



NOTICE OF MEETING

CITY OF PACIFIC GROVE BEAUTIFICATION AND NATURAL RESOURCES COMMISSION MEETING AGENDA

Tuesday, May 21, 2019, 4:00 P.M.
Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

AGENDA

CALL TO ORDER

1. Roll Call

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

2. Approval of Agenda

3. Approval of Minutes

- a. Approval of April 16, 2018 Meeting Minutes
Reference: (Attachment 1)
Recommended Action: Approve minutes

4. Public Comments

- a. Written Communications
 - i. Received-Non Toxic Pacific Grove Declaration Request
- 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.

5. Presentations

6. Reports Not Requiring Action

- a. Council Liaison Announcements
Reference: Councilman Nick Smith
- b. Public Acknowledgement

7. Items Requiring Action

- a. Municipal Code Update Chapter 11.24 and adopt the Creation of a Tobacco Retailer License Ordinance, Chapter 11.26

Reference: Update to Pacific Grove Municipal Code Chapter 11.24
(Attachment 2)

Reference: Draft Ordinance Chapter 11.26 (attachment 3)

Recommended Action: Recommend the City Council adopt updates to the PG Municipal Code Chapter 11.24 AND adopt a new city Ordinance to establish a Tobacco Retailer License program.

8. Unfinished/Ongoing Business

- a. Integrated Pest Management Guidelines

Reference: Integrated Pest Management (Attachment 4)

Recommended Action: Discuss additions or effective alternatives

9. New Business

10. Commissioner's Reports

11. Staff Announcements

- a. BNRC Single Use Plastics recommendations going to City Council in June.

12. Items for Next Agenda

ADJOURNMENT

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CITY OF PACIFIC GROVE BEAUTIFICATION AND NATURAL RESOURCES COMMISSION MEETING MINUTES

Tuesday, April 16, 2019, 4:00 P.M.

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

Meeting called to order at 4:00pm

1. Roll call; all members present except Colleen Goldsmith
2. Approval of April Agenda, unanimous 6-0
3. Approval of March Minutes, approval unanimous 6-0 with correction of 6a '600,000 species' to '600,000 specimens'
4. Written and Oral communication
 - a. Written communications (emails to BNRC) Acknowledgement of Steve Thomas email on George Washington Park and Colleen Ingram of Non-Toxic PG
 - b. Oral communication at meeting: Colleen Ingram of Non-Toxic PG; change of date request to 5/27 (Rachel Carson birthday) verse 4/22 (Earth Day) for discontinued use of Glyphosate in Pacific Grove. Asked for areas that are currently pesticide free to be posted.
5. Presentations; none
6. Reports not requiring action
 - a. Council Liaison; Nick Smith notified BNRC Chair of absence
 - b. Public Acknowledgement:
 - i. Perkins Park clean-up event, well communicated and well attended resulting in big impact, significant weeding, edging, and debris was eliminated. Thank you to Amy Colony.
 - ii. Volunteer Dinner, very nicely put together by Amy Colony.
 - iii. Thom Akeman, congratulations on being the volunteer of the year for the work he does with the Harbor Seals and sitting on the BNRC.
7. Items Requiring Action
 - a. Tree Appeal 1059 Jewel Ave. (1) Presentation/findings given by staff (Public Works and City Arborist) (2) Presentation given by appellant (Nicholas and Theresa Petridis) (3) Public comment; John Dillion, Arlene Hardenstein, Jeff Edmunds, Ray Lake and Garrett Cross – all in favor to have tree removed. (4) Brought back to commission for vote; final vote 5 (in favor to uphold decision of city arborist – 1 (David Myers, opposed to uphold decision of city arborist).
 - b. Update of Single Use Plastic Ordinance. (1) Presentation from Milas (2) Public Comment: Colleen Ingram; add language that utensils only be available by request and possibly charging for SUD's. (3) Commission: Final vote unanimous 6-0 to move ordinance forward to council, with addition of; correction on number(s) and wording, addition of plastic bags (example: dry-cleaning bags).
8. Unfinished Ongoing Business: None
9. New Business: None
10. Commissioners Report: (1) Thom Akeman; Follow up on George Washington Park, number of trees suggested in GWP subcommittee report was determined from report given by Rec Board which stated expansion of the field would be to 225 ft. GWP subcommittee simply measured extending the outfield to 225 ft and counted the trees that would be affected. (2) Thom Akeman; Harbor Seal pupping update, about 34 successful births to-date. Thank you to Public Works for



attention to detail during installation of fencing. Probably 2 additional weeks of birthing remain.
(3) David Myers; Trex is no longer making composite decking out of plastic film bags, due to poor integrity of finished product.

11. Staff Announcements

- a. Arbor Day: Stay tuned events will be posted in weekly PG summary email blast
- b. Gull Abatement: PG will embark on its 4th year of a 5 year gull reduction strategy. Next year gull abatement will be brought back to council to be evaluated. Side Note: take down any personal flags used for gull abatement, if left up all year long they are not effective as the gulls get used to them.

12. Items for Next Agenda:

Meeting Adjourned; 5:13pm

Minutes prepared by:

Lindsay Jacob
Printed Name*

[Signature]
Signature

4/19/2019
Date

*Minutes taken by Lindsay Jacob for absence of Secretary, Colleen Goldsmith

Chapter 11.24
SMOKING AND TOBACCO REGULATIONS

Sections:

[11.24.010 Purpose and findings.](#)

[11.24.020 Definitions.](#)

[11.24.030 Prohibition of smoking and vaping in designated enclosed areas.](#)

[11.24.032 Prohibition of smoking and vaping in new and existing units of multi-unit residences.](#)

[11.24.035 Prohibition of smoking and vaping at parks, playgrounds and recreation areas.](#)

[11.24.037 Prohibition of smoking and vaping in areas zoned as open space \(O\).](#)

[11.24.39 Prohibition of smoking and vaping at special events, farmers markets, and within 25 feet of a business, school, or building.](#)

[11.24.040 Prohibition of the sale of flavored tobacco products.](#)

[11.24.0540 Posting requirements.](#)

[11.24.0650 Enforcement.](#)

[11.24.0660 Penalty for violations.](#)

[11.24.0870 Other applicable laws.](#)

[11.24.0980 Repealed.](#)

11.24.010 Purpose and findings. 

The council of the city of Pacific Grove hereby finds:

(a) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution; and

(b) Reliable studies have shown that breathing sidestream or secondhand smoke is a significant health hazard for certain population groups, including elderly people, those with cardiovascular disease, and those with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

(c) Health hazards induced by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction, and bronchospasms; and

(d) The **smoking** of tobacco, or any other plant, is a proven danger to health; and

(e) Section 6404.5 of the California Labor Code prohibits **smoking** in a "place of employment," with certain exceptions, and also provides that local government may regulate **smoking** in any areas not

included within the definition of place of employment. The provisions of this chapter are intended to prohibit **smoking** in areas deemed by the council as worthy of regulation, such areas, in the opinion of the council, not covered by Labor Code Section 6404.5. [Ord. 1977 N.S. § 1, 1995; Ord. 1582 N.S., 1987; Ord. 876 N.S. § 1, 1976].

11.24.020 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

“Beach” means all sand areas and adjacent water areas of a public park within the city of Pacific Grove.

