

**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, Registration 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. Non-Owner Occupied 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 regulation of all STRs and licensing of Non-Owner-Occupied 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 vendees.

1.5 Owner-Occupied STRs carry a lower risk of regulatory non-compliance and negative externalities because the Owner is generally onsite when the STR is rented and the Owner can be presumed to have a vested interest in maintaining the quality of life of the community in which they live.

1.7 Public testimony at hearings on the proposed STR Ordinance stated that housing in certain areas of the County have been turned into Non-Owner Occupied STRs, thereby negatively impacting affordable housing and long-term rental opportunities within the County.

1.8 The Board recognized the lack of affordable housing through adoption of Resolution 2022-066, which identified the need for an estimated 7,343 affordable rental units within the Santa Fe Metropolitan Statistical Area in 2020, according to the New Mexico Mortgage Finance Authority.

1.9 A July 2020 report by the University of New Mexico Bureau of Business and Economic Research suggests that, when cost-burdened households and in-commuters are considered, the actual unmet need for affordable housing in Santa Fe is much higher and rapidly growing.

1.10 The imposition of a moratorium on the submission, acceptance, processing, and approval of applications for Business Licenses for Non-Owner Occupied STRs in **Dwellings** or on property acquired after the effective date of this Ordinance will avoid growth impact and temporarily stabilize local housing while the County investigates relevant issues related to Non-Owner Occupied STRs, including, but not limited to the impact of STRs on housing supply, areas where STRs conflict with primary residential uses established in traditional and historic communities, non-compliance and enforcement issues, and staff time necessary to administer applications, and develop any appropriate regulations related thereto.

2. Purpose and Intent. The purpose of this section is to establish regulations, registration and licensing standards, and registration 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 “Accessory Dwelling Unit” (ADU) is a Dwelling unit that is located on the same legal lot of record as, but incidental to, the Owner’s primary residence. The ADU may share at least one wall with the primary residence or be a stand-alone structure (detached) from the primary residence.

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

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

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

3.6 “Owner-Occupied” is a Dwelling that is the Owner’s primary residence or an ADU that is located on the same legal lot of record as the Owner’s primary residence.

3.7 “Non-Owner Occupied” means a **Dwelling** that is not Owner-Occupied.

3.8 “Primary Residence” means the **Dwelling** in which the Owner resides for a cumulative minimum 275 days during a 12-month period. Primary residence is demonstrated by showing that, as of the application date for registration of the **Dwelling** as a Short term Rental, the Owner has resided in the **Dwelling** for 275 days during the past 12 months, or that the Owner intends to reside in the **Dwelling** for 275 days of the next 12 months.

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

3.10 “Short-term rental” or “STR” means a **Dwelling** or portion thereof that is rented for periods of less than thirty (30) consecutive days.

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

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

3.13 “Vendor” means the proprietor of any **Dwelling**, lodging, or sleeping accommodation offered or used as a STR, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, or any other possessory capacity.

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 Dwelling legally recognized under the SLDC.

4.3 STRs are not allowed where prohibited by private covenants.

5. Owner-Occupied Short Term Rentals.

5.1 Registration Required; Term.

5.1.1 Beginning on March 15, 2023, no person may operate an Owner-Occupied STR without a Business Registration issued and renewed pursuant to Section 3(A) and Section 5.

5.1.2 Only one Owner-Occupied STR Business Registration shall be approved per Owner.

5.2 Registration Contents, Display, and Notice.

5.2.1 The Business Registration for an Owner-Occupied STR shall specify the name of the Owner, address of the STR, the Business Registration number, and the expiration date.

5.2.2 The Business Registration 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:

5.2.2.1 the Occupancy Limit and the Daytime Occupancy Limit;

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

5.2.2.3 a summary of the regulations contained in this section;

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

5.2.2.5 the physical address of the STR;

5.2.2.6 solid waste storage and disposal requirements; and

5.2.2.7 Quiet Hours applicable to the STR.

The information listed in 5.2.2.1 through 5.2.2.7 shall be provided to vendees at least 48 hours prior to the beginning of the rental period.

5.2.3 All listings and advertisements for an Owner-Occupied STR shall include the Business Registration Number for the STR and its expiration date.

5.2.4 The Owner of a STR receiving a Business Registration shall provide notice by first class mail to the owners of all adjacent properties. The notice shall be mailed no later than fifteen (15) days after approval of the Business Registration and the Applicant shall provide an affidavit of mailing. 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 Registration.

5.3 Procedure

5.3.1 The application and submittal requirements for a Business Registration for an Owner-Occupied STR shall be developed by the **Land Use Administrator** and shall include, at a minimum, the following:

5.3.1.1 An affidavit or other proof that the STR is Owner-Occupied.

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

5.3.1.3 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.

5.3.1.4 As it relates to Business Registrations for Owner-Occupied 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 Registration for a STR.

6. Non-Owner Occupied Short Term Rentals

6.1 License Required; Term

6.1.1 Beginning on March 15, 2023, no person may operate a Non-Owner Occupied STR without a Business License.

6.1.2 Each **Dwelling** used as a Non-Owner-Occupied -STR shall require a separate Business License.

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

6.1.4 The Owner of the Non-Owner Occupied STR shall be the record title owner of the property or **Dwelling**; provided, however, that, for a period of one year after the effective date of the Short-Term Rental Regulation, Registration and Licensing Ordinance, no application for a Business License

for a Non-Owner Occupied STR shall be submitted, accepted, processed, or approved for a **Dwelling** or property acquired by the Owner after the effective date of this Ordinance. This temporary moratorium on newly acquired property being developed as an STR is necessary to allow time for the Board to study and analyze relevant issues related to Non-Owner Occupied STRs, including, but not limited to the impact of STRs on affordable housing supply, areas where STRs conflict with primary residential uses established in traditional and historic communities, and non-compliance and enforcement issues, and develop any appropriate regulations related thereto.

6.2 License, Contents, Display and Notice.

6.2.1 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.

6.2.2 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**:

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

6.2.2.2 a summary of the regulations contained in this section;

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

6.2.2.4 the physical address of the STR;

6.2.2.5 solid waste storage and disposal requirements; and

6.2.2.6 Quiet Hours applicable to the STR.

The information listed in 6.2.2.1 through 6.2.2.6 shall be provided to vendees at least 48 hours prior to the beginning of the rental period.

6.2.3 The Owner of a STR receiving a Business License shall provide notice by first class mail to the owners of all adjacent properties. The notice shall be mailed no later than 15 days after approval of the Business License and the **Applicant** shall provide an affidavit of mailing. 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.

6.2.4 All listings and advertisements for a Non Owner-Occupied STR shall include the Business License Number for the STR and its expiration date.

6.3 Procedure

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

6.3.1.1 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

6.3.1.2 The name and contact information of the **Homeowner's Association** (if any) governing the STR or condominium association of which the STR is a part. The **Applicant** shall mail a letter, first class mail, to the applicable **Homeowner's Association** and provide an affidavit of mailing with the application.

6.3.1.3 If the property on which the STR is located is subject to Santa Fe County imposed water restrictions and water use is required to be metered, the applicant for a Business License for a Non-Owner-Occupied STR must submit current water meter readings upon initial application and for each renewal.

6.3.1.4 If the water usage is in excess of applicable Santa Fe County imposed water restrictions, the application must include a water conservation plan to reduce water usage so as to comply with such applicable restrictions going forward.

6.3.1.5 Failure to comply with applicable Santa Fe County imposed water restrictions is grounds to deny the renewal of a Business License for a Non-Owner Occupied STR.

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

6.3.3 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.

6.3.4 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.

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

7. Regulation/Requirements for All STRs

7.1 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).

7.2 Any STR shall be responsible to pay all applicable taxes.

7.3 Occupancy.

7.3.1 The Occupancy Limit for a STR shall be two (2) people per approved bedroom .

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

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

7.2.4. Nothing herein shall preclude an Owner from establishing more stringent Occupancy Limits or Daytime Occupancy Limits.

7.4 Parking

7.4.1All parking for a STR shall be located onsite or in a designated off street space for the **Dwelling**.

7.4.2Vendees and their guests may not bring more cars to the STR than the number of onsite parking spaces.

7.5 Water

7.5.1 A STR must comply with all Santa Fe County water restrictions (if any) applicable to the property on which the STR is located, the applicability of which may depend upon the source of water for the property (e.g., domestic wells versus adjudicated water rights).

7.6 Fire protection

7.6.1 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. The STR is subject to Fire Department inspection.

7.7 Solid Waste

7.7.1 Each STR shall comply with the applicable sections of 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. At a minimum all STRs shall store all solid waste within a structure or in enclosed containers and shall remove all solid waste on a regular basis, at least monthly.

7.8 Address and Signage

7.8.1 Each STR shall clearly display the assigned Rural Address

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

7.9 Noise and Quiet Hours

7.9.1 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.

7.9.2 During Quiet Hours, it shall be unlawful for vendees or their guests 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 or animals.

7.10 Other Commercial Activities Require Separate Authorization

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

Section 5. Section 3(B)(4) of Ordinance No. 1992-3 is hereby amended by adding the following new subsections:

“o. Non-Owner Occupied 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 6. 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 7. Section 4(A) of Ordinance No. 1999-10 is hereby amended to read as follows:

“A. Business Registration and Business Licenses: All vendors, other than Short-Term Rentals, as defined in the Business Registration and Licensing Ordinance (Ordinance No. 1992-3), must obtain a County Business Registration pursuant to Section 4 of the Lodgers’ Occupancy Tax Ordinance. Short-Term Rentals must obtain a business registration (Owner-Occupied Short-Term Rentals) or business license (Non-Owner-Occupied Short-Term Rentals) pursuant to Ordinance No. 1992-3, as amended by the Short-Term Rental Regulation, Registration, and Licensing Ordinance.”

Section 8. 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
Santa Fe County Clerk

APPROVED AS TO FORM:

Jeff Young
Santa Fe County Attorney