

Attachment B

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**Draft 11.03.2020
ORDINANCE NO. ____**

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING SECTION 7.02.060 OF THE MONTEREY COUNTY CODE AND ADDING
CHAPTER 7.110 RELATING TO VACATION RENTAL ACTIVITIES**

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. If not properly regulated, Vacation Rental operations have the potential to be a nuisance and disrupt the sense of safety, security, and peaceful enjoyment of residences in residential neighborhoods.

C. Tourism is a top economic driver of the regional economy, and Monterey County is recognized globally as a premier tourist destination. To help safeguard the reputation of Monterey County and the economic benefits tourism provides the region, regulations and standards for the operation of Vacation Rentals are necessary to protect the health, safety, and welfare of visitors staying in Vacation Rental accommodations and residents of Monterey County.

D. To allow for a reasonable amortization of investment for existing Vacation Rental operations, this Ordinance provides an initial 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, their designee, and/or Vacation Rental Operator is pursuing all necessary County permits, licenses, and entitlements pursuant to Chapter 7.110 of Monterey County Code.

E. [Reserve for CEQA finding]

SECTION 2. Section 7.02.060.B is added to the Monterey County Code to read as follows:

B. All Hotels, as defined by Section 5.40.020.A of the Monterey County Code, as may be amended from time to time;

Ordinance amending Section 7.02.060 and adding Chapter 7.110 re Vacation Rentals

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SECTION 3. Section 7.02.060.C is added to the Monterey County Code to read as follows:

C. All Commercial Vacation Rentals and Limited Vacation Rentals and as defined respectively by Section 7.110.010.D and F of the Monterey County Code, as may be amended from time to time.

SECTION 4. Chapter 7.110 is added to the Monterey County Code to read as follows:

Chapter 7.110
VACATION RENTAL OPERATION PERMITS

Sections:

- 7.110.010. Definitions**
- 7.110.020. Purpose**
- 7.110.030. Applicability**
- 7.110.040. Regulations for Vacation Rentals**
- 7.110.050. Application and Renewal Process**
- 7.110.060. Fees**
- 7.110.070. Grounds for Suspension or Revocation**
- 7.110.080. Phasing Out Unpermitted Operations**
- 7.110.090. Enforcement**
- 7.110.100. Process for Hearing by a Hearing Officer**
- 7.110.110. Service Requirements**

7.110.010. Definitions

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

A. “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.

B. “Appropriate Authority” means the Monterey County Housing and Community Development Director or the Chief of Planning or his or her designee.

C. “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.

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D. “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;
2. Rented as a Vacation Rental for more than twenty (20) times per 12-month period while concurrently occupied by the Principal Resident;
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.

E. “Effective Date” means the date on which Ordinance No. __ adding this Chapter 7.110 to the Monterey County Code took effect.

F. “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) or more bedrooms available for rent as a Vacation Rental.
5. Exception: Except as outlined in Sections 20.64.290.D.11 and 21.64.290.D.11 of the Monterey County Code, 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.

G. “Occupant” means a person who is entitled to occupy a residential property by reason of concession, permit, right of access, license, or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days.

H. “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.

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

J. “Principal Residence” means the dwelling occupied by the resident and where the resident is a human being and lives in the dwelling 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.

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K. “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 the Monterey County Housing and Community Development Director or his or her designee.

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

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

N. "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.

O. “Visitor” means an invitee of a Vacation Rental Occupant, who is not an Occupant and not staying overnight at the Vacation Rental.

7.110.020. Purpose

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. It is the purpose of this Chapter to:

1. Preserve and enhance the residential character of the zoning districts established in Titles 20 and 21.

2. Preserve the sense of security and safety in stable neighborhoods of owner-occupied residences.

3. Integrate economic opportunity with the preservation of quality of life.

4. Ensure that Vacation Rentals are operated in a manner that complies with all rules and regulations and is not detrimental to the health, safety, and welfare of residential neighborhoods in which Vacation Rentals are operating. Specifically, this Chapter seeks to restrict the following inharmonious and injurious outcomes associated with unregulated and uncontrolled Vacation Rentals of residential property:

a. Public nuisances such as litter, parking congestion, and noise.

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b. Risk to economic well-being associated with the reputation of Monterey County as a premier tourism destination.

C. To allow for a reasonable amortization of investment and honoring of reservation commitments as may have been made prior to enactment of this Chapter for existing Vacation Rental operations, this Chapter 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 and the Owner, their designee, and/or Vacation Rental Operator is pursuing all necessary County permits, licenses, and entitlements.

7.110.030. Applicability

A. This Chapter applies to Vacation Rentals including Commercial Vacation Rentals and Limited Vacation Rentals.

B. This Chapter applies in the unincorporated areas of the County of Monterey, including the inland area and coastal zone of the County.

7.110.040. Regulations for Vacation Rentals

A. All Operators who intend to operate a Vacation Rental, including a Limited Vacation Rental and Commercial Vacation Rental, shall obtain a Vacation Rental Operation Permit for the fixed location and dwelling in which the Vacation Rental is to occur.

B. The Owner, or their authorized agent, of the subject property must obtain all necessary land use entitlements as required by Section 20.64.290 or Section 21.64.290 of the Monterey County Code before the County will issue a Vacation Rental Operation Permit under this Chapter. The Operator applying for a Vacation Rental Operation Permit shall provide written proof to the Monterey County Housing and Community Development Director or his or her designee of all applicable land use entitlements.

C. Limited Vacation Rental

1. Shall comply with applicable visitor unit limitations specified in the applicable Land Use Plan or Area Plan.

2. Is an allowable use in designated zoning districts, pursuant to Title 20 and Title 21 of the Monterey County Code.

3. Shall meet all the requirements for Limited Vacation Rentals in Section 20.64.290 or Section 21.64.290 of the Monterey County Code.

4. Limited Vacation Rentals shall comply with Chapter 10.60 (Noise Control) and Chapter 8.36 (Nuisance and Nuisance Animals), as periodically amended, of

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the Monterey County Code. Outside amplified sound associated with the Limited Vacation Rental is prohibited at all times. Quiet time for Limited Vacation Rentals is between 10:00 p.m. and 7:00 a.m., and the Limited Vacation Rental operation shall adhere to nighttime noise requirements set forth in Monterey County Code Section 10.60.040, as periodically amended.

5. Signage or advertisement of the Limited Vacation Rental on the exterior of the unit or property is prohibited.

6. All Limited Vacation Rentals must have a property manager who is available twenty-four (24) hours per day, during all times that the property is rented as a Limited Vacation Rental. A property manager may be the Principal Resident, professional property manager, realtor, other resident, or nonresident property owner, or another person designated by the Operator. The property manager must be able to respond to complaints and arrive at the site within thirty (30) minutes. The Operator shall provide the name of the property manager and their contact information to the County prior to County issuance of the Vacation Rental Operation Permit and shall notify the County, in writing, of any change of property manager.

7. Only one (1) rental contract is allowed per Limited Vacation Rental at any given time and not more than one (1) rental contract is allowed per Limited Vacation Rental per week.

8. A Limited Vacation Rental may be rented not more than twenty (20) times per year and not more than a total of one hundred forty (140) days per 12-month period.

9. The Principal Resident must concurrently occupy the dwelling while it is being rented as a Limited Vacation Rental except as provided herein.

a. The Principal Resident may rent the unit 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 does not apply to properties with active agricultural operations as specified in subsection 10 below.

10. In Coastal Agriculture Preserve (CAP(CZ)), Agriculture Conservation (AC(CZ)), 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.

11. Each rental contract that enables the Limited Vacation Rental shall be in writing and identify thereon the name, address, telephone number and e-mail contact information of the Principal Resident, the property manager and at least one responsible Limited Vacation Rental Occupant eighteen (18) years or older who shall be responsible for compliance with all the regulations in this Chapter.

12. A copy of the Vacation Rental Operation Permit, business license, the name of the property manager and their contact information, and all applicable rules and regulations contained in this Chapter and Monterey County Code Sections 20.64.290 or 21.64.290 shall be included with the rental contract and posted within the unit in a prominent place within six (6) feet of the front door of the unit.

13. All rental contracts, advertisements, and listings for the Limited Vacation Rentals shall include the following:

- a. Vacation Rental Operation Permit Number for that particular Vacation Rental.
- b. Maximum occupancy – overnight and daytime occupancy limits.
- c. Notification of quiet hours.
- d. Advertised Rental Rate.

14. The Principal Resident shall maintain precise records and documentation of the Limited Vacation Rental operation, that shall, at a minimum, include all of the following information for each Limited Vacation Rental occupancy: name, address, telephone and e-mail contact of at least one responsible Occupant; number of Occupants; motor vehicle license number of each motor vehicle used by the Occupants of the site; and dates of the Limited Vacation Rental. The County shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County upon request.

15. No person or entity, including but not limited to, the Principal Resident, shall maintain any advertisements of a Vacation Rental if the Vacation Rental is prohibited by this Chapter.

16. Not more than two (2) bedrooms, regardless of the total number of bedrooms in the dwelling, shall be rented as part of a Limited Vacation Rental. The Principal Resident shall be deemed to occupy at least one (1) bedroom while residing at the dwelling concurrently while it is rented.

17. The maximum occupancy limits for Limited Vacation Rentals are as follows:

- a. The maximum overnight occupancy of vacation renters while being rented as a Limited Vacation Rental shall be calculated and limited to a not-to-exceed count of two (2) persons per bedroom and shall not exceed a total count of four (4) persons per unit, no matter how many bedrooms.

b. The maximum daytime occupancy of vacation renters and visitors while being rented as a Limited Vacation Rental shall be calculated and limited to a not-to-exceed count of 1.5 times the maximum overnight occupancy and shall not exceed a total count of nine (6) persons per unit, no matter how many bedrooms.

c. Limited Vacation Rentals with occupancies that exceed the maximum limitation shall require a Use Permit pursuant to Title 21 or a Coastal Development Permit pursuant to Title 20 of the Monterey County Code for assemblages of people.

18. All Limited 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.

19. All Limited Vacation Rentals shall demonstrate that they meet bacteriological and acute primary drinking water standards, to the satisfaction of the Environmental Health Bureau of the Monterey County Health Department, at the time of permit issuance and prior to each annual renewal. Initial water quality testing and annual testing for renewals 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 water quality standards if the Limited Vacation Rental provides evidence that it is served by a water system, as defined by California Health and Safety Code Section 116275, that has 200 or more service connections. The Operator must demonstrate that the Owner is served by a water system that has 200 or more service connections or has a Water System Permit pursuant to Monterey County Code Chapter 15.04, as applicable, before obtaining a Vacation Rental Operation Permit.

20. If the Limited Vacation Rental is served by an on-site wastewater treatment system ("OWTS," also referred to as a septic system), Environmental Health Bureau of the Monterey County Health Department shall be furnished a copy of an OWTS performance evaluation report completed by a qualified professional and current within five (5) years prior to the Limited Vacation Rental permit application or annual renewal, that indicates components were in acceptable condition, and the system was functioning properly at time of the evaluation.

a. The OWTS shall be in good working order and functioning properly prior to issuance of a Vacation Rental Operation Permit. 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 of the Vacation Rental Operation Permit.

b. Occupants and Visitors of the Limited Vacation Rental unit shall be advised that excessive water use and/or disposal of unsuitable materials

through a sink or toilet may negatively impact the OWTS. The rental contract shall include an OWTS disclosure notice and appropriate advisory signs shall be posted at the kitchen sink(s) and at each toilet in the unit.

21. Outdoor fire areas, when not prohibited by state or local fire bans or regulations, may be allowed in approved recreational fire container or portable fireplace containers, shall be located not less than 15 feet from a structure provided appropriate provisions have been made to prevent the spread of fire to nearby fuel. Such provisions include, but are not limited to, locating the fire container on a noncombustible surface, covering the fire with a fire screen, and extinguishing the fire as soon as it is no longer in use or by 10:00 p.m., whichever is earlier. The Limited Vacation Rental operation shall adhere to Chapter 18.09 – Fire Code, of the Monterey County Code, as periodically amended.