“Common Area” means every Enclosed Area and every Unenclosed Area of a Multi-Unit Residence that residents of more than one Unit are entitled to enter or use, including, without limitation, halls, pathways, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, grassy or landscaped areas, restrooms, laundry rooms, cooking areas, and eating areas.

“Dining Area” means any area, including streets and sidewalks, that is available to or customarily used by the general public or an Employee, and that is designed, established, or regularly used for consuming food or drink.

“Electronic Smoking Device” means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. “Electronic Smoking Device” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

“Enclosed Area” means an area in which outside air cannot circulate freely to all parts of the area, and includes an area that has

(1) any type of overhead cover, whether or not that cover includes vents or other openings and at least three (3) walls or other physical boundaries of any height, whether or not those boundaries include vents or other openings; or

(2) four (4) walls or other vertical boundaries that exceed six (6) feet in height, whether

or not those boundaries include vents or other openings.

“Flavored Tobacco Product” means any Tobacco Product that imparts a Characterizing Flavor.

“Labeling” means written, printed, or graphic matter upon any Tobacco Product or any of its Packaging, or accompanying such Tobacco Product.

“Landlord” means any Person or agent of a Person who owns, manages, or is otherwise legally responsible for a Unit in a Multi-Unit Residence that is leased to a residential tenant, except that “Landlord” does not include a tenant who sublets a Unit (e.g., a sub-lessor).

“Manufacturer” means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a Tobacco Product; or imports a finished Tobacco Product for sale or distribution into the United States.

“Multi-Unit Residence” means property containing two (2) or more Units, including, but not limited to, apartment buildings, condominium complexes, senior and assisted living facilities, and long-term health care facilities. [Multi-Unit Residences do not include the following:

- (1) a hotel or motel that meets the requirements of California Civil Code section 1940, subdivision (b)(2);
- (2) a mobile home park;
- (3) a campground;
- (4) a single-family home, except if used as a child care or health care facility subject to licensing requirements; and
- (5) a single-family home with a detached or attached in-law or second unit permitted pursuant to California Government Code sections 65852.1, 65852.150, 65852.2 or an ordinance of the [City / County] adopted pursuant to those sections, except if the single-family home or in-law/second unit is used as a child care or health care facility subject to licensing requirements.]

“New Unit” means a Unit that is issued a final permit and also means a Unit that is let for

residential use for the first time after the accepted amendments to this ordinance.

“Nonsmoking Area” means any Enclosed Area or Unenclosed Area in which Smoking is prohibited by

(1) this [chapter 11.24] or other law;

(2) binding agreement relating to the ownership, occupancy, or use of real property; or

(3) designation of a Person with legal control over the area.

“Oceanfront” means the area within the city of Pacific Grove that abuts Sunset and Ocean View Blvd. and extends to the Monterey Bay. This area includes the recreational trail.

“Packaging” means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for sale to a consumer.

“Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

“Reasonable distance” shall mean a distance of 25 feet in any direction from an area in which smoking is prohibited.

“Smoke” means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition, or vaporization when the apparent or usual purpose of the combustion, electrical ignition, or vaporization is human inhalation of the byproducts, except when the combusting or vaporizing material contains no tobacco or nicotine *and* the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term “Smoke” includes, but is not limited to, tobacco smoke, Electronic Smoking Device vapors, marijuana smoke, and crack cocaine smoke. [Ord. 10-032 § 3, 2010; Ord. 1582 N.S., 1987; Ord. 876 N.S. § 1, 1976].

~~“Smoke” or “smoking” means the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment, or the lighting or emitting or exhaling of the smoke of a pipe, cigar or cigarette of any kind, including but not limited to tobacco or any other weed or plant. [Ord. 10-032 § 3, 2010; Ord. 1582 N.S., 1987; Ord. 876 N.S. § 1, 1976]~~

“Tobacco Product” means:

(1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff;

(2) any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.

(3) Notwithstanding any provision of subsections (1) and (2) to the contrary, “Tobacco Product” includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately. “Tobacco Product” does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

“Tobacco Retailer” means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia. “Tobacco Retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

“Special Event” means, any gathering or event of 2 or more people on city property, permitted or unpermitted including, buildings, roadways, sidewalks, beaches, recreations trails, sports or playing fields, and parks.

“Unenclosed Area” means any area that is not an Enclosed Area.

“Unit” means a personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use Enclosed Area or Unenclosed Area, such as, for example, a private balcony, porch, deck, or patio. “Unit” includes, without limitation, an apartment; a condominium; a townhouse; a room in a senior facility; a room in a long-term health care facility, assisted living facility, or hospital; a room in a hotel or motel; a dormitory room; a room in a single room occupancy (“SRO”) facility; a room in a homeless shelter; a mobile home; a camper vehicle or tent; a single-family home; and an in-law or second unit. Unit includes, without limitation, a New Unit.

11.24.030 Prohibition of smoking in designated enclosed areas.

Smoking shall be prohibited in the following places within the city:

- (a) Within public buildings in areas available to and customarily used by the general public;
- (b) Public areas of all buildings used for recreational purposes; ~~provided, that this prohibition shall not apply when such an area is rented for a private, closed function;~~
- (c) Elevators, public restrooms, indoor service lines, buses, taxicabs and other means of public transit under the authority of the city;
- (d) Enclosed theaters, auditoriums and halls which are used for motion pictures, stage dramas and musical performances, ballets or other exhibitions, except when smoking is part of any such production;
- (e) Public schools and other public facilities under the control of another public agency, which are available to and are customarily used by the general public, to the extent that the same are subject to the jurisdiction of the city. [Ord. 10-032 § 4, 2010; Ord. 1977 N.S. § 2, 1995; Ord. 1960 N.S. § 1, 1994; Ord. 1587 N.S., 1987; Ord. 1582 N.S., 1987; Ord. 919 N.S. § 1, 1977; Ord. 876 N.S. § 1, 1976].

11.24.032 Prohibition of smoking and vaping in new and existing units of multi-unit residences.

(a) As provided in subsections (1) and (2), Smoking is prohibited in all Units of a Multiunit Residence, including any associated exclusive-use Enclosed Areas or Unenclosed Areas, such as a private balcony, porch, deck, or patio.

(1) Smoking in a New Unit of a Multiunit Residence, on or after [insert effective date of ordinance], is a violation of this [article / chapter].

(2) Smoking in a Unit of a Multiunit Residence that is not a New Unit, on or after [insert effective date of ordinance + 1 year], is a violation of this [article / chapter].

