CITY OF SANTA FE, NEW MEXICO
SHORT TERM RENTAL ORDINANCE

Adopted: Dec. 09, 2020
Ordinance No. 2020-35

Section 14-6.2(A)(5) SFCC 1987:

(5)

(a) Purpose and Intent

This section shall be known as the *Short-Term Rental Unit* Ordinance. The purposes of the *Short-Term Rental Unit* Ordinance are the following:

(i) to ensure that the operation of *short-term rental units* does not disrupt the character of the *city*'s residential neighborhoods or affect the quality of life of neighboring residents;

(ii) to prevent speculators from purchasing multiple homes for the purpose of operating multiple *short-term rental units*, thereby reducing the availability of long-term housing;

(iii) to allow residents who comply with the *city*'s *short-term rental unit* regulations the option of utilizing their homes and *accessory dwelling units* as *short-term rental units* to create wealth and generate supplemental income;

(iv) to minimize public safety risks associated with s*hort-term rental units*, such as higher traffic levels, parking issues, noise, litter, and other public nuisances; and

(v) to ensure that an *owner* or *operator* of a *short-term rental unit* follows applicable regulations, including the payment of all applicable fees and taxes.

(b) Short-Term Rental *Permit* or Registration Required

(i) An *owner* of a *short-term rental unit* must have a *city*-issued business license and either a short-term rental *permit* or a short-term rental registration, as set forth in subsections 14-6.2(A)(5)(c) and (d).

(ii) An *owner* or *operator* shall not operate, rent, offer to rent, or advertise a *short-term rental unit* without a valid *permit* or registration.

(iii) A *city*-issued *permit* or registration number must be included in all advertising of a *short-term rental unit*, including listings on a *host platform*.

(c) *Permit*; *Residentially Zoned Property*.

(i) *Permit*. A *short-term rental unit* on *residentially zoned property* requires a *city*-issued *permit*.

(ii) One thousand (1000)-*Permit* Limit. The *land use director* shall issue a maximum of one thousand (1000) short-term rental *permits*. The land use department shall process *applications* in the order of receipt and shall issue new *permits* in the order that complete *applications* are received. If the number of *permits* reaches the one thousand (1000)-*permit* limit, then the land use department shall stop processing *applications* and shall add *applicants* to a waiting list until a

permit becomes available. If an *applicant* waits on the list for a year or longer, the *land use director* may require the *applicant* to indicate a continued interest in remaining on the list.

(iii) One (1) *Permit* per Natural Person Limit. The *land use director* shall issue *permits* to *natural persons* only, and each *natural person* may possess a maximum of one (1) *permit*. If the subject *property* is owned by a legal or business entity, the *permit* must be held in the name of a person with legal authority to act on behalf of that entity. The fact that a *permit* must be issued to a *natural person* does not mean that the *property* cannot be titled in such entities as a revocable trust, an LLC, or a corporation. The *land use director* shall not issue *permits* to *dwelling units* that are comprised of multiple, time-divided ownership interests, provided, however, that certain *dwelling units* may be eligible to maintain short-term rental registrations, as set forth in subsection 14-6.2(A)(6)(b).

(iv) *Permit* Not Transferrable. A *permit* is not transferable to another person or *property*. Upon the transfer of ownership of a *short-term rental unit*, the short-term rental *permit* shall terminate and revert to the land use department. If the new *owner* wishes to use the *property* as a *short-term rental unit*, the *owner* shall submit a new *application* to the land use department. A transfer that does not result in new ownership of the *property*, such as a transfer to the owner's revocable trust for estate planning purposes or a transfer to an LLC where there is no change in the ownership interest in the *property*, does not constitute a transfer for purposes of this subparagraph. Upon the death of the *permit* holder, the *permit* may be transferred to the *permit* holder's spouse or domestic partner if the spouse or domestic partner submits a written request to the *land use director* within ninety (90) days after the *permit* holder's death, the spouse or domestic partner owns or will own the *property* upon the settlement of the *permit* holder's estate, and the spouse or domestic partner does not already hold a short-term rental *permit*.

