

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL**

ORDINANCE NO. 2019-003

AN ORDINANCE AMENDING CARMEL MUNICIPAL CODE (CMC) CHAPTERS 17.08, 17.14, 17.28, 17.68 AND 17.70 TO ESTABLISH REGULATIONS FOR TRANSIENT RENTALS IN THE COMMERCIAL AND MULTI-FAMILY ZONING DISTRICTS AND TO PROHIBIT THE ADVERTISING OF UNPERMITTED TRANSIENT RENTALS WITHIN ALL ZONING DISTRICTS.

WHEREAS, Pursuant to Ordinance 96, the City of Carmel-by-the-Sea is determined to be primarily, essentially and predominantly a residential City, wherein business and commerce have in the past, are now, and are proposed to be in the future subordinated to its residential character; and

WHEREAS, there has been a recent proliferation of transient rentals in the downtown area including the Commercial and Multi-Family Zoning Districts; and

WHEREAS, the City's General Plan – Housing Element includes several policies that promote preserving housing, including a policy to preserve and expand affordable and rental housing opportunities to enable local employees such as teachers, police, fire fighters and other City personnel to live in the community where they work; and

WHEREAS, in 2017, the State Legislature passed the Housing Package which consisted of 15 bills intended to promote and streamline housing production. Additional housing bills have since been passed and went into effect in January 2019; and

WHEREAS, the recently adopted housing bills provide a legislative intent declaring that there is a severe statewide shortage of both market-rate and affordable housing supply; and

WHEREAS, the State Department of Housing and Community Development has conducted a Housing Needs Assessment and determined that an additional 1.8 million units need to be constructed by 2025 in order to meet population growth demands, and average housing production over the past 10 years is less than half of this target need; and

WHEREAS, the conversion of long-term rental units into transient rentals eliminates some of the most affordable housing in the City and conflicts with the City's General Plan as well as a State mandate to preserve and increase housing supply; and

WHEREAS, the City's Zoning Ordinance is also its Local Coastal Program; and

WHEREAS, the City certifies that the amendments are intended to be carried out in a manner fully in conformance with the Coastal Act; and

WHEREAS, this ordinance is an amendment to titles 17.08, 17.14, 17.28, 17.68 and 17.70 of the City's Zoning Ordinance/Local Coastal Implementation Plan and requires certification by the California Coastal Commission; and

WHEREAS, on March 5, 2019, the City Council held a duly noticed public hearing and received a report on transient rentals in the City's Commercial and Multi-Family Zoning Districts and directed staff to prepare an ordinance to prohibit such use in these Districts; and

WHEREAS, on April 10, 2019, the Planning Commission held a duly noticed public hearing and received a report on transient rentals in the City's Commercial and Multi-Family Zoning Districts and made recommendations to the City Council; and

WHEREAS, on June 4, 2019, July 2, 2019 and September 10, 2019 the City Council held duly noticed meetings and received reports on transient rentals in the City's Commercial and Multi-Family Zoning Districts and directed staff to prepare an ordinance to regulate such use in these Districts; and

WHEREAS, on October 10, 2019, the City Council held a duly noticed public hearing on transient rentals in the City's Commercial and Multi-Family Zoning Districts and continued the item for further discussion; and

WHEREAS, on November, 2019, the City Council held a duly noticed public hearing on transient rentals in the City's Commercial and Multi-Family Zoning Districts; and

WHEREAS, this Ordinance was found to be exempt from environmental review, per the provisions of Section 15061(b)(3) of the California Environmental Quality Act (CEQUA) of 1970 as amended;

WHEREAS, the City Council finds that this ordinance is necessary to preserve the housing stock in the Commercial and Multi-Family Zoning Districts.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 15 of the Municipal Code of the City of Carmel-by-the-Sea is amended as shown in Exhibit "A" attached hereto and incorporated herein. All previous amendments not identified and revised in Exhibit "A" will remain in effect.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. Severability. If any section, subsection, or part of this Ordinance is held to be invalid or unenforceable, all other sections, subsections, or parts of subsections of this ordinance shall remain valid and enforceable.

SECTION 4, Effective Date. This Ordinance shall be in full force after its final passage and adoption with an effective date of _____, 2019.;

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

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Dave Potter
Mayor

Britt Avrit, MMC
City Clerk

EXHIBIT A

Chapter 17.08

RESIDENTIAL ZONING DISTRICTS

(Latest Modifications Highlighted in Yellow)

17.08.060 Prohibited Uses.

Uses such as transient bed and breakfast, hostel, hotel, inn, lodging, motel, hotel, resort and other transient lodging uses for remuneration, are prohibited in the residential **Single-Family Residential (R-1) district** districts, except as otherwise permitted by this code.

A. Liability and Enforcement. Any person acting as agent, real estate broker, real estate sales agent, property manager, reservation service or otherwise who arranges or negotiates for the use of residential property in violation of the provisions of this section is guilty of an infraction for each day in which such residential property is used, or allowed to be used, in violation of this section.

