



# Agenda

DATE 1/9/14

TIME 10:59a

BY Kym Dicome

FOR [Signature]

## COMMUNITY DEVELOPMENT COMMISSION MEETING

Wednesday, January 15, 2014

3:30 p.m. – 5:00 p.m.

### Market Station Offices

### Box Car Conference Room

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of the September 12, 2013 Minutes
5. Request to rent HOP home due to market conditions and decline in value of unit.  
(Alex Ladd)
6. Review recommended changes to the SFHP ordinance, (Ch. 26) for  
recommendation to City Council (Alex Ladd)
7. HUD New Guidance on submitting Annual Action Plans for FY 2014-2015 – Action  
approve a Contingency Provision in Action Plan.
8. Items from the Commission
9. Items from the Floor
10. Adjournment

**PERSONS WITH DISABILITIES IN NEED OF ACCOMMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 955-6520, FIVE (5) WORKING DAYS PRIOR TO MEETING DATE.**

**INDEX OF**  
**CITY OF SANTA FE**  
**COMMUNITY DEVELOPMENT COMMISSION**

**January 15, 2014**

<b>ITEM</b>	<b>ACTION</b>	<b>PAGE (S)</b>
<b>CALL TO ORDER</b>		<b>1</b>
<b>ROLL CALL</b>	<b>No Quorum</b>	<b>1</b>
<b>APPROVAL OF AGENDA</b>	<b>No approval</b>	<b>1</b>
<b>APPROVAL OF MINUTES:</b>		
<b>September 12, 2013 Minutes</b>	<b>Postponed</b>	<b>2</b>
<b>REQUEST TO RENT HOP HOME DUE TO MARKET CONDITIONS AND DECLINE IN VALUE OF UNIT</b>	<b>Recommendations made</b>	<b>2-3</b>
<b>REVIEW RECOMMENDED CHANGES TO THE SFHP ORDINANCE (CH. 26) FOR RECOMMENDATION TO CITY COUNCIL</b>	<b>Discussion</b>	<b>3-4</b>
<b>HUD NEW GUIDANCE ON SUBMITTING ANNUAL ACTION PLANS FOR FY 2014-2015 –ACTION APPROVE A CONTINGENCY PROVISION IN ACTION PLAN</b>	<b>Informational</b>	<b>4</b>
<b>ITEMS FROM THE COMMISSION</b>		<b>5</b>
<b>ITEMS FROM THE FLOOR</b>	<b>None</b>	<b>5</b>
<b>ADJOURNMENT</b>	<b>Adjourned at 4:30 p.m.</b>	<b>5</b>

**MINUTES OF THE**  
**CITY OF SANTA FE**  
**COMMUNITY DEVELOPMENT COMMISSION MEETING**  
**Santa Fe, New Mexico**

**January 15, 2014**

A Discussion Session of the City of Santa Fe Community Development Commission was called to order by Rusty Tambascio, Vice Chair on this date at 3:30 p.m. in the Market Station Offices, Box car Conference Room, Santa Fe, New Mexico.

Roll Call indicated the lack of the presence of a quorum for conducting official business; therefore a Discussion Session was held.

**Members Present:**

Councilor Rebecca Wurzbarger, Chair, [arriving later]  
Rusty Tambascio, Vice Chair  
Silas Peterson

**Member(s) Absent:**

Annette Thompson-Martinez, excused  
John Padilla, excused  
2 vacancies

**Staff Present:**

Kym Dicome, Housing and Community Development Department  
Alexandra Ladd, Special Projects Manager, Housing and Community Development Department

**APPROVAL OF AGENDA**

**Approval of the Agenda was not made due to the lack of a quorum.**

**APPROVAL OF THE MINUTES FOR THE SEPTEMBER 12, 2013 MEETING**

**Approval of the Minutes for the September 12, 2013 Meeting was postponed due to the lack of a quorum.**

## **REQUEST TO RENT HOP HOME DUE TO MARKET CONDITIONS AND DECLINE IN VALUE OF UNIT**

[Copies of the letter from Enrique M. Montoya III were distributed in the Commissioners' packets. A copy is hereby incorporated to these Minutes as "Attachment #1".]

Mr. Montoya is an affordable home owner with a property at 103 Catron Street, Unit 45. He was able to purchase the condominium with the assistance of the Santa Fe Community Housing Trust in June of 2006. With the City's help, he was able to purchase it with an appraised value of \$365,000; \$289,011 as the lien amount and \$75,989 as the sales price for the Housing Opportunity Program unit.

Mr. Montoya lived in the unit but has since married and would now like to sell the unit. He spoke to David Mead of Homewise and went through the necessary steps to get the condo on the market with the intention of reselling it to another qualified homebuyer. It is currently on the market and listed at \$240,000, \$125,000 less than the sales price when he bought the condo. (Copies of the appraisal are hereby incorporated to these Minutes as "Attachment #2".)

Mr. Montoya would like to get this asset "off their books" or at least be able to make ends meet by renting it. While this home was created through the City's Housing Opportunity Program, it is his understanding that the City's practice has been to administer HOP homes through the Administrative Procedures for Santa Fe Homes Program in order to streamline the management of the two programs. Procedure 26-1.18 *Affordability Controls on SFHP homes; Rental Prohibition Section F* states: "*An SFHP home buyer shall not rent the SFHP unit to a second party, except as approved in writing by the Office of Affordable Housing for instances in which the owners is under duress by reason of inability to sell the home for an amount equal to or greater than the original sale price.*" Mr. Montoya feels that their situation is relevant to this clause and he requested permission from the Community Development Commission to rent the condo until they are able to sell it.

Ms. Ladd said the City has not done this before. She said the homeowner is trying to sell it and they are working with legal staff on how they would monitor that. She said it is her objective to ensure that the City is not directly involved as a member of the contract between the homeowner and the renter, but that the City has a contract with the homeowner. They will need to follow certain provisions in order to rent the unit.

Chair Wurzbarger asked if the unit has to be rented to somebody who needs an affordable unit.

Ms. Ladd said they discussed that and they think that the market will take care of this. The unit will be rented out for what is considered an affordable rent. She said this seems to be another level in which the City would have to get involved with and this could make it more complicated. She noted that the City will require that they use a lease

agreement and follow all the provisions of the Uniform Owner-Resident Relations Act. They would also be required to have landlord insurance and the tenant would also be required to have tenant insurance. The actual rental contract would be between the tenant and the homeowner.

Chair Wurzbarger questioned why they can't sell this condo, given the amount of people on the waiting list for affordable housing.

Ms. Ladd said that is a good question but there are marketing issues with this particular unit, such as the fact that this is a 1-bedroom unit that is on the second floor, therefore you can rule out the senior population.

Commissioner Peterson asked why this is being addressed to the Community Development Commission and what the Commission's role is.

Ms. Ladd said the way the HOP is set up, the Community Development Commission is the recommending body for any kind of request for an alternate compliance or variance.

After discussion, the Commission made the following recommendation:

- The Homeowner is required to follow all of the provisions of the Uniform Owner-Resident Relations Act.
- The Homeowner has to market or list the home with the City's existing homeowner partners also.
- The Homeowner is to provide documentation on a quarterly basis to show how many times the home has been shown, etc.
- The contract will be between the City and the homeowner and there will be a time/term limit on the contract.
- The actual *rental* contract would be between the homeowner and tenant.
- The Homeowner has to have homeowner insurance and the tenant also has to have tenant insurance.

**REVIEW RECOMMENDED CHANGES TO THE SFHP ORDINANCE (CH. 26)  
FOR RECOMMENDATION TO CITY COUNCIL**

[Copies of the SFHP Ordinance –Chapter 26 were distributed in the Commissioners' packets. A copy is hereby incorporated to these Minutes as "Exhibit #3". Copies of the Memo from Alexandra Ladd, Special Projects Manager, Housing and Community Development Department, to the Planning Commission dated December 20, 2013 are attached. ]

Ms. Ladd briefly reviewed the proposed amendments to the Santa Fe Homes Program for the purposes of responding to market conditions, making necessary corrections, and other changes as needed. The amendments accomplish the following:

- 1) Make permanent the 20% threshold requirement and eliminate the sunset date of June 2014 for reinstating the original 30% requirement.
- 2) Clarify applicability to specific conversion from commercial uses to residential is also subject to SFHP (Chapter 14-8.11(D);

A more detailed description of these proposed amendments is contained in section, #2 and #3. Please see the Memo attached to Exhibit #3 for the specifics of this presentation.

