



AGENDA

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
FEBRUARY 03, 2021
5:00 PM
ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR QUALITY OF LIFE COMMITTEE MEETING

Attendance: In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings of more than five (5) people, the Quality of Life Committee meeting will be conducted virtually.

Viewing: Members of the public may stream the meeting live on the City of Santa Fe's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. The YouTube live stream can be accessed at this address from most smartphones, tablets, or computers.

The video recording of this meeting will also remain available for viewing at any time on the City's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. Staff is available to help members of the public access pre-recorded meetings on-line at any time during normal business hours. Please call 955-6521 for assistance.

Agenda: The agenda for the meeting will be posted at <https://santafe.primegov.com/public/portal>.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF CONSENT AGENDA**
5. **APPROVAL OF MINUTES**
 - a. Approval of the January 20, 2021 Quality of Life Committee Meeting Minutes.
6. **ACTION ITEMS: CONSENT**



AGENDA

REGULAR MEETING OF
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COMMITTEE
FEBRUARY 03, 2021
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- a. Consideration of Bill No. 2021-__: An Ordinance Amending Section 7-1.1 SFCC 1987 to Adopt the Newest Version of the International Energy Conservation Code as Adopted and Amended by the State of New Mexico Construction Industries Division; and Amending Section 7-4.2 SFCC 1987, City of Santa Fe Green Building Code, to Update Code References in Conjunction with the Adoption of the 2018 International Energy Conservation Code as Adopted and Amended by the State of New Mexico Construction Industries Division. (Councilors Cassutt-Sanchez and Abeyta) (Jason Kluck, Assistant Planning and Land Use Director, jmkluck@santafenm.gov, 955-5937)

Committee Review:

Quality of Life Committee: 2/3/21

Public Works and Utilities Committee: 2/8/21

Governing Body (request to publish): 2/10/21

Governing Body (public hearing): 3/10/21

- b. Consideration of Resolution No. 2021-__: A Resolution Requesting the National Nuclear Security Administration Prepare and Complete a New Site-Wide Environmental Impact Statement for Los Alamos National Laboratory Before Expanding Plutonium Pit Production at the Facility. (Councilors Villarreal and Lindell) (Jesse Guillen, Legislative Liaison: jbguillen@santafenm.gov, 955-8518)

Committee Review:

Quality of Life Committee: 2/3/21

Governing Body: 2/10/21

7. PRESENTATIONS

- a. Presentation on report entitled *Evictions in the COVID-19 ERA: A threat to family and community health in Santa Fe*. (Tomás Rivera, Executive Director, Chainbreaker Collective)
- b. Presentation on report entitled *A PATH HOME: Funding the Trust Fund*. (Michael Barrio, Executive Director, Santa Fe Housing Action Coalition; Daniel Werwath, Chief Executive Officer, NM Interfaith Housing)



City of Santa Fe

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- c. Presentation on draft white paper entitled *Policy Summary for Suggested Funding: Affordable Housing Trust Fund*. (Mike Loftin, Chief Executive Officer, Homewise; Robert Morlino, Marketing Director, Homewise)
 - d. Presentation on the The Land Use Code and Affordable Housing. (Carlos Gemora, Senior Land Use Planner: cegemora@santafenm.gov, 505-955-6670; Elias Isaacson, Planning and Land Use Director: esiasaacson@santafenm.gov, 505-955-6730; Alexandra Ladd, Director, Office of Affordable Housing: agladd@santafenm.gov, 505-303-9868)
- 8. **MATTERS FROM STAFF**
 - 9. **MATTERS FROM THE COMMITTEE**
 - 10. **MATTERS FROM THE CHAIR**
 - 11. **NEXT MEETING: February 17, 2021**
 - 12. **ADJOURN**

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6521, five (5) working days prior to meeting date.



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
JANUARY 20, 2021
5:00 PM
VIRTUAL MEETING

1. **CALL TO ORDER**

Start Time: 5:00 PM

2. **ROLL CALL**

Members Present:

Councilor Carol Romero-Wirth
Councilor Renee Villarreal
Councilor Michael Garcia
Councilor Jamie Cassutt-Sanchez
Councilor Chris Rivera

Members Excused:

Others Attending:

Jennifer Faubion, Council Liaison
Kyra Ochoa, Community Services Department Director
Andrew Padilla, Chief of Police
Ben Valdez, Attendee
Kyle Hibner, Attendee
Romella Glorioso-Moss, Attendee
Neal Denton, Attendee
Anna Cale, Attendee
Eli Isaacson, Attendee
Alexandra Ladd, Attendee
Alan Webber, Attendee
Paul Joye, Attendee

3. **APPROVAL OF AGENDA**

MOTION: Councilor Rivera moved, seconded by Councilor Cassutt-Sanchez, to approve the agenda as presented.



MINUTES

REGULAR MEETING OF
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COMMITTEE
JANUARY 20, 2021
5:00 PM
VIRTUAL MEETING

VOTE: The motion was approved on the following Roll Call vote:

For: Councilor Romero-Wirth, Councilor Villarreal, Councilor Garcia, Councilor Cassutt-Sanchez, Councilor Rivera

Against: None

Abstain: None

4. APPROVAL OF CONSENT AGENDA

Councilors Garcia and Rivera moved Item 6a from the consent agenda to the discussion agenda.

Councilwoman Villarreal moved Item 6c from the consent agenda to the discussion agenda.

MOTION: Councilor Garcia moved, seconded by Councilor Rivera, to approve the consent agenda as amended.

VOTE: The motion was approved on the following Roll Call vote:

For: Councilor Romero-Wirth, Councilor Villarreal, Councilor Garcia, Councilor Cassutt-Sanchez, Councilor Rivera

Against: None

Abstain: None

5. APPROVAL OF MINUTES

- a. Approval of the December 2, 2020 Quality of Life Committee Meeting Minutes.



MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
JANUARY 20, 2021
5:00 PM
VIRTUAL MEETING

MOTION: Councilor Rivera moved, seconded by Councilor Cassutt-Sanchez, to approve the minutes as presented.

VOTE: The motion was on the following Roll Call vote:

For: Councilor Romero-Wirth, Councilor Villarreal, Councilor Garcia, Councilor Cassutt-Sanchez, Councilor Rivera

Against: None

Abstain: None

6. ACTION ITEMS: CONSENT

- a. Request for Approval of the Agreement between the City of Santa Fe and American Traffic Solutions, Inc., dba Verra Mobility for Providing Equipment and Services for the Santa Fe Traffic Operations Program (STOP); American Traffic Solutions, Inc., dba Verra Mobility. (Ben Valdez, Deputy Chief of Police, bpvaldez@santafenm.gov, 955-5040)

COMMITTEE REVIEW:

Finance Committee: 1/12/21

Quality of Life Committee: 1/20/21

Councilors Garcia and Rivera moved Item 6a from the consent agenda to the discussion agenda.

MOTION: Councilor Garcia moved, seconded by Councilor Cassutt-Sanchez, to table the contract.

VOTE: The motion was tabled on the following Roll Call vote:

For: Councilor Romero-Wirth, Councilor Villarreal, Councilor Garcia, Councilor Cassutt-Sanchez, Councilor Rivera

Against: None

Abstain: None



MINUTES

- b. Consideration of Bill No. 2021-__: An Ordinance Relating to the City of Santa Fe Uniform Traffic Ordinance (“UTO”); Amending Various Sections to Insert a Clause Stating that a Person who Violates a Provision of the Particular Section is Guilty of a Penalty Assessment Misdemeanor; Creating a New Subsection 12-6-12.2A to Establish a Charge for Driving While Intoxicated with a Minor in the Vehicle; Amending Subsection 12-6-12.6 to Remove References to Driving When Privilege to do so Has Been Revoked; Creating a New Subsection 12-6-12.6A to Establish a Charge for Driving While License is Administratively Suspended; Creating a New Subsection 1-6-12.6B to Establish a Charge for Driving When the Privilege to do so Has Been Revoked; Amending Subsection 12-6-13.11 to Establish a Fine for Littering; Amending Subsection 12-10-4.1 to Permit the Use of a Portable Electronic Device to Show Proof of Insurance; Amending Schedule A of the UTO to Add the Fines Associated with the Addition of the Penalty Assessment Misdemeanor Provisions; and Amending Section 24-1.1 SFCC 1987 to Add the UTO as an Exhibit A to the end of Chapter 24, SFCC 1987. (Councilor Rivera) (Kyle Hibner, City Prosecutor, kjhibner@santafenm.gov, 955-5195)

Committee Review:

Finance Committee: 1/19/21

Quality of Life Committee: 1/20/21

Governing Body (request to publish): 1/27/21

Governing Body (public hearing): 2/24/21

MOTION: Councilor Garcia moved, seconded by Councilor Rivera, to approve the bill as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Councilor Romero-Wirth, Councilor Villarreal, Councilor Garcia, Councilor Cassutt-Sanchez, Councilor Rivera

Against: None

Abstain: None



MINUTES

- c. Consideration of Resolution No. 2020-__ : A Resolution Re-Establishing the Bicycle and Trail Advisory Committee. (Councilors Garcia, Vigil-Coppler and Romero-Wirth) (Romella Glorioso-Moss, Projects Administrator, rsglorioso-moss@santafenm.gov, 955-6623)

Committee Review:

Finance Committee: 1/19/21

Quality of Life Committee: 1/20/21

Governing Body: 1/27/21

Councilwoman Villarreal moved Item 6c from the consent agenda to the discussion agenda.

Councilwoman Villarreal amendment:

1. add the word “equitable”, page 3, line 3 to read, “ ...safe, equitable, viable...”
2. add the word “equitable”, page 3, line 13 to read “ ...safe, equitable, viable...”
3. add the word “equitable”, page 4, line 9 to read “ ...safe, equitable, viable...”

MOTION: Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the resolution as amended.

VOTE: The motion was approved on the following Roll Call vote:

For: Councilor Romero-Wirth, Councilor Villarreal, Councilor Garcia, Councilor Cassutt-Sanchez, Councilor Rivera

Against: None

Abstain: None



MINUTES

- d. Consideration of Resolution No. 2020-__: A Resolution in Support of Senate Resolution 372 and House Resolution 835 and in Support of the 30 by 30 Campaign to Protect 30 Percent of Lands and Ocean by 2030. (Mayor Webber) (Neal Denton, Sustainability Planner, nhdenton@santafenm.gov, 955-2229)

MOTION: Councilor Garcia moved, seconded by Councilor Rivera, to approve the resolution as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Councilor Romero-Wirth, Councilor Villarreal, Councilor Garcia, Councilor Cassutt-Sanchez, Councilor Rivera

Against: None

Abstain: None

7. **ACTION ITEMS: DISCUSSION**

8. **PRESENTATION**

- a. City Initiatives and Programs on Affordable Housing (Elias Isaacson, Planning and Land Use Director: esiasaacson@santafenm.gov, 505-955-6730; Alexandra Ladd, Director, Office of Affordable Housing: agladd@santafenm.gov, 505-303-9868; Kyra Ochoa, Director, Community Services Department, krochoa@santafenm.gov, 955-6603)

9. **MATTERS FROM STAFF**

10. **MATTERS FROM THE COMMITTEE**

11. **MATTERS FROM THE CHAIR**

12. **NEXT MEETING: February 03 2021**

13. **ADJOURN**



City of Santa Fe

MINUTES

REGULAR MEETING OF
THE QUALITY OF LIFE
COMMITTEE
JANUARY 20, 2021
5:00 PM
VIRTUAL MEETING

End Time: 7:28 PM

Jennifer Fautian

Liaison

Chair



City of Santa Fe New Mexico

Memorandum



Date: January 28, 2021

To: Quality of Life Committee, Public Works and Utilities Committee, and the Governing Body

Via: Elias Isaacson, Planning and Land Use Director ESI
Sally Paez, Assistant City Attorney SAP

From: Jason M. Kluck, Assistant Land Use Director jmk

RE: Adoption of the 2018 New Mexico Energy Conservation Code with associated code cycle reference updates to the City Residential Green Building Code

EXECUTIVE SUMMARY:

The proposed legislation would amend the City's energy conservation code included in the City's Building Code, Subsection 7-1.1(A)(7), SFCC 1987. Specifically, the legislation would adopt the 2018 New Mexico Energy Conservation Code, which was already adopted by the State of New Mexico, Regulation and Licensing Department, Construction Industries Division on September 25, 2020. The 2018 New Mexico Energy Conservation Code adopted the 2018 International Energy Conservation Code, as amended. *See* 2018 New Mexico Residential Energy Conservation Code, 14.7.6 NMAC (5/27/2004, as amended through 9/25/2020); 2018 New Mexico Commercial Energy Conservation Code, 14.7.9 (9/25/2020). The proposed legislation also amends SFCC Section 7-4.2 – Residential Green Building Code to update associated code cycle references.

Under state law, the City's building codes must meet or exceed the requirements set forth in the State's building codes. *See* NMSA 1978, § 3-17-1(A) (providing that building codes adopted by municipalities may not conflict with New Mexico laws or valid regulations issued by a state agency and must provide for "minimum requirements at least equal to the state requirements on the same subject"); NMSA 1978, § 60-13-44 ("All political subdivisions of the state are subject to the provisions of codes adopted and approved under the Construction Industries Licensing Act. Such codes constitute a minimum requirement for the codes of political subdivisions."). The City is required to impose the new requirements no later than April 1, 2021. *See* 14.7.6.5 NMAC; 14.7.9.5 NMAC.

BACKGROUND:

Model energy codes for building construction are critical for increasing energy efficiency of new and remodeled buildings. These codes not only ensure a minimum standard of energy consumption, primarily through requirements that reduce heating, cooling, and lighting loads, but

they also impact safety and comfort through requirements for air ventilation and reducing moisture accumulation and mold. Building energy codes focus on three primary areas: building envelope, mechanical systems, and lighting systems. The building envelope includes roof, wall, and floor insulation; window, door, and skylight performance; and air leakage. Mechanical systems look at efficiency of space heating and cooling, water heating equipment, ventilation, system controls, and duct and pipe insulation. Lighting systems focus on efficiency of lighting equipment and requirements for lighting controls. Energy codes for new construction and remodeling also have important equity impacts by lowering utility bills for the poorest occupants and by increasing the quality and longevity of building construction, thus reducing overall maintenance costs. Energy efficiency measures generally result in significant direct utility cost savings, which can result in life cycle savings of more than quadruple the initial investment cost.

The City of Santa Fe has shown leadership in adopting advanced codes for energy efficiency. In 2009, Santa Fe adopted a residential green building code that required all new residences to get a Home Energy Rating Score (HERS) that meets a minimum threshold. The adoption of the 2018 energy code is projected to make new homes and commercial buildings approximately 20% more efficient than they were under the previous state code with multiple paths to meet performance criteria for more construction types. Residential construction will still meet the City's more stringent green code requirements without significant additional required measures and with an anticipated cost of less than 1% of the median home value in Santa Fe.

ACTION REQUESTED:

Staff recommends that the Committees should make a positive recommendation to the Governing Body concerning the proposed legislation and that the Governing Body should adopt the proposed legislation.

ATTACHMENTS:

Bill

Attachment A – 2018 New Mexico Residential Energy Conservation Code

Attachment B – 2018 New Mexico Commercial Energy Conservation Code

Attachment C – Analysis of changes from the 2009 to 2018 code

FIR

[bracketed material] = delete

underscored material = new

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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2021-__

INTRODUCED BY:

Councilor Jamie Cassutt-Sanchez

Councilor Roman “Tiger” Abeyta

AN ORDINANCE

AMENDING SECTION 7-1.1 SFCC 1987 TO ADOPT THE NEWEST VERSION OF THE INTERNATIONAL ENERGY CONSERVATION CODE AS ADOPTED AND AMENDED BY THE STATE OF NEW MEXICO CONSTRUCTION INDUSTRIES DIVISION; AND AMENDING SECTION 7-4.2 SFCC 1987, CITY OF SANTA FE GREEN BUILDING CODE, TO UPDATE CODE REFERENCES IN CONJUNCTION WITH THE ADOPTION OF THE 2018 INTERNATIONAL ENERGY CONSERVATION CODE AS ADOPTED AND AMENDED BY THE STATE OF NEW MEXICO CONSTRUCTION INDUSTRIES DIVISION.

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

Section 1. Section 7-1.1 of SFCC 1987 (being Ord. No. 2008-1, § 3, as amended)

is amended to read:

7-1.1 Adoption of codes.

A. For the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area,

1 unobstructed maintenance of required yards, and maintenance of buildings or structures within
2 the planning and platting jurisdiction of the city, the following provisions and codes are adopted
3 by reference and incorporated as fully as if set out herein unless otherwise amended by the city:

4 (1) Section 14.5.1 New Mexico Administrative Code (NMAC) General
5 Provisions;

6 (2) Section 14.5.2 New Mexico Administrative Code (NMAC) Permits;

7 (3) Section 14.5.3 New Mexico Administrative Code (NMAC) Inspections;

8 (4) 2015 New Mexico Commercial Building Code adopted by the state of
9 New Mexico construction industries division (NMAC 14.7.2), as may be amended from
10 time to time, which adopts and amends the International Building Code (IBC);

11 (5) 2015 New Mexico Residential Building Code adopted by the state of
12 New Mexico construction industries division (NMAC 14.7.3), as may be amended from
13 time to time, which adopts and amends the International Residential Code (IRC);

14 (6) 2015 New Mexico Earthen Building Materials Code adopted by the state
15 of New Mexico construction industries division (NMAC 14.7.4), as may be amended
16 from time to time;

17 (7) [~~2009~~] 2018 New Mexico Energy Conservation Code adopted by the
18 state of New Mexico construction industries division (NMAC 14.7.6, residential code;
19 and NMAC 14.7.9, commercial code), as may be amended from time to time, which
20 adopts and amends the International Energy Conservation Code (IECC);

21 (8) 2015 New Mexico Existing Building Code adopted by the state of New
22 Mexico construction industries division (NMAC 14.7.7), as may be amended from time
23 to time, which adopts and amends the International Existing Building Code (IEBC);

24 (9) 2015 New Mexico Historic Earthen Buildings code adopted by the state
25 of New Mexico construction industries division (NMAC 14.7.8), as may be amended

1 from time to time;

2 (10) 2015 New Mexico Plumbing Code adopted by the state of New Mexico
3 construction industries division (NMAC 14.8.2), as may be amended from time to time,
4 which adopts and amends the Uniform Plumbing Code (UPC), and as further amended
5 in Sections 7-1.8 and 7-1.9 SFCC 1987;

6 (11) 2012 New Mexico Swimming Pool, Spa, and Hot Tub Code adopted by
7 the state of New Mexico construction industries division (NMAC 14.8.3), as may be
8 amended from time to time, which adopts and amends the Uniform Swimming Pool, Spa,
9 and Hot Tub Code (USPSHTC);

10 (12) 2015 New Mexico Mechanical Code adopted by the state of New Mexico
11 construction industries division (NMAC 14.9.2), as may be amended from time to time,
12 which adopts and amends the Uniform Mechanical Code (UMC);

13 (13) 2012 New Mexico Solar Energy Code adopted by the state of New
14 Mexico construction industries division (NMAC 14.9.6), as may be amended from time
15 to time, which adopts and amends the Uniform Solar Energy Code (USEC);

16 (14) 2017 New Mexico Electrical Code adopted by the state of New Mexico
17 construction industries division (NMAC 14.10.4), as may be amended from time to time,
18 which adopts and amends the National Electrical Code (NEC); and

19 (15) 2012 New Mexico Electrical Safety Code adopted by the state of New
20 Mexico construction industries division (NMAC 14.10.5), as may be amended from time
21 to time, which adopts and amends the National Electrical Safety Code (NESC).

22 B. Any person violating or failing, neglecting, or refusing to comply with the
23 provisions of the codes set forth in paragraph A. above or the other requirements of this chapter
24 shall be subject to the enforcement provisions set forth in Sections 1-3 and 14-11 SFCC 1987.

1 C. A copy of the codes set forth in paragraph A. and this chapter shall be kept on
2 file in the office of building inspections and shall be available for public inspection at all
3 reasonable times.

4 **Section 2. Section 7-4.2 of SFCC 1987 (being Ord. No. 2009-9, § 3, as amended)**
5 **is amended to read:**

6 **7-4.2 Residential Green Building Code.**

7 A. *Purpose.* The purpose of this section is to:

8 (1) Provide criteria for rating the environmental performance of single-
9 family residential construction and site design practices and provide guidelines for
10 documentation that demonstrates conformance with those criteria;

11 (2) Encourage cost-effective and sustainable building methods by
12 encouraging conservation of fossil fuels, water and other natural resources, reduction of
13 greenhouse gas emissions, recycling of construction materials, reducing solid waste and
14 improving indoor air quality;

15 (3) Identify the specific requirements for complying with the requirements
16 of the Residential Green Building Code; and

17 (4) Encourage more aggressive green building development through
18 incentives and rewards to work toward the goals of the 2030 challenge as adopted by the
19 governing body by Resolution No. 2006-55.

20 B. *Residential Green Building Code; Applicability.*

21 (1) The provisions of the Santa Fe Residential Green Building Code shall
22 apply to:

23 (a) New single-family, attached and detached, residential units as
24 defined by the 2015 International Residential Code or its successor as adopted
25 by the city;

1 (b) Modular homes which are built off-site and brought onto the site,
2 provided that the land use director may approve exceptions to specific code
3 requirements upon a showing by the applicant or modular home supplier that
4 compliance would cause undue burden; and

5 (c) Residential additions that provide for living, sleeping, eating,
6 cooking and sanitation. Only the addition is subject to the code provisions, not
7 the existing structure.

8 (2) Upon request of an applicant, applications for permits submitted prior to
9 March 1, 2017, may be issued in compliance with the prior version of Residential Green
10 Building Code. The permit fee in paragraph F of this subsection shall apply.

11 C. *Relationship to Other Codes; Compliance; Exceptions.*

12 (1) The requirements of this section are in addition to and do not replace the
13 requirements of other sections of this chapter and other chapters of this Code, including
14 without limitation, all of the life safety codes, historic preservation ordinance, land
15 development code and adopted building codes and development standards.

16 (2) All submittals and approvals required under this Residential Green
17 Building Code shall be rendered in conjunction with a residential building permit
18 application and related field inspections. The application shall be on a form approved by
19 the land use director. The applicant shall demonstrate compliance with all of the
20 provisions of this section prior to the issuance of a certificate of occupancy by the land
21 use director.

22 (3) For a structure located in an historic overlay district where it can be
23 demonstrated that strict compliance with the requirements of this section cannot be
24 achieved without an exception to the historic overlay district requirements, the
25 requirements of this section may be adjusted so as to resolve the conflict between the two

1 (2) sections of the Code.

2 D. *Administration.*

3 (1) The land use director shall:

4 (a) Administer and enforce the Residential Green Building Code;

5 and

6 (b) Require an applicant for a building permit, to prepare and submit
7 Residential Green Building Code documentation to the green code administrator
8 or designee to assure compliance with this section.

9 E. *Requirements.*

10 (1) *Energy performance levels.* A documented analysis of the building's
11 energy performance using software in accordance with [~~2009 ICC IECC~~] 2018
12 International Code Council International Energy Conservation Code [“IECC”] Section
13 405 is required. A projected Home Energy Rating System (“HERS”) index, or equivalent,
14 shall be submitted as part of a building permit application and a report of the confirmed
15 HERS index, or equivalent, meeting the standards of this section is required prior to
16 issuance of a certificate of occupancy. The required HERS index for residences up to and
17 including three thousand (3,000) square feet of conditioned space shall be 65 until
18 January 1, 2018, when it shall be reduced to 60. The required HERS index for residences
19 over three thousand (3,000) feet of conditioned space shall be reduced by one point for
20 each one hundred (100) square feet of conditioned space over three thousand (3,000), or
21 pro-rata portion thereof, until the required HERS index is zero and shall be zero for those
22 and larger residences.

23 (2) *HERS raters.* HERS raters shall be certified to conduct HERS analysis
24 by passing educational courses and obtaining continuing education credits as required by
25 the land use director. In addition HERS raters shall:

1 (a) Confirm ventilation rates of the ventilation equipment used to
2 satisfy the required house ventilation and report the findings to the planning and
3 land use department;

4 (b) Supply a report that includes the building components
5 contributing to achievement of the required HERS index to be compared to the
6 building plans submitted for a building permit. Reports approved to supply this
7 information shall be approved by the land use director; and

8 (c) Supply an estimation of the greenhouse gas emissions avoided
9 and the electricity and natural gas usage avoided when submitting the final or
10 confirmed HERS index. Reports approved to supply this information shall be
11 approved by the land use director.

12 (3) *Building envelope insulation values.* Building insulation levels shall
13 meet the requirements of overall UA for ~~[2015]~~ 2018 IECC. A report of compliance shall
14 be provided to the city as part of a building permit application. Reports approved to
15 supply this information shall be approved by the land use director.

16 (4) *Building thermal envelope insulation confirmation.* The insulation
17 installers shall provide a certification complying with a template to be provided by the
18 planning and land use department listing the type, manufacturer and R-value of insulation
19 installed in each element of the building thermal envelope. For blown or sprayed
20 insulations (fiberglass and cellulose), the initial installed thickness, settled thickness,
21 settled R-value, installed density, coverage area and number of bags installed shall be
22 listed on the certification. For insulated siding, the R-value shall be listed on the product's
23 package and shall be listed on the certification. The insulation installer shall sign, date
24 and provide the certification in a conspicuous location on the job site. (Consistent with
25 2015 IRC Section N1101.10.1.)

1 (5) *Air sealing and insulation.* The air barrier and insulation installation
2 criteria from Table [402.4.2] 402.4.1.1 from the [~~2009 International Energy Conservation~~
3 ~~Code~~] 2018 IECC shall be visually inspected pursuant to Section [402.4.2.2] 402.4.1.1
4 whether or not the testing option from Section [402.4.2.1] 402.4.1.2 has been achieved.
5 Insulation values shall be verified to match those used to obtain the required HERS
6 rating.

7 (6) *Duct installation.* The installation instructions for heating, ventilation
8 and air conditioning equipment shall be made available to the inspector conducting the
9 duct installation inspection to ensure ducting meets the manufacture's specifications. It
10 shall be located on the equipment or in a conspicuous location adjacent to the equipment
11 to be easily located by the inspector.

12 (7) *Duct leakage.* Duct tightness shall be verified in accordance with [~~2009~~]
13 2018 IECC section [403.2.2] 403.3.4 and shall not exceed six (6) percent of total fan
14 flow.

15 (8) *Duct protection during construction.* All boots, ducts and ventilation
16 openings shall be sealed during construction to prevent dust and debris from entering
17 them and shall remain sealed until they are put into operation.

18 (9) *Water conservation levels.* Water conservation features are implemented
19 to achieve conservation performance shall be required. A documented analysis using the
20 water efficiency rating score (“WERS”) tool showing a maximum score of 70 shall be
21 submitted to the planning and land use department as part of a building permit application
22 and a report of the confirmed rating with a maximum score of 70 shall be submitted to
23 the planning and land use department prior to receiving a certificate of occupancy.

24 (10) *Whole-house mechanical ventilation requirement.* Mechanical
25 ventilation shall be required at a rate based on the following formula: required cubic feet

1 per minute of ventilation = (total heated floor area × .01) + ((number of bedrooms + 1) ×
2 7.5).

3 (11) *Heating and cooling equipment sizing and system design.*

4 (a) Heating and cooling equipment and appliances shall be sized in
5 accordance with Air Conditioning Contractors of America (“ACCA”) Manual S
6 or other approved sizing methodologies based on building loads calculated in
7 accordance with ACCA Manual J (version 8 or higher) or other approved heating
8 and cooling methodologies.

9 (b) Duct systems serving heating, cooling, and ventilation
10 equipment shall be designed and installed in accordance with ACCA Manual D,
11 the manufacturer's installation instructions or other approved methodologies.

12 (c) Radiant hydronic systems shall be designed using manufacturer's
13 recommendations, mechanical engineer design specifications or other approved
14 hydronic heating design methods, and shall include equipment specifications, the
15 number of zones, pipe diameter, length, and flow rate for each zone.

16 (d) ACCA Manual J and S, and Manual D and radiant design reports,
17 as applicable, along with an AHRI (Air-Conditioning, Heating and Refrigeration
18 Institute) certificate or equivalent mechanical equipment certification shall be
19 submitted to the planning and land use department either at time of building
20 permit application or no later than the completion of rough framing. Duct design
21 reports shall be submitted before ducts are installed. Radiant hydronic system in
22 concrete shall be submitted before installation.

23 (e) All HVAC documents submitted are subject to review and
24 approval by the land use director before installation. Other approved HVAC
25 design methodologies shall be approved by the land use director.

1 (12) Installation of a radon mitigation system consistent with Appendix F of
2 the 2015 International Residential Building Code.

3 (13) *Disclosure of building performance and homeowner's manual.* The
4 following items shall be documented and included in a homeowners manual provided to
5 the first homeowner and available for review for homes that are for sale on forms
6 provided by the land use director:

- 7 (a) The confirmed HERS index;
- 8 (b) The blower door result at ACH 50;
- 9 (c) The required amount of ventilation and the archived ventilation
10 rate in air changes per hour;
- 11 (d) The type of ventilation system used;
- 12 (e) The percentage better that the UA is above the [~~2015~~] 2018 IECC
13 maximum requirement;
- 14 (f) The confirmed WERS;
- 15 (g) A diagram showing the location of shut off valves for water,
16 electricity and any combustions fuels (natural gas or propane) with labels in
17 English and Spanish;
- 18 (h) The manuals for all major equipment and fixtures in English and
19 in Spanish if available; and
- 20 (i) All other homeowner manual items available from the planning
21 and land use department at the time of certificate of occupancy for that purpose.

22 F. *Permit Fee.*

23 [~~4~~] Applicants for residential building permits shall pay a green building
24 code permit fee of one hundred dollars (\$100.00) for each residential unit, subject to the
25 provisions for fee waivers under subsection 14-8.11(G)(2)(a).

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G. *Effective Date.*

[(+)] Section 7-4.1 SFCC 1987 shall be effective July 1, 2009.

APPROVED AS TO FORM:



ERIN K. McSHERRY, CITY ATTORNEY

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 7 BUILDING CODES GENERAL
PART 6 2018 NEW MEXICO RESIDENTIAL ENERGY CONSERVATION CODE

14.7.6.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.7.6.1 NMAC - Rp, 14.7.6.1 NMAC, 9/25/2020]

14.7.6.2 SCOPE: This rule applies to all residential contracting work performed in New Mexico on or after September 25, 2020, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.
[14.7.6.2 NMAC - Rp, 14.7.6.2 NMAC, 9/25/2020]

14.7.6.3 STATUTORY AUTHORITY: Sections 60-13-9 and 60-13-44 NMSA 1978.
[14.7.6.3 NMAC - Rp, 14.7.6.3 NMAC, 9/25/2020]

14.7.6.4 DURATION: Permanent.
[14.7.6.4 NMAC - Rp, 14.7.6.4 NMAC, 9/25/2020]

14.7.6.5 EFFECTIVE DATE: September 25, 2020 unless a later date is cited at the end of a section.
[14.7.6.5 NMAC - Rp, 14.7.6.5 NMAC, 9/25/2020]
[From the date of publication of this rule in the New Mexico register, until month 3/2021, permits may be issued under either the previously-adopted rule, or this rule. After month 3/2021, permits may be issued only under this rule.]

14.7.6.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for energy conservation for residential construction in New Mexico.
[14.7.6.6 NMAC - Rp, 14.7.6.6 NMAC, 9/25/2020]

14.7.6.7 DEFINITIONS: See 14.5.1 NMAC, General Provisions and Chapter 2 of the IECC as amended in 14.7.6.10 NMAC.
[14.7.6.7 NMAC - Rp, 14.7.6.7 NMAC, 9/25/2020]

14.7.6.8 ADOPTION OF THE 2018 NEW MEXICO RESIDENTIAL ENERGY CONSERVATION CODE:

- A.** This rule adopts by reference the 2018 international energy conservation code (IECC), as amended by this rule.
- B.** In this rule, each provision is numbered to correspond with the numbering of the 2018 international residential energy conservation code.
- C.** This rule is to be applied to each of the following New Mexico building codes, including the NMRBC, NMPC, NMMC and the NMEC.

[14.7.6.8 NMAC - Rp, 14.7.6.8 NMAC, 9/25/2020;

14.7.6.9 CHAPTER 1 - ADMINISTRATION:

- A. Section R101 - General.**
 - (1) R101.1 Title.** Delete this section of the IECC and substitute: this rule shall be known as 14.7.6 NMAC, the 2018 New Mexico Residential Energy Conservation Code (NMRECC).
 - (2) R101.2 Scope.** Delete this section of the IECC and see 14.7.6.2 NMAC, Scope.
 - (3) R101.3 Intent.** Delete this section of the IECC and see 14.7.6.6 NMAC, Objective.
 - (4) R101.5.1 Compliance materials.** Delete this section of the IECC and substitute the following: the code official shall be permitted to approve specific computer software, worksheets, compliance manuals and other similar materials that meet the intent of this code, including but not limited to ComCheck, ResCheck, and worksheet or trade-off sheets from the New Mexico energy conservation code residential applications manual, issued by the New Mexico department of energy.
- B. Section R102 Alternate Materials-Method of Construction, Design for Insulating Systems.** See this section of the IECC.

C. Section R103 Construction Documents. Delete this section of the IECC and see 14.5.2 NMAC, Permits except retain Section R103.2 as amended.

D. Section R103.2 Information on construction documents. Delete section and substitute the following: Ducts shall be installed in accordance with Chapter 6 and Chapter 17 of the New Mexico Mechanical Code and current applicable standards.

E. Section R104 Fees. Delete this section of the IECC and see 14.5.5 NMAC, Fees.

F. Section R105 Inspections. Delete this section of the IECC and see. 14.5.3 NMAC, General Provisions.

G. Section R106 Validity. Delete this section of the IECC and see. 14.5.2.12 NMAC Permits.

H. Section R107 Referenced Standards. All references to the international residential code shall be deemed references to 14.7.3 NMAC, the New Mexico Residential Building Code (NMRBC). All references to the international plumbing code shall be deemed references to 14.8.2 NMAC, the New Mexico Plumbing Code (NMPC). All references to the international mechanical code shall be deemed references to 14.9.2 NMAC, the New Mexico Mechanical Code (NMMC). All references to the ICC or International Electrical Code shall be deemed references to 14.10.4 NMAC, the New Mexico Electrical Code (NMEC). All references to the international energy conservation code shall be deemed references to 14.7.6 NMAC, the New Mexico Residential Energy Conservation Code (NMRECC). All references to the international fuel gas code in the 2018 IECC are deemed references to the NMMC or the LP gas standards found at 19.15.40 NMAC, and Sections 70-5-1 through 70-5-23 NMSA 1978.

I. Section R108 Stop Work Order. Delete this section of the IECC and see 14.5.3 NMAC, Inspections.

J. Section R109 Board of Appeals. Delete this section of the IECC and See 14.5.1 NMAC, General Provisions.
[14.7.6.9 NMAC - Rp, 14.7.6.9 NMAC, 9/25/2020;

14.7.6.10 CHAPTER 2 - DEFINITIONS: See this chapter of the IECC residential provisions, adding the following definitions.

A. Section R201.1 Scope. See this section of the IECC and add the following: If the same term is defined in the New Mexico construction codes and in the IECC, the term shall have the meaning given it in the New Mexico construction codes.

B. Section R201.3 Terms defined in other codes. Delete this section of the IECC and substitute with the following: Terms defined in the New Mexico Residential Construction Code.

C. Section R201.4 Terms not defined in other codes. See this chapter of the IECC.

D. Section R202 General Definitions. See this section of the IECC except as provided below.

(1) **Unconditioned space.** Add the following definition: Space within a building that is not mechanically heated or cooled and is outside the building thermal envelope.

(2) **Vapor retarder class.** Add the following definition: a measure of a material or assembly's ability to limit the amount of moisture that passes through that material or assembly. Vapor retarder class shall be defined using the desiccant method of ASTM E96 as follows:

- (a) **class I:** 0.1 perm or less;
- (b) **class II:** > 0.1 perm □ 1.0 perm;
- (c) **class III:** > 1.0 perm < 10 perm.

(3) **NMRECC** means 2018 New Mexico Residential Energy Conservation Code.

(4) **NMRBC** means 14.7.3 NMAC, 2015 New Mexico Residential Building Code, which adopts by reference and amends the 2015 International Residential code.

(5) **NMPC** means 2015 New Mexico Plumbing Code, which adopts by reference and amends the 2015 Uniform Plumbing Code.

(6) **NMMC** means 14.9.2 NMAC, NMMC 2015 New Mexico Mechanical Code, which adopts by reference and amends the 2015 Uniform Mechanical Code.

(7) **NMEC** means 14.10.4 NMAC, NMEC 2017 New Mexico Electrical Code, which adopts by reference and amends the 2017 National Electrical Code.

(8) **RESNET Software.** Is an approved software program to meet the performance requirements of the IECC.

(9) **COMCHECK.** Is the residential energy compliance tool designed by the U.S. department of energy (DOE) to clarify residential energy code compliance providing a user information whether building meets the requirements of the International Energy Conservation Code (IECC) and ASHRAE 90.1, as well as state-specific codes.

(10) **RESCHECK.** A document describing the overall efficiency of the insulation of a building which works by performing a simple U-factor x Area (UA) calculation for each building assembly to determine the overall UA of a building. The UA of the proposed project building is compared to the code requirements.

(11) **ASTM.** Means the American society for testing and materials, an international standards organization that develops and publishes voluntary consensus building technical standards for a wide range of materials utilized in construction.

(12) **HERS.** Means the home energy rating system index and is the industry standard by which a home's energy efficiency is measured. It is also the nationally recognized system for inspecting and calculating a home's energy performance.

[14.7.6.10 NMAC - Rp, 14.7.6.10 NMAC, 9/25/2020]

14.7.6.11 CHAPTER R301 - CLIMATE ZONES: See this Chapter of the IECC except delete the text of section 301.1 General and replace with the following: the table below in conjunction with Table 301.3(2) shall be used to determine the applicable requirements for Chapters 4. Locations not listed in the table below shall use either Table 301.1, Section 301.3, or the building official may designate a climate zone consistent with the elevation, HDD & CDD from the table below.

City	County	Elev. (feet)	Heating Degree Days (HDD) 65°F	Cooling Degree Days (CDD) 50°F day	Climate Zone
Abiquiu Dam	Rio Arriba	6380	5872		5B
Angel Fire	Colfax	8406	9769	195	7B
Alamogordo	Otero	4350	3053	5309	3B
Albuquerque	Bernalillo	5312	4332	4462	4B
Artesia	Eddy	3380	3366	5374	3B
Aztec Ruins	San Juan	5644	5757		5B
Belen	Valencia	4800	4432	5012	3B
Bernalillo	Sandoval	5052	4782	4138	4B
Bloomfield	San Juan	5456	5490		5B
Bosque del Apache	Socorro	4520	3916	5012	3B
Carlsbad	Eddy	3295	2813	5997	3B
Carrizozo	Lincoln	5438	4234	3631	4B
Cedar Crest	Bernalillo	6581	5703		5B
Chaco Canyon	San Juan	6200	6137		5B
Chama	Rio Arriba	7871	8254		6B
Clayton	Union	5056	5150	3170	4B
Cloudcroft	Otero	8801	7205		6B
Clovis	Curry	4268	4033	4252	4B
Corona	Valencia	6690	5389	3631	4B
Cuba	Sandoval	7035	7122		5B
Deming	Luna	4305	3347	5292	3B
Dulce	Rio Arriba	6793	7979		6B
Eagle Nest	Colfax	8262	9254		7B
Edgewood	Santa Fe	6649	6146		5B
Espanola	Rio Arriba	5643	5641		5B
Farmington	San Juan	5395	5747		5B

Fence Lake	Cibola	7055	6396		5B
Fort Sumner	De Baca	4032	3799	4616	3B
Gallup	McKinley	6465	6207		5B
Glenwood	Catron	4725	3632	4427	4B
Grants	Cibola	6460	6143		5B
Hatch	Dona Ana	4052	3270	5904	3B
Hobbs	Lea	3622	2954	5181	3B
Jemez Springs	Sandoval	6198	5260	2059	4B
Las Cruces	Dona Ana	4000	3223	5904	3B
Las Vegas	San Miguel	6424	5738		5B
Lordsburg	Hidalgo	4250	3213	5210	3B
Los Alamos	Los Alamos	7320	6381		5B
Los Lunas	Valencia	4856	4725	4462	4B
Magdalena	Socorro	6572	5074	2093	4B
Mescalero	Otero	6611	5540		5B
Moriarty	Torrance	6220	4735	3786	4B
Mosquero	Harding	5485	5209	3631	4B
Mountainair	Torrance	6520	5558		5B
Organ	Dona Ana	5245	3215	4919	3B
Placitas	Sandoval	5955	4917	3701	4B
Portales	Roosevelt	4006	3845	4347	4B
Raton	Colfax	6680	6001		5B
Red River	Taos	8671	8742	179	7B
Reserve	Catron	5847	5483		5B
Rio Rancho	Sandoval	5282	4880	3949	4B
Roswell	Chaves	3573	3565	5505	3B
Ruidoso	Lincoln	6920	6309		5B
Sandia Crest	Bernalillo	10680	10034		7B
Sandia Park	Bernalillo	7077	7510		6B
Santa Fe	Santa Fe	7260	6001		5B
Santa Rosa	Guadalupe	4620	3749	4714	3B
Shiprock	San Juan	4892	5475		5B
Silver City	Grant	5895	4438	3975	4B
Socorro	Socorro	4603	3984	5147	3B
Springer	Colfax	5797	5653		5B
Taos	Taos	6967	6827		5B
Taos Ski Valley	Taos	9321	9769		7B
Tatum	Lea	3999	3680	4721	3B
Thoreau	McKinley	7200	5789		5B
Tierra Amarilla	Rio Arriba	7425	7901		6B
Tijeras	Bernalillo	6322	6338		5B
Tohatchi	McKinley	6447	5418		5B
Truth or Consequences	Sierra	4245	3394	5103	3B
Tucumcari	Quay	4096	3767	4429	4B
Tularosa	Otero	4508	3056	5130	3B

Zuni	McKinley	6293	5742		5B
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[14.7.6.11 NMAC - Rp, 14.7.6.11 NMAC, 9/25/2020]

14.7.6.12 CHAPTER 4 - RESIDENTIAL ENERGY EFFICIENCY: See this Chapter of the IECC except for the following:

A. R401.2 Compliance. Delete the text of this section and replace with the following: projects shall comply with 401 through 404, which are mandatory provisions, and additionally comply with one of the following:

(1) Documents showing 2018 IECC Code Compliance, residential provisions approved by CID or worksheet trade-off sheets from the New Mexico energy conservation code residential applications manual; or

(2) Section R405.

(3) The energy rating index (ERI) approach in Section R406.

(4) The approved sampling protocols included in Chapter 6 of the National Standard for Home Energy Ratings.

(5) Code programs recognized by the state of New Mexico such as Build Green New Mexico or LEED-H, approved under IECC section 102.1.1, except strike the last sentence that reads: The requirements identified as “mandatory” in Chapter 4 shall be met.

B. R402.2.8 Floors. Delete the text of this section and replace with the following: Floor framing-cavity insulation when separating conditioned and non-conditioned space shall be installed to maintain permanent contact with the underside of the subfloor decking.

Exception: As an alternative, the floor framing-cavity insulation shall be in contact with the topside of sheathing or continuous insulation installed on the bottom side of floor framing where combined with insulation that meets or exceeds the minimum wood frame wall R-value in Table R402.1.2 and that extends from the bottom to the top of all perimeter floor-framing members.

C. R402.4.1 Building thermal envelope. Amending to read as follows: The building thermal envelope shall comply with Sections R402.4.1.1 and R402.4.1.3 with optional compliance of R402.4.1.2 by all counties not mentioned in subsection F below.

D. R402.4.1.2 Testing. Amend to read as follows: The building or dwelling unit shall be tested and verified as having an air leakage rate not exceeding four air changes per hour in Climate Zones 1 thru 8. Testing shall be conducted in accordance with RESNET/ICC 380, ASTM E779 or ASTM E1827 and reported at a pressure of 0.2 inch w.g. (50 Pascals).

E. R402.4.1.3 Visual Inspection Option. Add the following section: Building envelope tightness, and insulation installation shall be considered acceptable with the items listed in Table 402.1.2 applicable to the method of construction, if field verified by either the builder, a code official, or an energy rater using the state of New Mexico acceptable processes. Acceptable processes include a thermal bypass visual inspection checklist, a thermal bypass certification or checklist from a HERS rater, a Build green NM checklist, or an energy star program checklist from the New Mexico Energy, Minerals and Natural Resources Department.

F. R402.4.1.4 Based on census. Add new section to read as follows: Based on census rural urban mapping the following areas will be required to comply with R402.4.1, R402.4.1.2 Testing and R403.3.3 Duct testing: San Juan County, Sandoval County, Santa Fe County, Bernalillo County, Torrance County, and Dona County.

G. R402.4.1.5 State of New Mexico Thermal Bypass Inspection Checklist and Duct Sealing Visual Inspection Checklist. Add new section to read as follows: In accordance with section R402.4.1, R402.4.1.2 and R403.3.3 thermal bypass inspection checklist and Duct Sealing Visual Inspection Checklist will be provided at the time of issuance of building permit or can also be accessed at www.rld.State.nm.us/construction under forms and applications.

