



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Mark Brodeur, Community & Economic Development Director
MEETING DATE: March 24, 2016
SUBJECT: Ordinance To Amend PGMC Chapter 7.40 & 23.64.350 Regarding Transient Use License (Short Term Vacation Rentals)
CEQA: Initial Study and Mitigated Negative Declaration

RECOMMENDATION

Introduce and hold first reading of an Ordinance to amend Pacific Grove Municipal Code Chapter 7.40 and Chapter 23.64.350 related to Transient Use License for residential property. Also adopt the Initial Study and Negative Declaration prepared and posted to CEQA Guidelines Section 15070 et seq.

DISCUSSION

At its December 16, 2015 meeting City Council directed staff to bring back an Ordinance updating the City of Pacific Grove Municipal Code to address a surge in short-term rental activity and the subsequent consequences of this activity on the community and staff resources.

Short Term Vacation Rentals are currently permitted in the Pacific Grove Municipal Code under Chapter 7.40 and Chapter 23.64. The City Council reiterated by majority vote its support of the allowance of short term vacation rentals in the City but identified the need for stronger rental restrictions.

The matter was referred to the Planning Commission at its meetings of January 7th, 20th and March 3rd, where additional public comment was received. City staff has assimilated those comments into several new concepts for City Council review and consideration. This proposed ordinance is only part of the successful execution of a Short Term Vacation Rental (STVR) Program. The City has already implemented numerous process and enforcement enhancements such as a hotline aimed at better oversight of the licenses granted throughout the community.

Effective modifications to the existing short-term rental ordinance regulations are tailored to address specific protections for residential neighborhoods in Pacific Grove. Many of the suggested ordinance modifications came out of the City Manager's Task Force on Short Term Vacation Rentals (STVR). Taken as a whole, the most difficult portion(s) of the Ordinance to address has been the issue of how many short term vacation rentals in Pacific Grove should be allowed. Offered below are the key ordinance modifications recommended by Planning Commission presented on March 3rd.

The Ordinance proposes is to allow the grandfathering of existing licenses. If a licensee has properly managed a STVR property that has not been an issue in the neighborhood then the Planning Commission believes it would be an undue burden and hardship to place a "cliff" every year for each and every (new or old) license to meet. Reservations for STVR's can extend out more than one or two years. While the existing STVR's will still need an annual license, they are given preference by grandfathering their existence. The City retains its independent ability to revoke a license should the need arise.

Here are the key provisions:

Citywide Fixed Cap. A maximum number of 250 "Type A" short term rental licenses in residential zones. There is no cap proposed on the total number of "Type B" licenses which are for local owners to occasionally rent out their house. Commercial zones are exempt from the cap.

"STR Type A" is a term that shall mean a short term rental unit licensed for transient use of residential property for remuneration where the property owner does not reside at the site, and where the property is available for short term guests for an unlimited period throughout its term.

"STR Type B" is a term that shall mean a short term rental unit licensed for transient use of residential property for remuneration where the property owner resides at the site, and where the property is available for short term guests for no more than 90 days in a single license year (365 days).

Residential District Fixed Cap. A maximum number of "Type A" short term rental licenses shall be limited to 104 in R-1 & R-2 and limited to 146 in R-3 & R-4 Districts. (104 + 146 = 250 citywide cap).

(Please note that as of today (3/20/16) there are 222 active licenses, and the total number of R-1 and R-2 licenses (119) already exceeds the maximum allowed (104), thus no additional Type A licenses will be granted in R-1 or R-2 Districts until the total number drops below 104. All remaining available Type A licenses will only be permitted in the R-3 and R-4 Districts.

Density Restrictions on Type A Licenses.

1. Density limits will not apply to Ocean View Boulevard and Mermaid Avenue per the direction of the City Manager's Task Force based on their assessment of the historic use of these areas for vacation rentals. These licenses will be counted against the overall cap however.
2. A new license may be approved as long as the total number of licenses does not exceed 15% of the block on which it is located. If the block has more than 15% licenses already occurring, a new license will not be permitted on that block.
3. In the case where the total number of legally occurring Type A licenses currently exceeds the 15% per block density measure, each existing licenses on that block shall be limited to a total of 150 rental days a year.
4. Commencing on March 31, 2018, all STR Type A Licenses issued in the R-1-B-4 District shall be subject to a Use Permit due to the sensitive habitat located in the vicinity.

