



# ALBUQUERQUE CITY COUNCIL SHORT TERM RENTALS TASK FORCE

## FINDINGS & RECOMMENDATIONS



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# ACKNOWLEDGEMENTS

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\*Councilor Diane Gibson was the sponsor for R-18-49, which established the Short Term Rentals Task Force.

\*\*Special thanks to Steve Grant, Rebecca Plutino, and Lacy Pontes for participating in the Task Force meetings.

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# 1. EXECUTIVE SUMMARY

## 1.1 INTRODUCTION

The lodging industry has been rapidly changing as a result of the expanding "sharing economy". Vacation rental properties ("short term rentals") have become a thriving business in Albuquerque through companies like Airbnb, Expedia, VRBO, and HomeAway. Short term rentals, defined by the City of Albuquerque as a family residence or apartment rented for 29 days or less, provide a comfortable lodging option for visitors that prefer to stay in a furnished home with more space and amenities, such as a kitchen and laundry room, instead of staying in a hotel room. Short term rentals may also be less expensive than a hotel room and provide an opportunity for renters to get a better feel for the local community. There is also a benefit to property owners that may need the extra income that short term rentals generate.

Short term rentals in Albuquerque, like in other cities across the country, have been quickly expanding and becoming a more desirable option for lodging. In a 2018 market analysis of vacation rentals commissioned by Visit Albuquerque, it showed the supply of vacation rentals in December 2018 at 1,225 units. Of that total, 69.8% were entire homes, 29.7% were private rooms, and .70 were shared rooms. Gross revenue for December 2018 was over \$1.66 million. Of that total, over \$1.47 million came from short term rentals of entire homes. Not surprisingly, October 2018 was the highest yield for gross revenue at \$2.47 million, a direct correlation to the Albuquerque International Balloon Fiesta event (see *Appendix E for an excerpt from the Vacation Rental Market Intelligence Market Study by AllTheRooms Analytics*).

Simply stated, short term rentals are an important and welcomed component of tourism and economic development for the Albuquerque community. Recognizing that the growth and interest in short term rentals should be balanced

with protecting residential neighborhood integrity and character, the City Council (and specifically, Councilor Diane Gibson as the sponsor) established the Short Term Rentals Task Force.

## 1.2 SHORT TERM RENTALS TASK FORCE

The Albuquerque City Council adopted R-18-49 in September 2018. The Resolution created a 12-member task force to explore options to register and regulate short term rentals within the City of Albuquerque. The purpose of the Task Force was to provide recommendations that address issues related to short term rentals as follows:

- Options for permitting of short term rentals;
- Options for regulation of short term rentals to address concerns about safety, nuisance, and compatibility;
- Options for the City to collect appropriate permit fees and lodging taxes; and
- Any other relevant and helpful issues relating to this issue.

The Task Force was comprised of the following members:

- Staff member from the City's Planning Department knowledgeable in the area of short term rentals and registration fees;
- Staff member from the City's Code Enforcement Division knowledgeable in the area of residential uses, short term rentals, and enforcement;
- Staff member from the City Legal Department knowledgeable in land use and zoning enforcement;
- Staff member each from the City Council Services Department and Mayor's Office;
- Staff member from the Treasury Department knowledgeable in occupancy taxes;
- Representative from Visit Albuquerque that is knowledgeable in lodging and tourism;

- Representative from the real estate industry knowledgeable in short term rental properties;
- Two community members with special knowledge or interest in issues and community impacts associated with short term rental properties; and
- Two representatives from the lodging industry, with one involved with the short term rental industry.

The Task Force held nine meetings starting on November 20, 2018 and ending with the last meeting on June 11, 2019. Discussions focused on the level of appropriate regulation in Albuquerque, what registration and permit requirements would entail, and how the City could administer an STR program.

An amendment to the Resolution (R-19-128) extended the deadline for the preparation of this report so that the Task Force would have adequate time to fully consider the complexity of the issues and include a public meeting as part of the process.

### 1.3 PUBLIC MEETING

The City of Albuquerque and Councilor Diane Gibson hosted a public meeting on March 19, 2019 regarding short term rentals (STRs) in Albuquerque. The meeting was held at the

office of the Greater Albuquerque Association of Realtors (GAAR). The purpose of the meeting was for the STR Task Force to get public input on the draft recommendations regarding the regulation, permitting, and administration of STRs in Albuquerque. The meeting also provided an opportunity for the public to learn more about the Task Force.

Councilor Gibson and Petra Morris (Planning Manager, City Council Services) provided introductions. Jackie Fishman (Principal, Consensus Planning) gave a presentation that summarized the establishment and membership of the Task Force and areas of agreement regarding recommendations for permitting, regulation, and administration of STRs. She also presented the topics that the Task Force considered, but did not come to an agreement. After the presentation, Councilor Gibson, Petra Morris, and Jackie Fishman facilitated a "spirited" question and answer session. Over 95 people attended the public meeting.

Verbal comments were recorded by City Council Services and Consensus Planning staff members. In addition to providing verbal comments, the public was given the opportunity to provide written comments (*see Appendix B for a summary of the public meeting and written comments received before, during, and after the public meeting*).



Public meeting held at GAAR office.



## 2. RECOMMENDATIONS

### 2.1 INTRODUCTION

The STRs Task Force discussed and agreed on a series of recommendations related to the permitting, regulation, and administration of short term rentals for the City Council to consider. The recommendations are based on the research of best practices from other cities, discussions during meetings of the Task Force, and public comment. The recommendations are categorized under permitting, regulation, and administration.

There were also some issues discussed during the Task Force meetings that remain unresolved. This includes the concentration and spacing of short term rentals within residential neighborhoods and occupancy limits in short term rentals. These two issues are described in this section.

### 2.2 PERMITTING

The Task Force agreed that the following recommendations should be considered by the City Council in the development of a permitting process for short term rentals:

1. When applying for a permit, STR owners/operators should provide emergency contact numbers. The permitting process should not differentiate between owner occupied and non-owner occupied units.
2. The permit process for STRs should be with the Planning Department, Code Enforcement Division.
3. The proof of business registration for each STR operator should be provided to City upon application for a STR permit.
4. A permit should be required for each STR property or unit. STR operators of multi-family apartment buildings should permit each unit within the building.
5. Permits for STR units should run for one year; cost should be determined by a fiscal

impact study. Annual renewal fees should be less than the first year permit fee.

6. The permit should stipulate that the STR owner agrees to comply with City ordinances (e.g., Uniform Housing Code, noise, trash collection, zoning, weed and litter, parking, air quality/no burn nights, etc.).
7. The City should provide a voluntary "Good Neighbor Agreement" that encourages STR operators to notify adjacent neighbors as a courtesy and provide emergency contact numbers. A "Good Neighbor Agreement" should also be distributed to guests listing relevant existing City ordinances that should be followed. It should also provide information on Visit Albuquerque as a courtesy.

### 2.3 REGULATION

The Task Force agreed that the following recommendations should be considered by the City Council in the development of regulations for short term rentals:

1. STRs should be allowed in all City of Albuquerque residential and mixed-use zones (i.e., R-A, R-1, R-MC, R-T, R-ML, R-MH, MX-T, MX-L, MX-M, MX-H and MX-FB).
2. STRs should not be allowed in City of Albuquerque non-residential zones (i.e., NR-C, NR-BP, NR-LM, NR-GM, NR-SU, and NR-PO).
3. There should be no limitation on the number of times an STR unit can be rented.
4. Owner occupancy should not be required and regulations should not differentiate between owner-occupied and non-owner occupied units.
5. STR hosts currently cannot advertise that units are available for special events, in accordance with the Integrated Development Ordinance (IDO).

6. Small, private gatherings (i.e., special events that are not advertised) should be allowed, but overnight stay for the additional guests should not be allowed. There should be no limitation on the number of private gatherings at an STR unit.
  7. STR units should maintain an outward residential appearance.
  8. Advertising should not be allowed on STR units within residential zones.
  9. The permit should be displayed on the inside of the STR unit.
  10. The permit number should be required on all marketing materials.
  11. Violation of regulations should result in a civil penalty and penalties should be tiered. The City should consider whether to place a lien on the property for non-payment.
6. The recently passed Senate Bill 106 removed the exemption that allowed STR operators to avoid paying occupancy (lodgers') tax. The City of Albuquerque currently has a voluntary collection agreement with Airbnb for collecting lodgers' tax and hospitality fees from hosts and remitting these fees to the City. The City recently notified Expedia/HomeAway/VRBO regarding the State Legislation and requested to enter into a similar collection agreement. The new law will apply to all STRs effective January 1, 2020. At the time of writing this report, Expedia/HomeAway/VRBO have declined to enter into a voluntary collection agreement.
  7. STR hosts should be required to file with City Treasury or through a booking platform to pay lodgers' and hospitality taxes beginning in January 2020.
  8. The City of Albuquerque should interview companies to assist with address identification, compliance monitoring, enforcement, outreach, and tax collection.
  9. The City should maintain a map of registered STR locations for enforcement and administrative purposes.

## 2.4 ADMINISTRATION

The Task Force agreed that the following recommendations should be considered by the City Council in the development of an administrative process for short term rentals:

1. The City should complete a fiscal impact study that includes appropriate staffing level, one time set-up costs (computers, desks, space, phones), software needs, and ongoing costs.
2. Permit fees should be earmarked for staffing and administration costs related to STR regulations.
3. An STR advisory committee should be established and should convene only when necessary to review or change regulations.
4. The resolution that established the Lodgers' Tax Advisory Board should be amended to add an STR representative.
5. Appointment to be on the Lodgers' Tax Advisory Board should go through the normal City process.

## 2.5 UNRESOLVED ISSUES

### Concentration and Spacing of STR Units

There was discussion at several Task Force meetings regarding the concentration and spacing of STRs in residential neighborhoods. This was considered as a method of protecting neighborhood character and integrity, which is a strong theme contained in the City of Albuquerque Comprehensive Plan. However, there was no agreement amongst the Task Force members regarding any level of concentration or spacing of STRs (see *Research Section 3.3 for more information on concentration and spacing*).

The Task Force received feedback regarding this issue during the public meeting. There was a suggestion to implement separation regulations rather than a maximum percentage allowed.

Participants also called for regulating the number of STR units within a building. Concerns about over-saturation were expressed verbally and through written comments, particularly citing the Nob Hill and Old Town areas where there is already a high concentration of STRs.

### Occupancy

The Task Force also discussed and could not come to an agreement on occupancy requirements for STR units. During the best practices research it was found that some cities simply limit occupancy to 2 people per bedroom and some cities do not regulate occupancy at all. Some of the Task Force members felt that allowing unlimited occupancy could have a negative impact on neighborhood character (*e.g., more cars, more noise and disruption, especially when the homes are larger and could accommodate larger groups of visitors*). The STR representatives on the Task Force expressed their opinion that they would not want an unlimited number of people in their units as it would accelerate wear and tear of the property. The Planning Department representatives expressed their opinion that it would be difficult to enforce occupancy requirements, but noted that it may help limit how homes are advertised and suggested using the existing standards contained in the Uniform Housing Code as a starting point (*see Research Section 3.4 for more information on occupancy*).

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## 3. RESEARCH

### 3.1 INTRODUCTION

Consensus Planning conducted research and analysis on best practices related to the permitting, regulation, and administration of short term rental (STR) programs; concentration and spacing of STR units within residential neighborhoods; and occupancy requirements. This section includes a summary of the best practices methodology, research, and findings, as well as analyses on the concentration and spacing of STR units and occupancy as an outgrowth of the best practices research. The intent of the best practices research was to evaluate and compare how other cities have responded to the influx of STR units that contribute to local wealth, ensure the safety of visitors, protect neighborhood integrity and character, and develop necessary staff and processes to operate a STR permit program. The research also found that some cities are concerned about the unintended consequence on the availability of affordable housing that results from taking entire houses and apartments off the long term housing market and the increase in rental costs.

### 3.2 BEST PRACTICES

#### Research Methodology

Consensus Planning completed an STR best practice analysis of eight peer cities. The following cities were selected based on similarities and/or proximity to Albuquerque:

- Austin, Texas;
- Boulder, Colorado;
- Colorado Springs, Colorado;
- Denver, Colorado;
- Kansas City, Missouri;
- San Antonio, Texas;
- Santa Fe, New Mexico; and
- Taos, New Mexico.

The selected cities have specific ordinances related to the operation of STRs that include application and permitting. With the exception

of Colorado Springs, each city had begun the implementation of an application, permitting, and regulation program prior to the study. Colorado Springs had passed an ordinance, but did not open applications for registration until February 2019.

The research included a review of city ordinances, information published on city websites, and interviews with city staff, when available. The study investigated application and permitting, regulation, and administrative activities related to STR operations in each city. The following indicators were included in the study:

- STR definition;
- Host occupancy requirements;
- Length of permit or license;
- Application and permit submission requirements;
- Permit fees and renewal details;
- Insurance requirements;
- Zoning restrictions;
- Display of permit regulations;
- Required inspections;
- Occupancy limitations;
- Fire safety and carbon monoxide requirements;
- Noise control;
- Signage;
- Parking trash/waste management;
- Availability for party rental;
- Sleeping area requirements;
- Emergency contact requirements;
- Neighbor notification and other neighborhood protections;
- Mandatory taxes, tax reporting, and payments;
- Administrative staffing;
- Steering or advisory committees;
- Fees generated from application;
- Challenges in the application process;
- Ordinance enforcement; and
- Appeals processes and other miscellaneous information.

Interviews were conducted with staff from Boulder, Colorado Springs, Denver, Kansas

City, and San Antonio. During the interviews, staff were asked to share information related to the development of their STR ordinance, how staffing and regulation enforcement is implemented, and challenges or lessons learned related to their STR program.

Originally, Tucson was included in the analysis, but was removed since the State of Arizona passed a bill prohibiting cities and towns from prohibiting or regulating home rentals for overnight stays and special events outside of current codes and regulations related to public health and safety. However, Tucson requires hosts to apply for and obtain a business license and pay appropriate taxes related to short term rental operation. Tucson assesses an occupational license tax on the rent charged for stays less than 30 days in accordance with the Tucson Tax Code. Since 2017, Airbnb has been collecting, reporting, and paying taxes on behalf of Airbnb hosts to the Arizona Department of Revenue.

### Defining Short Term Rentals (STRs)

All eight cities included in the best practices research defined an STR as a residential dwelling unit that is rented for less than 30 days (*the Resolution establishing the Short Term Rental Task Force defined an STR as 29 days or less in order to be consistent with provisions contained in the City's Lodgers' Tax Ordinance, which applies to stays of 29 days or less*).

### Host Occupancy Requirements

Host or operator occupancy requirements varied from city to city. Owner occupancy is not required in every city but owner occupied and non-owner occupied were categorized as different “types” in ordinances. In Boulder and Denver, the STR property must be the owner’s primary residence. In Denver, long-term renters may operate an STR with permission from the landlord and Colorado Springs allows a third party to manage a property on behalf of the owner (who is issued the permit to operate). Austin allows non-owner occupied units, but will discontinue this type by April 2022. Santa Fe

and Taos do not address owner occupancy in their respective ordinances.

### Application Requirements and Fees

The length of the permit or license in most cities is one year with a requirement that it be renewed annually. The exceptions were Boulder (four years) and San Antonio (three years). Registration/permit fees ranged from \$25 (Denver) to \$550 (Austin). The average fee was just over \$200.

While it was not always specified in the ordinances, four of the eight cities used the collected fees to administer, manage, and enforce the STR ordinance. Denver and Kansas City deposit these fees into the general fund. Austin and Taos do not specify where funds are released.

Common permit requirements include proof of insurance, 24-hour emergency contacts, certificate of approved safety inspections, and a business or sales license. Other requirements followed specific regulations outlined in the ordinance. Some cities allowed applicants to acquire a business or sales license with their application for an additional cost (Boulder, Denver, and Santa Fe).

Interviews with city staff revealed a variety of challenges within the application process, including incomplete applications, invalid business or sales identification numbers, and utilization of the wrong registration forms. Each interviewee suggested that the City of Albuquerque create a plan for public education and outreach related to permitting, including video tutorials and presentations. Several suggested an electronic permit system.

### Zoning Requirements

All cities in the study allow STR units in residential zones. In Kansas City, STRs are not allowed in low-density single family zones, but existing STRs were allowed to grandfathered into compliance. Kansas City also requires STR hosts in historic districts to apply for an additional special use permit.

### Concentration and Spacing

Colorado Springs, Kansas City, San Antonio, and Santa Fe have imposed limitations on the density of STR units within residential neighborhoods. In San Antonio, there is no density limit for owner occupied STR units, but non-owner occupied units may be no more than 12% of a block face in a single family residential zone. Colorado Springs and Kansas City have concentration limits on multi-family and multi-unit dwellings. Austin's ordinance sets limits on the distance between STRs, determined by census tracts. In Santa Fe, permits may not be issued for more than two STR units directly adjoining each other on a residentially zoned street. Denver does not allow for mobile homes, RVs, or travel trailers to be operated as STRs (see Section 3.3 for more discussion on concentration and spacing).

### Occupancy Limits

Occupancy limits vary from city to city, but common practice is to limit occupancy to two persons per bedroom (Kansas City, Santa Fe, and Taos). Austin limits STRs to no more than two adults per bedroom plus two additional adults between 10:00 p.m. and 7:00 a.m. and prohibits STRs from being used by more than 10 adults at one time or six unrelated adults. Most cities refer to the zoning or property maintenance codes. The only cities in the study that do not limit occupancy in STR units are Colorado Springs and Denver. Occupancy limits were purposefully left out of the Colorado Springs ordinance; the topic continues to be discussed by an STR steering committee that meets quarterly (see Section 3.4 for more discussion on occupancy).

### Safety & Ordinance Compliance

It is best practice to require a fire extinguisher, smoke and carbon monoxide detectors, and other safety equipment in accordance with city safety code requirements. In addition, cities such as Austin and Colorado Springs encourage operators to notify renters on regulations related to burn bans.

### Noise Control

Five of the eight cities reference existing noise control ordinances in their respective STR regulations.

### Parking

Parking regulations also typically reference existing city ordinances. Santa Fe requires off-street parking at a rate of one parking space for one bedroom and two parking spaces for two or more bedrooms. Taos requires that parking be entirely on-site in a garage, carport, or driveway. Austin, Denver, and Kansas City do not specify parking regulations in their respective ordinances.

### Waste Management

Most cities require STR operators to notify renters about regulations related to trash disposal and waste management. Disposal information must be included in renter notifications and packets. Colorado Springs provides STR operators with a "Good Neighbor" template to communicate regulations and codes to STR renters.

### Party Rentals

Seven of the eight cities do not allow STRs to be rented for larger events, meetings, or parties. Denver allows private parties, but parties and the presence of "party buses" on residential streets have been the primary complaint reported. Austin and Taos limit parties to daytime hours; Taos specifies a daytime occupancy (not to exceed 20 persons) and Austin does not allow outdoor parties of more than six adults between 7:00 a.m. and 10:00 p.m.. Santa Fe prohibits gatherings in excess of three times the number of legally allowed occupants.

### Display of Permit and Signage

Permit numbers are required on marketing materials in all eight cities. This includes any online or electronic advertisements.

Signage is not permitted in Austin, Kansas City, or Taos. Boulder, Colorado Springs, and Santa Fe do not specify regulations related to signage, but an interview with Colorado Spring

staff revealed that the city would most likely refer to codes related to home occupations. Denver allows one non-illuminated sign to identify the property as an STR. San Antonio does allow a nameplate, not to exceed one square foot, as a building-mounted sign attached to the main structure.

### Neighbor Notification

Neighbor notification requirements varied from city to city. Austin requires notification and charges first-time applicants an additional \$50 so that the Planning and Development Review Department may notify area residents. Kansas City and Santa Fe also require neighbor notification; Kansas City goes further to require a signed consent form and affidavit by 55% of adjacent owners. A sample notice is submitted with an application in Santa Fe. Denver does not currently require notification, but may amend the ordinance to include the requirement. Neighbor notification is not required, but encouraged in Colorado Springs and San Antonio. Colorado Springs has a sample notification letter available on its website; it includes space for two local contacts and the permit number for the STR. With the exception of Denver, all cities require contact persons that can respond to complaints and emergencies. Austin and Boulder require two contacts.

### Collection of Taxes

All eight cities require that STR operators pay appropriate taxes (often sales and/or lodgers taxes). The State of New Mexico passed a bill in January 2019, addressing taxation on short-term rentals. Unless an STR unit meets one of the exemptions, the host or operator is required to pay a lodgers or occupancy tax (see Section 3.5 for more discussion on collection of taxes).

