

KEY TO DOCUMENT:

Headings for each section of the Draft Ordinance

Original text of the Draft Ordinance

MCSTR Alliance suggested edits to the text of the Draft Ordinance

~~MCSTR Alliance suggested red lines~~

~~Text that the county has already stricken~~

MCSTR Alliance Community Discussion and Legal Research section

BEGINNING OF DRAFT ORDINANCE

18.XX.010 – Purpose

The purpose of this Chapter is to establish maintenance and operation standards for the use of legal residential dwelling units located in Madera County as transient occupancies, [to protect property rights](#) and [to ensure the health and safety of occupants, guests, and the surrounding residential neighborhood, and to minimize negative secondary effects associated with such use.](#) Any unit permitted as a commercial lodging use (bed and breakfast, hotel, motel, condo-hotel or timeshare) is not subject to this article.

18.XX.020 – Definitions

“Alternative Shelter” – Any shelter, vehicle, or site prepared for transient occupancy rental other than a legal residential dwelling unit or commercial lodging facility. Examples of alternative shelters include, but are not limited to, tents, recreational cabins, and recreational vehicles.

“Agency” - Shall share the common definition of “County” in Section 18.120.030.

“Agency Director” – Shall share the common definition of “Planning Director” in Section 18.120.160.

“Business License” - [A permission issued by Madera County pursuant to Title 5, Chapter 5.04 of the Madera County Code of Ordinances, authorizing the owner of the APN the operation of a short-term vacation rental as a business activity within the County, subject to annual renewal and compliance with the standards and requirements of this Chapter and applicable County regulations.](#)

“Commercial benefit” – means any compensation or payment received in exchange for allowing the property upon which the event occurs to be used for the event, including any compensation that results from the rental of the property for a term of 30 days or less than.

“Grandfathering; Grandfathered Property” - [Grandfathering refers to the legal recognition and protection of a short-term vacation rental \(STR\) that was lawfully operating with a valid Business License and Transient Occupancy Tax \(TOT\) Certificate issued by Madera County prior to the effective date of this Chapter, allowing such STR to continue operating](#)

under its original permit conditions, exempt from specified new restrictions as provided in Section 18.XX.100(B), provided it maintains compliance with applicable operational and safety standards in Section 18.XX.090 and other provisions of this Chapter. Grandfathered Property means the real property, including land and structures as defined in this Section, hosting a grandfathered STR, with its short-term vacation rental use protected under the same exemptions and compliance requirements, including transferability of the STR permit upon sale as provided in Sections 18.XX.100(B) and 18.XX.030(B).

“Guest(s)” – The individual or individuals renting the short-term vacation rental for the purpose of staying overnight.

“Hosted short-term vacation rental” – A residential unit being used as a short-term vacation rental by one tenant group at a time, in which a host is residing in one of the bedrooms during the period of the rental. A residential unit shall be a hosted short-term vacation rental if the host inhabits the short-term vacation rental or a structure attached to the short-term vacation rental such as attached ADUs, JADUs, or a guest house.

“Individual” – A single human being as distinct from a group, class, or family.

“Local contact person” - An individual who meets all of the following criteria:

1. Personally available by telephone on a 24-hour basis
2. Resides within 35 driving miles of the short-term vacation rental.
3. Has access and authority to assume management of the short-term vacation rental.
4. Agrees to be the local contact for all short-term vacation rental activity.
5. Cannot be held personally liable

An agent or professional property management company that meets these requirements can serve as the local contact person.

~~“Person” – Includes an individual, estate, or trust. This does not include business structures, such as but not limited to Sole Proprietorships, Partnerships, Corporations, or Limited Liability Companies.~~

“Person”- Includes an individual, estate, trust, corporation, limited liability company, partnership, or other business entity recognized under California law.

Community Discussion and Legal Research: This relates directly to the provision in [18.XX.060\(B\)](#) where it says “A person who has multiple short-term vacation rentals must apply for and receive an individual short-term rental permit for each and every rental not to exceed a total of five (5) permits prior to operation.” So what this looks like is the county is *trying* to crush small owners, depress property values and allowing corporations (unknown buyers) to come in and buy up and own unlimited properties. This **absolutely discriminatory** and The County cannot lawfully limit property ownership under the California Constitution (Article I, Section 1) and the Fifth Amendment and these use restrictions are similarly arbitrary.

“Professional property management company” – A licensed firm operating a real estate

property for a fee.

“Property” – Shall share the common definition of “Property” in Section 18.120.160. For the purposes of this section, the common definition will pertain to land and structures.

“Property Owner” - A person with an ownership interest in the real property upon which a short-term vacation rental is located or proposed. If the property is held in trust, “property owner” includes the present beneficiaries, but not the trustee, unless the trustee is also a present beneficiary. “Property owner” does not include a person with an ownership interest that is solely a security, lien, or encumbrance.

“Dwelling, Single-Unit” – Residential structure containing one dwelling unit located on a single parcel of land for occupancy by one single household, including manufactured housing and mobile homes, when placed on a permanent foundation system. “Residential dwelling” does not include a commercially operated hotel, motel, bed and breakfast inn, or time-share property as defined by subdivision (aa) of Section 11212 of the Business and Professions Code.

“Short-term vacation rental unit (STR)” –A single-family dwelling or a portion of a single-family dwelling, that is rented to transient guest occupants typically for periods of 30 consecutive days or less, with weekend or weekly rental periods being the most common. Short-term vacation rentals are routinely booked for numerous periods throughout the year, with a resident or non-resident property manager providing oversight and services for guest customers and are typically marketed through an online hosting platform service such as VRBO, Airbnb, and other similar internet services.

“Short-term renter” – An individual who enters into an agreement or is authorized by the short-term vacation rental owner, regardless of compensation, to use property as a short-term vacation rental.

“Transient” - Shall share the common definition of “Transient” in Section 3.20.020.

“Transient Occupancy Tax Certificate (TOT)” – Lodging taxes paid by an operator who rents a lodging as defined herein for 30 consecutive days or less.

“Water unit(s)” is a standard unit of water demand used as a basis for determining system capacity and comparing uses.

“Sewer unit(s)” is a standard unit of sewer demand used as a basis for determining system capacity and comparing uses.

“Will-serve” certification from the municipal water or sewer supplier that they have the capacity and ability to serve water and/or sewer service to the subject property.

18.XX.030 – Application

A. A property owner who wishes to lease, rent, or otherwise makes available for compensation a short-term vacation rental unit for a period of 30 consecutive days or less must first obtain a [valid business license and TOT certificate](#) the transient occupancy tax certificate that is required pursuant to Title 3 – Revenue and Finance, Chapter 3.20 – Uniform Transient Occupancy Tax and Business License required pursuant to Title 5 – Business Licenses and Regulations – Weights and Measures, Chapter 5.04 – Business Licenses. and the property to be used for the short-term vacation rental and [and also must obtain a one-time permit unique to the parcel’s APN](#) prior to advertising and/ or operating the short-term vacation rental unit. ~~The Short-term vacation rental permit is in addition to the transient occupancy tax certificate that is required pursuant to Title 3 –~~

~~Revenue and Finance, Chapter 3.20 — Uniform Transient Occupancy Tax and Business License required pursuant to Title 5 — Business Licenses and Regulations — Weights and Measures, Chapter 5.04 — Business Licenses.~~

A short-term vacation rental ~~permit~~ business license *is not* transferable upon the sale of the property of interest to another owner. A new owner who desires to use the property as a short-term vacation rental shall apply for a new Business License.

