

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2007- 40

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4
5 AN ORDINANCE

6 AMENDING SECTIONS 6-4.3; VARIOUS SECTIONS OF CHAPTER 14; RENAMING
7 CHAPTER XXVI; CREATING A NEW ARTICLE 26-2 SFCC 1987 ALL RELATED TO
8 AFFORDABLE HOUSING, THE SANTA FE HOMES PROGRAM AND LOW PRICED
9 DWELLING UNITS.

10
11 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

12 Section 1. Section 6-4.3 SFCC 1987 (being Ord. #1984-19, §4 as amended) is
13 amended to read:

14 6-4.3 Powers and Duties. The commission shall advise the governing body of the
15 city in:

16 A. Administration of the community development block grant program in
17 accordance with the city's adopted consolidated plan;

18 B. Administration of the Santa Fe Homes Program in accordance with adopted
19 ordinances and administrative guidelines;

20 C. Establishing a general plan for the city relating to economic and other community
21 development issues; and

22 D. Allocating loans and housing assistance grants according to the Affordable
23 Housing Trust Fund Ordinance as set forth in Section 26-3 SFCC 1987.

24 Section 2. Section 14-8.11(D)(1) SFCC 1987 (being Ord. #2005-30(A) §16) is
25 amended to read:

1 (1) Except as set forth in this paragraph the SFHP shall apply to any
2 application for development including, but not limited to, annexation,
3 rezoning, subdivision plat, increase in density, development plan,
4 extension of or connection to city utilities for land outside the city limits,
5 and building permits which proposes two or more dwelling units or
6 buildings or portions of buildings which may be used for both
7 nonresidential and residential purposes and manufactured home lots.
8 SFHP applies to the residential portion of the development.

9 (a) The SFHP applies to new construction and to the conversion of
10 existing rental units to ownership units.

11 (b) The SFHP shall not apply to a family transfer as set forth in §14-
12 3.7(E)(3)(b) or a division of land into two lots as set forth in §14-
13 2.3(E)(1)(a).

14 (c) It shall be the responsibility of the applicant to determine the
15 applicability of SFHP to the proposed development and comply
16 with the requirements of SFHP.

17 **Section 3. Section 14-8.11(D)(2) SFCC 1987 (being Ord. #2005-30(A) §16) is**
18 **amended to read:**

19 (2) The SFHP shall not apply to the following:

20 (a) Any development or portion thereof which is subject to any
21 formal, written and binding agreement entered into prior to
22 August 15, 2005, with the City or Santa Fe County which if
23 within said agreement the signatories agreed to provide
24 affordable housing or payment in lieu thereof; or

25 (b) Dwelling units or manufactured home lots for an elementary,

1 middle, or high school, community college, private four year
2 college or related institutions where coursework leads to an
3 associate of arts, bachelors or vocational degree or certification,
4 hospital or similar institution to be used exclusively by its
5 employees or enrolled students and their families. If the dwelling
6 units are no longer exclusively used by its employees or enrolled
7 students and their families, the SFHP shall apply at the time the
8 units are converted.

9 **Section 4. Section 14-8.11(D)(4) SFCC 1987 (Ord. #2005-30(A), § 16) is**
10 **amended to read:**

11 (4) All provisions of the prior ordinance, titled Housing Opportunity
12 Program (HOP), remain in full force and effect with respect to any and
13 all agreements executed by the City and others which were required by
14 HOP or incorporated HOP provisions by reference. However, the Office
15 of Affordable Housing shall be responsible for administering such
16 agreements according to the administrative procedures for the SFHP
17 ordinance until such time as all obligations under such agreements have
18 been satisfied except for sale prices or rental rates. Sale prices and rental
19 rates shall be based upon the prior HOP administrative procedures and
20 annually updated by staff.

21 **Section 5. Section 14-8.11(G)(1)(c) SFCC 1987 (being Ord. #2005-30(A) §16) is**
22 **amended to read:**

23 (c) Any such bonus will not require an amendment to the General
24 Plan or a rezoning or approval by the Governing Body unless
25 appealed pursuant to §14-3.17.

1 **Section 6. Section 14-8.11(G)(2)(b) SFCC 1987 (being Ord. #2005-30(A) §16) is**
2 **amended to read:**

3 (b) Impact fees as set forth in §14-8.14 and utility expansion charges
4 as set forth in Chapters XXII and XXV SFCC 1987 shall be
5 reduced at the time of building permit application for SFHP
6 units.

7 **Section 7. Section 14-8.11(G)(3) SFCC 1987 (being Ord. #2005-30(A) §16) is**
8 **amended to read:**

9 (3) Other

10 (a) For the purpose of offsetting water demand under Section 1.3.3
11 of the City's Water Budget Administrative Procedures
12 established by §14-8.13(C) (Water Budget Ordinance), all SFHP
13 units priced to be affordable at or below sales prices established
14 for income range 4 and rental projects with rents established at
15 or below income range 2 shall qualify for Retrofit Option "C" as
16 long as such retrofits remain available.

17 (b) For the purposes of reducing the consumptive water rights
18 required to be transferred under §14-8.16(D)(2) (Water Rights
19 Transfer Ordinance), all SFHP units shall qualify.

