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**FINDINGS OF FACT
FOR THE
MONTEREY COUNTY VACATION RENTAL ORDINANCES PROJECT**

STATE CLEARINGHOUSE NUMBER: 2022080643

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STATEMENT OF FINDINGS

1. INTRODUCTION

1.1 Project Background and Need

This statement of Findings of Fact (Findings) addresses the environmental effects associated with the County of Monterey (County) Vacation Rental Ordinances Project (project, or proposed regulations). These Findings are made pursuant to the California Environmental Quality Act (CEQA) under Sections 21081, 21081.5, and 21081.6 of the Public Resources Code, and Sections 15091 and 15093 of the CEQA Guidelines, Title 14, California Code of Regulations 15000 et seq. (CEQA Guidelines).

Monterey County has allowed bed and breakfast facilities in certain residential areas of the County in both inland and coastal areas since the 1980's. In the late 1990's, the County determined the need to define and regulate a broader category of vacation rental uses of residential properties (also known as vacation rentals) separate from bed and breakfast facilities. In 1997, the County of Monterey adopted regulations known as "regulations for the transient use of residential property for remuneration." These regulations became effective in the inland unincorporated areas of the County 30 days after adoption (Title 21). Due to a number of factors, the regulations were never certified in the coastal unincorporated areas (Title 20). Approximately 34 permits were approved over the course of 28 years yet the proliferation of vacation rentals (permitted or not) increased significantly with the popularization of online vacation rental platforms such as Airbnb or VRBO. For several years, Monterey County has experienced a growing demand for and use of individual homes for vacation rentals and an increasing number of complaints from concerned residents and other interested parties regarding the current vacation rental ordinances. The complaints received are varied, including but not limited to noise and parking concerns, unsafe or illegal activities, and inquiries as to whether a particular residence has obtained the proper permits and tax registrations for vacation rental operation. In response to this growing demand for vacation rentals, the County began drafting a vacation rental ordinance in 2014. The proposed regulations have been developed to ensure that vacation rentals remain compatible with existing residential uses. In cases where the vacation rental would have the potential to be out of character with a residential use, such as a visitor-serving commercial use, the regulations include provisions for discretionary review before establishment of the use.

In accordance with the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] Section 21000 et seq.) and the State CEQA Guidelines, the County of Monterey Housing and Community Development Department (lead agency), decided to prepare an environmental impact report (EIR) to determine if the proposed changes to the regulations would result in a physical change in the environment that resulted in a significant environmental impact.

As discussed in the EIR, the analysis of the project involves unusual circumstances. Specifically, the project adds regulatory requirements that limit the extent to which an existing use is allowed, and through these requirements and policy requirements, avoid or minimize impacts that may

occur. There would be no direct physical changes from construction; the project would place a cap on commercial vacation rentals of existing homes where such a cap does not currently exist; and the project provides regulations to address noise, overnight and daytime occupancy, and other social and economic issues raised by the public (see Section 3.2.2 below). As discussed in Section 4.1.1, “Special Considerations,” of the Draft EIR, pages 4-1 and 4-2, the analysis in the EIR was conducted with respect to unique considerations and reasonable assumptions. The Draft EIR relies on reasonable assumptions based on facts to evaluate the potential impacts resulting from project implementation. The Draft EIR also explains the basis for its conclusions and describes uncertainty surrounding impacts where such uncertainty exists.

During the preparation of the Draft EIR, research was conducted to review available data, analogs, articles, etc., in an effort to understand the perspective use of vacation rentals and to determine if there was a basis, beyond the assumption approach expressed above, for determining environmental effects. However, in some instances where there was a general lack of data concerning how vacation rentals may result in environmental impacts that differ from standard residential use and no additional data other than anecdotal experience was provided by the comments received on the Draft EIR. As stated in Section 4, “Environmental Impacts and Mitigation Measures” of the Draft EIR, because of the general lack of documented information surrounding vacation rental uses including differences between habits and patterns of use between vacation renters and typical residents, in some instances the EIR preparers were left with the need to speculate whether significant environmental changes may occur. Section 15145 of the State CEQA Guidelines instructs, “If, after thorough investigation, the Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.” In instances where an impact is too speculative to evaluate, this EIR explains its rationale for this conclusion and does not draw a conclusion on the significance of an impact.

