

Attachment 3

This page intentionally left blank.

**Draft 04.18.19
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 a 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. Categorically Exempt for existing facilities pursuant to Section 15301; the “common sense exemption” (formally “general rule”) contained in Section 15061(b)(3); and/or statutorily exempt because it is not a project pursuant to Section 15060(c)(3) and 15378.

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

B. All Hotels, as defined by 5.40.020, as may be amended from time to time;

Ordinance amending Section 7.02.060 and adding Chapter 7.110 re Vacation Rentals

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

C. All Homestays, Limited Short-Term Rentals, Commercial Short-Term Rentals as defined respectively by Section 7.110.010 (E), (F), and (D).

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 Director of the Resource Management Agency 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; and 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.

D. “Commercial Short-Term Rental” or “Commercial STR” means a Short-Term Rental that is rented as a vacation rental five times or more per 12-month period.

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

F. -“Homestay” means vacation rental of a residential dwelling that is concurrently occupied by the dwelling’s Principal Resident while the dwelling is being rented as a vacation rental.

G. “Limited Short-Term Rental” or “Limited STR” means a Short-Term Rental that is rented as a vacation rental four times or fewer per 12-month period.

H. “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

I. “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.

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

K. “Principal Residence” means the dwelling occupied by the resident and where the resident lives more than 50% of the year, defined herein as 183 days or more per year. For purposes of Vacation Rental permitting, a person can claim only one Principal Residence at any one time.

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. “Short-Term Rental” or “STR” means a vacation rental where the Principal Resident is not occupying the dwelling unit concurrently when renting it as a vacation rental.

O. "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 less, counting portions of calendar days as full days. “Vacation Rental” includes Commercial Short-Term Rentals, Limited Short-Term Rentals, and Homestays. “Vacation Rental” does not include a bed & breakfast facility, hotel, motel, hostel, inn, roominghouse, boardinghouse, rooming or boarding.

Ordinance amending Section 7.02.060 and adding Chapter 7.110 re Vacation Rentals

P. “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 Section 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.

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

C. To allow for a reasonable amortization of investment for existing vacation rental operations, this Chapter provides an initial time period during which a 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 Homestays, Limited Short-Term Rentals, and Commercial Short-Term Rentals.

B. This Chapter applies in the unincorporated area 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 Homestay, Limited Short-Term Rental, or Commercial Short-Term 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 20.64.090 or Section 21.64.090 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 Resource Management Agency of all applicable land use entitlements.

C. Homestay

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

2. Shall meet all the requirements for Homestays in Section 20.64.290 or Section 21.64.290 of the Monterey County Code.

3. Homestays shall comply with Chapter 10.60 (Noise Control) and Chapter 8.36 (Nuisance and Nuisance Animals), as periodically amended, of the Monterey County Code.

4. Quiet time for Homestays is between 10:00 p.m. and 7:00 a.m. and the Homestay operation shall adhere to Monterey County Code Section 10.60.040 (Regulation of nighttime noise), as periodically amended.

5. Signage or advertisement of the Homestay on the exterior of the unit or property shall not be allowed.

6. Outside amplified sound associated with the Homestay shall not be allowed at any time.

7. All Homestays must have a property manager who is available twenty-four (24) hours per day, during all times that the property is rented as a Homestay. A property manager may be the Principal Resident, professional property manager, realtor, other resident or non-resident property owner, or other person designated by the Operator. The property manager must be able to respond to complaints and, if necessary, 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 to the property manager.

8. Only one (1) rental contract is allowed per Homestay at any given time.
9. Each contract that enables the Homestay shall be in writing and identify thereon the name, address, phone number and e-mail contact information of the Principal Resident, the property manager and at least one responsible Homestay Occupant eighteen (18) years or older who shall be responsible for compliance with all the regulations in this section.
10. A copy of the Vacation Rental Operation Permit and business license and all applicable rules and regulations 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 contracts, advertisements and listings for the Homestays 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.
12. The Principal Resident shall maintain clear and adequate records and documentation of the Homestay operation, that shall at a minimum make a record of the following for each Homestay rental occupancy: name, address, phone and e-mail contact of at least one responsible tenant; number of occupants; motor vehicle license number of each motor vehicle used by the occupants of the site. 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 Principal Resident, shall maintain any advertisements of rental prohibited by this Section.
14. Except as may be otherwise allowed by a Use Permit issued pursuant to Title 21 or a Coastal Development Permit issued pursuant to Title 20 for assemblages of people:
 - a. The maximum overnight occupancy while being rented as a Homestay 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 while being rented as a Homestay 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. The following table illustrates the maximum overnight and daytime occupancy. For Homestays, the Principal Resident shall be deemed to occupy at least one bedroom, which shall diminish the number of bedrooms for overnight Occupancy count accordingly:

Total Bedrooms	Maximum Overnight Occupancy*	Maximum Daytime Occupancy*
1	Not applicable	Not applicable
2	2	3
3	4	6
4	6	9
5	8	12
6	10	15
7	10	15

*If the Principal Resident and/or other residents occupy additional bedrooms, then the bedroom count available for the Homestay renters is reduced, and the maximum occupancy calculations reduced accordingly.

15. The Principal Resident shall be in overnight residence when the Homestay is being rented.

16. All Homestays 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 site unless in conformity with neighborhood standards.

17. All Homestays shall demonstrate that they meet bacteriological and acute primary drinking water standards, to the satisfaction of the Director of Environmental Health, 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 Director of Environmental Health if recent test results are not available. The drinking water is presumed to meet water quality standards if the Homestay 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 commencing the Homestay use.

18. If the Homestay is served by an onsite wastewater treatment system ("OWTS", also referred to as a septic system), EHB shall be furnished a copy of an OWTS performance evaluation report completed by a qualified professional and current within 5 years prior to the Homestay 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 Homestay 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 Homestay 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.

19. Outdoor fire areas, when not prohibited by state or local fire bans or regulations, may be allowed in approved recreational fire 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 non-combustible surface, covering the fire by 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 Homestay operation shall adhere to Chapter 18.09 – Fire Code, of the Monterey County Code, as periodically amended.

D. Limited Short-Term Rental

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

2. Shall meet all the requirements for Limited Short-Term Rentals in Section 20.64.290 or Section 21.64.290 of the Monterey County Code.

3. Limited STRs shall comply with Monterey County Code Chapter 10.60 (Noise Control) and Chapter 8.36 (Nuisance and Nuisance Animals), as periodically amended, of the Monterey County Code.

4. Quiet time for Limited STRs is between 10:00 p.m. and 7:00 a.m. and the Homestay Operator shall adhere to Monterey County Code Section 10.60.040 Regulation of nighttime noise, as periodically amended.

5. Signage or advertisement of the Limited STRs on the exterior of the unit or property, shall not be allowed.

6. Outside amplified sound associated with the Limited STRs shall not be allowed at any time.

7. All Limited STRs 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 STR. Property manager may be the Operator, professional property managers, realtors, resident or non-resident property owners, or other designated persons. The property manager must be able to respond to complaints and, if necessary, arrive at the site within thirty (30) minutes.

8. Only one (1) rental contract is allowed per Limited STR at any given time.

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

10. A copy of the Vacation Rental Operation Permit and Vacation Rental Business License and all applicable rules and regulations 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 contracts, advertisements and listings for the Limited STR 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.

12. The Operator shall maintain clear and adequate records and documentation of the Limited STR operation, that shall at a minimum make a record of the following for each Limited STR rental occupancy: name, address, phone and e-mail contact of at least one responsible tenant; number of occupants; motor vehicle license number of each motor vehicle used by the occupants of the site. 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 Section.

14. Except as may be otherwise allowed by a Use Permit issued pursuant to Title 21 or a Coastal Development Permit issued pursuant to Title 20 for assemblages of people:

a. The maximum overnight occupancy while being rented as a Limited STR 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 while being rented as a Limited STR 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. The following table illustrates the maximum overnight and daytime occupancy:

Total Bedrooms	Maximum Overnight Occupancy	Maximum Daytime Occupancy
1	2	3
2	4	6
3	6	9
4	8	12
5	10	15
6	10	15

15. All Limited STR 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 site unless in conformity with neighborhood standards.

16. All Limited STRs shall demonstrate that they meet bacteriological and acute primary drinking water standards, to the satisfaction of the Director of Environmental Health, 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 Director of Environmental Health if recent test results are not available. The drinking water is presumed to meet water quality standards if the Limited STR 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 commencing the Limited STR use.

17. If the Limited STR is served by an onsite wastewater treatment system (“OWTS”, also referred to as a septic system), EHB shall be furnished a copy of an OWTS performance evaluation report completed by a qualified professional and current within 5 years prior to the Limited STR 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 STR 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 Limited STR 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 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 non-combustible surface, covering the fire by 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 STR operation shall adhere to Chapter 18.09 – Fire Code, of the Monterey County Code, as periodically amended.

E. Commercial Short-Term Rental

1. Is allowable in designated zoning districts with a Use Permit, pursuant to Section 21.64.090 or with a Coastal Development Permit, Pursuant to Section 20.64.090 of the Monterey County Code.

