

## **Exhibit “A” to City of Carmel-by-the-Sea Ordinance 2018- XX**

*Chapters 8 and 15 of the Carmel Municipal Code are hereby amended as follows:*

1. Chapters 8.32, Fire Code; 8.64, Property Nuisances; and 8.72 Community Floodplain are hereby repealed.

2. Chapter 8.56.020, Definitions, (B) is amended as follows:

8.56.020 B. “Class B noise” includes noise created or generated within or adjacent to residential property which is necessary and normally associated with residential living property maintenance and construction. Class B noise includes, but is not limited to, noise created by power ~~mowers, trimmers,~~ equipment and tools, ~~home~~ appliances, ~~home~~-workshops, vehicle repairs and testing, and ~~home~~ construction projects.

3. Chapter 8.56.040, Class B noise is amended as follows:

It shall be unlawful to create and emit Class B noise as defined in this chapter between the hours of ~~9:00-6:30~~ p.m. of one day and 8:00 a.m. of the following day. (Ord. 2006-03 § 1, 2006; Ord. 80-4 § 1, 1980; Code 1975 § 699.66)

4. Title 15 is amended as follows:

### **Chapter 15.04 Administration of Building Codes**

#### **15.04.020 Definitions**

As used in this title, unless otherwise apparent from the context, the following words and phrases shall have the stated meaning:

3. “Class B noise” includes noise created or generated within or adjacent to residential property which is necessary and normally associated with residential living property maintenance and construction. Class B noise includes, but is not limited to, noise created by power ~~mowers,~~ trimmers, equipment and tools, ~~home~~ appliances, ~~home~~-workshops, vehicle repairs and testing, and ~~home~~ construction projects.

~~3-4.~~ 4. “Construction codes” means those certain building construction codes adopted by the City and made a part of the municipal code.

~~4-5.~~ 5. “Demolition” is the complete destruction and removal/takedown of all above- and/or below-ground elements of a building or structure excluding basements that are in conformance with all building and zoning standards.

~~5-6.~~ 6. “Existing building” is a building erected prior to the adoption of this code, or one for which a legal building permit has been issued. All additions and/or changes to any existing building shall

be reviewed by the Department of Community Planning and Building and/or the Planning Commission.

7. "Garden Fence" is an enclosure or barrier made of wood or metal, used as a boundary, means of protection, privacy screening, or confinement, but not including walls, masonry structures, hedges, shrub s, trees or other natural growth.

8. Garden Wall is a linear, masonry structure used within a landscape to define a boundary, path, planting area or other design feature. Garden walls are exposed on both sides and do not retain soil, slopes or terraces. (See also "Retaining Wall")

6-9."Person" includes an individual, corporation, partnership, firm, association, and legal representative of an estate or person.

7-10. "Rebuilding" is the act of making extensive repairs and/or modifications to an existing building or structure. "Rebuilding" shall include, but not be limited to:

- a. The removal/takedown from any building or structure of more than or equal to 50 percent of any of the following:
  - i. The external surfaces or cladding of exterior walls; and/or
  - ii The structural framing or exterior walls; and/or
  - iii The roof framing; and/or
- b. Obscuring from view 50 percent or more of the exterior walls or wall cladding of any building or structure through construction of an addition, or by application of an exterior material over the existing exterior material.

Portions of walls, wall cladding, wall framing or roof framing proposed to be retained shall be considered rebuilt if less than 10 feet in length for walls, wall cladding, or wall framing, or less than 100 feet ~~for~~ of roof framing remain. All such portions of walls, wall cladding, wall framing, or roof framing shall be included in the calculation of the total amount of walls, wall cladding, wall framing, or roof framing and considered rebuilt.

Portions of walls, wall cladding, wall framing, or roof framing that are nonconforming (CMC 17.30.030, Nonconforming Buildings), and are not proposed for removal/takedown, shall not be included in the calculation of the total amount of walls, wall cladding, wall framing or roof framing to be retained.

11. "Retaining Wall" means a wall that holds back earth, water, or other liquids.

12. "Sphere of Influence" means the area including the City of Carmel-by-the-Sea and its surrounding area as defined in the City's General Plan.

13. "Short-term rental unit" means a residential unit approved for rental on a short-term, transient basis. Where short-term rental units are located in a multi-family residential structure

having less than 3 short-term rental units the short-term rental units shall maintain their R-2 occupancy classification.

~~8-14.~~ "Wall cladding" is all exterior materials of a building including wall surfaces, windows, doors, chimneys, etc.

#### **15.04.030 Administrative Officer – Building Official**

The Chief ~~Building Inspector~~ Building Official of the City shall have the power and it shall be her/his duty, personally and through her/his authorized deputies and assistants, to enforce all the provisions of this title and all the laws of the State of California relating to buildings and construction. The Chief ~~Building Inspector, referred to herein as the~~ Building Official, shall report to the Director of the Department of Community Planning and Building and/or the City Administrator. (Ord. 2010-05 § 1 (Exh. A), 2010; Ord. 89-29 § 1, 1989).

#### **15.04.075 Permit – Exemptions**

A building permit shall not be required for the following:

A. One-story portable detached accessory buildings used as tool and storage sheds, play houses, and similar uses; provided, the projected roof area does not exceed 120 square feet and the floor area does not exceed that allowed for the lot size as established by zoning regulations.

B. All garden fences and garden walls not over 7' in height above adjacent grade and within the R-1 land use district, provided they comply with all other ordinances and requirements of this code.

C. Movable cases, movable counters and movable partitions not over five feet in height.

D. Painting, papering, tiling, carpeting, cabinets, counter tops, and similar interior finish work.

E. Temporary motion picture, television and theater stage sets and scenery.

F. Swings and other playground equipment accessory to detached one- and two- family dwellings

G. Retaining walls that are not over 4 feet (4') in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids.  
(Ord. 99-04 (Exh. B), 1999; Ord. 89-29 § 1, 1989)

H. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support.

#### **15.04.090 Permit – Fee**

- A. The building official shall not issue a permit to any person for work which would be in violation of the State Contractors' Licensing Law.
- B. Due to the increased ~~inspections~~ staff time required for review and permitting of work done under an owners permit, all fees established herein shall be increased ~~20 percent~~ with a minimum increase of \$25.00 in accordance with the City's adopted fee schedule unless said owner is the holder of a valid license issued by the State Contractor's Licensing Board indicating qualification to perform the work for which the permit is issued.
- C. A plan review fee shall be charged for review of all plans and applications pertaining to a permit. The fee shall be 65 percent of the ~~building~~ permit fee normally charged at the time of issuance. This fee shall be collected upon the submittal of the application by the applicant and may be adjusted as necessary during the plan review process. (Ord. 2010-05 § 1 (Exh. A), 2010; Ord. 99-04 (Exh. B), 1999; Ord. 89-29 § 1, 1989; Code 1975 § 1112.2).
- D. Schedule of permit fees. On buildings, structures, driveways, gas, mechanical, plumbing, electrical systems or alterations thereof requiring a permit, a fee for each permit shall be paid as required in accordance with the fee schedule adopted by resolution of the City Council for this purpose.

#### **15.04.100 Permit – review of application – issuance**

- B. When the plot plan indicates the construction of a driveway over, across or into any sidewalk, parkway or street area, the applicant shall also submit a valid permanent encroachment permit from the Director of Public Works for such encroachment.
- F. When the building official issues the permit, s/he shall endorse in writing or stamp on two sets of plans and specifications, "Approved." Such approved plans and specifications shall not be changed, modified or altered without authorization from the Building Official, and all work shall be done in accordance with the approved plans. One set of approved plans, specifications, and computations shall be kept on the project site at all times during which the work authorized is in progress.
- H. Applicants for a building permit which involves exterior excavation of any type shall obtain an underground utilities location survey (8-1-1/Dig Alert) ticket and shall maintain that ticket in active status throughout the duration of the project.

#### **15.04.110 Permit – Validity – Expiration**

B. Time Limitation of Applications. Applications for which no permit is issued within 180 following the date of the application shall expire, and the plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days on written request by the applicant showing that circumstances beyond control of the applicant shall have prevented action from being taken and the extension has been submitted in writing prior to the expiration date.

If a permit has not been obtained after the first extension, additional extensions of 90 days may be granted provided the applicant submits this request in writing and pays a fee ~~equal to \$500.00~~ as prescribed in the City's fee schedule for each requested 90-day extension and the project has not changed in scope.

~~Exception. If a project has been approved by the City on condition where a pending approval from an outside agency exists at time of expiration, written extensions will not be required.~~

Expiration of Permits. Every permit issued by the Building Official under the provisions of ~~the technical codes~~ this code shall expire and become null and void if the project authorized by such permit has not achieved an approval for one of the required inspections identified in Section 110.3 of the 2016 California Building Code within ~~one year~~ 180 days of such permit issuance.

The building official may grant a one-time permit extension of 180 days provided the applicant submits a request in writing prior to the permit expiration and the project has not changed in scope. Additional extension requests of 90 days may be granted by the Building Official if the request is made in writing, the project has not changed in scope, the project has obtained at least one inspection approval and the applicant pays a fee ~~of \$1000~~ as prescribed in the City's fee schedule for each 90 day extension.

Before work can commence or recommence under an expired permit, a new permit application must be submitted and permit obtained along with all applicable fees applied for this new project.

All existing projects are subject to this section and will be subject to the conditions listed above.

#### **15.04.120 Inspection**

It is the duty of the permittee or her/his agent to call for all inspections required by this code and by the inspection record card portion of her/his permit, and to be sure that the work is ready for inspection. Such call for inspection shall be made not less than one full day in advance of the time the work will be ready exclusive of Saturdays, Sundays, and holidays. If such work is not ready for inspection a ~~penalty charge~~ reinspection fee may be ~~made~~ charged as provided for in CMC 15.04.140 and the City's fee resolution. No inspections shall be made until a permit for the

work has been issued and paid for. (Ord. 89-29 § 1, 1989; Code 1975 § 1113.0)

#### **15.04.130 Enforcement – Right of Entry**

B. Whenever necessary to make an inspection to enforce any provision of this title or of the uniform-model codes adopted herein, or whenever the Building Official or her/his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe as defined in the ~~California Code for the Abatement of Dangerous Buildings, current edition,~~ 2016 International Property Maintenance Code the Building Official or her/his authorized representative may enter such building or premises at all reasonable times to inspect same or to perform any duty imposed on the Building Official by this code; provided that if such building or premises be occupied, s/he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, s/he shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the building or premises and demand entry.

If such entry is refused, the Building Official or her/his authorized representative shall have recourse to every remedy provided by law to secure entry. "Authorized representative" shall include duly appointed deputies and assistants.

No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the Building Official or her/his authorized representative for the purpose of inspection and examination pursuant to this title. Any person violating this section shall be guilty of an infraction. (Ord. 99-04 (Exh. B), 1999; Ord. 89-29 § 1, 1989; Code 1975 § 1113.1)

#### **15.04.140 Commencing Work Without a Permit – Penalty Fee**

Where work for which a permit is required is commenced prior to obtaining said permit the permit fees shall be doubled and an investigation fee as prescribed in the City's fee schedule shall be due prior to permit issuance. ~~but~~ The payment of such investigation fee and double permit fees shall not relieve any person from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein.

#### **15.04.170 Board of Appeals – Created.**

In order to determine the suitability of alternate materials, methods and types of construction, and to provide for reasonable interpretations of provisions of this title, as well as compliance with the requirements and interpretations of the provisions of the Americans with Disabilities Act of 1990, as amended (42 USC § 12101 et seq.), a Board of Appeals is created, the members of which shall be appointed by the Mayor, with the consent of the City Council and shall serve at the Mayor's pleasure. The Board of Appeals shall be the "local appeals board", the "housing appeals board", and the "board of appeals" as those phrases are defined and used in the California Building Code, California Fire Code, or any other code under this title as the same may apply to the City of Carmel-by-the-Sea either by express adoption or by operation of law. The City Clerk or City Clerk's designee shall act as Secretary to the Board of Appeals.

#### **15.04.180 Board of Appeals – Membership**

The Board shall be composed of ~~three~~ five core members, and two disabled access members, with disabled access members attending the Board of Appeals meeting only for appeals that relate to access to public accommodations by physically disabled persons. The ~~three~~ five core members shall be qualified as follows: one architect or one licensed engineer, one general contractor, one member with expertise in fire protection systems, one member with expertise in fire prevention, and one other who may have expertise in the construction or building field or who may be a layperson. At least ~~three~~ four members of the Board shall be residents of the City and/or its sphere of influence. The Board shall develop reasonable rules and regulations for conducting its business at each hearing and deliver a copy thereof to the Secretary and to the Building Official at the time of each hearing. Said rules and regulations should be available to the public. The Board shall render its decision and findings in writing and furnish a copy thereof to the appellant, Secretary, and Building Official. (Ord. 2014-04 § 1, 2014; Ord. 2010-05 § 1 (Exh. A), 2010; Ord. 89-29 § 1, 1989; Code 1975 § 1115.0(a)).

#### **15.04.240 Appeal from Actions to Abate Dangerous Buildings.**

The appeal provisions for the ~~Abatement of Dangerous Buildings under the California Building Code~~ 2016 International Property Maintenance Code, as adopted, may be followed where they conflict with or expand upon the appeal provisions of CMC 15.04.170-15.04.240.

### **Chapter 15.08 Building Code**

#### **15.08.010 Adoption.**

Except as otherwise amended by this chapter and Chapter 15.04 of this City Code, the following model codes are hereby adopted and are incorporated in this chapter by reference and made a part hereof as if fully set forth herein:

- A. 2016 California Building Code And Appendices;
- B. 2016 California Historic Building Code;
- C. 2016 California Existing Building Code;
- D. 2016 California Residential Code;
- E. 2016 California Plumbing Code;
- F. 2016 California Electric Code;
- G. 2016 California Mechanical Code;
- H. 2016 California Green Building Standards Code;

- I. 2016 California Fire Code (~~See CMC Title 8~~);
- J. ~~2012~~ 2016 International Property Maintenance Code
- K. 2016 California Energy Code

The Very High Fire Hazard Severity Zone Map, as transmitted to the City on November 18, 2008, by the Department of Forestry and Fire Protection, is also adopted as required by law. (Ord. 2017-04 § 1 (Exh. A), 2017; Ord. 2013-07 § 1 (Exh. A), 2013; Ord. 2010-05 § 1 (Exh. A), 2010; Ord. 2009-04, 2009; Ord. 2008-02 § 1, 2008; Ord. 2003-03 § 2, 2003; Ord. 99-04 (Exh. B), 1999; Ord. 96-1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1121.0).

#### **15.08.020 Treatment of Abandoned Structures**

It is deemed necessary in cases where structures are abandoned as herein defined that they be abated in the interests of public health, safety, and welfare, as provided in the ~~building code~~. International Property Maintenance Code as adopted by this chapter. (Ord. 2008-02 § 1, 2008; Ord. 96-1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1121.2).

#### **15.08.040 Permit Fee for Residential Work**

A single permit, encompassing building, electrical, gas, plumbing, and mechanical work, shall be issued for all single-family residential work only when more than one trade is involved. The project valuation provided on the application shall be based on the valuation of all work, by all trades, involved in the project. This fee shall be according to Table 1-A. (Ord. 2008-02 § 1, 2008; Ord. 96-1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1122.1).

#### **15.08.050 ~~Certification~~ Certificate of Occupancy**

~~A certification certificate~~ of occupancy shall not be issued until the driveway, approach, planning, zoning, and Fire Department requirements have been completed and approved by the respective City Departments concerned therewith and the building sewer connection work completed and approved by the ~~Carmel Sanitary District sewer utility provider~~ Carmel Area Wastewater District. If the Building Official ~~shall determine~~ that the requirements of the code have not been met, s/he shall refuse to authorize occupancy. S/he may, however, in her/his discretion; allow occupancy upon the filing with the Building Official of a written assurance that such requirements will be met within a specified period of time. The Building Official shall provide a written Temporary Certificate of Occupancy that includes all stipulations related to occupancy approval as well as the specified time period in which to complete all work and receive a final approval for issuance of a Certificate of Occupancy. Violation of such written assurance or the stipulations contained in the Temporary Certificate of Occupancy shall constitute a violation of this code. (Ord. 2008-02 § 1, 2008; Ord. 96-1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1122.3).

#### **15.08.060 Abandonment**

Abandonment of a building or structure shall be deemed to exist if such building or structure is so damaged by reason of deterioration, fire, flood, windstorm, earthquake, explosion, other



catastrophe, or act of God that such structure is rendered unusable for and is actually not being used for, any permitted use as it existed prior to such catastrophe, if such unusability and lack of use continues for four consecutive months. (Ord. 2008-02 § 1, 2008; Ord. 96-1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1122.4).

#### **15.08.080 Openings in Exterior Walls**

"Openings in Exterior Walls," opposite the following groups and commercial zones, "Not permitted less than 3 feet; Protected less than 6 feet".

<b>GROUP</b>	<b>OPENINGS IN EXTERIOR WALLS</b>
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A	Not Permitted Less Than 3' Protected Less Than 6'
E	Not Permitted Less Than 3' Protected Less Than 6'
I	Not Permitted Less Than 3' Protected Less Than 6'
B	Not Permitted Less Than 3' Protected Less Than 6'
M	Not Permitted Less Than 3' Protected Less Than 6'
R	Not Permitted Less Than 3'

For the purpose of this section "protected" openings shall mean ~~wire~~ listed safety glass in non-operable windows; ~~and solid core one and three-quarter-inch thick or 20 min.~~ rated fire door, with self-closing and latching hardware unless a higher rating is required by other sections of this code.

Exception: For Group U garages in the R-1 land use zone serving a single-family dwelling where located less than three feet to property line doors may meet the requirements of the building code for fire doors in between dwellings and garages. (Ord. 2008-02 § 1, 2008; Ord. 2003-03 § 2, 2003; Ord. 99-04 (Exh. B), 1999; Ord. 96-1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1122.5).

#### **15.08.100 Toilet Facilities**

All ~~drinking and dining businesses~~ eating and drinking establishments hereinafter established shall be provided with toilet and lavatory facilities, with hot and cold running water, in accordance with the CA Plumbing Code; for each sex and such facilities shall be located within the premises and shall be for the exclusive use of the patrons and employees of the aforementioned businesses. Where the eating and drinking establishment has an occupant load of less than 50, a minimum of two single occupant toilet facilities shall be provided. All existing drinking and dining establishments hereafter enlarged in seating capacity, or when said establishments are repaired, remodeled or altered, the cost of which exceeds 10 percent of the assessed value of the building, shall become subject to the provisions of this section. (Exh. B), 1999; Ord. 96-1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1122.7).

#### **15.08.110 Smoke / Carbon Monoxide Detector Alarms**

When there is a change in ownership of any Group R, Division 3 occupancy (dwellings and lodging houses), ~~a smoke detector conforming to the requirements stated above shall be installed in conformance with the above installation requirements.~~ one or more smoke, carbon monoxide, or combination smoke/carbon monoxide alarms shall be installed in conformance with the requirements of the CA Residential Code. (Ord. 2008-02 § 1, 2008; Ord. 96-1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1122.8).

#### **15.08.120 Roofing Materials**

For all buildings in the City, any new roof covering, or any roof covering in the event of reroofing of 25 percent or more of any existing roof, shall be of a fire-retardant material, or assembly that meets or exceeds Class A as defined in the building code, current edition. (Ord. 2008-02 § 1, 2008; Ord. 96-1, 1996; Ord. 93-1 § 1, 1993; Ord. 92-11, 1992; Ord. 89-29 § 1, 1989; Code 1975 § 1122.9).

#### **15.08.130 Automatic Fire Systems.**

~~See CMC Title 8 Automatic fire protection systems shall be designed, installed, and maintained in accordance with Chapter 9 of the CA Building Code, and the CA Fire Code as referenced in Chapter 8.32.~~ 15.55 (Ord. 2008-02 § 1, 2008; Ord. 2003-03 § 2, 2003; Ord. 92-24, 1992; Ord. 89-29 § 1, 1989; Code 1975 § 1122.10).

#### **15.08.135. Retrofit Requirements for Residential Fire Sprinkler Systems.**

Existing structures to which additions, alterations, or repairs are made that involve the addition, removal or replacement of fifty (50%) or greater of the linear length of the walls of the existing building (exterior plus interior) within a five-year period shall be provided with an automatic residential fire sprinkler system in accordance with the CA Building and Fire Codes.

#### **15.08.150 Compliance Responsibility**

The owner of the subject property or building shall be responsible for maintaining in force a contract with a licensed professional for maintenance of required fire extinguishing protection systems on the owner's premises. (Ord. 89-29 § 1, 1989; Code 1975 § 1122.11(a)).

#### **15.08.190 Parking During Construction**

The parking of construction vehicles in any posted time-limited zone is prohibited unless a construction parking permit has been issued by the ~~Department of Community Planning and Building City.~~ (Ord. 89-29 § 1, 1989).

#### **15.08.210 Use of Public Right-of-Way**

When at any time any construction interferes with the use of any portion of the public right-of-way, an temporary encroachment permit there for shall first be ~~issued~~ obtained and all necessary protection devices shall be installed. Such devices shall include, but may not be limited to: barricades, pedestrian walkways, guardrails, signs, lighting, etc. Said permit shall be obtained from the Department of Community Planning and Building and shall be approved by

the ~~Building Official and~~ Community Planning and Building Department in conjunction with the Director of Public Works.

The fee for said permit shall be as established from time to time by resolution of the City Council. Temporary encroachment permits shall be limited in duration to 48 hours unless a longer time period is specifically approved by the Directors of Planning and Building and Public Works. Temporary encroachment permits shall not be issued to allow storage of construction materials and/or equipment in the public right-of-way unless it can be demonstrated that a significant hardship exists that prevents material storage elsewhere on the site.

#### **15.08.220 Control of the Public Right-of-Way**

It shall be unlawful for any person, as defined in CMC 15.04.020, to regulate, either by signage or other control, any portion of the public right-of-way for personal use without first obtaining permission there for from the Director of Public Works ~~or the Building Official~~. Such signage or control includes, but is not limited to, “no parking” signs on or adjacent to the public right-of-way. Any unlawful signage or other control will be removed by the City, which will notify the owner of the adjacent property of the violation. (Ord. 92-24, 1992)

#### **15.08.230 Surface Waters – Duties of Reasonable Care**

Every person must take reasonable care in using her/his property to avoid injury or damage to adjacent properties through the flow of surface water runoff or runoff from impervious surfaces including roof drainage systems. ~~Roof~~ Impervious surface water drainage shall drain into an approved drainage system or drain to the public way via a noncorrosive device as approved by the Director of Public Works. Cross lot drainage should be avoided whenever possible, as determined by the Building Official. Cross lot drainage shall only be approved when no other viable option is available and the drainage system is located in an easement for all affected properties, duly recorded with the Monterey Co. Recorder's Office for that purpose. (Ord. 96-1, 1996).

#### **15.08.240 Site Plan.**

All applications for new, expanded, or relocated structures shall be accompanied by a site plan showing the locations of all property lines; easements; rights of way; structures on the site and on adjacent lots within 6' of the property line; locations of utility poles, pedestals and vaults; and locations of driveways and sidewalks.

#### **15.08.260 Exemption for Pending Applications.**

The provisions of the 2016 Editions of the California Building Code, and Appendices, the 2016 California Historic Building Code, the 2016 California Mechanical Code, the 2016 California Plumbing Code, the 2016 California Electrical Code, the 2016 California Fire Code, the 2016 International Property Maintenance Code, the 2016 Existing Building Code, and the 2016 California Energy Code, as adopted and amended herein, shall not apply to any building or structure for which application for a building permit was made prior to January 1, 2017. Such buildings or structures shall be erected, constructed, enlarged, altered, or repaired in

accordance with the provisions of this chapter in effect at the date of said application.

**15.08.270 Amendments to the 2016 California Residential Code.** Section R403.1.3 of the 2016 California Residential Code is hereby amended to read as follows:

R403.1.3 Footing and stem wall reinforcement in Seismic Design Categories D0, D1, and D2. Concrete footings located in Seismic Design Categories D0, D1 and D2, as established in Table R301.2 (1), shall have minimum reinforcement of at least two continuous longitudinal reinforcing bars not smaller than No. 4 bars. Bottom reinforcement shall be located a minimum of 3 inches (76 mm) clear from the bottom of the footing.