H. R403.1.1 Programmable thermostat. The thermostat controlling the primary heating or cooling system of the dwelling unit shall be capable of controlling the heating and cooling system on a daily schedule to maintain different temperature setpoints at different times of the day. This thermostat shall include the capability to set back or temporarily operate the system to maintain zone temperatures of not less than 55°F (13°C) to not greater than 85°F (29°C). The thermostat shall be programmed initially by the manufacturer with a heating temperature setpoint of not greater than 70°F (21°C) and a cooling temperature setpoint of not less than 78°F.

Exceptions:

(1) When a water circulation system is utilized to heat and/or cool the residence, no programmable set back thermostat is required.

(2) Where the home is registered in a performance-based certification program, the

requirements for a programmable thermostat shall be waived.

(3) Where approved alternative methods of construction and/or materials are being used, programmable thermostats may be omitted.

I. R403.3.3 Duct testing (Mandatory). Add the following Exception: (3.) Duct sealing shall be considered in compliance with R403.3.3 when field, verified by either the builder, a code official, or an energy rater using the state of New Mexico duct sealing visual inspection checklist.

J. R403.4 Mechanical system piping insulation (Mandatory). Add the following Exception: In-floor radiant heating or cooling systems do not require insulation.
[14.7.6.12 NMAC - Rp, 14.7.6.12 NMAC, 9/25/2020]

14.7.6.13 CHAPTER 5 - BUILDINGS: See this Chapter of the IECC.
[14.7.6.13 NMAC - Rp 14.7.6.13 NMAC, 9/25/2020]

14.7.6.14 CHAPTER 6 - REFERENCED STANDARDS: See this Chapter of the IECC.
[14.7.6.14 NMAC - Rp 14.7.6.14 NMAC, 9/25/2020]

HISTORY OF 14.7.6 NMAC:

Pre NMAC History: None.

History of Repealed Material:

14.7.6 NMAC, 2003 New Mexico Energy Conservation Code (filed 5/27/2004) repealed 1/7/2004.
14.7.6 NMAC, 2006 New Mexico Energy Conservation Code (filed 8/16/2007) repealed 1/28/2011.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 12/28/2010) repealed 8/1/2011.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/15/2011) repealed 6/28/2013.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/28/2013) repealed 9/25/2020.

NMAC History:

14.7.6 NMAC, 2003 New Mexico Energy Conservation Code (filed 5/27/2004) replaced by 14.7.6 NMAC, 2006 New Mexico Energy Conservation Code, effective 1/1/2008.
14.7.6 NMAC, 2006 New Mexico Energy Conservation Code (filed 8/16/2007) replaced by 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code, effective 1/28/2011.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 12/28/2010) replaced by 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code, effective 8/1/2011.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/15/2011) replaced by 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code, effective 6/28/2013.
14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/28/2013) replaced by 14.7.6 NMAC, 2018 New Mexico Energy Conservation Code, effective 9/25/2020.

Summary of Significant Changes – 2009 to 2018 IECC as amended & adopted by State of NM

Residential

- Envelope leakage testing and duct leakage testing (with added exceptions by the State) are required.
- Duct and envelope testing requirements are more stringent than in the 2009 IECC.
- Improved window performance with prescriptive path
- Building thermal envelope UA (overall home thermal transmittance value) alternative enhanced requirements
- Efficient lighting requirement has changed from 50% to 90%
- Hot water piping insulation requirement increased
- Energy Rating Index (ERI) performance path added (not equivalent to HERS and will not be allowed under current City Green Code requirements).

Commercial

- Commissioning - HVAC and water heating functional testing by 3rd party commissioning agency required
- Building energy performance compliance report required for building permitting
- HVAC – new equipment efficiencies, additional requirements for ventilation systems and lighting
- Water heating – improved efficiency and controls
- Lighting – enhanced occupancy sensors and daylighting controls requirements

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 7 BUILDING CODES GENERAL
PART 9 2018 NEW MEXICO COMMERCIAL ENERGY CONSERVATION CODE

14.7.9.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.7.9.1 NMAC – N, 9/25/2020]

14.7.9.2 SCOPE: This rule applies to all commercial contracting work performed in New Mexico on or after 9/25/2020, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.
[14.7.9.2 NMAC – N, 9/25/2020]

14.7.9.3 STATUTORY AUTHORITY: Sections 60-13-9 and 60-13-44 NMSA 1978.
[14.7.9.3 NMAC – N, 9/25/2020]

14.7.9.4 DURATION: Permanent.
[14.7.9.4 NMAC, 9/25/2020]

14.7.9.5 EFFECTIVE DATE: September 25, 2020 unless a later date is cited at the end of a section.
[14.7.9.5 NMAC – N, 9/25/2020]
[From the date of publication of this rule in the New Mexico register, until month 3/2021 permits may be issued under either the previously-adopted rule, or this rule. After month 3/2021, permits may be issued only under this rule.]

14.7.9.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for energy conservation for commercial construction in New Mexico.
[14.7.9.6 NMAC – N, 9/25/2020]

14.7.9.7 DEFINITIONS: See 14.5.1 NMAC, General Provisions and Chapter 2 of the IECC as amended in 14.7.6.10 NMAC.
[14.7.9.7 NMAC - N, 9/25/2020]

14.7.9.8 ADOPTION OF THE 2018 NEW MEXICO COMMERCIAL ENERGY CONSERVATION CODE:

A. This rule adopts by reference the 2018 international energy conservation code (IECC) commercial provisions, as amended by this rule.

B. In this rule, each provision is numbered to correspond with the numbering of the 2018 international commercial energy conservation code.

C. This rule is to be applied where appropriate to each of the following New Mexico building codes, including the NMCBC, NMEBC, NMPC, NMMC and the NMEC.

[14.7.9.8 NMAC - N, 9/25/2020]

14.7.9.9 CHAPTER 1 - ADMINISTRATION:

A. Section C101 - General.

(1) C101.1 Title. Delete this section of the IECC and substitute: this rule shall be known as 14.7.6 NMAC, the 2018 New Mexico Commercial Energy Conservation Code (MCECC).

(2) C101.2 Scope. Delete this section of the IECC and see 14.7.9.2 NMAC, Scope.

(3) C101.3 Intent. Delete this section of the IECC and see 14.7.9.6 NMAC, Objective.

(4) C101.5.1 Compliance materials. Delete this section of the IECC and substitute the following: the code official shall be permitted to approve specific computer software, worksheets, compliance manuals and other similar materials that meet the intent of this code, including but not limited to ComCheck, ResCheck, and worksheet or trade-off sheets from the New Mexico energy conservation code commercial applications manual issued by the New Mexico department of energy.

B. Section C102 Alternate Materials-Method of Construction, Design for Insulating Systems. See this section of the IECC.

C. Section C103 - Construction Documents. Delete this section of the IECC and see 14.5.2 NMAC, Permits except retain Section C103.2 and C103.6 to read as follows:

D. Section C103.2 Information on construction documents. Delete section and substitute the following: Ducts shall be installed in accordance with Chapter 6 and Chapter 17 of the New Mexico Mechanical Code and current applicable standards.

E. Section C103.6 Building documentation and closeout submittal requirements. Delete section and substitute the following: The construction documents shall specify that the documents described in this section be provided to the building owner or owner's authorized agent.

F. Section C104 Fees. Delete this section of the IECC and see 14.5.5 NMAC, Fees.

G. Section C105 Inspections. Delete this section of the IECC and see. 14.5.3 NMAC, General Provisions.

H. Section C106 Validity. Delete this section of the IECC and see. 14.5.2.12 NMAC, Permits.

I. Section C107 Referenced Standards. All references in the IECC to the international building code shall be deemed references to 14.7.2 NMAC, the New Mexico Commercial Building Code (NMCBC). All references to the international plumbing code shall be deemed references to 14.8.2 NMAC, the New Mexico Plumbing Code (NMP). All references to the international mechanical code shall be deemed references to 14.9.2 NMAC, the New Mexico Mechanical Code (NMMC). All references to the ICC or international electrical code shall be deemed references to 14.10.4 NMAC, the New Mexico Electrical Code (NMEC). All references to the international energy conservation code shall be deemed references to 14.7.9 NMAC, the New Mexico Commercial Energy Conservation Code (NMCECC). All references to the international fuel gas code are deemed references to the NMMC or the LP gas standards found at 19.15.40 NMAC, and Sections 70-5-1 through 70-5-23 NMSA 1978.

I. Section C108 Stop Work Order. Delete this section of the IECC and see 14.5.3 NMAC, Inspections.

J. Section C109 Board of Appeals. Delete this section of the IECC and See 14.5.1 NMAC, General Provisions.

[14.7.6.9 NMAC – N, 9/25/2020]

14.7.9.10 CHAPTER 2 - DEFINITIONS: See this chapter of the IECC substituting the definition for residential building and adding the other definitions.

A. Section C201.1 Scope. See this section of the IECC and add the following: If the same term is defined in the New Mexico construction codes and in the IECC, the term shall have the meaning given it in the New Mexico construction codes.

B. Section C201.3 Terms defined in other codes. Delete this section of the IECC and substitute with the following: Terms defined in the New Mexico Commercial Construction Code and the New Mexico Existing Building Code.

C. Section C202 General Definitions. See this section of the IECC and additionally the following:
(1) Unconditioned space. Add the following definition: Space within a building that is not mechanically heated or cooled and is outside the building thermal envelope.

(2) Vapor retarder class. Add the following definition: a measure of a material or assembly's ability to limit the amount of moisture that passes through that material or assembly. Vapor retarder class shall be defined using the desiccant method of ASTM E96 as follows:

- (a) class I:** 0.1 perm or less;
- (b) class II:** > 0.1 perm □ 1.0 perm;
- (c) class III:** > 1.0 perm < 10 perm.

(3) NMCECC means 2018 New Mexico Commercial Energy Conservation Code, which adopts by reference and amends the 2009 International Energy Conservation Code.

(4) NMCBC 14.7.3 NMAC, 2015 New Mexico Commercial Building Code, which adopts by reference and amends the 2015 International Commercial Code.

(5) NMEBC means the 2015 New Mexico Existing Building Code, which adopts by reference and amends the 2015 International Existing Building Code.

(6) NMPC means 2015 New Mexico Plumbing Code, which adopts by reference and amends the 2012 Uniform Plumbing Code.

(7) NMMC means 14.9.2 NMAC, NMMC 2015 New Mexico Mechanical Code, which adopts by reference and amends the 2012 Uniform Mechanical Code.

(8) NMEC means 14.10.4 NMAC, NMEC 2017 New Mexico Electrical Code, which adopts by reference and amends the 2017 National Electrical Code.

(9) **RESNET Software** is an approved software program to meet the performance requirements of the IECC.

(10) **COMCHECK** is the commercial energy compliance tool of the U.S. Department of Energy designed to clarify commercial energy code compliance providing a user information whether or not a building meets the requirements of the International Energy Conservation Code (IECC) and ASHRAE 90.1, as well as state-specific codes.

(11) **RESCHECK** is a document describing the overall efficiency of the insulation of a building which works by performing a simple U-factor x Area (UA) calculation for each building assembly to determine the overall UA of a building. The UA of the proposed project building is compared to the code requirements.

(12) **ASTM** means the American society for testing and materials, is an international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials utilized in construction.

(13) **HERS** means the home energy rating system index and is the industry standard by which a home's energy efficiency is measured. It's also the nationally recognized system for inspecting and calculating a home's energy performance.

[14.7.9.10 NMAC, N, 9/25/2020]

14.7.9.11 CHAPTER C301 - CLIMATE ZONES: See this Chapter of the IECC except delete the text of section 301.1 General and replace with the following: the table below in conjunction with Table 301.3(2) shall be used to determine the applicable requirements for Chapter 4. Locations not listed in the table below shall use either Table 301.1, Section 301.3 or the building official may designate a climate zone consistent with the elevation, HDD & CDD from the table below.

City	County	Elev. (feet)	Heating Degree Days (HDD) 65°F	Cooling Degree Days (CDD) 50°F day	Climate Zone
Abiquiu Dam	Rio Arriba	6380	5872		5B
Angel Fire	Colfax	8406	9769	195	7B
Alamogordo	Otero	4350	3053	5309	3B
Albuquerque	Bernalillo	5312	4332	4462	4B
Artesia	Eddy	3380	3366	5374	3B
Aztec Ruins	San Juan	5644	5757		5B
Belen	Valencia	4800	4432	5012	3B
Bernalillo	Sandoval	5052	4782	4138	4B
Bloomfield	San Juan	5456	5490		5B
Bosque del Apache	Socorro	4520	3916	5012	3B
Carlsbad	Eddy	3295	2813	5997	3B
Carrizozo	Lincoln	5438	4234	3631	4B
Cedar Crest	Bernalillo	6581	5703		5B
Chaco Canyon	San Juan	6200	6137		5B
Chama	Rio Arriba	7871	8254		6B
Clayton	Union	5056	5150	3170	4B
Cloudcroft	Otero	8801	7205		6B
Clovis	Curry	4268	4033	4252	4B
Corona	Valencia	6690	5389	3631	4B
Cuba	Sandoval	7035	7122		5B
Deming	Luna	4305	3347	5292	3B

Dulce	Rio Arriba	6793	7979		6B
Eagle Nest	Colfax	8262	9254		7B
Edgewood	Santa Fe	6649	6146		5B
Espanola	Rio Arriba	5643	5641		5B
Farmington	San Juan	5395	5747		5B
Fence Lake	Cibola	7055	6396		5B
Fort Sumner	De Baca	4032	3799	4616	3B
Gallup	McKinley	6465	6207		5B
Glenwood	Catron	4725	3632	4427	4B
Grants	Cibola	6460	6143		5B
Hatch	Dona Ana	4052	3270	5904	3B
Hobbs	Lea	3622	2954	5181	3B
Jemez Springs	Sandoval	6198	5260	2059	4B
Las Cruces	Dona Ana	4000	3223	5904	3B
Las Vegas	San Miguel	6424	5738		5B
Lordsburg	Hidalgo	4250	3213	5210	3B
Los Alamos	Los Alamos	7320	6381		5B
Los Lunas	Valencia	4856	4725	4462	4B
Magdalena	Socorro	6572	5074	2093	4B
Mescalero	Otero	6611	5540		5B
Moriarty	Torrance	6220	4735	3786	4B
Mosquero	Harding	5485	5209	3631	4B
Mountainair	Torrance	6520	5558		5B
Organ	Dona Ana	5245	3215	4919	3B
Placitas	Sandoval	5955	4917	3701	4B
Portales	Roosevelt	4006	3845	4347	4B
Raton	Colfax	6680	6001		5B
Red River	Taos	8671	8742	179	7B
Reserve	Catron	5847	5483		5B
Rio Rancho	Sandoval	5282	4880	3949	4B
Roswell	Chaves	3573	3565	5505	3B
Ruidoso	Lincoln	6920	6309		5B
Sandia Crest	Bernalillo	10680	10034		7B
Sandia Park	Bernalillo	7077	7510		6B
Santa Fe	Santa Fe	7260	6001		5B
Santa Rosa	Guadalupe	4620	3749	4714	3B
Shiprock	San Juan	4892	5475		5B
Silver City	Grant	5895	4438	3975	4B
Socorro	Socorro	4603	3984	5147	3B
Springer	Colfax	5797	5653		5B
Taos	Taos	6967	6827		5B
Taos Ski Valley	Taos	9321	9769		7B
Tatum	Lea	3999	3680	4721	3B
Thoreau	McKinley	7200	5789		5B
Tierra Amarilla	Rio Arriba	7425	7901		6B

Tijeras	Bernalillo	6322	6338		5B
Tohatchi	McKinley	6447	5418		5B
Truth or Consequences	Sierra	4245	3394	5103	3B
Tucumcari	Quay	4096	3767	4429	4B
Tularosa	Otero	4508	3056	5130	3B
Zuni	McKinley	6293	5742		5B

[14.7.9.11 NMAC – N, 9/25/2020]

14.7.9.12 CHAPTER 4 - COMMERCIAL ENERGY EFFICIENCY: See this Chapter of the IECC except for the following:

A. Section C402.4.2.1 Lighting controls in toplit daylight zones. Delete section without substitution.

B. Section C405.2.3.3 Toplit zone. Delete section without substitution.

C. Section C405.5 Dwelling electrical meter (Mandatory). Amend to read as follows: Each dwelling unit located in a Group R-2 building shall have a separate electrical meter. Dormitories, fraternities, sororities, monasteries, and convents shall be exempt from the requirements of this section.

D. Section C405.9 Voltage drop in branch circuits supplying motors or motor driven mechanical equipment with a rating of 50 HP and higher. Amending to read as follows: The total voltage drop across branch circuits supplying motors or motor driven mechanical equipment with rating of 50 HP and higher shall not exceed 5 percent.

E. C408.2 Mechanical systems and service water-heating systems commissioning and completion requirements. Amending to read as follows: Prior to the final mechanical and plumbing inspections, the registered design professional or approved agency, shall provide evidence of mechanical systems commissioning and completion in accordance with the provisions of this section. Construction document notes shall clearly indicate provisions for commissioning requirements in accordance with this section and are permitted to refer to specifications for further requirements. Copies of all documentation shall be given to the building owner or owner’s authorized agent.

Exceptions: The following systems are exempt:

(1) Mechanical systems and service water heater systems in buildings where the total mechanical equipment capacity is less than 480,000 Btu/h (140.7 kW) cooling capacity and 600,000 Btu/h (175.8 kW) combined service water-heating and space-heating capacity.

(2) Systems included in Section C403.5 that serve individual dwelling units and sleeping units.

F. C408.2.4.1 Acceptance of report. Delete section without substitution.

G. C408.2.4.2 Copy of report. Delete section without substitution.

H. C408.2.5 Documentation requirements. Change section to read as follows. The construction documents shall specify that the documents described in this section be provided to the building owner or owner’s authorized agent.

I. C408.3.2 Documentation Requirements. Change section to read as follows: The construction documents shall specify that the documents described in this section be provided to the building owner or owner’s authorized agent.

**FIGURE C408.2.4
COMMISSIONING COMPLIANCE CHECKLIST**

Project Information: _____ Project Name: _____

Project Address: _____

Commissioning Authority: _____

Commissioning Plan (Section C408.2.1)

- Commissioning Plan was used during construction and includes all items required by Section C408.2.1
- Systems Adjusting and Balancing shall be completed per plans and specifications.
- HVAC Equipment Functional Testing shall be completed per plans and specifications.
- HVAC Controls Functional Testing shall be completed per plans and specifications.
- Economizer Functional Testing shall be completed per plans and specifications.
- Lighting Controls Functional Testing shall be completed per plans and specifications.
- Service Water Heating System Functional Testing shall be completed per plans and specifications.
- Manual, record documents and training shall be completed per plans and specifications.
- Preliminary Commissioning Report shall be submitted to owner and includes all items required by Section C408.2.4.
- The above-referenced items are scheduled to be provided on:

I, the commissioning provider, do hereby certify that I am providing the owner or owner’s representative with documentation as to the mechanical, service water heating and lighting systems commissioning in accordance with the 2018 IECC.

Signature of Commissioning Provider

Date

Signature of Building Owner/Owner’s Representative

Date

[14.7.6.12 NMAC – N, 9/25/2020]

14.7.9.13 CHAPTER 5 - EXISTING BUILDINGS: See this Chapter of the IECC.

[14.7.9.13 NMAC - N, 9/25/2020]

14.7.9.14 CHAPTER 6 - REFERENCED STANDARDS: See this Chapter of the IECC.

[14.7.9.14 NMAC – N, 9/25/2020]

HISTORY OF 14.7.9 NMAC: [RESERVED]

FISCAL IMPACT REPORT

General Information:

(Check) Bill: Resolution: _____

Short Title(s): Energy Conservation Code and City Green Code Updates

Sponsor(s): Councilors Cassutt-Sanchez and Abeyta

Reviewing Department(s): Planning and Land Use Department

Staff Completing FIR: Jason Kluck Date: 1/14/2021 Phone: 955-6729

Reviewed by City Attorney:  Date: Jan 28, 2021

Reviewed by Finance Director: _____ Date: _____

Summary:

The Bill amends Section 7-1 SFCC 1987 to adopt the most recent version of the New Mexico Energy Conservation Code and amends Section 7-4.2 SFCC 1987, City Green Building Code, to update code cycle references in conjunction with the adoption of the 2018 IECC as amended by the State.

Departments Affected:

Planning and Land Use Department

Consequences of Not Enacting Legislation:

The City would continue to use outdated codes that do not meet or exceed the minimum requirements adopted by the State of New Mexico, which would cause the City to be out of compliance with state statute.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

None identified. This code regulates various aspects of new and existing building construction. The proposed legislation would adopt, by reference, the 2018 New Mexico Energy Conservation Code, which was recently adopted by the State Construction Industries Division, so that the City can enforce this updated building code, as required by law. The proposed legislation would also update code cycle references in the City Green Code to align with the 2018 IECC as amended by the State.

Performance and Administrative Implications:

No negative implications are expected. The legislation will not affect residential construction because the City's residential Green Building Code is currently more stringent than the proposed new code. The impact to commercial building will be consistent with that resulting from the state-wide adoption of the 2018 code, and the legislation will reduce overall energy consumption caused by the use of affected buildings.

Fiscal Implications:

None identified for the City.

Fiscal Impact

Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
<u>Personnel and</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Benefits*</u>							
<u>Capital Outlay</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Contractual/</u>	\$ _____	\$ _____	\$ _____		_____	_____	
<u>Professional Services</u>							
<u>Operating</u>	\$ _____	\$ _____	\$ _____		_____	_____	\$ _____
<u>Total:</u>	\$ _____	\$ _____	\$ _____				\$ _____

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

Revenue

Revenue Type	FYE __	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

Revenue Narrative:

Signature: Jason M. Kluck
Jason M. Kluck (Jan 28, 2021 09:38 MST)

Email: jmkluck@santafenm.gov

Signature: Elias Isaacson
Elias Isaacson (Jan 28, 2021 10:55 MST)

Email: esisaacson@santafenm.gov

Signature: Sally Paez
Sally A Paez (Jan 28, 2021 11:48 MST)

Email: sapaez@santafenm.gov




City of Santa Fe New Mexico


Memorandum



Date: January 29, 2021

To: Quality of Life Committee and Governing Body

Via: Erin K. McSherry, City Attorney 

From: Jesse Guillen, Legislative Liaison 

RE: LANL EIS Request

ITEM AND ISSUE:

Request to the National Nuclear Security Agency (“NNSA”) that it prepare and complete a new site-wide environmental impact statement (“SWEIS”) for Los Alamos National Laboratory (“LANL”) prior to expanding plutonium pit production at the facility.