20 **Section 8. Section 14-8.13(F)(4)(d) SFCC 1987 (being Ord. #2002-29, §§ 5-11 as**
21 **amended) is amended to read:**

22 (d) Any fixture that is obtained for free or which has received a
23 rebate from any City water conservation program (i.e. Water
24 Wise) shall only be counted as an eligible retrofit if the proposed
25 building meets the definition of a Santa Fe Homes Program Unit,

1 a Housing Opportunity Program Unit as per a valid Housing
2 Opportunity Program Agreement or low priced dwelling unit.

3 **Section 9. Section 14-8.14(D)(2) SFCC 1987 (being Ord. #2003-32, §1 as**
4 **amended) is amended to read:**

5 (2) Application for waivers of impact fees shall be made at the time of
6 application for a building permit. Applications shall be reviewed by the
7 Office of Affordable Housing. Impact fees shall be waived for:

- 8 (a) Santa Fe homes or Santa Fe rental units as defined in Article 26-
9 1 SFCC 1987;
- 10 (b) Housing opportunity program home or housing opportunity
11 program rental unit subject to a valid housing opportunity
12 program agreement; or
- 13 (c) A low priced dwelling unit as defined in Article 26-2 SFCC
14 1987.

15 **Section 10. Section 14-8.16(D)(2) SFCC 1987 (being Ord. #2005-29, §2) is**
16 **amended to read:**

17 (2) The City may, in its sole discretion, allow reduction in the consumptive
18 water rights required to be transferred in paragraph (D)(1) above by the
19 amount of consumptive water rights required for any Santa Fe Homes
20 Program unit, a Housing Opportunity Program unit as per a valid
21 Housing Opportunity Program Agreement or any dwelling unit meeting
22 the definition of a low-priced dwelling unit as set forth in Article 26-2
23 SFCC 1987, provided that the water demand for such units is offset by
24 complying with the Annual Water Budget Ordinance as set forth in §14-
25 8.13(F)(3) and the Annual Water Budget Ordinance Policies and

1 Procedures Offset Option C, for affordable housing or subsequently
2 adopted regulations and procedures. The reduction is contingent upon the
3 applicant entering into an agreement or other approved document with
4 the City regarding the low-priced dwelling units. The document shall be
5 recorded with the County Clerk and Recorder's Office.

6 **Section 11. [REPEAL.] The following definition of Article 14-12 SFCC 1987**
7 **(being Ord. #2001-38 as amended) is repealed:**

8 **AFFORDABLE HOUSING**

9 Housing which generally qualifies as a low priced dwelling unit as defined in this chapter.

10 **Section 12. [NEW MATERIAL.] The following definition is added to Article**
11 **14-12 SFCC 1987 (being Ord. #2001-38 as amended):**

12 **CERTIFIED**

13 As used in the Santa Fe Homes Program (§14-8.11) a buyer of a Santa Fe Homes Program Unit
14 or renter of such unit whose income has been verified by the City or its agent as meeting the
15 income limits which establish eligibility to buy or rent under the program. Buyers shall also
16 receive a certificate verifying they have completed homebuyer training courses as part of the
17 certification process.

18 **Section 13. The following definition of Article 14-12 SFCC 1987 (being Ord.**
19 **#2001-38 as amended) is amended to read:**

20 **LOW PRICED DWELLING UNIT**

21 A dwelling unit that complies with §26-2.

22 **Section 14. Section 7.2 of Exhibit A of Chapter 22 SFCC 1987 (being Ord.**
23 **#1997-3, as amended) is amended to read:**

24 7.2.

25 A. Santa Fe Homes Program for-sale or for-rent units as defined in Article 26-1

1 SFCC 1987;

2 B. Housing opportunity program home or housing opportunity program rental unit
3 subject to a valid housing opportunity program agreement; or

4 C. A low priced dwelling unit as defined in Article 26-2 SFCC 1987.

5 7.2.1. Application for waivers of the UEC shall be made at the time of application for a
6 building permit. Application for reimbursement shall be made after sale or rental of the unit.

7 Applications shall be reviewed by the office of affordable housing.

8 **Section 15. Rate Schedule 8 of Exhibit B of Chapter 25 SFCC 1987 is amended**
9 **to read:**

10 CITY OF SANTA FE - PUBLIC UTILITIES DEPARTMENT

11 WATER SERVICES DIVISION

12 RATE SCHEDULE 8

13 UTILITY EXPANSION CHARGE

14 **APPLICABILITY:** This Utility Expansion Charge is applicable to all new customers for
15 connection with the City's system. Installation of a second meter and establishment of a new
16 account for existing demand on a legal residential lot of record shall not be considered a new
17 customer subject to application of the Utility Expansion Charge. Service will be furnished in
18 accordance with the City's Rules and Regulations covering water service, available at the City's
19 offices and on file with the office of the City Clerk of the city of Santa Fe, which Rules and
20 Regulations or subsequent revisions thereof are a part of this Schedule as if fully written herein.

21 **SERVICE AREA:** Within the corporate limits of the city of Santa Fe, New Mexico and those
22 areas outside the corporate limits to which service has been authorized by action of the governing
23 body of the city of Santa Fe.

24 **UTILITY EXPANSION CHARGE (UEC):** The rate for the UEC shall be the sum of A and B.

25 A. CHARGE:

- 1 1. The Charge for a 5/8" meter service is \$2,013.00.
- 2 2. The charge for a 5/8" meter service for the following is \$800.00.
- 3 a. Santa Fe Homes Program for-sale or for-rent units as defined in
- 4 Article 26-1 SFCC 1987;
- 5 b. Housing opportunity program home or housing opportunity
- 6 program rental unit subject to a valid housing opportunity program agreement; or
- 7 c. A low priced dwelling unit as defined in Article 26-2 SFCC
- 8 1987.
- 9 3. The Charge for each meter service size shall be determined by
- 10 multiplying the Charge for a 5/8" meter service by the applicable equivalent meter EQM
- 11 Factor.

12 4. The other meter service sizes are as follows:

| Meter Service | EOM Factor | UEC |
|---------------|------------|-------------|
| 3/4" | 1.5 | \$ 3,019.00 |
| 1" | 2.5 | 5,032.00 |
| 1 1/2" | 5.0 | 10,065.00 |
| 2" | 8.0 | 16,104.00 |
| 3" | 15.6 | 31,402.00 |
| 4" | 25.0 | 50,325.00 |
| 6" | 50.0 | 100,650.00 |
| 8" | 80.0 | 161,040.00 |

22 B. SPECIAL TAX AND ASSESSMENT CLAUSE: Billings under this Schedule
 23 may be increased by an amount equal to the sum of taxes payable under the Gross Receipts and
 24 Compensating Tax Act and of all other taxes, fees, or charges payable by the City and levied or
 25 assessed by any governmental authority on the public utility service rendered, or on the right or

1 privilege of rendering the service, or on any object or event incidental to the rendition of the
2 service.

3 C. VARIANCE: In the event a developer makes an advance payment for project
4 costs, which payment covers all costs pertaining to the project in question which are included in
5 the UEC calculation, he/she shall upon application to the governing body of the city of Santa Fe
6 be entitled to a variance excusing him/her from payment of the UEC.

7 TERMS OF PAYMENT: The UEC is due when notice is provided to the Customer prior to
8 installation of the service line.

9 SERVICE APPLICATION: The UEC shall apply to new services, not including the installation
10 of a second meter and establishment of a new account for existing demand on a legal residential
11 lot of record, located anywhere within the water service area approved by the City.

12 **Section 16. Chapter 26 Title SFCC 1987 (being Ord. # 2005-30) is amended to**
13 **read:**

14 **CHAPTER XXVI HOUSING.**

15 **Section 17. Section 26-1.3 SFCC 1987 (being Ord. #2005-30(A), §32) is amended**
16 **to read:**

17 **26-1.3 Purpose.**

18 The purpose of the Santa Fe Homes Program is to:

19 A. Increase the supply of affordable housing within the Santa Fe area for residents
20 and businesses.

21 B. Encourage the construction of affordable housing in all areas of the city in
22 accordance with the general plan.

23 C. Strengthen the unique heterogeneous character of the Santa Fe area by providing
24 a full range of housing choices for all ages, incomes and family sizes.

25 D. Ensure that residents and future generations can afford to reside within the Santa

1 Fe area.

2 E. Ensure that affordable housing opportunities are available for those who work
3 and wish to live in the Santa Fe area.

4 F. Encourage the maintenance of the long term affordability of housing units within
5 the Santa Fe area.

6 G. Provide affordable housing wherever city utilities are extended beyond the city
7 limits.

8 H. Foster economic integration by encouraging the availability of a range of housing
9 opportunities in new developments in the Santa Fe area.

10 I. To provide the benefit of home equity to homeowners of affordable housing
11 similar to those in market rate housing for such purposes as college education and retirement
12 needs and in turn encouraging pride in ownership and maintenance of the affordable housing unit
13 by allowing access to that home equity.

14 **Section 18. The following definitions of Section 26-1.5 SFCC 1987 (being Ord.
15 #2005-30A, §34) are amended to read:**

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

23 *Area median income (AMI)* means the median income for the Santa Fe metropolitan
24 statistical area as adjusted for various household sizes and published and revised periodically by
25 the United States Department of Housing and Urban Development. However, that in the event of

1 a discrepancy between the AMI established by HUD and HUD's Program Income limits, the
2 higher of the two shall be used to establish AMI for the purpose of SFHP.

3 **Section 19. [NEW MATERIAL.] The following definitions are added to Section**
4 **26-1.5 SFCC 1987 (being Ord. #2005-30A, §34):**

5 *Certified* means a buyer of a Santa Fe Homes Program Unit or renter of such unit whose
6 income has been verified by the city or its agent as meeting the income limits which establish
7 eligibility to buy or rent under the program. Buyers shall also receive a certificate verifying they
8 have completed homebuyer training courses as part of the certification process.