## **Chapter 15.16 Building Moving**

### **15.16.020 Permit - Application**

(B) Four copies of a A site plan drawn to a legible scale showing overall dimensions of the proposed site and the building or structure as it will appear on the site location, which said site plan shall show any and all existing and proposed easements, fences, walkways, paved areas, landscaping and dimensions of all yards. ~~The site plan shall consist of four white prints;~~

## **Chapter 15.17 Street Damage**

### **15.17.010 Adoption**

A. Where construction damage occurs as deemed by the ~~Building Official and/or Superintendent~~ Director of Public Works, the damage to any portion of the City street/roadway/right-of-way area including but not limited to the flow-line, curbing, berm, sidewalk, gutter, storm drain, etc., shall be repaired by the contractor/owner of record for the project adjacent thereto at their expense prior to the final inspection approval.

B. Repairs shall be in coordination with the ~~Superintendent~~ Director of Public Works and subject to the specifications set forth per City standards for street repairs.

## **Chapter 15.18 Site Drainage**

### **15.18.010 Adoption**

A. All site and roof runoff shall be directed onto the private property of its origin and ~~filtered~~ infiltrated through seepage pits, French drains, and/or leach fields where possible and may not cross lot lines to adjoining properties unless an easement for that purpose is duly recorded with the Monterey County Recorder's Office. Any runoff waters from the site that may be directed onto the public right-of-way/or City storm drain system ~~must~~ shall be done with prior approval of the ~~Building Official and/or Public Works Superintendent~~ Director.

B. Where required by the ~~Building Official and/or Public Works Superintendent~~ Director, oil-water separator devices ~~must~~ shall be installed to filter all runoff waters prior to discharge onto the public storm drain system.

C. Storm waters and all runoff must be controlled at all times during construction. Barriers shall be placed around the construction site at the discretion of the Building Official and/or Public Works ~~Superintendent~~ Director. (Ord. 2008-02 § 1, 2008).

## **Chapter 15.19 Construction Site Maintenance**

### **15.19.010 Adoption**

B. Violation of this section may ~~necessitate~~ result in suspension of the building permit ~~for a period of not less than 30 days~~ until the violation is corrected and citation by the Building Official in accordance with the enforcement provisions of the Carmel Municipal Code. (Ord. 2008-02 § 1, 2008)

## **Chapter 15.20 Mechanical Code**

### **15.20.20 Mechanical Permit Fee**

The mechanical permit fee for single-family residential construction, when the work is part of work covered by a building permit, shall be included as part of that building permit fee. The valuation of all mechanical work shall be included in the project valuation submitted on the application form.

### **15.20.25 Plan Review Fee**

A plan review fee shall be charged for review of all construction documents pertaining to a mechanical permit application. The fee shall be 65 percent of the mechanical permit fee normally charged at the time of issuance. This fee shall be collected upon the submittal of the application by the applicant and may be adjusted as necessary during the plan review process. The plan review fee for mechanical work associated with a building permit for single-family residential construction shall be included in the building permit plan review fee.

## **Chapter 15.24 Plumbing Code**

### **15.24.020 Plumbing Fee Schedule**

~~Every applicant shall pay for each permit, at the time of issuance, a fee in accordance with the fee schedule as attached to the ordinance codified in this section \*~~

~~\*Fee schedules are adopted by resolution and are available in the office of the City Clerk.~~

Every applicant for a plumbing permit shall pay a fee as prescribed in the City's fee schedule adopted by resolution of the City Council prior to issuance of the permit. The plumbing permit fee for single-family residential construction, when the work is part of work covered by a building permit, shall be included as part of that building permit fee. The valuation of all plumbing work shall be included in the project valuation submitted on the application form.

### **15.24.025 Plan Review Fee**

A plan review fee shall be charged for review of all construction documents pertaining to a plumbing permit application. The fee shall be 65 percent of the plumbing permit fee normally charged at the time of issuance. This fee shall be collected upon the submittal of the application by the applicant and may be adjusted as necessary during the plan review process. The plan review fee for plumbing work associated with a building permit for a single-family dwelling shall be included in the building permit plan review fee. (Ord. 99-04 (Exh. B), 1999; Ord. 96-1 § 1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1142.2).

#### **15.24.050 Gas Service Reconnection**

In no case shall a gas service or supply be connected or reconnected unless inspected and a certificate of approval has been issued by the Building Official authorizing the connection or reconnection. A fee as prescribed in the City's fee schedule as adopted by the City Council shall be paid before inspection and certification of the system. (Ord. 2008-02 § 1, 2008; Ord. 2008-02 § 1, 2008; Ord. 96-1 § 1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1142.3).

#### **15.24.060 Dangerous and Unsanitary Construction or Conditions**

A. Whenever brought to the attention of the department having jurisdiction that any unsanitary conditions exist or that any construction or work regulated by this code is dangerous, unsafe, unsanitary, a nuisance or a menace to life, health, or property, or otherwise in violation of this code, the department may request an investigation by the ~~Chief Building Inspector~~ Building Official who, upon determining such information to be fact, shall order any person, firm or corporation using or maintaining any such condition or responsible for the use or maintenance thereof to discontinue the use or maintenance thereof or to repair, alter, change, remove or demolish same as s/he may consider necessary for the proper protection of life, health, or property, and in the case of any gas piping or gas appliance may order any person, firm or corporation supplying gas to such piping or appliance to discontinue supplying gas thereto until such piping or appliance is made safe to life, health or property. Every such order shall be in writing, addressed to the owner, agent or person responsible for the premises in which such condition exists and shall specify the date or time for compliance with such order.

C. When any plumbing or gas system is maintained in violation of this code and/or in violation of any notice issued pursuant to the provisions of this section, or where a nuisance exists in any building or on a lot on which a building is situated the Building Official shall institute ~~any~~ appropriate action in accordance with this code and the International Property Maintenance Code as adopted by the City, and/or proceeding in any court of competent jurisdiction to prevent, ~~retrain,~~ restrain, correct or abate the violation or nuisance. (Ord. 89-29 § 1, 1989; Code 1975 § 1142.4).

#### **15.24.070 Plumbing Walls Required**

When in the opinion of the Building Official~~Inspector~~, the plumbing piping within any one wall so inhibits the area that framing members are adversely affected, then said wall shall be framed utilizing minimum two-inch by six-inch framing material. (Ord. 92-24, 1992).

710.1. In every case where the outlet of a trap for a plumbing fixture is installed or located at an elevation which is less than two feet (2') above the rim of the nearest manhole uphill from the point of connection of the building sewer to the public sewer in any new or existing drainage system, approved types of backwater valve, relief vent and cleanout shall be installed in the building sewer at the point of lowest elevation of the ground surface of the building site outside of the building or at such other location as is permitted by the Building Inspector, providing that at any such location, the elevation of the ground surface is not less than two (2') below the lowest trap outlet served by the building sewer.

The installation shall consist of an approved fresh air inlet and a Y branch or combination fitting installed in sequence in the line of flow from the building. The vent from this fresh air inlet shall be piped to the ground surface and capped with a vent cap. Provision shall be made by elevation above the ground or by other means for preventing the obstruction of the vent opening or the flow of water therein. The cleanout shall be placed as close to the valve as is practical and shall be piped to within one foot (1') of the ground surface and closed with an approved cleanout plug. Every existing installation which includes a plumbing fixture trap outlet which is less than two feet (2') above the rim of the nearest manhole uphill from the point of connection of the building sewer to the public sewer is hereby declared to be dangerous, unsanitary and a menace to life, health and property. Whenever it shall come to the attention of the Building Inspector that such an installation exists, he or she is hereby empowered to order and require that such plumbing outlet be immediately plugged or capped, or that the equipment described in the preceding paragraph of this section be installed immediately." (Topographical finding)

#### **15.24.080 Amendments to the 2016 California Plumbing Code.**

Section 608.2 is hereby amended to read as follows:

608.2 Excessive Water Pressure. Where static water pressure in the water supply exceeds 50 psi, an approved-type pressure regulator preceded by an adequate strainer shall be installed and the static pressure reduced to 50 psi or less. Pressure regulator(s) equal to or exceeding 1 ½ inches shall not require a strainer. Such regulators shall control the pressure to water outlets in the building unless otherwise approved by the Authority Having Jurisdiction. Each such regulator and strainer shall be accessibly located aboveground or in a vault equipped with a properly sized and sloped bore-sighted drain to daylight, shall be protected from freezing, and shall have the strainer readily accessible for cleaning without removing the regulator or strainer body or disconnecting the supply piping. Pipe size determinations shall be based on 80 percent of the reduced pressure where using Table 610.4. An approved expansion tank shall be installed in the cold water distribution piping downstream of each such regulator to prevent excessive pressure from developing due to thermal expansion and to maintain the pressure setting of the regulator. Expansion tanks used in potable water systems intended to supply drinking water shall be in accordance with NSF 61. The expansion tank shall be properly sized and installed in accordance with the manufacturer's installation instructions and listing. Systems designed by registered design professionals shall be permitted to use approved pressure relief valves in lieu of expansion tanks provided such relief valves have a maximum pressure relief setting of 100 psi or less.

Section 710.1 is hereby amended to read as follows:

710.1. In every case where the outlet of a trap for a plumbing fixture is installed or located at an elevation which is less than two feet (2') above the rim of the nearest manhole uphill from the point of connection of the building sewer to the public sewer in any new or existing drainage system, approved types of backwater valve, relief vent, and cleanout shall be installed in the building sewer at the point of lowest elevation of the ground surface of the building site outside of the building or at such other location as is permitted by the Building ~~Inspector~~ Official, providing that at any such location, the elevation of the ground surface is not less than two feet (2') below the lowest trap outlet served by the building sewer.

The installation shall consist of an approved fresh air inlet and a Y branch or combination fitting installed in sequence in the line of flow from the building. The vent from this fresh air inlet shall be piped to the ground surface and capped with a vent cap. Provision shall be made by elevation above the ground or by other means for preventing the obstruction of the vent opening or the flow of water therein. The cleanout shall be placed as close to the valve as is practical and shall be piped to within one foot (1') of the ground surface and closed with an approved cleanout plug. Every existing installation which includes a plumbing fixture trap outlet which is less than two feet (2') above the rim of the nearest manhole uphill from the point of connection of the building sewer to the public sewer is hereby declared to be dangerous, unsanitary, and a menace to life, health, and property. Whenever it shall come to the attention of the Building ~~Inspector~~ Official that such an installation exists, he or she is hereby empowered to order and require that such plumbing outlet be immediately plugged or capped, or that the equipment described in the preceding paragraph of this section be installed immediately. (Topographical finding). (Ord. 2017-04 § 1 (Exh. A), 2017; Ord. 2013-07 § 1 (Exh. A), 2013)

## **Chapter 15.28 Water Conservation**

### **15.28.020 Standards for Water Conservation and Plumbing Fixtures**

A. The following standards are established to achieve water conservation:

- ~~1. All toilets shall use 1.5 gallons of water or less per flush.~~
- ~~2. All shower heads shall use 2.5 gallons of water or less per minute.~~
- ~~3. All kitchen and lavatory faucets shall be equipped with aerators or shall have a maximum rate of flow of not more than 2.5 gallons per minute.~~
1. Fixture flow rates shall comply with the requirements of the most recent edition of the California Green Building Standards Code.
4. ~~4.~~ All ornamental fountains, permanent swimming or wading pools and similar structures shall employ recirculation systems.
3. ~~5.~~ All water pipes and connections to water delivery mains shall be equipped with valves to reduce water pressure to 50 pounds of pressure or less per square inch.
4. ~~6.~~ All hot water pipes shall be insulated.

(Ord. 89-29 § 1, 1989; Code 1975 § 1143.1).



## Chapter 15.36 Electrical Code

### 15.36.015 Electrical Fee Schedule

~~Every applicant shall pay for each permit, at the time of issuance, a fee in accordance with the fee schedule as attached to the ordinance codified in this section \*~~

~~\*Fee schedules are adopted by resolution and are available in the office of the City Clerk.~~

Every applicant for a electrical permit shall pay a fee as prescribed in the City's fee schedule adopted by resolution of the City Council prior to issuance of the permit. The electrical permit fee for single-family residential construction, when the work is part of work covered by a building permit, shall be included as part of that building permit fee. The valuation of all electrical work shall be included in the project valuation submitted on the application form.

