

Attachment B

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21.64.280 - Administrative permits for transient use of residential property for remuneration.

A. Findings and Declarations.

1. Title 21 provides for zoning districts to accommodate development where adequate services and facilities exist to support such development.
2. Title 21 also establishes certain residential and commercial zoning districts to accommodate a wide range of commercial uses compatible with residential and other surrounding land uses.
3. The use of single and multiple family dwelling units, duplexes, guesthouses, caretaker units, and other structures normally occupied for residential purposes, for bed and breakfast, hostel, hotel, inn, lodging, resort, or other transient lodging purposes has impacts on residential areas which must be addressed through existing County use permit processes.
4. Allowing transient use of residential property will provide an administrative procedure to legalize existing visitor serving opportunities and increase and enhance public access to areas of the County and other visitor destinations.
5. If not properly regulated, such use of residential property may create adverse impacts on surrounding residential uses including, but not limited to, increased levels of commercial and residential vehicle traffic, parking demand, light and glare, and noise detrimental to surrounding residential uses and the general welfare of the County. Moreover, such use may increase demand for public services, including, but not limited to, police, fire, and medical emergency services, and neighborhood watch programs.
6. Requiring administrative permits for such use of residential property enables the County of Monterey to address any adverse impacts of such use, is consistent with and declaratory of existing regulations under Title 21, and necessary to maintain the integrity of the various zoning districts.
7. This ordinance is necessary in order to protect the public health, safety, and welfare.

B. Purpose. The purpose of this Section is to:

1. Preserve and enhance the residential character of the zoning districts established in Title 21 and the sense of security and safety in stable neighborhoods of owner-occupied residences.
2. Implement the provisions and advance the purposes and objectives of Title 21.
3. Except as provided in this Section, restrict transient use of property for remuneration, which use may be inharmonious with and injurious to the preservation of the character and environment of the various zoning districts in Title 21.
4. Promote the public health, safety, and general welfare of the County.

C. Definitions. Except as otherwise defined or where the context otherwise indicates, the following words shall have the following meaning:

- 1.

"Person" means any individual, partnership, firm, business, or similar entity, public or private agency, municipality, city, State or Federal agency.

2. "Remuneration" means compensation, money, rent, or other bargained for consideration given in return for occupancy, possession, or use of residential real property.
3. "Residential property" means any single- or multiple- family dwelling units, duplexes, guesthouses, caretaker units, or other dwelling unit or structure located on one or more contiguous lots of record in any of the zoning districts in Title 21 which allow residential uses.
4. "Transient" means, except as provided herein, a period of time not less than seven nor more than thirty (30) consecutive calendar days.
5. "Transient Use of Residential Property" means the use, by any person, of residential property for bed and breakfast, hostel, hotel, inn, lodging, motel, resort or other transient lodging uses where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession, or tenancy is, except as provided herein, for not less than seven nor more than thirty (30) consecutive calendar days.

D. Administrative Permit.

1. Permitted Use.
 - a. Transient use of residential property for remuneration shall be permitted in all zoning districts which allow residential use upon the issuance of an administrative permit pursuant to Chapter 21.70 of Title 21, subject to the regulations in Section D2.
 - b. Transient use of residential property in existence on the effective date of this Section shall, upon application, be issued an administrative permit provided that any such units devoted to transient use are registered with the Director of Planning and the administrative permit application is filed within ninety (90) days of the effective date of this Section. Upon registration, the owner/registrant shall record a covenant and/or deed restriction against each unit whereby such owner/registrant agrees to comply with the regulations set forth in Section D2. The owner/registrant shall have the burden of demonstrating that the transient use was established. Payment of transient occupancy taxes shall be, but is not the exclusive method of demonstrating, evidence of the existence of historic transient use of residential property.
 - c. The rental period and days per year of rental for residential properties registered for transient uses with the Director of Planning pursuant to this Section shall be limited to the rental period and days per year of rental established by the owner/registrant at the time of registration. Nothing in this Section shall preclude the owner/registrant from increasing or extending the rental period for the registered property provided an administrative permit is first obtained under this Section.
2. Regulations.

- a. The minimum rental period for all transient use of residential property shall be the greater of seven consecutive calendar days or the minimum rental period set forth in enforceable, recorded conditions, covenants, and restrictions encumbering the property rented. Transient use of residential property for a term less than provided herein is hereby expressly prohibited. Any residential property the rezoning of which is being proposed or considered by the Planning Commission or the Board of Supervisors so as to be exempted from the provisions of this Section, shall be exempted from the permit and/or registration requirements of this Section pending consideration and final decision on said rezoning by the Planning Commission and the Board of Supervisors. Such exemption shall terminate immediately in the event the Board of Supervisors reaches a final decision not to adopt the above-described rezoning proposed for any such property.
- b. The number of occupants in any residential unit for transient use shall not exceed the limits set forth in the California Uniform Housing Code and other applicable State and County housing regulations for residential structures based on the number of bedrooms within the unit. Each permit shall specify the maximum number of occupants allowed.
- c. Availability of the rental unit to the public shall not be advertised on site.
- d. Any administrative permit issued pursuant to this Section shall require, as a condition of approval, that applicant who does not reside within a five-mile radius of the residence being rented, designate a person located within a twenty-five (25) mile radius of the rental unit, as a local contact person who will be available twenty-four (24) hours a day to respond to tenant and neighborhood questions or concerns and to otherwise be responsible for assuring that the rental unit complies with the requirements of the administrative permit issued and the provisions of this Section and other applicable provisions of Title 21. The name, address, and telephone number(s) of such a designated person shall be furnished to the Director of Planning prior to issuance of the coastal administrative permit and made available for public review. The permit holder shall promptly notify the Director of Planning of any change in the local contact person's address or telephone number.
- e. A copy of any administrative permit and/or registration issued pursuant to this Section shall be furnished by the Director of Planning to the Treasurer of the County of Monterey and the Sheriff of the County of Monterey.
- f. The administrative permit holder and/or registrant shall collect and remit to the Treasurer of the County of Monterey, the transient occupancy tax for each rental unit pursuant to Chapter 5.40 of the Monterey County Code.

However, nothing in this Section shall be construed to require an applicant from collecting and paying any transient occupancy tax for any transient use of residential property had and made prior to the effective date of this Section.

- g. The use of a residential unit for a transient use shall not violate any applicable conditions, covenants, or other restrictions on real property. The applicant shall provide notice to any affected homeowners' association in a manner consistent with the notice requirements for a use permit. In the event the homeowners' association objects to the issuance of the permit, the permit shall not be approved until the homeowners' association's objection has been withdrawn or the right of the applicant to use the subject residential property for transient use has been validated, approved, or otherwise ordered by a Court, arbitrator, or other appropriate entity with the authority to review, approve, validate, or otherwise act on the proposed use of the action of the homeowners' association.
- h. Compliance with the requirements of this Section shall be considered conditions of approval, the violation of which may result in a revocation of any administrative permit by the Director of Planning.

3. Violations.

- a. Any person who uses, or allows the use of, residential property in violation of the provisions of this Section is guilty of a misdemeanor for each day in which such residential property is used, or allowed to be used, in violation of this Section and is punishable pursuant to Title 21 and Chapter 1.20 of the Monterey County Code.
 - b. Any person acting as agent, real estate broker, real estate sales agent, property manager, reservation service, or who otherwise arranges or negotiates for the use of property in violation of the provisions of this Section is guilty of a misdemeanor for each day in which such residential property is used, or allowed to be used, in violation of this Section, and is punishable pursuant to Title 21 and Chapter 1.20 of the Monterey County Code.
- E. Declaration of Intent. The Board of Supervisors finds that the current provisions of the Monterey County Coastal Implementation Plan and Title 21 restrict the use of residential property to be occupied by a person or persons for short-term occupancies. The Board further finds that occupancies of less than thirty (30) days of residential property is a transient use of residential property for remuneration and may be allowed only upon the issuance of an administrative permit in the coastal zone, or an administrative permit in the non-coastal areas. This ordinance, therefore, is intended to clarify, restate, and ratify these findings to ensure full and complete enforcement of the Monterey County Coastal Implementation Plan and Title 21. The Board of Supervisors further finds that this ordinance does not create, enhance, or diminish any rights or obligations of any person holding any interest in real property covered by this ordinance. In

adopting the provisions of Section 1 of this ordinance, the Board of Supervisors finds that it intends to carry out the Local Coastal Program in a manner fully consistent with the California Coastal Act.

F. No Adverse Impact. The Board of Supervisors finds that the adoption of this ordinance has the effect of regulating a previously illegal use; however, the use permitted pursuant to this ordinance, as regulated, will not constitute a substantial adverse physical change to the environment or any substantive change in the intensity of use of existing single family dwellings.

G. Effective Date. Section 1 of this ordinance shall become effective on the thirty-first day after adoption or upon certification by the California Coastal Commission, whichever date occurs last. Section 2 of the ordinance shall become effective on the thirty-first day after its adoption.

(Ord. 3911, 1997)

(Ord. No. 5135, § 140, 7-7-2009)

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