

ORDINANCE NO. 15-010

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 OR 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)
- Dollar Stores

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: Mayor Kampe, Councilmembers, Cuneo, Huitt, Lucius, Miller, Peake

NOES: None

ABSENT: Councilmember Fischer

APPROVED:

BILL KAMPE

ATTEST:

SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney