

HOLIDAY LETTING IN MARBELLA, BENAHAVÍS AND ESTEPONA · 2026 EDITION

The Short-Term Rental Owners Guide

What it takes to let a home short term on this coast in 2026:
the registration that counts, the community consent you now
need, the standard the property must meet, and what a season
actually leaves in your hand.

Letting a home here is still a good business. It is simply no longer an informal one.

Three separate authorities now have a say in whether your apartment may take a paying guest: the Junta de Andalucía, which registers it, your own community of owners, which since 2025 must consent to it, and the town hall, which decides whether the use fits its planning. This guide sets out what each of them asks, in the order you need to deal with them, and what a season is worth once the costs and the tax have been paid.

Two changes matter more than any other. Since 3 April 2025 a new short-term letting activity in a building held in horizontal ownership needs the express prior approval of the community of owners, by a three-fifths majority, under the reform of the Ley de Propiedad Horizontal. And in May 2026 the Supreme Court struck down the national rental register created the year before, so the number that must appear in your advertising is the Andalusian one, not a state code. A great deal of what is still published online was written before both.

JUST Real Estate was founded in Marbella in 2015. Our managing partner has worked this market for 25 years. We are estate agents rather than lawyers or tax advisers, and this guide is not advice on your own position. It is what we tell owners in the first conversation, checked against the rules as they stand at the date shown inside, with the lawyers and managers we work with standing behind the detail.

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Is your property eligible

Most owners start with the registration. That is the wrong end. Registration in Andalucía is a declaración responsable, a statement made under your own responsibility that the property already satisfies every condition, so the work is done before you file, and a false declaration is what inspectors look for.

What counts as a tourist let

THE ANDALUSIAN DEFINITION

A vivienda de uso turístico, VUT, is a dwelling offered for short stays for a price and marketed through tourism channels, including the online platforms. Decreto 31/2024, in force since 22 February 2024, renamed the old viviendas con fines turísticos and tightened what may be registered. New registrations now carry a code in the form VUT/MA/00000; earlier VFT codes remain valid.

Three things are outside it. A long residential lease under the national tenancy law is not a tourist let. Nor is a seasonal let taken for work or study rather than for a holiday, provided it is not marketed as tourist lodging. And where one operator runs several units in the same building as a business, the file is usually an apartamento turístico rather than a VUT, which is a different and heavier regime.

Four gates, in this order

FAIL ANY ONE AND THE ANSWER IS NO

THE TITLE AND THE STATUTES

A dwelling cannot be registered where the community statutes expressly prohibit tourist use. Ask for a certificate of the statutes and recent resolutions before you buy, not after.

THE PLANNING POSITION

The property must be compatible with municipal planning, and cannot be in the asimilado a fuera de ordenación category. Councils may cap or exclude VUT by zone.

THE COMMUNITY'S CONSENT

For a new activity in a building in horizontal ownership, express prior approval of the community, by three fifths of owners and quotas.

THE PHYSICAL STANDARD

Habitable, legally occupiable and equipped to the list the decree sets out. Capacity is capped at fifteen places for a whole dwelling and six when letting by room.



The consent you now have to ask for

This is the change that catches owners out. Ley Orgánica 1/2025, of 2 January, rewrote article 17.12 of the Ley de Propiedad Horizontal with effect from 3 April 2025. A new tourist letting activity in a building held in horizontal ownership now requires the express prior approval of the community, adopted by three fifths of the owners representing three fifths of the participation quotas. Silence is not consent. Without that resolution the activity is unauthorised however complete your other paperwork.

The same majority allows a community to limit, condition or prohibit the activity, and to charge the dwelling more: a special quota or an increase in its share of common expenses of up to 20%, on the reasoning that guests use the lifts, the pool and the security more heavily than residents.

