

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

2 **BILL NO. 2009-40**

3 **INTRODUCED BY:**

4 **Councilor Wurzburger**

5 **Councilor Romero**

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9
10 **AN ORDINANCE**

11 **AMENDING SECTION 14-14-6.2(A)(6) SFCC 1987 REGARDING SHORT TERM**
12 **RENTAL UNITS.**

13
14 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

15 **Section 1. Section 14-6.2(A)(6) SFCC 1987 (being Ord. #2002-37, §48 as**
16 **amended) is amended to read:**

17 (6) Dwelling Units

18 (a) Residentially Zoned Property. Dwelling units located on residentially
19 zoned property shall not be rented for less than 30 days except as set
20 forth in this section.

21 (i) Short term rental units are prohibited on residentially zoned
22 property except as follows:

23 A. An owner may rent the dwelling unit that the owner
24 normally resides in for two rental periods within a
25 calendar year. The general provisions set forth in

1 paragraph (ii) below shall not apply. A permit shall not
2 be required.

3 B. Short term rental units operated in compliance with §14-
4 6.3(C)(1) Accessory Dwelling Units and in compliance
5 with §14-6.2(A)(6)(a) are permitted.

6 C. Short term rental units owned by the property owner
7 who resides on a contiguous lot and in compliance with
8 §14-6.2(A)(6)(a) are permitted. The operation of the
9 short term rental shall cease immediately upon sale of
10 either or both properties or if the property owner no
11 longer resides on the contiguous lot.

12 ~~D. Short term rental units in existence prior to January 30,~~
13 ~~2008, (the date of adoption of this Ordinance) and in~~
14 ~~compliance with §14-6.2(A)(6)(a) may continue until~~
15 ~~January 1, 2013, provided that the following are met:~~

16 ~~1. The owner/operator shall submit an application~~
17 ~~for a permit with the Land Use Department by~~
18 ~~March 29, 2008.~~

19 ~~2. Prior to issuance of a permit, the owner/operator~~
20 ~~shall provide evidence acceptable to the City~~
21 ~~that the unit was regularly used for short term~~
22 ~~rental prior to January 30, 2008 and that the~~
23 ~~short term rental of the unit was reported for~~
24 ~~lodgers' tax or income tax.~~

25 ~~3. If the application for a permit is denied by the~~

1 City, the operation shall cease within 30 days of
2 such written notice by the City.]

3 ~~[E]~~D. Short term rental units located in a development
4 containing resort facilities approved pursuant to a special
5 exception prior to January 30, 2008, which are owned in
6 common by the owners within the development, are
7 permitted. As used in this paragraph, resort facility
8 means any combination of swimming pools, spa
9 facilities, golf courses, restaurants and/or tennis
10 facilities. The general provisions set forth in paragraph
11 (ii) below shall not apply except paragraph (ii)I.
12 regarding applicable taxes.

13 E. The Land Use Director shall issue up to 350 short term
14 rental permits for residential units not otherwise
15 qualifying for permits under Sections 14-
16 6.2(A)(6)(a)(i)B, C, or D, above.

17 F. Whenever the number of short term rental units
18 permitted according to §14-6.2(A)(6)(a)(i)~~[D.]E~~, falls
19 below 350, additional new permits may be issued by the
20 Land Use Director. New permits shall be issued in the
21 order that qualifying applications are received. [up to a
22 maximum of 350 permits from a list of applicants
23 established annually by lottery.]

24 G. Permit holders who have been issued a permit prior to
25 _____, 2009 (the adoption of this

1 Ordinance) shall not be required to reapply for a permit;
2 however, if the permit expires pursuant to Section 14-
3 6.2(A)(6)(a)(iii)G a new application may be submitted to
4 the Land Use Director.

5 (ii) General Provisions

6 Unless otherwise stated, the following shall apply to short term
7 rental units.

- 8 A. No more than one rental is permitted within a seven
9 consecutive day period.
- 10 B. Short term rental units described in paragraph (i) D.
11 above shall be limited to 17 rental periods per calendar
12 year.
- 13 C. Off street parking shall be provided on site as follows:
14 1. One bedroom One parking space
15 2. Two or more bedrooms Two parking spaces
- 16 D. All applicable building and fire life safety codes shall be met. All
17 toilets, faucets and shower heads shall meet the requirements
18 described in §25-2.6 SFCC 1987.
- 19 E. Occupants shall not park recreational vehicles on site or on the
20 street.
- 21 F. The total number of ~~adults~~ persons that may occupy the short
22 term rental unit is twice the number of bedrooms. ~~[For the~~
23 ~~purpose of this paragraph an adult is a person 18 years or older.]~~
- 24 G. Noise or other disturbance outside the short term rental unit is
25 prohibited after 10:00 pm. This includes, but is not limited to,

1 decks, portals, porches, balconies or patios.

2 H. All occupants shall be informed in writing of relevant City
3 ordinances including, but not limited to, the city's nuisance and
4 water conservation ordinances by the owner/operator of the short
5 term rental unit.

6 I. The owner/operator shall pay all applicable local, state and
7 federal taxes. These include but are not limited to: lodgers' tax,
8 gross receipts tax, and income taxes.

9 J. The owner/operator shall make available to the City for its
10 inspection all records relating to the operation of the short term
11 rental unit in order to determine compliance with §14-
12 6.2(A)(6)(a). The owner/operator shall report to the Land Use
13 Department on a monthly basis in a format provided by the City.

14 K. The owner shall maintain adequate property insurance
15 coverage for the short term rental unit. Proof of
16 insurance shall be required at time of permit issuance
17 and such other times as may be requested by the City.

18 (iii) Permit

19 Unless otherwise stated, [a] an application for a permit for a
20 short term rental shall be [~~obtained from~~] submitted to the City
21 as follows:

22 A. The application[~~s for a permit~~] shall include the name
23 and phone number of the owner/operator who is
24 available 24 hours a day, seven days per week to
25 respond to complaints regarding the operation or

1 occupancy of the short term rental unit as well as the
2 name and phone number of City staff responsible for
3 enforcing §14-6.2(A)(6)(a).

4 B. The ~~[permit]~~ application shall include a notarized
5 statement signed by the owner/operator that the short
6 term rental shall be operated in compliance with §14-
7 6.2(A)(6)(a) and all applicable City codes and that the
8 operation of the short term rental is in compliance with
9 any applicable private covenants.

10 C. Prior to issuance of any permit, a certificate of
11 occupancy shall be required to ensure compliance with
12 §14-6.2(A)(6)(a) and all applicable codes.

13 D. The permit is not transferable to another person or
14 property.

15 E. ~~[Upon]~~ Within 10 days of the issuance of the permit, the
16 owner/operator shall mail to all property owners within
17 200 feet of the property ~~[shall be provided with], on a~~
18 form approved by the City, notice of the issuance of a
19 permit for the short term rental and the name and phone
20 number of the owner/operator who ~~[is]~~ will be available
21 24 hours a day, seven days per week to respond to
22 complaints regarding the operation or occupancy of the
23 short term rental unit as well as the name and phone
24 number of City staff responsible for enforcing §14-
25 6.2(A)(6)(a). Within 10 days of the mailing, the

1 owner/operator shall return to the Land Use Department
2 a notarized statement that the owner/operator has mailed
3 such notice.

4 F. ~~[A non-refundable fee of \$500 per unit per year shall be~~
5 ~~paid for short term rental units described in paragraphs~~
6 ~~(i) B. and C. above. A non-refundable fee of {\$1,000}~~
7 ~~per unit per year shall be paid for short term rental units~~
8 ~~described in paragraph (i) D. above. The fee for~~
9 ~~commonly owned multiple units on a single parcel or~~
10 ~~adjacent parcels shall be \$1,000 for the first unit and~~
11 ~~\$250 for each additional unit.] Each application shall be~~
12 accompanied by a fee of \$150.00 to cover application
13 processing and inspections.

