



VILLAGE OF LOS LUNAS ORDINANCE 453

An Ordinance Establishing Standards, Restrictions and Enforcement Procedures for Short Term Rental Housing by Revising Portions of Ordinance 183 which Imposed a Lodgers' Tax; Ordinance 250 which Repealed and Replaced Chapter 8.12 – Garbage Collection and Disposition; and Ordinance 276 which Established Comprehensive Zoning Regulations and a Zone Map Atlas for the Village of Los Lunas.

WHEREAS, The Village of Los Lunas is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State of New Mexico; and

WHEREAS, The Village of Los Lunas is committed to adapting its regulations to new land uses where feasible; and

WHEREAS, short term rental housing has become a common land use in recent years, with its own unique sets of benefits and challenges to the community; and

WHEREAS, Los Lunas zoning regulations do not currently allow short term rental housing as it is practiced today, nor do they provide for adequate enforcement measures; and

WHEREAS, NMSA §3-38-16 provides exemptions for applying the lodgers' tax, and was amended in 2020 to allow lodgers' tax to be collected from short term rental housing; and

WHEREAS, The Village of Los Lunas desires to establish a permitting procedure to allow short term rental housing within municipal limits in order to establish restrictions and enforcement measures to ensure short term rental properties are not a detriment to the surrounding neighborhood, and also to collect lodgers' tax from said short term rental housing as allowable by NM state statute.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF LOS LUNAS, COUNTY OF VALENCIA, STATE OF NEW MEXICO THAT,

TITLE 3 (REVENUE AND FINANCE), CHAPTER 3.12 (LODGERS TAX) SHALL BE AMENDED AS FOLLOWS:

SECTION 3.12.030 (DEFINITIONS) SHALL BE AMENDED TO UPDATE OR ADD THE DEFINITIONS:

“Temporary Lodging” means lodgings for the purpose of housing a vendee within proximity of the vendee’s employment or job location;

"Taxable premises" means any hotel, motel, short-term rental or other premises used for lodging that is not the vendee’s household or primary residence.

SECTION 3.12.050 (A) (LICENSING) OF THE MUNICIPAL CODE BE AMENDED TO THE FOLLOWING:

A. Vendors, except vendors operating short term rentals in the village as defined in village municipal code 17.08.010, shall not engage in the business of providing lodging in the village without first obtaining a license as provided in this section. All vendors desiring to operate a short term rental shall obtain a short term rental permit and business registration in compliance with Chapter 17.54 of the village municipal code.

SECTION 3.12.060 (EXEMPTIONS) OF THE MUNICIPAL CODE BE AMENDED TO REMOVE THE FOLLOWING PARAGRAPH:

G. If the taxable premises does not have at least three rooms or three other units of accommodations for lodging.

SECTION 3.12.060 (A) (EXEMPTIONS) OF THE MUNICIPAL CODE BE AMENDED AS FOLLOWS:

A. If a vendee:

(1) has been a permanent resident of the taxable premises for a period of at least thirty consecutive days, unless those premises are temporary lodging; 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, unless those premises are temporary lodging;

TITLE 8 (HEALTH AND SAFETY), CHAPTER 8.12 (GARBAGE COLLECTION AND DISPOSITION) SHALL BE AMENDED AS FOLLOWS:

8.12.010 – DEFINITIONS

"Single-family or multifamily dwelling units" shall include houses, duplexes, apartments, short term rentals and boarding houses, but shall not include hotels, motels, motor courts, trailer courts or apartment hotels.

TITLE 17 (ZONING), OF THE MUNICIPAL CODE BE AMENDED AS FOLLOWS:

CHAPTER 17.08 (DEFINITIONS)

§17.08.010 - Definitions.

"Boarding house" means a residence consisting of at least one dwelling unit together with more than two rooms but which do not constitute separate dwelling units, where at least one room is rented by a vendor to a vendee as a permanent residence for a period of at least thirty (30) consecutive days and which is not for temporary lodging or where the vendee enters into or has entered into a written agreement for lodgings at the premises for a period of at least thirty (30) consecutive days, unless those premises are temporary lodging, in which case, the rental shall be considered a short term rental.

"Dwelling unit" means an enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

"Short term rental" means a dwelling unit or a portion of space contained within a dwelling that is rented by a vendor to a vendee for periods of time that do not exceed thirty (30) consecutive days and which is not a vendee's household or primary residence, unless the rental is for temporary lodging, in which case, the rental, no matter the length of time, shall be considered a short term rental.

"Temporary Lodging" means lodgings for the purpose of housing a vendee within proximity of the vendee's employment or job location;

"Vendee" means, in addition to the definition contained in Section 3.12.030, a natural person to whom goods or services are furnished.

"Vendor" means, in addition to the definition contained in Section 3.12.030, a person furnishing goods or services.

§17.40.010 – Table of permissible uses.

