

EFFECTIVE 4/06/17

ORDINANCE NO. 3564 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

ADDING MONTEREY CITY CODE CHAPTER 22, SECTION 19.5 TO PROHIBIT  
ADVERTISING OF SHORT-TERM RESIDENTIAL RENTALS IN THE CITY'S RESIDENTIAL  
ZONING DISTRICTS.

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, since 1991 the City of Monterey has prohibited short-term residential rentals, which the Zoning Code defines as the "rental of any residential building, portion of such building, or group of such buildings in which there are guest rooms or suites, including housekeeping units, for transient guests, where lodging with or without meals is provided for a period of less than a calendar month or less than 30 consecutive days," in all residential districts in the City;

WHEREAS, City staff have received multiple complaints about short-term rentals in the City, including noisy parties disturbing the peace of residential neighborhoods, and increased vehicular traffic, parking shortages, and trash in those neighborhoods;

WHEREAS, short-term rentals deplete the already limited housing stock in the City;

WHEREAS, the advent of Internet-based platforms has resulted in a proliferation of residential properties being offered to transient lodgers in violation of existing law. An estimated 200 properties are advertised for short term rentals within the City. This proliferation requires an expansion of enforcement mechanisms to deter violations of this law;

WHEREAS, current code enforcement activities related to the regulation of short-term rentals can be very time and resource intensive because it can be very difficult to verify the violation. Unlike most other code enforcement cases, these violations are frequently not in plain view. This amendment is intended to enhance the City's ability to enforce the City's prohibition, and there is no right to advertise illegal activity (See Pittsburg Press Co. v. Pittsburgh Commission on Human Relations (1973) 413 U.S. 376, 388). This amendment is not intended to be enforced against online hosting platforms such as Airbnb, HomeAway, FlipKey, and/or VRBO, rather is it to be enforced against the Responsible Party, as defined below;

WHEREAS, the amendment prohibiting the advertisement of short-term residential rentals is necessary to allow for more effective enforcement of the City's current prohibition of short-term residential rentals and thereby to preserve the public health, safety, and general welfare in the City's residential zoning districts; and

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

SECTION 3: Monterey City Code, Chapter 22, Section 19.5 is hereby added to read as follows:

"Advertisement of Short-term Rentals.

- (a) No Responsible Party shall post, publish, circulate, broadcast or maintain any Advertisement of a Short-Term Residential Rental prohibited by the Monterey City Code.
- (b) For purposes of this section the following words and phrases shall have the meaning respectively ascribed to them by this section.
  - 1. "Advertisement" means any announcement, whether in a magazine, newspaper, handbill, notice, display, billboard, poster, email, internet website, platform or application, any form of television or radio broadcast or any other form of communication whose primary purpose is to propose a commercial transaction.
  - 2. "Responsible Party" means any property owner or tenant, or any agent or representative thereof, who causes or permits any violation of this Code. To cause or permit includes failure to correct after receiving notice from the City of the violation. A Responsible Party does not include online hosting platforms/companies.
  - 3. "Short-Term Residential Rental" shall have the meaning set forth in Chapter 38 of the Monterey City Code.
- (c) Each day that an Advertisement is posted, published, circulated, broadcast or maintained by a Responsible Party in violation of this Section is a separate offense."

SECTION 4: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 7<sup>th</sup> day of March, 2017, by the following vote:

AYES:	5	COUNCILMEMBERS:	Albert, Barrett, Haffa, Smith, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

  
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Mayor of said City

