

ORDINANCE NO. 23-004

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE AMENDING TITLE 15 OF THE PACIFIC GROVE MUNICIPAL CODE REGARDING STREETS AND SIDEWALKS; ADDING CHAPTER 15.01 STREET ENCROACHMENTS, AMENDING CHAPTERS 15.08- HOUSE NUMBERS, REPEALING CHAPTER 15.12 CEMENT CONSTRUCTION, REPEALING SECTION 15.16.050-RETAINING WALL CONSTRUCTION, AMENDING SECTION 15.16.060 CURBS AND ADDRESS NUMBERS, AMENDING CHAPTER 15.20, DRIVEWAYS, AMENDING CHAPTER 15.24 EXCAVATIONS, AND DELETING CHAPTER 15.32- HOUSE MOVING

FACTS

1. The City of Pacific Grove (City) and other local agencies promulgated temporary rules to accommodate outdoor dining during the Covid-19 pandemic.
2. The City Manager, acting as the emergency services director pursuant to PGMC Section 3.20.070, implemented a “Parklet Program” that allows businesses to utilize parking spaces for dining and other purposes in a safe environment to encourage and promote sidewalk dining to help improve the local business economy, create a more urban pedestrian environment, and promote and protect public welfare in a healthy and safe manner.
3. On April 21, 2021, in order to clarify the scope and effect of the Parklet Program during the declared emergency created Temporary Outdoor Dining Rules.
4. Pacific Grove Municipal Code Title 15 concerns the City Streets and Sidewalks. Chapter 15.01 concerns encroachments in the City Rights of Way. The City approved use of park lets in the City rights of way downtown pursuant to an emergency order and later an ordinance, set to expire on May 31, 2023.
5. Pacific Grove Municipal Code Section Chapter 15.01 is intended to update the City Encroachment Ordinance to allow for differing uses in the Rights of Way other than public and private utilities and provide authority of the City to ministerially approve such encroachments, where appropriate.
6. An amended Pacific Grove Municipal Code Title 15 would specifically allow parklets to temporarily use portions of the right of way where parking now exists, pursuant to a separate Parklet Program to be separately enacted by the City Council.
7. Enactment of this ordinance is subject to a categorical exemption under Section 15301(c) (Existing Facilities). The project is categorically exempt under State CEQA Guidelines Section 15301 (Existing Facilities) because the actions identified in the program are limited to the permitting, leasing, and minor alteration of existing public facilities, including existing streets, sidewalks, bicycle and pedestrian trails, which would not result in the creation of additional automobile lanes. The program would result in a negligible expansion of existing commercial uses and a negligible expansion of the public’s use of City right-of-way, as the uses included in the program would not vary from the current uses of commercial businesses, residential areas, or public access within the City’s right-of-way. The proposed project consists of allowing minor site alterations to create temporary ancillary outdoor dining areas or curbside/storefront pick-up areas for existing retail businesses and restaurants. Moreover, encroachment permits issued annually would remain temporary, not permanent uses and subject to initial and annual ministerial approval under a Parklet Program. The project would not have a significant effect on

the environment. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Monterey in accordance with CEQA Guidelines.

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

SECTION 1. Incorporation of Facts. The City Council hereby finds that the foregoing Facts are true and correct and incorporates those Facts here by this reference.

SECTION 2. Revision to Pacific Grove Municipal Code Title 15 is to be amended as and shall read as described in Exhibit A attached hereto and incorporated by this reference.


SECTION 3. 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 4. Effective Date. In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following its adoption.

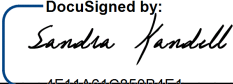
PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 12th day of April 2023, by the following vote:

- AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Beck, Coletti, and McDonnell.
- NOES: None.
- ABSENT: Councilmembers Amelio and Poduri.

APPROVED

DocuSigned by:

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 BILL PEAKE, Mayor

ATTEST: 4/23/2023
 DATED: _____

DocuSigned by:

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 SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DocuSigned by:
Brian A. Pierik
01871FB17BD8435...

BRIAN A. PIERIK, City Attorney

Title 15

STREETS AND SIDEWALKS¹

Chapters:

- 15.01 Street Encroachments**
- 15.08 House Numbers**
- 15.16 Sidewalks**
- 15.20 Driveways**
- 15.24 Excavations**
- 15.26 Telecommunications Facilities in Public Rights-of-Way**
- 15.28 Utility Poles**
- 15.29 Undergrounding Utilities**
- 15.30 Utility Encroachments in Public Rights-of-Way**
- 15.40 Refuse and Storage Containers on City Streets**

Chapter 15.01

STREET ENCROACHMENTS

Sections:

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

15.01.010 Definitions.

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

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

15.01.020 Encroachment permit required.

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

15.01.030 Exceptions to permit requirement.

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

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

street cut shall apply for an emergency encroachment permit on the next City business day. The issuance of such permit shall be at the sole discretion of the Director of Public Works or designee, based on a determination as to whether the work was necessary to for the preservation of life or property and in compliance with this code. In the event that the City Engineer determines issuance of an emergency permit is unwarranted, the person or persons who performed, or caused to be performed, any such work shall be in violation of this chapter.

15.01.040 Right of lawful use by City and others.

- (a) The City reserves all rights to approve and construct municipal improvements under or over facilities or portions of facilities constructed pursuant to encroachment permits.
- (b) Any permit granted under this chapter shall be subject to the right of the City, or any other person entitled thereto, to use that part of the right-of-way for any purpose for which it may be lawfully used, and no part of the right-of-way shall be unduly obstructed at any time.

15.01.050 Permit applications.

(a) An application for a permit required by this chapter shall be made on a form prescribed by the Director of Public Works or designee. The application shall be signed by the contractor, property owner or other entity performing the work and shall include the following:

- (1) The name, address and telephone number of the applicant;
 - (2) The location, purpose, extent and nature of the proposed work;
 - (3) The period of time when the proposed work will be performed;
 - (4) A certificate of insurance for the applicant and contractor's insurance carrier in a form satisfactory to the City;
 - (5) All other complete and descriptive information, including plans, specifications and analyses the City Engineer may require describing the work and its effect on the right-of-way, including the mode of operation, maintenance and use;
 - (6) The written order or consent to work thereunder, where required by law, issued by the California Public Utilities Commission or any other public district, agency or body having jurisdiction;
- (b) The application for a permit shall refer to, and incorporate by reference, all of the provisions of this chapter.
- (c) A permit shall not be issued unless and until the order or consent required pursuant to subsection (A) is first obtained and filed with the Director of Public Works or designee. The permittee shall be knowledgeable and comply with all applicable federal, state and local laws, regulations and orders which may in any manner affect the permit. The permittee shall insure that its agents, employees and contractors are at all times in compliance with all applicable laws, regulations and orders.

