

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2014-10

3  
4  
5 AN ORDINANCE

6 RELATING TO THE SANTA FE HOMES PROGRAM (“SFHP”); AMENDING SECTION  
7 14-8.11 SFCC 1987 TO MAKE PERMANENT THE CURRENT PERCENTAGE  
8 REQUIREMENTS OF THE SFHP; AMENDING SECTION 26-1 SFCC 1987 TO UPDATE  
9 THE LEGISLATIVE FINDINGS, TO ESTABLISH THE SCHEDULE FOR PAYMENTS IN  
10 LIEU OF CONSTRUCTING UNITS FOR SFHP DEVELOPMENTS WITH TWO THROUGH  
11 TEN TOTAL UNITS, TO MAKE PERMANENT THE CURRENT PERCENTAGE  
12 REQUIREMENTS OF THE SFHP AND TO MAKE VARIOUS OTHER CHANGES TO THE  
13 SFHP ORDINANCE.

14  
15 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

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

18 (D) Applicability

- 19 (1) Except as set forth in this Subsection 14-8.11(D), the *SFHP* shall apply to  
20 any *application for development*, including annexation, rezoning, subdivision  
21 *plat*, increase in *density*, *development plan*, extension of or connection to *city*  
22 *utilities* for land outside the city limits, and construction *permits* that propose  
23 two or more *dwelling units* or *buildings* or portions of *buildings* that may be  
24 used for both *nonresidential* and *residential* purposes and *manufactured*  
25 *home lots*. *SFHP* applies to the *residential* portion of the *development*.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

- (a) The *SFHP* applies to *new* construction, to the conversion of existing rental units to ownership units and the conversion of commercial uses to residential uses.
  - (b) The *SFHP* does not apply to a *family* transfer as set forth in Section 14-3.7(F)(2) or a division of land into two *lots* as set forth in Section 14-3.7(D) (Summary Procedure).
  - (c) The *applicant* is responsible for determining the applicability of *SFHP* to the proposed *development* and complying with the requirements of *SFHP*.
- (2) The SFHP applies to dwelling units in vacation time share projects.
  - (3) The SFHP does not apply to:
    - (a) a *development* or portion of a *development* that is subject to a formal written and binding agreement entered into prior to August 15, 2005 with the *city* or Santa Fe County in which the signatories agreed to provide affordable housing or payment in lieu thereof; or
    - (b) *dwelling unit* or *manufactured home lots* for an elementary, middle or high school; *college or university*; *hospital*; or similar institution to be used exclusively by its *employees* or enrolled students and their families. If the *dwelling units* or *manufactured homes* are no longer 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 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

1 of compliance may be in excess of that required by *SFHP*. These terms shall  
2 be included in the annexation agreement. To the extent practicable, all other  
3 *SFHP* requirements apply to annexations. In no case shall the agreement  
4 provide for less affordable housing or a lesser in-lieu contribution than  
5 required by *SFHP*. As the *property* is developed, a separate *SFHP*  
6 agreement in compliance with the annexation agreement shall be recorded  
7 with each subdivision *plat* or *development* plan.

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

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

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

- 20 (1) Effective June 7, 2014, and thereafter, twenty percent of the total number of  
21 *dwelling units* or *manufactured home lots* in an *SFHP development* shall be  
22 *SFHP units* and meet all requirements of Section 26-1 SFCC 1987. A  
23 modification to a *SFHP* agreement or *HOP* agreement that was entered into  
24 prior to June 8, 2011 shall be made to reflect the twenty percent requirement;  
25 and if applicable, an annexation agreement, subdivision plat or development

1 plan shall be administratively amended to reflect the reduction and  
2 redistribution of *SFHP* or *HOP lots* and the amended annexation agreement,  
3 subdivision plat or development plan shall be recorded or filed, as applicable,  
4 by the *owner* or *developer*.

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

8 (3) However, the *governing body* may approve alternative means of compliance  
9 as provided in Section 26-1.33 SFCC 1987 (*SFHP – Alternate Means of*  
10 *Compliance*).

