

# City of Capitola Agenda

Mayor: Kristen Petersen  
Vice Mayor: Yvette Brooks  
Council Members: Jacques Bertrand  
Ed Bottorff  
Sam Storey



## CAPITOLA CITY COUNCIL REGULAR MEETING

THURSDAY, MAY 14, 2020

7 PM

CITY COUNCIL CHAMBERS  
420 CAPITOLA AVENUE, CAPITOLA, CA 95010

### **NOTICE OF REMOTE ACCESS ONLY:**

In accordance with the current Shelter in Place Order from Santa Cruz County Health Services and Executive Order N-29-20 from the Executive Department of the State of California, the City Council meeting will not be physically open to the public and in person attendance cannot be accommodated. To maximize public safety while still maintaining transparency and public access, members of the public can observe the meeting online at <http://capitolaca.igm2.com/Citizens/Default.aspx> or it can be seen live on Spectrum Cable Television channel 8. Remote participation is possible in the form of emailed public comment.

If you have any disability for which you require accommodation or modification of the viewing and commenting procedures described herein, please contact the City at least forty-eight hours in advance of the meeting so that we may make arrangements for your access.

#### **How to comment via email:**

1. As always, send additional materials to the City Council via [citycouncil@ci.capitola.ca.us](mailto:citycouncil@ci.capitola.ca.us) by 5 p.m. the Wednesday before the meeting and they will be distributed to agenda recipients.
2. During the meeting, send comments via email to [publiccomment@ci.capitola.ca.us](mailto:publiccomment@ci.capitola.ca.us)

- Identify the item you wish to comment on in your email's subject line. Emailed comments will be accepted during the Public Comments meeting item and for General Government / Public Hearing items.
- Emailed comments on each General Government/ Public Hearing item will be accepted after the start of the meeting until the Mayor announces that public comment for that item is closed.
- Emailed comments should be a maximum of 450 words, which corresponds to approximately 3 minutes of speaking time.
- Each emailed comment will be read aloud for up to three minutes and/or displayed on a screen.
- Emails received by [publiccomment@ci.capitola.ca.us](mailto:publiccomment@ci.capitola.ca.us) outside of the comment period outlined above will not be included in the record.

### **CLOSED SESSION – 6 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. There will be a report of any final decisions in City Council Chambers during the Open Session Meeting.*

#### **CONFERENCE WITH LABOR NEGOTIATORS (Gov’t Code § 54957.6)**

Negotiators: Jamie Goldstein, Larry Laurent

Employee Organizations: (1) Association of Capitola Employees; (2) Confidential Employees; (3) Mid-Management Group; (4) Department Heads; (5) Capitola Police Officers Association; and (6) Captains

### **REGULAR MEETING OF THE CAPITOLA CITY COUNCIL - 7 PM**

*All correspondences received prior to 5:00 p.m. on the Wednesday preceding a Council Meeting will be distributed to Councilmembers to review prior to the meeting. Information submitted after 5 p.m. on that Wednesday may not have time to reach Councilmembers, nor be read by them prior to consideration of an item.*

*All matters listed on the Regular Meeting of the Capitola City Council Agenda shall be considered as Public Hearings.*

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

Council Members Jacques Bertrand, Ed Bottorff, Yvette Brooks, Sam Storey, and Mayor Kristen Petersen

#### **2. REPORT ON CLOSED SESSION**

#### **3. ADDITIONAL MATERIALS**

*Additional information submitted to the City after distribution of the agenda packet.*

#### **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.*

**\*\*please see Page 1 for information on how to submit public comment via email\*\***

**6. CITY COUNCIL / STAFF COMMENTS**

*City Council Members/Staff may comment on matters of a general nature or identify issues for staff response or future council consideration. No individual shall speak for more than two minutes.*

**7. 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 which appear on the public agenda shall be determined to have been read by title and further reading waived.*

- A. Consider the April 23, 2020, City Council Regular Meeting Minutes  
RECOMMENDED ACTION: Approve minutes.
- B. Receive the Planning Commission Action Minutes from the Regular Meetings of April 2 and May 7, 2020  
RECOMMENDED ACTION: Receive minutes.
- C. LEAP HCD Grant Resolution  
RECOMMENDED ACTION: Consider a Resolution authorizing the City Manager to apply for a Local Early Action Planning (LEAP) Grant to update the City's Inclusionary Housing Ordinance and execute the grant if awarded.
- D. Update on the Emergency Repairs to the Wharf  
RECOMMENDED ACTION: Accept this report on the Emergency Repairs to the Wharf as detailed in Resolution 4169 and declare the work required to abate all hazards have been completed and no further actions are required.

**8. GENERAL GOVERNMENT / PUBLIC HEARINGS**

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

- A. Receive Update on the City's Pandemic Response  
RECOMMENDED ACTION:
  - 1. By super majority vote, make the determination that all hazards related to the worldwide spread of the coronavirus (COVID-19) as detailed in Resolution No. 4168 adopted by the City Council on March 12, 2020, still exist and that there is a need to continue action.
  - 2. Approve a resolution ratifying the emergency order to temporarily suspend certain

CAPITOLA CITY COUNCIL REGULAR MEETING AGENDA  
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Conditional Use Permit requirements regarding on-street parking and pick-up/delivery business operations.

B. Council Compensation Decision to Decline Adjustment

RECOMMENDED ACTION: Affirm that the adjustment in Council' s monthly salary, previously approved to be increased to \$600 following the November 2020 election, will not be accepted by each individual member of Capitola City Council due to the economic impacts of COVID-19.

C. Recreation Summer Programs Update

RECOMMENDED ACTION: Receive report on modifications to the Recreation Division's summer programs due to the COVID-19 epidemic, and consider allocating \$5,200 from the TOT Early Childhood and Youth Fund.

D. CDBG-CV Grant Resolution

RECOMMENDED ACTION:

1. Adopt the attached Resolution authorizing the City Manager to submit a Community Development Block Grant Coronavirus Response (CDBG-CV) application requesting up to \$114,367.65 of CDBG-CV grant funds and reutilizing \$80,632.35 of CDBG program income funds (total \$195,000) for three Covid-19 related relief programs and to execute the grant agreement upon award.
2. Identify two Council Members to participate in a CDBG-CV ad hoc subcommittee.

E. Zoning Code Update Chapter 17.44 Coastal Overlay Zone

RECOMMENDED ACTION: Accept staff presentation, provide direction on zoning code revisions, and continue the public hearing to the May 28, 2020, City Council meeting.

## 9. ADJOURNMENT

**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 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 for review on the City's website: [www.cityofcapitola.org](http://www.cityofcapitola.org) and at Capitola City Hall prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola. 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.

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**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 rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast 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.cityofcapitola.org](http://www.cityofcapitola.org) by clicking on the Home Page link "**Meeting Agendas/Videos**." Archived meetings can be viewed from the website at any time.



# CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF MAY 14, 2020**

FROM: City Manager Department

SUBJECT: Consider the April 23, 2020, City Council Regular Meeting Minutes

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RECOMMENDED ACTION: Approve minutes.

DISCUSSION: Attached for City Council review and approval are the minutes of the regular meeting of April 23, 2020.

ATTACHMENTS:

1. 4-23 draft

Report Prepared By: Chloe Woodmansee  
Interim City Clerk

**Reviewed and Forwarded by:**

A handwritten signature in black ink, appearing to be "J. Goldstein", written over a horizontal line.

Jamie Goldstein, City Manager

5/8/2020

**DRAFT CAPITOLA CITY COUNCIL  
REGULAR MEETING ACTION MINUTES  
THURSDAY, APRIL 23, 2020 - 7:00 PM**

**CLOSED SESSION – 6 PM**

**1. LABOR NEGOTIATION**

There was no reportable action during closed session.

**REGULAR MEETING OF THE CAPITOLA CITY COUNCIL - 7 PM**

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

Council Member Ed Bottorff: Remote, Council Member Jacques Bertrand: Remote, Council Member Sam Storey: Remote, Mayor Kristen Petersen: Present, Vice Mayor Yvette Brooks: Remote.

**2. ADDITIONAL MATERIALS**

There was one additional material regarding item 7.A.

**3. ADDITIONS AND DELETIONS TO AGENDA – none**

**4. PUBLIC COMMENTS**

One member of the public commented, via email, questioning maintenance on the bluffs of Prospect Street.

**5. CITY COUNCIL / STAFF COMMENTS**

Councilmember Bottorff spoke about the seriousness of the COVID-19 pandemic and expressed gratitude for the work of Capitola Police and all frontline workers during this difficult time. He urged the community to cooperate with local, County, and State government orders. Councilmember Bottorff also expressed frustration with negativity on online forums, and the way a Capitola Planning Commissioner publicly criticized Capitola Police Officers on Nextdoor.

Councilmember Bertrand agreed and commented that, with forethought and effort, Capitola could come out of the pandemic uniquely and positively.

Mayor Petersen also thanked all frontline workers, farm workers, and grocers. She asked that Council readdress a recently adopted Ordinance increasing Council salary on a future agenda. The Mayor also asked two questions of staff, which were answered:

1) Are some Village shops open, despite the shelter in place order? Police Chief McManus replied that there have been several complaints regarding open shops, they have been checked out and proven to be legitimately open businesses under the health order, and

2) What is the status of the Public Works crew? Director Jesberg replied that under the shelter in place order the crew is working separately in two half-sized groups, and that in May the entire crew

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES  
April 23, 2020

will be back to working together.

## 6. CONSENT CALENDAR

<b>MOTION:</b>	<b>APPROVE, ADOPT, RECEIVE UPDATE, AND CONSIDER AS RECOMMENDED</b>
<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jacques Bertrand
<b>SECONDER:</b>	Sam Storey
<b>AYES:</b>	Bottorff, Bertrand, Storey, Petersen, Brooks

- A. Consider the March 12, March 26, and April 9, 2020, City Council Regular Meeting Minutes  
RECOMMENDED ACTION: Approve minutes.
- B. Approval of City Check Registers Dated March 6, March 13, and March 27, 2020  
RECOMMENDED ACTION: Approve check registers.
- C. Adopt Resolution Authorizing Staff to Submit Local Coastal Program Implementation Plan Amendments for ADUs and Signs to the California Coastal Commission  
RECOMMENDED ACTION: Adopt resolution authorizing staff to submit local coastal program implementation plan amendments for ADUs and Signs to the California Coastal Commission.
- D. Update on the Emergency Repairs to the Wharf  
RECOMMENDED ACTION:
1. Accept this update report on the Emergency Repairs to the Wharf, and
  2. By super majority vote, make the determination that all hazards related to the failed Wharf pilings as detailed in Resolution No. 4169 adopted by the City Council on March 26, 2020, have not been eliminated and that there is a need to continue action.
- E. Consider Amended Fee Schedule for Fiscal Year 2019-20  
RECOMMENDED ACTION: Adopt the proposed Resolution amending the City of Capitola Fiscal Year 2019/2020 fees schedule to include fees for online recreational classes.

## 7. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Consider Update on the COVID-19 Emergency Declaration  
RECOMMENDED ACTION:
1. By super majority vote, make the determination that all hazards related to the worldwide spread of the coronavirus (COVID-19) as detailed in Resolution No. 4168 adopted by the City Council on March 12, 2020, still exist and that there is a need to continue action.
  2. Approve a resolution ratifying the emergency order to protect public health and safety by closing McGregor Park.

City Manager Goldstein presented the staff report and explained that a new health order will likely be in place by the end of the month. He highlighted that enforcement at Capitola Beach continues to be discussed by staff.

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES  
April 23, 2020

Vice-Mayor Brooks asked about how to respond to out of towners parking in Capitola neighborhoods, to which City Manager Goldstein said staff is considering starting the Village parking program earlier than the usual May 20. The Vice-Mayor asked staff to consider the Live Oak parking program as an example, and to bring an item before Council on a future agenda.

There was no public comment.

<b>MOTION:</b>	<b>MAKE DETERMINATION THAT HAZARDS REMAIN AND ADOPT RESOLUTION RATIFYING EMERGENCY ORDER</b>
<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ed Bottorff
<b>SECONDER:</b>	Jacques Bertrand
<b>AYES:</b>	Bottorff, Bertrand, Storey, Petersen, Brooks

B. Consider Community Survey  
RECOMMENDED ACTION: Evaluate options for community survey to help gauge public interest on potential ballot measures for the November election.

City Manager Goldstein presented the staff report. Gene Bergman was available for questions.

Vice-Mayor Brooks confirmed that the next opportunity to place items on a ballot would be in two years. She also asked staff if the City is financially prepared to campaign for any ballot measure, and it was established that the City cannot campaign for measures; this would fall to individual Council members or public groups. City Manager Goldstein explained that placing measures on the ballot does not significantly add to the cost of an election, if one is already taking place.

Councilmember Storey asked how many people could be surveyed and Mr. Bregman commented that getting participation of about 150-175 likely voters should not be a problem.

The Mayor confirmed that the survey will be done over the phone or internet.

There was no public comment.

Vice-Mayor Brooks commented that citizens will not want to pay more taxes considering the pandemic and that due to the City's financial situation it would be a mistake to spend \$14,000 to hear that the public does not want to pass potential measures.

Councilmember Bottorff said that the public is aware of the City's needs and that he was willing to take the risk to ask the public for help regarding potential ballot measures, as they could clearly be a stopgap to get the City through the financial crisis. He also explained that he'd like to extend Measure F in perpetuity so that the City will have money earmarked to address bluff damage.

Councilmember Storey agreed that the City needs to cut expenses while looking at how to extend revenue. He announced support of asking the public about establishing a Utility Use Tax, increasing Sales Tax, and creating a Community Facilities District.

Mayor Petersen said she shares Vice-Mayor Brook's concerns, though defers to Councilmembers Storey and Bottorff's experience with the public and past measures.

Councilmember Bottorff made a motion:

Attachment: 4-23 draft (Approval of City Council Minutes)

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES  
April 23, 2020

<b>MOTION:</b>	<b>ENTER INTO AGREEMENT WITH GENE BREGMAN ASSOCIATES, NOT TO EXCEED \$13,000, TO POLL TWO QUESTIONS; 1) ESTABLISHING UTILITY USE TAX AND 2) EXTENDING MEASURE F</b>
<b>RESULT:</b>	Expired for lack of second
<b>MOVER:</b>	Ed Bottorff

Councilmember Storey made a motion:

<b>MOTION:</b>	<b>ENTER INTO AGREEMENT WITH GENE BREGMAN ASSOCIATES, NOT TO EXCEED \$13,000, TO POLL TWO QUESTIONS; 1) ESTABLISHING UTILITY USE TAX AND 2) INCREASING THE SALES TAX RATE FROM 9 TO 9.25%</b>
<b>RESULT:</b>	<b>FAILED [2 TO 3]</b>
<b>MOVER:</b>	Sam Storey
<b>SECONDER:</b>	Jacques Bertrand
<b>AYES:</b>	Storey, Bertrand
<b>NOES:</b>	Bottorff, Brooks, Petersen

Councilmember Bottorff made a motion:

<b>MOTION:</b>	<b>ENTER INTO AGREEMENT WITH GENE BREGMAN ASSOCIATES, NOT TO EXCEED \$15,000, TO POLL THREE QUESTIONS; 1) ESTABLISHING UTILITY USE TAX, 2) INCREASING THE SALES TAX RATE FROM 9 TO 9.25%, AND 3) EXTENDING MEASURE F</b>
<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Ed Bottorff
<b>SECONDER:</b>	Sam Storey
<b>AYES:</b>	Bertrand, Bottorff, Storey, Petersen
<b>NAYS:</b>	Brooks

C. Receive Update on the New Capitola Branch Library Construction Project  
**RECOMMENDED ACTION:** Receive report and authorize the City Manager to pay an anticipated PG&E invoice for relocating high voltage power lines in the vicinity of the project.

Public Works Director Jesberg presented the staff report and included the library’s opening is projected for Fall 2020.

Councilmember Bertrand asked how Director Jesberg came to the \$400,000 figure when PG&E hasn’t provided an official estimate. Director Jesberg explained this figure was an “engineering conservative” estimate made by himself and the project’s manager.

Councilmember Bottorff asked if the project has any delays due to the COVID-19 pandemic and was told the project has been able to continue with no delays up to this point.

Councilmember Storey asked what will happen to any potential surplus in project funds, which, up to 1.5 million dollars, would be returned to the City’s general fund.

There was no public comment.

Attachment: 4-23 draft (Approval of City Council Minutes)

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES  
April 23, 2020

<b>MOTION:</b>	<b>RECEIVE REPORT AND AUTHORIZE THE CITY MANAGER TO PAY ANTICIPATED PG&amp;E INVOICE</b>
<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Ed Bottorff
<b>SECONDER:</b>	Jacques Bertrand
<b>AYES:</b>	Bottorff, Bertrand, Storey, Petersen, Brooks

D. Update on Revised Zoning Code for Coastal Commission Certification  
RECOMMENDED ACTION: Accept staff presentation and continue the discussion to the meeting of May 14.

Community Development Director Herlihy presented the staff report.

There was no public comment.

Vice-Mayor Brooks complimented the clarity of the report and slides and asked for them to be reused in the future.

<b>RESULT:</b>	<b>RECEIVED REPORT</b>
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**8. ADJOURNMENT**

The meeting was closed at 8:40 pm.

\_\_\_\_\_  
Kristen Petersen, Mayor

ATTEST:

\_\_\_\_\_  
Chloé Woodmansee, Interim City Clerk

Attachment: 4-23 draft (Approval of City Council Minutes)



## CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF MAY 14, 2020

FROM: City Manager Department

SUBJECT: Receive the Planning Commission Action Minutes from the Regular Meetings of April 2 and May 7, 2020

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RECOMMENDED ACTION: Receive minutes.

DISCUSSION: Attached for Council review are the action minutes of the April 2 and May 7, 2020, regular meetings of the Planning Commission.

ATTACHMENTS:

1. PC Minutes 4-2-20
2. PC Minutes 5-7-20

Report Prepared By: Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded by:**

A handwritten signature in black ink, appearing to read "J. Goldstein".

Jamie Goldstein, City Manager

5/8/2020



**ACTION MINUTES  
CAPITOLA PLANNING COMMISSION MEETING  
THURSDAY, APRIL 2, 2020  
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

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

Commissioners Christiansen, Routh, Welch, Wilk, and Chair Newman were present remotely.

**2. ORAL COMMUNICATIONS**

**A. Additions and Deletions to Agenda**

**B. Public Comments**

**C. Commission Comments**

**D. Staff Comments**

**3. CONSENT CALENDAR**

- A. 115 San Jose Avenue #19-0186 APN: 035-221-17&18**  
**REQUEST TO CONTINUE** Master Use Permit including designated shared seating areas with onsite consumption of beer and wine for the Capitola Mercantile located within the C-V (Central Village) zoning district. This project is in the Coastal Zone and does not require a Coastal Development Permit.  
 Environmental Determination: Categorical Exemption  
 Property Owner: Capitola Associates, LLC  
 Representative: Dennis Norton, Filed: 04.19.2019

MOTION: Continue the Master Use Permit.

<b>RESULT:</b>	<b>APPROVED [3 TO 0]</b>
<b>MOVER:</b>	T.J. Welch
<b>SECONDER:</b>	Mick Routh
<b>AYES:</b>	Welch, Routh, Christiansen
<b>ABSTAIN:</b>	Newman, Wilk

**4. PUBLIC HEARINGS**

- A. 1515 Prospect Avenue #19-0267 APN: 034-045-12**  
 Design Permit for first and second-story additions to a nonconforming single-family residence located within the R-1 (Single-Family Residential) zoning district. This project is in the Coastal Zone but does not require a Coastal Development Permit.  
 Environmental Determination: Categorical Exemption  
 Property Owner: Peter Shamshoian  
 Representative: Richard L. Emigh, Filed: 06.03.2019

MOTION: Approve the Design Permit.

<b>RESULT:</b>	<b>APPROVED [5 TO 0]</b>
<b>MOVER:</b>	T.J. Welch
<b>SECONDER:</b>	Courtney Christiansen
<b>AYES:</b>	Newman, Welch, Wilk, Routh, Christiansen

- B. 1601 41st Avenue #20-0105 APN: 034-151-20**  
 Sign Permit for new wall signs for Outdoor Supply Hardware located within the C-C (Community Commercial) zoning district.  
 This project is not in the Coastal Zone.  
 Environmental Determination: Categorical Exemption  
 Property Owner: Ow Family Trust DBA King’s Plaza SC  
 Representative: Nathan Moreno – Ad Art Inc., Filed: 03.10.20

MOTION: Approve the Sign Permit.

<b>RESULT:</b>	<b>APPROVED [4 TO 0]</b>
<b>MOVER:</b>	Courtney Christiansen
<b>SECONDER:</b>	Peter Wilk
<b>AYES:</b>	Welch, Wilk, Routh, Christiansen
<b>RECUSED:</b>	Newman

- C. 1850 41st Avenue #20-0114 APN: 034-201-44**  
 Conditional Use Permit Amendment for a retail cannabis business located within the C-C (Community Commercial) zoning district.  
 This project is not in the Coastal Zone.  
 Environmental Determination: Categorical Exemption  
 Property Owner: C. Richard Deane and Marilyn Ardis Deane Revocable Family Trust  
 Representative: Lara DeCaro, Filed: 03.13.2020

MOTION: Approve the Conditional Use Permit Amendment.

<b>RESULT:</b>	<b>APPROVED [5 TO 0]</b>
<b>MOVER:</b>	Mick Routh
<b>SECONDER:</b>	Peter Wilk
<b>AYES:</b>	Newman, Welch, Wilk, Routh, Christiansen

**5. DIRECTOR'S REPORT**

Director Herlihy updated the commissioners on the shelter in place order and the remote submittal of Planning and Building permits.

Commissioner Routh asked if there were any provisions for enforcement if people choose to use their vacation rental to shelter in place. Director Herlihy said there are.

Commissioner Newman commended Director Herlihy for her effort in expediting the changes to procedures in her department during the shelter in place order.

Attachment: PC Minutes 4-2-20 (PC Action Minutes)

**6. COMMISSION COMMUNICATIONS**

**7. ADJOURNMENT**

The meeting was adjourned at 8:00 p.m. to the next regular meeting of the Planning Commission on May 7, 2020.

DRAFT

Attachment: PC Minutes 4-2-20 (PC Action Minutes)



**ACTION MINUTES  
CAPITOLA PLANNING COMMISSION MEETING  
THURSDAY MAY 7, 2020  
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

1. ROLL CALL AND PLEDGE OF ALLEGIANCE
2. ORAL COMMUNICATIONS
  - A. Additions and Deletions to Agenda
  - B. Public Comments
  - C. Commission Comments
  - D. Staff Comments
3. APPROVAL OF MINUTES
  - A. Planning Commission - Regular Meeting - Mar 5, 2020 7:00 PM

MOTION: Approve the minutes.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Courtney Christiansen
<b>SECONDER:</b>	Mick Routh
<b>AYES:</b>	Newman, Welch, Wilk, Routh, Christiansen

4. PUBLIC HEARINGS
  - A. **319 Riverview Avenue #18-0609 APN: 035-171-05**  
 Design Permit and Conditional Use Permit for reconstruction of an historic structure with new addition for a second unit (duplex) located within the C-V (Central Village) zoning district.  
 This project is in the Coastal Zone and requires a Coastal Development Permit that is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.  
 Environmental Determination: Categorical Exemption  
 Property Owner: Pauline & Bud LoMonaco  
 Representative: Dennis Norton, Filed: 11.30.2018

MOTION: Approve the Design Permit, Conditional Use Permit and Coastal Development Permit.

