



# Monterey County

Item No.12

## Board Report

Board of Supervisors  
Chambers  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901

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November 17, 2020

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Public hearing to:

a. Provide policy direction on draft ordinances amending Titles 7, 20 and 21 of the Monterey County Code to establish regulations for vacation (short-term) rentals in the unincorporated area of Monterey County [REF100042/REF130043; Short-Term Rental Ordinances].

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Find that the action is a planning study for direction on possible future action and qualifies for a statutory exemption per Section 15262 of the CEQA Guidelines;
- b. Provide policy direction on draft ordinances amending Titles 7, 20 and 21 of the Monterey County Code to establish regulations for vacation (short-term) rentals in the unincorporated area of Monterey County [REF100042/REF130043; Short-Term Rental Ordinances], including but not limited to:
  1. Affordable Housing;
  2. Support, Monitoring, and Enforcement;
  3. Character and Intensity;
  4. Visitor Serving Unit Caps;
  5. Unique Neighborhoods;
  6. Defining Limited Vacation Rentals; and
  7. Accounting of Visitor Serving/Accommodation Units.

### SUMMARY:

Staff is bringing forward draft vacation rental ordinances for the Board to provide policy direction. These draft ordinances reflect comments and directions received to date, including public/stakeholders, LUACs and Planning Commission. Following their review the Monterey County Planning Commission prepared a letter to the Board of Supervisors identifying five key policy issues for policy direction. (**Attachment A**). Staff is also requesting Board direction on two additional key issues.

The draft ordinances would amend Titles 7, 20 and 21 of the Monterey County Code. (**Attachments B, C, D**). Based on Board direction, staff would modify the ordinances, if needed, and proceed to prepare environmental review under the California Environmental Quality Act (CEQA). The level of environmental review will depend on the Boards policy direction. Once the CEQA analysis and final draft ordinances are complete, staff will return to the Planning Commission and Board of Supervisors at public hearings to consider action.

Staff requests that the Board of Supervisors specifically consider the key issues and provide policy direction. Depending on that direction provided, staff may need to request funding to prepare the environmental document (Mitigated Negative Declaration or Environmental Impact Report). Through the environmental analysis further refinement of the draft ordinances may occur to mitigate potentially significant impacts.

DISCUSSION:

On June 10, 2020 and July 8, 2020, the Planning Commission conducted public hearings to consider three draft ordinances to amend Titles 7, 20 and 21 related to Vacation Rentals (also known as short-term rentals) in the unincorporated areas of Monterey County. The Draft Ordinances propose to modify the Monterey County Code (MCC) as follows:

- Amend Title 7, including amending Section 7.02.060 (Business Licenses) and adding Chapter 7.110 (Vacation Rental Operation Permits), to establish requirements for a business license and operation permit for vacation rentals - **Attachment B**;
- Amend Title 20 (Coastal Zoning), including adding Section 20.64.290 (Regulations for Vacation Rentals) and amending other sections of Title 20, to establish vacation rental regulations in the County's unincorporated coastal zone - **Attachment C**; and
- Amend Title 21 (Inland Zoning) including amending Section 21.64.280 (Administrative permits for transient use of residential property for remuneration), adding Section 21.64.290 (Regulations for Vacation Rentals), and amending other sections of Title 21, to replace existing regulations with new vacation rental regulations in the inland unincorporated area of the County - **Attachment D**.

Considerations Before the Board of Supervisors

After numerous community meetings and Planning Commission workshops and hearings, a number of policy questions relative to vacation rentals remain. In response to the draft ordinances and lingering policy questions relative to vacation rentals, the Planning Commission approved a letter summarizing policy issues identified by the Planning Commission and requesting the Board provide policy direction including additional analysis related to the vacation rental regulations (**Attachment A**). This letter is intended to serve as a tool to help the Board understand the policy areas that need attention in the opinion of the Planning Commission as part of the Board's consideration of the draft ordinances.

The Planning Commission letter identifies five key policy areas:

- **Affordable Housing:** How will a new Vacation Rental ordinance affect affordable housing?
- **Support, Monitoring and Enforcement:** How will the County effectively support, monitor and enforce new vacation rental ordinances?
- **Character and Intensity:** Staff assumed vacation rental is a 'similar use' consistent with character and intensity of residential use. Is there sufficient evidence to support this assumption?
- **Visitor Serving Unit Caps:** How do Vacation Rentals affect Visitor Serving Unit counts in areas with Visitor Serving Unit caps, if at all?
- **Unique Neighborhoods:** Some developments claim unique circumstances. Should developments such as this be provided with special rules?

Staff has also identified two key policy questions for Board direction on the ordinances:

- 1. Are the definition of and limitations provided for Limited Vacation Rentals sufficient to consider the use to have an equivalent impact on the neighborhood or infrastructure as an existing residential unit, such that Limited Vacation Rentals do not require a discretionary approval and would be subject only to a ministerial Vacation Rental Operation Permit?*
- 2. Should both Limited and Commercial Vacation Rentals be counted against visitor serving/accommodation units maximum counts (where applicable), or should only Commercial Vacation Rentals count?*

**Attachment E** (Discussion), provides additional details, options and recommendations for the policy questions raised. As described in the Discussion, the definition and limitations proposed for Limited Vacation Rentals were developed to ensure the residential use of the property remains the primary use. For example, the Principal Resident is required to occupy the residence concurrent with all Vacation Rental operations, with the exception of up to 3 rentals within a 12- month period. By controlling the Principal Resident occupancy, duration and frequency of the transient use, Limited Vacation Rentals would have a similar character, density, and intensity as the existing residential use of the property. As such, staff proposes Limited Vacation Rentals require a ministerial permit.

