



NOTICE OF MEETING

CITY OF PACIFIC GROVE

CITY COUNCIL

***FURTHER* AMENDED 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: 04/12/2023
SUBJECT: City Council Meeting Agenda- Errata Sheet

Attached is additional information for your consideration at the April 5, 2023 City Council Meeting:

Agenda Item	Information Provided/Corrected
11B (Formerly 7A)	Further Corrections to Second Reading: Typographical errors corrected and missing text re-added. (See attached pages.)
11B (Formerly 7A)	Page 49 of Packet (24 of 35) 15.26.070 paragraph (4) row 4-5: Current: "Before and after 360-degree photo simulations must be provided; which and detailed specification of the (1) An application for a permit shall be submitted in the format and manner specified by the wireless facilities regulations, as applicable." Redline Correction: "Before and after 360-degree photo simulations must be provided; with a detailed specification of the <u>site</u> . An application for a permit shall be submitted in the format and manner specified by the wireless facilities regulations, as applicable." (See additional redlined sheet attached.)
11B (Formerly 7A)	Page 29 & 30 of Packet (2/33 & 3/33) Further corrections to Title 15. (See corrected pages.)

Attachments

Corrected Errata Pages
Additional Corrected Page
Further Corrected Pages

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15.01.260 Appeal of denial of permit.

Any person aggrieved by the denial of a permit required by this chapter may appeal to the Public Works Director or designee, by submitting a written appeal within 15 days of the date the application was denied. The Public Works Director or designee shall thereafter give written notice to the applicant of a hearing to be held within 30 days of receipt of the appeal. The decision by the Public Works Director or designee on the appeal shall be final. For appeals of decisions regarding Parklets, the decision of the Public Works Director or designee may be appealed to the Architectural Review Board whose decision on such appeals shall be final.

15.01.270 Findings on appeal.

The Public Works Director or designee, or Architectural Review Board where applicable shall grant the appeal and issue a permit, subject to any appropriate conditions, if all of the following findings are made:

- (a) That the applicant will be substantially damaged by the refusal to grant the permit as requested;
- (b) That no other reasonable method of obtaining the desired results is available except as proposed by applicant;
- (c) That the granting of the permit will not be materially detrimental to the public interest, safety, health and welfare or injurious to other property;
- (d) That the project for which the permit is sought will not adversely affect the safety, capacity, or integrity of the City's right-of-way
- (e) That the applicant has substantially complied with the provisions of any prior permits issued to the applicant, and has paid or posted all required fees or bonds, and maintained all required insurance coverage;
- (f) That the environmental effects are not significant;
- (g) That an additional maintenance cost to the City is not created by the encroachment;
- (h) That the granting of the permit will not be materially detrimental to the rights, interests or revenues of the City

15.01.280 Emergency suspension of permit.

Whenever the Director of Public Works finds that a suspension of an encroachment permit is necessary to protect the public health or safety from imminent danger, the Director of Public Works may immediately suspend any such permit pending a subsequent hearing for remedial action or revocation. The Director of Public Works shall, within three working days of the emergency suspension of the permit, notify the permittee of such suspension by written notice, personally served upon the permittee, or mailed by first class mail, postage prepaid, to the last known address of the permittee. The permittee may, within 10 days after service of such a written notice of suspension, request a hearing before the Director of Public Works with regard to such emergency suspension. The Director of Public Works shall schedule a hearing on the suspension within 10 days of receipt of a request for hearing.

15.01.290 Hearing on emergency suspension of permit.

- (a) If the Director of Public Works, after the hearing, finds that cause exists for remedial action, the director shall impose one or more of the following:
 - (1) A warning;
 - (2) An order to correct any particular noncompliance;
 - (3) A revocation of the encroachment permit;
 - (4) A continued suspension of the encroachment permit;
 - (5) A modification or reinstatement of the encroachment permit, with conditions.
- (b) The director shall, within 10 days of the hearing, render a written opinion, stating the findings upon which the decision is based, and the action taken. The decision of the director shall be final.