D. Commercial Vacation Rental

1. Shall comply with applicable visitor unit limitations specified in the applicable Land Use Plan or Area Plan.

2. Is allowable in designated zoning districts with a Use Permit, pursuant to Section 21.64.290 of the Monterey County Code or with a Coastal Development Permit, pursuant to Section 20.64.290 of the Monterey County Code.

3. Shall meet all the requirements for Commercial Vacation Rentals in Section 20.64.290 or Section 21.64.290 of the Monterey County Code.

4. Commercial Vacation Rentals shall comply with Monterey County Code Chapter 10.60 (Noise Control) and Chapter 8.36 (Nuisance and Nuisance Animals), as periodically amended. Outside amplified sound associated with the Commercial Vacation Rental is prohibited at all times. Quiet time for Commercial Vacation Rentals is between 10:00 p.m. and 7:00 a.m. and the Commercial Vacation Rental operation shall adhere to nighttime noise requirements set forth in Monterey County Code Section 10.60.040, as periodically amended.

5. Signage or advertisement of the Commercial Vacation Rental on the exterior of the unit or property, is prohibited.

6. All Commercial Vacation Rentals must have a property manager who is available twenty-four (24) hours per day, during all times that the property is rented as a Commercial Vacation Rental. Property manager may be the Operator, professional property managers, realtors, resident or nonresident property owners, or other designated persons. The property manager must be able to respond to complaints and arrive at the site within thirty (30) minutes. The Operator shall provide the name of the property manager and their contact information to the County prior to County issuance of the

Vacation Rental Operation Permit and shall notify the County, in writing, of any change of property manager.

7. In Coastal Agriculture Preserve (CAP(CZ)), Agriculture Conservation (AC(CZ)), Farmland (F), Rural Grazing (RG), and Permanent Grazing (PG) Zones, a Property Manager or Principal Resident shall concurrently reside on the property while the Commercial Vacation Rental is rented if an agricultural operation is active on the property.

8. Only one (1) rental contract is allowed per Commercial Vacation Rental at any given time.

9. Each rental contract that enables the Commercial Vacation Rental shall be in writing and identify thereon the name, address, telephone number and e-mail contact information of the Operator, the property manager and at least one responsible Commercial Vacation Rental Occupant eighteen (18) years or older who shall be responsible for all the regulations in this Chapter.

10. A copy of the Vacation Rental Operation Permit, business license, the name of the property manager and their contact information, and all applicable rules and regulations contained in this Chapter and Monterey County Code Sections 20.64.290 or 21.64.290 shall be included with the rental contract and posted within the unit in a prominent place within six (6) feet of the front door of the unit.

11. All rental contracts, advertisements, and listings for the Commercial Vacation Rental shall include the following:

- a. Vacation Rental Permit Number for that particular Vacation Rental.
- b. Maximum occupancy – overnight and daytime occupancy limits.
- c. Notification of quiet hours.
- d. Advertised Rental Rate.

12. The Operator shall maintain precise records and documentation of the Commercial Vacation Rental operation, that shall at a minimum make a record of the following for each Commercial Vacation Rental occupancy: name, address, telephone and e-mail contact of at least one responsible Occupant; number of occupants; motor vehicle license number of each motor vehicle used by the occupants of the site; and dates of the Commercial Vacation Rental. The County shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County upon request.

13. No person or entity, including but not limited to the Operator, shall maintain any advertisements of rental prohibited by this Chapter.

14. The maximum occupancy limits for Commercial Vacation Rentals are as follows:

a. The maximum overnight occupancy of vacation renters while being rented as a Commercial Vacation Rental shall be calculated and limited to a not-to-exceed count of two (2) persons per bedroom and shall not exceed a total count of ten (10) persons per unit, no matter how many bedrooms.

b. The maximum daytime occupancy of vacation renters and visitors while being rented as a Commercial Vacation Rental shall be calculated and limited to a not-to-exceed count of 1.5 times the maximum overnight occupancy and shall not exceed a total count of fifteen (15) persons per unit, no matter how many bedrooms.

c. Commercial Vacation Rentals with occupancies that exceed the maximum limitation shall require a Use Permit pursuant to Title 21 or a Coastal Development Permit pursuant to Title 20 of the Monterey County Code for assemblages of people.

