



County of Santa Cruz

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
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ALVIN D. JAMES, DIRECTOR

March 13, 2002

Agenda: March 19, 2002

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

RE: VACATION RENTALS

Members of the Board:

On November 6, 2001, in conjunction with your Board's review of a number of recommendations by the County Administrative Officer to increase the production of affordable housing the Board directed the Planning Department, Assessor's Office and the Treasurer/Tax Collector to provide a report on the Board's authority to regulate residential property for short term kinds of commercial use. The objective was to possibly address the impacts of vacation versus owner-occupied type of residences. The following report will address whether the County has the authority to regulate the use of single family residence as vacation rentals, what some other jurisdictions are doing about this issue and the impacts that these uses have on the General Fund.

Authority to Regulate Commercial Use of Single-Family Residences

Currently, the use of single-family residences for vacation rentals is not regulated by the County, except for the collection of Transient Occupancy Tax (discussed below). County Counsel has issued a number of opinions on this matter. In 1988, County Counsel was asked whether the renting of a single-family dwelling to a family was consistent with the uses allowed in the R-1 zone district. County Counsel's opinion (Attachment 1) cites an earlier memo to the Planning Department which concluded that "as long as a home in the R-1 district is not occupied by more than one family, as 'family' is defined by our ordinance, short-term rentals of such home by a single family are not prohibited by an ordinance." County Counsel re-affirmed this conclusion in 1988, and added that the County could prohibit these uses in the R-1 district if there was a rational basis for enacting such an ordinance.

On November 6, 2001, your Board accepted a report from County Counsel regarding a number of legal questions that were raised as a part of the Board's housing workshop. One of the questions concerned the County's authority to regulate the temporary use of residences for short-term

vacation rentals. County Counsel indicated in its report (Attachment 2) that the County could regulate these short-term commercial uses in residential zone districts. In support of this opinion, County Counsel cited the ‘Carmel’ case, where a homeowner sued the City for prohibiting the use of residences for commercial lodging (of any kind). The City’s ordinance was upheld by the appellate court.

Practices in Carmel and Capitola

Staffs research has found that two cities, Carmel and Capitola, deal with the issue of vacation rentals in residential zone districts in two different ways. The City of Carmel simply prohibits the use altogether, as mentioned above. Staff has attached excerpts from the Carmel Municipal Code regarding this prohibition (Attachment 3).

The City of Capitola, on the other hand, has adopted an ordinance (Attachment 4) which regulates vacation rentals in residential zone districts through the issuance of a use permit. The intent of this ordinance is to make sure that the vacation rentals are good neighbors and don’t cause problems. The use permit issued by the City requires that specific conditions relating to the vacation rental use be met, including the establishment of a maximum number of persons allowed in the unit, the provision of adequate parking, the designation of a responsible person (to receive complaints), signage, and registration for the payment of transient occupancy tax. The permit is valid for one year, but is renewable if there is not a history of the tenant’s violating the terms of the permit. If there is such a history, the permit may not be renewed for at least one year unless there is good cause to allow the renewal.

Fiscal Issues

The County Tax Assessor assesses these properties as single-family residences and does not maintain information on the use of properties as vacation rentals. Staff discussed the issue of vacation rentals with the Treasurer/Tax Collector. The Treasurer/Tax Collector maintains a list of hotels, motels, “bed and breakfasts”, individual vacation rental property owners and vacation rental management companies that pay transient occupancy tax to the County. From that list, staff identified 448 - 504 vacation rentals in the unincorporated area of the County. The Treasurer/Tax Collector indicated his staff investigates advertised vacation rentals to collect any transient occupancy tax due the County. While the Transient occupancy tax collected solely from vacation rentals is not known, the Treasurer/Tax Collector estimated that the County General Fund receives between \$2.5 and \$3 million a year in transient occupancy tax from all short-term rentals, including vacation rentals of single-family residence as well as motels, hotels, and “bed and breakfast” establishments.

