

**TOWN OF RED RIVER  
ORDINANCE 2022-01**

**AN ORDINANCE RELATING TO SHORT-TERM RENTAL OF ACCOMMODATIONS IN RESIDENTIAL PROPERTIES; DEFINING TERMS; ESTABLISHING TERMS AND CONDITIONS FOR SUCH RENTAL ACCOMMODATIONS; ESTABLISHING PERMIT REQUIREMENTS; STATING MINIMUM BUILDING CODE AND FIRE SAFETY STANDARDS FOR THE SHORT-TERM RENTAL PREMISES; ESTABLISHING A PENALTY FOR VIOLATION.**

**WHEREAS**, the Town of Red River (the “Town”) is a tourist destination to which a large number of individuals and families are drawn as visitors for skiing, hiking, off-road vehicle travel, and other recreational activities; and

**WHEREAS**, the Town Council, the governing body of the Town (the “Governing Body”), has been made aware that a significant number of persons owning residential premises in the Town make those premises available, either in whole or in part, for rental periods of less than thirty (30) days to visitors; and

**WHEREAS** Short-term residential rentals provide a community benefit by expanding the number and type of lodging facilities available to seasonal visitors; and

**WHEREAS**, for the health and safety of visitors and the convenience of the general public, including permanent residents of the Town and other visitors to the Town, the Governing Body finds that appropriate regulations should be implemented to ensure that short-term rental units in the Town are kept in good condition and are safe for use by the persons occupying them; and

**WHEREAS**, under its general planning and zoning authority the Governing Body has authority to implement the provisions of this Ordinance for the health, safety and convenience of visitors to the Town and the permanent residents thereof.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF RED RIVER, NEW MEXICO:**

**SECTION 1. AUTHORITY AND SCOPE**

- A. Authority. This Ordinance, which may be referred to as the Town’s “Short-Term Residential Rental Ordinance,” is adopted under the general planning, zoning, and business regulation authority of the Town pursuant to the laws of the State of New Mexico.
  
- B. Scope. This Ordinance is applicable to short-term residential rental properties as defined in the following Section. This Ordinance does not apply to commercial businesses not providing overnight accommodations, nor to hotels, motels, lodges, condominiums, and

bed and breakfast establishments regulated under other provisions of the ordinances of the Town.

## **SECTION 2. DEFINITIONS**

As used in this Ordinance and in any resolutions adopted in connection herewith, including but not limited to resolutions adopting utility rates, charges and fees, the following terms shall have the meanings indicated, unless a different meaning is clearly required by the context:

1. Local contact person means an owner, representative of the owner or local property manager who lives in the Town of Red River or within proximity of the town limits such that he/she is available to respond within three (3) hours or less to tenant and neighborhood questions or concerns and is authorized to respond to any violation of this section and take remedial action.
2. Managing agency or agent means a person, firm or agency licensed with the New Mexico Real Estate Commission representing the owner of the residential rental, or a person, firm or agency owning the residential unit.
3. Operator means the person who is the proprietor of the residential rental, whether in the capacity of owner, lessee, sub-lessee, or mortgagee in possession of.
4. Remuneration means compensation, money, rent, or other consideration given in return for occupancy, possession, or use of real property.
5. Rent means the consideration charged, whether or not received, for the occupancy of space in a residential rental, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature, without any deductions therefrom whatsoever.
6. Short-term residential rental means one or more dwelling units, including either a single-family detached or multiple family attached unit, rented for the purpose of overnight lodging for a period of not less than one night nor more than 30 consecutive days to the same person or persons.
7. Sleeping unit as defined by the International Building Code, 2015, and as amended, means a room or space in which the people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
8. Third party internet listing service means an internet based (or online) marketplace that connects owners of short-term residential rentals to potential renter by way of a website and in exchange for a service fee. Third-party listing agent shall not mean local contact person or managing agency or agent as defined in this chapter.
9. Short-term residential rental permit required. No owner of a residential dwelling unit shall rent the unit for a short term without having a current valid short-term residential rental permit issued by the Town of Red River. short-term residential rental permits are issued to the owner for a period of one year and are non-refundable.

### SECTION 3.           LIMITATION TO RESIDENTIAL USE

- A. A Short-Term Residential Rental Unit in an R1A and R3 zone of the Town may be rented or leased for a period of less than thirty (30) days only as provided in this Ordinance.
- B. A Short-Term Residential Rental Unit consisting of or located within a residential dwelling unit may not be rented or leased for any purpose other than residential use or lodging in any residential zone, unless within the scope of a home business or occupation permitted by the Town.

