

8/21/2023

Good morning!

After a torrent of proposed legislation in the last few months, I wish I could tell you its slowed down, but I have four updates for you today:

1. The Albuquerque City council will take up legislation on Monday evening impacting leasing housing as short term rentals.
 2. The revised Albuquerque Integrated Development Ordinance (IDO/zoning) now allows accessory dwelling units in R-1 Zoning.
 3. As a model of problematic legislation – the city of Tacoma, Washing it conserving a residents bill of rights, as Albuquerque protestor pivot from the International District to the Sawmill neighborhood in their attempt to create resident unions.
 4. The City of Santa Fe takes up another version of the failed Mansion tax which would tax most real estate transactions valued over \$1,000,000 and seems to indicate that run afoul of this law could lead to jail time.
- Our research library is now up to over 236 articles + another 100 links to articles and I expect to release the rent survey in the next couple of weeks.

As always, do not hesitate to let me know if you need any info/research.

Thanks

Todd

1. Short term rentals in front of City of ABQ on 8/21/2023 –

O-23-69 <https://cabq.legistar.com/LegislationDetail.aspx?ID=6013982&GUID=BF36E577-1D15-4153-9AD1-ADB5C6804D4E>

With a floor substitute

And narrative form the co-sponsor (Benron and Fiebelkorn)

Amending The Short-Term Rental Ordinance (Benton, Fiebelkorn by request)

The existing Short Term Rental Ordinance (O-20-30) was adopted in October 2020 and went into effect in May 2021. The existing ordinance requires Short Term Rental operators to provide the following:
City Business Registration, Pay all applicable taxes, Maintain insurance, Display the permit number inside the unit and on all marketing materials, Display a “Good Neighbor Agreement” inside the unit,
Provide the address of the unit and contact information for an operator or agent who is available 24/7,
Provide a floor plan of the unit, Sign a statement that they will operate the unit in compliance with all applicable City regulations.

As originally introduced, O-23-69, seeks to amend the existing Short Term Rental Ordinance in order to:

Require a local (within 20 miles of Albuquerque) manager

Limit permits to natural persons only and to limit the number of permits per person to 3

Cap the number of permits issued city wide to 1,200

The intent of the bill is to address the current housing crisis, by ensuring that a limited number (1,200) of residential units become used as Short Term Rentals (STRs). The bill was amended at the Finance and Government Operations Committee (FGO) to increase the cap to 1,800, to exempt single rooms within an occupied dwelling unit from the cap, and to allow persons with 3 or more approved units to renew their permits indefinitely.

However, we have drafted a Floor Substitute (F/S) that we plan to move on Monday that proposes to reset our approach. The F/S proposes to amend the bill as follows:

Remove the local manager requirement.

Remove the limitation on ownership by natural persons and the limit on the number per person.

Remove the cap of 1,800 permits citywide.

Add a 330 foot in-all-directions separation distance between permitted STRs.

Exempt single rooms within an occupied house from the distance separation.

Replace criminal penalties with civil penalties.

Make general corrections to the content of the bill as introduced

Provide legacy language to allow the existing approved STRs that are closer than 330 feet to be renewed.

There will also be an amendment to add a definition for a bedroom. The amendment proposes to define a bedroom as having a closet and meeting the Uniform Housing Code (which requires an operable window).

2. ADU update

Accessory Dwelling units or Casitas are now allowed in R-1 zoning. The housing industry has put together a 6 step plan to lower the costs, and friction of development of these units with the idea that if only 5% of home owners built a casita, we could bring enough supply online to solve the issue. The industry also has put together a centralized website and bi-monthly newsletter that should be released/announced later this month.

Hold the date for breakfast on December 5th, 2023 for more of an update.

If you have an interest in following this, or being a part of the working group, please email me for more details.

3. City of Tacoma – resident rights legislation

(thanks Cathy Colvin for the heads up on this one)

The City of Tacoma has been reviewing its rental housing codes for the past two years, including stakeholdering with various groups engaged in the housing industry. During this process, a "renters rights" group called Tacoma4All began a process using the initiative system to force changes upon the City to achieve its preferred goals for regulations of the rental housing industry. The initiative proposes regulations which would include requiring the landlord to pay relocation assistance to tenants who move after receiving a notice of rent increase, banning "winter evictions" and evictions during the school year (as well as outright bans for certain types of employment, such as military, first responders, seniors, etc), requiring 180 days' notice of rent increases, restricting late fees to \$10/per month.

It's going to the voter in November

Contrast with the local groups who want to create residents unions in our communities -

TACOMA WEEKLY

Voters to choose between two tenant protection measures

Fri, Jul 21, 2023

<https://tacomaweekly.com/voters-to-choose-between-two-tenant-protection-measures-p5686-117.htm> 2/17



Educating the community about the Tenant Bill of Rights continues with campaign activist Keely Freudstein (left) and his fellow campaign workers.

Voters in Tacoma will have two competing ballot choices to consider this November concerning tenants' rights and rental requirements for landlords. At their July 11 meeting, the city council voted to advance Tacoma for All's Tenant Bill of Rights, Citizens' Initiative Measure No. 1, to the ballot. The council also voted to put on the ballot its own set of rental housing code changes the council wants to make. Both ballot choices differ enough for one to make changes that the other wouldn't – and Citizens' Initiative Measure No. 1 supporters say this will inevitably set up confusion for voters and work to undermine months of organizing efforts.

Citizens' Initiative Measure No. 1 concerns enacting rental requirements for landlords and rental rights for tenants. The measure would require landlords to comply with health and safety laws before raising rent or evicting a tenant; set limits on certain rental fees; require landlords provide two notices to increase rent and offer relocation assistance when the increase is 5 percent or more; create a defense against certain student/school year evictions, evictions between November 1 and April 1, and evictions against servicemembers, seniors, families and others with protected status under the measure; and provide penalties and enforcement mechanisms.

As an alternative, the Tacoma City Council proposes Measure No. 2, which would repeal and reenact portions of the city's rental housing code and require landlords to comply with health and safety laws; have a city license

before increasing rent or evicting tenants; set limits on rent late fees and pet deposits; require 120 day notice to raise rent; add new regulations for shared housing; standardize screening criteria for tenant income required to qualify for housing, for reviewing tenant's criminal history and identification.

Tacoma for All Campaign Manager Ty Moore told the council that their vote for Citizens' Initiative Measure No. 1 would earn for them "a reputation as allies of working people in Tacoma. But if you vote for a competing initiative, you will brand this council as allies of corporate landlords and place yourself into a fierce fight with the growing labor-community coalition behind our Tenant Bill of Rights."

Among the differences between the two ballot choices is that the city's ordinance does not include relocation assistance for economic evictions, a winter eviction moratorium, or eviction protections for children during the school year. The city's code changes overall are narrower than those that Tacoma for All is putting forth and that are supported by the more than 7,000 initiative signatures Tacoma for All volunteers had collected to get their measure on the ballot.



Robert Hunt, here with fiancé Malina Nava, encourages Tacoma voters to vote yes on Measure 1.

Since a majority of the city's rental housing code changes are not covered in Citizens' Initiative Measure No. 1, Tacoma for All had spoken out in favor of the council passing their policies while Tacoma for All went forward with their own changes, which would help avoid requiring voters to choose between them both.

In a letter sent last month to Mayor Woodards and the city council, Tacoma for All stated: "We are urging you to step back from your threat to launch a competing ballot measure to the Tenant Bill of Rights. Instead, we urge you to quickly pass your proposed changes to the Rental Housing Code, which complement rather than compete with Initiative 2023-01."

Between them, we could win even more comprehensive protections. If they compete, we could all lose."

However, Mayor Woodards and all but two city council members – Kiara Daniels and Olgy Diaz – agreed that putting the city's Measure No. 2 on the ballot is the right thing to do. "We believe that our proposal will make the greatest progress with the least negative consequences," said Councilmember Catherine Ushka.

Robert Hunt, here with fiancé Malina Nava, encourages Tacoma voters to vote yes on Measure 1.

Woodards agreed. "My vote tonight to put this on the ballot is not to confuse voters. My vote tonight is to give voters a choice," she said. Tacoma for All sees this as the council capitulating to the powerful landlord lobby and putting their concerns over the people of Tacoma. Tacoma for All has garnered the backing of labor representatives, attorneys, rental housing experts, and state and local elected officials. Those that have publicly opposed a competing initiative include Tacoma pro bono attorney Ash Meer and Fair Housing Center Executive Director Adria Buchanon, who both addressed the council at its July 11 meeting. The Low-Income Housing Alliance (LIHA), the Tenant Law Center, and the Tacoma Tenants Union have all endorsed Tacoma for All's Tenant Bill of Rights. "You have no support from tenant organizations. You have no support from organized labor. You have no support from any rooted community organizations fighting for housing justice...", Moore told the council. "Your vote tonight would only further isolate this City Council."

In their announcement for a July 16 community meeting to discuss the city council's actions, Tacoma for All says that the city has no grassroots support at all – "not from labor unions or community groups – not even from the tenant organizations in their own Stakeholder Advisory Group, which they have repeatedly leaned on to legitimize their policy. However, representatives from all five of the tenant organizations on the Stakeholder Advisory Group publicly oppose a competing initiative.

"All along, our coalition has encouraged the City Council to pass their Rental Housing Code changes as an ordinance without putting it up as an opposing ballot measure. This would allow voters to then vote up or down

on our stronger Tenant Bill of Rights in November, without creating a false choice between two very different sets of tenant protections.

"City Council claimed to care about 'doing the most good for the greatest number of people.' Yet a majority chose to vote down amendments for relocation assistance for economic evictions and winter eviction protections put forward by Council members Daniels and Diaz, exposing whose side they are really on."

In hours of public testimony during the council's July 11 meeting, Tacoma for All supporters praised Daniels and Diaz for voting "no" to a competing initiative and for putting forward amendments echoing the Tenant Bill of Rights.

In a video posted at Tacoma for All's Facebook page, Robert Hunt, a parent, disabled Navy veteran, and student at the University of Washington-Tacoma, expresses his thoughts on why Tacoma for All's Measure No. 1 should be passed by voters. He said the measure allows students a chance to stay in school, keeps people from being homeless during the winter months, and will help people find a place to move to if they can no longer afford their current rental housing.

"Without that, the quality of life for everybody is going to decrease. We need to realize that we're all together in this and work together so that we can all make it," Hunt says.

"There are people who are active duty right now at the bases around here that were trying to put together a safe parking lot because even though they have a fulltime income, even though they're military, they're homeless. I was a veterans' service officer for the last few years and I know a lot of homeless vets that travel around because even though they have an income, they are right on the edge like I am where they can't qualify for a housing program but they don't have enough to rent anything."

Tacoma for All organizers say that from day one, they knew that what they were doing to shore up tenant rights would be a battle against the landlord lobby and could lead to a competing measure on the ballot. "And from day one, we have been preparing our movement to take on these challenges to win in November. We know that with our broad-based coalition of support from labor unions, tenant rights groups, and community members, we can win the strongest renter protections in the state. This fight has just begun!"

4. Santa Fe property transfer tax (the mansion tax)

My comments on the Santa Fe legislation (attached):

Thanks for asking about this legislation. I have been following this and I am aware of the non-profits who help created it to support their efforts.

Although I have opinion (not in support of this), as it relates to the legislation, I see a couple of issues

Page 2- line 13 - I do not believe those facts are correct.(not really relevant)

Page 2 - line 20 - the number of units needed is in correct (not really relevant)

Page 4 - line 12 - I would challenge the thought that more expensive homes should be supporting lower priced product as the assumption is high end house creates a problem. The problem is created by economic development - which we should all support, but if they wanted to tax something, it should be based on adding new jobs.

Page 8 - line 16 - commercial property is not clearly defined in the property tax code or in law - the last time this came up was in 2002 when the legislature moved towards disclosure of residential houses prices - at the time 30, of 33 counties had different definitions of residential (does it include a house, or units 4 and under or big apartments or a warehouse with an overnight guard quarters, and believe it or not, one assessor office defined residential as all structures without fir sprinkler systems. I see mission creep towards full disclosure of all prices.

Page 9 - line 4 - my experience with the residential affidavit, is when the buyer and seller are outside of the state, and close outside of the state, they side-step this process entirely. So a Californian sells to a Texan, and they close virtually with an out of state closer, the local title often cannot force compliance.

Same page - it mentions if there is not title (insurance) closer, the grantee/purchase is responsible. I think there is no chance a buyer could figure this out, where to file it or who to write a check to.

Page 10 - Line C - mission creep - moving towards using the date to raise property tax values

Page 10 - Line B - penalties - they way I read this is basically jail time, that compounds for every day its not completed.

(1-3.1 - General penalty; continuing violations; suspension; probation.

A.Any violation of the Santa Fe City Code of 1987, not specifically provided for in any ordinance, resolution, rule, regulation or order to the contrary, is punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a term of not more than ninety (90) days, or by both such fine and imprisonment. Every day that any such violation continues constitutes a separate offense, except where otherwise provided.B.The municipal court may, upon entry of a plea of guilty or judgment of conviction:(1)Suspend in whole or part the execution of sentence; or(2)Place the defendant on probation for a period not exceeding one (1) year on terms and conditions the court deems best; or both.C.The municipal court may, as a condition of probation, require the defendant to serve a period of time in volunteer labor to be known as community service. The type of labor and period of service shall be at the sole discretion of the court; provided that any person receiving community service shall be immune from any civil liability other than gross negligence arising out of the community service, and any person who performs community service pursuant to court order or any criminal diversion program shall not be entitled to any wages, shall not be considered an employee for any purpose and shall not be entitled to workers' compensation, unemployment benefits or any other benefits otherwise provided by law. As used in this paragraph, "community service" means any labor that benefits the public at large or any public, charitable or educational entity or institution.D.Suspension of execution of the sentence or probation, or both, shall be granted only when the municipal judge is satisfied it will serve the ends of justice and of the public, and that the defendant's liability for any fine or other punishment imposed is fully discharged upon successful completion of the terms and conditions of probation.)

Given the above, a marketing angle to respond to this legislation could be - city officials want to jail Santa Fe home owners.

From SFAR:

In a conversation with our government affairs committee, we're wondering if you could give Santa Fe City's proposed 3% home excise tax ordinance a review and determine if it would impact multi-family unit sales. I'm not a practicing Realtor so maybe there is something here that we're missing. I had a legal review but not a real estate review focused on multi-family. Commercial is out but not sure all of the multi-family falls in this category.

Let me know if you can make that happen. I've attached the ordinance.

Cheers,
Donna Reynolds, Government Affairs Director
Santa Fe Association of REALTORS®
(505) 795-0223 cell



[High-endExciseTaxforAffordableHousingOrdinance.pdf](#)

underscored material = new
[bracketed material] = delete

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2023-23

INTRODUCED BY:

Councilor Jamie Cassutt

Councilor Renee Villarreal

Councilor Signe Lindell

A BILL

CREATING ARTICLE 18-18, THE HIGH-END EXCISE TAX FOR AFFORDABLE HOUSING ORDINANCE; ESTABLISHING AN EXCISE TAX ON THE TRANSFER OF CERTAIN RESIDENTIAL PROPERTY AND DEDICATING THE REVENUES TO AFFORDABLE HOUSING.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. [NEW MATERIAL] a new Article 18-8 SFCC 1987 is ordained to read:
18-18 HIGH-END EXCISE TAX FOR AFFORDABLE HOUSING ORDINANCE

Section 2. [NEW MATERIAL] a new Section 18-18.1 SFCC 1987 is ordained to read:
18-19.1 Short Title.

This article may be cited as the High-End Excise Tax for Affordable Housing Ordinance.

Section 3. [NEW MATERIAL] a new Section 18-8.2 SFCC 1987 is ordained to read:
18-18.2 Authority.

The High-End Excise Tax for Affordable Housing Ordinance is enacted pursuant to the express statutory authority conferred upon municipalities to enact excise taxes on the sales of

1 specific products and services in Part D of Section 3-18-2 NMSA 1978; to provide for affordable
2 housing pursuant to subsections E and F of Article 9, Section 14 of the New Mexico Constitution
3 and the Affordable Housing Act, Sections 6-27-1 to 6-27-8 NMSA 1978; and pursuant to any and
4 all such other authority as may be applicable including but not limited to the city's authority to
5 protect the general welfare of its citizens.

6 **Section 4. [NEW MATERIAL] a new Section 18-8.3 SFCC 1987 is ordained to read:**
7 **18-18.3 Legislative Findings.**

8 The governing body has determined that

9 A. Lower income renters are leaving the city and are being replaced with higher income
10 renters. Between 2015 and 2021, the share of renters with income below \$25,000
11 decreased from 37% to 24%, while the share of renters with income over \$75,000
12 increased from 18% to 30%.

13 B. A large percentage of the community's workforce who are renting cannot afford to
14 buy: Using data on home sales from the Home Mortgage Disclosure Act, an analysis
15 of renters' ability to buy relative to the price of units for sale estimates that in 2021,
16 66% of the city's renters earned less than 120% of the 2-person area median income
17 and only 10% of home sales financed with a mortgage were priced affordably for such
18 households. It is likely that even higher income residents are not transitioning into
19 homeownership because of high housing sales prices and other market conditions.

20 C. To accommodate population growth, an estimated 4,667 new units (1,399 rental and
21 3,269 ownership) need to be added in Santa Fe County by 2030.

22 D. The shortage of affordable rental home purchase opportunities has significant negative
23 effects on Santa Fe's economy, as well as for families and businesses. The effects
24 include

25 1. The local economy loses revenue when employees live elsewhere and

1 commute to work rather than living in Santa Fe, because people tend to shop
2 in the community where they live.

3 2. Experience in other high-cost housing markets nationally has shown that, over
4 the long term, jobs follow employees who move away in search of housing
5 they can afford to buy.

6 3. Employers struggle to recruit and retain employees and must pay higher wages
7 to compensate for high housing or commuting costs.

8 4. A significant percentage of the Santa Fe workforce commutes from outside of
9 Santa Fe.

10 5. Productivity suffers when employees face commutes of two to three hours on
11 top of their workday.

12 6. Employers note that the availability of workforce housing is one of the more
13 serious or critical problems in the city of Santa Fe.

14 E. The city has adopted a five-year housing plan, identifying the city's housing needs,
15 priorities, goals, and strategies.

16 F. Pursuant to the New Mexico constitution's affordable housing exemption to the "anti-
17 donation clause" and state enabling statutes governing the use of public funds for
18 affordable housing, the city established its affordable housing trust fund in Article 26-
19 3 SFCC 1987 to provide or pay all or a portion of the costs of acquisition, development,
20 construction, renovation or conversion, financing, operation or owning affordable
21 housing or infrastructure to support affordable housing.

22 G. The affordable housing trust fund requires, but currently lacks, a meaningful dedicated
23 source of revenue, which means

24 1. Current requests for affordable housing funding far exceed the amount of
25 funding available in the Affordable Housing Trust Fund in any given year.

2. There is a significant need for additional affordable housing that is more flexible than available through federal funds and that can better address unique local needs.

3. Multi-year strategic funding is challenging.

H. The community development commission and city's public review process involving committees and governing body review provide oversight for the Affordable Housing Trust Fund.

I. It is in the public interest to impose a duly approved high-end excise tax to fund the affordable housing trust fund.

Section 5. [NEW MATERIAL] a new Section 18-18.4 SFCC 1987 is ordained to read:

18-18.4 Purpose.

The purpose of this article is to establish a dedicated and enduring source of funding for the city's affordable housing fund by imposing an excise tax on the transfer of high-end residential properties.

Section 6. [NEW MATERIAL] a new Section 18-18.5 SFCC 1987 is ordained to read:

26-3A.5 Definitions.

For the purposes of this article, the following definitions shall apply:

Consideration means and includes the actual amount paid and/or the value of the assets delivered, or contracted to be paid or delivered, in exchange for the transfer of ownership or title to real property, without deduction for any lien, mortgage, contract indebtedness, or other encumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on the property at the time of sale. The term does not include the amount of any outstanding lien or encumbrance in favor of the United States, the State of New Mexico, or of a municipal or quasi-municipal governmental corporation or district for taxes, special benefits, or improvements.

Conveyance of ownership means any transfer of title to real property and is evidenced by any deed or instrument or writing wherein or whereby title to real property situated in the city is

1 granted or conveyed, subject to the exceptions provided in this article, and includes the transfer of
2 more than fifty percent of the authorized and issued shares of a corporation or majority ownership
3 interest in a pass through entity which has as its principal asset real property situated in the city.

4 *Document* means and includes any deed, instrument, or writing by which real property
5 located within the city is transferred.

6 *Person* means an individual, partnership, society, association, joint stock company,
7 corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or
8 representative capacity, whether appointed by a court or otherwise, any combination of individuals,
9 and any other form of unincorporated enterprise owned or conducted by two or more persons, but
10 does not include the United States of America, any federal agency or the state government or any
11 political subdivision of the state of New Mexico.

12 *Real property* means and includes all lands or interests in lands within the city and shall be
13 construed as coextensive in meaning with the terms "land," "tenements" and "hereditaments" and
14 as embracing all mining claims and other claims and chattels real.

15 *Title insurance agent* means a person licensed as an agent under the New Mexico Insurance
16 Code and appointed by a title insurer.

17 *Transfer* means and includes any conveyance of the ownership of a title to real property
18 and is evidenced by any deed or instrument or writing wherein or whereby title to real property
19 situated in the city is granted or conveyed, subject to the exclusions provided in this article.

20 **Section 6. [NEW MATERIAL] a new Section 18-18.5 SFCC 1987 is ordained to read:**
21 **18-18.5 Imposition of tax; timelines.**

22 A. There is imposed a three percent (3%) excise tax on the consideration exceeding one
23 million dollars (\$1,000,000) paid or to be paid in consideration, as adjusted pursuant to B
24 of this Section, for every conveyance of ownership of real property in the city not excepted
25 from the tax in this ordinance.

1 B. Beginning May 1, 2026, and each May 1 thereafter, the transfers to which the tax shall be
2 imposed shall be increased from consideration of one million dollars (\$1,000,000) to a
3 higher threshold amount by an amount corresponding with the previous calendar year's
4 increase to the consumer price index for the western region for urban workers. For
5 example, if the increase to the price index is two percent (2%) in 2025, then on May 1,
6 2026, the tax will apply to transfers having a consideration of at least one million, twenty
7 thousand (\$1,020,000), or two percent (2%) higher than one million (\$1,000,000). If the
8 consumer price index does not increase during the prior year, the transfers to which the tax
9 applies shall remain the same.

10 C. The tax is due and payable by the purchaser at the time of transfer.

11 D. The tax shall be paid or an exception shall be documented within thirty days after the
12 delivery of the documents by the grantor to the grantee and before recording a document
13 regarding transferring title to real property situated in the city.

14 **Section 7. [NEW MATERIAL] a new Section 18-18.6 SFCC 1987 is ordained to read:**
15 **18-18.6 Dedication of funds.**

16 All funds received by the city of Santa Fe pursuant to this Article 18-18 shall be deposited
17 into the Affordable Housing Trust Fund and shall be used only in the manner permitted by Section
18 6-27-5 NMSA 1978 of the state's Affordable Housing Act and Section 26-3.7 of the city's
19 Affordable Housing Trust Fund Ordinance.

20 **Section 8. [NEW MATERIAL] a new Section 18-18.7 SFCC 1987 is ordained to read:**
21 **18-18.7 Exemptions.**

22 The tax imposed by this section shall not apply to any of the following transfers:

23 A. Any conveyance of ownership of property which is part of a development subject to
24 the Santa Fe Homes Program, to the Housing Opportunity Program, or to any other
25 form of permanently affordable housing including those sold subject to liens, deeds of

1 trust or other instruments that ensure the unit will remain affordable;

2 B. Any conveyance of ownership of property wherein the United States, or any agency or
3 instrumentality thereof, the state of New Mexico, any county, municipality, district or
4 other political subdivision of this state, is either the grantor or grantee;

5 C. Any conveyance of ownership of property wherein the grantee corporation, association
6 or trust has been organized, operated and maintained solely and exclusively for
7 charitable or religious purposes;

8 D. Any conveyance of ownership of real property as a gift, where no consideration other
9 than love and affection, charitable donation, or nominal compensation is evidenced by
10 the terms of the instrument of transfer;

11 E. Any termination of a joint tenancy in real property except where additional
12 consideration of value is paid in connection with such termination, or a decree or
13 agreement partitioning real property held under common ownership unless a
14 consideration of value is paid in connection with the transfer of title;

15 F. Transfer of title or change of interest in real property by reason of death, will,
16 or decree of distribution;

17 G. Transfers made pursuant to mergers or consolidations of corporations, or by a
18 subsidiary to a parent corporation for no consideration other than cancellation or
19 surrender of the subsidiary's stock;

20 H. Any deed or conveyance made and delivered without consideration for the purpose of
21 confirming, correcting, modifying, or supplementing a transfer previously recorded;
22 making minor boundary adjustments, removing clouds on titles; or granting easements,
23 rights-of-way or licenses;

24 I. Any decree or order of a court of record determining or resting title, including a final
25 order awarding title pursuant to a condemnation proceeding;

- 1 J. Any deed granting or conveying title to cemetery lots;
- 2 K. Any lease of any real property (or assignment or transfer of any interest in any such
- 3 lease) provided such lease by its terms does not constitute a de facto conveyance of the
- 4 subject property. In the latter event, the tax shall be based upon the capitalization at
- 5 five percent of the average annual rental over the entire term of the lease, including
- 6 any renewal term, plus the actual consideration, other than rent, paid or to be paid;
- 7 L. Any mineral deed or royalty deed;
- 8 M. Transfers to secure a debt or other obligation, or transfers or release of property that is
- 9 security for a debt or other obligation;
- 10 N. Any executory contract for the sale of real property under which the vendee is entitled
- 11 to or does take possession thereof without acquiring title thereto, or any assignment or
- 12 cancellation of any such contract;
- 13 O. Any deed or conveyance under execution, sale, or foreclosure sale under a power of
- 14 sale or court decree of lien foreclosure, sheriff's deed, public trustee deed, or treasurer's
- 15 deed;
- 16 P. Any deed or conveyance of commercial property;
- 17 Q. Any deed or conveyance of undeveloped land;
- 18 R. Any deed or conveyance reflecting an interspousal transfer of real property; or
- 19 S. Any deed or conveyance of real property that is the principal residence of an eligible
- 20 transferor in the case of a family transfer between parents and their children or between
- 21 grandparents and their grandchild or grandchildren.

22 **Section 9. [NEW MATERIAL] a new Section 18-18.8 SFCC 1987 is ordained to read:**

23 **18-18.8 Finance Director to Enforce.**

- 24 A. The city's finance director is charged with the enforcement of the provisions of this section
- 25 and is hereby authorized and empowered to prepare such forms and adopt and enforce such

1 rules and regulations consistent with this section, as the finance director deems necessary
2 to implement the same.

3 B. At the time of any transfer upon which a tax is imposed by this section, the grantee's title
4 insurance agent shall make a notarized report to the finance director on forms prescribed
5 by the officer, attesting to the true, complete and actual consideration for the transfer, the
6 names of the parties thereto, the location of the real estate transferred, and such other
7 information as may be required, along with payment of the tax. If the conveyance does not
8 involve a title insurance agent, then the purchaser shall make the report to the finance
9 director and submit payment of the tax, if applicable.

