City of Santa Fe, New Mexico

memo

DATE: January 10, 2016

TO: The Mayor and Governing Body

VIA: Randy Randall, Executive Director Tourism Santa Fe
Lisa Martinez, Director, Land Use Department

FROM: Noah Berke, CFM, Senior Planner, Current Planning Division

At the September 30, 2015 Regular Meeting of the Governing Body of the City of Santa Fe, Resolution number 2015-89 was passed. The resolution called on City Staff to analyze the current Land Development Code and make recommendations with respect to short term rentals. The purpose of this paper is to address the requests of the Governing Body and provide recommended changes to the existing Short Term Rental Ordinance.

This resolution stated there has been an increased demand and popularity for short term rentals; there appears to be many unpermitted short term rentals being offered through online sources; unpermitted short term rentals do not contribute lodgers' or gross receipts tax, and the fiscal 2014 Lodgers' Tax Agreed-upon Procedures Report by Barraclough & Associates, P.C. recommended: "The City of Santa Fe should reconcile the number of licenses for short term renters with those paying taxes. The City of Santa Fe should reevaluate the limit on short term licenses of 350 to ensure that this number is still appropriate today."

Southwest Planning, LLC researched and analyzed information from Airbnb, VRBO, HomeAway, FlipKey, and Rent by Owner. This analysis notes that Rent By Owner and Airbnb were not quantifiable due to lack of property/owner information being provided:

Rental Organization	Number of Rentals Listed
Airbnb	612
VRBO	616
Home Away	557
FlipKey	300
Rental By Owner	658
	2743

Southwest Planning performed their research and analysis over the summer of 2015. The methodology utilized by Southwest Planning is defined in attachment Exhibit B of this packet. The analysis and data provided in the following chart is from the properties that could be identified and duplicates removed, however it does not include the 1270 rentals listed on Airbnb and Rent By Owner:

Total Properties Researched	1,473
Total Properties after Duplicates were Removed	817
Total Properties That Could Not Be Identified (NA)	78
Total Properties with Short Term Rental License	330
Total Properties without Short Term Rental License	487
Total Properties Obligated to Pay Lodger's Tax	280
Total Properties Paying Lodger's Tax	52

Reconciling the total number of rentals available in Santa Fe is somewhat of a challenge, as many owners list their rental on multiple sites which makes it hard to evaluate duplicate listings; however, staff research and the report by Southwest Planning supports the belief there are many more than 600 short term rentals being offered without permits despite the limitation of 350 permits in the current ordinance. Southwest Planning's report was able to eliminate some of the duplicate property listings and verify some of the properties that were paying taxes and have a valid Short Term Rental permit (Exhibit B). For the purpose of this analysis we have used the conservative assumption of 600 additional, non-permitted short term rentals.

Staff further compared this data to the permitted short term rentals on file with the City of Santa Fe. Staff was unable to pinpoint whether all of the data collected from the online rental organizations is permitted or unpermitted, as many of the online organizations do not provide exact addresses of the rentals listed. However, staff was able to conclude the total number of rentals from all the online rental organizations exceeds the total number of permitted short term rentals by a significant number.

Staff researched several cities around the United States to see how regulation of short term rentals differs from the current City of Santa Fe short term rental ordinance. Staff researched Sedona AZ, Vail CO, Austin TX, Bend OR, Truckee CA, Malibu CA, and San Francisco CA. The following provisions are the primary differences between how several other cities regulate short term rentals versus the City of Santa Fe regulations:

1.) Other cities do not impose caps on number of short term rentals permitted.
2.) Other cities do not attempt to restrict the number of arrivals per week or the number of rentals per year as this is determined to be a generally

unenforceable restriction.

3.) Other cities impose penalties for non-compliance with short term rental ordinances.
4.) Other cities require all short term rentals in all zoning districts to obtain short term rental permits and pay appropriate taxes.
5.) The cities that were researched are unable to associate amounts of Short Term Rentals with the amount of available long term housing. An area of concern for larger cities, such as San Francisco and New York, has been that short term rentals take away from the available long term rental housing market. Staff believes that many of the people with short term rentals prefer to rent out a room or two rooms in their homes for less than 30 days because it provides more rental income than renting it out long term.
6.) After researching other cities, staff was unable to find correlation between lack of affordable housing and short term rentals. Short term rentals tend to be located in areas of the communities with higher tourism.

In response to Resolution 2015-89, staff has studied and analyzed data available to answer the Governing Bodies' requests regarding the following:

1.) *The amount of short term rentals, including both permitted and unpermitted, believed to be offered and used within Santa Fe.*

The City of Santa Fe currently has 418 short term rentals that are licensed and have paid the appropriate license and permitting fees. The difference between the 350 short term rental permits allowed by the current ordinance and the number issued is due to the provision that properties on contiguous lots owned by the same property owner are also permitted. Staff believes, based on staff research and the report by Southwest Planning, that there are in excess of 600 unpermitted short term rentals operating in the City of Santa Fe.

2.) *The revenue lost to the City by means of gross receipts tax and lodgers' tax.*

In the fiscal year of 2014-2015, the City of Santa Fe collected $136,580 from license and permit fees and $465,502 in short term rental lodgers' tax. Lodgers' tax is 7% of the revenue generated by the short term rentals and gross receipts tax is 8.1% (2014-2015). Each short term rental permit and license fee averages $326.75 using the current variable fee structure. Based on this fee, the 600 short term rentals not currently paying taxes would generate an additional $671,882 in lodgers' tax, $195,309.40 in license and permitting, and $796,661 in GRT.

A third party analysis (Southwest Planning) of the short term rental situation in Santa Fe confirms that these numbers are both conservative and realistic. Their report (see attached), suggests the loss of revenue to the city in lodgers' tax could exceed $2.5 million. The Southwest Planning report makes some very aggressive assumptions as to rate and occupancy, both of which are unknown factors in our own current data collection process.

It should also be noted the short term rental tax collections for the first four months of the fiscal year 2015-2016 is 22.3% ahead of the prior fiscal year. If this trend continues, the estimated lost revenue increases by $150,000 for lodgers' tax and $178,000 for GRT.

3.) *The violations of the current ordinance, the City's response to the violations, and how the City can encourage greater compliance.*

The staff analysis of online rental organizations provides evidence of the violations of the current ordinance. There appears to be a large disparity between the amount of short term rentals advertised on the online sites and how many permits have been issued by the City for short term rentals. Compliance with the short term rental ordinance requires higher penalties, increased management support and more strict enforcement. However, if more permits are made available, enforcement increased, and penalties heightened, owners and operators are more likely to come into compliance.

During the period from January 1, 2008 when the short term rental ordinance was put into place until the present, there have been 93 recorded complaints and violations. In the current version of the Short Term Rental Ordinance, strict penalties do not exist to encourage compliance. The short term rental compliance officer estimates that this represents about 50% of the total volume of complaints over time. An analysis of the recorded complaints is as follows:

Complaint	Number	Percent
Too many people in rental	10	10.8%
Too many rentals per year/week	2	2.2%
Neighborhood Notice	10	10.8%
No Insurance	9	9.7%
Permit/Listing/advertising	27	29.0%
No Fire Inspection	1	1.1%
Nuisance/other	7	7.5%
No permit	27	29.0%
	93	

4.) *The staff required to provide necessary enforcement.*

In the current operation of the short term rental ordinance, enforcement is provided by one individual in the Land Use Department and collections are completed through the Finance Department. One individual is needed to manage and oversee all aspects of the short term rental program; an additional enforcement officer would also be needed. The total operational costs for the short term rental program are estimated to be $350,000 annually. There will be

an estimated $279,000 in salary and benefits, and $71,000 in operating expenses. There will be one-time startup costs of $61,000. Additional revenue collected from new licenses and Lodgers' Tax would be used to fund staffing, enforcement, and managerial operations.

5.) *The penalty structure for operating without a business license and short term rental permit.*

Staff recommends a strict penalty structure for operating without a short term rental permit. The first violation would carry an initial $500 penalty and would include 14 business days for the rental owner to comply with the ordinance and obtain permits. If action is not taken and the violations continue, then a $250 per day penalty would be assessed and the city would have the authority to put a lien on the property.

6.) *Changes to the code that would produce increased efficiency in operation and regulation, and greater compliance with adopted regulations.*

1. There is a demand for short term rental permits that is not met by the current regulations due to a limited number of permits. There is a current waiting list of 67, for short term rental licenses, but as already documented, it appears there are over 600 short term rentals being offered and most owners are simply operating without a permit, due to limited permits and the inability to enforce the cap. Staff recommends the ordinance be changed from 350 licenses to having no limitation of licenses. However, should the Council wish to keep a limitation on licenses; then staff would recommend 1000 licenses. The removal of the cap would appear to satisfy the demand for more short term rentals and encourage greater compliance with the ordinance. It is further recommended to require all short term rental owners to register with the city (as required in section 18-11.6 of the Lodgers' Tax Ordinance) and obtain proper licenses and permits.

2. The changes are recommended for a period of 18 months to examine if the increase in licenses results in greater compliance with the ordinance. Staff would deliver a report in 18 months to the Mayor and Governing Body which would outline short term rental permits issued, compliance and enforcement operations and recommendations moving forward.

3. Create a Short Term Rental Task Force or Advisory Committee made up of City Councilors, City Officials, Neighborhood Representatives, Realtors, Tourism Industry Representatives, and Lodgers' Group Representatives to meet monthly throughout the next 18 months. This group will compile data and deliver a report to the Mayor and Governing Body at the end of the 18 month period.

4. Eliminate the current restrictions of 17 rentals per year maximum and no more than one rental allowed within a 7 consecutive day period. These are basically unenforceable by the city and complicate the administration of the short term rental ordinance.

5. Change the structure of the permit fees to a flat $325 per permit plus an initial application and processing fee of $100. This would change the current fee schedule as shown below:

Annual Permit Fees*		
Short-term Rental Type	**Current Fee**	**Proposed Fee**
§14-6.2A(5)(b)(i) — Primary Residence; 2 rental periods per year	$0.00	$325.00
§14-6.2A(5)(b)(ii) — Accessory Dwelling Units	$175.00	$325.00
§14-6.2A(5)(b)(iii) — Unit(s) on Contiguous Lot	$175.00	$325.00
§14-6.2A(5)(b)(iv) — Resort Units	$150.00	$325.00
§14-6.2A(5)(b)(v) — Residential Units	$350.00	$325.00
*The annual permit fee shall not be prorated for a portion of the year.		$325.00 *Fees apply to all properties in all Zoning Districts.

6. Provide a 90 day grace period to allow short term rental owners to come into compliance without being subject to penalties. Staff would undertake public notices such as press releases and media advertisements, and perform an enforcement operation to alert violators of the ordinance to obtain proper permits.

7. Add a late fee charge of $50 to short term rental permit owners who fail to renew on time. The charge will allow them 30 days to renew after March 15.

8. Clarify that there are no transfers of Short Term Rental Permits. If a

property owner sells a property where a Short Term Rental Permit has been given; the Short Term Rental Permit is returned to the City of Santa Fe and therefore does not stay with the property or owner.

9. Include a refund fee within the ordinance so if a short term rental owner applies and is granted a short term rental permit, but decides to not pursue the permit and requests a refund, the administrative cost for refunds be $100.00.

10. All short term rentals, located in all zoning districts of the City, are required to obtain a permit and pay registration, permitting, and license fees. This would change current provisions for commercial districts.

11. All short term rentals, regardless of zoning district within the City be required to pay lodgers' tax and gross receipts tax.

12. Enforcement penalties' be increased as suggested in this report. The first violation would carry an initial $500 penalty and would include 14 business days for the rental owner to comply with the ordinance and obtain permits. If action is not taken and the violations continue, then a $250 per day penalty would be assessed and the city would have the authority to place a lien on the property. These penalties would encourage greater compliance with the short term rental ordinance.

13. Short term rental owners, who have a valid license and fail to correct violations or pay proper taxes; risk loss of license in addition to the penalties' listed.

14. The Lodgers' Tax Ordinance be revised to include a definition of "room" as recommended by the City Attorney to allow staff to address with the issuance of exemptions.

15. All short term rental owners are required to register their property. As part of the registration the owner will be required to identify where they market their rental and apply for an exemption on the collection of the lodgers' tax if they are entitled to this under the provisions of the Lodgers' Tax Ordinance. Without an approved exemption, all short term rental owners will be required to collect and remit lodgers' tax

16. After initial licensure, and for each renewal consider requiring a notarized self-compliance statement by the owner with regard to fire, health and safety issues. This would include proof of service for all fire safety devices including fire extinguishers and smoke detectors. City would perform random inspections.

17. Execute a Voluntary Collection Agreement with Airbnb. The City and Airbnb are currently negotiating a Voluntary Collection Agreement

where Airbnb will collect and remit Lodgers' Tax on behalf of their hosts (rental owners). The agreement will provide for an audit opportunity to ensure that all taxes are being properly collected and submitted. The agreement would not address GRT collection as this is the City's responsibility and further, cannot include taxes submitted to the State. We anticipate having a finalized agreement for Governing Body approval within the first quarter of 2016.

A similar agreement with most other referral sites is not probable as those sites do not typically collect rents on behalf of the owner.

18. Add a provision to the Short Term Rental Ordinance that the City will not issue a Short Term Rental Permit for properties that are located in an area where legally binding covenants by a registered Home Owner's Association do not allow for short term rentals. The Short Term Rental Application will be revised to include a question asking if there are any covenants that do not allow for short term rentals.

19. Add a line to the application that requires the applicant to list where they advertise or market their short term rental.

20. Require licensed short term rental owners to include their permit number in all marketing or advertising for their short term rental. This will enable staff to verify legal short term rentals being advertised.

21. Staff will modify administrative procedures regarding the implementation of the ordinance in accordance with approved changes.

ACTION REQUEST:

Staff requests that the Mayor and Governing Body provide specific direction on the recommendations made in this report.

ATTACHMENTS:

EXHIBIT A:
2014 Lodgers' Tax Agreed-upon Procedures Report by Barraclough & Associates, P.C

EXHIBIT B:
Southwest Planning Report

EXHIBIT C:
Map of Permitted Short Term Rentals and Unpermitted Short Term Rentals

EXHIBIT D:
Current Short Term Rental Ordinance with proposed changes

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2016-__

INTRODUCED BY:

AN ORDINANCE

AMENDING SECTION 14-6.2 OF THE LAND USE DEVELOPMENT CODE TO REMOVE CERTAIN LIMITATIONS ON SHORT-TERM RENTAL DWELLING UNITS; AMENDING THE FEE SCHEDULE FOR A SHORT-TERM RENTAL PERMIT; AND REQUIRING THAT PERMIT HOLDERS PAY ALL APPLICABLE TAXES OR BE SUBJECT TO CERTAIN PENALTIES.

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

Section 1. Subsection 14-6.2 of the Land Use Development Code (being Ord. #2011-37 (as amended)) is amended to read:

14-6.2 USE-SPECIFIC STANDARDS

(A) Residential Uses

(1) Continuing Care Community

(a) Density

Independent *dwelling units* are subject to the *density* standards of the district in which the *continuing care community* is located.

(b) Compliance with state and federal law

Continuing care communities must comply with all applicable *state* and federal laws and regulations.

(2) Mobile Home, Permanent Installation

In any district in which permanent single-*family* occupancy of a *mobile home* on an individual *lot* is allowed as a special use *permit* by the board of adjustment, the following minimum standards apply:

(a) the *mobile home* shall be anchored to a concrete foundation and skirted as specified by the *land use director*;

(b) the rental or lease of *mobile homes* used as single-*family* residences on individual *lots* is prohibited; and

(c) minimum requirements for *lot* size, *front, side and rear yards*, and all other standards pertaining to single-*family residential* land use set forth in Chapter 14 apply.

(3) Mobile Home Park

(a) Applicability

New *mobile home parks* are prohibited as of December 10, 2012 (effective date of this Ordinance No. 2012-37). In a district in which *mobile home parks* are allowed, the minimum standards set out in this section apply.

(b) License

Prior to beginning operation, a *mobile home park* owner or operator must obtain a business license from the *city* under the provisions of Article 18-1 SFCC 1987.

(c) Inspection

The *city* may inspect a *mobile home park* for conformance with the provisions of this section.

(d) Transfer of License

The *city* may issue a transfer of the license only after the following:

(i) *application* in writing for transfer of a license and payment of the transfer;

(ii) an inspection report by the *land use director* has been submitted to the *governing body*, stating conformance or nonconformance with the provisions of this section;

(iii) approval by the *governing body*.