A short-term vacation rental permit, once issued for a specific APN and upon successful completion of all permitting requirements, shall permanently attach to the property and transfer automatically with ownership changes. Properties with existing short-term rental operations that qualify under grandfathering provisions shall be deemed to have permitted status for that APN without requiring completion of the new permitting process.

B. A short-term vacation rental legally operating with a valid Business License and Transient Occupancy Tax (TOT) Certificate issued by Madera County prior to the effective date of this Chapter, as defined in Section 18.XX.020 (Grandfathering), shall be deemed to have a valid short-term vacation rental permit without submitting a new application under this Section, provided it maintains compliance with the operational and safety standards in Section 18.XX.090.

When a grandfathered short-term rental property is sold, the permit automatically transfers to the new owner without requiring a new application, provided that within 60 days of property transfer, the new owner: 1) submits a simple transfer notification form, 2) certifies in writing that no substantial changes have been made to the property since the original permit issuance, and 3) pays the applicable transfer fee.

C. As part of the application process for a short-term vacation rental yearly business license, the property owner or authorized agent shall:

1. Self-certify that the property's septic system is designed and maintained to accommodate the maximum occupancy levels advertised for the STR, as specified in Section 18.XX.080 (Occupancy Standards), in accordance with Madera County Code environmental health ordinances.
2. Self-certify that all garbage generated by STR guests will be stored in bear-proof containers, as required by Section 18.XX.090(G)(c) and Chapter 6.36 (Bear Preventive/Control Measures), and that the Owner, Operator, or Property Management Company will be responsible for hauling away and properly disposing of such garbage in compliance with Chapter 7.24 (Solid Waste).
3. Self-certify that the water source supplying the property, whether municipal, well, or other system, is designed and maintained to adequately supply and accommodate the maximum occupancy levels advertised for the STR, as specified in Section 18.XX.080 (Occupancy Standards), in accordance with Madera County Code and applicable state water regulations.

Community Discussion: The "permit" is an intangible asset which should be able to be transferred with the property just as building permits transfers with the sale of the property. The "business license" may or may not transfer depending on who holds the license. An individual or a corporation. Expand there. It is reasonable that the business license would not transfer once the property is sold.

Legal Research - Prohibiting the STR permit from transferring upon property sale, requiring new owners to apply for a new permit, severely undermines the property's values because the permit is considered an intangible asset and integral now to the value of a property that had been operating as a short term rental before and at the time of sale. The permit's economic benefit (e.g., \$10,000-\$500,000+ annually depending on the property) enhances property marketability by

20-30%, constituting a protected property interest (*Coe v. City of San Diego*). Non-transferability risks a regulatory taking by permanently severing this value upon sale, reducing sale prices without compensation, **stranding current owners with properties they cannot sell** at full value constituting a significant economic deprivation and violating the Fifth Amendment and California Constitution (Article I, Section 19). The provision's vague approval standards for new permits risk arbitrary denial, violating due process, and its selective application to STRs lacks a rational basis, violating equal protection.

18.XX.040 – Permit Fee

The **non-refundable** short-term vacation rental permit fee shall accompany each short-term vacation rental permit application. The permit fee shall be included in the fee schedule established by resolution of the board following a public hearing. The fee schedule may be adjusted by resolution of the board following a public hearing. **If for any reason the permit application is rejected, the fee will be refunded to the applicant.**

Attorney: What sort of language can or should be entered here to determine cost?

18.XX.050 – Scope and Renewals of Short-term Vacation Rental Permits

A short-term vacation rental permit issued **to each unique APN** under this article **shall not expire** ~~shall expire upon the expiration of the Business License pursuant to Section 5.04.100, unless it is~~ revoked. ~~earlier. The permit authorizes the property owner to conduct only such services as described in the permit and in accordance with the standards and policies of this Chapter. Upon the timely submittal or renewal, the permit will remain effective until such time as the permit is renewed, denied, or revoked.~~

Revocation of permits shall follow the appeal procedures in Chapter 18.108 or through the judicial process pursuant to the California Code of Civil Procedure or any other applicable administrative or judicial remedy.

A permit for the APN can be reinstated if conditions for revocation are cured. A revoked permit shall not attach to any person.

Community Discussion: Permit should not expire (like building permits once fulfilled are not up for renewal every year once signed off on as fulfilled properly) given it requires multiple layers of inspections and certifications. Fire Inspections need to be submitted yearly and these should attach to the renewal of the business license. The County needs to provide the rational basis to expire a permit on a yearly basis. There is no reason for this other than a money grab for the county. Permits should be granted like a CofO. Owners go through the process and inspections and that's that unless something changes on their end, i.e. renovation, room addition, etc then they would update their permit for an inspection fee.

Revocation should require ample notice and reasonable opportunity to cure any issues and Notice should provide the rational and legal basis for the violation. Revocation should not occur until the exhaustion of administrative remedies and judicial remedies are complete.

Grandfathered - Properties that have been operating with Licenses prior to the enactment of this chapter shall be grandfathered in and considered compliant with all provisions of this chapter

Legal Research: Requiring the STR permit to expire annually with the Business License (Section 5.04.100), with potential denial or revocation for vague "standards and policies," threatens property rights by undermining the STR permit's value as an asset integral to property value. The permit, enabling income generation (e.g., \$10,000-\$500,000 or more per short term rental **annually** depending on the owner and property), significantly enhances property marketability in the mountain area's tourism market, constituting a protected property interest.

18.XX.060 – Short-term Vacation Rental Permit Requirements

~~It is unlawful for any~~ Any individual, corporation or other such entity who wishes to advertise, maintain, operate, or use a short-term vacation rental in Madera County ~~without a short-term vacation rental must obtain a business license. permit or in violation of the terms and conditions of the permit. Short-term vacation rental permits shall be renewed annually, and a separate permit~~ A separate business license is required for each ~~short-term vacation rental~~ APN Number.

Any property, unless grandfathered in before this section, that is under a valid business license, must obtain a one-time permit. The permit requirements for short-term vacation rentals are set forth below. The issuance of any permit pursuant to this article does not relieve the owner of the obligation to comply with the other provisions of the Madera County Code pertaining to the use and occupancy of the short-term vacation rental or the property in which it is located.

Legal Research and Community Discussion - Some of the feedback from the anti-STR people is that there is no zoning that allows for STRs in residential areas. some research brings up that the following:

- **Title 18, Chapter 18.11 (Residential Zoning Districts):** Permits rentals and ADUs in zones like R-1 and R-A, supporting STRs in the mountain area. The Draft STR Ordinance's ADU ban, STR caps, insurance, ID collection, and Local Contact Person requirements conflict with this allowance, violating zoning principles.
 - **Chapter 18.104 (Accessory Dwelling Units):** Supports ADU rentals, but the Draft STR Ordinance's ban contradicts this, breaching state law.
 - **Other Ordinances:** Chapters 3.20 (TOT), 3.24 (Tourism Assessment), 5.04 (Business Licenses), 6.36 (Bear Measures), 7.24 (Solid Waste), 7.26 (Weed Abatement), 9.32 (Fire), 9.58 (Noise), and 11.04 (Traffic) impose indirect restrictions through taxes, licenses, and operational rules. The Draft STR Ordinance's stricter standards amplify these, creating excessive burdens that deter STRs in permitted zones.
- A. Short-term vacation rentals are allowed in all zone districts that allow residential uses, with the approval of a short-term vacation rental permit, Business License, and a TOT certificate.
- B. Properties that operated as short-term rentals with valid County business licenses prior to the effective date of this ordinance are permanently exempt from the requirements to obtain a permit and shall continue to operate without interruption. These properties shall automatically be issued a conforming short-term rental permit upon the County cross-referencing and confirming the existing business license records with parcel's APN to confirm prior operation.
- C. Properties that operated as short-term rentals prior to the adoption of this ordinance, and which received valid County business licenses despite technical non-compliance with zoning requirements, shall automatically qualify for Conditional Use Permits. These grandfathered Conditional Use Permits shall be issued through a streamlined administrative process with minimal documentation requirements and at a nominal processing fee not exceeding \$100.
- D. ~~A person who has multiple short-term vacation rentals must apply for and receive an individual short-term rental permit for each and every rental not to exceed a total of~~

~~five (5) permits prior to operation.~~

Community Discussion: We would like to try and prevent private equity firms from owning multiple short term rentals. What language can that sort of process is going to be used to verify that the same person/entity does not have more than one?

Attorney Can you suggest some draft language?

~~E. Short term vacation rental of tiny homes, travel trailers, alternative shelters, Accessory Dwelling Units and Junior Accessory Dwelling Units are prohibited.~~

Community Comments: Define ADU pre-2020 and post 2020 or any ADU that was given the California Tax benefit or was given special permission by the county to build as ADU for residential use. Those are two different things. Tiny homes, yurts, cabins, trailers, etc. should not be excluded from short term rental. ADU/JADU that were built intentionally for the purpose of long term housing and took advantage of state credits, incentives, etc. can be banned from short term rental.

Conditional Use Permits should be granted as mentioned by Bobby with a low threshold and cost for grandfathered properties that have had valid businesses and have been operating in the county.

For consideration, there are many reasons why people are renting out their homes. Insurance costs are astronomical, living expenses are astronomical, utilities are astronomical, property taxes, etc. and many are renting out a small unit on their property to offset these costs. Many will not be able to afford their basic expenses to live if they are not able to offset. These are creative ways people have been able to become entrepreneurs and continue to survive and many not become homeless. Those on social security, those planning for retirement, families with children, etc. If there is a code already on the books about this NO ONE KNOWS ABOUT IT, isn't following it and that should be revised.

This line should be fully stricken

~~F. A short term vacation rental shall not be allowed to operate on a lot under an active Williamson Act Contract.~~

Community Discussion: We haven't heard from anyone who would be affected by this, but are wholly against outright prohibition without a rational basis however, according to legal research, we found:

Evidence and Reasonableness: The County need not provide empirical data under rational basis review; a conceivable rationale suffices (Heller v. Doe, 509 U.S. 312 (1993)). The potential for STRs to increase land use intensity, infrastructure demands, or development pressure provides a reasonable basis for the prohibition, even if STRs are small-scale.

Owners could advocate for an exception allowing limited STRs (e.g., hosted rentals with low occupancy) as compatible uses, citing minimal impact, but would need to demonstrate alignment with Government Code Section 51201(e) and County policies.

Attorney Can you suggest some draft language?

G. An individual apartment located within a multi-family residential project is not eligible for a short-term vacation rental permit.

Community Discussion: If a private owner of the apartment wants to allow their apartment units to be used as a short term rental they should have the right to do so. Otherwise provide the

rational basis for denying apartment owner's eligibility.

Attorney Can you suggest some draft language?

A condominium unit may be eligible for a short-term vacation rental permit if authorized by the condominium owners' association or other governing body having jurisdiction over the complex, provided enforcement of such occupancy requirement is performed by the same association or governing body for the operation of a short-term vacation rental.

H. An application for a short-term vacation rental permit shall be submitted by the property owner or agent (property owner authorization and contact information are required for an agent to file the application) to the Community and Economic Development Department. For an application to be deemed complete, the following must be provided:

- a. Property owner or agent name and contact information.
- b. The name and physical address of the local contact person, if different from the property owner or agent, and a telephone number at which that party may be immediately reached. The short-term vacation rental property owner shall have the local contact person's informed consent before listing the contact on their short-term vacation rental permit application.

Community Discussion: What is expected of this person? Is this something the guest will have? No liability should attach to this person. Is this on record with the county? No personal information other than phone number to be given to guests. No liability is attached for contact. What does available mean? What is expected of this local contact? Airbnb prohibits hosts or affiliated agents from showing up to the property. it's considered a safety violations. Hosts are reachable on the platform 24/7 and the platforms prohibit communication outside of the platform.

Attorney Can you suggest some draft language?

- ~~e. Site Plan. Detailed site plan showing the location of all existing and proposed structures and facilities on site, including parking, driveways showing dimensions, and distances from all structures and property lines.~~

Community Discussion: This is already on record with the county. Properties have been permitted with the county to be built and county.

Attorney Can you suggest some draft language?

- d. Address and assessor's parcel number for property for which the short-term vacation rental is located.
- e. Number of Bedrooms. For purposes of this section, a bedroom is a room that contains a minimum of 70 square feet and meets all requirements of the California Residential Code at the date the structure was permitted and contains a window or opening that can be used for emergency egress.

Community Discussion: Be sure to allow for lofts, roll away beds, sofa beds, etc. Who would be doing this inspection? Who is determining square footage, etc. This would be on record with the county and make this a self-certification process

Attorney Can you suggest some draft language?

- f. Total number of on-site parking spaces and description of parking locations.
- g. An application for TOT certificate that has been submitted and deemed complete within 30 calendar days from the date of application.
- h. The County shall issue a short-term rental permit within 30 calendar days of receiving a completed application that substantially satisfies all requirements. If the County fails to issue the permit within this mandatory time frame, the application shall be deemed automatically approved.

Community Discussion: Providing Maderas TOT team is timely in their process and fire inspectors are timely in their inspections. Too many variables at this point out of the hands of owners and it is unfair and disruptive to business practices to not establish a timeframe.

- i. Number and location of fire extinguishers, smoke and carbon monoxide alarms.
- ~~j. A copy of the general liability insurance certificate in an amount of satisfactory to the County risk manager which shall name the County of Madera as an additional insured party.~~

Community Discussion: Per meeting with Bobby, this provision will be stricken

- k. Acknowledgment that the property owner or agent has read and understood the operational standards and prohibitions and restrictions in this Chapter, and the County's noise, parking, garbage collection, and guest safety standards.

Community Discussion: Need further clarification. Who is providing this booklet? Is this something Madera will be providing us with the permit? The reference is to the Chapter/ordinance. There is not going to be a separate booklet.

- ~~l. If the information supplied by the property owner on the application for a short-term vacation rental permit is not consistent with county records, an inspection may be required prior to or after the issuance of the short term vacation rental permit. An inspection fee shall be charged for the inspection.~~

Community Discussion: They are already doing this. They are looking on Airbnb at the listing to see if the number of bedrooms listed is matching up with what they have permitted. Many people have older cabins and are using lofts for sleeping areas.

