd said there was a lot of divisiveness in that interim when she wasn't at the City, and there was turnover. She said there wasn't a cohesive vision at that time that held the groups together, and the City had given the Roundtable the ability to disburse funds to support programs and that stopped happening.

Councilor Bushee asked if staff is doing that now.

Ms. Ladd said, "We've been limited mostly to just the General Fund administrative contracts. This funding cycle we're doing a disbursement from the Affordable Housing Trust Fund. We're looking at about \$400,000 for the allocation."

Councilor Bushee said the Planning Commission wants to extend the sunset for 2 years, rather than have a permanent threshold of a 20% retirement. She asked if anybody on the Planning Commission advocated for the 30% requirement to come back.

Ms. Ladd said, "No. I've done a lot of research on inclusionary zoning programs, and the 30% requirement is one of the highest nationwide. It works in very high value, very high density markets – Manhattan, San Francisco, Chicago – and that's because you can achieve a density of 60 units per acre because you are going up. And in Santa Fe, we can never achieve those kinds of densities."

Councilor Bushee asked if we are getting fees in lieu mostly instead of the 30%.

Ms. Ladd said, "It's really hard to say because we've had so little development in the time period since both the original Santa Fe Homes Programs Ordinance was passed and then the amendments were made, so it's kind of hard to say – is a chicken or an egg thing. Is it the market crashing. Yes, obviously, that wasn't related to anything going on here. That was major world."

Councilor Bushee said it seems as if the down-payment assistance effort has dwindled as well.

Ms. Ladd said, "That would not be true. Because last year we allocated \$800,000 of Capital Improvement Program money for down-payment assistance. Every funding cycle with the CDBG money, we do usually \$200,000. This year, we'll do probably about \$400,000 between the CDBG funding allocation and the Affordable Housing Trust Fund."

Councilor Bushee said then the money is available, and asked, "If people are availing themselves of the fund."

Ms. Ladd said, "Absolutely. How we do it is we make the non-profits get it and then they allocate it to the buyers in the pipeline. And they go through their down-payment assistance sometimes by December they've used it all, plus they've accessed other sources as well."

Councilor Bushee said if the general trend is to stay at the 20%, "why do you think the Planning Commission just wanted to do it for two more years.

Ms. Ladd said, "I think what was expressed was uncertainty about... the probability that once you make it 20%, you're probably never going to get it back to 30%, so there was an unwillingness to make that commitment at this point in time. Two years may not be a long enough extension, because for a larger scale development, two years is not.... it can take two years just to get all the paperwork done."

Councilor Bushee said perhaps 30% was prohibitive, or perhaps two more years will tell us that.

Ms. Ladd said the administrative procedures will come to this Committee at the next meeting. One of the things they're doing is to make them more flexible and the process more open, so there is a clear-cut methodology for figuring out, for example, what the fee in lieu would be, and when that fee would be accepted in lieu of providing units. She said when the program was written, development was going gangbusters and there was a thought not to make it easy for people to pay a fee, we wanted them to build the homes. To some extent, this is always our objective. All of the successful inclusionary zoning programs all have flexibility built into them as well as incentives. We do the density bonus and the fee waivers and we can keep working to make it fit different kinds of projects.

Responding to Councilor Bushee, Ms. Ladd said the County may have suspended its requirement temporarily.

Ms. Ladd said there is a table in the Memo. She said when the requirement was reduced from 30% to 20%, there were 3 income tiers served. When it was reduced they took the 10% out of the highest income tier because the market was serving those homebuyers. She said the amendment redistributes the requirement for those over the 80% ami who now can't qualify for HUD mortgage products. She said home prices are increasing, so people can almost afford it, but they can't qualify for the 80% and below. The other was a provision to support essential workers and allowing them, if they were earning above the 100%, to buy a home in that 80-100% income range. When we eliminated that range, we eliminated that intended benefit for those workers, so it seemed to make sense to restore that income tier.

Councilor Bushee asked when we will re-preview this procedure.

Ms. Ladd said it is reviewed annually, noting the home prices will change slightly. There is also a section about the Governing Body reviewing the methodology for determining the way the home sales prices are calculated every two years. Section 16 provides the Ordinance will be reviewed by the Governing Body one year from the date of adoption, and thereafter on an annual basis.

Councilor Ives asked the impact of this on what Tierra Contenta is doing.

Ms. Ladd said it won't impact Tierra Contenta at all because it has its own program that is not administered by the City.

MOTION: Councilor Ives moved, seconded by Councilor Dimas, to approve this request.

DISCUSSION: Councilor Bushee talked about what happened in the past with the 30%.

Ms. Ladd said there was a non-profit developer and non-profits had access to much more funding in the past.

Chair Dominguez asked where the \$29,400 figure come from.

Ms. Ladd said that is the income figure that HUD sets every year.

Chair Dominguez said he has heard of a hybrid figure because of a high migrant population and seasonal works, and he would like to see that data. However, we don't have enough of a trend at this point.

Ms. Ladd said that may be happening in California.

VOTE: The motion was approved on a voice vote, with Councilor Bushee not casting a vote.

