

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2008-45

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4  
5 AN ORDINANCE

6 AMENDING SECTIONS 14-6.2(C)(10), 14-8.11(D), 26-1.8 AND 26-1.33 SFCC 1987  
7 REGARDING THE APPLICABILITY OF THE SANTA FE HOMES PROGRAM TO  
8 VACATION TIME SHARE PROJECTS AND MAKING SUCH OTHER CHANGES AS  
9 ARE NECESSARY.

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

12 Section 1. Section 14-6.2(C)(10)SFCC 1987 (being Ord. No. 2004-5 § 1) is  
13 amended to read:

14 (10) Vacation Time Share Projects

15 Vacation time share projects are comprised of one or more dwelling units  
16 subject to timeshare use, interval use or a private vacation/residential  
17 club. The provision of operating and/or management services to the  
18 individual or multiple owners of vacation time share dwelling units is a  
19 commercial use and operators/managers shall be required to obtain a  
20 business registration from the City.

21 Section 2. Section 14-8.11(D) SFCC 1987 (being Ord. #2001-38, §2 as amended)  
22 is amended to read:

23 (D) Applicability

24 (1) Except as set forth in this paragraph, the SFHP shall apply to any  
25 application for development including, but not limited to, annexation,

1 rezoning, subdivision plat, increase in density, development plan,  
2 extension of or connection to City utilities for land outside the City  
3 limits, and building permits which proposes 2 or more dwelling units or  
4 buildings or portions of buildings which may be used for both non-  
5 residential and residential purposes and manufactured home lots. SFHP  
6 applies to the residential portion of the development.

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

9 (b) The SFHP shall not apply to a family transfer as set forth in §14-  
10 3.7(E)(3)(b) or a division of land into 2 lots as set forth in §14-  
11 2.3(E)(1)(a).

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

15 (2) The SFHP shall apply to dwelling units in vacation time share projects.

16 (3) The SFHP shall not apply to the following:

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

22 (b) Dwelling units or manufactured home lots for an elementary,  
23 middle, or high school, community college, private 4-year  
24 college or related institutions where coursework leads to an  
25 associate of arts, bachelors or vocational degree or certification,

1 hospital or similar institution to be used exclusively by its  
2 employees or enrolled students and their families. If the dwelling  
3 units are no longer exclusively used by its employees or enrolled  
4 students and their families, the SFHP shall apply at the time the  
5 units are converted.

6 (4) Petitioners for annexations and the Office of Affordable Housing shall  
7 negotiate all terms for providing affordable housing on site including the  
8 distribution of development types and the number of SFHP units required  
9 or alternate means of compliance. The number of SFHP units required or  
10 alternate means of compliance may be in excess of that required by  
11 SFHP. These terms shall be included in the annexation agreement. To the  
12 extent practicable, all other SFHP requirements shall apply to  
13 annexations. In no case shall the agreement provide for less affordable  
14 housing or a lesser in-lieu contribution than required by SFHP. As the  
15 property is developed, a separate SFHP agreement in compliance with  
16 the annexation agreement shall be recorded with each subdivision plat or  
17 development plan.

18 (5) All provisions of the prior ordinance, titled Housing Opportunity  
19 Program (HOP), remain in full force and effect with respect to any and  
20 all agreements executed by the City and others which were required by  
21 HOP or incorporated HOP provisions by reference. However, the Office  
22 of Affordable Housing shall be responsible for administering such  
23 agreements according to the administrative procedures for the SFHP  
24 ordinance until such time as all obligations under such agreements have  
25 been satisfied except for sale prices or rental rates. Sale prices and rental

1 rates shall be based upon the prior HOP administrative procedures and  
2 annually updated by staff.

3 **Section 3. The following definition in Article 14-12 SFCC 1987 (being Ord. No.**  
4 **2004-5 §4) is amended to read:**

5 **VACATION TIME SHARE PROJECT**

6 Any real property, consisting of one or more dwelling units, that is subject to timeshare use,  
7 interval use or a private vacation/residential club.

8 **Section 4. Section 26-1.8 SFCC 1987 (being Ord. #2005-30(A), §37 as amended)**  
9 **is amended to read:**

10 **26-1.8 Applicability.**

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

17 (1) The SFHP applies to new construction and to the conversion of existing  
18 rental units to ownership units.

19 (2) The SFHP shall not apply to a family transfer as set forth in subsection  
20 14-3.7(E)(3)(b) or a division of land into two (2) lots as set forth in subsection 14-  
21 2.3(E)(1)(a).

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

25 B. The SFHP shall apply to dwelling units in vacation time share projects as defined

1 in Article 14-12 SFCC 1987.

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

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

7 (2) Dwelling units or manufactured home lots for an elementary, middle or  
8 high school, community college, private four (4) year college or related institutions where  
9 coursework leads to an associate of arts, bachelors or vocational degree or certification,  
10 hospital or similar institution to be used exclusively by its employees or enrolled students  
11 and their families. If the dwelling units are no longer used exclusively by its employees  
12 or enrolled students, the SFHP shall apply at the time the units are converted.

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

17 These terms shall be included in the annexation agreement. To the extent practicable, all other  
18 SFHP requirements shall apply to annexations. In no case shall the agreement provide for less  
19 affordable housing or a lesser in-lieu contribution than required by SFHP. As the property is  
20 developed, a separate SFHP agreement in compliance with the annexation agreement shall be  
21 recorded with each subdivision plat or development plan.

22 E. All provisions of the prior ordinance, titled Housing Opportunity Program (HOP)  
23 remain in full force and effect with respect to any and all agreements executed by the city and  
24 others which were required by HOP or incorporated HOP provisions by reference. Accordingly,  
25 the office of affordable housing will continue to use and annually update the administrative

1 procedures for the HOP ordinance until such time as all obligations under such agreements have  
2 been satisfied.

3 **Section 5. Section 26-1.33 SFCC 1987 (being Ord. #2005-30(A), §62 as**  
4 **amended) is amended to read:**

5 **26-1.33 Alternate Means of Compliance.**

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

15 B. The governing body may approve an alternate means of compliance for the  
16 following provided that any approval must be based on a finding that the purposes of this chapter  
17 would be better served by implementation of the proposed alternative(s). In determining whether  
18 the purposes of this chapter would be better served under the proposed alternative, the city shall  
19 consider all of the factors listed in subsection 26-1.33 C.

- 20 (1) SFHP projects of eleven (11) units or more, provided that the project  
21 meets the definition of extreme hardship;
- 22 (2) SFHP projects of ten (10) units or fewer; and
- 23 (3) SFHP projects that meet the definition of a vacation time share project as  
24 set forth in Article 14-12 SFCC 1987.

25 C. In determining whether the purposes of this chapter would be better served under

1 the proposed alternative, the city shall consider all of the following:

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

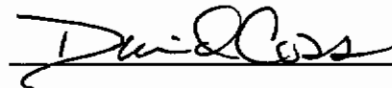
6 (2) The extent to which other factors affect the feasibility of prompt  
7 construction of the SFHP units on the property, such as costs and delays, the need for  
8 appraisal, site design, zoning, infrastructure, clear title, grading and environmental  
9 review; and,

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

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

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

18 PASSED, APPROVED and ADOPTED this 27<sup>th</sup> day of August, 2008.

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21 DAVID COSS, MAYOR

22 ATTEST:

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25 YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:

  
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FRANK D. KATZ, CITY ATTORNEY