

ORDINANCE NO. 20-005

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING CHAPTER 11.96
OF THE PACIFIC GROVE MUNICIPAL CODE
REGARDING UNLAWFUL NOISES REGULATION**

WHEREAS, since 2008, the City of Pacific Grove (City) has regulated Leaf Blowers by Pacific Grove Municipal Code (PGMC) Chapter 11.96, Unlawful Noises, Section 11.96.020 and 11.96.030; and

WHEREAS, combustion engine leaf blowers generate high noise levels, which disrupt neighborhood tranquility, disturb residents, workers, visitors, and thereby degrade the quality of life in Pacific Grove; and

WHEREAS, use of combustion engine leaf blowers increase the volume of exhaust particulate matter such as carbon dioxide, an identified greenhouse gas with negative environmental effects; the volume of dust particulate matter in the air exacerbates allergies and respiratory ailments; and

WHEREAS, on August 7, 2019, the City Council directed staff to propose amendments to Chapter 11.96 to prohibit combustion engine leaf blowers and allow battery or corded type leaf blowers or leaf vacuums; and

WHEREAS, on August 7, 2019, Staff was directed to delay implementation of proposed amendments by twelve months to allow ample time for business and residents to make changes in equipment; and

WHEREAS, this ordinance amends Chapter 11.96 of the Municipal Code; and

WHEREAS, notice of the public hearing was published or posted February 27, 2020;
and

WHEREAS, in the enactment of this ordinance, the City followed the California Environmental Quality Act (CEQA) guidelines adopted by the State of California and published in the 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 fully herein.

SECTION 2. Existing Municipal Code sections 11.96.020 and 11.96.030 of Chapter 11.96, entitled “Leaf Blower Restrictions” and “Sound Pressure Meter” shall be amended by the deletion of text shown in strikeout text (~~strikeout text~~) and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

11.96.010 Unlawful noises – Standards for determination.

Notwithstanding the provisions of Chapter 11.94 PGMC, and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary, or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

The standards which shall be considered in determining whether provisions of this section have been violated shall include, but not be limited to, the following:

- (a) The level of the noise;
- (b) The intensity of the noise;
- (c) Whether the nature of the noise is usual or unusual;
- (d) Whether the origin of the noise is natural or unnatural;
- (e) The level and intensity of the background noise, if any;
- (f) The proximity of the noise to residential sleeping facilities;
- (g) The nature and zoning of the area within which the noise emanates;
- (h) The density of the inhabitation of the area within which the noise emanates;
- (i) The time of the day or night the noise occurs;
- (j) The duration of the noise;
- (k) Whether the noise is recurrent, intermittent, or constant; and
- (l) Whether the noise is produced by a commercial or noncommercial activity.

11.96.020 Leaf blowers – Restrictions on use.

- (a) As used in this section, the following terms shall have the meanings set out below:

(1) "Leaf blower" means any device, and its associated equipment, designed or operated to produce a current of air generated by a power source to push, propel, or blow leaves, dust, cuttings, refuse, or any other waste or debris material. Street sweeping vehicles are not leaf blowers.

~~(2) "Continuous airborne sound" is sound which is measured by the slow response setting of a meter manufactured to the specifications of A.N.S.I. Standard S1.4-1983 "Specification for Sound Level Meter" or the most recent revision thereof.~~

~~(3) "Real property line" is either (A) the imaginary line, including its vertical extension, that separates one parcel of real property from another, or (B) the vertical and horizontal boundaries of a dwelling unit that is one in a multi-dwelling-unit building.~~

(b) It is unlawful for any person to operate ~~within 50 feet of the real property line of adjacent public or private property~~ a gasoline or other fuel-powered combustion engine leaf blower or vacuums *within the City limits. Corded electric or battery powered leaf blowers or vacuums are exempt from this limit.* ~~or any leaf blower that is capable of producing continuous airborne sound that exceeds 56 dBA measured at 50 feet in any direction.~~

~~(e) It is unlawful for any person to operate a leaf blower that is capable of producing continuous airborne sound that exceeds 62 dBA measured at 50 feet in any direction.~~

(cd) It is unlawful for any person to operate any leaf blower to push, propel or blow leaves, dust, weeds, cuttings, refuse or any other waste or debris material into the air in a manner which allows them to settle on public property or on private property not belonging to the same owner of the property on which the blower is being operated. Any materials so pushed, propelled or blown shall be gathered and removed immediately by the person operating the leaf blower.