10 C. For exempt transactions, the grantee's title insurance agent shall submit a notarized report
11 to the finance director on forms prescribed by the officer, attesting to the nature of the
12 exception. If the grantee does not have a title insurance agent, then the grantee shall submit
13 the report. The finance director may require supporting documentation from the title
14 insurance agent or grantee before accepting the report.

15 D. For the purpose of collection of the taxes imposed by this section, the finance director may

16 1. Appoint as authorized agents for the city for the collection of said tax the
17 office of the Santa Fe county clerk, and all banks, title companies, escrow
18 companies, building and loan institutions, and real estate agencies
19 permitted as such to do business under the laws of the state of New Mexico
20 and maintaining offices within the city.

21 2. Enter cooperative agreements with other governments.

22 **Section 10. [NEW MATERIAL] a new Section 18-18.9 SFCC 1987 is ordained to read:**

23 **18-18.9 Lands Affected.**

24 When a conveyance subject to this section includes property located within the city of
25 Santa Fe and property located outside the city of Santa Fe, the tax imposed under this section shall

1 be computed only with respect to the portion of the property located within the city of Santa Fe and
2 the tax owed shall be assessed based on that part of the consideration fairly attributable to the
3 portion of the property located within the city.

4 **Section 11. [NEW MATERIAL] a new Section 18-18.10 SFCC 1987 is ordained to**
5 **read:**

6 **18-18.10 Penalties and Liens.**

7 A. All taxes imposed by this section, if not paid when due, shall bear interest at the internal
8 revenue services' rate for underpayments, as updated. The amount of tax imposed by
9 this section and interest due thereon is hereby assessed against the property upon the
10 transfer of which said tax is imposed, and if not paid when due, such tax and interest,
11 if any, shall constitute a lien on the property for the amount thereof, which lien shall
12 continue until the amount thereof is paid or until it is discharged of record by
13 foreclosure or otherwise.

14 B. Any person who shall fail or refuse to pay any tax due hereunder shall be subject to the
15 general penalty under SFCC 1987, Section 1-3.1.

16 C. Any remedies provided for herein shall be cumulative, not exclusive, and in addition
17 to any other remedies provided by law.

18 **Section 12. [NEW MATERIAL] a new Section 18-18.11 SFCC 1987 is ordained to read:**

19 **26-3A.11 Confidentiality.**

20 It is unlawful to reveal any information contained in a return or audit of any taxpayer,
21 except as required to administer the collection and enforcement of the tax or under one of the
22 following circumstances:

23 A. to a court of competent jurisdiction in response to an order thereof;

24 B. to the taxpayer or the taxpayer's authorized representative; or

25 C. for statistical purposes in such manner that the information revealed is not identifiable

1 as applicable to any individual taxpayer.

2 **Section 13. [NEW MATERIAL] A new Section 18-18.12 SFCC 1987 is ordained to read:**

3 **18-18.12 Effective Date.**

4 The provisions of this Article 18-18 shall be effective six months from the date when the
5 results of the election are certified to be in favor of the ordinance's adoption.

6

7 **PASSED, APPROVED, and ADOPTED** this _____ day of _____, 2023.

8

9 APPROVED AS TO FORM:

10

11

12

13  _____

14 ERIN K. McSHERRY, CITY ATTORNEY

15 *Legislation/2023/Bills/*

CITY of ALBUQUERQUE

TWENTY-FOURTH COUNCIL

COUNCIL BILL NO. O-20-30 ENACTMENT NO. 0-2020-038

SPONSORED BY: Diane G. Gibson

1 ORDINANCE

2 ADOPTING A NEW ARTICLE IN CHAPTER 13 ROA 1994, BUSINESS AND
3 OCCUPATIONS, TO BE KNOWN AS THE "SHORT TERM RENTAL
4 ORDINANCE", ESTABLISHING A PERMITTING FEE, AND AMENDING SECTION
5 4-4-13 ROA 1994 LODGERS TAX ADVISORY BOARD TO INCLUDE A SHORT
6 TERM RENTAL REPRESENTATIVE.

7 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
8 ALBUQUERQUE:

9 SECTION 1. A new article §13-19 of ROA 1994 is hereby adopted as follows:

10 "§13-19-1 SHORT TITLE.

11 SECTION §13-19 ROA 1994 shall be known and cited as the "Short Term
12 Rental Ordinance".

13 § 13-19-2 APPLICABILITY.

14 This Article applies to the operation of Short Term Rentals as defined by
15 subparagraph 13-19-4, Definitions.

16 § 13-19-3 INTENT AND PURPOSES.

17 The intent of Article §13-19 et seq. is to regulate and provide a permitting
18 system for Short Term Rentals (STR) in order to protect the health, safety, and
19 general welfare of Short Term Rental occupants and neighboring residents.

20 § 13-19-4 DEFINITIONS.

21 DWELLING UNIT: One or more connected rooms and a kitchen designed
22 for and occupied by no more than one family for living and sleeping purposes,
23 permanently installed on a permanent foundation and meeting the
24 requirements of Articles 14-1 and 14-3 of ROA 1994 (Uniform Administrative
25 Code and Technical Codes and Uniform Housing Code), as of the date of the

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1 unit's construction. For the purposes of this Ordinance, this definition does
2 not include Hotels, Motels, or Bed and Breakfast establishments.

3 **MARKETPLACE PROVIDER.** A person who facilitates the rental of lodging
4 by: (A) advertising the lodging by any means, whether physical or electronic,
5 including by internet website, online booking platform, catalog, television or
6 radio broadcast, and (B) collecting payment from the vendee and transmitting
7 that payment to the vendor either directly or indirectly through agreements or
8 arrangements with the vendor, regardless of whether the marketplace provider
9 receives compensation or consideration in exchange for the marketplace
10 provider's services.

11 **SHORT TERM RENTAL ("STR").** A rental in a dwelling unit of 29 days or
12 less.

13 **SHORT TERM RENTAL OPERATOR ("STRO").** The owner or party
14 otherwise responsible for a Short Term Rental property or properties.

15 **SHORT TERM RENTAL UNIT ("STRU").** The dwelling unit or portion thereof
16 that is rented for 29 days or less. Each unit within a multifamily apartment
17 building that is rented for 29 days or less is considered a STRU.

18 **§ 13-19-5 GENERAL PROVISIONS.** Each STRO shall:

19 A. Maintain a valid City Business Registration for purposes of operating
20 any one or more STR within the City of Albuquerque;

21 B. Pay all applicable local, state, and federal taxes, including Lodgers'
22 Tax, Hospitality Fee, Gross Receipts Tax and Income Taxes associated with
23 the operation of each STRU unless the Marketplace Provider does this on the
24 operator's behalf;

25 C. Maintain short term rental insurance coverage for each STRU in the
26 minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000) per STRU
27 to insure against damages to guest(s) caused by the STRO, and to insure
28 against damages caused by STRO guest(s) or the STRO when such damages
29 are incurred by other persons including, but not limited to, neighbors;

30 D. Clearly display inside each STRU a copy of the applicable STR
31 permit issued pursuant to this Article;

32 E. Include the STR permit number issued by the City on all marketing
33 materials for each respective STRU;

1 F. Display inside each STRU a current “Good Neighbor Agreement”.
2 The Good Neighbor Agreement will be provided by the Planning Department
3 on an annual basis and shall inform the occupants of the maximum overnight
4 occupancy, maximum gathering occupancy and relevant city ordinances, and
5 explain that occupants of any STRU are required to comply with all relevant
6 City ordinances.