### SECTION 4.           GENERAL REQUIREMENTS

Except as otherwise specifically provided in this Section 4, all Short-Term Residential Rental Units shall comply with each of the following provisions:

- A. The number of occupants and guests of a Short-Term Residential rental Unit shall not exceed two (2) persons over the age of twelve (12) years for each bedroom in the unit, unless a greater number of occupants or guests is specifically authorized in a short-term residential rental permit issued by the Town, based on the size or configuration of the premises.
- B. All structures containing rooms offered for occupancy as Short-Term Residential Rental Units shall be fully compliant with all building and fire safety codes. At the time of construction
- C. Noise Nuisance ordinance 2019-05 or other disturbance outside or emanating from the Short-Term Residential Rental Unit is prohibited between the hours of 11:00 p.m. and 7:00 a.m. This prohibition applies to all outdoor areas, including but not limited to decks, portals, patios, porches, or balconies, and to indoor areas from which noise may pass through open windows or doors.
- D. The owner of the property or a local manager designated and authorized by the owner shall be available at all times to respond to the property where any Short-Term Residential Rental Unit is located within no more than twelve (12) hours in the event of an emergency or if it is found necessary to address a violation of any provision of the Town's ordinances or to take any other action on or regarding the property that is necessary to protect the public health, safety and welfare.
- E. Each Short-Term Residential Rental Unit shall have a clearly visible and legible notice posted by the owner or local manager within the unit, on or adjacent to the interior of the front door or main entrance, containing the following information:
  - 1. A copy of the short-term residential rental permit.

2. The name of the owner or local manager, with a telephone number at which the owner or local manager can be reached at all times, 24 hours a day and 365 days a year.
3. **The maximum number of persons over the age of twelve (12) years permitted to stay in the Short-Term Residential Rental Unit. *Fire code.***
4. The 911 address of the property.
5. A floor diagram accurately reflecting the actual room arrangements, clearly showing exit locations and routes, which must be unobstructed at all times.
6. Specific procedures regarding the proper disposal of trash and refuse.
7. Notice that all noise restrictions and regulations of the Town will be enforced, including specific notice that any noise or disturbance outside or emanating from the Short-Term Residential Rental Unit is strictly prohibited between 11:00 p.m. and 7:00 a.m.
8. **Notice that an occupant may be cited and fined or imprisoned for any violation Occupant of short-term rentals are subject to noise and nuisance ordinances and may be cited or fined of the Code of Ordinances of the Town of Red River, including but not limited to ordinances relating to the disposal of refuse and to prevention of noise and other nuisances.**

## **SECTION 5. SHORT-TERM RESIDENTIAL RENTAL PERMITS**

- A. No person shall rent or lease a Short-Term Residential Rental Unit within the Town without having a current valid short-term residential rental permit issued by the Town. Short-term residential rental permits are issued for an individual property only to the owner or owners thereof **or the property manager** and are not transferable.
- B. A property owner seeking a short-term residential rental permit shall apply to the Town of Red River. The application shall include, as a minimum, the following information and documentation:
  1. The legal description and address of the property for which the short-term residential rental permit is sought.
  2. The name, address, e-mail address and telephone number of the owner and of the local manager if different from the owner.
  3. Identification of the room or rooms available for short term rental, the maximum number of short-term rental occupants over the **age of twelve (12) years** that can be accommodated, and the number of motor vehicles that can be accommodated for parking on the property. *Fire code.*

4. Documentation of inspections by the Town's Fire Department and the Town's Planning and Zoning Administrator within two (2) years prior to submittal of the application, or a request that such inspections be performed, in which case the application will not be approved until such inspections have been satisfactorily completed.
5. Certification that the owner has read and understands this Ordinance, and that the owner will at all times comply with the requirements of this Ordinance and all other applicable requirements of the ordinances of the Town of Red River and the laws of the State of New Mexico.
6. An application fee in the amount of one hundred dollars (\$100.00). An application is not complete until the application fee and fees for required inspections, if any, have been paid.
7. Compliance inspections are required on all Short-term permits. The inspections are valid for Biennial (every 2 years), and the fee is \$50.00.

After a permit is issued the Compliance Inspections will be conducted by Town of Red River staff no later than 30 days.

If the property is not in conformance with the compliance requirements at the time of the inspection, a correction notice will be issued, and a reinspection fee may be assessed of \$40.00 if the inspector is required to return.

