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**CITY OF SANTA FE, NEW MEXICO**

**ORDINANCE NO. 2019-30**

**AN ORDINANCE**

**AMENDING VARIOUS SECTIONS OF THE SANTA FE HOMES PROGRAM, SECTION 26-1 SFCC 1987, TO REVISE THE REQUIREMENTS FOR MULTIFAMILY RENTAL HOUSING DEVELOPMENT SO THAT DEVELOPERS CAN CHOOSE FROM A MENU OF COMPLIANCE OPTIONS; REMOVING THE SUNSET PROVISION AND INCREASING THE FEE-IN-LIEU AS DETERMINED BY AN "AFFORDABILITY GAP CALCULATION"; DETERMINING THE REQUIREMENTS FOR "LOW-PRICED DWELLING UNITS" AS THEY APPLY TO MULTIFAMILY RENTAL HOUSING UNITS; DETERMINING THE REQUIREMENTS FOR SUBSIDIZED RENTAL UNITS INCLUDED ON-SITE IN MARKET-RATE RENTAL HOUSING; CLARIFYING DEVELOPER INCENTIVES AND TERMS OF COMPLIANCE SO THEY CORRELATE WITH DEGREE OF AFFORDABILITY; PROHIBITING MARKET RATE PROPERTIES THAT RECEIVE INCENTIVES FROM DISCRIMINATING ON THE BASIS OF INCOME SOURCE WHEN QUALIFYING TENANTS; AMENDING SECTION 26-2 SFCC 1987 TO CLARIFY THE REQUIREMENTS FOR RENTAL LOW-PRICED DWELLING UNITS THAT COMPLY WITH THE SANTA FE HOMES PROGRAM; AMENDING SECTION 26-3 SFCC 1978 TO PERMIT ALTERNATIVE FUNDING CYCLES FOR ADMINISTRATION OF THE AFFORDABLE HOUSING TRUST FUND; AND OTHER SUCH CHANGES TO THE SANTA FE HOMES PROGRAM AS NEEDED.**

1           **Section 1.     Section 26-1.5 of SFCC 1987 (being Ord. No. 2005-30(A) § 34, as**  
2 **amended) is amended to read:**

3 **26-1.5 - Definitions.**

4           *Administrative procedures* means the procedures adopted by the governing body that  
5 set forth how the Santa Fe homes program (SFHP) shall be administered.

6           *Affordable home price* means the highest price at which an SFHP home may be sold  
7 pursuant to subsection 26-1.16 of this chapter. For purposes of this chapter, the price of an  
8 SFHP home cannot exceed the maximum established price, including the base price and any  
9 fees charged of the buyer by the seller or a related entity, minus any of the buyer's closing costs  
10 or financing costs paid by the seller, as indicated by the settlement statement for the sale. The  
11 cost of allowable option upgrades may be in addition to the affordable home prices, as  
12 permitted by subsection 26-1.16 SFCC 1987.

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

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

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

20           *Alternate means of compliance* means that SFHP developer has proposed complying  
21 with the SFHP requirements through off-site construction, cash payment in lieu of constructing  
22 or creating the required SFHP units or manufactured home lots, or dedication of land suitable  
23 for construction or creation of inclusionary units of equivalent or greater value than would be  
24 required for onsite construction, rather than constructing the required units pursuant to  
25 subsection 26-1.33 SFCC 1987.

1           *Applicant* means a property owner or agent of a property owner who submits a  
2 development request to the city that is subject to any SFHP requirements, or any successor in  
3 title that is subject to SFHP requirements.

4           *Area median income (AMI)* means the median income for the Santa Fe metropolitan  
5 statistical area as adjusted for various household sizes and published and revised periodically  
6 by the United States Department of Housing and Urban Development (HUD). However, in the  
7 event of a discrepancy between the AMI established by HUD and HUD's program income  
8 limits, the higher of the two (2) shall be used to establish AMI for the purpose of SFHP.

9           *Certified* is a term that describes a buyer of a SFHP unit or renter of such unit who has  
10 obtained a certificate demonstrating completion of homebuyer training courses and whose  
11 income has been verified by the city or its agent as meeting the income limits that establish  
12 eligibility to buy or rent under the program.

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

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

18           *Energy efficiency adjustment* means the amount that may be added to the affordable  
19 home price of a for-sale SFHP unit that meets energy efficiency standards pursuant to  
20 subsection 26-1.16(G) SFCC 1987.

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

1           *Fair market rent* means the rent amount (including utilities, except telephone) required  
2 to rent privately-owned, existing, decent, safe and sanitary homes, of a modest/non-luxury nature,  
3 as established by the HUD for every jurisdiction in the country through an annual survey.

