

APPENDIX 3A

City of Pacific Grove Municipal Code Chapter 1.12

Notices

Chapter 1.12 NOTICES¹

Sections:

[1.12.010](#) Giving of notice.

1.12.010 Giving of notice.

(a) Any written notice required by the provisions of this code, unless it is herein otherwise specifically provided, shall be served as follows:

(1) By personal delivery to the person to be notified or by deposit in the United States mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at the last known business or residence address, as the same appears in the public records pertaining to the matter, to which such notice is directed. Such service shall be deemed completed at the time of the deposit in the post office.

(2) Where real property is involved, written notice shall be mailed to the property owner at the address as shown on the last equalized county assessment roll.

(3) Where personal service or service by mail upon the property owner is unsuccessful, a copy of the order shall be conspicuously posted at the property which is the subject of the order.

(b) Proof of service of notice may be made by the certificate of any officer or employee of the city, or by affidavit of any person over the age of 18 years, which shows service in conformity with this code or other provisions of law applicable to the subject matter concerned.

(c) The failure of any person to receive any notice required under this code shall not affect the validity of any proceedings taken under this code. [Ord. 08-006 § 3, 2008; Ord. 210 N.S. § 1-201, 1952].

¹ Publications for contract work, see PGMC Title [2](#).

The Pacific Grove Municipal Code is current through Ordinance 12-020, passed November 7, 2012.

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APPENDIX 3B

City of Pacific Grove Municipal Code Chapter 1.16

Violations

Chapter 1.16 VIOLATIONS

Sections:

- [1.16.010](#) Enforcement – Misdemeanors.
- [1.16.011](#) Enforcement – Infraction.
- [1.16.012](#) Administrative enforcement.
- [1.16.013](#) Falsifying information.
- [1.16.015](#) Violations include aiding, abetting, concealing.
- [1.16.017](#) Enforcement by civil action – Abatement – Exclusivity of remedies.
- [1.16.020](#) Notice to appear – Issuance.
- [1.16.060](#) Bail – Deposit and forfeiture.
- [1.16.065](#) Bail – Schedule.
- [1.16.070](#) Warrant for arrest – Issuance.
- [1.16.090](#) Code enforcement officer designation authority.

1.16.010 Enforcement – Misdemeanors.

(a) Subject to subsection (d) of this section, every act prohibited or declared unlawful and every failure to perform an act required by this code is a misdemeanor, except in cases in which the act or failure to perform an act is expressly stated to be an infraction; provided, that the city attorney may elect to prosecute any misdemeanor as an infraction.

(b) A misdemeanor is punishable by a fine of no more than \$1,000 or by imprisonment for no longer than six months, or by both such fine and imprisonment, unless this code otherwise specially provides.

(c) Any person causing or permitting a violation of this code shall be regarded as committing a separate offense on each day that the violation occurs or continues.

(d) Violations of provisions of this code regulating and prohibiting the standing and parking of motor vehicles shall be treated and processed pursuant to California Vehicle Code Section 40200 et seq. [Ord. 08-006 § 8, 2008; Ord. 1961 N.S. § 3, 1994; Ord. 1902 N.S. § 1, 1993; Ord. 1673 N.S. § 1, 1989; Ord. 1548 N.S., 1986; Ord. 833 N.S. § 1, 1975; Ord. 444 N.S. § 7, 1963].

1.16.011 Enforcement – Infraction.

(a) An infraction is punishable by:

- (1) A fine not exceeding \$100.00 for the first violation;
- (2) A fine not exceeding \$200.00 for a second violation of the same ordinance within one year;
- (3) A fine not exceeding \$500.00 for each additional violation of the same ordinance within one year.

(b) Any person causing or permitting a violation of this code shall be regarded as committing a separate offense on each day that the violation occurs or continues. [Ord. 08-006 § 5, 2008].

1.16.012 Administrative enforcement.

(a) The city attorney is authorized to enforce any violations of any provisions of this code as set forth in Chapter [1.19](#) PGMC, Municipal Code and Ordinance Enforcement.

(b) The amounts of fines for violation of various provisions of Chapter [1.19](#) PGMC, Municipal Code and Ordinance Enforcement, shall be in accord with this chapter or as established by resolution of the council. [Ord. 08-006 § 6, 2008].

1.16.013 Falsifying information.

Any person who (a) knowingly makes, submits or files any false statement, representation, record, report, plan or other document, including but not limited to photographic, video or electronic media, to the city, or who (b) falsifies, tampers with, or knowingly renders inaccurate any required monitoring device, is hereby declared to be subject to each of the penalties and civil liabilities imposed by this chapter. [Ord. 08-006 § 7, 2008; Ord. 06-017 § 8, 2006].

1.16.015 Violations include aiding, abetting, concealing.

Every person who causes, aids, abets, or conceals the fact of a violation of this code is guilty of violating this code. [Ord. 444 N.S. § 8, 1963].

1.16.017 Enforcement by civil action – Abatement – Exclusivity of remedies.

(a) In addition to the penalties provided in this code, this code may be enforced by civil action. Any condition existing in violation of this code shall constitute a public nuisance.

(b) The appropriate officers of the city may summarily abate any such nuisance existing on any public property. Where the nuisance exists on private property, it may be summarily abated after 10 days' written notice of intention to do so addressed by regular mail to the last known address of the owner of the property involved. If the owner does not make a substantial effort to abate the nuisance during the 10-day period, the owner shall be liable for all costs and expenses incurred by the city in doing so. The total amount incurred shall constitute a special assessment against the parcel, which shall be collected at the same time and in the same manner as ordinary city property tax, and shall be subject to the same penalties and all laws applicable to the levy, collection and enforcement thereof.

(c) None of the remedies provided in this code shall be exclusive. [Ord. 1961 N.S. § 4, 1994; Ord. 950 N.S. § 1, 1977; Ord. 444 N.S. § 9, 1963].

1.16.020 Notice to appear – Issuance.

If any person is arrested for a violation of any provision hereof, and such person is not immediately taken before a magistrate, the arresting officer shall prepare a written notice to appear in accordance with California Penal Code Section 853.6. A copy of the notice to appear shall be delivered to and signed by the arrested person in accordance with said Penal Code section. Once the notice is signed, i.e., once the arrested person has given his or her written promise to appear, the arresting officer shall forthwith release the person from custody. [Ord. 1961 N.S. § 5, 1994; Ord. 361 N.S., 1961; Ord. 210 N.S. § 1-501(1), 1952].

1.16.060 Bail – Deposit and forfeiture.

The officer shall, as soon as practicable, file a duplicate notice with a magistrate. Thereupon, the magistrate shall fix the amount of bail which will be reasonable and sufficient for the appearance of the defendant and shall endorse upon the notice a statement signed by him or her in the form set forth in Section 815a of said Penal Code. The defendant may, prior to the date upon which he or she promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant does not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in his or her discretion order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution pursuant to Section 1463 et seq., of said Penal Code. [Ord. 1961 N.S. § 9, 1994; Ord. 361 N.S., 1961: 210 N.S. § 1-

501(5), 1952].

1.16.065 Bail – Schedule.

The amounts of bail for violation of various provisions of this code shall be as established by resolution of the council. [Ord. 1858 N.S. § 1, 1992; Ord. 1457 N.S. § 2, 1984; Ord. 1455 N.S. § 2, 1984; Ord. 1185 N.S. § 1, 1980; Ord. 912 N.S. § 1, 1976].

1.16.070 Warrant for arrest – Issuance.

No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until he or she has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law. [Ord. 361 N.S., 1961; Ord. 210 N.S. § 1-501(6), 1952].

1.16.090 Code enforcement officer designation authority.

The city manager is empowered to designate public officers or employees to exercise the powers authorized by Section 836.5(a) of the California Penal Code, including the issuance of citations for violation of the provisions of this code pursuant to Sections 853.5 and 853.6 of the California Penal Code. [Ord. 1529 N.S., 1986].