Grandfathering and Annual Re-Licensing and Inspections. The effective date of the annual license will be changed from July 1 to an expiration date of March 31. All transient use licenses issued and current at the potential time of the adoption of this Ordinance by City Council shall expire March 31, 2017. For each initial transient use license application, and each license renewal, the property owner shall submit an inspection report to the City that provides and verifies information, in the form and manner required by the Chief Building Official. To avoid disruption

of existing licenses, any Transient Use License issued before the effective date of this Ordinance may be renewed for a subsequent year if there have not been more than two verified (by City Official) complaints received. By allowing licenses to be renewed without prejudice, an enormous amount of potential administrative work by the Community Development Department is eliminated.

Public Notice Required. The property owner or owner representative shall be required to notice any new application or any license renewal. A notice, posted and mailed to notify neighbors within 300 feet of the transient use licensed site shall be executed by the owner or owners representative. The notice shall include a statement of the maximum number of guests permitted to stay in the short term unit.

The proposed amendments are consistent with the General Plan and the Local Coastal Program in that STVRs do not constitute a change in residential land use as described in the Land Use Element of the General Plan, and would provide additional opportunities for visitor accommodations consistent with the Coastal Act.

The Planning Commission made some relatively minor changes to the Ordinance. These include:

Facts - Remove #1: "Before 2010, many... remuneration."

7.40.010 "STR Type C" - removed

7.40.025(1) - Density limits shall also apply to duplexes.

7.40.025(4) - Date changed from March 30, 2022 to March 31, 2018.

7.40.030(h) - The maximum party size is changed from 2 to 1.5 times the maximum number of occupants.

7.40.080(b) - A transient use license, not a business license, shall be maintained at all times.

7.40.90(a) - The requirement of STR rental within the past 90 days is removed; now extended to 12 months.

CEQA

The City prepared an Initial Study and Mitigated Negative Declaration to review the ordinance pursuant to the California Environmental Quality Act (CEQA), and this Ordinance has been mitigated to a point where the proposed project will not have the potential to significantly degrade the environment; will have no significant impact on long-term environmental goals; will have no significant cumulative effect upon the environment; and will not cause substantial adverse effects on human beings, either directly or indirectly. The Planning Commission finds that on the basis of the whole record that there is no substantial evidence that the proposed amendment to the City's regulations will have a significant effect on the environment, and that the IS/ND reflects the Commission's independent judgment and analysis.

OPTIONS

1. Take no action. (STVR's remain a permitted use)
2. Provide recommendations to amend the ordinance.

FISCAL IMPACT

Limiting the number of Type "A" Short Term Vacation Rental licenses will have a negative effect on the City's Transient Occupancy Tax. The current fiscal year Transient Use Occupancy Tax (TOT) generated by STVR is \$630,000, or 104% of budgeted revenues. STVR TOT revenues are forecasted for Fiscal Year 2016-17 at \$707,000.

ATTACHMENTS

1. Draft Ordinance

RESPECTFULLY SUBMITTED,



Mark Brodeur, Director
Community & Economic Development

REVIEWED BY,

Ben Harvey

Ben Harvey, Interim City Manager

ORDINANCE NO. 16-007

AN ORDINANCE OF THE CITY OF PACIFIC GROVE AMENDING MUNICIPAL CODE SECTION 23.64.350 AND CHAPTER 7.40 RELATED TO THE LICENSE PROCESS FOR TRANSIENT USE OF RESIDENTIAL PROPERTY

FACTS

~~1. Before 2010, many residential properties within the City violated then-existing limits on the transient use of residential property for remuneration.~~

12. In 2010, Chapter 7.40 and Chapter 23.64 of the Pacific Grove Municipal Code (PGMC) were amended by Ordinance 10-001 to regulate transient use of residential property within residential zones, and required those sites to hold an annual license from the City. The transient use licensing program, coupled with enhanced enforcement, was intended to regulate and control this activity.

23. Since 2010, online host sites such as VRBO, Airbnb, and others have become increasingly popular means to market homes available for transient use. As demand has increased, the City has experienced a dramatic increase in license applications. The 2010 regulations did not anticipate nor adequately address the surge in short-term rental activity, both licensed and unlicensed. Although several sites are presently licensed for this use, these sites do not exceed 4% of the City's total housing stock.

