

CITY COUNCIL
CITY OF CARMEL-BY-THE-SEA
ORDINANCE 87-14

AN ORDINANCE ESTABLISHING A WATER MANAGEMENT PLAN
FOR THE PROTECTION OF WATER SUPPLIES FOR EXISTING USES,
CONSERVATION, AND THE DISTRIBUTION OF WATER RESOURCES
TO NEW DEVELOPMENT

WHEREAS, the Monterey Peninsula Water Management District has adopted a long term water allocation plan which limits the water resources available to the City of Carmel-by-the-Sea to 5.542% of the amount chosen by the Water Management District to be used by the jurisdictions within its boundaries; and

WHEREAS, this allocation creates a total supply of 1030.94 acre feet of water per year for Carmel-by-the-Sea; and

WHEREAS, the City of Carmel-by-the-Sea has asked in past years for an adjustment in the water allocation and is currently asking for an adjustment in the water allocation; and

WHEREAS, the use of water within the City has been steadily increasing since the drought of 1975 through 1977, and for the most recent twelve-month period the City consumed more than 98% of its total water allocation; and

WHEREAS, the City Council has identified several classes of interests within the City that compete for available water resources, including vacant lots of record, pending projects with one or more approvals, developed property capable of additional development, and the intensification of land uses within existing buildings; and

WHEREAS, water conservation can reduce current levels of consumption and thereby provide water for the development of vacant lots of record, pending projects and some limited new development; and

WHEREAS, water conservation can also provide water to establish a reserve which can buffer the City from annual fluctuations in consumption patterns caused by weather, economic conditions and demographic changes; and

WHEREAS, the use of water for new development must be managed through a coordinated program that equitably protects at least some development potential for all properties while remaining consistent with the City's General Plan and Local Coastal Plan; and

WHEREAS, the City has the responsibility under the Constitution and Statutes of the State of California to plan and guide its own development in a manner that reflects local conditions, yet is sensitive to the regional impacts of local actions; and

WHEREAS, the City recognizes the unique, regional responsibilities of the Monterey Peninsula Water Management District but finds that the management of the City's water resources can best be attained through local actions that are fully consistent with local planning goals, objectives, policies and ordinances and which do not result in the suspension of local autonomy in land use matters.

NOW, THEREFORE, The City Council of the City of Carmel-by-the-Sea does ordain as follows:

Section One. The following sections of Title 17 are hereby replaced in their entirety:

- 17.08.030 Irrigation and landscape standards for new projects. (Ordinance 84-2)
- 17.08.040 Commercial zones - Outdoor water use limitations. (Ordinance 84-2)
- 17.08.050 Restrictions on intensification of water use in all zones. (Ordinance 84-2, Ordinance 85-1).
- 17.08.060 Allocation of potable water resources. (Ordinance 85-1, Ordinance 86-12)
- 17.08.070 Retrofitting of commercial property. (Ord. 84-2)
- 17.08.080 Reserve established. (Ordinances 86-12, 86-14, 86-20 and 86-22)

Section Two. The following sections attached as Exhibit A are hereby added to Title 17 of the Municipal Code:

- 17.08.030 Water Management Program - Purpose
- 17.08.040 Water Conservation
- 17.08.050 The Water Reserve
- 17.08.060 Land Use
- 17.08.070 Acceptance of Applications and Permit Processing

Section Three. Section 15.28.020 is amended as set forth in Exhibit B.

Section Four. The following section shall be added to Chapter 17.08 of the Municipal Code.

17.08.15 Demolition or Relocation of Structures.

The demolition or relocation of any structure used for residential or commercial purposes shall require review and approval by the Planning Commission prior to issuance of a building permit authorizing such demolition or relocation. No demolition or relocation of any structure encumbering the lot lines or land area of any portion of any parcel composed of two or more legal lots of record shall be approved if such action would result in a net increase in the number of building sites or new vacant lots with increased access to water resources pursuant to sections 17.08.040(D) and 17.08.070(B).

