

SANTA FE COUNTY, NEW MEXICO

ORDINANCE NO. 2011- 3

AN ORDINANCE AUTHORIZING SANTA FE COUNTY TO PROVIDE HOUSING ASSISTANCE GRANTS FOR REPAIR OR REPLACEMENT OF AN EXISTING ROOF AND RENOVATION PURSUANT TO ARTICLE IX SECTION 14 OF THE NEW MEXICO CONSTITUTION AND THE NEW MEXICO AFFORDABLE HOUSING ACT, ESTABLISHING ELIGIBILITY CRITERIA, AN APPLICATION PROCESS, AND CALLING FOR THE DEVELOPMENT OF REGULATIONS IMPLEMENTING THE ORDINANCE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

Section One. Short Title: This Ordinance may be cited as the “Affordable Housing Roof Repair or Replacement and Renovation Ordinance;” also known as the Happy Roofs Program.

Section Two. Statutory Authority: This Ordinance is enacted under the authority of Subsection E and F of Section 14 of Article IX of the New Mexico Constitution, the New Mexico Affordable Housing Act, Section 6-27-1 NMSA 1978 *et seq.*, the New Mexico Mortgage Finance Authority Affordable Housing Act Rules and is consistent with the rehabilitation and energy efficiency initiatives included in the Santa Fe County Affordable Housing Plan 2009 and the Santa Fe County Sustainable Growth Management Plan (SGMP) to address substandard housing conditions and infrastructure for programs that address special housing needs, including services for seniors, of low to moderate income Persons or Households within Santa Fe County.

Section Three. Scope: This Ordinance shall apply within the unincorporated areas of Santa Fe County.

Section Four. Definitions:

- A. “Administrator” means the Affordable Housing Administrator.
- B. “Affordable Housing” means residential housing primarily for Persons and Households of Low or Moderate Income.
- C. “Affordable Housing Fund” means the fund established in Ordinance 2006-02 whose sole purpose is to support Affordable Housing within Santa Fe County.
- D. “Affordability Period” means the duration of the Affordability Period, which shall comply with the long-term affordability restriction requirements of the New Mexico Mortgage Finance Authority Affordable Housing Act Rules.
- E. “Applicant” means an individual who applies for assistance to repair or replace an existing roof or to renovate existing Infrastructure, single-family residence or multi-family housing projects.

F. "Area Median Income" (AMI) means the median income for the Santa Fe Metropolitan Statistical Area as adjusted for various household sizes and published and revised periodically by the U.S. Department of Housing and Urban Development (HUD).

G. "Assistance" is a Housing Assistance Grant issued under authority of this Ordinance

H. "Final Inspection Report" means a report certifying that the repaired or replaced roof has passed inspection by the State of New Mexico Construction Industries Division and meets the requirements defined in the Regulations. The final inspection report shall be prepared by the county, the county's designee, or a contractor to the federal weatherization assistance program.

I. "Housing Assistance Grant" means the donation, provision, or payment by the County of:

- (1) the cost of repair or replacement of an existing roof; or
- (2) the cost of renovating an existing building or Infrastructure.

J. "Infrastructure" means Infrastructure Improvement and Infrastructure Purpose.

K. Infrastructure Improvement" includes, but is not limited to:

- (1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;
- (2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;
- (3) water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;
- (4) areas for motor vehicle use for road access, ingress, egress and parking;
- (5) trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for road access, ingress, egress and parking;
- (6) parks, recreational facilities and open space areas for the use of residents for entertainment, assembly and recreation;
- (7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;
- (8) electrical transmission and distribution facilities;
- (9) natural gas distribution facilities;
- (10) lighting systems;
- (11) cable or other telecommunications lines and related equipment;
- (12) traffic control systems and devices, including signals, controls, markings and signs;
- (13) inspection, construction management and related costs in connection with the furnishing of the items listed in this subsection; and
- (14) heating, air conditioning and weatherization facilities, systems or services, and energy efficiency improvements that are affixed to real property.

L. "Infrastructure Purpose" means:

- (1) renovating or improving existing facilities for Infrastructure, including facilities owned, leased or installed by the owner; and
- (2) incurring expenses incident to and reasonably necessary to carry out the purposes specified in this subsection.