B. Infractions. Any person who uses, or allows the use of, residential property in violation of the provisions of this section is guilty of an infraction for each day in which such residential property is used, or allowed to be used, in violation of this section. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

17.08.040 Land Use Regulations.

Schedule II-1 Land Use Regulations for Residential Districts			
P = Permitted Use L = Limitations Apply C = Conditional Use Permit Required	R-1	R-4	Additional Regulations
Residential			See CMC 17.08.060
Single-Family	P	P	See CMC 17.08.050 (E), (H)
Accessory Dwelling Units			See CMC 17.08.050 (G)
Accessory Dwelling Unit, Interior	P	P	
Accessory Dwelling Unit, New Structure	P	P	
Class I Accessory Dwelling Unit	P	–	
Class II Accessory Dwelling Unit	P	–	
Studio	P	P	
Guesthouse (Noncommercial)	C	–	See CMC 17.08.050 (C)
Multifamily Dwellings			See CMC 17.08.050 (F)

Schedule II-1 Land Use Regulations for Residential Districts			
P = Permitted Use L = Limitations Apply C = Conditional Use Permit Required	R-1	R-4	Additional Regulations
0 – 22 dwelling units/acre	–	P	
22 dwelling units/acre	–	C	
Senior Citizen Housing	L-5	P	
Family Day Care			
Small Family	L-5	P	
Large Family	–	C-4	See CMC 17.08.050(B)
Group Residential	–	C	
<u>Transient Rental, Legal Nonconforming</u>	–	<u>L-6</u>	<u>Chapter 17.68 CMC, Other Use Classifications, See Nonconforming Definition</u>
<u>Transient Rental, Housing Incentive</u>	–	<u>L-7</u>	<u>See CMC 17.14.040 (W)(b).</u>
Specific Limitations and Conditions 1. Limited to advertising, consumer credit reporting, secretarial and court reporting, equipment maintenance and repair, personnel supply services, and nonretail computer services and repair. 2. Allowed only on existing quasi-public use sites established prior to December 1, 1980, or added as an accessory use to such existing uses. 3. Limited to existing units established prior to January 1, 1967, and/or authorized by a use permit issued between 1967 and 1990. *Note: These provisions approved by voter referendum. 4. Limited to existing commercial spaces established prior to 1993 and occupied by commercial uses continuously since that time. 5. Limited to occupancy within a single-family residence. <u>6. Limited to permits approved prior to the adoption of Ordinance 2019-003.</u> <u>7. Limited to transient rental units approved through the issuance of a conditional use permit as an incentive for the creation of new housing units. See CMC 17.14.040 (W)(b).</u>			

Chapter 17.14 COMMERCIAL ZONING DISTRICTS¹

17.14.030 Land Use Regulations.

Residential/Public and Semipublic				
Colleges and Trade Schools	P	P	P	
Community Centers	C	C	C	
Conference Facilities, Small	C	C	C	
Community Social Service Facility	P	P	P	
Family Day Care				See CMC 17.08.050(B)
Small Family	–	–	P	
Large Family	–	C	C	
Libraries, Public	P	P	P	
Multifamily Dwellings				See CMC 17.14.040(N)
0 – 22 dwelling units/acre	P	P	P	
23 – 33 dwelling units/acre	C	C	C	
34 – 44 dwelling units/acre	C	C	C	Chapter 17.64 CMC, Findings Required for Permits and Approvals
45 – 88 dwelling units/acre	C	C	C	Chapter 17.64 CMC, Findings Required for Permits and Approvals
<u>Transient Rental, Legal Nonconforming</u>	<u>L-7</u>	<u>L-7</u>	<u>L-7</u>	<u>Chapter 17.68 CMC, Other Use Classifications, See Nonconforming Definition</u>
<u>Transient Rental, Housing Incentive</u>	<u>L-8</u>	<u>L-8</u>	<u>L-8</u>	<u>See CMC 17.14.040 (W)(b).</u>
Specific Limitations and Conditions: L-1: Limited to advertising, consumer credit reporting, secretarial court reporting, equipment maintenance and repair, personnel supply services, and nonretail computer services and repair. L-2: Allowed only as accessory use to gasoline stations and limited to a maximum of 300 square feet. No sales of alcohol are permitted. See CMC 17.14.040(D)(2) and (J)(2). L-3: Any establishments with activities generating noise, odors, deliveries by large vehicles, high traffic by customers, or requiring large storage needs are not permitted. L-4: Limited to offices for the following categories: operators of nonresidential buildings, apartment buildings, dwellings, real estate agents and managers, and title companies. L-5: Limited to sites that are already developed with a single-family dwelling, or that were originally developed as, or used as, a single-family dwelling but have since been converted to another use. Existing single-family dwellings can be maintained, altered, repaired and/or redeveloped. R-1 district floor area ratio standards shall apply to these sites. L-6: Subject to the same regulations as apply to other family residential dwellings in the same zone. <u>L-7: Limited to permits approved prior to the adoption of Ordinance 2019-003.</u> <u>L-8: Limited to transient rental units approved through the issuance of a conditional use permit as an incentive for the creation of new housing units. See CMC 17.14.040 (W)(b).</u>				

17.14.040 Additional Use Regulations.

V. Travel Services.

1. Only office uses are allowed.

W. Transient Rentals. With the exception of lawfully permitted hotels, motels and transient rentals, transient lodging of residential dwellings for remuneration is prohibited in the CC, SC and RC Districts. Permitted transient rentals are limited to:

1. Transient Rental, Legal Nonconforming. Transient rental units permitted prior to the adoption of Ordinance 2019-003 are classified as a legal nonconforming use as defined in CMC 17.68.090 and are subject the provisions of CMC 17.36 with the following exception: Lawfully permitted transient rentals approved prior to the adoption of Ordinance 2019-003 that are replaced by non-transient residential uses shall not be considered abandoned and may be reestablished at any time.

