



NOTICE OF MEETING

CITY OF PACIFIC GROVE
CITY COUNCIL
ERRATA SHEET



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

ERRATA SHEET

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: Sandra Kandell, City Clerk/DEI Coordinator
MEETING DATE: 10/19/2022
SUBJECT: City Council Meeting Agenda- Errata Sheet

Attached is additional information for your consideration at the October 19, 2022 City Council Meeting:

Agenda Item	Information Provided/Corrected
11E	Revise the Recommended Action/Recommendation to read as follows: 1. Request a reading of the Ordinance Title; 2. Motion to waive further reading; 3. Introduce and hold of the first reading of an ordinance that amends Pacific Grove Municipal Code Chapter 18.36.050 related to the safe parking program; and 4. Direct that publication of the ordinance will be satisfied by publication of a summary approved by the City Attorney.
11F	Edits to Roadwork Restrictions Ordinance (See redlined version attached.)

Attachments

Redlined Proposed Ordinance

ORDINANCE NO. 22 - _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
AMENDING CHAPTER 14.04 OF THE PACIFIC GROVE MUNICIPAL CODE
ESTABLISHING ROADWORK RESTRICTIONS DURING THE HARBOR SEAL
PUPPING SEASON**

WHEREAS, pacific harbor seals are protected by federal law, as are all marine mammals; and

WHEREAS, the shoreline of Pacific Grove is a protected national marine sanctuary; and

WHEREAS, Pacific Grove Local Coastal Program Policy BIO-11 provides: “The City will implement seal pupping protection measures...”; and

WHEREAS, in general, the protections of harbor seals prohibit any actions that harass the animals with the effect of causing the seals to change their behavior or causing injury to the seals; and

WHEREAS, it is the policy of the City of Pacific Grove to protect harbor seal mothers and pups where birthing occurs on any Pacific Grove beach; and

WHEREAS, if pups are delivered on any city beach, undue activity and construction noise can alarm adult seals, which could result in abandonment and starvation of pups; and

WHEREAS, the harbor seal pupping season in Monterey Bay generally occurs during the months of February through May each year (the “Harbor Seal Pupping Season”); and

WHEREAS, during the 2022 Harbor Seal Pupping Season the City issued a Coastal Development Permit (“CDP”) exemption to allow roadwork construction on Ocean View Blvd. After the exemption was granted, road construction equipment arrived and a utility company started work on February 14th, 2022, which involved sawing through the pavement at 2nd Street, about 425 feet from the main pupping beach at Hopkins Marine Station. ~~After being contacted by the Resource Protection Coordinator for NOAA’s Monterey Bay National Marine Sanctuary, the City~~ The City gave notice to the utility company to stop work ~~stopped~~ on April 11th (8 weeks after commencing-) and work was suspended until the Harbor Seal Pupping Season was over. ~~After the City gave notice to the utility company to stop work, the City was contacted by the Resource Protection Coordinator for NOAA’s Monterey Bay National Marine Sanctuary. The City, utility company and the Resource Protection Coordinator coordinated on a revised schedule and timeline;~~ and

WHEREAS, at the August 17, 2022 meeting, the City Council considered the impacts of roadwork construction near city beaches during the Harbor Seal Pupping Season. The City Council considered that the harbor seal rookery areas are explicitly defined as an environmentally sensitive habitat area (ESHA) and that the Coastal Development Permit (“CDP”) exemption issued by the City did not appear to consider potentially substantial adverse impacts to environmentally sensitive habitat areas such as the harbor seal colony

during the Harbor Seal Pupping Season as well as City Local Coastal Plan policies. In addition, Bay Net docents reported there were 48 births during the 8 weeks of road construction noise and that 23 of those births ended in failure. They further reported that during this same period there were 20% fewer seals on the beaches compared to the same time of year in 2021. The cause of the birth failures is unknown; and

WHEREAS, at its August 17, 2022 meeting the City Council directed the City Attorney to draft a proposed ordinance amendment to implement roadwork restrictions during the Harbor Seal Pupping Season.; and

WHEREAS, notice of the City Council public hearing on the second reading of the draft ordinance was published in the Monterey County Herald on _____, 2022; and

WHEREAS, this ordinance amends Municipal Code Chapter 14.04 — Marine Refuge; and

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

WHEREAS, in the course of the review of the draft Ordinance, the amendments proposed by this ordinance do not result in any new significant impacts to the environment because they are either more protective or procedural in nature; and

WHEREAS, the City filed a Notice of Exemption pursuant to the California Environmental Quality Act (CEQA) Guidelines Class 7, Actions by Regulatory Agencies for Protection of Natural Resources, and this Ordinance has been mitigated to a point where the proposed project will not have the potential to significantly degrade the environment; will have no significant impact on long-term environmental goals; will have no significant cumulative effect upon the environment; and will not cause substantial adverse effects on human beings, either directly or indirectly.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

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

SECTION 2. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses, or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 3. Pacific Grove Municipal Code Chapter 14.04 shall be amended by the addition of a new sections 14.04.035 Definitions and 14.04.090 City Roadwork Restrictions During Harbor Seal Pupping Season as set forth below.

14.04.035 Definitions.

(a) As used in this chapter, terms are defined as follows:

- (1) The Harbor Seal Pupping Season shall be generally defined as occurring during the months of February through May. The City shall consult with local NOAA offices to determine commencement and conclusion of the season.
- (2) An emergency is a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services. This includes necessary action to restore, repair, or maintain public works, utilities, and services during and immediately following a natural disaster or serious accident or other cases of emergency.
- (3) Roadwork is work done in constructing or repairing roads, construction, repair or replacement of utilities or facilities within the Ocean View Boulevard right of way between Eardley and Carmel Avenues.

14.04.090 Roadwork Restrictions During Harbor Seal Pupping Season.

During the Harbor Seal Pupping Season non-emergency roadwork projects within the Ocean View Boulevard right of way between Eardley and Carmel Avenues shall be suspended unless such work is coordinated in advance with the local NOAA offices. Emergency roadwork during the Harbor Seal Pupping Season shall be reported to the NOAA as soon as practical.

SECTION 4. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement 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 ____ day of _____, 2022, by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

BILL PEAKE , Mayor

ATTEST:

Sandra Kandell City Clerk

APPROVED AS TO FORM:

Brian Pierik, City Attorney