**EXHIBIT A**
**SHORT TERM RENTAL ORDINANCE DISCUSSION**

**Issue - Overview**
Monterey County has experienced an increase in the number of residential properties being rented on a short term basis (not more than 30 consecutive days). Trends suggest that a growing number of travelers prefer to stay in private homes (e.g. multiple bedrooms, kitchen facilities) instead of traditional lodging such as hotels and motels. As a result, online host platforms such as AirBnB, VRBO and others have proliferated short term or transient rental for overnight accommodations. In recent years, communities throughout the country have been grappling with this growing trend and debating if and how to regulate this rapidly growing trend.

Arguments can and have been made both in support of and opposition to short term rentals (STRs). STRs can provide numerous benefits to a community and its residents such as: providing homeowners with rental income; providing increasingly desirable lodging alternatives; supporting the tourism industry; and generating transient occupancy tax (TOT) revenue. On the other hand, short-term rental of residential properties can have damaging impacts for communities and residents such as: loss of long-term housing stock; degradation of neighborhood character; generating excessive noise (e.g. parties);traffic congestion; illegal parking of vehicles blocking access (emergency and private roads); and trespassing on neighboring properties.

While there are existing permitting regulations that can provide a legitimate avenue for these short term/transient rental uses in Monterey County, many property owners have elected to operate without proper permits. Perceived reasons for this include: cost of the permit, time to process a permit, permit requirements that do not allow the owner to operate in the manner they desire, etc. What this has illustrated to staff is that there will be people that choose to operate without permits regardless of the codes developed unless the regulations serve their specific interest. At this time County resources are limited for enforcing STR violations unless they pose an immediate threat to life and safety.

Some of the questions regarding STRs that need to be considered are below.
How do we:

- Fairly balance interests in support of STRs with those opposed to them?
- Address the limited affordable (rental and purchase) housing stock?
- Protect neighborhoods, resources, health, safety and wellbeing?
- Protect the traditional hospitality industry?
- Find balance in communities and neighborhoods where STR demand is disproportionately high and/or impactful?

Staff finds that before we can move forward, the primary issue regarding *if/where STR should be allowed* has to be addressed. If the use is to be prohibited, then the need for regulations becomes moot.

**Public Outreach Efforts**

Over the past few years staff has conducted community outreach to gain an understanding of the ranging opinions and experiences regarding STRs. The public is polarized over short term rentals, and in some communities the debate is highly contentious. In an effort to move this issue forward, District 5 Supervisor, Dave Potter convened an STR Workgroup to discuss, attempt to gain consensus, and provide recommendations to staff on specific issues affecting the public/community which should be considered when working to create draft ordinances. Workgroup members represented a diverse group of individuals with a range different opinions (for, against, neutral) and experiences related to STRs, and represented different geographic areas of District 5. The STR Workgroup met a total of nine times between March, 2015 and May, 2016.

The STR Workgroup was limited to developing consensus recommendations, where possible, on specific topics relative to regulating STRs in Monterey County. These discussions were based on the premise that STRs were going to be allowed, and excluded debate over allowing or prohibiting the use countywide. The workgroup members did not agree on whether or not STRs should be allowed, or where.

The workgroup reached consensus early in the process that the purpose of developing an ordinance to address problems resulting from short term rentals in residential areas was to:

1) Provide opportunity to access public areas of the County;
2) Preserve the residential character of neighborhoods and zoning districts;
3) Protect public health, safety, resource, and general welfare; and
4) Integrate economic opportunity with the preservation and quality of life.

Topics discussed included, but were not limited to: duration and frequency of stays; density of STRs in a neighborhood; parking; noise/nuisance; neighborhood character; public versus private access; compliance and enforcement; and property management. It was not within the purview of the working group to write/determine policy which should be made by the Planning Commission and ultimately the Board of Supervisors, rather only to provide input and recommendations from the perspective of County citizens.

This effort also included evaluating how other Central Coast Counties, Monterey County Cities and select other jurisdictions regulate STRs. In addition, staff has reviewed a number of relevant white papers and published studies discussing the benefits and challenges of STRs. Staff's complete analysis combining the findings of the STR Workgroup and other communities is not

presented here, but will be included in a more detailed refinement of this discussion paper, based on direction provided by the Planning Commission at this workshop.