Two protections sit alongside it. The agreements have no retroactive effect, so an activity already being carried on lawfully before the community voted is not caught, a point Spanish courts confirmed again in February 2026 when a community tried to backdate the surcharge. And in Andalucía the registry will not accept a dwelling whose statutes already forbid tourist use, which is a separate and older bar.

In practice this makes the community your first call. Ask the administrator for the statutes, the minutes of the last three meetings, and any resolution on tourist letting.

Registration: what you actually need

There is no licence to apply for and nothing to wait for. Andalucía works by declaración responsable, which means the burden sits on you to have everything true on the day you file.

01 Clear the statutes and the community

Certificate of statutes, minutes, and the three-fifths resolution where the building is in horizontal ownership.

02 Confirm the planning position

Ask the town hall whether tourist use is compatible in your zone, in writing, before you market.

03 File the declaración responsable with the Registro de Turismo de Andalucía

Electronically, with a digital certificate or Cl@ve, to the tourism department of the Junta. You declare the operating period, all year or named months, and may not let outside it.

04 Put the code in every advertisement

In all advertising and promotion by any medium, the platforms included, and in the documents you give guests.

05 Enrol in SES.Hospedajes

Register on the Interior Ministry platform before your first booking, not on the day of arrival.

06 Ignore the state number, for now

Real Decreto 1312/2024 created a national number for platform advertising; the Supreme Court annulled that procedure in May 2026, published in the BOE on 8 June 2026. Regulation (EU) 2024/1028 still requires a registration number in every advertisement from 20 May 2026, and in Andalucía that is your RTA code.



A LETTING APARTMENT DRESSED FOR GUESTS, NUEVA ANDALUCÍA

What the property must have

Andalucía sets a minimum equipment standard and a minimum capacity calculation, and both are checked against the declaration you filed rather than against what the photographs show. The list below comes from the decree as amended in 2024. It is the floor and not the finish: an inspection is measured against it, the rate against everything above it.

REQUIREMENT	WHAT THE RULE ASKS
Occupation	Legally habitable and occupiable, compatible with municipal planning, and not in the asimilado a fuera de ordenación category.
Capacity	Fifteen places at most for a whole dwelling, six when letting by room, and at least 14 m ² of built area for each place.
Climate	Cooling in bedrooms and living rooms where the <u>operating period</u> you declared covers May to August, heating in the same rooms where it covers December to March. Fans do not qualify.
Furnishing	Furniture, bedding, linen, towels and equipment for the full declared capacity, with a first-aid kit, and a kitchen equipped for the number of guests or a clear statement of what is given instead.
Cleaning	The dwelling cleaned on entry and on exit for every new set of guests.
Telephone	A number answered 24 hours a day for guests and for neighbours, which means a real person within reach of the door.
Guest papers	Official Hojas de Quejas y Reclamaciones of the Junta de Andalucía in the property with the notice announcing them, and written rules on the community, restricted areas, facilities, pets, smoking, waste and emergency numbers.



The money: a worked season

Rates first, because they decide more than the nightly price does. Residents declare letting income in the annual IRPF return, without the 60% reduction reserved for lettings of a permanent home. Non-residents file Modelo 210.

EU AND EEA OWNERS

19%

on net letting income, expenses deductible

EVERYONE ELSE

24%

on gross income, no deductions at all

VAT ON A PLAIN LET

None

10% only where hotel services are given

One year on a two-bedroom apartment

OUR ASSUMPTIONS ARE MARKED; THE TAX RATES ARE LAW

Twelve weeks in high season at €3,000	€36,000
Six shoulder weeks at €1,800	€10,800
Management and letting commission, assumed at 20%	(€9,360)
Eighteen changeovers, cleaning and linen, assumed €150 each	(€2,700)
Utilities, wifi and consumables, assumed	(€2,400)
Community fees, assumed	(€3,600)
IBI and the municipal waste fee, assumed	(€1,400)
Buildings and liability insurance, assumed	(€600)
Maintenance, safety kit and compliance, assumed	(€900)
Non-resident income tax at 19% on the balance	(€4,910)
Kept by an EU or EEA owner	€20,930

Eighteen weeks let out of fifty-two, a deliberately modest third of the year. An owner resident outside the EU and EEA pays 24% of the €46,800 gross with nothing deductible: €11,232 of tax and about €14,600 kept. Expenses are deductible only in proportion to the days let.

