

DRAFT 09/05/07

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2007-_____

INTRODUCED BY:

AN ORDINANCE

AMENDING SECTION 14-6.2(A)(6)(a) SFCC 1987; CREATING A NEW SECTION 14-6.2 (C)(12); AMENDING SECTION 14-6.3(C)(1); AMENDING TABLE 14-8.6-1 SFCC 1987; PERMITTING SHORT TERM RENTALS IN RESIDENTIAL DISTRICTS IN EXISTENCE PRIOR TO NOVEMBER 11, 2002 TO CONTINUE FOR A SET TIME PROVIDED THAT CERTAIN CONDITIONS ARE MET; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY.

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

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

- (a) In residential districts dwelling units shall not be rented [~~on a transient basis~~] for less than 30 days except for short term rental units in existence prior to November 11, 2002, and in compliance with §14-6.2(C)(12).

Section 2. [NEW MATERIAL.] A new Section 14-6.2(C)(12) SFCC 1987 is ordained to read:

(12) Short Term Rental Units

- (a) General Requirements. Dwelling units or accessory dwelling units may be used as short term rental units provided that the following conditions are met:
 - (i) The owner/operator of the short term rental shall provide evidence to the City that the unit was regularly used for short term rental prior to November 11, 2002.
 - (ii) Operation of the short term rental shall cease prior to January 1, 2015, sale of the property or revocation of the permit, whichever occurs first.
 - (iii) Each rental period shall not be for less than seven consecutive calendar days.
 - (iv) Rental shall be limited to 17 rental periods per calendar year except for dwelling units located within residential resorts. For the purpose of this section residential resorts are properties that are part of a development controlled by a home owners

association that has its own security and controls. The development shall be gated and offer a combination of on site resort type features such as swimming pools, tennis courts, spas, golf courses and such other amenities.

- (v) Off street parking shall be provided on site as follows:
 - A. One bedroom One parking space
 - B. Two or more bedrooms Two parking spaces
- (vi) All applicable building and fire life safety codes shall be met. All toilets, faucets and shower heads shall meet the requirements described in §25-2.6 SFCC 1987.
- (vii) Occupants shall not park recreational vehicles on site or on the street.
- (viii) The total number of adults that may occupy the short term rental unit is twice the number of bedrooms. For the purpose of this paragraph an adult is a person 18 years or older.
- (ix) Noise or other disturbance outside the short term rental unit is prohibited after 10:00 pm . This includes, but is not limited to, decks, portals, porches, balconies or patios .
- (x) All occupants shall be informed in writing of relevant City ordinances including, but not limited to, the city's nuisance and water conservation ordinances by the owner/operator of the short

term rental unit.

- (xi) The owner/operator shall pay all applicable local, state and federal taxes. These include but are not limited to: lodgers' tax, gross receipts tax, and income taxes.
 - (xii) A permit shall be obtained from the City as set forth in paragraph (b) below.
 - (xiii) The owner/operator shall make available to the City for its inspection all records relating to the operation of the short term rental unit in order to determine compliance with §14-6.2(C) (12). The owner/operator shall report to the Land Use Department on a monthly basis in a format provided by the City.
- (b) Permit Procedures.
- (i) Owners/operators of short term rental units in existence prior to November 11, 2002, desiring to continue in operation shall submit an application for a permit with the Land Use Department by _____ (30 days from the adoption date of this Ordinance). The application shall be on a form specified by the Land Use Department with the information required by the City. Evidence demonstrating that the short term rental was in existence prior to June 8, 2005 shall be submitted in a format acceptable to the City.

- (ii) The operation may continue until issuance of a permit provided that the operation complies with the provisions set forth in paragraph (a) above. If the application for a permit it is denied by the City, the operation shall cease within 30 days of such written notice by the City.
- (iii) Unless revoked as set forth in §14-6.2(C)(12)(d)(i) below, a permit is valid for two years and may be renewed if the operation has complied with the provisions set forth in paragraph (a) above until January 1, 2015.
- (iv) The permit shall include the name and phone number of the owner/operator who is available 24 hours a 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 §14-6.2(C)(12).
- (v) The permit shall include a notarized statement signed by the owner/operator that the short term rental shall be operated in compliance with §14-6.2(C)(12) and all applicable City codes.
- (vi) Prior to issuance of any permit, a certificate of occupancy shall be required to ensure compliance with §14-6.2(C)(12) and all applicable codes.