15. All 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.

16. All Commercial Vacation Rentals shall demonstrate that they meet bacteriological and acute primary drinking water standards, to the satisfaction of the Environmental Health Bureau of the Monterey County Health Department, at the time of permit issuance and prior to each annual renewal. Initial water quality testing and annual testing for renewals 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 water quality standards if the Commercial Vacation Rental provides evidence that it is served by a water system, as defined by California Health and Safety Code Section 116275, that has 200 or more service connections. The Operator must demonstrate that the Owner is served by a water system that has 200 or more service connections or has a Water System Permit pursuant to Monterey County Code Chapter 15.04, as applicable, before obtaining the Vacation Rental Operation Permit.

17. If the Commercial Vacation Rental is served by an on-site wastewater treatment system or septic system (“OWTS”), the Environmental Health Bureau of the Monterey County Health Department shall be furnished a copy of an OWTS performance

evaluation report completed by a qualified professional and current within five (5) years prior to the Commercial Vacation Rental permit application or annual renewal, that indicates components were in acceptable condition and the system was functioning properly at time of the evaluation.

a. The OWTS shall be in good working order and functioning properly prior to issuance of a Commercial Vacation Rental Permit. 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 of the Vacation Rental Operation Permit.

b. Occupants and Visitors of the Commercial Vacation Rental unit shall be advised that excessive water use and/or disposal of unsuitable materials through a sink or toilet may negatively impact the OWTS. The rental contract shall include an OWTS disclosure notice and appropriate advisory signs shall be posted at the kitchen sink(s) and at each toilet in the unit.

18. Outdoor fire areas, when not prohibited by state or local fire bans or regulations, may be allowed in approved recreational fire container or portable fireplace containers, shall be located not less than 15 feet from a structure provided appropriate provisions have been made to prevent the spread of fire to nearby fuel. Such provisions include, but are not limited to, locating the fire container on a noncombustible surface, covering the fire with a fire screen, and extinguishing the fire as soon as it is no longer in use or by 10:00 p.m., whichever is earlier. The Commercial Vacation Rental operation shall adhere to Chapter 18.09 – Fire Code, of the Monterey County Code, as periodically amended.

7.110.050. Application and Renewal Process

A. Application Requirements. Each application for the establishment of a Vacation Rental Operation Permit 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.

B. Limited Vacation Rental. In all cases, the application for a Vacation Rental Operation Permit for a Limited Vacation Rental shall contain, without limitation, the following:

1. All information on the application form.

2. Acknowledgment 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 conditions, covenants, or other applicable restrictions on the real property proposed for the Vacation Rental use.

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3. 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 utilize the property for the proposed Limited Vacation Rental activity.

4. Property Manager contact information including name, address, telephone number and email address.

5. Affidavit by the applicant attesting that he or she is the Principal Resident as that term is defined by this Chapter.

6. Two (2) forms of Principal Residence Documentation as approved by the Monterey County Housing and Community Development Director or his or her designee.

7. Plans drawn to scale and labeled, in the form and manner required by the Monterey County Housing and Community Development Department, including but not limited to, a floor plan showing all rooms, including windows and doors, and clear identification of rooms designated to be rented as part of the Limited Vacation Rental.

8. An inspection report that provides and verifies information, in the form and manner required by the Monterey County Housing and Community Development Department, 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; installation of accessible fire extinguishers; fire alarms; and a carbon monoxide alarm on each level.

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

10. Evidence that the source of water that serves the proposed Limited Vacation Rental meets bacteriological and acute primary drinking water standards, to the satisfaction of the Environmental Health Bureau of the Monterey County Health Department. 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 water quality standards if the Limited Vacation Rental provides evidence that it is served by a water system, as defined by California Health and Safety Code Section 116275, that has 200 or more service connections. The Operator must provide evidence that the Owner is served by a water system that has 200 or more service connections or has a Water System Permit in good standing pursuant to Monterey County Code Chapter 15.04, as applicable.