Section 5.40.085 of the Municipal Code shall be amended to read as follows:

No new roominghouse permit shall be issued for any residence until all plumbing fixtures on the property meet the standards for water conservation established in Section 15.28.020 A (1) and (2).

The following code references shall be changed as noted:

References to sections "17.08.050" and "17.08.060" in Section 17.18.180 (C) shall be changed to "17.08.060" and "17.08.070" respectively.

References to section "17.08.060" appearing in sections 17.24.070(A)(2) and 17.24.075 (A)(2)(c) shall be changed to "17.08.060 and 17.08.070".

Section Five. VIOLATIONS. Any person, firm or corporation, whether acting as principal or agent, employee or otherwise violating or causing or permitting the violation of the provisions of this ordinance, is guilty of an infraction. Any building erected or any use established contrary to the provisions of this ordinance is hereby declared to be unlawful and a public nuisance, and the City Attorney shall, upon order of the City Council, immediately commence action for the abatement or removal thereof.

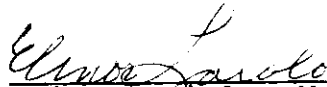
Section Six. SEVERABILITY. If any part of this ordinance is found to be unenforceable, such finding shall not affect the enforceability of any other part.

Section Seven. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after its final passage and adoption. Upon the effective date of this ordinance, City Council Resolution 87-27 shall cease to be effective and shall be superceded by the terms of this ordinance.

PASSED AND ADOPTED by the City Council of the City of Carmel-by-the-Sea this eighteenth day of May 1987, by the following roll call vote:

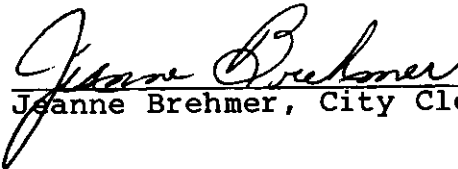
AYES: COUNCIL MEMBERS: Fisher, Evans, Wright and Laiolo
NOES: COUNCIL MEMBERS: None
ABSENT: COUNCIL MEMBERS: Eastwood

SIGNED,



Elinor Laiolo, Mayor Pro Tempore
City of Carmel-by-the-Sea

ATTEST:



Jeanne Brehmer, City Clerk

17.08.030 WATER MANAGEMENT PROGRAM - PURPOSE

The City of Carmel-by-the-Sea recognizes a need to conserve and manage its water resources to achieve adopted land use planning objectives while preserving sufficient water for existing development within the City. The water resources of the City are presently derived from a water allocation system implemented by the Monterey Peninsula Water Management District. It is the purpose and intent of this ordinance to establish a water management program that:

1. Reduces unnecessary consumption in existing and new development;
2. Provides direction for the use of the City's limited water resources in new development;
3. Equitably protects the potential for at least some development and improvement of all private property in spite of limited water resources;
4. Reserves a supply of water to buffer the City from uncontrollable fluctuations in consumption from year to year; and
5. Establishes broad land use objectives for the use and allocation of existing and future water resources available to the City.

17.08.040 WATER CONSERVATION

Water conservation is an integral part of the City's water management program. Water resources available to the City are limited. Water conservation can increase the effective supply. Water conservation in new development can reduce the demand from each project and thereby increase the number of projects that can be served with available resources. It is the intent of this section to establish uniform standards for water conservation and to provide guidance on the manner in which conserved water is to be used within the City's total water management program.

A. Uniform Standards for Plumbing Fixtures

The use of water conserving plumbing fixtures shall be required for all new construction. All existing plumbing fixtures within any building that do not comply with the adopted standards for water conservation shall be replaced with complying fixtures upon issuance of any building permit authorizing substantial construction. Standards for water conserving

plumbing fixtures and the criteria for when such fixtures are required are established in Chapter 15.28 of the Municipal Code.

