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CITY OF SANTA FE, NEW MEXICO

ORDINANCE NO. 2016-33

AN ORDINANCE

AMENDING SECTION 14-6.2(A)(5) OF THE LAND USE DEVELOPMENT CODE TO PROHIBIT THE USE OF SHORT-TERM RENTAL UNITS LOCATED IN RESIDENTIALLY-ZONED DISTRICTS FOR COMMERCIAL ACTIVITIES OR EVENTS.

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

Section 1. Subsection 14-6.2(A)(5) 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

(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) *Short-term rental units* that are operated in compliance with Subsection 14-6.3(D)(1) (Accessory Dwelling Units) and in

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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(6) and §14-6.2(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 14-6.2(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

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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*;
- (vi) *short-term rental units* located on residentially-zoned property shall be used exclusively for residential purposes and shall not be used for commercial activities or events, defined as intending to make money, offering goods or services for sale, or any other event or activity that is not residential in nature. An activity “not residential in nature” includes gatherings in excess of three (3) times the number of legally allowed occupants in the short-term rental unit (including occupants), unless the activity or event is

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- otherwise permitted by the city;
- (vii) the total number of persons that may occupy the short-term rental unit is twice the number of bedrooms;
- (viii) 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~~ix) 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;
- (xi) 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).
- (xii) 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
- (xiii) 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

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as requested by the *land use director*.

(xiv[~~ii~~]) 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*, 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,

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health and safety requirements. The city shall perform random inspections to ensure compliance with this Subsection 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);

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(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

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

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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 *permit* to the *land use director* in accordance with Subsection 14-6.2(A)(5)(b)(vi) 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

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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 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).

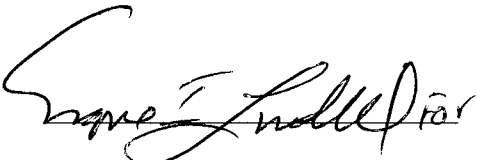
(ii) If an *owner* is found guilty of operating a short term rental without a valid permit, they shall be fined five hundred dollars (\$500). The city may ask the municipal court to treat each day after the initial written notice of violation as a separate violation and assess two hundred fifty dollars (\$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

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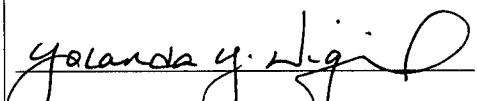
city may bring an action in lien or equity for the collection of any amounts due.

- (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.


PASSED, APPROVED AND ADOPTED this 27th day of July, 2016.


 JAVIER M. GONZALES, MAYOR

ATTEST:


 YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:


 KELLEY A. BRENNAN, CITY ATTORNEY