11 **Section 3. Subsection 26-1.4 SFCC 1987 (being Ord. #2005-30(A), § 33) is amended**  
12 **to read:**

13 **26-1.4 Findings.**

14 The governing body finds and determines that:

15 A. Affordable housing furthers geographic and community balance through providing a  
16 range of housing opportunities throughout the city; and

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

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

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

24 E. Santa Fe is facing a growing shortage of housing that is affordable to a wide range of  
25 our population affecting the ability of new graduates, senior citizens, families with children, and

1 employees in industries and services that are vital to a healthy economy to remain living in the city;  
2 and

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

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

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

12 I. The governing body in partnership with the regional planning authority established  
13 an affordable housing task force that was charged with recommending appropriate affordable housing  
14 policy and programs for the region. The task force recommendations included the implementation of  
15 a broadly applicable program to increase the supply of affordable housing particularly for those  
16 households with incomes less than the area median income; and

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

20 K. According to the Housing Needs Assessment, updated in 2013, the greatest mismatch  
21 between need and available services and affordable housing inventory is for renter households  
22 earning less than thirty percent (30% ) of the Area Median Income (AMI) with as many as three  
23 thousand (3,000) renter households in Santa Fe likely to be "cost burdened" or paying more than one-  
24 third (1/3) of their incomes toward rents; and

25 L. The 2010 Census indicates that:

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

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

5 (3) The median age is forty-four (44) years old, compared to forty (40) years old  
6 in 2000.

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

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

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

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

20 **26-1.8 Applicability.**

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

1 SFHP applies to the residential portion of the development.

2 (1) The SFHP applies to new construction, to the conversion of existing rental  
3 units to ownership units and the conversion of commercial uses to residential uses.

4 (2) The SFHP shall not apply to a family transfer as set forth in subsection 14-  
5 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).

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

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

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

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

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

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

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

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

15 **Section 5. Subsection 26-1.15 SFCC 1987 (being Ord. #2005-30(A), §44, as**  
16 **amended) is amended to read:**

17 **26-1.15 Required Number of For Sale SFHP Homes in a Development.**

18 A. If a SFHP developer obtains a residential building permit for a SFHP development,  
19 twenty percent (20%) of the total number of dwelling units or manufactured home lots offered for  
20 sale in an SFHP development shall be SFHP Homes, as follows:

21 (1) Five percent (5%) of the total dwelling units or manufactured home lots shall  
22 be sold at or below the affordable home price or affordable manufactured home lot price, as  
23 applicable, for income range 2.

24 (2) Ten percent (10%) of the total dwelling units or manufactured home lots  
25 shall be sold at or below the affordable home price or affordable manufactured home lot



1 price, as applicable, for income range 3, and

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

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

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

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

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

1 with ownership units or ownership manufactured home lots.

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

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

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

8 **26-1.16. Determination of Affordable Home Price.**

9 A. To ensure the SFHP homes are affordable, the affordable home prices are calculated  
10 to ensure that the sum of principal and interest payments, taxes, property insurance and mortgage  
11 insurance does not exceed thirty-three percent (33%) of the monthly income of the assumed  
12 household size in each applicable income range. The affordable price shall be determined at the  
13 midpoint in each income range as determined by the current pricing schedule based on HUD's area  
14 median income (AMI) figures for Santa Fe city.

15 B. The affordable manufactured home lot price shall be twenty-five percent (25%) of  
16 the affordable home price for a 3 bedroom home for each applicable income range, determined by the  
17 current SFHP pricing schedule in effect at the time of the SFHP development application.

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

1 manufactured home lot price.

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

9 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 F. Beginning in 2006 and every year thereafter, the office of affordable housing shall  
13 review and adjust the maximum option upgrade allowance based on changes in the area median  
14 income for the previous twelve (12) months. Permissible items to be included in the maximum option  
15 upgrade allowance shall be determined pursuant to administrative procedures.

16 G. Pursuant to administrative procedures, the affordable home price may be increased  
17 by the amount of the approved energy efficiency adjustment.

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

20 **26-1.17. Design, Unit Types, Siting, Warranty Requirements for SFHP homes.**

21 A. The SFHP homes shall be constructed according to the guidelines for bathrooms and  
22 areas of habitable residential space described in the administrative procedures and any deviation from  
23 the guideline is subject to city approval. Habitable space shall be defined and calculated in  
24 accordance with the city's building code, except that the minimum area of SFHP homes may be  
25 greater than minimum building code requirements.

1 B. The distribution of SFHP homes is presented in a guideline in the administrative  
2 procedures. The SFHP developer may request approval from the office of affordable housing to  
3 provide a mix of unit sizes that varies from the guideline presented in the administrative procedures.  
4 Factors that may be considered as a basis for approving a different unit size mix include, but are not  
5 limited to:

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

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

9 C. In developments where units are converted from existing rental units to ownership  
10 units, the mix of size and type of SFHP Homes offered for sale shall be in proportion to the mix of  
11 non-SFHP homes offered for sale.

