



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

AGENDA REPORT

TO: Honorable Mayor and Members of City Council
FROM: Mark Brodeur, Community and Economic Development Director
MEETING DATE: April 15, 2015
SUBJECT: Temporary Urgency Moratorium on Incompatible Uses in the Downtown
This Moratorium Qualifies for a Statutory Exemption for Emergency Projects
CEQA: Under Section 15268 of the California Environmental Quality Act (CEQA)
Guidelines.

RECOMMENDATION

Adopt as an emergency measure by a four-fifths vote, a temporary 45-day urgency moratorium on the issuance of any occupancy permits and business licenses for new incompatible uses in downtown Pacific Grove.

DISCUSSION

The Community Development Department received a letter from the Pacific Grove Chamber of Commerce (Attachment 3) requesting a moratorium on the allowance of future benefit/consignment and resale shops. This is but one example of incompatible (but currently allowed) uses allowed in the Commercial Downtown (C-D) Zoning District

There are presently 12 benefit/consignment/resale shops in downtown (see Attachment 2). These types of shops are currently broadly permitted under the auspices of the Zoning Code and more specifically, the Commercial Downtown (C-D) Zoning District. While we highly appreciate the social values of benefit/consignment/resale shops, we believe there may be an over-proliferation of such establishments in the concentrated downtown area.

The Zoning Code does not list every single permitted or prohibited use in the downtown. There are some limitations/prohibitions on a few retail uses (e.g., adult-oriented uses, alcoholic beverage sales). Other currently unregulated commercial retail uses are permitted downtown, but are incompatible and negatively affect the City's emerging revitalization efforts. These uses can stymie economic vitality, may result in a threat to public health, safety and welfare, and may not be compatible with existing and potential uses. These uses include:

- Pawn Shops
- Electronic Cigarette (Vapor/Vape) Shops
- Check Cashing Stores
- Bail Bonds
- Storefront Churches (religious assembly)
- Gold and Silver Exchange Stores
- Auction Houses (existing may remain)
- Automobile Rental

- Recreational Vehicle Sales (including boats)
- Tire Sales and Repair
- Kennels or Pet Boarding (when not associated with an animal hospital)
- Blood, Plasma Sale Centers
- Body Piercing and Tattoo Shops (on Ground Floor, only)

Over-proliferation and concentration of any type of land use is always a cause for concern and review. Too many similar business types may begin to alter the perception of a commercial district such as our downtown. A successful downtown should have a varied mix of pedestrian-oriented ground floor retail uses to be successful. It is not the intent of this urgency ordinance to impact any existing benefit/consignment/resale shops. This is a temporary measure to deny future occupancy permits and business licenses for such establishments until City staff and Planning Commission can effectively study the situation and recommend a permanent solution.

It is the City's intent to consider incompatible uses that are currently permitted but have not located in the downtown at this time. The City Council holds authority, pursuant to its police power and in accord with Government Code § 65858, to impose a moratorium by four-fifths vote, and create more stringent temporary land use controls and other limitations based on documented health, safety, and general welfare concerns. State law provides that the interim moratorium ordinance shall be of no further force and effect 45 days after adoption. After notice pursuant to Government Code § 65090 and public hearing, the Council may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension also requires a four-fifths vote. No more than two extensions may be adopted. As an alternative, after notice pursuant to Section 65090 and public hearing, the Council may choose to extend the interim ordinance for 22 months and 15 days.

The requested 45-day urgency ordinance gives City staff and Planning Commission the time needed to ascertain if these are uses that should ultimately be prohibited from locating in the downtown. If needed, State law allows enactment of a separate, subsequent ordinance to extend the moratorium into 2016 or 2017, as may be directed by Council. Government Code § 65858 (d) also provides that ten days prior to the expiration of the moratorium created by the interim ordinance or any extension, the City Council shall issue a written report describing measures taken to alleviate the condition which led to the adoption of the ordinance.

All of these uses are currently allowed (not specifically prohibited) in downtown. The only required permit is a Business License. Prior to obtaining a Business License, the applicant must receive an Occupancy Permit from the Community and Economic Development Department. An over-concentration of these uses can have a negative impact on other retail merchants and hospitality providers such as restaurants. The urgency in this matter occurs at a time when our downtown has some key ground floor properties for lease. Those spaces and locations are felt to be great opportunities to promote active ground floor retail uses that support the revitalization of the district.

Based upon the foregoing, the City wishes to consider developing new, specific regulations that seek to limit or prohibit the number of incompatible uses in our downtown. It bears repeating, that the study will not prohibit existing shops from continuing to operate. The requested 45-day period gives City staff and the Planning Commission adequate time to look into this situation and suggest zoning modifications as needed. These use restrictions would be discussed with the Planning

Commission at a public hearing and any proposed modification to the Downtown Commercial District would be forwarded back to the City Council.

Article 15(d) of the City Charter states: *Notwithstanding the five day waiting period required in (c), immediately hereinabove, any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health, safety or public welfare, and containing the reasons for its urgency, may be introduced and if passed by a vote of no fewer than five members of the Council shall become effective immediately.*

The recommended action qualifies for a statutory exemption for emergency projects under section 15268 of the California Environmental Quality Act (CEQA) Guidelines.

OPTIONS

1. Do nothing.
2. Modify the proposed urgency ordinance.
3. Do not adopt the emergency ordinance and direct staff and the Planning Commission to return with a permanent ordinance.

FISCAL IMPACT

No direct immediate impact to the City except for a small number of potential business licenses.

ATTACHMENTS

1. Ordinance No 15-___
2. Map of thrift/consignment/resale establishments in downtown
3. Chamber letter, dated March 26, 2015

RESPECTFULLY SUBMITTED,



Mark Brodeur
Community and Economic Development Director

REVIEWED BY,



Thomas Frutchey
City Manager

ORDINANCE NO. 15-_____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE IMPOSING A TEMPORARY MORATORIUM ON ESTABLISHMENT AND OPERATION OF NEW INCOMPATIBLE USE TYPES IN THE C-D ((DOWNTOWN COMMERCIAL) ZONE THAT THREATEN PUBLIC HEALTH AND SAFETY AND WELFARE

WHEREAS, land uses in Pacific Grove are established by ordinance and codified in Pacific Grove Municipal Code (PGMC) Chapter 23, “Zoning;” and

WHEREAS, the allowable land uses in the downtown area are referenced in the C-D (Downtown Commercial) District, Chapter 23.31, Table 23.31.030 of the PGMC; and

WHEREAS, the Downtown Commercial zoning district is intended to provide for a range of uses including retail, restaurants, services, entertainment, and upper floor residential, and other compatible uses that enhance the vitality and character of the city’s commercial core; and

WHEREAS, there are a multitude of incompatible uses that are not specifically prohibited in the Downtown; and

WHEREAS, it would be useful to consider the negative impacts of such uses on the vitality and character of the city’s commercial core; and

WHEREAS, land uses such as pawn shops, check cashing stores, bail bonds, storefront churches, vapor cigarette sales, gold and silver exchange stores, automobile rental, recreational vehicle sales/repair, tire sales and repair, freestanding kennels, blood/plasma sale centers and body piercing/tattoo parlors may currently be established with only a simple business license; and

WHEREAS, these types of potentially incompatible uses, if allowed to proliferate, can seriously erode the quality and vitality of our downtown; and

WHEREAS, currently there also is a perceived oversaturation of thrift/consignment/resale uses in the downtown, which is a concern. This concern was brought forward by the Pacific Grove Chamber of Commerce, as continued oversaturation can possibly negatively impact revitalization efforts; and

WHEREAS, City staff and members of the public request an immediate moratorium on the allowance of any of the incompatible uses until staff and the Planning Commission have had an opportunity to study the positive and negative impacts of unrestricted retail commercial uses in the downtown; and

WHEREAS, the City Council holds authority, pursuant to its police power and in accord with Government Code § 65858, to enact this interim moratorium; and

WHEREAS, this moratorium enacted by this measure qualifies for a Statutory Exemption for Emergency Projects under Section 15268 of the California Environmental Quality Act (CEQA) Guidelines.

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

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

SECTION 2. The City Council finds and declares this ordinance is required for the immediate preservation of the public peace, health and safety for the following reasons: to prevent irreversible incompatible development from occurring pending adoption of a permanent ordinance(s) by preventing the construction and placement of land uses that would undermine the revitalization efforts in downtown and impact the development of a Downtown Specific Plan in the future. This circumstance it found and declared to pose a current and immediate threat to the public health, safety, or welfare, and approval of additional incompatible uses, or any other applicable use entitlement for those purposes, would result in that threat to public health, safety, or welfare.

SECTION 3. The City Council declares this ordinance is necessary in order to: 1) avoid the oversaturation of incompatible uses as listed in Section 4; 2) promote orderly arrangement of a variety of local and tourist serving retail uses; 3) preserve the pedestrian character of the downtown with active first floor uses; and 4) safeguard and protect the public health, safety, and general welfare.

SECTION 4. The uses and activities set forth in this section are currently allowed within the C-D (Downtown Commercial) District, PGMC Chapter 23.31. The listed unregulated commercial uses are incompatible and tend to negatively affect the City's commercial revitalization efforts. This ordinance prohibits issuance of any occupancy permits and/or business licenses for the following new uses in Downtown Commercial District:

- Pawn Shops
- Thrift Shops
- Consignment Shops
- Resale Shops
- Electronic Cigarette (Vapor/Vape) Shops
- Check Cashing Stores
- Bail Bonds
- Storefront Churches (religious assembly)
- Gold and Silver Exchange Stores
- Auction Houses
- Automobile Rental
- Recreational Vehicle Sales (including boats)

- Tire Sales and Repair
- Kennels or Pet Boarding (when not associated with animal hospital)
- Blood, Plasma Sale Centers
- Body Piercing and/or Tattoo Shops (prohibition on Ground Floor, only).

SECTION 4. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses, or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 7. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement this Ordinance.

SECTION 8. This ordinance has been adopted by at least five members of the City Council as an emergency measure as it protects the public peace, health, safety and welfare and as such takes immediate effect.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this 15th day of April, 2015, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

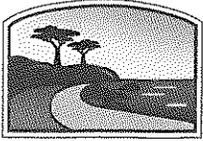
BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney



PACIFIC GROVE
CHAMBER OF COMMERCE
& TOURIST CENTERS

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CITY OF PACIFIC GROVE

March 26, 2015

Mayor Bill Kampe
City Manager Tom Frutchey
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

Subject: Benefit Shops and Consignment Stores Moratorium

Pacific Grove Chamber of Commerce Board of Directors discussed the topic of benefit shops and consignment stores. There are 13 such businesses in Pacific Grove that are operated privately or by a nonprofit. While we highly appreciate the social values of benefit shops, we believe that we need to preserve prime commercial space for businesses that will further improve the tenant mix.

Our letter is based on requests from merchants and feedback from residents who care about the direction of the business community. Furthermore, the above topic was discussed with Jacquie Atchison chairperson of the Economic Development Commission and Mark Brodeur, Community and Economic Development Director.

Urgent action is required since two commercial spaces on Lighthouse will be vacant and several benefit shops have expressed an interest in opening at these locations.

Thank you for your consideration and serving the people of Pacific Grove.

Sincerely,

Moe Ammar
President

cc: Councilman Ken Cuneo - Chamber Liaison
Jacquie Atchison - Chairperson
Mark Brodeur - Community and Economic Development Director