(e) Revocation of License

The *governing body* may revoke a license to maintain and operate a *mobile home park*, as provided in Article 18-1 SFCC 1987 when the *licensee* has violated any provision of this section.

(f) Posting

The license certificate shall be conspicuously posted in the office of or on the *premises* of the *mobile home park* at all times.

(g) Standards

Mobile home parks shall comply with the standards set forth in Subsection 14-7.2(1).

(4) Manufactured Homes

Manufactured homes:

(a) are permitted in any district in which site-built, *single-family dwellings* are allowed;

(b) shall meet all requirements of other site-built, *single-family dwellings* in the same district and all applicable historic or aesthetic standards set forth in Chapter 14; and

(c) shall be constructed according to the Manufactured Home Construction and Safety Standards, 24 CFR Section 3280.

(5) Short-Term Rental of Dwelling Units – Residentially Zoned Property

(a) Dwelling Units

Dwelling units located on *residentially zoned property* may not be rented for less than thirty days except as set forth in this Subsection 14-6.2(A)(5).

(b) Short-Term Rental Units

Short-term rental units are prohibited on *residentially zoned property* except as provided in this Subsection 14-6.2(A)(5)(b).

(i) ~~[An owner may rent the *dwelling unit* that the owner normally resides in for two rental periods within a calendar year. The general provisions set forth in Subsection 14-6.2(A)(5)(c) do not apply and a *permit* is not required.~~

~~(ii)~~] *Short-term rental units* that are operated in compliance with Subsection 14-6.3(D)(1) (Accessory Dwelling Units) and in compliance with this Subsection 14-6.2(A)(5)(b)[~~(ii)~~](i) are allowed.

[~~(iii)~~](ii) *Short-term rental units* owned by the *property* owner who resides on a *contiguous lot* and in compliance with this paragraph are allowed. The operation of the short-term rental

shall cease immediately upon sale of either or both *properties* or if the *property* owner no longer resides on the contiguous *lot*.

~~[(iv) *Short-term rental units* located in a *development* containing resort facilities approved pursuant to a special use *permit* prior to January 30, 2008, which are owned in common by the *owners* within the *development*, are allowed. As used in this item, "resort facility" means any combination of swimming pools, spa facilities, golf courses, restaurants and tennis facilities. The general provisions set forth in Subsection 14-6.2(A)(5)(c) shall not apply except for Item (ix) regarding applicable taxes.~~

~~(v) The *land use director* may issue up to three hundred fifty short-term rental *permits* for *residential* units not otherwise qualifying for *permits* under Items (ii), (iii) or (iv) above.~~

~~(vi) Whenever the number of *short-term rental units* permitted in accordance with Item (v) above falls below three hundred fifty additional new *permits* may be issued by the *land use director*. New *permits* shall be issued in the order that qualifying *applications* are received.~~

~~(vii) *Permit* holders who have been issued a *permit* prior to October 14, 2009 are not required to reapply for a *permit*; provided, however, if the *permit* expires pursuant to Subsection 14-6.2(A)(5)(d)(x), a new *application* may be submitted to the *land use director* in accordance with Item (vi) above.]~~

(c) General Provisions

Unless otherwise stated, the following general provisions apply to *short-term rental units*:

(i) [~~no more than one rental is allowed within a seven consecutive day period;~~

~~(ii) *short-term rental units* described in Subsection 14-6.2(A)(5)(b)(v) are limited to seventeen rental periods per calendar year;~~

~~(iii)~~] *off-street parking* shall be provided on site as follows: 1) one bedroom, one parking space; and 2) two or more bedrooms; two parking spaces, unless the *owner/*operator enters into a shared parking agreement with a property owner within six hundred (600) feet of the short term rental property. This agreement shall be included with the short term rental permit application;

[~~(iv)~~](ii) all applicable building and fire life safety codes shall be met and all toilets, faucets and shower heads shall meet the water conservation requirements described in Section 25-2.6 SFCC 1987;

[~~(vi)~~](iii) occupants shall not park *recreational vehicles* on site or on the *street*;

[~~(vii)~~](iv) the total number of persons that may occupy the short-term rental unit is twice the number of bedrooms;

[~~(viii)~~](v) noise or other disturbance outside the short-term rental unit is prohibited after 10:00 p.m., including *decks*, *portals*, *porches*, balconies or patios;

