

# City of Santa Fe, New Mexico

## memo

Date: October 22, 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: Commission's Comments on 2<sup>nd</sup> Draft of Proposed Amendments to Short-term Rental Ordinance

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On Thursday, October 15, 2020, the Planning Commission held a public hearing to consider the second draft of proposed amendments to the Short-term Rental (STR) Ordinance, Santa Fe City Code (SFCC) Section 14-6.2(A)(5)-(6), (8). The Commission voted unanimously to recommend that the Governing Body adopt the proposed legislation. In this memorandum, the Commission provides additional comments for consideration by the Governing Body and other committees prior to adoption.

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).

Twenty-one people provided live public comment at the October 15, 2020 hearing. The Commission also received timely written comments from the Santa Fe Association of Realtors. We understand that City staff received additional written comments after the comment deadline. Although late comments were not submitted to the Commission for consideration on October 15, staff volunteered to compile late written comments and submit them for consideration at subsequent committee meetings and hearings.

The Commission offers the following comments for consideration by the members of the Governing Body.

**1. Permit Not Transferrable [page 7, lines 9-16]:**

Subparagraph 14-6.2(A)(5)(c)(iv) of the draft legislation would retain the existing limitation on permit transfers and states that “a permit is not transferrable to another person or property.” This limitation would apply only to short-term rental units located on residentially zoned property. The second draft of the legislation clarifies that a transfer that does not result in new ownership of the property, such as the transfer to a trust or LLC, does not constitute a transfer for purposes of this subparagraph.

The Commission suggests consideration of further amendments to this provision, based on the following concerns: (1) this provision could have a negative impact on families and communities because it would prevent transfers to spouses and immediate family members, including in situations where there is a death in the family; and (2) if a property owner invests in restoring and maintaining a house or historic property, a subsequent buyer should be able to realize the benefit of the rental income.

**2. Frequency of Rental [page 7, lines 17-18]:**

Subparagraph 14-6.2(A)(5)(c)(v) of the draft legislation would retain the following limitation, which currently exists in the ordinance: “A permitted short-term rental unit shall not be rented more than once within a seven (7)-day period.” The limitation would apply only to short-term rental units located on residentially zoned property.

The Commission notes that more than half of the public commenters objected to the inclusion of this provision within the ordinance. Commenters noted that this limitation is difficult to understand, enforce, and apply; that this limitation poses an unnecessary restriction on short-term rental owners and operators who are trying to generate income; and that this limitation reduces employment opportunities, economic activity, and tax revenue in the City.

A majority of the Commissioners concluded that the one rental within a seven day period provision is more restrictive than necessary and warrants further consideration, based on the following concerns: (1) allowing owners and operators to manage rentals in a more flexible manner permits them to maintain and improve their properties and to stimulate the economy; and (2) this provision has not been enforced in the past, and given enforcement capabilities, this provision will be difficult to enforce in the future.

**3. Proximity to Residentially Zoned Property [page 8, lines 12-15]:**

Subparagraph 14-6.2(A)(5)(d)(2)(A) would limit the density of short-term rental units on non-residentially zoned properties that are within close proximity to residentially zoned property as follows: “If a multiple-family dwelling development located within two-hundred (200) feet of residentially zoned property contains four (4) or more dwelling units, the land use director shall not issue short-term rental registrations for more than twenty-five (25%) of such dwelling units, rounded down to the nearest whole number.”

Several commenters objected to this provision at the October 15, 2020 hearing. The Commission recommends further consideration of this provision because it would treat short-term rental, which is a permitted use in the Business Capitol District, differently than other commercial uses, including hotels and motels, which may have greater negative impacts on neighboring residential areas. If this provision is retained, the Commission suggests revising it, because the way it is currently drafted, a three-plex located within the 200’ buffer zone could have three registered short-term rental units, whereas a four-plex located within the 200’ buffer zone could have only one registered short-term rental unit (25%).