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17.ADU.010 Definitions

As used in this chapter, terms are defined as follows. Terms not defined below shall take the definition as otherwise define in Title 17 of the Carmel Municipal Code.

- A. **Accessory Dwelling Unit (ADU).** “Accessory Dwelling Unit” or “ADU” means an attached or a detached residential dwelling unit that provides complete independent living facilities and permanent provisions for living, sleeping, eating, cooking, sanitation, and connection to utilities for one or more persons and is located on a lot with a proposed or existing primary residence or multi-family residences. An ADU also includes the following: An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code, and a manufactured home, as defined in Section 18007 of the California Health and Safety Code. ADUs do not include mobile homes, tiny homes, or recreational vehicles licensed by the Department of Motor Vehicles (DMV).
 - 1. **Attached.** An "Attached ADU" means an ADU that does not qualify as a conversion ADU and is constructed as a physical expansion (i.e. addition) to the primary dwelling. An attached ADU may be attached to the Single-Family Dwelling Unit by one or more common walls or other means but shares a physical connection. An attached ADU distinct from the definition of a junior ADU.
 - 2. **Detached.** A "Detached ADU" means an ADU that is within an independent structure entirely separate and shares no physical connection to the primary dwelling unit and/or other accessory structures.
 - 3. **Conversion.** A “Conversion ADU” means an ADU that is constructed completely within the existing or proposed space of a single family residence, an existing detached accessory structure, or an existing multi-family structure. Conversion ADUs are located completely within the existing or proposed floor area of the structure in which they are located, except for expansions for ingress and egress as allowed within this chapter.
- B. **Accessory structure.** A structure that is accessory and incidental to, and detached from, a dwelling located on the same site.

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- C. **Administrative Review (Administrative; Administratively).** A review which may include discretion or use of personal judgement that does not require consideration or approval at a public hearing.
- D. **Complete independent living facilities.** Permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.
- E. **Coastal access parking area.** The Coastal Access Parking Area is defined as all properties located within the Beach and Riparian (BR) Overlay District located west of the centerline of Carmelo Street and west of the centerline North San Antonio Street, as well as all properties with street frontages located on San Antonio Avenue or North San Antonio Avenue.
 - 1. If a property is not located immediately adjacent to a street frontage (flag lot, easements, etc), the frontage shall be determined by the driveway location of the subject property.
- F. **Coastal Development Permit.** A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.
 - 1. Note: The policies applicable to the City of Camel of Chapter 3 of the Coastal Act have been incorporated into the city's certified Local Coastal Program.
- G. **Historic Resource.** For purposes of this section, a Historic Resource shall be a property listed, or eligible for listing, on the National Register of Historic Places or the California Register of Historical Resources, listed on the Carmel Inventory or Register of Historic Resources, or located in a designated historic district.
- H. **Junior Accessory Dwelling Unit** (Also known as "Junior ADU" or "JADU"). A unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- I. **Manufactured Home.** A unit as defined by Section 18007 of the California Health and Safety Code, as may be amended.
- J. **Ministerial Review (Ministerially).** A review that does not require discretionary action or review, personal judgement, or a public hearing.
- K. **Passageway.** A pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.
- L. **Primary Dwelling.** A "Primary Dwelling" or "primary residence" means a single-family or multifamily residential dwelling unit that either exists on or is proposed for a lot zoned for any residential or mixed-use zone, either through a permitted use or a conditional use, and is constructed prior to or concurrently to the ADU or JADU. The primary dwelling shall include all attached non-habitable areas, such as attached garages, but does not include detached accessory structures on the same building site.

Commented [EK2]: PC Comment - Definition Clarified.

1. **Multi-Family Dwelling.** A structure with two or more attached dwellings on a single lot, and any mixed use structure containing commercial floor area and one or more dwelling units. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings, nor are subordinate units, or existing ADUs.
 2. Condominium units shall be defined as single family or multi-family based on the parcel map that defines the space of the primary dwelling.
- M. **Proposed dwelling.** A dwelling that is the subject of a permit application and that meets the requirements for permitting and is subject to a Design Review Application, subject to CMC 17.58.
- N. **Sanitation Facilities.** Sanitation facilities means a room containing a toilet, sink, and bathtub or shower. Sanitation facilities may also be referred to as a bathroom or restroom.
- O. **Subordinate Units.** The city has previously classified two types of subordinate dwellings:
- i. Legal nonconforming units that were established prior to June 5, 1929. These units were legally established and required no permit. These units were originally classified as subordinate units.
 - ii. Legal nonconforming units that were established prior to April 5, 1988, and registered with the City by December 6, 1994. These units typically were built without City approval but were then legalized and brought to minimum health and safety standards through an amnesty period and registration. These units were originally classified as subordinate units.

17.ADU.020 Purpose, Intent, and Findings.

- A. To enact regulations governing Accessory Dwelling Unit (ADU) and Junior Accessory Dwelling Unit (JADU) construction in compliance with Section 65852.2 and Section 65852.22 of the Government Code, or any successor statute. The provisions of this article shall be liberally construed in order to accomplish development of ADUs and JADUs. In the event of a conflict between the provisions of this article and any other ordinance of the City of Carmel-by-the-Sea regulating ADUs or JADUs, the provisions of this article shall prevail.
- B. To establish a process for ministerial review and approval of ADUs and JADUs. No local ordinance, policy, or regulation other than this article and regulations referenced therein shall be the basis for the denial or delay of a building permit for an ADU or JADU.
- C. The provisions of this chapter shall only be applicable to the establishment of ADUs and/or JADU (that being the establishment of the dwelling unit). Other improvements made to the site, including but not limited to, improvements to the primary dwelling, site coverage improvements/modifications, decks, patios, landscaping, grading, parking, shall be undertaken in accordance with the applicable regulations and procedures in CMC 17.58 unless expressly authorized in this chapter.

- D. To provide for additional affordable housing opportunities without a commitment of public funds which are usually necessary to subsidize large-scale affordable housing development projects;
- E. To provide for convenient child care opportunities within residential neighborhoods. For working-age residents with children, ADUs allow family members or other child care providers to reside in close proximity to the household requiring child care. The nearby availability of child care for their children offers working-age residents convenience, and more importantly, may enable them to work and support their families without the burden of commercial child care costs;
- F. To provide for convenient elder care opportunities within residential neighborhoods. ADUs and JADUs enable multi-generational living on a common site. As Carmel’s population ages, ADUs and JADUs allow family members or other caregivers to reside in close proximity to those receiving care while affording them the privacy of their own living space. For those receiving care, ADUs and JADUs will enable many to remain in their homes longer than would otherwise be possible without needing to relocate to an assisted living or other facility;

17.ADU.030 Applicable Zoning Districts.

- A. An ADU that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The ADU shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
 - 1. *Community Plan and Specific Plan Area.* The provisions of subsection (A), above, shall apply to sites zoned as Community Plan or Specific Plan areas where the approved development plan includes residential uses as a permitted use, including mixed use. In cases where the details of the original development plan are not available, the Director may determine whether a site was intended for residential use as a permitted use by considering the use of any existing structures on the site in addition to the uses of structures and the development pattern of the area immediately surrounding the site.

17.ADU.040 Development Standards for ADUs on Single Family Properties.

The following standards apply to ADUs and JADUs on all properties within all zoning district that allows single-family dwellings developed with an existing or proposed single family dwelling.

- A. Location – Single Family.
 - 1. Number of ADUs. A maximum of one (1) ADU, and one (1) JADU shall be allowed on a single-family property.

a. One (1) additional ADU shall be permitted on a building site when the existing or proposed units are limited to: one (1) conversion ADU, one (1) detached ADU, and one (1) JADU.

Commented [EK3]: Response to HCD – Comment #1.

b. JADUs are allowed consistent with section 17.ADU.060.

2. Location on site. An ADU may be attached to, detached from, or located within the existing or proposed primary dwelling on the same building site. An ADU may also be converted from a garage or other existing accessory structure on the same building site as the existing primary dwelling.

B. Floor Area – Single Family.

The floor area of an ADU and/or JADU is included in any other floor area limitation in this Title that is applicable to an attached or detached accessory building for the housing type and in the base zone in which the lot is located.

a. Notwithstanding CMC 17.ADU.030.B.1, an 800 square foot floor area allowance may be allowed exclusively for the creation of an attached or detached Type 3 ADU, as described in section 17.ADU.xxx.

Commented [EK4]: Response to HCD - Comment #2

2. For the purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.

3. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling.

Exceptions for attached and detached units: If the existing or proposed primary dwelling is 800 square feet or less, the ADU shall be allowed a maximum of 800 square feet regardless of such condition, as provided in section 17.ADU.030.C.1.a.

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C. Unit Size – Single Family. The standards below provided the maximum and minimum unit sizes for ADUs. Establishment of an ADU within these standards shall require floor area available for establishment of the unit consistent with section 17.ADU.040.B, above.

1. New Construction Attached ADU. An ADU attached to the primary dwelling shall have a minimum floor area of 150 feet, and shall not exceed 50 percent of the existing floor area of the primary dwelling.

a. If the square footage of the primary dwelling does not allow for an attached ADU of at 800 square feet, a maximum allowance of 800 square feet shall be allowed for the unit size of the attached ADU.

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b. An attached garage shall be included in the square footage of the primary dwelling whether a portion of the garage is converted to an ADU or demolished as part of the establishment of the ADU, or not.

2. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.
3. Conversion ADUs. A conversion ADU shall have a minimum floor area of 150 square feet. The maximum floor area of an ADU that converts a portion of a primary dwelling shall be no more than 50% of the existing floor area of the dwelling being converted. An ADU that is created through the conversion of an existing detached accessory structure shall have no size restriction (i.e. the entire detached accessory structure may be converted regardless of the size).
 - a. For the full conversion of accessory structures, an expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed. The 150 square foot addition shall comply with all setbacks and height limits of the underlying zone district.

D. Height Limits – Single Family. The maximum height of an attached or detached new ADU shall not exceed the following limits:

1. New Construction: Attached and detached ADUs shall comply with the height limits set forth in the zoning district in which the ADU is located. All new attached and detached ADUs shall comply with the plate and ridge heights established in table 17.10-C located in CMC 17.10.030.B.
 - a. Exceptions. The maximum ridge height for all structures shall be sixteen (16') feet with a twelve (12') plate height in the following instances:
 - i. The height of the primary dwelling unit is less than sixteen (16') feet;
 - ii. Any portion of a detached ADU is located between a primary dwelling unit and a site's front setback line; or
 - iii. Any portion of a detached ADU is located less than four (4') from the side lot line or less than fifteen (15') feet from the rear lot line.
2. For a conversion ADU (without an expansion): the ADU shall be contained completely within the existing structure, and maintain the existing height of the converted structure.
 - a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall match the plate and ridge heights of the existing accessory structure.