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

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

14 **Section 20. Section 26-1.8 (being Ord. #2005-30(A), §37) 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
18 density, development plan, extension of or connection to city utilities for land outside the city
19 limits, and building permits which proposes two or more dwelling units or buildings or portions
20 of buildings which may be used for both nonresidential and residential purposes and
21 manufactured home 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.

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

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

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

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

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

15 C. Petitioners for annexations and the office of affordable housing shall negotiate all
16 terms for providing affordable housing on site including the distribution of development types
17 and the number of SFHP units required or alternate means of compliance. The number of SFHP
18 units required or alternate means of compliance may be in excess of that required by SFHP.

19 These terms shall be included in the annexation agreement. To the extent practicable, all other
20 SFHP requirements shall apply to annexations. In no case shall the agreement provide for less
21 affordable housing or a lesser in-lieu contribution than required by SFHP. As the property is

22 developed, a separate SFHP agreement in compliance with the annexation agreement shall be
23 recorded with each subdivision plat or development plan.

24 D. All provisions of the prior ordinance, titled Housing Opportunity Program (HOP)
25 remain in full force and effect with respect to any and all agreements executed by the city and

1 others which were required by HOP or incorporated HOP provisions by reference. Accordingly,
2 the office of affordable housing will continue to use and annually update the administrative
3 procedures for the HOP ordinance until such time as all obligations under such agreements have
4 been satisfied.

5 **Section 21. Section 26-1.11 SFCC 1987 (being Ord. #2005-30A, §40) is amended**
6 **to read:**

7 **26-1.11 Submission and Review of SFHP Proposals.**

8 A. An SFHP proposal shall be submitted with any development request to which
9 SFHP applies. The office of affordable housing shall provide a form that may be used to complete
10 SFHP proposals and advise the applicant regarding responsiveness to SFHP requirements. Each
11 SFHP proposal shall be reviewed by the office of affordable housing. After review, the office of
12 affordable housing shall either approve the SFHP proposal or disapprove the SFHP proposal and
13 refer it back to the applicant with written comments regarding the proposal's deficiencies.

14 B. A revised SFHP proposal shall be submitted and reviewed by the office of
15 affordable housing if changes in the SFHP proposal are necessary because of changes in the
16 development request as it proceeds through the development review process.

17 **Section 22. Section 26-1.15 SFCC 1987 (being Ord. #2005-30(A), §44) is**
18 **amended to read:**

19 **26-1.15 Required Number of For Sale SFHP Homes in a Development.**

20 A. Thirty percent (30%) of the total number of dwelling units or manufactured home
21 lots offered for sale in an SFHP development shall be SFHP Homes, as follows:

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

25 (2) Ten percent (10%) of the total dwelling units or manufactured home lots

1 shall be sold at or below the affordable home price or affordable manufactured home lot
2 price, as applicable, for income range 3, and

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

6 B. If an applicant exceeds the percentage in income range 2 or income range 3 as set
7 forth above, the requirement in any higher income range may be reduced by the same percentage.

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

17 D. In any development with a mix of rental and ownership units or manufactured
18 home lots, the number of SFHP rental units or rental manufactured home lots shall be in the same
19 proportion as the number of non-SFHP rental units or rental manufactured home lots and likewise
20 with ownership units or ownership manufactured home lots.

21 E. In any development with a mix of detached and attached ownership units, the
22 mix of SFHP units shall be in the same proportion as the mix of non-SFHP units.

23 F. In the event that two (2) or fewer SFHP Homes or SFHP manufactured home lots
24 are required, the SFHP Homes or manufactured home lots shall be affordable to income range 3
25 or income range 2.

1 **Section 23. Section 26-1.16 SFCC 1987 (being Ord. #2005-30(A), §45) is**
 2 **amended to read:**

3 **26-1.16 Determination of Affordable Home Price.**

4 A. To ensure the SFHP homes are affordable, the affordable home prices below are
 5 calculated to ensure that the sum of principal and interest payments, taxes, property insurance and
 6 mortgage insurance does not exceed thirty-three percent (33%) of the monthly income of the
 7 assumed household size in each applicable income range.

8 B. Except as provided in subsection 26-1.16E below, at the time of enactment of
 9 this chapter, the affordable home price for each income range, shall be:

| | Affordable Home Price | Affordable Home Price | Affordable Home Price | Affordable Home Price | Affordable Home Price |
|----------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Income Range | Studio | 1 Bedroom | 2 Bedroom | 3 Bedroom | 4 Bedroom |
| Income Range 2 | \$74,500 | \$85,000 | \$97,000 | \$109,000 | \$122,000 |
| Income Range 3 | \$100,500 | \$111,000 | \$126,000 | \$142,000 | \$158,000 |
| Income Range 4 | \$125,500 | \$136,000 | \$155,000 | \$175,000 | \$194,000 |

10 C. Except as provided in subsection 25-1.6E below, the affordable manufactured
 11 home lot price shall be twenty-five percent (25%) of the affordable home price for a 3 bedroom
 12 home for each applicable income range, as follows:

| Affordable Manufactured Home Lot | |
|----------------------------------|----------|
| Income Range | Price |
| Income Range 2 | \$27,250 |
| Income Range 3 | \$35,500 |

Income Range 4

\$43,750

1 D. Beginning in 2006 and every year thereafter, the office of affordable housing
2 shall review and adjust the affordable home price and affordable manufactured home lot for each
3 applicable income range and home size based on the changes in area median income from the
4 previous twelve (12) months. However, every three (3) years thereafter at a minimum, the
5 governing body shall review the methodology for calculating annual increases and make
6 appropriate adjustments if necessary. The office of affordable housing shall report to the
7 governing body within thirty (30) days of adjusting the affordable home price and affordable
8 manufactured home lot price.

