

*The
Ballot Initiative
To
Preserve and Protect
Pacific Grove's Residential
Character*

(Sections 1-3)



A City of Homes

Paid for by Pacific Grove Neighbors United

www.pgneighbors.com

(831) 375-2705

The measure provides as follows:

Initiative to Preserve and Protect Pacific Grove's Residential Character

The people of the City of Pacific Grove do ordain as follows:

SECTION 1: PURPOSE, EFFECT, AND FINDINGS

- A. Purpose:** The purpose of this *Initiative to Preserve and Protect Pacific Grove's Residential Character* ("Initiative") is to prohibit and phase out existing permitted short-term rentals in residential neighborhoods, thereby advancing the central premise of the City of Pacific Grove's charter that business and industry shall be compatible with Pacific Grove's residential character.
- B. Effect:** This Initiative amends the City of Pacific Grove's General Plan and Municipal Code to prohibit and phase out existing permitted short-term rentals in residential districts, except in the Coastal Zone. It establishes an 18-month sunset period for short-term rentals prohibited under this Initiative. It does not change existing rules for licensing short-term rentals where they are not prohibited or existing rules permitting home sharing.
- C. Findings:** The people of the City of Pacific Grove find that this Initiative promotes and protects the health, safety, welfare, and quality of life of City residents, based upon the following findings, any one of which is sufficient to support adoption of this Initiative:
- 1. Pacific Grove Is Primarily a City of Homes and the City Must Protect Its Residential Character.** As of December 21, 2017, the date that the notice of intention to circulate this Initiative was submitted to the elections official of the City of Pacific Grove ("Submittal Date"), the Pacific Grove City Charter, in Article 5.5, the Pacific Grove General Plan, and the Pacific Grove Municipal Code recognize that Pacific Grove is "primarily a city of homes" and that "business and industry shall be compatible with its residential character."
 - 2. Residential Land Use Designations Protect Residential Uses.** The purpose of Pacific Grove's residential districts is to provide appropriately zoned areas within the City for long-term residents and to enhance and maintain the residential character of the City. The City of Pacific Grove's Zoning Map depicting the City's residential districts is attached as Exhibit A for informational purposes.
 - 3. Residential Districts Are Intended for Long-Term Housing.** The Pacific Grove General Plan defines "dwelling unit" as "A room or group of rooms—including sleeping, eating, cooking, and sanitation facilities—that constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis (i.e., for more than 30 days.)" (Pacific Grove General Plan, Glossary, p. 175). This Initiative protects the integrity of residential neighborhoods by prohibiting short-term rental of residential property in residential districts outside the Coastal Zone.

4. **Short-Term Rental Is a Commercial Use Incompatible with Residential Uses.** The short-term rental of residential property is a commercial use that is in conflict with the longstanding definition of a “dwelling unit” as a “long-term” residence and is incompatible with the character of residential neighborhoods.
5. **Use of Residential Property for Short-Term Rentals Threatens Residential Neighborhoods.** As the California Court of Appeal recognized in *Ewing v. City of Carmel-By-The-Sea* (1991) 234 Cal.App.3d 1579, short-term rentals have unmitigable, adverse impacts because they threaten the character and stability of a residential neighborhood. Short-term tenants have little interest in the welfare of Pacific Grove’s residents or local government; the *Ewing* court observed that transient visitors are “here today and gone tomorrow – without engaging in the sort of activities that weld and strengthen a community.”
6. **The City’s Actions to Allow Short-Term Rentals Interfere with Pacific Grove’s Residential Character.** In 2010, the City began allowing rentals for stays of less than 30 days in residential districts. The City’s attempts to regulate short-term rentals have been inadequate to manage the adverse impacts of these commercial uses on Pacific Grove’s residential character. Short-term rentals have increased traffic, parking demand, light and glare, and noise, to the detriment of surrounding residential uses and the general welfare of Pacific Grove. In addition, management and enforcement needs have imposed new demands on city resources, including police, community development, and code enforcement, while burdening neighbors with unwanted monitoring and reporting responsibilities.
7. **The City’s Recent Efforts to Mitigate Adverse Impacts of Short-Term Rentals Are Insufficient.** In 2017, the City adopted a cap on short-term rental licenses and limits on density with the stated intent of eliminating over-concentration of short-term rentals in particular neighborhoods. However, these regulations will be ineffective because the City included a “grandfathering” provision that will allow existing short-term rentals to continue operating indefinitely. The new regulations will not generate a meaningful reduction in the adverse impacts of short-term rentals in Pacific Grove.
8. **Pacific Grove Provides Ample Lodging for Visitors Without Short-Term Rentals in Residential Districts.** This Initiative does not change existing rules for bed and breakfast inns, motels, hotels, and other visitor lodging in Pacific Grove. In addition, in 2011, Pacific Grove voters approved Measure U, which allows for additional motel guest units and room tax revenue. Further, residents may allow short-term occupancy of their homes for home sharing, house swaps, house sitting, pet sitting, work trade, and similar arrangements. These additional activities are compatible with residential uses and are not prohibited by this Initiative. These types of accommodations provide ample lodging to serve visitors while preserving Pacific Grove’s residential character.

