



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: Staphany Arriola, Management Analyst (Confidential)
MEETING DATE: 09/17/2025
SUBJECT: City Council Meeting Agenda - Errata Sheet

Attached is additional information for your consideration at the September 17, 2025 City Council Meeting:

Agenda Item	Information Provided/Corrected
11A	Agenda Item No. 11A for the City Council meeting on September 17, 2025 is a Proposed Ordinance Regarding Code Enforcement Adding Chapter 1.17, Amending Chapter 1.18, Repealing and Replacing Chapter 1.19, Repealing and Reserving Chapter 3.30, Amending Chapter 6.09, Amending Chapter 7.40, and Amending Chapter 9.17. Attachment 1 to this Agenda contains existing sections from the City Municipal Code. Attachment 2 and Attachment 3 to Agenda Item are the Ordinance with proposed changes to sections of the City existing Municipal Code. However, apparently there was a renumbering of the sections by the computer when the Agenda was posted on the City website which needs to be corrected. Attached to this Errata are Attachment 1 (no changes), Attachment 2 (corrected section numbers) and Attachment 3 (corrected section numbers) to Agenda item 11A. There has been no change to the text of any of the Attachments except for the inclusion of the corrected section numbers in Attachment 2 and Attachment 3.

Attachments

Existing Chapter 1.18
Proposed Ordinance Re Code Enf Adding Ch. 1.17
Final Version of Proposed Ord Re Code Enf Adding Ch.1.17

ATTACHMENT 1

Chapter 1.18

MOTOR VEHICLE PARKING VIOLATION ENFORCEMENT

Sections:

1.18.010 Purpose.

1.18.020 Definitions.

1.18.030 Service of citations, orders and notices.

1.18.040 Citation issuance.

1.18.050 Parking fines.

1.18.060 Delinquent parking violation.

1.18.070 Advance deposit hardship waiver.

1.18.080 Hearing request – Initial review.

1.18.090 Hearing request – Administrative hearing.

1.18.100 Administrative hearing officer selection.

1.18.110 Administrative hearing procedure.

1.18.120 Hearing officer's decision.

1.18.130 Judicial review.

1.18.140 Collection of unpaid citations.

1.18.150 Preemption.

1.18.010 Purpose.

This chapter sets forth authority for enforcement of parking violations to preserve and protect the quality of life in the city of Pacific Grove. This chapter further establishes administrative hearing procedures to provide all individuals charged with a parking violation a forum in which the facts of their case may be reviewed fairly, a disposition rendered in a timely manner, and for collection of fines. [Ord. 16-023 § 2, 2016].

1.18.020 Definitions.

For the purpose of this chapter, the following words and phrases are defined:

- (a) "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 chief of police, and any person designated as an enforcement officer by the chief of police.
- (b) "Park" shall mean to stand or leave standing any vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading of passengers or materials.
- (c) "Processing agency" shall mean and refer to the contracting party responsible for the processing of the notices of parking violations and notices of delinquent parking violations. [Ord. 16-023 § 2, 2016].

1.18.030 Service of citations, orders and notices.

All citations, orders and notices shall be served in accordance with the provisions of Chapter 1.12 PGM and California Vehicle Code Section 40202. [Ord. 16-023 § 2, 2016].

1.18.040 Citation issuance.

Whenever an enforcement officer determines a violation of parking statute or ordinance has occurred, the enforcement officer shall be authorized to issue a parking citation to any person responsible for the violation in accord with California Vehicle Code Section 40202. [Ord. 16-023 § 2, 2016].

1.18.050 Parking fines.

(a) The fines for each parking violation and administrative fees 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.

(b) Any parking citation fine paid pursuant to this section shall be refunded in accordance with PGMC [1.18.120](#) if it is determined that, after a hearing, the person charged in the parking citation was not responsible for the violation or that there was no violation as charged in the parking citation. [Ord. 16-023 § 2, 2016].

1.18.060 Delinquent parking violation.

(a) The notice of delinquent violation shall be issued to the registered vehicle owner if the person fails to pay to the city the parking fine by the date fixed on the notice of parking violation. This notice shall be issued in accordance with PGMC [1.18.030](#).

(b) Whenever the amount of any parking fine or penalty has not been satisfied within the due date of the delinquent notice or the parking citation has not been successfully challenged pursuant to this chapter, this obligation may be collected in accordance with PGMC [1.18.140](#). [Ord. 16-023 § 2, 2016].

1.18.070 Advance deposit hardship waiver.

Any person who intends to request a hearing to contest whether the parking 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 [1.18.050](#), may file a request for an advance deposit hardship waiver in accord with California Vehicle Code Section [40215](#)(b). [Ord. 16-023 § 2, 2016].

1.18.080 Hearing request – Initial review.

(a) Any recipient of a notice of parking violation or a notice of delinquent parking violation may request an initial review of the notice by the city. A person may request an initial review of the notice of parking violation for a period of 21 calendar days from the issuance of a notice of parking violation or 14 calendar days from the mailing of a notice of delinquent parking violation. The request may be made by telephone, in writing, or in person in accord with California Vehicle Code Section [40215](#)(a). There shall be no charge for this review.

(b) If the city is satisfied that (1) the violation did not occur, (2) the registered owner was not responsible for the violation, or (3) extenuating circumstances make dismissal of the citation appropriate in the interest of justice, the city shall cancel the notice of parking violation or notice of delinquent parking violation. The city shall advise the processing agency, if any, of the cancellation.

(c) If the city upholds the notice of parking violation or notice of delinquent parking violation, the city shall include:

- (1) A reason for that denial;
- (2) Notification of the ability to request an administrative hearing; and
- (3) Notification of the procedure for waiving prepayment of the parking penalty based upon an inability to pay pursuant to PGMC [1.18.070](#).

(d) The city shall mail the results of the initial review to the person contesting the notice in accordance with PGMC [1.18.030](#). [Ord. 16-023 § 2, 2016].

1.18.090 Hearing request – Administrative hearing.

- (a) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the violation no later than 21 calendar days following the mailing of the results of the city's initial review in accord with California Vehicle Code Section [40215](#)(b).
- (b) The person requesting the hearing shall deposit the fine in advance, in accordance with PGMC [1.18.050](#), or shall receive in advance a deposit hardship waiver in accordance with PGMC [1.18.070](#).
- (c) A hearing before the hearing officer shall be set for a date no later than 90 calendar days following the receipt of a request for an administrative hearing. 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. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.
- (d) If the enforcement officer submits any additional written report concerning the citation to the hearing officer for consideration at the hearing, then a copy of this report shall be served on the person requesting the hearing at least five days prior to the date of the hearing. [Ord. 16-023 § 2, 2016].

1.18.100 Administrative hearing officer selection.

The presiding officer of the hearing officer panel shall, by random lot, designate one of the members of the hearing officer panel to be the hearing officer for each administrative 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. 16-023 § 2, 2016].

1.18.110 Administrative hearing procedure.

The administrative hearing process shall consist of the following:

- (a) The person requesting an administrative hearing shall indicate to the city whether the administrative hearing will be in writing or in person.
- (b) If the person requesting an administrative hearing is a minor, that person shall be permitted to appear at the hearing or admit responsibility for a parking violation without the necessity of the appointment of a guardian.
- (c) The failure of any recipient of a parking citation to appear at the administrative hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.
- (d) The parking citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.
- (e) The enforcement officer who issued the notice of parking violation shall not be required to participate in the administrative hearing. No evidence shall be required other than the notice of parking violation or copy, and information received from the DMV identifying the registered owner of the vehicle. The enforcement officer may, but is not required to, submit additional report he or she deems necessary or appropriate.
- (f) The hearing officer may question witnesses and request additional information from the enforcement officer or the recipient of the administrative citation prior to closing the hearing. [Ord. 16-023 § 2, 2016].

1.18.120 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 citation and shall list the reasons for that decision. The decision of the hearing officer shall be final for purposes of administrative review.

(b) If the hearing officer determines that the 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 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 hearing officer's decision shall be personally served or served by first class mail. A copy of the decision shall be forwarded to all members of the hearing officer panel. [Ord. 16-023 § 2, 2016].

1.18.130 Judicial review.

(a) Any person aggrieved by an administrative hearing officer's final decision may obtain review by filing an appeal to be heard by the superior court.

(b) California Vehicle Code Section [40230](#) shall be applicable so as to provide a 30-day limitation for judicial review of any parking enforcement decision.

(c) A copy of the notice of parking violation or, if the citation was issued electronically, a true and correct abstract containing the information set forth in the notice of parking violation shall be admitted into evidence as prima facie evidence of the facts stated therein.

(d) The person shall pay the filing fees as prescribed by the court. If the court finds in favor of the person, the amount of the filing fees shall be reimbursed to the person by the city. Any deposit of parking penalty shall be refunded by the city in accordance with the judgment of the court.

(e) If no notice of appeal of the hearing officer's decision is filed within the period set forth in subsection (b) of this section, the decision shall be deemed final. [Ord. 16-023 § 2, 2016].

1.18.140 Collection of unpaid citations.

Whenever the amount of any administrative fine, penalty and/or administrative cost imposed by a hearing officer pursuant to this chapter has not been satisfied, the city shall commence collection proceedings. The city shall proceed with options set forth in the California Vehicle Code Section [40200](#) et seq. as may be amended for the collection of unpaid parking citations. [Ord. 16-023 § 2, 2016].

1.18.150 Preemption.

This chapter shall not be interpreted in any manner that conflicts with the laws or the Constitutions of the United States or of the state of California. [Ord. 16-023 § 2, 2016].

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 Authority to impose lien/special assessment.**
- 1.19.270 Lien/special assessment procedure and hearing.**
- 1.19.280 Recordation and satisfaction of lien.**
- 1.19.290 Recordation and satisfaction of special assessment.**

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 Authority to impose lien/special assessment.

Whenever the amount of an 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 or, in the alternative, a special assessment against the real property on which the violation occurred. [Ord. 17-020 § 2, 2017; Ord. 07-022 § 27, 2007].

1.19.270 Lien/special assessment procedure and hearing.

(a) Upon determination by the city manager or his designee that 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, the city council may adopt a resolution confirming imposition of the debt and approving filing a lien or special assessment against the subject real property.

(b) The resolution shall state the amounts due and owing, the name of the agency imposing the lien/special assessment (city of Pacific Grove), the date of the order or other notice describing the property violation or nuisance in question, the street address, legal description and assessor's parcel number of the subject property, and the name and address of the recorded owner of the property.

(c) Any person whose real property is subject to a lien/special assessment pursuant to this chapter may file a written protest with the city clerk and/or may object to assessment of the lien/special assessment orally at the city council meeting.

(d) Each written protest must contain a description of the property in which the protesting party is interested and the grounds for each protest.

(e) The city council, after the hearing and after considering each protest, shall adopt a resolution confirming, discharging or modifying the amount of the lien/special assessment. [Ord. 17-020 § 2, 2017; Ord. 07-022 § 28, 2007].

1.19.280 Recordation and satisfaction of lien.

(a) Thirty days following 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.

(b) The lien may carry additional administrative charges as set forth by resolution of the city council. Interest at the legal rate per year shall accrue on the principal amount of the lien until satisfied pursuant to law. A lien pursuant to this chapter may be foreclosed by an action brought by the city for a money judgment.

(c) A copy of the adopted resolution shall be served on the property owner, along with notice to the property owner that a lien in the amounts stated in the resolution will be filed against the subject property in the Monterey County recorder's office.

(d) The notice set forth in subsection (c) of this section shall be served in accordance with Chapter [1.12](#) PGM. If the owner of record cannot be found after diligent search, the notice may be served by posting a copy in a conspicuous place upon the property for a period of 10 days and publication in a newspaper of general circulation published in Monterey County.

(e) Once payment in full is received by the city for outstanding penalties, costs, and accrued interest, the city manager shall either record a notice of satisfaction or provide the property owner or financial institution with a notice of satisfaction so this notice may be recorded with the office of the county recorder. Such notice of satisfaction shall cancel the city's lien. [Ord. 17-020 § 2, 2017; Ord. 07-022 § 29, 2007].

1.19.290 Recordation and satisfaction of special assessment.

(a) The resolution adopted by the city council under this section shall be entitled to recordation.

(b) A copy of the adopted resolution shall be served on the property owner, along with notice that the property may be sold after three years by the tax collector for unpaid delinquent assessments. Such notice shall be served by certified mail to the property owner. If the owner of record cannot be found after diligent search, the notice may be served by posting a copy in a conspicuous place upon the property for a period of 10 days and publication in a newspaper of general circulation published in Monterey County. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(c) The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the assessment relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the assessment shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

(d) Interest at the legal rate per year shall accrue on the principal amount of the assessment until satisfied pursuant to law.

