

# MONTEREY COUNTY PLANNING COMMISSION

MAY 31, 2017

AGENDA ITEM NO. 3



## Additional Correspondence

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SHORT TERM RENTALS REF100042/REF130043

**Contact Info:**

Melanie Beretti, Special Programs Manager  
Monterey County Resource Management Agency  
168 West Alisal St, 2nd Floor, Salinas CA, 93901  
(831) 755-5285 or [berettim@co.monterey.ca.us](mailto:berettim@co.monterey.ca.us)

Melanie Beretti

Resource Management

168 W Alisal St , 2 nd Floor

May 30, 2015

Dear Melanie,

I want to thank you and County for the detailed preliminary draft on STR that was presented on May 10, 2017.

I have watched the video online and there is a consistent pattern from advocates for STRs to exclude Monterey County Health's Departments recommendation for the Onsite Wastewater System. The views expressed from STR advocates during the public comments are that of Individual who aren't willing to invest and ensure the protection of their surrounding neighbor's safety and health.

I'm glad you are breaking the sections of STR's down. This reflects the drastic differences in Monterey County that all have different land uses and topographical make up. County has recognized that Carmel Highlands (LDR) with the exception of the few commercial business are on septic and not served by county sewer. To require an STR applicant to uphold the Onsite Wastewater Systems is a positive reinforcement to the Central Coast Water Boards adopted rules for septic systems in 1983. I strongly urge that the Administration Discretionary Permit adapt the Environment Health recommendation of requiring evidence that the septic is in good working order, requiring two leach fields and 1 diversion valve.

I would also appreciate staff incorporating the email from Brenda Villanueva, Assistant Engineer, and Traffic Section RMAD Public Works. This letter details Parking In Carmel Highlands 12.28.010 Prohibited At All Times.

Thank you,



Gwyn De Amaral

Carmel Highlands



**From:** Villanueva, Brenda x 8908

**Sent:** Thursday, August 11, 2016 3:26 PM

**To:** Flores, Bryan x7755 <[FloresB1@co.monterey.ca.us](mailto:FloresB1@co.monterey.ca.us)>

**Subject:** Carmel Highlands No Parking Ordinance

**12.28.010 PROHIBITED - AT ALL TIMES.**

No person shall stop, park, or leave standing any vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or official traffic-control device, in any of the following places at any time, and the Director

of Public Works of the County of Monterey is directed to place and maintain appropriate signs or curb markings giving notice of this regulation at such places:

**Carmel Highlands Area**, on both sides of the following roads, in the Carmel Highlands area;

**Corona Way  
Corona Road  
Spruce Way  
Fern Canyon Road  
Pine Way  
Oak Way  
Cypress Way  
Mt. Devon Road  
Peter Pan Road  
Lower Walden Road  
Upper Walden Road  
Crest Road;**

**Brenda Villanueva**

**Assistant Engineer, Traffic Section**

**Resource Management Agency-Department of Public Works,  
County of Monterey**

**168 W. Alisal Street, 2nd Floor**

**Salinas, CA 93901**

**(831) 755-8908**

**(831) 755-4958 (Fax)**

**[villanuevab@co.monterey.ca.us](mailto:villanuevab@co.monterey.ca.us)**

## Nickerson, Jacquelyn x5240

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**From:** Beretti, Melanie x5285  
**Sent:** Tuesday, May 30, 2017 1:37 PM  
**To:** Nickerson, Jacquelyn x5240  
**Subject:** FW: May 31 hearing - STR

STR Public Comment

**Melanie Beretti**  
Resource Management Agency  
831-755-5285



**WE ARE MOVING!!!!**

**THE RESOURCE MANAGEMENT AGENCY IS MOVING. OUR OFFICE WILL BE CLOSED FRIDAY, JUNE 2 & MONDAY, JUNE 5, 2017.**

**WE WILL REOPEN ON TUESDAY, JUNE 6, 2017 AT 8:00am**

**COME VISIT US AT:**

**1441 SCHILLING PLACE**

**SALINAS CA 93901**

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**From:** Michelle Alway [mailto:michellealway@gmail.com]  
**Sent:** Tuesday, May 30, 2017 1:34 PM  
**To:** Beretti, Melanie x5285 <BerettiM@co.monterey.ca.us>  
**Cc:** 100-District 5 (831) 647-7755 <district5@co.monterey.ca.us>; Holm, Carl P. x5103 <HolmCP@co.monterey.ca.us>; Martha V Diehl <mvdiehl@mindspring.com>; Congressman Jimmy Panetta <ca20jpima@mail.house.gov>  
**Subject:** May 31 hearing - STR

Ms. Beretti,

I am a 30 year resident of Carmel Highlands, and remain opposed to the County changing the zoning from residential to commercial. Bringing a commercial business into our quiet neighborhood will affect our ability to enjoy the peaceful setting in which we purchased a home, as well as affect our property value. I know for a fact that I would never want to purchase a home next door to a STR/hotel if I am looking for a personal residence.

In reviewing the draft ordinance, I believe it is imperative that the County make health and safety issues a priority. If the neighborhood is changed to a commercial/business area, the Environmental and Health Department's requirements for 2 leech fields must be mandatory. Once, a homeowner takes revenue from a STR it becomes a business and therefore must adhere to commercial requirements.

For instance, a real threat to health is the fractures in our sedimentary rock that can lead septic system discharge to enter wells. This led to the moratorium on new well permits. If a unit is over occupied on a weekend, the septic field can discharge to a neighbors well, most likely if the unit is rented for many weekends in a row. This is a problem of specific intensity in Carmel Highlands where many wells were drilled over the years. An environmental concern is the septic discharge moving through sedimentary layers to the ocean, a supposedly protected environment.

Carmel Highlands consists mostly of one-lane, narrow and non-conforming streets. Most have been designated (even if not posted) no parking streets. This is necessary in order to allow access for through traffic as well as and more importantly emergency vehicle access. The draft needs to be more specific as to the Highlands in that all STR/visitor vehicles should be parked on site, and not on the road. Guests coming from out of town for these vacation weekends are not aware of our neighborhood challenges.

Adding to access challenges, as well as the safety of our neighborhood, it seems as though the 911 reverse call system should be considered. In case of emergency or disaster, how will these weekend vacationers be notified for the benefit of the rest of a street or area?



Also, the draft should be more specific in defining owner-occupied so as to not allow property managers or owners to stay in structures, boats or campers on the property without running water and sewer/septic hook-ups. If you read some of the on-line reviews you can see that this is being done to get around any loop holes.

Lastly, I hope an ordinance will not be put into effect until you have provided the public with enforcement policies that will be instigated, along with the source of the funds to fulfill enforcement. It is quite clear that as of now, the County has been unable to enforce the offenders, and there will be ongoing offenders.

Thank you for your efforts.

Regards,  
Michelle Alway  
Carmel Highlands

## Nickerson, Jacquelyn x5240

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**From:** Beretti, Melanie x5285  
**Sent:** Tuesday, May 30, 2017 10:40 AM  
**To:** Nickerson, Jacquelyn x5240  
**Cc:** McDougal, Melissa x5146  
**Subject:** Fw: Recommendations on Draft STR Ordinance

STR Public Comment



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**From:** Chuck Stein <chuck.stein@baymoon.com>  
**Sent:** Saturday, May 27, 2017 9:52 PM  
**To:** Mendez, Jose; ANA AMBRIZ; Padilla, Cosme; Rochester, Don; Getzelman, Paul C.; MELISSA DUFLOCK; AMY D ROBERTS; Hert, Luther; Vandever, Keith; MARTHA DIEHL  
**Cc:** Holm, Carl P. x5103; Beretti, Melanie x5285; Lew Bauman; Jan Leasure; Susan Bradley; Jann Landess; Lynda Marín; Coy Solar; Janie Rommel-Eichorn; Bruce Britton; Charles Bates; Richard Matthews; Clyde Freedman; Lorrie Kempf; Chuck Stein  
**Subject:** Recommendations on Draft STR Ordinance

Dear Monterey County Planning Commissioners, et.al,

I have reviewed the current version of the STR draft ordinance and attended and spoken at all the associated public meetings with the Planning Commissioners. I write to offer recommendations regarding the ordinance as a board member of the Monterey County Vacation Rental Alliance (MCVRA) and as a Monterey County home and vacation rental owner. My main purpose, what I have been working towards for over three years, is to have a fair, workable, and successful STR ordinance enacted. I commend the effort made to date by the RMA to bring us this far in the process. My recommendations are in three areas, the type categorization of STRs, requirement for a Use Permit, and the septic requirements.

### **Type categorization**

The current proposal has 3 main STR types with subcategories totaling 6 different designations. This can be greatly simplified. The difference between type 2 and type 3 is that the property owner resides on the property or not. Since the county cannot enforce if the owner is actually home or not, the real issue is how quickly owners or their representatives can attend to an issue that may arise. This is already taken care of in Regulation #9 that specifies an owner or their representative needs respond to an issue within one hour (currently). Regulation #9 negates the need to have two separate categories. Type 3a and 3b are for owners that wish to rent twice or less per year. These should not require a permit at all, but for the sake of holding the owner responsible in case there is a complaint, a simple online or counter permit should suffice. Also, properties with or without public water and sewer services shouldn't be in separate categories. Simply require the appropriate documentation such as water analysis and/or septic pump report. I propose two simple categories: 1) renting a whole home/property or 2) owner resides on property and rents a room or detached dwelling unit.

### **Administrative vs Use Permit**

Requirement of a use permit is a complication that requires extensive review and is not necessary. If the requirements for an STR are enumerated and clear then an administrative permit should suffice. The requirements might include notifying neighbors within a certain radius, proof of water service or water analysis, etc. If a geographic density test is to be applied, this can also be accomplished without a Use Permit. The current system requires a Use Permit and it has been a failure because it is expensive, does not guarantee acceptance, and is complicated. We don't want to drive people away, rather we want to get as many STRs into the system as possible so they can be regulated and held responsible.

### **Requirements for STRs on septic systems**

The Environmental Health department recommended requiring a minimum of two leach fields with a diversion valve for all STRs with septic systems. After talking with Environmental Health I found this requirement to be designed to handle the rare worse case scenario when a septic system fails due to a full leach field. There is no such requirement for houses with full time residents and STRs, on average, are vacant 50% or more of the year. STRs use less utilities and water and septic than full time occupied residences. Installing a second leach field is very expensive, not always practical, and will drive many STR owners to not obtain an STR license. No STR owner wants to have a septic emergency. Requiring a septic pump report from a service provider will attest to the health of the system and should suffice. A simple requirement like this will have the effect of educating more owners about septic and identifying problems if they exist.

Sincerely,  
Chuck Stein





## Nickerson, Jacquelyn x5240

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**From:** Beretti, Melanie x5285  
**Sent:** Tuesday, May 30, 2017 10:34 AM  
**To:** Nickerson, Jacquelyn x5240  
**Cc:** McDougal, Melissa x5146  
**Subject:** Fw: Responding to Draft STR Ordinance

STR Public Comment



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**From:** Lynda Marín <lmartin@cruzio.com>  
**Sent:** Sunday, May 28, 2017 6:46 PM  
**To:** Mendez, Jose; ANA AMBRIZ; Padilla, Cosme; Rochester, Don; Getzelman, Paul C.; MELISSA DUFLOCK; AMY D ROBERTS; Hert, Luther; Vandever, Keith; MARTHA DIEHL  
**Cc:** Holm, Carl P. x5103; Beretti, Melanie x5285; Lew Bauman  
**Subject:** Responding to Draft STR Ordinance

Dear Planning Commissioners,

On May 31 we will have the continued conversation about the Draft Ordinance for Short Term Rentals in Monterey County that began on May 10. I have attended every meeting of supervisors and commissioners during the last four years where a new ordinance for regulating STRs has been discussed. At this point you have the task of guiding the RMA staff to produce an effective ordinance that people will follow and that the county will benefit from so that you can recommend it to the supervisors. It would be an understatement to say that this has been a long, arduous task.

The draft ordinance that you were presented with for the May 10 meeting was a complicated document with 6 types of STR categories and various limitations or requirements for each of those. It shared a strong resemblance to the prior inland ordinance in its overall posture towards making the process of obtaining a permit complex, the designation for over 60% of STRs discretionary, and the enforcement not possible.

You have heard many points in support and in opposition to making the process accessible, the rules enforceable, the fees reasonable. It occurs to me as I have listened to the countless arguments that opponents and supporters have made over these many years and as I have watched your and the supervisors' eyes glaze over after the first hour or so of these many hearings (quite understandably), that the figures and information and stats and studies and analyses and surveys and reports have little impact on any of us in the face of our basic orientation towards any issue.

It's hard to say what our basic orientation rises from—experience, personality, temperament. It doesn't matter. What does matter is that we notice we have an orientation and then do our best to expand it to include ideas or information that we are inclined to gloss over again and again. For instance, if you find that you are negatively inclined towards STRs because you have identified sympathetically with their neighbors who have described disturbances on their account, then you probably won't be very affected by the damage claimed by owners of STRs who have had to shut down, no matter how poignant the story is about losing their homes. The damage of being disturbed in a neighborhood will factor much higher in your view of STRs than the damage of a homeowner being displaced. The disturbance will seem more believable and repugnant than



the loss. Or, similarly, if you see STRs as a danger that must be controlled in every way imaginable, you will never be able to give even basic credence to information about the social and economic benefits that they bring to Monterey County. That information will seem dubious, irrelevant, sugar coated, not real. In these two cases, every STR will pose a threat to neighbors and will do nothing good for your county. The task is, in the privacy of your own mind, to catch yourself at your default orientation and to put yourself in another position. The What If position. What if the thing I have always believed about this issue is not the whole or even the accurate picture?

What if instead of viewing STRS as a threat that requires a six-armed monster of an ordinance that squeezes STR owners through multiple and impossible hoops, is unenforceable, and likely too expensive as well, that you instead imagined STRs as one of the fortunate resources that our tourist based economy offers to the Monterey Peninsula? A resource that is in high demand by families, especially in the middle class, and that serves to build invisible bonds between residents of our county and residents of the rest of the world. What if the countless multiple thousands of times visitors have already rented existing, non-licensed STRS came off without a hitch, without a complaint, without any damage to neighborhoods whatsoever? If you can stretch your orientation, imagine that. Because that is true.

What if the STR owners who love their homes and love hosting visitors were equally concerned about their neighborhoods as you are? In fact what if those STR owners even loved their neighbors, had close connections with them, did everything in their power to make sure that their guests respect their homes and their neighborhoods equally? I ask you to imagine this because that is what I have observed about every STR owner and even the managers that I know. Admittedly I don't know the "bad apples." They have done a great deal of damage to the name of STRs, but they are such a tiny number that enforcement would weed out, and that's what it should do.

What if the STR ordinance were designed with the assumption that, like business licenses, the owners are going to offer something valuable and wanted by visitors and residents alike? If any of you has ever stayed in a vacation rental, I hope it was a loved and lovely one, that it heightened the pleasure you had in your travels, and that it invited you to return. And I hope that you will bring that experience to whatever orientation you have about STRs in Monterey County in your deliberations about making the ordinance simple (a license not a permit), affordable (not thousands of dollars), and fair (thoughtful and thorough enforcement).

Thank you for your attention to this letter. I hope you will be able to come to clarity about the STR ordinance in the near future. It is a daunting task. Some people will never agree that STRs should exist at all in Monterey county. Theirs is an orientation I wouldn't presume to change, but is it your orientation towards this issue that will make the task viable or not.

Best regards,

Lynda Marin  
Monterey County Vacation Rental Alliance

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Lynda Marín  
*Evolve!*  
(831) 458-1416 home  
(831) 840-4176 cell  

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*"Not only is another world possible; on a quiet day I can hear her breathing."*  
~Arundhati Roy

## Nickerson, Jacquelyn x5240

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**From:** Beretti, Melanie x5285  
**Sent:** Tuesday, May 30, 2017 10:33 AM  
**To:** Nickerson, Jacquelyn x5240  
**Cc:** McDougal, Melissa x5146  
**Subject:** Fw: Short Term Rentals

STR Public Comment



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**From:** Bruce Smith <bruced@pacbell.net>  
**Sent:** Monday, May 29, 2017 12:54 PM  
**To:** Beretti, Melanie x5285; Heather Smith  
**Subject:** Re: Short Term Rentals

Dear Ms Beretti,

We appreciate the work you are doing to effect a Short Term Rental Ordinance. Also thank you for sending the related documentation including various e-mail correspondence. I could not find the email I sent you earlier, so here it is again, just in case it was not included.

We are in favor of an ordinance permitting appropriately regulated short term rentals in Carmel Highlands.

Short term vacation rentals have provided a feasible cost option, for our family to enjoy this coastal area over many decades. Our experiences in Carmel Highlands led to us acquiring our retirement home here. The ordinance should address the permitting process and management of short term rentals. Rules regarding noise and late evening outside partying should be delineated. Corporate owned homes should be excluded from short term renting.

We recommend a website for the application and permitting. Permitted use should specify:

- The number of people allowed according to number of bedrooms and septic tank restrictions, or city sewer
- The number of vehicles allowed according to available parking spaces.

Approved on-line permits should show:

- Owner name, address, telephone# and e-mail address.
- Local contact name, telephone # and e-mail address.

Record any unresolved grievances about the conduct of short term renters on the website. Record attempts to resolve issues with details on time, date and contact method

Rescind Permit for a specified period in the event of three outstanding grievances, after county review and determination.

Many of the issues raised by opponents of short term rentals are clearly valid and we believe they can be addressed and managed.

Some issues touted seem to be excuses to deny visitors access to the area.

-Detrimental change to Low Density Residential? This seems specious to us. We live close to the Highlands Inn and Tickle Pink. We see rarely see anyone. We just see occasional strollers enjoying the area.

- Increased traffic on Highway 1? Maybe a 5% increase.

-Decreased property values? Vacation rentals are usually pristine and well maintained. Owner non-occupied property can be decrepit.

-Removal of low income housing? How many low income workers could afford the rents?

Regardless, even if these points have validity, the coastal act requires that public access be protected.

We appreciate the work you are doing to resolve this long running matter.

Yours sincerely

Bruce and Heather Smith

650-450-7448



On Tuesday, April 18, 2017 12:21 PM, Bruce Smith <bruceds@pacbell.net> wrote:

Melanie,

Thank you for sending us your draft ordinance. It is thoughtfully written.

Heather and Bruce Smith

On Tuesday, April 18, 2017 12:17 PM, Bruce Smith <bruceds@pacbell.net> wrote:

On Tuesday, April 18, 2017 9:03 AM, "Beretti, Melanie x5285" <BerettiM@co.monterey.ca.us> wrote:

Hello Mr. Smith and Mrs. Smith

Thank you for your comments, and taking the time to talk by phone today. As we discussed, attached please find the April 4, 2017 Memo regarding Short-Term Rental Preliminary Draft Ordinance. You can also find additional information regarding STR Ordinance development at the County's STR webpage:



## Monterey County, CA : Short Term Rental Ordinances ...

[www.co.monterey.ca.us](http://www.co.monterey.ca.us)

Description: Inland and Coastal Ordinances establishing regulations and process of short term rentals  
uses in the County: Location: County-wide

You will also be added to the STR Public Distribution List to receive future public notifications regarding this issue.

Kindly,  
Melanie

**Melanie Beretti**  
Resource Management Agency  
831-755-5285

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**From:** Bruce Smith [mailto:[bruced@pacbell.net](mailto:bruced@pacbell.net)]  
**Sent:** Thursday, March 23, 2017 12:36 PM  
**To:** Beretti, Melanie x5285  
**Cc:** Heather Smith  
**Subject:** Short Term Rentals

Dear Ms. Beretti,

We are in favor of an ordinance permitting appropriately regulated short term rentals in Carmel Highlands.

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Yours sincerely

Bruce and Heather Smith

650-450-7448

**Nickerson, Jacquelyn x5240**

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**From:** Beretti, Melanie x5285  
**Sent:** Tuesday, May 30, 2017 10:32 AM  
**To:** Nickerson, Jacquelyn x5240  
**Cc:** McDougal, Melissa x5146  
**Subject:** Fw: STR-  
**Attachments:** parking.png



STR Public Comment

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**From:** califwayoflife@aol.com <califwayoflife@aol.com>  
**Sent:** Monday, May 29, 2017 10:20 PM  
**To:** Beretti, Melanie x5285  
**Subject:** STR-

May 30, 2017

Dear Melanie Beretti,

I want to thank you and County for the detailed preliminary draft on STR that was presented on May 10, 2017.

I have watched the video online and there is a consistent pattern from advocates for STRs to exclude Monterey County Health's Departments recommendation for the Onsite Wastewater System. The views expressed from STR advocates during the public comments are that of individuals who aren't willing to invest and ensure the protection of their surrounding neighbor's safety and health.

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I would also appreciate staff incorporating the email from Brenda Villanueva, Assistant Engineer, and Traffic Section RMAD Public Works. This letter details Parking in Carmel Highlands 12.28.010 Prohibited At All Times.

Thank you,

Gwyn De Amaral

Carmel Highlands

May 8, 2017

Supervisor Mary Adams, Chair  
Monterey County Board of Supervisors  
Monterey Courthouse  
1200 Aguajito Rd., Ste 1  
Monterey, CA 93940



Re: Prohibiting Short Term Rentals in the Big Sur Planning Area

Dear Chair Adams,

I am writing to you on the subject of short term rentals as it impacts the Big Sur Planning Area. I am aware that the county is proceeding with the development of a countywide short term rental ordinance and I want to reinforce the opposition to short term rentals in Big Sur which I expressed to the Monterey County Planning Commission on November 9, 2016.

Land use planning in Big Sur has always been controversial, but it has always been about the preservation of scenic open space. Our county land use policies have addressed how to accommodate dwellers consistent with view shed protection; housing is provided to residents and workers, campgrounds and hotels are provided for tourists. Our model LCP accommodates these historical values.

The Big Sur LCP has been lauded for decades as the outstanding coastal plan in California, striking a critical balance in competing interest and demands. Overnight accommodations are strictly limited in recognition of the need to manage related development to protect Highway 1 capacity for the motoring public. An All American Road, recognized for its uniqueness as a destination unto itself, Highway 1 is the most important coastal access on the Big Sur Coast and is already at or beyond capacity much of the year.

The entire region now realizes that our best economic asset is our scenery. Best management practices are essential and I believe there is no room for Big Sur's residential areas to be used for short term rentals.

Thank you for dealing with these issues and helping protect one of the world's most scenic coastlines.

A handwritten signature in black ink that reads "Sam Farr".

