

ORDINANCE NO. 15-001

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
TO ENACT A SAFE SLEEPING PILOT PROGRAM THAT
TEMPORARILY MODIFIES MUNICIPAL CODE CHAPTER 18.3
AND AUTHORIZES PERMITS TO SLEEP IN A PARKED VEHICLE**

WHEREAS, in 1952, the City of Pacific Grove determined regulation of “house cars” was necessary and enacted Pacific Grove Municipal Code (PGMC) Chapter 18.36; and

WHEREAS, the Monterey Peninsula has many transient residents who are not able to sleep in locations without concern for their safety, health, or welfare. The City is concerned with the need to safeguard private property and at the same time provide opportunities for those in need to find safe and sanitary places to sleep on a near-term basis while they transition to more permanent housing; and

WHEREAS, the City desires to undertake a near-term Pilot Program to support and manage a near-term overnight parking program that will temporarily exempt a limited number of individuals from PGMC Chapter 18.36.050 “Temporarily sleeping in a parked vehicle by permit only.” This Pilot Program shall be limited by time, number of vehicles, location, and other terms and conditions, and shall allow people to sleep overnight in a parked vehicle only by permit; and

WHEREAS, this Pilot Program shall be undertaken in coordination with the provision of social services and case management for individuals who participate, the goal of which is to provide stability for vehicle dwellers and enable them to make positive changes in their lives to enhance their employment and housing circumstances as quickly as possible; and

WHEREAS, during the term of this Pilot Program, City staff shall provide Council with an analysis of data collected as to the efficacy of this effort, shall prepare as appropriate a draft ordinance amending the Pacific Grove Municipal Code to allow long-term adoption of a program that can meet the objectives of this Pilot Program, and shall provide its recommendation on that measure; and

WHEREAS, this Pilot Program enacts a time-limited exemption to PGMC Chapter 18.36 by allowing near-term permits of existing facilities that involve only negligible or no expansion of existing use. As such, this ordinance qualifies for a Class 1 (Existing Facilities) exemption as defined by California Environmental Quality Act (CEQA) Guidelines section 156301.

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

SECTION 1. Findings.

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

SECTION 2. Effect on Contrary Provisions of Municipal Code.

Chapter 18.36 shall not apply to any vehicle that or vehicle occupants who comply with a valid permit issued pursuant to this Ordinance. This ordinance shall supersede and prevail over any contrary provision of Pacific Grove Municipal Code (PGMC) Chapter 18.36.

SECTION 3. Safe Sleeping Pilot Program.

A Safe Sleeping Pilot Program shall exist in the City in accord with this Ordinance.

A. Limited Term of Pilot Program. The Safe Sleeping Pilot Program shall begin on or about February 21, 2015, and shall sunset on the first day of the 13th month after the first permit is issued under this Pilot Program.

B. Maximum Number of Permits. The maximum aggregate number of vehicles that may be permitted at any one time throughout the City pursuant to this Safe Sleeping Pilot Program ordinance shall be seven.

C. Sleeping in a Parked Vehicle Allowed Only by Permit. Exemption from PGMC Chapter 18.36 shall apply only to those persons in a qualified vehicle or house car who possess and comply with a valid permit issued pursuant to this Ordinance. Vehicles may be occupied only by approved occupants. Guests shall not be allowed. Any person or vehicle lacking a valid (and unrevoked) permit under this ordinance shall vacate and leave the property immediately upon being informed a valid Permit is lacking or has been revoked.

D. Site Locations Qualified for Permits under the Pilot Program. The location upon which a permit may be issued under this Safe Sleeping Pilot Program shall be a parking lot of a religious institution, place of worship, business, or public entity that owns or leases property on which an existing hardscaped parking lot and occupied structure are located.

E. Vehicles Qualified for a Permit Under the Pilot Program. Under this ordinance, the term “vehicle” is defined as a passenger car, passenger truck, house car, recreational vehicle, or motor home. Buses and commercial vehicles shall not qualify as a vehicle under this ordinance.

SECTION 4. Locations that Qualify for the Safe Sleeping Pilot Program.

