

# City of Capitola Agenda

Mayor: Michael Termini  
Vice Mayor: Stephanie Harlan  
Council Members: Kirby Nicol  
Dennis Norton  
Sam Storey  
Treasurer: Jacques Bertrand



## **CAPITOLA CITY COUNCIL REGULAR MEETING THURSDAY, MAY 10, 2012**

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### **CLOSED SESSION – 6:00 PM CITY MANAGER’S OFFICE**

An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council on closed session items only.

#### **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of GC §54956.9: Two cases:

1. City of Capitola Insurance Coverage Claim Against Lexington Insurance (Noble Gulch Storm Drain Failure);
2. Pacific Cove Mobile Home Park Pipe Failure and Closure.

#### **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Govt. Code §54956.9)**

1. Kevin Calvert, D.D.S. and Pamela Calvert vs. City of Capitola, et al. [Superior Court of the State of California for County of Santa Cruz, Case #CV 172804];
2. Katie Saldana vs. City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 172324];
3. Foremost Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173228];
4. Truck Insurance vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173071];
5. David Ross; Carousel Taffy Morro Bay, Inc.; Village Mouse dba The Thomas Kinkadee Gallery Capitola; Judith Ferro vs. the City of Capitola, , et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173642];
6. American Alternative Insurance Corporation; Central Fire Protection District of Santa Cruz County vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173926].

#### **CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)**

Negotiator: Jamie Goldstein, City Manager

Employee Organizations: Association of Capitola Employees, Capitola Police Captains, Capitola Police Officers Association, Confidential Employees, Mid-Management Group, and Department Head Group.

#### **PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code §54957)**

Title: City Manager

**MAY 20, 2012**

**REGULAR MEETING OF THE CAPITOLA CITY COUNCIL – 7:00 PM**

**1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Council Members Stephanie Harlan, Dennis Norton, Kirby Nicol, Sam Storey, and Mayor Michael Termini

**2. PRESENTATIONS**

A. Introduction of new Police Officer, Steve Anderson.

B. Presentation by New Brighton Middle School Environmental Club.

C. Presentation on the 60<sup>th</sup> Annual Begonia Festival.

**3. REPORT ON CLOSED SESSION**

**4. ADDITIONS AND DELETIONS TO AGENDA**

**5. PUBLIC COMMENTS**

*Oral Communications allows time for members of the Public to address the City Council on any item not on the Agenda. Presentations will be limited to three minutes per speaker. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the minutes. A MAXIMUM of 30 MINUTES is set aside for Oral Communications at this time.*

**6. COUNCIL/STAFF ANNOUNCEMENTS**

**7. COMMITTEE APPOINTMENTS**

**ALL MATTERS LISTED ON THE REGULAR MEETING OF THE CAPITOLA CITY COUNCIL AGENDA SHALL BE CONSIDERED AS PUBLIC HEARINGS.**

**8. CONSENT CALENDAR**

*All items listed in the "Consent Calendar" will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the public or the City Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following General Government.*

*Note that all Ordinances and Resolutions which appear on the public agenda shall be determined to have been read by title and further reading waived.*

- A. Consideration of the approval of the City Council Minutes of the Special Closed Session of April 5, 2012, and the minutes of the Regular Meeting of April 12, 2012.

RECOMMENDED ACTION: Approve Minutes.

- B. Receive Planning Commission Action Minutes for the Regular Meeting of May 3, 2012.

RECOMMENDED ACTION: Receive Minutes.

## 8. CONSENT CALENDAR (continued)

- C. Consideration of an amendment to Title 10 (Vehicles and Traffic) of the Capitola Municipal Code to prohibit commercial traffic on Reposa Avenue.  
RECOMMENDED ACTION: Adopt Ordinance.
- D. 115 San Jose Avenue – Project Application #11-100  
Appeal of Planning Commission decision to deny a Conditional Use Permit for a take-out restaurant with the sale and dispensing of alcohol in the CV (Central Village) Zoning District [APN 035-221-27]. Filed 9/15/11. Property Owner: Peter Dwares. Representative: Dennis Norton Designs.  
RECOMMENDED ACTION: Set public hearing for May 24, 2012.
- E. 700 Escalona Drive – Project Application # 12-019  
Appeal of Planning Commission decision to deny a Coastal Permit and Design Permit to construct a new two-story single-family residence in the R-1 (Single-Family Residence) Zoning District [APN 036-141-20]. Filed 2/14/12. Property Owner: Lori Perpich & Alberto Munoz. Representative: Derek Van Alstine.  
RECOMMENDED ACTION: Set public hearing for May 24, 2012.
- F. 220 Oakland Avenue – Project Application # 12-044  
Appeal of Planning Commission decision to approve a Fence Permit and a Major Revocable Encroachment Permit to construct a wall within the City right-of-way as part of a single-family residential use in the R-1 (Single-Family Residence) Zoning District [APN 036-124-20]. Filed 3/29/12. Property Owner: Christann A. Bohnet. Representative: John Draga.  
RECOMMENDED ACTION: Set public hearing for June 14, 2012.
- G. Mayor's Proclamation honoring the American Red Cross of Santa Cruz County and designating May 16, 2012 as "Heroes Day."  
RECOMMENDED ACTION: Authorize proclamation.

## 9. GENERAL GOVERNMENT/PUBLIC HEARINGS

*General Government items are intended to provide an opportunity for public discussion of each item listed. The following procedure is followed for each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.*

- A. Receive report on Clares Street and 41<sup>st</sup> Avenue intersection options.  
RECOMMENDED ACTION: Receive report and provide direction.
- B. Consideration of an Ordinance amending Title 17 Chapter 50 (Floodplain District) of the Capitola Municipal Code as required by the Federal Emergency Management Agency (FEMA) for the community to participate in the National Flood Insurance Program (NFIP), and consideration of a Resolution authorizing the City Manager to submit a Local Coastal Program Amendment to the California Coastal Commission for certification.  
RECOMMENDED ACTION: Introduce Ordinance and adopt Resolution.

- C. Consideration of an Ordinance amending Title 8 Chapter 6 (Recycling) of the Capitola Municipal Code regarding mandatory commercial recycling.  
RECOMMENDED ACTION: Introduced Ordinance.

AT THIS POINT, ITEMS REMOVED FROM CONSENT CALENDAR WILL BE CONSIDERED
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## 10. COUNCIL/STAFF COMMUNICATIONS

### A. Staff Comments

### B. City Council/Treasurer Comments/Committee Reports

*City Council Members /City Treasurer may comment on matters of a general nature or identify issues for staff response or future council consideration. Council Members/Committee Representatives may present oral updates from standing committees at this time.*

## 11. ADJOURNMENT

Adjourn to the next Special Budget Study Session of the City Council to be held on **Wednesday**, May 23, 2012, at 6:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

**NOTE:** Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that court action within ninety (90) days following the date on which the decision becomes final as provided in Code of Civil Procedure §1094.6. Please refer to code of Civil Procedure §1094.6 to determine how to calculate when a decision becomes “final.” Please be advised that in most instances the decision become “final” upon the City Council’s announcement of its decision at the completion of the public hearing. Failure to comply with this 90-day rule will preclude any person from challenging the City Council decision in court.

**Notice regarding City Council:** The Capitola City Council meets on the 2nd and 4th Thursday of each month at 7:00 p.m. (or in no event earlier than 6:00 p.m.), in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

**Agenda and Agenda Packet Materials:** The City Council Agenda and the complete agenda packet are available on the Internet at the City’s website: [www.ci.capitola.ca.us](http://www.ci.capitola.ca.us). Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola.

**Agenda Document Review:** The complete agenda packet is available at City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the City Clerk’s office at 831-475-7300.

**Agenda Materials Distributed after Distribution of the Agenda Packet:** Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

**Americans with Disabilities Act:** Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk’s office at least 24-hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

**Televised Meetings:** City Council meetings are cablecast “Live” on Charter Communications Cable TV Channel 8 and are recorded to be replayed at 12:00 Noon on the Saturday following the meetings on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed “Live” on the City’s website at [www.ci.capitola.ca.us](http://www.ci.capitola.ca.us) by clicking on the Home Page link “**View Capitola Meeting Live On-Line.**” Archived meetings can be viewed from the website at anytime.



Item #: 8.A.

## CITY COUNCIL AGENDA REPORT

**MEETING OF MAY 10, 2012**

FROM: OFFICE OF THE CITY CLERK

SUBJECT: APPROVAL OF THE APRIL 5, 2012 SPECIAL CLOSED SESSION AND THE APRIL 12, 2012 REGULAR COUNCIL MEETING CAPITOLA CITY COUNCIL MINUTES

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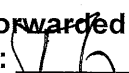
**RECOMMENDED ACTION:** By motion that the City Council approve the subject minutes as submitted.

**DISCUSSION:** Attached for City Council review and approval are the minutes to the subject meeting.

**ATTACHMENTS**

1. April 5, 2012 Special Closed Session Minutes
2. April 12, 2012 Minutes

Report Prepared By: Susan Sneddon, CMC  
City Clerk

Reviewed and Forwarded  
By City Manager: 

**NOT OFFICIAL UNTIL APPROVED BY COUNCIL**

**CITY OF CAPITOLA  
CITY COUNCIL**

**April 5, 2012  
Capitola, California**

**MINUTES OF A SPECIAL CLOSED SESSION  
5:30 P.M. — CLOSED SESSION — CITY MANAGER'S OFFICE**

**CALL TO ORDER**

**Mayor Termini** called the meeting to order at 5:30 p.m. Council Members present: Council Member Harlan, Council Member Nicol, Council Member Storey, and Mayor Termini. Council Member Norton was absent. Mayor Termini made an announcement regarding the items to be discussed in Closed Session, as follows:

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Govt. Code §54956.9:

Three cases:

1. City of Capitola Insurance Coverage Claim Against Lexington Insurance (Noble Gulch Storm Drain Failure);
2. Pacific Cove Mobile Home Park Pipe Failure and Closure.

**CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)**

Negotiator: Jamie Goldstein, City Manager

Employee Organizations: Association of Capitola Employees, Capitola Police Captains, Capitola Police Officers Association, Confidential Employees, Mid-Management Group, and Department Head Group.

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code §54957)**

Title: City Manager

**Mayor Termini** noted that there was no one in the audience; therefore, the City Council recessed at 5:31 p.m. to the Closed Session in the City Manager's Office.

**RECONVENE TO OPEN SESSION TO REPORT FROM CLOSED SESSION**

Following the Closed Session **Mayor Termini** stated that there was no reportable action.

**ADJOURNMENT**

At 6:45 p.m. **Mayor Termini** adjourned the Special Closed Session City Council Meeting to the next Regular Meeting of the City Council to be held on Thursday, April 12, 2012, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

**NOT OFFICIAL UNTIL APPROVED BY COUNCIL**

**CITY OF CAPITOLA  
CITY COUNCIL**

**April 12, 2012  
Capitola, California**

**MINUTES OF A REGULAR MEETING****5:30 P.M. — CLOSED SESSION — CITY MANAGER’S OFFICE****CALL TO ORDER**

At 5:30 p.m. in the City Hall Council Chambers, **Mayor Termini** noted that all Council Members were present. Mayor Termini made an announcement regarding the items to be discussed in Closed Session, as follows:

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of GC §54956.9:

Three cases:

1. City of Capitola Insurance Coverage Claim Against Lexington Insurance (Noble Gulch Storm Drain Failure);
2. Pacific Cove Mobile Home Park Pipe Failure and Closure;
3. Larson vs. City of Capitola.

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

(Govt. Code §54956.9)

1. Kevin Calvert, D.D.S. and Pamela Calvert vs. the City of Capitola, et al. [Superior Court of the State of California for County of Santa Cruz, Case #CV 172804];
2. Katie Saldana vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 172324];
3. Foremost Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173228];
4. Truck Insurance vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173071];
5. David Ross; Carousel Taffy Morro Bay, Inc.; Village Mouse dba The Thomas Kinkade Gallery Capitola; Judith Ferro vs. the City of Capitola, , et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173642].

**CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)**

Negotiator: Jamie Goldstein, City Manager

Employee Organizations: Association of Capitola Employees, Capitola Police Captains, Capitola Police Officers Association, Confidential Employees, Mid-Management Group, and Department Head Group.

**LIABILITY CLAIM (Govt. Code §54956.95)**

Claimant: John Kawahara

Agency claimed against: City of Capitola

**Mayor Termini** noted that there was no one in the audience; therefore, the City Council recessed at 5:35 p.m. to the Closed Session in the City Manager’s Office.

## REGULAR MEETING OF THE CAPITOLA CITY COUNCIL

## CALL TO ORDER

**Mayor Termini** called the Regular Meeting of the Capitola City Council to order at 7:00 p.m. on Thursday, April 12, 2012, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

## 1. ROLL CALL AND PLEDGE OF ALLEGIANCE:

**PRESENT:** Council Members Stephanie Harlan, Dennis Norton, Kirby Nicol, Sam Storey, and Mayor Michael Termini

**ABSENT:** None

**OTHERS:** City Treasurer Jacques Bertrand

**STAFF:** City Manager Jamie Goldstein, City Attorney John Barisone, Public Works Director Steve Jesberg, Finance Director Tori Hannah, Police Chief Ruby Escalante, and City Clerk Susan Sneddon

## 2. PRESENTATIONS:

## A. Mayor's Proclamation designating April 2012 as "National Poetry Month."

**Michelle Williams, Cultural Council of Santa Cruz County Executive Director**, introduced Santa Cruz County Poet Laureate David Swanger.

**Mayor Termini** read the Proclamation designating April 2012 as "National Poetry Month."

**David Swanger, Santa Cruz County Poet Laureate**, read three poems.

## B. Presentation by Karen Delaney, Executive Director of the Volunteer Center of Santa Cruz.

**Karen Delaney, Executive Director of the Volunteer Center of Santa Cruz**, provided information regarding the various volunteer programs that the Volunteer Center of Santa Cruz provides to the community and other non-profit agencies.

## 3. REPORT ON CLOSED SESSION [520-25]

**City Attorney Barisone** stated that items the City Council discussed are the items listed on the April 12, 2012, Closed Session Agenda; the Council received a brief status report from the City Attorney and the City Manager concerning a City of Capitola Insurance coverage claim against Lexington Insurance and the Pacific Cove Mobilehome pipe failure and park closure; however, the Council took no reportable action. **City Attorney Barisone** stated that the Council received a status report regarding various existing litigation against the City

## 3. REPORT ON CLOSED SESSION (continued)

arising out of the March 2012 flood event; however, the Council took no reportable action. He stated that the Council received a status report from the City Manager and the Administrative Services Director regarding Larson vs. the City of Capitola on administrative proceedings in an Equal Employment Opportunity Commission employment-related matter. **Mr. Barisone** stated that the Council briefly discussed the Kevin Calvert, D.D.S. and Pamela Calvert vs. City of Capitola, et al. but took no reportable action. He stated that the City Council received a status report from the City Manager, the City's labor negotiator, regarding the following employee bargaining organizations: (1) Association of Capitola Employees; (2) Capitola Police Captains; (3) Capitola Police Officers Association; (4) Confidential Employees; (5) Mid-Management Group; and (6) Department Head Group; the Council took no reportable action. **Mr. Barisone** stated that the labor negotiator took instruction from the Council with regard to ongoing negotiations. He also noted that the Council did not discuss the liability claim regarding claimant John Kawahara.

