

DRAFT 04.18.19
ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING TITLE 21 (NON-COASTAL ZONING) OF THE MONTEREY COUNTY
CODE RELATING TO VACATION RENTALS.**

County Counsel Summary
[forthcoming]

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Findings and Declarations

A. Pursuant to Article XI, Section 7 of the California Constitution, the County of Monterey (“County”) may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its residents.

B. This ordinance is intended to provide regulations, standards, and circumstances under which Vacation Rentals may be allowed in certain residential unincorporated areas of Monterey County.

C. Homestay and Limited Short-Term Rental uses are 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 business permit.

D. Regulation of Vacation Rentals is necessary because Commercial Short-Term Rental uses, which may be rented at a greater frequency than Limited Short-Term Rentals and unlike Homestays do not have a Principal Resident residing concurrently when the unit is rented, have the potential to have impacts different in character, density and intensity than residential uses, could remove long-term housing from the market, or pose hazard to public health, safety and general welfare for known infrastructure limitations. Commercial Short-Term Rental uses therefore may be allowed, where applicable, only with a discretionary use permit.

E. This ordinance establishes the requirement for a Use Permit for Commercial Short-Term Rental activities to provide for business fairness and to enable evaluation of the impacts of such activities, in recognition that Commercial STRs 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.

F. To allow for a reasonable amortization of investment for existing vacation rental operations, this Ordinance provides an initial time period during which a vacation rental may

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continue to operate provided the vacation rental activity was established prior to the effective date of the Ordinance and the owner is pursuing all necessary County permits, licenses, and entitlements pursuant Section 21.64.290 of Monterey County Code.

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

SECTION 2. Section 21.06.193 is added to the Monterey County Code [DEFINITIONS] to read as follows:

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

SECTION 3. Section 21.06.655 is added to the Monterey County Code [DEFINITIONS] to read as follows:

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

SECTION 4. Section 21.06.735 is added to the Monterey County Code [DEFINITIONS] to read as follows:

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

SECTION 5. Section 21.06.885 is added to the Monterey County Code [DEFINITIONS] to read as follows:

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

SECTION 6. Section 21.06.886 is added to the Monterey County Code [DEFINITIONS] to read as follows:

“Principal Resident” means a human being who occupies a residential unit as their Principal Residence.

SECTION 7. Section 21.06.986 is added to the Monterey County Code [DEFINITIONS] to read as follows:

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

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SECTION 8. Section 21.06.987 is added to the Monterey County Code [DEFINITIONS] 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 the 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 9. Section 21.06.990 is amended in the Monterey County Code to read as follows:

~~“Roominghouse or boardinghouse” means a facility other than a hotel where lodging with or without meals for three or more persons is provided for compensation~~ 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 and 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 10. Section 21.06.1065 is added to the Monterey County Code [DEFINITIONS] to read as follows:

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

SECTION 11. Section 21.06.1307 is amended in the Monterey County Code [DEFINITIONS] to read as follows:

“Transient” means temporary, of limited duration or for a short period of time, and for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days.

SECTION 12. Section 21.06.1345 is added to the Monterey County Code [DEFINITIONS] to read as follows:

“Vacation Rental” means the use, by any person, of residential property for transient lodging where the term of occupancy, possession, or tenancy of the property by the person entitled to such occupancy, possession, or tenancy is, except as provided herein, for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days.

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“Vacation Rental” includes Commercial Short-Term Rentals, Limited Short-Term Rentals, and Homestays. “Vacation Rental” does not include a bed & breakfast facility, hotel, motel, hostel, inn, roominghouse, boardinghouse, rooming or boarding.