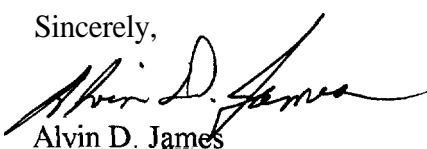
Conclusion and Recommendation

Vacation rentals of single-family residences are allowed in the residential zone districts under the current County Code, without restrictions. The County does have the authority to regulate these uses. This can be accomplished in a number of ways, ranging from prohibiting the use to

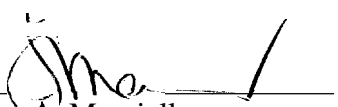
requiring conditional use permits. Any decision to regulate these types of uses must weigh the issues surrounding the impact of these uses on adjacent properties and neighborhoods with the needs of the County regarding the provision of visitor and tourist accommodations and the effects of any regulations on the collection of transient occupancy tax. Another factor to be considered, in the context of the housing needs of the County, is that these vacation rentals are residential units which have been removed from the stock of permanent housing for use as short-term rentals.

It is, therefore, RECOMMENDED that your Board accept and file this report.

Sincerely,



Alvin D. James
Planning Director

RECOMMENDED: 

Susan A. Mauriello
County Administrative Officer

- Attachments:
1. Memo of County Counsel, dated September 26, 1988.
 2. Letter of County Counsel, dated October 24, 2001.
 3. Excerpts from the Carmel Municipal Code
 4. Chapter 17.19 of the Capitola Municipal Code

- cc:
- County Counsel
 - Tax Assessor
 - Treasurer/Tax Collector
 - Bailey Properties, Attn: Paul Bailey
 - Kendall-Potter
 - Cheshire Realty

COUNTY OF SANTA CRUZ
Inter-Office Correspondence

DATE: September 26, 1988
TO: Planning Department, Attn: Bob Leggett *JW*
FROM: Jonathan Wittwer, Chief Deputy County Counsel
SUBJECT: Short-Term Rental of Single-Family Dwellings

You have inquired whether an owner of a single-family dwelling who rents such dwelling to another family (as defined for County Code § 13.10.700-F) is in violation of the uses allowed under the R-1 zone District.

By Inter-Office Correspondence dated July 7, 1969, this office advised Planning that:

"...as long as a home in an R-1 district is not occupied by more than one family, as "family" is defined by our ordinance, short-term rentals of such home by a single family are not prohibited by an ordinance."

Our opinion in this regard has not changed. A single-family dwelling rented to another family is still being used as a single-family dwelling, a permitted use in the R-1 zone District. The subsequent enactment of an ordinance establishing a Visitor Accommodations zone District (one of the Commercial Districts) was not, so far as its purposes are stated, intended to change or limit the permitted uses in the R-1 Zone District.

Section 13.10.700-V defines Visitor Accommodations as:

"Visitor Serving Facilities for overnight or extended stay use, such as hotels, motels, horizontal hotels, inns, lodges, recreational vehicle parks, hostels, commercial camping and appurtenant uses."

The Commercial Uses Chart includes as Type A Visitor Accommodations (subject to Section 13.10.335(b)):

"Hotels, inns, pensions [boarding houses], lodging houses, 'bed and breakfast inns', motels, [and] recreational rental housing units."

Martin Jacobson, Planning
Re: Short-Term **Rental** of Single-Family Dwellings
September 26, 1988
Page 2

Section 13.10.335(b) establishes Visitor Accommodations Use Standards, including allowed densities, density calculations, and permit conditions. Sections 13.10.690 et seq. **also** regulate Visitor Accommodations. A review of all of these sections will show that the concept of Visitor Accommodations did not contemplate rental of a single-family dwelling to another family. However, it must be stated emphatically that if the rental assumes the characteristics of a "bed and breakfast" inn, a boarding house, or a lodging house, it will be considered a Visitor Accommodation.

The Transient Occupancy Tax Ordinance is not a Zoning Ordinance, but is rather **a** revenue ordinance. Hence any definition of "hotel" therein would not govern land use matters. The Transient Occupancy Tax would be applicable to the rental of a single-family dwelling to another family for a period of less than 30 days.

There **is**, of course, nothing to prevent the Board of Supervisors from enacting an ordinance prohibiting the rental **of** single-family dwellings for periods of less than 30 days if there is a rational basis for distinguishing such a use from the usual single-family dwelling use. However, until such an amendment to the existing zoning Ordinance is enacted, it **is** our opinion that such a short-term rental of a single-family dwelling is a permitted use in the R-1 Zone District.

JW:sf:8316:2-3

cc: Robley Levy, Supervisor
Treasurer-Tax Collector



County of Santa Cruz

OFFICE OF THE COUNTY COUNSEL

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Julia Hill
Dwight L. Herr
Shannon Sullivan
Sharon Carey-Stronck
Margaret Burks

October 24, 2001

Agenda: November 6, 2001

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, California 95060

Re: RESPONSE TO QUESTIONS RAISED DURING AFFORDABLE HOUSING WORKSHOP

Dear Members of the Board:

On October 2, 2001, your Board conducted an extensive workshop on affordable housing. At the conclusion of that workshop, your Board directed that staff respond to certain questions and issues raised during the course of that proceedings through reports that were scheduled to return on this date. The following questions concerning the County's legal authority were directed to this Office: (1) the County's authority to limit the occupancy of single family dwelling units; (2) the County's authority to impose its land use regulations on the University of California; (3) the County's authority to regulate the temporary use of residences for short-term vacation rentals; and (4) the County's authority to enact a anti-retaliatory eviction ordinance.

DISCUSSION

1. The County's authority to limit the occupancy of single family dwelling units. Generally speaking, a land use restriction which focuses on the identity of a dwelling's occupants (i.e., a biological family versus a group of unrelated individuals, or renters versus owner occupants), rather than the intensity of use to which the dwelling is put is unlawful.

See *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123; *College Area Renters and Landlords Ass 'nv. City of San Diego* (1996) 43 Cal.App.4th 667.

On constitutional privacy grounds, the Supreme Court in *Adamson* struck down an ordinance which imposed a numerical limitation on the number of nonfamily-related persons who could live together in a single-family residential zone district. In *College Area Renters*, an ordinance limiting the number of adults in rented single-family housing was found to have violated equal protection principles to the extent that it distinguished between owner versus renter-occupied residences.

It is also the case that State law, in the form of the Uniform Housing Code, generally governs the establishment of occupancy standards. See *Briseno v. City of Santa Ana* (1992) 6 Cal.App.4th 1378. While a local government may make changes to these regulations, it must follow certain procedures and determine that the changes are "...reasonably necessary because of local climatic, geological, or topographical conditions." Health and Safety Code Section 17958.7

The County Code presently defines the term "dwelling unit" without placing limitations on the number of persons that may therein reside:

A structure for human habitation providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, with the restrictions that only one kitchen or set of food preparation facilities is allowed in each dwelling unit and an interior stairway shall be provided between all stories. County Code Section 13.10.700-D(Emphasis added.)

The County Code does establish a numerical limitation

Family. One person living alone, or two or more persons related by blood or marriage or a group of not exceeding five persons (excluding servants) who need not be related by blood or marriage, living together as a single housekeeping unit, in a dwelling unit as distinguished from a group occupying a hotel, club, fraternity or sorority house. County Code Section 13.10.700-F(Emphasis added.)

63

Because the cited definition restricts the total number of unrelated occupants that may reside within a dwelling unit (not to exceed five), places no corresponding limit on the number of persons related by blood or marriage, it is the opinion of this Office that this provision is not legally enforceable under the ruling in *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123.

The County may continue to enforce the other provisions of the Code that do establish minimum standards for addressing particular impacts related to residential uses. For example, Section 13.10.552 establishes the standards for off-street parking required for residential uses. In addition, standards for minimum lot widths, maximum lot coverage and floor area to lot area ratios, set-backs, maximum building height and story limitations are also established to address concerns related to residential density.

