



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

AGENDA REPORT

TO: Honorable Mayor and Members of City Council
FROM: Mark Brodeur, Director, Community and Economic Development
MEETING DATE: June 17, 2015
SUBJECT: Ordinance to Amend the Zoning Code Regarding Incompatible Uses and the Concentration of benefit/resale/consignment stores in the downtown.
CEQA: Does not Constitute a "Project" per California Environmental Quality Act (CEQA) Guidelines.

RECOMMENDATION

Hold second reading of Zoning Code amendment to prohibit incompatible uses from the downtown commercial (C-D & C-1-T) zoning districts and to limit the total number of benefit/resale/consignment stores allowed in the (C-D & C-1-T) districts to 12 (with a maximum of 2 on Lighthouse Avenue).

DISCUSSION

1. Limiting the Number of Benefit/Resale/Consignment Establishments

The Community Development Department received a letter from the Pacific Grove Chamber of Commerce (Attachment 2) requesting a moratorium on the allowance of future benefit/consignment and resale shops in the Downtown.

There are presently 12 benefit/consignment/resale shops downtown. These types of shops are currently broadly permitted under the auspices of the Zoning Code and more specifically, the downtown commercial (C-D & C-1-T) zoning districts. While one can appreciate the social values of benefit/consignment/resale shops, there is an over-proliferation of such establishments in the concentrated downtown area.

Over-proliferation and concentration of any type of land use is always a cause for concern and review. Too many similar business types 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. The proposed Ordinance would limit the total number of these types of establishments to the current number of twelve.

The Planning Commission considered this item at a public hearing on May 7th and recommended approval of the limitation of 12 Benefit/Resale/Consignment shops in the downtown and further, to restrict the total number on Lighthouse Avenue to two such establishments.

2. Incompatible Uses in the Downtown Commercial Districts

The economic vitality of downtown Pacific Grove is dependent upon small independent businesses selling imaginative, quality, non-mass produced products that cannot be found, or are in limited supply, elsewhere in the area.

The Zoning Code does not contain an exhaustive list of every permitted or prohibited use in the downtown commercial (C-D & C-1-T) zoning districts. There are limitations/prohibitions on a few retail uses (e.g., adult-oriented uses, alcoholic beverage sales). Other currently unregulated commercial retail uses are permissible downtown, but are incompatible and will 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 are not conducive with the unique local serving retail found in our pedestrian-oriented downtown. These uses include:

- Pawn Shops
- Electronic Cigarette (Vapor/Vape) Shops
- Check Cashing Stores
- Bail Bonds
- Public Meeting Halls or Places of 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)
- Dollar or 99 Cent Stores

Our General Plan supports the limiting of incompatible uses, as follows:

POLICY 2: *Ensure that new development is compatible with adjacent existing development.*

POLICY 13: *Assure that new commercial development is designed to avoid the appearance of strip commercial*

POLICY 15: *Encourage land uses that generate revenue to the City while maintaining a balance with other community needs, such as housing, open space and recreation.*

2.15.3 Commercial

Downtown (D). *This designation provides for retail and services uses, offices, restaurants, entertainment and cultural facilities, multi-family residential units above ground floor, gasoline service stations, public and quasi-public uses, and similar compatible uses.*

The Planning Commission met on May 7th to consider this item, and recommends that the City Council ban the incompatible uses listed in the downtown. The Zoning Code restricts certain retail uses from the downtown zoning districts. Those uses can be found on the Table under Section 23.31.030 specifically under "Retail - general, except the following:" However, this list is rather incomplete and the recommendation is to add incompatible uses under this section of the Table. See revised Table in the attached Ordinance.

In between first and second reading, a summary of the draft Zoning Code Ordinance, approved by the City Attorney, was published in the City's newspaper of record. There have been no changes

that have in any way amended the general scope and original purpose of the ordinance since first reading, as addressed by Article 15 (e) of the Charter.

The proposed Zoning Code amendment does not result in any new or significant impacts to the environment because it is either more protective or procedural in nature.

OPTIONS

1. Do nothing.
2. Recommend adoption of the Zoning Ordinance amendment.

FISCAL IMPACT

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

ATTACHMENTS

1. Ordinance No 15-xx____
2. Chamber of Commerce Letter, dated March 26, 2015

RESPECTFULLY SUBMITTED,

REVIEWED BY,



Mark Brodeur, Director
Department of Community & Economic Development

Thomas Frutchey
City Manager

ORDINANCE NO. 15 – XXX

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING PACIFIC GROVE MUNICIPAL ZONING CODE
SECTION TABLE 23.31.030 TO ADD RESTRICTED
COMMERCIAL USES AND ADDING CHAPTER 23.34 TO
ESTABLISH LIMITED DOWNTOWN COMMERCIAL USES**

WHEREAS, the Pacific Grove Municipal Code (PGMC) for the City of Pacific Grove (“City”) controls land use through Section 23-Zoning and;

WHEREAS, the Zoning Code contains tables which govern the allowable land uses and permit requirements; and

WHEREAS, Zoning Code Table 23.31.030 lists an extensive number of retail uses that are permitted in the various Commercial and Industrial Zoning Districts; and

WHEREAS, the allowable land uses in the downtown area are referenced in the downtown zoning districts (C-D) & (C-1-T), Chapter 23.31, Table 23.31.030 of the PGMC, and,

WHEREAS, the downtown zoning districts (C-D) & (C-1-T) are intended to provide for a range of uses including retail, restaurants, services, entertainment, and upper floor residential, and other compatible uses which enhance the vitality and character of the city’s commercial core, and,

WHEREAS, Table 23.31.030 does not contain an extensive list of incompatible uses in the Commercial and Industrial Zoning Districts; and

WHEREAS, the revitalization efforts for downtown can be irreparably damaged by the allowance of incompatible land uses; and

WHEREAS, incompatible land uses such as pawn shops, check cashing stores, bail bonds, meeting halls or places of assembly, vapor cigarette sales, gold and silver exchange stores, automobile rental, recreational vehicle sales/repair, tire sales and repair, freestanding kennels, 99 cent/dollar stores, blood/plasma sale centers and body piercing/tattoo parlors are presently not restricted in the downtown commercial districts; and

WHEREAS, the restriction of such incompatible uses in the downtown is consistent with the Goals, Policies and Programs of the Pacific Grove General Plan; and

WHEREAS, these uses will be permitted in other Commercial Districts; and

WHEREAS, the over-proliferation of certain allowed uses can also irreparably damage the revitalization efforts in the downtown; and

WHEREAS, the Pacific Grove Chamber of Commerce requested that the City control the over-proliferation of benefit/consignment/resale establishments in the downtown commercial district; and

WHEREAS, the Pacific Grove City Council enacted a 45 urgency moratorium to give the Planning Commission time to consider the Zoning Code amendment; and

WHEREAS, The Pacific Grove Planning Commission considered the Zoning Code amendment at their regularly scheduled meeting on May 7th, 2015 and unanimously support the proposed Zoning Code amendment; and

WHEREAS, the enactment of this ordinance will help protect the public peace, health and safety of the City and its inhabitants; and

WHEREAS, the proposed Zoning Code amendment does not result in any new or significant impacts to the environment because it is either more protective or procedural in nature; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY 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 that this ordinance is required for the long term preservation of the downtown for the following reasons. This ordinance is necessary to prevent irreversible incompatible development from placement of land uses that would undermine the revitalization efforts in downtown and impact the development of a Downtown Specific Plan in the future.

SECTION 3. The City Council declares this ordinance necessary in order to 1.) Avoid the oversaturation of thrift/consignment/resale shops. 2.) Promote the orderly arrangement of a variety of local and tourist serving retail uses. 3.) Preserve the pedestrian character of the downtown with compatible first floor uses. 4.) Safeguard and protect the public health, safety, and general welfare.

SECTION 4. Existing Municipal Code Section 23.31.030 of Chapter 23.31 entitled "Commercial and industrial zoning districts allowable land uses and permit requirements," shall be amended by the deletion of all text shown in ~~strikeout text~~ and by addition of all text shown in red, bold, italic underscored text (***bold, italic, underscored text***), as follows on the next page.

Table 23.31.030 Commercial and Industrial Zoning Districts Allowable Land Uses and Permit Requirements

Use	Specific Use Regulations (PGMC)	C-1 ¹	C-1-T ¹	C-D ¹	C-FH ¹	C-2	C-V ¹	I
Retail Sales								
Restaurant, drive-in/drive-through (not formula) – w/ no alcohol sales	23.64.134; if formula, see also 23.64.115	--	--	--	UP	--	--	--
Retail – general, except the following:		P ²	P ²	P ²	P ²	P ³	P ²	UP
Adult-oriented sales		UP ⁷	UP ⁷	--	UP ⁷	--	--	--
Alcoholic beverage sales		UP	UP	UP	UP	UP	AUP ²	--
<u>Auction Houses</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Automobile Rental</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Bail Bonds</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Blood, Plasma, Tissue Donation</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Body piercing/Tattoo Parlor</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Check Cashing Stores</u>		:	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Dollar/99 Cent Stores</u>		:	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Electric Cigarette/E-Vapor</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Gold & Silver Exchange Stores</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Kennels or Pet Boarding**</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

Table 23.31.030 Commercial and Industrial Zoning Districts Allowable Land Uses and Permit Requirements

