



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

AGENDA REPORT

TO: Planning Commission
FROM: Mark Brodeur, Community and Economic Development Director
MEETING DATE: May 3, 2018
SUBJECT: Refining the Permitted Ground Floor Uses on Lighthouse Avenue In Downtown C-D Zoning District
CEQA: Categorically Exempt CEQA Guidelines Sec 15305 (Class 5-Minor Alterations in Land Use Limitations)

RECOMMENDATION

Direct staff to return with appropriate final Ordinances to modify Land Use Table 23.31.030 for the C-D Zoning District that restricts/limits some uses on the ground floor on Lighthouse Avenue only.

BACKGROUND

This item comes to you in draft ordinance form as directed by the Commission at its regularly scheduled meeting on April 5th, 2018. This item has been reviewed by the Economic Development Commission, Business Improvement District and the Planning Commission on several previous dates.

The purpose of this ordinance is to assure that the commercial uses on the ground floor of Lighthouse Avenue are the type of uses that are “active ground floor uses” that embellish the shopping experience along our “Main Street.”

"Active ground floor use" means a use that promotes an active pedestrian environment on the ground floor of a commercial building, and includes retail establishments, restaurants and catering establishments, bars and brew pubs, art and craft studios, wine tasting, and other such uses.

Inactive ground floor uses that discourage this type of pedestrian activity include general offices, medical clinics, auto sales and offices and exercise/dance/yoga/ gyms. While these uses play an important role in the overall City business mix, they are more appropriate on upper floors or side streets that intersect Lighthouse Ave.

Leasing first-floor tenant space to retail businesses and restaurants along Lighthouse Avenue is a priority since retail is generally restricted to ground-floor locations and because concentrations of retail businesses with storefront displays add interest to the streetscape and encourage pedestrian activity. In addition, retail shops and restaurants are more likely than most offices to remain open in the evenings and on weekends. This draws customers and thereby increases the Downtown’s economic viability.

However, the negatives for this mandatory zoning approach were determined to include the following:

- Such restrictions could impose an economic burden on Lighthouse property owners who have made an investment in the Downtown by forcing them to accept lower rents or to leave a space vacant for a longer period of time, especially during times of recession or slow economic periods.
- Retail-only restrictions might be out-of-step with the preponderance of online shopping such as Amazon.
- The intrusion of offices into the Downtown ground-floor space is a concern but not a major threat since: (1) the rents for office and retail are currently roughly comparable, and the current inventory of cheaper upper floor spaces currently exists downtown; and (2) restaurants are the Downtown's strength as a retail district, and restaurants do not lend themselves to easy conversion to office or other uses.

DISCUSSION

There are other uses, currently not allowed in downtown which the Economic Development Commission suggested should be allowed with an Administrative Use Permit (AUP) because they meet the goal of pedestrianizing "active-uses" on Lighthouse Avenue. The uses that are currently prohibited include:

Microbrewery. CEDD staff feels that enough similar uses to bar/tavern/nightclub are already permitted with food service, thus a specific prohibition on microbreweries for these uses seems odd at best.

Uses that are *currently permitted* but suggested for restriction (either prohibited or subject to Admin. Use Permit) from locating on **ground floor along Lighthouse Avenue** include:

- Research and Development Facility (prohibit)
- Health/fitness/dance/yoga Studio (prohibit)
- School (specialty), including dance schools. (prohibit)
- Automobile vehicle sales and rental. (prohibit)
- Medical Service clinic, lab, office. (prohibit)
- Office, business or professional (Administrative Use Permit)

CEQA

Categorically Exempt CEQA Guidelines Sec 15305 (Class 5-Minor Alterations in Land Use Limitations)

OPTIONS

1. Suggest other restricted uses or allowance of some restricted uses.
2. Take no action.

FISCAL IMPACT

No direct impact on City Budget resources.

ATTACHMENTS

1. Draft Ordinance Language

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "Mark Brodeur". The signature is fluid and cursive, with a large loop at the end of the last name.