The attached discussion also lays out the pros and cons of subjecting Vacation Rentals to visitor-serving counts. In addition to the Planning Commission's recommendation, staff provides other options for the Board to consider; that Limited Vacation Rentals are not subject to unit counts and Commercial Vacation Rentals count as one (1) visitor-serving unit. The primary reason for this option is based on the intent of the proposed regulations, which is to safeguard the existing residential use and character of a property. In addition, the accounting mechanism needed to ensure the unit count subtracted is equitable to the frequency and number of rooms of the Limited or Commercial Vacation Rental use is complex, resulting in significant drawbacks related to staff time needed for tracking as well as maintaining an accurate tally.

#### Changes to Draft Ordinances

Subsequent to the Planning Commission hearings and upon review by County Counsel, staff made minor, primarily non-substantive changes to the draft vacation rental ordinances. These changes include minor legal form and number changes and clarifications and corrections. In addition, staff identified erroneous policy language in the draft presented to the Planning Commission that restricted vacation rentals to commercial zones in the Carmel Valley Master Plan area. Staff has deleted this language, as it was not reflective of the policy direction provided by the Planning Commission.

For a more detailed discussion relative to vacation rentals in Monterey County and the draft ordinances, please refer to **Attachment E**.

#### OTHER AGENCY INVOLVEMENT:

This process started in 2012 with multiple community meetings. Over the years, staff has received

input from various agencies and stakeholders. RMA also received input from all of the Land Use Advisory Committees as well as the Agricultural Advisory Committee. The Resource Management Agency, Treasurer-Tax Collector, Office of the County Counsel, Fire Agencies, and the Environmental Health Bureau participated in preparation of the proposed amendments to the ordinances. Staff met with California Coastal Commission staff and discussed ordinance development for the Coastal Zone.

FINANCES:

Staff time to develop the draft ordinances is funded as part of the Fiscal Year 2020-21 Adopted Budget for the Resource Management Agency, Fund 001, Appropriation Unit RMA013. Based on policy direction provided by the Board of Supervisors, RMA may need to hire outside consultants to prepare environmental analyses and/or the environmental document at a cost yet unknown. If additional funding is needed, staff will return to the Board via the Budget Committee to request funding for the environmental review.

The Planning Commission and public have consistently recommended that a compliance and enforcement program be developed and funded alongside the adoption of vacation rental regulations. Upon completing environmental review, staff will prepare recommendations and options for a proposed implementation and compliance program structure and costs, including a discussion of possible funding mechanisms, to accompany the final draft ordinances when returning to the Planning Commission and then Board of Supervisors for consideration.

BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:


Providing policy direction on draft ordinances relative to vacation rentals in the unincorporated area of the County supports the Board of Supervisors' Strategic Initiatives for Economic Development and Infrastructure by establishing regulations to provide a clear permit process and rules for operation to allow transient rental of residential properties in a manner that avoids or mitigates impacts to Monterey County neighborhoods and businesses.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Reviewed by: John Dugan, RMA Deputy Director of Land Use and Community Development

Approved by: Shawne Ellerbee, RMA Assistant Director

Approved by: Carl P. Holm, AICP, RMA Director 

The following attachments are on file with the Clerk of the Board:

Attachment A - June 25, 2020 Planning Commission Letter to the Board

Attachment B - Draft Ord. Amending Title 7 to amend Section 7.02.060 (Business Licenses), add Chapter 7.110 (Vacation Rental Operation Permits)

Attachment C - Draft Ord. Amending Title 20 (Coastal Zoning) adding Section 20.64.290  
(Regulations for Vacation Rentals)

Attachment D - Draft Ord. Amending Title 21 (Inland Zoning), adding Section 21.64.290  
(Regulations for Vacation Rentals)

Attachment E - Detailed Discussion

Attachment F - Public Correspondence

cc: RMA Permit Center: Freda Escobar and Liz Gonzalez; Commission; Environmental Health Bureau: Nicki Fowler and Roger Van Horn; Water Resources Agency; California Coastal Commission: Katie Butler; Office of the County Counsel: Wendy Strimling and Brian Briggs; Treasurer/Tax Collector: Mary Zeeb; RMA Service Managers: Brandon Swanson, Craig Spencer and Josh Bowling; Acting RMA Building Official and RMA Director: Carl P. Holm, AICP; Deputy Director of RMA Land Use Division: John Dugan; Monterey Regional Fire Deputy Fire Marshal: Dorothy Priolo; Monterey County Sheriff's Office; District 5 - Supervisor Adams; STR Public Distribution List; Land Use Advisory Committees; Planning File REF100042 - Inland/REF130043 - Coastal