

CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

ORDINANCE 2009-7

CONSIDERATION OF AN ORDINANCE REVISING THE MUNICIPAL CODE AND ZONING ORDINANCE/LOCAL COASTAL IMPLEMENTATION PLAN TO RETURN DESIGN AND LAND USE RESPONSIBILITIES TO THE PLANNING COMMISSION

WHEREAS, The City of Carmel-by-the-Sea is a unique community that prides itself on its village character; and

WHEREAS, the City has adopted a General Plan and Municipal Code that strive to protect the village character through clear policies and regulations that guide property owners in the protection of the residential character; and

WHEREAS, in Dec 2000 the Municipal Code established the duties and responsibilities of the Planning Commission and Design Review Board; and

WHEREAS, at the mid-year budget meeting in February 2009, staff recommended returning all design and land use responsibilities to the Planning Commission; and

WHEREAS, this ordinance will return all design and land use responsibilities to the Planning Commission; and

WHEREAS, this ordinance will create more consistency for applicants in design review decisions made by the City and will result in a reduced workload for City staff; and

WHEREAS, this ordinance is exempt from the California Environmental Quality Act (15305) as it will not have a significant impact on the environment.

NOW, THEREFORE, the City Council of the City of Carmel-by-the-Sea does hereby adopt this ordinance with the attached revisions to the Municipal Code and Zoning Code/Local Coastal Implementation Plan.

SEVERABILITY

If any part of this ordinance, even as small as a word or phrase, is found to be unenforceable such finding shall not affect the enforceability of any other part.

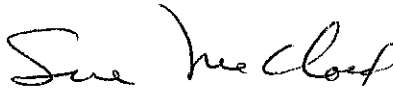
EFFECTIVE TIME PERIOD

This ordinance shall become effective thirty (30) days after final passage and adoption, or upon certification by the California Coastal Commission, which ever occurs last.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 7th day of July, 2009 by the following roll call vote:

AYES:	COUNCIL MEMBER:	ROSE; SHARP; TALMAGE; McCLOUD
NOES:	COUNCIL MEMBER:	HAZDOVAC
ABSENT:	COUNCIL MEMBER:	NONE

SIGNED,


SUE McCLOUD, MAYOR

ATTEST:


Heidi Burch, City Clerk

Attachment "A"

17.52.060 Duties and Powers of the Planning Commission.

The Planning Commission as the designated planning agency of the City shall have the following power and responsibilities:

- A. To develop and maintain a General Plan.
- B. To develop specific plans, master plans and area plans as may be necessary or desirable.
- C. To periodically, at least once each fiscal year, review the capital improvement program of the City.
- D. To determine the consistency of capital improvements projects and programs with the General Plan.
- E. To prepare an annual report to the City Council on the status of the General Plan and progress in its application.
- F. To interpret the meaning and intent of the City's land use code.
- G. To hear and render decisions on appeals of discretionary decisions made by administrative officials.
- H. To review environmental impact reports and initial studies.
- I. To conduct public hearings, review evidence and determine requests for use permits, variances, lot line adjustments, subdivisions, rezones and land use code amendments.
- J. To act on design review and design study applications ~~for those projects involving issuance of a land use permit.~~
- K. To act on projects subject to coastal permit requirements when such projects are within the categories listed above.
- L. To review the water management plan annually.

