

## Exhibit B

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## Exhibit B – Detailed Discussion

### Summary of Current Ordinance

#### Hosted vs. Non-hosted

*Hosted Vacation Rental* - A Hosted Vacation Rental is a rental in which the operator of the vacation rental occupies at least one Bedroom in the vacation rental for the duration of the vacation rental. This type of vacation rental was not included in the draft ordinances that were released as a part of the California Environmental Quality Act (CEQA) process. Throughout the outreach process, the County received a significant number of comments supporting that staff add a Hosted (also known as homestay) vacation rental option to the ordinances. This would give applicants the ability to rent a portion of their home as a vacation rental while still residing in the property for the duration of the vacation rental. Due to the significant public feedback supporting this option, staff included this as an alternative in the EIR and subsequently added Hosted Vacation Rental operations into the draft regulations to ensure that this type of operation, where the homeowner resides on the property for the duration of the vacation rental, is allowable.

*Non-hosted Vacation Rental* – A Non-hosted Vacation Rental is a rental in which the operator of the vacation rental does not reside at the vacation rental during the rental period. This type of vacation rental is more similar in intensity and character to a commercial use. Due to the more intensive type of use inherent with Non-hosted Vacation Rentals, these types of rentals are only allowed to occur up to three times per 12-month period to be considered a Limited Vacation Rental, and if they occur more than three times per 12-month period, they are considered a Commercial Vacation Rental.

#### Types of Vacation Rentals

##### *Commercial Vacation Rental–*

##### Definition:

- Operators of Limited Vacation Rentals are allowed to rent their property as Non-hosted for more than three times per 12-month period or Hosted for an unlimited number of times per year.

##### Cap:

- Commercial Vacation Rentals are limited to no more than four percent of the total single-family residential dwelling units per Planning Area, as identified by the County of Monterey in 2022.
- Commercial Vacation Rentals are prohibited in the Big Sur Coast Planning Area, the Low-Density Residential Zoning District in the Carmel Area Land Use Plan, and the Rural Density, Low Density, Medium Density, and High Density Residential Zoning Districts in the Carmel Valley Master Plan Area.

##### Maximum Occupancy:

- Commercial Vacation Rentals have a maximum overnight occupancy of two per bedroom and not to exceed ten occupants and a daytime occupancy of 1.5 times the overnight occupancy and not to exceed fifteen occupants and visitors.

##### Permit Requirements:

- Commercial Vacation Rentals would be required to obtain a Vacation Rental Operation License, a ministerial license issued by the County of Monterey Housing and Community Development (HCD). They would also be required to obtain a Use Permit (inland) or a Coastal Development Permit (coastal), a discretionary permit issued by HCD.

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- Commercial Vacation Rentals would also need to obtain a Transient Occupancy Tax Certificate and a business license from the County of Monterey Treasurer-Tax Collector.

### **Additional Regulatory Requirements:**

- Commercial Vacation Rentals are required to provide evidence that their septic system (also known as an Onsite Wastewater Treatment System) is in good working order and functioning properly in compliance with Chapter 15.20.
- Commercial Vacation Rentals must comply with Chapter 16.80 (Regulations Relating to Application Involving Use of Private Roads). Because Commercial Vacation Rentals are more similar to visitor-serving uses, this requirement ensures that all property owners on the private road are aware of the proposed Commercial Vacation Rental and that they have the ability to comment on the application.
- Commercial Vacation Rentals must demonstrate that the emergency response time of fire and emergency medical services is adequate.
- Commercial Vacation Rentals must provide parking as required for the dwelling type by Monterey County Code Section 20.58.040 and 21.58.040 at the time the dwelling was built.
- All Use Permits or Coastal Development Permits issued for Commercial Vacation Rentals have a seven-year term limit.

### ***Limited Vacation Rentals –***

#### **Definition:**

- Operators of Limited Vacation Rentals are allowed to rent their property as Non-hosted for not more than three times per 12-month period or Hosted for an unlimited number of times per year.