2. The County's authority to impose its land use regulations on the University of California.

As a general rule, whenever the State is conducting a sovereign activity, it is not subject to local land use controls unless the state legislature consents to such regulations. *Hall v. City of Taft* (1956) 47 Cal.2d 177. The Regents of the University of California is charged with the administration of the University and acts as an arm of the state itself. *Regents of University of California v. City of Santa Monica* (1978) 77 Cal.App.3d 130, 135. The California Constitution vests the Regents of the University of California with ownership and control of all university property. California Constitution Article IX, Section 9 (a).

A county is authorized to enact ordinances which are not in conflict with general laws. California Constitution Article XI, Section 7. However, the California Constitution does not authorize municipalities to apply local zoning restrictions to state agencies (*Town of Atherton v. Superior Court* (1958) 159 Cal.App.2d 417, 424-427), a power which may be granted **only** by legislative consent.

In *City of Santa Monica*, the University of California undertook a renovation project within the City of Santa Monica and paid, under protest, construction permit fees assessed by the City. The Regents filed a claim for damages, alleging that it was not subject to the City's construction permit fees. The trial court found for the Regents and permanently enjoined the City from enforcing the ordinances against the University and refunded the fees paid plus interest. On appeal, the trial court decision was affirmed.

...in view of the virtually plenary power of the Regents in the regulation of affairs relating to the university and the use of property owned or leased by it for educational purposes, it is not subject to municipal regulation. "When ... [the state] engages in such sovereign activities as the construction and maintenance of its buildings, . . ., it is not subject to local regulations unless the Constitution says it is or the Legislature has consented to such regulation." (*Hall v. City of Taft* (1956) 47 Cal.2d 177, 183 [302 P.2d 5741.]) Thus, the Regents in constructing improvements solely for educational purposes are exempt from local building codes and zoning regulations *Regents of University of California v. City of Santa Monica*, supra, 77 Cal.App.3d at 135-136 (Emphasis added.)

Consequently, when the University is making use of its property for purposes consistent with its educational mandate, it is not subject to local land use regulations.



3. The County's authority to regulate the temporary use of residences for short-term vacation rentals.

Under the County's police power authority, it may regulate the use of residential property for short-term commercial purposes. In the case of *Ewing v. City of Camel-by-the-Sea*, (1991) 234 Cal.App.3d 1579, the court upheld an ordinance enacted by the defendant city which prohibited the use of residential property zoned R-1 for commercial lodging (e.g., bed and breakfast, hostel, hotel, inn, resort, or other transient lodging) for periods of less than thirty consecutive calendar days. A property owner challenged the ordinance claiming that it resulted in an unlawful taking of his property. The appellate court upheld the ordinance finding that the city had a legitimate governmental purpose in maintaining the residential character of its neighborhoods and that the ordinance was reasonably related to this purpose. The court also found that the minimal diminution of property rights caused by the ordinance was outweighed by the public interest in maintaining permanent residential areas.

4. The County's authority to enact an anti-retaliatory eviction ordinance,

It is within the Board's power to enact an anti-retaliation ordinance based on the County's authority to regulate matters of the public health and safety that are not in conflict with general law. *Fisher v. City of Berkeley* (1984) 37 Cal.3d 644.



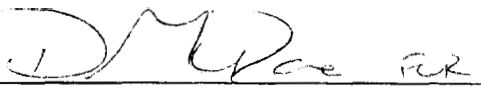
In the landlord-tenant context, Civil Code § 1942.5 provides protections against retaliatory evictions.] Subdivision C deals with retaliatory action against a tenant who “has lawfully organized or participated in a lessees’ association or an organization advocating lessees’ rights or has lawfully and peaceably exercised any rights under the law.” This section “provides the tenant with an affirmative cause of action against the landlord for retaliatory eviction. *Western Land Office, Inc. v. Cervantes* (1985) 175 Cal.App.3d 724.