4           *Income qualified* means a buyer or renter whose household income does not exceed the  
5 amount that would establish eligibility to buy or rent a SFHP unit, within income ranges  
6 established for the program or under specific development agreements.

7           *Income range* means the range of area median incomes used in the determination of  
8 eligibility of an SFHP home buyer or an SFHP tenant.

9           *Income range 1* means fifty percent (50%) or less of area median income

10           *Income range 2* means more than fifty percent (50%) but not more than sixty-five  
11 percent (65%) of area median income

12           *Income range 3* means more than sixty-five percent (65%) but not more than eighty  
13 percent (80%) of area median income

14           *Income range 4* means more than eighty percent (80%) but not more than one hundred  
15 percent (100%) of area median income

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

17           *Low-priced dwelling unit ("LPDU")* means a dwelling unit as defined in Chapter 14  
18 SFCC 1987 that complies with the requirements set forth in Section 26-2 SFCC 1987. A low-  
19 priced dwelling unit is not a SFHP unit, unless it meets the requirements of 26-2.3 or a housing  
20 opportunity program unit.

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

23           *Maximum option upgrade allowance* means the maximum amount paid by the SFHP  
24 buyer for allowable option upgrades pursuant to subsection 26-1.16 SFCC 1987.

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

1            *Office of affordable housing* means the department created by subsection 26-1.6 SFCC  
2 1987 to administer the SFHP and other affordable housing programs.

3            *Project owner-operator* means the entity that owns, or the operating agent that manages,  
4 a multifamily rental property.

5            *SFHP* means Santa Fe homes program.

6            *SFHP agreement* means a contract between a property owner of record and the city,  
7 whereby the city confers benefits in the form of development incentives to the property owner  
8 in exchange for compliance with the SFHP.

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

12            *SFHP development* means a tract of land or any improvements thereon that are subject  
13 to an SFHP agreement.

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

15            *SFHP home buyer* means a purchaser of an SFHP home, the entire household  
16 occupying an SFHP home, or the purchaser or entire household occupying an SFHP  
17 manufactured home lot.

18            *SFHP manufactured home lot* means a lot that is marketed and either sold or rented for  
19 the purposes of the placement of a manufactured home and to satisfy SFHP requirements.

20            *SFHP property owner* means the owner of any property who is subject to SFHP  
21 requirements or, as defined in this section, certain successors in title.

22            *SFHP proposal* means a plan provided by a property owner of record to the city,  
23 detailing the property owner's plan for complying with the SFHP.

24            *SFHP rental unit* means a unit marketed and leased specifically to satisfy SFHP  
25 requirements.

1            *SFHP tenant* means a lessee of an SFHP rental unit a manufactured home rental lot, or  
2 the entire household occupying an SFHP rental unit or SFHP manufactured home lot.

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

5            *Unit* means a dwelling unit.

6            **Section 2.        Section 26-1.8 of SFCC 1987 (being Ord. No. 2005-30(A) § 37, as**  
7 **amended) is amended to read:**

8            **26-1.8 Applicability and Amendments to Prior Agreements.**

9            A.    The SFHP ordinance shall apply to the following actions or projects:

10            (1)    any application for residential development including, but not limited to,  
11 annexation, rezoning, subdivision plat, increase in density, development plan, or  
12 extension of, or connection to, city utilities for land outside the city limits;

13            (2)    building permits that propose two (2) or more dwelling units or buildings  
14 or portions of buildings that may be used for both nonresidential and residential purposes,  
15 including single family homes, multifamily housing, live/work housing, and  
16 manufactured home lots;

17            (3)    new construction, the conversion of existing rental units to ownership  
18 units, and the conversion of commercial uses to residential uses;

19            (4)    vacation time share projects and short term rental units, to the limited  
20 extent described in subsection 26-1.22(B)(1)(c); and

21            (5)    any amendment to an SFHP agreement or HOP agreement that was  
22 entered into prior to June 8, 2011, so that the amended agreement meets the current  
23 requirements of section 26.1.

24            B.    The SFHP Ordinance shall not apply to the following situations:

25            (1)    a development or portion thereof that is subject to any formal, written,

1 and binding agreement entered into prior to August 15, 2005, with the city or Santa Fe county in  
2 which the signatories agreed to provide affordable housing or payment in lieu thereof;

3 (2) a dwelling unit or manufactured home lot for an elementary, middle or  
4 high school; college or university; hospital; or similar institution to be used exclusively by its  
5 employees, enrolled students, patients, and their families. If the dwelling unit or lot is no longer  
6 used exclusively by such employees, enrolled students, patients, or families, the SFHP Ordinance  
7 applies at the time the units are converted;

8 (3) any non-residential portion of a development;

9 (4) a family transfer as set forth in subsection 14-3.7(F); or

10 (5) a division of land into two (2) lots as set forth in subsection 14.3.7(D).