Sam Farr,  
Retired Supervisor, Fifth District  
Monterey County

CC: All Supervisors, All Planning Commissioners, Carl Holm and Melanie Beretti



# MONTEREY COUNTY RESOURCE MANAGEMENT AGENCY

Carl P. Holm, AICP, Director

LAND USE & COMMUNITY DEVELOPMENT | PUBLIC WORKS & FACILITIES | PARKS

168 W. Alisal Street, 2nd Floor

Salinas, California 93901

(831)755-4800

[www.co.monterey.ca.us/rma](http://www.co.monterey.ca.us/rma)



## MEMORANDUM

**Date:** May 30, 2017

**To:** Monterey County Planning Commissioners

**From:** Melanie Beretti, Special Programs Manager *MB*

**Subject:** Short Term Rentals (REF100042 – Inland/REF130043-Costal)  
Request for Pacific Grove Ordinances from May, 10<sup>th</sup> Planning Commission

During the May 10th Planning Commission (PC), as part of the Short-Term Rental item, Commissioner Mendez requested to receive a copy of the Pacific Grove ordinances for short-term rentals. In response to this request, enclosed please find the following:

- City of Pacific Grove Agenda Report for May 17, 2017 titled Short-Term Rental (STR) Program Update and Direction for Future Municipal Code Amendments
- City of Pacific Grove Codes
  - 23.64.350 Transient Use of Residential Property for Remuneration (accessed 2017-05-30)
  - 23.64.370 Permitting Home Sharing (accessed 2017-05-30)
  - 7.40 Transient Use License (accessed 2017.05.30)

You may also find the following link to the City of Pacific Grove's Short-Term Rental program webpage useful <http://www.cityofpacificgrove.org/living/community-economic-development/short-term-rental-program>.



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

## **AGENDA REPORT**

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Mark Brodeur, Community and Economic Development Director

**MEETING DATE:** May 17, 2017

**SUBJECT:** Short-Term Rental (STR) Program Update and Direction for Future Municipal Code Amendments

**CEQA:** Categorically exempt pursuant to Guidelines Sec. 15305 (Class 5 – Minor Alterations in Land Use Limitations).

### **RECOMMENDATION**

Based upon staff presentation and public comment, provide Council direction as follows:

- 1.) Decide to end the STR Program by directing staff to develop an ordinance to sunset this Program, to be considered at a future City Council meeting; or
- 2.) Decide to continue the STR Program, with amendments, by directing staff to develop an ordinance to amend this Program, to be considered at a future City Council meeting. In choosing this option, Council should provide direction as to amendments to be incorporated into the proposed ordinance.

### **BACKGROUND**

On March 24, 2016, the Pacific Grove City Council authorized significant changes to Chapter 7.40 (Transient Use License) and added Chapter 23.64.370 (Permitting Home Sharing) to the Pacific Grove Municipal Code (PGMC) to legalize room rentals. The changes took effect May 6, 2016, and established three types of Short-Term Rental (STR) together with cap, density, and occupancy limits on the Type A and Type B STR licenses.

Type A STR licenses allow rental of the entire house for 90 days or more per year; these are non-owner occupied units. Type B STR licenses allow rental of the entire house for 90 days or less; these units are owner-occupied when not rented. Home Sharing Licenses allow rental of a single bedroom for unlimited number of days in an owner-occupied unit. All three types of licenses are ministerial and are issued through the City's Community and Economic Development (CEDD) Department.

The current STR program, authorized by ordinance and codified in the Municipal Code, limits the number of guests at Type A and Type B STRs to a maximum of two persons (aged 18 or older) per bedroom, plus one additional person per site. The Program provides Type A STRs in residential zoning districts are subject to a city-wide cap of 250 licenses and must also meet a 15 percent block density limit which means only 15 percent

of dwelling units on a city block can be licensed as Type A STRs. These limits, however, do not apply to Type A STRs located on Mermaid Ave or Ocean View Blvd.

On blocks where density exceeds 15 percent, existing Type A STRs are restricted to a maximum of 150 rental nights. Type A STRs in Commercial zoning districts, and Type B and Home Sharing STRs are not subject to any cap or block density limit.

When Council adopted the STR program last year, it required review of the STR program in one year to evaluate its effectiveness. This staff report will aid reexamination of the current STR Program, and provide an overview of current Short-Term Rentals in Pacific Grove, code enforcement, and Program cost and revenue.

This report also outlines key issues and suggests code amendments and program changes to address the outstanding issues (should the City Council ultimately determine to retain the program).

### SHORT-TERM RENTALS IN PACIFIC GROVE

Currently, the City has 272 active STR licenses. Of these, 222 are Type A STRs, 40 are Type B STRs, and 10 are Home Sharing Licenses. Of the 222 Type A STR licenses, 50 licenses are restricted to a maximum of 150 rental days per year due to block density; 8 licenses are within Commercial zoning districts. Table 1 summarizes of all STR licenses.

<b>Table 1</b>			
<b>Type A Short Term Rental (STR) Licenses</b>			
	<b>Cap Limits</b>	<b># of licenses (July 2016 – March 2017)</b>	<b># of licenses (April 2017 - present)</b>
<b>All residential districts</b>	<b>250</b>	<b>246</b>	<b>214</b>
<i>All of R-1 and R-2 districts</i>	<i>104</i>	<i>131</i>	<i>110</i>
<i>All of R-3 and R-4 districts</i>	<i>146</i>	<i>115</i>	<i>104</i>
<b>Summary of ALL Short Term Rental (STR) Licenses</b>			
Total Type A STR licenses within Commercial districts		7	8
Total Type A STR licenses within all Residential districts		246	214
Total Type B STR licenses		39	40
Total Home Sharing (i.e. room rental) Licenses		8	10
<b>Total STR Licenses</b>		<b>300</b>	<b>272</b>

## **CODE ENFORCEMENT**

STR code enforcement is a twofold process. First, the City receives and responds to complaints regarding current STRs. Second, a proactive and vigorous screening of the web is made for unlicensed STRs in Pacific Grove to bring these into compliance.

Over the past 12 months, the City received a total of 30 complaints pertaining to parking, noise, trash, and other use of a STR property. Of the 30 complaints, 10 were received through the online complaint form, 13 were registered via the STR Hotline, and 7 were received via email. Of the 30 complaints received, staff verified 21 complaints. For complaints received during business hours, staff responded immediately and went to the site to assess situation and gather evidence. Most concerns were addressed by the owner or property manager in a reasonable timeframe. While the City encourages the filing of complaints so that they may be investigated and (if validated) responded to, the City well recognizes that many complaints regarding STR properties are not lodged. Accordingly, the official total of 30 received complaints should not be viewed as a barometer of STR program acceptance (or lack thereof). Instead, it is provided simply as data as part of the program review.

In two unique instances of unruly behavior and persistent parking issues, staff issued notices of violation and recorded the violations as the first “strike” against the STR property. In four other cases, the Pacific Grove Police Department responded by advising tenants, and issuing one parking citation to a tenant for blocking driveway. Additionally, the City revoked one license due to false use of the license.

With respect to unlicensed STRs, the City investigated 74 properties since July 1, 2015. Of the 73, 42 cases were processed in FY 2015–16; the remaining 31 were processed this year. In FY 2015–16, staff found 22 cases were either fully-permitted or were not STRs. The remaining 20 cases were processed and fined for unlicensed use and nonpayment of Transient Occupancy Tax (TOT). In the current fiscal year, staff investigated 31 properties, and found 6 properties were either fully-permitted or were not STRs. The remaining 26 were identified as unpermitted. Of the 26, 10 are now in compliance; the remaining 16 cases are still being processed.

All complaint cases paid penalties and TOT before receiving licenses. The City assessed a total of \$253,440 in administrative penalties, unpaid TOT, and interest on non-payment of TOT over past fiscal years. Of this amount, the City has collected \$203,940 to date; the remaining \$49,500 is scheduled for payment to the City in the next two years.

## **PROGRAM REVENUE AND COST**

Revenue collected from this Program has exponentially grown since 2015. In FY 2015-16, the City collected \$1,136,385 in Residential TOT, administrative penalties, and licensing fees. The FY 2016-17 forecasted revenue for the program is \$1,498,525. With 3



more TOT reporting periods unaccounted for, the City has so far collected \$1,124,856 in TOT, administrative penalties, and licensing fees in current fiscal year. Table 2 below shows a breakdown of the STR program revenue by fiscal year, and Table 3 below provides an estimated annual amount of STR program costs.

<b>Table 2: STR Program Revenue</b>				
	<i><b>FY 2015-16</b></i>		<i><b>FY 2016-present</b></i>	
	<b>Budget</b>	<b>Received</b>	<b>Budget</b>	<b>Received</b>
<b>TOT</b>	\$606,900	\$992,986	\$1,470,300	\$751,314
<b>Admin Penalties</b>	\$4,000	\$66,194	\$4,000	\$126,730
<b>Licensing Fees</b>	\$24,225	\$77,205	\$24,225	\$246,812
<b>Grand Total</b>	<b>\$635,125</b>	<b>\$1,136,385</b>	<b>\$1,498,525</b>	<b>1,124,856</b>

<b>Table 3: Estimated Annual STR Program Cost</b>		
<b>City Staff</b>	<b>Staff Time (%)</b>	<b>Gross Amount</b>
City Manager	5	\$8,000
CEDD Director	10	\$13,500
Code Enforcement Manager and Staff	50	\$54,000
Administrative Technician	80	\$40,000
Finance/Reception		\$20,000
Other (Police/Hotline/Webmaster/City Atty)		\$20,000
<b>Grand Total</b>		<b>\$155,500</b>

## KEY ISSUES

Over the last one year, staff has identified key issues that the current STR Program does not adequately address. These issues include:

1. Cap limit on the Type A STRs.
2. Lack of a maximum number of rental nights on Type A STRs.
3. Exclusion of commercially-zoned dwelling units from the Cap and Density limits.
4. Exemption of Mermaid Ave and Ocean View Blvd from block density measure.
5. Lack of a Use Permit requirement for large homes (4, 5, and 6 bedroom homes).
6. Lack of Cap and Density limits on the Type B and Home Sharing Licenses.
7. No limit on the number of licenses one owner can hold.
8. Lack of off-street parking and qualified property manager requirement.
9. Lack of Performance Standards to regulate quiet hours, noise, waste and recycling receptacle retrieval, outdoor activities including outdoor fire, etc.

10. Lack of citation authority and clarity on when citations should be issued.
11. Burden on neighbors with program oversight and reporting complaints.

**RECOMMENDATIONS (selecting one of the two proposed paths of either retaining the program, or eliminating the program)**

**Should the City Council decide to retain the STR program\*:**

City staff proposes changes to the Transient Use Ordinance as well as the Short-Term Rental Program. These changes address the following objectives:

- 1) Further reduce overconcentration (density issues);
- 2) Improve neighborhood compatibility;
- 3) Reduce impact on long-term housing stock;
- 4) Streamline ordinance implementation;
- 5) Improve code enforcement; and
- 6) Clarify definitions and provide consistency throughout the Municipal Code.

Proposed changes are as follows:

**Cap Limits:**

- 1) Limit all STR licenses to 300 in the City in the following manner:
  - a. Limit Type A STRs to 200
  - b. Limit Type B STRs to 60
  - c. Limit Home Sharing Licenses to 40

**Block Density:**

- 1) Adopt a 20% block density rule and apply to all three types of licenses.
- 2) Eliminate all exemption areas such as Mermaid Ave and Ocean View Blvd.
- 3) Clarify the definition of block and how the parcels or house density is calculated.
- 4) Establish a 3 year phase-out of any Type License on an impacted 20% block that cannot provide off-street parking.