B. Landscaping Standards

It is recognized that the irrigation of plants used in landscaping can consume large quantities of water. Proper design of irrigation systems and proper selection of plant species can significantly reduce water consumption while achieving a more natural appearance in community design through the use of native plants and plants habituated to the central coast. The following standards are intended to achieve these objectives while facilitating the improvement of landscaped areas throughout the City.

1. All plants within landscaped areas on any public right of way off private property shall be drought tolerant and low water use species as determined by the City Forester.
2. All private projects in all Commercial and R-4 land use districts that involve additions or new buildings shall require the review and approval of a landscape and irrigation plan by the Planning Commission. Standards (a) (b) and (c) below shall be used in evaluating and approving such plans.
3. The installation of permanent irrigation systems, designed to conserve water, is encouraged throughout the R-1 District. Irrigation systems in the R-1 District should comply with standards (a) and (c) below.
4. Standards.
 - a. Privately installed irrigation systems shall not be authorized within any public right of way adjacent to private property.
 - b. At least 75% of the landscaped area of all open space on project sites in the Commercial and R-4 Districts shall be planted with drought tolerant and low water use species as determined by the City Forester.
 - c. Irrigation systems shall be designed to minimize the use of water. Low-output sprinkler heads and drip systems shall be required for systems installed on commercial or R-4 property and shall be encouraged on R-1 property.

C. Water Waste

The waste of potable water resources is hereby declared to be a public nuisance. The unnecessary use of water for purposes that can be achieved by alternate means should be eliminated.

1. The use of hoses or other free-flowing water conveyances for the washing of sidewalks, decks, cars, walls or other large exterior surfaces is prohibited in all Commercial and R-4 Districts. Exceptions to this prohibition may be granted by the City Council when required for the protection of health or safety.
2. The use of sprinkler systems, hoses or irrigation equipment in such a manner as to repeatedly overwater landscaped areas or excessively waste water in the cleaning of paved surfaces with a result of ponding or copious runoff is prohibited in all land use districts.

D. Use of Conserved Water

Until significant additional water resources become available, the conservation of water must be a community-wide effort. It is the intent of the City's water management program to preserve the water conserved through changes in land use and through the implementation of conservation measures so that this water may be used for the fulfillment of long range planning objectives.

As a first priority, conserved water shall be used to contribute to the creation of a water reserve, per Section 17.08.050 and to serve the needs of existing vacant lots of record. As a second priority, conserved water shall be used to serve the needs of underutilized property or property for which long range Specific Plans have been approved. As a third priority, water conserved may be used for increased development or increased land use intensity on the specific property where the conservation has occurred. It shall be the responsibility of the Planning Commission and the Department of Community Planning and Building to ensure that these priorities are implemented through appropriate land use decision-making.

17.08.050 THE WATER RESERVE

The City shall establish and maintain a water reserve of 5% of its water allocation. It is the purpose of this reserve to absorb periodic fluctuations in water use and thereby assure that the City will not exceed its water allocation. It is intended that this reserve be attained by means of conservation programs that permanently reduce water use on existing developed sites through the installation of water conserving hardware and through changes in land use that result in reduced water consumption.

A. Schedule

The following table of water reserve goals establishes a schedule by which the 5% water reserve is expected to be achieved:

<u>Water Reserve Goals</u>			
<u>Date</u>	<u>Conservation Increment</u>	<u>Water Reserve Total</u>	<u>Total allowable Consumption</u>
July 1, 1986	1%	1%	99%
July 1, 1987	1%	2%	98%
July 1, 1988	1%	3%	97%
July 1, 1989	1%	4%	96%
July 1, 1990	1%	5%	95%

B. Calculation of Running Twelve-Month Water Consumption

Compliance with the Water Reserve Goals established in Subsection (A) shall be determined on a monthly basis and shall be based on the water consumption records provided to the City by the California-American Water Company. Upon receipt of each month's report of metered sales, a calculation shall be made by adding the total metered consumption for each of the immediately preceding eleven months to the consumption reported for the most recent month.