Ms. Ladd noted that staff went before the Planning Commission on December 9, 2013 and the Planning Commissioners did not like the idea of removing the sunset date permanently. They wanted to extend it.

Chair Wurzbarger said they are going to need to have public testimony on this and it will probably be at the Finance Committee scheduled for January 21, 2014 at 5:00 p.m.

**HUD NEW GUIDANCE ON SUBMITTING ANNUAL ACTION PLANS FOR FY 2014-2015 –ACTION APPROVE A CONTINGENCY PROVISION IN ACTION PLAN**

[Copies of the Letter from the U.S. Department of Housing and Urban Development were distributed in the Commissioners' packets. A copy is hereby incorporated to these Minutes as "Exhibit #4".]

Ms. Dicome explained that HUD issued revised Procedures for Submission of FY2014 Action Plans by Grantees with Early Program Year Start dates. HUD is issuing the revised procedures to govern the submission and review of consolidated plans and action plans for FY 2014 funding prior to the enactment of a FY 2014 HUD appropriation bill. These procedures will apply to any grantee whose program year start date for FY 2014 starts: October 1, 2013, and ending August 16, 2014. The 2014 Action Plan must have the exact allocations prior to submitting for HUD's review either 60 days after HUD announcement for FY2014 allocation amount, or August 16, 2014 whichever is sooner. This applies to CDBG, ESB, HOME and HOPWA formula funding (whichever comes first). Grantees should not submit its consolidated plan/action plan to HUD until the FY 2014 formula allocations have been announced.

Ms. Dicome referred to Section III (*Development of Proposed Action Plans and Citizen Participation during the Interim*) and examples of contingency provisions. Please see Exhibit #4 for the specifics of this presentation.

### **ITEMS FROM THE COMMISSION**

There were no items from the Commission.

Ms. Dicome announced that this would be her last Commission meeting. She is leaving the City of Santa Fe and will be working for the City of Albuquerque Planning Department.

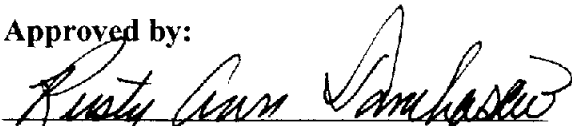
### **ITEMS FROM THE FLOOR**

There were no items from the floor.

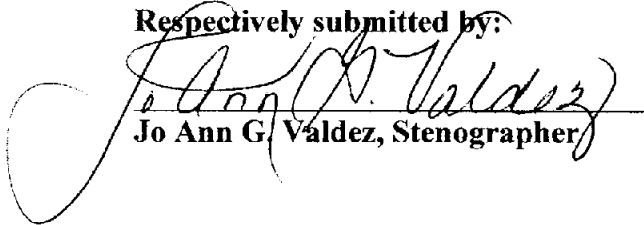
### **ADJOURNMENT**

Its business being completed, Commissioner Peterson moved to adjourn the meeting, second by Councilor Wurzbarger, the meeting adjourned at 4:30 p.m.

Approved by:

  
Rusty Tambascio, Vice Chair

Respectively submitted by:

  
Jo Ann G. Valdez, Stenographer

**ATTACHMENT # 1**



City of Santa Fe Community Development Commission  
Housing and Community Development Department  
City of Santa Fe  
PO Box 909  
Santa Fe, NM 87504-0909

Dear Chair Wurzbarger and Members of the Community Development Commission:

I am an affordable home owner with a property at 103 Catron Street Unit 45 Santa Fe, NM. I entered this great program through the Santa Fe Community Housing Trust in June 2006. With the City's help, I was able to purchase my condominium with an appraised value of \$365,000; \$289,011 as the lien amount and \$75,989 as the sales price for the HOP unit (see attachment #1 from the SFCHT.)

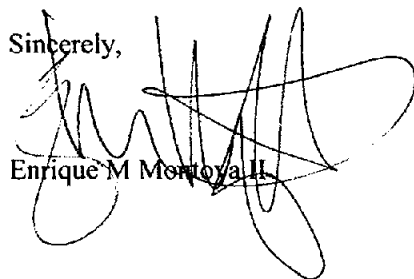
I lived in the unit happily as a single man until I met the woman of my dreams and married March 10<sup>th</sup> 2012. In August of 2013 we decided we wanted to begin a family and that the condo would need to be sold as my wife owns a house on the south side which we feel is a better place to raise a family.

I approached David Mead of Homewise and went through the necessary steps to get the condo on the market with the intention of reselling to another qualified homebuyer. It is currently on the market now and listed at \$240,000 (see attachment #2 Appraisal by Ric Umbrage), \$125,000 less than the sales price when I bought the home. Despite the lowered value, we have not received much interest, only showing the home once since it went on the market.

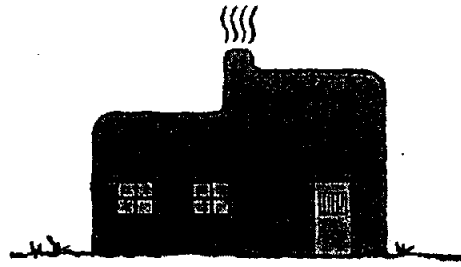
As I said before we are starting a family and desperately need to get this asset off of our books or at least be able to make ends meet by renting it. While this home was created through the City's Housing Opportunity Program (HOP), it is my understanding that the City's practice has been to administer HOP homes through the Administrative Procedures for Santa Fe Homes Program (SFHP) in order to streamline the management of the two programs. Given this, I refer to 26-1.18 Affordability Controls on SFHP homes; Rental Prohibition Section F. "An SFHP home buyer [...] shall not rent the SFHP unit [...] to a second party, except as approved in writing by the office of affordable housing for instances in which the owner is under duress by reason of [...] inability to sell the home for an amount equal to or greater than the original sale price [...]". Clearly, our situation is relevant to this clause and we request permission from the Community Development Commission to rent our home until we are able to sell it.

Thank you for your time and attention to this matter. If you would like the appraisal in its entirety or the internet link to the property on the Multiple Listing Service in its entirety I can provide it to you.

Sincerely,



Enrique M. Montoya II



**Santa Fe Community Housing Trust**

**Certified Lien under the City of Santa Fe's Housing  
Opportunity Program**

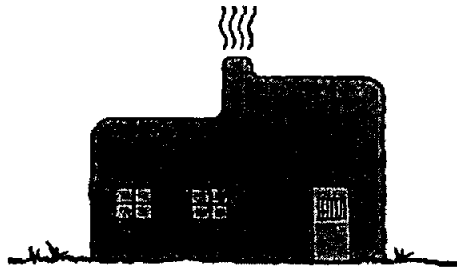
HOP Home location is: 103 Cctron #45

HOP Homebuyer: Enrique M. Montoya II

The Santa Fe Community Housing Trust, as designated agent for the City of Santa Fe,  
hereby certifies that the above property has a lien amount of \$ 289,011 that will  
be recorded at closing. The appraised value of the unit is \$ 365,000 less the lien  
amount results in a sales price of \$ 75,989 for this HOP unit.

Santa Fe Community Housing Trust Certifying Agent

5/10/06  
Date



**Santa Fe Community Housing Trust**

Enrique Montoya has completed homebuyer training with the Santa Fe  
Community Housing Trust and has an income of 73.01 % of area median.

  
\_\_\_\_\_  
Santa Fe Community Housing Trust Staff

5/10/06  
\_\_\_\_\_  
Date

**ATTACHMENT #2**

UMBAGE CO APPRAISALS  
Individual Condominium Unit Appraisal Report

File No: R3-SE-37

**Appraiser's Certification**

The appraiser(s) certifies that, to the best of the appraiser's knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are the appraiser's personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. Unless otherwise stated, the appraiser has no present or prospective interest in the property that is the subject of this report and has no personal interest with respect to the parties involved.
4. The appraiser has no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. The appraiser's engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. The appraiser's compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. The appraiser's analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
8. Unless otherwise noted, the appraiser has made a personal inspection of the property that is the subject of this report.
9. Unless noted below, no one provided significant real property appraisal assistance to the appraiser signing this certification. Significant real property appraisal assistance provided by:

Additional Certifications:

Definition of Value: ☒ Market Value ☐ Other Value: \_\_\_\_\_

Source of Definition: UAD appraisal form

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in the definition is the consummation of a sale as a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions\* granted by anyone associated with the sale.

**ADDRESS OF THE PROPERTY APPRAISED:**

103 Catron Street Unit 45

Santa Fe, NM 87501-1875

EFFECTIVE DATE OF THE APPRAISAL: 12/13/2013

APPRAISED VALUE OF THE SUBJECT PROPERTY: \$240,000

**APPRAISER**

Signature: [Signature]

Name: Ric Umbrage

State Certification # 12-R

or License # \_\_\_\_\_

or Other (describe): \_\_\_\_\_ State #: \_\_\_\_\_

State: NM

Expiration Date of Certification or License: 04/30/2012

Date of Signature and Report: 12/21/2013

Date of Property Viewing: \_\_\_\_\_

Degree of property viewing:

☒ Interior and Exterior ☐ Exterior Only ☐ Did not personally view

**SUPERVISORY APPRAISER**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

State Certification # \_\_\_\_\_

or License # \_\_\_\_\_

State: \_\_\_\_\_

Expiration Date of Certification or License: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

Date of Property Viewing: \_\_\_\_\_

Degree of property viewing:

☐ Interior and Exterior ☐ Exterior Only ☐ Did not personally view

was adopted in the bill omitted specifying that paying the fee was allowed, even though it was clearly the intention of the sponsors of the amendment that this be the case. The amendment corrects this deficiency.

- 5) **Change the mix of units by income tier from 10% each in the income ranges 2 and 3 to: 5% (income range 2); 10% (income range 3); 5% (income range 4) (Ch. 26-1.15).** Under the original SFHP requirement, the 30% were distributed evenly among three income tiers. The City maintains a pricing schedule which calculates a home sales price that is affordable to each particular tier. The income tiers are based HUD's "Area Median Income" (AMI) data that is released annually for every governmental jurisdiction in the country. Affordability is then determined by setting home prices that are affordable to earners at various percentages of the AMI.

When the 2011 amendment was made, the obligation was removed entirely from the highest tier and kept at 10% each for the lowest and middle tier. The justification for this was that the higher income earners were better able to afford market rate homes when the overall market values were depressed. Given recent market data that shows the market is in recovery, it seems timely to reestablish the requirement in the highest tier. The higher tier represents an important homebuyer demographic – both first time homebuyers but also “move up” homebuyers. Also, this income tier doesn't qualify for CDBG downpayment assistance and other HUD funds that are reserved for buyers at 80% AMI and below. This amendment redistributes the requirement as illustrated in the following table:

Income Tier	% of AMI	Orig Req'm	2011 Amendment	2014 Amendment	2013 AMI (3 person HH)
1	<50%	5% Rental	5% Rental	5% Rental	<\$29,400
2	50-65%	5% Rental 10% Homeowner	5% Rental 10% Homeowner	5% Rental 5% Homeowner	\$29,400-38,250
3	65-80%	5% Rental 10% Homeowner	5% Rental 10% Homeowner	5% Rental 10% Homeowner	\$38,250-47,050
4	80-100%	10% Homeowner	10% Homeowner	5% Homeowner	\$47,050-58,800
5	100-120%	No requirement	No requirement	No requirement	\$58,800-\$70,600
	Total	15% Rental 30% Homeowner	15% Rental 20% Homeowner	15% Rental 20% Homeowner	

- 6) **Delete home sales pricing information from code and reference administrative procedures (Ch. 26-1.16).** Pricing schedules are updated annually. By removing the specific pricing information from the code and referencing it in the administrative procedures, the pricing schedule can be updated administratively instead of requiring a code amendment.
- 7) **Address design, unit types, dispersal of units in guidelines presented in the administrative procedures (Ch. 26-1.17).** The original table in the ordinance was somewhat restrictive. Even though the ordinance contains language that allows a developer to deviate from the City's standard, referring to a “guideline” in the administrative procedures provides more flexibility. A developer proposing an alternative to the City's standard can be approved administratively if staff determines that the proposal meets the intent of the ordinance.
- 8) **Eliminate shared appreciation, clarify the affordability lien and describe how it is subordinate and reduced by the city if values decline (Ch. 26-1.18).** The current code requires that for every affordability lien held by the City, an equity share is calculated pursuant to the proportion of the City's lien to the market value of the home. When the affordable homeowner sells the home, the lien is paid back and the remaining equity in the form of market appreciation is split between the seller and the City according to the percentage established at the time of purchase. While this mechanism can generate additional revenue for the City, it only works when the market is appreciating. The shared equity obligation is difficult for homebuyers to understand and it creates uncertainty for them when they sell their homes because they don't know how much equity they will take away from the home until the transaction is complete. This makes it cumbersome, if not prohibitive for “move up” buyers to finance the purchase of a

*bigger home that might better meet the needs of a growing family, etc. Likewise, in recent years, homeowners with a lien who sell their homes for less than their initial appraisal value have not had enough in their sales proceeds to pay back the City's lien in its entirety. The language proposed in the amendment seeks to clarify how this situation is handled, as well as how the lien works.*

- 9) **Address household sizes in administrative procedures and add "veterans" to list of eligible homebuyers (first responders, teachers, health workers, etc.) who are allowed to exceed income limits and still qualify for an affordable home in Tier 4 (Ch. 26-1.21).** *Similar to #7, referring to a "guideline" in the administrative procedures provides more flexibility. The ordinance provides a way to increase home buying opportunities for "essential workers" in that it allows them to purchase a Tier 4 home, even if they earn slightly too much to qualify and this specific amendment adds "veterans" to the approved category of occupations.*
- 10) **Remove rental rate schedule from code and references admin procedures instead (Ch. 26-1.24).** *Rental rate schedules are updated annually. By removing the specific pricing information from the code and referencing it in the administrative procedures, the rental rate schedule can be updated administratively instead of requiring a code amendment.*
- 11) **Use Fair Market Rents (FMR) to determine rental amount at SFHP rental property covered by housing choice/rental assistance voucher (Ch. 26-1.28).** *The current ordinance prohibits SFHP landlords from not accepting rental vouchers but it doesn't allow the landlord to use the voucher to cover the cost of any portion of managing the unit above the affordable rent levels. This amendment proposes using the FMR, set annually by HUD and the standard for rental subsidy programs, as a maximum rental amount for units occupied by voucher holders.*
- 12) **Include other subsidy programs for simplified compliance in addition to Low Income Housing Tax Credit (LIHTC) (Ch.26-1.31).** *Changes in the way that tax credits are allocated suggest that Santa Fe will not be the site of as many LIHTC-funded projects in the near future. In response, developers are turning to other federal subsidy programs. This language increases the flexibility in how the SFHP requirement interacts with subsidized development projects.*



CITY OF SANTA FE, NEW MEXICO

BILL NO. 2014-\_\_

INTRODUCED BY:

Councilor Rebecca Wurzbarger

AN ORDINANCE

RELATING TO THE SANTA FE HOMES PROGRAM ("SFHP"); AMENDING SECTION 14-8.11 SFCC 1987 TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987 TO UPDATE THE LEGISLATIVE FINDINGS, TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE SFHP ORDINANCE.

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

Section 1. Section 14-8.11(D) SFCC 1987 (being Ord. No. Ord. No. 2011-37 § 11) is amended to read:

(D) Applicability

(1) Except as set forth in this Subsection 14-8.11(D), the *SFHP* shall apply to any *application for development*, including annexation, rezoning, subdivision



1                    *plat*, increase in *density*, *development plan*, extension of or connection to *city*  
2                    utilities for land outside the city limits, and construction *permits* that propose  
3                    two or more *dwelling units* or *buildings* or portions of *buildings* that may be  
4                    used for both *nonresidential* and *residential* purposes and *manufactured*  
5                    *home lots*. *SFHP* applies to the *residential* portion of the *development*.

6                    (a)     The *SFHP* applies to *new* construction, ~~[and]~~ to the conversion of  
7                    existing rental units to ownership units and the conversion of  
8                    commercial uses to residential uses.

9                    (b)     The *SFHP* does not apply to a *family* transfer as set forth in Section  
10                   14-3.7(F)(2) or a division of land into two *lots* as set forth in Section  
11                   14-3.7(D) (Summary Procedure).

12                   (c)     The *applicant* is responsible for determining the applicability of  
13                   *SFHP* to the proposed *development* and complying with the  
14                   requirements of *SFHP*.

15                   (2)     The *SFHP* applies to dwelling units in vacation time share projects.

16                   (3)     The *SFHP* does not apply to:

17                   (a)     a *development* or portion of a *development* that is subject to a formal  
18                   written and binding agreement entered into prior to August 15, 2005  
19                   with the *city* or Santa Fe County in which the signatories agreed to  
20                   provide affordable housing or payment in lieu thereof; or

21                   (b)     *dwelling unit* or *manufactured home lots* for an elementary, middle  
22                   or high school; *college or university*; *hospital*; or similar institution  
23                   to be used exclusively by its *employees* or enrolled students and their  
24                   families. If the *dwelling units* or *manufactured homes* are no longer  
25                   exclusively used by its *employees* or enrolled students and their

families, the *SFHP* shall apply at the time the units are converted.

(4) Petitioners for annexation[s] and the office of affordable housing shall negotiate all terms for providing affordable housing on site, including the distribution of *development* types and the number of *SFHP* units required or alternate means of compliance. The number of *SFHP* units required or alternate means of compliance may be in excess of that required by *SFHP*. These terms shall be included in the annexation agreement. To the extent practicable, all other *SFHP* requirements apply to annexations. In no case shall the agreement provide for less affordable housing or a lesser in-lieu contribution than required by *SFHP*. As the *property* is developed, a separate *SFHP* agreement in compliance with the annexation agreement shall be recorded with each subdivision *plat* or *development* plan.

(5) All provisions of the prior ordinance, titled Housing Opportunity Program (HOP), remain in effect with respect to any agreements executed by the *city* and others which were required by HOP or incorporated HOP provisions by reference. However, the office of affordable housing is responsible for administering such agreements according to the administrative procedures for the *SFHP* ordinance until such time as all obligations under the agreements have been satisfied except for sale prices or rental rates. Sale prices and rental rates shall be based on the prior HOP administrative procedures and annually updated by staff.

**Section 2.** Section 14-8.11(F) SFCC 1987 (being Ord. No. 2012-11 § 25) is amended to read:

**(F) Santa Fe Homes Program Requirements**

(1) If a *SFHP* developer obtains a residential construction permit for a *SFHP*

1 development between June 8, 2011 through] Effective June 7, 2014, and  
2 thereafter, [then] twenty percent of the total number of *dwelling units* or  
3 *manufactured home lots* in an *SFHP* development shall be *SFHP units* and  
4 meet all requirements of Section 26-1 SFCC 1987. A modification to a *SFHP*  
5 agreement or *HOP* agreement that was entered into prior to June 8, 2011  
6 shall be made to reflect the twenty percent requirement; and if applicable, an  
7 annexation agreement, subdivision plat or development plan shall be  
8 administratively amended to reflect the reduction and redistribution of *SFHP*  
9 or *HOP lots* and the amended annexation agreement, subdivision plat or  
10 development plan shall be recorded or filed, as applicable, by the *owner* or  
11 *developer*.

12 ~~[(2) — Effective June 8, 2014, and thereafter, thirty percent of the total number of~~  
13 ~~*dwelling units* or *manufactured home lots* in an *SFHP* development shall be~~  
14 ~~*SFHP units* and meet all requirements of Section 26-1 SFCC 1987.]~~

15 ([3]2) Fifteen percent of the total number of *dwelling units* or *manufactured home*  
16 *lots* offered for rent in an *SFHP* development shall be *SFHP units* and meet  
17 all requirements of Section 26-1 SFCC 1987.

18 ([4]3) However, the *governing body* may approve alternative means of compliance  
19 as provided in Section 26-1.33 SFCC 1987 (*SFHP – Alternate Means of*  
20 *Compliance*).

21 **Section 3. Subsection 26-1.4 SFCC 1987 (being Ord. #2005-30(A), § 33) is amended**

22 **to read:**

23 **26-1.4 Findings.**

24 The governing body finds and determines that:

25 A. Affordable housing furthers geographic and community balance through providing a

1 range of housing opportunities throughout the city; and

2 B. New residential development has not provided sufficient housing opportunities for  
3 households with incomes below the area median income; and

4 C. The amount of land in the city available for new residential development is severely  
5 limited by geography and topography; and

6 D. Inclusionary housing programs represent an extension of cities' police powers to  
7 regulate land use, ensuring that the limited supply of developable land provides housing opportunities  
8 for all incomes; and

9 E. Santa Fe is facing a growing shortage of housing that is affordable to a wide range of  
10 our population affecting the ability of new graduates, senior citizens, families with children, and  
11 employees in industries and services that are vital to a healthy economy to remain living in the city;  
12 and

13 F. The lack of affordable housing is detrimental to the health, safety and welfare of the  
14 city's residents; and

15 G. Federal and state funds for the construction of new affordable housing are  
16 insufficient to fully address the problems of affordable housing within the city and the private housing  
17 market has not provided adequate affordable housing opportunities for persons and households with  
18 incomes below the area median income; and

19 H. The city has previously adopted the Housing Opportunity Program in an attempt to  
20 address the affordable housing needs. This program has achieved limited effectiveness in stemming  
21 the growing affordable housing crisis in the city; and

22 I. The governing body in partnership with the regional planning authority established  
23 an affordable housing task force that was charged with recommending appropriate affordable housing  
24 policy and programs for the region. The task force recommendations included the implementation of  
25 a broadly applicable program to increase the supply of affordable housing particularly for those

1 households with incomes less than the area median income; and

2 J. Based on the findings of the task force the governing body finds that it is necessary to  
3 adopt a new inclusionary zoning ordinance to replace the Housing Opportunity Program in order to  
4 address the city's housing crisis; and

5 K. ~~[According to the "2004 Housing Needs Study" prepared for the Santa Fe county~~  
6 ~~land use department by Prior and Associates, twenty-eight and one-half percent (28.5%) of all new~~  
7 ~~homes in central Santa Fe county will need to be made affordable to households with incomes below~~  
8 ~~the median income if the area is going to simply maintain its existing homeownership rate and sixty-~~  
9 ~~six and two tenths percent (66.2%) of new rental units will need to be affordable to households~~  
10 ~~earning below eighty percent (80%) of the median income to meet the projected demand;]~~ According  
11 to the Housing Needs Assessment, updated in 2013, the greatest mismatch between need and  
12 available services and affordable housing inventory is for renter households earning less than thirty  
13 percent (30% ) of the Area Median Income (AMI) with as many as three thousand (3,000) renter  
14 households in Santa Fe likely to be "cost burdened" or paying more than one-third (1/3) of their  
15 incomes toward rents; and

16 L. ~~[According to the "Recommendations for an Affordable Housing Strategy in Santa~~  
17 ~~Fe" developed by the regional planning authority's affordable housing task force there are currently~~  
18 ~~seven thousand five hundred eleven (7,511) renters living in Santa Fe who are in need of homes that~~  
19 ~~are affordable to households with incomes below the median income while very few homes are on the~~  
20 ~~market that could help meet this need.]~~ The 2010 Census indicates that:

21 (1) Santa Fe's population is aging, with fifty percent (50%) of the overall  
22 population aged fifty-five (55) years or older;

23 (2) Households are smaller, with single person households comprising forty  
24 percent (40%) of overall households; and

25 (3) The median age is forty-four (44) years old, compared to forty (40) years old

1       in 2000.

2       All factors that indicate housing demand is likely to shift to smaller units that can accommodate the  
3       needs of aging households and are located close to transit, services and amenities; and

4       M. Home sales prices continue to rise and were sixty-five percent (65%) higher in 2010  
5       than in 2000, increasing the gap between what buyers can afford and how much homes are priced,  
6       with only fourteen percent (14%) of current renters able to afford the median-priced home,  
7       necessitating the continued implementation of the city's inclusionary zoning and other affordable  
8       housing programs that improve the capacity of lower- and moderate-income Santa Fe residents to buy  
9       homes; and

10       N. The city's support of affordable housing through regulation, policy development and  
11       administrative funding has achieved significant results, serving the needs of the homeless to the  
12       homeowner.

13       **Section 4. Subsection 26-1.8 SFCC 1987 (being Ord. #2005-30(A), §37, as amended)**  
14       **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 density,  
18       development plan, extension of or connection to city utilities for land outside the city limits, and  
19       building permits which propose[s] two (2) or more dwelling units or buildings or portions of  
20       buildings which may be used for both nonresidential and residential purposes and manufactured home  
21       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 and the conversion of commercial uses to residential uses.

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

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

3 (4) If a SFHP developer obtains a residential building permit for a SFHP  
4 development with two (2) through ten (10) total units ~~between June 8, 2011 and June 7, 2014,~~  
5 then a seventy percent (70%) reduction in fees associated with such development shall be  
6 assessed and the developer has the option to pay a fee in lieu of providing the required  
7 percentage of units in accordance with the SFHP administrative procedures.

8 B. The SFHP shall apply to dwelling units in vacation time share projects as defined in  
9 Article 14-12 SFCC 1987.

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

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

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

21 D. Petitioners for annexations and the office of affordable housing shall negotiate all  
22 terms for providing affordable housing on site including the distribution of development types and the  
23 number of SFHP units required or alternate means of compliance. The number of SFHP units  
24 required or alternate means of compliance may be in excess of that required by SFHP. These terms  
25 shall be included in the annexation agreement. To the extent practicable, all other SFHP requirements

1 shall apply to annexations. In no case shall the agreement provide for less affordable housing or a  
2 lesser in-lieu contribution than required by SFHP. As the property is developed, a separate SFHP  
3 agreement in compliance with the annexation agreement shall be recorded with each subdivision plat  
4 or development plan.

5 E. All provisions of the prior ordinance, titled Housing Opportunity Program (HOP)  
6 remain in full force and effect with respect to any and all agreements executed by the city and others  
7 which were required by HOP or incorporated HOP provisions by reference. Accordingly, the office of  
8 affordable housing will continue to use and annually update the administrative procedures for the  
9 HOP ordinance until such time as all obligations under such agreements have been satisfied.

10 Section 5. Subsection 26-1.15 SFCC 1987 (being Ord. #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 development,  
14 [~~between June 8, 2011 and June 7, 2014, then~~] twenty percent (20%) of the total number of dwelling  
15 units or manufactured home lots offered for sale in an SFHP development shall be SFHP Homes, as  
16 follows:

17 (1) [~~Ten (10%)~~] Five percent (5%) of the total dwelling units or manufactured  
18 home lots shall be sold at or below the affordable home price or affordable manufactured  
19 home lot price, as applicable, for income range 2.

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

23 (3) [~~Zero (0%)~~] Five percent (5%) of the total dwelling units or manufactured  
24 home lots shall be sold at or below the affordable home price or affordable manufactured  
25 home lot price, as applicable, for income range 4.



1 A modification to a SFHP agreement or HOP agreement that was entered into prior to June 8,  
2 2011 shall be made to reflect the twenty percent requirement; and if applicable, an annexation  
3 agreement, subdivision plat or development plan shall be administratively amended to reflect the  
4 reduction and redistribution of SFHP or HOP lots and the amended annexation agreement,  
5 subdivision plat or development plan shall be recorded or filed, as applicable, by the owner or  
6 developer. Fifteen percent of the total number of dwelling units or manufactured home lots offered  
7 for rent in an SFHP development shall be SFHP units and meet all requirements of §26-1 SFCC 1987.

8 ~~[B. — Effective June 8, 2014, and thereafter, thirty percent (30%) of the total number of~~  
9 ~~dwelling units or manufactured home lots offered for sale in an SFHP development shall be SFHP~~  
10 ~~Homes, as follows:~~

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

14 ~~(2) — Ten percent (10%) of the total dwelling units or manufactured home lots~~  
15 ~~shall be sold at or below the affordable home price or affordable manufactured home lot~~  
16 ~~price, as applicable, for income range 3, and~~

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

20 ~~[E]B.~~ If an applicant exceeds the percentage in income range 2 or income range 3 as set  
21 forth above, the requirement in any higher income range may be reduced by the same percentage.

22 ~~[D]C.~~ The whole number resulting from this calculation shall be the number of SFHP  
23 homes required to be constructed or SFHP manufactured home lots to be created. If the calculation  
24 described results in a fraction of a unit, this obligation shall be satisfied as set forth in the  
25 administrative procedures. Nothing herein shall prohibit a developer from building a greater number

1 of SFHP homes or creating a greater number of SFHP manufactured home lots than specified herein.  
2 Such additional units shall meet all the requirements as an SFHP home or manufactured home lot to  
3 be considered an SFHP home or manufactured home lot. The SFHP developer shall receive the fee  
4 waivers described in subsection 14-8.11 G,(2) for such additional units so long as those units meet all  
5 SFHP requirements.

6 [E]D. In any development with a mix of rental and ownership units or manufactured home  
7 lots, the number of SFHP rental units or rental manufactured home lots shall be in the same  
8 proportion as the number of non-SFHP rental units or rental manufactured home lots and likewise  
9 with ownership units or ownership manufactured home lots.

10 [F]E. In any development with a mix of detached and attached ownership units, the  
11 mix of SFHP units shall be in the same proportion as the mix of non-SFHP units.

12 [G]E. In the event that two (2) or fewer SFHP Homes or SFHP manufactured home lots are  
13 required, the SFHP Homes or manufactured home lots shall be affordable to income range 3 or  
14 [income range 2] lower.

15 ~~[H] The Governing Body by adoption of a resolution may approve the temporary~~  
16 ~~modification to the requirements of this Section. This authority shall not be used for a specific SFHP~~  
17 ~~development or for an individual economic situation, but shall apply to all SFHP development due to~~  
18 ~~broad economic downturns.]~~

19 Section 6. Subsection 26-1.16 SFCC 1987 (being Ord. #2005-30(A), §45, as  
20 amended) is amended to read:

21 **26-1.16. Determination of Affordable Home Price.**

22 A. To ensure the SFHP homes are affordable, the affordable home prices [below] are  
23 calculated to ensure that the sum of principal and interest payments, taxes, property insurance and  
24 mortgage insurance does not exceed thirty-three percent (33%) of the monthly income of the assumed  
25 household size in each applicable income range. The affordable price shall be determined at the

1 midpoint in each income range as determined by the current pricing schedule based on HUD's area  
2 median income (AMI) figures for Santa Fe city.

3 ~~{B. — Except as provided in this section below, at the time of enactment of this chapter, the~~  
4 ~~affordable home price for each income range shall be:~~

<b>Income Range</b>	<b>Affordable Home Price Studio</b>	<b>Affordable Home Price 1 Bedroom</b>	<b>Affordable Home Price 2 Bedroom</b>	<b>Affordable Home Price 3 Bedroom</b>	<b>Affordable Home Price 4 Bedroom</b>
-					
Income Range 2	\$84,750	\$92,000	\$105,250	\$118,250	\$131,500
Income Range 3	\$112,500	\$119,500	\$136,750	\$153,750	\$170,750
Income Range 4	\$140,000	\$147,250	\$168,250	\$189,250	\$210,250]

5  
6 ~~{C}B. [Except as provided in this section below, the]~~ The affordable manufactured home lot  
7 price shall be twenty-five percent (25%) of the affordable home price for a 3 bedroom home for each  
8 applicable income range, determined by the current SFHP pricing schedule in effect at the time of the  
9 SFHP development application. [as follows:]

<b>Income Range</b>	<b><del>{Affordable Manufactured Home Lot Price</del></b>
-	-
Income Range 2	\$29,563
Income Range 3	\$38,438
Income Range 4	\$47,313]

10  
11 ~~{D}C.~~ Beginning in 2006 and every year thereafter, the office of affordable housing shall  
12 review and adjust the affordable home price and affordable manufactured home lot for each  
13 applicable income range and home size based on the changes in area median income from the  
14 previous twelve (12) months, as determined by HUD. The price schedule will be adjusted within  
15 thirty (30) days of the release of the HUD data. However, every three (3) years thereafter at a  
16 minimum, the governing body shall review the methodology for calculating annual increases and  
17 make appropriate adjustments if necessary. The office of affordable housing shall report to the  
18 governing body within thirty (30) days of adjusting the affordable home price and affordable  
19 manufactured home lot price.

1        ~~{E-}D.~~ The affordable home price and affordable manufactured home lot price shall be  
2 reduced pursuant to administrative procedures in order to limit the impact on SFHP home buyers of  
3 fees assessed by condominium, common area, or homeowner associations. The affordable home price  
4 or affordable manufactured home lot price shall be reduced so that the buyer's mortgage or  
5 manufactured home loan principal amount and, accordingly, the buyer's monthly mortgage payments,  
6 are reduced by an amount equal to the assessed fee in excess of ~~[seventy-five dollars (\$75.00)]~~ an  
7 allowable base fee, established pursuant to administrative procedures and updated annually according  
8 to the HUD's AMI figures.

9        ~~{F}E.~~ Pursuant to administrative procedures, the affordable home price may be increased at  
10 the request of the SFHP home buyer by the price of allowable option upgrades, not to exceed the  
11 maximum option upgrade allowance.

12        ~~{G}F.~~ ~~[At the time of the enactment of this chapter, the maximum option upgrade allowance~~  
13 ~~shall be no greater than five thousand dollars (\$5,000.).]~~ Beginning in 2006 and every year thereafter,  
14 the office of affordable housing shall review and adjust the maximum option upgrade allowance  
15 based on changes in the area median income for the previous twelve (12) months. Permissible items  
16 to be included in the maximum option upgrade allowance shall be determined pursuant to  
17 administrative procedures.

18        ~~{H}G.~~ Pursuant to administrative procedures, the affordable home price may be increased  
19 by the amount of the approved energy efficiency adjustment.

20        **Section 7. Subsection 26-1.17 SFCC 1987 (being Ord. #2005-30(A), §46, as**  
21 **amended) is amended to read:**

22        **26-1.17. Design, Unit Types, Siting, Warranty Requirements for SFHP homes.**

23        A. The SFHP homes shall be constructed according to the ~~[minimum requirements]~~  
24 guidelines for bathrooms and areas of habitable residential space described ~~[below]~~ in the  
25 administrative procedures and any deviation from the guideline is subject to city approval:

Unit Type	[Minimum Number of 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]

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

B. The distribution of SFHP homes ~~[shall meet the following distribution:]~~ is presented in a guideline in the administrative procedures.

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

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

(2) The SFHP developer may request approval from the office of affordable housing to provide a mix of unit sizes that varies from the ~~[above]~~ guideline presented in the administrative procedures. Factors that may be considered as a basis for approving a different unit size mix include, but are not limited to;

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

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

C. ~~[The minimum sizes specified in this subsection shall not apply to units converted~~

1 ~~from existing rental units to ownership units.]~~ In ~~[such]~~ developments~~;~~ where units are converted  
2 from existing rental units to ownership units, the mix of size and type of SFHP Homes offered for  
3 sale shall be in proportion to the mix of non-SFHP homes offered for sale.

4 D. SFHP homes at different price levels and of different home sizes shall be dispersed  
5 ~~[evenly]~~ among the non-SFHP homes and be evidenced by designation of home lots at time of plat  
6 recording for each phase of development on the basis that the proposed dispersal takes full advantage  
7 of affordable housing opportunities that would not otherwise be maximized.

8 E. The SFHP homes shall be similar in architectural and landscaping appearance to the  
9 non-SFHP homes.

10 F. The seller of an SFHP home shall provide a warranty of at least one year covering  
11 defects in materials and workmanship in addition to any manufacturers' warranties or warranties  
12 provided by a contractor or subcontractor, such as warranties on roofing and appliances. The  
13 minimum one year warranty on defects in materials and workmanship shall not preclude the seller or  
14 any person from providing a warranty of longer period. No developer, seller, general contractor,  
15 subcontractor or other person shall be permitted to request that an SFHP homebuyer sign a waiver of  
16 the required warranty. Any such waiver shall be considered null and void.

17 **Section 8. Subsection 26-1.18 SFCC 1987 (being Ord. #2005-30(A), §47, as**  
18 **amended) is amended to read:**

19 **26-1.18. Affordability Controls on SFHP Homes; Rental Prohibition.**

20 A. An SFHP developer selling a SFHP home or manufactured home lot shall cause to be  
21 recorded, in the county clerk's office, simultaneous with the recording of the deed of sale, a form of  
22 deed restriction, restrictive covenant or other legal instrument that fulfills the requirements set forth in  
23 the administrative procedures with regard to controls placed on the occupancy and subsequent resales  
24 of SFHP homes and SFHP manufactured home lots. In order to maintain affordability, the SFHP  
25 developer shall impose resale controls consisting of mortgage liens, which include ~~[shared~~

1 ~~appreciation described below, and~~ right of first refusal requirements as set forth in the administrative  
2 procedures. The effect of the recordation of said document(s) shall be to create, in accordance with  
3 state law, an obligation that runs with the property. The city shall approve the form of such  
4 documents prior to recordation. Initial affordability shall be achieved by including in the SFHP  
5 agreement terms of an escrow instruction requiring certification of SFHP compliance by the escrow  
6 agent.

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

12 C. ~~[An SFHP lien will provide for shared appreciation by requiring the buyer to repay~~  
13 ~~the original amount of the lien plus a share of appreciation, if any, upon resale of the home or~~  
14 ~~manufactured home lot or violation of the occupancy requirements as described herein and by the~~  
15 ~~administrative procedures. The city's share of appreciation, if any, will be in proportion to the ratio of~~  
16 ~~the SFHP lien to the initial market value at the time of the SFHP buyer's initial purchase. The~~  
17 ~~administrative procedures shall provide for a deduction from gross appreciation to account for capital~~  
18 ~~improvements and repairs made during time of ownership and for a proportion of closing costs~~  
19 ~~incurred upon resale. For purpose of example, following are steps used to determine the city's share of~~  
20 ~~appreciation:~~

21 (1) ~~Determine SFHP affordable home price (example: 3 bedroom home in~~  
22 ~~income range 3): \$142,000-~~

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

24 (3) ~~Determine initial market value of SFHP home: \$220,000 X 95% = \$209,000~~

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

1                   (5) — ~~Determine city's share of appreciation (proportion of lien to initial market~~  
2                   ~~value): \$67,000/\$209,000 = 32%]~~

3                   The affordability lien, as described, is non-interest bearing, no payment due until sale or  
4                   transfer, and subordinate to the buyer's first position financing and other sources of subsidized  
5                   assistance. The lien will be forgiven by the City or its agent when the primary financing is paid off or  
6                   30 years, whichever comes first.

7                   D.       Upon resale of an SFHP home or manufactured home lot, the affordability lien may  
8                   be assumed by another SFHP buyer as approved by the city or its agent, or the seller must repay the  
9                   SFHP lien to the city or its agent. In the event that the home has lost value and the sales proceeds are  
10                  not enough to pay off the seller's primary financing and other assistance to which the affordability  
11                  lien is subordinate, the city will reduce the amount of the lien due to ensure that all other obligations  
12                  are met, however, in no event, shall the city release more than the total amount of the lien.

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

19                  F.       An SFHP home buyer or SFHP manufactured home lot buyer shall not rent the SFHP  
20                  unit or manufactured home lot to a second party, except as approved in writing by the office of  
21                  affordable housing for instances in which the owner is under duress by reason of unemployment,  
22                  family medical emergencies, or inability to sell the home for an amount equal to or greater than the  
23                  original sale price, or other unique circumstances of family hardship. The city, at its sole discretion  
24                  will approve or disapprove the request to rent a SFHP home pursuant to administrative procedures.

25                  Section 9.       Subsection 26-1.21 SFCC 1987 (being Ord. #2005-30(A), §50, as



1 amended) is amended to read:

2           **26-1.21.           Eligibility of SFHP Buyers.**

3           A.       The household income of an SFHP homebuyer shall not exceed the defined income  
4 ranges as set forth in subsection 26-1.5 except as set forth in paragraph E. below.

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

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

10          D.       ~~[A SFHP home may not be sold to a household which is smaller than the following~~  
11 ~~household]~~ Household sizes are provided as a guideline for SFHP homes in the administrative  
12 procedures unless the office of affordable housing approves in writing a smaller minimum household  
13 size[;].

<u>Unit Size</u>	<u>Minimum Household Size</u>
<del>Efficiency/studio</del>	<del>1 person household</del>
<del>1 Bedroom</del>	<del>1 person household</del>
<del>2 Bedrooms</del>	<del>1 person household</del>
<del>3 Bedrooms</del>	<del>2 person household</del>
<del>4 Bedrooms</del>	<del>3 person household]</del>

14  
15          E.       An eligible buyer meeting the criteria of armed services veteran, emergency worker,  
16 first responder, teacher or related educational employees in Santa Fe County whose household  
17 income exceeds one hundred percent (100%) of area median income (AMI) but does not exceed one  
18 hundred twenty percent (120%) of AMI shall be eligible to purchase an SFHP unit in income range 4.

19               (1)     The status of the buyer as a veteran, emergency worker or first responder  
20 ~~[shall be noted on the certificate of eligibility and]~~ shall be verified by the office of affordable  
21 housing.

22               (2)     The office of affordable housing shall maintain a list of occupations that

1 meet the requirement of emergency worker, first responder or essential worker, and the  
2 verification of veteran status pursuant to administrative procedures. ~~[which shall include:~~

3 (a) ~~Police officers;~~

4 (b) ~~Nurses;~~

5 (c) ~~Emergency medical technicians;~~

6 (d) ~~Firefighters;~~

7 (e) ~~Other health and safety workers whose services are crucial to~~  
8 ~~community safety in an emergency situation; and~~

9 (f) ~~Teachers and related educational employees.]~~

10 (3) All other eligibility requirements shall apply.