**Number of Bedrooms:**

- 1) Limit the number of bedrooms to 3 under the ministerial licensing process.
- 2) Require a minor Use Permit for 4, 5, and 6-bedroom houses.
- 3) Grandfather existing large homes if no any complaints have been lodged.

**Number of Rental Days:**

- 1) Limit rental days to 240 per year for all Type A STRs.
- 2) Eliminate the existing 150 night rule where density exceeds the allowed block density measure.
- 3) Limit rental days to 90 per year for all Type B STRs.

**Number of Licenses per Parcel and Single Owner:**

- 1) Limit the number of licenses to one per parcel. This limit shall not apply to a property governed by the bylaws of a city-approved homeowners' association (HOA), or to properties held as tenants in common.
- 2) Require existing owners who hold 3 or more STR licenses to obtain a business license and pay business tax.

**Transfer of License:**

- 1) Prohibit transfer of license from one unit to another on the same parcel.
- 2) Prohibit transfer of license from one family member to another within a family trust.

**Guest Occupancy:**

- 1) Type A and Type B STRs: limit the maximum number of persons (aged 10 or older) to two per bedroom and eliminate the 1 additional adult per site.
- 2) Home Sharing: limit guest occupancy to a maximum of 2 adults and 2 children.
- 3) The maximum size event or large group gathering allowed at the transient use site shall not exceed one and one-half times the maximum number of occupants (aged 10 or older) authorized to stay overnight at that site.
- 4) Eliminate "in no event shall a gathering exceed 20 persons".

**Noticing:**

- 1) Eliminate site posting; it is contrary to Section 7.40.030(c) which prohibits signs indicating the property is available for Transient Use.
- 2) Limit neighborhood noticing to adjacent neighbors. Personalize neighborhood notice with owner and property manager contact information.
- 3) Require neighborhood noticing for all types of STR license applications.
- 4) Require combining noticing for STRs located within 100 ft. of each other. This will reduce the number of notices neighbors receive from the City.

**Performance Standards:**

- 1) Quiet hours: 10 p.m. to 7 a.m.
- 2) Waste and recycling receptacle retrieval: require owners to sign up for the two-directional service when they fail to remove receptacles from the street and/or sidewalk for a total of two times.
- 3) Require owners to post a City-provided "Good Neighbor Guidelines" flyer on site.

**Property Manager:**

- 1) Require a qualified property manager for all Type A and B STRs in case STR owners live more than 20 miles away.
- 2) Require the emergency contact to be located within 20 miles of rental rather than 30 minutes by car from rental site.
- 3) All owner representatives shall submit a notarized "Owner Representative Responsibility Statement" provided by the City.

- 4) Require all existing and new property managers or owner representatives who manage two or more properties to obtain a business license and pay business tax.

**Advertisement (online or otherwise):**

- 1) Require all ads and listings include the City-approved limits and license numbers.

**Building Inspections:**

- 1) Require the Building Inspection upon initial application and at two year intervals.

**Other Recommended Changes:**

- 1) Move the following PGMC sections to Title 7.40 – Transient Use License:
  - i- 23.64.350 – Transient use of residential property for remuneration.
  - ii- 23.64.370 – Permitting home sharing.

**\*Should the City Council decide to phase out the STR program:**

The City Council may elect to phase out Short-Term Rentals in the City. If this path is pursued, City staff recommends a 3 to 5-year phase-out program with the adoption of the proposed changes, retention of all existing licenses, and elimination of any new licenses. Using this approach, the STR program will diminish through attrition by a date that corresponds to the duration of the proposed phase-out.

**CEQA**

In 2016 the City adopted an Initial Study and Mitigated Negative Declaration (IS/MND) for the Short Term Rental (STR) ordinance pursuant to the California Environmental Quality Act (CEQA). The IS/MND concluded the ordinance would not have a significant effect upon the environment. As described in the staff report, the proposed ordinance amendment would make minor revisions to STR regulations and is categorically exempt from CEQA pursuant to Guidelines Sec. 15305 (Class 5- Minor Alterations in Land Use Limitations). Further, there is no substantial evidence in the record that any of the exceptions described in Sec. 15300.2 make the exemption inapplicable.

**FISCAL IMPACT**

Should the City Council decide to retain the STR program, the proposed changes will not have significant impact on the STR Program revenue, which is collected within the residential TOT category. If the program is retained, and the proposed changes are adopted, the City could collect approximately \$1,400,000 in residential TOT for FY 2017-18. However, restricting the number of licenses and/or number of nights further than that which is recommended could have a negative impact on residential TOT revenue.

Should the City Council decide to phase out the STR program, the City's residential TOT revenue will diminish each year for the duration of the phase out, until the STR program ceases to exist, and residential TOT is no longer collected. At the current rate of collection, this amounts to approximately a \$1.3 million annual reduction in revenue



within this particular revenue category. However, it is unknown whether any of this lost revenue would potentially be made up in other revenue categories, notably the commercial TOT revenue category. While some visitors may choose to not stay in Pacific Grove if the STR program ceases to exist, other former STR customers may choose to continue to visit Pacific Grove by staying in motels, hotels and bed and breakfast inns, thereby potentially causing an increase in commercial TOT revenue.

**OPTIONS**

1. Take no action.
2. Provide alternative direction.

**ATTACHMENTS**

1. Tabular Summary of Proposed Changes

**RESPECTFULLY SUBMITTED,**



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Mark Brodeur  
Community and Economic Development Director

**REVIEWED BY,**



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Ben Harvey  
City Manager

### Summary of Proposed Changes

<b>CAP LIMITS</b>		
<b>Limit all types of STR licenses to 300</b>		
	<b>Current Regulations</b>	<b>Recommended Changes</b>
<b>Type A STR License</b>	<ul style="list-style-type: none"> <li>• 250 Cap Limit</li> <li>• C-D zoned properties are not included in the Cap limit</li> </ul>	<ul style="list-style-type: none"> <li>• Reduce Cap to 200 Type A STRs</li> <li>• Include C-D properties in the Cap limit</li> </ul>
<b>Type B STR License</b>	<ul style="list-style-type: none"> <li>• No Cap limit</li> </ul>	<ul style="list-style-type: none"> <li>• Limit Type B STR licenses to 60</li> <li>• Eliminate residency requirement</li> </ul>
<b>Home Sharing License</b>	<ul style="list-style-type: none"> <li>• No Cap limit</li> </ul>	<ul style="list-style-type: none"> <li>• Limit Home Sharing licenses to 40</li> </ul>

<b>BLOCK DENSITY LIMITS</b>		
	<b>Current Regulations</b>	<b>Recommended Changes</b>
<b>Type A STR License</b>	<ul style="list-style-type: none"> <li>• 15% block density</li> <li>• Ocean View Blvd and Mermaid Ave are exempt from the density measure</li> </ul>	<ul style="list-style-type: none"> <li>• Adopt a 20% density rule and apply to all types of licenses</li> <li>• No exclusion area/exemptions.</li> <li>• Provide clarification on the definition of block and how density (parcels vs houses) is calculated.</li> <li>• Properties that cannot accommodate off-street parking are to be phased out of the Program over three years.</li> </ul>
<b>Type B STR License</b>	<ul style="list-style-type: none"> <li>• Not subject to the density rule</li> </ul>	
<b>Home Sharing License</b>	<ul style="list-style-type: none"> <li>• Not subject to the density rule</li> </ul>	

NUMBER OF BEDROOMS		
	Current Regulations	Recommended Changes
Type A STR License	• No limit	<ul style="list-style-type: none"> <li>• Limit the number of bedrooms to 3 under the ministerial licensing process</li> <li>• Require a minor Use Permit for 4, 5, and 6-bedroom houses</li> <li>• Grandfather in existing large homes</li> </ul>
Type B STR License	• No limit	
Home Sharing License	• A maximum one bedroom; a second bedroom may be rented to children as part of the same contract	• No change

NUMBER OF RENTAL DAYS		
	Current Regulations	Recommended Changes
Type A STR License	<ul style="list-style-type: none"> <li>• 365 days per year</li> <li>• 150 nights where block density exceeds 15 percent</li> </ul>	<ul style="list-style-type: none"> <li>• Limit to 240 nights per year on all Type A licenses</li> <li>• Eliminate the 150-night restriction</li> </ul>
Type B STR License	• 90 days or less per year	• No change
Home Sharing License	• No limit on night stays	• No change

<b>GUEST OCCUPANCY</b>		
	<b>Current Regulations</b>	<b>Recommended Changes</b>
<b>Type A STR License</b>	<ul style="list-style-type: none"> <li>• 2 persons (aged 18 or older) per bedroom plus one additional per site</li> <li>• The maximum size event or large group gathering allowed at the transient use site shall not exceed one and one-half times the maximum number of occupants (aged 18 or older) authorized to stay overnight at that site, as shown on the STR license, and in no event shall a gathering exceed 20 persons</li> </ul>	<ul style="list-style-type: none"> <li>• Eliminate the 1 additional adult per site</li> <li>• Change to 2 persons (aged 10 or older) per bedroom</li> <li>• The maximum size event or large group gathering allowed at the transient use site shall not exceed one and one-half times the maximum number of occupants (aged 10 or older) authorized to stay overnight at that site</li> <li>• Eliminate “in no event shall a gathering exceed 20 persons”</li> </ul>
<b>Type A STR License</b>		
<b>Home Sharing License</b>	<ul style="list-style-type: none"> <li>• A maximum of two adults per bedroom</li> </ul>	<ul style="list-style-type: none"> <li>• A maximum of two adults and two children.</li> </ul>

<b>NOTICING</b>	
<b>Current Regulations</b>	<b>Recommended Changes</b>
<ul style="list-style-type: none"> <li>• 300 feet radius mailing</li> <li>• Posting on-site</li> </ul>	<ul style="list-style-type: none"> <li>• Eliminate site posting as it is contrary to the Section 7.40.030(c) which prohibits signs indicating the property is available for Transient Use</li> <li>• Limit neighborhood noticing to only adjacent neighbors. Personalize neighborhood notice with owner and property manager contact information</li> <li>• Require neighborhood noticing for all types of STR license applications</li> <li>• Require combining noticing for STRs located within 100 ft. of each other. This will reduce the number of notices neighbors receive from the City.</li> </ul>



<b>PERFORMANCE STANDARDS</b>	
<b>Current Regulations</b>	<b>Recommended Changes</b>
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Quiet hours – 10 p.m. to 7 a.m.</li> <li>• Prohibit outdoor activities during the quiet hours.</li> <li>• Waste and recycling receptacles: require owners to sign up for the two-directional service when they fail to remove receptacles from the street and/or sidewalk for a total of three times.</li> <li>• Require owners to post a City-provided “Good Neighbor Guidelines” flyer on site.</li> </ul>

<b>TRANSFER OF LICENSE</b>	
<b>Current Regulations</b>	<b>Recommended Changes</b>
<ul style="list-style-type: none"> <li>• No license shall be transferable to any other person or location.</li> </ul>	<ul style="list-style-type: none"> <li>• No license shall be transferable to any other person or location.</li> <li>• No license shall be transferable from one unit to another on the same parcel.</li> <li>• No license shall be transferable from one family member to another within a family trust.</li> </ul>

<b>BUILDING INSPECTIONS</b>	
<b>Current Regulations</b>	<b>Recommended Changes</b>
<ul style="list-style-type: none"> <li>• Building Inspections are required upon initial applications and upon renewal on an annual basis.</li> </ul>	<ul style="list-style-type: none"> <li>• Require the Building Inspection upon initial application and at two year intervals.</li> </ul>

**23.64.350 Transient use of residential property for remuneration.**

(a) Definitions. For the purpose of this chapter certain terms used herein shall have the meanings set forth in this chapter, and such meanings shall prevail in case of conflict with the definitions set forth in Chapter 23.08 PGMC.

