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**CITY OF SANTA FE, NEW MEXICO**

**ORDINANCE NO. 2016-20**

**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

1 an individual lot is allowed as a special use permit by the board of adjustment,  
2 the following minimum standards apply:

- 3 (a) the mobile home shall be anchored to a concrete foundation and skirted  
4 as specified by the land use director;
- 5 (b) the rental or lease of mobile homes used as single-family residences on  
6 individual lots is prohibited; and
- 7 (c) minimum requirements for lot size, front, side and rear yards, and all  
8 other standards pertaining to single-family residential land use set forth  
9 in Chapter 14 apply.

10 (3) Mobile Home Park

11 (a) Applicability

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

16 (b) License

17 Prior to beginning operation, a mobile home park owner or operator must  
18 obtain a business license from the city under the provisions of Article 18-  
19 1 SFCC 1987.

20 (c) Inspection

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

23 (d) Transfer of License

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

- 25 (i) application in writing for transfer of a license and payment of the

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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

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(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) 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) are allowed.

(ii) Short-term rental units located in a development containing resort facilities approved pursuant to a special use permit 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.

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

(iv) Whenever the demand for short-term rental units exceeds the number permitted in accordance with Subsection 14-

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6.2(5)(b)(iii) above , the number of additional permits may be increased by the governing body through adoption of a resolution and issued by the land use director. New permits shall be issued in the order that eligible applications are received.

(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 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;
- (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;
- (iv) 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;
- (v) occupants shall not park recreational vehicles on site or on the street;

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- (vi) the total number of persons that may occupy the short-term rental unit is twice the number of bedrooms;
- (vii) noise or other disturbance outside the short-term rental unit is prohibited after 10:00 p.m., including decks, portals, porches, balconies or patios;
- (viii) 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. All occupants shall comply with all relevant city ordinances and comply with all provisions of the lodger's tax ordinance;
- (ix) the owner/operator shall pay all applicable local, state and federal taxes, including lodgers' tax, gross receipts tax and income taxes;
- (x) should the owner/operator fail to pay all applicable taxes, the owner/operator shall be subject to penalties pursuant to Subsection 14-6.2(A)(5)(f).
- (xi) 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 Subsection 14-6.2(A)(5); and
- (xii) the owner shall maintain adequate short-term rental 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.
- (xiii) upon the transfer of ownership of a short-term rental unit, the

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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, a new application shall be submitted to the land use department.

(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 statement signed by the owner/operator that the short-term rental shall be operated in compliance with this Subsection and all other applicable city codes and that the operation of the short-term rental unit is in compliance with any applicable private covenants, including those that prohibit the presence of short-term rental;
- (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 statement attesting to compliance with all applicable fire, health and safety requirements. The city shall perform random inspections to ensure compliance with this Subsection

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14-6.2(A)(5).

- (iv) prior to issuance of a permit, a certificate of occupancy is required to ensure compliance with this paragraph and all applicable codes;
- (v) the permit is not transferable to another person or property;
- (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 homeowners association (if applicable), and 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 assessor, and by first class mail to the physical addresses of such properties where such address is different than the address of the owner and to the land use department. Notice shall be on a form approved by the land use director, and shall contain the name and phone number of the owner and 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. Failure to provide notification as described in this Subsection is subject to penalties and prosecution pursuant to Subsection 14-6.2(A)(5)(f);
- (vii) each application shall be accompanied by a fee of one hundred dollars (\$100) to cover application processing and inspections.



This application fee is non-refundable.

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

**Table 14-6.1-1**

<b>Annual Permit and Registration Fees*</b>		
<b>Short-term Rental Type</b>	<b>Permit Fee per Unit</b>	<b>Registration Fee per Unit</b>
§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

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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 (\$50.00) 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 permit to the land use director in accordance with Subsection 14-6.2(A)(5)(d) subject to availability of permits.

(xii) 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. The city shall give the owner a written notice of violation, which shall be mailed either to the owner's local or business address or agent's address, informing the owner of the violation. If corrective action is not completed within fifteen (15) days of the date of the letter, the city may file a criminal complaint in municipal court. Upon conviction of a first 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

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unit that is not permitted for use as a short-term rental is in violation of this paragraph and is subject to penalties, property liens and/or prosecution pursuant to subsection 14-2(A)(5)(f).

(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 subsection 14-6.2(A)(5) is subject to penalties and prosecution, and the agent's business license is subject to revocation.

(f) Penalties

(i) Any owner who fails to report all applicable taxes, including gross receipts tax and lodger's tax, shall be subject to any and all remedies under the short-term rental ordinance and any other applicable city, county, state, or federal law or statute. Such owner 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.

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- (g) Private restrictive covenants, enforceable by those governed by the covenants, may prohibit short-term rental units.
- (h) Real estate brokers listing residential property in Santa Fe shall provide prospective buyers a current copy of this ordinance.
- (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, must be registered; are subject to a one-time \$100 application, inspection and processing fee; and must comply with submission requirements and report all applicable taxes.

(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.

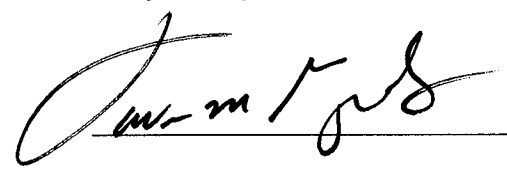
(8) Effective Date.

The provisions of subsection 14-6.2(A)(5) of the Land Development Code shall go into effect immediately upon approval of the Governing Body. A ninety (90) day grace period shall be given for effected units to obtain a valid permit. Short-term rental unit owners who possess a valid short-term rental permit at the time this ordinance (Ordinance 2016-20) is adopted shall be considered to possess a

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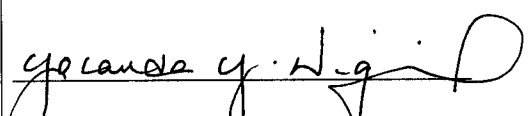
valid permit under the new regulations and shall not need to renew their permit until the following year. Short-term rental unit owners who possess a valid short-term permit for a contiguous property issued prior to this ordinance (Ordinance 2016-20) being adopted shall be deemed as a “residential” permit holder upon the adoption of the ordinance and shall renew their permit as a “residential” permit in following years.

PASSED, APPROVED AND ADOPTED this 11<sup>th</sup> day of May, 2016.




JAVIER M. GONZALES, MAYOR

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

  
KELLEY A. BRENNAN, CITY ATTORNEY