11 **Section 10. Subsection 26-1.22 SFCC 1987 (being Ord. #2005-30(A), §51) is**  
12 **amended to read:**

13 **26-1.22. Requirements for SFHP Rental Units**

14 A. The marketing, leasing and occupancy of an SFHP rental unit and SFHP  
15 manufactured home lot that is rented shall conform to the criteria set forth in the administrative  
16 procedures. Rental rates shall be in accordance with the rates set forth in subsection 26-1.24. SFHP  
17 rental units shall be built to comply with the minimum size, unit type(s) and other structural  
18 requirements set forth in subsection 26-1.25. The location of the SFHP rental units shall be approved  
19 by the office of affordable housing. ~~[The units or manufactured home lots shall be dispersed~~  
20 ~~throughout the development; however, if multiple SFHP units or manufactured home lots are~~  
21 ~~required, the units or manufactured home lots may be grouped provided that the groups are dispersed~~  
22 ~~throughout the development.]~~ The units or manufactured home lots shall have compatible exterior  
23 architectural and landscaping appearance with other units in the development.

24 **Section 11. Subsection 26-1.24 SFCC 1987 (being Ord. #2005-30(A), §53, as**  
25 **amended) is amended to read:**

1           **26-1.24.           Determination of Affordable Rent.**

2           A.       To ensure that rental rates do not exceed thirty percent (30%) of the monthly income  
3 for both rent and utilities for households in each applicable income range, the affordable rent for  
4 SFHP rental dwelling units ~~[shall equal the rental rate;]~~ is determined annually, based on HUD  
5 income limits, pursuant to the administrative procedures ~~[as set forth below. These rents include~~  
6 ~~utilities and shall be adjusted if utilities are provided separately].~~

7           B.       Affordable rental rates shall be determined for each income range ~~[as follows:]~~  
8 pursuant to the SFHP rental rate schedule in the administrative procedures. The required rental rates  
9 include utilities and shall be adjusted if utilities are provided separately.

<b>Income Range</b>	<b><del>[Affordable Rent</del> Efficiency/Studio or 1 Bedroom</b>	<b>Affordable Rent 2 Bedrooms</b>	<b>Affordable Rent 3 Bedrooms</b>	<b>Affordable Rent 4 Bedrooms</b>
Income Range 1	\$346	\$396	\$445	\$495
Income Range 2	\$577	\$660	\$742	\$825
Income Range 3	\$750	\$858	\$965	\$1,073]

11          C.       The affordable rent for manufactured home lots shall not exceed thirty percent (30%)  
12 of the affordable rent for a 3 bedroom dwelling unit for each applicable income range ~~[as follows:]~~,  
13 pursuant to SFHP rental rate schedule.

<b><del>Income Range</del></b>	<b><del>[Affordable Manufactured Home Lot Rent</del></b>
Income Range 1	\$134
Income Range 2	\$223
Income Range 3	\$290]

15          D.       Beginning in 2006 and every year thereafter, affordable rent and affordable  
16 manufactured home lot rent for each applicable income range shall be adjusted by the percentage  
17 change in area median income from the previous twelve (12) months, as per HUD's annual  
18 determination of income limits, and the office of affordable housing shall issue an updated schedule  
19 of affordable rents and affordable manufactured home lot rent for each applicable income range. The

1 office of affordable housing shall report to the governing body within thirty (30) days of adjusting  
2 affordable rents and affordable manufactured home lot rent.

3       **Section 12. Subsection 26-1.28 SFCC 1987 (being Ord. #2005-30(A), §57, as**  
4 **amended) is amended to read:**

5       **26-1.28. Allowed and Disallowed Uses of Subsidies.**

6       Prospective tenants who may be income eligible and have rent subsidy, such as a Section 8  
7 Voucher, are eligible to rent a SFHP unit; however, under no circumstances shall rents in excess of  
8 ~~[those allowed under the SFHP]~~ Fair Market Rent (FMR) as established annually by HUD, be  
9 charged. Developers of SFHP rental units may use any type of capital development subsidy to  
10 achieve the required rents.

11       **Section 13. Subsection 26-1.29 SFCC 1987 (being Ord. #2005-30(A), §58) is**  
12 **amended to read:**

13       **26-1.29. Term of Compliance.**

14       Rental housing developments and manufactured home lot developments subject to SFHP (or  
15 portions thereof completed and occupied at different times) shall maintain required occupancy and  
16 rental rates in SFHP units for a period of ~~[(twenty-20)]~~ ten (10) years after the date of issuance of a  
17 certificate of occupancy for the entire development or portions thereof. This requirement shall be  
18 made applicable to successors in title, if any, by means of a deed restriction. (Ord. #2005-30(A), §58)

19       **Section 14. Subsection 26-1.30 SFCC 1987 (being Ord. #2005-30(A), §44, as amended)**  
20 **is amended to read:**

21       **26-1.30. Monitoring by the City of SFHP Leases and Enforcement of**  
22 **Agreements.**

23       SFHP agreements involving SFHP rental units shall provide for annual monitoring and  
24 certification of leased SFHP rental units by the city or its agents, as set forth in the administrative  
25 procedures. The city shall have the right to inspect and photocopy all accounting and occupancy

1 records with regard to any SFHP rental unit. It shall further have the right to contact and interview  
2 any SFHP tenant with regard to compliance issues. Owners of SFHP rental units shall keep adequate  
3 records of all payments of rent and data concerning tenants, in accordance with standard practices of  
4 the rental housing industry. If disputes arise over what constitutes adequate record keeping, the city or  
5 its agents under its SFHP agreement shall have the right to require owners to adopt financial and  
6 information management practices that are recommended by a certified public accountant and/or  
7 property management manuals published by the institute of real estate management. The city, or its  
8 agents shall have access to all relevant financial and tenant information records during normal  
9 business hours, upon providing verbal or written notice at least two (2) business days prior to a  
10 proposed monitoring visit. Upon completion of this annual monitoring activity, the city, or its agents  
11 shall certify that the property owner is in compliance with the SFHP agreement, or shall issue  
12 findings of noncompliance. Upon findings of noncompliance with the SFHP agreement, the city, or  
13 its agents shall issue orders for bringing the SFHP development into compliance. Such orders shall  
14 give the property owner twelve (12) months to reach compliance, but may also require actions to  
15 compensate for noncompliance. If a property owner willfully and continually refuses to comply with  
16 SFHP agreements or related orders from the city, the city or its agents may invoke sanctions set forth  
17 in subsection 26-1.19.

18       **Section 15.     Subsection 26-1.31 SFCC 1987 (being Ord. #2005-30(A), §60) is**  
19 **amended to read:**

20       **26-1.31.       Simplified Compliance and Low-Income Housing Tax Credit Projects.**

21       Notwithstanding any other terms of SFHP or a SFHP agreement, if rental units in a SFHP  
22 development have been awarded tax credits under the federal low-income housing tax credit program,  
23 or have received substantial subsidy under another local, state or federal funding program that enables  
24 the project to serve renters or meets other emerging needs as identified in the city's annual action plan  
25 and approved by HUD, such units shall be deemed to comply with all tenant certification and rental

292 b



FY

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
Community Planning and Development  
WASHINGTON, DC 20410-7000

Special Attention of:  
All CPD Division Directors  
HUD Field Offices  
HUD Regional Offices  
All CDBG Grantees  
All HOME Participating Jurisdictions  
All ESG Formula Grantees  
All HOPWA Formula Grantees

NOTICE: CPD-13-010  
Issued: December 13, 2013  
  
Expires: September 30, 2014

Subject: Guidance on submitting Consolidated Plans and Annual Action Plans  
for Fiscal Year (FY) 2014

**Purpose:**

The purpose of this notice is to instruct grantees on the timing of submission of FY 2014 consolidated plans and action plans, and to inform Entitlement CDBG grantees of a waiver being made available to certain grantees to assist in the implementation of these instructions. Provisions of this Notice covering the Entitlement CDBG program also apply to Insular Areas grantees and CDBG nonentitlement county grantees in Hawaii, as the Entitlement CDBG program regulations also apply to their CDBG funds.