#### **Maximum Occupancy:**

- Limited Vacation Rentals have a reduced occupancy limit to ensure that they are similar in intensity and character to residential uses. Limited Vacation Rentals have a maximum overnight occupancy of two per bedroom and not to exceed four occupants and a daytime occupancy of 1.5 times the overnight occupancy and not to exceed six occupants and visitors. These occupancy limits apply to both Hosted and Non-hosted rentals. If a Limited Vacation Rental exceeds the occupancy allowances, it would be required to obtain a Use Permit or Coastal Development Permit as a Commercial Vacation Rental. This reduced occupancy for Limited Vacation Rentals is intended to further minimize the potential social and behavioral impacts that could be associated with Limited Vacation Rentals.

#### **Permit Requirements:**

- Limited Vacation Rentals would be required to obtain a Vacation Rental Operation License.
- Limited Vacation Rentals would also be required to obtain a Transient Occupancy Tax Certificate and a business license.

## **Regulatory Requirements of All Vacation Rentals**

### ***Allowable Zoning Districts:***

- Coastal Zoning Districts:

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- 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)).
- Non-coastal Zoning Districts:
    - High Density Residential (HDR);
    - Medium Density Residential (MDR);
    - Low Density Residential (LDR);
    - Rural Density Residential (RDR);
    - Light Commercial (LC);
    - Heavy Commercial (HC);
    - Visitor-serving/Professional Office (VO);
    - Farmland (F);
    - Rural Grazing (RG);
    - Permanent Grazing (PG);
    - Resource Conservation (RC);
    - Community Plan (CP), subject to Section 21.39.030.B (Regulations for Community Plan Zoning Districts or “CP” Districts” – Uses Allowed) except industrial and public/quasi-public land use designations within the CP districts; and
    - Specific Plan (SP), subject to Section 21.41.030.B (Regulations for Specific Plan Zoning Districts or “SP” Districts – Uses Allowed) except industrial and public/quasi-public land use designations within the SP district.

### *Vacation Rentals per Legal Lot*

The draft ordinance's language would allow an operator to apply for one Commercial Vacation Rental per legal lot of record. This would allow the operator to have a maximum of one Commercial Vacation Rental operating at the same time, excluding commercially zoned parcels.

### *Allowable Dwelling Types*

To protect housing options for Monterey County residents and its workforce while also allowing vacation rentals, staff received direction from the Planning Commission (Commission) and Board of Supervisors (Board) to limit vacation rentals to single family dwellings. This will limit the impact on housing typologies that are more affordable by design, such as accessory dwelling units, junior accessory dwelling units, townhomes, and multi-family dwellings. Single family dwellings are the only housing typology that is allowed to be a vacation rental.

### *Active Agricultural Operations*

Vacation rentals are allowed in agricultural zoning districts to encourage tourism in the more rural and less visited areas of Monterey County. Vacation rentals in agricultural zoning districts allow other types of visitor accommodations that support agrotourism, particularly in areas where agritourism is encouraged

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by the 2010 County of Monterey General Plan, such as the Agricultural and Winery Corridor Plan and Rural Centers.

During the outreach process, staff received input that allowing visitors to agricultural properties with active agricultural operations could potentially endanger the visitors and the active agricultural operation. Therefore, staff added language to ensure that a vacation rental is rented while there is an active agricultural operation on the property; the property manager or operator must concurrently reside on the property while the vacation rental is rented. This requirement in the draft ordinances additionally facilitates compliance with allowing vacation rentals on Williamson Act properties, as Williamson Act properties must remain in active agricultural production.

### *Property Manager*

The Operator must provide rental occupants, property owners within 300 feet, and HCD with the contact information, including the phone number, of a property manager or occupant who is available 24 hours a day, seven days a week, to respond to complaints and arrive at the site within 30 minutes of receiving a complaint. This is to ensure that the occupants and neighbors of the vacation rental can contact the property manager or operator of the vacation rental in the event of nuisances, hazards, or other concerns arising (such as a broken pipe, loud neighbors, or situations where the maximum occupancy is exceeded). This does not preclude the occupants or neighbors from filing a code enforcement complaint with the County for violations occurring at the vacation rental.