34. In October, 2015 a City Task Force was convened to elicit public input to examine short term rental issues in depth and to recommend needed changes to the program. The Task Force held open meetings every Wednesday from October 28 to December 2, 2015. The matter was returned to Council for direction at its meeting of December 16, 2015 at which time public comment was received from 40 members of the public. The matter was referred to Planning Commission at its meeting of January 7th and 20th meeting where additional public comment was received.

4. This ordinance amends Chapter 7.40 and Chapter 23.64 of the Municipal Code.

5. The Planning Commission reviewed this ordinance and recommends the Council adopt it.

6. The City prepared an Initial Study and Mitigated Negative Declaration to review ordinance pursuant to the California Environmental Quality Act (CEQA), and this Ordinance has been mitigated to a point where the proposed project will not have the potential to significantly degrade the environment; will have no significant impact on long-term environmental goals; will have no significant cumulative effect upon the environment; and will not cause substantial adverse effects on human beings, either directly or indirectly. The draft ordinance has been revised after the Negative Declaration was published but the changes did not constitute "substantial revisions" under CEQA therefore recirculation is not required.

7. The proposed amendment is consistent with the City's General Plan and the Local Coastal Program in that the practice of short term rentals does not constitute a change in residential land use as described in the Land Use Element of the General Plan, and would provide additional opportunities for visitor accommodations consistent with the Coastal Act.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. The foregoing factual recitals are adopted as findings of the City Council.

SECTION 2. Existing Municipal Code section 23.64.350 of Chapter 23.64, shall be re-titled "Transient use of residential property for remuneration" and shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***), as follows:

(a) Definitions. For the purpose of this chapter certain terms used herein shall have the meanings set forth in this chapter, and such meanings shall prevail in case of conflict with the definitions set forth in Chapter 23.08 PGMC.

- (1) "Person" means an individual, a group of individuals, or an association, firm, partnership, corporation or other entity, public or private.
- (2) "Owner" means the person who possesses fee title to a transient use site.
- (3) "Owner representative" means any person authorized by the owner to fully manage the transient use site.
- (4) "Remuneration" means compensation, money, rent, or other bargained for consideration given in return for occupancy, possession or use of real property.
- (5) "Residential property" means any dwelling unit, except those dwelling units lawfully established as second units established pursuant to Chapter 23.80 PGMC or as part of a bed and breakfast inn, motel, hotel, timeshare development, or other transient use.
- (6) "Responsible tenant" means a person aged 18 or older who has received notice of occupancy, parking and other limits and regulations that apply to the transient use site, and who has agreed to be responsible to ensure that impermissible or inappropriate behavior does not occur at the transient use site.
- (7) "Transient" means a period of time less than 30 consecutive calendar days.
- (8) "Transient use of residential property" means the commercial use, by any person, of residential property for transient lodging uses where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession or tenancy is less than 30 consecutive calendar days.
- (9) "Transient use site" and "transient use" mean property occupied and used for transient or short-term rental purposes.
- (10) "Use" means the purpose for which land or premises of a building thereon is designed, arranged or intended, or for which it is or may be occupied or maintained.

(b) Transient use of residential property for remuneration is prohibited, except (1) as otherwise expressly permitted by this title, or (2) when such use is permitted by a transient use license issued in accord with Chapter 7.40 PGMC.

(c) Liability and Enforcement.

- (1) Any owner, owner representative, responsible tenant, person acting as agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise who uses, arranges, or negotiates for the use of residential property in violation of the provisions of this chapter is guilty of an infraction for each day in which such residential property is used, or allowed to be used, in violation of this chapter.
- (2) Any owner, owner representative, responsible tenant, or other person who uses, or allows the use of, residential property in violation of the provisions of this chapter is guilty of an infraction for each day in which such residential property is used, or allowed to be used, in violation of this chapter.
- (3) Violations of this chapter may be prosecuted pursuant to Chapter 1.16 PGMC, or enforced pursuant to Chapter 1.19 PGMC.
- (4) ~~Penalties may be assessed for violations as provided in Chapters 1.16, 1.19, and/or~~ 7.40 PGMC. The maximum limits set for administrative penalties in PGMC 1.19.200, however, shall not apply to any violation of this chapter or Chapter 7.40 PGMC.

