

ORDINANCE NO. 18-005

**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. 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
3. 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
4. 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
5. An appropriate City regulatory program is needed to regulate the STR sector; and
6. 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
7. 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;
8. 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;
9. After further review by the City Council at several meetings, the City Council adopted Ordinance 17-024 on December 20, 2017;

10. 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;

11. 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 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

12. 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.
 - 3) Each block shall be considered in turn by the lottery, as determined by random order.

- 4) 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.
- 5) 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 April 30, 2019. 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 21st day of February, 2018, by the following vote:

AYES: Mayor Kampe, Councilmembers Cuneo, Fischer, and Peake.

NOES: Councilmember Garfield.

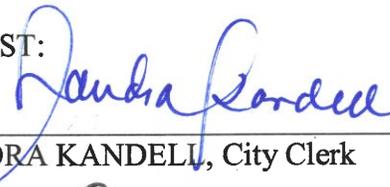
ABSENT: Councilmembers Huitt and Smith.

APPROVED:



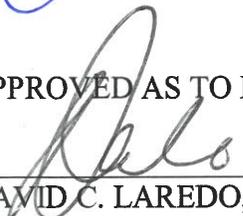
BILL KAMPE, Mayor

ATTEST:



SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:



DAVID C. LAREDO, City Attorney