9 E. The affordable home price and affordable manufactured home lot price shall be
10 reduced pursuant to administrative procedures in order to limit the impact on SFHP home buyers
11 of fees assessed by condominium, common area, or homeowner associations. The affordable
12 home price or affordable manufactured home lot price shall be reduced so that the buyer's
13 mortgage or manufactured home loan principal amount and, accordingly, the buyer's monthly
14 mortgage payments, are reduced by an amount equal to the amount of the assessed fee in excess
15 of seventy-five dollars (\$75).

16 F. Pursuant to administrative procedures, the affordable home price may be
17 increased at the request of the SFHP home buyer by the price of allowable option upgrades, not to
18 exceed the maximum option upgrade allowance.

19 G. At the time of the enactment of this chapter, the maximum option upgrade
20 allowance shall be no greater than five thousand dollars (\$5,000.). Beginning in 2006 and every
21 year thereafter, the office of affordable housing shall review and adjust the maximum option
22 upgrade allowance based on changes in the area median income for the previous twelve (12)
23 months. Permissible items to be included in the Maximum Option Upgrade Allowance shall be
24 determined pursuant to Administrative Procedures.

1 **Section 24. Section 26-1.17 SFCC 1987 (being Ord. #2005-30(A), §46) is**
2 **amended to read:**

3 **26-1.17 Design, Unit Types, Siting, Warranty_Requirements for SFHP Homes.**

4 A. The SFHP homes shall be constructed according to the minimum requirements
5 for bathrooms and areas of habitable residential space described below:

| | Minimum | |
|------------|-----------|-------------------|
| | Number of | |
| Unit Type | 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 |

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

9 B. The SFHP homes shall meet the following distribution:

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

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

11 (2) The SFHP developer may request approval from the office of affordable

1 housing to provide a mix of unit sizes that varies from the above. Factors that may be
2 considered as a basis for approving a different unit size mix include, but are not limited
3 to:

4 (a) A different mix would better match the mix of non-SFHP homes
5 within the development.

6 (b) A different mix would better match the consumer demand for
7 SFHP homes.

8 C. The minimum sizes specified in this subsection shall not apply to units converted
9 from existing rental units to ownership units. In such developments, the mix of size and type of
10 SFHP Homes offered for sale shall be in proportion to the mix of non-SFHP homes offered for
11 sale.

12 D. SFHP homes at different price levels and of different home sizes shall be
13 dispersed evenly among the non-SFHP homes and be evidenced by designation of home lots at
14 time of plat recording for each phase of development.

15 E. The SFHP homes shall be similar in exterior architectural and landscaping
16 appearance to the non-SFHP homes.

17 F. The seller of an SFHP home shall provide a warranty of at least one year
18 covering defects in materials and workmanship in addition to any manufacturers' warranties or
19 warranties provided by a contractor or subcontractor, such as warranties on roofing and
20 appliances. The minimum one year warranty on defects in materials and workmanship shall not
21 preclude the seller or any person from providing a warranty of longer period. No developer,

22 seller, general contractor, subcontractor or other person shall be permitted to request that an
23 SFHP homebuyer sign a waiver of the required warranty. Any such waiver shall be considered
24 null and void.

25 **Section 25. Section 26-1.18 SFCC 1987 (being Ord. #2005-30(A), §47) is**

1 **amended to read:**

2 **26-1.18 Affordability Controls on SFHP Homes; Rental Prohibition.**

3 A. An SFHP developer selling a SFHP home or manufactured home lot shall cause
4 to be recorded, in the county clerk's office, simultaneous with the recording of the deed of sale, a
5 form of deed restriction, restrictive covenant or other legal instrument that fulfills the
6 requirements set forth in the administrative procedures with regard to controls placed on the
7 occupancy and subsequent resales of SFHP homes and SFHP manufactured home lots. *In order to*
8 *maintain affordability, the SFHP developer shall impose resale controls consisting of mortgage*
9 *liens, which include shared appreciation described below, and right of first refusal requirements*
10 *as set forth in the administrative procedures. The effect of the recordation of said document(s)*
11 *shall be to create, in accordance with state law, an obligation that runs with the property. The city*
12 *shall approve the form of such documents prior to recordation. Initial affordability shall be*
13 *achieved by including in the SFHP agreement terms of an escrow instruction requiring*
14 *certification of SFHP compliance by the escrow agent.*

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

20 C. An SFHP lien will provide for shared appreciation by requiring the buyer to
21 repay the original amount of the lien plus a share of appreciation, if any, upon resale of the home
22 or manufactured home lot or violation of the occupancy requirements as described herein and by
23 the administrative procedures. The city's share of appreciation, if any, will be in proportion to the
24 ratio of the SFHP lien to the initial market value at the time of the SFHP buyer's initial purchase.
25 The administrative procedures shall provide for a deduction from gross appreciation to account