(v) Frequency of Rental. A permitted *short-term rental unit* shall not be rented more than once within a seven (7)-day period. The limitation set forth in this subparagraph shall not apply to rentals that begin between November 15 and January 15.

(vi) Proximity. Subject to the exceptions listed below, the *land use director* shall not issue a new *permit* for a *short-term rental unit* if the subject *property*, as identified in the *application*, is located within a fifty (50)-foot radius of a *residentially zoned property* that has a permitted *short-term rental unit*. The radius shall be measured from the subject *property* boundary. This limitation shall not apply to the following:

> (A) an *application* for a *short-term rental unit* that complies with the requirements set forth in the *accessory dwelling unit* ordinance, subsection 14-6.3(D)(1);
>
> (B) an *application* for a *short-term rental unit* in a *multiple-family dwelling development* that contains four (4) or more *dwelling units*, provided, however, that the *land use director* shall not issue short-term rental *permits* for more than twenty-five (25%) of such *dwelling units*, rounded down to the nearest whole number, and shall not issue more than twelve (12) short-term rental *permits* within a single building within a *multiple-family dwelling development.*

(d) Registration; Non-*Residentially Zoned Property*.

(i) Registration. A *short-term rental unit* on non-*residentially zoned property* requires a *city*-issued registration.

(ii) Proximity. The *land use director* shall not issue more than twelve (12) short-term rental registrations within a single building within a *multiple-family dwelling development.*

(e) General Provisions

Unless otherwise stated, the following general provisions apply to all short-term rental units.

(i) A *short-term rental unit* must have a local *operator* that is available twenty-four (24) hours per day, seven (7) days per week, to respond to complaints regarding the operation or occupancy of the *short-term rental unit*. The *operator* must be accessible by telephone and able to be physically present at the *short-term rental unit* within one (1) hour of being contacted.

(ii) An *owner* of a *short-term rental unit* shall provide *off-street parking* on site as follows:

(A) one (1) bedroom, one (1) parking space; and

(B) two (2) or more bedrooms, two (2) parking spaces.

(iii) A *short-term rental unit* must meet all applicable building, fire, and safety codes, and all toilets, faucets, and shower heads must meet the water conservation requirements described in Section 25-2.6 SFCC 1987.

(iv) Prior to issuance of a *permit* or registration, a *short-term rental unit* must have a *certificate of occupancy* to ensure compliance with all applicable codes.

(v) At or before the time of *application* for a *permit* or registration, the *owner* of a *short-term rental unit* must also apply for and obtain a business license under Section 18-1 SFCC 1987.

(vi) An *owner* or *operator* shall not allow *guests* to park recreational vehicles on site or on the street.

(vii) *Short-term rental units* located on *residentially zoned property* shall be used exclusively for residential purposes and shall not be used for commercial activities or events, defined as intending to make money, offering goods or services for sale, or conducting any other event or activity that is not residential in nature. An activity "not residential in nature" includes gatherings in excess of two (2) times the number of legally allowed *guests* in the *short-term rental unit*, unless the activity or event is otherwise permitted by the *city*.

(viii) The total number of *guests* that may occupy a *short-term rental unit* is twice the number of bedrooms.

(ix) Noise or other disturbance emitted from a *short-term rental unit* is prohibited after 10:00 p.m., including noise or disturbances emitted from decks, portals, porches, balconies, or patios.

(x) The *owner* or *operator* of a *short-term rental unit* shall notify all guests in writing of relevant *city* ordinances, including the *city*'s nuisance and water conservation ordinances. All *guests* shall comply with all relevant *city* ordinances.

(xi) The *owner* shall pay all applicable local, state, and federal taxes, including lodgers' tax, gross receipts tax, and income tax.

