



# CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

Staff Report

March 8th, 2023

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| <b>TO:</b>           | Honorable Mayor and City Council Members  |
| <b>SUBMITTED BY:</b> | Brandon Swanson, Director of Community Planning and Building  |
| <b>APPROVED BY:</b>  | Chip Rerig, City Administrator  |
| <b>SUBJECT:</b>      | Early policy discussion of Draft Ordinance Amending Municipal Code Section 17.20.200 E (Recreational Beach Fires on Carmel Beach) |

## RECOMMENDATION:

Provide early policy feedback on Draft Ordinance Amending Municipal Code Section 17.20.200 E (Recreational Beach Fires on Carmel Beach) and provide direction to staff.

## BACKGROUND/SUMMARY:

The Beach Fire Management Pilot Program ('Pilot Program') was first adopted on June 30, 2016, through the approval of a Coastal Development Permit (CDP 18-231), in response to issues associated with unrestricted fires on Carmel Beach. The Pilot Program, was intended to provide the City with an opportunity to explore various beach-fire options, with the ultimate goal of making permanent changes to the beach-fire rules through a Local Coastal Program amendment.

From the 2016 to 2022 season, the Pilot Program took several different shapes with various numbers of devices allowed on the beach. This period also included limited use of the beach due to Covid-19 restrictions.

On September 13th, 2022, City Council received a report based on information gathered during the pilot program, and provided direction to staff to draft new regulations regarding fires on Carmel Beach. The Council's direction was to allow only user-supplied, propane fueled fire devices on the beach, with the burning of wood strictly prohibited. As part of this action, Council also extended the Pilot Program to May 15<sup>th</sup>, 2023, which keeps regulations in place prohibiting all fires on the beach during this period. If an ordinance is not adopted and certified by May 15<sup>th</sup>, 2023, Council will need to take some additional temporary measures to control beach fires (e.g.: Urgency Ordinance), or the regulations will revert to the existing Municipal Code which allows an unlimited number of wood fires to be built year-round in the sand.

Council is being asked for early policy level feedback on the draft regulations to prohibit wood burning fires on Carmel Beach, and only allow user-supplied propane devices. Following this direction, staff will begin the adoption hearing process, which includes obtaining a recommendation from the Planning Commission, and returning to Council for two readings of the final draft ordinance before going to the Coastal Commission.

## Proposed Ordinance Language

The City of Carmel By-The-Sea Municipal Code Section 17.20.200.E currently allows the burning of wood on Carmel Beach. Through the pilot program, it was noted that burning of wood and other combustible materials:

1. Poses a risk of polluting Carmel Beach and the Carmel Bay State Marine Conservation Area, which is an Area of Special Biological Significance (ASBS) and therefore a State Water Quality Protection Area.
2. Poses a risk of starting a fire given the beach's close proximity to homes and the urban forest of Carmel-by-the-Sea and the potential for embers to be blown back from the beach; and.
3. Creates a potentially hazardous situation for members of the public wishing to access the beach due to the risk of stepping on buried coals or partially burned materials such as pallets, broken glass, aluminum cans and other materials.

The existing language in Section 17.20.200.E of the Municipal Code provides as follows:

*E. Recreational Fires on Carmel Beach. All fires on Carmel Beach shall meet the following requirements:*

*1. Beach fires shall be used for cooking or warmth and shall be located on that part of the City beach property which lies south of an extension of the center line of Tenth Avenue and west of a line reached by the high tide; provided, that all of the following conditions are met:*

*a. The base of the fire shall be defined as the level at which the lowest burnable material or ash is located, and it shall be on the beach sand unless the fire is in a hibachi, charcoal grill or other like receptacle, in which case the base shall be a horizontal plane touched by the lowest burning material.*

*b. The burnable material used in the fire shall not extend more than two feet above the base of the fire.*

*c. Flames from the fire shall not extend into the air more than five feet from the base of the burnable material in the fire.*

*d. The longest horizontal straight-line distance through the base of the fire shall not exceed four feet.*

*e. Flammable liquids other than charcoal starter shall not be used in any manner in connection with starting or maintaining the fire.*

*f. No fire shall be built, lit, or maintained on any slope or within 25 feet of any wall, vegetation or combustible material not intended to be used in the fire.*

*g. All flammable coals, embers or burning material shall be extinguished with sea water by the person or persons building, lighting or maintaining the fire prior to said person or persons leaving the beach.*

*h. The extinguished remains of all fires shall be left exposed and not covered with sand.*

*i. Building, lighting, maintaining or causing or permitting to build light or maintain a fire in violation of any of the above conditions shall be an infraction.*

*j. Penalties. Any person who shall violate any of the provisions of this chapter that necessitates the response of the Fire Department shall be guilty of an infraction punishable by a fine of not more than \$50.00 per hour or portion thereof, not to exceed \$500.00.*

The Draft Ordinance (Attachment 1) would fully replace Municipal Code Section 17.20.200.E and would read as follows:

*E. Recreational Fires on Carmel Beach. Beach fires shall be used for cooking or warmth and shall be located on that part of the City beach property which lies south of an extension of the center line of Tenth Avenue and west of a line reached by the high tide; provided, that all of the following requirements are met:*

- 1. Propane fire devices are the only type of fires which are permitted. No burning of wood or any other substances on the beach is permitted.*
- 2. Propane devices must be supplied by the user.*
- 3. All propane fire devices and propane tanks must be UL listed and in safe working order*
- 4. No materials of any kind shall be placed into or onto the propane devices to be burned*
- 5. These requirements apply every day of the year.*