7 § 13-19-6 STR PERMITS.

8 A. Permit Required. No STRO shall operate any STR without a valid STR
9 Permit from the Planning Department for each STR unit proposed to be
10 operated. In addition to any other necessary information, the Planning
11 Department shall require submission of the following for each STR Permit
12 application:

13 1. A physical address of the STRU; and
14 2. The name, phone number, email, and business address of the STRO
15 or agent(s) who will be available twenty-four hours per day, seven days a week
16 to respond to complaints regarding the operation or occupancy of the STR;
17 and

18 3. A scaled floor plan showing the layout and square footage of the
19 STR unit(s); and

20 4. A statement signed by the STRO that the STR will be operated in
21 compliance with this Article and all other applicable city codes, including but
22 not limited to the Integrated Development Ordinance, the Uniform Housing
23 Code, the Fire Code, any relevant Public Health Orders, and the Noise
24 Ordinance; and

25 5. Proof of insurance as required by subsection 13-19-5(C), above.

26 B. Permit Duration; Inspection. Any STR permit issued pursuant to this
27 Article is valid for 12 consecutive months unless sooner terminated by the
28 STRO, or cancelled by the City. The Planning Department shall have the right
29 to inspect each STR, without prior notice, to determine compliance with this
30 Ordinance and all other applicable City codes.

31 C. Permit Fee. The Planning Department shall collect a STR Permit fee
32 of \$120.00 for each initial permit, and \$90.00 for the renewals thereafter.

33 Revenue from fees imposed pursuant to this paragraph shall be used only to

1 administer, manage, and enforce this section. Upon the transfer of ownership
2 of a STRU, the STR permit shall terminate. If the new owner wishes to use the
3 property or unit as a STR, a new application shall be submitted.

4 **§13-19-7 STR OCCUPANCY.**

5 A. The maximum overnight occupancy of an STRU is limited to a
6 maximum of two adults per bedroom, plus an additional two adults for each
7 unit excluding studios or efficiencies, such that a two bedroom house would
8 have an overnight occupancy of six adults, or a three bedroom house would
9 have an overnight occupancy of eight adults. For the purposes of this
10 subsection, an adult is any person over 12 years of age.

11 B. Gatherings of Persons in excess of the maximum overnight
12 occupancy prescribed by subsection 'A', above, shall not exceed two times
13 the maximum overnight occupancy or 20 persons, whichever is less. All such
14 gatherings shall conclude and attendees disburse by 10:00 p.m. local time.

15 **§ 13-19-8 ENFORCEMENT AND PENALTIES.**

16 The Zoning Enforcement Officer has the duty and authority to enforce the
17 Ordinance consistent with the Integrated Development Ordinance, Part 14-16-
18 6: Administration and Enforcement: 6-9 (C)

19 A. Notice. The Zoning Enforcement Officer shall send a written notice
20 by First Class Mail to the agent designated for such purposes pursuant to
21 Section 13-19-6(A)(2), or if no such person has been identified then to the
22 owner of record as listed in the real property records of the County Clerk. At a
23 minimum, the notice must include:

- 24 1. A statement that a violation of this Section has been observed
25 or otherwise determined to exist;
- 26 2. A brief description of the nature of the violation;
- 27 3. Advisement of a 30-day grace period (or longer if appropriate
28 in the reasonable determination of the Zoning Enforcement Officer) within
29 which to come into compliance; and
- 30 4. A reference to the penalty provisions of this Section.

31 B. Penalty. If the property has not been brought into compliance within
32 the grace period set forth by the notice prescribed under subsection 'A' above

1 or any period of extension granted by the Zoning Enforcement Officer, the
2 owner or responsible party is subject to:

3 1. The penalty provisions set forth in § 1-1-99 of this code of
4 ordinances, with each day of violation is considered a separate offense; and

5 2. Instead of or in addition to the penalty provision set forth in §
6 1-1-99, the City acting through the City Attorney, is hereby authorized to file an
7 action in a court of competent jurisdiction as a means of compelling
8 compliance to:

9 a. Enjoin any person from violating or threatening to
10 violate the terms, conditions and restrictions of this ordinance;

11 b. Collect civil assessments against the property of \$500
12 per day for every day the property remains or remained in violation of this
13 Section after the expiration of the grace period or any extensions granted by
14 the Zoning Enforcement Officer identified in the notice by the Zoning
15 Enforcement Officer; and

16 c. Recover damages from the owner of a STR in an amount
17 of money adequate for the City to undertake or reimburse expenditures for any
18 construction remediation, cleanup, or other activity necessary to bring about
19 compliance with this Section ordinance.

20 3. In addition to judicial remedies, any expenditure by the City to
21 bring the property into compliance, or any damages or assessments are
22 recoverable through the imposition of a municipal lien on the parcel under
23 NMSA 1978, § § 3-36-1 to 3-36-5. To the extent that monetary penalties are
24 recovered as a result of enforcement under this Section, any funds so
25 recovered shall be used exclusively for the purpose of funding enforcement
26 activities under this Section.

27 4. If the STR commits three (3) or more instances of violations of
28 City Ordinances or State statutes within a 12 month period the STR Permit
29 shall be revoked for a period of two years and the STR shall cease to operate.”

30 SECTION 2. INITIAL COMPLIANCE. Each STRO is required to come into
31 compliance with respect to every STR being operated at the time of the
32 Effective Date prescribed by ‘SECTION 6’, below, within six months of the
33 Effective Date.

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1 **SECTION 3. Amend Lodgers Tax Advisory Board Section 4-4-13(A) to read**
2 **as follows:**

3 **“There is created the Lodgers' Tax Advisory Board, which shall consist of**
4 **seven members all of whom shall be residents of the city; two of whom shall**
5 **represent the lodging industry, two of whom are directly involved in tourist-**
6 **related industries; one who shall represent the Short Term Rental industry;**
7 **and two members at large who shall represent the public. The members of the**
8 **Lodgers' Tax Advisory Board shall be appointed by the Mayor with the advice**
9 **and consent of the City Council.”**

10 **SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence,**
11 **clause, word or phrase of this Ordinance is for any reason held to be invalid or**
12 **unenforceable by any court of competent jurisdiction, such decision shall not**
13 **affect the validity of the remaining provisions of this Ordinance. The Council**
14 **hereby declares that it would have passed this Ordinance and each section,**
15 **paragraph, sentence, clause, word or phrase thereof irrespective of any**
16 **provision being declared unconstitutional or otherwise invalid.**

17 **SECTION 5. COMPILATION. SECTION 1 and SECTION 3 of this Ordinance**
18 **shall amend, be incorporated in, and made part of the Revised Ordinances of**
19 **Albuquerque, New Mexico, 1994.**