12 D. SFHP homes at different price levels and of different home sizes shall be dispersed  
13 among the non-SFHP homes and be evidenced by designation of home lots at time of plat recording  
14 for each phase of development on the basis that the proposed dispersal takes full advantage of  
15 affordable housing opportunities that would not otherwise be maximized.

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

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

25 **Section 8. Subsection 26-1.18 SFCC 1987 (being Ord. #2005-30(A), §47, as**

1 amended) is amended to read:

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

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

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

19 C. The affordability lien, as described, is non-interest bearing, no payment due until sale  
20 or transfer, and subordinate to the buyer's first position financing and other sources of subsidized  
21 assistance.

22 D. Upon resale of an SFHP home or manufactured home lot, the affordability lien may  
23 be assumed by another SFHP buyer as approved by the city or its agent, or the seller must repay the  
24 SFHP lien to the city or its agent. In the event that the home has lost value, through no fault of the  
25 seller, and the sales proceeds are not enough to pay off the seller's primary financing and other

1 assistance to which the affordability lien is subordinate, the city will reduce the amount of the lien  
2 due to ensure that all other obligations are met, however, in no event, shall the city release more than  
3 the total amount of the lien.

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

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

16 G. As a condition of participation in the SFHP, a SFHP home buyer or SFHP  
17 manufactured home lot buyer shall agree to fill out a brief questionnaire upon resale of the unit or lot  
18 for the purposes of assessing the effectiveness of the SFHP. Such questionnaire shall be included in  
19 the administrative procedures and referenced as Appendix E.

20 **Section 9. Subsection 26-1.21 SFCC 1987 (being Ord. #2005-30(A), §50, as**  
21 **amended) is amended to read:**

22 **26-1.21. Eligibility of SFHP Buyers.**

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

25 B. The household income of an SFHP manufactured home lot buyer shall not exceed the

1 defined income ranges as set forth in subsection 26-1.5 for a 3-person household, regardless of the  
2 household size of the SFHP buyer except as set forth in paragraph E. below.

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

5 D. Household sizes are provided as a guideline for SFHP homes in the administrative  
6 procedures unless the office of affordable housing approves in writing a smaller minimum household  
7 size.

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

12 (1) The status of the buyer as a veteran, emergency worker or first responder  
13 shall be verified by the office of affordable housing.

14 (2) The office of affordable housing shall maintain a list of occupations that  
15 meet the requirement of emergency worker, first responder or essential worker, and the  
16 verification of veteran status pursuant to administrative procedures.

17 (3) All other eligibility requirements shall apply.

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

20 **26-1.22. Requirements for SFHP Rental Units**

21 A. The marketing, leasing and occupancy of an SFHP rental unit and SFHP  
22 manufactured home lot that is rented shall conform to the criteria set forth in the administrative  
23 procedures. Rental rates shall be in accordance with the rates set forth in subsection 26-1.24. SFHP  
24 rental units shall be built to comply with the minimum size, unit type(s) and other structural  
25 requirements set forth in subsection 26-1.25. The location of the SFHP rental units shall be approved





1 by the office of affordable housing. The units or manufactured home lots shall have compatible  
2 exterior architectural and landscaping appearance with other units in the development.

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

5 **26-1.24. Determination of Affordable Rent.**

6 A. To ensure that rental rates do not exceed thirty percent (30%) of the monthly income  
7 for both rent and utilities for households in each applicable income range, the affordable rent for  
8 SFHP rental dwelling units is determined annually, based on HUD income limits, pursuant to the  
9 administrative procedures.

10 B. Affordable rental rates shall be determined for each income range pursuant to the  
11 SFHP rental rate schedule in the administrative procedures. The required rental rates include utilities  
12 and shall be adjusted if utilities are provided separately.

13 C. The affordable rent for manufactured home lots shall not exceed thirty percent (30%)  
14 of the affordable rent for a 3 bedroom dwelling unit for each applicable income range, pursuant to  
15 SFHP rental rate schedule.

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

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

25 **26-1.28. Allowed and Disallowed Uses of Subsidies.**

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

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

7 **26-1.29. Term of Compliance.**

8 Rental housing developments and manufactured home lot developments subject to SFHP (or  
9 portions thereof completed and occupied at different times) shall maintain required occupancy and  
10 rental rates in SFHP units for a period of ten (10) years after the date of issuance of a certificate of  
11 occupancy for the entire development or portions thereof. This requirement shall be made applicable  
12 to successors in title, if any, by means of a deed restriction.