23. **REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE SINGLE-USE BAG ORDINANCE, SECTION 21-8 SFCC 1987; AMENDING SUBSECTION 21-8.1, TO MODIFY THE LEGISLATIVE FINDINGS RELATED TO PAPER GROCERY BAGS; AND AMENDING SUBSECTION 21-8.4 TO ELIMINATE THE REQUIREMENT THAT RETAIL ESTABLISHMENTS COLLECT A PAPER GROCERY BAG CHARGE OF NOT LESS THAN TEN CENTS FOR EACH PAPER GROCERY BAG PROVIDED TO CUSTOMERS (COUNCILORS WURZBURGER AND BUSHEE AND IVES). (LAWRENCE GARCIA) 01/21/14; Finance Committee (no quorum) 01/21/14; City Council (request to publish) 01/29/14; Public Utilities Committee (scheduled) 02/05/14; City Business and Quality of Life Committee (rescheduled) 02/18/14; and City Council (public hearing) 02/26/14. Financial Impact – No.**

Councilor Bushee asked if a 6 month review would be better than a year.

Kelley Brennan said, "I believe that Cindy felt the data would need more time to develop, that the period provided was probably a reasonable period, which is not to say that there won't be study about other possibilities to reach that goal. I think in understanding that we were making a change here, we also made a commitment to try to pursue other ways to create incentives to accomplish that end in the interim.

Councilor Ives asked to be added as a cosponsor.

MOTION: Councilor Bushee moved, seconded by Councilor Dimas, to approve this request.

VOTE: The motion was approved unanimously on a voice vote.

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, FEBRUARY 10, 2014**

ITEM 18-A

SANTA FE HOMES PROGRAM (COUNCILOR WURZBURGER) (ALEXANDRA LADD)

- a) REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION 14-8.11 SFCC 1987 TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987 TO UPDATE THE LEGISLATIVE FINDINGS, TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE SFHP ORDINANCE

PUBLIC WORKS COMMITTEE ACTION: Approved

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP: Staff to clarify matters made by Councilor Calvert

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON WURZBURGER	Excused		
COUNCILOR CALVERT, Acting Chair	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	Excused		

Councilor Ives thought it might come under some dispute. He asked Mr. Shandler to look at when infringement would occur and flesh that section out before Council.

Councilor Ives moved to approve the request. Councilor Rivera seconded the motion.

Councilor Calvert proposed an amendment on page 4, line 3, after "A", to insert, "police officer may ask the performer to leave the location if he is in violation of this subsection, however, a..."

Councilor Ives thought "exhausted" was pretty strong language and asked if they wanted an officer to spend that much time. He suggested to soften it to say "to a reasonable length of time" maybe.

The motion and second with Councilor Calvert's amendment regarding language being looked at passed by unanimous voice vote.

18. SANTA FE HOMES PROGRAM (COUNCILOR WURZBURGER) (ALEXANDRA LADD)

- a) **REQUEST FOR APPROVAL OF AN ORDINANCE RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION 14-8.11 SFCC 1987 TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987 TO UPDATE THE LEGISLATIVE FINDINGS, TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE SFHP ORDINANCE.**

Committee Review:

Planning Commission (Approved)	01/09/14
Community Development Commission (No quorum)	01/15/14
Finance Committee (No quorum)	01/21/14
Council (Request to Publish)	01/29/14
Finance Committee (Approved)	02/03/14
Council (Public Hearing)	02/26/14

- b) **REQUEST FOR APPROVAL OF A RESOLUTION AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES PROGRAM ("SFHP") TO REFLECT THE AMENDMENTS APPROVED BY ORDINANCE 2014-__**

Committee Review:

Finance Committee (Scheduled)	02/17/14
Council (Scheduled)	02/26/14

Councilor Calvert said this would make the 20% threshold requirement permanent. He had to side with the Planning Commission. Until now the reason for doing this was to stimulate the construction industry. If it was permanent, it was no longer an incentive. He understood some of the reasons to make it 20% but if they were using it to stimulate the local construction industry they could extend it for a couple of years and still give them an incentive.

He asked if issue #5 was something that had to be specified in the ordinance.

Ms. Alexandra Ladd said it was still in the ordinance but not in ordinance were the actual numbers.

Councilor Calvert asked if it was in the ordinance or the procedures.

Ms. Ladd said it was in both.

Councilor Calvert said regarding item # 8 that he didn't have a problem with eliminating the shared appreciation if people were moving up but if they were moving out he questioned why the City should be helping them so much to do so. He didn't think they should help if the people were not staying in the city. He would like to explore that.

Ms. Ladd gave an explanation. Shared appreciation stayed for most transactions.

Councilor Calvert said most people think the market has bottomed out but going forward it might become a factor. He was not trying to cause these people trouble but just saying it was a public-private partnership and the City was subsidizing it but part of that was to keep people in town or to allow them to stay in town. He asked if Ms. Ladd had a ballpark figure on what this shared equity would be.

Ms. Ladd said it was a good question and she had tried to find that number. She would have to calculate the dollar amount of each lien out there. It was a moving target unless they did an appraisal on each property. She added that it was not a substantial amount.