- ~~m. A certification or "will-serve" from the applicable municipal water company confirming the availability of adequate water capacity to serve the proposed use.~~
- ~~n. A certification or "will-serve" from the applicable municipal sewer company confirming the availability of adequate sewer capacity to serve the proposed use.~~
- ~~o. Water and Sewer system impact analysis may be required at the expense of the applicant.~~

Community Discussion: the above points have been addressed with self certification as Bobby suggested.

18.XX.070 – Short-term Vacation Rental Grounds for Denial

The County may deny a new permit or renewal application in any of the following circumstances:

- A. The short-term vacation rental permit application is incomplete, and the applicant has failed to respond to agency requests to complete for a period of 30 days.
- B. The short-term vacation rental permit application contains a false or misleading statement or omission of a material fact.
- ~~C. A short-term vacation rental property owner has received three violations infracting any Madera County Code section within any 12-month period.~~

Community Discussion: This will not work. One who is doing code enforcement? Two, there must be due process. Three, the neighbors that don't want this can make false claims. Enforcement of the code and how violations will be cited to the property needs to be clarified. Violations really should only be based on actions by the property owner that endangers life or property.

Attorney - What would be some suggested wording here?

- D. The property owner or agent is delinquent on any payment to the county of any fees, penalties, taxes, or any other monies related to the short-term vacation rental property, including, but not limited to, transient occupancy taxes and property taxes.
- ~~E. During review, the Department of Public Works will determine whether the locally serving water and sewer system will have enough capacity to serve the proposed short-term vacation rental. Public Works may deny an application due to insufficient water or sewer capacity. If applicable, additional utility capacity units may be required prior to operation.~~

Community Discussion: At minimum current units need to be grandfathered in. And those on smaller water boards should not be subject to their neighbors should not be given the power to certify that capacity. If given, the STR rental should require the other owners to report their personal use and in turn certify the capacity to serve residential use. Given the below 50% occupancy across the board, unless a specific study is done on actual water use by STRs in any given water district, the presumption that STRs use more water than residential or are somehow a burden on capacity does not have a rational basis.

Bobby suggested self certification. This language has been added in

- ~~F. Prior revocation or suspension of a short-term vacation rental permit.~~

Community Discussion: Too arbitrary, no opportunity to redeem oneself, enter law here. Given an permit is an tangible asset, the exhaustion of administrative remedies and/or judicial remedies must be provided for. We may have solved this with language added in other sections

Attorney - What would be some suggested wording here?

- G. If the operation of a short-term vacation rental is a threat to the public health, safety, or welfare, or where the Building Official or Environmental Health Division has deemed the structure uninhabitable.

Attorney: Need to define further, as this could lead to arbitrary enforcement. Presumption is that

the County has permitted the structure and has info of the structure on file then only a natural disaster (fire, earthquake, trees falling) would change the question of habitability

~~H. In the event, that the water supplier for the short-term vacation rental has issued a "compliance order". The owner is required to report to the County, that a compliance order is active for the subject property. Depending upon the severity of the violation(s) then it will be up to the discretion of agency to deny the permit.~~

I. A failed fire inspection, or a refusal to allow a fire inspection of the short-term vacation rental.

Attorney: Does language Allow for compliance and reinspection.

J. Absence/expiration of a TOT certificate.

K. Any required application fee or renewal fee has not been paid.

~~L. Short term vacation rental properties are subject to inspections to ensure compliance with municipal water and sewer capacity requirements.~~

~~M. Any deficiencies/violations must be corrected before permit issuance or renewal.~~

~~N. Short term vacation rental permits may be revoked if a property is found to be operating with insufficient water or sewer capacity units, posing a risk to public health or the environment.~~

~~O. County reserves the right to deny new permits for properties failing to have the required number of water and/or sewer units, or if the system lacks water and/or sewer capacity to provide the units required.~~

P. The application shall include a self-certification by the property owner or authorized agent that the property's septic system is designed and maintained to accommodate the maximum occupancy levels advertised for the STR, as specified in Section 18.XX.080, in accordance with Madera County Code and applicable state environmental health regulations, as required by Section 18.XX.030(C)(1).

Q. The application shall include a self-certification by the property owner or authorized agent that all garbage generated by STR guests will be stored in bear-proof containers, as required by Section 18.XX.090(G)(c) and Chapter 6.36, and that the Owner, Operator, or Property Management Company will be responsible for hauling away and properly disposing of such garbage in compliance with Chapter 7.24, as required by Section 18.XX.030(C)(2).

R. The application shall include a self-certification by the property owner or authorized agent that the water source supplying the property, whether municipal, well, or other system, is designed and maintained to adequately supply and accommodate the maximum occupancy levels advertised for the STR, as specified in Section 18.XX.080, in accordance with Madera County Code and applicable state water regulations, as required by Section 18.XX.030(C)(1).

S. Exemption for Grandfathered Short-Term Vacation Rentals Properties:

a. Permits for grandfathered STRs, as defined in Section 18.XX.020, shall not be denied for renewal based on the following grounds, provided the STR was lawfully operating in compliance with its original permit conditions prior to the effective date of this Chapter:

Subsection E (Insufficient Water or Sewer Capacity), unless the Public Works Department provides evidence of a significant new health or environmental risk not present at the time of original permitting.

Subsection H (Active Compliance Order from Water Supplier), unless the compliance order directly relates to a severe public health or safety violation that cannot be mitigated without ceasing STR operations.

- b. Grandfathered STRs remain subject to denial for other grounds in this Section, including but not limited to non-payment of fees (Subsections D, J, K), false statements (Subsection B), or significant health and safety violations (Subsection G), provided such denials are based on clear evidence and comply with due process requirements.

T. The applicant may appeal the denial of a permit for new or grandfathered permits pursuant to Chapter 18.108 or through the judicial process pursuant to the California Code of Civil Procedure or any other applicable administrative or judicial remedy.

18.XX.080 - Occupancy Standards

~~A. The property owner of the short-term vacation rental shall be responsible for compliance with the most current California Building Code, California Residential Code, California Fire Code, the National Fire Protection Association Standards, and any other applicable uniform codes as adopted by the County of Madera.~~

~~B. Occupancy limits shall be established by the California Building Code and California Fire Code. The maximum occupancy allowed for a short term vacation rental with five (5) or more bedrooms is ten (10) occupants, plus six children aged ten years old or younger, for a total occupancy of 16 occupants regardless of age. The maximum occupant for short-term vacation rentals with fewer than five (5) bedrooms is calculated by multiplying the number of bedrooms by two (2) occupants per bedroom, plus no more than six (6) additional children aged ten (10) years old or younger. Under no circumstance shall any short-term vacation rental with five (5) or more bedrooms exceed the maximum occupancy of 16 total occupants regardless of age.~~

Attorney - Language should be drafted here by an attorney for maximum benefit to STR owners

18.XX.090 – Operational requirements

All short-term vacation rental units are required to comply with the following standards and shall not generate other potential disturbances that may disrupt the peace, safety, and general welfare of communities. Failure to comply with the standard conditions of this section may result in fines and permit revocations outlined in Section 18.xx.101.