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

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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.

12. Copy of the OWTS informational signs, if applicable.

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

14. Such other information as the Monterey County Housing and Community Development Director or his or her designee deems necessary to process the application.

C. Commercial Vacation Rental. In all cases, the application for a Vacation Rental Operation Permit for a Commercial Vacation Rental shall contain, without limitation, the following:

1. All information on the application form.

2. Evidence that the Owner has obtained a Use Permit pursuant to Section 21.64.290 or a Coastal Development Permit pursuant to Section 20.64.290 of the Monterey County Code for the Commercial Vacation Rental use, and that the permit is in good standing.

3. Certification, under penalty of perjury, that all the information contained in the Vacation Rental Operation Permit application is true and correct.

4. Such other information as the Monterey County Housing and Community Development Director or his or her designee deems necessary to process the application.

D. Review of Application and Criteria for Grant of Vacation Rental Operation Permit.

1. The Appropriate Authority to review and render a decision on the application is the Monterey County Housing and Community Development Department Director or his or her designee.

2. The Appropriate Authority shall deem the application complete if it contains all required information and documents and all required application fees have been paid.

3. Upon review of a complete application, the Appropriate Authority shall grant the Vacation Rental Operation Permit ministerially to the Operator if all of the following requirements are met:

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- a. The proposed Vacation Rental will comply with all the requirements of the Monterey County Code;
- b. The applicant has received all necessary land use entitlements as required by Section 20.64.290 or Section 21.64.290 of the Monterey County Code; and
- c. The proposed Vacation Rental activity will comply with all the provisions of this Chapter.

E. Vacation Rental Operation Permit Nontransferable. A Vacation Rental Operation Permit is issued to the Operator and covers only the Operator identified on the permit solely with respect to the premises identified on the permit. The Vacation Rental Operation Permit does not run with the land and is not transferable.

F. Each permit issued pursuant to this Chapter shall require that the Operator indemnify, defend, and hold harmless the County and its officers, agents, and employees from actions or claims of approval of the permit and from actions or claims 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.

G. Time Limits. Each Vacation Rental Operation Permit shall be subject to the following time limits:

1. The initial Vacation Rental Operation Permit shall be issued for a one (1) year term and shall expire one (1) year after the date of its issuance.

2. Any application for renewal shall be filed with the Monterey County Housing and Community Development Department at least thirty (30) calendar days before expiration of the permit. An application for renewal shall not be deemed complete until all application fees have been paid and all required information provided. The Vacation Rental Operation Permit shall be renewed by the Appropriate Authority, if the Appropriate Authority finds the operation is in good standing. Good standing is determined as follows:

- a. Vacation Rentals with more than two substantiated violations of this Chapter or Section 20.64.290 or Section 21.64.290, as applicable, shall be considered not in good standing.

- b. Vacation Rentals that do not have a valid business license from the County pursuant to Chapter 7.02 or have not paid their Transient Occupancy Tax pursuant to Chapter 5.04 of Monterey County Code, shall be considered not in good standing.

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c. A Vacation Rental is not in good standing if it does not meet the requirements of Section 20.64.290 or Section 21.64.290 of the Monterey County Code:

i. Limited Vacation Rentals that no longer comply with the regulations for Limited Vacation Rentals in Section 20.64.290 or Section 21.64.290, shall be considered not in good standing.

ii. Commercial Vacation Rentals that do not have a Use Permit pursuant to Title 21 or Coastal Development Permit pursuant to Title 20, or whose Use Permit or Coastal Development Permit for a Commercial Vacation Rental has been suspended or revoked, shall be considered not in good standing.

d. A Vacation Rental is not in good standing if the Vacation Rental Operation Permit is suspended or revoked at the time of the application for renewal.