Filing has moved. Since 2024 a non-resident may group a calendar year of letting income into one Modelo 210 rather than filing quarterly, and Orden HAC/623/2026, of 12 June, moves the deadline for grouped rental returns to the first twenty days of April in the following year, from 2026 income onwards. Andalucía still levies no regional tourist tax, and value added tax does not touch a plain holiday let, though the EU has agreed short stays become taxable from July 2028.

What a good manager actually does

The decree tells you to clean between guests. The market tells you something harder: on this coast the rate follows the photographs, the reviews and the speed of the reply, in that order, and all three are bought with somebody's labour rather than with capital.

Andalucía now recognises the professional operator formally. A dwelling may be run by its owner or by an empresa explotadora, and where several units in one building are let, a single operator must be named. That is worth knowing when you interview managers, because the responsible party on the file is a legal position and not a courtesy.

What a commission of a fifth of gross should buy: the listing built and priced across the platforms rather than on one; professional photography reshot when the furniture changes; the 24-hour telephone answered in the guest's language; pre-arrival identity collection so the SES.Hospedajes report goes in on time; changeover cleaning with hotel linen and a stock of consumables; a maintenance response that does not wait for your approval on a Saturday; and an owner statement each month that reconciles to the bank.

What it should not buy is a calendar filled at any price. Ask a prospective manager for the rate and the occupancy achieved last year in your own building, not across a whole portfolio, and ask what they turned down. The good ones have an answer.



Where you are letting

Andalucía sets the standard, the community gives or withholds consent, and the town hall decides whether the use belongs in your street at all. The third layer is the one that changes fastest, and it changes by ordinance rather than by announcement.

Three town halls, three positions

CONFIRM EACH BEFORE YOU BUY OR ADVERTISE

MARBELLA

No general moratorium as at August 2026. The council announced in February 2025 a municipal register of tourist dwellings and an ordinance limiting the conversion of commercial premises to tourist accommodation, and its new general plan is to distinguish residential from tourist use. Treat the position as moving.

BENAHAVÍS

No published municipal limit that we can verify. The dominant stock is villas in gated urbanisations, where the community statutes and the three-fifths vote will decide your case long before the town hall does.

ESTEPONA

No published municipal limit that we can verify. Confirm compatibility with the town hall for your zone, in writing, before you market.

What the Junta has been doing

ENFORCEMENT IS REAL AND IT IS ADMINISTRATIVE

In February 2026 the Junta de Andalucía reported that it had removed 13,037 tourist dwellings from the regional register out of 151,048 registered across the region, with 4,731 of them in the province of Málaga. That was not a ban. It was an audit of files that did not meet the conditions their owners had declared.

Sanctions under the Andalusian tourism law run from fines for a serious infringement to substantially heavier ones and temporary closure for the most severe, and unregistered letting, a missing registry code in advertising, absent guest reporting and failure to meet the minimum standard are all reachable. Councils may separately require an activity declaration or a compatibility report, and may set limits by building, zone, density or floor level under the 2024 decree.

Guests, noise, neighbours and insurance

Register every traveller, every stay. Real Decreto 933/2021 has applied to accommodation since 2 December 2024 and it is more than the old police form. You collect an expanded set of traveller and transaction data, transmit it through the Interior Ministry's SES.Hospedajes platform within 24 hours, and retain the records for three years. Guests aged fourteen and over are identified in their own right, younger children through the adult with them. Automate it: collect the documents at booking rather than at the door.