- A. A Business License authorizing the operation of a short-term vacation rental shall not be transferable. A new owner who desires to use the property as a short-term vacation rental shall apply for a new Business License.
- B. Responsibility of Property Owner to Prevent Nuisance Behavior and Maintain Neighborhood Peace and Quiet. The property owner and/or agent shall inform guest(s) that they shall not violate the standards of this article and shall be responsible to take any action necessary to ensure that guest(s) abide by the terms of this article and other applicable provisions of Madera County Municipal Code.

Community Discussion: Define them....Madera needs to provide a list.

- C. Local Contact Person. A local contact person shall be personally ~~available by telephone on a 24-hour basis~~, physically reside within 35 driving miles of the STR unit, and have access and authority to assume management of the short-term vacation rental in order to respond to and remedy calls or complaints. Calls or complaints about physical conditions or circumstances that constitute an immediate threat to the public health and safety shall obligate the local contact person to immediately contact the appropriate law enforcement, fire, or other authority. The Short-term vacation rental property owner shall have the local contact person's informed consent before listing the contact on their Short-term vacation rental permit application.
- D. Parking. On-site parking for vehicles shall be provided for each short-term vacation rental. Parking spaces may include garage, carport, and driveway spaces, and may allow for tandem parking. There shall be no parking on the roadway and on-site parking shall not encroach into the roadway. ~~Trailers, recreation vehicles, and travel trailers are prohibited~~. All permitted parking locations and the quantity of vehicles that fit on said locations shall be clearly set forth in all rental agreements and in all online advertisements and listings.
- ~~E. Lighting. Exterior lighting must be fully shielded and downward facing. Light fixtures must not be located at the periphery of the property and must not reflect off structures. Security lighting may only be motion-sensor activated. Flood lights and uplights are prohibited.~~

Community Discussion: Apply equally to all residents. This would/could require significant cost to retrofit existing structures. If new building states this in the building code, require on that side.

Legal Research - Requiring exterior lighting to be fully shielded, downward facing, not located at the property periphery, not reflective off structures, with security lighting limited to motion-sensor activation and prohibitions on flood lights and uplights, imposes overly restrictive and vague standards not applied to all homes in Madera County. No equivalent ordinance exists in Title 18, Chapter 18.11, Title 9, Chapter 9.58, or other sections of the Madera County Code, making this requirement unique to STRs and discriminatory, violating equal protection under the Fourteenth Amendment and California Constitution, Article I, Section 7. The vague terms (e.g., “no reflection off structures”) risk arbitrary enforcement, violating due process. The provision’s compliance costs (e.g., \$500-\$2,000 for new fixtures) and aesthetic restrictions reduce compromise safety and aesthetic considerations.

- ~~F. Noise. All short-term vacation rental guests are required to comply with the standards of Madera County Code Chapter 9.58 (Noise Regulations) with the following additions:~~
- ~~a. Outdoor amplified sound, meaning sound whose volume is increased by any electric, electronic, mechanical, or motor-powered means, is prohibited.~~
 - ~~b. Quiet hours shall be imposed from nine p.m. to eight a.m. Pacific Standard Time. No sound from the short-term vacation rental shall be audible from the parcel line of any short-term vacation rental unit during this time.~~

Community Discussion: Bobby and the planning commission have stricken this section and acknowledge that it needs to be rewritten to indicate that compliance should be with codes already in existence.

- G. Trash and Refuse

- a. The property owner, Operator, or Property Management Company shall ensure that all garbage generated by STR guests is stored in bear-proof containers and hauled away for proper disposal in accordance with the self-certification provided under Section 18.XX.030(C)(2).
- b. With the exception of trash properly deposited in trash collection receptacles, accumulation of trash and debris outside of the short-term vacation rental at any time is prohibited. The property owner, Operator, or Property Management Company shall comply with County ordinances that are applicable to County residents.
- ~~c. All short-term vacation rentals must subscribe with the current franchisee for the collection of solid waste. A minimum solid waste service level as prescribed by Chapter 7.24 – Solid Waste must be maintained. If the agency director determines the minimum service level is insufficient to accommodate all trash generated by the short-term vacation rental, the property owner and/or agent shall arrange for a higher level of service which will accommodate all trash generated by the short-term vacation rental.~~
- d. All trash receptacles and maintenance thereof shall be in compliance with Chapter 6.36 – Bear Preventive/Control Measures.

Community Discussion: Bobby did say that people could self-certify so that language has been added in. Everyone needs equal treatment. Bears don't differentiate who owns the trash. Having a subscription to Emadco does not work. This process does not work. Trash sits out to be picked up one day a week and is ripped to shreds all the other days, guests have to carry other guests trash out. K&M has a bin in town, all trash is kept in the garage, laundry room, or bear proof bin and it is removed by the cleaners each clean.

Posting Requirements

- e. Requirements for Advertisements. All permitted short-term vacation rentals shall include the following information in any online and printed advertisement:
 - i. Valid Madera County Business License number.
 - ii. Maximum occupancy – Not to exceed the maximum occupancy for the short-term vacation rental allowed pursuant to this Chapter.
 - iii. All permitted parking locations and the number of vehicles that fit on said locations.
 - iv. Local Contact Person Information.
 - v. Noise stipulations outlined in subsection “F”.
- f. Interior Postings. An informational document shall be posted within the interior of the rental unit in a visible location by the front door. The informational document shall contain the contact information for the local contact person and emergency information, and operational standards at a minimum pertaining to noise, parking, fire safety, occupancy limits, solid waste pick up, and pets.
- g. The owner of the short-term vacation rental shall notify all renters if the water system or supplier that serves the short-term vacation rental has issued a

“compliance order” and if there are any compliance measures that the renter must be aware of and abide by.

~~h. The renter will be required to provide a copy of a current government-issued photo ID to the person(s) operating the short term vacation rental. The operator shall maintain these records for a period no less than 12 months. Upon request from the Madera County Sheriff, Madera County Code Enforcement, or the Madera County Law Enforcement, the operator shall release said records in addition to the date and times the specified renter occupied the short term vacation rental.~~

Community Discussion: This requirement puts STR owner's in harm's way. Platforms do not allow for this collection unless you have a formal property manager and use a channel manager software. Right to be forgotten law. Get a warrant law.

Legal Research: Mandating collection, 12-month retention, and disclosure of renters' government-issued IDs violates the California Constitution (Article I, Section 1) and the California Consumer Privacy Act (Civil Code Sections 1798.100 et seq.) as well as the Fourth Amendment. A warrant would be required for law enforcement to collect this type of data from a STR owner. The lack of notice, opt-out rights, or security measures exposes operators to lawsuits, with damages up to \$750 per renter, and is highly threatening for small operators.

Retaining a copy of a guest's ID by a short-term rental owner could potentially violate the California Consumer Privacy Act (CCPA). The CCPA requires businesses to limit the collection, use, and retention of personal information to purposes that are reasonably necessary and proportionate, and it also mandates disclosures to consumers about their privacy practices.

The CCPA grants consumers the right to request deletion of their personal information, and businesses must comply with such requests. If a guest requests the deletion of the ID copy, the short-term rental owner must comply.