C. Compliance

At the end of any period wherein the twelve-month water consumption total calculated in Subsection (B) has, for two consecutive months, remained below the total allowable consumption established for the applicable fiscal year the

City shall have achieved compliance with the reserve goal for that year established by this ordinance.

D. Effect of Compliance

Upon establishing or re-establishing compliance with the full 5% water reserve goal established in Subsections (A) and (C) above, final permits for projects defined in Section 17.08.060 (B) may be released through the procedure in Section 17.08.070 (D). It shall be the responsibility of the Planning Commission and the Department of Community Planning and Building to assure that the projected cumulative water use impact of all final permits released do not result in the loss of compliance with the full 5% water reserve.

E. New Water Resources

Any circumstance resulting in a permanent increase in water resources available to the City shall first be used to achieve the full 5% water reserve goal established in this section. Any additional water resources remaining from such increase shall then be made available for the implementation of projects consistent with Sections 17.08.040(D) and 17.08.070(D).

17.08.060 LAND USE

It is recognized that the potential for land use changes within existing buildings and through the construction of new buildings presently exceeds the capacity of water resources available to the City. The purpose of this section is to establish procedures for reviewing proposed changes in land use and to reserve limited water resources for vacant or underutilized property.

- A. No change in land use shall be permitted through any permit or license that could result in a net increase in water consumption unless such change has been approved in accordance with all applicable provisions of this section and Sections 17.08.050 and 17.08.070.

B. The following projects, actions or construction activities shall be considered changes in land use that could result in a net increase in water consumption pursuant to Subsection (A) above and Section 17.08.070(A):

1. Any permit or activity authorizing or resulting in an increase in net leaseable floor area in any commercial structure.
2. Any permit or construction authorizing or resulting in a net increase in the number of dwelling units in any Land Use District.
3. Changes in use resulting in a net increase in estimated water demand.
4. Any permit or construction authorizing or resulting in a net increase in the number of separate commercial spaces within any commercial structure or the number of motel rooms available for occupancy.
5. Subdivisions or lot line adjustments resulting in a net increase in potential lots of record, building sites or dwelling units.
6. Any change in land use that has been determined by the Planning Commission to use additional water resources. Such determinations must be documented by evidence in the public record.

C. The following projects, actions and construction activities have been determined not to result in an increase in water use pursuant to Subsection (A) above and Section 17.08.070:

1. Additions and alterations to single family residential construction on existing developed building sites when involving no increase in the number of interior plumbing fixture units on the property. Projects qualifying under this provision must meet all criteria listed in Subsection (D) herein below.
2. Commercial design approvals, commercial use permit approvals and building permits authorizing alterations, remodeling or other improvements to existing buildings. No action qualifying under this provision shall include any increase in (a) floor area, (b) the number of commercial shop spaces or motel units, (c) the number of dwelling units or (d) land use intensity. Measures of land use intensity shall

include, but shall not be limited to, increased numbers employees within a shop space, increased hours of operation, and increased business activity wherein employees or patrons could be expected to use additional water. Projects qualifying under this provision must meet all criteria listed in Subsection (D) herein below.

3. Commercial use permits and business licenses authorizing a change in the occupancy of an existing commercial building by a business use when involving no increase in land use intensity as defined above.
4. Lot line adjustments not resulting in the creation of additional lots or building sites.

D. Criteria and Standards

The following standards shall apply to all projects defined in Subsections C(1) and C(2) above:

1. All plumbing fixtures on the property must be retrofitted to meet the standards established in Chapter 15.28. The water savings achieved by retrofitting existing plumbing fixtures to meet these standards may be applied to the authorization of new plumbing fixtures or "fixture units" on the property.
2. "Fixture units" shall be those defined and adopted by the Monterey Peninsula Water Management District for residential fixture unit counts.
3. Trade-offs of fixture units between properties are not authorized. All fixture unit trades must occur on the same building site for which the exemption is sought.