## 4. ADDITIONS AND DELETIONS TO AGENDA (none provided)

## 5. PUBLIC COMMENTS

**Melvin "Red" Malone, resident of the Bay Avenue Senior Apartments**, stated concerns regarding parking at the Bay View Senior Apartments.

**Rich Didday, Capitola Village Residence Association member**, announced the April 14th Annual citywide garage sale.

**Marilyn Garrett** stated her concerns regarding SmartMeters.

An unidentified woman stated that a dog was struck by a vehicle on Gilroy Drive; he suggested that a four-way stop be placed at the Oak Street and Beverly Avenue intersection to help reduce the traffic speed in the area.

## 6. COUNCIL/STAFF ANNOUNCEMENTS

**Council Member Norton** requested agendaizing an item on a future Council meeting to consider placing a stop sign at the Oak Street and Beverly Avenue intersection. He also suggested having a 15 MPH speed limit sign on Riverview Terrace.

**Carol Predy** stated her concerns regarding SmartMeters.

**Council Member Norton** announced that April 22<sup>nd</sup> is Earth Day; he noted that the County has a plastic bag ban in supermarkets, and local businesses have been requested to discontinue using plastic bags for customer purchases in exchange for paper bags or to encourage customers to bring their own reusable bags.

**Council Member Harlan** stated that volunteers are needed for the Coastal Watershed Council's 12th Annual Central Coast Regional Snapshot Day Event to be held on May 7<sup>th</sup> from 9 a.m. to 1 p.m. She reported on the following from the April 11 Association of Monterey Bay Area Governments (AMBAG) Board of Directors' meeting: (1) the proposed Fiscal Year 2011/2012 Budget Amendment; and (2) the Monterey Bay Region Overall Work Program for Fiscal Year 2012/2013.

**7. COMMITTEE APPOINTMENTS (none)**

**8. CONSENT CALENDAR**

- A. Consideration to deny liability claims of John Kawahara, in the amounts of \$18,400 and \$15,000 and forward them to the City's liability insurance carrier. [Claims Binder]**
- B. Approve City Council Minutes of the Regular Meeting of February 23, 2012.**
- C. Adoption of Ordinance No. 966 amending Title 3 Section 20.050 of the Capitola Municipal Code pertaining to budget transfers and budget amendments [2nd Reading]. [570-10/330-05]**
- D. Adoption of Ordinance No. 967 amending Title 17 of the Capitola Municipal Code to modify the parking standards for single room occupancy, and adoption of Ordinance No. 968 amending the Industrial Zone regulations to allow an emergency shelter [2nd Reading]. [570-10/730-85]**
- E. Receive the California Public Employees Retirement System Annual Actuarial Valuation Reports as of June 30, 2010. [630-10]**
- F. Consideration of approving a Policy for Financial Management of Federal Grant Funds and Policy for Construction/Renovation Project Change Orders for Projects Funded by Federal Grants. [100-10/390-25]**
- G. Receive Planning Commission Action Minutes for the Regular Meeting of April 5, 2012. [740-50]**
- H. Adoption of Resolution No. 3913 acknowledging the Rispin (APN 035-371-01; 035-371-02) as an asset of the Successor Agency to the former Capitola Redevelopment Agency. [780-30/275-10]**

*Motion by Council Member Nicol, seconded by Council Member Storey, to approve the Consent Calendar. The motion was unanimously carried.*

**9. GENERAL GOVERNMENT/PUBLIC HEARINGS**

- A. Discussion regarding amending the City of Capitola Municipal Code to allow dogs on Capitola Beach. [400-10]**

**Public Works Director Jesberg** introduced this item. He asked if Council wants to amend the Capitola Municipal Code removing the prohibition of dogs on the beach.

## 9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

**Mayor Termini** opened this item for public comment.

The following members of the public spoke in favor of allowing dogs on Capitola Beach.

Sandi Pensinger, Capitola resident and dog trainer;  
Aaron, Soquel resident;  
Maria Martorella, Capitola resident;  
JoAnn Gibson;  
Bonnie Vote, Scotts Valley resident;  
Mathew, Scotts Valley resident;  
Anne Mia, Santa Cruz resident;  
Pam Martinez, Canine Promendades;  
Marge Hanson, Capitola resident;  
Elaine Rolfes, Capitola resident;  
Niels Kisling, Capitola resident;  
Philip Esley, Santa Cruz resident;  
Bob Coachalova, Santa Cruz resident.

The following members of the public spoke against of allowing dogs on Capitola Beach.

Grant Weslan, Santa Cruz resident;  
Denise Ericson, Capitola Volunteer and Wildlife Rehabilitator for the State of California (provided a handout to City Council);  
Robert Holt, Capitola resident;  
Shawn Butchco, Santa Cruz resident;  
Georgina Monahan, Santa Cruz (provided a handout to City Council);  
Janice Ahlf, Capitola resident;  
Bob Edgren, Capitola resident;  
Bob Henry, Capitola resident.

**Mayor Termini** closed this item for public comment.

**Council Member Storey** stated that it is not suitable to allow dogs on Capitola Beach due to its size and the number of children playing on the beach. He stated that it would be difficult to enforce allowing dogs on certain sections or times on the beach.

## 9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

**City Council discussion ensued regarding this item.**

**Council Member Harlan** suggested addressing the need for a future city dog park as part of the Fiscal Year 2012/2013 budget.

**ACTION: No action was taken.**

**City Council took a five-minute break.**

- B. Consideration of approving a three-year sole-source contract with D.W. Alley & Associates for of approving a three-year sole-source contract with D.W. Alley monitoring of Soquel Creek and authorize the City Manager to execute the agreement. [450-10/500-10 A/C: D.W. Alley & Associates]**

**Public Works Director Jesberg** introduced this item regarding monitoring Soquel Creek, as mandated under the City's permits from California State Fish and Game and other agencies for annual lagoon closure and beach grading. He stated that staff is proposing to renew a contract with D.W. Alley and Associates to provide fish and wildlife monitoring services.

**ACTION: Motion by Council Member Harlan, seconded by Council Member Nicol, to approve a three-year sole-source contract with D.W. Alley & Associates for fish and wildlife monitoring of Soquel Creek and authorize the City Manager to execute the agreement. The motion carried unanimously with the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.**

- C. Consideration of a Resolution approving the form and authorizing the execution of the Restated and Amended Use Agreement between the Santa Cruz Consolidated Emergency Communications Center Joint Powers Agreement and the City, and authorize the City Manager to execute the agreement. [420-30/500-10 A/C: Santa Cruz Consolidated Emergency Communications Center]**

**City Manager Goldstein** introduced this item. He stated that the agreement with Santa Cruz Consolidated Emergency Center Joint Powers Authority (JPA) provides the opportunity to refinance the JPA 2002 Lease Revenue Bonds at a lower interest rate and obtain funds for facility expansion and equipment and to take out \$1.2 million in additional funding (\$200,000 would be used to purchase long-term equipment for dispatch; \$1 million would be used to buyout the County's lease for the Emergency Operation Center space and to provide for possible future regional cooperative efforts).

**Mayor Termini** stated that it appears that the City is paying a disproportionate share for the Santa Cruz Consolidated Emergency Communications Center.

## 9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

**Santa Cruz Regional 9-1-1 Acting Assistant General Manager Kidd** provided the following actual cost sharing percentages: Santa Cruz County's is just below 32%, City of Capitola is just over 9%, City of Santa Cruz is 26.3%, City of Watsonville is 18.2%, Central Fire Protection District of Santa Cruz County is 5.4%, and American Medical Response is approximately 9%.

**Council Member Storey** stated that he would like to see more detail regarding the \$200,000 for new equipment and how it would benefit the City.

**Santa Cruz Regional 9-1-1 Acting Assistant General Manager Kidd** explained that Santa Cruz Metro Records were established when the three-city law enforcement agencies requested that Santa Cruz Regional 9-1-1 assume the responsibility of managing their record system; the \$200,000 is for the Santa Cruz Metro Records' equipment fund.

**Mayor Termini** asked if by San Benito County and the City of Hollister joining the Santa Cruz Consolidated Communications Center (NetCom) if there has been an increase in response time. (**Santa Cruz Regional 9-1-1 Acting Assistant General Manager Kidd** responded that there has been no change in response time).

**Police Chief Escalante** stated that NetCom's response is efficient, and they provide medical dispatch and facilitate collaboration between the various law enforcement agencies.

**City Council discussion ensued regarding this item.**

**Mayor Termini** opened this item for public comment.

No public comment.

**Mayor Termini** closed this item for public comment.

***ACTION: Motion by Council Member Storey, seconded by Council Member Harlan, to adopt Resolution No. 3914 approving the form and authorizing the execution of the Restated and Amended Use Agreement between the Santa Cruz Consolidated Emergency Communications Center Joint Powers Agreement and the City and authorize the City Manager to execute the agreement. The motion carried unanimously with the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.***

**10. COUNCIL/STAFF COMMUNICATIONS**

A. **Staff Comments** (none provided)

B. **City Council/Treasurer Comments/Committee Report** (None provided)

**Mayor Termini** stated that the Barrios Unidos Prison Art Exhibition, entitled “Art from the Inside”, will be displayed in the Capitola Police Department lobby and in the City Council Chambers. He stated that as the City’s representative on the Capitola Oversight Board for the Successor Agency, he has requested staff to agendize a discussion regarding the Rispin property disposition.

**Council Member Storey** requested that proper noticing be provided to those who own property adjacent to the Rispin property.

**Council Member Norton** stated that the Capitola-Soquel Chamber of Commerce will be holding it’s annual Community Awards Banquet on April 13; City Manager Goldstein will be receiving the “Man of the Year” award.

**11. ADJOURNMENT**

At 9:53 p.m. **Mayor Termini** adjourned to the next Regular Meeting of the City Council to be held on Thursday, April 26, 2012, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Item #: 8.B

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 10, 2012

FROM: COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: PLANNING COMMISSION ACTION MINUTES OF MAY 3, 2012

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**1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

Commissioners: Ed Newman, Gayle Ortiz, Mick Routh, and Chairperson Ron Graves  
Absent: Linda Smith  
Staff: Interim Community Development Director Susan Westman  
Senior Planner Ryan Bane  
Minute Clerk Danielle Uharriet

**2. ORAL COMMUNICATIONS**

- A. Additions and Deletions to Agenda - NONE
- B. Public Comments - NONE
- C. Commission Comments - NONE
- D. Staff Comments - NONE

**3. APPROVAL OF MINUTES**

- A. April 19, 2012 Regular Planning Commission Meeting

Chairperson Grave represented the clarifications requested by Commissioner Smith: Page 5, third paragraph: "Commissioner Smith clarified that the fence design is not a main consideration in this application for meeting or tying into the historic standards. She stated that the mission style fence proposed does not maintain the historic style as of the residence, and she was concerned. She stated that staff could approve the portion of fencing along the Oakland Avenue frontage, but not the fencing along the Escalona Avenue, ~~frontage~~."

**APPROVED**

**4. CONSENT CALENDAR**

**A. 1565 LINCOLN AVENUE**

**#12-040**

**APN: 034-041-12**

Design Permit for a second floor addition to an existing two-story single-family residence in the R-1 (Single-Family Residence) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: John Gianopoulos, filed 3/20/12

**CONTINUED TO THE JUNE 7, 2012 MEETING. 4-0**

**B. 209 CAPITOLA AVENUE**

**#12-049**

**APN: 035-231-08**

Sign Permit for a projecting sign in the CV (Central Village) Zoning District.  
Environmental Determination: Categorical Exemption  
Property Owner: Carin Hanna, filed 4/9/12

**APPROVED 4-0**

**5. PUBLIC HEARINGS**

**A. 115 SAN JOSE AVENUE**

**#12-036**

**APN: 035-221-17, 18**

Design Permit to enclose a vestibule for an existing commercial building (Mercantile) in the CV (Central Village) Zoning District.  
Environmental Determination: Categorical Exemption  
Property Owner: Peter Dwares, owner/filed: 3/15/12  
Representative: Thacher & Thompson

**APPROVED 4-0**

**B. 712 CAPITOLA AVENUE**

**#12-039**

**APN: 036-062-14**

Design Permit for a two-car garage addition to an existing one-story single-family residence in the CN (Neighborhood Commercial) Zoning District.  
Environmental Determination: Categorical Exemption  
Property Owner: Terry Evan David, filed 3/20/12  
Representative: Dennis Norton

**APPROVED 4-0**

**C. AMEND SIGN ORDINANCE 17.57**

**#12-017**

Consideration of an amendment to the Capitola of Capitola Sign Ordinance Section 17.57 to allow for freestanding sidewalk signs on the public sidewalks in the Central Village Zoning District.

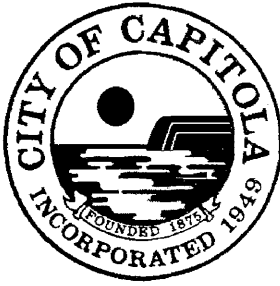
**Public Hearing Item #5.C to be continued indefinitely.**

**6. DIRECTOR'S REPORT**

**7. COMMISSION COMMUNICATIONS**

**8. ADJOURNMENT**

The Planning Commission adjourned the meeting at 7:35 p.m. to a Regular Meeting of the Planning Commission to be held on Thursday, June 7, 2012 at 7:00 p.m., in the Capitola Community Center, 4400 Jade Street, Capitola, California.



Item #: 8.C.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 10, 2012

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: AN ORDINANCE OF THE CITY OF CAPITOLA AMENDING SECTIONS 10.48.010 AND 10.48.040 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO COMMERCIAL VEHICLES ON CITY STREETS [2ND READING]

---

**RECOMMENDED ACTION:** By motion adopt the proposed Ordinance amending the municipal code regarding commercial vehicle traffic.

**BACKGROUND:** The draft Ordinance amending Sections 10.48.010 and 10.48.040 is presented for a second reading. Section 1048.010 amends the code to be in compliance with State law and Section 10.48.040 prohibits commercial traffic on Reposa Avenue.

**DISCUSSION:** The City Council approved the first reading of this ordinance at the Council meeting held on April 26, 2012 with additions to exempt commercial vehicles owned by residents of Reposa Avenue.

The proposed Ordinance is before the City Council for its second reading and final adoption. If adopted, the ordinance will take effect in thirty (30) days, or following the posting of signs by the Public Works Department, whichever occurs last.

**FISCAL IMPACT:** None

### **ATTACHMENTS**

1. April 26, 2012 City Council meeting minute excerpt.
2. Draft Ordinance

Report Prepared By: Steven Jesberg  
Public Works Director

Reviewed and Forwarded  
By City Manager: 

NOT OFFICIAL UNTIL APPROVED BY COUNCIL

CITY OF CAPITOLA  
CITY COUNCIL

April 26, 2012  
Capitola, California

MINUTE EXCERPT OF A REGULAR MEETING

6. GENERAL GOVERNMENT/PUBLIC HEARINGS

- A. Receive report and recommendations regarding the Reposa Avenue Traffic Analysis; consideration of an amendment to Title 10 (Vehicles and Traffic) of the Capitola Municipal Code to prohibit commercial traffic on Reposa Avenue. [Ordinance 1st Reading] [490-20]

**Public Works Director Jesberg** introduced this item. He stated that as part of the approval of the Fairfield Inn Hotel Project the Department of Public Works was asked to conduct a traffic impact analysis for traffic impacts on Reposa Avenue six months following the opening of the hotel. He reported on the analysis on the travel speeds, peak hour volumes, daily volumes, and heavy vehicle traffic; he also reported on data collected on Melton Avenue and 42nd Avenue for comparison. He stated that staff is recommending the adoption of an Ordinance to initiate the process to prohibit commercial traffic on Reposa Avenue.