<b>RESULT:</b>	<b>APPROVED [3 TO 0]</b>
<b>MOVER:</b>	TJ Welch
<b>SECONDER:</b>	Courtney Christiansen
<b>AYES:</b>	Welch, Routh, Christiansen
<b>RECUSED:</b>	Newman, Wilk

**B. 115 San Jose Avenue #19-0186 APN: 035-221-18&19**

Master Conditional Use Permit for the mixed-use Capitola Mercantile including specific allowances for to-go food establishments, tasting rooms, retail sales, personal services, and designated shared seating areas with onsite consumption of beer and wine located within the C-V (Central Village) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Capitola Associates, LLC

Representative: Dennis Norton, Filed: 04.19.2019

MOTION: Approve the Master Conditional Use Permit with added conditions regarding public access to bathrooms and leasable square footage.

<b>RESULT:</b>	<b>APPROVED [3 TO 0]</b>
<b>MOVER:</b>	TJ Welch
<b>SECONDER:</b>	Christiansen
<b>AYES:</b>	Welch, Routh, Christiansen
<b>RECUSED:</b>	Newman, Wilk

**5. DIRECTOR'S REPORT**

**6. COMMISSION COMMUNICATIONS**

**7. ADJOURNMENT**

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Liz Nichols, Clerk to the Commission

Attachment: PC Minutes 5-7-20 (PC Action Minutes)



# CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF MAY 14, 2020**

FROM: Community Development

SUBJECT: LEAP HCD Grant Resolution

**RECOMMENDED ACTION:** Consider a Resolution authorizing the City Manager to apply for a Local Early Action Planning (LEAP) Grant to update the City's Inclusionary Housing Ordinance and execute the grant if awarded.

**BACKGROUND:** In the 2019-20 Budget Act, Governor Gavin Newsom allocated \$250 million for all regions, cities, and counties to do their part by prioritizing planning activities that accelerate housing production to meet identified needs of every community. With this allocation, the State of California Department of Housing and Community Development (HCD) established the Local Early Action Planning Grant Program (LEAP) with \$119 million for cities and counties. Small size jurisdictions such as Capitola can apply for and receive up to \$60,000 in LEAP grant funding.

**DISCUSSION:** The Local Early Action Planning Grants (LEAP) may be utilized by local governments for the preparation and adoption of planning documents and process improvements that accelerate housing production or facilitate compliance that implements the sixth-cycle Regional Housing Needs Assessment (RHNA). Eligible activities must be related to housing planning and facilitate the streamlining and acceleration of housing production.

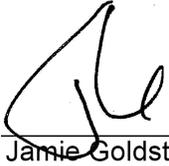
Staff proposes the City request the full \$60,000 to facilitate the rewrite of the Capitola Municipal Code Chapter 18.02: Affordable (Inclusionary) Housing. The Affordable Housing Ordinance was originally drafted in 2004, with minor updates completed in 2005, 2007, and 2013. Strategies for inclusionary housing have evolved and expanded over the past 15 years. Utilizing the grant to update CMC Chapter 18.02 will bring the City's ordinance up to date with current housing practices and provide contemporary solutions to the current housing crisis.

**FISCAL IMPACT:** There is no cost to apply for or accept LEAP grant funds.

Report Prepared By: Katie Herlihy  
Community Development Director

LEAP HCD Grant Resolution  
May 14, 2020

**Reviewed and Forwarded by:**



\_\_\_\_\_  
Jamie Goldstein, City Manager

5/8/2020

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
AUTHORIZING APPLICATION FOR, AND RECEIPT OF, LOCAL GOVERNMENT  
PLANNING SUPPORT GRANT PROGRAM FUNDS**

**WHEREAS**, pursuant to Health and Safety Code 50515 et. Seq, the Department of Housing and Community Development (Department) is authorized to issue a Notice of Funding Availability (NOFA) as part of the Local Government Planning Support Grants Program (hereinafter referred to by the Department as the Local Early Action Planning Grants program or LEAP); and

**WHEREAS**, the City Council of the City of Capitola desires to submit a LEAP grant application package (“Application”), on the forms provided by the Department, for approval of grant funding for projects that assist in the preparation and adoption of planning documents and process improvements that accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing need assessment; and

**WHEREAS**, the Department has issued a NOFA and Application on January 27, 2020 in the amount of \$119,040,000 for assistance to all California Jurisdictions;

**NOW, THEREFORE, the City Council of the City of Capitola (“Applicant”) resolves** as follows:

**SECTION 1.** The City Manager is hereby authorized and directed to apply for and submit to the Department the Application package;

**SECTION 2.** In connection with the LEAP grant, if the Application is approved by the Department, the City Manager of the City of Capitola is authorized to submit the Application, enter into, execute, and deliver on behalf of the Applicant, a State of California Agreement (Standard Agreement) for the amount of \$65,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the LEAP grant, the Applicant’s obligations related thereto, and all amendments thereto; and

**SECTION 3.** The Applicant shall be subject to the terms and conditions as specified in the NOFA, and the Standard Agreement provided by the Department after approval. The Application and any and all accompanying documents are incorporated in full as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the Application will be enforceable through the fully executed Standard Agreement. Pursuant to the NOFA and in conjunction with the terms of the Standard Agreement, the Applicant hereby agrees to use the funds for eligible uses and allowable expenditures in the manner presented and specifically identified in the approved Application.

**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 14<sup>th</sup> day of May, 2020, by the following vote:

LEAP HCD Grant Resolution  
May 14, 2020

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

---

Kristen Petersen, Mayor

ATTEST:

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Chloe Woodmansee, City Clerk



## CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF MAY 14, 2020**

FROM: Public Works Department

SUBJECT: Update on the Emergency Repairs to the Wharf

**RECOMMENDED ACTION:** Accept this report on the Emergency Repairs to the Wharf as detailed in Resolution 4169 and declare the work required to abate all hazards have been completed and no further actions are required.

**BACKGROUND:** On February 13, 2020, the City Council adopted Resolution No. 4166 declaring an emergency condition existed as a result broken piles on Capitola Wharf. On March 26, 2020, City Council adopted Resolution No. 4169 which amended the scope of work detailed in Resolution No. 4166.

**DISCUSSION:** The City's contractor mobilized and began work on April 13, 2020. On April 14, the first new pile was driven into place. This pile is located approximately two thirds of the way out on the wharf and replaced a missing pile. The two piles underneath the hoist were driven on April 22 and April 23. The reconstruction of the landing and other related tasks necessary to complete the work were finished by May 1 and the contractor demobilized equipment and materials on May 4. All work has been completed and the emergency authorization can now lapse.

**FISCAL IMPACT:** The work's approved contract price was not to exceed \$180,000. While no invoices have been received, no additional work was undertaken, and the final cost is anticipated to be within the approved amount.

Report Prepared By: Steve Jesberg  
Public Works Director

**Reviewed and Forwarded by:**

Jamie Goldstein, City Manager

5/8/2020



## CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF MAY 14, 2020**

FROM: City Manager Department

SUBJECT: Receive Update on the City's Pandemic Response

### RECOMMENDED ACTION:

1. By super majority vote, make the determination that all hazards related to the worldwide spread of the coronavirus (COVID-19) as detailed in Resolution No. 4168 adopted by the City Council on March 12, 2020, still exist and that there is a need to continue action.
2. Approve a resolution ratifying the emergency order to temporarily suspending certain Conditional Use Permit requirements regarding on-street parking and pick-up/delivery business operations.

BACKGROUND: On April 30, 2020, the Santa Cruz County Health Officer issued an extended Countywide Shelter in Place order, which again directed all County residents to stay in their homes unless completing essential activities or travelling to serve in an essential job function. The new order also provides further clarification on what constitutes proper social distancing behavior, requires members of the public to wear masks when interacting face-to-face with others, and outlines beach activity limitations including the daily closure of all beaches in the County from 11am to 5pm. This order is in effect until it is extended, rescinded, superseded, or amended by the Health Officer.

The County Health Officer issued a supplemental order, effective 11:59pm May 7, 2020, that will allow some retail businesses to open, provided they are operated consistent with existent social distancing requirements. Businesses such as bookstores, clothing stores, florists, and sporting goods stores may provide services to the public via curbside pickup/delivery only. The order is written to align with California Governor Newsom's announcement that California will enter Stage 2 of the COVID-19 recovery process on May 8; Stage 2 allows for expanded retail businesses and associated manufacturing/supply chain businesses to reopen. The Santa Cruz County Health order is in effect until it is extended, rescinded, superseded, or amended by the Health Officer.

DISCUSSION: Due to the City's emergency declaration and the County's Shelter in Place order, City departments continue to implement strategies to protect the community and employees while maintaining essential levels of service to the public.

As of May 6, there are 138 cases of COVID-19 in Santa Cruz County and there have been two deaths.

City Staff that was previously unable to complete their job functions from their homes have

COVID-19 Emergency- Update 4  
May 14, 2020

returned to working at their regularly assigned locations beginning May 4. City Hall remains closed to the public and social distancing practices are in place for employees' safety. The use of payroll COVID time codes to designate unworked hours is no longer being used, however employee tracking of COVID-19 related tasks continue in the hopes of reimbursement from the federal and/or state government.

On May 8, the Capitola Director of Emergency Services issued an order to suspend certain Conditional Use Permit requirements regarding on-street parking and pick-up/delivery business operations. This order is intended to protect public safety by allowing curb side pickup consistent with the recent health orders. A resolution to ratify that order is included in this staff report (Attachment 1).

Further updates on the regional and local coronavirus response will be provided in a verbal report at the meeting.

FISCAL IMPACT: Anticipated reductions in Sales Tax and Transient Occupancy Tax as a result of this health crisis and shelter in place order could be substantial but remain impossible to estimate at this time.

ATTACHMENTS:

1. ---- Ratifying Emergency Order 3-2020

Report Prepared By: Jamie Goldstein  
City Manager

**Reviewed and Forwarded by:**



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Jamie Goldstein, City Manager      5/8/2020

## RESOLUTION NO. ----

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA RATIFYING EMERGENCY ORDER 3-2020 OF THE DIRECTOR OF EMERGENCY SERVICES**

**WHEREAS**, on March 26, 2020, the City Council of the City of Capitola declared the existence and anticipated spread of COVID-19 to be an emergency situation, as defined in California Government Code Section 54956.6, because it severely impairs public health and safety;

**WHEREAS**, on March 26, 2020, the City Council further declared the existence and anticipated spread of COVID-19 to be a local emergency, as defined by the California Emergency Services Act (California Government Code Sections 8634, 8550, *et seq.*);

**WHEREAS**, on April 30, 2020, the County of Santa Cruz Health Department issued an Order extending the March 31 shelter in place order's requirements for all residents, and provided modifications to the prior order concerning beach, lodging, and business restrictions, and;

**WHEREAS**, on May 6, 2020, the Santa Cruz County Health Officer released a Supplemental Order Directing All Individuals Living in the County to Continue Sheltering at their Place of Residence and Relaxing Restrictions on Low-Risk Businesses Consistent with Direction from the State of California, in which she aligned the County Orders with applicable State Orders;

**WHEREAS**, on May 8, 2020, the Governor issued a "Resilience Roadmap," that included guidance, by industry, for reopening certain segments of the economy. The Roadmap indicated that "curbside retail," which includes but is not limited to bookstores, jewelry stores, toy stores, clothing stores, shoe stores, home and furnishing stores, sporting goods stores, antique stores, music stores, and florists, may open with curbside pickup and delivery only, until further notice. The guidance for the "Retail" segment further includes detailed guidelines for maintaining a safe environment for workers and customers.;

**WHEREAS**, restaurants have been previously deemed an essential service, and thus their offer of curbside pickup and delivery has been consistent with prior State and County Orders;

**WHEREAS**, Capitola Municipal Code Section 17.76.040 A.3. requires an applicant obtain a conditional use permit to designate parking spaces for exclusive use by an individual tenant within an integrated commercial complex;

**WHEREAS**, Capitola Municipal Code Section 17.76.40 H.2. requires an applicant obtain a conditional use permit for restaurant curb-side service in the regional commercial (C-R) zoning district, and prohibits curb-side service in all other zoning districts;

**WHEREAS**, these requirements may prevent retailers and restaurants from being able to immediately and effectively provide curbside service;

**WHEREAS**, the City of Capitola recognizes that the safety and security of our community is inextricably linked to the safety and security of our economy, and wishes to allow businesses to re-open and recover as soon as possible, while remaining compliant with applicable State and County Orders, and mindful of public health and safety concerns; and

**WHEREAS**, a safe and controlled re-opening of the Capitola economy, consistent with the State and County Orders, is necessary to provide for the protection of life and property.

**WHEREAS**, to protect public health and emphasize the need for social distancing and the compliance with the County of Santa Cruz Health Department's Shelter in Place Order, the

Director of Emergency Services of the City of Capitola issued Emergency Order 3-2020 (Attachment 1)

**NOW, THEREFORE, BE IT RESOLVED,** that the City Council of Capitola ratifies Emergency Order No. 3-2020.

**I HEREBY CERTIFY** that the foregoing Resolution was passed and adopted by the City Council of the City of Capitola on the 14<sup>th</sup> day of May, 2020, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

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Kristen Petersen  
Mayor

ATTEST:

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Chloé Woodmansee, Interim City Clerk

Attachment: ----- Ratifying Emergency Order 3-2020 (COVID-19 Emergency- Update 4)

**ORDER OF THE DIRECTOR OF EMERGENCY SERVICES FOR THE CITY OF CAPITOLA  
NO. 3-2020**

**WHEREAS**, on March 26, 2020, the City Council of the City of Capitola declared the existence and anticipated spread of COVID-19 to be an emergency situation, as defined in California Government Code Section 54956.6, because it severely impairs public health and safety;

**WHEREAS**, on March 26, 2020, the City Council further declared the existence and anticipated spread of COVID-19 to be a local emergency, as defined by the California Emergency Services Act (California Government Code Sections 8634, 8550, *et seq.*);

**WHEREAS**, Government Code Section 8634 empowers the Director of Emergency Services to promulgate orders and regulations necessary to provide for the protection of life and property;

**WHEREAS**, Capitola Municipal Code Section 8.08.050A designates the City Manager as the Director of Emergency Services; and

**WHEREAS**, on April 30, 2020, the County of Santa Cruz Health Department issued an Order extending the March 31 shelter in place order's requirements for all residents, and provided modifications to the prior order concerning beach, lodging, and business restrictions, and;

**WHEREAS**, on May 6, 2020, the Santa Cruz County Health Officer released a Supplemental Order Directing All Individuals Living in the County to Continue Sheltering at their Place of Residence and Relaxing Restrictions on Low-Risk Businesses Consistent with Direction from the State of California, in which she aligned the County Orders with applicable State Orders;

**WHEREAS**, on May 8, 2020, the Governor issued a "Resilience Roadmap," that included guidance, by industry, for reopening certain segments of the economy. The Roadmap indicated that "curbside retail," which includes but is not limited to bookstores, jewelry stores, toy stores, clothing stores, shoe stores, home and furnishing stores, sporting goods stores, antique stores, music stores, and florists, may open with curbside pickup and delivery only, until further notice. The guidance for the "Retail" segment further includes detailed guidelines for maintaining a safe environment for workers and customers.;

**WHEREAS**, restaurants have been previously deemed an essential service, and thus their offer of curbside pickup and delivery has been consistent with prior State and County Orders;

**WHEREAS**, Capitola Municipal Code Section 17.76.040 A.3. requires an applicant obtain a conditional use permit to designate parking spaces for exclusive use by an individual tenant within an integrated commercial complex;

**WHEREAS**, Capitola Municipal Code Section 17.76.40 H.2. requires an applicant obtain a conditional use permit for restaurant curb-side service in the regional commercial (C-R) zoning district, and prohibits curb-side service in all other zoning districts;

**WHEREAS**, these requirements may prevent retailers and restaurants from being able to immediately and effectively provide curbside service;

**WHEREAS**, the City of Capitola recognizes that the safety and security of our community is inextricably linked to the safety and security of our economy, and wishes to allow

businesses to re-open and recover as soon as possible, while remaining compliant with applicable State and County Orders, and mindful of public health and safety concerns; and

**WHEREAS**, a safe and controlled re-opening of the Capitola economy, consistent with the State and County Orders, is necessary to provide for the protection of life and property.

**NOW THEREFORE, IT IS HEREBY PROCLAIMED AND ORDERED** by the Director of Emergency Services of the City of Capitola that, effective May 8, 2020:

1. The requirement for a conditional use permit to designate parking spaces for exclusive use by an individual tenant within an integrated commercial complex, as stated in Capitola Municipal Code Section 17.76.040 A.3. is temporarily suspended;
2. The requirement for a conditional use permit, in the regional commercial (C-R) zoning district, for restaurant curbside service, as stated in Capitola Municipal Code Section 17.76.404 H.2. is temporarily suspended;
3. The prohibition of curbside service in all other zoning districts, as stated in Capitola Municipal Code Section 17.76.404 H.2. is temporarily suspended; and
4. These temporary measures shall remain in place until the City of Capitola rescinds them.




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Jamie Goldstein  
Director of Emergency Services, City of Capitola

ATTEST:  
  
 Chloé Woodmansee, Interim City Clerk

Attachment: --- Ratifying Emergency Order 3-2020 (COVID-19 Emergency- Update 4)



## CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF MAY 14, 2020**

FROM: City Manager Department

SUBJECT: Council Compensation Decision to Decline Adjustment

**RECOMMENDED ACTION:** Affirm that the adjustment in Council's monthly salary, previously approved to be increased to \$600 following the November 2020 election, will not be accepted by each individual member of Capitola City Council due to the economic impacts of COVID-19.

**BACKGROUND/DISCUSSION:** On September 26, 2019, the City Council voted to adopt Ordinance No. 1032; updating Section 2.04.075: City Council Member Salary of Capitola Municipal Code and increasing Council compensation to \$600 from \$500 per month, beginning in December 2020.

On April 23, 2020, Mayor Petersen asked that this subject be placed on a Capitola City Council meeting agenda for discussion, as the financial impact of the COVID-19 pandemic to the City's FY 2020-21 budget is projected to be very significant.

California Government Code 36516 section (f) allows any or all Council members to waive compensation. Rather than amend Capitola Municipal Code, staff suggests that any Council Member who wishes to waive the pending increase do so. If the entire Council does not agree to waive the compensation increase, Council may direct staff to prepare an ordinance amendment to change Council compensation.

**FISCAL IMPACT:** If City Council defers the salary adjustment, Council's total salary will be reduced by \$6,000 and fully loaded costs (which includes PERS, PARS, and payroll costs), is reduced from \$42,054 to \$35,049. If the salary adjustment is deferred, the City will save approximately \$6,000 in salary cost and \$1,000 in employer related payroll costs.

Report Prepared By: Chloe Woodmansee  
Interim City Clerk

City Council Compensation  
May 14, 2020

**Reviewed and Forwarded by:**



\_\_\_\_\_  
Jamie Goldstein, City Manager

5/8/2020



## CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF MAY 14, 2020

FROM: Capitola Recreation

SUBJECT: Recreation Summer Programs Update

**RECOMMENDED ACTION:** Receive report on modifications to the Recreation Division's summer programs due to the COVID-19 epidemic, and consider allocating \$5,200 from the TOT Early Childhood and Youth Fund.

**BACKGROUND:** The County of Santa Cruz Health Services Agency Order issued on May 1, 2020, modified previous sections regarding childcare. The current order now allows for "Summer Camp and Recreational Institutions" to provide programs to "children of all ages that enable owners, employees, volunteers and contractors for Essential Businesses, Essential Governmental Functions or Minimum Basic Operations to work as allowed under this order".

The order states that "to the extent possible" programs should comply with a set of conditions. Specifically, the four conditions are: participants should be in stable groups of 12 or fewer; children shall not change from one group to another; groups should not mix with each other; and, staff shall remain with one group of children.

In addition, Recreation staff has participated in meetings with the County Health Officer and other City and County Recreation Districts to determine additional clarification and best practices for summer youth programs. The intent of those meetings was to develop consistent protocols for the operation of youth programs in the County. In addition, the Health Officer has stated that social distancing does not need to be maintained within each stable group and participants in each stable group can share material and equipment.

**DISCUSSION:** Staff is proposing that Camp Capitola will provide two-week long summer camp programs out of Jade Street Community Center over four sessions throughout the summer beginning on June 15, 2020. The program will be offered to youth ages six to 12. Participants will be placed in groups of 10 and provided one staff member and one youth volunteer. Youth volunteers will be of age 15 to 17. Participants will be provided a diverse set of activities that take advantage of resources at the community center and within walking distance of the community center.

This modified Camp Capitola will provide programming for up to 70 participants in each two-week session from 8:30am to 4:30pm. Early Care, After Care, and Half Day programs will not operate.

Staff is proposing a modified Junior Guards program on Capitola Beach that consists of four

Recreation Summer Programs Update  
May 14, 2020

separate two-week long sessions throughout the summer beginning on June 15, 2020. The program will be offered to youth ages seven to 15. Participants will be placed in groups of 12 and provided two staff members and one youth volunteer. Youth volunteers will be aged 16 to 17. Participants will be provided with ocean safety education and fitness activities that can be conducted in their stable group and will not mix with any other group.

The modified Junior Guards program will allow up to 60 participants in each two-week session. The program will run from 8:00am to 11:00am. Due to the beach closures, there will be no afternoon session. In person competitions will not be able to operate, though staff is evaluating the feasibility of “virtual” challenges for participants. Each participant will be asked to only enroll in one session to maximize the number of participants we can serve this summer.

These modified programs will operate with the established fee schedule for each program and with a reduced expense budget. Registration for these modified programs will begin the week of May 18, 2020 and only be offered to Santa Cruz County residents. Recreation will begin making employment offers for Temporary/Seasonal staff around the same time with a start date of June 8, 2020; employment will end on August 7, 2020.

During the first budget hearing, Council suggested allocating the Transient Occupancy Tax Children and Youth/Early Childhood Fund to assist recreation opportunities. Consistent with that direction, staff is recommending allocating the remaining \$5,200 in restricted Youth/Early Childhood funding from the 2019/20 fiscal budget to support these programs. Specifically, staff recommends allocating that funding for a scholarship fund for summer programs. Any unused scholarship funding will roll over into the FY 20/21 budget. Additional recommendations for the 20/21 fiscal budget will be provided during the May 21, 2020 Budget hearing.

FISCAL IMPACT: During a pre-COVID projected summer, Camp Capitola would have provided for about 500 full and half day participants and require 12 leaders, a Coordinator, and Assistant Coordinator. The anticipated revenue was \$140,000 and the projected direct wage expense was \$105,000. This modified Camp Capitola program will provide for 280 participants and require seven leaders, a Coordinator, and Assistant Coordinator. The anticipated revenue is \$95,000 and there is a projected direct wage expense of \$78,000.

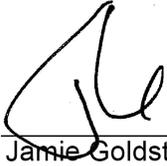
In a typical summer the Junior Guard program would provide for about 1,000 participants and hire up to 22 instructors, Coordinator, and Assistant Coordinator. The anticipated revenue of a typical summer is \$275,000, with a direct wage expense of \$143,000 and offsetting administration cost for Recreation. This modified Junior Guard program will provide program for 240 participants and require 10 to 12 instructors, Coordinator and Assistant Coordinator. The anticipated revenue is \$121,000 and there is a wage expense of \$101,000.

Due to the changes necessitated by the Health Orders, the total budgetary impact to the City as compared a regular summer is a reduction in recreation revenues of \$199,000 offset by a reduction in recreation expenditures of \$69,000, for a net General Fund impact of -\$130,000. These impacts are included in the Proposed FY 20/21 Budget.

Report Prepared By: Nikki Bryant LeBlond  
Recreation Supervisor

Recreation Summer Programs Update  
May 14, 2020

**Reviewed and Forwarded by:**



\_\_\_\_\_  
Jamie Goldstein, City Manager

5/8/2020



## CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF MAY 14, 2020**

FROM: Community Development  
SUBJECT: CDBG-CV Grant Resolution

**RECOMMENDED ACTION:**

1. Adopt the attached Resolution authorizing the City Manager to submit a Community Development Block Grant Coronavirus Response (CDBG-CV) application requesting up to \$114,367.65 of CDBG-CV grant funds and reutilizing \$80,632.35 of CDBG program income funds (total \$195,000) for three Covid-19 related relief programs and to execute the grant agreement upon award.
2. Identify two Council Members to participate in a CDBG-CV ad hoc subcommittee.

**BACKGROUND:** On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to support preparation for and response to the community impacts of the COVID-19 pandemic. The state of California received approximately \$19 million in CARES ACT funds that will be distributed through the California Department of Housing and Community Development (HCD) Community Development Block Grant (CDBG) Program. A Notice of Funding Availability (NOFA) is expected to be published by the HCD in early May. In order to submit an eligible CDBG application, the City must hold two public hearings to discuss the potential application and allow public input. The May 14, 2020, City Council meeting will serve as the first public hearing, followed by a second public hearing at the May 28, City Council meeting.

**DISCUSSION:** HCD will utilize streamlined distribution methods to ensure CDBG-CV funding is distributed and expended as quickly as possible on activities that address immediate and medium-term responses to the COVID-19 pandemic. Eligible activities must be related to preparation, prevention, response, and recovery of the COVID-19 pandemic. The City of Capitola is a CDBG-eligible non-entitlement jurisdiction. HCD guidance identified up to \$114,367.65 of available CDBG-CV grant funds for the City of Capitola.

The City was last awarded a CDBG grant in 2014 in the amount of \$500,000 for housing rehabilitation and homebuyer assistance programs. This year, a program participant paid off a \$79,339 down payment assistance loan to the City. Since then the City received interest of \$1,292 on those funds. The loan payoff and the accrued interest are classified as CDBG Program Income (CDBG-PI). The current balance of Capitola's CDBG-PI fund is \$80,632. HUD requires CDBG-PI funds be substantially spent prior to receipt of CDBG-CV funds. The CDBG-PI funds may be utilized in response to the COVID-19 pandemic on eligible grant activities. In

CDBG- CV Grant Resolution  
May 14, 2020

total, the City of Capitola could be awarded up to \$ 195,000 of CDBG funds (\$114,367.65 CDBG-CV and \$80,632 CDBG-PI).

Allocations must be used on four specific activities. HUD has waived the usual requirement that a maximum of 15% of the grant be allocated to public services. When the activities are related to COVID-19 100% of the funds may be allocated to public services. If the City receives a grant, the City must identify up to three activities that funding. The following four activities are prioritized for CDBG-CV funding.

1. Public services to respond to COVID-19 impacts
  - Includes food distribution and rental assistance programs
2. Public facility improvements to increase capacity for healthcare facilities
  - Includes conversion of public facilities to healthcare facilities
  - Likely not applicable.
3. Housing facilities for persons experiencing homelessness
  - Includes providing shelter to homeless in response to COVID-19
  - Homeless Action Partnership (HAP)
4. Economic development to support needs for working capital and furniture, fixtures, and equipment focusing on safety requirements
  - Includes Business Assistance Loans and Micro Enterprise Loans

Staff proposes the City allocate the \$195,000 of grant funds toward the following activities:

<b>ACTIVITY</b>	<b>Funding Amount</b>	<b>Percent</b>
Public Service Response (food and rental assistance)	\$80,925	41.5%
Housing Facilities for Homeless	\$40,463	20.75%
Economic Development	\$40,463	20.75%
Administration (up to 17% allowed)	\$33,150	17%
<b>TOTAL</b>	<b>\$195,000</b>	

The City may award funds based on previous grant allocations or through a competitive process. Staff requests the Council form a subcommittee to identify how funds will be allocated. Staff recommends a subcommittee of two City Council members, the Community Development Director, and the Assistant to the City Manager.

Seventeen percent of the funding allocation is available for program administration costs. To assist with program administration, staff will publish a request for proposal (RFP) to initiate a competitive award process for contracting with a qualified firm to administer any funds the City receives. Staff will bring the RFP to City Council at the May 28, 2020 meeting.

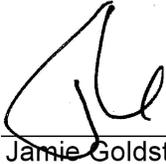
It is a HUD recommended best practice to fund fewer projects at higher levels; rather than to fund more projects at lower funding levels, which can lead to projects not moving forward due to insufficient funds. In awarding CDBG project funds, larger amounts are also encouraged to ensure that handling the administratively cumbersome and extensive HUD regulatory requirements results in a worthwhile funding level for recipients.

**FISCAL IMPACT:** If awarded, the grant would add \$114,367.65 to the City's Community Development Block Grant Fund.

CDBG- CV Grant Resolution  
May 14, 2020

Report Prepared By: Katie Herlihy  
Community Development Director

**Reviewed and Forwarded by:**



---

Jamie Goldstein, City Manager

5/8/2020

CDBG- CV Grant Resolution  
May 14, 2020

**RESOLUTION NO.**

**A RESOLUTION APPROVING AN APPLICATION FOR FUNDING AND COMMITMENT OF PROGRAM INCOME FUNDS AND THE EXECUTION OF A GRANT AGREEMENT AND ANY AMENDMENTS THERETO FROM THE 2020 FUNDING YEAR OF THE STATE CDBG PROGRAM.**

BE IT RESOLVED by the City Council of the City of Capitola as follows:

**SECTION 1:**

The City Council has reviewed and hereby approves the submission to the State of California of one or more application(s) in the aggregate amount, not to exceed, of \$195,000 (up to \$114,367.65 of CDBG-CV funds and up to \$80,632.35 of CDBG program income funds) for the following CDBG activities, pursuant to the 2020 CDBG-CV NOFA:, for the following activities:

General Administration (GA)	\$ 33,150
Public services to respond to COVID-19 impacts	\$ 80,925
Housing Facilities for Homeless	\$ 40,463
Economic Development	\$ 40,463
<b>Total</b>	<b>\$195,000</b>

**SECTION 2:**

The City hereby approves the use of Program Income in an amount not to exceed \$80,632.35 for the CDBG activities described in Section 1.

**SECTION 3:**

The City has determined that state and federal citizen participation requirements were met during the development of this application.

**SECTION 4:**

The City/County hereby authorizes and directs the City Manager, or designee, to enter into, execute and deliver the grant agreement (i.e., Standard Agreement) and any and all subsequent amendments thereto with the State of California for the purposes of the grant.

**SECTION 5:**

If the application is approved, the City Manager, or designee, is authorized to sign and submit Fund Requests and all required reporting forms and other documentation as may be required by the State of California from time to time in connection with the grant.

**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 14<sup>th</sup> day of May, 2020, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

CDBG- CV Grant Resolution  
May 14, 2020

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Kristen Petersen, Mayor

ATTEST:

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Chloe Woodmansee, City Clerk



## CAPITOLA CITY COUNCIL AGENDA REPORT

**MEETING OF MAY 14, 2020**

FROM: Community Development

SUBJECT: Zoning Code Update Chapter 17.44 Coastal Overlay Zone

**RECOMMENDED ACTION:** Accept staff presentation, provide direction on zoning code revisions, and continue the public hearing to the May 28, 2020, City Council meeting.

**BACKGROUND:** City Council adopted a new zoning code on January 25, 2018. The zoning code must also be certified by the Coastal Commission prior to taking effect in the coastal zone, which makes up two-thirds of the land area in Capitola.

Capitola staff has been working with Coastal Commission staff toward certification over the past two years. City staff presented the modifications recommended by Coastal Commission staff to the Planning Commission during a special meeting on February 21, 2019, and a regular meeting on March 7, 2019. The Planning Commission provided recommendations for the City Council regarding which Coastal Commission revisions to accept.

On April 5, 2019, staff published an updated draft of the zoning code on the City website which included all Coastal Commission modifications accepted by the Planning Commission in redlines.

On April 11, 2019, City Council received updates on the Coastal Commission redlines and requested further review by the City's legal counsel. On May 9, 2019, City Council received an overview of the general Coastal Commission certification process. On May 23, 2019, City Council reviewed updates to the code that were initiated by City staff, not Coastal Commission staff. City Council accepted the staff recommended changes as presented.

On June 27, 2019, the City Attorney provided an overview of the proposed Coastal Commission staff edits. City Council directed staff to work with Coastal Commission staff on the remaining items. City staff provided comments to Coastal Commission staff and received responses to comments in November of 2019 followed by meeting in late December of 2019.

**DISCUSSION:** As mentioned previously, at the June 27, 2019 meeting, the Council directed City staff to work with Coastal Commission staff on outstanding items. On May 14, staff will provide City Council with an overview of all edits worked through with Coastal Commission staff. Attachment 1 is an updated list identifying how each item has been addressed. The list includes edits from zoning code chapter 17.44 (Coastal Overlay), one edit from Section 17.48.030F (encroachment in right-of-way), and one edit in Section 17.76.090 (public parking). An updated

Zoning Code Update Chapter 17:44 Coastal Overlay Zone  
May 14, 2020

version of each code section with redlines identifying all edits which address the outstanding items are included as Attachment 2, 3, and 4, respectively.

The update reflects the City's Coastal Land Use Plan and is in compliance with the Coastal Act. Previous items that were identified as calling for changes potentially beyond the provisions of the Coastal Act have been updated to mirror the authority permitted within the Coastal Act.

Next Steps: Following the May 14 meeting, there will be three remaining topics which require City Council direction. The following table includes the pending items for discussion:

	Topic	Code Section	Page #
1	Monarch Cove Inn	Section 17.28; Table 17.28-1 Footnote 12	28-4
2	Village Onsite-Parking	Section 17.76.040.3	76-8 & 76-9
3	Future Village Hotel Height	Section 17.88.050.B.2.a	88-3

These remaining three items will be placed on the May 28, 2020, City Council agenda. After receiving direction on all three items, an updated version with all City Council recommendations will be prepared and published for adoption hearings. Due to the extensive changes during Council review, the updated draft requires a second review and recommendation by Planning Commission prior to the final adoption by City Council.

CEQA: An Addendum to the General Plan Update Environmental Impact Report (EIR) was adopted with the Zoning Code update on January 25, 2018, and continues to be applicable.

FISCAL IMPACT: None.

ATTACHMENTS:

1. Zoning Code Revisions Table 4\_30 (PDF)
2. 17.44 Coastal Zone (PDF)
3. 17.48 Height (PDF)
4. 17.76\_Parking(PDF)

Report Prepared By: Katie Herlihy  
Community Development Director

**Reviewed and Forwarded by:**



Jamie Goldstein, City Manager

5/8/2020

**REVISIONS TO ADDRESS PRIOR INTERIM CITY ATTORNEY COMMENTS**

<b>Code Section</b>	<b>Page</b>	<b>Coastal Commission Staff Proposed Amendment</b>	<b>City Attorney Comment</b>	<b>Resolution</b>
17.44.010 (B)	44-1/2	Coastal staff proposed the addition of language reading, “This chapter shall be given the broadest interpretation possible so as to protect, restore, and enhance coastal resources...” City staff and Planning Commission have recommended against this amendment.	SPECIALIST COUNSEL ADVISORY	Subsection B revised to more closely track with Coastal Act Sections 30001.5, 30005, and 30007.5:  “B. In achieving these purposes, this chapter shall be consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution. <u>This chapter shall be interpreted and applied in a manner that:</u>  <u>1. Protects, maintains, and where feasible, enhances and restores the overall quality of the coastal zone environment and its natural and artificial resources;</u>  <u>2. Allows the City to adopt and enforce additional regulations, not in conflict with the Coastal Act or otherwise limited by State law, imposing further conditions, restrictions, or limitations with respect to any land or water use or other activity which might adversely affect the resources of the coastal zone; and</u>  <u>4.3. Resolves conflicting provisions in a manner which balances the utilization and conservation of coastal zone resources, taking into account the social and economic needs of the people of the Capitola and the state.”</u>
17.44.030 (I)	44-4	Coastal staff proposed new definition for “Energy Facility.”	The proposed amendment would substantially expand the definition of “energy facilities.” As drafted, it could be argued to include private operation of residential solar panels or other energy-generating technologies.	Requested edit accepted. Energy Facility definition matches Coastal Act Section 30107. Major energy facility definition matches Coastal Commission Regulations Section 13012:  “ <b>I. Energy Facility.</b> Any public or private processing, producing, generating, storing, transmitting, or receiving facility for electricity, natural gas, petroleum, coal, or other source of energy. A “major energy facility” means any of the previously listed facilities that costs more than <del>\$275,882,283,502</del> as of <del>2017</del> 2019 with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624.”
17.44.030 (Q)	44-5	Coastal staff proposed a new definition for “structure.”	The proposed amendment would substantially expand the definition of “structure” by removing the important qualifier of “permanently attached to the ground.” This would have the effect of incorporating nearly any man-made object into the definition of structure (including things like tents or umbrellas), which would substantially broaden the application of the LCP, and the corresponding requirement to obtain a CDP, for the placement or erection of such structures.	Returned to City’s existing definition, including the permanently attached to the ground qualifier. Coastal Commission staff indicated this is acceptable.  “ <b>Q. Structure.</b> <del>As used in this chapter, “structure” includes, but is</del> Any improvement permanently attached to the ground, including, but not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.
17.44.060	44-6	Coastal staff proposed adding language reading, “All standards (including with respect to height, setbacks, density, coverage, etc.) shall be interpreted as maximums (or minimums as applicable) that shall be reduced (or increased as applicable) to protect and enhance coastal resources and meet LCP objectives to the maximum extent feasible depending on the facts presented. Protection of coastal resources shall be a priority in all City actions and decisions for development within the -CZ overlay zone, and such development must conform to all applicable	Coastal staff recently indicated they would not accept the City’s proposed LCP update if it did not include the language stricken by City staff and the Planning Commission. Coastal staff indicate they believe the language merely “reiterates and expounds” on the tenets of the Coastal Act.	New compromise language added to 17.44.060:  “Development standards (e.g., structure height, setbacks) that apply to property in the -CZ overlay zone are the same as in the underlying base zoning district. <u>These standards are maximums (or minimums as applicable) and are not an entitlement or guaranteed allowance. Where the Zoning Code allows for discretion in the application of development standards, the decision-making body may impose more stringent requirements to the extent permitted by state law to protect and enhance coastal resources.</u> ”

Code Section	Page	Coastal Commission Staff Proposed Amendment	City Attorney Comment	Resolution
		LCP policies related to hazards, water and marine resources, scenic resources, biological resources and environmentally sensitive habitat areas, cultural resources, and public access and recreation.” City staff and Planning Commission have recommended against this amendment, and have proposed a compromise.		
17.44.070 (B)(5)	44-6/7	Coastal staff proposed adding language reading, “Any additional development proposed on a parcel with a Coastal Commission- <del>issued Coastal Permit</del> authorization shall be reviewed by the City pursuant to an application for a new <del>Coastal Permit</del> CDP, provided that the Coastal Commission determines that the development is not contrary to any terms or conditions of the Commission- <del>issued permit authorization or would not be more appropriately processed through a Commission authorization.</del> ”	Coastal staff struck “issued Coastal Permit” and substituted “authorization,” which would ostensibly broaden the potential for Coastal staff to demand review of <i>all</i> additional development – including City-issued CDPs which could be argued to represent “Coastal Commission authorization.”  Coastal staff also added the following clause to the end of the paragraph: “or would not be more appropriately processed through a Commission authorization.” It is unclear what this language means, and it introduces ambiguity and increases the potential for subjective arguments instead of the application of objective, concrete standards.	Revisions to B (5) to clarify that Coastal Commission “authorizations” include Coastal Permits, amendments, or waivers. Clarifies that the Commission is the permitting authority if the project is in the Commission’s retained jurisdiction.  “5. Development already authorized by a Coastal Commission-issued <del>Coastal Development Permit</del> CDP, Amendment, or Waiver remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, and revocation. Any additional development proposed on a parcel with a Coastal Commission- <del>authorization-issued CDP, Amendment, or Waiver</del> shall be reviewed by the City <del>pursuant to an</del> <u>as a new CDP application for a new CDP</u> , provided that <del>the</del> :  a. <u>The Coastal Commission determines that the development is not contrary to any terms or conditions of the Commission-<del>authorization or would not be more appropriately processed through a Commission authorization.</del>-issued CDP, Amendment, or Waiver; or</u>  b. <u>The development is not located within a location where the Coastal Commission is required to retain jurisdiction under the Coastal Act.</u> ”
17.44.070 (D)	44-7	Coastal staff revised the subsection for “Legal Development and Permitting Processes.”	The proposed amendment would substantially increase the potential for argumentation regarding the legality of previous development, and would increase the scope of the development over which the Coastal staff would claim authority under the Coastal Act.	Revisions accepted, determined to be consistent with Coastal Act.  “D. <b>Legal Development and Permitting Processes.</b> Development that was legally established prior to the effective date of Proposition 20 (i.e., February 1, 1973) for property within 1,000 yards of the mean high tide or the Coastal Act of 1976 (i.e., January 1, 1977) for all coastal zone property, whichever is applicable, is considered lawfully established development that does not require a <del>Coastal Development Permit</del> CDP in order to continue as it legally existed prior to those dates. Any additional development since those dates (including improvements, repair, modification, and/or additions) requires a CDP <u>or a determination that such development is excluded from CDP requirements</u> in accordance with the provisions of this chapter.”
17.44.070 (E)	44-8	Coastal staff revised the subsection for “Illegal Development and Permitting Processes.”	As with the section identified immediately above, this proposed amendment would substantially increase the potential for argumentation regarding the legality of previous development, and would increase the scope of the development over which the Coastal staff would claim authority under the Coastal Act.  It adds new requirements for determining consistency with the LCP, and provides if a project cannot be found to be consistent, it must “be abated and any affected areas restored to at least the condition before the unpermitted development was undertaken if not better.”	Revisions accepted, determined to be consistent with Coastal Act Sections 30810 and 30811.  “E. <b>Illegal Development and Permitting Processes.</b>  1. Development that was not legally established (i.e. with a Coastal Development Permit) after the effective date of Proposition 20 (i.e., February 1, 1973) for property within 1,000 yards of the mean high tide, or the Coastal Act of 1976 (i.e., January 1, 1977) for all coastal zone property, whichever is applicable, constitutes “unpermitted development?” <u>for purposes of this Chapter 17.44.</u> In addition, development undertaken inconsistent with the terms and conditions of an approved CDP (or an approved waiver or amendment) is also not lawfully established or authorized development (i.e., it constitutes unpermitted development). Both categories of unpermitted development may be subject to enforcement action by the City of Capitola and/or the Coastal Commission.

Code Section	Page	Coastal Commission Staff Proposed Amendment	City Attorney Comment	Resolution
				<p>2. If development is proposed on a site with unpermitted development, then such application may only be approved if it resolves all permitting and coastal resource issues associated with the unpermitted development, including through removal <del>or retention</del> of all or part of the unpermitted development <u>or retention of such development</u> if it can be found consistent with the policies and standards of the <del>City's</del> LCP and the public access and recreation policies of the Coastal Act, if applicable. If the unpermitted development cannot be found consistent, the unpermitted development must be abated and any affected areas restored to <del>at least</del> the condition before the unpermitted development was undertaken <del>if not better</del> <u>or pursuant to the terms of a valid restoration order.</u>"</p>
17.44.080 (C)(4)(d)	44-11	Coastal staff proposed the following amendment: The " <u>provisions of this section shall not be applicable to those activities specifically described in the document entitled "Repair, Maintenance and Utility Hookups," adopted by the Coastal Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, an environmentally sensitive habitat area, wetlands, or public views to the ocean.</u> "	The proposed amendment could introduce ambiguity into the Zoning Ordinance and create a basis for subjective argumentation not rooted in the application of objective, concrete standards (specifically, the phrase "unless a proposed activity will have a risk of..."). 4	"d. The provisions of this section shall not be applicable to those activities specifically described in the document entitled "Repair, Maintenance and Utility Hookups," adopted by the Coastal Commission on September 5, 1978 unless <u>the Community Development Director determines that</u> a proposed activity will have a risk of substantial adverse impact on public access, an environmentally sensitive habitat area, wetlands, or public views to the ocean."
17.44.100 (B)	44-14/15	Coastal staff proposed the adding the Executive Director of the Coastal Commission to those who are required to receive notice, allowed to challenge the designation of, development for purposed of CDP requirements.	The proposed language would erode local control and discretionary authority. It is inconsistent with the provisions of the Coastal Act, which limit Coastal Commission appeals jurisdiction to final actions, not initial determinations.	17.44.100 revised to conform with CCR Section 13569. See pages 44-14/15
17.44.110	44-15	Coastal staff proposed adding new requirements for applications. City staff proposed allowing the City's Community Development Director discretion to determine the materials necessary for any application.	Coastal staff has not indicated whether the City's version is acceptable.	Coastal staff has not provided feedback. City's preferred language consistent with other permits specified in the Zoning Code is maintained.  "A. <b>Submittal Requirements.</b> <del>Coastal Development Permit</del> CDP application submittals shall include all the information and materials required by the Community Development Department. It is the responsibility of the applicant to provide all necessary and requested evidence to allow for the reviewing authority to make a decision regarding whether the proposed development is consistent with the LCP, including with respect to the findings required by Section 17.44.130 (Findings for Approval)."
17.44.160 (A)	44-20	Coastal staff proposed changing the effective dates of CDPs to the date to "after ten working days <u>of Coastal Commission receipt of a complete notice of final action</u> if no appeal has been filed. The ten- <del>working</del> -day appeal period shall start the day after the Coastal Commission receives adequate notice of the <u>City's</u> final local action."	This language is internally inconsistent, requiring "receipt of a complete notice of final action" and simultaneously starting the 10 day clock after Coastal Commission receives "adequate notice."	17.44.160 revised to confirm with CCR 13313 and Coastal Commission interpretation of this requirement.  "A. <b>Effective Date of a Coastal Development Permit.</b>  1. For City actions on <del>Coastal Development Permits</del> CDPs that are not appealable to the Coastal Commission, a <del>Coastal Development Permit</del> CDP shall become effective seven working days after the City's final decision.  2. For <del>City actions on Coastal Development Permits that are appealable to</del> development <u>within</u> the Coastal Commission, <del>a Coastal Development Permit CDP appeal area, CDPs</del> shall become effective after ten working days <u>of Coastal Commission receipt of a complete notice of final action</u> if no appeal has been filed. The ten- <del>working</del> -day appeal period <del>shall start</del> <u>starts</u> the day after the Coastal Commission receives adequate notice of the City's final <del>local action</del> - <u>decision</u> ."

