ORDINANCE NO. 20-002

AN ORDINANCE OF THE CITY OF PACIFIC GROVE ADDING CHAPTER 11.26 TO THE PACIFIC GROVE MUNICIPAL CODE REGARDING TOBACCO RETAILER LICENSING

FACTS

WHEREAS, since 1996, the City of Pacific Grove has regulated tobacco as set forth in Pacific Grove Municipal Code (PGMC) Chapter 11.24; and

WHEREAS, the tobacco industry has a long history of using flavored tobacco to target youth. The majority of youth who start experimenting with tobacco begin with flavored tobacco. These products come in a variety of candy-like flavors, including bubble gum, grape, menthol, and cotton candy and include e-cigarettes, hookah tobacco, cigars, smokeless tobacco, and even flavored accessories such as blunt wraps; and

WHEREAS, to reduce illegal sales of tobacco products to minors, many cities and counties in California, including Carmel, Monterey, and Salinas have adopted strong local tobacco retailer licensing ordinances; and

WHEREAS, Tobacco Retail Licensing is an existing County of Monterey program. Pursuant to a memorandum of understanding with the City, the County will provide enforcement, program, and licensing management; and

WHEREAS, the City has determined that it is appropriate to impose further tobacco regulations to protect the health, safety and security of the public, and will ensure that all these establishments operate fairly and safely; and

WHEREAS, this ordinance amends the Municipal Code to create a new Chapter 11.26, entitled "Tobacco Retail License," which incorporates the County of Monterey Code Chapter 7.80, Tobacco Retail License; and

WHEREAS, notice of the public hearing was published or posted December 26, 2019; and

WHEREAS, in the enactment of this ordinance, the City followed the guidelines adopted by the State of California and published in the California Environmental Quality Act (CEQA), California Code of Regulations, Title 14, Section 15000, et seq.; and

WHEREAS, enactment of this Ordinance is exempt from CEQA pursuant to section 15061(b)(3) of the Guidelines. The City Council determines it does not have the potential for causing a significant effect on 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 in fully herein.

SECTION 2. A new Chapter 11.26 shall be added to the Pacific Grove Municipal Code, entitled "Tobacco Retailer License" as follows:

Chapter 11.26
TOBACCO RETAILER LICENSE

Sections:

11.26.010 Monterey County Tobacco Retailer License provisions adopted.

(a) Monterey County Code Chapter 7.80 entitled Tobacco Retailer License, pertaining to tobacco retailer licenses, is hereby adopted by the City and incorporated by reference into the PGMC, and shall be enforced within the limits of the City.

(b) For purposes of the City, the following terms 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 PGMC.

All reference to the term "Chapter" in the Monterey County Code shall be to the term "Section" 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) 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.

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. Severability. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or 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 its passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS 15th day of January, 2020, by the following vote:

AYES: Mayor Peake, Mayor Pro Tem Huitt, Councilmembers Amelio, Garfield, McAdams, Smith and Tomlinson.

NOES: None.

ABSENT: None.

APPROVED:

Bill Peake

BILL PEAKE, Mayor

ATTEST:

Sandra Kandell

SANDRA KANDELL, City Clerk
DATED: January 23, 2020

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney