



## NOTICE OF MEETING

### CITY OF PACIFIC GROVE

BEAUTIFICATION AND NATURAL RESOURCES COMMISSION

#### MEETING AGENDA

4:00 p.m., March 19, 2019

Council Chambers – City Hall – 300 Forest Avenue, Pacific Grove, CA

**1. Call to Order – 4:00 PM**

**2. Roll Call**

Beautification and Natural Resources Commission Board Members: Jeanie Anton (Chair), Thom Akeman, Kelly Terry, David Myers, Lindsay Jacob, Colleen Goldsmith, Rebecca Lee

**3. Approval of Agenda**

**4. Approval of Minutes**

- a. Approval of February 19, 2018 Meeting Minutes (Attachment 1)

**5. Public Comments**

- a. Written Communications

- b. Oral Communications

*Comments must deal with matters subject to the jurisdiction of the Commission that are not on the Agenda.*

*Comments from the public will be limited to three minutes and will not receive Commission action. Whenever possible, letters should be submitted to the Commission in advance of the meeting.*

**6. Presentations**

- a. Midway Island and Birds-Jan Loomis

**7. Items Requiring Action**

- a. Approval of 2019 Goals (Attachment 2)

**8. Reports Not Requiring Action**

- a. Council Liaison Announcements

Reference: Councilman Nick Smith

- b. Public Acknowledgment

**9. Unfinished/Ongoing Business**

- a. Update Single use plastics ordinance – Milas Smith (Attachment 3)

- b. Update Lovers Point Coastal Access Plan – Daniel Gho

- c. Update Shoreline Management Plan - Daniel Gho

- d. Update Tree Replant Letters - Daniel Gho

**10. New Business**

**11. Commissioner's Reports**

**12. Staff Announcements**

- a. Arbor Day Activities-April 26<sup>th</sup> plant tree, week of activities at Forest Grove Elem., March 20 Declaration at City Council - Milas Smith

**13. Items for Next Agenda**

- 14. Adjournment:** *This meeting is open to the public and all interested persons are welcome to attend. The City of Pacific Grove does not discriminate against individuals with disabilities and meetings are held in accessible facilities. A limited number of devices are available to assist those who are hearing impaired. If you would like to use one of these devices, please contact the Community Development Department at (831) 648-3183.*



MINUTES  
CITY OF PACIFIC GROVE  
BEAUTIFICATION AND NATURAL RESOURCES COMMISSION REGULAR  
MEETING MINUTES  
4:00 p.m., Tuesday, February 19, 2018

1. CALL TO ORDER AT 4 PM.

2. ROLL CALL

Beautification and Natural Resources Commission Members: Jeanie Anton (Chair), Dave Myers, Thomas Akeman, Lindsay Jacob, Colleen Goldsmith, and new member, Rebecca Lee. Absent: Kelly Terry

3. Approval of Agenda

Unanimous approval of agenda.

4. Approval of Minutes

Approval of December 18, 2018 minutes.

5. Election of Officers

Unanimous approval of Jean Anton, Chair; Dave Myers, Vice Chair, and Colleen Goldsmith, Secretary

6. Public Comments

a. Written Communication:

1. Michelle Raine, Craig Noke and Melanie Moreno expressed appreciation for new coastal signage; Lisa Ciani submitted photos by Jim Lindenthal and Kim Akeman; Cathy Wooten provided link for CNN article about glyphosate cancer study; Blake Matheson, Audubon Society, submitted "Black Oystercatcher Recommendations" memo of understanding; Thom Akeman shared photo of 2 male elephant seals; Maureen Mason emailed about Black Oystercatcher and Doug and Anne Downs emailed regarding hazard on bark trail of George Washington Park

b. Oral Communication:

1. Lisa Ciani regarding signage for Black Oystercatcher with total number of 16 signs; noted drone at Sea Palm and Crespi Cove; requested clarification for dog signs at Lovers Point
2. Maureen Mason regarding the Black Oystercatcher status and future protections

7. Presentations

- a. Nick Stong, Program Manager with PG Museum, presented report on PG Butterfly Sanctuary,

noting that docents contributed 446 hours of volunteer work in the sanctuary to 22,000 visitors including 36 groups of school children. Data provided included: peak count of 910 monarchs on 12/07/2018 (lowest count since 2009) and a count of 140 monarchs on 2/08/2019. While there are monarchs outside of the sanctuary in other neighborhoods that are not counted, during the 11/10 to 12/2 period of wintering sites surveyed, the PG census of 705 was lowest count on record. Of 213 sites monitored, the season population of 28,429 monarchs showed an 85% decrease this year compared to 200,000 last year. From data of the 1980's, this is a 95% reduction in the butterfly population. The June 2019 report may list Monarch butterflies as endangered. Nick also noted that warm weather in 2018 may have disrupted butterfly populations and California fires are being analyzed as a contributing factor in population declines.

#### 8. Reports Not Requiring Action

##### a. Council Liaison Announcements:

Nick Smith not present

##### b. Public Acknowledgement:

Chair Anton acknowledgement of departing BNRC commissioner Claudia Vierneisel, commending her contribution as secretary and on George Washington Park sub-committee; Milas Smith for a 23% reduction in city greenhouse emissions using LED bulbs and award recipient; Weekly newspaper article about 3 special PG volunteers: Lynn Mason, Susan Pierszalkowski and Debbie Kenwood.

#### 9. Unfinished/Ongoing Business:

a. Chair Anton provided update on first draft of the Reduction of Single-Use Plastics for City of PG with thanks to Colleen Ingram, Monterey Aquarium and Waste Management

1. Ximena Weismouth of Surfrider supports strong ordinance for city and noted "supply creates demand" with no compostible straws and re-useable containers encouraged. Also supported following the Monterey ordinance language.

2. Rebecca Lee stated need to demonstrate how to re-use plastics and advocates changes to packaging materials.
  3. Dave Myers stated Waste Management being forced to adapt and do more because of China not accepting some plastics and would like to see reduction in plastic demand by consumers.
- b. Dan Gho announced the formation of a Wildlife Committee that will convene in March and review the BLOY policies.
1. Jan Loomis, naturalist with NOAA, suggested need for police assistance and proposed that Pt. Pinos be closed to the public during nesting season due to off-leash dogs, public parties, "selfies" and native American burial grounds
  2. Blake Matheson of Audubon Society stated need for urgency with impending nesting season and sensitive nesting sites
  3. Stephanie Turcotte emphasized policing of sensitive areas and utilization of signage and roping off critical areas.
  4. Maureen Mason advised that BLOY have specific nesting territories and hopes interim policy may be adopted
  5. Lisa Ciani pointed out that ground nesting presents challenges and supports providing educational materials.
  6. Vicki Pearse recommended PG adopt a Memorandum of Understanding as a temporary measure
  7. Thom Akeman noted this will not be quick process with the California Coastal Commission and suggested docents and volunteers are desirable on site
  8. Milas Smith commented that draft guidelines from last year be used as a quick practical measure within critical time frame for the upcoming nesting season
- c. Thom Akeman provided draft report on the George Washington Park Subcommittee stating that about 30 years ago, the GW Master Plan was adopted but never implemented. Current report

recommends doing smaller projects now and in future. While pine trees are being regenerated, the subcommittee draft report suggests removal of invasive grasses with goats in specific areas. Report noted 33 species of birds and there is a recommendation to change the name of the park to George Washington Park and Nature Preserve. Request that the draft report be submitted to city council with unanimous support by BNRC .

1. Colleen Goldsmith thanked subcommittee for report and suggested that the park area be examined for fire danger within park and surrounding neighborhood.

#### 10. New Business

- a. Subcommittee for 2019 BNRC goals will include Lindsay Jacob, Rebecca Lee and Colleen Goldsmith

#### 11. Commissioner's Report

- a. Thom Akeman reported that harbor seals pupping season has not commenced
- b. Dave Myers suggested that Nextdoor PG is well utilized and perhaps staff monitor to provide city information. As volunteer coordinator, suggestion that Amy Colony could monitor web-site

#### 12. Staff Announcements

- a. Dan Gho announced Perkins Park clean-up & weeding scheduled for April 13 and 14. Last chemical application was done in May 2018 and suggested that while labor intensive, a landscaping torch may be used. Also will apply fertilizer to purple carpet which may reduce weed growth.
- b. Colleen Ingram stated concern that a volunteer is using Roundup chemicals in areas near City Hall
- c. Lisa Ciani seconded her concerns about use of pesticides

#### 13. Items for Next Agenda

- a. Midway Island Birds-Jan Loomis
- b. 2019 BNRC Goals

#### 14. Meeting Adjourned at 5:30

# **BEAUTIFICATION AND NATURAL RESOURCES COMMISSION 2019**

## **Goals and Projects**

### **A. PARKS**

1. Continue to support Public Works on plans to improve the Lovers Point landscape.
2. Recommend the planting of more trees in city parks using the 2015 tree inventory data.
3. Continue receiving updates on all city park improvements, including Perkins Park.
4. Support the integrated pest management plan as recommended by staff including the decreased use of chemical pesticides.
5. Assist in the development of signage to discourage the feeding of wildlife.
6. Support wildlife awareness and watch for changes in wildlife populations and support the newly formed Public Works Wildlife Position.

### **B. SHORELINE**

1. Support the maintenance and improvement of the Coastal Trail Project, including the planting of trees where appropriate and the development of proper signage as needed.
2. Encourage the Council to seek funds for implementing the trail plan from the Great Tide Pool to Lovers Point.
3. Continue to participate in planning for the Coastal Access/Forest Avenue project at Lovers Point.
4. Provide for public input for the Shoreline Management Plan and support Public Works in the implementation of the plan.
5. Promote an increased number of litter/recycling receptacles along the coastline and encourage their maintenance.
6. Work with the PG Volunteer Coordinator to plan beach cleanups.
7. Support protection of sensitive coastal species and their habitats.

### **C. MONARCH SANCTUARY**

1. Review and provide updates and information on the sanctuary as needed through annual reports and counting results and encourage pollinator preservation practices.
2. Help provide public education, especially for properties adjacent to the sanctuary.
3. Continue annual walk-through events with the sanctuary management team.

### **D. RECYCLING AND LITTER REDUCTION**

1. Continue to promote increased recycling and litter control throughout the city.
2. Create outlets such as news articles and public service announcements that encourage the public to play a part in city cleanliness.
3. Support a code change that will eliminate single use plastics.
4. Further educate on food waste and support food waste recycling efforts city-wide efforts.

#### **E. TREES AND LANDSCAPE**

1. Support continued community tree planting and maintenance programs, including planting of larger native varieties throughout the city.
2. See that the recommended tree list brochure is available in public areas.
3. Encourage the city council to provide funds for tree planting and maintenance in all public projects.
4. Request bi-annual updates by the arborist on tree replant requirements and follow-up plans.
5. Hold an annual Arbor Day recognition event.

#### **F. DOWNTOWN BEAUTIFICATION**

1. Support the updated art acquisitions policy.
2. Encourage the addition of public art in the downtown area.
3. Recommend that newspaper dispensers be cleaned on a regular basis.
4. Assist in the continued beautification upgrades in downtown Pacific Grove.

#### **G. WATER**

1. Ask for updates on the ASBS (Area of Special Biological Significance) Compliance Plan
2. Recommend continued public education programs regarding water conservation and storm water runoff issues.
3. Encourage use of pervious concrete to prevent storm water runoff in city projects.

#### **H. MARINE LIFE AND HARBOR SEALS**

1. Support Public Works in the annual and timely installation of fencing near the harbor seal birthing sites.
2. Support the Bay Net docent program when requested.
3. Keep current on the harbor seal ordinance from 2013.
4. Watch for changes in marine life that may affect the city and, if appropriate, suggest any responses that are warranted.

**Chapter 11.98**  
**REDUCTION OF SINGLE-USE PLASTICS AND PAPER CARRYOUT BAGS**

Sections:

[11.98.010 Purpose and findings.](#)

[11.98.020 Definitions.](#)

[11.98.030 Ban on single use plastics bags and charge for single-use carryout bags.](#)

[11.98.040 Implementation.](#)

[11.98.050 Enforcement.](#)

**11.98.010 Purpose and findings.** SHARE

(a) It is the intent of the city of Pacific Grove in ~~amending~~ ~~enacting~~ this chapter to eliminate the ~~common~~ use of ~~plastic~~ single-use ~~plastics, and~~ carryout bags, to encourage the use of reusable ~~products bags~~ by ~~consumers~~ ~~consumers, vendors, restaurants, non-profits, commercial and residential lodging providers,~~ and retailers, and to reduce the consumption of single-use ~~plastics~~ ~~bags~~ in general. It is the further purpose of this chapter that ~~by~~ promoting ~~compostable materials and~~ reusable ~~products bags~~ it will further the city's overall waste reductions goals ~~and further help the city to meet State mandated waste diversion targets, as may be amended from time to time by the state of California.~~

~~(b) Single use disposable packaging (SUDs) – including plastic bags, plates, cutlery, cups, lids, straws, “clamshells” and other containers - is a major contributor to street litter, ocean pollution, marine and other wildlife harm and greenhouse gas emissions~~

~~(c) Plastics in waterways and oceans break down into smaller pieces that are not biodegradable, and are present in most of the world's oceans.~~

~~(d) Among other hazards, plastic debris attracts and concentrates ambient pollutants in seawater and freshwater, which can transfer to fish, other seafood and salt that is eventually sold for human consumption. Certain SUDs, including food contact papers and compostable paperboard containers, can also contain harmful fluorinated chemicals that are linked to serious health conditions.~~

~~(e)~~ The city of Pacific Grove finds that the addition of this chapter to the municipal code qualifies as a regulation for the protection of natural resources and the environment as defined by the California Environmental Quality Act (CEQA). [Ord. 14-015 § 2, 2014].

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## 11.98.020 Definitions.

For the purposes of this chapter, the following definitions apply:

“ASTM Standard” means meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400.

“Compostable” means all the materials in the product or package will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch), in 1 month. OR A plastic that undergoes degradation by biological processes during composting to yield carbon dioxide (CO2), water, inorganic compounds, and biomass at a rate consistent with other known compostable materials and that leaves no visible, distinguishable, or toxic residue.” (ASTM D6400)

“Exempted uses” means those point-of-purchase or delivery sales that have received a special exemption, through the ~~community and economic development director~~ city manager or the ~~director~~ city manager’s designee, ~~allowing single-use bags.~~

“Commercial and residential lodging providers” means any hotel, motel, bed and breakfast, short term rental, or any other establishment which provides overnight lodging.

“Plastic” a material derived from either petroleum or a biologically based polymer, such as corn or other plant sources.

“Plastic bag” or “plastic carryout bag” means a single-use carryout bag of any size that is provided at point of sale to customers by a retail establishment. Plastic bags include both **compostable** and non-compostable carryout bags.

“Polystyrene Foam” means and includes expanded polystyrene that is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). To include but not limited to polystyrene foam plate, bleached paperboard plate with low density polyethylene coating and bleached paperboard plate with polystyrene coating.

“Recycled paper bag” is defined as a bag that contains no old growth fiber and is made up of a minimum of 40 percent post-consumer recycled content, is 100 percent percent post consumer recyclable materials recyclable, and has printed in a highly visible manner on the outside of the bag the words “100 percent compostable. Reusable” and “Recyclable,” the name and location of the manufacturer, and the percentage of post-consumer recycled content.