1 for capital improvements and repairs made during the time of ownership and for a proportion of
2 closing costs incurred upon resale. For purpose of example, following are steps used to determine
3 the city's share of appreciation:

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

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

7 (3) Determine initial market value of SFHP home: $\$220,000 \times 95\% =$
8 $\$209,000$

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

10 (5) Determine city's share of appreciation (proportion of lien to initial market
11 value): $\$67,000 / \$209,000 = 32\%$

12 D. Upon resale of an SFHP home or manufactured home lot, the affordability lien
13 may be assumed by another SFHP buyer as approved by the city or its agent, or the seller must
14 repay the SFHP lien to the city or its agent.

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

21 F. An SFHP home buyer or SFHP manufactured home lot buyer shall not rent the
22 SFHP unit or manufactured home lot to a second party, except as approved in writing by the
23 office of affordable housing for instances in which the owner is under duress by reason of
24 unemployment, family medical emergencies, or inability to sell the home for an amount equal to
25 or greater than the original sale price, or other unique circumstances of family hardship.

1 **Section 26. Section 26-1.20 SFCC (being Ord. #2005-30(A), §49) is amended to**
2 **read:**

3 **26-1.20 Marketing To and Certifying SFHP Buyers.**

4 A. SFHP developers shall market SFHP Homes and SFHP manufactured home lots
5 in accordance with the requirements set forth in the administrative procedures. Any marketing
6 materials shall clearly state the policies of the SFHP program with regard to pricing of SFHP
7 homes and manufactured home lots and buyer eligibility.

8 B. In marketing SFHP homes and SFHP manufactured home lots the city or seller
9 shall give preference to individuals who are citizens of Santa Fe County and or are presently
10 employed or under contract with an employer within Santa Fe County as may be limited by
11 federal programs.

12 C. The city or its agent shall maintain lists of prospective SFHP buyers who have
13 passed preliminary prequalifications for financing. The city or its agent shall maintain
14 information on basic homebuyer characteristics, such as household size and income by AMI to
15 monitor the match between production and affordable housing demand. For SFHP developments
16 for which the city or its agent expects immediate effective demand to outstrip the supply, the city
17 or its agent may establish and maintain a fair and competitive process for allocating rights to
18 purchase the homes or manufactured home lots. In developments where the city or its agent has
19 established such a process, the developer shall be required to follow the process when selecting
20 SFHP buyers. For developments other than those described above, the developer shall establish
21 and maintain an equitable process of marketing homes and manufactured home lots, including
22 waiting lists where demand exceeds supply.

23 D. For each development with SFHP homes or SFHP manufactured home lots for
24 sale, including annexations subject to SFHP, the office of affordable housing shall designate a
25 qualified organization(s) to provide income certifications and maintenance of waiting lists. The

1 office of affordable housing shall establish an equitable process for selecting the organization or
2 organizations providing these services, which process shall provide an opportunity for the
3 developer to provide input as to the organization(s) selected. The organization and the SFHP
4 developer shall enter into a written agreement that describes the scope of services and, if
5 appropriate, fee structure. The SFHP developer may not terminate such agreement with the
6 organization without the consent of the office of affordable housing. Notwithstanding those
7 requirements, and in order to assure access to SFHP homes and manufactured home lots by all
8 potentially qualified SFHP buyers, any other service provider operating a homebuyer training,
9 counseling and certification program approved by the office of affordable housing may refer its
10 clients to the selected organization for possible purchases of the SFHP homes or manufactured
11 home lots. A SFHP developer may enter into agreements with outside entities to provide
12 marketing or other services, which agreement shall not require approval from the office of
13 affordable housing.

14 E. Prior to executing a purchase contract for any SFHP Home or SFHP
15 manufactured home lot, the prospective SFHP buyer shall be certified as meeting SFHP
16 requirements by the city or its agent. The certification shall be as set forth in the administrative
17 procedures. SFHP Developers and SFHP buyers may execute only purchase agreements that are
18 approved as to form by the city and include language provided by the city which shall require that
19 an appropriate disclosure form be provided to and explained to the SFHP buyer prior to execution
20 of the contract. The disclosure form shall explain any deed restrictions, restrictive covenants
21 and/or liens that are placed on the SFHP home or lot to ensure long-term affordability.

22 **Section 27. Section 26-1.21 SFCC 1987 (being Ord. #2005-30(A), §50) is**
23 **amended to read:**

24 **26-1.21 Eligibility of SFHP Buyers.**

25 A. The household income of an SFHP Homebuyer shall not exceed the defined

1 income ranges as set forth in subsection 26-1.5 except as set forth in paragraph (E) below.

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

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

7 D. An SFHP Home may not be sold to a household which is smaller than the
8 following household sizes unless the office of affordable housing approves in writing a smaller
9 minimum household 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 |

10 E. An eligible buyer meeting the criteria of emergency worker, first responder,
11 teacher or related educational employees in Santa Fe County whose household income exceeds
12 100% of area median income (AMI) but does not exceed 120% of AMI shall be eligible to
13 purchase an SFHP unit in income range 4.

