

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-5

3 INTRODUCED BY:

4
5 Councilor Rebecca Wurzbarger
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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]2) 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]3) 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 |

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 |

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~~[,]~~ 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 X 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:

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11 KELLEY A. BRENNAN, INTERIM CITY ATTORNEY
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25 *M/Melissa/Bills 2014/2014-5 Bills/SFHP_Fees(20%)*