

## ORDINANCE NO. 17-020

### AN ORDINANCE OF THE CITY OF PACIFIC GROVE AMENDING CHAPTERS 1.19 OF THE PACIFIC GROVE MUNICIPAL CODE REGARDING MUNICIPAL CODE ENFORCEMENT AND COLLECTION

#### FINDINGS

1. The City Council of the City of Pacific Grove (City) has authorized alternative enforcement processes as a means to streamline the City's code enforcement, address budget difficulties and resource shortages, and to recoup the costs of enforcement; and
2. City Charter Article 4 and Article 45 grant authority to the City Council to exercise all powers necessary or appropriate to a municipal corporation including authority to enforce the City Charter and Municipal Code; and
3. Pacific Grove Municipal Code (PGMC) Chapter 1.19 sets forth enforcement options to effectively and timely address code and ordinance enforcement matters to preserve and protect the quality of life in the neighborhoods and communities of the city of Pacific Grove; and
4. PGMC Chapter 1.19 allows imposition of liens against a real property on which a PGMC violation occurred; and
5. The City seeks to institute an alternative method to collect administrative fines, penalties, or costs against a real property on which PGMC violations occur; and
6. This ordinance amends Sections 1.19.260-1.19.290 to clarify lien procedures and authorize special assessment procedures; and
7. Enactment of this ordinance action does not constitute a "project" as defined by California Environmental Quality Act (CEQA) because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.

#### NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. The text set forth in existing Chapter 1.19 of the Pacific Grove Municipal Code entitled, "Municipal Code And Ordinance Enforcement" shall be amended by the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***), deletion by ~~strikethrough~~ as follows:

**Chapter 1.19**  
**MUNICIPAL CODE AND ORDINANCE ENFORCEMENT**

Sections:

- 1.19.260** ~~Lien procedure.~~ *Authority to Impose Lien/ Special Assessment.*
- 1.19.270** ~~Lien hearing and protest.~~ *Lien/ Special Assessment Procedure and Hearing.*
- 1.19.280** ~~Recording lien.~~ *Recordation and Satisfaction of Lien.*
- 1.19.290** ~~Satisfaction of lien.~~ *Recordation and Satisfaction of Special Assessment.*

**1.19.260** ~~Lien procedure.~~ *Authority to Impose Lien/ Special Assessment.*

Whenever the amount of any administrative fine, penalty and/or administrative cost imposed by a hearing officer pursuant to this chapter in connection with real property has not been satisfied in full within 90 days and/or has not been successfully challenged by a timely writ of mandate, this obligation shall constitute a lien *or, in the alternative, a special assessment* against the real property on which the violation occurred.

**1.19.270** ~~Lien hearing and protest~~ *Lien/ Special Assessment Procedure and Hearing.*

*(a) Upon determination by the City Manager or his designee that any administrative fine, penalty and/or administrative cost imposed by a hearing officer pursuant to this chapter in connection with real property has not been satisfied in full within 90 days and/or has not been successfully challenged by a timely writ of mandate, the City Council may adopt a resolution confirming imposition of the debt and approving filing a lien or special assessment against the subject real property.*

*(b) The resolution shall state the amounts due and owing, the name of the agency imposing the lien/special assessment (City of Pacific Grove), the date of the order or other notice describing the property violation or nuisance in question, the street address, legal description and assessor's parcel number of the subject property, and the name and address of the recorded owner of the property.*

*(c) Any person whose real property is subject to a lien/special assessment pursuant to PGMC 1.19.270 this Chapter may file a written protest with the city clerk and/or may object to assessment of the lien/ special assessment orally at the city council meeting.*

*(d) Each written protest or objection must contain a description of the property in which the protesting party is interested and the grounds for each protest or objection.*

*(e) The city council, after the hearing and after considering each protest, shall adopt a resolution confirming, discharging or modifying the amount of the lien/special assessment.*

**1.19.280** ~~Recording lien.~~ *Recordation and Satisfaction of Lien.*

*(a) Thirty days following the adoption of a resolution by the city council imposing a lien, the city clerk shall file the same as a judgment lien in the office of the county recorder of Monterey County, California.*

(b) The lien may carry such additional administrative charges as set forth by resolution of the city council. Interest at the legal rate per year shall accrue on the principal amount of the lien until satisfied pursuant to law. A lien pursuant to this Chapter may be foreclosed by an action brought by the City for a money judgment.

(c) A copy of the adopted resolution shall be served on the property owner, along with notice to the property owner that a lien in the amounts stated in the resolution will be filed against the subject property in the Monterey County Recorder's Office.

(d) The notice set forth in subsection (c) above shall be served in accordance with PGMC Chapter 1.12. If the owner of record cannot be found after diligent search, the notice may be served by posting a copy in a conspicuous place upon the property for a period of 10 days and publication in a newspaper of general circulation published in Monterey County.

(e) Once payment in full is received by the city for outstanding penalties, costs, and accrued interest, the city manager shall either record a notice of satisfaction or provide the property owner or financial institution with a notice of satisfaction so this notice may be record with the office of the county recorder. Such notice of satisfaction shall cancel the city's lien.

**1.19.290 Satisfaction of lien. Recordation and Satisfaction of Special Assessment.**

(a) The resolution adopted by the City Council under this section shall be entitled to recordation.

(b) A copy of the adopted resolution shall be served on the property owner, along with notice that the property may be sold after three years by the tax collector for unpaid delinquent assessments. Such notice shall be served by certified mail to the property owner. If the owner of record cannot be found after diligent search, the notice may be served by posting a copy in a conspicuous place upon the property for a period of 10 days and publication in a newspaper of general circulation published in Monterey County. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(c) The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the assessment relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the assessment shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

(d) Interest at the legal rate per year shall accrue on the principal amount of the assessment until satisfied pursuant to law.

**(e) The City may, subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code, conduct a sale of vacant residential developed property for which the payment of the assessment is delinquent.**

**(f) Once payment in full is received by the city for outstanding penalties, costs, and accrued interest, the city manager shall provide written notice to the tax collector that the special assessment has been paid in full and should no longer be imposed against the subject property. Such written notice shall cancel the City's special assessment.**

SECTION 3. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 4. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 5. In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof.

SECTION 6. PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS 18<sup>th</sup> day of October, 2017, by the following vote:

AYES: Mayor Kampe, Councilmembers Cuneo, Fischer, Garfield, Huitt, Peake, and Smith.  
NOES: None.  
ABSENT: None.

APPROVED:

  
BILL KAMPE, Mayor

ATTEST:  
  
SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:  
  
DAVID C. LAREDO, City Attorney