2. Shall meet all the requirements for Commercial Short-Term Rentals in Section 20.64.290 or Section 21.64.290 of the Monterey County Code.

3. Commercial STRs shall comply with Monterey County Code Chapter 10.60 (Noise Control) and Chapter 8.36 (Nuisance and Nuisance Animals), as periodically amended, of the Monterey County Code.

4. Quiet time for Commercial STRs is between 10:00 p.m. and 7:00 a.m. and the Commercial STR operation shall adhere to Monterey County Code Section 10.60.040 Regulation of nighttime noise, as periodically amended.

5. Signage or advertisement of the Homestay on the exterior of the unit or property, shall not be allowed.

6. Outside amplified sound shall not be allowed at any time associated with the Commercial STRs.

7. All Commercial STRs 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 STR. Property manager may be the Operator, professional property managers, realtors, resident or non-resident property owners, or other designated persons. The property manager must be able to respond to complaints and, if necessary, arrive at the site within thirty (30) minutes.

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

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

10. A copy of the Vacation Rental Operation Permit and Vacation Rental Business License and all applicable rules and regulations 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 contracts, advertisements and listings for the Commercial STR 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 clear and adequate records and documentation of the Commercial STR operation, that shall at a minimum make a record of the following for each Commercial STR rental occupancy: name, address, phone and e-mail contact of at least one responsible tenant; number of occupants; motor vehicle license number of each motor vehicle used by the occupants of the site. 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 Section.

14. Except as may be otherwise allowed by a Use Permit issued pursuant to Section 21.64.090 or a Coastal Development Permit issued pursuant to Section 20.64.090 of the Monterey County Code for assemblages of people:

a. The maximum overnight occupancy while being rented as a Commercial STR 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 while being rented as a Commercial STR 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. The following table illustrates the maximum overnight and daytime occupancy:

Total Bedrooms	Maximum Overnight Occupancy	Maximum Daytime Occupancy
1	2	3
2	4	6
3	6	9
4	8	12
5	10	15
6	10	15

15. All Commercial STR 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 site unless in conformity with neighborhood standards.

16. All Commercial STRs shall demonstrate that they meet bacteriological and acute primary drinking water standards, to the satisfaction of the Director of Environmental Health, 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 Director of Environmental Health if recent test results are not available. The drinking water is presumed to meet water quality standards if the Commercial STR 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 commencing the Commercial STR use.

17. If the Commercial STR is served by an onsite wastewater treatment system or septic system (“OWTS”), EHB shall be furnished a copy of an OWTS performance evaluation report completed by a qualified professional and current within 5 years prior to the Commercial STR 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 STR 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 STR 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 Commercial STR 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 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 non-combustible surface, covering the fire by 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 STR 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 Resource Management Agency (“RMA”) on the form and in the manner prescribed by the Appropriate Authority. The Appropriate Authority shall be responsible for administering the application process as set forth in this Chapter.

B. Homestay and Limited Short-Term Rental. In all cases, the application for a Vacation Rental Operation Permit for a Homestay or Limited STR shall contain, without limitation, the following:

1. All information on the application form.
2. A statement of whether the applicant is applying for a Vacation Rental Operation Permit to operate a Homestay, Limited STR, or both.

3. Evidence, in the form of a lease agreement or other agreement between the applicant and the Owner, or their authorized agent, 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 Homestay or Limited STR activity.

4. Property Manager Contact Information including name, address, phone number and email address.

4. Affidavit by the applicant attesting that he or she is the Principal Resident as that term is defined by this Chapter, if applicant is applying to operate a Homestay.

5. One (1) Set of Plans drawn to scale and labeled, in the form and manner required by the RMA, including but not limited to a floor plan showing all rooms, including windows and doors.

6. An inspection report that provides and verifies information, in the form and manner required by the RMA, 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; and a carbon monoxide alarm on each level.

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

8. Evidence that the source of water that serves the proposed Homestay or Limited STR meets bacteriological and acute primary drinking water standards, to the satisfaction of the Director of Environmental Health. Water quality testing may be required by the Director of Environmental Health if recent test results are not available. The drinking water is presumed to meet water quality standards if the Commercial STR 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.

9. If the Homestay or Limited STR is served by an onsite wastewater treatment system ("OWTS", also referred to as a septic system), the applicant must provide evidence that the system is in good working order and functioning properly by providing a performance evaluation of the OWTS, in the form and manner required by the Environmental Health Bureau, completed by a qualified professional.

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

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

12. Such other information as the Appropriate Authority deems necessary to process the application.

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

1. All information on the application form.

2. 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 Commercial STR activity.

3. Evidence that the Owner has obtained a Use Permit pursuant to Section 21.64.090 or a Coastal Development Permit pursuant to Section 21.64.090 of County Code for the Commercial STR use, and that the permit is in good standing.

4. Evidence that the source of water that serves the proposed Homestay or Limited STR meets bacteriological and acute primary drinking water standards, to the satisfaction of the Director of Environmental Health. Water quality testing may be required by the Director of Environmental Health if recent test results are not available. The drinking water is presumed to meet water quality standards if the Commercial STR 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.

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

6. Such other information as the Appropriate Authority deems necessary to process the application.

D. Review of Application and Criteria for Grant of Vacation Rental Operation Permit. The Appropriate Authority to review and render a decision on the application is the Director of the County Resource Management Agency or his or her designee.

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

2. 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:

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 20.64.090 or Section 21.64.090 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 Non-Transferable. 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 have, as a condition of the permit, a requirement 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 Resource Management Agency 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 20.64.090 or Section 21.64.090 , 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.

c. A Vacation Rental is not in good standing if it does not meet the requirements of Section 20.64.090 or Section 21.64.090 of the Monterey County Code:

i. Homestays that no longer comply with the regulations for Homestays in Section 20.64.090 or Section 21.64.090 , shall be considered not in good standing

ii. Limited STRs that no longer comply with the regulations for Limited STRs in Section 20.64.090 or Section 21.64.090 , shall be considered not in good standing.

iii. Commercial STRs 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 STR 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.

G. 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 20.64.090 or Section 21.64.090 of the Monterey County Code; or

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

H. 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 Denial shall notify the applicant of the opportunity to request a hearing before a Hearing Officer to present evidence as to why the permit should be issued and shall notify the applicant of the ten (10) day deadline to submit a written request for a hearing. Applicants wishing to request a hearing must submit such request for hearing to the Resource Management Agency within ten (10) calendar days of Service on the applicant of the Notice of Denial.

7.110.060. Fees

The filing of an application for a Vacation Rental Operation Permit, for renewal of a vacation rental 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 conditions of a Vacation Rental Operation Permit have not been, or are 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 Chapter 21.64.290 or Coastal Development Permit Issued pursuant to Chapter 20.64.290 in a twelve (12)-month period. A substantiated violation means a determination of a violation by a court, 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 reasons 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 such submit such request for hearing to the Resource Management Agency within ten (10) calendar days of service on the permittee of the Notice of Intention.

7.110.080. Phasing Out Unpermitted Operations

1. In order to provide time for Owners and Operators of Vacation Rentals that were unpermitted prior to the Effective Date to come into compliance with this section and to provide reasonable return on such investment or reservation commitments as may have been made prior to enactment of this section, 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 be continued for a limited period of time following the Effective Date as set forth below:

a. The Owner or Operator has sixty (60) days from the Effective Date to register with the Resource Management Agency and file an Intent to Apply form.

b. 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 regulation.

c. The Owner or Operator may establish a Vacation Rental as "prior operating" by providing evidence to the satisfaction of the Resource Management Agency that documents that it was operating as a Vacation Rental and completed at least one (1) contract in each of three (3) of the five (5) years preceding April 1, 2019, and can provide evidence of a reservation for a Vacation Rental entered into prior to April 1, 2019 for Vacation Rental of unit on or after April 1, 2019.

d. The Owner or Operator must provide a copy of Transient Occupancy Tax Certificate issued by the County.

e. If the above requirements (a) through (d) 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, and Section 20.64.090 or Section 21.64.090 of the Monterey County Code, whichever is later.

f. If the any of the required permits, licenses, and entitlements made are denied by the County one (1) year plus one (1) day or later from the Effective Date, the rental operation must cease within 30 days of receiving writing notice from the County of such denial.

2. 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 an immediate or imminent threat to life, health or safety exists.

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, attorney fees, and any other relief or remedy available at 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 second violation of the same ordinance within one year; and

F. Each and every 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

1. 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:

a. The Appropriate Authority may issue the Notice of Violation in accordance with the Notice of Intention;

b. The denial of a permit application shall become final; or

Ordinance amending Section 7.02.060 and adding Chapter 7.110 re Vacation Rentals

- c. The revocation or suspension of a permit shall become final.
2. 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.
3. Hearing by the Hearing Officer:
 - a. The Hearing Officer is authorized to conduct hearings, issue subpoenas, receive evidence, administer oaths, rule on questions of law and the admissibility of evidence, prepare a record of the proceedings, and render decisions on the suspension or revocation of the permit.
 - b. 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.
 - c. 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.
 - d. 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.
 - e. 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.
4. 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 attorney fees.
5. If neither the applicant, permittee or their authorized representatives 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.

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