11 C. Petitioners for annexations and the office of affordable housing shall negotiate all  
12 terms for providing affordable housing on the site for which annexation is proposed, including the  
13 distribution of development types and the number of SFHP units required or alternate means of  
14 compliance. The number of SFHP units required or alternate means of compliance may be in  
15 excess of that otherwise required by the SFHP ordinance. These terms shall be included in the  
16 annexation agreement. To the extent practicable, all other SFHP requirements shall apply to  
17 annexations. In no case shall the agreement provide for less affordable housing or a lesser in-lieu  
18 contribution than required by the SFHP ordinance. As the property is developed, a SFHP  
19 developer shall record with each subdivision plat or development plan a separate SFHP  
20 agreement in compliance with the annexation agreement.

21 D. All provisions of the prior ordinance, titled housing opportunity program (HOP),  
22 remain in full force and effect with respect to any and all agreements executed by the city and  
23 others that were required by HOP or incorporated HOP provisions by reference. Accordingly, the  
24 office of affordable housing will continue to use and annually update the administrative  
25 procedures for the HOP ordinance until such time as all obligations under such agreements have

1 | been satisfied.

2 |       E.     If the amendment to a SFHP agreement or HOP agreement that was entered into  
3 | prior to June 8, 2011, reduces or redistributes the SFHP or HOP lots contemplated by an  
4 | annexation agreement, subdivision plat, or development plan, then the annexation agreement,  
5 | subdivision plat, or development plan shall be administratively amended to reflect the reduction  
6 | and redistribution of SFHP or HOP lots, and the amended annexation agreement, subdivision plat,  
7 | or development plan shall be recorded or filed, as applicable, by the owner or developer.

8 |       F.     The applicant is responsible for determining the applicability of the SFHP  
9 | Ordinance to the proposed development and for complying with the requirements of SFHP.

10 |       **Section 3.     Section 26-1.15 of SFCC 1987 (being Ord. No. 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  
14 | development, twenty percent (20%) of the total number of dwelling units or manufactured home  
15 | lots offered for sale in an SFHP development shall be SFHP homes, sold at income range prices  
16 | as follows:

17 |             (1)     Five percent (5%) of the total dwelling units or manufactured home lots  
18 |             at or below the affordable home price or affordable manufactured home lot price, as  
19 |             applicable, for income range 2.

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

23 |             (3)     Five percent (5%) of the total dwelling units or manufactured home lots  
24 |             at or below the affordable home price or affordable manufactured home lot price, as  
25 |             applicable, for income range 4.



1           B.     If an applicant exceeds the percentage of units or manufactured home lots in  
2 income range 2 or income range 3 as set forth above, the requirement in any higher income range  
3 may be reduced by the same percentage.

4           C.     The whole number resulting from this calculation shall be the number of SFHP  
5 homes required to be constructed or SFHP manufactured home lots to be created. If the  
6 calculation results in a fraction of a unit, this obligation shall be satisfied as set forth in the  
7 administrative procedures. Nothing herein shall prohibit a developer from building a greater  
8 number of SFHP homes or creating a greater number of SFHP manufactured home lots than  
9 required. Additional units shall meet all the requirements as an SFHP home or manufactured  
10 home lot to be considered an SFHP home or manufactured home lot. The SFHP developer shall  
11 receive the fee waivers described in subsection 14-8.11(G)(2) for such additional units so long as  
12 those units meet all SFHP requirements.

13           D.     In any development with a mix of rental and ownership units or manufactured  
14 home lots, or including units with varying numbers of bedrooms, the number of manufactured  
15 lots or affordable units shall be distributed among these categories in numbers that are  
16 proportionate to the proposed number of market rate lots or units in each category.

17           E.     In any development with both detached and attached ownership units, the number  
18 of detached and attached SFHP units shall be in the same proportion as the number of detached  
19 and attached non-SFHP units.

20           F.     In the event that two (2) or fewer SFHP homes or SFHP manufactured home lots  
21 are required, the SFHP homes or manufactured home lots shall be sold to buyers in income range  
22 3 or lower.

23           G.     If a SFHP developer obtains a residential building permit for a SFHP  
24 development with between two (2) and ten (10) total for-sale units, then the city shall assess a  
25 seventy percent (70%) reduction in fees associated with such development, and the developer

1 | may pay a fee in lieu of providing the required percentage of units.