### STR Steering Committees

In Colorado Springs and Denver, a steering committee meets quarterly to provide guidance and recommendations. These committees consist of city officials and employees, industry stakeholders, short-term rental operators, and neighborhood representatives. In other cities, a steering or advisory committee was established to

develop the ordinance and will reconvene when necessary to review or revise the city ordinance. In San Antonio, the committee will review the ordinance with regularly scheduled reviews.

## 3.3 CONCENTRATION & SPACING

The Task Force had several discussions regarding limiting the number of STR units within a residential neighborhood as a means of protecting the character and integrity of the neighborhood; however, no areas of agreement were reached. This section summarizes those discussions.

As previously mentioned, some of the cities that were researched used percentages of a block face or spacing between units. The Task Force suggested that using a percentage of the lots (15% or 30% were discussed as potential percentages) within a residential block would be more feasible for Albuquerque than using a spacing standard. Consensus Planning analyzed several neighborhoods with varying development patterns and lot numbers within residential blocks in the Albuquerque metro including:

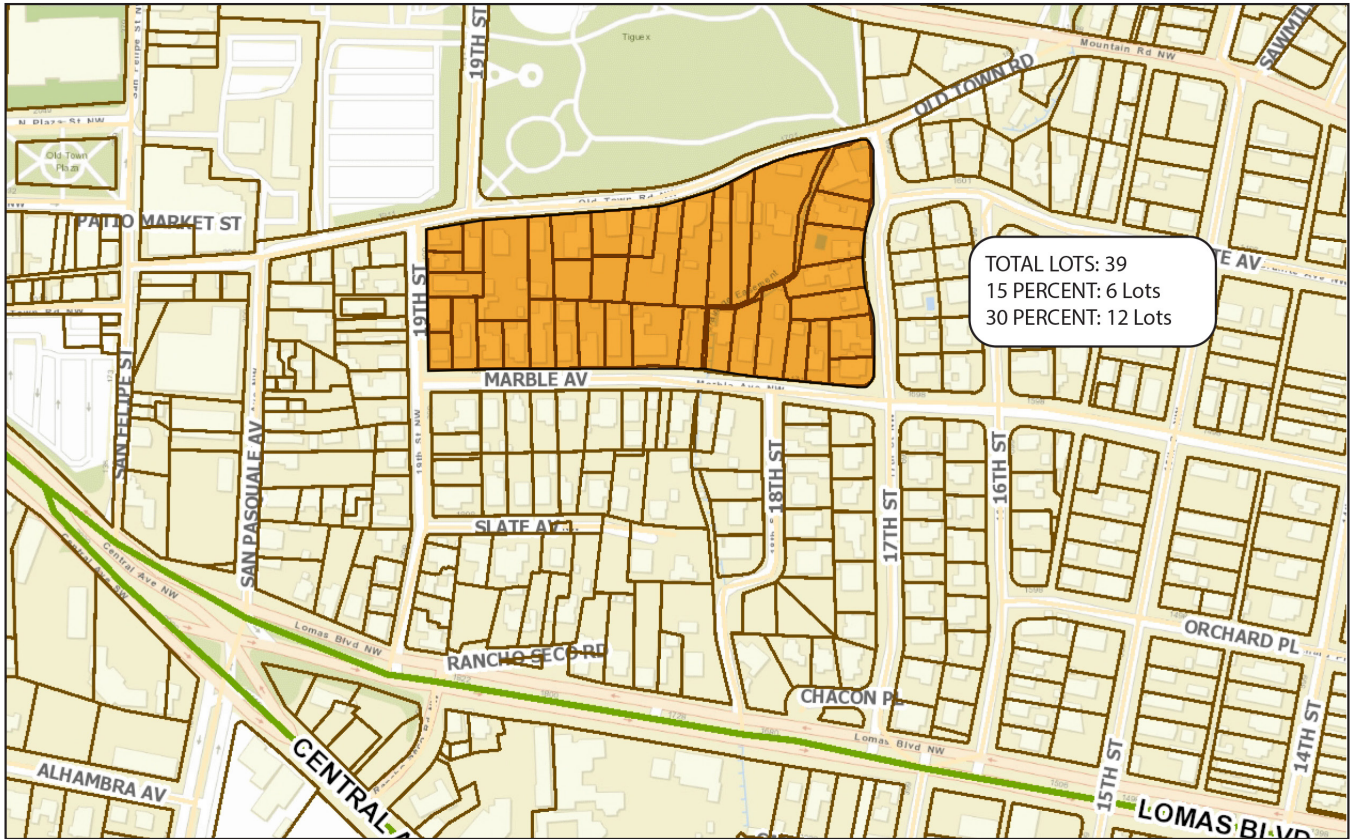
- Old Town
- Northwest Side
- Nob Hill
- North Valley
- Southwest Mesa

The analysis included a review of block lengths, lot widths, sample lot counts, and the average number of lots per block to assess how a neighborhood might be impacted by either a 15% or 30% limitation on the number of STR units within the block. The maps showing these areas (and shown on the following pages) were provided to the Task Force for discussion purposes.

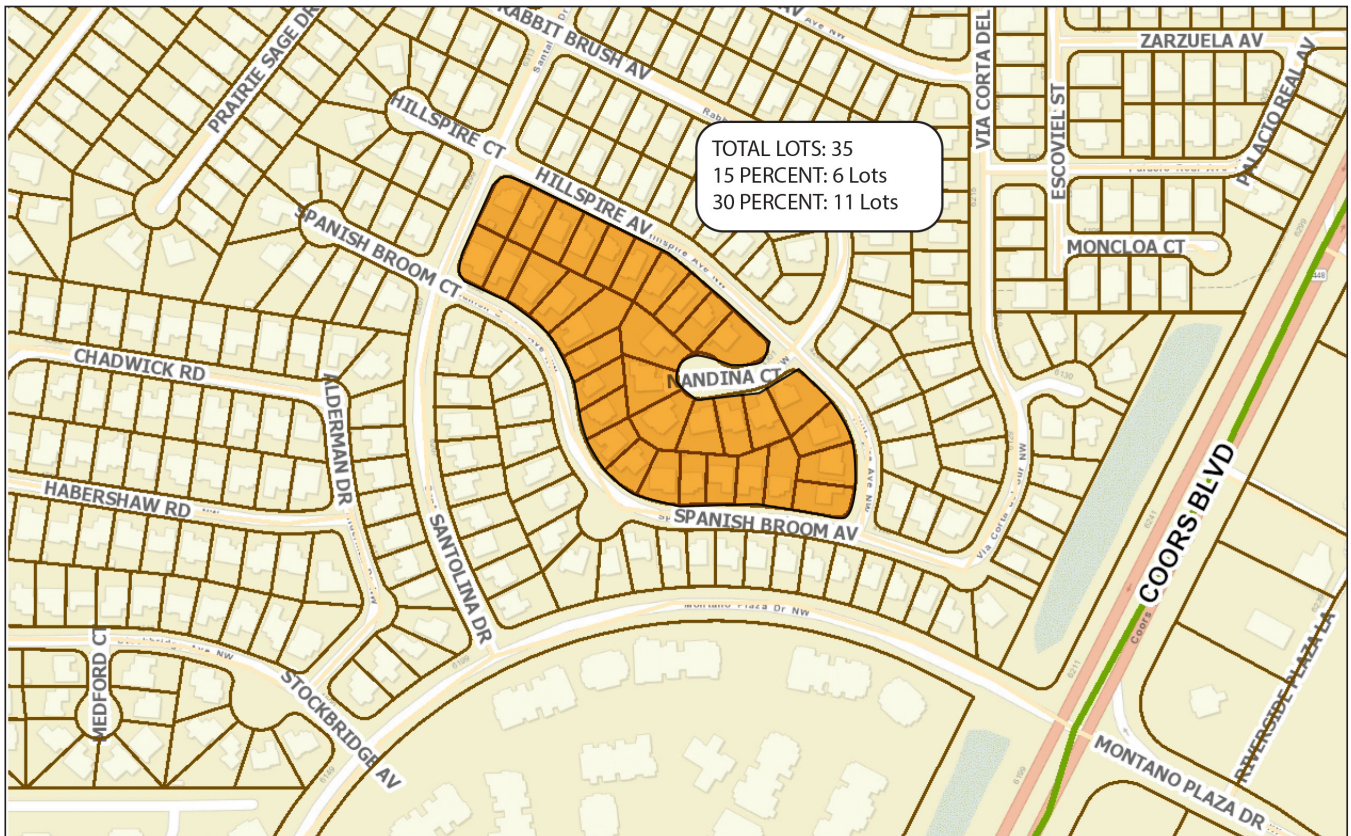
Some members of the Task Force were in favor of limiting the number of STRs to 15%, while other members did not agree with any limitation. There was also concern regarding how the City would manage this program and what would happen with STR units already in place. In the end, there was no agreement on how or whether to limit the number of STRs in residential neighborhoods.



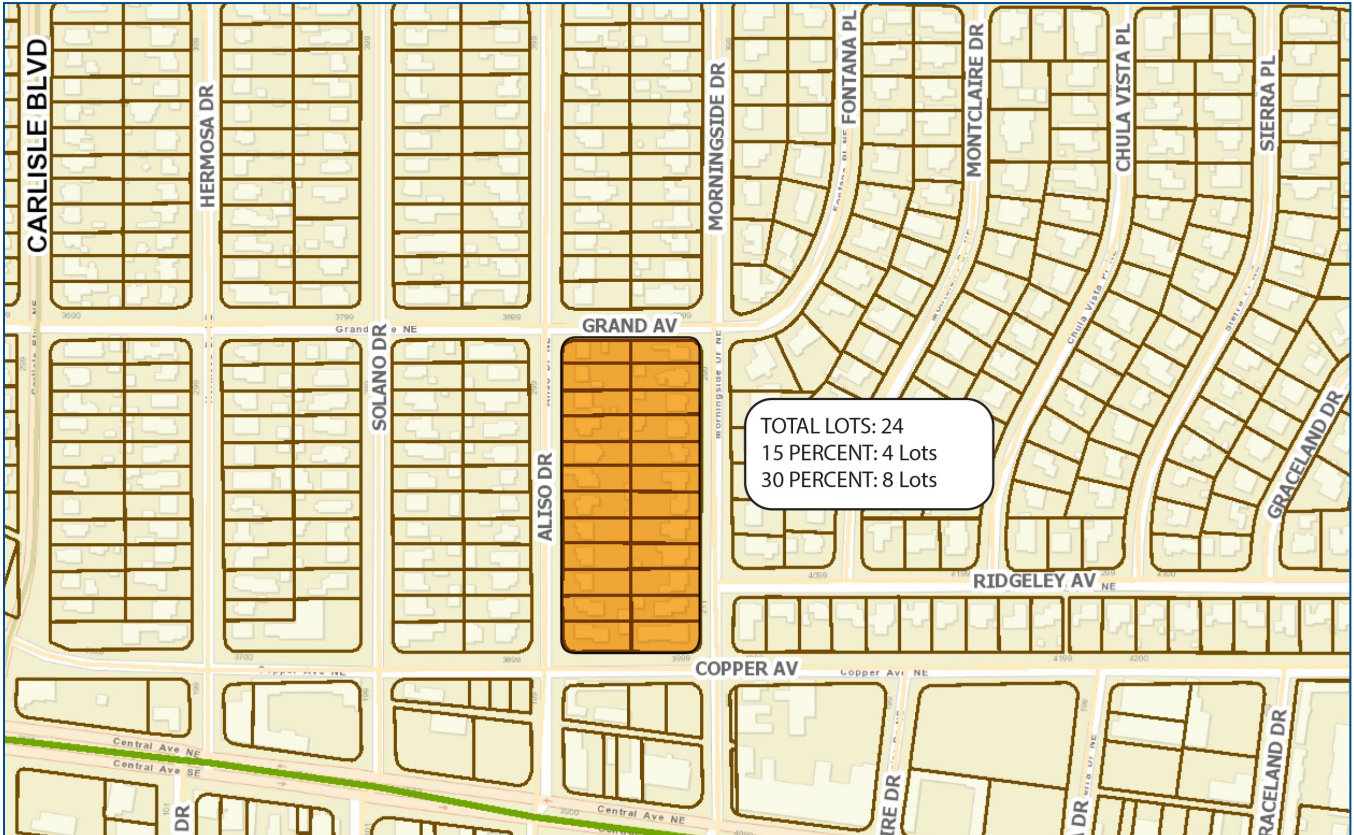
## OLD TOWN



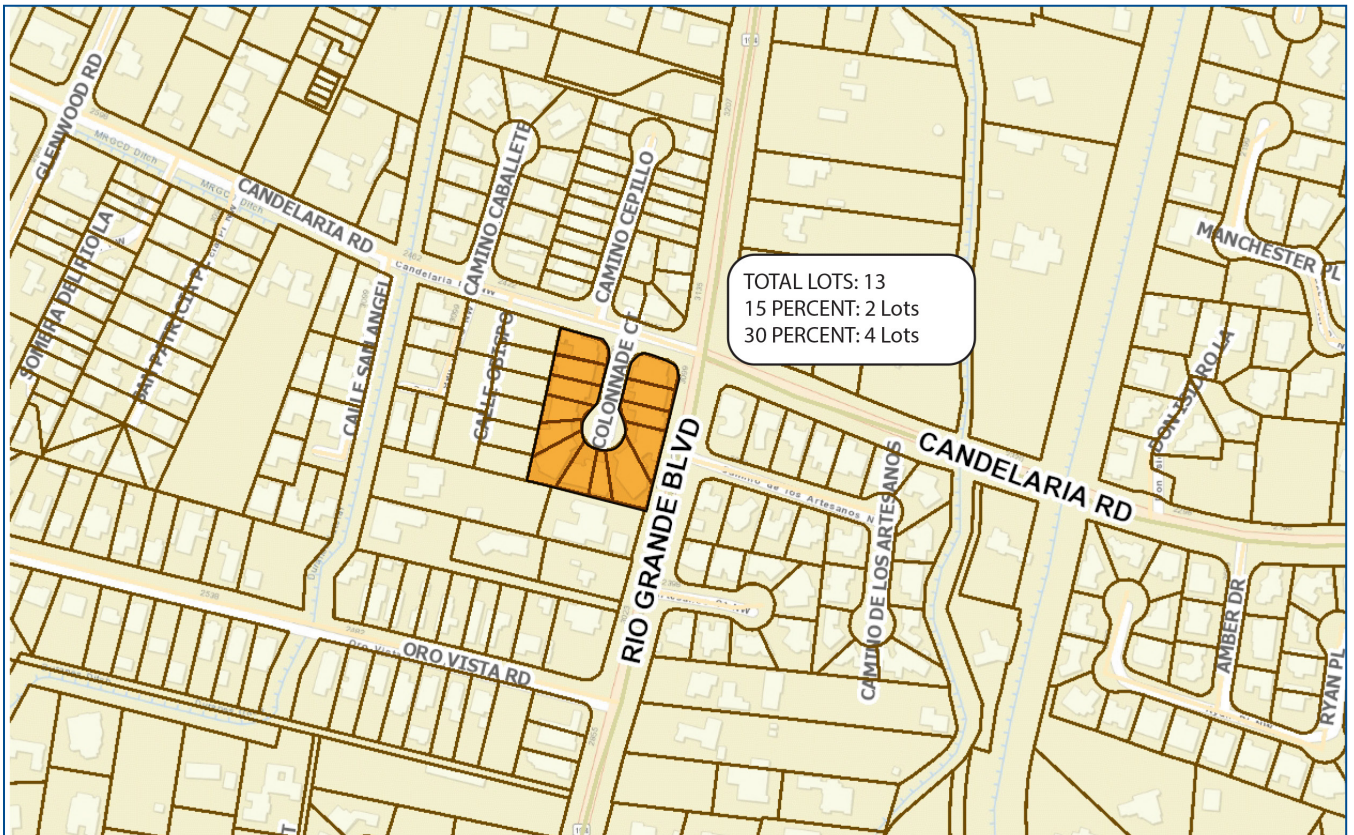
## NORTHWEST SIDE



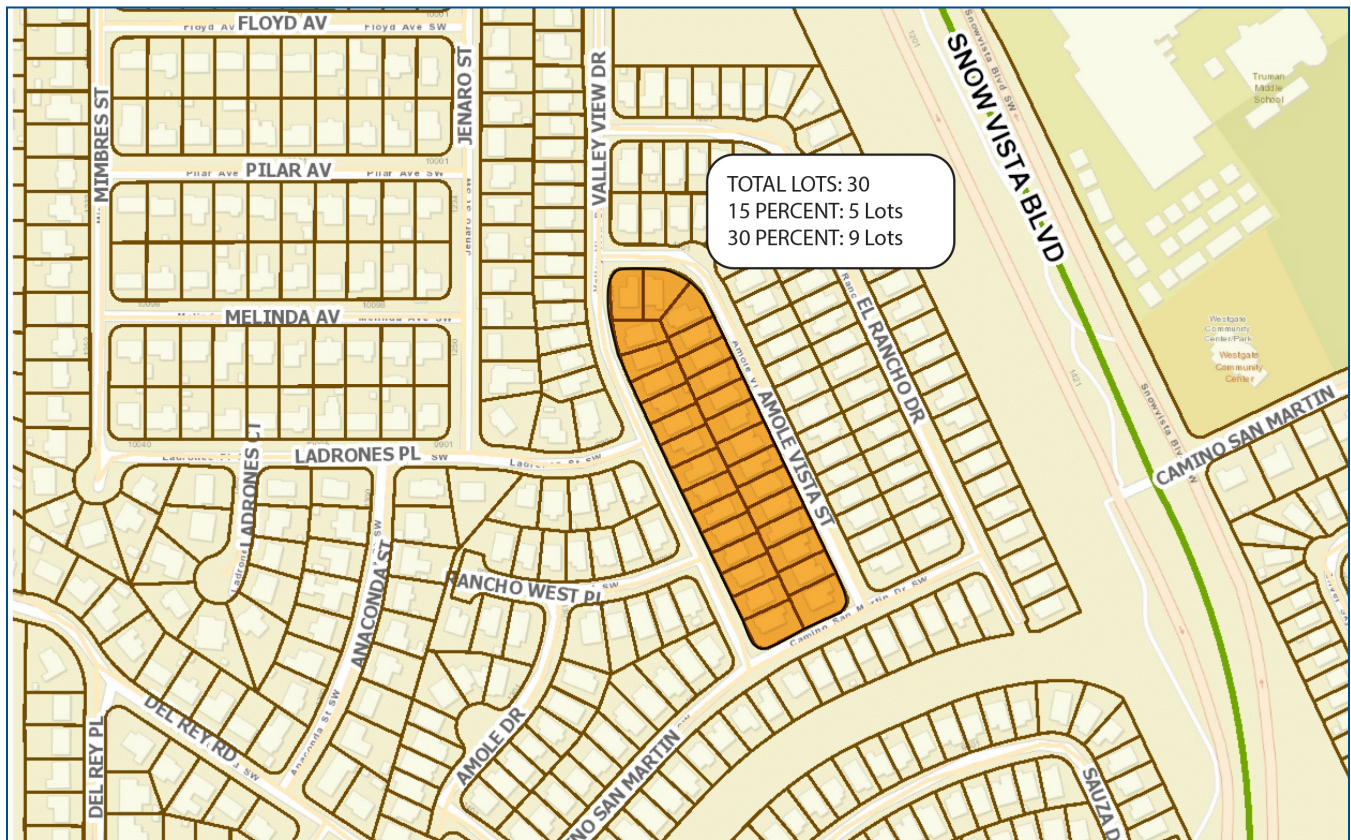
## NOB HILL



## NORTH VALLEY



## SOUTHWEST MESA



### 3.4 OCCUPANCY

The Task Force also discussed potential occupancy requirements for STR units. City Planning Department staff was instrumental in this analysis, but expressed their concerns regarding having another level of code enforcement that could be difficult to administer. Planning staff suggested using the existing Uniform Housing Code as a starting point. The occupancy standard in the Uniform Housing Code is based on a ratio of the habitable floor area. This means that a large three bedroom home would allow more people than a small three bedroom home. Some members of the Task Force were uncomfortable using this standard as they felt it would allow too many occupants and instead felt that limiting the occupancy to 2 people per bedroom made the most sense, similar to Santa Fe, Taos, and Kansas City. Other members felt the City should not regulate occupancy at all beyond the Uniform Housing Code.

The Task Force reviewed and discussed the occupancy requirements, but did not come to an agreement on how occupancy of STR units should be regulated.

To demonstrate how this would work using the Uniform Housing Code, the Planning Department presented the following standards contained in the Uniform Housing Code (Section 14-3-1-1):

- Required ceiling heights for both habitable space (at least 7 feet, 6 inches) and kitchens, bathrooms, and hallways (at least 7 feet).
- At least 150 square feet of habitable floor space for the first occupant, plus 100 square feet of habitable floor space for every additional occupant.
- For dwelling units with 2 or more rooms, rooms for sleeping purposes must contain at least 70 square feet of floor space, rooms for sleeping purposes by more than

one occupant must contain at least 45 square feet of floor space per occupant.

- Other than a kitchen, all rooms must be at least 7 feet in any dimension.

Two examples were provided for discussion. In Example 1, the home is 1,200 square feet, three bedrooms, and includes 857 square feet of habitable floor area. This yields a maximum occupancy of 8 people. The second example is a 3,500 square foot home with three bedrooms and 1,495 square feet of habitable space. This example would allow for a maximum occupancy of 14 people under the Uniform Housing Code.



**Example 1: 1,200 SF HOME**

Habitable Floor Area\*

Bedroom 1	162 SF
Bedroom 2	120 SF
Bedroom 3	100 SF
Kitchen	124 SF
Dining Room	113 SF
Living room	<u>238 SF</u>
Total	857 SF

(343 SF “non-habitable space”)

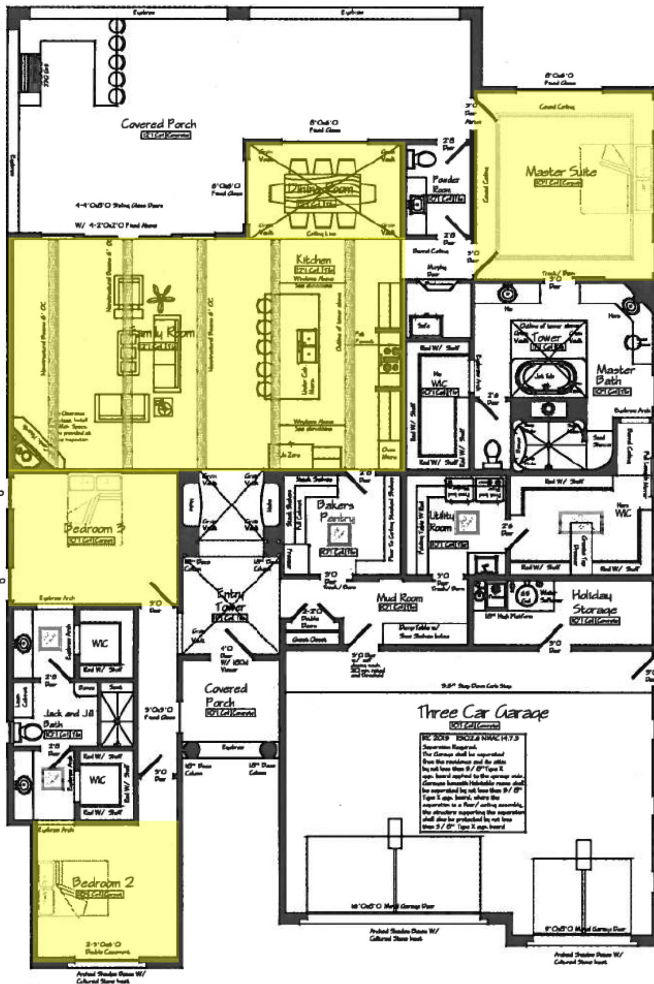
**Maximum occupancy = 8 people\*\***

Occupant #1 – 150 SF floor space

Occupants #2-8 – 100 SF floor space each

*\*The areas highlighted in yellow represent the habitable floor area.*

*\*\*May be reduced due to other considerations (min. sleeping room area requirements, etc.)*



### Example 2: 3,500 SF HOME

#### Habitable Floor Area\*

Master Suite	315 SF
Bedroom 2	185 SF
Bedroom 3	190 SF
Kitchen/Dining	445 SF
Family Room	360 SF
<b>Total</b>	<b>1,495 SF</b>

(2,005 SF “non-habitable space”)

Maximum occupancy = 14 people\*\*

Occupant #1 – 150 SF floor space

Occupants #2-14 – 100 SF floor space each

\*The areas highlighted in yellow represent the habitable floor area.

\*\*May be reduced due to other considerations (min. sleeping room area requirements, etc.)

## 3.5 OCCUPANCY TAX

### Collection of Taxes

During the 2019 New Mexico State Legislative session, two bills, Senate Bill 106 and House Bill 6, were passed and signed by Governor Lujan Grisham that relate to tax collection and Short Term Rentals. Senate Bill 106 revised the regulations on Occupancy Tax by removing exemption G which read “if the vendor does not offer at least three rooms within or attached to a taxable premises for lodging or at least three other premises for lodging or a combination of these within the taxing jurisdiction.” Removal of this language clarifies that Short Term Rentals are required to pay Occupancy Taxes and makes entering into voluntary collection agreements with online booking platforms, like Airbnb, easier. This revision will go into effect on January 1, 2020, and local governmental entities that have not already entered into voluntary collection agreements are preparing to negotiate such agreement so they can collect Occupancy and Lodging Taxes through the online booking platforms.

At the time of this writing, the City currently has a “Voluntary Collection Agreement” with Airbnb for collecting both Lodger’s Tax and Hospitality Fees from their hosts and remitting these fees to the City, but does not have a “Voluntary Collection Agreement” with any of the other Short Term Rental platforms because other platforms, like VRBO, do not believe they are obligated to collect the taxes as they do not actually handle any exchange of money between a renter and property owner. However, negotiating Voluntary Collection Agreements or revising local Lodgers and Hospitality Tax ordinance to allow for collection of the taxes against the other platforms should be a priority for all local governments across the state.

The second bill passed during the 2019 Legislative session was House Bill 6, which made marketplace providers responsible for collecting gross receipts by imposing a

collection obligation for all online platforms that “facilitate” a transaction of goods or services. This revision means that New Mexico marketplace providers that meet qualification criteria contained in HB 6 will be responsible for collecting and remitting gross receipts tax on the receipts from their marketplace sellers. While the obligation to collect the state portion of GRT on the relevant sales will go into effect on July 1, 2019, the requirement to collect the local increment of GRT will not go into effect until July 2021. While Occupancy and Lodging Taxes are collected in Albuquerque by the City of Albuquerque Treasury Department, gross receipts (including the local tax increments) are collected by the State of New Mexico.

While these two bills show that there is an obligation to pay GRT and Occupancy Tax on all Short Term Rentals, at present, the obligation is on the property owner and not the online booking platform until the relevant effective dates of the above bills or until VCAs are executed.

*Note: The narrative in Section 3.5 was updated on June 26, 2019 to reflect a clarification in the tax language.*

## APPENDICES

- A. Definitions
- B. Public Meeting Summary & Public Comments
- C. City Council Resolutions & Senate Bill 106
- D. Best Practices Research
- E. Vacation Rental Market Intelligence Study
- F. Bibliography

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## APPENDIX A: DEFINITIONS

The following list of definitions are referenced in the body of this report. The source for each of the definitions include the City of Albuquerque Integrated Development Code (IDO), City of Albuquerque Uniform Housing Code (UHC), and others as noted below.

**Accessory Dwelling Unit (IDO):** A dwelling unit that is subordinate to a primary single-family or two-family dwelling or non-residential use. Accessory dwelling units may be attached to the primary dwelling, contained within the primary dwelling, or built as a detached building. The City of Albuquerque Integrated Development Ordinance distinguishes between accessory dwelling units with and without a kitchen.

**Adjacent (IDO):** Those properties that are abutting or separated only by a street, alley, trail, or utility easement, whether public or private.

**Bed and Breakfast (IDO):** A single-family dwelling with no more than 8 guest rooms that are rented for short-term overnight lodging with breakfast served; some guest rooms may be in accessory buildings. Provision of alcoholic beverages is controlled by the New Mexico State statutes for "Bed and breakfast" as governed by Section 60-6A-34 NMSA 1978.

**Bedroom (IDO):** Any room in a dwelling that is partitioned by walls and doors, other than the following: one kitchen, one room that may be designated as a living room, one room that may be designated as a dining room or family room, and any number of baths, foyers, corridors, and closets (all as defined Articles 14-1 and 14-3 of ROA 1994 (Uniform Administrative Code and Uniform Housing Code)). Rooms greater than 100 square feet may not be considered closets for the purposes of this definition.

**Club or Event Facility (IDO):** A public or privately owned building devoted to the assembly of people for social, professional,

or recreational activities such as meetings, weddings, or conferences.

**Consecutive Days (IDO):** For deadlines, a period of days that includes business days, weekends, and holidays listed in Part 3-1-12 of ROA 1994 (Legal Holidays), unless specified otherwise. If the final day falls on a weekend or a holiday, the period ends on the following business day.

**Dwelling Unit (IDO):** Unless specified otherwise in this IDO, one or more connected rooms and a kitchen designed for and occupied by no more than one family for living and sleeping purposes, permanently installed on a permanent foundation and meeting the requirements of Articles 14-1 and 14-3 of ROA 1994 (Uniform Administrative Code and Uniform Housing Code), as of the date of the unit's construction.

**Enterprise Fund (CoRR):** A fund established to account for operations that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs of providing goods and services to the general public on a continuing basis be financed or recovered primarily through user charges.

**Home Occupation (IDO):** An activity that is carried on for commercial or philanthropic purposes on the same lot as a dwelling unit where the operator of the home occupation resides and that is clearly secondary to that dwelling.

**Instant Booking (<https://help.vacationrentals.com/articles/What-is-Instant-Booking>):** A type of online booking that automatically confirms traveler booking requests. It allows travelers to book their property immediately and receive an instant confirmation.

**Live-Work Dwelling (IDO):** A residential dwelling unit that includes a dedicated work space accessible from the living area, reserved for and regularly used by one or more residents of the dwelling unit, and in which the type or size of the work

performed is larger or more extensive than that allowed as a home occupation.

**Mixed-use Development (IDO):** Properties with residential development and non-residential development on a single lot or premises. Mixed-use development can take place in the same building (i.e. vertical mixed-use) or separate buildings on the same lot or premises (i.e. horizontal mixed-use).

**Multi-family Dwelling (IDO):** A building, located on a single lot, containing 3 or more dwelling units, each of which is designed for or occupied by one family only, with separate housekeeping and cooking facilities for each, and that does not meet the definition of a townhouse dwelling.

**Non-residential Development (IDO):** Development of allowable land uses on a property that includes no residential development.

**Occupancy Tax (COA Lodgers' Tax Ordinance):** Tax imposed on lodging accommodations which will provide revenue for advertising, publicizing, and promoting certain recreational and tourist facilities as well as acquisition and construction of such facilities as provided by law.

**Permanent Residence (APA Planners' Definition Book):** The place where a person actually lives and which such person regularly intends to occupy over a substantial period of time. If a person has more than one such place where he or she lives, the permanent residence shall be the place occupied the majority of the time by such person.

**Property Manager (UHC):** A broker, as defined by the New Mexico Real Estate Commission, or an agent or employee of the property owner who, for a fee, salary, commission or other valuable consideration, is engaged in managing property for others. A residential property manager is, by virtue of a written agency agreement, an agent of the owner(s) of

the property for the purpose of performing the obligations of the owner(s) under the Uniform Owner-Resident Relations Act and/or under the rental or lease agreement.

**Rental Property (UHC):** A structure or part of a structure used as a home, residence or sleeping unit by a single person or household; or any grounds or other facilities or area promised for the use of a residential tenant and includes, but without limitation, apartment units, boarding houses, rooming houses, mobile home spaces, and single and two-family dwellings. The person or household has a rental agreement with the owner of the property. This definition shall not apply to short-term/vacation rentals of 29 days or less, hotels/motels, campgrounds, and bed & breakfasts.

**Short Term Rental (defined by City Council R-18-49):** A rental in a single family residence or apartment of 29 days or less.

**Sign (IDO):** Any display to public view of letters, words, numerals, emblems, pictures, or any parts of combinations thereof designed to inform or advertise or promote merchandise, services, or activities, except for the following:

1. Non-illuminated names of buildings, dates of erection, monument citations, commemorative tablets and the like when carved into stone, concrete, metal, or any other permanent type construction and made an integral part of a permitted structure or made flush to the ground.
2. Signs required by law or signs of a duly-constituted governmental body.
3. Signs placed by a public utility for the safety, welfare, or convenience of the public, such as signs identifying high voltage, public telephone, or underground cables.
4. Signs on a vehicle, provided that any such vehicle with a sign face of over 2 square feet is not conspicuously parked so as to constitute a sign; nothing herein prevents such a vehicle from being used for delivery or other vehicular purposes.
5. Temporary holiday decorations.



# MEETING MINUTES



**Project:** Albuquerque Short Term Rentals

**Date:** March 22, 2019

**Subject:** Public Meeting

**Meeting Date/Time:** Tuesday, March 19, 2019; 6:00pm-8:30pm

**Location:** Greater Albuquerque Association of Realtors, 1635 University Blvd. NE 87102

### SUMMARY

The City of Albuquerque and Councilor Diane Gibson hosted a public meeting on March 19, 2019 regarding short term rentals (STRs) in Albuquerque. The purpose of the meeting was for the STR Task Force to get public input on the draft recommendations regarding the regulation, registration, and administration of STRs in Albuquerque. The meeting also provided an opportunity for the public to learn more about the Task Force. Councilor Diane Gibson and Petra Morris (Planning Manager, City Council Services) provided introductions. Jackie Fishman (Principal, Consensus Planning) presented the background for the establishment of the Task Force and the areas of agreement regarding STRs. She also presented the topics that the Task Force considered, but did not come to an agreement. After the presentation, Councilor Gibson, Petra Morris, and Jackie Fishman facilitated a question and answer session. The Task Force intended to implement three separate stations to engage with the public, but attendees requested that the large group question and answer session be extended for the remainder of the meeting. Over 95 persons attended the public meeting.

The public was able to comment verbally and provide written comments. Attendees were provided with a meeting agenda, contact information sheets, and research related to the best practices in other cities. Verbal comments were recorded by Jeff Hertz (City Council Services), Charlene Johnson (Consensus Planning), and Katie Dix (Consensus Planning). Listed below are comments provided by attendees.

### PUBLIC COMMENT

The following section categorizes public comments into separate topic areas:

#### ***Task Force & Public Process***

- A list of Task Force members should be posted online.
- Task Force should include STR operators and community members from all districts.
- What is the purpose of the Task Force?
- "We all should be on the Task Force."
- There should be at least 2 representatives on the Task Force that represent STR operators. (*The Task Force includes 2 STR operators*).
- There is not enough representation for STR operators.

- There should be representation from Code Enforcement on the Task Force (*Jacobo Martinez, City Code Manager, is on the Task Force*).
- What was the process for identifying representatives to serve on the Task Force? More neighborhood representation was requested (*City responded by saying there have been 2 neighborhood representatives involved*).
- Contact information for members of the Task Force should be public.
- The public wants to be a part of the decision-making process; there should be another public meeting. (*The Task Force report will be a study that goes to City Council, the Task Force will not draft any laws or ordinances*).

### ***Proposed Registration Fee***

- The proposed \$250 fee is too high.
- The proposed fee is higher than the average fee (referring to the best practice analysis).
- The Task Force and City should consider other costs.
- This fee would prevent residents from operating an AirBnB (or STR).
- What would this fee go towards?

### ***Best Practice Analysis***

- The Task Force should not compare ABQ to these cities (Santa Fe or Denver); “We are nothing like Denver.” (*The eight communities chosen for the best practice analysis were comparable in size, located in New Mexico, or similar geographic region to Albuquerque*)
- The Task Force should consider Boise, ID, Eugene, OR, Las Cruces, NM, and cities similar to ABQ for comparison; “no one knows where ABQ is” and “ABQ is not a tourist destination.”
- Texas Supreme Court has ruled that STR operation is a residential use, not commercial, so long as renters use the space for common residential activities (eating, sleeping, entertaining).

### ***Regulating All Rentals: STRs & Long Term***

- Regulations should apply to all rentals; long and short term.
- Out-of-state landlords should be regulated.
- All landlords (operating short and long term rentals) should be forced to register with the City.
- The City Unified Housing Code was recently amended to address landlords and should be enforced.
- Why is the City focusing on STR regulation and not rentals in general?
- STRs are not the problem; it is a problem with all renters.
- Why establish an STR Task Force? This should be a Rental Task Force.
- More problematic than STRs are units that landlords have rented out to college students who have house parties.

### ***STR Operation***

- Time, effort, and money are required to create and maintain an STR.
- It is expensive to start and operate STRs.
- Free market will take care of “bad apples.”

- “We live and die by our reviews.”
- Operating an STR(s) can be a very lucrative business; “the game has changed and it is natural for regulations to follow” - How can STR support low-income women in making a living?
- Are businesses treated different than residents? Should they be?
- STRs are more beneficial than hotels.
- STR operators want visitors to enjoy the Albuquerque.
- STRs are a great asset to ABQ; because of them visitors are falling in love with ABQ when they visit.
- The City should be thankful for STR operators for accommodating all of the visitors coming to ABQ for Balloon Fiesta.
- The City should be thankful for the investment that STR operators make on their properties and the increase in property values to surrounding neighbors.
- STRs are listed on many platforms, including Craigslist; they are not limited to AirBnB.
- Petra Morris asked about the average number of guests that STR operators host in their locations, most responded with 1-2 or 2-4; only a few people said that they had higher numbers of guests.
- Need more regulations on multi-family rentals hosting larger parties.

### ***Regulations***

- Need for more regulations surrounding homelessness, and intoxication.
- The fees and regulations will force STR operators out of business.
- STR hosts need to remember that they are doing business right next door to a residence.
- City is trying to apply minimum standards to improve the quality of service provided by STR hosts.
- How is “small private gathering” defined?
- The City is trying to level the playing field between STR operators, B & B owners, and hotel/motel operators. “Should a small boutique hotel not be regulated?”

### ***Existing Codes***

- There are already laws and codes that prevent issues.
- Current codes are not enforced.
- Planning Department is feeling overwhelmed by all of the current enforcement activities that they already have on their plate.
- There are plenty of regulations that the City already has in place to address STRs- why do we need more?
- Just enforce existing ordinances.
- Submitting floor plans would be burdensome; this regulation is too extreme.

### ***Problem STRs***

- Renters do not obey City codes and ordinances.
- Neighbors are unsure who is around and when; there are unknown people in the neighborhood every day.
- There seems to be no process or regulation to alleviate nuisances.

- STR renters burned a neighbor's car; AirBnB was unresponsive to the situation and the STR continues to operate; neighbors have contacted the City many times to address this issue and other nuisances including parties.
- Party houses are the problem.
- Events, parties, and weddings should not be allowed in STRs.
- Basic contact information may have helped neighbors address issues.
- The City should provide documentation on citations as justification for any regulation or ordinances: Are there specific numbers on complaints? *(The City has received STR complaints related to noise, too many people at the property at one time, parties, litter, and parking).*
- An analysis of calls for services and complaints can lead to a more target and appropriate action from the City.
- Resident has had issues with a neighboring STR for 12 years; there is not enough regulation or enforcement.
- STR owners are not going to abide by regulations anyway.
- Many operators expressed that they have never had an issue with their renters.
- Locals (ABQ residents) are the issue; they rent for parties and special events.
- A former STR operator shared his experience with two different units, one with a low number of guests and another with a high number of guests. Violations and nuisances were present in the unit with high occupancy even though he lived next door; he called the police on renters that were unresponsive to his comments. He believes high occupancy (8 persons) created circumstances that lead to this "problem unit."
- Property managers receive lots of calls requesting that they come out to properties.

### ***Safety***

- Some people (women, LGBTQ, solo travelers, etc.) stay in AirBnBs for safety reasons.
- STRs are safer than motels on Central.
- AirBnB screens renters.
- Would you rather have an STR or an empty house on your block?
- If hosts are away on vacation, houses are safer with occupants.

### ***Concentration***

- Consider separation regulations rather than a percentage limit.
- Regulate the number of units in a building.
- Nob Hill is over-saturated with STRs.
- Some STR operators own much of a block/neighborhood and operate a high number of STR units in a very saturated area; these areas' property values have been upheld.

### ***Communication***

- Hosts already provide renters with contact information.
- Need for an information sharing platform for both STR operators and neighbors to communicate.
- Create an STR hotline.

- Mixed use versus residential zoned areas; STR hosts need to have a good relationship with surrounding commercial properties; when STR operators call the City, they never cite the tenants.

### ***Administration of Short Term Rentals***

- Regulations will be difficult to enforce.
- How long have the peer cities been implementing their ordinances? It will take a long time to establish a “bedroom police squad” and this should be done before implementation (*Petra Morris responded that a fiscal impact analysis will be conducted to address needs for implementation*).
- The City does not have the resources to do the enforcement.
- The City should not spend money on third-party enforcement.

### ***Misc***

- “Go after slumlords.”
- “Why isn’t this task force addressing homelessness?”; “People don’t want to come to the City because of the homeless population” (*After several comments related to homelessness, Councilor Gibson emphasized that there are other initiatives to address this issue*).
- “Why are we [STR operators] being punished?”
- “Nothing that was proposed seems unreasonable; I think you guys are doing great work.”

## **COMMENT BOX**

The following list includes written comments received at the meeting:

- “It is clear from the meeting that the ‘task force’ is trying to address a small fraction of the problem instead of a task force to address ABQ’s larger issues (i.e. homelessness, crime, substandard rentals long term/short: code enforcement of pretty much everything). In my experience, I’ve taken an apartment complex in an area with substandard unfinished rentals and have created a mini paradise (raising the values). Also, my ‘guests’ spend a lot of money in ABQ. This should be encouraged”
- “Please add more STR hosts and neighborhood reps to your Task Force from all sectors of the City (i.e. NW, SW, SE, North Valley, etc.).”
- “If regulations go into effect, small and large operators should be treated differently. An operation of say, 20 units should have some enforcement while maybe 1 or 2 should not. If the City is already overwhelmed and unable to enforce current ordinances, how will creating new regulations for STRs be enforced? It seems to me that it is creating work that would be easier than the work that should be done but currently is not”
- “Impressive work on the part of the Task Force. Thank you”
- “I’m happy to pay a tax to help law enforcement & city zoning ordinance, but don’t target STRs for this city-wide problem”
- “Would the STR convey with the host or the property?”
- “\$250 [for registration] is way too high!”

- “Where a HOA is involved your regulations cannot supersede the HOA regulations. I [have] seen indication that you are addressing this”
- “I am already operating in a municipality 6 months into regulations. They have no idea how to enforce it. In just one company they have 75% no compliance. You have no idea how different it will be to ‘surf’ websites trying to figure out how who is doing what. One owner is literally committing tax fraud. The listing company has no idea”
- “1. Where rentals share driveway space (townhouse) other owners (residents) potentially have liability for guests. Do insurance requirements make ‘business’ sharing space with resident owners not liable for ‘business clients.’ 2. Requirement that businesses have security especially during periods of no occupancy. 3. Monitor spacing in Old Town...allow minimum. Rental costs are escalating due to out-of-state owners with agencies monitoring single or multiple different addresses. 4. Occupancy- Old Town- parking severely limited. School/church [advertising (for instance) ‘sleeps 8’ with one dedicated parking space presents parking issues] Homeowners and families suffer. Large periods of vacancy result in potential crime. Local residents cannot tell who is legitimately living/entering a building...they are not neighbors. Short term rentals are businesses. This meeting was mainly attended by very defensive owners of Short Term Rentals who oppose regs even to regulate bad owners. As a person who lives in a ‘neighborhood’ that is over-run by Short Term Rentals, I believe strongly that permits: 1. limit the number per area (maintain neighborhood), 2. Be fair to hotels by assessing taxes, 3. Assure ‘businesses’ have proper insurance/security, 4. will increase tax revenues, 5. Will give us a chance to report violators and protect neighbors.”
- “Suggested Regulations for Short Term Rentals
  1. City of Albuquerque will establish a department known as Short Term Rental (or whatever department name the City wishes to use). This department will oversee registration of all residences wanting to conduct business as a Short Term Rental Resident. The department will oversee a City Short Term Rental Lodger’s Tax that all of these businesses will be required to pay while conducting business. Certificates of Registration as a business will be issued to the residence and in turn will be required to display it (similar to all licensed businesses in the City). The department will conduct full investigation of any/all complaints registered by neighboring residents and will issue fines for non-compliance of regulations the City implements.
  2. All residential homes advertised on all types of media, either social media, agencies (i.e. AirBnB, VRBO, etc.), internet, print media, radio or televised media must first register with ABQ Short Term Rental Department. An inspection of the business as well as a nominal registration fee should be required (to stave off costs incurred by the department) and a certificate of compliance should be issued.
  3. There should be no more than one residential Short Term Rental business within a 1,500 square foot radius of another Short Term Rental business (standard radius is the same as zoning regulation for CRP residences) in any R1 neighborhood.



4. The amount of persons, as well as bedrooms, allowed for short term stays at any given time shall be determined by the Short Term Rental Department in conjunction with input from the property owner and surrounding residences. Property owners of Short Terms Rentals must all reside at the residence and must oversee all rentals, including renters, parking, noise issues, any violations of residential codes, etc.
5. Any Short Term Rental allowing guests to use cooking facilities (i.e. kitchens, outdoor bar-b-ques, etc.) must indicate that on registration form and then comply with City and Fire Code inspections. Any Short Term Rental that provides any meals (breakfast, lunches, dinners, snacks, etc.) must indicate that on registration and will be subject to city restaurant inspections as required by City regulations. All City restaurant rules and regulations will apply.
6. Short Term Rental Department will be responsible for overseeing all Lodger's fees and taxes as laid out by the City of Albuquerque. Unless required by the State of New Mexico, the Department will not be responsible for collection of state Lodger's fees and/or taxes as specified by SB106 signed into law which will apply by January, 2020.
7. Complaints regarding a Short Term Rental will be assigned to the Short Term Rental Department and an immediate investigation will be conducted by the department. The investigation will include the person(s) issuing the complaint, surrounding residences, as well as the owner of the rental. After the investigation the department will issue a letter of determination of findings and issue a judgement.
8. Upon receipt of complaint(s) the Department will first determine if the Short Term Rental is registered as required by city. If not registered, a cease and desist letter shall be sent immediately (registered mail). If the property owner continues to conduct business as a Short Term Rental, a fine shall be instituted on the property (suggestion of \$150.00 per day) in order to either bring the residence into compliance or cease rental. If the rental is registered, the Department will then investigate that the business is being conducted as required by rules and regulations stated by registration.
9. If the Short Term Rental is in violation of rules/regulations as stated by the department and/or the city, fines can be implemented or a letter of cease/desist business can also be applied. The Short Term Rental department will establish the rules/regulations in conjunction with all City departments applicable, including police, fire, zoning, trash, water, etc. "

The public meeting ended with a summary of next steps. A copy of the presentation will be posted on the City Council's website under Short Term Rental Task Force.

## APPENDIX B: PUBLIC COMMENTS

### **Nena-Joy Almodovar, 3/21/2019**

NOT ENOUGH ADVANCED NOTICE TO DISTRIBUTE MEETING DATE AND TIME TO RESIDENTS OF Embudo Canyon Neighborhood Association. GOT NOTICE FROM 2 SOURCES 1 AND 2 DAYS BEFORE MEETING. REALLY!!!!!!!!!!!!!!!!!!!!!! HOPE YOU SCHEDULE MORE MEETING WITH MORE ADVANCED NOTICE.

Nena Joy Almodovar, Embudo Canyon Neighborhood Association SECRETARY=

### **Susan Deischel, 3/21/2019**

Hi all, I just wanted to send a note of support for your very excellent presentation last night and the ways in which all of you displayed such grace under pressure. Firstly, my husband Dick and I are positively impressed by the work the Task Force has already completed. We are glad the time to work on this very important project has been extended and suggest that in order to do the best work that can be done on these many issues that live under the umbrella of the Short-Term rental industry be done well it be further extended if need be. We left early for a couple of reasons: We couldn't hear very well from the far side of the room. The audience was largely uncivil which made the meeting a venting opportunity but not constructive. What didn't seem to be understood by many of the attendees is that the work and recommendations made by the Task Force if adopted as code have the potential if enforced to solve the many frustrations they have experienced and that your team is on their side with all of this. Buy ain't it typical? Of course, there are those who wish for no regulation so that they may keep all of the money for themselves and no requirements to maintain standards, protections and to share some with the government that provides the many attractions that bring people to visit Albuquerque. And on and on. The one thing I heard repeated in several ways with which I agree should be answered is: Who are these task force people? How did they land on this committee and what are their interests in this matter? I know some of them so I know why they are there, but the majority of last night's audience does not share my exposure so they want to know and I believe they deserve to know. I will go on the web site and print the recommendations. My Visit ABQ affiliated organization Historic Albuquerque Accommodations meet next Monday for our 5th annual meeting and we will want to discuss and make recommendations I am sure, but I also think that so far so good. And clearly, you didn't need me after all.

### **Rob Ankey and Valerie Brown, 3/21/2019**

My wife and I are AirBnB hosts who have been renting out a guest room and on occasion, our entire 2 bedroom house since September 2017. We welcome this opportunity to provide some commentary for the discussion on short term rentals. Here are some of the reasons we believe our short term rental has been beneficial for visitors to Albuquerque: Safety: Our neighborhood is safe and very walkable and away from traffic and noise. Hyder park is just around the corner. Guests can walk to bars and brew pubs and don't have to worry about drinking and driving or car theft. Diversity: We have found that single women, gay couples and Native Americans are frequent guests - most likely since they often do not feel safe or welcome in the hotels they can afford. We're honored that they choose to stay with us. We've also had guests who were visiting family in our neighborhood. Value: Our guest room and house are not comparable to similar priced hotels or motels. We offer a one-of-a-kind local neighborhood experience. As a result, Albuquerque has more appealing options for visitors. We charge \$55 for our guest room with private bath and separate entrance and \$120 to rent out our entire 2 bedroom, 2 bath house in Nob Hill. Occupancy and hospitality taxes are charged on top of this rate and paid directly to the city by AirBnB. Pet Friendly: Many of our guests bring their beloved pets, which we encourage, and which most hotels do not allow. We have two dogs and a cat and know how important it is to be able to bring pets along when traveling. Walkability: Our guests make full use of the walkability of our neighborhood, increasing the number of people out an about and increasing safety for all residents. Many of our guests love being able to walk to Central Avenue in Nob Hill. Decreased Crime: When we travel and rent out our entire house, we're less likely to experience a break in since the house is occupied. Property Improvements: We have made many improvements to our house as a result of our short term rental as our guests rate their accommodations. As a result of decluttering to get our house ready to rent, we made numerous trips to the Salvation Army with donations of furniture, clothing and kitchen items, which benefited those less fortunate. Promote Albuquerque: Since we now have a greater stake in Albuquerque's tourism economy, we are big promoters of what the city has to offer. We are big fans of the ART project for its improvements to the city and Nob Hill in particular. Good Relations with Neighbors: We have never had a single complaint from neighbors about noise or disruption from our guests. Our guests have commented on how friendly the neighborhood is. When we rent our entire house, we have entrusted our neighbor across the street with welcoming guests and co-hosting duties and another neighbor cleans the house between visitors. We have much more regular contact as a result and we've become closer as neighbors. We are regular AirBnB users when we travel and really enjoy the variety of accommodations available on the platform. We often meet and interact with our hosts and get valuable insider knowledge of the places we visit. We often will select places to visit based on the types of accommodations available on AirBnB and wouldn't visit otherwise. It's safe to say that many visitors to New Mexico decided to spend a few days in Albuquerque (versus Santa Fe) because of the many wonderful and cost effective accommodation options available on AirBnB. We don't think additional regulation is necessary for short term rentals in Albuquerque. Some of the costs proposed for licensing and registration would represent a significant portion of our earnings. We don't have the deep pockets of hotel chains and other large operators, and our AirbnB space has never and will never be a long-term rental.

Thanks for reading our comments.

### **Viktoria Sophia, 3/21/2019**

In regard to short term rental future regulations, these types of rentals are beneficial for Albuquerque. We use realtors, property managers, remodelers, landscapers, roofers, window replacements, maids and many more services that promote local businesses, safer neighborhoods and gives more value to each of our sacred homes. All used to upgrade homes, unlike long term rentals that are left unkempt. The majority of long term renters destroy and disrespect homes as well as neighborhoods. Long term renters and home owners have constant long term problems, such as domestic violence and household noise disturbances. Due to the city being worried about nuisances, make a task force for all nuisances NOT AirbnB's exclusively. I would love to buy another property if the city doesn't impede progress. Don't let fear mongering or greedy hotels make the laws, it's wrong and hurts families who are only trying to provide for their children. AirbnB's allow more visitors and only progresses our city as a society and financial matter.

### **Albuquerque Aspen Abode, 3/21/2019**

Ownership Rights Freedoms & Choices Need Preservation: A few years ago my life changed. I had a family, successful Real Estate Career & long term rental properties. Very long & difficult story short...my elderly veteran mother became a quadriplegic & was having sun downing symptoms. I brought her home with me after she spent time in ICU for many ailments including blood sepsis followed by a short 30 day rehabilitation center. Her small retirement wasn't enough to pay for nursing home care, nor was she part of the medicaid population.

During having her in my home my kids were rear ended on their way to school one day but I couldn't answer my phone due to being in the middle of changing her. I gave up so much, my career, all my time & being able to leave my own home. I sold most of my rentals to keep a float & provide her with care. I eventually received a hoyer lift & respite from the VA for a certain amount of hours per week.

I had to change what I was doing due to life's changing circumstances. I needed to maximize what I could with what little I had left, especially time. I spent the very last of my savings & all my respite hours away, while someone was with mom, to fix my last property after the long term tenants moved on to beat up their next home.

I have successfully short term rented the property & it's never been in such great shape. No damage, no noise (besides all the rest of the neighborhood owners or long term renters neighbor's noise). No problems at my taken care of and quiet STR. The worst part of my reviews are always the neighbors & neighborhood. If someone causes a problem one day it will be short lived unlike long term renters & home owners. (Attached is a private remark from a guest...one of many about neighborhood vagrants, neighborhood parties & negative things that are actually from long term residents that make Albuquerque look really bad.)

Lodgers/hospitality taxes have been collected for each stay. I'm extremely particular about running my STR with integrity & to the highest standard possible. I know that if I don't the guests alone will put us or anyone else that isn't up to par out of business. We run off of good guest experiences or won't run at all. STR's certainly don't need to be micromanaged by any other entity as the guests are already in that position.

I also have many people who come in for hospital treatments or a family member's surgery. It's an extra expense they don't need. They have the privacy of the house at a rate that leaves them a little more whole. Others who come save at our humble spot & spend more out in the city. We always recommend places & support everyone's businesses. I recently had a guest that had a train cancellation & I recommended a nice hotel for their last unexpected night. STR's need more support & some positive news stories as well.

A community that moves forward with fairness, equality & progress is the key to a successful community for all. Restricting people from their highest & best use of what they have is simply a restriction of freedom & the civil Right To Earn A Living Act. Please don't let the fears of some impede the positive progress & personal needs of many.

What home owners need from the city for better neighborhoods for all:

1. If everyone is worried about safety...APD needs to protect STRs the same as they do any Motel, Hotel or Inn if removal of a misbehaved guest is needed. Same goes for all neighbors (all rules should apply to all houses no matter who lives there renter or owner) causing a commotion or not minding your own property. Long term renters & home owners have chronic domestic violence, parties & disturbances. Have a task force for the actual problems of any party houses, noise disturbances...
2. Better laws for everyone on noise. Constant dogs barking is a huge nuisance & prevents use of surrounding yards. Current dog barking ordinance should be able to be supplied with audio/video of such nuisances not just proof in person when an animal control officer goes by once.
3. Weed burning should be illegal. With swamp coolers they must be turned off when someone burns. Then emphysema, COPD, elderly & infants suffer in the heat. Albuquerque can do better than this!
4. Take home buses that are a huge eyesore in any neighborhood & block the view of oncoming traffic from backing out of a driveway. It's so dangerous. Reporting it to the bus company that simply doesn't care is even worse. Stop take home buses in the city area.
5. Vagrants on most street corners now leave tons of garbage behind.

Our city is looking mighty bad & progress is needed not hindering or fear mongering. There are so many neighborhood issues that seriously affect us all & are so obviously in need of improvement.

### **M. Lopez, 3/21/2019**

I am unavailable at the scheduled time to attend the short term rental task force meeting, but would ask that the task force please make sure they are informed about the already in place agreement between the city of Abq and airbnb that provides for the automatic collection and payment of local taxes by airbnb to the city of Abq. on behalf of all the Abq. airbnb hosts. This system works well, so please don't re-invent the wheel in this aspect of the task force work.

Thank you,  
M. Lopez, local airbnb host

### **Douglas Binder, 3/21/2019**

You might want to read the NY Times article if you want to see how much fun it is to live with this nonsense: <https://www.nytimes.com/2019/03/09/travel/airbnb-miami-beach-war.html?action=click&module=RelatedLinks&pgtype=Article> Again, I don't mean to be disrespectful, but I don't think you folks are going to accomplish a thing. There is simply too much money in this business. Over 20 years in that house, and I was forced to leave.....really awful.

### **Pat Lillis, 3/21/2019**

I just left a voicemail about the Short-Term Rental examples that you have used in your Task Force presentation. It appeared that all of the examples you have used have fairly loose restrictions, and there are many cities that have come up with better solutions that balance fairness with the negative consequences of Short-Term Rentals. Attached are 5 examples of cities that have STR regulations that seem very fair but at the same time address housing shortages by encouraging Long-Term Rentals. Also, these protect neighborhoods from the practice of buying up areas to become STRs.

**Kelly Siebe, 3/21/2019**

Dear City Council and Mayor,

I am writing in regard to City Council Bill no. R-18-4, which provides for the creation of a task force, at the request of Diane Gibson, for the purpose of exploring options to “register and regulate” short term rentals, defined as “a rental in a single family residence or apartment of 29 days or less.” As I understand it, this task force is supposed to determine the need to regulate short term rental hosts using online platforms, including Airbnb. Since I have not been included in the task force, and it meets during hours that most people are working, I have not had an opportunity to provide input or voice my opinion regarding the task force or the subject matter. I want to express my opinions on the task force and on the discussions that have taken place within the task force, according to some of its members.

First, Bill no. R-18-4 does not provide any valid reasons to suggest that this task force is needed. It simply states that short term rentals in Albuquerque have increased (although there is no specific allegation regarding the number of short term rentals, or the amount of increase over any given period of time), that other communities are working to “address” short term rentals, that short term rentals “can raise concerns” about various issues, and that some online platforms do not collect occupancy taxes. The bill does not even allege, let alone provide any evidence, that short terms rentals have created any problems for the City that are not already addressed by existing regulations. This leads me to question why the task force has been created and why Ms. Gibson would feel strongly enough about the issue to seek to “establish a system to register and regulate short term rentals.” It is my understanding that a facilitator has been hired, using City funds, to facilitate the task force meetings. Because I do not believe adequate justification has been provided to create the task force, I object to the use of taxpayer funds for this purpose.

I do not support the further regulation of short term rentals using online platforms, such as Airbnb, unless reliable data is provided to show the need for such regulation in Albuquerque. According to some task force members, Councilor Gibson and her allies on the task force have operated from the position that short term rentals are inherently bad for Albuquerque. She has argued that they should be “on a level playing field” with hotels, and that they destroy the character of neighborhoods. However, she has not presented any data or results of any studies to support her positions. There is no reason to assume that Airbnb and other short term rental platforms have had the effects Councilor Gibson alleges, especially since she has not provided evidence of those effects. More important, there is no reason to assume they have had any detrimental effect on the City. Councilor Gibson has not presented any studies regarding the City’s hotel occupancy rates before and after online platforms for short term rentals were created. She has relied only on a few anecdotes and reports of issues in other cities to push her agenda. She has also failed to meaningfully consider whether Airbnb and other short term rental platforms have actually been beneficial to the City by creating jobs, increasing tax revenue, improving properties, and providing alternate rental situations to increase tourism to the City. Councilor Gibson’s willingness to relentlessly push her unsupported positions give the impression that her motivation is to protect the interests of corporate hotels rather than voters.

Prior to taking any action on the recommendations of the task force, I urge the Council to require objective and verifiable data to demonstrate that increased regulation of short term rentals is necessary. Further, Bill No. R-18-4 should be amended to require that the task force conduct its investigation entirely in a public forum and encourage public participation by conducting its business outside regular business hours and provide meaningful opportunity for the public to comment at each meeting.

Thank you for your time,  
Kelly Siebe

### **Mike and Diane Davidson, 3/21/2019**

Diane and I live at 12800 Piru SE. We built this house in 1979 and have lived here almost 40 years. We live directly west of 12804 Piru SE which is an STR. You are probably familiar with this 12804 Piru property as it has made the news several times for disrupting our neighborhood. City zoning is very familiar with it and it's owner.

I attended the STR meeting Tuesday evening. Thanks for fielding all the questions and comments. You all did a good job settling done some of the people who are understandably upset over more regulation. We got introduced to STR when our neighbor started renting out his house in 2017. He quickly realized the financial potential and began advertising it not only as an air bnb but also as an event center. His renting it out for various events/gatherings put a great emotional strain on both my wife and I. We never knew what to expect from day to day. Each time it was rented out for a gathering or event, there was always loud noise, cars parked on the street (sometimes as many as 40), trash to pickup, sometimes DJ's with speakers, people staying up all night in the back yard partying, and so on. Neighbors complained many times to city zoning, and finally they took the owner to court in June of 2018. The judge put him on a 6 month probation. Everything has been fine since then.

Attached is a partial list of events/gatherings which occurred in 2018 after we started keeping track of them. Most of them the police were called out and are documented by the police calls for service record. The worst one being a young person party on 2/10 and 2/11 where the police report shows "300 people and shots heard".

Page 11 of your proposal is titled "Regulation – Areas of Agreement" Not sure who is doing all this agreeing but we certainly wish to disagree. The first statement states "STR hosts currently cannot advertise that units are available for special events." We hope you are not thinking of changing that. Also "special events" is not defined and surely needs to be.

Next on page 11 it states "Small, private gatherings should be allowed, but overnight stay for the additional guests should not be allowed." "Small" is not defined and neither is "private gatherings". Also, there is no way you could enforce additional guests not staying over. Who would be there to monitor this? Lastly on page 11 it states "There should be no limitation on the number of private gatherings at a STR unit." Again there is no definition of "private gatherings." Also allowing unlimited private gatherings would allow our neighbor to go right back to renting out his house for private parties which is what creates the nuisance for us. It could happen every single weekend or more. We believe events and private gatherings are one and the same. A public event is where the public is invited. Events at people's homes are private and only certain people are invited. Same thing as a gathering.

Are these above "areas of agreement" only written by property owners? It is hard to imagine anyone like us who have been so negatively affected would agree to such proposals. Do you have anyone on your task force who have been as negatively affected as we have? I would be glad to come to your task force meetings and give advice on this issue from our perspective. It would not surprise us if 12804 Piru was the catalyst for this whole STR undertaking. On a separate note, if you allow private gatherings, what will this do to our property value once the time comes to sell our home and we have to disclose what is going on next door?

Thank you for your time and consideration in this matter. We would appreciate a response that you received and read this and will bring it before the task force.

Sincerely, Mike and Diane Davidson

Several events were held during 2017 – we did not document them. We did talk to him after an event in September 2017 about stopping these events but to no avail. We started documenting events in 2018.

- 1/27/2018 Big party, young kids, hundreds of cars
- 2/10 Big party, repeat of last weekend, hundreds of cars
- 2/16 A woman's 50th birthday party
- 3/23 – 5/6 We were out of town for 6 weeks
- 4/21 Party documented by the neighbors
- 5/27 Birthday party
- 6/1 Graduation party
- 6/2 Different graduation party
- 6/9 Graduation party
- 6/10 Leftover party from 6/9
- 6/15, 16 and 17 Wedding and reception
- 6/20 The owner was arraigned in Metro Court.
- 6/21 Brittany from CH 13 came out and did a follow up story about the situation

### **Barbara Pena, 3/30/2019**

In deciding on the short term rental issue, please consider that individual communities have differing opinions on the impact and viability of such businesses. My community and neighborhood association have a covenant that restricts what can be established in homes. We are zoned "single family residences" and most of us do not want the incursion of problems that occur with this type of business. Please allow individual communities to decide what happens where homeowners reside. A blanket decision does not meet the needs of everyone.

- Original Message (March 19) My husband and I live in the Los Alamos Addition in Albuquerque. We have lived in our home since 1990. There exists an AirBNB rental home at the very end of our dead end street. Since the homeowners began renting a small "casita" and room in the main house several years ago, there has been a significant increase in traffic and speeding cars. While there is no evidence that these "renters" have committed any crimes, there has been an increase in property crimes and stolen cars on our street. We have been designated an historic neighborhood and take pride in our homes. These renters have no commitment to the upkeep or to the safety of our neighborhood. We have several small children living and playing on our street, many older residents, and numerous pets, including dogs, cats, roadrunners, chickens, and peacocks. The increased traffic and speeding vehicles cause possible danger to all. I request that homeowners be given priority over renters who pay \$40/night to stay at the very end of our dead end street.

**Theresa Hotfin, Mary Kickman, Kayla Marshall, Michele Walm, Erin Best, Susan Butler, RD (signature not legible), Robert Andrew, BW (signature not legible), Ben (signature not legible), Brandy Thompson, 3/22/2019**

Dear Mayor,

I am writing in regard to City Council Bill no R-18-4, which provides for the creation of a task force, at the request of Diane Gibson, for the purpose of exploring options to "register and regulate" short term rentals, defined as "a rental in a single family residence or apartment of 29 days or less." As I understand it, this task force is supposed to determine the need to regulate short term rental hosts using online platforms, including Airbnb. Since I have not been included in the task force, and it meets during hours that most people are working, I have not had an opportunity to provide input or voice my opinion regarding the task force or the subject matter. I want to express my opinions on the task force and on the discussions that have taken place within the task force, according to some of its members.

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Thank you for your time,

### **Tawnya Mullen, 3/29/2019 - Community input gathered after the STR public meeting:**

- Vacation rentals distribute income to families and help individuals become financially independent through an industry that has historically only provided access to large corporations or wealthy investors - **STR operation has been life changing for many ABQ residents. STR operation has been life changing for many ABQ residents; college loan and consumer debt pay down, retirement planning, building emergency savings etc. It has become a substantial contributor to household income for many Albuquerque residents, and the primary source income for some.**
- City could possibly partner with the Albuquerque Community Foundation to implement a trust like the one in Approach 3 below - a trust of this type on a statewide level, could go a long way towards breaking the cycle of generational poverty many in our state face
- Vacation rentals allow many low- and middle-income families close income gaps This could be considered a component of "regenerative" economic development, which is beneficial to the future of our city.
  - Veterans and Active Duty military families, Nurses, Single Mothers, Retirees, Disabled Individuals etc
  - Many operators create jobs
  - Substantial barriers to entry caused by strict regulations or high entry fees would eliminate the ability of new operators to make this leap to self-empower through this new form of entrepreneurship
  - Many of these regulations are not in place, or not enforced for property owners who rent to long term tenants, and there are significant issues at many of these properties around the city, which are not present at well cared for short term/vacation rentals - this should be equitable.
- STRs are expanding the tourism market by allowing people who otherwise couldn't have afforded to travel, due to cost or family size, to do so. STRs may take a slice out of a pie historically reserved only for hotel operators; but they have also helped boost the economy by adding these new consumers. STR operation by Albuquerque residents seems to align well with the mayors "Community-based Economic Development Strategy".
- Many vacation rental operators are proud of our city and all it has to offer! They drive business to local shops, restaurants, and other attractions; helping visitors get a genuine feel for what it's like to live here, from a local perspective, which is important considering many who visit initially only have Cops or Breaking Bad as their reference for ABQ.
- Can the city and state pressure platforms to collect ALL applicable taxes for hosts including GRT? Would increase compliance and also create a more balanced pricing system with the traditional lodging industry. AirBNB's current work around for GRT is for hosts to post their GRT rate in their adds to notify guests that it will be charged after booking, then send the guests a request for payment after they have arrived - not optimal.
- Consider prohibiting an STR permit from being issued for a property where an eviction has recently occurred or from being issued in a property that was built primarily as a long term residence in the last 5 years - protect affordable housing and keep speculators from evicting tenants to operate STRs.
- One responder to a community poll I completed in the neighborhood where I operate my LTR and STR stated that they would like see the city allow people to use creative solutions like an Airstream on solar power be used for STRs rather than only permanent housing stock.
- One host suggested using fees and taxes collected to fund 'tiny home' support communities with social services for the unhoused people in our communities.

Although the recommendations above are aimed at mitigating potential harms of STRs, they do not solve the underlying economic imbalances that are damaging communities and motivating the pushback against STR platforms. We believe that it is the responsibility to cities to find ways to address wealth inequality, income inequality, affordable housing shortages, unemployment, under-employment, and poverty. Rather than focusing solely mitigating the harms of STRs, cities could see STRs as a lever for economic change widespread use of STRs has encroached substantially upon domains under cities' control, namely land use laws and controls on housing supply. For this reason, cities can legitimately maintain their claim on such domains, and perhaps even go as far as prohibit private companies from brokering STRs.

Below we offer three bold and creative approaches for municipalities interested in harnessing the economic benefits of STRs in addressing local economic issues. That we know of, no city has yet experimented with the following approaches.

#### **Approach #3: Building Community Wealth Through a Sharing Economy Trust**

Another bold strategy for using STRs to build community wealth is for a City to create a permanent trust for the collection, investment, and distribution of fees from STR bookings, much in the same way that the Alaska Permanent Fund pays all Alaska residents annual dividends from mineral, gas, and oil revenues. Such a trust would ensure that all city residents benefit from the economic wealth brought by tourism and travel, and the trust could also align residents around the goal of ensuring an adequate supply of housing for all. Peter Barnes's book, *With Liberty and Dividends for All*, describes a variety of strategies for creating trusts that pay universal dividends derived from fees collected on the use of other assets, such as the atmosphere and intellectual property. In this vision, as the recipients of dividends from multiple sources, citizens would ultimately accumulate what amounts to a universal basic income.

We offer this idea because of its potential political viability in comparison to approaches that focus primarily on setting caps and investing tax revenue in affordable housing development. During a 1999 referendum, 83% of Alaskan voters voted to keep the Alaska Permanent Fund in place, demonstrating the potential for universal dividend systems to inspire support from citizens across the political spectrum.

**Sustainable Economies Law Center (SELC)** offers the following recommendations to assist policymakers with the process of drafting a local short-term rental ordinance. SELC's goal is for local governments to craft short-term rental policies that generate inclusive opportunities for local wealth-creation, while balancing the needs of all members of the community. Ideally, the result will be an equitable policy that protects public interests, including housing affordability, health and safety, neighborhood quality, and municipal revenues, while retaining reasonable latitude for city residents to host and earn money from short-term guests. There are at least three options for the management of the Trust's Funds:

1. The Trust could retain all STR booking income and invest it (in the form of loans) in housing developments and purchases designed to preserve long-term affordability, such as projects stewarded by community land trusts. When the loans begin to pay a return, that income will be divided equally among all city residents and direct-deposited into their bank accounts.
2. The Trust could distribute STR booking income as dividends to residents, without the intermediate step of investing it in affordable housing development.
3. The Trust could strike a balance between the two options above, investing some STR booking income and making direct distributions of the rest.

STRs can have a positive impact on cities, in that they can:

- Contribute to local wealth by giving residents the opportunity to earn money from hosting tourists. Fewer tourism dollars go to large corporate hotel chains, and more dollars stay within the community;
- Make efficient use of space by allowing residents to host guests in a room or unit when it might otherwise be unused;
- Prevent economic hardship and displacement by allowing some residents to use STR revenue to make ends meet and stay in their homes;
- Provide both tourists and hosts with valuable social and cultural exchange; and
- Spread tourist dollars beyond typical hotel and tourism districts by attracting travelers to less frequented neighborhoods and businesses.
- Many STR owners love this city and the neighborhoods we are a part of. We often help to improve previously neglected properties, improve our streets and seek to maintain the character of our communities.
- Hope to work towards creative solutions between The City, existing industry and STR operators
  - One operator/manager recommended the city form an association between all members of the vacation rental community, the traditional lodging industry, and the city to equitably share in the industry decision making process.
  - Some negative, and frankly horrible, situations have occurred; but they are more indicative of unresolved issues in our city than with STR operators as a whole. That an issue occurred at or near an STR, does not prove that operation of an STR was the cause. Parties, drug use, fights, domestic issues, and other negative events which could occur in an STR, occur daily in owner occupied dwellings and long term rental operations of all levels.
    - Some hosts would like to see the city create one or more positions for a nuisance call investigator with some of the additional revenue collected from STRs through taxes and/or fees - This would address issues that may happen to occur at an STR owners property, but are not necessarily a result of STR operation - i.e. Illegal events, excessive occupancy, parking, noise, litter or other issues. These investigators could respond to calls made directly to their department, to 311 or 242-Cops. This could even be a population/community health worker, or public safety officer with social services training able to refer individuals for services if needed.
    - A portion of the taxes and fees collected from operators could be put towards funding programs which address poverty, homelessness, substance abuse and affordable housing, as most of the concerns voiced seem to relate more to these issues, than to STR owners - or to a trust as in San Francisco.
- Most cities with new STR ordinances require hosts to pay TOT. Due to the adverse effects STRs can have on housing affordability and displacement, we believe that cities should designate all or more of the TOT collected from STR activity towards affordable housing initiatives and other economic support services for low-income, unemployed, and underemployed residents. This could include investing TOT revenues into community land trusts, which are nonprofit housing providers that create permanently affordable homes for low-income residents. In cities where effective enforcement of STR regulations requires additional funds not provided by sanctions and fees, a municipality might also consider directing a portion of the TOT from STR activity toward improving oversight and compliance.
  - Platforms like AirBNB have basic screening for guests and hosts - the reviews written by hosts and guests about each other, create a built in accountability system. Hosts and guests who are not respectful, will not last long on the platform - this weeds out 'bad actors' pretty effectively. - I recently declined to rent to a guest because they had bad reviews from 2 other STR owners in ABQ, feeling that they wouldn't be a good match for my neighbors and would likely be hosting an event.
  - Some owners/operators support a registration requirement. As well as a requirement for operators to post permit numbers in all listings and in their units - would allow city to request removal of advertisements for 'bad actors', or investigators to cite if a visit to an STR shows no permit present.
  - We briefly discussed limited regulation of operators in compliance and heavy sanctions for 'bad actors' in our early discussion of having '2 sets of rules'.

**Sanctions:** We recommend that cities create a graduated scale of sanctions for hosts who are in violation of STR regulations or who are the subject of multiple complaints. Sanctions might include:

- Reducing the number of nights per year that a host may rent to STR guests;
- Prohibiting un-hosted nights, particularly where neighbors have complained that guests have created a nuisance;
- Inspection of the unit and a requirement that the host pay for costs of inspection;
- Suspension or revocation of the STR registration or permit;
- Fines that increase with the number of violations. For example, Dana Point, CA may penalize a host \$250 for a violation. If, within a single year, the host has multiple violations, the fines rise to \$500, then to \$1,000, and eventually result in revocation of the STR permit;<sup>56</sup> or
- Ineligibility to reapply for an STR permit for some extended period of time. For example, Nashville, TN imposes a one year waiting period on hosts found operating an STR without a permit, <sup>57</sup> and Maui County, HI makes a violator ineligible to apply for a permit for five years. <sup>58</sup> STR platforms should also be subject to sanctions for violation an STR ordinance. For example, San Francisco's STR ordinance states that any hosting platform violating its responsibilities under the code shall be subject to the city's administrative penalties and enforcement provisions, including payment of civil penalties of up to \$1,000 per day for the period of noncompliance.

This practice is recommended in one of the reading materials provided to the task force, 'Sustainable Economies Law Center Regulating Short Term Rentals - A Guide to Equitable Policy', and I believe would serve as a more acceptable solution to many hosts as an alternative to imposing strict rules for all.

- Possible high penalties for noncompliance with registration & permitting but lower entry? I.e. \$150 annually on par with BNBs; but \$1000+ and denial of permit for 1 year if operating STR without registering or posting registration on listing and in unit?
- Owner or manager could be required to be able to schedule an onsite inspection with an investigator within \_\_\_ hours?
  - **Question**, in the case of current long term, non-owner property managers, does the city require them to obtain a business registration for each unit or building they operate, or just for their property management business offices? Is it the business of management that is commercial, or the actual rental of the property for short term or long term residential use that is commercial use, or both? Apartment buildings and smaller rental properties are not typically zoned as commercial or mixed use, they are zoned high density or low density residential, yet they conduct a for profit operation legally (some owner managed and some not). I believe that the management activity is the commercial operation, which does not always take place at the LTR or STR itself, besides cleaning and maintenance. For most STRs, management is all virtual.



- If a long term property manager or landlord/owner is not required to have a business license for each property/unit they lease out or manage, but are required to have one for their management business in the case of a property manager, then an STR operator should only be required to have a license for the place they conduct property management activities. Except that owners of long term rentals who manage their own properties are not required to register a business license at all - this should be equitable for owner operators of short term rentals as well so as not to infringe on their property rights through a regulation that doesn't apply to other 'landlords'. Maybe LTR owner managers should also be required to obtain a business license and a permit to rent so that the rules can be better enforced to keep those tenants safe?
- A concern voiced by one small operator was related to companies who might be managing high numbers of non-owner operated STRs. She didn't make the distinction of owner occupied, but non owner operated, due to the different care an owner might have for their own property, regardless of where they lived. Also, the difference in current real estate commission rules which treat owner/managers differently than non-owner property managers.
  - Possibly tier the regulations to help limit the possibility of an entire block being easily converted to all STRs as was the case in New Orleans and other cities - 25% to 45% density limit per block and neighborhood associations able to impose stricter regulations if desired by those property owners?
  - Increasingly restrictive regulations for operators of multiple units - 1 vs. 3 vs. 5 vs. 8 vs. 10 vs. 15+ i.e 1 unit - minimum of registration and permit to max of floor plan, additional fees, real estate broker license if not owner operator for 15+ units?
  - May need to differentiate between owner/legal tenant operated vs. owner occupied in requiring more regulation, the latter being more burdensome for many current operators and would cause substantial financial hardship for many families. Per current Real Estate Commission Rules, a real estate broker's license is required to manage property not owned by the manager, 'for others'.
  - It doesn't appear that there are currently rules regarding how many properties an individual owner can operate themselves for short or long term use.

- C. The provisions of Chapter 61, Article 29 NMSA 1978 do not apply to: 1) a person who as owner performs any of the activities included in this section with reference to property owned by the person, except when the sale or offering for sale of the property constitutes a subdivision containing one hundred or more parcels
- May need to create a new definition of which activities are commercial and which are residential as it relates specifically to short term rentals operated by their owners, as this is a substantial economic force within our community, positively impacting many in the the low to mid income brackets - Though this definition should be equitable with long term property owners who manage their own units

HHH. "Vacation Rental": with the exception of hotels and motels, a vacation rental is the rental of real property by a renter who does not manifest an intent to make the real property a permanent residence. Evidence that the renter does not intend to make the real property a permanent residence includes, but is not limited to, the following: landlord/property manager supplies all furnishings, appliances, bedding, towels, utensils, plates, and silverware.

<http://www.rld.state.nm.us/uploads/files/Compendium%20Integrated%20Files%20as%20Submitted.pdf>

- Per Lynn Carter, chief investigator at the Real Estate Commission; STRs fall under the same rules as long term property management regarding the need for a qualifying brokers license to manage property for 'others' unless another exemption to licensure exists, ie employee of the owner, have POA for owner and managing limited # of properties, specific degree of relation to the owner. Property owners, under the New Mexico Real Estate License Law and Real Estate Commission Rules, are allowed to manage their own rental properties, whether short term or long term, without a license. 61-29-17.2 of the NMRELL&REC Rules provides for imposing fines on unlicensed managers of property owned by others. Mr. Carter stated that it is difficult for them to enforce these regulations due to more pressing caseloads in the AG & DA's office - He indicated that if a local regulation could assist with enforcement, that the real estate commission investigators would be grateful.