- H. Visible Address. Each short-term vacation rental shall have an address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Whenever the address on the short-term vacation rental unit will not be clearly visible from the street or access road fronting the property, the address shall also be placed at the public street or access road in a manner that is clearly visible from both directions of travel on the frontage road or street. Address identification characters shall contrast with their background and conform to the minimum size requirements of Madera County Code Section 11.04.245. A short-term vacation rental in a condominium building that does not have an individual address may utilize the condominium building address and need not comply with these requirements.
- I. Smoke Alarms. Smoke alarms, in good working order, shall be installed in accordance with the California Building Code and at a minimum shall be installed in each bedroom, and at least one alarm on every level of the short-term vacation rental, including basements and habitable attics.
- J. Carbon Monoxide Alarms. Carbon monoxide alarms, in good working order, shall be installed in accordance with the California Building Code and at a minimum shall be installed outside each bedroom, on every level of the rental unit, including basements and habitable attics, and bedrooms or attached bathrooms with a fuel-burning appliance, and shall be installed in accordance with the manufacturer's installation instructions.

K. Fire Extinguisher. Each short-term vacation rental shall be equipped with one five-pound fire extinguisher, type 3-A:40-B:C, installed at a readily available location near the kitchen. If the short-term vacation rental has more than one level, an extinguisher must be mounted within each level. Fire extinguishers shall be inspected annually by a certified professional to ensure the extinguishers are in good working order.

~~L. Emergency Communications. A National Oceanic and Atmospheric Administration (NOAA) Alert Weather Radio shall be provided in the short-term vacation rental. In addition, if the short-term vacation rental is connected to dry utilities (i.e. PG&E), then the short-term vacation rental unit shall contain at least one working landline phone or broadband Voice Over Internet Protocol phone.~~

M. Fire Inspections. Short-term vacation rentals shall allow fire district staff or other fire district-approved designees to conduct a safety inspection prior to the issuance of a Business License, once every year, or upon request by the fire district or county. The fire inspection is to ensure the rental complies with sections relating to occupancy based off the size of the structure (square footage), smoke alarms, carbon monoxide alarms, fire extinguishers, visible address, outdoor fireplaces, grills, barbecues, and other cooking apparatuses. The inspections, including reinspection, due to noncompliance and inspections prompted by complaints and/or violations, are subject to the applicable fire district fee schedule cost for inspections. Records of such issues shall be provided by the fire district to the code compliance services division for inclusion in its administrative citation process and referred to the county for enforcement. Failure to allow an inspection to occur may result in revocation of the short-term vacation rental permit pursuant to Section 18.xx.103. See also Section 18.xx.101 for prohibitions and restrictions for fire restrictions.

Attorney: Fire Department needs to staff up or allow PMs to sign off Can some language be suggested here?

N. Emergency Access. If a short-term vacation rental is located behind a locked gate or within a gated community, a gate code or knoxbox with keys must be provided for exclusive use by first responders.

~~O. Evacuation During Emergencies. Written evacuation instructions identifying the evacuation zone, evacuation route, and the Calfire Evacuation Checklist must be provided to guest and posted within the vacation rental. Guests must leave the property when a Voluntary Evacuation Order is issued for the evacuation zone. The property owner or agent must inform guests when a Voluntary Evacuation Order is issued.~~

Community Discussion: Madera County needs to produce a general evacuation routes map and accept liability if they require this. STR Owners will NOT take on the liability of this. Ripe for lawsuits should there be death because people couldn't get out, followed the wrong directions, etc.

P. Active Building or Environmental Health Permits or Violations. ~~Short-term vacation rentals shall not be rented during construction, remodeling, additions, active building permits,~~ building violations, or other applicable environmental health permit or violation (such as septic system or domestic water), unless the building or environmental health permit for the same has been approved by final inspection or county issued occupancy certificate, or approval by the county's building and/or environmental health official, and upon an affirmative showing by the agent that the safety and welfare of occupants can be maintained. If the work creates an uninhabitable area by lack of sanitation, cooking, sleeping, or heating, the chief building official and/or environmental health official shall deem the structure

uninhabitable, and the structure shall not be rented as a short-term vacation rental until authorized by the county's Building or Environmental Health Division for such use or occupancy.

Community Discussion: Needs to be clarified. If someone is building a shed, remodeling a basement bathroom, a garage, pouring a slab, building a patio, etc. this should not apply.)

- Q. The property owner shall be responsible for maintaining the property at all times in compliance with the County's Weed Abatement Ordinance pursuant to County Code Chapter 7.26.

18.XX.100 – Guidance, Prohibitions and Restrictions

The following guidance, prohibitions and restrictions apply to all Short-Term Rental permits unless specifically exempted under grandfathering provisions:

- A. Affordability and Deed Restrictions. A structure or property with a recorded county covenant, deed restriction or agreement restricting its use, including, but not limited to, affordable or achievable dwelling units or deed-restricted secondary dwelling units, shall not be used for short-term vacation rentals.
- B. Any short-term vacation rentals that are legally operating with an active Business License prior to the effective date of this ordinance may continue operating until expiration of the Business License. Operational standards in Section XXXX shall apply.
- C. The grandfathered status shall remain in effect unless the STR ceases operation for more than 24 consecutive months or the Business License is revoked for non-compliance with this Chapter.
- ~~D. Maximum Short-term vacation rental Units Per Person. A person shall not own and operate more than five short-term vacation rental unit(s) may be owned and operated at any given time.~~

Attorney - Again here, with the current definition of person this excludes individuals, estates or trusts, but not Sole Proprietorships, Partnerships, corporations or LLCs. Is that because individuals, estates and trusts are not creatures of the state and have unalienable rights??

- ~~E. Maximum Short-term vacation rental Units Per Parcel: No more than one short term vacation rental may be in operation per legal parcel.~~

Community Discussion: Why? What is the justification for this? Many on the mountain have two or more structures and are renting both when not using themselves.

- ~~F. Incidental Camping. A short-term vacation rental permit does not authorize incidental camping, which includes all overnight camping, sleeping in tents or on decks attached to the short-term vacation rental unit, or sleeping in travel trailers or recreational vehicles at the short-term vacation rental.~~
- ~~G. Fire Restrictions. Refer to Chapter 9.32 – Fire Regulations for restrictions as it relates to the usage of grills, barbeques, other outdoor cooking apparatuses, and outdoor fireplaces.~~

Community Discussion: Strike or apply equally to everyone on the mountain

Attorney - Or ask owners to provide a specific space that fireproofs the area (placement, concrete pad, fireproof enclosure), they can provide a photo of the area. Some shgeestwd language is

needed here.

- H. Pets shall be secured within the boundaries of the short-term vacation rental parcel at all times. If the short-term vacation rental parcel is not fenced, pets must be kept on a leash and accompanied by the guest at all times while outside.

Community Discussion: Apply this equally to all neighbors or strike

- I. Subletting. Guests are prohibited from subletting a short-term vacation rental. Only property owners and/or agents with a valid short-term vacation rental permit and TOT certificate are allowed to advertise and rent a residential unit as a short-term vacation rental.
- ~~J. Special Events. Weddings, corporate events, commercial functions, and any other similar events which have the potential to cause traffic, parking, noise, or other problems in the neighborhood are prohibited from occurring at the short-term vacation rental property as a component of short-term vacation rental activities.~~
- K. Fireworks. No individual shall use, discharge or possess any fireworks, as defined in Sections 12505 or 12529 of the California Health and Safety Code, at a short-term vacation rental.

