ORDINANCE NO. 20-027
AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING CHAPTER 7.40
REGARDING SHORT-TERM RENTAL ADVERTISING

WHEREAS, in 2017, the City Council adopted an ordinance regulating Short-Term Rental (STR) properties;

WHEREAS, the ordinance prohibits an owner or other responsible party from advertising a property as an STR if the property is not licensed by the City of Pacific Grove (City); and

WHEREAS, the City has determined that it is appropriate to amend its ordinance to clarify the language regarding the advertising prohibition to facilitate greater enforcement; and

WHEREAS, notice of the public hearing was published or posted October 29, 2020; and

WHEREAS, this ordinance amends Chapter 7.40 of the Pacific Grove Municipal Code to expand the definition of advertising and the category of persons potentially liable for advertising violations; and

WHEREAS, this ordinance clarifies that advertisement of an STR without a license is a separate offense from occupancy, with additional penalties; and

WHEREAS, in the enactment of this ordinance, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq.

WHEREAS, enactment of this ordinance action does not constitute a “Project” as defined by California Environmental Quality Act (CEQA) because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment; or

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. Existing Municipal Code section 7.40.030 of Chapter 7.40, entitled “Definitions” shall be amended by the addition of all text shown in bold, italic text (bold italic text), as follows:

7.40.030 Definitions.
“Advertising” means signs, circulars, cards, telephone books, newspapers, magazines, posters, email, mobile applications, television, radio, or any other representation implying or stating the property is available for short-term rental use.

“Block” means as designated by Monterey County assessor.

“Block density” means STRs on a block divided by parcels on that block, expressed as a percentage.

“Block density limit” means block density of 15 percent.

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.

“STR site manager” shall mean the representative of the person or entity that owns an STR.

“Sun-setting” means 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 15 percent.

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

SECTION 3. Existing Municipal Code section 7.40.100 of Chapter 7.40, entitled “Advertising STR without STR license” shall be amended by the deletion of all text shown in strikeout text and by the addition of all text shown in bold, italic text, as follows:

7.40.100 Advertising STR without STR license.
No owner, owner representative, responsible tenant, person acting as agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise shall post, publish, circulate, broadcast or maintain any advertisement of an STR property if that property does not operate pursuant to a valid 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 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. 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 PGMC 7.40.050.

SECTION 4. Existing Municipal Code section 7.40.140 of Chapter 7.40, entitled “Liability and enforcement” shall be amended by the deletion of all text shown in strikeout text (strikeout text) and by the addition of all text shown in bold, italic text (bold italic text), as follows:

7.40.140 Liability and enforcement.

(a) 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.

(b) 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.

(c) Any owner, owner representative, responsible tenant, person acting as agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise who advertises the use of residential property in violation of the provisions of this chapter is guilty of an infraction for each day in which such advertisement is posted, published, circulated, broadcast, or maintained in violation of this chapter.

(d) Violations of this chapter may be prosecuted pursuant to Chapter 1.16 PGMC, or enforced pursuant to Chapter 1.19 PGMC.
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.

SECTION 5. Existing Municipal Code section 7.40.190 of Chapter 7.40, entitled “Penalties” shall be amended by the deletion of all text shown in strikeout text (strikeout text) and by the addition of all text shown in bold, italic text (bold italic text), as follows:

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 owner, owner representative, responsible tenant, person acting as agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise who advertises the use of residential property in violation of the provisions of this chapter 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 $100 per day for each continuing violation, in addition to administrative costs, interest, and restitution;

(cb) 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;

(dc) 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;
(ed) Any STR owner, STR site manager, responsible tenant or person who allows impermissible or inappropriate behavior at the STR unit or action that exceeds the limits on short-term rental use set by PGMC 7.40.040 following two or more complaints;

(fe) Limits upon administrative penalties in PGMC 1.19.200 shall not apply to any violation of this chapter.

SECTION 6. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 7. Severability. 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 8. In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS 4th day of November, 2020, by the following vote:

AYES: Mayor Peake, Mayor Pro Tem Huitt, Councilmembers Amelio, Garfield, McAdams, Smith, and Tomlinson.
NOES: None.
ABSENT: None.

APPROVED:

BILL PEAKE, Mayor

ATTEST:

SANDRA KANDELL, City Clerk
APPROVED AS TO FORM:

[Signature]

DAVID C. LAREDO, City Attorney