17.52.160 Planning Commission and ~~Design Review Board~~ Procedures.

- A. Purpose. It is the purpose of this section to establish uniform minimum procedures to be followed by the Planning Commission ~~and the Design Review Board~~ for all projects subject to their review. This section shall not preclude the Commission ~~or Board~~ from adopting additional procedures as necessary for the completion of their duties.
- B. Permit Issuance - Review of Plans. No building permit, license or other required permit for any structure, site development or land use shall be issued prior to Planning Commission ~~or Design Review Board~~ approval if any form of Commission ~~or Board~~ review is required for said improvement by this code. The Director shall ensure that development is executed and completed according to the approved plans.
- C. Conduct of Meetings. The Planning Commission shall meet at least once each month and may establish a more frequent schedule as needed. ~~The Design Review Board shall meet at least once each month and may establish a more frequent schedule as needed.~~ The Commission ~~and Board~~ shall keep minutes of all meetings and complete records of all examinations, findings and other official actions, together with a record of all facts pertinent to the cases submitted for their approval.
- D. Public Participation. Actions on all applications considered by the Planning Commission ~~or the Design Review Board~~ shall be open to public testimony. Written comments received from the public will be accepted and entered into the written record accompanying each matter considered by the Commission or the Board. The Commission ~~or Board~~ shall consider written and oral testimony insofar as they provide factual information related to the matter before the approval body and the specific criteria established for review of the application by this title.
- E. Decision. Decisions of the Planning Commission ~~and the Design Review Board~~ shall be reached by an affirmative vote of a majority of its members present. A quorum for each approval body shall consist of three members. All Commission ~~and Board~~ decisions shall be based on consideration of the facts presented to it by the applicant, City staff, and members of the public and consideration of all goals, objectives, policies, criteria and standards established in City planning documents and ordinances. Unless otherwise authorized under the municipal code, the Commission ~~and Board~~ shall not have the authority to waive or modify the site

development requirements of this title or the requirements of any other applicable City ordinances.

F. Reports on Final Actions. All actions approving or denying applications shall be made in writing and shall include all findings necessary to support said action. Approvals shall include all findings required by the sections of the municipal code related to the project being approved. Approvals may be granted in whole or in part, with or without conditions necessary to assure the intent and purpose of all applicable policies, standards and guidelines.

G. Reports and Investigations. Reports and investigations may be required by the Planning Commission ~~or the Design Review Board~~ prior to approval of any project. The Commission ~~and the Design Review Board~~ shall have the authority to request reports or investigations from the City Forester, City Engineer, Public Works Director, Building Official, Director or other department heads or commissions in writing prior to approval of any project.

H. Appeals. All final actions of the Planning Commission ~~or the Design Review Board~~ may be appealed to the City Council in accordance with Chapter 17.54 CMC, Appeals. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.52.170 Time Limits on Approvals and Denials.

All applications approved by City staff, the Planning Commission, ~~the Design Review Board~~ or by the City Council on appeal have a limit on the time that the approval remains valid. Permits or other approvals granted by these approval bodies or by the Historic Resources Board that are not implemented within these time limits become void.

B. General Limits. Unless otherwise stated on the permit, or indicated as a condition of approval by the approving body, the following time limits shall apply commencing upon the date of action by the City staff, Planning Commission, ~~Design Review Board~~ or final City Council action:

1. Commercial design review - 18 months;
2. Commercial business use permit - six months;
3. Other commercial district use permits - 18 months;
4. Variances - 12 months;
5. Signs - three months;
6. Residential design study - 12 months;
7. Residential district use permits - 12 months;
8. Lot line adjustments - six months; and
9. Subdivisions - 24 months.

C. Time Extensions. The Director may grant one extension of a time limit, equal in length to the original time limit for those approvals not subject to a public hearing. Similarly, the Planning Commission, ~~Design Review Board~~ or Historical Preservation Board, as appropriate, may administratively grant one extension for approvals originally subject to a public hearing. If, since the date of the original approval, the conditions surrounding the original approval have changed, or the General Plan, municipal code or Local Coastal Plan Program has been amended in any manner which causes the approval to be inconsistent with these plans or codes, no time extension or renewal shall be granted for any approval.

CMC 17.54.010 Conclusive Decision - Appeal Period.

C. The findings and actions of the Planning Commission, ~~the Design Review Board~~, and the Forest and Beach Commission shall be final and conclusive from and after the date of final action unless an appeal is filed with the City Council pursuant to CMC 17.54.040(C), Appeals to the City Council or the Coastal Commission pursuant to CMC 17.54.040(D) and 17.54.050.

17.54.040 Filing Appeals

C. Appeals to the City Council. Decisions to approve or deny projects made by the Planning Commission, Forest and Beach Commission, ~~the Design Review Board~~, or the Historic Resources Board may be appealed to the City Council by filing a notice of appeal in writing in

the office of the City Clerk within 10 working days following the date of action by the decision-making body and paying the required filing fee as established by City Council resolution.

