

CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

ORDINANCE NO. 93-11

AN ORDINANCE AMENDING CHAPTER 17.08 OF THE MUNICIPAL CODE
REGARDING WATER ALLOCATION IN THE CITY OF CARMEL-BY-THE-SEA

WHEREAS, the City of Carmel-by-the-Sea is one of eight member land use agencies of the Monterey Peninsula Water Management District and receives water through a regionwide allocation program administered by the District; and

WHEREAS, the City has long sought an equitable distribution of regional water resources among all member agencies; and

WHEREAS, in 1990, after completing an Environmental Impact Report on water allocations, the District determined that water was in even shorter supply than originally assumed and that further issuance of permits would cause irreparable harm to the environment and expose residents and businesses of the Peninsula to unacceptable rationing hardships during drought periods; and

WHEREAS, in response to this determination the District adopted a moratorium on the issuance of new water permits until additional water storage or supplies could be developed; and

WHEREAS, in January of 1992, the City of Carmel-by-the-Sea stopped accepting applications for projects that could no longer obtain water permits for implementation; and

WHEREAS, the Water District, in conjunction with the California-American Water Company, has developed a new water supply well in the City of Seaside that will allow the Water District to begin issuing water permits; and

WHEREAS, the City's allocation from this new well is equal to 15.07 acre feet per year; and

WHEREAS, the Water District, in cooperation with the City, has developed a new allocation process that separates water for new development from water used by existing customers; and

WHEREAS, this new process will make some provisions of current ordinances invalid and this provides an opportunity to simplify City ordinances to coordinate with the new District process; and

WHEREAS, the City's Planning Commission has studied the issues related to water use in new development and has recommended a process that allows for flexibility, monitoring, and adjustment while implementing the General Plan.

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

Section One. Amend Sections 17.08.015, 17.08.030 and 17.08.040 as follows.

17.08.015 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 the issuance of a building permit authorizing such demolition or relocation. (Ord. 93-11 1(part), 1993; Ord. 87-14 4,(part), 1987).

17.08.030 Water Management Program -- Purpose. The City recognizes a need to conserve and manage its water resources to achieve adopted land use planning objectives. 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: (Ord. 93-11 1 (part), 1993)

1. Reduces unnecessary water consumption in existing and new development;

2. Provides a process for dedication of the City's limited water resources in new development;

3. Establishes a process for determining the broad land use categories to be served through allocations of existing and future water resources available to the City. (Ord. 93-11 1(part), 1993; Ord. 87-14 2(Exh.A)(part), 1987).

4. Implements the General Plan. (Ord. 93-11 1(part), 1993).

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. In some cases, water conservation can increase the effective supply and allow development that otherwise would not be possible. 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. (Ord. 93-11 1(part), 1993).

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 conserva-

tion 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 this 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 other species 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 adjacent to private property shall be drought tolerant and low water use species as determined by the City Forester.

2. All private projects in all commercial, R-4, and R-1 Land Use Districts that involve additions or new buildings requiring design study or design review shall require the review and approval of a landscape and irrigation plan by the Forest and Beach Department. Standards (a), (b) and (c) below shall be used in evaluating and approving such projects:

a. Privately installed irrigation systems may be authorized within any public right-of-way adjacent to private property upon approval of an encroachment permit.

b. At least seventy-five percent of the planted area of all open space on project sites in the commercial, R-4, and R-1 districts, except for existing landscapes, shall be planted with drought tolerant and low water use species as determined by the City Forester. The City Forester shall develop and maintain a list of appropriate species to assist the public in preparing landscape plans meeting this standard.

c. Irrigation systems shall be designed to minimize the use of water. Low output sprinkler heads and/or drip irrigation shall be required for systems installed on commercial, R-4, and R-1 property.

C. Water Waste. The waste of potable water resources is declared to be a public nuisance. The unnecessary use of water for purposes that can be achieved by alternative 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.

Section Two. The following Sections shall be deleted in their entirety:

17.08.040.D	Use of Conserved Water
17.08.050	Water Reserve
17.08.060	Land Use
17.08.070	Acceptance of Applications

Section Three. The following new Sections are hereby adopted as shown below:

17.08.050 Allocation of Water Resources. Following a public hearing, the City Council shall establish an allocation of water resources available for increased use by adopting an Allocation Resolution. The Resolution shall define: (Ord. No. 93-11 3(part), 1993).

- o the remaining quantity of water available to the City including any new supplies made available since adoption of the last Allocation Resolution,
- o a list of defined land use or project categories for which water will be made available,
- o a discrete quantity of water, expressed in acre-feet, to be allotted for each defined land use category, and
- o a discrete quantity of water to be held as unallocated reserves.

