



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

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Rory Lakind, Police Commander
MEETING DATE: December 19, 2018
SUBJECT: Amendment to Municipal Code §18.36.040
CEQA STATUS: Does Not Constitute a “Project” under the California Environmental Quality Act (CEQA) 15378.

RECOMMENDATION

Introduce and hold the first reading of an ordinance that amends Pacific Grove Municipal Code §18.36.040, related to camping or sleeping in trailers or motor vehicles overnight. Direct publication of the ordinance will be satisfied by publication of a summary approved by the City Attorney.

DISCUSSION

Currently, the Pacific Grove Municipal Code (PGMC or Code) 18.36.040 prohibits parking of motor vehicles on public streets for the purpose of living or sleeping. Section 14.08.010 prohibits sleeping within the limits of any public park or beach between the hours of midnight and 6:00 a.m.

In light of recent court decisions, *Martin vs. City of Boise* (2018) and *Desertrain v. City of Los Angeles* (2013), staff believes the Code is overly restrictive, and enforcement might subject it to challenge.

In *Desertrain*, the court found that a city’s ordinance, which prohibited use of a vehicle as living quarters, was unconstitutionally vague. The *Martin* case ruled that “as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter.” However, the court indicated that cities may still limit the time and place where people sit, lie, or sleep in public places.

The City has made efforts to address homeless and overnight parking of vehicles in the City. In 2016, the City adopted PGMC [18.36.050](#) that allows for the temporary sleeping in parked vehicles by permit only. Currently, there is one permit issued to a local church that allows up to five vehicles a night for the purpose of overnight sleeping, the One Starfish Safe Parking Program. Another local resource is I-HELP (Interfaith Homeless Emergency Lodging Program), which offers homeless men and women short-term lodging and evening meals on a rotating nightly basis through 30 or more Monterey peninsula churches. In addition, City Council funded the Homeless Challenge in conjunction with other local cities to award grants to One Starfish, I-HELP, the Gathering Place, the Good Samaritan Center, and the Coalition of Homeless Services Providers.

Upon review of the City ordinances, however, it was determined that Section 18.36.040, as it relates to camping and sleeping in vehicles require modifications in light of recent court decisions. City staff reviewed the code for our neighboring cities, specifically Monterey and Carmel-by-the-Sea, and research showed both cities previously modified their code with specific overnight hours. Therefore, it is recommended to modify the existing Code to better align with recent court decisions and our neighboring jurisdictions by limiting camping and sleeping overnight in vehicles, between the hours of midnight and 5:00 a.m. Note, these hours align with the overnight parking regulations found on Ocean View and Sunset.

OPTIONS

1. Provide alternative direction

FISCAL IMPACT

There is no fiscal impact.

GOAL ALIGNMENT

Operational Excellence

ATTACHMENTS

1. Ordinance

RESPECTFULLY SUBMITTED:

Rory Lakind

Rory Lakind
Commander

REVIEWED BY:

Ben Harvey

Ben Harvey
City Manager

ORDINANCE NO. 18-____

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
TO REPEAL AND REPLACE SECTION 18.36.040 OF THE PACIFIC GROVE
MUNICIPAL CODE REGARDING SLEEPING IN MOTOR VEHICLES OVERNIGHT**

FACTS

1. The Pacific Grove Municipal Code (PGMC or Code) 18.36.040 prohibits parking of motor vehicles on public streets for the purpose of living or sleeping. Section 14.08.010 prohibits sleeping within the limits of any public park or beach between the hours of midnight and 6:00 a.m.
2. The City deems it necessary and appropriate to provide regulations relating to camping or sleeping in trailers or motor vehicles overnight, and providing for the enforcement of said regulations, consistent with federal and state law limitations on that authority.
3. The City by and through its Council and other officials has the authority to adopt such ordinances as it deems necessary and appropriate to assure the health, welfare and safety of its inhabitants, to protect and preserve the City's rights, property and privileges, and to preserve peace, safety and good order.
4. This ordinance amends the Municipal Code to repeal Section 18.36.04, entitled "Motor vehicles on streets and other public property" and replace it with a new section, entitled "Camping or sleeping in trailers or motor vehicles overnight prohibited."
5. Notice of the public hearing was published or posted in _____ on _____ and _____.
6. In the enactment of this ordinance, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq. The ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential for resulting in physical change in the environment, directly or indirectly.

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

SECTION 1. The foregoing Facts are adopted as findings of the City Council as though set forth in fully within the body of this ordinance.

SECTION 2. Existing section 18.36.040, entitled “Motor vehicles on streets and other public property” shall be repealed and replaced in its entirety with a new section, entitled “Camping or sleeping in trailers or motor vehicles overnight prohibited.”

18.36.040 Camping or sleeping in trailers or motor vehicles overnight prohibited.

It shall be unlawful to park any trailer or any motor vehicle on any public street, highway, roadway, alley, parking lot, or other public place for the purposes of camping or sleeping between the hours of 12:00 p.m. to 5:00 a.m.

- (a) Statement of Purpose: The purpose of this section is to establish overnight camping or sleeping regulations on public streets, and other public places, to address concerns related to public nuisance, and health, safety, and general welfare.
- (b) Definitions: For the purposes of this section, the terms and definitions of the California Vehicle Code shall apply.
- (c) Exceptions: For the purposes of this section, the following exceptions shall apply:
 - (1) A permit as outlined in Chapter 18.36.050 PGMC.
 - (2) A permit to allow an exception to these time limitations may be issued by the chief of police or designee if it is found that the exception is warranted by unique and overriding circumstances that is in furtherance of the purpose of this section. Each permit shall be for a limited term and shall be conditioned to require renewal after that term.
- (d) Enforcement:
 - (1) Any violation of this section shall constitute an infraction and may be enforced pursuant to Chapter 1.16 and 1.19 PGMC.

SECTION 3. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 4. Severability. 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 5. In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following its passage and adoption.

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

AYES:

NOES:

ABSENT:

APPROVED:

BILL PEAKE, Mayor

ATTEST:

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

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