(e) The city may, subject to the requirements applicable to the sale of property pursuant to Section [3691](#) of the Revenue and Taxation Code, conduct a sale of vacant residential developed property for which the payment of the assessment is delinquent.

(f) Once payment in full is received by the city for outstanding penalties, costs, and accrued interest, the city manager shall provide written notice to the tax collector that the special assessment has been paid in full and should no longer be imposed against the subject property. Such written notice shall cancel the city's special assessment. [Ord. 17-020 § 2, 2017; Ord. 07-022 § 30, 2007].

Chapter 3.30

HEARING OFFICER PANEL

Sections:

3.30.010 Hearing officer panel membership.

3.30.020 Hearing officer panel terms of office.

3.30.030 Hearing officer panel removal.

3.30.040 Presiding officer.

3.30.050 Meetings.

3.30.060 Rules and procedures.

3.30.010 Hearing officer panel membership.

A hearing officer panel for the city of Pacific Grove is created. The hearing officer panel shall consist of seven residents of the city, appointed by the mayor and approved by the council. The appointment, performance evaluation, compensation and/or benefits provided to any member of the hearing officer panel shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer. [Ord. 07-022 § 32, 2007].

3.30.020 Hearing officer panel terms of office.

Each appointee to the hearing officer panel shall serve for a two-year term; provided, however, that four members of the panel shall be appointed to terms ending on January 31st in even-numbered years, and three members of the panel shall be appointed to terms ending on January 31st in odd-numbered years. Any vacancy on the hearing officer panel shall be filled for the unexpired remainder of that term. [Ord. 07-022 § 33, 2007].

3.30.030 Hearing officer panel removal.

Any member of the hearing officer panel may be removed prior to the expiration of his or her term by a majority vote of the council, in the council's discretion. [Ord. 07-022 § 34, 2007].

3.30.040 Presiding officer.

The mayor shall select one member of the hearing officer panel to be the presiding officer. The presiding officer shall serve in that capacity at the pleasure of the mayor. Should the presiding officer be absent or unavailable, a majority of the remaining members of the hearing officer panel shall appoint an acting presiding officer to perform the duties of the presiding officer. [Ord. 07-022 § 35, 2007].

3.30.050 Meetings.

The presiding officer shall act as the chair of the hearing officer panel at any meeting of that panel. All meetings of the panel shall comply with the provisions of the Ralph M. Brown Act. [Ord. 07-022 § 36, 2007].

3.30.060 Rules and procedures.

(a) The hearing officer panel may establish and modify, taking into consideration the advice of the city attorney, rules and procedures that shall govern the conduct of any hearing to review an administrative citation or any hearing to review an administrative compliance order. All such rules and procedures shall be provided to any participant in that hearing.

(b) An affirmative vote of a majority of the total members of the hearing officer panel shall be required for any action by the panel. [Ord. 07-022 § 37, 2007].

Chapter 6.09

UNIFORM TRANSIENT OCCUPANCY TAX

6.09.080 Failure to collect and report tax – Determination of tax by tax administrator.

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the tax administrator shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address. Such operator may within 10 days after the serving or mailing of such notice, make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided in PGMC [6.09.090](#). [Ord. 484 N.S., 1965].

6.09.090 Appeal.

Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the council by filing a notice of appeal with the city clerk within 15 days of the serving or mailing of the determination of tax due. The council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to such operator at his or her last known place of address. The findings of the council shall be final and conclusive and shall be served upon the appellant in the manner prescribed in PGMC [6.09.080](#) for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice. [Ord. 484 N.S., 1965].

Chapter 7.40

SHORT-TERM RENTAL LICENSE

7.40.160 Appeal of tax.

Any person aggrieved by any decision of the city with respect to the amount of the transient occupancy tax or fees associated thereto may appeal to the administrative enforcement hearing officer panel under Chapter [1.19](#) PGMC by filing a notice of appeal with the city clerk or delegate within 15 days after receipt of written notice from the city. The hearing officer assigned by the panel shall thereupon fix a time and place for hearing such appeal. The city manager or delegate shall give notice to such person of the time and place of hearing in compliance with Chapter [1.12](#) PGMC. The hearing officer shall have authority to determine all questions raised by such appeal; provided, however, that no such determination shall conflict with any substantive provision of this chapter. [Ord. 17-024 § 2, 2017].

Chapter 9.17

REDUCTION OF SHORT-LIVED CLIMATE POLLUTANTS

9.17.130 Enforcement.

(a) Beginning January 1, 2024, if the city determines that a generator, responsible party, self-hauler, hauler, tier one or tier two commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance with this chapter, it shall document the noncompliance or violation, issue a notice of violation, and take enforcement action pursuant to this section, as needed.

(b) Violation of any of the provisions of this chapter shall constitute an infraction or misdemeanor and shall be punishable as set forth in Chapter [1.16](#) PGMC.

(c) Notwithstanding any other legal remedy, violation of any of the provisions of this chapter may be enforced pursuant to Chapter [1.19](#) PGMC.

(d) Notwithstanding any other legal remedy, violation of any of the provisions of this chapter shall constitute a public nuisance and shall be subject to abatement, injunction, or other civil remedy as appropriate.

(e) Notice of Violation.

(1) City enforcement officials or their designee will monitor compliance randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program (that may include remote monitoring).

(2) For incidences of prohibited container contaminants found in containers, city will issue a notice of contamination to any generator or responsible party found to have prohibited container contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the prohibited container contaminants or within 10 business days after determining that a violation has occurred. If the city observes prohibited container contaminants in a responsible party's containers on more than three consecutive occasions, the city may assess contamination processing fees or contamination penalties on the generator.

(3) City shall issue a notice of violation requiring compliance within a maximum of 60 days of issuance of the notice. Notices shall be sent to "Owner" at the official address of the owner maintained by the tax collector for the city or if no such address is available, to the owner at the address of the multifamily premises or commercial premises or to the responsible party for the collection services, depending upon available information.

(f) Penalty Amounts for Types of Violations. Penalties may be assessed for violations as provided in Chapters [1.16](#) and/or [1.19](#) PGMC. 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.

(g) Appeals Process. Any persons aggrieved by any decision of the city with respect to uncorrected violation may appeal to the administrative enforcement hearing officer panel under Chapter [1.19](#) PGMC by filing a notice of appeal with the city clerk or delegate within 15 days after receipt of written notice from the city. The hearing officer assigned by the panel shall thereupon fix a time and place for hearing such appeal. The city manager or delegate shall give notice to such person of the time and place of hearing in compliance with Chapter [1.12](#) PGMC. The hearing officer shall have authority to determine all questions raised by such appeal; provided, however, that no such determination shall conflict with any substantive provision of this chapter. [Ord. 21-031 § 2, 2021].

ATTACHMENT 2

ORDINANCE NO. 25-_____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE ADDING CHAPTER 1.17, AMENDING CHAPTER 1.18, REPEALING AND REPLACING CHAPTER 1.19, REPEALING AND RESERVING CHAPTER 3.30, AMENDING CHAPTER 6.09, AMENDING CHAPTER 7.40, AND AMENDING CHAPTER 9.17 OF THE PACIFIC GROVE MUNICIPAL CODE REGARDING CODE ENFORCEMENT PROCESSES

FINDINGS

1. The City of Pacific Grove is authorized by California Constitution, Article XI, Section 7 to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. Pursuant to California Constitution, Article XI, Section 5 and Pacific Grove City Charter Article 5, the City, as a charter city, has plenary authority to make and enforce within its limits all ordinances and regulations in respect to municipal affairs.
2. Government Code section 53069.4(a) authorizes a city to adopt an ordinance providing for imposition of administrative fines for municipal code violations.
3. Government Code sections 38773.1 and 38773.5 provide that a city may, by ordinance, provide for the recovery of nuisance abatement costs, including attorneys' fees, in any action, administrative proceeding, or special proceeding to abate a nuisance.
4. In accordance with these grants of authority, the City has adopted Pacific Grove Municipal Code (PGMC) Chapter 1.19 [Municipal Code and Ordinance Enforcement]. Chapter 1.19 with two distinct processes that would be more efficiently be included in separate provisions of the City Municipal Code ordinance: the administrative citation procedure (Sections 1.19.040–1.19.150) and the nuisance abatement procedure (Sections 1.19.150–1.19.290).
5. Infraction violations of local, state, and federal regulations governing the standing or parking of vehicles are subject to fines and are enforced by the civil administrative process in Vehicle Code sections 40200–40230. Anyone may contest a parking violation in accordance with the process set forth in Vehicle Code section 40215 and any implementing ordinance. In accordance with Vehicle Code section 40215, the City has adopted PGMC Chapter 1.18 [Motor Vehicle Parking Violation Enforcement].
6. The City places a high value on protecting community character, land values, and the general public, health, safety and welfare, and has previously adopted numerous

ordinances to help ensure such protection. The purpose of this ordinance is to improve the efficiency of the City's code enforcement processes in order to make the City's code enforcement efforts more efficient and effective. The purpose of this ordinance is also to further modernize the code enforcement and nuisance abatement tools to help improve the efficiency of the City's code enforcement processes and to protect the public health, safety and welfare, and to ensure cost recovery to the fullest extent as authorized by law.

7. Further, the purpose of this ordinance is to authorize the City to retain a professional hearing officer to preside over administrative citation, nuisance abatement, and parking citation appeals, in lieu of the hearing officer panel. A single, professionally trained hearing officer ensures consistency of procedure and decision-making and efficient handling of matters.
8. The City Council finds that the adoption of this proposed ordinance is within the City's power and authority to protect the public health, safety, and welfare of the City's residents.
9. This ordinance amends the PGMC to create a new Chapter 1.17 entitled "Administrative Citations" to provide an efficient administrative mechanism to enforce the PGMC through the imposition of fines, as authorized by Government Code section 53069.4.
10. This ordinance amends the PGMC by repealing and replacing Chapter 1.19 with an ordinance entitled "Nuisance Abatement" to establish procedures for abating public nuisances and related cost recovery, Government Code sections 38773.1 and 38773.5.
11. This ordinance amends the PGMC by amending Chapters 1.18, 6.09, 7.40, and 9.17 related to appeals and the hearing officer authority.
12. All legal prerequisites to the adoption of the ordinance have occurred.
13. Enactment of this ordinance action does not constitute a "project" as defined by California Environmental Quality Act (CEQA) because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment

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

SECTION 1. Incorporation of Findings. The foregoing findings are adopted by the City Council as though set forth in fully within the body of this ordinance.

SECTION 2. Pacific Grove Municipal Code Chapter 1.17 is hereby added to read as set forth in Exhibit A attached hereto.

SECTION 3. Pacific Grove Municipal Code Chapter 1.18 is hereby amended to read as set forth in Exhibit B attached hereto.

SECTION 4. Pacific Grove Municipal Code Chapter 1.19 is hereby repealed and replaced to read as set forth in Exhibit C attached hereto.

SECTION 5. Pacific Grove Municipal Code Chapter 3.30 is hereby repealed and reserved.

SECTION 6. Pacific Grove Municipal Code Chapter 6.09 is hereby amended to read as set forth in Exhibit D attached hereto.

SECTION 7. Pacific Grove Municipal Code Chapter 7.40 is hereby amended to read as set forth in Exhibit E attached hereto.

SECTION 8. Pacific Grove Municipal Code Chapter 9.17 is hereby amended to read as set forth in Exhibit F attached hereto.

SECTION 9. Severability. 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 10. Effectiveness. In accordance with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following its passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

NICK SMITH, Mayor

ATTEST:
DATED: _____

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

BRIAN A. PIERIK, City Attorney

EXHIBIT A

CHAPTER 1.17 - ADMINISTRATIVE CITATIONS

1.17.010 Purpose

This chapter provides an efficient, administrative mechanism to enforce the Pacific Grove Municipal Code through the imposition of fines, as authorized by Government Code section 53069.4 and other applicable law.

1.17.020 Definitions

For the purposes of this chapter, the following definitions apply:

“Appellant” means a citee who files an appeal.

“Citee” means a responsible person who has been issued an administrative citation under this chapter.

“City Manager” means the City Manager or their designee.

“Enforcement officer” means any City employee or agent of the City designated by the City Manager who has the authority to enforce the Pacific Grove Municipal Code.

“Responsible person” means any person that, by their action or failure to act, causes, maintains, allows, permits, aids, abets, or suffers a violation of this code. For the purposes of this definition, “person” means any natural individual or any organization that the law recognizes as having rights or duties, including, without limitation, a firm, association, partnership, joint venture, trust, estate, receiver, limited liability company, corporation, or any other legal or commercial entity.

1.17.030 Scope and Authorization to Enforce Chapter

(a) The provisions of this chapter apply to any violation of this code or any violation of a condition of approval of any permit, license, or other approval issued by the City.

(b) The City Manager has the authority to administer and enforce this chapter. The City Manager may adopt supplemental regulations or policies to implement and interpret this chapter. These regulations or policies must conform with the purpose of this chapter.

1.17.040 Use of Administrative Citations

(c) Whenever an enforcement officer determines that a violation subject to this chapter has occurred, the enforcement officer may issue an administrative citation to a responsible person in accordance with the requirements of this chapter.

(d) Each day, or any portion thereof, that a prohibited condition, use, or activity under the code is committed, continued or permitted shall constitute a separate violation for which an

administrative fine may be imposed. A single citation may charge multiple violations of the code; however, each violation is subject to a separate and distinct administrative fine.

(e) The remedies and procedures provided by this chapter are cumulative to each other and to any other available under City, state, or federal law. The use of an administrative citation in place of or in addition to other remedies is at the discretion of the City.

1.17.050 Fine Amount

(f) *Default Fine.* Unless the City Council adopts a different fine amount by ordinance or resolution, the default fine amount for each violation is as follows:

- (1) A fine not exceeding \$100 for a first violation;
- (2) A fine not exceeding \$200 for a second violation within one year; and
- (3) A fine not exceeding \$500 for each additional violation within one year.

(g) *Fine Resolution Authorized.* By resolution, the City Council may set, and later revise, fine amounts that differ from the default in subsection (a) for any particular violation or group of violations.

1.17.060 Citation Contents

(h) *Required Contents.* Each citation must contain the following information:

- (1) The name of the responsible person.
- (2) The date of the violation(s).
- (3) The address or a clear description of the location where the violation was observed.
- (4) The code section(s) violated and a concise description of the facts.
- (5) The amount of the fine for each violation.
- (6) Instructions for paying the fine, including the payment deadline.
- (7) An order to correct or cease the violation.
- (8) A concise summary of the hearing and appeal process, including identification of the right to appeal and the appeal deadline.
- (9) The name of the enforcement officer issuing the administrative citation.

(i) *Substantial Compliance.* The purpose of the citation content requirements is to provide fair notice to the responsible person and to encourage compliance with applicable laws. Substantial compliance with these content requirements is deemed sufficient to effectuate these purposes. Any defect in the form or content of a citation does not constitute a ground for invalidating the

citation, provided that the citation substantially complies with the requirements of this section and under the circumstances affords the responsible person adequate notice of the alleged violation and the opportunity to respond.

1.17.070 Service Requirements

(j) *Authorized Means of Service.* Any document or notice required to be served under this chapter must be completed as follows:

(1) Personal service.

(2) Mail via first class mail to the last known address of the responsible person.

(3) If notice via personal service or mail is not possible, for citations involving a real property-related violation, the document or notice may be served via posting in a prominent place on the real property.

(k) *Effectiveness of Service.* Service by mail is complete upon deposit with the U.S. Postal Service. Service by posting is complete on the date of posting. Failure of any intended recipient to receive any properly mailed or posted notice does not affect the validity of the notice or any proceeding conducted under this chapter.

1.17.080 Satisfaction of Administrative Citation

(l) *Payment.* The responsible person must pay the fine to the City within 30 days after the citation is served, or within 30 days after service of a decision of the hearing officer upholding a fine in the event of an appeal. All fines assessed shall be payable to the City of Pacific Grove and submitted to the City or its designee. Payment of the fine waives the citee's right to contest the citation. Payment of a fine does not excuse or authorize any continuing violation, discharge a failure to correct a continuing violation, or bar further enforcement action by the City.

(m) *Remedy the Violation.* If the violation is of a continuing nature, pertains to building, plumbing, electrical, or other similar structural or zoning issues, is deemed by the enforcement officer not to create an immediate danger to health and safety, and is fully and timely corrected within the time given to correct or cease the violation, then no fine is imposed.

(n) *Request a Hearing.* As an alternative to payment of the fine or correction of continuing violation as set forth in this section, a citee may appeal the administrative citation as set forth in Section 1.17.090.

1.17.090 Request for Hearing

(o) A citee may appeal an administrative citation and contest that there was a violation or that they are the responsible person by completing and filing a request for hearing form and returning it to the City within 14 days of service of the administrative citation, together with advance payment of the fine, unless a hardship waiver is granted under Section 1.17.100. No fee is due for the filing of an appeal.

(p) The request for hearing must contain the full name, mailing address, e-mail address, and telephone number of each appellant who is appealing the citation, the number of the citation, and the grounds for appeal in sufficient detail to enable the hearing officer to understand the nature of the controversy.

(q) A failure to file a request for hearing with all of the requirements set forth in this section is a waiver of the right to appeal the citation and to seek judicial review. In this event, the citation is final and binding.

1.17.100 Advance Deposit Hardship Waiver

Any appellant who is financially unable to deposit the administrative fines required may file a request for an advance deposit hardship waiver. The request must be filed with the City Manager at the time the appellant requests a hearing. The City Manager may waive the advance deposit requirement if the appellant files a sworn affidavit, with any supporting documents, demonstrating to the satisfaction of the City Manager the person's financial hardship or inability to deposit the fine. The City Manager's decision whether to issue a hardship waiver is final and not appealable. Failure to timely submit a completed form is a waiver of the right to apply for a hardship waiver. If a hardship waiver is denied, the person requesting the waiver must deposit the fine amount within the timeframe set by the City Manager.

1.17.110 Selection of Hearing Officer

The City Manager may select a qualified person to serve as the hearing officer for the administrative citation hearing. Hearing officers must be selected in a manner that avoids the potential for pecuniary or other bias. For purposes of this section, a qualified person includes an individual with a background in the practice of law or local governance or enforcement matters, or who is otherwise deemed qualified by the City Manager.

1.17.120 Powers and Duties of Hearing Officer

(r) The hearing officer hears all appeals in accordance with the procedures contained in this chapter. The hearing officer is authorized to issue decisions and take all actions necessary and proper to carry out the functions of the hearing officer in this chapter, including administer oaths and affirmations, hear testimony, determine admissibility, relevancy, weight, and credibility of testimony and evidence, rule upon requests of the parties, and issue a final order which includes findings of fact and conclusions of law. The hearing officer must ensure that parties receive a fair hearing and are afforded due process in accordance with the applicable State and federal law governing such hearings.

1.17.130 Hearing Notice Procedures

(s) *Hearing Preconditions.* No hearing to contest an administrative citation may proceed unless a timely and proper request for hearing form has been submitted, and the fine has been deposited in advance, or a hardship waiver has been timely requested and approved.

(t) *Timeframe for Hearing.* After receipt of the request for hearing form, and fine deposit or hardship waiver, a hearing before the hearing officer must be set for a date that is not less than 15

and not more than 45 days from the date that the request for hearing form is filed. The failure to hold the hearing within this time period does not invalidate any action of the hearing officer.

(u) *Notice of Hearing*. The appellant must be notified of the time and place set for the hearing by first class mail at least 10 days before the date of the hearing. The notice of hearing may be served by any of the methods of service listed in Section 1.17.070.

(v) *Continuance of Hearing*. The appellant may request one continuance of the hearing, but in no event may the hearing commence later than 60 days after receipt of the request for hearing form from the appellant. Further continuances or any continuance that will extend the commencement of the hearing beyond 60 days after receipt of the request for hearing may be granted at the discretion of the hearing officer for good cause or by stipulation of the appellant and the City.

1.17.140 Conduct of Hearing

(w) *Participation*. The hearing officer must be present at all times to preside over the hearing. The failure of any recipient of an administrative citation to appear at the hearing constitutes a forfeiture of the fine and a bar to judicial review of the hearing officer decision, based upon a failure to exhaust administrative remedies. Hearings may be opened to the public at the discretion of the hearing officer.

(x) *Evidence and Witnesses*. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Each party has the opportunity to present evidence in support of that party's case, and to cross-examine witnesses. The rules of privilege are effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence may be excluded. Oral evidence may be taken only on oath or affirmation. The hearing officer may only consider evidence that is relevant to whether the violation occurred, and whether the responsible person has caused or maintained the violation on the date(s) specified in the administrative citation.

(y) *Proof*. The City bears the burden of proving the violation by a preponderance of the evidence. The administrative citation and any additional documents submitted by the issuing enforcement officer constitutes prima facie evidence of the respective facts contained in those documents.

(z) *Interpretation and Recordation*. The appellant may bring an interpreter to the hearing at the appellant's sole expense. The City may, at its discretion, record the hearing by stenographer, court reporter, audio recording, or video recording.

1.17.150 Decision of the Hearing Officer

(aa) *Decision Requirements*. The hearing officer must render their decision in accordance with the provisions of this chapter. The hearing officer's decision must be in writing and must set forth the hearing officer's findings of fact and conclusions of law. The hearing officer must serve a decision within 15 days following the conclusion of the hearing. Failure of the hearing officer to render a decision within this time period does not invalidate any action of the hearing officer.

(bb) *Disposition of Deposited Fines.* If the hearing officer determines the administrative citation should be upheld, then the fine amount on deposit with the City may be retained by the City. If the hearing officer determines the administrative citation should be canceled and the fine was deposited with the City, then the City must promptly refund the amount of any deposited fine.

1.17.160 Judicial Review

An appellant may seek review of the hearing officer's decision in the Monterey County Superior Court in accordance with Government Code section 53069.4.

1.17.170 Late Charges and Fine Collection

(cc) *Late Charges.* Failure to pay an administrative fine by the due date will result in the assessment of a late charge. The late charge will be equal to 100 percent of unpaid fine. Failure to pay an administrative fine by the due date may also result in the imposition of an interest charge at a rate established by resolution of the City Council.

(dd) *Collection.* Any unpaid fine, late charge, or interest is a debt that is immediately due and owing to the City. The City may collect any such debt through any method allowed by law. Commencement of an action to collect the debt does not preclude issuance of additional administrative citations to the responsible person should the violations persist.

Lien and Special Assessment Authority. Any unpaid fine, late charge, or interest that is final and in connection with real property may be collected by means of a lien or a special assessment against the real property on which the violation occurred.”

EXHIBIT B

1.18.100 Administrative hearing officer selection.

~~The presiding officer of the hearing officer panel shall, by random lot, designate one of the members of the hearing officer panel to be the hearing officer for each administrative 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.~~ *The City Manager may select a qualified person to serve as the hearing officer for the administrative citation hearing. Hearing officers must be selected in a manner that avoids the potential for pecuniary or other bias. For purposes of this section, a qualified person includes an individual with a background in the practice of law or local governance or enforcement matters, or who is otherwise deemed qualified by the City Manager.*

1.18.230 Hearing officer's decision.

(ee) 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 citation and shall list the reasons for that decision. The decision of the hearing officer shall be final for purposes of administrative review.

(ff) If the hearing officer determines that the 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.

(gg) If the hearing officer determines that the 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.

The hearing officer's decision shall be personally served or served by first class mail. ~~A copy of the decision shall be forwarded to all members of the hearing officer panel.~~

”

EXHIBIT C

CHAPTER 1.19 - NUISANCE ABATEMENT

1.19.010 Purpose

This chapter establishes procedures for abating public nuisances and related cost recovery, as authorized by Government Code sections 38773.1 and 38773.5. It supplements every other enforcement remedy available to the City. Use of this nuisance abatement process is at the sole discretion of the City.

1.19.020 Definitions

For the purposes of this chapter, the following definitions apply:

“Abatement costs” means all costs, fees, and expenses, incidental or otherwise, including reasonable attorney fees, incurred by the City in investigating and abating a public nuisance.

“City Manager” means the City Manager or their designee.

“Enforcement officer” means any City employee or agent of the City designated by the City Manager who has the authority to enforce the Pacific Grove Municipal Code.

“Junk” means waste, rubbish, appliances, scrap metal, building materials, and similar miscellaneous items.

“Responsible person” means any person that, by their action or failure to act, causes, maintains, allows, permits, aids, abets, or suffers a violation of this code. For the purposes of this definition, “person” means any natural individual or any organization that the law recognizes as having rights or duties, including, without limitation, a firm, association, partnership, joint venture, trust, estate, receiver, limited liability company, corporation, or any other legal or commercial entity.

1.19.030 Scope

The provisions of this chapter apply to all real property in the City except those parcels owned by the City of Pacific Grove.

1.19.040 Administration and Enforcement

The administration and enforcement of this chapter is the responsibility of the enforcement officer, unless otherwise expressly stated herein.

1.19.050 Service

(a) *Authorized Means of Service.* Any document or notice required to be served under this chapter must be completed as follows:

(1) Personal service.

(2) Mail via first class mail to the last known address of the responsible person.

(3) If notice via personal service or mail is not possible, for citations involving a real property-related violation, the document or notice may be served via posting in a prominent place on the real property.

(b) *Effectiveness of Service.* Service by mail is complete upon deposit with the U.S. Postal Service. Service by posting is complete on the date of posting. Failure of any intended recipient to receive any properly mailed or posted notice does not affect the validity of the notice or proceedings conducted under this chapter.

1.19.060 Designated Nuisances

It is unlawful for any person owning, leasing, renting, occupying, or having charge or possession of any property in the City to maintain the property or allow the property to be maintained, with any of the following conditions:

(a) *Junk, Trash, and Debris.* Accumulations of junk, trash, or debris in a manner visible from a public right-of-way or adjacent property.

(b) *Abandoned or Damaged Buildings.* Buildings that are abandoned, partially destroyed, or permitted to remain unreasonably in a state of partial construction.

(c) *Broken Windows.* Broken windows, which constitute hazardous conditions and invite trespassers and malicious mischief.

(d) *Overgrown Vegetation.* Overgrown weeds, grass, or vegetation.

(e) *Dead, Decayed, or Diseased Vegetation.* Dead, decayed, diseased, or hazardous trees, weeds, and other vegetation that is: (1) constituting unsightly appearance, (2) dangerous to public safety and welfare, or (3) detrimental to nearby property or property values.

(f) *Detriment to Public Health, Safety, and General Welfare.* Maintenance of premises in such condition as to be detrimental to the public health, safety, or general welfare or in such manner as to constitute a public nuisance as defined by Civil Code section 3480.

(g) *Fire Hazard.* All dry, dead shrubs, dead trees, combustible refuse and waste, or any material growing around the streets, sidewalks, or upon private property within the City, which by reason of its size, manner, or growth or location constitutes a fire hazard to any building, improvements, crops, or other property, or when dry, will in reasonable probability constitute a fire hazard.

(h) *Detrimental to Enjoyment or Use of Property.* Maintenance of premises so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties.

(i) *Polluted Water*. Any swimming pool, pond or other body of water which is abandoned, unattended, unfiltered, or not maintained, resulting in the water becoming polluted. "Polluted water," for the purpose of this Chapter, means water contained in a swimming pool, pond, or other body of water, which includes, but is not limited to, bacterial growth, including algae, remains of rubbish, refuse, debris, papers, or any other foreign matter which, because of its nature or location, constitutes an unhealthy, unsafe or unsightly condition.

(j) *Graffiti*. Graffiti or other defacement of real or personal property present or remaining on a building, structure or vehicle, or portion thereof, that is visible from a public right-of-way or adjacent property.

(k) *Inoperable Vehicles*. Abandoned, dismantled, inoperable or wrecked vessels, campers, motorcycles, trailers, vehicles, or parts thereof, unless kept, placed, parked, or stored inside of a completely enclosed, lawfully constructed building or structure.

(l) Any violation of the Pacific Grove Municipal Code.

1.19.070 Compliance Orders

(a) *Authority to Issue*. An enforcement officer may issue a written compliance order to any responsible person when the officer determines that a violation is occurring or exists.

(b) *Required Contents*. A compliance order issued under this chapter must contain the following information:

(1) The address of the real property on which the alleged nuisance condition exists;

(2) A description of the alleged nuisance conditions and the code section prohibiting the alleged nuisance condition.

(3) A brief description of the required corrective actions.

(4) The deadline to complete the corrective actions.

(5) A statement that the City may record a Notice of Violation with the Monterey County Recorder's Office against the premises

(6) The enforcement officer's name.

(7) The period and manner in which a responsible person may contest the compliance order as set forth in Section 1.19.080.

(c) *Additional Requirements for Demolition*. Whenever the enforcement officer intends to abate a public nuisance by demolition of a building or structure if the responsible person fails to comply, then the City must comply with the following additional requirements:

(1) The compliance order must contain a statement that the City intends to abate the nuisance with City personnel or contractors by demolition of a building or structure if the nuisance

conditions are not repaired, rehabilitated, removed, terminated, or demolished within the deadline set forth in the compliance order; and

(2) The City must serve the compliance order on all secured lienholders of record with the Monterey County Recorder's Office.

(d) *Service.* Any compliance order issued under this section must be served in the manner required under Section 1.19.050.

(e) *Exemption for Emergency Abatement.* The provisions of this section do not apply in cases involving emergency abatement under Section 1.19.110.

1.19.080 Compliance Order Appeals

(a) *Right to Appeal.* Any person issued a compliance order has a right to appeal the City's nuisance determination in accordance with this chapter.

(b) *Appeal Requirements.* An appeal must be filed within 15 calendar days following the date of service of the compliance order. A written notice of appeal must contain the full name, mailing address, e-mail address, and telephone number and the grounds for appeal in sufficient detail to enable the hearing officer and City to understand the nature of the controversy.

(c) *Effect of Failure to Appeal.* A person who does not properly and timely appeal a compliance order waives the right to challenge it and has failed to exhaust administrative remedies. In this event, the compliance order is final.

1.19.090 Appeal Hearings

(a) *Selection of Hearing Officer.* The City Manager may select the hearing officer. The hearing officer must be selected in a manner that avoids the potential for pecuniary or other bias.

(b) *Scheduling and Noticing of the Hearing.* If a timely and proper appeal is filed, then the City Clerk must schedule the hearing no sooner than 15 days and no later than 60 days from receipt of the notice of appeal, unless the parties waive such time limits. The failure to hold the hearing within this time period does not invalidate any action of the hearing officer. The City Clerk must notify the appellant in writing of the date, time, and location of the hearing at least 10 days before the date of the scheduled hearing. The notice of hearing must be served in accordance with Section 1.19.050.

(c) *Issues on Appeal.* The City bears the burden of proof to establish a nuisance exists by a preponderance of evidence. The issuance of a compliance order is prima facie evidence of the existence of a violation. The scope of the appeal is limited to whether any nuisance condition identified in the compliance order exists.

(d) *Evidence, Witnesses, and Recording.* All parties have the right to present evidence and witnesses. The formal rules of evidence and discovery do not apply. The rules of privilege apply as they do in civil actions. Irrelevant or unduly repetitious evidence may be excluded. Oral evidence may be taken only on oath or affirmation. The appellant and respondent may represent

themselves or be represented by anyone of their choice. No party has the right to cross-examine any other party or witness except for good cause shown to the satisfaction of the hearing officer. The appellant may bring an interpreter to the hearing at their sole expense. The City may, at its discretion, record the hearing by stenographer, court reporter, audio recording, or video recording.

(e) *Decision of the Hearing Officer.* The hearing officer's decision must be in writing, set forth the hearing officer's findings of fact and conclusions of law, order the abatement of any confirmed nuisance conditions within a deadline determined by the hearing officer to be reasonable, and include a statement that if the nuisance is not abated then it may be abated by the City. If the hearing officer determines that each nuisance condition described in the compliance order is nonexistent, the compliance order is deemed cancelled. The hearing officer must render a decision within 15 days following the conclusion of the hearing. Failure of the hearing officer to render a decision within this time period does not invalidate any action of the hearing officer or automatically grant the appeal. The hearing officer's decision must be served in accordance with Section 1.19.050. The hearing officer's decision is the final administrative decision of the City regarding the compliance order. The hearing officer's decision is effective on the date of service of the decision. The decision must contain the following statement: "The decision of the hearing officer is final and binding. Judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure section 1094.6 et seq."

1.19.100 City Abatement

If a nuisance is not completely abated within the time prescribed by the compliance order, or, if appealed, in the hearing officer's decision, the City is authorized to abate a nuisance by City staff or private contractor. The City and its agents are expressly authorized to enter the premises for such purpose. Except in cases involving an imminent hazard, entry onto any real property to abate a public nuisance must be pursuant to a warrant issued by a court of competent jurisdiction.

1.19.110 Emergency Abatement

(a) If, in the reasonable opinion of the enforcement officer, there exists a condition that constitutes an imminent threat of harm to public health or safety, or imminent hazard to real or personal property, the enforcement officer may cause the conditions to be summarily abated in accordance with the following procedure. When determining whether a hazard is sufficiently imminent to warrant emergency abatement, the enforcement officer may consider whether there is insufficient time to follow the administrative process for non-emergency abatements described in this chapter.

(b) If time permits, the enforcement officer may attempt to contact the owner or occupant of the property to notify the responsible person that the condition must be immediately abated to eliminate the imminent hazard.

(c) If the enforcement officer is unable to make contact, or if after contact with the owner or occupant does not take action within the time prescribed by the enforcement officer, he or she is authorized to take all actions necessary to eliminate or mitigate the hazardous condition, utilizing the City's own forces or private contractor.

(d) As soon as reasonably possible under the circumstances, following any emergency abatement action by the City to abate an immediate hazard, the City must provide each responsible person with a “Notice of Summary Abatement.” The Notice of Summary Abatement must be served in accordance with Section 1.19.050 and contain the following information:

(1) A brief description of the condition and reasons why it constituted an imminent threat or hazard;

(2) A brief description of the law prohibiting or pertaining to the imminent threat or hazard; and

(3) A brief description of the actions the City took to abate the imminent threat or hazard.

(e) The City’s determination that a condition constituted an imminent threat or hazard may be appealed as set forth in Section 1.19.080.

(f) The enforcement officer must keep an itemized account of the costs incurred by the City in abating the public nuisance. The City is entitled to recover all abatement costs incurred in the abatement of an imminent threat or hazard in accordance with the procedures set forth in this chapter.

1.19.120 Notice of Violation Recordation

(a) *Recordation Authorization.* If a nuisance is not completely abated as determined by the City within the time prescribed by the compliance order, if appealed, in the hearing officer’s decision, the City may record a Notice of Violation with the Monterey County Recorder’s Office against the premises.

(b) *Rescission.* The City must record a Notice of Rescission of Notice of Violation with the Monterey County Recorder’s Office within 10 business days of its determination that the violation has been fully abated or corrected.

(c) *Service.* Upon recordation, the City must serve a copy of the recorded Notice of Violation or Notice of Rescission on each person having an ownership interest in the property.

1.19.130 Cost Recovery Authorization

(a) *City’s Right to Recover Nuisance Abatement Costs.* Whenever the City incurs abatement costs in abating a public nuisance or seeking to abate a code violation or public nuisance, the City is entitled to recover the abatement costs related to those code enforcement efforts in accordance with the procedure set forth in this chapter. The City may commence cost recovery proceedings at any time.

(b) *Recoverable Abatement Costs.* Recoverable costs include all abatement costs. Recoverable costs may not exceed the actual and reasonable costs of nuisance abatement.

1.19.140 Cost Recovery Initiation

(a) *Report of Abatement Costs.* To initiate the process for recovery of abatement costs, the City must serve an itemized report of abatement costs on the responsible person identifying all abatement costs and demanding payment. The report must provide notice that any unpaid amounts may become a lien and special assessment against the property unless the City receives full and timely payment.

(b) *Service of Report of Abatement Costs.* The report of abatement costs must be served in accordance with Section 1.19.050. If the code violation or public nuisance relates to real property, then the report of abatement costs must be served on each person with a recorded interest in the property.

(c) *Payment.* Timely, full payment of the abatement costs must be remitted to the City within 45 calendar days following the date of service of the report of abatement costs.

(d) *Right to Appeal.* Any person issued a report of abatement costs has a right to appeal the report of abatement costs. An appeal must be filed within 15 calendar days following the date of service of the report of abatement costs. The right to appeal and procedures must be specified in the report. A written notice of appeal must contain the following information: (1) the name and contact information of the appellant, and (2) the grounds for appeal in sufficient detail to enable the hearing officer and City to understand the nature of the controversy. The failure of any person who has been served with proper notice to timely file an appeal is a failure to exhaust administrative remedies.

1.19.150 Cost Recovery Hearings and Appeals

(a) *Cost Recovery Appeal.* These hearing procedures supplement and augment those above. The scope of the appeal is limited to the appropriateness of the amount of the abatement costs, and the hearing officer's decision may confirm, discharge, or modify the amount of costs.

(b) *Decision.* The hearing officer's decision must be in writing, set forth the hearing officer's findings of fact and conclusions of law, and demand payment of any confirmed abatement costs within 30 calendar days following the date of service of the hearing officer's decision.

(c) *Payment of Confirmed Costs.* Any confirmed abatement costs must be tendered to the City within 30 calendar days following the date of service of the hearing officer's decision.

1.19.160 Cost Collection Initiation

(a) Upon expiration of 45 days after the report of abatement costs, or 30 days after the hearing officer's decision in the event of an appeal, if the full amount of the final abatement costs has not been paid, any unpaid costs may be collected by the City in accordance with Sections 1.19.160 through 1.19.190.

(b) To collect the unpaid costs via a lien or special assessment, the City Council, after a public hearing, may adopt a resolution confirming imposition of the debt and approving filing a lien or special assessment against the subject real property.

1.19.170 Lien Cost Collection

- (a) In accordance with Government Code section 38773.1, abatement costs may be levied by the City as a lien against the property on which the nuisance was abated. The City may record a lien against the nuisance property for any unpaid amount. Before recording a lien, the City must serve each person with a recorded interest in the subject property with notice of the lien. In addition, any owner of record must be served in accordance with Government Code section 38773.1.
- (b) The nuisance abatement lien must be recorded in the office of the County Recorder of Monterey County, California; and from the date of recording, the nuisance abatement lien will have the force, effect, and priority of a judgment lien, and will continue in effect until discharged by the City.
- (c) The lien must specify the City as the agency for whose benefit the lien is established, the amount of the lien, the date of any abatement order, the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.
- (d) The nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment. All costs and expenses relating to the processing, recording, and enforcement of the abatement lien, including recording fees, noticing costs and attorney fees may be added to the amount of the lien and will be secured thereby.
- (e) Upon payment or other satisfaction of the abatement lien, a notice of release of lien must be prepared and recorded by the City forthwith.

1.19.180 Special Assessment Cost Collection

- (a) In accordance with Government Code section 38773.5, abatement costs may be levied by the City as a special assessment against the property on which the nuisance was abated. If the abatement costs have not been paid in full within the time required by this Chapter, the City may levy a special assessment against the real property on which the violation occurred. The City must serve each person with a recorded interest in the subject property with notice of the imposition of the special assessment. In addition, any owner of record must be served in accordance with Government Code section 38773.5. The notice must specify that the property may be sold after three years by the Tax Collector for unpaid delinquent assessments.
- (b) The notice of special assessment is entitled to recordation with the Monterey County Recorder's Office. A copy of the notice of special assessment must be transmitted to the County Tax Assessor and Tax Collector, whereupon the Tax Assessor and Tax Collector must add the amount of the special assessment on the next regular bill for real estate taxes levied against the property identified in the notice of special assessment. Thereafter, the special assessment will be collected at the same time and in the same manner as ordinary municipal taxes are collected, and will be subject to the same penalties and the same procedure and sale in the case of delinquency as provided by law for ordinary municipal taxes. After recordation, the special assessment may be foreclosed on as a lien in the manner and means provided by law.

1.19.190 Civil Action Cost Collection

(a) In addition to any other remedies set forth in this Code or otherwise provided by law, the City Attorney is authorized to bring a civil action, at the City Attorney's discretion, to recover the City's abatement costs.

1.19.200 Combined Notices

The notices that are authorized by this chapter may be combined in the discretion of the City.

1.19.210 Enforcement

(a) It is unlawful and declared a public nuisance for any person to violate any provision of this chapter. It is unlawful and declared a public nuisance for any person to violate any order of a hearing officer made under this chapter.

(b) Any person who violates any provision of this chapter is guilty of a misdemeanor punishable by a fine of up to \$1,000, or by imprisonment in the County jail not exceeding six months, or by both, except the City Attorney or enforcement officer may prosecute a violation of this chapter as an infraction, in his or her discretion.

(c) Violation of this chapter may be punished by issuance of an administrative citation fine, as set forth in Chapter 1.17.

(d) The City Attorney is authorized to bring a civil or equitable action, at his or her discretion, to seek the abatement of any violation of this chapter or enforcement of any provision of this chapter.

(e) Each and every day a violation is maintained, caused, aided, abetted, concealed, suffered, or permitted is a separate offense.

(f) The regulations, remedies, procedures, and penalties provided by this chapter are cumulative to each other and to any other available under City, State, or federal law.

1.19.220 Attorney Fee Recovery

The prevailing party in any judicial action, administrative proceeding, or special proceeding to abate a nuisance may recover its incurred attorney fees, provided that the City elected, at the initiation of such individual action or proceeding, to recover its own attorney fees. In no judicial action or administrative proceeding may an award of attorney fees to a prevailing party exceed the amount of reasonable attorney fees incurred by the City in the judicial action or administrative proceeding. A judicial action includes, but is not limited to, any civil action, inspection or abatement warrant, administrative proceeding, or appeal from an administrative proceeding. Any recovery of attorney fees for abatement of a nuisance must be in accordance with this section."

EXHIBIT D

6.09.080 Failure to collect and report tax – Determination of tax by tax administrator.

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the tax administrator shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address. ~~Such operator may within 10 days after the serving or mailing of such notice, make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided in PGMC 6.09.090.~~

6.09.090 Appeals.

~~Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the council by filing a notice of appeal with the city clerk within 15 days of the serving or mailing of the determination of tax due. The council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to such operator at his or her last known place of address. The findings of the council shall be final and conclusive and shall be served upon the appellant in the manner prescribed in PGMC 6.09.080 for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.~~

(a) *Right to Appeal.* Any person aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, has a right to file a written appeal the within 15 calendar days following the date of service of the determination of tax due.

(b) *Effect of Failure to Appeal.* Failure to appeal is waiver of the right to challenge the decision and failure to exhaust administrative remedies. In this event, the decision order is final, and any tax, interest, and penalties are immediately due and payable.

(c) *Selection of Hearing Officer.* The City Manager may select the hearing officer. The hearing officer must be selected in a manner that avoids the potential for pecuniary or other bias.

(d) *Scheduling and Noticing of the Hearing.* If a timely and proper appeal is filed, then the City Clerk must schedule the hearing no sooner than 15 days and no later than 60 days from receipt of the notice of appeal, unless the parties waive such time limits. The failure to hold the hearing within this time period does not invalidate any action of the hearing officer. The City Clerk must notify the appellant in writing of the date, time, and location of the hearing at least 10 days before the date of the scheduled hearing. The notice of hearing must be served personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at their last known place of address.

(e) *Burdens and Standard.* The City bears the initial burden to produce evidence showing a reasonable basis for the estimate and assessment made under this chapter. If the City meets that burden, the operator bears the burden to produce records or other evidence sufficient to rebut the estimate and assessment.

(f) *Decision.* The hearing officer's decision must be in writing, set forth the hearing officer's findings of fact and conclusions of law, determine the proper tax to be remitted, and include a 15-day deadline for payment of any upheld amount to the City. If the hearing officer determines that each nuisance condition described in the compliance order is nonexistent, the compliance order is deemed cancelled. The hearing officer must render a decision within 15 days following the conclusion of the hearing. Failure of the hearing officer to render a decision within this time period does not invalidate any action of the hearing officer or automatically grant the appeal. The hearing officer's decision must be served personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at their last known place of address. The decision must contain the following statement: "The decision of the hearing officer is final and binding. Judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure section 1094.6 et seq."

EXHIBIT E

7.40.160 Appeal of tax.

Any person aggrieved by any decision of the city with respect to the amount of the transient occupancy tax or fees associated thereto may appeal to ~~the administrative enforcement~~ *a* hearing officer *in accordance with Section 6.09.090* ~~panel under Chapter 1.19 PGM~~ by filing a notice of appeal with the city clerk or delegate within 15 days after receipt of written notice from the city. The hearing officer assigned by the panel shall thereupon fix a time and place for hearing such appeal. The city manager or delegate shall give notice to such person of the time and place of hearing in compliance with Chapter 1.12 PGM. The hearing officer shall have authority to determine all questions raised by such appeal; provided, however, that no such determination shall conflict with any substantive provision of this chapter.

EXHIBIT F

9.17.130 Enforcement.

(a) Beginning January 1, 2024, if the city determines that a generator, responsible party, self-hauler, hauler, tier one or tier two commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance with this chapter, it shall document the noncompliance or violation, issue a notice of violation, and take enforcement action pursuant to this section, as needed.

(b) Violation of any of the provisions of this chapter shall constitute an infraction or misdemeanor and shall be punishable as set forth in Chapter 1.16 PGMC.

(c) Notwithstanding any other legal remedy, violation of any of the provisions of this chapter may be enforced pursuant to Chapter 1.19 PGMC.

(d) Notwithstanding any other legal remedy, violation of any of the provisions of this chapter shall constitute a public nuisance and shall be subject to abatement, injunction, or other civil remedy as appropriate.

(e) Notice of Violation.

(1) City enforcement officials or their designee will monitor compliance randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program (that may include remote monitoring).

(2) For incidences of prohibited container contaminants found in containers, city will issue a notice of contamination to any generator or responsible party found to have prohibited container contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the prohibited container contaminants or within 10 business days after determining that a violation has occurred. If the city observes prohibited container contaminants in a responsible party's containers on more than three consecutive occasions, the city may assess contamination processing fees or contamination penalties on the generator.

(3) City shall issue a notice of violation requiring compliance within a maximum of 60 days of issuance of the notice. Notices shall be sent to "Owner" at the official address of the owner maintained by the tax collector for the city or if no such address is available, to the owner at the address of the multifamily premises or commercial premises or to the responsible party for the collection services, depending upon available information.

(f) Penalty Amounts for Types of Violations. Penalties may be assessed for violations as provided in Chapters 1.16 and/or 1.19 PGMC. 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.

(g) Appeals Process. Any persons aggrieved by any decision of the city with respect to uncorrected violation may appeal to the administrative enforcement ~~a~~ hearing officer panel ***under the process set forth in*** Chapter 1.19 PGM C by filing a notice of appeal with the city clerk or delegate within 15 days after receipt of written notice from the city. The hearing officer assigned by the panel shall thereupon fix a time and place for hearing such appeal. The city manager or delegate shall give notice to such person of the time and place of hearing in compliance with Chapter 1.12 PGM C. The hearing officer shall have authority to determine all questions raised by such appeal; provided, however, that no such determination shall conflict with any substantive provision of this chapter.

ATTACHMENT 3

ORDINANCE NO. 25-_____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE ADDING CHAPTER 1.17, AMENDING CHAPTER 1.18, REPEALING AND REPLACING CHAPTER 1.19, REPEALING AND RESERVING CHAPTER 3.30, AMENDING CHAPTER 6.09, AMENDING CHAPTER 7.40, AND AMENDING CHAPTER 9.17 OF THE PACIFIC GROVE MUNICIPAL CODE REGARDING CODE ENFORCEMENT PROCESSES

FINDINGS

1. The City of Pacific Grove is authorized by California Constitution, Article XI, Section 7 to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. Pursuant to California Constitution, Article XI, Section 5 and Pacific Grove City Charter Article 5, the City, as a charter city, has plenary authority to make and enforce within its limits all ordinances and regulations in respect to municipal affairs.
2. Government Code section 53069.4(a) authorizes a city to adopt an ordinance providing for imposition of administrative fines for municipal code violations.
3. Government Code sections 38773.1 and 38773.5 provide that a city may, by ordinance, provide for the recovery of nuisance abatement costs, including attorneys' fees, in any action, administrative proceeding, or special proceeding to abate a nuisance.
4. In accordance with these grants of authority, the City has adopted Pacific Grove Municipal Code (PGMC) chapter 1.19 [Municipal Code and Ordinance Enforcement]. Chapter 1.19 with two distinct processes that would be more efficiently be included in separate provisions of the City Municipal Code ordinance: the administrative citation procedure (Sections 1.19.040–1.19.150) and the nuisance abatement procedure (Sections 1.19.150–1.19.290).
5. Infraction violations of local, state, and federal regulations governing the standing or parking of vehicles are subject to fines and are enforced by the civil administrative process in Vehicle Code sections 40200–40230. Anyone may contest a parking violation in accordance with the process set forth in Vehicle Code section 40215 and any implementing ordinance. In accordance with Vehicle Code section 40215, the City has adopted PGMC chapter 1.18 [Motor Vehicle Parking Violation Enforcement].
6. The City places a high value on protecting community character, land values, and the general public, health, safety and welfare, and has previously adopted numerous

ordinances to help ensure such protection. The purpose of this ordinance is to improve the efficiency of the City's code enforcement processes in order to make the City's code enforcement efforts more efficient and effective. The purpose of this ordinance is also to further modernize the code enforcement and nuisance abatement tools to help improve the efficiency of the City's code enforcement processes and to protect the public health, safety and welfare, and to ensure cost recovery to the fullest extent as authorized by law.

7. Further, the purpose of this ordinance is to authorize the City to retain a professional hearing officer to preside over administrative citation, nuisance abatement, and parking citation appeals, in lieu of the hearing officer panel. A single, professionally trained hearing officer ensures consistency of procedure and decision-making and efficient handling of matters.
8. The City Council finds that the adoption of this proposed ordinance is within the City's power and authority to protect the public health, safety, and welfare of the City's residents.
9. This ordinance amends the PGMC to create a new Chapter 1.17 entitled "Administrative Citations" to provide an efficient administrative mechanism to enforce the PGMC through the imposition of fines, as authorized by Government Code section 53069.4.
10. This ordinance amends the PGMC by repealing and replacing Chapter 1.19 with an ordinance entitled "Nuisance Abatement" to establish procedures for abating public nuisances and related cost recovery, Government Code sections 38773.1 and 38773.5.
11. This ordinance amends the PGMC by amending Chapters 1.18, 6.09, 7.40, and 9.17 related to appeals and the hearing officer authority.
12. All legal prerequisites to the adoption of the ordinance have occurred.
13. Enactment of this ordinance action does not constitute a "project" as defined by California Environmental Quality Act (CEQA) because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment

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

SECTION 1. Incorporation of Findings. The foregoing findings are adopted by the City Council as though set forth in fully within the body of this ordinance.

SECTION 2. Pacific Grove Municipal Code Chapter 1.17 is hereby added to read as set forth in Exhibit A attached hereto.

SECTION 3. Pacific Grove Municipal Code Chapter 1.18 is hereby amended to read as set forth in Exhibit B attached hereto.

SECTION 4. Pacific Grove Municipal Code Chapter 1.19 is hereby repealed and replaced to read as set forth in Exhibit C attached hereto.

SECTION 5. Pacific Grove Municipal Code Chapter 3.30 is hereby repealed and reserved.

SECTION 6. Pacific Grove Municipal Code Chapter 6.09 is hereby amended to read as set forth in Exhibit D attached hereto.

SECTION 7. Pacific Grove Municipal Code Chapter 7.40 is hereby amended to read as set forth in Exhibit E attached hereto.

SECTION 8. Pacific Grove Municipal Code Chapter 9.17 is hereby amended to read as set forth in Exhibit F attached hereto.

SECTION 9. Severability. 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 10. Effectiveness. In accordance with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following its passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

NICK SMITH, Mayor

ATTEST:
DATED: _____

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

BRIAN A. PIERIK, City Attorney

EXHIBIT A

CHAPTER 1.17 - ADMINISTRATIVE CITATIONS

1.17.010 Purpose

This chapter provides an efficient, administrative mechanism to enforce the Pacific Grove Municipal Code through the imposition of fines, as authorized by Government Code section 53069.4 and other applicable law.

1.17.020 Definitions

For the purposes of this chapter, the following definitions apply:

“Appellant” means a citee who files an appeal.

“Citee” means a responsible person who has been issued an administrative citation under this chapter.

“City Manager” means the City Manager or their designee.

“Enforcement officer” means any City employee or agent of the City designated by the City Manager who has the authority to enforce the Pacific Grove Municipal Code.

“Responsible person” means any person that, by their action or failure to act, causes, maintains, allows, permits, aids, abets, or suffers a violation of this code. For the purposes of this definition, “person” means any natural individual or any organization that the law recognizes as having rights or duties, including, without limitation, a firm, association, partnership, joint venture, trust, estate, receiver, limited liability company, corporation, or any other legal or commercial entity.

1.17.030 Scope and Authorization to Enforce Chapter

(a) The provisions of this chapter apply to any violation of this code or any violation of a condition of approval of any permit, license, or other approval issued by the City.

(b) The City Manager has the authority to administer and enforce this chapter. The City Manager may adopt supplemental regulations or policies to implement and interpret this chapter. These regulations or policies must conform with the purpose of this chapter.

1.17.040 Use of Administrative Citations

(c) Whenever an enforcement officer determines that a violation subject to this chapter has occurred, the enforcement officer may issue an administrative citation to a responsible person in accordance with the requirements of this chapter.

(d) Each day, or any portion thereof, that a prohibited condition, use, or activity under the code is committed, continued or permitted shall constitute a separate violation for which an

administrative fine may be imposed. A single citation may charge multiple violations of the code; however, each violation is subject to a separate and distinct administrative fine.

(e) The remedies and procedures provided by this chapter are cumulative to each other and to any other available under City, state, or federal law. The use of an administrative citation in place of or in addition to other remedies is at the discretion of the City.

1.17.050 Fine Amount

(f) *Default Fine.* Unless the City Council adopts a different fine amount by ordinance or resolution, the default fine amount for each violation is as follows:

- (1) A fine not exceeding \$100 for a first violation;
- (2) A fine not exceeding \$200 for a second violation within one year; and
- (3) A fine not exceeding \$500 for each additional violation within one year.

(g) *Fine Resolution Authorized.* By resolution, the City Council may set, and later revise, fine amounts that differ from the default in subsection (a) for any particular violation or group of violations.

1.17.060 Citation Contents

(h) *Required Contents.* Each citation must contain the following information:

- (1) The name of the responsible person.
- (2) The date of the violation(s).
- (3) The address or a clear description of the location where the violation was observed.
- (4) The code section(s) violated and a concise description of the facts.
- (5) The amount of the fine for each violation.
- (6) Instructions for paying the fine, including the payment deadline.
- (7) An order to correct or cease the violation.
- (8) A concise summary of the hearing and appeal process, including identification of the right to appeal and the appeal deadline.
- (9) The name of the enforcement officer issuing the administrative citation.

(i) *Substantial Compliance.* The purpose of the citation content requirements is to provide fair notice to the responsible person and to encourage compliance with applicable laws. Substantial compliance with these content requirements is deemed sufficient to effectuate these purposes. Any defect in the form or content of a citation does not constitute a ground for invalidating the

citation, provided that the citation substantially complies with the requirements of this section and under the circumstances affords the responsible person adequate notice of the alleged violation and the opportunity to respond.

1.17.070 Service Requirements

(j) *Authorized Means of Service.* Any document or notice required to be served under this chapter must be completed as follows:

(1) Personal service.

(2) Mail via first class mail to the last known address of the responsible person.

(3) If notice via personal service or mail is not possible, for citations involving a real property-related violation, the document or notice may be served via posting in a prominent place on the real property.

(k) *Effectiveness of Service.* Service by mail is complete upon deposit with the U.S. Postal Service. Service by posting is complete on the date of posting. Failure of any intended recipient to receive any properly mailed or posted notice does not affect the validity of the notice or any proceeding conducted under this chapter.

1.17.080 Satisfaction of Administrative Citation

(l) *Payment.* The responsible person must pay the fine to the City within 30 days after the citation is served, or within 30 days after service of a decision of the hearing officer upholding a fine in the event of an appeal. All fines assessed shall be payable to the City of Pacific Grove and submitted to the City or its designee. Payment of the fine waives the citee's right to contest the citation. Payment of a fine does not excuse or authorize any continuing violation, discharge a failure to correct a continuing violation, or bar further enforcement action by the City.

(m) *Remedy the Violation.* If the violation is of a continuing nature, pertains to building, plumbing, electrical, or other similar structural or zoning issues, is deemed by the enforcement officer not to create an immediate danger to health and safety, and is fully and timely corrected within the time given to correct or cease the violation, then no fine is imposed.

(n) *Request a Hearing.* As an alternative to payment of the fine or correction of continuing violation as set forth in this section, a citee may appeal the administrative citation as set forth in Section 1.17.090.

1.17.090 Request for Hearing

(o) A citee may appeal an administrative citation and contest that there was a violation or that they are the responsible person by completing and filing a request for hearing form and returning it to the City within 14 days of service of the administrative citation, together with advance payment of the fine, unless a hardship waiver is granted under Section 1.17.100. No fee is due for the filing of an appeal.

(p) The request for hearing must contain the full name, mailing address, e-mail address, and telephone number of each appellant who is appealing the citation, the number of the citation, and the grounds for appeal in sufficient detail to enable the hearing officer to understand the nature of the controversy.

(q) A failure to file a request for hearing with all of the requirements set forth in this section is a waiver of the right to appeal the citation and to seek judicial review. In this event, the citation is final and binding.

1.17.100 Advance Deposit Hardship Waiver

Any appellant who is financially unable to deposit the administrative fines required may file a request for an advance deposit hardship waiver. The request must be filed with the City Manager at the time the appellant requests a hearing. The City Manager may waive the advance deposit requirement if the appellant files a sworn affidavit, with any supporting documents, demonstrating to the satisfaction of the City Manager the person's financial hardship or inability to deposit the fine. The City Manager's decision whether to issue a hardship waiver is final and not appealable. Failure to timely submit a completed form is a waiver of the right to apply for a hardship waiver. If a hardship waiver is denied, the person requesting the waiver must deposit the fine amount within the timeframe set by the City Manager.

1.17.110 Selection of Hearing Officer

The City Manager may select a qualified person to serve as the hearing officer for the administrative citation hearing. Hearing officers must be selected in a manner that avoids the potential for pecuniary or other bias. For purposes of this section, a qualified person includes an individual with a background in the practice of law or local governance or enforcement matters, or who is otherwise deemed qualified by the City Manager.

1.17.120 Powers and Duties of Hearing Officer

(r) The hearing officer hears all appeals in accordance with the procedures contained in this chapter. The hearing officer is authorized to issue decisions and take all actions necessary and proper to carry out the functions of the hearing officer in this chapter, including administer oaths and affirmations, hear testimony, determine admissibility, relevancy, weight, and credibility of testimony and evidence, rule upon requests of the parties, and issue a final order which includes findings of fact and conclusions of law. The hearing officer must ensure that parties receive a fair hearing and are afforded due process in accordance with the applicable State and federal law governing such hearings.

1.17.130 Hearing Notice Procedures

(s) *Hearing Preconditions.* No hearing to contest an administrative citation may proceed unless a timely and proper request for hearing form has been submitted, and the fine has been deposited in advance, or a hardship waiver has been timely requested and approved.

(t) *Timeframe for Hearing.* After receipt of the request for hearing form, and fine deposit or hardship waiver, a hearing before the hearing officer must be set for a date that is not less than 15

and not more than 45 days from the date that the request for hearing form is filed. The failure to hold the hearing within this time period does not invalidate any action of the hearing officer.

(u) *Notice of Hearing*. The appellant must be notified of the time and place set for the hearing by first class mail at least 10 days before the date of the hearing. The notice of hearing may be served by any of the methods of service listed in Section 1.17.070.

(v) *Continuance of Hearing*. The appellant may request one continuance of the hearing, but in no event may the hearing commence later than 60 days after receipt of the request for hearing form from the appellant. Further continuances or any continuance that will extend the commencement of the hearing beyond 60 days after receipt of the request for hearing may be granted at the discretion of the hearing officer for good cause or by stipulation of the appellant and the City.

1.17.140 Conduct of Hearing

(w) *Participation*. The hearing officer must be present at all times to preside over the hearing. The failure of any recipient of an administrative citation to appear at the hearing constitutes a forfeiture of the fine and a bar to judicial review of the hearing officer decision, based upon a failure to exhaust administrative remedies. Hearings may be opened to the public at the discretion of the hearing officer.

(x) *Evidence and Witnesses*. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Each party has the opportunity to present evidence in support of that party's case, and to cross-examine witnesses. The rules of privilege are effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence may be excluded. Oral evidence may be taken only on oath or affirmation. The hearing officer may only consider evidence that is relevant to whether the violation occurred, and whether the responsible person has caused or maintained the violation on the date(s) specified in the administrative citation.

(y) *Proof*. The City bears the burden of proving the violation by a preponderance of the evidence. The administrative citation and any additional documents submitted by the issuing enforcement officer constitutes prima facie evidence of the respective facts contained in those documents.

(z) *Interpretation and Recordation*. The appellant may bring an interpreter to the hearing at the appellant's sole expense. The City may, at its discretion, record the hearing by stenographer, court reporter, audio recording, or video recording.

