



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: September 16, 2015
SUBJECT: Extension of Moratorium on New Transient Occupancy Licenses
CEQA: Does not constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines.

RECOMMENDATION

Adopt an ordinance to extend the moratorium on new short term rental units first enacted by Ordinance No. 15-016. If adopted by 5/7’s vote, this ordinance shall take immediate effect for ten (10) months and fifteen (15) days. If this measure is adopted by majority vote, it shall be construed to have been approved only as to first reading, with publication (as approved by the City Attorney) and second reading required before this ordinance shall take effect.

DISCUSSION

Ordinance 15-016 expires September 18, 2015. At that time staff revisions of Municipal Code zoning regulations will not be complete. It is therefore recommended that the City Council extend the moratorium to properly address important public health and safety issues posed by approval of new short term rental units. It is proposed that the moratorium be extended for ten (10) months and fifteen (15) days in accord with the moratorium process set by Government Code Section 65858. Thereafter, state law allows the moratorium to be extended one more time. Of course, the moratorium can be ended at an earlier date, as would be contemplated at the time long term amendments that address this topic are added to the Pacific Grove Municipal Code (collectively PGMC).

Presently, the city regulates transient use of residential property pursuant to Chapters 7.40 and 23.64 of the PGMC. 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.

The original moratorium was enacted due to the increasing use of online host sites such as Airbnb and others that advertise homes available for transient use. The City has experienced 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 has directed staff review the PGMC to determine whether and to what extent its provisions meet the stated intent, and means to better address transient use concerns in a manner consistent with the City General Plan. Inquiry has extended to several City departments including Police, Finance, and Community Development to adduce qualitative and quantitative data on this topic.

Government Code Section 65858 allows the City Council extend its initial moratorium that prohibited issuance of new transient use licenses.

The proposed ordinance to extend the moratorium is authorized by Article 15 of the City Charter.

CEQA

Extending the 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).

OPTIONS

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

FISCAL IMPACT

During the period of the extended 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. Ordinance extending the moratorium.

RESPECTFULLY SUBMITTED,



Mark Brodeur, Director
 Department of Community & Economic Development

REVIEWED BY,



Thomas Frutchey
 City Manager

ORDINANCE NO. 15-

xxx

AN URGENCY ORDINANCE OF THE CITY OF PACIFIC GROVE EXTENDING FOR AN ADDITIONAL TEN(10) MONTHS AND FIFTEEN (15) DAYS 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 and amend PGMC Chapter 7.40 to determine whether and to what extent its provisions meet the stated intent and purposes, and its effect on the City General Plan with respect to allowable uses within residential neighborhoods.
7. To allow City staff time to seek input on possible revisions or repeal of PGMC Chapter 7.40, it is necessary to extend the term of the urgency moratorium, Ordinance 15-016, to suspend approval or review of new development applications for transient use for ten (10) months fifteen (15) days, until staff has fully studied the advantages and disadvantages of different ordinance recommendations.
8. Government Code Section 65858(a) allows the City Council to extend the duration of the 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. After notice pursuant to Section 65090 and holding a public hearing, the legislative body may extend the interim ordinance for ten (10) months and fifteen (15) days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than one more extension may be adopted.
9. Article 15 of the City Charter enables the Council to enact and extend an urgency ordinance when the measure is needed to preserve the public peace, health, safety or public welfare.
10. Extension 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. Findings.

The foregoing findings are adopted as findings of the City Council as though set forth full.

SECTION 2. Declaration of Urgency.

A. The City Council finds it necessary to extend the term of the moratorium created by Ordinance 15-016, pursuant to California Government Code section 65858(a) 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 extension 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 short term 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 extend the 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, an extension of the 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, other than renewal of existing permits, poses a current and immediate threat to the public health, safety and welfare. Therefore an extension of the moratorium on the issuance of new permits, licenses or 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 this moratorium, 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 Option.

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 one more time 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 (5/7ths) vote for adoption. A single extension may be adopted under this provision.

SECTION 7. Effective Date.

A. **Adoption by 5/7’s vote.** This ordinance shall take immediate effect upon adoption by five-sevenths (5/7ths) vote of the City Council and shall remain in effect for ten (10) months and fifteen (15) days from the date of adoption unless extended by the City Council as provided by Section 6, above.

B. **Adoption by majority vote.** If this measure fails to be adopted by five-sevenths (5/7ths) vote of the City Council as provided for in Section 7 A, it may nonetheless approved by the majority vote of the City Council pursuant to Article 15 of the City Charter. In such event, publication and adoption at a second reading shall be required before this ordinance shall take effect. It shall thereafter remain in effect for ten (10) months and fifteen (15) days from the date of adoption on second reading 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
16 day of September, 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