### 15.36.025 Plan Review Fee

A plan review fee shall be charged for review of all construction documents pertaining to a electrical permit application. The fee shall be 65 percent of the electrical permit fee normally charged at the time of issuance. This fee shall be collected upon the submittal of the application by the applicant and may be adjusted as necessary during the plan review process. The plan review fee for electrical work associated with a building permit for a single-family dwelling shall be included in the building permit plan review fee. (Ord. 99-04 (Exh. B), 1999; Ord. 96-1 § 1, 1996; Ord. 89-29 § 1, 1989; Code 1975 § 1142.2).

### 15.36.020 Placement of Service Laterals

A. Within all land use zones, all electrical service laterals to any new building or structure, or to any building or structure being remodeled when such remodeling requires the relocation or replacement of the property owner's main service equipment, shall be placed underground on the premises upon which the building or structure is located, in accordance with applicable rules, regulations and tariffs on file with the California Public Utilities Commission.

Exceptions to undergrounding of utilities for remodeling:

1. Undergrounding of utilities will not be required when a valuation is less than \$200,000. The permit applicant shall submit contractor bids and other documentation verifying that the valuation is under \$200,000.00 upon request by the Building Official.
2. Undergrounding of utilities will not be required when it is determined by the City Forester that the undergrounding operation will damage or destroy significant tree(s) provided that the property owner posts a bond in an amount equal to the estimated cost of the undergrounding work. The bond shall be maintained until such time that the service lateral is placed underground.

~~B. Where compliance with the foregoing requirement is not economically or physically feasible, the Building Official may permit different arrangements for electrical service. The property owner shall be responsible for compliance with this section and shall make the necessary arrangements with the public utilities involved.~~

### 15.36.030 Duties of the Building Official

~~A. It shall be the duty of the Building Official to inspect all electrical wiring, appliances, apparatus or construction from time to time, and if any part of any electrical wiring, appliances, apparatus or construction in or about any building in the City shall be found to be dangerous to life or property, the Building Official shall have the right and power, and it shall be her/his duty, to notify the owner or occupant of the building in which such electrical wiring, appliances, apparatus or construction is contained to cease using electric current in such wiring, appliances, apparatus or construction, and to have the defective condition or conditions remedied within 15 days from the date of notice~~

A. It shall be the duty of the Building Official to review and approve all applications for electrical permits within the City. Applications shall include plans, specifications, and calculations for the electrical work proposed demonstrating compliance with the California Electrical Code and other codes and ordinances of the City. A plan review fee equal to 65% of the estimated valuation of the work shall be paid upon submittal of an application for an electrical permit. A permit fee as prescribed in the City fee resolution shall be paid prior to issuance of the permit.

B. It shall be the duty of the Building Official to periodically inspect electrical work conducted under a permit from the City in accordance with Section 15.36.050.

C. It shall be the duty of the Building Official to inspect and take appropriate enforcement action to correct electrical code violations reported to the Building Official. Enforcement action shall be as described under the enforcement provisions of the CMC. When, in the opinion of the Building Official or Fire Code Official, any electrical wiring, appliances, apparatus or equipment is found to be defective and to pose an immediate threat to health and safety, the Building/Fire Code Official shall notify the owner and occupant of the building in which such threat exists to cease using electric current in such wiring, appliances, apparatus or equipment until it has been inspected and found safe by the Building Official. The Building Official/Fire Code Official shall also have the authority to order that service utilities be disconnected in accordance with the California Building and Fire Codes.

## **Chapter 15.40 Television Antennas and Satellite Dishes**

### **15.40.040 Permit –Fee (television antennas and sat. dishes)**

An inspection fee Plan review and permit fees in an amount as established from time to time by the City Council by resolution shall be paid for each building electrical permit issued for the installation of each antenna or dish.

### **~~15.40.120 Demonstration and Testing Antenna Excepted From Permit Requirement~~**

~~The provisions of this chapter requiring a permit shall not be applicable to antenna systems installed for demonstration or testing purposes where such installation does not exceed three days; provided, however, that before any such demonstration or testing antenna installation is made, notification must be given to the Building Official, and approval made by her/him of such installation. Approval of such temporary installation shall not relieve the installer or owner of liability for compliance with this chapter.~~

## **Chapter 15.53 Deconstruction, Demolition, and Construction Material Recovery and Diversion from Landfills**

### **15.53.030 Diversion Requirements (Construction & Demolition Waste)**

One hundred percent of inert solids and at least ~~50~~ 65 percent of the remaining demolition and construction debris shall be diverted.

For each covered project, the diversion requirements of this chapter shall be met by submitting and following a waste reduction and recycling plan that includes the following:

- A. Deconstructing and salvaging all or part of the structure as practicable; and
- B. Directing 100 percent of inert solids to bona fide facilities for reuse or recycling; and
- C. Either:
  - 1. Taking all mixed demolition and construction debris to bona fide processor approved by the jurisdiction; or
  - 2. Source separating non-inert materials, such as cardboard and paper, wood, metals, green waste, new gypsum wallboard, tile, porcelain fixtures, and other easily recycled materials, and directing them to recycling facilities approved by the jurisdiction and taking the remainder (but no more than ~~50~~ 45 percent by weight) to a facility for disposal. In this option, calculations must be provided to show that ~~50~~ 65 percent of demolition and construction debris (in addition to 100 percent of inert solids) has been diverted.

Determination of acceptability and designation as demolition and construction debris is solely the responsibility of the bona fide processor, landfill or transfer station representative.

### **~~15.53.080 Voluntary Compliance for Roofing Permits~~**

~~Applicants for roofing permits are requested to voluntarily complete the waste reduction and recycling plan and return it to the permitting jurisdiction when the project is complete.~~

## **Chapter 15.54 Green Building Standards**

### **15.54.030 Requirements**

All building, plumbing, mechanical, and electrical permit applications shall demonstrate compliance with the applicable requirements of the current edition of the California Green Building Standards Code as adopted under this Title.

~~All building permit applications that are not exempt shall achieve a specific number of points based on the residential and nonresidential green building checklists. The checklists and point requirements shall be established by City Council resolution.~~

~~Applicants shall note the proposed points on the appropriate checklist and shall reference each point in the building permit plans. The checklists and point requirements shall be reviewed on an annual basis by the Planning Commission.~~

### **15.54.040 City-Owned Properties**

~~To demonstrate a leadership position, all City building projects greater than 1,000 square feet shall exceed the standard point requirements by 15 percent.~~

#### **~~15.54.070 Exceptions~~**

~~If, due to unusual circumstances, an applicant determines that compliance with this chapter creates an unreasonable hardship, the applicant may apply for an exception with the Planning Commission Board of Appeals. The burden of proof shall be on the applicant to demonstrate that the requirements of this chapter create an unreasonable hardship.~~

#### **~~15.54.080 Incentives~~**

~~Incentives for exceeding the minimum standards of this chapter shall be established by City Council resolution.~~

### **Chapter 8.32 15.55 California Fire Code**

#### **Sections**

<del>8.32-15.55.010</del>	2016 California Fire Code – Adopted
<del>8.32-15.55.020</del>	Fire Code – Effective Date – Copy on File
<del>8.32-15.55.030</del>	Definitions
<del>8.32-15.55.040</del>	Establishment of Limits in Which Storage of Flammable or Combustible Liquids in Outside Aboveground Tanks Is Prohibited.
<del>8.32-15.55.050</del>	Establishment of Limits in Which Storage of Liquefied Petroleum Gases is Prohibited.
<del>8.32-15.55.060</del>	Establishment of Limits in Which Storage of Explosives and Blasting Agents is Prohibited.
<del>8.32-15.55.070</del>	Establishment of Limits in Which Storage of Stationary Tanks or Flammable Cryogenic Fluids is Prohibited.
<del>8.32-15.55.080</del>	Establishment of Limits in Which Storage of Hazardous Materials is Prohibited.
<del>8.32-15.55.090</del>	Fireworks Prohibited.
<del>8.32-15.55.100</del>	Amendments to the California Fire Code
<del>8.32-15.55.110</del>	Repeal of Conflicting Ordinances
<del>8.32-15.55.120</del>	Validity

\*Prior legislation: Code 1975 §§720.0 – 725.0, 726.0, 726.1, 730.0 – 730.0 (o), Ords. 325 C.S., 77-2, 79-21, 82-11, 83-25, 85-21, 86-17, 87-11, 89-24, and 95-15.

For statutory provisions authorizing cities to adopt codes by reference, see Government Code §50022.1 et seq.; for provisions on fire and fire protection generally, see Health and Safety Code §13000 et seq.

#### **8.32-15.55.010 2016 California Fire Code – Adopted**

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the 2016 California Fire Code (~~2016~~ 2015 International Fire Code), published by the International Code Council, save and except those portions as are deleted, modified, or amended, of which code not less than three copies are

now on file in the office of the City Clerk, is adopted and incorporated in the municipal code as if set out at length in this code, and the provisions thereof shall be controlling within the limits of this City. (Ord. 2017-04§ 1 (Exh. A), 2017; Ord. 2013-07 § 1 (Exh. A), 2013; Ord. 2010-05 § 1 (Exh. A), 2010; Ord. 2008-01 § 1, 2008; Ord. 2003-04 § 1, 2003; Ord. 2001-08 § 1, 2001; Ord. 2000-09 § 1, 2001

**8.32-15.55.020 Fire Code – Effective Date – Copy on File**

The effective date for the 2016 California Fire Code adopted by CMC 15.55.010 within the City shall be January 1, 2017. The City Clerk shall maintain on file in the official records the edition of the California Fire Code currently in effect at all times. (Ord. 2017-04§1 (Exh. A), 2017; Ord. 2013-07§1 (Exh. A), 2010;; Ord. 2008-01§1, 2008; Ord. 2001-08§1, 2001; Ord. 2000-09§1, 2001).

**8.32-15.55.030 Definitions**

Whenever the word “jurisdiction” is used in the California Fire Code, it shall be held to mean the City of Carmel-by-the-Sea. Whenever the term “fire code official” is used in the California Fire Code, it shall be held to mean the ~~Contract Fire Marshal~~ Fire Chief of the City of Carmel-by-the-Sea Fire Department.

**8.32-15.55.040 Establishment of Limits in Which Storage of Flammable or Combustible Liquids in Outside Aboveground Tanks is Prohibited.**

The limits referred to in Chapter 34 of the California Fire Code in which storage of flammable or combustible liquids is restricted is hereby established as within the City limits, except as approved by the Fire Code Official. (Ord. 2008-01§1, 20-08; Ord. 2001-08§1, 2001; Ord. 2000-09§1, 2001)

**8.32-15.55.050 Establishment of Limits in Which Storage of Liquefied Petroleum Gases is Prohibited.**

The limits referred to in Chapter 38 of the California Fire Code in which storage of liquefied petroleum gas is restricted is hereby established as within the City limits, except as approved by the Fire Code Official. (Ord. 2008-01§1, 2008; Ord. 2001-08§1, 2001; Ord. 2000-09§1, 2001).

**8.32-15.55.060 Establishment of Limits in Which Storage of Explosives and Blasting Agents is Prohibited.**

The limits referred to in Chapter 33 of the California Fire Code and in Title 19, CCR, Chapter 10, in which storage of explosives and blasting agents is restricted is hereby established as within the City limits, except as approved by the Fire Code Official. (Ord. 2008-01§1, 2008; Ord. 2001-08§1, 2001; Ord. 2000-09§1, 2001).

**8.32-15.55.070 Establishment of Limits in Which Storage of Stationary Tanks of Flammable Cryogenic Fluids is Prohibited.**

The limits referred to in Chapter 32 of the California Fire Code in which storage of flammable cryogenic fluids in stationary tanks is restricted is hereby established as within the City limits, except as approved by the Fire Code Official. (Ord. 2008-01§1, 2008; Ord. 2001-08§1, 2001; Ord. 2000-09§1, 2001. Formerly 8.23.080)

**8.32-15.55.080 Establishment of Limits in Which the Storage of Hazardous Materials Is Prohibited**

The limits referred to in Chapter 27 of the California Fire Code in which storage of hazardous materials is restricted is hereby established as within the City limits, except as approved by the fire code official. (Ord. 2008-01§1, 2008; Ord. 2001-08§1, 2001; Ord. 2000-09§1, 2001. Formerly 8.32.090).