2. Transient Rental, Housing Incentive. Transient rental units are permitted in the CC, SC, RC and R-4 Districts as an incentive for the creation of new rental housing units. One transient rental unit is permitted for the creation of three new rental units; one of the new units on the site shall be rented as “low-income” and the second unit shall be rented as “moderate income” as defined in CMC 17.70.020. The third rental unit may be rented at market rate.

a. Rental units created through this incentive program are subject to the density provisions identified in CMC 17.14.030.

b. Two of the rental units must be a minimum of 650 square feet in size.

c. The transient rental may be located at the same site as the three new rental units, or elsewhere within the CC, SC, RC or R-4 Districts.

d. Transient rentals permitted as an incentive require the issuance of a conditional use permit, must be maintained at the original site of approval, and are not classified as legal nonconforming as defined in CMC 17.68.090.

e. Transient rentals require one off-street parking space per unit in all districts.

Division IV. Provisions Applying in All or Several Districts

Chapter 17.28

GENERAL SITE REGULATIONS AND STANDARDS FOR SPECIFIC USES

Sections:

[17.28.010](#) Timeshare Projects.

[17.28.020](#) Noise from Electrical and Mechanical Equipment.

[17.28.030](#) Regulations Incorporated from Other Titles.

[17.28.040](#) **Advertising of Transient Rentals**

17.28.040 Advertising of Unpermitted Transient Rentals.

(a) No responsible party shall post, publish, circulate, broadcast or maintain any advertisement of an unpermitted transient rental.

(b) For purposes of this section the following words and phrases shall have the meaning respectively ascribed to them by this section.

1. "Advertisement" means any announcement, whether in a magazine, newspaper, handbill, notice, display, billboard, poster, email, Internet website, platform or application, any form of television or radio broadcast or any other form of communication whose primary purpose is to propose a commercial transaction.

2. "Responsible party" means any property owner or tenant, or any agent or representative thereof, who causes or permits any violation of this Code. To cause or permit includes failure to correct after receiving notice from the City of the violation. A responsible party does not include online hosting platforms/companies.

3. "Transient" is a period of time less than 30 consecutive days as defined in Municipal Code Section 17.70.020 of the Carmel-by-the-Sea Municipal Code.

(c) Each day that an advertisement is posted, published, circulated, broadcast or maintained by a responsible party in violation of this section is a separate offense.

Division VI. Classifications, Terms and Definitions

Chapter 17.68 USE CLASSIFICATIONS

17.68.030 Residential Use Classifications.

Residential Housing Types.

Multifamily Dwelling. A building or group of buildings on a single building site that contains two or more dwellings, each with its own facilities for parking, living, sleeping, cooking, and eating. This classification includes condominiums, townhouses, and apartments.

Senior Citizen Housing. Housing provided for senior citizens as defined by the State of California (California Civil Code Section [51.3](#)).

Transient Rental. Any residential unit that is occupied for the purposes of sleeping, lodging, or similar reasons for a period of less than 30 consecutive days in exchange for a fee or similar consideration. These units are required to pay transient occupancy tax and are classified as a Group R-1 occupancy if the site contains more than one transient rental unit (CMC 15.04.020 (16)).

Transient Rental, Legal Nonconforming. Transient rentals permitted prior to the adoption of Ordinance 2019-003 that are classified as a legal nonconforming use as defined in CMC 17.68.090 and are subject the provisions of CMC 17.36 with the following exception: Lawfully permitted transient rentals approved prior to the adoption of Ordinance 2019-003 that are replaced by non-transient residential uses shall not be considered abandoned and may be reestablished at any time.

Transient Rental, Housing Incentive. Transient rentals that are permitted on sites in the CC, SC, RC and R-4 Districts as an incentive for the creation of new rental housing units, in accordance with the provisions contained in CMC 17.14.040 (W)(b). These units are permitted through the issuance of a conditional use permit, must be maintained at the original site of approval, and are not classified as legal nonconforming.

Chapter 17.70
LIST OF TERMS AND DEFINITIONS¹

17.70.020 Definitions.

Transient. A period of time less than 30 consecutive days.

Transient Rental. Any residential unit that is occupied for the purposes of sleeping, lodging, or similar reasons for a period of less than 30 consecutive days in exchange for a fee or similar consideration. These units are required to pay transient occupancy tax and are classified as a Group R-1 occupancy if the site contains more than one transient rental unit (CMC 15.04.020 (16)).