The purpose of this EIR is to meet CEQA’s informational requirements to aid Monterey County in making an informed decision regarding the environmental impacts of the project. To that end, this EIR relies on substantial evidence, reasonable assumptions, explains the basis for its conclusions, and describes uncertainty surrounding impacts where such uncertainty exists. Supported by the analysis in the Draft EIR, the County found that implementation of the proposed regulations would not result in potentially significant impacts.

Because there were no significant impacts resulting from the proposed regulations, no impacts would be avoided with alternatives to the proposed regulations. Nevertheless, the County analyzed a range of alternatives including variations of regulations that addressed community concerns. This EIR examined six alternatives to the proposed regulations. The alternatives are summarized below and are described in detail in Chapter 6, “Alternatives” of the EIR.

Further, in consideration of several comments received on the Draft EIR regarding the number of allowable vacation rentals in the ordinances, and issues surrounding making housing more affordable by renting through hosted facilities, the County modified the proposed regulations to reduce the number of allowed commercial vacation rentals and to allow hosted rentals to limited and commercial vacation rentals in the ordinances. The County revised the proposed regulations in the Final EIR. The County reduced the 6 percent cap to 4 percent for commercial vacation rentals. The proposed regulations were revised to reflect these changes and further added a

category to a limited vacation rental, allowing hosted vacation rentals to be rented on a unlimited basis but capping the number of people per room. This cap was added to all limited vacation rentals (hosted and non hosted).

In addition, the County received several comments in support of Alternative 6, which limits commercial vacation rentals within the Carmel Valley Master Plan Area. Therefore, the County revised the proposed regulations to prohibit commercial vacation rentals within rural density, low density, medium density, and high density residential zoning districts within the Carmel Valley Master Plan Area. This change, as well as the change in the cap and definition of limited vacation rentals, would not alter any of the environmental impacts of the project. Therefore, no revisions to the analysis in the EIR was required. The Final EIR for the project did not identify any significant impacts. No mitigation measures are required.

The County notes that, while not specifically addressing a significant environmental impact, the shift in the ordinances will allow hosted vacation rentals, which would provide supplemental income that may make housing more affordable to some people who are otherwise priced out of the housing market.

Findings are required when an EIR is prepared and when significant effects are found. The following summarizes the findings as required in compliance with CEQA. Public Resources Code Section 21081 and Section 15091 of the CEQA Guidelines require that the lead agency prepare written findings for identified significant impacts, accompanied by a brief explanation for the rationale for each finding. The County is the lead agency responsible for preparation of the EIR in compliance with CEQA and the CEQA Guidelines. Section 15091 of the CEQA Guidelines states, in part, that:

- a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - 1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - 3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

In accordance with Public Resource Code Section 21081 and Section 15093 of the CEQA Guidelines, whenever significant impacts cannot be mitigated to below a level of significance, the decision-making agency is required to balance, as applicable, the benefits of the proposed project against its unavoidable environmental risks when determining whether to approve the

project. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable." In that case, the decision-making agency may prepare and adopt a Statement of Overriding Considerations, pursuant to the CEQA Guidelines. The Draft EIR did not identify significant and unavoidable impacts. All impacts identified in the Draft EIR would either be less than significant, have no impact, or no significance conclusion. Therefore, no findings or Statement of Overriding Considerations is required for the project.

The Final EIR for the project did not identify significant and unavoidable impacts. All impacts identified in the Draft EIR would either be less than significant, have no impact, or no significance conclusion. No mitigation measures are required. Therefore, no findings are required to address the environmental impacts of the project.

2. DESCRIPTION OF THE PROJECT AS REVISED IN FINAL EIR

2.1 Project Overview and Goals/Objectives

The County of Monterey Housing and Community Development Department has drafted proposed regulations for vacation rentals within the unincorporated areas of the County. The proposed regulations would be applicable to coastal and non-coastal (inland) areas of the unincorporated areas of the County. A 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, for a period of thirty (30) consecutive calendar days or fewer, counting portions of calendar days as full days. Vacation rentals include commercial vacation rentals and limited vacation rentals. Vacation rental does not include a bed and breakfast facility, hotel, motel, hostel, inn, roominghouse, boardinghouse, rooming, or boarding. Commercial vacation rentals require a discretionary permit and will be analyzed on a case-by-case basis, whereas limited vacation rentals will not require a discretionary permit.