2 |       **Section 4.       Section 26-1.19 of SFCC 1987 (being Ord. No. 2005-30(A) § 48) is**  
3 | **amended to read:**

4 |       **26-1.19 Enforcement of SFHP agreement.**

5 |       A.   For-sale homes or manufactured home lots. When the city determines a sale is not  
6 | in compliance with the SFHP ordinance or a SFHP agreement, or the information is insufficient  
7 | to determine compliance, the city shall notify the SFHP developer in writing and the SFHP  
8 | developer shall have the opportunity to rectify the noncompliance or supply the information  
9 | lacking with respect to that SFHP home. However, in the event of such noncompliance, the city  
10 | shall not certify any sale of an SFHP home and reserves the right not to certify the sale of any  
11 | further non-SFHP units or manufactured home lots, while recognizing that this shall create an  
12 | encumbrance and title flaw if any sale is made.

13 |       B.   Multifamily rental projects. At the time of final execution of a SFHP agreement,  
14 | the City shall place a lien on the relevant property to capture the value of the fees waived or other  
15 | quantifiable incentives provided under section 14-8.11(G) SFCC 1987 by the city for the  
16 | associated project. If a project owner-operator fails to comply with the provisions of the SFHP,  
17 | the city may enforce the lien as provided by law unless the noncompliance is cured.

18 |       C.   General enforcement provisions. The enforcement provisions set forth in  
19 | subsections 1-3 and 14-11 SFCC 1987 shall apply to all instances of noncompliance with the  
20 | SFHP.

21 |       **Section 5.       Section 26-1.22 of SFCC 1987 (being Ord. No. 2005-30(A) § 51, as**  
22 | **amended) is amended to read:**

23 |       **26-1.22 Requirements for SFHP rental units.**

24 |       A.   If a SFHP developer obtains a residential building permit for multifamily  
25 | residential development between January 1, 2016, and December 31, 2019, then a fee

1 associated with such development shall be assessed in accordance with SFHP administrative  
2 procedures. If applicable, an annexation agreement, subdivision plat, or development plan  
3 shall be administratively amended to reflect the updated requirement and the amended  
4 document shall be recorded or filed, as applicable, by the owner or development. Incentives  
5 for SFHP developers as set forth in subsection 14-8.11 SFCC 1987 will not be available for  
6 these projects, other than the density bonus pursuant to subsection 14-8.11(G)(1).

7 B. Effective January 1, 2020, and thereafter, a SFHP developer that obtains a  
8 building permit for a multifamily residential development shall comply with the SFHP  
9 ordinance by either paying a fee, creating LPDUs, or affordable on-site units as follows:

10 (1) Fee in lieu. The SFHP developer may pay of a fee in lieu of providing  
11 on-site units, assessed according to an "affordability gap" calculation that determines  
12 the base fee, which is the difference between a FMR and the rent affordable to a renter  
13 earning sixty-five percent (65%) of the AMI.

14 a) The steps of the calculation of the base fee amount, as more fully  
15 described in the administrative procedures, are as follows:

16 (i) multiply the total number of units (broken out by  
17 number of bedrooms) by fifteen percent (15%) to determine the number  
18 of affordable units;

19 (ii) multiply the number of affordable units by the base fee  
20 associated with each type of unit (broken out by number of bedrooms) to  
21 determine the monthly fee; and

22 (iii) multiply the monthly fee by twenty-four (24) months to  
23 determine the total project fee.

24 (b) HUD's FMR will be used to establish the affordability gap  
25 ("base fee amount") relative to HUD's AMI data. Developers shall pay phased

1 fee increases according to when projects are permitted as follows:

2 (i) for units permitted on or before June 30, 2020, the base  
3 fee amount;

4 (ii) for units permitted between July 1, 2020, and June 30,  
5 2021, the base fee, increased by twenty percent (20%) fee increase;

6 (iii) for units permitted between July 1, 2021, and June 30,  
7 2022, the base fee, increased by forty percent (40%) fee increase;

8 (iv) for units permitted between July 1, 2022, and June 30,  
9 2023, the base fee, increased by sixty percent (60%) increase;

10 (v) for units permitted between July 1, 2023, and June 30,  
11 2024, the base fee, increased by eighty percent (80%) increase; and

12 (vi) for units permitted on or after July 1, 2024, the base fee,  
13 increased by one hundred percent (100%).

14 (c) A SFHP developer that creates a vacation time share project or  
15 short term rental units shall be subject to the fees set forth in this subparagraph  
16 26-1.22(B)(1);

17 (d) A small multifamily rental project that consists of twelve  
18 (12) or fewer units shall pay the base fee amount, which shall be  
19 calculated as the difference between a FMR and the rent affordable to a  
20 renter earning sixty-five percent (65%) of the AMI, and shall not be  
21 subject to the phased fee increases set forth in subsection 26-  
22 1.22(B)(1)(b).

23 (e) No later than July 1, 2022 staff shall initiate a review of the  
24 provisions of subsection 26-1.22(B)(1), as established by ordinance no. 2019-30,  
25 and shall present the findings to the governing body within six (6) months.

1           (2)     One-hundred percent (100%) LPDUs. An SFHP developer may create  
2 a development that consists of one-hundred percent (100%) LPDUs that shall comply  
3 with the requirements set forth in subsection 26-2.3:

4           (3)     Fifteen percent (15%) affordable rental units. An SFHP developer  
5 may set aside of fifteen percent (15%) of on-site rental units for income certified  
6 renters as described in subsection 26-1.23(A); or

7           (4)     Combination. An SFHP developer may combine two (2) or more of  
8 the preceding three (3) options if such a combination provides an equivalent and  
9 beneficial impact toward meeting identified housing needs, subject to approval by the  
10 office of affordable housing. If a developer chooses to provide a combination of the  
11 options, then the city shall provide the developer incentives set forth in subsection 14-  
12 8.11(G), as approved by the land use director.

13         C.     The marketing, leasing, and occupancy of either an SFHP rental unit or an  
14 SFHP manufactured home lot that is rented shall conform to the criteria set forth in the  
15 administrative procedures. Rental rates shall comply with the rates set forth in subsection 26-  
16 1.24 SFCC 1987. SFHP rental units shall comply with the minimum size, unit type(s), and  
17 other structural requirements set forth in subsection 26-1.25 SFCC 1987. SFHP developers  
18 must obtain approval for the location of SFHP rental units. The units or manufactured home  
19 lots shall have compatible exterior architectural and landscaping appearance with other units  
20 in the development.

21         D.     Units or manufactured home lots available for SFHP rentals shall be described in  
22 a SFHP proposal in sufficient detail so that such units or manufactured home lots can be  
23 identified after construction or creation and occupancy. SFHP tenants must meet eligibility  
24 requirements at the time they initially lease an SFHP unit.

25         Section 6.     Section 26-1.23 of SFCC 1987 (being Ord. No. 2005-30(A) § 52, as

1 amended) is amended to read:

2           **26-1.23 Compliance Requirements for Set Aside of Affordable On-Site Units for**  
3 **Income Certified Renters.**

4           A.       An SFHP developer that chooses the compliance option described in subsection  
5 26-1.22(B)(3) shall set aside at least fifteen percent (15%) of units or manufactured home lots  
6 for income certified renters, as described in the administrative procedures developed by the  
7 office of affordable housing. These units shall be set aside for renters earning no more than  
8 eighty percent (80%) of the AMI, and affordable rental rates shall be determined pursuant to  
9 section 26-1.24. Renters who are certified by the office of affordable housing or the city's  
10 approved subsidy provider to receive federal or local rental vouchers will have preference for  
11 access to SFHP units. All terms of the subsidy provided to income certified renters must  
12 conform to HUD standards, as verified by the office of affordable housing.

13                   (1)       Incentives for SFHP developers. Projects that include on-site affordable  
14 rental units shall receive the incentives set forth in subsection 14-8.11(G). The city shall  
15 provide the development fee waivers and other cost reductions in an amount that is  
16 double the percentage of affordably priced units (e.g., the reduction would be applied to  
17 thirty percent (30%) of the total units if the developer provides fifteen percent (15%)  
18 affordable units).

19                   (2)       Annual reporting and compliance monitoring. Project owner-operators  
20 shall report their inventory of units rented according to income and rent restrictions  
21 described in their respective SFHP agreements, including certifications of income  
22 qualification, to the city on an annual basis.

23           B.       The whole number resulting from applying the percentage calculation to the  
24 total number of units as specified in the SFHP proposal and agreement shall be the number of  
25 required SFHP rental units or rental manufactured home lots. If the calculation described

1 results in a fraction of a unit or manufactured home lot, the minimum SFHP unit obligation  
2 shall be satisfied as set forth in the administrative procedures. Nothing herein shall prohibit a  
3 developer from building a greater number of SFHP rental units or creating a greater number of  
4 SFHP rental manufactured home lots than required. Such additional units shall meet all the  
5 requirements as an SFHP rental unit or manufactured home lot. The SFHP developer shall  
6 receive the fee waiver described in subsection 14-8.11(G)(2) for such additional units so long  
7 as the units meet all SFHP requirements.

8 **Section 7. Section 26-1.24 of SFCC 1987 (being Ord. No. 2005-30(A) § 53, as**  
9 **amended) is amended to read:**

10 **26-1.24 Determination of affordable rent.**

11 A. To ensure that rental rates do not exceed thirty percent (30%) of the monthly  
12 income for both rent and utilities for households according to the occupants applicable income  
13 range, as certified by a HUD-compliant income certification, the affordable rent for SFHP  
14 rental dwelling units shall be determined annually, based on HUD income limits.

15 B. The required rental rates include utilities and shall be adjusted if utilities are  
16 provided separately.

17 C. The affordable rent for manufactured home lots shall not exceed thirty percent  
18 (30%) of the affordable rent for a three (3)-bedroom dwelling unit.

19 D. Beginning in 2006 and every year thereafter, affordable rent and affordable  
20 manufactured home lot rent shall be adjusted by the percentage change in area median income  
21 from the previous twelve (12) months, as per HUD's annual determination of income limits,  
22 and the office of affordable housing shall issue an updated schedule of affordable rents and  
23 affordable manufactured home lot rent for qualified income ranges. The office of affordable  
24 housing shall report to the governing body within thirty (30) days of adjusting affordable rents  
25 and affordable manufactured home lot rent.

1           **Section 8.       Section 26-1.25 of SFCC 1987 (being Ord. No. 2005-30(A) § 54) is**  
2 **amended to read:**

3           **26-1.25 Design, unit types for SFHP rental dwelling units.**

4           On-site affordable SFHP rental dwelling units created pursuant to subsection 26-1.23  
5 shall be constructed according to the following guidelines for bathrooms and area of habitable  
6 residential space:

<b>Unit Type</b>	<b>Minimum Number of Bathrooms</b>	<b>Minimum Area</b>
Efficiency/Studio	1	500 square feet
1 Bedroom	1	650 square feet
2 Bedroom	1	800 square feet
3 Bedrooms	2	950 square feet
4 Bedrooms	2	1,100 square feet

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16           Habitable space shall be defined and calculated in accordance with the city's building  
17 code.

18           **Section 9.       Section 26-1.26 of SFCC 1987 (being Ord. No. 2005-30(A) § 55) is**  
19 **amended to read:**

20           **26-1.26 Marketing to and certifying SFHP tenants.**

21           A.       Owners of SFHP developments for rental housing or rental manufactured  
22 home lots shall market the SFHP rental units to ensure that the target market, income-  
23 qualified renters, are reached. Marketing materials shall clearly state the policies of the SFHP  
24 program with regard to pricing of SFHP rental units and tenant eligibility. For developments  
25 with SFHP rental units for which the city or its agent expects immediate effective demand to



1 | outstrip the supply, the city or its agents shall establish and maintain a fair and competitive  
2 | process for allocating rights to lease the SFHP rental units. In developments where the city or  
3 | its agent has established such a process, the developer shall follow the process when selecting  
4 | SFHP tenants. For developments besides those described above, the developer shall establish  
5 | and maintain an equitable process of marketing SFHP rental units, including waiting lists  
6 | where demand exceeds supply.

7 |         B.       When renting SFHP rental units, the landlord shall give preference to  
8 | individuals who are residents of Santa Fe county or are presently employed or under contract  
9 | with an employer within Santa Fe county, as may be limited by federal programs.

10 |        C.       Prior to executing a lease for any SFHP rental unit, the prospective SFHP  
11 | tenant shall be certified as meeting the SFHP requirements by the city or its agent. Nothing,  
12 | however, in this chapter or administrative procedures shall be construed so as to penalize  
13 | qualifying renters for changes in family size due to changes in the number of dependents in a  
14 | particular household.

15 |         D.       Any owner or agent required to provide SFHP rental units shall not  
16 | discriminate against a tenant for proposing to use federal or other rent subsidies.

17 |         **Section 10.       Section 26-1.29 of SFCC 1987 (being Ord. No. 2005-30(A) § 58, as**  
18 | **amended) is amended to read:**

19 |         **26-1.29 Term of compliance for multifamily rentals and rental manufactured home**  
20 | **lots.**

21 |         A.       LPDUs. A project owner-operator subject to the compliance option set forth in  
22 | subsection 26-1.22(B)(2) shall comply with the requirements set forth in subsection 26-2.3(C)  
23 | SFCC 1987 for a minimum time period of ten (10) years from the time of each unit's initial  
24 | occupancy. At the end of the initial ten (10)-year tenancy, the project owner-operator shall  
25 | provide six (6)-months' notice of the reversion to full market rents at the end of the compliance

1 period. Owner-operators shall give priority to current renters to continue occupancy of their  
2 units if they can meet all terms of tenancy.

3 B. Affordable rental set-aside units. A project owner-operator subject to the  
4 compliance option set forth in subsection 26-1.22(B)(3) shall set aside affordable units for a  
5 minimum of ten (10) years from the date at which the property is fully leased for the set-aside  
6 units as described in subsection 26-1.23. At the end of the initial ten (10)-year tenancy, the  
7 project owner-operator shall comply with a relocation plan for each subsidized tenant, as  
8 developed and managed by the city's approved rental subsidy provider. No tenant's occupancy  
9 may be ended without a suitable relocation option.

10 C. Rental manufactured home lots. A project owner-operator of a rental  
11 manufactured home lot development subject to SFHP (or portions thereof completed and  
12 occupied at different times) shall maintain required occupancy and rental rates in SFHP units  
13 for a period of ten (10) years.

14 D. Successors in title. The requirements of this subsection 26-1.29 shall be made  
15 applicable to successors in title, if any, by means of a deed restriction.

16 **Section 11. Section 26-2.2 of SFCC 1987 (being Ord. No. 2007-40 § 34) is**  
17 **amended to read:**

18 **26-2.2 Definitions.**

19 As used in Section 26-2 SFCC 1987:

20 *Area median income (AMI)* means the median income for the Santa Fe metropolitan  
21 statistical area as adjusted for various household sizes and published and revised periodically  
22 by the United States Department of Housing and Urban Development. However, that in the  
23 event of a discrepancy between the AMI established by HUD and HUD's program income  
24 limits, the higher of the two (2) shall be used to establish AMI for the purpose of the provisions  
25 related to low-priced dwelling units.

1            *Low-priced dwelling unit ("LPDU")* means a dwelling unit as defined in Chapter 14  
2 SFCC 1987 that complies with the requirements set forth in Section 26-2 SFCC 1987. A low-  
3 priced dwelling unit is not a Santa Fe homes program unit, unless specifically described below,  
4 or a housing opportunity program unit.

5            *Non-profit affordable housing organization* means a legally incorporated non-profit  
6 organization recognized by the city's office of affordable housing whose purpose includes  
7 providing housing or housing services to low- and moderate-income individuals and families.

8            *Owner/builder* means a person building his or her own home on property that he or she  
9 owns or which is owned by a member of their immediate family.

10           *Project owner/operator* means an entity that owns or operates a rental property that  
11 conforms to the qualifications of a low-priced dwelling unit as they pertain to rental housing.

12           **Section 12.    Section 26-2.3 of SFCC 1987 (being Ord. No. 2007-40 § 34) is**  
13 **amended to read:**

14           **26-2.3 Requirements for low-priced dwelling units.**

15           Low-priced dwelling units qualifying for various incentives set forth in various city  
16 codes, policies, and procedures shall comply with this section.

17           A.    In order to qualify as a low-priced dwelling unit, the unit shall be built by one  
18 of the following actors:

19                (1)    A developer as part of a type A development described in a valid  
20 housing opportunity program agreement;

21                (2)    An owner/builder;

22                (3)    A nonprofit affordable housing organization; or

23                (4)    A multifamily developer providing market-rate rental housing that  
24 meets the criteria of LPDU as described in subsection 26-2.3(C).

25           B.    Low-priced dwelling units shall meet the following criteria:

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(1) Sale prices or rental rates affordable to a household with an income at or below one hundred percent (100%) of the area median income, using a standard four-person household for buyers and a three-person household for renters, according to the procedures established in the Santa Fe homes program;

(2) Buyers, renters, or the owner/builder who do not earn more than one hundred twenty percent (120%) of the area median income, adjusted for household size;

(3) Owner-occupied for at least five (5) years, for units built by an owner/builder and for-sale units;

(4) A city-placed lien against the property for the value of all fee waivers or reductions given by the city, to be repaid to the city when the unit and/or property is refinanced or sold, with proceeds from the lien repayment being deposited into the city's affordable housing trust fund; and

(5) At the time of initial occupancy of the low-priced dwelling unit, meeting the following minimum household size, unless the city's office of affordable housing approves a smaller household size upon the request of the nonprofit affordable housing organization or the renter or buyer of the low-priced dwelling unit. This criterion (5) does not apply to a unit built by an owner/builder.

<b>Unit Size</b>	<b>Minimum Household Size</b>
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

1 C. If a low-priced dwelling unit is built by a for-profit multifamily developer in  
2 compliance with the rental home requirements outlined in 26-1.22, then the following  
3 requirements apply:

4 (1) One hundred percent (100%) LPDU required. A LPDU project owner-  
5 operator shall rent one hundred percent (100%) of units or manufactured home lots to  
6 income certified renters, whose incomes do not exceed one-hundred twenty percent  
7 (120%) of area median income, as established by HUD. Rents will be calculated pursuant  
8 to the SFHP administrative procedures and will not exceed HUD's FMR, as established  
9 annually. Owner-operators shall give preference to renters certified by the office of  
10 affordable housing or the city's approved subsidy provider who have federal or local  
11 rental vouchers. All terms of the subsidy provided to the tenants must conform to HUD  
12 standards.

13 (2) Incentives. As set forth in subsection 14-8.11 SFCC 1987, incentives  
14 shall be available for LPDU rental projects, with all fees reduced by fifteen percent  
15 (15%).

16 (3) Annual reporting and compliance monitoring. Project owner-operators  
17 shall annually report their inventory of units rented according to income and rent  
18 restrictions described in their respective SFIIP agreements. The owner/operator shall  
19 update income qualifications according to HUD's AMI and FMR datasets.

20 D. If the low-priced dwelling unit is built by an owner/builder, the owner/builder  
21 shall submit a certified appraisal from a qualified appraiser indicating that the value of the  
22 dwelling unit with the land does not exceed the price set forth in paragraph B(1) above.

23 E. If the low-priced dwelling unit is built by a nonprofit affordable housing  
24 organization, the organization shall place a lien against the property to capture any value  
25 between the actual sales price and the appraised price. This lien shall be in last place and any

1 proceeds realized from the sale shall be used for affordable housing and shall be reported to  
2 the city's office of affordable housing.

3 **Section 13. Section 26-3.2 of SFCC 1987 (being Ord. No. 2007-23 § 5) is**  
4 **amended to read:**

5 **26-3.2 Authority.**

6 The Affordable Housing Trust Fund Ordinance is enacted pursuant to the express  
7 statutory authority conferred upon municipalities to enact a housing code pursuant to Section 3-  
8 17-6A(8) NMSA 1978; to enact ordinances pursuant to its police power, Section 3-17-1(B)  
9 NMSA 1978; to provide for affordable housing pursuant to subsections E and F of Article 9,  
10 Section 14 of the New Mexico Constitution and the Affordable Housing Act, Sections 6-27-1 to  
11 6-27-8 NMSA 1978, and in particular to provide a portion of the cost of financing and/or  
12 authorizing housing assistance grants for the purpose of affordable housing pursuant to Section 6-  
13 27-5 NMSA 1978 (2007), and pursuant to any and all such other authority as may be applicable  
14 including but not limited to the city's recognized authority to protect the general welfare of its  
15 citizens. This section is adopted pursuant to the city of Santa Fe's powers under its municipal  
16 charter, which was adopted effective March 15, 1998 pursuant to the Municipal Charter Act  
17 Sections 3-15-1 to 3-15-16 NMSA 1978 and Article 10, Section 6 of the New Mexico  
18 Constitution.

19 **Section 14. Section 26-3.2 of SFCC 1987 (being Ord. No. 2007-23 § 12) is**  
20 **amended to read:**

21 **26-3.9 Affordable Housing Trust Fund Administration.**


22 A. The AHTF shall be administered by the office of affordable housing (OAH). The  
23 administrative procedures for the AHTF shall be prepared by the OAH, shall be consistent with  
24 the rules of the New Mexico Mortgage Finance Authority upon amendment of the rules in  
25 conformity with the Act as amended in 2007 and shall be approved by the governing body.

1 B. All funds shall be allocated under a request for proposal that is conducted at least  
2 annually and concurrently with the process used for the community development block grant  
3 programs, unless an emerging need requires an alternate funding cycle as approved by the city of  
4 Santa Fe community development commission and subject to the availability of funds. In all  
5 cases, the request for proposal process will be consistent with the provisions of this section and  
6 administrative guidelines. Loans and grants shall be disbursed according to standard city  
7 procurement practices.

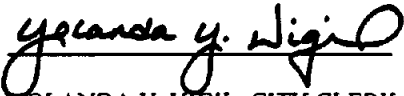
8 C. Applications for funding shall be reviewed according to evaluation criteria  
9 contained within the administrative procedures.

10 PASSED, APPROVED, and ADOPTED this 11<sup>th</sup> day of December, 2019

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ALAN M. WEBBER, MAYOR

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

  
ERIN K. McSHERRY CITY ATTORNEY

*Bill No. 2019-27*  
*Legislation 2019 Ordinances/2019-30 SFHP Rental Requirements Amendment*