3. If a renewal application is denied, an applicant may file a new application pursuant to this Chapter.

H. The Appropriate Authority shall deny an application for a Vacation Rental Operation Permit upon any of the following grounds:

1. The applicant knowingly made a false statement of material fact or has knowingly or negligently omitted a material fact from the application;

2. The proposed Vacation Rental does not comply with the provisions of this Chapter;

3. The applicant has not obtained all necessary land use entitlements as required by Section 20.64.290 or Section 21.64.290 of the Monterey County Code; or

4. In the case of Commercial Vacation Rentals, the applicant is in violation of the Use Permit or Coastal Development Permit for the Commercial Vacation Rental on the property.

I. Notice of Denial. If the Appropriate Authority intends to deny the application, the Appropriate Authority shall issue a written Notice of Denial and shall serve Notice of Denial in accordance with the requirements set forth in Section 7.110.110 of this Chapter. The Notice of Denial shall specify, in writing, the reasons for the denial of the application, and notify the applicant that the decision shall become final unless the applicant seeks an appeal within ten (10) calendar days of the date of service of the Appropriate Authority's decision. The Notice of

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Denial shall notify the applicant of the opportunity to request a hearing before a Hearing Officer in accordance with Section 7.110.100 of this Chapter.

7.110.060. Fees

The filing of an application for a Vacation Rental Operation Permit, renewal of a Vacation Rental Operation Permit, and appeals shall be accompanied by payment of such fees as the Board of Supervisors may establish to recover the cost of administration of this Chapter. Permit applicants and permittees are responsible for the costs of inspections, investigations, and any other fee-associated activity established pursuant to this Chapter. Fees, fines, and costs specified by this Chapter shall be established by the Board of Supervisors and as set forth in the Monterey County Fee Resolution, pursuant to Chapter 1.40 of the Monterey County Code, as periodically amended.

7.110.070. Grounds for Suspension or Revocation

A. Where one or more of the requirements(s) of a Vacation Rental Operation Permit has not been, or is not being complied with, or when a Vacation Rental Operation 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 Vacation Rental Operation Permit following public hearing pursuant to Section 7.110.100 of this Chapter.

B. Grounds for suspension or revocation may include, but are not limited to: failure to pay applicable State or County taxes on Vacation Rental activity; or more than two substantiated violations of the terms and conditions of the Vacation Rental Operation Permit or Use Permit issued pursuant to Section 21.64.290 or Coastal Development Permit Issued pursuant to Section 20.64.290 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.

C. Notice of Revocation or Suspension. If the Appropriate Authority has reasonable grounds to revoke or suspend the Vacation Rental Operation Permit, the Appropriate Authority shall issue a written Notice of Intention to revoke or suspend the permit. The Notice of Intention shall be served on the permittee in accordance with the requirements set forth in Section 7.110.110 of this Chapter. The Notice of Intention shall describe the reason(s) for revocation or suspension and notify the applicant that the decision shall become final unless the applicant seeks an appeal within ten (10) calendar days of the date of service of the Appropriate Authority's decision. The Notice of Intention shall notify the permittee of the opportunity to request a hearing before a Hearing Officer to present evidence as to why the permit should not be revoked or suspended and shall notify the permittee of the ten- (10-) day deadline to submit a written request for a hearing. Permittees wishing to request a hearing shall submit such request in accordance with Section 7.110.100 of this Chapter.

7.110.080. Phasing Out Unpermitted Operations

Ordinance amending Section 7.02.060 and adding Chapter 7.110 re Vacation Rentals

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A. To provide time for Owners and Operators of Vacation Rentals that were unpermitted prior to the Effective Date to bring the operation into compliance with this Chapter and to provide reasonable return on such investment or reservation commitments as may have been made prior to enactment of this Chapter, Owners and Operators who can demonstrate that a 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:

1. The Owner or Operator 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.

2. The Owner or Operator 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 regulations.

3. The Owner or Operator 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) rental 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 Vacation Rental of the unit on or after April 1, 2019.

4. The Owner or Operator must provide a current copy of a Transient Occupancy Registration Certificate issued by the County.

5. If the above requirements (1) through (4) are met, the 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 applications for all required permits, licenses, and entitlements made pursuant to this Chapter and Section 7.02.060, Section 20.64.290 or Section 21.64.290 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.

6. 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.

B. Nothing in this Chapter 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.

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7.110.090. Enforcement

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

B. It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Chapter 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 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.

C. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter 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 this Code, and any other action authorized by law.

D. Each and every violation of this Chapter 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 Chapter 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 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 Chapter.

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

1. 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;

2. 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 year; and

3. 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 year.

F. Each day during any portion of which any violation of this Chapter 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 Chapter.

G. Notice of Intention. If the Appropriate Authority has reasonable grounds to determine that a permittee has violated this Chapter, the Appropriate Authority shall issue a written Notice of Intention to issue and record a Notice of Violation. The Notice of Intention shall be served on the permittee. Service of the Notice of Intention shall be provided in accordance with the requirements set forth in Section 7.110.110 of this Chapter. The Notice of Intention shall describe the property, the violation, the action necessary to abate the violation, the time limit for compliance, and the right to a hearing. The Notice of Intention shall notify the permittee of the opportunity to request a hearing before a Hearing Officer to present evidence as to why the Notice of Violation should not be issued and shall notify them of the ten- (10-) day deadline to submit a written request for a hearing pursuant to Section 7.110.100.

7.110.100. Process for Hearing by a Hearing Officer

A. A person shall have ten (10) calendar days from the service of a Notice of Denial, Notice of Revocation or Suspension, or a Notice of Intention to submit a written request for a hearing before the Hearing Officer. Failure to submit the written request for a hearing shall be deemed a waiver of the right to challenge the denial, revocation, suspension, or violation and a failure to exhaust administrative remedies. If the hearing is not timely requested:

1. The Appropriate Authority may issue the Notice of Violation in accordance with the Notice of Intention;
2. The denial of a permit application shall become final; or
3. The revocation or suspension of a permit shall become final.

B. Upon receipt of a timely written request for a hearing, the Hearing Officer shall set a date for a hearing to be held within sixty (60) days of receipt of the request, unless an immediate threat to the public health, safety, and welfare necessitates an earlier hearing date. Notice of the hearing, including the time, date, and location of the hearing, shall be provided in accordance with the requirements set forth in Section 7.110.110 of this Chapter.

C. Hearing by the Hearing Officer:

1. The Hearing Officer is authorized to conduct hearings, issue subpoenas, receive evidence, administer oaths, rule on questions of law and the admissibility of

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evidence, prepare a record of the proceedings, and render decisions on the suspension or revocation of the permit.

2. In any proceeding before a Hearing Officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the Hearing Officer, his/her clerk, or other designee shall have the power to administer oaths and affirmations and to certify to official acts.

2. All parties to the hearing shall have the opportunity to testify, introduce exhibits, call and examine witnesses, and cross-examine opposing witnesses on any matter relevant to the issues.

3. The Hearing Officer may postpone the hearing date upon good cause shown, continue the hearing during the course of the hearing, and make such other procedural orders and rulings as he or she deems appropriate during the course of the hearing.

4. Within thirty (30) calendar days after the close of the hearing, the Hearing Officer shall issue a written decision, including a statement of the basis for the decision. The Hearing Officer's written decision shall constitute the final administrative decision of the County.

D. In the event a civil action is initiated to obtain enforcement of the decision of the Hearing Officer, and judgment is entered to enforce the decision, the person against whom the order of enforcement has been entered shall be liable to pay the County's total costs of enforcement, including reasonable attorneys' fees.

E. If neither the applicant, permittee, or their authorized representative(s) appear at the noticed hearing, such failure to appear shall constitute an abandonment of the hearing request and a failure to exhaust administrative remedies.

7.110.110. Service Requirements

Wherever this Chapter requires the County to serve notice to an applicant, permittee, Owner, or Operator, such notice shall be given by the Appropriate Authority, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. In addition, any such notice may be posted at the physical address of the premises on the date of the mailing of notice.

SECTION 5. 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.

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SECTION 6. 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:

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