*6. The violation of any of the requirements in this Section shall be an infraction or misdemeanor subject to the penalties set forth in Section 1.16.010 of this Code. An infraction shall be punished as follows:*

*(1) By a fine not exceeding \$100.00 for each violation; (2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding \$200.00 for each violation; and (3) For a third and any subsequent infraction occurring within one year of two or more infractions which resulted in convictions, a fine not exceeding \$500.00 for each violation. Every person convicted of a violation of this code determined to be a misdemeanor shall be punished as follows: (1) by a fine not exceeding \$1,000; and/or (2) Imprisonment for a term not exceeding six months.*

The Draft Ordinance would make no change to existing Municipal Code Section 17.20.200.D which only regulates the time and location of fires as follows:

*D. Location and Time Limits on Beach Fires. No person, firm, corporation or other entity shall build, light, maintain, cause or permit to be built, lighted or maintained any open or outdoor fire on any public beach designated by the City after the hour of 10:00 p.m. No fires shall be permitted at any time on the slopes leading thereto within the City. This prohibition is applicable to all that beach and slope area lying west of Scenic Road and south of Ocean Avenue to the southern City boundary. No fires shall be permitted at any time on all that beach and slope area lying west of San Antonio from Ocean Avenue to the northern City boundary. The prohibition against all fires on all the beach that lies at or below the high tide line shall extend from 10:00 p.m. on the day it commences until 7:00 a.m. the following day.*

Staff is requesting early policy level feedback on this draft language before proceeding with the adoption hearing process.

**FISCAL IMPACT:** Staff time associated with processing this municipal code amendment is captured in the Fiscal Year 2022/2023 City budget

**PRIOR CITY COUNCIL ACTION:**

**ATTACHMENTS:**

Attachment 1 - Draft Ordinance Amending Municipal Code Section 17.20.200 E (Recreational Beach Fires on Carmel Beach)

**CITY OF CARMEL-BY-THE-SEA  
CITY COUNCIL**

**DRAFT ORDINANCE NO. 2023-XXX**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA AMENDING CITY OF CARMEL BY-THE-SEA MUNICIPAL CODE SECTION 17.20.200 E REGULATIONS INCORPORATED FROM OTHER TITLES (RECREATIONAL FIRES ON CARMEL BEACH)

**RECITALS**

WHEREAS, City Of Carmel By-The-Sea Municipal Code Section 17.20.200 E currently permits the burning of wood at the Carmel Beach; and

WHEREAS, burning of wood and other combustible materials poses a risk of polluting Carmel Beach and the Carmel Bay State Marine Conservation Area, which is an Area of Special Biological Significance (ASBS) and therefore a State Water Quality Protection Area; and

WHEREAS, burning of wood and other combustible materials poses a risk of starting a fire given the beach's close proximity to homes and the urban forest of Carmel-by-the-Sea and the potential for embers to be blown back from the beach; and.

WHEREAS, burning of wood and other combustible materials creates a potentially hazardous situation for members of the public wishing to access the beach due to the risk of stepping on buried coals or partially burned materials such as pallets, broken glass, aluminum cans and other materials.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES ORDAIN AS FOLLOWS:**

**SECTION 1.**

1. The City Council of the City of Carmel-by-the-Sea does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.
2. GENERAL PLAN CONSISTENCY PLACEHOLDER

**SECTION 2.**

City Of Carmel By-The-Sea Municipal Code Section 17.20.200 E Regulations Incorporated From Other Titles (Recreational Fires On Carmel Beach) is hereby repealed and replaced with the text as shown in Exhibit A attached hereto.

**SECTION 3. CEQA PLACEHOLDER**

**SECTION 4.** Severability. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

**SECTION 5.** Effective Date. This Ordinance shall take effect on the later of (i) 30 days after its final passage by the City Council of the City of Carmel-by-the-Sea or (ii) certification of the Ordinance passed by the City Council by the California Coastal Commission in accordance with the California Coastal Act.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA  
this XX day of XX, 2023, by the following vote:**

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

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Dave Potter  
Mayor

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Nova Romero, MMC  
City Clerk

## EXHIBIT A

E. Recreational Fires on Carmel Beach. Beach fires shall be used for cooking or warmth and shall be located on that part of the City beach property which lies south of an extension of the center line of Tenth Avenue and west of a line reached by the high tide; provided, that all of the following requirements are met:

1. Propane fire devices are the only type of fires which are permitted. No burning of wood or any other substances on the beach is permitted.
2. Propane devices must be supplied by the user.
3. All propane fire devices and propane tanks must be UL listed and in safe working order
4. No materials of any kind shall be placed into or onto the propane devices to be burned
5. These requirements apply every day of the year.
6. The violation of any of the requirements in this Section shall be an infraction or misdemeanor subject to the penalties set forth in Section 1.16.010 of this Code. An infraction shall be punished as follows: (1) By a fine not exceeding \$100.00 for each violation; (2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding \$200.00 for each violation; and (3) For a third and any subsequent infraction occurring within one year of two or more infractions which resulted in convictions, a fine not exceeding \$500.00 for each violation. Every person convicted of a violation of this code determined to be a misdemeanor shall be punished as follows: (1) by a fine not exceeding \$1,000; and/or (2) Imprisonment for a term not exceeding six months.