

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

ORDINANCE NO. 2023-004

**URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA
REGARDING WOOD BURNING 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; and

WHEREAS, the Pilot Program of the City prohibiting burning of wood at the Carmel Beach expires on May 15, 2023; and

WHEREAS, based upon the foregoing, the City Council finds pursuant to Government Code Section 36937 (b) that this Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety to allow the City sufficient time to adopt a regular ordinance to implement the restrictions on recreational fires on Carmel Beach.

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

SECTION 1. Incorporation of Findings. The City Council of the City of Carmel- by- the-Sea incorporates the Recital above by reference as though fully set forth here.

SECTION 2. Codification. This Ordinance shall not be codified in the Carmel-by- the-Sea Municipal Code.

SECTION 3. CEQA/Environmental Findings. The City Council exercises its independent judgment and finds that this Urgency Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, sections: 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3), because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Urgency Ordinance maintains the status quo and prevents changes in the environment pending the completion of the contemplated municipal code review. Because there is no possibility that this Urgency Ordinance may have a significant adverse effect on the environment, the adoption of this Urgency Ordinance is exempt from CEQA.

SECTION 4. 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 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.

Section 5. Authorization of City Code Compliance Coordinator. Pursuant to California Penal Code § 836.5, the City Code Compliance Coordinator is authorized to issue criminal citations following the procedures set forth in California Penal Code §§ 853.5 through 853.6a, or such other procedures as the State of California may subsequently enact for violations of this Urgency Ordinance and violations of any section of the City Municipal Code or violation of any City ordinance.

Section 6. Authorization of City Administrator. The City Administrator Services and his/her designee(s) are hereby authorized to take all necessary action to implement and enforce this Urgency Ordinance.

Section 7. Severability. If any section, subsection, sentence, clause, or phrase of this Urgency Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of Urgency Ordinance. The City Council declares that it would have passed this Urgency Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Urgency Ordinance would be subsequently declared invalid or unconstitutional.

Section 8. Effective Date and Duration. This Urgency Ordinance enacted under California Government Code Section 36937 will take effect immediately upon adoption by a four fifths (4/5) vote of the City Council. This Urgency Ordinance will remain in effect until rescinded by the City Council.

Section 9. Publication. The City Clerk is directed to certify this Urgency Ordinance and cause it to be published in the manner required by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL BY-
THE-SEA this 2nd day of May,2023, by the following vote:**

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Nova Romero, MMC
City Clerk