20 **SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect six**
21 **months after publication by title and general summary.**
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1 PASSED AND ADOPTED THIS 5th DAY OF October, 2020
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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8 Patrick Davis, President
9 City Council

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13 APPROVED THIS 13 DAY OF October, 2020

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16 Bill No. O-20-30

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22 Timothy M. Keller, Mayor
23 City of Albuquerque

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28 ATTEST:

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31 Ethan Watson, City Clerk

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CITY of ALBUQUERQUE
TWENTY FIFTH COUNCIL

COUNCIL BILL NO. O-23-69 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton, Tammy Fiebelkorn by request

1 ORDINANCE

2 AMENDING THE SHORT-TERM RENTAL ORDINANCE, SECTION 13-19-1
3 THROUGH 13-19-8 OF THE ALBUQUERQUE CITY CODE, IN ORDER TO
4 REQUIRE ALL SHORT-TERM RENTAL UNITS TO HAVE A LOCAL PROPERTY
5 MANAGER AVAILABLE TO RESPOND TO MAINTENANCE AND SECURITY
6 CONCERNS; LIMIT SHORT-TERM RENTAL PERMITS TO THREE PER NATURAL
7 PERSON; LIMIT THE NUMBER OF SHORT-TERM RENTAL PERMITS ISSUED
8 CITY-WIDE TO NO MORE 1,200; AND INCREASING THE CIVIL PENALTIES FOR
9 NONCOMPLIANCE WITH THIS ORDINANCE, AS AMENDED.

10 **WHEREAS, shelter is a basic necessity and human right; and**

11 WHEREAS, nearly half of Albuquerque renters are housing cost-burdened,
12 meaning they spend more than 30% of their income on housing, placing
13 significant stress on middle-income households and creating real risk for lower-
14 income households; and

15 WHEREAS, adequate housing is necessary to the safety and prosperity of
16 Albuquerque families; and

17 **WHEREAS, housing is integral to the City’s equity, public safety, workforce,**
18 **and economic development strategies; and**

19 WHEREAS, the City is intent on utilizing any and all tools at its disposal in
20 order to mitigate the effects of the housing crisis; and

21 WHEREAS, the City has appropriated \$20 million as part of a Gross Receipts
22 Tax Bond to provide more affordable housing; and

23 WHEREAS, the City recognizes that it will take years for its investments in
24 affordable and other housing to impact the housing shortage; and

1 WHEREAS, the City seeks to encourage the repurposing of existing
2 properties into more long-term housing, in addition to the support of new
3 development; and

4 WHEREAS, the City has already enacted an ordinance that prohibits
5 discrimination based on source of income, including use of vouchers; and

6 WHEREAS, the City also seeks to mitigate the excessive utilization of
7 dwelling units as short-term rentals in order to limit the effects of the housing
8 shortage and increase the utilization of existing properties as long-term
9 residential dwellings; and

10 WHEREAS, the civil penalty for noncompliance need be strengthened to
11 further incentivize compliance with the short-term rental permitting process.

12 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
13 ALBUQUERQUE:

14 SECTION 1. SHORT TITLE.

15 The Short-Term Rental Ordinance, §§ 13-9-1 through 13-9-8 is hereby amended
16 to read as follows:

17 “§13-19-1 SHORT TITLE.

18 SECTION §13-19 ROA 1994 shall be known and cited as the “Short Term
19 Rental Ordinance”.

20 § 13-19-2 APPLICABILITY.

21 This Article applies to the operation of Short Term Rentals as defined by
22 subparagraph 13-19-4, Definitions.

23 § 13-19-3 INTENT AND PURPOSES.

24 The intent of Article §13-19 et seq. is to regulate and provide a permitting
25 system for Short Term Rentals (STR) in order to protect the health, safety, and
26 general welfare of Short Term Rental occupants and neighboring residents.

27 § 13-19-4 DEFINITIONS.

28 DWELLING UNIT: One or more connected rooms and a kitchen designed
29 for and occupied by no more than one family for living and sleeping purposes,
30 permanently installed on a permanent foundation and meeting the
31 requirements of Articles 14-1 and 14-3 of ROA 1994 (Uniform Administrative
32 Code and Technical Codes and Uniform Housing Code), as of the date of the

unit's construction. For the purposes of this Ordinance, this definition does not include Hotels, Motels, or Bed and Breakfast establishments.

MARKETPLACE PROVIDER. A person who facilitates the rental of lodging by:

(A) advertising the lodging by any means, whether physical or electronic, including by internet website, online booking platform, catalog, television or radio broadcast, and

(B) collecting payment from the vendee and transmitting that payment to the vendor either directly or indirectly through agreements or arrangements with the vendor, regardless of whether the marketplace provider receives compensation or consideration in exchange for the marketplace provider's services.

SHORT TERM RENTAL ("STR"): A rental in a dwelling unit of 29 days or less.

SHORT TERM RENTAL OPERATOR ("STRO"): The owner or party otherwise responsible for a Short Term Rental property or properties.

SHORT TERM RENTAL UNIT ("STRU"): The dwelling unit or portion thereof that is rented for 29 days or less. Each unit within a multifamily apartment building that is rented for 29 days or less is considered a STRU.

[SHORT TERM RENTAL MANAGER ("STRM"): A person or other party who is available to address maintenance and security concerns of STRU guests, and resides in or is otherwise based within 20 miles of the City limits of Albuquerque.]

§ 13-19-5 GENERAL PROVISIONS.

Each STRO shall:

A. Maintain a valid City Business Registration for purposes of operating any one or more STR within the City of Albuquerque;

B. Pay all applicable local, state, and federal taxes, including Lodgers' Tax, Hospitality Fee, Gross Receipts Tax and Income Taxes associated with the operation of each STRU unless the Marketplace Provider does this on the operator's behalf;

C. Maintain short term rental insurance coverage for each STRU in the minimum amount of Two Hundred Fifty Thousand Dollars (\$250,000) per

1 STRU to insure against damages to guest(s) caused by the STRO, and to
2 insure against damages caused by STRO guest(s) or the STRO when such
3 damages are incurred by other persons including, but not limited to,
4 neighbors;

5 D. Clearly display inside each STRU a copy of the applicable STR permit
6 issued pursuant to this Article;

7 E. Include the STR permit number issued by the City on all marketing
8 materials for each respective STRU;

9 F. Display inside each STRU a current "Good Neighbor Agreement". The
10 Good Neighbor Agreement will be provided by the Planning Department on
11 an annual basis and shall inform the occupants of the maximum overnight
12 occupancy, maximum gathering occupancy and relevant city ordinances,
13 and explain that occupants of any STRU are required to comply with all
14 relevant City ordinances;

15 G. Shall make available to the City for its inspection all records relating to
16 the operation of the STRU to determine compliance with this Subsection;

17 H. Have a STRM available to answer maintenance and security concerns of
18 STRU guests;

19 I. Be limited to three (3) STRU permits per STRO. STROs shall not submit or
20 cause to be submitted more than three STRU permit application in the City
21 of Albuquerque per owner;]

22 § 13-19-6 STR PERMITS.