15.01.060 Liability and insurance.

- (a) The permittee shall be responsible for all liability imposed by law for personal injury or property damage proximately caused by: (1) work done by permittee under the permit, including work beyond the scope of the permit; (2) failure on permittee's part to perform obligations under the permit in respect to maintenance; or (3) the existence of any permitted encroachment. If any claim of such liability is made against the City, its officers or employees, permittee shall defend, indemnify and hold them, and each of them, harmless from such claim and liability insofar as permitted by law.
- (b) Before a permit is issued, the applicant, or the contractor who is to perform the work, shall secure, at its expense, a policy of broad form commercial general liability insurance, on an "occurrence" basis issued by an insurer acceptable to the City. If the work to be performed involves any excavation, the policy shall include an endorsement that affords coverage for explosion, collapse and underground hazards. If the work to be performed involves vehicles or vehicular equipment, the insurance must cover any automobile for bodily injury and property damage. The policy shall by endorsement name the City and its officers, employees and agents as additional insureds and shall protect them from claims for personal injury, death or property damage suffered by third persons and arising out of the work performed pursuant to the permit or the manner of installation or construction. The insurance coverage afforded by this policy shall be primary. The policy shall include a cancellation clause requiring the issuing company or its authorized agent to provide a 30-day written notice of cancellation, suspension or modification, to the named certificate holder.
- (c) The amount of liability insurance coverage shall be a minimum of \$1,000,000 per occurrence and \$2,000,000 aggregate or \$1,000,000 aggregate if the policy separately applies to the permitted project.
- (d) Workers' Compensation shall be maintained to meet minimum state requirements.

- (e) A certificate or certificates of the insurance shall be filed with the Department of Public Works prior to commencement of any work. The insurance shall be in effect on the date that the work is commenced and shall be maintained in effect until the work has been completed and the work has been accepted by the Director of Public Works.
- (f) The City Risk Manager may increase, decrease or waive the insurance limits set forth above in those cases in which he/she determines that special circumstances justify such an increase, decrease or waiver.
- (g) An applicant seeking to do work himself or herself on the City street or in the public easement immediately adjacent to premises containing only one single-family dwelling or two authorized units, one of which is owned and occupied by the applicant, shall not be required to file with the City certificates evidencing general liability, property damage coverage, or workers' compensation insurance.

15.01.070 Fees.

- (a) All fees required to be paid under the provisions of this chapter shall be established by resolution of the City Council and may be subject to adjustment based on the nature, scope and duration of the proposed encroachment.
- (b) In addition to any fees required under this chapter, permittee shall be responsible for payment of any other fees that may be required under this code.
- (c) Unless waived in writing by the City Council, fees will be required of any public agency which is authorized by law to establish or maintain any works or facilities in, under or over any public street or right-of-way.

15.01.080 Agreement concerning continuing encroachments.

The issuance of an encroachment permit for a continuing encroachment shall, at the discretion of the Director of Public Works or designee, be contingent upon the execution between the City and the permit applicant, of an agreement providing for the use, operation and maintenance of the encroachment. The agreement shall contain specific conditions for the use, operation and maintenance of the encroachment, insurance and appropriate indemnification clauses to the benefit of the City. Any encroachment permit issued in conjunction with an agreement shall be valid only so long as the permittee is in compliance with the terms and conditions of that agreement.

15.01.090 Duration of permit.

The issuance of an encroachment permit for a continuing encroachment shall, at the discretion of the Director of Public Works or designee, be contingent upon the execution between the City and the permit applicant, of an agreement providing for the use, operation, and maintenance of the encroachment. The agreement shall contain specific conditions for the use, operation and maintenance of the encroachment, insurance, and appropriate indemnification clauses to the benefit of the City. Any encroachment permit issued in conjunction with an agreement shall be valid only so long as the permittee is in compliance with the terms and conditions of that agreement.

15.01.100 Commencement and conclusion of work.

- (a) The permittee shall begin the work or use authorized by a permit issued pursuant to this chapter within 90 days from date of issuance, unless a different time period is stated in the permit. If the work is not timely begun, then the permit shall become void, unless a timely extension of time to commence work has been granted by the Director of Public Works in writing. Before beginning any work, which involves or includes excavation, construction of concrete sidewalks, curbs, gutters or driveway approaches, or making, placing or causing an obstruction in the traveled way, the permittee shall notify the City Engineer.
- (b) The permittee shall complete the work or use authorized by a permit issued pursuant to this chapter within the time specified in the permit and shall notify the Director of Public Works upon completion. No work shall be deemed to be complete, nor shall the work be operated or placed into service, without written authorization, notification of completion, or acceptance by the Director of Public Works. If at any time the Director of Public Works determines that the prosecution or completion of the work or use authorized is delayed due to lack of diligence on the part of the permittee, the permit may be canceled, and the right-of-way restored to its former condition. The permittee shall reimburse the City for all expenses incurred by the City in restoring the right-of-way.
- (c) The Director of Public Works may extend any time period if commencement or completion of the work for which the permit was issued was delayed because of inclement weather, strikes, an act of God or other causes not within the control of the permittee.

15.01.110 Display of permit

- (a) A copy of any permit issued pursuant to this chapter shall be kept at the site of any construction work pertaining to the encroachment and shall be shown to any authorized representative of the City on demand.
- (b) An agreement or permit issued for continued use or maintenance of an encroachment involving the residence or place of business of the permittee may be kept at the residence or place of business, or otherwise safeguarded during the term of validity, and shall be made available to an authorized representative of the City within a reasonable time after demand therefor is made.

15.01.120 Inspections-Records-Corrective action.

- (a) The Director of Public Works or designee may require the permittee to perform special inspections of and maintain records for certain facilities constructed in the right-of-way. The City also reserves the right to conduct periodic inspections throughout the construction phases of the project and to have access to any pertinent records of the permittee.
- (b) Final inspection of construction may be conducted by the Director of Public Works or designee. At the Director of Public Works discretion, permittee may be required to be present. Permittee shall allow reasonable time for the City to prepare and provide a list of items requiring corrective action. Permittee shall undertake timely correction of all such items.
- (c) All persons owning underground facilities located in City shall keep current, adequate and complete maps and records of same. Such maps and records shall be made available to the City upon request.

