

CALIFORNIA COASTAL COMMISSION

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Prepared November 22, 2013 (for December 11, 2013 Hearing)

To: Commissioners and Interested Persons

From: Madeline Cavalieri, District Manager
Kevin Kahn, Supervising Coastal Planner

Subject: City of Carmel-by-the-Sea LCP Amendment Number LCP-3-CML-13-0218-3-Part A
(Tree Protection)

Proposed Amendment

The City of Carmel-by-the-Sea is proposing to amend its Local Coastal Program (LCP) to provide additional standards pertaining to tree removal permit requirements. The changes proposed affect Sections 17.48.060 and 17.48.080 of the certified Implementation Plan (IP) and address the requirements, standards, and monitoring processes for the removal and replacement of trees on both public and private lots throughout the City. See Exhibit A for the proposed changes.

Minor LCP Amendment Determination

Pursuant to California Code of Regulations (CCR) Section 13555, the Executive Director may determine that a proposed LCP amendment is “minor.” CCR Section 13554 defines minor LCP amendments. Among other things, minor LCP amendments include:

CCR Section 13554(a). Changes in wording which make the use as designated in the zoning ordinances, zoning district maps or other implementing actions more specific and which do not change the kind, location, intensity, or density of use and which are found by the Executive Director of the Commission or the Commission to be consistent with the land use plan as certified by the Commission.

If the Executive Director determines that an amendment is minor, that determination must be reported to the Commission. If one-third of the appointed members of the Commission request that it be processed as a major LCP amendment, then the amendment shall be set for a future public hearing; if one-third of the appointed members of the Commission do not object to the minor LCP amendment determination, then the amendment is deemed approved, and it becomes a certified part of the LCP immediately (in this case, on December 11, 2013).

The purpose of this notice is to advise interested parties of the Executive Director’s determination that the proposed LCP amendment is minor.

The proposed amendment adds new language in the City’s existing certified tree removal and replacement ordinance to require monitoring of replacement trees. Specifically, the amendment does the following: 1) requires the identification of all replacement trees with a tag, which must remain on the tree for five years; 2) establishes annual City inspections of the replanted tree(s); and 3) requires a new tree of comparable size in the same location as the replacement tree should the original replacement tree not survive or is itself removed. The proposed amendment will enhance the City’s protection of its tree

and forest resources, one of the fundamental tenets of the LCP, by applying additional monitoring provisions through the LCP's tree removal permit process. Pursuant to the City's certified LCP, the requirements for obtaining a tree removal permit are in addition to the requirements for obtaining a coastal development permit. Thus, the proposed amendment will result in enhanced coastal resource protection in the City.

California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. The City found that the proposed ordinance was categorically exempt from CEQA. This report has discussed the relevant coastal resource issues with the proposal, and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

Coastal Commission Concurrence

The Executive Director will report this minor LCP amendment determination, and any comments received on it, to the Coastal Commission at its December 11, 2013 meeting at the Radisson Hotel Fisherman's Wharf at 250 Beach Street, San Francisco. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Kevin Kahn at the Central Coast District Office in Santa Cruz. If you wish to comment on and/or object to the proposed minor LCP amendment determination, please do so by December 6, 2013.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on October 30, 2013. The amendment modifies only the LCP IP and the 60-day action deadline is December 29, 2013. Thus, unless the Commission votes to extend the action deadline (it may be extended by up to one year), the Commission has until December 29, 2013 to take a final action on this LCP amendment.

Exhibits:

Exhibit A: Proposed IP Amendment

CITY OF CARMEL-BY-THE-SEA

CITY COUNCIL

ORDINANCE NO. 2013-05

**AN ORDINANCE (2ND READING) OF THE CITY COUNCIL OF CARMEL-BY-THE-SEA
AMENDING SECTIONS 12.28.060, 12.28.180, 12.28.350, 17.48.060 and 17.48.080
OF THE CARMEL-BY-THE-SEA MUNICIPAL CODE PERTAINING TO TREE
REMOVAL PERMIT REQUIREMENTS (SECOND READING)**

WHEREAS, the City of Carmel-by-the-Sea is a unique community that prides itself in its community character; and

WHEREAS, the City has adopted a General Plan and Municipal Code that strive to protect the village character through clear policies and regulations; and

WHEREAS, the City Council finds that it is necessary to maintain the existing urban forest in order to preserve windbreak protection, abate soil erosion, and enhance the natural beauty of the City, and has adopted Chapters 12 and 17 in the interest of public health and safety; and