17.54.080 Appeals.

A. Appeals of Decisions on Permits. Any decision to approve, deny or conditionally approve any permit made by the Director, the City Forester, the Planning Commission, ~~or the Design Review Board~~ or the Historic Resources Board may be appealed by any aggrieved party. Coastal Commissioners may appeal these decisions pursuant to CMC 17.54.020 and 17.54.050.

CMC 17.58.020 General Requirements and Responsibilities.

B. Coordination of Review Bodies. For any proposed major alteration affecting an historic resource in the commercial and R-4 districts, the Director shall schedule a review of the project plans by the Historic Resources Board for a determination of consistency with the Secretary of Interior's standards. If the site assessment shows that trees will be affected by the project, the Director shall forward the plans to the City Forester for processing.

Any reviews by the Forest and Beach Commission and/or Historic Resources Board that are required for a project shall occur prior to consideration of the project by the Director, ~~Design Review Board~~ or the Planning Commission. The procedures established in Chapter 17.32 CMC, Historic Preservation, shall be followed if the project would affect a historic resource or if it is unknown whether the property contains a historic resource.

D. Design Review Responsibilities. The Planning Commission shall conduct design review for all non-administrative projects ~~a use permit, variance, subdivision, lot line adjustment or other land use permit and for all projects subject to environmental review. Design review for all other projects shall be conducted by the Design Review Board or the Director pursuant to the specific requirements of this chapter.~~ The Director may require the ~~Design Review Board or~~ Planning Commission to review for any application that raises new policy issues or presents unusual circumstances not addressed by adopted policies, guidelines, or review criteria.

E. Design Review Standards. When conducting design review the Department, ~~Design Review Board~~, or the Planning Commission shall use the design guidelines adopted by the City Council as the basis for review. The decision-making entity responsible for design review shall consider the conformance of the application to the standards set forth in and promulgated under this title, and may either approve, deny or modify an application for design review. However, no modification may be made that is not consistent with any other requirement of this title. Specific zoning standards and criteria are established in each zoning district, overlay district, specific plan area, special district, or community plan area. These shall be coordinated with the guidelines in reviewing projects.

17.58.030 Commercial Design Review.

2. Procedures. Within 30 days of the receipt of a complete application for a commercial administrative permit, the Director shall review the proposed project for compliance with the standards and regulations of the CMC, the Coastal Implementation Plan, General Plan policies, commercial design guidelines, public way improvement design guidelines, and other applicable adopted design criteria. The Director may approve the application if all zoning standards are met and the project is consistent with all design guidelines. The Director shall refer for action by the Planning Commission ~~Design Review Board~~ any application for a project that does not comply with applicable adopted design guidelines and design criteria. Any proposed storefront remodels/alteration to a structure located within the downtown conservation district shall be reviewed by the Historic Preservation Board. The Director shall deny any application for a commercial track one permit that does not comply with the CMC, the Coastal Implementation Plan or the General Plan/Coastal Land Use Plan.

B. Commercial District Track Two Design Review. This is a discretionary process for reviewing substantial design changes in commercial zoning districts and the R-4 district. The Planning Commission shall conduct design review under this section. ~~for any project that requires a use permit, variance, or other land use permit. The Design Review Board shall conduct design review of all other projects subject to design review under this section.~~

17.58.040

3.b. Projects that comply with zoning regulations but do not comply with the design objectives or residential design guidelines will be referred to the Planning Commission Design Review Board for resolution or shall be redirected into track two.

