



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: December 20, 2017
SUBJECT: Second Reading of Short-Term Rental (STR) Program Ordinance
CEQA STATUS An Initial Study and an accompanying Negative Declaration has been adopted.

RECOMMENDATION

Hold the second reading and adopt an ordinance to amend Pacific Grove Municipal Code Chapter 7.40 related to Transient Use License.

DISCUSSION

At the December 6, 2017 City Council meeting, the City Council held a first reading of an ordinance revising Chapter 7.40 of the Pacific Grove Municipal Code related to Transient Use License (also referred to as short-term rental, or STR). The second reading draft ordinance reiterates a City-wide cap on the number of licenses (250) with no exceptions for new applications, establishes a zone of exclusion to address density, limits one license per parcel for new applications and requires owners to provide emergency contact information in an accessible location on site. The ordinance also streamlines the license renewal and complaint process to facilitate better enforcement.

Density

The proposed ordinance addresses STR density by requiring new STR licenses to be limited to a one license per parcel limit, a 55-foot zone of exclusion, and a 250 City-wide cap City-wide. There are currently approximately 290 STR licenses in Pacific Grove. Density concerns raised in relation to the prior draft ordinance will be addressed through license attrition and revocation of idle licenses. A public lottery may also be considered in the future if license attrition and removal of idle licenses does not adequately address density concerns. Other minor non-substantive changes were made to the draft ordinance at the first reading based on Council discussion.

Code Enforcement Improvements

Concern has been raised regarding the City's ability to effectively enforce the existing STR regulations under the current ordinance. Accordingly, additional provisions and requirements have been added to the revised STR ordinance and problematic provisions have been eliminated. These new provisions and requirements include a detailed renewal process, and a specific license denial, suspension and revocation section. It is believed that these new provisions will provide better "tools" to the City's code enforcement effort, while making program requirements straightforward to the public. Further, other code enforcement program improvements have also been implemented to better regulate STR license activity. These include:

1. A full-time Code Enforcement officer who devotes 60% of of his time to the STR program;
2. An improved STR work order database for tracking reported issues, questions and concerns about licenses;
3. A new administrative procedures manual (included here with this agenda report for City Council review and adoption);
4. A new voluntary collection agreement with Airbnb for transient occupancy tax collection at the time of property booking; and
5. A revised code enforcement priority list (see below) for responding to complaints and concerns.

STR Code Enforcement Priorities:

- A. Health and safety incidents/concerns requiring Police and/or Fire response;
- B. Unlicensed STR activity;
- C. Properties where verified complaints are not addressed satisfactorily in a timely manner; and
- D. Non health and safety-related reported incidents and staff observations.

Ordinance implementation timeline

Upon adoption of this Ordinance the regulations will go into effect immediately. New license applications will be required to meet the new regulatory standards. License renewal requests for 2018 must be received no later than March 31, 2018 and will be processed upon receipt. Once renewals are complete, new licenses will be processed upon receipt and will be issued in accordance with the new regulations. A waitlist for new STR license applications will be established when the number of licenses exceeds 250 and when the applicant property is in a zone of exclusion.

OPTIONS

1. Provide alternative direction.
2. Do nothing.

CEQA COMPLIANCE

An Initial Study and an accompanying Negative Declaration has been adopted.

FISCAL IMPACT

Unable to determine fiscal impact until better forecasting from STR license attrition and idle license removal impacts is available.

GOAL ALIGNMENT

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

ATTACHMENTS

1. Exhibit A – Ordinance 17-__
2. Short Term Rental Administrative Procedures Manual

RESPECTFULLY SUBMITTED:



Ben Harvey, City Manager

ORDINANCE NO. 17-XXX

**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**

FACTS

1. 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
2. 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
3. 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
4. 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
5. 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
6. The City Council deems the establishment of an appropriate City regulatory program necessary to regulate this sector; and
7. 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
8. 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

9. On August 17, 2017, the Planning Commission reviewed program impacts and provided feedback to the Council for consideration; and

10. 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

11. 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

12. After a duly noticed public hearing on October 18, 2017, the City Council adopted the Initial Study and Negative Declaration and directed staff to return with a first reading of the revised STR ordinance;

13. After a duly noticed public hearing on December 6, 2017, the City Council and approved the first reading of Ordinance 17-____; and

14. After a duly noticed public hearing on December ____, 2017, the City Council approved a second reading of Ordinance 17-____; and

15. 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

16. As of the date of this Ordinance, all existing Type A and Type B STR licenses 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

17. Upon its effective date, Ordinance 17-____ shall supersede and repeal Ordinance 16-007.

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

7.40.010 Purpose and Intent

This Chapter authorizes short-term rental use of a dwelling unit for remuneration for less than 30 consecutive days and establishes short-term rental 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 Prohibition of Transient Use

The transient use or short-term rental of residential property by any 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 for remuneration is prohibited, except as otherwise expressly permitted by this Chapter, and for which a short-term license is issued in accordance with this Chapter. The short-term rental of residential property without a license is a violation of this Chapter and enforced at §7.40.140.

7.40.030 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” or “Short-Term Occupancy” 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.

“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.

7.40.040 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. If the number of existing licenses exceeds 250, new license applications shall be placed on a waiting list.

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

(1) New STR licenses

- (1) Only one STR license shall be permitted per parcel.
- (2) 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).

(2) Existing STR licenses

Existing STR licenses as of February 1, 2018 where there are multiple STR licenses per parcel (including duplex, triplex, or other multi dwelling property held as tenants in common, and/or governed by an HOA in accord with duly adopted bylaws) shall be exempt from the one STR license per parcel limit.

(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.

7.40.050 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 for a Short-Term Rental Use 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 requirements or limits 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 of a responsible tenant. The STR owner or STR site manager 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 at the front entrance ~~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.

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7.40.060 STR License Application Requirements

To obtain an STR license, the STR owner shall submit an application on forms provided by the City. STR license applications shall comply with all terms, conditions, and 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 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.

7.40.070 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.
- (e) 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.
- (f) Each STR license shall be nontransferable to any other person, except that transfer of ownership shall be allowed between spouses. Each STR license shall be nontransferable to any other location. No STR license shall be assignable, and shall not be transferred upon sale or other transfer of the property.

7.40.080 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) Existing STR licenses~~

~~Existing STR licenses as of February 1, 2018 where there are multiple STR licenses per parcel (including duplex, triplex, or other multi dwelling property held as tenants in common, and/or governed by an HOA in accord with duly adopted bylaws) shall be exempt from the one STR license per parcel limit~~

⇒ (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 at least once during the preceding 90 days, 4 times during the preceding 180 days, or at a minimum of 8 times in the year prior to the STR renewal application.
- (6) Evidence of two or more verified violations as described in Section 7.40.080(4)090 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.

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7.40.090 STR License Denial, Suspension or Revocation

Any STR license issued pursuant to this Chapter may be withdrawn, suspended or revoked for any reason, 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.

7.40.100 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 7.40.040050.

7.40.110 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.

7.40.120 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 7.0440.200.

7.40.130 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 7.0440.200.

7.40.140 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.

7.40.150 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.

7.40.160 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 under PGMC Chapter 1.19 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.

7.40.170 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.

7.40.180 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.

7.40.190 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;
- (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;
- (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;
- (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;
- (e) Limits upon administrative penalties in PGMC 1.19.200 shall not apply to any violation of this Chapter.

7.40.2000 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.

7.40.210 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 take effect 30 days after adoption on second reading. ~~become effective immediately upon adoption on second reading.~~

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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



CITY OF PACIFIC GROVE

SHORT-TERM RENTAL ADMINISTRATIVE PROCEDURES

DRAFT

City Of Pacific Grove
Short-Term Rental Program
300 Forest Avenue
Pacific Grove, CA 93950
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www.cityofpacificgrove.org/str

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Table of Contents

Section 1. Introduction	3
Section 2. Glossary	4
Section 3. Definitions	5
Section 4. Key dates and deadlines	7
Section 5. Short-term rentals in Pacific Grove	7
1) Procedure for STR License renewals in March 2018 available	97
2) Procedure for processing new STR License applications when STR licenses are not available	9
3) Procedure for processing waitlisted STR applications	10
4) Procedure for processing STR License applications when there are no applications on the waitlist	11
5) Procedure for STR License renewals in subsequent years (starting in 2019)	11
6) Procedure for denial of a STR license application	11
7) Procedure for suspension or revocation of a STR license	11
8) Procedure for handling citizen complaints	Error! Bookmark not defined.11
9) Property Manager Complaint Response	13
10) Procedure for handling unlicensed STRs	13
11) Procedure for collection of Transient Occupancy Tax (TOT)	13
12) Procedure for advertising STRs	13

SECTION 1. INTRODUCTION

On **Date TBD**, the Pacific Grove City Council approved significant changes to the Short-Term Rental (STR) regulations codified as Chapter 7.40 in the Pacific Grove Municipal Code. The ordinance, which took effect **on Date TBD**, established a 250 license cap, licensing requirements and limitations, and density requirements. This document sets forth administrative procedures to implement the STR ordinance.

Pursuant to PGMC Chapter 7.40, the City Manager or designee has authority to amend the STR Administrative Procedures to implement the STR Regulations. The City Council of the City of Pacific Grove may also request amendments to the STR Administrative Procedures.

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SECTION 2. GLOSSARY

This glossary provides definitions for many of the terms used in these STR Administrative Policies and Procedures.

CEDD	Community and Economic Development Department
City	City of Pacific Grove
City Council or Council	City Council of the City of Pacific Grove
City staff	City Manager or designee
STR	Short-Term Rental
PGMC	Pacific Grove Municipal Code
TOT	Transient Occupancy Tax

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SECTION 3. DEFINITIONS

The STR Regulations include the following definitions:

Person	An individual, a group of individuals, or an association, firm, partnership, corporation or other entity, public or private.
Owner	The person who possesses fee title to a short-term rental unit.
Owner representative	Also known as the property site manager, any person authorized by the owner to fully manage the short-term rental unit (note: the property manager may also be the owner, or may be a contracted firm with individuals rotating in the on-call capacity).
Remuneration	Compensation, money, rent, or other bargained for consideration given in return for occupancy, possession or use of real property.
Residential property	Any dwelling unit, except those dwelling units lawfully established as accessory dwelling 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.
Responsible tenant	A person aged 18 or older who has received notice of occupancy, parking and other limits and regulations that apply to short-term rental unit, and who has agreed to be responsible to ensure that impermissible or inappropriate behavior does not occur at the short-term rental unit.
Transient	A period of time less than 30 consecutive calendar days.
Transient use	The 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.
Transient use site	A property occupied and used for transient or short-term rental purposes.

Use 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.

Short-Term Rental (STR) A residential dwelling unit that is rented for periods of less than 30 consecutive days for remuneration.

STR Use 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 A revocable authorization to use an entire residential dwelling unit for short-term rental use.

Zone of exclusion The distance of fifty-five (55) lineal feet from an existing STR parcel boundary.

Rent A tenant's payment to a landlord for the use of property or land.

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SECTION 4. KEY ACTIONS, DATES AND DEADLINES

Upon Adoption of the new STR Ordinance (2017)	
Upon adoption of the ordinance	<ul style="list-style-type: none"> • All Type B STR licenses converted to main STR licenses • No limit on number of STR nights • New STR License applications for eligible¹ STR units accepted and placed on the waiting list
February 1, 2018	Application window opens for STR license renewals
March 31, 2018	<ul style="list-style-type: none"> • Deadline for STR license renewal applications • STR license year ends
April 1, 2019	<ul style="list-style-type: none"> • STR license year begins • If available under the 250 license cap, waitlisted applications will be processed in order of receipt
2019	
February 1, 2019	Application window opens for STR license renewals
March 31, 2019	<ul style="list-style-type: none"> • STR license year ends • Deadline for STR license renewal applications
April 1, 2019	<ul style="list-style-type: none"> • STR license year begins. • If available under the 250 license cap, waitlisted applications will be processed in order of receipt

SECTION 5. SHORT-TERM RENTALS IN PACIFIC GROVE

On **date TBD**, the City Council of the City of Pacific Grove approved significant changes Pacific Grove Municipal Code Chapter 7.40 which regulates short-term rentals throughout the City. This document sets forth the administrative process to implement STR Regulations (“STR Administrative Procedures”) as codified in PGMC Chapter 7.40. Upon the effective date of the STR Regulations, the City shall follow the process outlined below to implement the STR regulations.

1) Procedure for STR License renewals in March 2018

During or before February 2018, the City will send out STR License renewal notices to all STR owners. The notice will include an estimate of the amount due for each STR license renewal and will list license renewal requirements.

¹ At the time of application submission for the waiting list, the property shall comply with the 55-foot zone of exclusion.

To renew an STR license for 2018-19, renewal applications must be received on or before March 31, 2018. A complete STR license application packet must include the following items:

- a) STR License Renewal Form (to be provided by the City).
- b) List of hyperlinks for each online listing for the STR unit (sent via email) as specified on the license renewal forms.
- c) Signed Owner Responsibility Statement
- d) Signed affidavit affirming appropriate smoke and carbon monoxide alarms are installed and fire extinguisher(s) are in accessible locations.
- e) A current Building Inspection Report obtained through a certified third-party general contractor or building inspector. A Building Inspection Report will not be required if one was submitted in the preceding 18 months.
- f) Tenants must submit a signed written statement by the owner of the property that explicitly consents to short-term rental use on the site by the tenant.
- g) Payment of all applicable fees:

Fee Type	Amount
STR License Renewal Application Fee	\$160
Annual STR License Fee	\$1035
Notes:	
* Checks shall be payable to the City of Pacific Grove.	
* Credit card payments are subject to a 4% credit card processing fee.	

STR license renewal application packets shall be submitted to the City, in person or by mail to the following address:

**City of Pacific Grove
Short-Term Rental Program
300 Forest Avenue
Pacific Grove, CA 93950**

The office hours of the Short-Term Rental Program are 8am – 12pm and 1pm –5pm, Monday through Thursday. On Fridays by appointment only. The City is not responsible for late receipt of any mailed application.

Upon full satisfaction of all STR license renewal application requirements, a STR license may be renewed. The City will notify the owner (except if unless the owner requested mail delivery) by email and phone when the license is ready for pick up at the Community and Economic Development Department. If an owner requested mail delivery of a STR license, the City will issue a courtesy notice to the owner at the time the license has been mailed. The City will provide laminated placards to STR owners concurrent with mailing of the STR license or when an owner picks up the license. Upon receipt of the renewed STR license, owners are required to replace the old license with the renewed license and prominently display the new license in plain view within the

unit. The owner is also required to post the placard at the front entrance of the STR unit.

2) Procedure for processing new STR License applications when STR licenses are not available

Upon the effective date of the Ordinance, if the number of STR licenses exceeds the 250 cap limit, new STR license applications will be accepted but placed on the waiting list. To be considered for the STR license waitlist, the property for which the request is made will qualify within the 55-foot zone of exclusion criteria. Further, the application packet for the STR waitlist must be completed and include the following items:

1. STR License Application Form (form to be provided by the City) to include the following information:
 - i. STR Address and unit number
 - ii. STR License Number
 - iii. Total number of bedrooms and dedicated off-street parking spaces
 - iv. STR owner information including full name, phone, email and mailing address
 - v. STR site manager information including full name, phone, email and mailing address. Site manager's information will be posted on the placard to be placed on the STR property. An owner may elect to be the STR site manager if they live within 30 minutes by vehicle from the STR.
2. A Floor Plan and Site Plan which shows the use of each room, in each building, street, and off-street parking. The City or the Chief Building Official shall determine the final occupancy limit and number of vehicles to be permitted on the STR site.
3. Tenants must submit a signed written statement by the owner of the property. The statement must explicitly permit the short-term rental use by the tenant.
4. Payment of the STR License application fee as per the City's Master Fee Schedule:

Application and neighborhood noticing fees will be non-refundable. However, owners will not be required to pay application fees again upon processing of the application when a license becomes available.

STR license application packets should be submitted to the City, in person or by mail to the following address:

**City of Pacific Grove
Short-Term Rental Program
300 Forest Avenue
Pacific Grove, CA 93950**

The office hours of the Short-Term Rental Program are 8am – 12pm and 1pm –5pm, Monday through Thursday. On Fridays by appointment only. The City is not responsible for late receipt of any mailed application.

3) Procedure for processing waitlisted STR License applications

All waitlisted applications will be processed in order of receipt if and when STR licenses may become available. Prior to processing a waitlisted STR license application, the City will notify the owner at the top of the waitlist and inquire if the owner wishes to pursue STR licensing. In the event, an owner wishes to obtain a STR license, the City will require all of the following items as part of the waitlisted STR license application review process:

1. Updated application form if the owner or STR site manager's contact information has changed.
2. Signed Owner Responsibility Statement
3. Signed affidavit affirming that smoke and carbon monoxide alarms are installed and that fire extinguisher(s) are in an accessible location.
4. A Building Inspection Report obtained through a certified third-party general contractor or building inspector. The inspector must use the City STR Inspection Checklist. The City will not recommend an inspector for the applicant.
5. Payment of the STR License fee per the City's Master Fee Schedule.

STR license application packets must be submitted to the City, in person or by mail to the following address:

**City of Pacific Grove
Short-Term Rental Program
300 Forest Avenue
Pacific Grove, CA 93950**

The office hours of the Short-Term Rental Program are 8am – 12pm and 1pm –5pm, Monday through Thursday. On Fridays by appointment only. The City is not responsible for late receipt of any mailed application.

Upon successfully meeting all STR license application requirements, and to the extent licenses are available, a STR license will be issued. The City will notify the owner (except if the owner requested mail delivery) by email and phone when the license is ready for pick up at the Community and Economic Development Department. If an owner requested mail delivery of a STR license, the City shall cause a courtesy notice to the owner when their license has been mailed out. The City must also provide their laminated placards to STR owners concurrent with mailing of the STR license or when an owner picks up the license.

Within 15 days of receipt of the STR license by owner, the owner must provide the following information to the City:

1. A photo confirmation of the STR license being prominently displayed in plain view within the STR unit.
2. A photo confirmation of the placard being in a prominent location at the front entrance of the STR unit.
3. List of online advertisement links.

4) Procedure for processing STR License applications when there are no applications on the waitlist

If there is no application on the STR waitlist and a STR license is available, a new STR license application may be taken and processed without placing it on the waitlist. The application must qualify within the 55' zone of exclusion criteria. All new STR license applications will be complete and submitted in accordance with the requirements and criteria as described in Procedures 2 and 3.

5) Procedure for STR License renewals in subsequent years (starting in 2019)

Starting in February 2019, the City will send out STR License renewal notices to all STR owners. The renewal notice will include an estimate of the amount for each STR license renewal and will list all license renewal requirements.

To renew a STR license for 2019-20, applications must be received on or before March 31, 2019. STR renewal applications must comply with all requirements as outlined in Procedures 2 and 3.

6) Procedure for denial of a STR license application

Pursuant to PGMC 7.40.060(g), an STR license application may be denied by the City Manager or designee. Upon denial of a STR license application, the City will notify the owner by mail and email and state the reason for denial of the application. Notice shall be given as to the method to appeal the City's decision as per PGMC 7.40.180. Any applicant whose license has been denied will be ineligible for a two-year period from applying for a new license.

7) Procedure for suspension or revocation of a STR license

Pursuant to PGMC 7.40.090, a STR license may be suspended or revoked. Upon suspension or revocation the City shall notify the owner by mail and email and state the reason for suspension or revocation. Notice shall be given as to the method to appeal the City's decision as per PGMC 7.40.180. Any applicant or license holder whose license has been denied or revoked will be ineligible for a two-year period from applying for a new license. No person whose license has been revoked shall engage in or carry on the activity for which the license had been granted on or after the date of revocation, unless the license is reinstated or reissued.

8) Procedure for handling citizen complaints

Citizens' concerns and complaints should identify the location, description, and date of any alleged violation. Anonymous complaints may not provide a basis for investigation

or license suspension or license revocation; it is advisable for any complainant to provide contact information so staff may follow up with the complainant regarding their complaint.

Concerns and complaints should be reported in the manner outlined below:

Emergencies:

Residents are advised to call **9-1-1** to report emergencies such as such as fire, medical emergency, suspicious activity, etc.

Non-emergency situations:

Residents are advised to report non-emergency concerns such as illegal parking, noise, trash, over-occupancy, etc. in the following manner:

1. **Site Manager:** Contact the site manager listed on the Placard at the front entrance of the STR
2. **City Hall:** Monday through Friday, 8:00 a.m. to 5:00 p.m., 300 Forest Avenue, 2nd floor, CEDD office (831) 648-3116 or (831) 648-3190
3. **24/7 Hotline:** (760) 833-7959
4. **Online Complaint Form:** <http://goo.gl/IDrnRd>
5. **Email staff**

When the City receives the complaint:

A verified complaint is a situation reported to the City and verified by a third party that the incident occurred. For example, a citizen complains that the trash barrels are left on the street for days prior to pick up and days after pick up at STR site. Anonymous complaints are not ordinarily sufficient to constitute a verified complaint.

A complaint is unverified if 1) it is not confirmed by the City of Pacific Grove staff or a third party, 2) there is no substantial evidence provided by the complainant, and/or 3) City staff is unable to confirm substantial evidence in support of an alleged violation.

The Code Compliance Office will keep a record of all complaints received and its efforts to investigate. All complaints received outside business hours and on weekends will be logged into the database to enable further investigated by code compliance staff. STR site managers are required to report complaints to the City.

9) Property Manager Complaint Response

The designated property site manager (definitions on page 5) will be on-call 24 hours a day, seven days a week to manage the property and respond to the complaints within 30 minutes.

Owners and property site managers must maintain a guest log book that includes the name, phone number, home address of the responsible tenant, tenant's license plate number if traveling by vehicle, and dates of stay.

Owner and owner representative must provide renters the following information:

- The name and contact information of the local contact
- Restrictions on the occupancy limits
- Restrictions on noise, music and amplified sound
- Parking restrictions
- Trash collection schedule
- Information on relevant burn bans
- Information on relevant water restrictions
- Information on Sensitive Habitats

10) Procedure for handling unlicensed STRs

When it is discovered that an unlicensed property is rented to short term tenants, the City will notify the property owner that unlicensed short term rental of residential property is a violation of the PGMC. Owners are required to respond in writing, and to submit an accounting of any payments received in connection with this activity. Once the City receives the accounting, then taxes, interest and penalties and potential fines are calculated. A Notice of Amount Due is issued to the owner with a deadline for payment. The City will use every available option to collect unpaid transient occupancy taxes and may issue compliance orders and facilitate an administrative hearing to collect penalties and impose liens. Unlicensed property may obtain a STR license (if available) only if all taxes and penalties are paid in full or if a payment agreement has been signed both by the City and the property owner.

11) Procedure for collection of Transient Occupancy Tax (TOT)

All STR owners must comply with the requirements, procedures, and schedule set forth in PGMC Chapters 7.40 and 6.09 regarding TOT remittance to the City. TOT payments must be accompanied by a TOT Remittance Form. TOT Return forms are available on the City website as well as at the Community and Economic Development Department. Alternatively, STR owners can remit TOT via the online TOT portal which is accessible through the City website. Failure to remit TOT consistent with these requirements may result in expiration and forfeiture of the STR license pursuant to PGMC Chapter 7.40.

12) Procedure for advertising STRs

It is the responsibility of the owner and owner representative to include the City-issued STR license number in all advertisements (online or otherwise) in the main title or property description areas of online listings. The owner or owner representative must provide advertising hyperlinks to the City via email within 15 days after a listing has been created. Availability of short-term rentals should not be advertised on the property.