[~~(ix)~~](vi) all occupants shall be informed in writing of relevant *city* ordinances, including the *city's* nuisance and water conservation ordinances, by the *owner*/operator of the short-term rental unit;

[~~(x)~~](vii) the *owner*/operator shall pay all applicable local, *state* and federal taxes, including lodgers' tax, gross receipts tax and income taxes;

[~~(xi)~~](viii) should the *owner*/operator neglect to pay all applicable taxes, the city shall have the authority to place a lien on the property in question until all outstanding debts are satisfied;

[~~(xi)~~](ix) the *owner*/operator shall make available to the *city* for its inspection all records relating to the operation of the short-term rental unit to determine compliance with this paragraph. The *owner*/operator shall report to the *land use director* on a monthly basis in a format provided by the *land use director*; and

[~~(xii)~~](x) the *owner* shall maintain adequate *property* insurance coverage for the *short-term rental unit*. Proof of insurance shall be required at the time the *permit* is issued and such other times as requested by the *land use director*.

(xi) an *owner* may apply for an exemption on the collection of the lodgers' tax if they believe they qualify for an exemption under the provisions of the Lodgers' Tax Ordinance,

(xii) should ownership of a short-term rental unit transfer from one owner to the other, the short-term rental permit shall revert to the land use department. If the new owner wishes to continue using

the property as a *short-term rental unit*, a new application shall be made with the land use department.

(xiii) the land use department will not issue a short-term rental permit for properties that are governed by covenants that do not permit the presence of *short-term rental units*.

(d) Applications

Unless otherwise stated, an *application* for a *permit* for a short-term rental shall be submitted to the *city* as follows:

(i) the *application* shall include the name and phone number of the *owner*/operator who is available twenty-four hours per day, seven days per week to respond to complaints regarding the operation or occupancy of the short-term rental unit as well as the name and phone number of *city* staff responsible for enforcing this section;

(ii) the *application* shall include a verified, notarized statement signed by the *owner*/operator that the short-term rental shall be operated in compliance with this paragraph and all other applicable *city* codes and that the operation of the short-term rental is in compliance with any applicable private covenants;

(iii) all applicants must submit proof of all required inspections with their initial application. Renewal applications for the same property may submit proof of all required inspections in the form of a notarized statement attesting to self-compliance of all fire, health and safety requirements. The city shall perform random inspections to ensure compliance.

[~~(iii)~~](iv) prior to issuance of a *permit*, a *certificate of occupancy* is required to ensure compliance with this paragraph and all applicable codes;

[~~(iv)~~](v) the *permit* is not transferable to another *person* or *property*;

[~~(v)~~](vi) within ten days of the issuance of the *permit*, the *owner*/operator shall mail notice by first class mail, with certificate of mailing, to the *owners* of *properties* within two hundred (200) feet of the subject *property*, exclusive of *rights of way*, as shown in the records of the *county* [~~treasurer~~]assessor, and by first class mail to the physical addresses of such *properties* where such address is different than the address of the *owner*. Notice shall be on a form approved by the *land use director*, and shall contain the name and phone number of the *owner*/operator who will be available twenty-four hours per day, seven days per week to respond to complaints regarding the operation or occupancy of the short-term rental as well as the name and phone number of *city* staff responsible for enforcing this paragraph. Copies of all required mailing lists and mailing certificates shall be provided to the *land use director* within ten days of the mailing;

[~~(vi)~~](vii) each *application* shall be accompanied by a fee of one hundred fifty dollars ($150) to cover *application* processing and inspections.

[~~(vii)~~](viii) The annual *permit* fee schedule is as follows:

Annual Permit Fees*	
Short-term Rental Type	**Fee per Unit**
~~[§14-6.2A(5)(b)(i) Primary Residence; 2 rental periods per year~~	~~$ 0.00~~]
§14-6.2A(5)(b)[~~(ii)~~](i) — Accessory Dwelling Units	[~~$175.00~~]$325.00
§14-6.2A(5)(b)[~~(iii)~~](ii) — Unit(s) on Contiguous Lot	[~~$175.00~~]$325.00
§14-6.2A(5)(b)[~~(iv)~~](iii) — Resort Units	[~~$150.00~~]$325.00
§14-6.2A(5)(b)[~~(v)~~](iv) — Residential Units	[~~$350.00**~~]$325.00**
Initial Application and Processing Fee (one-time)	$100
*The annual permit fee shall not be prorated for a portion of the year. * *If there is more than one short-term rental unit on a lot, the permit fee is [~~$140.00~~] $350.00 for each additional unit.	

