

ORDINANCE NO. 20-004

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING CHAPTER 14.08, PARKS,
OF THE PACIFIC GROVE MUNICIPAL CODE
REGULATING ELECTRIC BICYCLES, VEHICLES AND
OTHER USES OF PARKS AND THE RECREATIONAL TRAIL**

FACTS

1. The California Legislature has recognized electric bikes should no longer be regulated like scooters or mopeds and the same rules of the road apply to both e-bikes and human-powered bicycles (A.B. 1096); and
2. The Legislature defines an “electric bicycle” as a bicycle with fully operable pedals and an electric motor of less than 750 watts, and created 3 classes of electric bicycles; and
3. The Legislature authorized the City to prohibit or limit, by ordinance, operation of class 1 or class 2 electric bicycles on specified paths or trails (California Vehicle Code Section 312.5); and
4. The Pacific Grove Municipal Code currently does not address the use of electric bicycles in its parks or Recreational Trail; and
5. On August 27, 2019, City staff made a presentation to the Traffic Commission regarding E-Bikes on the Recreational Trail. The Traffic Commission directed staff to hold a community meeting as to whether E-Bikes should be allowed on the Recreational Trail; and
6. On September 23, 2019, the Pacific Grove Police Department held a community meeting to discuss E-Bikes on the Recreational Trail; and
7. On September 24, 2019, City staff provided the Traffic Commission an update regarding E-Bikes on the Recreational Trail; and
8. On December 4, 2019, City Council directed City Staff to draft an ordinance regulating E-Bikes and the speed limit on the Recreational Trail; and
9. The City determined it is appropriate to regulate use of bicycles and electric bicycles along the Recreational rail to protect the health, safety, and security of the public; and
10. This ordinance amends PGMC Chapter 14.08 to clarify regulations pertaining to use of bicycles, E-Bikes, and scooters in City parks; and
11. Enactment of this Ordinance does not constitute a “project” under California Environmental Quality Act (CEQA) Guidelines Section 15378.

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

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

SECTION 2. Existing Municipal Code Chapter 14.08, entitled "Parks" shall be amended by the deletion of all text shown in ~~strikeout (strikeout text)~~ and by the addition of all text shown in bold, italic underscore (***bold italic underlined text***), as follows:

Chapter 14.08
PARKS

Sections:

- 14.08.010 Unlawful acts within limits of park, golf course or beach.
- 14.08.015 Recreational Trail as public park.
- 14.08.016 Recreational Trail – Foot traffic prohibited on bicycle portion.
- 14.08.017 Monarch Grove Sanctuary as public park.
- 14.08.020 Bicycles ~~prohibited~~ ***and E-bike restrictions.***
- 14.08.021 Electric bicycles use restrictions.***
- 14.08.023 Speed limit on Recreational Trail.***
- 14.08.024 Use of pedicab prohibited in Recreational Trail, in all public parks, golf links and El Carmelo Cemetery.***
- 14.08.025 Use of motorized scooters ***prohibited*** in Recreational Trail, in all public parks, golf links and El Carmelo Cemetery.
- 14.08.030 Dogs prohibited in public parks – Exceptions.
- 14.08.040 Diving along the waterfront.
- 14.08.050 Enforcement.***

14.08.010 Unlawful acts within limits of park, golf course or beach.

Within the limits of any public park, golf course, or beach in the city of Pacific Grove it is unlawful for any person to do any of the acts hereinafter specified:

(a) To cut, break, injure, deface, or disturb any tree, shrub, plant, rock, building, monument, bench, or other structure, apparatus or property; or to pluck, pull up, out, take or remove any shrub, bush, plant or flower; or to mark, or write upon any building, monument, fence, bench or other structure; or to cut or remove any wood, turf, grass, soil, rock, sand or gravel in excess of one handful; or to dump, leave, discard or let fall any rock, sand or gravel in excess of one handful, except that city employees in the course of their duties of maintenance of said areas shall be permitted to do any or all of the within set-out acts, and other acts prohibited by this subsection may be permitted to private individuals where the public interest so requires on authorization of the city manager, and except that this section shall not be construed so as to

restrict the accidental damages to trees, shrubs and turf normally incident to the playing of golf in areas designated therefor;

(b) To distribute any handbills, or circulars, or to post, place, or erect any bills, notice, paper or advertising device or matter of any kind;

(c) To make or kindle a fire for any purpose, or to in any manner transport fire or any burning substance, except in designated picnic areas where fireplaces are provided therefor, or in such designated fireplaces to leave any fire or live coals unextinguished and unattended, except that this shall not be construed as a restriction on the smoking of any cigar, cigarette, pipe, or other device for smoking nicotine compounds; provided, further, it is unlawful to discard, throw or drop any lighted match, cigar, cigarette, or any other burning substance within such areas;

(d) To camp, lodge, occupy sleeping bags, or sleep between the hours of 12:00 midnight and 6:00 a.m.;

(e) To kill or have in possession any wild birds, animals, at any time within said areas. (See also restrictions on removal of marine life in marine refuge, Chapter 14.04 PGMC);

(f) To throw, deposit, place or leave in or upon any place within said parks or upon said beaches or golf course any waste papers, cans, bottles, trash, refuse or rubbish of any kind, except in a receptacle provided for such purpose by the city;

(g) To place in trash receptacles provided in such parks, household trash or garbage generated or accumulated outside of said park, golf course or beach;

(h) To appear, bathe, sunbathe, walk or be in any public park, playground, beach or the waters adjacent thereto, or any place under the jurisdiction of the city in such a manner that the genitals, to include pubis, pubic hair, and buttocks of any person, or any portion of the breast which includes the areola thereof of any female person, is exposed to public view or is not covered by an opaque covering. This subsection shall not apply to children under the age of 10 years.

This subsection shall not apply to live theatrical performances performed in a theater, concert hall, or other similar establishment located on public land. ~~A violation of this subsection shall constitute an infraction, and may be enforced pursuant to Chapter 1.16 PGMC;~~

(i) To smoke, as that term is defined by PGMC 11.24.020, within any public park or beach designated as restricted to smoking by PGMC 11.24.035.

(j) To operate a bicycle, electric bicycle or motorized scooter as restricted by this Chapter.

(See also restrictions as to the possession of liquor on sand beaches, PGMC 11.04.030; driving of vehicles on beaches or in parks, PGMC 16.32.130; trespassing, injuring turf, or selling golf balls, PGMC 14.12.010 through 14.12.030.)

14.08.015 Recreational Trail as public park.

For the purposes of this chapter, the term “public park” includes, without limitation, all property included within the recreational walking and biking trail running along the city’s waterfront from the City Boundary on the east to Seventeenth Street on the west.

14.08.016 Recreational Trail – Foot traffic prohibited on bicycle portion.

(a) It is unlawful for any person to walk, run, jog, permit animals or otherwise convey himself/herself on foot along the portion of the Recreational Trail (defined at PGMC 14.08.015) paved, marked and set aside for use of bicycles in a manner that impedes the operation of bicycles or other permitted vehicles on that portion of the trail.

~~(b) A violation of this section shall be an infraction, and may be enforced pursuant to Chapter 1.16 PGMC.~~

14.08.017 Monarch Grove Sanctuary as public park.

(a) For the purposes of this chapter the term “public park” includes, without limitation, the city’s Monarch Grove Sanctuary.

(b) It is unlawful for any person to enter or to be in or upon the Monarch Grove Sanctuary between sunset and sunrise.

~~(c) A violation of this section shall be an infraction, and may be enforced pursuant to Chapter 1.16 PGMC.~~

14.08.020 Bicycle and E-bike restrictions.

(a) It is unlawful for any person to ride or wheel or otherwise operate a bicycle or electric bicycle in Perkins’ Park, Perkins’ Park being ~~that all areas of park lying on the bay side~~ seaward of Ocean View Boulevard between Lovers Point and the Esplanade.

(b) It is unlawful for any person to ride or wheel or otherwise operate a bicycle or electric bicycle in Lovers Point Park, to include ~~on any property located on the bay side~~ seaward of Ocean View Boulevard ~~between Seventeenth Street and the easterly city boundary~~ from the City Boundary on the east to Seventeenth Street on the west, except on the paved portion of the recreation trail defined in PGMC 14.08.015.

~~(c) A violation of this section shall be an infraction, and may be enforced pursuant to Chapter 1.16 PGMC.~~

14.08.021 Electric Bicycle Use Restrictions.

(a) The term “electric bicycle” is defined in California Vehicle Code Sections 312.5 or 24016. Separate definitions apply to Class 1, Class 2 and Class 3 electric bicycles.

(b) Notwithstanding any other provision of this code, it is unlawful for any person to ride or wheel or otherwise operate a Class 1 or Class 2 electric bicycle as follows:

- (1) in Perkins' Park, defined by PGMC 14.08.020(a), the Pacific Grove Golf Links, or El Carmelo Cemetery.
- (2) on any property located seaward of Ocean View Boulevard from the City Boundary on the east to Seventeenth Street on the west, except when operated within applicable speed limits on the paved portion of the Recreation Trail, defined by PGMC 14.08.015.

(c) Class 3 electric bicycles are prohibited in all parks, the Pacific Grove Golf Links, El Carmelo Cemetery, and upon the Recreational Trail, defined in PGMC 14.08.015.

14.08.023 Speed limit on Recreational Trail.

(a) It is unlawful for any person to ride or wheel or operate a bicycle, a class 1 or 2 electric bicycle, an Electric Personal Assistive Mobility Device (as defined in California Vehicle Code Section 313), or a motorized board (as defined in California Vehicle Code Section 313.5) at a speed equal to or in excess of twelve (12) miles per hour on the recreation trail defined in PGMC 14.08.015.

(b) Notwithstanding subdivision (a), a person shall not operate any vehicle at a speed greater than is reasonable or prudent having due regard for weather, visibility, pedestrian and vehicular traffic, and the surface and width of the trail, and in no event at a speed that endangers the safety of any person or property.

14.08.024 Use of pedicab prohibited in Recreational Trail, in all public parks, golf links and El Carmelo Cemetery.

(a) The term "pedicab" is defined to mean:

(1) A bicycle that has three or more wheels, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is operated by an individual, and that is used for transporting passengers for receipt of any form of consideration; or

(2) A bicycle with a single unarticulated frame that pulls a sidecar or similar device that transports, or is capable of transporting, passengers on seats attached to the sidecar or similar device, that is operated by an individual, and that is used for transporting passengers for receipt of any form of consideration.

(b) Notwithstanding any other provision of this code, it is unlawful for any person to ride or wheel or otherwise operate a “pedicab” on any portion of the Recreational Trail (defined in PGMC 14.08.015), in all public parks, golf links, and El Carmelo Cemetery.

14.08.025 Use of motorized scooters prohibited in Recreational Trail, in all public parks, golf links and El Carmelo Cemetery.

(a) Notwithstanding any other provision of this code, it is unlawful for any person to ride or wheel or otherwise operate a “motorized scooter,” as defined in California Vehicle Code Section 407.5, ~~is prohibited from operating~~ on any portion of the Recreational Trail (defined in PGMC 14.08.015), in all public parks, golf links, and El Carmelo Cemetery.

(b) This section shall not apply to any ADA “pedestrian” defined by California Vehicle Code Section 467(b).

~~(b) A violation of this section shall be an infraction, and may be enforced pursuant to Chapter 1.16 PGMC.~~

14.08.030 Dogs prohibited in public parks – Exceptions.

(a) Subject to the exceptions set out in subsections (b) and (c) of this section, it is unlawful for any person to lead or conduct any dog, whether or not on a leash, within any public park or cemetery in the city.

(b) On-Leash Exceptions. As exceptions to the general prohibition of subsection (a) of this section, dogs are permitted on leash at any time in the following areas, subject to all other applicable provisions of this code:

- (1) In that portion of George Washington Park lying northerly of the Little League baseball field;
- (2) On any improved or natural trail or path in our coastal zone, including the recreational walking and biking trails running along the city’s waterfront and shoreline;
- (3) In Lynn “Rip” Van Winkle open space;
- (4) In Lovers Point Park, excluding the beach and grass areas;
- (5) In Berwick Park; and
- (6) Along the Southern-Pacific Railroad right-of-way from Lighthouse Avenue to Sunset Drive.

(c) Off-Leash Exceptions. As further exceptions to the general prohibition of subsection (a) of this section, dogs are permitted to run freely, without leash or any other physical restraint, between sunrise and 9:00 a.m. and 4:00 p.m. and sunset in the following areas; provided, that at

no time in such areas shall a dog be further than 50 yards from the person accompanying the dog in the area:

(1) In that portion of George Washington Park bounded by Short Street, Melrose Avenue, Alder Street and Pine Avenue;

(2) In Lynn "Rip" Van Winkle open space.

~~(d) A violation of this section shall constitute an infraction, and may be enforced pursuant to Chapter 1.16 PGMC.~~

14.08.040 Diving along the waterfront.

(a) For the purposes of this section the following terms are defined as follows:

(1) Restricted Area. Beginning at a point where the easterly line of Ocean View Boulevard intersects with the northerly line of the Southern Pacific right-of-way at the portion of Ocean View Boulevard which extends northerly and in the same direction as Seventeenth Street; thence northerly along the easterly line of said section of Ocean View Boulevard in a straight line to the point where said section of Ocean View Boulevard terminates; thence due east from said point of termination to the point of mean high tide; thence southerly along a straight line across the water to a point where the northerly extension of the westerly line of Fountain Avenue intersects the mean-high-tide line, thence southerly along the line representing the northerly extension of the westerly line of Fountain Avenue to the intersection of the Southern Pacific right-of-way; thence easterly along the northerly line of the Southern Pacific right-of-way, to said point of beginning.

(2) Scuba-Diving-Related Activities. Without limitation, this term includes the following:

(A) Conduct of classes in scuba diving and in the use of equipment or paraphernalia in connection therewith; or

(B) Assembly, transportation or deposit of scuba diving equipment and/or supportive paraphernalia for the use of a scuba diver or for the use or conduct of classes described in subsection (a)(2)(A) of this section; or

(C) Activities involving scuba diving or use of equipment and/or supportive paraphernalia, which have been planned by or for a scuba diving school, organization or club.

(b) The following regulations shall apply to scuba diving and scuba-diving-related activities.

~~Violation of any of the listed regulations shall constitute an infraction, and may be enforced pursuant to Chapter 1.16 PGMC.~~

(1) No person, firm, association or organization shall engage or participate in scuba diving or scuba-diving-related activities at or in the restricted area during the period May through

September, inclusive; provided, that the following exceptions shall apply during said period:

(A) Scuba diving and scuba-diving-related activities shall be permitted on the beach commonly known as Lovers Point Beach No. 1, but only southerly of the permanent, pyramid-shaped concrete marker in place on said beach. All persons participating in such diving and activities shall also enter and exit said beach on the stairs located southerly of said marker, and all divers shall enter and exit the water southerly of said marker. For purposes of this exception only, such diving and activities are also permitted in any portion of the water included in the restricted area.

(B) The exception set out in subsection (b)(1)(A) of this section shall be inapplicable, and the diving and activities prohibition shall fully apply, between the hours of 11:30 a.m. and sunset on Fridays, Saturdays, Sundays and Mondays during the period May through September, and between said hours on Memorial Day, Independence Day, Labor Day and California Admissions Day.

(2) During the period of unregulated diving in the restricted area, i.e., October through April, no person, firm, association or organization shall engage or participate in the conduct of classes, as described in subsection (a)(2)(A) of this section, except southerly of the marker, described in subsection (b)(1)(A) of this section.

(3) Groups, classes or organizations of any kind wishing to use the restricted area during the period of unregulated diving, i.e., October through April, for more than 50 divers at one time may do so only with the prior written permission of the recreation director, on terms and conditions as the director shall find appropriate to the date and time requested, including, without limitation, a maximum number of divers.

(4) No person using city property as access to the ocean, either within or outside the restricted area, shall disturb landscaping, foliage or any other plant materials on city property, by depositing equipment upon, walking upon or by any other act which harms such landscaping, foliage or plant materials. This regulation is in addition to the provisions of PGMC 14.08.010.

14.08.050 Enforcement.

Violations of this chapter may be prosecuted pursuant to Chapter 1.16 PGMC, and/or enforced pursuant to Chapter 1.19 PGMC.

SECTION 3. Existing Municipal Code Chapter 14.08, entitled "Parks" shall be repealed in its entirety.

SECTION 4. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

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.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS 19th day of February 2020, by the following vote:

AYES: Mayor Peake, Councilmembers Amelio, Garfield, and McAdams.

NOES: Mayor Pro Tem Huitt and Councilmember Smith.

ABSENT: Councilmember Tomlinson.

APPROVED:



BILL PEAKE, Mayor

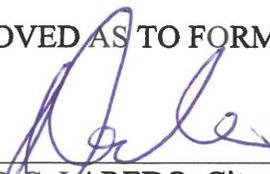
ATTEST:

DATED: 2/20/2020



SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:



DAVID C. LAREDO, City Attorney