- (1) "Person" means an individual, a group of individuals, or an association, firm, partnership, corporation or other entity, public or private.
- (2) "Owner" means the person who possesses fee title to a transient use site.
- (3) "Owner representative" means any person authorized by the owner to fully manage the transient use site.
- (4) "Remuneration" means compensation, money, rent, or other bargained for consideration given in return for occupancy, possession or use of real property.
- (5) "Residential property" means any dwelling unit, except those dwelling units lawfully established as second 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.
- (6) "Responsible tenant" means a person aged 18 or older who has received notice of occupancy, parking and other limits and regulations that apply to the transient use site, and who has agreed to be responsible to ensure that impermissible or inappropriate behavior does not occur at the transient use site.
- (7) "Transient" means a period of time less than 30 consecutive calendar days.
- (8) "Transient use of residential property" means the commercial 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.
- (9) "Transient use site" and "transient use" mean property occupied and used for transient or short-term rental purposes.
- (10) "Use" means 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.

(b) Transient use of residential property for remuneration is prohibited, except (1) as otherwise expressly permitted by this title, or (2) when such use is permitted by a transient use license issued in accord with Chapter 7.40 PGMC.

(c) 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 or Chapter 7.40 PGMC. [Ord. 16-007 § 2, 2016; Ord. 10-001 § 2, 2010; Ord. 08-006 § 79, 2008; Ord. 1933 N.S. § 1, 1994; Ord. 1913 N.S. § 1, 1993].

**23.64.370 Permitting home sharing.**

(a) Definitions. For the purposes of this section, certain terms used herein shall have the meanings set forth below or in PGMC 23.64.350, and such meanings shall prevail in case of conflict with the definitions set forth in Chapter 23.08 PGMC.

- (1) “Guest” means a person who rents a bedroom and ancillary facilities at a home sharing site.
- (2) “Home sharing” means an activity whereby residents host guests in their homes, for compensation, for periods of 30 consecutive days or less, while at least one of the dwelling unit’s residents lives in the dwelling unit.
- (3) “Home sharing site” means property occupied and used for home sharing purposes.
- (4) “Resident” means a person legally residing in a dwelling unit in excess of 30 consecutive days. Such resident may be the owner or a tenant living there with the approval of the owner.

(b) Home sharing for remuneration is allowed pursuant to this chapter; provided, that a separate home sharing permit has first been granted and validly maintained for each home sharing site.

(c) Each home sharing permit shall meet all requirements of this section, including:

(1) Each “home sharing” permit shall be subject to the following conditions:

(A) Home sharing is limited to single-family dwellings in any residential or commercial zone. Home sharing is not permitted in dwelling units lawfully established as second units pursuant to Chapter 23.80 PGMC; in any accessory unit to a single-family dwelling; in any condominium, multifamily dwelling unit or any other “tenants in common” dwelling unit; in any room, detached rooms, or any portion of a single-family that does not provide both kitchen and bathroom facilities; or as part of a bed and breakfast inn, motel, hotel, timeshare development, or other transient use;

(B) The resident shall also occupy the home throughout the duration of any home sharing;

(C) A maximum of one bedroom in the home may be rented to adults; a second bedroom may be rented to children as part of the same contract;

(D) No more than two adults shall occupy the rented bedroom;

(E) Guest(s) shall have exclusive use of the rented bedroom(s) and shared use of a full bathroom and kitchen;

(F) Neither bedrooms nor bathrooms shall contain cooking facilities;

(G) A designated on-site parking space for use by overnight guests, if it exists, or one parking space on any on-site driveway, if it exists.

(2) Owner or owner representative of any qualifying residential property may submit an application to the city for an administrative home sharing permit, along with payment of the approved fees, an affidavit affirming that smoke detectors are installed and maintained in all sleeping quarters and common areas, that fire extinguishers are accessible, and a carbon monoxide alarm is installed on each level. The owner or owner representative shall provide access and information to a certified inspector to ensure health and safety of the home share site, prior to issuance of the permit; a report verifying inspection of the site has occurred, and that the home sharing site conforms to all requirements of this section.

(3) A home sharing permit shall continue in force, as long the conditions are met, except upon cancellation by the owner or owner representative, or upon the sale or transfer of the property.

(4) Once a permit is approved, all transient occupancy taxes as set forth in Chapter 6.09 PGMC, and fees, as adopted from time to time in the city's master fee schedule shall be collected and remitted to the city, and are applicable.

(5) Evidence of transient occupancy of a permitted home sharing site, statements and records, failure to file statement or corrected statement, payment of transient occupancy tax, appeal of tax, additional power of city, permit nontransferability, permit denial or revocation, appeal of revocation or suspension, penalties, and liens, shall be as provided in PGMC 7.40.110 through 7.40.210, inclusive.

(d) Liability and Enforcement. For the purposes of this section, liability and enforcement shall be the same as PGMC 23.64.350(c). [Ord. 16-006 § 2, 2016].

## **Chapter 7.40**

### **TRANSIENT USE LICENSE**

Sections:

- 7.40.005 Statement of purpose.
- 7.40.010 Definitions.
- 7.40.020 Allowed use.
- 7.40.025 License caps and density limits.
- 7.40.030 Limits on transient use.
- 7.40.040 Transient use license.
- 7.40.050 Display of transient use license.
- 7.40.060 Separate properties.
- 7.40.070 Contents of license.
- 7.40.080 Application – First license.
- 7.40.090 Renewal license.
- 7.40.100 Change to license information.
- 7.40.110 Evidence of transient occupancy of residential property.
- 7.40.120 Statements and records.
- 7.40.130 Failure to file statement or corrected statement.
- 7.40.140 Payment of transient occupancy tax.
- 7.40.150 Appeal of tax.
- 7.40.160 Additional power of city.
- 7.40.170 License nontransferable – Changed location.
- 7.40.180 License denial or revocation.
- 7.40.190 Appeal of revocation or suspension.
- 7.40.200 Penalties.
- 7.40.210 Liens.

**7.40.005 Statement of purpose.**

The purpose of this chapter is to establish a permitting process, together with appropriate standards that regulate short-term rental of single-family and multifamily dwellings in residential districts, to minimize negative secondary effects of short-term rental use on surrounding residential neighborhoods; and to preserve the character of neighborhoods in which any such use occurs. This chapter addresses traffic, noise and density; ensures health, safety and welfare of neighborhoods as well as of renters and guests patronizing short-term rentals; and imposes limits on the number of licenses issued to ensure long-term availability of the affordable housing stock. This chapter also sets regulations to ensure enforcement of these standards, and collection and payment of fees and transient occupancy taxes.

This chapter shall not provide any property owner with the right or privilege to violate any private conditions, covenants or restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short-term rental purposes as defined in this chapter.

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. The purposes of this chapter are to provide a licensing system and to impose operational requirements in order to minimize the potential adverse impacts of transient uses on residential neighborhoods.

The city council finds the regulation of short-term rental uses, including its nontransferability provisions, to be a valid exercise of the city's police power in furtherance of the legitimate governmental interests documented in this chapter. [Ord. 16-007 § 3, 2016].

**7.40.010 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.

“STR Type A” is a term that shall mean a short-term rental unit licensed for transient use of residential property for remuneration (a) where the property owner does not reside at the site, or (b) where the property owner resides at the site, and where the property is available for short-term guests for more than 90 days in a single license year.

“STR Type B” is a term that shall mean a short-term rental unit licensed for transient use of residential property for remuneration where the property owner resides at the site, and where the property is available for short-term guests for no more than 90 days in a single license year (365 days). [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.020 Allowed use.**

(a) Transient use of residential property for remuneration is allowed pursuant to Chapter 23.64 PGMC or this chapter; provided, that a separate transient use license has first been granted and validly maintained for each transient use site.

(b) Each transient use license must meet all the requirements of this chapter. Transient use licenses are issued for a term. If no expiration date is shown, each shall expire on March 31st. A transient use license may be extended or renewed for a subsequent year if there have not been more than two verified (by city official) complaints received. Transient use licenses issued and current as of May 6, 2016, shall expire on March 31, 2017.

(c) For the purposes of this chapter, the city recognizes and sets discrete requirements for each of two different classes of transient use licenses. These are “STR Type A” and “STR Type B.”

(d) Each contract or tenancy that allows transient use shall identify the name, address, phone and e-mail contact information of at least one responsible tenant who has been informed of, and has agreed to abide by, occupancy, parking and other limits that apply to that transient use. The owner or owner representative shall make a record of the motor vehicle license number of each motor vehicle used by an occupant of the transient use site, and shall upon request provide that information to the city manager or his delegated agent.

(e) For each initial transient use license application, and each annual license renewal, the applicant and each property owner shall submit an inspection report to the city that provides and verifies information, in the form and manner required by the chief building official, to ensure the property is safe and habitable for its intended use, including verification of adequate egress from sleeping quarters and common areas, installation of accessible fire extinguishers, and a carbon monoxide alarm on each level, and that the property exists in accord with appropriate land use and building permits.

(f) The city shall cause notice of the application or any license renewal, and of any hearing on the application or renewal to be posted and mailed to notify neighbors within 300 feet of the transient use licensed site. The notice shall include a statement of the maximum number of guests permitted to stay in the short-term rental unit. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.025 License caps and density limits.**

(a) License Cap. The maximum number of STR Type A licenses allowed within the residential districts of the city shall be 250. If applications exceeding this number are received, the city manager shall place the excess number on a STR license waiting list and process those in order of receipt as licenses become available. The maximum number of Type B transient use licenses are not limited by this chapter.

(b) Density Limit. A STR Type A license shall not be issued if granting that STR Type A license would cause the STR Type A density limit to be exceeded for that residential zoning; provided, however, no STR density limit shall apply to Ocean View Boulevard and Mermaid Avenue.

The following density limits shall apply:



- (1) One STR Type A license per parcel. This limit shall apply to any duplex. It shall not apply to a property governed by the duly adopted bylaws of a city-approved homeowners' association (HOA), or to properties held as tenants in common. The limit shall not apply to commercially zoned properties.
- (2) STR Type A licenses shall be further limited based on existing residential zoning district. Type A licenses shall be limited in all of the R-1 and R-2 districts to a total of 104 licenses. R-3 and R-4 districts are limited to a total of 146 licenses.
- (3) A second or subsequent STR Type A license shall be approved only if the total number of such licenses does not exceed 15 percent per block on which it is located.
- (4) In the case where the number of STR Type A licenses currently exceed the 15 percent per block density measure, the existing licenses on that particular block shall be limited to renting a total of 150 nights per year.
- (5) Commencing on March 31, 2018, all STR Type A licenses issued in the R-1-B-4 district shall require a use permit due to the sensitive habitat located in the vicinity. [Ord. 16-007 § 3, 2016].

**7.40.030 Limits on transient use.**

Transient use of residential property for remuneration allowed by Chapter 23.64 PGMC or this chapter shall be subject to each and every limitation in this section:

- (a) Each contract or tenancy that enables transient use shall be in writing, and identify thereon the name, address, phone and e-mail contact information of (1) the owner, (2) the owner representative, and (3) at least one responsible tenant occupying the transient use site who shall be responsible for all limits required by this chapter;
- (b) Each contract or tenancy that allows transient use shall identify the name, address, phone and e-mail contact information of at least one responsible tenant who has been informed by the owner or owner representative of the occupancy, parking and other limits that apply to transient use by this chapter and shall be informed of residential parking and noise limits, including but not limited to PGMC 11.96.010, the city codes that regulates unlawful noises;
- (c) The transient use site (1) shall be used and maintained in a manner consistent with the character of the neighborhood, (2) shall not impair the desirability of investment or occupation of the surrounding neighborhood, and (3) shall not have displayed thereon any sign that indicates the property is used or available for transient or short-term rental purposes;
- (d) Owner and owner representative shall each use their best efforts, and respond in a reasonable and timely manner, to ensure that every occupant of the transient use site does not create or contribute to unreasonable use of the property, cause unreasonable noise or disturbance, engage in disorderly or unlawful conduct, or overcrowd the site;
- (e) The owner or owner representative shall be on-call full time to manage the property and shall be able to be physically present at the transient use site within 30 minutes of request during any time the property is occupied for transient use. Within 24 hours of the time an initial call is attempted, the owner or owner representative shall use his or her best efforts to prevent the recurrence of such conduct by the occupants and take corrective action to address any violation. Failure to respond timely to two or more complaints regarding tenant violations is grounds for penalties as set forth in this chapter;
- (f) The maximum number of occupants aged 18 or older authorized to stay overnight at any transient use site shall be limited to two persons per bedroom, plus one additional person per site;
- (g) Each designated on-site parking space at a transient use site shall be made available for use by overnight occupants of that site and any on-site driveway must be available for the use of the renters of the site;
- (h) The maximum size event or large group gathering allowed at the transient use site shall not exceed one and one-half times the maximum number of occupants (aged 18 or older) authorized to stay overnight at that site, as shown on the STR license, and in no event shall a gathering exceed 20 persons;

(i) Amplified sound that is audible beyond the property boundaries of the short-term rental dwelling is prohibited; and

(j) Auctions, commercial functions, and other similar events are prohibited at the short-term rental property. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.040 Transient use license.**

It is unlawful for any person to transact and carry on any business relating to or supporting the transient use of residential property in the city without first having procured a transient use license from the city to do so, and paying the license fee and any other fees associated with approval of an application of a license, and also without complying with any and all applicable provisions of this chapter. A transient use license, however, shall not be required for any lawfully established bed and breakfast inn, motel, hotel, or timeshare development. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.050 Display of transient use license.**

The owner or owner representative shall cause a copy of the transient use license to be displayed in a prominent location within the interior of the transient use site, and shall provide a copy to each responsible tenant. Each Internet or online ad, sign, circular, card, telephone book, or newspaper advertisement that indicates or represents a transient use site is available for transient or short-term rental purposes shall prominently display thereon the transient use license number assigned to that site by the city of Pacific Grove. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.060 Separate properties.**

A single transient use license shall be issued for each and every residential dwelling unit for transient use under identical ownership at a single site. In all other circumstances, a separate license shall be required for each transient use. A transient use license shall authorize the licensee to transact and carry on transient use of residential property only at the location and in the manner and subject to the limits designated in such license. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.070 Contents of license.**

Every person required to have a license under the provisions of this chapter shall make application to the city and tender payment of the prescribed application and license fee. Thereafter, in accord with the provisions of this chapter, the city shall issue to such person a license which shall contain the following information:

- (a) The name and contact information of the owner to whom the license is issued, and the name and contact information for the owner representative;
- (b) The transient use site licensed and whether the license is a “STR Type A” or a “STR Type B”;
- (c) The date of the expiration of such license;
- (d) The maximum number of occupants aged 18 or older who are authorized to stay overnight at that transient use site in accordance with the number of bedrooms on site;
- (e) The maximum number of motor vehicles allowed for use by overnight occupants at that transient use site based on the available on-site parking as shown on the application site plan;
- (f) Such other administrative information as may be necessary for the enforcement of the provisions of this chapter. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.080 Application – First license.**

Each short-term rental license shall be in the name of the owner of the real property upon which the short-term rental use is to be permitted. A tenant of the property shall have written permission by the owner of the property. When a person first makes an application for a license pursuant to this chapter, such person shall furnish to the city a sworn statement, upon a form provided by the city, setting forth the following information:

- (a) The address of the transient use site to which the license shall apply, and all places of residence of the owner(s) of same;

- (1) In the event an application is made for issuance of a license to a person doing business under a fictitious name, the application shall set forth the names and places of residence of those owning the business;
- (2) In the event an application is made for the issuance of a license to a corporation or a partnership, the application shall set forth the names and places of residence of the principal officers and all partners thereof;
- (b) Each application shall set forth such information as may be therein required by the city collector and deemed necessary to estimate the annual transient occupancy tax to be charged for that property. The property owner shall maintain a transient use license at all times, and shall agree to collect and remit transient occupancy taxes on all gross receipts pertaining to the property;
- (c) Each application shall identify the name, address, phone and e-mail contact information of the owner and the owner representative;
- (d) Each application shall include a site plan, which labels each room in the structures on the property, including the number of bedrooms and the number of off-street parking spaces;
- (e) A certification affidavit signed by the owner affirming that smoke detectors are installed in all sleeping quarters and common areas and that fire extinguishers are accessible and a carbon monoxide alarm is installed on each level, to protect the health and safety of the occupants of the transient use site and the applicant shall provide access and information to the fire inspector as needed to ensure health and safety for occupants of the transient use site; and
- (f) Such further information which the city may require to enable proper administration of the license.

The applicant shall remit all required annual fees in accord with the master fee schedule set by council resolution. The applicant shall agree to renew and/or amend the license in accord with the requirements of this chapter as it may be amended from time to time and if there is a change in any material fact stated in the application. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.090 Renewal license.**

- (a) In all cases, the applicant for the renewal of a license shall submit to the city on or before March 1st each year an application for renewal containing a sworn statement upon a form to be provided by the city, setting forth such information concerning the applicant's transient occupancy activity during the preceding calendar year as may be required by the collector to enable him or her to verify the amount of the transient occupancy tax paid by said applicant pursuant to the provisions of this chapter. Evidence that a site has not been used for transient use during the preceding 12 months shall cause nonrenewal of a STR Type A license.
- (b) The property owner shall remit the annual license fee, as set by resolution, at the same time as the renewal application. The property owner shall submit an annual affidavit affirming that smoke detectors are installed and maintained in all sleeping quarters and common areas, that fire extinguishers are accessible, and a carbon monoxide alarm is installed on each level. The property owner shall provide access and information to the inspector to ensure health and safety for occupants of the transient use site, including verification of adequate egress from sleeping quarters and common areas, and installation of accessible fire extinguishers, and a carbon monoxide alarm on each level. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.100 Change to license information.**

A request to amend any information provided on the license issued pursuant to this chapter shall be made within 14 days of any change of owner, a change of the owner representative, a change in any material fact upon which the license was issued, or if any other person acquires an ownership interest in the transient use site. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.110 Evidence of transient occupancy of residential property.**

When any owner, owner representative or other person makes use of Internet services, signs, circulars, cards, telephone books, or newspapers, and/or advertises, holds out, or represents that he or she allows transient occupancy of residential property in the city, and such person fails to provide a sworn statement to the city that he or she does not allow transient occupancy of residential property in the city after being requested to do so by the city, then such information shall be considered prima facie evidence that he or she is conducting a business in the city of allowing

transient occupancy of residential property. Until proper evidence to the contrary is presented to the city, the city shall be entitled to presume that residential property is subject to the license required by this chapter, and/or that the transient use of residential property has occurred at the transient use site. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.120 Statements and records.**

No statement 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 and/or fees that are due and payable hereunder. In the event that the city deems it necessary, he or she may require that a licensee or applicant 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. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.130 Failure to file statement or corrected statement.**

If any person fails to file any required statement 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. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.140 Payment of transient occupancy tax.**

The owner or owner representative shall remit the transient occupancy tax as set forth in Chapter 6.09 PGMC. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.150 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 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 clerk shall give notice to such person of the time and place of hearing by serving it personally or by depositing in the United States Post Office at Pacific Grove, California, postage prepaid, addressed to such person at his or her last known address. 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. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.160 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 and/or has not been successfully challenged by a timely writ of mandate, such amounts shall constitute a lien against the real property, and be subject to the processes set forth in PGMC 1.19.270 through 1.19.290, inclusive. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.170 License nontransferable – Changed location.**

No license issued pursuant to this chapter shall be transferable to any other person or location. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.180 License denial or revocation.**

Any application for a license may be denied, and any license issued pursuant to this chapter may be revoked, unless substantial evidence shall be presented as to why the application should not be denied, or the license should not be 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 license was issued that has not been reported to the city as a change to the required license content within 14 days;
- (c) The transient use site, or any other location owned by the owner or applicant, has been the site of a violation of any provision of law, or otherwise fails to meet sanitation or health standards of the neighborhood, within the two years immediately preceding;
- (d) The owner or applicant has violated any provision of the municipal code or any provision of the Health and Safety Code, within the two years immediately preceding;
- (e) The owner, owner representative or applicant has been convicted of any crime involving moral turpitude;
- (f) The owner, owner representative or applicant has failed to timely respond to two or more complaints regarding limits on transient use as required by PGMC 7.40.030 within the two years immediately preceding;
- (g) The site does not meet the definition of dwelling unit as per PGMC 23.64.350(a)(5);
- (h) The owner, applicant, guest or any occupant of a STR site allows or facilitates a party, event or large group gathering at that site that exceeds one and one-half times the maximum number of occupants (aged 18 or older) authorized to stay overnight at that transient use site, as shown on the STR license;
- (i) The owner, applicant, guest or any occupant of a STR site regularly engages in disorderly conduct, violates provisions of this code or any state law pertaining to noise, disorderly conduct, or uses illegal drugs. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

#### **7.40.190 Appeal of 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 and 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. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

#### **7.40.200 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 owner, owner representative, or person who transacts or carries on any activity relating to or supporting the transient use of residential property in the city without first having procured and complied with a transient use license from the city so to do 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, exclusive of administrative costs, interest and restitution for compliance reinspections, for any related series of violations, and/or forfeiture of all rents received during the period transient use was allowed without a transient use license, whichever amount is greater; or
- (b) Any owner, owner representative, or person who carries on any activity that advertises to the surrounding neighborhood that the site has been licensed to allow, or is used for, transient occupancy, and who has failed to timely remedy this violation in response to two or more complaints, shall be subject to administrative penalties; or

- (c) Any owner, owner representative, responsible tenant or person who allows a transient 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 owner, owner representative, responsible tenant or person who allows impermissible or inappropriate behavior at the transient use site or action that exceed the limits on transient 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. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

**7.40.210 Liens.**

Whenever the amount of any penalty, forfeiture, and/or administrative cost imposed by a hearing officer pursuant to this chapter or to Chapter 1.19 PGMC has not been satisfied in full within 90 days and/or has not been successfully challenged by a timely writ of mandate, this obligation shall constitute a lien against the real property on which the violation occurred, and be subject to the processes set forth in PGMC 1.19.270 through 1.19.290, inclusive. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].