23 A. Permit Required.

24 No STRO shall operate any STR without a valid STR Permit from the
25 Planning Department for each STR unit proposed to be operated. In
26 addition to any other necessary information, the Planning Department
27 shall require submission of the following for each STR Permit
28 application:

- 29 1. A physical address of the STRU; and
- 30 2. The name, phone number, email, and business address of the
- 31 STRO ~~[or agent(s) who will be available twenty-four hours per day,~~
- 32 ~~seven days a week to respond to complaints regarding the operation~~
- 33 ~~or occupancy of the STR]; and~~

[3. The name, phone number, email, and business address of the STRM, if other than the STRO, who will be available twenty-four hours per day, seven days a week to respond to maintenance issues, security concerns, and complaints regarding the operation or occupancy of the STR; and]

4. A scaled floor plan showing the layout and square footage of the STR unit(s); and

5. A statement signed by the STRO that the STR will be operated in compliance with this Article and all other applicable city codes, including but not limited to the Integrated Development Ordinance, the Uniform Housing Code, the Fire Code, any relevant Public Health Orders, and the Noise Ordinance; and

6. Proof of insurance as required by subsection 13-19-5(C), above.

B. Permit Duration; Inspection.

[1. STRU permits shall only be granted to natural persons;]

2. Any STR permit issued pursuant to this Article is valid for 12 consecutive months unless terminated by the STRO, or cancelled by the City. The Planning Department shall have the right to inspect each STR without prior notice, to determine compliance with this Ordinance and all other applicable City codes.

[3. If an STRO is otherwise in compliance with the provisions of this ordinance, as amended, any STR permits issued prior to the enactment of this ordinance, as amended, shall remain valid until their scheduled date of expiration notwithstanding the number of STR permits held by an STRO at the time this ordinance becomes effective. However, all STROs, STRMs, and STR permits shall be subject to the requirements and limitations of this ordinance, as amended, as of its effective date.]

C. Permit Fee.

The Planning Department shall collect a STR Permit fee of \$120.00 for each initial permit, and \$90.00 for the renewals thereafter. Revenue from fees imposed pursuant to this paragraph shall be used only to administer, manage, and enforce this section. Upon the transfer of ownership of a

1 STRU, the STR permit shall terminate. If the new owner wishes to use the
2 property or unit as a STR, a new application shall be submitted.

3 [D. Permit Limit.

4 1. The Director of Planning, and their designees, shall at all times limit the
5 number of STR permits to 1,200. This limit is applicable City-wide.]

6 §13-19-7 STR OCCUPANCY.

7 A. The maximum overnight occupancy of an STRU is limited to a maximum
8 of two adults per bedroom, plus an additional two adults for each unit
9 excluding studios or efficiencies, such that a two bedroom house would
10 have an overnight occupancy of six adults, or a three bedroom house
11 would have an overnight occupancy of eight adults. For the purposes of
12 this subsection, an adult is any person over 12 years of age.

13 B. Gatherings of Persons in excess of the maximum overnight occupancy
14 prescribed by subsection 'A', above, shall not exceed two times the
15 maximum overnight occupancy or 20 persons, whichever is less. All such
16 gatherings shall conclude and attendees disburse by 10:00 p.m. local time.

17 § 13-19-8 ENFORCEMENT AND PENALTIES.

18 The Zoning Enforcement Officer has the duty and authority to enforce the
19 Ordinance consistent with the Integrated Development Ordinance, Part 14-16-
20 6: Administration and Enforcement: 6-9 (C)

21 A. Notice.

22 The Zoning Enforcement Officer shall send a written notice by first class
23 mail to the ~~agent designated for such purposes~~ [STRO, according to the
24 information provided pursuant to] § 13-19-6(A)(2), [and to the STRM, as
25 designated pursuant to § 13-19-6(A)(3), if other than the STRO;] or, if no
26 such person has been identified then to the owner of record as listed in
27 the real property records of the County Clerk. At a minimum, the notice
28 must include:

- 29 1. A statement that a violation of this Section has been observed or
30 otherwise determined to exist;
31 2. A brief description of the nature of the violation;

3. Advisement of a 30-day grace period (or longer if appropriate in the reasonable determination of the Zoning Enforcement Officer) within which to come into compliance; and
4. A reference to the penalty provisions of this Section.

B. Penalty.

If the property has not been brought into compliance within the grace period set forth by the notice prescribed under subsection 'A' above or any period of extension granted by the Zoning Enforcement Officer, the owner or responsible party is subject to:

1. The penalty provisions set forth in § 1-1-99 of this code of ordinances, with each day of violation is considered a separate offense; and
2. Instead of or in addition to the penalty provision set forth in § 1-1-99, the City acting through the City Attorney, is hereby authorized to file an action in a court of competent jurisdiction as a means of compelling compliance to:

- a. Enjoin any person from violating or threatening to violate the terms, conditions and restrictions of this ordinance;
- b. Collect civil assessments against the property of \$500 per day for every day the property remains or remained in violation of this Section after the expiration of the grace period or any extensions granted by the Zoning Enforcement Officer identified in the notice by the Zoning Enforcement Officer; and
- c. Recover damages from the owner of a STR in an amount of money adequate for the City to undertake or reimburse expenditures for any construction remediation, cleanup, or other activity necessary to bring about compliance with this Section ordinance.

3. In addition to judicial remedies, any expenditure by the City to bring the property into compliance, or any damages or assessments are recoverable through the imposition of a municipal lien on the parcel under NMSA 1978, § § 3-36-1 to 3-36-5. To the extent that monetary penalties are recovered as a result of enforcement under this Section, any funds so recovered shall be used exclusively for the purpose of funding enforcement activities under this Section.

1 4. If the STR commits three (3) or more instances of violations of City
2 Ordinances or State statutes [occur] within a 12 month period, the STR
3 Permit [for the offending STR] shall be revoked for a period of two years
4 and the STR shall cease to operate.

5 SECTION 2. INITIAL COMPLIANCE. Each STRO is required to come into
6 compliance with respect to every STR being operated at the time of the
7 Effective Date prescribed by 'SECTION 5', below, within six months of the
8 Effective Date.

9 SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
10 clause, word or phrase of this Ordinance is for any reason held to be invalid or
11 unenforceable by any court of competent jurisdiction, such decision shall not
12 affect the validity of the remaining provisions of this Ordinance. The Council
13 hereby declares that it would have passed this Ordinance and each section,
14 paragraph, sentence, clause, word or phrase thereof irrespective of any
15 provision being declared unconstitutional or otherwise invalid.

16 SECTION 4. COMPILATION. SECTION 1 of this Ordinance shall amend, be
17 incorporated in, and made part of the Revised Ordinances of Albuquerque,
18 New Mexico, 1994.

19 SECTION 5. EFFECTIVE DATE. This Ordinance, as amended, shall take
20 effect five (5) days after publication by title and general summary.