E. Setbacks – Single Family.

1. New Construction: Attached and detached ADUs shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.

- a. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.040.A.
2. For a conversion ADU (without an expansion): No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.
 - a. An expansion up to an additional 150 square feet if necessary for ingress and egress only may be allowed for existing accessory structures. The 150 square foot addition shall comply with all minimum setbacks limits described above.

F. Parking – Single Family.

1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.080.Q, where on site parking shall be provided for all ADUs.
2. Except for as required in the Coastal Access Parking Area, when the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling shall not be required.
 - a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.
 - b. This provision shall not apply to JADUs, as described in section 17.ADU.060.F.
 - c. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be voluntarily provided as replacement parking for the primarily dwelling and approved administratively as part of the permit application for the ADU. The parking pad shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
 - i. Replacement garages or carports voluntarily provided shall be subject to Design Review pursuant to CMC 17.56 and shall be required to comply with applicable floor area and site coverage limitations for the site.
3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in CMC 17.10.040.F.2.d, if the site does not conform to parking requirements.

G. Design Review – Single Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.070, Design Standards.

17.ADU.050 Development Standards for ADUs on Multi-Family Properties.

The following standards apply to ADUs and JADUs developed on multi-family residential properties or mixed-used developments at any density:

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A. Location – Multi-Family.

1. Number of ADUs. For all existing multi-family or mixed-use developments, subsections (a) through (c) below shall apply.
 - a. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space:
 - i. The equivalent number of twenty-five (25%) percent of the existing multi-family dwelling units (no less than one (1) unit).
 - b. ADUs detached from existing or proposed multi-family dwelling structures ():
 - i. Up to two (2) ADUs
 - ii. For the purpose of this subsection, a detached ADU shall mean an ADU that is detached from the multi-family dwelling, and shares no common connection with a commercial use or occupancy, if cited on a mixed-use property or development.
 - c. JADUs shall not be permitted in multi-family or mixed-use use developments.
2. Location on site.
 - a. ADUs may be located within the portion of existing multi-family dwelling structures that are not used as livable space including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
 - i. In mixed-use buildings, the non-livable space used to create an ADU or ADUs shall be limited to the residential areas of a mixed-use development, and not the areas used for commercial or other activities. The parking and storage areas for these non-residential uses shall also be excluded from potential ADU development.
 - b. ADUs may be detached from an existing or proposed multi-family dwelling structure and all accessory structures including, without limitation, garages and storage areas on the same site

Commented [EK7]: Response to HCD - Comment #13

Commented [EK8]: Response to HCD Comment #12

B. Floor Area – Multi-Family.

1. The floor area of an ADU is included in any other floor area limitation in this Title that is applicable to a detached accessory building for the housing type and in the base zone in which the lot is located.

a. Notwithstanding CMC 17.ADU.030.B.1, an 800 square foot floor area allowance may be allowed exclusively for the creation of a detached Type 3 ADU, as described in section 17.ADU.xxx.

2. For purposes of development of other structures on the property, the floor area of an existing ADU shall be counted in the calculation of the property's total lot coverage and floor area ratio.

3. The floor area of an ADU shall not exceed the floor area of an existing or proposed primary dwelling.

a. Exceptions for attached and detached units: If the existing or proposed primary dwelling is 800 square feet or less, the ADU shall be allowed a maximum of 800 square feet regardless of such condition, as provided in section 17.ADU.030.C.1.a.

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C. Unit Size – Multi-Family. The standards below provide the maximum and minimum unit sizes for ADUs on multifamily properties. Establishment of an ADU within these standards shall require available floor area for establishment of the unit consistent with section 17.ADU.040.B, above.

1. ADUs contained within the enclosed space of an existing multi-family dwelling that is not used as livable space:

a. The minimum size of the ADU shall be 150 square feet. The maximum size of an ADU that is a conversion of a portion of the existing multi-family dwelling structures that are not used as livable space shall have no a maximum size requirement.

2. Detached ADUs detached from existing multi-family dwelling structures:

a. New Construction Detached ADU. A detached ADU shall have a minimum floor area of 150 square feet, and shall not exceed 850 square feet, except for an ADU that provides more than one bedroom, which shall not exceed 1,000 square feet.

D. Height Limits – Multi-Family. The maximum height of a detached new ADU on a multifamily property shall not exceed the following limits:

1. The height limit for detached ADUs is sixteen (16') feet or eighteen (18') feet if the multifamily dwelling contains more than one story.

2. For ADUs contained within the portion of existing multi-family dwelling that is not used as livable space, the height will not exceed that of the existing space being converted.

E. Setbacks – Multi-Family.

1. New Construction: Detached ADUs on multifamily properties shall comply with the setback requirements set forth in the zoning district in which the ADU is located including any applicable overlay district for with the subject property is located except as provided in this subsection.

a. An ADU shall comply with the front yard setback requirements of the applicable zoning district, except for when an existing structure is converted, maintains a non-conforming setback.

i. Detached ADUs shall not be subject to composite setback requirements prescribed in CMC 17.10.040.A, if applicable.

2. ADUs contained within the portion of existing multi-family dwelling structures that are not used as livable space: No setback shall be required for conversion ADUs provided the structure maintains an adequate setback required for fire safety and access as determined by the Building Official and/or Fire Marshall.

F. Parking – Multi-Family.

1. No parking shall be required for an ADU except for as provided in the Coastal Access Parking Area, described in section 17.ADU.080.Q.

2. Except for as required in the Coastal Access Parking Area, if the required parking serving a primary dwelling is demolished for the purpose of establishing an ADU, replacement parking for the primary dwelling(s) shall not be required.

a. This provision shall not apply for demolition and/or reconstruction of existing dwellings.

3. Development resulting in a loss of off-street parking shall render the site non-conforming, as described in section 17.10.040.F.2.d, if the site does not conform to parking requirements.

G. Design Review – Multi-Family. All ADUs shall be subject to the provisions outlined in section 17.ADU.060, Design Review.

17.ADU.060 Junior Accessory Dwelling Units.

Junior Accessory Dwelling Units. JADUs shall conform with the following:

A. A JADU shall be a minimum of 150 square feet not exceed 500 square feet in size and shall contain at least an efficiency kitchen, which includes cooking appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the JADU.

B. A JADU shall have a separate entrance from the single-family dwelling.

C. The JADU may, but is not required to, include separate sanitation facilities. If separate sanitation facilities are not provided, the JADU shall share sanitation facilities with the single-family residence. If sanitation facilities are provided as part of the primary dwelling, the JADU shall maintain interior access to the primary dwelling.

Commented [EK10]: PC Comment - At prior workshop, PC gave direction to explore requiring additional parking requirements.

Parking requirements cannot be imposed as (nearly) every site in the city is within ½ walking mile from a bus stop and therefore is exempt from providing parking.

Parking can still be required to ensure Coastal Access. In conversation with Coastal Commission Staff, this area should be limited to those areas adjacent to the beach.

1. If a shared sanitation facility is provided with the primary dwelling, the shared sanitation facility shall:

- a. Be in immediate close proximity to JADU;
- b. Be accessible from the JADU without entering a separate room within the primary dwelling (accessible via a communal hallway or corridor) and without exiting to the exterior of the dwelling;
- c. Be counted as part of the square footage of the unit (only the JADU and sanitation facilitation shall be considered in the floor area calculation; the communal corridor or hallway shall not be considered).

D. Unless the property is owned by a governmental agency, land trust, or housing organization, one of the dwellings on the parcel (either the primary dwelling or JADU) must be the bona fide principal residence of at least one legal owner of the parcel, as evidenced at the time of approval of the JADU by appropriate documents of title and residency.

E. Prior to issuance of a building permit for a JADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit. The covenant shall include the following information:

1. A prohibition on the sale of the JADU separate from the sale of the single-family residence;
2. A restriction on the size and attributes of the JADU consistent with this section;
3. A prohibition against renting the property for fewer than 30 consecutive calendar days; and
4. A requirement that either the primary residence or the JADU be the owner's bona fide principal residence, unless the owner is a governmental agency, land trust, or housing organization.

F. Parking is not required for JADUs. However, if an existing attached garage is replaced by a JADU, each removed required parking space must be replaced with an off-street parking space that complies with the requirements of the underlying zoning district.

17.ADU.070 Design Review.

The following shall apply to the design and exterior appearance for all ADUs and JAUDs.

A. Type 1 and Type 2 Units:

- a. The unit(s) shall comply with all applicable Administrative ADU Design Standards adopted by the Planning Commission. The Planning Commission may develop, and from time to time amend, the administrative standards provided the standards set forth for ADUs are objective and the criteria can be evaluated without discretion.

- b. In the absence of adopted administrative design standards for ADUs, the accessory dwelling shall be constructed with exterior materials that have the same texture and appearance to the primary dwelling, including but not limited to roofing, siding, and windows and doors.

B. Type 3 Units:

- a. The unit(s) shall comply with the adopted Residential Design Guidelines.

17.ADU.080 Accessory Dwelling Units, General.

The following standards and requirements apply to all ADUs and JADUs:

- A. Permit Required. No person shall develop, construct, cause to be rented, or occupy an ADU or JADU on any lot within the city unless a building permit and associated approvals are obtained by the Community Planning and Building Department pursuant to the procedures and standards set forth in this chapter.
 - 1. Prior to building permit issuance, the building official shall find that all local building code requirements have been satisfied, except that the construction of an ADU shall not constitute a Group R occupancy change under the local building code, as described in Section 310 of the California Building Code (Title 24 of the California Code of Regulations), unless the building official or enforcement agency of the local agency makes a written finding based on substantial evidence in the record that the construction of the ADU could have a specific, adverse impact on public health and safety. Nothing in this clause shall be interpreted to prevent a local agency from changing the occupancy code of a space that was uninhabitable space or was only permitted for nonresidential use and was subsequently converted for residential use pursuant to this section.
- B. Certificate of Occupancy. A certificate of occupancy for an ADU or JADU shall not be issued before the issuance of a certificate of occupancy for the primary dwelling.
- C. Site Requirements. The building site is zoned to allow single-family or multifamily dwelling residential use and lot must contain a proposed or existing single-family dwelling, or existing multifamily dwelling. Notwithstanding any provision of this code to the contrary, an ADU shall be a permitted use in any zone where a single-family or multifamily dwelling is permitted.
 - 1. Prohibited Locations.
 - a. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site where sufficient water to support the ADU or JADU is not available for the site.

- b. The establishment of an ADU or JADU shall not be permitted on any portion of a building site not considered as part of the “buildable area” of a site, as defined in CMC 17.70.020.
- c. The establishment of an ADU or JADU shall not be allowed through any permit or license on any building site located within the Very High Fire Hazard Severity Zone (VHFHZ) unless equipped with a fire sprinkler system approved by the Fire Marshall.

Commented [EK11]: Check with Building Official for the correct language/terminology

D. Fire Sprinklers. Notwithstanding any other provision of the Carmel Municipal Code, installation of fire sprinklers in an ADU of any type shall be required only if they are required for the primary dwelling unit. The construction of an ADU shall not trigger a requirement for fire sprinklers to be installed in the existing primary dwelling except as provided below.

- 1. Fire sprinklers shall be considered "required for the primary dwelling unit" in any of the following circumstances:
 - a. When fire sprinklers are currently installed in the primary dwelling unit;
 - b. When fire sprinklers will be installed in a new primary dwelling unit constructed concurrently with an ADU; or
 - i. For purposes of this subsection (1)(b), the term "constructed concurrently" shall mean construction of a primary dwelling unit that is performed in reliance on a building permit issued within two (2) years of the date of issuance of a building permit for construction of an ADU.
 - c. When fire sprinklers will be installed in an existing primary dwelling unit as the result of an addition to the primary dwelling unit which addition triggered a requirement for retroactive installation of fire sprinklers in the primary dwelling unit in accordance with SOG 23-01, Determining Fire Sprinkler Retrofit Requirements, and the Carmel Municipal Code, and the permit application also includes the establishment of an ADU; or
 - d. The existing building site is located within the Very High Fire Hazard Severity Zone (VHFHZ) pursuant to CMC 17.ADU.070.C.1.c.
- 2. The floor area of an ADU contained within the existing space of a single-family dwelling or accessory structure or multi-family dwelling shall not be considered an "addition" under any provision of the Carmel Municipal Code related to retroactive installation of fire sprinklers in a structure.

Commented [EK12]: Response to HCD - Comment #23

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E. Deed Restriction. Prior to issuance of a building permit for a ADU, the owner shall record a covenant in a form prescribed by the city, which shall run with the land and provide for the following. A copy of the

Commented [EK14]: PC Comment - Supportive of Deed Restrictions.

PC was also supportive of an owner occupancy requirement, however, AB 976 was passed which eliminated any possibility of imposing an owner occupancy requirement.

recorded covenant shall be filed with the Community Planning and Building Department prior to issuance of a building permit. The covenant shall include the following information:

1. A prohibition on the sale of the ADU separate from the sale of the single-family residence except as authorized in Gov. Code, §65852.26;
 2. A restriction on the size and attributes of the ADU consistent with this section; and
 3. A prohibition against renting the property for fewer than 30 consecutive calendar days.
- F. Drainage. Permit applications for the creation of a new attached or detached ADU shall comply with the requirements of CMC 15.18, Site Drainage.
- G. Utilities. An ADU may have shared or separate utility services (i.e., an electrical and/or gas meter) from the primary dwelling.
- H. Rental Term. Rental of any unit created pursuant to this chapter shall be for a term of 30 days or more.
- I. No Separate Conveyance. The ADU may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence except as authorized in Gov. Code, §65852.26.
- J. Story Poles. Story poles shall be installed consistent with the city's Story Pole Policy (Resolution 2017-122) for all ADUs that require a Coastal Development Permit where any addition of floor area or building height is proposed.
- K. Transient Rental, Housing Incentive. An ADU created pursuant to this chapter shall not constitute construction of a new rental unit as described in CMC 17.14.040.W.2, Transient Rental, Housing Incentive.
- L. Mills Act. An ADU or JADU proposed on a property subject to a Mills Act Contract must comply with the provisions of the contract, including conformance to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the Interior's Standard for Rehabilitation, the California Historical Building Code, and the city's Historic Preservation Ordinance.
- M. Access.
1. Exterior access. The ADU and/or JADU must have exterior access independent of the main unit.
 2. Inter-accessibility. An attached accessory dwelling unit that exceeds the allowable base floor area for the site shall be an independent dwelling unit with no inter-accessibility,

Commented [EK15]: Alternative recommendation: relocate to building code; Title 15

interconnectivity, internal circulation, or other means of passage between the primary dwelling and ADU. This provision shall not apply to JADUs which may share circulation into the primary dwelling as described in section 17.ADU.050.C.

Commented [EK16]: PC Comment - interconnect not necessarily an issue provided residence does not exceed floor area limitation.

Response to HCD - Comment #28

N. **Building Separation.** No minimum distance is required between structures. An ADU shall be considered attached to the primary dwelling unit or any other building when there is a common wall, common roof, or a horizontal connection at least thirty (30") inches above grade. Horizontal connections, including but not limiting to, retaining walls and/or decking between an ADU and the primary dwelling unit or any other building that are less than thirty (30") inches above grade are not considered a connection.

1. It is recommended a minimum of three (3') foot wide clear path of travel be maintained between buildings.

Commented [EK17]: Alternative recommendation: Relocate to Building Code

O. **Passageway.** No passageway shall be required in conjunction with the construction of an ADU.

P. **Standards for Accessory Structure Conversions.**

1. If a legally permitted accessory structure is demolished for the purpose of converting the structure to an ADU with the same dimensions, including but not limited to floor area, height, roof pitch, setbacks, the ADU can be rebuilt on the footprint of the existing accessory structure. A structure that is reconstructed beyond any of the existing dimensions of the existing structure shall not be considered a conversion and be subject to the applicable standards for a new detached ADU, except that a 150 square foot addition for ingress and egress may be allowed.
 - a. When a legally permitted existing accessory structure is demolished for the purpose of converting the structure to an ADU, a survey, prepared by a California Licensed Surveyor or Engineer, shall be submitted with the building with the building permit application certifying the following prior to demolition of the subject structure:
 - i. [CRITERIA TBD]
2. **Carport Conversion.** When a carport is converted, an "imaginary wall plane" will be drawn around the exterior of the existing support posts. That wall plane becomes the exterior walls/footprint for the purposes of the conversion. An ADU cannot be expanded beyond that wall plane.
3. **Demolition Permits.** A demolition permit for a detached garage that is to be replaced with an ADU shall be reviewed with the application for the ADU and issued at the same time as the ADU.

Q. **Subordinate Units**

1. A nonconforming subordinate unit may be converted to a permitted ADU or JADU upon submittal of a building permit application demonstrating the unit meets the requirements outlined in this chapter for either an ADU or JADU, as appropriate, including evidence the unit was originally classified as a subordinate unit. All fees assessed by the city shall be waived for the conversion of a subordinate unit to an ADU or JADU provided there are no other building permits proposed as part of the application.
 - a. The property owner shall remove any covenants or restrictions associated with the subordinate unit as part of the building permit application. If covenants or restrictions are to be removed, said restriction shall be rescinded prior to a certificate of occupancy for the newly established ADU.

R. Non-Conformities.

1. The city shall not deny an application for a permit to create an ADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU.
2. A non-conforming detached accessory structure may be re-built or re-constructed in-kind pursuant to 17.ADU.070.T.1. Demolished non-conformities may be re-built or re-established provided the reconstruction is for the benefit of the ADU only, and non-conformities are not expanded.

17.ADU.080 Coastal Resource Protections.

- A. Purpose : The purpose of this title is to harmonize the requirements of Government Code Sections 66310-66342, with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code as provided in Government Code Section 66329.
- B. Findings:
 1. The entirety of the City of Carmel-by-the-Sea is located within the boundary of the Coastal Zone. The City's Local Coastal Program was certified by the California Coastal Commission in October of 2004. In accordance with Government Code Section 66329, the California Coastal Act of 1976 is neither superseded nor in any way altered or lessened except that a public hearing for Coastal Development Permit applications for ADUs shall not be required.
 2. A Coastal Development Permit is required for all new development within the Coastal Zone. As defined by the Coastal Act, development refers to both "the placement or erection of any solid material or structure" on land as well as any "change[s] in the density or intensity of use of land[.]" (Pub. Res. Code § 30106.)

3. A Coastal Development Permit (CDP) is the regulatory mechanism by which proposed developments in the coastal zone are brought into compliance with the policies of Chapter 3 of the Coastal Act.
 - a. The policies applicable to the City of Carmel of Chapter 3 of the Coastal Act have been incorporated into the city's certified Local Coastal Program.
4. The City's Land Use Plan describes the associated Land Use Chapters of the Local Coastal Program in the following manner:
 - a. **Land Use and Community Character.** This Chapter of the General Plan covers topics required in the Land Use Element. This heading also includes policies for topics in sections 30244 and 30250 through 30254 of the Coastal Act.
 - i. This Element integrates land use policies with issues of design, aesthetics and historic preservation as part of the Coastal Land Use Plan for the City.
 - b. **Circulation.** This Chapter or Element of the General Plan is one of the seven elements required by California Statutes. Several of the policies in this element also implement provisions of the Coastal Act.
 - i. This element is a required element of the City's General Plan (Government Code Section 65302(b)). Many of the policies in this Element are also part of the Local Coastal Land Use Plan and are noted as such (LUP).
 - c. **Coastal Access and Recreation.** This Chapter includes policies for topics covered in sections 30210 through 30224 of the Coastal Act.
 - i. This Element includes policies to protect and enhance public access to the coast is mandated by the California Coastal Act.
 - d. **Coastal Resource Management.** This Chapter of the General Plan includes policies for topics in sections 30230 through 30243 and 30251 of the Coastal Act.
 - i. This element includes policies for protection of the City's coastal environmental resources including the character of its forest, beach and bluffs, water quality and Environmentally Sensitive Habitat Areas (ESHAs).
5. As described in the city's Land Use Plan, "The incorporated limits of the City of Carmel-by-the-Sea shall be designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253 and for the purposes of implementing section 30610 and corresponding regulation section 13250 of the California Code of Regulations. New development shall protect this special community and its unique characteristics" (LUP).

- a. Coastal Act Section 30251 requires *“The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.”*
- b. Coastal Act Section 30253 requires: *“New development shall do all of the following:*
 - i. *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
 - ii. *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
 - iii. *Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.*
 - iv. *Minimize energy consumption and vehicle miles traveled.*
 - v. *Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.”*

6. ADUs are permitted on all building sites that allow for single-family and multi-family dwelling and there is no limitation in the total potential number of housing units created through ADUs based on the Coastal Resource Protections described herein or elsewhere in this ordinance.

C. Applicability: All ADUs and JADUs shall comply with the following requirements for the protection of coastal resources, as applicable:

1. Views. The incorporated limits of the City of Carmel-by-the-Sea is designated a special community and a highly scenic area within the meaning of Coastal Act sections 30251 and 30253. Accordingly, a proposed ADU shall:
 - a. Be cited and designed to protect views to and along the ocean and scenic coastal areas;
 - b. Minimize the alteration of natural land forms and work with the topography of the site;
 - c. Be visually compatible with the character of surrounding areas including, but not limited to: the type of forest resources present, the character of the street, the response to local topography and the treatment of open space resources such as setbacks and landscaping, and not presenting excess visual mass or bulk to public view or to adjoining properties.

