



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

AGENDA REPORT

TO: Planning Commission
FROM: Terri C. Schaeffer, Housing Program Coordinator/Code Compliance Officer
MEETING DATE: October 22, 2015
SUBJECT: Short Term Rental of Residential Housing
CEQA: Exemption as per Section 15301 Class 1

RECOMMENDATION

Receive report and provide recommendation for approval to City Council.

DISCUSSION

The issue of short term vacation rentals (STVR) has brought focus and attention on the impact of rental properties on the quality of the fabric of residential neighborhoods. For example, the question of whether a property owner may rent a single room for transient use as a STVR has been raised. Staff requests the Planning Commission's consideration regarding amendments to the Pacific Grove Municipal Code (PGMC) Chapter 23 (Zoning Code) and upon discussion and review, make recommendations to City Council.

Staff recommends adding a section regarding the "Permitting of Home Sharing" to Chapter 23.64 General Provisions and Exceptions. The new Section "23.64.370 Permitting Home Sharing" will allow property owners desiring to provide accommodations to unrelated guests at a fee for less than 30 days to obtain a permit for this use in any residential zone. An owner of record must submit an application for an administrative use permit. An administrative use permit must be reviewed and approved by the Community and Economic Development Director. A notice of administrative decision is issued to neighboring properties within a 300 foot radius to illicit public comment. If significant public concern is received or if an appeal of the decision is requested, then a Public Hearing will be held before the Planning Commission.

On a separate note, but relating to STVR, the Zoning Code addresses transient use of residential property in PGMC § 23.64.350. By tightening up some language in this section, the code will be easier to enforce. For example, the definition of "Residential Property" in PGMC § 23.64.350 (5) needs to be clarified that the term "dwelling unit" does not include a room, detached rooms or a portion of a residential unit that does not provide both kitchen and bathroom facilities. This definition should be expanded to clearly define what type of residential property should be permitted for this use. For example, it should also prohibit the short term rental of second units or any accessory unit to a primary single family dwelling. This will clarify that any accessory units even those established prior to 2003 may not be licensed for transient use. Staff recommends that the section should also prohibit the transient use of condominiums, multi-family dwellings and any

other “tenants in common use” units. This will help to restore and retain the diversity of long term residential rental property.

OPTIONS

1. Recommend the City Council adopt the attached Ordinance Amendments
2. Do nothing.

ATTACHMENTS

1. Draft Ordinance

FISCAL IMPACT

None.

RESPECTFULLY SUBMITTED,



Terri C. Schaeffer
Housing Program Coordinator/
Code Compliance Officer

RESPECTFULLY SUBMITTED,



Mark Brodeur
Director
Community and Economic Development

ORDINANCE NO. 15-

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE AMENDING
THE PACIFIC GROVE MUNICIPAL CODE AT PGMC §23.64.350(5) AND ADDING
PERMITTING HOME SHARING AS PGMC §23.64.370**

FINDINGS

WHEREAS, the Pacific Grove Municipal Code (PGMC) for the City of Pacific Grove (“City”) controls land use through Section 23-Zoning and;

WHEREAS, the proposed amendment conforms with the City General Plan in that it does not change the use of existing residential property, and;

WHEREAS, the Zoning Code allows for the transient use residential property in the provisions of Chapter 23.64.350 (5) and;

WHEREAS, the provisions of Chapter 23.64 accommodates General Provisions and Exceptions and;

WHEREAS, the Council shall by ordinance, establish standards, conditions and other regulations to govern Home Sharing as a residential use and the overall use of residential property for transient use;

WHEREAS, until and unless such standards, conditions and other regulations are in place, no application for such use shall be accepted or processed, and;

WHEREAS, such standards, conditions and regulations established by Council shall be in addition to and harmonious with the General Plan, and;

WHEREAS, in the course of the review of the draft Ordinance, amendments proposed by these ordinances does not result in any new or significant impacts to the environment because they are either more protective or procedural in nature; and

WHEREAS, Enactment of this ordinance action does not constitute a “project” as defined by California Environmental Quality Act (CEQA) and is exempt according to Section 15301 Class 1.

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

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. Existing Municipal Code section of Chapter 23.64 “General Provisions and Exceptions” and Chapter 23.64.350, entitled “Prohibition of transient use of residential property

for remuneration,” 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***, as follows::

Adding:

PGMC §23.64.370 Permitting Home Sharing

Purpose. Home Sharing constitutes a different use than a bed and breakfast which is small commercial lodging facilities in designated districts. Property owners desiring to provide accommodations for less than 30 days to unrelated guests at a fee require special regulations that are not normally covered by standards for motels, hotels, and other short term transient uses.

(a) ***Definitions.***

- (1) ***Home Sharing means an activity whereby residents host visitors in their homes, for compensation, for periods of 30 consecutive days or less, while at least one of the dwelling unit’s primary residents lives on-site, in the dwelling unit, throughout the visitor’s stay.***
- (2) ***Resident means primary resident of a dwelling unit, when a person occupies a dwelling and that serves as their primary residence which may also be shared with other people. A person may only have one primary residence. A primary residence is considered to be a legal residence for the purpose of income tax, property tax and voter registration.***
- (3) ***Host means a person engaged in providing a home sharing and/or short term rental.***
- (4) ***Guest or Visitor means a person who rents a home share and/or short term rental.***

(b) ***For the purposes of this section, the following conditions shall apply:***

- (1) ***“Home Sharing” or the short term rental of a part of a residential dwelling unit must meet the following conditions:***
 - a) ***occupied as a permanent residence by an owner of record;***
 - b) ***limited to single family dwellings in any residential zone;***
 - c) ***a home share rental must at a minimum include the exclusive use of a bedroom and shared use of a full bathroom and kitchen;***
 - d) ***an owner is generally present at the permitted home sharing site for the duration of any short term rental;***
 - e) ***no more than one bedroom at the property is simultaneously rented for any period less than 30 consecutive days; and***
 - f) ***rental of the bedroom is limited to a single party of individuals.***
- (2) ***Owners must submit an application for an administrative use permit.***
- (3) ***The use permit shall be voided upon the sale or transfer of the property ownership.***
- (4) ***Bedrooms shall not contain cooking facilities.***
- (5) ***Parking shall be provided on-site.***

(6) A minimum of one hundred square feet is required for the rental bedroom and not more than twenty-five percent of the structure can be used for rental.

(7) Once a permit is approved, the owner shall obtain a Transient Use License and all transient occupancy taxes and fees shall be applicable.

(8) The rental of approved second units, detached bedrooms or guest houses or any bedrooms in multi-family dwellings are not permitted for this use.

Amendments to:

23.64.350 Prohibition of transient use of residential property for remuneration.

(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, excluding for the purposes of this section ~~except~~ those dwelling units lawfully established as second units established pursuant to Chapter 23.80 PGMC, any accessory unit to a dwelling unit, condominium, multi-family dwelling unit or any other “tenants in common” dwelling unit, or any room, detached rooms or a portion of a residential unit that does not provide both kitchen and bathroom facilities, 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 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 Chapter 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. In accord with Article 15 of the City Charter, this ordinance shall take effect thirty days following passage and adoption hereof.

SECTION 4. The City Manager and City Clerk are directed to perform all tasks necessary to implement this ordinance. This measure may, but shall not be required to, cause republication of the Pacific Grove Municipal Code.

SECTION 5. 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.

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