SECTION 3. A new Municipal Code Chapter 7.40, entitled "Transient Use License," shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***), as follows:

7.40.005 *Statement of Purpose.*

The purpose of this chapter is to establish a permitting process, together with appropriate standards that regulate short-term rental of single-family and multi-family dwellings in residential districts, to minimize negative secondary effects of short-term rental use on surrounding residential neighborhoods; and to preserve the character of neighborhoods in which any such use occurs. This chapter addresses traffic, noise and density; ensures health, safety and welfare of neighborhoods as well as of renters and guests patronizing short-term rentals; and imposes limits on the number of licenses issued to ensure long-term availability of the affordable housing stock. This chapter also sets regulations to ensure enforcement of these standards, and collection and payment of fees and transient occupancy taxes.

This chapter shall not provide any property owner with the right or privilege to violate any private conditions, covenants or restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short-term rental purposes as defined in this chapter.

The City Council finds adoption of a comprehensive code to regulate issuance of and conditions attached to short-term rental licenses is necessary to protect the public health, safety and welfare. The purposes of this chapter are to provide a licensing system and to impose operational requirements in order to minimize the potential adverse impacts of transient uses on residential neighborhoods

The City Council finds the regulation of short term rental uses , including its non-transferability provisions, to be a valid exercise of the City's police power in furtherance of the legitimate governmental interests documented in this chapter.

7.40.010 Definitions.

The terms "owner," "owner representative," "person," "remuneration," "residential property," "responsible tenant," "transient," "transient use," "transient use of residential property," and "transient use site" as used in this chapter shall be given the same definition as those terms in PGMC 23.64.350.

"STR Type A" is a term that shall mean a short term rental unit licensed for transient use of residential property for remuneration(i) where the property owner does not reside at the site, and where the property is available for short term guests for an unlimited period throughout its term; or (ii) where the property owner resides at the site, and where the property is available for short term guests for more than 90 days in a single license year.

"STR Type B" is a term that shall mean a short term rental unit licensed for transient use of residential property for remuneration where the property owner resides at the site, and where the property is available for short term guests for no more than 90 days in a single license year (365 days).

7.40.20 Allowed Use.

(a) Transient use of residential property for remuneration is allowed pursuant to Chapter 23.64 PGMC or this chapter; provided, that a separate transient use license has first been granted and validly maintained for each transient use site.

(b) Each Transient Use License must meet all the requirements of this Chapter. Transient Use Licenses are issued for a term. If no expiration date is shown, each shall expire on March 31. A Transient Use License may be extended or renewed for a subsequent year if there have not been more than two verified (by City Official) complaints received. Transient Use Licenses issued and current as of May 6, 2016 shall expire on March 31, 2017.

(c) For the purposes of this Chapter, the City recognizes and sets discrete requirements for each of two different classes of Transient Use Licenses. These are "STR Type A", "STR Type B".

(d) Each contract or tenancy that allows transient use shall identify the name, address, phone and e-mail contact information of at least one responsible tenant who has been informed of, and has agreed to abide by occupancy, parking and other limits that apply to that transient use. The owner or owner representative shall make a record of the motor vehicle license number of each motor

vehicle used by an occupant of the transient use site, and shall upon request provide that information to the City manager or his delegated agent.

(e) For each initial transient use license application, and each annual license renewal, the applicant and each property owner shall submit an inspection report to the City that provides and verifies information, in the form and manner required by the Chief Building Official, to ensure the property is safe and habitable for its intended use, including verification of adequate egress from sleeping quarters and common areas, installation of accessible fire extinguishers, and a carbon monoxide alarm on each level, and that the property exists in accord with appropriate land use and building permits.

(f) The City shall cause notice of the application or any license renewal, and of any hearing on the application or renewal to be posted and mailed to notify neighbors within 300 feet of the transient use licensed site. The notice shall include a statement of the maximum number of guests permitted to stay in the short term rental unit.

7.40.25 License Caps and Density Limits.

(a) License Cap. The maximum number of STR Type A licenses allowed within the residential districts of the City shall be 250. If applications exceeding this number are received, the City Manager shall place the excess number on a STR license waiting list and process those in order of receipt as licenses become available. The maximum number of Type B Transient Use Licenses are not limited by this Chapter

(b) Density Limit. A STR Type A license shall not be issued if granting that STR Type A license would cause the STR Type A density limit to be exceeded for that residential zoning, provided however, no STR density limit shall apply to the Ocean View Boulevard and Mermaid Avenue.