Mark Brodeur
Community & Economic Development Director

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DRAFT ORDINANCE LANGUAGE

ORDINANCE NO. 18 – XXX

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING PACIFIC GROVE MUNICIPAL ZONING CODE
SECTION TABLE 23.31.030 TO ADD RESTRICTIONS TO THE
TYPES OF LAND USES THAT WOULD BE PERMITTED FROM
LOCATING ON THE GROUND FLOOR OF ANY BUILDING ON
LIGHTHOUSE AVENUE**

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) Table 23.31.030 of the PGMC; and,

WHEREAS, the downtown primary downtown zoning district (C-D) is 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 limit the types of land uses that are located on the ground floor of a building located on our primary downtown street; and

WHEREAS, the revitalization efforts for downtown can be irreparably damaged by the allowance of incompatible land uses on ground floors on Lighthouse Avenue that are not active pedestrian/retail uses; and

WHEREAS, incompatible ground floor uses on Lighthouse Avenue such as research and development, health and fitness studios, specialty schools, automobile sales and service, medical labs and rehabilitation offices are presently not restricted from the ground floors along Lighthouse Avenue; and

WHEREAS, these restricted ground floor uses will be continue to be permitted in the downtown on side streets and upper floors along Lighthouse Avenue and permitted in other Commercial Districts; and

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WHEREAS, there are land uses on Table 23.31.030 that are currently prohibited from the Downtown Commercial District that are in line with revitalization efforts such as residential condominiums (excluding timeshare) and microbreweries; and

WHEREAS, the restriction of such incompatible uses from ground floors on Lighthouse Avenue and the allowance of some currently prohibited uses is consistent with the revitalization of downtown; and

WHEREAS, the over-proliferation of certain inactive uses along Lighthouse Avenue can irreparably damage the revitalization efforts in the downtown; and

WHEREAS, the Pacific Grove Economic Development Commission, Business Improvement District and Planning Commission recommended limiting some uses from the ground floor of Lighthouse Avenue;

WHEREAS, The Pacific Grove Planning Commission considered the Zoning Code amendment at their regularly scheduled meeting on June __, 2018 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 along ground floors of Lighthouse Avenue that would undermine the revitalization efforts in downtown.

SECTION 3. The City Council declares this ordinance necessary in order to 1.) Provide active pedestrian retail and restaurant uses along Lighthouse Avenue. 2.) Promote the orderly arrangement of a variety of local and tourist serving retail uses. 3.) Preserve the pedestrian character of the Lighthouse Avenue with compatible ground floor uses. 4.) Safeguard and protect the public health, safety, and general welfare.

SECTION 4. Existing Municipal Code Table 23.31.030 of Chapter 23.31 entitled “Commercial and industrial zoning districts allowable land uses and permit requirements,” shall

be amended by adding an End Note eleven (11) that will read “***11. Not permitted on the ground floor on Lighthouse Avenue within the C-D District only.***” the deletion of all text shown in strikeout text (~~strikeout text~~) and by addition of all text shown in red, bold, italic underscored text (***bold, italic, underscored text***), as follows below.

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
Industry, Manufacturing and Processing								
Contract construction – no outdoor storage		P ²	P ²	--	P ²	P ^{3,4}	P ²	P ³
Contract construction – outdoor storage		--	--	--	--	P ^{3,4}	UP	UP
Construction, large-scale equipment sales and rental		--	--	--	--	P ^{3,4}	UP	UP
Industrial, light		UP	UP	--	UP	AUP ^{3,4}	UP	AUP ^{3,4}
Recycling facility		UP	UP	--	UP	UP	UP	UP
Research and development facility		AUP ²	AUP ²	AUP ^{2,11}	AUP ²	AUP ³	AUP ²	AUP ³
Storage – self-storage facility		--	--	--	--	AUP ³	AUP ²	AUP ³
Warehousing, wholesaling and distribution		--	--	--	--	P ³	P ²	P ³
Recreation, Education and Public Assembly								
Commercial recreation facility – indoor (≤ 10,000 sf)	7.08, 7.12, 23.64.035	P ²	P ²	P ^{2,11}	P ²	P ³	P ²	P ³
Commercial recreation		AUP ²	AUP ²	--	--	AUP ³	AUP ²	AUP ³