Councilor Calvert wondered if there was a way to control it if they were not staying in the City.

Ms. Ladd agreed to talk with the Legal staff and see if there would be a way.

Councilor Calvert referred to page 17 of the ordinance and asked if "first position" and "primary financing" were the same. Ms. Ladd agreed.

Councilor Calvert asked if they could use the same term throughout. Ms. Ladd agreed.

Councilor Calvert asked in paragraph D to add "in the event the home has lost value through no fault of the seller."

Ms. Ladd said that was a good point and agreed.

Councilor Ives suggested maybe a reasonable wear and tear exception and would leave that to Ms. Ladd.

Councilor Ives moved to approve with a request for presentation on items from Councilor Calvert. Councilor Rivera seconded the motion.

Councilor Calvert asked for Councilor Ives' thoughts on the 20%.

Councilor Ives thought it was a question for the nature of the industry. Maybe staff could provide some insight.

Councilor Calvert understood what he was looking at. The larger the development the more ability they have to accommodate the percentage.

Ms. Ladd said the development community was coming to a public hearing and wondered if the Committee wanted feedback before that.

Councilor Calvert suggested she could solicit some feedback at the next Finance Committee.

The motion passed by unanimous voice vote.

Councilor Ives moved to amend the consent agenda by moving 19 off consent for discussion. Councilor Rivera seconded the motion and it passed by unanimous voice vote.

19. REQUEST FOR APPROVAL OF A RESOLUTION RELATING TO CONSTRUCTION APPRENTICESHIP PROGRAMS; ESTABLISHING AN APPRENTICESHIP DEVELOPMENT TASK FORCE TO CREATE AN APPRENTICESHIP DEVELOPMENT PLAN FOR THE CITY OF SANTA FÉ THAT WILL BENEFIT SANTA FÉ COUNTY RESIDENTS AND THE SANTA FÉ CONSTRUCTION INDUSTRY (COUNCILORS WURZBURGER, BUSHEE, IVES AND DIMAS) (KATE NOBLE)

Committee Review:

Public Works Committee (No quorum)	01/27/14
Economic Review and Development Sub-committee (Scheduled)	02/03/14
Finance Committee (Approved)	02/03/14
City Business Quality of Life Committee (Scheduled)	02/18/14
Council (Scheduled)	02/26/14

Councilor Calvert mentioned that on page 3 of the ordinance it said, "within two months of the adoption of the resolution this body will be formed." On next page it said unless further extended ... He suggested saying "six months from the date of appointment."

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2014-__

Santa Fe Homes Program – Administrative Procedures

SPONSOR(S): Councilor Wurzburger

SUMMARY: The proposed resolution amends the administrative procedures for the Santa Fe Homes Program (“SFHP”) to reflect the amendments approved by Ordinance 2014-__.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: No

DATE: February 4, 2014

ATTACHMENTS: Resolution
FIR

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2014-___

3 INTRODUCED BY:

4
5 Councilor Rebecca Wurzbarger

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10 A RESOLUTION

11 AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES
12 PROGRAM TO REFLECT THE AMENDMENTS TO THE SFHP ORDINANCE
13 APPROVED BY ORDINANCE 2014-___.

14
15 WHEREAS, on August 15, 2005, the governing body adopted Ordinance No. 2005-30A,
16 establishing the Santa Fe Homes Program (SFHP); and

17 WHEREAS, on August 15, 2005, the governing body also adopted Resolution No. 2005-69,
18 the administrative procedures for implementing the Santa Fe Homes Program; and

19 WHEREAS, the governing body has amended the administrative procedures for
20 implementing the Santa Fe Homes Program by Resolution No. 2007-99, Resolution No. 2008-73,
21 Resolution no. 2009-74, Resolution 2010-49 and Resolution 2011-36; and

22 WHEREAS, on February 26, 2014, the governing body adopted Ordinance no. 2014- __ to
23 make permanent the current percentage requirement of 20%; and

24 WHEREAS, the governing body desires to amend the SFHP administrative procedures to
25 reflect the amendments approved by Ordinance No. 2014 - ___.

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NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the SFHP administrative procedures, attached hereto as Exhibit A are amended to reflect the amendments approved by Ordinance No. 2014-__.

PASSED, APPROVED and ADOPTED this __ day of _____, 2014.

DAVID COSS, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:


KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

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, and Resolution 2011-36. 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 **Community Development Commission** – This community development commission shall be responsible for reviewing requests for alternate means of compliance and considering other matters of administration as brought forward by staff for which there is not guidance in these administrative procedures.
- 4.9 **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~~] of fees, and other options as included in Section 11.2 and as approved by the city.

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~~] annually by the United States Department of Housing and Urban Development (HUD). The median divides the income distribution into two equal parts: one-half of the cases falling below the median income and one-half above the median. [~~provided, however, that i~~] 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

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

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]~~ prepared and approved by the Office of Affordable Housing ~~[prior to the Planning Commission's, or, i]~~ In the case of development as described in Section 5.1.2, the Extraterritorial Land Use Commission's ~~[consideration of]~~ will consider an applicant's proposal.

