TO: Honorable Mayor and Members of the City Council
FROM: Mark Brodeur, Community and Economic Development Director
MEETING DATE: February 7, 2018
SUBJECT: An Ordinance of the City of Pacific Grove Implementing and Amending Pacific Grove Municipal Code Chapter 7.40 Limits on Short-Term Rentals
CEQA: An Initial Study and an accompanying Negative Declaration has been adopted.

RECOMMENDATION
Introduce and hold first reading of an Ordinance to amend Pacific Grove Municipal Code Chapter 7.40 on Short-Term Rentals (STR) and direct a summary of the measure be published as approved by the City Attorney.

DISCUSSION
On January 20, 2018 the new Short Term Rental Ordinance became effective. Under the new ordinance, new STR licenses are limited to one per parcel, a 55-foot zone of exclusion and a 250 City-wide cap.

City Council desires a public lottery tool to be considered if attrition and removal of idle licenses do not adequately address existing block density concerns. The current staff estimates for attrition and idle licenses are about a reduction of 25 licenses, which is unlikely to address density concerns sufficiently. There are approximately 52 over-dense STR license blocks comprised of 136 STR licenses currently within the City. City-wide, there are currently 289 STR licenses. If a lottery is convened, staff estimates up to 60 licenses would be removed from the STR program. Existing STR licenses would not be subject to the one parcel limit, however, each STR on the parcel will be subject to the lottery process, if on an over-dense block.

Provisions of a proposed STR lottery are as follows:

1. Immediately following the effective date of this Ordinance to amend PGMC Chapter 7.40, the City shall notify all STR license holders. The notice shall inform the STR owners about the lottery, and procedures of the lottery.
2. All STRs that are on blocks below the block density limit, or do not overlap the Zone of Exclusion (ZOE) with another STR, will be exempt from the lottery process.
3. The City shall identify those STR licenses designated for participation in the public lottery. The guidelines for preparing and hosting the public lottery will be posted prior to the event and will be conducted by an independent qualified professional firm.
4. The STR Lottery is proposed to be held as soon as practical following the effective date of this ordinance, but not before April 1, 2018.
5. All licensed properties not successfully selected in the public lottery shall be set to expire September 30, 2018.

Additional details regarding the STR lottery are addressed within the proposed draft ordinance language.

OPTIONS
1. Take no action.
2. Modify Section 2 e) to provide an alternate sunset date for STRs not eligible for renewal, are subject to license denial, suspension or revocation, or are determined by the lottery result to sunset. Alternatives for date in the draft ordinance of September 30, 2018 could instead be set at a) June 30, 2018, b) July 31, 2018, c) October 31, 2018, d) December 31, 2018 or any other date.
3. Provide alternate direction.

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

FISCAL IMPACT
Reducing the number of existing Short Term Vacation Rental licenses will reduce the City’s Residential Transient Occupancy Tax revenue. While the annual average revenue for each STR is $5,446, it is difficult to determine the actual reduction in revenue due to the random nature of the lottery; and the actual revenues associated with any removed properties.

GOAL ALIGNMENT
Neighborhoods: Review and update the Short-Term Vacation Rental program.

ATTACHMENTS
Exhibit A – Ordinance 18—

RESPECTFULLY SUBMITTED,

[Signature]
Mark Brodeur, Director
Community & Economic Development

REVIEWED BY,

[Signature]
Ben Harvey, City Manager
ORDINANCE NO. 18-XXX

AN ORDINANCE OF THE CITY OF PACIFIC GROVE
IMPLEMENTING AND AMENDING PACIFIC GROVE MUNICIPAL CODE
CHAPTER 7.40 LIMITS ON SHORT-TERM RENTALS

FACTS

1. Consistent with City Council’s goal to review and update the Short-Term Rental (STR) 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 (PGMC) Chapter 7.40 pertaining to short-term rental use; and

2. 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. 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. Regulation of short-term rentals is a valid exercise of the City’s police power in furtherance of the legitimate governmental interests documented in Chapter 7.40; and