(f) *Application* for a Short-Term Rental *Permit* or Registration

An *applicant* shall submit an *application* for a short-term rental *permit* or registration that includes the following information and documentation:

(i) the name and phone number of the local operator;

(ii) *owner* and *operator*, affirming that they will operate the *short-term rental unit* in compliance with this subsection 14-6.2(A)(5) and all other applicable laws, *city* codes, and private covenants; and that no private covenants prohibit the operation of the *short-term rental unit*; and

(iii) additional information, documentation, and submittals as required by the *land use director*.

(g) *Permit* and Registration Renewals

(i) Unless revoked pursuant to section 14-11.4, an *owner* may renew a short-term rental *permit* or registration annually.

(ii) An *application* filed on or after January 1, 2022 for renewal of a *permit* or registration shall include the records required by subparagraph 14-6.2(A)(5)(k) for the previous one (1) year.

(iii) An owner must renew a short-term rental *permit* or registration and the associated business license by March 15 of each year. If a *permit* or registration is not renewed by March 15, the owner may pay a late fee of fifty dollars ($50) to extend the time for filing to renew to April 15. If a *permit* is not renewed by its expiration date, including any thirty (30) day extension, then the *permit* will revert to the land use department and will become available to the next eligible *applicant* on the waiting list, if any. An *owner* whose *permit* or registration has expired may submit a new *application* for a short-term rental *permit* or registration to the *land use director*. Issuance of a new permit is subject to the availability of *permits*.

(h) Fees for *Short-term Rental Units*

The following fees shall be used only to administer, manage, and enforce this subsection 14-6.2(A)(5) and relevant sections of Chapter 18 SFCC 1987, which address applicable licenses and taxes.

(i) *Application* fee. An *application* for a new short-term rental *permit* or registration shall be accompanied by a one-time non-refundable *application*, processing, and inspection fee of one hundred dollars ($100).

(ii) Business license fee. A *short-term rental unit* is subject to an annual business license fee of thirty-five dollars ($35).

(iii) *Permit* fee. A *short-term rental unit* on *residentially zoned property* is subject to an annual *permit* fee of two hundred and ninety dollars ($290).

(iv) Registration fee. A *short-term rental unit* on non-*residentially zoned property* is subject to an annual registration fee of two hundred and ninety dollars ($290).

Annual Permit and Registration Fees*		
Short-term Rental Type	**Permit Fee per Unit**	**Registration Fee per Unit**
§14-6.2A(5)(b)(i) — Accessory Dwelling Units	$290.00	N/A
§14-6.2A(5)(b)(ii) — Resort Units	N/A	$290.00
§14-6.2A(5)(b)(iii) — Residential Units	$290.00	N/A
§14-6.2A(6) Non-Residential Districts and §14-6.2A(7) — Commercial Districts	N/A	$290.00
Initial Application and Processing Fee (one-time)	$100.00	
*The annual permit fee shall not be prorated for a portion of the year.		

(i) Inspections

The *city* shall perform an inspection prior to the issuance of an initial *permit* or registration to ensure compliance with subsection 14-6.2(A)(5) and all applicable fire, health, and safety requirements; and may, upon notice to the *owner*, perform additional inspections as warranted. To obtain a short-term rental *permit* or registration, a *dwelling unit* must meet the following requirements:

(i) fire evacuation plan;

(ii) carbon monoxide detection;

(iii) smoke alarms in all bedrooms;

(iv) fire extinguishers on each floor;

(v) no storage of combustible materials in mechanical, boiler, or electrical rooms;

(vi) fireplace or wood stove must have non-combustible ash receptacle outside the *dwelling unit*; and

(vii) address numerals must be at least four (4) inches tall, with one-half inch stroke width, in contrasting color, visible from the street.

(j) Required Notice for Short-term Rental *Permits*

(i) Within ten (10) days after the issuance or renewal of a short-term rental *permit*, the *owner* or *operator* shall mail notices by first-class mail to the homeowners association within which the unit is located (if applicable); to the *owners* of *residentially zoned property* within two hundred (200) feet of the subject *property*, exclusive of rights of way, as shown in the records of the county assessor; to the physical addresses of such properties where such address is different than the address of the *owner*; and to the land use department.

(ii) The notices shall be on a form approved by the *land use director*.

