

Attachment D

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**DRAFT 11.03.2020
ORDINANCE NO. _____**

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING TITLE 21 (NON-COASTAL ZONING) OF THE MONTEREY COUNTY
CODE RELATING TO VACATION RENTALS.**

County Counsel Summary
[forthcoming]

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Findings and Declarations

A. Pursuant to Article XI, Section 7 of the California Constitution, the County of Monterey (“County”) may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its residents.

B. This ordinance is intended to provide regulations, standards, and circumstances under which Vacation Rentals may be allowed in certain residential unincorporated areas of Monterey County.

C. Limited Vacation Rental uses as defined by this Ordinance are similar in character, density, and intensity to residential use, are not anticipated to remove long-term housing from the market, and therefore are allowed uses, where applicable, with a Vacation Rental Operation Permit and business license.

D. Regulation of Vacation Rentals is necessary because Commercial Vacation Rental uses, which by definition may be rented at a greater frequency than Limited Vacation Rentals and have the potential to have impacts different in character, density, and intensity than residential uses, could remove long-term housing from the market, or pose hazards to public health, safety and general welfare in areas known to have infrastructure limitations. Commercial Vacation Rental uses therefore may be allowed, where applicable, only with an approved Use Permit, Vacation Rental Operation Permit and business license.

E. This Ordinance establishes the requirement for a Use Permit for Commercial Vacation Rental activities to provide for business fairness and to enable evaluation of the impacts of such activities, in recognition that Commercial Vacation Rentals may have similar land use impacts as other recreational/visitor-serving uses such as hotels, motels, and bed and breakfast facilities and deserve similar evaluation as such visitor-serving uses.

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F. Because the nature and extent of short term rentals has been transformed in the last several years due to the rise of short term rental businesses, it is necessary to update the County's short term rental regulations which were last adopted in 1997. Accordingly, this Ordinance intends to replace Section 21.64.280, regulations for transient use of residential property for remuneration, with Section 21.64.290 for applications for vacation rentals after the effective date of this ordinance.

G. To allow for a reasonable amortization of investment for existing Vacation Rental operations, this Ordinance provides an initial limited time period during which an unpermitted Vacation Rental may continue to operate, provided the Vacation Rental activity was established prior to the Effective Date of the Ordinance and the Owner is pursuing all necessary County permits, licenses, and entitlements pursuant to Section 21.64.290 of Monterey County Code. A use for which an Administrative Permit was previously granted under Section 21.64.280 shall become a legal nonconforming use.

H. [Reserve for CEQA finding]

SECTION 2. Section 21.06.193 is added to the Monterey County Code [DEFINITIONS] to read as follows:

“Commercial Vacation Rental” means a Residential Property rented as a Vacation Rental that meets one or more of the following criteria:

1. Rented as a Vacation Rental more than three (3) times per 12-month period while not concurrently occupied by the Principal Resident; or
2. Rented as a Vacation Rental for more than twenty (20) times per 12-month period while concurrently occupied by the Principal Resident; or
3. Rented as a Vacation Rental for more than a total of one hundred forty (140) days per 12-month period; or
4. Makes three (3) or more bedrooms available for rent as a Vacation Rental.

SECTION 3. Section 21.06.735 is added to the Monterey County Code [DEFINITIONS] to read as follows:

“Limited Vacation Rental” means a Residential Property rented as a Vacation Rental by the Principal Resident that meets all the following criteria:

1. Concurrently occupied by the Principal Resident;
2. Rented as a Vacation Rental for not more than twenty (20) times per 12-month period;
3. Rented as a Vacation Rental for not more than a total of one hundred forty (140) days per 12-month period; and
4. Makes not more than two (2) bedrooms available for rent as a Vacation Rental.

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5. Exception: Except as outlined in Section 21.64.290.D.11, the Residential Property may be rented as a Limited Vacation Rental without concurrent occupancy of the Principal Resident for up to, but not more than, three (3) times of the twenty (20) times per 12-month period.

SECTION 4. Section 21.06.885 is added to the Monterey County Code [DEFINITIONS] to read as follows:

“Principal Residence” means the dwelling occupied by the resident and where the resident is a human being and lives in the residence 275 days or more per calendar year. For purposes of Vacation Rental permitting, a person can claim only one Principal Residence at any one time.

SECTION 5. Section 21.06.886 is added to the Monterey County Code [DEFINITIONS] to read as follows:

“Principal Residence Documentation” means documents showing the person’s first and last name and the same mailing address that they are claiming as their Principal Residence and such other documentation as may be determined by Monterey County Housing and Community Development Director or his or her designee.

SECTION 6. Section 21.06.887 is added to the Monterey County Code [DEFINITIONS] to read as follows:

“Principal Resident” means a human being who occupies a residential unit as their Principal Residence.

SECTION 7. Section 21.06.986 is added to the Monterey County Code [DEFINITIONS] to read as follows:

“Residential Property” means improved property, used or occupied, or intended to be used or occupied, for residential purposes.

