

July 9, 2015

INTERPRETATION REQUEST

County-wide

Current Regulations Relative to the Short-Term Rental (30 Days or Less) for Overnight Accommodations

Monterey County Code Sections:

- Title 21 – Inland Areas: 21.64.280 (Administrative Permits for Transient Use of Residential Property for Remuneration); 21.64.100 (Regulations for Bed and Breakfast Facilities)
- Title 20 – Coastal Zone: 20.64.100 (Regulations for Bed and Breakfast Facilities)
- Chapter 5.40 (Uniform Transient Occupancy Tax Ordinance)

Date: July 9, 2015

Requested by: Mike Novo

Subject: Monterey County Current Regulations Relative to the Short-Term Rental (30 days or less) for Overnight Accommodations

What is the Question?

Which Monterey County Codes apply to the short-term rental (30 days or less) for overnight accommodations?

Short Answer:

Short-term rental (30 days or less) for overnight accommodation may be permitted with an approved discretionary permit, in certain designated zoning districts in the County. Discretionary permits may or may not be granted. Specific short-term rentals that may be permitted with an approved discretionary permit include:

- Bed and breakfast (B&B) facilities – a specific type of short-term rental – may be permitted in designated zoning districts in both Inland Areas and the Coastal Zone with an approved Use Permit/Coastal Development Permit (Monterey County Code sections 21.64.100 and 20.64.100, respectively).
- Rental for between 7-30 days may be permitted in the Inland Areas with an approved Administrative Permit (Monterey County Code Section 21.64.280).
- Rental for 30 days or less (non-bed and breakfast) is not permitted in the Coastal Zone.

Rental for 30 days or less requires payment of transient occupancy tax (Monterey County Code Chapter 5.40).

Events require a Use Permit or Coastal Development Permit as an assemblage of people, separate from short-term rental or B&B permit.

Discussion:

Since the 1980's, Monterey County has allowed bed and breakfast facilities in certain residential areas of the County in both the Inland Areas and Coastal Zone (Monterey County Code sections

July 9, 2015

21.64.100 and 20.64.100, respectively). Bed and breakfast facilities (B&Bs) are a type of short-term rental in which the property owner occupies and manages the facility.

In the late 1990's it became apparent that Monterey County needed to define and regulate a broader category of short-term rental uses (or transient occupancy) of residential properties, separate from B&Bs. In 1997 the County adopted an ordinance in the Inland Areas (Non-Coastal Zone), that regulates transient use for remuneration (short-term rental) of single and multiple family dwelling units, duplexes, guesthouses, caretaker units, and other structures normally occupied for residential purposes (Monterey County Code Section 21.64.280). The existing transient use ordinance provides a discretionary permit procedure in the Inland Areas to allow, or legalize existing, visitor serving opportunities. Establishing land use regulations for events was not part of the purpose of this ordinance.

A transient use ordinance that was adopted for the Coastal Zone (Title 20 Zoning) was not certified by the Coastal Commission and never went into effect. With the exception of permitted B&Bs, short-term rental (30 days or less) for overnight accommodations is not allowed in the Coastal Zone.

In recent years Monterey County has experienced an increase in the number of residential properties being used for short-term rental for overnight accommodations. In response to this growing trend, Monterey County has begun work to update the zoning ordinances and draft a new ordinance to regulate short-term residential rentals used for overnight accommodations.

During the redraft of the short-term residential rental ordinance, the existing ordinances remain in force:

- In the Inland Areas, Transient Use of Residential Properties and B&Bs in designated zoning districts may be permitted with the approval of a discretionary permit.
- In the Coastal Zone, B&Bs may be permitted in designated zoning districts with the approval of a Coastal Development Permit.
- Rental for 30 days or less (non-bed and breakfast) is not permitted in the Coastal Zone.

Events require a separate permit for assemblages of people. The County will actively enforce violations to the existing code and continue to investigate any complaints that are received.

Facts of the situation:

Administrative Permits, Coastal Administrative Permits, Use Permits and Coastal Development Permits are discretionary type permits. Discretionary permits require public notice, conditions of approval, and may be considered for public hearing. Discretionary permits may or may not be granted. With permits and clear conditions of approval, enforcement is easier.

The Monterey County Resource Management Agency permits and enforces the County's land use regulations.

Bed and Breakfast facilities may be permitted in designated zoning districts in the Inland Areas and Coastal Zone with an approved Use Permit/Coastal Development Permit (Monterey County

July 9, 2015

Code Sections 21.64.100 and 20.64.100, respectively). Use Permits and Coastal Development Permits are processed through the Monterey County Resource Management Agency.

In Inland Areas (Title 21 Zoning Ordinance) short-term rental for overnight accommodations for 7-30 days may be permitted in all zoning districts that allow a residential use with an approved Administrative Permit (Monterey County Code Section 21.64.280). Administrative Permits are processed through the Monterey County Resource Management Agency.

In the Coastal Zone (Title 20 Zoning Ordinance), short-term rental for overnight accommodations for 30 days or less is not permitted, except as a permitted B&B.

Renting a home or property for 30 days or less is also subject to Transient Occupancy Tax (TOT), which is a part of the County Code and State Tax Code that is applied and enforced through the County Tax Collector's office, separate from land use regulations. Paying TOT does not imply or alleviate obligation for land use compliance nor legalize the use. Owners found to be renting homes without proper land use permits, regardless if TOT is paid, are subject to penalties and fines in accordance with the land use regulations.

Long-term rentals (greater than 30 consecutive days) are not regulated under the Monterey County Zoning Codes. Therefore, long-term rentals are all allowed without a permit and not subject to transient occupancy tax.

Events require a Use Permit or Coastal Development Permit as an assemblage of people, separate from a short-term rental or B&B permit.

Interpretation Prepared By: Melanie Beretti and Brandon Swanson

Interpretation/Opinion Confirmed by Managers

A handwritten signature in black ink, appearing to be "John M. ...", written over a horizontal line.