The following density limits shall apply:

(1) One STR Type A license per parcel. This limit shall apply to any duplex. It shall not apply to a property governed by the duly adopted bylaws of a City-approved home owners association (HOA), or to properties held as tenants in common. The limit shall not apply to commercially zoned properties.

(2) STR Type A licenses shall be further limited based on existing residential zoning district. Type A licenses shall be limited in all of the R-1 and R-2 Districts to a total of 104 licenses. R-3 and R-4 Districts are limited to a total of 146 licenses.

(3) A second or subsequent STR Type A license shall be approved only if the total number of such licenses does not exceed 15% per block on which it is located.

(4) In the case where the number of STR Type A licenses currently exceed the 15% per block density measure, the existing licenses on that particular block shall be limited to renting a total of 150 nights per year.

(5) Commencing on March 31, 2018, all STR Type A Licenses issued in the R-1-B-4 District shall require a Use Permit due to the sensitive habitat located in the vicinity.

7.40.030 Limits on Transient Use.

Transient use of residential property for remuneration allowed by Chapter 23.64 PGMC or this chapter shall be subject to each and every limitation in this section:

(a) Each contract or tenancy that enables transient use shall be in writing, and identify thereon the name, address, phone and e-mail contact information of (1) the owner, (2) the owner representative, and (3) at least one responsible tenant occupying the transient use site who shall be responsible for all limits required by this chapter;

(b) Each contract or tenancy that allows transient use shall identify the name, address, phone and e-mail contact information of at least one responsible tenant who has been informed by the owner or owner representative of the occupancy, parking and other limits that apply to transient use by this chapter **and shall be informed of residential parking and noise limits, including but not limited to PGMC §11.96.010, the City codes that regulates unlawful noises;**

(c) The transient use site (1) shall be used and maintained in a manner consistent with the character of the neighborhood, (2) shall not impair the desirability of investment or occupation of the surrounding neighborhood, and (3) shall not have displayed thereon any sign that indicates the property is used or available for transient or short-term rental purposes;

(d) Owner and owner representative shall each use their best efforts, and respond in a reasonable and timely manner, to ensure that every occupant of the transient use site does not create or contribute to unreasonable use of the property, cause unreasonable noise or disturbance, engage in disorderly or unlawful conduct, or overcrowd the site;

(e) The owner or owner representative shall be on-call full time to manage the property and shall be able to be physically present at the transient use site within 30 minutes of request during any time the property is occupied for transient use. Within 24 hours of the time an initial call is attempted, the owner or owner representative shall use his or her best efforts to prevent the recurrence of such conduct by the occupants and take corrective action to address any violation. Failure to respond timely to two or more complaints regarding tenant violations is grounds for penalties as set forth in this chapter;

(f) The maximum number of occupants aged 18 or older authorized to stay overnight at any transient use site shall be limited to two persons per bedroom, plus one additional person per site.

(g) Each designated on-site parking space at a transient use site shall be made available for use by overnight occupants of that site **and any on-site driveway must be available for the use of the renters of the site; and**

(h) The maximum size event or large group gathering allowed at the transient use site shall not exceed 1.5 times the maximum number of occupants (aged 18 or older) authorized to stay overnight at that site, as shown on the STR license, and in no event shall a gathering exceed 20 persons; and

(h) Amplified sound that is audible beyond the property boundaries of the short-term rental dwelling is prohibited; and

(i) Auctions, commercial functions, and other similar events are prohibited at the short-term rental property.

7.40.040 Transient Use License.

It is unlawful for any person to transact and carry on any business relating to or supporting the transient use of residential property in the City without first having procured a transient use license from the City to do so, and paying the license fee and any other fees associated with approval of an application of a license, hereinafter prescribed, and also without complying with any and all applicable provisions of this chapter. A transient use license, however, shall not be required for any lawfully established bed and breakfast inn, motel, hotel, or timeshare development.

7.40.050 Display of Transient Use License.

The owner or owner representative shall cause a copy of the transient use license to be displayed in a prominent location within the interior of the transient use site, and shall provide a copy to each responsible tenant. Each Internet or online ad, sign, circular, card, telephone book, or newspaper advertisement that indicates or represents a transient use site is available for transient or short-term rental purposes shall prominently display thereon the transient use license number assigned to that site by the City of Pacific Grove.