**8.32-15.55.090 Fireworks Prohibited**

It shall be unlawful to sell, possess, trade or discharge any fireworks, including "Safe and Sane" fireworks, anywhere within the City limits, except by duly issued permit for fireworks displays. (Ord. 2008-01§1, 2008; Ord. 2001-08§1, 2001; Ord. 2000-09§1, 2001. Formerly 8.32.095).

**8.32-15.55.100 Amendments to the California Fire Code**

The 2016 California Fire Code is amended and changed as follows as described in subsections (1) through (36) of this section.

1. Section 101.1 is amended to read as follows:  
101.1 Title. These regulations shall be known as the Fire Code of the City of Carmel-by-the-Sea, hereinafter referred to as "this code."
2. Section 101.2.1 is amended to read as follows:  
101.2.1 Appendices. Provisions in Appendix Chapter 4 and Appendices A, B, BB, C, CC, D, ~~E, F, G~~, H, I, ~~J~~, and AE are hereby adopted in their entirety and shall apply.
3. Section 102.1 is amended to read:  
102.1 Construction and design provisions. The construction and design provisions of this code shall apply to:
  1. Structures, facilities, and conditions arising after the adoption of this code.
  2. Existing structures, facilities and conditions not legally in existence a the time of adoption of this code.
  3. Existing structures, facilities and conditions when identified in specific sections of this code.
  4. Existing structures, facilities and conditions, which, in the opinion of the fire code official, constitute a distinct hazard to life and property.
  5. Existing residential and commercial structures to which additions, alterations, or repairs are made that involve the addition, removal, or replacement of fifty percent (50%) or greater of the linear length of the walls of the existing building (exterior plus interior) within a five-year period.

4. Section 102.3 is amended to read as follows:

102.3 Change of use or occupancy. No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same groups or occupancy or in a different group of occupancies, unless such structure is made to comply with the provisions of this code.

~~5. Section 103.5 is added to read as follows:~~

~~103.5 Police Powers. The fire code official and his deputies shall have the powers of police officers in performing their duties under this code. When requested to do so by the fire code official, the chief of police of the jurisdiction is authorized to assign such available police officers as necessary to assist the fire code official in enforcing the provisions of this code~~

5.5 Section (A) 105.1.2 is amended to read as follows:

(A) 105.1.2 Types of permits. There are two types of permits as follows:

1. Operational permit. Any and all conditions of an operational permit will be established through a separate Resolution approved by the City Council.

2. Construction permit. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required by Section (A) 105.1.1.

6. Section 105.6.1.5 is added to read as follows:

105.6.1.5 Agricultural Explosive Devices. An operational permit is required for storage or use of any agricultural explosive device including "bird bombs".

7. Section 105.7.5 is amended to read as follows:

105.7.5 Fire alarm and detection systems and related equipment. A construction permit is required for installation of or modification to fire alarm and detection systems and related systems, including systems installed in Group R-3 occupancies (one- and two-family homes). Maintenance performed in accordance with this code is not considered a modification and may not require a permit as determined by the fire code official.

8. Section 109.3 is amended to read as follows:

109.3 Violation penalties. Persons who shall violate any provision of this code or shall fail to comply with any of the requirements thereof or shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of an infraction, punishable by a fine not more than five hundred dollars (\$500.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

9. Section 111.4 is amended to read as follows:

111.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to

remove a violation or unsafe condition, shall be guilty of an infraction as specified in Section 109.3 of this code.

10. Section 202 is amended to add the following definitions:

ALL WEATHER SURFACE. A road surface constructed to the minimum standards adopted by the jurisdiction.

BRIDGE. A structure to carry a roadway over a depression or obstacle

10.4 Section 304 is added to read as follows:

Section 304 – Combustible Materials

Storage and Accumulation of Rubbish and Vegetation

304 Rubbish within Dumpsters. In all rooms or *aboveground* outside areas, adjacent to a building or underneath roof overhangs or when located nearer than 10 feet to *an* adjacent property line, used for storage of combustible waste materials in other than Group R, Division 3 occupancies shall be protected by automatic sprinkler protection. Such sprinklers may be connected to the domestic water supply, provided sufficient coverage of the area is provided and an approved accessible shutoff valve is provided for each room or area.

Exception: Trash areas adjacent to solid brick or concrete walls with no openings or eaves and a minimum of ten feet (10') separation distance between the dumpster and adjacent property line are not required to be protected by automatic sprinkler system(s).

10.6 Section 503.2.1 is added as follows:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

11. Section 503.2.6.1 is added to read as follows:

503.2.6.1 Private bridge engineering. Every private bridge hereafter constructed shall meet the following engineering requirements:

a. The weight shall be designed for a minimum of HS-20 loading as prescribed by the AASHTO.

b. The unobstructed vertical clearance shall be not less than 15 feet clear.

c. The width shall be a minimum of 20 feet clear. The fire code official may require additional width when the traffic flow may be restricted or reduce the width to a minimum of 12 feet for Occupancy Group U or R-3 occupancies.

d. The maximum grade change of the approach to and from any private bridge shall not



exceed 8% for a minimum distance of 10 feet.

12. Section 503.2.6.2 is added to read as follows:

503.2.6.2 Private bridge certification. Every private bridge hereafter constructed shall be engineered by a licensed professional engineer knowledgeable and experienced in the engineering and design of bridges. Certification that the bridge complies with the design standards required by this code and the identified standards, and that the bridge was constructed to those standards, shall be provided by the licensed engineer, in writing, to the fire code official. Every private bridge, including existing and those constructed under this code, shall be certified as to its maximum load limits every ten (10) years or whenever deemed necessary by the fire code official. Such recertification shall be by a licensed professional engineer knowledgeable and experienced in the engineering and design of bridges. All fees charged for the purpose of certification or recertification of private bridges shall be at the owner's expense.

13. Section 503.2.7 is amended to read as follows:

503.2.7 Grade. The grade of fire apparatus access roads shall be no greater than 15% unless specifically approved by the fire code official.

14. Section 503.2.7.1 is added to read as follows:

503.2.7.1 Paving. All fire apparatus access roads over eight percent (8%) shall be paved with a minimum 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base. All fire apparatus access roads over fifteen percent (15%) where approved shall be paved with perpendicularly grooved concrete.

15. Section 503.7 is added to read as follows:

503.7 Fire apparatus access roads. All fire apparatus access road names shall be issued by the City of Carmel –by-the-Sea.

16. Section 505.1 is amended to read as follows:

505.1 Address identification. Buildings and parcels shall be identified by a description of Parcel location relative to the nearest cross-street intersection as determined by the Community Planning and Building Department.

16. Section 506.1 is amended to read as follows:

506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box or other approved emergency access device to be installed in an approved location. The key box or other approved emergency access device shall be of an approved type and shall contain keys or other information to gain necessary access as required by the fire code official.

17. Section 507.5.2 is amended to read as follows:

507.5.2 Inspection, testing and maintenance. Fire hydrant systems shall be subject to periodic tests as required by the fire code official. Fire hydrant systems shall be maintained in an operative condition at all times and shall be repaired where defective. Additions, repairs, alterations and servicing shall comply with approved standards. When required by the fire code official, hydrants shall be painted in accordance with the most current edition of NFPA 291.

18. Section 603.6.6 is added to read as follows:

603.6.6 Spark arresters. An approved spark arrester shall be installed on all chimneys, incinerators, smokestacks, solid-fuel burning fire pits, or similar devices for conveying smoke or hot gases to the outer air.

19. Section 901.1.1 is added to read as follows:

901.1.1 Responsibility. The owner of the protected premises shall be responsible for all fire protection systems within the protected premises, whether existing or installed under this code.

20. Section 901.4 is amended to read as follows:

901.4 Installation. Fire protection systems shall be maintained in accordance with the original installation standards for that system. All systems shall be extended, altered, or augmented as necessary to maintain and continue protection whenever the building is altered, remodeled or added to. Alterations to the fire protection systems shall be done in accordance with applicable standards.

21. Section 901.4.5 is added to read as follows:

901.4.5 Nonoperational equipment. Any fire protection equipment that is no longer in service shall be removed.

22. Section 901.6.3 is added to read as follows:

901.6.3 Qualifications of Inspection, Testing and Maintenance Personnel. All personnel performing any inspection, testing or maintenance of any fire protection system shall be qualified. Where such inspection, testing and maintenance is performed by an outside service company, the company shall be appropriately licensed in accordance with the California Business & Professions Code or by the California State Fire Marshal.

22.5 Section 901.7 is added to read as follows:

901.7 Systems Out of Service. Where a required fire protection system is out of service, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, the building shall either be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shutdown until the fire protection system has been returned to service.

23. Section 903.2 is amended to read as follows:

903.2 Where required. Approved automatic sprinkler systems shall be provided in all

new buildings and structures constructed, moved into or relocated within the jurisdiction. This section supersedes the square footage limitations of all subsections within Section 903.2.

Exceptions:

- (1) Structures not classified as Group R occupancies and not more than 500 square feet in total floor area.
- (2) Detached agricultural buildings, as defined by this code, located at least one hundred feet (100') from any other structure or the property line, whichever is closer.
- (3) Accessory structures associated with existing non-sprinklered R-3 occupancies (one or two family dwellings) and less than 1500 square feet in total fire area.
- (4) Where an insufficient water supply exists to provide for an automatic fire sprinkler system and where the fire code official permits alternate protection.

24. Section 903.2.8 is amended to read as follows:

903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided in all buildings with a Group R fire area, including, but not limited to, one- and two-family dwellings, townhomes, and manufactured homes and mobile homes located outside of licensed mobile home parks hereafter constructed, moved into or relocated within the jurisdiction, including all additions to buildings already equipped with automatic fire sprinkler systems.

25. Section 903.3.1.1.2 is added to read as follows:

903.3.1.1.2 Elevators. Automatic fire sprinklers shall not be installed at the top of passenger elevator hoistways or in the associated passenger elevator mechanical rooms.

903.3.1.1.2.1 Where automatic fire sprinklers are not installed at the top of passenger elevator hoistways, heat detectors for the shunt trip mechanism shall not be installed, nor shall smoke detectors for elevator recall be installed.

903.3.1.1.2.2 Where automatic fire sprinklers are not installed in associated elevator machine rooms, heat detectors for the shunt trip mechanism shall not be installed. A smoke detector shall be installed for elevator recall.

26. Section 903.3.1.3 is amended to read as follows:

903.3.1.3 NFPA 13 D sprinkler systems. Where allowed, automatic sprinkler systems installed in one- and two-family dwellings shall be installed throughout in accordance with NFPA 13 D.

903.3.1.3.1 All fire sprinkler systems installed in one- and two-family dwellings shall be tested for leakage by undergoing a hydrostatic test made at 200 psi for a two-hour

duration.

903.3.1.3.2 Each water system supplying both domestic and fire protection systems shall have a single indicating-type control valve, arranged to shut off both the domestic and sprinkler systems off of a single water meter. A separate shut-off valve for the domestic system only shall be permitted to be installed. The location of the control valve shall be approved by the fire code official.

903.3.1.3.3 Automatic sprinklers shall be installed in all bathrooms, regardless of square footage.

903.3.1.3.4 Automatic sprinklers shall be installed in all attached garages and structures.

903.3.1.3.5 Automatic sprinklers shall be installed in all accessible storage areas.

903.3.1.2.5.1 Automatic sprinklers shall be installed in all under-stair spaces including all closets.

903.3.1.3.6 Local water flow alarms shall be provided on all sprinkler systems. Local water flow alarms shall be powered from the main kitchen refrigerator circuit. The local water flow alarm shall be clearly audible from within the master bedroom at an audibility level of not less than 75dBa. Where no kitchen exists in the building, the water flow alarm shall be powered from the bathroom lighting circuit.

27. Section 903.4.1 is amended to read as follows:

903.4.1 Monitoring. Alarm, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an approved UL-listed central station as defined in NFPA 72-20-10, or, when approved by the fire code official, shall sound an audible signal at a constantly attended location. The fire alarm system installed to transmit such signals shall be considered a building fire alarm system and shall be documented as a UL certificated central station service system.

(Exceptions remain unchanged)

28. Section 903.4.2 is amended to read as follows:

903.4.2 Alarms. One exterior approved audible device shall be connected to every automatic sprinkler system in an approved location. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Where a building fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system. Interior alarm notification appliances shall be installed as required by Section 903.4.2.1.

