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# New Short-Term Rental Ordinance

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*The City of Santa Fe*

The Governing Body approved a new Short-Term Rental Ordinance on December 9, 2020 that goes into effect on January 1, 2021. All short-term rental owners and operators are responsible for understanding and following the new rules and regulations outlined within the ordinance. Visit [santafenm.gov/short\\_term\\_rentals](http://santafenm.gov/short_term_rentals) for more information. For questions regarding the new short-term rental regulations, please contact the Short-Term Rental Office at 505-955-6336 or [shorttermrental@santafenm.gov](mailto:shorttermrental@santafenm.gov).

## Purpose

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The purposes of this Short-Term Rental Ordinance are the following:

- (i) to ensure that the operation of short-term rental units in residential areas does not disrupt the character of the city's 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 the amount of long-term housing availability;
- (iii) to allow law abiding residents the option of utilizing their homes and accessory dwelling units as short-term rental units to create wealth and generate supplemental income;
- (iv) to minimize public safety risks associated with short term rental units, such as higher traffic levels, parking issues, noise, litter, and other public nuisances; and
- (v) to ensure that an owner or operator of a short-term rental unit follows applicable regulations, including the payment of all applicable fees and taxes.

## FAQs

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### Permits

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- How many short-term rental units can be permitted?
  - Residential zones: Short-term rentals in residential zones must obtain a permit and a business license. 1000 permits can be issued for residentially zoned short-term rental units.

- Non-residential zones: Short-term rentals in non-residential zones must *register* their short-term rental and obtain a business license. There is no limit on the number of registrations that can be issued for non-residentially zoned properties.
- What if I do not get a permit before reaching the 1000-permit limit?
  - The Land Use Department will process applications in the order of receipt and will issue new permits in the order that complete applications are received. If the number of permits reaches the one thousand (1000)-permit limit, then the Land Use Department will stop processing applications and will add applicants to a waiting list until a permit becomes available. If an applicant waits on the list for a year or longer, the Land Use Director may require the applicant to indicate a continued interest in remaining on the list.
- How many short-term rental permits can a person have?
  - Residential zones: Only one permit can be issued per natural person. A natural person is defined as "an individual human being, as opposed to an organization of any form or a business entity". While the short-term rental permit must be issued to a natural person, the property itself does not need to be owned by a natural person. If the subject property is owned by a legal or business entity, the permit must be held in the name of any 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 intent of this policy is to limit speculation and reduce the number of people purchasing multiple homes and turning them into short-term rentals.
  - Non-residential zones: There is no limit on the number of registrations someone can have in their name. It is not required to be registered to a natural person.
- What if I already have multiple permits?
  - You will be able to continue renewing your existing permits on an annual basis, but you cannot apply for additional permits.
- Can I transfer permits to another person?
  - Permits cannot be transferred with the sale of a property or to another person. Permits may be transferred to a spouse or domestic partner upon the death of the permit holder, but only if the surviving spouse or domestic partner does not already hold a permit.
- How often do I have to apply for a permit or registration?
  - You must reapply for a permit or registration each year on or before March 15<sup>th</sup> (or April 15<sup>th</sup> if you pay a late fee). You must provide all required records of your previous year of operation at the time of renewal (beginning in 2022 for 2021 records).

- How much do permits cost? Is it different for commercial, business, and residentially zoned properties?
  - Permits for residentially zoned property and registrations for non-residentially zoned property cost the same amount. The application fee for a new permit and registration is \$100; this does not apply to renewal applications. Permits and registrations are also subject to an annual business license fee of \$35 and a permit or registration fee of \$290. The total cost to properly permit or register your short-term rental is \$425 for the initial year and \$325 for subsequent years.
- Do I need a business license?
  - Yes, all short-term rentals require both a short-term rental permit or registration and a business license.
- What if my HOA does not allow short-term rentals?
  - The City will not issue permits or registrations to properties with restrictive HOA covenants prohibiting short-term rentals.

#### Restrictions and Regulations

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- How close can a short-term rental unit be to another short-term rental unit?
  - Residential zones:
    - A short-term rental unit cannot be within 50 feet of an existing short-term rental unit, measured at the property boundary.
    - For apartments, condos, or other multi-unit structures with four or more units, no more than 25% of the units can be rented as a short-term rental. No more than 12 permits will be issued for a single multi-unit dwelling. Multi-unit dwellings with 3 or fewer units are subject to the 50-foot rule.
  - Non-residential zones: No more than 12 registrations will be issued for a single multi-unit dwelling. There are no other density restrictions for units in non-residential zones.
- Can I rent my casita or other accessory dwelling unit as a short-term rental?
  - Yes, and accessory dwelling units where the owner lives on site are not subject to density limits (i.e., the 50-foot rule described above). They must be compliant with the accessory dwelling unit ordinance (Section 14-6.3(D)(1)).
- Does this ordinance proposal change the exemption that condominiums currently enjoy that allows multiple condominium owners to obtain a short-term rental license as long as there is no prohibition in the condo's covenants?