- (vii) The permit is not transferable to another person or property.
 - (viii) Upon issuance of the permit, all property owners within 200 feet of the property shall be provided with the name and phone number of the owner/operator who is available 24 hours a 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 §14-6.2(C)(12).
- (c) Fees. A non-refundable fee of \$500 per unit per year (including inspection fees) is established for short term rental units unless the permit is issued for an accessory dwelling unit per §14-6.3(C)(1) or a residential resort per §14-6.2(C)(12)(a)(ii) in which case, the permit fee is \$200 per year non-refundable (includes inspection fees).
- (d) Violations.
- (i) City staff shall document all alleged violations of §14-6.2(C)(12) and shall pursue enforcement through the municipal court as set forth in §1-3 SFCC 1987 or in another appropriate court of law. Upon conviction of a third violation by the municipal court, the City shall revoke the permit and operation of the short term rental shall cease within 30 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 shall be in violation of this ordinance and subject to prosecution in municipal court.

- (iii) An agent who knowingly assists an owner in advertising or renting a dwelling unit as a short term rental unit in violation of this ordinance shall be subject to prosecution in the municipal court and the agent's business license shall be subject to revocation.
- (e) Covenants. Private restrictive covenants, enforceable by those governed by the covenants, may prohibit short term rentals units.
- (f) Real Estate Brokers. Real estate brokers listing residential property in the city of Santa Fe shall provide prospective buyers a current copy of Ordinance.
- (g) Administrative Procedures. The Land Use Director shall establish administrative procedures as are necessary for the implementation, management and enforcement of §14-6.2(C)(12) .
- (h) Annual Review and Report. Staff shall make an annual report each November to the Governing Body regarding the implementation, management, enforcement and fiscal impact of §14-6.2(C)(12). The Governing Body shall consider any appropriate amendments.
- (i) The effective date of this §14-6.2(C)(12) shall be January 1, 2008 except

as otherwise specified above.

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

(1) Accessory Dwelling Units

Accessory dwelling units are intended to provide additional dwelling space for the residents of the principal dwelling unit or their guests or employees. [~~In addition, accessory dwelling units are intended to provide dwelling space for non-transient tenants.~~] The rental of accessory dwelling units may increase the supply of affordable housing and will disperse rental units throughout the community. Accessory dwelling units:

- (a) Are required to meet parking standards as set forth in §14-8.6;
- (b) Shall be regulated as per City regulations and policies regarding City utilities;
- (c) Are exempt from the density restrictions set forth in this chapter; however, only one accessory dwelling unit shall be permitted per lot of record;
- (d) Shall be built only when permission to construct is granted to the owner-occupant of the principal dwelling unit;
- (e) Shall have a footprint not exceeding the square footage of the footprint of the principal dwelling unit, or not more than 1500 square feet whichever is less;

- (f) Shall be limited to one story and shall not exceed 15 feet to the top of the parapet or to the highest point of the roof if there is no parapet;
- (g) Shall be of the same architectural style as the principal dwelling unit;
- (h) ~~[May be rented provided that the rental period is no less than one month and the owner of the property occupies the principal dwelling unit. As an alternative, the owner of the property may occupy the accessory dwelling unit and rent the principal dwelling unit provided that the rental period is no less than one month];~~ The owner of the property shall occupy either the principal dwelling unit or the accessory dwelling unit and may rent the other unit. The principal dwelling unit or the accessory dwelling unit may not be rented for less than 30 days except as provided in §14-6.2(C)(12); and
- (i) An affidavit shall be recorded prior to issuance of any construction permit for an accessory dwelling unit stating that the property owner agrees to comply with these provisions. An affidavit filed prior to the adoption of Ordinance No. 2007-___ (ordaining §14-6.2(C)(12) and amending §14-6.3(C)(1)) remains in effect and is automatically amended to reflect the provisions of Ordinance No. 2007-___.

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

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

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

SHORT TERM RENTAL UNIT

A dwelling unit or accessory dwelling unit in a residential district rented for less than thirty days per §14-6.2(C)(12).

Section 6. The following definition in Section 18-11.3 SFCC 1987 (being Ord. #1992-27, §4 as amended) regarding lodgers' tax is amended to read:

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

APPROVED AS TO FORM:

FRANK D. KATZ, CITY ATTORNEY

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jp/CMO/2007 bills/short term rental grandfather

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