

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2020-32

INTRODUCED BY:

Mayor Alan Webber

Councilor Signe I. Lindell

Councilor Carol Romero-Wirth

Councilor Renee Villarreal

AN ORDINANCE

AMENDING SECTION 14-6.2 SFCC 1987 TO ADOPT BY ORDINANCE A MAXIMUM OF ONE THOUSAND (1000) SHORT-TERM RENTAL PERMITS IN THE CITY, TO PROSPECTIVELY LIMIT THE NUMBER OF SHORT-TERM RENTAL PERMITS TO ONE PER NATURAL PERSON, TO PROSPECTIVELY LIMIT THE PROXIMITY OF SHORT-TERM RENTAL UNITS, TO REQUIRE A LOCAL OPERATOR FOR SHORT-TERM RENTAL UNITS, TO ADOPT RECORD-KEEPING AND REPORTING REQUIREMENTS FOR SHORT-TERM RENTAL UNIT OWNERS AND HOST PLATFORMS, AND TO CLARIFY OTHER PROVISIONS OF THE SHORT-TERM RENTAL ORDINANCE; AMENDING THE LAND USE CODE DEFINITIONS IN SECTION 14-12.1 SFCC 1987 AS THEY RELEATE TO SHORT-TERM RENTAL UNITS; AND AMENDING SECTION 12-2.3 SFCC 1987 TO CLARIFY THAT A SHORT-TERM RENTAL UNIT IS NOT A GROUP R-1 OCCUPANCY FOR PURPOSES OF FIRE INSPECTIONS.

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

Section 1. Subsection 14-6.2(A)(5) of SFCC 1987 (being Ord. No. 2011-37 § 8,
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~~] Purpose and Intent

~~[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) are allowed.]~~ 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

1 the availability of long-term housing;

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

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

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

12 (b) Short-Term Rental [Units] Permit or Registration Required

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

15 ~~(i) Short-term rental units that are operated in compliance~~
16 ~~with Subsection 14-6.3(D)(1) (Accessory Dwelling Units) and in compliance with this Subsection~~
17 ~~14-6.2(A)(5) are allowed.~~

18 ~~(ii) Short-term rental units located in a development~~
19 ~~containing resort facilities approved pursuant to a special use permit which are owned in common~~
20 ~~by the owners within the development, are allowed. As used in this item, "resort facility" means~~
21 ~~any combination of swimming pools, spa facilities, golf courses, restaurants and tennis facilities.~~

22 ~~(iii) The land use director may issue rental permits in a~~
23 ~~quantity approved by the governing body through adoption, after a public hearing, of a resolution~~
24 ~~for residential units not otherwise qualifying for permits under Items (i) and (ii) above. Dwelling~~
25 ~~units on non-residentially zoned property pursuant to §14-6.2(A)(6) and §14-6.2(A)(7) are not~~

1 subject to the permit limit imposed by this subsection.

2 (iv) ~~Whenever the demand for short term rental units~~
3 ~~exceeds the number permitted in accordance with Subsection 14-6.2(A)(5)(b)(iii) above, the~~
4 ~~number of additional permits may be increased by the governing body through adoption of a~~
5 ~~resolution and issued by the land use director. New permits shall be issued in the order that~~
6 ~~eligible applications are received.]~~

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

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

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

14 (c) Permit; Residentially Zoned Property.

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

17 (ii) One thousand (1000)-Permit Limit. The *land use*
18 *director* shall issue a maximum of one thousand (1000) short-term rental *permits*. The *land use*
19 department shall process *applications* in the order of receipt and shall issue new *permits* in the
20 order that complete *applications* are received. If the number of *permits* reaches the one thousand
21 (1000)-*permit* limit, then the *land use* department shall stop processing *applications* and shall add
22 *applicants* to a waiting list until a *permit* becomes available. If an *applicant* waits on the list for a
23 year or longer, the *land use director* may require the *applicant* to indicate a continued interest in
24 remaining on the list.

25 (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.

(v) Frequency of Rental. A permitted short-term rental unit shall not be rented more than once within a seven (7)-day period.