15.01.130 Changes in permit.

- (a) No changes may be made in the location, dimension, character or duration of the encroachment, its mode of operation, maintenance, or use as granted by the permit except upon written authorization of the Director of Public Works. All construction and use of materials must adhere to approved plans and specifications. The permittee shall coordinate all construction activities with the Director of Public Works.
- (b) No additional permit shall be required for the continuing use of encroachments installed by public utilities, provided that such continuing use conform to the conditions of the original encroachment permit.

15.01.140 Driveway approach permit-Conditions.

All persons constructing new buildings shall apply for encroachment permits for both restoration of the curb to its original condition, where old driveways are abandoned, as well as for the installation of a new driveway approach prior to the final acceptance of the building by the building Official of the City, as required in this code.

15.01.150 Safety provisions.

- (a) Permittee shall at all times obey and enforce all applicable safety orders, rules and recommendations of the state Division of Industrial Safety and shall comply with all applicable state and local laws, ordinances, codes and regulations.
- (b) During construction, permittee shall immediately remedy all hazardous conditions or nuisances upon receipt of any notice from the City. The Director of Public Works may take any action necessary to remedy any hazardous condition or nuisance if there is insufficient time, under the circumstances, to first provide notice to permittee, or should permittee fail to take immediate and appropriate action upon receipt of notice from the City.
- (c) Permittee shall provide, erect and maintain any lights, warning sign, signals, flares, patrols and other appropriate safeguards necessary to protect the public during the course of work or maintenance of an encroachment. Where the permit involves excavation, obstruction or similar work within the right-of-way, permittee shall place and maintain lights at 50 foot or lesser intervals, and at each end of the excavation or obstruction, from one-half hour before sunset to one-half hour after sunrise the following day for each day until the right-of-way has been made safe for use. Reflectorized warning signs conforming to the requirements of the Manual of Uniform Traffic Control Devices issued by the California Department of Transportation shall be placed at 200 and at 400 feet from each excavation or obstruction to provide adequate warning.
- (d) Warning signs, lights and other safety devices shall conform to the requirements of the California [Vehicle Code](#) and the Manual of Uniform Traffic Control Devices issued by the California Department of Transportation, or other recognized, applicable standards.
- (e) The standards and requirements set forth in this chapter are intended to be the minimum required standards. The failure of the City to require any specific safety device or procedure shall not excuse permittee from complying with any other requirements or standards or to take reasonable, appropriate and prudent safety precautions indicated

by the specific circumstances. At any time, the City may provide, erect, relocate or remove any safety device or measure as necessary or cancel the permit and restore the right-of way at the expense of the permittee.

15.01.160 Standards, supervision and inspections.

- (a) All work done under a permit shall conform to the specifications and to the conditions of approval established by the City or, in the absence of established specifications, to recognized standards of design and construction and approved practices in connection with the work to be done. All work shall be done subject to the satisfaction and approval of the Director of Public Works.
- (b) If the work, use or encroachment authorized in the permit issued pursuant to this chapter interferes with the established drainage, the permittee shall provide for proper drainage as directed by the Director of Public Works.
- (c) Backfilling of an excavation shall be in accordance with the standard details and specifications of the City, or those other specifications required by the Director of Public Works for the particular project, both as to material and method. Backfill shall not be placed in any excavation without compaction of the material used therein, the degree and method thereof to be to the satisfaction of the Director of Public Works.
- (d) All operation, maintenance and repairs to a continuing encroachment shall conform to the conditions of approval of the underlying encroachment permit, to the terms of any applicable agreement with City, and to established and recognized standards of construction, design, operation and maintenance for the particular type of encroachment.

15.01.170 Repair and restoration.

- (a) Upon completion of the project for which the permit was issued, or when required by the Director of Public Works, the permittee shall replace, repair or restore the public right-of-way to its prior condition unless otherwise provided in the permit. The permittee shall remove all obstructions, impediments, material or rubbish caused or placed upon the right-of-way under the permit, and shall do any other work or perform any act necessary to restore the public street to a safe and usable condition.
- (b) By the acceptance of the permit the permittee agrees to exercise reasonable care in inspecting and maintaining the area affected by the encroachment after completion of all work.
- (c) The permittee shall immediately repair any injury, damage or nuisance, in any portion of the right-of-way, resulting from the work done under the permit. In the event that the permittee fails to act promptly or should the exigencies of the injury or damage require repairs or replacement to be made before the permittee can be notified by the Director of Public Works or can respond to notification, the City may at its option make the necessary repairs or replacements or perform the necessary work and the permittee shall be charged with all the expenses incurred in the performance of the work.

15.01.180 Relocation of encroachment.

- (a) If any future construction, reconstruction or maintenance work by the City on the right-of-way necessitates the relocation, removal or abandonment of an encroachment, the permittee shall relocate, remove or abandon the encroachment at the permittee's sole expense.
- (b) When relocation is required, the Director of Public Works shall make written demand of the permittee that the encroachment be relocated within the right-of-way to a satisfactory location provided by the Director of Public Works, and shall designate a reasonable time for such relocation or removal. In determining what is a reasonable time under this section, the Director of Public Works shall take into consideration the nature of the encroachment, the urgency of the need for its removal, the cost of its removal, the difficulty of its removal, the value of the property to the owner, and other facts peculiar to the particular situation. If the permittee fails to comply with such instructions, the City may relocate or remove the encroachment at the expense of the permittee.
- (c) The provisions of this section shall apply to all permittees, including public agencies and public utilities having authority to occupy public rights-of-way pursuant to a franchise or an express provision of state statute, unless in conflict with a franchise agreement with the City, or in conflict with a state statute applicable to a charter city.

15.01.190 Street cut notification.

When the encroachment involves a street cut, the permittee shall notify every public utility having facilities in the vicinity of the street cut regarding the issuance of the permit and its provisions. If a subsurface excavation is required, the permittee shall contact Underground Service Alert (USA) and have all utilities located and marked prior to commencement of any work. The permittee shall, upon uncovering any pipe or underground facility not previously located or anticipated, cease work immediately and notify the Director of Public Works. The permittee

shall proceed with the work only after the proper utility has been notified and permission is granted by the Director of Public Works to proceed.

15.01.200 Public access to facilities.

(a) The permittee shall so plan the work as to cause the minimum of interference with traffic and inconvenience to the public and perform all street cut work in a neat and professional manner. Roadways and walks shall not be unnecessarily obstructed. At no time shall a public street be closed, or its function reduced or modified or the use thereof denied in whole or in part to the general public, without the written permission of the Director of Public Works.