“Reusable” means designed or intended for more than a single use or few uses, or intended for reuse, in contrast to Disposable.

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“Restaurant” is defined as an establishment doing business in the city of Pacific Grove whose principal business is the sale of prepared food for consumption either on or off premises, which includes a restaurant, cafe, bakery, food cart, take-out establishment, home kitchens, delicatessen, or catering truck.

“Retail establishment” or “retail store” means all sales outlets, stores, shops, vehicles, non profits, resale businesses or other places of business located within the city of Pacific Grove that operate primarily to sell or convey goods directly to the ultimate consumer. Restaurants, as defined herein, are exempt from the requirements of this chapter. Also exempt from the requirements of this chapter is prepared food sold at grocery and convenience stores’ food counters.

“Reusable bag” means any bag with handles that is specifically designed and manufactured for multiple reuse, and is either: (1) made of cloth or other washable woven fabric; or (2) made of durable material that is at least 4.0 mils thick that can be cleaned or disinfected at least 125 times. A reusable bag may be made of recyclable plastic such as high density polyethylene (HDPE), low density polyethylene (LDPE), or polypropylene.

“Straw” means a tube through which beverages, slurries, smoothies, and similar ingestible products may be ingested by the consumer.

“Single-use carryout bag” is defined as a bag, other than a reusable bag, ~~or~~ recycled bag, or compostable bag, provided at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment. Single-use carryout bags do not include bags, a maximum size of 11 inches by 17 inches, without handles, provided to the customer to (1) transport produce, bulk food or meat from a product, bulk food or meat department within a store to the point of sale; (2) hold prescription medication dispensed from a pharmacy; or (3) segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a bag. [Ord. 14-015 § 2, 2014].

“Single use plastics” means single-use carryout plastic bags, cartons, boxes, or containers that are provided at point of sale to customers. These typically include - plates, cutlery, cups, lids, straws, shampoo, conditioner, body wash, “clamshells” and other containers – which are a major contributor to street litter, ocean pollution, marine and other wildlife harm, and greenhouse gas emissions.

**Comment [MS1]:** This definition needs to be robust yet extremely precise. Help here would be great.

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**11.98.030 Ban on single use plastics and plastic bags and charge for single-use carryout bags.**

 SHARE

(a) No retail establishment shall provide ~~single use plastics or plastic bags~~ plastic carryout bags to customers at the point of sale, except as permitted in this chapter.

(b) No city of Pacific Grove contractors, special events promoters, or their vendors, while performing under contract or permit, ~~within the city limits~~ shall provide ~~single use plastics or~~ plastic carryout bags to customers at the point of sale.

(c) Single-use paper carryout bags provided to customers shall contain a minimum of ~~100~~40 percent post-consumer recycled paper fiber and must be ~~compostable as defined in this chapter~~ recyclable in the city of Pacific Grove's curbside recycling program.

(d) Retail establishments shall charge a minimum 10-cent fee for each single-use paper carryout bag provided to customers at the point of sale. Retail establishments shall keep annual records of paper bag distribution to be made available to the ~~community and economic development director~~ city manager or designee upon request. From time to time, the city may review the annual records of paper bag distribution to ensure the effectiveness of these regulations.

(e) The charge imposed pursuant to this chapter shall not be charged to customers participating in the California Special Supplemental Food Program for Women, Infants, and Children, the State Department of Social Services Food Stamp program, or other government-subsidized purchase programs for low-income residents.

(f) The ban on single-use plastics ~~and plastic~~ bags and the charge for single-use paper bags do not apply to plastic or paper bags used to protect produce or meat, or otherwise used to protect items as they are put into a carryout bag at checkout. Other examples or exemptions include: paper bags to protect bottles, plastic bags around ice cream or other wet items, paper bags used to weigh candy, paper pharmacy bags, or paper bags used to protect greeting cards.