B. Residential Track Two Design Study. Track two is a discretionary review process for projects that require a public hearing with the Planning Commission. ~~Projects that require a demolition permit, use permit, variance, or other land use permit or environmental review shall be reviewed by the Planning Commission. The Design Review Board shall take action on all other projects that require track two review. All track two projects are subject to the coastal development permit requirements of the certified LCP, and a track two design study approval shall constitute a coastal development permit. All track two projects shall require public notice and a hearing pursuant to CMC 17.52.110, Notice of Public Hearing.~~

b. ~~Design Review Board~~ or Planning Commission Review. Within 30 days of receiving a complete application, the Director shall schedule the project for a hearing and review of the design concept plans by the ~~Design Review Board~~ or Planning Commission. Public notice shall be provided in compliance with the requirements of CMC 17.52.110, Notice of Public Hearing:

B.i. The ~~Design Review Board~~ or Planning Commission shall review the proposed site design, basic massing, and other elements of the design concept for compliance with the City's design concept guidelines and the findings required in CMC 17.64.080, Design Study Approval. At the conclusion of this review the ~~DRB~~ or PC shall either (1) accept the design concept as submitted, (2) provisionally accept the design concept and provide direction to the applicant on plan revisions necessary to achieve compliance with the design guidelines and/or zoning standards, or (3) continue design concept for preparation of a new design concept if it is substantially out of compliance with the zoning standards or the design guidelines. Applicants unwilling to make the revisions directed by the DRB/PC in a provisionally accepted concept design or continued design concept may request denial of the project so that an appeal may be filed. A denial shall not be complete until findings are adopted.

ii. Projects involving a historic resource shall require a determination of consistency pursuant to CMC 17.32.140. All project approvals shall be consistent with the Secretary of Interior's Standards for Rehabilitation except as provided in CMC 17.30.010. Following action by the Historic Preservation Board, the project shall be scheduled for design concept and final details review by the Planning Commission ~~or the Design Review Board~~ consistent with this chapter.

17.58.060 Findings Required.

A. Authority. The Director, ~~the Design Review Board~~, Historic Preservation Board, or the Planning Commission as applicable to the project, shall have the authority to approve, approve with modifications and/or conditions, or deny an application for design review based on written findings stating the reasons for the action. Findings shall be based on information in the record.

B. Findings for Design Review Approval. Before approving an application for design review in any district, the Director, ~~the Design Review Board~~, Historic Preservation Board, or the Planning Commission shall find that the final design plans:

C. Additional Findings for Design Study Approval. In addition to any other findings required by this code (see CMC 17.64.080, Design Study Approval), the ~~Design Review Board~~ or Planning Commission shall make all of the following findings before granting design review approval in the R-1 district:

D. Findings Required for Approval of Deviations from Design Guidelines. In addition to any other findings required by this code, before approving any project in the single-family residential (R-1) district that deviates from the City's applicable adopted design guidelines, the Director, ~~Design Review Board~~, Historic Preservation Board, or the Planning Commission shall adopt specific findings based on information in the record to show how the proposed deviation from the design guidelines achieves all of the applicable design objectives of CMC 17.58.010, Purpose and Applicability, as well as, or better than, would be achieved by adherence to the adopted design guidelines. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.58.070 Enforcement.

No building or grading permit shall be issued until the applicant submits a final site plan and building permit plans showing any changes required as a condition of design review approval. Staff shall review all building permit applications for projects subject to design review for compliance with approved design review plans and any conditions of approval. The Director may refer building permit plans to the ~~Design Review Board~~ or the Planning Commission for a determination of compliance with conditions of approval. After determining that the site plan and building plans comply with all conditions of approval, the Director shall forward copies of the approved plans to the Building Official. All future development shall comply with the approved building permit plans unless modifications or changes are approved pursuant to the requirements of this code.

CMC Chapter 2.30 ***DESIGN REVIEW BOARD***

Sections:

~~2.30.010 Establishment of Board.~~

~~2.30.020 Membership and Criteria for Appointment.~~

~~2.30.030 Appointment Process.~~

~~2.30.040 Termination of Members.~~

~~2.30.050 Bylaws, Policies, Rules and Procedures.~~

~~2.30.060 Duties, Responsibilities and Authority.~~

~~2.30.010 Establishment of Board.~~

~~There hereby is created and established the Design Review Board for the City of Carmel-by-the-Sea. (Ord. 2000-10 § 1, 2000).~~

~~2.30.020 Membership and Criteria for Appointment.~~

~~A. The Design Review Board shall consist of five members each of whom shall be appointed to serve a four-year term.~~