BACKGROUND AND SUMMARY:

LANL last conducted a SWEIS in 2008 and the NNSA continues to rely on that study, rather than commission an updated study. A public comment provided by an employee of the U.S. Forest Service for the 1999 SWEIS resulted in LANL implementing fire prevention measures that arguably protected 40,000 barrels of plutonium-contaminated waste during the 2000 Cerro Grande Fire. NNSA’s plan to increase plutonium pit production at LANL to up to 30 pits per year, which will result in increased radioactive waste, is seen by LANL watchdog organizations as requiring an updated SWEIS. According to these watchdogs, continuing safety issues at LANL relating to how it handles nuclear waste also raise concerns about increasing plutonium pit production at the Lab.

ATTACHMENTS:

Resolution
Fiscal Impact Report
Exhibit A – Resolution No. 1994-49
Exhibit B – Resolution No. 2010-91
Exhibit C – Resolution No. 2003-64
Exhibit D – Resolution No. 2006-104
Exhibit E – Resolution No. 2008-17
Exhibit F – Resolution No. 2017-76

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2021-__**

3 **INTRODUCED BY:**

4
5 Councilor Renee Villarreal

6 Councilor Signe I. Lindell

7
8
9
10 **A RESOLUTION**

11 **REQUESTING THE NATIONAL NUCLEAR SECURITY ADMINISTRATION PREPARE**
12 **AND COMPLETE A NEW SITE-WIDE ENVIRONMENTAL IMPACT STATEMENT**
13 **FOR LOS ALAMOS NATIONAL LABORATORY BEFORE EXPANDING PLUTONIUM**
14 **PIT PRODUCTION AT THE FACILITY.**

15
16 **WHEREAS**, the City of Santa Fe has a longstanding tradition of promoting democracy
17 and environmental protection in pending nuclear weapons decisions by requesting that “all
18 applicable environmental laws be obeyed by the DOE, and appropriate (and legally mandated)
19 citizen participation be actively supported in the determination of the future mission and function
20 of LANL” (Resolution No. 1994-49, Exhibit A); and

21 **WHEREAS**, the City has previously joined with the County to support Los Alamos
22 National Laboratory (“LANL”) expansion Environmental Impact Statements, calling for “a new
23 complete EIS” to “reassure the citizens of Santa Fe that the safety and environmental issues entailed
24 in this growing project are being planned for in a careful and comprehensive way” (Resolution No.
25 2010-91, Exhibit B); and

1 **WHEREAS**, the Governing Body has also previously passed Resolution Nos. 2003-64
2 (Exhibit C), 2006-104 (Exhibit D), 2008-17 (Exhibit E), and 2017-76 (Exhibit F) opposing
3 expansion of plutonium pit production at LANL until all safety issues are resolved and calling for
4 comprehensive cleanup of legacy wastes; and

5 **WHEREAS**, Resolution No. 2017-76 specifically documented eight nuclear safety
6 incidences at LANL, including a 2017 National Nuclear Safety Administration (“NNSA”) report
7 to the independent Defense Nuclear Facilities Safety Board (“DNFSB”) that found that LANL was
8 the only nuclear weapons production suite that did not meet expectations in the functional area of
9 criticality safety expectations; and

10 **WHEREAS**, Resolution No. 2017-76 stated that the NNSA was still actively planning to
11 expand the production of plutonium pits for nuclear weapons at the LANL from 20 to 30 pits or
12 more per year, including a surge capacity of up to 80, nearly doubling related radioactive and toxic
13 wastes; and

14 **WHEREAS**, plutonium pits are used as the “triggers” for the nation’s nuclear weapons;
15 and

16 **WHEREAS**, plutonium is a substance with significant health and environmental risks; and

17 **WHEREAS**, independent experts have found that plutonium pits have reliable lifetimes of
18 a century or more, thus making expanded production to maintain the safety and reliability of the
19 existing nuclear weapons arsenal unnecessary; and

20 **WHEREAS**, the DNFSB has recently reported on the possibility of potentially lethal
21 radioactive doses as high as 760 rem¹ to workers at LANL’s plutonium pit production facility (“PF-
22 4”), with a possible public dose of 24 rem, because LANL “do[es] not appropriately analyze

¹ REM (“Roentgen equivalent man”) is used to measure the effective dose, which combines the amount of energy from any type of [ionizing radiation](#) that is deposited in human tissue with the medical effects of the given type of radiation. The federal Nuclear Regulatory Commission regards 400-450 rem received over a short period of time as a lethal dose. By way of comparison a chest x-ray is around 10 millirem (millirem = 1/1000th rem).

1 energetic chemical reaction hazards involving transuranic waste”² such as the improperly prepared
2 radioactive waste drum from LANL that in 2014 ruptured and closed the Waste Isolation Pilot Plant
3 for nearly three years; and

4 **WHEREAS**, DNFSB’s calculations of potential doses to workers (760 rem) and the public
5 (53 rem) are orders of magnitude above the potential risks that the analysis published by NNSA in
6 its August 2020 Supplemental Analysis of the 2008 SWEIS related to expanded plutonium pit
7 production; and

8 **WHEREAS**, the independent Government Accountability Office (“GAO”) has recently
9 reported that “In the last 2 decades, LANL has twice had to suspend laboratory-wide operations
10 after the discovery of significant safety issues” and “A 2018 LANL study found that LANL is
11 ‘marginally capable’ of meeting NNSA’s plan to ramp up pit production to 30 pits per year by
12 2026”;³ and

13 **WHEREAS**, federal agencies are required by the National Environmental Policy Act
14 (“NEPA”) to allow the public the opportunity to analyze and comment on major federal proposals
15 such as expanded plutonium pit production that “significantly affect[ing] the quality of the human
16 environment”⁴; and

17 **WHEREAS**, the NNSA has refused to begin a new Site-Wide Environmental Impact
18 Statement (“SWEIS”) for LANL, instead relying on an outdated 2008 SWEIS; and

19 **WHEREAS**, NEPA requires new analysis when “[t]he agency makes substantial changes
20 in the proposed action that are relevant to environmental concerns; or [t]here are significant new
21 circumstances or information relevant to environmental concerns and bearing on the proposed

² *Potential Energetic Chemical Reaction Events Involving Transuranic Waste At Los Alamos National Laboratory*, DNFSB, September 2020, <https://www.dnfsb.gov/documents/reports/technical-reports/potential-energetic-chemical-reaction-events-involving>

³ *NNSA Should Further Develop Cost, Schedule, and Risk Information for the W87-1 Warhead Program*, GAO, September 2020, <https://www.gao.gov/assets/710/709253.pdf>

⁴ 42 U.S.C. § 4332(c)

1 action or its impacts,”⁵ such as, in this case, another major wildfire, up to \$13 billion in new
2 construction at LANL, the discovery of serious groundwater contamination, planned massive
3 releases of radioactive tritium, etc.; and

4 **WHEREAS**, past SWEISs have benefitted both the public and LANL, one dramatic
5 example being that public comment for a 1999 SWEIS prompted LANL to undertake fire
6 prevention measures that arguably prevented the 2000 Cerro Grande Fire from reaching some
7 40,000 barrels of plutonium-contaminated wastes stored aboveground at Area G, a potential
8 catastrophe that LANL acknowledged was averted by public comment required by NEPA⁶; and

9 **WHEREAS**, a SWEIS process that considers all reasonable alternatives to NNSA’s
10 proposed actions and incorporates mitigation plans is the only legally mandated process by which
11 the public, tribes, and local and state governments can understand the nature and consequences of
12 NNSA’s proposed actions.

13 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
14 **CITY OF SANTA FE** that the Governing Body hereby requests that, in accordance with the
15 requirements of the National Environmental Policy Act, the National Nuclear Security
16 Administration immediately begin and complete a new Site-Wide Environmental Impact Statement
17 for Continued Operations at the Los Alamos National Laboratory.

18 **BE IT FURTHER RESOLVED** that the Governing Body requests that the National
19 Nuclear Security Administration suspend any planned expanded plutonium pit production until all
20 nuclear safety issues are resolved, as certified by the independent Defense Nuclear Facilities Safety
21 Board.

22 **BE IT FURTHER RESOLVED** that the Governing Body directs the City Clerk to send

⁵ 40 C.F.R. § 1502.9(c)(1) and 10 C.F.R. § 1021.314

⁶ “When the Cerro Grande Fire swept down from the mountains this spring, these extra defensive steps, taken in response to the public comments, paid for themselves many times over. The savings were in the form of the harm to facilities that was reduced or avoided, and reduced risk to the public that might have resulted.”
<https://hwbdocuments.env.nm.gov/Los%20Alamos%20National%20Labs/General/13435.pdf>

1 copies of this resolution to the New Mexico Congressional delegation, the Governor of New
2 Mexico, the President Pro Tempore of the New Mexico Senate, the Speaker of the New Mexico
3 House of Representatives, the Secretary of the Department of Energy, the Secretary of the New
4 Mexico Environment Department, the Administrator of the National Nuclear Security
5 Administration, the Manager of the NNSA Los Alamos Field Office, and the Director of the Los
6 Alamos National Laboratory.

7 PASSED, APPROVED, and ADOPTED this ___ day of _____, 2021.

8
9
10 _____
11 ALAN WEBBER, MAYOR

12 ATTEST:

13
14 _____
15 KRISTINE MIHELICIC, CITY CLERK

16 APPROVED AS TO FORM:

17 
18 _____
19 ERIN K. MCSHERRY, CITY ATTORNEY

20
21
22
23
24
25 *Legislation/Resolution/2021/LANL EIS Request*

FISCAL IMPACT REPORT

General Information:

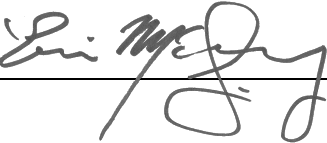
(Check) Bill: _____ Resolution: X

Short Title(s): LANL EIS Request

Sponsor(s): Councilor Villarreal and Lindell

Reviewing Department(s): Legislative Services

Staff Completing FIR: Jesse Guillen Date: 1/6/21 Phone: 955-6518

Reviewed by City Attorney:  Date: Jan 29, 2021

Reviewed by Finance Director: _____ Date: _____

Summary:

The Resolution calls on the NNSA to begin and complete an updated Site-Wide Environmental Impact Study and requests the NNSA suspend expanded plutonium pit production until nuclear safety issues at LANL are resolved.

Departments Affected:

None.

Consequences of Not Enacting Legislation:

The Governing Body will not express its support for a new site-wide Environmental Impact Study.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

None identified.

Performance and Administrative Implications:

The City will send a copy of this Resolution to various associated parties.

Fiscal Implications:

None identified.

Fiscal Impact

 X Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
<u>Personnel and</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Benefits*</u>							
<u>Capital Outlay</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Contractual/</u>	\$ _____	\$ _____	\$ _____		_____	_____	
<u>Professional Services</u>							
<u>Operating</u>	\$ _____	\$ _____	\$ _____		_____	_____	\$ _____
<u>Total:</u>	\$ _____	\$ _____	\$ _____				\$ _____

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

Revenue

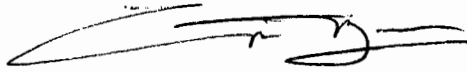
Revenue Type	FYE __	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

Revenue Narrative:

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 1994-49

INTRODUCED BY:



A RESOLUTION

**SUPPORTING AN ENVIRONMENTAL IMPACT STUDY AND ANALYSIS OF
ALTERNATIVES AT LOS ALAMOS NATIONAL LABORATORY**

WHEREAS, Los Alamos National Laboratory (LANL) is currently undergoing a change in its overall mission within the United States Nuclear Weapons Complex, brought on by the ending of the Cold War; and

WHEREAS, LANL'S traditional roles of weapons research, development and testing are presently being reexamined by Congress, by the Department of Energy (DOE) and by the Department of Defense (DOD); and

WHEREAS, new roles are being considered for LANL, such as the production and replacement of nuclear warheads for the arsenal; and

WHEREAS, there is a need to consider environmental impacts, and allow for a process of public comment, before decisions are made about new major projects at LANL; and

WHEREAS, the City of Santa Fe believes that it is appropriate to protect the

1 well-being of its citizens and community; and

2 WHEREAS, the citizens of northern New Mexico deserve no less than full
3 consideration under the law of LANL's future and potential impact on our
4 community.

5 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY
6 OF THE CITY OF SANTA FE that:

7 1. The City of Santa Fe supports a transition of LANL in the post-Cold
8 War era toward research and development that emphasizes peacetime, civilian and
9 industrial applications; work that will benefit our national security in the areas of
10 energy use, non-proliferation of nuclear and other weapons of mass destruction, and
11 waste management.

12 2. The City of Santa Fe requests that all applicable environmental laws
13 be obeyed by the DOE, and appropriate (and legally mandated) citizen participation
14 be actively supported in the determination of the future mission and function of
15 LANL.

16 3. The City of Santa Fe requests that a site-wide Environmental Impact
17 Study and National Environmental Policy Act (NEPA) analysis be completed of
18 LANL's future, prior to any Congressional or DOE actions which could prejudice the
19 outcome of public and local government participation, and prior to any new major
20 construction activities, including waste disposal facilities at LANL as requested in the
21 letter to the DOE Secretary Hazel O'Leary, dated April 28, 1994, signed by the Eight
22 Northern Pueblos Council, community, labor, religious and environmental
23 organizations representing over 20,000 citizens of the State of New Mexico.

24 BE IT FURTHER RESOLVED that it is the intent of the governing body of

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the City of Santa Fe to state its strong belief in examining what future the people of northern New Mexico envision for themselves and their children.

PASSED, APPROVED and ADOPTED this 13 day of July, 1994.

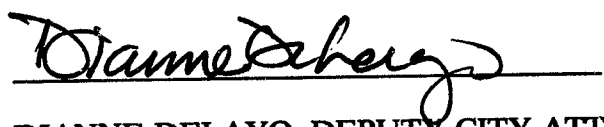

DEBBIE JARAMILLO, MAYOR

ATTEST:



FRANCES ROMERO GRIFFIN, CITY CLERK

APPROVED AS TO FORM:



DIANNE DELAYO, DEPUTY CITY ATTORNEY

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2003-64

INTRODUCED BY:

Miguel Chavez
John Ortega
Cathy J. Binshee
Rebe Weff
David Lars

A RESOLUTION

**OBJECTING TO THE LOCATION OF A MODERN PIT FACILITY IN NORTHERN
NEW MEXICO AND DIRECTING THE CITY CLERK TO INFORM FEDERAL
AUTHORITIES OF THE OBJECTIONS.**

WHEREAS, the United States department of energy has announced support for a plan to
build a modern pit facility to produce plutonium pits in New Mexico; and

WHEREAS, plutonium pits are used to trigger nuclear weapons; and

WHEREAS, the use of plutonium creates health and environmental hazards; and

WHEREAS, the governing body of the city of Santa Fe does not support the creation of
further health and environmental hazards related to nuclear weapons for the citizens of northern
New Mexico; and

WHEREAS, the United States house energy and water appropriations committee has
recently found the construction of the modern pit facility to be "premature"; and

WHEREAS, it is the declared policy of the United States government to help constrain
the global proliferation of weapons of mass destruction.

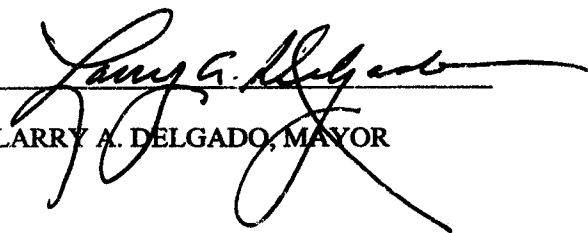
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NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the governing body hereby states its objection to the department of energy regarding the location of a new and or expanded modern pit facility in northern New Mexico; and


BE IT FURTHER RESOLVED that given the lack of discovered aging effects impacting plutonium pit safety and reliability, the lack of need for high production rates given the recently ratified treaty with Russia requiring massive future arms reductions, and the need for the United States to show global leadership by example in constraining the production and spread of weapons of mass destruction, the governing body objects to the construction and operation of the modern pit facility anywhere; and

BE IT FURTHER RESOLVED that the governing body directs the city clerk to send copies of this resolution to our congressional delegation, our governor, the department of energy, and the national nuclear security administration.

PASSED. APPROVED, and ADOPTED this 13th day of August, 2003.


LARRY A. DELGADO, MAYOR

ATTEST:


YOLANDA Y. VIGIL, CITY CLERK

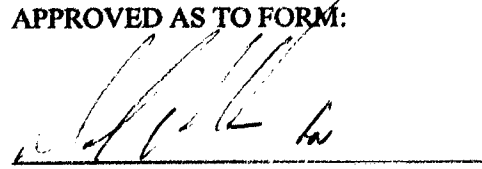
APPROVED AS TO FORM:

BRUCE THOMPSON, CITY ATTORNEY

Exhibit B

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2010 -**

3 **COUNTY OF SANTA FE, NEW MEXICO**

4 **RESOLUTION NO. 2010 -**

5 **INTRODUCED BY:**

6 **Councilor Bushee**

7 **Commissioner Kathy Holian**

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10 **A JOINT RESOLUTION**

11 **IN SUPPORT OF A NEW ENVIRONMENTAL IMPACT STATEMENT FOR LANL'S**
12 **CHEMISTRY AND METALLURGY RESEARCH REPLACEMENT NUCLEAR**
13 **FACILITY (CMRR PROJECT).**

14
15 **WHEREAS**, the Department of Energy (DOE) and the National Nuclear Security
16 Administration (NNSA) are planning to build a Chemistry and Metallurgy Research Replacement
17 Nuclear Facility (abbreviated as CMRR) to facilitate large-scale production of additional
18 plutonium warhead cores (or "pits") at Los Alamos National Laboratory (LANL); and

19 **WHEREAS**, the CMRR project involves significant environmental and safety risks to
20 surrounding communities and their residents including the City and County of Santa Fe; and

21 **WHEREAS**, the CMRR project has grown significantly in scope since 2003, when it
22 was presented as a smaller, above-ground facility; and

23 **WHEREAS**, the Governing Body of the City of Santa Fe objected to the facility in 2003,
24 adopting Resolution No. 2003-64 "A Resolution Objecting To The Location Of A Modern Pit
25 Facility In Northern New Mexico And Directing The City Clerk To Inform Federal Authorities

1 Of The Objections”; and

2 **WHEREAS**, an Environmental Impact Statement (EIS) was conducted by NNSA in
3 2003 for a much smaller CMRR project; and

4 **WHEREAS**, the newest underground incarnation of the proposed CMRR project has
5 grown in magnitude from an estimated \$400 million to over \$5 billion, to be completed a decade
6 hence; and

7 **WHEREAS**, a new EIS for the enlarged CMRR project is essential to reassure the
8 citizens of Santa Fe that the safety and environmental issues entailed in this growing project are
9 being planned for in a careful and comprehensive way; and

10 **WHEREAS**, local governments at city, county, and state levels need to be fully informed
11 about the CMRR project at LANL, so as to make their citizens aware of potential safety and
12 environmental hazards associated with the handling of plutonium and other dangerous materials
13 in a timely fashion.

14 **NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**
15 **CITY OF SANTA FE AND THE BOARD OF COUNTY COMMISSIONERS OF SANTA**
16 **FE COUNTY** that that the DOE, NNSA, and LANL are urged to conduct a new, full-fledged
17 Environmental Impact Statement for the CMRR project, as it is presently envisioned.

18 **AND BE IT FURTHER RESOLVED** that the Governing Body of the City of Santa Fe
19 and the Board of County Commissioners of Santa Fe County respectfully request the DOE,
20 NNSA, and LANL to keep the City and County of Santa Fe fully informed, in a timely manner,
21 about progress on the EIS and about any other safety and environmental concerns that arise
22 during any preliminary phase of construction that is done at the CMRR site.

23 **AND BE IT FURTHER RESOLVED** that that the City and County Clerks are directed
24 to forward a copy of this resolution to the DOE, NNSA, and LANL.

25

1 PASSED, APPROVED, and ADOPTED this ____ day of _____, 2010.

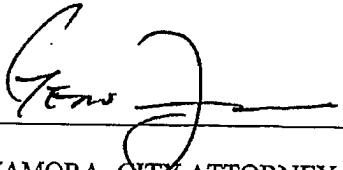
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DAVID COSS, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



GENO ZAMORA, CITY ATTORNEY

PASSED, APPROVED and ADOPTED this ____ day of _____, 2010,
by the Santa Fe Board of County Commissioners.

THE BOARD OF COUNTY
COMMISSIONERS OF SANTA FE COUNTY

By: _____
HARRY B. MONTOYA

ATTEST:

VALERIE ESPINOZA, COUNTY CLERK

1 APPROVED AS TO FORM:

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STEPHEN C. ROSS, COUNTY ATTORNEY

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25 Jp/ca/jpmb/2010 res/LANL nuclear facility CMRR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2006-104

INTRODUCED BY:

Phillip Wesley, David Cass, Miguel Chavez C. Dominguez, and other illegible signatures.

A RESOLUTION

**OBJECTING TO PROPOSED EXPANDED NUCLEAR WEAPONS ACTIVITIES,
 INCLUDING PLUTONIUM PIT PRODUCTION, AT THE LOS ALAMOS NATIONAL
 LABORATORY AND DIRECTING THE CITY CLERK TO INFORM FEDERAL
 AUTHORITIES OF THE OBJECTIONS.**

**WHEREAS, the National Nuclear Security Administration (NNSA), the semi-
 autonomous nuclear weapons agency within the Department of Energy, has announced its plans
 to expand nuclear weapons activities at the Los Alamos National Laboratory; and**

**WHEREAS, these expanded activities are in addition to nuclear weapons activities
 previously expanded in 1999; and**

**WHEREAS, these expanded activities include the planned quadrupling of plutonium pit
 production from 20 to 80 per year, with the near doubling of related radioactive wastes; and**

**WHEREAS, plutonium pits are used to trigger existing nuclear weapons and will be
 used in future new-design nuclear weapons; and**

WHEREAS, the use of plutonium creates health and environmental hazards; and

1 **WHEREAS**, the governing body of the City of Santa Fe does not support the creation of
2 further health and environmental hazards related to nuclear weapons for the citizens of northern
3 New Mexico; and

4 **WHEREAS**, NNSA took 18 months from its formal “Notice of Intent” to final release of
5 its plans through a draft “Site-Wide Environmental Impact Statement for Continued Operations
6 at Los Alamos National Laboratory”, but granted the public only 60 days to comment on 1,700
7 technical pages and hundreds of referenced documents; and

8 **WHEREAS**, it is the declared policy of the city, through previously adopted resolutions,
9 for Cities for Peace, Mayor’s Peace Initiative to promote nuclear disarmament; and

10 **WHEREAS**, the governing body has previously passed Resolution No. 2003-64 which
11 opposed expansion of “pit” facilities construction at Los Alamos National Laboratory; and

12 **WHEREAS**, the governing body has also previously passed Resolution No. 2005-39
13 supporting compliance by the United States with the treaty on nonproliferation of nuclear
14 weapons; and

15 **WHEREAS**, it is the declared policy of United States government to help constrain the
16 proliferation of weapons of mass destruction, but should lead by concrete example.