### *Commercial Vacation Rental Cap*

The Board directed staff at their May 25, 2021, hearing to establish a limit or cap on vacation rentals of 6 percent per Planning Area for Commercial Vacation Rentals. The 6 percent cap on Commercial Vacation Rentals was established to balance the concerns of operators operating in good faith and waiting for the County to adopt vacation rental ordinances, particularly in the Coastal Zone. These concerns were weighted against the concern that not capping the amount of vacation rentals could create significant negative social and economic impacts on existing residents and encourage the proliferation of vacation rentals in already unaffordable areas of the County. The 6 percent cap of residential single-family dwelling units balances these concerns by allowing all existing operators to submit applications through the new regulatory process while ensuring that the unincorporated county would not become oversaturated with Commercial Vacation Rentals.

Throughout the California Environmental Quality Act (CEQA) process, there were significant comments received expressing concern with the potential negative social and behavioral impacts of vacation rentals on the surrounding residents and the community by allowing up to 6 percent of the residential single-family dwelling units to operate as Commercial Vacation Rentals. Therefore, to limit these negative impacts while still allowing existing operators to apply for permits, the updated draft ordinances propose a reduced cap on Commercial Vacation Rentals at 4 percent of residential single-family dwelling units per Planning Area.

### *Prohibition on Outdoor Fire Areas*

CalFire has designated significant areas of Monterey County as being in very high, high, or moderate fire hazard severity zones. Significant areas of the County within the past twenty years have burned as a result of wildfires, which have resulted in significant property damage and loss as well as have the potential to cause bodily injury and death to residents and visitors. Due to the significant public comments the County received during the environmental review process and in recognition of the significant danger wildfires

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pose to the residents and visitors of Monterey County, the draft ordinances prohibit outdoor fire areas at all vacation rentals. This prohibition includes all approved recreational fire containers and portable fireplace containers.

### *Compliance with Existing Monterey County Code Sections*

All vacation rentals are required to comply with Monterey County Code 8.36 (Nuisance and Nuisance Animals), 10.41 (Solid Waste Collection and Disposal), 10.60 (Noise Control), and 15.04 (Domestic Water Systems). This is to ensure that the vacation rental operation is safe for both the occupants of the vacation rental and also for neighboring properties and communities. The operator is required to notify the occupants of these requirements as well as notify them of the penalties for violating any of these requirements, where each violation constitutes a separate and unique violation.

### *Vacation Rental Relationship to Conditions, Covenants, and Restrictions (CC&Rs)*

The Commission recommended to the Board at its June 10, 2020, hearing draft ordinances that did not include regulatory language related to CC&Rs. The Board requested staff to research and include regulatory language related to CC&Rs in the next version of the draft ordinances. Staff conducted research, and based on Board direction, the previous version of the draft ordinance included language that required the vacation rental to comply with any CC&Rs on real property or any Homeowner's Association prohibition on vacation rental operations. Based on additional staff research, additional circumstances and input has resulted in staff's recommendation to remove regulatory language related to CC&Rs in the version before the Planning Commission today. Additionally, due to recent developments with applications for administrative permits for transient use of residential property for remuneration (pursuant to Section 21.64.280) and acknowledgment that the County does not regulate private agreements between property owners, staff conducted further research on thirty jurisdictions throughout the State of California that have regulations for vacation rentals and found that only three have some regulations related to conditions, covenants, and restrictions. Further, of those three jurisdictions, two simply require that the applicant verify that the vacation rental does not violate the terms of any conditions, covenants, or restrictions, with only one, the City of Sacramento has specific regulations that state that "no person shall operate a short-term rental in violation of applicable CC&Rs or similar regulations." Additionally, requiring County Counsel to review language related to CC&Rs and HOAs requires significant County Counsel staff time to review and ensure that applicants live in a valid HOA pursuant to the Davis-Stirling Common Interest Development Act (California Civil Code Sections 4000-6150) and that the parcel is subject to those restrictive CC&Rs. Therefore, staff removed requirements for compliance with CC&Rs as a part of the draft ordinances presented to the Planning Commission.

### *Phasing out of Unpermitted Vacation Rentals*

The draft ordinance language provides a specific process for applicants with existing, unpermitted vacation rental operations to follow to ensure that they can apply for a Vacation Rental Operations License and, if applicable, a Use or Coastal Development Permit. Within six months of the ordinances' effective date, applicants must make an application for all permits, licenses, certificates, and other entitlements required by County regulations. Finally, if the County denies the applicant's vacation rental, the applicant must cease operations.

All unpermitted vacation rental operations not allowed pursuant to the draft ordinances are required to phase out operations within six months of the ordinances' effective date. The County can require earlier termination of unpermitted operations in instances where there is a risk to public health, safety, and welfare.

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### *Amortization of Existing Applications*

The draft ordinances address the amortization for vacation rental operations that were permitted pursuant to Section 21.64.280 and as uses similar to a bed & breakfast in the Coastal Zone. The draft ordinances require that all previously permitted operations come into compliance with the draft ordinances. The previously permitted operations are required to come into compliance once their permit expires or for permits issued without expiration dates within seven years after the adoption of the draft ordinances.

To ensure that existing operations have the opportunity to come into compliance with the new regulatory requirements for vacation rentals, the draft ordinances will reserve from the Commercial Vacation Rental cap the total number of units (by Area or Master Plan) that were previously permitted for the requisite amortization period. If the existing operations do not make an application for the required licenses and permits staff will release the unit counts.

### **Vacation Rental Licensing and Permitting Process**

Staff worked on implementation planning with the County of Monterey Treasurer-Tax Collectors Office and Environmental Health to ensure that the vacation rental ordinances would be implemented smoothly once adopted by the Board and certified by the California Coastal Commission in the County's Coastal Zone.

To ensure that applicants obtain all of the necessary required licenses and permits from HCD and County of Monterey Treasurer-Tax Collector staff wanted to ensure that the application process was clear. Applicants must first register with the County of Monterey Treasurer-Tax Collector to pay Transient Occupancy Tax. Then, applicants must obtain a Vacation Rental Operation License and, if applicable, a Use Permit or Coastal Development Permit. Finally, applicants must obtain a business license from the County of Monterey Treasurer-Tax Collector before their vacation rental begins operations. Staff would like to note that the current language would require all existing hotel operators to obtain a business license from the Treasurer-Tax Collector, too.

This clarity of process and responsibilities will enable the County of Monterey Treasurer-Tax Collector and HCD staff to work together to streamline the process of applicants obtaining the necessary permits and licenses from both offices.

### *Applicability of the Permit Streamlining Act on Vacation Rental Applications*

The Permit Streamlining Act (Act) was enacted to ensure that permits for development projects are processed in a timely manner. The Act sets a 30-calendar-day review period for any public agency that has received an application for a development project, and failure to provide completeness review determination during that time results in a development application being deemed complete by operation of law. Importantly, the Act's 30-day review period only applies to applications for “development projects” (as defined in California Government Code § 65928), which are any project involving the issuance of a permit for construction or reconstruction but not a permit to operate. Development projects do not include any ministerial projects or any projects that are not undertaken for the purposes of “development” as defined in California Government Code § 65927 to effectively mean any newly built structure, the changing of any physical structure, a change in the density or intensity of land, or a change in the intensity of water use. Vacation rental permitting is not subject to the Act as Vacation Rental Operation Licenses are ministerial, and vacation rental operations do not meet the definition of “development” or a “development project.”



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There is an expectation that HCD will receive a significant influx of vacation rental applications within the first six months to a year after the ordinances become effective. HCD staff will make every effort to ensure that the processing of vacation rental applications is timely; however, the standard timelines are not applicable and may not be met. HCD will present options to the Board of Supervisors for staffing and resource allocation that may be needed to ensure timely processing of the initial influx of permit applications and staff to ensure a program is in place for applicants to receive timely follow-up and updates during the review process.

### **Carmel Valley Master Plan Prohibition in Residentially Zoned Districts**

Monterey County's Draft Environmental Impact Report (DEIR) (State Clearinghouse Number 2022080643) analyzed as alternative six the prohibition of Commercial Vacation Rentals in residentially zoned areas of the Carmel Valley Master Plan Area (CVMP Area). The CVMP Area is a popular tourist destination within Monterey County as visitors are drawn to its wineries, tranquil vistas, popular outdoor recreation areas, and hiking trails. At the same time, Carmel Valley has a rural character, and Policy CV-1.1 of the Carmel Valley Master Plan (CVMP) directs the County to ensure that all ordinances are consistent with the goal of preserving the Valley's rural character. CVMP Policy CV-1.15 further states that visitor accommodation projects must be designed to respect the privacy and rural residential character of adjoining properties. CVMP Policy CV-1.15 additionally establishes regulations to count bed and breakfast facilities as visitor accommodation units, specifically noting that they should count against the visitor accommodation unit cap established by the CVMP. To ensure that the visitor accommodation unit caps remain for traditional units (such as bed and breakfast facilities, hotels, motels, and lodges), Commercial Vacation Rentals do not count against the cap established by CVMP Policy CV-1.15.d-e.

In recognition of the unique policies in the CVMP, staff recommends that Commercial Vacation Rentals be prohibited in residential zoning districts of the CVMP Area. This prohibition will ensure that the rural character of the CVMP Area is protected and that the draft ordinances comply with Policy CV-1.1. Limited Vacation Rentals will be allowed in all zoning districts in the CVMP Area as Limited Vacation Rentals are a use similar in character, density, and intensity to residential use. Commercial Vacation Rentals are allowed in the commercial or agricultural zones in the CVMP Area as commercial zoning districts are intended for visitor-serving uses, and agricultural zoning districts allow agrotourism. Commercial Vacation Rentals in commercial and agricultural zoning districts do not count against the visitor accommodation cap, established by CVMP Policy CV-1.15.d-e, as the cap is intended to count against traditional visitor-serving uses. Prohibiting Commercial Vacation Rentals in residentially zoned districts removes the conflict between traditional visitor-serving uses and residential neighborhoods. This prohibition removes potential negative impacts associated with more intensive visitor accommodation uses, which the CVMP Policy CV-1.15.d-e is intended to limit.

### **Other Policy Alternatives Identified During the CEQA Process**

#### *No Project Alternative*

This alternative would consist of the County continuing to implement the existing regulations for vacation rentals pursuant to Section 21.64.280 for the unincorporated inland areas of Monterey County and as a use similar to a bed & breakfast in the unincorporated coastal areas of Monterey County. This alternative would likely result in more residential properties being converted from housing for residents into vacation rentals. If this option were considered by the Commission, there would likely be greater social and economic impacts, such as disruption of neighborhoods and further displacement of residents.

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### *No Additional Growth Alternative*

This alternative would change the regulations not to allow any additional growth in vacation rentals beyond the existing conditions. This option would cap the number of Commercial Vacation Rentals based on the existing advertised rentals per area, allowing for a higher number of Commercial Vacation Rental operations in areas of the County with higher visitor serving demand such as the Cachagua Area Plan, Carmel Area Land Use Plan, Carmel Valley Master Plan Area, Del Monte Forest Land Use Plan Area, and Moss Landing Community Plan Area than would be allowed under the draft ordinances, but would allow less in all other Planning Areas. This would not change the existing conditions but would require that existing vacation rentals comply with the requirements in the draft ordinances, which would likely improve current conditions related to vacation rental operations.

### *Permitting and Policy Options Alternative*

This alternative would modify the draft ordinances with various policy changes. Some of the alternative policy options identified in the DEIR were eliminating regulations for Limited Vacation Rentals, requiring all vacation rentals to post informational packets with information about fire and flood evacuation routes, water conservation, and noise control, and establishing an amortization period for currently permitted operations. In response to comments received in the DEIR, staff modified the draft ordinances to include requiring vacation rentals to post informational packets and establish an amortization period for currently permitted operations. DEIR comments were generally supportive of Limited Vacation Rentals, and by requiring that Limited Vacation Rentals obtain a Vacation Rental Operation License, the draft ordinances ensure that Limited Vacation Rentals are appropriately permitted by HCD and that HCD has the means to track complaints and violations of the regulatory requirements for Limited Vacation Rentals.

### **Concentration and Density Limitations**

Throughout the CEQA process, there were also comments on the potential negative social and behavioral impacts of vacation rentals on the surrounding residents and the community, including impacts at the neighborhood-level if a high number of vacation rentals were to be allowed to concentrate in certain blocks or neighborhoods. The 4 percent cap on Commercial Vacation Rentals in the draft regulations, however, would not prevent the potential for Commercial Vacation Rentals to concentrate at the neighborhood or block level. Therefore, staff has researched other jurisdictions and limitations they have applied. At this time, staff has not recommended inclusion of concentration or density limits in the draft ordinances due to the additional layer of complexity and additional staff time and effort that would be required to implement. If desired by the Planning Commission, staff will discuss how the regulations could potentially be modified to provide more granular concentration and density limitations. Should the Commission desire to recommend that the Board consider additional limits on the concentration and density of Commercial Vacation Rentals at the neighborhood or block level, additional time will be needed for staff to develop draft regulations for the ordinances.