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

15 **26-1.30. Monitoring by the City of SFHP Leases and Enforcement of**  
16 **Agreements.**

17 SFHP agreements involving SFHP rental units shall provide for annual monitoring and  
18 certification of leased SFHP rental units by the city or its agents, as set forth in the administrative  
19 procedures. The city shall have the right to inspect and photocopy all accounting and occupancy  
20 records with regard to any SFHP rental unit. It shall further have the right to contact and interview  
21 any SFHP tenant with regard to compliance issues. Owners of SFHP rental units shall keep adequate  
22 records of all payments of rent and data concerning tenants, in accordance with standard practices of  
23 the rental housing industry. If disputes arise over what constitutes adequate record keeping, the city or  
24 its agents under its SFHP agreement shall have the right to require owners to adopt financial and  
25 information management practices that are recommended by a certified public accountant and/or

1 property management manuals published by the institute of real estate management. The city, or its  
2 agents shall have access to all relevant financial and tenant information records during normal  
3 business hours, upon providing verbal or written notice at least two (2) business days prior to a  
4 proposed monitoring visit. Upon completion of this annual monitoring activity, the city, or its agents  
5 shall certify that the property owner is in compliance with the SFHP agreement, or shall issue  
6 findings of noncompliance. Upon findings of noncompliance with the SFHP agreement, the city, or  
7 its agents shall issue orders for bringing the SFHP development into compliance. Such orders shall  
8 give the property owner twelve (12) months to reach compliance, but may also require actions to  
9 compensate for noncompliance. If a property owner willfully and continually refuses to comply with  
10 SFHP agreements or related orders from the city, the city or its agents may invoke sanctions set forth  
11 in subsection 26-1.19.

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

14 **26-1.31. Simplified Compliance and Low-Income Housing Tax Credit Projects.**

15 Notwithstanding any other terms of SFHP or a SFHP agreement, if rental units in a SFHP  
16 development have been awarded tax credits under the federal low-income housing tax credit program,  
17 or have received substantial subsidy under another local, state or federal funding program that enables  
18 the project to serve renters or meets other emerging needs as identified in the city's annual action plan  
19 and approved by HUD, such units shall be deemed to comply with all tenant certification and rental  
20 requirements of the SFHP program, so long as the project is in good standing with regard to the  
21 monitoring standards of that program. For such projects in good standing, the only monitoring  
22 required by the city shall be delivery to the office of affordable housing, within ten (10) days of  
23 receipt, all copies of the monitoring agency's reports and correspondence with regard to compliance  
24 monitoring.

25 **Section 16. Subsection 26-1.33 (being Ord. #2005-30(A), §62, as amended) is amended**

1 | **to read:**

2 | **26-1.33 Alternate Means of Compliance.**

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

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

17 | (1) SFHP projects of eleven (11) units or more, provided that the project meets  
18 | the definition of extreme hardship;

19 | (2) SFHP projects of ten (10) units or fewer; and

20 | (3) SFHP projects that meet the definition of a vacation time share project as set  
21 | forth in Section 14-12 SFCC 1987.

22 | C. In determining whether the purposes of this chapter would be better served under the  
23 | proposed alternative, the city shall consider the following:

24 | (1) Whether implementation of an alternative would overly concentrate SFHP  
25 | units within any specific area and if so must reject the alternative unless the undesirable

1 concentration of the SFHP units is offset by other identified benefits that flow from  
2 implementation of the alternative in issue; and

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

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

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

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

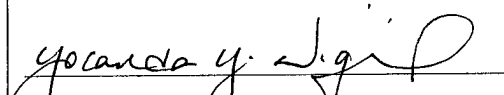
14 **Section 17. Review.** This Ordinance shall be reviewed by the governing body one year  
15 from the date of adoption and thereafter on an annual basis with particular attention given to  
16 quantifying the economic benefits of this policy change.

17 PASSED, APPROVED and ADOPTED this 26<sup>th</sup> day of February, 2014.

18  
19 

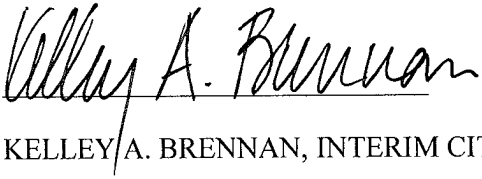
20 DAVID COSS, MAYOR

21 ATTEST:

22  
23   
24 YOLANDA Y. VIGIL, CITY CLERK

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPROVED AS TO FORM:

Handwritten signature of Kelley A. Brennan in cursive script.

KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

*M/Melissa/Ordinances 2014/2014-10 SFHP\_Fees(20%)*