17 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
18 **CITY OF SANTA FE** that the governing body hereby states its objection to the expansion of
19 nuclear weapons activities at the Los Alamos National Laboratory, including increased
20 plutonium pit production; and

21 **BE IT FURTHER RESOLVED** that the governing body objects to the insufficient 60-
22 day public comment period, and strongly advises NNSA to grant a 30-day extension; and

23 **BE IT FURTHER RESOLVED** that the governing body directs the City Clerk to send
24 copies of this resolution to our congressional delegation, our governor, the Department of Energy
25 and the National Nuclear Security Administration.

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PASSED, APPROVED and ADOPTED this 28th day of August, 2006.

David Coss

DAVID COSS, MAYOR

ATTEST:

Yolanda Y. Vigil
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

Frank D. Katz
FRANK D. KATZ, CITY ATTORNEY

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2017-76

INTRODUCED BY:

Councilor Renee D. Villarreal

Councilor Joseph M. Maestas

Councilor Carmichael A. Dominguez

Councilor Mike Harris

Councilor Signe I. Lindell

A RESOLUTION

REQUESTING THAT THE NEW MEXICO ENVIRONMENT DEPARTMENT STRENGTHEN THE REVISED LOS ALAMOS NATIONAL LABS CLEANUP ORDER TO CALL FOR ADDITIONAL CHARACTERIZATION OF LEGACY NUCLEAR WASTES, INCREASED CLEANUP FUNDING, AND SIGNIFICANT ADDITIONAL SAFETY TRAINING; AND SUSPEND ANY PLANNED EXPANDED PLUTONIUM PIT PRODUCTION UNTIL SAFETY ISSUES ARE RESOLVED; AND DIRECTING THE CITY CLERK TO TRANSMIT COPIES OF THIS RESOLUTION TO ASSOCIATED PARTIES.

WHEREAS, in June 2016, DOE and NMED signed a new revised Consent Order governing cleanup that incorporates giant loopholes whereby LANL can avoid comprehensive cleanup by simply claiming that it is too difficult or costly; and

WHEREAS, the new Consent Order bases LANL cleanup on projections of future funding availability instead of what is actually needed to accomplish comprehensive cleanup; and

WHEREAS, in August 2016, based on the new Consent Order, DOE released an estimated cleanup baseline that extended the timeframe for the completion of cleanup at LANL to 2040,

1 asserting that only 5,000 cubic meters of waste needs to be cleaned up, while an estimated 30 times
2 that much legacy waste is anticipated to be subject to “cap and cover”, i.e., leaving said waste buried
3 where it is currently located on LANL property; and

4 **WHEREAS**, the Department of Energy (DOE) is expanding the production of new
5 plutonium pit triggers at LANL for the nation’s nuclear weapons from 20 to up to 80 pits per year,
6 which is estimated to nearly double related radioactive and toxic wastes; and

7 **WHEREAS**, plutonium pits are used as the “triggers” for the nation’s nuclear weapons; and

8 **WHEREAS**, plutonium is a substance with significant health and environmental risks; and

9 **WHEREAS**, independent experts outside of the Department of Defense have found that all
10 plutonium pits, including those created when the existing nuclear stockpile was created over the last
11 60 years, have reliable lifetimes of a century or more, arguing that expanded production of plutonium
12 pits is unnecessary; and

13 **WHEREAS**, the Department of Energy has determined that “Required improvements to the
14 [Nuclear] Criticality Safety Program are moving at an unacceptably slow rate... [and] The number
15 and latency of infractions in the plutonium facility is of concern”, for which LANL received the only
16 “red grade” in nuclear criticality safety in the DOE nuclear weapons complex in the 2016 report of
17 the Department of Energy to the Defense Nuclear Safety Facilities Board (DNSFB); and

18 **WHEREAS**, the nuclear weapons complex at Los Alamos National Laboratory has suffered
19 several accidents in recent years, documented in a multi-part series from the Center for Public
20 Integrity; and

21 **WHEREAS**, these events include:

22 1. In March 2011, in violation of nuclear material handing protocols, a manager placed
23 an amount of nuclear material in a glovebox¹ that exceeded the criticality limit of the box; and

¹ A “glovebox” is a specially constructed contained what permits the safe handling of hazardous and toxic materials, including radioactive materials, utilizing gloves that employees slip their hands into, allowing them to touch and manipulate those materials.

1 2. In August 2011, technicians, seeking a photo-op, in violation of nuclear material
2 handling protocols, placed eight rods of plutonium in close proximity to each other – several more
3 rods would have triggered a deadly nuclear chain reaction;

4 3. A 2013 LANL study found that glovebox leaks in PF-4 occurred roughly three times
5 a month, often the result of avoidable errors;

6 4. In December 2013, LANL sent a drum containing radioactive material to the WIPP
7 storage facility near Carlsbad that ruptured inside the facility – a result of improper mixing of
8 ingredients – costing the government \$1.5 billion to clean up.

9 5. In May 2016, a trolley used to carry nuclear materials in a facility at LANL fell from
10 the ceiling and crashed into a glovebox, which was fortunately empty and not in use;

11 6. The DOE annual report to the DNSFB, released in February 2017, found that LANL
12 was the only nuclear production site whose performance did not meet expectations in the functional
13 area of criticality safety expectations;;

14 7. In July 2017, a LANL employee sent “special nuclear material” across the country by
15 air in direct violation of nuclear safety standards; and

16 8. In August 2017, two further incidents of mishandling of plutonium metals occurred,
17 one of which was acknowledged as a ‘criticality safety event’; and

18 **WHEREAS**, DOE should increase and allocate sufficient funding to ensure all contractor
19 staff working with radioactive and hazardous material are trained in the handling of said material,
20 overseen by more federal nuclear safety experts, in order to ensure the safety of the employees, the
21 nuclear stockpile and the surrounding communities, including the city of Santa Fe; and

22 **WHEREAS**, DOE should ensure that DOE staffing targets are fully met on a priority basis,
23 as the February 2017 report of DOE to the DNSFB noted that targeted staffing levels had not been
24 met; and

25 **WHEREAS**, radioactive and hazardous contaminants produced as a result of nuclear

1 weapons research and production at LANL have been and may continue to be released into the Rio
2 Grande and the Española Basin Aquifer, designated by the Environmental Protection Agency as a
3 Sole Source Aquifer²; and

4 **WHEREAS**, LANL’s legacy radioactive and toxic wastes are located as close as eighteen
5 miles from the Santa Fe Plaza and five miles from the City’s Buckman Well Field; and

6 **WHEREAS**, LANL’s radioactive and toxic wastes are buried in unlined pits and shafts,
7 unlike the composite liners and leachate collection systems that the New Mexico Environment
8 Department (NMED) requires of all local governments; and

9 **WHEREAS**, the Governing Body of the City of Santa Fe supports the total and permanent
10 cleanup of all toxic and radioactive health and environmental hazards related to nuclear weapons
11 research and production at Los Alamos; and

12 **WHEREAS**, sustainable futures for the Cities of Santa Fe, Española and Los Alamos, six
13 Pueblo nations and the broader region depend on preventing groundwater contamination of the
14 Española Basin Aquifer; and

15 **WHEREAS**, at the October 5, 2017 meeting of the Buckman Direct Diversion Board
16 (BDDDB), a motion was unanimously approved that authorized the Board Chair to sign the proposed
17 Memorandum Of Understanding Between The U.S. Department Of Energy And The Buckman Direct
18 Diversion Board Regarding Notification And Water Quality Monitoring after review and agreement
19 on six proposed edits; and

20 **WHEREAS**, at the October 5, 2017 meeting of the BDDDB, a representative from the Los
21 Alamos DOE office committed that status updates would be provided to BDDDB as requested
22 regarding the overall cleanup program, including the plume demonstrated to have hexavalent
23 chromium concentration above regulatory levels; and

24 **WHEREAS**, the Governing Body has previously passed Resolution Nos. 2003-64, 2006-104,

² A Sole Source Aquifer is defined by the EPA as an aquifer that supplies at least 50% of the drinking water for its service area and where there are no reasonably available alternative drinking water sources should the aquifer become contaminated

1 2008-17 and 2013-111 opposing expansion of plutonium pit production at LANL and “cap and
2 cover” of legacy wastes as a substitute for full cleanup; and

3 **WHEREAS**, full cleanup of LANL would be a win-win for New Mexicans, permanently
4 protecting our precious groundwater resources and the Rio Grande while creating hundreds of high
5 paying jobs for twenty years or more if the wastes were fully removed.

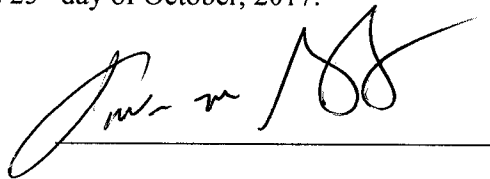
6 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
7 **CITY OF SANTA FE** that the Governing Body hereby requests that the New Mexico Environment
8 Department strengthen the revised cleanup Consent Order to call for additional characterization of
9 legacy nuclear wastes, increased cleanup funding, and significant additional safety training, thereby
10 incentivizing DOE to seek increased funding for these tasks.

11 **BE IT FURTHER RESOLVED** that the Governing Body requests that the United States
12 Department of Energy suspend any planned expanded plutonium pit production until all nuclear
13 criticality safety issues are resolved, as certified by the Defense Nuclear Facilities Safety Board.

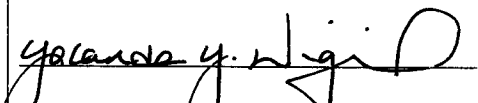
14 **BE IT FURTHER RESOLVED** that the Governing Body directs the City Clerk to send
15 copies of this resolution to the New Mexican congressional delegation, the Governor of New Mexico,
16 the President Pro Tempore of the New Mexico Senate, the Speaker of the New Mexico House of
17 Representatives, and the Secretaries of the United States Department of Energy and the New Mexico
18 Environment Department.

19 PASSED, APPROVED and ADOPTED this 25th day of October, 2017.


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22 ATTEST:



JAVIER GONZALES, MAYOR

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25 YOLANDA Y. VIGIL, CITY CLERK

1 APPROVED AS TO FORM:

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4 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Legislation/Resolutions 2017/2017-76 LANL Cleanup*

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2008-17

INTRODUCED BY:

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A RESOLUTION

11 **OBJECTING TO PROPOSED NUCLEAR WEAPONS COMPLEX “TRANSFORMATON”**
 12 **ACTIVITIES AT THE LOS ALAMOS NATIONAL LABORATORY, INCLUDING**
 13 **EXPANDED PLUTONIUM PIT PRODUCTION; AND DIRECTING THE CITY CLERK**
 14 **TO INFORM FEDERAL AUTHORITIES OF THE OBJECTIONS.**

15
 16 **WHEREAS**, the National Nuclear Security Administration (NNSA), the Department of
 17 Energy’s semi-autonomous nuclear weapons agency, has released a draft *Complex*
 18 *Transformation Supplement Programmatic Environmental Impact Statement* in order to
 19 implement its plans to transform its nuclear weapons complex, including the Los Alamos
 20 National Laboratory (LANL); and

21 **WHEREAS**, planned “transformation” of the nuclear weapons complex will expand
 22 nuclear weapons activities across the nation, most particularly at LANL; and

23 **WHEREAS**, nuclear weapons activities at Los Alamos were previously expanded in
 24 1999, but now LANL has been designated the nation’s permanent production center for up to 80
 25 plutonium pits per year, with related increases in hazardous and radioactive wastes; and

1 **WHEREAS**, plutonium pits are used as the “triggers” for weapons of mass destruction
2 and plutonium creates health and environmental hazards; and

3 **WHEREAS**, the governing body of the City of Santa Fe does not support the creation of
4 further health and environmental hazards related to nuclear weapons for the citizens of Northern
5 New Mexico; and

6 **WHEREAS**, LANL has released radioactive and hazardous contaminants into the
7 Espanola Basin Aquifer, designate by EPA as a Sole Source Aquifer, and groundwater
8 monitoring wells at LANL are not reliable because of drilling methods known to mask
9 contaminants; and

10 **WHEREAS**, it is declared the policy of the City, through previously adopted resolutions,
11 to promote nuclear disarmament through the Mayor’s Peace Initiative for Cities for Peace; and

12 **WHEREAS**, the governing body has previously passed Resolution No. 2003-64 and
13 2006-104 opposing expansion of “pit” facilities construction at LANL; and

14 **WHEREAS**, the governing boy has also previously passed Resolution No. 2005-39
15 supporting compliance by the United States with the treaty on nonproliferation of nuclear
16 weapons; and

17 **WHEREAS**, independent experts have found that plutonium pits have reliable lifetimes
18 of a century or more, thus making production unnecessary to begin with; and

19 **WHEREAS**, NNSA claims that it must transform its nuclear weapons complex to meet
20 the requirements of President Bush’s 2001 “Nuclear Posture Review,” but Congress has required
21 the incoming president to complete a new Review in 2009; and

22 **WHEREAS**, the new Nuclear Posture Review by a new president could have impacts on
23 the nuclear weapons complex and LANL significantly different from the old Review.

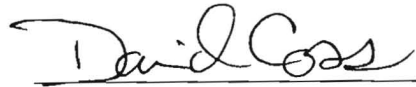
24 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
25 **CITY OF SANTA FE** that the governing body hereby states its objection to NNSA’s *Complex*

1 Transformation Supplemental Programmatic Environmental Impact Statement and resolves that it
2 be withdrawn until after the 2009 Nuclear Posture Review.

3 **BE IT FURTHER RESOLVED** that the governing body hereby states its objection to
4 the expansion of nuclear weapons activities at the Los Alamos National Laboratory, including
5 further increased plutonium pit production.

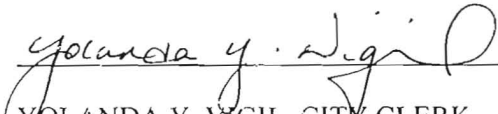
6 **BE IT FURTHER RESOLVED** that the governing body directs the City Clerk to send
7 copies of this resolution to our congressional delegation, our governor, the Department of Energy
8 and the National Nuclear Security Administration.

9 PASSED, APPROVED and ADOPTED this 13th day of February, 2008.

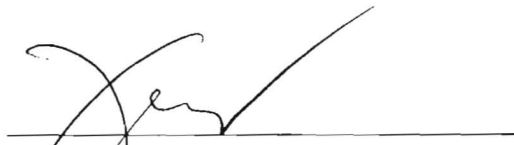
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12 DAVID COSS, MAYOR

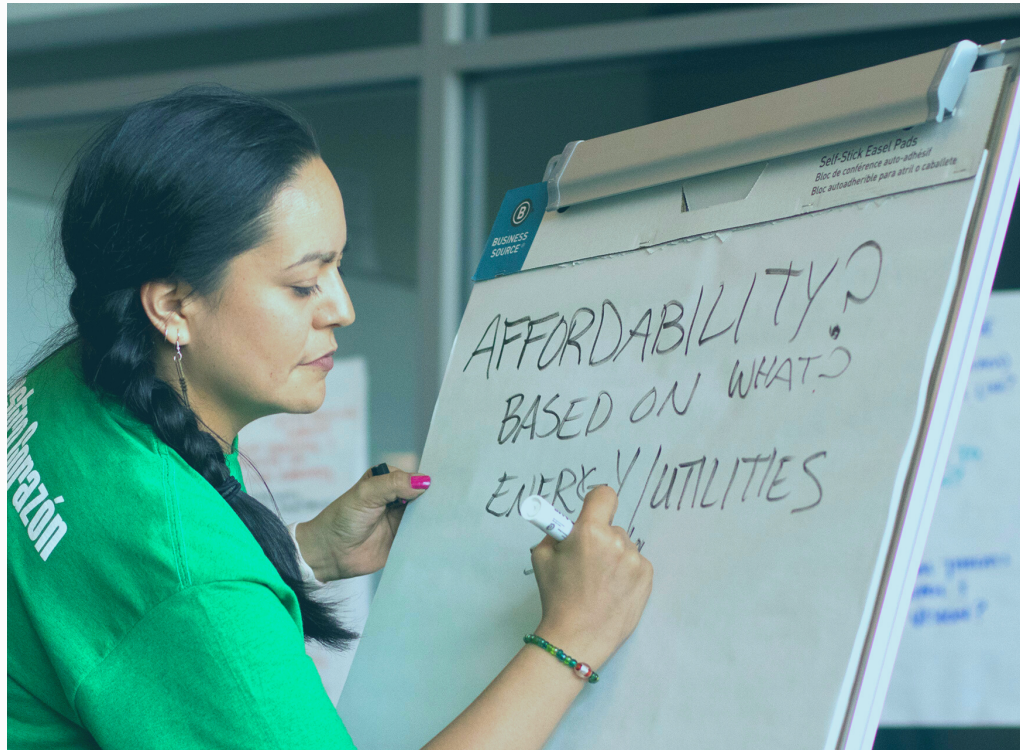
13 ATTEST:

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16 YOLANDA Y. VIGIL, CITY CLERK

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18 APPROVED AS TO FORM:

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21 FRANK D. KATZ, CITY ATTORNEY

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25 *mdb/N/Resolutions 2008/Plutonium*



EVICIONS IN THE COVID-19 ERA:

A threat to family and community health in Santa Fe

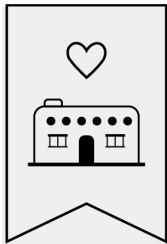
December 2020



[Humanimpact.org/SantaFeEviction](https://www.humanimpact.org/SantaFeEviction)

Evictions in the COVID-19 Era:

A threat to family and community health in Santa Fe



This research brief is the first in a series of three examining the looming eviction crisis in Santa Fe. In this first brief, we describe Santa Fe's housing insecurity problem before COVID-19, and the experiences of residents during the pandemic. We also highlight gaps in eviction moratoria at the local, state, and federal levels.

The second brief elucidates to what extent evictions have impacted Santa Fe renter households in 2020. The final brief presents solutions for local officials to keep families housed by strengthening moratoria and tenant protections.

Executive Summary

Thousands of Santa Feans are experiencing a crisis within a crisis as the COVID-19 pandemic intensifies: They are at significant risk of being evicted as federal, state, and local eviction moratoria expire and leave families vulnerable to homelessness and myriad associated health impacts.

Santa Fe's residents struggled to access stable and affordable housing long before the pandemic. Almost half of all renters are rent burdened, spending at least 30% of their income on rent. And almost all low income renter households in Santa Fe (96%) experience rent burden. Numerous factors, including the rising cost of housing, stagnant income and wages, historically high vacancy rates, opportunistic rent increases, and a lack of regulations to protect renters create an affordable housing dilemma.

Santa Fe's tourism industry was hit hard by the recession and experienced the greatest employment loss. Workers in this sector are disproportionately paid low wages, and now—as many are left without work—are unable to afford rent for themselves and their loved ones. Low income households have endured an especially challenging year. According to the US Census Bureau's Household Pulse Survey, which measures experiences of households during the COVID-19 pandemic, low income households in New Mexico are more likely to:

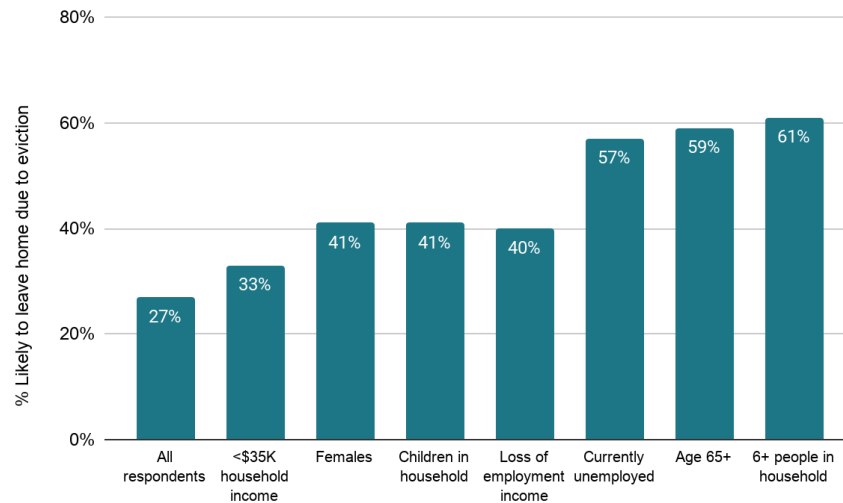
- Experience loss of employment income since March 2020 (58%)
- Expect loss of employment income in December 2020 (55%)
- Fall behind on rent (31%), and report no confidence paying next month's rent (22%)
- Experience difficulty paying for usual household expenses (87%)
- Feel nervous, anxious, or on edge (81%), or down, depressed, or hopeless (77%)

As many as 5,700 Santa Fe renter households could be evicted as the city, state, and federal moratoria expire. And even the current soon-to-expire policies aren't sufficient, as landlords continue to push families out of their homes. Current policies also allow for tenant fines and require renters to pay back rent, which is untenable for families who have lost employment and income.

Communities of color have long been disproportionately impacted by housing insecurity, and during the COVID-19 crisis are more likely to experience eviction. Evictions will put these families at greater risk of contracting COVID-19, homelessness, poor mental and physical health, as well as long-term housing and financial instability, and will exacerbate health inequities.

Many vulnerable New Mexican households will likely experience eviction

Source: Household Pulse Survey, 10/28/2020–11/09/2020



The City of Santa Fe led the way in imposing an eviction moratorium *before* the New Mexico Supreme Court and the federal government. Now, there is a critical opportunity for Santa Fe's local leadership to extend and expand the local eviction moratorium, and to broaden and strengthen the protections for tenants in a way best suited to the unique needs of our community .

This research brief is the first in a series examining the coming eviction crisis in Santa Fe. We describe Santa Fe's housing insecurity problem before COVID-19, the risks residents face in light of the current crisis, and the experience of residents in the context of COVID-19. We also highlight gaps in eviction moratoria at the local, state, and federal levels.

The second brief will describe the scale of pandemic-era evictions despite the presence of moratoria. The third and final brief will offer strategies to improve housing security for Santa Feans, during the COVID-19 pandemic and beyond, including expanding the local moratorium to alleviate burdens on renters, and enacting policies to increase transparency and accountability in landlord-tenant agreements.

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Eviction threatens the health and livelihoods of Santa Feans

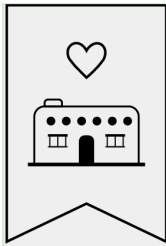
“Before COVID-19, I never really had problems paying my bills except here and there. I worked at a restaurant and was laid off, but even if I’m rehired, I won’t work nearly as many hours as I did before. Now, I have to choose between rent and groceries. I’ve been applying for help, but it’s not enough to catch up on everything that’s due. Meanwhile, I’ve been asking friends to borrow money and I never had to do that before. It’s just so stressful.”

— Hospitality worker and tenant in the Hopewell-Mann neighborhood

Researchers estimate that between 24-31% of Santa Fe renter households are at risk of being pushed out of their homes this winter.¹⁻⁴ And yet, housing insecurity is not new for Santa Feans. For years now, families have grappled with insufficient wages, few economic opportunities, rising rent costs, limited affordable housing options, and a lack of renter protections to ensure stable and affordable housing.^{5,6}

The pandemic has only exacerbated the existing affordable housing crisis in Santa Fe. With cases of COVID-19 spiking across the country, public health experts are advising that people *stay home* as the primary way to stay safe and mitigate the virus’s spread. Indeed, recent research has linked the lifting of eviction moratoria with a rise in COVID-19 cases.⁸ Having a place to reliably call home at this time is a vital and effective way to prevent the spread of COVID-19 and save lives. If it’s not addressed urgently, housing insecurity in the midst of the pandemic will have serious consequences for public health.

The impending lapse of eviction moratoria is a threat that looms large for many renters. In March 2020, the City of Santa Fe and the New Mexico Supreme Court established orders to halt evictions through the end of the COVID-19 crisis. These local and state orders lack a clear end date, which leaves much to interpretation; the orders could be lifted at any time, leaving renters vulnerable to eviction. Additionally, the federal eviction moratorium imposed by the Centers for Disease Control and Prevention in September 2020 has a slated end date of January 31, 2021. Without an expansion of and extension to these policies, thousands of Santa Feans will be at risk of eviction, and at increased risk of contracting COVID-19.



Housing insecurity is detrimental to health

Housing insecurity is a broad term to describe a lack of secure or stable housing that is experienced through: poor housing quality, paying a large percentage of income for housing, homelessness, overcrowding, and unsafe or unhealthy neighborhood conditions.⁹ An abundance of scientific evidence indicates that these conditions converge to impact the health status of individuals and communities.¹⁰

Evictions are a major cause of housing insecurity. Eviction is a legal process where a landlord removes a tenant from a rented property. While a short-lived event, evictions can lead to further housing insecurity and harm families' long-term physical, mental, social, and financial wellbeing.¹¹

Historical and contemporary policies have led to ongoing structural inequities in access to housing. As a result, housing has been denied to communities of color and low income communities via policies including redlining, exclusion from wealth-building opportunities, and housing discrimination.¹² About 40% of Black and Latino renter households are housing insecure, compared to 25% of the general population.¹³ In New Mexico, current housing inequities stem from a history of racially restrictive real estate covenants that preceded waves of gentrification, resulting in segregation and displacement of low income families and communities of color.¹⁴

The housing crisis in Santa Fe predates the pandemic

About half of Santa Fe renters were already rent burdened prior to the COVID-19 pandemic

Of the 35,593 occupied housing units in Santa Fe, nearly 40% are occupied by renters.¹⁵ The median renter household income of \$41,375 is lower than the income needed to afford a two-bedroom home (\$42,280) in Santa Fe.¹⁶ An average working renter — for example, a single parent with a teenager — would need to work 58 hours a week to afford a two-bedroom home.¹⁶ As a result, families end up working multiple jobs, doubling and tripling-up with other families, and opting for poorer quality housing. For many renters, living comfortably is out of reach.

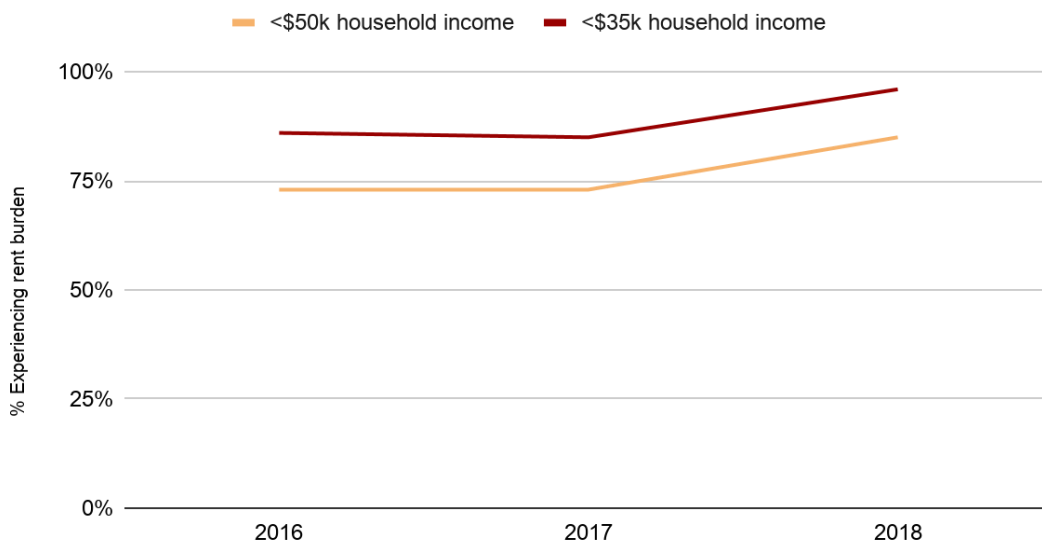
Figure 1: Half of Santa Fe Families are Rent Burdened



About 60% of Santa Fe renters spend a quarter of their income on rent. Almost half are rent burdened, meaning they spend 30% or more of their income on rent (see Figure 1).^{15,17,18} And a little over 1 in 5 are *severely* rent burdened, meaning they pay more than half of their income on housing.¹⁸ Low income renters disproportionately experience rent burden, and rent burden has increased over time (see Figure 2).⁶

Figure 2: Rent Burden Has Increased Over Time

Source: *Santa Fe Homeless and Housing Needs*



For Santa Feans, affordable housing is a primary concern

According to a 2017 survey of residents conducted by the City of Santa Fe:

- 74% worried that their rent was going to go up to an amount they couldn't afford
- 25% worried about being evicted
- 17% moved out of a home in the past year when they didn't want to⁵

Just a year prior, in 2016, about 400 eviction claims were filed by landlords in Santa Fe County, with 40% resulting in evictions.¹⁹ According to survey participants, the primary reason for being evicted was that rent increased beyond what residents could pay.⁵ A deeper analysis revealed inequities: low income families, families with children, large families, those with a disability, and Spanish speakers were more likely to be evicted by their landlords than others.

The employment and housing market isn't viable for renters

Local health care providers and leaders describe the local housing problem as “severe.”²⁰ Additionally, housing advocates note that a lack of stable, well-paying jobs is a barrier for economic mobility and financial stability in Santa Fe.⁵ Unstable jobs with inadequate pay leave renters with little money to choose from the few housing options available.

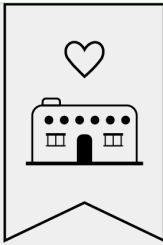
The tourism industry in Santa Fe, which has been hit hard by the current recession, is the second largest employer in the city: Leisure and hospitality workers make up over 16% of the city's workforce.^{21,22} These service-providing jobs are among the most common and lowest-paid occupations.^{23,24} With a large segment of Santa Fe's population earning relatively low wages, many residents lack a strong financial foundation to lean on when it comes to paying for expensive housing.

“As a working single mom, I've been having to make difficult decisions. I lost my job in April and I've been struggling ever since. I ran out of savings in June. I have to keep the internet on so my kids can keep up in school. I have to keep my phone on so I can keep looking for work or I might lose my unemployment benefits. My family is more than happy to let me move back in, and I'd love for my child to spend more time with her grandparents, but any job I could get would put them at risk of exposure. There are no good choices right now.”

- A single mother and mobile home tenant, Airport Road Corridor

Low wages are just one part of the story. There is a limited supply of housing in Santa Fe, and the housing supply that is available is largely unaffordable for low and moderate-low income households. According to a city-wide survey, 90% of city residents identified affordable housing as an important priority.²⁵ A combination of factors have converged to create a rental housing market that isn't livable for most working class families in Santa Fe, including:

- Gentrification and displacement¹⁴
- Housing supply not meeting the demands of population growth
- Record-setting surges in home price sales²⁶
- The conversion of housing supply to short term rentals⁷
- Real estate speculators and purchasers taking up housing supply
- Lack of regulation and enforcement of landlord's legal obligations
- Difficulty bringing prosecution of predatory and retaliatory landlord practices
- Lack of licensing program for rental units to comply with health and safety codes
- Lack of comprehensive education and support to fully enforce the federal Fair Housing Act



Santa Fe enacts restrictions on short term rentals

Real estate speculation limits the availability of housing, driving up the price of rent. Santa Fe has experienced a striking 380% increase in the number of short term rental units (STRs), over the past three years. This increase is likely a result of STR owners applying for licensure in advance of the City tightening its enforcement. While the total number of STR permits has long been capped at 1,000, estimates place actual numbers closer to 1,400 STRs, an estimated 500 of which are evading the city's licensure requirement.²⁷ In November 2020, the Santa Fe City Council began considering enacting restrictions on STRs, including limiting the number of STR permits to one per person. While tenants struggled to find long-term housing, the City struggled to enforce its ordinances through criminal proceedings.

On December 9, 2020, as this report prepared for publication, the Santa Fe City Council enacted stricter and additional restrictions on STRs while pledging to take proactive steps to identify landlords who are violating the ordinances. The newly-enacted restrictions limit future STR licenses to one per person and place caps on the frequency of rentals in residential areas. More importantly, violations of the STR ordinances are now a civil, rather than criminal, offense.

But the problems that have plagued proper enforcement of the City's STR ordinances are similar to those facing tenants of long term rentals. Currently, long-term renters lack the protections being discussed for short term tenants, like tying landlord licensure to continued compliance with health and safety codes, easing the process of reporting violations, and enacting enforcement through health inspectors rather than law enforcement and criminal proceedings.

Santa Fe's most vulnerable residents are most impacted by the pandemic

Low income workers are hit hardest by the loss of jobs

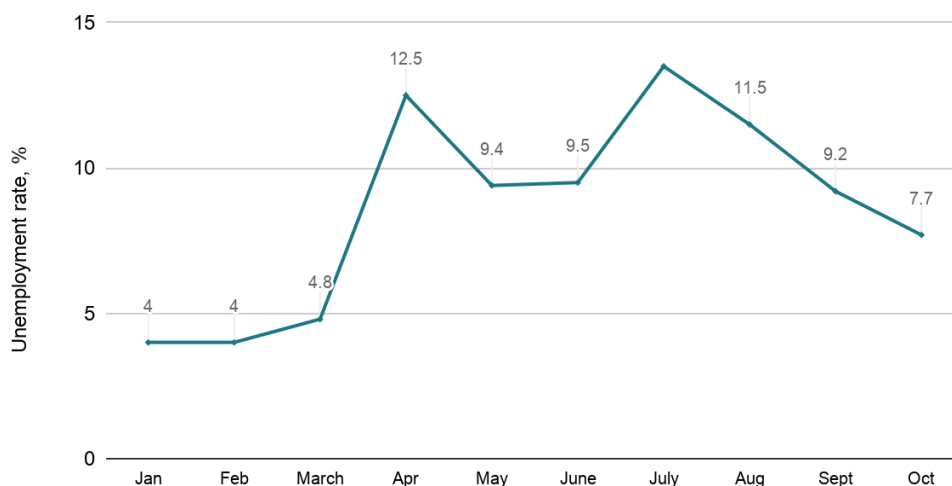
Workplace closures during emergency health orders meant thousands of Santa Feans lost their jobs. As of October 2020, the unemployment rate has not recovered to pre-lockdown times and sits at 7.7% (see Figure 3).²⁸ The leisure and hospitality industry, a major source of employment in Santa Fe, is severely impacted. In April 2020, the industry lost more than half its jobs (50.3%) compared to the year prior. Despite a slight rebound by October 2020, the data still show that almost one-third of industry jobs (30.4%) were eliminated compared to a year ago.^{23,29} Because jobs in this industry often pay low wages, it's likely that low income households disproportionately lost employment due to the pandemic.³⁰

The US Census Bureau Household Pulse Survey describes the housing and financial circumstances of New Mexicans since March 2020 (see Appendix A for details on research methodology). The data reveal striking racial and economic inequities:

- Almost half (48%) of New Mexicans lost employment income since March 2020
- Latino residents (53%), families with children (58%), and households with an income of less than \$35,000 (56%), lost employment income at a greater proportion compared to New Mexicans generally
- There is no clear end in sight: 30% of residents anticipate loss of employment income into December 2020. This is particularly true for Latino residents (34%), families with children (37%), and households earning less than \$35,000 (50%)¹

Figure 3: Santa Fe's Unemployment Rate, 2020

Source: US Bureau of Labor Statistics



Figures 4 and 5 reveal deepening economic inequities: a greater proportion of low income households report a loss of employment income since March 2020, and anticipate income loss in December 2020.

Figure 4: Loss of Employment Income Since March 2020

Source: Household Pulse Survey, 10/28/2020–11/09/2020

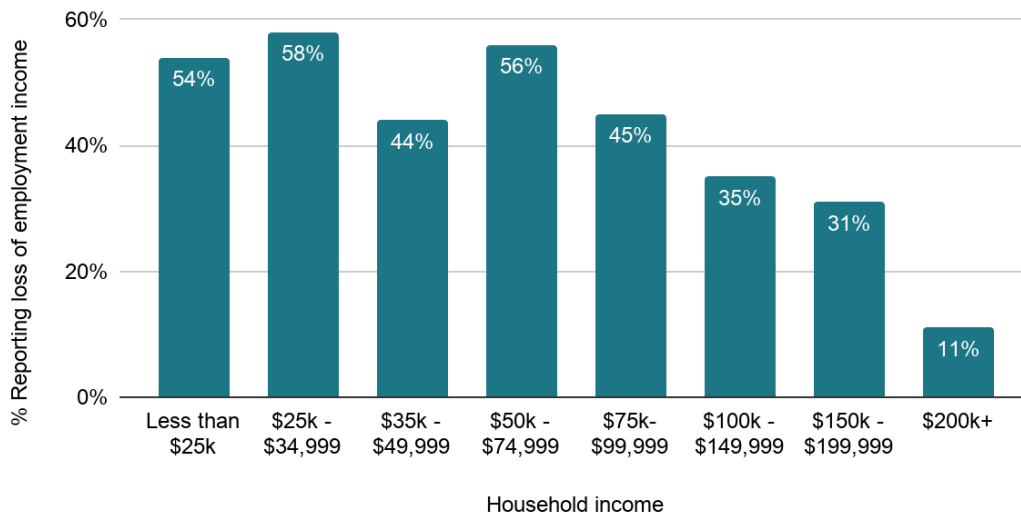
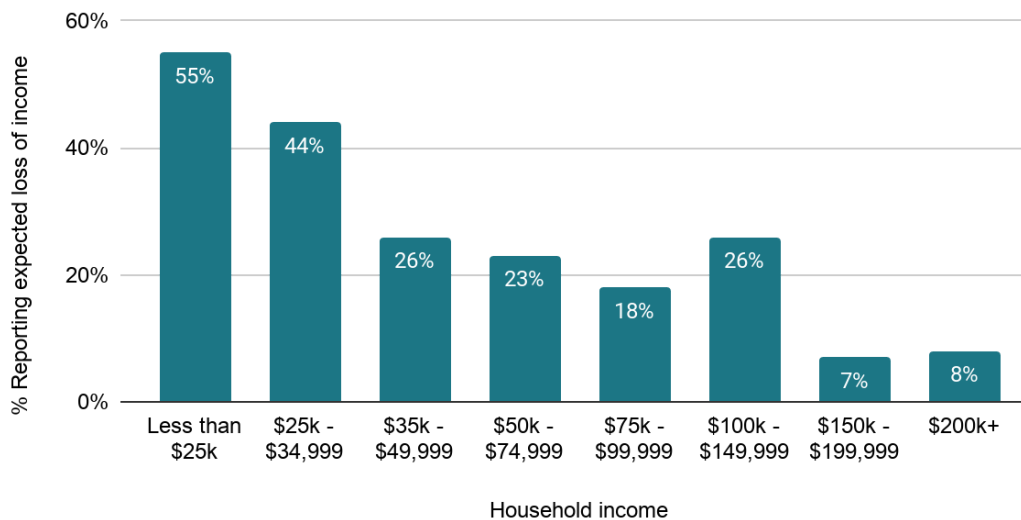


Figure 5: Expected Loss of Income in December 2020

Source: Household Pulse Survey, 10/28/2020–11/09/2020

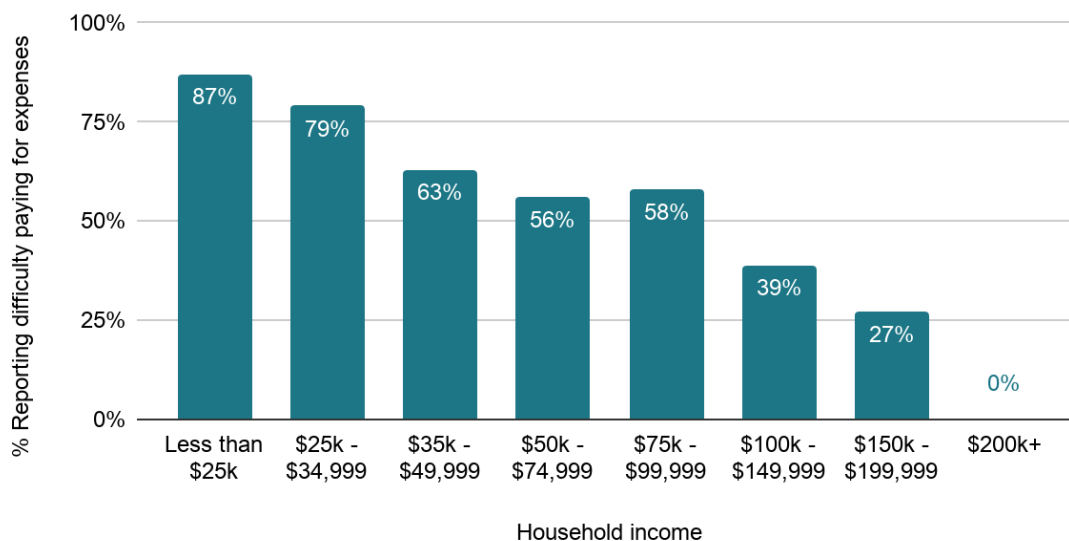


A majority of families are struggling to get by during the pandemic

About 3 in 5 New Mexican residents report some difficulty in paying for their typical household expenses since the pandemic started. Latino residents (68%), families with children (69%), and low income households earning less than \$35,000 (83%) fare worse (see Figure 6).¹

Figure 6: Low Income Households Struggle to Pay for Household Expenses

Source: Household Pulse Survey, 10/28/2020–11/09/2020



As many as a third of renters in New Mexico are behind on rent. Additionally, an assessment of nearly 400 families in Santa Fe by the non-profit organization Communities in Schools of New Mexico, revealed that 35% weren't able to pay for rent, and found that families from different households are resorting to doubling- and tripling-up to share housing, in order to keep a roof over their heads.³¹

"If I get evicted, I don't have enough money saved up to move and put down a new deposit, even if another landlord was willing to rent to me. If I move in with a friend, I won't be on the lease and we can then be evicted for that. What would we do then?"

– An adult and single occupancy tenant near Downtown Santa Fe

Communities of color, those who lost employment income, those who are unemployed, and households earning less than \$35,000 are more likely to report inability to pay rent. These groups are also disproportionately more likely to report no confidence in ability to pay next month's rent. As these already vulnerable residents fall deeper into financial distress and debt, existing racial and economic inequities will worsen.¹

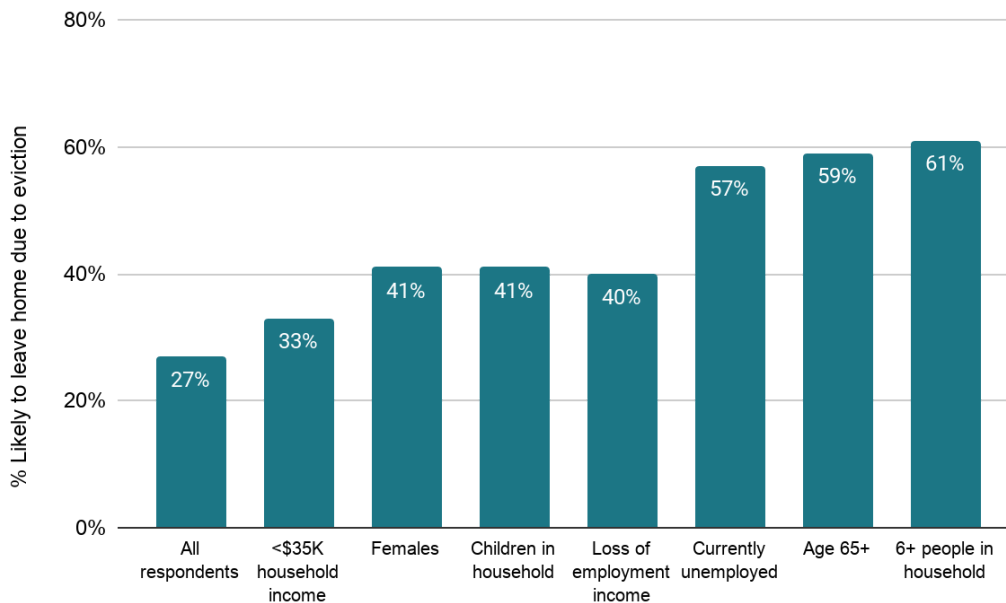
As many as 5,700 Santa Fe renter households could face eviction in the coming months

Predicting exactly how many Santa Fe renters will face eviction in the coming months is challenging. Housing researchers and advocates have attempted to quantify the scale of the coming eviction crisis in a variety of ways — and all estimates indicate significant impact. In part 2 of this series, drawing on newly-available local data, we illuminate how many renter households were evicted in 2020, even despite current moratoria policies in place.

Through self-report on the Household Pulse Survey, 27% of renters in New Mexico express that it's very likely or somewhat likely that they'll have to leave their homes due to eviction (see Figure 7). Those who are out of work (57%) and seniors were more likely to report this assessment of their housing situation (59%).¹

Figure 7: Most vulnerable New Mexico households will likely experience eviction

Source: Household Pulse Survey, 10/28/2020–11/09/2020



The Turner Center for Housing Innovation identified workers in industries who likely lost their employment as a proxy for those who will face eviction.⁴ These industries (entertainment, restaurants and food services, retail, and service-oriented) are all embedded in Santa Fe's tourism industry, which employs a major portion Santa Fe's workforce and pays lower than average wages. Of the 18,300 total renter households in Santa Fe, 5,700 households — or 31% of renters — have a worker in one of the key industries that is most impacted by job loss, and are therefore at risk of eviction due to loss of employment income.

