

ORDINANCE NO. 16-012

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE TO
ENACT CONSTRUCTION NOISE TIME LIMITS BY MODIFYING
MUNICIPAL CODE CHAPTER 11.96**

WHEREAS, in 1995, the City of Pacific Grove (City) determined regulation of noise was necessary and enacted Pacific Grove Municipal Code (PGMC) Chapter 11.96; and

WHEREAS, the City has many residential neighborhoods where residents value peace and quiet; and

WHEREAS, the City desires to protect residents from the harmful effects of excessive noise; and

WHEREAS, construction, alteration, remodeling, demolition and repair activities are inherently noisy and can affect adjacent neighbors; and

WHEREAS, this action is not a project under section 15378 (b),(2) of the CEQA Guidelines, set forth in California Administrative Code, Title 14, Section 15000, et seq.

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. Chapter 11.96 of the Pacific Grove Municipal Code shall be modified as shown in Section 3 of this ordinance.

SECTION 3. The text set forth in this section shall be added as a new section 11.96.040 of the Pacific Grove Municipal Code, entitled "Construction Noise Time Limits," as follows:

11.96.040 Construction Noise Time Limits

- (a) Purpose. The purpose of this section is to protect neighbors and the community from excessive noise caused by construction activities while not unduly restricting lawful construction, by establishing specific hours when construction noise is not allowed.
- (b) Time Limits. All noise-generating construction activities, as well as delivery and removal of materials and equipment associated with those construction activities, are limited to the hours of 8:00 a.m. to 6:00 p.m., Monday through Saturday, and 10:00 a.m. to 5:00 p.m. on Sunday.
- (c) Notice of Construction Hours: Limits on construction hours shall be noted on the City Building Permit and approved building plans.

(d) Definition. Noise-generating construction activities means all activities associated with construction, alteration, remodeling, demolition or repair that generate persistent or repeated mechanical or percussive sounds that are clearly audible outside the boundaries of the property where the sound is generated.

(e) Exception. A permit to allow an exception to these time limitations may be issued by the Zoning Administrator or designee if it is found that the exception is warranted by unique and overriding circumstances, is in furtherance of the purpose of this section, and is of short duration. Each permit shall be for a limited term, and shall be conditioned to require renewal after that term. Before issuing a permit under this section the city shall post and mail notice of the proposed permit to neighbors within 300 feet of the construction site. Notice shall include a statement of the proposed construction time limits, duration of the exception and the process by which the permit may be appealed. The city manager or designee shall have the discretion to waive the notice requirement in the event he or she determines there is an imminent danger to health, safety or property.

(f) Appeals. Decisions of the Zoning Administrator to allow an exception pursuant to this section may be appealed to the Planning Commission by any person, in accord with Pacific Grove Municipal Code Chapter 23.74.

(g) Enforcement. A violation of this section shall be an infraction, and may be enforced pursuant to PGMC Chapters 1.16 or 1.19.

SECTION 4. Implementation Actions.

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

SECTION 5. Effective Date.

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

SECTION 6. 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.

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PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE

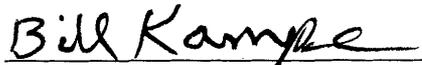
This 7th day of September 2016 by the following vote:

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

NOES: None.

ABSENT: None.

APPROVED:


BILL KAMPE, Mayor

ATTEST:


SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:


DAVID C. LAREDO, City Attorney