Staff would like to note that a number of local interest groups are focused on developing recommendations regarding STRs as well. The Monterey County Vacation Rental Alliance has developed a draft ordinance. The Big Sur community is in the process of updating the Big Sur Land Use Plan, and STRs have been central to these discussions. Staff understands that the Carmel Valley Association (CVA) has started drafting its own recommendations for a STR ordinance.

**Current Regulations - Monterey County**

Current Monterey County regulations afford various avenues for transient occupancy of residential properties, or short term rental for overnight accommodations. The term "short term rental" is not found in current codes. Transient occupancy is the use of property for lodging for a temporary time, not more than 30 consecutive days, by non-family members. Residential rental for more than 30 days (long-term) is a permitted use in all residential zoning designations.

When discussing STRs (or transient occupancy) in residential areas in Monterey County, there are two zoning ordinances that must be reviewed, Title 20 in the Coastal Zone and Title 21 for the Inland (non-coastal) Area. County code allows for certain businesses of limited scale and impact areas where residential uses are allowed. In 1997, Monterey County Board of Supervisors adopted separate ordinances establishing regulations for "transient use of residential properties" in both coastal and non-coastal (inland) areas. The coastal ordinance was forwarded to the California Coastal Commission (CCC) for certification. CCC directed County to make certain changes but those changes were never made and the ordinance was never certified. As such, those coastal regulations are not operative in the coastal zone and Monterey County is left with the following framework for this type of use:

*Title 20 Monterey County Code - Coastal Implementation Plan*

- **Bed and Breakfast** facilities, pursuant to Monterey County Code Section 20.64.100. Coastal Development Permit required in all residential zoning designations (e.g. High Density Residential or "HDR"; Medium Density Residential or "MDR", Low Density Residential or "LDR", Rural Density Residential or "RDR" and Watershed and Scenic Conservation or "WSC") that allow residential uses.
- **Other uses of a similar character, density and intensity** as determined to be consistent and comparable with the intent of the applicable land use plan and specific Zoning District. Coastal Development Permit consideration by the Planning Commission.

*Title 21 Monterey County Code - Non-Coastal (Inland) Zoning Code*

- **Transient use of residential property for remuneration**, pursuant to Monterey County Code Section 21.64.280. Administrative Permit required in all residential zoning designations zones that allow residential uses.
- **Bed and Breakfast** facilities, pursuant to Monterey County Code Section 21.64.100. Use Permit required in all residential zoning designations that allow residential uses.
- **Other uses of a similar character, density and intensity** as determined to be consistent and comparable with the intent of the applicable Zoning District. Use Permit consideration by the Planning Commission.

Zoning (land use) code is regulated and enforced separate from business and taxation codes.

- **Transient Occupancy Tax (TOT) -** Pursuant to Chapter 5.40, Uniform Transient Occupancy Tax, of the Monterey County Code each operator shall register with the Treasurer-Tax Collector and obtain a transient occupancy registration certificate with thirty days after commencing business.
- **Business License** (not yet effective or operative) - Pursuant to Chapter 7.02, Business Licenses, of the Monterey County Code, a license shall be procured immediately from the Treasurer-Tax Collector before the commencement, operation or maintenance of Transient Occupancy Rentals of less than 30 days duration.
- **Property Tax -** Prior to the approval or renewal of a STR all real and personal property taxes currently due and payable, as linked to the property on which the STR is located, shall be paid in full to the Treasurer-Tax Collector.

The following is a list of definitions from County Code and how STR's do or do not fit into that definition:

- Single family dwelling (SFD) – "Single family dwelling" means a detached structure, including a mobile home or manufactured dwelling unit, containing only one kitchen and use to house not more than one family (Title 20 – Section 20.06.420 and Title 21 – Section 21.06.420)
    - SFD use is synonymous with residential use in county code, and transient occupancy in Monterey County codes. Bed and breakfast facilities (Section 21.64.100) and Transient use of residential property (Section 21.64.280) are allowed only in single family dwellings (SFDs) and multi-family dwellings (MFDs).
- Guesthouses – means an attached or detached living quarters of a permanent type of construction lacking internal circulation with the main dwelling, without kitchen or cooking facilities, clearly subordinate and incidental to the main structure, on the same lot, and not to be rented, let, or leased, whether compensation is provided or not
    - Subordinate to the residential use and by definition not intended for rental purposes, though guesthouses are being used for both long-term and short term rentals.

- Accessory Dwelling Units (ADUs) - means a permanent residence, secondary to an existing main dwelling, which provides complete independent living facilities for one or more persons. It shall include permanent provision for living, sleeping, eating, cooking, and sanitation on the same parcel where the single-family dwelling is situated.
    - Intended for long-term rental housing options per state law, though in some cases ADUs are being used as short term rentals.
- Cottage Industries –means a business in a residential area conducted primarily by the residents of the property manufacturing artistic, handicraft and other craft items. (Title 20 – Section 20.64.095 and Title 21 – Section 21.64.095)
    - Cottage industries allow for 2 people living that may be employed by business, which could fit the needs and definition of most STRs. STRs, or at least certain types of STRs, could fit within an expanded definition of cottage industries allowed in residential areas.
- Home Occupations - means a business conducted in a residential area conducted by the residents of the property. "Home occupation" includes a cottage food operation, as defined in Section 21.06.215. The main product of a home occupation is a service rather than goods, except in the case of a cottage food operation. (Title 20 – Section 20.64.090 and Title 21 – Section 21.64.090)
    - Home occupations are intended to take place entirely within the residence, and based on current definition are likely too limited by definition for STRs to fit in.
- Transient Use of Residential Property – means the use, by any person, of residential property where the term of occupancy, possession or tenancy of the property is not less than seven (7) days nor more than thirty (30) consecutive calendar days. (Title 21 – Section 21.64.280)
    - In the inland area this type of transient use of residential property is allowed, but limits the minimum tenancy to not less than one week. The increasingly popular short term rental industry often includes stays of less than one week (e.g. 2 nights).
- Bed and Breakfast Facilities (B&B) - means an establishment providing overnight accommodations by people who rent rooms in their homes. Rent or rental fee can include any form of remuneration including cash, goods or services, barter, or forgiveness of debt. (Title 20 – Section 20.64.100 and Title 21 – Section 21.64.100)
    - B&Bs offer a limited type of short term or transient rental opportunity in the County. Primary limitations for operating as a B&B includes owners occupying and managing the site, no affiliation with hotels/motels operating in Monterey County, no more than 10 Guestrooms, maximum stay of 29 nights, parking on site for one car per guestroom plus two spaces for owners, a maximum of one non-illuminated sign no larger than four square feet, and any cooking facilities must comply with State and County Codes. Many individuals operating STRs without permits express concern that B&Bs are too limited a use for how they do or would like to operate the STRs.

**State of Short Term Rentals in Monterey County**

In Monterey County we have unique issues as well as opportunities to consider for regulating STRs. Monterey County is one of the largest counties in the state and has unique geography and resources. While these characteristics attract people to the area, they also present challenges with respect to short term rentals. Unlike cities and urbanized counties, Monterey County lacks adequate public infrastructure for sewer and water services in many areas. Our waterways provide habitat to endangered species and drain into the protected waters of the Monterey Bay. Many parts of the County are accessed via private not public roads. Under these circumstances, to name just a few, discretion is necessary in the permitting process and enforcement can be logistically challenging.

There are many benefits to STRs in the County, but also opposing downsides reported by local residents. Some examples include:

- It has been reported that some property owners are turning to short term rentals as a means to earn income from a property that enables the owner to afford and maintain their homes. On the flip side, it has been reported that some residents have been asked to vacate their rental homes so it can be used as a short term rental instead.
- Numerous complaints are received about short term rental tenants disrupting neighborhoods with noise, parties/events, illegal parking and more. On the flip side, there are numerous examples of short term rentals that have gone unnoticed for years because they were operated without causing problems or disruptions to the neighbors.
- We see home owners occasionally renting out second units on their property. We see home owners leaving town during one or two large special events (e.g. Car Week) each year and renting their home to visitors. We see home owners renting their 2$^{nd}$ or vacation homes to area visitors year-round. We see large houses being advertised and rented by large groups for destination weddings.

As outlined above, County code already provides some permitting mechanisms for short term rental (or transient occupancy) opportunities in residential areas. The current regulations, however, were developed two decades ago or more and could not have imagined the cultural and technological shifts seen in recent years.

Even with the current permit pathways for operating transient occupancy or short term rentals in the County, we experience a high number of unpermitted short term rentals operating in the County, both in the coastal and inland areas. As of 6/30/2016, AirBnB, which is currently the top online hosting platform, turned up over 200 short term rentals in the unincorporated areas of Monterey County. However, according to records in Accela, there are only 28 properties in the same areas of the County which are actually permitted to rent for not more than 30 consecutive days. Of those operations, 8 are permitted bed and breakfast facilities (4 Coastal, 4 Non-Coastal). The remaining 20 are all in the non-coastal zone and permitted as transient use of

residential property for remuneration. Additionally, there are 3 applications currently in process for transient use permits (non-coastal) and no applications in process for bed and breakfast permits (coastal or non-coastal).

A number of issues related to the current permitting pathways for STRs have been reported to staff including:

- Some feel the cost to obtain a permit (up to $9,000 for a bed and breakfast, approximately $6,000 for transient use permit) is a deterrent or prohibitive.
- Others have told staff that they do not want to apply for a discretionary permit without an assurance that they will be permitted to operate.
- Current permit pathways do not allow individuals to operate STRs in the manner in which is it desired.

What this demonstrates to staff is that there will always be people that choose to operate without permits regardless of the codes developed unless the regulations serve the specific interests of that individual.

In other cases staff has seen properties seeking permits to operate short term rentals which current County code is not equipped to address. Current County regulations hardly envisioned, in an extreme example, a 5,000 sq foot 10 bedroom house being made continuously available to rent on a nightly basis with no owner or manager on site in the middle of a residential neighborhood.

**State of Code Compliance and STRs**

County resources are limited for enforcing this type of violation unless it poses an immediate threat to life and safety. RMA Code Compliance is responsible for the enforcement of land use violations associated with short term rentals. The Sheriff's Office is responsible for criminal and traffic related violations and the Environmental Health Bureau is responsible for environmental health violations. RMA Code Compliance works collaboratively with these agencies and others to bring properties into compliance through a united effort.

RMA Code Compliance is reactive to complaints received related to STRs. Given available resources, the County classifies and pursues code violations by priority on a scale of one to three, with one being the highest and three as the lowest. STRs are typically classified as priority three, and handled as time allows relative to higher priority cases. The exception would be in a case where an STR has other violations that may threaten life, health and safety (e.g., unpermitted or unsafe structures; inadequate water or sewage). These would be considered priority one, and actively pursued. Typically less than ten percent of the STR complaints received are priority one violations.

There are two levels of enforcement, regulatory for those who are in violation of their conditioned compliance requirements and reactive enforcement that is complaint driven for non-permitted STRs. In all cases RMA Code Compliance works with property owners to attempt to first bring their property into voluntary compliance rather than immediately jumping to enforcement. For uncooperative property owners RMA Code Compliance will use the administrative processes as defined in the Monterey County Code of Ordinances Title 1, Chapters 1.20 and 1.22 to resolve these matters.

Since January 2015 the County has received 50 STR complaints. Of these, 19 have voluntarily stopped operating as STRs after receiving a courtesy notice from RMA Code Compliance, and the cases were closed. One of these was issued a Notice of Violation (NOV) and only then stopped operating. Three of the original 50 STR complaints currently have an active NOV on the parcel and have not yet ceased operation. One STR violation has advanced to an administrative law judge (ALJ) hearing. The County prevailed. The property owner has appealed the decision to the Monterey County Superior Court. The County recently sent an additional 57 informational letters in response to STR complaints received in the Big Sur community; no citations have been issued and no cases have been opened on these complaints.

The majority of STR complaints are in the Coastal Zone, with nine complaints in the non-coastal inland area. Most STR complaints received by County Code Compliance raise concerns about parking impacts and excessive noise (often large parties or events). For this reason staff has drawn a clear distinction between use/rental for overnight accommodations from use of a property for large parties or events such as weddings, etc. Event use will be handled in an ordinance separate from the one developed to govern STRs. The Sheriff is often called to respond to noise and nuisance complaints associated with STRs, working collaboratively with Code Compliance efforts to bring properties into compliance. Some STR complaints, including those receiving information letters in Big Sur, have been raised based on the fact that a property is being operated as a short term rental.

Code Compliance has had a number of key successes shutting down unpermitted STRs and getting those operating outside of their permitted conditions back in compliance. Yet overwhelmingly our current compliance goals and higher priority compliance issues in the County pose significant challenges to achieving widespread STR compliance.

**The Policy Question at Hand Today**

Given the state of STRs in the County, evolving technology and cultural preference toward STR travel experiences, as well as limitations of our current regulatory framework and code compliance efforts, does the Planning Commission wish to:

1. Make no changes to current regulations;
2. Allow STRs in all areas of the County;
3. Allow STRs only in certain areas of the County (otherwise prohibited); or

4. Prohibit STRs in all areas of the County?

*Option 1 - Make no changes to current regulations*
This alternative maintains the current ordinances allowing specific types of short term rental or transient occupancy uses in residential areas, including B&Bs (coastal and inland), Other similar uses (coastal and inland), and Transient use for remuneration (inland only).

- Pros: This option is the least involved alternative and would maintain the long-standing regulatory framework that affords STR opportunities under certain circumstances across the County.
- Cons: Keeping the regulations as they are prevents an opportunity to modify the regulations that are potentially outdated given the rapidly growing short term rental industry.

*Option 2 - Allow STRs in all areas of the County*
This alternative would involve modification of the current ordinances to allow short term rental or transient occupancy uses in all residential areas of the County. These modifications could involve expanding the geographic reach of the current transient use for remuneration to the Coastal Zone or could include more expansive modifications to the existing ordinances to allow STRs countywide, subject to specific zoning regulations.

- Pros: This option affords the opportunity to modify the potentially outdated regulations to align with the rapidly growing short term rental industry. Regulations that apply to the entire County, as opposed to different regulations in different areas, have proven easier for frontline staff to implement consistently.
- Cons: Depending on how the regulation is structured, allowing STRs in all areas of the County could limit the ability to for the regulations to address public concerns regarding STRs in specific areas or residential neighborhoods (e.g. neighborhoods with high STR concentrations, areas with limited affordable housing stock).

*Option 3 - Allow STRs only in certain areas of the County (otherwise prohibited)*
This alternative would involve modification of the current ordinances to allow short term rental or transient occupancy uses in only certain residential areas of the County.

- Pros: In addition to the "pros" listed under Option 2, this option could provide an opportunity for the regulation to be modified to address different community and/or neighborhood-specific concerns regarding STRs.
- Cons: Having different regulations for different areas has proven challenging for front line staff to implement consistently, especially when there are very small nuances between regulations.

*Option 4 - Prohibit STRs in all areas of the County*
This alternative would involve modification of the current ordinances to prohibit short term rental or transient occupancy uses in all residential areas of the County. This could include

eliminating the transient use for remuneration ordinance (inland areas) and/or B&Bs. This could also include adopting policy that specifically prohibits short term rental or transient occupancy uses in residential areas.

- Pros: This option affords the opportunity to modify the potentially outdated regulations to align with the rapidly growing short term rental industry. Regulations that apply to the entire County, as opposed to different regulations in different areas, have proven easier for frontline staff to implement consistently.
- Cons: This option eliminates the ability of property owners and the public to realize economic benefits from the growing STR industry (e.g. transient occupancy tax, rental proceeds). Enforcing an outright prohibition of STRs may be challenging, depending on the number of properties that may be operating as STRs at any time.

Staff respectfully requests Planning Commission policy direction on this issue. Following PC direction, staff will prepare and present a second workshop to discuss and analyze options for developing regulations, based on this high level input from the commission.