Handle the data properly. You are holding passport images and payment details for strangers, which makes you a data controller. Give guests a privacy notice, keep the records where only the people who need them can reach them, delete on schedule, and choose a check-in provider that will sign a processor agreement. This is the obligation owners take least seriously and the one with the widest exposure.

Manage noise before it manages you. Almost every complaint that ends in a community resolution against an owner began as noise at night. Publish quiet hours in the house rules and repeat them at check-in; cap the party size at the registered capacity

and say so in the booking terms; use a decibel monitor that reports a level rather than recording audio; and answer the neighbour who calls, at once, from the number the decree already requires you to keep staffed. A community that sees problems dealt with has far less appetite for a three-fifths vote against you.

Insure for the use you are actually making. A standard household policy written for an owner in residence is not a policy for paying guests. Tell your insurer what the property is doing, carry public liability cover, check that theft and damage by guests are addressed and that the community's own policy is current, and keep a dated inventory with photographs so a deposit dispute is a matter of record. Andalucía does not oblige a VUT owner to carry liability cover. Nothing makes it optional in practice.

Keep the file. The registration, the community resolution, the guest contracts and receipts, the SES.Hospedajes confirmations, the complaints book, the insurance policy and the tax returns, in one place and in date order. An inspection is short when the folder is complete, and the owners who have trouble are rarely unlucky: they are the ones who could not produce it on the day somebody asked.



THE VIEW FROM THE ROOF TERRACE, NUEVA ANDALUCÍA

The calendar of a compliant year

The same shape every season. Almost all of the work sits in the first row, and almost all of the trouble comes from owners who did that row last instead of first.

- 01 Before the first booking**
Statutes and community resolution in hand, planning position confirmed, RTA declaración responsable filed and the code obtained, SES.Hospedajes enrolment done, insurance rewritten for letting use, complaints forms and guest information in the property.
- 02 At each booking**
Registry code and complete price shown in the advertisement, house rules and capacity in the booking terms, identity documents collected in advance.
- 03 At each arrival**
Identify every traveller aged fourteen and over, transmit the data within 24 hours, hand over the house folder and the emergency numbers, and be reachable.
- 04 At each departure**
Clean and reset for the next guests, check the inventory, return or retain the deposit on the terms you published, and log anything that went wrong.
- 05 Through the season**
Answer neighbours the same day, keep the 24-hour number staffed, service the air conditioning before June, and review pricing against what the building next door is achieving.
- 06 In the winter**
Reconcile the accounts, prepare the Modelo 210 or fold the income into the IRPF return, check the community's minutes for any new resolution on tourist use, and confirm the town hall has not changed its position.
- 07 Every year, once**
Re-read your own declaration. If the operating period, the capacity or the ownership has changed, the declaration has to change with it.

RULES, RATES AND THRESHOLDS AS AT 2026-08-16. THE PRINCIPAL SOURCES ARE DECRETO 31/2024 OF THE JUNTA DE ANDALUCÍA, LEY ORGÁNICA 1/2025 AMENDING THE LEY DE PROPIEDAD HORIZONTAL, REAL DECRETO 933/2021, REGULATION (EU) 2024/1028, AND THE SUPREME COURT JUDGMENT OF MAY 2026 ON REAL DECRETO 1312/2024. MUNICIPAL POSITIONS CHANGE WITHOUT NOTICE AND SHOULD BE CONFIRMED AT THE TIME.

10 · WORKING WITH US

Why JUST

Most owners who let well here do three things properly and nothing exotic: they get the paperwork right once, they present the property as though they were selling it, and they run it with somebody local who answers the telephone. We advise owners on all three, before purchase as often as after, and we say plainly when a building or a street will not carry the letting income somebody has promised you.

REGISTER

The statutes, the planning position and the Registro de Turismo de Andalucía, checked in the right order before you commit.

PRESENT

Photography, furnishing and the standard the decree asks for, done to the level the rate you want will actually support.

MANAGE

Introductions to operators we trust, and a straight view of what their commission should buy you.

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