(de) This section does not authorize any activity or environmental harm or impact, including noise or air pollution, which would otherwise be a harm, hazard, nuisance, or trespass, or violate any other law.

(ef) Public agencies, including the city of Pacific Grove, shall fully comply with the provisions of this section.

~~11.96.030 Sound pressure meters.~~

~~The police department shall obtain and maintain properly calibrated sound pressure (decibel) meters. Appropriate police personnel shall receive training in the use of sound pressure (decibel) meters. [Ord. 09-005 § 18, 2009; Ord. 01-03 § 2, 2001].~~

11.96.040 Construction noise time limits.

(a) Purpose. The purpose of this section is to protect neighbors and the community from excessive noise caused by construction activities while not unduly restricting lawful construction, by establishing specific hours when construction noise is not allowed.

(b) Time Limits. All noise-generating construction activities, as well as delivery and removal of materials and equipment associated with those construction activities, are limited to the hours of 8:00 a.m. to 6:00 p.m., Monday through Saturday, and 10:00 a.m. to 5:00 p.m. on Sunday.

(c) Notice of Construction Hours. Limits on construction hours shall be noted on the city building permit and approved building plans.

(d) Definition. "Noise-generating construction activities" means all activities associated with construction, alteration, remodeling, demolition or repair that generate persistent or repeated mechanical or percussive sounds that are clearly audible outside the boundaries of the property where the sound is generated.

(e) Exception. A permit to allow an exception to these time limitations may be issued by the zoning administrator or designee if it is found that the exception is warranted by unique and overriding circumstances, is in furtherance of the purpose of this section, and is of short duration. Each permit shall be for a limited term, and shall be conditioned to require renewal after that term. Before issuing a permit under this section the city shall post and mail notice of the proposed permit to neighbors within 300 feet of the construction site. Notice shall include a statement of the proposed construction time limits, duration of the exception and the process by which the permit may be appealed. The city manager or designee shall have the discretion to waive the notice requirement in the event he or she determines there is an imminent danger to health, safety or property.

(f) Appeals. Decisions of the zoning administrator to allow an exception pursuant to this section may be appealed to the planning commission by any person, in accord with Chapter 23.74 PGMC.

~~(g) Enforcement. A violation of this section shall be an infraction, and may be enforced pursuant to Chapter 1.16 or 1.19 PGMC. [Ord. 16-012 § 3, 2016].~~

11.96.050 Enforcement.

Violations of this chapter may be enforced in accordance with Chapters 1.16 and 1.19 PGMC. Violation of this chapter may also be considered to be a public nuisance. In addition to any other remedies or penalties that may be available, any violation of this Chapter shall be subject to abatement by the city, as well as any other remedies that may be permitted by law for public nuisances, and may be enforced by an injunction issued by the superior court in a civil action, based upon a showing by the city that said violation exists. The City Manager is authorized to establish regulations or administrative procedures to obtain compliance with this chapter.

SECTION 3. This ordinance shall take effect on March 1, 2021.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS 4th day of March, 2020, by the following vote:

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

NOES: None.

ABSENT: None.

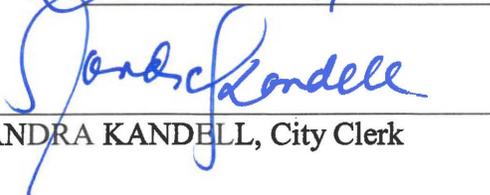
APPROVED:



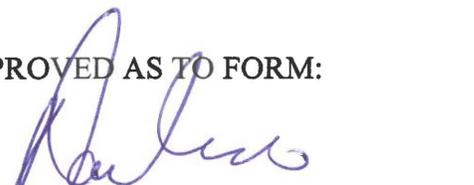
BILL PEAKE, Mayor

ATTEST:

DATED: March 4, 2020


SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:


DAVID C. LAREDO, City Attorney