(b) A designated Smoking area:

(1) Must be an Unenclosed Area;

(2) Must be at least twenty-five (25) feet from Unenclosed Areas primarily used by children and Unenclosed Areas with improvements that facilitate physical activity including, for example, playgrounds, tennis courts, swimming pools, and school campuses;

(3) Must be located at least twenty-five (25) feet from any Nonsmoking Area. The location of Nonsmoking Areas may change due to the new enactment of a law, execution of an agreement, or other event that affects the area's Smoking designation. If an event occurs that changes a Nonsmoking Area, a Person with legal control over a designated Smoking area within less than twenty-five (25) feet of that Nonsmoking Area must modify, relocate, or eliminate that designated Smoking area so as to maintain compliance with the requirements of this subsection (b). In the case of a Nonsmoking Area on a neighboring property established only by private agreement or designation and not by this [chapter / article] or other law, it shall not be a violation of this [chapter / article] for a Person with legal control to designate a Smoking area within twenty-five (25) feet of the Nonsmoking Area unless that Person has actual knowledge of, or a reasonable person would know of, the private agreement or designation. It shall not be a violation of this [chapter / article] for a Person to Smoke within a Nonsmoking Area if the area is erroneously designated as a Smoking area unless a reasonable person would know of the error;


(4) Must be no more than [ten percent (10%)] of the total Unenclosed Area of the Multi-Unit Residence for which it is designated;

(5) Must have a clearly marked perimeter;

(6) Must be identified by conspicuous signs; and

(7) Must not overlap any Enclosed or Unenclosed Area where Smoking is prohibited by this [chapter / article] or other law.

(c) No Person with legal control over a Common Area in which Smoking is prohibited by this [chapter / article] or other law shall knowingly permit the presence of ash trays, ash cans, or other receptacles designed for or primarily used for disposal of Smoking waste within the area.

11.24.035 Prohibition of smoking at parks, playgrounds, special events, ~~and recreation~~, and outdoor areas. 

Smoking shall be prohibited in any outdoor area ~~that has been improved or developed by or on behalf of the city, and~~ open to the general public ~~for park or recreational use~~, including but not limited to public, outdoor dining, parks, picnic areas, playgrounds, sports or playing fields, roadways, sidewalks, public or special events, and beaches, including:

(a) The oceanfront.

(b) El Carmelo Cemetery.

(c) The Elmarie Dyke Open Space between Sixteenth Street and Seventeenth Street and contiguous to Chautauqua Hall.

(d) Any area designated as a “farmers’ market” and within ~~a reasonable~~ 25 foot distance of all entrances and exits to any farmers’ market. [Ord. 10-032 § 5, 2010; Ord. 06-001 § 1 (Atth), 2006].

11.24.037 Prohibition of smoking in areas zoned as open space (O). 

(a) Smoking shall be prohibited in any outdoor area zoned as open space (O).

(b) The provisions of this section shall apply to the golf links pro shop, clubhouse and patio area between the pro shop and the clubhouse, but shall not apply to areas of the golf course in use as pathways, tees, fairway or greens. [Ord. 10-032 § 6, 2010].

11.24.040 Prohibition of the sale of flavored tobacco products.

(a)It shall be a violation of this [article / chapter] for any Tobacco Retailer or any of the Tobacco Retailer’s agents or employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any Flavored Tobacco Product.

(b)There shall be a rebuttable presumption that a Tobacco Retailer in possession of four or more Flavored Tobacco Products, including but not limited to individual Flavored Tobacco Products,

packages of Flavored Tobacco Products, or any combination thereof, possesses such Flavored Tobacco Products with intent to sell or offer for sale.

(c) There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a Tobacco Retailer, Manufacturer, or any employee or agent of a Tobacco Retailer or Manufacturer has:

(1) _____ made a public statement or claim that the Tobacco Product imparts a Characterizing Flavor;

(2) used text and/or images on the Tobacco Product's Labeling or Packaging to explicitly or implicitly indicate that the Tobacco Product imparts a Characterizing Flavor; or

(3) _____ taken action directed to consumers that would be reasonably expected to cause consumers to believe the Tobacco Product imparts a Characterizing Flavor.

11.24.050 Posting requirements.

"No smoking" signs, with letters of not less than one inch in height, or the international "no smoking" symbol shall be clearly and conspicuously posted in every building or other place where smoking is prohibited by this chapter. [Ord. 1977 N.S. § 4, 1995; Ord. 1582 N.S., 1987; Ord. 876 N.S. § 1, 1976].

11.24.0650 Enforcement.

- (a) Enforcement of this chapter shall be implemented by the city manager or his or her designee.
- (b) Anyone who desires to register a complaint hereunder may initiate enforcement with the city manager or his or her designee.
- (c) Any owner, manager, operator or employee of any establishment controlled by this chapter shall have the right to inform persons violating this chapter of the appropriate provisions hereof. [Ord. 1977 N.S. § 4, 1995; Ord. 1582 N.S., 1987; Ord. 876 N.S. § 1, 1976].

11.24.0760 Penalty for violations.

- (a) It is unlawful and an infraction for any person who owns, manages, operates or otherwise controls the use of any premises subject to the provisions of this chapter to fail to: properly post signs required hereunder; properly set aside no smoking areas; comply with any other requirements of this chapter.

(b) It is unlawful and an infraction for any person to smoke in any area restricted by the provisions of this chapter.

(c) Any violations of any provisions of this chapter may be enforced pursuant to Chapter [1.16](#) PGMC. [Ord. 09-005 § 17, 2009; Ord. 08-006 § 34, 2008; Ord. 1977 N.S. § 4, 1995; Ord. 1582 N.S., 1987].

11.24.0870 Other applicable laws. 

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. [Ord. 1977 N.S. § 4, 1995; Ord. 1582 N.S., 1987].

11.24.0980 Severability. 

Repealed by Ord. 08-006. [Ord. 1977 N.S. § 4, 1995; Ord. 1582 N.S., 1987].

DRAFT

Chapter 11.26 TOBACCO RETAILER LICENSE

Sections:

[11.26.010](#) County provisions adopted.

11.26.010 County provisions adopted.

A. Monterey County Code Chapter 7.80 entitled **Tobacco Retailer** License, pertaining to **tobacco retailer** permits, is hereby adopted by the City of Pacific Grove and incorporated by reference into this code and shall be enforced within the limits of the City.

B. For purposes of the City of Pacific Grove the following shall apply to the incorporation of the Monterey County ordinance into the Pacific Grove Municipal Code:

All reference to the term “unincorporated areas of the County of Monterey” in the Monterey County Code shall be amended to include the term “City limits” in the Pacific Grove Municipal Code. All reference to the term “Chapter” in the Monterey County Code shall be to the term “Article” in the Pacific Grove Municipal Code. All reference to the term “Code” in the Monterey County Code shall be to the Pacific Grove Municipal Code. All reference to the term “County” in the Monterey County Code shall be to the term “City of Pacific Grove.” All reference to the term “County of Monterey” in the Monterey County Code shall be to the term “City of Pacific Grove.” All reference to the term “Board of Supervisors of the County of Monterey” of the Monterey County Code shall be to the term “Pacific Grove City Council.”

C. Monterey County Code Chapter 7.80 reads as follows:

D. Basis for Establishing the Tobacco Retail License Program. The Monterey County Code entitled “Chapter 7.80 – Tobacco Retail License,” with accompanying Chapter sections and all subsequent revisions or amendments, are hereby adopted by reference and declared to be a part of this chapter.

MONTEREY COUNTY CODE

Chapter 7.80 - **Tobacco Retailer** License

Sections:

7.80.010 - Purpose and application

7.80.020 - Definitions

7.80.030 - Mandatory License

7.80.040 - Issuance of License

7.80.050 - Applications for License

7.80.060 - Issuance of License

7.80.070 - License renewal and expiration

7.80.080 - License nontransferable

7.80.090 - Inspections, investigations and enforcement

7.80.100 - Suspension or revocation of License

7.80.110 - Penalties for **Tobacco** Retailing without a License

7.80.120 - Health Officer Decision

7.80.130 - Appeal Procedures

7.80.140 - Other Penalties

7.80.150 - Stipulated fine in lieu of hearing

7.80.160 - Implementation

7.80.170 - Severability

7.80.010 - Purpose and application.

A. In promoting the health, safety, and general welfare of its residents, the County of Monterey has a substantial interest in encouraging compliance with Federal, State, and local laws regulating **tobacco** sales and use.

B. State law permits local governments to enact ordinances regarding the local **licensing** of retailers of **tobacco** and allows for the suspension or revocation of a local license for a violation of any State **tobacco** control law.

C. This Chapter is adopted to: (1) ensure compliance with business standards and practices of the County; (2) to encourage responsible retailing of **tobacco**; and (3) to discourage violations of **tobacco**-related laws, but not to expand or reduce the degree to which the acts regulated by Federal or State law are criminally proscribed or otherwise regulated.

7.80.020 - Definitions.

For the purpose of this Chapter, the following words and terms shall have the following meaning:

A. "Department" means the Monterey County Health Department.

B. "Drug Paraphernalia" shall have the definitions set forth in California Health and Safety Code Section [11014.5](#), as that Section may be amended from time to time.

C. "Health Officer" means the Health Officer of the County of Monterey or his or her designee.

D. "License" means a **Tobacco Retailer** License issued by the County pursuant to this Chapter.

E. "Licensee" means any Proprietor holding a License issued by the County pursuant to this Chapter.

F. "License Fee" means the charge established by resolution of the Board of Supervisors of the County of Monterey, calculated to recover the reasonable regulatory costs of issuing and administering Licenses, **retailer** education, performing investigations, inspections, and the administrative enforcement and adjudication thereof.

G. "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

H. "Proprietor" means a Person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a Person has a ten (10) percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a Person can or does have or share ultimate control over the day-to-day operations of a business.

I. "Tobacco Paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed or used for the smoking or ingestion of Tobacco Products.

J. "Tobacco Product" means any substance containing tobacco leaf-including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco--and any product or formulation of matter containing biologically active amounts of nicotine that is product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or Tobacco Product dependence.

K. "Tobacco Retailer" means any Person who engages in Tobacco Retailing.

L. "Tobacco Retailing" means selling, offering for sale, exchanging, or offering to exchange for any form of consideration, tobacco, Tobacco Products, or Tobacco Paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

7.80.030 - Mandatory License.

A. Any Person who is or intends to become a Tobacco Retailer shall obtain pursuant to this Chapter a License for each fixed location at which Tobacco Retailing is to occur.

B. Any Person who is a Tobacco Retailer as of the effective date of the ordinance enacting this Chapter shall obtain a License within ninety (90) days of the effective date of the ordinance that enacted this Chapter.

C. Any Person who intends to act as a Tobacco Retailer shall obtain a License prior to acting as a Tobacco Retailer.

D. Each License shall be prominently displayed in a publicly visible location at the licensed location.

E. Nothing in this Chapter shall be construed to grant any Licensee any status or right other than to act as a Tobacco Retailer at the location identified on the face of the License, subject to compliance with all other applicable laws, regulations, or ordinances.

F. Nothing in this Chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law.

7.80.040 - Issuance of License.

A. No License shall be issued to authorize **Tobacco** Retailing at other than a fixed business location. It is unlawful for any Person to engage in **Tobacco** Retailing at non-fixed locations. For example, **Tobacco** Retailing by Persons on foot and **Tobacco** Retailing from vehicles are prohibited.

B. No License shall be issued to authorize **Tobacco** Retailing at a temporary or recurring temporary event. For example, **Tobacco** Retailing at flea markets and farmers markets is prohibited.

C. No License shall be issued to authorize **Tobacco** Retailing at any location for which a License suspension is in effect or during a period of ineligibility following a revocation pursuant to Section 7.80.100.

D. In the course of **Tobacco** Retailing or in the operation of the business or maintenance of the location for which a License issued, it shall be a violation of this Chapter for a Licensee, or any of the Licensee's agents or employees, to violate any local, State, or Federal law applicable to **Tobacco** Products, **Tobacco** Paraphernalia, or **Tobacco** Retailing.

E. No Person engaged in **Tobacco** Retailing shall sell or transfer a **Tobacco** Product or **Tobacco** Paraphernalia to another Person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under State law to purchase and possess the **Tobacco** Product or **Tobacco** Paraphernalia.

F. No Person who is younger than the minimum age established by State law for the purchase or possession of **Tobacco** Products shall engage in **Tobacco** Retailing.

7.80.050 - Applications for License.

All applications for a License shall be submitted to the Department in the name of each Proprietor proposing to conduct **Tobacco** Retailing and signed by each prospective Proprietor or an authorized agent. Each License application must be accompanied by the required License Fee, which is set by resolution of the Board of Supervisors. A Proprietor proposing to conduct **Tobacco** Retailing at more than one location shall submit a separate application for each location. Every application shall contain the following information:

A. The name, address, and telephone number of each prospective Proprietor;

B. The business name, address, and telephone number of the fixed location for which the License is sought;

C. Whether or not each prospective Proprietor has previously been issued a License pursuant to this Chapter that is, or was at any time, suspended or revoked and, if so, the date of the suspension or revocation;

D. Proof that the location for which a License is sought has been issued a valid State Cigarette and Tobacco Products Retail License by the State of California Board of Equalization pursuant to the California Cigarette and Tobacco Products Licensing Act of 2003 (Cal. Bus. & Prof. Code, §§ 22970 et seq.);

E. A statement signed by each prospective Proprietor that no Drug Paraphernalia is or will be sold at the location for which the License is sought;

F. A statement signed by each prospective Proprietor that the Proprietor is informed of the laws affecting Licenses; and

G. Such other information as the County deems necessary for the administration of this Chapter.

7.80.060 - Issuance of a License.

A. Upon the receipt of a complete application for a License and the License Fee required by this Chapter, the Health Officer shall issue a License unless one (1) or more of the following grounds exists:

1. The application is incomplete or inaccurate;

2. The application seeks authorization for Tobacco Retailing at a location for which a suspension is in effect pursuant to this Chapter, for which a License has been revoked pursuant to this Chapter, or for which this Chapter otherwise prohibits issuance of Licenses;

3. The application seeks authorization for Tobacco Retailing for a prospective Proprietor for whom a suspension is in effect pursuant to this Chapter for the subject location or another location, whose License has been revoked pursuant to this Chapter for the subject location or another location, or to whom this Chapter otherwise prohibits a License to be issued;

4. The Department has information that the prospective Proprietor or his or her agent or employee has violated any local, State or Federal tobacco control law, including this Chapter, within the preceding twelve (12) months; or

5. The application seeks authorization for Tobacco Retailing that is prohibited pursuant to this Chapter, that is otherwise unlawful pursuant to this Code, or that is unlawful pursuant to any other local, State, or Federal law.

B. Any denial of an application for a License shall be in writing, setting forth the reasons for the denial and notifying the applicant for a License that the decision to deny an application for a License shall become final unless the applicant seeks an appeal pursuant to Section 7.80.130 within fourteen (14) calendar days of the date of service of the Health Officer's decision. Service of the decision shall be provided in accordance with the service requirements set forth in Subsection A of Section 7.80.120.

C. All information required to be submitted pursuant to Section 7.80.050 in order to apply for a License shall be updated whenever the information changes. A Tobacco Retailer shall provide the Department with any updates within ten (10) business days of a change.

7.80.070 - License renewal and expiration.

A. A License is invalid unless the appropriate License Fee has been paid in full and the term of the License has not expired. The term of a License is one (1) year beginning each fiscal year on July 1st and ending on June 30th of the following year. Each Tobacco Retailer shall apply for the renewal of his or her License and submit the License Fee no later than thirty (30) calendar days prior to expiration of the term.

B. A License that is not timely renewed shall expire at the end of its term. To reinstate a License that has expired, or to renew a License not timely renewed pursuant to Subsection A of this Section, the Proprietor must:

1. Submit the License Fee; and

2. Submit a signed affidavit affirming that the Proprietor:

a. Has not sold and will not sell any Tobacco Product or Tobacco Paraphernalia after the License expiration date and before the License is renewed; or

b. Has waited the appropriate ineligibility period established for **Tobacco** Retailing without a License, as set forth in Section 7.80.110, before seeking renewal of the License.

7.80.080 - License nontransferable.

A. A License may not be transferred from one Person to another or from one location to another. Whenever a **Tobacco** Retailing location has a change in Proprietors, a new License is required.

B. Notwithstanding any other provision of this Chapter, prior violations at a location shall continue to be counted against a location, and License ineligibility periods shall continue to apply to a location unless:

1. The location has been fully transferred to an entirely new Proprietor or fully transferred to entirely new Proprietors; and

2. The new Proprietor(s) provides the Department with clear and convincing evidence that the new Proprietor(s) has acquired or is acquiring the location in an arm's length transaction. As used in this Section, the term "arm's length transaction" shall mean a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this Chapter is not an arm's length transaction.

7.80.090 - Inspections, investigations and enforcement.

A. Compliance with this Chapter shall be monitored by the Department or any law enforcement officer. Employees of the Department or a law enforcement officer may conduct compliance checks, including but not limited to youth decoy operations. Any law enforcement officer may enforce the penal provisions of this Chapter. Compliance checks may be unannounced.

B. The County shall not enforce any **tobacco**-related minimum age law against a person who otherwise might be in violation of such law because of the person's age (hereinafter "youth decoy") if the potential violation occurs when:

1. The youth decoy is participating in a compliance check supervised by an employee of the Department or a law enforcement officer;

2. The youth decoy is acting as an agent of a person designated by the County to monitor compliance with this Chapter;

3. The youth decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the Department; or

4. The youth decoy has an immunity letter from the District Attorney's Office.

C. Whenever evidence of a violation of this Chapter is obtained in any part through the participation of a person under the age of eighteen (18) years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this Chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

7.80.100 - Suspension or revocation of License.

A. In addition to any other remedy authorized by law, after notice and opportunity to be heard pursuant to Section 7.80.120 of this Chapter, a License may be suspended or revoked as provided in this Section if the Health Officer finds by a preponderance of the evidence that the Licensee, or any of the Licensee's agents or employees, has:

1. Violated any of the requirements, conditions or prohibitions of this Chapter; or

2. Pleaded guilty, "no contest" or its equivalent, or admitted to any of the following:

a. The original or renewal application contained incorrect, false, or misleading information;

b. One or more of the grounds for denial listed in Section 7.80.060 existed before the License was issued; or

c. A Licensee is convicted of a misdemeanor or felony violation of any Federal, State, or local **tobacco** retailing law or regulation, including any provision of this Chapter.

B. During any period of suspension or revocation, the Licensee shall remove all **Tobacco** Products and **Tobacco** Paraphernalia from public view. Failure to do so may be considered a subsequent violation.

C. When the Health Officer finds a violation as set forth in Subsection A of this Section, the License shall be suspended or revoked as follows:

1. Upon a finding by the Health Officer of a first License violation, the License shall be suspended for sixty (60) days;
2. Upon a finding by the Health Officer of a second License violation within any sixty (60) month period, the License shall be suspended for one hundred and twenty (120) days;
3. Upon a finding by the Health Officer of a third License violation in any sixty (60) month period, the License shall be suspended for one hundred and eighty (180) days; and
4. Upon a finding by the Health Officer of a fourth License violation within any sixty (60) month period, the License shall be revoked and no new License shall issue for the location until five (5) years has passed from the date of revocation.

D. Violation by a Licensee at one location shall not be construed as a violation at another location of the same Licensee, nor shall violations by a prior Licensee at the same location be accumulated against a subsequent Licensee at the same location.

E. A License shall be revoked if the Health Officer finds that one or more of the grounds for denial of an application for a License pursuant to Section 7.80.060 existed at the time the application was made or at any time before the License was issued.

7.80.110 - Penalties for Tobacco Retailing without a License.

A. In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the Health Officer finds after notice and opportunity to be heard pursuant to Section 7.80.120 of this Chapter, that any Person has engaged in Tobacco Retailing at a location without a valid License, either directly or through the Person's agents or employees, the Person shall be ineligible to apply for, or to be issued, a License as follows:

1. After a first violation of this Section at a location, no new License may issue for the Person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until sixty (60) days have passed from the date of the violation.
2. After a second violation of this Section at a location within any sixty (60) month period, no new License may issue for the Person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until one hundred and eighty (180) days have passed from the date of the violation.

3. After a third or subsequent violation of this Section at a location within any sixty (60) month period, no new License may issue for the Person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until five (5) years have passed from the date of the violation.

B. Any imposition of a penalty pursuant to this Section shall be in writing, setting forth the reasons for the imposition of a penalty and notifying the Person subject to the penalty that the decision to impose the penalty shall become final unless the Person seeks an appeal pursuant to Section 7.80.130 within fourteen (14) calendar days of the date of service of the Health Officer's decision. Service of the decision shall be provided in accordance with the service requirements set forth in Subsection A of Section 7.80.120.

7.80.120 - Health Officer decision.

A. Upon determining the existence of any of the grounds pursuant to this Chapter for the suspension or revocation of a License, or the imposition of a penalty for Tobacco Retailing without a License, the Health Officer shall issue a notice of intended decision to the applicant for a License, the Licensee, or the Person against whom the penalty for Tobacco Retailing without a License is directed. The notice shall be provided by personal service or by first class mail, postage prepaid, and shall include a copy of the affidavit or certificate of mailing.

B. The notice of intended decision shall state all the grounds upon which the revocation, suspension, or imposition of penalty is based.

C. The notice of intended decision shall specify the effective date of the action.

D. The notice of intended decision shall state that the Health Officer shall give the applicant for a License, the Licensee, or the Person against whom the penalty for Tobacco Retailing without a License is directed an opportunity to request a hearing thereon. The hearing shall be an informal hearing before the Health Officer. Following the hearing, or within a reasonable time if no hearing is requested, the Health Officer shall issue a decision and serve the decision in accordance with the service requirements set forth in Subsection A of this Section.