~~B. In establishing these criteria for appointment, the City Council seeks to insure that the Design Review Board appointees both support and will advocate for the enhancement and preservation of Carmel-by-the-Sea as "primarily, essentially and predominately a residential City..." With this being the City Council's intention:~~

~~1. All members of the Design Review Board shall be residents and electors of the City.~~

~~2. All members, if possible, should share varied backgrounds and experience in architecture, historical architecture, design art, landscaping or construction/building industry or any combination thereof. (Ord. 2000-10 § 1, 2000).~~

~~2.30.030 Appointment Process.~~

~~A. Members of the Design Review Board shall be appointed in accordance with City Council policy adopted by resolution of the Council.~~

~~B. Terms of members shall be staggered so that no more than two terms shall expire in any one year. Appointments shall be, where possible, made prior to the beginning of the term of office in order that the new member(s) shall be able to become familiar with the functions of~~

~~the Board prior to being seated. Terms of office for new members shall begin at the commencement of the first regular meeting in the month of October of the appropriate year. Terms of office for outgoing members shall end simultaneously. The newly appointed members shall be sworn in by the City Clerk. (Ord. 2000-10 § 1, 2000).~~

~~2.30.040 Termination of Members.~~

~~A member of the Design Review Board shall be terminated only under the following circumstances:~~

~~A. The member ceases to be a resident or an elector of the City.~~

~~B. The member is ill or absent from the City and unable to attend three consecutive regular Board meetings, but fails to so notify either the Chairperson, Vice Chairperson, or the Director of the Department of Community Planning and Building.~~

~~C. The member, when neither ill nor absent from the City, fails to attend three consecutive regular Board meetings.~~

~~D. The member is terminated by a majority vote of the City Council. (Ord. 2000-10 § 1, 2000).~~

~~2.30.050 Bylaws, Policies, Rules and Procedures.~~

~~The Design Review Board shall adopt or maintain bylaws, policies, rules and procedures governing parliamentary actions. The bylaws shall be filed with the City Clerk. (Ord. 2000-10 § 1, 2000).~~

~~2.30.060 Duties, Responsibilities and Authority.~~

~~The Design Review Board shall have the duties defined in CMC Title 17 and is formed generally to review residential, commercial and public works projects involving construction of new dwellings, substantial alterations and projects that do not qualify for administrative review and do not involve land use or variances. (Ord. 2000-10 § 1, 2000).~~

CMC 17.10.030.A

1. Detached Garages and Carports. To encourage variety and diversity in neighborhood design, detached garages and carports may be authorized by the Planning Commission ~~or the Design Review Board~~ within rear yard setbacks or front or side yard setbacks facing a street, subject to the following standards:

a. Front or Side Yard Setback Facing a Street. The ~~Design Review Board or Planning Commission~~ may authorize a single-car, detached garage or carport not exceeding 12 feet in width, 250 square feet in floor area and 15 feet in height in either the front yard setback or a side yard setback facing a street (but not both) if:

i. At least 50 percent of the adjacent right-of-way is landscaped or preserved in a natural and forested condition to compensate for the loss of open space;

ii. The proposed setback encroachment would not impact significant or moderately significant trees;

iii. Free and safe movement of pedestrians and vehicles in adjacent rights-of-way is protected;

iv. All development on site will be in scale with adjacent properties and the neighborhood context consistent with adopted design guidelines; and

v. Placement of the garage or carport in the setback will add diversity to the neighborhood streetscape.

b. Interior Side Yard Setback and/or Rear Setback. Detached garages may encroach into an interior side yard setback, rear yard setbacks, or both, if limited to 15 feet in height, the setback encroachment would not impact significant or moderately significant trees, and the garage location/design complies with design guidelines.

Design Element	Setback Location			
	Front Setback	Side Setback	Side Setback Facing Street	Rear Setback
Fence	4 feet*	6 feet	4 feet*	6 feet
Garden Wall	3 feet*	6 feet	3 feet*	6 feet
Retaining Wall	3 feet**	6 feet	3 feet**	6 feet
Pillars and Gates	6 feet	N/A	6 feet	N/A
Arbor/Trellis	7 feet	7 feet	7 feet	7 feet

* These limits shall not be altered through Design Review by the ~~Design Review Board~~ or Planning Commission.