(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 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.

(A) If a multiple-family dwelling development located within two-hundred (200) feet of residentially zoned property contains four (4) or more dwelling units, the land use director shall not issue short-term rental registrations for more than twenty-five (25%) of such dwelling units, rounded down to the nearest whole number.

(B) 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)]~~(e) General Provisions

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

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

~~[(ii)]~~ short term rental permits will not be issued for more than two short term rentals units directly adjoining each other on a residentially zoned street. For

the purposes of this subsection, "directly adjoining" means sharing a common boundary along a public street frontage, but does not include adjoining units in a condominium, townhouse development, in an apartment complex, or residential compound;]

(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.

~~[(iii)]~~(ii) An owner of a short-term rental unit shall provide off-street parking ~~[shall be provided]~~ on site as follows: ~~[4)]~~

(A) one (1) bedroom, one (1) parking space; and ~~[2)]~~

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

~~[(iv)]~~(iii) A short-term rental unit must meet all applicable building, and fire, life and safety codes, shall be met and all toilets, faucets, and shower heads ~~[shall]~~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.

~~[(v)]~~(vi) ~~[occupants]~~An owner or operator shall not allow guests ~~[shall not]~~to park recreational vehicles on site or on the street[;].

~~[(vi)]~~(vii) ~~[short-term]~~ Short-term rental units located on residentially zoned property shall be used exclusively for residential purposes and shall not be

1 used for commercial activities or events, defined as intending to make money, offering goods or
2 services for sale, or conducting any other event or activity that is not residential in nature. An
3 activity “not residential in nature” includes gatherings in excess of [~~three (3)~~] two (2) times the
4 number of legally allowed [~~occupants~~] guests in the *short-term rental unit* [~~(including~~
5 ~~occupants)~~], unless the activity or event is otherwise permitted by the *city*[;].

6 [~~(vii)~~](viii) [~~the~~]The total number of [~~persons~~]guests that may
7 occupy [~~the~~]a *short-term rental unit* is twice the number of bedrooms[;].

8 [~~(viii)~~](ix) [~~noise~~]Noise or other disturbance [~~outside the~~]emitted
9 from a short-term rental unit is prohibited after 10:00 p.m., including noise or disturbances
10 emitted from decks, portals, porches, balconies, or patios[;].

11 [~~(ix)~~](x) [~~all occupants shall be informed~~]The *owner or operator*
12 of a short-term rental unit shall notify all guests in writing of relevant *city* ordinances, including
13 the *city*’s nuisance and water conservation ordinances[, ~~by the owner/operator of the short-term~~
14 ~~rental unit~~]. All [~~occupants~~]guests shall comply with all relevant *city* ordinances [~~and comply~~
15 ~~with all provisions of the lodger’s tax ordinance~~];.

16 [~~(x)~~](xi) [~~the~~]The *owner*[~~/operator~~] shall pay all applicable local,
17 state, and federal taxes, including lodgers’ tax, gross receipts tax, and income tax[es];.

18 [~~(xi)~~]—~~should the owner/operator fail to pay all applicable taxes, the~~
19 ~~owner/operator shall be subject to penalties pursuant to Subsection 14-6.2(A)(5)(f).~~

20 [~~(xii)~~]—~~the owner/operator shall make available to the city for its~~
21 ~~inspection all records relating to the operation of the short term rental unit to determine~~
22 ~~compliance with this Subsection 14-6.2(A)(5); and~~

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

1 (xiv) ~~upon the transfer of ownership of a *short term rental unit*, the~~
2 ~~short term rental *permit* shall terminate and revert to the land use department. If the new owner~~
3 ~~wishes to use the property as a *short term rental unit*, new *application* shall be submitted to the~~
4 ~~land use department.]~~

5 ~~(d)~~(f) Application for a Short-Term Rental Permit or
6 Registration

7 ~~[Unless otherwise stated, an]~~An applicant shall submit an *application* for a short-
8 ~~term rental *permit* or *registration*~~[shall be submitted to the city as follows] that includes the
9 following information and documentation:

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

14 (ii) ~~[the application shall include]~~a statement signed by the
15 [owner/operator] owner and operator, affirming that they will operate the *short-term rental unit*
16 [shall be operated] in compliance with this subsection 14-6.2(A)(5) and all other applicable laws,
17 city codes, and private covenants; and that no private covenants prohibit the operation of the
18 *short-term rental unit*~~[is in compliance with any applicable private covenants, including those~~
19 ~~that prohibit the presence of *short term rental*]; and~~

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

22 ~~[(iii) — all applicants must submit proof of all required inspections with their~~
23 ~~initial application. Renewal applications for the same property may submit proof of all required~~
24 ~~inspections in the form of a statement attesting to compliance with all applicable fire, health, and~~
25 ~~safety requirements. The city shall perform random inspections to ensure compliance with this~~

1 ~~Subsection 14-6.2(A)(5):~~

2 ~~(iv) — prior to issuance of a permit, a certificate of occupancy is required to~~
3 ~~ensure compliance with this paragraph and all applicable codes;~~

4 ~~(v) — the permit is not transferable to another person or property;~~

5 ~~(vi) — within ten days of the issuance of the permit, the owner/operator shall~~
6 ~~mail notice by first class mail, with certificate of mailing, to the homeowners association (if~~
7 ~~applicable), and to the owners of properties within two hundred (200) feet of the subject property,~~
8 ~~exclusive of rights of way, as shown in the records of the county assessor, and by first class mail~~
9 ~~to the physical addresses of such properties where such address is different than the address of the~~
10 ~~owner and to the land use department. Notice shall be on a form approved by the land use~~
11 ~~director, and shall contain the name and phone number of the owner and operator who will be~~
12 ~~available twenty four hours per day, seven days per week to respond to complaints regarding the~~
13 ~~operation or occupancy of the short term rental as well as the name and phone number of city~~
14 ~~staff responsible for enforcing this paragraph. Copies of all required mailing lists and mailing~~
15 ~~certificates shall be provided to the land use director within ten days of the mailing. Failure to~~
16 ~~provide notification as described in this subsection is subject to penalties and prosecution~~
17 ~~pursuant to Subsection 14-6.2(A)(5)(f);~~

18 ~~(vii) each application shall be accompanied by a fee of one hundred dollars~~
19 ~~(\$100) to cover application processing and inspections. This application fee is non-refundable.~~

20 ~~(viii) — The annual permit fee schedule is as follows:~~

21
22
23 **[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**
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Table 14-6.1-1 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	\$325.00	
§ 14-6.2A(5)(b)(ii) Resort Units		\$100.00
§ 14-6.2A(5)(b)(iii) Residential Units	\$325.00	
§14-6.2A(6) Non Residential Districts and § 14-6.2A(7) — Commercial Districts		\$100.00
Initial Application and Processing Fee (one-time)	\$100.00	
*The annual permit fee shall not be prorated for a portion of the year.		

(ix) ~~The annual fee includes the city's business registration fee and fees for 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.~~

(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 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 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.~~

(xi) ~~Unless revoked as set forth in Subsection 14-6.2(A)(5)(f), a permit holder may renew the permit annually. If not renewed by March 15 of each year, the owner/operator may pay a late fee of fifty dollars (\$50) to extend the time for filing to renew to April 15. An owner of an expired permit may submit a new application for a short-term rental~~

1 ~~permit to the land use director in accordance with Subsection 14-6.2(A)(5)(b)(iv) subject to~~
2 ~~availability of permits.~~

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

5 (g) Permit and Registration Renewals

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

8 (ii) An application for renewal of a permit or registration shall
9 include the records required by subparagraph 14-6.2(A)(5)(k) for the previous one (1) year.

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

19 (h) Fees for Short-term Rental Units

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

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

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

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

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

7 (i) Inspections

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

13 (i) fire evacuation plan;

14 (ii) carbon monoxide detection;

15 (iii) smoke alarms in all bedrooms;

16 (iv) fire extinguishers on each floor;

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

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

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

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

24 (i) Within ten (10) days after the issuance or renewal of a short-term
25 rental permit, the owner or operator shall mail notices by first-class mail to the homeowners

1 association within which the unit is located (if applicable); to the owners of residentially zoned
2 property within two hundred (200) feet of the subject property, exclusive of rights of way, as
3 shown in the records of the county assessor; to the physical addresses of such properties where
4 such address is different than the address of the owner; and to the land use department.

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

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

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

12 (k) Records

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

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

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

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

24 ~~(e)~~(l) Violations and Penalties

25 (i) ~~The land use director shall document all alleged violations of this~~

1 paragraph and shall pursue enforcement through the municipal court as set forth in Article 1-3
2 SFCC 1987 or in another appropriate court of law. The city shall give the owner a written notice
3 of violation, which shall be mailed either to the owner's local or business address or agent's
4 address, informing the owner of the violation. If corrective action is not completed within fifteen
5 (15) days of the date of the letter, the city may file a criminal complaint in municipal court. Upon
6 conviction of a first violation, the land use director shall revoke the permit and operation of the
7 short term rental shall cease within thirty days.

8 (ii) — An owner who offers for rent as a short term rental a dwelling
9 unit that is not permitted for use as a short term rental is in violation of this paragraph and is
10 subject to penalties, property liens and/or prosecution pursuant to subsection 14-2(A)(5)(f).(iii)An
11 agent who knowingly assists an owner in advertising or renting a dwelling unit as a short term
12 rental unit that is not permitted under this subsection 14-6.2(A)(5) is subject to penalties and
13 prosecution, and the agent's business license is subject to revocation.]

14 If an owner or operator fails to obtain the necessary permit or
15 registration before renting, offering to rent, or advertising a short-term rental unit; fails to pay or
16 report applicable taxes; or otherwise fails to adhere to the provisions of subsection 14-6.2(A)(5),
17 the owner or operator shall be subject to the enforcement provisions set forth in Sections 1.3 and
18 14-11 SFCC 1987 and all other legal remedies and enforcement actions available under the law.
19 These may include civil or criminal penalties or revocation of a short-term rental permit or
20 registration.

21 [(f) — Penalties

22 (i) — Any owner who fails to report all applicable taxes, including
23 gross receipts tax and lodger's tax, shall be subject to any and all remedies under the short term
24 rental ordinance and any other applicable city, county, state, or federal law or statute. Such owner
25 shall also be subject to revocation of their short term rental permit pursuant to Subsection 14-

6.2(A)(5)(e)(i).

(ii) ~~If an owner is found guilty of operating a short term rental without a valid permit, they shall be fined five hundred dollars (\$500). The city may ask the municipal court to treat each day after the initial written notice of violation as a separate violation and assess two hundred fifty dollars (\$250) for each day of such daily violations for a total cumulative fine amount. If the city is awarded money as part of a judgment following a court hearing and defendant does not make timely payments to the city, the city may bring an action in lien or equity for the collection of any amounts due.]~~

~~(g)~~(m) Restrictive Covenants

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

~~(h)~~(n) Real Estate Disclosure

A ~~Real~~ real estate ~~brokers~~ broker listing ~~residential~~ 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.

~~(i) The land use director shall establish administrative procedures necessary~~

1 to implement, manage and enforce this paragraph.

2 ~~(6) — Short term Rental of Dwelling Units — Non residentially Zoned Property~~
3 Short term rental of dwelling units on non residentially zoned property is permitted as set forth
4 in Table 14-6.1-1, must be registered; are subject to a one-time one hundred dollar (\$100)
5 application, inspection and processing fee; and must comply with submission requirements and
6 report all applicable taxes.]

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

8 (a) Short-term rental *permits* and registrations held at the time the ordinance
9 amending subsection 14-6.2(A) SFCC 1987 (Ordinance No. 2020-) is adopted remain valid and
10 are not subject to the limitations on proximity set forth in subsection 14-6.2(A)(5)(c) or (d) or the
11 limit of one *permit* per natural person set forth in subsection 14-6.2(A)(5)(c)((iii)). The *owner* does
12 not need to renew those *permits* or registrations until they expire. Upon expiration, and in
13 subsequent years, the *owner* is eligible to timely renew the *permits* or registrations pursuant to
14 subsection 14-6.2(A)(5)(i), subject to compliance with applicable requirements of subsection 14-
15 6.2(A)(5) and payment of required fees.

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

1 residentially zoned property, subject to ongoing compliance with applicable requirements of
2 subsection 14-6.2(A)(5) and payment of applicable fees.

3 (7) *Dwelling Units* in Specified Commercial Districts

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

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

8 (b) part of a planned development; ~~or~~

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

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

13 ~~[(8) — Effective Date~~

14 ~~The provisions of Subsection 14-6.2(A)(5) of the Land Development Code~~
15 ~~shall go into effect immediately upon approval of the Governing Body. A ninety (90)~~
16 ~~day grace period shall be given for effected units to obtain a valid permit. Short term~~
17 ~~rental unit owners who possess a valid short term rental permit at the time this~~
18 ~~ordinance (Ordinance 2016-20) is adopted shall be considered to possess a valid permit~~
19 ~~under the new regulations and shall not need to renew their permit until the following~~
20 ~~year. Short term rental unit owners who possess a valid short term permit for a~~
21 ~~contiguous property issued prior to this ordinance (Ordinance 2016-20) being adopted~~
22 ~~shall be deemed as a "residential" permit holder upon the adoption of the ordinance and~~
23 ~~shall renew their permit as a "residential" permit in following years.]~~

24 **Section 2. Section 14-12.1 of SFCC 1987 (being Ord. No. 2011-37, § 15 as**
25 **amended) is amended to add and amend the following definitions:**

1 **14-12.1 DEFINITIONS**

2 DEVELOPMENT CONTAINING RESORT FACILITIES, SHORT-TERM RENTAL

3 A development in which the owners own two (2) or more of the following facilities in common
4 and have obtained a special use permit for operation of those facilities: swimming pools, spa
5 facilities, golf courses, restaurants, or tennis facilities.

6 GUEST, SHORT-TERM RENTAL

7 Any person who rents a short-term rental unit or occupies a short-term rental unit during a rental
8 period.

9 HOST PLATFORM, SHORT-TERM RENTAL

10 An internet website, a mobile application, or any other forum used to connect a short-term rental
11 owner or operator with guests and to facilitate the booking of a short-term rental unit.

12 NATURAL PERSON

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

14 OPERATOR, SHORT-TERM RENTAL

15 A person who, with or without a short-term rental permit or registration, rents or offers to rent a
16 short-term rental unit to guests.

17 SHORT-TERM RENTAL UNIT

18 A dwelling unit or accessory dwelling unit, or any portion of a dwelling unit or accessory
19 dwelling unit, that is offered for rent or rented for a period of less than thirty (30) days.

20 **Section 3. Section 12-2.3 of SFCC 1987 (being Ord. No. 2004-53, §§ 6, 7 as**
21 **amended) is amended as follows:**

22 **12-2.3 Annual fire inspections.**

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

1 A. Group A-1 occupancies (assembly occupancies including, but not limited to,
2 motion picture theaters, and symphony and concert halls, theaters);

3 B. Group A-2 occupancies (assembly occupancies including, but not limited to,
4 banquet halls, night clubs, restaurants, taverns, and bars);

5 C. Group E occupancies (occupancies for educational purposes);

6 D. Group M occupancies, or greater, (mercantile occupancies including, but not
7 limited to, department stores, drug stores, markets, motor fuel-dispensing facilities, retail or
8 wholesale stores, sales rooms); and

9 E. Group R-1 occupancies (residential occupancies where the occupants are
10 primarily transient in nature including, but not limited to, ~~[short-term rental units,]~~ boarding
11 houses, hotels, and motels).

12 APPROVED AS TO FORM:

13
14 
15 ERIN K. McSHERRY, CITY ATTORNEY