However, Civil Code § 1942.5 explicitly disclaims any effect to limit the power of local governments to regulate evictions. (*Ibid*) The City of Berkeley has an ordinance that protects tenants from arbitrary, discriminatory or retaliatory evictions. (Berkeley CA Ordinance § 13.76.030, See *deZerger v. Meggs* (2000) 83 Cal.App.4th 28).

IT IS THEREFORE RECOMMENDED that your Board accept this report.

Very truly yours,

DANA MCRAE, COUNTY COUNSEL

By 
RAHN GARCIA
Chief Assistant County Counsel

RECOMMENDED:

SUSAN A. MAURIELLO
County Administrative Officer

cc: County Administrative Officer
Planning Director

¹ See attached copy of Civil Code § 1942.5.

Title 17 ZONING"
Chapter 17.08 GENERAL REGULATIONS

Chapter 17.08
GENERAL REGULATIONS

Sections:

- 17.08.010 **Unlawful Acts.**
- 17.08.015 **Demolition or Relocation of Structures.**
- 17.08.020 **Transient Commercial Use of Residential Property for Remuneration is Prohibited.**
- 17.08.030 **Water Management Program – Purpose.**
- 17.08.040 **Water Conservation.**
- 17.08.050 **Allocation of Water Resources.**
- 17.08.060 **Effect of Allocations.**
- 17.08.070 **Demolition of Structures.**
- 17.08.080 **Conversion or Demolition of Affordable Housing.**
- 17.08.100 **Wireless Communications Facilities.**

17.08.010 **Unlawful Acts.**

A. It is unlawful:

1. To use any building, structure, improvement or premises within any of the districts for any purpose not permitted by the chapter of this title relating to the district.
2. To erect, construct, establish alter, enlarge, or move any building, structure or improvement within any of the districts which is designed, arranged or intended to be occupied or used for any purpose not permitted by the chapter of this title relating to the district.
3. To erect, construct, establish, alter, enlarge or move any building, structure or improvement or occupy any premises contrary to the regulations and limitations prescribed in this title regarding building height, building site requirements, percentage of coverage and front, side and rear yards, or to violate the terms of a use permit.
4. No land, whether in the same original ownership or not, which has been designated and used as any part of the building site required for one building shall be included in the building site for another building if the inclusion will reduce the building site or the original building to less than the minimum amount required in this title.
5. To erect, construct, establish, or move any building in any commercial zone unless such building will be so located and constructed in such a manner that all usable accesses onto the property or into such building at the property line are so located that they will be at official grade as established by City ordinance; provided, however, that in the event that adjoining City property is not at official grade when a building permit is issued, that access will be permitted at other than official grade; provided, that such access is so constructed that the property owner can readily alter the access to meet official grade without cost or damage to the City or without a major alteration to the structures on private property at any time the street and/or sidewalk are brought to official grade.

B. It is unlawful for the owner, tenant, lessee or occupant of any property to permit any of the acts described in this chapter. (Ord. 85-32 § 6, 1985; Ord. 80-23 § 5, 1980; Ord. 159 C.S. § 1, 1968; Code 1975 § 1302.9).

17.08.015 Demolition or Relocation of Structures.

The demolition or relocation of any structure used for residential or commercial purposes shall require review and approval by the Planning Commission prior to the issuance of a building permit authorizing such demolition or relocation and in accordance with CMC 17.08.070. (Ord. 93-11 § 1, 1993; Ord. 87-14 § 4, 1987).

*** 17.08.020 Transient Commercial Use of Residential Property for Remuneration is Prohibited.**

A. Purpose. The purpose of this section is to:

1. Preserve and enhance the character of the R-1 district.
2. Promote the public health, safety and general welfare of the City.

3. Expressly prohibit transient commercial use of residential property for remuneration, which **uses are** inharmonious with and injurious to the preservation of the residential character and environment of the City.

4. Implement provisions of the General Plan, and advance the purposes and objectives of CMC Title 17.

B. Definitions.

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

a. "Person" means an individual a group of individuals, or an association, firm, partnership, corporation or other entity, public or private.

b. "Remuneration" means compensation, money, rent, or other bargained for consideration given in return for occupancy, possession or use of real property.

c. "Residential property" means any single-family dwelling unit or structure located on one or more contiguous lots of record within the R-1 land use district.

d. "Transient" means a period of time less than 30 consecutive calendar days.

e. "Transient commercial use of property" means the commercial 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 for less than 30 consecutive calendar days.

