

ARTICLE XII. SHORT TERM RENTALS

Sec. 16-506. Short title.

Section 16-506 and its subsection shall be referred to as the "Short Term Rental Ordinance" and may sometimes be referred to as "this article." Due to the recent influx and popularity of short-term rental properties in the City of Las Cruces (also called the "City" herein), it is necessary to regulate these businesses and promulgate rules for the safety and security of property owners, short-term renters, and the communities in which the rentals are located. This ordinance is adopted to implement procedures, processes, and standards for the regulation and operation of short-term rental properties in the City of Las Cruces' jurisdiction.

Sec. 16-507. Definitions.

(a) For the purposes of this article, the following words shall have the following meanings:

Adequate Insurance means property and liability insurance to cover damage or loss to the short-term rental unit and contents within the dwelling with a minimum of \$500,000.00 liability insurance. Adequate insurance shall be in the form of a traditional homeowner's policy with a specific rider for the short-term rental property, a dwelling policy with proper endorsements for short-term rental, or a landlord's policy. A policy provided by a short-term rental property marketing company may be acceptable if adequate insurance limits are met.

Business registration means the authority granted by the City of Las Cruces to a person, authorizing the person to engage in a business activity or engage in business in a listed licensed activity.

Offense means a violation of this article by a short-term rental operator engaging in a short-term rental in the City and includes:

- (1) Failure to pay all business registration license fees or late fees;
- (2) Failure to file City forms or provide information required by City staff for licensing;
- (3) Failure to perform the terms, conditions, or requirements set forth on the license;
- (4) Actions or inactions that violate the requirements of this article; or
- (5) Actions or inactions that violate the requirements of other City ordinances that may, pursuant to the express terms of this article, form an offense under this article.

Person means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity.

Short-term rental operator means any person who is or acts as or on behalf of an owner, property manager, or party otherwise responsible for a short-term rental unit. To the extent that any short-term rental property is owned or managed by multiple persons, each such person shall be a short-term rental operator equally subject to the requirements of this article.

Short-term rental unit means any real property that is rented to a member of the public by a short-term rental operator where the rental unit is either advertised or regularly rented on a short-term basis, with a short-term basis meaning an agreement for a rental period lasting for no longer than three continuous months. However, a short-

term rental property does not include an owner- or management-occupied property where meals are regularly prepared and provided for guests, also known as a bed-and-breakfast, and does not include hotels and motels.

Sec. 16-508. General Provisions.

- (a) All persons owning real property within the City of Las Cruces with the intent of using that property for a short-term rental unit must obtain a certificate of business registration from the City of Las Cruces Community Development Department pursuant to Chapter 16 of this Code prior to establishing that service. To the extent that the owner(s) of the property intend to register a short-term rental unit managed by other persons qualifying as short-term rental operators, the registering owner(s) shall provide business and contact information for such additional persons. A change in ownership or management shall require an updated registration before the short-term rental unit may be made available for rent.
- (b) The Community Development Department shall periodically monitor all relevant short-term rental related websites or advertising media for the purpose of identifying any short-term rental property not registered by the City of Las Cruces and take appropriate action to bring any of such properties into compliance or to stop the unauthorized activity.
- (c) Any person operating such short-term rental property prior to the effective date of this ordinance must submit an application for the required business registration permit within 30 days of the effective date of this ordinance.
- (d) The business registration obtained from the Community Development Department must be posted inside the unit in a clearly visible area accessible to anyone renting or occupying the unit.
- (e) The short-term rental operator must maintain adequate insurance for the short-term rental. Proof of insurance shall be required at the time of registration of the property with the Community Development Department, when there is a material change in the scope or amount of coverage, and at any other time upon request by the City of Las Cruces.
- (f) For any short-term rental unit, the short-term rental operator must provide off-street parking onsite via garages, parking shelters, or driveway space. If off-street parking is not possible, the short-term rental operator shall advise the renters of appropriate parking locations that do not affect traffic, roadways, or the peaceful enjoyment of the area by adjacent residents. The short-term rental operator has the right to restrict the number of vehicles allowed at the rental premises. On-street parking must conform to other parking regulations and provide priority for adjacent residents when there is a conflict.
- (g) All applicable building, fire, and other municipal and state codes for the construction and maintenance of residential properties including fire, health, and safety codes shall be met. In addition, and without limitation, smoke detector installations and appropriate entrance/egress identification (via a map on the wall or the back of the door at each egress) must be installed. Smoke detectors must be maintained and batteries replaced at least once per year. One currently serviced fire extinguisher must be placed within 10 feet of any kitchen or indoor cooking area. The City of Las Cruces Fire Chief or designee shall have access to inspect compliance with fire codes upon a 24-hours' notice. To the extent that a violation of any of these requirements is in the context of a short-term rental, it shall be considered an offense under this article additional and alternative to other available enforcement mechanisms.
- (i) The maximum overnight occupancy of a short-term rental unit is limited to two people per bed plus an additional two people per unit. For the purpose of calculating occupancy, children under the age of two are excluded.
- (j) Noise or other disturbance in or outside the short-term rental is prohibited according to Chapter 19 of this Code. To the extent that a violation of Chapter 19 is in the context of a short-term rental, it shall be considered an offense under this article additional and alternative to other available enforcement mechanisms.

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- (m) Short-term rental properties shall not be used for gatherings of more than 15 additional persons above the allowed number of renters or more than twice the limit of the number of renters allowed, whichever is greater.
 - (n) The short-term rental operator is expected to pay all applicable local, state, and federal taxes, including but not limited to lodger's tax, gross receipts tax, and income tax. Upon obtaining a business registration from the Community Development Department, the owner must provide the New Mexico State Tax ID number associated with the short-term rental business.

Sec. 16-509. Enforcement.

- (a) The City Manager shall designate officials responsible for enforcing this article, including the authority to investigate, cite, and prosecute all alleged offenses.
- (b) The City may cite a short-term rental operator for an offense under this article and seek enforcement in the municipal court or another court of competent jurisdiction.
 - (i) For a first offense, a short-term rental operator shall be subject to a civil fine of \$50 to \$300. For a second or subsequent offense, a short-term rental operator shall be subject to a civil fine of \$300 to \$500.
 - (ii) In addition to fines, the City may request a finding that a short-term rental operator's offense reflects continuing noncompliance with the terms of this article. In the event of such a finding, the court shall set terms for the remedy of the noncompliance and a deadline for the remedy. The court shall select a deadline for the remedy that reflects both the severity of the noncompliance and the burden on the short-term rental operator of completing the remedy. The court shall set a hearing for the date by which the short-term rental operator shall provide proof of completion of the remedy. If the short-term rental operator fails to provide proof of remedy within the time set by the court, the court shall have discretion to order revocation of the business registration for the short-term rental unit(s) in noncompliance or to set further proceedings as appropriate.
 - (iii) Findings and conclusions under this subsection are civil in nature and may be established by a preponderance of the evidence.
 - (iv) The New Mexico Rules of Evidence shall apply in proceedings brought pursuant to this subsection.
- (c) In addition to prosecution under this section, staff designated by the City Manager may use their administrative authority to revoke the business registration for all short-rental properties managed or owned by a short-term rental operator for one of the grounds provided by this subsection. A finding shall be in the form of a written determination including a review of evidence for the finding.
 - (i) For a first or subsequent offense, a finding that a short-term rental operator is responsible for creating or perpetuating a significant risk of substantial harm to health or safety at or near a short-term rental unit.
 - (ii) For a third or subsequent offense, a finding that the short-term rental operator has engaged in a pattern of conduct demonstrating negligence or indifference in relation to the requirements of this article or the health or safety of short-term renters or adjacent property owners.
 - (iii) For a fifth offense within a three-year period, revocation shall be mandatory.
- (d) A person adversely affected by a final order of the municipal court may appeal the order to the district court within 15 days pursuant to NMSA 1978, § 35-15-1. A decision by staff for the revocation of a business license may be appealed to the district court within 15 days pursuant to Rule 1-074 NMRA.
- (e) All fines collected pursuant to this section shall be reserved to fund the enforcement of this article.

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- (f) This ordinance does not affect any other law enforcement or codes enforcement officer's ability and duty to enforce any state laws or other City ordinances that are alleged to have occurred in connection with, inside, or on the premises of a short-term rental property.

Sec. 16-510. Operative Date and Enforcement Date.

All of the requirements set forth in this article shall become effective January 1, 2026, except that enforcement of these requirements under Sec. 16-509 shall commence on July 1, 2026.

Sec. 16-511. Fees.

The fee to obtain a registration for any short-term rental unit from the Community Development Department shall be an annual fee of \$35.00. Short-term rental operators will also need to register each short-term rental unit with Visit Las Cruces, and are required to pay a one-time \$50.00 registration fee and a subsequent annual renewal fee of \$35.00.

Sec. 16-512. Community Notification.

- (a) Within 10 days of the short-term rental business registration submission, the short-term rental operator shall, for informational purposes only, mail or hand-deliver to all other property owners within 500 feet of the property notice of the issuance of a short-term rental property registration. The Community Development Department shall provide the short-term rental operator(s) a list of all property owners within 500 feet of the property to facilitate this notice. The short-term rental operator submitting a request for registration shall provide the Community Development Department contact information for the short-term rental operator and any other qualifying operator, and any contractor, employee, or agent of the said operator(s) for contacting such persons during business hours and upon emergency at other times to respond to any complaints regarding the operation or occupancy of the short-term rental. No registration shall be issued if the application for registration fails to provide a qualifying person or company responsible for responding to complaint, including by providing names of individuals and all available contact information including physical addresses, email addresses, and phone numbers. If there is a change in the contact information, the property owner will send an updated notice per this section within 30 days.
- (b) Within 10 days of the mailing, the short-term rental operator shall provide the Community Development Department with a copy of the notice and a statement that includes a list of addresses for the neighboring property owners to whom the notice was mailed or hand delivered. The short-term rental operator shall notify the Community Development Department and neighboring property owners of any changes in the status or contact information for the short-term rental within 30 days.
- (c) Failure of the property owner to comply with these provisions shall result in non-issuance of the short-term rental business registration until such requirements are met.

Sec. 16-511. Interpretation and Severability.

- (a) The terms of this article shall be interpreted to be supplemental to other laws or regulations governing the business of a short-term rental or providing for the general peace, safety, and health of communities.
- (b) The provisions of this article do not abrogate the right of a short-term rental operator to impose otherwise lawful conditions on the enjoyment of a short-term unit, on gatherings at a short-term rental unit, or that limit disturbance to the neighborhood and the community.
- (c) The provisions of this article do not abrogate the terms and conditions of any covenants or restrictions on the use of private property.
- (d) If any part or provision of this article is for any reason held to be invalid, void, or unenforceable by a decision of a court of competent jurisdiction, such part or provision shall be given an interpretation that preserves

its original intent with maximum permissible force, and in all cases the decision of the court shall not affect the remainder of the article.