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APPENDIX 3C

City of Pacific Grove Municipal Code Chapter 1.19

Municipal Code and Ordinance Enforcement

Chapter 1.19 MUNICIPAL CODE AND ORDINANCE ENFORCEMENT

Sections:

- [1.19.010](#) Purpose.
- [1.19.020](#) Administrative citation process overview.
- [1.19.030](#) Administrative compliance order process overview.
- [1.19.040](#) Administrative citations.
- [1.19.050](#) Definitions.
- [1.19.060](#) Service of citations, orders and notices.
- [1.19.070](#) Citation issuance.
- [1.19.080](#) Citation fines.
- [1.19.090](#) Hearing request.
- [1.19.100](#) Advance deposit hardship waiver.
- [1.19.110](#) Hearing officer selection.
- [1.19.120](#) Hearing procedure.
- [1.19.130](#) Hearing officer's decision.
- [1.19.140](#) Judicial review.
- [1.19.150](#) Administrative compliance orders.
- [1.19.160](#) Compliance orders.
- [1.19.170](#) Hearing officer selection – Notice of hearing.
- [1.19.180](#) Compliance hearing.
- [1.19.190](#) Administrative order.
- [1.19.200](#) Administrative penalties.
- [1.19.210](#) Administrative costs.
- [1.19.220](#) Failure to comply with administrative order.
- [1.19.230](#) Judicial review.
- [1.19.240](#) Report of compliance after administrative order.
- [1.19.250](#) Compliance dispute.
- [1.19.260](#) Lien procedure.
- [1.19.270](#) Lien hearing and protest.
- [1.19.280](#) Recording lien.
- [1.19.290](#) Satisfaction of lien.

1.19.010 Purpose.

City enforcement issues have become increasingly varied and complex. Alternative enforcement processes have been adopted by other public agencies as a means to address budget difficulties and resource shortages, and to streamline operations. Alternative enforcement processes minimize time delays that can result from increasingly crowded criminal and civil court dockets.

This chapter sets forth a variety of enforcement options to effectively and timely address code and ordinance enforcement matters in order to preserve and protect the quality of life in the neighborhoods and communities of the city of Pacific Grove. This chapter allows traditional criminal prosecution, civil action and nuisance abatement as enforcement. This chapter further establishes several administrative enforcement procedures. [Ord. 07-022 § 2, 2007].

1.19.020 Administrative citation process overview.

Administrative citations generally address municipal code and ordinance violations that the city, in its sole discretion, deems to be minor or transient in nature. The city adopts the administration citation enforcement process, set forth in PGMC [1.19.040](#) through [1.19.150](#),

inclusive, pursuant to California Government Code Section 53069.4, which provides for de novo review of administrative citations in court if a person wishes to challenge an administrative decision upholding an administrative citation. For example, and not by exclusion, administrative citations may be used to enforce provisions regulating signs, yard waste, false alarms, noise issues, vehicle parking, minor or nonrecurring violations of PGMC Title [18](#), Buildings and Construction, PGMC Title [23](#), Zoning, or similar matters.

An enforcement officer issues an administrative citation that lists the violation and the administrative fine amount and describes how to pay the fine or request a hearing to contest the citation. The administrative citation may be contested through an administrative hearing process. The fine must be deposited in advance of the administrative hearing, but a procedure to waive the deposit is allowed for hardship. If not set forth in this code, the amount of the administrative citation fine is set by resolution. Penalties and interest shall be added for late payment of administrative fines.

The administrative citation process is set forth beginning at PGMC [1.19.040](#). [Ord. 07-022 § 3, 2007].

1.19.030 Administrative compliance order process overview.

Administrative compliance orders generally address municipal code and ordinance violations that the city, in its sole discretion, deems not suitable for the administrative citation process contemplated by PGMC [1.19.020](#). For example, and not by exclusion, administrative compliance orders may be used for serious, continuing or recurring violations of PGMC Title [18](#), Buildings and Construction, PGMC Title [23](#), Zoning, or similar matters.

An administrative compliance order is issued to a responsible party by a city enforcement officer. The compliance order sets forth a description of the observed violation(s), a description of what the responsible party is required to do to bring the property into compliance, and the date by which compliance must be achieved. The compliance order provides notice as to administrative penalties that shall accrue if compliance with the order is not achieved by the date listed on the order. The administrative compliance order may be contested through an administrative hearing process. The decision may contain an order to correct any violations determined to exist, together with an order to pay administrative penalties and costs.

The administrative compliance order process is set forth beginning at PGMC [1.19.150](#). [Ord. 07-022 § 4, 2007].

1.19.040 Administrative citations.

(a) The administrative citation process provided for in this chapter shall be in addition to any other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this code or an ordinance of the city of Pacific Grove.

(b) The administrative citation process set forth in this chapter shall not apply to continuing violations this code, or to an ordinance of the city that pertains to building, plumbing, electrical, or other similar structural or zoning issues. [Ord. 07-022 § 5, 2007].

1.19.050 Definitions.

For purposes of this chapter, the term “enforcement officer” shall mean and refer to any employee or agent of the city holding authority to enforce violations of this code or an ordinance. This shall include the city manager, and any person designated as an enforcement officer by the city manager. [Ord. 07-022 § 6, 2007].

1.19.060 Service of citations, orders and notices.

All citations, orders and notices shall be served in accordance with the provisions of Chapter

[1.12](#) PGMC. [Ord. 07-022 § 7, 2007].

1.19.070 Citation issuance.

(a) Whenever an enforcement officer determines that a violation of a provision has occurred, the enforcement officer shall be authorized to issue an administrative citation to any person responsible for the violation.

(b) Each administrative citation shall contain the following information:

- (1) The date of the violation;
- (2) The address or a definite description of the location where the violation occurred;
- (3) Reference to the provision of this code or ordinance that was violated and a description of the circumstances pertaining to the violation;
- (4) The amount of the fine related to the violation determined in accord with this chapter;
- (5) A description of the fine payment process, including a statement of the time within which and the place to which the fine shall be paid;
- (6) An order prohibiting continuation or repeated occurrence of the violation described in the administrative citation;
- (7) A description of the administrative citation review process, including the time within which the citation may be contested and the place from which a request for hearing form to contest the citation may be obtained; and
- (8) The name and signature of the citing enforcement officer. [Ord. 07-022 § 8, 2007].

1.19.080 Citation fines.

(a) The fines for each municipal code or ordinance violation imposed pursuant to this chapter shall be set forth in the schedule of fines established by resolution of the city council. In the absence of a designated fine, the default fine for each violation shall be \$50.00 per day.

(b) The schedule of fines shall specify an additional fine due for late payment of any fine if not paid in full on or before the date the payment of the fine is due.

(c) The fine stated upon any duly issued administrative citation shall be paid to the city within 30 days from the date of service of the administrative citation.

(d) Any administrative citation fine paid pursuant to this section shall be refunded in accordance with PGMC [1.19.130](#) if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

(e) Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the administrative citation.

(f) Any person who fails to pay to the city any fine imposed pursuant to the provisions of this chapter on or before the date that fine is due also shall be liable for the payment of any applicable late payment charges set forth in the schedule of fines. The city may collect any past due administrative citation fine or late payment charge by use of all available legal means.

(g) Any failure to pay the city any fine imposed pursuant to the provisions of this chapter on or before the date that fine is due shall be deemed a violation of this section enforceable

pursuant to the provisions of Chapter [1.16](#) PGMC. The city attorney shall be directed to collect fines that are due and payable under this section. [Ord. 07-022 § 9, 2007].

1.19.090 Hearing request.

(a) Any recipient of an administrative citation may contest that there was a violation of this code or an ordinance of the city, or that he or she is the responsible party, by completing a request for hearing form and returning it to the city within 30 days from the date set forth on the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to PGMC [1.19.100](#). A request for hearing form may be obtained from the office of the city manager.

(b) The person requesting the hearing shall be notified of the time and place set for the hearing at least 10 days prior to the date of the hearing.

(c) If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing at least five days prior to the date of the hearing. [Ord. 07-022 § 10, 2007].

1.19.100 Advance deposit hardship waiver.

(a) Any person who intends to request a hearing to contest whether a municipal code or ordinance violation occurred, or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in PGMC [1.19.080](#), may file a request for an advance deposit hardship waiver.

(b) The request shall be filed with the city manager on an advance deposit hardship waiver application form, available from the office of the city manager, within 10 days of the date of the administrative citation.

(c) The requirement to deposit the full amount of the fine as described in PGMC [1.19.080](#) shall be stayed unless or until the city manager makes a determination not to issue the advance deposit hardship waiver.

(d) The city manager may waive the requirement of an advance deposit set forth in PGMC [1.19.080](#) and issue the advance deposit hardship waiver only if the cited party submits to the city manager a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the city manager the person's actual financial inability to deposit with the city the full amount of the fine in advance of the hearing.

(e) If the city manager determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the city within 10 days of the date of that decision or 30 days from the date of the administrative citation, whichever is later.

(f) The city manager shall issue a written determination listing the reasons for his or her determination to issue or not issue the advance deposit hardship waiver. The written determination of the city manager shall be final.

(g) The written determination of the city manager shall be served upon the person who filed the request for an advance deposit hardship waiver. This determination shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure, and the time limit set by PGMC [1.20.010](#) shall apply. [Ord. 07-022 § 11, 2007].

1.19.110 Hearing officer selection.

The presiding officer of the hearing officer panel shall, by random lot, designate one of the seven members of the hearing officer panel to be the hearing officer for each administrative citation hearing. Should that hearing officer be disqualified for cause, or should that hearing

officer otherwise be unable to conduct the hearing, the presiding officer shall, by random lot, designate a successor hearing officer from available members of the hearing officer panel. [Ord. 07-022 § 12, 2007].

1.19.120 Hearing procedure.

(a) No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance, in accordance with PGMC [1.19.080](#), or an advance deposit hardship waiver has been issued in accordance with PGMC [1.19.100](#).

(b) A hearing before the hearing officer shall be set for a date that is not less than 15 days and not more than 60 days from the date that the request for hearing is filed in accordance with the provisions of this chapter. The hearing officer shall have sole discretion to grant any request for continuance of the hearing.

(c) At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation. The city shall submit its report on the alleged violation, setting forth a detailed recommendation as to relevant findings and conclusions that flow from the facts presented and a recommended decision based upon those findings and conclusions. This report shall meet the standards for administrative findings set forth in *Topanga Assn. for a Scenic Community v. County of Los Angeles*, 11 Cal.3d 506 (1974).

(d) The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

(e) The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.

(f) The hearing officer may question witnesses and/or request additional information from the enforcement officer or the recipient of the administrative citation prior to closing the hearing. [Ord. 07-022 § 13, 2007].

1.19.130 Hearing officer's decision.

(a) After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall list the reasons for that decision. The decision of the hearing officer shall be final.

(b) If the hearing officer determines that the administrative citation should be upheld, then the fine amount on deposit with the city shall be retained by the city. If the fine has not been deposited, the hearing officer shall set forth in the decision a payment schedule for the fine.

(c) If the hearing officer determines that the administrative citation should be canceled and the fine was deposited with the city, then the city shall promptly refund the amount of the deposited fine, together with interest. If the fine has not been deposited, the hearing officer shall cancel the obligation to tender the fine.

(d) The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision. A copy of the decision shall be forwarded to all members of the hearing officer panel. [Ord. 07-022 § 14, 2007].

1.19.140 Judicial review.

Any person aggrieved by an administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Superior Court in Monterey County in accordance with the timelines and provisions set forth in California Government Code Section 53069.4. [Ord. 07-022 § 15, 2007].

1.19.150 Administrative compliance orders.

(a) The administrative compliance order process provided for in this chapter shall be in addition to any other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this code or an ordinance of the city.

(b) Use of the administrative compliance order process shall be at the sole discretion of the city. [Ord. 07-022 § 16, 2007].

1.19.160 Compliance orders.

(a) Whenever an enforcement officer, as defined by PGMC [1.19.050](#), determines that a violation of any provision of this code or city ordinance has occurred, is occurring or exists, the enforcement officer may issue a written compliance order to any person responsible for the violation.

(b) A compliance order issued pursuant to this chapter shall contain the following information:

- (1) The date of the violation;
- (2) The address or description of the location where the violation occurred;
- (3) Reference to the provision of this code or ordinance that was violated and a description of the circumstances pertaining to the violation;
- (4) The actions required to correct the violation;
- (5) The time period after which administrative penalties will begin to accrue if compliance with the order has not been achieved;
- (6) The penalty related to the violation, if compliance is not achieved;
- (7) The name and signature of the citing enforcement officer; and
- (8) Either a copy of this chapter or an explanation of the consequences of noncompliance with this chapter and a description of the hearing procedure and appeal process. [Ord. 07-022 § 17, 2007].

1.19.170 Hearing officer selection – Notice of hearing.

(a) If the enforcement officer determines that each violation has been corrected within the time specified in the compliance order, no further action shall be taken.

(b) If full compliance as to each violation is not achieved within the time specified in the compliance order, the enforcement officer shall advise the presiding officer of the hearing officer panel. The presiding officer of the hearing officer panel shall, by random lot, designate one member of that hearing officer panel to be the hearing officer for the compliance order hearing. Should that hearing officer be unable to conduct the hearing, or should that hearing officer be disqualified for cause, the presiding officer shall, by random lot, designate a successor from that hearing officer panel.

(c) The hearing officer shall ensure that the notice provisions of Chapter [1.12](#) PGMC have been followed. Notice of the hearing shall be given at least 10 days prior to the date of the hearing. The hearing officer shall have sole discretion to grant any request for continuance of the hearing. [Ord. 07-022 § 18, 2007].

1.19.180 Compliance hearing.

(a) At the place and time set forth in the notice of compliance hearing, the hearing officer shall conduct a hearing on the compliance order issued pursuant to PGMC [1.19.160](#), in accord with

rules and procedures as may be promulgated by the hearing officer panel.

(b) The hearing officer shall consider written or oral evidence in accord with rules and procedures set by the hearing officer panel pursuant to PGMC [3.30.060](#). Evidence regarding the alleged violation or compliance actions may be presented by any party, including the alleged violator, the owner or occupant of any real property affected by the alleged violation, and/or the city. The failure of any party to appear at the hearing shall constitute a failure to exhaust his or her administrative remedies.

(c) The compliance order and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents. The report on the alleged violation shall set forth a detailed recommendation as to relevant findings and conclusions that flow from the facts presented and a recommended decision based upon those findings and conclusions. This report shall meet the standards for administrative findings set forth in *Topanga Assn. for a Scenic Community v. County of Los Angeles*, 11 Cal.3d 506 (1974).

(d) The hearing officer may question witnesses and/or request additional information from the enforcement officer or any party prior to closing the hearing.

(e) Within a reasonable time following the conclusion of the hearing, the hearing officer shall make findings and issue a determination, as to each alleged violation, regarding:

- (1) The existence of the violation;
- (2) The identity of each responsible party;
- (3) The failure of the responsible party to take required corrective action within the required time period.

Findings shall be supported by substantial evidence received at the hearing.

(f) If the hearing officer finds by a preponderance of the evidence that a violation has occurred and that the violation was not corrected within the time period specified in the compliance order, the hearing officer shall issue an administrative order in accord with PGMC [1.19.190](#).

(g) If the hearing officer finds that no violation has occurred or that the violation was corrected within the time period specified in the compliance order, the hearing officer shall issue a finding as to those facts. [Ord. 07-022 § 19, 2007].

1.19.190 Administrative order.

If the hearing officer determines that a violation occurred which was not corrected within the time period specified in the compliance order, he or she shall issue an administrative order that imposes any or all of the following:

- (a) An order to correct each violation, including a schedule for correction where appropriate;
- (b) Administrative penalties as provided in PGMC [1.19.200](#); and/or
- (c) Administrative costs as provided in PGMC [1.19.210](#). [Ord. 07-022 § 20, 2007].

1.19.200 Administrative penalties.

(a) The hearing officer shall be authorized to impose administrative penalties for the violation of any provision of this code or ordinance in an amount not to exceed a maximum of \$2,500 per day for each continuing violation, except that the total administrative penalty shall not

exceed \$100,000 exclusive of administrative costs, interest and restitution for compliance reinspections, for any related series of violations.

(b) In determining the amount of the administrative penalty, the hearing officer may take any or all of the following factors into consideration:

- (1) The duration of the violation;
- (2) The frequency, recurrence and number of violations, related or unrelated, by the same violator;
- (3) The seriousness of the violation;
- (4) The effect the violation may have upon adjoining properties;
- (5) The good faith efforts of the violator to come into compliance;
- (6) The economic impact of the penalty on the violator; and/or
- (7) The impact of the violation on the community. [Ord. 07-022 § 21, 2007].

1.19.210 Administrative costs.

(a) The hearing officer shall assess reasonable and necessary administrative costs against the violator when it finds that a violation has occurred, or that compliance has not been achieved within the time specified in the compliance order.

(b) The hearing officer shall assess reasonable and necessary administrative costs against the city when he or she finds that a violation has not occurred.

(c) The administrative costs shall include reasonable and necessary costs incurred in connection with the matter before the hearing officer including, but not limited to, costs of investigation, costs incurred to prepare for the hearing and for the hearing itself, and costs for all reinspections necessary to enforce the compliance order.

(d) The hearing officer may waive the assessment of administrative costs against either party where unique circumstances are present, or in the interests of justice. [Ord. 07-022 § 22, 2007].

1.19.220 Failure to comply with administrative order.

(a) Any person who fails to comply with an administrative order issued in accord with this chapter, or to pay to the city any amount due pursuant to the provisions of this chapter, on or before the date that fine is due also shall be liable for the payment of any applicable late payment charges set forth in the schedule of fines. The city may collect any past due administrative citation fine or late payment charge by use of all available legal means, including recordation of a lien pursuant to PGMC [1.19.260](#) through [1.19.290](#).

(b) Any failure to comply with an administrative order issued in accord with this chapter, or to pay to the city any amount imposed pursuant to the provisions of this chapter on or before the date that fine is due, shall be deemed a violation of this section enforceable pursuant to the provisions of Chapter [1.16](#) PGMC.

(c) Any failure to pay the amount imposed pursuant to the provisions of this chapter shall also be enforced as:

- (1) A personal obligation of the violator; and/or
- (2) If the violation is in connection with real property, a lien upon the real property. The

lien shall remain in effect until all of the administrative penalties, interest and administrative costs are paid in full. [Ord. 07-022 § 23, 2007].

1.19.230 Judicial review.

Any person aggrieved by an administrative order may obtain review of the administrative order in the superior court by filing with the court a petition for writ of mandate pursuant to PGMC [1.20.010](#). [Ord. 07-022 § 24, 2007].

1.19.240 Report of compliance after administrative order.

If the city manager determines that compliance has been achieved after a compliance order has been sustained by the hearing officer, the city manager shall file a report with the hearing officer panel indicating that compliance has been achieved. [Ord. 07-022 § 25, 2007].

1.19.250 Compliance dispute.

(a) If the city manager does not file a report pursuant to PGMC [1.19.240](#), any person who believes that compliance has been achieved may request a compliance hearing before the hearing officer by filing a request for a hearing with the presiding officer of the hearing panel, together with full payment of the compliance dispute hearing fee set by the council.

(b) A hearing on the compliance dispute shall be noticed in accordance with Chapter [1.12](#) PGMC.

(c) The hearing officer shall determine if compliance has been achieved and, if so, when it was achieved. [Ord. 07-022 § 26, 2007].

1.19.260 Lien procedure.

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 against the real property on which the violation occurred. [Ord. 07-022 § 27, 2007].

1.19.270 Lien hearing and protest.

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

(b) 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.

(c) The city council, after the hearing, shall adopt a resolution confirming, discharging or modifying the amount of the lien. [Ord. 07-022 § 28, 2007].

1.19.280 Recording lien.

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. The lien may carry such additional administrative charges as set forth by resolution of the city council. [Ord. 07-022 § 29, 2007].

1.19.290 Satisfaction of lien.

Once payment in full is received by the city for outstanding penalties and costs, the city manager shall either record a notice of satisfaction or provide the property owner or financial institution with a notice of satisfaction so they may record this notice with the office of the county recorder. Such notice of satisfaction shall cancel the city's lien. [Ord. 07-022 § 30, 2007].

The Pacific Grove Municipal Code is current through Ordinance 12-020, passed November 7, 2012.

Disclaimer: The City Clerk's Office has the official version of the Pacific Grove Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.pg.ca.us/>
(<http://www.ci.pg.ca.us/>)

City Telephone: (831) 648-3100

Code Publishing Company
(<http://www.codepublishing.com/>)

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(<http://www.codepublishing.com/elibrary.htm>)

APPENDIX 3D

City of Pacific Grove Municipal Code Chapter 9.20

Sewage Disposal

Chapter 9.20 SEWAGE DISPOSAL

Sections:

- [9.20.010](#) Definitions.
- [9.20.020](#) Manager's authority to enforce.
- [9.20.030](#) Sewer laterals, cleanouts and connections.
- [9.20.040](#) Inspections and repairs of sewer laterals.
- [9.20.050](#) Sewer connection – Required – Septic tank.
- [9.20.055](#) Sewer connection – Permit required for change in use.
- [9.20.060](#) Sewer connection – Outside city limits.
- [9.20.070](#) Outside city connection – Application.
- [9.20.080](#) Outside city connection – Cost of making.
- [9.20.081](#) Outside city connection – Permission of Monterey Regional Water Pollution Control Agency required.
- [9.20.085](#) Sewer connection fees.
- [9.20.086](#) Sewer connection – Reimbursement agreements.
- [9.20.090](#) Operation and maintenance of private sewer systems.
- [9.20.100](#) Service charges – Inside city limits.
- [9.20.110](#) Service charges – Billing.
- [9.20.120](#) Service charges – Rebates for vacancies.
- [9.20.130](#) Service charges – Changing.
- [9.20.140](#) Service charges – Delinquency – Debt to city.
- [9.20.160](#) Service charges – Delinquent – Penalties.
- [9.20.170](#) Application of funds.
- [9.20.180](#) Screening.
- [9.20.185](#) Monterey Regional Water Pollution Control Agency provisions incorporated.
- [9.20.190](#) Disconnection for violators.
- [9.20.200](#) Collection of periodic sewer service charges.
- [9.20.210](#) Delinquent charges to constitute lien – Continuation.
- [9.20.220](#) When lien to attach – Release or foreclosure.
- [9.20.230](#) Court action.

9.20.010 Definitions.

“Backflow valve,” when used herein, refers to a check valve specifically designed to prevent the reverse flow of sewage in a lateral.

“Building sewers,” as used herein, refers to sewer, soil pipe and drain pipes constructed within and under buildings.

“City,” when used herein, refers to the city of Pacific Grove.

“Manager,” when used herein, refers to the city manager of the city of Pacific Grove.

“Overflow device,” when used herein, refers to a device that is specifically designed to relieve the pressure created when a gravity sewer is flowing full.

“Premises,” when used herein, refers to a lot, parcel of land, building or establishment.

“Private sewer system,” when used herein, means a sewer or system of sewers serving more than one building that is not owned by the city.

“Sewage,” when used herein, means all water or combination of liquid and water-carried solid or semisolid waste conducted away from residences, business buildings, institutions and other sources, which is known as domestic sewage, together with liquid or water-carried solid or semisolid waste resulting from a manufacturing process employed in industrial establishments, including the washing, cleaning or drainwater from such process, which is known as industrial waste.

“Sewer” or “sewer main,” when used herein, means any city-owned sewer pipe within a city street or public right-of-way receiving or intended to receive the discharges of more than one sewer lateral. No sewer main constructed henceforth shall be less than eight inches in diameter nor be laid or constructed in any city street, easement or right-of-way or street, easement or right-of-way under the control of the city, except to the lines, grades, and specifications approved by the proper city authority.

“Sewer lateral” or “lateral,” when used herein, means a privately owned pipeline connecting a building sewer to a sewer main. [Ord. 04-25 § 1, 2005; Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-301, 1952].

9.20.020 Manager’s authority to enforce.

(a) The city manager shall be charged with the administration of the sewerage system and the enforcement of the provisions of this chapter.

(b) In order to enforce and/or ensure compliance with the provisions of this chapter, the city may, in its sole discretion, correct any noncompliance hereof by use of city labor and/or materials, or by engaging the services of an independent contractor and/or purchased materials, or any combination thereof. The cost of such correction shall be added as an additional sewer service charge (payable and collectible in accord with PGMC [9.20.140](#), [9.20.160](#), [9.20.190](#), [9.20.210](#), [9.20.220](#), and [9.20.230](#)) by the owner of the property which failed to comply with this chapter. Prior to action under this subsection, the city shall post 10 days’ advance written notice of its intent to take corrective action at the site of the noncompliance. The city may additionally and/or alternatively petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation or noncompliance of this chapter. [Ord. 06-017 § 6, 2006; Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-308, 1952].

9.20.030 Sewer laterals, cleanouts and connections.

(a) All laterals from the building wall to the connection to the sewer main are the property of the owner of the connected building. All property owners whose properties are connected to a sewer main or are otherwise connected to the city’s sewer system by sewer lateral shall at their own expense maintain the sewer lateral in a fully functioning condition and ensure the lateral is free of cracks, leaks, inflow or infiltration of extraneous water, root intrusion or open joints. Property owners shall ensure that laterals drain freely to the sewer main without excessive sags that collect grease and sediment.

(b) No person, firm or corporation shall break or cut into or connect to any sewer in any street, easement or right-of-way in the city or under the control of the city without first securing a permit so to do from the director of public works. Prior to beginning work, detailed plans describing the work to be done shall be submitted to and approved by the director of public works or his designee.

(c) Each property utilizing the city’s sewer system shall have a separate lateral connected to the sewer main. Notwithstanding the foregoing sentence, branched or common laterals shall be permitted only in the following instances:

(1) Where a lateral is maintained by a homeowner’s association or other entity that is

party to a formal, recorded lateral maintenance agreement.

(2) Where more than one building or other structure is situated upon the same lot, in which case all such buildings and structures may, by permit authorized by the director of public works, be joined in the use of one connecting sewer; provided, that the connection conforms in all other respects to the provisions of this title and a drawn plan of the joint connection be first submitted to and approved by the director of public works. As a further condition of obtaining such a permit, all such buildings and structures shall be owned by the same person.

(3) Where, in the opinion of the director of public works, it is impossible or impractical to connect a building on a single lot to the main sewer except in conjunction with the connection of a building or buildings on other lots, a joint connection may be allowed; provided, that the connection conforms in all other respects to the provisions of this title and a drawn plan of the joint connection be first submitted to and approved by the director of public works. A permit for each individual lot covering the identification of the responsible party for maintenance and liability for maintenance and overflow damages shall be required.

(4) Where two or more structures on separate parcels are connected to a branched or common lateral, each property shall be disconnected from the branched or common lateral and a new separate lateral shall be constructed upon the transfer of title of either property by sale.

(d) A cleanout and an overflow device approved by the director of public works shall be installed and maintained, at the sole expense of the property owner, on all laterals. In general, the overflow device shall be located as close to the building wall as practical. The installation of the devices shall be required as follows:

(1) When building a new structure on property with an existing lateral, or when otherwise proposing to connect a previously unconnected structure to an existing lateral;

(2) As a condition of approval of any major building remodel project. A major building remodel project is one that is estimated by the city to cost \$50,000 or more;

(3) Prior to the close of escrow when the property is transferred via sale or other transfer of ownership by deed, instrument or writing;

(4) Whenever the city finds that a sewage spill emanating from a lateral has reached public property, including but not limited to a city street or the city storm drain system, or has flowed onto private property owned by another property owner;

(5) Whenever the city finds that a sewage spill emanating from a lateral presents a threat to public health, even if it has not flowed across a property line.

(e) Backflow Valves.

(1) On laterals serving properties where the outlet of a trap for a plumbing fixture is installed or located at an elevation which is less than two feet above the rim of the nearest manhole or other sewer access point uphill from the point of connection of the lateral to the public sewer in any new or existing drainage system, approved types of backflow valves may be required by the director of public works. The installation of the devices shall be required under the same circumstances as set forth in subsections (d) (1) through (5), inclusive, of this section.

(2) Where a backflow valve is required, the valve shall be installed in the lateral at the

point of lowest elevation of the ground surface along the alignment of the lateral, or at such other location as is permitted by the city, providing that at any such location, the elevation of the ground surface is not less than two feet below the lowest trap served by the building sewer.

(3) The backflow valve shall have cleanouts directly upstream and downstream of the valve. In addition, an overflow device shall be installed between the building wall and the backflow valve at the lowest point. The cleanouts and the overflow device shall be connected to the lateral by means of wye fittings. The backflow valve shall be accessible from the surface and protected by the use of a precast access box of concrete or heavy-duty plastic approved by the director of public works.

(4) The cleanouts and the overflow device shall be positioned at an elevation at least three inches above the ground in order to prevent the obstruction of the vent opening or the inflow of surface water.

(f) Any owner whose property meeting the elevation criteria of this section that has no backflow valve, or has a defective or improperly installed backflow valve, shall be responsible for all damage that results from the lack of such a device, or the failure of the defective or improperly installed device to prevent such damage. [Ord. 04-25 § 2, 2005; Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-308, 1952].

9.20.040 Inspections and repairs of sewer laterals.

(a) Property owners shall inspect, and provide to the city a report of the results of an inspection of, the laterals on their property prepared by a licensed plumber using closed circuit television (CCTV) inspection or other inspection or test method approved by the director of public works, and if found defective, the property owner shall obtain a building permit and (if applicable) an encroachment permit and thereafter repair the lateral, as follows:

- (1) When building a new structure on property with an existing lateral, or when otherwise proposing to connect a previously unconnected structure to an existing lateral;
- (2) As a condition of approval of any major building remodel project. A major building remodel project is one that is estimated by the city to cost \$50,000 or more;
- (3) Prior to the close of escrow when the property is transferred via sale or other transfer of ownership by deed, instrument or writing;
- (4) Whenever the city finds that a sewage overflow emanating from a lateral has reached public property, including but not limited to a city street or the city storm drain system, or has flowed onto private property owned by another property owner;
- (5) Whenever the city finds that a sewage overflow emanating from a lateral presents a threat to public health, even if it has not flowed across a property line.

In the absence of a specific deadline, all inspection and testing work shall be completed within 60 days of notification by the city that such inspection is required. Existing laterals shall not be used if they are found to be defective by the inspection or if they fail city mandated tests or if they were constructed of materials deemed unacceptable by the director of public works.

(b) As part of its periodic construction and maintenance of sewer mains, the city may discover defective laterals. The city may order the property owner to conduct an inspection, repair or replacement of any lateral that the city knows or reasonably suspects to be defective.

(c) The lateral shall be considered defective if it has any of the following conditions: displaced joints, root intrusion, substantial deterioration of the lines, damaged clean-out, defective

clean-out, inflow, infiltration of extraneous water, or other conditions likely to substantially increase the chance for a lateral blockage, or if, within a period of one year, a lateral suffers two or more blockages resulting in overflows.

(d) Whenever defective laterals are found, the property owner, at the sole expense of the property owner, shall repair or replace the lateral. The director of public works shall determine the extent of repair required, and more limited repair than complete replacement of the lateral may be permitted at the sole discretion of the director of public works. The following requirements shall be met.

(1) A replaced or repaired lateral shall not be covered or backfilled until it has been inspected by a representative of the city.

(2) All new and repaired laterals must pass an air pressure test as specified by the director of public works.

(3) All repaired or replaced laterals shall be brought into compliance with the requirements of PGMC [9.20.030](#)(d). Overflow devices must be installed on all repaired or replaced laterals, and backflow valves may be required to be installed on laterals meeting the criteria of PGMC [9.20.030](#)(e).

(e) In the absence of a specific deadline established by the director of public works, all repair or replacement work shall be completed within 60 days of notification by the city that such repair or replacement is required.

(f) When a lateral is completely replaced in accord with a valid building permit and (if applicable) an encroachment permit, the property owner is not required to inspect the lateral upon sale of the property for 10 years following the date of complete replacement of the lateral.

(g) Roots, grease, or other material which have accumulated in a lateral cleaned or maintained shall be prevented from entering the sewer main during the maintenance or repair of the lateral. In the event that material is permitted to enter the main causing or contributing to the cause of a sewage spill, the property owner and/or contractor performing such maintenance work, in addition to any criminal penalties imposed, shall be held civilly liable to the city for any fines or other expenses incurred by the city resulting from the spill.

(h) The city shall have the authority to recover from a property owner the city's expenses incurred in responding to sewer overflows on private property. In addition to any actual expenses incurred by the city resulting from an overflow, the city may impose civil administrative penalties against a property owner who fails to perform any act required in this section, which failure results in an overflow reaching public or private property other than the property owner's property, according to the following schedule:

(1) Up to \$500.00 for the first violation.

(2) Up to \$1,000 for a second violation occurring within three years after the first violation.

(3) Up to \$2,500 for each additional violation within a three-year period exceeding two violations.

(i) In addition to any enforcement action brought under Chapter [9.20](#) PGMC, or any penalty imposed pursuant to subsection (h) of this section, failure to comply with any provision of this section shall concurrently constitute a violation of this code as defined in PGMC [1.16.010](#)(c) and (d) and PGMC [1.16.015](#). Concurrent enforcement of any provision of this section is

authorized by civil action pursuant to PGMC [1.16.017](#). The owner of the property upon which the violation occurs shall be liable to the city, as a civil penalty, for the cost and value of all administrative effort and legal fees incurred by the city associated with enforcement of these requirements. The enforcement remedies set forth herein shall be cumulative.

(j) The city manager shall have the authority to establish, waive, suspend or otherwise modify any civil administrative penalty imposed by this section that exceeds the direct costs of the city upon a showing by the property owner of severe financial hardship, or upon a showing that the property owner, in accord with a valid building permit and (if applicable) an encroachment permit, has satisfactorily repaired the lateral to a degree sufficient to ensure avoidance of further violations. [Ord. 06-017 §§ 2 – 5, 2006; Ord. 04-25 § 3, 2005; Ord. 210 N.S. § 5-302, 1952].

9.20.050 Sewer connection – Required – Septic tank.

(a) Connection. All owners or occupants of premises having sanitary facilities shall, within 10 days after receiving written or printed notice from the city manager, connect said premises with the sewer. Such work of connecting with the sewer shall be done at the expense of the owner.

(b) Septic Tank. The city manager shall require the owner of property served by an existing septic tank system to connect to a sewer main (1) in the event of complete failure of the existing septic tank system (to be determined by the city engineer), or (2) in the event of new or additional development on the property which will exceed the service capacity of the existing septic tank system (to be determined by the city engineer), or (3) in the event of improvements or additions to developed structures on the property which cost will exceed 50 percent of the value of said structures as they exist at the time work begins on the improvements or additions (to be determined by the community development director). Septic tank systems abandoned per required connection to a sewer main hereunder, or abandoned for any other reason, shall have the sewage removed therefrom and at the direction, and subject to the approval, of the city engineer, shall be completely filled with earth, sand, gravel or concrete. [Ord. 97-14 § 1, 1997; Ord. 210 N.S. § 10-301, 1952].

9.20.055 Sewer connection – Permit required for change in use.

All persons, firms or corporations shall, before adding any additional plumbing fixture to an existing sewer connection (within or outside the city), make application therefor to the community development director. If the fixture, or combination of fixtures, added since the initial connection to the sewer system, results in a potential increase of use of the sewer connection which exceeds 20 percent of the potential use, at the time of initial connection, the sewer connection shall be deemed a new connection for purposes of this chapter. In making such computation of use, the community development director shall consider the continuous discharge capacity of fixtures attached at the initial connection as against such capacity with the additional fixture or fixtures.

The community development director shall take account of all fixtures added since the initial connection to the sewer system, whether or not a permit had been issued for such. Nothing herein shall be deemed a consent to or license for any connection for which a permit has not been issued.

New connections shall not be permitted outside the city except on written revocable licenses approved by the city council. Unless a permit fee shall have been otherwise paid for such fixtures under the plumbing code, each applicant shall pay a permit fee of \$5.00 per fixture. The applicant shall bear the cost, deposited in advance, for any tests required to determine discharge capacity of a fixture. [Ord. 696 N.S. § 1, 1971].

9.20.060 Sewer connection – Outside city limits.

Permission may be granted to any person, firm or corporation owning or leasing property outside the corporate limits of the city to connect such property with the system of sanitary sewers of the city, in accordance with the terms and conditions of this code. [Ord. 210 N.S. § 5-303(1), 1952].

9.20.070 Outside city connection – Application.

Application for permission to connect with the city sewers shall be made in writing to the city manager. [Ord. 210 N.S. § 5-303(2), 1952].

9.20.080 Outside city connection – Cost of making.

All expenses incurred in the making of the connection with the city sewers to property outside the city shall be borne by the applicant. The plumbing upon the property and in all buildings constructed after January 16, 1952, which are to be connected with the city sewers shall comply with the Uniform Plumbing Code adopted by the city. The owner or lessee of such property shall make application to connect as provided herein, obtain a permit from the city's community development department and pay applicable fees. The city's community development director is authorized to inspect such buildings, issue such permits, and collect such fees as are required. [Ord. 210 N.S. § 5-303(3), 1952].

9.20.081 Outside city connection – Permission of Monterey Regional Water Pollution Control Agency required.

Any property outside of the city's corporate limits shall require the permission of the Monterey Regional Water Pollution Control Agency in order to connect to the city's sewer collector system, so long as said agency has the responsibility for disposing and/or treating the sewage from that system. [Ord. 1321 N.S. § 2, 1982].

9.20.085 Sewer connection fees.

(a) In addition to any sewer connection fee levied and assessed by the Monterey Regional Water Pollution Control Agency, there is levied, charged and assessed upon each premises within and without the city, which shall become connected or make a new connection to the city's sewage collector system, a sewage connection fee equal to 50 percent of the sewer connection fee levied, charged and assessed by the district.

(b) The foregoing rate of sewer connection fee shall be applicable for each premises for connections made after the ordinance codified in this section goes into effect. The fees may be combined and collected with the fees charged by the district.

(c) The city council has enacted the ordinance codified in this section in light of, and with knowledge of, the rates charged by the district on the effective date of the ordinance codified in this section. Subsequent changes in rates by the district shall be reviewed by the council, and each such review shall be evidenced by a resolution stating such, or by an amendment to this section. [Ord. 1012 N.S. § 1, 1978; Ord. 647 N.S. § 3, 1970].

9.20.086 Sewer connection – Reimbursement agreements.

(a) In the event a property owner obtains permission to and does construct a sewer main extension in the city right-of-way, the city may enter into a reimbursement agreement with the property owner whereby the city shall endeavor to collect an agreed-upon proportionate share of construction costs from other property owners connecting to the city's sewer system at any location on the sewer main extension so constructed.

(b) Any such agreement shall, at a minimum, provide that:

(1) The city shall incur no liability for failure or inability, for whatever reason or cause, to collect an agreed upon amount from the connecting property owner;

(2) In the event of refusal or failure of a connecting property owner to pay the agreed-upon amount (A) connection will not be refused, and (B) the constructing property owner shall be responsible for collecting the amount on his or her own behalf;

(3) No interest shall be paid or payable on any sum due under such agreement;

(4) The agreement shall be of no further force and effect 50 years following the date of installation of the subject sewer main;

(5) The amounts due from connecting property owners shall be calculated by an engineer or other person approved by the city;

(6) The agreement shall not apply to sewer connections made by the city or other public agencies.

(c) The provisions of this section shall not be construed to require or obligate the city to enter into a reimbursement agreement if, in the sole discretion of the city council, to so enter into the agreement would not be in the best interests of the city or would be detrimental to the health, safety or welfare of the city. [Ord. 09-019 § 2, 2009; Ord. 96-23 § 1, 1996; Ord. 1798 N.S. § 1, 1991].

9.20.090 Operation and maintenance of private sewer systems.

Any person or entity responsible for the operation and maintenance of a private sewer system that serves more than one building shall:

(a) Ensure that the private sewer system is designed and constructed in accordance with the specifications approved by the director of public works.

(b) Periodically clean the sewer lines in order to prevent overflows due to blockages caused by grease, roots, debris, and other causes. Sewers that have overflows shall be cleaned at the frequency that is necessary to prevent subsequent overflows.

(c) Periodically inspect the interior condition of the sewer lines in order to prevent infiltration, exfiltration, and overflows due to pipe failure. Sewers that are found to be in poor condition shall be repaired or replaced immediately.

(d) Maintain records of sewer cleaning, inspection, repair, and replacement activities and make those records available to the director of public works for inspection upon request.

(e) Respond to sewer overflows that occur in the private sewer system, contain the spilled sewage to the extent feasible, eliminate the cause, and mitigate the public health and environmental impacts of the overflow in a timely manner.

(f) Report all sewer overflows that occur in the private sewer system to the public works director within 24 hours of the occurrence and provide any additional information that may be required by the public works director.

(g) Maintain records of overflows that occur in the private sewer system and make those records available to the public works director for inspection upon request.

(h) Pay any fines or levies imposed on the city or on the person or entity responsible for the operation and maintenance of the private sewer system that may result from regulatory action following an overflow from the private sewer system. [Ord. 04-25 § 4, 2005].

9.20.100 Service charges – Inside city limits.

(a) In addition to any sewer service charge levied and assessed by the Monterey Regional

Water Pollution Control Agency (the "agency"), there is levied and assessed upon each premises within and without the city, which discharges sewage which passes through the city's sewage collector system, a sewage collector system fee not to exceed 200 percent of the sewer service charge levied and assessed by the agency in the specific amount set by city council resolution.

(b) The foregoing rate of sewage collector system fees shall be applicable for each premises for service on and after July 1, 2005. The fees may be collected in advance and may be combined with the billing by the agency or the entity which provides water service for the premises. Except for references specifically made in this chapter to sewer service charges of the agency, all references in this chapter to sewer service charges mean the fees levied and assessed in this chapter for use of the city's sewage collection system.

(c) Any person responsible for payment of the fee imposed by this section, and who personally pays for those services, and who has qualified for and is receiving benefits under the Social Security Administration's Supplemental Security Income Program for the Aged, Blind and Disabled (Title XVI, Social Security Act, as amended), shall be eligible for an exemption from the fee imposed by this section on service provided to such person's residential living quarters. Provided, however, that if the aggregate gross income of all persons who share such person's residential living quarters exceeds \$12,000 per annum, the exemption shall not apply. Only one such residential exemption shall be allowed to any person. Procedures and regulations applicable to this exemption are as follows:

(1) Applications for exemptions may be filed with the city at any time on forms approved by the city clerk.

(2) The exemption shall not be effective until 75 days following receipt of the application.

(3) Applications shall be verified by declaration under penalty of perjury and shall contain such information as may be required by the city clerk.

(4) The city clerk shall review each application and shall certify eligibility for exemption if the requirements of this subsection (c) of this section are met, except no exemption shall be granted where service is through a master meter, and no exemption shall be granted for a fee which is or has been paid by a public agency or where the applicant received funds from a public agency specifically to pay the fee.

(5) Upon certification of eligibility for exemption, the city clerk shall notify the agency, stating the name of the exempt person, the address to which the service is supplied, the account number, if any, and such other information as may be necessary for the agency to remove the fee from its billing procedure.

(6) Upon receipt of notice the agency shall discontinue billing for the fee imposed by this section. Provided, fees billed by the agency prior to receipt of such notice shall be collected, and fees paid prior to receipt of such notice shall not be refunded.

(7) Exemptions certified by the city clerk shall continue so long as the facts supporting the exemption exist. Provided, the exemption shall automatically terminate with the change in service address or residence of the exempted person. Such person may apply for a new exemption for each change of address.

(8) Any person who has been exempt under this section shall notify the tax administrator within 10 days of any change in fact or circumstance which disqualifies such person from receiving an exemption. It shall be a misdemeanor, and may be enforced pursuant to Chapter [1.16](#) PGMC, for any person knowingly to receive the benefits of the exemption

when such person has knowledge that the basis for such exemption does not or ceases to exist.

(9) The city clerk shall have the authority to demand evidence of continued eligibility for the exemption. Such evidence may include, but need not be limited to, copies of business records, letters or statements from the Social Security System and state, county, city and private pension administrators or unemployment and welfare agencies, and such other evidence concerning the exempted person or other members of his or her household as may tend to prove or disprove such eligibility. Failure to provide such evidence shall be grounds for immediate discontinuance of the exemption. Evidence provided to the city clerk at his request may not be used against the exempted person as evidence of violation of this section, but only as grounds for termination of the exemption.

(d) The city council has enacted this section with knowledge of the rates charged by the agency on the effective date of the fee hereby imposed. Subsequent changes in rates by the agency shall be reviewed by the council, and, if the council deems it appropriate, the fee imposed by this section may be modified.

(e) Nothing in this chapter shall be deemed or construed to apply to sewage discharged from publicly owned urban runoff and storm water management facilities. [Ord. 10-025 § 2, 2010; Ord. 08-027 § 2, 2008; Ord. 08-006 § 19, 2008; Ord. 05-009 § 1, 2005; Ord. 04-07 § 1, 2004; Ord. 01-05 § 1, 2001; Ord. 1842 N.S. § 1, 1992; Ord. 1663 N.S. § 1, 1989; Ord. 1006 N.S. § 1, 1978; Ord. 945 N.S. § 1, 1977; Ord. 647 N.S. § 2, 1970; Ord. 551 N.S. § 8, 1966; Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-303, 1952].

9.20.110 Service charges – Billing.

Effective for the period of service beginning July 1, 1977, all sewer service charges shall be billed by and paid to the Monterey Regional County Sanitation District. Such charges shall be paid in advance to the district upon such payment schedules as the district shall adopt. The final billing of charges by the city shall be in advance for the four-month period beginning March 1, 1977. The charges for either agency shall become delinquent 30 days after presentation of the billing therefor.

All billings for sewer service charges shall be in the name of the owner of the property being served, as reflected on the last equalized assessment roll for the county or as reflected in any deed or other satisfactory evidence of change of ownership, recorded with the county recorder since the date of the last equalized assessment roll, upon presentation of such evidence to the city manager or his or her representatives for such purposes. [Ord. 924 N.S. § 2, 1977; Ord. 789 N.S., 1974; Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-304, 1952].

9.20.120 Service charges – Rebates for vacancies.

The sewer charges provided for in this chapter shall not abate or be refundable on account of vacancy or nonoccupancy of the connected premises. Large users which pay charges according to volume of discharge, shall, for any period of nonuse, pay at the rate experienced for the year immediately preceding such nonuse. The city manager, upon receipt of sworn evidence establishing the facts, shall terminate service charges for vacant premises which have been condemned for use. [Ord. 700 N.S. § 1, 1971; Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-305, 1952].

9.20.130 Service charges – Changing.

The rates or charges for sewer service shall be as hereinabove set forth or as may be established by ordinance passed by the city council. [Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-306(1), 1952].

9.20.140 Service charges – Delinquency – Debt to city.

All delinquent accounts payable for sewer service shall be paid by the owner of the premises. Such delinquent accounts shall constitute a debt due the city for which the city may sue the owner in any competent civil court. [Ord. 789 N.S., 1974; Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-306(2), 1952].

9.20.160 Service charges – Delinquent – Penalties.

A collection charge of \$0.50 shall be levied for the collection of each delinquent account and a five percent penalty shall be added for each month the account remains delinquent after 30 days from the date the same is due. [Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-306(4), 1952].

9.20.170 Application of funds.

The funds received from the collection of the sewer service charges or rentals hereinabove set forth shall be deposited with the city treasurer and shall be accounted for and be known as the “sewer fund,” and, when appropriated by the city council, shall be available for the payment of the interest on any and all bonds issued and outstanding or which may be issued for sanitary and sewerage facilities and to retire such bonds when they mature, and for the payment of the cost and expense of acquisition, construction, operation, maintenance, and repair of the city sewerage system and the sewage pumping, treatment and disposal works and extensions and improvements thereto. [Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-308, 1952].

9.20.180 Screening.

(a) Domestic Waste. Domestic sewage, consisting essentially of human wastes, may be passed into sewers without screening.

(b) Industrial Waste. Industrial waste must be screened through the equivalent of a screen with 20 meshes to the linear inch in both directions, with the allowance that in the event rotary screens are used, openings in screen plates shall be not over one-twentieth of an inch wide by two inches long. [Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-302, 1952].

9.20.185 Monterey Regional Water Pollution Control Agency provisions incorporated.

There is incorporated as a part of this chapter, as if the same were set forth herein verbatim, all of the terms, conditions, and requirements of Monterey Regional Water Pollution Control Agency (MRWPCA) Ordinance No. 92-02, passed April 27, 1992, as amended by MRWPCA Ordinance No. 93-03 on October 25, 1993, and as may be further amended by time to time by the Monterey Regional Water Pollution Control Agency in with respect to any discharge of any waste in any part of the city. Any violation of any provision thereof shall constitute a misdemeanor, and may be enforced pursuant to Chapter [1.16](#) PGMC, in addition to any penalty or remedy which may be available to said agency under said ordinance(s). Said agency shall be authorized on behalf of the city to enforce said ordinance(s) in any part of the city. The city reserves unto itself the power to enforce each and every term, condition, and requirement thereof in the event said agency fails or ceases to enforce the same or in the event of an emergency. [Ord. 08-006 § 20, 2008; Ord. 06-017 § 7, 2006; Ord. 1321 N.S. § 1, 1982].

9.20.190 Disconnection for violators.

Any person who fails to pay the sewer service charges as herein levied and assessed within the time limit prescribed for the payment thereof, or who violates any of the laws of the state of California, the ordinances of the city, or the rules or regulations so established referring to the discharge of sewage, and upon five days' notice from the manager, shall be subject to having the sewer line of such person disconnected, and thereafter, no such service which has been disconnected for the nonpayment of such sewer service charges or for the violation of any of the above-mentioned state or city laws or regulations, shall be reconnected until the owner, or such person, shall have paid all delinquent sewer service charges owed the city by such person and all expenses incurred by the city in causing such disconnection and reconnection.

[Ord. 230 N.S., 1952; Ord. 210 N.S. § 6-307, 1952].

9.20.200 Collection of periodic sewer service charges.

The periodic charges for sewer service provided for in this chapter may be collected with and not separately from the charges for refuse and garbage disposal upon one bill as one item. [Ord. 697 N.S. § 1, 1971].

9.20.210 Delinquent charges to constitute lien – Continuation.

Delinquent charges for sewer service, overflow-related expenses and administrative penalties, and for refuse and garbage disposal, and accrued penalties thereon, shall, when recorded as provided in PGMC [9.20.220](#), constitute a lien upon the real property served (except publicly owned property) and such lien shall continue until the charge and all penalties thereon are fully paid or the property sold therefor. [Ord. 04-25 § 5, 2005; Ord. 697 N.S. § 2, 1971].

9.20.220 When lien to attach – Release or foreclosure.

The lien provided by PGMC [9.20.210](#) shall attach when the city treasurer or other officer whose duty is to collect such charges, records a list of delinquent unpaid charges and penalties thereon with the county recorder, stating the total amount of delinquent charge and penalty combined, a description of the real property upon which such is a lien and a statement that the city of Pacific Grove has a lien for the combined amount so listed. Such lien shall persist until released by the city upon payment of the amount of lien, or upon foreclosure of the lien by judgment or process of law. [Ord. 697 N.S. § 3, 1971].

9.20.230 Court action.

As a separate, distinct and cumulative remedy established for collection of any charges or penalties imposed by this chapter, an action may be brought in the city's name in any court of competent jurisdiction to enforce the lien provided for in PGMC [9.20.210](#). A reasonable attorney's fee shall be awarded plaintiff in such action. [Ord. 04-25 § 6, 2005; Ord. 697 N.S. § 4, 1971].

The Pacific Grove Municipal Code is current through Ordinance 12-020, passed November 7, 2012.

Disclaimer: The City Clerk's Office has the official version of the Pacific Grove Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.pg.ca.us/>
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APPENDIX 3E

City of Pacific Grove Municipal Code Chapter 15.24

Excavations

Chapter 15.24 EXCAVATIONS

Sections:

[15.24.010](#) Permit required – Resurfacing.

15.24.010 Permit required – Resurfacing.

(a) Permit Required. Before any person, firm or corporation may cut any pavement or sidewalk or make any excavation in any public street for the purpose of installing or repairing any sewer, water, gas, electric or other utility pipes, conduits, wires or other structure, he or she shall secure a written permit therefor from the proper city authority, in accordance with any regulations then in effect and pertaining thereto, and shall pay the required fees and deposits.

(b) Resurfacing. After any such cut is made in any pavement, sidewalk or street, the person or firm doing such work shall immediately upon completion of the work, refill, settle and resurface such cut, to the satisfaction of the city manager. If such work is not done satisfactorily the city may complete the same, and such person or firm will be liable to the city for all costs and expenses in completing such work. [Ord. 210 N.S. § 5-101, 1952].

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