		ZONES											
USES	DESCRIPTION	AR	RR	R1	R2	R3	MH	C1	C2	M1	SU	TOD-MU	TOD-R
1.400	MISCELLANEOUS ROOMS FOR RENT SITUATIONS												
1.410	Boarding houses				D								
1.420	Short term rentals	A	A	A	A	A	A				A	A	A

17.60.010 – Requirements generally

Short Term Rental	1 space each bedroom
Boarding House	1 space each bedroom

17.44.240 – Short term rentals

Short term rentals shall be considered an accessory use in any residential zone, and shall be further regulated by the provisions of Chapter 17.54 – Short Term Rentals.

17.54– Short Term Rentals

17.54.010 – General Provisions

Unless otherwise stated, the following general provisions apply to short-term rental units:

- A. No more than one rental is allowed within a period of seven days.
- B. No Dwelling Unit shall be rented for more than 180 cumulative days in one calendar year as a short-term rental.
- C. Short-term rental permits will not be issued for more than two short-term rentals units directly adjoining each other on a residentially zoned street. For the purposes of this subsection, "directly adjoining" means sharing a common boundary along a public street frontage, as well as adjoining units in a duplex, multi-family townhomes, patio homes, or multi-family apartments;
- D. Off-street parking shall be provided per 17.60.010;
- E. Short-term rental units shall be used exclusively for residential purposes and shall not be used for commercial activities or events, defined as intending to make money, offering goods or services for sale, or any other event or activity that is not residential in nature. An activity "not residential in nature" includes gatherings in excess of three times the number of legally allowed occupants in the short-term rental unit (including renters), unless the activity or event is otherwise permitted by the village;
- F. The total number of persons three years of age and older that may occupy the short-term rental unit is twice the number of bedrooms;

Nothing contained within this chapter shall be construed to abridge the ability of bonafide neighborhood covenants and/or deed restrictions to be more restrictive than the regulations within this section. Such covenants and deed restrictions shall not be enforceable by the village but remain the responsibility of property owners to ensure compliance within the applicable neighborhood. Real estate brokers listing residential property in the Village of Los Lunas shall provide prospective buyers a current copy of this ordinance.

17.54.020– Owner/Operator Provisions

The following provisions shall apply to any owner and/or operator of a property used for a short-term rental.

- A. The owner/operator shall obtain a short-term rental permit and business registration for their property prior to listing as a short term rental;
- B. The owner/operator shall pay all applicable local, state and federal taxes, including lodgers' tax, gross receipts tax and income taxes;
- C. Should the owner/operator fail to pay all applicable taxes, the owner/operator shall be subject to penalties pursuant to 17.54.070 – Enforcement;
- D. The owner/operator shall make available to the village for its inspection all records relating to the operation of the short-term rental unit to determine compliance with this chapter;
- E. The owner shall maintain adequate short-term rental insurance coverage for the short-term rental unit. Proof of insurance shall be required at the time the permit is issued and such other times as requested by the Community Development Director.

- F. The owner/operator shall make the following information clearly visible and legible within the short-term rental unit, on or adjacent to the interior of the front door, or within the informational material provided to renters:
1. A copy of the short-term rental permit,
 2. The name of the owner of the unit, or local contact person, managing agency, agent, or property manager as appropriate, and a telephone number at which that party can be reached on a 24 hour, seven day a week basis,
 3. The maximum number of occupants three years of age and older permitted to stay in the unit,
 4. The maximum number of vehicles allowed to be parked on the property,
 5. The number of on-site parking spaces and any parking rules that may apply,
 6. The specific procedures regarding the disposal of trash and refuse,
 7. A notification that it is the renter's responsibility to comply with the laws of the State of New Mexico and the ordinances of the Village of Los Lunas, including but not limited to Titles 8, Health and Safety, and Title 9, Public Peace, Morals and Welfare,
 8. Notice that the noise provisions of the Village code will be enforced,
 9. Notice that animal leash laws apply and will be enforced,
 10. The E911 address for the property.
- G. Except in accordance with the Village Sign Code, the owner/operator is prohibited from posting any exterior signage advertising the availability of the property.
- H. Upon the transfer of ownership of a short-term rental unit, the short-term rental permit shall terminate. If the new owner wishes to use the property as a short-term rental unit, a new application shall be submitted to the Community Development Department.
- I. As a condition of the issuance of a short-term rental permit to and owner/operator, the owner/operator consents to the Village conducting random inspections of the property, including the Dwelling Unit, to ensure compliance with this chapter.

17.54.030– Renter Provisions

- A. Renters shall park recreational vehicles only in designed areas supplied on the short-term rental property;
- B. Noise or other disturbance outside the short-term rental unit shall not be of such a volume or nature that it violates Chapter 9.08, including decks, courtyards, porches, balconies, or patios;
- C. All renters shall be informed in writing by the owner/operator of the short-term rental that they shall comply with Los Lunas Municipal Code, as provided in section 17.54.020(F)(7);

17.54.040– Permits generally

All short-term rentals operating within the village require an annual permit, which must be submitted on or before March 15 each calendar year. Renewals submitted after March 15 shall be subject to a late fee, per 17.54.080. Permits not renewed by June 30 shall expire.

- A. A valid permit number shall be included in all advertising of the short-term rental, including listings on web-based sites.
- B. Permits shall specify the maximum number of vehicles and maximum number of occupants.
- C. Permits shall not be transferable to another person or property.

17.54.050– Permit application procedures

- A. An application for a short-term rental permit shall include the following:
 - 1. A complete application form, to include the name and phone number of the owner/operator who is available twenty-four hours per day, seven days per week to respond to complaints regarding the operation or occupancy of the short-term rental unit.
 - 2. A statement signed by the owner/operator that the short-term rental shall be operated in compliance with this subsection and all other applicable village codes.
 - 3. A Certificate of Occupancy.
 - 4. Payment of all required fees, in accordance with section 17.54.080.
 - 5. For initial applications, proof of all required inspections and proof of adequate short-term rental insurance coverage.
 - 6. For renewal applications, a statement of compliance with all applicable fire, health and safety requirements.
- B. The Community Development Director or designee thereof shall be authorized to approve short term rental permits administratively.
- C. Short term rentals shall require a business registration in addition to a short-term rental permit, which can be submitted and renewed concurrently.
- D. An owner of an expired permit may submit a new application for a short-term rental permit to the Community Development Director in accordance with this section.

17.54.060– Violations

The village shall document all alleged violations of this chapter, and pursue enforcement as set forth in 17.54.070 – Enforcement. Violations of this chapter shall include:

- A. Operating a dwelling unit as a short-term rental without a permit;
- B. Knowingly assisting an owner of property in advertising or renting a dwelling unit as a short-term rental, when said property does not have a permit;
- C. Failure to pay all applicable fees and taxes associated with the short-term rental, including lodgers' tax;
- D. Three or more violations of village ordinances by the owner/operator or renter relating to or occurring at a dwelling unit operating as a short-term rental resulting in the issuance of a citation from the village to the owner/operator or a renter within a period of thirty-six months; or
- E. Two or more violations of village ordinances by the owner/operator or renter relating to or occurring at a dwelling unit operating as a short-term rental resulting in convictions of the owner/operator or renter in Los Lunas Municipal Court within a period of twelve months;
- F. Any conduct by a renter of a dwelling unit operating as a short-term rental that results in citation for noise violations, disorderly conduct, or any criminal complaint during the rental period.
- G. Outstanding nuisance, building code or fire code violations relating to a dwelling unit operating as a short-term rental;
- H. An owner/operator refusing to permit the village to conduct random inspections of a short-term rental in accordance with section 17.54.020(I).

17.54.070– Enforcement

Violations of this chapter shall be subject to enforcement, as described herein:

- A. Except as provided in Section 17.54.070(B)(1) herein, the village shall give the owner/operator of a short-term rental a written notice of the violation, which shall be mailed either to the owner's local, business, or agent's address, informing the owner of the violation.
 - 1. Renters who violate any village ordinance may also subject, as set forth in this chapter, the owner/operator to enforcement action by the village.
- B. The owner/operator shall correct the violation within 15 days or shall receive a citation to Los Lunas Municipal Court.
 - 1. Violations that endanger public health, safety and welfare of village residents or violations of Title 8 and Title 9 of Village Ordinances will not require a 15 day notice period, and may result in the immediate issuance of a citation to the owner/operator.
- C. An owner/operator who is convicted of a violation of this chapter or other applicable village ordinances relating to or occurring at a dwelling unit operating as a short-term rental, or whose renter is convicted of a violation of this chapter or other applicable village ordinances relating to or occurring at a dwelling unit operating as a short-term rental, shall be subject to penalties as described below:
 - 1. Upon conviction of a first violation, the village shall revoke the short-term rental permit for a period of twelve (12) month and operation of the short-term rental shall cease within thirty days;
 - 2. Assess a fine not to exceed \$500;
 - 3. Each day after the initial written notice of violation is a separate violation subjecting the owner/operator to the issuance of additional citations for violations of this chapter and other applicable village ordinances; and
 - 4. If the Village is awarded a money judgment following a court hearing and defendant does not make timely payments to the village, the village may bring an action in lien or equity for the collection of any amounts due.
- D. An agent who knowingly aids or abets an owner/operator in advertising or renting a dwelling unit as a short-term rental unit that is not permitted under this chapter is subject to the issuance of a citation for violating this chapter and the agent's business license is subject to revocation.
- E. Should a short-term rental permit be revoked, the owner/operator may reapply for a new permit after the twelve-month period has concluded and after the payment of all applicable fees.
- F. The Community Development Director shall establish administrative procedures necessary to implement, manage and enforce this section.

17.54.080– Fees

The following fees shall apply:

- A. Initial application fee: \$100
- B. Reinspection fee, which shall apply to properties not found compliant at initial inspection within 30 days of permit issuance: \$40
- C. Annual permit fee: \$50
 - a. Annual permit fee shall not be prorated for portion of the year.
- D. Late application fee: \$50

E. Additional business registration fee applies.

PASSED, APPROVED, SIGNED, AND ADOPTED THIS 8 DAY OF OCTOBER 2020.

Charles Griego, Mayor
Village of Los Lunas

ATTEST:

Gregory D. Martin, Village Administrator
Village of Los Lunas