

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2008 - 51

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4
5 AN ORDINANCE

6 AMENDING ARTICLE 18-19 SFCC 1987 REGARDING THE WORKFORCE HOUSING
7 FUNDING INITIATIVE.

8
9 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

10 Section 1. Section 18-9.3 SFCC 1987 (being Ord. #2008-37, §4) is amended to
11 read:

12 18-19.3 Purpose. The purpose of this article is to establish an ongoing source of funding
13 for workforce housing initiatives by imposing an excise tax on the use by purchasers of transfer
14 services to effectuate and facilitate the transfer of certain real property. This tax is imposed
15 pursuant to § 3-18-2 NMSA 1978 authorizing municipalities to impose an excise tax on products
16 and services specifically named upon approval at election by the voters.

17 Section 2. Section 18-19.4 SFCC 1987 (being Ord. #2008-37, §5) is amended to
18 read:

19 18-19.4 Definitions. For the purposes of this article, certain words are defined as
20 follows:

21 *Consideration* means and includes the actual cash paid and/or value of the property
22 delivered, or contracted to be paid or delivered, in return for the transfer of ownership or title to
23 real property and shall include the amount of any lien, mortgage, contract indebtedness, or other
24 encumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid
25 on the property at the time of sale. The term does not include the amount of any outstanding lien

1 or encumbrance in favor of the United States, the State of New Mexico, or of a municipal or
2 quasi-municipal governmental corporation or district for taxes, special benefits or improvements.

3 *Conveyance of ownership* means any transfer of title to real property and is evidenced by
4 any deed or instrument or writing wherein or whereby title to real property situated in the city is
5 granted or conveyed, subject to the exclusions provided in this article, and includes the transfer of
6 more than fifty percent of the authorized and issued shares of a corporation or majority ownership
7 interest in a pass through entity which has as its principal asset real property situated in the city.

8 *Document* means and includes any deed, instrument or writing by which real property
9 located within the city is transferred.

10 *Real property* means and includes all lands or interests in lands within the city, and shall
11 be construed as coextensive in meaning with the terms "land," "tenements" and "hereditaments"
12 and as embracing all mining claims and other claims and chattels real.

13 *Transfer* means and includes any conveyance of the ownership of a title to real property
14 and is evidenced by any deed or instrument or writing wherein or whereby title to real property
15 situated in the city is granted or conveyed, subject to the exclusions provided in this article.

16 *Transfer Services* means the services of real estate brokers and title companies to
17 effectuate and facilitate the transfer of the property from a seller to a purchaser.

18 *Workforce housing* means housing for those with at least one full-time worker who earns
19 between the living wage and the amount needed to afford to live in the area.

20 **Section 3. Section 18-19.5 SFCC 1987 (being Ord. #2008-37, §6) is amended to**
21 **read:**

22 **18-19.5 Imposition of Tax.**

23 A. *Tax imposed.* There is hereby imposed a real estate transfer tax on the use by
24 purchasers of transfer services to effectuate and facilitate every conveyance of ownership of real
25 property situated in the city, unless exempted, which tax shall be imposed on the purchaser of the

1 property and measured by the consideration paid or to be paid for such conveyance of ownership
2 and shall be due and payable by the purchaser at the time of transfer contemporaneously
3 therewith.

4 B. *Amount of tax.* The amount of real estate transfer tax payable is equal to one
5 percent of the consideration paid or to be paid exceeding \$750,000 for the transfer of ownership
6 or title.

7 C. *Application of funds.* All funds received by the city of Santa Fe pursuant to this
8 Article 18-19 shall be deposited into the Affordable Housing Trust Fund to be used only for the
9 following types of affordable housing projects or programs provided that the assistance is related
10 to workforce housing initiatives. The funds shall be subject to appropriation by the governing
11 body of the city of Santa Fe, or its designee, only to the extent permitted by state law for the
12 purpose(s) of:

- 13 (1) Supporting workforce housing initiatives, including: providing matching
14 funds to be used for down payment assistance;
- 15 (2) Acquiring vacant land for affordable workforce housing;
- 16 (3) Acquiring buildings for the purpose of affordable workforce housing;
- 17 (4) Constructing or reconstructing housing for the workforce;
- 18 (5) Maintaining and rehabilitating affordable housing;
- 19 (6) Operating employer housing projects; and
- 20 (7) Paying principal and interest on the bonds issued for affordable
21 workforce housing purposes and incidental costs of issuing the bonds and the funding of
22 any reserve.