14 (1) The status of the buyer as an emergency worker or first responder shall
15 be noted on the certificate of eligibility and shall be verified by the office of affordable
16 housing.

17 (2) The office of affordable housing shall maintain a list of occupations that
18 meet the requirement of emergency worker, first responder or essential worker, which

1 shall include:

- 2 (a) Police officers;
 - 3 (b) Nurses;
 - 4 (c) Emergency medical technicians;
 - 5 (d) Firefighters;
 - 6 (e) Other health and safety workers whose services are crucial to
 - 7 community safety in an emergency situation; and
 - 8 (f) Teachers and related educational employees.
- 9 (3) All other eligibility requirements shall apply.

10 **Section 28. Section 26-1.24 SFCC 1987 (being Ord. #2005-30(A), §53) is**

11 **amended to read:**

12 **26-1.24 Determination of Affordable Rent.**

13 A. To ensure that rental rates do not exceed thirty percent (30%) of the monthly
14 income for both rent and utilities for households in each applicable income range, the affordable
15 rent for SFHP rental dwelling units shall equal the rental rate, as set forth below. These rents
16 include utilities and shall be adjusted if utilities are provided separately.

17 B. Affordable rental rate shall be determined for each income range as follows:

| | Affordable Rent | Affordable | Affordable | Affordable |
|----------------|----------------------|------------|------------|------------|
| | Efficiency/Studio or | Rent | Rent | Rent |
| Income Range | 1 Bedroom | 2 Bedrooms | 3 Bedrooms | 4 Bedrooms |
| Income Range 1 | \$346 | \$396 | \$445 | \$495 |
| Income Range 2 | \$577 | \$660 | \$742 | \$825 |
| Income Range 3 | \$750 | \$858 | \$965 | \$1,073 |

18 C. The affordable rent for manufactured home lots shall not exceed thirty percent

1 (30%) of the affordable rent for a 3 bedroom dwelling unit for each applicable income range, as
2 follows:

| | Affordable Manufactured Home Lot |
|----------------|----------------------------------|
| Income Range | Rent |
| Income Range 1 | \$134 |
| Income Range 2 | \$223 |
| Income Range 3 | \$290 |

3 D. Beginning in 2006 and every year thereafter, affordable rent and affordable
4 manufactured home lot rent for each applicable income range shall be adjusted by the percentage
5 change in area median income from the previous twelve (12) months and the office of affordable
6 housing shall issue an updated schedule of affordable rents and affordable manufactured home lot
7 rent for each applicable income range. The office of affordable housing shall report to the
8 governing body within thirty (30) days of adjusting affordable rents and affordable manufactured
9 home lot rent.

10 **Section 29. Section 26-1.28 SFCC 1987 (being Ord. #2005-30(A), §57) is**
11 **amended to read:**

12 **26-1.28 Allowed and Disallowed Uses of Subsidies.**

13 Prospective tenants who may be income eligible and have rent subsidy, such as a Section
14 8 Voucher, are eligible to rent a SFHP unit; however, under no circumstances shall rents in excess
15 of those allowed under the SFHP be charged. Developers of SFHP rental units may use any type
16 of capital development subsidy to achieve the required rents.

17 **Section 30. Section 26-1.32 SFCC 1987 (being Ord. #2005-30(A), §61) is**
18 **amended to read:**

19 **26-1.32 Timing of Compliance; for Sale and for Rent Housing.**

1 A. In an SFHP development, completed SFHP homes or SFHP manufactured home
2 lots shall be made available for sale in proportion to the offering for sale of unimproved lots or
3 non-SFHP units or non-SFHP manufactured home lots as set forth in the administrative
4 procedures. In an SFHP development, the required number of SFHP rental units shall be leased as
5 each building or phase of the project is offered for rent as set forth in the administrative
6 procedures. A phase shall be defined as a group of units or manufactured home lots which is
7 completed and ready for occupancy within a period of one (1) year. A developer may sell or lease
8 SFHP units or manufactured home lots earlier than required herein.

9 B. Fee in lieu of contributions approved as an alternate means of compliance shall
10 be due and deliverable as provided in the administrative procedures. An applicant may, at the
11 applicant's option, propose an alternative to this requirement in which staged payments are made
12 upon the predicted occurrence of certain events as set forth in the administrative procedures. The
13 value of each contribution shall be determined as set forth in the administrative procedures.

14 **Section 31. Section 26-1.33 SFCC 1987 (being Ord. #2005-30(A), §62) is**
15 **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. Any approval must be based on a finding by the governing body as follows:

2 (1) For SFHP projects of eleven (11) units or more, that the project meets the
3 definition of extreme hardship and that the purposes of this chapter would be better
4 served by implementation of the proposed alternative(s). In determining whether the
5 purposes of this chapter would be better served under the proposed alternative, the city
6 shall consider all of the factors listed in Section 26-1.33 C.

