

CITY OF SANTA FE, NEW MEXICO

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

INTRODUCED BY:

Councilor Wurzburger

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; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY; REGARDING THE SHORT TERM RENTAL OF DWELLING UNITS IN RESIDENTIAL DISTRICTS.

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 as short term rental units as set forth in §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 used

with amendments

1 as short term rental units shall comply with the following:

2 (i) Each rental period shall not be for less than seven consecutive  
3 calendar days.

4 (ii) Rental shall be limited to 17 rental periods per calendar year  
5 except for dwelling units located within residential resorts with  
6 short term rentals in existence at the time of adoption of §14-  
7 6.2(C)(12) ( \_\_\_\_\_ ) provided that the home owners'  
8 covenants do not prohibit short term rentals. For the purpose of  
9 this section residential resorts are properties that are part of a  
10 development controlled by a home owners association that has  
11 its own security and controls. The development shall be gated  
12 and offer a combination of on site resort type features such as  
13 swimming pools, tennis courts, spas, golf courses ~~ete~~ and such  
14 other amenities.

15 (iii) Off street parking shall be provided on site as follows:

16 A. One bedroom One parking space

17 B. Two to three bedrooms Two parking spaces

18 (iv) All applicable building and fire life safety codes shall be met. All toilets,  
19 faucets and shower heads shall meet the requirements described in §25-  
20 2.6 SFCC 1987.

21 (v) Occupants shall not park recreational vehicles on site or on the street.

22 (vi) The total number of adults that may occupy the short term rental  
23 unit is twice the number of bedrooms. For the purpose of this  
24 paragraph an adult is a person 18 years or older.

25 (vii) Noise or other disturbance outside the short term rental unit is

with amendments

1 prohibited after 10:00 pm . This includes, but is not limited to,  
2 decks, portals, porches, balconies or patios .

3 (viii) All occupants shall be informed in writing of relevant City  
4 ordinances including, but not limited to, the city's nuisance and  
5 water conservation ordinances by the owner/operator of the short  
6 term rental unit.

7 (ix) All applicable local, state and federal taxes shall be paid. These  
8 include but are not limited to: lodgers' tax, gross receipts tax,  
9 and income taxes.

10 (x) A permit shall be obtained from the City as set forth in paragraph  
11 (b) below.

12 (xi) The owner/operator shall make available to the City for its  
13 inspection all records relating to the operation of the short term  
14 rental unit in order to determine compliance with §14-  
15 6.2(C)(12). The owner/operator shall report to the Land Use  
16 Department on a monthly basis in a format provided by the City.

17 (b) Permit Procedures.

18 ~~(i) Property owners of short term rentals in existence prior to the~~  
19 ~~adoption of this ordinance shall apply for a permit within 60~~  
20 ~~days of adoption of this ordinance. Following submittal of an~~  
21 ~~application, such short term rental may continue to operate~~  
22 ~~pending issuance of the permit provided that the operation of the~~  
23 ~~short term rental unit complies with the provisions set forth in~~  
24 ~~paragraph (a) above. If the permit is denied, the operation shall~~  
25 ~~cease within 30 days.~~

with amendments

1 (ii)(i) An application for a permit shall be filed with the Land Use  
2 Department. Within twenty days of application, the applicant  
3 shall mail notice of the application return receipt requested to  
4 property owners of record and by first class mail to physical  
5 addresses within 200 feet of the subject property exclusive of  
6 public rights-of-way. The notices shall be approved by the Land  
7 Use Department prior to mailing. Return receipts shall be  
8 delivered to the Land Use Department.

9 (ii) Property owners of short term rentals in existence prior to the  
10 adoption of this Ordinance may continue to operate provided that  
11 the owner applies for a permit within 60 days of adoption of this  
12 Ordinance and that operation of the short term rental unit  
13 complies with the provisions set forth in paragraph (a) above. If  
14 the permit is denied, the operation shall cease within 30 days.

