

ORDINANCE NO. 15 – 013

**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 (~~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
<i>Pawn Shops</i>		<u>P</u>	-	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<i>Recreational Vehicle Sales</i>		<u>P</u>	-	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<i>Meeting Halls or Places of Assembly</i>		<u>P</u>	-	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<i>Tire Sales & Repair</i>		<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 17th day of June, 2015, by the following vote:

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

NOES: None

ABSENT: Councilmember Huitt

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

DAVE LAREDO, City Attorney