TOWN OF RED RIVER
ORDINANCE 2023-01

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

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 safely 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 businesses recognized as hotels, motels, or traditional lodging facilities 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:

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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. Property manager 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 rental unit.
3. Operator means the person who is the proprietor of the residential rental, whether in the capacity of owner, lessee, or sub-lessee.
4. 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.
5. Short-term residential rental means one or more noncommercial 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 (1) night nor more than twenty-nine (29) consecutive days to the same person or persons.
6. 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.
7. Third party internet listing service means an internet based (or online) marketplace that connects owners of short-term residential rentals to potential renters 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 as defined in this chapter.

SECTION 3. LIMITATION TO RESIDENTIAL USE

A. A Short-Term Residential Rental Unit located in an area where such usage is allowed by current zoning ordinances of the Town may be rented or leased for a period of less than thirty (30) days only as provide 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. All short-term residential rentals must have a designated property manager as defined in Section 2.2 unless the owner is renting their own property without a third party booking company.
B. The number of occupants and guests of a Short-Term Residential Rental Unit shall be determined by the Owner/Managing Agency with approval by the Fire Inspector based on size and configuration of the premises.
C. 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.

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D. Short-Term Residential Rental Unit occupants must abide by all local ordinances. It is the responsibility of the owner or managing agency to make sure occupants are aware of noise and nuisance ordinances for the Town of Red River.
E. 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 Unit is located within no more that three (3) 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 public health, safety and welfare.
F. Each Short-Term Residential Unit shall have reflective house numbers clearly visible from the outside along with the local property manager name and phone number.
G. Each Short-Term Residential Unit shall have a clearly visible and legible notice provided by the town and posted by the owner or local manager within the unit, and/or adjacent to the interior of the front door or main entrance, containing the following information:

1. The Short-Term Residential Rental permit number
   a. This number is to be listed on all advertising for the unit.
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 cars and the maximum number of occupants permitted to stay in the Short-Term Residential Rental Unit.
4. The 911 address of the property.
5. Specific procedures regarding the proper disposal of trash and refuse.
6. 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 10:00 p.m. and 7:00 a.m.
7. Notice that an occupant may be cited and fined or imprisoned for any violation 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. Occupants of short-term rentals are subject to noise and nuisance ordinances and may be cited or fined.

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 for a period of one year and are non-refundable. The town must be notified of any change in ownership of the property within 30 days of the transfer.
B. A property owner seeking a short-term residential rental permit shall apply to the Town of Red River. The application shall include the following information and documentation:
   1. The 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 current owner and of the current local manager if different from the owner.
   3. Identification of occupancy and parking capacity.
   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.
   5. Certification that the owner has read and understands this Ordinance, and that the owner and/or managing agent will at all times comply with the requirements of this Ordinance and

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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.

   Compliance Inspections will be conducted by Town of Red River staff no later than 60 days after a permit is issued.

   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. ABC type fire extinguisher(s) to be mounted with at least one provided per floor and a minimum of 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 (48) inches. Fire extinguishers may be mounted under a cabinet with a visible label identifying the location. 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 Residential Code, and on every level of the home, including 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 code compliance inspection. By submitting application, the owner authorizes the Red River Fire Department to conduct compliance inspection of the residence when it is alleged or suspected that a violation of this section may exist or have occurred. Such inspections will be made at reasonable times and not be excessively intrusive.

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 conduction business within the Town of Red River.
   b. If an owner rents, lists, or books their property with a Managing Agency that maintains a valid Business Registration, an additional 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) business 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 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

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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. If the town fails to issue a permit within thirty (30) days of receiving a completed application and all inspections, the homeowner may rent until notification of acceptance or denial.

E. Transfer of Permit. The town of Red River will be notified in the event of any change in ownership or management of the short-term rental residential property. In the event of a change in ownership or management, the short-term residential rental permit is transferable until the end of the current cycle with the completion of an updated ownership/management form and the $10.00 transfer fee.

An application for a permit or a renewal application shall be denied if:

1. Owner of property manager does not have a current business license.
2. All applicable fees and taxes have not been paid, including lodgers' tax.
3. There are existing fire code violations on the property.

SECTION 6. 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, and permit fees. Permit fees are set forth in appendix A.

SECTION 7. 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 8. 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 9. 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.

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SECTION 10. EFFECTIVE DATE

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

APPENDIX A -FEES

a.	Application Fee	$100.00	One time
b.	Renewal Fee	$100.00	Annually
c.	Compliance inspection certification	$50.00	Biennial (every 2 years)
d.	Reinspection fee for properties that fail initial inspection	$40.00	
e.	*Business Registration Fee	$35.00	Annually
f.	Transfer Fee: Change in Ownership or Management	$10.00	

*For property owners not doing business with registered property manager

PASSED, APPROVED AND ADOPTED THIS _____DAY OF _____,2023.

TOWN OF RED RIVER

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LINDA CALHOUN
MAYOR

ATTEST:

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GEORGIANA RAEL
TOWN CLERK

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