

**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2007-\_\_\_\_**

**INTRODUCED BY:**

**AN ORDINANCE**

**AMENDING SECTIONS 14-3.1(F)(2), 14-3.6(B)(1), TABLE 14-6.1-1, AND SECTION 14-6.2(A)(6)(a) SFCC 1987; CREATING A NEW SECTION 14-6.2(C)(12) SFCC 1987; AMENDING SECTION 14-6.3(C)(1) AND TABLE 14-8.6-1 SFCC 1987; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO ALLOW SHORT TERM RENTAL UNITS AS SPECIAL EXCEPTIONS IN RESIDENTIAL DISTRICTS AND CLARIFY SHORT TERM RENTALS ARE A PERMITTED USE IN C-1, C-2, C-4, HZ, BCD AND MU DISTRICTS.**

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

**Section 1. Section 14-3.1(F)(2) SFCC 1987 (being Ord. #2001-38, §2 as amended) is amended to read:**

**(2) Applicability**

**Early neighborhood notification is required for:**

**(a) Certain applications heard before the Planning Commission as follows:**

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- (i) Petition-method annexations;
  - (ii) Master plans;
  - (iii) Rezonings;
  - (iv) Preliminary development plans;
  - (v) Final development plans where a preliminary plan has not previously been approved;
  - (vi) Preliminary subdivision plats;
  - (vii) Final subdivision plats where a preliminary plat has not previously been approved;
  - (viii) Vacation and dedication of rights-of-way;
  - (ix) Variances;
  - (x) Amendment to any of the preceding;
  - (xi) Amendments to final development plans;
  - (xii) Amendments to final subdivision plats;
  - (xiii) Amendments to the Future Land Use Map of the General Plan; and
  - (xiv) Escarpment overlay district appeals.
- (b) Special exceptions except those for:
- (i) Mobile homes; and
  - (ii) Short term rental units.
- (c) Variances heard before the Board of Adjustment, except those requesting construction or modification of an individual single family dwelling and appurtenant accessory structures or those requesting a reduction in the total parking requirements of five or fewer spaces;

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- (d) City capital improvement projects requiring review by the Governing Body as follows:
  - (i) Facility plans for municipal facilities or services, including wastewater, solid waste, potable water, and airport facilities;
  - (ii) New projects or projects to expand or extend service to new service areas included in the capital improvement program or General Plan;
  - (iii) Any new road construction or reconstruction of an existing road that materially expands capacity; and
  - (iv) Projects funded out of capital impact fee funds.
- (e) The following types of capital improvement projects shall not require early notification:
  - (i) Replacement, repair or maintenance of underground facilities where such activity does not represent a material expansion of existing facilities.
  - (ii) Road maintenance, repair, surfacing or resurfacing, striping, curb and gutter or sidewalk repair or maintenance, sign maintenance, signal repair, shoulder work, bridge or culvert maintenance work; and
  - (iii) Special assessment districts covered by state statute or city ordinance.

**Section 2. Section 14-3.6(B)(1) SFCC 1987 (being Ord. #2001-38, §2) is amended to read:**

- (1) Early Neighborhood Notification and Final Development Plan Approval

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All special exceptions except those for an individual mobile home and short term rental units shall follow early neighborhood notification requirements set forth in §14-3.1(F) and shall require final development plan approval. No preliminary development plan approval is required.

TABLE 14-6.1-1 PERMITTED USES																					
Category	Specific Use	R-1	R-7	R-7(D)	R-C	R-M	R-AC	MHP	C-1	C-2	C-4	H-Z	B-CD	I-1	I-2	B-IP	S-C-1	S-C-2	S-C-3	M-U	Use-Specific Regs (See Section 14-6.2)
	Short term rental unit	S	S	S	S	S	S		P	P	P	P	P							P	(C)(12)

**Section 3. Table 14-6.11-1 SFCC 1987 (being ordained as Ord. #2001-38, §2 as amended) is amended to insert the following under “Public Accommodation”:**

**Section 4. 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 unless the Board of Adjustment approves a special exception for a short term rental unit as set forth in §14-6.2(C)(12).

**Section 5. [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 Board of Adjustment approves a special exception and the following are met:

(i) Rental shall be limited to 17 rentals of less than 30 days per

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- calendar year.
- (ii) No more than one rental is permitted within a seven consecutive day period.
- (iii) Off street parking shall be provided on site as follows:
  - A. One bedroom One parking space
  - B. Two or three bedrooms Two parking spaces
  - C. Four or more bedrooms Three parking spaces
- (iv) 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.
- (v) Occupants shall not park recreational vehicles on site or on the street.
- (vi) 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.
- (vii) 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.
- (viii) 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.
- (ix) 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.
- (x) The owner/operator shall make available to the City for its

1 inspection all records relating to the operation of the short term  
2 rental unit and shall report to the Land Use Department on a  
3 monthly basis in a format provided by the City in order to  
4 determine compliance with §14-6.2(C)(12).

5 (b) Special Exception Required

6 (i) All short term rentals units shall require approval of a special  
7 exception prior to operation except as set forth in paragraph (ii)  
8 below.

9 (ii) Property owners of short term rental units in existence prior to  
10 \_\_\_\_\_ (the date of adoption of this Ordinance) may  
11 continue to operate until such time as the Board of Adjustment  
12 makes a decision on the application for special exception  
13 provided that the owner apply for a special exception prior to  
14 \_\_\_\_\_ (30 days from the effective date of this Ordinance)  
15 and the operation complies with the provisions set forth in  
16 paragraph (a) above. If the application is denied by the Board of  
17 Adjustment, the operation shall cease within 30 days of the  
18 Board's decision.