[~~(viii)~~](ix) The annual fee includes the *city's* business registration fee and inspections related to issuance of the short-term rental *permit*. Revenue from fees imposed pursuant to this paragraph shall be used only to administer, manage, and enforce this section.

[~~(ix)~~](x) If payment of a *permit* fee was in excess of that for which a *person* was liable, the *person* may claim a refund by

directing to the city [~~treasurer~~]finance director a written claim for refund no later than one year from the date payment was made. Every claim for refund shall state the amount and basis for the claim. The *city* [~~treasurer~~]finance director may allow the claim in whole or in part or may deny it. If the claim is not allowed in whole, the *person* may appeal the decision pursuant to Section 14-3.17. If a *permit* fee was paid for an application the *owner*/operator chooses not to pursue, a full refund shall be paid. However, an administrative fee of one hundred dollars ($100) shall apply.

[~~(x)~~]xi Unless revoked as set forth in Subsection 14-6.2(A)(5)(e), a *permit* holder may renew the *permit* annually. If not renewed by March 15 of each year, the [~~*permit* expires~~]the *owner*/operator may pay late fee of fifty dollars ($50) which will permit them an additional 30 days to renew. An *owner* of an expired *permit* may submit a new *application* for a short-term rental *permit* to the *land use director* in accordance with Subsection 14-6.2(A)(5)(b)(vi) subject to availability of *permits* [~~within the three hundred fifty limit~~].

[~~(xi)~~](xii) [~~The~~]A valid *permit* number shall be included in all advertising of the short-term rental, including listings on web-based rental sites.

(e) Violations

(i) The *land use director* shall document all alleged violations of this paragraph and shall pursue enforcement through the

municipal court as set forth in Article 1-3 SFCC 1987 or in another appropriate court of law. Upon conviction of a third violation, the *land use director* shall revoke the *permit* and operation of the short-term rental shall cease within thirty days.

(ii) An *owner* who offers for rent as a short-term rental a *dwelling unit* that is not permitted for use as a short-term rental is in violation of this paragraph and is subject to prosecution.

(iii) An agent who knowingly assists an *owner* in advertising or renting a *dwelling unit* as a short-term rental unit that is not permitted under this paragraph is subject to fines and prosecution [~~and the agent's business license is subject to revocation~~].

(iv) An *owner* shall be given ninety (90) days from the date of adoption of this Section to come into compliance of this Section without being subject to penalties and/or fines.

(f) Penalties

(i) If an *owner* fails to report their lodgers' tax, they shall be subject to the provisions of the Lodgers' Tax Ordinance, Section 18-11.11 SFCC 1987, and shall be subject to revocation of their short term rental permit at the discretion of the *land use director.*

(ii) If an *owner* is found to be operating a short term rental without a valid permit, they shall be fined an initial five hundred dollars ($500). If the owner has not complied with the provisions of Section 14-6.2(A)(5) within fourteen (14) business days, they shall face a two hundred and fifty dollar ($250) fine per day until the violation is corrected, or until they cease operations. If action is not taken, and violations continue, the

city shall have the authority to place a lien on the property, at the discretion of the *land use director*.

[~~(f)~~](g) Private restrictive covenants, enforceable by those governed by the covenants, may prohibit short-term rental units.

[~~(g)~~](h) Real estate brokers listing *residential property* in Santa Fe shall provide prospective buyers a current copy of this paragraph.

[~~(h)~~](i) The *land use director* shall establish administrative procedures necessary to implement, manage and enforce this paragraph.

(6) Short-term Rental of Dwelling Units – Non-residentially Zoned Property

Short-term rental of *dwelling units* on non-*residentially zoned property* is permitted [~~as set forth in Table 14-6.1-1~~].

(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 either:

(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*; or

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

(8) Effective Date. The provisions of Article 14-6.2(A)(5) of the Land Use Development Code shall go into effect ninety (90) days after approval by the governing body.

APPROVED AS TO FORM:

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KELLEY A. BRENNAN, CITY ATTORNEY