



Legislation Details (With Board Report)

File #: 21-481 **Name:** REF100042/REF1300043 - Vacation Rental Ordinance

Type: General Agenda Item **Status:** Scheduled PM

File created: 5/18/2021 **In control:** Board of Supervisors

On agenda: 5/25/2021 **Final action:**

Title: REF100042/REF130043 - VACATION RENTAL ORDINANCES
Public hearing to receive policy direction on draft ordinances amending Title 7 (Vacation Rental Operation Permits and Business Licenses), Title 20 (Coastal Zoning) and Title 21 (Inland Zoning) of the Monterey County Code to establish regulations for Vacation Rentals in the unincorporated areas of Monterey County, and a proposed compliance program for vacation rentals.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A - Draft ordinance amending Title 7 to amend Section 7.02.060, 3. Attachment B - Draft ordinance amending Title 20 (Coastal Zoning), 4. Attachment C - Draft ordinance amending Title 21 (Inland Zoning),, 5. Attachment D - Detailed Discussion, 6. Errata Memo (ADDED VIA SUPPLEMENTAL), 7. Item No. 17 - PowerPoint presentation, 8. Completed Board Order Item No. 17

Date	Ver.	Action By	Action	Result
5/25/2021	1	Board of Supervisors	recommended	

REF100042/REF130043 - VACATION RENTAL ORDINANCES

Public hearing to receive policy direction on draft ordinances amending Title 7 (Vacation Rental Operation Permits and Business Licenses), Title 20 (Coastal Zoning) and Title 21 (Inland Zoning) of the Monterey County Code to establish regulations for Vacation Rentals in the unincorporated areas of Monterey County, and a proposed compliance program for vacation rentals.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Find that the action is a planning study for direction on possible future action and qualifies for a statutory exemption per Section 15262 of the CEQA Guidelines; and
- b. Provide policy direction on draft ordinances amending Title 7 (Vacation Rental Operation Permits and Business Licenses), Title 20 (Coastal Zoning) and Title 21 (Inland Zoning) of the Monterey County Code to establish regulations for Vacation Rentals in the unincorporated areas of Monterey County, and a proposed compliance program for vacation rentals.

SUMMARY:

Staff is requesting the Board of Supervisors (Board) provide policy direction on the updated draft Vacation Rental Ordinances prior to staff conducting environmental review. These draft ordinances reflect comments and directions from the Board at a November 17, 2020 hearing related to the draft ordinances amending Title 7 (Vacation Rental Operation Permits and Business Licenses), Title 20 (Coastal Zone) and Title 21 (Inland Zone) of the Monterey County Code (Attachments A, B, and C). Based on Board direction, staff has revised the draft ordinances and will further modify and refine the ordinances to reflect exact wording, if needed, and prepare environmental review under the California Environmental Quality Act (CEQA). The level of environmental review will depend on the Board’s policy direction and the potential environmental effects of the draft

ordinances. Following environmental review, staff will return to the Planning Commission and Board of Supervisors at public hearings to consider action on the ordinances. Program funding requests needed for Fiscal Year 2021-22 will be presented to the Board's Budget Committee.

Staff requests that the Board of Supervisors review the proposed draft ordinances to date, receive public testimony, and provide policy feedback and direction. Depending on the direction provided, staff may need to request funding to prepare any additional studies and the environmental document (Mitigated Negative Declaration or Environmental Impact Report). As a result of the environmental analysis, the draft ordinances may be refined to mitigate potentially significant impacts.

DISCUSSION:

On November 17, 2020, the Board of Supervisors conducted a public hearing to consider three draft ordinances to amend Title 7 (Vacation Rental Operations Permit and Business Licenses), Title 20 (Coastal Zone) and Title 21 (Inland Zone) of the Monterey County Code related to Vacation Rentals (also known as short-term rentals) in the unincorporated areas of Monterey County. The draft ordinances propose to modify the Monterey County Code as follows:

- Amend Title 7, including amending Section 7.02.060 (Business Licenses) and adding Chapter 7.110 (Vacation Rental Operation Permits), to establish requirements for a business license and operation permit for vacation rentals (Attachment A);
- Amend Title 20 (Coastal Zoning), including adding Section 20.64.290 (Regulations for Vacation Rentals) and amending other sections of Title 20, to establish vacation rental regulations in the County's unincorporated coastal zone (Attachment B); and
- Amend Title 21 (Inland Zoning), including amending Section 21.64.280 (Administrative Permits for transient use of residential property for remuneration), adding Section 21.64.290 (Regulations for Vacation Rentals) and amending other sections of Title 21, to replace existing regulations with new vacation rental regulations in the inland unincorporated area of the County (Attachment C).

At the November 17, 2020 meeting, the Board also received a Planning Commission letter summarizing policy issues identified by the Planning Commission, and requesting the Board provide policy direction including additional analysis related to the vacation rental regulations. The Planning Commission identified issues requiring policy direction, including: 1. Affordable Housing; 2. Support, Monitoring, and Enforcement; 3. Character and Intensity; 4. Visitor Serving Unit Caps; 5. Unique Neighborhoods; 6. Defining Limited Vacation Rentals; 7. Accounting of Visitor Serving/Accommodation Units.

The Board directed staff to revise the draft ordinance with general direction to treat most short term vacation rentals as "commercial vacation rentals" that require a discretionary land use entitlement, with exception for three Limited Vacation Rentals - three "freebies" --annually. Staff has revised the prior draft ordinances per this direction. Substantive updates made to the draft ordinances and topics for policy direction include, but are not limited to:

- Definition of and applicable permit rules for Limited Vacation Rentals (LVR)
- Discretionary permit term for Commercial Vacation Rentals (CVR)
- Relationship to Private Conditions, Covenants, and Restrictions (CC&Rs)
- Vacation rental limits, or caps
- Unique neighborhoods and prior permitted operations
- Vacation rentals in multi-family and duplex dwellings
- Vacation rentals per legal lot of record
- Vacation rental permit/ compliance program and funding

These updates and other policy issues addressed by staff are further discussed in Attachment D.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel and Health Department-Environmental Health Bureau reviewed and provided input to the draft ordinances and report. This process started in 2012 with multiple community meetings. Over the years, staff has received input from various agencies and stakeholders. HCD also received input from all the Land Use Advisory Committees as well as the Agricultural Advisory Committee. The HCD, Treasurer-Tax Collector, Office of the County Counsel, Fire Agencies, and the Environmental Health Bureau participated in preparation of the proposed amendments to the ordinances. Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy or other implications to the County of Monterey.

FINANCES:

Staff time to develop the draft ordinances is funded as part of the Fiscal Year 2020-21 Adopted Budget for HCD (formerly Resource Management Agency Planning), General Fund, Appropriation Units RMA013 and RMA110. Based on Board policy direction for the draft ordinances, staff will determine the level of environmental analysis and/or document needed. If additional studies, a Mitigated Negative Declaration, or an Environmental Impact Report (EIR) are needed, staff plans to procure a third-party contractor to prepare the studies/documents. An EIR would be the most expensive, and staff estimates the cost could be up to \$300,000. Staff will return to the Board via the Budget Committee to request funding for FY2021-22, if needed, for environmental work.

Staff developed preliminary cost estimates for two program options, which range from \$1,062,000 to \$1,285,000 *plus* per year. Staff also developed two potential revenue models for illustration purposes. Scenario one, based on a permit cost recovery model which assumes a lower number of permitted operations, could generate an estimated revenue from one-time permit fees totaling \$1,512,500 and annual revenue (VRO Permit, Business Licenses, TOT) totaling \$1,382,900 per year. Of this, \$1,100,000 is from TOT, which is a reduction in the annual average TOT currently being realized (\$2.2 million). Scenario two, assumed lower permit costs and a higher number of permitted operations, could generate an estimated one-time permit fees totaling \$1,100,000 and annual revenue (VRO Permit, Business Licenses, TOT) totaling \$2,379,000 per year. Of this, staff estimated \$2,200,000 from TOT, which sustains the current annual average TOT revenue. Please see Attachment D for additional details. The Recommended Budget for FY 2021-22 allocates projected TOT revenue collections across various County programs and services. Use of TOT revenue to support program cost estimates and/or changes to anticipated TOT revenue could result in impacts to these programs/services.

BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:

Providing policy direction on draft ordinances relative to vacation rentals in the unincorporated area of the County supports the Board of Supervisors' Strategic Initiatives for Economic Development by establishing regulations to provide a clear permit process and rules for operation to allow transient rental of residential properties in a manner that avoids or mitigates impacts to Monterey County neighborhoods and businesses.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Jacquelyn M. Nickerson, Management Analyst II and Anna Quenga, HCD Planning Services Manager

Reviewed by: Erik Lundquist, Chief of Planning

Approved by: Melanie Beretti, HCD Housing and Special Programs Services Manager (831) 755-5285 and Mike Novo, Interim HCD Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Draft ordinance amending Title 7 to amend Section 7.02.060 (Business Licenses) and add Chapter 7.110 (Vacation Rental Operation Permits)

Attachment B - Draft ordinance amending Title 20 (Coastal Zoning) including adding Section 20.64.290 (Regulations for Vacation Rentals)

Attachment C - Draft ordinance amending Title 21 (Inland Zoning), including adding Section 21.64.290 (Regulations for Vacation Rentals)

Attachment D - Detailed Discussion

cc: HCD Permit Center: Freda Escobar and Liz Gonzalez; Planning Commissioners; Environmental Health Bureau: Ric Encarnacion and Roger Van Horn; Water Resources Agency; California Coastal Commission: Katie Butler; Office of the County Counsel: Wendy Strimling and Brian Briggs; Treasurer/Tax Collector: Mary Zeeb; HCD Planning Services Manager: Craig Spencer; Chief of Building: Joshua Bowling; and HCD Director: Mike Novo, AICP; Monterey Regional Fire Deputy Fire Marshal: Dorothy Priolo; Monterey County Sheriff's Office; District 5 - Supervisor Adams; STR Public Distribution List; Land Use Advisory Committees; Planning File REF100042 - Inland/REF130043 - Coastal