17.08.070 ACCEPTANCE OF APPLICATIONS AND PERMIT PROCESSING

A. Phased Processing of Projects

The following phases and procedures shall be implemented in the acceptance and processing of applications. Any application accepted in violation of these provisions shall be returned to the applicant or denied. All applications for

any project defined in section 17.08.060(B) must be accompanied by a written acknowledgement that water resources may not be available to serve the project for which the application is filed and that the applicant fully accepts all consequences of this risk.

1. Phase I: At any time that a 2% water reserve is not maintained as defined in section 17.08.050(C) and (D), no application for any water consuming project shall be accepted, processed or approved. During this period only those projects classified as exempt in subsection (B) below, or that have been determined to have no impact on water resources as established in section 17.08.060 (C) may be accepted, processed or approved.
2. Phase II: The second phase shall apply at any time that a 2% water reserve, as defined in section 17.08.050 (C) and (D), is maintained. Applications for projects classified within the first and second land use priorities in section 17.08.040 (D), as well as projects authorized in phase I, may be accepted and processed during Phase II.
3. Phase III: Upon achieving and maintaining the full 5% reserve defined in section 17.08.050, applications for projects in all three land use priorities established in section 17.08.040 (D), as well as projects authorized in Phase I may be accepted and processed.
4. Any complete application accepted for processing during any phase shall be processed through all discretionary actions even if the City fails to maintain compliance with one or more reserve goals after accepting said application. All applications for projects within the second and third priorities in section 17.08.040(D) that are approved through these phasing procedures shall only be implemented after the City has achieved compliance with the full 5% water reserve. Final permits allowing the implementation of such projects shall be released through the procedure in subsection (D) below.

B. Exemptions

The following classes of projects shall be exempt from the prohibitions in 17.08.060(A) and (B) and may be issued permits whenever the water consumption total calculated in 17.08.050(B) remains below 100% of the total water resource

available to the City. No project shall be exempt when consumption, as calculated in section 17.08.050 (B), exceeds 100% of the available resource.

1. Single family residential construction on existing lots of record in the R-1 Land Use District that are vacant and unencumbered by any existing construction. Determination of whether a lot is vacant or encumbered shall be made by reviewing all standards and provisions contained in the following sections of Title 17: 04.130 (Building Site), 04.420 (Lot of Record), 04.670 (Structure), 24.0070 (Lots, Parcels and Building Sites), 24.170 (Floor Area), and 24.190 through 24.220 (Setbacks).
2. Residential or commercial construction on existing lots of record in any commercial district that are vacant, unencumbered and not used for any commercial purpose.
3. Any project determined by the City Council to be an approved pending project as listed in Resolution 87-50.

C. Evaluation of Projected Water Use

In processing applications pursuant to Sections 17.08.060 and 17.08.050(D) an estimate of the projected water demand generated by full use of the proposed project shall be made. This shall be compared to a record or estimate of the past water use established by the specific use being replaced or modified to determine the net change in water use of the proposed activity. When making such comparisons, previously achieved water conservation, and any water conservation required of the project by Chapter 15.28, shall not be used to reduce the estimated water demand of the proposed project.

Past water use on any project site shall be the twelve (12) most recent months during which a site was occupied. Where records documenting past water use are not available and estimates are used, these estimates shall be verified by the Monterey Peninsula Water Management District or by the Department of Community Planning and Building. Disputed estimates shall be resolved by the Planning Commission.

D. Release of Final Permits

The release of final permits for projects shall follow the procedures in this section to assure that the City's adopted water reserve is maintained. The final permit for a project shall only be released when the cumulative effect of all projects already issued final permits and the net effect of the project being considered would not result in noncompliance with the full 5% water reserve maintained pursuant to section 17.08.050.

