

**CITY OF CARMEL-BY-THE-SEA
PLANNING COMMISSION**

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA MAKING A FORMAL RECOMMENDATION TO THE CITY COUNCIL TO ADOPT ORDINANCE NO. 2023-006, WHICH WOULD AMEND THE CARMEL MUNICIPAL CODE (CMC) TITLE 17 (ZONING) BY REPEALING AND REPLACING CHAPTER 17.46 (TELECOMMUNICATIONS AND WIRELESS FACILITIES) AND MAKING CONFORMING AMENDMENTS TO ZONING CODE SECTIONS 17.08.040, 17.12.020, 17.14.030, 17.14.220, 17.18.030, 17.40.070, 17.52.150, 17.54.010, 17.54.040, 17.54.080, 17.58.030, 17.58.040, 17.68.070, 17.70.010 AND 17.70.020 AND TO MUNICIPAL CODE SECTIONS 12.08.050, 12.08.060, 13.28.070; AND FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND IN FULL CONFORMANCE WITH THE CITY’S LOCAL COASTAL PROGRAM AND THE CALIFORNIA COASTAL ACT.

WHEREAS, the City of Carmel-by-the-Sea currently regulates the placement of wireless facilities throughout the City under Title 17, Chapter 17.46 of the Municipal Code; and

WHEREAS, Chapter 17.46 was last amended in 2004; and

WHEREAS, there have been significant changes in state and federal law affecting local authority over wireless siting since Chapter 17.46 was last amended, including the passage of new federal laws and state laws, the adoption of new Federal Communications Commission regulations and orders, the amendment of California Public Utility Commission orders related to utility infrastructure, and various judicial decisions interpreting those laws and regulations; and

WHEREAS, notwithstanding the various changes in state and federal law, local governments continue to retain authority to regulate the placement, construction, and modification of personal wireless service facilities, subject to those matters where local authority has been limited or removed by state or federal law; and

WHEREAS, Carmel-by-the-Sea has made longstanding and sustained efforts to preserve its distinct “village in a forest, by the sea” character, the natural beauty of its shoreline environment, and its charm as a popular visitor destination, by not allowing incompatible development that degrades the visual and economic value of adjoining properties, especially in residential areas; and

WHEREAS, Carmel-by-the-Sea’s topography, forested nature, location partially within and partially adjacent to California’s High Fire-Threat District (HFTD), and narrow streets, with few gutters or sidewalks or streetlights, gives rise to many unique concerns and situations relating to fire safety, traffic circulation, parking and pedestrian safety; and

WHEREAS, if not adequately regulated, the installation of personal wireless services facilities within the City can pose a threat to the public health, safety, and welfare; traffic and pedestrian safety hazards; negative impacts to trees; creation of visual and aesthetic blights and potential safety concerns arising from improper design or excessive size, heights, noise, or lack of camouflaging; and

WHEREAS, the City therefore intends to exercise its powers to regulate personal wireless service facilities to the maximum extent allowed by law, to protect its residents and visitors, promote public health, safety and community welfare, preserve the natural resources and unique scenic quality of Carmel-by-the-Sea, and protect the character of the City's residential neighborhoods, while nonetheless respecting and adhering to the law as it is today and may change in the future; and

WHEREAS, on February 29, 2022, the City Council and Planning Commission held a joint special meeting on wireless regulation to receive an update on changes to the law, to receive public feedback and to provide general direction to staff on an update to the City's wireless regulations; and

WHEREAS, on March 29, 2023, the Planning Commission conducted a duly noticed public workshop on a draft of the wireless regulations (ordinance, design guidelines, standard conditions of approval, and application forms) to receive public feedback; and

WHEREAS, on August 11, 2023, notice of a public hearing of the Planning Commission was published in compliance with State law (California Government Code 65091); and

WHEREAS, on August 23, 2023, the Planning Commission held a public hearing to consider making a recommendation to the City Council regarding Ordinance No. 2023-006 amending regulations pertaining to telecommunication and wireless facilities and received public testimony, including without limitation, information provided to the Planning Commission by City staff and through public testimony; and

WHEREAS, the Planning Commission found that the draft Ordinance 2023-006 was consistent with the City's General Plan, Local Coastal Plan, and all other relevant City and State codes and regulations; and

WHEREAS, the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA"), together with State Guidelines (14 California Code Regulations §§ 15000, et seq., the "CEQA Guidelines") and City Environmental Regulations (CMC 17.60) require the review of certain projects for environmental impacts and preparation of environmental documents; and

WHEREAS, the Planning Commission finds that pursuant to CEQA regulations, the project will have no impact on the environment and is not considered a project requiring compliance with the California Environmental Quality Act (Section 21065 of the California Public Resources Code); and

WHEREAS, the proposed amendments are in full conformity with the City's Local Coastal Plan and the California Coastal Act (Public Resources Code Section 30510 et seq.); and

WHEREAS, the facts set forth in the recitals are true and correct and are incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, THAT THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA DOES HEREBY recommend the Carmel-by-the-Sea City Council adopt ordinance no. 2023-006, which would amend the Carmel Municipal Code (CMC) Title 17 (Zoning) by repealing and replacing chapter 17.46 (Telecommunications and Wireless Facilities) and making conforming amendments to Zoning Code sections 17.08.040, 17.12.020, 17.14.030, 17.14.220, 17.18.030, 17.40.070, 17.52.150, 17.54.010, 17.54.040, 17.54.080, 17.58.030, 17.58.040, 17.68.070, 17.70.010 and 17.70.020 and to CMC sections 12.08.050, 12.08.060, 13.28.070; and finding the same exempt from the California environmental quality act and in full conformance with the City’s Local Coastal Program and the California coastal act.

PASSED, APPROVED, AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF CARMEL-BY-THE-SEA this 23rd day of August, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Michael LePage, Chair

Leah Young, Planning Commission Secretary