

ORDINANCE 2021-12-16-0990

**AMENDING THE CITY OF ANTONIO FEE WAIVER PROGRAM TO ALIGN
WITH THE STRATEGIC HOUSING IMPLEMENTATION PLAN (SHIP).**

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WHEREAS, pursuant to Ordinance No. 2018-12-13-0996, passed and approved on December 13, 2018, the City Council adopted the City of San Antonio Fee Waiver Program (the "CoSA Fee Waiver Program"); and

WHEREAS, the goals of the CoSA Fee Waiver Program are to: (1) Support the creation and preservation of affordable and moderate-rate housing citywide; (2) Increase redevelopment of underutilized buildings through the rehabilitation, upgrade, and adaptive reuse of existing structures; and (3) Encourage the development and expansion of small businesses, legacy businesses, and targeted industry development projects; and

WHEREAS, the CoSA Fee Waiver Program provides financial assistance in the form of City and SAWS fee waivers, as well as staff support for assistance in navigating regulatory and procedural processes, to projects meeting program criteria in one of the following four categories: (1) affordable housing, owner-occupied rehabilitation, historic rehabilitation, and business development; and

WHEREAS, in 2020, the City began work on a Strategic Housing Implementation Plan (SHIP) to actualize strategies presented in the Housing Policy Framework that was adopted by City Council in 2018; and

WHEREAS, the SHIP has been developed in collaboration with community and housing stakeholders and included an outreach and input process to receive community input that was overseen by the Housing Commission; and

WHEREAS, throughout 2021, the Neighborhood and Housing Services Department has continued to lead an extensive outreach and input process for the SHIP; and

WHEREAS, this process resulted in a recommendation to review City-led incentive programs, including the CoSA Fee Waiver Program, and bring them into alignment with the goals and strategies set forth in the SHIP; and

WHEREAS, city staff has developed updates to the CoSA Fee Waiver Program to bring the program into alignment with the SHIP, specifically in its definition of affordable housing; and

WHEREAS, the updates also incorporate recommendations made by the Removing Barriers to Affordable Housing Committee; to improve equity in how projects are awarded fee waivers, address the impact of the program sunset of the Center City Housing Incentive Policy (CCHIP); and to allow for other process improvements; and

JYW
12/16/2021
Item No. 37

WHEREAS, the proposed amendments to the existing CoSA Fee Waiver Program are shown in **Attachment I**; and

WHEREAS, it is the desire of the City Council to approve amendments to the CoSA Fee Waiver Program as recommended by city staff; **NOW, THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

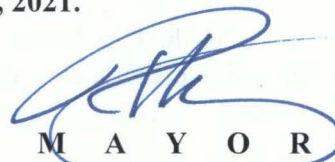
SECTION 1. The proposed amendments to the City of San Antonio Fee Waiver Program (the "CoSA Fee Waiver Program") as recommended by staff, a copy of which is attached hereto and incorporated herein by reference as **Attachment I**, are hereby approved.

SECTION 2. Funding is available in the FY 2022 General Fund budget to support the City of San Antonio Fee Waiver Program. SAWS fee waivers have been made available to the City through Ordinance 2020-11-12-0829 that covers a five-year period from FY 2021 to FY 2025.

SECTION 3. The Chief Financial Officer or designee is authorized to perform the appropriate financial allocations to carry out the intent of this ordinance.

SECTION 4. This Ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

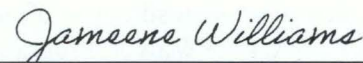
PASSED AND APPROVED this 16th day of December, 2021.


M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:


Debbie Racca-Sittre, Acting City Clerk

 for
Andrew Segovia, City Attorney



City of San Antonio

City Council Meeting December 16, 2021

37.

2021-12-16-0990

Ordinance amending the City of San Antonio Fee Waiver Program to align with the Strategic Housing Implementation Plan. [Lori Houston, Assistant City Manager; Verónica R. Soto, Director, Neighborhoods and Housing Services]

Councilmember Sandoval moved to approve. Councilmember McKee-Rodriguez seconded the motion. The motion carried by the following vote:

Aye: Nirenberg, Bravo, McKee-Rodriguez, Viagran, Rocha Garcia, Castillo, Cabello
Havrda, Sandoval, Pelaez, Courage, Perry

City of San Antonio Fee Waiver Program Guidelines

Effective December 16, 2021

Section 1. Policy Statement

It is the policy of the City of San Antonio to encourage responsible development in the city. The City of San Antonio Fee Waiver Program specifically addresses these goals by encouraging the development and preservation of affordable housing, the rehabilitation of historic properties, and to foster business development. Fee Waiver Program applicants are highly encouraged to consider the goals and recommendations listed in the SA Tomorrow Comprehensive Plan, Strategic Housing Implementation Plan, and SA Climate Ready Action and Adaptation Plan before applying. The revised policy becomes effective December 16, 2021.

Section 2. Program Description

Eligible projects under this program may receive a full or partial waiver of City development fees and/or SAWS water and sewer impact fees. Fee waivers are funded by annual appropriations from the General Fund and from the San Antonio Water System, respectively. All fee waivers are subject to funding availability and are administered by the Neighborhood & Housing Services Department (NHSD). For a current list of fees that are eligible to be waived under this policy, please visit the COSA Fee Waiver Program website. Please note that the list may be revised periodically.

Section 3. Program Goals

Fee waivers will support the overall policy goals of the COSA Fee Waiver Program as outlined below:

- A. Support the creation and preservation of affordable housing citywide.
- B. Increase redevelopment of underutilized buildings through the rehabilitation, upgrade, and adaptive reuse of existing structures.
- C. Encourage the development and expansion of small businesses, legacy businesses, and targeted industry development projects.

Section 4. Eligibility

Fee waivers will support eligible projects through one of four (4) categories: Affordable Housing, Owner-Occupied Rehabilitation, Historic Rehabilitation, and Business Development. In no case shall City fee waivers or SAWS impact fee waivers exceed the total cost of fees incurred by the project. SAWS fee waivers shall not exceed the per-project maximums identified in Section 5, except where approved by City Council. Unless otherwise noted, criteria and waiver amounts for one category of the Fee Waiver Program will not apply to another category.

- 1. For the purposes of this program, a project is defined as a development on a contiguous property or properties consisting of new construction, rehabilitation, repair or maintenance of existing structures, or any combination thereof. A project may include multiple structures (e.g. a multifamily complex) or a single structure (e.g. a single-family house). For developments consisting of multiple phases on adjacent or nearby parcels, each phase may be considered one or multiple projects.
- 2. The following projects are NOT ELIGIBLE for fee waivers:

- a. Projects over the Edwards Aquifer Recharge or Contributing Zones that result in additional impervious cover (does not apply to residential projects that include at least 75 percent affordable housing units).
 - b. Projects within a FEMA-designated 100-year floodplain.
 - c. Religious or sectarian facilities.
 - d. Surface parking lots that are not part of a larger development or expansion project.
 - e. Publicly owned projects. This includes bond-funded projects and projects on military installations but excludes affordable housing.
 - f. Schools, including all public, private, and charter institutions.
 - g. Hotels, motels, pawn shops, nightclubs, bars, gun shops, liquor stores, tattoo parlors, tanning salons, tobacco/tobacco-like related establishments, specified financial institutions (see UDC Section 35-A101), gas stations, kiosks, sexually-oriented businesses, and non-permanent structures such as manufactured homes or food trucks.
 - h. Projects located outside the current city limits, including the extraterritorial jurisdiction and areas of limited-purpose annexation.
 - i. Projects that result in the displacement of existing residents.
3. Projects must be appropriately zoned for the intended use at the time the application is submitted. Fee waivers shall not be used to cover the cost of rezoning a property to allow for its intended use.
 4. For a period of five (5) years following Certificate of Occupancy or other appropriate proof of project completion, projects participating in this program shall not be eligible to receive a Short Term Rental permit that results in an entire unit being offered for rent on STR platforms such as Airbnb or VRBO.
 5. All projects consisting of rental housing that receive fee waivers through this program are subject to the Housing Voucher Incentive Policy, an ordinance adopted by City Council on May 13, 2021. See Ordinance 2021-05-13-0329.