(g) Retail establishments are strongly encouraged to make reusable bags available for sale to customers at a reasonable price.

(h) Retail establishments shall indicate on the customer transaction receipt the number of paper carryout bags provided, and the total amount charged. [Ord. 14-015 § 2, 2014].

#### 11.98.040 Implementation.

The city shall make available a copy of this chapter, or a link to this chapter on the city's website, to every new retail establishment that applies for a business license. [Ord. 14-015 § 2, 2014].

#### 11.98.050 Enforcement.

(a) Beginning ~~March 1~~April 22, 20~~20~~15, violations of this chapter may be enforced in accordance with Chapters [1.16](#) and [1.19](#) PGMC.

(b) The city's code compliance program shall be responsible for enforcing this chapter and shall have authority to issue citations for violations.

(c) Anyone violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.

(d) The city attorney may seek legal, injunctive, or any other relief to enforce the provisions of this chapter.

(e) The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.

(f) The city may inspect any ~~restaurant, cafe, bakery, food cart, delicatessen, home kitchen, take-out establishment, or, commercial and residential lodging, catering truck~~ ~~vendors~~ premises to verify compliance.

(g) Violation of this chapter will be considered a public nuisance. In addition to any other remedies or penalties that may be available, any violation described in the preceding paragraphs shall be subject to abatement by the city, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by an injunction issued by the superior court in a civil action, based upon a showing by the city that said violation exists. [Ord. 14-015 § 2, 2014].

## Chapter 11.99

### SINGLE USE FOODWARE, PACKAGING AND LITTER REDUCTION~~PACKAGING~~

Section:

[11.99.010 Definitions.](#)

[11.99.020 Prohibited disposable food service ware.](#)

[11.99.030 Required ~~biodegradable, compostable, or recyclable~~ disposable food service ware.](#)

[11.99.040 Exemptions.](#)

[11.99.050 Enforcement.](#)

[11.99.060 Penalties.](#)

**11.99.010 Definitions.** 

Unless otherwise expressly stated, whenever used in this chapter the following terms shall have the meanings set forth below:

"Affordable" means that a ~~biodegradable, compostable or recyclable~~ product may cost up to 15 percent more than the purchase cost of the non-biodegradable, non-compostable or non-recyclable ~~alternative material~~(s).

"ASTM Standard" means meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400.

~~"ASTM standard" means meeting the standards of the American Society for Testing and Materials (ASTM) International Standards D6400 or D6868 for biodegradable and compostable plastics, as those standards may be amended.~~

~~"Biodegradable" means the ability of organic matter to break down from a complex to a more simple form through the action of bacteria or to undergo this process.~~

Comment [MS2]: Again removed entirely of updated substantially.

"City contractor" means any person or entity that has a contract with the city for work or improvement to be performed, for a franchise, concession, for grant moneys, goods and services, or supplies to be purchased at the expense of the city.

"City facility" means any building, structure, street, park, open space, city golf course, or vehicle owned and operated by the city, its agents, and departments.

"Compostable" means all the materials in the product or package will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch), in 1 month. OR A plastic that undergoes degradation by biological processes during composting to yield carbon dioxide (CO2), water, inorganic compounds, and biomass at a rate consistent with other known compostable materials and that leaves no visible, distinguishable, or toxic residue." (ASTM D6400)

~~"Compostable" means all the materials in the product or package will break down, or otherwise become part of usable compost (e.g., soil-conditioning material, mulch), in a safe and timely manner. Compostable disposable food service ware must meet ASTM standards for compostability and any bioplastic or plastic-like product must be clearly labeled, preferably with a color symbol, to allow proper identification such that the collector and processor can easily distinguish the ASTM standard compostable plastic from non-ASTM standard compostable plastic.~~