15 (iii) If within 30 days of mailing the notice of application any  
16 property owner or other party given notice in §14-  
17 6.2(C)(12)(b)(ii) above objects in writing with a notarized  
18 signature to the issuance of the permit, staff shall forward the  
19 permit application to a hearing officer who shall conduct a public  
20 hearing. Notice of the public hearing shall be given in the same  
21 manner as set forth in the original notice described in §14-  
22 6.2(C)(12)(b)(ii) above. In approving a permit, the hearing  
23 officer may prescribe appropriate conditions. Appeals of a  
24 decision of the hearing officer shall be heard by the Governing  
25 Body as set forth in §14-3.17(A). Violations of such conditions

1 shall be deemed a violation of this section.

2 (iv) In reviewing the permit application, the hearing officer shall  
3 consider:

4 A. What will be the impact of the short term rental unit, if  
5 any, on properties in the vicinity;

6 B. ~~If~~ Whether the short term rental unit will be harmonious  
7 with uses in the vicinity;

8 C. ~~If~~ Whether the short term rental will ~~not~~ damage the  
9 character of the neighborhood, be injurious to the  
10 neighborhood, or otherwise be detrimental to the public  
11 welfare.

12 (v) Staff shall not accept another application for the same short term  
13 rental unit for which a permit has been denied within one year of  
14 that denial.

15 (vi) Unless revoked as set forth in §14-6.2(C)(12)(d)(i) below, the  
16 permit shall be valid for two years at which time a new  
17 application shall be required.

18 (vii) The permit shall include the name and phone number of the  
19 owner/operator who is available 24 hours a day, seven days per  
20 week to respond to complaints regarding the operation or  
21 occupancy of the short term rental unit as well as the name and  
22 phone number of City staff responsible for enforcing §14-  
23 6.2(C)(12).

24 (viii) The permit shall include a notarized statement signed by the  
25 owner/operator that the short term rental shall be operated in

with amendments

1 compliance with §14-6.2(C)(12) and all applicable City codes.

2 (ix) Prior to issuance of any permit, a certificate of occupancy shall be  
3 required to ensure compliance with §14-6.2(C)(12) and all applicable  
4 codes.

5 (x) The permit may only be issued to the owner and is not  
6 transferable to another person or property.

7 (c) Fees. A non-refundable fee of \$1,000 per unit per year (including  
8 inspection fees) is established for short term rental units unless the  
9 permit is issued for an accessory dwelling unit per §14-6.3(C)(1) or a  
10 residential resort per §14-6.2(C)(12)(a)(ii)B- in which case, the permit  
11 fee is \$500 per year non-refundable (includes inspection fees).

12 (d) Violations.

13 (i) City staff shall document all alleged violations of §14-6.2(C)(12)  
14 and report them to the hearing officer who shall conduct a public  
15 hearing in accordance with the administrative procedures as set  
16 forth in paragraph (g) below. Upon determination that a first or  
17 second violation of §14-6.2(C)(12) is valid, the hearing officer  
18 shall assess a fine of up to \$500. Upon determination that a third  
19 violation is valid, the hearing officer shall revoke the permit. The  
20 owner of the short term rental unit for which the permit was  
21 revoked shall not be eligible to apply for a permit for any short  
22 term rental unit for a period of five years. Violations of §14-  
23 ~~6.2(C)(12)(a)(iv), (v) or (vi)~~ 14-6.2(C)(12)(a)(v), (vi) and (vii)  
24 committed by occupant(s) of the short term rental unit shall not  
25 be counted toward revocation of the permit.

with amendments

(ii) Depending upon the nature of the violation, the City may pursue enforcement through the municipal court as set forth in §1-3 SFCC 1987 or in another appropriate court of law.

(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 §14-6.2(C)(12).

(g) Administrative Procedures. The Land Use Director may establish administrative procedures as are necessary for the implementation, management and enforcement of §14-6.2(C)(12) provided that such administrative procedures are effective 30 days after the procedures have been available to the public for inspection and copying at the City Clerk's office.

(h) Annual 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).

(i) The effective date of this §14-6.2(C)(12) shall be January 1, 2008 except as specified in paragraph (b)(i) 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~~

with amendments

1 ~~non-transient and transient~~ tenants. The rental of accessory dwelling units may  
2 increase the supply of affordable housing and will disperse rental units  
3 throughout the community. Accessory dwelling units:

- 4 (a) Are required to meet parking standards as set forth in §14-8.6;
- 5 (b) Shall be regulated as per City regulations and policies regarding City  
6 utilities;
- 7 (c) Are exempt from the density restrictions set forth in this chapter;  
8 however, only one accessory dwelling unit shall be permitted per lot of  
9 record;
- 10 (d) Shall be built only when permission to construct is granted to the owner-  
11 occupant of the principal dwelling unit;
- 12 (e) Shall have a footprint not exceeding the square footage of the footprint of  
13 the principal dwelling unit, or not more than 1500 square feet whichever  
14 is less;
- 15 (f) Shall be limited to one story and shall not exceed 15 feet to the top of the  
16 parapet or to the highest point of the roof if there is no parapet;
- 17 (g) Shall be of the same architectural style as the principal dwelling unit;
- 18 (h) ~~[May be rented provided that the rental period is no less than one month  
19 and the owner of the property occupies the principal dwelling unit. As an  
20 alternative, the owner of the property may occupy the accessory dwelling  
21 unit and rent the principal dwelling unit provided that the rental period is  
22 no less than one month]; The owner of the property shall occupy either  
23 the principal dwelling unit or the accessory dwelling unit and may rent  
24 the other unit. Effective January 1, 2008, the principal dwelling unit or  
25 the accessory dwelling unit may be rented for less than 30 days, provided~~

1                   that the rental complies with §14-6.2(C)(12); and

- 2                   (i)     An affidavit shall be recorded prior to issuance of any construction
- 3                   permit for an accessory dwelling unit stating that the property owner
- 4                   agrees to comply with these provisions. An affidavit filed prior to the
- 5                   adoption of Ordinance No. 2007-\_\_ (ordaining §14-6.2(C)(12) and
- 6                   amending §14-6.3(C)(1)) remains in effect and is automatically amended
- 7                   to reflect the provisions of Ordinance No. 2007-\_\_.

8                   **Section 4.     [NEW MATERIAL.] The following shall be added to Table 14-8.6-**  
9 **1 SFCC 1987 (being Ord. #2001-38, §2 as amended) Under Category: Residential: Off**  
10 **Street Parking:**

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

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

15 **SHORT TERM RENTAL UNIT**

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

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

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

with amendments

1 APPROVED AS TO FORM:

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4 FRANK D. KATZ, CITY ATTORNEY

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25 Jp/CMO/2007 bills/short term rental W 4 with amendments

## CITY OF SANTA FE, NEW MEXICO

**PROPOSED AMENDMENT(S) TO BILL NO. 2007 -  
(short term rental / subcommittee bill)**

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We propose the following amendment(s) to Bill No. 2007 -:

1. On page 2, line 13, delete the word "etc." and insert the words "and such other amenities"
2. On page 3, delete lines 17 through 24 and renumber paragraph (ii) beginning on page 3, line 25 to paragraph (i).
3. On page 3, line 25, after the word "application" insert the words "for a permit"
4. On page 4, line 8, insert a new paragraph (ii) to read: "Property owners of short term rentals in existence prior to the adoption of this Ordinance may continue to operate provided that the owner applies for a permit within 60 days of adoption of this Ordinance and that operation of the short term rental unit complies with the provisions set forth in paragraph (a) above. If the permit is denied, the operation shall cease within 30 days."
5. On page 4, line 13, after the words "shall be" insert the words "given in the same manner"
6. On page 4, line 16, after the words "appropriate conditions" insert the words "Appeals of a decision of the hearing officer shall be heard by the Governing Body as set forth in §14-3.17(A)."
7. On page 4, line 22, delete the word "if" and insert the word "Whether"
8. On page 4, line 24, delete the word "if" and insert the word "Whether"
9. On page 4, line 24, delete the word "not"
10. On page 5, line 25, delete "B."
11. On page 6, lines 12 and 13, delete "§14-6.2(C)(12(a)(iv), (v) or (vi))" and insert "§14-6.2(C)(12(a)(v), (vi) and (vii))"
12. On page 7, lines 14 through 16, delete the sentence "In addition, accessory dwelling units are intended to provide dwelling space for non-transient and transient tenants"
13. On page 8, line 19, after the word "provisions" insert the words "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-\_\_\_\_."
14. On page 9, line 3, after the word "days" insert the words "per §14-6.2(C)(12)"

**Respectfully submitted,**

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**PC Subcommittee**