**Background:**

Pursuant to 24 CFR 91.15(a)(1), each jurisdiction should submit its consolidated plan to HUD at least 45 days before the start of its program year. The earliest date on which HUD will accept a consolidated plan or action plan submission is November 15; and the latest submission deadline is August 16. However, in most years, HUD does not receive its annual funding appropriation until several months into the federal fiscal year (rarely earlier than December, and sometimes as late as April). Once a fiscal year's appropriation is enacted, HUD needs time to compute grantees' allocation amounts for the four formula programs covered by the consolidated plan. When appropriations are significantly delayed, grantees with program year start dates prior to the announcement of allocations do not know their actual allocation amounts when they are developing their plans, conducting citizen participation, and submitting their plans.

According to 24 CFR 91.500(a), a plan will be deemed approved 45 days after HUD receives the plan, unless HUD notifies the jurisdiction before that date that the plan is disapproved. Heretofore, HUD has typically not disapproved a plan solely because it is based on estimated allocation amounts. As a result, a plan submitted by a grantee before its allocation amounts are announced typically receives automatic approval, even though the plan does not list the grantee's actual allocation amounts.

( ) (M) (W)

This practice results in significant additional work for both HUD and grantees. After the actual allocation amounts are announced, a grantee must submit a revised, re-signed SF-424 form listing the actual allocation amounts for each of its formula grants; and in many cases, the grantee must make additional changes to amend its plan to reflect its actual allocation amounts. This may constitute a substantial amendment under 24 CFR 91.505, which is subject to the grantee's citizen participation plan process. HUD will not execute a grant agreement with a grantee until HUD has received an amended plan which incorporates the actual allocation amounts a grantee is to receive for that fiscal year.

#### **Revised Procedures for Submission of FY 2014 Action Plans by Grantees with Early Program Year Start Dates:**

HUD is issuing the following revised procedures to govern the submission and review of consolidated plans and action plans for FY 2014 funding prior to the enactment of a FY 2014 HUD appropriation bill. These procedures will apply to any grantee whose program year start date for FY 2014 funding occurs during the period starting October 1, 2013, and ending August 16, 2014 or 60 days after HUD announcement of FY 2014 allocation amounts for CDBG, ESG, HOME and HOPWA formula funding (whichever comes first).

Congress has not completed the appropriations process for HUD's FY 2014 appropriation. At this time, HUD cannot predict when its FY 2014 appropriations bill will be enacted and when it will be able to announce FY 2014 allocation amounts. Thus, HUD cannot say how many grantees – or which program year start dates – will be subject to these revised procedures. Similarly, HUD cannot provide estimated FY 2014 allocation amounts for grantees to use for planning purposes in developing annual action plans.

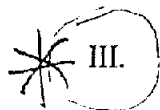
**Note:** These procedures do not apply to action plans for FY 2013 funding. Neither will these procedures apply to a grantee whose program year start date is more than 60 days after HUD announcement of FY 2014 allocation amounts; those grantees should have sufficient time to revise their plans to match actual allocation amounts prior to the due date for their plan.

##### **1. Revised Submission Dates for FY 14 Action Plans**

Any grantee with an FY 2014 program year start date during the period starting October 1, 2013, and ending August 16, 2014 or 60 days after HUD announcement of FY 2014 allocation amounts (whichever comes first), is advised not to submit its consolidated plan/action plan until the FY 2014 formula allocations have been announced. Once HUD informs the grantee of its FY 2014 formula funding allocation amounts, the grantee should, prior to submission, ensure that the actual FY 2014 allocation amounts are reflected in the SF-424, in the description of resources and objectives, and in the description of activities to be undertaken (or, for states, the method of distribution). It may be necessary for the grantee to revise its action plan before submission to HUD.

An affected grantee may delay submission of its action plan to HUD until 60 days after the date allocations are announced, or until August 16, 2014 (whichever comes first). This delay

policies to determine whether it will need to conduct further citizen participation as a result of the changes it makes to incorporate actual allocation amounts into its plan, prior to re-submission of the revised plan.



### III. Development of Proposed Action Plans and Citizen Participation During The Interim

A grantee has several options regarding fulfilling its citizen participation obligations while waiting for HUD to announce FY 2014 allocation amounts:

- a. A grantee may conduct citizen participation on its draft plan (with estimated funding amounts) according to its normal timetable and citizen participation procedures. (Grantees are cautioned, though, that they should not submit their plan until allocation amounts are known.) A grantee doing so should include "contingency provision" language in its action plan which explains how it will adjust its proposed plan to match its actual allocation amounts, once actual amounts become known. By including such contingency language, a grantee can avoid the need to make significant revisions to its plan (beyond incorporating the final allocation amounts into the plan and the SF-424 form). The grantee may also avoid the potential need to conduct additional citizen participation on a plan that has to be significantly revised in order to reflect actual allocation amounts.



Examples of contingency provisions include:

- A plan could state that all proposed activities' budgets will be proportionally increased or decreased from the estimated funding levels to match actual allocation amounts.
- A grantee could express its budget in terms of percentages of the allocation to be budgeted to each planned activity, along with the grantee's current estimate of how many dollars that equates to for each activity. [E.g., regardless of what the final allocation amounts are, the United Interfaith Street Outreach Program will receive 22% of the grantee's total ESG allocation (currently estimated to be approximately \$38,000), and the Tenant-Based Rental Assistance activity will receive 10% of the HOME allocation (currently estimated to be about \$68,750).]
- A plan could state that any increase or decrease in funding to match actual allocation amounts will be applied to one or more specific activities (e.g., any increase or decrease relative to the grantee's estimated allocation amount will be applied to the single family housing rehabilitation grant program).
- A plan could list its proposed activities in priority order and indicate that the East Side Sidewalk Replacement activity listed in the plan is a "backup" activity that will be funded only if sufficient CDBG funding exists; or conversely, if the grantee's actual allocation is less than estimated, the East Side Sidewalk Replacement activity will not be funded in FY 2014.
- A plan could state that, should the actual allocation amount exceed the grantee's estimate, the grantee will increase the Uptown Sewer Separation activity budget



will give a grantee time to revise its action plan to incorporate actual allocation amounts, and to conduct any additional citizen participation, if necessary.

However, in no case may a consolidated plan/action plan be submitted to HUD later than August 16, 2014. Failure to submit an Action Plan for FY 2014 by August 16, 2014, will result in the automatic loss of FY 2014 CDBG funds to the grantee. This requirement is established by statute, and HUD cannot waive the August 16 submission deadline.

24 CFR 91.15(a)(1) states that "...each jurisdiction should submit its consolidated plan at least 45 days before the start of its program year." HUD has determined that it is not necessary to waive this provision in order to implement the procedures in this Notice for FY 2014 action plans. This provision does not prohibit a grantee from submitting a plan after that time. It is not necessary for an affected grantee to request an exception to its normal action plan submission date under 24 CFR 91.15(a)(1), nor is it necessary for a field office to grant an exception to the action plan submission deadlines, under 24 CFR 91.20, in order to implement the procedures in this Notice.

## II. HUD Review of Action Plans

HUD will disapprove as substantially incomplete any action plan covering FY 2014 funding that does not reflect actual allocation amounts on the SF-424, in the description of resources and objectives, and in the description of activities to be undertaken (or, for states, the method of distribution). A grantee whose action plan is disapproved for this reason is advised to not resubmit a revised plan until HUD has announced the actual FY 2014 allocation amounts, and until the grantee has incorporated the actual allocation amounts into its plan.

Some grantees with January 1 program year start dates have already submitted their FY 2014 action plans. HUD will disapprove such already-submitted plans as substantially incomplete.

IF PLANS  
ALREADY  
SUBMITTED.

24 CFR 91.500(d) states that "(t)he jurisdiction may revise or resubmit a plan within 45 days after the first notification of disapproval." HUD has determined that it is not necessary to waive this provision in order to implement the procedures in this Notice for FY 2014 action plans. This provision does not prohibit a grantee from re-submitting a plan after that time period.

24 CFR 91.105(c), 91.115(c) and 91.505 require a grantee to comply with citizen participation requirements when it undertakes a substantial amendment to an approved plan. A plan that has been disapproved by HUD is by definition not an approved plan. When a grantee's plan is disapproved by HUD, the Consolidated Plan regulations do not necessarily require a grantee to undertake further citizen participation on the changes the grantee makes before re-submitting it. (A major exception to this, however, would be if the reason for disapproval involved the grantee's failure to fulfill citizen participation requirements to begin with.) However, as noted in Section III. below, there are circumstances in which a grantee may need to make major revisions to a disapproved plan which could trigger further citizen participation efforts. A grantee with a disapproved plan should review its citizen participation plan and local