

ORDINANCE NO. 15-005
AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING PACIFIC GROVE MUNICIPAL CODE CHAPTER
15.16.040 – SIDEWALK ENCROACHMENT

WHEREAS, the City of Pacific Grove needs to protect its public sidewalks; and

WHEREAS, the City of Pacific Grove wants to keep sidewalks open and inviting to the public; and

WHEREAS, the existing Municipal Code was enacted in 1965 and is prohibitive insofar as what is allowed to be placed on the City’s public sidewalks; and

WHEREAS, this amendment allows permit publicly initiated amenities; and

WHEREAS, this ordinance allows other types of encroachments to enliven our community by enhancing pedestrian amenities that encourage walking; and

WHEREAS, This ordinance does not result in any new or significant impacts to the environment because they are either more protective or procedural in nature; and

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. Section 15.16.040 of the Municipal Code, as follows, is deleted in its entirety:

15.16.040 Sidewalk encroachment

It is unlawful to construct, plant, or maintain any encroachment in a sidewalk space, except as may be authorized under Chapter 12.16 PGMC, and except utility poles, mail boxes and telephone booths.

SECTION 3. The language, shown below, is hereby adopted, and shall be added as Section 15.16.040 of the Municipal Code:

15.16.040 Sidewalk encroachment

It is unlawful to construct, plant, or maintain any encroachment in a sidewalk space, except for city-sponsored amenities and activities, public utilities, mailboxes, bus shelters and benches, and except as permitted under Section 15.16.045.

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 5. The Building Official shall administer any ministerial permit issued pursuant to Section 15.16.040 of the Municipal Code.

SECTION 6. The City Council shall establish the appropriate fee for the placement of encroachments on the City's sidewalk right of way, in the City's Master Fee Schedule.

SECTION 7. In accord with Article 15 of the City Charter, this ordinance shall take immediate effect thirty days following passage and adoption hereof.

SECTION 8. Sections 2 and 3 of this ordinance shall cause republication of Section 15.16.040 of the Pacific Grove Municipal Code.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 4th day of March, 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