A. Site Registration. Each property owner eligible to participate in the Safe Sleeping Pilot Program shall register the site with the City and obtain a Vehicle Occupancy Site Permit, prior to allowing any person to park or sleep in a parked vehicle overnight. Such a site is also referenced in this ordinance as the “Premises.”

B. Site Revocation. The Vehicle Occupancy Site permit may be revoked by the city manager, chief of police, or designee in accord with this ordinance. Any property owner who receives a Vehicle Occupancy Site permit to allow persons to sleep in a parked vehicle on that property shall immediately surrender that permit upon request of the city manager, chief of

police, or designee. Occupants sleeping in a parked vehicle, and the vehicle, shall immediately leave the property after the Vehicle Occupancy Site permit is revoked.

C. Site Registration Application. Each Site registration application shall include the following:

- 1) Written assurance the property owner shall be individually responsible to ensure all requirements of this ordinance and the Vehicle Occupancy Site Permit are met;
- 2) Written assurance the property owner has sole and exclusive control of the parking area to be used as the Vehicle Occupancy Site;
- 3) A site plan that shows the location of trash and recycling bins, the location of restroom facilities, the parking plan, and any lighting or security facilities;
- 4) Written assurance that on-site sanitary and trash facilities shall be available to each temporary vehicle occupant, in compliance with law and applicable building and health codes;
- 5) Written assurance the property owner is responsible for any wastewater, sewage, or waste material discharge onto or deposited upon the surface of the ground or parking area, whether as a result of leaks from plumbing fixtures, wastewater, sewage, or waste material discharge, or any other material deposited upon the surface of the ground or parking areas by an occupant of a parked vehicle on that site;
- 6) Written assurance the property owner shall remove any wastewater, sewage, or waste material discharged onto the ground or parking areas, in a manner consistent with the requirements of law, and in consultation with the County health department;
- 7) Written assurance the property owner shall provide garbage and refuse disposal services as required by PGMC Chapter 9.16, Garbage and Refuse Disposal;
- 8) Written assurance the property owner shall provide or ensure adequate site supervision. Site supervision shall include, at a minimum, providing an on-call “on site monitor” to ensure vehicles and occupants do not arrive before after 7:00 p.m. and leave by 7:30 a.m. The monitor shall also respond to neighbor, community or city inquiries. Any on site monitor must be able to be physically present on site within 30 minutes of request at any time the property is occupied. The on-site monitor shall use his/her best efforts to remedy the circumstance within 24 hours of receiving any request for corrective action.
- 9) Written assurance the property owner shall be responsible for any cost related to the towing of vehicles, removal of debris, remediating environmental violations, and/or any civil or criminal remedies related to use of a Temporary Vehicle Occupancy Permit;

10) Written assurance the property owner shall not accept payment of any fee, rent, or monetary charge for overnight sleeping in connection with the use of a Temporary Vehicle Occupancy Permit;

11) Acknowledgment the City has not participated in selection of, and does not provide supervision for, any temporary vehicle occupant. The property owner shall nonetheless provide written assurance he/she shall not impermissibly discriminate in the selection of temporary vehicle occupants based on age, disability, race, color, religion, national origin, or creed.

SECTION 5. Temporary Vehicle Occupancy Permits.

A. Vehicle Permits. Each vehicle participating in the Safe Sleeping Pilot Program shall be registered and shall possess and prominently display a Temporary Vehicle Occupancy Permit in the vehicle windshield, before any person shall be allowed to park or sleep in a parked vehicle overnight. Temporary Vehicle Occupancy Permits shall be issued solely by a valid holder of a Vehicle Occupancy Site Permit, and must be issued on a form approved by the City.

B. Occupancy Limited. Vehicles shall be occupied only by approved occupants. Guests shall not be allowed. One approved occupant shall possess a current driver's license, vehicle registration, and insurance for the vehicle.

C. Indemnification. One vehicle occupant member who stays in a vehicle under a Temporary Vehicle Occupancy Permit shall sign an indemnification and waiver form, as prepared by the City, to indemnify the City. Each vehicle occupant shall waive any claim or cause of action against the City, including relocation benefits; if the occupants include one or more minors, a responsible adult shall sign the waiver form on behalf of the minor(s).

D. Permit Issued by Property Owner. The Temporary Vehicle Occupancy Permit shall be issued only by a property owner who has registered the site pursuant to this ordinance to allow a named person or named persons to temporarily sleep overnight in a vehicle on that specific property.

E. Expiration of Vehicle Permit. Each Temporary Vehicle Occupancy Permit shall expire 30 days from the date of its issuance. Thereafter, permits may be renewed at the sole discretion of the property owner.

SECTION 6. Restrictions and Requirements for Vehicle Occupancy.

A. Vehicle Permits. Each vehicle participating in the Safe Sleeping Pilot Program shall possess a Temporary Vehicle Occupancy permit, and shall at all times comply with each restriction and requirement of this ordinance before any person shall be allowed to park or sleep in a parked vehicle overnight.

B. Compatible Use. Overnight sleeping pursuant to a Temporary Vehicle Occupancy permit shall not be allowed in any instance where the city finds this activity incompatible with uses of adjacent properties or constitutes a nuisance or other otherwise threatens the public welfare.

C. Terms and Conditions. Terms, conditions, restrictions, and requirements that apply to each vehicle and occupant participating in the Safe Sleeping Pilot Program pursuant to a Temporary Vehicle Occupancy permit include:

1) Each vehicle subject to a Temporary Vehicle Occupancy Permit shall be operable and properly registered, in accord with state and local law;

2) Vehicles subject to a Temporary Vehicle Occupancy Permit shall be occupied only by approved occupants; guests shall not be allowed. One approved occupant shall possess a current driver's license, vehicle registration, and insurance for the vehicle. Only one vehicle shall be allowed under each single Temporary Vehicle Occupancy Permit;

3) Close supervision of minor children shall be required at all times;

4) Each vehicle subject to a Temporary Vehicle Occupancy Permit shall not exceed the occupant capacity for the vehicle to be lawfully driven on a public roadway/highway;

5) Each vehicle shall remain off the Premises between the hours of 7:30 a.m. and 7:00 p.m., each day. Strict adherence to these "in and out" times is mandatory;

6) During overnight use, each vehicle shall be sited on the Premises not less than 50 feet away from any real property used for residential purposes;

7) No person shall use, store, or place outside the vehicle any items of personal property owned or used by the temporary vehicle occupant, unless (a) appropriately and safely secured to the vehicle or an attached trailer; or (b) stored within a pre-existing authorized structure on site;

8) No vehicle shall be used for any office, retail, or any other commercial purpose;

9) No drugs (excepting those possessed and used in accord with a proper prescription) and no alcohol may be consumed or contained in or within 50 feet of the vehicle;

10) No weapons or firearms of any kind may be contained in the vehicle (excepting those possessed in accord with state and federal law);

11) No fires or open flame of any kind are allowed outside the vehicle. No cooking or food preparation shall be performed outside the vehicle;

12) Urination and/or defecation outside of authorized restroom facilities is prohibited;

13) Camping tarps are prohibited;

14) No extension of electrical or water service shall be allowed from any structure to any vehicle;

15) No person shall make any noise or sound using a radio or other amplification device, in association with the Temporary Vehicle Occupancy Permit that exceeds decibel limits at the property line as specified in PGMC §11.94 and §11.96. Amplified music or other sounds shall not be played if audible outside the vehicle;

16) Pets on Premises shall be kept on a leash at all times. Animal waste shall be picked up immediately and disposed of properly. Vehicle occupants shall keep barking dogs in their vehicles. Any dog or other animal demonstrating aggressive behavior shall be immediately removed from the Premises;

17) Each vehicle and occupant participating in the Safe Sleeping Pilot Program pursuant to a Temporary Vehicle Occupancy permit shall also comply with administrative rules adopted and promulgated by the City Manager for orderly implementation of this ordinance.

SECTION 7. Revocation of Temporary Vehicle Occupancy Permit

A. Revocation Due to Violation of Law or Permit. The City Manager, Chief of Police, or designee may revoke any Temporary Vehicle Occupancy Permit upon finding any occupant of that vehicle has violated any provision of law or ordinance, including non-compliance with any term, condition, restriction, and/or requirement of the Temporary Vehicle Occupancy Permit or this Safe Sleeping Pilot Program.

B. Revocation Due to Inadequate Site Approval. The City Manager, Chief of Police, or designee may revoke any Temporary Vehicle Occupancy Permit and/or any Vehicle Occupancy Site Permit upon finding the on-site monitor fails to fulfill any requirement required by this ordinance.

C. Revocation Due to Inadequate Site Approval. The City Manager, Chief of Police, or designee may revoke any Temporary Vehicle Occupancy Permit and/or Vehicle Occupancy Site Permit upon finding the property owner has failed to provide or has withdrawn any term, condition, or assurance required by this ordinance, or given in connection with the application for a Vehicle Occupancy Site Permit.

D. Revocation Due to Withdrawal of Permission. The City Manager, Chief of Police, or designee shall revoke any Temporary Vehicle Occupancy Permit upon finding the property owner has withdrawn permission to use the Premises for the purposes of this Safe Sleeping Pilot Program.

E. No Notice Required. Any Temporary Vehicle Occupancy Permit or Vehicle Occupancy Site Permit may be summarily revoked pursuant to this section. Advance notice shall not be required.

F. Duty upon Revocation of Permit. Any person who for any reason lacks permission or a valid Temporary Vehicle Occupancy Permit to remain on property as provided in this ordinance, shall vacate and leave the property immediately upon being informed that permission was rescinded or the Permit was revoked.

SECTION 8. No Duty Imposed on Property Owner to Allow Parking.

Neither this ordinance nor the grant of any permit pursuant to this ordinance shall be construed to impose a duty on any property owner who chooses to allow temporary overnight sleeping in a vehicle, as authorized by this ordinance, to continue to allow such use of the Premises. The property owner may elect to revoke permission to use the Premises for temporary overnight sleeping purposes, at any time, with or without cause.

SECTION 9. Duty on Property Owner Imposed to Comply with Program Terms.

This ordinance shall impose a duty on any property owner who receives a Vehicle Occupancy Site Permit or who allows temporary overnight sleeping in a vehicle to cooperate in the enforcement of this ordinance and of each term, condition, or assurance required by or given in connection with the application for a Vehicle Occupancy Site Permit. The property owner shall assist the on-site monitor to use his/her best efforts to remedy the circumstance within 24 hours of receiving any request for corrective action.

SECTION 10. City Manager Enforcement; Penalties.

The City Manager, Chief of Police, or designee shall enforce this ordinance, and may impose administrative civil penalties on property owners or temporary vehicle occupants who fail to comply with requirements of this chapter, as provided in PGMC Chapter 1.19.

SECTION 11. Hold Harmless and Non-Responsibility

Nothing in this ordinance creates any duty on the part of the City to ensure protection of persons or property relating to the grant of any Vehicle Occupancy Site Permit or use of any Temporary Vehicle Occupancy Permit.

Nothing in this ordinance or the Municipal Code creates any liability on the part of the City or its agents relating to the grant, denial, or revocation of any Vehicle Occupancy Site Permit or Temporary Vehicle Occupancy Permit.

Vehicle occupants and any household members who stay in a vehicle under a Temporary Vehicle Occupancy Permit shall sign an indemnification and waiver form, as prepared by the City, to indemnify the City and waive any claim or cause of action against the City, including relocation benefits.

SECTION 12. Pilot Program Report.

Impacts of this Safe Sleeping Pilot Program shall be analyzed and reported to the City Council before determination is made to extend this Program.

SECTION 13. Implementation Actions

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

SECTION 14. Effective Date.

In accord with Article 15 of the City Charter, this ordinance shall become effective on the 30th day following passage and adoption hereof.

SECTION 15. Sunset Date.

This measure shall have no further force or effect on the first day of the 13th month after the first permit is issued under this Pilot Program

SECTION 16. 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 unconstitutionally 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.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this 21st day of January, 2015 by the following vote:

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

NOES: None

ABSENT: None

APPROVED:

Bill Kampe, Mayor

ATTEST:

Sandra Kandell, Deputy City Clerk

APPROVED AS TO FORM:

David C. Laredo, City Attorney