SECTION 13. Section 21.10.030(S) is added to the Monterey County Code [HIGH DENSITY RESIDENTIAL DISTRICT] to read as follows:

S. Homestays and Limited Short-Term Rentals, pursuant to Section 21.64.290;

SECTION 14. Section 21.10.050(AA) is added to the Monterey County Code [HIGH DENSITY RESIDENTIAL DISTRICT] to read as follows:

AA. Commercial Short-Term Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 15. Section 21.12.030(R) is added to the Monterey County Code [MEDIUM DENSITY RESIDENTIAL DISTRICT] to read as follows:

R. Homestays and Limited Short-Term Rentals, pursuant to Section 21.64.290;

SECTION 16. Section 21.12.050(Y) is added to the Monterey County Code [MEDIUM DENSITY RESIDENTIAL DISTRICT] to read as follows:

Y. Commercial Short-Term Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 17. Section 21.14.030(U) is added to the Monterey County Code [LOW DENSITY RESIDENTIAL DISTRICT] to read as follows:

U. Homestays and Limited Short-Term Rentals, pursuant to Section 21.64.290;

SECTION 18. Section 21.14.050(EA) is added to the Monterey County Code [LOW DENSITY RESIDENTIAL DISTRICT] to read as follows:

EA. Commercial Short-Term Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 19. Section 21.16.030(W) is added to the Monterey County Code [RURAL DENSITY RESIDENTIAL DISTRICT] to read as follows:

W. Homestays and Limited Short-Term Rentals, pursuant to Section 21.64.290;

SECTION 20. Section 21.16.050(RR) is added to the Monterey County Code [RURAL DENSITY RESIDENTIAL DISTRICT] to read as follows:

RR. Commercial Short-Term Rentals, pursuant to Section 21.64.290 (ZA);

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SECTION 21. Section 21.18.040(E) is added to the Monterey County Code [LIGHT COMMERCIAL DISTRICT] to read as follows:

E. Homestays and Limited Short-Term Rentals, pursuant to Section 21.64.290;

SECTION 22. Section 21.18.060(II) is added to the Monterey County Code [LIGHT COMMERCIAL DISTRICT] to read as follows:

II. Commercial Short-Term Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 23. Section 21.20.040(E) is added to the Monterey County Code [HEAVY COMMERCIAL DISTRICT] to read as follows:

E. Homestays and Limited Short-Term Rentals, pursuant to Section 21.64.290;

SECTION 24. Section 21.20.060(SS) is added to the Monterey County Code [HEAVY COMMERCIAL DISTRICT] to read as follows:

SS. Commercial Short-Term Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 25. Section 21.22.040(D) is added to the Monterey County Code [VISITOR SERVING/PROFESSIONAL OFFICE DISTRICT] to read as follows:

D. Homestays and Limited Short-Term Rentals, pursuant to Section 21.64.290;

SECTION 26. Section 21.22.060(X) is added to the Monterey County Code [VISITOR SERVING/PROFESSIONAL OFFICE DISTRICT] to read as follows:

X. Commercial Short-Term Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 27. Section 21.36.030(V) is added to the Monterey County Code [RESOURCE CONSERVATION DISTRICT] to read as follows:

V. Homestays and Limited Short-Term Rentals, pursuant to Section 21.64.290;

SECTION 28. Section 21.36.050(JJ) is added to the Monterey County Code [RESOURCE CONSERVATION DISTRICT] to read as follows:

JJ. Commercial Short-Term Rentals, pursuant to Section 21.64.290 (ZA);

SECTION 29. Section 21.64.280(H) is added to the Monterey County Code [SPECIAL REGULATIONS – Administrative permits for transient use of residential property for remuneration] to read as follows:

H. Inoperative Date of Section: This Section 21.64.280 shall become inoperative as of the date the ordinance adding Section 21.64.290 to the Monterey County Code takes effect. Thereafter, all applications for transient use of residential property for remuneration shall be

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governed by Section 21.64.290. All administrative permits issued under Section 21.64.280 prior to the effective date of Section 21.64.290 shall be considered legal nonconforming.

SECTION 30. Section 21.64.290 is added to the Monterey County Code [REGULATIONS FOR VACATION RENTALS] to read as follows:

Section 21.64.290 – Regulations for Vacation Rentals

Sub-sections:

- A. Definitions**
- B. Purpose**
- C. Applicability**
- D. Regulations for Homestays**
- E. Regulations for Limited Short-Term Rentals**
- F. Regulations for Commercial Short-Term Rentals**
- G. Phasing Out Unpermitted Operations**
- H. Application and Renewal Process for Commercial Short-Term Rentals**
- I. Grounds for Suspension or Revocation**
- J. Enforcement**

A. Definitions.

Except as otherwise defined or where the context otherwise indicates, the following words shall have the following meaning in this Section:

1. “Advertised Rental Rate” means the advertised nightly rate multiplied by the minimum number of nights required to rent the dwelling or part of the dwelling. The Advertised Rental Rate shall not include deposits or ancillary fees.

2. “Bedroom” means any room in the conditioned (heated) area of a dwelling unit which is: 1) seventy (70) square feet or greater in size; and 2) has an exterior door or window for egress meeting health and safety code standards at the time the dwelling was constructed; and 3) has a closing door that separates the room from other areas of the dwelling. The following shall not be considered a bedroom: Any interior room that must be passed through to access another bedroom; a hallway; bathroom; kitchen; living room; dining room; family room; breakfast nook; pantry; laundry room; or closet/dressing room opening off a bedroom.

3. “Effective Date” means the date on which Ordinance No. _____ adding this Section 21.64.290 to the Monterey County Code took effect.

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

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

B. Purpose

It is the purpose of this Section to:

1. Preserve and enhance the residential character of the zoning districts established in Title 21, and the sense of security and safety in stable neighborhoods of principal residences.

2. Provide opportunity for visitors to access public areas of the 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 participate in the sharing economy by offering 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 Homestay and Limited Short-Term Rental uses are similar in character, density, and intensity to residential use, are not anticipated to convert long-term housing out of the market, and therefore are allowed uses, where applicable, with a business permit and business license.

5. Establish that Commercial Short-Term Rental uses have the potential to have impacts different in character, density and intensity than residential uses, could convert long-term housing out of the market, or pose hazard to public health, safety and general welfare for known infrastructure limitations. Commercial Short-Term Rental uses therefore may be allowed, where applicable, only with a discretionary use permit granted pursuant to this Section.

C. Applicability

1. This Section applies in the unincorporated inland area of the County of Monterey.

2. This Section does not apply to transient use of residential property for remuneration which was authorized under Section 21.64.280 prior to the Effective Date. Any applications for “transient use of residential property for remuneration” received after the Effective Date shall be subject to this Section governing Vacation Rentals and not governed by section 21.64.280. Amendments to administrative permits granted under Section 21.64.280 shall be subject to this Section.

D. Regulations for Homestays

1. Homestays are allowed in the following zoning districts, subject to the requirements of this Section 21.64.290: 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); 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 district; 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. Homestays shall not be allowed in any other zoning district.
2. A Homestay shall be considered a residential use, similar in character, density, and intensity to residential use, and therefore is an allowed use.
3. Homestays shall only be allowed in a single-family dwelling (SFD), duplex dwelling (DD), or a multiple family dwelling (MFD).
4. Homestays shall not be allowable within accessory dwelling units, or guesthouses, or in structures or dwellings where the Owner has a covenant or agreement with the County or deed restriction restricting their use, including but not limited to affordable housing units that are subject to affordability restrictions.
5. Homestays shall be in legally permitted structures. Homestays are not allowed in tents, yurts, recreational vehicles (RVs) or other structures intended for temporary occupancy.
6. The Principal Resident must obtain a Vacation Rental Operation Permit for all Homestay activities pursuant to Chapter 7.110 of the Monterey County Code before commencing the Homestay use and must keep the Vacation Rental Operation Permit in good standing throughout the Homestay use.
7. The Principal Resident shall obtain a business license from the County pursuant to Section 7.02.060 of the Monterey County Code before commencing the Homestay use and must keep a valid business license throughout the Homestay use.
8. The Principal Resident shall register the Homestay with the Treasurer-Tax Collector and obtain a transient occupancy tax registration certificate in accordance with the provisions of Section 5.40.070 of the Monterey County Code.
9. To qualify as a Homestay, the Principal Resident must concurrently occupy the dwelling while renting the dwelling as a vacation rental.

10. The Homestay must meet the water quality requirements for Homestays set forth in Chapter 7.110. The drinking water is presumed to meet water quality standards if the Homestay provides evidence that it is served by a water system, as defined by California Health and Safety Code section 116275, that has 200 or more service connections. If the Homestay is found to be part of an unpermitted water system or if the Homestay results in the need for a permit for a water system, the Owner must obtain a Water System Permit pursuant to Monterey County Code Chapter 15.04 before commencing the Homestay use and must keep the Water System Permit in good standing throughout the Homestay use.

11. If the Homestay is served by an onsite wastewater treatment system (“OWTS”, also referred to as a septic system), the Homestay must meet the onsite wastewater requirements set forth in Chapter 7.110.

12. Except as provided in this Section, Homestays shall not be allowed in the unincorporated areas of Monterey County without first securing and maintaining in good standing all permits, licenses, certificates or other entitlements required by County regulation.

E. Regulations for Limited Short-Term Rentals

1. Limited Short-Term Rentals are allowed in in the following zoning districts, subject to the requirements of this Section 21.64.290: 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); 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 district; 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. Limited STRs shall not be allowed in any other zoning district.

2. A Limited STR shall be considered a residential use, similar in character, density, and intensity to residential use, and therefore is an allowed use.

3. Limited STRs shall only be allowed in a single-family dwelling (SFD), duplex dwelling (DD), or a multiple family dwelling (MFD).

4. Limited STRs shall not be allowable within accessory dwelling units, or guesthouses, or in structures or dwellings where the Owner has a covenant or agreement with the County or deed restriction restricting their use, including but not limited to affordable housing units that are subject to affordability restrictions.

5. Limited STRs shall be in legally permitted structures. Limited STRs are not allowed in tents, yurts, recreational vehicles (RVs) or other structures intended for temporary occupancy.

6. The Operator shall obtain a Vacation Rental Operation Permit for all Limited STR activities pursuant to Chapter 7.110 of the Monterey County Code before commencing the Limited STR use and must keep the Vacation Rental Operation Permit in good standing throughout the Limited STR use.

7. The Operator shall obtain a business license from the County pursuant to Section 7.02.060 of the Monterey County Code before commencing the Limited STR use and must keep a valid business license throughout the Limited STR use.

8. The Operator shall register the Limited STR with the Treasurer-Tax Collector and obtain a transient occupancy tax registration certificate in accordance with the provisions of Section 5.40.070 of the Monterey County Code.

9. To qualify as a Limited STR, the dwelling shall be rented as a Short-Term Rental no more than four (4) times per 12-month period.

10. The Limited STR must meet the water quality requirements for Limited STRs set forth in Chapter 7.110. The drinking water is presumed to meet water quality standards if the Limited STR provides evidence that it is served by a water system, as defined by California Health and Safety Code section 116275, that has 200 or more service connections. If the Limited STR is found to be part of an unpermitted water system or if the Limited STR results in the need for a permit for a water system, the Owner must obtain a Water System Permit pursuant to Monterey County Code Chapter 15.04 before commencing the Limited STR use and must keep the Water System Permit in good standing throughout the Limited STR use.

11. If the Limited STR is served by an onsite wastewater treatment system (“OWTS”, also referred to as a septic system), the Limited STR must meet the onsite wastewater requirements set forth in Chapter 7.110.