SECTION 8. Section 21.06.987 is added to the Monterey County Code [DEFINITIONS] to read as follows:

“Rooming or boarding” means shared living quarters, with or without separate kitchen and bathroom facilities for each room or unit, intended to meet short-term shelter and/or other immediate housing needs for not more than two (2) persons for the purpose of work, school, research, medical care, or employment that requires a person’s physical presence in the County, or other similar non recreational activity. Rooming or boarding does not include residential care facilities, day care homes, family day care centers, convalescent hospitals, hotels, motels, bed and breakfast facilities, inns, Vacation Rentals, labor camps, or single-occupancy housing.

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SECTION 9. Section 21.06.990 is amended in the Monterey County Code to read as follows:

“Roominghouse or boardinghouse” means ~~a facility other than a hotel where lodging with or without meals for three or more persons is provided for compensation~~ shared living quarters, with or without separate kitchen and bathroom facilities for each room or unit, intended to meet short-term shelter and/or other immediate housing needs for three (3) or more persons for the purpose of work, school, research, medical care, or employment that requires a person’s physical presence in the County, or other similar non recreational activity. Roominghouse and boardinghouse does not include residential care facilities, day care homes, family day care centers, convalescent hospitals, hotels, motels, bed and breakfast facilities, inns, Vacation Rentals, labor camps, or single-occupancy housing.

SECTION 10. Section 21.06.1307 is amended in the Monterey County Code [DEFINITIONS] to read as follows:

“Transient” means temporary, ~~of limited duration or for a short~~ period of ~~time~~ thirty (30) consecutive calendar days or fewer, counting portions of calendar days as full days.

SECTION 11. Section 21.06.1345 is added to the Monterey County Code [DEFINITIONS] to read as follows:

“Vacation Rental” means the use, by any person, of residential property for transient lodging where the term of occupancy, possession, or tenancy of the property by the person entitled to such occupancy, possession, or tenancy is, except as provided herein, for a period of thirty (30) consecutive calendar days or fewer, counting portions of calendar days as full days. “Vacation Rental” includes Commercial Vacation Rentals and Limited Vacation Rentals. “Vacation Rental” does not include a bed & breakfast facility, hotel, motel, hostel, inn, roominghouse, boardinghouse, rooming or boarding.

SECTION 12. Section 21.10.030(S) is added to the Monterey County Code [HIGH DENSITY RESIDENTIAL DISTRICT] to read as follows:

S. Limited Vacation Rentals, pursuant to Section 21.64.290;

SECTION 13. Section 21.10.050(AA) is added to the Monterey County Code [HIGH DENSITY RESIDENTIAL DISTRICT] to read as follows:

AA. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 14. Section 21.12.030(R) is added to the Monterey County Code [MEDIUM DENSITY RESIDENTIAL DISTRICT] to read as follows:

R. Limited Vacation Rentals, pursuant to Section 21.64.290;

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SECTION 15. Section 21.12.050(Y) is added to the Monterey County Code [MEDIUM DENSITY RESIDENTIAL DISTRICT] to read as follows:

Y. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 16. Section 21.14.030(U) is added to the Monterey County Code [LOW DENSITY RESIDENTIAL DISTRICT] to read as follows:

U. Limited Vacation Rentals, pursuant to Section 21.64.290;

SECTION 17. Section 21.14.050(E) is added to the Monterey County Code [LOW DENSITY RESIDENTIAL DISTRICT] to read as follows:

EE. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 18. Section 21.16.030(W) is added to the Monterey County Code [RURAL DENSITY RESIDENTIAL DISTRICT] to read as follows:

W. Limited Vacation Rentals, pursuant to Section 21.64.290;

SECTION 19. Section 21.16.050(RR) is added to the Monterey County Code [RURAL DENSITY RESIDENTIAL DISTRICT] to read as follows:

RR. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 20. Section 21.18.040(E) is added to the Monterey County Code [LIGHT COMMERCIAL DISTRICT] to read as follows:

E. Limited Vacation Rentals, pursuant to Section 21.64.290;

SECTION 21. Section 21.18.060(HH) is added to the Monterey County Code [LIGHT COMMERCIAL DISTRICT] to read as follows:

HH. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 22. Section 21.20.040(E) is added to the Monterey County Code [HEAVY COMMERCIAL DISTRICT] to read as follows:

E. Limited Vacation Rentals, pursuant to Section 21.64.290;

SECTION 23. Section 21.20.060(OO) is added to the Monterey County Code [HEAVY COMMERCIAL DISTRICT] to read as follows:

OO. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

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SECTION 24. Section 21.22.040(D) is added to the Monterey County Code [VISITOR-SERVING/PROFESSIONAL OFFICE DISTRICT] to read as follows:

D. Limited Vacation Rentals, pursuant to Section 21.64.290;

SECTION 25. Section 21.22.060(X) is added to the Monterey County Code [VISITOR-SERVING/PROFESSIONAL OFFICE DISTRICT] to read as follows:

X. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 26. Section 21.30.030(R) is added to the Monterey County Code [FARMLAND] to read as follows:

R. Limited Vacation Rentals, pursuant to Section 21.64.290;

SECTION 27. Section 21.30.050(JJ) is added to the Monterey County Code [FARMLAND] to read as follows:

JJ. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 28. Section 21.32.030(R) is added to the Monterey County Code [RURAL GRAZING] to read as follows:

R. Limited Vacation Rentals, pursuant to Section 21.64.290;

SECTION 29. Section 21.32.050(KK) is added to the Monterey County Code [RURAL GRAZING] to read as follows:

KK. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 30. Section 21.34.030(Q) is added to the Monterey County Code [PERMANENT GRAZING] to read as follows:

Q. Limited Vacation Rentals, pursuant to Section 21.64.290;

SECTION 31. Section 21.34.050(II) is added to the Monterey County Code [PERMANENT GRAZING] to read as follows:

II. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 32. Section 21.36.030(V) is added to the Monterey County Code [RESOURCE CONSERVATION DISTRICT] to read as follows:

V. Limited Vacation Rentals, pursuant to Section 21.64.290;

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SECTION 33. Section 21.36.050(JJ) is added to the Monterey County Code [RESOURCE CONSERVATION DISTRICT] to read as follows:

JJ. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 34. Section 21.48.030(6) is added to the Monterey County Code [LIMITED AGRICULTURAL DISTRICT] to read as follows:

6. Limited Vacation Rentals, pursuant to Section 21.64.290;

SECTION 35. Section 21.48.040(5) is added to the Monterey County Code [LIMITED AGRICULTURAL DISTRICT] to read as follows:

5. Commercial Vacation Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 36. Subdivision H is added to Section 21.64.280 of the Monterey County Code [SPECIAL REGULATIONS – Administrative permits for transient use of residential property for remuneration] to read as follows:

H. Inoperative Date of Section: This Section 21.64.280 shall become inoperative as of the date the ordinance adding Section 21.64.290 to the Monterey County Code takes effect. Thereafter, all applications for transient use of residential property for remuneration shall be governed by Section 21.64.290. All administrative permits issued under Section 21.64.280 prior to the effective date of Section 21.64.290 shall be considered legal nonconforming.

SECTION 37. Section 21.64.290 is added to the Monterey County Code [REGULATIONS FOR VACATION RENTALS] to read as follows:

Section 21.64.290 – Regulations for Vacation Rentals

Sub-sections:

- A. Definitions**
- B. Purpose**
- C. Applicability**
- D. Regulations for Limited Vacation Rentals**
- E. Regulations for Commercial Vacation Rentals**
- F. Phasing Out Unpermitted Operations**
- G. Application and Renewal Process for Commercial Vacation Rentals**
- H. Grounds for Suspension or Revocation**
- I. Enforcement**

A. Definitions.

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Except as otherwise defined or where the context otherwise indicates, the following words shall have the following meaning in this Section:

1. “Advertised Rental Rate” means the advertised nightly rate multiplied by the minimum number of nights required to rent the dwelling or part of the dwelling. The Advertised Rental Rate shall not include deposits or ancillary fees.

2. “Bedroom” means any room in the conditioned (heated) area of a dwelling unit which is: 1) seventy (70) square feet or greater in size; 2) has an exterior door or window for egress meeting health and safety code standards at the time the dwelling was constructed; and 3) has a closing door that separates the room from other areas of the dwelling. The following shall not be considered a bedroom: Any interior room that must be passed through to access another bedroom; a hallway; bathroom; kitchen; living room; dining room; family room; breakfast nook; pantry; laundry room; or closet/dressing room opening off a bedroom.

3. “Effective Date” means the date on which Ordinance No. _____ adding this Section 21.64.290 to the Monterey County Code took effect.

4. “Operator” means a person who operates the Vacation Rental and, if not the Owner, who has the legal permission of Owner to operate the Vacation Rental on the subject real property.

5. “Owner” means the person or persons who hold fee title to the real property which houses the Vacation Rental.

B. Purpose

It is the purpose of this Section to:

1. Preserve and enhance the residential character of the zoning districts established in Title 21 and the sense of security and safety in stable neighborhoods of principal residences.

2. Provide opportunity for visitors to access public areas of the County through Vacation Rental opportunities, benefiting the local economy while preserving the housing supply and quality of life, and protecting public health, safety, and general welfare.

3. Establish regulations that provide opportunity for homeowners and residents to offer Vacation Rentals for visitors that have the potential to provide financial benefits to offset the high cost of living in Monterey County.

4. Establish that Limited Vacation Rental uses are similar in character, density, and intensity to residential use, are not anticipated to convert long-term housing

out of the market, and therefore are allowed uses, where applicable, with a Vacation Rental Operation Permit and a business license.

5. Establish that Commercial Vacation Rental uses could impact the character, density, and intensity of residential uses, could convert long-term housing out of the market, or pose hazards to public health, safety, and general welfare in areas known to have infrastructure limitations. Commercial Vacation Rental uses therefore may be allowed, where applicable, only with a Use Permit granted pursuant to this Section, a Vacation Rental Operation Permit, and a business license.