- All condominiums are subject to the density limits outlined in the ordinance. This ordinance does not supersede HOA or other restrictive covenants that prohibit short-term rentals.
- What if my existing permit is within 50 feet of another short-term rental unit?
  - Your current permit is valid, and you may continue renewing your permit on an annual basis. Permits cannot be transferred with the sale of a property or to another person.
- How often can I rent a short-term rental?
  - Residential zones: You can rent the unit once in a seven-day period. The count begins the first day of the rental. For example, if someone checks in on Friday and checks out on Sunday, you may accept a new reservation beginning on the following Friday. The seven-day rule does not apply from November 15<sup>th</sup> to January 15<sup>th</sup>.
  - Non-residential zones: There is no limit to how often you can rent a short-term rental.
- Do I have to live on the same property as the short-term rental unit?
  - No, you do not have to live on the same property as the short-term rental, unless you are subject to the Accessory Dwelling Unit ordinance (Section 14-6.3(D)(1)).
- Do short-term rentals need to have a local manager available to respond to emergencies?
  - All short-term rental properties must have a local operator available 24 hours per day, 7 days a week. The local operator must be able to be physically present at the short-term rental unit to respond to emergencies and complaints within 1 hour of receiving the complaint. You may manage your own short-term rental if you meet these requirements.
- What kind of inspections do I need to have for my short-term rental unit?
  - A short-term rental unit must meet all applicable building, fire, and safety codes, and all toilets, faucets, and shower heads must meet the water conservation requirements described in Section 25-2.6 SFCC 1987.
  - 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.
  - The city shall perform an inspection prior to the issuance of an initial permit or registration to ensure compliance with subsection 14-6.2(A)(5) and all applicable fire, health, and safety requirements; and may, upon notice to the owner, perform additional inspections as warranted.
- How many people can stay in a short-term rental unit?

- The guest limit is twice the number of bedrooms. For example, a two-bedroom house can have a maximum of 4 guests.
- Do I have to provide off-street parking?
  - Yes, property owners must provide one off-street parking spot for one or fewer bedrooms and two parking spots for two or more bedrooms. Recreational vehicles cannot be parked at short-term rental properties.
- Can someone throw parties in a short-term rental unit?
  - Gatherings are limited to 2 times the number of guests. For example, a two-bedroom short-term rental can have 4 overnight guests and a gathering of 8 people. All non-residential activities are restricted in residential zones, and all properties in Santa Fe are subject to our local laws, including those related to noise limits, nuisance activities, and criminal activities.

## Enforcement

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- What are the repercussions for breaking a rule?
  - The City can investigate citizen complaints and monitor listings on host-platforms to ensure compliance. Violations may result in civil or criminal penalties. For civil penalties, first-time violators may be subject to a \$100 fine for each day of violation. Fines increase to \$250 for second offenses and \$500 for subsequent offenses. The City may also revoke a permit and/or impose a one-year waiting period before the violator is permitted to apply for another permit. Finally, the City can ask a host platform (e.g., Airbnb, VRBO) to remove a listing for a short-term rental unit that lacks a valid permit or registration.
- Are short term rentals required to pay taxes?
  - The owner shall pay all applicable local, state, and federal taxes, including lodgers' tax, gross receipts tax, and income tax.
- What kind of records do I need to keep?
  - Owner/operators must keep records from the three most recent years, and these records must be available for review by the Land Use Department upon request. Records must include:
    - Residential zones:
      - date of each reservation and number of nights per reservation
      - amount of rent paid by guests per month
      - amount of each type of tax and fee paid to the City by month
    - Non-residential zones:
      - amount of rent paid by guests per month
      - amount of each type of tax and fees paid to the City by month

- How does the City know if a listing on a third-party site is permitted or registered?
  - You must post your permit or license number on all advertisements for the short-term rental unit, including on host platforms (e.g., Airbnb, VRBO).
  
- Can the City see bookings on third-party sites?
  - All host platforms are required to provide a monthly report to the City that includes the web address (URL) for each property listed on the host platform and the permit or registration number associated with that URL.
  - Upon notice from the City that a permit or registration is invalid, the host platform must remove the listing within 5 days.
  - The City also has a contract with Host Compliance, a service that helps the City collect information from online host platforms and assists the City in implementing and enforcing its regulations.
  
- When does the ordinance go into effect?
  - The changes go into effect on January 1, 2021. All permits submitted by December 31, 2020 will not be subject to the proximity requirements (i.e., the 50-foot rule and 25% limit of units in multi-unit dwellings described above) or the one permit per natural person rule. All short-term rental permits and registrations will be subject to the new applicable record-keeping and operational regulations, including, but not limited to, the 1000-permit limit, the non-transferability of permits, and the permit and registration number posting requirement. Land Use will begin requiring the previous year's records during the March 15, 2022 re-application period (2021 records).