(iii) The notices shall contain the name and phone number of the local *operator*. Within ten (10) days after any change in the contact information for the local *operator*, the *owner* or *operator* shall mail a new notice to all parties entitled to notice.

(iv) Within ten (10) days of the mailing, the *owner* or *operator* shall provide the *land use director* with copies of all required mailing lists and an affidavit of mailing signed by the person who mailed the notices.

(k) Records

Each *owner* or *operator* shall maintain records for the *owner's short-term rental unit* for at least the most recent three (3) years for the *owner's short-term rental unit* or units and shall make such records available to the *city* for inspection upon request. The records that must be maintained for each *short-term rental unit* include the following:

(i) For a *short-term rental unit* located on *residentially zoned property*, the starting date of each reservation and the number of nights rented for each reservation;

(ii) For all *short-term rental units*, the amount of rent guests paid by month; and

(iii) For all *short-term rental units*, the amount of each type of tax and fee the owner paid to the *city* in connection with rental of the unit by month.

(l) Violations and Penalties

If an *owner* or *operator* fails to obtain the necessary *permit* or registration before renting, offering to rent, or advertising a short-term rental unit; fails to pay or report applicable taxes; or otherwise fails to adhere to the provisions of subsection 14-6.2(A)(5), the *owner* or *operator* shall be subject to the enforcement provisions set forth in Sections 1.3 and 14-11 SFCC 1987 and all other legal remedies and enforcement actions available under the law. These may include civil or criminal penalties or revocation of a short-term rental *permit* or registration.

(m) Restrictive Covenants

Private restrictive covenants, enforceable by those governed by the covenants, may prohibit *short-term rental units*.

(n) Real Estate Disclosure

A real estate broker listing *property* in Santa Fe shall provide prospective buyers with a current copy of this ordinance.

(o) Host Platforms.

(i) A *host platform* shall require an *owner* or *operator* of a *short-term rental unit* to include a *city*-issued *permit* or registration number in all listings or advertisements for a *short-term rental unit*.

(ii) Upon notice from the *city* that a *permit* or registration number on a *short-term rental unit* listing is invalid, the host platform shall deactivate that listing within five (5) business days.

(iii) A *host platform* shall provide a monthly report to the *city* that includes the web address (URL) for each *property* listed on the *host platform*, together with the *permit* or registration number associated with that URL.

(6) Existing Short-Term Rental *Permits* and Registrations

(a) Short-term rental *permits* and registrations held at the time the ordinance amending subsection 14-6.2(A) SFCC 1987 (Ordinance No. 2020-35) is adopted remain valid and are not subject to the limitations on proximity set forth in subsection 14-6.2(A)(5)(c) or (d) or the limit of one *permit* per natural person set forth in subsection 14-6.2(A)(5)(c)((iii). The *owner* does not need to renew those *permits* or registrations until they expire. Upon expiration, and in subsequent years, the *owner* is eligible to timely renew the *permits* or registrations pursuant to subsection 14-6.2(A)(5)(i), subject to compliance with applicable requirements of subsection 14-6.2(A)(5) and payment of required fees.

(b) A *short-term rental unit* that is validly permitted or registered at the time the ordinance amending subsection 14-6.2(A) SFCC 1987 (Ordinance No. 2020-35) is adopted and that either is located within a *development containing resort facilities* or is comprised of multiple, time-divided ownership interests may continue to operate as a *short-term rental unit* as provided in this subparagraph. Such units are not subject to the limitations on proximity set forth in subsection 14-6.2(A)(5)(c) or (d) or the limit of one (1) *permit* per natural person set forth in subsection 14-6.2(A)(5)(c)((iii). Upon expiration of the existing *permit* or registration and in subsequent years, the *owner* is eligible to timely file a renewal *application* and to obtain a short-term rental registration for the following year. Eligible units shall be issued a short-term rental registration, not a *permit*, regardless of whether the unit is located on residentially or non-*residentially zoned property*, subject to ongoing compliance with applicable requirements of subsection 14-6.2(A)(5) and payment of applicable fees.

(7) *Dwelling Units* in Specified Commercial Districts

In the C-2 and SC Districts, *dwelling units* do not include mobile homes or recreational vehicles and shall be one of the following:

(a) *accessory dwelling units* for occupancy only by *owners*, employees, or tenants of nonresidential uses that are operated on the same premises;

(b) part of a planned development;

(c) part of a use for which a development plan or special use *permit* is required; or

(d) part of a qualifying residential project within the Midtown LINC Overlay District.

12-2.3 Annual fire inspections.

The following types of occupancies, as defined by the International Building Code, shall require an annual inspection by the fire department for compliance with the fire code of the *city* of Santa Fe.

A. Group A-1 occupancies (assembly occupancies including, but not limited to, motion picture theaters, and symphony and concert halls, theaters);
B. Group A-2 occupancies (assembly occupancies including, but not limited to, banquet halls, night clubs, restaurants, taverns, and bars);
C. Group E occupancies (occupancies for educational purposes);
D. Group M occupancies, or greater, (mercantile occupancies including, but not limited to, department stores, drug stores, markets, motor fuel-dispensing facilities, retail or wholesale stores, sales rooms); and
E. Group R-1 occupancies (residential occupancies where the occupants are primarily transient in nature including, but not limited to, boarding houses, hotels, and motels).

DEFINITIONS:

DEVELOPMENT CONTAINING RESORT FACILITIES, SHORT-TERM RENTAL
A *development* in which the *owners* own two (2) or more of the following facilities in common and have obtained a special use *permit* for operation of those facilities: swimming pools, spa facilities, golf courses, restaurants, or tennis facilities.

GUEST, SHORT-TERM RENTAL
Any person who rents a *short-term rental unit* or occupies a *short-term rental unit* during a rental period.

HOST PLATFORM, SHORT-TERM RENTAL
An internet website, a mobile application, or any other forum used to connect a short-term rental *owner* or *operator* with guests and to facilitate the booking of a *short-term rental unit*.

NATURAL PERSON
An individual human being, as opposed to an organization of any form or a business entity.

OPERATOR, SHORT-TERM RENTAL
A person who, with or without a short-term rental *permit* or registration, rents or offers to rent a *short-term rental unit* to guests.

SHORT-TERM RENTAL UNIT
A *dwelling unit* or *accessory dwelling unit*, or any portion of a *dwelling unit* or *accessory dwelling unit*, that is offered for rent or rented for a period of less than thirty (30) days.

Exhibit A

General Requirements for Short Term Rental Units

	Accessory Dwelling Unit	Residentially Zoned Unit	Resort Unit	Non-Residentially or Commercially Zoned
No more than one rental within a seven day period	X	X	X	X
Off street parking on site: one bedroom – one parking space; two bedrooms – two parking spaces	X	X	X	X
Meet all applicable building and fire life safety codes	X	X	X	X
Toilets, faucets and shower heads meet water conservation are in accordance with 25-2.6 SFCC 1987	X	X	X	X
Total number of persons that may occupy unit is twice the number of bedrooms	X	X	X	X
Noise outside unit is prohibited after 10:00 PM	X	X	X	X
Owner/Operator shall notify occupants in writing of relevant city ordinances, including nuisance and water conservation ordinances	X	X	X	X
Owner/operator shall pay all applicable local, state and federal taxes	X	X	X	X
Owner/operator shall make available to the City for inspection all records related to operation of the short term rental unit	X	X	X	X
Owner/operator shall report to the Land Use Department on a monthly basis, on a form provided by the city	X	X	X	X
Provide proof of adequate property insurance at time permit is issued/renewed and maintain such insurance	X	X	X	X

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Disclaimer: This Short Term Rental Ordinance may be amended by the Governing Body from time to time. For questions or to ensure that you have the most recent version of the Ordinance, please contact the City of Santa Fe Land Use Department at 955-6647 or 955-6324.

Client Initials Date _____

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Client Initials Date _____

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