(b) The permittee shall provide free and unobstructed access to all mailboxes, fire hydrants, water gates, valves, manholes, drainage structures and other public service structures and property that may be required for emergency use. The permittee shall not remove such structures and property or relocate or manipulate them without proper coordination with the authorities responsible for their control and maintenance.

15.01.210 Street closure-When permission granted.

Upon written application, the Director of Public Works may grant written permission to permittee to close or cause to be closed, for limited periods, City streets, driveways or areas not under control of the State or the County if in the opinion of the Director of Public Works the public interest can best be served thereby.

15.01.220 Coordination of work with other entities.

The permittee shall coordinate all street cut work with other entities working in the area so that public convenience is least impaired and to the satisfaction of the Director of Public Works. The permittee shall at all times notify the Police and Fire Departments of any and all obstructions and closures within the public right-of-way which might impair or prevent passage of an emergency vehicle.

15.01.230 Pavement.

(a) The permittee shall be required to construct pavement, whether temporary or permanent, in accordance with the standard specifications of the City, unless otherwise specified on the permit.

(b) All construction work performed pursuant to a street cut encroachment permit shall be performed by contractors who have current and valid licenses issued by the state of California Contractor's License Board, for the type of work being performed.

15.01.240 Prohibitions.

It is unlawful to do any of the following:

(a) Store materials used in connection with the work within five feet of a public street, or stockpile materials in the right-of-way, unless otherwise authorized by the City Engineer. Excess earth materials from trenching or other operations shall be removed from the pavement, travel way or shoulder as the trench is backfilled or other work carried forward unless otherwise approved by the City Engineer;

(b) Plant any landscaping across any existing walkway in a sidewalk area or roadway shoulder;

(c) Erect or maintain a fence or similar structure in a right-of-way without a permit, except as provided in this chapter;

(d) Erect or maintain a fence or similar structure across any existing walkway in a sidewalk area or roadway shoulder;

(e) Permit or maintain any encroachment of any nature which impedes, obstructs or denies pedestrian or other lawful travel within the limits of a public street, or which impairs adequate sight distance for safe pedestrian or vehicular traffic;

(f) Construct or maintain a freight loading platform upon or in the right-of-way.

15.01.250 Monuments.

No person shall remove or disturb, or cause to be removed or disturbed any monument of granite, concrete, brass, iron or other material set for the purpose of locating or preserving the lines and/or elevation of any public street or right-of-way, property subdivision or precise survey or reference point without first obtaining permission from the Director of Public Works. Permission shall be subject to and in conformance with the requirements set forth in specifications established by the City Engineer. Replacement of removed or disturbed monuments will be at the expense of the permittee

15.01.260 Appeal of denial of permit.

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

15.01.270 Findings on appeal.

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

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

15.01.280 Emergency suspension of permit.

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

15.01.290 Hearing on emergency suspension of permit.

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

15.01.300 Suspension or revocation of permit.

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

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

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

15.01.310 Hearing on suspension or revocation of permit.

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

15.01.320 Civil penalties and attorneys' fees.

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

15.01.330 Administrative review.

In addition to any other remedies provided herein, violation of any provision of this chapter shall be subject to an administrative fine or penalty as provided under Chapter 1.30.

15.01.340 Authority of Encroachment Officer and inspectors.

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

15.01.350 Penalties for violation.

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

15.01.360 Remedies cumulative.

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

Chapter 15.08

HOUSE NUMBERS

Sections:

15.08.010 House numbers required – Map – Assigning – Display.

15.08.010 House numbers required – Map – Assigning – Display.

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

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

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

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

(e) Street number signs exceeding either (1) two per address, or (2) one square foot per premises in commercial and industrial areas or 124 square inches in residential areas, shall require review pursuant to Chapter 20.04 PGMC.

(f) In the case of new construction, renovation or remodel, street numbers shall be posted from the first day of such new construction, renovation or remodel.

(g) A violation of this section shall be an infraction, and may be prosecuted pursuant to Chapter 1.16 PGMC. [Ord. 08-006 § 57, 2008; Ord. 1662 N.S. § 1, 1989; Ord. 833 N.S. § 12, 1975; Ord. 210 N.S. § 5-510, 1952].

Chapter 15.16**SIDEWALKS**

Sections:

- 15.16.010 Definitions.
- 15.16.020 Sidewalk width, curb lines established.
- 15.16.030 Repair procedure.
- 15.16.040 Sidewalk encroachment.
- 15.16.060 Curbs – Address numbers.

15.16.010 Definitions.

Except as otherwise provided, the following words shall have the meanings ascribed to them in this section:

“Curb line” means the established line to which the edge of curb nearest the center of the street shall be constructed.

“Encroachment” means any unmovable object that impedes the free flow of pedestrian traffic, and includes but is not limited to such things as walls, fences, hedges, trees, shrubbery or ground cover. “Encroachment” also means gravel, rocks, bark, wood chips or other loosely placed material susceptible to scattering beyond the area of initial placement.

“Gutters” means the portion of roadway adjacent to the curbs.

“Retaining wall” means any structure placed for the purpose of retaining earth.

“Roadway” means the portion of street between the curb lines.

“Sidewalk” means the graded or paved portion of the sidewalk space, and also includes curbing, retaining walls or other works for the protection of the sidewalk space.

“Sidewalk space” means the portion of street between the property line and the nearest curb line. [Ord. 1827 N.S. § 1, 1992; Ord. 1697 N.S. § 1, 1989; Ord. 525 N.S., 1965; Ord. 210 N.S. § 5-201, 1952].

15.16.020 Sidewalk width, curb lines established.

The establishment of curb lines and the width of sidewalk space on all public streets shall be fixed by the city through the council. Installation and maintenance of sidewalks shall be in accordance with Council Policy 700-4, “Sidewalk Development.” [Ord. 18-007 § 2, 2018; Ord. 210 N.S. § 5-202, 1952].

15.16.030 Repair procedure.

Owners of property abutting sidewalks, or possessors of sidewalks, shall have the duty of maintaining the same and shall be subject to all of the liabilities and procedures prescribed by Chapter 22, Division 7, Part 3, commencing at Section 5600, of the Streets and Highways Code of the state of California. The Streets and Highways Code, Chapter 22, Maintenance of Sidewalks, provides that the owners of lots or portions of lots fronting any portion of the public street are responsible for maintaining sidewalks in a condition which will not interfere with the public convenience in their use. The city shall have all of the rights therein provided, including the right to lien and collection. No person except city employees, or persons under contract with the city, shall install or repair any curb, gutter, corner ramp, or sidewalk within or along any street in the city without having applied for and received an encroachment permit from the city. Utility encroachments shall also be subject to Chapter 15.30 PGMC. Application for any such permit will be made in writing on a form or forms supplied for that purpose by the city. [Ord. 19-002 § 3, 2019; Ord. 18-007 § 2, 2018; Ord. 877 N.S. § 1, 1975; Ord. 285 N.S., 1956; Ord. 210 N.S. § 5-203, 1952].

15.16.040 Sidewalk encroachment.

It is unlawful to construct, plant, or maintain any encroachment in a sidewalk space, except for city-sponsored amenities and activities, public utilities, mailboxes, bus shelters and benches.

15.16.060 Curbs – Address numbers.

An owner of property may affix the property's address number to an abutting curb.

Chapter 15.20**DRIVEWAYS**

Sections:

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

15.20.010 Permit to construct, maintain – Required.

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

15.20.020 Construction to conform to plans and specifications.

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

15.20.030 Size for single, double – Number per site.

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

15.20.040 Distance from crosswalk.

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

15.20.060 Apron not to extend into street.

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

15.20.070 Alteration to conform – Procedure – Lien.

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

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

15.20.090 Exemption.

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

Chapter 15.24

EXCAVATIONS

Sections:

15.24.010 Permit required – Resurfacing.

15.24.010 Permit required – Resurfacing.

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

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

Chapter 15.26

TELECOMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY

Sections:

- 15.26.010 Authority.
- 15.26.020 Purpose.
- 15.26.030 Scope.
- 15.26.040 Definitions.
- 15.26.050 Administration.
- 15.26.060 General standards for wireless telecommunications facilities in the rights-of-way.
- 15.26.070 Application submission requirements.
- 15.26.080 Termination of permit/breach.
- 15.26.090 Vertical infrastructure controlled by city.
- 15.26.100 Nondiscrimination.

15.26.010 Authority.

The city derives the authority for this chapter from the City Charter Articles 4 and 5, and Chapter 2.04 PGMC. This chapter, and any rules, regulations, specifications and agreements adopted pursuant to this chapter, complies with all applicable federal and state law. [Ord. 18-019 § 2, 2018].

15.26.020 Purpose.

This chapter establishes a process for managing, and uniform standards for acting upon, requests for the placement of wireless telecommunications facilities within the rights-of-way of the city of Pacific Grove consistent with the city's obligation to promote the public health, safety and welfare, to manage the public rights-of-way, and to ensure that the public is not incommoded by the use of the rights-of-way for the placement of wireless telecommunications facilities. The city recognizes the importance of wireless telecommunications facilities to provide high-quality communications service to the residents and businesses within the city, and the city also recognizes its obligation to comply with applicable federal and state law regarding the placement of wireless telecommunications facilities in its rights-of-way, and this chapter shall be interpreted consistent with those provisions. [Ord. 18-019 § 2, 2018].

15.26.030 Scope.

(a) In General. Unless exempted, every person who desires to place a wireless telecommunications facility in the rights-of-way or modify an existing wireless telecommunications facility must obtain a wireless placement permit authorizing the placement or modification.

(b) Exemptions. Except as to this section and PGMC 15.26.050, this chapter does not apply to:

- (1) The placement or modification of wireless telecommunications facilities on supporting structures owned, or under the control of, the city, the use of which is subject to a contract for use of the facility between the city and the entity or entities that own or control the wireless telecommunications facility.
- (2) The placement or modification of wireless facilities by the city or by any other agency of the state solely for public safety purposes.
- (3) Modifications to an existing wireless telecommunications facility that makes no material change to the footprint of a facility or to the surface or subsurface of a public street if the activity does not disrupt or impede traffic in the traveled portion of a street, and if the work activity does not change the visual or audible characteristics of the wireless telecommunications facility. The city, by wireless regulation, may also exempt wireless telecommunications facilities that otherwise are subject to the provisions of this section from the obligation to obtain a permit to install or modify a wireless telecommunications facility where it is determined that because of the physical characteristics of the proposed facilities, and the work associated with them, such a permit is not required to protect the public health, welfare or safety, to maintain the character of a neighborhood or corridor, or to otherwise serve the purposes of this chapter.

(4) Installation of a “cell on wheels,” “cell on truck” or a similar structure for a temporary period in connection with an emergency or event, but no longer than required for the emergency or event; provided, that installation does not involve excavation, movement or removal of existing facilities.

(5) Installation of a wireless facility on the strand between two utility poles; provided, that the cumulative volume of all wireless facilities on the strand shall not exceed one cubic foot; and provided further, that the installation does not require replacement of the strand, or excavation, modification or replacement of the utility poles.

(c) Other Applicable Requirements. In addition to the wireless telecommunications permit required herein, the placement of a wireless telecommunications facility in the public rights-of-way requires the persons who will own or control those facilities to obtain the franchises and permits required by applicable law, and to comply with applicable law.

(d) Public Use. Except as otherwise provided by California law, any use of the right-of-way authorized pursuant to this chapter will be subordinate to the city’s use and use by the public. [Ord. 18-019 § 2, 2018].

15.26.040 Definitions.

Terms used in this chapter shall have the following meanings:

“Applicant” means a person filing an application for placement or modification of a wireless telecommunications facility in the rights-of-way.

“Application” means a formal request, including all required and requested documentation and information submitted by an applicant to the city, for a wireless placement permit.

Base Station. The term “base station” shall have the same meaning as in 47 C.F.R. Section 1.40001, as may be amended.

“Certificate of completion” means a document that is required from and issued by the city confirming all work described in the application, as approved: (a) was properly permitted, including, without limitation, all required permits for building, electrical work, street or curb cutting, and excavation; (b) was done in compliance with and fulfillment of all conditions of all permits, including all stated deadlines; (c) was fully constructed or placed as approved and permitted; and (d) was finally inspected by the city, and was approved by the city after said final inspection.

“Rights-of-way” means any portion of any road or public way which the city has the responsibility to maintain or manage.

“Support structure” means any structure capable of supporting a base station.

“Tower” means any structure built for the sole or primary purpose of supporting any Federal Communications Commission (FCC) licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include utility poles.

“Underground areas” means those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right-of-way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled to be converted from overhead to underground. Electrical facilities are distribution facilities owned by an electric utility and do not include transmission facilities used or intended to be used to transmit electricity at nominal voltages more than 35,000 volts.

“Utility pole” means a structure in the rights-of-way designed to support electric, telephone and similar utility lines. A tower is not a utility pole.

“Wireless infrastructure provider” means a person that owns, controls, operates or manages a wireless telecommunications facility or portion thereof within the right-of-way.