CMC 17.30.010 Demolition or Rebuilding of Buildings.

Except when required for the emergency protection of public health or safety as determined by the City Administrator in consultation with the Building Official, no permit authorizing the demolition of any building within any district shall be issued until reviewed by the Planning Commission or ~~Design Review Board~~ in accordance with the findings established in CMC 17.64.070, Demolition and Conversion of Residential Structures (if applicable). No permit for demolition shall be approved without the concurrent review and approval of replacement construction for the site. If the structure or site is identified as an historic resource, the demolition is prohibited except when approved by the Historic Resources Board and the Planning Commission consistent with the findings established in CMC 17.64.050. All related land use, design review and environmental review approvals and the processes established in Chapter 17.32 CMC, Historic Preservation, also shall be followed. The demolition or relocation of any structure shall require a coastal development permit. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

CMC 17.40.010

C. Prohibit all signs not expressly permitted by this chapter unless authorized by specific action of the Planning Commission ~~Design Review Board~~. Prohibited signs and displays include those which are visible from exterior areas accessible to pedestrians and which are flashing, self-illuminated, neon, phosphorescent, glossy, incorporate internal lights or movement or that include strings of small lights around doors or windows. Also prohibited are exterior signs, displays or other installations that include balloons, streamers, or other notice-attracting appendages. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.40.020

B. Planning Commission Approval. Signs which, in the opinion of the Director, require exception from the standards described in this chapter shall be reviewed by the Planning Commission ~~Design Review Board~~. The Planning Commission ~~Design Review Board~~ also shall review all business signs painted, etched or otherwise applied to glass, all signs made of plastics, fabric or imitation wood and all signs of architectural, cultural, and historical significance. The Commission Board may grant exceptions only to the number, location and design of business signs. The following criteria must be satisfied to grant the exception:

C. No Permit Required. The following signs on private property do not require a permit if they meet the purpose, objectives, and standards in this chapter as determined by the Director:

interior signs, alarm system identification signs, house/occupant name, no soliciting/no handbills, garage/rummage/estate sale, home business, public information signs (exit, restroom, elevator, etc.) and a variety of temporary signs as identified in this chapter. Signs which, in the opinion of the Director, are out of the ordinary or which do not meet the purpose, objectives and standards of this chapter shall be removed or referred to the Planning Commission Design Review Board for review.

CMC 17.48.080.A

4. Tree Quality. Replacement trees shall be of substantial size, caliper, and height to produce an immediate visual impact and reduce the incidence of unauthorized removal. Replacement trees shall be a minimum 24-inch box size except for Monterey Pines which shall be a minimum 15-gallon size. Larger sizes may be required by the Forest and Beach Commission, or the Planning Commission or the Design Review Board based in specific design considerations applicable to the project. The City Forester may authorize the use of smaller sizes when trees meeting these standards, or meeting specific conditions of approval, are unavailable.

~~CMC 17.52.050 Duties and Powers of the Design Review Board.~~

~~The Design Review Board shall have the following duties and responsibilities:~~

~~A. To conduct public hearings, review evidence and act on permit applications not reserved to the Planning Commission, Historic Resources Board or to the Director.~~

~~B. To act on commercial district design review applications not involving any land use permit pursuant to CMC 17.58.030, Commercial Design Review.~~

~~C. To act on residential design studies for projects not involving any land use permit pursuant to CMC 17.58.040, Residential Design Review.~~

~~D. To act on projects subject to coastal permit requirements pursuant to Chapter 17.58 CMC, Design Review, when such projects are within the categories listed above. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).~~

CERTIFICATION OF ORDINANCE

I, HEIDI BURCH, the undersigned City Clerk of the City of Carmel-by-the-Sea, California, do hereby certify that the foregoing is a true and correct copy of Ordinance 2009-07 which was adopted on second reading on the 7th day of July, 2009 and published in the *Pine Cone* on July 10, 2009 pursuant to the laws of the State of California and the City of Carmel-by-the-Sea.

DATED this 10th day of July, 2009.



Heidi Burch, City Clerk