C. Applicability

1. This Section applies in the unincorporated inland areas of the County of Monterey.

2. This Section does not apply to transient use of residential property for remuneration which was authorized under Section 21.64.280 prior to the Effective Date. Any applications for “transient use of residential property for remuneration” or Vacation Rentals on which County renders a decision after the Effective Date shall be subject to this Section governing Vacation Rentals and not governed by Section 21.64.280. Amendments to administrative permits granted under Section 21.64.280 shall be subject to this Section.

D. Regulations for Limited Vacation Rentals

1. Limited Vacation Rentals are allowed in in the following zoning districts, subject to the requirements of this Section 21.64.290: High Density Residential (HDR); Medium Density Residential (MDR); Low Density Residential (LDR); Rural Density Residential (RDR); Light Commercial (LC); Heavy Commercial (HC); Visitor-serving/Professional Office (VO); Resource Conservation (RC); Community Plan (CP), subject to Section 21.39.030.B (Regulations for Community Plan Zoning Districts or “CP” Districts” – Uses Allowed) except industrial and public/quasi-public land use designations within the CP districts; and Specific Plan (SP), subject to Section 21.41.030.B (Regulations for Specific Plan Zoning Districts or “SP” Districts – Uses Allowed) except industrial and public/quasi-public land use designations within the SP district; Farmland (F); Rural Grazing (RG); and Permanent Grazing (PG). Limited Vacation Rentals shall not be allowed in any other zoning district.

2. Limited Vacation Rentals Prohibited or Limited in Certain Areas. Limited Vacation Rentals are subject to the following additional limitations based on the policies of the 2010 Monterey County General Plan and respective Area Plan:

a. Carmel Valley Master Plan Area as follows:

- i. Limited Vacation Rentals within the Carmel Valley Master Plan area shall be subject to the maximum unit limitations for visitor accommodations set forth in subdivisions d and e of Policy CV-1.15. Each bedroom to be rented as part of the Limited Vacation Rental shall be counted as nineteen hundredths (.19) of a unit.
3. Limited Vacation Rentals shall be considered a residential use, similar in character, density, and intensity to residential use.
4. Limited Vacation Rentals shall be allowed only in a single-family dwelling, duplex dwelling, or a multiple-family dwelling.
5. Limited Vacation Rentals are prohibited in all of the following: accessory dwelling units; guesthouses; and in dwellings which are subject to a recorded covenant, agreement, deed restriction or other recorded document limiting the use of the dwelling, including but not limited to affordable housing units that are subject to affordability restrictions.
6. Limited Vacation Rentals shall be allowed only in legally permitted residential structures. Limited Vacation Rentals are prohibited in structures intended for temporary occupancy.
7. The Principal Resident shall register the Limited Vacation Rental with the Treasurer-Tax Collector and obtain a Transient Occupancy Registration Certificate in accordance with the provisions of Section 5.40.070 of the Monterey County Code.
8. The Principal Resident shall obtain a business license from the County pursuant to Section 7.02.060(C) of the Monterey County Code before commencing the Limited Vacation Rental use and must keep a valid business license throughout the Limited Vacation Rental use.
9. The Principal Resident shall obtain a Vacation Rental Operation Permit for all Limited Vacation Rental activities pursuant to Chapter 7.110 of the Monterey County Code before commencing the Limited Vacation Rental use and must keep the Vacation Rental Operation Permit in good standing throughout the Limited Vacation Rental use.
10. To qualify as a Limited Vacation Rental:
 - a. Only one (1) Limited Vacation Rental shall be allowed per legal lot of record, regardless of the number of dwellings on the legal lot of record. This limit shall apply to single family dwellings, duplex dwellings, and multiple-family dwellings, and only one (1) Limited Vacation Rental shall be allowed per dwelling. This provision does not apply to condominium complexes, townhome complexes, planned unit developments, or similar cluster residential subdivisions

or in Light Commercial (LC), Heavy Commercial (HC), and Visitor-serving/Professional Office (VO) zoning districts.

b. The dwelling shall be rented as a Limited Vacation Rental not more than twenty (20) times and for not more than a total of one hundred forty (140) days per 12-month period. The Principal Resident must concurrently occupy the dwelling while it is being rented as a Limited Vacation Rental, and not more than two (2) bedrooms shall be made available for rent as a Limited Vacation Rental.

c. A Limited Vacation Rental may be rented not more than three (3) of the total allowed twenty (20) times for a total duration of not more than sixty (60) of the total allowed one hundred forty (140) days per 12-month period while the Principal Resident is not concurrently occupying the dwelling. This provision does not apply to properties with active agricultural operations as specified in subsection 11 below.

11. In Farmland (F), Rural Grazing (RG), and Permanent Grazing (PG) zoning districts, a Property Manager or Principal Resident shall concurrently reside on the property while the Limited Vacation Rental is rented if an agricultural operation is active on the property.

12. The Limited Vacation Rental must meet the water quality requirements for Limited Vacation Rentals set forth in Chapter 7.110 of the Monterey County Code. The drinking water is presumed to meet water quality standards if the Principal Resident provides evidence that the Limited Vacation Rental is served by a water system, as defined by California Health and Safety Code Section 116275, that has 200 or more service connections. If the Limited Vacation Rental is found to be part of an unpermitted water system or if the Limited Vacation Rental results in the need for a permit for a water system, the Owner shall obtain a Water System Permit pursuant to Monterey County Code Chapter 15.04 before commencing the Limited Vacation Rental use and must keep the Water System Permit in good standing throughout the Limited Vacation Rental use.