The proposed regulations have been developed to ensure that vacation rentals remain compatible with existing residential uses. In cases where the vacation rental would have the potential to be out of character with a residential use, such as a visitor-serving commercial use, the regulations include provisions for discretionary review before establishment of the use. The objectives of the proposed regulations are to:

- Preserve the residential character of zoning districts established in Titles 20 and 21;
- Preserve the sense of security and safety in neighborhoods;
- Balance economic opportunity with the preservation of housing supply and quality of life;
- Ensure that vacation rentals are operated in a manner that complies with all rules and regulations to protect the health, safety, and welfare of residents Monterey County;
- Establish regulations that provide opportunities 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;

- 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 are an allowed use with a vacation rental operation license and a business license; and,
- Establish regulations to address commercial vacation rental uses that have the potential to impact the character, density, and intensity of residential uses, convert long-term housing out of the market, or pose hazards to public health, safety, and general welfare.

2.1.1 Project Location

The proposed regulations for vacation rentals would be applicable to coastal and noncoastal areas of unincorporated Monterey County. The regulations would not apply within city limits.

2.1.2 Project Description

The project consists of three draft ordinances amending the Monterey County Code (MCC) for the purpose of establishing regulations, standards, and circumstances under which vacation rentals may be allowed. These regulations also provide an amortization of investment for existing vacation rental operations to enable those operations to continue for a limited time, provided that the vacation rental activity was established before the effective date of the respective ordinances and that the operator is pursuing all necessary County permits, licenses, and entitlements. The regulations limit establishment of vacation rentals to existing, legally established single-family dwellings, with a cap of 4 percent of the total single-family residential dwelling units in each land use planning area except the Big Sur Coast Land Use Plan Area, low density residential zoning districts in the Carmel Land Use Plan Area, and the residential zoning districts in the Carmel Valley Master Plan Area for commercial vacation rentals, as detailed below.

No specific development or construction would be entitled under any of the draft ordinances. Two types of vacation rentals would be affected by the proposed regulations:

- Limited vacation rental: A limited vacation rental is a residential property rented as a non-hosted vacation rental and rented for not more than three times per 12-month period, or a hosted vacation rental and rented for an unlimited number of times per 12-month period.
- Commercial vacation rental: A commercial vacation rental is a residential property rented as a non-hosted vacation rental and rented for more than three times per 12-month period or hosted vacation rental and rented for an unlimited number of times per 12-month period.

The three draft ordinances are summarized in the following sections:

Monterey County Coastal Zoning – Title 20 Amendment

The proposed amendment to the Monterey County Zoning Ordinance for coastal areas of unincorporated Monterey County (Title 20 of the Monterey County Code) provides definitions for terms not already defined, clarifies in which zoning districts vacation rentals would be allowed and what type of permit(s) would be required, and provides specific regulations for

vacation rentals. Title 20 is part of the County's Coastal Implementation Plan and will require certification by the California Coastal Commission.

Monterey County Inland Zoning – Title 21 Amendment

The proposed amendment to the Monterey County Zoning Ordinance for inland areas of unincorporated Monterey County (Title 21 of the Monterey County Code) provide definitions for terms not already defined, clarify in which zoning districts vacation rentals would be allowed and what type of permit(s) would be required, and provide specific regulations for vacation rentals.

Business Taxes, Licenses, and Regulations – Title 7 Amendment

There are two proposed amendments to MCC Title 7. The first is a proposed amendment to MCC Chapter 7.02, which would require an annual business license for hotels and vacation rentals in the coastal and inland areas of unincorporated Monterey County. The second is to add a new chapter (Chapter 7.120) to set requirements for annual operation permits for vacation rentals and is applicable in the coastal and inland areas of unincorporated Monterey County. The draft amendment, which is provided as Appendix B of this EIR, is summarized as follows:

Business License - The amendment to MCC Chapter 7.02 requires the operator of any of the two types of vacation rentals (limited vacation rentals and commercial vacation rentals) to procure a business license before commencement, operation, or maintenance of any vacation rental. In addition, operators of hotel would be subject to the business license requirement.