7 (2) For SFHP projects of ten (10) units or fewer, that the purposes of this
8 chapter would be better served by implementation of the proposed alternative(s). In
9 determining whether the purposes of this chapter would be better served under the
10 proposed alternative, the city shall consider all of the factors listed in Section 26-1.33 C.

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

13 (1) Whether implementation of an alternative would overly concentrate
14 SFHP units within any specific area and if so must reject the alternative unless the
15 undesirable concentration of the SFHP units is offset by other identified benefits that
16 flow from implementation of the alternative in issue; and,

17 (2) The extent to which other factors affect the feasibility of prompt
18 construction of the SFHP units on the property, such as costs and delays, the need for
19 appraisal, site design, zoning, infrastructure, clear title, grading and environmental
20 review; and,

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

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

25 E. The governing body, at its sole discretion, may grant a waiver of the SFHP

1 requirements. Any approval of a waiver for any sized project shall be based on the finding that
2 the condition of extreme hardship, as defined, cannot be sufficiently alleviated by the alternate
3 means of compliance described in Paragraph B.

4 **Section 32. A new Article 26-2 SFCC 1987 is ordained to read:**

5 **26-2 [NEW MATERIAL] Low Priced Dwelling Units.**

6 **Section 33. A new Section 26-2.1 SFCC 1987 is ordained to read:**

7 **26-2.1 [NEW MATERIAL] Purpose.** The purpose of Article 26-2 SFCC 1987 is to
8 establish appropriate requirements and proper safeguards for low priced dwelling units which
9 qualify for incentives set forth in various city codes, policies and procedures.

10 **Section 34. A new Section 26-2.2 SFCC 1987 is ordained to read:**

11 **26-2.2 [NEW MATERIAL] Definitions.** As used in Article 26-2 SFCC 1987:

12 *Area median income (AMI)* means the median income for the Santa Fe metropolitan statistical
13 area as adjusted for various household sizes and published and revised periodically by the United
14 States Department of Housing and Urban Development. However, that in the event of a
15 discrepancy between the AMI established by HUD and HUD's Program Income Limits, the
16 higher of the two shall be used to establish AMI for the purpose of the provisions related to low
17 priced dwelling units.

18 *Low priced dwelling unit* means a dwelling unit as defined in Chapter 14 SFCC 1987 that
19 complies with the requirements set forth in Article 26-2 SFCC 1987. A low priced dwelling unit
20 is not a Santa Fe Homes Program unit or a Housing Opportunity Program unit.

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

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

1 **Section 35. A new Section 26-2.3 SFCC 1987 is ordained to read:**

2 **26-2.3 [NEW MATERIAL] Requirements for Low Priced Dwelling Units.** Low
3 priced dwelling units qualifying for various incentives set forth in various city codes, policies and
4 procedures shall comply with this Section.

5 A. In order to qualify as a low priced dwelling unit, the unit shall be built by:

6 (1) A developer as part of a Type A Development described in a valid
7 Housing Opportunity Program Agreement;

8 (2) An owner builder; or

9 (3) A non-profit affordable housing organization.

10 B. Low priced dwelling units shall meet the following:

11 (1) Sale prices or rental rates shall be affordable to a household with an
12 income at or below 100 percent of the area median income, using a four person
13 household for buyers and a three person household for renters according to the
14 procedures established in the Santa Fe Homes Program;

15 (2) Buyers, renters or owner/builder of low priced dwelling units shall not
16 earn more than 120% of the area median income, adjusted for household size;

17 (3) For sale units and units built by an owner builder shall be owner
18 occupied for at least five years;

19 (4) For all low priced dwelling units, a lien shall be placed against the
20 property for the value of all fee waivers or reductions given by the city and such lien shall
21 be repaid to the city when the unit is refinanced or sold, with proceeds from the lien
22 repayment being deposited into the city's affordable housing trust fund; and

23 (5) At the time of initial occupancy of the low priced dwelling unit the
24 following minimum household size shall be met unless the city's office of affordable
25 housing approves a smaller household size upon the request of the non-profit affordable

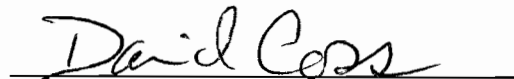
1 housing organization or the buyer of the low priced dwelling unit. This paragraph (5)
2 does not apply to a unit built by an owner builder.

| 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 |

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

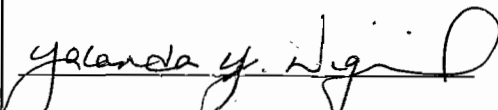
6 E. If the low priced dwelling unit is built by a non-profit affordable housing
7 organization, the organization shall place a shared equity lien against the property to capture any
8 value between the actual sales price and the appraised price. This lien shall be in last place and
9 any proceeds realized from the sale shall be used for affordable housing and shall be reported to
10 the city's office of affordable housing.

11 PASSED, APPROVED, and ADOPTED this 29th day of October, 2007.

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14 DAVID COSS, MAYOR

15
16 ATTEST:

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19 YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:



A handwritten signature in black ink, appearing to read 'Frank D. Katz', is written over a horizontal line. The signature is stylized and extends above and below the line.

FRANK D. KATZ, CITY ATTORNEY

Jp/N drive/2007 ord/SFHP revisions