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G. Annual Permit Fee

<u>Annual Permit Fees*</u>	
<u>Short Term Rental Type</u>	<u>Fee per Unit</u>
<u>§14-6.2(A)6(a)(i)(A) - Primary Residence; two rental periods per year</u>	<u>\$0.00</u>
<u>§14-6.2(A)6(a)(i)(B) - Accessory Dwelling Units</u>	<u>\$350.00</u>
<u>§14-6.2(A)6(a)(i)(C) – Unit(s) on Contiguous lot</u>	<u>\$350.00</u>
<u>§14-6.2(A)6(a)(i) (D) – Resort units</u>	<u>\$150.00</u>
<u>§14-6.2(A)6(a)(i) (E) – Residential units</u>	<u>\$600.00**</u>
<u>*The annual permit fee shall not be prorated for a portion of the year.</u>	
<u>**If there is more than one short term rental unit on a lot, the permit fee is \$150.00 for each additional unit.</u>	

The annual fee includes the city business registration fee and inspections related to issuance of the short term rental permit. Revenue from fees imposed according to this §14-6.2(A)(6)(a) shall be used only for the administration and enforcement of this Section.

1 G. Unless revoked as set forth in §14-6.2(A)(6)(a)(iv)
2 below, a permit holder ~~[is valid for two years and]~~ may
3 ~~[be renewed]~~ renew the holder's permit annually. ~~[if the~~
4 ~~operation has complied with the provisions set forth in~~
5 ~~§14-6.2(A)(6)(a).]~~ If not renewed by March 15, the
6 permit expires.

7 H. The permit number shall be included in all advertising of
8 the short term rental.

9 (iv) Violations

10 A. City staff shall document all alleged violations of §14-
11 6.2(A)(6)(a) and shall pursue enforcement through the
12 municipal court as set forth in §1-3 SFCC 1987 or in
13 another appropriate court of law. Upon conviction of a
14 third violation by the municipal court, the City shall
15 revoke the permit and operation of the short term rental
16 shall cease within 30 days. The first violation of § 14-
17 6.2(A)(6)(a)(ii) committed by occupant(s) of the short
18 term rental unit shall not be counted toward revocation
19 of the permit; however, the second and subsequent
20 violations of § 14-6.2(A)(6)(a)(ii) committed by the
21 occupant(s) shall be counted toward revocation.

22 B. An owner who offers for rent as a short term rental a
23 dwelling unit that is not permitted for use as a short term
24 rental shall be in violation of §14-6.2(A)(6)(a) and
25 subject to prosecution in municipal court.

1 C. An agent who knowingly assists an owner in advertising
2 or renting a dwelling unit as a short term rental unit that
3 is not permitted under ~~in violation of~~ §14-6.2(A)(6)(a)
4 shall be subject to prosecution in the municipal court and
5 the agent's business license shall be subject to
6 revocation.

7 (v) Covenants

8 Private restrictive covenants, enforceable by those governed by
9 the covenants, may prohibit short term rentals units.

10 [~~(vi)~~ ~~Real Estate Brokers~~

11 ~~Real estate brokers listing residential property in the city of~~
12 ~~Santa Fe shall provide prospective buyers a current copy of §14-~~
13 ~~6.2(A)(6)(a).]~~

14 [(~~vii~~)(vi) Administrative Procedures

15 The Land Use Director shall establish administrative procedures
16 as are necessary for the implementation, management and
17 enforcement of §14-6.2(A)(6)(a).

18 [(~~viii~~)(vii) Review and Report; Amendments

19 Staff shall make a report to the Governing Body regarding the
20 implementation, management, enforcement and fiscal impact of
21 §14-6.2(A)(6)(a) prior to July 31, 2009 (18 months from the
22 adoption of this Ordinance). Upon evaluation of the information,
23 the Governing Body shall consider amendments to the city code
24 regarding short term rental units including, but not limited to,
25 alternative zoning provisions such as neighborhood conservation

1 districts and special overlay districts regulating short term rentals
2 in residential districts.

3 [(ix)] [~~The effective date of this §14-6.2(A)(6)(a)(i) and (ii) shall be~~
4 ~~May 30, 2008 unless otherwise specified above.~~]

5 (b) Non-Residentially Zoned Property. Short term rental units are permitted
6 as set forth in Table 14-6.1-1.

7 (c) In the C-2 District, dwelling units shall be for occupancy only by owners,
8 employees, or tenants of uses allowed in the C-2 District and which are
9 part of the same building, or which are a part of a planned development
10 or part of a use for which a development plan is required, and do not
11 include mobile homes or recreational vehicles.

12 APPROVED AS TO FORM:

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15 FRANK D. KATZ, CITY ATTORNEY
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25 Jp/ca/jpmb/2009 bills/short term rental 4