Operation License - The proposed ordinance includes adding Chapter 7.120, "Vacation Rental Operation License," to the MCC. In addition to the land use and zoning requirements and site development standards, this Chapter would provide operational requirements for the two types of vacation rentals. The following subsections are contained in Chapter 7.120: definitions, purpose, applicability, regulations for vacation rentals, application and renewal process, fees, grounds for suspension or revocation, enforcement, process for hearing by a hearing officer, and service requirements.

3. ENVIRONMENTAL REVIEW PROCESS

3.1 Notice of Preparation and Commencement of Scoping Period for EIR

In accordance with CEQA (PRC Section 21092) and the State CEQA Guidelines (14 CCR Section 15082), the County issued a notice of preparation (NOP) on August 29, 2022. The County circulated the NOP to responsible and trustee agencies, organizations, and interested individuals to solicit comments on the Project. The County followed required procedures related to distribution of the appropriate notices and environmental documents to the State Clearinghouse. The NOP was received by the State Clearinghouse (State Clearinghouse No. 2022080643) and distributed for a 30-day public review period on August 29, 2022. A revised NOP was released on September 6, 2022, to correct errors in the original NOP, and the public review period was extended to provide a full 30 days for the public to review the revised NOP.

Two public scoping meetings were conducted by the County: one on September 6, 2022, at 5:00 p.m. and one on September 19, 2022, at 1:00 p.m. The first scoping meeting was held both in person, at the Monterey County Government Center Administration Building, located at 168 West Alisal Street, 2nd Floor (Monterey Room), in Salinas, as well as virtually via Zoom; and the second scoping meeting was held virtually via Zoom.

3.2 Notice of Completion and Commencement of Public Review of DEIR

On December 11, 2023, the Draft EIR was released for a 49-day public review and comment period, which ended on January 29, 2024. The Notice of Completion, Notice of Availability, and Draft EIR were submitted to the State Clearinghouse for distribution to reviewing agencies and posted on the County website.

As a result of these notification efforts, comments were received from agencies, organizations, and individuals on the content of the Draft EIR. Chapter 3, “Responses to Comments,” of the Final EIR identifies these commenting parties, identifies their respective comments, and presents responses to these comments. None of the comments received, or the responses provided, constitute “significant new information” as defined by State CEQA Guidelines CCR Section 15088.5.

4. **DESCRIPTION OF THE RECORD**

For purposes of CEQA and these Findings, the record is composed of all non-privileged documents relating to the project files on this matter, including, without limitation:

- The NOP prepared for the project and all other public notices issued in conjunction with the project;
- The Draft EIR for the project, with all appendices to the Draft EIR;
- All comments or documents submitted by public agencies or by members of the public during or after the comment period on the NOP and the Draft EIR;
- The Final EIR for the project, including comments received on the Draft EIR, responses to those comments, and appendices to the Final EIR;
- Documents cited or referenced in the Draft EIR and Final EIR
- All studies conducted for the project and contained in, or referenced by, staff reports, the Draft EIR, and the Final EIR;
- All public reports, documents, memoranda, maps, staff reports, or other planning documents relating to the project in compliance with the requirements of CEQA and with respect to the County’s action on the project;
- All documentary and oral evidence submitted by other public agencies or members of the public in connection with the project, up through the close of the final public hearing;
- Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held in connection with the project;

- Any documentary or other evidence submitted at such information sessions, public meetings, and public hearings;
- Any and all resolutions adopted by the County regarding the project, and all staff reports, analyses, and summaries related to the adoption of those resolutions;
- Matters of common knowledge, including, but not limited to federal, state, and local laws and regulations;
- Any documents expressly cited in these findings and any documents incorporated by reference, in addition to those cited above;
- Any other written materials relevant to the County's compliance with CEQA or its decision on the merits of the project, including any documents or portions thereof, that were released for public review, relied upon in the environmental documents prepared for the project, or included in the County's non-privileged retained files for the EIR or project;
- All other materials, not otherwise included above, required for the record of proceedings by PRC Section 21167.6(e)

5. SIGNIFICANT ENVIRONMENTAL IMPACTS OF THE PROJECT

As discussed above the Draft EIR and the Final EIR did not identify significant and unavoidable impacts. All impacts identified in the Draft EIR and Final EIR would either be less than significant, have no impact, or no significance conclusion.

6. GENERAL FINDINGS

6.1 Certification of the EIR

In accordance with CEQA, the County has considered the effects of the project on the environment, as shown in the Draft EIR, Final EIR, and the whole of the administrative record, prior to taking any action to approve the project. The Final EIR was released to agencies that submitted comments on the Draft EIR for the required 10-day distribution period beginning May 21, 2024. The Final EIR was also made available to other commenters and the general public by posting the document on the County's website on the same day. The FEIR was submitted to the County Planning Commission and Board of Supervisors during the 10-day distribution period. The Board of Supervisors will certify the EIR at a public hearing. By these Findings, the Board of Supervisors ratifies and adopts the conclusions of the FEIR as set forth in these Findings. The FEIR and these Findings represent the independent judgment and analysis of the Board of Supervisors.

6.2 Changes to the DEIR; Recirculation Not Required

Public Resources Code section 21092.1 and CEQA Guidelines Section 15088.5 provide the criteria that a lead agency is to consider when deciding whether it is required to recirculate an EIR. Recirculation is required when "significant new information" is added to the EIR after public notice of the availability of the Draft EIR is given, but before certification. (CEQA Guidelines, Section 15088.5(a)). As discussed above, in the course of responding to comments

received during the public review and comment period on the DEIR, certain portions of the DEIR have been modified and new information has been added. These modifications do not add any new significant impacts nor do they substantially increase any of the projects impact. None of this information, therefore, constitutes “significant new information” under CEQA.

6.3 Evidentiary Basis for Findings

These Findings are based upon substantial evidence, both oral and written, contained in the administrative record relating to the project. The references to the Draft EIR and Final EIR set forth in the Findings are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these Findings.

6.4 Findings Regarding Mitigation

The Draft EIR did not identify significant and unavoidable impacts. All impacts identified in the Draft EIR would either be less than significant, have no impact, or no significance conclusion. Therefore, Section 15091(a) has not been met, and the adopting of a Mitigation Monitoring and Reporting Program is not required for the project.

6.5 Location and Custodian of Records

Pursuant to CEQA Guidelines section 15091, the County is the custodian of the documents and other materials that constitute the record of proceedings upon which the decision is based, and such documents and other materials are located at the Monterey County Government Center Administration Building, located at 168 West Alisal Street, 2nd Floor, Salinas, CA 93901. Contact hcdcomments@co.monterey.ca.us. Copies of the DEIR and FEIR are also available at <https://www.countyofmonterey.gov/government/departments-a-h/housing-community-development/planning-services/current-planning/general-info/vacation-rental-aka-short-term-rental-ordinances-coastal-inland>.

7. **ALTERNATIVES**

Section 15126.6(a) of the CEQA Guidelines requires the discussion of “a reasonable range of alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives.” Although no impacts were identified with the proposed regulations, these alternatives were evaluated in the EIR.

- Alternative 1: No Project Alternative
- Alternative 2: Homestays Alternative
- Alternative 3: Reduce Growth Alternative
- Alternative 4: No Additional Growth Alternative
- Alternative 5: Permitting and Policy Options
- Alternative 6: Prohibition of Commercial Vacation Rentals in Residential Zones within the Carmel Valley Master Plan Area

8. FINDINGS OF FACT

The County has reviewed the Final EIR for the project, which consists of the Draft EIR and the Responses to Comments on the Draft EIR. The County has considered the public record on the project, which is composed of the above documents and this Statement of Findings. The County has exercised independent judgment in accordance with Public Resources Code Section 21082.1(c)(3) in retaining its own environmental consultant in the preparation of the EIR, as well as reviewing, analyzing, and revising material prepared by the consultant. Having received, reviewed, and considered the information in the Final EIR, as well as all other information in the record, the County hereby makes findings pursuant to and in accordance with Public Resources Code Section 21081, 21081.5, and 21081.6. In accordance with CEQA and the CEQA Guidelines, the County agrees that no Findings of Fact is required because no impacts were identified with the implementation of the proposed regulations.