7.40.060 Separate Properties.

~~A separate transient use license shall be obtained for each separate transient use site.~~ A single transient use license shall be issued for each and every ~~may be issued for multiple~~ residential dwelling units for transient use under identical ownership at a single site. In all other circumstances, a separate license shall be required for each transient use. A transient use license shall authorize the licensee to transact and carry on transient use of residential property only at the location and in the manner and subject to the limits designated in such license.

7.40.070 Contents of license.

Every person required to have a license under the provisions of this chapter shall make application to the collector of the City and tender payment of the prescribed application and license fee. Thereafter, in accord with the provisions of this chapter, the collector ~~City~~ shall issue to such person a license which shall contain the following information:

(a) The name and contact information of the owner to whom the license is issued, and the name and contact information for the owner representative;

(b) The transient use site licensed; and whether the license is a "STR Type A" or a "STR Type B".

(c) The date of the expiration of such license;

(d) The maximum number of occupants aged 18 or older who are authorized to stay overnight at that transient use site in accordance with the number of bedrooms on site;

(e) The maximum number of motor vehicles allowed for use by overnight occupants at that transient use site based on the available on-site parking as shown on the application site plan;

(f) Such other administrative information as may be necessary for the enforcement of the provisions of this chapter.

7.40.080 Application - First license.

Each short-term rental license shall be in the name of the owner of the real property upon which the short-term rental use is to be permitted. A tenant of the property shall have written permission by the owner of the property. When a person first makes an application for a license pursuant to this chapter, such person shall furnish to the City collector a sworn statement, upon a form provided by the City collector, setting forth the following information:

(a) The address of the transient use site to which the license shall apply, and all places of residence of the owner(s) of same;

(1) In the event an application is made for issuance of a license to a person doing business under a fictitious name, the application shall set forth the names and places of residence of those owning the business;

(2) In the event an application is made for the issuance of a license to a corporation or a partnership, the application shall set forth the names and places of residence of the principal officers and all partners thereof;

(b) Each application shall set forth such information as may be therein required by the City collector and deemed necessary to estimate the annual transient occupancy tax to be charged for that property; The property owner shall maintain a transient use license at all times, and shall agree to collect and remit transient occupancy taxes on all gross receipts pertaining to the property.

(c) Each application shall identify the name, address, phone and e-mail contact information of the owner and the owner representative;

(d) Each application shall include a site plan, which labels each room in the structures on the property, including shows the number of bedrooms and the number of on-street and off-street parking spaces;

(e) An certification affidavit signed by the owner affirming that smoke detectors are installed in all sleeping quarters and common areas and that fire extinguishers are accessible and a carbon monoxide alarm is installed on each level, to protect the health and safety of the occupants of the transient use site and the applicant shall provide access and information to the fire inspector as needed to ensure health and safety for occupants of the transient use site; and

(f) Such further information which the City collector may require to enable proper administration of the license.

The applicant shall remit all required annual fees in accord with the master fee schedule set by council resolution. The applicant shall agree to renew and/or amend the license in accord with the requirements of this chapter as it may be amended from time to time and if there is a change in ~~any material fact stated in the application.~~

7.40.90 *Renewal license.*

(a) In all cases, the applicant for the renewal of a license shall submit to the City collector on or before ~~July~~ March 1st each year, an application for renewal containing a sworn statement upon a form to be provided by the City collector, setting forth such information concerning the applicant's transient occupancy activity during the preceding calendar year as may be required by the collector to enable him or her to verify the amount of the transient occupancy tax paid by said applicant pursuant to the provisions of this chapter. Evidence that a site has not been used for transient use during the preceding 12 months shall cause non-renewal of a STR Type A license.

(b) The property owner shall remit the annual license fee, as set by resolution, at the same time as the renewal application. The property owner ~~applicant~~ shall submit an annual affidavit affirming that smoke detectors are installed and maintained in all sleeping quarters and common areas, and that fire extinguishers are accessible, and a carbon monoxide alarm is installed on each level. The property owner shall provide access and information to the inspector ~~as may be needed~~ to ensure health and safety for occupants of the transient use site, including verification of adequate egress from sleeping quarters and common areas, and installation of accessible fire extinguishers, and a carbon monoxide alarm on each level.

7.40.100 *Change to license information.*

A request to amend any information provided on the license issued pursuant to this chapter shall be made within 14 days of any change of owner, a change of the owner representative, a change in any material fact upon which the license was issued, or if any other person acquires an ownership interest in the transient use site.

7.40.110 *Evidence of transient occupancy of residential property.*

When any owner, owner representative or other person makes use of Internet services, signs, circulars, cards, telephone books, or newspapers, and/or advertises, holds out, or represents that he or she allows transient occupancy of residential property in the City, and such person fails to provide a sworn statement to the City collector that he or she does not allow transient occupancy of residential property in the City after being requested to do so by the City collector, then such information shall be considered prima facie evidence that he or she is conducting a business in the City of allowing transient occupancy of residential property. Until proper evidence to the contrary is presented to the City collector, the City collector shall be entitled to presume that residential property is subject to the license required by this chapter, and/or that the transient use of residential property has occurred at the transient use site.

7.40.120 *Statements and records.*

No statement shall be conclusive as to the matters set forth therein, nor shall the filing of such statement keep the City from collecting by appropriate action taxes and/or fees that are due and payable hereunder. In the event that the City collector deems it necessary, he or she may require that a licensee or applicant for a license submit verification of financial information necessary to calculate the transient occupancy tax due, or at the option of the licensee or applicant, may authorize the City collector to examine records or business transactions to compute the transient occupancy tax that is owed.

7.40.130 *Failure to file statement or corrected statement.*

If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the City collector he or she fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to apply for a license, the City collector may determine the amount of tax due from such person by means of such information as he or she may be able to obtain and shall give written notice thereof to such person. Delinquent payment shall be subject to penalties calculated in the same manner as set forth in PGMC 7.04.200.

7.40.140 *Payment of transient occupancy tax.*

The owner or owner representative shall remit the transient occupancy tax as set forth in Chapter 6.09 PGMC.

7.40.150 *Appeal of Tax.*

Any person aggrieved by any decision of the City collector with respect to the amount of the transient occupancy tax or fees associated thereto may appeal to the administrative enforcement hearing officer panel by filing a notice of appeal with the City Clerk within 15 days after receipt of written notice from the City collector. The hearing officer assigned by the panel shall thereupon fix a time and place for hearing such appeal. The City Clerk shall give notice to such person of the time and place of hearing by serving it personally or by depositing in the United States Post Office at Pacific Grove, California, postage prepaid, addressed to such person at his or her last known address. The hearing officer shall have authority to determine all questions raised by such appeal;

provided, however, that no such determination shall conflict with any substantive provision of this chapter.

7.40.160 *Additional power of City collector.*

In addition to all other power conferred upon the City collector, he or she shall have the power, for good cause shown:

(a) To extend the time for filing any required sworn statement or application for a period not exceeding 30 days, and in such case to waive any penalty that would otherwise have accrued; and

(b) Whenever any fee, tax or penalty pursuant to this chapter is due and payable but has not been satisfied in full within 90 days and/or has not been successfully challenged by a timely writ of mandate, such amounts shall constitute a lien against the real property, and be subject to the processes set forth in PGMC 1.19.270 through 1.19.290, inclusive.

7.40.170 *License nontransferable - Changed location.*

No license issued pursuant to this chapter shall be transferable to any other person or location.

7.40.180 *License denial or revocation.*

Any application for a license may be denied, and any license issued pursuant to this chapter may be revoked, ~~as hereinafter provided, unless substantial evidence shall be is presented as to why the application should not be denied, or the license should not be revoked for any of the following reasons, including but not limited to:~~

(a) A false material statement or misrepresentation has been made in, or in support of, the application;

(b) A change occurs in any material fact upon which the license was issued that has not been reported to the City as a change to the required license content within 14 days;

(c) The transient use site, or any other location owned by the owner or applicant, has been the site of a violation of any provision of law, or otherwise fails to meet sanitation or health standards of the neighborhood, within the two years immediately preceding;

(d) The owner or applicant has violated any provision of the municipal code or any provision of the Health and Safety Code, within the two years immediately preceding;

(e) The owner, owner representative or applicant has been convicted of any crime involving moral turpitude;

(f) The owner, owner representative or applicant has failed to timely respond to two or more complaints regarding limits on transient use as required by PGMC 7.40.030 within the two years immediately preceding.

(g) The site does not meet the definition of dwelling unit as per PGMC23.64.350(5).

