



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

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Ben Harvey, City Manager
MEETING DATE: November 1, 2017
SUBJECT: Second Reading of Revised Short-Term Rental Program Ordinance
CEQA STATUS An Initial Study and an accompanying Negative Declaration has been adopted.

RECOMMENDATION

Hold the second reading of an ordinance to amend Pacific Grove Municipal Code Chapter 7.40 related to Transient Use License for residential property.

BACKGROUND

After months of public hearings and multiple deliberations, on October 18, 2017, the City Council adopted the Initial Study and accompanying Negative Declaration, along with the first reading of a revised Short-Term Rental (STR) program ordinance.

DISCUSSION

At their October 18, 2017 meeting, the City Council provided minor non-substantive changes to the draft ordinance, which staff has incorporated into the ordinance for second reading. Following the City Council's anticipated adoption of the ordinance, the Planning Commission will consider a specific amendment to the General Plan, and staff will subsequently return it to the City Council for recommended adoption.

Upon adoption of the ordinance, existing STR licenses on those blocks exceeding the 15% block density limit will be subject to a public lottery, which will take place as soon as administratively possible. The lottery will be convened as a public meeting. Licenses not selected in the public lottery will sunset on December 31, 2018.

Staff will finalize the STR administrative procedures manual and bring it back for City Council adoption prior to making it publicly available in advance of ordinance implementation.

OPTIONS

1. Provide alternative direction.
2. Do nothing.

CEQA COMPLIANCE

An Initial Study and an accompanying Negative Declaration has been prepared and posted (Attachment 4).

FISCAL IMPACT

Staff anticipates a decline in revenue based on the reduction in Transient Occupancy Tax collected as a result from the reduced 250 STR license cap.

GOAL ALIGNMENT

Neighborhoods: Review and update the short-term vacation rental program.

ATTACHMENTS

1. Exhibit A – Ordinance 17-__

RESPECTFULLY SUBMITTED:



Ben Harvey, City Manager

ORDINANCE NO. 2017-

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING CHAPTER 7.40 (TRANSIENT USE LICENSE) OF THE PACIFIC GROVE
MUNICIPAL CODE PERTAINING TO SHORT-TERM RENTALS**

WHEREAS, consistent with City Council's goal to review and update the Short-Term Rental Program, on May 17, 2017, the City Council of the City of Pacific Grove ("City Council") initiated a review and amendment to the Pacific Grove Municipal Code Chapter 7.40 pertaining to short-term rental use; and

WHEREAS, the establishment of an appropriate City regulatory program coupled with quantitative cap and density limits can best address negative impacts on the quality and character of the City's residential neighborhoods and on the availability and affordability of housing; and

WHEREAS, 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; and

WHEREAS, the City Council finds the regulation of short-term rentals to be a valid exercise of the City's police power in furtherance of the legitimate governmental interests documented in this Chapter; and

WHEREAS, the existence and corresponding regulation of short-term rentals is consistent with the State Law and the Coastal Act, and is permitted under the City's existing General Plan and Housing Element; and

WHEREAS, the City Council deems the establishment of an appropriate City regulatory program necessary to regulate this sector; and

WHEREAS, on May 17, 2017, the Council held a Special Meeting to review the Short-Term Rental Program and receive public comment, and continued the matter to June 28, 2017 and directed staff to reassess recommendations regarding density and code enforcement; and

WHEREAS, on July 27, 2017, the City drafted an Initial Study and Negative Declaration to review the Ordinance pursuant to the California Environmental Quality Act (CEQA), and this Ordinance incorporates mitigations that ensure the draft Ordinance (1) will not have the potential to significantly degrade the environment; (2) will have no significant impact on long-term environmental goals; and (3) will have no significant cumulative effect upon the environment; and

WHEREAS, on August 17, 2017, the Planning Commission reviewed program impacts and provided feedback to the Council for consideration; and

WHEREAS, on September 6, 2017, the City Council deliberated recommendations from the staff and Planning Commission, affirmed its desire to continue the STR program, informally agreed to amend the program and ordinance, and directed staff to draft a revised ordinance; and

WHEREAS, following City Council's 2nd read of the Ordinance, the Planning Commission will consider a specific amendment to the General Plan expressly identifying the use of short term rentals within residential zoning districts; and

WHEREAS, after a duly noticed public hearing on October 18, 2017, the City Council adopted the Initial Study and Negative Declaration and approved the first reading of Ordinance 17-____; and

WHEREAS, after a duly noticed public hearing on November ____, 2017, the City Council approved a second reading of Ordinance 17-____; and

WHEREAS, Ordinance 17-____ shall not authorize any STR owner the right or privilege to violate any private condition, covenant or restriction applicable to the owner's property that may limit or prohibit use of such owner's residential property for short-term rental purposes; and

WHEREAS, as of the date of this Ordinance, there are 287 active STR licenses (233 Type A and 54 Type B) which shall be converted to the unrestricted STR license type. The City Council acknowledges that in the initial year following the 2018 license renewal, the total number of licenses may exceed the 250 license cap and some STRs may be noncompliant with the new zone of exclusion limit. The City intends to impose the proposed cap and density limits over time through measures specified in this Ordinance; and

WHEREAS, upon its effective date, Ordinance 17-____ shall supersede and repeal Ordinance 16-007; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby finds and determines the foregoing recitals, which are incorporated herein by reference, are true and correct.

SECTION 2. Chapter 7.40, of Title 7 of the Pacific Grove Municipal Code is hereby amended to read as follows:

Chapter 7.40
SHORT-TERM RENTAL LICENSE

Sections:
7.40.010 Purpose and Intent
7.40.020 Definitions

- 7.40.030 STR Cap, Density, and Occupancy Limits
- 7.40.040 General STR Requirements and Limitations
- 7.40.050 STR License Application Requirements
- 7.40.060 STR License
- 7.40.070 STR License Renewal
- 7.40.080 STR License Denial, Suspension or Revocation
- 7.40.150 Appeal of Denial, Revocation or Suspension
- 7.40.090 Operating STR without STR License
- 7.40.100 Statements and Records
- 7.40.110 Failure to File Statement or Corrected Statement
- 7.40.120 Payment of Transient Occupancy Tax (TOT)
- 7.40.130 Appeal of Tax
- 7.40.140 Additional Power of City
- 7.40.160 Penalties
- 7.40.170 Liens
- 7.40.180 Administrative Policy

7.40.010 Purpose and Intent

Chapter 7.40 authorizes short-term rental use of a dwelling unit for remuneration for less than 30 consecutive days and establishes STR license requirements and limitations. This Chapter also sets regulations for the enforcement of these requirements and limitations, and collection and payment of fees and Transient Occupancy Tax (TOT).

7.40.020 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.

“Short-Term Rental (STR)” is a term that shall mean a short-term rental unit that is rented for periods of less than 30 consecutive days for remuneration.

“Short-Term Rental Use” means the use, by any person, of residential property for transient lodging 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.

“STR License” shall authorize the short-term rental use of an entire dwelling unit.

“Block” shall mean a City block as numbered in the Monterey County Assessor Parcel Maps. Further, a block shall ~~include mean~~-all properties located along one side of a street between two intersecting streets or between any combination of intersecting streets, railroad rights-of-way, watercourses or other features or natural barriers which permanently interrupt the continuity of development.

“Block density” shall mean the number percentage of STRs on the block divided by the number of parcels expressed as a percentage. Some licenses shall be selected for sun-setting until the density is less than or equal to fifteen percent (15%).

“Sun-setting determination process” shall mean the method in which licenses are determined for continuation or sunset. The sun-setting determination process will ensure that every block is consistent with a density limit of fifteen percent (15%).

“Zone of exclusion” shall mean the range of fifty-five (55) feet from an existing STR parcel boundary. Any parcel that is located within the fifty-five (55) foot zone of exclusion shall be ineligible for an STR license.

“STR Site Manager” shall mean the representative of the person or entity that owns an STR.

7.40.030 STR Cap, Density, and Occupancy Limits

(a) **License Cap.** The maximum number of STR licenses allowed throughout the City shall be two hundred and fifty (250). If applications exceeding this number are received, the City Manager or delegate shall place the excess STR license applications on a waiting list and process those in order of receipt as STR licenses become available.

(b) **Density Limit.** Each STR shall be subject to the following limits:

(1) New STR licenses.

a. Only one STR license shall be permitted per parcel for new STR licenses following the lottery.

a.b. Upon the effective date of this Ordinance, all new STR licenses shall be subject to a 55-foot zone of exclusion. The 55-foot zone of exclusion shall be drawn from the STR parcel boundary. A property shall be ineligible to hold an STR license if any part of its parcel boundary is within the 55-foot zone of exclusion of an existing STR. Subject to the City Manager or his/her designee’s discretion, a property may be eligible for an STR license if its parcel boundary is outside the zone of exclusion but an associated legal easement is within the 55-foot range (i.e. a reverse ingress or egress easement creates a flag lot). This limit shall not apply to any property held as tenants in common or a property governed by a Homeowners Association (HOA), in accord with duly-adopted bylaws.

(2) Existing STR licenses.

~~Only one STR license shall be permitted per parcel for new STR licenses following the lottery.~~

b.a. Those existing STR licenses as of the effective date of the enactment of this Ordinance where there are multiple STR licenses per parcel shall be exempt from the one STR license per parcel limit, but each such STR shall be subject to the lottery process referenced in paragraph (b) (2) b. of this section.

i. These existing STR licenses as of the effective date of ~~the enactment of~~ this Ordinance where there are multiple licenses per parcel shall also be eligible for renewal.

~~e.b. Those existing STR licenses as of the effective date of the enactment of this Ordinance where there are multiple STR licenses per parcel on property held as tenants in common, or to any property governed by an HOA in accord with duly-adopted shallbylaws, shall be exempt from the one STR license per parcel limit.~~

i. These existing STR licenses as of the effective date of ~~the enactment of~~ this Ordinance where there are multiple licenses per parcel shall also be eligible for renewal.

~~d. c. Property held as tenants in common, or to any property governed by an homeowners' association (HOA) shall be exempt from the one STR license per parcel limit.~~

~~(2)~~(3) Following the effective date of this Ordinance, each existing STR license shall be subject to the 15 percent block density rule as defined in Section ~~7.40.020~~7.40.010. On blocks where density exceeds the 15 percent limit, the City shall address excess density through use of (1) public lottery and (2) removal of idle licenses. The public lottery shall be administered for those blocks where the STR license density exceeds 15% by an independent qualified professional or firm in accord with procedures outlined in the City's STR administrative policies and procedures. STR licenses not selected in the public lottery shall sunset on December 31, 2018, and have no further force or effect following that date. Each license shall count toward the 250-cap limit until such time as it has expired. Each sun-setted STR shall maintain an STR license to enable continued short-term rental use on or before the sunset date. Each sun-setted STR license shall cease short-term rental activity effective December 31, 2018. New STR licenses shall not be issued on the identified blocks where density is at 15% , or where density will exceed 15% with the new STR license.

~~(3) Upon the effective date of this Ordinance, all new STR licenses shall be subject to a 55-foot zone of exclusion. The 55 foot zone of exclusion shall be drawn from the STR parcel boundary. A property shall be ineligible to hold an STR license if any part of its parcel boundary is within the 55 foot zone of exclusion of an existing STR. Subject to the City Manager or his/her designee's discretion, a property may be eligible for an STR license if its parcel boundary is outside the zone of exclusion but an associated legal easement is within the 55-foot range (i.e. a reverse ingress or egress easement creates a flag lot). The City shall administer this process as part of the application process. This limit shall not apply to any property held as tenants in common or a property governed by an HOA.~~

(c) **Occupancy limit:** The maximum number of overnight occupants (aged 18 or older) allowed within an STR unit shall be two persons per bedroom, plus one additional person per STR unit. The maximum number of day time (non-overnight) occupants shall be one and one-half times the maximum number of occupants allowed to stay overnight at the STR unit. The City

has sole discretion to determine the final occupancy limit and number of vehicles to be permitted on the STR site.

7.40.040 General STR Requirements and Limitations

- (a) Each STR unit shall be used and maintained in a manner consistent with the character of the neighborhood.
- (b) It is unlawful for any person to rent a property ~~on~~ for a Short Term Rental Use ~~short term basis~~ in the City without first procuring, and remaining in compliance with all conditions of, a valid STR License.
- (c) Affordable housing units shall not be eligible for an STR license.
- (d) Each designated on-site parking space at an STR unit shall be made available for use by overnight occupants of that unit.
- (e) Auctions, commercial functions, or other similar events are prohibited at any STR unit.
- (f) Each STR owner must appoint an STR site manager who shall be on-call 24/7 to manage the STR unit and shall respond to reported issues, contact the tenants regarding complaints received and/or be physically present at the STR unit to address reported concerns within 30 minutes from the time of telephone notification.
- (g) Each STR owner or STR site manager shall inform at least one responsible STR tenant regarding occupancy, parking, noise, trash collection schedules, and other requirement or limit set forth in this Chapter or in the City's administrative policy and procedures.
- (h) Each STR owner or STR site manager shall respond in a reasonable and timely manner (not to exceed 30 minutes) to address concerns or complaints pertaining to, but not limited to, the following: unreasonable use of the STR property, unreasonable noise or disturbance, disorderly or unlawful conduct, overcrowding of the STR unit, or any other requirement or limit set forth in this Chapter or in the City's administrative policy and procedures.
- (i) The STR owner or STR site manager shall maintain a guest log book that includes the names, phone number, home addresses of guests, guest license plate(s) numbers if traveling by car, and dates of stay, and shall furnish such information to the City upon request.
- (j) The STR owner or STR site manager shall post a City-issued placard in a location visible from the nearest street or sidewalk. The placard shall prominently display the owner representative contact information, STR license number, and guest occupancy limits. It shall be the responsibility of the owner and STR site manager to immediately notify the City and obtain an updated placard whenever there is change in contact information.
- (k) The STR owner or STR site manager shall maintain a valid STR license at all times, and shall agree to collect and remit transient occupancy taxes on all gross receipts pertaining to Short-Term rental use of the property.

- (l) The STR owner or STR site manager shall include the STR license number in an easy to find and conspicuous location within all advertising (online or otherwise) pertaining to the Short-Term rental use of the property, but shall not post short-term rental availability on site.
- (m) The STR owner or STR site manager shall provide the City with hyperlinks for all online listings pertaining to the licensed STR property within 14 days each time a listing is created or is modified.
- (n) The STR owner or STR site manager shall immediately inform the City of any change in the contact information or a change in any material fact upon which the STR license was issued.

7.40.050 STR License Application Requirements

To obtain an STR license, the owner of a short-term rental unit shall submit an application on forms provided by the City. STR license applications shall comply with all terms, conditions, or requirements of this Chapter including the following:

- (a) An STR license application shall be in the name of the owner of the real property.
- (b) A tenant of the STR property shall have written permission to use the property for short-term rental use from the owner of the property.
- (c) In the event an application is made for issuance of an STR license by a person doing business under a fictitious name, the application shall set forth the names and places of residence of all persons having an ownership interest in the property, and an ownership interest in the business.
- (d) In the event an application is made for issuance of an STR license by a corporation or a partnership, the application shall set forth the names and places of residence of the principal officers of the corporation, and the names and places of any managing partner and any partner whose ownership share exceeds 25%.
- (e) Each STR license application shall include the following information:
 - (1) Address of the short-term rental unit.
 - (2) Name, address, phone and e-mail contact information of the owner and the STR site manager;
 - (3) Name and phone number of the person(s) whose contact information is to be placed on the placard. This contact number and person must be reachable at all times during day or night and able to physically respond to the STR location within 30 minutes of telephone notification.
 - (4) A Floor Plan and Site Plan which shows the proposed use of each room, in each building, the street name, and off-street parking.
 - (5) An affidavit affirming that smoke and carbon monoxide alarms are installed and that fire extinguishers are in accessible locations.
 - (6) A building inspection report shall be submitted to the City upon initial application and upon every other renewal period. The building inspection checklist shall be completed by a certified third-party general contractor, building or home inspector. The inspection report shall use a form approved by the City. The Chief Building Official or his/her

designee may conduct a follow-up inspection to ensure the accuracy of information provided to the City and inspect any deficiencies that may need correction. The applicant or STR owner shall reimburse the City for all building inspection costs; payments shall be non-refundable for applications found by the City to not be suitable or to qualify for short-term rental.

