

# SIERRA LOS PINOS PROPERTY OWNERS' ASSOCIATION

## POLICY ON VACATION RENTAL PROPERTY

**Revised and Updated December 3, 2020**

**Board Approval on December 8, 2020**

VR1. PURPOSE. The purpose of this Policy is to prevent unreasonable burdens on services and impacts on properties within the Sierra Los Pinos Property Owners' Association (SLPPOA), which may be posed by any Vacation Rental Property (VRP). Special regulation of VRPs is necessary to ensure they will be compatible with uses of surrounding property, currently allowed by SLPPOA Bylaws, and will not act to harm and alter those units in which they are located. Adherence to the SLPPOA's existing Covenants, Conditions, and Restrictions is essential for its continued commitment to its members. The intent of the Articles of this Policy pertaining to VRPs is to minimize the specific impact of said VRPs on the common areas and adjacent properties and to minimize the impact of the commercial character of Vacation Rentals in general. This Policy is primarily established to have direct bearing only upon short-term Vacation Rentals, i.e. ones of consecutive tenancy of thirty days or less.

VR2. BASIS. This Policy is further established to more specifically identify such nuisances as already given generally in the Restrictive Covenants. Article 8 of the Restrictive Covenants for Units 1, 2 and 3, states, "The premises shall be used for residential purposes only and no obnoxious or offensive trade or activity shall be constructed/established thereon nor shall anything be done thereon which may be, or may become, an annoyance or nuisance on the area thereof." Article 9 of the Restrictive Covenants for Units 4-10 states, "No trade or offensive activity of any kind shall be carried on upon any lot, nor shall anything be done on any lot, which shall constitute an annoyance or nuisance to the neighborhood."

VR3. APPLICABLE CASE LAW. *Estates at Desert Ridge Trails Homeowners' Assoc. v. Vasquez*, 2013-NMCA-051, 300 P.3 736, addresses abilities of a Homeowners' Association (HOA) to bar, limit, prohibit, or restrict vacation rental activities and provides HOAs with limited power inherent in adopting "reasonable rules designed to ... protect community members from unreasonable interference in the enjoyment of their individual lots or units and the common property caused by use of other individually owned lots or units." *Id.* § 6.7(2) (a). This subsection is limited to the "prevention of nuisance-like activities" because homeowners have a reasonable expectation that they will be protected "from neighborhood nuisances by adoption of preventative rules." *Id.* § 6.7 cmt. b.

VR4. JUSTIFICATION. Complaints of Member-Owners from recent past experiences demonstrate that short-term renters, i.e. those with a tenancy of thirty days or less, may not fully understand nor recognize that their activities can be potentially offensive, cause annoyance or serve as a nuisance to neighbors of adjacent properties. Therefore, this Policy provides specific guidance, with the knowledge, support and acceptance of any relevant VRP owner, in relaying the expectations contained herein to any visitor or renter, whose tenancy of a given property is transient by nature. The intent of this Policy is to reasonably enhance and regulate operation of VRPs within SLPPOA, not to overbearingly inhibit such operations.

VR5. PERMIT. Owners shall be required to complete, notarize, and submit the attached permit on an annual basis, effective on the first day of January of each calendar year or, at a minimum, no less than thirty days prior to the proposed Vacation Rental. No fee shall be levied in the issuance of this permit. If it is determined through due diligence that an Owner is in non-compliance with submission of this permit, then the SLPPOA Board may deny issuing Owner(s) of the non-permitted VRP any subsequent permits for a period of up to two years. The SLPPOA Board or its designate shall notify any applicable listing agency of any such incidence of non-issuance of the required permit to the subject Owner(s).