E. The decision of the Health Officer shall be in writing, setting forth the reasons for the decision, and shall advise the applicant for a License, the Licensee, or the Person against whom the penalty for Tobacco Retailing without a License is directed that the decision to suspend or revoke the License,

or to impose the penalty for **Tobacco** Retailing without a License shall become final unless the applicant for a License, the Licensee, or the Person against whom the penalty for **Tobacco** Retailing without a License is directed seeks an appeal pursuant to Section 7.80.130.

7.80.130 - Appeal procedures.

With regard to any denial of an application for a License pursuant to Section 7.80.060 or any decision issued by the Health Officer pursuant to Section 7.80.120, the following rules apply:

A. A decision of the Health Officer to deny an application for a License, to suspend or revoke a License, or to impose a penalty for **Tobacco** Retailing without a License can be appealed to a hearing officer, subject to the following requirements and procedures. A Person served with a decision issued pursuant to Subsection B of Section 7.80.060 or Subsection D of Section 7.80.120 may seek an appeal by filing with the Health Officer a written request for hearing within fourteen (14) calendar days of service of the decision. Failure to timely file a written request for hearing shall be deemed a waiver of the right to challenge the decision of the Health Officer and a failure to exhaust administrative remedies. The hearing officers shall be individuals selected by the County who may hear the appeals, issue subpoenas, receive evidence to administer oaths, rule on questions of law and the admissibility of evidence, prepare a record of the proceedings, and issue orders with regard to an appeal.

B. The hearing officer shall schedule a hearing.

1. Written notice of the time, date and location of a hearing before the hearing officer shall be given by personal service or by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing, to the appellant.

2. Hearing Procedures.

a. Requirements for Taking Testimony. In any proceeding before a hearing officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the hearing officer, his/her clerk, or other designee shall have the power to administer oaths and affirmations and to certify to official acts. Oaths of witnesses may be given individually or en masse. Witnesses shall be asked to raise their right hands and to swear or affirm that the testimony they shall give will be the truth, the whole truth, and nothing but the truth.

b. Continuances. The hearing officer may continue the hearing as determined appropriate by the hearing officer.

c. Administrative Interpretations. In conducting the hearing, the hearing officer shall consider the previously established interpretation of an ordinance provision by the Department charged with its enforcement unless that interpretation is shown to be clearly erroneous or unauthorized.

d. Hearing Officer Decisions. Within thirty (30) calendar days after the close of the hearing, the hearing officer shall issue a written decision, including a statement of the basis for the decision. The hearing officer's written decision shall constitute the final administrative decision of the County.

e. In the event a civil action is initiated to obtain enforcement of the decision of the hearing officer, and judgment is entered to enforce the decision, the Person against whom the order of enforcement has been entered shall be liable to pay the County's total costs of enforcement, including reasonable attorney's fees.

C. The appellant's failure to appear at the hearing on appeal shall constitute an abandonment of the review request and a failure to exhaust administrative remedies.

7.80.140 - Other Penalties.

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

A. Violations of this Chapter may, in the discretion of the District Attorney, be prosecuted as infractions or misdemeanors.

B. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Chapter shall constitute a violation.

C. Violations of this Chapter are hereby declared to be public nuisances.

7.80.150 - Stipulated fine in lieu of hearing.

For a first or second alleged violation of this Chapter within any sixty (60) month period, the Health Officer may allow a **TobaccoRetailer** alleged to have violated this Chapter to stipulate in writing to the penalties provided in this Section in lieu of the penalties that would otherwise apply pursuant to this

Chapter and to forego any right the **Tobacco Retailer** may have to a hearing pursuant to Section 7.80.130. Notice of any stipulation shall be provided to the Sheriff's Office, and no hearing shall be held. Stipulations shall not be confidential, shall be in writing, and shall contain the following terms plus any other noncriminal provisions established by the Health Officer in the interests of justice:

A. After a first alleged violation of the Chapter at a location:

1. An agreement by the **Tobacco Retailer** to stop acting as a **Tobacco Retailer** for one (1) day;
2. An administrative penalty of One Thousand and no/100ths (\$1,000.00) Dollars;
3. An admission by the **Tobacco Retailer** that the first alleged violation of the Chapter at the location occurred; and
4. An agreement that the first alleged violation of the Chapter at the location shall be considered in determining the penalty for any future violation.

B. After a second alleged violation of the Chapter at a location within any sixty (60) month period:

1. An agreement by the **Tobacco Retailer** to stop acting as a **Tobacco Retailer** for ten (10) days;
2. An administrative penalty of Five Thousand and no/100ths (\$5,000.00) Dollars;
3. An admission by the **Tobacco Retailer** that the second alleged violation of the Chapter at the location occurred; and
4. An agreement by the **Tobacco Retailer** that the second alleged violation of the Chapter at the location will be considered in determining the penalty for any future violations.

7.80.160 - Implementation.

The Department shall begin implementing the provisions of this Chapter effective July 1, 2012.

7.80.170 - Severability.

If any provision of this Chapter or the application thereof to any Person or circumstance is held invalid, the remainder of this Chapter or the application of such provision to other Persons or circumstances shall not be affected thereby.

(Ord. 2013-06 § 2, 2013).



Integrated Pest Management Procedures and Guidelines

ANALYSIS

City Properties

The City of Pacific Grove maintains:

- More than 25 acres of community and neighborhood parks and athletic fields;
- More than 50 acres of public right-of-way, including street medians and parkways;
- 7,394 City-maintained trees, 623 planting areas trees; and
- Nearly 200,000 square feet of facilities.

Background

Historically, the City and its agents have applied pesticides, herbicides, and Kaput Ground Squirrel Bait to control the following in or on City properties:

1. Broadleaf and grassy weeds in turf, hardscapes, undeveloped rights-of-way, bike trail edges, tree well and planter areas;
2. Rodents;
3. Insects in trees, planters, and buildings; and
4. Soil pathogens/fungi and termites. Pests controlled in interior facilities include ants, spiders, rodents, and roaches.

Purpose

The purpose of these procedures and guidelines is to provide the City of Pacific Grove, its employees, and contractors with an overview of integrated pest management (IPM) principles, procedures, and guidelines for implementing those principles. It is expected that these procedures and guidelines will ensure that all City operations and contracted services that manage pests or vegetation on City property do so in an environmentally sensitive manner while addressing public health, safety, economic, and aesthetics requirements.

The goals of these guidelines are to:

- 1) Create awareness among City staff and citizens of integrated pest management techniques and environmental stewardship.
- 2) Provide a means of educating all City departments to practice the most appropriate approach to managing pests on City property.
- 3) Reduce and eliminate pesticides and herbicides that pose known significant human or animal health, or environmental risks.
- 4) Establish a program where pesticides and herbicides categorized as toxic or persistent are used only when a pest is deemed a threat to public health, safety, the environment, or to prevent economic damage (emergency or exception) and only after other alternatives have been attempted and are ineffective. If pesticides and herbicides are used, provide guidelines on safe storage, handling, use, and application.
- 5) Promote the use of non-hazardous or reduced risk alternatives that are protective of human and animal health and the environment.

Guidelines

In carrying out its pest management operations, the City of Pacific Grove shall focus on long-term prevention or suppression of pest problems with minimum negative impact on human health, non-target organisms, and the environment. To this end, preference shall be given to reasonably available non-pesticide alternatives when considering the use of pesticides and herbicides on City property. Consideration will also be given to evolving rodent birth control technology for uses in pest control. However, moderation of organic alternatives will also be observed as to not introduce or substitute one environmental issue for another since the excess use of organics also comes with negative side effects.

When possible, City staff must employ non-chemical management tactics first.

Pesticides and herbicides shall be applied by a qualified applicator that has been trained in application methods. Applicators should be versed in techniques, safety precautions, pest biology, proper use of personal protective equipment, proper storage, handling, environmental concerns, employee rights regarding pesticide, Department of Pesticide Regulation, State, and Monterey County guidelines.

Pesticides and Herbicides Use

Pesticides and herbicides will be used only in authorized situations where other alternative methods have proven not to be effective or feasible (e.g., cannot be sustained due to budgetary or other constraints). The following general and specific practices shall be followed:

General

1. When used, those pesticides and herbicides with the least toxicity to humans and the environment shall be applied. No Category 1 pesticides and herbicides shall be used within the city limits except with the specific pre-authorization of the City of Pacific Grove Department Directors or designee to protect the health or safety of the public.
2. Prior approval of a Supervisor, IPM Coordinator or their designee is required for all applications.
3. Applications shall be performed by or under the supervision of a qualified applicator to avoid any hazard to any person or animal in the area or adjacent areas and to avoid any property damage.
4. Application(s) shall be made at the time of the treatment of weeds' most susceptible stage.
5. Care shall be observed not to damage non-targeted vegetation, especially when applying a non-selective herbicide.
6. Spraying shall be confined to target species and drift must be avoided.

Specifics

No pesticides and herbicides are to be applied within 50 yards of any designated playground or adjacent to Pacific Grove Unified School District, (PGUSD) properties unless conditions call for control of a hazardous or noxious pest or weeds. In this case, the area would be closed until re-entry is deemed safe.

No pesticides and herbicides shall be sprayed when weather conditions are:

- More than 5 miles per hour winds
- Damp or foggy
- Rainy
- Extremely cold or hot

Pesticides and Herbicides Training

Person(s) applying pesticides and herbicides that are not licensed must have pesticide safety training before the use of each pesticide, regardless of toxicity. Training must be updated annually. A record must be made of each employee applying pesticides and herbicides, and evidence of training certified by the trainer/supervisor. Copies of the record form will be kept by the employee and the City department, and be available to local and State officials.

Training requirements

Training must be performed by a qualified person and cover the following for each pesticide handled:

1. Information on the pesticide label concerning human health effects.
2. Hazards of the pesticide, including acute and long-term effects.
3. Pesticide poisoning symptoms and routes pesticides and herbicides can enter the body.
4. Emergency first aid and how to get emergency medical care.
5. Routine and emergency decontamination procedures.
6. Need for, limitations, use, and cleaning of personal protective equipment (PPE).
7. Prevention, recognition and first aid for heat-related illnesses.
8. Safe procedures for handling pesticides and herbicides, including engineering controls.
9. Environmental concerns, such as drift and runoff and stormwater quality impacts.
10. Warnings against taking pesticides and herbicides home.
11. Regulatory requirements, including Material Safety Data Sheets (MSDS) and Pesticide Safety Information Series (PSIS).
12. Purpose and requirements of medical supervision, when applicable.
13. Location of hazard communication information.
14. Employee rights.

Personal Protective Equipment (PPE)

The City of Pacific Grove will provide personal protective clothing and equipment to City personnel engaged in the application of pesticides and herbicides on City of Pacific Grove property as stated on the manufacturer's label. Contractors are required to provide their own PPE.

Documents Required While Applying Pesticides and Herbicides

Any person applying a pesticide on City of Pacific Grove property must have in their possession the following documents:

- Pesticide label
- Pesticide MSDS, (Material Safety Data Sheet)
- Medical Emergency Contact Information

Reporting of Pesticides and Herbicides Use

At the end of each month, each Crew Supervisor will complete a Monthly Chemical Use Report form and return it to the IPM Coordinator or designee. The City of Pacific Grove must then complete a Monthly Summary Pesticide Use Report by the tenth of each month.

Storage and Disposal

All pesticide storage locations must be posted with visible warning notices legible from a distance of 25 feet from any direction in English and Spanish. Any pesticide containers holding 1 gallon or less of concentrate and 3-gallon backpack sprayers with diluted pesticides and herbicides must be transported outside of the vehicle cab in a manner that will prevent spillage onto the vehicle or off the vehicle.

Empty pesticide containers, other than bags, must be rinsed and drained into the spraying equipment on site by the user, at the time of use, using the triple rinse method. Rinse solution should be applied to the treated areas.

All pesticide containers must be labeled with the following information:

- Name of pesticide
- Category of pesticide
- EPA registration number
- Active ingredient
- Entity

Small spills of pesticides and herbicides should be cleaned up immediately with absorbent material such as cat litter. For major toxic pesticide spills, contact Public Works and request Emergency Response Personnel. Note what pesticide it is, category, and if it is threatening to enter the storm drain system.

Violation Documentation

An employee of the City of Pacific Grove who has been trained to apply pesticides and herbicides may be required to do so as part of their regular duties. Those who possess Qualified Applicator Certificates (QAC) from the California Department of Pesticide Regulation (DPR) are subject to discipline by the DPR via the Monterey County Agricultural Commissioner if they violate various DPR regulations such as improper safety gear, improper posting as well as other items. Those employees will also be subjected to the City of Pacific Grove Personnel Rules and Regulations as outlined below. Contractors hired by the City of Pacific Grove should follow discipline procedure according to City of Pacific Grove maintenance contract and the IPM procedures and guidelines. Those employees who do not possess a Qualified Applicator Certificate will be reprimanded by the City of Pacific Grove if they violate DPR regulations. The disciplinary actions for violations are to be determined.

Procedure

1. Consider the potential pest treatments and determine appropriate treatment during ongoing maintenance.
 - 1.1 In consultation with the IPM coordinator, the field supervisor shall determine the most effective treatment time, based on pest biology and other variables, such as weather and local conditions.
 - 1.2 Landscaping practices, including watering, mulching, waste management, and food storage must be taken into consideration by staff before applying any pesticide.
 - 1.3 When possible, pest ecosystems must be modified by staff to reduce food and living space.
 - 1.4 Staff should use physical or mechanical controls such as hand-weeding, traps, and barriers when possible.
 - 1.5 Staff should use biological controls, including introducing or enhancing pests' natural enemies.
2. Pesticides, Herbicides, and Rodent Application Protocol.
 - 2.1 Notify your crew supervisor of possible need for pest control at the site.
 - 2.2 Send the completed Pesticide Application form via email to the IPM coordinator before the proposed pesticide application, ideally the afternoon before the scheduled day of application.
 - 2.3 Gather all personal protective equipment (PPE), documents, and signage required to complete the specific pesticide application and have all of these items in your possession during the application.
 - 2.4 Apply pesticide and do not leave site unattended until spray has dried.
 - 2.5 Document pesticide usage.
 - 2.6 Complete the Monthly Chemical Use Report by the last calendar day of the month and turn into the IPM Coordinator or designee before or by the 7th of the following month.
 - 2.7 City of Pacific Grove IPM Coordinator or designee must complete and submit the Monthly Summary Pesticide Use Report to the County Agricultural Commissioner's Office within the first ten days of the following month.
 - 2.8 All City of Pacific Grove contractors shall follow the pesticide application procedure defined in the Contractor Maintenance Contract.
3. Conduct ongoing training programs.
4. The IPM coordinator and department supervisors trained in pest control shall train staff in pest biology, the IPM approach, new pest management strategies as they become known, and toxicology of pesticides and herbicides proposed for use.
5. Conduct ongoing public outreach and education.
 - 5.1. The IPM coordinator shall inform the public of the City's procedures and guidelines to reduce pesticide use and respond to questions from the public about the City's pest management practices.
6. When planning new projects or renovating existing areas, the design must be reviewed by the IPM coordinator and staff overseeing both the initial design and future maintenance to assure that pest habitat are eliminated or reduced. This process will result in a more sustainable design.

Integrated Pest Management Coordinator

The IPM Coordinator shall be responsible for:

1. Coordinating efforts to adopt IPM techniques for the City of Pacific Grove.
2. Communicating with appropriate staff on the goals and guidelines of the program.
3. Providing training to Parks and General Services, Public Works and other City staff in the requirements of this IPM procedures and guidelines as well as preparing individuals who handle pesticides and herbicides in obtaining a QAC.
4. Facilitating meetings with the City's commissions and City Council.
5. Tracking all pesticide use and ensuring that the information is available to the public.
6. Coordinating with other public agencies that are practicing IPM programs.
7. Filing monthly pesticide use reports with the County and renewing bi-annual pesticide permit.
8. Serving as public information officer in coordination with the Environmental Compliance Coordinator on IPM and pesticide related issues.
9. Keeping current on all Federal (EPA), State Department of Pesticide Regulation (DPR) and local regulations and provide updates to department personnel.

GLOSSARY

Area of Special Biological Significance, (ASBS) - The Pacific Grove Area of Special Biological Significance (ASBS) is 3.2 miles of Pacific Grove coastline west from the Monterey Bay Aquarium to Asilomar Boulevard just before Point Pinos. ASBS are a subset of state water quality protection areas in the ocean along California's coast that require special protection per the California Marine Managed Areas Improvement Act. Their protection is promulgated by State Water Resources Control Board (SWRCB) through the California Ocean Plan (Ocean Plan). The Ocean Plan prohibits the discharge of waste to designated ASBS.

Accordingly, on March 20, 2012, SWRCB adopted a General Exception to the Ocean Plan waste discharge prohibition in relation to the ASBS. The General Exception, which is described in SWRCB Resolution No. 2012-0012 and amended by Resolution No. 2012-0031, governs point and non-point source waste discharges to California's ASBS, which include municipal storm water discharges. The Pacific Grove ASBS is covered under this exemption.

Biological control – This method uses biological technologies to manage unwanted pests. Examples of this type of control include, but would not be limited to, the use of pheromone traps for the management of Indian meal moth in food storage/preparation areas, or beneficial insect release for control of certain types of weeds or invasive insects in landscapes.

Category 1- The four toxicity categories, from one to four are:

- Toxicity category I is highly toxic and severely irritating,
- Toxicity category II is moderately toxic and moderately irritating,
- Toxicity category III is slightly toxic and slightly irritating,
- Toxicity category IV is practically non-toxic and not an irritant.

Contract- A binding written agreement between two parties. Contracts entered into the pesticide realm are generally for goods or services.

Contractor- A person, firm, corporation, or other entity, including a governmental entity, that enters into a contract.

Cultural control - Is the practice of modifying the growing environment to reduce the prevalence of unwanted pests. Examples include irrigation practices, improved and reduced fertilization applications, proper mowing practices that include mulching, and regular aeration to improve the soil.

DPR - Department of Pesticide Regulations for the State of California's Environmental Protection Agency. DPR, in partnership with Federal EPA and County Department of Agriculture, oversees all issues regarding the registration, licensing and enforcement of laws and regulations about pesticides and herbicides.

Emergency- A pest outbreak that poses an immediate threat to public health or significant economic or environmental damage.

Environmental Stewardship - The strategic approach to pest management in which the IPM practitioners find balance in preserving the natural integrity and health of the environment, promoting public safety and maintaining functional utilities while recommending or applying pest management methods. Environmental Stewardship philosophy helps to create awareness of Best Management Practices and their relationship the healthy environment while conducting pest management activities.

EPA- The United States Environmental Protection Agency

Exemption- A process by which materials not on the approved materials list, can temporarily be used, but only after all alternatives have been reviewed, evaluated, and or implemented and only after the IPM Coordinator has authorized the use of the pesticide for the specified purpose.

Exemptions may be one-time or programmatic, and the decision to approve an exemption will be based upon an evaluation of the failure or success of alternatives and take into consideration public health, environmental, and financial risks.

IPM Coordinator- An individual who is tasked with the function to administer the IPM program for a project or the City of Pacific Grove.

Integrated Pest Management (IPM) - A decision-making process for managing pests that use monitoring to determine pest levels, tolerance thresholds, combines biological, cultural, physical, chemical tools to minimize health, environmental, and financial risks. The method uses extensive knowledge about pests, such as infestation thresholds, life histories, environmental requirements, and natural enemies to compliment and facilitate biological and other natural control of pests.

Landscapes- Grounds that are actively managed such as parks, plantings, lawns around public buildings, right-of-ways, watersheds, and open space, etc., excluding large tracts of forestland.

Mechanical controls – The use of IPM control methods utilizing hand labor or equipment such as mowers, graders, weed-eaters, and chainsaws. Crack and crevice sealants and closing small entryways (e.g., around pipes and conduits) into buildings for insect and rodent management would also be mechanical methods.

Monarch Butterfly Sanctuary - The Pacific Grove Monarch Sanctuary is merely one of approximately 400 overwintering sites along the California coast. Monarchs cluster in the eucalyptus trees at the Sanctuary. The sanctuary is a Pacific Grove municipal park and is freely open from sunrise to sunset.

Nurse Tanks- Commonly used to transport various agricultural chemicals and liquids to the point of application.

PCA – PCA or Pest Control Advisor is one licensed by the California Department of Pesticide Regulations according to Title 3, Article 5 of the California Code of Regulations. Only a licensed PCA, who is registered with the County Agricultural Commissioner may provide written pest control recommendations for agricultural pest management, including parks, cemeteries, golf courses, and rights-of-way.

Pesticide- Any substance, or a mixture of substances, used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, which may be detrimental to vegetation, humans, animals or structures.

QAC - Qualified Applicators Certificate is a certified applicator of pesticides and herbicides according to Title 3, Article 3 of the California Code of Regulations. Applications may include residential, industrial, institutional, landscape, and rights-of-way sites.

Sustainable Design, Construction, and Maintenance- Principles, materials, and techniques that conserve natural resources and improve environmental quality throughout the lifecycle of the landscape and its surrounding environment. Sustainable designs for buildings and landscapes incorporate methods that reduce the potential for pest problems from the start and with long-term maintenance needs in mind.