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Use	Specific Use Regulations (PGMC)	C-1 ¹	C-1-T ¹	C-D ¹	C-FH ¹	C-2	C-V ¹	I
facility – outdoor								
Community garden		AUP ⁵	AUP ⁵	AUP ⁵	AUP ⁵	AUP ⁵	AUP ⁵	--
Health/fitness studio (≤ 10,000 sf)		P ²	P ²	P ^{2, 11}	P ²	P ³	P ²	P ³
Meeting facility, public or private (≤ 10,000 sf)		P ²	P ²	P ²	P ²	P ³	P	P ³
Park, playground (public)		P ²	P ²	P ²	P ²	P ³	P ²	P ³
Public or quasi-public facility (≤ 10,000 sf)		P ²	P ²	P ²	P ²	P ³	P ²	P ³
School, specialty (≤ 10,000 sf)		P ²	P ²	P ^{2, 11}	P ²	P ³	P ²	--
Theater or auditorium (≤ 10,000 sf)		P ²	P ²	P ²	P ²	P ³	P ²	P ³
Residential								
Accessory building or structure		P	P	P	P	P	--	UP
Condominium		UP	UP ⁶	UP	UP	UP	--	UP
Duplex		P	P	P	P	P	--	UP
Dwelling group		UP	UP	UP	UP	UP	--	UP
Emergency shelters						P ⁹		
Home business	23.16	P	P	P	P	P	--	UP
Large family day care home		UP	UP	UP	UP	UP	--	--

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Mixed-use (residential above or behind commercial)		P ²	P ²	P ²	P ²	P ³	--	--
Mobile home park		--	--	--	--	UP	--	UP
Multifamily dwelling								
7 or fewer units	23.28.020	P	P	P	P	P	--	UP
8 or more units	23.28.020	UP	UP	UP	UP	UP	--	UP
Residential care								
Housing 6 or fewer persons		10	10	10	10	10	10	10
Housing 7 or more persons		UP	UP	UP	UP	UP	--	UP
Rooming and boarding house		UP	UP	UP	UP	UP	--	UP
Second unit	23.80	P	P	P	P	P	--	UP
Single-family dwelling		P	P	P	P	P	--	UP
Retail Sales								
Automobile/vehicle sales and rental		AUP ²	AUP ²	AUP ² , <i>11</i>	AUP ²	AUP ³	AUP ²	AUP ³
Automobile/vehicle service station		AUP ²	AUP ²	--	AUP ²	AUP ³	AUP ²	AUP ³
Bar/tavern/nightclub		--	--	--	--	--	--	--
Brew pub with food service	23.64.290	AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	--

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Farmers market		UP	UP	UP	UP	UP	UP	--
Flea market		UP	UP	UP	UP	UP	UP	--
Micro-brewery	23.64.290	--	--	AUP	UP	UP	UP	UP
Pub or sports bar with food service	23.64.290	AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	--
Restaurant, general and formula general								
w/ no alcohol sales	23.64.134	P ²	P ²	P ²	P ²	P ³	P ²	--
w/ alcohol sales	23.64.134 , 23.64.290	AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	--
Restaurant, specialty (not formula)								
w/ no alcohol sales	23.64.134 ; if formula, see also 23.64.115	P ²	P ²	P ²	P ²	P ³	P ²	--
w/ beer and wine sales only	23.64.134 , 23.64.290 ; if formula, see also 23.64.115	AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	--
Restaurant, fast food (not formula) – w/ no alcohol sales	23.64.134 ; if formula, see also 23.64.115	AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	--
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	--	--	--