2. The definitions herein include the singular and plural meanings of each defined word.

C. Transient Commercial Use of Residential Property for Remuneration is Prohibited. Transient commercial use of residential property for remuneration is prohibited in the R-1 land use district, except as otherwise expressly permitted by this code.

D. Liability and Enforcement.

1. Any person acting as agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise who arranges or negotiates for the use of residential property in violation of the provisions of this section is guilty of an infraction for each day in which such residential property is used, or allowed to be used, in violation of this section.

2. Any person who uses, or allows the use of, residential property in violation of the provisions of this section is guilty of an infraction for each day in which such residential property is used, or allowed to be used, in violation of this section. (Ord. 89-17 § 4, 1989; Ord. 88-24, 1988; Ord. 82-12 § 1, 1982; Ord. 81-25 § 1, 1981; Code 1975 § 1302.91).

17.08.030 Water Management Program – Purpose.

The City recognizes a need to conserve and manage its water resources to achieve adopted land use planning objectives. The water resources of the City are presently derived from a water allocation system implemented by the Monterey Peninsula Water Management District. It is the purpose and intent of this chapter to establish a water management program that:

A. Reduces unnecessary water consumption in existing and new development;

B. Provides a process for dedication of the City's limited water resources in new development;

C. Establishes a process for determining the broad land use categories to be served through allocations of existing and future water resources available to the City;

D. Implements the General Plan. (Ord. 93-11 § 1, 1993; Ord. 87-14 § 2 (Exh. A), 1987).

17.08.040 Water Conservation.

Water conservation is an integral part of the City's water management program. Water resources available to the City are limited. In some cases, water conservation can increase the effective supply and allow development that otherwise would not be possible. Water conservation in new development can reduce the demand from each project and thereby increase the number of projects that can be served with available resources. It is the intent of this section to establish uniform standards for water conservation and to provide guidance on the manner in which conserved water is to be used within the City's total water management program.

A. Uniform Standards for Plumbing Fixtures. The use of water-conserving plumbing fixtures shall be required for all new construction. All existing plumbing fixtures within any building that do not comply with the adopted standards for water conservation shall be replaced with complying fixtures upon issuance of any building permit authorizing substantial construction. Standards for water-conserving plumbing fixtures and the criteria for when such fixtures are required are established in Chapter 15.28 CMC.

Title 17 ZONING*
Chapter 17.24 R-1 LAND USE DISTRICT*

Chapter 17.24
R-1 LAND USE DISTRICT*

Sections:

Article I. Land Use Regulations

- 17.24.010 Purpose.
- 17.24.020 Permitted Uses.
- 17.24.030 Conditional Uses.
- 17.24.040 Prohibitions.
- 17.24.050 Lots, Parcels and Building Sites.
- 17.24.060 Regulatory Lot Mergers.
- 17.24.070 Voluntary Waiver of Subdivision Rights.
- 17.24.080 Voluntary Lot Mergers.
- 17.24.090 Floodplain Land.
- 17.24.100 Single-Family Residential Dwellings.
- 17.24.105 Accessory Structures.
- 17.24.110 Guesthouses.
- 17.24.120 On-Site Parking Requirements.
- 17.24.130 Subordinate Units.

Article II. Design Regulations

- 17.24.200 Purpose.
- 17.24.210 Objectives.
- 17.24.220 Design Guidelines.
- 17.24.230 Residential Design Review.
- 17.24.240 Definitions.
- 17.24.250 Setbacks.
- 17.24.260 Height.
- 17.24.270 Site Coverage.
- 17.24.280 Floor Area Ratio and Exterior Volume.
- 17.24.290 Table of Floor Area and Site Coverage Standards.
- 17.24.300 Fences and Walls.
- 17.24.310 Outdoor Antennas.

* Prior legislation: Ords. 85-18, 85-35, 86-3, 87-14, 87-22, 87-28, Urgency Ord. 88-22, 88-24, 89-2, 89-17, Urgency Ord. 89-20, 90-8, 90-13, 91-9, 91-10, 91-13, 91-14, 93-3, 93-4, 93-25, 95-7, 97-6, 98-8 and 98-14.

Note: All provisions in Chapter 17.24 CMC related to exterior volume (contained in CMC 17.24.080, 17.24.240 and 17.24.280) will expire on January 6, 2003, unless re-adopted by ordinance of the City Council.

Article I. Land Use Regulations

- 17.24.010 Purpose.

To provide an appropriate land area for permanent single-family residential uses and structures and to enhance and maintain the residential character of the City. (Ord. 2001-03 § 1, 2001).

17.24.020 Permitted Uses.

The following uses are allowed on each legal building site:

- A. Single-family residential use occupying not more than one dwelling unit;
- B. Parks, playgrounds and recreational facilities;
- C. Public schools, public libraries and municipal facilities;
- D. The growing of plants and the raising of animals not otherwise prohibited by law;
- E. Home Occupations. The use of up to two rooms in a single-family dwelling by a person residing therein as the studio of an artist, writer or musician, or by a teacher of the arts having up to two pupils under instruction at any one time. For this section, the arts shall include only the following: painting, graphics, computer graphics, music, dance, drama, sculpture, writing, photography, weaving, ceramics, needlecraft, jewelry, glass and metal crafts;
- F. One Class 1, Class 2 or Class 3 subordinate unit. (See CMC 17.04.675 and 17.24.130), (Ord. 2001-03 § 1, 2001).

17.24.030 Conditional Uses.

The Planning Commission may authorize the following with a conditional use permit:

- A. Churches and accessory buildings on existing sites established prior to December 1, 1980.
- B. Private kindergartens, nursery schools and daycare centers.
- C. Motels that (1) were in existence prior to January 1, 1967, (2) have been issued use permits, and (3) have not had such uses terminated for any reason since that date. Legal nonconforming motels located in the sphere of influence shall obtain a use permit upon annexation. (See CMC 17.46.040(L) and (M)).
- D. Public or quasi-public service uses at existing sites and all public utility uses.
- E. Plumbing fixtures including any sink, washbasin, shower or water closet in any single-family dwelling or accessory building when located in other than an authorized kitchen/dining room, bathroom, workshop or laundry room.
- F. One noncommercial guesthouse. (See CMC 17.24.110).
- G. Off-street parking areas, in existence as of January 1, 1988, and which are (1) part of a conditional use, (2) adjacent to a commercial use, or (3) provide public parking. (See CMC 17.18.240 for required findings).
- H. Senior Citizen Housing. Any City-owned building may be developed to provide senior citizen housing as defined by California Statutes. All site development requires design review. (See CMC 17.40.030).
- I. One Class 3 subordinate unit. (See CMC 17.24.130(B)(3)). (Ord. 2001-03 § 1, 2001).



17.24.040 Prohibitions.

- A. All uses not expressly permitted in this code are expressly prohibited.
- B. Timesharing projects, programs and occupancies are prohibited. Use of residential structures under a use or occupancy agreement which divides the right to use the structure on a time interval basis so that no owner with a right to use the structure under the agreement can legally register as a voter, giving the structure as the owner's or occupant's voting residence address, is prohibited unless otherwise provided for in this code. This subsection shall not apply to persons inheriting the real property where no consideration was paid for the inheritance rights.
- C. Use of single-family residential property in the R-1 land use district for commercial use including, but not limited to, transient commercial use for bed and breakfast, hostel, hotel, inn, lodging, motel, hotel, resort and other transient lodging uses for remuneration, is prohibited except as otherwise provided for in this code.
- D. Subordinate units not authorized by this chapter, as provided in CMC 17.24.130(B). (Ord. 2001-03 § 1, 2001).