Code Section	Page	Coastal Commission Staff Proposed Amendment	City Attorney Comment	Resolution
17.44.170 (D)	44-22	Coastal staff proposed removing “designated local official” and requiring the Community Development Director take action. Coastal staff further proposed of the following new requirement: “ <u>The Community Development Director shall consult with the Coastal Commission as time allows in determining whether to issue an Emergency CDP.</u> ”	This removed language reduces local control and authority to designate appropriate officials, inconsistent with the Coastal Act, and the additional language creates potential for argument as to whether the City properly consulted with the Commission staff.	Replaces “designated local official” with “other appropriate local official” to match language in 13329.2. Replaces “shall consult with the Coastal Commission” with “may consult with the Coastal Commission” as this is not required by 13329.3 or 13329.4.  “D. <b>Verification of Facts.</b> The Community Development Director <u>or other appropriate local official</u> shall verify the facts, including the existence and nature of the emergency, as time allows. The Community Development Director may request, at the applicant’s expense, verification by a qualified professional <u>of</u> the nature of the emergency and the range of potential solutions to the emergency (including identifying how the proposed solutions meet the criteria for granting the <del>emergency Coastal Development Permit</del> ). <u>Emergency CDP</u> . The Community Development Director <del>shall</del> <u>may</u> consult with the Coastal Commission as time allows <del>in determining to determine</del> whether to issue an Emergency CDP.”
17.44.170 (F)	44-23	Coastal staff proposed adding a new requirement for granting emergency CDPs: “ <u>The proposed work is the minimum amount of temporary development necessary to abate the emergency in the least environmentally damaging manner.</u> ”	This new requirement creates significant room for debate and argument as to whether the work is “the minimum amount necessary.”	New requirement is removed as there is no specific regulatory basis.  “F. <b>Criteria for Granting Permit.</b> The Community Development Director may grant an Emergency CDP upon making all of the following findings:  1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary <del>Coastal Development Permits</del> <u>CDP</u> .  2. The development can and will be completed within <del>thirty</del> <u>30</u> days unless otherwise specified by the terms of the permit.  3. Public comment on the proposed emergency action has been reviewed if time allows.  4. The work proposed will be consistent with the requirements of the <del>certified</del> -LCP.  <del>5. The proposed work is the minimum amount of temporary development necessary to abate the emergency in the least environmentally damaging manner.</del>
17.44.170 (G)	44-23	Coastal staff proposed adding additional requirements for the issuance of emergency CDPs, including removing any work accomplished by an emergency CDP that is not later endorsed by a full CDP. The “ <u>emergency development authorized by the Emergency CDP is only temporary, and can only be allowed to remain provided a regular CDP is obtained to recognize it. Absent a regular CDP, the emergency development shall be removed and the affected area restored to pre-emergency conditions or better within 6 months of Emergency CDP issuance.</u> ”	This language significantly reduce the ability to issue emergency CDPs and perform emergency work in a variety of contexts.	Replaced Coastal staff revision with the following:  “5. <u>If the applicant does not apply for or obtain a regular CDP is complete shall also be provided to the Community within the specified time period, the emergency development may be subject to enforcement action in accordance with Section 17.44.180 (Coastal Development Director Permit Violations).</u> ”
17.44.170 (H)	44-23	Coastal staff proposed limiting the projects or development which qualifies for an emergency CDP: “The emergency work authorized under approval of an <del>Emergency permit</del> <u>CDP</u> shall be limited to activities necessary to protect the endangered structure or essential public <del>structure</del> <u>infrastructure</u> .”	The change from “structure” to “infrastructure” lessens the City’s ability to utilize emergency CDPs to protect public structures, only permitting work on “infrastructure,” which is undefined.	Changed to “essential public <u>structures and</u> infrastructure.”  “1. The emergency work authorized under approval of an Emergency CDP shall be limited to activities necessary to protect the endangered structure or essential public <u>structures and</u> infrastructure.”
17.44.170 (I)	44-24	Coastal staff proposed the following change: “Upon the issuance of an <del>Emergency permit</del> <u>CDP</u> , the applicant shall submit a completed <del>Coastal Permit</del> <u>CDP</u> application and any required technical reports within a time specified by the Community Development Director, <u>but</u> not to exceed 30 days. <u>All emergency development approved pursuant to this section is</u>	As noted above, this modification requires removal of work and “restoration,” which remains undefined, if a complete full CDP is not obtained. The new requirement of 6 months for a full CDP	Changed to:  “I. <b>Application for Regular Coastal Development Permit.</b> <del>Upon</del> <u>After</u> the issuance of an Emergency CDP, the applicant shall submit a completed CDP application and any required technical reports within a time specified by the Community Development Director, but not to exceed 30 days. All emergency development approved pursuant to this section is

Code Section	Page	Coastal Commission Staff Proposed Amendment	City Attorney Comment	Resolution
		<p><del>considered temporary and must be removed and the area restored if an application for to recognize the development is not submitted within 6 months of the date of the emergency CDP issuance, unless the Community Development Director authorizes an extension of time for good cause.”</del></p>	<p>submittal is also inconsistent with the Coastal Act’s more lenient provisions.</p>	<p><del>considered temporary and mustshall be removed and the area restoredsubject to enforcement action in accordance with Section 17.44.180 (Coastal Development Permit Violations) if an application for to recognize the development is not submitted within 6 months ofthe timeframe specified in the date of the emergencyEmergency CDP-issuancee, unless the Community Development Director authorizes an extension of time for good cause.”</del></p>
17.48.030 (F)	48-5	<p>Coastal staff proposed including the following findings required for the issuance of encroachment permits: “with the additional findings that the encroachment does not restrict lateral and vertical public coastal access, does not obstruct public coastal views, and does not impact ESHA, as identified in the Local Coastal Program.”</p>	<p>This language could result in the denial of an encroachment permit for work in the Capitola Village if the permitted work even temporarily impacted public access or public views.</p>	<p>Language on encroachments into the public right-of-way edited as follows:  <b>“F. Encroachments in the Public Right-of-Way.</b></p> <ol style="list-style-type: none"> <li>1. <del>Encroachment of private development</del>A privately-installed structure may encroach into the public right-of-way <del>may be allowed, but only when such encroachments arethe encroachment is</del> authorized by the Public Works Director or Planning Commission.<del>Encroachments as provided in the public right-of-way inMunicipal Code Chapter 12.56 (Privately Installed Improvements on Public Property or Easements.</del></li> <li>2. <del>In the coastal zone, a privately-installed structure encroaching into the public right-of-way</del> may require via a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval), with the additional findings that the encroachment does not restrict lateral and vertical public coastal access, does not obstruct public coastal views, and does not impact ESHA, as identified in the Local Coastal Program. <del>In addition, toTo</del> the extent the encroachment is allowed, <del>annual fees shall be charged with revenues dedicated to public coastal access improvements, and all encroachments shall be revocable. removed if the area is needed to provide for the continuance of public coastal access.”</del></li> </ol>
17.76.090	76-22	<p>Coastal staff proposed the following amendment: <del>“The City shall evaluate the potential impact on public coastal access when considering a Coastal Development Permit application for any development that could reduce or degrade public parking opportunities near beach access points, shoreline trails, or parklands, including any changes in parking fees, timing and availability. The City shall ensure existing levels of public access are at least maintained and if possible enhanced, including by providing alternative access opportunities such as bicycle lanes and bicycle parking, pedestrian trails, and relocated vehicular parking spaces, so as to fully mitigate any potential negative impacts and to maximize access opportunities.”</del></p>	<p>This requirement imposes a new obligation on the City to ensure that all existing levels of public access, including parking, are maintained. It further restricts the City’s ability to adjust parking fees, timing, and availability.</p>	<p>Coastal staff proposed language edited to more closely track Coastal Action Section 30252:</p> <ol style="list-style-type: none"> <li>4. <del>When</del>The City shall evaluate the potential impact on public coastal access when considering a Coastal Development Permit application for any development that <del>couldwould</del> reduce <del>or degrade</del> public parking <del>opportunities-spaces</del> near beach access points, shoreline trails, or parklands, including any changes <del>into the residential parking fees, timing and availability</del>program established under Coastal Development Permit 3-87-42. When parking is reduced, the City shall <del>evaluate the potential impact orrequire alternative opportunities for</del> public coastal access, <del>and as needed to</del> ensure existing levels of public access are <del>at least maintained and, or</del> if possible enhanced, <del>including by providing alternative access. Such</del> opportunities <del>such asmay include</del> bicycle lanes and bicycle parking, pedestrian trails, <del>and</del>relocated vehicular parking spaces, <del>so as to fully mitigate any potential negative impacts and to maximize access opportunities and enhanced shuttle/transit service.</del></li> </ol>

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### Sections:

- 17.44.010 Purpose
- 17.44.020 Local Coastal Program Components
- 17.44.030 Definitions (see also Chapter 17.160 - Glossary)
- 17.44.040 Relationship to Base Zoning Districts
- 17.44.050 Allowed Land Uses
- 17.44.060 Development Standards
- 17.44.070 Coastal Development Permit Requirements
- 17.44.080 Coastal Development Permit Exemptions
- 17.44.090 De Minimis Waiver of Coastal Development Permit
- 17.44.100 Challenges to City Coastal Development Permit Determinations
- 17.44.110 Application Submittal
- 17.44.120 Public Notice and Hearings
- 17.44.130 Findings for Approval
- 17.44.140 Notice of Final Action
- 17.44.150 Appeals
- 17.44.160 Permit Issuance
- 17.44.170 Emergency Coastal Development Permits
- 17.44.180 Coastal Development Permit Violations

#### 17.44.010 Purpose

A. The purpose of this chapter is to establish review and permit procedures for the implementation of Capitola's Local Coastal Program- ~~(LCP)~~. This chapter ensures that all private and public development within the City's coastal zone (as depicted by the ~~(-CZ) coastal~~ overlay zone) is consistent with the City's certified ~~Local Coastal Program~~ LCP Land Use Plan and Implementation Program, which together constitute the City's certified ~~Local Coastal Program (LCP)~~ LCP including:

1. To achieve the basic State goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act and codified in Sections 30000 through 30900 of the California Public Resources Code. Section 30001.5(c) states that public access both to and along the shoreline shall be maximized consistent with sound resource conservation principles and constitutionally protected rights of private property owners; and
2. To implement the public access and recreational policies of Chapter 3 of the Coastal Act (Sections 30210- 30224).

B. In achieving these purposes, this chapter shall be consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution. This chapter shall be interpreted and applied in a manner that:

1. Protects, maintains, and where feasible, enhances and restores the overall quality of the coastal zone environment and its natural and artificial resources;
2. Allows the City to adopt and enforce additional regulations, not in conflict with the Coastal Act or otherwise limited by State law, imposing further conditions, restrictions, or limitations with respect to any land or water use or other activity which might adversely affect the resources of the coastal zone; and
3. Resolves conflicting provisions in a manner which balances the utilization and conservation of coastal zone resources, taking into account the social and economic needs of the people of the Capitola and the state.

#### 17.44.020 Local Coastal Program Components

The City of Capitola LCP consists of the Land Use Plan (LUP) and Implementation Plan (IP) as described below.

- A. **Land Use Plan.** The LCP Land Use Plan (LUP) generally consists of descriptive text and policies as well as the adopted land use, resource, constraint, and shoreline access maps, graphics, and charts. The City's LUP (originally certified in June 1981) is divided into six components as follows:
  1. Locating and Planning New or Intensified Development and Public Works Facilities Component.
  2. Public Access Component.
  3. Visual Resources and Special Communities Component.
  4. Recreation and Visitor-Serving Facilities Component.
  5. Natural Systems Component.
  6. Natural Hazards Component.
- B. **Implementation Plan.** The Implementation Plan (IP) (first certified in January 1990), consists of the Zoning Code (Title 17) chapters and Municipal Code chapters as identified in Section 17.04.040 (Relationship to the Local Coastal Program) as well as the zoning districts and maps.

#### 17.44.030 Definitions (see also Chapter 17.160 - Glossary)

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

- A. **Aggrieved Person.** Any person who, in person or through a representative, appeared at a City public hearing in connection with the decision or action on a Coastal Development Permit (CDP) that is appealed, or who, by other appropriate means prior to a hearing informed the City of the nature of their concerns, or who for good cause was unable to do either. "Aggrieved Person" includes the applicant for a CDP.
- B. **Coastal Bluff.**

1. A landform that includes a scarp or steep face of rock adjacent to the bay or ocean and meeting one of the following two parameters:
    - a. The toe is now or was historically (generally within the last 200 years) subject to marine erosion.
    - b. The toe of which lies within an area otherwise identified in Public Resources Code Sections 30603(a)(1) or (a)(2).
  2. Bluff line or edge is defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge is defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a step-like feature at the top of the cliff face, the landward edge of the topmost riser is taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, is defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet is the minimum length of bluff line or edge to be used in making these determinations.
- C. **Coastal-Dependent Development or Use.** Any development or use which requires a site on, or adjacent to, the sea to be able to function at all.
- D. **Coastal-Related Development.** Any use that is dependent on a coastal-dependent development or use.
- E. **Coastal Emergency.** A sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.
- F. **Coastal Hazards.** Include, but are not limited to, episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, liquefaction, sea level rise, and the interaction of same.
- G. **Coastal Resources.** ~~Coastal resources include~~Include, but are not limited to, public access and public access facilities and opportunities, recreation areas and recreational facilities and opportunities (including for recreational water-oriented activities), public views, natural landforms, marine resources, watercourses (e.g., rivers, streams, creeks, etc.) and their related corridors, waterbodies (e.g., wetlands, estuaries, lakes, etc.) and their related uplands, ground water resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological and paleontological resources.
- H. **Development.** Any of the following, whether on land or in or under water:
  1. The placement or erection of any solid material or structure.
  2. Discharge or disposal of any dredged material or of any gaseous, liquid, solid or thermal waste.

3. Grading, removing, dredging, mining or extraction of any materials.
  4. Change in the density or intensity of use of land, including, but not limited to, subdivisions, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use.
  5. Change in the intensity of use of water, or access thereto.
  6. Construction, reconstruction, demolition or alteration in the size of any structure, including any facility of any private, public or municipal utility.
  7. The removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973.
- I. **Energy Facility.** Any public or private processing, producing, generating, storing, transmitting, or receiving facility for electricity, natural gas, petroleum, coal, or other source of energy. A "major energy facility" means any of the previously listed facilities that costs more than \$275,882,283,502 as of 2017/2019 with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624.
- J. **Environmentally Sensitive Habitat Areas.** ~~Environmentally sensitive habitat areas (ESHA) are any~~ (ESHA). Any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. ESHA includes wetlands, coastal streams and riparian vegetation, and terrestrial ESHA, including habitats of plant and animal species listed under the Federal or California Endangered Species Act. In addition, the following areas are categorically ESHA as identified in Capitola's LCP:
1. Soquel Creek, Lagoon, and Riparian Corridor.
  2. Noble Gulch Riparian Corridor.
  3. Tannery Gulch Riparian Corridor.
  4. Monarch Butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch.
- K. **Feasible.** That which is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.
- L. **Local Coastal Program (LCP).** The City's Land Use Plan and Implementation Plan (including land use and zoning maps) certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.
- M. **Public Works Facility.**

1. Any of the following:
    - a. All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.
    - b. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.
    - c. All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.
    - d. All community college facilities.
  2. A "major public works facility" means any of the above listed facilities that costs more than ~~\$275,882,283,502~~ as of ~~2017~~2019, with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624. Notwithstanding the above criteria, a "major public works facility" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.
- N. **Sea.** The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding non-estuarine rivers, streams, tributaries, creeks, and flood control and drainage channels.
- O. **Shoreline Protective Device.** ~~"Shoreline protective device" means any~~Any structure (including but not limited to a seawall, revetment, riprap, bulkhead, deep piers/caissons, bluff retaining walls, groins, etc.) designed as protection against coastal hazards or resulting in impacts to shoreline processes.
- P. **Stream.** Streams in the coastal zone, perennial or intermittent, which are mapped by the United States Geological Survey (USGS) in the National Hydrographic Dataset).
- Q. **Structure.** ~~As used in this chapter, "structure" includes, but is~~Any improvement permanently attached to the ground, including, but not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.
- R. **Wetland.** ~~"Wetland" means lands~~Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

#### 17.44.040 Relationship to Base Zoning Districts

The -CZ overlay zone applies to property in conjunction with the base zoning districts. In

case of a conflict between regulations, the regulations in this chapter shall take precedence over those of the base zoning district.

#### 17.44.050 Allowed Land Uses

Allowed land uses in the -CZ overlay zone are the same as in the underlying base zoning district. Permits required for these uses (e.g., Conditional Use Permit, Administrative Permit) are the same as in the underlying base zoning district, and are required in addition to any required Coastal Development Permit ~~(CDP)~~.

#### 17.44.060 Development Standards

**General.**—Development standards (e.g., structure height, setbacks) that apply to property in the -CZ overlay zone are the same as in the underlying base zoning district. These standards are maximums (or minimums as applicable) and are not an entitlement or guaranteed allowance. Where the Zoning Code allows for discretion in the application of development standards, the decision making body may impose more stringent requirements to the extent permitted by state law to protect and enhance coastal resources.

#### 17.44.070 Coastal Development Permit Requirements

A. **Permit Required.** Notwithstanding any other exemptions for other permits or authorizations, all activities that constitute development, as defined in 17.44.030.H, within the -CZ overlay zone requires a ~~Coastal Development Permit~~ CDP except as specified in Section 17.44.080 (Coastal Development Permit Exemptions).

#### B. Review Authority.

1. The Community Development Director shall take action on all ~~Coastal Development Permit~~ CDP applications for projects that are not appealable to the Coastal Commission and do not require other discretionary approval by the Planning Commission or City Council.
2. The Community Development Director shall, in a properly noticed public hearing, take action on all ~~Coastal Development Permit~~ CDP applications for projects that are appealable to the Coastal Commission and do not require other discretionary approval by the Planning Commission or City Council.
3. -The Planning Commission shall, in a properly-noticed public hearing, take action on all ~~Coastal Development Permit~~ CDP applications that are appealable and/or require other discretionary approval by the City.
4. The Planning Commission or the City Council shall, in a properly-noticed public hearing, take action on ~~Coastal Development Permit~~ CDP applications for public works projects that require no other discretionary permit approvals from the City other than funding approval.

5. Development already authorized by a Coastal Commission-issued ~~Coastal~~

~~Development Permit~~CDP, Amendment, or Waiver remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, and revocation. Any additional development proposed on a parcel with a Coastal Commission ~~authorization issued~~ CDP, Amendment, or Waiver shall be reviewed by the City ~~pursuant to an~~ as a new CDP application ~~for a new CDP~~, provided that ~~the~~:

- a. The Coastal Commission determines that the development is not contrary to any terms or conditions of the Commission ~~authorization or would not be more appropriately processed through a Commission authorization.~~ issued CDP, Amendment, or Waiver; or
- b. The development is not located within a location where the Coastal Commission is required to retain jurisdiction under the Coastal Act.

C. **Additional Permits.** The review of a ~~Coastal Development Permit~~CDP application shall be processed concurrently with any other discretionary permit ~~applications~~application required by the City. The City may not grant any other discretionary approvals for a proposed project that conflict with this chapter. Other discretionary approvals become effective only after a CDP is approved and becomes effective as required by this chapter.

D. **Legal Development and Permitting Processes.** Development that was legally established prior to the effective date of Proposition 20 (i.e., February 1, 1973) for property within 1,000 yards of the mean high tide or the Coastal Act of 1976 (i.e., January 1, 1977) for all coastal zone property, whichever is applicable, is considered lawfully established development that does not require a ~~Coastal Development Permit~~CDP in order to continue as it legally existed prior to those dates. Any additional development since those dates (including improvements, repair, modification, and/or additions) requires a CDP or a determination that such development is excluded from CDP requirements in accordance with the provisions of this chapter.

E. **Illegal Development and Permitting Processes.**

1. Development that was not legally established (i.e. with a Coastal Development Permit) after the effective date of Proposition 20 (i.e., February 1, 1973) for property within 1,000 yards of the mean high tide, or the Coastal Act of 1976 (i.e., January 1, 1977) for all coastal zone property, whichever is applicable, constitutes “unpermitted development” for purposes of this Chapter 17.44. In addition, development undertaken inconsistent with the terms and conditions of an approved CDP (or an approved waiver or amendment) is also not lawfully established or authorized development (i.e., it constitutes unpermitted development). Both categories of unpermitted development may be subject to enforcement action by the City of Capitola and/or the Coastal Commission.

~~1.2.~~ If development is proposed on a site with unpermitted development, then such application may only be approved if it resolves all permitting and coastal resource issues associated with the unpermitted development, including through removal ~~of~~

~~retention~~ of all or part of the unpermitted development or retention of such development if it can be found consistent with the policies and standards of the City's LCP and the public access and recreation policies of the Coastal Act, if applicable. If the unpermitted development cannot be found consistent, the unpermitted development must be abated and any affected areas restored to ~~at least~~ the condition before the unpermitted development was undertaken ~~if not better or pursuant to the terms of a valid restoration order~~.

#### 17.44.080 Coastal Development Permit Exemptions

The following projects are exempt from the requirement to obtain a ~~Coastal Development Permit~~ CDP unless any one of the criteria listed in subsections A (1 through 6), B (1 through 8), C (1 through 3), or F (1 through 4) are met, in which case a CDP is required.

**A. Improvements to Existing Single-Family Residences.** In accordance with ~~PRC~~ Public Resources Code Section 30610(a) and 14 CCR Section 13250, where there is an existing single-family residential structure, the following shall be considered as part of that structure: fixtures and structures directly attached to a residence; landscaping; and structures normally associated with a single-family residence, such as garages, swimming pools, fences and storage sheds, but not including guest houses or self-contained residential units. This exemption also applies to replacement of a mobile home with one which is not more than ten percent larger in floor area, or equipping a mobile home with removable fixtures such as a porch, the total area of which does not exceed ten percent of the square-footage of the mobile home itself. Improvements to existing single-family residences do not require a ~~Coastal Development Permit~~ CDP except for the following classes of development, which require a CDP because they involve a risk of adverse environmental effects:

1. Improvements to a single-family residence if the residence and/or improvement is located on a beach, in a wetland, seaward of the mean high-tide line, within an environmentally sensitive habitat area, in an area designated highly scenic in the LCP, or within 50 feet of the edge of a coastal bluff.
2. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, within 50 feet of the edge of a coastal bluff, or within an environmentally sensitive habitat area.
3. The expansion or construction of water wells or septic systems.
4. On property not included in Subparagraph A.1 above that is located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated within the ~~Capitola~~ Land Use Plan, when one of the following circumstances apply:
  - a. Improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure; ~~or~~.

- b. An additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to this section; ~~or.~~
  - c. An increase in height by more than ten percent of an existing structure and/or any significant non-attached structure such as garages, shoreline protective works, or docks.
5. In areas which the Coastal Commission has previously declared by resolution, after public hearing, as having a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water-using development not essential to residential use including, but not limited to, swimming pools or the construction or extension of landscape irrigation systems.
  6. Any improvement to a single-family residence where ~~the Coastal Development Permit~~ CDP issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a CDP.

**B. Improvements to Other Existing Structures.** In accordance with ~~PRC~~ Public Resources Code Section 30610(b) and 14 CCR Section 13253, where there is an existing structure, other than a single-family residence or public works facility, the following shall be considered part of the structure: all fixtures and other structures directly attached to the structure; landscaping on the lot. Improvements to other existing structures do not require a Coastal Development Permit except for the following classes of development, which require a CDP because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use:

1. Improvements to a structure if the structure and/or improvement is located on a beach, in a wetland or stream, seaward of the mean high-tide line, in an area designated highly scenic in ~~the certified~~ Land Use Plan, or within 50 feet of the edge of a coastal bluff.
2. Any significant alteration of land forms including removal or placement of vegetation on a beach or sand dune, in a wetland or stream, within 100 feet of the edge of a coastal bluff, in a highly scenic area, or in an environmentally sensitive habitat area.
3. The expansion or construction of water wells or septic systems.
4. On property not included in subparagraph B.1 above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated in the ~~certified~~ Land Use Plan, when one of the following circumstances apply:
  - a. Improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure;
  - b. An additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to this section; or

- c. An increase in height of an existing structure of more than 10 percent.
5. In areas which the Coastal Commission has previously declared by resolution, after public hearing, as having a critically short water supply that must be maintained for the protection of coastal recreation or public recreational use, the construction of any specified major water-using development including, but not limited to, swimming pools or the construction or extension of any landscape irrigation system.
6. Any improvement to a structure where the ~~Coastal Development Permit~~CDP issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a CDP.
7. Any improvement to a structure which changes the intensity of use of the structure.
8. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including, but not limited to, a condominium conversion, stock cooperative conversion, or motel/hotel timesharing conversion.

**C. Repair and Maintenance Activities.**

1. Repair and maintenance of existing public roads, including resurfacing and other comparable development necessary to maintain the existing public road facility as it was constructed, provided that:
  - a. There is no excavation or disposal of fill outside the existing roadway prism; and
  - b. There is no addition to and no enlargement or expansion of the existing public road.
2. Routine maintenance of existing public parks, including repair or modification of existing public facilities and landscaping where the level or type of public use or the size of structures will not be altered.
3. Repair, maintenance, replacement, and minor alterations of existing public water, sewer, natural gas, electrical, telephone, television, and flood control infrastructure.
4. ~~No Coastal Development Permit~~No CDP shall be required for repair and maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities, except that (in accordance with ~~PRC~~Public Resources Code Section 30610(d) and 14 CCR Section 13252) the following extraordinary methods of repair or maintenance shall require a ~~Coastal Development Permit~~CDP because they involve a risk of substantial adverse environmental impact:
  - a. Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:
    - (1) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

- (2) The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;
  - (3) The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind; or
  - (4) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams.
- b. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:
- (1) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand, or other beach materials or any other forms of solid materials; or
  - (2) The presence, whether temporary or permanent, of mechanized equipment or construction materials.
- c. Unless destroyed by natural disaster, the replacement of 50 percent or more of a single-family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under ~~Coastal Act~~Public Resources Code Section 30610(d) but instead constitutes a replacement structure requiring a ~~Coastal Development Permit~~CDP.
- d. The provisions of this section shall not be applicable to those activities specifically described in the document entitled "Repair, Maintenance and Utility Hookups," adopted by the Coastal Commission on September 5, 1978 unless the Community Development Director determines that a proposed activity will have a risk of substantial adverse impact on public access, an environmentally sensitive habitat area, wetlands, or public views to the ocean.
- ~~5. **Public Roads** . Repair and maintenance of existing public roads, including resurfacing and other comparable development necessary to maintain the existing public road facility as it was constructed, provided that:~~
- ~~a. There is no excavation or disposal of fill outside the existing roadway prism; and~~
  - ~~b. There is no addition to and no enlargement or expansion of the existing public road.~~
- ~~6. **Public Parks**. Routine maintenance of existing public parks, including repair or modification of existing public facilities and landscaping where the level or type of public use or the size of structures will not be altered.~~

~~7. **Public Utilities.** Repair, maintenance, replacement, and minor alterations of existing public water, sewer, natural gas, electrical, telephone, television, and flood control infrastructure.~~

- D. **Replacement of Destroyed Structures.** No ~~Coastal Development Permit~~ CDP shall be required for the replacement of any structure, other than a public works facility, destroyed by a disaster that meets the following criteria: The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this section, “disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner; “bulk” means total interior cubic volume as measured from the exterior surface of the structure.
- E. **Conversion of Existing Multi-Unit Residential Structures.** ~~No Coastal Development Permit~~ No CDP shall be required for the conversion of any existing multi-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this chapter, no CDP is required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multi-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, is considered a time-share project, estate, or use for purposes of this paragraph.
- F. **Temporary Events.** ~~No Coastal Development Permit is~~ No CDP shall be required for temporary events as described in this subsection and which meet all of the following criteria:
1. The event will not occur between the Saturday of Memorial Day weekend through Labor Day, or if proposed in this period will be of less than two days in duration including setup and take-down~~;~~.
  2. The event will not occupy any portion of a publicly or privately-owned sandy beach or park area, public pier, public beach parking area and there is no potential for adverse effect on sensitive coastal resources~~;~~.
  3. A fee will not be charged for general public admission and/or seating where no fee is currently charged for use of the same area (not including booth or entry fees); or if a fee is charged, it is for preferred seating only and more than 75 percent of the provided seating capacity is available free of charge for general public use~~; and~~.
  4. The proposed event has been reviewed in advance by the City and it has been determined that it meets the following criteria:
    - a. The event will result in no adverse impact on opportunities for public use of or access to the area due to the proposed location and or timing of the event either individually or cumulatively considered together with other development or

temporary events scheduled before or after the particular event;

- b. There will be no direct or indirect impacts from the event and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources; and
- c. The event has not previously required a Coastal Development Permit to address and monitor associated impacts to coastal resources.

G. **Emergency Work.** ~~Work necessary to abate a sudden, unexpected occurrence that demands immediate action to prevent or mitigate loss or damage to life, health property, or essential public services may be undertaken without a regular Coastal Development Permit. However, such work must be authorized by an Emergency Coastal Development Permit and a follow up regular CDP, pursuant to Section 17.44.170 (Emergency Coastal Development Permits). See Section 17.44.170 (Emergency Coastal Development Permits) for development allowed with an Emergency CDP.~~

#### 17.44.090 De Minimis Waiver of Coastal Development Permit

The Community Development Director may waive the requirement for a ~~Coastal Development Permit~~ CDP through a De Minimis CDP Waiver in compliance with this section upon a written determination that the development meets all of the criteria and procedural requirements set forth in subsections A through G below:

- A. **No Adverse Coastal Resource Impacts.** The development has no potential for adverse effects, either individually or cumulatively, on coastal resources.
- B. **LCP Consistency.** The development is consistent with the ~~certified Capitola Local Coastal Program~~ LCP.
- C. **Not Appealable to Coastal Commission.** The development is not of a type or in a location where an action on the development would be appealable to the Coastal Commission.
- D. **Notice.** Public notice of the proposed De Minimis CDP Waiver and opportunities for public comment shall be provided as required by Section 17.44.120 (Public Notice and ~~Hearing~~ Hearings), including provision of notice to the Coastal Commission.
- E. **Executive Director Determination.** The Community Development Director shall provide a notice of determination to issue a De Minimis CDP Waiver to the Executive Director of the Coastal Commission no later than 10 working days prior to the waiver being reported at a City public hearing (see subsection F below). If the Executive Director notifies the Community Development Director that a waiver should not be issued, the applicant shall be required to obtain a Coastal Development Permit if the applicant wishes to proceed with the development.

F. **Review and Concurrence.**

1. The Community Development Director's determination to issue a De Minimis CDP waiver shall be subject to review and concurrence by the decision makers (i.e. Planning Commission or City Council, as applicable).
2. The Community Development Director shall not issue a De Minimis CDP Waiver until the public comment period, including at a minimum through and including the required reporting of the waiver at a public hearing, has expired. At such public hearing, the public shall have the opportunity to testify and otherwise participate in a hearing on the De Minimis CDP Waiver. If two or more decision makers object to the waiver, the De Minimis CDP Waiver shall not be issued and, instead, an application for a Coastal Development Permit shall be required and processed in accordance with the provisions of this chapter. Otherwise, the De Minimis CDP Waiver shall be deemed approved, effective, and issued the day of the public hearing.
3. In addition to the noticing requirements above, within seven calendar days of effective date of a De Minimis CDP Waiver, the Community Development Director shall send a Notice of Final Action (via first class mail) describing the issuance and effectiveness of the De Minimis CDP waiver to the Coastal Commission and any persons who specifically requested notice of such action.

**F.G. Waiver Expiration.** A De Minimis Waiver shall expire and be of no further force and effect if the authorized development is not completed within two years of the effective date of the waiver. In this event, either a new De Minimis Waiver or a regular ~~Coastal Development Permit~~ CDP shall be required for the development.

#### 17.44.100 Challenges to City Coastal Development Permit Determinations

##### ~~A. General.~~

##### A. City Determination.

1. The determination of whether a development is exempt, non-appealable, or appealable ~~for purposes of notice, hearing, and appeals procedures to the Coastal Commission~~ shall be made by the Community Development Director at the time the Coastal Development Permit application is submitted or as soon thereafter as possible, and in all cases prior to the application being deemed complete for processing.
2. This determination shall be made with reference to the ~~certified Local Coastal Program~~ LCP, including any maps, land use designations, and zoning ordinances which are adopted as part of the ~~Local Coastal Program~~ LCP.

~~B. Procedure. Where an applicant, interested person, the Community Development Director, or the Executive Director of the Coastal Commission has a question as to the appropriate designation for proposed development, the following procedures shall establish whether that development is exempt, non-appealable, or appealable:~~

##### B. Notification of Decision.

1. ~~The Community Development Director shall make his or her a determination as to what type of development is being proposed and shall~~ inform the applicant and the Coastal ~~Commission's Executive Director~~ Commission district office in writing of the determination prior to:
  - a. ~~Providing notice of the any potential permit action; or~~
  - b. ~~Allowing any activity without a permit for exemptions or exclusions.~~
- 1.2. ~~The Community Development Director's written notification shall also identify the City's notice and hearing requirements for that particular development (i.e., exempt, appealable, or non appealable);~~ the proposed project, if any.

### C. Coastal Commission Review.

1. ~~If the determination of the local government is challenged by the applicant, the Coastal Commission's Coastal Commission Executive Director, or an interested person, or if chooses to review the Community Development Director's determination, the City shall provide the Executive Director wishes to have a Coastal Commission with a copy of the application and determination as to of permit requirement.~~
2. ~~If the appropriate designation, the Community Development Director shall notify the Coastal Commission of the dispute/question and shall request an Executive Director's opinion.~~
3. ~~The Executive Director shall, within ten working days of the request (or upon completion of a site inspection where such inspection is warranted), transmit his or her Executive Director's determination as to whether the development is exempt, non appealable, or appealable.~~
2. ~~Where, after the Executive Director's investigation, the Executive of permit requirement is the same as the Community Development Director's determination is not in accordance with, that determination shall become final and no further challenge is available.~~
- 4.3. ~~If the Executive Director's determination conflicts with the Community Development Director's determination and the conflict cannot be resolved in a reasonable time, the Coastal Commission will hold a hearing for purposes of determining the appropriate designation for the proposed development, if so requested by the applicant, interested person, or Community Development Director to resolve the dispute in accordance with Coastal Commission regulations.~~

### 17.44.110 Application Submittal

- A. **Submittal Requirements.** ~~Coastal Development Permit~~ CDP application submittals shall include all the information and materials required by the Community Development Department. It is the responsibility of the applicant to provide all necessary and requested evidence to allow for the reviewing authority to make a decision regarding whether the

proposed development is consistent with the LCP, including with respect to the findings required by Section 17.44.130 (Findings for Approval).

- B. **Concurrent with ~~other permits.~~Other Permits.** The application for a CDP shall be made concurrently with application for any other non-CDP permits or approvals required by the City.

#### 17.44.120 Public Notice and Hearings

- A. **Public Hearing Required.** All Planning Commission and City Council actions on ~~Coastal Development Permit~~CDP applications require a noticed public hearing.
- B. **Content of Notice.** The notice of public hearing may be combined with other required project permit notice and shall include the following information:
1. A statement that the project is within the coastal zone, and that the project decision will include a determination on a ~~Coastal Development Permit~~CDP.
  2. The name of the applicant, the City's file number assigned to the application, a general explanation of the matter to be considered, a general description of the location of the subject property, and any recommendation from a prior hearing body.
  3. A determination of whether the project is appealable to the Coastal Commission and ~~why or why not~~the reasons this determination.
  4. The date, time and place of the hearing and/or decision on the application, and the phone number, email address, and street address of the Community Development Department where an interested person ~~could~~may call or visit to obtain additional information or to provide input on the project.
  5. A statement that the proposed project is determined to be exempt from the California Environmental Quality Act (CEQA), or that a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project. The hearing notice shall state that the hearing body will consider approval of the CEQA determination or document prepared for the proposed project.
- C. **Posting.** A printed notice shall be posted at the project site at least ten calendar days prior to the hearing.
- D. **Mailing.** Notice shall be mailed at least 10 calendar days prior to the hearing to:
1. The owner(s) and owner's agent of all properties for which development is proposed, the applicant, and any applicant representatives;
  2. Each local agency expected to provide essential facilities or services to the project;
  3. Any person who has filed a request for notice (e.g., for the site or for the particular development) with the Community Development Director;
  4. All owners and all occupants of parcels of real property located within 100 feet (not

including roads) of the perimeter of the real property on which the development is proposed, but at a minimum all owners and all occupants of real property adjacent to the property on which the development is proposed;

5. All agencies for which an approval for the proposed development may be required (e.g., USFWS, CDFW, RWQCB, etc.), including the State Lands Commission and the Monterey Bay National Marine Sanctuary when an application for a ~~Coastal Development Permit~~ CDP is submitted to the City on property that is potentially subject to the public trust;
6. All known interested parties that have submitted a request in writing to the Community Development Director to receive notice on a specific property; ~~and~~
7. The California Coastal Commission Central Coast office;

~~8.1. Whenever a hearing is held regarding a permit for a drive through facility, or modification of an existing drive through facility permit, notice procedures shall incorporate the blind, aged, and disabled communities in order to facilitate their participation.~~

~~9.8.~~ Any other person whose property, in the judgment of the Community Development Department, might be affected by the proposed project.

~~10. The Community Development Director may also require additional means of notice that is determined necessary to provide adequate public notice of the application for the proposed project.~~

- E. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Subsection ~~BD~~ above is more than 1,000, the Community Development Department may choose to provide notice by placing a display advertisement of at least one-eighth page in one or more local newspapers of general circulation at least ten days prior to the hearing.
- F. **Newspaper Publication.** Notice shall be published in at least one newspaper of general circulation at least ten calendar days before the hearing.

G. **Additional Notice.**

1. In addition to the types of notice required above, the Community Development Department may provide additional notice as determined necessary or desirable.

~~2. Whenever a hearing is held regarding a permit for a drive-through facility, or modification of an existing drive-through facility permit, notice procedures shall incorporate the blind, aged, and disabled communities in order to facilitate their participation.~~

~~G.H.~~ **Failure to Receive Notice.** The validity of the hearing shall not be affected by the failure of any resident, property owner, or community member to receive a mailed notice.

~~H.I.~~ **Re-noticing Required.** If a decision on a CDP is continued by the review authority to a date or time not specific, the item shall be re-noticed in the same manner and within

the same time limits established by this section. If a decision on a ~~Coastal Development Permit~~ CDP is continued to a specific date and time within 30 90 days of the first hearing, then no re-noticing is required.

#### 17.44.130 Findings for Approval

- A. **Conformance with LCP Required.** A Coastal Development Permit shall be granted only upon finding that the proposed project is consistent with the ~~certified Local Coastal Program~~ LCP. As applicable to the proposed project, the review authority shall consider whether ~~the project~~:
1. The project is consistent with the LCP Land Use Plan, and the LCP Implementation Program.
  2. The project maintains or enhances public views.
  3. The project maintains or enhances vegetation, natural habitats and natural resources.
  4. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.
  5. The project maintains or enhances opportunities for visitors.
  6. The project maintains or enhances coastal resources.
  7. The project, including its design, location, size, and operating characteristics, is consistent with all applicable design plans and/or area plans incorporated into the LCP.
  8. The project is consistent with the LCP goal of encouraging appropriate coastal development and uses, including coastal priority development and uses (i.e., visitor-serving development and public access and recreation).
- B. **Basis for Decision.** The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record.

#### 17.44.140 Notice of Final Action

The City's action on a ~~Coastal Development Permit~~ CDP shall become final when all local rights of appeal have been exhausted per Section 17.44.150.A (Local Appeals). Within seven calendar days of a final decision on a CDP application, the City shall provide notice of its action by first class mail to the applicant, the Coastal Commission, and any other persons who have requested ~~to be noticed~~ notice. The notice shall contain, at a minimum the following:

- A. **Cover Sheet/Memo.** The cover sheet/memo shall be dated and shall clearly identify the following information:
1. All project applicants and project representatives, their address(es), and other contact information.
  2. Project description and location.

3. All local appeal periods and disposition of any local appeals filed.
  4. Whether the City's decision is appealable to the Coastal Commission, the reasons for why it is or is not, and procedures for appeal to the Coastal Commission.
  5. A list of all additional supporting materials provided to the Coastal Commission (see Subsection B below).
  6. All recipients of the notice.
- B. **Additional Supporting Materials to the Coastal Commission.** The additional supporting materials shall include at a minimum the following:
1. The final adopted findings and final adopted conditions.
  2. The final ~~adopted~~ staff report.
  3. The approved project plans.
  4. All other substantive documents cited and/or relied upon in the decision including CEQA documents, technical reports (e.g., geologic, geotechnical, biological, ~~etc.~~), correspondence, ~~etc~~ and similar documents.

#### 17.44.150 Appeals

- A. **Local Appeals.** Community Development Director decisions on ~~Coastal Development Permits~~ CDPs may be appealed to the Planning Commission and Planning Commission decisions may be appealed to the City Council as follows:
1. **Community Development Director Decisions.** Any decision of the Community Development Director may be appealed to the Planning Commission within 10 calendar days of the Community Development Director's decision.
  2. **Planning Commission Decisions.** Any decision of the Planning Commission may be appealed to the City Council within 10 calendar days of the Planning Commission's decision.
- B. **Appeals to the Coastal Commission.**
1. In accordance with ~~PRC~~ Public Resources Code Section 30603, any final approval decision by the City on a ~~Coastal Development Permit~~ CDP in the geographic areas defined in subsections 3(a)-(b), below, or any final approval or denial decision by the City on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development), or a major energy facility located anywhere in the coastal zone, may be appealed to the Coastal Commission.
  2. Appeals to the Coastal Commission may be filed by the project applicant, any aggrieved person, or any two members of the Coastal Commission.
  3. The following types of projects may be appealed to the Coastal Commission:
    - a. Projects located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line

- of the sea where there is no beach, whichever is the greater distance.
- b. Projects located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
  - c. Any development which constitutes a major public works project or a major energy facility.
4. Appeals must be submitted to the Coastal Commission within 10 working days of Coastal Commission receipt of a complete notice of final action.
  5. City decisions may be appealed to the Coastal Commission only after an appellant has exhausted all local appeals pursuant to Section 17.44.150.A (Local Appeals), except that exhaustion of all local appeals is not required if any of the following occur:
    - a. The City requires an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for ~~Coastal Development Permits~~CDPs in the coastal zone.
    - b. An appellant was denied the right of the initial local appeal by a City ordinance which restricts the class of persons who may appeal a local decision.
    - c. An appellant was denied the right of local appeal because City notice and hearing procedures for the development did not comply with ~~the provisions of~~ this title.
    - d. The City required an appeal fee for the filing or processing of the appeal ~~including any fees associated with accompanying permits (e.g.: a Design Permit, a Conditional Use Permit, etc.)-~~.
  6. Grounds for appeal of an approved or denied ~~Coastal Development Permit~~CDP are limited to the following:
    - a. For approval, that the development does not conform to the standards set forth in the ~~certified Local Coastal Program~~LCP, or the development does not conform to the public access policies of the Coastal Act;
    - b. An appeal of a denial of a permit for a major public works shall be limited to an allegation that the development conforms to the standards set forth in the ~~certified Local Coastal Program~~LCP and the public access policies of the Coastal Act.

#### 17.44.160 Permit Issuance

##### A. Effective Date of a Coastal Development Permit.

1. For City actions on ~~Coastal Development Permits~~CDPs that are not appealable to the Coastal Commission, a ~~Coastal Development Permit~~CDP shall become effective seven working days after the City's final decision.

2. For ~~City actions on Coastal Development Permits that are appealable to development within~~ the Coastal Commission, ~~a Coastal Development Permit CDP appeal area, CDPs~~ shall become effective after ten working days ~~of Coastal Commission receipt of a complete notice of final action~~ if no appeal has been filed. The ten-~~working-~~day appeal period ~~shall start~~starts the day after the Coastal Commission receives adequate notice of the City's final ~~local action decision~~.

**B. Expiration of Permits and Extensions.**

1. ~~A Coastal Development Permit~~A CDP not exercised within two years shall expire and become void, unless the permittee applies for an extension of the expiration deadline prior to the permit ~~expiration of the permit~~.
2. An extension request may only be granted for good cause, and only if there are no changed circumstances that may affect the consistency of the development with the LCP (and the Coastal Act, if applicable). In cases where an extension is not granted, the CDP shall be considered expired and the applicant shall be required to apply for a new CDP to undertake ~~any such~~the proposed development.
3. Any extension request shall be in writing by the applicant or authorized agent prior to expiration of the two-year period ~~(and, The City will not consider the extension request if received after the CDP expiration deadline, Public notice and hearing requirements for an extension requests shall not be considered). Such extensions shall be processed the same as for a CDP amendments for purpose of noticed per the requirements of 17.44.120(A) and (B) amendment.~~
4. De Minimis CDP Waivers may not be extended beyond the two-year authorization period.

**C. CDP Amendment.**

1. Provided the CDP has been exercised prior to expiration, or has not yet expired, an applicant may request a CDP amendment by filing an application to amend the CDP pursuant to the requirements of this chapter that apply to new CDP applications, including, but not limited to, public notice and hearing requirements.
2. Any approved CDP amendment must be found consistent with all applicable ~~Local Coastal Program~~LCP requirements and the Coastal Act if applicable.
3. Any CDP amendment shall be processed as appealable to the Coastal Commission if the base CDP was also processed as appealable, or if the development that is the subject of the amendment makes the amended project appealable to the Coastal Commission.

- D. Revocation of Permits.** Where one or more of the terms and conditions of a CDP have not been, or are not being, complied with, or when a CDP was granted on the basis of false material information, the original review authority (Community Development Director, Planning Commission or City Council) may revoke or modify the CDP following a public hearing. Notice of such public hearing shall be the same as would be

required for a new CDP application.

- E. **CDP Application Resubmittals.** For a period of twelve months following the denial or revocation of a ~~Coastal Development Permit~~ CDP, the City shall not accept a CDP application for the same or substantially similar project for the same site, unless for good cause the denial or revocation action includes an explicit waiver of this provision.

#### 17.44.170 Emergency Coastal Development Permits

- A. **Purpose.** An Emergency ~~Coastal Development Permits~~ CDP may be granted at the discretion of the Community Development Director for projects normally requiring CDP approval. To be eligible for an Emergency CDP, a project must be undertaken as an emergency measure to prevent loss or damage to life, health or property, or to restore, repair, or maintain public works, utilities and services during and immediately following a natural disaster or serious accident.
- B. **Application.** Application for an Emergency CDP shall be made to the City in writing if time allows, and by telephone or in person if time does not allow. The applicant shall submit the appropriate fees at the time of application for an Emergency CDP.
- C. **Required Information.** The information to be reported during the emergency, if it is possible to do so, or to be fully reported after the emergency, shall include all of the following:
1. The nature of the emergency.
  2. The cause of the emergency, ~~insofar as to the extent~~ this can be established.
  3. The location of the emergency.
  4. The remedial, protective, or preventive work required to deal with the emergency.
  5. The circumstances during the emergency that appeared to justify the course of action taken, including the probable consequences of failing to take action.
  6. All available technical reports and project plans.
- D. **Verification of Facts.** The Community Development Director or other appropriate local official shall verify the facts, including the existence and nature of the emergency, as time allows. The Community Development Director may request, at the applicant's expense, verification by a qualified professional of the nature of the emergency and the range of potential solutions to the emergency (including identifying how the proposed solutions meet the criteria for granting the ~~emergency Coastal Development Permit~~ Emergency CDP). The Community Development Director ~~shall~~ may consult with the Coastal Commission as time allows ~~in determining to determine~~ whether to issue an Emergency CDP.
- E. **Public Notice.** The Community Development Director shall provide public notice, including notice to the Coastal Commission, as soon as reasonably possible, of the proposed emergency action, with the extent and type of notice determined on the basis

of the nature of the emergency itself.

F. **Criteria for Granting Permit.** The Community Development Director may grant an Emergency CDP upon making all of the following findings:

1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary ~~Coastal Development Permits~~ CDP.
2. The development can and will be completed within ~~thirty~~ 30 days unless otherwise specified by the terms of the permit.
3. Public comment on the proposed emergency action has been reviewed if time allows.
4. The work proposed will be consistent with the requirements of the ~~certified~~-LCP.
5. ~~The proposed work is the minimum amount of temporary development necessary to abate the emergency in the least environmentally damaging manner.~~

G. **Conditions.** The Community Development Director may attach reasonable terms and conditions to the granting of an Emergency CDP, including an expiration date and the necessity for a regular ~~Coastal Development Permit~~ CDP application by a specified date. At a minimum, all Emergency CDPs shall include the following conditions:

1. The Emergency CDP shall be voided if the approved activity is not undertaken within ~~30 days of issuance of the Emergency CDP~~ a reasonable time period as determined by the Community Development Director.
2. The Emergency CDP shall expire 60 days following its issuance, or alternative time period as determined by the Community Development Director. Any work completed outside of this time period requires a regular CDP approval unless an extension is granted by the City for good cause.
3. The emergency development authorized by the Emergency CDP is only temporary, and ~~can only be allowed to remain provided a regular CDP is obtained to recognize it. Absent a regular CDP, the emergency development shall be removed and the affected area restored to pre-emergency conditions or better within 6 months of Emergency CDP issuance.~~ may remain only with approval of a regular CDP.
4. ~~Within~~ The applicant shall submit an application for a regular CDP within 30 days of completion of construction authorized by the Emergency CDP, ~~site plans and cross sections shall be submitted to the~~ or alternative time period as determined by the Community Development Director ~~clearly identifying all development completed under the Emergency CDP (comparing any previous condition to both the emergency condition and to the post-work condition), along with a narrative description of all emergency development activities undertaken pursuant to the emergency authorization. Photos.~~ The application shall include all information and materials required by the Department, including photographs (if available) showing the project site before the emergency (if available), during, and after emergency project construction activities, and after the work authorized by the Emergency.

~~4.5. If the applicant does not apply for or obtain a regular CDP is complete shall also be provided to the Community within the specified time period, the emergency development may be subject to enforcement action in accordance with Section 17.44.180 (Coastal Development Director Permit Violations).~~

#### H. Limitations.

1. The emergency work authorized under approval of an Emergency CDP shall be limited to activities necessary to protect the endangered structure or essential public infrastructure.
2. The Emergency CDP shall be voided if the approved Emergency CDP is not exercised within 30 days of issuance of the ~~emergency~~ permit.
3. The Emergency CDP shall expire 60 days after issuance. Any work completed outside of these time periods requires a regular Coastal Development Permit approval unless an extension is granted by the City for good cause.

I. **Application for Regular Coastal Development Permit.** ~~Upon~~After the issuance of an Emergency CDP, the applicant shall submit a completed CDP application and any required technical reports within a time specified by the Community Development Director, but not to exceed 30 days. All emergency development approved pursuant to this section is considered temporary and ~~must~~shall be ~~removed and the area restored~~subject to enforcement action in accordance with Section 17.44.180 (Coastal Development Permit Violations) if an application for to recognize the development is not submitted within ~~6 months of the timeframe specified in the date of the emergency~~Emergency CDP ~~issuance~~, unless the Community Development Director authorizes an extension of time for good cause.

J. **Reporting of Emergency Permits.** The Community Development Director shall inform (within five working days) the Executive Director of the Coastal Commission that an ~~emergency~~Emergency CDP has been issued, and shall report the Emergency CDP to the City Council and Planning Commission at the first scheduled meeting after the Emergency CDP has been issued.

### 17.44.180 Coastal Development Permit ~~(CDP)~~ Violations

#### A. Enforcement of Violations.

1. The City will actively investigate and enforce any development activity that occurs within the coastal zone without a ~~Coastal Development Permit~~CDP pursuant to the requirements of ~~this~~the LCP. The City will work to resolve any alleged violations of ~~this~~the LCP in a timely manner, including through the use of appropriate enforcement actions.
2. In addition to all other available remedies, the City may seek to enforce the ~~provisions of the~~LCP and the Coastal Act pursuant to ~~the provisions of~~Public Resources Code ~~sections~~Sections 30800-30822.

3. If the City does not ~~act to resolve such~~ violations in a timely manner, the Coastal Commission retains the authority to enforce the requirements of ~~this~~the LCP through its own enforcement actions pursuant to Coastal Act Sections 30809 and 30810.
- B. **Civil Liability.** Any person who performs or undertakes development in violation of the LCP or inconsistent with ~~any coastal development permit~~a previously issued CDP may, in addition to any other penalties, be civilly liable in accordance with ~~the provisions of~~ Public Resources Code ~~section~~Section 30820.
- C. **Legal Lot Required.** Development may only be undertaken on a legally-established lot.
- D. **Removal of Existing Violations.** ~~No Coastal Development Permit~~No CDP application (including CDPs, CDP exclusions and exemptions, and De Minimis CDP waivers) shall be approved unless all unpermitted development on the property that is functionally related to the proposed development is proposed to be removed (and the area restored) or retained consistent with the requirements of the ~~certified~~ LCP.

## Chapter 17.48 - HEIGHT, SETBACKS, AND FLOOR AREA

### Sections:

- 17.48.010 Purpose
- 17.48.020 Height Measurement and Exceptions
- 17.48.030 Setback Measurement and Exceptions
- 17.48.040 Floor Area and Floor Area Ratio

### 17.48.010 Purpose

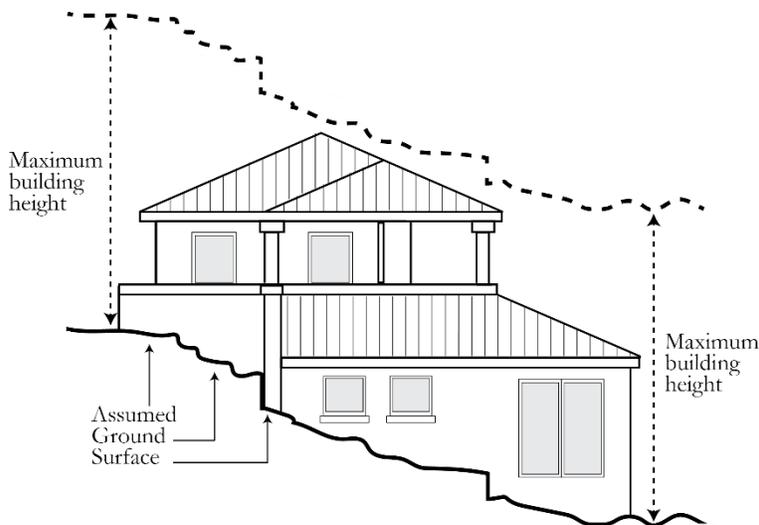
This chapter establishes rules for the measurement of height, setbacks, and floor area, and permitted exceptions to height and setback requirements.

### 17.48.020 Height Measurement and Exceptions

#### A. Measurement of Height.

1. The height of a building is measured as the vertical distance from the assumed ground surface to the highest point of the building.
2. Assumed ground surface means a line on the exterior wall of a building that connects the points where the perimeter of the wall meets the finished grade. See Figure 17.48-1.
3. If grading or fill on a property within five years of an application increases the height of the assumed ground surface, height shall be measured using an estimation of the assumed ground surface as it existed prior to the grading or fill.

FIGURE 17.48-1: MEASUREMENT OF MAXIMUM PERMITTED BUILDING HEIGHT



- B. Height Exceptions.** Buildings may exceed the maximum permitted height in the applicable zoning district as shown in Table 17.48-1. These exceptions may not be combined with any other height exceptions, including but not limited to allowances for additional height in the MU-V zone or for historic structures. ~~A proposed development that is located in the coastal zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).~~

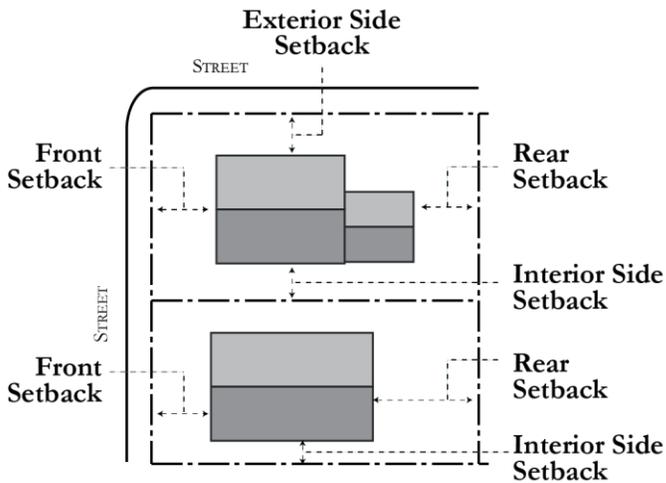
**TABLE 17.48-1: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS**

Structures Allowed Above Height Limit	Maximum Coverage	Maximum Projection Above Height Limit
Non-habitable decorative features including spires, belfries, cupolas, domes and other similar architectural elements	10% of roof area	3 ft. in the R-1 zoning district; 6 ft. elsewhere
Skylights	20% of roof area	1 ft.
Chimneys not over 6 feet in width	10% of roof area	3 ft. in R-1 zoning district; 6 ft. elsewhere
Flagpoles not over 8 inches in diameter	N/A	3 ft. in R-1 zoning district; 6 ft. elsewhere
Photovoltaic panels and thermal recovery systems	No restriction; subject to California building code	4 ft.
Building mounted telecommunications facilities	See Chapter 17.104	

#### 17.48.030 Setback Measurement and Exceptions

- A. Setback Measurement.** Setbacks shall be measured as the distance between the property line and the nearest point of the structure along a line at a right angle to the property line. See Figure 17.48-2.

FIGURE 17.48-2: SETBACK MEASUREMENT



- B. Note: See specific zoning district for required minimum setback. The Planning and Zoning Commission has the authority to determine the lot configuration based on existing conditions and function of the lot.
- C. **Projections over Property Lines.** Structures may not extend beyond a property line or into the public right-of-way, except when allowed with an Encroachment Permit.
- D. **Projections into Required Setback.** Features of the primary structure on a lot may project into required setback areas as shown in Table 17.48-2, subject to the requirements of the Building Code. See Chapter 17.52 (Accessory Structures and Uses) for setback requirements that apply to accessory structures. New projections into setbacks associated with ~~specific coastal resource issues (e.g., ESHA setbacks, coastal hazard setbacks, etc.)~~ ESHA are limited to the exceptions of section 17.64.030.F (Setback Exceptions on Developed Lots). ~~not allowed.~~

TABLE 17.48-2: ALLOWED PROJECTIONS INTO REQUIRED SETBACKS

	Maximum Projection into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
<b>Roof Projections</b>					
Cornices, eaves, canopies, and similar roof projections	4 ft.	4 ft.	2 ft.	2 ft.	<u>All:</u> 3 ft.
<b>Building Wall Projections</b>					
Bay windows, balconies, sills, fireplaces, chimneys, and similar wall projections [1]	2 ft.	2 ft.	2 ft.	2 ft.	<u>All:</u> 3 ft.
<b>Entry Features</b>					
Stairways and fire escapes or similar features	Not allowed	4 ft.	No max	Not allowed	<u>Front:</u> Not allowed <u>Exterior Side:</u> Not allowed <u>Interior Side:</u> 3 ft. <u>Rear:</u> 5 ft.

Attachment: 17.48 Height (Zoning Code Update Chapter 17:44 Coastal Overlay Zone)

	Maximum Projection into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
At grade flatwork such as concrete paving and patios	No max	No max	No max	No max	<u>All</u> : No min
Landing places, patios, and decks 18 inches or less above grade	No max	No max	No max	No max	<u>Front and Exterior Side</u> : 5 ft. <u>Interior Side and Rear</u> : 3 ft.
Open and unenclosed entry porches and decks 19 to 30 inches above grade	4 ft.	6 ft.	½ of required setback	4 ft.	<u>Front</u> : 10 ft. <u>Exterior Side and Rear</u> : 5 ft. <u>Interior Side</u> : 3 ft.
Covered entry porch and decks 19 to 30 inches above grade including roof and roof overhang	5 ft.	Not Applicable	Not Applicable	4 ft.	<u>Front</u> : 10 ft. <u>Exterior side</u> : 5 ft. <u>Interior Side and Rear</u> : Not applicable
Wheelchair ramps and similar features for the disabled	No max	No max	No max	No max	<u>All</u> : No min

Notes:

[1] Projecting bay window may not exceed 60 percent of the width of the wall in which it is located.

**E. Allowed Encroachments in Setback Areas.** The following accessory structures and site improvements may project into required setback areas as shown in Table 17.48-3, subject to the requirements of the Building Code. New encroachments into setbacks associated with specific coastal resource issues (e.g., ESHA setbacks, coastal hazard setbacks, etc.) ~~not allowed~~ are limited to the exceptions of Section 17.64.030.F (Setback Exceptions on Developed Lots).

**TABLE 17.48-2: ALLOWED ENCROACHMENTS INTO REQUIRED SETBACKS**

	Maximum Projection into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
<b>Decorative Site Features</b>					
Trellis structure up to 10 ft. in height open on all sides; Arbors with a minimum of two open sides utilized over a walkway	No max	No max	No max	No max	<u>All</u> : No min
Trellis structure up to 10 ft. in height open on at least three sides, and the walls of the structure are at least 50 percent transparent	Not Allowed	No max	No max	Not Allowed	<u>Rear and Interior Side</u> : No min <u>Front and Exterior Side</u> : Not allowed
Planter boxes and masonry planters with a maximum height of 42 inches	No max	No max	No max	No max	<u>All</u> : No min
Decorative ornamental features up to a maximum height of 6 ft. which does not enclose the perimeter of the property	No max	No max	No max	No max	<u>All</u> : No min
<b>Entertainment Features</b>					

Attachment: 17.48 Height (Zoning Code Update Chapter 17:44 Coastal Overlay Zone)

	Maximum Projection into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
Hot Tubs	Not allowed	No max	Not allowed	Not allowed	<u>Rear:</u> 2 ft. <u>All Other:</u> Not allowed
Pools	Not allowed	No max	Not allowed	Not allowed	<u>Rear:</u> 5 ft. <u>All Other:</u> Not allowed
Fire pits up to 30 inches in height	No max	No max	No max	No max	<u>All:</u> 5 ft.
Outdoor kitchens. The kitchen may include gas, electric and plumbing, except electric service may not be 220 volts and drain size may not exceed that allowed for a mini bar. Includes pizza ovens.	Not allowed	No max	Not allowed	Not allowed	<u>Rear:</u> 5 ft.
<b>Other Structures and Equipment</b>					
Children’s play equipment, movable dog house, and similar moveable objects	No max	No max	No max	No max	<u>All:</u> No min
Rain harvest tanks that do not exceed 8 ft. in height	Not allowed	No max	No max	No max	<u>Front:</u> Not allowed <u>All Other:</u> No min
Screened mechanical equipment including hot water heaters and <u>air conditioning units</u>	Not allowed	No max	No max	Not Allowed	<u>Rear and Interior Side:</u> 3 ft. <u>Front and Exterior Side:</u> Not allowed

**F. Encroachments in the Public Right-of-Way.**

1. ~~Encroachment of private development~~ A privately-installed structure may encroach into the public right-of-way ~~may be allowed, but~~ only when ~~such encroachments are~~ the encroachment is authorized by the Public Works Director or Planning Commission. ~~Encroachments as provided in the public right-of-way in~~ Municipal Code Chapter 12.56 (Privately Installed Improvements on Public Property or Easements).
- 1.2. In the coastal zone, a privately-installed structure encroaching into the public right-of-way may require via a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval), with the additional findings that the encroachment does not restrict lateral and vertical public coastal access, does not obstruct public coastal views, and does not impact ESHA, as identified in the Local Coastal Program. ~~In addition, to~~ To the extent the encroachment is allowed, ~~annual fees shall be charged with revenues dedicated to public coastal access improvements, and~~ all encroachments shall be revocable. ~~removed if the area is needed to provide for the continuance of public coastal access.~~

Attachment: 17.48 Height (Zoning Code Update Chapter 17:44 Coastal Overlay Zone)

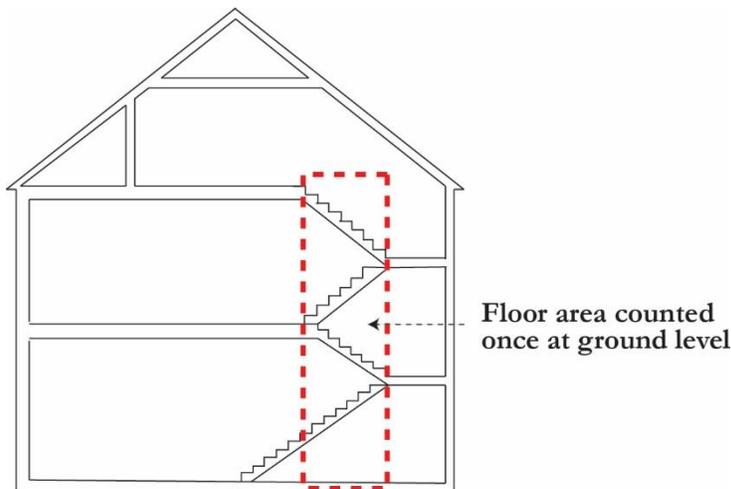
### 17.48.040 Floor Area and Floor Area Ratio

**A. Floor Area Defined.** Floor area means the sum of the horizontal areas of all floors of an enclosed structure, measured from the outside perimeter of the exterior walls.

**B. Floor Area Calculation.**

1. Floor area includes all interior area below a roof and within:
  - a. The outer surface of the exterior walls; or
  - b. The centerlines of party walls separating buildings or portions thereof; or
  - c. All area within the roof line of a carport.
2. Floor area includes the entire area in all enclosed structures without deduction for features such as interior walls or storage areas.
3. In the case of a multi-story building with a covered or enclosed stairways, stairwells or elevator shafts, the horizontal area of such features are counted only once at the floor level of their greatest area of horizontal extent. See Figure 17.48-3.

**FIGURE 17.48-3: FAR MEASUREMENT FOR STAIRWAYS**



4. Interior area of a building with a floor-to-ceiling height of greater than 16 feet are counted twice in the floor area calculation.
5. The following features are included in the floor area calculation:
  - a. All upper floor area greater than 4 feet in height, measured between the bottom of the upper floor and the top of the ceiling.
  - b. All accessory structures other than a single building 120 square feet or less, 10 feet or less in height, and without plumbing fixtures.
  - c. Carports.

6. For all uses, the following features are excluded from the floor area calculation:
  - a. Covered or uncovered decks, and patios.
  - b. Trellises, porte-cocheres not more than 10 feet in height, and similar outdoor space which are open on at least three sides, not including carports.
  - c. Bay windows, chimneys, and other similar wall projections.
  - d. Up to 250 square feet of an enclosed garage on a lot 3,000 square feet or less.
  - e. Underground parking garages not visible from a public street.
  - f. Basements when all walls are below grade and not visible. Basements are included in calculations of required on-site parking to serve the use.
7. For non-residential uses, the following features are excluded from the floor area calculation:
  - a. Outdoor improvements such as patios, decks, courtyards, outdoor dining areas, and other areas used by customers and employees. These features are included in calculations of required on-site parking to serve the use.
  - b. Arcades, porticoes, and similar open areas that are located at or near street level and are accessible to the general public but are not designed or used as sales, display, storage, service, or production areas.
  - c. Quasi-public seating areas located in a privately owned shopping center which is open to all of the patrons of all of the businesses of the shopping center and which consists of a seating area or similar area where there are tables, chairs, benches or landscaping or other similar amenities.

**C. Floor Area Ratio.**

1. Floor area ratio (FAR) is calculated by dividing the total floor area of all buildings on a site as defined in Section B (Floor Area Calculation) above by the net parcel area.
2. Net parcel area excludes: a) any recorded easements to allow others to use the surface of the property for access to an adjacent property or other similar use, and b) any area under the high water mark that extends into a waterway.

## Chapter 17.76 - PARKING AND LOADING

### Sections:

- 17.76.010 Purpose
- 17.76.020 Applicability
- 17.76.030 Required Parking Spaces
- 17.76.040 General Requirements
- 17.76.050 On-site Parking Alternatives
- 17.76.060 Parking Design and Development Standards
- 17.76.070 Parking Lot Landscaping
- 17.76.080 Bicycle Parking
- 17.76.090 Visitor-Serving Parking
- 17.76.100 On-site Loading

### 17.76.010 Purpose

This chapter establishes on-site parking and loading requirements in order to:

- A. Provide a sufficient number of on-site parking spaces for all land uses.
- B. Provide for functional on-site parking areas that are safe for vehicles and pedestrians.
- C. Ensure that parking areas are well-designed and contribute to a high-quality design environment in Capitola.
- D. Allow for flexibility in on-site parking requirements to support a multi-modal transportation system and sustainable development pattern.
- E. Ensure that on-site parking areas do not adversely impact land uses on neighboring properties.

### 17.76.020 Applicability

This chapter establishes parking requirements for three development scenarios: establishment of new structures and uses, replacement of existing uses, and expansion and enlargement of existing structures and uses.

- A. **New Structures and Uses.** On-site parking and loading as required by this chapter shall be provided anytime a new structure is constructed or a new land use is established.
- B. **Replacing Existing Uses.**
  - 1. Mixed Use Village Zoning District.
    - a. Where an existing residential use is changed to a commercial use in the Mixed Use Village (MU-V) zoning district, parking shall be provided for the full amount required by the new use. No space credit for the previous use may be granted.
    - b. In all other changes of use in the Mixed Use Village (MU-V) zoning district,

additional parking is required to accommodate the incremental intensification of the new use. Additional parking is not required to remedy parking deficiencies existing prior to the change in use.

2. **Other Zoning Districts.** Where an existing use is changed to a new use outside of the Village Mixed Use (MU-V) zoning district, additional parking is required to accommodate the incremental intensification of the new use. Additional parking is not required to remedy parking deficiencies existing prior to the change in use.

### C. Expansions and Enlargements.

#### 1. Nonresidential Use.

- a. Where an existing structure with a nonresidential use is expanded or enlarged, additional parking is required to serve only the expanded or enlarged area, except as allowed by subparagraph b below.
  - b. Within the Mixed Use Village (MU-V) zoning district, an eating and drinking establishment may expand by up to 20 percent of the existing floor area of the business without providing additional parking. Permitted expansions include modification of the internal building layout to enlarge the dining area, additions to the size of the business within an existing building footprint, and new outdoor dining areas.
2. **Residential Use.** For an existing structure with a residential use, the full amount of parking to serve the use is required when the floor area is increased by more than ten percent.

### 17.76.030 Required Parking Spaces

- A. **Mixed Use Village Zoning District.** All land uses in the Mixed Use Village (MU-V) zoning district shall provide the minimum number of on-site parking spaces as specified in Table 17.76-1. Required parking for uses not listed in Table 17.76-1 shall be the same as required for land uses in other zoning districts as shown in Table 17.76-2.

**TABLE 17.76-1: REQUIRED ON-SITE PARKING IN THE MIXED USE VILLAGE ZONING DISTRICT**

Land Uses	Number of Required Parking Spaces
	Mixed Use Village (MU-V)
Retail	1 per 240 sq. ft.
Eating and Drinking Establishments	
Bars and Lounges	1 per 60 sq. ft. of floor area for dining and/or drinking; 1 per 240 sq. ft. for all other floor area
Restaurants and Cafes	1 per 60 sq. ft. of floor area for dining and/or drinking; 1 per 240 sq. ft. for all other floor area
Take-Out Food and Beverage	1 per 240 sq. ft.
Personal Services	1 per 240 sq. ft.
Hotels	
With more than 20 guest rooms	As determined by a parking demand study [1]
With 20 or fewer guest rooms	1 per guest room plus additional spaces as required by the Planning Commission
<p><u>Notes:</u>                      [1] The Parking Demand Study shall be paid for by the applicant, contracted by the City, and approved by the Planning Commission. In the coastal zone, in all cases, hotel development shall provide adequate parking <del>and shall not negatively impact existing public parking opportunities, as determined by the Planning Commission.</del></p>	

**B. Other Zoning Districts.** Land uses in zoning districts other than the Mixed Use Village zoning district shall provide a minimum number of on-site parking spaces as specified in Table 17.76-2.

**TABLE 17.76-2: REQUIRED ON-SITE PARKING IN OTHER ZONING DISTRICTS**

Land Uses	Number of Required Parking Spaces
<b>Residential Land Uses</b>	
Duplex Homes	2 per unit, 1 covered
Elderly and Long-Term Care	1 per six beds plus 1 per 300 sq. ft. of office and other nonresidential areas
Group Housing (includes single-room occupancy)	1 per unit plus 1 guest space per 6 units
Mobile Home Parks	1 per unit plus 1 per office and 1 guest space per 10 units
Multi-Family Dwellings	2.5 per unit, 1 covered
Residential Care Facilities, Small	0.5 per bed plus 1 per 300 sq. ft. of office and other nonresidential areas

Attachment: 17.76\_Parking (Zoning Code Update Chapter 17:44 Coastal Overlay Zone)

Residential Care Facilities, Large	0.5 per bed plus 1 per 300 sq. ft. of office and other nonresidential areas
Accessory Dwelling Units	See Chapter 17.74 (Accessory Dwelling Units)
Single-Family Dwellings	1,500 sq. ft. or less: 2 per unit 1,501-2,000 sq. ft.: 2 per unit, 1 covered 2,001-2,600 sq. ft.: 3 per unit, 1 covered 2,601 sq. ft. or more: 4 per unit, 1 covered
<b>Public and Quasi-Public Land Uses</b>	
Community Assembly	1 per 3 fixed seats, or 1 per 40 sq. ft. of assembly area for uses without fixed seats
Cultural Institutions	As determined by a parking demand study
Day Care Centers	1 per 400 sq. ft. of floor area used for daycare and 1 per employee
Government Offices	1 per 300 sq. ft.
Home Day Care, Large	1 per each non-resident employee
Home Day Care, Small	None beyond minimum for residential use
Medical Offices and Clinics	1 per 300 sq. ft.
Parks and Recreational Facilities	As determined by a parking demand study
Public Safety Facilities	As determined by a parking demand study
Schools, Public or Private	2 per classroom
<b>Commercial Land Uses</b>	
Banks and Financial Institutions	1 per 300 sq. ft.
Business Services	1 per 300 sq. ft.
Commercial Entertainment and Recreation	1 per 3 fixed seats, or 1 per 40 sq. ft. of assembly area for uses without fixed seats
Eating and Drinking Establishments	
Bars and Lounges	1 per 60 sq. ft. of floor area for dining and/or drinking 1 per 300 sq. ft. for all other floor area
Restaurants and Cafes	1 per 60 sq. ft. of floor area for dining and/or drinking 1 per 300 sq. ft. for all other floor area
Take-Out Food and Beverage	1 per 300 sq. ft. of gross floor area

Food Preparation	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office area
Gas and Service Stations	2 for gas station plus 1 per 100 sq. ft. of retail and as required for vehicle repair
Lodging	
Bed and Breakfast	1 per guest room plus parking required for residential use
Hotel	1 per guest room plus 1 per 300 sq. ft. of office
Maintenance and Repair Services	1 per 600 sq. ft.
Personal Services	1 per 300 sq. ft.
Professional Offices	1 per 300 sq. ft.
Salvage and Wrecking	1 per 500 sq. ft. of building area plus 1 per 0.5 acre of outdoor use area.
Self-Storage	1 per 5,000 sq. ft.
Retail	1 per 300 sq. ft. of customer area
Vehicle Repair	1 per 500 sq. ft. of non-service bay floor area plus 2 per service bay
Vehicle Sales and Rental	1 per 300 sq. ft. for offices plus 1 per 1,000 sq. ft. of display area and requirements for vehicle repair where applicable
Wholesale	1 per 5,000 sq. ft.
<b>Heavy Commercial and Industrial Land Uses</b>	
Construction and Material Yards	1 per 2,500 sq. ft.
Custom Manufacturing	1 per 2,000 sq. ft., plus 1 per 300 sq. ft. of office
Light Manufacturing	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office
Warehouse, Distribution, and Storage Facilities	1 per 1,500 sq. ft.
<b>Transportation, Communication, and Utility Uses</b>	
Utilities, Major	As determined by a parking demand study
Utilities, Minor	None
Recycling Collection Facilities	1 per 1,000 sq. ft. of floor area
Wireless Communications Facilities	None

<b>Other Uses</b>	
Accessory Uses	Same as primary use
Home Occupation	None beyond requirement for residence
Quasi-Public Seating Areas	None
Temporary Uses	As determined by review authority
Urban Agriculture	
Home Gardens	None beyond requirement for residence
Community Gardens	None
Urban Farms	As determined by a parking demand study

### C. Calculation of Required Spaces.

1. **Floor Area.** Where a parking requirement is a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated. The floor area of a use shall be calculated as described in Section 17.48.040 (Floor Area and Floor Area Ratio). Floor area for the area of the required parking space (i.e. 10 ft. x 20 ft.) within garages and other parking facilities are not included in the calculation of floor area for the purpose of determining on-site parking requirements.
2. **Employees.** Where a parking requirement is stated as a ratio of parking spaces to employees, the number of employees is based on the largest shift that occurs in a typical week.
3. **Seats.** Where a parking requirement is stated as a ratio of parking spaces to seats, each 24 inches of bench-type seating at maximum seating capacity is counted as one seat.
4. **Fractional Spaces.** In determining the number of required parking, fractions of spaces over one-half shall be rounded up to the next whole number.

**D. Unlisted Uses.** The parking requirement for land uses not listed in Table 17.76-1 and Table 17.76-2 shall be determined by the Community Development Director based on the requirement for the most comparable similar use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand.

**E. Sites with Multiple Uses.** Where more than one land use is conducted on a site, the minimum number of required on-site parking spaces shall be the sum of the number of parking spaces required for each individual use.

**F. Additional Required Parking.** The Planning Commission may require more on-site parking than required by Table 17.76-1 and Table 17.76-2 if the Planning Commission determines that additional parking is needed to serve the proposed use and to minimize adverse impacts on neighboring properties.

### 17.76.040 General Requirements

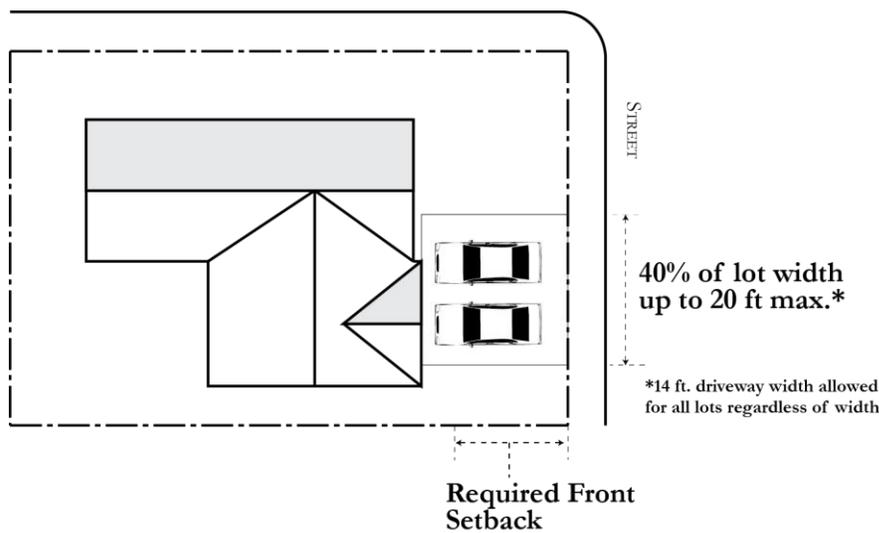
#### A. Availability and Use of Spaces.

1. In all zoning districts, required parking spaces shall be permanently available and maintained to provide parking for the use they are intended to serve.
2. Owners, lessees, tenants, or persons having control of the operation of a use for which parking spaces are required shall not prevent or restrict authorized persons from using these spaces.
3. A Conditional Use Permit is required to designate parking spaces for exclusive use by an individual tenant within an integrated commercial complex.
4. Required parking spaces shall be used exclusively for the temporary parking of vehicles and shall not be used for the sale, lease, display, repair, advertising, or storage of vehicles, trailers, boats, campers, mobile homes, merchandise, or equipment, or for any other use not authorized by the Zoning Code.

#### B. Parking in Front and Exterior Side Setback Areas.

1. **R-1 Zoning District.** In the R-1 zoning district, the width of a parking space in the required front or exterior side setback area may not exceed 40 percent of lot width up to a maximum of 20 feet, except that all lots may have a parking space of up to 14 feet in width regardless of lot width. See Figure 17.76-1. The Planning Commission may allow a larger parking area within the required front and exterior side setback areas with a Design Permit if the larger parking area incorporates design features, such as impervious materials and enhanced landscaping, which minimize visual impacts to the neighborhood.

FIGURE 17.76-1: PARKING IN FRONT SETBACK AREA IN R-1 ZONING DISTRICT



## 2. Other Zoning Districts.

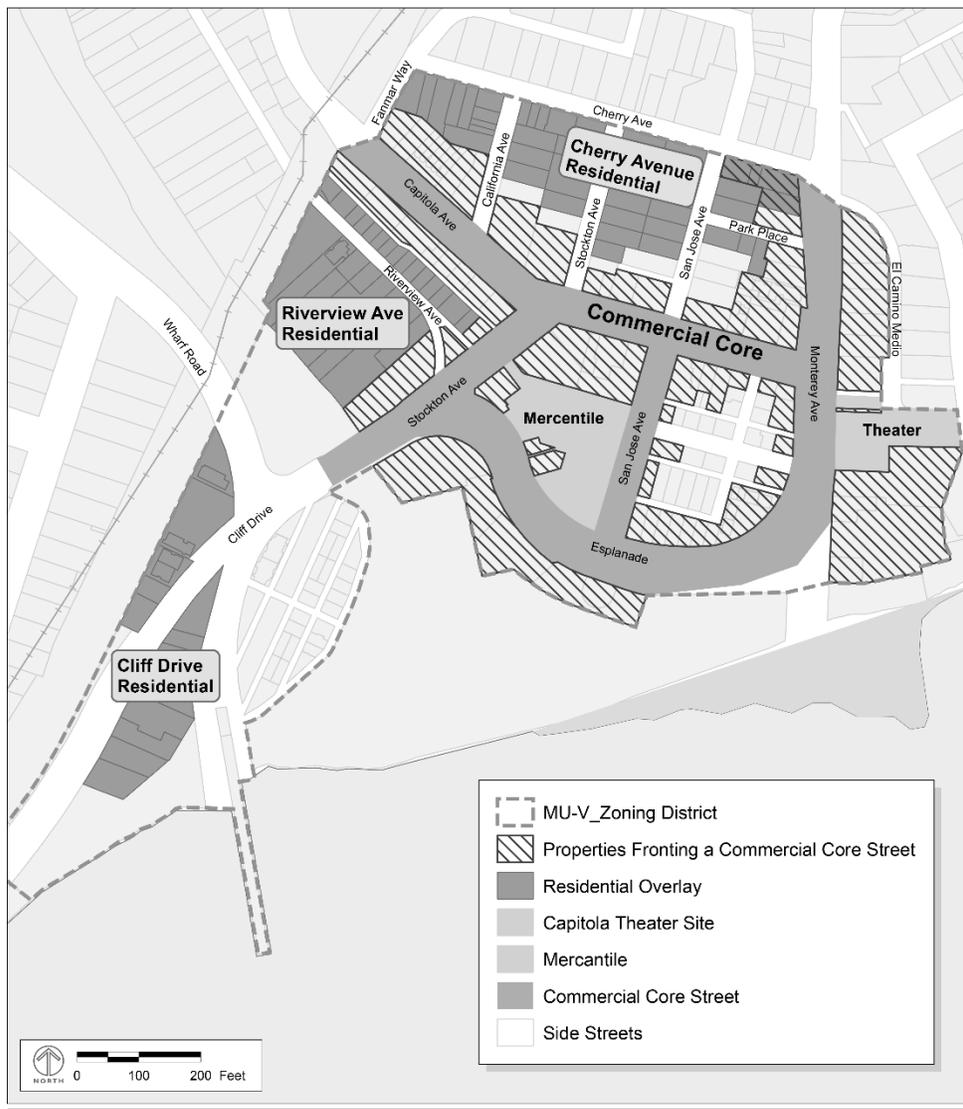
- a. In all zoning districts other than the R-1 zoning district, required parking spaces may not be located within required front or exterior side setback areas.
- b. In the Mixed Use Village zoning district, parking may be located adjacent to the street-facing property line in accordance with Section 17.20.030.E.5 (Parking Location and Buffers).
- c. In the Mixed Use Neighborhood zoning district, parking may be located in the front or exterior side setback area if approved by the Planning Commission in accordance with Section 17.20.040.E (Parking Location and Buffers).

## C. Location of Parking.

1. **All Zoning Districts.** Required parking spaces may not be located within any public or private right-of-way unless located in a sidewalk exempt area and if an Encroachment Permit is granted.
2. **R-1 Zoning District.** Required parking spaces in the R-1 zoning district shall be on the same parcel as the use that they serve.
3. **MU-V Zoning District.** Required parking ~~spaces in the MU-V district~~ for new ~~non-residential~~ development and intensified uses ~~in the MU-V zoning district~~ shall be provided ~~on sites outside of in compliance with the Village area. These spaces shall be within walking distance of the use which it serves or at remote sites served by a shuttle system. The Planning Commission may approve exceptions to allow on-site parking in the MU-V district for:~~ following:
  - a. ~~The Capitola Theater site (APNs 035-262-04, 035-262-02, 035-262-11, and 035-261-10) may accommodate limited onsite parking to serve ADA guests and a valet or similar shuttle system; however, offsite parking is strongly encouraged to the maximum extent feasible. For any parking located onsite, driveway cuts shall be minimized and parking areas will not be located on along the interior street frontage of the site; and~~
  - a. ~~The Mercantile site (APN 035-221-17) if The Planning Commission may approve onsite parking as follows:~~
    - (1) ~~For property fronting a Commercial Core street shown in Figure 17.76-2, onsite parking is allowed if access to parking is from a side street, alleyway, or existing driveway cut. New driveway cuts are minimized to the extent possible and prohibited along a Commercial Core street frontage.~~
    - (1)(2) ~~For the Capitola Theater and Mercantile sites, onsite parking is allowed if parking areas are located on the interior of the site;(s) and do not directly abut a Commercial Core street. Driveway cuts to serve onsite parking are limited to one cut per site; however, the Planning Commission may approve additional driveway cuts if 1) a parking and circulation study shows that additional access is necessary to reasonably serve the use; and 2)~~

- driveway cuts are located and designed to preserve or enhance pedestrian and vehicle safety.
- (3) Within the Riverview Avenue, Cherry Avenue, and Cliff Drive residential overlays.
- (4) On properties that do not front a Commercial Core street.
- (5) As mandated underby Federal Emergency Management Agency (FEMA) regulations and as consistent with.
- b. The Planning Commission may permit off-site parking for non-residential uses if the certified Local Coastal Program space(s) are within walking distance of the use which it serves or located at a remote site served by a shuttle system.

**FIGURE 17.76-2: MU-V PARKING LOCATION MAP**



Attachment: 17.76\_Parking (Zoning Code Update Chapter 17:44 Coastal Overlay Zone)

4. **Other Zoning Districts.** In all zoning districts other than the R-1 and MU-V zoning districts, required parking shall be located on the same lot as the use the parking is intended to serve, except as allowed by Section 17.76.050.D below.

**D. Large Vehicle Storage in the R-1 Zoning District.** In addition to the required on-site parking spaces for a single-family dwelling, one additional on-site parking or storage space may be provided on a parcel in the R-1 zoning district for a recreational vehicle, boat, camper, or similar vehicle. This space may not be located in a required front or exterior side setback area and may be utilized only to store a vehicle that does not exceed 13.5 feet in height, 8.5 feet in width, and 25 feet in length. Such parking or storage spaces shall be finished in concrete, asphalt, semi-permeable pavers, or a similar paved surface.

**E. Covered Parking in the R-1 Zoning District.**

1. When required by this chapter, covered parking spaces serving a single-family dwelling shall be provided within an enclosed garage. The Planning Commission may allow required covered parking spaces to be provided within an open carport with a Design Permit if the Planning Commission finds that a garage is practically infeasible or that a carport results in a superior project design.
2. All carports serving a single-family dwelling shall comply with the following design standards:
  - a. Carports shall be designed with high quality materials, compatible with the home. The roofing design, pitch, colors, exterior materials and supporting posts shall be similar to the home. The carport shall appear substantial and decoratively finished in a style matching the home which it serves.
  - b. The slope of a carport roof shall substantially match the roof slope of the home which it serves.
  - c. Pedestrian pathways connecting the carport with the home shall be provided.
3. Garages in the R-1 zoning district may be converted to habitable living space only if the total number of required on-site parking spaces is maintained, including covered spaced for the covered parking space requirement.

**F. Electric Vehicle Charging.**

1. **When Required.** Electric vehicle charging stations shall be provided:
  - a. For new structures or uses required to provide at least 25 parking spaces; and
  - b. Additions or remodels that increase an existing parking lot of 50 for more spaces by 10 percent or more.
2. **Number of Charging Stations.** The number of required charging stations shall be calculated as follows:
  - a. 25-49 parking spaces: 1 charging station.
  - b. 50-100 parking spaces: 2 charging stations, plus one for each additional 50

parking spaces.

- c. For the purpose of calculating required number of charging stations, parking spaces shall include existing and proposed spaces.
3. **Location and Signage.** Charging stations shall be installed adjacent to standard size parking spaces. Signage shall be installed designating spaces with charging stations for electric vehicles only.

**G. Parking for Persons with Disabilities.**

1. Parking spaces for persons with disabilities shall be provided in compliance with California Code of Regulations Title 24.
2. Parking spaces required for the disabled shall count toward compliance with the number of parking spaces required by Table 17.76-1 and Table 17.76-2.

**H. Curb-side Service.**

1. Curb-side (drive-up) service for retail uses is allowed in all commercial and mixed-use zoning districts.
2. Restaurant curb-side service requires a Conditional Use Permit in the Regional Commercial (C-R) zoning district and is prohibited in all other zoning districts.

**17.76.050 On-site Parking Alternatives**

**A. Purpose.** This section identifies alternatives to required on-site parking to:

1. Allow for creative parking solutions;
2. Enhance economic vitality in Capitola;
3. Promote walking, biking, and use of transit; and
4. Encourage the efficient use of land resources consistent with the General Plan.

**B. Eligibility.** Alternatives to required on-site parking in this section are available only to uses located outside of the Mixed Use Village zoning district, except for:

1. Valet parking (Subsection F) which is available in all zoning districts, including the Mixed Use Village zoning district; and
2. Fees in-lieu of parking (Subsection I), which is available only to uses in the Mixed Use Village zoning district.

**C. Required Approval.** All reductions in on-site parking described in this section require Planning Commission approval of a Conditional Use Permit.

**D. Off-Site Parking.**

1. For multi-family housing and non-residential uses, the Planning Commission may allow off-site parking if the Commission finds that practical difficulties prevent the parking from being located on the same lot it is intended to serve.

2. Off-site parking shall be located within a reasonable distance of the use it is intended to serve, as determined by the Planning Commission.
3. A deed restriction or other legal instrument, approved by the City Attorney, shall be filed with the County Recorder. The covenant record shall require the owner of the property where the on-site parking is located to continue to maintain the parking space so long as the building, structure, or improvement is maintained in Capitola. This covenant shall stipulate that the title and right to use the parcels shall not be subject to multiple covenant or contract for use without prior written consent of the City.

**E. Shared Parking.** Multiple land uses on a single parcel or development site may use shared parking facilities when operations for the land uses are not normally conducted during the same hours, or when hours of peak use differ. The Planning Commission may allow shared parking subject to the following requirements:

1. A parking demand study prepared by a specialized consultant contracted by the Community Development Director, paid for by the applicant, and approved by the Planning Commission demonstrates that there will be no substantial conflicts between the land uses' principal hours of operation and periods of peak parking demand.
2. The total number of parking spaces required for the land uses does not exceed the number of parking spaces anticipated at periods of maximum use.
3. The proposed shared parking facility is located no further than 400 feet from the primary entrance of the land use which it serves.
4. In the Mixed Use Neighborhood (MU-N) zoning district the reduction for shared parking is no greater than 25 percent of the required on-site parking spaces.

**F. Valet Parking.** The Planning Commission may allow up to 25 percent of the required on-site parking spaces to be off-site valet spaces (except for a hotel on the former Village theatre site (APNs 035-262-04, 035-262-02, and 035-261-10) for which there is no maximum limit of off-site valet spaces). Valet parking shall comply with the following standards:

1. Valet parking lots must be staffed when business is open by an attendant who is authorized and able to move vehicles.
2. A valet parking plan shall be reviewed and approved by the Community Development Director in consultation with the Public Works Director.
3. Valet parking may not interfere with or obstruct vehicle or pedestrian circulation on the site or on any public street or sidewalk.
4. The use served by valet parking shall provide a designated drop-off and pick-up area. The drop-off and pick-up area may be located adjacent to the building, but it may not be located within a fire lane, impede vehicular and/or pedestrian circulation, or cause queuing in the right-of-way or drive aisle.

**G. Low Demand.** The number of required on-site parking spaces may be reduced if the Planning Commission finds that the land use will not utilize the required number of spaces due to the nature of the specific use. This finding shall be supported by the results of a parking demand study approved by the Community Development Director in consultation with the Public Works Director.

**H. Transportation Demand Management Plan.** The Planning Commission may reduce the number of required on-site parking spaces for employers that adopt and implement a Transportation Demand Management (TDM) Plan subject to the following requirements and limitations:

1. A TDM Plan reduction is available only to employers with 25 or more employees.
2. Required on-site parking spaces may be reduced by no more than 15 percent.
3. The TDM Plan shall be approved by the Community Development Director in consultation with the Public Works Director.
4. The TDM Plan shall identify specific measures that will measurably reduce the demand for on-site parking spaces. Acceptable measures must ensure a reduced demand for parking spaces (e.g., an employee operated shuttle program). Measures that only encourage the use of public transit, ridesharing, biking, or walking will not be accepted.
5. The employer shall appoint a program coordinator to oversee transportation demand management activities.
6. The program coordinator must provide a report annually to the Planning Commission that details the implementation strategies and effectiveness of the TDM Plan.
7. The Planning Commission may revoke the TDM Plan at any time and require additional parking spaces on site upon finding that that the Plan has not been implemented as required or that the Plan has not produced the reduction the demand for on-site parking spaces as originally intended.

**I. Fees in Lieu of Parking**

1. Within the MU-V zoning district, on-site parking requirements for hotel uses may be satisfied by payment of an in-lieu parking fee established by the City Council ~~in an amount equal to the cost~~ to provide an equivalent number of parking spaces in a municipal parking lot. Such payment must be made before issuance of a building permit or a certificate of occupancy. Requests to participate in an in-lieu parking program must be approved by the City Council. A proposed hotel may require a Coastal Development Permit as specified by Chapter 17.44 (Coastal Overlay Zones) if any part of the site is located in the Coastal Zone. A parking plan shall be reviewed within a CDP, to ensure the development will not have adverse impacts on coastal resources.
2. Fee revenue must be used to provide public parking in the vicinity of the use. In

establishing parking districts, the City Council may set limitations on the number of spaces or the maximum percentage of parking spaces required for which an in-lieu fee may be tendered.

- J. Transit Center Credit.** Provided a regional transit center is located within the Capitola Mall property, the Planning Commission may reduce the number of required parking spaces by up to 10 percent for residential mixed-use projects in the Capitola Mall property bounded by Clare’s Street, Capitola Road, and 41<sup>st</sup> Avenue.

**17.76.060 Parking Design and Development Standards**

- A. Minimum Parking Space Dimensions.** Minimum dimensions of parking spaces shall be as shown in Table 17.76.3.

**TABLE 17.76-3: MINIMUM PARKING SPACE DIMENSIONS**

Type of Space	Minimum Space Dimensions
Spaces Serving Single-Family Dwellings	
Uncovered and covered (garage) spaces	10 ft. by 20 ft. [1]
In sidewalk exempt areas	10 ft. by 18 ft.
Spaces Serving Multi-Family and Non-Residential Uses	
Standard Spaces	9 ft. by 18 ft.
Compact Spaces	8 ft. by 16 ft.
Tandem Spaces [2]	9 ft. by 18 ft.

Notes:

[1] The dimensions of parking spaces in an enclosed garage shall be measured from the interior garage walls.

[2] See Section 17.76.060.E.3 (Tandem Parking Spaces)

- B. Compact Spaces.** A maximum of 30 percent of required on-site parking spaces serving multi-family and non-residential uses may be compact spaces. All parking spaces for compact cars shall be clearly marked with the word “Compact” either on the wheel stop or curb, or on the pavement at the opening of the space.
- C. Parking Lot Dimensions.** The dimensions of parking spaces, maneuvering aisles, and access ways within a parking lot shall conform to the City’s official parking space standard specifications maintained by the Public Works Director and as shown in Figure 17.76-23 and Table 17.76-4.

FIGURE 17.76-23: STANDARD PARKING LOT DIMENSIONS

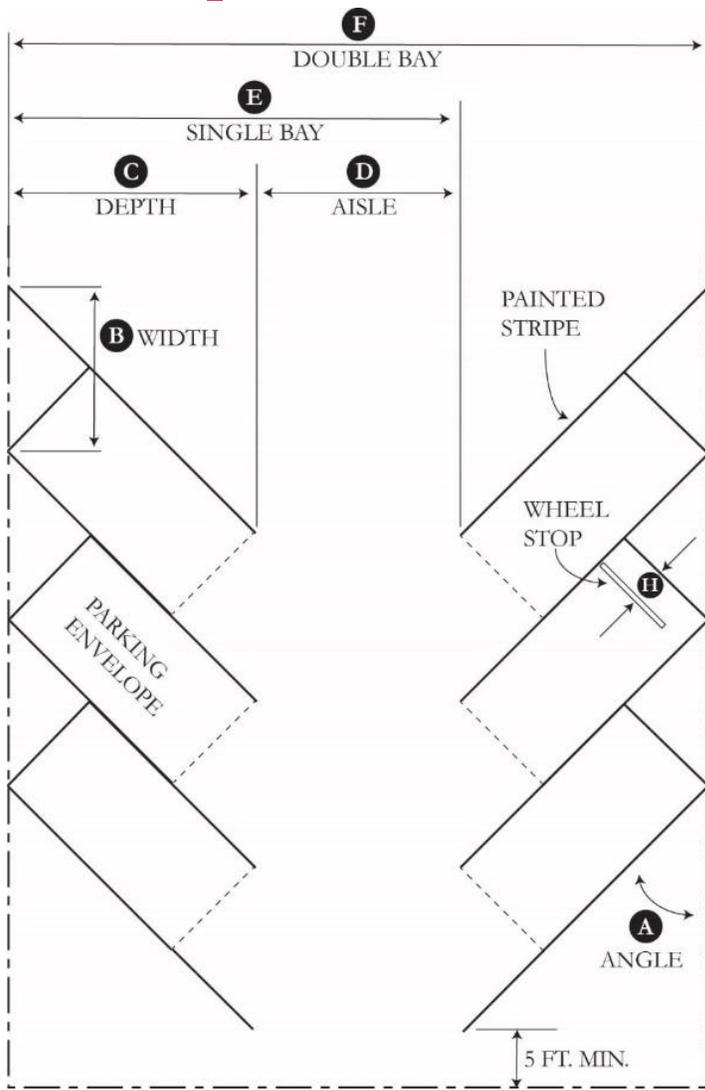


TABLE 17.76-4: STANDARD PARKING LOT DIMENSIONS

A Parking Angle	B Width		C Depth		D Aisle			E Single Bay			F Double Bay		
	Compact	Standard	Compact	Standard	Compact	Residential	Commercial	Compact	Residential	Commercial	Compact	Residential	Commercial
90	7'-6"	8'-6"	15'-0"	18'-0"	20'-0"	22'-0"	25'-0"	35'-0"	40'-0"	43'-0"	50'-0"	58'-0"	61'-0"
85	7'-7"	8'-6"	15'-7"	18'-8"	19'-0"	21'-0"	24'-0"	34'-7"	39'-8"	42'-8"	50'-2"	58'-4"	61'-0"
80	7'-8"	8'-7"	16'-1"	19'-2"	18'-0"	20'-0"	23'-0"	34'-1"	39'-2"	42'-4"	50'-2"	58'-4"	<del>61'-0"</del>
75	7'-9"	8'-10"	16'-5"	19'-7"	17'-0"	19'-0"	22'-0"	33'-5"	38'-7"	41'-7"	49'-10"	58'-2"	61'-0"
70	8'-0"	9'-0"	16'-9"	19'-10"	16'-0"	18'-0"	21'-0"	32'-9"	37'-10"	40'-10"	49'-6"	57'-8"	66'-8"
65	8'-4"	9'-4"	16'-10"	19'-11"	15'-0"	17'-0"	20'-0"	31'-10"	36'-11"	39'-11"	48'-8"	56'-10"	59'-10"
60	8'-8"	9'-10"	16'-9"	19'-10"	14'-0"	16'-0"	19'-0"	30'-9"	35'-10"	38'-10"	47'-6"	55'-8"	58'-8"
55	9'-1"	10'-4"	16'-7"	19'-7"	13'-0"	15'-0"	18'-0"	29'-7"	34'-7"	37'-7"	46'-2"	54'-2"	57'-2"
50	9'-10"	11'-1"	16'-4"	19'-2"	12'-0"	14'-0"	17'-0"	28'-4"	33'-2"	36'-2"	44'-8"	52'-4"	55'-4"
45	10'-7"	12'-0"	15'-11"	18'-8"	11'-0"	13'-0"	16'-0"	25'-5"	30'-0"	33'-0"	42'-10"	50'-4"	53'-4"
40	11'-8"	13'-2"	15'-15"	18'-0"	10'-0"	12'-0"	15'-0"	24'-8"	28'-2"	31'-2"	40'-10"	48'-0"	51'-0"
35	13'-1"	14'-10"	14'-8"	17'-2"	10'-0"	11'-0"	14'-0"	24'-0"	26'-2"	29'-2"	39'-4"	45'-4"	48'-4"
30	15'-3"	17'-0"	14'-0"	16'-2"	10'-0"	10'-0"	13'-0"	35'-0"	40'-0"	43'-0"	38'-0"	42'-4"	45'-4"

Attachment: 17.76\_Parking (Zoning Code Update Chapter 17:44 Coastal Overlay Zone)

**D. Surfacing.**

1. All parking spaces, maneuvering aisles, and access ways shall be paved with asphalt, concrete, or other all-weather surface.
2. Permeable paving materials, such as porous concrete/asphalt, open-jointed pavers, and turf grids, are a preferred surface material, subject to approval by the Public Works Director.

**E. Tandem Parking Spaces.** Tandem parking spaces are permitted for all residential land uses, provided that they comply with the following standards:

1. Parking spaces in a tandem configuration shall be reserved for and assigned to a single dwelling unit.
2. For single-family dwellings, tandem parking is permitted for up to two uncovered spaces in front of a garage, with a maximum of three tandem spaces, including the covered space in a single garage. Tandem parking spaces of three spaces or more require Planning Commission approval.
3. The minimum size of an uncovered tandem parking space may be reduced to 9 feet by 18 feet.
4. All required guest parking shall be provided as single, non-tandem parking spaces.
5. Tandem parking spaces shall not block the use of the driveway to access other parking spaces located within the parking area.
6. Tandem parking spaces shall be used to accommodate passenger vehicles only.

**F. Parking Lifts.** Required parking may be provided using elevator-like mechanical parking systems (“lifts”) provided the lifts are located within an enclosed structure or otherwise screened from public view. Parking lifts shall be maintained and operable through the life of the project.**G. Lighting.**

1. A parking area with six or more parking spaces shall include outdoor lighting that provides adequate illumination for public safety over the entire parking area.
2. Outdoor lighting as required above shall be provided during nighttime business hours.
3. All parking space area lighting shall be energy efficient and directed away from residential properties to minimize light trespass.
4. All fixtures shall be hooded and downward facing so the lighting source is not directly visible from the public right-of-way or adjoining properties.
5. All fixtures shall meet the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light (“dark sky compliant”).

**H. Pedestrian Access.**

1. Parking lots with more than 30 parking spaces shall include a pedestrian walkway in compliance with ADA requirements.
  2. The design of the pedestrian walkway shall be clearly visible and distinguished from parking and circulation areas through striping, contrasting paving material, or other similar method as approved by the Community Development Director.
- I. Screening.** Parking lots of six spaces or more shall comply with the following screening standards.
1. **Location.** Screening shall be provided along the perimeter of parking lots fronting a street or abutting a residential zoning district.
  2. **Height.**
    - a. Screening adjacent to streets shall have a minimum height of 3 feet.
    - b. For parking lots within 10 feet of a residential zoning district, screening shall have a minimum height of 6 feet, with additional height allowed with Planning Commission approval.
  3. **Materials – General.** Required screening may consist of one or more of the following materials (see Section 17.76.070 (Parking Lot Landscaping) for landscaping screening requirements):
    - a. Low-profile walls constructed of brick, stone, stucco or other durable material
    - b. Evergreen plants that form an opaque screen.
    - c. An open fence combined with landscaping to form an opaque screen.
    - d. A berm landscaped with ground cover, shrubs, or trees.
  4. **Materials – Adjacent Residential.** Parking lots within 10 feet of a residential zoning district shall be screened by a masonry wall.
- J. Drainage.** A drainage plan for all parking lots shall be approved by the Public Works Director.
- K. Adjustments to Parking Design and Development Standards.** The Planning Commission may allow adjustments to parking design and development standards in this section through the approval of a Minor Modification as described in Chapter 17.136 (Minor Modifications).

#### 17.76.070 Parking Lot Landscaping

- A. General Standards.** All landscaping within parking lots shall comply with the requirements of Chapter 17.72 (Landscaping) in addition to the standards within this section.
- B. Landscaping Defined.** Except as otherwise specified in this section, landscaping and landscaped areas shall consist of plant materials, including any combination of trees, shrubs, and ground cover.

- C. Interior Landscaping.** All areas within a parking lot not utilized for parking spaces or access/circulation shall be landscaped. For parking lots with more than 15 spaces, the minimum amount of interior landscaping is specified in Table 17.76-5. Interior landscaping is defined as any landscaped area surrounded on at least two sides by parking spaces or drive aisles, and excluding areas around the perimeter of the parcel or development site.

**TABLE 17.76-5: MINIMUM REQUIRED PARKING LOT LANDSCAPING**

Number of Required Parking Spaces	Percent of Surface Parking Area to be Landscaped
16 to 30	10%
31 to 60	15%
Over 60	20%

**D. Shade Trees.**

- One shade tree shall be provided for every five parking spaces in a parking lot.
- Shade trees shall be a minimum 24-inch box in size and shall provide a minimum 30-foot canopy at maturity.
- Shade trees shall be of a type that can reach maturity within 15 years of planting and shall be selected from a City-recommended list of canopy tree species.
- Shade trees shall be arranged in a parking lot to provide maximum shade coverage (based on a 30-foot canopy) on August 21. The arrangement should approximate nearly 50 percent shade coverage.
- The Planning Commission may grant an exception to the required tree plantings if the 50% shade coverage exists within the parking lot.

**E. Concrete Curbs.**

- All landscape areas shall be separated from parking spaces, drive aisles and driveways by a continuous, raised concrete curb. Raised concrete curbs shall be a minimum of 4 inches high by 4 inches deep.
- The City may approve alternatives to raised concrete curbs as needed to comply with any mandatory stormwater drainage standards.

- F. Parking Space Landscaping.** A maximum of 2 feet at the front end of a parking space may be landscaped with low shrubs or ground cover in which a vehicle could extend over in lieu of paving surface. This landscaping may not count toward minimum required parking lot landscaped area.

- G. Timing.** Landscaping shall be installed prior to the City's authorization to occupy any

buildings served by the parking area, or prior to the final inspection for the parking lot.

- H. Green Parking Exemptions.** Parking lots that incorporate solar panels, bioswales, and other similar green features into the parking lot design are eligible for reduced parking lot landscaping requirements with Planning Commission approval of a Design Permit.
- I. Exceptions.** The Planning Commission may grant an exception to the parking lot landscaping requirements in this section with the approval of a Design Permit upon finding that:
  1. Full compliance with the requirement is infeasible or undesirable;
  2. The project complies with the requirement to the greatest extent possible; and
  3. The project incorporates other features to compensate for the exception and create a high quality design environment.

**17.76.080 Bicycle Parking**

- A. Applicability.** All new multi-family developments of 5 units or more and commercial uses served by parking lots of 10 spaces or more shall provide bicycle parking as specified in this section.
- B. Types of Bicycle Parking.**
  - 1. Short-Term Bicycle Parking.** Short-term bicycle parking provides shoppers, customers, messengers and other visitors who generally park for two hours or less a convenient and readily accessible place to park bicycles.
  - 2. Long-Term Parking.** Long-term bicycle parking provides employees, residents, visitors and others who generally stay at a site for several hours or more a secure and weather-protected place to park bicycles. Long-term parking may be located in publicly accessible areas or in garages or other limited access areas for exclusive use by tenants or residents.
- C. Bicycle Parking Spaces Required.** Short-term and long-term bicycle parking spaces shall be provided as specified in Table 17.76-6.

**TABLE 17.76-6 REQUIRED BICYCLE PARKING SPACES**

Land Use	Required Bicycle Parking Spaces	
	Short-Term Spaces	Long-Term Spaces
Multi-Family Dwellings and Group Housing	10% of required automobile spaces; minimum of 4 spaces	1 per unit
Non-Residential Uses	10% of required automobile spaces	1 per 20 required automobile spaces for uses 10,000 sq. ft. or greater

- D. Short-Term Bicycle Parking Standards.** Short-term bicycle parking shall be located within 100 feet of the primary entrance of the structure or use it is intended to serve.
- E. Long-Term Bicycle Parking Standards.** The following standards apply to long-term bicycle parking:
1. **Location.** Long-term bicycle parking shall be located within 750 feet of the use that it is intended to serve.
  2. **Security.** Long-term bicycle parking spaces shall be secured. Spaces are considered secured if they are:
    - a. In a locked room or area enclosed by a fence with a locked gate;
    - b. Within view or within 100 feet of an attendant or security guard;
    - c. In an area that is monitored by a security camera; or
    - d. Visible from employee work areas.
- F. Parking Space Dimensions.**
1. Minimum dimensions of 2 feet by 6 feet shall be provided for each bicycle parking space.
  2. An aisle of at least 5 feet shall be provided behind all bicycle parking to allow room for maneuvering.
  3. ~~2~~**Two** feet of clearance shall be provided between bicycle parking spaces and adjacent walls, polls, landscaping, pedestrian paths, and other similar features.
  4. ~~4~~**Four** feet of clearance shall be provided between bicycle parking spaces and adjacent automobile parking spaces and drive aisles.
- G. Rack Design.** Bicycle racks must be capable of locking both the wheels and the frame of the bicycle and of supporting bicycles in a fixed position. The Planning Commission may allow creative approaches to rack design (e.g., vertical wall-mounted bicycle racks) if physical site constraints render compliance with bicycle parking design standards impractical or undesirable.
- H. Cover.** If bicycle parking spaces are covered, the covers shall be permanent and designed to protect bicycles from rainfall.

#### 17.76.090 Visitor Serving Parking

- A. Shuttle Program Parking.** Parking for the free summer beach shuttle program shall be provided in a remote lot or lots, such as those located on Bay Avenue and the Village public parking lots. The free shuttle shall operate, at a minimum, on weekends and holidays between Memorial Day weekend and Labor Day weekend.
- B. Public Parking in the Coastal Zone.**
1. Public parking existing as of [date of Zoning Ordinance adoption] in the following

locations in the CF zoning district shall be maintained for public parking:

- a. The Upper City Hall parking lot;
  - b. The Cliff Drive overlook parking; and
  - c. The Cliff Drive Southern Pacific railroad right-of-way parking unless Cliff Drive must be relocated due to cliff erosion.
2. Substantial changes in public parking facilities in the coastal zone require a Local Coastal Program (LCP) amendment.
3. ~~Expansion~~Expansion of any existing legally established residential parking programs and/or new residential parking programs ~~are highly discouraged~~ in the coastal zone ~~require an amendment to Coastal Development Permit 3-87-42 and consistency with the LCP Land Use Plan.~~
4. ~~When~~The City shall evaluate the potential impact on public coastal access when considering a Coastal Development Permit application for any development that ~~could~~would reduce ~~or degrade~~ public parking ~~opportunities~~ spaces near beach access points, shoreline trails, or parklands, including any changes ~~into the residential parking fees, timing and availability program established under Coastal Development Permit 3-87-42. When parking is reduced, the City shall evaluate the potential impact ~~on~~require alternative opportunities for public coastal access, and as needed to ensure existing levels of public access are at least maintained and, or if possible enhanced, including by providing alternative access. Such opportunities such as may include bicycle lanes and bicycle parking, pedestrian trails, and relocated vehicular parking spaces, so as to fully mitigate any potential negative impacts and to maximize access opportunities and enhanced shuttle/transit service.~~

4.5.

**17.76.100 On-site Loading**

- A. Applicability.** All retail, hotel, warehousing, manufacturing, and similar uses that involve the frequent receipt or delivery of materials or merchandise shall provide on-site loading spaces consistent with the requirements of this section.
- B. Number of Loading Spaces.** The minimum number of required loading spaces shall be as specified in Table 17.76-7.

**TABLE 17.76-7: REQUIRED LOADING SPACES**

Floor Area	Required Loading Spaces
Less than 10,000 sq. ft.	None
10,000 to 30,000 sq. ft.	1
Greater than 30,000 sq. ft.	2 plus 1 per each additional 20,000 sq. ft.

**C. Location.**

1. Required loading spaces shall be located on the same lot as the use they are intended to serve.
2. No loading space shall be located closer than 50 feet to a residential zoning district, unless the loading space is wholly enclosed within a building or screened by a solid wall not less than 8 feet in height.

**D. Dimensions.**

1. Each loading space shall have minimum dimensions of 10 feet wide, 25 feet long, and 14 feet in vertical clearance.
2. Deviations from the minimum dimensions standards may be approved by the Community Development Director if the spatial needs are less than the minimum required due to the truck size and type that will be utilized in the operation of a specific business.

**E. Design and Configuration.**

1. Loading spaces shall be configured to ensure that loading and unloading takes place on-site and not within adjacent public rights-of way.
2. Sufficient maneuvering area shall be provided for loading spaces so that vehicles may enter and exit an abutting street in a forward direction.
3. Loading spaces and their associated maneuvering areas shall not encroach into required employee or visitor parking areas or other on-site areas required for vehicle circulation.
4. Loading spaces shall be striped and clearly identified as for loading purposes only.