

ATTACHMENT

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Summary

Public Comments

1st Draft STR Bill



City of Santa Fe, New Mexico

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TO: Planning Commission, Finance Committee, Public Utilities/Public Works Committee, Quality of Life Committee, Governing Body

FROM: Assistant City Attorney Sally Paez (sapaez@santafenm.gov, 955-6501)

DATE: October 15, 2020

RE: Summary of Public Comments Received on 1st Draft Short Term Rental Bill and How the City Has Responded or Proposes to Respond

*This summary provides a broad, general overview of input received (including written submissions and oral public comment at the Planning Commission). This chart does not provide details about each specific comment. Please refer to full comments submitted for an accurate statement of each commenter’s concerns.

	Public Comments & Suggestions	Commenter(s)	How the City Has Responded or Proposes to Respond
1	General concern about taxes & fees: Importance of generation, collection, and use.	Michael John Blackwell Paul DeDomenico Preston Ellsworth Two Casitas	<ul style="list-style-type: none"> • The Bill would adopt new recording keeping and reporting requirements for owners and host platforms. • The City has entered into Voluntary Tax Collection Agreements with Host Platforms. • Failure to collect and pay taxes is subject to enforcement action.
2	General concern about enforcement: Need to enforce existing rules.	Stefanie Beninato Marc Bertram Charles Burkhardt Paul DeDomenico Germaine Gomez	<ul style="list-style-type: none"> • The proposed amendments are intended to clarify existing rules, make the ordinance easier to administer, and facilitate enforcement. • Amendments (adopted August 12, 2020) to the enforcement

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		<p>Karen Heldmeyer (Neighborhood Network) Robert Hilgendorf Frances Maier Two Casitas</p>	<p>ordinance, SFCC Section 14-11, allow civil fines, permit revocation, and/or 1-year application waiting period for violators.</p> <ul style="list-style-type: none"> • The City is under contract with Host Compliance, which assists the City in collecting data about listings. • The 2nd Draft of the Bill would include a provision that requires a host platform to remove invalid listings upon notice from the City that the listing does not comply with the City's ordinance.
3	<p>General concern about legislative process: Community members & stakeholders need additional time to review proposed amendments; public health emergency (and use of Zoom virtual meeting platform) makes this a bad time to adopt changes; City should conduct economic impact study; existing permit holders should receive notice of proposed legislation.</p>	<p>Irene P. Ayala Paul DeDomenico Susan Orth (SF Ass. of Realtors) Sara & Dave Singleton Jon B. Tucker Richard A. Woodruff</p>	<ul style="list-style-type: none"> • Introduction of 1st Draft of the Bill and preliminary public hearing before the Planning Commission generated significant public input, in addition to feedback from the Planning Commission. • The May 2019 Kelly O'Donnell report provided a basis for the need to adopt changes, which are driven by an array of policy objectives, including but not limited to economic concerns. • Bill sponsors have taken additional time to consider input on 1st Draft of Bill. • Bill sponsors met with stakeholders and constituents, and created a 2nd Draft of the Bill in response to input received. • There will be more opportunities for public engagement. The 2nd Draft of the Bill will be considered at public hearings before the Planning Commission and the Governing Body. The Bill will also be considered by three of the City's standing committees.
4	<p>General concern about stated purpose and intent: No data supporting idea that STR causes</p>	<p>Gregg Bovee Planning Commission Two Casitas</p>	<ul style="list-style-type: none"> • Other commenters support the proposal specifically because they do believe that it will protect residential neighborhoods from