7.2 Scope and Content of SFHP Proposals and Agreements – SFHP proposals and agreements shall include all of the following, unless a fee only is required for compliance:

- 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 if not proportional to delivery of market rate units, or providing an 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 SFHP 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~~] the Community Development Commission 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~~] Community Development Commission 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 [5] the final decision of the [~~director of the Office of Affordable Housing~~] Community Development Commission, 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. REQUIREMENTS 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. Guidelines for minimum household size – The household size may not be smaller than the following minimum household sizes.

<i>Unit Size</i>	<i>Minimum Household Size</i>
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 that deviates from these guidelines 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 as an "essential" worker, employed [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] "essential" worker or [first responder] a worker deemed crucial to community safety in an emergency situation shall be noted on the certificate of eligibility and shall be subject to verification by the office of affordable housing. This category includes veterans

~~of the armed services.~~ 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 according to the SFHP Home Sales Price Schedule provided in Appendix A. ~~[at or below the following amounts:~~

<i>Income Range</i>	<i>Affordable Home Price Studio</i>	<i>Affordable Home Price 1 bedroom</i>	<i>Affordable Home Price 2 bedroom</i>	<i>Affordable Home Price 3 bedroom</i>	<i>Affordable Home Price 4 bedroom</i>
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)~~] a base amount, as determined by changes in the home sales pricing schedule. 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 payment[s] assistance that buys down the principal of the mortgage in the form of a no-payment, no interest soft second loan and/or covers the 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: i) new kitchen range; ii) new kitchen refrigerator; iii) hookups for clothes washer, dryer, and built-in dishwasher; iv) 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~~] in the Energy Efficiency Adjustment Schedule included in Appendix A.

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~~] at the midpoint 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:~~

<i>Unit Size</i>	<i>Assumed household size</i>
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]~~

~~8.6.5 Sample Determination of Housing Expense Ratio~~ - For purposes of example, Appendix B provides the [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: $65\% \times \$59,400 =$
 $\$38,610$~~

~~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: $0.075\% \times \$153,750 =$ $\$115$~~

~~8.6.10 Determine Hazard Insurance: $0.0283\% \times \$153,750 =$ $\$44$~~

~~8.6.11 Determine taxes: $0.0467\% \times \$153,750 =$ $\$72$~~

~~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]6 SFHP Manufactured Home Lot Prices

8.[7]6.1 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]6.2 Sale prices of SFHP manufactured home lots being sold to an eligible owner-occupant pursuant to a SFHP agreement are provided in Appendix A, Sales Price Schedule. [shall be at or below the following amounts:

<i>Income Range</i>	<i>Affordable Manufactured Home Lot Price</i>
Income Range 2	\$29,563
Income Range 3	\$38,438
Income Range 4	\$47,313]

8.[7]6.3 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]6.4 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]7 Required Number of SFHP Units in a Development

8.[8]7.1 If a SFHP developer obtains a residential building permit [~~for a SFHP development between June 8, 2011 and June 7, 2014, then,~~] then twenty percent (20%) of the total number of dwelling units or manufactured home lots offered for sale in an SFHP development shall be SFHP Homes, as follows:

8.[8]7.1.1 [~~Ten~~]Five percent (~~[10]~~5%) 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]7.1.2 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]7.1.3 [~~Zero~~]Five percent (~~[0]~~5%) 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.

A modification to a SFHP agreement or HOP agreement that was entered into prior to June 8, 2011 shall be made to reflect the twenty percent requirement; and if applicable, an annexation agreement, subdivision plat or development plan shall be administratively amended to reflect the reduction and redistribution of SFHP or HOP lots and the amended annexation agreement, subdivision plat or development plan shall be recorded or filed, as applicable, by the owner or developer. Fifteen percent of the total number of dwelling units or manufactured home lots offered for rent in an SFHP development shall be SFHP units and meet all requirements of §26-1 SFCC 1987.

~~[8.8.2 Effective June 8, 2014, and thereafter, 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:~~

~~8.8.2.1 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;~~

~~8.8.2.2 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~~

~~8.8.2.3 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]~~7.3 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]~~7.4 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]~~7.5 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]~~7.6 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]~~8 Providing “Fractions” of Homes

8. ~~[9]~~8.1 ~~[If a SFHP developer obtains a residential building permit for a SFHP development between June 8, 2011 and June 7, 2014, then fractions of homes may result from the calculation described in Section 8.8. The] When the calculation to determine the number of units required by SFHP, as described in Section 8.7, results in a “fraction” of a home, the calculation of fractional unit fees [shall be met] is applied as follows:~~

8. ~~[9]~~8.1.1 For 2 to 10 housing units - ~~[For 2 to 10 housing units,] a unit is not provided but the SFHP Developer pays a fractional fee. To calculate this fee, the number of homes is multiplied by 20% and the resulting number is the number of fractional unit(s) required. The resulting number is multiplied by the “base fractional fee” which is half the value of the Affordable Home Price of a 3 Bedroom Unit in Income Range 2 [and then multiplied by 22.5%]. If the SFHP developer obtains a residential building permit for a SFHP development before June 8, 2014, the fee is reduced by 70%. Appendix A provides the Fractional Fee Schedule and methodology for calculating the fee.~~

~~[8.9.1.1.1 Determine the number of fractional units (example: 8 unit development): 8 units X 20% = 1.6 fractional units~~

~~8.9.1.1.2 Determine the fractional fee: 1.6 X \$118,250 X 22.5% = \$42,570]~~

8. ~~[9]~~8.1.2 For 11 or more units - If the calculation 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.

8. ~~[9]~~8.1.3 These ~~[contributions]~~ fees are not and shall not be used as an alternate means of compliance. These ~~[contributions shall be made]~~ fees shall be paid 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. ~~[9]~~8.1.4 SFHP staff may adjust the calculations herein to reflect the percentage requirements set out in Section 8.8 above.

~~[8.9.2 Effective June 8, 2014, and thereafter, 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]~~9 Minimum Structural Requirements for SFHP Homes - SFHP homes shall be built to conform to local, state and federal laws, and ~~[these additional criteria]~~ the following guidelines concerning design, equipment and physical features:

8. ~~[10]~~9.1 Guidelines for 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,]~~ by demonstrating that the required sizes are larger than the sizes of the non-SFHP Homes, subject to confirmation by the Office of Affordable Housing.

8. ~~10~~9.2 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~~9.3 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~~9.4 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 waiver of any required or standard warranty. Any such waiver shall be considered null and void.

8. ~~11~~10 Required Mix Of Unit Types

8. ~~11~~10.1 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 guidelines, or proportional to the proposed mix of types of the market units:

Unit Size	Required % of SFHP Homes
Studio, 1 BR and 2 BR	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]~~10.2 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]~~10.3 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]~~10.4 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]~~11 **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]~~11.1 An SFHP Home may not be marketed and sold to a household that does not meet the eligibility requirements described in Section 8.1.1.

8. ~~[12]~~11.2 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]~~11.3 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]~~12 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]~~12.1 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]~~12.2 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]12.3 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]13 **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]14 **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]14.1 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]14.2 Sales in compliance – Sales in compliance will be certified as such and shall count toward fulfillment of the developer’s SFHP Agreement.

8.[15]14.3 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]15 **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~~] renter household. An eligible [~~owner-occupant~~] renter 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. **Guidelines for [M] minimum household size** – The household size may not be smaller than the following minimum household sizes.

<i>Unit Size</i>	<i>Minimum Household Size</i>
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 used 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:]~~ is provided in Appendix C, SFHP Rental Rate Schedule.

[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 are provided in Appendix B, Housing Expense Ratios.[:]

~~[9.5.1 Assumed household sizes:~~

<i>Unit Size</i>	<i>Assumed household size</i>
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] Appendix B provides the [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 provided in Appendix C, Rental Rate Schedule.[:]

[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 Rental Units – If the calculation described in Section 9.8 results in a fraction, the number will be rounded up to a whole number if the number is 0.5 or greater, and rounded down to a whole number if it's 0.4 or less. ~~[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]~~ according to the following guidelines ~~[these additional criteria]~~ concerning design, equipment and physical features:

9.10.1 **Guidelines for [M]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, subject to confirmation by the Office of Affordable Housing.

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] rent specific [homes] units).
- 9.12.4 Leases– Rental property owners and SFHP tenants may execute only leases which are approved for form by the City or its agent 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 or its agent 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 or its agent 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 or its agent 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 or its agent 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]15 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 rental home. [~~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** – Required 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 the City's 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 or 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]~~ result 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

11.3.1 For-sale Homes Fee In-Lieu - The value of the fee in lieu contribution per SFHP unit required (including any fraction of a unit) is based on MLS statistics from the Santa Fe Association of Realtors for the geographic areas of the city. This statistic is calculated quarterly and the city updates the fee on an annual basis as described in Appendix D, Fee In-Lieu Calculations. ~~[shall be as follows for the four quadrants of the city established by the Realtors Association Multiple Listing Service].~~ The process for calculating the fee in-lieu is as follows:

~~[NE — \$240,000
NW — \$200,000
SE — \$240,000
SW — \$160,000]~~

- a. Locate the development parcel on the map used by the SFAR to determine the geographical statistical area that is applicable to the project and identify whether the project is located in the NE, NW, SE(n), SE(s) or SW quadrant.
- b. Determine affordability requirement for proposed for-sale project as per SFHP regulation by multiplying the number of proposed units by the required percentage of affordable units.
- c. Multiply the base unit fraction, as defined in Section 8.9 and provided in Appendix A, by the percentage difference between the citywide median sales price and that of the quadrant in which the proposed development is located.
- d. Adjust the base unit fraction by the factor specific to the quadrant which will result in projects located in more high value quadrants paying a higher fee.

11.3.2 Rental Homes Fee In-Lieu – The value of the fee in lieu contribution per SFHP unit required is based on the difference between the required SFHP rents and the Fair Market Rent, as determined for Santa Fe by the Department of Housing and Urban Development. Appendix D: Fee In-Lieu Calculations provides current data and a sample calculation. The process for calculating the fee in lieu is as follows:

- a. Determine affordability requirement for proposed rental project as per SFHP regulation by multiplying the number of proposed units by the required percentage of affordable units.
- b. Determine whether any of the proposed market rate units will have market rents within 15% of the required SFHP rents; for those units there is no fee owed.
- c. Establish the affordability gap by subtracting the SFHP required rent (based on Income Range 2) from HUD's Fair Market Rent correlated to proposed unit mix by bedroom size(s).
- d. Multiply affordability gap times the number of required units to get the monthly fee. Multiply the monthly fee by 24 (based on the need for the fee for each unit to provide 24 months of rental subsidy voucher for a renter household earning less than 30% AMI).

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 REALES 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 and/or the lien amount is calculated to be less than \$10,000.

~~[e. 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

Walls, floor
Pipes, ductwork

Insulation
Attic

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: $\$220,000 \times 95\% = \$209,000$~~

~~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 shall not affect the validity of the rest of these provisions.

History: Adopted by Resolution #2005-69
Amended by Resolution #2007-99,
Amended by Resolution #2009-74
Amended by Resolution # 2010-49
Amended by Resolution #2011-36
Amended by Resolution #2014-

APPENDIX A: HOME SALES PRICING INFORMATION

Income Range	Studio	1 Bedroom	2 Bedrooms	3 Bedrooms	4 Bedrooms	Manu Home Lot
2 (50-65%AMI)	\$100,250	\$107,500	\$122,750	\$138,000	\$153,250	\$34,500
3 (65-80%AMI)	\$132,500	\$139,500	\$159,500	\$179,500	\$199,250	\$44,875
4 (80-100%AMI)	\$164,500	\$171,750	\$196,250	\$220,750	\$245,250	\$55,188

# in Household	Area Median Income (AMI) - 2014				
	30%	50%	80%	100%	
	Extremely Low	Low	Moderate	Non-low Moderate	
1	\$13,750	\$22,900	\$36,600	\$45,750	
2	\$15,700	\$26,150	\$41,800	\$52,250	
3	\$17,650	\$29,400	\$47,050	\$58,800	
4	\$19,600	\$32,650	\$52,250	\$65,300	
5	\$21,200	\$35,300	\$56,450	\$70,550	

FRACTIONAL FEE SCHEDULE for 2 – 10 units

70% Reduction - 2014									
Based on Income Tier 2 three BR Home (\$138,000)									
# of units in development	2	3	4	5	6	7	8	9	10
20% unit fraction	0.4	0.6	0.8	1	1.2	1.4	1.6	1.8	2
70% Reduced Fee	\$8,280	\$12,420	\$16,560	\$20,700	\$24,840	\$28,980	\$33,120	\$37,260	\$41,400

CALCULATION for the fractional unit fee:

= Half the Price for a Tier 2, 3 BR Home X Unit Fraction X .30 (70% Reduction)

Example for 6 home subdivision:

= \$69,000 X 1.2 percent X .3 (70% reduction) = \$24,480 fractional fee

ENERGY EFFICIENCY ADJUSTMENTS 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 below:

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

APPENDIX B

HOUSING EXPENSE RATIOS

OWNER-OCCUPIED HOMES

Factors in Determining Housing Expense Ratios – The following assumptions are used in the determination of housing expense ratios for owner-occupied homes.

Assumed household sizes:

<i>Unit Size</i>	<i>Assumed household size</i>
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. Guidelines for minimum household sizes are contained in Section 8.1)

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>.)

Term of loan: 30 years

Private mortgage insurance: 0.075% of home price per month

Hazard insurance: 0.0283% of home price per month

Taxes: 0.0467% of home price per month

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:

Determine Home Size: 3 Bedroom

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

Determine Home Price: \$179,500

Determine Assumed Household size: 3 person

Determine median income for 3 person household (as published by HUD): \$58,800

Determine lowest income for applicable Income Range: $65\% \times \$58,800 = \$38,220$

Determine monthly income: $\$38,220 / 12 = \$3,185$

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

Determine Private Mortgage Insurance: $0.075\% \times \$179,500 = \135

Determine Hazard Insurance: $0.0283\% \times \$179,500 = \51

Determine taxes: $0.0467\% \times \$153,750 = \83

Determine total monthly payment: $\$828 + \$135 + \$51 + \$83 = \$1,097$

Determine housing expense ratio: $\$1,097 / \$3,185 = 34\%$

RENTAL HOMES

Factors in Determining Housing Expense Ratios - The following assumptions are used in the determination of housing expense ratios for SFHP rental units.

Assumed household sizes:

<i>Unit Size</i>	<i>Assumed household size</i>
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)

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

Determine Unit Size: 2 Bedroom

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

Determine Affordable Rent: \$660

Determine Assumed Household size: 2 person

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

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

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

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

APPENDIX C
RENTAL RATE SCHEDULE

SANTA FE HOMES PROGRAM RENTAL PRICING - 2013

# in HH	AMI 2013									
	30%	Rent*	50%	Rent*	65%	Rent*	80%	Rent*	100%	Rent*
1	\$ 13,750	\$ 344	\$ 22,900	\$ 573	\$ 29,750	\$ 744	\$ 36,600	\$ 915	\$ 45,750	\$ 1,144
2	\$ 15,700	\$ 393	\$ 26,150	\$ 654	\$ 34,000	\$ 850	\$ 41,800	\$ 1,045	\$ 52,250	\$ 1,306
3	\$ 17,650	\$ 441	\$ 29,400	\$ 735	\$ 38,250	\$ 956	\$ 47,050	\$ 1,176	\$ 58,800	\$ 1,470
4	\$ 19,600	\$ 490	\$ 32,650	\$ 816	\$ 42,450	\$ 1,061	\$ 52,250	\$ 1,306	\$ 65,300	\$ 1,633
5	\$ 21,200	\$ 530	\$ 35,300	\$ 883	\$ 45,850	\$ 1,146	\$ 56,450	\$ 1,411	\$ 70,550	\$ 1,764

*Based on 30% of monthly income/includes utilities

HUD's Fair Market Rents (FMR)

Unit Size	Assumed HH size	Allowable Rents*		
		Range 1**	Range 2	Range 3
Studio	1	\$ 344	\$ 573	\$ 744
1 BR	1	\$ 344	\$ 573	\$ 744
2 BR	2	\$ 393	\$ 654	\$ 850
3 BR	3	\$ 441	\$ 735	\$ 956
4 BR	4	\$ 490	\$ 816	\$ 1,061

Santa Fe MSA	
Studio	\$ 756
1 BR	\$ 823
2 BR	\$ 976
3 BR	\$ 1,308
4 BR	\$ 1,399

*Based on affordable rent for lowest limit of income range

**Based on 30%AMI

Santa Fe Homes Program Requirement

Manufactured Home Lot Rent Year	Rent Range		
	Range 1	Range 2	Range 3
2010	134	223	290
2012	138	229	298
2013	131	218	283

	Rent Range	
	Low*	High**
5% rented to renters <50% AMI	\$344	\$441
5% rented to renters earning 50 – 65% AMI	\$573	\$735
5% rented to renters earning 65 – 80% AMI	\$744	\$956

* 1 pers HH
** 3 pers HH

APPENDIX D

Fee In-Lieu Calculations For-Sale Housing

MLS Quadrants	Median Price (citywide)* \$ 319,100	Median for Quadrant as % of Citywide Median	Quad Difference Factor	Base Unit Fraction**	Per unit Fee in Lieu***
	Median Price*				
NE	\$ 695,000	246%	1.54	69,000	\$ 175,260
NW	\$ 358,000	111%	0.11	69,000	\$ 76,590
SE (n)	\$ 307,000	96%	-0.04	69,000	\$ 66,240
SE (s)	\$ 271,000	82%	-0.18	69,000	\$ 56,580
SW	\$ 230,900	62%	-0.38	69,000	\$ 42,780

*Avg of 2006-2013

** Defined in Section 8.9 (1/2 Price of Range 2, 3 BR home)

***Multiply Base Unit Fraction by Difference

EXAMPLE: Proposed subdivision of 40 homes

= 40 X .20

= 8 homes required

NE = 69,000 X 2.54 = \$175,260/unit X 8 units = \$1,402,080

NW = 69,000 X 1.11 = \$76,590/unit X 8 units = \$612,720

SE(n) = 69,000 X .96 = \$66,240/unit X 8 units = \$529,920

SE(s) = 69,000 X .82 = 56,580/unit X 8 units = \$452,640

SW = 69,000 X .62 = 42,780/unit X 8 units = \$342,240

NOTE: Developer may opt to provide a portion of the units and pay the fee for the remaining units. The fee will be adjusted accordingly, if request for alternate compliance is approved.

Rental Housing

METHODOLOGY: Use affordability gap between subsidized rent (averaged across income ranges as per bedroom size) and fair market rent to calculate per unit fee. Fees generated will fund 24-month rental vouchers for renters to use at privately-owned, scattered site developments.

	HUD FMR*	SFHP Avg	Monthly Fee/Unit	Voucher Term	Fee/per Unit
Studio	\$ 756	\$ 644	\$ 112	24 mo.	\$ 2,688
1 BR	\$ 823	\$ 644	\$ 179	24 mo.	\$ 4,296
2 BR	\$ 976	\$ 736	\$ 240	24 mo.	\$ 5,760
3 BR	\$ 1,308	\$ 827	\$ 481	24 mo.	\$ 11,544
4 BR	\$ 1,399	\$ 918	\$ 481	24 mo.	\$ 11,544

* FMR is Fair Market Rent, established annually by HUD

Step One:

Determine affordability requirement for proposed rental project as per SFHP regulation (currently 15% of proposed units). If proposed monthly rents are within 15% of required affordable rents as per the SFHP rental rate schedule, then there is no obligation to provide units or pay a fee in-lieu.

Step Two:

Establish affordability gap by subtracting required rent (based on average of SFHP rent as per bedroom size) from HUD's Fair Market Rent to get the fee per unit. Calculate for every proposed unit.

Step Three:

Multiply fee per unit # by the number of required units = monthly fee per unit.

Step Four

Multiply monthly fee X voucher term (24 months)

EXAMPLE: Proposed: 120-unit rental complex; 100 2 BR units and 20 1 BR units

= 120 X 15% = 18 required units, of which 15 are required to be 2 BR SFHP units and 3 are required to be 1 BR SFHP unit. (NOTE: if calculation results in a fraction of a unit, the total units required will be rounded up if fraction is 0.5 or greater and rounded down if 0.4 or less.)

- a) Calculate monthly fee by bedroom size
2 BR = HUD FMR – SFHP 2 BR rent (avg across income ranges)
= \$976 - \$736 = \$240/unit
1 BR = HUD FMR – SFHP 1 BR rent (avg across income ranges)
= \$823 – \$644 = \$179/unit
- b) Calculate total fee per unit by voucher term (24 months)
2 BR = \$240 X 24 = \$5,760/unit
1 BR = \$179 X 24 = \$4,296/unit
- c) Calculate total fee for proposed 2 BR units
= \$5,760 X 15 units
= \$86,400
- d) Calculate total fee for proposed 1 BR units
= \$4,296 X 3 units
= \$12,888

Total Fee Due

$$= \$86,400 + \$12,888$$
$$= \$99,288$$

**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 2014-5 Resolution: X
(A single FIR may be used for related bills and/or resolutions)

Short Title(s): AN ORDINANCE RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION 14-8.11 SFCC 1987 TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987 TO UPDATE THE LEGISLATIVE FINDINGS, TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE SFHP ORDINANCE.

Sponsor(s): Councilor Wurzbarger
 Reviewing Department(s): Housing and Community Development
 Person Completing FIR: Alexandra Ladd Date: 1/13/14 Phone: 955-6346
 Reviewed by City Attorney: Vally A. DeLuca Date: 1/14/14
 (Signature)
 Reviewed by Finance Director: [Signature] Date: 1/15/14
 (Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution.

The bill proposes to amend the SFHP ordinance so that the current affordability requirement of 20% for homeownership projects is made permanent. Other changes include: revising the percentage allotted to the designated income tiers, removing the shared equity requirement from the affordable housing lien agreements, making unit/household size and type agreements "guidelines" that are housed in the administrative procedures and removing the pricing/rental schedules from the ordinance to be made an attachment to the administrative procedures that is updated annually.

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
- 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 _____ _13/14_	"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.)

There is no fiscal impact or revenue generated from the proposed bill.

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.

This bill does not conflict with any City Code, approved ordinances or adopted policies. It includes sections of Chapter 26, the Santa Fe Homes Program (SFHP) and Chapter 14 that address the City's affordability requirement.

2. Consequences of Not Enacting This Bill/Resolution:

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

If the bill is not enacted, the current requirement of the SFHP for developers to provide 20% of their homeownership units at regulated prices to income qualified buyers will sunset on June 8, 2014 and revert to the original requirement of 30%. Another important outcome of this amendment is to remove the pricing/rental schedules, household/unit/size/type requirements from the code so that they are referenced in the administrative procedures and can more easily be kept current without having to do a code amendment.

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.

This bill is proposed concurrently with a bill proposed by Councilor Calvert that makes additional amendments to Chapter 26, allowing veterans to be considered "essential" for the purposes of income qualification. At some point, the two bills will need to become part of the same ordinance.

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 better align the City's regulation to current market and development realities. Santa Fe's overall economic health benefits from the vitality of the construction industry, not only through the production of affordable units, but also by the creation of jobs and generation of business for related professional services. Easing the requirement for SFHP may support the continued recovery of our local housing market.

Form adopted: 01/12/05; revised 8/24/05; 4/17/08

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, FEBRUARY 10, 2014**

ITEM 18-B

SANTA FE HOMES PROGRAM (COUNCILOR WURZBURGER) (ALEXANDRA LADD)
 b) REQUEST FOR APPROVAL OF A RESOLUTION AMENDING THE ADMINISTRATIVE PROCEDURES FOR THE SANTA FE HOMES PROGRAM ("SFHP") TO REFLECT THE AMENDMENTS APPROVED BY ORDINANCE 2014-__

PUBLIC WORKS COMMITTEE ACTION: Approved

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON WURZBURGER	Excused		
COUNCILOR CALVERT, Acting Chair	X		
COUNCILOR IVES	X		
COUNCILOR RIVERA	X		
COUNCILOR TRUJILLO	Excused		

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 02/26/14
ITEM FROM FINANCE COMMITTEE MEETING OF 02/17/14

ISSUE:

18. Request for Approval of a Resolution Amending the Administrative Procedures for the Santa Fe Homes Program to Reflect the Amendments to the SFHP Ordinance Approved by Ordinance 2014-____. (Councilor Wurzburger) (Alexandra Ladd)

Committee Review:

Public Works Committee (approved) 02/10/14
 City Council (scheduled) 02/26/14

Fiscal Impact – No

FINANCE COMMITTEE ACTION: APPROVED AS CONSENT ITEM

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR BUSHEE	Excused		
COUNCILOR CALVERT	X		
COUNCILOR DIMAS	X		
COUNCILOR IVES	X		
CHAIRPERSON DOMINGUEZ			

3-19-12/FCMissue