- (7) All required fees shall be paid in accord with the City Master Fee schedule or as set forth by a City Council resolution.
 - (8) Any other information which the City Manager or his/her designee may require to properly administer the STR license program.
- (f) Upon initial STR license application, the City shall notify neighbors within the 55-foot zone of exclusion of each STR unit. The City may consolidate STR neighborhood notices when possible. Each notice shall state the maximum number of night-time occupants permitted to stay in the short-term rental unit, and state the STR owner's or STR site manager's contact information.
- (g) The City Manager or his/her designee may delay or deny issuance of an STR license for any reason, including upon the following grounds:
- (1) The STR unit does not meet the definition of dwelling unit, per PGMC 23.64.350(a)(5).
 - (2) The STR application is incomplete or does not comply with STR Ordinance regulations.
 - (3) An owner or applicant fails to comply with the City's determination of final occupancy limits or vehicle limits.
 - (4) An owner or applicant has made a false material statement or misrepresentation in, or in support of, the application.
 - (5) The Building Inspection Report identifies an unsafe condition, and the owner has not corrected the identified deficiencies.
 - (6) The STR unit has existing Planning, Building, Housing, or other City code violations, and the owner has not corrected the violations prior to issuance of an STR license.
 - (7) The STR unit has outstanding administrative penalties, or the STR owner or STR site manager owes past-due Transient Occupancy Taxes (TOT) for prior short-term rental use, or the property under present ownership has previously been used for Short-Term Rental Use without an STR license.

7.40.060 STR License

- (a) Each STR license shall be issued for a specific time-limited term.
- (b) If no expiration date is shown, each STR license shall expire on March 31st of each year.
- (c) Each STR license shall be prominently displayed at all times in plain view within the STR unit.
- (d) Each STR license shall contain the following information:
 - (1) License number and expiration date;
 - (2) The address of the STR unit;
 - (3) The name and contact information of the STR owner and STR site manager;
 - (4) The maximum number of allowed overnight occupants and vehicles; and

(5) Any other information which the City requires to enable proper administration of the license.

(ge) The City shall retain sole and final authority to determine the final occupancy limit and number of vehicles to be permitted for each STR unit.

(hf) Each STR license shall be nontransferable to any other person or location, except that transfer of ownership shall be allowed between spouses. No STR license shall be assignable, and shall not be transferred upon sale or other transfer of the property.

7.40.070 STR License Renewal

(a) No STR license shall be automatically renewed. It shall be the responsibility of an STR owner or STR site manager to renew each STR license on or before March 31st of each year. To renew an STR license, the owner or STR site manager shall submit the following:

- (1) STR license renewal form provided by the City.
- (2) List of hyperlinks for each online listing for the STR unit.
- (3) Signed owner responsibility statement.
- (4) Signed affidavit affirming smoke and carbon monoxide alarms are installed and that fire extinguisher(s) are in accessible locations.
- (5) A Building Inspection Report, using the form provided by the City, and obtained through a certified third-party general contractor or building inspector.
- (6) Payment of all fees adopted in the Master Fee Schedule, or as set forth by a City Council resolution.

(b) Any of the following factors is grounds for nonrenewal of an STR license:

- (1) Incomplete application.
- (2) Failure to demonstrate the STR license number is displayed in all the online listings, or failure to provide hyperlinks of each online listing to the City.
- (3) Failure to remit payment to the City at the time the STR license renewal application is submitted.
- (4) The STR unit fails the Building Inspection, or the Building Inspection Report identifies an unsafe condition.
- (5) Failure to demonstrate that the licensed STR unit has been rented during the 6 months prior to the STR renewal application.
- (6) Evidence of two or more verified violations as described in Section 7.40.080(d) during the preceding 12 months.
- (7) Failure to demonstrate all TOT owed to the City has been paid prior to the date of the STR renewal application.

7.40.080 STR License Denial, Suspension or Revocation

Any STR license issued pursuant to this Chapter may be withdrawn, suspended or revoked for any 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 STR license was issued where the change was not reported to the City within 14 days;
- (c) The STR unit is the location of a violation of any provision of this Chapter in the 12 months preceding the date of application;
- (d) The STR owner or STR site manager failed to timely respond to two or more complaints which have been independently verified by City of Pacific Grove Police Department, or by other City staff regarding limits on short-term rental use in the 12 months preceding the date of application, such as:
 - (1) Exceeding allowable occupancy;
 - (2) Violation of the City's codified noise ordinance;
 - (3) Failure to dispose of solid waste;
 - (4) Failure to properly store waste and refuse bins;
 - (5) Failure to assign or use designated on-site parking;
 - (6) Occurrences of other parking citations for on street STR related parking; and
 - (7) Any other incident, which at the discretion of the City Manager or his/her designee, provide grounds for verified complaint.
- (e) The STR owner, site manager, guest or any occupant of an STR unit engages in disorderly conduct at that site, or violates provisions of the Municipal Code or any State Law pertaining to noise, or disorderly conduct ~~and verified by the City of Pacific Grove Police Department.~~