2. Overlay Districts. Except as modified by this chapter, the ADU shall conform to all requirements of any applicable overlay district, including but not limited to established height limits, setbacks, environmental reports, described within CMC 17.20, except that no public hearing shall be required for Type 1 and Type 2 ADUs and the duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU. Standard processing procedures shall be followed, as applicable, for Type 3 ADUs.
 - a. Appealable Coastal Development Permits.
3. Historic Resources. An ADU or JADU proposed on a property with a historic resource shall be subject to the provisions outlined in CMC 17.32 except that no public hearing shall be required for Type 1 and Type 2 ADUs and the duties and powers designated to any board or commission shall be designated to the Director, as applicable, in the review of the ADU. Standard processing procedures shall be followed, as applicable for Type 3 ADUs. A Determination of Consistency with the Secretary of the Interior's Standards shall be required for all major and minor alterations, as appropriate.
4. Trees. No tree, as described in CMC 17.48.050.A.1.a or CMC 17.48.050.A.1.b, shall be removed or pruned for the purpose of establishing an ADU except in accordance with CMC 17.48.050.
 - a. Significant trees shall only be removed in accordance with CMC 17.48.070.B.
 - b. If trees are permitted by the City to be removed to facilitate the construction of an ADU that would otherwise preclude the development of an ADU replacement trees shall be provided on-site pursuant to CMC 17.48.080,. Alternative locations may be approved by the city forester, as appropriate.
 - c. All compaction of soils, construction of building walls, or placement of impermeable surfaces shall be setback a minimum of six feet from all trees.
5. Non-Conforming Site Coverage. Within the R-1 Zone District, sites shall comply with the provisions of CMC 17.10.030.C.2, as applicable.
6. Coastal Access Parking Area. Project sites located within the Coastal access parking area, as illustrated in Figure 1, below, shall be required to provide one (1) on-site parking space per ADU in addition to any required parking to the primary dwelling.
 - a. Within the R-1 District, parking may be provided as an uncovered tandem space within the front or side yard setback located on the driveway in front of a garage or carport or elsewhere on the property where parking is allowed by the underlying zoning district.

- i. An 8'6"x16' parking pad constructed from permeable or semi-permeable materials may be provided ministerially for the ADU and shall be exempted from any floor area and site coverage requirements provided the standards for driveways outlined in CMC 12.24.020.A-L are otherwise met.
- b. Within all districts other than the R-1 District, replacement parking shall follow the standards prescribed in CMC 17.38, off-street parking requirements.
 - i. Unless expressly specified in the Community Plan, Community Plan Districts shall comply with the provisions of CMC 17.38.

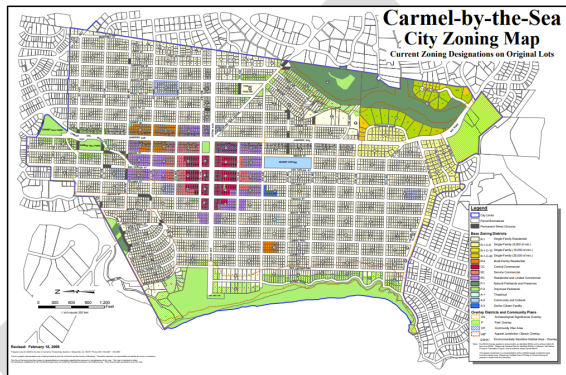


FIGURE 1. Coastal Access Parking Area [Map forthcoming].

- 7. Front Setback. Type 2 and Type 3 ADUs shall comply with the front yard setback requirements of the applicable zoning district including the front setback. New Type 3 ADUs may be established within the front yard setback when the findings for locating a garage/carport established in CMC 17.10.030.A. 1.a, are made in the affirmative through the appropriate CDP process, as applicable.
- 8. Additional Accessory Structures. Except as provided in CMC [17.10.040](#), Lot Mergers, no more than two accessory structures may be constructed on each building site.
- 9. Building sites with ADUs shall be prohibited from constructing, maintaining and/or building guesthouses or studios.

17.ADU.100 Application and Review Procedures.

- A. Timing

1. The city shall ministerially approve or disapprove a complete building permit application for an ADU or JADU in compliance with the time periods established by State law. If a Coastal Development Permit is required, the Coastal Development Permit may be processed concurrently with the building permit application for the creation of the ADU/JADU, however, no building permit application shall be deemed complete until any required associated Coastal Development Permit has been approved.

B. Standard of Review

1. The following review procedures shall apply to all ADUs and JADUs:
 - a. Type 1 Units – Ministerial Review.
 - i. The following types of units are classified as Type 1 units and are eligible for Type 1 review:
 - a. The conversion of an existing, legally established habitable space to a ADU and/or JADU within an existing primary dwelling, without removal or replacement of major structural components (e.g., roofs, exterior walls, foundations, etc.), and which does not change the intensity of use of the structure.
 - ii. Type 1 units located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay west of San Antonio Avenue or west of North Carmelo Avenue shall be processed as a Type 2 Application.
 - iii. Type 1 Units shall be exempt from all Coastal Development Permit Requirements and shall be considered ministerially.
 - b. Type 2 Units – Administrative Review.
 - i. The following types of units are classified as Type 2 units and are eligible for Type 2 review:
 - a. Attached and detached ADUs which comply with within floor area limits of the site, and/or
 - b. Type 1 units located in the Coastal Access Parking Area, located on the site of a Historic Resource, or located within the Beach and Riparian Overlay, and/or converted from nonhabitable space.
 - c. Any unit not specifically classified as a Type 3 unit.

