

ATTACHMENT

5

Planning Commission

Memo Dated

June 24, 2020

# City of Santa Fe, New Mexico

## memo

Date: June 24, 2020

To: Members of the Quality of Life Committee, Public Works and Utilities Committee, Finance Committee, and Governing Body

From: Members of the Planning Commission

Via: Sally A. Paez, Assistant City Attorney

Subject: Proposed Amendments to Short-term Rental Ordinance and Land Use Code Enforcement Ordinance

---

On Thursday, June 18, 2020, the Planning Commission held a public hearing on proposed amendments to the Short-term Rental (STR) Ordinance, Santa Fe City Code (SFCC) Section 14-6.2(A)(5)-(6), (8); and the Land Use Code Enforcement Ordinance, SFCC Section 14-11.4. Under the SFCC, proposed amendments to the text of Chapter 14 must be submitted to the Commission for review and recommendation at a public hearing, and the Governing Body must review the Commission's recommendations and any public comments received prior to taking final action on the legislation. SFCC § 14-3.3(A)(4).

The Planning Commission received a large volume of public comment on these proposals. Staff distributed written public comments from twenty-four 24 people to the Commission, including many comments received after the formal deadline. Additionally, twenty-nine (29) members of the public spoke at the public hearing.

The Planning Commission discussed the draft legislation at length but ultimately postponed a decision on a recommendation due to the extent of the proposed substantive changes and the high volume of public comment received. The Commission will finalize its recommendation at its July 16, 2020 meeting and will consider additional written public comments received by July 9, 2020. The Commission does not plan to accept additional live comment at the July 16, 2020 hearing.

Meanwhile, the Planning Commission understands that other City committees will be considering the proposed legislation at upcoming meetings. The

Commission offers the following input and suggestions made by individual Commissioners at the June 18, 2020 meeting for consideration by these other committees. These suggestions refer to the page and line numbers of the draft legislation considered at the June 18, 2020 hearing.

- **Global:** The draft legislation would remove the current distinction between STR units on residentially zoned property, which are subject to the permit limits, and STR units on non-residentially zoned property (including the Business Capital District, “BCD”) and resort property, which must be registered but are not subject to the permit limits. Suggest that this aspect of the proposal warrants further consideration and should perhaps be withdrawn.
- **Page 4, lines 19-21:** This provision states that one purpose of the legislation is to prevent the reduction of long-term housing availability. Suggest further review of whether the assumptions underlying this provision are accurate, perhaps through further consultation with Alexandra Ladd.
- **Page 5, line 25, to page 6, line 1:** This provision states that the land use director shall issue permits only to “natural persons.” Suggest clarifying that although a permit must be held in the name of a natural person, the subject property can be owned by a legal or business entity, such as a trust or LLC. For example, suggest adding language as follows: “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.” In addition, the limitation of one permit per natural person may warrant further consideration, especially if there is not a distinction between STRs on residentially zoned and non-residentially zoned property.
- **Page 6, lines 6-11:** This provision states that a permit is not transferrable. Suggest considering whether there should be exceptions to this rule. For example, suggest adding the following language: “A transfer that does not result in new ownership of the property, such as a transfer to the owner’s revocable trust for estate planning purposes or a transfer to an LLC where there is no change in the ownership interest in the property, does not constitute a transfer for purposes of this subparagraph.”
- **Page 7, lines 3-5:** This provision states that an STR unit cannot be rented more than once in a 7-day period. Suggest further consideration of whether this should apply to an STR unit on non-residentially zoned property.
- **Page 12, lines 5-10:** This provision states that a permit shall not be issued for a new STR unit on residentially zoned property if there is already a permitted STR unit within 75’. Suggest the following: (1) consider whether this rule is appropriate for all parts of the city, or whether there should be a different rule (perhaps no proximity limitation) in areas

- or council districts where there is not a problem with STR density; (2) suggest further review of whether 75' is the appropriate radius; and (3) suggest further review of whether the 75' radius should be measured from the applicant's property boundary (as set forth in the draft) or whether it should be measured from the center of the parcel, as determined by the city's GIS program (which was used when analyzing the effect of this provision).
- **Page 17, pages 6-11:** Suggest revising the "grandfather" provision to clarify that an STR with an existing registration shall be considered to have a valid permit under the new regulations and that the permit may be timely renewed as long as it is not revoked due to non-compliance.
  - **Section 14-11.4, Global:** A large amount of public comment focused on the ability to provide oversight and enforce the regulations. Suggest reviewing to ensure that these changes will be enforceable with city staff resources.