- D. Flexibility:** This Initiative preserves important flexibility for the City, based upon the following:
- 1. The City May Address Short-Term Rentals in the Coastal Zone in the Local Coastal Program Update.** The California Coastal Act imposes restrictions on the use of land in the Coastal Zone, including Pacific Grove's coast. The California Coastal Commission, which implements the Coastal Act, has stated that regulation of short-term rentals in the Coastal Zone must occur within the context of the Local Coastal Program, subject to Commission review. The City is currently drafting a comprehensive update to Pacific Grove's Local Coastal Program. While this Initiative does not prohibit short-term rentals in the Coastal Zone, it identifies local conditions that the Commission has acknowledged may support short-term rental restrictions in the Coastal Zone, namely that the community "already provides an ample supply of vacation rentals" and that "further proliferation of vacation rentals would impact community character." This Initiative does not prevent the City from imposing a short-term rental ban or further limitations in the Coastal Zone. The City of Pacific Grove's Coastal Zone Land Use Plan, Figure 4, depicting the Coastal Zone boundaries is attached as Exhibit B for informational purposes.
 - 2. The City May Adopt Additional Rules to Facilitate Effective Enforcement.** This Initiative is enforceable under existing provisions of the Pacific Grove Municipal Code. It does not constrain the City's authority to conduct code enforcement in the manner that best protects the welfare of the entire community.
 - 3. Limited Sharing of Single-Family Homes Will Not Erode Pacific Grove's Residential Character.** Under the permitting scheme established by the Pacific Grove home sharing ordinance in effect as of the Submittal Date, a long-term resident may rent one or two rooms in a single-family home to a maximum of two adults and two children, while the long-term resident also occupies the home. The ordinance's home sharing permit requirement and strict limits on home sharing protect Pacific Grove's residential character and ensure that residential property is used by long-term residents. This Initiative does not change the City's existing rules for home sharing.
 - 4. Future General Plan Updates Must Be Consistent with This Initiative.** As of the Submittal Date, the City of Pacific Grove was considering possible General Plan amendments directed at short-term rentals. Adoption of this Initiative ensures that the will of the people to prohibit short-term rentals in residential districts, as described in this Initiative, is fulfilled. This Initiative is not intended to direct or constrain the City with respect to its ability to amend, revise, or update the General Plan or other land use regulations. However, if this Initiative is adopted, any amendment, revision, or update to the General Plan adopted after the Submittal Date shall be amended to ensure consistency with this Initiative.

SECTION 2: PACIFIC GROVE GENERAL PLAN AMENDMENTS

A. This Initiative hereby amends the Pacific Grove General Plan (“General Plan”), as amended through the Submittal Date. Text to be inserted in the General Plan by this Initiative is indicated in **bold** type. The language adopted by this Section 2 may be repealed or amended only by a vote of the people.

B. The General Plan Land Use Element (which is a part of the General Plan) is amended to add the following new Policy 1.5:

Policy 1.5 Protect Pacific Grove’s residential character by prohibiting the short-term (less than 30 consecutive calendar days) rental of residential property in residential zoning districts, except to the extent such use is allowed in the Coastal Zone under the Local Coastal Program. The Pacific Grove Municipal Code shall be consistent with this Policy.

C. The General Plan Land Use Element is amended to add the following text after Policy 1.5:

Policy 1.5 was added by the *Initiative to Preserve and Protect Pacific Grove’s Residential Character*. Policy 1.5 may be repealed or amended only by a vote of the people. The Initiative also amended the Pacific Grove Municipal Code to be consistent with Policy 1.5, including a requirement that existing transient use of residential property inconsistent with Policy 1.5 be discontinued within 18 months from the date the Initiative was approved by the voters.

SECTION 3: PACIFIC GROVE MUNICIPAL CODE AMENDMENTS

A. This Initiative hereby amends the Pacific Grove Municipal Code (“Municipal Code” or “PGMC”), as amended through the Submittal Date. New text to be inserted in the Municipal Code is indicated in **bold** type, and text to be deleted is indicated in ~~striketrough~~ type. Text in standard type currently appears in the Municipal Code.

B. PGMC 23.64.350, “Transient use of residential property for remuneration,” is amended and readopted in full as follows:

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 PGM or as part of a bed and breakfast inn, motel, hotel, timeshare development, or other transient use **not prohibited by this section**.

(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 must comply with General Plan Policy 1.5. Specifically, transient use of residential property for remuneration is prohibited, and no transient use license may be issued, in any residential zoning district, including R-1, R-H, R-1-H, R-1-B-2, R-1-B-3, R-2, R-2-B-3, R-3, R-3-P.G.R., R-3-M, R-4, and all PUD Districts, except to the extent that such use is both (1) in the Coastal Zone and permitted under the Local Coastal Program, and (2) permitted by a transient use license issued by the City. Transient use of residential property for remuneration in non-residential zoning districts 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 PGM by the City. Transient use of residential property for remuneration does not include “home sharing” permitted by the City or house swaps, house sitting, pet sitting, work trade, and similar non-commercial arrangements that do not involve an exchange of money.

(c) In order to provide a reasonable phase-out of transient uses of residential property for remuneration, notwithstanding any other provision of this Code, all uses that become nonconforming as a result of the amendment to this section by the *Initiative to Preserve and Protect Pacific Grove’s Residential*

Character, including uses permitted under short-term rental licenses, shall be discontinued within 18 months from the date that the Initiative was approved by the voters. Nothing in this subsection is intended to affect any City authority to terminate uses found to be a nuisance, or that are otherwise unlawful.

~~(e)~~(d) 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.

(e) This section may be repealed or amended only by a vote of the people, except that amendments do not require a vote of the people if they (1) apply only in the Coastal Zone or (2) amend subsection (d) concerning liability and enforcement.

C. This Initiative does not prohibit the City from taking action to regulate transient use of residential property in the Coastal Zone or in non-residential districts. Such regulations may be adopted by the City Council as it deems necessary and appropriate.

End of Sections 1-3

To review the remaining sections visit our website:

www.pgneighbors.com

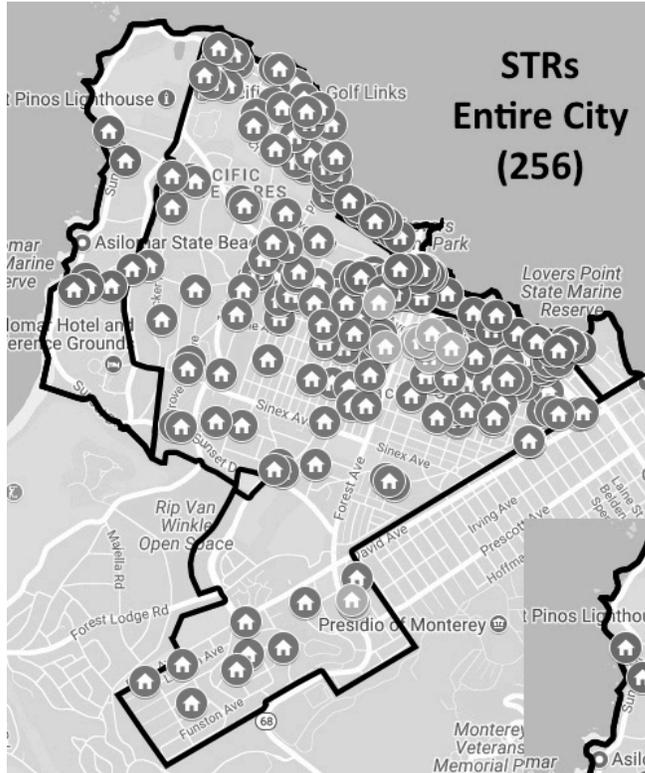
or

Contact the City Clerk

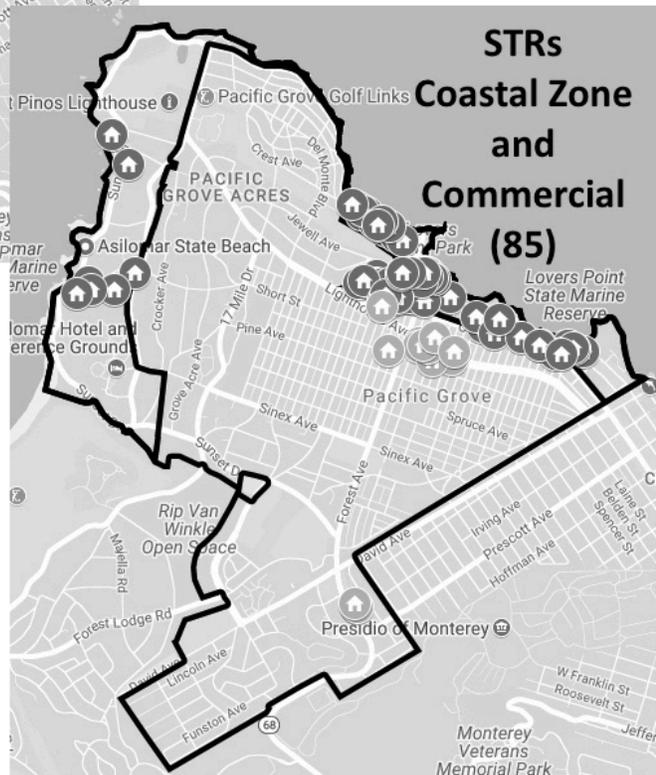
(831) 648-3081

Maps of Pacific Grove

Short-Term Vacation Rental Properties (STRs)



*A Picture
Is Worth
1,000 Words*



*Vote YES
to
LIMIT
STRs*

See our Map Page at: www.pgneighbors.com/map