



Council Agenda Report

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SUBJECT: 1st Reading by Title Only of an Ordinance Amending Administrative Provisions of the Transient Occupancy Tax Ordinance that do not Require Voter Approval (Not a Project under CEQA per Article 20, Section 15378 and Under General Rule Article 5, Section 15061)

RECOMMENDATION:

That the City Council introduce by title only, waive full reading, and pass a first reading of an ordinance amending administrative provisions of the Transient Occupancy Tax Ordinance that do not require voter approval.

VALUE DRIVERS:

Serve as stewards of the City's financial resources through sound economic vitality efforts, streamlining operations, reasonable revenue enhancements, visionary long-term planning, fiscal transparency, and community partnerships.

POLICY IMPLICATIONS:

Monterey City Code section 35-22.1 authorizes Chapter 35, Article 3 to be repealed or amended by the City Council without a vote of the people except as required by law, and except for tax increases as that term is defined in Government Code section 53750, and these amendments do not require a vote of the people.

The changes to the administrative section of the ordinance seek to improve the administration the City's Transient Occupancy Tax (TOT) program by clarifying existing requirements and procedures contained within the code.

FISCAL IMPLICATIONS:

While this ordinance relates to Transient Occupancy Tax (TOT), the City's single largest source of revenue, the changes to the ordinance are related to the administration of the City's TOT Program. There are no fiscal implications that are anticipated to arise from this action.

ENVIRONMENTAL DETERMINATION:

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.

ALTERNATIVES CONSIDERED:

The City Council could choose not to pass this ordinance, therefore making no amendments to the administrative provisions of the TOT Ordinance.

DISCUSSION:

Monterey's single largest revenue source is the Transient Occupancy Tax (TOT), which is 100% paid by guests of hotels and other lodging facilities. The current TOT rate is 12%, of which 16% is dedicated to the Neighborhood and Community Improvement Program (NCIP), and 84% is used to fund essential City services such as the police, fire, library, recreation programs, parks, forestry maintenance, disaster preparedness, and more.

Monterey City Code Chapter 35, Article 3, governs the City's administration and collection of the TOT. The article covers a range of subjects including, but not limited to, the levying of the tax, authorized exemptions from the tax, reporting and remitting of tax collections by operators, penalties and interest, the appeals process, and record keeping. The proposed amendments seek to clarify various sections of this article in order to effectively administer and collect TOT.

Among these proposed amendments is the clarification on the reporting and remittance of collections which outlines the records that need to be maintained by the hotel operators. This current amendment changes the number of years hotel operators shall maintain records; increasing the period from three (3) to four (4) years. The only way that cities are able to obtain the needed information regarding TOT is by the ordinance's recordkeeping requirement. The proposed amendments will provide additional assurance that records are available for inspection to the City, and the City's audit partner, in the duties of administering the TOT program.

Additionally, the proposed amendments clarify that in order to ensure the timely receipt of taxpayer funds, the amount of any taxes in dispute must be deposited with the City prior to an administrative appeal. The changes also add clarity for staff, as well as payors and operators, regarding the steps that must be followed to file a claim for a refund of overpaid taxes.

RTK/ss

Attachments: 1. Ordinance

Writings distributed for discussion or consideration on this matter within 72 hours prior to the meeting, pursuant to Government Code § 54957.5, will be made available at the following link: <https://monterey.org/Submitted-Comments>