WHEREAS, the purpose of this Ordinance is to amend Sections 12.28.060, 12.28.180, 12.28.350, 17.48.060 and 17.48.080 for the purpose of safeguarding trees required to be planted as a condition of tree removal permit approval; and

WHEREAS, on July 2, 2013 the City Council adopted a first reading of an Ordinance to amend Sections 12.28.060, 12.28.180, 12.28.350, 17.48.060 and 17.48.080; and

WHEREAS, the proposed ordinance is categorically exempt from CEQA under 15305 Minor Alterations in Land Use Limitations.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF CARMEL-BY-THE-SEA
DO ORDAIN AS FOLLOWS:**

Adopt an ordinance amending Municipal Code 12.28.060, 12.28.180, 12.28.350, 17.48.060 and 17.48.080 pertaining to tree removal permit requirements (See Exhibit "A").

Section 1. The People of Carmel-by-the-Sea find that all Recitals/Findings are true and correct and are incorporated herein by reference.

Section 2. Severability

A. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable.

B. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

Section 3. Publication The City Clerk is directed to publish this Ordinance in the manner and in the time required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA this 6TH day of August, 2013 by the following vote:

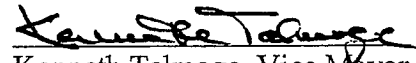
AYES: COUNCIL MEMBERS: BEACH, HILLYARD, THEIS & TALMAGE

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: MAYOR BURNETT

ABSTAIN: COUNCIL MEMBERS: NONE

APPROVED,


Kenneth Talmage, Vice Mayor

ATTEST:


Heidi Burch, City Clerk

Exhibit "A"
(Changes shown in bold italics and strikethrough)

A. AMENDMENT OF SECTION 12.28.060

Section 12.28.060 entitled PERMIT FOR CUTTING TREES AND SHRUBS ON PUBLIC PROPERTY shall be amended and shall become a permanent part of the Carmel-by-the-Sea Municipal Code which reads as follows:

B. Any permit granted under this chapter is nontransferable and shall expire one year from date of issuance. The Director of Forest, Parks and Beach or Forest and Beach Commission may condition a permit on replacement trees being planted at a place, of a species and of a size designated by the Director of Forest, Parks and Beach or Forest and Beach Commission. The person requesting the permit ~~may also~~ **will** be required to pay the cost of obtaining and planting the replacement trees.

B. AMENDMENT OF SECTION 12.28.180

Section 12.28.180 entitled PERMIT FOR REMOVING TREES; PRUNING OR REMOVING ROOTS ON PRIVATE PROPERTY-APPLICATION shall be amended and shall become a permanent part of the Carmel-by-the-Sea Municipal Code which reads as follows:

Applications for permission to cut or remove a tree or trees under this chapter shall be submitted to the Director of Forest, Parks and Beach on forms provided by her/him. There shall be a fee for this permit as established by resolution of the City Council. ***The application shall include a site map identifying all of the trees on the site, the tree(s) to be removed, and the replacement tree planting location(s).*** The Forest and Beach Commission may approve or deny the application and require as a condition on which a permit is granted that replacement trees be planted at a place, of a species and of a size designated by the commission on public or private property. The person requesting the permit ~~may also~~ **will** be required to pay the cost of obtaining and planting the ***any*** replacement trees. (Ord. 95-3 § 1, 1995; Ord. 88-13 § 2, 1988; Ord. 81-4 § 5, 1981; Ord. 75-10 § 3, 1975; Ord. 236 C.S. § 1, 1971; Code 1975 § 1232.01).

C. AMENDMENT OF SECTION 12.28.350

Section 12.28.350 entitled SAFEGUARDING TREES THAT ARE REQUIRED TO BE PLANTED AS A CONDITION OF TREE REMOVAL PERMIT APPROVAL shall be amended and become a permanent part of the Carmel-by-the-Sea Municipal Code which reads as follows:

A. ***All trees shall be planted within 30 days of tree removal or before final inspection if a construction permit. All trees will be identified with a tag provided by the City, which will remain attached to the tree until the required annual 5 year inspection period has expired.*** Trees required to be kept on a building site and trees required to be planted as a condition of tree-removal permit approval shall be maintained

according to accepted arboricultural practices for a minimum of five years from the completion of construction or the date that the tree is planted. *The City will inspect the replacement trees annually on or around each October, with proper notification.*

B. At no time shall these trees be moved without the issuance of a valid permit.

C. *If, at any time during a 5 year inspection period, the original replacement tree(s) does not survive or is removed, the original replacement tree(s) shall be replaced with a new tree(s) that is equivalent in size to the measured or projected growth of the original replacement tree(s). The new replacement tree(s) shall be located in the same location(s) as the original replacement tree(s) unless granted permission by the City Forester or Forest and Beach Commission to change the location(s). The new replacement tree(s) shall be required to be replanted within 30 days of inspection, be identified by a tag and will restart a new 5 year inspection period.*

C.D. Nothing contained in this section shall be deemed to replace or revoke any requirements for the safeguarding of trees found elsewhere in this municipal code or in the ordinances and procedures of the City. (Ord. 95-10 § 1, 1995; Ord. 84-6 § 1, 1984; Code 1975 § 1238).

D. AMENDMENT OF SECTION 17.48.060

Section 17.48.060 entitled PERMIT APPLICATIONS shall be amended and become a permanent part of the Carmel-by-the-Sea Municipal Code which reads as follows:

D. Conditions of Approval. The City Forester or Forest and Beach Commission may condition a permit on replacement trees being planted at a place, of a species and of a size designated by the City Forester or Forest and Beach Commission. The person requesting the permit ~~may also~~ *will* be required to pay the cost of obtaining and planting the replacement trees.

E. AMENDMENT OF SECTION 17.48.080

Section 17.48.080 entitled TREE REMOVAL AND REPLACEMENT shall be amended and shall become a permanent part of the Carmel-by-the-Sea Municipal Code which reads as follows:

A. Tree Replacement. When tree replacement is required by this chapter, the following requirements apply.

1. Location. Replacement trees shall be planted on-site unless the City Forester recommends that replacement trees be located in the public right-of-way or in an adjacent park/open space area. *All trees shall be planted within 30 days of tree removal or before final inspection if a construction permit. All trees will be identified with a tag provided by the City, which will remain attached to the tree until the required annual 5 year inspection period has expired.*

2. Tree Quantity. The number of replacement trees required when approving tree removals shall be based on the size of the lot, as listed in Table 17.48-A, the characteristics of the surrounding neighborhood and protection of significant public views, scenic routes and corridors. In some areas fewer trees or only lower canopy trees may be most appropriate.

Table 17.48-A: Recommended Tree Densities		
Lot Size (Square Feet)	Upper Canopy Trees	Lower Canopy Trees
0 – 4,000	3	1
4,001 – 6,000	4	3
6,001 – 8,000	5	4
Over 8,000	As determined by the Forest and Beach Commission	As determined by the Forest and Beach Commission

3. Tree Species. Replacement trees shall be the same species as the removed tree or another species listed on the Tree Species List and as approved by the City Forester except that particular emphasis shall be placed on maintaining a significant population of native Monterey Pine, coast live oaks and Monterey Cypress on a City-wide basis. Replacement Monterey Pine trees shall be of local genetic stock.

4. Tree Quality. Replacement trees shall be of substantial size, caliper, and height to produce an immediate visual impact and reduce the incidence of unauthorized removal. Replacement trees shall be a minimum 24-inch box size except for Monterey Pines, which shall be a minimum 15-gallon size. Larger sizes may be required by the Forest and Beach Commission, or the Planning Commission based in specific design considerations applicable to the project. The City Forester may authorize the use of smaller sizes when trees meeting these standards, or meeting specific conditions of approval, are unavailable.

5. Monitoring and Maintenance. Replacement trees shall be recorded and monitored for at least five years to ensure their establishment and growth to maturity. *The City will inspect the replacement trees annually on or around each October, with proper notification, , and may be inspected by the City to ensure adequate maintenance.* Replacement trees that do not survive or are removed shall be replaced at the owner's expense. (Ord. 2009-07 Att. A, 2009; Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004). *If, at any time during a 5 year inspection period, the replacement tree(s) does not survive or is removed, the original replacement tree(s) shall be replaced with a new tree(s) that is equivalent in size to the measured or projected growth of the original replacement tree(s). The new replacement tree(s) shall be located in the same location(s) as the original replacement tree(s) unless granted permission by the City Forester or Forest and Beach Commission to change the location(s). The new replacement tree(s) shall be required to be replanted within 30 days of inspection, be identified by a tag and will restart a new 5 year inspection period.*