“Wireless permit” means a permit issued pursuant to this chapter and authorizing the placement or modification of a wireless telecommunications facility of a design specified in the permit at a particular location within the rights-of-way; and the modification of any existing support structure to which the wireless telecommunications facility is proposed to be attached.

“Wireless regulations” means those regulations adopted pursuant to PGMC 15.26.050 and implementing the provisions of this chapter.

“Wireless service provider” means an entity that provides wireless services to end users.

“Wireless telecommunications facility” or “facility” means a facility at a fixed location consisting of a base station, any accessory equipment, and the tower, if any, associated with the base station. [Ord. 18-019 § 2, 2018].

15.26.050 Administration.

(a) City Manager. The city manager or designee is responsible for administering this chapter. As part of the administration of this chapter, the city manager or designee may:

- (1) Adopt regulations governing the placement and modification of wireless telecommunications facilities consistent with the requirements of this chapter, including regulations governing collocation and resolution of conflicting applications for placement of wireless telecommunications facilities;
- (2) Interpret the provisions of this chapter;
- (3) As part of the foregoing, develop acceptable designs for wireless telecommunications facilities in particular corridors, taking into account the zoning districts bounding the rights-of-way;
- (4) Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;
- (5) Develop forms and procedures for submission of applications for placement or modification of wireless telecommunications facilities, and proposed changes to any support structure consistent with this chapter;
- (6) Collect, as a condition of the completeness of any application, any fee established by resolution of the city council;
- (7) Require, as part of and as a condition of completeness of any application, notice to members of the public that may be affected by the placement or modification of the wireless telecommunications facility, and proposed changes to any support structure;
- (8) Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations;
- (9) Subject to appeal as provided herein, determine whether to grant, grant subject to conditions, or deny an application; and
- (10) Take such other steps as may be required to timely act upon applications for placement of wireless telecommunications facilities, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

(b) Appeal.

- (1) Any person adversely affected by the decision of the city manager may appeal the decision to the city council, which may decide the issues de novo, and whose written decision will be the final decision of the city. An appeal by a wireless infrastructure provider must be taken jointly with the wireless service provider that intends to use the wireless telecommunications facility.
- (2) Where the city manager grants an application based on a finding that denial would result in a prohibition or effective prohibition under applicable federal law, the decision shall be automatically appealed to the city

council. Otherwise, appeals that involve eligible facilities requests, as defined in 47 C.F.R. Section 1.40001, as may be amended, must be filed within five business days of the written decision of the city manager; all other appeals must be filed within 10 business days of the written decision of the city manager, unless the city manager extends the time therefor. An extension may not be granted where extension would result in approval of the application by operation of law.

(3) Any appeal shall be conducted so that a timely written decision may be issued in accordance with applicable law. [Ord. 18-019 § 2, 2018].

15.26.060 General standards for wireless telecommunications facilities in the rights-of-way.

(a) Generally. Wireless telecommunications facilities shall meet the minimum requirements set forth in this chapter and the wireless regulations, in addition to the requirements of any other applicable law.

(b) Regulations. The wireless regulations and decisions on applications for placement of wireless telecommunications facilities in the rights-of-way shall, at a minimum, ensure that the requirements of this section are satisfied, unless it is determined that applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this chapter and the wireless regulations manual may be waived, but only to the minimum extent required to avoid the prohibition.

(c) Standards. Wireless telecommunications facilities shall be installed and modified in a manner that minimizes risks to public safety, avoids placement of aboveground facilities in underground areas, avoids installation of new support structures or equipment cabinets in the public rights-of-way and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located. City shall ensure that wireless telecommunications facilities are subject to periodic review to minimize the intrusion on the rights-of-way; that the city bears no risk, liability, or expense as a result of the installations; that the facilities do not inconvenience the public, or interfere with the primary uses of the public rights-of-way; and that the facilities do not hinder the ability of the city or other government agencies to improve, modify, relocate, abandon or vacate the public rights-of-way or any portion thereof, or damage or otherwise unduly interfere with other structures in the rights-of-way.

(d) Concealment. Permits for wireless telecommunications facilities shall incorporate specific concealment elements to minimize visual impacts, and design requirements ensuring compliance with all standards for noise emissions. Unless it is determined that another design is less intrusive, or placement is required under applicable law:

(1) Antennas located at the top of support structures shall be incorporated into the structure or placed within shrouds of a size such that the antenna appears to be part of the support structure.

(2) Antennas placed elsewhere on a support structure shall be integrated into the structure or be designed and placed to minimize visual impacts.

(3) Radio units or equipment cabinets holding radio units and mounted on a utility pole shall be placed as high as possible on a support structure, placed to avoid interfering or creating any hazard to any other use of the public rights-of-way, and located on one side of the utility pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on utility poles shall be designed so that the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the support structure on which they are placed.

(4) Wiring and cabling shall be neat and concealed within or flush to the support structure, ensuring concealment of these components to the greatest extent possible.

(5) Ground-mounted equipment associated with a wireless telecommunications facility shall be permitted only where consistent with the portion of the corridor in which it is to be placed, and may be required to be underground, located in alleys or otherwise shielded. In no event may ground-mounted equipment interfere with pedestrian or vehicular traffic.

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

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

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

15.26.070 Application submission requirements.

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

(b) Content. An application must contain:

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

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

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

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

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

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

(7) Any required fees.

(c) Fees. For wireless telecommunications facilities, applicant must provide an initial deposit and agree as part of its application to pay all costs reasonably incurred by city in reviewing the application, including costs incurred in retaining outside consultants. Fees shall be reviewed periodically and raised or lowered based on costs the city expects to incur, with a review commencing by the first anniversary of the effective date of the ordinance codified in this chapter.

(d) Waivers. Requests for waivers from any requirement of this section shall be made in writing to the city manager or designee. The same may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver, the city will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the permit sought.

(e) Rejection for Incompleteness. For personal wireless facilities, as that term is defined under federal law, and eligible facilities requests, as that term is defined under federal law, applications will be processed, and notices of incompleteness provided, in conformity with state, and local and federal law. If such an application is incomplete, it may be rejected by a written order specifying the material omitted from the application, or the city may notify the applicant of the material omitted and provide an opportunity to submit the missing material. [Ord. 18-019 § 2, 2018].

15.26.080 Termination of permit/breach.

(a) For Breach. A wireless telecommunications permit may be revoked for failure to comply with the conditions of the permit, franchise or applicable law. Upon revocation, the wireless telecommunications facility must be removed; provided, that removal of support structure owned by city, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the city. All costs incurred by the city in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless telecommunications facility.