15.01.300 Suspension or revocation of permit.

Any permit issued pursuant to this chapter may be suspended or revoked upon recommendation of the Director of Public Works:

- (a) The permittee has violated any provision of this chapter, or of any agreement entered into with the City related to the permit; or
- (b) The permittee has failed to pay any required fees, or to post or maintain any bond or insurance required by this chapter;
- (c) The encroachment for which the permit was granted adversely affects the safety, capacity or integrity of the City's right-of-way; or
- (d) The encroachment is causing the City to incur substantial additional maintenance costs; or

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- (e) Material misrepresentations were made in the application for the permit.

15.01.310 Hearing on suspension or revocation of permit.

The Director of Public Works shall give the permittee at least 10 days' written notice of a hearing before the Director of Public Works on the suspension or revocation of a permit issued pursuant to this chapter, setting forth the grounds for such action. The hearing shall be held within 30 days after service of written notice of the hearing. The decision of the Director of Public Works shall be final.

15.01.320 Civil penalties and attorneys' fees.

Any person who violates any provision of this chapter, or any provisions of any permit issued or agreement entered into pursuant to this chapter, shall be civilly liable to City in the sum not to exceed \$1000.00 for each day in which such violation occurs. The City may petition the superior court to impose, assess and collect such sums pursuant to this chapter. The court, in any action brought by the City either for civil penalties, pursuant to this section, or for abatement of any encroachment which is a public nuisance, shall award to the City its reasonable costs and attorneys' fees in bringing such action.

15.01.330 Administrative review.

In addition to any other remedies provided herein, violation of any provision of this chapter shall be subject to an administrative fine or penalty as provided under Chapter 1.30.4-30.

15.01.340 Authority of Encroachment Officer and inspectors.

The Encroachment Officer and any inspectors acting on his/her behalf shall have authority to enforce any of the provisions set forth herein. In addition, for purposes of the Administrative Review of Ordinance Violations as provided in Chapter 1.16, the Encroachment Officer and any inspectors acting on his/her behalf shall be included within the definition of "Code Enforcement Officer" for purposes of issuing an administrative notice and order.

15.01.350 Penalties for violation.

Any person violating any provision of this chapter, or any permit issued pursuant to this chapter, shall be guilty of a misdemeanor and upon conviction shall be punishable as set forth in Chapter 1.16.

15.01.360 Remedies cumulative.

The remedies provided for in this chapter shall be cumulative and not exclusive and shall be in addition to any and all other remedies available to the City.

Chapter 15.08

HOUSE NUMBERS

Sections:

15.08.010 House numbers required – Map – Assigning – Display.

15.08.010 House numbers required – Map – Assigning – Display.

(a) Every house and building in the city shall bear a street number in accordance with the city's house numbering map, on file in the office of the community development department.

(b) The street number of a new house or building shall be that assigned on the building permit for said house or building.

(c) Street numbers affixed to a location on a house or building less than 50 feet from the fronting roadway shall be a minimum of four inches in height. Street numbers so affixed 50 feet or more from the fronting roadway shall be a minimum of five inches in height. Houses and buildings located more than 100 feet from the fronting roadway shall be approved by the fire chief as to the location and position of posted addresses. All numbers shall have a minimum width of one-half-inch stroke.

(d) The numbers shall have or be affixed upon a contrasting background and shall be clearly legible and visible from the roadway.

Chapter 15.20

DRIVEWAYS

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Sections:

- 15.20.010 Permit to construct, maintain – Required.
- 15.20.020 Construction to conform to plans and specifications.
- 15.20.030 Size for single, double – Number per site.
- 15.20.040 Distance from crosswalk.
- 15.20.060 Apron not to extend into street.
- 15.20.070 Alteration to conform – Procedure – Lien.
- 15.20.090 Exemption.

15.20.010 Permit to construct, maintain – Required.

No person, firm or corporation shall construct or maintain, or cause to be constructed or maintained any driveway across any public sidewalk or curbing in the city of Pacific Grove without first obtaining a permit therefor from the city engineer. [Ord. 249 N.S. § 1, 1954].

15.20.020 Construction to conform to plans and specifications.

All construction of such driveways shall be done in a good and workmanlike manner and in conformity with the plans and specifications for such work on file in the office of the city clerk, and here referred to for further particulars. [Ord. 249 N.S. § 2, 1954].

15.20.030 Size for single, double – Number per site.

No driveway shall exceed 10 feet for a single driveway or 18 feet for a double driveway on streets 40 feet or more in width, and 12 feet for a single driveway or 20 feet for a double driveway on streets less than 40 feet in width. Only one driveway shall be permitted for any one building site, or for more than one building site when such building sites are in the same block and are used in the conduct of one business. [Ord. 249 N.S. § 3, 1954].

15.20.040 Distance from crosswalk.

In the construction of driveways no curbing shall be disturbed within four feet of the regular street crosswalk. [Ord. 249 N.S. § 4, 1954].

15.20.060 Apron not to extend into street.

No driveway apron shall extend out into the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. [Ord. 249 N.S. § 6, 1954].

15.20.070 Alteration to conform – Procedure – Lien.

Any existing driveway violating any of the provisions of PGMC 15.20.020 through 15.20.060 inclusive shall be altered to conform to said sections whenever in the judgment of the council the public interest, convenience or safety requires such alteration; provided, however, that the owner, or owners, of the premises affected shall be afforded an opportunity for a hearing prior to any such alteration or alterations being ordered by the council and at least five days' notice of such hearing in writing, which shall be mailed to such owner, or owners, by the city clerk, postage prepaid, at the Post Office, Pacific Grove, California, addressed to such owner, or owners at their last known address, or in the event the same is unknown, to General Delivery, Pacific Grove, California, and a similar notice shall be posted on the property affected by the city engineer at least five days prior to such hearing. The failure of the clerk to mail such notice shall not, however, affect the jurisdiction of the council to order said work. Upon such hearing the council shall have jurisdiction to order the work done as noticed and the owner, or owners, shall have 10 days thereafter within which to commence said work and a reasonable time thereafter to complete the same. In the event that said work is not commenced by such owner, or owners, within said period of 10 days the city engineer shall cause the same to be done and upon the completion thereof, the cost bill for the same shall be filed by said city engineer in the office of the city clerk and a copy thereof mailed by said clerk, postage prepaid, to the last known address of said owner, or to General Delivery, Pacific Grove, California, and if the bill is not paid into the city treasury by said owner, or owners, within 10 days thereafter the same shall be and become a lien upon the real property affected or benefited by said improvement and shall be a charge against said property on the tax roll and

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shall be collected at the time and in the manner the general municipal taxes of the city are collected, and shall bear like penalties and carry like interest charges for delinquencies. [Ord. 249 N.S. § 7, 1954].

15.20.090 Exemption.

The provisions of this chapter shall not apply to developments being considered by the community development department under application for use permit.

(6) No permit shall be issued or effective unless it is shown that the wireless telecommunications facility will comply with FCC regulations governing radio frequency ("RF") emissions. Every wireless facility shall at all times comply with applicable FCC regulations governing RF emissions, and failure to comply shall be treated as a material violation of the terms of any permit or lease.

(7) No towers shall be permitted in the public rights-of-way, and no wireless telecommunications facilities shall be permitted above-ground in underground areas; provided, that the city may permit placements where all elements of the wireless telecommunications facility are concealed, and the facility does not appear to a casual observer to be a wireless telecommunications facility.

(8) No permit shall issue except to wireless service providers with immediate plans for use of the proposed wireless telecommunications facility, or wireless infrastructure providers with contracts with wireless service providers which require the service provider immediately to use the proposed wireless telecommunications facility. [Ord. 18-019 § 2, 2018].

15.26.070 Application submission requirements.

(a) Submission. Unless the wireless regulations otherwise provide, applicant shall submit a paper copy and an electronic copy of any application, amendments or supplements to an application, or responses to requests for information regarding an application to the city manager.

(b) Content. An application must contain:

(1) Any information required pursuant to the wireless regulations.

(2) The name of the applicant, its telephone number and contact information, and if the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider that will be using the wireless telecommunications facility.

(3) A complete description of the proposed wireless telecommunications facility and the work that will be required to install or modify it, including but not limited to detail regarding proposed excavations, if any; detailed site plans showing the location of the wireless telecommunications facility, and specifications for each element of the wireless telecommunications facility, clearly describing the site and all structures and facilities at the site before and after installation or modification; and describing the distance to the nearest residential dwelling unit and any historical structure within 500 feet of the facility. Before and after 360-degree photo simulations must be provided. The electronic version of an application must be in a standard format that can be easily uploaded on a web page for review by the public.

(4) If the application is an eligible facilities request, within the meaning of 47 C.F.R. Section 1.40001, as may be amended, the application must contain information sufficient to show that the application qualifies as an eligible facilities request, which information must show that there is an existing wireless telecommunications facility that was approved by the city pursuant to this chapter. Before and after 360-degree photo simulations must be provided; ~~which and with a~~ detailed specification of the ~~site (4)~~. An application for a permit shall be submitted in the format and manner specified by the wireless facilities regulations, as applicable. For permits for wireless telecommunications facilities, if no form or manner has been specified, applications must contain all information necessary to show that applicant is entitled to the permit requested.

(5) If applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all information on which the applicant relies in support of that claim. Applicants are not permitted to supplement this showing if doing so would prevent city from complying with any deadline for action on an application.

(6) Proof that notice has been mailed to owners of all property within 300 feet of the proposed wireless telecommunications facility.

(7) Any required fees.

Chapter 15.01

STREET ENCROACHMENTS

Sections:

15.01.010	Definitions.
15.01.020	Encroachment permit required.
15.01.030	Exceptions to permit requirement.
15.01.040	Right of lawful use by City and others.
15.01.050	Permit applications.
15.01.060	Liability and insurance.
15.01.070	Fees.
15.01.080	Agreement concerning continuing encroachments.
15.01.090	Duration of permit.
15.01.100	Commencement and conclusion of work.
15.01.110	Display of permit.
15.01.120	Inspections-Records-Corrective action.
15.01.130	Changes in permit.
15.01.140	Driveway approach permit-Conditions.
15.01.150	Safety provisions.
15.01.160	Standards, supervision and inspection.
15.01.170	Repair and restoration.
15.01.180	Relocation of encroachment.
15.01.190	Street cut notification.
15.01.200	Public access to facilities.
15.01.210	Street closure-When permission granted.
15.01.220	Coordination of work with other entities.
15.01.230	Pavement.
15.01.240	Prohibitions.
15.01.250	Monuments.
15.01.260	Appeal of denial of permit.
15.01.270	Findings on appeal.
15.01.280	Emergency suspension of permit.
15.01.290	Hearing on emergency suspension of permit.
15.01.300	Suspension or revocation of permit.
15.01.310	Hearing on suspension or revocation of permit.
15.01.320	Civil penalties and attorneys' fees.
15.01.330	Administrative review.
15.01.340	Authority of Encroachment Officer and inspectors.
15.01.350	Penalties for violation.
15.01.360	Remedies cumulative.

15.01.010 Definitions.

- (a) "City Engineer" means the City engineer of the City of Pacific Grove, or his or her authorized representative.
- (b) "Continuing encroachment" means an encroachment continuing for a period longer than one year.
- (c) "Director of Public Works" means the Director of Public Works of the City of Pacific Grove, or his or her authorized representative.
- (d) "Emergency street cut" means any street cut by a utility to repair a facility within the right-of-way to remediate an immediate hazard or danger to life, health or property, as determined at the sole discretion of the City Director of Public Works..

- (e) “Encroach” or “encroachment” includes going upon, over or under a right-of-way, or using a right-of-way or an area adjacent to a right-of-way in such a manner as to prevent, obstruct or interfere with the intended use of that way, or a modification of its mode of use, including but not limited to:
- (1) Excavation or disturbance;
 - (2) Erection, construction, placement, installation, repair, upgrade or maintenance of any physical improvement;
 - (3) Planting or maintaining any landscaping;
 - (4) Placement or maintenance of any waste material, except the placement of solid waste or recyclables in authorized receptacles for pick-up in accordance with Chapter 9-16 9.16.
- (f) “Encroachment Officer” shall be those persons designated by the Director of Public Works to issue permits as provided herein or to enforce the provisions of this chapter.
- (g) “Landscaping” means any tree, shrub, grass, groundcover, plant, solid landscape feature or growing thing.
- (h) “Parklet” means the conversion of one or more parking spaces, that may vary according to the site, context, and desired character of the installation, and are subject to the review and approval of the City Public Works Director or designee under the Parklet Program adopted by City Council Resolution.
- (i) “Permittee” means any person that has been issued an encroachment permit pursuant to this chapter.
- (j) “Physical improvement” means any post, sign, pole, fence, guard rail, wall, facility, pathway, sidewalk, driveway, track, surfacing, culvert, drainage facility, pipe, conduit, cable, embankment or excavation.
- (k) “Public street” means the portion of the public right-of-way of any road, street, lane or alley used by or for the general public for travel purposes, including sidewalks and areas between sidewalks and the vehicular travelway, whether or not those roads, streets, lanes and alleys have been accepted as and declared to be part of the City system of public streets, except streets forming a part of the State highway system or County roads or expressways.
- (l) “Right-of-way” means land which by written instrument, usage or process of law is reserved for or dedicated to the public use for street, utility or highway purposes, or other transportation purposes.
- (m) “Street cut” means the action or result, of opening, tearing up, excavating, removing or constructing in any portion of any roadway, street or thoroughfare, sidewalk, driveway, curb or gutter, or any other facility existing within the public right-of-way area for any purpose whatever within the jurisdiction of the City.
- (n) “Utility” means any entity constituting a public utility under State law authorized to use the public streets pursuant to City or State franchise.
- (o) “Waste material” means any rubbish, brush, earth or other material of any nature which is unused, unwanted or discarded.

15.01.020 Encroachment permit required.

- (a) Except as otherwise provided in Section 15.01, it is unlawful for any person to encroach or to make or to cause to be made any encroachment without first having obtained an encroachment permit from the Director of Public Works or the Building Official or their designee.
- (b) Encroachment permits shall be issued by the Director of Public Works or designee upon such conditions the Director deems necessary to protect the public interest, health, safety or welfare.
- (c) All obligations, responsibilities and other requirements of the permittee as described in this chapter shall be binding on subsequent owners of the encroachment.
- (d) Any encroachment for which a permit is required and for which no permit has been issued pursuant to this chapter shall be deemed a public nuisance under Chapter 1.16 of this code.

15.01.030 Exceptions to permit requirement.

No encroachment permit shall be required for any of the following:

- (a) Marquees, awnings and other projecting structures and building appendages over the right-of-way, which comply with the requirements of the current California Building Code for use of public streets and projections over public property, and are part of a building or structure which has been granted a valid building permit in accordance with the applicable provisions of this code;
- (b) Any sign erected, constructed and maintained in compliance with this code;
- (c) The actions of any officer or employee of the City engaged in the discharge of official duties;
- (d) The performance of work under contract to the City;
- (e) The placement or maintenance of newsracks in compliance with this code or state or federal law;
- (f) The making of an emergency street cut by a utility to repair a broken or defective pipe, facility or conduit lawfully on or under a public street, or excavating by a utility as may be necessary for the preservation of life and property when an urgent necessity therefor arises when the offices of the City are closed. Any utility making such