



ORDINANCE 15-11

AN ORDINANCE AMENDING TITLE 16 OF THE TOWN OF TAOS TOWN CODE, ADDING SECTION 16.16.195; SHORT TERM RENTAL OVERLAY

This ordinance adds Section 16.16.195 to Title 16 of the Town of Taos Land Use Development Code.

WHEREAS, the Town Council, the Governing Body of the Town of Taos, finds it necessary to add Section **16.16.195** to the Taos Town Land Use Development Code;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Town of Taos, meeting in Regular Session this 8th day of December, 2015, and after having held a public hearing on the matter that the following Ordinance is hereby adopted, approved and ratified:

Section 1. Title 16 of the Town of Taos Town Code is hereby amended by the addition of a new Section 16.16.195, to be entitled "Short Term Rental Overlay Zone", which shall read in its entirety as follows:

16.16.195.1: INTENT AND PURPOSE

The purpose of this chapter is to establish regulations for the use of privately owned residential dwellings as short-term rentals in order to minimize the negative secondary effects of such use on surrounding residential neighborhoods. The Town finds it desirable to protect and enhance the Town's economic base by attracting tourists, visitors, and residents. The uses listed in Section 16.16.195 of this chapter may be allowed in any zone, except for lands zoned ARO or M-1. The Code Administrator shall consider the health, safety, welfare and continued aesthetic beauty of the community when approving, approving with conditions, or denying a short term rental permit.

This chapter is not intended to provide any owner of residential property with the right or privilege to violate any private conditions, covenants, or restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short term rental purposes as defined in this chapter.

16.16.195.2: APPLICABILITY

The Short Term Rental overlay allows privately owned dwellings to be utilized as short term rentals with proper permit approval. Except as provided in Section 16.16.195.1 of this chapter, a short term rental may be submitted for any zone or zones and shall have the effect of overlaying the underlying zone or zones.

16.16.195.3: SHORT TERM RENTAL PERMIT AND APPLICATION

- A. The owner, agent or representative is required to obtain a short term rental permit and, in addition, the owner is required to obtain a business permit from the Town, pursuant to the provisions of this chapter and Chapter 5.04 respectively, before renting any privately owned residential dwelling to any transient for a period of thirty (30) consecutive days or less.
- B. The owner, agent or designated representative is required to pay all occupancy tax for lodging revenues earned within the town, at a rate of five percent (5%) of gross taxable rent for lodging paid to vendors, pursuant to the provisions of Chapter 4.12: Lodgers' Tax. In addition, each vendor shall make a report by the twenty fifth day of each month on forms provided by the town cashier's office of the receipts for lodging in the preceding calendar month, and shall submit the proceeds of the lodgers' tax to the town and include sufficient information to enable the town to audit the report, and such report shall be verified on oath by the vendor in accordance with Chapter 4.12: Lodgers' Tax.
- C. A short term rental permit shall be required to be renewed on an annual basis based on the anniversary of the issuance of the original permit. Approval shall remain valid for one year unless there is a substantial change in the subject short term rental's Operational Requirements and Standard Conditions as listed in Section 16.16.195.5.
- D. The owner, agent, or authorized representative must submit the following information on a short term rental permit application:
 - 1. The name, address, and telephone number of the owner of the subject short term rental unit;
 - 2. The name, address, and telephone number of the authorized agent or representative of the short term rental unit, if applicable;
 - 3. The address of the proposed short term rental;
 - 4. The number of bedrooms and applicable overnight and daytime occupancy limit of the proposed short term rental unit;
 - 5. Such other information as the Code Administrator or designee deems reasonably necessary to administer this chapter.

16.16.195.5: OPERATIONAL REQUIREMENTS AND STANDARD CONDITIONS

- A. The owner shall use reasonably prudent business practices to ensure that the short term rental unit is used in a manner that complies with all applicable law, rules and regulations pertaining to the use and occupancy of the subject short term rental unit.
- B. Maximum number of occupants: The maximum number of overnight guests for a short term rental is two (2) persons per bedroom. In addition to overnight guests, an additional allowance for daytime guests not to exceed two (2) persons per bedroom with a maximum of twenty (20) daytime guests allowed for five bedrooms or more.
- C. Appearance, Visibility or Location: A short term rental shall not change the residential character of the outside appearance of the residence, either by the use of colors, materials, lighting, or any advertising mechanism.

- D. On-Site Parking Required: All parking associated with short-term rentals located in residentially zoned lands shall be entirely on-site, in a garage, carport, or driveway. For properties within commercial zones where adequate off-site parking is available, alternative parking plans and requirements may be submitted for Code Administrator approval.
- E. Noise: Occupants of the short term rental shall comply with the standards and regulations of Chapter 8.24: Noise Control.
- F. Renter Notification: The owner shall provide each occupant of the short term rental with the following information prior to occupancy of the unit and/or shall post such information in a prominent location within the unit.
 - 1. Contact information for owner or representative with 24-hour availability.
 - 2. The maximum number of overnight occupants and the maximum number of daytime occupants as permitted pursuant to this chapter.
 - 3. Trash disposal information and regulations pertaining to leaving or storing trash outside.
 - 4. Notification that the occupant or owner may be cited or fined by the Town in accordance with this chapter and/or Chapter 8.24 Noise Control
- G. While a short term rental unit is rented, the owner, agent or representative shall be available within a reasonable time-frame for the purpose of responding to complaints regarding the condition, operation, or conduct of occupants of the short term rental unit or their guests.
- H. The owner shall use reasonably prudent business practices to ensure that the occupants and/or guests of the short term rental unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject short term rental.
- I. Prior to occupancy of a short term rental unit, the owner shall:
 - 1. Obtain the name, address, and a copy of a valid government identification of the responsible person;
 - 2. Require such responsible person sign a formal acknowledgement that he or she is legally responsible for compliance by all occupants of the short term rental unit and their guests with all applicable laws, rules and regulations pertaining to the use and occupancy of the short term rental unit. This information shall be maintained by the owner for a period of three (3) years, and be made readily available upon request by the Town.
- J. Trash and refuse shall not be left stored within public view, except in proper containers.
- K. The owner shall post the current short term rental permit number on or in any advertisement appearing in any newspaper, magazine, brochure, television, trade paper, internet website or other site that promotes the availability or existence of a short term rental unit.
- L. The owner shall comply with all provisions of Chapter 5.04: Business Permits.

- M. The owner shall comply with all provisions of Chapter 4.12: Lodgers' Tax.
- N. The Code Administrator, or designee, shall have the authority to impose additional conditions on the use of any given short term rental unit to ensure that any potential secondary effects unique to the subject short term rental unit are avoided or adequately mitigated.
- O. The standard conditions set forth herein may be modified by the Code Administrator, or designee, upon request of the owner based on site-specific circumstances. All requests must be in writing and shall identify how the strict application of the standard conditions creates an unreasonable hardship to the owner of a property such that, if the requirement is not modified, reasonable use of the property for a short term rental would not be allowed. Any hardships identified must relate to physical constraints of the subject site and shall not be self-induced. Any modifications of the standard conditions shall not further exacerbate an already existing problem.

16.16.195.5: VIOLATIONS

- A. Additional Conditions: A violation of any provision of this chapter by any of the occupants or owners shall authorize the Code Administrator, or designee, to impose additional conditions on the use of any given short term rental unit to ensure that any potential future violations are avoided.
- B. Permit Modification, Suspension, and Revocation: A violation of any provision of this chapter by the occupants or owners shall constitute grounds for modification, suspension, and/or revocation of the short term rental permit and/or any affiliated licenses or permits pursuant to the provisions set forth in Chapter 16.16.195.
 - 1. Whenever any owner fails to comply with any provision of this chapter, the Code Administrator, or designee, after giving the owner ten (10) days' notice may modify, suspend, or revoke the permit held by the owner.
 - 2. Notice of Violation: The Town may issue a notice of violation to any occupant or owner, pursuant to Chapter 16.16.195, if there is any violation of this chapter committed, caused, or maintained by any of the parties above.
- C. Infraction: The Town may issue a citation to any occupant, owner or operator pursuant to the provisions set forth in Chapter 16.04.120.3: Violation a Public Nuisance.

16.16.195.6: DEFINITIONS

For the purpose of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this chapter.

APPLICANT: The owner of the short-term rental unit or the owner's authorized agent representative.

OWNER: The Owner or designated agent or representative of the owner who is responsible for compliance with this chapter with respect to the short term rental unit, who is legally responsible for ensuring that all occupants of the short-term rental unit and/or their guests comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short term rental unit.

PROPERTY: The legal lot of record on which a short term rental is located.

SHORT TERM RENTAL UNIT: A privately owned residential dwelling, such as, but not limited to, a single family detached or multiple family attached unit, apartment, condominium, cooperative apartment, duplex, or any portion of such dwelling rented for occupancy for dwelling, lodging, or sleeping purposes for any period of thirty (30) consecutive days or less.

SHORT TERM RENTAL PERMIT: A permit that allows the use of a privately owned residential dwelling as a short term rental unit pursuant to the provisions of this chapter, and that incorporates any potential requirements required in Chapter 5.04.

TRANSIENT: Any person who seeks to rent or who does rent a privately owned residential unit for a period of thirty (30) consecutive days or less.

VENDOR: A person furnishing lodgings in the exercise of the taxable service of lodging.

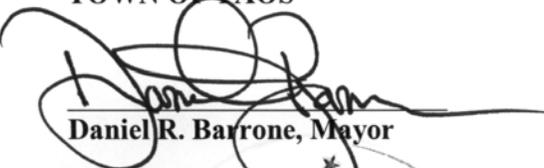
Section 2. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid or ineffective by the final, non-appealable order or judgment of any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance. The Town Council hereby declares that it would have adopted each Section, paragraph, sentence, clause and phrase of this ordinance irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases may be declared unconstitutional, invalid or ineffective.

Section 3. Effective Date. This ordinance shall be published and become effective as provided by law.

ORDAINED, ADOPTED, AND APPROVED this 8th day of December, 2015 by the following vote:

Mayor Pro Tem Judith Y. Cantu	<u>yes</u>
Councilmember George "Fritz" Hahn	<u>yes</u>
Councilmember Andrew T. Gonzales	<u>yes</u>
Councilmember Frederick A. Peralta	<u>yes</u>

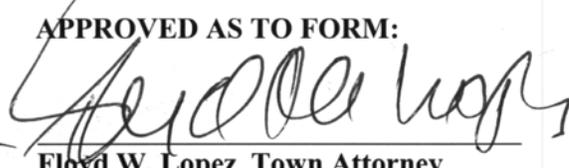
TOWN OF TAOS


Daniel R. Barrone, Mayor

ATTESTED:


Renee Eucero, Town Clerk

APPROVED AS TO FORM:


Floyd W. Lopez, Town Attorney