### *Cap per US Census Tract or Block*

This option, to establish caps by census block or tract, would address smaller areas of communities and would allow the County to utilize existing Geographic Information System (GIS) information and data provided by the United States Census Bureau. Other jurisdictions have used this method and specifically developed limitations in areas that experience heavy visitor traffic or have other types of resource or infrastructure limitations. Direction to add this method to the existing regulations would require additional staff time to develop and add regulatory language into the vacation rental ordinances. This method would also require the County to have detailed tracking and enforcement mechanisms in place to

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track and monitor applications by specific area successfully. If desired, the Commission could direct staff to establish additional limitations by Track or Block and return with regulatory language for the Commission to review. One potential drawback to this method would be that the United States Census Bureau can and does change the geographic boundaries and composition of Tracks and Blocks over time. Therefore, if the Commission directed staff to develop this additional concentration and density limitation, staff would recommend that the County utilize US Census Tracks or Blocks as of the 2020 US Census to ensure future changes do not result in constantly changing geographic boundaries. Due to the implementation and tracking challenges with this method, staff would not recommend using this method.

### *Cap per Block*

This option, to establish caps by block, would address smaller areas of concentration in communities and neighborhoods. This method has been implemented in other jurisdictions in specific areas of the City of Pacific Grove, the County of Santa Cruz, and San Luis Obispo. This method would require granular analysis at a block level throughout the County. Block level would mean all residential dwellings located along a street between two intersecting streets would have concentration limitations. Concentration limits could potentially be either numerical limits or additional percentage limitations. While this method would limit the potential negative social and behavioral impacts of vacation rentals, adding this cap method to the existing regulations would require additional staff time to develop and add regulatory language to the vacation rental ordinances. This method would also require that the County develop a novel method of tracking vacation rentals by block, which would require new GIS and data analysis to be conducted to implement this methodology successfully. Due to the required additional analysis, implementation, and tracking challenges, staff would not recommend using this method.

### *Special Cap for Public Access and Tourist Destinations with Monterey County*

This option, which would establish a higher cap in areas that are designated as areas of public access or tourist destinations within Monterey County, could address concerns related to limitations on vacation rentals restricting public access to popular Coastal Access Points and tourist centers within Monterey County. This method could enable those specific areas, as designated, to allow a higher percentage of vacation rentals. This could be implemented as parcels within a specific radius of public access, or tourist destinations would have a separate cap from the 4 percent Commercial Vacation Rental cap by Planning Area. This could address concerns that limitations on vacation rentals in popular tourist or public access areas would potentially limit or discourage access to those popular destinations. At the same time, increased caps in those areas could facilitate additional residential displacement and could potentially increase the negative social and behavioral impacts of concentrations of vacation rentals. If the Commission recommended that staff add these regulatory requirements to the vacation rental ordinances, this would require additional staff time to add this language to the ordinances. This method would require the County to develop a detailed GIS map of the public access and tourist destination locations within the County. Due to the required analysis and the additional public and hearing body input required to map these public access and tourist destination points, staff would not recommend using this method.

### *Buffer Setback Requirements from Other Active Vacation Rentals*

This method would prohibit a vacation rental from operating in close proximity to another vacation rental by disallowing vacation rentals operating within a certain buffer from the parcel (such as 50, 100, or 200 feet). This method has been implemented in other jurisdictions, such as the City of Pacific Grove, the City of Trinidad, the City of Oxnard, the County of Santa Cruz, and the County of San Luis Obispo. This method would limit a specific neighborhood or block from becoming oversaturated with active vacation rentals. This method would be feasible to implement as there is a relatively well-established interface

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between the County's Accela platform and the County's GIS system. This method would be able to limit the negative social and behavioral impacts of overconcentration of vacation rentals. If the Commission recommended that staff add these regulatory requirements to the vacation rental ordinances, this would require additional staff time to add this language to the ordinances. This would also require that the County establish a clear process and timeline to ensure that the setback would be established after an application was deemed complete. This method would also require that the County develop a clear tracking process to ensure that applicants are aware of other vacation rentals that have applied for licenses and permits and if that would prohibit their vacation rental. Due to the required additional analysis, implementation, and tracking challenges, staff would not recommend using this method.

### *Limitation on Commercial Vacation Rental on Adjacent Residentially Zoned Parcels*

This option, to prohibit Commercial Vacation Rentals on adjoining parcels within rural density residential (RDR), low density residential (LDR), medium density residential (MDR), and high density residential (HDR) zoning districts, could prohibit concerns related to concentration and density at a more micro-scale. This method would establish that a parcel operating as a Commercial Vacation Rental would not be allowed to have a Commercial Vacation Rental operating on any adjoining residentially zoned parcels. This could ensure that neighborhoods would not be oversaturated with Commercial Vacation Rentals and limit the potential negative social and behavioral impacts of these types of rentals. This would be the most straightforward method to implement as there is a relatively well-established interface between the County's Accela platform and the County's GIS system. In addition, if there were two adjoining parcels that had applications for Commercial Vacation Rentals, whichever application was deemed complete first would be the parcel that would be allowed to finalize its Commercial Vacation Rental application. The adjoining parcel could then submit an application for a Limited Vacation Rental if so desired. This method would require that the County develop a clear tracking method to ensure that applicants are aware of other vacation rentals that have applied for licenses and permits. Of the different options for limiting the potential for concentrations of Commercial Vacation Rentals at the micro-level, staff would recommend this option due to its relative simplicity compared to the other options presented.

### **Vacation Rental Enforcement Program**

The County currently has enforcement in the unincorporated inland areas of Monterey County through the County's Code Compliance division, where members of the public can file a complaint for unpermitted vacation rentals. The County currently is limited in the enforcement options in the unincorporated coastal areas of Monterey County. The County's Code Compliance division in the unincorporated coastal areas of Monterey County are actively enforcing complaints related to health/life/safety concerns related to vacation rentals. As a result of the current prioritization and challenges with enforcement, vacation rentals have proliferated within Monterey County, with the vast majority operating without the appropriate County approvals.

The Board directed staff at the May 21, 2021, Board hearing to prioritize the in-house staffing model with third-party contracted compliance and permit review services. HCD received funding from the Board at the February 21, 2022, Board hearing to add three FTEs, which consisted of two Code Compliance Inspectors and one Office Assistant, to focus on vacation rental enforcement and noise complaints outside normal business hours and during Friday and Saturday afternoons and evenings. Staff have received significant feedback from the public and policy makers throughout the process about the importance of enforcement to the success of implementing the draft ordinances. County staff acknowledges that with the implementation of the ordinances, there will likely be an increase in Code Enforcement actions against illegally operating vacation rentals. The County is researching establishing a contract with Rentalscape,

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the third-party system utilized by the County of Monterey Treasurer-Tax Collector for vacation rentals. HCD may utilize this system for sending automated violation notices to operators to encourage violators to shut down expeditiously. County staff plan to bring forward to the Board a proposed enforcement program for the Board to consider.

### *Code Compliance*

Implementation of the vacation rental regulations will result in the County code compliance program rolling out in three operational phases: Phase 1 – Initial program establishment and phase out period; Phase 2 – Enforcement of unpermitted and non-compliant operations; and Phase 3 – On-going monitoring and enforcement. The vacation rental regulations for the inland portion of Monterey County will go into effect on the thirty-first day following Board adoption. The Coastal Zone regulations will become operable approximately one year later because the Title 20 regulations require California Coastal Commission certification. Staff anticipates that upon Board adoption, there will be a significant influx of vacation rental applications in the Inland Area during the first year and a larger influx of applications in the Coastal Zone in the second year.

Phase 1 would initially focus on outreach and education to vacation rental owners, operators, associations, and the general public, informing them of the new regulations, including the steps and timelines required for coming into compliance with the new regulations and phasing out unpermitted operations. During this time, code compliance would continue to focus on health/life/safety investigations and proactively responding to nuisance complaints. Staff expects that the first year after the effective date of the ordinances will consist of Phase 1.

Phase 2 will commence once the timelines established in the ordinances for all existing unpermitted operations apply for County permits or cease operating. At this time, the County will pursue enforcement against the operators who continue to operate illegally and have not applied to the County. Depending on the number of vacation rental operations that fail to comply with the new regulations and enforcement resources available, this Phase 2 enforcement could continue for at least another year after the effective date of the ordinances.

