

Attachment D

This page intentionally left blank.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
EMAIL: CENTRALCOAST@COASTAL.CA.GOV
WEB: WWW.COASTAL.CA.GOV

**ADOPTED****W15a****Prepared July 25, 2025 for August 13, 2025 Hearing****To:** Commissioners and Interested Persons**From:** Dan Carl, Central Coast District Director
Kevin Kahn, Central Coast District Manager
Katie Butler, Central Coast District Supervisor**Subject: Monterey County LCP Amendment Number LCP-3-MCO-24-0039-1
(Vacation Rentals)****SUMMARY OF STAFF RECOMMENDATION**

Monterey County proposes to amend its Local Coastal Program (LCP) Implementation Plan (IP) to provide regulations for vacation rentals (also known as short-term rentals) within single-family residential dwellings in the County's coastal zone. This amendment would constitute the County's first vacation rental regulations for the coastal zone. That said, although this use has not to date been explicitly regulated by the LCP, the County has in more recent times provided a permitting path under existing LCP rules (as a use akin to bed and breakfasts) while they developed a vacation rental program. This path has been difficult and imperfect, leading to what is probably best considered a somewhat stifled vacation rental market currently, as opposed to what the market might bear under a different regulatory construct. In any case, the County indicates that there are approximately 400 vacation rentals of all types (e.g., hosted and unhosted) currently operating in the County coastal zone, representing about 4% of overall coastal zone single-family residential housing units.

The proposed amendment would add a series of new vacation rental-related definitions, it would include referenced operational requirements (related to annual licensing, transient occupancy taxes, rental contracts, noise, occupancy, trash, parking, hosting platforms, etc.), it would create three distinct vacation rental types (Homestays, Limited Vacation Rentals, and Commercial Vacation Rentals), and it would provide limits on the number of Commercial Vacation Rentals in each of the County's four coastal areas. In terms of the latter, the proposed amendment would allow unlimited Homestays (i.e., room rentals in an occupied residence, also known as hosted rentals) and unlimited Limited Vacation Rentals (i.e., whole house rentals, also known as unhosted rentals, up to three times per year) anywhere in the coastal zone without a CDP, but would cap the number of Commercial Vacation Rentals (i.e., whole house/unhosted rentals with no limit on the number of rentals per year) at four percent (i.e., the current overall percentage of homes used for vacation rentals) of the total single-family residential unit count by area, except in the Big Sur and Carmel Highlands areas where Commercial

Vacation Rentals would be prohibited. Thus, although more limited forms of vacation rental would be unlimited, unhosted rentals, which appear to be the predominant rental type in the County's coastal zone currently, would be curtailed significantly, especially south of Carmel. The number of allowed unhosted rentals would be a reduction from the current number overall to 334 throughout the coastal zone, and essentially limited to the North County, Del Monte Forest, and Carmel areas of the County, representing a growth compared to current numbers of allowed unhosted rentals in North County (over 150% more) and a reduction in Carmel (nearly 50% less), the Del Monte Forest (over 30% less), and Big Sur (100% less).

The Commission has historically recognized that vacation rentals can provide a unique and important source of visitor-serving accommodations in the coastal zone, especially for families and groups, and has typically found that undue restrictions on this type of lodging are inconsistent with Coastal Act and/or LCP provisions prioritizing public access and visitor-serving uses. At the same time, the Commission has also recognized a need to restrict vacation rentals in some coastal communities where evidence showed that the vacation rental market was having impacts on coastal resources or significantly impacting the availability of housing. In that sense, the Commission has sought to accommodate a balance between these sometimes competing interests, where the appropriate balance is typically driven by the community context. Further, in all cases, the Commission has always supported 'good neighbor' operational standards, which are proposed here, and are important tools to address use concerns while maintaining such a balance.

Here, although the proposal provides straightforward standards designed to ensure vacation rentals are appropriately operated and regulated (including through a process for licensing and compliance), the Commercial Vacation Rental bans in Big Sur and the Carmel Highlands raise some concerns as they would decrease public recreational access opportunities in these prime visitor destinations associated with vacation rental options. In Big Sur, in particular, which is a rugged coastline that is both not easily accessible and is also a world-famous visitor destination with already fairly overtapped 'standard' overnight accommodation options, such a decrease in overnight opportunities can only make public access more difficult in these areas. The same can be said for the Carmel and Del Monte Forest areas, albeit to a lesser degree given the number of overnight accommodation options for these areas, although much of these accommodations are at the higher cost end of the accommodation spectrum. And while a primary impetus for the proposed regulations is to open up longer term housing opportunities, these areas have some of the highest priced housing in the entire County, and a high proportion of second (or third or more) homes, and it is not clear that homes that are being used for unhosted rentals will instead be used for longer-term housing under these proposed rules.

Conversely, the North County area, which is the site of the County's most affordable coastal zone housing, and an area that has not to date been the type of visitor destination that southern portions of the County's coastal zone have been, is being slated for a significant increase in allowed vacation rentals as compared to the number that are currently present in this area. At a fundamental level, this type of vacation rental increase in a more affordable housing market area would seem to be at odds with the

housing objectives of the proposed amendment, but it would at the same time allow for the area to attempt to capitalize on visitors as well, including where vacation rentals can offset some of the costs of property ownership there. And the North County area is a beautiful stretch of the coast that is in some ways yet to be discovered by visitors.

Both County and Commission staff have heard from the various interested parties on this matter, and there are stakeholders on all sides of the argument. For example, the Monterey County Vacation Rental Alliance, which has already sued the County over its implementation of the regulations in the County's non-coastal zone areas, argues that the ordinance is inconsistent with Coastal Act and LCP provisions that require that public recreational opportunities be maximized and that prioritize visitor-serving over private residential use, and argues that this amendment will not actually lead to an increase in longer term housing. Similarly opposed, although focused on Del Monte Forest issues, is the Pebble Beach Company, which is the predominant landowner, including of all the roads, and the predominant hospitality entity in the Del Monte Forest, including the only source of standard hotel overnight accommodations. The Pebble Beach Company has commented that some amount of vacation rentals in the Del Monte Forest area may be appropriate, but that 4%, or about 57 homes, is too many. It would also like to see more limits on when such rentals could take place (for example, limited to when large events take place in the Forest to help satisfy overnight stay demand). On the other side of the spectrum, the Big Sur Local Coastal Program Defense Committee supports the ban on Commercial Vacation Rentals (which would eliminate them from the current number of 37 in Big Sur), opining that Big Sur is a rural area with severe housing shortages where existing housing needs to be prioritized for long-term use.

However, while recognizing such concerns, the County also found that the ban on Commercial Vacation Rentals in Big Sur and the Carmel Highlands (and the caps in all other areas) is an important means to minimize the commercialization of these traditionally residential areas and safeguard longer term housing opportunities (which are also LUP requirements). And while one approach to address housing shortages is simply to build more housing, the reality is that building housing in certain parts of Monterey County's coastal zone is quite difficult. North County, for example, has vast areas of protected agricultural lands with an overtapped groundwater basin as its sole water supply, and Big Sur is mountainous, remote, and full of sensitive habitats. In cases where development potential is limited, the Commission has in past cases recognized that more stringent limits on vacation rentals may be appropriate to retain existing housing stock given the difficulties in increasing supply. And this loss of some vacation rentals is tempered by the fact that the overall package, including the allowance for unlimited Homestays and Limited Vacation Rentals in all areas, would still allow for these types of rentals to serve as important visitor serving facilities for groups of visitors or families, and for homeowners to benefit from the tourist economy while protecting against the potential loss of longer term housing from the market.

The relationship between vacation rentals, housing stock, the visitor-serving economy, and healthy functioning coastal communities is complex and complicated with few clear answers. What is clear is that the different proposed prescriptions across the County's coastal areas originated from many years of input, discussions, and ultimately, an EIR

and Socioeconomic Analysis that explored in depth the issues associated with and impacts of vacation rentals. With respect to Big Sur, the County received extensive feedback from the Big Sur community over many years regarding vacation rentals, ranging from concerns about very limited workforce housing stock, wildfire risks, and overuse of limited resources. The County ultimately found that whole house (unhosted) rentals with no limits on the number or frequency of rentals were having an outsized impact on the wild, rural, and unspoiled nature of Big Sur, and that a prohibition on such rentals is consistent with the Big Sur LUP. As such, they found it appropriate to prohibit all Commercial Vacation Rentals on the basis that this was a more intensive visitor use that was not appropriate outside of Big Sur's established visitor-serving developments, and that the Homestays and Limited Vacation Rentals would still allow for this use in a more protective manner.

With respect to the Carmel Highlands (which encompasses the Low Density Residential-zoned portion of the Carmel area), the County found that the unique resource limitations of the area dictated a prohibition on Commercial Vacation Rentals. And if such limitations are combined with allowing for all three vacation rental types in the other areas of Carmel, this limitation can be found consistent with the Carmel Area LUP direction to provide and encourage public recreational and visitor use while also limiting the potential impact on coastal resources.

In the Del Monte Forest coastal area, the County found that the proposed 4 percent cap on Commercial Vacation Rentals (or 57 total) along with unlimited Homestays and Limited Vacation Rentals represented a mix that would encourage and facilitate public access and visitor-serving use while ensuring that the residential community is not significantly disrupted. Similarly in North County, the County found that the mix (Commercial Vacation rentals capped at 4 percent (or 157 plus 2 in the Moss Landing sub-area), and unlimited Homestays and Limited Vacation Rentals) would ensure that public access in this area is maximized and maintained and that coastal resource overuse is limited. In addition, for North County, the County noted that the cap on Commercial Vacation Rentals is low enough that residential community character is protected, while at the same time it provides for adequate visitor accommodations, since this area is less reliant on tourism than other coastal areas of Monterey County and has fewer commercial visitor-serving facilities such as hotels.

Thus, the County did not just arbitrarily develop this IP amendment; it spent considerable time and energy engaging the public on potential solutions. Indeed, the County spent over a decade exploring myriad options and permutations. But such permutations highlight and exemplify the point that it has been the Commission's experience that there are multiple ways to achieve a balanced regulatory framework and program for vacation rentals in coastal communities. And depending on how one views vacation rentals and their effects on community character, resource protection, housing, and their interplay with protection of residential neighborhoods, and how the mix of LUP policies are interpreted and weighed, multiple LUP consistent outcomes are certainly possible.

The County has chosen specific caps and limitations based on its years of outreach and study and based on its findings that these regulations are consistent with and adequate

to carry out its LUP. There is a high level of discretion and a wide range of what can be considered reasonable to meet the objectives of providing overnight accommodations and protecting other coastal resources. And as the Commission has found in other cases, there is no 'one size fits all' vacation rental solution in coastal California. The County spent nearly a decade on an inclusive public process to arrive at this proposal, where there were and are many supporters and opponents of vacation rentals and the County's chosen approach at regulating them. The County carved out a middle ground that appears to not be wholly supported by either side, but that represents a balance based on the unique attributes of the built and natural environment of its coastal areas and the various policies of its LUPs. Both County staff and decisionmakers acknowledge that the proposed vacation rental regulations will likely need to be updated as implementation progresses and lessons are learned. But they also need to begin implementation of the program in order to determine what refinements may be necessary, based on empirical evidence of its successes and failures.

The Commission's standard of review is whether the proposed IP provisions adequately carry out and conform with the LUP. Given the County's broad LUP provisions, Commission staff recommends that the Commission find that the proposal represents an adequate balance and is LUP consistent. It also strongly encourages the County to stay abreast of implementation, and to make changes and refinements as necessary over time as the vacation rental program is established.

In sum, while the proposed amendment may impact the availability of visitor serving accommodations in some part of the County's coastal zone, it allows for unlimited Homestays and Limited Vacation Rentals throughout the coastal zone and allows additional Commercial Vacation Rentals in other areas, for a total of 334 Commercial Vacation Rentals (again, whole house, unhosted, more than 3 times per year) overall out of over 9,000 single-family residential units in the coastal zone. This is not an inconsequential amount of vacation rentals and would still represent a healthy vacation rental market. Vacation rental regulation is not an all or nothing proposition, and the key is finding a balance that makes sense for both communities and visitors. Finding that balance can be an incredibly difficult process, including as it played out here in Monterey County, where the County crafted an LUP-consistent compromise between what can be truly competing objectives. In this case, a meaningful vacation rental market would be maintained in the County's coastal areas, while also addressing coastal resource protection and community needs and objectives. In conclusion, staff recommends that the Commission find that the proposed IP amendment conforms with and is adequate to carry out the Land Use Plans, and that the Commission certify it as submitted. There is one motion to implement the staff recommendation, and it is found on page 6 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on November 25, 2024. The proposed amendment affects the LCP's IP only, and the 60-working day deadline for the Commission to take action on it was February 25, 2025. On February 5, 2025, the Commission extended the deadline for final action one year to February 25, 2026. Therefore, the Commission has until February 25, 2026 to take a final action on this LCP amendment.

TABLE OF CONTENTS

1. MOTION AND RESOLUTION	7
2. FINDINGS AND DECLARATIONS.....	7
A. LCP Amendment Background	7
B. Proposed LCP Amendment.....	9
C. Land Use Plan Consistency Determination	13
D. California Environmental Quality Act (CEQA).....	32
3. APPENDICES.....	32

EXHIBITS

Exhibit 1: LCP Planning Areas

Exhibit 2: Proposed LCP Amendment

CORRESPONDENCE

1. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **certify the proposed LCP amendment as submitted** by Monterey County. The Commission needs to make one motion in order to act on this recommendation, and staff recommends a **NO** vote on the motion below. Failure of this motion will result in certification of the Implementation Plan amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion to Certify: *I move that the Commission reject Implementation Plan Amendment Number LCP-3-MCO-24-0039-1 as submitted by Monterey County, and I recommend a **no** vote.*

Resolution to Certify: *The Commission hereby certifies Implementation Plan Amendment Number LCP-3-MCO-24-0039-1 as submitted by Monterey County and adopts the findings set forth below on the grounds that the amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the amended Implementation Plan complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended Implementation Plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts of the amended Implementation Plan on the environment.*

2. FINDINGS AND DECLARATIONS

A. LCP Amendment Background

Monterey County's coastal zone stretches from the Pajaro River at its northern border with Santa Cruz County to near Ragged Point in southern Big Sur at the San Luis Obispo County border to the south, extending along approximately 136 miles of coastline that is also punctuated by the incorporated coastal cities of Marina, Sand City, Seaside, Monterey, Pacific Grove, and Carmel-by-the-Sea. The coastal zone portion of the unincorporated County encompasses a wide range of landscapes, from the rural agricultural North County, to the hospitality and single-family residential built environment within Del Monte Forest and Carmel, to the largely undeveloped and mountainous Big Sur. Given this vast coastal zone with distinct geographical characteristics and development patterns, the Monterey County Local Coastal Program (LCP) is broken out into four separate area plans, one each for North County, Del Monte Forest, Carmel Area, and the Big Sur Coast (see Exhibit 1), the latter of which is the largest LCP planning area at some 150,000 acres. As explained subsequently, each area has its own LCP Land Use Plan (LUP) and Implementation Plan (IP), and those LUPs/IPs, along with a zoning code that applies to all such areas, constitute the certified LCP.

In the 1990s, Monterey County began to regulate transient or short-term rental (STR) use of residential property in inland areas of the County and intended to pursue similar

regulation in the coastal zone. Despite multiple Commission and County staff conversations about what a coastal zone STR program might look like, however, no agreements were reached at that time, and the County deprioritized these LCP amendment efforts. Since that time, and similar to what transpired in other coastal communities as visitation increased and online STR booking platforms proliferated, the number of residential properties in the County being used for short-term rentals continued to grow. By 2015, the County had established a Short-term Rental Workgroup that met a total of nine times between 2015 and 2016. However, the Workgroup ultimately did not reach consensus on whether or not STRs should be allowed, or where, although they did agree that an ordinance should be developed to address STRs.¹

Subsequently, in late 2016, the County released guidelines to the public to clarify and explain which County code sections applied to STRs,² advising that STRs could be permitted with a CDP based on either the LCP's bed and breakfast facility regulations (for hosted STRs) or based on a project- and site-specific determination that the proposed unhosted STR was of a similar character, density, and intensity to the types of uses allowed in the applicable zoning district. The guidelines also stated that registration with the County Tax Collector and payment of transient occupancy tax (TOT) was required for such rentals, and that owners found to be renting homes without proper permits, regardless of whether TOT was paid, would be subject to penalties and fines.³ The County acknowledged this construct was imperfect and served as an interim 'band aid' of sorts while more targeted regulations directly addressing specific STRs issues could be developed. Importantly, it was also confusing and costly to pursue such STRs, including where potential outcomes (e.g., approval or denial) were quite uncertain. In any event, the County identifies there are currently about 400 STRs across the its vast coastal zone. Either way, the County's guidance was not and is not actually part of the LCP.

County staff also conducted outreach to its Land Use Advisory Committees between 2016 and 2018, and collaborated with members of the public and the County Planning

¹ Including, per the Workgroup, to address potential problems resulting from STRs in residential areas; provide opportunity to access public areas of the County; preserve the residential character of neighborhoods; protect public health, safety, resource, and general welfare; and integrate economic opportunity with the preservation of quality of life for residents.

² Where STRs were referred to as "the transient use of residential property for 30 days or less"; see *Current Regulations Relative to the Transient Use of Residential Property (Short-term Rental of Residential Property) (30 Days or Less)*, by Mike Novo, AICP, RMA Director of Planning and Carl Holm, AICP, RMA Director (September 20, 2016).

³ County enforcement staff have conducted various enforcement efforts against unpermitted short-term rentals over the years, but have indicated that County resources are limited for enforcing this type of violation unless it poses an immediate threat to life and safety. 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 capabilities, etc.), where these would be considered priority one and actively pursued. The County has stated that typically less than 10% of the vacation rental complaints received are priority one violations.

Commission to develop multiple iterations of draft STR ordinances between 2016 and 2024. During the outreach process, County staff also met with various industry groups and community organizations, including Monterey County Hospitality Association (MCHA), Monterey County Vacation rental Alliance (MCVRA), Big Sur Local Coastal Program Defense Committee, and the Pebble Beach Company (PBC). County staff have also coordinated with Coastal Commission staff over the years, and Commission staff has provided feedback and guidance acknowledging the tension between visitor/public access needs and residents, and recommending a balanced approach that takes into consideration Coastal Act priorities. Ultimately, in 2023 and 2024, the County prepared a Socioeconomic Analysis Report⁴ and Environmental Impact Report for the newly-titled Vacation Rental Ordinance, and held multiple Planning Commission and Board of Supervisors hearings and workshops, leading to Board approval of the proposed LCP amendment in late 2024.

In sum, the now proposed vacation rental regulations are the result of over a decade of robust and active policy outreach, analysis, and discussions with interested stakeholders, decision makers, and members of the public. According to the County, the regulations are meant to provide a comprehensive program to address the need to ensure that vacation rentals provide their important visitor serving function while remaining compatible with residential uses and protecting coastal resources, all the while capturing the varying and disparate opinions on vacation rentals, and ultimately providing clear regulations intended to protect the health, safety, and welfare of visitors and residents alike.

B. Proposed LCP Amendment

The proposed amendment would add new Section 20.64.290 to the LCP's Implementation Plan (IP) and make various other conforming IP changes to definitions and zoning district sections to formally regulate vacation rentals⁵ in the four areas of the County's coastal zone (i.e., North County, Del Monte Forest, Carmel, and Big Sur; again, see Exhibit 1). The County's stated purpose of the proposed amendment is fivefold:

(1) to preserve and enhance the residential character of the coastal zoning districts...and the sense of security and safety in stable neighborhoods...; (2) provide opportunity for visitors to access public areas of the unincorporated areas of Monterey County through vacation rental opportunities, benefitting the local economy while preserving the housing supply and quality of life, and protecting public health, safety, and general welfare; (3) establish regulations that provide opportunity for homeowners and residents to offer vacation rentals for visitors that have the potential to provide financial benefits to offset the high cost of living in Monterey County; (4) establish that Limited Vacation Rental and Homestay uses are similar in character, density, and intensity to residential use,

⁴ *Monterey County Vacation Rental Ordinance Socioeconomic Analysis*, prepared December 5, 2023, by Economic & Planning Systems, Inc. (EPS)

⁵ Monterey County uses the term "vacation rental" rather than "short-term rental" or STR, which is the Commission's more typical terminology for this use, but the terms are in all respects talking about the same thing.

and not anticipated to convert long-term housing to nonresidential use; and (5) establish regulations to address Commercial Vacation Rental uses that have the potential to impact...residential uses, convert long-term housing...or pose hazards.

The proposed amendment would add a series of new vacation rental-related definitions, it would create three distinct vacation rental types (Homestays, Limited Vacation Rentals, and Commercial Vacation Rentals), and it would provide limits on the number of Commercial Vacation Rentals in each of the County's four coastal areas. The bulk of the County's new vacation rental operational standards and regulations would be referenced in the LCP but located in a new vacation rental operation license chapter in the County's non-LCP Municipal Code (in Title 7 - Business Taxes, Licenses, and Regulations) that includes various requirements (related to annual licensing, transient occupancy taxes, rental contracts, noise, occupancy, trash, parking, hosting platforms, etc.). The proposed amendment would establish common terminology, including, among other things, definitions for "vacation rental",⁶ "owner", "non-hosted", "commercial vacation rental", "limited vacation rental", "homestay", and "owner's primary residence". The proposed LCP defines "owner" as "the person or persons who hold fee title to the real property upon which a Vacation Rental is operated," which is further clarified by the referenced non-LCP sections.⁷ A "commercial vacation rental" would be defined as "a vacation rental that is non-hosted and rented more than three times per 12-month period," where non-hosted means that "an operator does not occupy the vacation rental while it is being rented." A "limited vacation rental" would be one that is "non-hosted and rented for not more than three times in a 12-month period," while a "homestay" is defined as "a vacation rental in which the owner occupies at least one bedroom...while it is being rented...and must be the owner's primary residence."

The amendment proposes to allow unlimited Homestays and Limited Vacation Rentals in all zoning districts that allow residential use throughout the coastal zone,⁸ all without

⁶ Similar to other vacation rental or STR ordinances considered by the Commission, the County proposes to define a vacation rental as the transient use of residential property for a period not to exceed 30 days: *"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 for a period of 30 consecutive calendar days or fewer, counting portions of calendar days as full days. "Vacation Rental" includes Commercial Vacation Rentals, Homestays, and Limited Vacation Rentals. "Vacation Rental" does not include a bed and breakfast facility, hotel, motel, hostel, inn, roominghouse, boardinghouse, rooming or boarding."*

⁷ Clarifying definitions were adopted by the County in the non-LCP Municipal Code section related to vacation rental licensing, including as related to ownership and residency requirements. For example, such non-LCP section states that "The Owner of the Vacation rental must be an Individual, except if the Vacation Rental is held in a trust, in which case the trustee may apply for a License and operate the Vacation Rental on behalf of the trust beneficiaries," including where this section defines an "individual" as a "natural person" to avoid over commercialization of vacation rentals where a company owns, manages, and runs multiple vacation rentals.

⁸ Specifically, the zoning districts where vacation rentals would be allowed include: High Density Residential, Medium Density Residential, Low Density Residential, Rural Density Residential, Watershed and Scenic Conservation, Coastal General Commercial, Moss Landing Commercial, Visitor-Serving Commercial, Coastal Agriculture Preserve, and Agricultural Conservation. Vacation rentals would not be

a CDP. Commercial Vacation Rentals would also be allowed as conditional uses in all coastal zone zoning districts that allow residential use (with certain exceptions described below) but would be subject to specific caps in three of the County's four coastal zone areas, and would be limited to one per legal lot of record with specific exceptions.⁹

Notably, the amendment proposes to cap the total number of allowable Commercial Vacation Rentals at four percent of the total single-family residential dwelling unit count each in North County, Del Monte Forest, and the Carmel Area (for a max of 159 in North County,¹⁰ 57 in Del Monte Forest, and 118 in the Carmel Area).¹¹ In Big Sur and in the Carmel Highlands area of Carmel, Commercial Vacation Rentals would be prohibited altogether. In summary, the proposed amendment proposes three types of vacation rentals:

- **Homestays**, which provide for rental of a room or rooms in a residence provided the owner of the residence is present and occupies at least one bedroom when the property is being rented. Homestays would be allowed unlimited in most zoning districts, and would not require a CDP, only a business license (pursuant to the referenced vacation rental section in the County's Municipal Code).
- **Limited Vacation Rentals**, where the owner/operator¹² is not present while the residence or portions of it are being rented, and is limited to three rental stays (again, not more than 30 days each) per 12-month period. Limited Vacation Rentals would be unlimited in most zoning districts, and would not require a CDP, only a business license (pursuant to the referenced vacation rental section in the County's Municipal Code).
- **Commercial Vacation Rentals**, where the owner/operator is not present while the residence or portions of it are being rented, and there is no limit to the number of stays. Commercial Vacation Rentals would be limited by a cap that applies to each LCP planning area, with up to 159 allowed in North County, 57 in the Del Monte Forest, and 118 in the Carmel Area, for a total of up to 334 total of this type of

allowed in Agricultural Industrial, Light Industrial, Heavy Industrial, Institutional Commercial, Open Space/Recreation, Resource Conservation, and Public/Quasi-Public zoning districts.

⁹ Neither planned unit developments or similar cluster residential subdivisions nor Commercial Vacation Rentals in the Coastal General Commercial, Moss Landing Commercial, or Visitor Serving Commercial zoning districts are not subject to the one per legal lot of record limitation.

¹⁰ Where two such rentals are specifically prescribed to the Moss Landing Community Plan sub-area, except in the Low and Medium Density Residential districts where they would be prohibited.

¹¹ Given that vacation rentals are only allowed in single-family settings, that means that the percentage in each planning area would actually be somewhat less than 4% of overall housing units (i.e., because the County only applies the percentage to single-family units when there are also other housing types (multifamily units, ADUs, etc.) in each case, meaning that total housing units would be higher, and the percentages lower), although the County has not provided that number in its submittal.

¹² Where an "operator" is defined as "a person who operates the Vacation Rental and, if not the Owner, a person, was has the legal permission of the Owner to operate the Vacation Rental on the subject real property."

vacation rental in the County's coastal zone. Each such vacation rental would be considered a conditional use, and would require a CDP that would be appealable to the Commission.¹³ Commercial Vacation Rentals would be prohibited in the Carmel Highlands area of the Carmel planning area, and in all of the Big Sur planning area.

With respect to the CDP requirement for Commercial Vacation Rentals, the proposed amendment does not provide STR-specific findings that would need to be made, rather a CDP could be approved if the LCP's general CDP approval findings can be made (in Chapter 20.70).¹⁴ The amendment proposes to limit any initial vacation rental CDP term to no more than seven years, with the ability to extend or renew in up to additional seven-year terms.

The amendment also requires that owners of Commercial Vacation Rentals only have an ownership interest in one Commercial Vacation Rental within the unincorporated County at a time. It would also require that all Commercial Vacation Rentals demonstrate adequate response times for County emergency services; provide parking as required for the dwelling type in question; and maintain onsite wastewater treatment systems in good working order in compliance with County code. For Commercial Vacation Rentals that are not directly accessible from a public road, the amendment would require compliance with a referenced non-LCP Municipal Code chapter related to private roads (Chapter 16.80), including to provide notice to all properties with rights to the private road.¹⁵

The amendment also provides a process for phasing out unpermitted vacation rentals and previously permitted vacation rentals (that were permitted as a similar use to B&B or other visitor-serving use like a hotel or inn) over a two-month period, and allowing those that are eligible to apply for CDPs. Finally, the amendment provides an exemption for "unique neighborhoods with existing developments that were established with the intent of managed Vacation Rentals." These neighborhoods would be allowed to operate according to the regulations and conditions approved through their original land use entitlement. Although not specifically identified in the proposed text, the County's findings indicate that one such "unique neighborhood" is the Monterey Dunes Colony, a

¹³ Specifically, IP Section 20.86.080.A provides that CDP applications involving "any approved project involving development that is permitted in the underlying zone as a conditional use" are appealable to the Coastal Commission (as a use that is not the principally permitted one for the respective zoning district per Coastal Act Section 30603(a)(4)).

¹⁴ These required findings, specifically listed in IP Section 20.70.050.B, are wide-ranging and intended to apply to all types of development, and include determinations that: the operation of the use will not be detrimental to health, safety, peace morals, comfort, and general welfare of persons residing in the neighborhood, or to the general welfare of the County, and the project is in conformance with the LCP and (if between the first public road and the sea) Coastal Act public access policies.

¹⁵ Chapter 16.80 requires project applicants for development that is served by a private road to provide notice to all users/owners of that road, and to abide by the rules of any private road maintenance agreement, or for the County to resolve disputes amongst the parties via conditions of approval. The Commission's understanding is that the proposed amendment would require compliance with this private road ordinance for just Commercial Vacation Rental CDP actions.

beachfront complex just north of the Salinas River in North County, but it is unknown to which others this exemption might be intended to apply.

Importantly, as noted above, other vacation rental regulations are specified in a new vacation rental operation license chapter in the Municipal Code (in the Business Taxes and Licenses section) that addresses all of the various operational and ‘good neighbor’ requirements that are typical for vacation rentals, including related to annual licensing, TOT, rental contracts, noise, occupancy, trash, water, hosting platforms, etc. These referenced non-LCP regulations also specify other notable details, including that all vacation rental types are only allowed in single-family dwellings and not allowed in accessory dwelling units (ADUs) or junior ADUs, other detached structures, or within deed-restricted affordable housing.¹⁶ These vacation rental standards and licensing regulations apply to all areas of the unincorporated County (inland and coastal), and the proposed amendment is clear that the vacation rental license and compliance with these operational standards is required in order to operate a vacation rental in the coastal zone. As such, the LCP amendment as proposed incorporates these Title 7 (and other referenced non-LCP section) requirements as they exist today by referencing them in the IP. Thus any changes to these requirements as they relate to vacation rentals would need to be included/accounted for in a future LCP amendment.

Please see **Exhibit 1** for the full text of the proposed IP amendment.

C. Land Use Plan Consistency Determination

Standard of Review

The proposed amendment affects the IP component of the Monterey County LCP only, and the standard of review for IP amendments is that they must be consistent with and adequate to carry out the LCP Land Use Plan (LUP).

Applicable Land Use Plan Provisions

The Monterey County LCP’s four LUPs (North County, Del Monte Forest, Carmel Area, and Big Sur Coast) contain provisions designed to protect and provide for maximized public recreational access opportunities, as well as to protect and encourage lower cost visitor and recreational facilities. In addition, LUP policies prioritize developments providing visitor-serving and public recreational opportunities over other types of development. Similarly, policies related to public services, such as water and highway capacity, prioritize visitor-serving and public access uses over private residential development and use.

At the same time, the County’s LUP policies also speak to the need to balance the needs of the public with those of private residences, and also to prioritize affordable and employee housing that supports Coastal Act and LUP-priority uses such as agriculture and visitor-serving amenities. The North County LUP provisions state:

¹⁶ Section 7.120.040(U) prohibits Vacation Rentals in duplex dwellings, condominiums, multiple-family dwellings, structures intended for temporary occupancy, and in dwellings subject to recorded covenants for affordable housing units, agricultural employee units, and farmworker housing. Guesthouses can also not be rented separately from a single-family dwelling as a vacation rental.

Policy 3.1.3.1. *Due to the limited capacity of Highway 1 until the time it is expanded, development of coastal dependent industrial, agricultural, commercial, and recreational uses shall be given priority over non-coastal-dependent development in areas where Highway 1 provides the major transportation access.*

Policy 3.2.2.1. *Capacity for a wastewater management service area shall be reserved according to the following ranking of priorities, especially in areas where the capacity of wastewater collection and treatment facilities are limited: (1) Existing uses within the service area; (2) New or expanded coastal-dependent industries within the service area; (3) New or expanded essential public services, basic industries and recreational uses, or minimum other uses on vacant parcels within the service area; (4) all other uses. ...*

Policy 4.3.5.1. *The rural character of the coastal area of North County with its predominant agricultural, low-density residential and open space land uses shall be retained. Prime and productive agricultural soils shall be protected for agricultural use.*

Policy 4.3.5.4. *Where there is limited land, water, or public facilities to support development, coastal-dependent agriculture, recreation, commercial and industrial uses shall have priority over residential and other non-coastal-dependent uses.*

Low and Moderate Income Housing – Policy 1: *The County shall protect existing affordable housing opportunities in the North County coastal area from loss due to deterioration, conversion, or any other reason. ...*

Low and Moderate Income Housing – Policy 2: *The County shall encourage the expansion of housing opportunities for low and moderate income households.*

Policy 5.2.1.E: 4. *Recreation and Visitor-Serving Commercial and General Commercial uses shall be developed in the Moss Landing Community Plan area in accordance with the following policies and guidelines and with Section 5.2.1.B: ...*

- *Encourage the expansion and improvement of existing recreation and visitor-serving facilities. ...*
- *Encourage the development of low and moderate-cost commercial recreation and visitor-serving facilities in preference to high cost facilities.*
- *Encourage mixed use commercial development that includes housing units.*
- *Encourage development of commercial uses providing necessary service to coastal-dependent industries such as commercial fishing, aquaculture, and energy production, and commercial facilities providing goods and services related to the use of local recreational opportunities.*

Moss Landing Community Plan Policy 5.2.1.C: *Very little residential development exists in Moss Landing. Although a significant market exists for lower priced rental*

units, available locations without environmental or topographical constraints are limited.

Key Public Access Policy 6.2: *Public access to the shoreline and along the coast shall be protected and provided, and opportunities for recreational hiking access shall be enhanced. The provision of all future access and improvements to existing access areas must be consistent with the overriding objective of protecting coastal agriculture, environmentally sensitive habitats and other sensitive coastal resource areas. ...*

The Del Monte Forest LUP provisions state:

Policy 70. *New coastal-dependent land use, public and commercial recreation, and visitor-serving land uses shall have priority over other uses where public service capacities are limited.*

Policy 76. *Accessory dwelling units shall be encouraged as an appropriate means of providing affordable housing for caretakers, convalescent help, domestic employees, and others. New accessory dwelling units shall comply with all LUP development standards. Subdivisions shall not be permitted to divide a principal residence from an accessory dwelling unit.*

Policy 88. *Where existing or planned water and wastewater facilities can accommodate only a limited amount of development, water and wastewater services shall be assured for coastal-priority visitor-serving and public recreational uses (e.g., The Inn at Spanish Bay and The Lodge at Pebble Beach resort and golf facilities, the Poppy Hills golf course facility, the Spyglass Hill golf course facility, shoreline access areas, etc.) before new residential uses are permitted.*

Policy 89. *New visitor-serving and commercial recreation facilities shall be designed to maximize opportunities for public use and offer a range of visitor serving facilities. Low, no, and moderate cost facilities shall be provided as feasible (e.g., trails, picnic facilities, moderately-priced food and beverage service, viewing areas, etc.). Up to 700 total (existing and new) visitor-serving units/guestrooms may be allowed within the Del Monte Forest.*

Water and Wastewater Key Policy: *Development shall only be approved if it can be served by adequate, long-term public water supplies and wastewater treatment capacities. Priority for use of scarce water and wastewater treatment capacity shall be for coastal priority land uses. ...*

Housing Key Policy: *Housing opportunities for persons and families of low to moderate income should be protected and provided, both within the Forest and in outlying areas, as a function of new development within the Forest.*

Policy 119. *The County shall encourage the expansion of housing opportunities for low and moderate-income households, including a requirement that all new residential subdivisions contribute to the provision of low and moderate-income housing. The allowance of accessory dwelling units may also serve to further this*

objective in the Del Monte Forest.

Policy 120. *Timeshare residential uses and quasi-residential visitor-serving uses (including condominium hotels, private unit ownership, fractional ownership, and similar use and ownership structures) shall be prohibited.*

Public Access Key Policy: *Visual and physical public access to and along the shoreline and the enjoyment of public recreational values throughout the Del Monte Forest, consistent with the basic purpose of the California Coastal Act, shall be maximized. This LUP shall also seek to ensure that the beauty of the Del Monte Forest Area coast, its tranquility, and the health of its environment will not be marred by public overuse or neglect.*

The Carmel Area LUP provisions state:

Policy 3.1.3.1. *To conform to the Coastal Act, most remaining highway capacity should be reserved for coastal priority uses: recreation and visitor-serving facilities, agriculture, and coastal-dependent industry...*

Key Water Supply Policy 3.2.2. *The County should reserve from its allotted water supply a sufficient quantity to accommodate coastal priority land uses proposed in this plan.*

Policy 3.2.3.1. *The County shall reserve adequate water supply from its fair share allotment of Cal-Am water as approved by the Monterey Peninsula Water Management District to supply expansion of existing and development of new visitor-serving facilities permitted by the plan. Water must first be assured for coastal-priority visitor-serving facilities before allowing any new residential development other than infilling of existing vacant lots...*

Objective 4.3.1. *Objectives for Different Planning Units of Carmel Area. ...Existing Developed Areas: ... Existing recreational and visitor-serving facilities located within the residential communities are considered desirable uses and should be continued where potential or existing conflicts with the surrounding residential community can be adequately mitigated.*

Policy 4.4.2.4. *Because there is limited suitable land or water to support new development and because the capacity of public facilities is limited, coastal-dependent recreation and visitor-serving uses shall have priority over residential and other non-coastal dependent uses.*

Policy 4.4.3.D.2. *Where feasible, retention of existing moderate-cost recreation and visitor-serving facilities should be encouraged.*

Policy 4.4.3.H.2. *The County shall encourage the expansion of housing opportunities in the Carmel area for low and moderate income households.*

Key Public Access Policy 5.3.1. *Public access shall be protected and provided where consistent with public safety needs and the need to protect the rights of private property owners and natural resource areas from overuse.*

Policy 5.3.2.8. *In encouraging public access the County desires to ensure that the privacy, safety, health and property of residents are protected...*

And the Big Sur Coast LUP provisions state:

Policy 4.1.2.4. *To conform to the Coastal Act, most remaining capacity on Highway 1 shall be reserved for coastal priority uses: recreation and visitor-serving facilities, the military, agriculture and other coastal-dependent uses.*

Policy 4.1.3.C.1. *Traffic Regulation and Coastal Priority Uses – To comply to Coastal Act policies concerning the allocation of limited highway capacity to coastal priority uses, 85 percent of the capacity of Highway 1 under improved road conditions and managed traffic shall be reserved to serve recreational travel, service trips to public and private recreation and visitor-serving facilities, use by military vehicles, and coastal-dependent agriculture. To implement this policy, the land use regulations of this plan limit future residential development to a level that will utilize not more than 15 percent of highway capacity at buildout.*

5.1.1. Residential Land Use ... *The significance of the residential areas for planning purposes is that they have the capacity, to some extent, to accommodate additional residential demand. Unlike the larger properties or commercial centers, they are not well suited for commercial agriculture, commercial, or visitor uses; use of these areas, to the extent consistent with resource protection, should continue to be for residential purposes. ... Residential areas include: Otter Cove, Garrapata Ridge/Rocky Point, Garrapata and Palo Colorado Canyon, Bixby Canyon, Pfeiffer Ridge, Sycamore Canyon, Coastlands, Partington Ridge, and Buck Creek to Lime Creek. The Big Sur Valley, Lucia and Gorda also have significant residential use, although the primary function of these areas are community service and visitor-serving commercial facilities.*

5.1.2. Housing... *A serious housing shortage exists for employees in Big Sur, particularly in the visitor industry. Because there is little housing available, employees have at times been forced to camp-out, live in cars, or move in with friends. The shortage of affordable housing has also made recruitment of skilled employees difficult. Several factors affect solutions to the housing problems: the costs of land and housing precludes the use of traditional housing assistance programs; and year-round employment is not at a high enough level to support traditional single and multiple family housing projects. Employee housing provided by an employer must be a primary source of affordable housing in the area. Accessory dwelling unit housing, which has traditionally provided shelter for many long-time residents and employees, will also continue to be an important element of the affordable housing supply.*

Policy 5.4.3.C.1. Development of recreation and visitor-serving facilities at locations suitable for such use is preferred over other types of development in Big Sur because of Big Sur's national significance as a recreation area.

Policy 5.4.3.C.5. The County encourages expansion and development of public and private recreation and visitor-serving facilities within existing areas of development.

...

Policy 5.4.3.C.11. Existing and permitted visitor-serving uses will be protected from encroachment by incompatible uses (such as residences) which might hamper their future ability to expand or improve... Conversion of existing low cost overnight accommodations to other uses, unless replaced with comparable facilities, will not be permitted.

Policy 5.4.3.G.2. Development in designated rural residential areas shall continue to be limited to residential uses in order to protect residents from unwanted intrusion by other incompatible activities and because neither available vacant land, water, nor roads area adequate to support more intensive uses.

Policy 5.4.3.I.1. The County shall protect existing affordable housing in the Big Sur coastal area from loss due to deterioration, conversion or any other reason...

Policy 5.4.3.I.2. The County shall encourage the expansion of housing opportunities for low and moderate income households. ... c) Encourage the use of accessory dwelling units as an appropriate means of providing affordable housing for caretakers, ranch hands, convalescent help, and domestic employees.

Key Public Access Policy 6.1.3. The rights of access to the shoreline, public lands, and along the coast, and opportunities for recreational hiking access, shall be protected, encouraged and enhanced. ...

Consistency Analysis

The four Monterey County area LUPs require protection and maximization of public recreational access opportunities, where such opportunities in this case are both the overnight accommodations provided to visitors via vacation rentals, as well as the directly related opportunities that such an overnight stay can facilitate and engender (e.g., hikes, beach trips, sightseeing, etc.). In addition, the LUPs give preference and priority to such public recreational access use/development over other types of use/development when the choice is between private use and facilities capable of enhancing public recreational opportunities (such as vacation rentals). Also, LUP policies speak to reserving scarce resources (such as water and wastewater capacity) for Coastal Act priorities, such as visitor-serving uses. At the same time, however, the LUPs speak to the preservation of existing housing as well as encouraging housing opportunities for employees and persons of low and moderate income and requires protection of these areas as popular visitor destinations.

The relationship between vacation rentals, housing stock, the visitor-serving economy, and healthy functioning coastal communities is complex. There is little evidence to

suggest that all housing that might be used for vacation rentals of some type in Monterey County's coastal zone would provide the type of longer term and/or affordable housing opportunities required to be protected by the LUPs if such housing were not used for vacation rental use. Such a question is complicated, not only by the costs associated with such housing (whether rental or purchase), but also by the general lack of evidence to suggest that housing used for vacation rentals would be put to longer-term rental or other housing uses if vacation rentals were not allowed.¹⁷ Nevertheless, one of the reasons that the County's coastal areas are popular visitor destinations is the visitor-serving economies (and the related businesses, facilities, etc.) associated with them. Those visitor-serving economies are dependent on workers, who are dependent on reasonably affordable and available workforce housing. Oftentimes such workers are contributors to the communities in other ways and reflect a part of its fabric and character in that sense, as well. Thus, protecting those areas as visitor destinations implicitly requires that workforce housing also be appropriately accommodated. In addition, the public recreational opportunities that are required to be protected and enhanced by other LUP provisions can themselves necessarily only be achieved with adequate workforce housing.

The County's LUPs require protection of both visitor-serving facilities and residential uses, particularly affordable housing. And the ability of communities to accommodate and attract visitors requires both workers to serve the visitor economy, where such workers require viable workforce housing, and residents that contribute to and can be a part of the character of the place. The question of when, where, and how to accommodate vacation rentals raises intertwined LUP public visitor-serving/recreational access and housing issues that must be harmonized and balanced for LUP consistency.

The Commission recognizes that vacation rentals provide a unique and important source of visitor-serving accommodations in the coastal zone, especially for larger families and groups, and has found that outright bans or undue restrictions on this type of lodging are inconsistent with Coastal Act and LUP policies prioritizing public access and visitor-serving uses. At the same time, the Commission has also recognized a need to restrict vacation rentals in some coastal communities where evidence showed that the vacation rental market was having impacts on coastal resources or even impacting the availability of housing, such as workforce housing of the type described above. Past Coastal Commission guidance to local governments has emphasized the need to allow, but regulate, vacation rentals in a manner that balances the important public access and visitor-serving benefits of such rentals with reasonable regulations to limit adverse impacts on coastal communities.¹⁸ This balanced approach has been reflected in past Commission actions, where although each case has its own unique vacation rental, housing, community character, coastal resource, and proposed policy context (and thus different outcomes due to such unique context), the Commission has consistently

¹⁷ Including related to second (or more) homes, which is most certainly a phenomenon in some of the more expensive parts of the County (e.g., the Del Monte Forest), where owners may choose to leave them vacant if vacation rentals are not possible.

¹⁸ See, for example, the Commission's 2016 guidance to local governments available at: https://documents.coastal.ca.gov/assets/la/Short_Term_Vacation_Rental_to_Coastal_Planning_&_Devt_Directors_120616.pdf.

pushed for and arrived at what it has considered an appropriate balance, including a recognition of the heated debates and tough choices that are often part of local deliberations when crafting such vacation rental regulations.¹⁹

Much of the County's proposed vacation rental amendment (and referenced non-LCP measures) provides straightforward requirements designed to ensure that this use is appropriately operated and regulated (including through a process for licensing and compliance). In addition to the relatively universally agreed upon good neighbor operational provisions (e.g., no vacation rentals in affordable housing, noise/trash/parking requirements, natural person requirements, etc.), the proposed Homestay and Limited Vacation Rental allowances provide for unlimited numbers of these types of rentals in the coastal zone. The County determined that these types of uses were relatively benign to residential character and housing stock, thereby offering the visitor-serving/public recreational benefits without undue housing or neighborhood harm. On the other hand, the County found that Commercial Vacation Rentals, which could operate as vacation rentals more than 3 times per year (and potentially even year-round), represented something more impactful from the housing and neighborhood compatibility perspectives and required more limitations, including a higher regulatory review lens. And after years of deliberation and discussion, the County landed at the proposed prescription, namely prohibiting Commercial Vacation Rentals in Big Sur and Carmel Highlands (both existing and future rentals), while allowing them subject to numeric caps of four percent of all single-family residences in the County's other coastal areas (North County, Del Monte Forest, and the non-Highlands areas of Carmel). In these areas, the proposed changes would have a mixed effect over the current situation, or if no cap were in place.

¹⁹ Commission actions on vacation or short-term rental LCP amendments have varied considerably in policy and other outcomes due to unique circumstances in each case but have all included the premise of balancing at their core. See, for example: the 2018 rejection of a Santa Barbara County proposal that would have significantly restricted STRs without meaningful benefits to community character or housing (LCP-4-STB-17-0086); the 2018 approval of a City of Santa Cruz ordinance that significantly restricted STRs to facilitate greater housing opportunities (LCP 3-STC-17-0073-2-Part B); the 2022 approval of City of Dana Point STR provisions with conditions to allow for a "cap" on unhosted STRs in the coastal zone based on the approximate number of STR permits in existence when the City stopped issuing STR permits (A-5-DPT-22-0038); the 2022 approval of City of San Diego provisions that capped whole home (unhosted) rentals at various levels for varying neighborhoods and created a "lottery" for issuing STR permits (LCP-6-SAN-21-0046-2); the 2022 approval of a City of Trinidad ordinance that capped unhosted (called "full time") STRs citywide at around 15% of the city's housing stock in order to protect housing (LCP-1-TRN-22-0034-1); the 2022 rejection of the City of Malibu's STR provisions because the proposed ban on non-hosted STRs would have eliminated lower-cost overnight accommodations in the City when alternative approaches existed that could both protect such visitor-serving opportunities and affordable housing stock (LCP-4-MAL-20-0083-2); the 2023 approval of the City of Half Moon Bay's proposal that included significant restrictions on the types of allowable STRs and the number of nights allowed for hosted versus unhosted STR usage (LCP-2-HMB-21-0078-2); and the 2024 approval of the Marin County proposal that capped the number of STRs specific to each individual township at varying percentages of single-family housing stock (LCP-3-MAR-24-0002-1).

The County compiled data on the existing number of single-family dwelling units and the existing number of vacation rentals, as of June 2023.²⁰ Figure 1 below lists these numbers, alongside the proposed numbers of Commercial Vacation Rentals, and how the numbers would change under the proposed amendment.

Figure 1: Vacation Rentals in Monterey County Coastal Zone Areas²¹

Coastal Area	Single-family residential (SFR) units	Vacation rentals (VRs)	Current Percent of SFRs used as VRs	Proposed Commercial VR cap (4% of SFR units unless not allowed)	VR change (existing number versus proposed max allowed)
North County²²	3,977	63	2%	159	+96
Del Monte Forest	1,432	83	6%	57	-26
Carmel²³	2,948	218	7%	118	-100
Big Sur	925	37	4%	0	-37
Total	9,282	401	4%	334	-67

As can be seen in Figure 1, there are a total of 9,282 single-family residential housing units in the unincorporated County's coastal zone, of which 401 were providing vacation rental services of one type or another for at least some part of the year as of 2023. The County (as well as opponents of the proposed amendment) have stated that most existing advertised vacation rentals would qualify under the proposed definition of a Commercial Vacation Rental; that is, unhosted (or 'whole house') with no limit on the number of times they can be rented per year. Overall, the percentage of vacation rental use as of 2023 was 4% of single-family housing stock in the County's coastal areas.²⁴

²⁰ Advertised vacation rental data identified by AirDNA, which includes data from AirBnB, VRBO, and Homeaway (Monterey County, *Draft Environmental Impact Report, Monterey County Vacation Rental Ordinances Project*, December 2023).

²¹ The data did not distinguish whether the operation qualifies as a Homestay, Limited Vacation Rental, or Commercial Vacation Rental, as those are defined in the proposed amendment. However, the County assumed that most if not all are used more than three times per year, which would qualify them as Commercial Vacation Rentals. And this is corroborated by the Monterey County Vacation Rental Alliance who estimates that the vast majority of all current vacation rentals in the County's coastal zone operate in a form that would meet the criteria of a Commercial Vacation Rental.

²² Where 61 such SFR units are in the Moss Landing area, which has 11 of the overall vacation rentals in all of North County (or nearly 20% of the total in North County), which would be reduced to maximum of two such rentals in that area as proposed.

²³ The data did not distinguish between the Low Density Residential (Carmel Highlands) area and other areas of Carmel.

²⁴ Greater interest by the County Board of Supervisors in enforcement efforts against unpermitted vacation rentals began around 2021 (combined with the release of a Civil Grand Jury report), and this combined with ongoing discussions in public forums about reducing or prohibiting vacation rentals through the LCP amendment process, and the difficulties in properly permitting such rentals as described earlier, has almost assuredly had a somewhat chilling effect on the vacation rental market overall. So it is difficult to know with certainty how many rentals would have been available in 2023 or today absent these types of barriers to entry. Put another way, these numbers show the current market, but they should likely be considered the low end of what the market might normally bear absent such hurdles. This is noted

The proposed amendment's Commercial Vacation Rental restrictions would thus reduce their overall number compared to existing from 401 to 334 (or a roughly 17% reduction overall), although the change would not be uniformly geographically distributed. As shown in Figure 1, it would both reduce the number of Commercial Vacation Rentals in some areas (Del Monte Forest, Carmel, and Big Sur) and increase them in one area (North County). In the Carmel area, allowed unhosted vacation rentals would drop almost in half, and they would be reduced in the Del Monte Forest by nearly one-third. In Big Sur, all 37 current such rentals would be prohibited, and phased out completely; a 100% reduction. Conversely, the North County area could see a substantial increase, up to 96 more such rentals than now, or an over 150% increase. To be clear, however, these are caps and not affirmative requirements to have this many active rentals in the various areas. In fact, market factors could dictate fewer rentals than are allowed (e.g., in North County, where the market to date has been quite limited, with just 16% of the overall number of vacation rentals despite having 43% of coastal zone housing stock), and some have opined that the requirement to obtain a CDP for a Commercial Vacation Rental could have the effect of reducing the number of such rentals further because the cost of CDP applications could be prohibitive for some would-be applicants.²⁵ In addition, the discretionary nature of the CDP process, including the general CDP findings that must be made for approval as opposed to vacation rental-specific findings,²⁶ means that such applications could ultimately be denied. And, in any case, a CDP process brings in the potential costs associated with delays, including due to unsupportive neighbors, as well as from appeals of CDP approvals (from the Zoning Administrator to the Planning Commission to the Board of Supervisors, and, if ultimately approved by the Board, a potential appeal to the Coastal Commission). All of these factors are quite likely to act as deterrents for would-be vacation rentals, which would suggest that while the reductions are likely to be realized (everywhere but North County), the increases in North County are more hypothetical at this juncture. If those increases were not to be realized, then the proposed program would represent an overall decrease in unhosted rentals that is closer to 25% for the County coastal zone-wide.

Much of the feedback received by the County from opponents of the proposed vacation rental regulations, and the prohibitions and caps on Commercial Vacation Rentals

only inasmuch as the Commission has in many past cases tried to emulate some version of the existing market at the time that the STR regulation is proposed.

²⁵ According to the County's fee schedule, the current (as of July 2025) initial cost to apply for a CDP is \$11,000, where that amount can go up for complicated cases.

²⁶ Where the concern is that the required CDP findings, which are geared at their core towards identifying and avoiding coastal resource impacts, don't speak directly to the types of issues that may be determinative in a vacation rental application context, and where the issues are almost assuredly not going to be core coastal resource issues of the type envisioned (e.g., related to the protection of habitat, landforms, coastal views, etc.). In fact, although it is difficult to see a scenario where a vacation rental CDP doesn't meet such core coastal resource requirements, including as a vacation rental will provide for overnight visitor accommodations that will help to maximize public access to the coast, the required findings also speak more broadly to ensuring 'the health, safety, peace, morals, comfort, and general welfare of persons residing in the neighborhood, and the general welfare of the County', which can be read a number of ways, and would be subject to the discretion of the decision making body in any particular case.

specifically, focused on the way in which the prohibitions and caps would reduce the ability of homeowners who have existing rentals or would like to opt in to the vacation rental market to provide such accommodations going forward. Such opponents also pointed to economic realities where vacation rental operations fund mortgages and property upkeep that allow for such property owners to retain their homes, where they may be forced to sell otherwise, and where there is no guarantee that a unit so purchased would be made available for longer-term housing by the new owner (and instead would be kept vacant when not used as a second home, for example). Many opponents of the proposed amendment have also observed that the majority of homes traditionally used as vacation rentals would never be considered or rented as long-term housing, let alone affordable housing (e.g., in the Del Monte Forest which has some of the most expensive housing stock in the County, and in some sub-areas the world). In addition, many opponents have pointed out that the primary form of vacation rental (whole house, or ‘unhosted’) is the primary type of rental desired by visitors, and that they cannot be replaced by homestays where visitors must share a home with the owner. Finally, a common theme in opposition to the proposal is that the prohibitions and caps will harm the value coastal Monterey County provides as a vacation destination and as a draw for tourists to the coastal areas Monterey has to offer, including in areas nearest to the shoreline, to the detriment of coastal visitors not fortunate enough to live in coastal Monterey County. With respect to Big Sur specifically, opponents of the ban on Commercial Vacation Rentals observed that such rentals play a vital role in making remote Big Sur accessible to a broad range of visitors, and that the loss of these accommodations will lead to increase in day visitors and more daily traffic.

The Monterey County Vacation Rental Alliance provided a report, prepared by Ceto Consulting,²⁷ that finds that vacation rentals in Monterey County provide a significant amount of lower-cost overnight accommodations. The Alliance argues that the proposed amendment would eliminate this important supply of such accommodations, and thus would run afoul of Coastal Act and LUP provisions that protect existing lower-cost overnight accommodations from conversion or elimination.²⁸

Specifically, the report asserts that vacation rentals average about \$321 per night while hotels average about \$342 per night in the County’s coastal zone. The report then breaks that cost down on a per person basis by assuming that a vacation rental can comfortably accommodate four persons (thus about \$81 per person per night), and assuming that a hotel room can accommodate 2.6 people²⁹ (thus about \$132 per person per night). The report then describes using the Commission’s typical methodology to identify a lower-cost hotel room (i.e., 75% of the peak summer statewide average for a standard, one to two AAA-starred, double occupancy hotel

²⁷ *Monterey County Overnight Accommodations Market Analysis*, prepared by Ceto Consulting, LLC, dated June 12, 2025. See the correspondence packet for this report.

²⁸ For example, Big Sur LUP Policy 5.4.3.E.11 states: “Conversion of existing low cost overnight accommodations to other uses, unless replaced with comparable facilities, will not be permitted.”

²⁹ Which the report states is a national standard and identified by the Monterey County Visitor Profile.

room; which, as of 2024, would be about \$146)³⁰ and a per person rate for that room (again applying the 2.6 guests per room figure) to arrive at a lower cost threshold of about \$56 per guest per room.³¹ The report concludes that “41% of STRs located within the coastal area meet the ‘lower-cost’ threshold on a per person basis.”

However, there are numerous issues and problems with this analysis. As a preliminary matter, while the Commission has in some cases found vacation rentals to be a more economical option for families and large groups, this is not a uniform determination. In fact, the Commission notes that some vacation rentals are quite expensive, including when other fees and charges typical of vacation rental bookings are included (cleaning fees, booking fees, etc.). The fact is that vacation rentals vary significantly from one another, where even a 4 bedroom vacation rental right next to another 4 bedroom vacation rental may be of wildly different quality, and/or may have wildly different amenities and costs, all of which means that they are not easily comparable. Put another way, vacation rentals are not homogenous – at all – which makes trying to categorize them on a cost basis difficult. The Commission has faced the same types of challenges in estimating lower costs in the hotel/motel market as well, but at least for hotels/motels there are more similarities among products, and the Commission can compare standard double-occupancy hotel rooms of a particular type (AAA-rated) at a particular time (July/August). While the Commission believes that that kind of hotel/motel room comparison provides an appropriate comparison against other hotel/motel rooms, it appears to be a much more apples and oranges comparison to rooms in private homes, which may vary substantially (depending on their nature, their amenities, their sizes, etc.). Ultimately, the Commission has not to date developed or applied a protocol for what constitutes a lower-cost vacation rental versus a higher cost vacation rental, particularly given the broad spectrum of home types and vacation rental costs. Thus, while vacation rentals are certainly a form of visitor-serving accommodation, it is speculative to classify them as a lower-cost form.

As for the data presented by the Monterey County Vacation Rental Alliance, there are numerous assumptions made that warrant some discussion. For one thing, the rationale and evidence supporting the claim that 41% of the total vacation rentals meet the lower-cost threshold are not clear. If anything, the data presented would appear to show a different conclusion, in that if the average per person vacation rental stay is \$81 per night, then that is above the \$56 per night lower-cost threshold the report identifies (and elsewhere the report states the average per person cost of all vacation rentals in the coastal zone is \$97, and the average per person cost of small one-bedroom vacation rentals is \$95, so there are competing numbers in their analysis). So, even using the report’s \$56 per person metric as lower cost, the report isn’t clear how 41% of Monterey County vacation rentals are indeed lower-cost.

And, to be clear, this \$56 per night lower-cost threshold is something the report’s authors developed on their own as part of this analysis. It is not a Commission-vetted or understood analytical metric for how to define a low-, moderate-, or high-cost vacation

³⁰ According to Visit California and Smith Travel Research, the 2024 statewide average daily rate for July and August was \$195. Seventy-five percent of that comes out to \$146.25.

³¹ \$146.25 divided by 2.6 = \$56.25.

rental, because, as discussed above, such metrics do not exist. And, in fact, the Commission has been reticent in past actions to apply the type of metric the authors propose, namely applying a numeric hotel metric (size, cost, occupancy, amenities, etc.) to other different types of accommodations. For example, in the American Tin Cannery Hotel Resort project in the City of Pacific Grove in Monterey County,³² the Applicant sought a 2:1 ‘credit’ for the number of proposed hostel beds, arguing that the size of a hostel unit was half that of a hotel unit, and so two hostel beds would be equivalent to one hotel room. The Commission disagreed, finding: “While square footage and occupancy may lead to the 2:1 conclusion, based on other metrics, like privacy, bathrooms, and price per unit/bed, these are analytical apples and oranges that do not lend themselves to a clean 2:1 conversion.” As noted there and as noted here, these are different accommodation types that do not lend themselves to simple numeric comparisons. Thus, the Commission does not find that there is adequate support for the report’s overall premise that \$56 per person is the correct threshold for what constitutes a lower-cost vacation rental, and it finds that there is inadequate evidence and analysis to support the claim that 41% of the existing vacation rental stock is lower-cost.

And finally, it should also be noted that these are all snapshots in time of what a particular vacation rental might charge. They are subject to general market forces and can fluctuate significantly (by day, week, month, year, season, special event nearby, etc.). Absent a deed restriction, permit condition, or some other legal instrument to cap rates to a certain defined price point, which, to the Commission’s understanding, has never been done in Monterey County, there is not sufficient evidence to conclude that vacation rentals – or even 41% of vacation rentals as the Alliance argues – constitute a lower-cost accommodation type in Monterey County. The Commission finds that some vacation rentals can provide a lower cost alternative for families and larger groups, but it is difficult to assign a number to those units with any sort of precision, including in light of the lack of a homogenous vacation rental market.

This does not suggest that vacation rentals do not provide an important accommodations type. They certainly do. And the report’s other statements about why they are important are valid, including providing kitchens and yards and privacy. It is actually because of this unique mix of attributes that the Commission seeks to retain some amount of vacation rentals in the coastal zone, including to augment the other accommodations types available to the general public, including hotels, campsites, hostel beds, room rentals, and whole house vacation rentals. The end result is a healthy mix of accommodations that can meet various travelers’ needs.

Finally, and to be clear, the County’s proposal isn’t eliminating vacation rentals, rather, it is regulating them in a different way than it does now. ‘Whole house’ vacation rentals with an owner present would be allowed on an unlimited basis, essentially everywhere in the coastal zone that residential uses are allowed, including Big Sur and the Carmel Highlands, as would room rentals with an owner present. And even whole house vacation rentals without an owner present would be allowed up to three times a year per vacation rental, with stays each time of up to 30 days, also essentially everywhere in the coastal zone that residential uses are allowed, and again including Big Sur and the

³² CDP Application A-3-PGR-22-0004, approved by the Commission in April 2024.

Carmel Highlands. It is only unhosted vacation rentals more than three times per year that would be capped, and in the Big Sur and the Carmel Highlands areas eliminated. While, it is clear that this form of regulation will limit unhosted whole house rentals in the coastal zone, and thus by extension decrease overnight accommodation opportunities for the visiting public, as is discussed in this report, it is also unclear how the market will respond to the new regulations, and what type of vacation rental opportunities will be pursued and where. All of which is to say that the Alliance paints the regulation with too broad a brush when it says that vacation rentals, and affordable vacation rentals, are all being eliminated, and that that is inconsistent with Coastal Act and LUP mandates to maximize public recreational opportunities and protect lower cost visitor facilities. That is simply not the case. Rather, a balance is being struck, a balance that reflects the LUP support for vacation rentals with the LUP support for protecting housing, including housing that is fundamental for the proper functioning of the visitor-serving opportunities and businesses that visitors are attracted to in the first place.

Further, some of the members of the Board of Supervisors raised additional concerns, including the loss of transient occupancy tax money from having potentially fewer vacation rentals overall; a quite limited allowance for retaining existing vacation rentals of only two months, including a limited grace period to cease in areas where Commercial Vacation Rentals are proposed to be prohibited; percentage caps and prohibitions that seem arbitrary; and that the proposed regulations should also include allowances and regulations specific to farmstays to better promote agritourism.

These are all valid points, and the County found that the proposed approach would reduce whole house/unhosted vacation rentals (Commercial Vacation Rentals) in some of the popular visitor areas of the County coastal zone, but the County also found that this reduction is balanced by the unlimited allowance for Homestays and Limited Vacation Rentals in all four areas. The County also recognized that there may be circumstances when these regulations go into effect that may adversely impact individual property owners personally, and that some visitors would no longer be able to visit the County coast in the way they had in the past.

However, while recognizing such concerns, the County also found that the ban on Commercial Vacation Rentals in Big Sur and the Carmel Highlands (and the caps in all other areas) is an important means to minimize the commercialization of these traditionally residential areas and safeguard longer term housing opportunities, consistent with the LUPs, particularly Big Sur LUP policies 5.1.1 and 5.1.2, which apply in the only LUP areas in which Commercial Vacation Rentals will be prohibited. The County relied on its Socioeconomic Analysis, where one of its primary conclusions was that "limiting the number of vacation rentals in the unincorporated County may curb speculative investment activity, limiting the number of vacation rental conversions and preserving owner- and renter-occupied housing units for long-term use."³³ The amendment does so by, among other things, directly ensuring that deed restricted affordable housing and more naturally occurring affordable housing such as ADUs are not used for vacation rental purposes. And while the Socioeconomic Analysis did not identify a specific amount of new housing opportunities or changes in price/affordability

³³ Page 13.

as a result of the proposed amendment, the report did find that, based on a literature review of other communities, “vacation rentals can have moderate to significant impacts on housing supply and pricing, especially in communities already facing affordability issues.” The reasons cited for this conclusion were: “Vacation rentals may increase for-sale housing prices by allowing vacation rental investors to outbid purchasers who seek to occupy a unit full-time and by increasing neighborhood attractiveness (and property values) through higher maintenance standards. Vacation rentals primarily impact rental prices through the conversion of long-term rental units to vacation rentals, decreasing the number of long-term rental units in an area and increasing competition and rents.”³⁴

And while one potential solution to address housing shortages is simply to build more housing, the reality is that building housing in certain parts of Monterey County’s coastal zone is quite difficult. North County, for example, has vast areas of protected agricultural lands with an overlapped groundwater basin as its sole water supply, and Big Sur is mountainous, remote, and full of sensitive habitats. In cases where development potential is limited, the Commission has in past cases recognized that more stringent limits on vacation rentals may be appropriate to retain existing housing stock given the difficulties in increasing supply.³⁵ And this loss is tempered by the fact that the IP amendment, including the allowance for unlimited Homestays and Limited Vacation Rentals in all areas, would still allow for these types of rentals to serve as important visitor serving facilities for groups of visitors or families, and for homeowners to benefit from the tourist economy while protecting against the loss of long-term housing from the market.

As has been the case in other coastal zone communities, there is no clear evidence that can pinpoint the number of new housing opportunities that might be created by these proposed vacation rental LCP rules, especially in terms of affordable housing. While it might be presumed that less Commercial Vacation Rentals would lead to more such housing opportunities, the County cannot mandate that property owners rent or sell their properties if Commercial Vacation Rentals are not allowed there. In addition, the housing stock in question is expensive.³⁶ Even if the law of supply and demand would suggest that making more housing stock available for longer term housing would correspondingly lead to lower costs for such housing, the actual mechanisms by which that might happen are complicated, especially given that the extreme desirability to live on the California coast substantially increases demand, and are further complicated by individual property owner circumstances that may or may not suggest that a property would be offered for rent or sale if a Commercial Vacation Rental is not possible there. The County’s data does not identify expectations for such property owners when confronted with such circumstances. Thus, while it is reasonable to expect that some number of existing residences that are currently primarily used for vacation rental

³⁴ Page 10.

³⁵ For example, in Los Osos in San Luis Obispo County. See LCP Amendment No. LCP-3-SLO-21-0027-1 Part F (Los Osos Vacation Rentals).

³⁶ For example, the median home price in the Del Monte Forest is almost \$3 million, and the average rental price in the community is nearly \$7,000 per month (but with huge fluctuations depending on the type of rental, from as low as \$2,000 for a 1-bedroom apartment, to as high as \$70,000 per month for some of the more luxurious mansions), as of May 2025 (via Redfin.com and Zillow.com).

purposes will now be reserved solely for longer term housing purposes, it is not entirely clear to what extent the proposed caps and bans will lead to additional longer term housing opportunities.³⁷

The County's proposed amendment, however, is based on many years of input, discussions, and ultimately, an EIR and Socioeconomic Analysis that explored in depth the issues associated with and impacts of vacation rentals. With respect to Big Sur, the County received extensive feedback from the Big Sur community over many years regarding vacation rentals, ranging from concerns about very limited workforce housing stock, wildfire risks, and overuse of limited resources. The County ultimately found that whole house (unhosted) rentals with no limits on the number or frequency of rentals were having an outsized impact on the wild, rural, and unspoiled nature of Big Sur, and that the Big Sur LUP specifically protects residents from "unwanted intrusion by other incompatible activities, such as visitor serving uses." The County also found a prohibition on such rentals consistent with Big Sur LUP Policy 5.1.1 which states that residential areas are not well-suited for commercial or visitor uses and should be for residential purposes only. The County also found that Homestays and Limited Term Vacation Rentals provide visitor serving amenities without significantly impacting housing or the natural environment and resources, including through the requirement that the owner or principal resident be on site for Homestays. As such, the County found it LUP-consistent to prohibit all Commercial Vacation Rentals on the basis that this intensive visitor use was not appropriate outside of Big Sur's established visitor-serving

³⁷ On this point it is noted that Dr. David Wachsmuth from McGill University in Montreal presented the conclusions of some of his research regarding the impact of short-term rentals on housing availability in the City of Los Angeles (prepared for Better Neighbors LA) and in other large urban/metropolitan areas of the United States to the Commission in December 2023, framing his presentation as "how best to regulate STRs from a pro-housing perspective." At that time, Dr. Wachsmuth suggested that the proliferation of STRs in Los Angeles and other dense urban areas of the U.S. has taken homes there off the long-term rental market and raised rents in housing not used for STRs. It is worth noting, however, that Dr. Wachsmuth's research focused on exploring the relationship between STRs and housing stock in large urbanized metropolitan areas (and thus the references to Los Angeles) and does not appear to consider potentially significant distinctions between observed trends in those dense urban areas and trends that may be present in dissimilar built environments (such as more rural and sparsely developed Big Sur in this case). It would appear that additional research is needed to explore the extent to which the conclusions of such STR research focused on urban areas (e.g., Dr. Wachsmuth indicated that the foundational research that has been done to date was based on the "100 largest metro areas in the United States") are transferable and applicable to areas that do not share that same context. It would also appear that distinctions need to be more fully explored between such STR markets (related to primary residency requirements, hosted versus unhosted STRs, limitations on allowed STRs nights per year, etc.) and the type of housing markets in question (whether predominantly single-family residential or units in multi-family settings, owned versus rented, etc.) to be as useful as possible in the Commission's STR regulation efforts, as well as distinctions emanating from the Coastal Act itself that are relevant (e.g. requirements to maximize public access). In any case, as applicable here, given the very different housing characteristics of Monterey County's coastal zone as compared to Los Angeles and other significant U.S. metropolitan areas, it is not clear that the data is transferable for that reason alone. In light of these issues and questions, and as a means of fleshing out points made and their relevance to individual STR regulation cases like this one, Commission staff reached out to Dr. Wachsmuth multiple times since his December 2023 presentation in order to try to better understand his research and its potential implications in the coastal zone, but to date Dr. Wachsmuth has not yet responded to these inquiries.

developments, and that the Homestays and Limited Vacation Rentals would still allow for this use in a more protective manner.

With respect to the Carmel Highlands (which encompasses the Low Density Residential-zoned portion of the Carmel area), the County found that the unique resource limitations of the area dictated a prohibition on Commercial Vacation Rentals. Specifically, most of the residential properties in the Highlands utilize septic systems for wastewater disposal, which has led to contamination problems over the years with individual residential domestic water wells as a result of the area's fractured bedrock geology. The County found that prohibiting Commercial Vacation Rentals in the Highlands but allowing Homestays and Limited Vacation Rentals would minimize potential impacts from overuse of existing septic systems, along with allowing for all three vacation rental types in the other areas of Carmel, is consistent with the Carmel Area LUP direction to provide and encourage public recreational and visitor use while also limiting the potential impact on coastal resources.

In the Del Monte Forest area, the County found that the proposed 4 percent cap on Commercial Vacation Rentals (or 57 total) along with unlimited Homestays and Limited Vacation Rentals represented a mix that would encourage and facilitate public access and visitor-serving use while ensuring that the residential community is not significantly disrupted. Similarly in North County, the County found that the mix (Commercial Vacation rentals capped at 4 percent (or 157 plus 2 specifically attributed to the Moss Landing sub-area), and unlimited Homestays and Limited Vacation Rentals) would ensure that public access in this area is maximized and maintained and that coastal resource overuse is limited. In addition, for North County, the County noted that the cap on Commercial Vacation Rentals serves to protect residential community character while at the same time provides for adequate visitor accommodations, since this area is less reliant on tourism than other coastal areas of Monterey County and has fewer commercial visitor-serving facilities such as hotels. Finally, the County also noted that the North County area has higher poverty rates, lower household incomes, and a greater percentage of households using food stamps than other coastal areas of the County, and that the opportunity to rent a home as a Commercial Vacation Rental and earn additional income by participating in the tourist economy could benefit households and families in this area.

Thus, the County did not just arbitrarily develop its IP amendment, but spent considerable time and energy to seek public engagement on potential solutions and found its amendment to be in conformity with the applicable LUPs. Indeed, the County spent over a decade exploring myriad options and permutations. But such permutations highlight and exemplify the point that it has been the Commission's experience that there are multiple ways to achieve a balanced regulatory framework and program for vacation rentals in coastal communities. And depending on how one views vacation rentals and their effects on community character, resource protection, and their interplay with protection of residential neighborhoods, and how the mix of LUP policies are interpreted and weighed, multiple LUP consistent outcomes are certainly possible.

On one hand, Commercial Vacation Rentals in the North County area raises consistency issues with LUP policies that require protection of the rural residential

character (LUP Policy 4.3.5.1), affordable and moderate housing opportunities (LUP Policy 1 and 2 – Low and Moderate Income Housing), and the agricultural economy. And the County's socioeconomic data bears out that this predominantly rural agricultural area of the County's coastal zone is the least affluent where full-time longer term housing can be argued is most needed and important to preserve. Thus, one alternative that could be justified under the LUP would be to reduce (perhaps capped at its current level of 52 such rentals, down from the proposed 4% total of 157) Commercial Vacation Rentals in North County.³⁸

Conversely, the County's data shows that its most affluent coastal areas (Del Monte Forest, Carmel, and Big Sur) with the least affordable housing are also the most popular visitor destinations. The County's Socioeconomic Analysis found that "the planning areas with less affordable housing that are considered more tourism based (Big Sur, Carmel, and Del Monte Forest) have higher residential vacancy rates compared to other planning areas largely because of the inventory of seasonal, recreational, or occasional-use housing units" (including housing defined as "current residence elsewhere"). And as of 2023, those areas with the higher costs of living, including Carmel and Del Monte Forest, were home to 48 percent of vacation rental inventory. Arguably then, these areas could accommodate a certain amount of Commercial Vacation Rentals to both meet existing visitor demand and take advantage of available residential inventory that may not be offered as long-term (and not affordable) housing. In that vein, providing some limited amount of Commercial Vacation Rental (e.g., at 4% like what is proposed in other areas, or capped at the 2023 amount of 37 such rentals in Big Sur³⁹), along with more targeted standards to address the unique issues associated with these communities, could be found LUP consistent.