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Use	Specific Use Regulations (PGMC)	C-1'	C-1-T'	C-D'	C-FH'	C-2	C-V'	I
Alcoholic beverage sales		UP	UP	UP	UP	UP	AUP ²	--
Auction houses		P	--	--	P	P	P	P
Automobile rental		P	--	--	P	P	P	P
Bail bonds		P	--	--	P	P	P	P
Blood, plasma, tissue donation		P	--	--	P	P	P	P
Body piercing/tattoo parlor		P	--	--	P	P	P	P
Check cashing stores		--	--	--	P	P	P	P
Dollar/99 cent stores		--	--	--	P	P	P	P
Electric cigarette/e-vapor		P	--	--	P	P	P	P
Gold and silver exchange stores		P	--	--	P	P	P	P
Kennels or pet boarding**		P	--	--	P	P	P	P
Pawn shops		P	--	--	P	P	P	P
Recreational vehicle sales		P	--	--	P	P	P	P
Meeting halls or places of assembly		P	--	--	P	P	P	P
Tire sales and repair		P	--	--	P	P	P	P
Businesses from		UP	UP	UP	UP	UP	UP	--

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Use	Specific Use Regulations (PGMC)	C-1 ¹	C-1-T ¹	C-D ¹	C-FH ¹	C-2	C-V ¹	I
which minors excluded by law or owner								
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 ¹¹	AUP	AUP ¹	AUP	AUP ¹
Retail – restricted		UP	UP	--	UP	UP	UP	UP
Wine bar	23.64.290	AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	AUP ³
Wine tasting room	23.64.290	AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	AUP ³
Services								
Animal keeping/training facilities or veterinary service		AUP ²	AUP ²	AUP ^{2, 11}	AUP ²	AUP ³	AUP ²	AUP ³
Automobile/vehicle repair		AUP ²	AUP ²	AUP ^{2, 11}	AUP ²	AUP ³	AUP ²	AUP ³
Bank or financial service, except the following:		P ²	P ²	AUP	P ²	P ³	P ²	P ³
Floor area over 10,000 sf at street level		AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	AUP ³
w/ drive-through		UP	UP	--	UP	UP	UP	UP

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Use	Specific Use Regulations (PGMC)	C-1 ¹	C-1-T ¹	C-D ¹	C-FH ¹	C-2	C-V ¹	I
Business support service		P ²	P ²	P ²	P ²	P ³	P ²	P ³
Car wash and detailing		AUP ²	AUP ²	--	AUP ²	AUP ³	AUP ²	AUP ³
Catering and events	23.64.290	AUP ²	AUP ²	AUP ²	AUP ²	UP	UP	UP
Equipment/appliance rental and repair		AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	AUP ³
Laundry or dry cleaning service		AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	AUP ³
Lodging								
Bed and breakfast inn –w/ beer and wine sales only	23.64.290	AUP ²	AUP ²	AUP ²	AUP ²	AUP ³	AUP ²	AUP ³
Hotel or motel	23.64.290	--	UP ⁸	--	--	--	--	--
Medical service								
Ambulance service		UP	UP	--	UP	UP	UP	UP
Clinic or lab		P ²	P ²	P ^{2, 11}	P ²	P ³	P ²	P ³
Medical office		P ²	P ²	P ^{2, 11}	P ²	P ³	P ²	P ³
Hospital		UP	UP	--	--	UP	UP	UP
Mortuary or funeral home		UP	UP	--	UP	UP	UP	UP
Office, business or professional		P ²	P ²	AUP²	P ²	P ³	UP	UP
Personal service	7.06	P ²	P ²	P ^{2, 11}	P ²	P ³	P ²	UP
Personal service –		UP	UP	UP	UP	UP	UP	UP

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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
restricted								
Printing or creative service		P ²	P ²	P ²	P ²	P ³	P ²	P ³
Transportation and Infrastructure								
Parking facility		UP	UP	UP	UP	UP	UP	UP
Public utility		UP	UP	UP	UP	UP	UP	UP
Radio or television station		UP	UP	UP	UP	UP	UP	UP
Taxi service	7.16	UP	UP	UP	UP	UP	UP	UP
Transit center		UP	UP	UP	UP	UP	UP	UP
Wireless telecommunication facility		UP	UP	UP	UP	UP	UP	UP

End Notes:

1. No merchandise, tools, machinery, equipment, or materials shall be stored or displayed outside of a building, except as specifically permitted for retail uses under an administrative use permit. Temporary administrative use permits, good for not over 30 days, may be granted, pursuant to PGMC 23.70.030(b)(7), for temporary outdoor sales events of new merchandise by merchants holding use permits or otherwise qualified to operate within the applicable district; provided, that such outdoor sales are operated in conjunction with their established retail operations, and for Christmas tree sales, or other sales on private property, connected with festivals or holidays.