Another estimate analyzing New Mexico's 3rd Congressional District, which includes Santa Fe and other northern counties, indicates that 10,200 renter households may be impacted by eviction in a "base case" scenario, described as the situation in which workers in only some industries lose work.³² In a "stress case" scenario, where a wider range of workers lose employment, a staggering 16,900 renter households in the district could experience eviction. Some state level estimates put eviction risk at 24-25% for renter households in New Mexico, translating to an estimate of 2,961-3,084 renter households facing eviction in Santa Fe (see Appendix A for details on research methodology).^{2,3}

Three communities in Santa Fe will likely experience disproportionate evictions

An examination of eviction risk factors (see Appendix A for details on research methodology) at the census tract level using the 2018 American Community Survey reveals that residents of the Downtown area, the Hopewell-Mann neighborhood, and the Airport Road Corridor may be at greatest risk of eviction during the COVID-19 pandemic.³³

The majority of households that reside in these neighborhoods identify as Hispanic, primarily Spanish-speaking, and low income. Additionally, between 25% and 51% of these census tracts experience rent cost burden according to the 2018 ACS data. In our second brief, we analyze evictions data from court records to determine which communities have been most impacted by eviction filings and evictions, despite the presence of eviction moratoria.

Eviction harms family health and wellbeing

Families are hurting right now, and with a wave of evictions in the coming months, the health consequences will be severe. According to the Household Pulse Survey¹:

- Three in four New Mexicans who experienced loss of employment income since March 2020 reported poor health as of November 2020
- 65% of those anticipating income loss in the weeks ahead also reported poor health
- Almost all (94%) of people who reported difficulty paying for household expenses during the pandemic reported poor health
- Most of those who experienced loss of employment income (82%) reported feeling nervous, anxious or on edge. Almost 3 in 4 aren't able to stop or control worrying

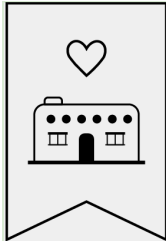
The impacts of eviction are far-reaching. Research demonstrates that the experience of eviction carries health, social, and financial implications. Additionally, families that have an eviction claim filed against them will face difficulty qualifying for future housing, as landlords often conduct background checks on potential tenants. Many evicted tenants do not receive their deposits back, making it even harder to come up with the money necessary to move into a new home. The viability of long-term housing stability is at stake for thousands of families.

Both the threat and experience of eviction cause poor health

Living under the threat of eviction is associated with poor health. A literature review on the threat of evictions (see Appendix A for details on research methodology) highlights that individuals experiencing this risk suffered from poor physical and mental health impacts, including depression, anxiety, distress, suicide, poor self-rated health, physical symptoms (like stomach cramps), chronic disease, high blood pressure, obesity, and food insecurity.³⁴ Additional social and behavioral outcomes include alcohol and drug abuse, exposure to violence, and problems at work. Some research studies found that communities of color, low income communities, and women disproportionately experienced these health harms.

When families are evicted and forced to leave their homes, they experience many of these same health impacts and more, according to a recent review.¹¹ Material hardship, poor mental health, and hospitalizations can occur years after eviction takes place, signifying the long-term harms that people experience.^{35,36} And those who had been evicted from their homes were found to be more than one and a half times more likely to die from any cause than those who had not been evicted — even after controlling for demographic, socioeconomic and health conditions before the eviction.³⁷ Eviction is also harmful to the health of children and future generations, due to associated pregnancy outcomes like low birth weight and infant mortality.^{36,38}

Recent research links eviction to heightened risk of COVID-19 infection and mortality. States where eviction moratoriums were lifted also saw a rise in COVID-19 cases and deaths.⁸ As families are evicted, they are faced with few or no options for accessible housing. They may turn to shelters, or move in with neighbors, friends, or extended family. Shelters, transitional housing, and other crowded spaces pose a risk factor for the spread of COVID-19 as people aren't able to physically distance, or to isolate from others if they do contract the virus.



Evictions exacerbate inequities in children's educational outcomes

As many as 80% of New Mexico's school children face severe barriers to accessing educational resources and opportunities.³⁹ And with the transition to remote learning during the pandemic, these youth — disproportionately low income, Native American, English learners, and students with disabilities — are falling further behind due to lack of access to computers and high-speed internet.

Unstable housing, particularly due to eviction, can be disruptive to children's learning outcomes. Moving from place to place means that families have to start over each time—switching schools, missing classes and assignments, leaving and making new friends, and setting up utilities and a stable internet connection at home.⁴⁰ Research shows that high student mobility affects standardized test scores, graduation rates, and behavioral outcomes in children. For every school change a child endures, the harm are amplified.⁴¹

People who are evicted are more likely to experience homelessness

Families who face eviction are likely to face homelessness and are therefore at greater risk of contracting COVID-19, as physically distancing and practicing proper hygiene can be difficult or impossible in shelters.³⁵ The virus has been seen to quickly spread in shelters and transitional housing, infecting as many as 66% of residents and 30% of staff.⁴²

Homelessness is a chronic issue in Santa Fe. As of August 2020, 349 households in the area were homeless. Of these, 176 are considered chronically homeless. Chronic homelessness impacts already vulnerable communities, particularly communities of color and those who have disabilities.⁶

With an adequate response to the pandemic, the risks of COVID-19 can be warded off. The City of Santa Fe responded proactively and early on in the pandemic to assist vulnerable communities by converting dormitory rooms at a city-owned campus to serve as safe housing where people could be socially distant and quarantine if they needed to recover from infection. Additionally, federal and local funds were mobilized to house people experiencing homelessness in hotel rooms, allowing local shelters to reduce their population densities. The support also includes three meals per day and access to social services and case management, bolstering positive health outcomes across the population. As a direct result, Santa Fe has not experienced a virus outbreak at its homeless shelters.

“Last year, I escaped a domestic violence situation with the support of a local shelter. I was beginning to get on my feet when the pandemic started, but then I lost work and now everything is uncertain again. I’m ok with my expenses right now, but I’m behind on rent. I don’t know how I will pay what I owe in rent and late fees when the moratorium is over. I’m not the only one struggling, so shelters will be full. I’d have nowhere else to go.”

– Apartment tenant in the Airport Road Corridor

Current eviction moratoria fail to shield families from displacement

Three eviction moratoria are currently in place at local, state, and national levels. However, these current policies are not comprehensive enough to keep families housed. The current moratoria only protects tenants from nonpayment of rent, and renters in active lease term agreements — which will continue to expire over time. As a result, landlords can still navigate various channels to evict tenants. Additionally, existing New Mexico state law on landlord/tenant relations is inadequate to protect renters at risk for eviction during the pandemic.

New Mexico’s rental market prioritizes landlords over tenants

The State of New Mexico poses few restrictions and oversight of the rental housing market — all of which translates to a lack of protections for renters.⁴³ Existing state laws, which largely favor landlords, range from simply inadequate to clearly hostile for renters.

For example, there is no state law that provides protection against predatory rent increases.³¹ This means that landlords can set rent at whatever amount they choose at the end of the rental term, and are restricted only from *retaliatory* rental increases, which must be argued in court.^{44(p47)} The city of Santa Fe also does not license or regulate landlords.³¹ A lack of proactive housing enforcement means landlords aren't held accountable for health and safety code violations.

Additionally, the state doesn't offer an official translation of rental agreements in Spanish and doesn't verify or ensure that these documents are available in a preferred language — which is a concern in a city and state where over a third of residents speak Spanish at home.^{31,33}

Robust and fair renter protection policies are necessary to keep families housed and protect public health. Without adequate renter policies, families are more likely to face housing insecurity and homelessness in times of economic hardship or during an emergency situation like the current COVID-19 public health crisis. Without such protections, landlords can circumvent eviction moratoria by continuing to increase rent costs, and imposing late fees for missed or late rent payments. Although this would not be seen as an eviction in the eyes of the law, the effect is the same in that it forces tenants to vacate against their desire to stay — at a time when families are out of work, and amidst a public health crisis.

Deeper analysis of current municipal and state policies and regulations, as well as an examination of which entities have jurisdiction over various policies will be presented in the third brief of this series. The third brief will also propose changes to existing policies and regulations, and offer recommendations for new policies that can be pursued by policy makers to help lessen the impacts of the coming eviction crisis and promote public health.

Current eviction moratoria have many gaps

In March 2020, the City of Santa Fe and the Supreme Court of New Mexico enacted orders to pause evictions for tenants impacted by COVID-19. In September 2020, the Centers for Disease Control and Prevention (CDC) put forth a national eviction moratorium covering states without an existing moratorium, or states where the moratorium is not as strong as the federal order.⁴⁵

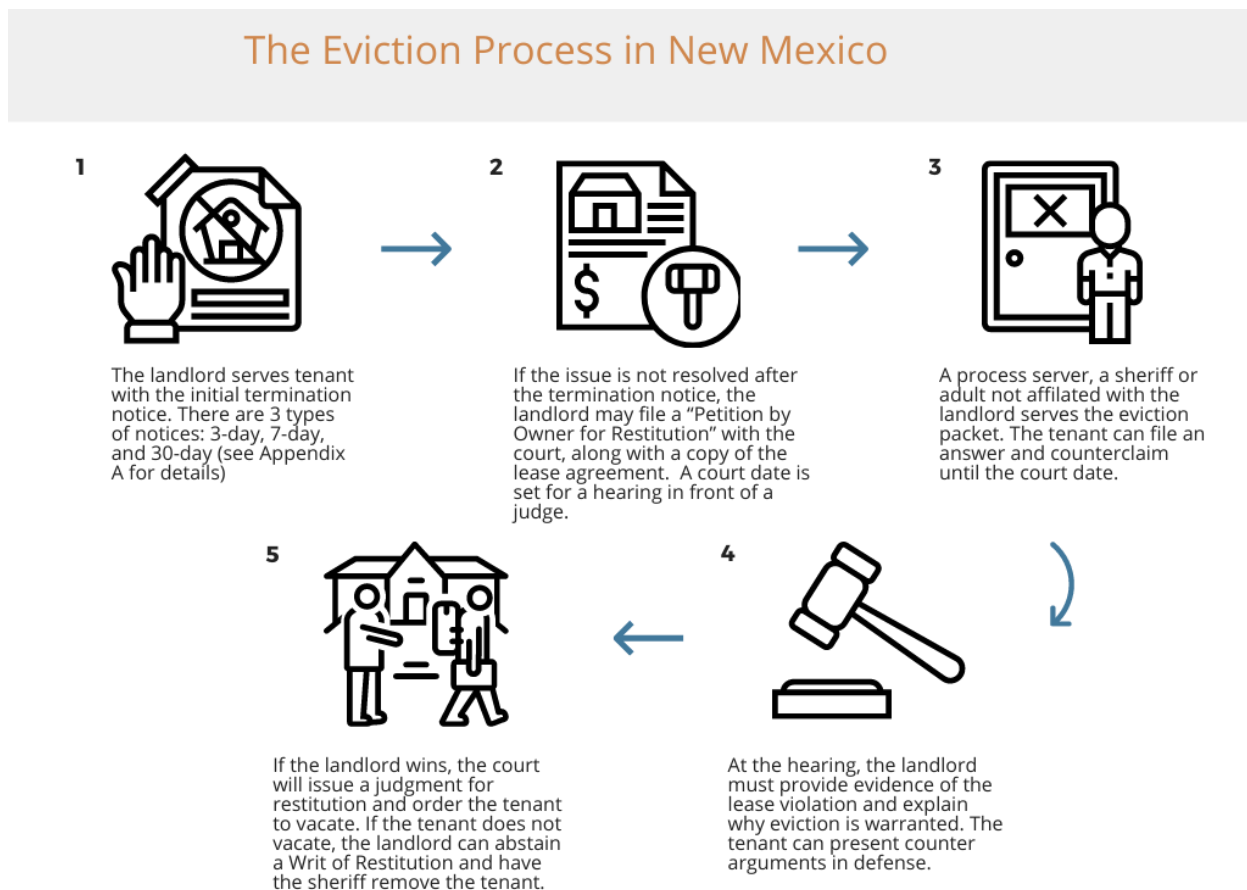
Table 1: Eviction moratoria at city, state, federal levels

Order, effective date	Scale	Description of moratorium order
City of Santa Fe Mayor's office Start: March 23, 2020 End: Indefinite	City	The Mayor of Santa Fe took initiative to prohibit eviction of residential, as well as commercial properties. ⁴⁶ Tenants unable to pay rent due to the COVID-19 pandemic were protected in this order. The City's protections remain in place until the orders of the New Mexico Supreme Court are lifted. The local order specifically prohibits landlords from providing notice of eviction to tenants.
New Mexico Supreme Court Start: March 24, 2020 (residential rentals) & March 26, 2020 (mobile homes) End: Indefinite	State	The New Mexico Supreme Court imposed two state-level eviction moratoria (including one for mobile homes) that would pause evictions for tenants indefinitely until the pandemic is over. ⁴⁷⁻⁴⁹ The Supreme Court's moratoria are broader than the City's and protect all tenants unable to pay rent, whether or not that inability to pay is related to COVID-19 pandemic. With no end date identified for these policies, they can be lifted at the Court's discretion at any time.
Centers for Disease Control and Prevention Start: September 4, 2020 End: December 31, 2020 (extended to January 31, 2021)	Federal	Under the federal order, tenants must sign and present a declaration to their landlord, affirming under penalty of perjury that they are protected from eviction because they meet a set of criteria including if they: <ul style="list-style-type: none"> - Fall within specific income limits - Are unable to pay full rent due to substantial loss of income - Attempt to make timely partial payments - Don't have an alternative housing option - Make best use effort to obtain government assistance.⁴⁵
Coronavirus Aid, Relief, and Economic Security (CARES) Act Start: March 27, 2020 End: July 24, 2020	Federal	Renters who receive federally subsidized housing assistance through public housing, the Housing Choice Voucher program, and Low Income Housing Tax Credit Housing are prohibited from receiving an eviction claim for nonpayment of rent or other fees/charges. ^{50,51}

Despite these policies' intent to keep families housed, many families continue to experience eviction. The Regional Housing Legal Services, a housing and community development policy center, indicates that New Mexicans are currently only protected for one phase of the five phases of eviction (see the box below).⁵² Landlords can begin the eviction process by providing notice of eviction to tenants and filing an eviction claim.

When a landlord files an eviction claim, regardless of the outcome, the filing remains on public record. This can affect families' ability to secure future housing, and thus impact long-term housing stability. Court hearings on eviction claims can also still be scheduled and held before a judge. And landlords are still able to report missed or late payments to credit agencies, impacting renters' credit and their long term ability to access housing.⁵³

Figure 8: The Eviction Process in New Mexico



Eviction Lab, a team of housing researchers at Princeton University, gives New Mexico a very low score (0.53 out of 5.00) in its COVID-19 Housing Policy Scorecard.⁵³ This is because there are few tenant protection measures, and despite the current eviction moratoria, landlords can still file to evict tenants, charge late fees, and raise rents.

Under current laws, the burden of ensuring landlords abide by eviction moratoria falls squarely on renters themselves. Landlords are not required to notify their tenants about local, state, or federal policies.⁴⁵ Instead, tenants must learn about the policies on their own, and bring them to the attention of their landlords by providing hard copies of the orders.⁴⁶ Under the City's moratorium, tenants must initiate contact with the City Attorney's office.⁴⁶ Once landlords begin the eviction process, the responsibility again falls on tenants to attend hearings before a judge and provide proof that they're unable to pay rent.⁵⁴

Low income communities and communities of color who are already most vulnerable to eviction are further burdened by the responsibility to enforce the eviction moratoria.⁵⁵ For those who have language and technology access barriers, the process is particularly inaccessible. Undocumented residents may also fear interacting with the legal system to defend their protections under the moratoria, as Santa Fe's "sanctuary" status does not preclude landlords from reporting or threatening to report individuals to Immigration and Customs Enforcement (ICE).

"I've been having a really hard time paying my rent, but it's hard to get assistance because I am undocumented. Even when there is help available to me, it's hard to know how to access it safely. Will I be retaliated against if I make a mistake? Will my family be even more vulnerable?"

– A head of household and tenant in the Hopewell-Mann neighborhood

Landlords are leveraging gaps in the current moratoria to evict families. For example, landlords can carry out evictions for reasons other than nonpayment, including expiring lease agreements and violation of lease agreements.⁴⁶ Court records show that in the first few weeks of October 2020, landlords filed 16 eviction claims in Santa Fe, mostly due to unpaid rent, and some due to end of lease agreements — which researchers expect to climb as more and more leases expire over time.³¹ Additionally, families who have a month-to-month agreement (as many seasonal and temporary workers do) or those whose annual agreement expired during the pandemic may be forced out via rent increases.⁵⁶

Families who are forced to double- or triple- up in single-family homes as a result of eviction are at increased risk of successive eviction. Over-occupancy is considered a *substantial lease violation*, which landlords can use as grounds for eviction during and despite the moratoria. Additionally, some families are experiencing eviction because their informal rental agreements do not qualify under the current orders.³¹ The number of families impacted by terminated informal rental agreements due to lack of landlord licensing and regulation in Santa Fe remains unclear. In the next brief in this series, we use evictions data from public records requests as a best estimate to describe the scale of evictions in 2020, as well as the reasons for eviction.

The CDC's vague eviction moratorium eligibility criteria are left open to interpretation by landlords and judges who can and do apply the law to their benefit—often at the expense of tenants.⁵⁶ For example, landlords can challenge a tenant's declaration of income loss and question whether tenants are meeting "best efforts" to seek government assistance. Landlords can also question whether tenants have alternative housing options as part of an attempt to argue for exemption from the eviction moratoria.

On December 2, 2020, New Mexico Courts expanded the online debt mediation program to automatically initiate negotiations between parties and to require landlord participation. Previously, only landlords could initiate mediation, and many declined to do so, opting instead to proceed directly to the eviction process.⁵⁷ In New Mexico, there is also no guaranteed legal counsel for renters to seek advice or assistance in the face of potential eviction.⁵³ With thousands of landlords poised to file complaints and initiate eviction proceedings, courts and legal advocates will be further stretched beyond capacity, diminishing the supply and quality of legal representation available to tenants.

When the current eviction moratoria lift, renters will face debt and limited housing opportunities

Perhaps the most concerning limitation of the current eviction moratoria is that renters will still be required to pay back rent when the moratoria are lifted. The current orders do not specify a grace period to pay back rent and late fees.⁵³ With so many Santa Feans out of work due to the pandemic, many still lack a source of income to repay this accumulating back rent.

Renter families may also face legal troubles when the eviction moratoria are lifted. For example, renters who sign and submit the CDC's declaration form to their landlords must agree to a set of statements.⁵⁸ Renters must oblige with the understanding that landlords will require full payments not paid during the moratoria, and a failure to pay is considered grounds for eviction in accordance with local and state laws.

Eviction risks warrant deeper analysis — preventing them requires immediate action

Thousands of Santa Fe renter households, particularly those who are already vulnerable to intense housing pressures, are stuck in an impossible situation as the final days of 2020 approach. Many people lost their jobs as a result of the pandemic, and are now trying their best to hang onto their homes. Unable to pay rent, these families are reliant on compassionate landlords and robust eviction moratoria to stay afloat. And yet, the current policies are limited in their effectiveness and are prone to manipulation due to their ambiguity.

Understanding precisely *how many* renter households experienced eviction in 2020 with moratoria intact is a challenging feat, as acquiring this public data has been difficult. After months of attempts, the New Mexico Courts gave permission to our partners at the University of New Mexico School of Law to access the requested dataset. In a second brief, to be released in early January 2021, we reveal the scale to which landlords have initiated and carried through evictions that force families from their homes amidst an economic recession and global public health crisis.

In the coming weeks, the City of Santa Fe can intervene to remedy an unprecedented looming housing crisis, more daunting than any city has ever previously seen. By establishing a moratorium on evictions early on in the pandemic to protect the public's health, local leadership has demonstrated commitment to its residents. Now, as COVID-19 cases surge and death tolls rise, the City can again take a critical stand to protect residents from homelessness and poor health.

In the final brief of this series, to be released in February 2021, we will elaborate on strategies that policymakers can enact to establish a robust eviction moratorium and to improve renter protections — for the duration of the pandemic, the recovery process ahead, and beyond.

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Human Impact Partners (HIP) transforms the field of public health to center equity and build collective power with social justice movements.



Chainbreaker Collective is a membership-based economic and environmental justice organization that works to expand access to affordable transportation and sustainable communities for working people in Santa Fe, NM. Chainbreaker has over 700 dues paying members in Santa Fe, the bulk of whom are residents of neighborhoods experiencing disinvestment and vulnerable to gentrification and eviction.

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Appendix A

Details on research methodology

Page 10: The Household Pulse Survey data is available at the state level and for select cities, not including Santa Fe. We use state-level data to extrapolate experiences for residents of Santa Fe.

Page: 14: According to 2019 American Community Survey 1-Year estimates data profiles, there are 12,337 renter occupied housing units in Santa Fe. An eviction risk of 24% and 25% is equivalent to $(0.24 \times 12,337)$ and $(0.25 \times 12,337)$ 2,961 and 3,084 households in Santa Fe.

Page 14: Risk factors for eviction were determined based on characteristics of groups who were likely to report difficulty paying for household expenses, being behind on rent, and likelihood of eviction (self reported on the Household Pulse Survey). These risk factors are reflective of Hispanic race/ethnicity and poverty-related factors. The factors, accessible through the American Community Survey at the census tract level, are:

- 50%+ Hispanic race/ethnicity
- \$42,000 or lower median household income (this salary is what is needed to afford a 2-bedroom unit in the Santa Fe)
- 20%+ children in poverty
- 20%+ seniors in poverty
- 33%+ Spanish speaking adults
- 20%+ Foreign-country place of birth
- 30%+ residents with a median gross rent as 30%+ of household income (also known as rent burden)

Page 15: This review described a threat of eviction as “a consequence of economic issues such as mortgage or rent arrears, foreclosure (the legal process that leads to a repossession or eviction), and/or evictions.”

Page 20: The landlord serves the tenant with a written notice. There are 3 types of notices:

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- 3-day: if tenant doesn't pay rent on time or has a committed serious crime on premises
- 7-day: if the lease is violated or tenant isn't following certain legal obligations
- 30-day: if landlord wants to terminate the lease for any other reason, notice is presented prior to the end of the rental term, whether a yearly or month to month agreement

A PATH HOME: Fund the Trust Fund

AN OUTLINE FOR IMMEDIATE IMPACT



**SANTA FE
HOUSING
ACTION
COALITION**

DECEMBER 2020

THE TIME IS NOW

Santa Fe is at an inflection point where we must ask: What kind of community do we want to be? The unprecedented combination of record high housing costs, wage loss from the pandemic, and a wave of outside capital pressure from people relocating to Santa Fe mean that Santa Fe is facing the most acute risk of gentrification ever. Dramatic proactive steps must be taken if Santa Fe is to remain a place for locals and everyday working people.

We have a remarkable, award winning infrastructure for creating affordable housing in our town. But to deal with the scale of the problem we face, we need to supercharge that infrastructure with resources that rise to the scale of the crisis. Dedicating adequate funding to the trust fund is an essential next step to retain the diverse socio-economic character of our city. Our audacious goal is to ensure that any person from Santa Fe and any person that works in Santa Fe, should be able to live in Santa Fe affordably, and that every person in our community, regardless of background or financial position, should have access to safe decent housing as a fundamental right.

It is important to recognize that the City of Santa Fe has worked to address the housing crisis and has made some significant progress. Notably, in December 2019, City Council unanimously adopted updates to the ["HOMES" inclusionary zoning program](#) to create a long-term fix that increases the amount of income-restricted affordable rental units are included in new market-rate developments. However, while the [City of Santa Fe does a lot to address the housing crisis](#), there is much more work to be done. We learned in the aftermath and response to the 2009 recession that rapid and significant investments in housing can stave off much more complex and expensive social problems down the road. As an example, by committing to building just 200 affordable rental units, with 10% set aside for permanent supportive housing, Santa Fe has the chance to largely close our affordable housing unit gap in just 10 years.

Costly Impact

Housing security is arguably the most critical aspect of the social determinants of health; it impacts physical and mental health, educational outcomes, not to mention the health of our larger economy and public systems. In a recent report from [The Chainbreaker Collective](#), the Santa Fe nonprofit notes that housing instability results in a wide variety of [physical and mental health](#) conditions and is particularly harmful to children's [well-being](#) and [educational outcomes](#).¹ The alternatives to investing in housing are also incredibly costly. Research shows that the cost of the unhoused can be more than [\\$40,000 a year just in healthcare alone](#), which can be [cut in half with the provision of Permanent Supportive Housing](#) (inclusive of those program costs). Moreover, for the second time in a decade we are facing a drastic downturn in gross receipts tax revenue, the primary funding source for the City's General Fund. Tracking indicates that when corrected for GRT rate increases (nearly 25% in the last 17 years), per-capita GRT receipts peaked in 2004

¹ See [Health, Healing & Housing in Santa Fe: A Research Brief on Community Land Trusts, Midtown, and a Vision for Post-Pandemic Development](#). HumanImpact.org/CommunityLandscapeSantaFe. Chainbreaker Collective.

and have shrunk considerably since that time. It's also worth pointing out that investments in housing for working families also catalyze local spending, increasing local GRT generation and stabilizing GRT receipts during larger economic downturns.

Unprecedented Need

Santa Fe faces an affordability crisis unparalleled in recent history.

2018 Census numbers indicate that 86% of renter households earning less than \$50,000 a year were paying unaffordable rents, an increase of 13% in two years. That means over 5500 renter families were facing housing insecurity and threat of eviction, prior to pandemic wage and job loss.

Estimation of Households Experiencing Rental Shortfall & Potentially Facing Eviction²

New Mexico Figures ³			
Est. Range of Current Renter Households at Risk of Eviction	Est. Range of Current Rent Shortfall	Est. Range of Potential Eviction Filings by Jan. 1 With Lifting of CDC Moratorium	Est. Range of Shortfall of Rent by Jan. 2021
53,000 - 61,000	\$58,000,000 - \$65,000,000	24,700 - 28,500	\$90,000,000 - \$100,000,000
National Figures			
Est. Range of Current Renter Households at Risk of Eviction	Est. Range of Current Rent Shortfall	Est. Range of Potential Eviction Filings by Jan. 1 With Lifting of CDC Moratorium	Est. Range of Shortfall of Rent by Jan. 2021
11,813,000 - 13,895,000	\$17,012,000,000 - \$18,848,000,000	5,497,500 - 6,471,100	\$26,007,000,000 - \$28,821,000,000

A critical shortage of rental units has been evidenced since 2015 with average rents increasing 46% in that time according to CBRE. Additionally, affordable units have been at a functional 100% occupancy since 2016 and wait lists for affordable rental housing have 100's of families potentially waiting 5-6 years for affordable units or rental vouchers.

² Estimation of Households Experiencing Rental Shortfall and Potentially Facing Eviction. *Eviction Lab*. Stout Risius Ross, LLC, 2020.

<https://app.powerbi.com/view?r=eyJrIjoiaNzRhYjg2NzAtMGE1MC00NmNjLTIOTMtYjM2NjFmOTA4ZjMyIiwidCI6Ijc5MGJmNjk2LTE3NDYtNGE4OS1hZjI0LTc4ZGE5Y2RhZGE2MSIsImMiOiN9>

³ City and County-specific data is currently unavailable pending approval to release anonymized data from the Administrative Office of the Courts. According to data from the Eviction Lab, there are an estimated 638,056 renters; of which an estimated 8.3% - 9.5% are at current risk of eviction.

The situation for lower income homeowners isn't much better. As of 2018, there were over 4200 cost burdened homeowner households earning less than \$50,000 a year. This suggests a strong need for home repair, foreclosure prevention, and tax assistance programs. Prospective homeowners face even higher obstacles. Santa Fe County third quarter median home price set an all-time record of \$600,000 - a price that 60% of the population can't afford - and the hard cost of construction of a new housing unit exceeds what a median income family can afford. This in addition to the fact that our rate of helping lower-income homeowners hasn't rebounded from the last economic downturn.

Why the Trust Fund

- Trust Fund investments lead to broad prosperity - massive economic activity, job creation, immediate and long-term GRT creation, decades of housing and economic stability and additional disposable income for residents.
- It challenges the private sector to create innovative approaches for addressing housing challenges. Funded through an RFP, projects are funded according to their responsiveness to city-identified priorities. And because trust funds are local, programs can be implemented without many of the restrictions typical of federal or grant funds.
- Its operation and awards are overseen by a community board, the City Community Development Commission who represent an array of constituencies.
- Because it's funded locally, its uses are flexible and able to respond to emerging needs. Past funding has supported a range of housing issues from ending homelessness to preventing foreclosure.
- Trust fund expenditures directly support the capacity of local, nonprofit housing partners. As a result, Santa Fe's services delivery infrastructure is highly effective and poised to scale up their work easily with more resources.
- It is highly leveraged with the City, requiring a minimum match requirement of \$3 for every \$1 of trust fund. In reality, most funded projects demonstrate a much higher functional match.
- It is also highly leverageable in that local funds are the best source of match to raise federal funds, both from governmental entities and private philanthropy. Awarding higher amounts of trust funds to capable local partners has the potential to grow the local resource base exponentially.
- Trust funds are recyclable and significant amounts of past funding are recaptured on an annual basis which creates a growing base of resources over time.
- It's more flexible than federal funding, serving all residents regardless of immigration status, and serves higher incomes and a wider range of activities to respond directly to our unique community's actual needs.
- More local funding lessens reliance on federal funding, simplifying reporting burdens, reducing compliance processes and lowering the risk of recapture. In turn, the City can focus its federal grants where they are most efficiently and appropriately used.
- A fully funded trust fund is the first step to ending our shared culture of scarcity. It frees up the time and effort of practitioners that would otherwise be spent on fundraising and allows them to focus on building, preserving, and creating affordable housing units. Abundant resources foster collaboration and efficacy across the services provider network, resulting in systems change and improved societal wellbeing.

Organizing Principles for Funding Streams

- Prior to the pandemic, the Mayor's Task Force for Affordable Housing and Liveable Communities identified a minimum \$3 million annual allocation.
- To the greatest extent possible, this funding should be recurring, allowing predictable funding levels to support multi-year planning and strategies.
- We need to get money into the fund quickly (triage), while also creating long-term revenue pipeline.
- Funding should come from a diversity of revenue sources that ensure a wide range of eligible uses and help insulate against revenue volatility that can arise from changes in the real estate market or the larger economy.
- Funding streams should be allocated within a strategic framework that ties funding to specific city stated goals around unit production and services impacts.
- Tax-based sources should focus on nexus issues (things that are drivers of housing affordability issues) or to the greatest extent possible place an equitable burden on the community.

How the Trust Fund Is Currently Funded

The Affordable Housing Trust Fund was established in 2005 after the passage of the State Affordable Housing Act, which provided an exception to the State's Anti-Donation Clause and outlined a means for direct municipal investment in housing activities. The City of Santa Fe then passed the HOMES ordinance that updated our inclusionary zoning policies, as well as established the current housing department and trust fund mechanism. As currently designed, its primary funding sources are fee-in-lieu and partial unit payments from our inclusionary zoning policy, and recycled assets from previous City housing investments. In 2009, a home excise tax designed to fund the trust fund was defeated at referendum. The Trust Fund awards housing assistance funds through an annual request for proposals process which invites applicants to propose innovative solutions tied to approved policy and balanced with the consolidated plan, goals, priorities and outcomes identified by the Community Development Commission.

City Leadership Impact Opportunity

While identifying and dedicating consistent funding for the Affordable Housing Trust Fund is our immediate priority, funding alone will not be enough to deal with our current housing crisis, and we must act dramatically to turn the tide against the rapid gentrification on the horizon.

- First and foremost, we need a specific, measurable strategic framework for affordable housing program production. This means numbers for income restricted unit creation as well as services. For instance, if we committed to building 200 affordable rental units, with 10% set aside for permanent supportive housing, we could largely get ahead of our affordable housing unit gap in just 10 years. In our current approach, divorced from the actual amount of housing work needed to make a

significant impact, we have no frame of reference for our accomplishments or the extent to which we are meeting our needs.

- The City should take the lead in supporting at least two new construction income-restricted rental projects every year. This means identifying/acquiring development sites and providing infrastructure funding that can make the project successful in funding competitions, while also meeting deeper income targeting needs.
- Currently the City RFP process for the Trust Fund occurs simultaneously with the application for Low Income Housing Tax Credits. The City should create a second fall RFP for the Affordable Housing Trust Fund so funding can be committed at the time of application for Low Income Housing Tax Credits.
- The city needs to formalize an Affordable Housing Land Donation Program that includes approaches where future affordable housing sites are acquired and land banked. This could be a good utilization of unused funding at the end of annual cycles.
- The City Land Use Department urgently needs to address regulatory and process reform, while leading on long-term planning and dealing with our shortage of densely zoned land and updating the commercial design guidelines to ensure future multi-family housing is complementary to existing neighborhoods.
- We also need to ensure that the Office of Affordable Housing has sufficient capacity (i.e; resources, staff, etc.) to lead the strategic effort and manage an increase in program activities.

Potential Sources of Funding

The following is a comprehensive list of potential funding sources that represents the range of ways the Trust Fund could be capitalized. These do not necessarily represent ideas that are specifically endorsed by the Coalition or its members. The funding matrix is broken out into short-term/triage, mid-term sources, and long-term sources. Short-Term/Triage are potential funding options that can be deployed in this time of extreme need. Mid-Term Sources are potential funding options that are more complex and require additional steps beyond adoption of ordinances or resolutions at the council level. Long-term sources are speculative or require changes to state law to enact.

- Short Term/Triage Sources.....page 6
- Mid-Range Sources.....page 11
- Long-Term/Speculative Sources.....page 14

Short-Term/Triage Sources

Surplus Gross Receipts Tax	
Funding Potential	\$100,000-\$3.8m a year
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Ongoing, Variable
Enactment	City Council Ordinance
<p>Discussion</p> <p>Gross receipts tax set aside is an important potential source of capitalization because it is the most flexible type of funding and is able to support a wide range of housing activities which other sources which are limited to capital expenses cannot.</p> <p>The downsides to this source are that it is highly variable and scarce during downturns, often when housing investments are needed most, and the primary source of revenue for the City general fund so could constrain the City's ability to balance its operational budget. One way to overcome this issue would be to set aside the first \$1m in GRT received over the projected revenue levels for the fiscal year when midyear actuals are realized. This way it does not impact annual budgeting, and housing priorities are the first thing funded when surplus GRT is realized.</p>	

Property Tax Mill-Levy	
Funding Potential	\$1,000,000/yr +
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Ongoing, Stable
Enactment	City Council Ordinance
<p>Discussion</p> <p>Santa Fe County's property tax rate is the 14th lowest among 33 counties in New Mexico. A small marginal mil-levy added to property tax for the explicit purpose of supporting affordable housing could generate millions in annual funding with minimal financial impact to the average homeowner. This approach is desirable in that it is equitable distributed across all residents of the county, recurring, and flexible funding without additional use restrictions. Any proposals that increase property tax should be coupled with set-aside funding to assist low-income homeowners with tax abatement or assistance programs. Another advantage to property tax as a basis for supporting affordable housing is that it is a relatively stable source of funding even in economic downturns.</p> <p>The New Mexico Constitution allows a total property tax of up to 2% (20mills) while State law (NMSA 7-37-7) further divides the 20 mills/2% between a few different taxing entities for them to use "for general purposes". The formula allows a County to tax at up to \$11.85 per \$1000 of taxed value. A city can tax up to \$7.65 per \$1000 of taxed value.</p> <p>In 2018, SF County was taxing residential properties at \$5.801/\$1000, and the City was taxing residential properties at \$2.4583/\$1000.</p> <p>Increasing these rates to the maximum allowed by the Constitution/State Law would likely only require a vote by City Council—that is, there's no need for a public vote. Increasing the property tax above what is currently provided for by law seems to be allowed, if there is a vote to approve it by "the majority of the qualified electors of the taxing district who paid a property tax therein during the preceding year."</p>	

Proceeds from Public Land Sales/Leases	
Funding Potential	Variable
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Variable
Enactment	Ordinance or Resolution
<p>Discussion</p> <p>For many communities that create housing trust funds, setting aside a portion or all proceeds from public land sale and land leases are one of the first funding options (i.e; Evansville, IN; Ann Arbor, MI; Detroit, MI; and Nashville, TN). When appropriate we believe city land is best utilized for direct affordable housing development. But in situations where the city disposes of sites that are unsuitable for affordable housing development, or in the case of lease revenue, investing those funds in housing can have lasting community benefits and a more leveraged impact than using it to fill one-time budget shortfalls. This is because many trust fund investments are recycled and provide resources in perpetuity.</p>	

Capital Improvement Program Funds	
Funding Potential	<\$2,000,000 a year
Eligible Uses	Eligible Public Capital Infrastructure Costs
Recurrence	Annual, Two-Year Cycle
Enactment	Ordinance
<p>Discussion</p> <p>Capital Improvement Program (CIP) funds are used to build, maintain and upgrade public infrastructure. CIP funds have historically been used for affordable housing on several occasions in Santa Fe's history, including in 2005, 2009 and again in 2011 as a triage response to the housing recession. CIP allocation currently is overseen by a committee and does not rely on any systematic approach to allocation. CIP can pay for aspects of public infrastructure in affordable housing development projects, including public streets, offsite street improvements, water, and sewer infrastructure. These types of investments tend to be highly leveraged when compared to other CIP activities, as they can make applications for external housing funding more competitive. Large affordable housing development projects create dozens of jobs and pay significant amounts of GRT, often over \$1m per project. In the short term, we recommend setting aside a portion of the 2021-2022 allocation to support the development of a pipeline of income restricted housing projects, and long-term consider a specific set aside, either a percentage of the CIP budget, or a fixed number to be allocated through the Trust Fund on an ongoing basis.</p>	

Utility Funds	
Funding Potential	\$1,000,000
Eligible Uses	Public Water Infrastructure
Recurrence	Variable
Enactment	Ordinance
<p>Discussion</p> <p>Because of the City's progressive water rates, the water department often generates surplus revenue.</p> <p>The key question here seems to be whether the City can use utility fees for a Housing Trust Fund. In short, the answer is probably "yes."</p> <p>The NM Supreme Court, in a case called <i>Apodaca v. Wilson</i>, 86 NM 516 (1974) looked at a similar issue in Albuquerque—basically, ABQ increased its water & sewer rates and generated a surplus that was dedicated to general financial obligations of the City. This was challenged by folks who claimed that it was inconsistent with state law and therefore not within the power of a home rule jurisdiction and/or a tax that hadn't been approved by voters under the home rule provisions. The NM Supreme Court decided that:</p> <ul style="list-style-type: none"> a) water and sewer charges are not taxes, regardless of how the revenue of the charges is applied; and b) it was not a tax that required approval and it was consistent with home rule powers to raise rates and spend the money on something other than sewer maintenance. <p>So, although the details might require some consideration, there seems to be clear authority for a home rule jurisdiction to use a utility rate surplus to pay for things other than utility expenditures.</p>	

Mid-Term Sources

These potential revenue sources will take a longer amount of time, or multiple legislative steps to enact or are not likely to be realized until after fiscal year budget 2021/2022

General Obligation Workforce Housing Bond	
Funding Potential	\$1-30m/yr
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Non-recurring
Enactment	City Council Resolution, then Voter Approved
<p>Discussion</p> <p>This approach has been successfully deployed by the City of Albuquerque for their Workforce Housing Trust Fund. A detailed report produced in 2015 showed that \$31.4m in commitments had leveraged over \$200m in economic activity, generated at least generated over \$6m in GRT, \$38m in indirect spending and nearly 1200 jobs. Albuquerque has typically sized this bond at \$5m per year.</p> <p>This source is ultimately funded by property taxes, so is reasonably equitable, but because of this, tax abatement or assistance program funding set asides should be considered.</p> <p>This solution is considered mid-term because it requires two legislative steps, approval by the City Council and a public vote, which isn't guaranteed. One approach could be to pass a resolution that requires a housing bond to go in front of voters during every biannual municipal election.</p>	

Real Estate Transfer Tax	
Funding Potential	<\$1.5m a year
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Yes, bi-annual
Enactment	State Law/Local Ordinance
<p>Discussion</p> <p>One of the fundamental issues with Santa Fe's affordable housing infrastructure is that it is dependent on market rate housing development activities for inclusionary housing units and fees-in-lieu of building affordable units. The result, in many ways, is a disproportionate tax on moderate priced housing, as smaller high-end developments often pay a small fee or have too few units to offer substantial inclusionary housing. and single luxury home construction do not currently contribute to affordable housing in any way, despite their disproportionate impact on overall community housing affordability, construction capacity, and development costs. A real estate transfer tax was defeated at referendum in 2009 and was vigorously opposed by the Santa Fe Association of Realtors with significant support from the National Realtors Association. The proposed policy also had what many see as significant design flaws, including only applying to very high-end housing. If this is pursued as a funding option, it should take a more equitable approach and be prepared to mount a significant public information campaign.</p> <p>Our research did not turn up any legal prohibitions that would prevent Santa Fe from imposing a RETT (this is also consistent with how SF apparently analyzed it in 2009). However, because it would be considered a tax, it would need to be approved by a majority of voters. This may however be procedurally cumbersome and expensive (the last one cost about \$93,000).</p> <p>There do not appear to be any restrictions on how funds raised in this manner might be used.</p>	

Short-Term Rental Revenues	
Funding Potential	Variable
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Quarterly
Enactment	State Law/Local Ordinance
<p>Discussion</p> <p>A 2019 report underwritten by Homewise and the Thornburg Foundation found that the growth in short-term rental had removed hundreds of units from the Santa Fe market and an estimated that it contributed to about 20 percent of the city's housing cost inflation since 2014. In addition, this report found that STR's generated over \$53m in revenue in Santa Fe county, an average of over \$80,000 per host. Short-term rentals are required to pay a lodgers tax, in addition to local GRT.</p> <p>Because of the connection between STR and loss of affordable housing, the idea of tying affordable housing supports to the income generated from this type of housing is attracting. It also could garner wide public support.</p> <p>Another option would be to add a small additional tax increment for affordable housing which could have significant impact in the housing arena, while also incentivizing some units to return to long-term rental, which are not subject to special taxation or GRT. This would have impacts for both housing affordability as well as neighborhood issues.</p> <p>In addition, there is widespread public support for affordable housing interventions related to STR's and it could help garner public support for a wider array of strategies. It is worth noting that a local short term rental tax introduced by Senator Wirth (SB 7) failed in the 2019 legislative session.</p>	

Long Term/Speculative Sources

The following recommendations are the most long-term, requiring multiple legislative steps and/or changes in State Law in addition to local legislation.

Removing the 3% Property Tax Cap for Second Homes	
Funding Potential	Unknown
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Yes, bi-annual
Enactment	Change to State Law
<p>Discussion</p> <p>Provisions of New Mexico’s property tax code help low- and moderate-income homeowners stay in their homes by limiting property tax increases to 3 percent a year. But this now has the unintended consequence of subsidizing the tax of second homes and STR’s. Limiting the 3 percent cap to primary residences has been suggested as a way to both decrease the property tax burden on full-time residents and raise additional funds that could be set aside for affordable housing. Property tax revenues primarily benefit counties, but lobbying and support around these changes to state law could help set aside affordable housing funds for municipalities based on the taxable value in those districts rather than the standard property tax distribution.</p> <p>New Mexico law (NMSA 7-36-21.2) limits the amount that property valuation can increase for property tax purposes to 3% in any year—as long as the property doesn’t change hands. The idea behind this law was to combat the effects of gentrification on property owners who might see a sudden increase in their property value and a related increase in property tax (called a “lightning tax”). The law was adopted in response to a Constitutional amendment (Article VIII, Section 1 (B)) requiring the legislature to impose limits on increases in valuation. That same Section allows the limitation to be applied “based on owner-occupancy, age or income” at the state level or “at the option of a local jurisdiction.”</p> <p>Based on the Constitution’s grant of authority to local jurisdictions to create and apply different rules for different classes of owners, removing or raising the cap for second homes appears to be within the power of the City.</p> <p>This would probably be considered to be an adjustment to property tax, and therefore should be able to be used for general purposes.</p>	

Cannabis Taxes	
Funding Potential	Unknown
Eligible Uses	Any eligible use under the Affordable Housing Act
Recurrence	Ongoing
Enactment	State Law/Local Ordinance
<p>Discussion</p> <p>There is strong momentum behind the push to legalize recreational cannabis. This will create new GRT revenue and, depending on how the legislation is structured at the state level, opportunities for local option taxes. Optimally, the legislation would set aside a percentage of tax revenue generated from cannabis sales for affordable housing funds to be granted to units of local government where those sales occur.</p> <p>The downside of this funding option is that it is purely speculative, and there is no guarantee that it will be adopted during the upcoming legislative session, or that it will be designed to benefit local governments generally, or affordable housing specifically. Even in states that have legalized recreational cannabis, there is often a years-long lag from enactment to realization of tax revenue related to designing wholly new regulatory infrastructures.</p>	

Social Impact Bond	
Funding Potential	Variable
Eligible Uses	Special Program Support
Recurrence	Ongoing, Stable
Enactment	Contract Agreement
<p>Discussion</p> <p>Social Impact Bonds are a unique type of performance-based contract where private and/or philanthropic lenders loan funds to accomplish a specific objective and are repaid based on whether the program achieves its goals. In 2016, the City and County of Denver and eight private investors closed on the city's first SIB program, an \$8.6 million investment to fund supportive housing for people who were homeless for more than a year or had a disabling condition and were frequent users of emergency systems. The program attracted an additional \$15 million in federal resources leveraged over five years. Based on the SIB contract, the investors provided funding to support the program. If the program meets the goals of housing stability and decreased jail stays, the city makes outcome payments to the investors. If the program does not meet its outcome goals, the city does not repay the investors.</p>	