(b) For Installation without a Permit. A wireless telecommunications facility installed without a wireless permit (except for those exempted by this chapter) must be removed; provided, that a support structure owned by city, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the city. All costs incurred by the city in connection with the revocation and removal shall be paid by entities who own or control any part of the wireless telecommunications facility.

(c) Term. A wireless permit, other than a permit issued pursuant to an eligible facilities request, shall be valid for a period of 10 years. An eligible facilities permit shall expire at the same time the permit for the underlying existing wireless telecommunications facility expires. A person holding a wireless telecommunications permit must either remove the wireless telecommunications facility upon expiration (provided, that a support structure owned by city, a utility, or another entity authorized to maintain a support structure in the right-of-way need not be removed, but must be restored to its prior condition, except as specifically permitted by the city); or, at least 90 days prior to expiration, must submit an application to renew the permit, which application must demonstrate that the impact of the wireless telecommunications facility cannot be reduced. The wireless telecommunications facility must remain in place until it is acted upon by the city, and any appeals from the city's decision exhausted.

(d) Municipal Infraction. Any violation of this chapter may be enforced pursuant to Chapters 1.16 and 1.19 PGMC. [Ord. 18-019 § 2, 2018].

15.26.090 Vertical infrastructure controlled by city.

The city, as a matter of policy, will negotiate agreements for use of city owned or controlled light standards and traffic signals in the public rights-of-way. The placement of wireless telecommunications facilities on those structures shall be subject to the agreement. The agreement shall specify the compensation to the city for use of the structures. The person seeking the agreement shall additionally reimburse the city for all costs the city incurs in connection with its review of, and action upon, the person's request for an agreement. [Ord. 18-019 § 2, 2018].

15.26.100 Nondiscrimination.

In establishing the rights, obligations and conditions set forth in this chapter, it is the intent of the city to treat each applicant or public right-of-way user in a competitively neutral and nondiscriminatory manner, to the extent required

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by law, and with considerations that may be unique to the technologies, situation and legal status of each particular applicant or request for use of the public rights-of-way. [Ord. 18-019 § 2, 2018].

Chapter 15.28

UTILITY POLES

Sections:

15.28.010 Regulation of placement on Lighthouse Avenue.

15.28.010 Regulation of placement on Lighthouse Avenue.

There shall be no telephone, telegraph, electric light, or other light or power poles or posts in or upon Lighthouse Avenue from its intersection with the westerly line of Nineteenth Street to the easterly line of Fountain Avenue, but nothing herein shall apply to the street lighting system of the city for said street. [Ord. 210 N.S. § 5-102, 1952].

Chapter 15.29**UNDERGROUNDING UTILITIES**

Sections:

- 15.29.010 Definitions.
- 15.29.020 Public hearing by council.
- 15.29.030 Designating districts by resolution.
- 15.29.040 Unlawful acts.
- 15.29.050 Exception for emergency or unusual circumstances.
- 15.29.060 Other exceptions.
- 15.29.070 Notice to property owners, utility companies.
- 15.29.080 Responsibility of utility companies.
- 15.29.090 Responsibility of property owners.
- 15.29.100 Responsibility of city.
- 15.29.110 Extension of time.
- 15.29.120 Enforcement.

15.29.010 Definitions.

Whenever in this chapter the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

“Commission” means the Public Utilities Commission of the state of California.

“Person” means and includes individuals, firms, corporations, partnerships, and their agents and employees.

“Poles, overhead wires and associated overhead structures” means poles, towers, supports, wires, conductors, guys, stubs, platforms, crossbeams, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located aboveground within a district and used or useful in supplying electric, communication or similar or associated service.

“Underground utility district” or “district” means that area in the city within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of PGMC 15.29.030.

“Utility” includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices. [Ord. 598 N.S. § 1, 1968].

15.29.020 Public hearing by council.

The council may, from time to time, call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the city and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The city clerk shall notify all affected property owners as shown on the last equalized assessment roll and utilities concerned by mail of the time and place of such hearings at least 10 days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the council shall be final and conclusive. [Ord. 598 N.S. § 1, 1968].

15.29.030 Designating districts by resolution.

If, after any such public hearing, the council finds that the public necessity, health, safety or welfare requires such removal and such underground installation within a designated area, the council shall, by resolution, declare such designated area an underground utility district and order such removal and underground installation. The resolution shall include a description of the area comprising the district and shall fix the time within which the removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for removal and underground installation, having due

regard for the availability of labor, materials and equipment necessary for removal and for the installation of such underground facilities as may be occasioned thereby. [Ord. 598 N.S. § 1, 1968].

15.29.040 Unlawful acts.

Whenever the council creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein as provided in PGMC 15.29.030 hereof, it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the district after the date when the overhead facilities are required to be removed by resolution, except as the overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in PGMC 15.29.090 hereof, and for such reasonable time required to remove the facilities after the work has been performed, and except as otherwise provided in this chapter. [Ord. 598 N.S. § 1, 1968].

15.29.050 Exception for emergency or unusual circumstances.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed 10 days, without authority of the council in order to provide emergency service. The council may grant special permission, on such terms as the council may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures. [Ord. 598 N.S. § 1, 1968].

15.29.060 Other exceptions.

This chapter and any resolution adopted pursuant to PGMC 15.29.030 hereof shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

- (a) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the city engineer;
- (b) Poles, or electroliers used exclusively for street lighting;
- (c) Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;
- (d) Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;
- (e) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;
- (f) Antennas, associated equipment and supporting structures, used by a utility for furnishing communication services;
- (g) Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts;
- (h) Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects. [Ord. 598 N.S. § 1, 1968].

15.29.070 Notice to property owners, utility companies.

Within 10 days after the effective date of a resolution adopted pursuant to PGMC 15.29.030 hereof, the city clerk shall notify all affected utilities and all persons owning real property within the district created by the resolution of the adoption thereof. The city clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission.

Notification by the city clerk shall be made by mailing a copy of the resolution adopted pursuant to PGMC 15.29.030, together with a copy of this chapter, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities. [Ord. 598 N.S. § 1, 1968].

15.29.080 Responsibility of utility companies.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to PGMC 15.29.030 hereof, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations, and tariffs on file with the commission. [Ord. 598 N.S. § 1, 1968].

15.29.090 Responsibility of property owners.

(a) Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his or her property between the facilities referred to in PGMC 15.29.080 and the termination facility on or within the building or structure being served, all in accordance with applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to PGMC 15.29.030 hereof, the city engineer shall give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within 10 days after receipt of such notice.

(b) The notice to provide the required underground facilities may be given either by personal service or by mail. In case of service by mail on either of such persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last known address as the same appears on the last equalized assessment roll, and when no address appears, to General Delivery, city of Pacific Grove. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within 48 hours after the mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the city engineer shall, within 48 hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight inches by 10 inches in size, to be posted in a conspicuous place, on said premises.

(c) The notice given by the city engineer to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if the work is not completed within 30 days after receipt of such notice, the city engineer will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon such property.

(d) If upon the expiration of the 30-day period, the required underground facilities have not been provided, the city engineer shall forthwith proceed to do the work; provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the city engineer shall in lieu of providing the required underground facilities, have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property. Upon completion of the work by the city engineer, he or she shall file a written report with the city council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, which time shall not be less than 10 days thereafter.

(e) The city engineer shall forthwith, upon the time for hearing protests having been fixed, give a notice in writing to the person in possession of such premises, and a notice in writing thereof to the owner thereof, in the manner hereinabove provided for the giving of the notice to provide the required underground facilities, of the time and place that the council will pass upon such report and will hear protests against the assessment. Such notice shall also set forth the amount of the proposed assessment.

(f) Upon the date and hour set for the hearing of protests, the council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the assessment.

(g) If any assessment is not paid within five days after its confirmation by the council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the city engineer, and the city

engineer is directed to turn over to the assessor and tax collector and record with the county recorder a notice of lien on each of the properties on which the assessment has not been paid. The assessment shall be due and payable at the same time as the property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent per annum. [Ord. 598 N.S. § 1, 1968].

15.29.100 Responsibility of city.

The city shall remove at its own expense all city-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to PGMC 15.29.030 hereof. [Ord. 598 N.S. § 1, 1968].

15.29.110 Extension of time.

In the event that any act required by this chapter or by a resolution adopted pursuant to PGMC 15.29.030 hereof cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, then the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation. [Ord. 598 N.S. § 1, 1968].

15.29.120 Enforcement.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any provision of this chapter or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and may be prosecuted pursuant to Chapter 1.16 PGMC. [Ord. 08-006 § 58, 2008; Ord. 598 N.S. § 1, 1968].

Chapter 15.30

UTILITY ENCROACHMENTS IN PUBLIC RIGHTS-OF-WAY

Sections:

- 15.30.010 Scope.
- 15.30.020 Administration.

15.30.010 Scope.

Any permanent structure or object of any kind or character placed in, over or under any street, alley, sidewalk, or right-of-way (collectively, the “right-of-way”) by a public utility or entity holding a state or local franchise authorizing right-of-way occupancy shall be subject to the control of the city as to matters affecting the health, convenience, and safety of the general public, including but not limited to matters such as the use and repair of public streets, or the location of the poles, wires, mains, or conduits on, under, or above any rights-of-way within the limits of the city. [Ord. 19-002 § 2, 2019].

15.30.020 Administration.

The city public works director, building official or designee may adopt forms, manuals and regulations or implement practices to ensure that a public utility or entity holding a state or local franchise authorizing occupancy of the rights-of-way bears the risks and expense associated with their use of the rights-of-way; to protect the public health, safety and welfare; to ensure that the construction, installation, maintenance and operation of any facility does not incommode the public use of the rights-of-way; and to control the time, place, and manner in which rights-of-way are accessed. [Ord. 19-002 § 2, 2019].

Chapter 15.40

REFUSE AND STORAGE CONTAINERS ON CITY STREETS

Sections:

- 15.40.010 Definitions.
- 15.40.020 Permit required for storage container or refuse container on city street.
- 15.40.030 Permits for storage containers.
- 15.40.040 Permits for large refuse containers.
- 15.40.050 Permitted use with a valid building permit.

15.40.010 Definitions.

For the purpose of this chapter the following terms shall apply:

“City” shall mean the city of Pacific Grove.

“Large refuse containers” shall mean refuse containers in excess of 100-gallon capacity used for collection of garbage, rubbish and/or refuse, which containers are kept on or placed for collection on any city streets, roadway or alley.

“Storage containers” shall mean any container, storage unit, shed-like container, “portable on-demand storage structures (PODS),” or other portable structure that can be or is used for any purpose and is placed on any public street, roadway or alley. [Ord. 07-019 § 2, 2007].

15.40.020 Permit required for storage container or refuse container on city street.

- (a) No person shall cause or allow a large refuse container or storage container to be placed on any city street, roadway or alley without first obtaining a permit from the city.
- (b) Before placing a large refuse container or storage container on any city street, roadway or alley a person must submit an application and receive a permit from the police department. An insurance certificate providing liability insurance in the amount of \$100,000 provided by the company supplying the refuse container or storage container must accompany the permit application. The fee for such permit shall be set forth by the city council. [Ord. 07-019 § 2, 2007].

15.40.030 Permits for storage containers.

Storage container permits will be granted for a period of seven days. At the expiration of the seven-day period applicants may seek a one-time extension of their permits for an additional seven days by submitting an extension application for cause to the police department. Permit fees and any fee for extension thereof will be set forth by resolution of the city council. No applicant shall be granted more than two storage container permits within any 12-month period. An extension of a permit shall be deemed to be a second permit. Only one refuse container or storage container unit may be placed pursuant to a permit and permits shall not be granted so as to run either concurrently or consecutively except in the case of an extension. [Ord. 07-019 § 2, 2007].

15.40.040 Permits for large refuse containers.

Large refuse container permits will be granted for a period of seven days. At the expiration of the seven-day period, applicants may seek a one-time extension of their permit for an additional seven days by submitting an extension application for cause to the police department. Permit fees and any fee for extension thereof will be set forth by resolution of the city council. No applicant shall be granted more than two refuse container permits within any 12-month period. An extension of a permit shall be deemed to be a second permit. Only one refuse container unit may be placed pursuant to a permit and permits shall not be granted so as to run either concurrently or consecutively except in the case of an extension. [Ord. 07-019 § 2, 2007].

15.40.050 Permitted use with a valid building permit.

- (a) The provisions of this chapter shall not apply to the use or placement of construction refuse containers or storage containers pursuant to a valid building permit.

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(b) Persons obtaining a building permit from the city must receive approval from the police department and the community development department for the location and duration of the placement of the refuse container and/or storage container prior to the issuance of said building permit. There shall be no fees associated with the approved placement of the construction refuse container or the storage container with a valid building permit if said container is placed on private property. [Ord. 07-019 § 2, 2007].