M. "Initial Inspection Report" means a report to verify that the proposed roof repair or replacement roof is necessary as defined in the regulations. The Initial Inspection Report shall be prepared by the county, the county's designee, or a contractor to the federal weatherization assistance program.

N. "Low Income Person or Household" means a person or household whose income does not exceed 80% of the Area Median Income, adjusted for household size.

O. "MFA Rules" means the New Mexico Mortgage Finance Authority Affordable Housing Act Rules adopted by the New Mexico Mortgage Finance Authority's Board of Directors.

P. "Moderate Income Person or Household" means a person or household whose income does not exceed 120% of the Area Median Income, adjusted for household size.

Q. "Qualifying Grantee" means:

- (1) a person of low or moderate income who is qualified to receive assistance pursuant to the Act, MFA Rules, Ordinance 2011-___ and is approved by the Administrator or
- (2) a governmental housing agency, regional housing authority, corporation, limited liability company, partnership, joint venture, syndicate, association or a non-profit organization that:
 - (i) is organized under State or local laws and can provide proof of such organization;
 - (ii) if a non-profit organization the primary mission must be to provide housing or housing-related services to Persons of Low or Moderate Income, must have received a 501(c)(3) designation prior to applying and no part of net earnings inure to the benefit of any member, founder, contributor, or individual;
 - (iii) if a non-individual applicant the organization must have a functioning accounting system that is operating in accordance with generally accepted accounting principles or has designated an entity that will maintain such accounting system, have among its purposes significant activities related to providing housing or services to Persons or Households of Low or Moderate Income; and evidence or certification that the applicant has no significant outstanding or unresolved monitoring findings from the County, the MFA, or its most recent independent financial audit, or if it has any such findings, it has a certified letter from the County, the MFA, or auditor stating that the findings are in the process of being resolved; and
 - (iv) is approved by the Administrator.

R. "Qualifying Residence" means a single-family residence or multi-family housing project occupied or intended primarily for occupancy by a Person or Household of Low or Moderate Income within the unincorporated areas of Santa Fe County.

S. "The Act" means the New Mexico Affordable Housing Act, Section 6-27-1 NMSA 1978, *et seq.*

T. "Regulations" means the regulations adopted and amended by the Board of County Commissioners of Santa Fe County to carry out the provisions of the Affordable Housing Roof Repair and Replacement Ordinance.

U. "Relation by blood or marriage within the third degree" includes spouse, domestic partner, parent, mother-in-law, father-in-law, step-parent, children, domestic partner children, son-in-law, daughter-in-law, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great-grandchild, and great-grandparent.

V. "Renovation" means the substantial renovation or reconstruction of existing Infrastructure, single-family residence or multi-family housing projects.

Section Five. Roof Repair or Replacement General Provisions:

A. The Administrator may provide Assistance to a Qualifying Grantee to pay the cost or a portion of the cost of the repair or replacement of an existing roof.

- B. To be eligible to receive Assistance an applicant shall:
- (1) submit a completed application to the Administrator;
 - (2) qualify as a Low or Moderate Income Person or Household;
 - (3) own a Qualifying Residence; and
 - (4) occupy the Qualifying Residence as a primary residence.

C. A roof repair or replacement Housing Assistance Grant shall not exceed the sum of ten-thousand dollars (\$10,000). The amount of the Assistance shall be determined by the Administrator.

D. Prior to approval of Assistance the Administrator must receive, in writing, an Initial Inspection Report.

E. Prior to disbursement of Assistance the Administrator shall receive a Final Inspection Report.

- F. In accordance with the Act, MFA Rules and this Ordinance:
- (1) Assistance shall be secured by a mortgage or lien on the real estate for which the Housing Assistance Grant was issued in the amount of Assistance for the duration of the Affordability Period; and
 - (2) The Qualifying Grantee shall enter into a restrictive covenant agreement to maintain the Qualifying Residence as his/her primary residence for the duration of the Affordability Period.