5. 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. An appropriate City regulatory program is needed to regulate the STR 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. 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;
10. After further review by the City Council at several meetings, the City Council adopted Ordinance 17-024 on December 20, 2017; and

11. Ordinance 17-024 does 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

12. The ordinance addresses density in Over-Dense Blocks. City Council acknowledges there will still be some overlapping Zone of Exclusion (ZOE) remaining in the over-dense blocks, even after thinning down to the 15% density threshold. This Ordinance requires each existing licensed STR to be evaluated for its impact on City-wide STR density limits. This ordinance authorizes a lottery system to ensure a fair and equitable implementation of the STR license limits; and

13. This ordinance shall supersede and take precedence over any conflicting provision of Ordinance 17-024.

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 each of the foregoing Facts, which are incorporated into this ordinance by reference, are true and correct.

SECTION 2. The following process shall be followed to ensure complete and fair implementation of Chapter 7.40 of Title 7 of the Pacific Grove Municipal Code.

STR Lottery Process

(a) The City Manager shall conduct a lottery to implement this ordinance.

(b) Upon the effective date of this Ordinance each STR license shall be subject to the STR lottery. The STR lottery shall apply only to those existing STR licenses located on an identified Over-Dense Block using the “Block Density Limit” referenced below.

(c) The City Manager shall cause the STR lottery to be administered by an independent firm to follow procedures established by the City, consistent with the requirements of PGMC Chapter 7.40 and the provisions of this ordinance. The STR lottery shall be held as soon as practicable following the effective date of this ordinance but shall not be held before April 1, 2018.

(d) The order of lottery selection shall be as follows:

1) All STRs that are either (a) on blocks at or below the Block Density Limit or (b) do not overlap a ZOE with another STR will be exempt from the lottery process and designated to continue.

2) Each non-exempt STR shall be placed into the lottery.
Each block shall be considered in turn by the lottery, as determined by random order.

When each block is considered in the lottery, each STR in that block shall be reviewed in random sequence. Each STR that meets the criteria set below may be designated to continue if:

a. The number of STRs designated to continue, plus the number yet undetermined, including the STR being reviewed, are within the Block Density Limit for that block; or

b. The STR is outside of the ZOE of all other STRs, including STRs on all other blocks.

An STR not meeting the criteria of 4) above will be designated to sunset.

(e) STRs which (1) are not eligible for renewal or, or (2) are subject to license denial, suspension or revocation pursuant to PGMC Section 7.40.090, or (3) are determined by the lottery result to sunset, shall sunset and be null and void on and after September 30, 2018. STRs that sunset on this date will be issued a prorated refund of the license fee for time actually used.

(f) On and after September 30, 2018, an STR license shall not be issued if the license does not meet ZOE criteria set by PGMC Section 7.40.

(g) If needed, the City Manager shall maintain an STR waiting list to process future STR license applications.

SECTION 3. Chapter 7.40 of the Pacific Grove Municipal Code shall be amended to add the following terms and definitions to Section 7.40.030 (Definitions):

(a) “Block” As designated by Monterey County Assessor.

(b) “Block Density” STRs on a block divided by parcels on that block, expressed as a percentage.

(c) “Block Density Limit” Block density of 15%.

(d) “Sun-setting” A method in which licenses are discontinued. The sun-setting determination shall be the result of a lottery to ensure blocks are consistent with a Block Density limit of fifteen percent (15%).

SECTION 4. This Ordinance shall further implement Chapter 7.40 of the Municipal Code. This ordinance shall supersede and take precedence over any conflicting provision of Ordinance 17-024, or any conflicting provision of Chapter 7.40 of the Pacific Grove Municipal Code. The City Manager shall nonetheless continue to hold discretion to approve an STR license affected by a “flag lot” legal easement within the Zone of Exclusion, as authorized by PGMC Section 7.40.040 (b) (2).

SECTION 5. If any provision, section, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision
shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 6. In accord with Article 15 of the City Charter, this Ordinance shall take effect 30 days after adoption on the second reading.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS ___ day of ____________, 2018, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

____________________________
BILL KAMPE, Mayor

ATTEST:

_________________________________
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

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DAVID C. LAREDO, City Attorney