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	traffic, noise and nuisances; or decreases affordable long-term housing.		these types of concerns and advance availability of long-term housing.
5	Suggestion: Adopt a primary residency requirement (owner cannot obtain STR permit unless the unit is their primary residence)	Nancy Bookbinder Karen Heldmeyer (Neighborhood Network) Patricia Lillis Elizabeth West	<ul style="list-style-type: none"> • Bill sponsors have considered this suggestion and have concluded this requirement is not the best fit for Santa Fe at this time. • The proposal includes other means intended to address the same underlying concerns, such as permit limits and proximity limitations for STR units that are not operated in compliance with the City's ADU ordinance.
6	Suggestion: Only locals should be allowed to obtain STR permits.	Janet Williams	<ul style="list-style-type: none"> • Such a provision could be challenged as unconstitutional under the privileges and immunities clause of 14th amendment and the dormant commerce clause.
7	Suggestion: Allow anonymous complaints about STR units.	Karen Heldmeyer (Neighborhood Network) Patricia Lillis Elizabeth West	<ul style="list-style-type: none"> • Neither the current ordinance nor the proposed changes preclude anonymous complaints, but such complaints may not provide an adequate evidentiary basis for taking enforcement action and proving a code violation. The most effective way to report a problem is to use the CRM system on the Constituent Services webpage.
8	Suggestion: Keep rules as clear and simple as possible to facilitate enforcement.	Elizabeth West	<ul style="list-style-type: none"> • The proposed amendments are intended to clarify existing rules, make the ordinance easier to administer, and facilitate enforcement.
9	General Opposition: Real problem is lack of enforcement; amendments will hurt tourism, economy, tax revenues, and competition; amendments will prevent investment and the	Rebecca Anderson Cindy Atanasoff Cheryl Benard Marc Bertram Tai Bixby Amy Bobrick Charles Burkhardt Paul DeDomenico	<ul style="list-style-type: none"> • Many of the proposed amendments are intended to clarify the existing ordinance. • The City recently amended the enforcement ordinance to add new enforcement tools. • The 2nd Draft of the Bill would retain the existing distinction between residential and non-

	<p>revitalization and maintenance of properties; amendments protect hotels to detriment of local business; no evidence that adopting more restrictions on STR will increase supply of long-term housing.</p>	<p>Germaine Gomez Steve Harris Robert Hilgendorf Lodgers Association Frances Maier Paula Moya Marilyn Proctor Karen Kolbert Richelli Marvin Schragar Ron & Myrna Simon Karl Hans Sommer Jon B. Tucker Two Casitas Richard A. Woodruff Robert Zilinski</p>	<p>residential zoning, which should alleviate some concerns about impacts on tourism and the economy while furthering the goal of protecting residential neighborhoods.</p>
10	<p>General Support: Proposal will protect residential neighborhoods and advance long-term housing.</p>	<p>Stefanie Beninato Nancy Bookbinder Karen Heldmeyer (Neighborhood Network) Craig Lamb Cynthia Lamb Patricia Lillis Laura Post Jerry Richardson Mike Tankersley Janet Williams Barbara Yoffee</p>	<ul style="list-style-type: none"> • The 2nd Draft of the Bill retains provisions intended to protect residential neighborhoods, including permit and proximity limitations. • The 2nd Draft of the Bill incorporates additional limitations on density for multiple-family dwelling units.
11	<p>Opposes proximity limitation, 75’ radius: Unworkable; hard to enforce; not fair; decreases home values; will prevent existing STRs from obtaining new permit if ownership transferred; will decrease number of STRs below the 1000 permit cap; should be revisited after development of publicly-available maps; suggestion to retain existing density limitation.</p>	<p>Stefanie Beninato Myra Canterbury Karen Heldmeyer (Neighborhood Network) Susan Orth (SF Ass. of Realtors) Ron & Myrna Simon Richard A. Woodruff</p>	<ul style="list-style-type: none"> • 2nd Draft of the Bill would adopt a 50’ radius, instead of a 75’ radius, to strike a more appropriate balance. • The existing proximity limitation has been difficult for City staff to interpret and administer. • The proposed proximity limitation can be easily measured and implemented using the City’s GIS resources.

12	<p>Opposes proximity limitation, 25% for multi-family: Request to clarify types of multi-family to which this applies; request to eliminate this and retain ability to get STR permit for this type of development (as long as this is allowed by HOA or Condo rules); suggestion that allowing any STR units in multi-family housing is detrimental to long-term housing availability and allows unfair competition with hotels.</p>	<p>Paul DeDomenico Lodgers Association Susan Orth (SF Ass. of Realtors)</p>	<ul style="list-style-type: none"> As defined in § 14-12.1, “multiple family dwelling,” means “[a] residential building containing two or more dwelling units on one lot, or two or more detached principal units on one lot.” The 2nd Draft of the Bill would apply this limitation only to STR units on residentially zoned property and STR units within 200’ of residentially zoned property. The 2nd Draft of the Bill would also limit the total number of STR units within a single building to 12 units.
13	<p>Non-residentially zoned property: BCD, Downtown area, other commercial areas that allow residential use (e.g. C-1) should not be subject to new limitations; provisions warrant further consideration.</p>	<p>Cindy Atanasoff Marc Bertram Charles Burkhardt Paul DeDomenico Andy Duettra Eric Enfield Germaine Gomez Robert Hilgendorf Bruce Kuehnle Lodgers Association David Mansure (petition w/ 704 names) Susan Orth (SF Ass. of Realtors) Planning Commission Karen Kolbert Richelli Victoria Rogers Tim Ryan</p>	<ul style="list-style-type: none"> The 2nd Draft of the Bill would apply permit limits only to STR units on residentially zoned property. The 2nd Draft of the Bill would apply proximity limits only to STR units on or within 200’ of a residentially zoned property (except the maximum of 12 STR units in a single building, which would apply City-wide). The 2nd Draft of the Bill would apply the 1 rental per every 7 days rule only to STR units on residentially zoned property.
14	<p>Opposes “natural person” requirement: Many STRs are owned by business or legal entities;</p>	<p>Marc Bertram Charles Burkhardt Paul DeDomenico Frances Maier</p>	<ul style="list-style-type: none"> The 2nd Draft of the Bill incorporates suggested revisions from the Planning Commission to clarify that property may be held

	limitation may be contrary to law (e.g., <i>Mecham</i> case).	Paula Moya Susan Orth (SF Ass. of Realtors) Karl Hans Sommer Mike Tankersley	by a business or legal entity and that the permit must be held by person with legal authority to act on behalf of the legal or business entity that owns the property. <ul style="list-style-type: none">• <i>Mecham</i> case is distinguishable; that case dealt with a special use permit that ran with the property and required the owner to incur a large investment (tennis courts etc.). An STR permit is a license that runs with the owner, not the property.
15	Supports 1 permit/natural person limitation: Suggestion to go one step farther and allow only 1 permit/family.	Stefanie Beninato John M. Nye	<ul style="list-style-type: none">• Difficult burden for City to define family for this purpose and to determine whether there is a permit held by a family member.
16	Opposes 1 permit/person limitation: Arbitrary; suggestions include 2-3 per owner or a limit on the number of permitted bedrooms/permittee.	Amy Bobrick Charles Burkhardt Paul DeDomenico Craig Lamb Paula Moya Paul Plunkett	<ul style="list-style-type: none">• The Bill Sponsors propose that the 1 permit/person limitation strikes the appropriate balance for Santa Fe at this time.
17	Supports 1000 permit limit	Charles Burkhardt	<ul style="list-style-type: none">• This limitation was adopted by Resolution and is currently in place. The legislation would adopt the existing limitation by ordinance.
18	Opposes local operator requirement: Not necessary; operators can be available and prevent problems without residing within City limits; suggestions include allow operator to reside within SF County or within 10, 20, or 25 miles (noting that a person in the county may be very close).	Charles Burkhardt Mike Henry (Campanilla Compound) Frances Maier Paula Moya Mike Tankersley	<ul style="list-style-type: none">• The 2nd Draft of the Bill no longer requires the local operator to reside within City limits and would instead require that the operator must be able to be physically present at the STR unit within 1 hour of being contacted to address problems.
19	Opposes 1/rental per every 7/days limitation: Difficult to track and	Charles Burkhardt Paul DeDomenico	<ul style="list-style-type: none">• Existing ordinance includes this general provision.

	enforce; should be withdrawn or not applied in non-residential areas/districts; suggestion to change to annual cap on rental days to allow more flexibility.	Mike Henry (Campanilla Compound) Patricia Lillis Susan Orth (SF Ass. of Realtors) Planning Commission	<ul style="list-style-type: none"> The 2nd Draft of the Bill would remove this limitation for STR units on non-residentially zoned property, as suggested by the Planning Commission and others. The 2nd Draft of the Bill would require an STR owner on residentially zoned property to keep records of rental dates and to provide records of rentals within the past year when filing a renewal application.
20	Transfer of permits – change in ownership should be allowed if underlying beneficial interest does not change; suggested change to address units that are comprised of multiple time-divided interests.	Mike Henry (Campanilla Compound) Planning Commission Susan Orth (SF Ass. of Realtors) Mike Tankersley	<ul style="list-style-type: none"> The 2nd Draft of the Bill includes clarifying language proposed by the Planning Commission. The 2nd Draft of the Bill would “grandfather in” units that are comprised of multiple time-divided interests and would allow such units to remain registered in subsequent years as long as they are in compliance with applicable rules, fees, and taxes.
21	Private covenants: Restrictions should be enforced	Denise Ramonas	<ul style="list-style-type: none"> Although the City does not directly enforce covenants, the proposal requires an applicant to affirm in the application that the proposed STR unit would not violate private covenants, and the recently adopted amendments to the enforcement ordinance allow the City to revoke a permit if false information is submitted in the application.
22	Inspections: Opposes random inspections; supports fire inspections	Stefanie Beninato Marilyn Proctor	<ul style="list-style-type: none"> The 2nd Draft of the Bill was revised and clarifies fire inspection requirements.
23	Grandfather provision: Should be clarified.	Frances Maier Susan Orth (SF Ass. of Realtors) Planning Commission Mike Tankersley	<ul style="list-style-type: none"> The 2nd Draft of the Bill was revised in response to comments received.
24	Grandfather Provision: Adopt amortization period;	Nancy Bookbinder Patricia Lillis	<ul style="list-style-type: none"> The Bill Sponsors have concluded that it is fair to allow existing STR

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	grandfather existing permits for only 2 years.		<p>permittees to continue to operate in compliance with applicable rules, fees, and taxes.</p> <ul style="list-style-type: none"> • If the City did want to make new limitations retroactive through an amortization provision, the City would need to introduce evidence into the record at public hearings demonstrating that it is reasonable to do so based on the factors set forth in New Mexico law.
25	Advertisements: Should list a permit number, not a business license number.	Nancy Bookbinder, Patricia Lillis	<ul style="list-style-type: none"> • The 2nd Draft of the Bill was revised in response to comments received and would require either a permit or registration number (instead of business license number).
26	Host Platform Requirements: Request to amend provisions to avoid undue burden; suggestion that platforms cannot evaluate validity of permit; suggestion to add a “notice and take-down” provision.	Kristina Bennard (Expedia Group) Paul DeDomenico Toral Patel (Airbnb)	<ul style="list-style-type: none"> • The 2nd Draft of the Bill was revised in response to comments received. • The proposal now includes a “notice and take-down” provision, which requires a host platform to remove a listing upon notice from the City that the listing is invalid or does not comply with City rules. • The 2nd Draft of the Bill was revised to reduce reporting requirements to lessen the burden on host platforms while still obtaining information necessary to assist with enforcement.
27	Insurance Requirement: Why remove requirement for adequate insurance?	Rebecca Anderson John M. Nye	<ul style="list-style-type: none"> • The Bill Sponsors propose to remove this requirement because insurance is a private contract between the owner and the company. Retaining this provision would require the City to regulate a private agreement and determine the type and level of insurance that is adequate and appropriate. Retaining this provision would also impose an administrative burden of reviewing insurance documents at time of application.

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28	Notice Requirements: Should not apply to STR on commercial property.	Paul DeDomenico	<ul style="list-style-type: none">• Notice provisions are included in the existing ordinance.• The ordinance requires notice only to owners of residentially zoned property, not commercial property.
29	Real Estate Disclosure: Remove provision or retain existing provision.	Susan Orth (SF Ass. of Realtors)	<ul style="list-style-type: none">• The 2nd Draft of the Bill was revised in response to comments received.