1.17.150 Decision of the Hearing Officer

(aa) *Decision Requirements*. The hearing officer must render their decision in accordance with the provisions of this chapter. The hearing officer's decision must be in writing and must set forth the hearing officer's findings of fact and conclusions of law. The hearing officer must serve a decision within 15 days following the conclusion of the hearing. Failure of the hearing officer to render a decision within this time period does not invalidate any action of the hearing officer.

(bb) *Disposition of Deposited Fines.* If the hearing officer determines the administrative citation should be upheld, then the fine amount on deposit with the City may be retained by the City. If the hearing officer determines the administrative citation should be canceled and the fine was deposited with the City, then the City must promptly refund the amount of any deposited fine.

1.17.160 Judicial Review

An appellant may seek review of the hearing officer's decision in the Monterey County Superior Court in accordance with Government Code section 53069.4.

1.17.170 Late Charges and Fine Collection

(cc) *Late Charges.* Failure to pay an administrative fine by the due date will result in the assessment of a late charge. The late charge will be equal to 100 percent of unpaid fine. Failure to pay an administrative fine by the due date may also result in the imposition of an interest charge at a rate established by resolution of the City Council.

(dd) *Collection.* Any unpaid fine, late charge, or interest is a debt that is immediately due and owing to the City. The City may collect any such debt through any method allowed by law. Commencement of an action to collect the debt does not preclude issuance of additional administrative citations to the responsible person should the violations persist.

Lien and Special Assessment Authority. Any unpaid fine, late charge, or interest that is final and in connection with real property may be collected by means of a lien or a special assessment against the real property on which the violation occurred.”

EXHIBIT B

1.18.100 Administrative hearing officer selection.

The City Manager may select a qualified person to serve as the hearing officer for the administrative citation hearing. Hearing officers must be selected in a manner that avoids the potential for pecuniary or other bias. For purposes of this section, a qualified person includes an individual with a background in the practice of law or local governance or enforcement matters, or who is otherwise deemed qualified by the City Manager.

1.18.230 Hearing officer's decision.

(ee) 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 citation and shall list the reasons for that decision. The decision of the hearing officer shall be final for purposes of administrative review.

(ff) If the hearing officer determines that the 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.

(gg) If the hearing officer determines that the 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.

The hearing officer's decision shall be personally served or served by first class mail.

”

EXHIBIT C

CHAPTER 1.19 - NUISANCE ABATEMENT

1.19.010 Purpose

This chapter establishes procedures for abating public nuisances and related cost recovery, as authorized by Government Code sections 38773.1 and 38773.5. It supplements every other enforcement remedy available to the City. Use of this nuisance abatement process is at the sole discretion of the City.

1.19.020 Definitions

For the purposes of this chapter, the following definitions apply:

“Abatement costs” means all costs, fees, and expenses, incidental or otherwise, including reasonable attorney fees, incurred by the City in investigating and abating a public nuisance.

“City Manager” means the City Manager or their designee.

“Enforcement officer” means any City employee or agent of the City designated by the City Manager who has the authority to enforce the Pacific Grove Municipal Code.

“Junk” means waste, rubbish, appliances, scrap metal, building materials, and similar miscellaneous items.

“Responsible person” means any person that, by their action or failure to act, causes, maintains, allows, permits, aids, abets, or suffers a violation of this code. For the purposes of this definition, “person” means any natural individual or any organization that the law recognizes as having rights or duties, including, without limitation, a firm, association, partnership, joint venture, trust, estate, receiver, limited liability company, corporation, or any other legal or commercial entity.

1.19.030 Scope

The provisions of this chapter apply to all real property in the City except those parcels owned by the City of Pacific Grove.

1.19.040 Administration and Enforcement

The administration and enforcement of this chapter is the responsibility of the enforcement officer, unless otherwise expressly stated herein.

1.19.050 Service

(a) *Authorized Means of Service.* Any document or notice required to be served under this chapter must be completed as follows:

(1) Personal service.

(2) Mail via first class mail to the last known address of the responsible person.

(3) If notice via personal service or mail is not possible, for citations involving a real property-related violation, the document or notice may be served via posting in a prominent place on the real property.

(b) *Effectiveness of Service.* Service by mail is complete upon deposit with the U.S. Postal Service. Service by posting is complete on the date of posting. Failure of any intended recipient to receive any properly mailed or posted notice does not affect the validity of the notice or proceedings conducted under this chapter.

1.19.060 Designated Nuisances

It is unlawful for any person owning, leasing, renting, occupying, or having charge or possession of any property in the City to maintain the property or allow the property to be maintained, with any of the following conditions:

(a) *Junk, Trash, and Debris.* Accumulations of junk, trash, or debris in a manner visible from a public right-of-way or adjacent property.

(b) *Abandoned or Damaged Buildings.* Buildings that are abandoned, partially destroyed, or permitted to remain unreasonably in a state of partial construction.

(c) *Broken Windows.* Broken windows, which constitute hazardous conditions and invite trespassers and malicious mischief.

(d) *Overgrown Vegetation.* Overgrown weeds, grass, or vegetation.

(e) *Dead, Decayed, or Diseased Vegetation.* Dead, decayed, diseased, or hazardous trees, weeds, and other vegetation that is: (1) constituting unsightly appearance, (2) dangerous to public safety and welfare, or (3) detrimental to nearby property or property values.

(f) *Detriment to Public Health, Safety, and General Welfare.* Maintenance of premises in such condition as to be detrimental to the public health, safety, or general welfare or in such manner as to constitute a public nuisance as defined by Civil Code section 3480.

(g) *Fire Hazard.* All dry, dead shrubs, dead trees, combustible refuse and waste, or any material growing around the streets, sidewalks, or upon private property within the City, which by reason of its size, manner, or growth or location constitutes a fire hazard to any building, improvements, crops, or other property, or when dry, will in reasonable probability constitute a fire hazard.

(h) *Detrimental to Enjoyment or Use of Property.* Maintenance of premises so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties.

(i) *Polluted Water*. Any swimming pool, pond or other body of water which is abandoned, unattended, unfiltered, or not maintained, resulting in the water becoming polluted. "Polluted water," for the purpose of this Chapter, means water contained in a swimming pool, pond, or other body of water, which includes, but is not limited to, bacterial growth, including algae, remains of rubbish, refuse, debris, papers, or any other foreign matter which, because of its nature or location, constitutes an unhealthy, unsafe or unsightly condition.

(j) *Graffiti*. Graffiti or other defacement of real or personal property present or remaining on a building, structure or vehicle, or portion thereof, that is visible from a public right-of-way or adjacent property.

(k) *Inoperable Vehicles*. Abandoned, dismantled, inoperable or wrecked vessels, campers, motorcycles, trailers, vehicles, or parts thereof, unless kept, placed, parked, or stored inside of a completely enclosed, lawfully constructed building or structure.

(l) Any violation of the Pacific Grove Municipal Code.

1.19.070 Compliance Orders

(a) *Authority to Issue*. An enforcement officer may issue a written compliance order to any responsible person when the officer determines that a violation is occurring or exists.

(b) *Required Contents*. A compliance order issued under this chapter must contain the following information:

(1) The address of the real property on which the alleged nuisance condition exists;

(2) A description of the alleged nuisance conditions and the code section prohibiting the alleged nuisance condition.

(3) A brief description of the required corrective actions.

(4) The deadline to complete the corrective actions.

(5) A statement that the City may record a Notice of Violation with the Monterey County Recorder's Office against the premises

(6) The enforcement officer's name.

(7) The period and manner in which a responsible person may contest the compliance order as set forth in Section 1.19.080.

(c) *Additional Requirements for Demolition*. Whenever the enforcement officer intends to abate a public nuisance by demolition of a building or structure if the responsible person fails to comply, then the City must comply with the following additional requirements:

(1) The compliance order must contain a statement that the City intends to abate the nuisance with City personnel or contractors by demolition of a building or structure if the nuisance

conditions are not repaired, rehabilitated, removed, terminated, or demolished within the deadline set forth in the compliance order; and

(2) The City must serve the compliance order on all secured lienholders of record with the Monterey County Recorder's Office.

(d) *Service.* Any compliance order issued under this section must be served in the manner required under Section 1.19.050.

(e) *Exemption for Emergency Abatement.* The provisions of this section do not apply in cases involving emergency abatement under Section 1.19.110.

1.19.080 Compliance Order Appeals

(a) *Right to Appeal.* Any person issued a compliance order has a right to appeal the City's nuisance determination in accordance with this chapter.

(b) *Appeal Requirements.* An appeal must be filed within 15 calendar days following the date of service of the compliance order. A written notice of appeal must contain the full name, mailing address, e-mail address, and telephone number and the grounds for appeal in sufficient detail to enable the hearing officer and City to understand the nature of the controversy.

(c) *Effect of Failure to Appeal.* A person who does not properly and timely appeal a compliance order waives the right to challenge it and has failed to exhaust administrative remedies. In this event, the compliance order is final.

1.19.090 Appeal Hearings

(a) *Selection of Hearing Officer.* The City Manager may select the hearing officer. The hearing officer must be selected in a manner that avoids the potential for pecuniary or other bias.

(b) *Scheduling and Noticing of the Hearing.* If a timely and proper appeal is filed, then the City Clerk must schedule the hearing no sooner than 15 days and no later than 60 days from receipt of the notice of appeal, unless the parties waive such time limits. The failure to hold the hearing within this time period does not invalidate any action of the hearing officer. The City Clerk must notify the appellant in writing of the date, time, and location of the hearing at least 10 days before the date of the scheduled hearing. The notice of hearing must be served in accordance with Section 1.19.050.

(c) *Issues on Appeal.* The City bears the burden of proof to establish a nuisance exists by a preponderance of evidence. The issuance of a compliance order is prima facie evidence of the existence of a violation. The scope of the appeal is limited to whether any nuisance condition identified in the compliance order exists.

(d) *Evidence, Witnesses, and Recording.* All parties have the right to present evidence and witnesses. The formal rules of evidence and discovery do not apply. The rules of privilege apply as they do in civil actions. Irrelevant or unduly repetitious evidence may be excluded. Oral evidence may be taken only on oath or affirmation. The appellant and respondent may represent

themselves or be represented by anyone of their choice. No party has the right to cross-examine any other party or witness except for good cause shown to the satisfaction of the hearing officer. The appellant may bring an interpreter to the hearing at their sole expense. The City may, at its discretion, record the hearing by stenographer, court reporter, audio recording, or video recording.

(e) *Decision of the Hearing Officer.* The hearing officer's decision must be in writing, set forth the hearing officer's findings of fact and conclusions of law, order the abatement of any confirmed nuisance conditions within a deadline determined by the hearing officer to be reasonable, and include a statement that if the nuisance is not abated then it may be abated by the City. If the hearing officer determines that each nuisance condition described in the compliance order is nonexistent, the compliance order is deemed cancelled. The hearing officer must render a decision within 15 days following the conclusion of the hearing. Failure of the hearing officer to render a decision within this time period does not invalidate any action of the hearing officer or automatically grant the appeal. The hearing officer's decision must be served in accordance with Section 1.19.050. The hearing officer's decision is the final administrative decision of the City regarding the compliance order. The hearing officer's decision is effective on the date of service of the decision. The decision must contain the following statement: "The decision of the hearing officer is final and binding. Judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure section 1094.6 et seq."

1.19.100 City Abatement

If a nuisance is not completely abated within the time prescribed by the compliance order, or, if appealed, in the hearing officer's decision, the City is authorized to abate a nuisance by City staff or private contractor. The City and its agents are expressly authorized to enter the premises for such purpose. Except in cases involving an imminent hazard, entry onto any real property to abate a public nuisance must be pursuant to a warrant issued by a court of competent jurisdiction.

1.19.110 Emergency Abatement

(a) If, in the reasonable opinion of the enforcement officer, there exists a condition that constitutes an imminent threat of harm to public health or safety, or imminent hazard to real or personal property, the enforcement officer may cause the conditions to be summarily abated in accordance with the following procedure. When determining whether a hazard is sufficiently imminent to warrant emergency abatement, the enforcement officer may consider whether there is insufficient time to follow the administrative process for non-emergency abatements described in this chapter.

(b) If time permits, the enforcement officer may attempt to contact the owner or occupant of the property to notify the responsible person that the condition must be immediately abated to eliminate the imminent hazard.

(c) If the enforcement officer is unable to make contact, or if after contact with the owner or occupant does not take action within the time prescribed by the enforcement officer, he or she is authorized to take all actions necessary to eliminate or mitigate the hazardous condition, utilizing the City's own forces or private contractor.

(d) As soon as reasonably possible under the circumstances, following any emergency abatement action by the City to abate an immediate hazard, the City must provide each responsible person with a “Notice of Summary Abatement.” The Notice of Summary Abatement must be served in accordance with Section 1.19.050 and contain the following information:

(1) A brief description of the condition and reasons why it constituted an imminent threat or hazard;

(2) A brief description of the law prohibiting or pertaining to the imminent threat or hazard; and

(3) A brief description of the actions the City took to abate the imminent threat or hazard.

(e) The City’s determination that a condition constituted an imminent threat or hazard may be appealed as set forth in Section 1.19.080.

(f) The enforcement officer must keep an itemized account of the costs incurred by the City in abating the public nuisance. The City is entitled to recover all abatement costs incurred in the abatement of an imminent threat or hazard in accordance with the procedures set forth in this chapter.

1.19.120 Notice of Violation Recordation

(a) *Recordation Authorization.* If a nuisance is not completely abated as determined by the City within the time prescribed by the compliance order, if appealed, in the hearing officer’s decision, the City may record a Notice of Violation with the Monterey County Recorder’s Office against the premises.

(b) *Rescission.* The City must record a Notice of Rescission of Notice of Violation with the Monterey County Recorder’s Office within 10 business days of its determination that the violation has been fully abated or corrected.

(c) *Service.* Upon recordation, the City must serve a copy of the recorded Notice of Violation or Notice of Rescission on each person having an ownership interest in the property.

1.19.130 Cost Recovery Authorization

(a) *City’s Right to Recover Nuisance Abatement Costs.* Whenever the City incurs abatement costs in abating a public nuisance or seeking to abate a code violation or public nuisance, the City is entitled to recover the abatement costs related to those code enforcement efforts in accordance with the procedure set forth in this chapter. The City may commence cost recovery proceedings at any time.

(b) *Recoverable Abatement Costs.* Recoverable costs include all abatement costs. Recoverable costs may not exceed the actual and reasonable costs of nuisance abatement.

1.19.140 Cost Recovery Initiation

(a) *Report of Abatement Costs.* To initiate the process for recovery of abatement costs, the City must serve an itemized report of abatement costs on the responsible person identifying all abatement costs and demanding payment. The report must provide notice that any unpaid amounts may become a lien and special assessment against the property unless the City receives full and timely payment.

(b) *Service of Report of Abatement Costs.* The report of abatement costs must be served in accordance with Section 1.19.050. If the code violation or public nuisance relates to real property, then the report of abatement costs must be served on each person with a recorded interest in the property.

(c) *Payment.* Timely, full payment of the abatement costs must be remitted to the City within 45 calendar days following the date of service of the report of abatement costs.

(d) *Right to Appeal.* Any person issued a report of abatement costs has a right to appeal the report of abatement costs. An appeal must be filed within 15 calendar days following the date of service of the report of abatement costs. The right to appeal and procedures must be specified in the report. A written notice of appeal must contain the following information: (1) the name and contact information of the appellant, and (2) the grounds for appeal in sufficient detail to enable the hearing officer and City to understand the nature of the controversy. The failure of any person who has been served with proper notice to timely file an appeal is a failure to exhaust administrative remedies.

1.19.150 Cost Recovery Hearings and Appeals

(a) *Cost Recovery Appeal.* These hearing procedures supplement and augment those above. The scope of the appeal is limited to the appropriateness of the amount of the abatement costs, and the hearing officer's decision may confirm, discharge, or modify the amount of costs.

(b) *Decision.* The hearing officer's decision must be in writing, set forth the hearing officer's findings of fact and conclusions of law, and demand payment of any confirmed abatement costs within 30 calendar days following the date of service of the hearing officer's decision.

(c) *Payment of Confirmed Costs.* Any confirmed abatement costs must be tendered to the City within 30 calendar days following the date of service of the hearing officer's decision.

1.19.160 Cost Collection Initiation

(a) Upon expiration of 45 days after the report of abatement costs, or 30 days after the hearing officer's decision in the event of an appeal, if the full amount of the final abatement costs has not been paid, any unpaid costs may be collected by the City in accordance with Sections 1.19.160 through 1.19.190.

(b) To collect the unpaid costs via a lien or special assessment, the City Council, after a public hearing, may adopt a resolution confirming imposition of the debt and approving filing a lien or special assessment against the subject real property.

1.19.170 Lien Cost Collection

- (a) In accordance with Government Code section 38773.1, abatement costs may be levied by the City as a lien against the property on which the nuisance was abated. The City may record a lien against the nuisance property for any unpaid amount. Before recording a lien, the City must serve each person with a recorded interest in the subject property with notice of the lien. In addition, any owner of record must be served in accordance with Government Code section 38773.1.
- (b) The nuisance abatement lien must be recorded in the office of the County Recorder of Monterey County, California; and from the date of recording, the nuisance abatement lien will have the force, effect, and priority of a judgment lien, and will continue in effect until discharged by the City.
- (c) The lien must specify the City as the agency for whose benefit the lien is established, the amount of the lien, the date of any abatement order, the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.
- (d) The nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment. All costs and expenses relating to the processing, recording, and enforcement of the abatement lien, including recording fees, noticing costs and attorney fees may be added to the amount of the lien and will be secured thereby.
- (e) Upon payment or other satisfaction of the abatement lien, a notice of release of lien must be prepared and recorded by the City forthwith.

1.19.180 Special Assessment Cost Collection

- (a) In accordance with Government Code section 38773.5, abatement costs may be levied by the City as a special assessment against the property on which the nuisance was abated. If the abatement costs have not been paid in full within the time required by this Chapter, the City may levy a special assessment against the real property on which the violation occurred. The City must serve each person with a recorded interest in the subject property with notice of the imposition of the special assessment. In addition, any owner of record must be served in accordance with Government Code section 38773.5. The notice must specify that the property may be sold after three years by the Tax Collector for unpaid delinquent assessments.
- (b) The notice of special assessment is entitled to recordation with the Monterey County Recorder's Office. A copy of the notice of special assessment must be transmitted to the County Tax Assessor and Tax Collector, whereupon the Tax Assessor and Tax Collector must add the amount of the special assessment on the next regular bill for real estate taxes levied against the property identified in the notice of special assessment. Thereafter, the special assessment will be collected at the same time and in the same manner as ordinary municipal taxes are collected, and will be subject to the same penalties and the same procedure and sale in the case of delinquency as provided by law for ordinary municipal taxes. After recordation, the special assessment may be foreclosed on as a lien in the manner and means provided by law.

1.19.190 Civil Action Cost Collection

(a) In addition to any other remedies set forth in this Code or otherwise provided by law, the City Attorney is authorized to bring a civil action, at the City Attorney's discretion, to recover the City's abatement costs.

1.19.200 Combined Notices

The notices that are authorized by this chapter may be combined in the discretion of the City.

1.19.210 Enforcement

(a) It is unlawful and declared a public nuisance for any person to violate any provision of this chapter. It is unlawful and declared a public nuisance for any person to violate any order of a hearing officer made under this chapter.

(b) Any person who violates any provision of this chapter is guilty of a misdemeanor punishable by a fine of up to \$1,000, or by imprisonment in the County jail not exceeding six months, or by both, except the City Attorney or enforcement officer may prosecute a violation of this chapter as an infraction, in his or her discretion.

(c) Violation of this chapter may be punished by issuance of an administrative citation fine, as set forth in Chapter 1.17.

(d) The City Attorney is authorized to bring a civil or equitable action, at his or her discretion, to seek the abatement of any violation of this chapter or enforcement of any provision of this chapter.

(e) Each and every day a violation is maintained, caused, aided, abetted, concealed, suffered, or permitted is a separate offense.

(f) The regulations, remedies, procedures, and penalties provided by this chapter are cumulative to each other and to any other available under City, State, or federal law.

1.19.220 Attorney Fee Recovery

The prevailing party in any judicial action, administrative proceeding, or special proceeding to abate a nuisance may recover its incurred attorney fees, provided that the City elected, at the initiation of such individual action or proceeding, to recover its own attorney fees. In no judicial action or administrative proceeding may an award of attorney fees to a prevailing party exceed the amount of reasonable attorney fees incurred by the City in the judicial action or administrative proceeding. A judicial action includes, but is not limited to, any civil action, inspection or abatement warrant, administrative proceeding, or appeal from an administrative proceeding. Any recovery of attorney fees for abatement of a nuisance must be in accordance with this section."

EXHIBIT D

6.09.080 Failure to collect and report tax – Determination of tax by tax administrator.

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the tax administrator shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address. ~~Such operator may within 10 days after the serving or mailing of such notice, make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided in PGMC 6.09.090.~~

6.09.090 Appeals.

(a) *Right to Appeal.* Any person aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, has a right to file a written appeal the within 15 calendar days following the date of service of the determination of tax due.

(b) *Effect of Failure to Appeal.* Failure to appeal is waiver of the right to challenge the decision and failure to exhaust administrative remedies. In this event, the decision order is final, and any tax, interest, and penalties are immediately due and payable.

(c) *Selection of Hearing Officer.* The City Manager may select the hearing officer. The hearing officer must be selected in a manner that avoids the potential for pecuniary or other bias.

(d) *Scheduling and Noticing of the Hearing.* If a timely and proper appeal is filed, then the City Clerk must schedule the hearing no sooner than 15 days and no later than 60 days from receipt of the notice of appeal, unless the parties waive such time limits. The failure to hold the hearing

within this time period does not invalidate any action of the hearing officer. The City Clerk must notify the appellant in writing of the date, time, and location of the hearing at least 10 days before the date of the scheduled hearing. The notice of hearing must be served personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at their last known place of address.

(e) *Burdens and Standard.* The City bears the initial burden to produce evidence showing a reasonable basis for the estimate and assessment made under this chapter. If the City meets that burden, the operator bears the burden to produce records or other evidence sufficient to rebut the estimate and assessment.

(f) *Decision.* The hearing officer's decision must be in writing, set forth the hearing officer's findings of fact and conclusions of law, determine the proper tax to be remitted, and include a 15-day deadline for payment of any upheld amount to the City. If the hearing officer determines that each nuisance condition described in the compliance order is nonexistent, the compliance order is deemed cancelled. The hearing officer must render a decision within 15 days following the conclusion of the hearing. Failure of the hearing officer to render a decision within this time period does not invalidate any action of the hearing officer or automatically grant the appeal. The hearing officer's decision must be served personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at their last known place of address. The decision must contain the following statement: "The decision of the hearing officer is final and binding. Judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure section 1094.6 et seq."

EXHIBIT E

7.40.160 Appeal of tax.

Any person aggrieved by any decision of the city with respect to the amount of the transient occupancy tax or fees associated thereto may appeal to a hearing officer in accordance with Section 6.09.090.

EXHIBIT F

9.17.130 Enforcement.

(a) Beginning January 1, 2024, if the city determines that a generator, responsible party, self-hauler, hauler, tier one or tier two commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance with this chapter, it shall document the noncompliance or violation, issue a notice of violation, and take enforcement action pursuant to this section, as needed.

(b) Violation of any of the provisions of this chapter shall constitute an infraction or misdemeanor and shall be punishable as set forth in Chapter 1.16 PGMC.

(c) Notwithstanding any other legal remedy, violation of any of the provisions of this chapter may be enforced pursuant to Chapter 1.19 PGMC.

(d) Notwithstanding any other legal remedy, violation of any of the provisions of this chapter shall constitute a public nuisance and shall be subject to abatement, injunction, or other civil remedy as appropriate.

(e) Notice of Violation.

(1) City enforcement officials or their designee will monitor compliance randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program (that may include remote monitoring).

(2) For incidences of prohibited container contaminants found in containers, city will issue a notice of contamination to any generator or responsible party found to have prohibited container contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the prohibited container contaminants or within 10 business days after determining that a violation has occurred. If the city observes prohibited container contaminants in a responsible party's containers on more than three consecutive occasions, the city may assess contamination processing fees or contamination penalties on the generator.

(3) City shall issue a notice of violation requiring compliance within a maximum of 60 days of issuance of the notice. Notices shall be sent to "Owner" at the official address of the owner maintained by the tax collector for the city or if no such address is available, to the owner at the address of the multifamily premises or commercial premises or to the responsible party for the collection services, depending upon available information.

(f) Penalty Amounts for Types of Violations. Penalties may be assessed for violations as provided in Chapters 1.16 and/or 1.19 PGMC. 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.