

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2016-9

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4  
5 AN ORDINANCE

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

13  
14 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

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

17 26-1.5 Definitions.

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

20 *Affordable home price* means the highest price at which an SFHP home may be sold  
21 pursuant to subsection 26-1.16 of this chapter. For purposes of this chapter, the price of an SFHP  
22 home cannot exceed the maximum established price, including the base price and any fees  
23 charged of the buyer by the seller or a related entity, minus any of the buyer's closing costs or  
24 financing costs paid by the seller, as indicated by the settlement statement for the sale. The cost of  
25 allowable option upgrades may be in addition to the affordable home prices, as permitted by

1 subsection 26-1.16F.

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

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

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

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

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

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

23 *Certified* means a buyer of a Santa Fe Homes Program Unit or renter of such unit whose  
24 income has been verified by the city or its agent as meeting the income limits which establish  
25 eligibility to buy or rent under the program. Buyers shall also receive a certificate verifying they

1 have completed homebuyer training courses as part of the certification process.

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

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

7 *Energy efficiency adjustment* means the amount that may be added to the affordable  
8 home price of a for-sale SFHP Unit that meets energy efficiency standards pursuant to subsection  
9 26-1.16 H. SFCC 1987.

10 *Extreme hardship* means a condition occurring as a direct consequence of the SFHP  
11 Ordinance which would require the property owner to lose money on the development taken as a  
12 whole and/or affects the financing viability of the project and the property owner can demonstrate  
13 to the governing body's satisfaction that said loss would be an unavoidable consequence of the  
14 SFHP requirement for construction of SFHP units.

15 *Income qualified* means a buyer or renter whose household income does not exceed the  
16 amount which would establish eligibility to buy or rent a Santa Fe Homes program unit, within  
17 income ranges established for the program or under specific development agreements.

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

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

21 Income range 2: more than fifty percent (50%) but not more than sixty-five percent  
22 (65%) of area median income

23 Income range 3: more than sixty-five percent (65%) but not more than eighty percent  
24 (80%) of area median income

25 Income range 4: more than eighty percent (80%) but not more than one hundred percent

1 (100%) of area median income

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

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

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

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

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

10 *SFHP* means Santa Fe Homes Program.

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

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

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

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

21 *SFHP home buyer* means a purchaser of an SFHP home or the entire household  
22 occupying an SFHP home or the purchaser or entire household occupying an SFHP manufactured  
23 home lot.

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

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

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

5           *SFHP rental unit* means a rental unit marketed and leased specifically to satisfy SFHP  
6 requirements.

7           *SFHP tenant* means a person who is a lessee of an SFHP rental unit, or a manufactured  
8 home rental lot, or the entire household occupying an SFHP rental unit or SFHP manufactured  
9 home lot.

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

12           *Unit* means a dwelling unit.

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

15           **26-1.22       Requirements for SFHP Rental Units.**

16           A.     If a SFHP developer obtains a residential building permit for multifamily  
17 residential development between January 1, 2016 and December 31, 2019, then a fee associated  
18 with such development shall be assessed in accordance with SFHP administrative procedures. A  
19 modification to a SFHP agreement or HOP agreement to construct rental units and create  
20 manufactured home lots for rent that was entered into prior to January 1, 2017 shall be made to  
21 reflect the modified requirement; and if applicable, an annexation agreement, subdivision plat or  
22 development plan shall be administratively amended to reflect the modified requirement and the  
23 amended document shall be recorded or filed, as applicable by the owner or development.  
24 Incentives for SFHP developers as set forth in subsection 14-8.11 SFCC 1987 will not be  
25 available for these projects.

1 B. One year prior to the sunset clause date, this amendment will be evaluated to  
2 determine its effectiveness in reaching the city's goal of creating at least 2,000 multi-family rental  
3 units.

4 C. Effective January 1, 2020, and thereafter, fifteen percent (15%) of the total  
5 number of dwelling units offered for rent in a SFHP development shall be delivered as described  
6 in this section.

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

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

16 **26-1.33 Alternate Means of Compliance.**

17 A. One of the goals and purposes of the SFHP is to foster economic integration by  
18 requiring that developers provide required SFHP units and manufactured home lots on the  
19 property proposed for development. However, it is recognized that at times this approach may not  
20 be feasible for a variety of reasons. In this event, the applicant may seek permission from the  
21 governing body to comply with the SFHP through any one or combination of the following  
22 alternative means acceptable to the city in its sole discretion: off-site construction, cash payment  
23 in lieu of constructing or creating the required SFHP units or manufactured home lots or  
24 dedication of land suitable for construction or creation of inclusionary units of equivalent or  
25 greater value than would be required for onsite construction.

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

- 8                   (1)       SFHP for-sale projects;
- 9                   (2)       SFHP rental projects; and
- 10                  (3)       SFHP projects that meet the definition of a vacation time share project as  
11 set forth in Section 14-12 SFCC 1987.

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

- 14                   (1)       The extent to which the proposed alternate results in a benefit that  
15 responds directly to a community-wide documented need as determined by the  
16 Governing Body;
- 17                   (2)       Whether implementation of an alternative would overly concentrate  
18 SFHP units within any specific area and if so must reject the alternative unless the  
19 undesirable concentration of the SFHP units is offset by other identified benefits that  
20 flow from implementation of the alternative in issue; and
- 21                   (3)       The extent to which other factors affect the feasibility of prompt  
22 construction of the SFHP units on the property, such as costs and delays, the need for  
23 appraisal, site design, zoning, infrastructure, clear title, grading and environmental  
24 review; and
- 25                   (4)       The potential of leveraging funds for other needed affordable housing

1 programs described in the city's housing plans.

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

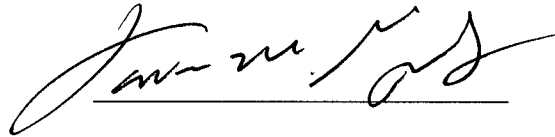
4 E. The governing body, at its sole discretion, may grant a waiver of the SFHP  
5 requirements. Any approval of a waiver for any sized project shall be based on the finding that  
6 the condition of extreme hardship, as defined, cannot be sufficiently alleviated by the alternate  
7 means of compliance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

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

10 **26-1.36 Effective Date.**

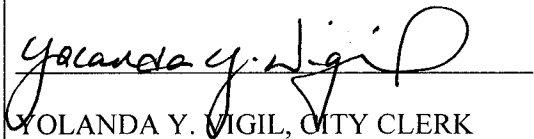
11 The effective date of this chapter shall be February 20, 2016 (ten (10) days after passage  
12 of this chapter).

13 PASSED, APPROVED and ADOPTED, this 10<sup>th</sup> day of February, 2016.

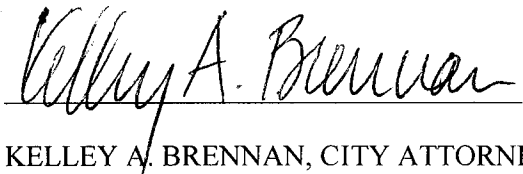


JAVIER M. GONZALES, MAYOR

17 ATTEST:

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19   
20 YOLANDA Y. VIGIL, CITY CLERK

21 APPROVED AS TO FORM:

22   
23  
24 KELLEY A. BRENNAN, CITY ATTORNEY

25 *M/Legislation/Ordinances 2016/2016-9 Santa Fe Homes Program Update*