29. Section 903.4.2.1 is added to read as follows:

903.4.2.1 Where an automatic fire sprinkler system is installed in a building with more than one tenant or with over 100 sprinkler heads, audible and visible notification

appliances shall be installed throughout the building as follows:

- a. Audible notification appliances shall be installed so as to be audible at 15 dBA above average sound pressure level throughout the building.
- b. Visible notification appliances shall be installed in all public and common use areas, restrooms and corridors in accordance with the spacing requirements of NFPA 72.
- c. Visible notification appliances can be eliminated in normally unoccupied portions of buildings where permitted by the fire code official

EXCEPTION: The requirements of this section do not apply to Group R-3 Occupancies.

30. Section 903.4.3 is amended to read as follows:

903.4.3 Floor control valves. Approved indicating control valves and water flow switches shall be provided at the point of connection to the riser on each floor in all buildings over one story in height, and shall be individually annunciated as approved by the fire code official.

30.4 Section 903.6 is amended to read as follows:

903.6 Repairs, Alterations, and Additions. In all buildings, except where otherwise provided herein in this Section, where the total floor area exceeds five thousand square feet (5000 sf), or which are forty feet (40') or more in height, or which are three or more stories in height, they shall be made to comply with the provisions of this Section.

In all buildings where the total floor area exceeds five thousand square feet (5000 sf) or which are forty feet (40') or more in height, or which are three or more stories in height, if the repairs or alterations are made exceeding twenty-five percent of the current market value of the building and property as shown in the records of the County Assessor within any three hundred sixty ~~five~~ (360 365) day period shall be made to comply with the provisions of this section.

Definitions.

Repair. It is the reconstruction or renewal of any part of an existing building or structure for the purpose of its maintenance.

Alteration. It is any change, addition, or modification in construction or occupancy.

Exception: Projects where the sole purpose is for seismic upgrade.

Existing Group R, Division 3 buildings to which additions, alterations, or repairs are made that involve the removal or replacement of 50 percent or greater of the linear

length of walls of the building (exterior plus interior) within a ~~one~~ five-year period shall meet the requirements of new construction ~~or~~ of this code.

30.6 Section 904.11 is added to existing section:

904.11 Non-Conforming Restaurant Cooking Appliances and Fire Extinguishing Systems. All non-conforming restaurant cooking appliances, hood and duct systems, and fire extinguishing systems found to exist as of the effective date of this Ordinance shall be made to conform to the requirements of this Section within 90 days of notification. It shall thereafter be unlawful for any person to maintain or suffer to be maintained any non-conforming restaurant cooking appliance, hood and duct system or fire extinguishing system on any property owned or controlled by said person within the City of Carmel.

31. Section 907.1.6 is added to read as follows:

907.1.6 Multiple Fire Alarm Systems. Multiple fire alarm systems within a single protected premise are not permitted, unless specifically authorized by the fire code official.

32. Section 907.2 is amended to read as follows:

907.2 Exception 1. The manual fire alarm box is not required for fire alarm control units dedicated to elevator recall control.

33. Section 907.7.4 is added to read as follows:

907.7.4 Zone transmittal. Where required by the fire code official, fire alarm signals shall be transmitted by zone to the supervising station and retransmitted by zone to the public fire service communications center.

34. Section 907.7.5 is amended to read as follows:

907.7.5 Monitoring. Fire alarm systems required by this chapter, by the California Building Code, or installed voluntarily shall be monitored by a UL-listed central station and shall be documented as UL-certificated central station service systems in accordance with NFPA 72-2010 and this section.

35. Section 907.8.2 is amended to read as follows:

907.8.2 Completion documents. The following documentation shall be provided at the time of acceptance testing for all fire alarm system installations:

1. A record of completion in accordance with NFPA 72.
2. A contractor's statement verifying that the system has been installed in accordance with the approved plans and specifications, and has been 100% tested in accordance with NFPA 72.
3. A contractor's affidavit of personnel qualifications, indicating that all personnel involved with the installation of the fire alarm system meet the qualification requirements

of the fire code official.

35.4 Section 907.13 is amended to read as follows:

907.13 Access. Access shall be provide to each fire alarm system component for periodic inspection, maintenance and testing.

35.6 Section 5704.2.9.6.1 is added to read as follows:

Section 5704.2.9.6.1 Outdoor Storage of Containers and Portable Tanks. Storage of Class I and Class II liquids in aboveground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited except as permitted by t he Zoning Ordinance.

Exception:

1. Storage tanks of 500 gallon maximum capacity may be used only in conjunction with emergency generators as approved by the fire chief.

36. Repealed. Alternative Energy Systems shall be installed in accordance with the California Building, Fire and Electrical Codes as adopted by the City of Carmel-by-the-Sea.

## **Chapter 8.72-15. 56 Community Floodplain**

### Sections

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**8.72-15.56.010 General Provisions**

A. Statutory Authorization. The legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Carmel-by-the-Sea does hereby adopt the following floodplain management regulations.

B. Findings of Fact.

1. The flood hazard areas of Carmel-by-the-Sea are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are caused by uses that are inadequately elevated, flood proofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities also contributes to flood losses.

C. Statement of Purpose. It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood-prone, mudslide (i.e. mudflow) or flood-related erosion areas. These regulations are designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions
5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard.
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes regulations to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood



heights or velocities;

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

4. Control filling, grading, dredging, and other development which may increase flood damage;

5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 2009-03, 2009; Ord. 97-10§1, 1997)

#### **8.72-15.56.020 Definitions**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

A Zone. See "Special flood hazard area"

"Accessory structure" means a structure that is either:

1. Solely for the parking of no more than two cars; or
2. A small, low-cost shed for limited storage, less than 150 square feet and \$1,500 in value.

"Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"Alluvial fan" means a geomorphic feature characterized by a cone- or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

"Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be

evident. Such flooding is characterized by ponding or sheet flow.

“Area of Special Flood Hazard”. See “Special flood hazard area”.

“Base flood” means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the “100-year flood”). Base flood is the term used throughout this chapter.

“Base flood elevation (BFE)” means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-A30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year.

“Basement” means any area of the building having its floor subgrade, i.e. below ground level, on all sides.

“Breakaway walls” are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

Building. See “Structure”

“Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“Encroachment” means the advance or infringement of uses, plant growth, fill excavation,

buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of the floodplain.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Flood”, “flooding”, or “floodwater” means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation of runoff of surface waters from any source; and/or mudslides (i.e. mudflows); and
2. The condition resulting from flood-related erosion

“Flood Boundary and Floodway Map (FBFM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazard and the floodway.

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

“Floodplain” or “flood-prone area” means any land area susceptible to being inundated by water from any source. See “Flooding”.

“Floodplain Administrator” is the community official designated by title to administer and enforce the floodplain management regulations.

“Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain management regulations” means this chapter and other zoning ordinances,

subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes Federal, State or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “regulatory floodway”.

“Floodway fringe” is that area of the floodplain on either side of the regulatory floodway where encroachment may be permitted.

“Fraud and victimization”, as related to CMC 15.56.220 means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for 50 to 100 years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, which future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

“Governing body” is the local governing unit, i.e., county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

“Hardship,” as related to CMC 15.56.220, means the exceptional hardship that would result from a failure to grant the requested variance. The City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved State program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

“Levee” means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

“Levee system” means a flood protection system, which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement (see “Basement” definition).

1. An unfinished or flood-resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor, provided it conforms to applicable nonelevation design requirements, including, but not limited to:
  - a. The flood openings standard in CMC [15.56.150\(C\)\(3\)](#);
  - b. The anchoring standards in CMC [15.56.150\(A\)](#);
  - c. The construction materials and methods standards in CMC [15.56.150\(B\)](#); and
  - d. The standards for utilities in CMC [15.56.160](#).

2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see “Basement” definition). This prohibition includes below-grade garages and storage areas.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a recreational vehicle.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Market value” is defined in the City of Carmel-by-the-Sea substantial damage/improvement procedures. See CMC 15.56.120(B).

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

“New construction,” for floodplain management purposes, means structures for which the start of construction commenced on or after December 9, 1997, and includes any subsequent improvements to such structures.

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after December 9, 1997.

“Obstruction” includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-Hundred-Year Flood or 100-Year Flood. See “Base flood.”

“Primary frontal dune” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

“Program deficiency” means a defect in a community’s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

“Public safety and nuisance,” as related to CMC 15.56.220, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Remedy a violation” means to bring the structure or other development into compliance with State or local floodplain management regulations or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Sand dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Sheet Flow Area. See “Area of shallow flooding.”

“Special flood hazard area (SFHA)” means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1 – A30, AE, A99, AH, V1 – V30, VE or V.

“Start of construction” includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction,

repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures, which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of an historic structure; provided, that the alteration will not preclude the structure’s continued designation as an historic structure.

V Zone. See “Coastal high hazard area.”

“Variance” means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

“Violation” means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.



“Water surface elevation” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. “Watercourse” includes specifically designated areas in which substantial flood damage may occur. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997).

#### **8.72-15.56.040 Lands to Which This Chapter Applies.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the City of Carmel-by-the-Sea as identified by the most recent Flood Insurance Rate Maps provided by the Federal Emergency Management Agency. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.030).

#### **8.72-15.56.050 Basis for Establishing Areas of Special Flood Hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the “Flood Insurance Study (FIS) for Monterey County, California, and Incorporated Areas,” with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), effective April 2, 2009, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator. The study, FIRMs and FBFMs are on file with the City Clerk. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.040).

#### **8.72-15.56.060 Compliance**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.050).

#### **8.72-15.56.070 Abrogation and Greater Restrictions**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.060).

#### **8.72-15.56.080 Interpretation**

In the interpretation and application of this chapter, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under State statutes. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.070).

**8.72-15.56.090 Warning and Disclaimer of Liability**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City Council, any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.080).

**8.72-15.56.100 Severability.**

This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ord. 2009-03, 2009).

**8.72-15.56.110 Designation of the Floodplain Administrator.**

The City Administrator and/or his/her designated representative is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.100).

**8.72-15.56.120 Duties and Responsibilities of the Floodplain Administrator.**

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

A. Permit Review. Review all development permits to determine:

1. Permit requirements of this chapter have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
2. All other required State and Federal permits have been obtained;
3. The site is reasonably safe from flooding;
4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when

combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the City of Carmel-by-the-Sea; and

5. All letters of map revision (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the “start of construction” definition.

**B. Development of Substantial Improvement and Substantial Damage Procedures.**

1. Using FEMA publication FEMA 213, “Answers to Questions About Substantially Damaged Buildings,” develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining “market value.”

2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

**C. Review, Use and Development of Other Base Flood Data.** When base flood elevation data has not been provided in accordance with CMC 15.56.050, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal or State agency, or other source, in order to administer CMC 15.56.150.

Note: A base flood elevation may be obtained using one of two methods from the FEMA publication FEMA 265, “Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-Year) Flood Elevations,” dated July 1995.

**D. Notification of Other Agencies.**

1. Alteration or Relocation of a Watercourse.

a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;

b. Submit evidence of such notification to the Federal Emergency Management Agency; and

c. Assure that the flood-carrying capacity within the altered or relocated portion of said watercourse is maintained.

2. Base Flood Elevation Changes Due to Physical Alterations.

a. Within six months of information becoming available or project completion, whichever comes first, the Floodplain Administrator shall submit or assure that the

permit applicant submits technical or scientific data to FEMA for a letter of map revision (LOMR).

b. All LOMRs for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the “start of construction” definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

3. Changes in Corporate Boundaries. Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

E. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by CMC 15.56.150(C)(1) and 15.56.180 (lowest floor elevations);
2. Certification required by CMC 15.56.150(C)(2) (elevation or floodproofing of nonresidential structures);
3. Certification required by CMC 15.56.150(C)(3) (wet floodproofing standard);
4. Certification of elevation required by CMC 15.56.170(A)(3) (subdivisions and other proposed development standards);
5. Certification required by CMC 15.56.200 (floodway encroachments);
6. Information required by CMC 15.56.210(F) (coastal construction standards); and
7. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

F. Map Determination. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in CMC 15.56.140.

G. Remedial Action. Take action to remedy violations of this chapter as specified in CMC 15.56.060.

H. Biennial Report. Complete and submit a biennial report to FEMA.

I. Planning. Assure the community's General Plan is consistent with floodplain management objectives herein. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.110).