VR6. PROPERTY MANAGEMENT. Owner of the permitted VRP shall notify the SLPPOA Board, which shall in turn notify adjacent property owners of the VRP, by providing the proposed dates of any such rental at least two weeks in advance; or as soon as possible, if VRP was reserved within two weeks of a scheduled stay. Owner shall further provide the SLPPOA Board and adjacent property owners with the name, address, and phone number(s) of a designated Property Manager, who resides full-time within a maximum 25-mile radius of Sierra Los Pinos. This Property Manager shall be available 24 hours a day to ensure that the VRP is maintained and operated as required by the Articles of this Policy. This would include, but is not limited to, ensuring the number of Renter's vehicles does not exceed the number of parking spaces permitted on the lot, the number of Tenants in the VRP does not exceed occupancy limitations, and Tenants of the VRP do not violate any other regulations, as specified within this Policy.

VR7. VEHICLE PARKING. Owner shall specify on a site plan of their property, submitted with the required permit, an area designated for vehicle parking. This area should be relatively flat and free of obstructions. The total number of vehicles and/or equipment trailers which may be accommodated within the designated parking area shall be determined by allowing a measurement of ten-feet wide by sixteen-feet long for each vehicle or equipment trailer. Overflow parking, which may be designated along NM State Road 4 or specified elsewhere through pre-arrangement by Owner, shall allow for the subsequent shuttling of Tenants to and from the VRP, and shall be specified as such on the permit. Owner shall notify any potential Renter of this condition. At no time shall any vehicle or equipment trailer be parked in any manner that would block access, restrict traffic, or in any way inhibit free movement of other vehicles along any SLPPOA road.

VR8. OCCUPANCY. Per Sandoval County Zoning Ordinance 10-11-18.7A, Section 9 (1). RRA-Rural Residential/Agricultural District: "Conditional Uses. 7. Boarding, rooming, or lodging houses that have no more than ten (10) residents at any one time, including "Bed and Breakfast" establishments;" may be allowed in this zone district. Per Section 6 of this Ordinance, "Conditional Use" is defined as "a use that may be or become a nuisance or hazard to neighboring properties if proper safeguards are not taken." With this denotation in mind, this Policy's recommended standard to determine the maximum number of occupants allowed to stay in the residence of a VRP shall be calculated so as not to exceed the lesser of either a.) three persons per parking space or b.) two persons, plus two persons per bedroom. In no event shall the maximum number of residents exceed ten (10). Owner shall specify in the permit the number of bedrooms within the VRP. All bedrooms must have a floor area of at least seventy (70) square feet.

VR9. FIRE RESTRICTIONS. Owner shall notify Renter of any county, state, or federal fire restrictions currently in place during the course of their rental agreement. Owner shall further inform Renter of specific requirements of any level of such fire restrictions, by having such notice posted conspicuously or otherwise made available within the VRP. No fireworks of any kind shall be permitted at any time for any occasion. A minimum eight-pound-weight dry chemical fire extinguisher, that is in good working order, for use with A/B/C fire classifications, shall be maintained at all times on the premises of any VRP. A working smoke detector shall be in place on each floor of the VRP residence.

VR10. OFF-HIGHWAY MOTOR VEHICLES. Tenants of a VRP shall not operate off-highway motor vehicles off-road within SLPPOA boundaries. Such vehicles shall only be operated on SLPPOA roads at speeds that are reasonable and prudent, and only then to gain access to and from adjacent public lands as allowed. Such vehicles shall not be used for indeterminate operation, i.e. joy-riding, on SLPPOA roads.

VR11. NOISE LIMITATIONS. "Quiet hours" within SLPPOA boundaries begin at 10:00 PM and end at 7:00 AM. Tenants of a VRP shall not operate any generators, radios or similar sound-producing devices, unmuffled vehicles or engage in other loud activity, which may disturb others during this time period. Tenants of a VRP shall operate radios or other sound-producing devices at a reasonable level at all times during non-quiet hours, so as not to disturb adjacent property owners.

VR12. SUPERVISION. Parents, guardians or other adults in charge, hereinafter referred to as "Adult Tenants," shall exercise constant direct supervision of minor children and/or adults who do not possess the intellectual capacity or awareness to recognize possible danger. Adult Tenants shall ensure that proper safety equipment has been provided and that safety training, as may be required by state law, has been successfully completed by minor children or adults in their care. These include, but are not limited to, bike helmets and related padding, an ATV operator's course as conducted either by or similar to that of NM Dept. of Game & Fish, and issuance of flashlights and reflective gear as necessary for nighttime.

VR13. PERMITTED FIRES. Provided there are no fire restrictions in place at the time of the Vacation Rental, as specified in Article VR9, open fires within the grounds of the VRP are permitted in an existing on-ground fire ring, previously designated by the Owner. This fire ring shall be constructed of metal, rock, or other non-flammable material and set upon an open level spot away from any potentially flammable materials which include, but are not limited to, trees, logs, stumps, woodpiles, overhanging branches, dense dry grass and forest litter. All flammable detritus or debris, such as pine needles, dry leaves and sticks, shall be removed from proximity of the fire ring at a minimum distance of three feet in all directions around the fire ring. At least one Adult Tenant shall be present at all times to attend to any fire. Attendant shall never allow the fire to reach a height greater than three feet. Attendant shall have nearby and readily available a shovel to be used for throwing dirt and a plentiful source of water to control the fire. Upon extinguishing the fire, the Attendant shall ensure that the fire is "dead out" by alternately pouring water and mixing dirt into the ashes and embers until such time as any coals, embers or partially-burned wood can be touched by the Attendant's hand and feel cool to the touch.

VR14. FIREARMS AND OTHER WEAPONS. All Visitors to, and any Tenants or Renters of, a VRP shall not discharge any firearms or other similar weapons within the geographic boundaries of Sierra Los Pinos. These weapons include, but are not limited to, air or gas fired projectiles, crossbows, and other devices capable of causing injury to persons or animals or damage or destruction of property. No such activity is allowed within 150 yards of any residence of Sierra Los Pinos. This Article of the Policy is not applicable to incidents of self-defense or to law enforcement officers actively engaged while on duty.

VR15. BOWS AND ARROWS. A Visitor, Tenant or Renter of a VRP may discharge arrows from either a recurve or compound bow for the purposes of target practice only. A first aid kit shall be readily available. A designated archery range shall have to be established on the VRP. This range, from shooting line to backstop, shall measure a linear distance of 250 feet or less. The backstop for each target within the archery range shall measure a minimum of six feet high by six feet wide by eighteen inches deep. Each target with associated backstop shall be situated within its range so that no other residences, structures or roads are immediately down-range from it. To this end, it is highly recommended that each target with associated backstop be placed in front of a natural barrier, such as a hill or embankment, whenever possible.

VR16. DOGS. VRP Tenants with dogs shall control their pets, so as not to cause a nuisance to others. Owner shall specify within the rental contract that any VRP Tenant(s) having a dog with him, her or them ensures that the dog is currently vaccinated in accordance with applicable municipal or county ordinances and state law. VRP Tenants with dogs shall pick up after their pets and shall maintain the area in a clean and sanitary condition at all times. While outside of the VRP and within SLPPOA boundaries, dogs shall be restrained at all times on leashes that are not more than ten feet in length. VRP Tenants shall prevent their dogs from excessive barking, howling and making loud noises, so as not to disturb others. VRP Tenants with dogs shall prevent their pets from biting or attacking any person or destroying property. VRP Tenants with dogs shall not leave any dog unattended, either inside or outside of the VRP. This includes vehicles or any other conveyances.

VR17. WASTE. Tenants of a VRP shall not dispose of solid or liquid waste onto any property within SLPPOA boundaries, except into receptacles provided for that purpose by Owner of the Vacation Rental. If no such receptacles have been provided, then the commonly accepted standard of "pack it in/pack it out" shall apply. Property Manager for the VRP shall be ultimately responsible for ensuring that this standard is adequately met.

VR18. EXISTING COVENANTS. Any issue which has been neither specifically nor fully addressed within the context of the Articles of this Policy, required for the safe and effective operation and maintenance of a Vacation Rental Property, shall be deemed as being covered by applicable Covenants, Conditions, and Restrictions already in place relative to SLPPOA Bylaws. Nothing herein shall be construed in any way to contradict or conflict with those existing Covenants. Interpretation of any such conflict shall be addressed and resolved by the SLPPOA Board of Directors.