



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

AGENDA REPORT

TO: Honorable Mayor and Members of City Council
FROM: Mark Brodeur, Director, Community & Economic Development
MEETING DATE: August 5, 2015
SUBJECT: Urgency Moratorium on New Transient Occupancy Licenses
CEQA: Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines

RECOMMENDATION

Adopt as an emergency measure by a four-fifths vote, a 45-day urgency moratorium on the issuance of new Transient Occupancy Licenses within the City of Pacific Grove.

DISCUSSION

Chapter 7.40 and Chapter 23.64 of the Pacific Grove Municipal Code (collectively “PGMC”) regulate transient use of residential property within certain zones of the City of Pacific Grove (“City”). All applications for transient use of residential properties are subject to approval as provided by PGMC Sections 7.40.080, 7.40.090, and 23.64.350.

Increasingly, online host sites such as Airbnb and others advertise homes available for transient use; there has been an increase in applications to allow transient use of residential property citywide.

Recent complaints have been made about transient residential property proliferation. Certain streets adjacent to downtown are experiencing higher than average amounts of transient occupancy. Enforcement of regulations governing transient uses is also a concern.

The City Council desires to review PGMC Chapter 7.40 to determine whether and to what extent its provisions and their application meet the stated intent, and its effect on the City General Plan with respect to allowable uses within residential neighborhoods.

Several City departments including Police, Finance, and Community Development need adequate time to comprehensively study possible revisions or repeal of PGMC Chapter 7.40. It is therefore prudent to suspend approval or review of new license applications for transient use until this analysis can be completed and the Council can fully address.

Government Code Section 65858 allows the City Council to adopt as an urgency measure an interim ordinance prohibiting new uses that may frustrate or be in conflict with a contemplated zoning proposal that the Community Development Department, the Planning Commission, and the City Council intend to study.

Article 15 of the City Charter enables the Council to enact an urgency ordinance when the measure

is needed by an emergency to preserve the public peace, health, safety, or public welfare.

CEQA

Enactment of a moratorium on new transient uses of residential property for a limited period does not constitute a "Project" as that term is defined under the California Environmental Quality Act (CEQA), CEQA Guideline Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in section 15378). Furthermore, the City Council finds there is no possibility that adoption of this moratorium could have a significant effect on the environment; therefore, no further environmental review is necessary in accordance with Section 15061(b)(3) of the CEQA Guidelines.

OPTIONS

1. Take no action
2. Provide alternative direction to staff

FISCAL IMPACT

During the period of the moratorium, there would be a slight decrease in transient occupancy tax revenues from those residences for which a favorable review of a submitted application for new transient use was postponed.

ATTACHMENTS

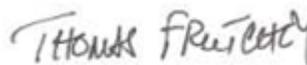
1. Urgency Moratorium Ordinance

RESPECTFULLY SUBMITTED,



Mark Brodeur, Director
Department of Community & Economic Development

REVIEWED BY,



Thomas Frutchey
City Manager

ORDINANCE NO.

**AN URGENCY ORDINANCE OF THE
CITY OF PACIFIC GROVE ESTABLISHING A
MORATORIUM ON APPROVAL OF FIRST TIME
APPLICATIONS FOR TRANSIENT USE OF RESIDENTIAL
PROPERTY WITHIN THE CITY OF PACIFIC GROVE**

FINDINGS

1. Chapter 7.40 and Chapter 23.64 of the Pacific Grove Municipal Code (collectively “PGMC”) regulate transient use of residential property within certain zones of the City of Pacific Grove (“City”).
2. Applications for transient use of residential properties are subject to the approval as provided by Pacific Grove Municipal Code Sections 7.40.080, 7.40.090 and 23.64.350.
3. The City is currently considering revisions to or repeal of PGMC Chapter 7.40.
4. Increasingly, online host sites advertise homes available for transient use and there has been an increase in applications to allow transient use of residential property.
5. Recent complaints have been made about transient residential property proliferation. Enforcement of regulations governing transient uses is also a concern.
6. The City Council desires to review PGMC Chapter 7.40 to determine whether and to what extent its provisions meet the stated intent and purposes, and its affect on the City General Plan with respect to allowable uses within residential neighborhoods.
7. To allow time to study possible revisions or repeal of PGMC Chapter 7.40, it is necessary to suspend approval or review of new development applications for transient use.
8. Government Code Section 65858 allows the City Council to adopt as an urgency measure an interim ordinance prohibiting new uses that may frustrate or be in conflict with a contemplated zoning proposal that the Community Development Department, the Planning Commission and the City Council intend to study.
9. Article 15 of the City Charter enables the Council to enact an urgency ordinance when the measure is needed by an emergency to preserve the public peace, health, safety or public welfare.
10. Enactment of a moratorium on new transient uses of residential property for a limited period does not constitute a “Project” as that term is defined under the California Environmental Quality Act (CEQA), CEQA Guideline Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment)

and 15060(c)(3) (the activity is not a project as defined in section 15378). Furthermore, the City Council finds there is no possibility that adoption of this moratorium could have a significant effect on the environment; therefore, no further environmental review is necessary in accordance with Section 15061(b)(3) of the CEQA Guidelines.

NOW, THEREFORE, the City Council of the City of Pacific Grove does hereby ordain as follows:

SECTION 1. Recitals.

The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. Declaration of Urgency.

A. The City Council finds it necessary to adopt this ordinance pursuant to California Government Code section 65858(a) in order to protect public health, welfare and safety. This ordinance shall prohibit approval or issuance of any use permit, variance, business license or other entitlement that enables establishment or operation of residential property for transient use in any zoning district in the City. Renewal of existing permits shall not be inhibited by this measure.

B. The City Council further finds the following conditions exist which require immediate preservation of the public health, safety and welfare through a moratorium pursuant to California Government Code section 65858:

1. The City Council desires to protect the character of residential neighborhoods and promote and encourage housing diversity, including without limitation maintenance of rental housing opportunities.
2. The City Council cannot ensure the City's objectives and policies will be implemented properly without more specific standards, or alternatively a repeal, of PGMC Chapter 7.40.
3. Approval of additional entitlements for transient use of residential property based on Chapter 7.40 or Chapter 23.64 PGMC threatens public health, safety, or welfare for the reasons described above, including but not limited to a reduction in the City's rental housing stock, and incidents involving excessive noise, improper conduct, traffic congestion, vehicle parking impacts and/or accumulation of refuse, each of which may impact police, fire, or other City services.
4. There is no feasible alternative to enactment of this interim moratorium that will satisfactorily mitigate or avoid impacts to the public health, safety and welfare with a less burdensome or restrictive effect.
5. To ensure effective implementation of the City's land use objectives and policies, a temporary moratorium on new approvals of transient use of residential property is necessary.

C. The City Council concludes that issuing new permits, business licenses, or other entitlements to establish or operate residential property for transient use poses a current and immediate threat to the public health, safety and welfare. Therefore a temporary moratorium on the issuance of such permits, licenses and entitlements is necessary.

SECTION 3. Definitions.

For purposes of this ordinance, the terms “remuneration,” “residential property,” “transient,” “transient use,” “transient use of residential property,” and “transient use site” shall be given the same definition as those terms in Chapter 23.64.350 PGMC.

SECTION 4. Use Prohibited.

A. During the effective date of this ordinance, no license shall be issued under PGMC Section 7.40.080 “Application – First license.” First-time license applications for transient use of residential property shall not be granted within the City of Pacific Grove. First-time applicants shall not receive a permit, variance, business license or other applicable entitlement to establish or operate a residential property for transient use during the moratorium created by this ordinance.

B. This ordinance does not modify or limit the effect of any remaining provision of Chapter 7.40 PGMC including, but not limited to, Section 7.40.090 “Renewal license.”

SECTION 5. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 6. Extension Options.

A. As an alternative to the Extension Option set forth in paragraph B below, after giving notice pursuant to Government Code section 65090 and holding a public hearing and making those findings as required by Government Code section 65858, the City Council may extend this ordinance for ten (10) months and fifteen (15) days by stating the need for such an extension. Thereafter, the City Council may subsequently extend the ordinance for an additional one year period. Any extension under this option may be adopted by Resolution, provided there is a five-sevenths (5/7^{ths}) vote for adoption. Not more than two extensions may be adopted under this provision.

B. As an alternative to the Extension Option set forth in paragraph A above, after giving notice pursuant to Government Code section 65090 and holding a public hearing and making those findings as required by Government Code section 65858, the City Council extend this ordinance for twenty-two (22) months and fifteen (15) days by stating the need for such an

extension. The extension under this option may be adopted by Resolution, provided there is a five-sevenths (5/7th) vote for adoption. A single extension may be adopted under this provision.

SECTION 7. Effective Date.

This ordinance shall take immediate effect upon adoption by five-sevenths (5/7th) vote of the City Council and shall remain in effect for forty-five (45) days from the date of adoption unless extended by the City Council as provided by Section 6, above.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS ____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

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