



CAPITOLA CITY COUNCIL SPECIAL MEETING AGENDA REPORT

MEETING OF AUGUST 11, 2016

FROM: Community Development

SUBJECT: Zoning Code Update

RECOMMENDED ACTION: Accept the staff presentation, discuss the proposed draft Zoning Code update, identify desired Code revisions, and continue the public hearing to the August 18, 2016 meeting.

BACKGROUND: The City of Capitola initiated an effort in 2014 to comprehensively update its 1975 Zoning Code. To begin the process, staff solicited input from a variety of stakeholders to identify issues with the current Zoning Code and opportunities for improvement. Staff used this feedback to develop an issues and options paper which served as the basis for eight public hearings with the Planning Commission and City Council to provide staff with policy direction prior to drafting an updated Code. Staff completed a Draft Zoning Code Update based on policy direction received during the issues and options hearings.

The Draft Zoning Code was released on February 4, 2016, for an extended public review and comment period. The Draft Code, Zoning Map, and previous staff reports with attachments are available online at: <http://www.cityofcapitola.org/communitydevelopment/page/zoning-code-update>. The Planning Commission began their review of the Draft Zoning Code on March 3, 2016, and to date has held ten public hearings to discuss the Code. Once the Planning Commission recommends a final draft, staff will make that draft document available to the City Council.

DISCUSSION: The City Council requested a hybrid approach to the review the Draft Zoning Code, whereby staff presents significant changes and Planning Commission revisions in a sequential, chapter-by-chapter manner beginning with scheduled special meetings. The Draft Code is separated into 5 parts, as follows:

- Part 1: Enactment and Applicability
- Part 2: Zoning Districts and Overlay Zones
- Part 3: Citywide Standards
- Part 4: Permits and Administration
- Part 5: Glossary

The City Council received a complete Draft Zoning Code on February 11, 2016. Part 1 and Part 2 of the updated Draft Code containing the Planning Commission modifications in redlines is

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included as Attachment 1. As the City Council reviews the redlined draft and provides modifications, the draft will be updated to reflect the City Council edits.

The City Council approved the following special meeting schedule for the review of the draft zoning code:

Thursday, August 11th at 6 pm
Thursday, August 18th at 7 pm
Thursday, September 15th at 6 pm
Thursday, September 29th at 6 pm

During the August 11th meeting, staff will begin with the brief presentation of Part 1: Enactment and Applicability. Part 1 is an overview of the purpose and effect of a Zoning Code, interpretation, and applicability to the Zoning Districts and Zoning Map. This is the shortest section of the Zoning Code and is not expected to require significant additional review.

The bulk of the meeting will be focused on Part 2: Zoning Districts and Overlay Zones. This section contains land use tables, development standards, and specific regulations for each Zoning District. It is anticipated more than one meeting will be necessary to review Part 2. During the August 18th meeting, staff will pick-up where the City Council adjourned on the 11th.

FISCAL IMPACT: None.

ATTACHMENTS:

1. Zoning Code Parts 1 and 2
2. Zoning Code Part 1 and Part 2 Coastal Chapters

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Reviewed and Forwarded by:



Jamie Goldstein, City Manager

8/5/2016

Chapter 17.04 – PURPOSE AND EFFECT OF ZONING CODE

Sections:

- 17.04.010 Title and Authority
- 17.04.020 Purpose of the Zoning Code
- 17.04.030 Relationship to the General Plan
- 17.04.040 Applicability of the Zoning Code

17.04.010 Title and Authority

Title 17 of the Capitola Municipal Code shall be known and cited as the “Capitola Zoning Code” and referred to in this title as “the Zoning Code.” The Zoning Code is adopted pursuant to the authority in Section 65850 of the California Government Code.

17.04.020 Purpose of the Zoning Code

- A. **General.** The purpose of the Zoning Code is to implement the General Plan and to protect the public health, safety, and welfare.
- B. **Specific.** The Zoning Code is intended to:
 1. Preserve and enhance Capitola’s small-town feel and coastal village charm.
 2. Ensure that all development exhibits high-quality design that supports a unique sense of place.
 3. Protect and enhance the quality of life in residential neighborhoods.
 4. Encourage active and inviting commercial and mixed-use areas.
 5. Support a vibrant, diverse, and dynamic local economy.
 6. Allow for a broad range of housing choices that meets the needs of all segments of the community.
 7. Protect and enhance natural resources that contribute to Capitola’s unique identity and scenic beauty.
 8. Maintain and enhance coastal access and visitor-serving facilities and services.
 9. Protect and preserve the Capitola’s historic resources.
 10. Support a balanced transportation system that accommodates the needs of automobiles, pedestrians, ~~and~~ bicycles, and other forms of transportation.

17.04.030 Relationship to the General Plan

The Zoning Code implements the General Plan by regulating the use of land and structures in Capitola. If the Zoning Code conflicts with the General Plan, the General Plan governs.

17.04.040 Applicability of the Zoning Code

- A. Applicability to Property.** The Zoning Code applies to all land, uses, and structures within the Capitola city limits.
- B. Compliance with Regulations.** All uses, structures, and development activity in Capitola shall comply with the Zoning Code.
- C. Conflicting Regulations.** Where conflict occurs with other ~~C~~city regulations or with ~~s~~State or federal laws, higher law shall control over lower law unless local variation is permitted. Where conflicting laws are of equal stature, the more restrictive shall control unless otherwise specified in the Zoning Code or in ~~s~~State or federal law.

Chapter 17.08 – INTERPRETATION

Sections:

- 17.08.010 Purpose
- 17.08.020 Authority
- 17.08.030 Rules of Interpretation
- 17.08.040 Procedures for Interpretation/Determinations
- 17.08.050 Zoning Code Enforcement

17.08.010 Purpose

This chapter establishes rules and procedures for interpreting the Zoning Code to ensure that it is applied and enforced in a consistent manner.

17.08.020 Authority

The City Council delegates to the Community Development Director and the Director's designees the authority in accordance with 17.08.040 to interpret the meaning and applicability of all provisions in the Zoning Code.

17.08.030 Rules of Interpretation

A. General Rules. Rules of interpretation in Municipal Code Chapter 1.04 (General Provisions) apply to the Zoning Code. The following general rules also apply to the interpretation and application of the Zoning Code.

1. In the event of any conflict between the provisions of this Zoning Code, the most restrictive requirement shall control.
2. Where there is a conflict between text and any figure, illustration, graphic, heading, map, table, or caption, the text governs.
3. The words “shall,” “will,” “is to,” and “are to” are mandatory. “Should” means a regulation that is not mandatory, but must be either fulfilled or the applicant must demonstrate an alternative that fulfills the intent of the regulation or that a non-economic hardship makes compliance infeasible. “May” is permissive.
4. The following conjunctions are interpreted as follows
 - a. “And” means that all items or provisions so connected apply.
 - b. “Or” means that all items or provisions so connected apply singularly or in any combination.
 - c. “Either . . . or” means that one of the items or provisions so connected apply singularly, but not in combination.
5. All officials, bodies, agencies, ordinances, policies, and regulations referred to in the Zoning Code are those of Capitola unless otherwise noted.

- B. Calendar Days.** Numbers of days specified in the Zoning Code are continuous calendar days unless otherwise noted. Where the last of a number of days falls on a holiday or weekend, time limits are extended to the following working day.
- C. Land Use Regulation Tables.** Land use regulation tables in Part 2 (Zoning Districts and Overlay Zones) establish permitted land uses within each zoning district. Notations within these tables have the following meanings:
1. **Permitted Uses.** A “P” means that a use is permitted by right in the zoning district and is not subject to discretionary review and approval.
 2. **Administrative Permit.** An “A” means the use is permitted with the approval of an Administrative Permit.
 3. **Minor Use Permit.** An “M” means that a use requires approval of a Minor Use Permit.
 4. **Conditionally Permitted Uses.** A “C” means that a use requires approval of a Conditional Use Permit.
 5. **Uses Not Allowed.** A “-” means that a use is not allowed in the zoning district.



Note: Procedures and criteria for addressing unlisted land uses in Subsection D below are new.

- D. Unlisted Land Uses.** If a proposed land use is not listed in the Zoning Code, the use is not permitted except as follows:
1. An unlisted use is not permitted if the use is listed as a permitted use in one or more other zoning districts. In such a case, the absence of the use in the zoning district within the land use table means that the use is prohibited in the zoning district.
 2. The Community Development Director may determine that an unlisted proposed use is equivalent to a permitted or conditionally permitted use if all of the following findings can be made:
 - a. The use is similar to other uses allowed in the zoning district.
 - b. The density or intensity of the use is similar to other uses in the zoning district.
 - c. The use is compatible with permitted or conditionally permitted uses in the zoning district.
 - d. The use will meet the purpose of the zoning district.
 - e. The use is consistent with the goals and policies of the General Plan.
 - f. The use will not be detrimental to the public health, safety, or welfare.
 3. When the Community Development Director determines that a proposed use is equivalent to a listed use, the proposed use shall be treated in the same manner as the listed use with respect to development standards, permits required, and all applicable requirements of the Zoning Code.

E. Zoning Map Boundaries. Where uncertainty exists as to the boundaries of zoning districts as shown on the Zoning Map, the following rules apply:

1. Boundaries shown as approximately following the centerlines of streets, highways, or alleys are construed to follow the centerlines.
2. Boundaries shown as approximately following platted lot lines are construed as following the lot lines.
3. Boundaries shown as approximately following city limits are construed as following city limits.
4. Boundaries shown following railroad lines are construed to be midway between the main tracks.
5. In unsubdivided property or where a zoning district boundary divides a parcel, the location of the boundary are determined by the use of the scale appearing on the Zoning Map.
6. In case further uncertainty exists, the Community Development Director shall determine the exact location of the boundaries. The Director's decision may be appealed to the Planning Commission to determine the exact location of the boundaries.

F. Parcels Containing Two or More Zoning Districts.

1. For parcels containing two or more zoning districts ("split zoning"), the location of the zoning district boundary shall be determined by the Community Development Director. The Director's decision may be appealed to the Planning Commission to determine the exact location of the boundaries.
2. For parcels containing two or more zoning districts, the regulations for each zoning district shall apply within the zoning district boundaries as identified on the Zoning Map.

17.08.040 Procedures for Interpretation/Determinations



Note: Procedures for responding to Zoning Code interpretation requests in Section 17.08.040 are new.

A. Request for Interpretation. The Community Development Director shall respond in writing to written requests for interpretation of the Zoning Code if the requested interpretation would substantially clarify an ambiguity which interferes with the effective administration of the Zoning Code. The following procedures apply for a request for interpretation:

1. The request shall be in writing, shall identify the provision to be interpreted, and shall be accompanied by the fee identified in the latest Fee Schedule.

2. The request shall provide any information that the Director requires to assist in its review.
3. The Director shall respond to an interpretation request within 30 days of receiving the request.

B. Form and Content of Interpretation. Official interpretations prepared by the Director shall be in writing, and shall quote the Zoning Code provisions being interpreted. The interpretation shall describe the circumstance that caused the need for the interpretation.

C. Official Record of Interpretations. An official record of interpretations shall be kept and updated regularly by the Community Development Department. The record of interpretations shall be indexed by the number of the section that is the subject of the interpretation and made available for public inspection during normal business hours.

D. Referral to Planning Commission. The Director may refer any request for interpretation of the Zoning Code to the Planning Commission for review and interpretation.

E. Appeals. Any official interpretation prepared by the Director may be appealed to the Planning Commission. The Planning Commission's interpretation may be appealed to the City Council. Appeals shall be accompanied by the fee identified in the latest Fee Schedule.

17.08.050 Zoning Code Enforcement

Enforcement of the Zoning Code shall occur in a manner consistent with Capitola Municipal Code Title 4 (General Municipal Code Enforcement).

Chapter 17.12 – ZONING DISTRICTS AND MAP

Sections:

- 17.12.010 Purpose
- 17.12.020 Zoning Districts
- 17.12.030 Zoning Map

17.12.010 Purpose

This chapter identifies the zoning districts that apply to land within the Capitola city limits and establishes the official Capitola Zoning Map.

17.12.020 Zoning Districts

A. Base Zoning Districts. Capitola is divided into zoning districts that implement the General Plan Land Use Map as shown in Table 17.12-1.



Note: There have been some changes to existing zoning districts and overlay zones as shown in Table 17.12-1 and Table 17.12.-2. Changes include creating a new Neighborhood Mixed Use zoning districts for portions of Capitola Road, Bay Avenue, and Capitola Avenue, distinguishing between the Community Commercial and Regional Commercial zoning districts along 41st Avenue, deleting the Automatic Review overlay, and changing the Archaeological/Paleontological Resources overlay and Geological Hazards overlay into citywide standards.

TABLE 17.12-1: BASE ZONING DISTRICTS

Zoning District Symbol	Name of Zoning District	General Plan Land Use Designation
Residential Zoning Districts		
R-1	Single-Family Residential <u>Single-Family</u>	Single-Family Residential (R-SF)
RM-L	Multi-Family Residential <u>Multi-Family</u> , Low Density	Multi-Family Residential (R-MF)
RM-M	Multi-Family Residential <u>Multi-Family</u> , Medium Density	
RM-H	Multi-Family Residential <u>Multi-Family</u> , High Density	
MH	Mobile Home Park	Mobile Home Park (MH)
Mixed-Use Zoning Districts		

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

Zoning District Symbol	Name of Zoning District	General Plan Land Use Designation
MU-V	Village -Mixed Use, <u>Village</u>	Village Mixed-Use (MU-V)
MU-N	Neighborhood -Mixed Use, <u>Neighborhood</u>	Neighborhood Mixed-Use (MU-N)
Commercial and Industrial Zoning Districts		
C-C	Community -Commercial, <u>Community</u>	Community Commercial (C-C)
C-R	Regional -Commercial, <u>Regional</u>	Regional Commercial (C-R)
I	Industrial	Industrial (I)
Other Zoning Districts		
VS	Visitor Serving	Visitor Accommodations (VA)
CF	Community Facility	Public/Quasi-Public Facility (P/QP)
P/OS	Parks and Open Space	Parks and Open Space (P/OS)
PD	Planned Development	N/A

B. Overlay Zones. The Zoning Code and Zoning Map include the overlay zones shown in Table 17.12-2. Overlay zones impose additional regulations on properties beyond what is required by the underlying base zoning district.

TABLE 17.12-2: OVERLAY ZONES

Overlay Zone Symbol	Name of Overlay Zone
-AH	Affordable Housing
-VRU	Vacation Rental Use
-VR	Village Residential
-CZ	Coastal Zone

17.12.030 Zoning Map

A. Adoption. The City Council hereby adopts the Capitola Zoning Map (“Zoning Map”), which establishes the boundaries of all base zoning districts and overlay zones provided for in the Zoning Map.

- B. Incorporation by Reference.** The Zoning Map, including all legends, symbols, notations, references, and other information shown on the map, is incorporated by reference and made a part of the Zoning Code.
- C. Location.** The Zoning Map is kept, maintained, and updated electronically by the Community Development Department, and is available for viewing by the public at the Department ~~and on the official City of Capitola website.~~

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

Chapter 17.16 – RESIDENTIAL ZONING DISTRICTS

Sections:

- 17.16.010 Purpose of the Residential Zoning Districts
- 17.16.020 Land Use Regulations
- 17.16.030 Development Standards

17.16.010 Purpose of the Residential Zoning Districts

A. General. The purpose of the residential zoning districts is to support attractive, safe, and friendly neighborhoods consistent with Capitola’s intimate small-town feel and coastal village charm. Development within the residential zoning districts features high quality design that enhances the visual character of the community. The mass, scale, and design of new homes are compatible with existing homes in neighborhoods and are carefully designed to minimize impacts to existing homes. Residential zoning districts contain a range of housing types and community facilities to support diverse and complete neighborhoods with a high quality of life for residents.

B. Specific.

1. ~~Single-Family Residential~~ **Residential Single-Family (R-1) Zoning District.** The purpose of the R-1 zoning district is to protect and enhance the unique qualities of individual neighborhoods in Capitola. The R-1 zoning district allows for variation in development standards based on the existing development patterns within these neighborhoods. New development respects the existing scale, density, and character of neighborhoods to strengthen Capitola’s unique sense of place.
2. **Residential Multi-Family Residential (RM) Zoning District.** The purpose of the RM zoning district is to accommodate a range of housing types to serve all Capitola residents. The RM zoning districts allows single-family and multi-family housing at higher densities to maintain and increase the supply of affordable housing choices. Housing in the RM zoning districts ~~is~~ will be carefully designed to enhance Capitola’s unique identity and to minimize impacts on adjacent land uses and structures. The RM zone is divided into three subzones (RM-L, RM-M, and RM-H) allowing for a range of permitted residential densities.
3. **Mobile Home Park (MH) Zoning District.** The MH zone provides areas for exclusive development of mobile home parks. Mobile home parks provide a valuable source of affordable housing serving Capitola’s lower-income and senior residents.

17.16.020 Land Use Regulations

A. Permitted Land Uses. Table 17.16-1 identifies land uses permitted in the residential zoning districts.



Note: Some land use terms in the existing Zoning Code have been changed in the updated Zoning Code to reflect current usage and Sstate law. Despite this change, permitted land uses in the residential zoning districts have generally remained the same.

TABLE 17.16-1: PERMITTED LAND USES IN THE RESIDENTIAL ZONING DISTRICTS

Key P Permitted Use A Administrative Permit required M Minor Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District			Additional Regulations
	R-1	RM	MH	
Residential Uses				
Duplex Homes	-	P	-	
Elderly and Long Term Care	-	C	-	
Group Housing	-	P	-	
Mobile Home Parks	-	C	P [1]	Chapter 17.100
Multi-Family Dwellings	-	P	-	
Residential Care Facilities, Small	P	P	C [2]	
Residential Care Facilities, Large	C	C	C [2]	Section 17.96.080
Secondary Dwelling Units	A	A	-	Chapter 17.74
Single-Family Dwellings	P	P	C [2]	
Public and Quasi-Public Uses				
Community Assembly	C	C	C	
Day Care Centers	C	C	C	
Home Day Care, Large	M	M	M	Section 17.96.070
Home Day Care, Small	P	P	P	
Parks and Recreational Facilities	-	C	C	
Schools, Public or Private	-	C	C	
Commercial Uses				
Bed and Breakfast	C	C	-	
Vacation Rentals	See Section 17.4032.0340			
Transportation, Communication, and Utility Uses				
Utilities, Major	C	C	C	
Utilities, Minor	P	P	P	
Wireless Communications Facilities	See Chapter 17.104			
Other Uses				
Accessory Uses and Structure	P [3]	P [3]	P[3]	Chapter 17.52
Home Occupation	A	A	A	Chapter 17.96.040
Temporary Uses and Structures	M	M	-	Section 17.96.190
Urban Agriculture				
Home Gardens	P	P	P	

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

Key	Zoning District			Additional Regulations
	R-1	RM	MH	
P Permitted Use				
A Administrative Permit required				
M Minor Use Permit required				
C Conditional Use Permit required				
- Use not allowed				
Community Gardens	M	M	M	
Urban Farms	C	C	C	

Notes:

- [1] May include offices incidental and necessary to conduct a mobile home park use.
- [2] Permitted on the mobile home park parcel or on a separate parcel of no less than 5,000 square feet.
- [3] An accessory structure that exceed the development standards of Chapter 17.52 requires a Conditional Use Permit.

B. Additional Permits. In addition to permits identified in Table 17.16-1, development projects in the residential zoning districts may also require a Design Permit pursuant to Chapter 17.120 (Design Permits). Modifications to a historic resource may require a Certificate of Appropriateness pursuant to Chapter 17.84 (Historic Preservation).

17.16.030 Development Standards

A. General Standards - Single-Family and Multi-Family Zoning Districts. Table 17.16-2 identifies development standards that apply in the R-1 and RM zoning districts.

TABLE 17.16-2: DEVELOPMENT STANDARDS IN THE R-1 AND RM ZONING DISTRICTS

	R-1	RM	Additional Standards
Site Requirements			
Parcel Area, Minimum [1]	5,000 sq. ft.	N/A	
Parcel Width, Minimum [1]	30 ft.	N/A	
Parcel Depth, Minimum [1]	80 ft.	N/A	
Floor Area Ratio, Maximum	See Section 17.16.030.B.1	N/A	17.16.030.B 17.48.040
Parcel Building Coverage, Maximum	N/A	40%	
Parcel Area Per Unit, Minimum	N/A	<u>RM-L</u> : 4,400 sq. ft. <u>RM-M</u> : 2,900 sq. ft. <u>RM-H</u> : 2,200 sq. ft.	
Parking and Loading	See Chapter 17.76		
Structure Requirements			
Setbacks, Minimum			17.48.030
Front	<u>Ground floor</u> : 15 ft. <u>Garage</u> : 20 ft. <u>Second story</u> : 20 ft.	15 ft.	17.16.030.B.3 Garage Setback
Rear	20% of parcel depth; 25 ft. max.	15% of parcel depth	

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

	R-1	RM	Additional Standards
Interior Side	<u>Ground floor</u> : 10% of parcel width; 3 ft. min.; 7 ft. max. <u>Second story</u> : 15% of parcel width	10% of parcel width	17.16.030.B. 4&5
Street Side, Corner Lots	10 ft.	10 ft.	17.16.030.B.3
Height, Maximum	25 ft.	<u>RM-L</u> : 30 ft. <u>RM-M</u> : 30 ft. <u>RM-H</u> : 35 ft.	17.16.030.B.6 & 7 17.48.020
Accessory Structures	See Chapter 17.52		

Notes:

[1] Parcel area, width, and depth requirements apply only to the creation of new parcels. These requirements do not apply to legally created parcels existing as of [effective date of updated Zoning Code]. See Capitola Municipal Code Title 16 (Subdivisions) for requirements that apply to lot line adjustments to existing parcels that do not comply with the parcel area, width, and depth requirements in this table.

B. Additional Standards in the R-1 Zoning District. The following additional standards apply in the R-1 zoning district.

- 1. Floor Area Ratio.** Table 17.16-3 identifies the maximum permitted floor area ratio (FAR) in the R-1 zoning district.

TABLE 17.16-3: MAXIMUM FLOOR AREA RATIO IN THE R-1 ZONING DISTRICT

Lot Size	Maximum FAR
2,650 sq. ft. or less	0.58
2,651 to 3,250 sq. ft.	0.57
3,251 to 3,500 sq. ft.	0.56
3,501 to 3,750 sq. ft.	0.55
3,751 to 4,000 sq. ft.	0.54
4,001 to 4,250 sq. ft.	0.53
4,251 to 4,500 sq. ft.	0.52
4,501 to 4,750 sq. ft.	0.51
4,751 to 5,000 sq. ft.	0.50 [1]
5,001 to 6,000 sq. ft.	0.49 [1]
More than 6,000 sq. ft.	0.48 [1]

Notes:

[1] Parcels of 5,000 sq. ft. or more with approved second dwelling units are permitted a maximum FAR of 0.60 for all structures.

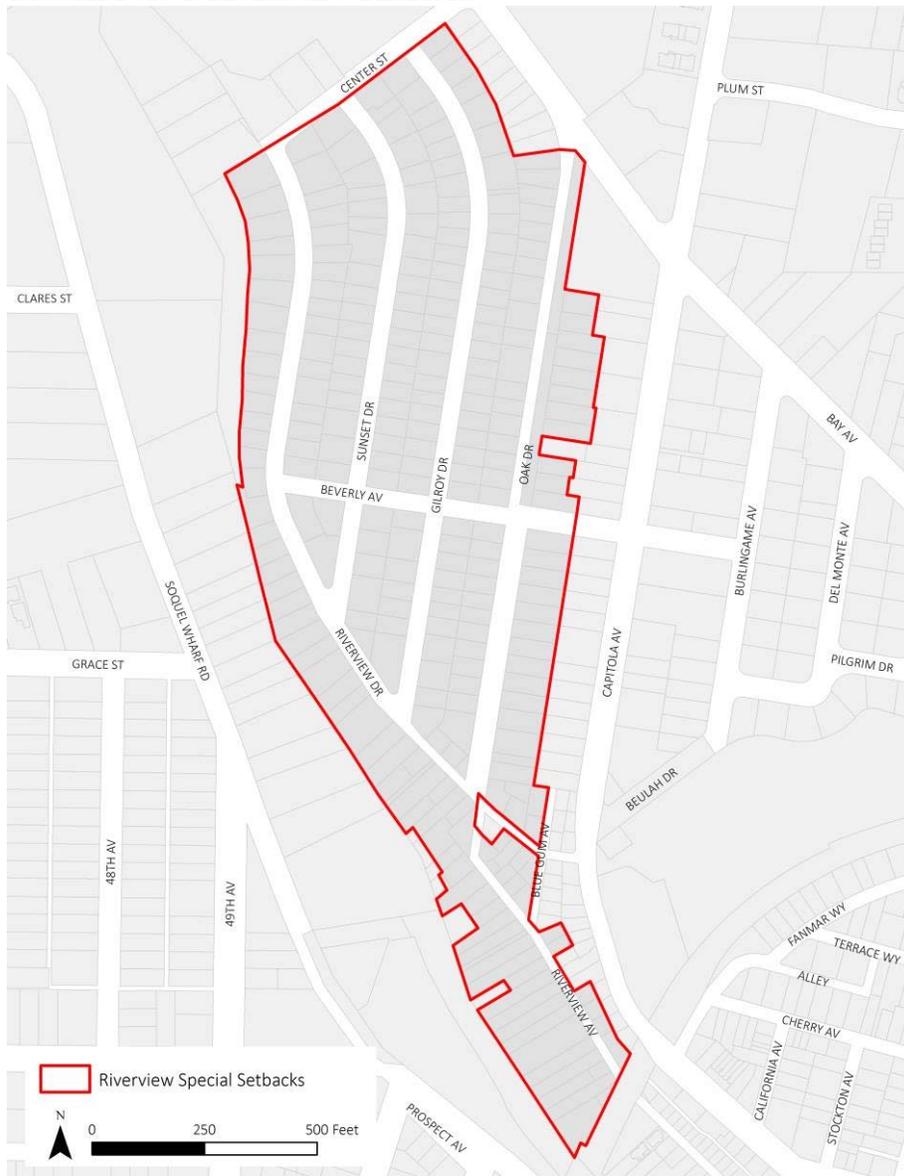
- 2. Front Setbacks in Riverview Terrace.** Within the areas shown in Figure 17.16-1, the Planning Commission may approve a reduced front setback to reflect existing

front setbacks on neighboring properties within 100 feet on the same side of the street. The reduced front setback shall in all cases be no less than 10 feet.



Note: In the existing Zoning Code minimum front setbacks in Riverview Terrace may be reduced to the average of lots on same side of street within 500 feet of the subject property to a maximum of 10 feet. Paragraph 2 above allows minimum setbacks to be reduced to reflect existing front setbacks on neighboring properties on the same side of the street.

FIGURE 17.16-1: RIVERVIEW TERRACE

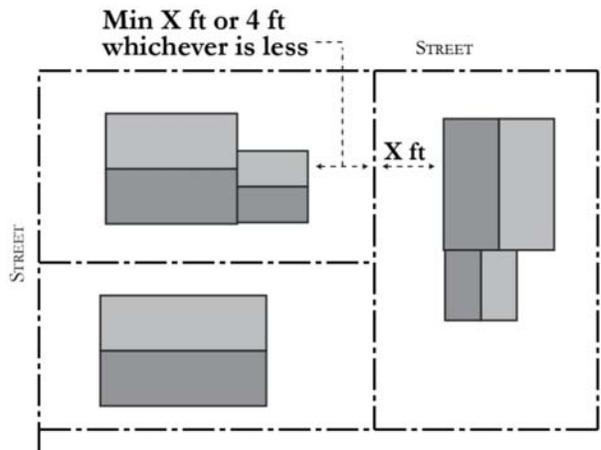


3. Garage Setbacks.

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

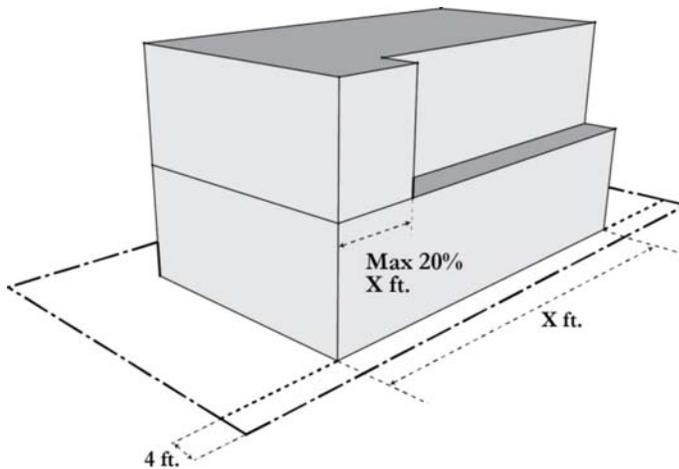
- a. Attached garages shall be setback a minimum of 5 feet behind the front or street side building wall of the primary structure. The Planning Commission may reduce this minimum setback to 3 feet in sidewalk exempt areas.
 - b. Required setbacks for detached garages are identified in Chapter 17.52 (Accessory Structures).
4. **Corner Lots.** The minimum rear setback for reserve corner lots shall be the minimum interior side yard of the adjacent property, but no less than 4 feet. See Figure 17.16-2.

FIGURE 17.16-2: REVERSE CORNER LOT REAR SETBACK



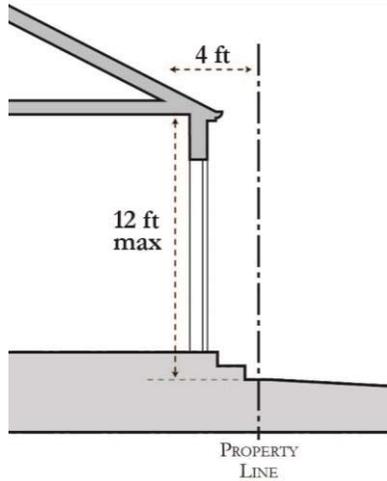
5. **Second Story Setback Exceptions.** Second story additions must comply with increased setback requirements in Table 17.16-2, except in the following cases:
- a. For lots 30 feet wide or less, the minimum interior side setback for a second story is the same as for the ground floor.
 - b. Up to 20 percent of the length of an upper story wall may be constructed at the same setback as the first-floor wall if the first-floor wall is at least 4 feet from the side property line. See Figure 17.16-3.

FIGURE 17.16-3: SECOND STORY SETBACK EXCEPTION



Note: R-1 height exceptions in Paragraph 6 below are new.

6. **Height Exceptions.** A maximum height of up to 27 feet in the R-1 zoning district is allowed in the following circumstances:
- a. Additions to historic structures that is designed to match the roof pitch of the historic structure within the area of new addition.
 - b. Parcels greater than 6,000 sf in size.
 - c. Parcels with a width 60 feet or more.
 - d. Parcels with an average slope of 25 percent or greater.
 - e. When the plate height of structure does not exceed 22 feet.
 - f. ~~Plate Height in Side Setback Areas.~~ For portions of a building with four feet or less from an interior side property line, the maximum wall plate height is 12 feet. See Figure 17.16-4.

FIGURE 17.16-4: MAXIMUM PLATE HEIGHT

Note: Standards in Paragraph 8 below to allow decks and balconies with an Administrative Permit instead of a Design Permit are new.

C.—7. Decks and Balconies.

- 1.—~~Upper floor decks and balconies immediately adjacent to a street or public open space are allowed with an Administrative Permit and do not require a Design Permit. All other decks and balconies require Planning Commission approval of a Design Permit. on the side or rear of a residential structure that are not adjacent to public open space are allowed with an Administrative Permit if the deck or balcony is:~~
 - 2.—~~Located 10 feet or more from property line and 20 feet or more from another single family dwelling; and~~
 - 3.—~~Does not directly face a window, balcony, patio, or other usable open space of another single family dwelling.~~
- 4.7. ~~Decks and balconies that do not meet standards (1) and (2) above require Planning Commission approval of a Design Permit.~~

D.C. Additional Standards for RM Zoning Districts. The following additional standards apply in the RM zoning district.

1. **Single-Family Dwellings.** Single-family dwellings in RM zoning districts shall comply with the development standards that apply in the R-1 zoning district.
2. **Open Space.** Common and private open space in the RM zoning district shall be provided as shown in Table 17.16-4.

TABLE 17.16-4: USABLE OPEN SPACE IN RM ZONING DISTRICT

Common Open Space [1]	
Minimum area (percent of site area)	15% [2] [3]
Minimum horizontal dimension	15 ft.
Private Open Space [4]	
Minimum percentage of units with private open space	50%
Minimum area (for individual unit)	48 sq. ft.
Minimum horizontal dimension	4 ft.

Notes:

- [1] Common open space shall be fully landscaped and accessible to all residents.
- [2] Roof terraces and roof gardens may provide up to 50 percent of the required common open space area if the Planning Commission finds that roof terraces and roof gardens provide quality open space for residents and minimize noise, privacy and other potential impacts on neighboring properties.
- [3] The Planning Commission may allow reduced common open space to a minimum of 10 percent for projects less than one acre in size or for projects that provide additional private open space equal to or greater than the amount of reduced common open space.
- [4] Private open space may include screened terraces, decks, balconies, and other similar areas



Note: The existing Zoning Code requires 50 percent of the required rear yard to be developed as common open space. Subsection C above requires 15 percent of the site area to be common open space. Ability to reduce common open space is new to provide flexibility for smaller infill projects.

E.D. Standards for the MH Zoning District. Table 17.16-5 identifies development standards that apply in the Mobile Home (MH) zoning district.

TABLE 17.16-5 MH ZONING DISTRICT DEVELOPMENT STANDARDS

		Additional Standards
Site Area [1]	5 acres [2]	
Residential Density, Maximum	20 units per acre	
Setbacks [3]		17.48.030
Front	15 ft.	
Interior Side	10 ft.	
Exterior Side	10 ft.	
Rear	20 ft.	

Notes:

[1] Applies to overall mobile home park area, not sites for individual units.

[2] For vacant property rezoned to MH, the minimum lot area is 5 acres. For existing mobile home parks, the minimum parcel size is 5 acres or the existing parcel size, whichever is less.

[3] Applies only to the perimeter of the mobile home park, not to sites and structures within the interior of the park.



Note: Minimum setbacks for the perimeter of the mobile home park in Table 17.16-5 above are new.

Chapter 17.20 – MIXED USE ZONING DISTRICTS

Sections:

[17.20.010 Purpose of the Mixed Use Zoning Districts](#)

[17.20.020 Land Use Regulations](#)

[17.20.030 Development Standards – Mixed Use Village Zoning District](#)

[17.20.040 Development Standards – Mixed Use Neighborhood Zoning District](#)

~~[17.20.010 Purpose of the Mixed Use Zoning Districts](#)~~

~~[17.20.020 Land Use Regulations](#)~~

~~[17.20.030 Development Standards](#)~~

17.20.010 Purpose of the Mixed Use Zoning Districts

A. General. The purpose of the mixed use zoning districts is to provide for active and inviting destinations in Capitola with a diversity of residential and commercial land uses. In the mixed use zoning districts development supports a lively, pedestrian-friendly public realm with inviting storefronts facing the sidewalk. A diversity of local and independent businesses, recreational amenities, and public spaces balance the needs of residents and visitors. New development respects Capitola’s history and reflects its unique coastal village character. The diversity of land uses, pedestrian-friendly development, and general level of activity in the mixed use zoning districts supports a range of transportation choices, including -walking, biking, and transit.

B. Specific.

1. ~~Village-Mixed Use, Village~~ **Village (MU-V) Zoning District.** The purpose of the MU-V zoning district is to preserve and enhance Capitola Village as the heart of the community. A diversity of commercial, residential, and recreational uses in the MU-V zoning district serve both visitors and residents. Land uses and development enhance the vitality of the Village while maintaining a high quality of life for residents. A fine-grain mix of retail, restaurants, services, and recreational amenities in the MU-V zoning district cater to all ages and support year-round activity during the day and night.
2. ~~Neighborhood-Mixed Use, Neighborhood~~ **Neighborhood (MU-N) Zoning District.** The purpose of MU-N zoning district is to allow for neighborhood-serving mixed use areas that enhance residents’ quality of life. The MU-N zoning districts contain an eclectic mix of retail, restaurants, and services for residents and visitors. A range of housing types close to non-residential uses increases housing choices and supports a walkable community. Development in the MU-N zoning district ~~is~~ will be carefully designed to complement its surroundings and minimize impacts on neighboring properties. Land uses strengthen connections between destinations in Capitola, including the Village, Bay Avenue, and 41st Avenue.

17.20.020 Land Use Regulations

A. Permitted Land Uses. Table 17.20-1 identifies land uses permitted in the mixed use zoning districts.



Note: Permitted land uses in the mixed use zoning districts have been revised to better reflect the purpose of the zoning districts. New Minor Use Permit required for uses that need discretionary review but may not need a Planning Commission hearing.

TABLE 17.20-1: PERMITTED LAND USES IN THE MIXED USE ZONING DISTRICTS

Key	Zoning District		Additional Regulations
	MU-V	MU-N	
P Permitted Use			
A Administrative Permit required			
M Minor Use Permit required			
C Conditional Use Permit required			
- Use not allowed			
Residential Uses			Section 17.20.020.B & C
Duplex Homes	P/C [1]	P	
Elderly and Long Term Care	C	C	
Group Housing	C	C	
Multi-Family Dwellings	P/C [1]	C	
Residential Care Facilities, Small	C	P	
Residential Care Facilities, Large	C	C	Section 17.96.080
Residential Mixed Use	See Section 17.20.020.D	C	
Secondary Dwelling Units	MA	AM	Chapter 17.74
Single-Family Dwellings	C [3]	P	
Public and Quasi-Public Uses			
Community Assembly	C	C	
Cultural Institutions	C	C	
Day Care Centers	M	M	
Government Offices	P/C [1]	M	
Home Day Care, Large	M	M	Section 17.96.070
Home Day Care, Small	P	P	
Medical Offices and Clinics	-	M	
Parks and Recreational Facilities	C	C	
Public Safety Facilities	C	C	
Schools, Public or Private	-	C	
Commercial Uses			
Alcoholic Beverage Sales	C	C	
Banks and Financial Institutions	C	P [2]	
Commercial Entertainment and Recreation	C	C	
Eating and Drinking Places			

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

Key			
P	Permitted Use		
A	Administrative Permit required		
M	Minor Use Permit required		
C	Conditional Use Permit required		
-	Use not allowed		
Zoning District			
	MU-V	MU-N	Additional Regulations
Bars and Lounges	C	C	
Restaurants and Cafes	C	C	
Take-Out Food and Beverage	M	M	
Gas and Service Stations	-	-	
Lodging			
Bed and Breakfast	C	C	
Hotels and Motels	C	C	
Personal Services	P	P [2]	
Professional Offices	P/C [1]	M	
Retail	P	P [2]	
Vacation Rental	See Chapter 17.40.030		
Transportation, Communication, and Utility Uses			
Utilities, Major	C	C	
Utilities, Minor	P	P	
Wireless Communications Facilities	See Chapter 17.104		
Other Uses			
Accessory Uses and Structures	See Chapter 17.52		Chapter 17.52
Home Occupations	A	A	Section 17.96.040
Temporary Uses and Structures	See Section 17.96.170		
Urban Agriculture			
Home Gardens	P	P	
Community Gardens	M	M	
Urban Farms	C	C	

Notes:

[1] Second and third floor uses permitted by-right. Ground floor uses require a Conditional Use Permit.

[2] Larger than 3,000 sq. ft. requires a Conditional Use Permit.

[3] Permitted by-right in the Village Residential overlay zone

B. Village Residential Overlay. Pursuant to Section 17.40.040 (Village Residential (-VR) Overlay Zone), only residential uses are permitted in the -VR overlay zone. The Village Residential (-VR) overlay zone applies to the following areas within the MU-V zoning district as shown on the Zoning Map: Six Sisters, Venetian Court, Wharf Road, Lawn Way, Riverview Avenue, Cliff Drive, ~~and~~ Cherry Avenue, San Jose Avenue, Park Place, and California Avenue.

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

C. Ground Floor Conversions to Residential. Existing ground floor commercial uses in the MU-V zoning district may not be converted to a residential use unless located in the Village Residential (-VR) overlay zone.

D. Residential Mixed Use in the MU-V Zoning District.

1. If a proposed residential mixed use project in the MU-V zoning district contains any use that requires a Conditional Use Permit, the entire project, including the residential use, requires a Conditional Use Permit.
2. If a proposed residential use replaces an existing upper floor commercial use, the residential use is allowed by-right.

17.20.030 Development Standards – Mixed Use Village Zoning District

A. General. Table 17.20-2 identifies development standards that apply in the ~~m~~Mixed ~~Use~~ Village (MU-V) zoning districts.

Note: Minimum parcel dimensions area and maximum front setbacks in Table 17-20-2 below are new.



TABLE 17.20-2: DEVELOPMENT STANDARDS IN THE MIXED USE VILLAGE (MU-V) ZONING DISTRICTS

	Zoning District	
	MU-V	
	MU-N	Additional Standards
Site Requirements		
Floor Area Ratio, Maximum	2.0	Section 17.20.030.C Chapter 17.88
Parking and Loading	See Chapter 17.76	
Structure Requirements		
Setbacks		
Front	<u>Min:</u> 0 ft. <u>Max:</u> 15 ft.	Section 17.20.030.D
Rear	None [12]	
Interior Side	None	
Street Side	<u>Min:</u> 0 ft. <u>Max:</u> 15 ft.	
Height, Maximum	27 ft.	Section 17.20.030.B & C Section 17.48.020 Chapter 17.88

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

Accessory Structures	See Chapter 17.52
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Notes:

- [1] 20% of lot depth for residential use on parcel.
- ~~[2] The Planning Commission may approve reduced front, side, and rear setback requirements for properties fronting Capitola Avenue north of the trestle up to and including 431 Capitola Avenue.~~
- ~~[3] The Planning Commission may reduce front, side, and rear setbacks when a parcel is adjacent to commercial along the side and rear property lines and when the parcel width or depth is significantly less than typical parcels within the zoning district.~~

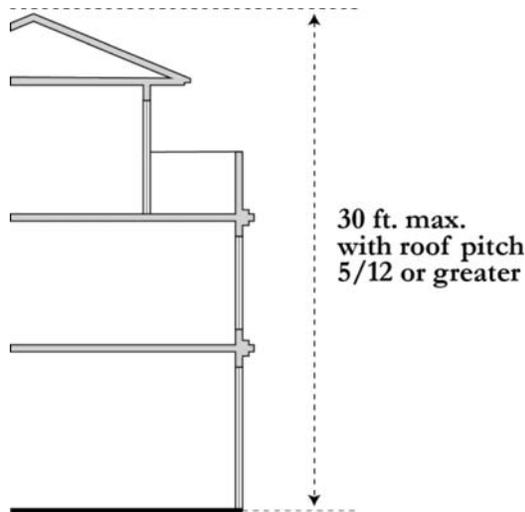


Note: MU-V height exceptions to allow up to 30 feet in subsection B below are new.

B. ~~MU-V~~ Height Exceptions. The following exceptions are permitted to the maximum permitted height in the MU-V zoning district as shown in Table 17.20-2:

1. Up to 30 feet for habitable space with a roof pitch of at least 5/12. See Figure 17.20-1.
2. Projections for non-habitable decorative features and structures as allowed by Section 17.48.030.C

FIGURE 17.20-1: INCREASED HEIGHT IN THE MU-V ZONING DISTRICT



C. Increased Floor Area And Height for the Capitola Theater Site. As provided in Chapter 17.88 (Incentives for Community Benefits), the City Council may approve exceptions to height and floor area ratio (FAR) limits shown in Table 17.20-2 for the Capitola Theater site (APN 035-262-04). These exceptions are intended to facilitate the development of a new hotel in the Capitola Village consistent with the General Plan.

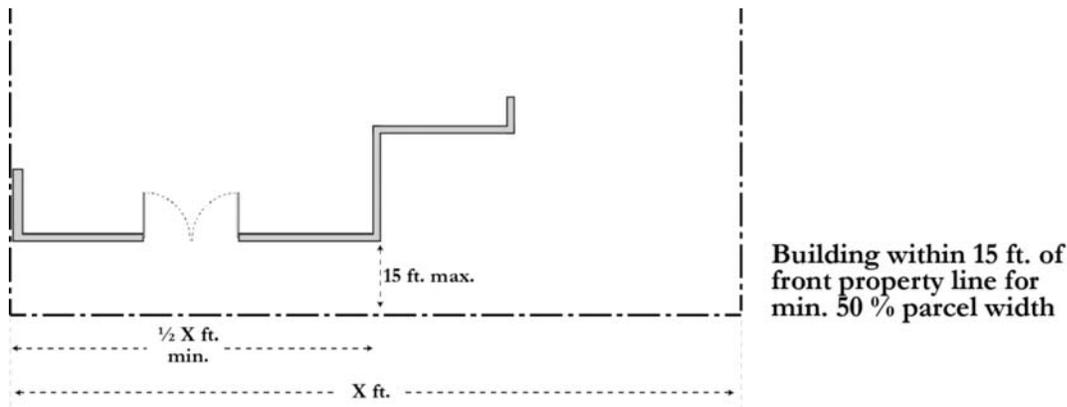


Note: Minimum build-to requirements in the MU-V zoning district in subsection D below are new.

D. Setbacks in the MU-V Zoning District. The following setback standards apply to all new structures in the MU-V zoning district.

1. Building should be constructed within 15 feet of the front property line for a minimum of 50 percent of the parcel's linear street frontage. See Figure 17.20-7. The Planning Commission may modify or waive this requirement upon finding that:
 - a. Compliance with the build-to width requirement would render the proposed project infeasible;
 - b. The project incorporates a front-facing courtyard of public seating area; or
 - c. An alternative site design would result in an enhanced pedestrian experience.

FIGURE 17.20-7: BUILD TO LINE – MU-V ZONING DISTRICT



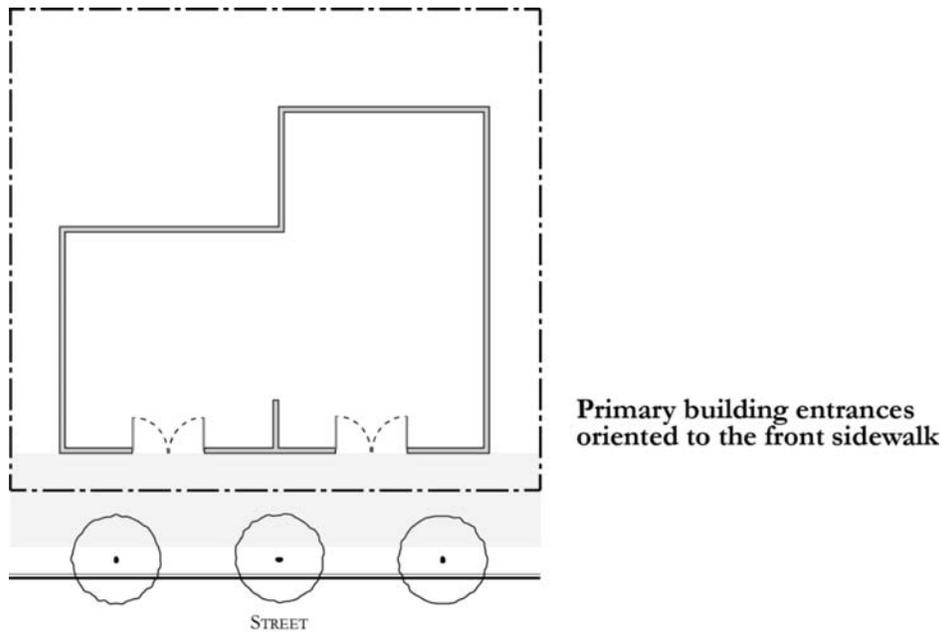
2. Front setback areas shall be pedestrian oriented and contain semi-public amenities such as courtyards or outdoor seating areas.
3. Structures shall be setback a minimum of 10 feet from the property line on the northerly side of the first two hundred fifty feet of Cliff Drive, west of the intersection of Wharf Road.



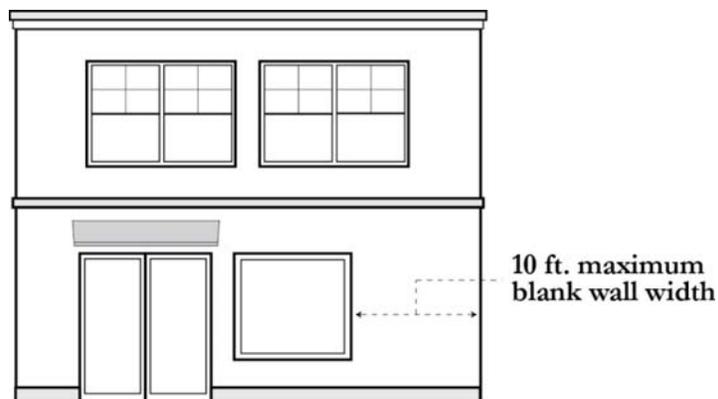
Note: Design standards for the Mixed Use Village zoning districts in subsection C below are new.

C.E. General Design Standards. The following standards apply to all new buildings and additions with-in the MU-V and MU-N-zoning districts, excluding the Village Residential Overlay.

1. **Building Orientation.** Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk. See Figure 17.20-2.

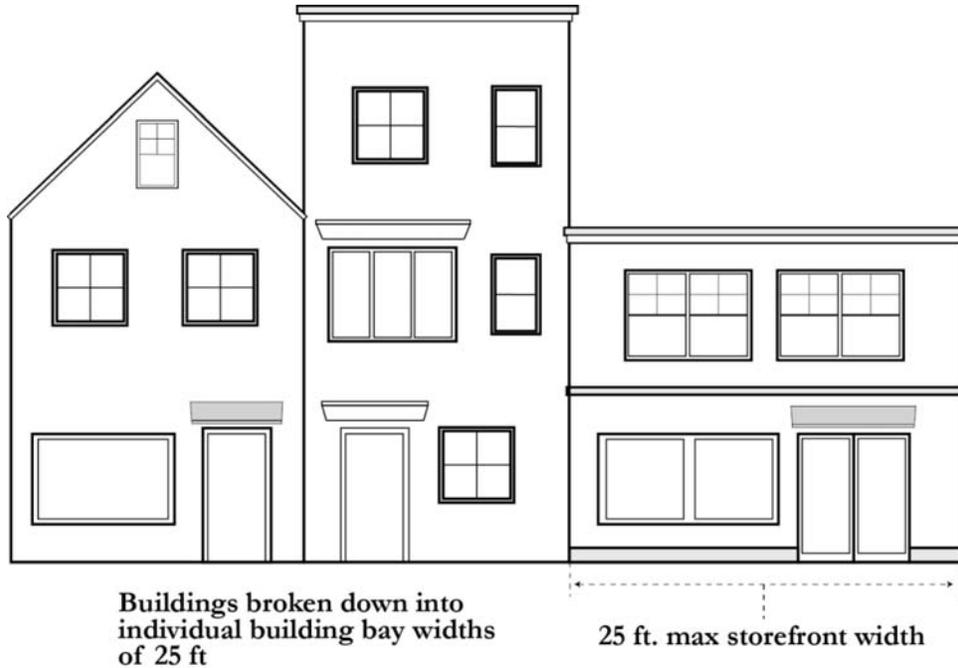
FIGURE 17.20-2: BUILDING ORIENTATION

2. **Blank Walls.** The maximum length of an unarticulated/blank building wall fronting a public street shall be 10 feet. See Figure 17.20-3. Building articulation may be provided by:
 - a. Doors, windows, and other building openings;
 - b. Building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest;
 - c. Varying wall planes, heights or contrasting materials and colors; and
 - d. Awnings, canopies or arcades to reinforce the pedestrian scale and provide shade and cover from the elements.

FIGURE 17.20-3: BLANK WALL LIMITATIONS

- 3. **Storefront Width.** The maximum building/storefront width shall be 25 feet. See Figure 17.20-4. Larger buildings shall be broken down into a pedestrian-scale rhythm with individual building bay widths of 25 feet.

FIGURE 17.20-4: STOREFRONT WIDTH



- 4. **Ground Floor Building Transparency.**
 - a. The ground floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. See Figure 17.20-5. Ninety percent of the transparent windows or doors area shall remain clear to allow views into the building.

FIGURE 17.20-5: STOREFRONT TRANSPARENCY



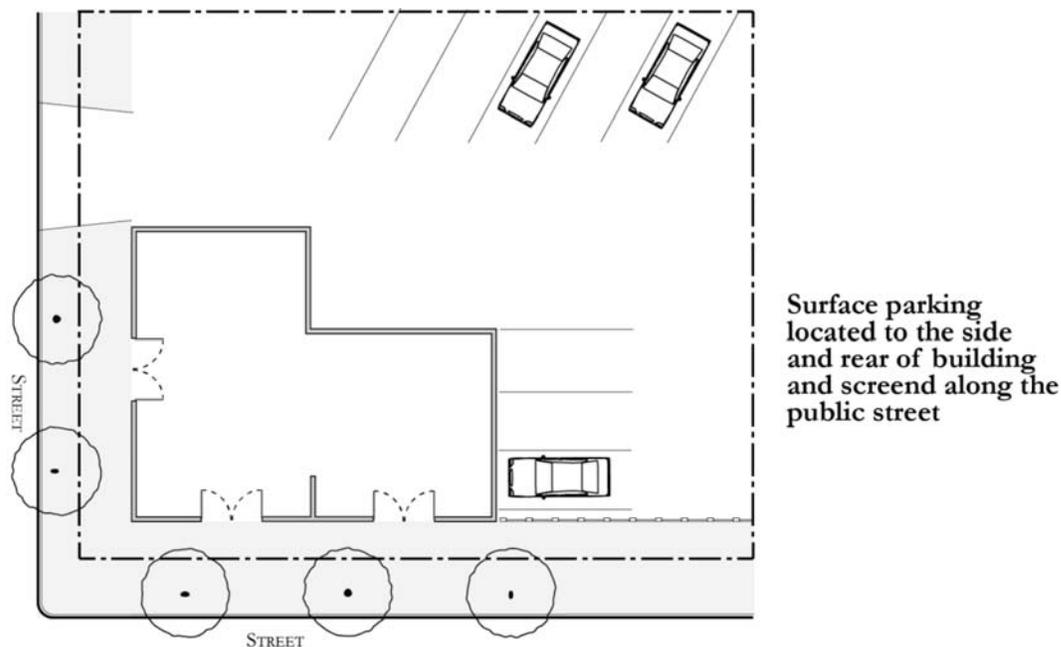
Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

- b. Exceptions to this transparency requirement may be allowed with a Design Permit if the Planning Commission finds that:
 - (1) The proposed use has unique operational characteristics which preclude building openings, such as for a cinema or theatre; and
 - (2) Street-facing building walls will exhibit architectural relief and detail, and will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.

5. Parking Location and Buffers.

- a. Surface parking shall be located to the rear or side of buildings. Surface parking may not be located between a building and a street-facing property line. See Figure 17.20-6.
- b. Surface parking adjacent to a street-facing property line shall be screened along the public right-of-way with a decorative wall, hedge, trellis, and/or landscaping at least 3 feet in height.
- c. Loading areas shall be located to the side and rear of buildings, and shall be sufficiently screened from the public right-of-way, as determined by the Community Development Director.

FIGURE 17.20-6: PARKING LOCATION



6. Driveways and Curb Cuts.

- a. New driveways shall comply with the dimension standards shown in Table 17.20-3 (Driveway Dimension Standards). The Community Development Director may approve exceptions to these standards in the case of shared or joint use of driveways and parking lots.

TABLE 17.20-3: DRIVEWAY DIMENSION STANDARDS

Driveway Type	Driveway Width	
	Minimum	Maximum
1-way	8 ft.	12 ft.[1]
2-way	20 ft.	25 ft. [1].

Note: [1] Driveways shall not exceed 40% of parcel width.

b. New curb cuts, where allowed, shall be located and designed to maximize safety and convenience for pedestrians, bicycles and mass transit vehicles, as determined by the Community Development Director.

7. Paved Site Areas.

- a. The materials, colors, textures, and other design features of on-site paved areas, including courtyards, walkways, and patios, shall complement and enhance the overall design character of development on the site.
- b. The use of asphalt for on-site paving is prohibited, except when used for parking areas and vehicle circulation.

~~D.~~



~~Note: Minimum build-to requirements in the MU-V zoning district in subsection D below are new.~~

~~Setbacks in the MU-V Zoning District.~~ The following setback standards apply to all new structures in the MU-V zoning district.

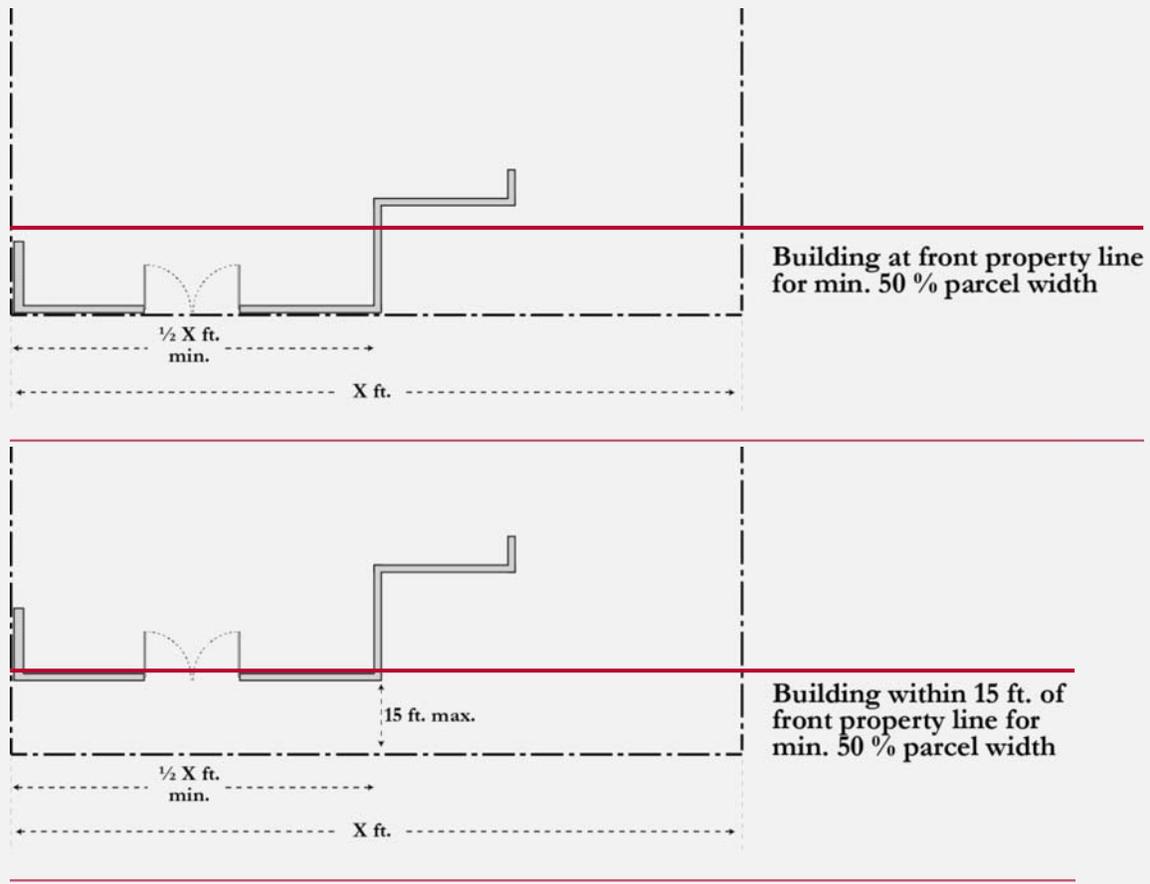
~~Building shall be constructed at within 15 feet of the front property line for a minimum of 50 percent of the parcel's linear street frontage. See Figure 17.20-7. The Planning Commission may modify or waive this requirement upon finding that:~~

~~Compliance with the build-to width requirement would render the proposed project infeasible;~~

~~The project incorporates a front-facing courtyard of public seating area; or~~

~~An alternative site design would result in an enhanced pedestrian experience.~~

FIGURE 17.20-7: BUILD TO LINE—MU-V ZONING DISTRICT



~~Front setback areas shall be pedestrian oriented and contain semi-public amenities such as courtyards or outdoor seating areas.~~

~~Structures shall be setback a minimum of 10 feet from the property line on the northerly side of the first two hundred fifty feet of Cliff Drive, west of the intersection of Wharf Road.~~

~~E.F. Setbacks in the MU-N Zoning District. Front setback areas in the MU-N Zoning District shall be pedestrian-oriented and shall be either landscaped or contain semi-public amenities such as courtyards or outdoor seating areas.~~



Note: Height and FAR standards exception for the Village hotel are new to implement General Plan policies.

~~F. Height and FAR Standards for the Village Capitola Theater Site. As provided in Chapter 17.88 (Incentives for Community Benefits), Hotel;~~

~~G. General. The City Council may approve exceptions to height and floor area ratio (FAR) limits shown in Table 17.20-2 for a hotel on the former Village Capitola Theater site (APN 035-262-04) in the MU-V zoning district. These exceptions are intended to facilitate the development of a new hotel in the Capitola Village consistent with the General Plan.~~

~~Maximum FAR. The City Council may allow a maximum FAR of 3.0 for a proposed hotel on the former Village Capitola Theater site.~~

~~Height. The City Council may allow an exception to the 27-foot height limit for a proposed hotel on the former Village Capitola Theater site, provided that:~~

~~The maximum height of the hotel remains below the elevation of the bluff behind the hotel; and~~

~~The bluff behind the hotel remains visible from the Capitola wharf as a green edge with existing mature trees maintained on site.~~

~~Basis for Approval. To approve increased FAR and/or height, the City Council must make all of the following findings:~~

~~The design of the hotel respects the scale and character of neighboring structures and enhances Capitola's unique sense of place.~~

~~The additional height and/or FAR allows for a superior project with substantial community benefit.~~

~~The hotel will contribute to the economic vitality of the Village and support an active, attractive, and engaging pedestrian environment.~~

~~The hotel design minimizes impacts to public views of the beach and Village from vantage points outside of the Village.~~

~~Parking for the hotel is provided in a way that minimizes vehicle traffic in the Village and strengthens the Village as a pedestrian-oriented destination.~~

~~The project is designed to minimize adverse impacts to neighboring properties to the greatest extent possible.~~

17.20.040 Development Standards – Mixed Use Neighborhood Zoning District

A. General. Table 17.20-42 identifies development standards that apply in the Mixed Use Neighborhood (MU-N) zoning districts.



Note: Minimum parcel dimensions and maximum front setbacks in Table 17-20-2 below are new.

TABLE 17.20-42: DEVELOPMENT STANDARDS IN THE MIXED USE ZONING DISTRICTS

	Zoning District	Additional Standards
	MU-N	
Site Requirements		
Parcel Area, Minimum [1]	3,200 sq. ft.	
Parcel Width, Minimum [1]	40 ft.	
Parcel Depth, Minimum [1]	80 ft.	
Floor Area Ratio, Maximum	1.0	
Parking and Loading	See Chapter 17.76	
Structure Requirements		
Setbacks		
Front	Min: 0 ft. from property line or 10 ft. from curb, whichever is greater Max: 25 ft.	Section 17.20.0340.CD
Rear	10 ft. min. from property line [2] [3] [4]	
Interior Side	10% of lot width [3] [4]	
Street Side	Min: 0 ft. from property line or 10 ft. from curb, whichever is greater Max: 25 ft.	
Height, Maximum	27 ft.	Section 17.20.0430.B Section 17.48.0420.D
Accessory Structures	See Chapter 17.52	

Notes:

[1] Parcel area, width, and depth requirements apply only to the creation of new parcels. These requirements do not apply to legally created parcels existing as of [effective date of updated Zoning Code]. See Capitola Municipal Code Title 16 (Subdivisions) for requirements that apply to lot line adjustments to existing parcels that do not comply with the parcel area, width, and depth requirements in this table.

[2] 20% of lot depth for residential use on parcel.

[3] The Planning Commission may approve reduced front, side, and rear setback requirements for properties fronting Capitola Avenue north of the trestle up to and including 431 Capitola Avenue.

[4] The Planning Commission may reduce front, side, and rear setbacks when a parcel is adjacent to/surrounded by commercial properties along the side and rear property lines and when the parcel width or depth is significantly less than typical parcels within the zoning district.

B. Building Orientation.

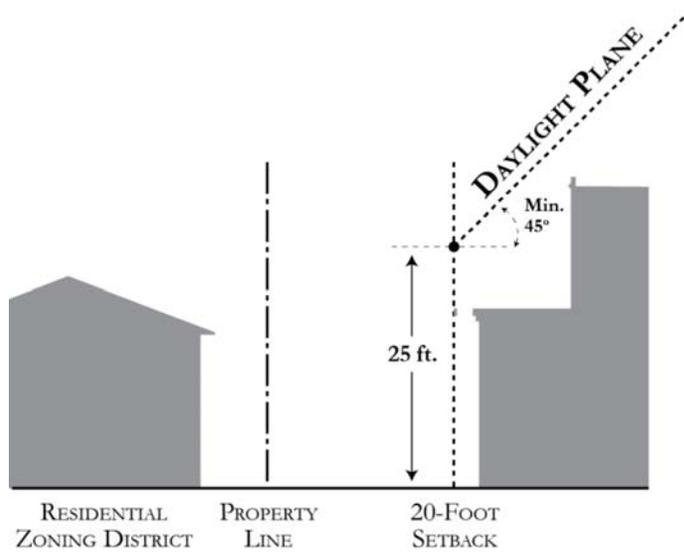
Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

1. Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk.
2. The Planning Commission may grant an exception to the requirement in paragraph 1 above upon finding that unique conditions on the site require an alternative building orientation and that the proposed project would maintain a pedestrian-friendly and active street frontage to the greatest extent possible.

C. Setbacks in the MU-N Zoning District. Front setback areas in the MU-N Zoning District not used for vehicle parking or circulation shall be pedestrian oriented and shall be either landscaped or contain semi-public amenities such as courtyards or outdoor seating areas.

D. Residential Transitions – Daylight Plane. When a property abuts a residential zoning district, no structure shall extend above or beyond a daylight plane having a height of 25 feet at the setback from the residential property line and extending into the parcel at an angle of 45 degrees. See Figure 17.20-8.

FIGURE 17.20-8: RESIDENTIAL TRANSITIONS – DAYLIGHT PLANE



E. Parking Location and Buffers. Surface parking shall be located to the rear or side of buildings where possible. When parking is located between a building and a street-facing property line, the parking shall be either:

1. Screened along the street with a decorative wall, hedge, trellis, and/or landscaping at least 3 feet in height; or
2. Designed to minimize visual impacts and support a pedestrian-friendly environment to the greatest extent possible as determined by the Planning Commission.

F. Driveways and Curb Cuts.

- 1. New driveways shall comply with the dimension standards shown in Table 17.20-5 (Driveway Dimension Standards). The Community Development Director may approve exceptions to these standards in the case of shared or joint use of driveways and parking lots.

TABLE 17.20-5: DRIVEWAY DIMENSION STANDARDS

<u>Driveway Type</u>	<u>Driveway Width</u>	
	<u>Minimum</u>	<u>Maximum</u>
<u>1-way</u>	<u>8 ft.</u>	<u>12 ft.[1]</u>
<u>2-way</u>	<u>20 ft.</u>	<u>25 ft. [1].</u>

Note: [1] Driveways shall not exceed 40% of parcel width.

- a. New curb cuts, where allowed, shall be located and designed to maximize safety and convenience for pedestrians, bicycles and mass transit vehicles, as determined by the Community Development Director.~~**Setbacks in the MU-N Zoning District.** Front setback areas in the MU-N Zoning District not used for vehicle parking or circulation shall be pedestrian oriented and shall be either landscaped or contain semi-public amenities such as courtyards or outdoor seating areas.~~

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

Chapter 17.24 – COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

Sections:

- 17.24.010 Purpose of the Commercial and Industrial Zoning Districts
- 17.24.020 Land Use Regulations
- 17.24.030 Development Standards
- 17.24.040 Residential Mixed Use Development in Commercial Zoning Districts

17.24.010 Purpose of the Commercial and Industrial Zoning Districts

- A. Community Commercial (C-C) Zoning District.** The purpose of the C-C zoning district is to provide areas for a variety of commercial uses serving Capitola residents and visitors. The C-C zoning district allows for retail, restaurants, and services that meet the daily needs of the community. The scale, intensity, and design of development in the C-C zoning district is compatible with adjacent neighborhoods and contributes to Capitola's unique coastal village character. Interspersed residential and office uses in the C-C zoning district support a diverse local economy and range of housing choices.
- B. Regional Commercial (C-R) Zoning District.** The purpose of the C-R zoning district is to provide areas for commercial uses that serve regional shoppers as well as Capitola residents, workers, and visitors. The C-R zoning district maintains a critical mass of retail and service uses that maintain 41st Avenue as a successful retail destination. Office, medical, and residential uses are restricted ~~in prime retail locations~~ to protect the long-term economic vitality of the corridor. Incremental redevelopment of underutilized properties in the C-R zoning district enhance the corridor as a pedestrian-friendly shopping destination that enhance Capitola's unique identity and quality of life.
- C. Industrial (I) Zoning District.** The purpose of the I zoning district is to provide an area for heavy commercial and light industrial uses in Capitola. The I zoning district allows for non-residential uses which are desired in the community but could be incompatible with land uses in other zoning districts. The I zoning district accommodates businesses that contribute to a diverse economy, provide local jobs, and serve the needs of residents and other businesses in Capitola.

17.24.020 Land Use Regulations

- A. Permitted Land Uses.** Table 17.24-1 identifies land uses permitted in the commercial and industrial zoning districts.



Note: Permitted land uses in the commercial and industrial zoning districts have been revised to better reflect the purpose of the zoning districts. New Minor Use Permit required for uses that need discretionary review but may not need a Planning Commission hearing.

TABLE 17.24-1: PERMITTED LAND USES IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

Key P Permitted Use A Administrative Permit required M Minor Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District			Additional Requirements
	C-C	C-R	I	
Residential Uses				
Multi-Family Dwellings	C	C [5]	-	
Residential Mixed Use	C	C	-	17.2496.040440
Public and Quasi-Public Uses				
Colleges and Trade Schools	C	C	C	
Community Assembly	C	C	-	
Cultural Institutions	C	C	-	
Day Care Centers	C	C	-	
Emergency Shelters	-	-	P	17.96.030
Government Offices	See 17.24.020.C		C	
Medical Offices and Clinics	See 17.24.020.C		-	
Public Safety Facilities	C	C	C	
Commercial Uses				
Alcoholic Beverage Sales	C	C	C	
Banks and Financial Institutions	P [2]	P [2]	-	
Business Services	P [2]	P [2]	P	
Commercial Entertainment and Recreation	M	M	-	
Drive-Through Facilities	C [4]	C [4]	-	
Eating and Drinking Establishments				
Bars and Lounges	C	C	-	
<u>Mobile Food Vendors</u>	-	-	<u>C</u>	
Restaurants and Cafes	M [2]	M [2]	-	
Take-Out Food and Beverage	M [2]	M [2]	-	
Food Preparation	M [2]		P	
Gas and Service Stations	C	C	-	
Liquor Stores	C	C	-	
Lodging				
Bed and Breakfast	C	-	-	
Hotel	C	C	-	
Maintenance and Repair Services	M	C	P	
Personal Services	P [1]	P [1]	-	
Professional Offices	See 17.24.020.C		P	
Salvage and Wrecking	-	-	P	

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

Self-Storage	C		C	17.96.150
Retail	P	P	-	
Vehicle Repair	C	C	P	
Vehicle Sales and Rental	C	C	-	
Wholesaling	-	M [3]	P	
Heavy Commercial and Industrial Uses				
Construction and Material Yards	-	-	P	
Custom Manufacturing	M	M	P	
Light Manufacturing	-	-	P	
Warehousing and Distribution	-	-	P	
Transportation, Communication, and Utility Uses				
Utilities, Major	-	C	C	
Utilities, Minor	P	P	P	
Recycling Collection Facilities	<u>C</u>	<u>C</u>	<u>C</u>	Section 17.976.130
Wireless Communications Facilities	See 17.104			
Other Uses				
Accessory Uses	See 17.52			
Home Occupations	A	A	-	Chapter 17.96.040
Temporary Uses	See 17.76.190			
Urban Agriculture				
Home Garden	P	P	-	
Community Garden	M	M	-	
Urban Farm	C	C	-	

Notes:

- [1] Combination of two or more tenant suites within a multi-tenant building or greater than 5,000 sq. ft. requires Minor Use Permit
- [2] Combination of two or more tenant suites within a multi-tenant building or greater than 5,000 sq. ft. requires Conditional Use Permit
- [3] Without stock. Storage of merchandise limited to samples only.
- [4] Prohibited within 100 feet of a residential zoning district or residential use.
- [5] Permitted only on a mixed use site with the residential use secondary to the primary commercial uses on the site. Residential uses on the site are limited to less than 50 percent of the floor area of buildings on the site. Residential uses shall be located and designed to maintain a primarily commercial character and function on the site.

B. Additional Permits. In addition to permits identified in Table 17.24-1, development projects in the commercial and industrial zoning districts may also require a Design Permit pursuant to Chapter 17.120 (Design Permits). Modifications to a historic resource may require a Certificate of Appropriateness pursuant to Chapter 17.84 (Historic Preservation).



Note: Limitations on office uses in subsection C below are new.

C. Office Uses in the C-C and C-R Zoning Districts. In the C-C and C-R zoning districts, permits required for office uses, including professional, medical, banks, financial institutions and governmental offices, are shown in Table 17.24-2.

TABLE 17.24-2: PERMITTED OFFICE USES IN THE C-C AND C-R ZONING DISTRICTS

Location and Size of Office Use	C-C Zoning District	C-R Zoning District
Conversion of a retail use to an office use	N/A	C
Ground floor, less than 5,000 sq. ft.	P	C
Ground floor, 5,000 sq. ft. or more	C	C
Upper floor above a ground floor	P	P
Located within a multi-tenant site in which the office space is not located within a storefront and is setback from the front façade.	P	P

17.24.030 Development Standards

A. General. Table 17.24-3 identifies development standards that apply in the commercial and industrial zoning districts.

TABLE 17.24-3: DEVELOPMENT STANDARDS IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

	C-C	C-R	I	Additional Standards
Site Requirements				
Parcel Area, Minimum	5,000 sq. ft.			
Parcel Width, Minimum	50 ft.			
Parcel Depth, Minimum	100 ft.			
Floor Area Ratio, Maximum	1.0	1.5	0.5	17.24.030.C <u>17.88</u>
Residential Density, Maximum	20 du/acre		N/A	
Structure Requirements				
Setbacks, Minimum				
Front	See 17.24.030.B		0 ft.	
Rear	0 ft. unless adjacent to a residential zoning district (see 17.24.030.D)			
Interior Side	0 ft. unless adjacent to a residential zoning district (see 17.24.030.D)			
Street Side	See 17.24.030.B		0 ft.	
Height, Maximum	40ft.	40 ft.	30 ft.	17.24.030.C & D
Landscaped Open Space, Minimum	5%		10% Up to 5%, As determined by the permit approval process	<u>Table 17.72-1</u>
Parking and Loading	See 17.76			

Notes:

[1] 15 ft. min. from property line abutting a residential zoning district.

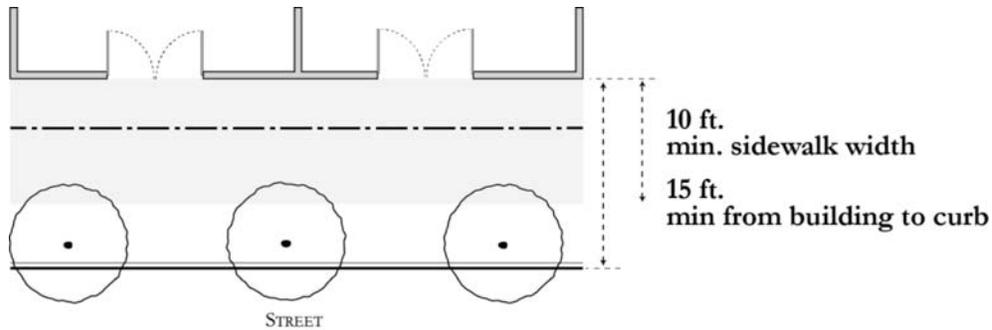
B. Front and Street Side Setbacks in the C-R and C-C Zoning Districts. In the C-R and C-C zoning districts, buildings shall be setback from the front and street side property line so that:

1. The building is at least 15 feet from the curb or street edge; and
2. Building placement allows for a minimum 10-foot sidewalk along the property frontage. See Figure 17.24-1.



Note: The existing Zoning Code requires front setbacks of 15 feet from the property line. Subsection B above requires front setbacks of 15 feet from the curb or street edge.

FIGURE 17.24-1: FRONT AND STREET SIDE SETBACKS IN THE C-R AND C-C ZONING DISTRICTS



C. Increased Floor Area and Height in C-C and C-R Zoning Districts.



Note: Section 17.27.080 in the existing Zoning Code allows the City Council to approve height exceptions with no specified limit. This section establishes increased floor area and height allowances consistent with General Plan policies and adds [in Chapter 17.88](#) an upper limit for height exceptions.

1. **General.** [As provided in Chapter 17.88 \(Incentives for Community Benefits\)](#), ~~the~~ City Council may approve exceptions to height and floor area ratio (FAR) limits shown in Table 17.24-2 for proposed projects in the C-C and C-R zoning districts. These exceptions are intended to facilitate the redevelopment of underutilized properties along 41st Avenue consistent with the vision for the corridor described in the General Plan.
- ~~2. **Increased FAR.** The City Council may allow an increased FAR up to a maximum of 2.0 for proposed development projects in the C-C and C-R zoning districts. To be eligible for an increased FAR, properties must front 41st Avenue or the 41st Avenue/Capitola Road intersection or be part of the Capitola Mall site. Structures on parcels fronting the east side of 41st Avenue that apply for the increased FAR must be set back a minimum of 100 feet from a property line abutting a residential property.~~
- ~~3. **Increased Height.** The City Council may allow an exception to the 40-foot height limit in the C-R and C-C zoning districts up to maximum of 50 feet.~~
- ~~4. **Community Benefit Required.** To be eligible for increased FAR or height in the C-C and C-R zoning districts, a project must provide a substantial community benefit consistent with Chapter 17.88 (Incentives for Community Benefits).~~
- ~~5. **Planning Commission Recommendation.** At a noticed public hearing the Planning Commission shall provide a recommendation to the City Council on any request for increased FAR or height in the C-C and C-R zoning districts.~~

~~6. **Basis for Approval.** To approve increased FAR or a height exception in the C-C and C-R zoning districts, the City Council must make all findings specified in Section 17.88.080 (Findings) in Chapter 17.88 (Incentives for Community Benefits). The City Council may approve increased FAR or a height exception only for projects that provide a substantial community benefit, enhance the economic vitality of the 41st Avenue corridor, and minimize adverse impacts to neighboring properties as required by General Plan Action LU-9.3.~~

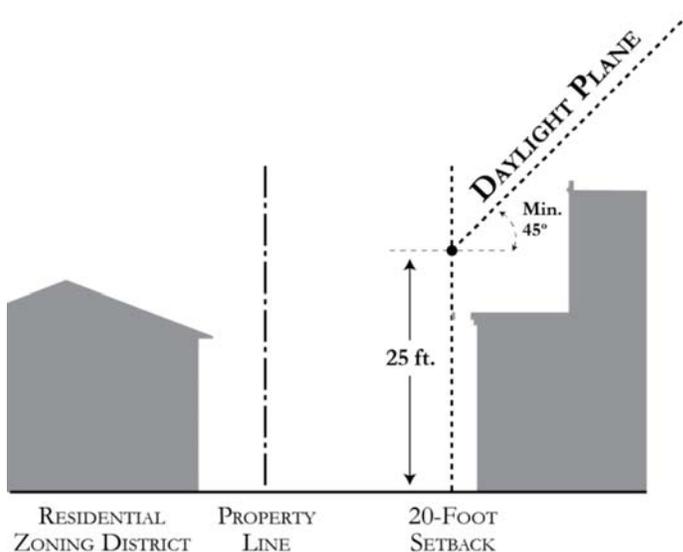
D. Residential Transition Standards. Where a commercial or industrial zoning district abuts a residential zoning district, the following standards apply.



Note: Daylight plane requirement in paragraph 2 below is new.

1. **Setbacks.** The minimum setback from the residential property line shall be 15 feet for interior side yards and 20 feet for rear yards.
2. **Daylight Plane.** No structure shall extend above or beyond a daylight plane having a height of ~~20~~ 25 feet at the setback from the residential property line and extending into the parcel at an angle of 45 degrees. See Figure 17.24-2.
3. **Landscaping.** A landscaped planting area, extending a minimum of 10 feet from the property line, shall be provided along all residential property lines. A tree screen shall be planted in this area with trees planted at a minimum interval of 15 feet.

FIGURE 17.24-2: RESIDENTIAL TRANSITIONS – DAYLIGHT PLANE



4. **Loading.** Loading and unloading shall be designed to have the least amount of impact on neighboring residential uses. When feasible, loading and unloading provided from the commercial frontage rather than from areas adjacent residential uses.

E. Capitola Mall Redevelopment. The City may require the preparation and approval of a Specific Plan for a ~~Any~~ major redevelopment of the Capitola Mall, as determined by the Community Development Director, ~~shall require the preparation and approval of a Specific Plan.~~

17.24.040 Residential Mixed Use Development in Commercial Zoning Districts

Note: Standards for residential mixed use development in commercial zoning districts in this section are new.

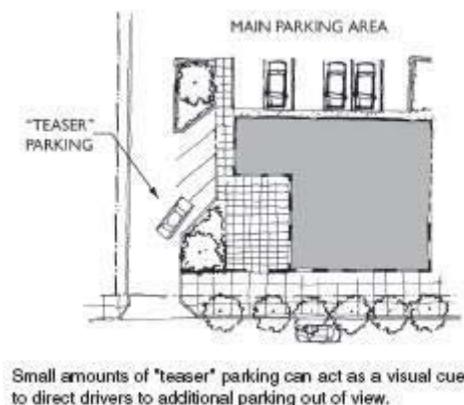
A. Purpose and Applicability. This section establishes design standards for vertical mixed use development with housing above ground floor commercial uses in the Community Commercial (C-C) and Regional Commercial (C-R) zoning districts. These standards are intended to promote successful mixed use development that is pedestrian-friendly and contributes to the vitality of commercial districts in Capitola.

B. Standards.

1. **Ground Floor Uses.** Ground floor spaces fronting the primary street shall be occupied by retail, restaurant, and personal service uses that generate pedestrian activity.
2. **Building Placement.** Buildings shall be placed near the edge of the sidewalk. At all times there shall be at least 10 feet between the building wall and edge of sidewalk. Increased setbacks are permitted if they enhance pedestrian experience and add visual interest.
3. **Building Orientation.** Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk. The Planning Commission may allow buildings and their primary entrances to be oriented toward a public space. The primary entrance to a building shall not be oriented towards surface parking.
4. **Blank Walls.** The length of an unarticulated/blank building wall shall not exceed 10 feet. Architectural articulation should have similar pattern as other adjacent buildings to provide cohesive design in the neighborhood. Building articulation may be provided by:
 - a. Doors, windows, and other building openings;
 - b. Building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest;
 - c. Varying wall planes, heights or contrasting materials and colors; and
 - d. Awnings, canopies, or arcades to reinforce the pedestrian scale and provide shade and cover from the elements.

5. **Storefront Width.** The width of a single building/storefront shall not exceed 50 feet. Larger buildings shall be broken down into a pedestrian-scale rhythm with individual building bay width of 25 to 50 feet.
6. **Ground Floor Building Transparency.** The ground floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. 65 percent of the transparent windows or doors area shall remain clear to allow views into the building. Exceptions to this transparency requirement may be allowed if the Planning Commission finds that:
 - a. The proposed use has unique operational characteristics which preclude building openings, such as for a cinema or theatre; or
 - b. Street-facing building walls will exhibit architectural relief and detail, and will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.
7. **Retail Depth.** Ground floor commercial space shall have a depth of at least 45 feet or two-thirds of the parcel depth, whichever is less. Where possible, 60-foot depths are encouraged to accommodate a wider range of tenants, especially food tenants. The Planning Commission may grant an exception to the minimum retail depth requirement if the minimum retail depth is infeasible due to unusual physical conditions on the parcel.
8. **Ground-Floor Height.** Ground floor commercial space shall have a minimum floor-to-floor height of 15 feet. Where possible, 18-foot floor-to-floor heights are encouraged.
9. **Parking Location.** No more than 10 percent of off-street retail parking may be provided ~~in front~~ along the side of retail as “teaser” parking. The remainder of the parking shall be behind the building or in underground/structured parking.

FIGURE 17.24-3: RESIDENTIAL MIXED USE – TEASER PARKING



10. **Driveways and Curb Cuts.** Pedestrian and vehicle conflicts shall be minimized by limiting the number of curb cuts to two per block and the width of curb cuts to 24 feet where feasible. To the extent possible, curb cuts shall be designed so pedestrian curb ramps are limited and pathways remain level as they cross the vehicle route.
Capitola Mall Redevelopment. Any major redevelopment of the Capitola Mall, as determined by the Community Development Director, shall require the preparation and approval of a Specific Plan.

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

Chapter 17.32 – SPECIAL PURPOSE ZONING DISTRICTS

Sections:

- 17.32.010 Purpose of the Special Purpose Zoning Districts
- 17.32.020 Land Use Regulations
- 17.32.030 Development Standards

17.32.010 Purpose of the Special Purpose Zoning Districts

- A. Community Facility (CF).** The CF zoning district provides areas for public and community facilities serving Capitola residents and visitors. Land uses permitted in the CF zoning district include public uses such as governmental offices, police and fire stations, community centers, schools, libraries, and other similar uses. The CF zoning district implements the Public/Quasi-Public land use designation in the General Plan.
- B. Parks and Open Space (P/OS).** The P/OS zoning district provides parks, recreational facilities, and open space for the use and enjoyment of the community. The P/OS zoning district also protects and preserves environmentally sensitive natural areas and habitat in Capitola. The P/OS zoning district implements the Parks and Open Space land use designation in the General Plan.

17.32.020 Land Use Regulations

- A. Permitted Uses.** Table 17.32-1 identifies land uses permitted in the CF and P/OS zoning districts.
- B. Commercial Uses in the P/OS Zoning Districts.** Commercial uses that are accessory to a permitted use in in the P/OS zoning district are permitted with a Conditional Use Permit.
- C. Visitor Accommodations in New Brighten State Beach.** Visitor accommodations and campground uses are permitted in the New Brighten State beach ~~at a maximum intensity of three units per gross lot area.~~
- D. P/OS Standards.** The following standards apply to uses in the P/OS zoning district.
 1. Any structure, land use, or removal of vegetation or natural materials that in the opinion of the Planning Commission is inconsistent with the purpose of the P/OS zoning district is prohibited.
 2. Development shall be subordinate to its recreational, scenic, or natural resource purpose consistent with the Local Coastal Program (LCP). Natural resource protection shall include protection of arroyos, creeks and riparian corridors, woodlands and other environmentally sensitive habitat.
 3. No new permanent structures are permitted on the open, sandy beach area of Capitola except for facilities required for public health and safety (e.g., lifeguard stands, approved beach erosion control structures).

TABLE 17.32-1: PERMITTED LAND USES IN THE CF AND P/OS ZONING DISTRICTS

Key	Zoning District		Additional Regulations
	CF	P/OS	
P Permitted Use			
A Administrative Permit required			
M Minor Use Permit required			
C Conditional Use Permit required			
- Use not allowed			
Public and Quasi-Public Uses			
Colleges and Trade Schools	C	-	
Community Assembly	P [1]	-	
Cultural Institutions	P [1]	-	
Day Care Centers	P [1]	-	
Government Offices	P	-	
Parks and Recreational Facilities	P [1]	P [1]	
Public Safety Facilities	P	-	
Schools, Public or Private	P	-	
Transportation, Communication, and Utilities Uses			
Recycling Collection Facilities	C	-	17.96.130
Utilities, Major	C	C	
Utilities, Minor	P	P	
Wireless Telecommunications Facilities	See Chapter 17.104		
Other Uses			
Accessory Uses and Structures	See Chapter 17.52		
Temporary Uses and Structures	See Section 17.96.170		
Urban Agriculture			
Community Gardens	M [1]	M [1]	
Urban Farms	C [1]	C [1]	

Notes:

[1] Publicly owned and/or operated facilities only.

~~E. Public Parking in the Coastal Zone.~~

~~1. Public parking existing as of [date of Zoning Ordinance adoption] in the following locations in the CF zoning district shall be maintained for public parking:~~

- ~~a. The Upper City Hall parking lot;~~
- ~~b. The Cliff Drive overlook parking; and~~

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

- ~~e. The Cliff Drive Southern Pacific railroad right-of-way parking unless Cliff Drive must be relocated due to cliff erosion.~~
- ~~2. Substantial changes in public parking facilities in the coastal zone require a Local Coastal Program (LCP) amendment.~~

Note: Public Parking in the Coastal Zone subsection E has been moved to Chapter 17.76 (Parking and Loading).

17.32.030 Development Standards

- A. Floor Area Ratio.** The maximum permitted floor area ratio (FAR) is 0.25 in the P/OS zoning district and as determined by the Planning Commission through the Design Review process in the P/OS zoning district.
- B. Other Development Standards.** Other development standards (e.g., setbacks, height, building coverage) in the CF and P/OS zoning districts shall be determined by the Planning Commission through the Design Review process.

Chapter 17.36 – PLANNED DEVELOPMENT ZONING DISTRICT

Sections:

[17.36.010 Purpose of the Planned Development Zoning District](#)

[17.36.020 Where Allowed](#)

[17.36.030 Permitted Land Uses](#)

[17.36.040 Development Standards](#)

[17.36.050 Required Approvals](#)

[17.36.060 Conceptual Review](#)

[17.36.070 Planned Development Rezoning](#)

[17.36.080 Development Plans](#)

~~17.36.010 Purpose of the Planned Development Zoning District~~

~~17.36.020 Where Allowed~~

~~17.36.030 Permitted Land Uses~~

~~17.36.040 Development Standards~~

~~17.36.050 Required Approvals~~

~~17.36.060 Preliminary Development Plans~~

~~17.36.070 Planned Development Rezoning~~

~~17.36.080 Final Development Plans~~

17.36.010 Purpose of the Planned Development Zoning District

The purpose of the Planned Development (PD) zoning district is to allow for high quality development that deviates from standards and regulations applicable to the other zoning districts in Capitola. The PD zoning district is intended to promote creativity in building design, flexibility in permitted land uses, and innovation in development concepts. The PD zoning district provides land owners with enhanced flexibility to take advantage of unique site characteristics and develop projects that will provide public benefits for residents, employees, and visitors. Development within each PD zoning district is regulated by a ~~Preliminary and Final~~ Development Plan approved by the City Council.

17.36.020 Where Allowed



Note: This section prohibits PD zoning on properties designated for single-family residential use. Section 17.39.020 in the existing Zoning Code allows PD zoning for all uses. The existing minimum parcel size for PD zoning also has been removed.

The PD zoning district may be applied to any property in Capitola with an area of 20,000 square feet or more except for those designated as Single-Family Residential on the Zoning Map and General Plan Land Use Map.

17.36.030 Permitted Land Uses

Permitted land uses in each PD zoning district shall conform to the applicable General Plan land use designation and to the ~~Final~~ Development Plan that applies to the property.

17.36.040 Development Standards

- A. Established in ~~Final~~ Development Plan.** Development standards (e.g., height, setbacks, building coverage) for each PD zoning district shall be established in the applicable ~~Final~~ Development Plan.
- B. Maximum Intensity.** The maximum permitted floor area ratio and residential density shall not exceed maximums established in the General Plan for the applicable land use designation.
- C. Public Improvements.** Public infrastructure and improvements in the PD zoning district shall conform to the ~~C~~city’s standard specifications as maintained by the ~~City Engineer~~Public Works Director.

17.36.050 Required Approvals

- A. Development Plans and Zoning Map Amendments.** Establishment of a PD zoning district requires approval of a ~~Preliminary~~ Development Plan ~~followed by concurrent approval of a and~~ Zoning Map amendment ~~and a Final Development Plan~~.
- B. Design Review.** A proposed development must receive a Design Permit as required by Chapter 17.120 (Design Permits). All development and land uses within a PD zoning district shall be consistent with the approved ~~Final~~ Development Plan.

17.36.060 ~~Preliminary Development Plans~~ Conceptual Review



Note: This section ~~requires City Council approval of a~~ replaces the existing Preliminary Development Plan approval process with the requirement ~~to~~ for Conceptual Review, which is an advisory (non-binding) process for the Planning Commission and City Council to provide feedback on the project prior to the submittal of a formal application. ~~The existing Zoning Code requires only Planning Commission approval of a Preliminary Development Plan.~~

~~Prior to submittal of an application for a PD rezoning and Development Plan, an applicant must complete the Conceptual Review process as described in Section~~Chapter 17.11412.030 ~~(Conceptual Review)~~. The Planning Commission and City Council shall each hold at least one noticed public hearing on the project as part of the Conceptual Review process.

- ~~**A. Review Authority.** The City Council takes action on Preliminary Development Plan applications following recommendation from the Planning Commission.~~
- ~~**B. Application Submittal and Review.**~~
 - ~~1. Preliminary Development Plan applications shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the~~

Attachment: Zoning Code Parts 1 and 2 (1562 : Zoning Code Update)

~~information and materials required by the Community Development Department and the information required by Paragraph C (Application Materials) below:~~

~~2.1. If the property is not under a single ownership, all owners must join the application, and a map showing the extent of ownership shall be submitted with the application;~~

~~3.1. It is the responsibility of the applicant to provide evidence in support of the findings required by Paragraph F (Findings) below.~~

~~**C. Application Materials.** Preliminary Development Plan applications shall include the following information and materials:~~

~~1. **Project Description.** A written description of the project proposed within the PD zoning district. The project description shall include a narrative statement of the project objectives and a statement of how the proposed project will comply with General Plan goals and policies for the applicable land use designation. An overview of the proposed land use, densities, open space, and parking should be included in the project description.~~

~~2.1. **Community Benefits.** A description of how the proposed development is superior to development that could occur under the standards applicable in other zoning districts, and how it will achieve superior community design, environmental preservation, and/or substantial public benefits as defined in Paragraph G below.~~

~~3.1. **Site Map.** Maps depicting the existing topography, on site structures and natural features, mature trees, and other significant vegetation and drainage patterns. The map shall show the proposed PD zoning district boundaries and all properties within 500 feet of the site boundary.~~

~~4.1. **Concept Plan.** An overall diagram of the project concept. This diagram shall illustrate the overall development concept, including proposed land uses, buildings, circulation, open space, and any other significant elements in the proposed project. Phases shall be clearly indicated if multiple phases are proposed.~~

~~5. **Infrastructure.** A written description of the infrastructure necessary to serve each phase of the project proposed.~~

~~**D. Planning Commission Review and Recommendation.**~~

~~1. The Planning Commission shall hold a public hearing on the Preliminary Development Plan application as required by Chapter 17.148 (Public Notice and Hearings).~~

~~2. The Planning Commission shall recommend to the City Council the approval, approval with modification, or denial of the Preliminary Development Plan application. The recommendation shall be based on the findings in Paragraph F (Findings) below.~~

~~**E. City Council Review and Decision.** Upon receipt of the Planning Commission's recommendation, the City Council shall conduct a public hearing and either approve, approve with modification, or deny the Preliminary Development Plan.~~

~~**F. Findings.** The City Council may approve an application for a Preliminary Development Plan only if all of the following findings can be made:~~

- ~~1. The proposed development is consistent with the General Plan, Local Coastal Program (if applicable), and any applicable specific plan or area plan adopted by the City Council.~~
- ~~2. The proposed development is superior to the development that could occur under the standards applicable in the other zoning districts.~~
- ~~3. The proposed project will provide a substantial public benefits as defined in Paragraph G (Substantial Public Benefit Defined) below.~~
- ~~4. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.~~
- ~~5. Adequate transportation facilities, infrastructure, and public services exist or will be provided to serve the proposed development.~~
- ~~6. The proposed development will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area.~~



Note: The requirement that a PD project provide a substantial public benefit in Finding 3 above and described in subsection G below is new.

~~**G. Substantial Public Benefit Defined.** When used in this chapter, “substantial public benefit” means a project feature not otherwise required by the Zoning Code or any other provision of local, State, or federal law that significantly advances goals of the General Plan. Examples of substantial public benefits include but are not limited to:~~

- ~~1. Affordable housing that meets the income restrictions applicable in the Affordable Housing (AH) overlay zone.~~
- ~~2. Public plazas, courtyards, and other public gathering places that provide opportunities for people to informally meet and gather.~~
- ~~3. Improved walkways and paths for bicycles and pedestrians within properties, enhanced connections for bicyclists and pedestrians between properties.~~
- ~~4. Green building and sustainable development features that substantially exceed the City’s minimum requirements.~~
- ~~5. Preservation, restoration, or rehabilitation of a historic resource.~~
- ~~6. Increased ability to for residents and visitors to walk, bike, and take transit to destinations and reduce greenhouse gas emissions.~~
- ~~7. Publicly available parking to serve the Village.~~
- ~~8. Publicly accessible parks and open space beyond the minimum required by the City or other public agency.~~
- ~~9. Habitat restoration and or protection of natural resources beyond the minimum required by the City or other public agency.~~

~~**H. Conditions of Approval.** The City Council may attach conditions of approval to a Preliminary~~

~~Development Plan to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.~~

~~I. **Extent of Approval.** Approval of the Preliminary Development Plan shall be limited to general acceptability of the land uses proposed and their interrelationship, and shall not be construed to endorse or dictate the precise location of uses, configuration of parcels, or engineering feasibility.~~

~~J. **Expiration of Approval.**~~

~~1. A Preliminary Development Plan shall expire and become void unless a Final Development Plan application is submitted within one year of Preliminary Development Plan approval.~~

~~2. The Community Development Director may approve a one-year extension to the Preliminary Development Plan if the Director determines that the applicant has proceeded in good faith and has exercised due diligence in efforts to submit the Final Development Plan in a timely manner.~~

~~3. The applicant shall submit to the Community Development Department a written request for an extension of time no later than ten days before the expiration of the Preliminary Development Plan.~~

17.36.070 Planned Development Rezoning

A. General Procedures and Requirements. Establishing a PD zoning district requires City Council approval of a Zoning Map amendment consistent with Chapter 17.144 (Zoning Code Amendments). All procedures and requirements for Zoning Map Amendments in Chapter 17.144 apply to the establishment of a PD zoning district.

B. Timing. The City Council shall act on the Zoning Map Amendment concurrently with the ~~Final~~ Development Plan. A PD zoning district may be established only with concurrent approval of a ~~Final~~ Development Plan.

C. Reference to ~~Final~~ Development Plan. The ordinance adopted by the City Council establishing a PD zoning district shall reference the ~~Final~~ Development Plan approved concurrently with the Zoning Map Amendment.

17.36.080 ~~Final~~ Development Plans

A. Review Authority. The City Council takes action on ~~Final~~ Development Plan applications following recommendation from the Planning Commission.

B. Timing. ~~A Final Development Plan application may be submitted only after City Council approval of a Preliminary Development Plan. A Development Plan application shall be submitted within one year of Conceptual Review for the proposed project. If an application is not submitted within one year of Conceptual Review, the applicant shall compete a second Conceptual Review process prior to submitting the Development Plan application.~~

C. Application Submittal and Review.

1. ~~Final~~ Development Plan applications shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department and the information required by Paragraph D (Application Materials) below.

2. ~~If the property is not under a single ownership, all owners must join the application, and a map showing the extent of ownership shall be submitted with the application.~~

~~It is the responsibility of the applicant to provide evidence in support of the findings required by Paragraph G~~F~~ (Findings) below.~~

C.D. Application Materials. Applications for approval of a ~~Final~~ Development Plan shall include the following information and materials:

1. **Project Description.** ~~A written description of the project proposed within the PD zoning district. The project description shall include a narrative statement of the project objectives and a statement of how the proposed project will comply with General Plan goals and policies for the applicable land use designation. An overview of the proposed land use, densities, open space, and parking should be included in the project description.~~

2. **Community Benefits.** ~~A description of how the proposed development is superior to development that could occur under the standards applicable in other the existing zoning districts, and how it will achieve superior community design, environmental preservation, and/or a substantial public benefits as defined in Paragraph H~~G~~ below.~~

3. **Site Map.** ~~Maps depicting the existing topography, on-site structures and natural features, mature trees, and other significant vegetation and drainage patterns. The map shall show the proposed PD zoning district boundaries and all properties within 500 feet of the site boundary.~~

4. **Concept Plan.** ~~An overall diagram of the project concept. This diagram shall illustrate the overall development concept, including proposed land uses, buildings, circulation, open space, and any other significant elements in the proposed project. Phases shall be clearly indicated if multiple phases are proposed.~~

4.5. **Land Use.** A map showing the location of each land use proposed within the site, including open space and common areas. The land use map shall be accompanied by a narrative description of permitted land uses, allowable accessory uses, and uses allowed by-right or with a Conditional Use Permit.

2.6. **Subdivision Map.** If the project involves the subdivision of land, a tentative parcel map or tentative map required by Title 16 (Subdivisions) of the Capitola Municipal Code.

3.7. **Circulation.** A map and descriptions of the major circulation features within the site including vehicular, bicycle, pedestrian facilities; traffic flow of internal traffic; and existing and proposed public streets and sidewalk improvements.

4.8. Public Facilities and Open Space. The amount (in square feet or acres) and percentage of site area that will be dedicated for all types of open space, including proposed recreational facilities and amenities; and any public facilities, including public utility easements, public buildings and public land uses.

5.9. Development Standards. All development standards that apply within the project, including:

- a. Land use;
- b. Circulation of traffic;
- c. Landscaping;
- d. Architecture;
- e. Density and/or intensity;
- f. Minimum building site;
- g. Minimum lot dimensions;
- h. Maximum building coverage;
- i. Minimum setbacks;
- j. Maximum building or structure heights;
- k. Maximum height of fences and walls;
- l. Signs;
- m. Off-street parking; and
- n. Other items as deemed appropriate by the Planning Commission and City Council.

D.E. Planning Commission Review and Recommendation.

1. The Planning Commission shall hold a public hearing on the ~~Final~~ Development Plan application as required by Chapter 17.148 (Public Notice and Hearings).
2. The Planning Commission shall recommend to the City Council the approval, approval with modification, or denial of the ~~Final~~ Development Plan application. The recommendation shall be based on the findings in Paragraph G (Findings) below.

E.F. City Council Review and Decision. Upon receipt of the Planning Commission's recommendation, the City Council shall conduct a public hearing and either approve, approve in modified form, or deny the ~~Final~~ Development Plan. The City Council may approve the application only if all of the findings in Paragraph G (Findings) below can be made.

F.G. Findings. The City Council may approve an application for a ~~Final~~ Development Plan if all of the following findings can be made:

- ~~1. The Final Development Plan is consistent with the spirit and intent of the Preliminary~~

Development Plan.

- ~~2. Findings made to approve the Preliminary Development Plan remain valid for the Final Development Plan, including that the project will provide a substantial community benefit as defined in Section 17.36.060.G (Substantial Public Benefit Defined).~~
- ~~3. Findings required for the concurrent approval of a Zoning Map Amendment can be made.~~
 - 1. The proposed development is consistent with the General Plan, Local Coastal Program (if applicable), and any applicable specific plan or area plan adopted by the City Council.
 - 2. The proposed development is superior to the development that could occur under the standards applicable in the other existing zoning districts.
 - 3. The proposed project will provide a substantial public benefits as defined in Paragraph H (Substantial Public Benefit Defined) below. The public benefit provided shall be of sufficient value as determined by the Planning Commission to justify deviation from the standards of the zoning district that currently applies to the property.
 - 4. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.
 - 5. Adequate transportation facilities, infrastructure, and public services exist or will be provided to serve the proposed development.
 - 6. The proposed development will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area.
 - 7. Findings required for the concurrent approval of a Zoning Map Amendment can be made.



Note: The requirement that a PD project provide a substantial public benefit in Finding 3 above and described in subsection H below is new.

H. Substantial Public Benefit Defined. When used in this chapter, “substantial public benefit” means a project feature not otherwise required by the Zoning Code or any other provision of local, sState, or federal law that substantially exceeds the city’s minimum development standards and significantly advances goals of the General Plan. A project must include one or more substantial public benefits to be rezoned as a planned development. The public benefit provided shall be of sufficient value as determined by ~~Planning Commission~~City Council to justify deviation from the standards of the zoning district that currently apply to the property. Examples of substantial public benefits include but are not limited to:

- 1. Affordable housing that meets the income restrictions applicable in the Affordable Housing (-AH) overlay zone.

Public plazas, courtyards, open space, and other public gathering places that provide opportunities for people to informally meet and gather. The public space must either exceed the ~~City's~~ minimum requirement for required open space and/or include quality

improvements to the public realm to create an exceptional experience for the public.

2. Improvements to streets, sidewalks, curbs, gutters, sanitary and storm sewers, street trees, lighting, and other public infrastructure beyond the minimum required by the city or other public agencies.
3. New or improved pedestrian and bicycle pathways that enhance circulation within the property and connectivity to the surrounding neighborhood.
4. Green building and sustainable development features that substantially exceed the City's minimum requirements.
5. Preservation, restoration, or rehabilitation of a historic resource.
6. Public art that exceeds the City's minimum public art requirement and is placed in a prominent and publicly accessible location.
7. New or enlarged business that increase the supply of jobs available to Capitola residents of all income levels.
8. Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.
9. Public parking lot that provides parking spaces in excess of the required number of parking spaces for use by the surrounding commercial district.
10. Publicly accessible parks and open space beyond the minimum required by the City or other public agency.
11. Habitat restoration and or protection of natural resources beyond the minimum required by the City or other public agency.

G.I. Conditions of Approval.

1. The City Council may attach conditions of approval to a ~~Final~~ Development Plan to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
2. The City Council shall condition approval of the ~~Final~~ Development Plan on the completion of public improvements and grants of easement shown on the ~~Final~~ Development Plan.

H.J. Post-Decision Procedures. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to ~~Final~~ Development Plans.

Note: Effect of Development Plan in subsection ~~K~~ below is new.

I.K. Effect of Development Plan. All future development and land uses within a PD zoning district shall comply with the approved ~~Final~~ Development Plan.

1. **Land Uses.** New land uses may be added in a PD zoning district provided the ~~Final~~ Development Plan identifies the use as a permitted or conditionally permitted land use. Establishing a land use not specifically permitted by the ~~Final~~ Development Plan would require an amendment to the PD zoning district.



2. **Structures.** New structures may be added in a PD zoning district provided the structures comply with development standards established in the ~~Final~~ Development Plan (e.g., height, setback, floor area ratio). Design Review consistent with Chapter 17.120 (Design Permits) is required for all new development that was not approved with the ~~Final~~ Development Plan. Development that exceeds development standards in the ~~Final~~ Development Plan is allowed only with an amendment to the PD zoning district.

Chapter 17.40 – RESIDENTIAL OVERLAY ZONES

Sections:

- 17.40.010 Purpose
- 17.40.020 Affordable Housing (-AH) Overlay Zone
- 17.40.030 Vacation Rental Use (-VRU) Overlay Zone
- 17.40.040 Village Residential (-VR) Overlay Zone

17.40.010 Purpose

This chapter contains requirements for overlay zones that primarily apply to residential uses and residential areas. Overlay zones establish additional standards and regulations to specific areas, in addition to the requirements of the underlying base zoning district.

17.40.020 Affordable Housing (-AH) Overlay Zone

- A. Purpose.** The purpose of the Affordable Housing (-AH) overlay zone is to facilitate the provision of affordable housing units through the retention and rehabilitation of existing affordable units, or the construction of new affordable units. The -AH overlay zone is intended to:
1. Implement the goals and policies of the General Plan Housing Element and provide the opportunity and means for Capitola to meet its regional fair share allotment of affordable units.
 2. Encourage the development of affordable units by assisting both the public and private sector in making the provision of these units economically viable.
 3. Provide assurances to the City that these units will maintain a high degree of quality and will remain affordable to the target population over a reasonable duration of time.
 4. Encourage the provision of affordable housing through the combination of the -AH overlay with the multi-family residential zone where the affordable housing projects are determined to be feasible and are consistent with the General Plan.
 5. Provide a means of directing and simplifying the process for creating and maintaining affordable housing.
 6. Provide incentives to developers, whether in new or rehabilitated housing, to maintain rental units for the long term (e.g., not less than 55 years) and affordable ownership units in perpetuity.
- B. Applicability.** The -AH overlay zone may be applied to parcels that are one acre or more in size and located in a multi-family residential zoning district.
- C. Definitions.**

1. “Affordable housing” means housing capable of being purchased or rented by a household with “very low,” “low,” or “moderate” income levels at an “affordable housing cost” or “affordable rent,” as those terms are defined by the State of California.
2. “Affordable housing overlay district” means a zoning district that applies in addition to existing zoning designation where the city encourages the provision of affordable housing units as described in this chapter.
3. The “very low,” “low,” and “moderate” income levels are defined by the Sstate of California in Sections 50105, 50079.5, and 50093, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900. These income levels are:
 - a. Very Low Income. Up to and including fifty percent of the Santa Cruz County median income, adjusted for family size, as defined by the state law;
 - b. Lower Income. Fifty-one percent to eighty percent of Santa Cruz County median income, adjusted for family size, as defined by the state law;
 - c. Moderate Income. Eighty-one percent to one hundred twenty percent of Santa Cruz County median income, adjusted for family size, as defined by state law.
4. “Affordable housing cost” and “affordable rent” are defined in Sections 50052.5 and 50053, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900.

D. Relationship with State Density Bonus Law and Other State Laws.

1. All of the sState laws and regulations referenced above, or their successors in defined terms when amended, shall be incorporated herein as though fully set forth. In the event of any inconsistency or discrepancy between the income and affordability levels set forth in this chapter and the levels set in sState laws and regulations, the Sstate provisions shall control.
2. The -AH overlay zone provides a density increase for affordable housing development that in most cases exceeds density bonuses permitted by state law (Government Code Section 65915).
3. A development may utilize the -AH overlay zone as an alternative to the use of state density bonus but may not utilize both the overlay and state density bonuses.

E. Permits and Approvals Required.

1. Affordable housing developments proposed under this chapter require the execution of a Development Agreement by the City and the developer. The Development Agreement shall be prepared in accordance with the provisions of California Government Code Section 65864 et seq.

2. Affordable housing developments proposed under this chapter require approval of a Design Permit. All requirements in Chapter 17.120 (Design Permits) apply, except that the Planning Commission recommends Design Permit approval or denial to the City Council. The City Council may take action on the Design Permit application concurrently with or subsequent to action on the Development Agreement.

F. Permitted Residential Density.

1. Affordable housing developments with up to 20 units per acre are permitted in the -AH overlay zone. The 20 units per acre limit is based on a calculation that includes all existing and new units on the property.
2. Density permitted by in the -AH overlay zone may not exceed what can be accommodated by the site while meeting applicable parking, unit size, and other development standards.

G. Income Restrictions.

1. A minimum of 50 percent of the units in an affordable housing development shall be income restricted affordable housing. All affordable units may be in a single category or part of a mixture of affordable unit types which include:
 - a. Moderate-income households;
 - b. Lower-income households;
 - c. Very low-income households; or
 - d. Extremely low-income households.
2. At minimum 50 percent of income-restricted affordable units (25 percent of the total project units) shall be affordable to low-, very low-, and extremely-low income households. A greater level of affordability will not allow a greater level of density.

H. Development Incentives.

1. **Purpose.**
 - a. In order to reduce costs associated with the development and construction of affordable housing, affordable housing developments within the -AH overlay zone shall be eligible for specified development incentives. These incentives allow for the relaxation of development standards normally applied to housing in Capitola and are established in order to facilitate and promote the development of affordable housing in the City.
 - b. Incentives shall be targeted to improve the project design or to yield the greatest number of affordable units and required level of affordability, so as to permit the City to meet its regional fair share allotment of affordable housing and the goals of the Housing Element of the General Plan.

2. **Relaxed Development Standards.** The City shall allow the following relaxed development standards for projects that comply with the affordability required specified in Subsection G (Income Restrictions):
- a. **Minimum Building Site Area and Lot Area per Unit.** There shall be no minimum building site area requirement for individual parcels or dwelling sites within the -AH overlay zone. The building site area shall be designated on a site plan as approved by the City through the Design Permit review process.
 - b. **Density Averaging.** Project density within the -AH overlay zone may be calculated by averaging the density on a project-wide basis so as to permit higher density levels in certain project portions in exchange for advantageous project design features as determined by the City through the Design Permit review process.
 - c. **Setbacks.**
 - (1) The minimum setbacks from property lines shall be determined by the City through the Design Permit process.
 - (2) Minimum setbacks from property lines adjacent to or across from a single-family residential zone shall be same as underlying zoning district.



Note: Section 17.20.050.C.6 in the existing Zoning Code requires 20-foot first floor and 50-foot second floor minimum setbacks from property lines adjacent to or across from a single-family residential zoning district. Subparagraph c above removes this requirement as it is not a relaxed development standard and would render development infeasible in many locations.

- d. **Lot Coverage.** The City shall determine the maximum lot coverage for the proposed project through the Design Permit process.
 - e. **Parking.** Projects shall provide a minimum of:
 - (1) Two off-street parking spaces per unit; and
 - (2) One off-street visitor parking space for every seven units.
3. **Additional Development Incentives.**
- a. As a further inducement to the development of affordable housing beyond the relaxed development standards described in Section 2 (Relaxed Development Standards) above, the City may choose to extend one or more additional development incentives depending on the quality, size, nature, and scope of the project being proposed.
 - b. Additional development incentives may be in the form of waivers or modifications of other standards which would otherwise inhibit density and achievement of affordable housing goals for the development site, including, but not limited to, the placement of public works improvements.

I. Design Standards.

1. Purpose and Applicability.

- a. The following design standards are intended to ensure high-quality development within the -AH overlay zone that enhances the visual qualities of Capitola and respects adjacent homes and neighborhoods.
- b. Design standards shall apply to all projects receiving development incentives described in Section H (Development Incentives) or residential densities greater than allowed by the applicable base zone.

2. **Neighborhood Compatibility.**

- a. Affordable housing developments shall be designed and developed in a manner compatible with and complementary to existing and potential development in the immediate vicinity of the project site.
- b. Site planning on the perimeter shall provide for protection of the property from adverse surrounding influences and shall protect surrounding areas from potentially adverse influences from the property.
- c. To the greatest extent possible, the design of the development shall promote privacy for residents and neighbors, security, and use of passive solar heating and cooling through proper placement of walls, windows, and landscaping.
- d. Building design and materials shall blend with the neighborhood or existing structures on the site.

~~3. **Pedestrian Orientation.**~~

- ~~a. The front façade and main entrance of dwellings adjacent to the front property line shall face the street and must be clearly articulated through the use of architectural detailing.~~
- ~~b. The front entrance of the dwelling facing the street should be defined by at least one of the following: a porch of at least 8 feet in width and depth; roof overhang; or similar architectural element.~~
- ~~c. Except for a basement level garage below grade, any garage, carport or other accessory structure, attached or detached, shall be located at least 15 feet behind the front of the principal building facing the front property line.~~
- ~~d. Sidewalks shall be installed along all street frontages.~~
- ~~e. Existing vegetation on the perimeter shall be preserved to maintain a buffer to existing surrounding structures. Existing significant trees are to remain whenever feasible.~~
- ~~f. The pedestrian orientation standards in subsections (a) through (e) above can be waived by the City through the Design Permit process when the review authority finds it is infeasible to comply due to physical or other constraints on the property.~~

4.3. **Building Height.** Maximum building height shall be the same as in the underlying base zoning district.



Note: Section 17.20.050.C.5 in the existing Zoning limits height to two stories or 27 feet, which is less than the maximum permitted height in the RM zoning district. Paragraph 4 above allows a maximum height equal to the underlying zoning district to remove an additional barrier to the construction of affordable housing.

5.4. **Common Open Space.**

- a. Common open space shall comprise the greater of:
 - (1) 10 percent of the total area of the site; or
 - (2) 75 square feet for each dwelling unit.
- b. Areas occupied by buildings, streets, driveways, parking spaces, utility units, and trash enclosures may not be counted in satisfying the open space requirement.
- c. The following areas may be counted in satisfying the open space requirement:
 - (1) Landscaping and areas for passive and active recreation/open space with a minimum depth and width of 5 feet.
 - (2) Land occupied by recreational buildings and structures.

6.5. **Streets.**

- a. All public streets within or abutting the proposed development shall be improved to City specifications for the particular classification of street.
- b. All private streets shall meet fire code and access standards.

7.6. **Accessory Uses and Structures.** Accessory uses and structures shall be permitted as allowed by Chapter 17.52 (Accessory Structures and Uses) and as required through the Design Permit process.

8.7. **Signs.** Signs shall be permitted as allowed by Chapter 17.80 (Signs) and as required through the Design Review process.

J. Assurance of Affordability.

1. Affordable housing units developed under this section shall remain available to persons and families of very low, low, and moderate income, at an affordable housing cost or affordable rental cost, at those income and affordability levels as defined in Section 17.40.020.C (Definitions), for a period of 55 years, unless a longer period is required by a construction or mortgage financing program, mortgage insurance program, state law, or housing grant, loan or subsidy program.
2. The required period of affordability shall run concurrently with any period of affordability required by any other agency; provided, however, that the affordability period shall not be less than 55 years, as set forth in this section.
3. The project developer shall be required to enter into an appropriate agreement with the City to ensure affordability is maintained for the required period.

K. Pre-Application Consultation.

1. Prior to submitting an application for an affordable housing development within the -AH overlay zone, the applicant or prospective developer should request preliminary consultation meetings with the Community Development Department and other City staff as appropriate, to obtain information and guidance before incurring substantial expense in the preparation of plans, surveys and other data.
2. Preliminary consultations with City staff should address potential local, state, and federal affordable housing funding availability, and program requirements in guaranteeing project consistency with the objectives and requirements of the -AH overlay zone.

L. Additional Application Requirements. An application for an affordable housing development within the -AH overlay zone shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review) and shall also include the following materials and information:

1. Breakdown of affordable and market rate units including unit number, unit size, affordable designation of each unit (very low, low, or moderate), and rental rate or sale price.
2. The proposed means for assuring the continuing existence, maintenance and operation of the project as an affordable housing project.
3. Such other information as may be required by the Community Development Department to allow for a complete analysis and appraisal of the proposed project.

M. Findings. To approve or recommend approval of an affordable housing development, the review authority shall make all of the following findings, in addition to the findings required by Chapter 17.120 (Design Permits):

1. The incentives granted for density and deviation from development and design standards, are commensurate with the level of affordability. Specifically, the greater the extent of concessions and incentives, the greater the level of affordability, quality, size, nature, and scope of the project being proposed.
2. The design of the proposed project, even with the concessions for density and deviation from development and design standards, is appropriate for the scale and style of the site and surrounding neighborhood. Specifically, the development will provide an attractive visual transition and will not significantly impact the integrity of the surrounding neighborhoods.
3. The developer has agreed to enter into an agreement to maintain the affordability of the project specific to the requirements of the City and any funding sources with greater or longer affordability requirements.
4. If located within the coastal zone, the project is found to be in conformity with the Local Coastal Program, including, but not limited to, sensitive habitat, public viewshed, public recreational access and open space protections.

17.40.030 Vacation Rental Use (-VRU) Overlay Zone

- A. Purpose.** The -VRU overlay zone identifies locations within residential areas where the short term rental of dwelling units is permitted.
- B. Applicability.** Locations where the -VRU overlay zone applies is shown on the Zoning Map.
- C. Land Use Regulations.** Permitted uses in the -VRU overlay zone are the same as in the base zoning district, expect that vacation rental uses are permitted with a Minor Use Permit.
- D. Required Permit.** Each vacation rental unit is required to obtain a Minor Permit in addition to registering each unit with the City as a business. Vacation rental registration includes obtaining a business license and transient occupancy tax registration.
- E. Development and Operations Standards.**

1. Vacation rentals in Capitola are prohibited outside of the -VRU overlay zone.
2. Transient occupation registration is required for each vacation rental unit. A business license and transient occupancy tax registration must be obtained from the City. The business license shall be renewed annually.
3. Permit holders must submit to the City transient occupancy tax report and payment monthly.
4. One parking space is required per vacation rental unit. Parking may be on site or within Pacific Cove parking lot with proof of permit. The on-site parking space must be maintained for exclusive use by guests during their stay.
5. The property owner must designate a person who has the authority to control the property and represent the owner. This responsible person must be available at all reasonable times to receive and act on complaints about the activities of the tenants.
6. A maximum of one sign per structure, not to exceed one square foot in size, is permitted to advertise the vacation rental.
7. Each unit must post the transient occupancy permit in a visible location within the unit. The transient occupancy permit will include a permit number, conditions of approval, and an area in which to write the contact information for the responsible party.
8. If the unit is advertised on the internet, the first line of the posting must include the official permit number for City reference.
9. No permit holder shall have a vested right to a renewed permit. If there is a history of the permit holder or tenants violating the permit's conditions, the permit may be revoked consistent with Section 17.60.120 (Permit Revocation). After a permit is revoked, the permit holder may reapply for a new permit one year after the

revocation. The Community Development Director may deny an application based on previous code enforcement issues. A decision by the Community Development Director is appealable to the Planning Commission.

- ~~1. Upon receiving a business license, the vacation rental unit will be inspected by the building official or designee. The Minor Use Permit may not be approved until the unit is determined to be safe. The Building Official or designee shall establish the maximum number of guests that may occupy the unit.~~
- ~~2. The vacation rental unit must provide minimum required on-site parking, or provide required parking through a Pacific Cove parking permit. The Minor Use Permit holder must designate a person who has authority to control the property and represent the landlord. This responsible person must be available at all reasonable times to receive and act on complaints about the activities of the tenants.~~
- ~~3. Only one on-site sign per unit, not to exceed 1 square foot in size, is permitted to advertise the vacation rental. Each unit must post the Minor Use Permit approval in a visible location within the unit. The Minor Use Permit approval will include a permit number, maximum occupancy, conditions of approval, and an area in which to write in the contact information for the responsible party.~~
- ~~4. If the unit is advertised on the internet, the first line of the posting must include the vacation rental permit number for City reference.~~
- ~~5. If there is a history of the permit holder or tenants violating the permit's conditions, the Minor Use Permit may be revoked consistent with Section 17.156.110 (Permit Revocation). After a Minor Permit is revoked, the permit holder may reapply for a new permit one year after the revocation, or for a greater time period as established by the Community Development Director.~~
- ~~6. Permit holders must renew the business license and transient tax registration annually.~~

17.40.040 Village Residential (-VR) Overlay Zone

- A. Purpose.** The purpose of the -VR overlay zone is to limit certain areas within the Village to exclusive residential use, including vacation rentals.
- B. Land Use Regulations.**
- 1. Residential Uses Only.** Within the -VR overlay zone, only residential land uses (including vacation rentals) are permitted. Non-residential land uses, including but not limited to restaurants, retail, offices, and personal services, are not permitted in the -VR overlay zone.
 - 2. Existing Hotels and Motels.** ~~Existing hotels and motels in the -VR overlay zone shall be legal nonconforming uses and may not be expanded or intensified.~~

Alterations and modifications to existing hotels and motels shall occur in a manner consistent with Chapter 17.92 (Nonconforming Lots, Uses and Structures).

- C. Development Standards.** Development standards in the -VR overlay zone are the same as the Village Mixed Use (MU-V) zoning district.

Chapter 17.28 – VISITOR SERVING ZONING DISTRICTS

Sections:

- 17.28.010 Purpose of the Visitor Serving Zoning Districts
- 17.28.020 Dual Zoning
- 17.28.030 Land Use Regulations
- 17.28.040 Development Standards

17.28.010 Purpose of the Visitor Serving Zoning Districts

A. General. The purpose of the Visitor Serving (VS) ~~overlay zoning district~~ is to provide the visiting public with a range of opportunities to enjoy Capitola’s coastal location. These VS ~~overlay zoning district~~ accommodates a range of visitor serving uses including overnight accommodations, dining establishments, and recreational ~~(both active and passive) facilities, with specific uses dependent on the resources on the ground and the locational context of the particular site.~~ The VS ~~overlay zoning district~~ implements policies to maintain and enhance visitor serving uses in Capitola consistent with the General Plan and Local Coastal Program (LCP).

B. Subzones. The VS ~~overlay zoning district~~ is divided into five subzones (see Figure 17.128-1) with unique land use and development standards:

1. **Visitor Serving - Rispin (VS-R).** Applies to the Rispin site (APN 035-371-01 & 02).
2. **Visitor Serving - Shadowbrook (VS-SB).** Applies to the Shadowbrook site (APN035-111-04).
3. **Visitor Serving - Monarch Cove Inn (VS-MC).** Applies to the Monarch Cove Inn site (APN 036-143-31 & 036-142-27) and the portion of parcel 036-142-28 that is located between the two Monarch Cove Inn parcels.
4. **Visitor Serving - El Salto (VS-ES).** Applies to the El Salto site (APN 036-143-35).
5. **Visitor Serving – General (VS-G).** Applies to all other parcels ~~with the zone~~ Visitor Serving ~~overlay~~ in Capitola.

17.28.020 Dual Zoning

The VS ~~overlay zoning districts~~ may be the only zoning districts applicable to a property, but at times it is applied along with other zoning districts to a property, such as “VS/R-1” or “VS/P/OS” dual zoning. Dual zoning means that the uses and development standards of the VS zoning district apply, although uses allowed by another district may also be permitted through approval of a Conditional Use Permit. The Planning Commission may apply development standards from the other zoning district in lieu of or as well as the VS district.

In comment bubbles, City staff comments are shown as "[GR2R1]". All other comments are from Coastal Commission sta

Commented [KK1]: The zoning map shows this as an o zone, not a zoning district. Let's make this change throughou

Commented [GR2R1]: The existing and proposed code both a VS zone and a VS overlay. This change (globally) sho deleted unless we want to eliminate the VS zone and only ap overlay designation.

Commented [KK3]: Is this true? It appears that every p has an underlying base zoning district, with VS overlay.

Commented [KK4]: We should talk about this. Seems li overlay should take precedence in case of conflict.

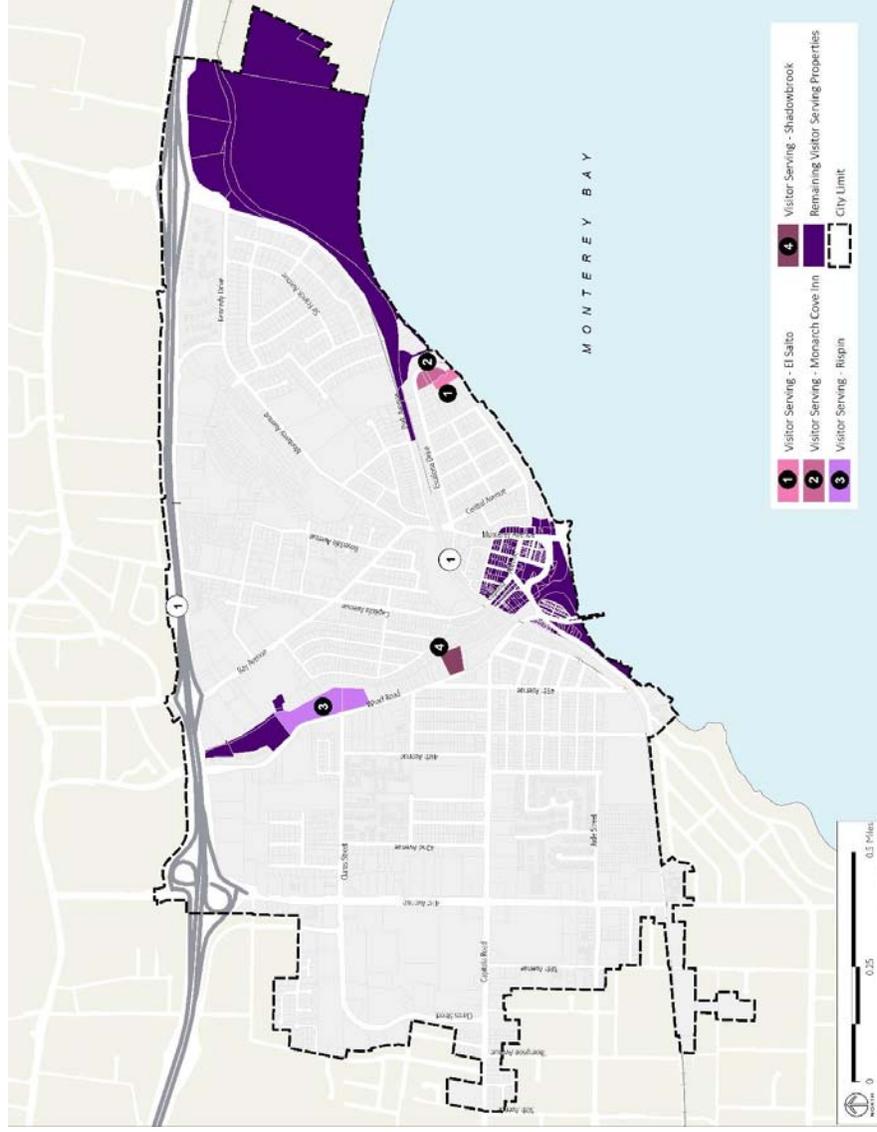
Commented [GR5R4]: Yes, this is the case with both t and proposed codes. Standard zoning practice is to apply the standards of an overlay zone in case of conflict (most restrict applies). We can clarify.

Attachment: Zoning Code Part 1 and Part 2 Coastal Chapters (1562 : Zoning Code Update)

VISITOR SERVING ZONING DISTRICTS

17.28

FIGURE 17.28-1: VISITOR-SERVING DISTRICTS



Commented [GR6]: Map will be revised to correctly show base zoned and VS overlay properties

17.28.030 Land Use Regulations

A. Permitted Land Uses. Table 17.28-1 identifies land uses permitted in the VS zoning district.



Note: Permitted land uses on the Monarch Cove property have been revised to prohibit festivals, live entertainment, and commercial places of amusement or recreation, and to allow multi-family uses with a Conditional Use Permit.

TABLE 17.28-1: PERMITTED LAND USES IN THE VISITOR SERVING ZONING DISTRICTS

Commented [RM7]: This may present consistency prob LUP/CA for properties in CZ.

Commented [GR8R7]: I believe the MF note and MF in the use table were mistakes – KATIE TO VERIFY

Key P Permitted Use M Minor Use Permit required C Conditional Use Permit required - Use not allowed <i>Note: In the coastal zone, a coastal development permit (CDP) may also be required, in addition to and independent of any other required permits and authorizations, per Section 17.xxx.</i>	VS Subzones					Additional Regulations
	VS-G	VS-R	VS-SB	VS-MC	VS-ES	
Residential Uses						
Employee Housing	C [1]	-	-	-	-	
Multi-Family Dwellings	C [2]	-	-	C [2]	C [2]	
One Caretaker Unit for On-Site Security	C	C	C	C	C	
Single-Family Dwellings	C [3]	-	-	C [3]	C [3]	
Public and Quasi-Public Uses						
Community Assembly	C	-	-	-	-	
Day Care Centers	C	-	-	-	-	
Habitat Restoration and Habitat Interpretive facilities	C	C	C	C	-	
Parks and Recreational Facilities	C	C	-	-	-	
Public Parking Lots	C	C	-	-	-	
Public Paths	C	C	C	C	C	
Public Safety Facilities	C	-	-	-	-	
Public Wharfs	C	-	-	-	-	
Schools, Public or Private	C	-	-	-	-	
Commercial Uses						
Business Establishments that Provide Commercial Places of Amusement or Recreation, Live Entertainment, or Service of Alcoholic Beverage	C [4]	C [4]	C [4]	-	-	
Business Establishments that Sell or Dispense Alcoholic Beverages for On-Site Consumption	C	C	C	C	-	
Restaurants						
Full Service	C [5]	C [5]	C [5]	-	-	
Lodging						
Hotels, Inns, Bed and Breakfast, and Hostels	C	C	-	C	C	
Campgrounds [6]	C	-	-	-	-	
Key P Permitted Use M Minor Use Permit required C Conditional Use Permit required - Use not allowed	VS Subzones					Additional Regulations
	VS-G	VS-G	VS-G	VS-G	VS-G	
Recreational Vehicle Parks	C	-	-	-	-	
Transportation, Communication, and Utility Uses						

Commented [GR9]: This is specified in the coastal chapter and would be redundant and unnecessary to repeat that a CDP is required in every land use table throughout the code.

Commented [KK10]: Many of these uses, particularly residential and large-scale commercial uses, shouldn't be allowed in New Brighton. It may make sense to separate New Brighton from Village, where it does make sense to have a broad range of uses.

Commented [GR11R10]: The City has no land use authority over state parks. Adding development standards for New Brighton would have no effect on the State's ability to develop their parks. A more appropriate alternative would be to eliminate all zoning references to New Brighton and add a paragraph to note the absence of land use authority.

Commented [KK12]: It jumps out to me that the only uses that should have a broad range of uses potentially allowed here is Village, since that area is the primary core and can accommodate commercial and residential uses. The other areas are very specific geographic areas, including individual parcels, and thus the ordinance would appear to be the opportune time to really identify the uses envisioned for those particular sites. In other words, use an overlay to really pinpoint the specific uses envisioned for each area.

Commented [RM14]: Potential consistency issue.

Commented [GR15R14]: MF is currently allowed in VS-R and VS-ES zones.

Commented [RM16]: Potential consistency issue.

Commented [GR17R16]: SF is currently allowed in VS-R, VS-MC, and VS-ES, although severely limited on Monarch Cove. In previous discussions, the City requests that current restrictions be relaxed to allow the existing Inn to be used as a residence should it be closed in the future.

Utilities, Major	C	C	C	C	C	
Utilities, Minor	P	P	P	P	P	
Wireless Communications Facilities	See Chapter 17.104					
Other Uses						
Access Roadways	C	C	C	C	C	
Accessory Structures and Uses, New	C [7]	C	C	C	C	
Accessory Structures and Uses Established Prior to Primary Use or Structure	C	C	-	C	-	
Change of Visitor Serving Commercial Uses within a Structure	C [8]	-	-	-	-	
Food Service Accessory to a Lodging Use [9]	C	C	-	C	C	
Home Occupations	C	-	-	-	-	Section 17.96.030
Expansion of a Legal Nonconforming Use within an Existing Structure	C	-	-	-	-	
Legal Nonconforming Use Changed to a Use of a Similar or More Restricted Nature	C	-	-	-	-	
Live Entertainment	C	C	C	-	-	
Offices Accessory to Visitor Serving Use	C	C	C	C	-	
Parking Areas to Serve the Primary Use	C	C	C	C	C	
Retail Accessory to a Visitor Serving Use	C	C	-	C	-	
Temporary Assemblages of People, such as Festivals, Fairs, and Community Events	C [10]	C [10]	C [10]	C [11]	-	
Weddings	C	C	C	C	-	

Notes:

- [1] Permitted only as an accessory use.
- [2] Multi-family dwellings shall comply with development standards in the Multi-Family Residential, Medium Density (RM-M) zoning district.
- [3] Single-family dwellings shall comply with development standards in the Single-Family Residential (R-1) zoning district.
- [4] May not be located within 200 feet of the boundary of a residential zoning district.
- [5] Drive up and car service is not allowed.
- [6] May include moderate intensity recreational uses, including tent platforms, cabins, parks, stables, bicycle paths, restrooms, and interpretive facilities.
- [7] Intensification of the primary use is not allowed.
- [8] The new use may not change the nature or intensity of the commercial use of the structure.
- [9] Permitted only to serve guests of the lodging use.
- [10] Events may not exceed 10 days and may not involve construction of permanent facilities.
- [11] Limited to a single one-day event per year.

~~Additional Visitor Serving Uses. In the VS-G, VS-MC, and VS-SB zoning districts, the Planning Commission may allow other visitor serving uses of a similar character, density, and intensity as those listed in Table 17.28-1 if the Planning Commission finds~~

~~the other uses to be consistent and compatible with the intent of this chapter, the General Plan, and the Local Coastal Program.~~

~~17.28.050~~ **17.28.040 Development Standards**

A. General. Table 17.28-2 identifies development standards that apply in the VS zoning districts.

TABLE 17.28-2: DEVELOPMENT STANDARDS IN THE VISITOR SERVING ZONING DISTRICTS

	VS Zoning Districts	Additional Standards
Parcel Area, Minimum	5,000 sq. ft	
Impervious Surface, Maximum	VS-R: 25% VS-SB, VS-MC & VS-ES: 50% [1] VS-G: No maximum	
Floor Area Ratio, Maximum	0.25	
Setbacks, Minimum	See Section 17.28.040.B	
Height, Maximum	30 ft.	17.28.040.C

Notes:

[1] In the VS-SB zoning district, the impervious surface requirement applies to the parcel located directly adjacent to Soquel Creek. In the VS-ES zoning district, the impervious surface calculation excludes the portion of parcel 036-142-28 located outside of the Monarch Cove Inn.

B. Setbacks. The following setback requirements apply in the VS zoning districts.

- The Planning Commission may require front, side and rear setbacks through the Design Review process to provide adequate light and air, ensure sufficient distance between adjoining uses to minimize any incompatibility, and to promote excellence of development. Where a side or rear yard abuts residential property, a setback of at least 10 feet shall be provided.
- Front and exterior side yards shall not be used for required parking facilities.
- For the visitor-serving El Salto parcels located adjacent to the bluff top, new development shall adhere to the setback and development provision provided in the LCP natural hazards policies and in Chapter 17.68 (Geologic Hazards).
- To protect the waters and riparian habitat of Soquel Creek, new development on the Shadowbrook Restaurant and Rispin parcels shall adhere to the LCP natural systems policies and Chapter 17.64 (Environmentally Sensitive Habitat Areas).

C. Height Exceptions. With a recommendation from the Planning Commission, the City Council may approve additional height up to a maximum of 36 feet in the VS zoning districts when the following findings can be made:

- The proposed development and design is compatible with existing land uses in surrounding areas, ~~and~~ the General Plan, and the Local Coastal Program.

Commented [KK18]: This is a bit too vague. It seems like the purpose of the overlay is to really pinpoint the specific uses for the particular area. I would delete this.

Commented [GR19R18]: Any development would require CDP, which would enable CCC review. It seems like we would catch-all clause acknowledging that other VS uses could be allowed through a CDP rather than prohibiting them?

Commented [KK20]: Again, I think that this is the opportunity to get specific about the individual overlay zones and what development standards apply to each of them. These standards are traditional zoning standards that don't translate well to New Brighton or along Soquel Creek.

Commented [GR21R20]: See previous comments regarding New Brighton. The only VS parcels along Soquel Creek are in the Village, Shadowbrook and Rispin. These standards are in the code. Development in any of these areas would be reviewed through CDP. Not sure what additional level of specificity is desired.

Commented [KK22]: This would be good to describe the Village, including that structures cannot silhouette over the Depot Hill.

Commented [GR23R22]: This is addressed in the Village Use chapter. We also have a General Plan policy which prohibits structure from being built over the top of the bluff or to obstruct view to/from the bluff.

Commented [RM24]: Does this mean no setback unless it imposes them?

Commented [GR25R24]: There is a minimum 10-foot side rear setback for properties adjacent to residential uses. The other VS properties do not currently have other setback requirements.

Attachment: Zoning Code Part 1 and Part 2 Coastal Chapters (1562 : Zoning Code Update)

- 2. Streets and thoroughfares are suitable and adequate to serve the proposed development.
- 3. The proposed development does not produce shadows which may adversely affect the enjoyment of adjacent streets, buildings, or open space.
- 4. Major public views are not blocked by the proposed development.

D. Landscaping. See Table 17.72-2 in Chapter 17.72 (Landscaping).

E. Lighting. In addition to outdoor lighting standards in Section 17.96.100, (Outdoor Lighting), the following lighting requirements apply in the VS zoning district:

- 1. All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled.
- 2. The location, type and wattage of exterior lighting must be approved by the Community Development Director prior to the issuance of building permits or the establishment of the use.

Commented [RM26]: Is this term defined somewhere? how would this finding be applied?

Commented [GR27R26]: This is from the current code not defined. An example would be the Village hotel site (not views to/from the cliff). It seems like a standard the CCC would use to protect significant public views, but we could delete it if preferred.

Chapter 17.32 – COASTAL OVERLAY ZONE

Sections:

- 17.32.010 Purpose
- 17.32.020 Definitions
- 17.32.030 Relationship to Base Zoning Districts
- 17.32.040 Permitted Land Uses
- 17.32.050 Development Standards
- 17.32.060 Coastal Permit Requirements
- 17.32.070 Coastal Permit Exemptions
- 17.32.080 Categorical Exclusions
- 17.32.090 Application Submittal
- 17.32.100 Public Notice and Hearing
- 17.32.110 Findings for Approval
- 17.32.120 Notice of Final Action
- 17.32.130 Appeals
- 17.32.140 Permit Issuance
- 17.32.150 Emergency Permits
- 17.32.160 Coastal Permit Amendments

17.32.010 Purpose

This chapter establishes requirements for the Coastal (-CZ) overlay zone which applies to all areas within the City of Capitola coastal zone. The -CZ overlay zone implement's the City's Local Coastal Program (LCP) in a manner consistent with the requirements of the California Coastal Act and all associated State regulations. This chapter contains requirements for coastal permits to ensure that development projects in the -CZ overlay zone are consistent with the City's Land Use Plan and Local Coastal Implementation Program (LCIP), which together constitute the City's Local Coastal Program (LCP). ~~The City of Capitola Local Coastal Program shall consist of the following components:~~

- (1) ~~The Land Use Plan (LUP), consisting of the policy text and the adopted land use, resource, constraint, and shoreline access maps and charts. The land use plan, including all adopted tables, maps and definitions, shall be adopted as an element of the County General Plan and become an integral part thereof pursuant to Chapter 13.01 SCCC. The land use plan policies and maps shall take precedence over any previously adopted for the Coastal Zone portion of the County.~~
- (2) ~~The Implementation Plan (IP), consisting of the following implementing ordinances consisting of the following of the City's Municipal Code chapters/sections:~~
 - a) ~~XXX~~
 - b) ~~_____~~

17.32.020 Definitions

Specialized terms as used in this chapter are defined as follows.

In comment bubbles, City staff comments are shown as "[GR2R1]". All other comments are from Coastal Commission staff.

Commented [KK1]: The City can elaborate on all of the of the LUP.

Commented [GR2R1]: Staff can provide additional det

Commented [RM3]: See County Code section 13.03.05 example. I have attached a table indicating what we understand current IP to include.

Commented [GR4R3]: City staff will add the contents

Commented [KK5]: There are a bunch of other Coastal regs-defined terms that may be appropriate to include here, in "bluff", "wetland", "stream", "environmentally sensitive area "feasible", etc. We might also want definitions of other commonly used terms, including "shoreline protective device" and "coastal resources". We have tons of examples of these that we could plug in.

Commented [GR6R5]: City staff will add requested definitions appropriate

A. Aggrieved Person. Any person who, in person or through a representative, appeared at a City public hearing in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing informed the City of the nature of their concerns, or who for good cause was unable to do either. “Aggrieved Person” includes the applicant for a coastal development permit.

B. Coastal Bluff. Coastal bluff shall mean:

(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).

B.C. Coastal Emergency. A sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.

C.D. Development. Any of the following, whether on land or in or under water:

1. The placement or erection of any solid material or structure;
2. Discharge or disposal of any dredged material or of any gaseous, liquid, solid or thermal waste;
3. Grading, removing, dredging, mining or extraction of any materials;
4. Change in the density or intensity of use of land, including, but not limited to, subdivisions, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use;
5. Change in the intensity of use of water, or access thereto;
6. Construction, reconstruction, demolition or alteration in the size of any structure, including any facility of any private, public or municipal utility;
7. The removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973.

Development does not include the replacement of a mobile home with one which is not more than ten percent larger in floor area, nor equipping a mobile home with removable fixtures such as a porch, the total area of which does not exceed ten percent of the square footage of the mobile home itself.

D. Development, New. All development as defined above except the following:

1. Structures Destroyed by Natural Disaster. The replacement of any structure, other than a public works facility, destroyed by a disaster, provided, that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than ten percent, and is sited in the same location on the affected property as the destroyed structure. As used in this section, “disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.

Commented [GR7]: The suggested definitions are unclear particularly to the lay reader. City staff prefers the definition by Marin County: “A high bank or bold headland with a broad precipitous, sometimes rounded cliff face overlooking a plain of water. A bluff may consist of a steep cliff face below and sloping upper bluff above.”

Commented [RM8]: 17.46.030 - shows Definitions modified by Ord 743 S2, in 1992, but Ord 743 never processed through I changes not certified.

Commented [GR9R8]: The City would like to include language which specifies that replacement of mobile homes and minor additions are not subject to a CDP (similar to single-family residential exemptions). CA HCD has jurisdiction over mobile home projects in Capitola. The City is typically not aware of minor projects in Capitola home parks and it seems overly burdensome to require low-income elderly residents to submit a CDP for minor alterations typically exempt on SF lots. City staff agrees this language should be the exemption section rather than in the definition section.

Commented [KK10]: Yes, this should be removed.

2. ~~Demolition and Reconstruction. The demolition and reconstruction of a single family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than ten percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.~~
3. ~~Improvements. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than ten percent, which do not block or impede access, and which do not result in a seaward encroachment by the structure.~~
4. ~~Repair and Maintenance. Repair or maintenance activity which, pursuant to Public Resources Code Section 30610, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.~~
5. ~~Reconstruction and Repair. The reconstruction or repair of any seawall; provided, that the reconstructed or repaired seawall is not seaward of the location of the former structure. As used in this section, "reconstruction or repair" of a seawall shall not include replacement by a different type of structure or other modification design or construction which results in different or greater impacts to shoreline resources than those of the existing structure.~~
- E. ~~Emergency: a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.~~
- E. **Environmentally Sensitive Area.** "Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.
- F. **Local Coastal Program (LCP).** The City's ~~U~~ and ~~u~~ ~~Use p~~ ~~Plan and Implementation Plan, Zoning Code, Zoning Map and actions~~ certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.
- G. ~~Major Energy Facility.~~ Any public or private processing, producing, generating, storing, transmitting or receiving facility for electricity, natural gas, petroleum, coal, or other source of energy, ~~for which the estimated construction costs exceed twenty-five thousand dollars~~ A "major energy facility" means any of the previously listed facilities that costs more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624.
- H. ~~Major Public Works Facility.~~
- (a) ~~All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.~~
- (b) ~~All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.~~
- (c) ~~All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.~~
- (d) ~~All community college facilities.~~

Commented [RM11]: Seems like the exceptions and ex should be governed by stand alone sections below - not in de

Commented [GR12R11]: agreed

Commented [KK13]: Agreed. It's not that these activities are "development", but rather that they are exempt from CDP requirements per the Act. This should be deleted. And I'm not sure why it's called "New Development".

Commented [RM14]: May want to add def for emergency CCR 13009

Commented [KK15]: This should be deleted since we already have a definition for "coastal emergency", which is the same. Use one or the other, but not both.

Commented [GR16R15]: okay

Commented [KK17]: It may also be good to include here that the LCP categorically calls out as ESHA.

Commented [GR18R17]: We'll add this detail

Commented [KK19]: The IP consists more than just the Code, yes? I think this definition should match 30108.6, and a description of what constitutes the Capitola LCP, including all the ordinances that comprise the IP.

Commented [GR20R19]: We'll add this detail as previously noted

Commented [RM21]: I suggested putting this in the previous section above, but here could work also.

Commented [RM22]: See attached table outlining currently certified IP.

A "major public works facility" means any of the above listed facilities costs more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624. Notwithstanding the above criteria, a "major public works facility" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.

Any public works project located within an area for which coastal permits are appealable, and that cost more than \$25,000 except where service by a public agency is required to protect life and public property from imminent danger, or to restore, repair or maintain public works, utilities or services destroyed, damaged, or interrupted by natural disaster or serious accident.

H. Notice of Categorical Exclusion. A form signed by the Community Development Director stating that a development meets the requirements for exclusion and is exempt from the coastal permit requirement.

I. Shoreline Protective Device Structure. "Shoreline protective device structure" means any device, structure or material, including but not limited to riprap or such as a seawall, revetment, riprap, bulkhead, deep pier/caisson, bluff retention device, etc., built for the purpose of serving a coastal-dependent use, or protecting an existing structure or public beach in danger from erosion placed in an area where coastal processes operate.

J. Sea. The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels. "Sea" does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, including any river, stream, tributary, creek or flood control or drainage channel flowing directly or indirectly into such area.

K. Structure. Any improvement permanently attached to the ground, including, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line and electrical power transmission and distribution line.

L. Wetland. "Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

17.32.030 Relationship to Base Zoning Districts

The -CZ overlay zone applies to property in conjunction with the base zoning districts. In case of a conflict between regulations, the regulations in this chapter shall take precedence over those of the base zoning district.

17.32.040 Allowed Land Uses

Allowed land uses in the -CZ overlay zone are the same as in the underlying base zoning district. Permits required for these uses (e.g., Conditional Use Permit, Administrative Permit) are the same as in the underlying base zoning district, and are required in addition to and independent of any required coastal development permit.

Commented [RM23]: May want to follow current CA c § 13012. Major Public Works and Energy Facilities. (a) "Major public works" and "Major energy facilities" mean that cost more than one hundred thousand dollars (\$100,000) automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, or 30624. (b) Notwithstanding the criteria in (a), "major public works" means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.

Commented [KK24]: Agreed. Done for both definition differentiated between "major" and other types. All of these have to match the Act and regs.

Commented [GR25R24]: okay

Commented [GR26]: piers/caissons are not shoreline p devices

Commented [GR27]: The word permanent helps distinguish temporary structures. We don't want to regulate dog houses, play structures, pre-fab garden sheds, etc.

Commented [GR28]: There was a comment in the VS about adding language to describe how to handle conflicts between overlay zone regs and base zone regs. Here it is...we would repeat in multiple chapters.

Commented [CK29]: Do we need to add administrative minor use permits.

Commented [rg30]: I don't think so...a minor use permit be a form of CUP and an admin permit would qualify as a permit use (subject to performance standards)

Commented [GR31]: Coastal permits and other land use are processed concurrently – not independently (i.e., a project be approved without all necessary permits)

17.32.050 Development Standards

- A. **General.** Development standards (e.g., structure height, setbacks) that apply to property in the -CZ overlay zone are the same as in the underlying base zoning district.
- B. **Affordable Housing Density.** The City may approve a density greater than allowed by the base zoning district for affordable residential projects in the -CZ overlay zone if the following criteria are met:
 1. The proposed increased density is consistent with ~~the Coastal Act Section 30604(f), and Government Code Section 65915, and Chapter 18.03 of the Capitola Municipal Code.~~
 2. The project is found to be in conformity with the Local Coastal Program (including, but not limited to, sensitive habitat, public viewshed, public recreational access and open space protections), with the exception of the density provisions.

17.32.060 Coastal Permit Requirements

- A. **Permit Required.** All activities that constitute development, as defined in 17.32.020, within the -CZ overlay zone requires a coastal permit except as specified in Section 17.32.070 (Coastal Permit Exemptions) ~~and Section 17.32.080 (Coastal Permit Exclusions).~~
- B. **Review Authority.**
 1. The Planning Commission shall take action on all coastal permit applications that require other discretionary approval by the City.
 2. The Community Development Director shall take action on all coastal permit applications for projects that require no other discretionary approval by the City.
 3. The City Council may take action on coastal permit applications for public works projects that require no other discretionary permit approvals from the City other than funding approval.
 4. Development authorized by a Coastal Commission-issued coastal permit remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment and revocation. ~~Any additional development proposed, addition on a parcel with a to development completed under the authority of a Coastal Commission-issued coastal permit shall be reviewed by the City pursuant to an application for a new coastal permit, provided that the Coastal Commission determines that the development addition is not contrary to any terms or conditions of the Commission-issued permit.~~
- C. **Additional Permits.** The review of a coastal permit application shall be processed concurrently with any other discretionary permit applications required by the City. The City may not grant any discretionary approval for a proposed project that conflicts with this chapter. Discretionary approvals become effective only after a coastal permit is approved as required by this chapter.
- D. **Legal Development and Permitting Processes.** Development that legally occurred prior to the effective date of the Coastal Act of 1976 (or the Coastal Initiative of 1972, whichever is applicable) is considered lawfully established development. Improvements, repair, modification, or additions subject to such existing development requires a coastal permit in accordance with the provisions of this chapter. The coastal permit may be approved if the proposed development is consistent with the policies and standards of the City's LCP.

Commented [KK32]: Not sure this section on affordable housing needs to be here. Seems like it should be located elsewhere in the chapter where it discusses housing and/or density.

Commented [GR33R32]: agreed

Commented [KK34]: Is this part of the IP?

Commented [RM35]: Does not appear to be.

Commented [KK36]: Then the cross-reference should be updated.

Commented [GR37R36]: We'll remove as requested

Commented [KK38]: All appealable development requires a public hearing. If the PC is the entity that provides that hearing, as opposed to a Zoning Administrator, then this section needs to say that the PC shall take action on all CDPs that require other discretionary review, AND/OR if the CDP is appealable to the Coastal Commission.

Commented [GR39R38]: This is addressed in public hearings and appeals chapters. Would prefer not to repeat it here, could cross reference as an alternative.

Commented [KK40]: Same here. The CDD can only take action on a non-appealable development.

Commented [GR41R40]: Our proposal is that CDD determinations would be made in a public hearing and decision would be appealed to the PC and ultimately the City Council. This is a widely accepted process in other jurisdictions, except they call the CDD a "hearing officer" or "zoning administrator".

Commented [KK42]: How would this be decided? When would the Council review the CDP if the Council decided not to take action?

Commented [GR43R42]: The intent is to allow the City Council to approve a CDP which otherwise requires no action by the Coastal Commission so that there would be one hearing instead of two. The word 'may' is intended to acknowledge that the Council could conceivably direct the PC to consider the CDP independently. I will add language to clarify.

Commented [GR44]: If a development was permitted prior to the 1972 ballot initiative, but before the coastal act went into effect in 1976, would CCC consider it illegal? What standards would be subject to during the interim period when there weren't any regulations?

Attachment: Zoning Code Part 1 and Part 2 Coastal Chapters (1562 : Zoning Code Update)

E. **Illegal Development and Permitting Processes.** Development that occurred after the effective date of the Coastal Act of 1976 (or the Coastal Initiative of 1972, whichever is applicable) and that did not receive a coastal permit or was not otherwise authorized under the Coastal Act, is not lawfully established or authorized development. No improvements, repair, modification, or additions to such existing development may be approved unless a coastal permit is approved that authorizes the existing development, and any potential violations are abated. The coastal permit shall only be approved if the existing and proposed development is consistent with the policies and standards of the City's LCP.

17.32.070 Coastal Permit Exemptions

The following projects are exempt from the requirement to obtain a coastal permit.

- A. **Existing Single-Family Residences.** In accordance with PRC §30610(a) and 14 CCR §13250, improvements to an existing single-family residence, including fixtures and structures directly attached to a residence, landscaping, and structures normally associated with a single-family residence, such as garages, swimming pools, fences and storage sheds, but not including guest houses or self-contained residential units. This exemption does not include:
1. Improvements to a single-family residence if the residence and/or improvement is located on a beach, in a wetland, seaward of the mean high-tide line, within an environmentally sensitive habitat area, in an area designated highly scenic in the LCP, or within 50 feet of the edge of a coastal bluff.
 2. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, within 50 feet of the edge of a coastal bluff, or within an environmentally sensitive habitat area.
 3. The expansion or construction of water wells or septic systems.
 4. On property not included in Subparagraph A.1 above that is located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in a significant public viewshed, when one of the following circumstances apply:
 - a. Improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure; or
 - b. An additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to this section; or
 - c. An increase in height by more than ten percent of an existing structure; and/or ~~A~~any significant non-attached structure such as garages, fences, shoreline protective works or docks.
 5. In areas having a critically short water supply as declared by resolution of the Coastal Commission, construction of major water-using development not essential to residential use such as swimming pools, or construction or extension of landscape irrigation systems.
 6. Any improvement to a single-family residence where the coastal permit issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a coastal permit.

Commented [GR45]: See above question

Commented [GR46]: We agree that violations would need to be corrected – but they would need to be verifiable violations – potential, or speculative violations

Commented [KK47]: The regs use the language “or in a significant public viewshed” for purposes of this reg? If not, does the City want to include areas designated “significant public viewshed” for purposes of this reg? If not, delete.

Commented [GR48R47]: We can delete

- B. Other Existing Structures.** In accordance with PRC §30610(b) and 14 CCR §13253, improvements to an existing structure, other than a single-family residence or public works facility, including landscaping, and fixtures; and other structures directly attached to the structure. This exemption does not include:
1. Improvements to a structure if the structure and/or improvement is located on a beach; in a wetland, or stream, or lake; seaward of the mean high-tide line; in an area designated highly scenic in the LCP; or within 50 feet of the edge of a coastal bluff.
 2. Any significant alteration of land forms including removal or placement of vegetation, on a beach or sand dune; in a wetland or stream; within 100 feet of the edge of a coastal bluff, in a highly scenic area, or in an environmentally sensitive habitat area.
 3. The expansion or construction of water wells or septic systems.
 4. On property not included in subparagraph B.1 above that is located between the sea and the first public road paralleling the sea; or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in a significant public viewshed, when one of the following circumstances apply:
 - a. Improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure;
 - b. An additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to this section;
 - c. An increase in height by more than 10 percent of an existing structure; or
any significant non-attached structure such as garages, fences, shoreline protective works or docks.
 5. In areas having a critically short water supply as declared by resolution of the Coastal Commission construction of major water-using development not essential to residential use such as swimming pools, or construction or extension of landscape irrigation systems.
 6. Any improvement to a structure where the coastal permit issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a coastal permit.
 7. Any improvement to a structure which changes the intensity of use of the structure.
 8. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including, but not limited to, a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.
- C. Maintenance Dredging of Navigation Channels.** In accordance with PRC §30610(c), Maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.
- D. Public Roads.** Repair and maintenance of existing public roads, including resurfacing and other comparable development necessary to maintain the existing public road facility as it was constructed, provided that:
1. There is no excavation or disposal of fill outside the existing roadway prism; and

Commented [GR49]: There are no lakes in Capitola

Commented [KK50]: Ditto

Commented [GR51R50]: We'll delete

2. There is no addition to and no enlargement or expansion of the existing public road.

E. Public Parks. Routine maintenance of existing public parks, including repair or modification of existing public facilities and landscaping where the level or type of public use or the size of structures will not be altered.

F. Public Utilities. Repair, maintenance, replacement, and minor alterations of existing public water, sewer, natural gas, electrical, telephone, television, and flood control infrastructure.

G.F. Repair or Maintenance Activities. In accordance with PRC §30610(d) and 14 CCR §13252. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities. This exemption does not include:

1. Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:
 - a. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;
 - b. The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;
 - c. The replacement of twenty percent or more of the materials of an existing structure with materials of a different kind; or
 - d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams.
2. Any method of routine maintenance dredging that involves:
 - a. The dredging of 100,000 cubic yards or more within a twelve month period;
 - b. The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, on any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams; or
 - c. The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.
3. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:
 - a. The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials.
 - b. The presence, whether temporary or permanent, of mechanized equipment or construction materials.

Commented [KK52]: These don't match our regs, but y cross-reference our 1978 Repair, Maintenance and Utility Ho document, which addresses some of this.

Commented [RM53]: RM to attach. See, e.g. County C Section 13.20.064 Public roads, parks, utilities and industrial exemption.

Subject to SCCC 13.20.060, and provided there is not a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views, as further detailed in the document "Repair, Maintenance and Utility Hook-up Exclusion Permit Requirements" adopted by the Coastal Commission on September 5, 1978, no coastal development permit is required.

(A) Public Roads. Repair and maintenance of existing public roads including resurfacing and other comparable development need to maintain the existing public road facility as it was constructed provided, that: (a) there is no excavation or disposal of fill on the existing roadway prism; and (b) there is no addition to and no enlargement or expansion of the existing public road.

(B) Public Parks. Routine maintenance of existing public parks including repair or modification of existing public facilities and landscaping where the level or type of public use or the size of structures will not be altered.

(C) Public Utilities. Repair, maintenance, replacement, and alterations of existing public water, sewer, natural gas, electrical, telephone, television, and flood control infrastructure.

(D) Industrial Facilities. Routine repair, maintenance, and minor alterations to existing industrial facilities necessary for ongoing production that do not expand the area of operation of the facility, including minor modifications of existing structures required for governmental safety and environmental regulations where needed to maintain existing production capacity, where located within the structures, and where the height and bulk of existing structures are not altered.

Commented [GR54R53]: The proposed and suggested exemption is identical – except we eliminated the industrial facility exemption since there are none in Capitola's coastal zone.

Commented [CK55]: Shouldn't this move up under C.

Commented [KK56]: Yes, I think that would make it easier to understand what types of dredging requires a CDP.

Commented [rg57]: I'm not sure if this is the right section for this (exemptions)? Might be okay to leave out and ask CCC for guidance on how they would like to see it addressed?

Commented [KK58]: Agreed. Let's discuss where to put it.

Commented [RM59]: Seems like Geo Hazards Section might be more appropriate?

4. Unless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure that is not repair and maintenance under Coastal Act Section 30610(d) but instead constitutes a replacement structure requiring a coastal permit.

~~0. In any particular case, even though a method of repair and maintenance is identified above, the Executive Director of the Coastal Commission may, where the Director finds the impact of development on coastal resources or coastal access to be insignificant, waive the requirement of a permit. The waiver shall not be effective until it is reported to the Coastal Commission at its next regularly scheduled meeting. If any three commissioners object the waiver, the proposed improvement may not be undertaken without a permit.~~

J.H. Replacement of Destroyed Structures. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this section, “disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner; “bulk” means total interior cubic volume as measures from the exterior surface of the structure; and “structure” includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

J.H. Conversion of Existing Multi-Unit Residential Structures. The conversion of any existing multi-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this chapter, no coastal permit is required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multi-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, is to be considered a time-share project, estate, or use for purposes of this paragraph.

K.I. Temporary Events. Temporary events as defined in this section and which meet all of the following criteria:

1. The event will not occur between the Saturday of Memorial Day weekend through Labor Day, or if proposed in this period will be of less than one day in duration including setup and take-down; and
2. The event will not occupy any portion of a publicly or privately owned sandy beach or park area, public pier, public beach parking area and there is no potential for adverse effect on sensitive coastal resources; and
3. A fee will not be charged for general public admission and/or seating where no fee is currently charged for use of the same area (not including booth or entry fees); or if a fee is charged, it is for preferred seating only and more than 75 percent of the provided seating capacity is available free of charge for general public use; and
4. The proposed event has been reviewed in advance by the City and it has been determined that it meets the following criteria:

Commented [KK60]: Let's talk about waivers. For now delete.

Commented [GR61R60]: We can add waiver provision

Commented [GR62]: City staff disagrees that landscaping be defined as a structure. We can qualitatively state that replandscaping should be comparable to and/or not exceed preconditions as an alternative, but trying to measure would be difficult. Also, what type of erosion control structures are contemplated here? Storm drain inlets, sand bags, bioswales? I understand the intent...

Commented [GR63]: The City has a few long-standing events which last 2-3 days – the Begonia Festival (3 days), Art Wine Festival (2 days) and car show (2 days). We would like allowance to continue these events without processing annual

- a. The event will result in no adverse impact on opportunities for public use of or access to the area due to the proposed location and or timing of the event either individually or together with other development or temporary events scheduled before or after the particular event;
- b. There will be no direct or indirect impacts from the event and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources;
- c. The event has not previously required a coastal permit to address and monitor associated impacts to coastal resources.

L.J. Emergency Work. Immediate emergency work necessary to protect life or property, or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

17.32.080 **Categorical Exclusions**

~~Within Coastal Exclusion Zone A, as shown in the Capitola Permit and Appeal Jurisdiction Map, the following projects do not require a coastal permit:~~

~~0. Residential Projects:~~

- ~~The construction of new residential projects, including accessory dwelling units, and the reconstruction, demolition, repair, relocation, alteration or addition to a residential project of one to four units on existing lots at densities specified in the LCP, on lots of record or lot combinations legal as of the date of LCP certification.~~
- ~~The installation of fixtures and other structures accessory to the main residence, including but not limited to patio covers, swimming pools, garages, greenhouses, gazebos, fences, pre-fabricated storage sheds, and non-habitable accessory structures.~~

~~0. Non-Residential Projects:~~

- ~~The construction, reconstruction, demolition, relocation, or alteration of the size of a commercial structure less than 5,000 square feet in size located on legal lots of record zoned for commercial use.~~
- ~~Additions to existing structures where the resulting size is 5,000 square feet or less.~~
- ~~Change of use from commercial, industrial, public or quasi-public use in an existing structure.~~
- ~~Outdoor sales, commercial sidewalk/parking lot sales and outdoors display of merchandise.~~
- ~~Exclusions are not permitted for any improvement associated with the conversion of an existing structure occupied by visitor serving hotels, motels or other accommodations.~~

~~0. Land Clearing. When consistent with the City Community Tree and Forest Ordinance No. 863.~~

Commented [RM64]: We do not believe that there are approved categorical exclusions that have been approved by Commission. This is separate process for establishing CE Zo can discuss in more detail at meeting.

Commented [GR65R64]: City staff reviewed our files cannot find any evidence that categorical exclusion provision certified by CCC.

- ~~0. **Boundary Adjustments.** Boundary adjustments not resulting in an increase in the number of building sites, buildable lots, or density of permitted development.~~
- ~~0. **Grading and Filling.** Grading and filling in conjunction with an approved project, or grading and filling consistent with the local coastal program provisions.~~
- ~~0. **Temporary Structures.** All temporary (six months or less; non-renewable) structures and uses consistent with City regulations and that do not conflict with public access and access policies.~~
- ~~0. **Other Excluded Development and Activities:**~~
 - ~~— Abatement of dangerous buildings and other nuisances pursuant to the Municipal Code.~~
 - ~~— Any project undertaken by a federal agency.~~
 - ~~— Construction of new bikeways (within existing rights-of-ways), except if new construction reduces parking in the beach areas.~~
 - ~~— Development requiring land use determinations with no potential for adverse impacts, and not including or affecting any visitor-serving uses.~~
 - ~~— Driveway width modification requests which are in accordance with the provisions contained in Municipal Chapter 12.32.~~
 - ~~— Encroachment permits.~~
 - ~~— Home occupations.~~
 - ~~— Interior remodels and tenant improvements in residential and commercial structures when no intensification of the use and no loss of visitor-serving use is taking place.~~
 - ~~— Lot mergers, certificates of compliance, and reversions not resulting in a net increase in the number of building sites or potential building sites.~~
 - ~~— Public signs and other equipment installation in the public right of way, including but not limited to parking meters.~~
 - ~~— Projects with valid permit from the California Coastal Commission.~~
 - ~~— The installation of new or replacement signs and modifications to existing signs, provided the sign meets the requirements of the City of Capitola sign ordinance and/or LUP Implementation Plan, and excluding those signs governing shoreline areas.~~
 - ~~— Tree removals consistent with Municipal Code Chapter 12.12 (Community Tree and Forest Management).~~
- ~~— **Coastal Exclusion Zone B.** Within Coastal Exclusion Zone B, as shown in the Capitola Permit and Appeal Jurisdiction Map, the following projects do not require a coastal permit:~~
 - ~~0. **Bikeways.** Construction of new bikeways (within existing rights of ways), except if new construction reduces parking in the beach areas.~~
 - ~~0. **Fences.** Fence up to six feet in height with an additional two feet of lattice, per the Capitola development standards.~~

- ~~0. **Fixtures and Accessory Structures.** Attached fixtures and accessory structures up to 120 square feet.~~
- ~~0. **Residential Remodels.** Improvements to single family residences or minor residential remodels, not located in the environmentally sensitive habitat areas, including additions up to thirty percent of living area or not exceeding 400 square feet, whichever is less, and with less than ten percent increase in height, with architectural materials and colors to match the existing house.~~
- ~~0. **Public Signs and Equipment.** Public signs and other equipment installation in the public right of way, including but not be limited to parking meters.~~
- ~~0. **Secondary Dwelling Units.** Secondary dwelling units consistent with Chapter 17.60 (Secondary Dwelling Units).~~
- ~~0. **Signs.** The installation of new or replacement signs and modifications to existing signs consistent with Chapter 17.64 (Signs), and excluding those signs governing shoreline areas.~~
- ~~0. **Temporary Structures.** All temporary (six months or less; non-renewable) structures and uses consistent with regulations and do not conflict with public access and access policies.~~

~~— **Determination of Excludability:**~~

- ~~0. The determination of whether a development is categorically excluded or not, for purposes of notice, hearings, and appeals, shall be made by the Community Development Director at the time the coastal permit application is submitted.~~
- ~~0. This determination shall be made with reference to the certified LCP, including any maps, categorical exclusions, land use designations and zoning regulations adopted as part of the LCP. Only developments that fully comply with the certified LCP may be allowed under a categorical exclusion.~~

~~— **Notice of Exclusion:**~~

- ~~0. Notices of exclusion shall be issued on forms prepared for that purpose by the Community Development Department, and shall indicate the developer's name, street address, if any, and assessor's parcel number of the project site, a brief description of the development, a description of the reasons for why the development meets the standards for the applicable specific exclusion order, and the date of application for any other permit.~~
- ~~0. A copy of the notice of exclusion shall be provided to the Coastal Commission and to any person who has requested such notice within five working days of issuance. The notice of exclusion may be issued at the time of project application but shall not become effective until all other approvals and permits required for the project are obtained. A copy of all terms and conditions imposed by the City shall be provided to the Coastal Commission, pursuant to Section 13315 of the California Code of Regulations.~~

~~— **Effect of a Categorical Exclusion Order.** Pursuant to the California Code of Regulations Section 13247, an order granting an exclusion for a category of development removes that category of development from the permit requirements of Chapter 7 of the California Coastal Act of 1976 to the extent and in the manner specifically provided in the exclusion order. Only development consistent with such order may take place unless the order is amended or terminated or a coastal permit is issued.~~

17.32.53017.32.080 Challenges to City Determinations

In the case of disputes over the City's determination of Coastal Permit requirement, exclusion or applicable hearing and appeals procedures, the Community Development Director shall request an opinion of the Executive Director of the Coastal Commission. Local acceptance for filing and/or processing of the permit application shall cease until the Community Development Department receives the determination of appropriate process from the Executive Director of the Coastal Commission or the Coastal Commission

The determination of whether a development is exempt, categorically excluded, nonappealable, or appealable for purposes of notice, hearing, and appeals procedures shall be made by the local government Community Development Director at the time the coastal permit application for development within the Coastal Zone is submitted or as soon thereafter as possible, and in all cases prior to the application being deemed complete for processing. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning ordinances which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or the Community Development Director a local government has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, exempt, nonappealable, or appealable:

(A) The local government Community Development Director shall make its determination as to what type of development is being proposed and shall inform the applicant of the notice and hearing requirements for that particular development (i.e., categorically excluded, exempt, appealable, nonappealable). The local determination may be made by any designated local government employee(s) or any local body as provided in local government procedures.

(B) If the determination of the local government is challenged by the applicant or an interested person, or if the local government Community Development Director wishes to have a Commission determination as to the appropriate designation, the local government Community Development Director shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion;

(C) The Executive Director shall, within two working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, exempt, nonappealable or appealable;

(D) Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the local government Community Development Director's determination, the Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the local government Community Development Department request.

17.32.54017.32.090 Application Submittal

A. Coastal permit applications shall be filed and reviewed in compliance with Chapter 17.90 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department, together with all required application fees. It is the

Commented [RM66]: These suggested changes track of CCR 13569.)

Commented [GR67]: Projects which are exempt pursuant to the Coastal Act are not appealable and thus should not be subject to challenges or other processes outlined in this section.

Commented [GR68]: Does this mean it may not be heard if the Commission holds a hearing in the central coast region? This would be problematic from a timing perspective since CCC only meets on the central coast once per year.

Commented [KK69]: Is this part of the IP? All procedures should be specified in 17.32 as opposed to cross-referenced.

Commented [GR70R69]: The City would prefer not to have language in multiple code sections. This is bad practice which leads to inconsistent language or future code amendments which change one section and overlook the other. All zoning code changes will be in the IP.

Commented [RM71]: Not sure, old Chapter 17.90 was.

responsibility of the applicant to provide evidence in support of the findings required by Section 17.32.110 (Findings for Approval).

- B. Application for a coastal permit shall be made concurrently with application for any other permits or approvals required by the Zoning Code.
- C. At time of submittal of coastal permit application, the City shall make a determination of whether the development is ~~category excluded~~, exempted, appealable, or non-appealable in accordance with Section 17.32.080. The determination shall be sent to the applicant, the Coastal Commission, and any known interested parties.

17.32.550 17.32.100 Public Notice and Hearing

- A. **Planning Commission Review.** The Planning Commission shall review and act on a coastal permit application at a noticed public hearing in compliance with Chapter 17.120 (Public Notice and Hearings). However, processing at levels other than the Planning Commission shall apply in the following cases:
 1. **City Council Review.** The proposed development requires other discretionary permit approvals to be reviewed and acted upon by the City Council, in which case the coastal permit application will be reviewed and acted on by the City Council; or
 2. **Minor Development.** The City may waive the public hearing requirement for appealable development that qualifies as “minor development”. Such development shall ~~that~~ requires no other discretionary approval by the City. A public hearing may be waived if the project has no potential for adverse effects on coastal resources or public access to the shoreline, is consistent with the certified LCP, and if the following apply:
 - a. Notice that a public hearing would be held upon request is sent to all persons who would otherwise be required to be notified of a public hearing and any other persons who have shown interest;
 - b. No request for a public hearing is received within fifteen working days from the date notice was mailed out; and
 - c. The notice discloses that the failure to request a public hearing triggers the loss of appeal power on the matter being considered for administrative approval.

17.32.560 17.32.110 Findings for Approval

To approve a coastal permit, the review authority shall make all of the following findings:

- A. The project is consistent with the General Plan, the LUCP, and the Local Coastal Implementation Program.
- B. The project maintains public views between the sea and the first public roadway parallel to the sea.
- C. The project protects vegetation, natural habitats and natural resources consistent with LCP.
- D. The design, location, size, and operating characteristics of the proposed development is consistent with any applicable design plans and/or area plans incorporated into the LCP.
- E. The project maintains public access to the coast along any coastline as set forth in the LCP.
- F. The project supports the LCP goal of providing visitor-serving needs as appropriate.

Commented [KK72]: See my comment above. This needs to be fleshed out, including who makes the determination and when.

Commented [GR73]: This is new and would significantly increase the administrative workload. The City will continue to notify applicants if a CDP is required, but it doesn't seem to be a good use of City or CCC time to send and review every determination of appeal (can CCC really handle reviewing all member agency determinations in a timely fashion?). Moreover, exempt projects are not subject to the same noticing procedures in the coastal act and providing notices for building permit, business license, entertainment permit, etc. would require hundreds of staff hours annually.

Commented [KK74]: 13560-13574 describe the minimum standards for local government CDP procedures, including hearing and noticing procedures. This must be included here, including who hears the type of CDP, who receives notice, etc.

Commented [GR75R74]: We can do this, but as mentioned previously, it's bad practice to repeat regulations in multiple sections.

- G. The project is consistent with the LCP goal of encouraging appropriate coastal development uses.
- H. The proposed development protects and where feasible enhances coastal resources.

~~17.32.570~~17.32.120 **Notice of Final Action**

The City's action on a coastal permit shall become final when all local rights of appeal have been exhausted per Section 17.32.130. Within seven calendar days of a final decision on a coastal permit application, the City shall provide notice of its action by first class mail to the applicant, the Coastal Commission, and any other persons who have requested such notice by submitting a self-addressed, stamped envelope to the City. The notice shall contain the City's approved staff report, plans, adopted findings, conditions of approval, indication of whether the project is appealable to the Coastal Commission and the reasons for why it is or is not, and procedures for appeal to the Commission. The City's decision on a coastal permit application shall be deemed final when all local rights of appeal have been exhausted as defined in Section 17.32.130 (Appeals).

~~17.32.580~~17.32.130 **Appeals**

A. Local Appeals. Planning Commission decisions on coastal permits may be appealed to the City Council as described in Chapter 17.124 (Appeals and Calls for Review).

B. Appeals to the Coastal Commission.

1. In accordance with PRC §30603, Any approval decision by the City on a coastal permit in the geographic areas defined in subsection 3(a-c), below, or any approval or denial decision by the City on a coastal permit for a major public works project (including a publicly financed recreational facility and/or a special district development) or ~~a~~ major energy facility located anywhere in the coastal zone, may be appealed to the Coastal Commission.
2. Appeals to the Coastal Commission may be filed by the project applicant, any aggrieved person, or any two members of the Coastal Commission.
3. The following types of projects may be appealed to the Coastal Commission.
 - a. Projects located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - b. Projects located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
 - c. Projects in a sensitive coastal resource area as defined in the LCP.
 - d. Any development which constitutes a major public works project or a major energy facility.
4. Appeals must be submitted to the Coastal Commission within 10 ~~calendar~~ working days of Coastal Commission receipt of a complete notice of final action.
5. City decisions may be appealed to the Coastal Commission only after an appellant has exhausted all local appeals, except that exhaustion of all local appeals is not required if any of the following occur:

Commented [KK76]: What about Director approvals? Can they be appealed locally?

Commented [GR77R76]: Yes, they would be appealable to the City Council and City Council as indicated in the appeals chapter.

Commented [KK78]: Cross-reference. Include all appeal procedures (including the timing for appeals, who can appeal, grounds for the appeal) in this Chapter. This is particularly important for understanding when the City's action is final (i.e. there has been no appeal within the prescribed appeal time clock) and when the Notice of Final Action is to be sent to us.

Commented [GR79R78]: It seems like we provided that below – if not, please specify what's missing.

Commented [KK80]: Do you propose to define a specific sensitive coastal resource area for purposes of appeal?

Commented [GR81R80]: This is existing language from the current code which is also used in the coastal act - 30603(a)(2) delete if preferred.

Commented [KK82]: These three criteria are the local appealability criteria, where an appeal can only be made for a use-based criterion that applies anywhere.

Commented [GR83R82]: Is there a revision requested?

Attachment: Zoning Code Part 1 and Part 2 Coastal Chapters (1562 : Zoning Code Update)

- a. The City requires an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for coastal permits in the coastal zone.
 - b. An appellant was denied the right of the initial local appeal by a City ordinance which restricts the class of persons who may appeal a local decision.
 - c. An appellant was denied the right of local appeal because City notice and hearing procedures for the development did not comply with the provisions of this title.
 - d. The City required an appeal fee for the filing or processing of the appeal.
6. Grounds for appeal of an approved coastal permit are limited to the following:
- a. The development fails to provide adequate physical access, public or private commercial use, or interferes with such uses;
 - b. The development fails to protect public views from any public road or from a recreational area to and along the coast, as identified in the certified local coastal program;
 - c. The development is not compatible with the established physical scale of the area, as identified in the certified local coastal program;
 - d. The development may significantly alter existing natural landforms;
 - e. The development does not comply with shoreline erosion and geologic setback requirements.

~~17.32.590~~17.32.140 **Permit Issuance**

A. Effective Date of a Coastal Permit.

1. In areas outside the Coastal Commission appeal area, coastal permits shall become effective seven working days after the City's final decision.
2. In areas within the Coastal Commission appeal area, coastal permits shall become effective after ten working days if no appeal has been filed. The ten-day appeal period shall start the day after the Coastal Commission receives adequate notice of the final local action.

B. Expiration of Permits. A coastal permit not exercised within two years shall expire and become void, except where an extension of time is approved as allowed by Section 17.128.060.C (Extension of Time).

C. Revocation of Permits. Coastal permits may be revoked as provided for in Section 17.128.090 (Permit Revocation).

D. Resubmittals. For a period of twelve months following the denial or revocation of a coastal permit, the City shall not accept an application for the same or substantially similar permit for the same site, unless the denial or revocation was made without prejudice, and so stated in the record.

~~17.32.600~~17.32.150 **Emergency Permits**

A. Purpose. Emergency coastal permits may be granted at the discretion of the Community Development Director or a local official designated by the City Council for projects normally requiring coastal permit approval. To be eligible for an emergency permit, a project must be

Commented [KK84]: Is this supposed to apply to local (i.e. appeals to the Council)? If not, then the grounds for appeal Coastal Commission is listed in 30603(b)(1-2).

Commented [GR85R84]: We can revise as requested

Commented [KK86]: Cross-reference.

Commented [GR87R86]: okay

Commented [KK88]: Cross-reference

Commented [GR89R88]: okay

undertaken as an emergency measure to prevent loss or damage to life, health or property, or to restore, repair, or maintain public works, utilities and services during and immediately following a natural disaster or serious accident.

- B. Application.** Application for an emergency permit shall be made to the City by letter if time allows, and by telephone or in person if time does not allow. The applicant shall submit the appropriate fees at the time of application for an emergency permit.
- C. Required Information.** The information to be reported during the emergency, if it is possible to do so, or to be fully reported after the emergency, shall include all of the following:
1. The nature of the emergency.
 2. The cause of the emergency, insofar as this can be established.
 3. The location of the emergency.
 4. The remedial, protective or preventive work required to deal with the emergency.
 5. The circumstances during the emergency that appeared to justify the course of action taken, including the probable consequences of failing to take action.
- D. Verification of Facts.** The Community Development Director or other designated local official shall verify the facts, including the existence and nature of the emergency, as time allows.
- E. Public Notice.** If time allows, the Community Development Director shall provide public notice of the proposed emergency action, with the extent and type of notice determined on the basis of the nature of the emergency itself.
- F. Criteria for Granting Permit.** The Community Development Director may grant an emergency permit upon making all of the following findings:
1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary permits.
 2. The development can and will be completed within thirty days unless otherwise specified by the terms of the permit.
 3. Public comment on the proposed emergency action has been reviewed if time allows.
 4. The work proposed would be consistent with the requirements of the certified LCP.
- G. Conditions.** The Community Development Director may attached reasonable terms and conditions to the granting of an emergency permit, including an expiration date and the necessity for a regular permit application by a specified date.
- H. Limitations.**
1. The emergency work authorized under approval of an emergency permit shall be limited to activities necessary to protect the endangered structure or essential public structure.
 2. The emergency approval shall be voided if the approved activity is not exercised within 15 days of issuance of the emergency permit.
 3. The approval shall expire 60 days after issuance. Any work completed outside of these time periods requires a regular coastal permit approval unless an extension is granted by the City.

- I. **Application for Regular Coastal Permit.** Upon the issuance of an emergency permit, the applicant shall submit a completed coastal permit application and any required technical reports within a time specified by the Community Development Director, not to exceed 30 days.
- J. **Reporting of Emergency Permits.** The Community Development Director shall report emergency permits to the Coastal Commission and to the City Council and Planning Commission.

~~17.32.640~~17.32.160 **Coastal Permit Amendments**

- A. **New Application.** An applicant may request an amendment a coastal permit by filing a new application pursuant to the requirements of this chapter.
- B. **Consistency Required.** Any amendment approved for development in the coastal zone shall be found consistent with all applicable local coastal program requirements and this chapter with regards to requirements of jurisdiction, hearings, notices and findings for approval.