19 (iii) Upon approval of the special exception by the Board of  
20 Adjustment in accordance with §14-3.6, the operation shall  
21 comply with any conditions established by the Board of  
22 Adjustment.

23 (iv) Notwithstanding the provisions set forth in §14-3.7(D) and §14-  
24 6.2(C)(12)(d)(i), a special exception for a short term rental unit  
25 shall be valid for 10 years from the date of approval by the

1 Board of Adjustment at which time a new application for special  
2 exception shall be required.

3 (c) Permit Issuance

4 (i) After approval of the special exception and verification by the  
5 city that all applicable codes and conditions are met, a permit  
6 shall be issued by the City. A permit is valid for two years and  
7 may be renewed for up to a total of ten years from the date of  
8 approval of the special exception subject to §14-  
9 6.2(C)(12)(b)(iv) below.

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

17 (iii) The permit shall include a notarized statement signed by the  
18 owner/operator that the short term rental shall be operated in  
19 compliance with §14-6.2(C)(12) and all applicable City codes.

20 (d) Fees. The Governing Body shall establish permit fees by adoption of a  
21 resolution.

22 (e) Violations. City staff shall document all alleged violations of §14-  
23 6.2(C)(12) and conditions of approval by the Board of Adjustment and  
24 depending upon the nature of the violation, the City will pursue  
25 enforcement through the municipal court as set forth in §1-3 SFCC 1987

1 or in another appropriate court of law.

- 2 (f) Covenants. Private restrictive covenants, enforceable by those  
3 governed by the covenants, may prohibit short term rentals units.
- 4 (g) Real Estate Brokers. Real estate brokers listing residential property in  
5 the City of Santa Fe shall provide prospective buyers a current copy of  
6 §14-6.2(C)(12).
- 7 (h) Administrative Procedures. The Land Use Director may establish  
8 administrative procedures as are necessary for the implementation,  
9 management and enforcement of §14-6.2(C)(12). Such administrative  
10 procedures shall be available to the public for inspection and copying at  
11 the Land Use Department.
- 12 (i) Annual Report. Staff shall make an annual report each November to the  
13 Governing Body regarding the implementation, management,  
14 enforcement and fiscal impact of §14-6.2(C)(12).
- 15 (j) Effective Date. The effective date of §14-6.2(C)(12) shall be  
16 \_\_\_\_\_, (90 days from the date of adoption of this Ordinance).

17 **Section 6. Section 14-6.3(C)(1) SFCC 1987 (being Ord. #2001-38, §2 as**  
18 **amended) is amended to read:**

19 (1) Accessory Dwelling Units

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

- 1 (a) Are required to meet parking standards as set forth in §14-8.6;
- 2 (b) Shall be regulated as per City regulations and policies regarding City  
3 utilities;
- 4 (c) Are exempt from the density restrictions set forth in this chapter;  
5 however, only one accessory dwelling unit shall be permitted per lot of  
6 record;
- 7 (d) Shall be built only when permission to construct is granted to the owner-  
8 occupant of the principal dwelling unit;
- 9 (e) Shall have a footprint not exceeding the square footage of the footprint of  
10 the principal dwelling unit, or not more than 1500 square feet whichever  
11 is less;
- 12 (f) Shall be limited to one story and shall not exceed 15 feet to the top of the  
13 parapet or to the highest point of the roof if there is no parapet;
- 14 (g) Shall be of the same architectural style as the principal dwelling unit;
- 15 (h) ~~[May be rented provided that the rental period is no less than one month  
16 and the owner of the property occupies the principal dwelling unit. As an  
17 alternative, the owner of the property may occupy the accessory dwelling  
18 unit and rent the principal dwelling unit provided that the rental period is  
19 no less than one month]; The owner of the property shall occupy either  
20 the principal dwelling unit or the accessory dwelling unit and may rent  
21 the other unit provided that the rental period is no less than one month  
22 unless the Board of Adjustment approves a special exception for a short  
23 term rental unit as set forth in §14-6.2(C)(12); and~~
- 24 (i) An affidavit shall be recorded prior to issuance of any construction  
25 permit for an accessory dwelling unit stating that the property owner

1 agrees to comply with these provisions. An affidavit filed prior to the  
2 adoption of Ordinance No. 2007-\_\_\_ (ordaining §14-6.2(C)(12) and  
3 amending §14-6.3(C)(1)) remains in effect and is automatically amended  
4 to reflect the provisions of Ordinance No. 2007-\_\_\_.

5 **Section 7. [NEW MATERIAL.] The following shall be added to Table 14-8.6-**  
6 **1 SFCC 1987 (being Ord. #2001-38, §2 as amended) Under Category: Residential: Off**

7 **Street Parking:**

8 Short term rental unit	One bedroom	One parking space
9	Two or three bedrooms	Two parking spaces
10	Four or more bedrooms	Three parking spaces

11 **Section 8. Article 14-12 SFCC 1987 (being Ord. #2001-38, §2 as amended) is**  
12 **amended to include the following definition.**

13 **SHORT TERM RENTAL UNIT**

14 A dwelling unit or accessory dwelling unit rented for less than thirty days.

15 **Section 9. The following definition in Section 18-11.3 SFCC 1987 (being Ord.**  
16 **#1992-27, §4 as amended) regarding lodgers' tax is amended to read:**

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

22 APPROVED AS TO FORM:

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24 \_\_\_\_\_  
25 FRANK D. KATZ, CITY ATTORNEY

1 Jp/N/2007 bills/short term rental special exception