The Compliance Inspection shall meet the following requirements:

- a. An ABC type fire extinguisher(s) to be mounted at points of egress, with at least one provided per floor and minimum one per dwelling unit with at least two per dwelling unit if greater than 1,000 square feet, at a height not to exceed forty-eight inches. Extinguishers must be inspected and maintained according to state requirements and must properly display the inspection history of the device.
- b. Approved (and working) smoke alarms , and *carbon monoxide monitors* installed as per manufacturer's instructions in every sleeping room, in compliance with the 2015 International Building Code and 2015 International Residential Code, and on every level of the home, including the basement.
- c. Every sleeping room and living area with access to a primary means of escape shall provide a clear, unobstructed path of travel to the outside.
- d. Authority for compliance inspection. By submitting application, the owner authorizes the Red River Fire Department or code enforcement officer to conduct compliance inspection of the residence when it is alleged or suspected that a violation of this section may exist or have occurred.

- C. If the property owner does not have a business registration applicable to the business of providing lodging on the property, the application for a short-term residential rental permit shall be accompanied by an application for business registration in accordance with Town ordinances.
- a. Business Registration and Taxes – Business Registration and taxes are \$35.00 and required for anyone conducting business within the Town of Red River.
  - b. If an owner rents, lists, or books their property with a Managing Agency, a Business Registration is not required.
  - c. If a property owner rents, lists, or books their property without a Managing Agency, a business registration is required.
- D. Within fifteen (15) calendar days after submittal of a completed application and performance of all required inspections, the Town shall determine whether the requested short-term residential rental permit shall be issued, and shall either issue such permit or, if the Town determines that the permit should not be issued, shall deny issuance with a written statement of the reasons for denial. If the permit is denied, the Town shall state the specific reason or reasons why it was denied, and the applicant shall have thirty (30) days to remedy any deficiencies and request reconsideration of the application. If the deficiencies are not remedied within thirty (30) days after denial, the denial shall stand as the final decision of the Town, subject to appeal to the Governing Body, but without prejudice to the applicant’s right to submit a new application later.
- E. Each short-term residential rental permit issued by the Town shall state the address for which it is issued, the name of the owner, and the maximum number of short-term rental occupants over the age of **twelve (12) years** permitted on the property. The permit shall be valid for a period of one (1) calendar year from the date issued, unless terminated earlier as provided in this Ordinance. *Fire Code Update?*
- ~~F. A short-term residential rental permit may be renewed for a period of one (1) year by the Town upon submittal of a renewal application containing the information set forth in the preceding subparagraph 5.B and the completion of any Fire Department or Planning and Zoning inspections required. In addition, when considering a renewal application, the Town may investigate whether there have been complaints by neighbors or others regarding the operation of the Short-Term Residential Rental Unit, and may deny renewal of the permit if the Town finds that there have been an excessive number of complaints for noise, traffic, improper waste disposal, or other disturbances during the one-year period preceding the renewal application. Permit renewal or the denial of such renewal under this subparagraph shall be within fifteen (15) calendar says after submittal of the completed renewal application and the performance of all required inspections or re-inspections, if any. If renewal of the permit is denied, the Town Administrator shall state the specific reason or reasons why it was denied, and the applicant shall have thirty (30) days to remedy any deficiencies and request reconsideration of the renewal application. If the deficiencies are not remedied with thirty (30) days after denial, the denial shall stand as the final decision of the Town, subject to appeal to the Governing Body.~~

G. Termination of permit. A short-term residential rental permit is not transferable, and shall terminate immediately if the property is transferred to a new owner. ~~In addition, a short term residential rental permit may be terminated by the Town Administrator after hearing before the Town Administrator if the Town Administrator determines that the termination is necessary to protect the legitimate interests of neighbors, other Town residents or visitors, or the Town. If the Town Administrator finds that there have been more than three (3) complaints regarding the use of the property during a period of one (1) year, whether due to excess noise, excessive traffic, improper disposal of solid waste, vehicles blocking the public right of way or access to nearby properties, or any other cause, there shall be a presumption that termination of the short term residential rental permit is appropriate and, at hearing, the owner shall have the burden of demonstrating that the permit should not be terminated. The decision of the Town Administrator is subject to appeal to the Governing Body.~~