G. The mortgage or lien shall be in the form prescribed by the county attorney, shall be duly executed and recorded in the office of the Santa Fe County Clerk prior to the

commencement of any work contemplated under this Ordinance and shall contain a provision that the County may, as permitted by law, recover any attorney's fees and costs incurred in enforcing the provisions of the mortgage or lien and restrictive covenant.

H. Assistance issued pursuant to this Ordinance shall be made directly to the person or business that completed the roof repair or replacement.

I. Notwithstanding any other provision of the Ordinance, the property may be transferred subject to the mortgage or lien if the transfer is to a person or family relation who has low or moderate income, as established by MFA and covenants and promises in writing to maintain the property as the transferee's principal residence for the remainder of the Affordability Period and otherwise to comply with and assume all the terms and conditions of the applicable agreement or the transfer is the result of the death of the qualifying grantee and the transfer is by devise or operation of law to the Qualifying Grantees relation by blood or marriage within the third degree, in which case the transfer will cause an immediate termination of the Affordability Period. The Administrator reserves the right to deny approval of a request to assume or transfer the mortgage or lien.

J. No individual may receive more than one Housing Assistance Grant under this Ordinance and no Qualifying Residence may benefit from more than one award of Assistance under this Ordinance.

K. Individuals who have received Affordable Housing Assistance under Santa Fe County Ordinance 2009-14 shall not be eligible for Assistance under this Ordinance.

L. Applicants approved for Assistance will receive certification from the Administrator. The certification shall be valid for six months after which a person shall be required to update the application and be reapproved. The Administrator, in his or her discretion, may request additional information.

M. Pursuant to MFA Rules, the long-term Affordability Period for Housing Assistance Grants awarded for roof repair or replacement under this Ordinance (\$1 to \$10,000) shall be for a period of five years.

Section Six. Roof Repair or Replacement Application Process:

A. The application shall be made on a form approved by the Administrator. The Administrator, in his or her discretion, may request additional information.

B. If the Administrator determines that the application is complete and the applicant meets the qualifications as defined by this Ordinance and the Regulations, the Administrator may approve the Housing Assistance Grant.

C. The Administrator shall provide a copy of the decision and relevant documents to the applicant and when applicable to a contractor to the federal weatherization assistance program to conform to the New Mexico Mortgage Finance Authority weatherization program.

Section Seven. Renovation General Provisions:

A. The Administrator may provide Assistance to a Qualifying Grantee to pay the cost or a portion of the cost of Renovating an existing Qualifying Residence or Infrastructure.

B. To be eligible to receive Assistance an applicant shall:
(1) submit a completed application to the Administrator; and
(2) provide proof of eligibility to apply for a Housing Assistance Grant to provide housing or related services to Persons or Households of Low or Moderate Income.

C. In accordance with the Act, MFA Rules and this Ordinance:
(1) Assistance shall be secured by a mortgage or lien on the real estate for which the Housing Assistance Grant was issued in the amount of Assistance for the duration of the Affordability Period; and
(2) the Qualifying Grantee shall enter into a restrictive covenant agreement to maintain the Qualifying Residence as Affordable Housing or as a facility which provides housing related services to Persons or Households of Low or Moderate Income for the duration of the Affordability Period.

D. The mortgage or lien shall be in the form prescribed by the county attorney, shall be duly executed and recorded in the office of the Santa Fe County Clerk prior to the commencement of any work contemplated under this Ordinance and shall contain a provision that the County may, as permitted by law, recover any attorney's fees and costs incurred in enforcing the provisions of the mortgage or lien and restrictive covenant.

E. Assistance issued pursuant to this Ordinance shall be made directly to the person or business that completed the renovation.

F. Notwithstanding any other provision of the Ordinance, the property may be transferred subject to the mortgage or lien if the transfer is to a person or family relation who has low or moderate income, as established by MFA and covenants in writing to maintain the property as Affordable Housing for the remainder of the Affordability Period and otherwise to comply with and assume all the terms and conditions of the applicable agreement or if a non-individual the entity covenants in writing to maintain the Qualifying Residence as Affordable Housing or as a facility which provides housing related services to Persons of Low or Moderate Income for the duration of the Affordability Period.