(h) The owner, applicant, guest or any occupant of a STR site allows or facilitates a party, event or large group gathering at that site that exceeds 1.5 times the maximum number of occupants (aged 18 or older) authorized to stay overnight at that transient use site, as shown on the STR license.

(i) The owner, applicant, guest or any occupant of a STR site regularly engages in disorderly conduct, violates provisions of this code or any state law pertaining to noise, disorderly conduct, or uses illegal drugs.

7.40.190 ~~City Manager Review~~ Appeal of Revocation or Suspension.

Any person who has been denied a license or to whom notice of revocation or suspension of a license has been mailed may appeal to the administrative enforcement hearing panel under Chapter 1.19, pursuant to a request for hearing under PGMC 1.19.090, before the City manager. Notice of the proceeding shall conform to PGMC 1.12.010, and the hearing shall conform to the process set at PGMC 1.16.090 and following. The hearing officer shall have authority to determine all questions raised by such appeal; provided, however, that no such determination shall conflict with any substantive provision of this Chapter. The City manager, in that event, shall give each applicant or licensee at least 10 days' written notice of hearing. The City manager's decision, after hearing, shall be final. Any applicant or license holder whose license shall have been denied or revoked shall be ineligible for a two-year period from applying for a new license. No person whose license has been revoked shall continue to engage in or carry on the activity for which the license was granted, unless and until such license has been reinstated or reissued. The decision of the hearing officer ~~City manager~~ shall be final. Notice of the decision, and the opportunity for judicial review, shall conform to PGMC 1.20.010,

7.40.200 Penalties.

Penalties as set forth in Chapter 1.16 PGMC, or the administrative process set forth in Chapter 1.19 PGMC, may be imposed for failure to comply with the provisions of Chapter 23.64 PGMC or this chapter, with respect to:

(a) Any owner, owner representative, or person who transacts or carries on any activity relating to or supporting the transient use of residential property in the City without first having procured and complied with a transient use license from the City so to do and paying all applicable license fees shall be subject to administrative penalties as set forth in Chapter 1.19 PGMC, including administrative penalties imposed by a Hearing Officer for violation of any provision of this Ordinance in an amount not to exceed a maximum of \$2,500 per day for each continuing

violation, exclusive of administrative costs, interest and restitution for compliance re-inspections, for any related series of violations, and/or forfeiture of all rents received during the period transient use was allowed without a transient use license, whichever amount is greater; or

(b) Any owner, owner representative, or person who carries on any activity that advertises to the surrounding neighborhood that the site has been licensed to allow, or is used for, transient occupancy, and who has failed to timely remedy this violation in response to two or more complaints, shall be subject to administrative penalties; or

(c) Any owner, owner representative, responsible tenant or person who allows a transient use site to be used or maintained in a manner detrimental to the peace, public health, safety or general welfare of persons or property of the neighborhood or the public, and fails to timely remedy this violation in response to two or more complaints; or

(d) Any owner, owner representative, responsible tenant or person who allows impermissible or inappropriate behavior at the transient use site or action that exceed the limits on transient use set by PGMC 7.40.030 following two or more complaints; or

(e) Limits upon administrative penalties in PGMC 1.19.200 shall not apply to any violation of this chapter.

7.40.210 *Liens.*

Whenever the amount of any penalty, forfeiture, and/or administrative cost imposed by a hearing officer pursuant to this chapter or to Chapter 1.19 PGMC has not been satisfied in full within 90 days and/or has not been successfully challenged by a timely writ of mandate, this obligation shall constitute a lien against the real property on which the violation occurred, and be subject to the processes set forth in PGMC 1.19.270 through 1.19.290, inclusive.

SECTION 4. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 5. In accord with Article 15 of the City Charter, this ordinance shall become effective immediately upon adoption on second reading.

SECTION 6. The Planning Commission, at a meeting held on or about twelve months following enactment of this ordinance, shall review the effects of this ordinance and submit recommendations to the City Council as to amendments that may be appropriate.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS 6th day of April, 2016, by the following vote:

AYES: Mayor Kampe, Councilmembers Cuneo, Fischer, and Lucius.

NOES: Councilmembers Huitt, Miller and Peake.

ABSENT: None.

APPROVED:

Bill Kampe
BILL KAMPE, Mayor

ATTEST:

Sandra Kandell
SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

Heidi Quinn for
DAVID C. LAREDO, City Attorney