**8.72-15.56.130 Development Permit.**

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in CMC [8.72.050](#). Application for a development permit shall be made on forms furnished by the City of Carmel-by-the-Sea. The applicant shall provide the following minimum information:

A. Plans in duplicate, drawn to scale, showing:

1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
2. Proposed locations of water supply, sanitary sewer, and other utilities;
3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
4. Location of the regulatory floodway when applicable;
5. Base flood elevation information as specified in CMC [15.56.050](#) and [15.56.120\(C\)](#);
6. Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures; and
7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in CMC [15.56.150\(C\)\(2\)](#) and detailed in FEMA Technical Bulletin TB 3-93.

B. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in CMC [15.56.150\(C\)\(2\)](#).

C. For a crawl space foundation, location and total net area of foundation openings as required in CMC [15.56.150\(C\)\(3\)](#) and detailed in FEMA Technical Bulletins TB 1-93 and TB 7-93.

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E. All appropriate certifications listed in CMC [15.56.120\(E\)](#). (Ord. 2009-03, 2009).

**8.72-15.56.140 Appeals**

The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter. (Ord. 2009-03, 2009).

#### **8.72-15.56.150 Standards of Construction**

In all areas of special flood hazard, the following standards are required:

A. Anchoring. All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. Construction Materials and Methods. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

1. With flood-resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
2. Using methods and practices that minimize flood damage;
3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
4. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

C. Elevation and Floodproofing.

1. Residential Construction. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

- a. In AE, AH, A1 – A30 Zones, elevated to or above the base flood elevation.
- b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.
- c. In an A Zone, without BFEs specified on the FIRM (unnumbered A Zone), elevated to or above the base flood elevation, as determined under CMC [15.56.120\(C\)](#).

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community Building Inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

2. Nonresidential Construction. All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with subsection (C)(1) of this section or:

- a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under subsection (C)(1) of this section, so that the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered civil engineer or architect that the standards of subsections (C)(2)(a) and (b) of this section are satisfied. Such certification shall be provided to the Floodplain Administrator.

3. Flood Openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

- a. For non-engineered openings:
  - i. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - ii. The bottom of all openings shall be no higher than one foot above grade;
  - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, that they permit the automatic entry and exit of floodwater; and
  - iv. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow floodwater to directly enter; or
- b. Be certified by a registered civil engineer or architect.

4. Manufactured Homes. See CMC 15.56.180.

5. Garages and Low-Cost Accessory Structures.

- a. Attached Garages.
  - i. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of

floodwaters. See subsection (C)(3) of this section. Areas of the garage below the BFE must be constructed with flood-resistant materials. See subsection (B) of this section.

ii. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below-grade parking areas, see FEMA Technical Bulletin TB-6.

b. Detached Garages and Accessory Structures.

i. "Accessory structures" used solely for parking (two-car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in CMC [15.56.020](#), may be constructed such that their floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:

(A) Use of the accessory structure must be limited to parking or limited storage;

(B) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;

(C) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;

(D) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;

(E) The accessory structure must comply with floodplain encroachment provisions in CMC [15.56.200](#); and

(F) The accessory structure must be designed to allow for the automatic entry of floodwaters in accordance with subsection (C) of this section.

ii. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in this section. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.120).

**8.72-15.56.160 Standards for Utilities.**

A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

1. Infiltration of floodwaters into the systems; and
2. Discharge from the systems into floodwaters.



B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.140).

**8.72-15.56.170 Standards for Subdivisions and Other Proposed Development**

A. All new subdivision proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or five acres, whichever is the lesser, shall:

1. Identify the special flood hazard areas (SFHA) and base flood elevations (BFE).
2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a letter of map revision based on fill (LOMR-F) to the Floodplain Administrator:
  - a. Lowest floor elevation.
  - b. Pad elevation.
  - c. Lowest adjacent grade.

B. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.

C. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

D. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards. (Ord. 2009-03, 2009; Ord. 97-10 § 1, 1997. Formerly 8.72.130).

**8.72-15.56.180 Standards for Manufactured Homes.**

A. All manufactured homes that are placed or substantially improved on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood shall:

1. Within Zones A1 – A30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home

is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Within Zones V1 – V30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of CMC 15.56.210.

B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1 – A30, AH, AE, V1 – V30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of subsection (A) of this section will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

1. Lowest floor of the manufactured home is at or above the base flood elevation; or
2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community Building Inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator. (Ord. 2009-03, 2009).

#### **8.72-15.56.190 Standards for Recreational Vehicles.**

A. All recreational vehicles placed in Zones A1 – A30, AH, AE, V1 – V30 and VE will either:

1. Be on the site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions; or
3. Meet the permit requirements of CMC 15.56180 and the elevation and anchoring requirements for manufactured homes in CMC 15.56.180.

B. Recreational vehicles placed on sites within Zones V1 – V30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of subsection (A) of this section and CMC 15.56.210. (Ord. 2009-03, 2009).

#### **8.72-15.56.200 Floodways.**

Since floodways are an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1 – A30 and AE, unless it is

demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than one foot at any point within the City of Carmel-by-the-Sea.

B. Within an adopted regulatory floodway, the City of Carmel-by-the-Sea shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

C. If subsections (A) and (B) of this section are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of CMC 15.56.150. (Ord. 2009-03, 2009).

#### **8.72-15.56.210 Coastal High Hazard Areas.**

Within coastal high hazard areas, Zones V, V1 – V30, and VE, as established under CMC 15.56.050, the following standards shall apply:

A. All new residential and nonresidential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

B. All new construction and other development shall be located on the landward side of the reach of mean high tide.

C. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in CMC 15.56.020. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.

D. Fill shall not be used for structural support of buildings.

E. Manmade alteration of sand dunes which would increase potential flood damage is prohibited.

F. The Floodplain Administrator shall obtain and maintain the following records:

1. Certification by a registered engineer or architect that a proposed structure complies with subsection (A) of this section; and

2. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement. (Ord. 2009-03, 2009).

#### **8.72-15.56.220 Nature of Variances.**

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in this chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate. (Ord. 2009-03, 2009).

#### **8.72-15.56.230 Conditions for Variances.**

A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of CMC 15.56.120, 15.56.130 and 15.56.150 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in CMC 15.56.020) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local ordinance.

E. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County of Monterey Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

F. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency. (Ord. 2009-03, 2009).

#### **8.72-15.56.240 Appeal Board**

A. In passing upon requests for variances, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

1. Danger that materials may be swept onto other lands to the injury of others;
2. Danger of life and property due to flooding or erosion damage;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

B. Variances shall only be issued upon a:

1. Showing of good and sufficient cause;
2. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see “public safety and nuisance” in CMC 15.56.020), cause fraud and victimization of the public, or conflict with existing local laws or ordinances.

C. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use; provided, that the provisions of subsections (A) through (D) of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

D. Upon consideration of the factors of CMC 15.56.230(A) and the purposes of this chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 2009-03, 2009).

## **Chapter ~~8.64~~ 15.57 Property Nuisances**

Sections:

- |  |  |
|--|--|
| <del>8.64</del> <a href="#"><u>15.57.010</u></a> | Maintenance of Property – Nuisances Designated.                  |
| <del>8.64</del> <a href="#"><u>15.57.020</u></a> | Abatement by Repair, Rehabilitation, Demolition or Removal.      |
| <del>8.64</del> <a href="#"><u>15.57.030</u></a> | Declaration of Nuisance.   |
| <del>8.64</del> <a href="#"><u>15.57.040</u></a> | Notice – Form.   |
| <del>8.64</del> <a href="#"><u>15.57.050</u></a> | Notice – Service Authority – Response Time.                      |
| <del>8.64</del> <a href="#"><u>15.57.060</u></a> | Notice – Proper Service, Mailing, Posting.                       |
| <del>8.64</del> <a href="#"><u>15.57.070</u></a> | Hearing by City Administrator or Duly Authorized Representative. |
| <del>8.64</del> <a href="#"><u>15.57.080</u></a> | Decision of City Administrator.                                  |
| <del>8.64</del> <a href="#"><u>15.57.090</u></a> | Limitation of Filing Judicial Action.                            |
| <del>8.64</del> <a href="#"><u>15.57.100</u></a> | Service of Order to Abate.                                       |
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- ~~8.64~~[15.57.120](#) Report – Hearing and Proceedings.
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- ~~8.64~~[15.57.140](#) Alternative Remedies.
- ~~8.64~~[15.57.150](#) Violations.

~~8.64~~**15.57.010 Maintenance of Property – Nuisances Designated.**

It is a public nuisance for any person owning, leasing, occupying or having charge of any premises in this City to maintain, or permit to exist, such premises in such manner that any one or more of the following conditions are to exist thereon:

- A. Land, the topography, geology or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, causes erosion, subsidence or surface water drainage problems of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare, or to adjacent properties;
- B. Buildings which are abandoned for a period of six months, or permitted to remain unreasonably in a state of partial destruction for a period of four months without a building permit having been obtained and substantial construction performed, or permitted to remain unreasonably in a state of partial construction without substantial construction being performed. Substantial construction shall mean construction sufficiently noticeable to the public to give notice of ongoing construction work;
- C. The failure to close, by such means as are acceptable to the Chief of Police, all doorways, windows and other openings into vacant structures;
- D. Broken windows constituting hazardous conditions and inviting trespassers and malicious mischief;
- E. Vegetation, including dry grass, dead shrubs, dead trees, combustible refuse and waste, or any material growing upon the area between the traveled way and the property line, sidewalks or upon private property which by reason of size, manner of growth and location would create any one or more of the following:
  - 1. A condition likely to constitute a fire hazard to any building, improvement or other property, or, when dry, will in reasonable probability constitute a fire hazard;
  - 2. A condition likely in the opinion of the Health Officer to harbor rats, vermin or other similar creatures constituting a health hazard; or
  - 3. Causes appreciable harm or material detriment to the aesthetic and/or property values of surrounding property;
- F. Dead, decayed, diseased or hazardous trees, weeds and other vegetation:
  - 1. Dangerous to public safety and welfare; or

2. Causing appreciable harm or material detriment to the aesthetic and/or property values of surrounding property;

G. The accumulation and storage on any premises for more than 90 days of abandoned, wrecked, dismantled or inoperative automobiles, trailers, campers, boats, other mobile equipment, or major part thereof, within the view of persons on public or other property adjacent to the premises;

H. Attractive nuisances dangerous to children in the form of:

1. Abandoned and broken equipment, or
2. Unprotected and/or hazardous pools, ponds and excavations, or
3. Neglected machinery;

I. Waste on the premises which by reason of its location is unsightly and interferes with the reasonable enjoyment of property by neighbors, detrimentally affects property values in the surrounding neighborhood or community or which would materially hamper or interfere with the suppression of fire upon the premises or adjacent premises and which is visible from public property or from neighboring properties for a period of time in excess of 10 days. "Waste" is defined for the purpose of this section as unused or discarded matter and material which consists (without limitation or exclusion by enumeration) of such matter and material as rubbish and refuse as defined in CMC Title 9, and matter of any kind including, but not limited to, rubble, debris, asphalt, concrete, plaster, tile rocks, bricks, soil, building materials, crates, cartons, containers, boxes, furniture and household equipment or parts thereof, lumber, trash, dirt, machinery or parts thereof, scrap metal and pieces of metal, ferrous or nonferrous, bottles, bedding, etc.;

J. The accumulation of dirt, litter or debris in vestibules, doorways or the adjoining sidewalks of commercial or industrial buildings;

K. The maintenance of signs and/or sign structures relating to uses no longer conducted or products no longer sold on vacant commercial, industrial or institutional buildings more than 45 days after such building becomes vacant;

L. The maintenance of any structure in a defective, unsightly, deteriorated and unrepaired condition, which is viewable from a public right-of-way or viewable from the sites of neighboring properties, where such condition would cause appreciable harm or material detriment to the aesthetic and/or property values of surrounding property;

M. The substantial lack of maintenance of grounds within the City on which structures exist, where the grounds are viewable by the public from a public right-of-way or viewable from the sites of neighboring properties, where such condition would cause appreciable harm or material detriment to the aesthetic and/or property values of surrounding properties;



N. Maintenance of premises in such condition as to be detrimental to the public health, safety or general welfare or in such manner as to constitute a public nuisance as defined by Civil Code Section 3480;

O. Property maintained (in relation to others) so as to establish a prevalence of depreciated values, impaired investments and social and economic maladjustments to such an extent that the capacity to pay taxes is reduced and tax receipts from such particular area are inadequate for the cost of public services rendered therein. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.1).

**8.6415.56.020 Abatement by Repair, Rehabilitation, Demolition or Removal**

All or any part of premises found as provided herein to constitute a public nuisance shall be abated by rehabilitation, demolition or repair pursuant to the procedures set forth in this chapter. The procedures set forth herein shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances or abating public nuisances in any other manner provided by law. Abandoned vehicles may be impounded from private property, provided, that all requirements set forth in California Vehicle Code Section 22661 have been met. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.1).

**8.6415.57.030 Declaration of Nuisance.**

Whenever the City Administrator, or her/his duly authorized representative, determines that any premises within the City may exist in a condition contrary to one or more of the provisions of CMC 15.57.010, then s/he shall cause notice to be given in the manner provided in this chapter. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.2).

**8.6415.57.040 Notice – Form.**

Notice of the allegations and intent to abate nuisance shall be titled “Notice of Nuisance and Intent to Abate in Whole or Part” and shall be substantially as follows:

NOTICE OF NUISANCE AND INTENT TO ABATE IN WHOLE OR PART

NOTICE IS HEREBY GIVEN, that the City of Carmel-by-the-Sea, California, has received a complaint that the real property described as Lot\_\_\_\_, Block\_\_\_\_, Tract\_\_\_\_, located at (street location) exists in a condition which creates a nuisance as set forth in Municipal Code Section ~~8.64.040~~ 15.57.010 et seq., subject to abatement of such premises by the rehabilitation of such premises or by the repair or demolition of buildings or structures situated thereon:

If said premises, in whole or part, are found to constitute a public nuisance as defined by Section ~~8.64.040~~ 15.57.010 of the Municipal Code of the City of Carmel-by-the-Sea and if the same are not promptly abated by the owner, such nuisance may be abated by municipal authorities and the rehabilitation, repair or demolition will be assessed upon such premises and such cost, along with costs of administration, will constitute a lien upon such land until paid.

Said alleged violations consist of the following:

Said methods of abatement intended are:

You have the right to object to this determination, examine witnesses, produce witnesses and evidence, and have the assistance of the City in compelling witnesses to attend a hearing on this determination and intent to abate.

If you wish to exercise the above rights, you must request a hearing, in writing, in the above matter within 20 days of the date indicated below. Said request for hearing must be received at the Carmel-by-the-Sea City Hall, located on Monte Verde Street between Ocean and Seventh Avenues, Carmel-by-the-Sea, before midnight of the twentieth day.

If a request for hearing is not timely received by the City, you will have waived your rights as set forth above and a nuisance and abatement order will be issued by the City Administrator or her/his designee.

Date: \_\_\_\_\_  
City Administrator  
(or her/his designee)

(Ord. 85-4 § 1, 1985; Code 1975 § 699.95.3).

**8.6415.57.050 Notice – Service Authority – Response Time.**

A. The Chief of Police, or such other City official as may be designated by the City Administrator, shall cause to be served upon the owner, lessee, occupant, or person having charge of each of the affected premises a copy of the notice.

B. The owner, lessee, occupant or person having charge shall be served with a notice setting forth the allegations from which the determination of a nuisance has arisen and the City's proposed means of abatement. Said notice shall include an estimate by the City of the costs of said abatement to the interested party. Said notice shall give the responding party 20 days from date of notice to request a hearing on the allegations. If a hearing is not requested within 20 days, the allegations shall be deemed true. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.4).

**8.6415.57.060 Notice – Proper Service, Mailing, Posting**

Service of the notice shall be by personal service upon the owner, lessee or person(s) occupying or having charge of the premises upon which the nuisance exists. Said notice may be mailed to the interested party (party to be held responsible) by registered mail, return receipt requested, and a copy of said notice shall be posted in a conspicuous place near the front entrance to the premises. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.5).

**~~8.64~~15.57.070 Hearing by City Administrator or Duly Authorized Representative.**

A. Upon receipt of a request for hearing, the City Administrator shall calendar a hearing, not less than five days nor more than 15 days from receipt of the request.

B. The City Administrator or her/his duly authorized representative, at the time set for hearing, shall hear and consider all relevant evidence, objections, or protests, and shall receive testimony from owners, witnesses, City personnel, and interested persons relative to such alleged public nuisance and to proposed rehabilitation, repair or demolition of such premises. The hearing may be continued from time to time. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.6).

**8.6415.57.080 Decision of City Administrator.**

A. Upon or after the conclusion of the hearing, the City Administrator or her/his duly authorized representative shall, based upon such hearing, determine whether the premises, or any part thereof, as maintained constitutes a public nuisance as defined herein. If the City Administrator or her/his duly authorized representative finds that such public nuisance does exist and that there is sufficient cause to rehabilitate, demolish, or repair the same, the City Administrator or her/his duly authorized representative shall make a written order setting forth her/his findings and ordering the owner, lessee, occupant or other person having charge or control of such premises to abate such nuisance by having such premises, buildings, or structures rehabilitated, repaired, or demolished in the manner and by the means specifically set forth in the order. Such order shall set forth the times within which such work shall be commenced and completed by the owner.

B. Within 10 days from the date of the mailing of the order, the owner or person occupying or controlling such lot or premises affected may appeal to the City Council. Such appeal shall be in writing and shall be filed with the City Clerk. At a meeting of the City Council not more than 30 days thereafter, it shall proceed to hear and pass upon the appeal. The decision of the City Council thereon shall be final and conclusive. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.7).

**8.6415.57.090 Limitation of Filing Judicial Action.**

Any owner or other interested person having any objections or feeling aggrieved at any proceeding taken on appeal by the City Council in ordering the abatement of any public nuisance under the provisions of this chapter must bring an action to contest such decision within 90 days after the date of such decision of the City Council. Otherwise, all objections to such decision shall be deemed waived. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.8).

**8.6415.57.100 Service of Order to Abate.**

A copy of the order of the City Administrator or her/his duly authorized representative ordering the abatement of the nuisance shall be served upon the owner(s), lessee, occupant, or person having charge of the property in accordance with the provisions of CMC ~~8.64.050~~ 15.57.050 and ~~8.64.060~~ 15.57.060 and shall contain a detailed list of needed corrections and abatement methods. Any property owner shall have the right to have any such premises

rehabilitated or to have such building or structure demolished or repaired in accordance with the order at the owner's expense; provided, the same is done prior to the expiration of the abatement period set forth in the order. Upon such abatement in full by the owner, the proceedings under this chapter shall terminate.

If such nuisance is not completely abated by the owner as directed within the designated abatement period, then the City Administrator or her/his duly authorized representative is authorized and directed to cause the same to be abated by City forces or private contract, and the City Administrator or her/his duly authorized representative (including private contractors) is expressly authorized to enter upon the premises for such purpose. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.9).

#### **8.6415.57.110 Record of Cost of Abatement.**

A. The City Administrator, or such other City official as may be designated by her/him, shall keep an account of the cost (including incidental expenses) of abating such nuisance on each separate lot and parcel of land where the work is done and shall render an itemized report in writing to the City Council showing the cost of abatement and the rehabilitating, demolishing or repairing of the premises, buildings or structures, including any salvage value relating thereto; provided, that before the report is submitted to the City Council, a copy of the same shall be served in accordance with the provisions of CMC ~~8.64.050~~ 15.57.050 together with a notice of the time when the report shall be heard by the City Council for confirmation.

B. The City Council shall set the matter for hearing to determine the correctness or reasonableness, or both, of such costs and any administrative cost assessed.

C. Proof of the service shall be made by declaration under penalty of perjury filed with the City Clerk.

D. "Incidental expenses" includes, but is not limited to, the actual expenses and costs of the City in the preparation of notices, specifications and contracts, and in inspecting the work, and the costs of printing and mailing required under this chapter. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.10).

#### **8.6415.57.120 Report – Hearing and Proceedings**

At the time and place fixed for receiving and considering the report, the City Council shall hear and pass upon the report of such costs of abatement, together with any objections or protests. Thereupon, the City Council may make such revision, correction or modification in the report as it may deem just, after which, by motion, the report as submitted or as revised, corrected or modified, shall be confirmed. The decision of the City Council on all protests and objections which may be made shall be final and conclusive. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.11).

#### **8.6415.57.130 Assessment of Costs Against Property – Lien.**

The total cost for abating such nuisance, as so confirmed by the City Council, shall constitute a special assessment against the respective lot or parcel of land to which it relates and, upon recordation in the Office of the County Recorder of a notice of lien, as so made and confirmed, shall constitute a lien on the property for the amount of such assessment.

A. After such confirmation and recordation, a certified copy of such decision shall be sent to the tax division of the County Auditor-Controller's Office, whereupon it shall be the duty of the Auditor-Controller to add the amount of the respective assessments to the next regular tax bills levied against the respective lots and parcels of land for municipal purposes, and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes; or

B. After such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law; or

C. Such notice of lien for recordation shall be in a form substantially as follows:

#### NOTICE OF LIEN

(Claim of City of Carmel-by-the-Sea)

Pursuant to the authority vested by the provisions of Section ~~8.64.010~~ 15.57.010 et seq. of the Municipal Code of the City of Carmel-by-the-Sea, the City Administrator of the City of Carmel-by-the-Sea, or her/his duly authorized representative did, on or about the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, cause the premises herein described to be rehabilitated, or the building or structures on the property hereinafter described to be repaired or demolished in order to abate a public nuisance on said real property; and the City Council of the City of Carmel-by-the-Sea did, on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, assess the cost of such rehabilitation, repair or demolition upon said real property hereinafter described, and the same has not been paid nor any part thereof; and that said City of Carmel-by-the-Sea does hereby claim a lien to such rehabilitation, repair or demolition and administrative costs in the amount of said assessment, to wit: The sum of \$\_\_\_\_; and the same shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinbefore mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Carmel-by-the-Sea, County of Monterey, State of California, and more particularly described as follows:

Dated: \_\_\_\_\_, 19\_\_\_\_

City Administrator of the City of Carmel-by-the-Sea

(Ord. 85-4 § 1, 1985; Code 1975 § 699.95.12).

**8.6415.57.140 Alternative Remedies.**

Nothing in this chapter shall be deemed to supersede any other remedies of this code nor to prevent the City from commencing civil or criminal proceedings to abate a public nuisance under applicable civil or penal code provisions as an alternative to the proceedings set forth in this chapter. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.13).

**8.6415.57.150 Violations.**

A. The owner or other person having charge or control of any such buildings or premises who maintains any public nuisance defined in this chapter, or who violates an order of abatement made pursuant to CMC ~~8.64.080~~ 15.57.080 is guilty of an infraction.

B. Any occupant or lessee in possession of any such building or structure who fails to vacate the building or structure in accordance with an order given as provided in this chapter is guilty of an infraction.

C. Any person who removes any notice or order posted as required in this chapter, for the purpose of interfering with the enforcement of the provisions of this chapter, is guilty of an infraction.

D. No person shall obstruct, impede or interfere with any representative of the City Council or with any representative of a City department or with any person who owns or holds any estate of interest in a building which has been ordered to be vacated, repaired, rehabilitated, or demolished and removed, or with any person to whom any such building has been lawfully sold pursuant to the provisions of this code whenever any such representative of the City Council, representative of the City, purchaser or person having any interest or estate in such building is engaged in carrying out, implementing or enforcing an order pursuant to the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant to this chapter. Violation of the provisions of this section is an infraction. (Ord. 85-4 § 1, 1985; Code 1975 § 699.95.14).

***Chapter 8.56.020 Definitions is amended by the addition of the following definition:***

8.56.020 B. "Class B noise" includes noise created or generated within or adjacent to residential property which is necessary and normally associated with ~~residential living~~ property maintenance and construction. Class B noise includes, but is not limited to, noise created by power ~~mowers, trimmers,~~ equipment and tools ~~home~~ appliances, ~~home~~ workshops, vehicle repairs and testing, and ~~home~~ construction projects.

***Chapter 8.56.040 Class B Noise is amended as follows:***

Chapter 8.56.040 Class B noise

It shall be unlawful to create and emit Class B noise as defined in this chapter between the hours of ~~9:00~~6:30 p.m. of one day and 8:00 a.m. of the following day. (Ord. 2006-03 § 1, 2006; Ord. 80-4 § 1, 1980; Code 1975 § 699.66)