Use	Specific Use Regulations (PGMC)	C-1 ¹	C-1-T ¹	C-D ¹	C-FH ¹	C-2	C-V ¹	I
<u>Pawn Shops</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Recreational Vehicle Sales</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Meeting Halls or Places of Assembly</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Tire Sales & Repair</u>		<u>P</u>	:	:	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Businesses from which minors excluded by law or owner		UP	UP	UP	UP	UP	UP	--
Floor area over 10,000 sf		AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	AUP ³
Operating between 12:00 a.m. and 7:00 a.m.		UP	UP	UP	UP	UP	UP	UP
Outdoor storage or displays		AUP	AUP	AUP	AUP	AUP ¹	AUP	AUP ¹
Retail – restricted		UP	UP	--	UP	UP	UP	UP
Wine bar	<u>23.64.290</u>	AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	AUP ³
Wine tasting room	<u>23.64.290</u>	AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	AUP ³

** When not associated with a Veterinary Clinic

SECTION 5. New Municipal Code Section 23.34 entitled “Limited Downtown Commercial (C-D) & (C-1-T) Uses,” shall be created by the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***) as follows:

Chapter 23.34
LIMITED DOWNTOWN COMMERCIAL (C-D)(C-1-T) USES

Sections:

23.34.010 Purpose.

23.34.020 Numerical and Size Limitations Established.

23.34.030 Procedure for Establishing a Restricted Commercial Use.

23.34.010 Purpose.

These regulations are intended to preserve Pacific Grove’s downtown character as a historic district and perpetuate a balance of land uses that are compatible in a downtown environment. These regulations will implement the General Plan and:

A. Maintain a mix of commercial uses that is compatible with downtown’s historic character;

B. Promote a broad range of goods and services that avoids the dominance of any single type of use and provides a variety of options to the City’s residents and visitors;

C. Encourage the development of second floor residential uses above ground floor retail and service uses in the downtown commercial (C-D)(C-1-T) Districts by limiting commercial uses that may generate noise, criminal activity, and litter;

D. Promote the establishment of unique, quality commercial uses that serve the intellectual, social, material, and day-to-day needs of the local community and visitors;

E. Protect and enhance the balanced mix of uses in the downtown commercial (C-D)(C-1-T) Districts, particularly along Lighthouse Avenue, to ensure a high quality, pedestrian-oriented commercial environment providing a variety of goods and services to local residents;

F. Encourage uses that generate revenue for the City;

G. Discourage the type of establishments that may displace businesses that supply residents with essential goods and services;

23.34.020 Numerical and Size Limitations Established.

Table 23.34.20 - lists the numerical and size limitations for certain restricted uses consistent with the land use regulations for zoning districts in the City in which they may be located and the purposes of the chapter.

<u>Table 23.34.20: Limitations on Restricted Commercial Uses</u>			
<u>Use</u>	<u>Limit on the Number Allowed</u>	<u>Other Limitations</u>	<u>Type of Permit Required</u>
<u>Benefit/Resale/Consignment</u>	<u>12 in total and only 2 permitted on Lighthouse Avenue</u>	<u>Uses may be located on an upper floor in the (C-D)(C-1-T) downtown commercial zones</u>	<u>Occupancy Permit Business license</u>
<u>Reserved</u>			
<u>Reserved</u>			

23.34.030 Procedure for Establishing a Restricted Commercial Use.

A. Acceptance of Applications. The Department of Community and Economic Development (the Department) shall maintain an inventory of commercial uses subject to the numerical limitations set forth in this chapter. Each proposed change in land use or project for which an occupancy/business license application is submitted shall be evaluated to determine whether its approval would result in a net increase in the number of establishments or units that would exceed the limitations set forth in 23.34.020. All applications to establish a land use subject to such limitation shall be returned to the applicant or denied if the approval of such use would exceed the limits specified. Applications that affect but would not result in a net increase in the number of establishments subject to limitation may

be accepted and processed. Numerically limited uses approved by the City shall be physically established and in operation within six months of the date of approval. Failure to establish the use shall void the approval.

B. Reservation of Allocation. For approvals of numerically limited uses associated with construction activity (e.g., such as when a building addition or renovation has been approved for occupancy by the use) the six-month period for establishment shall be dated from issuance of a certificate of occupancy.

SECTION 5. If any provision, section, paragraph, sentence, clause, or phrase of these ordinances, 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 the Ordinances, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have recommended adoption of 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 6. Upon adoption by the City Council, these ordinances shall cause republication of Section 23.31.030 and publication of Section 23.34 of the Pacific Grove Municipal Code.

PASSED AND RECOMMENDED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE this ____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

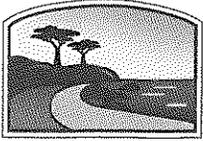
BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

DAVE LAREDO, City Attorney



PACIFIC GROVE
CHAMBER OF COMMERCE
& TOURIST CENTERS

RECEIVED
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2015 MAR 26 P 2:49
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