



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

**AGENDA REPORT**

**TO:** Honorable Mayor and Members of City Council

**FROM:** Don Mothershead, Senior Recreation Coordinator

**MEETING DATE:** August 18, 2010

**SUBJECT:** Adopt an Ordinance Amending Pacific Grove Municipal Code Section 11.90.040 to Allow the City Manager to Waive Requirements for a Sound Permit for Special Events that Have Been Approved by The City Council

**CEQA STATUS** This does not constitute a “project” under California Environmental Quality (CEQA) guidelines

**RECOMMENDATION**

Introduce and hold the first reading of an Ordinance to amend Chapter 11.90 of the Municipal Code to allow the City Manager to waive requirements for obtaining a sound permit for special events that have been approved by the City Council, and direct staff to publish a summary of the proposed ordinance in accord with Charter Article 15.

**DISCUSSION**

Chapter 11.90 of the Pacific Grove Municipal Code (PGMC) requires a permit for any sound amplifying device “...whereby sounds therefrom become audible and disturbing to a person or persons beyond the boundaries of the property from which the amplifications occurs...” The permit is an important tool for enforcing the City’s sound regulations, especially for events such as weddings and parties at City facilities for which there are very limited other processes for managing conditions allowed by the Code for such events.

The City Manager is responsible for issuing sound permits, and the PGMC does not allow the City Manager the discretion to waive the requirements, even for City-sanctioned or City-sponsored events, (i.e. Music in the Park, Food and Art at Lovers Point, Good Old Days, Christmas Tree Lighting, etc.) that have undergone extensive review and negotiation on all aspects of the event, including sound amplification. In these cases, administering the sound permit approval process amounts to an unproductive duplication of administrative time and potentially unnecessary cost for events that are in many cases sponsored by non-profit organizations or the City itself.

Staff recommends that the PGMC be amended to allow the City Manager discretion to waive sound permit requirements for events that have been approved by the City Council.

It is important to note that the requested action does not exempt the City from meeting or exceeding the same standards to which we are holding other groups and persons who sponsor or

hold events. Instead, it gives the City Manager the ability to waive the merely administrative process of issuing the permit and requiring a fee. In those instances where it would not be appropriate to waive the fee or permit, the City Manager will still require it.

**FISCAL IMPACT**

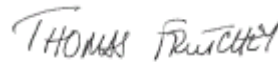
Negligible. The revenue of \$25 per sound permit currently is typically offset by the time required to administer the permits.

**ATTACHMENTS**

Draft Ordinance 10-

RESPECTFULLY SUBMITTED:

REVIEWED BY:



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Don Mothershead  
RECREATION COORDINATOR

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Thomas Frutchey  
CITY MANAGER

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE AMENDING EXISTING SECTION 11.94.040 OF THE PACIFIC GROVE MUNICIPAL CODE TO ALLOW THE CITY MANAGER TO WAIVE THE REQUIREMENT OF A SOUND PERMIT FOR EVENTS APPROVED BY THE CITY COUNCIL**

**WHEREAS**, City of Pacific Grove Municipal Code (“Municipal Code”) section 11.94.010 sets forth the requirement to obtain a permit from the City Manager when, “...the operation of any sound-amplifying device whereby sounds therefrom become audible and disturbing to a person or persons beyond the boundaries of the property from which the amplification occurs...”; and,

**WHEREAS**, The Municipal Code as written does not provided the City Manager the authority to waive the requirement for the sound permit even when the events are approved by the City Council; and

**WHEREAS**, Special Events are approved by City Council annually and occasionally approved by special circumstances; and,

**WHEREAS**, Events considered and approved by the City Council receive broad-based scrutiny on all aspects of the event, including sound amplification;

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

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

SECTION 2. The test set forth in the existing Section 11.94.040 entitled “Exceptions” to the Sound Permit requirements shall remain unchanged as follows:

***11.94.040 Exceptions***

This chapter shall not be applied to prohibit the following:

- (a) Communication public safety personnel in the discharge of their duties;
- (b) The amplification of church chimes which are an integral part of church worship;
- (c) The amplification of chimes in public buildings;
- (d) Use of public address systems at sporting or tourist promotion events under city or school sponsorship, where amplification does not exceed the limits reasonably necessary to reach the attend audience. [Ord. 1987 N.S. § 2, 1995].

SECTION 3. Section 11.94.040 of the Pacific Grove Municipal Code entitled “Exceptions” shall be amended with the following addition;

**(e) The City Manager shall have the discretion to waive the requirement to obtain a permit for amplified sound if the event has been approved by City Council.**

SECTION 4. 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 5. This Ordinance shall become effective on the thirtieth (30<sup>th</sup>) day following passage and adoption hereof.

**PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE**  
this \_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES:  
NOES:  
ABSENT:

APPROVED:

\_\_\_\_\_  
CARMELITA GARCIA, Mayor

ATTEST:

\_\_\_\_\_  
LAWRENCE BANGERT, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
DAVID C. LAREDO, CITY ATTORNEY