17.24.050 Lots, Parcels and Building Sites.

Parcels not meeting the standards for legal building sites shall not be issued any building permits, other than permits for demolition, until the parcel has been brought into compliance with this section.

- A. Standards. A parcel of land within the R-1 land use district shall meet all of the following standards to be considered a legal building site:
 1. Slope. Building sites shall have less than a 30 percent slope as measured between any two property lines. Sites with steeper slopes require a use permit. See CMC 17.46.040(F).
 2. Water Supply. TO qualify as a building site an adequate water supply must be available to serve the site as established in CMC 17.08.050 and 17.08.060.

17.18.170 Lot dimension determination. For the purposes of this chapter, lot depth shall be the average length of the side property lines which run approximately perpendicular to the street, and the lot width shall be the average length of the front and rear property lines. In the case of an odd-shaped lot, the city planner shall determine the lot depth and width using the criteria for normally-shaped lots as a guide-line. Anyone affected by the city planner's determination may file within ten days of the determination a written appeal the planning commission, which shall consider and decide the matter. No fee shall be required. (Ord. 388 §6.07(e)(8), 1975).

17.18.180 Yard encroachments. Nothing permitted in yard encroachments shall allow an increase in coverage or a decrease in required open space.

A. Cornices, eaves, fireplaces, stairways, decks, and fire escapes, balconies and similar architectural features, but not including any flat wall or window surface such as bay windows or project closets, may extend into any required side yard a distance not exceeding two feet, or into any required front or rear yard a distance not exceeding four feet.

B. The development standards set forth in Section 17.18.190 shall apply for detached garages and accessory buildings. (Ord. 388 §6.07(f), 1975).

17.18.190 Garages and accessory buildings. Garages and accessory buildings may not be used for human habitation. (Ord. 388 §6.07(g), 1975).

17.18.200 Parking. Parking standards shall be as provided in Chapter 17.51. (Ord. 388 §6.07(h), 1975).

17.18.210 Loading areas. Loading areas shall be as provided in Chapter 17.51. (Ord. 388 §6.07(i), 1975).

Chapter 17.19

TRO--TRANSIENT RENTAL USE OVERLAY DISTRICT

Sections:

- 17.19.010 Purpose and definition.
- 17.19.020 Use permits.

17.19.010 Purpose and definition. The TRO--transient rental use overlay district is an overlay district. This

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ATTACHMENT

4/6

17.19.020

means that all regulations of the underlying basic zoning district (R-1 or R-M) are applicable to any property located in the TRO district, except that transient rental use, as defined in Section 17.03.686 may be allowed pursuant to Section 17.19.020. (Ord. 708 §3 (part), 1991).

17.19.020 Use permits. Properties in TRO districts may apply for conditional use permits to operate as a transient rental use. In addition to such conditions as may be imposed pursuant to Chapter 17.60 (conditional use permits), all such permits shall be subject to the following standard conditions:

A. The maximum number of persons that may occupy the unit shall be determined by the planning commission and may not be exceeded.

B. Adequate parking (as determined by the planning commission), whether on site or by Pacific Cove parking permit, must be provided.

C. The conditional use permit holder must designate a person who has authority to control the property and represent the landlord. This "responsible person" must be available at all reasonable times to receive and act on complaints about the activities of the tenants.

D. A business license and transient occupancy tax registration must be obtained.

E. Only one sign per unit, not to exceed one square foot in size., shall be permitted to advertise the transient rental.

F. No unit may be rented unless the renter is provided, in writing, with a statement of the conditions (such as is provided in subsection A of this section) which are applicable to the renter and his or her guests, and the renter agrees, in writing, to comply with those conditions.

G. Permits issued under this section shall expire within one year.. No permit holder shall have a vested right to a renewal permit.

H. If there is a history of the permit holder or his/her tenants violating the permit's conditions, the permit shall not be reissued for a least one year following its expiration date, unless good cause is shown. The revoking authority may establish a longer period before which another application may be filed. (Ord. 708 53 (part), 1991).

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