G. Applicants approved for Assistance will receive certification from the Administrator. The certification shall be valid for six months.

H. Pursuant to MFA Rules, the long-term Affordability Period for Housing Assistance Grants awarded under this Ordinance shall be as follows:

- (1) \$1 to \$14,999 shall be for five (5) years;
- (2) \$15,000 to \$39,999 shall be for ten (10) years;
- (3) \$40,000 to \$100,000 shall be for fifteen (15) years; and
- (4) \$100,001 or greater shall be for twenty (20) years.

Section Eight. Renovation Application Process:

A. The application shall be made on a form approved by the Administrator. The Administrator, in his or her discretion, may request additional information.

B. The application shall include the following:

(1) proposal describing the nature and scope of the Renovation proposed by the Applicant, which describes the type and/or amount of assistance which the Applicant proposes to provide to Persons or Households of Low or Moderate Income;

(2) Executive Summary & Project Narrative(s) that address the evaluation criteria set forth in any RFP issued by the County;

(3) for non-profit organizations, proof of 501(c)(3) tax status, documentation which confirms that no part of its net earnings inures to the benefit of any member, founder, contributor or individual;

(4) current annual budget for the Applicant, including all sources and uses of funds not just those related to relevant programs and/or a current annual budget only for the program for which the Applicant is applying for a Housing Assistance Grant, or as otherwise may be required by the County in its discretion;

(5) proposed budget for the Renovation for which the Applicant is applying for a Housing Assistance Grant;

(6) mission statement that has among its purposes significant activities related to providing housing or housing-related services to Persons or Households of Low or Moderate Income;

(7) list of current board members, including designated homeless participation, where required by the County;

(8) current independent financial audit;

(9) evidence or a certification that the Applicant has a functioning accounting system that is operated in accordance with generally accepted accounting principles, or has a designated entity that will maintain such an accounting system;

(10) evidence or certification that the Applicant has no significant outstanding or unresolved monitoring findings from the County, the MFA, or its most recent independent financial audit; or if it has any significant outstanding or unresolved monitoring findings from the County, the MFA, or its most recent independent financial audit, it has a certified letter from the County, the MFA, or the auditor stating that the findings are in the process of being resolved;

(11) organizational chart, including job titles and qualifications for the Applicant's employees or as otherwise may be required by the County in its discretion (job descriptions may be submitted as appropriate);

(12) documentation that the Applicant is duly organized in accordance with State or local law and is in good standing with any state authorities such as the Public Regulation Commission (e.g. Articles, Bylaws, and Certificate of Good Standing for a Corporation; Articles, Operating Agreement, and Certificate of Good Standing for a Limited Liability Company; partnership agreement and certificate of limited partnership for a partnership);

(13) certification signed by the Chief Executive Officer, Board President or other authorized official of the Applicant;

(14) evidence to prove the financial and management stability of the Applicant;

(15) evidence that demonstrates commitment of the Applicant to the community;

and

C. The information provided must clearly evidence the need for the subsidy, that there is or will be a direct benefit from the project proposed by the Applicant to the community and/or to the purported beneficiaries of the project, consistent with the provisions of the Act.

D. The County may require that the Applicant provide proof of substantive or matching funds or contributions and/or in-kind donations to the proposed Renovation in connection with the Application for funds under the Act. Nothing contained herein shall prevent or preclude an Applicant from matching or using local, private, or federal funds in connection with a specific Housing Assistance Grant under the Act.

E. Applicant shall provide the County with any certifications or other proof which it may require in order for the County to confirm that the Applicant is in compliance with all applicable federal, state and local laws, rules and ordinances.

F. For Applicants who are submitting Applications in connection with a Multi-Family Housing Project, the following additional information is required:

- (1) A verified certificate that, among other things:
 - (i) identifies every Multi-Family Housing Program, including every assisted or insured project of HUD, RHS, FHA and any other state or local government housing finance agency in which Applicant has been or is a principal;
 - (ii) except as shown on such certificate, states that
 - (I) no mortgage on a project listed on such certificate has ever been in default, assigned to the United States government or foreclosed, nor has any mortgage relief by the mortgagee been given;
 - (II) there has not been a suspension or termination of payments under any HUD assistance contract in which the Applicant has had a legal or beneficial interest;
 - (III) such Applicant has not been suspended, debarred or otherwise restricted by any department or agency of the federal government or any state government from doing business with such department or agency because of misconduct or alleged misconduct; and
 - (IV) the Applicant has not defaulted on an obligation covered by a surety or performance bond.