May 29, 2017

Dear Planning Commissioners,

<b>HEARING SUBMITTAL #3</b>	
PROJECT NO./AGENDA NO.	REF10042 REF13042
DATE RECEIVED:	MAY 31, 2017
SUBMITTED BY/VIA:	PUBLIC @ HEARING
DISTRIBUTION TO/DATE:	PC @ HEARING
DATE OF HEARING:	MAY 31, 2017

On May 31 we will have the continued conversation about the Draft Ordinance for Short Term Rentals in Monterey County that began on May 10. I have attended every meeting of supervisors and commissioners during the last four years where a new ordinance for regulating STRs has been discussed. At this point you have the task of guiding the RMA staff to produce an effective ordinance that people will follow and that the county will benefit from so that you can recommend it to the supervisors. It would be an understatement to say that this has been a long, arduous task.

The draft ordinance that you were presented with for the May 10 meeting was a complicated document with 6 types of STR categories and various limitations or requirements for each of those. It shared a strong resemblance to the prior inland ordinance in its overall posture towards making the process of obtaining a permit complex, the designation for over 60% of STRs discretionary, and the enforcement not possible.

You have heard many points in support and in opposition to making the process accessible, the rules enforceable, the fees reasonable. It occurs to me as I have listened to the countless arguments that opponents and supporters have made over these many years and as I have watched your and the supervisors' eyes glaze over after the first hour or so of these many hearings (quite understandably), that the figures and information and stats and studies and analyses and models and surveys and reports have little impact on any of us in the face of our basic orientation towards any issue.

It's hard to say what our basic orientation rises from—experience, personality, temperament. It doesn't matter. What does matter is that we notice we have an orientation and then do our best to expand it to include ideas or information that we are inclined to gloss over again and again. For instance, if you find that you are negatively inclined towards STRs because you have identified sympathetically with their neighbors who have described disturbances on their account, then you probably won't be very affected by the damage claimed by owners of STRs who have had to shut down, no matter how poignant the story is about losing their homes. The damage of being disturbed in a neighborhood will factor much higher in your view of STRs than the damage of a homeowner being displaced. The disturbance will seem more believable and repugnant than the loss. Or, similarly, if you see STRs as a danger that must be controlled in every way imaginable, you will never be able to give even basic credence to information about the social and economic benefits that they bring to Monterey County. That information will seem dubious, irrelevant, sugar coated, not real. In these two cases, every STR will pose a threat to neighbors and will do nothing good for your county. The task is, in the privacy of your own mind, to catch yourself at your default orientation and to put yourself in another position. The What If position. What if the thing I have always believed about this issue is not the whole or even the accurate picture?

What if instead of viewing STRS as a threat that requires a six-armed monster of an ordinance that squeezes STR owners through multiple and impossible hoops, is unenforceable, and likely

ATTENTION TO MONTEREY

too expensive as well, that you instead imagined STRs as one of the fortunate resources that our tourist based economy offers to the Monterey Peninsula? A resource that is in high demand by families, especially in the middle class, and that serves to build invisible bonds between residents of our county and residents of the rest of the world. What if the countless multiple thousands of times visitors have already rented existing, non-licensed STRS came off without a hitch, without a complaint, without any damage to neighborhoods whatsoever? If you can stretch your orientation, imagine that. Because that is true.

What if the STR owners who love their homes and love hosting visitors were equally concerned about their neighborhoods as you are? In fact what if those STR owners even loved their neighbors, had close connections with them, did everything in their power to make sure that their guests respect their homes and their neighborhoods equally? I ask you to imagine this because that is what I have observed about every STR owner and even the managers that I know. Admittedly I don't know the "bad apples." They have done a great deal of damage to the name of STRs, but they are such a tiny number that enforcement would weed out, and that's what it should do.

What if the STR ordinance were designed with the assumption that, like business licenses, the owners are going to offer something valuable and wanted by visitors and residents alike? If any of you has ever stayed in a vacation rental, I hope it was a loved and lovely one, that it heightened the pleasure you had in your travels, and that it invited you to return. And I hope that you will bring that experience to whatever orientation you have about STRs in Monterey County in your deliberations about making the ordinance simple (a license not a permit), affordable (not thousands of dollars), and fair (thoughtful and thorough enforcement).

Thank you for your attention to this letter. I hope you will be able to come to clarity about the STR ordinance in the near future. It is a daunting task. Some people will never agree that STRs should exist at all in Monterey county. Theirs is an orientation I wouldn't presume to change, but it is your orientation towards this issue that will make the task viable or not.

Best regards,



Lynda Marin  
Monterey County Vacation Rental Alliance



COUNTY OF MONTEREY  
HEALTH DEPARTMENT

MEMORANDUM

ENVIRONMENTAL HEALTH BUREAU

Date: May 30, 2017  
To: Melanie Beretti, RMA Service Manager  
From: Nicki Fowler, REHS and Roger Van Horn, REHS

Subject: Recommended Requirements for Short Term Rentals (STR), revised May 30, 2017

**Occupancy Limitations**

**For the purposes of STR, a bedroom shall be at least 140 s.f. to be considered adequate to provide occupancy for two people.** In accordance with Monterey County Code, Section 21.61.280 and the 1997 Uniform Housing Code, each bedroom shall have a minimum of 70 s.f. for each of the first two (2) people, and 50 s.f. for each additional person beyond two (2) people in that bedroom.

"Remainder" square footage from each bedroom throughout the dwelling may not be combined to increase the total occupancy.

*For example, Bedroom A is 180 s.f., which equates to two Occupants (40 s.f. "remainder")*

*Bedroom B is 170 s.f., which equate to two Occupants (30 s.f. "remainder")*

*Maximum occupancy for the house would be four (4) people (not five (5)) even though 70 additional s.f. of floor area exists between the two bedrooms.*

**Solid Waste Management**

**STR shall not be eligible for Mandatory Garbage exemptions outlined in MCC, Section 10.41.030 (C).** Monterey County Code (MCC) Section 10.41.030 requires all residents and businesses located in the unincorporated county to maintain curbside garage collection.

Minimum Capacity of Solid Waste Containers

# of Occupants	Garbage	Recyclables	Yard Waste
6 or Fewer	35 gallon	64 gallon	64 gallon
7 - 10	64 gallon	96 gallon	64 gallon

Prior to approval of an STR application, the applicant shall provide evidence that adequate solid waste services are in place. The Environmental Health Bureau (EHB) will develop an 8 ½"x11" recycling guide that STR operators may elect to post near the indoor garbage facilities for reference by STR occupants; this will not be required.

**Onsite Wastewater Treatment Systems**

**When a proposed STR is served by an onsite wastewater treatment system ("OWTS" or septic systems), a performance evaluation of the OWTS shall be completed by a qualified professional to demonstrate that the system is in good working order.** Prior to approval of an STR application, the applicant shall provide evidence that the septic tank and dispersal system are functioning properly by way of a performance evaluation completed by a qualified OWTS professional on the EHB-approved form. Any component noted to be in unacceptable condition shall be repaired or replaced prior to EHB approval of the STR application. At the time of OWTS failure, the qualified professional shall consider the primary use of the dwelling and its use as an STR to determine if additional tank or dispersal capacity should be incorporated into the system design beyond the minimum standards for a single family dwelling specified by MCC, Chapter 15.20.

## **Drinking Water Quality**

The source of water that serves an STR shall meet bacteriological and primary drinking water standards. Prior to approval of an STR application, the applicant shall provide comprehensive water quality analysis to EHB for review and acceptance, pursuant to MCC Chapters 15.04 and 15.08 and Titles 17 and 22 of the California Code of Regulations. If the STR meets the definition of a water system, then an application shall be submitted to EHB for issuance of a water system permit prior to approval of a STR application. A comprehensive water quality analysis is required to be completed at least every 5 years. Bacteria (total coliform and *E. coli*) and any constituent that was 50% or more of the maximum contaminant level shall be tested annually and prior to renewal of an STR permit (or equivalent).

Looking forward, EHB is considering a new water system permit category that would be specific to STR and include more frequent bacteriological monitoring requirements. Proposed STR that do not receive water from a source regulated by EHB or the State of California would be required to apply for and maintain an annual water system permit from the EHB.

**Excerpt from Title 22, California Code of Regulations, Division 4, Chapter 15 (updated 9/23/2016)**  
[http://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/documents/lawbook/dwregulations-2016-09-23.pdf](http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/documents/lawbook/dwregulations-2016-09-23.pdf)

**Table 64431-A  
Maximum Contaminant Levels  
Inorganic Chemicals**

<i>Maximum Contaminant</i>	<i>Level, mg/L</i>
Aluminum	1.
Antimony	0.006
Arsenic	0.010
Asbestos	7 MFL*
Barium	1.
Beryllium	0.004
Cadmium	0.005
Chromium	0.05
Cyanide	0.15
Fluoride	2.0
Mercury	0.002
Nickel	0.1
Nitrate (as nitrogen)	10.
Nitrate+Nitrite (sum as nitrogen)	10.
Nitrite (as nitrogen)	1.
Perchlorate	0.006
Selenium	0.05
Thallium	0.002

**Tables 64449-A and 64449-B  
Secondary Maximum Contaminant Levels  
“Consumer Acceptance Contaminant Levels”**

<i>Constituents</i>	<i>Maximum Contaminant Levels/Units</i>
Aluminum	0.2 mg/L
Color	15 Units
Copper	1.0 mg/L
Foaming Agents (MBAS)	0.5 mg/L
Iron	0.3 mg/L
Manganese	0.05 mg/L
Methyl-tert-butyl ether (MTBE)	0.005 mg/L
Odor—Threshold	3 Units
Silver	0.1 mg/L
Thiobencarb	0.001 mg/L
Turbidity	5 Units
Zinc	5.0 mg/L

\*MFL = million fibers per liter; MCL for fibers exceeding 10 um in length.

**Secondary Maximum Contaminant Levels  
“Consumer Acceptance Contaminant Level Ranges”**

<i>Constituents, Units</i>	<i>Maximum Contaminant Level Ranges</i>		
	<i>Recommended</i>	<i>Upper</i>	<i>Short Term</i>
Total Dissolved Solids, mg/L or Specific Conductance, $\mu$ S/cm	500	1,000	1,500
Chloride, mg/L	900	1,600	2,200
Sulfate, mg/L	250	500	600

**Bacteria testing (total coliform and *E. coli*) shall include a chlorine residual.** A written request to waive sampling requirements for asbestos, cyanide, MTBE and thiobencarb may be submitted to the EHB for consideration.



May 31, 2017

Planning Committee,

<b>HEARING SUBMITTAL</b>	
PROJECT NO./AGENDA NO.:	PEF10042 #3
DATE RECEIVED:	5/31/17
SUBMITTED BY/VIA:	Rub. C. Cheamy
DISTRIBUTION TO/DATE:	R. Cheamy
DATE OF HEARING:	5/31/17

Thank you for taking the time to meet this morning. We live in Arroyo Seco next to a short term rental and it's unbearable. The property is rented to large groups, up to "20" every weekend. Most weekends, throughout the year a new group arrives Friday night, stays up late, hoots and hollers all day and late into the night/early morning and then leaves Sunday morning. 4 - 5 weeks out of the year a group will actually stay the required minimum stay of 7 days. That is rare. It is usually weekend groups. We often have call to ask them to quiet down after 10:00pm, sometimes they do, other times they are just rude. Having to ask strangers to be respectful of neighbors all year long is annoying, to say the least.

My wife and I have worked our whole lives in South Monterey County. I am a dentist who works for Clinique De Salud and my wife is a retired high school science teacher. We moved to Arroyo Seco because we thought it would be a peaceful and relaxing environment, instead we live next door to a short term rental. Please, listen to those who choose to live and work in the community. Make us your priority. Stop or severely limit short term rentals.

I also, strongly encourage you to come up with an ordinance that will restrict an owner from selling their property and advertising it as a "desirable short term rental." The selling and purchasing of properties as a short term rental investment has become a huge problem in a lot of areas. I fear it is becoming the same in Monterey County.\*

Some communities have limited the number of days a unit can be listed as a short term rental.\*\* Other communities, such as Austin, Texas, Santa Monica and Santa Barbara have simply banned short term rentals. I strongly encourage you to to the same, or at the very least, limit the stay to no more and no less than 7 days each month and enforce the minimum 7 day requirement. This will curb those who stay for 2-3 days every weekend all year long.\*\*\*

Thank you

Concerned resident  
Arroyo Seco

# \*Current Short Term Rental For Sale

Arroyo Seco Rd,  
Greenfield, CA 93927  
7 beds 6 baths 3,800 sqft  
FOR SALE  
\$2,950,000  
EST. MORTGAGE

\$10,942/mo

[Get pre-qualified](#)

Listed by:



Picturesque and private this 100+ year old Ranch-Vineyard-Estate transports you to a bygone era of agrarian grace and beauty. With all the modern amenities added through the years: chef's kitchen, swimming pool, guest cottages, trout pond, spacious Bar-B-Q areas, and an award winning vineyard, it remains a throw-back to a simpler time. Enjoy the vistas as you sit under 300+ year old oak trees and gaze over the Arroyo Seco River Canyon ridge to the hills beyond. **Mesa del Sol Estate Retreat and Winery comprises 13.74 acres of perfectly manicured property and vineyards. Award winning wine received 93 points in Wine Enthusiast magazine. Brides host weddings, businesses hold retreats, families gather there. Sleeping quarters include the quintessential farm house (5 bdrms), stone bunkhouse(1 bdrm), cowboy house (1 bdrm).** So much potential to embrace and enjoy. However, the land offers the deepest enjoyment, soothing the senses and satisfying the soul.

[Less](#)

## WHAT I LOVE ABOUT THE HOME

What I love the most about this property are the expansive views from all directions, the peace and quiet and open space. The property is perched 150 feet above the magnificent Arroyo Seco Canyon. I love waking up in the morning and taking a hot tub at the edge of the cliff while gazing out onto the Ventana Wilderness. A view that will never be obstructed. I am enamored by the history and provenance of the visionary individuals who nurtured and cared for the land; the stone house was purportedly a stage coach stop in the 1800's. The home was built by a US Senator in 1936. The property is now a highly sought-after retreat and award winning winery. **All Federal, State and County permits in place for the vineyard and 3000-case winery. Monterey County permit for short-term rental and active permit to build wine barn included.** This is a gem, waiting for its next visionary owner.



# **\*\*San Francisco's Short Term Rental Ordinance**

## **\*Permitting criteria and regulations**

Limited number of non-owner occupied rentals – The Operator of the rental unit must occupy the unit for a minimum number of days during the calendar year, thereby limiting the number of days the unit is available for non-owner occupied (owner not present) rentals during the calendar year. The City of San Francisco **requires the primary resident of the rental unit to occupy the unit for a minimum of 275 days during the calendar year.** As such, **the rental unit is limited to 90 days of non-owner occupied rentals.** If the primary resident is present at the rental unit during the rental period, there is no limit to the number of days or frequency that the unit may be rented.

# \*\*\*Example of How Often a New Group Rents the Property

Mesa Del Sol Estate Retreat and Winery... - HomeAway Greenfield

5/27/17, 5:12 PM

Available							Unavailable						
May 2017							June 2017						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6					1	2	3
7	8	9	10	11	12	13	4	5	6	7	8	9	10
14	15	16	17	18	19	20	11	12	13	14	15	16	17
21	22	23	24	25	26	27	18	19	20	21	22	23	24
28	29	30	31				25	26	27	28	29	30	
July 2017							August 2017						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
						1			1	2	3	4	5
2	3	4	5	6	7	8	6	7	8	9	10	11	12
9	10	11	12	13	14	15	13	14	15	16	17	18	19
16	17	18	19	20	21	22	20	21	22	23	24	25	26
23	24	25	26	27	28	29	27	28	29	30	31		
30	31												
September 2017							October 2017						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
					1	2	1	2	3	4	5	6	7
3	4	5	6	7	8	9	8	9	10	11	12	13	14
10	11	12	13	14	15	16	15	16	17	18	19	20	21
17	18	19	20	21	22	23	22	23	24	25	26	27	28
24	25	26	27	28	29	30	29	30	31				
November 2017							December 2017						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4						1	2
5	6	7	8	9	10	11	3	4	5	6	7	8	9
12	13	14	15	16	17	18	10	11	12	13	14	15	16

In 1976, when I was 20, my husband and I bought our dream house in Carmel Valley, having scrimped and saved since we got married when I was 17. Little did I know then the stories and the memories that would take place in that house over the next forty + years! Our children were born and raised there, which we lovingly spent every spare dime we had in to it, as it was slowly updated and remodeled.

Fast forward to June 2, 2003 when our son, Scott, was tragically killed in a car accident on Carmel Valley Road. It shakes one to the core to lose a child. Each time I passed his room, or walked up the patio stairs and saw his little hand prints on the stucco wall, another knife plunged into my heart. We had to move. Adding yet another mortgage, we moved out of the family house to another very close by.

Renting the house long-term was disastrous. Our long-term renter lied to us, moved in eight more adults (including his ex-wife), and paid no rent for over a year and completely trashed our home. Sometimes there would be 8 – 10 cars there. We are still owed a large sum of money, pursuant to a stipulated judgment, which we will never see due to laws that heavily favor deadbeat, long-term tenants.

Regarding septic tanks: A nice man in a big truck comes every two years and takes all that yukky stuff to a sewage treatment plant where it is processed and cleaned. Usage from short term renters is far less than from someone who occupies a large home, full time, with family, kids, guests, and relatives.

As far as affordable housing—why would a homeowner be expected to provide affordable housing? That is a problem that needs to be solved by employers, developers of multi-units, and the county, not the homeowner.

There is great joy when someone shares pictures of their family in my home celebrating Aunt Martha's 90<sup>th</sup> birthday, Chip's wedding, or their grandchildren awakening on Christmas morning surrounded by their dearest relatives. Renting one's home, to make ends meet, has been going on for centuries. Even Mrs. Forrest Gump in Greenbo, Alabama, had to rent her rooms out. However, she kept the farm!

<b>HEARING SUBMITTAL</b>	
PROJECT NO./AGENDA	REF 10042 / REF 10043 #3
DATE RECEIVED	5/31/17
SUBMITTED BY/VIA	Public @ Hearing
DISTRIBUTION TO/DATE	PC / 5/31/17
DATE OF HEARING	5/31/17

From: Commissioner Getzler

To: Planning Commission

2/3/17

Definition:

Describe a Short Term Rental (STR) as: "the rental of a residential dwelling unit (single family or multi-family) by a transient guest (not part of the family unit) for a stay of less than thirty (30) days."

Purpose:

- Best use of housing stock- Property owners may decide to use existing residential dwellings as short-term rental options versus searching for long-term tenants.
- Maintain neighborhood character – A commitment to the well-being of the neighborhood. This may include some method of monitoring behavior/Noise/Parking to ensure STR guests follow good neighbor etiquette.
- Protect homeowner rights – Allowing property owners to use their property as they may see fit.
- Address new business model – Evolving online rental business provides more opportunities for property owners.
- Balance the playing field – Commercial businesses, such as hotels, is required to comply with TOT taxes and health /safety regulations.
- Collection of appropriate taxes – Provide guidelines for collection of the appropriate taxes to support county enforcement/inspection services.

Procedure:

Create new regulations to provide criteria for allowing and monitoring STRs with a focus on two distinct areas:

(1) Registration and administration of the STRs.

Set fee for yearly license?

Write regulations related to the registration and administration of STR programs typically involve the following:

- Establishment of a participant registration process
- Develop a registry or database of information of those participating in the STR program
- Identification of specific fees for the STR program
- Identifying specific criteria for participation in the STR program

certificate of compliance  
water quality, sewer, garbage

(2) Collection of the appropriate taxes (commonly the Transient Occupancy/Hotel tax and various assessments).

Write regulations related to the collection of the appropriate occupancy taxes/assessments typically:

- Identify which taxes apply to participants of the STR program
- Assist in enforcing tax compliance
- Establish agreements with web based online Hosting Platforms (Airbnb, and similar) for the collection of occupancy taxes.

Categories of Rental Units –

Type 1 – All residential homes that are owner occupied or associated with an owner-occupied principal residence. Rental could be for part or the entire unit, rental is limited to single party of individuals, and the owner is generally present during the rental.

Type 2 – Single-family or Duplex residential homes that are non-owner occupied or not associated with an owner-occupied principal residence, rental is for entire unit. If host not present during rental period, a local rental management company must be the responsible party, host will provide written notice of the name and phone number of the local contact person to all transient users and to all occupants of all adjacent properties.

HEARING SUBMITTAL	
PROJECT NO./AGENDA NO.	513/17
DATE RECEIVED	2/3/17
SUBMITTED BY/VIA:	PC @ hearing
DISTRIBUTION TO/DATE:	PC @ hearing
DATE OF HEARING:	May 2, 2017

## Practices: (some ideas)

### Identify types of STR's:

Type 1 – All residential homes that are owner occupied or associated with an owner-occupied principal residence. Rental could be for part or the entire unit, rental is limited to single party of individuals, and the owner is generally present during the rental.

Type 2 – Single-family or Duplex residential homes that are non-owner occupied or not associated with an owner-occupied principal residence, rental is for entire unit. If host not present during rental period, the host will provide written notice of the name and phone number of the local contact person to all transient users and to all occupants of all adjacent properties.

Use of a residential property for short-term rentals requires the Operator/owner of the property to:

1. Register and be granted a Transient Occupancy Registration Certificate for the property -  
Each Operator renting to Transients needs to register with the County Treasurer and obtain a Transient Occupancy Registration Certificate. The owner or owner's agent may obtain the certificate; however the owner is responsible for complying with the short-term rental regulations. The certificate application shall include the applicant's contact information, the owner's contact information, and information for the identified contact person. In addition to the contact information, the application is to include a description of the dwelling with an illustrated floor plan; and a copy of the proposed guest rental agreement.  
The certificate shall state that the Owner/Operator of the property is required to collect TOT and remit such to the County Treasurer. The certificate needs to be posted at the rental property at all times. The fee for the Transient Occupancy Registration Certificate is to be determined and is valid for twelve (12) months.
2. Strictly follow occupancy limits – The limit for the number of occupants per unit should be based upon the 2013 California Building Code ("Code"). Per the Code, the maximum floor area allowance per occupant for residential buildings is 200 square feet per occupant.
3. Maintain proper recordkeeping for each STR – Every Operator is liable for collection and remittal of TOT to the County and is required to keep and preserve all business records for three (3) years, including payment of the appropriate TOT to the County (by the host or hosting platform). The County shall have the right to inspect and audit the records at all reasonable times.

Complaints and resolution – Upon receiving notification that the guests or tenants of the rental unit are violating city regulations (noise, disorderly conduct, etc.), the applicant shall respond and abate the violation within 24 hours. Failure to respond or abate the tenant violation shall be considered a failure to respond to a complaint. Failure to respond to two or more complaints is grounds for penalties. A third violation related to the rental unit within any 12- month period will result in an administrative hearing and potentially revocation of the permit for a period of one year.

The RMA Department will develop and maintain a database to track the number of licenses issued and map their locations, this list will be made available to the public.