11. Except as provided in this Section, Limited STRs shall not be allowed in the unincorporated areas of Monterey County without first securing and maintaining in good standing all permits, licenses, certificates or other entitlements required by County regulation.

F. Regulations for Commercial Short-Term Rentals

1. Commercial Short-Term Rentals are allowed with a Use Permit in the following zoning districts, subject to the requirements of this Section 21.64.290: 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); 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 district; 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. Commercial STRs shall not be allowed in any other zoning district.

2. Commercial Short-Term Rentals Prohibited or Limited in Certain Areas: Commercial Short-Term Rentals are subject to the following additional limitations based on the policies of the 2010 Monterey County General Plan:

a. Carmel Valley Master Plan Area.

i. A Commercial STR shall be subject to Policy CV-1.15.d. and e. governing visitor accommodation uses in the Carmel Valley Master Plan area. A Commercial STR shall be considered a visitor accommodation unit, and no matter the number of bedrooms, shall be counted as one (1) visitor accommodation unit. Commercial STRs shall be subject to the maximum limits on visitor accommodation units set forth in Policy CV-1.15.d and e.

ii. Homestays and Limited STRs are not considered visitor accommodation units and shall not be subject to Policy CV-1.15.d and e.

3. Commercial STRs shall only be allowed in a single-family dwelling (SFD), duplex dwelling (DD), or a multiple family dwelling (MFD).

4. Commercial STRs shall not be allowable within accessory dwelling units, or guesthouses, or in structures or dwellings where the Owner has a covenant or agreement with the County or deed restriction restricting their use, including but not limited to affordable housing units that are subject to affordability restrictions.

5. Commercial STRs shall be in legally permitted structures. Commercial STRs are not allowed in tents, yurts, recreational vehicles (RVs) or other structures intended for temporary occupancy.

6. A Commercial Short-Term Rental requires a Use Permit. The application for a Use Permit, and for amendments and extensions thereof, shall be processed in accordance with Chapter 21.74 of the Monterey County Code. Notwithstanding the foregoing, the grounds and procedures for suspension and revocation of a Use Permit granted under this Section shall be as set forth in this Section.

7. The Operator shall obtain a Vacation Rental Operation Permit for all Commercial STR activities pursuant to Chapter 7.110 of the Monterey County Code

before commencing the Commercial STR use and must keep the Vacation Rental Operation Permit in good standing throughout the Commercial STR use.

8. The Operator shall obtain a business license from the County pursuant to Section 7.02.060 of the Monterey County Code before commencing the Commercial STR use and must keep a valid business license throughout the Commercial STR use.

9. The Operator shall register the Commercial STR with the Treasurer-Tax Collector and obtain a transient occupancy tax registration certificate in accordance with the provisions of Section 5.40.070 of the Monterey County Code.

10. To qualify as a Commercial Short-Term Rental:

a. Only one (1) Commercial STR shall be allowed per legal lot of record, regardless of the number of dwellings on the legal lot of record. This limit shall apply to duplex dwellings and multiple family dwellings, and only one (1) Commercial STR shall be allowed per dwelling. These limits shall not apply to condominiums, townhomes, planned unit developments, or similar cluster residential subdivisions. These limits shall not apply in Light Commercial (LC); Heavy Commercial (HC); and Visitor Serving/Professional Office (VO) zones.

b. A Commercial STR that is not accessible directly from a public road is subject to Monterey County Code Section 21.64.320, Regulations Relating to Applications Involving Use of Private Roads.

c. A Commercial STR that is served by an onsite wastewater treatment system (“OWTS”, also referred to as a septic system) shall demonstrate that the system is in good working order and functioning properly by providing a performance evaluation of the OWTS, in the form and manner required by the Environmental Health Bureau, completed by a qualified professional. Any component noted to be in unacceptable condition, as documented by a performance evaluation conducted by a qualified professional, shall be repaired or replaced prior to County approval or renewal of the Use Permit for a Commercial STR.