18.XX.101 – Penalties

For violations associated with a short-term vacation rental, the property owner may be subject to administrative and/or judicial remedies as set forth herein.. Each violation of a standard of the short-term vacation rental permit or any other applicable Chapter of the Madera County Code will be subject to an administrative citation. For the first violation a fee of five hundred dollars (\$500) will be issued. For the second violation within a 12-month period of the first violation, a fee of one thousand dollars (\$1,000) will be issued. Upon the third violation within a 12-month period of the first violation the Director may suspend or revoke the short-term vacation rental permit.

Appeal procedures will follow the procedures outlined in Chapter 18.108 or through the judicial process pursuant to the California Code of Civil Procedure or any other applicable administrative or judicial remedy.

18.XX.102 – Permit Suspension or Revocation

- A. Suspension or Revocation. The Director may suspend or revoke a permit in the event of one or more of the following.
 - a. Permit issuance was based on inaccurate or incomplete information.
 - ~~b. The short-term vacation rental has operated in nonconformance with the Madera County Code. Overbroad~~
 - ~~c. The short-term vacation rental constitutes a nuisance. Overbroad~~
 - d. The short-term vacation rental owner has not complied with the requirements of this chapter. **Due Process and admissible evidence must be provided**
 - ~~e. A short-term vacation rental property owner has received three violations infracting any Madera County Code section within any 12-month period.~~

Attorney - Overbroad – ANY??? No criss cross policing, example don't pay a toll violation they

don't renew your car registration.

~~f. Permittee has failed to pay fees or administrative penalties associated with the short term vacation rental.~~

~~g. Any permit revocation or suspension shall be automatically stayed pending the completion of all administrative and judicial appeals.~~

B. Notice of Suspension or Revocation. Prior to any permit revocation, the County shall provide written notice that: 1) clearly specifies the alleged violation with citation to the specific code provision, 2) includes factual basis for the alleged violation, and 3) allows a minimum 30-day opportunity to cure the identified deficiency. Any permit revocation action shall be automatically stayed pending the complete exhaustion of all administrative and judicial appeals, with the permit remaining valid and operable throughout the appeal process.

~~To revoke or suspend a permit, the Director must issue a written notice to the permittee and property manager. The notice will be sent via certified mail to the business address associated with the permit. Proper service must be accomplished. The notice must include:~~

- a. The address of the vacation rental.
- b. Permit number.
- c. Reason for suspension or revocation.
- d. A statement of appeal rights.
- e. Appeal procedures will follow the procedures outlined in Chapter 18.108 or through the judicial process pursuant to the California Code of Civil Procedure or any other applicable administrative or judicial remedy.

18.XX.103 – Hosting Platform Requirements

For purposes of this Chapter the Person who owns and/or operates the short-term vacation rental unit(s) shall be responsible for collecting all applicable uniform transient occupancy tax required by Section 3.20.050 and remitting the same to the County. If authorized by the Person who owns and/or operates the Short-term vacation rental, a hosting platform shall be considered an agent of the short-term vacation rental owner for purposes of transient occupancy tax collections and remittance if there is a Voluntary Collection Agreement executed between the hosting platform and the County. All reporting responsibilities will be the sole responsibility of the short-term vacation rental property owner.

18.XX.104 – Severability

The provisions of this article are declared to be separate and severable. ~~The invalidity of any clause, phrase, sentence, paragraph, subdivision, section or portion of this article, or the invalidity of the application thereof to any individual or circumstance shall not affect the validity of the remainder of this article, or the validity of its application to other individuals or circumstances.~~ If any section, subsection, clause, sentence, or phrase of the ordinance codified in this chapter is for any reason held to be invalid or unconstitutional on its face and/or by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance codified in this chapter. The board of supervisors hereby declares that it would have passed the ordinances codified in this chapter and any section, subsection, sentence, clause or phrase thereof without said

sections, subsections, sentences, clauses, or phrases.

18.XX.105 – Administration

The Madera County Community and Economic Development Agency Director, the Madera County Public Works Director or County Engineer, the Madera County Chief Building Official, the Madera County Fire Chief, the Madera County Environmental Health Official, Madera County Tax Administrator, and any employee designated by any of those individuals are authorized to administer and enforce this article to ensure compliance.

Attorney - How do we sort through all this? Shouldn't it only be code enforcement.

END OF DRAFT ORDINANCE

General Legal Research findings - Violation of Constitutional Rights:

- **Dormant Commerce Clause (U.S. Constitution, Article I, Section 8, Clause 3):** The ADU ban, STR caps, ID collection, and Local Contact Person requirement disproportionately burden non-resident owners, discriminating against interstate commerce without evidence-based justification or nondiscriminatory alternatives, as in Measure T (*South Lake Tahoe Property Owners Group*).
 - **Fifth Amendment (Takings Clause):** The ADU ban, STR caps, insurance requirement, and short grandfathering may constitute regulatory takings, depriving owners of viable uses without compensation (*Penn Central Transportation Co. v. New York City*, 397 U.S. 104 (1978)).
 - **Fourteenth Amendment (Due Process):** Vague permit denials (Sections 18.XX.070, 18.XX.102), insurance, ID, and Local Contact Person standards risk arbitrary enforcement, violating procedural due process (*Grayned v. City of Rockford*, 408 U.S. 104 (1972)). **Retroactive restrictions** violate substantive due process (*Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528 (2005)).
 - **Fourteenth Amendment (Equal Protection):** Discrimination against ADU/JADU, condominium, multi-STR, and non-resident owners lacks a rational basis.
 - **California Constitution (Article I, Sections 1, 7):** The ordinance infringes on property and privacy rights, particularly in the mountain area's STR tradition.
2. **Lack of Evidence-Based Justification:**
- The ordinance's purpose (Section 18.XX.010) lacks data showing that ADU/JADU STRs, multiple STRs, existing STRs, or non-resident operations pose unique harms. Less restrictive measures could achieve public goals without violating rights.

Remedies to Prevent Enactment

To prevent the ordinance's passage and mitigate the severe legal, economic, and social consequences outlined below, we are prepared to pursue the following remedies:

1. **Threat of Pre-Enactment Litigation (Temporary Restraining Order):** We will file a complaint in Madera County Superior Court seeking a Temporary Restraining Order (TRO) and preliminary injunction to enjoin the ordinance's adoption, citing imminent violations of

California state law (Government Code Sections 65852.2, 65852.22, 65583, 51238), federal constitutional protections (Dormant Commerce Clause, takings, due process, equal protection), and state constitutional protections (California Constitution, Article I, Sections 1, 7, 13). A TRO will halt the legislative process pending judicial review, preventing irreparable harm to our members' property rights, income, and privacy, as demonstrated by the ordinance's non-transferability, permit caps, and quiet hours provisions (*Code of Civil Procedure Sections 526, 1060; South Lake Tahoe Property Owners Group v. City of South Lake Tahoe*, El Dorado County Superior Court, March 13, 2025).

2. **Public Advocacy and Comment:** We will mobilize MCSTRA members and supporters to deliver public comments at hearings, highlighting the ordinance's violations of state law, constitutional rights, and zoning ordinances, as well as its economic harm to the mountain area's tourism economy. These comments will build a record for potential legal challenges and pressure you to revise or abandon the ordinance (*Government Code Section 65009*).
3. **HCD Pre-Enforcement Review:** We will submit a complaint to HCD, requesting urgent review of the ordinance's ADU/JADU ban, permit caps, expiration, non-transferability, and quiet hours for violating Government Code Sections 65852.2 and 65852.22. HCD's advisory action could compel revisions to avoid decertification (*Government Code Section 65852.2(h)*).
4. **Petition for Reconsideration:** We will file a petition with the Community and Economic Development Department and Board of Supervisors, demanding reconsideration of the ordinance's flaws and a delay in voting until revisions address our concerns (*Government Code Section 65009*).
5. **Lobbying and Coalition Building:** We will lobby supervisors through meetings, letters, and media campaigns, partnering with tourism boards, realtors, and residents to highlight the ordinance's fiscal and legal risks. Public pressure will underscore the need for revision (*Government Code Section 54950*).
6. **Ballot Initiative or Referendum Threat:** We will prepare a referendum to repeal the ordinance if passed or an initiative for a fair STR policy, signaling our readiness to mobilize voters and deter enactment (*Elections Code Sections 9100 et seq.*).

These remedies aim to compel revision or withdrawal of the ordinance, protecting our members' rights and mountain area's economy.

Consequences of Passing the Ordinance as is or even close to as is

If the ordinance is passed in its current form, the following consequences will result:

1. **Writ of Mandate (Code of Civil Procedure Section 1085):** Property owners may seek a writ to compel repeal of unlawful provisions, as they violate ministerial duties under Government Code Sections 65852.2, 65852.22, 65583, and 51238. Courts are likely to order revisions, as seen in *City of Los Angeles v. State of California* (2021), with legal costs and attorney's fees imposed under Code of Civil Procedure Section 1021.5.
2. **Federal and State Lawsuits:** Owners may file lawsuits for violations of federal and state constitutional rights, seeking damages for lost STR income, particularly in the mountain area, where historical investments are at risk. These include:

- **42 U.S.C. § 1983 Actions:** For Dormant Commerce Clause, takings, due process, and equal protection violations, with damages commensurate with historic revenue and future losses (e.g., \$1,000,000 - \$10,000,000 or more per owner), injunctive relief, and attorney's fees under 42 U.S.C. § 1988.
- **California State Law Actions:** Paired with § 1983 claims, owners and renters may pursue remedies under California law, amplifying liability:
 - **California Tort Claims Act (Government Code Sections 810 et seq.):** Allows claims against Madera County for violations of California constitutional rights (Article I, Sections 1, 7, 13), such as property deprivations (ADU ban, STR caps), privacy violations (ID collection), and due process/equal protection violations (vague standards, non-resident discrimination). Requires a pre-suit claim within six months, with damages for economic losses (e.g., lost STR income) and injunctive relief. Can be paired with § 1983 for federal claims, covering both state and federal violations (*Katzberg v. Regents of the University of California*, 29 Cal. 4th 300 (2002)).
 - **California Constitution (Article I, Sections 1, 7, 13):** Permits direct actions for property (Section 1), privacy (Section 1), due process (Section 7), equal protection (Section 7), and search/seizure (Section 13) violations, with damages for privacy harms and injunctive relief to halt enforcement. Complements § 1983 by addressing state-specific rights, with attorney's fees under Code of Civil Procedure Section 1021.5 (*Roy v. Superior Court*, 127 Cal. App. 4th 337 (2005)).
 - **California Civil Code Section 52.1 (Bane Act):** Allows suits for coercive interference with federal (Dormant Commerce Clause, takings) or California (property, privacy, due process, equal protection) rights, such as through fines or permit revocations. Offers treble damages, injunctive relief, and attorney's fees, enhancing § 1983's remedies for coercive enforcement (*Shoyoye v. County of Los Angeles*, 203 Cal. App. 4th 947 (2012)).
 - **Declaratory Relief (Code of Civil Procedure Section 1060):** Permits declarations that the ordinance violates federal or California rights, halting enforcement and clarifying legal duties. Complements § 1983's injunctive relief, with attorney's fees under Section 1021.5.
 - **Code of Civil Procedure Section 526a (Taxpayer Actions):** Enables taxpayers to sue to restrain illegal government actions (e.g., enforcing an unconstitutional ordinance), seeking injunctive relief to prevent public fund waste. Pairs with § 1983 to protect public interest, as in Measure T's collective challenge.
 - **Government Code Section 815.6 (Mandatory Duty Liability):** Imposes liability for failing to perform mandatory duties (e.g., approving ADU STR permits under Section 65852.2), offering damages for statutory violations, complementing § 1983's federal statutory claims. Total costs could reach millions, with legal fees and reputational damage.

3. **Preliminary Injunction:** We may seek a preliminary injunction to immediately enjoin enforcement of the ordinance pending resolution of legal challenges, as in South Lake Tahoe's Measure T case (2018 injunction, *South Lake Tahoe Property Owners Group*). A court may grant an injunction if we show:
- **Likelihood of Success on the Merits:** The ordinance's violations of the Dormant Commerce Clause, state law (Government Code Sections 65852.2, 65852.22, 65583, 51238), and constitutional protections (takings, due process, equal protection), supported by zoning conflicts (Title 18, Chapters 18.11, 18.104), make success likely.
 - **Irreparable Harm:** Owners, operators, real estate agents, house cleaners, handyman, local businesses etc face immediate loss of STR income, particularly non-residents burdened by the Local Contact Person requirement, and renters face privacy violations, with no adequate remedy at law.
 - **Balance of Equities:** The harm to owners and renters outweighs the County's interest in enforcing an unlawful ordinance, as public safety can be addressed through nondiscriminatory alternatives.
 - **Public Interest:** An injunction serves the public by preserving the mountain area's tourism economy and property rights.
An injunction could halt permit denials, enforcement actions, or compliance requirements, with defense costs and lost revenue impacting the County.
4. **Class Action Lawsuits:** Multiple property owners, particularly ADU/JADU owners, multi-STR operators, and non-residents affected by the Local Contact Person requirement, may join in class action lawsuits against the County. These suits could arise under:
- **42 U.S.C. § 1983:** For Dormant Commerce Clause, takings, due process, and equal protection violations, with damages for lost income (e.g., \$10,000-\$500,000 or more property and per owner) and attorney's fees escalating to millions for a class of 50-100 owners.
 - **California Consumer Privacy Act (Civil Code Sections 1798.100 et seq.):** For ID collection violations, with statutory damages of \$100-\$750 per renter per incident. A class action involving, for example, 500 renters could result in \$50,000-\$375,000 in damages, plus legal fees.
 - **California Constitution (Article I, Section 1):** For privacy invasions and property deprivations, with potential damages for economic harm from permit non-transferability, expiration, local contact provisions and/or quiet hours enforcement. The ordinance's discriminatory effects, as in Measure T, make class actions highly likely, amplifying financial and reputational damage (*City of Santa Monica v. Stewart*, 126 Cal. App. 4th 43 (2005)).
5. **Economic and Political Fallout:** Reduced STR activity could:
- Lower Transient Occupancy Tax revenue
 - Harm tourism-dependent budgets and business
 - Lowering overall property values and reduce property tax base
 - Damaging resell opportunities and **strand people in their properties**
 - Escalate community conflict

- Increase the risk of litigation against STR owners for alleged violations and further deterring and prejudicing STR operations.
- Community backlash from owners and businesses may also fuel recall campaigns (Elections Code Section 11020).