If such Applicant cannot certify to each of the above, such Applicant shall submit a signed statement to explain the facts and circumstances which such Applicant believes will explain the lack of certification. The County may then determine if such Applicant is or is not qualified.

- (2) the experience of the Applicant in developing, financing and managing Multiple-Family Housing Projects.
- (3) whether the Applicant has been found by the United States Equal Employment Opportunity Commission or the New Mexico Human Rights Commission to be in noncompliance with any applicable civil rights laws.

G. All Applications shall contain a verification signed by the Applicant before a notary public that the information provided, upon penalty of perjury, is true and correct to the best of the Applicant's information, knowledge, and belief.

H. If the Administrator determines that the application is complete and the applicant meets the qualifications as defined by this Ordinance and the Regulations, the Administrator may approve the Housing Assistance Grant.

Section Nine. Regulations:

A. The Affordable Housing Roof Repair or Replacement and Renovation Regulations shall be adopted and amended by resolution of the Board of County Commissioners.

B. The Regulations shall include the following:

- (1) application requirements to ensure that a Qualifying Grantee meets the requirements of the Act, this Ordinance and the Regulations promulgated pursuant to the Ordinance at the time of the award;
- (2) a form application;
- (3) the requirements for verification of an applicant's income level;
- (4) procedures to review and process an application for Assistance;
- (5) the process and requirements for an initial inspection prior to approval of a Housing Assistance Grant;
- (6) timetable for reviewing and awarding a Housing Assistance Grant;
- (7) certificate of approval and Qualifying Grantee's acceptance form; and
- (8) the process and requirements for a final inspection prior to disbursement of a Housing Assistance Grant.

Section Ten. Affordable Housing Fund, Limitations and Administration:

A. Proceeds from the Affordable Housing Fund may be used to make the awards permitted pursuant to this Ordinance.

B. Assistance pursuant to this Ordinance shall be subject to the availability of funds budgeted by the Board of County Commissioners for the purpose of providing awards pursuant to this Ordinance.

C. The Affordable Housing Administrator shall administer the Affordable Housing Roof Repair and Replacement Ordinance.

D. Pursuant to Section 6-27-7 NMSA 1978 and MFA Rules Section 4, this Ordinance and any amendments of this Ordinance, along with other required documentation, shall be submitted to MFA for review no less than forty-five days prior to enactment to ensure compliance with the Act, MFA Rules and the Santa Fe County Affordable Housing Plan 2009 and the Santa Fe County Sustainable Growth Management Plan (SGMP).

Section Eleven. Affordable Housing Roof Repair or Replacement and Renovation Ordinance Review: The Board of County Commissioners shall review and may consider appropriate amendments to this Ordinance or may repeal this Ordinance in whole or in part.

Section Twelve. Severability: The provisions of this Ordinance are severable and if any individual provision of this Ordinance is held invalid by a Court of competent jurisdiction, then

the offending provision shall be stricken but the remaining provisions shall remain in full force and effect.

Section Thirteen. Effective Date: This Ordinance shall become effective thirty days after recordation pursuant to Section 4-37-1 NMSA 1978 et seq.

PASSED AND ENACTED THIS 31 DAY OF May, 2011.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO

By *Virginia Vigil*
Virginia Vigil, Chair

ATTEST:
Valerie Espinoza
Valerie Espinoza, Santa Fe County Clerk



APPROVED AS TO FORM:
Stephen C. Ross
Stephen C. Ross, Santa Fe County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDINANCE
PAGES: 10

I Hereby Certify That This Instrument Was Filed for
Record On The 1ST Day Of June, 2011 at 04:11:45 PM
And Was Duly Recorded as Instrument # 1636401
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy County Clerk, Santa Fe, NM