A. Affordable Housing

Project eligibility shall be determined using the criteria below:

1. The project must include at least 50 percent affordable housing units.
 - a. For rental projects:
 - i. Affordable housing units in the project must be reserved for households earning at or below 60% of the Area Median Income (AMI) for the San Antonio-New Braunfels metropolitan area using HUD and/or TDHCA income limits as applicable, and priority will be given for housing developments that incorporate a minimum of 10 percent of total units reserved for households earning up to 30% of the Area Median Income (AMI).
 - ii. To qualify under this policy, rents charged for affordable housing units shall not exceed approximately 30% of the household's gross monthly income.
 - b. For-sale projects must include units reserved for households earning at or below 120% of the Area Median Income (AMI) for the San Antonio-New Braunfels metropolitan area using HUD and/or TDHCA income limits as applicable. To qualify under this policy, homes sold to income-qualified households must be the owner's primary residence.
 - c. For projects solely involving the construction of an accessory dwelling unit (attached or detached):

- i. Either the primary dwelling or accessory dwelling must be reserved for households earning at or below 80% of the Area Median Income (AMI) for the San Antonio-New Braunfels metropolitan area using HUD and/or TDHCA income limits as applicable. Rents charged for the affordable unit shall not exceed approximately 30% of the household's gross monthly income.
 - ii. Affordability as described in Section 2.A.1.c.i. above must be demonstrated for a minimum of five (5) years from the date a final Certificate of Occupancy is issued for the accessory dwelling. Section 4.A.2 below shall not apply.
2. All affordable rental housing units that receive fee waivers through this program must demonstrate affordability for a minimum of fifteen (15) years or be qualified through a local, state, or federal affordable housing program that includes a minimum affordability term and regular compliance requirements (e.g. Housing Tax Credits, HOME, etc.). For-sale units must demonstrate affordability to a qualified homebuyer at the time of sale and include a resale restriction for a minimum of five (5) years following the initial sale.
3. The unit mix of affordable housing units shall be comparable to the unit mix of any market-rate units provided in the same project (*for example, if 20 percent of market-rate units contain two bedrooms, 20 percent of affordable units shall also contain two bedrooms*). Projects solely involving the construction of an accessory dwelling unit (attached or detached) are exempt from this requirement.

B. Owner Occupied Rehabilitation

Project eligibility shall be determined using the criteria below:

1. Recipients of housing repair/rehabilitation programs administered by the Neighborhood and Housing Services Department (NHSD) or an eligible nonprofit organization are considered eligible under the Fee Waiver Program.
 - a. Eligible NHSD programs include, but are not limited to, Owner-Occupied Rehabilitation, Minor Repair, Under 1 Roof, and Green & Healthy Homes.
 - b. Eligible nonprofit organizations include, but are not limited to, certified Community Housing Development Organizations (CHDOs).

C. Historic Rehabilitation

Project eligibility shall be determined using the criteria below and will be confirmed by the Neighborhood & Housing Services Department with input from the Office of Historic Preservation as needed:

1. The project must qualify for the Local Tax Exemption for Substantial Rehabilitation, i.e. the property must be a national, state, or locally designated historic landmark or be located within a national or local historic district, and the owner must invest substantial rehabilitation efforts that prolong the life of the building.
2. For residential structures, the incentive must result in the property retaining its residential use. Commercial structures receiving fee waivers may remain commercial in use or may be converted to residential use. All improvements must be coordinated with the Office of Historic Preservation.

D. Business Development

Project eligibility shall be determined using the criteria below and will be confirmed by the Economic Development Department as needed:

1. Targeted Industry and exceptional project eligibility:
 - a. As defined in the Targeted Industry Development Section of the City's Economic Development Business Fee Waiver Program Guidelines.
2. Small business development eligibility:
 - a. As defined in the Small Business Section of the City's Economic Development Business Fee Waiver Program Guidelines.
 - b. Small business projects qualifying for the Legacy Business Program offered through the Office of Historic Preservation are also invited to apply for fee waivers in this category and are subject to the terms of the City's Economic Development Business Fee Waiver Program Guidelines.

Section 5. Waiver Amounts

City Fee Waivers are made available on an annual basis through the City's General Fund. For Fiscal Year 2022, funding is approved at \$1,990,000. These funds will be made available to projects meeting the criteria in this policy and divided by category according to the table below; the actual amount available to projects may be prorated based on the actual amount of City Fee Waivers available for the given fiscal year and categories may be adjusted, based on demand, with administrative approval by the Director of the Neighborhood & Housing Services Department. Up to 5% of the total Affordable Housing allocation may be reserved for specific project types defined in Section 4 with administrative approval by the Director of the Neighborhood & Housing Services Department. Up to 30% of the Owner-Occupied Rehabilitation and Historic Rehabilitation category may be reserved for eligible Historic Rehabilitation projects, based on demand, with administrative approval by the Director of the Neighborhood & Housing Services Department. All City Fee Waivers are subject to funding availability.

| Annual Funding Amount | Approx. Percentage | Project Category |
|------------------------------|---------------------------|---|
| \$1,270,000 | 64% | Affordable Housing |
| \$160,000 | 8% | Owner-Occupied Rehabilitation & Historic Rehabilitation |
| \$160,000 | 8% | Business Development – Small Business |
| \$400,000 | 20% | Business Development – Targeted Industry |

SAWS Fee Waivers have been made available to the City through Ordinance 2020-11-12-0829 that covers a five-year period from FY 2021 to FY 2025, in an annual amount of \$3,000,000.00. These funds will be made available to projects meeting the criteria herein and divided by category according to the table below; the actual amount available to projects may be prorated based on the actual amount of SAWS Fee Waivers available for the given fiscal year and may be adjusted based on demand with administrative approval by the Director of the Neighborhood & Housing Services Department. Up to 5% of the total Affordable Housing allocation may be reserved for specific project types defined in Section 4 with administrative approval by the Director of the Neighborhood & Housing Services Department. Up to 30% of the Owner-Occupied Rehabilitation and Historic Rehabilitation category may be reserved for eligible Historic Rehabilitation projects, based on demand, with administrative approval by the Director of the Neighborhood & Housing Services Department. All SAWS Fee Waivers are subject to funding availability.

| Annual Funding Amount | Approx. Percentage | Project Category |
|------------------------------|---------------------------|-------------------------|
| | | |

| | | |
|-------------|-----|---|
| \$2,000,000 | 67% | Affordable Housing |
| \$200,000 | 7% | Owner-Occupied Rehabilitation & Historic Rehabilitation |
| \$300,000 | 10% | Business Development – Small Business |
| \$500,000 | 16% | Business Development – Targeted Industry |

A. Affordable Housing

Projects meeting the Affordable Housing eligibility criteria per Section 4.A may receive fee waivers as follows:

1. City fee waivers granted under this Section 5.A are not limited in amount per project.
2. SAWS impact fee waivers granted under this Section 5.A.2 are limited to \$250,000 per project and at the following per-unit rates:
 - a. Up to 1.0 Equivalent Dwelling Unit (EDU) per residential unit meeting the eligibility criteria outlined in Section 4.A.
 - b. SAWS impact fee waivers will not be awarded to residential units not qualifying as affordable under this program.
3. SAWS impact fee waiver requests of more than \$250,000 require City Council approval.

B. Owner-Occupied Rehabilitation

Projects meeting the Owner-Occupied Rehabilitation eligibility criteria per Section 4.B may receive fee waivers as follows:

1. City fee waivers granted under this Section 5.B are not limited in amount per project.
2. SAWS impact fee waivers granted under this Section 5.B.2 are limited to \$10,000 or 1.0 Equivalent Dwelling Unit (EDU) per housing unit, whichever is lower.

C. Historic Rehabilitation

Projects meeting the Historic Rehabilitation eligibility criteria per Section 4.C may receive fee waivers as follows:

1. City fee waivers granted under this Section 5.C are not limited in amount per project.
2. SAWS impact fee waivers granted under this Section 5.C.2 up to 1.0 Equivalent Dwelling Unit (EDU) per residential unit or 100 percent of total impact fees incurred for commercial projects, up to \$150,000 per project.
3. SAWS impact fee waiver requests of more than \$150,000 require City Council approval.