A. Planning Commission Review and Monitoring. Before adoption of an Allocation Resolution, the City Council shall consider recommendations on the appropriate distribution of water to implement the General Plan as determined by the Planning Commission.

The Allocation Resolution shall remain in effect until replaced by a subsequent Resolution containing the same information, and following the same process as outlined above. The Planning Commission should review water allocations for consistency with the

General Plan on an annual basis and forward any recommendations for change to the City Council during the last month of each calendar year.

B. Unallocated Reserves. Water held in unallocated reserves shall not be used for any project or land use change until transferred to a defined allocation category. Such transfers shall be made by adopting a new Allocation Resolution as described above in Section 17.08.050.A. Reserves are intended to provide a means of adjusting water allocations to respond to changing conditions and General Plan policy. If new water resources become available to the City by action of the Monterey Peninsula Water Management District, they shall be placed in unallocated reserves administratively until distributed to other categories through adoption of a new Allocation Resolution.

17.08.060 Effect of Allocations. The purpose and effect of establishing categories for the allocation of water supplies are to limit access to water to those categories that are consistent with the General Plan. No change in land use shall be allowed through any permit or license that could result in a net increase in water use unless such change has been approved in accordance with all applicable provisions of the Water Management Program. In determining whether a project may result in a net increase in water use the rules and regulations of the Monterey Peninsula Water Management District shall be followed.
(Ord. 93-11 3(part), 1993).

A. Acceptance of Applications. The Department of Community Planning and Building shall monitor the water allocations established by Resolution of the City Council (17.08.050.A). Each proposed change in land use or project for which an application is submitted shall be evaluated to determine whether its approval would result in a net increase in water use. Projects involving no net increase in water use may be accepted and processed without regard to water allocations. (Ord. 93-11 3(part), 1993).

For projects that may result in a net increase in water use, the following procedure shall be used by the Department:

1. The project shall first be classified into one or more land use categories based on the type of project. (For example, a mixed-use project would be classified into both the commercial and multi-family residential categories.)

2. An estimate shall then be made of the net increase in water use that would result from the project within each land use category.

3. If the project would require water from a land use category for which no allocation has been made, the application shall be returned to the applicant and shall not be processed or shall be denied.

4. If the project would require more water from a land use category than currently remains, after considering the original allocation minus all existing precommitments and dedications, the application shall be returned to the applicant and shall not be processed or shall be denied.

5. If the project requires water and there is a sufficient supply remaining in the allocation for each category affected by the project to fully meet the anticipated demand, the application may be accepted for processing after meeting all requirements for a complete application established by the City.

6. Upon acceptance of an application as complete by the Department, a precommitment of water resources shall be temporarily assigned to the project during processing of the application. The Department shall keep a record of the remaining balance of water within each allocation category and a running total of all temporary precommitments and dedications to ensure that applications are not accepted for processing for which water would be unavailable upon approval. For projects that are denied or abandoned, the precommitment shall be terminated and the water shall be administratively restored to its original allocation category.

B. Approval of Applications. Once an application for a project requiring water resources has been approved, the Department shall permanently reduce the remaining balance within each allocation category affected by the project and shall issue a water release to the Monterey Peninsula Water Management District authorizing a debit to the City's water allocation. This action shall terminate the temporary precommitment of water resources and create a permanent dedication of water resources to the project, subject to all applicable time limits established in the permit or by the Municipal Code.

C. Abandonment of Dedicated Water Resources. Upon making a determination that a water release has expired without use, or that time limits applicable to a project have expired without implementation, all water previously dedicated to a project, but not used, shall be considered abandoned. All water abandoned or not used shall be returned to the allocation category from which it originated and shall become available for use by subsequent projects.

Section Four. Severability. If any part of this Ordinance is found to be unenforceable, such finding shall not affect the enforceability of any other part.

Section Five. Violations. Any person, firm or corporation, whether as principal or agent, employed or otherwise, violating or causing or permitting the violation of the provisions of this Ordinance is guilty of an infraction. Any part of any building erected 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. Should any person, firm or corporation violate the terms of this Ordinance and any action is authorized by the City Council or the City Attorney or is in fact filed for said violations, no other action shall be taken on any application filed by or on behalf of said person, firm or corporation until the litigation has been resolved.

Section Six. Effective Date. This Ordinance shall take effect 30 days after final adoption.

PASSED AND ADOPTED by the City Council of the City of Carmel-by-the-Sea this 13th day of July, 1993, by the following roll call vote:


AYES: COUNCIL MEMBERS: Brooks, Coniglio, Fischer, Livingston,
White
NOES: COUNCIL MEMBERS: None
ABSENT: COUNCIL MEMBERS: None

SIGNED,



Ken White, Mayor

ATTEST:



Jeanne Brehmer, City Clerk

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