2. The permit type specified in this table applies to any new or enlarged commercial use which totals 10,000 square feet or less of interior floor space. An administrative use permit is required for any new or enlarged commercial use which results in either the use of more than one structure on a building site or a total of more than 10,000 square feet of interior floor space. A use permit is required where any new or enlarged commercial use exceeds 25,000 square feet in interior floor space.

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3. A use permit is required for any new building or addition which adds more than 25,000 square feet of interior floor space or which results in a building having more than 40 feet in height.

4. Such uses may be granted subject to a use permit, when conducted within a building or enclosed by a fence, subject to architectural approval by the appropriate review authority for design and landscaping pursuant to Chapter [23.70](#) PGMC; and provided, that said fence and landscaping shall be of sufficient height and screening capacity to prevent the view thereof from any adjacent street or sidewalk.

5. Community gardens on vacant lots may be permitted by administrative use permit, pursuant to PGMC [23.70.030](#)(b)(7), and shall be reviewable every six months and subject to such conditions as the administrative use permit may prescribe. The application shall be accompanied by a written agreement by the owner to grant the city a lien for any cost incurred by the city in restoring such property to its condition prior to such use, in the event the owner fails to make such restoration after such use ceases.

6. Condominium use shall be allowed, subject to first securing a use permit in each case, and subject to the building height, site coverage, and yard requirements of this chapter. The provisions of Chapter [23.45](#) PGMC shall not apply to development of condominiums in the C-1-T district. The council shall, by ordinance, establish standards, conditions and other regulations to govern the development of condominiums in the C-1-T district. Until and unless such standards, conditions and other regulations are in place, no application for such development shall be accepted or processed. Such standards, conditions and regulations established by the council shall be in addition to and harmonious with state law governing condominium development. See also PGMC [23.31.020](#)(b)(1)(B).

7. Adult-oriented sales may comprise no more than 25 percent of floor area or stock-in-trade of a general retail business, must be located in the rear of the general retail business, and must not be visible from the exterior of the general retail business.

8. Hotel uses shall be allowed, subject to first securing a use permit in each case, and subject to the building height, site coverage, and yard requirements of this chapter. All other regulations and conditions of approval shall be as provided by use permit approved pursuant to this title. Said regulations and conditions shall include, without limitation, provisions for architectural review, land area per unit, neighborhood compatibility, landscaping, parking, traffic and accessory buildings. Required parking, if any, may be located on or off site, the location to be designated by the use permit. See also PGMC [23.31.020](#)(b)(1)(A).

9. Outside the coastal zone only. In addition to the requirements of PGMC [23.31.040](#), emergency shelters shall be subject to the following standards:

a. Maximum of 25 beds.

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b. Off-street parking shall be provided at a rate of one space per five beds plus one space per each staff person on duty.

c. On-site management shall be provided at all times the shelter is open. A management and security plan shall be prepared in consultation with the city manager or his or her designee which shall describe hours of operation; staffing; house rules and occupant screening procedures; on- or off-site services to be provided; security measures to ensure the safety of the occupants of the shelter and surrounding areas; and communications protocols to ensure effective coordination between shelter management, adjacent property owners and residents, and public safety personnel.

d. No emergency shelter shall be established closer than 300 feet from another emergency shelter, measured from the nearest property line.

e. Waiting and intake areas shall be screened from view from the public right-of-way.

10. Permitted subject to the same standards as apply to other residential dwellings of the same type in the same zone.

11. Not permitted on the ground floor on Lighthouse Avenue within the C-D District only.

**When not associated with a veterinary clinic.

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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 Table 23.31.030 and publication of the Pacific Grove Municipal Code.

PASSED AND RECOMMENDED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE this ____ day of _____, 2018, 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