**Mayor Termini** opened the public hearing.

**Bonnie Ford, 4055 Reposa Avenue**, suggested no commercial trucks be allowed on Reposa Avenue, and the speeding issue needs to be addressed.

**Ron Graves, the city's representative to the Santa Cruz Metropolitan Transit District Board**, suggested not banning commercial traffic on Reposa Avenue businesses operating out of their residences.

**City Attorney Barisone** suggested putting an exemption in the draft Ordinance for commercial vehicles owned by Reposa Avenue residents.

**Public Works Director Jesberg** responded that he could include a vehicle weight or axial differential.

**Robin, Reposa Avenue resident**, thanked the Council for allowing commercial vehicles owned by Reposa Avenue residents.

**Bonnie Ford, Reposa Avenue**, stated they have a heating business on Reposa Avenue, and she supports the proposed Ordinance.

**Mayor Termini** opened the public hearing.

**ACTION: Motion by Council Member Nicol, seconded by Council Member Storey, to pass the proposed Ordinance amending Title 10 (Vehicles and Traffic) of the Capitola Municipal Code to prohibit commercial traffic on Reposa Avenue. The motion carried with the following vote: AYES: Council Members Harlan, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Norton. ABSTAIN: None.**

**AN ORDINANCE OF THE CITY OF CAPITOLA AMENDING SECTIONS  
10.48.010 AND 10.48.040 OF THE CAPITOLA MUNICIPAL CODE PERTAINING  
TO COMMERCIAL VEHICLES ON CITY STREETS**

BE IT ORDAINED BY THE CITY OF CAPITOLA AS FOLLOWS:

Section 1. Section 10.48.010 of the Capitola Municipal Code is hereby amended to read as follows:

**“10.48.010 Truck Routes.**

A. Whenever any ordinance of this city designates and describes any street or portion thereof as a street the use of which is permitted by any vehicle exceeding a maximum gross weight limit of three tons, the superintendent of streets is authorized to designate such street or streets by appropriate signs as “truck routes” for the movement of vehicles exceeding a maximum gross weight limit of three tons.

B. When any such truck route or routes are established and designated by appropriate signs, the operator of any vehicle exceeding a maximum gross weight limit of three tons shall drive on such route or routes and none other; except, that nothing in this section shall prohibit the operator of any vehicle exceeding a maximum gross weight of three tons coming from a truck route having ingress and egress; by direct route to and from restricted streets when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on such restricted streets or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such restricted streets for which a building permit has previously been obtained therefore.”

Section 2. Section 10.48.040 of the Capitola Municipal Code is hereby amended to read as follows:

**“10.48.040 Commercial vehicles prohibited from streets.**

A. Whenever any ordinance of this city designates and describes any street or portion thereof as a street the use of which is prohibited by any commercial vehicle, the superintendent of streets shall erect and maintain appropriate signs on those streets affected by such ordinance.

B. Those streets and parts of streets established by ordinance of the council are declared to be streets, the use of which is prohibited by any commercial vehicle. The provisions of this section shall not apply to passenger buses under the jurisdiction of the Public Utilities Commission.

C. As permitted in paragraphs A and B above, no commercial vehicle shall be permitted on Reposa Avenue between 38<sup>th</sup> Avenue and 41<sup>st</sup> Avenue except to the extent permitted pursuant to Section 10.48.010B, except to the extent that any Reposa Avenue resident owns a commercial vehicle.

Section 3. This ordinance shall take effect and be in force thirty (30) days after final adoption.

This ordinance was introduced on the 26<sup>th</sup> day of April, 2012, and was passed and adopted by the City Council of the City of Capitola on the 10th day of May 2012, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

APPROVED:

\_\_\_\_\_  
Michael Termini, Mayor

ATTEST:

\_\_\_\_\_  
Susan Sneddon, City Clerk

CMC



Item #: 8.D.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 10, 2012

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: 115 SAN JOSE AVENUE – PROJECT APPLICATION #11-100  
APPEAL OF PLANNING COMMISSION DECISION TO DENY A CONDITIONAL  
USE PERMIT FOR A TAKE-OUT RESTAURANT WITH THE SALE AND  
DISPENSING OF ALCOHOL IN THE CV (CENTRAL VILLAGE) ZONING  
DISTRICT [APN 035-221-27]. FILED 9/15/11. PROPERTY OWNER: PETER  
DWARES. REPRESENTATIVE: DENNIS NORTON DESIGNS.

---

**RECOMMENDED ACTION:** By motion, direct staff to set a Public Hearing of the appeal of Application #11-100, for the City Council meeting of May 24, 2012.

**BACKGROUND:** On April 5, 2012, the Planning Commission denied the above project located at 115 San Jose Avenue. The applicant has appealed the application and Community Development Staff requests the City Council set the Public Hearing for the Council meeting of May 24, 2012.

**ATTACHMENTS:**

1. Appeal letter from the applicant

Report Prepared By: Ryan Bane  
Senior Planner

Reviewed and Forwarded  
By City Manager 



# SOUTHSTAR P.M., INC.

7831 S.E. Stark St. #103 • Portland, Oregon 97215 • Ph. 503-251-4888 • Fax 503-251-4848

**RECEIVED**

APR 26 2012

CITY OF CAPITOLA

April 25, 2012

City Council  
c/o City Clerk  
City of Capitola  
420 Capitola Ave.  
Capitola, CA 95010

Re: Notice of Denial of Project Application #11-100  
Applicant: First Capitola Restaurant L.L.C.,  
Assignee of Application

To Whom It May Concern,

Consider this our appeal of the Planning Commission's decision to deny the above reference Project Application. We were not in attendance at the meeting because our appointed representative, Ron Hirsch, was told by the City of Capitola that this agenda item had been rescheduled for the May meeting.

We respectfully request the opportunity to present this application to the City Council for a ruling on its merits.

Thank you for your consideration.

Sincerely,

Cameron South  
Vice-President  
Agent for Owner

cc: Ryan Bane  
Jamie Goldstein



Item #: 8.E.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 10, 2012

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: 700 ESCALONA DRIVE – PROJECT APPLICATION # 12-019  
APPEAL OF PLANNING COMMISSION DECISION TO DENY A COASTAL PERMIT  
AND DESIGN PERMIT TO CONSTRUCT A NEW TWO-STORY SINGLE-FAMILY  
RESIDENCES IN THE R-1 (SINGLE-FAMILY RESIDENCE) ZONING DISTRICT [APN  
036-141-20]. FILED 2/14/12. PROPERTY OWNER: LORI PERPICH & ALBERTO  
MUNOZ. REPRESENTATIVE: DEREK VAN ALSTINE.

---

**RECOMMENDED ACTION:** By motion, direct staff to set a Public Hearing of the appeal of Application #11-100, for the City Council meeting of May 24, 2012.

**BACKGROUND:** On April 19, 2012, the Planning Commission denied the above project located at 700 Escalona Drive. The applicant has appealed the application and Community Development Staff requests the City Council set the Public Hearing for the Council meeting of May 24, 2012.

**ATTACHMENTS:**

1. Appeal letter from the applicant

Report Prepared By: Ryan Bane  
Senior Planner

Reviewed and Forwarded  
By City Manager 

# D E R E K V A N A L S T I N E R E S I D E N T I A L D E S I G N , I N C .

April 23, 2012

RECEIVED

APR 24 2012

CITY OF CAPITOLA

City of Capitola  
Community Development Department  
420 Capitola Avenue  
Capitola, CA 95010

Re: Munoz Residence  
700 Escalona Drive  
APN: 036-141-05, 20  
App#: 12-019

To Whom It May Concern:

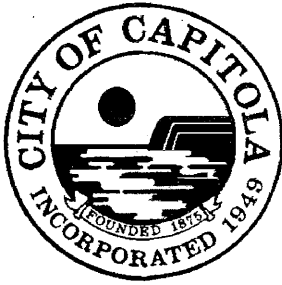
On behalf of our clients Lori and Alberto Munoz we would like to appeal the Planning Commissions April 19, 2012 decision to deny a portion of their project at 700 Escalona Drive, Capitola, CA 95010. We believe that Planning Staff was correct in supporting the variances as requested and that the Planning Commission denied the request for variances in err.

Sincerely,



Derek Van Alstine, CCO  
Derek Van Alstine Residential Design, Inc.

716 SOQUEL AVE., STE A, SANTA CRUZ, CA 95062  
phone 831-426-8400 • 831-426-8446 fax  
derek@vanalstine.com



Item #: 8.F.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 10, 2012

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: 220 OAKLAND AVENUE – PROJECT APPLICATION # 12-044,  
APPEAL OF PLANNING COMMISSION DECISION TO APPROVE A FENCE  
PERMIT AND A MAJOR REVOCABLE ENCROACHMENT PERMIT TO  
CONSTRUCT A WALL WITHIN THE CITY RIGHT-OF-WAY AS PART OF A  
SINGLE-FAMILY RESIDENTIAL USE IN THE R-1 (SINGLE-FAMILY  
RESIDENCE) ZONING DISTRICT [APN 036-124-20]. FILED 3/29/12.  
PROPERTY OWNER: CHRISTANN A BOHNET. REPRESENTATIVE: JOHN  
DRAGA.

---

**RECOMMENDED ACTION:** By motion, direct staff to set a Public Hearing of the appeal of Application #12-044, for the City Council meeting of May 24, 2012.

**BACKGROUND:** On April 19, 2012, the Planning Commission approved the above project located at 220 Oakland Avenue. Council Member Harlan has appealed the application and Community Development Staff requests the City Council set the Public Hearing for the Council meeting of June 14, 2012.

**ATTACHMENTS:**

1. Appeal letter from Council Member Harlan

Report Prepared By: Ryan Bane  
Senior Planner

Reviewed and Forwarded  
By City Manager 

To: Community Development Department

From: Councilmember Stephanie Harlan

Date: April 25, 2012

Subject : Application 10-018

**RECEIVED**

**APR 27 2012**

**CITY OF CAPITOLA**

I would like to appeal the Planning Commission decision to approve the fence at 220 Oakland, Application 10-018. I would like the City Council to consider the historical compatibility of the proposed fence, including the style and type of materials to be used.

# City of Capitola Mayor's Proclamation

## AMERICAN RED CROSS OF SANTA CRUZ COUNTY "HEROES DAY"

May 16, 2012

*WHEREAS, our community wishes to recognize and honor people who live and work in the City of Capitola and Santa Cruz County who perform heroic lifesaving acts and/or consistently show extraordinary sacrifice or compassion in the service of their fellow people; and*

*WHEREAS, it is the mission of the Santa Cruz County Chapter of the American Red Cross to prepare for, prevent, and respond to emergencies and, therefore, to recognize and honor members of the community who have responded courageously and appropriately in emergency situations; and*

*WHEREAS, May 16, 2012, is the date of the Santa Cruz County Chapter of the American Red Cross Seventh Annual "Heroes Breakfast" wherein local ordinary people with extraordinary courage will be honored in the ten categories of: Rescue Professional, Law Enforcement, Military, Education, Medical, Workplace, Animal Rescue, Good Samaritan, Youth, and Lifetime Achievement.*

*NOW, THEREFORE, I, Michael Termini, by virtue of the authority vested in me as Mayor of the City of Capitola, do hereby proclaim May 16, 2012, as "Heroes Day" in Capitola, and I encourage all our residents to honor and celebrate our local heroes, to continue to give blood, volunteer our time, and to give generously to the Santa Cruz County Chapter of the American Red Cross.*

*IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Capitola this 16th day of May, in two thousand twelve.*

*Michael Termini, Mayor*

*Signed and sealed this 16<sup>th</sup> day of May 2012*



## CITY COUNCIL AGENDA REPORT

MEETING OF MARCH 10, 2012

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: EASTBOUND CLARES STREET AT 41<sup>ST</sup> AVENUE LANE MODIFICATIONS

---

**RECOMMENDED ACTION:** Direct the Public Works Department to modify the lane configuration on eastbound Clares Street between 40<sup>th</sup> Avenue and 41<sup>st</sup> Avenue to eliminate the left turn movement from the curb lane (right lane) resulting in two dedicated left turn lanes and a through/right-turn lane.

**BACKGROUND:** Included as part of the Clares Street Traffic Calming Project were modifications to the lane configuration on Clares Street between 40<sup>th</sup> Avenue and 41<sup>st</sup> Avenue. Due to the loss of Redevelopment Agency funding this project has been delayed, but at the Council's direction the lane modification can be implemented separate from the project at little cost.

**DISCUSSION:** In its present configuration, left turn movements are permitted in all three eastbound lanes on Clares Street. This configuration was originally designed to accommodate the predominant left-hand turning movement for vehicles leaving the Capitola Mall and heading to Highway 1. The right-hand curb lane, is the only lane that also provides through and right-hand turn movements. As a result of all three movements in one lane, typical traffic patterns have resulted in the queue for the right-hand lane backing up beyond the 40<sup>th</sup> Avenue intersection, while the other two lanes left-hand turn lanes are underutilized.

This reconfiguration was analyzed by the traffic engineering firm of Hatch McDonald as part of the Clares Street Traffic Calming Project. Their analysis concludes that qualitatively this change would appear to improve the approach operations by better distributing the traffic volumes. In addition, level of service (LOS) calculations result in an increase in service from a LOS of D to an LOS of C. This analysis did not look at the potential impact for the intersection of 40<sup>th</sup> Avenue and Clares Street. An excerpt from the Hatch Mott McDonald report is included as Attachment 1.

Attachment 2 is a diagram showing the existing and proposed lane configuration. If approved, it is anticipated that the implementation will occur in 4-8 weeks depending on contractor availability.

**FISCAL IMPACT:** The estimated cost of replacing the on-street legends and signage is \$4,000 and can be covered with funding available in the Gas Tax Fund.

**ATTACHMENTS:**

1. Excerpt from Hatch Mott MacDonald report
2. Lane configuration diagrams

Report Prepared By: Steven Jesberg  
Public Works Director

Reviewed and Forwarded  
By City Manager: 



Hatch Mott  
MacDonald

1300-B First Street  
Gilroy, CA 95020  
T 408-848-3122 www.hatchmott.com

February 8, 2012

Millette Litzinger, P.E.  
Harris & Associates  
178 Second Street, Suite C  
Gilroy, CA 95020

RE: Clares Street / 41<sup>st</sup> Avenue, Capitola, CA  
Second Review – Lane Configuration Review & Traffic Signal Impacts Evaluation

Dear Millette,

I have reviewed the proposed striping improvements on westbound Clares Street at the 41<sup>st</sup> Avenue intersection in Capitola. Impacts to the existing traffic signal improvements were also evaluated. Below are the design features that were reviewed and analyzed:

1. Lane widths
2. Turn pocket lengths
3. Overall intersection geometrics
4. Traffic Signal Impacts
5. Proposed Lane Designation Changes to Eastbound Approach

**LANE WIDTHS:** The manual used for reference was the 2010 California Manual on Uniform Traffic Control Devices (2010 CA MUTCD).

- A. The proposed lanes are quite narrow (10' wide). But given the slow posted speed limit along Clares Street (25 mph), this might not present any issues.
- B. Per the 2010 CA MUTCD, when a bike lane is between a through lane and a right turn lane, the minimum required bike lane width is 4' [see Figure 9C-3(CA)]. The proposed improvements show a 5' bike lane. If desired, this extra 1' could be used to shift the lanes 1' to the north in order to reduce the amount of lane-shift through the intersection.
- C. The proposed bike lane striping does not follow 2010 CA MUTCD standards. This should be revised to comply with Figures 9C-3, 9C-3(CA), and 9C-4 of the 2010 CA MUTCD.

**TURN POCKET LENGTHS:** Storage length and deceleration lane lengths were calculated in compliance with Section 405.2, Left Turn Channelization, of the 2010 Caltrans Highway Design Manual (HDM).

**TRAFFIC SIGNAL IMPACTS:** The manual used for reference was the 2007 Caltrans Signal, Lighting and Electrical Systems Design Guide (Signal Design Guide).

- A. No changes are proposed to the EB approach lanes on Clares Street. Therefore, no signal modifications are necessary for this approach.
- B. Modifications are proposed to the lane configuration on the WB approach. The far-side signal pole for the WB approach has a mast arm length of 20'. The Signal Design Guide doesn't provide an exact match of the lane configuration proposed for this project. Using similar lane configurations from the Signal Design Guide, the mast arm signal head should either 1) line up with the lane stripe between the through lane and the left-through lane, or 2) be centered on the through lane. As it stands, the mast arm signal head will be approximately 2' north of the lane stripe between the through lane and the left-through lane (or approximately 3' south of the center of the through lane). This means that the signal head is adequately aligned, and there is no need to lengthen the mast arm.
- C. Since the WB approach lane configuration is being changed, then all the existing vehicle detection loops for this approach should be abandoned and new loops should be installed.

**PROPOSED LANE DESIGNATION CHANGES TO EASTBOUND APPROACH:** The software used for calculating and comparing intersection LOS for the existing and proposed scenarios was Synchro 7.

The existing lane configuration on the Clares Street eastbound approach includes two dedicated left turn lanes and one shared left / through / right lane. The City would like to explore the possibility of eliminating the left-turn option from the shared left / through / right lane. Therefore, the proposed lane configuration would include two dedicated left turn lanes and one shared through / right lane.

Given the traffic count information provided by the City, it is apparent that the shared lane is over-utilized and the exclusive left turn lanes are under-utilized. Elimination of the left turn option from the shared lane would reduce the vehicle queue length on this lane, as left turn volumes would be shifted to the two exclusive left turn lanes. Qualitatively, this would appear to improve the approach operations as it would better distribute the traffic volumes. It would reduce vehicles in the shared lane (alleviate the over-utilization), and it would increase vehicles in the exclusive left turn lanes (currently under-utilized). A reduction of vehicles in the shared lane might also help dissipate the queue from the 40<sup>th</sup> Ave northbound approach.

In addition to qualitatively assessing the proposed lane designation change, an intersection level of service (LOS) analysis was conducted using the Synchro 7 software. The traffic volumes used for this analysis were the same ones used for the turn lane storage calculations shown previously in this letter report. Two time periods were analyzed for both existing

lane configuration and proposed lane configuration conditions. Below are the scenarios analyzed:

1. E+P Weekday PM Peak Conditions (existing lane configuration)
2. E+P Weekday PM Peak Conditions (proposed lane configuration)
3. E+P Saturday Peak Conditions (existing lane configuration)
4. E+P Saturday Peak Conditions (proposed lane configuration)

Comparing the existing and proposed lane configurations, the Synchro results show that in both peak hour scenarios the average control delay is reduced (by approximately 5 seconds) when using the proposed lane configuration (refer to Synchro Output Sheets as Attachment A). For the weekday peak hour condition, the existing lane configuration LOS is D, and it improves to LOS C for the proposed lane configuration. Similarly for the Saturday peak condition, the existing lane configuration LOS is E, and it improves to LOS D for the proposed lane configuration.

In order to better assess all traffic implications associated with the proposed lane configuration change, a more detailed analysis is necessary. This may require the collection of new traffic counts, queue data on Clares Street and 40<sup>th</sup> Avenue, and a combined detailed study of both intersections. Nevertheless, our overview analysis of the data provided by the City indicates that the proposed lane configuration modification for the eastbound Clares Street approach would slightly improve traffic operations at the project intersection.

Please review these comments and contact me if you have any questions or need additional information.

Respectfully Submitted,



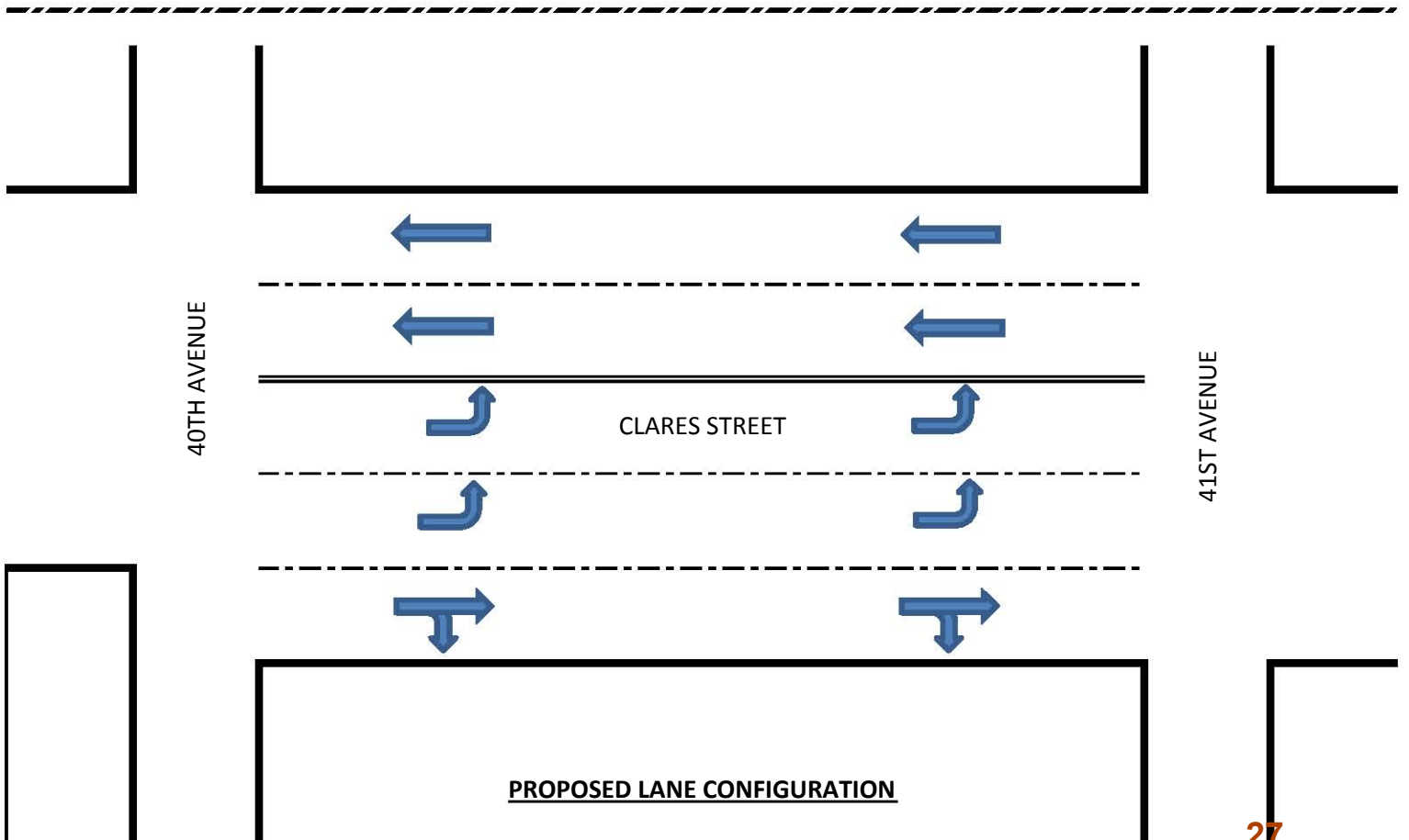
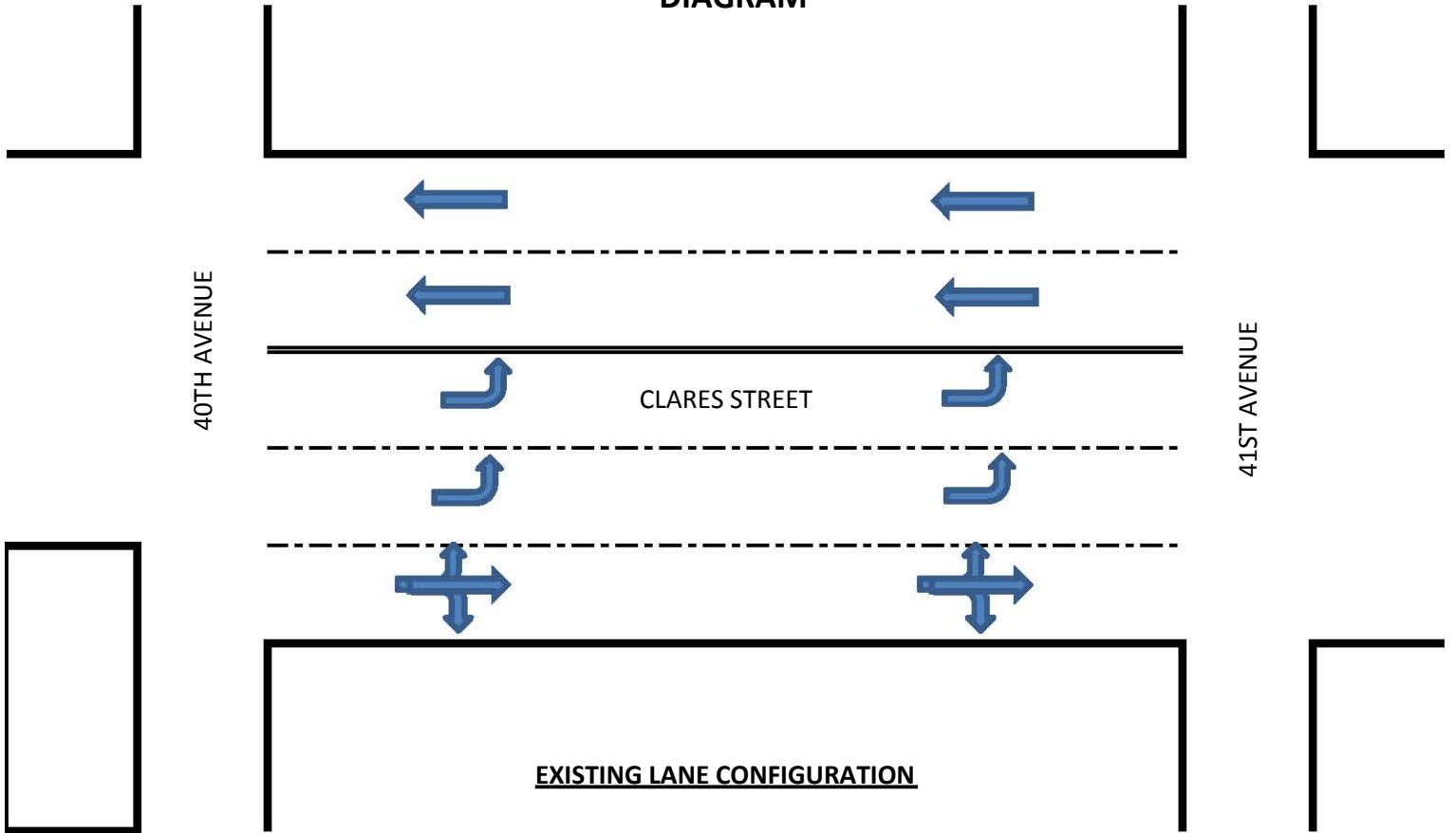
Leo Trujillo, PE, TE  
Senior Project Engineer

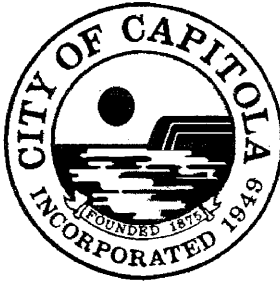
Enclosures

CLARES STREET  
LANE CONFIGURATION  
DIAGRAM

ATTACHMENT 2

not to scale





Item #: 9.B.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 10, 2012

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: FEMA FLOODPLAIN MANAGEMENT REGULATION UPDATES

---

**RECOMMENDED ACTION:** By motion pass the proposed ordinance to a second reading amending Chapter 17.50 Floodplain District in the Capitola Municipal Code as required by the Federal Emergency Management Agency (FEMA) for the community to participate in the National Flood Insurance Program (NFIP) and adopt a resolution amending Chapter 17.50 directing the City Manager to submit this Local Coastal Plan amendment to the California Coastal Commission for review and certification.

**BACKGROUND:** The City has received notice from FEMA, who administers the National Flood Insurance Program (NFIP), requiring updates to the municipal code sections pertaining to floodplain management. In order to continue eligibility in the program these amendments must be adopted by May 16, 2012.

The NFIP provides the opportunity for property owners in designated flood hazard areas to purchase flood insurance. Nearly 20,000 communities across the United States and its territories participate in the NFIP by adopting and enforcing floodplain management ordinances to reduce future flood damage. In exchange, the NFIP makes federally backed flood insurance available to homeowners, renters, and business owners in these communities.

Flood insurance is designed to provide an alternative to disaster assistance to reduce the escalating costs of repairing damage to buildings and their contents caused by floods. Flood damage is reduced by nearly \$1 billion a year through communities implementing sound floodplain management requirements and property owners purchasing of flood insurance. Additionally, buildings constructed in compliance with NFIP building standards suffer approximately 80 percent less damage annually than those not built in compliance.

**Public Review and Notice:** In accordance with California Planning and Zoning Law (2012) Chapter 2.7 Section 65091 Section 65091 (4) and the City of Capitola Zoning Ordinance a Notice of Public Hearing has been published in the Santa Cruz Sentinel.

The Planning Commission held a public hearing on April 19, 2012. There was no public testimony. The Planning Commission adopted a resolution recommending that the City Council amend Chapter 17.50 as proposed and direct the City Manager to submit this Local Coastal Plan Amendment to the California Coastal Commission review and certification.

**DISCUSSION:** The attached ordinance amends Chapter 17.50 Floodplain District with new regulations that better define the building hazards and provisions for allowing construction in the flood hazard areas. In addition, updated development standards are established for utilities, subdivisions, manufactured homes, recreational vehicles, and for construction in floodways and high hazard areas. The variance and appeal process is also better detailed in the revised code.

**CALIFORNIA ENVIROMENTAL QUALITY ACT:** Pursuant to CEQA Guidelines Section 15308, Actions by Regulatory Agency for Protection of the Environment, the proposed Zoning and Local Coastal Plan amendments associated with the Floodplain ordinance are exempt from CEQA. The proposed changes to the floodplain district provide improved protection to structures and facilities within the district which will minimize impacts of flood events, thereby providing improved protection of the environment.