23 **Section 4. Section 18-19.6 SFCC 1987 (being Ord. #2008-37, §7) is amended to**
24 **read:**

25 **18-19.6 Exemptions.** The real estate transfer tax imposed by this section shall not apply

1 to transfer services used to effectuate:

2 A. Any conveyance of ownership of property which is part of a development subject
3 to the Santa Fe Homes Program, to HOP homes subject to the Housing Opportunity Program
4 guidelines, as amended from time to time, or to any other form of permanently affordable housing
5 including those sold subject to liens, deeds of trust or other instruments that ensure the unit will
6 remain affordable;

7 B. Any conveyance of ownership of property wherein the United States, or any
8 agency or instrumentality thereof, the state of New Mexico, any county, municipality, district or
9 other political subdivision of this state, is either the grantor or grantee;

10 C. Any conveyance of ownership of property wherein the grantee corporation,
11 association or trust has been organized, operated and maintained solely and exclusively for
12 charitable or religious purposes;

13 D. Any conveyance of ownership of real property as a gift, where no consideration
14 other than love and affection, charitable donation or nominal compensation is evidenced by the
15 terms of the instrument of transfer;

16 E. Any termination of a joint tenancy in real property except where additional
17 consideration of value is paid in connection with such termination, or a decree or agreement
18 partitioning real property held under common ownership unless a consideration of value is paid in
19 connection therewith.;

20 F. The transfer of title or change of interest in real property by reason of death, will
21 or decree of distribution;

22 G. Transfers made pursuant to mergers or consolidations of corporations, or by a
23 subsidiary to a parent corporation for no consideration other than cancellation or surrender of the
24 subsidiary's stock;

25 H. Any deed or conveyance made and delivered without consideration for the

1 purpose of confirming, correcting, modifying, or supplementing a transfer previously recorded;
2 making minor boundary adjustments, removing clouds on titles; or granting easements, rights-of-
3 way or licenses;

4 I. Any decree or order of a court of record determining or resting title, including a
5 final order awarding title pursuant to a condemnation proceeding;

6 J. Any deed granting or conveying title to cemetery lots;

7 K. Any lease of any real property (or assignment or transfer of any interest in any
8 such lease) provided such lease by its terms does not constitute a de facto conveyance of the
9 subject property. In the latter event the real estate transfer tax shall be based upon the
10 capitalization at five percent of the average annual rental over the entire term of the lease,
11 including any renewal term, plus the actual consideration, other than rent, paid or to be paid.
12 When the average annual rental cannot be determined, or at the election of the city's finance
13 officer, the tax shall be based upon the assessed value of the property covered by the lease;

14 L. Any mineral deed or royalty deed;

15 M. Transfers to secure a debt or other obligation, or transfers or release of property
16 which is security for a debt or other obligation;

17 N. Any executory contract for the sale of real property under which the vendee is
18 entitled to or does take possession thereof without acquiring title thereto, or any assignment or
19 cancellation of any such contract;

20 O. Any deed or conveyance under execution, sale, or foreclosure sale under a power
21 sale or court decree of lien foreclosure; sheriff's deed; public trustee deed or treasurer's deed;

22 P. Any deed or conveyance of commercial property;

23 Q. Any deed or conveyance of undeveloped land;

24 R. Any deed or conveyance reflecting an interspousal transfer of real property; or

25 S. Any deed or conveyance of real property which is the principal residence of an

1 eligible transferor in the case of a family transfer between parents and their children or between
2 grandparents and their grandchild or grandchildren.

3 **Section 5. Section 18-19.7 SFCC 1987 (being Ord. #2008-37, §8) is amended to**
4 **read:**

5 **18-19.7 Application for Exemption.** In the event that the transfer services used to
6 effectuate and facilitate any transfer of real property which are exempt from the real estate
7 transfer tax herein imposed do not provide documentation clearly showing their exempt character,
8 the grantee may apply for and obtain from the city's finance officer a certificate of exemption.

9 **Section 6. Section 18-19.8 SFCC 1987 (being Ord. #2008-37, §9) is amended to**
10 **read:**

11 **18-19.8 Finance Officer to Enforce.**

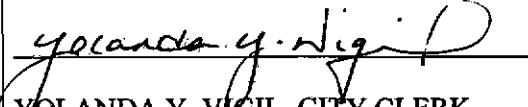
12 A. The city's finance officer is charged with the enforcement of the provisions of
13 this section and is hereby authorized and empowered to prepare such forms and adopt and enforce
14 such rules and regulations consistent with this section, as he deems necessary to implement the
15 same.

16 B. At the time of any transfer attendant to which a purchaser's use of transfer
17 services is subject to the tax imposed by this section, the title company on behalf of the purchaser
18 shall make a report to the finance officer on forms prescribed by the officer, setting forth the true,
19 complete and actual consideration for the transfer, the names of the parties thereto, the location of
20 the real estate transferred, and such other information as may be required.


21 C. For the purpose of collection of the taxes imposed by this section, title companies
22 shall collect the tax imposed on the purchaser and remit the tax to the finance officer who shall
23 allow them to retain a reasonable amount of the sum collected to cover their expense in the
24 collection and remittance of said tax. If no title company is involved in the transfer, the purchaser
25 shall make the report and remit the tax.

1 ATTEST:

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4 VOLANDA Y. VIGIL, CITY CLERK

5 APPROVED AS TO FORM:

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7 _____
8 FRANK D. KATZ, CITY ATTORNEY

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25 *mdb/CA/JEP&MDBOrdinances 2008/Workforce Housing Funding Ordinance Revisions 10-6-08*