"Disposable food service ware" means single-use disposable products used by a in the restaurant, vendor, food cart, food truck, or home kitchen, and food service industry for serving or transporting prepared ready-to-consume food or beverages. This includes but is not limited to plates, straws, cups, lids, or utensils bowls, trays and hinged or lidded containers. ~~This does not include single-use disposable items such as straws, cups lids, or utensils, nor does it include single-use disposable packaging for unprepared foods.~~

“Food provider” means any vendor located or providing food within the city which provides prepared food for public consumption on or off its premises and includes without limitation any store, shop, sales outlet, restaurant, grocery store, super market, delicatessen, catering truck, food cart, special events vendor, or vehicle, or any other person who provides prepared food; and any organization, group or individual which regularly provides food as a part of its services.

“Person” means an individual, business, event promoter, trust, firm, joint stock company, corporation, nonprofit, including a government corporation, partnership, ~~or~~ association, and public/ public schools.

“Polystyrene foam” means and includes expanded polystyrene which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term “polystyrene” also includes clear or solid polystyrene which is known as “oriented polystyrene.”

“Prepared food” means food or beverage prepared for consumption on the food provider’s premises, or elsewhere using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation.

“Recyclable” means any material that is accepted by the city recycling program, including, but not limited to, paper, glass, aluminum, cardboard and plastic bottles, jars and tubs. Recyclable plastics comprise those plastics coded with the recycling symbols Nos. 1 through 5.

“Retail food establishment” shall include, but not limited to, any place where food is prepared to include any fixed or mobile restaurant, food truck or food cart, drive-in, coffee shop, public food market, produce stand, special event vendor, or similar place which food or drink is prepared for sale or for service on the premises or elsewhere.

“SUDs” Single use disposable food ware and packaging (SUDs) - including plates, cutlery, cups, lids, straws, “clamshells” and other containers

“Special events promoter” means an applicant for any special events permit issued by the city or any city employee(s) responsible for any city-organized special event. [Ord. 08-010 § 4, 2008].

#### 11.99.020 Prohibited disposable food service ware.

(a) No person may sell, offer for sale, or otherwise distribute within the city any food service ware that is not compostable. ~~Food providers within the city may and may~~ not provide prepared food in any disposable food service ware that contains polystyrene foam.

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(b) Disposable food service ware that ~~contains polystyrene~~contains polystyrene foam is prohibited from use within the city, in all city facilities, ~~or city owned properties~~.

(c) City contractors in the performance of city contracts and special events promoters may not provide prepared food in disposable food service ware that contains polystyrene foam, single use disposable plastics SUDs.

(d) It shall be a policy goal of the city that business establishments located outside the city shall not package any nonfood product in any package which utilizes polystyrene foam, both block polystyrene or packaging peanuts, or purchase, obtain, keep, distribute or sell for home or personal use, or give, or otherwise provide to customers any packaging which utilizes polystyrene foam. The city shall promote and encourage, ~~on a voluntary basis~~, the elimination of all single use disposable plastics, and polystyrene foam packaging. [Ord. 08-010 § 5, 2008].

#### 11.99.030 Required ~~biodegradable,~~ compostable, ~~or recyclable~~ disposable food service ware.

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(a) All food providers within the city utilizing disposable food service ware shall use biodegradable, compostable or recyclable products. ~~This includes but is not limited to plates, napkins, straws, cups, lids, or utensils bowls, trays and hinged or lidded containers unless there is no affordable alternative available as determined by the designated official (see term "affordable" defined in PGMC 11.99.010) and an exemption has been granted in accord with PGMC 11.99.040.~~

(b) Food providers may charge a "take-out fee" ~~to cover the difference in~~ if any additional costs are incurred in providing compostable food ware.

(c) All city facilities utilizing disposable food service ware shall use products that are biodegradable, compostable or recyclable.

(d) City contractors and special events promoters utilizing disposable food service ware shall use biodegradable, compostable, or recyclable products while performing under a city contract or permit.

[Ord. 08-010 § 6, 2008].

#### 11.99.040 Exemptions. SHARE

(a) No exemption shall allow for the use of recyclable, or polystyrene foam disposable food service ware.

(b) The city manager, or his or her designee, may exempt a food provider from the requirement set forth in PGMC 11.99.030, Required ~~biodegradable,~~ compostable, ~~or recyclable~~ disposable food service ware, for a period not to exceed 12 months per request upon the food provider showing, in writing, that this

chapter creates an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The city manager shall confirm the decision to grant or deny each exemption in writing; the city manager's decision shall be final.

(c) Each exemption request shall set forth all information necessary for the city manager to make a decision, including but not limited to documentation showing factual support for the claimed exemption. The city manager may require additional information.

(d) The city manager may approve an exemption request in whole or in part, with or without conditions.

(e) Foods prepared or packaged outside the city and sold inside the city are exempt from the provisions of this chapter. Purveyors of food prepared or packaged outside the city are encouraged to follow the provisions of this chapter as it is a policy goal of this city to eliminate the use of [single use plastics and polystyrene foam](#) for packaging unprepared food.

(f) Polystyrene foam coolers and ice chests that are intended for reuse are exempt from the provisions of this chapter. [Ord. 08-010 § 7, 2008].

**11.99.050 Enforcement.** 

(a) Violations of this chapter may be enforced in accordance with Chapters [1.16](#) and [1.19](#) PGMC. The city manager, or his or her designee, shall be responsible for enforcing this chapter and shall have authority to issue citations for violations.

(b) The city officer is authorized to establish regulations or administrative procedures to obtain compliance with this chapter.

(c) Anyone violating or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.

(d) The city attorney may seek legal, injunctive, or any other relief to enforce the provisions of this chapter.

(e) The remedies and penalties provided in this chapter are cumulative and not exclusive of one another.

(f) The city in accordance with applicable law, may inspect any vendor or food provider's premises to verify compliance.

(g) Food vendors shall state that they are in compliance with this chapter on their annual business license renewal forms. [Ord. 08-010 § 8, 2008].

### 11.99.060 Penalties.

Violations of this chapter shall be enforced as follows:

(a) For the first violation, city manager shall issue a written warning to the food provider specifying that a violation of this chapter has occurred and which further notified the food provider of the appropriate penalties to be assessed in the event of future violations. The food provider will have 30 days to comply.

(b) The following penalties shall apply for subsequent violations of this chapter:

(1) A citation imposing a fine in the sum of ~~\$2400.00~~ for the first violation that occurs more than 30 days after the warning issued pursuant to subsection (a) of this section. In lieu of payment of the fine, the person cited may submit receipts to the city manager that demonstrate the purchase, following the service of the citation, of at least ~~\$2400.00~~ worth of ~~biodegradable, compostable, or recyclable~~ products appropriate as an alternative disposable food service ware for the items, which led to the violation. Upon such proof the city manager may dismiss the citation.

(2) A fine in the sum of ~~\$4200.00~~ for a violation that occurs after issuance of the citation referenced in subsection (b)(1) of this section, and that is more than 60 days after the warning issued pursuant to subsection (a) of this section.

(3) A fine in the sum of ~~\$9500.00~~ for the third and each subsequent violation which occurs after issuance of the citation referenced in subsection (b)(1) of this section, and that is more than 90 days after the warning issued pursuant to subsection (a) of this section.

(c) Food providers who violate this chapter in connection with commercial or noncommercial special events, as that term is defined by PGMC [11.99.010](#), shall be issued a citation imposing fines as follows:

(1) A fine of \$200.00 for each event of one to ~~50200~~ persons;

(2) A fine of ~~\$8400.00~~ for each event of more than ~~50200~~ but less than 400 persons;

(3) A fine of ~~\$1600600.00~~ for each event of more than 400 but less than 600 persons;

(4) A fine of \$1, ~~400000~~ for each event of more than 600 persons. [Ord. 09-005 § 19, 2009; Ord. 08-010 § 9, 2008].