Phase 3 would occur once the initial unpermitted operations have ceased operating and the County has begun Phase 2 enforcement actions against illegally operating vacation rentals. Phase 3 will be the County's ongoing monitoring and enforcement. This would entail code compliance staff continuing its enforcement actions on any new unpermitted operations as well as responding to any operations that have nuisance complaints or are operating outside of their permit or license requirements. Additionally, this enforcement would be facilitated by the procurement of a third-party contracted compliance service, which staff will recommend.

### *Enforcement Penalties*

Implementation of strong enforcement penalties will facilitate enforcement and limit individuals who are operating in violation of their Vacation Rental Operation License, Use Permit, or Coastal Development Permit and dissuade unpermitted vacation rental operations. The vacation rental regulations enable multiple avenues for enforcement, including administrative, criminal, and civil penalties. These penalties include misdemeanor charges, which are punishable by a fine of not more than one thousand dollars. These penalties can include administrative citations that escalate per individual citation and are based on a set rate or a percentage of the advertised rental rate to ensure that properties with high rental rates do not ignore financial penalties. Additionally, each and every violation of any regulation in the ordinances

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constitutes a separate and unique violation, and every day the violation continues to exist, it will be deemed a separate and distinct offense. This will ensure that operators that are continuing to operate in violation of the ordinances will face mounting penalties that will continue until the violation is remedied.

### *Hosting Platform Compliance Requirements*

Hosting Platforms, such as Airbnb or VRBO, enable property owners, tenants, and occupants to rent their living space to visitors as a vacation rental. These websites allow property owners to rent anything ranging from a bedroom to their entire home, allow visitors to search in one location to find a potential vacation rental, and create a one-stop location to facilitate the rental transaction between renter and owner. As Hosting Platforms are the primary means that vacation rentals are advertised to the public, the regulation of Hosting Platforms can facilitate compliance from property owners who are unaware or unwilling to comply with local or state regulations. To facilitate the enforcement of the County's ordinances, staff added language to Title 7 to ensure that Hosting Platforms have compliance requirements and that those compliance requirements are similar to previously legally tested Hosting Platform compliance requirements.

Staff is aware of multiple other jurisdictions that have regulatory requirements for the Hosting Platforms (including but not limited to the City of Los Angeles, the County of San Bernardino, and the City of San Diego). These jurisdictions have similar requirements of the Hosting Platforms and, in particular, require that the Hosting Platforms ensure that if notified about a non-compliant listing, they remove the listing within a specified period. HCD staff has met with the City of San Francisco, and City staff have found that these types of Hosting Platform compliance requirements included in Title 7 have greatly facilitated enforcement actions against operators who are not operating in compliance with the City's regulations.

### **Williamson Act Compatible Uses**

Vacation rentals in agricultural zones are subject to all vacation rental regulations. In addition, vacation rentals operating on agriculturally zoned parcels that have active agricultural operations are required to have the Property Manager, Owner, or Operator concurrently reside on the property during the rental period.

To ensure consistency between the ordinances and properties under Williamson Act contracts, the Williamson Act Compatible Uses list must be amended to add the transient use of a single-family dwelling as a compatible use. Staff has reviewed the proposed Williamson Act Compatible Uses language with the Agricultural Preservation Review Committee (APRC) to ensure that it was appropriate to form. Staff submitted the draft language to the Department of Conservation (DOC), and DOC staff noted that "the County's language is extremely similar, and in-line with what other jurisdictions have proposed." Transient use of a residential property is allowed in at least three other jurisdictions (County of Merced, Placer, and Yolo) under their Williamson Act Compatible Uses list.

The Agricultural Advisory Committee, at its April 25, 2024 meeting, voted six ayes and two noes to recommend that the Planning Commission amend the Compatible Uses for Williamson Act contracts (Agricultural Preserves and Farmland Security Zones) by adding vacation rentals within a single-family dwelling as a permitted compatible use under the Williamson Act to add vacation rentals within a single-family dwelling. One member expressed concern that the Property Manager, Owner, or Operator is required to be on-site if there is an active agricultural operation and that this may impact the feasibility of operating a vacation rental.