d. If the Commercial STR is served by an onsite wastewater treatment system (“OWTS”, also referred to as a septic system), the Commercial STR must meet the onsite wastewater requirements set forth in Chapter 7.110.

e. If the Commercial STR is found to be part of an unpermitted water system or if the Commercial STR results in the need for a permit for a water system, the Owner must obtain a Water System Permit pursuant to Monterey County Code Chapter 15.04 before commencing the Commercial STR use and must keep the Water System Permit in good standing throughout the Commercial STR use.

f. The source of water that serves a Commercial STR shall meet bacteriological and acute primary drinking water standards. The Owner shall demonstrate that the source of water meets bacteriological and acute primary drinking water standards, to the satisfaction of the Director of Environmental Health, before the permit application is deemed complete. Water quality testing may be required by the Director of Environmental Health if recent test results are not available. The drinking water is presumed to meet these standards if the Commercial STR provides evidence that it is served by a water system, as defined by California Health and Safety Code section 116275, that has 200 or more service connections.

g. A Commercial STR must be in conformance with applicable state building and fire codes, with such modifications as County may have adopted, at the time the building was constructed.

h. A Commercial STR must demonstrate that response times for County emergency services for fire and emergency medical will be adequate. If response time for fire and/or ambulance service exceeds 8 minutes (Structural Coverage) in Community Areas, 12 minutes (Structural Coverage) in Rural Centers, or 45 minutes in other areas, a Commercial STR may be allowable; however, notice of emergency service limitations shall be included in rental contracts and posted within the unit in a prominent place within six (6) feet of the front door of the unit.

i. A Commercial STR shall provide parking as required for the dwelling type by Monterey County Code section 21.58.040 or the applicable parking regulations at the time the dwelling was built.

j. A Commercial STR shall comply with Monterey County Code Chapter 10.41 Solid Waste Collection and Disposal, as periodically amended. All solid waste and recycling must be contained within appropriate receptacles with lids. Waste receptacles must be stored out of site unless in conformity with neighborhood standards.

k. Each Use Permit issued pursuant to this Section shall have, as a condition of the permit, a requirement that the Owner indemnify, defend, and hold harmless the County of Monterey and its officers, agents, and employees from actions or claims of any description brought on account of approval of the permit 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 permit and the conduct of the activities under said permit. This requirement shall remain operative and in effect notwithstanding any proceeding or litigation which may result in invalidation or rescission of the permit.

11. Required Findings. To grant a Use Permit for a Commercial STR, the Appropriate Authority must find, based on substantial evidence, that the Commercial STR complies with all findings required for a Use Permit pursuant to Chapter 21.74 and complies with all requirements of this Section 21.64.290.

12. Except as provided in this Section, Commercial STRs shall not be allowed in the unincorporated areas of Monterey County without first securing and maintaining in good standing all permits, licenses, certificates or other entitlements required by County regulation.

G. Phasing Out Unpermitted Operations

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

a. For Homestay and Limited Short-Term Rental uses, the Operator shall comply with Chapter 7.110.050 – Phasing Out Unpermitted Operations.

b. For Commercial Short-Term Rental uses:

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

ii. The Owner has six (6) months from the Effective Date to provide evidence of prior operating status and to make an application for all permits, licenses, certificates or other entitlements required by County regulation.

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

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

v. If the above requirements (i) through (iv) are met, the Owner will be allowed to continue to operate as a Vacation Rental for up to one (1) year from the Effective Date , or until County takes action on applications for all required permits, licenses, and entitlements made pursuant to this Section and Section 7.02.060 and Chapter 7.110 of the Monterey County Code, whichever is later.

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

2. Nothing in this Section prohibits the County from taking enforcement action, which may lead to shutting down a Vacation Rental operation, during the Phasing Out period if an immediate or imminent threat to life, health or safety exists.

H. Application and Renewal Process for Commercial Short-Term Rentals

1. All applications for a Use Permit for a Commercial STR shall be filed with the Resource Management Agency (RMA) on the form and in the manner prescribed by the Director of the RMA or his or her designee. In all cases, the application shall contain, without limitation, the following documentation:

a. All information required on the application form, including but not limited to the name and consent of the Owner of the real property which is the subject of the application and, if an agent represents the Owner, an authorization of the agent signed by the Owner.

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

c. One (1) set of plans drawn to scale and labeled, in the form and manner required by the RMA Director or his or her designee, including but not limited to: Site Plan including locations and dimensions of all property lines, rights-of-ways, vehicular easements, edge of pavement, driveways and on-site parking areas; and Floor Plan showing all rooms, including windows and doors.

d. An inspection report that provides and verifies information, in the form and manner required by the Director of the RMA or his or her designee, to ensure the property is safe and habitable for its intended use, including but not limited to: verification of adequate egress from sleeping quarters and common areas; installation of accessible fire extinguishers; and a carbon monoxide alarm on each level.

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

f. Evidence that the source of water that serves the proposed Commercial STR meets bacteriological and acute primary drinking water standards. Evidence may include proof, such as a water bill, that the property receives potable water service from a water system, as defined by California Health and Safety Code section 116275, that has 200 or more service connections, or a water quality analysis in the form and manner required by the Environmental Health Bureau.

g. Evidence that the onsite wastewater treatment system (“OWTS”, also referred to as a septic system) is in good working order and functioning properly by providing a performance evaluation of the OWTS, in the form and manner required by the Environmental Health Bureau, completed by a qualified professional, if applicable.

h. Copy of OWTS informational signs, if applicable.

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

j. Such other information as the Director of RMA or his or her designee shall require to evaluate the application.

2. Time Limits. All Use Permits issued for Commercial STRs shall be subject to the following time limits on the use authorized by the Use Permit:

a. The initial Use Permit shall be issued for a term of five years.

b. The Owner may apply to extend the Use Permit prior to the expiration date of the Use Permit pursuant to Section 21.74.110. The extension application shall be made at least thirty (30) days prior to the expiration of the Use Permit at the end of each such five-year term. The Use Permit shall be extended by the Appropriate Authority by five years, for up to two additional five-year terms, if the Appropriate Authority finds that the operation is in good standing, according to the criteria set forth below.

i. Commercial STRs with more than two substantiated violations of this Section or Chapter 7.110 - Vacation Rental Operation Permit, shall be considered not in good standing. A substantiated violation means a determination of a violation by a court, hearing officer or hearing body, or by stipulated agreement.

ii. Commercial STRs that do not have a valid business license from the County pursuant to Section 7.02.060 throughout the Commercial STR use shall be considered not in good standing.

iii. Commercial STRs that have not paid their Transient Occupancy Tax pursuant to Chapter 5.04 of Monterey County Code, shall be considered not in good standing.

iv. Commercial STRs that do not meet bacteriological and acute primary drinking water standards, as demonstrated by a comprehensive water quality analysis, pursuant to Monterey County Code Chapters 15.04 and 15.08 and California Code of Regulations Titles 17 and 22, shall be considered not in good standing, if applicable.

v. Commercial STRs that have an onsite wastewater treatment system (“OWTS”, also referred to as a septic system) that is not in good working order and functioning properly, as demonstrated by a performance evaluation of the OWTS, in the form and manner required by the Environmental Health Bureau, completed by a qualified professional, shall be considered not in good standing, if applicable

vi. Commercial STRs that do not have a Water System Permit that is in good standing shall be considered not in good standing, if applicable.

vii. Commercial STRs that have not completed at least one (1) contract in each of three (3) of the preceding five (5) years will be considered inactive and not in good standing in the following geographic areas:

(a). Carmel Valley Master Plan Area. Because Commercial STRs are subject to Monterey County Code Section CV-1.15.d and e. (Carmel Valley Master Plan – Visitor accommodation uses) and considered a visitor accommodation unit, an inactive Commercial STR, per the criteria above, is not in good standing.

c. If a Use Permit has already been extended twice or if a Use Permit is not extended because the Commercial STR is found not to be in good standing, an Owner desiring a Commercial STR must apply for a new Use Permit for the Commercial STR use.

d. The purpose of the five (5) year term limit is to provide adequate on-going review of the Commercial STR to assure that the use continues to meet the standards of this section.

e. The purpose of allowing only two (2) extensions resulting in a maximum fifteen (15) year total term limit is to preserve the housing supply so that an entitlement to a Commercial STR does not permanently remove a house from the overall long-term housing supply in light of the housing shortage in Monterey County.

3. First Come First Served. New and extension Use Permit applications will be date and time-stamped upon receipt by the RMA and processed on a first come first served basis based on the date the application is deemed complete.

I. Grounds for Suspension or Revocation

1. Where one or more of the conditions of a Use Permit have not been, or are not being, complied with, or when a Use Permit was granted on the basis of false material information, written or oral, given willfully or negligently by the applicant, the Appropriate Authority may revoke or modify the Use Permit following public hearing pursuant to Chapter 21.78 of this Title.

2. Grounds for suspension or revocation may include, but are not limited to, more than two substantiated violations of the terms and conditions of the Use Permit and/or Vacation Rental Operation Permit issued pursuant to Chapter 7.110 in a twelve (12)-month period. A substantiated violation means a determination of a violation by a court, hearing officer or hearing body, or by stipulated agreement.

J. Enforcement

The remedies provided by this Section are cumulative and in addition to any other remedies available in law or in equity.

1. It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Section. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Section may be charged with a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the Monterey County Jail for a period of not more than six months or by both such fine and imprisonment for each and every violation. No proof of knowledge, intent, or other mental state is required to establish a violation.

2. Any condition caused or allowed to exist in violation of any of the provisions of this Section shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action pursuant to Chapter 1.20 or cause of action for penalty pursuant to Chapter 1.22 of this Code, and any other action authorized by law.

3. 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

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Code or otherwise authorized by law. Additionally, as a public nuisance, any violation of this Section may be subject to injunctive relief, disgorgement and payment to the County of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The County may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the vacation rental activity or persons related thereto, or associated with, the violation of this Section.

4. For violations of this Section, an Enforcement Official may issue to a responsible person an administrative citation that imposes:

(a). A civil penalty not exceeding one-hundred and seventy-five percent (175%) of the Advertised Rental Rate per day, or part thereof, or one thousand dollars (\$1,000.00) per day, or part thereof, for Vacation Rentals without an Advertised Rental Rate, for a first violation

(b). A civil penalty not exceeding two-hundred and seventy-five percent (275%) of the Advertised Rental Rate per day, or part thereof, or two thousand five hundred dollars (\$2,500.00) per day, or part thereof, for Vacation Rentals without an Advertised Rental Rate, for a second violation of the same ordinance within one year; and

(c). A civil penalty not exceeding three-hundred and seventy-five percent (375%) of the Advertised Rental Rate per day, or part thereof, or five thousand dollars (\$5,000.00) per day, or part thereof, for Vacation Rentals without an Advertised Rental Rate, for a second violation of the same ordinance within one year; and

5. Each and every day during any portion of which any violation of this Section is committed or permitted and or continues to exist without remedy by the responsible person shall be deemed a separate and distinct offense and violation for purposes of determining the total amount of administrative penalties pursuant to this Section.

SECTION 31. 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 32. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

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PASSED AND ADOPTED on this ____ day of _____, 20__, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair,
Monterey County Board of Supervisors

A T T E S T

VALERIE RALPH
Clerk of the Board of Supervisors

By: _____
Deputy