7.40.090 ~~Operating Advertising~~ STR without STR License

When the City has reasonable cause to believe an owner of real property within the City, or the agent of an owner, has advertised such property as available for short term occupancy in exchange for monetary payment, and if no valid STR license has been issued for the property, the City may require the owner or owner's agent to provide the City within seven (7) calendar days a sworn statement that such advertisement and/or occupancy has not occurred. Failure by the owner or owner's agent to provide the sworn statement shall constitute prima facie evidence that the owner or owner's agent is violating this Chapter 7.40. Advertisement includes, but is not limited to, offering the property for short term occupancy through internet advertisement, signs, circulars, cards, telephone books, newspapers, or any other representation implying or stating the property is available for short term rental use. This section shall not be construed to apply to any notice that has been posted pursuant to section 7.40.040.

7.40.100 Statements and Records

No statement required by this Chapter 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 or fees that are due and payable hereunder. In the event the City Manager or his/her designee deems it necessary, he/she may require that a licensee or application 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 to examine records or business transactions to compute the transient occupancy tax that is owed.

7.40.110 Failure to File Statement or Corrected Statement

If any person fails to file any statement required by this Chapter within the time prescribed, or if after demand therefor made by the City 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 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.

7.40.115 Short Term Occupancy For Monetary Payment Without An STR License

When the City has reasonable cause to believe an owner of real property within the City, or the agent of an owner, allowed his or her property to be used for short term occupancy in exchange for monetary payment without an STR license, the City may determine the amount of tax due from such person by means of any available information. Delinquent payment shall be subject to penalties calculated in the same manner as set forth in PGMC 7.04.200.

7.40.120 Payment of Transient Occupancy Tax

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

7.40.130 Appeal of Tax

Any person aggrieved by any decision of the City 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 or delegate within 15 days after receipt of written notice from the City. The Hearing Officer assigned by the panel shall thereupon fix a time and place for hearing such appeal. The City ~~€~~Manager or delegate shall give notice to such person of the time and place of hearing in compliance with PGMC Chapter 1.12. 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.

7.40.140 Additional Power of City

In addition to all other power conferred upon the City, 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 or has not been successfully challenged by a timely writ of mandate, such amounts shall constitute a debt against the real property, and be subject to the processes set forth in PGMC Chapter 1.19 for lien and special assessments.

7.40.150 Appeal of Denial, 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 PGMC, pursuant to a request for hearing under PGMC 1.19.090. Notice of the

proceeding shall conform to PGMC 1.12.010, and the hearing shall conform to the process set at PGMC 1.19.090 and following PGMC 1.19.180. 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. 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 shall be final. Notice of the decision, and the opportunity for judicial review, shall conform to PGMC 1.20.010.

7.40.160 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 STR owner, STR site manager, or person who transacts or carries on any activity relating to or supporting the short-term rental use of residential property in the City without first having procured and complied with an STR license from the City 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 Chapter in an amount not to exceed a maximum of \$2,500 per day for each continuing violation, in addition to 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 short-term rental use was allowed without an STR license, whichever amount is greater; or
- (b) Any STR owner, STR site manager, or person who fails to immediately respond to neighborhood concerns regarding any activity at the short term rental site and who has failed to timely remedy any violation in response to two or more complaints, shall be subject to administrative penalties; or
- (c) Any STR owner, STR site manager, responsible tenant or person who allows a short-term rental 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 STR owner, STR site manager, responsible tenant or person who allows impermissible or inappropriate behavior at the STR unit or action that exceed the limits on short-term rental 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.

7.40.170 Liens/ Special Assessments

Whenever the amount of any penalty, forfeiture, or administrative cost imposed by a hearing officer pursuant to this Chapter or to PGMC Chapter 1.19 has not been satisfied in full within 90 days or has not been successfully challenged by a timely writ of mandate, this obligation shall

constitute a debt against the real property on which the violation occurred, and be subject to the processes set forth in PGMC Chapter 1.19 for lien and special assessments.

7.40.180 Administrative Policy

The City Manager or his/her designee shall have the authority to develop administrative policies and procedures to implement the intent of this Chapter.

SECTION 3. 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 4. In accord with Article 15 of the City Charter, this Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS
____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney