

**THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

**ORDINANCE NO. 2022-\_\_\_\_\_**

**AN ORDINANCE  
AMENDING ORDINANCE NO. 1992-3, THE BUSINESS REGISTRATION AND  
LICENSING ORDINANCE, AND ORDINANCE NO. 1999-10, THE LODGERS'  
OCCUPANCY TAX ORDINANCE, TO LICENSE AND REGULATE SHORT-  
TERM RENTALS IN SANTA FE COUNTY**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
SANTA FE COUNTY:**

**Section 1. Short Title**

This ordinance may be cited as the “Short-Term Rental Regulation and Licensing Ordinance”.

**Section 2.** Section 2(G) of Ordinance No. 1992-3 is hereby amended by (1) deleting “and” from subsection 8; (2) replacing the “.” In subsection 9 with “; and”; and (3) adding the following new subsection 10: “10. Short-term rentals, as defined in Section 9(H).”

**Section 3.** The last sentence of Section 7 of Ordinance No. 1992-3 is hereby amended to read as follows: “The decision of the Board of County Commissioners can then be appealed to the First Judicial District Court within thirty (30) days of the date of filing of the final decision.”

**Section 4.** Section 9 of Ordinance No. 1992-3 is hereby amended by adding the following new subsection H:

“H. Short-Term Rentals.

**1. Findings.** The Board of County Commissioners finds and declares that the licensing and regulation of STRs is conducive to the promotion of the health and general welfare of the County because:

**1.1** STRs can negatively impact neighboring properties due to noise, traffic, trash, and offsite parking associated with the STR.

**1.2** STRs are businesses available to rent to the general public, many of whom reside outside of the County and may not be familiar with local law.

**1.3** Excessive occupancy in STRs poses the risk of unduly straining scarce water resources and negatively impacting the environment by overburdening septic systems.

**1.4** Because STRs often consist of residential housing used as commercial lodging made available to rent to the general public, the chance of non-compliance with the Santa Fe County Fire Code is increased as is the risk posed by such non-compliance to renters.

**2. Purpose and Intent.** The purpose of this section is to establish regulations, licensing standards, and licensing procedures for STRs to:

**2.1** ensure the safety and welfare of vendees to whom STRs are rented;

**2.2** protect the peace and enjoyment of surrounding communities and neighborhoods;

**2.3** protect water resources and the environment; and

**2.4** otherwise promote the health and general welfare of the County.

**3. Definitions.** For the purposes of this Section:

**3.1** Capitalized and bolded terms not defined herein shall have the same meaning as in the SLDC.

**3.2** “Daytime Occupancy Limit” means the maximum number of people who can gather at the STR during the day, including people not staying overnight.

**3.3.** “Occupancy Limit” means the maximum number of people allowed to stay overnight at the STR, not including children aged five (5) and under.

**3.4** “Owner” means the person who is the record title owner of the property for which the STR License is sought or held.

**3.5** “Quiet Hours” means designated hours during which noise from a STR is more highly regulated.

**3.6** “Short-term rental” or “STR” means a **Dwelling Unit** that is not the vendee’s household or primary residence and that is used, in whole or in part, for the transaction of furnishing rooms or other accommodations to a vendee who for rent uses, possesses or has the right to use or possess the rooms or other units of accommodations in the dwelling for periods of less than thirty (30) days.

**3.7** “SLDC” means the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9, as amended.

**3.8** “Vendee” means a natural person to whom a STR is rented.

**4. Permissible Locations.**

**4.1** STRs are permitted in all zoning districts within the County where residential uses are allowed as a primary use under the SLDC.

**4.2** STRs are only allowed (a) on property that is a legal lot of record and (b) within a **Dwellings** for which a **Development Permit** was issued and

which was constructed in accordance with the **Development Permit** or which qualifies as a **Nonconforming Structure** under the SLDC.

**4.3** STRs are not allowed where prohibited by private covenants.

## **5. License Required; Term.**

**5.1** Beginning on [insert date that is 120 days after effective date of ordinance], no person may operate a STR without a Business License.

**5.2** Each Dwelling Unit used as an STR shall require a separate Business License.

**5.3** Business Licenses for STRs shall be good for one year after issuance unless earlier revoked in accordance with this Ordinance.

## **6. License Contents, Display, and Notice.**

**6.1** The Business License for a STR shall specify the name of the Owner, address of the STR, the Occupancy Limit, the Daytime Occupancy Limit, the Business License number, and the expiration date.

**6.2** The Business License shall be displayed in a prominent and visible location within the STR, along with the following information on a form prepared by the Land Use Administrator:

**6.2.1** a notice of the maximum number of vehicles to be parked at the STR;

**6.2.2** a summary of the regulations contained in this section;

**6.2.3** the name and contact information of the Owner or Owner's agent who can be reached 24/7 to meet emergencies;

**6.2.4** the physical address of the STR;

**6.2.5** solid waste storage and disposal requirements; and

**6.2.6** Quiet Hours applicable to the STR.

The information listed in 6.2.1 through 6.2.6 shall be provided to vendees at least 48 hours prior to the beginning of the rental period.

**6.3** The Owner of a STR receiving a Business License shall provide notice by first class mail to the owners of property located within 500 ft. of the property on which the STR is located measured from the property lines of the property on which the STR is located. The notice shall be on a form provided by the **Land Use Administrator** and, at a minimum, shall include contact information for the Owner or person responsible for managing the STR who can be contacted 24/7 to report violations of the regulations contained in this section or other County ordinance, a summary of STR regulations, information on how to report a violation to the Owner or person responsible for managing the STR and the County, and a copy of the Business License.

## **7. Procedure**

**7.1** The application and submittal requirements for a Business License for a STR shall be developed by the Land Use Administrator and shall include, at a minimum, the following:

**7.1.1** For the year immediately preceding the application, the gross rental income from the STR and proof that applicable gross receipts taxes and lodgers' occupancy taxes have been paid through the most recent reporting period;

**7.1.2** For the year immediately preceding the application, the dates on which the STR was available for rent, the dates on which the STR was actually rented, and the total amount of rent charged per night of actual rental;

**7.1.3** A description of how the STR was used prior to being converted to an STR (e.g., owner-occupied housing, long-term rental, second home) and how it is utilized when not available for short-term rental; and

**7.1.4** The name and contact information of the homeowner association (if any) governing the STR or condominium association of which the STR is a part and, if applicable, letters from such associations confirming that the STR is permitted under the association's governing documents or private covenants applicable to the STR.

**7.2** Failure to submit a complete application, including the applicable fee and all required submittals, constitutes good cause for denial of the application.

**7.3** The Land Use Administrator shall review the application for completeness. If an application is deemed incomplete, the Land Use Administrator shall inform the Applicant in writing and provide the Applicant with a reasonable amount of time to submit a complete application before the application is denied and a new fee is required.

**7.4** As it relates to Business Licenses for STRs, the Land Use Administrator rather than the County Treasurer shall have the authority provided in Section 3, Section 5, and Section 7 of the Business Registration and Licensing Ordinance, provided that the County Treasurer may, based upon the Land Use Administrator's decision, physically issue a Business License for a STR.

**7.5** Renewal of a Business License for a STR is not automatic and shall require the submission of a complete application.

## **8. Regulations/Requirements for STRs**

**8.1** STRs shall comply with all applicable requirements in other Santa Fe County ordinances, including, but not limited to, the SLDC, the Santa Fe County Fire Code (Ordinance No. 2018-8); the Anti-Litter Ordinance (Ordinance No. 1993-11); the Santa Fe County Noise Control and Public Nuisance Ordinance (Ordinance No. 2009-11), and the Junked and Hazardous Vehicle Ordinance (Ordinance No. 1993-6).

**8.2** Occupancy.

**8.2.1** The Occupancy Limit for a STR served by a septic system shall be two (2) people for the first two (2) bedrooms and one (1) person per bedroom thereafter.

**8.2.2** The Occupancy Limit for a STR served by a community sewer system shall be two (2) persons per bedroom.

**8.2.3** The Daytime Occupancy Limit for a STR shall be the Occupancy Limit plus the greater of 100% of the Occupancy Limit or ten (10).

**8.2.4** Children aged five (5) and under shall not count against the Occupancy Limit or Daytime Occupancy Limit.

### **8.3** Parking

**8.3.1** All parking for a STR shall be located onsite.

**8.3.2** Vendees and their guests may not bring more cars to the STR than the number of onsite parking spaces.

### **8.4** Water

**8.4.1** A STR must comply with all water restrictions applicable to the property on which the STR is located.

**8.4.2** Applicants for a Business License for a STR must submit (1) utility bills or other utility information showing water consumption over the prior two (2) years, in the case of a property served by a utility; (2) meter readings from a well for the previous two years, in the case of a property served by a well; or (3) other evidence satisfactory to the Land Use Administrator demonstrating actual water usage during the previous two years.

**8.4.3** If the water usage is in excess of applicable restrictions, the application must include a water conservation plan to reduce water usage so as to comply with applicable restrictions going forward.

**8.4.4** If the Dwelling Unit for which a Business License for a STR is sought does not have a water meter and is unable otherwise to establish actual water usage during the previous two years, the applicant shall provide proof that a meter has been installed at the time of application for the Business License and shall provide a beginning reading.

**8.4.5** Failure to comply with applicable water restrictions while having a Business License constitutes good cause to revoke or deny the renewal of a Business License for a STR.

### **8.5** Fire protection

**8.5.1** All STRs shall comply with the Santa Fe County Fire Code (Ordinance No. 2018-8) as required by the Fire Marshall. To assist Owners with compliance and streamline the processing of applications, the Fire Marshall shall establish for submittal with the STR Business License application a Fire Code compliance certification form in which the Owner shall certify, under penalty of perjury, compliance with Fire Code requirements of most significance to STRs.

## 8.6 Solid Waste

**8.6.1** Each STR shall comply with the applicable sections of the Anti-Litter Ordinance (Ordinance No. 1993-11), SLDC, and the Solid Waste and Recycling Management Ordinance (Ordinance No. 2014-10) concerning the storage and disposal of solid waste, as well as the Development Permit or other approval applicable to the property.

## 8.7 Address and Signage

**8.7.1** Each STR shall clearly display the number assigned to it in accordance with Ordinance No. 1990-05.

**8.7.2** Any signage shall comply with residential signage restrictions of the SLDC.

## 8.8 Quiet Hours

**8.8.1** Vendees and their guests shall observe Quiet Hours between 10:00 p.m. and 7:00 a.m. each day; provided, however, that nothing herein shall preclude an Owner from establishing Quiet Hours that begin earlier and/or end later.

**8.8.2** During Quiet Hours, it shall be unlawful for persons at an STR to create any unreasonably loud, disturbing or unnecessary noise, or noise of such character, intensity or duration as to be detrimental to the repose, life or health of others. This includes, but is not limited to, the playing or performing of music, watching of television, or talking in such manner or with such volume as to disturb the quiet, comfort or repose of persons in any dwelling, hotel, hospital or sanatorium.

## 8.9 Other Commercial Activities Require Separate Authorization

**8.9.1** The granting of a Business License for a STR does not authorize the Owner or anyone else to engage in other business or licensed activity at the STR.”

**Section 4.** Section 3(B)(4) of Ordinance No. 1992-3 is hereby amended by adding the following new subsection o:

“o. STRs, \$375 for the initial Business License and \$300 for each renewal, both of which are payable at the time of application and are not refundable.”

**Section 5.** The Whereas clause in Ordinance No. 1992-3 is amended by replacing “NMSA Sec. 4-37-1 and Sec. 3-38-3 (1978, as amended)” with “NMSA 1978, Section 4-37-1 and Sections 3-38-1 through 3-38-6, as such may be amended or recompiled.”

**Section 6.** Section 4(A) of Ordinance No. 1999-10 is hereby amended to read as follows:

“**A.** Business Registration and Business Licenses: The procedures for obtaining a Business License or Business Registration and for refusing a Business License or Business Registration are set forth in the Business Registration and Licensing Ordinance, Ordinance No. 1992-4, as amended. Short-term rentals, as defined in the Business Registration and Licensing Ordinance, Ordinance No. 1992-4, must obtain a

Business License pursuant to that ordinance. All other vendors engaging in business in Santa Fe County must obtain a County Business Registration pursuant to that ordinance.”

**Section 7. Effective Date.** The effective date of this Ordinance shall be 30 days after this Ordinance is recorded with the County Clerk.

**PASSED, APPROVED AND ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_, 2022.  
THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

**By:** \_\_\_\_\_  
**Anna T. Hamilton, Chairperson**

**ATTEST:**

\_\_\_\_\_  
**Katharine E. Clark**  
**County Clerk**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Jeff S. Young**  
**County Attorney**