**FISCAL IMPACT:** None

**ATTACHMENTS:**

1. Strikeout and Underline version of Draft Ordinance
2. Draft Resolution
3. Letter from FEMA dated November 16, 2011

Report Prepared By: Steven Jesberg  
Public Works Director

Reviewed and Forwarded  
By City Manager: 

## DRAFT

## Strikeout and Underline Version of Adopted Ordinance No. \_\_\_\_

## Chapter 17.50

## FLOODPLAIN DISTRICT

Sections:

<u>17.50.010</u>	<u>Statutory authorization.</u>
<u>17.50.020</u>	<u>Findings of fact.</u>
<u>17.50.030</u>	<u>Statement of purpose.</u>
<u>17.50.040</u>	<u>Methods of reducing flood losses.</u>
<u>17.50.050</u>	<u>Abrogation and greater restrictions.</u>
<u>17.50.060</u>	<u>Interpretation.</u>
<u>17.50.070</u>	<u>Warning and disclaimer of liability.</u>
<u>17.50.080</u>	<u>Severability.</u>
<u>17.50.090</u>	<u>Basis for establishing the areas of special flood hazard.</u>
<u>17.50.100</u>	<u>Definitions.</u>
<u>17.50.110</u>	<u>Designation of the floodplain administrator.</u>
<u>17.50.120</u>	<u>Duties and responsibilities of the floodplain administrator.</u>
<u>17.50.130</u>	<u>Combining district.</u>
<u>17.50.140</u>	<u>Compliance.</u>
<u>17.50.150</u>	<u>Principal permitted uses.</u>
<u>17.50.160</u>	<u>Accessory uses.</u>
<u>17.50.170</u>	<u>Conditional uses.</u>
<u>17.50.180</u>	<u>Development standards.</u>
<u>17.50.190</u>	<u>Development permit.</u>
<u>17.50.200</u>	<u>Appeals.</u>
<u>17.50.210</u>	<u>Standards of construction.</u>
<u>17.50.220</u>	<u>Standards for utilities</u>
<u>17.50.230</u>	<u>Standards for subdivisions.</u>
<u>17.50.240</u>	<u>Standards for manufactured homes.</u>
<u>17.50.250</u>	<u>Standards for recreational vehicles.</u>
<u>17.50.260</u>	<u>Standards within floodways.</u>
<u>17.50.270</u>	<u>Coastal high hazard areas.</u>
<u>17.50.280</u>	<u>Variance procedure.</u>
<u>17.50.290</u>	<u>Conditions of variances.</u>
<u>17.50.300</u>	<u>Approval of variances.</u>
<u>17.50.310</u>	<u>Nonconforming structures in flood plain.</u>
<u>17.50.320</u>	<u>Appeal procedure.</u>
<u>17.50.330</u>	<u>Disclosure requirement.</u>

17.50.010 Statutory authorization.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Capitola does hereby adopt the following floodplain management regulations.

17.50.020 Findings of fact.

The flood hazard areas of City of Capitola are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by uses that are inadequately elevated, flood proofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.

**17.50.030 Statement of purpose.**

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide (i.e. mudflow) or flood related erosion areas. These regulations are designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**17.50.040 Methods of reducing flood losses.**

In order to accomplish its purposes, this ordinance includes regulations to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Control filling, grading, dredging, and other development which may increase flood damage;
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas; and

**17.50.050 Abrogation and greater restrictions.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**17.50.060 Interpretation.**

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

#### **17.50.070 Warning and disclaimer of liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Capitola any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

#### **17.50.080 Severability.**

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

#### **17.50.090 Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of, the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated June 3, 1986 and accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's) dated June 3, 1986, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. The FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city by the floodplain administrator. The study, FIRMS and FBFMs are on file at 420 Capitola Avenue, city of Capitola. (Ord. 755 § 2, 1993)

#### **17.50.100 Definitions.**

For the purposes of this chapter, the following words, phrases and terms shall have the meanings ascribed to them by this section:

"A zone" - see "Special flood hazard area".

"Accessory structure" means a structure that is either:

1. Solely for the parking of no more than 2 cars; or
2. A small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value.

"Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located. "Alluvial fan" means a geomorphologic feature characterized by cone or fan-shaped deposit of boulders, gravel and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

#### **17.50.010 Definitions.**

~~For the purposes of this chapter, the following definitions shall apply:~~

**"Alluvial fan"** means a geomorphologic feature characterized by cone or fan-shaped deposit of boulders, gravel and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"Apex" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.

"Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

"Area of shallow flooding" means a designation A or AH Zone on the Flood Insurance Rate Map (FIRM) where: the base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of shallow flooding" means a designation A or AH Zone on the Flood Insurance Rate Map (FIRM) where: the base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow."Area of special flood hazard" - See "Special flood hazard area."

"Area of special flood related erosion hazard" is the land within a community which is most likely to be subject to severe flood related erosion losses. The area may be designated a Zone E on the Flood Insurance Rate Map (FIRM)

"Base flood" means a flood which has a one percent chance of being equalled or exceeded in any given year (also called the "100 year flood"). Base flood is the term used throughout this ordinance.

"Base flood elevation" (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade - i.e., below ground level - on all sides.

"Breakaway walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Building" - see "Structure".

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 14, 1984.

~~—"Breakaway walls" means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building materials, which are not part of the structural support of the building and which are so designed as to break away under abnormally high tides or wave action without damage to the structural integrity of the building on which they might be carried by floodwaters.~~

~~—"Coastal high-hazard area" means the area subject to high-velocity waters, including coastal and tidal inundation or tsunamis. This area is designated on the Flood Insurance Rate Map (FIRM) as Zone VI-30.~~

~~—"Existing manufactured home park or subdivision" means a manufactured home park for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before the effective date of Ordinance No. 562.~~

**"Expansion to an existing manufactured home park or subdivision"** means the preparation of additional sites by construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

**"Flood," "flooding" or "flood water"** means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e. mudflows); and
2. The condition resulting from flood related erosion.

**"Flood Boundary and Floodway Map (FBFM)"** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

**"Flood Hazard Boundary Map"** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

**"Flood Insurance Rate Map (FIRM)"** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**"Flood Insurance Study"** means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map and the water surface elevation of the base flood.

~~"Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source.~~

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source - see "Flooding."

**"Floodplain administrator"** is the individual appointed to administer and enforce the floodplain management regulations.

**"Floodplain area"** means the land on either side of a creek or other watercourse which may be subject to flooding. "Floodplain area" includes the one-hundred-year floodplain as determined by

the Federal Flood Insurance Program and shown on both the Flood Insurance Rate Map and Flood Boundary and Floodway map, each dated June 3, 1986.

**"Floodplain management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, when possible natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations and open space plans.

~~"Floodplain management regulations" means the ordinance codified in this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.~~

~~"Floodproofing" means any combination of structural and nonstructural additions, changes or adjustments to nonresidential structures which reduce or eliminate flood damage to real estate or improved property.~~

"Floodplain management regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway."

**"Flood-related erosion"** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**"Flood-related erosion area"** means a land area adjoining the shore of a lake or other body of water which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

**"Flood-related erosion area management"** means the operation of an overall program of corrective and preventive measures for reducing flood related erosion damage including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

~~"Floodway" means the channel of the river or other watercourse and the adjacent land areas that must be preserved in order to discharge the base flood without cumulatively increasing the water surface elevations more than one foot. The floodway is delineated on the Flood Boundary Map dated June 3, 1986.~~

**"Floodway encroachment lines"** means the lines marking the limits of floodways on federal, state and local floodplain maps.

**"Floodway fringe"** is the area of the floodplain on either side of the "regulatory floodway" where encroachment may be permitted.

~~"Fraud and victimization" as related to Section 17.50.150 means that the variance granted must not cause fraud on, or victimization of, the public. In examining the requirement, the community governing body will consider the fact that every newly constructed building adds to government responsibility and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a~~

~~whole are subject to all the cost, inconvenience, danger and suffering that those increased flood damages bring, in addition, future owners may purchase the property, unaware that it is subject to potential flood damage and can be insured only at very high flood insurance rates.~~

"Fraud and victimization" means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City of Capitola will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

**"Functionally dependent use"** means a use, the intended purpose of which cannot be performed unless the use is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo and passengers, and ship-building and ship-repair facilities, but does not include long-term storage or related manufacturing facilities.

**"Habitable floor"** means floors usable for living purposes, which includes working, sleeping, eating or recreation, or combination thereof. A floor used only for storage purposes is not a habitable floor.

**"Hardship"** as related to Section 17.50.150 means the exceptional hardship that would result from a failure to grant the requested variance. The City of Capitola requires that the variance must be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbor likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**"Highest adjacent grade"** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

~~—————"Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.~~

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:

a. The flood openings standard in Section 17.50.210.C.3;

b. The anchoring standards in Section 17.50.210.A;

c. The construction materials and methods standards in Section 17.50.210.B; and

d. The standards for utilities in Section 17.50.220

2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**"Manufactured home park or subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

~~"Manufactured homes" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured homes" also includes travel trailers or other similar vehicle placed on a site for greater than one hundred eighty days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.~~

"Market value" is defined in the City of Capitola substantial damage/improvement procedures. See Section 17.50.120.B.1.

**"Mean sea level"** means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on city- a community's Flood Insurance Rate Map are referenced.

**"Mudslide"** describes a condition where there is river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

**"Mudslide prone area"** means an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

~~"New construction" means projects which received their city approval after the effective date of Ordinance No. 575~~

"New construction" for floodplain management purposes, means structures for which the "start of construction" commenced on or after August 14, 1984, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 14, 1984.-

**"Obstruction"** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protective, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any

watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**"One-hundred-year flood" or "100-year flood" - see "Base flood."**

**"Primary frontal dune"** means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

**"Program deficiency"** means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

**"Public safety and nuisance"** as related to Section 17.50.150 means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

~~"Ravine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.~~

**"Regulatory floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing water surface elevation more than one foot.

**"Sand dunes"** means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**"Sheet flow area" - see "Area of shallow flooding."**

**"Special flood hazard area (SFHA)"** means an area having special flood, mudslide or flood-related erosion hazards and shown on the FHBM or FIRM as Zone A, AO, AI—A30, AE, A99, AH, E, M, V1—V30, VE or V.

~~"Start of construction," for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. "Permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garage or sheds not occupied as dwelling units or not part of the main structure.~~

**"Start of construction"** includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or

other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition ~~before damage~~ would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

~~"Substantial improvement" means any repair, reconstruction or improvement of a structure, the city's approval of which occurs after the original effective date of Ordinance No. 575, the cost of which equals or exceeds fifty percent of the fair market value of the structure:~~

- ~~1. Before the improvement or repair is started; or~~
- ~~2. If the structure has been damaged and is being restored, before the damage occurred.~~

~~"Substantial improvement" may occur even if there is no change in a structure's external dimensions. This term does not, however, include either:~~

- ~~1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or~~
- ~~2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.~~

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- 1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- 2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"V zone" - see "Coastal high hazard area."

"Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

"Watercourse" means a lake, river creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplain or coastal or riverine areas. (Ord. 755 § 1, 1993; Ord. 656 § 1, 1988; Ord. 647 § 1, 1988; Ord. 619 § 1, 1987; Ord. 609 § 1, 1986; Ord. 575 § 2 (part), 1984)

#### **17.50.110 Designation of the floodplain administrator.**

The (e.g., City Manager, Director of Planning, Public Works, or Building Official, etc.) is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

#### **17.50.120 Duties and responsibilities of the floodplain administrator.**

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

- A. Permit Review. Review all development permits to determine:

1. Permit requirements of this ordinance have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
2. All other required state and federal permits have been obtained;
3. The site is reasonably safe from flooding;
4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Capitola; and
5. All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

B. Development of Substantial Improvement and Substantial Damage Procedures.

1. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."
2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

C. Review, Use and Development of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 17.50.090, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Sections 17.50.210-17.50.270.

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

D. Notification of Other Agencies.

1. Alteration or relocation of a watercourse:
  - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
  - b. Submit evidence of such notification to the Federal Emergency Management Agency; and
  - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
2. Base Flood Elevation changes due to physical alterations:
  - a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
  - b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition. Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.
3. Changes in corporate boundaries:

Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

E. Documentation of Floodplain Development.

Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by Section 17.50.210.C.1 and Section 17.50.240 (lowest floor elevations);
2. Certification required by Section 17.50.210.C.2 (elevation or floodproofing of nonresidential structures);
3. Certification required by Sections 17.50.210.C.3 (wet floodproofing standard);
4. Certification of elevation required by Section 17.50.230.A.3 (subdivisions and other proposed development standards);
5. Certification required by Section 17.50.260.B (floodway encroachments);
6. Information required by Section 17.50.270.F (coastal construction standards); and
7. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

F. Map Determination.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 17.50.200.

G. Remedial Action.

Take action to remedy violations of this ordinance as specified in Section 17.50.140.

H. Biennial Report.

Complete and submit Biennial Report to FEMA.

I. Planning.

Assure community's General Plan is consistent with floodplain management objectives herein.

**17.50.020 Applicability.**

~~\_\_\_\_\_The regulations set forth in this chapter apply in the floodplain district. (Ord. 575 § 2 (part), 1984)~~

**17.50.030 Purpose.**

~~\_\_\_\_\_This district is designed to inform property owners and potential property owners of lands which are located in the floodplains, and to regulate development within the floodplain to protect against further hazard resulting from flood, earthquake or tsunami. (Ord. 575 § 2 (part), 1984)~~

**17.50.035 Basis for establishing the areas of special flood hazard.**

~~\_\_\_\_\_The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of, the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated June 3, 1986 and accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's) dated June 3, 1986, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. The FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city by the floodplain administrator. The study, FIRMS and FBFMs are on file at 420 Capitola Avenue, city of Capitola. (Ord. 755 § 2, 1993)~~

**17.50.040130 Combining district.**

Land classified FP shall also have a basic classification as set forth elsewhere in this title. For example, R-1-FP means that the R-1 district regulations apply as well as the FP regulations. (Ord. 575 § 2 (part), 1984)

**17.50.045140 Compliance.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the term of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 755 § 3, 1993)

**17.50.050150 Principal permitted uses.**

The following are principal permitted uses in the FP district: All uses permitted in the basic zoning district. (Ord. 575 § 2 (part), 1984)

**17.50.060160 Accessory uses.**

The following are accessory uses permitted in the FP district: All accessory uses permitted in the basic zoning district. (Ord. 575 § 2 (part), 1984)

**17.50.070170 Conditional uses.**

The following are conditional uses in the FP district: All conditional uses in the basic zoning district. (Ord. 572 § 2 (part), 1984)

**17.50.080180 Development standards.**

The development standards shall be the same as the basic zoning district except in those instances when more restrictive standards are necessary to provide assurance of conforming with this chapter. (Ord. 575 § 2 (part), 1984)

~~**17.50.085 Notification of adjacent communities.**~~

~~\_\_\_\_\_The community development director shall notify the county and other appropriate agencies prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. (Ord. 656 § 2, 1988)~~

~~**17.50.090 Application procedure and recordkeeping.**~~

~~\_\_\_\_\_As part of the architectural and site review requirements for new construction and substantial improvements in the floodplain district, the following information shall be presented and reviewed to determine that the proposal is reasonably safe from flooding. This information and certification shall be maintained in the project file:~~

~~\_\_\_\_\_A. \_\_\_\_\_Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures;~~

~~\_\_\_\_\_B. \_\_\_\_\_Elevation in relation to mean sea level to which any proposed structure has been floodproofed;~~

~~\_\_\_\_\_C. \_\_\_\_\_Certification by a registered professional engineer or architect that the floodproofing methods for any proposed nonresidential structure meet the development standards;~~

~~\_\_\_\_\_D. \_\_\_\_\_The public works director shall maintain the as-built elevation of all structures. (Ord. 656 § 3, 1988; Ord. 575 § 2 (part), 1984)~~

~~**17.50.095 Permit requirements.**~~

~~\_\_\_\_\_Applicants for development permits in flood hazard areas must demonstrate that:~~

~~\_\_\_\_\_A. \_\_\_\_\_The permit requirements of Section 17.50.090 have been satisfied;~~

- ~~\_\_\_\_\_ B. \_\_\_\_\_ All necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required;~~
- ~~\_\_\_\_\_ C. \_\_\_\_\_ The cumulative effect of the proposed development when combined with all other existing and anticipated development in any flood hazard area will not increase the water surface elevation of the base flood more than one foot at any point;~~
- ~~\_\_\_\_\_ D. \_\_\_\_\_ Proposed development in the coastal high hazard area will not alter the shoreline and sand dunes so as to increase potential flood damage;~~
- ~~\_\_\_\_\_ E. \_\_\_\_\_ The site is reasonably safe from flooding;~~
- ~~\_\_\_\_\_ F. \_\_\_\_\_ When base flood elevation data has not been provided on the Flood Insurance Rate Map (FIRM), the applicant shall obtain elevation data from federal, state or other sources, in order to comply with the provisions of this section. (Ord. 656 § 4, 1988)~~

#### **~~17.50.100 Development standards—Floodplain area.~~**

~~\_\_\_\_\_ In all floodplain areas, the following standards are required:~~

- ~~\_\_\_\_\_ A. \_\_\_\_\_ Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic or hydrostatic loads, including the effects of buoyancy.~~
- ~~\_\_\_\_\_ B. \_\_\_\_\_ Construction Materials and Methods.~~
  - ~~\_\_\_\_\_ 1. \_\_\_\_\_ All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.~~
  - ~~\_\_\_\_\_ 2. \_\_\_\_\_ All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.~~
  - ~~\_\_\_\_\_ 3. \_\_\_\_\_ All elements that function as a part of the structure, such as furnace, hot water heater or air conditioner shall be elevated to or above the base flood elevation.~~
  - ~~\_\_\_\_\_ 4. \_\_\_\_\_ Within Zones AH or AO, all construction shall provide adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.~~
- ~~\_\_\_\_\_ C. \_\_\_\_\_ Elevation and Floodproofing. The planning or public works director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A as follows:~~
  - ~~\_\_\_\_\_ 1. \_\_\_\_\_ a. \_\_\_\_\_ New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation, and in areas designated AO on the Flood Insurance Rate Map (FIRM) elevated above the highest adjacent grade, at least as high as the depth specific in feet on the FIRM, or at least two feet if no depth number is specified. Nonresidential structures may meet the requirements in subdivision 2 of subsection C of this section.~~
  - ~~\_\_\_\_\_ b. \_\_\_\_\_ Upon completion of the structure, the elevation of the lowest habitable floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor and provided to the public works director.~~
- ~~\_\_\_\_\_ 2. \_\_\_\_\_ Nonresidential construction shall either be elevated in conformance with subsection C1 or shall meet both of the following requirements:~~
  - ~~\_\_\_\_\_ a. \_\_\_\_\_ It shall be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water. Examples of floodproofing include, but are not limited to:~~
    - ~~\_\_\_\_\_ i. \_\_\_\_\_ Installation of watertight doors, bulkheads and shutters;~~
    - ~~\_\_\_\_\_ ii. \_\_\_\_\_ Reinforcement of walls to resist water pressure;~~
    - ~~\_\_\_\_\_ iii. \_\_\_\_\_ Use of paints, membranes or mortars to reduce seepage through walls;~~
    - ~~\_\_\_\_\_ iv. \_\_\_\_\_ Addition of mass or weight to structure to resist flotation;~~
    - ~~\_\_\_\_\_ v. \_\_\_\_\_ Armour protection of all fill materials from scour and/or erosion.~~
  - ~~\_\_\_\_\_ b. \_\_\_\_\_ A registered professional engineer or architect must certify that the standards of this subsection are satisfied. Such certification shall be provided to the public works director.~~

~~3. Mobile homes shall meet the above standards and also the standards in Section 17.50.130 of this chapter.~~

~~4. The flood-carrying capacity within the altered or relocated portion of any watercourse shall be maintained.~~

~~D. Floodplain Elevation Data. In the absence of base flood elevation data from FEMA, the community will obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, as criteria for requiring that:~~

~~1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level; and~~

~~2. All new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or floodproofed at or above the base flood levels.~~

~~E. Manmade alterations of sand dunes, as part of new construction or substantial improvements, within Zones V1-30, VE, and V, as indicated on the FIRM, shall be prohibited. (Ord. 755 § 4, 1993; Ord. 656 § 5, 1988; Ord. 619 § 2, 1987; Ord. 575 § 2 (part), 1984).~~

#### **17.50.190 Development permit.**

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 17.50.090.

Application for a development permit shall be made on forms furnished by the City of Capitola. The applicant shall provide the following minimum information:

A. Plans in duplicate, drawn to scale, showing:

1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;

2. Proposed locations of water supply, sanitary sewer, and other utilities;

3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;

4. Location of the regulatory floodway when applicable;

5. Base flood elevation information as specified in Section 17.50.090 or Section 17.50.120.C;

6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and

7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 17.50.210.C.2 of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.

B. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 17.50.210.C2.

C. For a crawl-space foundation, location and total net area of foundation openings as required in Section 17.50.210.C.3 of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E. All appropriate certifications listed in Section 17.50.120.E of this ordinance.

#### **17.50.200 Appeals.**

The City of Capitola shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

#### **17.50.210 Standards of construction.**

In all areas of special flood hazards the following standards are required:

A. Anchoring.

All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

**B. Construction Materials and Methods.**

All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

1. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
2. Using methods and practices that minimize flood damage;
3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
4. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

**C. Elevation and Floodproofing.**

**1. Residential construction.**

All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

- a. In AE, AH, A1-30 Zones, elevated to or above the base flood elevation.
- b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least 2 feet above the highest adjacent grade if no depth number is specified.
- c. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated to or above the base flood elevation; as determined under Section 17.50.120.C.

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

**2. Nonresidential Construction.**

All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with Section 17.50.210.C.1 or:

- a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section 17.50.210.C.1, so that the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered civil engineer or architect that the standards of Section 17.50.210.C.2.a & b are satisfied. Such certification shall be provided to the Floodplain Administrator.

**3. Flood openings.**

All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

- a. For non-engineered openings:
  1. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one foot above grade;
3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
4. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
- b. Be certified by a registered civil engineer or architect.
4. Manufactured homes.
  - a. See Section 17.50.240.
5. Garages and low cost accessory structures.
  - a. Attached garages.
    1. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 17.50.210.C.3. Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 17.50.210.B.
    2. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
  - b. Detached garages and accessory structures.
    1. "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 17.50.100, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
      - a) Use of the accessory structure must be limited to parking or limited storage;
      - b) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
      - c) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
      - d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
      - e) The accessory structure must comply with floodplain encroachment provisions in Section 17.50.260; and
      - f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 17.50.210.C.3.
    2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 17.50.210-17.50.270

#### **17.50.110220 Standards for utilities.**

~~All new and replacement water systems and sanitary sewage systems shall be designed to minimize infiltration of floodwaters into the system and discharge from system into floodwaters. (Ord. 575 § 2 (part), 1984)~~

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
  1. Infiltration of flood waters into the systems; and
  2. Discharge from the systems into flood waters.
- B. On-site waste disposal systems are prohibited per CMC 13.040.

#### **~~17.50.120 Standards for subdivisions.~~**

~~———— The following standards shall apply to subdivisions proposed for the floodplain area:~~

~~———— A. ——— All preliminary subdivision proposals shall identify the floodplain area and the elevation of the one-hundred-year flood.~~

~~———— B. ——— All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the one-hundred-year flood elevation, the final pad elevation shall be certified by a registered civil engineer or licensed land surveyor and provided to the public works director.~~

~~———— C. ——— All subdivision proposals shall be consistent with the need to minimize flood damage.~~

~~———— D. ——— All subdivision proposals shall have all utilities and facilities under the control of the city located and constructed to minimize flood damage.~~

~~———— E. ——— All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage. (Ord. 575 § 2 (part), 1984)~~

#### **17.50.230 Standards for subdivisions.**

A. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:

1. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).

2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.

3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:

a. Lowest floor elevation.

b. Pad elevation.

c. Lowest adjacent grade.

B. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.

C. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

D. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

#### **17.50.130240 Development standards for manufactured homes and manufactured home parks and subdivisions in floodplain area.**

~~A. ——— Anchoring. All manufactured homes and additions to a manufactured home shall be anchored to resist flotation, collapse or lateral movement by providing an anchoring system designed to withstand horizontal forces of fifteen pounds per square foot and uplift forces of nine pounds per square foot.~~

~~———— B. ——— Standards set out in subdivisions 1 and 2 below are required for: Manufactured homes not placed in manufactured home parks or subdivisions, new manufactured home parks or subdivisions, expansions to existing manufactured home parks or subdivisions, and repair, reconstruction or improvements to existing manufactured home parks or subdivisions that equal or exceed fifty percent of the value (before the repair, reconstruction or improvement has commenced) of the streets, utilities and pads.~~

~~———— 1. ——— Adequate surface drainage and access for a hauler shall be provided;~~

~~———— 2. ——— No manufactured homes may be placed in a floodway except in an existing manufactured home park or subdivision.~~

~~———— C. ——— All manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system in accordance with the provisions of~~

~~subsection A of this section. This subsection applies to manufactured homes to be placed upon, or substantially improved in, an expansion to an existing manufactured home park or subdivision within zones A1-30, AH and AE on the city's FIRM. This subsection does not apply to manufactured homes to be placed upon, or substantially improved in, an existing manufactured home park or subdivision, and repair, reconstruction or improvements to existing manufactured home parks or subdivisions that equal or exceed fifty percent of the value (before the repair, reconstruction or improvement has commenced) of the streets, utilities and pads. (Ord. 647 § 2, 1988; Ord. 619 § 3, 1987; Ord. 575 § 2 (part), 1984)~~

- ~~A. All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:
  - ~~1. Within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~
  - ~~2. Within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Section 17.50.270.~~~~
- ~~B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of Section 17.50.240.A will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
  - ~~1. Lowest floor of the manufactured home is at or above the base flood elevation; or~~
  - ~~2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.~~~~

~~Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.~~

#### **17.50.250 Standards for Recreational Vehicles.**

- ~~A. All recreational vehicles placed in Zones A1-30, AH, AE, V1-30 and VE will either:
  - ~~1. Be on the site for fewer than 180 consecutive days; or~~
  - ~~2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or~~
  - ~~3. Meet the permit requirements of Section 17.50.190 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 17.50.240.~~~~
- ~~B. Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 17.50.250.A and Section 17.50.270.~~

#### **17.50.140260 Standards within floodways.**

~~Located within the floodplain are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:~~

~~\_\_\_\_\_ A. \_\_\_\_\_ The following are prohibited: encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.~~

~~\_\_\_\_\_ B. \_\_\_\_\_ The placement of any manufactured home within the floodway is prohibited except in an existing manufactured home park or subdivision.~~

~~\_\_\_\_\_ C. \_\_\_\_\_ If subsections A and B of this section are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 17.50.100 through 17.50.110 of this chapter. (Ord. 619 § 4, 1987; Ord. 575 § 2 (part), 1984)~~

Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. \_\_\_\_\_ Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Capitola.

B. \_\_\_\_\_ Within an adopted regulatory floodway, the City of Capitola shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

C. \_\_\_\_\_ If Sections 17.50.260.A & B are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 17.50.210-17.50.270.

#### **17.50.145270 Coastal high hazard areas.**

~~\_\_\_\_\_ A. \_\_\_\_\_ Coastal high hazard areas (V Zones) are located within the areas of a special flood hazard established in Section 17.50.010B. These areas have special flood hazards associated with high velocity waters from coastal and tidal inundation tsunamis. Therefore, the following provisions shall apply:~~

~~\_\_\_\_\_ 1. \_\_\_\_\_ All buildings or structures shall be located landward out of reach of the mean high tide.~~

~~\_\_\_\_\_ 2. \_\_\_\_\_ The placement of manufactured homes shall be prohibited except in an existing manufactured home park or subdivision.~~

~~\_\_\_\_\_ B. \_\_\_\_\_ Required construction methods are:~~

~~\_\_\_\_\_ 1. \_\_\_\_\_ Elevation. All buildings or structures shall be elevated so that the lowest supporting member is located no lower than the base flood elevation level, with all space below the lowest supporting member open so as to not impede the flow of water, except for breakaway walls as provided in Section 17.50.010.~~

~~\_\_\_\_\_ 2. \_\_\_\_\_ Structural Support.~~

~~\_\_\_\_\_ a. \_\_\_\_\_ All buildings or structures shall be securely anchored on pilings or columns.~~

~~\_\_\_\_\_ b. \_\_\_\_\_ Pilings or columns used as structural support shall be designed and anchored so as to withstand all impact forces and buoyancy factors of the base flood.~~

~~\_\_\_\_\_ c. \_\_\_\_\_ There shall be no fill used for structural support.~~

~~\_\_\_\_\_ 3. \_\_\_\_\_ Certification. Compliance with the provisions of subsections B2a and B2b of this section shall be certified to by a registered professional engineer or architect and provided to the official as set forth in Section 17.50.090.~~

~~\_\_\_\_\_ 4. \_\_\_\_\_ Space Below the Lowest Floor.~~

~~\_\_\_\_\_ a. \_\_\_\_\_ Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this chapter shall not enclose the space below the lowest floor unless breakaway walls are used as provided for in this section.~~

~~\_\_\_\_\_ b. \_\_\_\_\_ Breakway walls may be allowed below the base flood elevation provided they are not a part of the structural support of the building and are designed so as to break away, under abnormally~~

~~high tides or wave action, without damage to the structural integrity of the building on which they are to be used.~~

~~\_\_\_\_\_c.\_\_\_\_\_ If breakaway walls are to be utilized, such enclosed space shall not be used for human habitation.~~

~~\_\_\_\_\_d.\_\_\_\_\_ Prior to construction, plans for any structure that will have breakaway walls must be submitted to the city for approval.~~

~~\_\_\_\_\_e.\_\_\_\_\_ Provide that all new construction and substantial improvements, within Zones V1-30, VE and V on the FIRM, have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood, lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For purposes of this section, a breakaway wall shall have a safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls which exceed a safe design loading resistance of twenty pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the design proposed meets the following conditions:~~

~~\_\_\_\_\_1.\_\_\_\_\_ Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and~~

~~\_\_\_\_\_2.\_\_\_\_\_ The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be issued in this determination shall each have one percent chance of being equalled or exceeded in any given year (one hundred year mean recurrence).~~

~~\_\_\_\_\_f.\_\_\_\_\_ For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above the grade. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. (Ord. 619 55, 1987; Ord. 609 § 2, 1986)~~

Within coastal high hazard areas, Zones V, V1-30, and VE, as established under Section 17.50.090, the following standards shall apply:

- A. All new residential and non-residential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.
- B. All new construction and other development shall be located on the landward side of the reach of mean high tide.
- C. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 17.50.100 of this ordinance. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
- D. Fill shall not be used for structural support of buildings.
- E. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

F. The Floodplain Administrator shall obtain and maintain the following records:

1. Certification by a registered engineer or architect that a proposed structure complies with Section 17.50.270.A; and
2. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

**17.50.150280 Variance procedure.**

Conditions for variances shall be the following:

- ~~\_\_\_\_\_ A. \_\_\_\_\_ Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.~~
- ~~\_\_\_\_\_ B. \_\_\_\_\_ Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.~~
- ~~\_\_\_\_\_ C. \_\_\_\_\_ Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- ~~\_\_\_\_\_ D. \_\_\_\_\_ Variances shall only be issued upon:
  - ~~\_\_\_\_\_ 1. \_\_\_\_\_ A showing of good and sufficient cause;~~
  - ~~\_\_\_\_\_ 2. \_\_\_\_\_ A determination that failure to grant the variance would result in exceptional hardship to the applicant;~~
  - ~~\_\_\_\_\_ 3. \_\_\_\_\_ A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of, the public, or conflict with existing local laws or ordinances.~~~~
- ~~\_\_\_\_\_ 4. \_\_\_\_\_ Variances may be issued by the city for new construction, substantial improvements and for other development necessary for the conduct of functionally dependent use provided that the criteria of subsections D1 through D3 above are met and the structure and or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.~~
- ~~\_\_\_\_\_ E. \_\_\_\_\_ In passing upon such variances, the decision-making body shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  - ~~\_\_\_\_\_ 1. \_\_\_\_\_ The danger that materials may be swept onto other lands to the injury of others;~~
  - ~~\_\_\_\_\_ 2. \_\_\_\_\_ The danger to life and property due to flooding or erosion damage;~~
  - ~~\_\_\_\_\_ 3. \_\_\_\_\_ The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
  - ~~\_\_\_\_\_ 4. \_\_\_\_\_ The importance of the services provided by the proposed facility in the community;~~
  - ~~\_\_\_\_\_ 5. \_\_\_\_\_ The necessity to the facility of a waterfront location, where applicable;~~
  - ~~\_\_\_\_\_ 6. \_\_\_\_\_ The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
  - ~~\_\_\_\_\_ 7. \_\_\_\_\_ The compatibility of the proposed use with existing and anticipated development;~~
  - ~~\_\_\_\_\_ 8. \_\_\_\_\_ The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
  - ~~\_\_\_\_\_ 9. \_\_\_\_\_ The safety access to the property in times of flood for ordinary and emergency vehicles;~~
  - ~~\_\_\_\_\_ 10. \_\_\_\_\_ The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, and allowance for debris, if applicable, expected at the site;~~
  - ~~\_\_\_\_\_ 11. \_\_\_\_\_ The costs of providing governmental services during and after flood conditions, including maintenance and repair of public facilities and facilities such as sewer, gas, electrical, water system and streets and bridges.~~~~
- ~~\_\_\_\_\_ F. \_\_\_\_\_ Generally, variances may be used for new construction and substantial improvements to be erected on a lot of less than one-half acre contiguous to and surrounded by lots with existing~~

~~structures constructed below the base flood level, providing subsection E of this section has been fully considered and the land use is consistent with the general plan and coastal land use plan.~~

~~— G. — Upon consideration of the factors of this section, the reviewing body may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.~~

~~— H. — The terms of the variance shall be recorded in the county recorder's office in such form as is approved by the city attorney. (Ord. 619 § 6, 1987; Ord. 575 § 2 (part), 1984)~~

~~The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.~~

~~The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.~~

~~It is the duty of the City of Capitola to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.~~

#### **17.50.290 Conditions for variances.**

- A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 17.50.110-17.50.200 and 17.50.210-17.50.270 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 17.50.100 of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the City of Capitola need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City of Capitola believes will both provide relief and preserve the integrity of the local ordinance.
- E. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
  - 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Santa Cruz County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- F. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

#### **17.50.300 Approval of variances.**

- A. In passing upon requests for variances, the City of Capitola shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:
  1. Danger that materials may be swept onto other lands to the injury of others;
  2. Danger of life and property due to flooding or erosion damage;
  3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
  4. Importance of the services provided by the proposed facility to the community;
  5. Necessity to the facility of a waterfront location, where applicable;
  6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  7. Compatibility of the proposed use with existing and anticipated development;
  8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
  10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
  11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
- B. Variances shall only be issued upon a:
  1. Showing of good and sufficient cause;
  2. Determination that failure to grant the variance would result in exceptional "hardship" to the applicant; and
  3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "Public safety and nuisance"), cause "fraud and victimization" of the public, or conflict with existing local laws or ordinances.
- C. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 17.50.300.A through 17.50.300.D are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.
- D. Upon consideration of the factors of Section 17.50.290.A and the purposes of this ordinance, the City of Capitola may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

#### **17.50.160310 Nonconforming structures in flood plain.**

A structure which was lawful before enactment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued as a nonconforming structure subject to the following condition: If any nonconforming structure is destroyed by flood, earthquake, tsunami or, for another cause to the extent of fifty percent or more of its fair market value immediately prior to the

destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. (Ord. 575 § 2 (part), 1984)

**17.50.~~170~~320 Variance Appeal procedure.**

A. Appeal procedure for all decisions made under this chapter shall be in conformance with standard appeal procedures of Chapter 2.52 of this code.

B. The director of public works shall maintain the records of all appeal actions and report any variances to the federal insurance administration upon request.

C. Any applicant to whom a variance is granted should be given written notice that the structure will be permitted to be built in variance with these rules and that the cost of flood insurance will be commensurate with the increased risk resulting from such variance. (Ord. 575 § 2 (part), 1984)

**17.50.~~180~~330 Disclosure requirement.**

A person who is acting as an agent for a seller of real property which is located within a FP district or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a FP district. The community development director may adopt methods of informing owners and real estate sales persons of this requirement. (Ord. 575 § 2 (part), 1984)

**DRAFT**  
RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AUTHORIZING THE CITY  
MANAGER TO SUBMIT LOCAL COASTAL PROGRAM AMENDMENT TO THE  
CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION**

**WHEREAS**, the City's Local Coastal Program (LCP) was certified by the California Coastal Commission in June of 1981, and updated in October of 2001, December 9, 2004, January 13, 2005, and November 9, 2006; and

**WHEREAS**, the Capitola Planning Commission conducted a duly noticed public hearing on April 19, 2012, and made recommendations to the City Council who held a noticed public hearing on May 10, 2012 and May 24, 2012 to consider the recommended amendments to the municipal code which would require an LCP Amendment for those properties located within the Coastal Zone; and

**WHEREAS**, at its meeting of May 10, 2012, the City Council passed the proposed ordinance to a second reading, and on May 24, 2012, adopted Ordinance No. \_\_\_\_\_, an Ordinance of the City Council of the City of Capitola Amending Sections 17.50 pertaining to Floodplain District, as shown in Exhibit A.

**WHEREAS**, the City Council reviewed and found the Local Coastal Program amendments exempt from CEQA pursuant to CEQA Guidelines 15308; and

**WHEREAS**, Public Notice was provided as required under Coastal Act 30514 et seq.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Capitola hereby finds:

1. The Coastal Commission LCP Amendment is Categorically Exempt and in conformance with the environmental review requirements under CEQA Sections 15308.
2. The Coastal Commission LCP Amendment is consistent with the adopted Local Coastal Land Use Plan and the Coastal Act.
3. The Coastal Commission LCP Amendment, as drafted, will secure the purposes of the Zoning Ordinance and Local Coastal Program.
4. The City of Capitola intends to carry out this amendment to its LCP in a manner fully consistent with the California Coastal Act.

**BE IT FURTHER RESOLVED** by the City Council of the City of Capitola that these Coastal Commission LCP Amendment are hereby adopted and are in full conformity with the City of Capitola Local Coastal Program and provisions of the California Coastal Act.

**BE IT FURTHER RESOLVED**, that the City Manager or his designee is directed to submit the said Coastal Commission LCP Amendment to the California Coastal Commission for its review and certification. If the Coastal Commission approves the amendment package, it will take effect automatically upon Coastal Commission approval. If the Coastal Commission modifies the amendment package, only the modifications will require formal action by the City of Capitola.

**I HEREBY CERTIFY** that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 10<sup>th</sup> day of May, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Michael Termini, Mayor

ATTEST:

\_\_\_\_\_, CMC  
Susan Sneddon, City Clerk



# Federal Emergency Management Agency

Washington, D.C. 20472

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:  
19P-N

November 16, 2011

The Honorable Dennis Norton  
Mayor, City of Capitola  
420 Capitola Avenue, 2nd floor  
Capitola, CA 95010

**RECEIVED**

NOV 21 2011

**CITY OF CAPITOLA**

Community: City of Capitola, CA  
Community No.: 060354  
Map Panels Affected: See FIRM Index

Dear Mayor Norton:

This is to formally notify you of the final flood hazard determination for your community in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulations. On March 2, 2006, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs) the areas subject to inundation by the base (1-percent-annual-chance) flood in the City of Capitola, Santa Cruz County, California. Recently, FEMA completed a re-evaluation of flood hazards in your community. On November 23, 2010, FEMA provided you with Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in your community.

FEMA has not received any comments on the Preliminary copies of the FIS report and FIRM. Accordingly, the FIS report and FIRM for your community will become effective on May 16, 2012. Before the effective date, FEMA will send you final printed copies of the FIS report and FIRM.

Because the FIS for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter. Prior to May 16, 2012, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d and e) of the NFIP regulations (44 CFR 59, etc.). These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all the standards specified in Paragraph 60.3(d and e) of the NFIP regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and the other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish eligibility in the NFIP. Any additional requirements can be met by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d and e);
2. Adopting all the standards of Paragraph 60.3(d and e) into one new, comprehensive set of regulations; or

3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(d and e).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 as amended.

In addition to your community using the FIS report and FIRM to manage development in the floodplain, FEMA will use the FIS report to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified SFHAs. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as the lowest elevations (including basement) of new structures decrease in relation to the Base Flood Elevations established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be superseded when the revised FIRM panels referenced above become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the SFHA as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based is being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

The FIRM and FIS report for your community have been prepared in our countywide format, which means that flood hazard information for all jurisdictions within Santa Cruz County has been combined into one FIRM and FIS report. When the FIRM and FIS report are printed and distributed, your community will receive only those panels that present flood hazard information for your community. We will provide complete sets of the FIRM panels to county officials, where they will be available for review by your community.

The FIRM panels have been computer-generated. Once the FIRM and FIS report are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be obtained by calling our FEMA Map Information eXchange (FMIX), toll free, at 1-877-FEMA MAP

(1-877-336-2627). In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If your community is encountering difficulties in enacting the necessary floodplain management measures, we urge you to call the Director, Federal Insurance and Mitigation Division of FEMA in Oakland, California, at (510) 627-7100 for assistance. If you have any questions concerning mapping issues in general or the enclosed Summary of Map Actions, please call our FMIX at the toll free number shown above. Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the National Flood Insurance Program*, *Frequently Asked Questions Regarding the Effects that Revised Flood Hazards have on Existing Structure*, *Use of Flood Insurance Study (FIS) Data as Available Data*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling our FMIX.

Sincerely,



Luis Rodriguez, P.E., Chief  
Engineering Management Branch  
Federal Insurance and Mitigation Administration

Enclosure:

Final Summary of Map Actions

cc: Community Map Repository  
Mark Wheeler, Building Official, City of Capitola  
Representative Anna G. Eshoo  
Representative Sam Farr

## FINAL SUMMARY OF MAP ACTIONS

Community: CAPITOLA, CITY OF

Community No: 060354

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs) and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on May 16, 2012.

**1. LOMCs Incorporated**

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

**2. LOMCs Not Incorporated**

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMR-FW	07-09-0136A	10/31/2006	1920 WHARF ROAD -- Blk P, Capitola Heights	06087C0352D	06087C0352E
LOMA	08-09-0493A	02/14/2008	309 ALMA LANE -- TRACT 342, LOT 20	06087C0352D	06087C0352E
LOMR-VZ	11-09-3545A	08/09/2011	VENETIAN COURT, LOTS 39 & 47 -- 1500 WHARF ROAD	06087C0352D	06087C0352E

**3. LOMCs Superseded**

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new detailed flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
			NO CASES RECORDED	

## FINAL SUMMARY OF MAP ACTIONS

Community: CAPITOLA, CITY OF

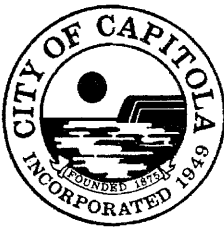
Community No: 060354

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.

**4. LOMCs To Be Redetermined**

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures has changed, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		



## CITY COUNCIL AGENDA REPORT MEETING OF MAY 10, 2012

FROM: CITY MANAGERS DEPARTMENT

SUBJECT: CONSIDERATION OF ADOPTION OF AN ORDINANCE AMENDING SECTIONS 8.06.010, 8.06.020, AND ADDING SECTION 8.06.035 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO COMMERCIAL RECYCLING [1<sup>ST</sup> READING]

---

**RECOMMENDED ACTION:** By motion that the City Council pass the proposed Ordinance Amending Sections 8.06.010, 8.06.020 and Adding Section 8.06.035 of the Capitola Municipal Code pertaining to Commercial Recycling to a second reading.

**BACKGROUND:** The State of California recently mandated that all businesses which generate four cubic yards or more of commercial solid waste per week, and multifamily residential dwellings with five or more units, are required to recycle. This new regulation is part of AB 32 pursuant to the California Global Warming Solutions Act and is reflected in the provisions of AB 341. The new regulation goes into effect on July 1, 2012.

The commercial sector generates nearly three-fourths of the garbage in California, with much of the waste composed of recyclable materials. The City of Capitola offers recycling to all residents and businesses but it is not mandatory that they participate in the recycling program. This amendment to the Capitola Municipal Code will amend the existing ordinance to mandate commercial recycling in order to be in compliance with the new state laws.

The City will conduct education and outreach to inform those impacted by the new laws to provide information about the recycling opportunities that are available within the City. Enforcement will consist of monitoring with the assistance of the City's waste hauler, Green Waste Recovery.

**DISCUSSION:** The new state law will be in effect July 1, 2012. Jurisdictions are required to conduct education, outreach, and monitoring programs to inform businesses of the state requirement to recycle and provide information about the recycling opportunities that are available within the jurisdiction. CalRecycle will review each jurisdiction's compliance as a part of its review authorized under AB 939. If CalRecycle finds that a jurisdiction has failed to make a good-faith effort to implement a commercial recycling program, CalRecycle would initiate the compliance order process which could result in a fine.

The City adopted Resolution No. 3479 in 2005 which set a goal of 75% diversion by 2010. The City is currently diverting 68%, well below the 75% goal.

**FISCAL IMPACT:** There will be minor fiscal impact to the City to provide public education and outreach to businesses and residents. There will be no additional cost to customers because they already pay for recycling services as part of their existing garbage rate and garbage service is already mandated for residents and businesses.

### **ATTACHMENTS**

1. Resolution No. 3479
2. Draft Ordinance
3. Current Municipal Code Chapter 8.06
4. AB 341

Report Prepared By: Lisa G. Murphy  
Administrative Services Manager

Reviewed and Forwarded  
By City Manager: 

# COPY

RESOLUTION NO. 3479

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
ADOPTING ZERO WASTE AS A LONG TERM GOAL IN ORDER TO ELIMINATE  
WASTE AND POLLUTION AND INCREASE RECYCLING**

RECITALS: Zero Waste is a philosophy and visionary goal that emulates natural cycles, where all outputs are simply an input for another process. It means designing and managing materials and products to conserve and recover all resources and not destroy or burn them, and eliminate discharges to land, water or air that do not contribute productively to natural systems or the economy.

