

**VILLAGE OF RUIDOSO**  
***DRAFT* ORDINANCE 2016-##**

**AN ORDINANCE AMENDING THE VILLAGE OF RUIDOSO MUNICIPAL CODE OF ORDINANCES, SECTION 54-106 "SHORT-TERM RESIDENTIAL RENTAL OVERLAY ZONE", TO REVISE THE PROCEDURE FOR REGISTRATIONS AND ADMINISTRATION.**

**WHEREAS**, the Governing Body of the Village of Ruidoso previously adopted Ordinance 2009-06 to establish a process for regulating short-term residential rentals within the Village of Ruidoso; and

**WHEREAS**, Ordinance 2009-06 has had a positive effects on the Village by providing viable income-earning potential for property owners, offering unique options for visitors to the community, and enhancing local tax revenues, while minimizing adverse impacts to neighborhoods; and

**WHEREAS**, the Governing Body of the Village of Ruidoso has determined that certain amendments are required to establish a more equitable and streamlined process, while building upon the foundation of the original ordinance; and

**WHEREAS**, the Village of Ruidoso Lodgers' Tax Committee was consulted on this matter and the Village Planning Commission conducted a duly advertised public hearing regarding this ordinance on \_\_\_\_\_, 2016, during which the Planning Commission found that the amendments were in the best interest of the public and recommended that the Governing Body adopt the Amendments contained herein; and

**WHEREAS**, the Governing Body of the Village of Ruidoso conducted a duly advertised public hearing to consider this ordinance on \_\_\_\_\_, 2016.

**NOW THEREFORE, BE IT ORDAINED By The Governing Body of The Village of Ruidoso**, that Village Municipal Code Chapter 54 is hereby amended as follows:

<p><b><u>Single Underline</u> is text that is proposed for adoption. <del>Strike-out</del> is language deleted.</b></p>
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**Section one.** Section 54-106 is amended to read:

**Sec. 54-106. - Short-term residential rental overlay zone.**

- (a) **Purpose of zone.** The Governing Body of the Village of Ruidoso [~~Council~~] finds and declares as follows:
- (1) Short-term residential rentals provide a community benefit by expanding the number and type of lodging facilities available to seasonal visitors.
  - (2) Short-term residential rentals are not commercial, but are strictly a residential use of the property under the Village of Ruidoso Municipal Code.
  - (3) The provisions of this section are necessary to prevent a burden on village services and impacts on residential neighborhoods posed by short-term residential rentals.
- (b) **Applicability of requirements.** This overlay zone applies to all non-commercial residential property within the village regardless of the zoning district. These requirements of section 54-106 shall apply to dwelling units that are rented at some time during the year for a short duration that are not part of a commercial business enterprise such as a hotel, motel or commercial cabin rental located on a single lot or a group of contiguous lots within a commercial zoning district. These requirements do apply to individual dwelling units on non-contiguous property owned and operated by a hotel, motel or commercial cabin rental owner.
- (c) **Definitions.** For purposes of this section, the following words and phrases shall have the meaning respectively ascribed to them by this subsection:
- (1) Local ~~e~~Contact ~~p~~Person means an owner, representative of the owner or local property manager who lives in the Village of Ruidoso or within proximity of the village limits such that he/she is available to respond within an hour 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 ~~a~~Agency or ~~a~~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 proprietor of a residential rental, whether in the capacity of owner, lessee, sub-lessee, or mortgagee in possession.
  - (4) Owner means as defined in section 1-2 of this Code.
  - (5) Remuneration means compensation, money, rent, or other consideration given in return for occupancy, possession or use of real property.
  - (6) 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.

- (7) ~~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 29 consecutive days to the same person or persons. **For the purposes of this article, a rented dwelling unit shall consist of any combination of a sleeping area and at least two additional rooms not primarily designated for sleeping.**
  - (8) **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 or Agent as defined in this Chapter.**
- (d) **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 Village of Ruidoso. Short-term residential rental permits are issued to the owner **for a period of three years** and are not transferable **nor refundable.**
- (e) **Application for short-term residential rental permit.** The dwelling unit owner or managing agency or agent shall apply to the village for a short-term residential rental permit and supply, as at a minimum, the following information:
- (1) The maximum number of occupants and vehicles that the dwelling unit can accommodate. **This calculation [is to] shall be based upon a minimum of 1 (one) off-street parking space provided per sleeping area.**
  - ~~(2) The length of time that the applicant requests that the permit be issued for, not to exceed three years.~~
  - ~~(2) (3)~~ The name, address, email address and contact telephone numbers (including 24-hour emergency contact number) of the owner of the residential rental for which the permit is to be issued.
  - ~~(3) (4)~~ The name, address, email address and contact telephone numbers (including 24-hour emergency contact number) of the agent, representative or local contact person for the owner of the residential rental.
  - ~~(4) (5)~~ An application fee.
  - ~~(5) (6)~~ **Safety requirements and checklist; certification.** ~~[Fire department inspections]. [The Ruidoso Fire Department will be responsible for conducting basic fire inspections of all less than 30 day rental properties. The department will note all National Fire Protection Association Life and Safety Code issues and~~

will] The property owner or their managing agency or agent shall specifically [inspect for] provide the following:

- a. An ABC type fire extinguisher(s) to be mounted at all points of egress at a height not to exceed 48 inches. Extinguishers must be inspected and maintained according to state requirements and must properly display the inspection history of the device.
- b. Approved single-station smoke alarms installed at the highest point in every sleeping room.
- c. Every sleeping room and living area with access to a primary means of escape [~~must~~] shall [~~and located to~~] provide a clear, unobstructed path of travel to the outside.
- d. A floor diagram reflecting the actual floor arrangement, exit locations and room identification must be posted with emergency contact numbers at, or immediately adjacent to the primary entrance to the building.
- e. [~~Fees. The Ruidoso Fire Department will assess a fee of \$25.00 per inspection for the initial inspections and \$15.00 per return inspection when needed.~~]
- f. [~~Scheduling. Short term rentals will be scheduled for fire inspection once every three years. Scheduling will occur through the village fire marshal's office.~~]

~~(6)~~ (7) Owner/agent authorization.

~~(7)~~ (8) Gross receipts tax number certification and lodgers' tax registration number.

~~(8)~~ (9) Certification of notice to all contiguous property owners that the subject property is to be used for short-term rental.

~~(10)~~ Exterior signage on short term rental units which indicate availability, phone numbers or other type of information is prohibited.

~~(9)~~ The owner or managing agent/agency shall attest that they have met these requirements in each property registered as part of the initial rental registration and each successive renewal registration. The form utilized to attest to these requirements shall be part of the registration form provided by the Village and be authenticated by a Notary Public.

(f) **Application renewal or update.** Prior to the expiration of the permit or when there is a change to the information contained in the permit regarding ownership, changes in the structure or parking area, or contact person, a new permit application shall be submitted.

- (g) **Fees.** Fees are set forth in appendix A to this Code or adopted by the Governing Body from time to time by resolution. The initial application fee sufficient to cover the cost of processing the application, reviewing the information submitted, and issuing a revised permit.
- (h) **Review of application and issuance of permit.**
- (1) The village shall complete review of the initial permit application within [five] ten business days. Renewals of all permits shall occur prior to the third anniversary by the first (1<sup>st</sup>) day of April. 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 village shall notify the applicant of the decision of whether or not to issue the permit based on compliance with this section. If approval is granted, the village 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 20 days of the expiration of the previous permit shall subject the owner to payment of a late permit renewal penalty fee.
  - (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 as provided under Chapter 78, Article II of the Village of Ruidoso Code of Ordinances; or
    - (b) outstanding property nuisance or building code violations exist on the property; or
    - (c) the applicant has not met the fuels management certification requirements of Section 42-80 of the Village of Ruidoso Code of Ordinances a [renewal] permit will not be issued or renewed.
  - (4) Failure to comply with any provision of Chapter 78 of the Village of Ruidoso Code of Ordinances may result in a revocation of the permit for a 12-month time period at the discretion of the Planning Director.
  - ~~(4)~~(5) If the dwelling unit owner plans to discontinue short-term residential rental of the property, a statement to that effect shall be filed with the village and the permit will be revoked.
  - ~~(5)~~(6) If ~~[three]~~ **two** or more citations issued by the village for a specific short-term dwelling unit have been adjudicated ~~[thru]~~ **through** the Village of Ruidoso Municipal Court system within a 12-month time period, **or a total of three citations adjudicated during any point of the three-year permit period,** the village manager or designated representative ~~[may]~~ **shall** revoke the permit for a period of ~~[no more than]~~ 12 months. After that time, the property owner may reapply for a new short-term rental license after paying all applicable fees and

~~[passing]~~ **providing self-certification of compliance with the** ~~[a]~~ fire safety ~~[inspection]~~ **requirements as detailed in Subsection (e)(5) herein.** A warning letter shall be sent out to the property owner after the ~~[second]~~ **first** adjudicated citation.

- (i) **Tenant notification requirements.** Each short-term residential rental unit shall have a clearly visible and legible notice posted by the owner or managing agency or agent within the unit on or adjacent to the interior of the front door containing the following information:
- (1) A copy of the short-term residential rental permit.
  - (2) The name of the managing agency, agent, property manager, local contact person or owner of the unit, and a telephone number at which that party can be reached on a 24-hour, seven days 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 the parking rules for seasonal snow removal (if applicable).
  - (6) The specific procedures regarding the disposal of trash and refuse.
  - (7) A notification that an occupant may be cited and fined for creating a disturbance and/or for violating other provisions of the Village of Ruidoso Municipal Code.
  - (8) Notice that noise provisions contained in the Village of Ruidoso Municipal Code section 38-31 will be enforced and that quiet hours are to be observed between the hours of 11:00 p.m. and 8:00 a.m.
  - (9) Notification that the Village of Ruidoso Municipal Code prohibits ground fires, camp fires, fire rings and fire pits other than by permit.
  - (10) The 911 address for the property.
  - (11) Notice that animal leash laws contained in section 14-8 (prohibited acts; animal nuisances; vicious or dangerous animals) will be enforced.
  - (12) Notification that the Village of Ruidoso Municipal Code section 42-40 makes it "unlawful for any person to discard a lit cigarette, cigar, match or other type of incendiary material."
- (j) **Exterior Advertising or Signage prohibited. No short-term permit holder shall display advertising or other signage indicating that the property is available for short-term rentals, contact information of the owner or managing agency or agent, or any other information indicative of the short-term rental availability of the property.**

(k) **Penalties for violation of requirements of this section.** In addition to any other penalties or fines authorized by the Village of Ruidoso Municipal Code, the owner of a short-term residential rental unit shall be required to pay a penalty as set forth in appendix A to this Code in order to obtain, retain or renew a short-term residential rental permit.

- (1) [~~After 24 months from the adoption of this section~~], Each day that an owner rents a unit for a short term without first obtaining a short-term residential rental permit is considered a separate violation of the Village of Ruidoso Municipal Code as provided for in section 1-6.
- (2) The village code enforcement officer or other designated village employee or representative shall take action to correct the violation as provided for in this Code or state statute.
- (3) The first suspected or observed violation of this section by the Village may result in an initial warning notice requesting registration of the unregistered short-term residential rental unit in accordance with the provisions of this code without subject to penalty. Should the property owner fail to comply after receiving such initial notice from the Village, penalties may be assessed as provide elsewhere in this Code, including the assessment of a registration fee twice the listed amount.**

**Section two.** All other provisions of the aforementioned codes not specifically amended by this ordinance, shall remain unchanged and in full force and effect as written.

**Section three.** *Effective date.* The provisions of this Ordinance shall become effective five (5) days upon the publishing of its adoption.

**PASSED, APPROVED, and ADOPTED by the GOVERNING BODY of the VILLAGE of RUIDOSO** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**VILLAGE OF RUIDOSO**

/s/  
By: \_\_\_\_\_  
Tom Battin, Mayor

(SEAL)

ATTEST:

/s/  
\_\_\_\_\_  
Irma Devine, Village Clerk

## DRAFT HISTORY

VERSION	SUBMITTED	DATE
<b>First Staff Draft - BRRD</b>	Planning Commission Lodgers' Tax Committee	June 28, 2016 July 14, 2016
<b>Second Staff Draft</b>	Planning Commission	July 28, 2016
<b>Final Review Draft</b>	Reviewed by Village Attorney	August 3, 2016

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