13. If the Limited Vacation Rental is served by an on-site wastewater treatment system (“OWTS,” also referred to as a septic system), the Limited Vacation Rental must meet the on-site wastewater requirements set forth in Chapter 7.110 of the Monterey County Code.

14. Except as provided in this Section, Limited Vacation Rentals shall not be allowed in the unincorporated areas of Monterey County without first securing and maintaining in good standing all permits, licenses, certificates or other entitlements required by County regulation.

E. Regulations for Commercial Vacation Rentals

1. Commercial Vacation Rentals are allowed with a Use Permit in the following zoning districts, subject to the requirements of this Section 21.64.290: High Density Residential (HDR); Medium Density Residential (MDR); Low Density Residential (LDR); Rural Density Residential (RDR); Light Commercial (LC); Heavy Commercial (HC); Visitor-serving/Professional Office (VO); Resource Conservation (RC); Community Plan (CP), subject to Section 21.39.030.B (Regulations for Community Plan Zoning Districts or “CP” Districts” – Uses Allowed) except industrial and public/quasi-public land use designations within the CP district; and Specific Plan (SP), subject to Section 21.41.030.B (Regulations for Specific Plan Zoning Districts or “SP” Districts – Uses Allowed) except industrial and public/quasi-public land use designations within the SP district; Farmland (F); Rural Grazing (RG); and Permanent Grazing (PG). Commercial Vacation Rentals shall be prohibited in any other zoning district.

2. Commercial Vacation Rentals Prohibited or Limited in Certain Areas. Commercial Vacation Rentals are subject to the following additional limitations based on the policies of the 2010 Monterey County General Plan and respective Area Plan:

a. Carmel Valley Master Plan Area as follows:

i. Commercial Vacation Rentals within the Carmel Valley Master Plan area shall be subject to the maximum unit limitations for visitor accommodations set forth in subdivisions d and e of Policy CV-1.15. Each bedroom to be rented as part of the Commercial Vacation Rental shall be counted as one-half (1/2) unit.

3. Commercial Vacation Rentals shall be allowed, with a Use Permit, only in the following legally permitted residential structures: single-family dwellings, duplex dwellings, or multiple-family dwellings.

4. Commercial Vacation Rentals shall be prohibited in all of the following: accessory dwelling units; guesthouses; structures intended for temporary occupancy; and in dwellings subject to a recorded covenant, agreement, deed restriction, or other recorded document limiting the use of the dwelling, including but not limited to, affordable housing units that are subject to affordability restrictions.

5. Commercial Vacation Rentals in Farmland (F), Rural Grazing (RG), Permanent Grazing (PG), and Limited Agricultural (A) zoning districts shall have a Property Manager or Principal Resident concurrently reside on the property while the Commercial Vacation Rental is rented if an agricultural operation is active on the property.

6. A Commercial Vacation Rental requires a Use Permit. The application for a Use Permit, and for amendments and extensions thereof, shall be processed in accordance with Chapter 21.74 of the Monterey County Code. Notwithstanding the

foregoing, the grounds and procedures for suspension and revocation of a Use Permit granted under this Section shall be as set forth in this Section.

7. The Operator shall obtain a Vacation Rental Operation Permit for all Commercial Vacation Rental activities pursuant to Chapter 7.110 of the Monterey County Code before commencing the Commercial Vacation Rental use and must keep the Vacation Rental Operation Permit in good standing throughout the Commercial Vacation Rental use.

8. The Operator shall obtain a business license from the County pursuant to Section 7.02.060(C) of the Monterey County Code before commencing the Commercial Vacation Rental use and must keep a valid business license throughout the Commercial Vacation Rental use.

9. The Operator shall register the Commercial Vacation Rental with the Treasurer-Tax Collector and obtain a Transient Occupancy Registration Certificate in accordance with the provisions of Section 5.40.070 of the Monterey County Code.

10. To qualify as a Commercial Vacation Rental:

a. Only one (1) Commercial Vacation Rental shall be allowed per legal lot of record, regardless of the number of dwellings on the legal lot of record. This limit shall apply to single family dwellings, duplex dwellings, and multiple-family dwellings, and only one (1) Commercial Vacation Rental shall be allowed per dwelling. This provision does not apply to condominium complexes, townhome complexes, planned unit developments, or similar cluster residential subdivisions or in Light Commercial (LC), Heavy Commercial (HC), and Visitor-serving/Professional Office (VO) zoning districts.

b. A Commercial Vacation Rental that is not accessible directly from a public road is subject to Monterey County Code Chapter 16.80, Regulations Relating to Applications Involving Use of Private Roads.

c. A Commercial Vacation Rental that is served by an on-site wastewater treatment system (“OWTS,” also referred to as a septic system) shall demonstrate that the system is in good working order and functioning properly by providing a performance evaluation of the OWTS completed by a qualified professional, in the form and manner required by the Environmental Health Bureau of the Monterey County Health Department. Any component noted to be in unacceptable condition, as documented by a performance evaluation conducted by a qualified professional, shall be repaired or replaced prior to County approval or renewal of the Use Permit for a Commercial Vacation Rental.

d. If the Commercial Vacation Rental is served by an on-site wastewater treatment system (“OWTS”, also referred to as a septic system), the

Commercial Vacation Rental must meet the on-site wastewater requirements set forth in Chapter 7.110 of the Monterey County Code.

e. If the Commercial Vacation Rental is found to be part of an unpermitted water system or if the Commercial Vacation Rental results in the need for a permit for a water system, the Owner must obtain a Water System Permit pursuant to Monterey County Code Chapter 15.04 before commencing the Commercial Vacation Rental use and must keep the Water System Permit in good standing throughout the Commercial Vacation Rental use.

f. The source of water that serves a Commercial Vacation Rental shall meet bacteriological and acute primary drinking water standards. The Owner shall demonstrate that the source of water meets bacteriological and acute primary drinking water standards, to the satisfaction of the Environmental Health Bureau of the Monterey County Health Department, before the permit application is deemed complete. Water quality testing may be required by the Environmental Health Bureau of the Monterey County Health Department if recent test results are not available. The drinking water is presumed to meet these standards if the Owner provides evidence that the Commercial Vacation Rental is served by a water system, as defined by California Health and Safety Code Section 116275, that has 200 or more service connections.

g. Commercial Vacation Rentals shall conform with applicable state building and fire codes, with such modifications as County may have adopted, at the time the building was constructed.

h. Commercial Vacation Rentals must demonstrate that response times for County emergency services for fire and emergency medical will be adequate. Notice of emergency service limitations shall be included in rental contracts and posted within the unit in a prominent place within six (6) feet of the front door. The notice shall identify the average response time for emergency services to reach the subject property and describe the onsite fire protection systems (such as fire breaks, alarms and/or water storage tanks) available.

i. Commercial Vacation Rentals shall provide parking as required for the dwelling type by Monterey County Code Section 21.58.040, Regulations for Parking, or the applicable parking regulations at the time the dwelling was built.

j. Commercial Vacation Rentals shall comply with Monterey County Code Chapter 10.41, Solid Waste Collection and Disposal, as periodically amended. All solid waste and recycling must be contained within appropriate receptacles with lids. Waste receptacles must be stored out of sight unless in conformity with neighborhood standards.

k. Each Use Permit issued pursuant to this Section shall have, as a condition of the permit, a requirement that the Owner indemnify, defend, and hold harmless the County of Monterey and its officers, agents, and employees from actions or claims of any description brought on account of approval of the permit and from actions or claims of any description brought on account of any injury or damages sustained, including death, by any person or property resulting from the issuance of the permit and the conduct of the activities under said permit. This requirement shall remain operative and in effect notwithstanding any proceeding or litigation which may result in invalidation or rescission of the permit.

11. Required Findings. To grant a Use Permit for a Commercial Vacation Rental, the Appropriate Authority must find, based on substantial evidence, that the Commercial Vacation Rental complies with all findings required for a Use Permit pursuant to Chapter 21.74 and complies with all requirements of this Section 21.64.290.

12. Except as provided in this Section, Commercial Vacation Rentals shall be prohibited in the unincorporated areas of Monterey County unless all permits, licenses, certificates, and any other entitlement required by County regulation are secured and maintained in good standing.

F. Phasing Out Unpermitted Operations

1. To provide time for the Owner or Operator of a Vacation Rental that was unpermitted prior to the Effective Date to bring the Vacation Rental into compliance with this Section and to provide reasonable return on such investment or reservation commitments as may have been made prior to enactment of this Section, a Principal Resident, Owner and/or Operator who can demonstrate that a Limited Vacation Rental or Commercial Vacation Rental use was established and operating on the subject property prior to the Effective Date may continue the operation for a limited period of time following the Effective Date as set forth below and in Section 7.110.080 [Phasing Out Unpermitted Operations] of the Monterey County Code.

a. For Limited Vacation Rental uses, the Principal Resident, and for Commercial Vacation Rental uses, the Owner or Operator:

i. Has sixty (60) days from the Effective Date to register with the Monterey County Housing and Community Development Department and file an Intent to Apply form.

ii. Has six (6) months from the Effective Date to provide evidence of prior operating status and to make an application for all permits, licenses, certificates, or other entitlements required by County regulation.

iii. May establish a Vacation Rental as “prior operating” by providing evidence to the satisfaction of the Monterey County Housing and Community Development Department that documents that it was operating as a Vacation Rental and completed at least one (1) contract in each of three (3) of the five (5) years preceding April 1, 2019, and can provide evidence of a reservation for a Vacation Rental entered into prior to April 1, 2019 for the unit on or after April 1, 2019.

iv. Must provide a current copy of Transient Occupancy Registration Certificate issued by the County.

v. If the above requirements (i) through (iv) are met, the Principal Resident or Owner or Operator will be allowed to continue to operate as a Vacation Rental for up to one (1) year from the Effective Date, or until County takes action on the Owner’s or Operator’s application for all required permits, licenses, and entitlements made pursuant to this Section and Section 7.02.060 and Chapter 7.110 of the Monterey County Code, whichever is later; unless County requires earlier termination of the Vacation Rental use due to a risk to public health, safety and welfare.

vi. If after 366 days from the Effective Date of this Ordinance the County denies any of the required permits, licenses, and entitlements, the Vacation Rental must cease within 30 days of receiving written notice from the County of such denial; unless County requires earlier termination of the Vacation Rental use due to a risk to the public health, safety and welfare

2. Nothing in this Section prohibits the County from taking enforcement action, which may lead to shutting down a Vacation Rental operation, during the Phasing Out period if the Vacation Rental creates an immediate or imminent threat to life, public health, or safety.

G. Application and Renewal Process for Commercial Vacation Rentals

1. All applications for a Use Permit for a Commercial Vacation Rental shall be filed with the Monterey County Housing and Community Development Department on the form and in the manner prescribed by the Director or his or her designee. In all cases, the application shall contain, without limitation, the following documentation:

a. All information required on the application form, including but not limited to, the name and signed consent of the Owner of the real property which is the subject of the application and, if an agent represents the Owner, an authorization of the agent signed by the Owner.

b. Acknowledgement by the applicant attesting that he or she has researched and verified that Vacation Rental use of the residential unit does not

violate any applicable recorded conditions, covenants, and restrictions (CC&Rs) or other applicable restrictions on the real property proposed for the Vacation Rental use.

c. If the applicant is not the Owner, the applicant shall provide evidence, in the form of a lease agreement or other agreement between the applicant and the Owner of the real property which is the subject of the application, that the applicant has control of the property for the proposed permit period. If the applicant is not the Owner, the applicant shall provide written authorization from the Owner authorizing the applicant to apply for the Use Permit and utilize the property for the proposed Commercial Vacation Rental activity.

d. Property Manager contact information including name, address, telephone number and e-mail address.

e. Plans drawn to scale and labeled, in the form and manner required by the Monterey County Housing and Community Development Director or his or her designee, including but not limited to: site plans illustrating locations and dimensions of all property lines, rights-of-way, vehicular easements, edge of pavement, driveways, on-site parking areas and all structures; and floor plans showing all rooms, including windows and doors, with clear designation of which bedrooms are intended for rental.

f. An inspection report that provides and verifies information, in the form and manner required by the Monterey County Housing and Community Development Director or his or her designee, to ensure the property is safe and habitable for its intended use, including but not limited to: verification of adequate egress from sleeping quarters and common areas; and installation of accessible fire extinguishers, fire alarms, and a carbon monoxide alarm on each level.

g. Evidence that the property receives solid waste service for garbage and recyclables collection.

h. Evidence that the source of water that serves the proposed Commercial Vacation Rental meets bacteriological and acute primary drinking water standards. Evidence may include proof, such as a water bill, that the property receives potable water service from a water system, as defined by California Health and Safety Code Section 116275, that has 200 or more service connections, or a water quality analysis in the form and manner required by the Environmental Health Bureau of the Monterey County Health Department.

i. If the Commercial Vacation Rental is served by an on-site wastewater treatment system ("OWTS," also referred to as a septic system), the

applicant must provide evidence that the system is in good working order and functioning properly by providing a performance evaluation of the OWTS completed by a qualified professional, in the form and manner required by the Environmental Health Bureau of the Monterey County Health Department.

j. Copy of OWTS informational signs pursuant to Chapter 7.110 of the Monterey County Code, if applicable.

k. Certification, under penalty of perjury, that all the information contained in the application is true and correct.

l. Such other information as the Monterey County Housing and Community Development Director or his or her designee shall require to evaluate the application.

2. Time Limits. All Use Permits issued for Commercial Vacation Rentals shall be subject to the following time limits on the use authorized by the Use Permit:

a. The initial Use Permit shall be issued for a term of five (5) years.

b. The Owner may apply to extend the Use Permit prior to the expiration date of the Use Permit pursuant to Section 21.74.110 of the Monterey County Code. The extension application shall be made at least thirty (30) days prior to the expiration of the Use Permit at the end of each such five-year term. The Use Permit shall be extended by the Appropriate Authority by five (5) years, for up to two (2) additional five- (5-) year terms, if the Appropriate Authority finds that the operation is in good standing, according to the criteria set forth below.

i. Commercial Vacation Rentals with more than two (2) substantiated violations of this Section or Chapter 7.110 of the Monterey County Code shall be considered not in good standing. A substantiated violation means a determination of a violation by a court, administrative hearing officer or hearing body, or by stipulated agreement.

ii. Commercial Vacation Rentals that do not have a valid Vacation Rental Operation Permit pursuant to Chapter 7.110 of the Monterey County Code shall be considered not in good standing.

iii. Commercial Vacation Rentals that do not have a valid business license from the County pursuant to Section 7.02.060(C) of the Monterey County Code throughout the Commercial Vacation Rental use shall be considered not in good standing.

iv. Commercial Vacation Rentals that have not paid their Transient Occupancy Tax pursuant to Chapter 5.04 of the Monterey County Code shall be considered not in good standing.

v. Commercial Vacation Rentals that do not meet bacteriological and acute primary drinking water standards, as demonstrated by a comprehensive water quality analysis pursuant to Monterey County Code Chapters 15.04 and 15.08 and California Code of Regulations Titles 17 and 22 shall be considered not in good standing.

vi. Commercial Vacation Rentals that have an on-site wastewater treatment system (“OWTS,” also referred to as a septic system) that is not in good working order and functioning properly, as demonstrated by a performance evaluation of the OWTS completed by a qualified professional, in the form and manner required by the Environmental Health Bureau of the Monterey County Health Department, shall be considered not in good standing.

vii. If a water system permit is required, Commercial Vacation Rentals that do not have a water system permit that is in good standing shall be considered not in good standing.

viii. Commercial Vacation Rentals within any County Area Plan areas with policies that limit the amount of visitor serving facilities that have not completed at least one (1) contract in each of three (3) of the preceding five (5) years will be considered inactive and not in good standing.

c. If a Use Permit has already been extended twice or if a Use Permit is not extended because the Commercial Vacation Rental is found not to be in good standing, an Owner desiring a Commercial Vacation Rental must apply for a new Use Permit for the Commercial Vacation Rental use.

d. The purpose of the five- year term limit is to provide ongoing review of the Commercial Vacation Rental to ensure that the use continues to meet the standards of this Section.

e. The purpose of allowing only two (2) extensions resulting in a maximum fifteen (15) year total term limit is to preserve the housing supply so that an entitlement to a Commercial Vacation Rental does not permanently remove a house from the overall long-term housing supply in light of the housing shortage in Monterey County.

3. First Come First Served. New Use Permit applications in areas subject to visitor unit caps will be date-and-time stamped upon receipt by the RMA and processed

on a first-come, first-served basis based on the date and time the application is deemed complete.

I. Grounds for Suspension or Revocation

1. Where one or more of the conditions of a Use Permit have not been, or are not being, complied with, or when a Use Permit was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant, the Appropriate Authority may revoke or modify the Use Permit following public hearing pursuant to Chapter 21.78 of this Title.

2. Grounds for suspension or revocation may include, but are not limited to, more than two (2) substantiated violations of the terms and conditions of the Use Permit and/or Vacation Rental Operation Permit issued pursuant to Monterey County Code Chapter 7.110 in a twelve- (12-) month period. A substantiated violation means a determination of a violation by a court, administrative hearing officer or hearing body, or by stipulated agreement.

J. Enforcement

The remedies provided by this Section are cumulative and in addition to any other remedies available in law or in equity.

1. It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Section. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Section may be charged with a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the Monterey County Jail for a period of not more than six (6) months, or by both such fine and imprisonment for each and every violation. No proof of knowledge, intent, or other mental state is required to establish a violation.

2. Any condition caused or allowed to exist in violation of any of the provisions of this Section shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action pursuant to Chapter 1.20 or cause of action for penalty pursuant to Chapter 1.22 of the Monterey County Code, and any other action authorized by law.

3. Each and every violation of this Section shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Monterey County Code or otherwise authorized by law. Additionally, as a public nuisance, any violation of this Section may be subject to injunctive relief, disgorgement, and payment to the County of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, attorneys fees, and any other relief or remedy available in law or in equity. The County may also pursue any and all

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remedies and actions available and applicable under state and local laws for any violations committed by the Vacation Rental activity or persons related thereto, or associated with, the violation of this Section.

4. For violations of this Section, an Enforcement Official may issue to a responsible person an administrative citation that imposes:

a. A civil penalty not exceeding one hundred and seventy-five percent (175%) of the Advertised Rental Rate per day, or part thereof, or one thousand dollars (\$1,000.00) per day, or part thereof, for Vacation Rentals without an Advertised Rental Rate, for a first violation;

b. A civil penalty not exceeding two hundred and seventy-five percent (275%) of the Advertised Rental Rate per day, or part thereof, or two thousand, five hundred dollars (\$2,500.00) per day, or part thereof, for Vacation Rentals without an Advertised Rental Rate, for a second violation of the same ordinance within one (1) year; and

c. A civil penalty not exceeding three hundred and seventy-five percent (375%) of the Advertised Rental Rate per day, or part thereof, or five thousand dollars (\$5,000.00) per day, or part thereof, for Vacation Rentals without an Advertised Rental Rate, for a third violation of the same ordinance within one (1) year.

5. Each and every day during any portion of which any violation of this Section is committed or permitted and or continues to exist without remedy by the responsible person shall be deemed a separate and distinct offense and violation for purposes of determining the total amount of administrative penalties pursuant to this Section.

SECTION 38. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses, or phrases are declared invalid.

SECTION 39. EFFECTIVE DATE. This Ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this ____ day of _____, 20__, by the following vote:

AYES:

This document is a draft and subject to change.

NOES:

ABSENT:

ABSTAIN:

Chair,
Monterey County Board of Supervisors

A T T E S T

VALERIE RALPH
Clerk of the Board of Supervisors

By: _____
Deputy