[http://www.rld.state.nm.us/uploads/files/00%202019%20Rule%20Book%20FINAL%20Based%20on%20Changes%20Effective%20Jan%201%202019%20\(F2\).pdf](http://www.rld.state.nm.us/uploads/files/00%202019%20Rule%20Book%20FINAL%20Based%20on%20Changes%20Effective%20Jan%201%202019%20(F2).pdf)

#### 61-29-17 Penalty; injunctive relief.

- A. Any person who engages in the business or acts in the capacity of an associate broker or a qualifying broker within New Mexico without a license issued by the commission or pursuant to Section 61-29-16.1 NMSA 1978 is guilty of a fourth degree felony. Any person who violates any other provision of Chapter 61, Article 29 NMSA 1978 is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500) or imprisonment for not more than six months, or both.
- B. In the event any person has engaged or proposes to engage in any act or practice violative of a provision of Chapter 61, Article 29 NMSA 1978, the attorney general or the district attorney of the judicial district in which the person resides or the judicial district in which the violation has occurred or will occur may, upon application of the commission, maintain an action in the name of the state to prosecute the violation or to enjoin the proposed act or practice.
- C. In any action brought under Subsection B of this section, if the court finds that a person is engaged or has willfully engaged in any act or practice violative of a provision of Sections 61-29-1 through 61-29-18 NMSA 1978, the attorney general or the district attorney of the judicial district in which the person resides or the judicial district in which the violation has occurred or is occurring may, upon petition to the court, recover on behalf of the state a civil penalty not exceeding five thousand dollars (\$5,000) per violation and attorney fees and costs.

**61-29-17.2. Unlicensed activity; civil penalty; administrative costs.** The commission may impose a civil penalty on any person who is found, through a court or administrative proceeding, to have acted in violation of Chapter 61, Article 29 NMSA 1978 in an amount not to exceed one thousand dollars (\$1,000) for each violation or, if the commission can so determine, in the amount of the total commissions received by the person for the unlicensed activity. The commission may assess administrative costs for any investigation and administrative or other proceedings against any such person. Any money collected by the commission under the provisions of this section shall be deposited into the real estate recovery fund.

**16.61.24.16. short term and vacation rentals.** In addition to the provisions set forth above, the following special provisions apply only with respect to the management of short term and vacation rentals.

**Susan Deichsel, 4/12/2019** (On Behalf of the Historic Albuquerque Accommodations): an organization of Short-Term rental owners in the heart of the City: organized in 2013 around the principles of supporting best practices within the industry and affiliating with Visit Albuquerque. The mission is to support the common professional well-being of its members, the guests who occupy their properties, and the City of Albuquerque.

#### **BEST PRACTICES RESEARCH**

1. Require hosts, property managers, and platforms to register and provide detailed records of their rentals and rental activity. The issue is partially one of fairness to the hotel industry which must comply with normal business regulations. This regulation also recognizes that STR's are actual businesses that must also be required to participate financially in supporting the city that makes hosting their guests possible through the many services the city provides. This regulation also provides transparency between those who would operate STR's and the City of Albuquerque.
2. Make sure the ordinance is enforceable by specifying that advertisement of unpermitted STR's will be considered prima facie evidence of illegal activity. - Agree
3. Make it easy for STR operators to get permits, register, and pay their taxes online (and make the online forms mobile friendly. - This organization agrees but wonders if other businesses in the City might not also appreciate having similar opportunities to set up businesses, and pay taxes. They might reasonably wonder why owners of STR's get special services that are not available to them.
4. Make it easy for neighbors to report, prove, and resolve non-emergency STR related problems in real time. - This organization agrees that there should be a mechanism for resolution of STR related issues and emergencies and contact information of hosts and co-hosts, but we believe that an online and easily accessible data base is the most ideal way to provide this. Passing out printed notices to neighbors who may or may not pass them on if they leave is too uncertain and too difficult to keep current. Owners and hosts of STR's must be required to keep their data current through a centralized data base operated by the City (not utilizing the very unwieldy cabq system) and penalized for not doing so.

#### **REGULATION-AREAS OF AGREEMENT:**

1. STR's should be allowed in all residential and mixed use zones. - This organization agrees but also suggests that selected commercial locations also be allowed. Such as those in Vienna, Austria. Allowing permits to be issued to populate otherwise unoccupied storefronts have been a boon to revitalizing less than vibrant neighborhoods in Vienna, by bringing in visitors who appreciate being located in central and walkable regions of cities. Hosts provide little to nothing for kitchens but instead offer certificates for occupants to walk to local restaurants for breakfast. Long-term occupancy by the same guests are not allowed, but the presence of eyes and ears provided by short-term guests also provides security to neighborhoods that might be otherwise empty.
2. STR's should not be allowed in non-residential zones. See above comment.
3. There should be no limitation on the number of times and STR can be rented - (we presume that means annually) This organization agrees and would stipulate that even though it would not happen if bookings come through listing services such as Airbnb and VRBO, that means that bookings should be limited to no more than once per day. In order to be viable businesses or provide income at a level that would justify the time and expense to manage STRs one must offer them as often as possible, but not more often than once per day.
4. Owner occupancy should not be required and regulation should not differentiate between owner-occupied and non-owner occupied units. - This organization is in agreement. But if owners are absentee, co-hosts must be available within two hours and located in the region.
5. STR hosts currently cannot advertise that units are (solely) available for special events. - This organization suggests that the word "solely" be inserted as noted above. This organization would ask for a definition of a special event. Is a wedding or grad party a special event? Is catering a part of the special event? What about the need for additional guest parking or allowing food trucks? If the event is held at a larger STR property, why shouldn't they be allowed if there is ample space and limited chance of disturbing neighbors? We agree that hosts should not be allowed to advertise the STR as an event location, but may grant permission to guests if neighbors have been advised and provided contact information. Maybe a form would be available as part of the STR database online?
6. Small, private gathering should be allowed, but overnight stays for the additional guests should not be allowed. - This organization agrees on this suggestion.
7. There should be no limitation to the number of private gatherings at an STR unit. - This organization concurs and believes that this issue should be one of host discretion.
8. STR's should maintain an outward residential appearance. - This organization concurs.
9. Advertising should not be allowed on STR units within the residential zones. - This organization concurs.
10. The permit should be displayed on the inside of the STR unit. - This organization believes the permit need not be hung on a wall if it is displayed in the house manual. Also many municipalities and regions require that the permit be shown as one of the photographs that advertise a property. We believe this would increase enforceability of permitting.
11. Violations of regulations should result in a civil penalty; Penalties should be tiered. - This organization concurs. One of the penalties should be cancellation of the permit to operate the business.

#### **REGISTRATION-AREAS OF AGREEMENT:**

1. STR owner/operator should register with the City. - Yes.
2. Registration and permitting should be with the Planning Department, Code Enforcement Division. - This organization believes this industry will generate enough revenue to justify its own division office. If one of the goals of registering and regulating STR's is to assure that there is always an adequate supply of regular, long-term rental housing inventory there should also be a City division that tracks and regulate supplies of both short and long-term rentals. This brings up the question if it isn't also proper for long-term rentals to be similarly regulated?
3. Proof of business license for each STR should be provided to City upon registration. - Clarify. Does this mean that in addition to registration as an STR the owner/host must also obtain a separate business license? If so, we are in agreement. Otherwise, this is redundant.
4. A permit should be required for each STR property. - Redundant.
5. Permits should run for one year; cost for the first years should be \$250: annual renewals should cost less. This sounds like a principle and not a rule. Clarify

6. Permit should stipulate that the STR owner agrees to comply with City ordinances (noise, trash collection, zoning, weed and litter, parking, air quality/no burn nights, occupancy) This organization agrees but finds that this regulation is the same as what is required of all City properties.
7. City should provide a voluntary "Good Neighbor Agreement.": We also question how "suggestions" can be regarded as regulation? Encourage STR operators to notify adjacent neighbors as a courtesy. - This organization suggests this notification also be available on the STR/ City website. Encourage STR operators to provide emergency contact numbers. Require and provide on STR/ City website. List relevant existing City ordinance that should be followed. Where? Provide information on Visit Albuquerque. Does this mean the city contract organization Visit Albuquerque? Since this excellent organization is one of the largest recipients of Lodging Tax revenues we like this idea. Our organization has held a membership for 5 years partially hoping Visit Albuquerque would also send bookings our way, which has never happened. We suggest that Visit Albuquerque consider promoting STR's in addition to booking hotel nights-particularly because our city continues to lose some convention business due to shortages of good accommodations for convention attendees. This subject should be explored but not a regulation.

#### **ADMINISTRATION - AREAS OF AGREEMENT**

1. City should complete a fiscal impact study that includes: Appropriate staffing level. Is the new STR division financed by fees? One-time set-up costs (computers, desks, space, phones); Software needs; Ongoing costs. This organization concurs with all of the above.
2. Hosts should register with City Treasury or through a booking platform to pay lodgers; and hospitality taxes. This is already happening and should be continued. Hotels must levy and remit. STR's should also.
3. Permit fees should be earmarked for staffing and administration cost related to STR regulations. Also for tracking long-term rental inventories.
4. Advisory committee should convene only when necessary to review or change regulations, but not as a standing committee. No opinion
5. Resolution that established the Lodgers' Tax Advisory Board should be amended to add STR representative. Yes
6. Appointment to be on Lodgers' Tax Advisory board should go through the normal City process. Yes

#### **ADMINISTRATION - TAXATION**

1. Recently passed Senate Bill 106 removed the exemption that allowed STR operator to avoid paying Lodgers' Tax. - This organization agrees that operators of STR's should collect and remit Lodgers' Taxes.
2. Removal of the exemption will level the playing field and help strengthen the tourism industry. - Agreed. Additionally, they will bring needed revenues.
3. Lodgers' Tax is typically used for promotion and advertising tourism related events, activities and facilities. - Yes, it is.
4. The new law will apply to all STR's effective 1/1/2020.
5. COA currently has a voluntary collection agreement with Airbnb for collecting Lodgers' Tax and hospitality fees from hosts remitting these fees to the COA. - It seems as if businesses should be collecting and remitting their own taxes, as would any other business, and we wonder if operators of STR's should be granted exceptional regulations for operating their businesses. How will other businesses feel about STR's being treated in such a different way? That being said, having this agreement is a step in the right direction for the vast majority of STR operators who would not be fulfilling their lawful business obligations otherwise. And since Airbnb is not the only classified listing service for STR's, and barring working out agreements with all of the other services such as VRBO, Home Away, Booking.com, Expedia, etc. perhaps at the time of granting operating permits the COA should facilitate the set-up of taxation accounts for STR operators. If the COA helps operators to run their businesses legitimately and transparently it is likely that they will have a higher level of cooperation and buy-in. This principle could also be applied to all sorts of business start-ups beyond STR's.
6. COA recently notified Expedia/ Home Away/VRBO regarding State Legislation and requested to enter into a collection agreement with the City. (similar to Airbnb). - Good.
7. COA will interview companies to assist with address identification, compliance monitoring, enforcement, outreach, and tax collection. - Excellent

#### **UNRESOLVED ISSUES - CONCENTRATION AND SPACING:**

1. Discussion of regulation concentration and spacing of STR's in residential neighborhoods as a means of protecting neighborhood character and integrity. - Yes, this organization is in complete support.
2. Task Force looked at 5 examples of different block sizes: NW Mesa, Nob Hill, SW Mesa, North Valley, and Old Town.
3. Task Force considered percentages of block-15%, 30%-but didn't agree on any level of concentration of spacing. - This organization suggests a concentration not to exceed 15%. We also wonder if some kinds of Special Use Permits should be issued by COA.

#### **UNRESOLVED ISSUES - OCCUPANCY:**

1. Uniform Housing Code determines maximum residential occupancy-would require a floor plan or measurement. - This organization agrees and suggests that nothing beyond a drawing that includes measurements be required. Keep it simple to comply. One inspection should be required when the operator launches their business.
2. Maximum residential occupancy is based on habitable floor area: Removes garage, porches, bathrooms; Requires 150 sq. ft. of floor space for occupant #1; Requires 150 sq. ft. of floor space for occupant #2.
3. Uniform Housing Code stand renders a higher occupancy level for larger homes. - What are the definitions of this? How do infants fit into these rules? Otherwise this organization is in agreement. There should be a penalty for operators who exceed occupancy limits.

#### **BEST PRACTICES RESEARCH:**

1. Santa Fe: 2 persons per bedroom
2. Taos: Maximum 2 person per bedroom; daytime capacity not to exceed 20 daytime guests for 5 bedrooms or more. - This is confusing. Is this regulation to allow for daytime parties? Clarify.
3. Kansas City: maximum 2 guests per bedroom; limited to 8 guests. - What if there are more than 4 bedrooms in a property?
4. Denver: no maximum - Yikes!
5. Boulder: controlled by zoning; 3-4 persons of a family and 2 additional persons; accessory units limited to family members or two unrelated adults. - How would this apply to STR operators in COA? Does the operator need to check for family affiliations?

**Carla Chavez, 4/12/2019**

The issues and complaints that are most brought up stem from noise and parking. Why not enforce the ordinances already in place for noise and parking? What magically happens to a house that makes its use any different between a short term rental and a long term rental? Both uses are residential, whether someone stays for 3 nights or 3 years.

The economic impact of having short term rentals includes the ripple effect of creating more jobs for area residents, including cleaning, maintenance, and management of the properties. Short term renters also spend more money at local restaurants, creating an increase in business.

The cost to the city and emergency services is not increased because a property owner takes care of the property taxes and utilities and services.

And if you were to cut out investors from investing in the town, you would be losing out on the economic impact of people with the funds to invest in your town, creating more jobs for residents, and rehabbing properties that have been run down.

Short term rentals are more work than long term rentals, and it is not for everyone. But it is perfect for many people who are not able to attend what might be considered a regular job. Why limit this route of supplemental income or route of full time income?

The demand from travelers is there, and residents are meeting that demand. Many travelers avoid areas that do not allow short term rentals because the traveler wants to stay in a short term rental.

Have you tried to travel with 3 small children on vacation and stayed in a one room hotel or BnB? It's not relaxing. Or have you traveled with your extended family and wanted to chat with your siblings, cousins, and grandparents but the hotel lobby is a little spread out? Or maybe you have a strict eating plan and you need to make your own meals and the hotel doesn't have the tools you need.

Hotels, BnBs, Home shares, and full house short term rentals all have their place in travel and their strengths to offer travelers. Each traveler is different, if they all liked the same thing, there would be demand for only one type of overnight stay. Each person is different, if we were all the same, life would be boring.

Limiting the property rights is also unconstitutional. If you move ahead with additional regulations for short term rentals, consider applying those same regulations to long term rentals, as there is nothing magical that happens between day 29 and day 30 for someone living in a home.

The City needs to understand the risks of limiting property rights which may be unconstitutional. Any rental regulations should apply equally to short and long term rentals as length of lease is not indicative of condition or property. Noise is not mutually exclusive to a short term rental as law enforcement responds to many noise complaints that are completely unrelated. As a landlord of both short and long term rentals, the condition of the property is often far better in a short term rental. The City is not incurring any greater cost because a rental is occupied than if a tenant was there year round. The homeowner is already paying a tax for city services associated with that service. Any additional tax or fee would be a burden to homeowners without data justification that more was required.

**Rosie Dudley, 4/26/2019**

I would like to comment on short-term rentals. I recently purchased a property that has accessory dwellings in the rear and fully anticipated renting one of the units to a graduate student and keeping the other open for family visitors or short-term rentals, but was not able to get any graduate students to apply. I have noticed that there are many houses in my neighborhood used exclusively for short-term rentals. I would like the task force to consider differences between back-of-house units as short-term rentals vs. entire properties for short-term rent. The former maintains a neighborhood presence and character because full-time occupants are still present while the latter diminishes the neighborhood character because they are rented intermittently without neighborhood presence or involvement. My neighborhood of Huning Highland has many homes with in-law/accessory units which I think should continue to be available to tourists and convention-goers as short-term rentals. I think the properties that are exclusively short-term rentals should be treated differently and expected to undergo different requirements since they result in entire properties to become unavailable to Albuquerque families for purchase or rent.

**CITY of ALBUQUERQUE  
TWENTY THIRD COUNCIL**

COUNCIL BILL NO.     R-18-49     ENACTMENT NO.     R-2018-056    

SPONSORED BY:     Diane G. Gibson

1                                   **RESOLUTION**  
2   **CREATING A TASK FORCE TO EXPLORE OPTIONS TO REGISTER AND**  
3   **REGULATE SHORT TERM RENTALS IN THE CITY.**  
4       **WHEREAS, a short term rental is commonly defined as a rental in a single**  
5   **family residence or apartment of 29 days or less but is not a defined use**  
6   **within the Integrated Development Ordinance and is currently regulated in the**  
7   **same way that other residential uses are regulated; and**  
8       **WHEREAS, since the advent of online short term rental websites, the**  
9   **number of short term rentals in Albuquerque has increased significantly; and**  
10       **WHEREAS, short term rentals are a new and increasing land use in many**  
11   **communities across the country that many communities are working to**  
12   **address; and**  
13       **WHEREAS, short term rentals can bring both benefits and challenges to a**  
14   **community; and**  
15       **WHEREAS, short term rentals can contribute to overall economic**  
16   **development, the local sharing economy, and support tourism; and**  
17       **WHEREAS, short term rentals can raise concerns about noise, safety,**  
18   **parking, and the impact on the availability and pricing of long term rentals;**  
19   **and**  
20       **WHEREAS, visitors who stay in hotels, motels, and bed & breakfast**  
21   **establishments pay a six (6) percent Occupancy Tax to the City of**  
22   **Albuquerque, but visitors who stay in short term rentals currently only pay**  
23   **these taxes dependent on which booking platform they use; and**  
24       **WHEREAS, the City of Albuquerque Occupancy Tax is comprised of a five**  
25   **(5) percent Lodgers Tax and a one (1) percent Hospitality Tax that is collected**  
26   **by the lodging establishments, and which provides revenues for advertising,**

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1 publicizing, and promoting certain recreational and tourist facilities as well as  
2 for the construction of such facilities; and

3 WHEREAS, a number of communities across the country, including but not  
4 limited to Santa Fe, New Mexico and New Orleans, Louisiana, are looking at  
5 different ways to effectively regulate and register short term rentals; and

6 WHEREAS, exploring ways to address this issue through a task force  
7 comprised of members of the public and knowledgeable City staff could result  
8 in recommendations on how best to establish a system to register and  
9 regulate short term rentals.

10 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
11 ALBUQUERQUE:

12 Section 1. A twelve (12) member Short Term Rental Task Force is  
13 established.

14 Section 2. The Task Force shall be made up of the following members:

15 A. One City staff member from the City’s Planning Department  
16 knowledgeable in the area of Short Term Rentals and registration fees; and

17 B. One City staff member from the City’s Code Enforcement Division  
18 knowledgeable in the area of residential uses, short term rentals, and  
19 enforcement; and

20 C. One City staff member from the City Legal Department  
21 knowledgeable in land use and zoning enforcement; and

22 D. One Staff member from each the City Council Services Department  
23 and Mayor’s Office; and

24 E. One City staff member from the Treasury Department knowledgeable  
25 in occupancy taxes; and

26 F. One representative from the Visit ABQ that is knowledgeable in  
27 lodging and tourism; and

28 G. One representative from the Real Estate industry knowledgeable in  
29 short term rental properties; and

30 H. Two community members appointed by the Council with special  
31 knowledge or interest in issues and community impacts associated with short  
32 term rental properties; and

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1 I. Two representatives from the lodging industry, at least one of which  
2 is involved with the short term rental industry.

3 Section 3. The City Council Services, Planning Department, and Code  
4 Enforcement representatives will coordinate with other city officials on  
5 matters related to the Building Code, Environmental Health, Solid Waste, Risk  
6 Management, and with the Fire Marshall, as needed.

7 Section 4. This Task Force shall explore: a) options for registration of  
8 short term rentals; b) options for regulation of short term rentals to address  
9 concerns about safety, nuisance, and compatibility; c) options for the City to  
10 collect appropriate registration fees and lodging taxes; and d) any other  
11 relevant and helpful options relating to this issue. This Task Force shall  
12 prepare a list of recommendations for potential programs or legislation that  
13 could help address issues related to short term rentals in the City by no later  
14 than March 1, 2019. This list of recommendations shall be made available to  
15 all Councilors and the Mayor.

16 Section 5. This Task Force is a fact finding and recommending body and  
17 not a final policy making body; accordingly, any meetings of this Task Force  
18 are not subject to the New Mexico Open Meetings Act.

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1 PASSED AND ADOPTED THIS 5th DAY OF September, 2018  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018

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Bill No. R-18-49

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ATTEST:

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Katy Duhigg, City Clerk

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# CITY of ALBUQUERQUE

## TWENTY THIRD COUNCIL

COUNCIL BILL NO. R-19-128 ENACTMENT NO. R-2019-0116

SPONSORED BY: Diane G. Gibson

1 RESOLUTION  
2 AMENDING R-18-49 TO EXTEND THE DEADLINE FOR THE PREPARATION OF  
3 A LIST OF RECOMMENDATIONS FOR POTENTIAL PROGRAMS OR  
4 LEGISLATION ON SHORT TERM RENTALS.

5 WHEREAS, the Council finds that having adequate time for the Short Term  
6 Rental Task Force to consider the options for registration, regulation, and the  
7 collection of appropriate fees and taxes is integral to ensuring the  
8 recommendations fully consider the complexity of the issues; and

9 WHEREAS, the Task Force would like to include public outreach as part of  
10 the Task Force process in order to hear from the wider public on the issues  
11 and potential recommendations; and

12 WHEREAS, in order to grant such additional time to provide adequate  
13 consideration and outreach, the deadline included in R-18-49 needs to be  
14 extended.

15 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
16 ALBUQUERQUE:

17 Section 1. That Section 4, Lines 11 to 15, of R-18-49 is hereby amended as  
18 follows:

19 This Task Force shall prepare a list of recommendations for potential  
20 programs or legislation that could help address issues related to short term  
21 rentals in the City by no later than June 30, 2019. This list of recommendations  
22 shall be made available to all Councilors and the Mayor.

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1 PASSED AND ADOPTED THIS 20th DAY OF February, 2019  
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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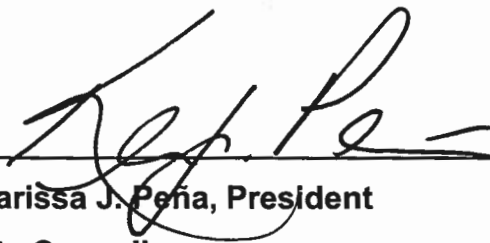
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Klariissa J. Peña, President  
City Council

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APPROVED THIS 04 DAY OF March, 2019

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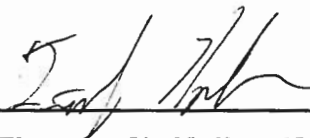
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Bill No. R-19-128

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Timothy M. Keller, Mayor  
City of Albuquerque

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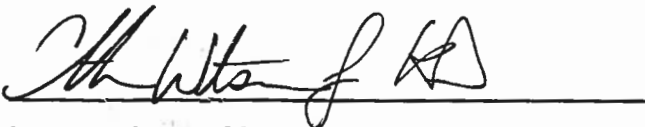
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ATTEST:

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Katy Duhigg, City Clerk

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The Legislature  
of the  
State of New Mexico

54th Legislature, 1st Session

LAWS 2019

CHAPTER 25

SENATE BILL 106, as amended

Introduced by

SENATOR JOHN M. SAPIEN



# CHAPTER 25

AN ACT

RELATING TO TAXATION; REMOVING AN EXEMPTION FOR CERTAIN  
SHORT-TERM OCCUPANCY RENTALS FROM THE OCCUPANCY TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 3-38-16 NMSA 1978 (being Laws 1969,  
Chapter 199, Section 4, as amended) is amended to read:

"3-38-16. EXEMPTIONS.--The occupancy tax shall not  
apply:

A. if a vendee:

(1) has been a permanent resident of the  
taxable premises for a period of at least thirty consecutive  
days; or

(2) enters into or has entered into a  
written agreement for lodgings at the taxable premises for a  
period of at least thirty consecutive days;

B. if the rent paid by a vendee is less than two  
dollars (\$2.00) a day;

C. to lodging accommodations at institutions of  
the federal government, the state or any political  
subdivision thereof;

D. to lodging accommodations at religious,  
charitable, educational or philanthropic institutions,  
including accommodations at summer camps operated by such  
institutions;


1           E. to clinics, hospitals or other medical  
2 facilities; or

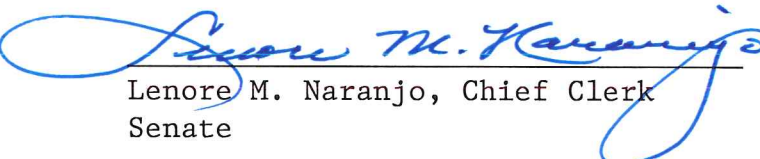
3           F. to privately owned and operated convalescent  
4 homes or homes for the aged, infirm, indigent or chronically  
5 ill."

6           SECTION 2. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is January 1, 2020. \_\_\_\_\_

SB 106  
Page 2

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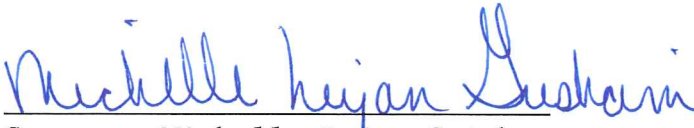
  
Howie C. Morales, President  
Senate

  
Lenore M. Naranjo, Chief Clerk  
Senate

  
Brian Egolf, Speaker  
House of Representatives

  
Lisa M. Ortiz McCutcheon, Chief Clerk  
House of Representatives

Approved by me this 4<sup>th</sup> day of February, 2019

  
Governor Michelle Lujan Grisham  
State of New Mexico

# APPENDIX D: BEST PRACTICES RESEARCH

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**City of Albuquerque Short Term Rental Task Force**  
**Best Practice Analysis Research**  
**Consensus Planning, Inc**



	Austin	Boulder	Colorado Springs	Denver	Kansas City	San Antonio	Santa Fe	Taos
<b>REGISTRATION</b>	<p>A residential dwelling unit or accessory building</p> <p>Three (3) types identified:</p> <ul style="list-style-type: none"> <li>Type 1 (Owner-occupied as primary or secondary residence)</li> <li>Type 2 (Not owner occupied in a single family or duplex unit)</li> <li>Type 3 (Not owner-occupied in a multi-family unit)</li> </ul> <p>Length of stay is &lt; 30 days</p>	<p>A residential dwelling that serves as a primary residence or accessory unit on the same parcel</p> <p>May not be dwellings owned by the federal government, the state, or any of their agencies or political subdivisions and facilities licensed by the state as healthcare facilities</p> <p>Length of stay is &lt; 30 days</p> <p>An accessory unit may not be rented for more than 120 days in any calendar year; there is not limit on the primary unit</p>	<p>A residential dwelling unit</p> <p>May not be dwellings owned by the federal government, the state or the City, or any of their agencies, or facilities licensed by the state as healthcare facilities</p> <p>Length of stay is &lt; 30 days</p>	<p>A residential dwelling unit</p> <p>The rental property must be used as a primary residence</p> <p>Length of stay is &lt; 30 days</p>	<p>A residential dwelling unit</p> <p>Historic landmarks and properties in historic districts must obtain a special use permit</p> <p>Length of stay is &lt; 30 days</p>	<p>Two (2) types identified:</p> <ul style="list-style-type: none"> <li>Type 1 (Owner-occupied)</li> <li>Type 2 (Not owner-occupied)</li> </ul> <p>Length of stay is 12 hours-30 days</p>	<p>A primary dwelling unit or accessory dwelling unit in a residentially zoned area</p> <p>Resort units, non-residentially zoned units, and commercially zoned units are also eligible but require registration in addition to permit</p> <p>Length of stay is &lt; 30 days</p> <p>No more than one rental is allowed within a seven (7) consecutive day period</p>	<p>A privately owned residential dwelling, such as, but not limited to, a single-family detached or multiple-family attached unit, apartment, condominium, cooperative apartment, duplex, or any portion of such dwelling rented for occupancy for dwelling, lodging, or sleeping purposes</p> <p>Length of stay is &lt; 30 days</p>
<b>Host Occupancy Requirements</b>	Owner occupancy is not required	<p>Rental property must be the owner's primary residence or an accessory unit on the same parcel</p> <p>A primary residence means that the owner occupies the dwelling for more than one half of the year</p>	Permits are issued to the owner of the property but may be managed by a third party on behalf of the owner	<p>Rental property must be a primary residence</p> <p>Property owners and long-term renters (with permission from landlord) may apply for a permit</p>	<p>To be considered owner-occupied, the property must be occupied a cumulative minimum of 270 days per year</p> <p>Carriage houses (or accessory units) may be approved for owner occupied status as long as the principal building is owner occupied</p>	Owner occupancy is not required	Ordinance does not address owner occupancy	Ordinance does not address owner occupancy
<b>Length of Permit or License</b>	1 year	4 years	1 year	1 year	1 year	3 years	1 year Issued on an annual basis per calendar year	1 year

	Austin	Boulder	Colorado Springs	Denver	Kansas City	San Antonio	Santa Fe	Taos
<b>Registration Submission Requirements</b>	<ul style="list-style-type: none"> <li>Application</li> <li>Certificate of occupancy</li> <li>Drivers' license</li> <li>Approved life-safety inspection</li> <li>Proof of payment of city hotel occupancy tax (if applicable)</li> <li>Proof of insurance</li> </ul>	<ul style="list-style-type: none"> <li>Application</li> <li>Affidavit of STR license agreement of occupancy limits and requirements</li> <li>Business license</li> <li>Life safety compliance</li> <li>Affidavit of legal residency</li> <li>Two (2) local contacts within 60 minutes of the property</li> </ul>	<ul style="list-style-type: none"> <li>Application</li> <li>Self-inspection checklist signed by the property owner</li> <li>Proof of sales tax license (not required if the STR is only listed on Airbnb)</li> <li>Signed statement of understanding of rules and regulations</li> <li>24-hour contact that can respond with one (1) hour</li> </ul>	<ul style="list-style-type: none"> <li>Application</li> <li>Contact information</li> <li>Tax account numbers</li> <li>Business license</li> <li>Documentation to demonstrate proof of primary residency may be requested</li> </ul>	<ul style="list-style-type: none"> <li>Application</li> <li>Special use permit application (if applicable)</li> <li>Notarized affidavit from owner of property (unless host is the owner of record)</li> <li>Adjacent owner consent application</li> <li>Certification that property is in compliance with property maintenance, building, electrical, mechanical, and plumbing codes</li> <li>Proof of insurance</li> </ul>	<ul style="list-style-type: none"> <li>Application</li> <li>List of owners and agents location (including parking)</li> <li>Sketch or narrative to identify sleeping areas and evacuation routes</li> <li>Proof of registration with city finance department and hotel occupancy tax collection</li> <li>24-hour contact</li> <li>Proof of insurance</li> </ul>	<ul style="list-style-type: none"> <li>Application</li> <li>Proof of ownership</li> <li>Site plan (including parking)</li> <li>Business registration</li> <li>Inspection for compliance with zoning, water, and fire</li> <li>Sample neighborhood notification letter</li> <li>24-hour contact</li> <li>Proof of insurance</li> </ul>	<ul style="list-style-type: none"> <li>Contact information for owner and (if applicable) agent</li> <li>Number of bedrooms and occupancy</li> <li>Site plan narrative regarding use</li> <li>Definition of any usual traffic, noise, lighting or other potential disturbances</li> <li>Business permit</li> <li>"Other information as the code administrator or designee deems reasonable necessary to administer this section"</li> </ul>
<b>Registration Fees</b>	<ul style="list-style-type: none"> <li>\$550</li> <li>\$50 neighbor notification fee is required for first time applicants</li> </ul>	<ul style="list-style-type: none"> <li>\$105</li> <li>Application must be accompanied by a business license which may be acquired through the STR application for an additional \$25</li> </ul>	<ul style="list-style-type: none"> <li>\$119</li> </ul>	<ul style="list-style-type: none"> <li>\$25 for STR license</li> <li>\$50 for lodgers' tax ID</li> <li>Cost was intentionally kept low to bring all STR operators into a regulatory system</li> </ul>	<ul style="list-style-type: none"> <li>\$259</li> <li>Hosts in historic districts must apply for a special use permit (\$596)</li> </ul>	<ul style="list-style-type: none"> <li>\$200</li> </ul>	<ul style="list-style-type: none"> <li>\$100 one time application and processing fee</li> <li>\$35 business registration fee</li> <li>\$100 for resort units and non-residential or commercial zones</li> <li>\$325 for accessory dwelling units and residential units</li> </ul>	<ul style="list-style-type: none"> <li>\$300</li> </ul>
<b>Renewal Details</b>	<ul style="list-style-type: none"> <li>Annual \$300 fee</li> </ul>	<ul style="list-style-type: none"> <li>Every four (4) years</li> <li>\$105 fee</li> </ul>	<ul style="list-style-type: none"> <li>Annual \$119 fee</li> </ul>	<ul style="list-style-type: none"> <li>Annual</li> <li>No fee specified in ordinance</li> </ul>	<ul style="list-style-type: none"> <li>Annual</li> <li>\$175 fee</li> </ul>	<ul style="list-style-type: none"> <li>Every three (3) years</li> <li>\$100 fee</li> <li>Must submit changes or a signed statement affirming that no changes have been made to the property during renewal</li> </ul>	<ul style="list-style-type: none"> <li>Annual permit fee mentioned but not specified in the ordinance</li> <li>Affidavit for compliance with fire regulations must be resubmitted</li> <li>If not renewed by April 15, permit expires and a new application is required</li> </ul>	<ul style="list-style-type: none"> <li>Annual</li> <li>No fee specified in ordinance</li> </ul>
<b>Insurance Requirements</b>	<ul style="list-style-type: none"> <li>Proof of insurance must include declarations, information, or summary pages from policy</li> </ul>	<ul style="list-style-type: none"> <li>Not specified in the ordinance</li> </ul>	<ul style="list-style-type: none"> <li>Liability insurance in the amount of no less than \$500k</li> <li>Not required if reservations are made through a hosting platform that extends similar or greater coverage</li> </ul>	<ul style="list-style-type: none"> <li>Liability insurance to cover bodily and property damage; licensees certify under penalty of perjury</li> </ul>	<ul style="list-style-type: none"> <li>Liability in the amount of no less than \$300k</li> </ul>	<ul style="list-style-type: none"> <li>Liability insurance in the amount of no less than \$500k and \$1mil aggregate</li> </ul>	<ul style="list-style-type: none"> <li>Proof of insurance must identify property as a rental unit</li> <li>Liability insurance in the amount of no less than \$300k</li> </ul>	<ul style="list-style-type: none"> <li>Not specified in the ordinance</li> </ul>

REGULATIONS								
	Austin	Boulder	Colorado Springs	Denver	Kansas City	San Antonio	Santa Fe	Taos
<b>Zoning Restrictions</b>	Allowed in all residential zones	Allowed in all residential zones	Allowed in all residential zones Allowed as an accessory unit Limit one (1) STR within a lawful dwelling and maximum four (4) STR units per property For condominiums or buildings held in similar common ownership, each owner is limited to two (2) STR units per property Must be in compliance with building, setback, and other codes or requirements	Allowed in all residential zones (residential and mixed use) Permitted as a secondary use conducted in a home Mobile homes, RVs, or travel trailers may not be operated as STR units	Only one (1) unit or 25% of all units in a multi-family structure may be used for STR The same host may not have more than four (4) STRs in the same multi-family structure Not allowed in low density single family zones but existing STRs were allowed to be grandfathered into compliance Historic landmarks and properties in historic districts must obtain a special use permit	Not allowed in industrial zones Density limits apply to Type 2 (not owner-occupied) STRs: • No more than 12% of the block face in single family residential zones may be used for STR • No more than 12.5% total of units on a property in commercial or multi-family residential zones may be used for STR No density limits for Type 1 (owner-occupied) STRs	Allowed in all residential zones Resort units, non-residentially zoned units, and commercially zoned units are also eligible but require registration in addition to permit Not allowed in areas zoned for agriculture and light manufacturing	
<b>Display of Permit</b>	Permit number required on all marketing materials	Permit number required on all marketing materials	Permit number required on all marketing materials	Permit number required on all marketing materials	Permit number required on all marketing materials	Permit number required on all marketing materials	Permit number required on all marketing materials	Permit number required on all marketing materials
<b>Required Inspections</b>	Approved life-safety inspection must be submitted with application	No required inspections	Safety inspection certification must be submitted with application	No required inspections	Must agree to and allow inspection for compliance with fire, public safety, health/sanitation, and other city code compliance upon reasonable notice	Initial inspection is conducted by city development services to verify compliance with codes and ordinances STRs may be subject to an inspection during renewal or if a violation is suspected	Inspection for compliance with zoning, water, and fire conducted by zoning inspector and fire inspector Must submit proof of fire inspection On-site inspection may be required	
<b>Occupancy Limitations</b>	No more than two adults per bedroom plus two additional adults may be present in a STR between 10pm and 7am. STR cannot be used by more than ten (10) adults at one time or six (6) unrelated adults Property must be in compliance with any limits in the building code	Must not exceed the occupancy permitted by zoning district: three to four (3-4 ) persons of a family and two (2) additional persons An accessory unit is limited to family members or two (2) unrelated adults	Purposely not specified in ordinance Topic continues to be discussed by the STR steering committee	STR hosts may set their own occupancy maximums There is no city-imposed maximum	Limited to eight (8) guests No more than two (2) persons per bedroom	Limits defined by property maintenance code	Two (2) persons per bedroom Daytime occupancy not to exceed twenty (20) daytime guests for five (5) bedrooms or more	

	Austin	Boulder	Colorado Springs	Denver	Kansas City	San Antonio	Santa Fe	Taos
<b>Fire Safety</b>	Renters must be notified on regulations related to burn bans	Fire extinguisher and smoke detectors are required	Renters are encouraged to consult city website regarding relevant burn bans	Fire extinguisher and smoke detectors are required	Fire extinguisher and smoke detectors are required	Fire extinguishers must be mounted within 75ft of all portions of the unit on each floor Smoke detectors are required Owner is responsible for obtaining annual independent inspections for fire extinguishers	Portable fire extinguisher must be mounted in a visible location and serviced annually Single station smoke detectors must be provided in all sleeping areas Compliance with fire code requirements is reviewed on an annual basis Ordinance also refers to electrical safety	Not specified in ordinance
<b>Carbon Monoxide</b>	Not specified in ordinance	CO detector is required	Not specified in ordinance	CO detector is required	CO detector is required	CO detector is required	Not specified in ordinance	Not specified in ordinance
<b>Noise Control</b>	No sound equipment that produces sound in excess of 75 decibels at the property line between 10am and 10pm Use of sound equipment that produces sound audible beyond the property line between 10pm and 10am is prohibited	Not specified in ordinance	Tenants shall abide by applicable ordinances	Not specified in ordinance	Not specified in ordinance	No excessive noise or disturbance in outside areas including decks, portals, porches, balconies, patios, hot tubs, pools, saunas, or spas Occupants must comply with quiet hours and noise restrictions defined in the city ordinance	Noise and other disturbances outside of the unit are prohibited after 10:00pm including decks, portals, porches, balconies, or patios	Occupants must comply with noise regulations and will be cited or fined if violated
<b>Signage</b>	Signage is not permitted	Not specified in ordinance	Not specified in ordinance Should the issue arise, the city would refer to codes that allow signage for home occupations	Only one non-animated, non-illuminated sign is allowed on the property to identify it as a STR	No exterior evidence that the property is being used as a STR is allowed Signage is not permitted	Advertising signs are not permitted but a nameplate, not to exceed one (1) square foot, attached flat to the main structure is permitted	Not specified in ordinance	Signage and other advertising mechanisms are not permitted
<b>Parking</b>	Not specified in the ordinance	Limited to the number of off-street parking spaces required in the zoning district One (1) additional off-street parking space is allocated for an accessory unit regardless of STR operation	Driveways must be utilized first; overflow may be directed to the street where permitted Parking on site in non-driveway areas is prohibited	Not specified in ordinance	Not specified in ordinance	Must comply with city code: minimum one (1) vehicle space per unit, no maximum indicated Yards, public right-of-way, and/or access easements may not be utilized to meet required parking requirement	Off-street parking must be provided and must meet the requirements of the parking code: One (1) parking space is required for one bedroom, two (2) spaces are required for two or more bedrooms Recreational vehicles may not be parked on the street	Parking must be entirely on-site in a garage, carport, or driveway STRs in commercial zones may need to submit parking plans

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<b>Trash/Waste Management</b>	Renters must be notified about regulations related to trash	Not specified in ordinance	Owner must maintain weekly trash collection services Outdoor bins must be screened from public view or kept inside a garage or other structure	Not specified in ordinance	Not specified in ordinance	Tenants must be notified via indoor post about trash pickups and property cleanliness	Owner must notify tenants about relevant ordinances	Disposal information must be included in renter notification Trash shall not be stored in public view (expect in proper containers)
<b>Available for Party Rental</b>	Weddings, bachelor or bachelorette parties, concerts, sponsored events or any similar group activities other than sleeping are prohibited between 10pm and 7am	Not specified in ordinance	Use of STR for commercial or large social events, like weddings, is prohibited	Rental of a dwelling unit for commercial events (including parties and weddings) is prohibited Private parties are allowed Parties and the presence of party buses on residential streets have been the primary complaint from neighbors to the city	May not be used for receptions, parties, meetings, or similar events	Not available for parties or commercial events	Properties located in residential zones may not be rented for commercial activities or events Gatherings in excess of three (3) times the number of legally allowed occupants is prohibited	STR may be rented for parties but should be in compliance with daytime occupancy limits per building codes
<b>Sleeping Area Requirements</b>	Not specified in ordinance	Not specified in ordinance	Sleeping areas may not be in non-residential areas within buildings and accessory structures	Not specified in ordinance The city is aware that air mattresses and other temporary beds are used to provide additional sleeping occupancy	Map of evacuation routes must be posted in sleeping areas within multi-family structures	Evacuation plans must be posted in all sleeping areas All sleeping areas must have an emergency escape Non-compliant areas must remain locked when dwelling is being used and should not be included in max occupancy calculation No outside sleeping spaces may be available for rent No overnight sleeping outdoors is permitted	In addition to an exit door, each room must have a second exit that leads directly outside Release mechanisms shall be installed on any bars and grills covering doors or windows	Not specified in ordinance
<b>Emergency Contact Requirements</b>	A license holder must identify an individual who lives within the metro area to respond within two (2) hours of an incident or emergency	Two (2) local contacts located within 60 minutes of the property must be listed on the permit application	A 24-hour contact person must be available to respond to complaints and emergencies within one (1) hour	Not specified in ordinance	A 24-hour contact person must be available to respond to complaints and emergencies	A 24-hour contact person must be available to respond to complaints and emergencies	24-hour contact must be listed on the permit application	Owner or agent must be available to respond to any and all conflicts

	Austin	Boulder	Colorado Springs	Denver	Kansas City	San Antonio	Santa Fe	Taos
<b>Neighbor Notification</b>	Area residents are notified about the STR by the Planning & Development Review Department	A map of licensed STRs is available online	Neighbor notification is recommended A sample notification letter is available on the city website and features space to include two (2) local contacts and the permit number for the STR	Not specified in ordinance Not required but the city is interested in pursuing mandatory notification	All STR owners must notify adjacent property owners	Neighborhood notification is encouraged but not required	Property owner is required to notify neighbors located within 200-feet of the short term rental via mail within 10 days of permit issuance A sample notice is submitted with application	Not specified in ordinance
<b>Other Neighborhood Protections</b>	Ordinance sets limits on the distance between STRs (set by census tracts) Residents may report violations using 311 services Renters receive notification related to regulations on noise, water, burn bans, and trash	Only allowed at the owner's primary residency Property must meet minimum regulations on habitability, health, and life-safety according to building codes	"Good Neighbor" guideline flier for renters is available on the city website Guidelines flier includes emergency contact information, city permit number, and notices on noise, events, parking, burn bans, and wildlife	Overall character of the property may not be changed The property must still look and feel like a residence	Off-site owners must secure consent of 55% of adjacent property owners or apply for a special use permit Residential architecture and appearance of the structure may not be changed to commercial but a separate entry for the STR may be permitted Property owner and rental platform(s) must maintain records regarding complaints from guests, local residents, nuisance activity, or sanitary, health, or life-safety conditions	No additional notes	Permits may not be issued for more than two (2) STR directly adjoining each other on a residentially zoned street	Residential character of the residence may not be changed (by color, materials, lighting, or signage) The owner must ensure that renters "do not create unreasonable noise or disturbances, engaged in disorderly conduct, or violate any applicable rule"
<b>ADMINISTRATION</b>								
<b>Taxes</b>	Required to pay hotel occupancy taxes	Required to pay excise tax of 7.5%	Sales tax license is required	Required to pay lodgers' tax of 10.75%, occupational privilege tax, sales tax (if applicable), business personal property tax, and any others associated with the STR operation Licensee must possess a valid lodgers' tax account	All STR operators must obtain a business license and pay appropriate taxes	Required to pay hotel occupancy taxes	Required to pay all applicable local, state, and federal taxes including lodgers' tax, gross receipts tax, and income taxes	Required to pay lodgers' taxes at a rate of 5% of gross taxable rent Tax information must be submitted during registration

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<b>Tax Reporting &amp; Payment</b>	<p>Hotel occupancy taxes must be paid to controller's office</p>	<p>Tax and licensing division sends tax returns on quarterly basis that are due on the twentieth (20th) of the following month</p>	<p>Not specified in the ordinance</p>	<p>Lodgers' tax returns may be filed on an annual, quarterly, or monthly basis; filing frequencies are based on monthly tax liability</p> <p>Business personal property tax is paid annually</p> <p>Other taxes (including sales) should be paid in accordance with the sales tax license to the treasurer's office</p> <p>Airbnb collects city lodgers' tax on sales but hosts do not need to collect on that or any other platform</p>	<p>Property owner and rental platform(s) must maintain record required by city</p>	<p>Failure to pay within 90 days of delinquency notice will result in revocation of permit</p> <p>Hotel occupancy taxes are released to fund earmarked for tourism efforts</p>	<p>Owner must make all records related to STR operation available to the city</p> <p>Owner/operator must report to the Land Use Department on a monthly basis via a form provided by the city</p>	<p>Must make a report by the 25th day of each month via forms provided by the cashier's office</p> <p>Must provide information to enable town to audit the report, varied by oath</p>
<b>Staffing</b>	<p>Not specified in ordinance</p>	<p>Two (2) positions are dedicated to STR administration within the Planning &amp; Development Department:</p> <p>Permit Manager and Code Enforcement Coordinator</p> <p>There is one full time staff dedicated to enforcement but additional staff enforce STR regulations</p>	<p>Two (2) new positions were created within the Planning &amp; Development Department:</p> <p>Permit &amp; Program Coordinator and Code Enforcement Coordinator</p> <p>New staff began in January 2019 and are still in training</p>	<p>Department of Excise and Licenses houses one (1) full time employee to oversee STR permitting and enforcement</p> <p>The city has a contract with Host Compliance, a private company that identifies unlicensed STRs, issues citations and notifications, and tracks enforcement procedures</p>	<p>Department of Planning &amp; Development's Division absorbed the workload required to accept and process applications, prepare and maintain list of all STRs, and report violations to the enforcement division</p> <p>The city recently entered into a contract with a private company (unnamed) that identifies unlicensed STRs</p>	<p>Development Services Department processes applications and conducts initial inspections</p> <p>The Board of Adjustment (a staff of three (3) planners located within Development Services) has recently absorbed the duties for application processing</p> <p>Code Enforcement investigates complaints and violations</p> <p>The city recently signed a contract with Host Compliance to identify non-compliant STRs and assist with application processing</p> <p>There is no staff dedicated solely to administration or enforcement related to STR</p>	<p>Land Use Department staff implements, manages, and enforces the ordinance</p> <p>There is a Santa Fe Short-Term Rental Office</p> <p>Required inspections are conducted by zoning inspector and fire inspector</p>	<p>Not specified in ordinance</p>

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<b>Steering or Advisory Committees</b>	Not specified in ordinance	Not specified in ordinance	<p>A steering committee meets quarterly and will continue to meet</p> <p>Committee consists of city officials and employees, professional STR hosts, and non-professional STR hosts</p>	<p>The Short-Term Rental Advisory Committee (STRAC) meets quarterly to provide guidance and recommendations to Excise and Licenses on administration, enforcement, and other policies pertaining to STR licensing</p> <p>Members of the STRAC consist of short-term rental hosts, non-hosts, neighborhood representatives, industry stakeholders, and city elected officials</p> <p>There are representatives from Airbnb and the Hotel Lobby on the committee but neither attend regular meetings</p>	<p>Interviewee expects that the ordinance will go through another review or update in the next 3 years or so with assistance from an Advisory Committee</p>	<p>A task force was assembled to develop the ordinance but was discontinued</p> <p>The task force was comprised of short-term rental hosts, neighborhood representatives, industry stakeholders, and city elected officials</p> <p>The task force or an advisory committee will reconvene within six (6) or seven (7) months to assess the ordinance and operations thus far</p> <p>The city regularly reviews development ordinances and codes every five (5) years and are scheduled for review in 2020</p>	Not specified in ordinance	Not specified in ordinance
<b>Fees Generated from Application</b>	Not specified in ordinance	<p>Fees are released to the Planning Department</p> <p>Business license fees are released to the Finance Department.</p>	<p>Fees are released to the General Fund but are allocated to a specific account for STR operation</p> <p>Fees are intended to sustain two (2) staff positions</p>	<p>Fees are released to the General Fund</p>	<p>Fees are released to the General Fund</p>	<p>Fees generated are released to a Development Services enterprise fund</p>	<p>Revenue from fees are used only to administer, manage, and enforce ordinance</p>	Not specified in ordinance
<b>Application Process Challenges</b>	No notes	<p>Proof of residency has been a challenging requirement for the city; many applicants actually live out of state and try to get around this requirement</p> <p>A notable number of incomplete applications come in on a regular basis; the city has amended forms several times for clarity</p>	<p>Application process opened on January 1, 2019</p>	<p>A recent audit showed that the majority of lodger's tax and identification numbers were invalid (possibly due to confusion)</p> <p>Issues include: multiple people sharing the same numbers, multiple licenses issued to the same applicant, and violations of the primary residence requirement</p>	<p>The city believes that a very small number of operating STRs have applied for a permit (around 10%)</p> <p>Applicants frequently utilize the wrong forms or are confused about the process</p>	<p>The city is currently using paper applications for permits but plans to switch to electronic registration with the assistance of Host Compliance</p>	<p>No notes</p>	No notes



	Austin	Boulder	Colorado Springs	Denver	Kansas City	San Antonio	Santa Fe	Taos
<b>Enforcement</b>	Code official may deny application for renewal or suspend license for repeat offenders  Unlicensed short-term rentals may not advertise; violators could be subject to fines up to \$2000/day	Civil penalty for violations  Revocation of rental license is a penalty  Violations reported to the city	The City Manager, Planning Commission or City Council shall have the authority to initiate nuisance abatement  The Manager is authorized to initiate permit suspension or revocation against a property owner by issuing a notice to show cause  The Planning Commission shall hold a public hearing on all allegations contained in a notice; notice to show cause will be served on the owner no less than ten (10) days prior to the scheduled hearing  Violations are considered a criminal offense if not amended in accordance with the ordinance	Director of Excise & Licenses has authority to issue penalties, fines, suspensions, or show-cause hearings  Whether or not a violation is considered civil or criminal is at the discretion of the Compliance Program Administrator  On January 8, there was a hearing to establish additional rules and disciplinary actions related to STR licenses. City will track and monitor complaints  Fines up to \$999/incident  License revocation can occur at anytime if STR is in violation	Permits may be denied, suspended, or revoked in the determination of the City Planning and Development Director or if owner or property does not comply with city ordinances and codes  The city has received over 1,000 zoning complaints related to STRs in the last year	Failure to renew within the annual deadline is considered a violation	Land Use Director shall give the owner a written notice of violation and corrective action must be taken within 15 days  Permits may be revoked if STR is not in compliance  Those operating without permit are subject to penalties, property liens, and/or prosecution  The fine for operating without a permit is \$500 and \$250 for each day of expiation thereafter	Code Administrator has the authority to impose additional conditions, modifications, suspension, and/or revocation of permit and affiliated licenses
<b>Appeal Process</b>	Yes	Not specified in ordinance	Yes	Not specified in ordinance	Not specified in ordinance	Not specified in ordinance	Not specified in ordinance	No
<b>Other</b>	The city plans to discontinue Type 2 rentals (by April 2022)	No more than one (1) STR license per person will be issued  A main dwelling and accessory unit may not be listed separately  Owner may not hold a short term and long term rental license concurrently but may switch back and forth	No meals may be served by owner or agent	Staff estimated that over 60% of this time was spent responding to violations of the primary residency requirement  Host not required to be present but must leave a welcome packet  Many regulations are not listed in the ordinance because the city did not envision such problems or concerns	No meals or food may be provided  The city spent three (3) years in public hearings related to the STR ordinance; the greatest concerns and fears residents had did not come to fruition  The city spent a year conducting outreach regarding registration through newspaper and television media outlets  A battery powered portable flashlight, lantern or alternative emergency lighting device is required	The city spent over two (2) years developing the ordinance  The city recommends soliciting feedback from current STR hosts via popular host platforms like Airbnb and VRBO; the platforms also provided feedback and information	Real estate agents are required by law to provide prospective buyers a current copy of the STR ordinance  STR must meet water conservation requirements including low flow toilets and shower heads, no leaks, and pool/spa covers	No additional notes



# HELLO, NEIGHBOR!

*Dear Neighbor,*

I wanted to let you know that I've been approved by the City of Colorado Springs to utilize my home at \_\_\_\_\_ as a short term rental. I am looking forward to the opportunity of sharing our wonderful City with guests, but also want to make sure that my neighbors are well informed. Below is the contact information for \_\_\_\_\_ they are available 24 hours a day 7 days a week when our home is rented in the case of a non-life threatening emergency. Additionally, the Good Neighbor Guidelines given to you with this letter will be posted in the home in a prominent location informing renters of some of the rules and regulations in our City.

If you have questions please contact me at \_\_\_\_\_

*Sincerely,*

**PRIMARY LOCAL EMERGENCY CONTACT:**

Name:

Phone:

**SECONDARY EMERGENCY CONTACT:**

Name:

Phone:

**SHORT TERM PERMIT RENTAL NUMBER:** \_\_\_\_\_

Code Enforcement: (719) 444-7891



Welcome to the Neighborhood!

# GOOD NEIGHBOR GUIDELINES



COMMERCIAL & LARGE SCALE EVENTS, SUCH AS WEDDINGS, CAN'T BE HOSTED IN THIS SHORT TERM RENTAL.

please keep YOUR MUSIC



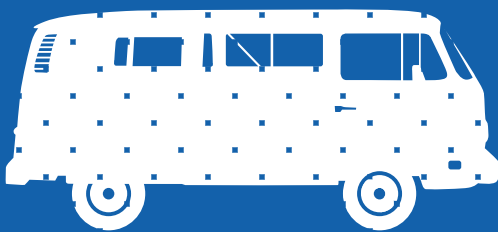
AND NOISE in your yard

## EMERGENCY CONTACT FOR THIS RENTAL

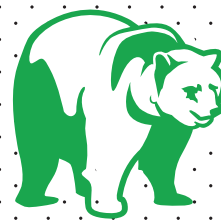
*For non-life threatening emergencies:*

*City Permit Number:*

*Valid Through:*



PLEASE PARK IN THE DRIVEWAY OR ON THE STREET, NOT IN THE YARD.



DON'T FEED THE WILDLIFE IT'S AGAINST THE LAW

## CHECK OUT IF OUR CITY IS IN A BURN BAN

Visit [coloradosprings.gov](http://coloradosprings.gov) and type "outdoor burn ban" in the search bar



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# Vacation Rental Market Intelligence

Albuquerque, December 2018  
Visit Albuquerque

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Monthly Trends	4
Year on Year Trends	5

# Methodology

## Data Gathering

On a daily basis, calendars are crawled for every single property as listed on Airbnb. These calendars show availability and pricing information for the coming 365 days for a particular property. Additionally a historical record is kept of available listings. These data sources combined offer many insights into historical trends of the Vacation Rental market.

## Calendar Differentials

Central to our methodology is the process of calendar differentials.

By looking at changes between each calendar and the next, we can derive information about individual bookings. For example, let's say when we look at the calendar of May 12th for a particular property, the rest of the month still shows complete availability, but the calendar on May 13th shows that the 23rd and 24th are marked unavailable. In this case we take it that a 2 night booking was made for those dates on the 13th, for the price as shown for those dates at the time of the change.

## Booked vs Blocked Dates

When days are marked as unavailable, this does not mean necessarily that the property was booked on those days. A host can also block off certain dates when he or she prefers not to rent out their property within that time. These days show up in the calendars as unavailable just like booked dates do, but in the former case the host makes money, in the latter he or she does not. Also, a booked date means a property was on the market, a blocked date means it was not. In order to report correctly on occupancy rates and revenues, it's important to distinguish between the two.

To do this, we use a process called outlier detection. Since blocked periods are more rare than bookings, we will rate unavailable days based on a number of features, and mark days as blocked if they are significantly different from the majority.

## Booking Window

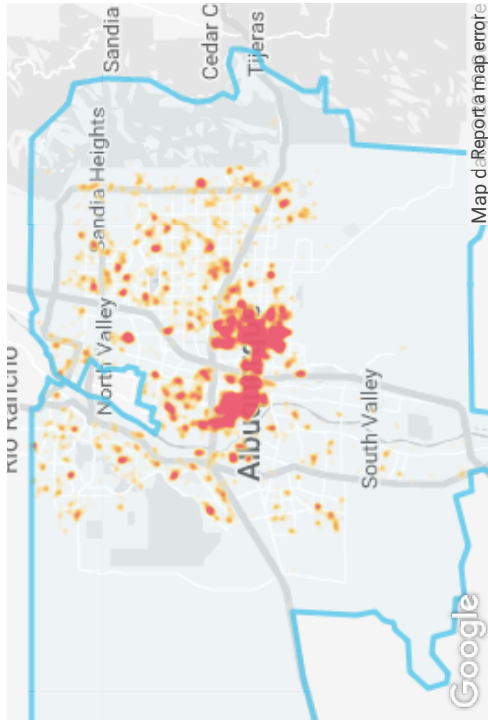
Hosts are also able to specify that they, for example, want at least 3 days notice before a reservation. In this case, the first 3 days of any calendar are set to unavailable to indicate that those days can not be booked. Steps are taken to ensure that these days also are not wrongly interpreted as booked days.

## Statistical Analysis

### Sample Choice

All listings in our database are marked with a geographic location and specific attributes. In general we will take all properties falling within a certain geographic boundary as specified by the client's requirements. Those properties can then be broken down further by attributes such as property type, whether or not this property allows instant booking, etc.

We also see that a significant amount of properties either never receive any guests, or stop receiving guests after some time. We consider these dormant properties to not be part of an active market, and so exclude them from our sample. Specifically, properties that either have never been booked or haven't been booked in over 365 days are taken out of the sample.



**Albuquerque**  
 December 01 2018 - December 31 2018

	Supply		Gross Revenue	
	Totals	Percentage	Totals	Percentage
<b>Total</b>	1,225	100.0 %	\$ 1,662,488	100.0 %
<b>Entire Home</b>	855	69.8 %	\$ 1,477,285	88.9 %
<b>Private Room</b>	364	29.7 %	\$ 184,161	11.1 %
<b>Shared Room</b>	8	0.7 %	\$ 1,041	0.1 %
<b>Instant Book</b>	675	55.1 %	\$ 998,726	60.1 %

**Entire Market**

	Occupancy %	Blocked %	ADR	RevPAR	Supply	Demand	Gross Revenue
<b>Total</b>	48.5 %	3.3 %	\$ 94.28	\$ 45.73	1,225	15.0	\$ 1,662,488
<b>Entire Home</b>	54.4 %	3.6 %	\$ 107.23	\$ 58.33	855	16.9	\$ 1,477,285
<b>Private Room</b>	35.5 %	2.6 %	\$ 47.83	\$ 16.96	364	11.0	\$ 184,161
<b>Shared Room</b>	15.5 %	0.0 %	\$ 29.01	\$ 4.51	8	4.8	\$ 1,041

**Instant Book Market**

	Occupancy %	Blocked %	ADR	RevPAR	Supply	Demand	Gross Revenue
<b>Total</b>	49.9 %	2.0 %	\$ 98.45	\$ 49.15	675	15.5	\$ 998,726
<b>Entire Home</b>	55.4 %	2.3 %	\$ 112.60	\$ 62.32	481	17.2	\$ 899,627
<b>Private Room</b>	37.4 %	1.4 %	\$ 45.20	\$ 16.92	192	11.6	\$ 98,598
<b>Shared Room</b>	14.3 %	0.0 %	\$ 34.00	\$ 4.86	4	4.4	\$ 500

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## APPENDIX F: BIBLIOGRAPHY

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