

## “Unpermitted” Short-Term Rentals? The Problem Is the Lack of a Workable Permit System

In County Supervisor Mary Adams’ recent newsletter to District 5, she tells her constituents that she has proposed a “pilot program” to shut down “unpermitted” Short-Term Rentals (STRs), often called “Vacation Rentals,” in the Fifth Supervisorial District. The Supervisor’s proposed program would treat her district differently from every other supervisorial district in the County, which sure doesn’t sound like “equal protection.”

Supposedly, Supervisor Adams’ proposal is in response to a Monterey County Civil Grand Jury recommendation that the Board enforce STR regulations. What Supervisor Adams doesn’t say is that there has been no permit system available in the Coastal Zone since 1997. Those “unpermitted” STRs are only “unpermitted” because there is not a workable permit system in place that would allow property owners to obtain approval. In her newsletter, Supervisor Adams parrots the RMA’s claim that besides Section 21.64.280--Administrative permits for transient use of residential property for remuneration – there are also other code sections for bed and breakfast facilities or similar use determinations that provide access to STR permits. Not true at all. No STRs are operating under those designations because not one application has ever been granted! What a Catch 22, to blame residents for running “unpermitted” STRs but provide no reasonable way to obtain a permit. It would be almost laughable if it weren’t so tragic. People have been harmed by this failure to produce a workable ordinance. Residents have lost their homes and have had to leave the area they call home, some of them life-long residents here.

Why have short-term rentals (STRs) become such a polarizing issue in Monterey County? STRs have been offered in this county for many decades, almost all of them well managed and offering families a way to socialize together in a private, home-friendly space. Many of us have enjoyed STRs when we’ve traveled.

In the last 20 years, with the advent of vacation rental platforms like VRBO and Airbnb, STRs have flourished in vacation destinations like ours. The 99+% of guests cause no problems, express gratitude to their hosts, and leave the property in good condition.

Although almost all STR hosts are by nature warm and welcoming to visitors to our beautiful area, many of them have poignant reasons for becoming hosts—needing a way to hang on to their family home especially after the death of a spouse, inability to live on their retirement funds, trying to pay special education or medical expenses for children, parents, unemployed partners. It’s not easy to keep a home ready for guests, but often it is the only way many hosts can survive financially. These are the people being targeted by the Supervisor’s proposed “pilot program.” So why do STRs become the target of unyielding animosity on the part of some groups who are determined to eliminate one of the most sought-after services our county has to offer?

Enter regulation! Or, should I say, the lack thereof?

Since 1997, Monterey has operated without a coastal zone STR ordinance, and the inland ordinance was so opaque and difficult to obtain that only about 20 have been issued in all this time. The many checkered details of Monterey’s STR ordinance history is captured at <https://www.mcvra.org/county-regulation-history>. For the last seven years, a group of STR owners and managers, coming together as the Monterey County Vacation Rental Alliance (MCVRA), has attempted to work with the County to craft an accessible, affordable, enforceable ordinance. During all that time, those who are against permitting STRs have worked hard to stop any ordinance less than a virtual ban.

This month, it would seem they have prevailed. Supervisor Adams’ proposed “pilot program” would subject all STR owners in her district to enormous fines if they continue operating without a permit. Mary Adams claims these owners merely need to obtain a permit, but no one we know of in the last seven years who has applied has succeeded, and most have lost \$6-10K in the process. Catch 22 with a vengeance.

Supervisor Adams’ newsletter indicates that there are 658 STR operators who are currently paying transient occupancy taxes to the County. We wonder if any of the Supervisors have calculated the financial impact on the County if Supervisor Adams succeeds in shutting down the majority of these Short-Term Rentals? And

why would the Board want to do that, anyway? Not only do STRs provide for millions of dollars in Transient Occupancy Tax, but they contribute tremendously to the tourist and residential economy, providing lots of local jobs as well. Forcing the majority of responsible STRs to close solves no problem.

An enforceable STR ordinance is, in fact, the right solution because it would provide relief from genuine problems and would cancel permits of STRs that didn’t follow the rules. Both Santa Cruz County and San Luis Obispo County, Monterey County’s immediate neighbors, have made their short-term rental permit programs a success. What’s the difficulty in Monterey County? In her newsletter, Supervisor Adams refers to the “many years it is taking to adopt a new ordinance,” as though there were some substantial and external obstacle to adopting an ordinance--some difficulty that can’t be overcome. But the only obstacle is the Board’s own failure to act.

In her newsletter, Supervisor Adams does not mention that on July 17, 2018, she made a motion, which the Board approved, that mandated an extremely responsible way to deal with STRs. Recognizing that the RMA was understaffed and that many STR complaints were frivolous, and wishing to save the staff’s time for higher priority work, the Board directed the RMA to respond only to nuisance complaints associated with STRs—noise, parking, trash, dangerous behavior related complaints—until an ordinance was enacted that established a way for property owners to obtain a permit. Reports that an STR was simply operating would not be acted upon. But when the code enforcement office failed to comply with her directive, and sent out over 100 cease and desist letters, the Board did nothing to correct that failure, and the STR “problems” that Supervisor Adams had said she wanted to mitigate—frivolous reporting, targeting responsible operators, over-burdening the enforcement office—kept right on and even increased.

Here’s a section of the Grand Jury’s report that the Supervisor’s newsletter failed to mention:

The Civil Grand Jury recommends that the Board of Supervisors commit to enacting new ordinances no later than end of calendar year 2021, and concurrently enable a properly funded, effective, and sustainable compliance enforcement program. The County should draft and adopt Vacation Rental ordinances that contain both comprehensive coverage as well as appropriate enforcement tools, that are supported by fiscal capabilities which promote sustained viability.

Well, we’re coming right up on the recommended time frame (and only 7 years to get here!) for an ordinance, not a “pilot program” while the ordinance drags on into the 8th, 9th, 10th years. Supervisor Adams’ “pilot program” is not in compliance with the Grand Jury’s recommendation. It’s an end run around that recommendation in just the same endless delay style that the Board of Supervisors has employed since 1997. If the Supervisors want to respond properly to the Grand Jury’s recommendation, they would produce an ordinance in the next two months – creating a way for property owners to obtain a permit, and allowing the County to shut down STRs that violate permit conditions. That is the actual solution to the problem of “unpermitted” STRs. The Board might even model such a workable permit system on the ordinances of neighboring Santa Cruz and San Luis Obispo counties. Their ordinances work much better than Monterey County’s “no permit system” model!

**The directors of the Monterey County Vacation Rental Association**