- ii. All Type 2 units shall require approval of an Administrative Coastal Development Permit prior to building permit issuance.
- c. Type 3 – Standard Review.
 - i. The following types of units are classified as Type 3 units and are subject to Type 3 review:
 - a. Any ADU which receives a floor bonus/exemption of up to 800 sf above the allowable floor area for the site for the construction of an ADU, unless converted from existing floor area on the site, and/or
 - b. Any new attached or detached ADU located in the Beach and Riparian Overlay District west of San Antonio Avenue or west of North Carmelo Avenue.
 - c. Any new ADU proposed concurrently, and reliant, on a Track 2 application for a new dwelling, rebuild, or substantial alteration of a primary dwelling.
 - d. Any ADU for which the applicant requests deviation from adopted applicable standards
 - ii. All Type 3 units shall require approval of a Coastal Development Permit as follows:
 - a. Administrative Review. New attached and detached units additions that do not increase existing floor area of the building site on which they are located by more than 10 percent or do not increase the height of the existing structure by more than 10 percent shall reviewed administratively.
 - b. Standard Review. New attached and detached units additions that increase existing floor area by more than 10 percent or more, or increase the height of the existing structure by 10 percent or more shall reviewed consistent with procedures outlined in CMC 17.58.040.B.
- 2. Ministerial Review. Applications for ADUs and/or JADUs on a lot with an existing or proposed single-family residence or multifamily dwelling units that conform to the requirements of this section shall be considered as ministerial permits without discretionary review or a hearing, and the City shall approve or deny such applications within 60 calendar days after receiving the completed application. If the permit application to create an ADU, and/or JADU, is submitted with a permit application to create a new single-family dwelling on the lot, the city may delay

Commented [EK18]: Placeholder name

Commented [EK19]: PC Comment - Direction to synchronize review of ADU and primary residence.

Commented [EK20]: CMC 17.52.090.E & F are the thresholds.

acting on the permit application for the ADU until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the ADU shall still be considered as a ministerial permit without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

3. Coastal Development Permits. For ADUs and JADUs that constitute development and therefore require a Coastal Development Permit: the City shall approve or deny coastal development permit applications within 60 calendar days after receiving the completed application to the extent feasible consistent with section 17.ADU.100.C, below. No building permit application shall be deemed complete until a Coastal Development Permit subject to the provisions of this section has been approved and any applicable appeal period has concluded.
 - a. Note: Most ADUs and JADUs constitute development if they include, for example, new construction of a detached ADU, new construction of an attached ADU, or conversion of an existing, uninhabitable, attached or detached space to a ADU or JADU (such as a garage, storage area, basement, or mechanical room). The construction of new structures constitutes the “placement or erection of solid material,” and the conversion of existing, uninhabitable space would generally constitute a “change in the density or intensity of use.” Therefore, these activities would generally constitute development in the coastal zone that requires a CDP.
4. Type 3 Review Request. The applicant may submit an application for a Type 3 review of the ADU that deviates from the standards of this chapter but is otherwise within the discretionary and/or permitting purview of the city.

C. Coastal Development Permits.

1. All ADUs and JADUs classified as Type 1 units shall be exempt from Coastal Development permit requirements.
2. Coastal Commission Appeals Jurisdiction – Beach and Riparian (BR) Overlay.
 - a. Type 2 Applications.
 - i. For Type 2 Coastal Development Permits that are appealable to the California Coastal Commission, as described in the Carmel Municipal Code, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. The procedure for which an appeal may be filed with the California Coastal Commission.

The Director's decision shall be final and any appeals of the decisions of the Director or the Director's designee shall be appealed directly to the California Coastal Commission. Actions on applications to construct ADUs within these areas shall be consistent with the provisions of the applicable zone and the policies and development standards of the City of Carmel's certified Local Coastal Program and Chapter 3 of the California Coastal Act.

b. Type 3 Applications.

- i. For Type 3 Coastal Development Permits that are appealable to the California Coastal Commission, the appeal procedures established CMC 17.54 shall apply.

3. Non-Appealable Coastal Development Permits.

a. Type 2 Applications

- i. For Type 2 Applications that are not appealable to the California Coastal Commission and a Coastal Development Permit is required, the authority to review an application for a Coastal Development Permit is designated to the Director of Community Planning and Building or the Director's designee. Prior to approval of the Coastal Development Permit, the Director shall find that the Coastal Development Permit meets the findings identified in CMC 17.64.010.B, Coastal Development Permits. The Director shall not approve an application for a Coastal Development permit that is not found to be consistent with CMC 17.64.010.B.

At least 10 days before the City's decision on the application, the City shall provide notice, by first-class mail to all owners of real property, as identified on

the last equalized property tax assessment roll within 300 feet. The notice shall include:

- a. The date the application will be acted upon by the City's review authority;
- b. A statement that the development is within the coastal zone;
- c. The date of filing of the application and the name of the applicant;
- d. The number assigned to the application;
- e. A description of the development and its location;
- f. A statement that the decision of the director is final and not appealable.

The decision of the Director, or the Director's designee shall not be appealable and constitute the final action of the City.

b. Type 3 Applications.

- i. For Type 3 Coastal Development Permits that are appealable to the California Coastal Commission, the appeal procedures established CMC 17.54 shall apply.

D. Denials.

If the city denies an application for an ADU or JADU pursuant to section 17.ADU.100.B.1, the Director, within the time period described in 17.ADU.100.B.1, shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.