WHEREAS, the California Integrated Waste Management Act of 1989 required cities and counties to reduce, reuse and recycle (including composting) solid waste generated in the state to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy and other natural resources, and to protect the environment; and

WHEREAS, the California Integrated Waste Management Act of 1989 mandated that California cities and counties divert 50% of all waste generated by the year 2000, but did not set any subsequent waste reduction goals and the cities and County of Santa Cruz have met the 2000 goal of 50% reduction in landfill disposal; and

WHEREAS, in the year 2002, residents of California disposed of close to 38 million tons of municipal solid waste - more than 5.8 pounds per person per day and residents of Santa Cruz County disposed of more than 220,000 tons of municipal solid waste - more than 4.7 pounds per person per day; and

WHEREAS, though California reached an overall recycling rate of more than 48 percent in the year 2002, more can be done, especially in "closing the loop" by purchasing products made with recycled content; and

WHEREAS, the placement of materials in waste disposal facilities, such as landfills and incinerators, wastes natural resources and wrongly transfers liabilities to future generations, while avoiding the creation of waste or discards in the first place is the most economically efficient and environmentally sustainable resource management strategy and supports a resource recovery-based economy that is more sustainable than a disposal-based economy; and

WHEREAS, with the appropriate economic incentives, manufacturers can and will produce and businesses will sell products that are durable and repairable and that can be safely recycled back into the marketplace or nature; and

WHEREAS, government is ultimately responsible for establishing criteria needed to eliminate waste, for creating the economic and regulatory environment in which to achieve it, and for leading by example; and

WHEREAS, while the diversion of materials from landfill disposal itself carries a cost, the cost of landfill disposal will continue to increase with no economic return.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Capitola hereby adopts Zero Waste as a long-term goal in order to eliminate waste and pollution in the manufacture, use, storage, and recycling of materials. This goal can be achieved through action plans and measures that significantly reduce waste and pollution. These measures will include encouraging residents, businesses and agencies to use, reuse, and recycle materials judiciously, in addition to encouraging manufacturers to produce and market less toxic and more durable, repairable, reusable, recycled, and recyclable products; and

BE IT FURTHER RESOLVED that the efforts to achieve Zero Waste in Santa Cruz County should include:

1. a regional compost facility
2. construction and demolition waste recycling
3. increased commercial recycling
4. landfill bans of easily recyclable materials; and

BE IT FURTHER RESOLVED that the City of Capitola hereby establishes a milestone of 75% landfill diversion by the year 2010 towards the goal of Zero Waste; and

BE IT FURTHER RESOLVED that the City of Capitola hereby resolves to revisit the aforementioned milestone in the year 2010.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Capitola on the 14th day of July, 2005, by the following vote:

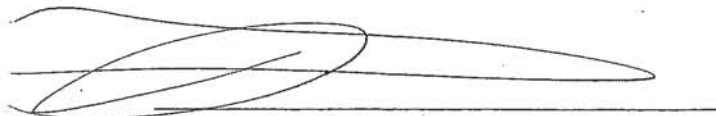
AYES: Council Members Termini, Norton, Harlan, Nicol, and Mayor Arthur

NOES: None

ABSENT: None

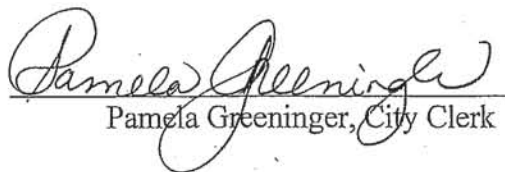
ABSTAIN: None

DISQUALIFIED: None



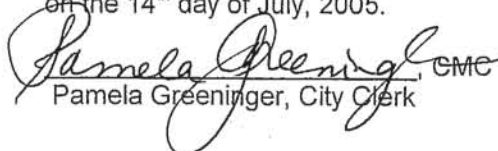
Bruce Arthur, Mayor

ATTEST:



Pamela Greeninger, City Clerk

This is to certify that the above and foregoing is a true and correct copy of Resolution No. 3479 passed and adopted by the Capitola City Council on the 14<sup>th</sup> day of July, 2005.



Pamela Greeninger, City Clerk

**DRAFT**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
AMENDING SECTIONS 8.06.010, 8.06.020, 8.36.030, AND ADDING 8.36.070 OF THE  
CAPITOLA MUNICIPAL CODE PERTAINING TO  
MANDATORY COMMERCIAL AND RESIDENTIAL RECYCLING**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPITOLA AS FOLLOWS:

Section 1: That Chapter 8.06 is hereby amended to the City of Capitola Municipal Code Title 8, Health and Safety, to read as follows:

## Chapter 8.06

**8.06.010 Findings and purpose.**

The health, welfare and safety of the people in the city are promoted by the curbside collection of recyclable waste materials. To insure the existence and continuance of a recycling program, the city council finds that city-authorized recycling contractors must be able to collect recyclable materials without interference. The purpose of this chapter is to ~~allow~~ require recycling while also discouraging unauthorized scavenging of recyclable materials from a designated collection location. (ord. 704 (part), 1990)

**8.06.020 Definitions.**

In this chapter, unless the context otherwise requires:

- A. "Recycling program" means an arrangement whereby a person or business entity ("recycling contractor"), so authorized by a franchise agreement, permit or license duly issued by the city, arranges to pick up and remove recyclable materials at designated collection locations during set time frames.
- B. "Recyclable materials" mean materials (~~usually~~-segregated from solid waste into distinctive recycling containers approved of, or provided by, a recycling contractor) which have been placed at a designated collection location including, but not limited to, the following materials: newspapers, ~~metal food and beverage containers~~, glass, old corrugated cartons, graded or sorted waste paper, waste motor oil (residential), cardboard, mixed waste paper (including junk mail, catalogues, paperboard, phone books, brown paper, grocery bags, colored paper, envelopes, food boxes, magazines) milk & juice cartons, aluminum cans, trays and foil, steel cans, and mixed plastic containers (numbers 1 through 4), and dry cell batteries. ~~and plastic.~~ (Ord. 704 (part), 1990)

# DRAFT ORDINANCE

## **8.06.030 Recycling activity authorized.**

Notwithstanding any contrary prohibitions in chapter 8.04 of this title, collecting recyclable materials and placing them at designated collection locations is allowed. (Ord. 704 (part), 1990)

## **8.06.035 Recycling required.**

A. Commercial Recycling Required: As of July 1, 2012 all commercial establishments that generate 4 cubic yards or more of commercial solid waste per week and multifamily residential dwellings with 5 or more units shall separate recyclable materials for recycling, and no recyclable materials shall be deposited in garbage cans or bins, "roll-off" containers, or drop boxes.

- 1. Enforcement:

a. As of September 1, 2012 educational notice tags will be placed on garbage cans and bins, "roll-off" containers and drop boxes with appreciable amounts of recyclable materials.

b. As of September 1, 2013, any violation of this section may result in refusal of curbside garbage collection services. Customers shall be required to remove these items from garbage containers before it will be collected.

2. Exceptions: the owner of an existing commercial structure or multifamily structure which does not have adequate storage space for recyclable materials may apply to the City Manager for a full or partial exemption from the requirements of this ordinance. The City Manager, in cases where space constraints are determined to exist, shall evaluate the feasibility of shared recycling containers by contiguous businesses or multifamily structures before granting a full or partial exemption.

## **8.06.040 Ownership of recyclable waste material.**

Upon the placement of recyclable waste materials at a designated recycling collection location for collection by an authorized recycling contractor, the recyclable waste material becomes the property of the authorized recycling contractor. (Ord. 704 (part), 1990)

## **8.06.050 Unauthorized collection prohibited.**

During the twenty-four-hour period beginning at six p.m. preceding the day designated for collection of recyclable waste material, no person other than the pertinent authorized recycling contractor shall remove recyclable waste material which has been placed at a designated recycling collection locations during the twenty-four-hour period shall constitute a separate and distinct offense punishable as provided in section 1.01.090 and title 4 of this code. (Ord. 955 & 4, 2011; Ord. 704 (part), 1990)

## **8.06.060 Right of individual to dispose of recyclable material.**

This chapter does not limit the right of a person to donate, sell or otherwise dispose of recyclable waste material so long as the disposal complies with this chapter. (Ord. 704 (part), 1990)

# DRAFT ORDINANCE

## **8.06.070 Civil action by authorized recycling contractor.**

This chapter does not limit the right of an authorized recycling contractor to bring a civil action against a person who violates section 8.06.050. A conviction for such violation does not exempt a person from a civil action brought by an authorized recycling contractor. (Ord. 704 (part), 1990)

Section 8. This ordinance shall take effect and be in full force on July 1, 2012.

This ordinance was introduced on the 10th day of May, 2012, and was passed and adopted by the City Council of the City of Capitola on the 24th day of May, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: \_\_\_\_\_  
Michael Termini, Mayor

ATTEST:  
\_\_\_\_\_, CMC  
Susan Sneddon, City Clerk

## CAPITOLA MUNICIPAL CODE EXCERPT

**Chapter 8.06 RECYCLING****8.06.010 Findings and purpose.**

The health, welfare and safety of the people in the city are promoted by the curbside collection of recyclable waste materials. To insure the existence and continuance of a recycling program, the city council finds that city-authorized recycling contractors must be able to collect recyclable materials without interference. The purpose of this chapter is to allow recycling while also discouraging unauthorized scavenging of recyclable materials from a designated collection location. (Ord. 704 (part), 1990)

**8.06.020 Definitions.**

In this chapter, unless the context otherwise requires:

A. “Recycling program” means an arrangement whereby a person or business entity (“recycling contractor”), so authorized by a franchise agreement, permit or license duly issued by the city, arranges to pick up and remove recyclable materials at designated collection locations during set time frames.

B. “Recyclable materials” mean materials (usually segregated into distinctive containers approved of, or provided by, a recycling contractor) which have been placed at a designated collection location including, but not limited to, the following materials: newspapers, metal food and beverage containers, glass, old corrugated cartons, graded or sorted waste paper, waste motor oil (residential) and plastic. (Ord. 704 (part), 1990)

**8.06.030 Recycling activity authorized.**

Notwithstanding any contrary prohibitions in Chapter 8.04 of this title, collecting recyclable materials and placing them at designated collection locations is allowed. (Ord. 704 (part), 1990)

**8.06.040 Ownership of recyclable waste material.**

Upon the placement of recyclable waste materials at a designated recycling collection location for collection by an authorized recycling contractor, the recyclable waste material becomes the property of the authorized recycling contractor. (Ord. 704 (part), 1990)

**8.06.050 Unauthorized collection prohibited.**

During the twenty-four-hour period beginning at six p.m. preceding the day designated for collection of recyclable waste material, no person other than the pertinent authorized recycling contractor shall remove recyclable waste material which has been placed at a designated recycling collection location. Each unauthorized collection from one or more designated recycling collection locations during the twenty-four-hour period shall constitute a separate and distinct offense punishable as provided in Section 1.01.090 and Title 4 of this code. (Ord. 955 § 4, 2011; Ord. 704 (part), 1990)

**8.06.060 Right of individual to dispose of recyclable material.**

This chapter does not limit the right of a person to donate, sell or otherwise dispose of recyclable waste material so long as the disposal complies with this chapter. (Ord. 704 (part), 1990)

**8.06.070 Civil action by authorized recycling contractor.**

This chapter does not limit the right of an authorized recycling contractor to bring a civil action against a person who violates Section 8.06.050. A conviction for such violation does not exempt a person from a civil action brought by an authorized recycling contractor. (Ord. 704 (part), 1990)

BILL NUMBER: AB 341      CHAPTERED  
BILL TEXT

CHAPTER 476  
FILED WITH SECRETARY OF STATE OCTOBER 6, 2011  
APPROVED BY GOVERNOR OCTOBER 5, 2011  
PASSED THE SENATE SEPTEMBER 8, 2011  
PASSED THE ASSEMBLY SEPTEMBER 8, 2011  
AMENDED IN SENATE SEPTEMBER 2, 2011  
AMENDED IN SENATE AUGUST 30, 2011  
AMENDED IN SENATE JULY 7, 2011  
AMENDED IN ASSEMBLY MAY 5, 2011  
AMENDED IN ASSEMBLY APRIL 6, 2011

INTRODUCED BY Assembly Member Chesbro  
(Principal coauthor: Senator Padilla)  
(Coauthors: Assembly Members Blumenfield and Williams)

FEBRUARY 10, 2011

An act to amend Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, to add Sections 40004, 41734.5, and 41780.01 to, to add Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and to add and repeal Section 41780.02 of, the Public Resources Code, relating to solid waste.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 341, Chesbro. Solid waste: diversion.

(1) The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components, including a source reduction component, a recycling component, and a composting component. With certain exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste from landfill disposal or transformation by January 1, 2000, through source reduction, recycling, and composting activities. The department is required to file an annual progress report with the Legislature by March 1 that includes specified information regarding the act.

This bill would make a legislative declaration that it is the policy goal of the state that not less than 75% of solid waste generated be source reduced, recycled, or composted by the year 2020, and would require the department, by January 1, 2014, to provide a report to the Legislature that provides strategies to achieve that policy goal and also includes other specified information and recommendations. The bill would allow the department to provide the report required by the bill in conjunction with the annual progress report, if the combined report is submitted by January 1, 2014. The bill would repeal the report requirement on January 1, 2017.

(2) Existing law requires a city, county, and city and county to incorporate the nondisposal facility element and any amendment to the element into the revised source reduction and recycling element at the time of the 5-year revision of the source reduction and recycling element. Existing law requires the department to review an amendment to a nondisposal facility element and requires a local task force to review and comment on amendments to a nondisposal facility element.

This bill would repeal those requirements. The bill would instead require a city, county, city and county, or regional agency to update

all information required to be included in the nondisposal facility element. The bill would provide that the update is not subject to approval by the department or comment and review by a local task force.

(3) Existing law requires a local agency to impose certain requirements on an operator of a large venue or event to facilitate solid waste reduction, reuse, and recycling.

This bill would require a business, defined to include a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more to arrange for recycling services, on and after July 1, 2012.

The bill would also require a commercial waste generator to take specified actions with regard to recyclable materials.

The bill would require a jurisdiction, on and after July 1, 2012, to implement a commercial solid waste recycling program meeting specified elements but would not require the jurisdiction to revise its source reduction and recycling element if the jurisdiction adds or expands a commercial solid waste recycling program to meet this requirement. The bill would authorize a local agency to charge and collect a fee from a commercial waste generator to recover the local agency's costs incurred in complying with the commercial solid waste recycling program requirements. By requiring a jurisdiction to implement a commercial solid waste recycling program, this bill would impose a state-mandated local program.

The bill would require the department to review a jurisdiction's compliance with the above requirement as a part of the department's review of a jurisdiction's compliance with the 50% solid waste diversion requirement and would authorize the department to review a jurisdiction's compliance pursuant to a specified procedure.

(4) Existing law requires each state agency to submit an annual report to the department summarizing its progress in reducing solid waste that is due on September 1 of each year starting in 2009.

This bill would change the due date to May 1 of each year.

(5) Existing law requires an operator of a solid waste facility that wants to change the design or operation of the solid waste facility in a manner not authorized by the current permit to apply for a revised permit. Within 60 days of receipt of the application for the revised permit, the enforcement agency is required to inform the operator, and in some circumstances the department, of its determination to allow the change without revision of the permit, disallow the change, require a revision of the permit to allow the change, or require review under the California Environmental Quality Act before a decision is made.

This bill would also require the enforcement agency to give notice of its determination to allow certain changes without a revision to the permit through a modification to the permit allowed by regulations developed by the department.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares both of the following:

(1) Since the enactment of the California Integrated Waste Management Act of 1989 (Division 30 (commencing with Section 40000) of the Public Resources Code), local governments and private