D. Business Development

Projects meeting eligibility criteria may receive fee waivers as follows:

1. City fee waivers granted under this Section 5.D are subject to the terms of the Economic Development Business Fee Waiver Guidelines.
2. Targeted Industry and exceptional projects:
 - a. Eligible projects per Section 4.D.1 may receive SAWS impact fee waivers, up to a maximum waiver of \$150,000.
 - b. SAWS impact fee waivers exceeding \$150,000 awarded under this Section 5.D.2 require City Council approval.

3. Small business development:
 - a. SAWS impact fee waivers for small businesses will be determined based on the eligibility criteria in the Small Business Section of the Economic Development Business Fee Waiver Guidelines.

Section 6. Additional Requirements and Conditions

- A. All projects awarded waivers are subject to verification of project investment.
- B. SAWS impact fee waiver requests exceeding \$50,000 must be accompanied by an official SAWS Impact Fee Estimate. These can be obtained by contacting SAWS directly.
- C. Waivers are not retroactive. Reimbursements will not be granted for fees already paid.
- D. An administrative processing charge is required to activate any fee waivers awarded under this program, as outlined in the table below:

| Category | Administrative Processing Charge: City Fee Waiver | Administrative Processing Charge: SAWS Fee Waiver | Administrative Processing Charge: City AND SAWS |
|--|---|---|--|
| Housing (up to 12 total units), Historic Rehabilitation, Small Business, Legacy Business | \$100 | \$200 | \$300 |
| Housing (more than 12 total units), Targeted Industry | \$500 | \$500 | \$1,000 |

1. Exceptions.
 - a. Eligible participants in a repair/rehabilitation program administered by NHSD or an eligible nonprofit organization are exempt from this processing charge.
 - b. Applications submitted by owner-occupants in the Historic Rehabilitation category and will retain use of the property as their homestead are exempt from this processing charge.
 - c. Applications submitted by owner-occupants for the purpose of adding an accessory dwelling unit to their homestead are exempt from this processing charge.
 - d. For a subdivision consisting of multiple single-family lots and submitted in a single application for fee waivers, only one administrative processing charge shall apply.
- E. Fee waivers are valid for one year. Projects are limited to one (1) renewal per waiver type. A renewal fee of \$100 will apply for each renewal as defined in Section 6.D above.
- F. The processing charges outlined in Sections 6.D and 6.E above are non-refundable. No exceptions. This includes failure to use a waiver before it expires.

Section 7. Application Process

- A. Each applicant must complete an online application. Applicants may contact the Neighborhood & Housing Services Department (NHSD) for assistance if needed.
- B. Applications will be received by NHSD. Eligibility will be determined by the department responsible for the Fee Waiver category for which the application is received. NHSD will administer the issuance of Waiver IDs and all renewals.

- C. **Order of Priority – Affordable Housing:** To prioritize Affordable Housing projects that demonstrate the greatest need for fee waivers and provide the deepest levels of housing affordability, applications in the Affordable Housing category will be reviewed and approved in the following order. For any subcategory below (Section 7.C.a-f) for which funds are insufficient to award waivers to all eligible applicants, applications in that subcategory will be awarded via lottery.
- a. Projects that include a minimum of 10 percent of housing units reserved for households earning up to 30% of the Area Median Income (AMI) for the San Antonio-New Braunfels metropolitan area
 - b. Projects approved under one of the following state or federal affordable housing programs: Housing Tax Credits through Texas Department of Housing and Community Affairs (TDHCA); HOME, CDBG, and/or NSP funds through the U.S. Department of Housing and Urban Development (HUD); and American Rescue Plan Act funds (ARPA).
 - c. Projects being developed by a nonprofit organization, including Community Housing Development Organizations (CHDOs)
 - d. Projects consisting of twelve (12) or fewer total housing units, including projects solely involving the construction of an accessory dwelling unit
 - e. Projects located in a Regional Center or directly along a planned VIA Advanced Rapid Transit corridor or existing VIA service route
 - f. All other qualifying projects
- D. If approved, applicant will be notified and receive a Waiver ID which will be activated upon payment of the applicable administrative processing charge(s). Awardees in the Affordable Housing category will also be required to submit an Affordable Housing Acknowledgment form prior to activation of the waiver(s).
- E. Notifications are primarily through email. Alternative notification methods can be made by contacting NHSD.
- F. Upon activation, the Waiver ID can be presented to the appropriate staff person to waive the applicable development/impact fees.