That said, the County has chosen the proposed caps and limitations based on its years of outreach and study and based on its findings that these regulations are consistent with and adequate to carry out its LUPs. There is a high level of discretion and a wide range of what can be considered reasonable to meet the objectives of providing overnight accommodations and protecting other coastal resources.⁴⁰ And as the Commission has found in other cases, there is no 'one size fits all' vacation rental solution in coastal California. The County carved out a middle ground that appears to not be wholly supported by either side, but that represents a balance based on the unique attributes of the built and natural environment of its coastal areas and the various policies of its LUPs. Both County staff and decisionmakers acknowledge that the proposed vacation rental regulations will likely need to be updated as implementation progresses and lessons are learned. But they also need to begin

³⁸ And perhaps replaced/augmented with a more robust farmstay program to more directly support the local agricultural economy.

³⁹ Capping at the existing amounts could also address concerns about the abrupt compliance requirements for existing rentals by offering a pathway for them to remain, rather than their elimination after two months.

⁴⁰ Indeed, a 6% Commercial Vacation Rental cap was initially proposed, but the Board of Supervisors lowered it to 4% during their final deliberations on the proposed LCP amendment in 2024.

implementation of the program in order to determine what refinements may be necessary, based on empirical evidence of its successes and failures.

The Commission agrees. While there clearly may be other permutations that could address identified concerns, the Commission must evaluate whether this proposal is consistent with and adequate to carry out the County's LUPs. It finds that this amendment does so. Given the broad LUP provisions, and the broad ways in which various policy proposals can be found consistent with those provisions, this IP amendment can be found consistent with and adequate to carry out those LUP requirements. As such, and in light of the legal, technical, and policy considerations at hand, the Commission finds that the proposal represents an adequate balance and can be found LUP consistent. It also strongly encourages the County to stay abreast of implementation, and to make changes and refinements as necessary over time as the vacation rental program is established.

The County's IP amendment also clarifies that a CDP is required to establish a Commercial Vacation Rental, which it defines as the threshold of the conversion of a residential use to a commercial use. The County ultimately determined that requiring this procedural pathway for Commercial Vacation Rentals via CDPs was appropriate because these types of rentals are a more intensive use akin to commercial businesses in otherwise lower intensity residential areas, and because of that a discretionary process that allows for individualized consideration and opportunities for public review and community vetting is important. The standard of review for such CDPs is the County's LCP, including LUP policies and objectives that protect public access and visitor-serving uses, as well as residential use and neighborhoods. Although this type of construct where a CDP is required is the exception and not the rule as it relates to STR regulation in the coastal zone up and down the state, in this case providing for a CDP process would appear to help carry out the LUPs, and can be found consistent in that respect.

In sum, the proposed amendment limits visitor-serving overnight accommodations in some of the least developed and most environmentally sensitive parts of coastal Monterey County, while still allowing unlimited Homestays and Limited Vacation Rentals in all four coastal areas. The amendment also allows up to 4% of existing residential housing stock (or 334 Commercial Vacation Rentals overall out of over 9,000 single-family residential units in the coastal zone) to be used for unhosted vacation rentals more than three times per year. This overall mix is not an inconsequential number of vacation rentals and still allows hundreds of visitor serving overnight accommodations that can accommodate thousands of visitors. Vacation rental regulation is not an all or nothing proposition, and the key is finding a balance that makes sense for both communities and visitors. The Commission finds that in this case, a meaningful vacation rental market would be maintained in the County's coastal areas, while also protecting coastal resources and housing and community needs and objectives. In conclusion, the Commission finds that the proposed LCP amendment conforms with and is adequate to carry out the Land Use Plans, and can be certified as submitted.

D. California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the County prepared and adopted an environmental impact report (EIR) for the proposed amendment (SCH No. 2022080643).

The Coastal Commission is not exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, has addressed all comments received, and has concluded that the proposed LCP amendment is not expected to result in significant environmental effects, including as those terms are understood in CEQA.

Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed amendment would necessitate. Thus, the proposed amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

3. APPENDICES

A. Substantive File Documents

- LCP Amendment File for LCP-3-MCO-24-0039-1

B. Staff Contact with Agencies and Groups

- Monterey County Housing and Community Development Department
- Monterey County Vacation Rental Alliance
- Pebble Beach Company

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
WEB: WWW.COASTAL.CA.GOV



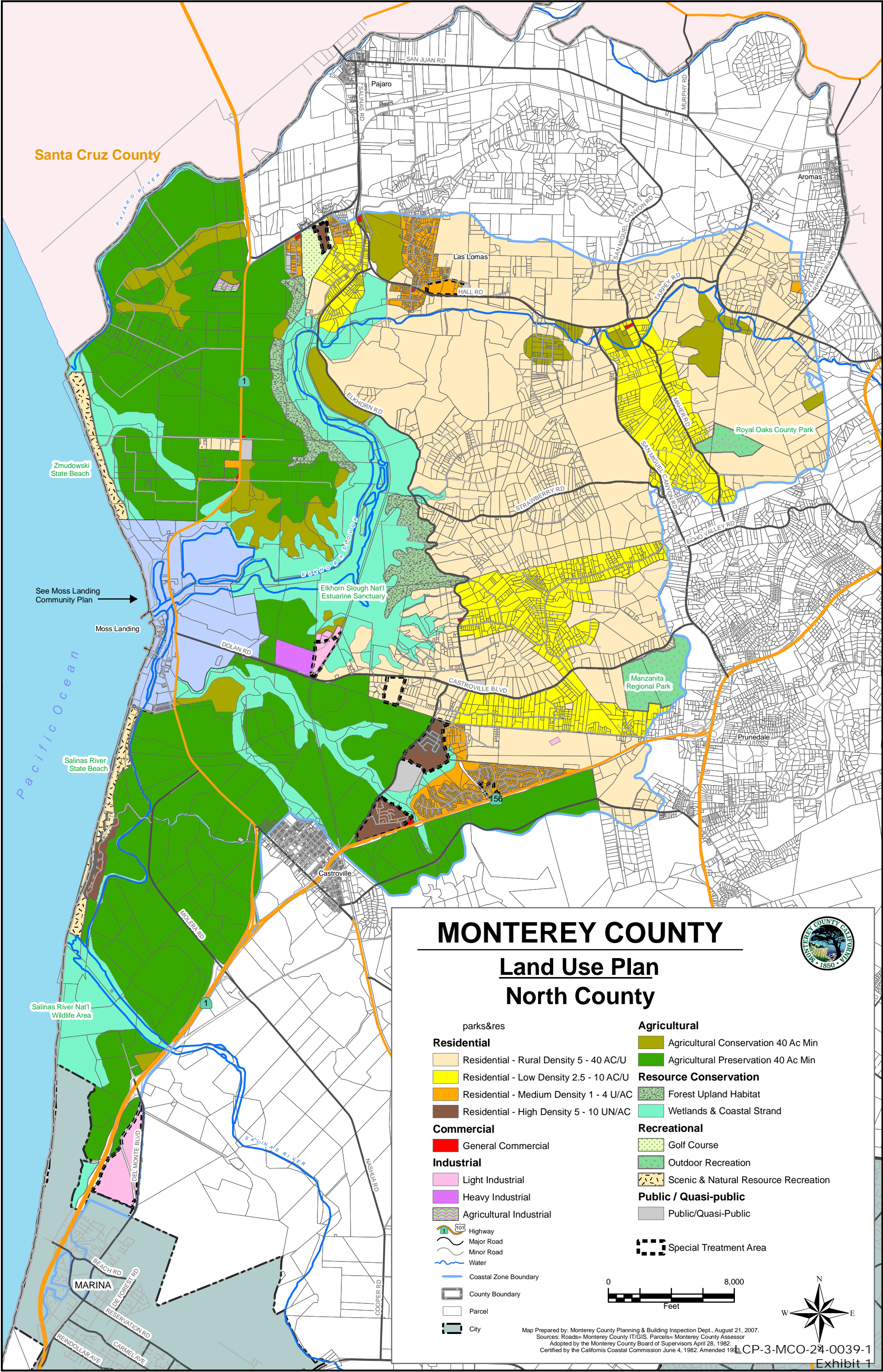
W15a

LCP-3-MCO-24-0039-1 (VACATION RENTALS) AUGUST 13, 2025 HEARING EXHIBITS

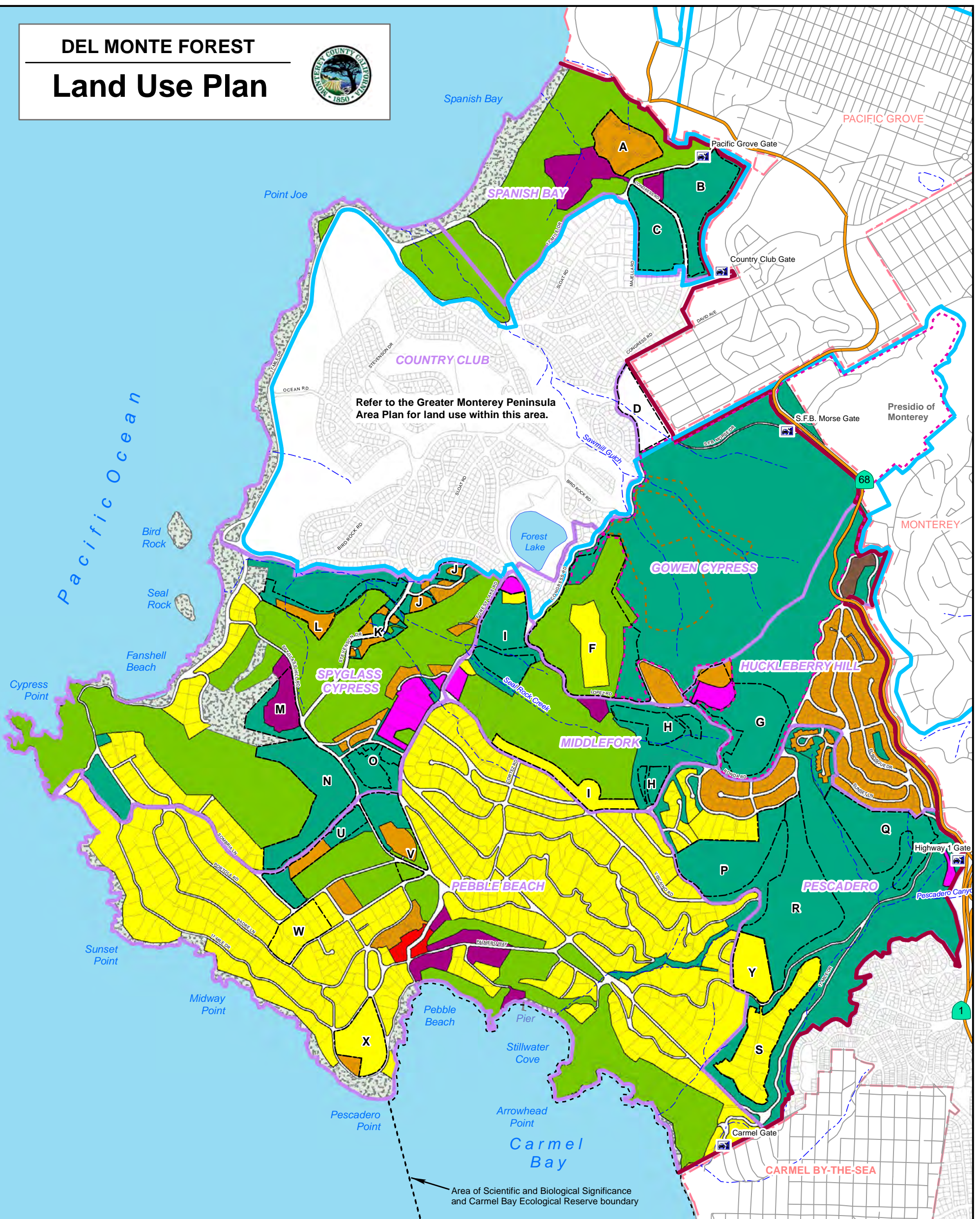
Table of Contents

Exhibit 1: LCP Planning Areas

Exhibit 2: Proposed IP Amendment



DEL MONTE FOREST
Land Use Plan



- Entrance Gate
- Highway
- Del Monte Forest Boundary
- Coastal Zone Boundary
- Stream
- PLANNING AREA
- CITY LIMITS
- Planning Unit
- Parcel

- Residential
- Residential - Low Density
 - Residential - Medium Density
 - Residential - High Density
 - S.F.B. Morse Preserve

- Commercial
- General Commercial
 - Institutional
 - Visitor Serving
 - Huckleberry Hill Natural Habitat Area

- Open Space
- Forest
 - Recreational
 - Shoreline

See LUP text for map sources.

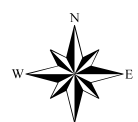
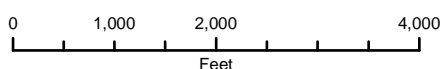
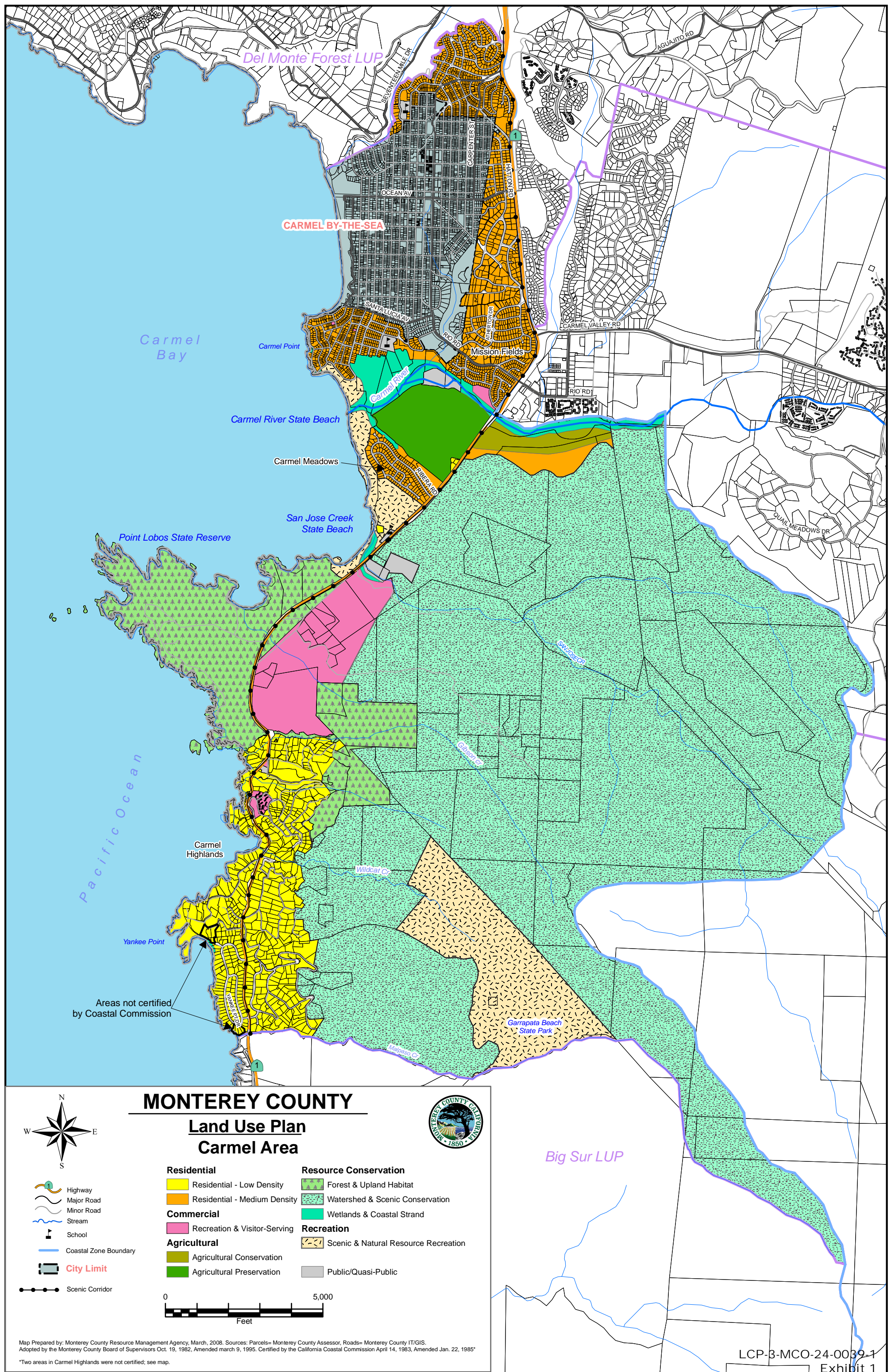


Figure 5



MONTEREY COUNTY

Land Use Plan

Big Sur

North Section



- National Forest
- Watershed & Scenic Conservation
- Wetlands & Coastal Strand
- Forest & Upland Habitat
- Outdoor Recreation
- Rural Residential
- Military
- Commercial Facilities
- Outside Rural Community Centers
- Rural Community Center

0 1 2 3 4 Miles



Map Prepared by: Monterey County Housing & Community Development, June, 2023.
 Sources: Roads= Monterey County IT/GIS. Parcels= Monterey County Assessor.
 Adopted by the Board of Supervisors, Nov. 5, 1985.
 Certified by the California Coastal Commission April 10, 1986



MONTEREY COUNTY

Land Use Plan

Big Sur

Central Section



- National Forest
- Watershed & Scenic Conservation
- Wetlands & Coastal Strand
- Forest & Upland Habitat
- Outdoor Recreation
- Rural Residential
- Military
- Commercial Facilities
- Outside Rural Community Centers
- Rural Community Center

0 1 2 3 4 Miles



Map Prepared by: Monterey County Housing & Community Development, June, 2023.
 Sources: Roads= Monterey County IT/GIS. Parcels= Monterey County Assessor.
 Adopted by the Board of Supervisors, Nov. 5, 1985.
 Certified by the California Coastal Commission April 10, 1986



MONTEREY COUNTY

Land Use Plan

Big Sur

South Section



- National Forest
- Watershed & Scenic Conservation
- Wetlands & Coastal Strand
- Forest & Upland Habitat
- Outdoor Recreation
- Rural Residential
- Military
- Commercial Facilities
- Outside Rural Community Centers
- Rural Community Center

0 1 2 3 4 Miles



Map Prepared by: Monterey County Housing & Community Development, June, 2023.
 Sources: Roads= Monterey County IT/GIS. Parcels= Monterey County Assessor.
 Adopted by the Board of Supervisors, Nov. 5, 1985.
 Certified by the California Coastal Commission April 10, 1986



ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING TITLE 20 (COASTAL ZONING) OF THE MONTEREY COUNTY
CODE RELATING TO VACATION RENTALS**

County Counsel Summary

This Ordinance amends numerous definition and zoning district use sections of Title 20 and adds Section 20.64.290 to the Monterey County Code to regulate the short-term vacation rental of residential property. This Ordinance aims to strike a balance, allowing residents of unincorporated Monterey County to benefit from the tourism economy while ensuring that residential neighborhoods are protected from the potential negative social and behavioral impacts of short-term vacation rentals. This Ordinance details which zoning districts allow short-term vacation rentals. This Ordinance requires a coastal development permit for commercial vacation rentals that have similar land use impacts to a visitor/serving use, such as hotels, motels, inns, and lodges. This Ordinance further requires that short-term vacation rentals meet certain operational requirements and safety and health standards that reflect their potential impacts. Lastly, this Ordinance contains the process for phasing out unpermitted commercial short-term vacation rentals.

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. This Ordinance is intended to provide regulations, standards, and circumstances under which short-term vacation rentals may be allowed in certain residential unincorporated areas of Monterey County.

C. The intent of this Ordinance is to distinguish between three types of short-term vacation rentals, commercial vacation rentals, limited vacation rentals, and homestays, such that commercial vacation rentals require a discretionary land use entitlement while limited vacation rentals and homestays are defined in a manner to be similar in character, density, and intensity to residential use, are not anticipated to remove long-term housing from the market, and therefore are allowed uses, where applicable, with a vacation rental operation license, business license, and transient occupancy tax certificate.

D. Regulation of commercial vacation rentals is necessary because they have the potential to impact the character and intensity of an otherwise residential use. Impacts include, removing long-term housing from the market, or posing hazards to public health, safety and general welfare in areas known to have infrastructure limitations. Commercial vacation rental uses, therefore, may be allowed, where applicable, only with a discretionary coastal development permit, vacation rental operation license, business license, and transient occupancy tax certificate. This Ordinance recognizes that unique neighborhoods with existing developments were established with the intent of managed short-term rentals, such as Monterey Dunes Colony, and these developments are exempt from the regulations set forth in this Ordinance, including the need to apply for a vacation rental operation license. Such developments are not exempt from compliance with Chapter 5.40, requiring payment of transient occupancy tax, and Chapter 7.02, requiring a business license.

E. Homestays, commercial vacation rentals, and limited vacation rentals do not count towards any visitor-serving units or guestroom caps established by Monterey County Code, Monterey County Coastal Implementation Plan, or Monterey County Land Use Plan.

F. This Ordinance establishes the requirement for a coastal development permit for commercial vacation rental activities to enable evaluation of the impacts of such activities, in recognition that commercial vacation rentals may have similar land use impacts as other recreational/visitor-serving uses such as hotels, motels, and bed and breakfast facilities and deserve similar evaluation as such visitor-serving uses.

G. Because the nature and extent of short-term vacation rentals have been transformed in the last several years due to the advent of online platforms, this Ordinance intends to establish regulations for limited vacation rentals, commercial vacation rentals, and homestays. Accordingly, this ordinance intends to add Section 20.64.290 to the Monterey County Code to establish regulations for vacation rentals.

H. To allow for a reasonable amortization of investment for existing short-term vacation rental operations, this Ordinance provides an initial defined time period during which an unpermitted vacation rental may continue to operate, provided the vacation rental activity was established prior to the effective date of the Ordinance and the operator is pursuing all necessary County permits, licenses, and entitlements pursuant to Section 20.64.290 of the Monterey County Code.

I. The County has reviewed the Final Environmental Impact Report (“EIR”) for the project, which consists of the Draft EIR and the responses to comments on the Draft EIR. The County has exercised independent judgment in accordance with Public Resources Code section 21082.1(c)(3) in retaining its own environmental consultant in the preparation of the EIR, as well as reviewing, analyzing, and revising material prepared by the consultant. Having received, reviewed, and considered the information in the Final EIR, as well as all other information in the record, the County hereby makes findings pursuant to and in accordance with Public Resources Code sections 21081, 21081.5, and 21081.6. In accordance with California Environmental Quality Act (“CEQA”) and the CEQA Guidelines, the County agrees that no findings of fact is

required because no impacts were identified with the implementation of the proposed regulations. The Final EIR for the Vacation Rental Ordinances project (SCH # 2022080643) has been completed and certified in compliance with CEQA prior to the adoption of this Ordinance and reflects the independent judgment and analysis of the County of Monterey.

J. The County intends to carry out the amendments in a manner fully in conformity with the Coastal Act.

K. This Ordinance amends the Monterey County Coastal Implementation Plan, which is part of the County's Local Coastal Program. Pursuant to the Coastal Act, the County may amend the certified Local Coastal Program provided the County follows certain procedures. The procedures include the following: the County's Planning Commission holds a notice public hearing and make a recommendation to the Board of Supervisors on the proposed amendment; the Board of Supervisors holds a noticed public hearing, adopts a resolution of intent, and submits the proposed amendment to the California Coastal Commission for certification together with materials sufficient for a thorough and complete review; the Coastal Commission certifies the amendment; the Board of Supervisors takes subsequent final action on the ordinance after the Coastal Commission acts; and the Coastal Commission confirms the County's action. Accordingly, this Ordinance will not go into effect until after the Coastal Commission certifies the amendment and confirms the Board's action.

SECTION 2. Section 20.06.620 of the Monterey County Code is amended to read as follows:

"Guesthouse" 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 separately rented, let, or leased, whether compensation is direct or indirect.

SECTION 3. Section 20.06.985 is added to the Monterey County Code to read as follows:

"Rooming or boarding" means shared living quarters, with or without separate kitchen and bathroom facilities for each room or unit, intended to meet short-term shelter and/or other immediate housing needs for not more than two persons for the purpose of work, school, research, medical care, or employment that requires a person's physical presence in Monterey County, or other similar non recreational activity. Rooming or boarding does not include residential care facilities, day care homes, family day care centers, convalescent hospitals, hotels, motels, bed and breakfast facilities, inns, vacation rentals, labor camps, or single-occupancy housing.

SECTION 4. Section 20.06.990 of the Monterey County Code is amended to read as follows:

“Roominghouse or boardinghouse” means shared living quarters, with or without separate kitchen and bathroom facilities for each room or unit, intended to meet short-term shelter and/or other immediate housing needs for three or more persons for the purpose of work, school, research, medical care, or employment that requires a person’s physical presence in the County, or other similar non recreational activity. Roominghouse or boardinghouse does not include residential care facilities, day care homes, family day care centers, convalescent hospitals, hotels, motels, bed and breakfast facilities, inns, vacation rentals, labor camps, or single-occupancy housing.

SECTION 5. Section 20.06.1305 of the Monterey County Code is amended to read as follows:

“Transient” means temporary, limited duration to a period of 30 consecutive calendar days or fewer.

SECTION 6. Subsection (DD) is added to Section 20.10.050 of the Monterey County Code [High Density Residential District] to read as follows:

DD. Commercial Vacation Rentals, pursuant to Section 20.64.290 (ZA).

SECTION 7. Subsection (DD) is added to Section 20.12.050 of the Monterey County Code [Medium Density Residential District] to read as follows:

DD. Commercial Vacation Rentals, pursuant to Section 20.64.290 (ZA).

SECTION 8. Subsection (FF) is added to Section 20.14.050 of the Monterey County Code [Low Density Residential District] to read as follows:

FF. Commercial Vacation Rentals, pursuant to Section 20.64.290 (ZA).

SECTION 9. Subsection (VV) is added to Section 20.16.050 of the Monterey County Code [Rural Density Residential District] to read as follows:

VV. Commercial Vacation Rentals, pursuant to Section 20.64.290 (ZA).

SECTION 10. Subsection (PP) is added to Section 20.17.050 of the Monterey County Code [Watershed And Scenic Conservation District] to read as follows:

PP. Commercial Vacation Rentals, pursuant to Section 20.64.290 (ZA).

SECTION 11. Subsection (RR) is added to Section 20.18.060 of the Monterey County Code [Coastal General Commercial] to read as follows:

RR. Commercial Vacation Rentals, pursuant to Section 20.64.290 (ZA).

SECTION 12. Subsection (X) is added to Section 20.20.060 of the Monterey County Code [Moss Landing Commercial District] to read as follows:

X. Commercial Vacation Rentals, pursuant to Section 20.64.290 (ZA).

SECTION 13. Subsection (BB) is added to Section 20.22.060 of the Monterey County Code [Visitor-Serving Commercial District] to read as follows:

BB. Commercial Vacation Rentals, pursuant to Section 20.64.290 (ZA).

SECTION 14. Subsection (GG) is added to Section 20.30.050 of the Monterey County Code [Coastal Agriculture Preserve] to read as follows:

GG. Commercial Vacation Rentals, pursuant to Section 20.64.290 (ZA).

SECTION 15. Subsection (KK) is added to Section 20.32.050 of the Monterey County Code [Agricultural Conservation] to read as follows:

KK. Commercial Vacation Rentals, pursuant to Section 20.64.290 (ZA).

SECTION 16. Subsection (Q) is added to Section 20.60.090 of the Monterey County Code to read as follows:

Q. Outdoor signs, pursuant to Section 7.120.040.H.

SECTION 17. Section 20.64.290 is added to the Monterey County Code to read as follows:

A. Purpose: It is the purpose of this Section to:

1. Preserve and enhance the residential character of the coastal zoning districts established in Title 20 and the sense of security and safety in stable neighborhoods of residential properties.

2. Provide opportunity for visitors to access public areas of the unincorporated areas of Monterey County through Vacation Rental opportunities, benefiting the local economy while preserving the housing supply and quality of life, and protecting public health, safety, and general welfare.

3. Establish regulations that provide opportunity for homeowners and residents to offer Vacation Rentals for visitors that have the potential to provide financial benefits to offset the high cost of living in Monterey County.

4. Establish that Limited Vacation Rental and Homestay uses are similar in character, density, and intensity to residential use, are not anticipated to convert long-term housing to nonresidential use.

5. Establish regulations to address Commercial Vacation Rental uses that have the potential to impact the character, density, and intensity of residential uses, convert long-term housing to nonresidential use, or pose hazards to public health, safety, and general welfare in areas known to have infrastructure limitations.

B. Definitions: The definitions in Chapter 20.06 shall apply. Unless otherwise expressly stated, whenever used in this Section, the following words shall have the meanings set forth below:

1. “Bedroom” means any habitable room of a dwelling unit which is: 1) 70 square feet or greater in size for the first individual in a bedroom and 50 square feet of space for each additional individual in the room; 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.

2. “Commercial Vacation Rental” means a Vacation Rental that is Non-hosted and rented for more than three times per 12-month period.

3. “County” means County of Monterey.

4. “Effective Date” means the date on which the Ordinance adding this Section 20.64.290 to the Monterey County Code took effect.

5. “Homestay” means a Vacation Rental in which the Owner occupies at least one Bedroom within the Vacation Rental while it is being rented as a Vacation Rental. The Vacation Rental must be the Owner’s Primary Residence.

6. “Limited Vacation Rental” means a Vacation Rental that is Non-hosted and rented for not more than three times per 12-month period.

7. “Non-hosted” means that an Operator does not occupy the Vacation Rental while it is being rented.

8. “Operator” means a person who operates the Vacation Rental and, if not the Owner, a person, who has the legal permission of the Owner to operate the Vacation Rental on the subject real property.

9. “Owner” means the person or persons who hold fee title to the real property upon which a Vacation Rental is operated.

10. “Owner’s Primary Residence” means a Residential Property lived in by the Owner for at least 183 days, which is documented by at least two of the following: motor vehicle registration, voter registration, homeowner’s exemption on their property taxes, or a utility bill.

11. “OWTS” means an onsite wastewater treatment system, also referred to as a septic system, as regulated by Chapter 15.20 of the Monterey County Code.

12. “Property Manager” means the person who is designated by the Operator as being responsible for managing the Vacation Rental operation and it may include the Owner, professional property manager, realtor, other resident, or nonresident owner of the subject property.

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

14. “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 for a period of 30 consecutive calendar days or fewer, counting portions of calendar days as full days. “Vacation Rental” includes Commercial Vacation Rentals, Homestays, and Limited Vacation Rentals. “Vacation Rental” does not include a bed and breakfast facility, hotel, motel, hostel, inn, roominghouse, boardinghouse, rooming or boarding.

C. Applicability: This Section applies in the unincorporated coastal zone of the County of Monterey.

D. Regulations for Homestays:

1. Homestays are allowed and exempt from a Coastal Development Permit pursuant to 20.70.120(S), in the following zoning districts, subject to the requirements of this Section:

- a. High Density Residential (HDR(CZ));
- b. Medium Density Residential (MDR(CZ));
- c. Low Density Residential (LDR(CZ));
- d. Rural Density Residential (RDR(CZ));
- e. Watershed and Scenic Conservation (WSC(CZ));
- f. Coastal General Commercial (CGC(CZ));
- g. Moss Landing Commercial (MLC(CZ));
- h. Visitor-Serving Commercial (VSC(CZ));
- i. Coastal Agriculture Preserve (CAP(CZ)); and
- j. Agricultural Conservation (AC(CZ)).

2. Homestays shall be prohibited in any other zoning district.

E. Regulations for Limited Vacation Rentals:

1. Limited Vacation Rentals are allowed and exempt from a Coastal Development Permit pursuant to 20.70.120(T), in the following zoning districts, subject to the requirements of this Section:

- a. High Density Residential (HDR(CZ));
- b. Medium Density Residential (MDR(CZ));
- c. Low Density Residential (LDR(CZ));
- d. Rural Density Residential (RDR(CZ));
- e. Watershed and Scenic Conservation (WSC(CZ));
- f. Coastal General Commercial (CGC(CZ));
- g. Moss Landing Commercial (MLC(CZ));
- h. Visitor-Serving Commercial (VSC(CZ));
- i. Coastal Agriculture Preserve (CAP(CZ)); and
- j. Agricultural Conservation (AC(CZ)).

2. Limited Vacation Rentals shall be prohibited in any other zoning district.

F. Regulations for Commercial Vacation Rentals:

1. Commercial Vacation Rentals are allowed with a Coastal Development Permit in the following zoning districts, subject to the requirements of this Section:

- a. High Density Residential (HDR(CZ));
- b. Medium Density Residential (MDR(CZ));
- c. Low Density Residential (LDR(CZ));
- d. Rural Density Residential (RDR(CZ));
- e. Watershed and Scenic Conservation (WSC(CZ));
- f. Coastal General Commercial (CGC(CZ));
- g. Moss Landing Commercial (MLC(CZ));
- h. Visitor-serving Commercial (VSC(CZ));
- i. Coastal Agriculture Preserve (CAP(CZ)); and
- j. Agricultural Conservation (AC(CZ)).

2. Commercial Vacation Rentals shall be prohibited in any other zoning district.

3. Commercial Vacation Rentals are subject to the following additional limitations based on a maximum allowable limit of permitted Commercial Vacation Rentals not to exceed four percent of the total single family residential dwelling unit count:

a. Big Sur Coast Land Use Plan Area as follows: Commercial Vacation Rentals are prohibited within the Big Sur Coast Land Use Plan area.

b. Carmel Area Land Use Plan Area as follows:

i. Commercial Vacation Rentals are prohibited in LDR(CZ) zoning districts within the Carmel Areal Land Use Plan area.

ii. A total of 118 maximum Coastal Development Permits shall be issued at any given time for Commercial Vacation Rental uses within the Carmel Area Land Use Plan area, excluding LDR(CZ) zoning districts.

c. North County Coastal Land Use Plan Area as follows: A total of 157 maximum Coastal Development Permits shall be issued at any given time for Commercial Vacation Rental uses within the North County Coastal Land Use Plan area.

d. Del Monte Forest Land Use Plan Area as follows: A total of 57 maximum Coastal Development Permits shall be issued at any given time for Commercial Vacation Rental uses within the Del Monte Forest Land Use Plan area.

e. Moss Landing Community Plan as follows:

i. Commercial Vacation Rentals are prohibited in LDR(CZ) and MDR(CZ) zoning districts within the Moss Landing Community Plan area.

ii. A total of two maximum Coastal Development Permits shall be issued at any given time for Commercial Vacation Rental uses within the Moss Landing Community Plan area, excluding LDR(CZ) and MDR (CZ) zoning districts.

f. All existing transient use of a property for remuneration as a similar use to a Bed and Breakfast facility or other visitor-serving uses (such as hotels, motels, and inns) permits or entitlements issued prior to the Effective Date of this Chapter will count against their respective Land Use Plan cap. If upon the permit or entitlement expiration date or within seven years of the Effective Date of this Chapter, the Operator does not make an application for all permits, licenses, certificates, or other entitlements required by County regulations; the count will be added back to the Land Use Plan cap.

4. A Commercial Vacation Rental that is not accessible directly from a public road shall be subject to Monterey County Code Chapter 16.80. Upon making an application with the County for Vacation Rental use, the Operator shall be required to

mail notice to all properties with ownership or access rights to the private road to inform them of the proposed Vacation Rental use and shall include the application reference number, location of the vacation rental, name and contact information for the Property Manager; and procedures and contact information for the County.

5. Commercial Vacation Rentals must demonstrate that response times for County emergency services for fire and emergency medical will be adequate. Adequate is defined as 5-8 minutes within Community Areas, Community Plans, and Sphere of Influence, 12 minutes within Rural Centers, and 45 minutes for all other areas. Commercial Vacation Rentals must provide contact information for County emergency services for fire and emergency medical. Notice of emergency services contact information shall be included in rental contracts and posted within the unit in a prominent place within six feet of the front door. The notice shall identify the average response time for emergency services to reach the subject property and describe the onsite fire protection systems (such as fire breaks, alarms and/or water storage tanks) available.

6. Commercial Vacation Rentals shall provide parking as required for the dwelling type by Section 20.58.040, or the applicable parking regulations at the time the dwelling was built.

7. Only one Commercial Vacation Rental shall be allowed per legal lot of record, regardless of the number of dwellings on the legal lot of record, except in the development types and zoning districts specified below. This provision does not apply to other types of developments, such as planned unit developments or similar cluster residential subdivisions. This provision does not apply to Coastal General Commercial (CGC(CZ)), Moss Landing Commercial (MLC(CZ)), and Visitor-Serving Commercial (VSC(CZ)) zoning districts. These districts shall be allowed more than one Commercial Vacation Rental per legal lot of record and shall not exceed the number of residential units per legal lot of record.

8. A Commercial Vacation Rental served by an OWTS shall maintain the system in good working order and ensure it is functioning properly at all times. The OWTS shall comply with Chapter 15.20 of this Code.

9. If the Commercial Vacation Rental is served by an OWTS, the Operator shall submit evidence that the system is in good working order and functioning properly by providing a performance evaluation report completed by a qualified OWTS professional in the form and manner required by the County. Any OWTS component noted to be in unacceptable condition shall be repaired or replaced prior to County approval of a Coastal Development Permit.

10. The Owner of the Vacation Rental shall only have an ownership interest in one Commercial Vacation Rental real property within the unincorporated Monterey County at a time.

11. Required Findings. To grant a Coastal Development Permit for a Commercial Vacation Rental, the Appropriate Authority must find, based on substantial evidence, that the Commercial Vacation Rental complies with all findings required for a Coastal Development Permit pursuant to Chapter 20.70 and complies with all requirements of this Section.

12. Time Limits. All Coastal Development Permits issued for Commercial Vacation Rentals shall be subject to the following time limits on the use authorized by the Coastal Development Permit:

a. The initial Coastal Development Permit shall be issued for a term of no more than seven years.

b. The Operator may apply to extend the Coastal Development Permit prior to the expiration date of the Coastal Development Permit pursuant to Section 20.70.110. The extension application shall be made at least 30 days prior to the expiration of the Coastal Development Permit. The Coastal Development Permit shall be extended by the Appropriate Authority by seven years upon each renewal, unless the Appropriate Authority finds that the operation is subject to revocation or modification accordingly to the criteria set forth in Section 20.70.060.

c. The Operator shall maintain a valid business license pursuant to Chapter 7.02 and a valid Vacation Rental Operation License pursuant to Chapter 7.120 of this Code throughout the permitted term of the Commercial Vacation Rental use.

d. The purpose of the seven-year term limit is to provide adequate ongoing review of the Commercial Vacation Rental to ensure that the use continues to meet the standards of this Section.

G. Phasing Out Unpermitted Operations:

1. To provide time for Operators of Vacation Rentals that were unpermitted prior to the Effective Date to bring the Vacation Rental into compliance with this Section, an Operator who can demonstrate that a Vacation Rental use was established and operating on the subject property prior to the Effective Date may continue the operation for a limited period of time.

2. For unpermitted Vacation Rental uses, the Operator has two months from the Effective Date to make an application for all permits, licenses, certificates, or other entitlements required by this Code. The Operator will be allowed to continue to operate as a Vacation Rental for up to two months from the Effective Date, or until County takes action on the Operator's application for all required permits, licenses, and entitlements made pursuant to this Code, whichever is later, unless County requires earlier termination

of the Vacation Rental use due to a risk to public health, safety and welfare. The Operator must diligently pursue the approval and issuance of the required permits, licenses, and entitlements, or the County can require earlier termination of the Vacation Rental.

3. Nothing in this Section prohibits the County from taking enforcement action, which may lead to shutting down a Vacation Rental operation during the phasing out period if the Vacation Rental creates an immediate or imminent threat to life, public health, or safety.

4. Pending applications for transient use of a property for remuneration as a similar use to a Bed and Breakfast facility or other visitor-serving uses (such as hotels, motels, and inns), submitted by a qualified applicant to the County, pursuant to Title 20, that have not been approved by the Appropriate Authority prior to the Effective Date shall be required to comply with this Section.

H. Phasing Out Previously Permitted Operations:

1. All existing transient use of a property for remuneration as a similar use to a Bed and Breakfast facility or other visitor-serving uses (such as hotels, motels, and inns) permits or entitlements issued prior to the Effective Date shall be required to comply with this Section upon expiration of their existing permits or entitlements. If the prior use is no longer allowed pursuant to this Section, the Operator must cease operations at the time of the expiration of their permit or entitlement.

2. All existing transient use of a property for remuneration as a similar use to a Bed and Breakfast facility or other visitor-serving uses (such as hotels, motels, and inns) permits or entitlements issued prior to the Effective Date without expiration dates shall be required to comply with this Section within seven years of the Effective Date.

3. Nothing in this Section prohibits the County from taking enforcement action, which may lead to shutting down a Vacation Rental operation during the phasing out period if the Vacation Rental creates an immediate or imminent threat to life, public health, or safety.

I. Exemption: The regulations set forth in this Section do not apply to unique neighborhoods with existing developments that were established with the intent of managed Vacation Rentals. The existing permitted unique neighborhoods with managed Vacation Rentals must operate according to the regulations and conditions approved through its original land use entitlement.

SECTION 18. Subsection (S) is added to Section 20.70.120 of the Monterey County Code to read as follows:

S. Homestays, pursuant to Section 20.64.290, are exempt in the following zoning districts: High Density Residential (HDR(CZ)); Medium Density Residential (MDR(CZ)); Low

Density Residential (LDR(CZ)); Rural Density Residential (RDR(CZ)); Watershed and Scenic Conservation (WSC(CZ)); Coastal General Commercial (CGC(CZ)); Moss Landing Commercial (MLC(CZ)); Visitor-Serving Commercial (VSC(CZ)); Coastal Agriculture Preserve (CAP(CZ)); and Agricultural Conservation (AC(CZ)).

SECTION 19. Subsection (T) is added to Section 20.70.120 of the Monterey County Code to read as follows:

T. Limited Vacation Rentals, pursuant to Section 20.64.290, are exempt in the following zoning districts: High Density Residential (HDR(CZ)); Medium Density Residential (MDR(CZ)); Low Density Residential (LDR(CZ)); Rural Density Residential (RDR(CZ)); Watershed and Scenic Conservation (WSC(CZ)); Coastal General Commercial (CGC(CZ)); Moss Landing Commercial (MLC(CZ)); Visitor-Serving Commercial (VSC(CZ)); Coastal Agriculture Preserve (CAP(CZ)); and Agricultural Conservation (AC(CZ)).

SECTION 20. 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 21. EFFECTIVE DATE. This Ordinance shall become effective on the thirty-first day following its adoption by the County if certified by the California Coastal Commission or thereafter upon certification by the California Coastal Commission.

PASSED AND ADOPTED on this ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Glenn Church, Chair
Monterey County Board of Supervisors

ATTEST

VALERIE RALPH
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:



KELLY L. DONLON
Assistant County Counsel

ORDINANCE NO. 5424

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING SECTION 7.02.060 AND ADDING CHAPTER 7.120 TO THE MONTEREY COUNTY CODE RELATING TO VACATION RENTAL ACTIVITIES

County Counsel Summary

This ordinance amends Section 7.02.060 and adds Chapter 7.120 to the Monterey County Code to regulate the short-term vacation rental of residential property. This ordinance aims to strike a balance, allowing residents of unincorporated Monterey County to benefit from the tourism economy, while also ensuring that residential neighborhoods are protected from the potential negative social and behavioral impacts of short-term vacation rentals. This ordinance requires a business license and a vacation rental operation license for any short-term vacation rental operations in the unincorporated Monterey County. This ordinance further requires that short-term vacation rentals meet certain operational requirements and safety and health standards. This ordinance details the vacation rental operation license application requirements, the criteria for granting the license, and the fees. This ordinance also includes requirements that online short-term vacation rental platforms are required to satisfy to ensure unlicensed short-term vacation rentals are not advertised or rented. Lastly, this ordinance contains the process for revocation and enforcement against short-term vacation rental operations that are violating their licenses.

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, short-term 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 short-term vacation rentals are necessary to protect the health, safety, and welfare of visitors staying in short-term vacation rental accommodations and residents of Monterey County.
- D. Regulation of short-term vacation rentals is necessary because they potentially could create impacts that are different than residential uses, including but not limited to: different

character, density, and intensity than residential uses; removal of long-term housing from the market; and hazards to the public health, safety and general welfare in areas known to have infrastructure limitations.

E. This Ordinance aims to strike a balance, allowing residents of unincorporated Monterey County to benefit from the tourism economy while also ensuring that residential neighborhoods are protected from the potential negative social and behavioral impacts of short-term vacation rentals.

F. Homestays, commercial vacation rentals, and limited vacation rentals do not count towards any visitor-serving units or guestroom caps established by Monterey County Code, Monterey County Coastal Implementation Plan, Monterey County Land Use Plan, 2010 County of Monterey General Plan, or any associated Area Plan established by the 2010 County of Monterey General Plan.

G. This Ordinance requires licenses for any short-term vacation rental operations in the unincorporated Monterey County, and requires that short-term vacation rentals meet certain operational requirements and safety and health standards. This Ordinance details the vacation rental operation license application requirements, the criteria for granting the license, and the fees. Lastly, this Ordinance contains the process for revocation and enforcement against short-term vacation rental operations that are violating their licenses.

H. This Ordinance recognizes that the Transient Occupancy Tax Certificate is a one-time issuance provided to operators prior to the commencement of business. A transient occupancy tax certificate does not expire and does not indicate to the public whether an operator is in good standing with the County of Monterey. Accordingly, this Ordinance requires a business license for all hotels, commercial vacation rentals, homestays, and limited vacation rentals.

I. This Ordinance recognizes that unique neighborhoods with existing developments were established with the intent of managed short-term rentals, such as Monterey Dunes Colony and these developments are exempt from the regulations set forth in this Ordinance. Such developments are not exempt from compliance with Chapter 5.40, requiring payment of transient occupancy tax, and Chapter 7.02, requiring a business license.

J. The County of Monterey has reviewed the Final Environmental Impact Report ("EIR") for the project, which consists of the Draft EIR and the responses to comments on the Draft EIR. The County has exercised independent judgment in accordance with Public Resources Code section 21082.1(c)(3) in retaining its own environmental consultant in the preparation of the EIR, as well as reviewing, analyzing, and revising material prepared by the consultant. Having received, reviewed, and considered the information in the Final EIR, as well as all other information in the record, the County hereby makes findings pursuant to and in accordance with Public Resources Code sections 21081, 21081.5, and 21081.6. In accordance with California Environmental Quality Act ("CEQA") and the CEQA Guidelines, the County agrees that no findings of fact is required because no impacts were identified with the implementation of this Ordinance. The Final EIR for the Vacation Rental Ordinances project

(SCH # 2022080643) has been completed and certified in compliance with CEQA prior to the adoption of this Ordinance and reflects the independent judgment and analysis of the County.

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

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

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

C. All Commercial Vacation Rentals, Homestays, and Limited Vacation Rentals as defined respectively by Section 7.120.020(E), (J), and (N) of the Monterey County Code, as may be amended from time to time.

SECTION 4. Chapter 7.120 is added to the Monterey County Code to read as follows:

**Chapter 7.120
VACATION RENTAL OPERATION LICENSE**

Sections:

7.120.010	Purpose.
7.120.020	Definitions.
7.120.030	Applicability.
7.120.040	Regulations for Vacation Rentals.
7.120.050	Regulations for Homestays.
7.120.060	Regulations for Limited Vacation Rentals.
7.120.070	Regulations for Commercial Vacation Rentals.
7.120.080	Regulations for Hosting Platforms.
7.120.090	License Application Process.
7.120.100	Criteria for Grant of License.
7.120.110	License Renewal Process and Grounds for Denial.
7.120.120	Fees.
7.120.130	Grounds for Revocation.
7.120.140	Process for Hearing by Hearing Officer.
7.120.150	Service Requirements.
7.120.160	Enforcement.
7.120.170	Operative Date.

7.120.010 Purpose.

A. The purpose of this Chapter, includes but is not limited to the following:

1. Ensure that vacation rentals are operated in a manner that complies with all rules and regulations, and are not detrimental to the health, safety, and welfare of residential neighborhoods in which vacation rentals are operating.

2. Preserve and enhance the residential character of the zoning districts established in Titles 20 and 21 of the Monterey County Code.

3. Preserve the sense of security and safety in stable residential neighborhoods.

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

B. This Chapter seeks to restrict the following inharmonious and injurious outcomes associated with unregulated and uncontrolled residential vacation rentals, including but not limited to:

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

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

7.120.020 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 range of advertised nightly rates. The Advertised Rental Rate shall not include deposits or ancillary fees.

B. “Appropriate Authority” means the County of Monterey Housing and Community Development Department Director or their designee.

C. “Bedroom” means any habitable room of a dwelling unit which is: 1) 70 square feet or greater in size for the first individual in the room and 50 square feet of space for each additional individual in the room; 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. “Booking Service” means any reservation and/or payment service provided by a Person who facilitates Vacation Rental transactions between the Operator and the Occupant for which the Hosting Platform collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment service provided for the transaction.

E. "Commercial Vacation Rental" means a Vacation Rental that is Non-hosted and rented for more than three times per 12-month period.

F. "Common public viewing area" means a public area such as a public street, road, designated vista point, or public park from which the general public ordinarily views the surrounding viewshed.

G. "County" means County of Monterey.

H. "Guesthouse" 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 separately rented, let, or leased, whether compensation is direct or indirect.

I. "Hearing Officer" means a person appointed by the County to conduct an administrative hearing under this Chapter. The appointed Hearing Officer shall be an impartial decision-maker selected by a process that eliminates risk of bias, such as:

1. An administrative law judge provided by the State of California Office of Administrative Hearings to function as the County Hearing Officer pursuant to Chapter 14 of Part 3 of Division 2 of Title 3 of the California Government Code;

2. A person selected randomly from a panel of attorneys willing to serve as a Hearing Officer; or

3. An independent contractor assigned by an organization or entity which provides hearing officers.

J. "Homestay" means a Vacation Rental in which the Owner occupies at least one Bedroom within the Vacation Rental while it is being rented as a Vacation Rental. The Vacation Rental must be the Owner's Primary Residence.

K. "Hosting Platform" means a Person who advertises Vacation Rentals through an agent or intermediary that conducts a Booking Service transaction using any medium of facilitation.

L. "Individual" means a natural person.

M. "License" means a Vacation Rental Operation License issued by the County to an Operator to operate a Vacation Rental under this Chapter.

N. "Limited Vacation Rental" means a Vacation Rental that is Non-hosted and rented for not more than three times per 12-month period.

O. “Non-hosted” means that an Operator does not occupy the Vacation Rental while it is being rented.

P. “Occupant” means a person who occupies a Vacation Rental by reason of concession, permit, rent, right of access, license, or other agreement for a period of 30 consecutive calendar days or less.

Q. “Operator” means a person who operates the Vacation Rental and, if not the Owner, a person who has the legal permission of the Owner to operate the Vacation Rental on the subject real property.

R. “Owner” means the person or persons who hold fee title to the real property upon which a Vacation Rental is operated.

S. “Owner’s Primary Residence” means a Residential Property lived in by the Owner for at least 183 days, which is documented by at least two of the following: motor vehicle registration, voter registration, homeowner’s exemption on their property taxes, or a utility bill.

T. “OWTS” means an onsite wastewater treatment system, also referred to as a septic system, as regulated by Chapter 15.20 of the Monterey County Code.

U. “Person” means any individual, corporation, partnership, firm, business or similar entity, public or private agency, municipality, city, state or federal agency.

V. “Property Manager” means the person who is designated by the Operator as being responsible for managing the Vacation Rental operation, and it may include the Owner, professional property manager, realtor, other resident, or nonresident owner of the subject property.

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

X. “Single Family Dwelling” means a detached structure, including a mobilehome or manufactured dwelling unit, containing only one kitchen and used to house not more than one family.

Y. “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 for a period of 30 consecutive calendar days or fewer, counting portions of calendar days as full days. “Vacation Rental” includes Commercial Vacation Rentals, Homestays, and Limited Vacation Rentals. “Vacation Rental”

does not include a bed and breakfast facility, hotel, motel, hostel, inn, roominghouse, boardinghouse, rooming or boarding.

Z. "Visitor" means an invitee of a Vacation Rental Occupant, who is not an Occupant and not staying overnight at the Vacation Rental.

7.120.030 Applicability.

- A. This Chapter shall apply in the unincorporated area of Monterey County.
- B. This Chapter shall not apply to:
 - 1. Administrative Permits issued pursuant to Section 21.64.280 of the Monterey County Code for the transient use of residential property.
 - 2. Permits or entitlements issued for the transient use of a property for remuneration as a similar use to a Bed and Breakfast facility or other visitor-serving uses (such as hotels, motels, and inns), pursuant to Title 20 of the Monterey County Code.
 - 3. Unique neighborhoods with existing developments that were established with the intent of managed Vacation Rentals. The existing permitted unique neighborhoods with managed Vacation Rentals must operate according to the regulations and conditions approved through its original land use entitlement.

7.120.040 Regulations for Vacation Rentals.

A. The Operator who intends to operate a Vacation Rental shall obtain a License that is renewable annually for the fixed location and dwelling in which the Vacation Rental is to occur.

B. The Operator of the subject property must obtain all necessary land use entitlements as required by Section 20.64.290 or Section 21.64.290 of the Monterey County Code before the Operator commences the Vacation Rental operations.

C. The Operator shall register the Vacation Rental with the County and obtain a Transient Occupancy Tax Certificate in accordance with the provisions of Chapter 5.40 of the Monterey County Code.

D. The Operator shall obtain a business license from the County pursuant to Chapter 7.02 of the Monterey County Code before commencing the Vacation Rental use and must keep a valid business license throughout the Vacation Rental use.

E. Upon receipt of an approved License, the Operator shall mail an informational letter to neighboring properties within a 300-foot radius of the property; and if applicable, to all properties with ownership or access rights to any shared private road utilized to access the Vacation Rental. At a minimum, the informational letter shall include: License Number; address of the Vacation Rental; identification if the Vacation Rental is Commercial, Homestay, or

Limited; name and contact information for the Property Manager; and procedures and contact information for the County.

F. Vacation Rentals are prohibited from housing any animal that creates a habitual nuisance, and shall comply with Chapter 8.36 of the Monterey County Code.

G. Vacation Rentals are prohibited at all times of day and night from making, assisting in making, allowing, creating, or causing to be made outside amplified sound. Vacation Rentals shall also comply with Chapter 10.60 of the Monterey County Code, specifically including adherence to nighttime noise and quiet time requirements set forth in Section 10.60.040.

H. Vacation Rentals shall post one outdoor sign no larger than one square foot, which shall be posted in a visible place on a wall, fence, or post immediately inside or on the front boundary of the property where it is easy to see from the Common public viewing area or private road. This outdoor sign shall only include the Vacation Rental Operation License number, the Property Manager's contact information, and the property's address. No other signs shall be allowed, and there shall be no direct illumination of the required sign.

I. All Vacation Rentals must have a Property Manager who is available 24 hours per day, during all times that the property is rented as a Vacation Rental. The Property Manager must be able to respond to complaints and arrive at the site within 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 License and shall notify the County, in writing, of any change of Property Manager.

J. Vacation Rentals shall require a rental contract signed by the Operator and the Occupant, who is responsible for compliance with the contract. The rental contract shall be in writing and identify thereon the name, address, telephone number, and e-mail contact information of the Operator, the Property Manager, and at least one responsible Occupant who is 18 years or older who shall be responsible for compliance with all the regulations in this Chapter.

K. All rental contracts, advertisements, and listings for the Vacation Rental shall include all of the following:

1. License number for that particular Vacation Rental;
2. Maximum occupancy – overnight and daytime occupancy limits;
3. Notification of quiet hours; and
4. Advertised Rental Rate.

L. Vacation Rentals shall have a clearly visible and legible written notice posted within the unit in a prominent place within six feet of the front door of the unit and shall include all of the following information:

1. License number for that particular Vacation Rental;
2. Maximum occupancy – overnight and daytime occupancy limits;
3. Notification of quiet hours;
4. Minimum and Maximum Advertised Rental Rate per 12 month period;
5. A copy of the business license;
6. A copy of their Transient Occupancy Tax Certificate;
7. The name and contact information of the Property Manager;
8. Notification that occupants may be cited and fined for creating amplified noise;
9. Notification to limit excessive water usage; and
10. Notification of evacuation routes in the event of an emergency, with a clear map detailing the routes.

M. The Operator shall maintain precise records and documentation of the Vacation Rental operation, that shall, at a minimum, make record of the following information for each Vacation Rental occupancy: name, address, telephone and e-mail contact of at least one responsible Occupant; number of Occupants; motor vehicle license number of each motor vehicle used by the Occupants of the site; and dates of the Vacation Rental. The County shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County upon request. The Operator shall retain the written rental contracts and other records of all of the Vacation Rentals during the term of the License plus two years.

N. No Person, including but not limited to the Operator, shall maintain any advertisements of a Vacation Rental if the Vacation Rental is prohibited by this Chapter.

O. Vacation Rentals shall comply with Monterey County Code Chapter 10.41. All solid waste and recycling must be contained within appropriate receptacles with lids. Waste receptacles must be stored out of sight unless in conformity with neighborhood standards.

P. Vacation Rentals shall comply with the water quality standards specified in Monterey County Code Section 15.04.110 and relevant state and federal law to demonstrate that they meet bacteriological and/or acute inorganic primary drinking water standards, to the satisfaction of the County, at the time of License issuance and prior to each annual renewal. The drinking water is presumed to meet water quality standards if the Vacation Rental provides evidence that it is served by a water system, as defined by California Health and Safety Code Section 116275, that has 200 or more service connections.

Q. If the Vacation Rental is found to be part of an unpermitted water system or if the Vacation Rental results in the need for a permit for a water system, the Operator must obtain a water system permit pursuant to Monterey County Code Chapter 15.04 before commencing the Vacation Rental use and must keep the water system permit in good standing throughout the Vacation Rental use.

R. If the Vacation Rental is served by OWTS, it must comply with Monterey County Code Chapter 15.20. Occupants shall be advised that excessive water use and/or disposal of unsuitable materials through a sink or toilet may negatively impact the OWTS. The rental contract shall include an OWTS disclosure notice and appropriate advisory signs shall be posted at the kitchen sink(s) and at each toilet in the unit.

S. Outdoor fire areas, including approved recreational fire containers and portable fireplace containers, shall be prohibited at all Vacation Rentals.

T. Vacation Rentals shall be allowed only in Residential Property and are prohibited in structures intended for temporary occupancy or non-habitable structures.

U. Vacation Rentals shall be allowed only in a Single Family Dwelling. Vacation Rentals are prohibited in all of the following structures: duplex dwellings; condominiums; multiple-family dwellings; accessory dwelling units; junior accessory dwelling units; structures intended for temporary occupancy; and in dwellings subject to a recorded governmental restriction, including, covenants or agreements for an affordable housing unit, agricultural employee unit, and farmworker housing. Guesthouses cannot be rented separately from the Single Family Dwelling as a Vacation Rental.

V. If there is an active agricultural operation on the property, the Owner, Operator or Property Manager shall concurrently reside on the property while the Vacation Rental is rented.

W. The Owner of the Vacation Rental must be an Individual, except if the Vacation Rental is held in a trust, in which case the trustee may apply for a License and operate the Vacation Rental on behalf of the trust beneficiaries.

7.120.050 Regulations for Homestays.

A. Homestays are an allowable use in designated zoning districts, pursuant to Titles 20 and 21 of the Monterey County Code, and shall meet all the requirements for Homestays in Section 20.64.290 or Section 21.64.290.

B. Homestays are limited to only one rental contract at any given time and only one rental contract per seven day period.

C. The maximum occupancy limits for Homestays are as follows:

1. The maximum number of overnight Occupants shall be calculated and limited to a not-to-exceed count of two persons per Bedroom plus one and not counting infants (0 – 12 months) and shall not exceed a total count of ten persons per unit, no matter how many Bedrooms.

2. The maximum daytime occupancy of Occupants and Visitors 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 persons per unit, no matter how many Bedrooms.

7.120.060 Regulations for Limited Vacation Rentals.

A. Limited Vacation Rentals are an allowable use in designated zoning districts, pursuant to Titles 20 and 21 of the Monterey County Code, and shall meet all the requirements for Limited Vacation Rentals in Section 20.64.290 or Section 21.64.290.

B. Limited Vacation Rentals are limited to only one rental contract at any given time and only one rental contract per seven day period.

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

1. The maximum number of overnight Occupants shall be calculated and limited to a not-to-exceed count of two persons per Bedroom plus one and not counting infants (0 – 12 months) and shall not exceed a total count of ten persons per unit, no matter how many Bedrooms.

2. The maximum daytime occupancy of Occupants and Visitors 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 persons per unit, no matter how many Bedrooms.

7.120.070 Regulations for Commercial Vacation Rentals.

A. Commercial Vacation Rentals are an allowable use in designated zoning districts, pursuant to Titles 20 and 21 of the Monterey County Code, and shall meet all the requirements for Commercial Vacation Rentals in Section 20.64.290 or Section 21.64.290.

B. Commercial Vacation Rentals are limited to only one rental contract at any given time.

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

1. The maximum number of overnight Occupants shall be calculated and limited to a not-to-exceed count of two persons per Bedroom plus one and not counting infants (0 – 12 months) and shall not exceed a total count of ten persons per unit, no matter how many Bedrooms.

2. The maximum daytime occupancy of Occupants and Visitors 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 persons per unit, no matter how many Bedrooms.

7.120.080 Regulations for Hosting Platforms.

A. The Hosting Platform shall require the Operator for each listing to include the License number in the advertisement on the Hosting Platform in unincorporated Monterey County.

B. Hosting Platforms with listings shall provide the County with contact information for an employee or representative responsible for responding to requests for information on behalf of the Hosting Platform, including requests related to possible violations of this Chapter.

C. All Hosting Platforms shall provide the following information in a notice to any user listing a Vacation Rental: Monterey County Code Chapter 7.120, Sections 20.64.290 and 21.64.290 regulate Vacation Rentals; violation of the Monterey County Code may result in penalties.

D. Subject to applicable laws, commencing three months after October 14, 2024 and no later than the fifteenth day of every month thereafter, the Hosting Platform shall provide in a form acceptable to the County each applicable Vacation Rental listing, the License number of each listing, the name of the Operator for each listing, the street address for each listing, and the length of stay for each listing within the reporting period.

E. The County shall, upon completion of a Hosting Platform review or the discovery of a potentially non-compliant listing, immediately provide notice to the Hosting Platform by electronic mail of all listings that do not have a valid License or are otherwise not in compliance with the Monterey County Code.

F. Hosting Platforms, within 10 calendar days of receiving notice from the County of non-compliant listings, shall remove those listings from their Hosting Platform.

G. The County may fine a Hosting Platform an amount not to exceed \$1,000 per offense, for each violation of this Section. Each and every violation of this Section 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.

7.120.090 License Application Process.

A. Each application for a License shall be submitted to the County in the manner prescribed by the Appropriate Authority.

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

Ordinance Title 7, Vacation Rentals

Final 9/10/24

1. Owner, Operator, and/or Property Manager contact information, including name, address, telephone number, and e-mail address.

2. Plans drawn to scale and labeled, in the form and manner required by the Appropriate Authority, including but not limited to: site plans illustrating locations and dimensions of all property lines; rights-of-way; vehicular easements; edge of pavement; driveways; on-site parking areas and all structures; and floor plans showing all rooms, including windows and doors, with clear designation of which bedrooms are intended for rental. For Homestays, the Owner must indicate on the floor plans which bedroom(s) the Owner will occupy when rented.

3. An operations plan including, at a minimum, the following information:

a. Indicate if it will be a Homestay and/or Non-hosted and the number of Non-hosted rentals per calendar year;

b. Safety and emergency plan, including a list of local emergency numbers and addresses for nearest fire, police, emergency room, and 24-hour clinics, evacuation maps;

c. Number of employees anticipated;

d. Provide an on-site parking plan;

e. Evidence of solid waste collection; and

f. Such other information as the Appropriate Authority, or his or her designee may require.

4. An inspection report from a home inspector certified by the California Real Estate Inspection Association, American Society of Home Inspectors, International Code Council, International Association of Certified Home Inspectors, or a similar certification that provides and verifies the following information, 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; verification that the Residential Property conforms with applicable state building and fire codes at the time the building was constructed; installation of accessible fire extinguishers; fire alarms; and a carbon monoxide alarm on each level.

5. Evidence that the source of water that serves the proposed Vacation Rental meets bacteriological and acute inorganic primary drinking water standards.

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

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

C. Unpermitted Vacation Rental operations have six months from October 14, 2024 to make an application for all permits, licenses, certificates, or other entitlements required by the County. The Operator will be allowed to continue to operate as a Vacation Rental for up to six months from October 14, 2024 or until County takes action on the Operator's application for all required permits, licenses, and entitlements made pursuant to this Chapter, Chapter 7.02, and Sections 20.64.290, and 21.64.290 of the Monterey County Code, whichever is later, unless County requires earlier termination of the Vacation Rental use due to a risk to public health, safety and welfare.

7.120.100 Criteria for Grant of License.

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

B. Upon review of a complete application, the Appropriate Authority shall grant the License ministerially to the Operator if all of the following requirements are met:

1. The proposed Vacation Rental complies with a checklist, in the form prescribed by the Appropriate Authority, enumerating the requirements for a License as set forth in this Chapter.

2. The Operator, if applicable, has received all necessary land use entitlements as required by Section 20.64.290 or Section 21.64.290 of the Monterey County Code.

C. A License is issued to the Operator and covers only the Operator identified on the License solely with respect to the premises identified on the License. The License does not run with the land and is not transferable.

D. Each License issued pursuant to this Chapter shall require that the Operator indemnify, defend, and hold harmless the County and its officers, agents, and employees from actions or claims of approval of the License and 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 License and the conduct of the activities under said License. This requirement shall remain operative and in effect notwithstanding any proceeding or litigation which may result in invalidation or rescission of the License.

E. The initial License shall be issued for a one-year term and may be renewed annually.

7.120.110 License Renewal Process and Grounds for Denial.

A. The Operator shall notify the County at least 30 calendar days before the expiration of the License that the Operator wishes to renew their License together with a renewal application submittal and renewal fees. If the County does not receive the notice of renewal and, as applicable, updated information at least 30 days prior to the expiration date, the License shall expire, and the Operator must apply for a new License.

B. Any application for renewal shall be denied if:

1. The application is filed fewer than 30 calendar days before the License's expiration;
2. The Operator fails to conform to the criteria set forth in this Chapter;
3. The Operator does not have a valid business license pursuant to Chapter 7.02 or has not paid their Transient Occupancy Tax pursuant to Chapter 5.40 of the Monterey County Code;
4. The License has active code enforcement action;
5. The License has two or more substantiated code enforcement violations within the past year; or
6. The License is revoked at the time of the application.

C. If a renewal application is denied, an Operator may file a new application pursuant to this Chapter, provided the reasons for denial have been addressed.

7.120.120 Fees.

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.

7.120.130 Grounds for Revocation.

A. Any of the following shall be grounds for revocation of a License:

1. Any act or omission by an Operator in contravention of federal law, state law, or the Monterey County Code;
2. If such License was granted on the basis of false material information, written or oral, given willfully or negligently by the Operator;

3. Operating a Vacation Rental in an unlawful manner or in such a manner as to be a nuisance to the health, safety, or welfare of the public; and

4. Failure to pay all applicable taxes, fees, and penalties required by the County.

B. If the Appropriate Authority determines that grounds for revocation of the License exist pursuant to this Section, the Appropriate Authority shall issue a written notice of intention to revoke the License. The notice of intention shall be served on the Owner and Operator in accordance with the requirements set forth in Section 7.120.140 of this Chapter. The notice of intention shall describe the property, the intention to revoke the License, the grounds for revocation, 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 Owner and Operator of the opportunity to request a hearing before a Hearing Officer to present evidence as to why the License should not be revoked, and shall notify them of the 10-day deadline to submit a written request for a hearing.

C. No Person may secure any License if that Person has had any License issued under this Chapter revoked within the preceding twelve months.

7.120.140 Process for Hearing by Hearing Officer.

A. The Owner or Operator shall have 10 calendar days from the service of the 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 revocation of the License and a failure to exhaust administrative remedies. If the hearing is not timely requested, the Appropriate Authority may revoke the License in accordance with the notice of intention.

B. Upon receipt of a timely written request for a hearing, the Appropriate Authority shall set a date for a hearing to be held within 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 served in accordance with the requirements set forth in this Section.

C. Hearing by the Hearing Officer.

1. The Hearing Officer is authorized to conduct hearings, issue subpoenas, receive evidence, administer oaths, rule on questions of law and the admissibility of evidence, prepare a record of the proceedings, and render decisions on the revocation of the License.

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

3. 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.

4. 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.

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

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

E. If neither Owner nor Operator, nor 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.

7.120.150 Service Requirements.

Wherever this Chapter requires the County to serve notice to an Owner, Operator, or Property Manager such notice shall be given 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.

7.120.160 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.

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 the Monterey County Code, and any other action authorized by law.

D. The Enforcement Officer, as defined by Monterey County Code Chapter 1.22, is authorized and empowered to enforce the provisions of this Chapter. The Enforcement Officer may issue an administrative citation for the violation of this Chapter as a civil penalty as follows:

1. A civil penalty not exceeding 175% of the Maximum Advertised Rental Rate per day, or part thereof, or \$1,000 per day, or part thereof, for Vacation Rentals without an Advertised Rental Rate, for a first violation;
2. A civil penalty not exceeding 275% of the Maximum Advertised Rental Rate per day, or part thereof, or \$2,500 per day, or part thereof, for Vacation Rentals without an Advertised Rental Rate, for a second violation of this Chapter within one year; and
3. A civil penalty not exceeding 375% of the Maximum Advertised Rental Rate per day, or part thereof, or \$5,000 per day, or part thereof, for Vacation Rentals without an Advertised Rental Rate, for a third violation of this Chapter within one year.

E. 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. Each and every day a violation continues it shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Monterey County Code or otherwise authorized by law. Additionally, as a public nuisance, any violation of this Chapter may be subject to injunctive relief, disgorgement, and payment to the County of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, attorneys fees, and any other relief or remedy available in law or in equity.

7.120.170 Operative Date.

This Chapter shall become operative on October 14, 2024.

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 10th day of September 2024 by the following vote:

AYES Supervisors Church, Root Askew, and Adams

NOES None

ABSENT Supervisor Alejo & Lopez

ASTAIN None

Motion Passed 3 to 2



Glenn Church, Chair
Monterey County Board of Supervisors

ATTEST

VALERIE RALPH
Clerk of the Board of Supervisors

By: 

Deputy Emmanuel H. Santos

APPROVED AS TO FORM:



KELLY L. DONLON
Assistant County Counsel

Chapter 15.20 SEWAGE DISPOSAL¹

15.20.005 Derivation of regulatory authority.

On June 19, 2012, pursuant to California Water Code section 13290 et seq., the California Water Resources Control Board (State Water Board) adopted Resolution No. 2012-0032, adopting the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems ("OWTS Policy"). The OWTS Policy establishes a statewide, tiered approach for regulation and management of onsite wastewater treatment systems (OWTS). The OWTS Policy authorizes local implementation of the OWTS Policy. In accordance with Tier 2 of the OWTS Policy, on April 3, 2018, the County of Monterey adopted the County's Local Agency Management Program for Onsite Wastewater Treatment Systems ("LAMP"). On May 10-11, 2018, the Central Coast Regional Water Quality Control Board approved the County's LAMP. (Central Coast Regional Water Quality Control Board Resolution No. R3-2018-0004). The LAMP establishes standards for all new, replacement and expansion OWTS and for OWTS demolition within Monterey County. The standards and specifications of the LAMP became effective on May 11, 2018. This Chapter 15.20 implements the LAMP and replaces the prior regulations in Chapter 15.20.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.010 Purpose.

The purpose of this Chapter is to allow the continued use of onsite wastewater treatment systems while protecting water quality and public health through the proper design, placement, installation, maintenance, and evaluation of individual onsite wastewater treatment systems in Monterey County. These regulations are intended to implement the County's LAMP and update Chapter 15.20 of the County Code to be consistent with the LAMP.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.020 Applicability.

- A. This Chapter applies in the unincorporated area of Monterey County. The LAMP and this Chapter may also apply to a city or other jurisdictional area by written agreement approved by the County and the subject jurisdiction.
- B. The standards of this Chapter and the LAMP shall be applicable to all Onsite Wastewater Treatment Systems (OWTS) with subsurface dispersal that discharge ten thousand (10,000) gallons per day or less of domestic wastewater and to OWTS over which the County has delegated authority, as provided below.
 - 1. An OWTS installation permit from the County is required when the total discharge is ten thousand (10,000) gallons per day or less of domestic wastewater.

¹Ord. No. 5403, adopted June 13, 2023, repealed and readopted Ch. 15.20 to read as set out herein. Former Ch. 15.20, §§ 15.20.005—15.20.180 pertained to similar subject matter and derived from Ord. 2731, 1981; Ord. 2945, adopted in 1983; Ord. 3000 § 3, 1984; Ord. 3256 §§ 1, 2; Ord. 3380 § 1, adopted in 1989; Ord. 3659 § 8, adopted in 1993; and Ord. 4055, adopted in 2000.

2. An OWTS installation permit from the County is required when the total discharge of domestic wastewater is greater than ten thousand (10,000) gallons per day or any volume of non-domestic wastewater when the Central Coast Regional Water Quality Control Board (RWQCB) has delegated, in writing, permit authority for the OWTS to the County.
 3. An OWTS operating permit from the County is required when the County has determined that routine monitoring or maintenance is necessary to ensure the system is operating in an acceptable manner and as designed.
- C. Notwithstanding Subsection B, the County may also require OWTS with discharges of ten thousand (10,000) gallons per day or less to obtain a discharge permit from the RWQCB, in addition to an installation permit from the County, when the proposed wastewater treatment system has not been tested to meet NSF/ANSI standards.
 - D. The standards of this Chapter shall also be applicable to all Onsite Treated Nonpotable Water Systems (OTNWS) that require a plumbing permit from the County.
 - E. It is unlawful and a violation of the County Code to construct, replace, modify or abandon an OWTS or OTNWS without obtaining all required permits.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.030 Definitions.

As used in this Chapter, unless otherwise apparent from the context:

- A. "Accessory Structure" means a subordinate structure, the use of which is incidental to that of a main structure on the same building site. For the purposes of this Chapter, an accessory structure shall be considered a detached bedroom when:
 1. The structure is classified with a Residential Group (i.e. "R" occupancy), as determined by the California Building Standards Code (Title 24 of the California Code of Regulations); and
 2. The restroom includes a shower and/or bathtub.
- B. "Aerobic" means an environment providing readily available molecular oxygen to aerobic bacteria metabolizing wastewater.
- C. "Alternative OWTS" means a type of onsite wastewater treatment system (OWTS) that utilizes either supplemental treatment and/or a method of wastewater dispersal other than a conventional leachfield for the purpose of producing a higher quality wastewater effluent and improved performance of and siting options for effluent dispersal.
- D. "Anaerobic" means an environment with an absence of molecular oxygen. Anaerobic bacteria obtain their oxygen to metabolize wastewater from organic compounds and water.
- F. "At grade system" means a type of alternative OWTS dispersal system consisting of a gravel distribution bed placed on top of a tilled, in situ soil absorption area, which is then covered by a minimum of twelve inches (12") of suitable soil that will support vegetative growth. Wastewater effluent is applied to the gravel distribution bed using pressure distribution.
- G. "Bedrock" means the rock, usually solid, that underlies soil or other unconsolidated, surficial material.
- H. "Bedroom" means any room in the conditioned (heated) area of a dwelling unit which:
 1. Is seventy square feet (70 ft²) or greater in size; and
 2. Is not less than seven feet (7') in any horizontal dimension; and

3. Includes an exterior door or window for egress that meets the most current edition of the California Building Standards Code (California Code of Regulations, Title 24); and
4. Includes a closing door that separates the room from other features 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; dining room; breakfast nook; pantry; laundry room; closet/dressing room opening from a bedroom. Living rooms, family rooms, dens, and other interior rooms that lack a door and have an opening five feet (5') or wider shall not be considered a bedroom.

- I. "Beneficial uses" means those qualities in waters of the State of California that may be protected against quality degradation that include, but are not necessarily limited to, the following uses: domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife and other aquatic resources or preserves.
- J. "Biochemical oxygen demand" (BOD) measures the oxygen required for biochemical degradation of organic and inorganic material. High BOD causes an increased biological demand on downstream OWTS components and may shorten the life of the system. BOD5 expresses milligrams of oxygen consumed per liter of sample during five days of incubation at twenty degrees Celsius (20 °C.)
- K. "Biomat" means the layer of biological growth and inorganic matter that forms at the wastewater-soil interface or infiltrative surface and may extend as far as one inch into the soil matrix. It provides physical, chemical, and biological treatment of the OWTS effluent as effluent migrates toward groundwater.
- L. "Central Coast Regional Water Quality Control Board" (RWQCB) means the Regional Water Quality Control Board for the Central Coast region of California as designated by Water Code Section 13200. Any reference to an action of the Regional Water Board in this Chapter and in the LAMP also refers to an action of its Executive Officer, including the conducting of public hearings, pursuant to any general or specific delegation under Water Code Section 13223.
- M. "Cesspool" means an excavation in the ground receiving domestic wastewater, designed to retain the organic matter and solids, while allowing the liquids to seep into the soil. Cesspools differ from seepage pits because cesspool systems are not preceded by a septic tank and are not authorized under the LAMP. The term cesspool does not include pit-privies and out- houses which are not regulated under this Chapter.
- N. "Clay" is a kind of soil particle; the term also refers to a type of soil texture. As a soil particle, clay consists of individual rock or mineral particles in soils having diameters less than two-thousandths of a millimeter (<0.002 mm.) As a soil texture, clay is the soil material that is comprised of forty percent (40%) or more clay particles, not more than forty five percent (45%) sand and not more than forty percent (40%) silt particles using the USDA soil classification system.
- O. "Cobbles" means rock fragments seventy six millimeters (76 mm) or larger using the USDA soil classification systems.
- P. "Conforming dispersal system" means an existing dispersal system that meets all water-related horizontal and vertical setback requirements, pursuant to Tables 3, 4 and 5 of this Chapter, is not covered by an impermeable surface, and is less than ten feet (10') total depth.
- Q. "Contour loading rate" also known as "linear loading rate", means the amount of effluent loaded to the soil per the length of the dispersal unit or units along the single hillslope along the contour. The contour loading rate is determined on the relationship between the vertical and horizontal water movement in the soil and is based on: 1) the permeability difference between the absorption area and

- any deeper horizons; 2) the depth between the absorption area and the change in permeability; and 3) the land slope.
- R. "Conventional OWTS" means an OWTS consisting of a septic tank with the effluent discharging into a subsurface leachfield.
 - S. "Curtain drain" means a lined, rock-filled trench with a pipe in the bottom of the trench for the purpose of intercepting and diverting subsurface water.
 - T. "Director" means the Director of the Monterey County Health Department, or the Director's authorized deputies, assistants, or designees.
 - U. "Dispersal system" means a leachfield, seepage pit, mound, at-grade, subsurface drip field, evapotranspiration and infiltration bed, or other type of system for final wastewater treatment and subsurface discharge.
 - V. "Domestic wastewater" means wastewater normally discharged from, or similar to, that discharged from plumbing fixtures, appliances, and other household devices including, but not limited to toilets, bathtubs, showers, laundry facilities, dishwashing facilities, and garbage disposals and is defined as having average concentration of the following constituents:
 1. BOD5 less than or equal to two hundred eighty six milligrams per liter (286 mg/L); or
 2. TSS less than or equal to three hundred thirty milligrams per liter (330 mg/L); or
 3. FOG less than or equal to one hundred five milligrams per liter (105 mg/L); or
 4. Total Nitrogen (TN) less than seventy-five milligrams per liter (75 mg/L.)

Domestic wastewater may include wastewater from commercial buildings such as office buildings, retail stores, and restaurants or industrial facilities where the domestic wastewater remains separate from the wastewater generated from commercial or industrial processes. Domestic wastewater may include incidental dumping of holding tanks from a personal recreational vehicle (RV) (e.g. no more than one (1) time per month), but does not include wastewater consisting of a significant portion of RV holding tank wastewater such as at RV dump stations. Domestic wastewater does not include wastewater generated from commercial or industrial processing.
 - W. "Downhill embankment" means an embankment that has a slope of thirty percent (30%) or greater or one that interrupts the soil strata of the natural slope of the land. The slope is measured by taking into consideration the entire slope of the hillside. The embankment can either be humanmade or created by natural processes. Examples: humanmade (e.g., road cuts, pool/spa excavations etc.); natural (e.g., thirty percent (30%) slope, erosion gully, cliff face, etc.).
 - X. "Drainageway" means a natural or artificial channel that is not a watercourse as defined by the LAMP and this Chapter. Examples of a drainageway include irrigation and drainage ditches that flow only for hours or days following rainfall, grass-lined swales, concrete-lined canals, and storm water runoff devices.
 - Y. "Dwelling unit" means a place of human habitation that is self-sufficient (i.e., bedroom/s; kitchen with sink, oven/stove, refrigerator, and storage of food; bathroom/s) and conforms with the edition of the Uniform Building Code and the Uniform Housing Code in place at the time of construction. For the purposes of this Chapter, this definition shall also apply to Accessory Dwelling Unit's (ADU's). A guesthouse, as defined in Titles 20 and 21 of this Code, is not considered a dwelling unit.
 - Z. "Effective depth" means the depth of the useable, permeable layers of soil below the bottom of the distribution pipe in a dispersal system.

- AA. "Effluent" means sewage, water, or other liquid, partially or completely treated or in its natural state, flowing out of a septic tank, supplemental treatment unit, dispersal system, or other OWTS component.
- BB. "Environmental Health Bureau" (EHB) means Monterey County Health Department, Environmental Health Bureau.
- CC. "Existing OWTS" means an OWTS that has been installed and is in operation. References in this Chapter to "existing OWTS" may include conventional or alternative OWTS.
- DD. "Expansion OWTS" means installation of a larger capacity septic tank or installation of additional dispersal system area to increase the capacity of an existing OWTS. Expansion OWTS shall also include the installation of a supplemental treatment unit to improve the quality of treated wastewater effluent to support additional development on the property.
- EE. "Fats, oils and grease" (FOG) means biological lipids and mineral hydrocarbons. High amounts of FOG result in significantly increased biological demand on downstream OWTS components, such as the dispersal area, and may drastically shorten the life of the system.
- FF. "Future dispersal system area" means the area of land on a property that is set aside and protected from all uses except future OWTS dispersal system replacement. A future dispersal system that will be installed after the primary and secondary dispersal systems is sometimes referred to as a "tertiary" or "third" dispersal system.
- GG. "Gleying" means a soil condition that occurs in soils that have been waterlogged for prolonged periods of time. It is a technical term that describes the gray, blue, purple, or green soil colors that occur in soils when anaerobic microbes flourish in the absence of air, reducing iron and manganese minerals. Gleying is distinguishable from mottling due to its uniform coloration while mottling exhibits splotchy coloration.
- HH. "Gray water" or "graywater" means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes (as defined by Health and Safety Code section 17922.12, as may be periodically amended). Gray water includes wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs. Gray water does not include wastewater from kitchen sinks or dishwashers.
- II. "Gray water system" means a system that disposes of or reuses exclusively gray water and conforms with the latest edition of the California Plumbing Code and Title 18 of this Code, as each may be amended from time to time.
- JJ. "Groundwater" means water below the land surface and includes perched water or subsurface sheeting water.
- KK. "Guesthouse" means the same as defined by Titles 20 or 21 of this Code and is considered a detached bedroom for purposes of sizing the OWTS.
- LL. "Hardpan" means a hardened impervious layer, typically of clay, occurring in or below the soil and impairing drainage. There are different types of hardpan, all sharing the general characteristic of being a distinct soil layer that is largely impervious to water.
- MM. "Haul away system" means a wastewater management system that does not include onsite dispersal and consists of wastewater being stored in a tank until it is pumped out by a registered liquid waste hauler and hauled to an approved wastewater treatment facility for disposal.
- NN. "Health Department" means the Monterey County Health Department.

- OO. "High strength wastewater" means wastewater with a measured strength greater than domestic wastewater, based on seven (7) day composite sampling of untreated wastewater prior to the septic tank or a supplemental treatment component. Sources of high strength wastewater may include but are not limited to recreational vehicle (RV) dump stations, wineries, commercial centers, and rest stops.
- PP. "Infiltrative Area" means the surface area of the sidewalls below the effluent distribution pipe where the dispersal field media makes direct contact with the soil or permeable rock. The surface area of the bottom of the dispersal system can be included in specific circumstances.
- QQ. "International Association of Plumbing and Mechanical Officials" (IAPMO) is a service organization, providing code development assistance, industry-leading education, plumbing and mechanical product testing and certification, building product evaluation, and a manufacturer-preferred quality assurance program.
- RR. "Impervious layer or material" means a layer or material within the soil column that is characterized as having a percolation rate slower than one hundred twenty minutes per inch (120 MPI) or having clay content of sixty percent (60%) or greater.
- SS. "Junior accessory dwelling unit" (JADU) means a dwelling unit that is created fully within the walls of a proposed or existing single-family dwelling and that is no more than five hundred square feet (500 ft²). For the purposes of this Chapter, a JADU shall not be evaluated as a separate dwelling unit, and instead, OWTS requirements shall be applied in consideration of the number of bedrooms proposed within the JADU.
- TT. "Local Agency Management Program for Onsite Wastewater Treatment Systems" (LAMP) means the regulatory document adopted by the Board of Supervisors of the County of Monterey on April 3, 2018 and approved by the Central Coast Regional Water Quality Control Board on May 10-11, 2018, which conforms to all of the applicable Tier 2 criteria listed in the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems as adopted by the State Water Resources Control Board on June 19, 2012 (OWTS Policy), including adherence to the prohibitions specified in the OWTS Policy.
- UU. "Leachfield" means a system of trenches or beds filled with drain rock, or other approved aggregate material, and overlain by a perforated pipe that distributes treated sewage effluent for subsurface dispersal into the soil. A leachfield is also known as a "drainfield" or a "soil absorption system."
- VV. "Mottling" means a soil condition that results from oxidizing or reducing minerals due to the change of soil moisture from saturated to unsaturated over time. Mottling is characterized by spots or blotches of different colors or shades of color (grays and reds) interspersed within the dominant color. This soil condition can be indicative of historic seasonal high groundwater level, but the lack of this condition does not preclude the presence of groundwater.
- WW. "Mound system" means a type of alternative OWTS dispersal system consisting of an aboveground, covered sand bed with effluent leachfield elevated above original ground surface inside, used to enhance soil treatment, dispersal, and absorption of effluent discharged from an OWTS treatment unit such as a septic tank. Mound systems have a subsurface discharge.
- XX. "National Sanitation Foundation" ("NSF", also known as NSF International) is a not for profit, non-governmental organization that develops health standards that help protect water and the environment and performs product certification.
- YY. "New OWTS" means any OWTS proposed to be installed or for which a permit has been issued that will serve a new building with plumbing.

- ZZ. "Nitrogen" means a chemical or forms of chemical compounds which act as a potentially limiting nutrient for photosynthetic autotrophs in surface water and are a potential health risk in groundwater. The principal forms of nitrogen found in wastewater are organic nitrogen (Organic-N), ammonia nitrogen (NH₃-N), ammonium nitrogen (NH₄-N), nitrite nitrogen (NO₂-N), and nitrate nitrogen (NO₃-N). Total Nitrogen (TN) is the sum of TKN, NO₂-N and NO₃-N.
- AAA. "Nitrogen loading limit" means the maximum mass of Total Nitrogen, measured in grams, allowed in wastewater that is or will be discharged into the ground through an OWTS during a specified period. For the purposes of this Chapter, no new or expanded development shall be approved when the OWTS discharge will exceed forty grams (40 g) of Total Nitrogen per acre of land per day. For example: 0.5 acre parcel is limited to 20 grams Total Nitrogen discharge per day; 1-acre parcel is limited to 40 grams Total Nitrogen discharge per day; and a 2-acre parcel is limited to 80 grams Total Nitrogen discharge per day.
- BBB. "Oil/Grease interceptor" means a passive interceptor that has a rate of flow exceeding fifty (50) gallons-per-minute and collecting oil and grease from wastewater.
- CCC. "Onsite Wastewater Treatment System" (OWTS) means any of the following that use subsurface dispersal: individual wastewater systems, community collection systems, and alternative collection systems. The short form of the term may be singular or plural. OWTS do not include graywater systems. OWTS do not require a Certified Wastewater Operator to control the performance or outcome of one or more wastewater treatment processes.
- DDD. "Onsite Treated Nonpotable Water Systems" (OTNWS) means a system that collects and treats nonpotable water that is intended to be used onsite and is suitable for direct beneficial use (as defined by California Plumbing Code (CPC) Section 217.0, as may be periodically amended). For the purposes of this Chapter, onsite treated nonpotable water systems shall include both gray water and rainwater systems.
- EEE. "OWTS Policy" means the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems as adopted by the State Water Resources Control Board on June 19, 2012, as may be amended from time to time.
- FFF. "Pathogens" means disease-causing microorganisms whose presence is indicated by sampling wastewater for coliform bacteria.
- GGG. "Percolation rate" means a unit to indicate the speed at which water moves through soil, usually reported in minutes per inch.
- HHH. "Percolation test" means a subsurface test conducted to measure the absorption rate of water in soil strata. The test is conducted with clean water after an initial presaturation period, and test results are usually expressed in minutes per inch.
- III. "Permeable rock" means decomposed granite, shale or other weathered bedrock formations. For the purposes of the LAMP and this Chapter, permeable rock may be considered a viable substrate to accommodate a dispersal system, provided stabilized percolation rates and vertical separation requirements to groundwater, pursuant to Table 4 of this Chapter, and an impervious layer, pursuant to Table 13 of this Chapter, have been met.
- JJJ. "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, company, State agency or department, or unit of local government who is, or that is, subject to this Chapter or the OWTS Policy.
- KKK. "Primary dispersal system" means the first of two dispersal systems designed and installed as part of a new OWTS. A diversion valve is used to alternate the flow of wastewater effluent between a primary dispersal system and the secondary dispersal system, or other future dispersal systems.

- LLL. "Primary treatment" means temporary holding of wastewater in a septic tank where heavy solids can settle to the bottom while oil, grease, and lighter solids float to the surface.
- MMM. "Privy" means a structure (portable or fixed) and excavation used for the disposal of human wastes without the aid of water, or chemical toilets (portable or fixed) which are subsequently pumped and disposed of in an approved facility.
- NNN. "Proprietary non-rock dispersal media products" means plastic leaching chambers, polystyrene bundles, subsurface drip dispersal piping, and other dispersal media alternatives to traditional pipe and gravel leachfield systems.
- OOO. "Qualified professional" means an individual or business that is licensed or registered by the State of California to design, install, maintain and/or replace OWTS in Monterey County and to practice as a professional for other associated reports, as allowed under their license or registration. Qualified professionals must obtain an annual registration from the Health Department. "Qualified professionals" are more particularly described as and include the following:
1. "Qualified consultants": qualified consultants conduct site evaluations, soil investigations and percolation testing. A qualified consultant shall be a registered California professional, including Civil Engineer, Registered Environmental Health Specialist, Professional Geologist, or Certified Engineering Geologist. At the discretion of EHB, a qualified installer with demonstrated experience with site evaluation and soil investigation may perform the duties of a qualified consultant for replacement OWTS only.
 2. "Qualified designers": qualified designers design an OWTS using information prepared by a qualified consultant. A qualified designer shall be a registered California professional, including Civil Engineer, Registered Environmental Health Specialist, Professional Geologist, or Certified Engineering Geologist. At the discretion of EHB, a qualified installer with demonstrated experience in OWTS design may perform the duties of a qualified designer for replacement OWTS only.
 3. "Qualified installers": qualified installers construct, modify, repair, replace, abandon, or demolish an OWTS. A qualified installer shall be a contractor duly licensed by the California State Contractor's Board to install OWTS, such as an A, C-36, C-42 or B license holder (provided the B-license holder is installing the OWTS in conjunction with a new construction project as appropriate under applicable State contractor's law).
 4. "Qualified service providers": qualified service providers operate, maintain, and service alternative OWTS. A qualified service provider shall be an individual or business certified by an alternative OWTS manufacturer or proprietor to conduct operation, maintenance, and service activities for each type of supplemental treatment or alternative dispersal system they service, or other qualified service provider as approved by the EHB.
- PPP. "Repair" means either: (1) repairs to an existing OWTS dispersal system that are installed in a "like-for-like" configuration to maintain the design specifications and location of the dispersal field; or (2) patching cracks in a septic tank in a manner that does not degrade the structural integrity of the tank and does not allow wastewater to exfiltrate or allow groundwater to infiltrate the tank.
- QQQ. "Replacement OWTS" means either a conventional or alternative OWTS that is installed to replace an existing OWTS that serves an existing building with plumbing because the system is no longer capable of receiving, treating, or dispersing wastewater as designed.
- RRR. "Reserve area" means an accessible area that shall be available to accommodate a minimum of one replacement dispersal system without utilization or disruption of the initial installation(s).

- SSS. "Reservoir" means a pond, lake, basin, or other space, either natural or created in whole or in part by the building of engineering structures, which is used for storage, regulation and control of water, recreation, power, flood control, or drinking. A detention pond designed to meter runoff water during a storm event is not considered a reservoir.
- TTT. "Sand" means a type of soil particle or soil texture. As a soil particle, sand consists of individual rock or mineral particles in soils having diameters ranging from five-hundredths to two millimeters (0.05 - 2.0 mm). As a soil texture, sand is soil that is comprised of eighty-five percent (85%) or more sand particles, with the percentage of silt plus one and a half (1.5) times the percentage of clay particles comprising less than fifteen percent (15%).
- UUU. "Sanitary sewer" means a system for collecting residential or municipal wastewater and directing the collected wastewater to a wastewater treatment facility prior to dispersal or reuse.
- VVV. "Secondary dispersal system" means the second of two dispersal systems designed and installed as part of a new OWTS. A diversion valve is used to alternate the flow of wastewater effluent between a primary dispersal system and the secondary dispersal system, or other future dispersal systems.
- WWW. "Secondary treatment" means wastewater treatment which removes dissolved and suspended biological matter. Secondary treatment is typically performed by indigenous, water-borne microorganisms in a septic tank or treatment tank. Secondary treated wastewater effluent shall meet five-day average concentration limits of thirty milligrams per liter (30 mg/L) for biological oxygen demand and thirty milligrams per liter (30 mg/L) for total suspended solids.
- XXX. "Seepage pit" means a drilled or dug excavation, usually three to six feet in diameter and gravel filled, that receives the effluent discharge from a septic tank or other OWTS treatment unit for dispersal.
- YYY. "Septage" means solid residue with low water content from septic tanks, privies, or wastewater treatment facilities.
- ZZZ. "Septic tank" means a watertight, covered receptacle designed for primary treatment of wastewater and constructed to:
1. Receive wastewater discharged from a building;
 2. Separate settleable and floating solids from the liquid;
 3. Digest organic matter by anaerobic bacterial action;
 4. Store digested solids; and
 5. Clarify wastewater for further treatment with final subsurface discharge.
- AAAA. "Shallow pressure-distribution trench" means a type of OWTS dispersal field, similar to a conventional gravity leachfield except that it uses a pump and small-diameter pressure piping to achieve broad, uniform distribution of wastewater in the shallow soil zones for improved soil absorption and enhanced treatment of percolating effluent.
- BBBB. "Silt" means a type of soil particle or texture. As a soil particle, silt consists of individual rock or mineral particles in soils having diameters ranging from between five-hundredths to two-thousandths of a millimeter (0.05 - 0.002 mm). As a soil texture, silt is soil that is comprised as approximately eighty percent (80%) or more silt particles and not more than twelve percent (12%) percent clay particles using the USDA soil classification system.
- CCCC. "Soil" means the naturally occurring body of porous mineral and organic materials on the land surface, which is composed of unconsolidated materials, including but not limited to sand-sized, silt-sized, and clay-sized particles mixed with varying amounts of larger fragments and organic material. The various combinations of particles differentiate specific

soil textures identified in the soil textural triangle developed by the United States Department of Agriculture (USDA). For the purposes of this Chapter and the LAMP, soil shall contain earthen material of particles smaller than eight-hundredths (0.08) of an inch (2 mm) in size.

DDDD. "Soil structure" means the arrangement of primary soil particles into compound particles, peds, or clusters that are separated by natural planes of weakness from adjoining aggregates.

EEEE. "Soil texture" means the soil class that describes the relative amount of sand, clay, silt and combinations thereof as defined by the classes of the soil textural triangle developed by the United States Department of Agriculture (USDA).

FFFF. "Steep slope" means an area of land that inclines or declines six (6) vertical inches or more per one horizontal foot, also referred to as fifty percent (50%) slope or greater.

GGGG. "Subsurface drip dispersal" means a type of alternative OWTS dispersal system consisting of small diameter flexible plastic tubing manufactured with emitters spaced uniformly along its length that releases treated wastewater to the soil for final treatment and dispersal; the drip field is designed and installed such that the drip tubing is installed in the shallow surface soils, typically eight (8) to twelve (12) inches below finished grade.

HHHH. "Subsurface perched water" means subsurface drainage or groundwater that has stagnated above or flows in a relatively thin sheet upon an impervious or low-permeability material, such as clay.

IIII. "Supplemental treatment" means a proprietary wastewater treatment device or system that has been designed and tested for use as an OWTS component to perform additional wastewater treatment functions, beyond primary treatment, and is capable of reliably producing wastewater effluent of secondary treatment quality or better, prior to discharge to the dispersal system.

JJJJ. "Tanks" means septic tank, supplemental treatment tank, or pump chamber tank.

KKKK. "Telemetric monitoring system" means a system with the capability to automatically measure and transmit OWTS data by wire, radio, or other means.

LLLL. "Total suspended solids (TSS)" means a constituent of total solids. TSS is residue retained on a filter after drying the sample and is a measure of the level of treatment being achieved. In wastewater with high TSS, inorganics are less easily broken down and can accelerate mechanical clogging of the infiltrative surface of the dispersal system.

MMMM. "United States Department of Agriculture (USDA)" is a federal agency that develops and implements federal law related to agriculture and economic development. The USDA is also responsible for providing technical assistance for agricultural lands and has developed techniques for soil classification.

NNNN. "United States Geological Survey (USGS)" is a federal agency for natural sciences, including earth science and biology and maintains topographic maps of blue-line streams.

OOOO. "Wastewater" means sewage, gray water, and contaminated liquid waste substances associated with human habitation, including but not limited to sewage and/or gray water.

PPPP. "Wastewater Treatment Plant" means a facility that accepts wastewater from one or more sources and is designed to produce effluent that meets discharge standards set forth by the Regional Water Quality Control Board in Waste Discharge Requirements or a General Order. A wastewater treatment plant is sometimes referred to as a Sewage Treatment and

Reclamation Facility, as in Chapter 15.23 of this Code. When a wastewater treatment plant includes subsurface dispersal, the dispersal system shall be subject to the standards of this Chapter.

QQQQ. "Watercourse" means either:

1. A stream or surface water feature as mapped by the United States Geological Survey (USGS); or
2. Any channel with a bed, banks, or sides throughout substantially all its length that is not mapped by the USGS that consistently conveys water for more than three months out of the year, or is used by fish.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.040 Flush toilets required.

- A. Except as provided by this Section, no person(s) shall use or maintain any building, structure, or place where people reside, congregate, or are employed unless it is equipped with an adequate number of flush toilets, as determined by the California Plumbing Code, supplied by a source of water. The source of water shall be plumbed in accordance with the standards of the California Plumbing Code and Title 18 of this Code, as each may be amended from time to time. The water source shall not include water which is transported by any manner of vehicle or container to the distribution system. The flush toilet shall be connected either to an OWTS complying with the standards specified in this Chapter or, when required by this Chapter, to an approved sanitary sewer system.
- B. When the EHB has determined that installation of flush toilets with a connection to an approved sanitary sewer system or OWTS is not feasible, flush toilets shall not be required. In that case, unless otherwise determined by the Director to be detrimental to the environment or public health, the following alternatives to flush toilets may be used under the circumstances described below:
 1. Haul away system:
 - a. For remote public restrooms (e.g. remote trailheads) maintained by a public agency, where there is no existing infrastructure to supply water, and it would be prohibitive to construct flush toilets; or
 - b. On a privately owned, existing lot of record where recycled water irrigation is in place and existing potable water infrastructure is not available within one thousand feet (1,000'); or
 - c. On a privately owned, existing lot of record, when a qualified professional has determined, with concurrence from the EHB and the Monterey County Building Official, that severe constraints have left no viable area to accommodate an adequate OWTS to serve an existing, legally established building with plumbing, and when all options for subsurface dispersal, including alternative dispersal systems, have been exhausted.
 2. Privies or chemical toilets:
 - a. For construction sites pursuant to Health and Safety Code Section 5416, as may be amended from time to time; or
 - b. For a mobile workplace (i.e. work crews that move from one worksite to another worksite) when the EHB has determined that a portable toilet is necessary to remain with the mobile work crews to protect the health and safety of the employees and/or the public pursuant to California Code of Regulations, Title 8, Sections 3360-3376, as may be amended from time to time; or

- c. For sites where food crop growing and harvesting is occurring pursuant to Health and Safety Code Sections 113310-113360 and California Code of Regulations, Title 8, Section 3457, as may be amended from time to time; or
- d. For publicly owned and operated facilities, such as buildings, parks, beaches, and recreation areas; or
- e. For workplaces to provide an adequate number of toilets and handwashing facilities for temporary employees, privies or chemical toilets may be used for up to thirty (30) days per calendar year; or
- f. For activities involving the assemblage of people, including but not limited to circuses, carnivals, festivals, picnics, barbecues, or races, privies or chemical toilets may be used for up to thirty (30) days per calendar year. The following requirements shall also apply to such activities:
 - i. If food will be available for consumption or sale, the following standards apply:
 1. Hand washing facilities with soap, water, and paper towels shall be provided at a ratio of one hand washing facility per ten (10) chemical toilets.
 2. Chemical toilets shall be pumped at least once per day, or more often if necessary.
 - ii. If food will not be available for consumption or sale, chemical toilets shall be pumped as often as necessary to maintain them in a clean, sanitary and serviceable condition.
 3. For the purposes of Subsection 2 of this Section, the following standards shall apply:
 - a. No less than one chemical toilet per forty (40) persons. When flush toilets are also provided, the facility shall follow the standards specified by Section 422.1 of the California Plumbing Code and Title 18 of this Code, as each may be amended from time to time.
 - i. If toilets are pumped and emptied twice a day, one chemical toilet per eighty (80) persons shall be adequate.
 - ii. If toilets are pumped and emptied three times a day, one chemical toilet per one hundred twenty (120) persons shall be adequate.
 - b. All toilets must be clean, sanitary, and serviceable at all times. Toilet paper must be provided at all times.
 - c. Chemical toilets shall be pumped by a liquid waste hauler registered to operate in Monterey County. Disposal of pumped waste must be at a site approved by the EHB. Except as specified above, pumping shall occur as often as necessary to maintain the chemical toilets in a clean, sanitary and serviceable condition.

15.20.050 Connection to public sewers required.

- A. Any structure, containing plumbing, where people reside, congregate, or are employed shall be connected to an approved sanitary sewer when a sewer main is located within three hundred feet (300') of the structure and when the parcel on which the structure is located abuts the road, street, or alley where the sewer main has been installed. This requirement shall not apply, and the structure shall be connected to an approved OWTS or implement an alternative specified in Section 15.20.040 of this Chapter when:
 1. Such building or structure is connected to an OWTS which is functioning in a lawful manner. A system that requires the contents of the septic tank to be pumped three times per year or more frequently to prevent overflow or other malfunction shall be conclusively presumed to be not functioning in a lawful manner; or

2. The owner of the sewer refuses to permit such connection and/or the Monterey County Local Agency Formation Commission does not approve annexation into the service area; or
3. The owner of the property is unable after the exercise of all diligence to obtain any easement necessary for the connection pipe; or
4. For replacement OWTS only, when the connection fees and installation cost are greater than two times the total estimated cost of the replacement OWTS, be it a conventional or alternative OWTS, whichever type of system is deemed necessary by a qualified professional to comply with the minimum standards of this Chapter, and the continued use of OWTS on the property will not impact groundwater or surface water to a degree that makes it unfit for drinking or other uses as determined by EHB.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.060 Application requirements for OWTS installation permits.

- A. Except when a privy is permitted by this Chapter, no person shall do any of the following without first obtaining an OWTS installation permit from the EHB:
 1. Commence the construction, installation, or emplacement of any building or structure or mobile home where people reside, congregate, or are employed, unless the structure will be connected to a sanitary sewer system.
 2. Excavate for, construct, or otherwise install or emplace an OWTS tank, dispersal system, or any part thereof.
 3. Repairs, as defined by this Chapter, shall be exempt from requiring an OWTS installation permit but will require written notification to EHB prior to starting work. Such notification shall be completed on an approved form and submitted for EHB review and acceptance at least forty-eight (48) hours before moving equipment on site. EHB reserves the right to inspect the work in progress and determine compliance with this Chapter.
- B. An application for a new, expansion, or replacement OWTS shall be in writing, on an EHB-approved form. The application shall be signed by the owner of the property, or his or her authorized agent together with written agent authorization, and shall be accompanied by payment of applicable fees as adopted by the Board of Supervisors. An OWTS Feasibility Report shall be submitted with the application and shall contain the following information:
 1. Subject property's street address and Assessor's Parcel Number;
 2. Copy of most recent grant deed with the property's legal description;
 3. Associated project number from the County of Monterey Housing and Community Development Department (HCD), if applicable;
 4. Acreage of the subject property;
 5. Water source(s) for subject property;
 6. Description of the proposed project, or for replacement OWTS, description of existing conditions;
 7. Qualified professionals associated with the OWTS project;
 8. Estimated daily volume of wastewater generation;
 9. A determination, by a qualified professional, that nitrogen loading meets minimum standards, or a Nitrogen Loading Assessment that determines the proportionate quantity of nitrogen loading for the property and verifies that the proposed OWTS will not exceed the that determined value;

10. Information as to whether the subject property is located within a Potential Aquifer Recharge Area, as identified in the LAMP and County GIS Data;
11. Summary of site evaluation activities, including:
 - a. The name of the person performing test and their license or registration number;
 - b. Date or period of testing;
 - c. A summary of soil profile analysis, including but not limited to:
 - i. Thickness, depth and texture of soil layers encountered;
 - ii. Depth to bedrock, hardpan or impervious layer;
 - iii. Evidence of soil mottling or gleying;
 - d. Summary of absorptive characteristics of soil, either by direct inspection or percolation testing, with raw data and/or field logs included as exhibit;
 - e. Depth to groundwater as determined by direct observation and/or the highest extent of soil mottling;
 - f. Other conditions affecting the potential use of the soil for sewage disposal, including but not limited to the evidence of roots, fissures, and dampness;
 - g. Conclusions and recommendations that specifically state whether the proposed OWTS (or proposed lots of record, in the case of new subdivisions of land) meet(s) the standards in this Chapter and the LAMP. Specific recommendations shall be made about the location and design of the OWTS(s), including soil application rate for each dispersal system area.
12. A summary of conformance or non-conformance with horizontal and vertical setback requirements for conventional OWTS;
13. An elevation of house sewer outlet and proposed elevation of septic tank and dispersal system(s);
14. A site plan scaled no less than one inch (1") equals forty feet (40'), showing the location of:
 - a. Property lines and all recorded easements; and
 - b. All existing and proposed structures and hard surfaces, such as patios, driveways, walkways, etc.; and
 - c. Existing wells or wells proposed as part of the project, whether domestic or irrigation, and whether in use or abandoned, either on the property or within one hundred feet (100') of the property lines of the property; and
 - d. Existing trees within twenty feet (20') of septic system with a note indicating whether they are proposed to be removed or remain in place; and
 - e. Existing or proposed embankments with slopes exceeding thirty percent (30%) or any existing or proposed downhill cuts whether natural or humanmade. Any proposed humanmade cuts or excavations depicting height, length and/or area must also be shown (e.g. road cuts, pool/spa excavations, basements, pad cuts, etc.); and
 - f. Surface water bodies on the property and within two hundred feet (200') of the property lines of the property; and
 - g. Ten-year flooding elevation, determined or estimated from published flood maps or on the basis of historical evidence acceptable to the Director; and
 - h. Existing OWTS on the property; and

- i. Proposed OWTS; and
 - j. All applicable horizontal setbacks.
- 15. Such other information as the Director determines is necessary to process the application.
- C. Application for a septic tank demolition permit does not require a comprehensive OWTS feasibility report but shall be submitted with a site plan scaled at one inch (1") equals forty feet (40') or larger.
- D. Applications for alternative OWTS with a supplemental treatment unit and/or alternative dispersal system shall also include engineered plans for the system prepared and signed by a qualified designer. Engineered plans will be reviewed by the EHB. When a proposed alternative OWTS does not meet one or more of the standards specified by Tables 8, 11, 12 and 13 of this Chapter (Max Slope of Dispersal Systems, Effluent Limitations, Vertical GW for Alt OWTS, Minimum Soil Depth), the EHB may refer the plans to the Central Coast Regional Water Quality Control Board staff and/or an external third-party consultant(s) for additional review, at the applicant's expense.
- E. Applications for OWTS shall remain valid for one year from the date the OWTS application was received. When the applicant demonstrates that the applicant has actively pursued the permit application (e.g., submission of revised or outstanding information) and requests an extension of the application, EHB shall extend the application for one additional year.
- F. EHB shall approve an OWTS installation permit when EHB has received a complete application, the applicant has paid all application fees, and EHB has determined that the design complies with all applicable standards of this Chapter. If a discretionary permit is required by Titles 20 or 21 of this Code for proposed development and that development is proposed to be served by OWTS, then the applicant shall obtain the necessary permit from the County prior to EHB issuance of an OWTS installation permit.
- G. An OWTS installation permit shall expire and become null and void if any work authorized thereby is not installed or completed within two years from the date of issuance. Upon expiration of the permit, no further work shall be done until a new OWTS permit has been obtained or the EHB has reinstated the OWTS installation permit. This requirement shall not apply when an OWTS permit is issued concurrently with a construction permit from the County. Such an OWTS permit shall not expire so long as the associated construction permit remains valid in an active, issued status. In the event the corresponding construction permit expires and the OWTS installation permit was approved more than two years prior to the expiration of the construction permit, the OWTS permit shall expire and become null and void.
- H. An application to reinstate an expired OWTS installation permit shall be filed in writing, on an EHB-approved form signed by the owner of the property or his or her authorized agent, accompanied by payment of applicable fees as adopted by the Board of Supervisors, together with such other information as the Director determines is necessary to process the application.
- I. Prior to reinstatement of an expired OWTS installation permit, the EHB shall determine if additional OWTS feasibility analysis and/or an updated design is required for the system to conform with this Chapter and the LAMP.
- J. Reinstated OWTS installation permits shall remain valid for a period of one additional year from the date of reissuance.
- K. Installation permits approved for alternative OWTS are subject to the same expiration and renewal time frames for conventional systems as specified in this Chapter for conventional OWTS.
- L. When an OWTS installation permit is issued concurrent with a construction permit from the County, the applicant shall notify the EHB, in writing, of any proposed subsequent revision to construction permit plans, including changes to floor plan, footprint or location, or a change of use that will increase wastewater generation. The EHB shall determine if the approved OWTS design is sufficient or if the OWTS installation permit requires an amendment to meet the minimum standards of this Chapter and the LAMP.

- M. An OWTS installation permit amendment is required when an applicant intends to alter any of the following design criteria of a previously issued OWTS installation permit:
 - a. Wastewater volume;
 - b. Wastewater strength;
 - c. Method of wastewater dispersal; or
 - d. Dispersal system location.
- N. An application to amend an approved OWTS installation permit shall be filed in writing, on an EHB-approved form signed by the owner of the property or his or her authorized agent, together with such other information as the Director determines is necessary to process the application. The application fee will be based on staff hours required to complete the review of the application materials and conduct a site inspection, charged at the current hourly rate as adopted by the Board of Supervisors.
- O. In the case of obtaining a retroactive OWTS installation permit under this Chapter when an OWTS has been installed without permits:
 - 1. The applicant must submit to the EHB for review and acceptance the following information, including but not limited to:
 - a. OWTS Feasibility Report, meeting the standards of this Chapter;
 - b. Receipts for components and/or materials;
 - c. Unearthing the OWTS component(s) and distribution piping;
 - d. Video-televising the system (also referred to as a "snake and locate");
 - e. Performance Evaluation of the installed OWTS, with such evaluation to be prepared by a third party, registered qualified professional;
 - f. Diagram of the installed OWTS prepared by a third party, registered qualified professional;
 - g. Written acknowledgement, signed by the property owner, indicating that the OWTS was installed without a permit and was not subject to inspection by EHB; and
 - h. Such other information as the Director may require to evaluate the application.
 - 2. The EHB shall evaluate the application and the evidence to determine if the OWTS requires modification, is eligible to remain in use as installed, or must be partially or completely abandoned.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.070 Application requirements for OTNWS installation permits.

- A. All new onsite treated nonpotable water systems (OTNWS), or any part thereof, and all repairs to existing systems, or any part thereof, shall comply with the standards and design specifications set forth by the California Plumbing Code and Title 18 of this Code, as each may be amended from time to time.
- B. A plumbing permit shall be obtained from the County prior to installation of the system unless said system meets the definition of a clothes washer system, as defined by Chapter 15 of the California Plumbing Code, as may be amended from time to time. EHB shall review the OTNWS design prior to issuance of the plumbing permit and determine if an operating permit will be required based on the features of the system and proposed use of the treated nonpotable water.
- C. Installation of a OTNWS shall be completed in accordance with Section 15.20.120 of this Chapter.

15.20.080 Site evaluation standards.

- A. Site evaluation means an assessment of a property's soil characteristics, including soil profile analysis and absorptive characteristics, topography, and groundwater level. A comprehensive site evaluation shall be completed by a qualified professional that provides sufficient information to identify suitable locations to accommodate the primary, secondary, and future dispersal systems.
- B. Site evaluation is required for proposed subdivisions that propose use of OWTS for wastewater disposal and for proposed new OWTS on existing lots of record. The site evaluation must meet the standards listed below:
 - 1. Soil profile analysis shall be completed for the primary, secondary, and future dispersal areas in accordance with methods approved by the Director.
 - 2. Percolation testing shall be completed for the primary, secondary, and future dispersal areas to assess the absorptive characteristics of the soil in accordance with methods approved by the Director.
 - 3. A minimum of one deep monitoring boring or excavation is required to demonstrate the minimum vertical distance to groundwater and an impervious layer as specified by Tables 4 and 13 of this Chapter, respectively.
 - a. When the deep boring will remain in place for more than seventy-two (72) hours to provide for monitoring of the groundwater level over time, a monitoring well permit shall first be obtained from the County and the boring shall be constructed in accordance with the standards of that permit and Chapter 15.08 of this Code.
 - 4. EHB may reduce the requirements for soil profile analysis and percolation testing when the qualified professional demonstrates that conformity to a given soil type can be established to the satisfaction of the EHB.
 - a. For proposed subdivisions, at least one soil profile excavation or boring and percolation test shall be completed for each proposed lot to identify suitable dispersal system locations and future dispersal system areas on each parcel. Alternative OWTS or gravel-filled seepage pits shall not be used to demonstrate OWTS feasibility for new subdivisions. The site evaluation shall be completed prior to approval of the tentative map or tentative parcel map.
- In order for the County to approve OWTS for wastewater disposal for the proposed subdivision, the site evaluation must demonstrate that the use and installation of OWTS meeting the standards of this Chapter are feasible.
- C. Site evaluation for replacement or expansion OWTS that serve existing building(s) with permitted plumbing must meet the standards listed below.
 - 1. Soil profile analysis for the proposed dispersal area shall be completed in accordance with methods approved by the Director.
 - 2. Assessment of absorptive characteristics shall be completed using either direct inspection or percolation testing for the proposed dispersal area in accordance with methods approved by the Director.
 - 3. A minimum of one deep monitoring boring or excavation is required to demonstrate that the minimum vertical distance to groundwater and an impervious layer can be met as specified by Tables 4 and 13 of this Chapter.
 - a. When a groundwater monitoring boring of any depth is proposed to be installed to observe groundwater levels over time and will remain in place for more than seventy-two (72) hours, a

separate monitoring well permit shall first be obtained from the County, and the boring shall be constructed in accordance with the standards of the permit and Chapter 15.08 of this Code.

- D. When seasonally high groundwater or subsurface perched water is suspected by the EHB based on the installation and use of alternative OWTS to overcome high groundwater on a property located within one thousand (1,000) feet of the subject property, wet-weather testing shall be performed. These tests shall be performed during the time when perched water or when high groundwater levels would be expected. Wet weather testing must be performed in accordance with methods approved by the Director.
 - 1. When wet-weather borings will remain in place for an extended period, such as the duration of wet weather testing, a monitoring well permit shall first be obtained from the County.
 - 2. The qualified professional shall perform all work in a safe and skillful manner in compliance with all applicable laws and regulations. All work that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- E. A site evaluation summary report shall be submitted to the EHB upon completion of testing. Such report shall include the site plan scaled no less than one inch (1") = forty (40') feet, updated to reflect the actual location of all borings, excavations and/or monitoring wells. The Assessor's Parcel Number(s) shall be placed on both the map and the reports. The report shall contain the following information:
 - 1. Assessor's Parcel Number(s);
 - 2. Associated Housing and Community Development (HCD) - Planning or Building Project Number;
 - 3. Date or period of testing;
 - 4. Soil logs, and when applicable, percolation test results;
 - 5. The name of the person performing the test and their license and registration number; and
 - 6. Conclusions and recommendations which specifically state whether the lot(s) meet(s) the standards found in this Chapter and the LAMP. Specific recommendations shall be made about the location and design of the OWTS(s), including soil application rate.
- F. To determine if minimum vertical setbacks to groundwater will be maintained for the proposed OWTS, monitoring for a stabilized groundwater elevation shall be required during the site evaluation. The minimum depth of a groundwater monitoring boring or excavation is dependent on the absorptive characteristics of the soil.
 - 1. Because soil moisture and groundwater do not always immediately flow into a test boring, EHB may require a minimum of twenty-four (24) hours to pass before an accurate groundwater measurement is taken. If groundwater is immediately observed after drilling or digging, the EHB shall be notified, and the groundwater measurement shall be taken no sooner than twenty-four (24) hours later. All holes shall be adequately covered to preclude any safety hazard.
 - 2. When an existing alternative OWTS, with supplemental treatment, has been installed within five hundred feet (500') of the project property to overcome an insufficient vertical groundwater separation, EHB may require wet weather monitoring during the site evaluation for the proposed OWTS, with such monitoring to be performed in accordance with the methods approved by the Director.
- G. Site evaluations shall include slope stability analysis when required by this Chapter. The slope stability analysis shall be completed by a California registered professional engineer or geologist, in conformance with California Division of Mines and Geology standards. The report shall specify all formulas, methods, and assumptions used by the geologist or engineer and include the following:

1. Certification that installation of the proposed OWTS will not contribute to failure of the slope causing earth movement or landslide and will not adversely affect water determination of the maximum contour loading rate;
 2. Analysis of impact to slope stability due to effluent and irrigation water;
 3. Assessment of stability of any structures on the project parcel(s) and any adjoining parcels at a lower elevation than the proposed OWTS;
 4. Proof to the satisfaction of the EHB that leachate will remain subsurface;
 5. A detailed grading map, including stabilization or mitigation plans during the development of the slope;
 6. Cross sections of slopes, including stabilization or mitigation plans (generalized sections will not be accepted). These cross sections must represent the entire slope, width, height, and length;
 7. Results of soil sampling and percolation testing that provide data representative of the entire disposal area and proof to the satisfaction of the EHB that conditions are uniform below the entire disposal area. The minimum testing requirements are:
 - i. Two soil profile borings that extend five feet (5') beyond the proposed trench depth;
 - ii. Two percolation tests at a depth equal to the proposed trench depth;
 - iii. Two percolation tests five feet (5') below the proposed trench depth; and
 - iv. Percolation testing must show rates of ninety (90) minutes per inch or less.
- H. The qualified professional shall submit a workplan to the EHB for review and acceptance by EHB prior to the qualified professional starting site evaluation activities when the proposed subsurface disposal or OWTS will be associated with the following:
1. A commercial operation or congregate housing facility that will generate more than one thousand (1,000) gallons of domestic wastewater per day; or
 2. A new or expanded dispersal system for a wastewater treatment facility; or
 3. A proposed subdivision of land; or
 4. Installation on slopes greater than fifty percent (50%).
- I. The EHB shall notify the qualified professional in writing of any required changes, and the qualified professional shall revise and resubmit the workplan as necessary. When the workplan is acceptable, the EHB shall notify the qualified professional in writing that the workplan is acceptable and confirm the date that site evaluation activities may commence.
- J. For projects that require Report of Waste Discharge, as described in the OWTS Policy, the EHB will confer with Central Coast RWQCB to determine if the workplan is acceptable and to establish which agency will have authority to issue permits for the proposed wastewater discharge and notify the applicant accordingly in writing.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.090 Design specifications for OWTS.

- A. OWTS for single family dwellings and accessory dwelling units shall be designed in accordance with Table 6 of this Chapter.
- B. OWTS that will receive domestic wastewater associated with commercial, multi-unit residential, industrial, or institutional uses shall be estimated in accordance with Table 7 of this Chapter. Alternatively, if acceptable to

EHB, the qualified professional may use estimates based on empirical data from existing, similar uses, or from standards of accepted good practice recognized by state and federal authorities. When empirical data are utilized, the average daily flow shall be doubled to provide a safety factor of two. All OWTS shall be designed in consideration of maximum daily volume of wastewater, not the average.

1. The liquid capacity of septic tanks proposed to serve structures that include multi-unit residential occupancies (such as multi-unit housing, congregate housing, or mixed-used development) shall be at least three times the maximum anticipated daily volume of wastewater. The liquid capacity of septic tanks for commercial, industrial, and institutional buildings shall be a minimum of one thousand (1,000) gallons and at least two times the maximum anticipated daily volume of wastewater.
- C. OWTS tanks (including septic tanks, supplemental treatment units, and pump chambers) shall be designed and located to meet the following requirements:
1. Tanks shall be located on a site so that the lids will remain accessible for pumping.
 2. When a tank is proposed to be installed beneath an area that will be subject to vehicular traffic, either the tank must be rated to withstand such conditions, or the installation must be engineered to support the additional weight.
 3. A two-way sewer line cleanout, with riser to the surface, located two feet (2') in front of the inlet end of the septic tank will be required to be installed on all OWTS, unless manhole risers are otherwise provided for. The clean-out riser must extend at least six inches (6") above the ground and be capped to be gas-tight unless another means of effectively locating the septic tank is approved by the EHB.
 4. An inline effluent filter, capable of at least one sixteenth inch (1/16") filtration, shall be installed in the outlet tee of any septic tank associated with a new, replacement, or expansion OWTS, including dispersal system-only replacements.
 5. Tanks shall be installed as shallow as practical and be covered by at least six inches (6") of soil. When a septic tank or pump chamber must be placed deeper than six inches (6") below finished grade, then each compartment shall be fitted with watertight risers that extend to within six inches (6") of finished grade.
 - a. Manhole risers shall be watertight and of a size sufficient for removal of the tank lids.
 - b. Regardless of the depth of the tank, manhole risers are required to be installed under either of the following circumstances:
 - i. When a tank is proposed to be installed beneath an impermeable surface, then each compartment shall be fitted with watertight risers that extend to finished grade. Traffic-rated lids shall be required in areas subject to vehicular traffic; or
 - ii. When the OWTS will serve commercial, multi-unit residential, industrial, or institutional uses, watertight risers that extend to finished grade shall be installed on each compartment of the tank(s).
- D. The following standards shall apply when a pump will convey untreated wastewater from a structure to a septic tank or supplemental treatment tank, or to convey effluent to a dispersal system:
1. A pump shall not be installed in the outlet compartment of a septic tank and shall require a separate chamber (compartment). This requirement shall not apply to:
 - a. A supplemental treatment system that has been designed and tested to meet performance standards with the pump incorporated within the unit; or
 - b. A pump system that will be telemetrically monitored.

2. The capacity of a pump chamber shall be no less than three hundred (300) gallons and shall have surge capacity above the high-water float level equal to at least one hundred percent (100%) of the estimated daily wastewater generation volume.
 - a. The qualified professional may propose a reduced pump chamber capacity for review and approval by the EHB when the system will be telemetrically monitored and subject to an annual operating permit from the EHB.
 3. All pump chambers shall be equipped with an audible and visual alarm to alert when the high-water level in the pump chamber is reached.
 4. In areas subject to interruption of power, the pump chamber shall be sized to allow for a holding capacity equivalent to a minimum of three days flow or an emergency disposal field must be installed.
 5. Macerating (grinder) pumps shall not be allowed.
 6. Any pump chamber (e.g., lift station, ejection basin) preceding a septic tank shall require a construction permit from the County and shall meet the specifications of the California Plumbing Code, Section 710.3, Sewage Ejector and Pumps, and Title 18 of this Code, as each may be amended from time to time.
 7. When pumping of raw sewage cannot be avoided, the qualified professional shall incorporate additional design measures if reviewed and approved by the EHB to mitigate negative effects (e.g. surging and turbulence) on overall treatment system performance. Options that may be considered include but are not limited to:
 - a. Pumping to a gravity feed sewer some minimum distance upstream of the septic tank instead of directly into the septic tank;
 - b. Installation of an inlet baffle in the septic tank to deflect the inlet discharge;
 - c. Installation of a septic tank with greater capacity;
 - d. Installation of a surge tank prior to the septic tank; and
 - e. Installation of multiple septic tanks in series, or compartmented septic tanks.
- E. No permit shall be approved for a new or expansion OWTS, unless, in addition to the other requirements of this Chapter, it complies with all of the following provisions:
1. The infiltrative capacity of the dispersal system shall not be less than the number of square feet calculated using the following formula:

$$\text{Infiltrative Capacity} = \frac{\text{Estimated Wastewater Generation (in gallons, pursuant to Table 6 or 7)}}{\text{Soil Application Rate (gallons per square foot of dispersal system per day)}}$$
 2. The infiltrative area of the sidewall and/or bottom of a dispersal system shall be limited to four square feet (4 ft²) per linear foot.
 - a. When a qualified professional demonstrates that an existing lot of record is constrained by existing conditions (e.g. structures, steep slopes, or trees), a replacement dispersal system may be eligible for up to ten square feet (10 ft²) of infiltrative area per linear foot of trench.
 - b. No limit on infiltrative area shall apply, as calculated using sidewall area only, when an OWTS includes supplemental treatment that meets the standards specified by Table 11 of this Chapter.

3. The infiltrative capacity of a dispersal system shall be calculated using sidewall area only, except:
 - a. When a trench is thirty-six inches (36") inches wide, the bottom of the trench may also be included as an infiltrative surface.
 - b. For bed systems, the sidewall areas and bottom of the bed may both be included as an infiltrative surface.
 - c. For gravel-less chambers, the chamber open area width and louvered sidewall height shall both be included as infiltrative surface.
4. Leach fields shall be designed to meet the following standards:
 - a. The bottom of a leach field dispersal trench shall be between eighteen inches (18") and thirty-six inches (36") wide.
 - b. The depth of rock below the perforated distribution pipe (infiltrative depth) shall be at least one foot (1').
 - c. Total trench depth shall not exceed ten feet (10') unless a supplemental treatment system, including nitrogen reduction, has been incorporated into the OWTS.
 - d. Separation between leachfield dispersal systems and individual trenches within a dispersal system shall be measured sidewall to sidewall and be at least equal to the trench width or two times the effective depth of the trench, whichever is greater.
 - i. An additional one foot (1') of separation between dispersal system trenches is required for each five percent (5%) increase in slope when the average slope of the dispersal system area exceeds thirty percent (30%).
5. Shallow pressure distribution trench systems, including bed dispersal systems, shall also be designed to meet the following standards:
 - a. Bed dispersal systems shall be pressurized to ensure even distribution throughout the dispersal system.
 - b. Separation between bed dispersal systems shall be measured sidewall to sidewall and be at least eight feet (8').
6. The excavation for conventional dispersal systems (rock-filled leachfields or beds) shall be filled with clean rock of an average diameter not less than one and one-half inches (1 ½") nor more than two and one-half inches (2 ½"), added to a depth of two inches (2") above the drain line. No rock with a high percentage of fines shall be used (i.e. greater than fifty percent (50%) percent passing a Number 200 sieve). Untreated building paper, or a suitable substitute that meets the approval of the EHB (e.g. filter fabric), shall be used to cover the rock, and there shall be a minimum backfill of one foot (1') of earth over the building paper.
7. Pipe in the dispersal system shall have a slope of not more than two inches (2") per one hundred feet (100') and shall be carefully placed to ensure even distribution of effluent along the leachfield trench or bed.
8. Plastic leaching chambers are a conventional method of OWTS dispersal and shall be designed in accordance with the manufacturer's recommendations.
 - a. The qualified professional may specify a reduction in minimum infiltrative area required when plastic leaching chambers will be utilized, in accordance with the infiltrative capacity reduction approved by the EHB.

9. Individual wastewater dispersal lines shall not exceed one-hundred feet (100') in length and shall be capped at the end.
 - a. Each individual trench in a dispersal system shall be constructed with a permanent inspection port at the terminal end of the trench which allows for monitoring of the effluent level for the full depth of the system. Each riser must extend from the bottom of the dispersal field to at least one foot (1') above the surface of the ground and be capped, or the riser may be terminated within six inches (6") below grade provided a valve box is installed to allow permanent access to the riser.
 - b. Tracer wire shall be laid along the length of each individual trench or around the perimeter of a bed system.
 - i. When a dispersal system consists of trenches that do not curve or bend and inspection ports have been installed at the beginning and end of each trench, respectively, this requirement shall not apply.
10. When a dispersal system is comprised of multiple trenches, a properly constructed distribution box or equalization device shall be installed to maintain equal flow to each trench. The distribution box or equalization device must be approved by the EHB and shall be placed outside the leaching area to ensure that settling does not occur.
 - a. A concrete pad may be required to be installed under the distribution box or equalization device when soil conditions could cause uneven settling of backfilled soil. The EHB may require the applicant to submit plans and specifications prepared and signed by a California licensed civil engineer for such a pad.
 - b. Distribution boxes and equalization devices shall be accessible and constructed with watertight risers brought to or within six inches (6") of finished grade.
11. Minimum cover over wastewater dispersal pipelines in conventional OWTS is fourteen inches (14"), consisting of two inches (2") of rock/gravel and untreated building paper/straw/geotextile fabric and at least twelve inches (12") of soil backfill.
 - a. Soil cover requirements must also conform to those allowed by the manufacturer of any gravel-less/chamber design.
12. When conventional dispersal systems are used on sloping ground, the following additional design and installation procedures shall be followed:
 - a. The bottom of the leach field trenches and the field disposal line shall have a slope of not more than two inches (2") per one hundred feet (100').
 - b. The trenches shall follow the surface contours of the ground to minimize variations in trench depth.
 - c. Backfill may be increased to accommodate the slope of the ground and provide for adequate fall in the distribution and dispersal system piping, if approved by the EHB and provided that the total depth of the trench conforms with the requirements of this Chapter.
13. OWTS dispersal systems are prohibited in areas where the natural ground slope exceeds the value identified in Table 8 of this Chapter unless a slope stability analysis report demonstrates, to the satisfaction of the EHB, that the installation and ongoing use of the dispersal system(s) will not contribute to failure of the slope causing earth movement or landslide.
 - a. A slope stability analysis including additional soil testing shall be required under this Section when a dispersal system is proposed to be:

- i. Installed in an area where the slope is thirty percent (30%) percent or more, and the minimum setback to an impervious layer pursuant to Table 13 of this Chapter cannot be met; or
 - ii. Installed in an area where the slope does not conform to Table 8 of this Chapter; or
 - iii. Located closer to a steep slope than the minimum setback specified by Table 3 of this Chapter.
 - b. EHB may require third party review of the slope stability analysis report, subject to applicable review fees at the expense of the applicant.
14. If the dispersal field is to be installed in an area subject to vehicular traffic, the septic system shall be reinforced to assure that components of the system will not be damaged by vehicular traffic and the components of the OWTS will not adversely affect the structural integrity of the vehicle traffic area. Site-specific engineering that considers the anticipated vehicle load and traffic distribution shall be required.
- a. For residential OWTS, a qualified professional may elect to incorporate measures that will protect the OWTS and the vehicle traffic area in lieu of site-specific engineering. Use of these proposed measures will be subject to review and approval by the EHB.
15. New, expansion, or replacement OWTS dispersal systems shall not be covered by an impervious surface unless supplemental treatment is incorporated into the system to meet the effluent quality standards specified in Table 11 of this Chapter. Permeable concrete (e.g., porous concrete, no fines concrete, or porous pavement) shall be allowed to cover a dispersal system.
16. When an existing dispersal system that is covered by an impervious surface is proposed to accept additional wastewater due to a change in the structure or use of property (e.g. building remodel or addition, or a commercial change of use), a qualified professional shall first verify that the dispersal system is eligible to remain in use per Table 10 of this Chapter. If the dispersal system will remain in use, then the qualified professional shall recommend an appropriate supplemental treatment unit to reduce TSS, BOD and TN as required for the specific site conditions.
17. When the distance between the building with permitted plumbing and the tank, or the tank and the dispersal system, exceeds fifty feet (50'), a two-way cleanout shall be installed, and one additional two-way cleanout shall be installed per one- hundred feet (100') of unperforated distribution piping.
18. A dispersal system shall be installed in native soil or engineered fill, as recommended by the qualified designer.
- F. No permit shall be approved for the replacement of an OWTS dispersal system for an existing OWTS, unless it also complies with the standards of this Chapter with the following exception:
- 1. A replacement OWTS that is proposed to serve existing development that lacks sufficient area for an appropriately sized system to be installed and where the qualified professional has demonstrated, to the satisfaction of the EHB, that there will be no anticipated groundwater or surface water contamination or otherwise be detrimental to public health or safety, shall be authorized to install a dispersal system of the maximum practicable square footage that is otherwise consistent with the standards of this Chapter. The EHB will require a deed restriction that describes the limitations of the OWTS to be recorded on the property on a form approved by the EHB and at the property owner's expense, prior to final approval of the OWTS installation. Future development that will result in an increase in the anticipated volume or strength of wastewater generated will be prohibited unless the OWTS is concurrently expanded or replaced to meet the current standards.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.100 Additional design specifications for alternative OWTS.

- A. An alternative OWTS shall be required for the replacement or expansion of any existing OWTS and to support new development on an existing lot of record when conventional OWTS cannot dispose of sewage in a sanitary manner compliant with the standards of this Chapter. When use of a conventional OWTS is feasible, the property owner may elect to utilize an alternative OWTS. The alternative OWTS shall be designed to provide equal or greater protection to public health and the environment than a conventional OWTS.
- B. Supplemental treatment is required to be incorporated into an OWTS design when the conventional OWTS standards of this Chapter cannot be met or when an alternative dispersal system necessitates clarified effluent to prevent clogging of the system. Alternative OWTS must comply with the specific requirements set forth in this Chapter and the LAMP.
- C. Supplemental treatment systems shall be capable of meeting the effluent constituent limitations specified by Table 11 of this Chapter.
- D. All proprietary treatment units shall be tested and certified by an independent testing organization such as the NSF, to provide secondary or better effluent quality. Part of the testing must include an evaluation of the system's effectiveness in reducing TSS, BOD, and TN. Any supplemental treatment system shall be listed by the testing organization and under the appropriate material testing standard before being considered for permitting. Applicable standards for supplemental treatment system performance include, but are not limited to:
 - 1. NSF Standard 40 - Residential: Onsite Systems.
 - 2. NSF Standard 245 - Nitrogen Reduction.
- E. The tank of a supplemental treatment system shall include a sample tap on the dosing discharge line, or other suitable location as agreed upon by the EHB, for effluent sampling.
- F. Alternative dispersal systems. The alternative dispersal systems listed below may be approved for use subject to compliance with the siting and design criteria specified by this Chapter.
 - 1. At-grade;
 - 2. Mound;
 - 3. Raised sand filter bed;
 - 4. Seepage pit;
 - 5. Subsurface drip dispersal; or
 - 6. Other alternative dispersal systems approved by the Director and Central Coast Regional Water Quality Control Board.
- G. Alternative OWTS shall be subject to the same siting criteria, design and installation requirements specified in this Chapter for conventional OWTS, except as specified below.
 - 1. Horizontal setbacks. Horizontal setback distances for alternative dispersal systems should be the same as those specified for conventional septic tanks and dispersal systems in Table 3 of this Chapter to the greatest extent feasible. The qualified professional designing the alternative OWTS shall indicate how the proposed alternative OWTS component(s) will allow for a horizontal setback reduction without compromising water quality and/or public health, and the proposal shall be subject to review and approval by the EHB.

2. The vertical distance between the bottom of the dispersal system of an alternative OWTS and bedrock or an impervious layer shall conform with the minimum separation specified by Table 13 of this Chapter.
 - a. Additional soil depth requirements may be imposed by EHB based on system size (i.e., volume of wastewater flow) or site conditions or geographic locations to prevent groundwater mounding or surfacing effluent.
3. The vertical distance between the bottom of the dispersal system of an alternative OWTS and groundwater may be reduced from the requirements that apply to conventional OWTS as specified by Table 12 of this Chapter. The reduction of this vertical setback to groundwater is subject to review and approval by EHB.
 - a. In all cases where the vertical groundwater setback for an OWTS specified by Tables 4 and 5 of this Chapter cannot be met, the owner shall be required to install a permanent monitoring well and will be subject to all permit and construction requirements specified by Chapter 15.08 of this Code. A separate monitoring well permit is required to be obtained from the County, subject to applicable fees. The monitoring well shall be covered with an appropriate cap to prevent infiltration of surface water.
- H. Areas of flooding. New or expansion alternative OWTS shall not be located in areas subject to flooding as defined by the limits of the 10-year floodplain, determined or estimated from published flood maps or based on historical evidence acceptable to the EHB. On existing, developed lots of record, a replacement alternative OWTS with supplemental treatment for nitrogen reduction may be installed in areas known to be below the ten-year floodplain only when no other viable area exists on the property. The system shall be located and designed to avoid contamination of or damage from inundation by floodwaters during a ten-year flood event to the extent feasible. Mitigation measures shall include but are not limited to the following:
 1. Protecting OWTS supplemental treatment, pressure distribution and/or drip dispersal components from flood damage using structural tie-downs and/or elevating any component that is susceptible to water damage above the ten-year flood level;
 2. Preventing discharge of wastewater into flooded dispersal areas from pump systems (e.g., using flood-activated float switches to override/disable pump operation during high water conditions); and
 3. Providing additional emergency storage capacity for flood periods.
- I. Ground slope. The maximum ground slope for different types of alternative wastewater dispersal systems shall be as specified by Table 8 of this Chapter.
- J. All wastewater discharged to a subsurface drip system shall receive supplemental treatment. Subsurface drip dispersal systems are subject to the same siting, design and installation requirements as specified in this Chapter for conventional OWTS, except as specified below:
 1. Horizontal setbacks for subsurface drip systems shall be the same as for conventional dispersal fields except that they may be reduced to two feet (2') from structures and property lines.
 2. Drip fields shall not be placed in fill material unless the fill material has been specifically engineered for that purpose. The drip fields shall also be installed as level as possible and parallel to elevation contours.
 3. Soil cover shall be at least six inches (6"). Fill material may be placed over the drip lines in order to meet the minimum cover requirements, provided that the slope of dispersal area is not more than twenty percent (20%).

4. The area of the drip dispersal system shall be designed, located, and maintained to prevent vehicular traffic over it and shall be planted with appropriate vegetation upon installation to allow for uptake of nutrients from the wastewater.
 5. Head loss calculations shall be provided to ensure proper hydraulic pressure at the emitter.
 6. Emitter lines shall be designed as a continuous loop circuit with no dead-ends.
 7. Vacuum release valves shall be installed at the highpoint of the emitter lines.
 8. All drip dispersal systems shall incorporate an automatic mechanism for backwashing or flushing the drip lines and filters.
 9. The maximum emitter longitudinal spacing on an emitter line shall be two feet (2'). The maximum spacing between adjacent emitter lines in an absorption bed configuration shall be two feet (2').
 10. Drip dispersal systems shall be time dosed over a twenty-four (24) hour period. Demand control dosing shall override timed dosing in periods of flow where timed dosing cannot accommodate the excessive flow.
 11. Drip dispersal systems shall be designed, installed, operated, and maintained in accordance with the manufacturer's recommendations, in addition to the requirements specified above.
- K. All wastewater discharged to a new, expansion, or replacement seepage pit system shall receive supplemental treatment. Seepage pits shall not be utilized on existing lots of record, unless the following criteria are met:
1. The qualified professional has demonstrated to the satisfaction of the EHB that there is no other area on the lot that will accommodate a conventional leach field or drip dispersal with supplemental treatment; and
 2. The qualified professional incorporates supplemental treatment, including reduction of total nitrogen, into the OWTS design that meets or exceeds the effluent standards specified in Table 11 of this Chapter, including total nitrogen reduction. When the separation to groundwater is less than ten feet (10'), bacterial disinfection shall also be required. The distance between a seepage pit and groundwater shall not be less than five feet (5'), even when the alternative OWTS utilizes supplemental treatment and disinfection.
 3. The qualified professional shall submit a report to the EHB demonstrating that the installation and ongoing use of a seepage pits system(s) will be adequate to accommodate wastewater dispersal from the existing or proposed development. Soil evaluation requirements are different for vacant lots and lots that have not previously utilized seepage pits compared to lots that have successfully utilized seepage pits for onsite wastewater dispersal; however, the design specifications are the same for all proposed seepage pits.
 - a. When a seepage pit(s) has not previously been utilized on the site or when a seepage pit(s) has been used on the site but there is evidence that deep soil conditions preclude the continued use of seepage pits (e.g. premature failure), an exploratory boring that extends at least ten feet (10') past the proposed total depth of the seepage pit shall be required prior to EHB approval of the OWTS installation permit.
 - i. The boring shall be conducted and logged by a certified geologist or other qualified professional as approved by the EHB.
 - ii. The qualified professional shall determine the appropriate soil application rate in accordance with Table 5 of this Chapter.

- b. When a seepage pit(s) has been previously utilized on the site and there is no evidence that deep soil conditions preclude the continued use of seepage pits, an exploratory boring shall not be required prior to EHB approval of the OWTS installation permit. However, the permit shall be conditioned to require at least one of the seepage pit excavations be over-drilled by ten feet (10') at the time of installation.
 - c. In the event groundwater is encountered during the installation of the seepage pits, the boring or excavation shall remain open for as long as necessary to allow the groundwater level to stabilize. The property owner maintains full responsibility for protecting the public from any hazards related to the test borings or excavations.
 - i. Once the qualified professional has determined the stabilized groundwater level, the boring or excavation shall be backfilled and compacted to the extent feasible to at least ten feet (10') above stabilized groundwater, or five feet (5') when an approved disinfection unit is incorporated into the alternative OWTS with supplemental treatment. A six inch (6") layer of bentonite pellets, cement slurry, or other impermeable material as approved by the EHB shall be deposited into the boring to reestablish an impervious layer. The perforated pipe shall be placed in the center of the boring on top of the layer of impermeable material and backfilled with drain rock or other approved material to the depth of the distribution pipe.
- 4. Seepage pit design specifications.
 - a. The minimum diameter of the pit shall be three feet (3').
 - b. The infiltrative capacity of a seepage pit shall be calculated based on the sidewall area below the inlet of the distribution pipe, exclusive of any hardpan, rock or clay formation, or fill material, i.e. the effective depth.

Infiltrative Capacity = Diameter of Pit (feet) x 3.14 x Effective Depth of Pit (feet)
 - c. The distance between adjacent pits shall be at least twenty feet (20'), measured between side walls of the pits.
 - d. The pit shall be filled with clean rock of a diameter not less than one and one-half inches (1 ½") and not more than two and one-half inches (2 ½") to a depth of two inches (2") above the drain line, and covered with untreated building paper, or other material and earth backfill as approved by the EHB.
 - e. The drain line in the pit shall be perforated pipe three inches (3") or more in diameter that extends to the bottom of the pit, positioned in the center of the pit.
 - f. Seepage pits shall have the wastewater distributed evenly between the pits by means of a distribution box or equalization device.
- L. Alternative OWTS dosing methods. Pressurized dispersal systems shall be controlled by means of a programmable timer (time dosing) when the OWTS is designed to receive one thousand (1,000) gallons per day or more.
 - 1. Demand control dosing shall override timed dosing in periods of flow where timed dosing cannot accommodate the excessive flow.
 - 2. Time dosing is strongly encouraged for pressurized dispersal systems designed to receive less than one thousand (1,000) gallons per day; however, demand dosing may be utilized when the qualified professional deems it to be the most appropriate method of dosing in consideration of the wastewater generating use.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.110 Standards for OWTS installation permits.

- A. All new, replacement or expansion OWTS, or any part thereof, and all replacement of existing OWTS, or any part thereof, shall comply with the standards, specifications, and regulations set forth in this Chapter. This section applies to the installation of both conventional and alternative OWTS.
- B. If the proposed OWTS is associated with construction of a proposed structure that will generate domestic wastewater, no OWTS installation permit shall be approved until the construction permit for the proposed structure has been approved by all appropriate governmental agencies. In the case of existing development, the structure being served by the proposed OWTS shall have been permitted for the existing and/or proposed use by the appropriate governmental agencies before EHB will issue an OWTS installation permit. The EHB may request evidence of such permits and approvals from other governmental agencies as part of the application for the new, replacement, or expansion OWTS.
- C. No OWTS permit shall be approved in any area where continued onsite domestic wastewater discharge would constitute a public health hazard, or where an existing or threatened condition of water pollution, contamination, or nuisance exists.
- D. No OWTS permit shall be approved when any part of the system is proposed to be located on or within any lot other than the lot where the plumbed building or structure exists, unless an easement or other legally binding written recorded document provides permanent rights to the specific area of land for OWTS related use. Right of access for the landowner with the building or structure served by the proposed OWTS shall be demonstrated to the satisfaction of the EHB.
- E. Domestic wastewater discharge from an OWTS shall be limited to the equivalent of forty (40) grams per gross acre per day of total Nitrogen.
 - 1. A qualified professional shall prepare a technical report, at the property owner's expense, which determines the proportionate quantity of nitrogen loading allowable based on acreage as prescribed by Table 2 of this Chapter, and which verifies that the proposed OWTS, alternative OWTS with supplemental treatment, or alternative dispersal system will sufficiently treat the wastewater so that it does not exceed that determined value.
 - a. Domestic wastewater from commercial or industrial operations shall be evaluated as high strength wastewater. The qualified professional may utilize empirical data from existing, similar uses to estimate wastewater characteristics. The qualified professional shall specify the maximum volume of daily onsite wastewater dispersal allowed that will conform with nitrogen loading limits for the site in consideration of lot size.
 - b. When the use of conventional OWTS to serve new or expanded development would exceed the nitrogen loading limit for the property, a supplemental treatment system, including nitrogen reduction, shall be incorporated into the OWTS design to conform with the forty (40) grams per gross acre per day limit.
- F. A cumulative impact analysis shall be completed by a qualified professional in accordance with the method approved by the Director, prior to approval of any OWTS installation permit for systems proposed to accept wastewater from non-domestic sources, such as restaurants or commercial/industrial operations, or that are designed to receive more than two thousand five hundred (2,500) gallons of wastewater per day. The OWTS shall be subject to additional restrictions on permissible groundwater separation distances as determined appropriate by the qualified professional in the cumulative impact analysis and as approved by EHB.
- G. All new OWTS shall include two dispersal systems that meet the minimum specifications of this Chapter. The systems shall be separated by a diversion valve. Area for a future (third) dispersal system on the property that is equal to or greater than the land area necessary to accommodate the larger of the first or second

dispersal systems shall be required for all new OWTS, unless the qualified professional recommends reduced land area based on site-specific soil evaluation. Suitable area for a future (third) dispersal system shall be set aside and protected through a written instrument recorded on the property that limits the area from all uses except future dispersal system replacement.

1. When proposed construction on the property will make the future (third) dispersal area inaccessible to installation equipment, the dispersal system shall be specified as part of the design to be installed at initial installation of the OWTS.
 2. When a qualified professional determines that sufficient land area for a future (third) dispersal system is unavailable, a deed restriction shall be recorded at the owner's expense to notify the current and future property owners that an alternative OWTS with supplemental treatment may be required to accommodate any future replacement of OWTS or expansion of OWTS.
- H. No OWTS permit shall be approved when subsurface conditions are comprised of permeable rock, as defined by this Chapter, unless the dispersal system area is shown by a qualified professional to yield percolation test results within the acceptable range specified in Table 4 of this Chapter and unless vertical separation requirements to groundwater, consolidated bedrock or another impervious layer are met in accordance with Table 13 of this Chapter.
- I. No OWTS permit shall be issued unless the system conforms with the minimum horizontal setback distances specified by Table 3 of this Chapter.
1. When the minimum horizontal setback to a water source, watercourse, or body of water specified by this Chapter cannot be met, an alternative OWTS, which may include a supplemental treatment unit and/or an alternative dispersal system, shall be required. The qualified professional shall demonstrate that the proposed alternative OWTS is adequate to protect the water source, watercourse, or body of water from the OWTS discharge. For water sources that serve public water systems, the alternative OWTS shall also include a supplemental treatment unit with disinfection.
 2. When the minimum horizontal setback distance to a structure cannot be met, a professional engineer shall verify that the proposed distance will not jeopardize the structural integrity of the OWTS or the structure itself.
 3. When a qualified professional proposes to install an OWTS component within the minimum horizontal setback to a tree protected by Title 20 or 21 of this Code, an arborist report shall be required to confirm that the installation and ongoing use of the OWTS will not detrimentally impact the tree(s).
 4. The minimum horizontal setback distance to a property line may be reduced for replacement OWTS only when the adjacent property is determined to be at the same or similar elevation or higher elevation than the invert of the OWTS dispersal system. The qualified professional shall demonstrate, to the satisfaction of the EHB, that no other suitable area is available for the OWTS and that the maximum practicable setback is maintained. In no case shall the minimum horizontal setback to a structure on an adjacent property be reduced.
- J. No OWTS permit for new or expansion OWTS permit shall be approved for a conventional OWTS in an area subject to ten (10) year flood events, as determined or estimated from published floodplain maps, or based on historical evidence acceptable to the Director.
- K. No OWTS permit shall be approved when the system will accept high strength wastewater from commercial food service buildings unless the wastewater does not exceed nine hundred milligrams per liter (900 mg/L) BOD and there is a properly sized and functioning oil/grease interceptor.
- L. Grease interceptors or other devices, approved as part of a construction permit from the County, which remove grease from the waste stream, must be installed in food facilities with food preparation. Grease

traps under pot sinks are generally not acceptable but may be approved when the proposed operation is not anticipated to generate significant volumes of grease, such as yogurt or smoothie shops.

- M. Where a line carrying potable water must cross a dispersal field, the line shall be at least one foot (1') above the top of the dispersal field, and no joint in the pipeline shall be closer than eight feet (8') to the field dispersal line.
- N. Any OWTS proposed within four hundred feet (400') of a watercourse with year-round flow or that has been designated as a beneficial use for domestic water supply shall comply with the following requirements:
 - 1. No OWTS permit shall be issued when a conventional dispersal system is proposed to be located at any point having less than a minimum distance of one hundred feet (100') from the watercourse.
 - 2. The piping of any part of the OWTS, including the pipe from the house to the septic tank, is prohibited if the pipe runs across or under any watercourse designated as a beneficial use for domestic water supply. Site specific engineering may be approved at the discretion of the EHB to overcome the obstacle if no other suitable area is available on the property.
 - 3. Prior to approval of a permit that includes an OWTS dispersal system proposed to be located between one hundred feet (100') to one-hundred and forty-nine feet (149') away from the watercourse, percolation testing shall be required, and the qualified professional shall make a determination, subject to EHB review and acceptance, as to whether a nitrate-contaminant study is required. A supplemental treatment system, including nitrogen reduction and disinfection, shall be incorporated into the OWTS if the percolation rate is found to be less than or equal to five minutes per inch.
 - a. If a nitrate-contaminant study is required, the location and number of samples shall be specified in a workplan, submitted to the EHB for review and acceptance prior to initiating work. The analysis must meet the minimum standards specified for a nitrate contaminant study, in accordance with the methods approved by the Director.
- O. Wastewater effluent shall not be piped across a drainageway or watercourse that does not have year-round flow unless the effluent has first passed through a septic tank or supplemental treatment unit. The wastewater piping shall be sleeved for at least eight feet (8') beyond the high-water mark on each side of the watercourse with as few joints in the sleeve as practical, preferably none.
- P. The distance between the bottom of a dispersal system and bedrock or an impervious layer shall conform with the minimum vertical separation specified by Table 13 of this Chapter.
- Q. When a dispersal system is proposed to be situated fifty feet (50') or closer to or within a cut bank or downhill slopes that exceed thirty percent (30%), a minimum vertical distance of five feet (5') between the bottom of the dispersal system and bedrock or other impervious layer shall be required. This vertical separation may be reduced at the discretion of a qualified professional when a linear loading evaluation has been completed to demonstrate that sufficient soil is available below the dispersal system to ensure that wastewater effluent will not surface or mound below ground.
- R. The minimum vertical separation between the bottom of a conventional OWTS dispersal field and seasonal high groundwater shall be determined by Table 4 or 5 of this Chapter as appropriate.
 - 1. When groundwater is encountered, the qualified professional shall determine if the construction of subsurface drainage improvements would be sufficient to divert the water away from the dispersal system area and protect against comingling of the wastewater effluent and groundwater. The qualified professional's determination is subject to EHB's consideration and acceptance.
 - 2. When the minimum vertical separation between the bottom of the dispersal field and groundwater cannot be met and construction of subsurface drainage improvements would not be sufficient to divert the water away from the dispersal area, an alternative OWTS with supplemental treatment, including nitrogen reduction, shall be required.

3. In all cases where the vertical groundwater setback for an OWTS specified by this Chapter cannot be met, a permanent monitoring well shall be required and will be subject to all permit and construction requirements specified by Chapter 15.08 of this Code.
 4. Community dispersal systems shall demonstrate that at least fifteen feet (15') of vertical separation will exist between the bottom of the proposed dispersal system and groundwater, including perched water, regardless of the minimum separation specified in this Chapter.
- S. Stormwater and subsurface sheeting water shall be diverted away from the dispersal area. This may require site grading and installation of a diversion ditch or berm on the upslope side of the dispersal area. Subsurface sheeting water may be intercepted by a curtain drain and diverted around the dispersal system provided the following conditions exist:
1. Natural ground slope is greater than or equal to five percent (5%);
 2. Site investigation by a qualified professional shows groundwater to be perched on a clearly definable layer of bedrock or impervious soil; and
 3. The curtain drain(s) is designed by a qualified engineer or geologist.
- T. The qualified professional shall determine the appropriate soil application rate for each dispersal system in consideration of the soil profile, percolation testing and/or direct inspection pursuant to Tables 4 or 5 of this Chapter, as applicable.
1. When percolation testing is utilized to assess the absorptive characteristics of the soil, the following criteria must be utilized:
 - a. The qualified designer shall use the final, stabilized percolation rate obtained for each boring to determine the soil application rate.
 - b. Percolation rates of more than one hundred and twenty (120) minutes per inch (less than one-half inch per hour) are unsuitable for any kind of sewage disposal field. Where there are areas of percolation rates that have conflicting results (e.g. some passing and some failing), there must be a statistical preponderance of passing percolation rates, as determined by the EHB, for that area to be considered suitable for subsurface disposal of septic tank effluent.
 - c. Percolation rates more than ninety (90) but less than one hundred and twenty (120) minutes per inch are considered marginal. The qualified professional shall consider other constraints on the property that may make the property unsuitable for OWTS, such as total lot size, depth to groundwater, topography, well site location, and streams. The EHB shall not approve an OWTS permit based on marginal percolation rates when a consideration of the above criteria indicates that ground water, surface water, or public health will be put at risk.
 2. When both percolation testing and direct inspection are utilized to assess absorptive characteristics of the soil, the qualified professional shall make a recommendation of the appropriate soil application rate for review and approval by the EHB.
- U. When a water treatment system will be installed to treat water from a domestic water source (including but not limited to a spring, private well, or a connection on a water system) to meet drinking water standards, the discharge of water treatment wastewater into the OWTS may be authorized by the EHB in the following situations:
1. A Point-of-Use (POU) water treatment device is installed within the structure just prior to the tap, so that only water from the affected tap is treated. The OWTS design volume does not need to be increased to accept POU wastewater unless multiple POU water treatment devices are approved for use by the EHB and installed throughout a structure.

2. A Point-of-Entry (POE) water treatment device treats all of the domestic water before it enters the structure. The qualified professional shall determine the wastewater generation rate of the approved water treatment system and revise the OWTS design to accommodate the additional wastewater .
3. If a water treatment system supplies water for human consumption to more than one service connection on the same property, then wastewater from that system may be discharged into an OWTS, provided the OWTS has sufficient capacity to accept the additional volume. When the service connections are located on more than one property, a separate disposal trench shall be installed pursuant to the specifications of the water system permit. For the purposes of this Chapter, if a separate disposal trench will be utilized for drinking water treatment waste, the trench shall meet the OTNWS design standards.
4. If a water treatment system relies on resin filter media, the resin filter backwash may be discharged to the OWTS. Portable exchange of resin filter media tanks is preferred, but if the backwash is intended to be discharged into the OWTS, the design volume shall be increased to include recurring filter backwash wastewater when the anticipated backwash volume is more than five percent (5%) of the estimated domestic wastewater volume over a given time period (e.g., one week).
5. Water treatment devices are prohibited if their use would result in the disposal of additional salts or binding agents into an OWTS. This prohibition does not include disinfection devices such as chlorinators.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.120 Installation requirements for OWTS and OTNWS.

- A. The qualified installer shall notify the EHB in writing at least forty-eight (48) hours before moving equipment on site to commence installation of an OWTS or OTNWS, Monday through Friday. The EHB will not accept notice on Saturdays, Sundays, or County holidays. The notice shall include the address of the subject property and installation permit number, in addition to the contact and license information of the installer.
- B. A copy of the approved installation permit shall be on site throughout the duration of installation or replacement. For OWTS installations, the EHB shall be notified at least forty-eight (48) hours prior to commencing installation if the applicant elects to change the designated qualified installer.
- C. All connections from buildings with permitted plumbing to a tank, including the grade of the pipe from the building to the tank, shall be made in accordance with the most recent edition of the California Plumbing Code and Title 18 of this Code, as each may be amended from time to time.
- D. Tanks shall be installed in accordance with the manufacturer's specifications. Unless otherwise specified by the manufacturer's recommendations, soil around tanks shall be hard- compacted. All new, replacement, and expansion tanks shall be certified to be watertight in accordance with one of the methods approved by the Director of EHB, prior to final approval of any OWTS permit.
- E. All work for which a permit is required by this Chapter shall be subject to inspection by the EHB. A final inspection of a completed system must be obtained before any piping or component is covered with earth. EHB reserves the right to waive a final inspection, in which case the qualified installer shall provide written confirmation that the system has been installed in substantial conformance with the EHB-approved plan and reflects any changes approved by the EHB during the process of installation. No OWTS or OTNWS system shall be used until EHB has granted final approval of the installation.
- F. Whenever an OWTS is designed or engineered to overcome site-specific constraints or includes a supplemental treatment system or alternative dispersal system, the qualified professional that designed or engineered the system shall conduct inspections throughout the installation in order to certify that it has

been installed in substantial conformance with the EHB- approved plan and any changes approved by the EHB during the process of installation. Documentation of these inspections shall be provided to the EHB upon request. In the event that the qualified professional who designed the system is no longer available, the owner shall obtain approval from the EHB to substitute a different qualified professional to perform inspections during the installation process.

- G. Prior to EHB's final approval of OWTS installation, the qualified professional shall submit an as-built diagram, including but not limited to any changes approved by the EHB during the process of installation, and show the exact dimensions, geometry, and location of all elements of the OWTS.
- H. It is the responsibility of the qualified installer or property owner to request such final inspection, and any other inspections which the EHB may have required in the permit, and to ensure that the work is ready for such inspection. Request for inspection shall be made not less than forty-eight (48) hours in advance of any required inspection. The EHB will not conduct inspections on Saturdays, Sundays and County holidays, unless determined necessary at the discretion of the EHB.
- I. EHB shall provide final approval of the installation in writing. EHB approval shall be withheld until the owner or his or her authorized agent has paid all associated fees and completed and submitted documentation to the EHB which demonstrates, to the satisfaction of EHB, that all special conditions identified on the permit have been addressed and that the installation conforms to the approved plans or any subsequent approved revisions to the plans.
- J. Failure to provide notice to EHB of any required inspections is a violation of this Chapter. If additional inspections are necessary because the OWTS was not ready during a requested inspection, EHB may charge the owner for the additional staff time required to complete inspection(s) at the current hourly rate as adopted by the Board of Supervisors, in addition to any OWTS application fee.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.130 Additional installation requirements for alternative OWTS.

- A. All alternative OWTS shall be installed by a qualified professional in accordance with the specifications for location, components, size, and depth as designed by the qualified professional and approved by the EHB. When the installation includes a supplemental treatment unit, the installer shall also provide to the EHB any required manufacturer certification, if applicable.
- B. The qualified professional shall also be responsible for inspection of system installation to assure conformance with approved plans and shall provide an as-built drawing of the installation to the Director and property owner. The installation inspection by the qualified professional designer shall be in addition to standard County inspection work carried out in accordance with this Chapter.
- C. The qualified professional shall prepare an Owner's Manual for the alternative OWTS and provide a copy to the EHB and to the property owner, which includes the following:
 - 1. License and contact information for the certified designer, installer, and service provider;
 - 2. As-built drawing with installation and system start-up dates;
 - 3. Treatment process and performance expectations;
 - 4. Lists of typical materials, tools, equipment, and spare parts;
 - 5. Routine cleaning and maintenance procedures;
 - 6. Effluent testing procedures; and
 - 7. Troubleshooting tips.

15.20.140 Application requirements for OWTS operating permit.

- A. An application for an OWTS operating permit shall be in writing, on an EHB-approved form. The application shall be signed by the owner of the property, or his or her authorized agent, and accompanied by payment of applicable fees as adopted by the Board of Supervisors. The application submittal shall include the following:
 - 1. Property information, to include Assessor's Parcel Number and, if available, the subject property's street address;
 - 2. Copy of most recent grant deed with the property's legal description;
 - 3. Physical and mailing address and email of property owner and, if owner has authorized an agent, the mailing address and email of the agent;
 - 4. If the application is signed by an agent, written agent authorization signed by the property owner;
 - 5. Copy of current, executed O&M Service Agreement; and
 - 6. Such other information as the Director determines is necessary to process the application.
- B. Renewal of the operating permit shall be required annually, unless otherwise specified in the permit by EHB.
- C. An application for renewal of a previously issued operating permit shall be in writing on an EHB-approved form. The application shall be signed by the owner of the property, or his or her authorized agent, and accompanied by payment of applicable fees as adopted by the Board of Supervisors. In addition to the requirements of this Section, the submittal shall also include the following:
 - 1. An operating permit report summarizing all monitoring, inspection and service activities during the interval specified in the operating permit (e.g. one year);
 - 2. If the application is signed by an agent, written agent authorization signed by the property owner; and
 - 3. Such other information as the Director determines is necessary to process the application.

15.20.150 Operating permit requirements for OWTS and OTNWS.

- A. Operating permits are intended to serve as the basis for verifying the adequacy of OWTS and OTNWS performance and to ensure on-going activities are completed, such as maintenance and/or water quality monitoring. The owner of real property served by a new or existing OWTS or OTNWS shall be required to apply for an operating permit in each of the following circumstances:
 - 1. At the time of application for an alternative OWTS or OTNWS;
 - 2. Within thirty (30) days of transfer of title of property on which an OWTS or OTNWS subject to an existing operating permit exists;
 - 3. Within thirty (30) days of receiving written notification from the EHB that an alternative OWTS or OTNWS exists on the property;
 - 4. Prior to issuance of permit to install a haul away system; and
 - 5. At the time of application for conventional OWTS or OTNWS that will necessitate water quality analysis pursuant this Chapter.

- B. An operating permit may also be required for circumstances other than alternative OWTS, such as for larger flow OWTS (e.g. >2,500 gpd), or where the Director determines that the type, size, location or other aspects of a particular OWTS installation warrant the additional level of oversight provided by an operating permit. In such cases, the issuance and scope of operating permits will be governed by the general requirements of this Chapter and subject to the monitoring and inspection requirements specified by the Director and in consideration of recommendations by the qualified professional.
- C. Performance monitoring and reporting. EHB will establish a monitoring and reporting schedule for each operating permit at the time of permit issuance and may amend the schedule at the time of permit renewal. Said monitoring shall be performed to ensure that the system is functioning satisfactorily to protect water quality and public health and safety.
1. Monitoring requirements, including frequency of monitoring, will vary depending upon the specific type of system and will be based on upon the manufacturer's specifications and methods approved by the Director. Permanent groundwater monitoring wells installed as a condition of an alternative OWTS permit shall be measured annually in accordance with methods approved by the Director.
 2. Monitoring of OWTS shall be conducted by or under the supervision of a registered qualified service provider in accordance with methods approved by the Director.
 3. The performance objectives for an OWTS may be amended from time to time by EHB when water quality monitoring indicates that the ongoing use of the OWTS is contributing to a decline in groundwater quality.
 4. Monitoring reports shall be prepared and signed by the registered qualified professional who completed the service and shall also be signed by the property owner or authorized agent.
 5. The property owner or authorized agent shall submit an operating permit report to the EHB on an EHB-approved form. Notwithstanding septic tank pumper reports or operating permit reports, the owner or owner's authorized agent shall notify EHB immediately of any system problems observed during inspection and/or monitoring of the wastewater system that threaten public health or water quality.
 6. The EHB will review the operating permit report for conformance with requirements of the operating permit and may require corrective action or general changes in monitoring and inspection requirements in order to protect public health and safety.
 7. In addition to regular inspection and monitoring activities, inspection and evaluation of OWTS or OTNWS will be required at the discretion of the EHB in the event of significant flooding or an earthquake causing significant ground shaking in the region. The EHB will issue appropriate notices when such inspections are required and will specify how the registered qualified service provider conducting the inspection and evaluation will be required to report their findings to the EHB. The purpose of such inspections will be to assess and document any damage to the OWTS or OTNWS and to require the property owner to implement corrective measures, as needed, in a timely manner.
 8. Any component, control system, or monitoring device subject to an operating permit from the EHB shall be maintained in good working order, and operated as efficiently as possible, to meet requirements specified by the operating permit.

The property owner shall be responsible to arrange for corrective actions to be completed when monitoring or inspection activities indicate that the system is not operating in accordance with the standards of this Chapter, the conditions of the permit, or policies approved by the Director, or is not meeting performance objectives.

9. A deed restriction recorded on title shall be required to notify current and future owners that an OWTS or OTNWS is installed and requires on-going operation and maintenance to be completed by a qualified professional and that an operating permit shall be maintained in perpetuity or so long as the OWTS and/or OTNWS is to be utilized.

15.20.160 Water quality monitoring required.

- A. As part of an operating permit, EHB may require the owner to conduct on-going water quality monitoring. The EHB will analyze routine water quality monitoring of onsite water wells or surface water to identify problem areas throughout Monterey County that are served by OWTS to determine if an area-specific groundwater or surface water quality monitoring program is warranted. Monitoring of an onsite well, surface water, or other source shall be required in any of the following circumstances:
 - 1. When a conventional OWTS dispersal system will be located one hundred feet (100') or more, but less than one hundred fifty feet (150') away, from a watercourse with year round flow or that has been designated as a beneficial use for domestic water supply, the watercourse shall be sampled in accordance with the methods approved by the Director.
 - 2. When an insufficient horizontal setback to an onsite water well or surface water, as described in this Chapter, prompts the requirement for an alternative OWTS with supplemental treatment, the onsite water well or surface water shall be sampled in accordance with the methods approved by the Director.
 - 3. When an OWTS dispersal system will be installed within two hundred fifty feet (250') of an onsite water well or surface water supply, the onsite water well or surface water supply shall be sampled in accordance with the methods approved by the Director.
- B. Baseline sampling shall be completed prior to issuance of an OWTS installation permit when water quality monitoring is required by this Section. Ongoing, routine monitoring shall be completed in accordance with the frequency prescribed by the operating permit.
- C. Water quality analysis shall be completed by a California Environmental Laboratory Accreditation Program (ELAP) certified laboratory and shall include all of the following constituents:
 - 1. Total nitrogen;
 - 2. Chloride;
 - 3. Sodium;
 - 4. Total dissolved solids;
 - 5. Bacteria by enumeration (total coliform, *E. coli* and enterococcus); and
 - 6. Other pollutants of concern as determined by the Director.
- D. When water quality analysis results of two consecutive sampling events indicate that the level of a monitored constituent has increased by more than ten percent (10%) compared to the previous sample, a qualified professional shall determine if the ongoing use of the OWTS is contributing to the decline in water quality by conducting a site-specific water quality monitoring program that meets the standards approved by the Director or the qualified professional may propose improvements to the OWTS to mitigate the impact to water quality.
 - 1. The proposed water quality monitoring program or improvements shall be submitted to the EHB for review and approval. As required by this Code, a permit shall be obtained prior to modification of the OWTS or installation of a monitoring well(s).

15.20.170 Standards and specifications for existing OWTS.

- A. When an existing OWTS installed under permit from the EHB does not comply with the nitrogen loading standards specified by Table 2 of this Chapter or is discovered to encroach upon the horizontal setback requirements specified by Table 3 of this Chapter, the OWTS shall be allowed to remain in place until such time that it is proposed to be replaced or expanded unless continued use of the OWTS is likely to cause negative impacts to groundwater, surface water, or public health.
- B. To protect an existing OWTS from new or expanded development on a parcel, such new or expanded development must be sited in a manner that ensures that the minimum horizontal setback requirements specified by Table 3 of this Chapter can be met.
- C. Prior to approval of a discretionary land use permit or, if no discretionary permit required, a construction permit, for an addition, remodel, tenant improvement, or change of use on a property that is served by OWTS:
 - 1. The applicant shall demonstrate that adequate land area is available on the property to accommodate a future dispersal system replacement when the proposed development will increase the structural footprint (i.e. lot coverage) or will increase the estimated daily volume of wastewater generation. The approximate size for a future dispersal system area shall be based on the estimated daily volume of wastewater generation and soil application rate specified by Table 4 or 5 of this Chapter, as applicable. When site specific soil information is unavailable to identify the soil application rate, a soil application rate of two-tenths (0.2) gallons per square foot per day shall be utilized.
 - a. If it is determined that sufficient land area for a future (third) dispersal system is unavailable, a deed restriction shall be recorded at the owner's expense to notify the current and future property owners that an alternative OWTS with supplemental treatment may be required to accommodate any future replacement or expansion of the OWTS.
 - 2. The applicant shall provide documentation to the satisfaction of the EHB that the existing OWTS will conform to the OWTS design volumes as specified by this Chapter when the proposed addition, remodel, tenant improvement or change of use will increase wastewater generation on the property.
 - a. When the design volume of existing OWTS is inadequate, the OWTS shall be expanded under permit from EHB to meet the standards set forth in this Chapter. All necessary improvements to the OWTS shall be completed prior to final inspection conducted for the construction permit. Examples of changes that would indicate an increased flow to the system include the addition of a bedroom(s) or, for commercial systems, increased occupancy and/or fixture units.
 - b. Expansion of an existing OWTS shall be required to meet the same standards set forth by this Chapter for new OWTS and must be protective of human health and the environment, including but not limited to nitrogen loading limitations prescribed by Table 2 of this Chapter.
 - c. The structural and operational condition of an existing OWTS shall be determined by a qualified professional and confirmed by EHB prior to EHB approval of a construction permit, when required by Table 9 of this Chapter, by way of an OWTS Performance Evaluation completed in accordance with the methods approved by the Director.
 - d. Any OWTS component that is deemed to be in unacceptable condition (failed) shall be repaired or replaced in accordance with the minimum standards of this Chapter prior to the final inspection for the construction permit that prompted the requirement for a performance evaluation.
 - e. A redwood or a poured-in-place concrete tank that maintains acceptable structural integrity and is operating as designed shall not be construed to be in unacceptable condition.

- D. For the purposes of this Section and Table 10 of this Chapter, a conforming dispersal system is one that meets all water-related horizontal or vertical setback requirements, is not covered by an impermeable surface, and is less than ten feet (10') total depth. A non-conforming dispersal system is one that does not meet all minimum water-related horizontal or vertical setback requirements, is covered by an impermeable surface, or is greater than ten feet (10') total depth, including but not limited to seepage pits.
1. When a construction permit for an addition, remodel, tenant improvement or change of use will result in increased volume, a conforming dispersal system is eligible to remain in use and expanded as necessary. Installation of a supplemental treatment unit shall be required when a change in wastewater strength will exceed the nitrogen loading limit for the property.
 2. When a construction permit for an addition, remodel, tenant improvement or change of use will result in increased wastewater strength or volume, a non-conforming dispersal system shall be allowed to remain in use only when a supplemental treatment system that meets the effluent constituent limitations specified by Table 11 of this Chapter is incorporated into the OWTS prior to final inspection of the construction permit or commencement of this use.
 3. EHB may, in its discretion, determine that installation of supplemental treatment is not required in the following circumstances:
 - a. When a construction permit for an addition, remodel, tenant improvement or change of use will not result in increased wastewater strength or volume;
 - b. When an allowed conversion of an existing bedroom or habitable structure into a Junior Accessory Dwelling Unit (JADU) on a property meets all additional requirements identified in this Chapter;
 - c. When one bedroom is added to an existing two bedroom dwelling on a minimum lot size greater than three-quarters (0.75) of an acre.
- E. Existing, conforming dispersal systems and certain non-conforming dispersal systems as specified by Table 10 of this Chapter are eligible to have their dispersal capacity reassessed to determine if the system can increase its daily design flow in consideration of site-specific soil characteristics or percolation rates in accordance with Table 4 or 5 of this Chapter, as applicable. A qualified professional may assess the absorptive characteristics of the soil using either direct inspection or percolation testing in the vicinity of the existing dispersal system or consider information in an existing soil or percolation testing report, to determine if it is appropriate to utilize an alternate soil application rate from that which was used in the original OWTS design. Any such reassessment is subject to EHB review and approval.
- F. When the information necessary to reassess the capacity of the existing dispersal system is unavailable, the soil application rate shall be evaluated using a soil application rate of three-tenths (0.3) gallons of wastewater per square foot of dispersal system per day unless the original soil application rate is known and was based on site-specific information.
- G. When supplemental treatment, including nitrogen reduction, is incorporated into an existing OWTS, the estimated daily volume of wastewater generation may increase by up to one-hundred and fifty (150) gallons without the requirement to expand the dispersal system capacity.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.180 New subdivisions of land that propose OWTS for sewage disposal.

- A. For proposed subdivisions of land that will use OWTS for sewage disposal, the minimum lot size shall not be less than one (1) gross acre; however, a minimum lot size of two and one-half (2.5) acres shall be required

when the source of water for the subdivision's domestic water supply, such as a water well, spring or other source of domestic water, exists or is proposed on the proposed lot.

- B. For proposed subdivisions creating five or more parcels, the lot size criteria in Table 1 of this Chapter shall also be met. The applicant shall consider annual rainfall data from an observation station(s) in the Global Historical Climatology Network-Daily database to establish the average annual rainfall for the property, subject to review and acceptance by the EHB. For the purposes of this Chapter, average annual rainfall shall mean the average amount of precipitation for a location over a year for the preceding three decades.
- C. Development shall be limited to onsite wastewater discharge of forty (40) grams per acre per day of total Nitrogen. Subdivisions of land creating two parcels with existing residential development may utilize supplemental treatment technology to meet the nitrogen standard of this Section.
- D. The applicant shall clearly demonstrate that the proposed use of OWTS will not adversely affect groundwater or other beneficial water uses in the future and that the anticipated use(s) of the OWTS will comply with all the requirements of this Chapter.
- E. Proposed subdivisions shall be required to complete a comprehensive site evaluation, as prescribed by this Chapter, for each proposed lot. The site evaluations shall be completed by a qualified professional and provide sufficient information to identify suitable locations to accommodate the primary, secondary, and future (third) dispersal systems and shall be based on a daily design volume of four hundred fifty (450) gallons per day.
- F. Soil profile analysis and percolation testing for proposed subdivisions may be reduced at the discretion of the EHB if conformity to a given soil type can be established to the satisfaction of the EHB. In all cases, at least one soil profile excavation or boring and one percolation test shall be completed for each proposed lot. Alternative OWTS or gravel-filled seepage pits shall not be used to demonstrate OWTS feasibility for new subdivisions.
- G. Any pending subdivision application that was not deemed complete prior to May 10, 2018, and that proposes to rely on OWTS for sewage disposal must conform to the comprehensive site evaluation and soil testing criteria and the minimum lot size criteria specified by Table 1 of this Chapter prior to approval of the tentative map, tentative parcel map, or vesting tentative map. Any pending subdivision application that was deemed complete but not approved as of May 10, 2018 and that proposes to rely on OWTS for sewage disposal must conform to the comprehensive site evaluation and soil testing criteria specified by this Chapter prior to approval of the tentative map, tentative parcel map, or vesting tentative map. These requirements are necessary to protect the public health and safety and to comply with state OWTS Policy as implemented through the LAMP.
- H. In accordance with Section 66498.1 of the Subdivision Map Act (California Government Code Sections 66410 to 66499.58), to protect the public health and safety, and to comply with state OWTS Policy as implemented through the LAMP, for vesting tentative maps and tentative maps approved by the County prior to adoption of the LAMP on May 10, 2018, the EHB may require, prior to OWTS permit issuance, that the owner conduct additional site evaluation and soil testing to demonstrate conformance with the OWTS standards in place at the time of OWTS permit issuance. Additionally, the EHB may require the installation and ongoing use of an alternative onsite wastewater treatment system with supplemental treatment to meet minimum standards.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.190 Nitrogen Management Area, supplemental treatment required.

All new and replacement OWTS dispersal systems proposed within the Carmel Highlands Special Area of Concern Boundary, as shown by Figure 6-1 of the LAMP, shall incorporate supplemental treatment measures, including nitrogen reduction, designed to meet the standards specified by Table 11 of this Chapter.

15.20.200 Abandoned sewage disposal facilities.

- A. Every septic tank and pump chamber which has been abandoned, or has been otherwise discontinued from further use, or to which no waste or soil pipe from a plumbing fixture is connected, shall be properly abandoned in place or demolished, under permit from the EHB in accordance with the standards specified by this Section. A permit to abandon or demolish shall be obtained from the EHB prior to any work being performed.
- B. Hollow seepage pits and cesspools are a significant threat to groundwater and a physical safety threat due to the tendency to collapse. Upon discovery, cesspools shall be properly abandoned following the septic tank demolition standards of this Section. Hollow seepage pits may be retroactively brought into compliance by filling in the void space with EHB-approved rock when vertical and horizontal setbacks can be met. When the setbacks cannot be met, hollow seepage pits shall be properly abandoned. A permit shall be obtained from EHB for the abandonment of cesspools and hollow seepage pits.
- C. Proper abandonment of cesspools, septic tanks, pump chambers, or hollow seepage pits shall mean the following for the purposes of this Chapter:
 - 1. The tank, pit or pump chamber shall be pumped completely by a registered liquid waste hauler. The bottom of a septic tank or pump chamber shall be broken out to prevent the ponding of water, or be removed from the ground completely and disposed of at an approved solid waste disposal site. The void space or excavation shall be backfilled with sand, gravel, cement or compacted earth and made to be level with the natural ground slope.
- D. Any requirement to maintain an ongoing operating permit for a wastewater system shall become null and void upon demolition of said system conducted pursuant to the demolition permit from the EHB.

15.20.210 Annual registration requirements for qualified professionals.

- A. The qualified professionals that design, install, inspect, maintain, repair and/or replace OWTS and OTNWS in Monterey County are required to register with EHB to do work under this Chapter and are required to renew their registration annually to remain qualified to do work under this Chapter. The registered qualified professional is responsible for being knowledgeable and compliant with all requirements of this Chapter and the LAMP. They are also responsible for ensuring that their employees and agents are knowledgeable and compliant with the requirements of this Chapter and the LAMP.
- B. All qualified professionals shall register with the EHB prior to conducting activities related to OWTS and OTNWS design, installation, maintenance, and repair of an OWTS or OTNWS in the unincorporated areas of Monterey County and in any other jurisdiction which has elected to apply the requirements of this Chapter.
 - 1. An owner-builder that does not possess any of the specified contractor's licenses is limited to performing septic tank abandonment or demolition under permit from the EHB and is not required to register as a qualified professional.
 - 2. Individuals performing design, installation, maintenance, and repair of OTNWS are not required to register as a qualified professional.
- C. All applications for registration as a qualified professional shall be made in writing on a form prescribed by the EHB and shall include such information as the EHB determines is necessary in order to verify the applicant's qualifications as a qualified professional pursuant to this Chapter.

1. Any person applying for registration as a qualified professional shall submit the following information to the EHB as part of the registration application:
 - a. Completed qualified professional registration application form, personally signed by the professional license or certificate holder.
 - b. Proof of a valid professional license or certificate.
 - c. The name and contact information of a person or persons who shall act as the principal contact or intermediary with the EHB.
 - d. Applicable fee as adopted by the Board of Supervisors, no part of which shall be refundable.
2. Qualified professionals are required to register with EHB on an annual basis to do work under this Chapter. All registration certificates issued by EHB expire on the 30th of June, regardless of the date of issuance. Renewal of registration is required for a qualified professional to do work under this Chapter.
3. A registered qualified professional may renew their qualified professional registration by submitting the following to the EHB:
 - a. Proof of a valid, unexpired professional license or certification; and
 - b. Payment of annual registration fee in the amount set by the Board of Supervisors.
4. An individual or business is not eligible to renew their qualified professional registration for one year after revocation of a qualified professional registration or for such length of time as specified if the County revokes or suspends the registration.
5. A registered qualified professional must give the EHB immediate written notice of any suspension or revocation of their professional license or certification. The EHB may suspend or revoke the qualified professional registration at any time if the registered qualified professional ceases to have a valid professional license or certification, or if it has expired.
6. A registered qualified professional must give the EHB written notice within fifteen calendar days of any changes in contact information.
7. The EHB shall maintain a current list of names and business addresses of all registered qualified professionals and of all registered qualified professionals who are currently disqualified due to suspension or revocation of registration.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.220 Application for approval of tanks, proprietary non-rock dispersal media, and supplemental treatment devices or systems.

- A. The EHB shall maintain a list of septic tank models, proprietary non-rock dispersal media, and supplemental treatment devices or systems that are approved for use.
 1. All tanks shall be constructed of materials approved by the EHB and meet all of the following standards:
 - a. Tanks shall be watertight and constructed of durable, corrosion resistant material, such as reinforced concrete, fiberglass or polyethylene plastic;
 - b. Tanks must conform to the structural standards set forth by the IAPMO or American Society for Testing and Materials (ASTM);

- c. Tanks shall be structurally designed to withstand all anticipated earth or other loads, and shall be installed level;
 - d. Tank design must allow access for inspection and cleaning;
 - e. Tanks shall be capable of being pumped out completely without the need to backfill with water to maintain structural integrity; and
 - f. Septic tanks shall have two compartments, separated by a baffle and include an air vent between the tank compartments.
- B. Prior to installation, any septic tank model that is proposed to be used, and not already on the EHB approved materials list, is required to receive approval from EHB. Once approved, the use of the tank model shall be acceptable for use in subsequent OWTS installation permits, at the discretion of EHB. To apply for approval, the manufacturer, distributor, or other applicant must submit all of the following information to the EHB:
 - 1. Letter requesting approval for the size of septic tanks or other materials;
 - 2. Certificate of approval from the IAPMO;
 - 3. Statement that the septic tank conforms with minimum design and installation standards specified by this Section, including but not limited water tightness;
 - 4. Plans of the septic tank(s) for which approvals are being requested;
 - 5. Installation instructions; and
 - 6. A review fee as adopted by the Board of Supervisors.
- C. Proprietary non-rock dispersal media products shall be constructed of materials approved by the EHB and must conform to the structural standards set forth by IAPMO or ASTM, and shall be designed to withstand all anticipated earth or other loads.
- D. Prior to installation, any dispersal media alternative to traditional pipe and gravel leachfield system that is proposed to be used, and not already on the EHB approved materials list, is required to receive approval from EHB. To apply for approval, the manufacturer, distributor, or other applicant shall submit all of the following information to the EHB:
 - 1. A letter requesting approval for the specific product or other material;
 - 2. A product listing certificate from IAPMO;
 - 3. Plans and specification sheets for the product or material for which approval is being requested;
 - 4. Installation instructions;
 - 5. When the applicant contends that use of the product or material would decrease the minimum amount of infiltrative area required (using a multiplier no less than 0.70), a statement of the proposed infiltrative capacity reduction with supporting documentation (e.g. third party testing) to support the claim; and
 - 6. A review fee as adopted by the Board of Supervisors.
- E. Supplemental treatment devices or systems require approval by the EHB and shall meet the following standards:
 - 1. NSF certification for one or more of the following standards:
 - a. NSF/ANSI Standard 40: Residential Onsite Systems;
 - b. NSF/ANSI Standard 245: Nitrogen Reduction; or

- c. Other NSF/ANSI standard that evaluates quality of wastewater effluent;
- 2. Two or more distributors within the State of California;
- 3. Prior approval of the proprietary supplemental treatment system by two or more other California counties; and
- 4. When a tank is included with supplemental treatment system, the tank shall meet the standards specified by subsection A of this Section.
- 5. The application materials shall include, but are not limited to, the following:
 - a. NSF certification and Evaluation Report;
 - b. Product specifications, design standards, and treatment objectives;
 - c. Installation manual;
 - d. Sample operation and maintenance manual;
 - e. Sample service contract;
 - f. List of qualified professionals authorized to provide operation and maintenance services within a two hundred fifty (250) mile radius of Monterey County;
 - g. Parts and/or service distributor information;
 - h. Five years of "live operation" performance history; and
 - i. Any further documentation as the EHB determines is necessary to ensure the protection of public health and safety.
- F. The EHB shall issue a letter to the applicant granting approval to use the new septic tank or treatment technology when the proposed new product has been demonstrated to the satisfaction of EHB to meet the standards and specifications of this Section.
 - 1. When a product or material has been approved by the EHB to decrease the minimum amount of infiltrative area required, this information shall also be specified.
 - 2. When approval is not granted, the letter shall indicate disapproval and specify the standards that have not been met.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.230 Septage disposal.

Disposal of septage shall be accomplished in a manner acceptable to the Director. Septage shall be discharged to an authorized facility, such as a municipal wastewater facility or permitted solid waste site that accepts disposal of septage.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.240 Septic tank pumper reporting program.

- A. Liquid waste haulers that conduct septic tank pumping in the incorporated and unincorporated areas of Monterey County must first obtain and continue to hold an unrevoked registration issued by the EHB pursuant to California Health and Safety Code Section 117405 et seq., as may be amended from time to time. The registration must be renewed each calendar year.

- B. A registered liquid waste hauler shall prepare a report on a form approved by the EHB and shall submit the report to the EHB for each septic tank pump out completed in Monterey County no later than ten business days after the end of the month that the septic tank pump out occurred. One report shall be completed for each tank that is pumped out.
- C. EHB will notify a registered liquid waste hauler, in writing, if the hauler fails to report septic tank pump outs accurately or in a timely manner. A liquid waste hauler's continued lack of compliance with this Section or any other violation of federal or state law or County regulation may result in suspension, revocation or non-renewal of the annual liquid waste hauler registration with the County. The EHB may revoke the registration for cause upon providing ten (10) days advance notice, served by registered mail or in person pursuant to California Health and Safety Code section 117445, as may be periodically amended.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.250 Prohibited disposition of sewage and other waste matter.

- A. No person shall construct, use, or maintain any privy, cesspool, septic tank, gray water, sewage treatment works, sewer pipes or conduits, or other pipes or conduits for the treatment or discharge of sewage, impure waters, or any other matter or substance which is offensive or dangerous to health or sanitation, in such a manner as to: (1) overflow to any lands whatever; or (2) affect or enter any river, stream, creek, spring, lake.
- B. No person shall accumulate, or allow to accumulate, or deposit upon the surface of the ground or within an unauthorized excavation on any premises owned and occupied by him or her, or under his or her possession and control, garbage, rubbish, trash, debris, refuse, cans, dead animals, or any offensive waste matter, unless a permit to do so, pursuant to State or county law, regulation, or ordinance, has been obtained.
- C. No person shall accumulate, or allow to accumulate, on any premises owned and occupied by him or her, or under his or her possession and control, any garbage, rubbish, trash, debris, refuse, cans, dead animals, which may be attractive to insects or rodents, or may create offensive odor, or may be scattered by wind, unless such materials are enclosed in rodent-proof containers with tight-fitting lids. Such material shall be disposed at an approved disposal site at least every seven days.
- D. No commercial scavenger or refuse collector or dumper shall place or deposit any garbage, rubbish, trash, debris, refuse, cans, dead animals, or any offensive waste matter upon any refuse disposal site without approval from the disposal site operator. Disposal site operators may require additional screening of wastes to prevent disposal of hazardous materials.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.260 Enforcement and Penalties.

- A. Any failure to comply with any provision of this Chapter, including but not limited to failure to obtain permits required by this Chapter, failure to comply with a condition of a permit issued pursuant to this Chapter, failure to submit the specified monitoring and inspection information and reports, failure to undertake any specified corrective work required by the County, and failure to pay required fees, is unlawful and a violation of the County Code.
- B. In the event of a violation of this Chapter, the County may in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the Monterey County Code and the LAMP and any other action authorized by law. If the County elects to utilize the administrative procedures set forth in Chapter 1.22 of the Monterey County Code to enforce this Chapter, the Director shall serve as the Enforcement Official. In the event of a violation, the County shall issue a notice of violation which shall

specify the violation and provide for reasonable time for the responsible person to correct or otherwise remedy the violation unless the violation creates an immediate threat to the public health or safety.

- C. Whenever one or more of the conditions of an OWTS installation or operating permit issued pursuant to this Chapter have not been, or are not being complied with, or when the permit was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant, remedies may include suspension or revocation of the permit following notice and opportunity for hearing in accordance with Titles 1, 20, or 21 of this Code, as applicable. In the event of revocation of the permit, a new and separate OWTS application shall be required, subject to the standards of this Chapter and payment of applicable permit application fees.
- D. Installation without a permit. In the case of installation of OWTS without obtaining all required permits, the County may, in addition to all other remedies, direct that all work cease and require that the property owner obtain the appropriate permit or demolish the OWTS. The property owner and qualified professional that commenced or completed the work may be subject to such enforcement action. To resume use of the OWTS that was installed or operated without the appropriate permits, the property owner must retroactively apply for an OWTS permit, subject to double application fees as penalty, and obtain all appropriate permits. Alternatively, if the County requires the property owner to discontinue use of the unpermitted OWTS or the property owner chooses to discontinue the use, the owner must apply for and obtain an OWTS demolition permit from the EHB and properly abandon or demolish the system.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.270 Penalties specific to qualified professionals.

- A. A cost recovery penalty may be assessed against the qualified installer when adequate notice is not provided pursuant to Section 15.20.120 of this Chapter or when additional inspections are necessary because the OWTS was not ready during a requested inspection. The penalty will be based on staff hours to evaluate documentation and complete the required inspection(s), invoiced at the current hourly rate as adopted by the Board of Supervisors.
- B. When the EHB determines that a registered qualified professional has not complied with the standards of this Chapter, the EHB may revoke the qualified professional registration, suspend the registration for a fixed period of time, or disqualify the qualified professional from future registration for a period of time.
- C. Prior to suspending or revoking a qualified professional registration, the EHB shall:
 - 1. Issue a notice of intent to suspend or revoke the qualified professional registration. The notice of intent shall be in writing and shall describe with particularity the nature of the violation, including a reference to the statutory provision, standard, order or regulation alleged to have been violated. The notice of intent shall provide a reasonable time to correct or otherwise remedy the violation. The notice of intent shall be served upon the registered qualified professional personally or by certified mail or by other means by which receipt has been verified.
 - 2. A registered qualified professional may request a hearing to contest the proposed suspension or revocation of their qualified professional registration. The hearing shall be conducted in accordance with the administrative hearing procedures set forth in Chapter 1.22 of this Code, with the Director serving as the Enforcement Official. The administrative hearing shall be held as soon as possible after receipt of the request for hearing.
 - 3. The Director may temporarily suspend any qualified professional registration issued pursuant to this Chapter prior to any hearing when the action is necessary to prevent an immediate threat to the public health or safety. The temporary suspension shall remain in effect until a final determination has been made.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.280 Administration and enforcement—Right of entry.

The Director and his or her authorized deputy(ies), assistant(s), or designee(s) shall administer and enforce the provisions of this Chapter. They shall have the right to enter any building or premises at all reasonable times to make an inspection to enforce any provision of this Chapter if the property owner or other person having charge or control of the building or premises consents or if EHB obtains an inspection warrant or other legally authorized means to secure entry.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.290 Indemnification.

Each permit approved pursuant to this Chapter shall require as a condition of the permit that the owner of the property for which the permit is issued and their successors in interest defend, indemnify, and hold harmless the County and its officers, agents, and employees from actions or claims of any description brought on account of approval of the permit or any injury or damages sustained, by any person or property, resulting from the issuance of the permit and the conduct of the activities authorized under said permit.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.300 Administrative Manual.

The Board of Supervisors may, in its discretion, adopt an administrative manual to establish guidelines, procedures, and forms to implement the LAMP and this Chapter. Such manual may be adopted and updated periodically by resolution of the Board of Supervisors.

(Ord. No. 5403, § 1, 6-13-2023)

15.20.310 Incorporation of Tables.

Tables 1 through 13 set forth below and the standards set forth therein are hereby incorporated into this Chapter.

Table 1. Allowable Average Densities per Subdivision	
Average Annual Rainfall (inches per year)	Allowable Density (acres per single family dwelling unit or equivalent)
0—15	2.5
>15—20	2.0
>20—25	1.5
>25	1.0

Table 2. Nitrogen Loading Limitations Using Conventional OWTS: Each Residential Dwelling-Unit		
# of Bedrooms	Estimated Nitrogen Load on Site ¹ (grams)	Minimum Acreage ^{2,3} (acres)
1	20	0.50
2	30	0.75

3	40	1
4	50	1.25
5	60	1.5
6	70	1.75

¹Add 10g Nitrogen per additional bedroom in a dwelling unit beyond 6 bedrooms.

²Add 0.25 acres per additional bedroom in a dwelling unit beyond 6 bedrooms.

³This standard shall not be construed to conflict with or supersede the minimum lot sizes for subdivisions specified by the Monterey County General Plan or Titles 20 or 21 of the Monterey County Code, as may be amended from time to time.

Table 3. Minimum Horizontal Setback Distances for OWTS			
Setback Element		Septic Tank (feet)	Dispersal Field (feet)
1.	Wells: Potable, Irrigation, Monitoring, Cathodic Protection	100 ^d	100 ^a
2.	Wells: Geothermal	50	50
3.	Domestic Water Supplies (that do not serve a public water system)	100 ^d	100 ^a
4. Public Water System Supply Wells (Existing)			
	Where the dispersal system is less than or equal to 10 feet deep	100 ^d	150
	Where the dispersal system is deeper than 10 feet and supplemental treatment has been incorporated	100 ^d	150 ^e
5. Public Water Systems' Surface Water Intake			
	Where the effluent dispersal system is less than 1,200 feet from a public water systems' surface water intake, within the catchment of the drainage, and located such that it may impact water quality at the intake point such as upstream of the intake point for flowing water bodies (measured from high water mark of the reservoir, lake or flowing water body)	100 ^d	400
	Where the effluent dispersal system is more than 1,200 feet but less than 2500 feet from a public water systems' surface water intake, within the catchment of the drainage, and located such that it may impact water quality at the intake point such as upstream of the intake point for flowing water bodies (measured from high water mark of the reservoir, lake or flowing water body)	100 ^d	200
6.	Bodies of Water: Vernal Pools, Wetlands, Lakes, Ponds or other Surface Water Bodies)	100 ^d	200
7.	Watercourse: measured from the high-water mark	100	100
8.	Springs, natural or any part of man-made spring	100	100 ^a
9.	Drainageway: measured from edge of flow path		
	Up slope (when elevation of the bottom of the drainage way is at or above the elevation of the effluent distribution pipe)	25	25

	Down slope (when elevation of the bottom of the drainage is below the elevation of the effluent distribution pipe)	25	50
10. Curtain Drains			
	Up slope	10	Requires Site Specific Engineering
	Down slope	10	50
11.	Domestic Water Line	10	10
12.	Building, Structure, or Mobile Home	5	10
13.	Property Line	5	10
14.	Large trees (when diameter of trunk is greater than or equal to 5 inches, measured 2 feet from ground level)	10	10
15.	Downhill Embankment with change in slope greater than 20% or Cut Slope	10	4 x H ^{b, c}
16. Steep slopes >50 percent (measured from the break of the slope)			
	Height of steep slope is less than 12 feet	10	25
	Height of steep slope is greater than or equal to 12 feet	10	50
17. In ground Swimming Pools/Spas			
	Up slope (when the elevation of the bottom of the pool or spa is at or above the elevation of the OWTS component)	10	10
	Down slope	10	25
18.	Unstable Land Mass or Areas Subject to Landslides	100 ^c	100 ^c

^a The required setback distance between a proposed well and existing seepage pits without supplemental treatment shall not be less than 150 feet.

^b H equals the height of cut or embankment, in feet. The required setback distance shall not be more than 50 feet, measured from the distribution pipe.

^c This distance may be reduced by up to 50% at the discretion of the Director if supported by recommendations in a geotechnical report and approved by EHB

^d All new or replacement septic tanks, pump tanks and supplemental treatment system tanks will be tested and confirmed to be watertight prior to final inspection; therefore, a 100 feet horizontal setback is adequate to protect public water supply wells, bodies of water and public water system intake points from contamination.

^e A disinfection unit shall be incorporated into the alternative OWTS with supplemental treatment when a variance is required for a replacement OWTS and this horizontal setback cannot be met.

Source: Modified version of Table 3, OWTS Policy, Tier 1

Table 4. Soil Application Rate and Minimum Vertical Separation from Bottom of Dispersal Field to Groundwater, Determined from Stabilized Percolation Rates		
Percolation Rate (minutes per Inch)	Maximum Soil Application Rate (gallons per day per square foot)	Vertical Groundwater ¹ Separation (feet)

< 1	1.2 (Requires alternative OWTS with supplemental treatment)	Refer to Table 12 (Minimum Vertical Separation to Groundwater for Alternative OWTS)
1—5	1.2	20
6—10	0.8	8
11—17	0.7	8
18—24	0.6	8
25—33	0.5	8
34—42	0.4	5
43—51	0.3	5
52—60	0.3	5
61—66	0.18	5
67—72	0.16	5
73—78	0.14	5
79—84	0.12	5
85—90	0.1	5
> 90—120 ²	0.1 (Requires alternative OWTS with supplemental treatment)	Refer to Table 12 (Minimum Vertical Separation to Groundwater for Alternative OWTS)

¹Includes all groundwater that cannot be captured and redirected around an OWTS using a curtain drain system.

²When percolation testing yields slower than 90 MPI, the qualified professional shall incorporate alternative OWTS with supplemental treatment to further reduce BOD and TSS beyond primary treated effluent to slow down the development of biomat and extend the life of the disposal field; nitrogen reduction is not required. No OWTS permit shall be issued when the percolation rate is slower than 120 MPI.

Table 5. Soil Application Rate and Minimum Vertical Separation from Bottom of Dispersal System to Groundwater, Determined from Soil Texture, Structure and Grade (Source: OWTS Policy Tier 1 Table 4 based on US EPA Onsite Wastewater Treatment Systems Manual)				
Soil Texture (per the USDA Soil Classification System)	Soil Structure Shape	Grade	Maximum Soil Application Rate (gallons per day per square foot)	Vertical Groundwater ¹ Separation (feet)
Coarse Sand, Sand, Loamy Coarse Sand, Loamy Sand	Single grain	Structureless	0.8	20
Fine Sand, Very Fine Sand, Loamy Fine Sand, Loamy Very Fine Sand	Single grain	Structureless	0.4	8
Coarse Sandy Loam, Sandy Loam	Massive	Structureless	0.2	8
	Platy	Weak	0.2	8
		Moderate, Strong	Prohibited	n/a
	Prismatic, Blocky, Granular	Weak	0.4	8
Moderate, Strong		0.6	20	
	Massive	Structureless	0.2	8

Fine Sandy Loam, very fine Sandy Loam	Platy	Weak, Moderate, Strong	Prohibited	n/a
	Prismatic, Blocky, Granular	Weak	0.2	8
		Moderate, Strong	0.4	8
Loam	Massive	Structureless	0.2	8
	Platy	Weak, Moderate, Strong	Prohibited	n/a
	Prismatic, Blocky, Granular	Weak	0.4	8
		Moderate, Strong	0.6	20
Silt Loam	Massive	Structureless	Prohibited	n/a
	Platy	Weak, Moderate, Strong	Prohibited	n/a
	Prismatic, Blocky, Granular	Weak	0.4	8
		Moderate, Strong	0.6	20
Sandy Clay Loam, Clay Loam, Silty Clay Loam	Massive	Structureless	Prohibited	n/a
	Platy	Weak, Moderate, Strong	Prohibited	n/a
	Prismatic, Blocky, Granular	Weak	0.2	8
		Moderate, Strong	0.4	8
Sandy Clay, Clay, or Silty Clay	Massive	Structureless	Prohibited	n/a
	Platy	Weak, Moderate, Strong	Prohibited	n/a
	Prismatic, Blocky, Granular	Weak	Prohibited	n/a
		Moderate, Strong	0.2	8

¹ Includes all groundwater that cannot be captured and redirected around an OWTS using a curtain drain system.

Table 6. Minimum Residential OWTS Design Volume and Septic Tank Capacity		
Number of Bedrooms	OWTS Design Volume (gallons per day)	Septic Tank Capacity
1 bedroom or studio	150	1,000 gallons
2 bedrooms	300	
3 bedrooms	375	
4 bedrooms	450	1,500 gallons
5 bedrooms:	525	2,000 gallons
6 bedrooms:	600	
Each additional bedroom	add 75 gallons	Add 250 gallons
With garbage grinder (per unit)		Add 500 gallons

Table 7. Domestic Wastewater OWTS Design Volumes for Commercial, Multi-Unit Residential, Industrial and Institutional Uses	
Type of Establishment	Gallons/Person/Day
Apartments (central laundry facility)	60
Apartments (with individual laundry facility)	75
Bars (no food preparation): 1,000 gallons +	15/seat
Per employee	20
Boarding House	50

Bowling Alleys (snack bar only)	75/lane
Camps:	
Campground w/ central comfort station	
Flush toilets only	25
Flush toilets and showers	35
Day camps (no meals served)	15
Resort Camps:	
Limited plumbing	50
Full plumbing including laundry	75
Summer and seasonal	50
Churches (Sanctuary: minimum of 1,000 gallons)	1 x church membership
W/ kitchen waste: 1,000 gallons +	1 x church membership
Condominiums:	
Central laundry facility	60
Individual laundry facility	75
Congregate Housing (w/ individual laundry and food preparation on-site)	75
With centralized laundry	(-15)
Without on-site laundry	(-20)
Without on-site food preparation	(-15)
Factory Workers (per 8 hr. shift exclusive of industrial waste):	
Without Showers	15
With Showers	35
Cafeteria, add	5/employee
Hotels:	
without private baths [per bed (2 people/bed)]	50
with private baths [per bed (2 people/bed)]	60
Institutions:	
Nursing home	125
Rest Home	125
Resident	75
Laundries (self-service; gallons/wash/customer)	50
Mobile Home Parks	
Per space - single wide	250
Per space - double wide	300
Motels	
per bed (2 people/bed)	50
with Kitchen [per bed (2 people/bed)]	60
Offices (8 hr. shift)	15
Parks:	
Picnic Parks:	
W/ toilets only	5
W/ toilets and showers	10
Trailer Parks:	
Individual hookup	250/space
Central restroom (shower and laundry)	200/space

Central restroom (shower only)	150/space
Central restroom only	100/space
Restaurants (Grease interceptors required):	
Full-service w/toilets:	1,000 gallons + 30/seat
Paper service type w/ toilets: 1,000 gallons +	15/seat
W/ bar add	15/bar seat
For each employee add	20
Rooming Houses	40
Schools:	
Elementary students	15
Intermediate and High	20
W/ gym and showers add	5
W/ cafeteria add	3
Boarding (total waste)	100
Service Stations: 1,000 gallons +	5/vehicle served
Single Family Dwellings (minimum 1,000 gallons)	75
Stores: (1,000 gallons minimum)	
Per employee	20
Per 10 square feet	1
Swimming Pools and Bath Houses	10
Theaters	
Auditoriums	5/seat
Drive-in	10/space

Table 8. Maximum Allowable Ground Slope by Dispersal System Type				
Type of Dispersal System ≤20%	21-30%	31-40%	1	41-50% ²
At-Grade	X			
Cover Fill	X			
Mound	X			
Conventional Leach Field		X		
Seepage Pit with Supplemental Treatment		X		
Raised Sand Filter Bed			X	
Shallow-Pressure-Distribution			X	
Subsurface Drip Dispersal				X

¹Supplemental treatment is required for slopes greater than 30%

²Supplemental treatment with disinfection is required for slopes greater than 40%

Table 9. Performance Evaluation Requirements		
Type of Permit Application	Is a performance evaluation required to be conducted by a qualified professional?	
	Tank	Dispersal System
Septic tank replacement to allow for a building remodel or addition	Not applicable	Yes
Septic tank replacement that does not exceed the minimum standards of Table 6, Minimum Septic Tank Capacity	Not applicable	No. Existing dispersal system

		shall be allowed to remain in use.
Dispersal system replacement to allow for a for a building remodel or addition	Yes	Not applicable
Dispersal system replacement that does not exceed the minimum infiltrative area as calculated using Soil Application Rate (Table 4 or 5) and the OWTS Design Volume (Table 6 or 7)	Yes	Not applicable
Building remodel and/or addition, that proposes additional bedrooms or that will increase wastewater generation	Yes	Yes
Building remodel and/or addition, that proposes to change the habitable area of a residential structure by 500 square feet or more	Yes	Yes
Addition to, tenant improvement of, or change of use of a commercial/industrial structure	Yes	Yes
Subdivision of land with existing OWTS	Yes	Yes

Table 10. Retention and Reassessment of Existing, Non-Conforming Dispersal Systems				
Does the Project Propose to Increase Wastewater Volume or Strength? Or Electively Increase Capacity?	Does the Dispersal System Meet Water-Related Horizontal Setbacks?	Does the Dispersal System Meet Vertical Groundwater Setbacks?	Can Existing, Non-Conforming OWTS Dispersal System be Retained?	Can the Existing Dispersal Capacity be Reassessed?
No	No	No	Yes: Supplemental Treatment Required ^{2,3}	No
		Yes ¹	Yes ³	No
	Yes	No	Yes: Supplemental Treatment Required ²	No
		Yes ¹	Yes ³	No
Yes	No	No	Yes: Supplemental Treatment Required ^{2,3}	No
		Yes	Yes: Supplemental Treatment Required ³	Yes
	Yes	No	Yes: Supplemental Treatment Required ²	No
		Yes	Yes: Supplemental Treatment Required	Yes

¹When the EHB determines that there is a high potential for subsurface perched or sheeting water, or high seasonal groundwater levels, based on EHB records or site conditions, a groundwater monitoring boring may be required at the discretion of the EHB. The timing of the boring (i.e. wet weather testing) will be determined on a case by case basis by the EHB in consultation with the qualified professional.

²The existing dispersal system is eligible to remain in use provided a supplemental treatment system with nitrogen reduction is incorporated into the OWTS and adequate vertical separation exists between the bottom of the existing dispersal system and high seasonal groundwater as determined by Table 4 or 5 of this Chapter.

³The existing dispersal system is eligible to remain in use provided the qualified professional demonstrates to the satisfaction of the EHB that continued use of the dispersal system will not pose a risk to surface water, groundwater or public health.

Table 11. Effluent Constituent Limitations for Supplemental Treatment Systems			
Type of Dispersal System	Average Effluent Concentrations (mg/L)		
	5-Day Biological Oxygen Demand (BOD)	30-Day Average Total Suspended Solids	Total Nitrogen (TN) ^{1,2}
New or Expansion Dispersal Systems with Infiltrative Area Depth More Than 2 Feet, including Seepage Pits	30	30	50% reduction or 25 mg/L, whichever is lower (NSF Standard 245, or equivalent)
Replacement Conventional Dispersal Systems with Infiltrative Area Depth More Than 5 Feet			
Dispersal Systems with Infiltrative Area Depth 3 Feet or Less	30	30	Not required
Drip Dispersal Systems	20	20	Only required when vertical separation to groundwater per Table 4 or Table 5 cannot be met, 50% reduction or 25 mg/L, whichever is lower (NSF Standard 245, or equivalent)
Alternative Dispersal Systems Installed to Overcome Minimum Horizontal Setbacks to Groundwater, per Table 2	30	30	50% reduction or 25 mg/L, whichever is lower (NSF Standard 245, or equivalent)
Detection Limit (mg/L)	2	5	1

¹ Determined as the sum of nitrate-nitrogen plus total kjeldahl nitrogen

² Unless specifically required by the LAMP or this Chapter , supplemental treatment systems are not required to meet effluent limitations for Total Nitrogen.

Table 12. Minimum Vertical Separation to Groundwater by Type of Alternative OWTS				
Type of Dispersal System	Vertical Separation to Groundwater (feet) ¹			
	2' 3'	5' 10'		
Supplemental Treatment and Disinfection				
At-Grade	X			
Mound				
Raised Sand Filter Bed				

Shallow pressure distribution Subsurface Drip Dispersal				
Supplemental Treatment At-Grade Conventional Leachfield Trench Mound Raised Sand Filter Bed Shallow pressure distribution Subsurface Drip Dispersal		X		
Pressurized systems without Supplemental Treatment At-Grade Mound Shallow Pressure Distribution Seepage Pits with Supplemental Treatment and Disinfection			X	
Seepage Pits with Supplemental Treatment				X

¹ Measured from the bottom of the dispersal system to the seasonal high-water table.

Table 13. Minimum Soil Depth Below Dispersal System and Bedrock or Impervious Layer		
Type of Dispersal System	Minimum Soil Depth (feet) ¹	
	2' 3'	
Conventional Septic Tank and: At-Grade Shallow Pressure Distribution (includes Bed Systems) Leachfield Trench		X
Supplemental Treatment and: At-Grade Raised Sand Filter Bed Shallow Pressure Distribution (includes Bed Systems) Subsurface Drip Dispersal Mound	X	

¹ Measured from the bottom of the dispersal system

(Ord. No. 5403, § 1, 6-13-2023)

Chapter 16.80 REGULATIONS RELATING TO APPLICATIONS INVOLVING USE OF PRIVATE ROADS

Sections:

16.80.010 Purpose.

The purpose of this Chapter is to establish regulations relating to the issuance of certain discretionary permits or entitlements pursuant to Titles 20 or 21 of this Code that may result in the intensification of use of a privately-owned road.

(Ord. No. 5318, § 2, 9-17-2019)

16.80.020 Applicability.

These regulations apply to the unincorporated area of Monterey County. Where a conflict exists between the provisions of this Chapter and other provisions of the Monterey County Code, the provisions of this Chapter shall prevail.

(Ord. No. 5318, § 2, 9-17-2019)

16.80.030 Definitions.

The following definitions shall apply to this Chapter:

- A. "Applicant" means the person or entity who submits an application to the County for a discretionary permit pursuant to Titles 19, 20 or 21 of this Code.
- B. "Application" means an application for a land use project requiring a discretionary permit.
- C. "Appropriate Authority" means that person, official, or body designated to hear, grant, deny, modify, condition, revoke or otherwise act on permits required by Titles 20 and 21 of this Code.
- D. "County" means the County of Monterey.
- E. "Final settlement or final judicial determination" means a written agreement between interested parties resolved personally or through other avenues, including but not limited to mediation, arbitration, or a document evidencing a binding arbitration decision or final court judgment.
- F. "Interested party" means any person or entity that owns property abutting a private road, but that is not a party to a private road.
- G. "Notice" means written notice of an application provided to all parties to a private road and interested parties that will be used to access a project, such notice to be personally delivered or deposited in the United States Mail, first class postage pre-paid.
- H. "Party to a private road" means:
 - 1. Any person or entity that owns the underlying fee interest in land that is subject to and burdened by a private road, such as the servient tenement in the case of an easement; and

2. Any person or entity that holds an interest in the private road and benefits from it, such as the dominant tenement in the case of an easement.
- I. "Private road" means any travelled way, avenue, place, drive, lane, street, boulevard, highway, easement, or alley not owned, maintained, nor required to be maintained by the state, County, incorporated city, or other public agency, except that the term "private road" for purposes of this Chapter shall include quasi-private roads that have all of the following characteristics: the road is under the jurisdiction of a federal governmental agency; it lies on national forest or private land; it is open to public use; and private users bear or contribute directly to the cost of maintenance.
 - J. "Private road agreement" means any document of record, properly executed and recorded, that is an agreement between parties concerning the right to use private property as access to another parcel of private property. A private road agreement may include, without limitation, a written contract, an easement, grant deed, reservation or a designation on a final subdivision map. A private road agreement also includes a final court judgment documenting an easement or other right of access.
 - K. "Private road maintenance agreement" means a document of record, properly executed and recorded, that is an agreement between parties to a private road concerning the costs and responsibilities of those parties for upkeep and repair of the private road.
 - L. "Project" means:
 1. A use for which a discretionary permit, license or other entitlement from the County is required; or a change in land use from an agricultural designation (Farmland, Permanent Grazing, Rural Grazing) to a non-agricultural designation; and
 2. In either case, where access to the property from a public road is, or will be, provided either primarily or subordinately by a private road.
 - M. "Proof of access" means one or more of the following:
 1. Written concurrence of all parties to a private road;
 2. Existence of a final settlement or final judicial determination that the private road may be used to access the project; or
 3. A properly executed private road agreement.

(Ord. No. 5318, § 2, 9-17-2019)

16.80.040 Application Review and Procedures.

- A. An applicant shall provide the following, if applicable, with any application submitted pursuant to Titles 19, 20 or 21 of this Code, and an application will not be deemed complete until the information or documentation required is provided:
 1. A copy of the private road agreement;
 2. A copy of the private road maintenance agreement;
 3. Written permission to use a private road for the project from a private road governing structure; and
 4. A site plan that includes, but is not limited to, documentation showing existing access limits and minimum access requirements from the project to the primary public road or right-of-way. If access does not meet minimum requirements of the local Fire Authority and Monterey County Resource Management Agency, the applicant must demonstrate the ability to meet the minimum level of improvements required.

- B. Upon submittal of an application, the Chief of Planning, or his or her designee, shall:
1. Provide notice pursuant to Subsection C of this Section;
 2. Review the application to determine if the project is exempt pursuant to Subsection D of this Section;
 3. If the application is not exempt pursuant to Subsection D, the Chief of Planning, or his or her designee, shall classify the project as belonging within one of the following categories:
 - a. Tier 1: the project is not subject to a private road agreement or a private road maintenance agreement;
 - b. Tier 2: the project is not subject to a private road agreement, but is subject to a private road maintenance agreement;
 - c. Tier 3: the project is subject to a private road agreement, but not a private road maintenance agreement; or
 - d. Tier 4: the project is subject to a private road agreement and a private road maintenance agreement.
- C. Upon submittal of an application, the Chief of Planning, or his or her designee, shall meet the following notice requirements:
1. Provide notice of a project to all parties to a private road and interested parties within ten (10) working days of submittal of an application for a project, except notice is not required for the following types of projects:
 - a. The first single family dwelling on a legal lot of record;
 - b. Any action authorized by an emergency permit issued pursuant to Chapters 20.79 or 21.75 of this Code, provided that such action exists or occurs only so long as the emergency permit is effective;
 - c. Projects with access via public road(s) only;
 - d. Projects whose use of a private road is limited to emergency access only;
 - e. Routine and ongoing agricultural uses;
 - f. Accessory dwelling units, guesthouses, and/or other subordinate uses that are accessory to the primary use of the property; and
 - g. Projects with access via a private road(s) that are subject to a legally established private road governing structure such as a homeowners' association or similar organization where said governing structure is authorized to make determinations regarding the use, maintenance, and related matters regarding the private road(s) and where such governing structure has provided written permission to use the private road(s) for the project. Examples of projects within this exception may include but are not limited to projects considered allowed uses within the Del Monte Forest area, the Monterra and Tehama subdivisions, and similar subdivisions with previously contemplated allowed uses and private road governing structures. This exemption does not apply if access to the private road(s) subject to the governing structure is accessed by another private road(s) not subject to the governing structure. In such a case, notice shall be provided to interested parties outside of the jurisdiction of the governing structure.
 2. The notice shall provide the opportunity for any party to a private road to object to the use of the private road, for purposes of the project, within thirty (30) days from the mailing of the notice. The purpose of this notice and objection is to provide an opportunity for resolution of disputes prior to consideration of the project by the Appropriate Authority, or for staff to consider a recommendation

following the provisions of this Chapter. For the purposes of this Chapter, objections from interested parties who own land abutting a private road shall be considered on a case by case basis. Objections from interested parties shall not provide a basis for applying the conditions described in Section 16.80.060 of this Chapter.

3. The notice may include notification of the Land Use Advisory Committee meeting where the project will be considered if such consideration is required pursuant to the Land Use Advisory Committee Procedures adopted by the Board of Supervisors.
- D. The following types of projects shall be exempt from the regulations contained in Sections 16.80.050 and 16.80.060 of this Chapter:
1. The first single family dwelling on a legal lot of record;
 2. Any action authorized by an emergency permit issued pursuant to Chapters 20.79 or 21.75 of this Code, provided that such action exists or occurs only so long as the emergency permit is effective;
 3. Projects with access via public road(s) only;
 4. Projects whose use of a private road is limited to emergency access only;
 5. Projects that, in the opinion of the Chief of Planning, do not result in intensification of the use of a private road(s);
 6. Projects with access via a private road(s) that are subject to a legally established private road governing structure such as a homeowners' association or similar organization where said governing structure is authorized to make determinations regarding the use, maintenance, and related matters regarding the private road(s) and where such governing structure has provided written permission to use the private road(s) for the project. This exemption does not apply if access to the private road(s) subject to the governing structure is accessed by another private road(s) not subject to the governing structure. In such a case, the project is not exempt from the regulations contained in Sections 16.80.050 and 16.80.060 of this Chapter;
 7. Routine and ongoing agricultural uses;
 8. Accessory dwelling units, guesthouses, and/or other subordinate uses that are accessory to the primary use of the property; and
 9. A federal project on a private road.
- E. In all cases, applicants are encouraged to provide early notification of a project to interested parties and parties to the private road and to work collaboratively with all parties to resolve issues. For projects falling within Tier 1, Tier 2, or Tier 3, applicants are encouraged to prepare or cause to be prepared, executed and recorded, private road agreements and/or private road maintenance agreements, as the case may be.

(Ord. No. 5318, § 2, 9-17-2019)

16.80.050 Regulations.

For all nonexempt projects, the following standards, based on substantial evidence in the record, shall apply:

- A. Tier 1 Projects: the Appropriate Authority shall consider any objection from a party to a private road regarding access a substantive dispute and shall either deny the project on that basis or approve the project subject to the proof of access condition and/or the private road maintenance condition described in Section 16.80.060 of this Chapter.
- B. Tier 2 Projects: the Appropriate Authority shall consider any objection from a party to a private road regarding the legal rights to use a private road for the project a substantive dispute and shall either

deny the project on that basis or approve the project subject to the proof of access condition described in Section 16.80.060 of this Chapter. Matters of proportionate costs for repair and maintenance of such roads shall be subject to the terms of the private road maintenance agreement.

- C. Tier 3 Projects: the Appropriate Authority shall rely on the plain language of the private road agreement regarding rights of access. If an objection is made involving proportionate costs for repair and maintenance of the private road(s), the Appropriate Authority shall consider an objection of fifty percent (50%) or more of the parties to a private road agreement a substantive dispute and in this case, shall either deny the project on that basis or approve the project subject to the private road maintenance condition described in Section 16.80.060 of this Chapter. An objection of fifty percent (50%) or more of the parties to a private road agreement shall be determined on a one vote per lot basis.
- D. Tier 4 Projects: the Appropriate Authority shall rely on the plain language of the private road agreement and private road maintenance agreement regarding rights of access and proportionate costs for repair and maintenance. Unless a project proposes a use that is clearly inconsistent with the plain language of the agreements, the Appropriate Authority may approve a project without applying conditions to the project outlined in this Chapter.
- E. The "Tiers" described above are intended to provide standards that the Appropriate Authority will apply when considering an application for a project that is not exempt from the requirements of this Chapter pursuant to Section 16.80.040 and that involves a substantive dispute over the private road as described within the applicable Tier. Generally, where a legally executed document exists, the County will consider such documentation to be adequate evidence to demonstrate access for the purposes of this Chapter and conditions of approval will not typically be warranted where such documentation exists. In all cases, regardless of whether the Appropriate Authority elects to apply a condition of approval to a project, interested parties, parties to a private road, and/or applicants may have legal rights under the California Civil Code, and nothing in this Chapter is intended to preclude their exercise of rights under the California Civil Code.

(Ord. No. 5318, § 2, 9-17-2019)

16.80.060 Project Conditions.

- A. If the Appropriate Authority finds, based on substantial evidence in the record, that a substantive dispute exists regarding the use of a private road for a project, said authority may approve the project but shall require as a condition of project approval that the applicant provide the County with proof of access demonstrating that the dispute has been satisfactorily resolved, in accordance with the Tier standards set forth above.
- B. If the Appropriate Authority finds, based on substantial evidence in the record and in accordance with the Tier standards set forth above, that a substantive dispute exists regarding the costs of repairing or maintaining a private road as it relates to a project, said authority may approve the project but shall require as a condition of project approval that the applicant provide the County with adequate documentation demonstrating that the dispute has been satisfactorily resolved. For the purposes of this Chapter, adequate documentation may include written withdrawal of objections, a properly executed private road maintenance agreement, a final settlement or final judicial determination, or written documentation showing that a majority of the parties to a private road have agreed to repair and maintenance terms in light of the project.
- C. Maintenance of any private road will be subject to a private road maintenance agreement, or if no such agreement exists, then County recognizes that parties may have recourse pursuant to California Civil Code Section 845. The County is not a party to such private road maintenance agreement and does not interpret

or enforce their terms and conditions, nor does the County have jurisdiction to adjudicate a dispute among the parties as to the maintenance of any private road.

- D. If a condition of approval is added to a project pursuant to this Chapter, said condition shall be satisfied prior to issuance of any other permits in furtherance of the project or recordation of a final map, whichever occurs first and as applicable.
- E. If a project is approved subject to one or more of the conditions provided in this Chapter, the Chief of Planning shall, in his or her discretion, have the authority to stay the expiration of the entitlement for the project for a period no greater than the number of days from initial filing of judicial proceedings to the final judicial determination or settlement regarding the access dispute.

(Ord. No. 5318, § 2, 9-17-2019)

16.80.070 Reservation of Authority.

- A. Nothing in this Chapter affects the authority of the County to exercise the power of eminent domain pursuant to Government Code section 66462.5 of the California Subdivision Map Act.
- B. Nothing in this Chapter diminishes or in any way alters or lessens the effect of the California Civil Code. Where a conflict exists between these provisions and the provisions of state or federal laws, the state or federal law shall prevail.

(Ord. No. 5318, § 2, 9-17-2019)

This page intentionally left blank