

CITY OF SANTA FE, NEW MEXICO

ORDINANCE NO. 2008-5

AN ORDINANCE

AMENDING CHAPTER 14 SFCC 1987 LAND DEVELOPMENT LAWS AND SECTION 18-11.3 SFCC 1987 LODGERS' TAX REGARDING THE SHORT TERM RENTAL OF DWELLING UNITS.

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

Section 1. Table 14-6.1-1 SFCC 1987 (being ordained as Ord. #2001-38, §2 as amended) is amended to insert the following under "Household Living":

TABLE 14-6.1-1 PERMITTED USES																					
Category	Specific Use	R-1 - R-6	R-7 - R-9	R-7 (I)	R-C	R-M	R-A C	M-H P	C-1	C-2	C-4	H-Z	B-C D	I-1	I-2	B-I P	S-C 1	S-C 2	S-C 3	M-U	Use-Specific -Regs (See Section 14-6.2)
Household Living	Short Term Rental Unit	Prohibited except as set forth in §14-6.2(A)(6)(a)							P	P	P	P	P							P	(A)(6)

Section 2. Section 14-6.2(A)(6) SFCC 1987 (being Ord. #2002-37, §48) is amended to read:

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

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- (i) Short term rental units are prohibited on residentially zoned property except as follows:
 - A. 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 paragraph (ii) below shall not apply. A permit shall not be required.
 - B. Short term rental units operated in compliance with §14-6.3(C)(1) Accessory Dwelling Units and in compliance with §14-6.2(A)(6)(a) are permitted.
 - C. Short term rental units owned by the property owner who resides on a contiguous lot and in compliance with §14-6.2(A)(6)(a) are permitted. 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.
 - D. Short term rental units in existence prior to January 30, 2008, (the date of adoption of this Ordinance) and in compliance with §14-6.2(A)(6)(a) may continue until January 1, 2013, or until ownership of the unit changes, whichever is later, provided that the following are met.

As used in this paragraph D. change of ownership means a transfer to a transferee by a transferor of all or any part of the transferor's legal or equitable ownership interest in a property except for a transfer to the spouse, child or

1 grandchild of the transferor that takes effect upon the
2 death of the transferor.

- 3 1. The owner/operator shall submit an application
4 for a permit with the Land Use Department by
5 March 29, 2008.
- 6 2. Prior to issuance of a permit, the owner/operator
7 shall provide evidence acceptable to the City
8 that the unit was regularly used for short term
9 rental prior to January 30, 2008 and that the
10 short term rental of the unit was reported for
11 lodgers' tax or income tax.
- 12 3. If the application for a permit is denied by the
13 City, the operation shall cease within 30 days of
14 such written notice by the City.

15 E. Short term rental units located in a development
16 containing resort facilities approved pursuant to a special
17 exception prior to January 30, 2008, which are owned in
18 common by the owners within the development, are
19 permitted. As used in this paragraph, resort facility
20 means any combination of swimming pools, spa
21 facilities, golf courses, restaurants and/or tennis
22 facilities. The general provisions set forth in paragraph
23 (ii) below shall not apply except paragraph (ii)I.
24 regarding applicable taxes.

25 F. Whenever the number of short term rental units

1 permitted according to §14-6.2(A)(6)(a)(i)D. falls below
2 350, additional new permits may be issued up to a
3 maximum of 350 permits from a list of applicants
4 established annually by lottery.

5 (ii) General Provisions

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

- 8 A. Each rental period shall not be for less than seven
9 consecutive calendar days.
- 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 that may occupy the short term rental
22 unit is twice the number of bedrooms. For the purpose of this
23 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 permit shall be obtained from the City
20 as follows:

21 A. The permit shall include the name and phone number of
22 the owner/operator who is available 24 hours a day,
23 seven days per week to respond to complaints regarding
24 the operation or occupancy of the short term rental unit
25 as well as the name and phone number of City staff

1 responsible for enforcing §14-6.2(A)(6)(a).

2 B. The permit shall include a notarized statement signed by
3 the owner/operator that the short term rental shall be
4 operated in compliance with §14-6.2(A)(6)(a) and all
5 applicable City codes.

6 C. Prior to issuance of any permit, a certificate of
7 occupancy shall be required to ensure compliance with
8 §14-6.2(A)(6)(a) and all applicable codes.

9 D. The permit is not transferable to another person or
10 property.

11 E. Upon issuance of the permit, all property owners within
12 200 feet of the property shall be provided with the name
13 and phone number of the owner/operator who is
14 available 24 hours a day, seven days per week to
15 respond to complaints regarding the operation or
16 occupancy of the short term rental unit as well as the
17 name and phone number of City staff responsible for
18 enforcing §14-6.2(A)(6)(a).

19 F. A non-refundable fee of \$500 per unit per year shall be
20 paid for short term rental units described in paragraphs
21 (i) B. and C. above. A non-refundable fee of \$1,000 per
22 unit per year shall be paid for short term rental units
23 described in paragraph (i) D. above. The fee for
24 commonly-owned multiple units on a single parcel or
25 adjacent parcels shall be \$1,000 for the first unit and

1 \$250 for each additional unit. The fee includes the city
2 business registration fee and inspections related to
3 issuance of the short term rental permit. Revenue from
4 fees imposed according to this §14-6.2(A)(6)(a) shall be
5 used only for the administration and enforcement of this
6 Section.

7 G. Unless revoked as set forth in §14-6.2(A)(6)(a)(iv)
8 below, a permit is valid for two years and may be
9 renewed if the operation has complied with the
10 provisions set forth in §14-6.2(A)(6)(a).

11 (iv) Violations

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

24 B. An owner who offers for rent as a short term rental a
25 dwelling unit that is not permitted for use as a short term

1 rental shall be in violation of §14-6.2(A)(6)(a) and
2 subject to prosecution in municipal court.

3 C. An agent who knowingly assists an owner in advertising
4 or renting a dwelling unit as a short term rental unit in
5 violation of §14-6.2(A)(6)(a) shall be subject to
6 prosecution in the municipal court and the agent's
7 business license shall be subject to revocation.

8 (v) Covenants

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

11 (vi) Real Estate Brokers

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

15 (vii) Administrative Procedures

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

19 (viii) Review and Report; Amendments

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

1 alternative zoning provisions such as neighborhood conservation
2 districts and special overlay districts regulating short term rentals
3 in residential districts.

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

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

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

13 **Section 3. Section 14-6.3(C)(1) SFCC 1987 (being Ord. #2001-38, §2 as**
14 **amended) is amended to read:**

15 (1) Accessory Dwelling Units

16 Accessory dwelling units:

17 (a) Are required to meet parking standards as set forth in §14-8.6;

18 (b) Shall be regulated as per City regulations and policies regarding City
19 utilities;

20 (c) Are exempt from the density restrictions set forth in this chapter;
21 however, only one accessory dwelling unit shall be permitted per lot of
22 record;

23 (d) Shall be built only when permission to construct is granted to the owner-
24 occupant of the principal dwelling unit;

25 (e) Shall have a footprint not exceeding the square footage of the footprint of

1 the principal dwelling unit, or not more than 1500 square feet whichever
2 is less;

3 (f) Shall be limited to one story and shall not exceed 15 feet to the top of the
4 parapet or to the highest point of the roof if there is no parapet;

5 (g) Shall be of the same architectural style as the principal dwelling unit;

6 (h) The owner of the property shall occupy either the principal dwelling unit
7 or the accessory dwelling unit and may rent the other unit. The principal
8 dwelling unit or the accessory dwelling unit may not be rented for less
9 than 30 days except as provided in §14-6.2(A)(6)(a); and

10 (i) An affidavit shall be recorded prior to issuance of any construction
11 permit for an accessory dwelling unit stating that the property owner
12 agrees to comply with these provisions. An affidavit filed prior to the
13 adoption of Ordinance No. 2008-5 (ordaining §14-6.2(A)(6)(a) and
14 amending §14-6.3(C)(1)) remains in effect and is automatically amended
15 to reflect the provisions of Ordinance No. 2008-5.

16 Section 4. [NEW MATERIAL.] The following shall be added to Table 14-8.6-
17 1 SFCC 1987 (being Ord. #2001-38, §2 as amended) Under Category: Residential: Off
18 Street Parking:

19 Short term rental unit	One bedroom	One parking space
20	Two or more bedrooms	Two parking spaces

21 Section 5. Article 14-12 SFCC 1987 (being Ord. #2001-38, §2 as amended) is
22 amended to include the following definition.

23 **SHORT TERM RENTAL UNIT**

24 A dwelling unit or accessory dwelling unit rented for less than thirty days per §14-6.2(A)(6).

25 Section 6. The following definition in Section 18-11.3 SFCC 1987 (being Ord.

1 #1992-27, §4 as amended) regarding lodgers' tax is amended to read:

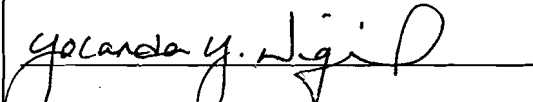
2 *Taxable premises* means a hotel, apartment, apartment hotel, apartment house, house,
3 condominium, town home, casita, time-share and fractional-share lodge, lodging house, rooming
4 house, motor hotel, bed and breakfast, guest house, guest ranch, ranch resort, guest resort, mobile
5 home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp,
6 cabin, short term rental unit or other premises for lodging.

7 PASSED, APPROVED and ADOPTED this 30th day of January, 2008.

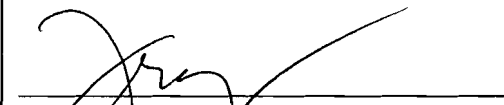
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9 DAVID COSS, MAYOR

10 ATTEST:

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14 YOLANDA Y. VIGIL, CITY CLERK

15 APPROVED AS TO FORM:

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19 FRANK D. KATZ, CITY ATTORNEY

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25 jp/n drive/2008 ord/short term rental