

INTERIM URGENCY ORDINANCE NO. 637

**AN INTERIM URGENCY ORDINANCE
OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA,
APPROVING A CITYWIDE 45-DAY MORATORIUM ON THE ISSUANCE OF
ANY NEW PERMIT, LICENSE, APPROVAL, OR ENTITLEMENT PERTAINING
TO A SHORT-TERM VACATION RENTAL WITHIN THE CITY OF MORRO BAY
AND DECLARING THE URGENCY THEREOF**

**THE CITY COUNCIL
City of Morro Bay, California**

THE CITY COUNCIL OF THE CITY OF MORRO BAY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. AUTHORITY AND EFFECT

A. The State Planning and Zoning Law (Cal. Gov't Code Sections 65000, et seq.) broadly empowers the City to plan for and regulate the use of land in order to provide for orderly development, the public health, safety and welfare, and a balancing of property rights and the desires of the community and how its citizens envision their city.

B. This Interim Urgency Ordinance is enacted pursuant to the authority conferred upon the City Council of the City of Morro Bay (the "City") by Government Code Section 65858 and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council of the City of Morro Bay as if, and to the same extent that, such Ordinance had been adopted pursuant to each of the individual sections set forth herein.

SECTION 2. DEFINITIONS

The following definitions are applicable to this Interim Urgency Ordinance, unless the context clearly indicates otherwise:

A. "Permit" means a permit to operate a short-term vacation rental pursuant to Chapter 5.74 of the Morro Bay Municipal Code.

B. "Short-term vacation rental" has the same meaning as Section 5.47.030, and shall also include accessory dwelling units (Gov't Code § 65852.2) and junior accessory dwelling units (Gov't Code § 65852.22). "Rental" includes, but is not limited to, rental of the property for any form of monetary or non-monetary consideration, including but not limited to money, goods, or services, as well as in-kind exchanges of goods, services, or premises.

SECTION 3. BACKGROUND

A. On June 14, 2016, by a unanimous vote, the City Council adopted Ordinance No. 604, which effected a 45-day moratorium on the issuance of short-term vacation rentals permit beyond a cap of 250 citywide (the "2016 Moratorium").

B. On July 13, 2016, by a 4/5 vote, the City council adopted Ordinance No. 605, extending the 2016 Moratorium for an additional 22 months and 15 days. The moratorium expired in 2018.

C. On May 8, 2018, City Council adopted Ordinance 613 amending section 5.47.050 of the Morro Bay Municipal Code permanently implementing the 250 cap on the number of vacation rental permits that can be effective within the City on residentially zoned property at any one time.

D. Section 65858(f) of the Government Code provides that "...upon termination of a prior interim ordinance, the legislative body may adopt another interim ordinance pursuant to this section provided that the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance."

E. The Interim Urgency Ordinance differs from the 2016 Moratorium. The 2016 Moratorium sought to cap the issuance of short-term vacation rental permits at 250. This Interim Urgency Ordinance prohibits the issuance of any new short-term vacation rental permits in anticipation of the study of and potential adoption of a new regulatory ordinance that, among other regulations for the public health, safety and welfare, provides for density limitations and separation requirements.

F. New facts and circumstances justify the Interim Urgency Ordinance including that in the last couple of years, the popularity of short term vacation rentals has exponentially increased, thus bringing a much greater number of visitors to the City. Since March of 2020, the State of California has been under varying degrees of shut-downs and stay-at-home orders to limit the spread and impact of COVID-19, as further articulated below, while visitors continue to come to the City for recreation and tourism.

SECTION 4. CITY COUNCIL FINDINGS

A. The City of Morro Bay has adopted a General Plan, including strategies to invigorate the City's prosperous community as well as its well-planned and designed community.

B. Protection of public health, safety and welfare is fully articulated in the General Plan.

C. State law requires the City's zoning laws, found in Title 17 of the Morro Bay Municipal Code ("MBMC"), conform with the General Plan's goals and policies.

D. The City currently has a process for permitting vacation rentals in Chapter 5.74 of the MBMC.

E. In December of 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19) was first identified in Wuhan City, Hubei Province, China.

F. Since then, COVID-19 has and continues to spread globally. On March 3, 2020, Governor Newsom declared the existence of a state of emergency for the State of California; and on March 11, 2020, the Director-General for the World Health Organization declared that COVID-19 can be characterized as a "pandemic." On March 13, 2020, the President of the United States declared that the outbreak of COVID-19 in the United States constitutes a national emergency.

G. On March 14, 2020, the City's Director of Emergency Services declared a local emergency pursuant to Chapter 8.08 of the Morro Bay Municipal Code, finding that COVID-19 puts the safety of persons and property in Morro Bay in extreme peril. On March 19, 2020, the

City Council adopted Resolution No. 23-20, ratifying the Director of Emergency Services' declaration of local emergency.

H. Since the City's declaration of emergency, California experienced an initial period of flattening of the curve, but subsequently infections have risen dramatically. As of the middle of August 2020, the United States has over 5 million confirmed cases with approximately 50,000 to 60,000 new cases daily, and over 170,000 people have died.

I. California has passed the 600,000 cases mark, with over 11,000 deaths, and between 5,000 and 7,000 new cases reported daily. Based on the contagiousness of the disease, some states have instituted quarantines and even check-points to reduce the likelihood of new outbreaks.

J. The City has approximately 250 permitted short-term vacation rentals. While travel and vacationing has decreased compared to previous years, short-term vacation rentals are still in use. Additionally, in the last couple of years, social media has increased exponentially the popularity and demand for short-term vacation rentals.

K. The City continues to grapple with the COVID-19 pandemic and the continuing threat of infection of its residents with a potentially deadly disease that has no vaccine. COVID-19 has an incubation period of up to 14 days, and researchers are finding that a number of people can carry the disease and be asymptomatic, but still pass it on to other individuals. Individuals who travel on vacation without the proper social distancing and adherence to health and safety measures can contribute to the spread of the disease.

L. City staff is bringing forward an updated ordinance, which is anticipated to, among other measures to provide for the public health, safety and welfare, include limitations on short-term vacation rental density, provide for separation requirements, and provide for a limit on the number of permits in residential zones only.

M. The City Council finds that allowing any proliferation of new permits under the current permit scheme (which among other limitations has no density limitations nor separation requirements), obtained in a rush to avoid being subject to the new ordinance, is a threat to the public health, safety and welfare, and could lead to potentially nonconforming land uses that could defeat the purpose and intent of a later adopted short-term vacation rental ordinance.

N. The City Council finds the MBMC's current provisions regarding vacation rentals must be fully reviewed to ensure the public health, welfare and safety of all persons are properly protected regarding the operation of short-term vacation rentals.

O. Based on the foregoing, it is urgent the City temporarily prohibit the issuance of new short-term vacation rental permits to limit the proliferation of new vacation rental permits while it undertakes a review of its current vacation rental regulations in order to determine whether additional regulations are needed to ensure the public health, safety, and welfare remain protected.

SECTION 5. MORATORIUM

A. Based on the foregoing, the City Council finds and declares there is a current and immediate threat to the public health, safety or welfare and upon that basis has determined an

urgency ordinance pursuant to Government Code Section 65858 is warranted and shall take effect immediately upon adoption by a four-fifths vote of the City Council.

B. For a period of 45 days after the date of August 25, 2020, no permits, licenses, approvals, or entitlements may be issued or applications accepted for the operation of any new short-term vacation rental within the City.

C. City staff is directed to study appropriate modifications to the City's short-term vacation rentals regulations to reduce and mitigate negative secondary effects created by the number, location, and other impacts vacation rentals can cause.

D. Pending the completion of such studies and the adoption of an ordinance to establish appropriate operational and zoning regulations and for the immediate preservation of the public health, safety, and welfare, it is necessary for this ordinance to take effect immediately. In the absence of immediate effectiveness, short-term vacation rental uses in the City may be in conflict with regulations or requirements established with respect thereto.

E. This ordinance shall not preclude the operation of currently and validly permitted short-term vacation rentals in full compliance with Chapter 5.47 of the MBMC and all other laws.

F. This ordinance does not create or grant any vested rights to any person for the continued operation of any short-term vacation rental during the time of this ordinance (or an extension thereof), or after the adoption of updated regulations.

SECTION 6. The City Council finds this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review.

SECTION 7. Based on the foregoing recitals, findings, and all facts of record stated before the City Council, the City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this ordinance be enacted as an urgency interim ordinance pursuant to California Government Code Section 65858(a).

SECTION 8. This ordinance is hereby declared to be an urgency measure and shall become effective immediately on August 25, 2020, pursuant to California Government Code Section 65858, upon adoption by at least a four-fifths (4/5) vote of the City Council, and it will extend for a period of 45 days after that date, at which time it will automatically expire, unless extended by the City Council in accordance with the requirements and procedures provided for by California Government Code Section 65858.

SECTION 9. The City Clerk shall certify as to the passage and adoption of this ordinance, and the City Clerk shall cause the same to be posted in the manner required by law.

PASSED AND ADOPTED on the ___ day of _____, 2020.

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

CHRIS F. NEUMEYER, City Attorney