1. Eligibility- Pending projects must be considered for the release of final permits in the order in which they obtained their final required discretionary approval. As each final permit is released, or becomes available for release due to sufficient water resources, other projects with later dates of final discretionary approval shall then become eligible for consideration.
2. Available Water Resources- The amount of water available for pending projects shall be calculated as:
 - a) the average amount by which consumption has remained below the 5% reserve during the most recent two-month period of compliance, and
 - b) as reduced by the amount of water already committed to projects which are eligible for final permits or for which final permits have been issued, but which have not yet been completed and issued Certificates of Occupancy.
3. Eligibility Limits and Notification- If there are available water resources to serve the full estimated demand of the project under consideration, the project sponsor shall be notified by certified mail and a final permit may be issued upon application subject to all relevant city codes and procedures.
4. Time Limits, Abandonment- If a pending project becomes eligible for a final permit and no permit is applied for or issued within six months of the date the project sponsor is notified, the project shall be deemed abandoned and shall cease to have a commitment of water resources so that other pending projects may then be considered. Projects abandoned pursuant to this section shall not be issued final permits. Final permits issued shall be valid for a period of six months and shall thereafter be void and the project deemed abandoned unless work has commenced on the project or the use has become established.

AMENDMENTS TO CHAPTER 15.28

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 per flush or less.
2. All showerheads shall use 2.5 gallons of water per minute or less.
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.
4. All ornamental fountains, permanent swimming or wading pools and similar structures shall employ recirculation systems.
5. All waterpipes and connections to water delivery mains shall be equipped with valves to reduce water pressure to fifty pounds of pressure per square inch or less.
6. All hot water pipes shall be insulated.

B. Applicability of Standards.

The following regulations shall establish the circumstances in which the water conservation plumbing standards shall apply:

1. All newly constructed building in all land use districts shall comply with all standards set forth above in Subsection (A).
2. Construction activity involving remodels, additions or reconstruction wherein the total floor area in a building is increased by 25% or more shall require the entire building to be retrofitted to meet standards (1), (2) and (3) as set forth above in Subsection (A). This provision shall not be applied to result in a retrofitting cost that would exceed 25% of the value of the estimated construction cost.
3. Other provisions of the Municipal Code, including those in Chapter 17.08 and Section 17.46.120, may also establish requirements for the retrofitting of existing fixtures in order to achieve water conservation.
4. The City shall cooperate in the implementation of adopted retrofit programs of the Monterey Peninsula Water Management District in District Ordinance No. 30.

C. Exemptions

The Building Official may authorize exemptions from the requirements of this chapter under the following circumstances:

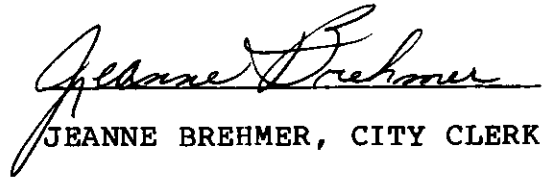
1. The adopted requirements of another governmental agency with jurisdictional authority over the City mandates the use of equipment prohibited by this chapter.
2. The strict adherence to the requirements of this chapter would interfere with the maintenance of the health, safety or sanitation protections provided to similar buildings or uses.
3. Equipment needed to comply with this chapter can not be obtained and waiting to obtain it would cause unreasonable delay in construction. Exemptions granted under this provision shall be temporary and the equipment needed to comply with this chapter shall be installed when it becomes available.
4. An otherwise legal business would be prevented from operating in a manner necessary and reasonable to accomplish its purpose.
5. The plumbing fixtures on a property have been previously retrofitted to comply with Ordinances 84-2 or 85-1. In order to qualify under this exemption, applicants must provide documentation such as plumbing permits or similar evidence that appropriate fixtures were replaced between February 1984 and June 1987.

BR:hw
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CERTIFICATION OF ORDINANCE

I, JEANNE BREHMER, the undersigned, City Clerk of the City of Carmel-by-the-Sea, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 87 - 14 which has been published or posted pursuant to the laws of the State of California and the City of Carmel-by-the-Sea.

DATED THIS 19th DAY OF May 1987.


JEANNE BREHMER, CITY CLERK