## SECTION 6. REQUIRED INSPECTIONS

~~A. No short term residential rental permit shall be issued for any home or other structure unless the structure has passed inspection by the Planning and Zoning Administrator or qualified designee. The Planning and Zoning Administrator will examine the structure for significant structural defects or inadequacies, and for any non-compliance with applicable Town of Red River or State of New Mexico regulations, taking into account the age of the structure and the regulations in effect at the time it was built or most recently modified. The structure need not necessarily be modified to be brought into full compliance with current building code or other regulations, unless in the determination of the Planning and Zoning Administrator such modification is necessary for the safety of residents and occupants. The Planning and Zoning Administrator may call for an inspection by a certified electrical, plumbing or mechanical inspector if in the Planning and Zoning Administrator's opinion such inspection is necessary or appropriate under the circumstances.~~

- A.
1. The Town shall complete review of the initial permit application within ten business days. Renewals notifications of all permits shall occur 30 days prior to renewal. Such permits that are active at the time of this ordinance adoption shall not need to be prorated if extending their expiration to coincide with the new renewal date.
  2. Once the application review is complete, the town shall notify the applicant of the decision of whether to issue the permit based on compliance with this section. If approval is granted the Town will issue a short-term residential rental permit specifying the maximum number of cars and the maximum number of occupants allowed. Failure to renew the permit within 30 days after the applicable first day of *August?* shall subject the owner to payment of a late permit renewal penalty fee **of \$35.00.**
  3. An application for permit or renewal application shall be denied if:
    - a. All applicable fees and taxes have not been paid, including lodgers' taxes **and a letter of compliance from Taxation and Revenue.**

b. Fire code violations on the property.

B. No short-term residential rental permit shall be issued for any home or other structure unless the structure has passed inspection by the Fire Department. The Fire Chief or designee will inspect the structure and premises for compliance with the International Fire Code as adopted by ordinance of the Town, and shall ensure that the following requirements are met

1. An ABC type fire extinguisher mounted at each point of egress at a height not to exceed forty-eight (48) inches. Extinguishers must be inspected and maintained in accordance with requirements of the International Fire Code, and the inspection history must be properly displayed.
2. Approved single station smoke alarms must be present and appropriately located within each sleeping room. *Carbon Monoxide alarms?*
3. Each sleeping room and living area must have access to a primary means of escape which is located so as to provide a clear, unobstructed path of travel to the outside.

**SECTION 7. TAXES AND FEES**

The owner holding a short-term residential rental permit shall pay all applicable local, state, and federal taxes, including but not limited to lodgers’ tax, gross receipts taxes, permit fees, ad valorem property tax, and income taxes. Permit fees are set forth in appendix A.

Short Term Residential Rental Permit			
a.	Application Fee per year	\$100.00	For a <u>1-year</u> permit
b.	Compliance inspection certification for property owners not doing business with property managers	\$50.00	<u>Biennial (every 2 years)</u>
c.	There shall be a reinspection fee for properties that do not pass the compliance if inspector must return	\$40.00	
d.	Business Registration fee	\$35.00	<u>Annually</u>
e.	Transfer Fee: Change in Property Manager or Change in Property Owner	\$10.00	****

\*\*\*\**We say earlier that they are non-transferable. I think it should be transferable until the next cycle to renew*\*\*\*\*

**SECTION 8. INSPECTION OF RECORDS**

The owner or operator of any Short-Term Residential Rental Unit permitted or authorized under this Ordinance, or subject to regulation under this Ordinance, shall make available to the Town for its inspection at any reasonable time, on demand, all records relating to the operation of the short-term residential rental unit to determine compliance with this Ordinance.

**SECTION 9. PENALTY FOR VIOLATION**

- A. Any person violating this ordinance shall, upon conviction, be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or by imprisonment for a period of not more than ninety (90) days, or both. **Each day that a violation of this Ordinance continues constitutes a separate offense punishable as provided in this section.**
- B. Alternatively, or in addition to the foregoing penalties, a person found to be operating a short-term residential rental unit without the short-term residential rental permit required under Section 5 of this Ordinance shall be required to submit an application for such permit, and the application fee shall be double that required under Subsection 5.B.6 of this Ordinance.

**SECTION 10. SEVERABILITY**

If any part or provision of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such part or provision shall be severable and such decision shall not affect the remaining provisions of this Ordinance, which shall remain in full force and effect.

**SECTION 11. EFFECTIVE DATE**

This Ordinance shall become effective five (5) days after passage and publication as provided by law.

**PASSED, APPROVED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

**TOWN OF RED RIVER**

\_\_\_\_\_  
**LINDA CALHOUN  
MAYOR**

**ATTEST:**

\_\_\_\_\_  
**GEORGIANA RAE  
TOWN CLERK**

DRAFT