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, OCTOBER 8, 2020

7 PM

PLEASE REVIEW THE NOTICE OF REMOTE ACCESS AT THE END OF THE AGENDA FOR HOW TO PARTICIPATE IN THIS MEETING & SUBMIT PUBLIC COMMENT

CLOSED SESSION – 6 PM

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 LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION
(Gov ′ t Code § 54956.9(d)(2).)
one potential case

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

Read the Notice of Remote Access for instructions.

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 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 September 24, 2020, City Council Regular Meeting Minutes
RECOMMENDED ACTION: Approve minutes.

B. Contract with D. W. Alley & Associates for Required Biological Monitoring During Construction of the Flume and Jetty Rehabilitation Project
RECOMMENDED ACTION: Approve a sole source $55,000 contract with D.W. Alley and Associates for marine and fishery monitoring required under the permits for the Capitola Beach Flume and Jetty Rehabilitation Project.

C. Out of School Time Program Budget Amendment
RECOMMENDED ACTION: Authorize amending the Fiscal Year 2020-21 Budget based on the attached budget amendment.

D. Receive Update on the City's Pandemic Response
RECOMMENDED ACTION: 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.

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. First Reading of Inclusionary (Affordable) Housing Ordinance
RECOMMENDED ACTION: Approve the first reading and waive reading of the text of the proposed Ordinance amending Title 18.02 Affordable (Inclusionary) Housing

B. Solid Waste Disposal agreement with Monterey Regional Waste Management District
RECOMMENDED ACTION: Authorize the City Manager to enter into an updated agreement with Monterey Regional Waste Management District for solid waste generated in the City of Capitola.

C. Establish the Personnel Analyst and Deputy City Clerk Classifications
RECOMMENDED ACTION:
1. Approve the creation of Personnel Analyst and Deputy City Clerk classifications and job descriptions
2. Adopt a resolution amending the City of Capitola Salary Schedule
3. Approve Side Letter with Confidential Employees
4. Authorize staff to recruit and fill Personnel Analyst and Deputy City Clerk positions at 20-hours per week

D. Overview of Zoning Code Public Review in Preparation for Adoption
RECOMMENDED ACTION: Accept staff presentation on the zoning code update and continue the item to the October 22, 2020, meeting for a first reading of the ordinance.

9. ADJOURNMENT

NOTICE OF REMOTE ACCESS

In accordance with the current Santa Cruz County Health Order outlining social distancing requirements and Executive Order N-29-20 from the Executive Department of the State of California, the City Council meeting is not physically open to the public and in person attendance cannot be accommodated.

To watch:
1. Online http://capitolaca.iqm2.com/Citizens/Default.aspx
2. Spectrum Cable Television channel 8
3. Join the Zoom Meeting

To Join Zoom:
1. https://us02web.zoom.us/j/85356702646?pwd=N3ZIdEN2VTZ3N2pMcld1MlloQi90UT09
   - If prompted for a password, enter **432002**
2. Call one of these phone numbers: **1 (669) 900 6833 ; 1 (408) 638 0968; 1 (346) 248 7799**
   - Enter the meeting ID number: **853 5670 2646**
   - When prompted for a Participant ID, press #

To submit public comment:

When submitting public comment, one comment (via phone **or** email, not both), per person, per item is allowed. If you send more than one email about the same item, the last received will be read.

1. Zoom Meeting (Via Computer or Phone) Link:
    A. IF USING COMPUTER:
        § Use participant option to "raise hand" during the public comment period for the item you wish to speak on. Once unmuted, you will have up to 3 minutes to speak
    A. IF CALLED IN OVER THE PHONE:
        § Press ***9** on your phone to "raise your hand" when the mayor calls for public comment. Once unmuted, you will have up to 3 minutes to speak
2. Send Email:
    A. During the meeting, send comments via email to publiccomment@ci.capitola.ca.us
        § Emailed comments on items 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 outside of the comment period outlined above will not be included in the record.

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 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.

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 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 OCTOBER 8, 2020

FROM: City Manager Department

SUBJECT: Consider the September 24, 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 September 24, 2020.

ATTACHMENTS:

1. 9-24 draft

Report Prepared By: Chloe Woodmansee
Interim City Clerk

Reviewed and Forwarded by:

Jamie Goldstein, City Manager 10/2/2020

CAPITOLA CITY COUNCIL
REGULAR MEETING MINUTES
THURSDAY, SEPTEMBER 24, 2020 - 7 PM

CALL TO ORDER AND ROLL CALL

Mayor Petersen called the meeting to order at 6 p.m.

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

No members of the public were present, and the Council adjourned to the virtual meeting with the following items to be discussed in Closed Session:

CONFERENCE WITH LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION
(Gov't Code § 54956.9(d)(2).)
one potential case

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: Remote, Vice Mayor Yvette Brooks: Remote.

2. PRESENTATIONS

A. Introduction of New Capitola Police Officer Garcia

B. Dedicate Live-Saving Award to Capitola Police Officer Albert Gonzalez

3. REPORT ON CLOSED SESSION

4. ADDITIONAL MATERIALS

A. Item 9.C – two supporting materials

5. ADDITIONS AND DELETIONS TO AGENDA - NONE

6. PUBLIC COMMENTS - NONE

7. CITY COUNCIL / STAFF COMMENTS

Vice-Mayor Brooks spoke her support for the Black Lives Matter movement and honored Breonna Taylor.

Councilmember Bottorff welcomed Officer Garcia and commended Officer Gonzalez.

Councilmember Storey extended thanks to Alex Lucero and the Live Again Band for raising about $13,000 for the local Fire Relief Fund with their recent virtual concert.

Attachment: 9-24 draft (Approval of City Council Minutes)

Mayor Petersen announced the next community forum on racial justice and equity will take place virtually on December 2. She agreed that change must take place and acknowledged the good work local Capitola Police Department does for our City.

8. CONSENT CALENDAR

MOTION:	**ADOPT, APPROVE, AUTHORIZE, AND DETERMINE AS RECOMMENDED**
RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Ed Bottorff, Council Member
SECONDER:	Jacques Bertrand, Council Member
AYES:	Bottorff, Bertrand, Storey, Petersen, Brooks

A. Consider the September 10, 2020, City Council Regular Meeting Minutes
RECOMMENDED ACTION: Approve minutes.

B. August 20 and September 3, 2020, Planning Commission Action Minutes
RECOMMENDED ACTION: Receive minutes.

C. Approval of City Check Registers Dated August 7, August 14, August 21, August 28 and September 4.
RECOMMENDED ACTION: Approve check registers.

D. SB2 Grant Project Update and Sole Source Contract with Ben Noble Planning for Objective Design Standards
RECOMMENDED ACTION: Receive on the City's Senate Bill 2 (SB2) Grant Projects and authorize the City Manager to enter an agreement with Ben Noble Urban and Regional Planning in the amount of $45,000 for the SB2 project to prepare Objective Design Standards for the City of Capitola zoning code.

E. REAP Grant Resolution for Housing Element Update
RECOMMENDED ACTION: Approve the proposed resolution authorizing application for, and receipt of, $65,000 in Regional Early Action Planning (REAP) grant funds to update the Housing Element of the City's General Plan.

F. Consider Request to Fill Account Clerk Position Upon Its Vacancy
RECOMMENDED ACTION: Authorize staff to recruit for and fill the three-quarter time Account Clerk position and utilize part-time temporary help during the recruitment process.

G. Receive Update on the City's Pandemic Response
RECOMMENDED ACTION: 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.

9. GENERAL GOVERNMENT / PUBLIC HEARINGS

A. Consider a Partnership with Santa Cruz County Parks for Recreation's Out-of-School Time Program
RECOMMENDED ACTION: Authorize the City Manager to enter a Memorandum of

Attachment: 9-24 draft (Approval of City Council Minutes)

Understanding (MOU) with Santa Cruz County Parks to collect revenue and reimburse Capitola for up to $125,000 for Capitola Recreation's Out-of-School Time (OST) program.

Recreation Supervisor Bryant-LeBlond presented the staff report.

Councilmember Storey asked about the revised program revenue and expenses. Supervisor Bryant-LeBlond explained that in keeping expenses the same and receiving County reimbursement, the program fees can be lowered.

Councilmember Bertrand asked that if the MOU is authorized, Recreation staff offer scholarships to any applicants that were previously denied due to past lack of funding.

Vice-Mayor Brooks asked if the County anticipates offering a second installment of funds in the new year. Supervisor Bryant-LeBlond said that there have been no discussions about 2021. In response to a question, LeBlond said that eight families withdrew from the program due to a lack of affordability, and that current registration is around forty families. Vice-Mayor Brooks confirmed that the Capitola Foundation's Go-Fund-Me is still accepting donations to go directly to the scholarship fund for the Out of School Time program.

There was no public comment.

Vice-Mayor Brooks asked that staff bring plans for 2021 funding in front of Council.

MOTION:	**AUTHORIZE MOU**
RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Sam Storey, Council Member
SECONDER:	Jacques Bertrand, Council Member
AYES:	Bottorff, Bertrand, Storey, Petersen, Brooks

B. Receive Update Regarding City Website
RECOMMENDED ACTION: Receive update and provide comments.

Interim City Clerk Woodmansee presented the staff report.

Councilmember Bertrand asked if the website would include information about the street-sweeping schedule.

Councilmember Storey asked if the website's search functionality would be improved.

There was no public comment.

Councilmember Bottorff thanked staff for taking on this project. Councilmember Bertrand agreed. Councilmember Storey thanked the Vice-Mayor for serving as the Council representative. The Mayor and Vice-Mayor also thanked staff.

C. Capitola City Park Use Permits
RECOMMENDED ACTION: Approve a temporary City Park Use Permit program for fitness and exercise classes during the COVID-19 pandemic.
Recreation Supervisor Bryant-LeBlond presented the staff report.

Councilmember Bertrand asked if the field can be shared by multiple parties.

Attachment: 9-24 draft (Approval of City Council Minutes)

Councilmember Storey commented that this program is like the one allowing encroachment permits for restaurants to use parking spots as outdoor dining space, in which case the permit fees were waived by staff. Councilmember Storey asked about the reasoning behind charging for these permit fees. City Manager Goldstein explained that typically, parking spots are mostly used by a restaurant's specific patrons, whereas the City's parks are used by the entire public.

Vice-Mayor Brooks asked about the COVID-19 protocols for operation and if they are different or in addition to the County's. Staff confirmed that the California Department of Health has provided these protocols, to which most County's in the state have aligned, and highlighted that they are included in the applicant's packet as a reminder of necessary precautions.

Mayor Petersen confirmed that permits are for commercial park activity only and asked that staff refund anyone who pays for a permit and is then unable to use the park space due to other members of the public refusing to clear the space.

There was no public comment.

Councilmember Bottorff said he appreciated the program and sees that in charging a modified permit fee, a compromise to help business owners and be fair to staff time and City facilities.

Councilmember Storey asked that staff attempt to match activities and group sizes with the appropriate park when approving permit applications.

MOTION:	**APPROVE THE TEMPORARY PARK PERMIT PROGRAM**
RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Sam Storey
SECONDER:	Jacques Bertrand
AYES:	Bottorff, Bertrand, Storey, Petersen, Brooks

D. Consider a Resolution Approving Application for the State Parks Per Capita Grant Program
RECOMMENDED ACTION: Adopt resolution Authorizing Submission of an Application to California State Parks for Proposition 68 Per Capita Grant Funds

Public Works Director Jesberg presented the staff report and gave a brief overview of the Rispin Park Project.

Councilmember Storey asked about staging the project to correspond with current and future grant funding, which Director Jesberg agreed is possible.

Councilmember Bertrand said that the past community meetings had been heavily attended and that the park will be a nice compliment to the new library.

Vice-Mayor Brooks confirmed the deadline for the next grant application.

There was no public comment.

Councilmember Bottorff appreciated the project and funding opportunity.

Vice-Mayor Brooks asked that staff bring information forward about future grants, and to consider further 'active uses' for the project. Director Jesberg clarified that there could be

Attachment: 9-24 draft (Approval of City Council Minutes)

future community outreach in preparation for the future grant application.

MOTION:	**ADOPT RESOLUTION AUTHORIZING GRANT APPLICATION**
RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Ed Bottorff
SECONDER:	Sam Storey
AYES:	Bottorff, Bertrand, Storey, Petersen, Brooks

10. ADJOURNMENT

The meeting was closed at 8:30 pm.

_____
Kristen Petersen, Mayor

ATTEST:

_____
Chloé Woodmansee, Interim City Clerk

Attachment: 9-24 draft (Approval of City Council Minutes)

CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 8, 2020

FROM: Public Works Department

SUBJECT: Contract with D. W. Alley & Associates for Required Biological Monitoring During Construction of the Flume and Jetty Rehabilitation Project

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RECOMMENDED ACTION: Approve a sole source $55,000 contract with D.W. Alley and Associates for marine and fishery monitoring required under the permits for the Capitola Beach Flume and Jetty Rehabilitation Project.

BACKGROUND: Several permits from many State and Federal agencies were required as part of the Flume and Jetty Rehabilitation Project. Four agencies; the U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, State Coastal Commission, and State Regional Water Quality Control Board, imposed conditions that must be met during construction activities. Approximately 95 conditions were included in the project, 24 of which require monitoring from an approved biologist. Some conditions only apply if building a bypass for the flume is necessary; which is unlikely because a bypass is only needed if the creek does not open to the bay due to a lack of seasonal rainfall. The Permit Condition Summary is included in the contract document (Attachment 1).

DISCUSSION: Public Works recommends entering a contract with D.W. Alley and Associates for the required biologist monitoring. Mr. Alley is the leading expert on the biological resources of Soquel Creek and Capitola Beach and annually implements the Soquel Creek Lagoon Management Plan. Mr. Alley is also identified in the permit from US Fish and Wildlife as the only pre-approved biologist to monitor the project and implement minimization measures for protection of the tidewater goby, a federally protected species known to inhabit areas of Soquel Creek.

Public Works staff has worked with Mr. Alley to develop the scope of work and fee included as Attachment 2. This scope of work assumes that each phase of work will be completed independently, meaning there will be no monitoring time overlap. Therefore, if the flume and jetty can be built at the same time, there will be some cost savings. The breakdown of the monitoring cost is as follows:

Jetty Work	$16,000
Flume Work	$30,000
***Flume Bypass*	*$ 9,000*

***required only if the creek does not open to the bay by January 2021*

These costs are estimates based on time and materials. They assume a six-day work week at 8.5 hours per day to accommodate favorable tides. The final costs will reflect actual time spent monitoring on the project.

FISCAL IMPACT: The project funding and expenses are as follows:

Measure F Funding	
Flume	$525,000
Jetty	$690,000
Total	**$1,215,000**
Estimated Expenditures	
Design & Permitting	$300,000
Construction	$452,400
Monitoring	$55,000
20% Contingency	$101,480
Total	**$908.880**
Balance	**$306,120**

The 20% contingency is based on costs for construction and monitoring. The fund balance at the close of the project will remain in the CIP project fund and be available for the upcoming Wharf Rehabilitation Project.

ATTACHMENTS:

1. DW Alley Monitoring Contract

Report Prepared By: Steve Jesberg
Public Works Director

Don Alley Flume and Jetty Monitoring Contract
October 8, 2020

Reviewed and Forwarded by:

Jamie Goldstein, City Manager 10/2/2020

CITY OF CAPITOLA
PROFESSIONAL SERVICES AGREEMENT
Biological Monitoring for the Flume and Jetty Rehabilitation Project
D.W. Alley and Associates

THIS AGREEMENT is entered into on October 8, 2020, by and between the City of Capitola, a Municipal Corporation, hereinafter called "City" and D.W. Alley and Associates, hereinafter called "Consultant".

WHEREAS, City desires certain services described in Appendix One and Consultant is capable of providing and desires to provide these services;

NOW, THEREFORE, City and Consultant for the consideration and upon the terms and conditions hereinafter specified agree as follows:

SECTION 1
Scope of Services

The services to be performed under this Agreement are for biological and fishery monitoring required by various permits for the Capitola Flume and Jetty Rehabilitation Project and further detailed in Appendix One.

SECTION 2
Duties of Consultant

All work performed by Consultant, or under its direction, shall be sufficient to satisfy the City's objectives for entering into this Agreement and shall be rendered in accordance with the generally accepted practices, and to the standards of, Consultant's profession.

Consultant shall not undertake any work beyond the scope of work set forth in Appendix One unless such additional work is approved in advance and in writing by City. The cost of such additional work shall be reimbursed to Consultant by City on the same basis as provided for in Section 4.

If, in the prosecution of the work, it is necessary to conduct field operations, security and safety of the job site will be the Consultant's responsibility excluding, nevertheless, the security and safety of any facility of City within the job site which is not under the Consultant's control.

Consultant shall meet with Public Works Director, called "Director," or other City personnel, or third parties as necessary, on all matters connected with carrying out of Consultant's services described in Appendix One. Such meetings shall be held at the request of either party hereto. Review and City approval of completed work shall be obtained monthly, or at such intervals as may be mutually agreed upon, during the course of this work.

SECTION 3
Duties of the City

City shall make available to Consultant all data and information in the City's possession which City deems necessary to the preparation and execution of the work, and City shall actively aid and assist Consultant in obtaining such information from other agencies and individuals as necessary.

The Director may authorize a staff person to serve as his or her representative for conferring with Consultant relative to Consultant's services. The work in progress hereunder shall be reviewed from time

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

to time by City at the discretion of City or upon the request of Consultant. If the work is satisfactory, it will be approved. If the work is not satisfactory, City will inform Consultant of the changes or revisions necessary to secure approval.

SECTION 4
Fees and Payment

Payment for the Consultant's services shall be made upon a schedule and within the limit, or limits shown, upon Appendix Two. Such payment shall be considered the full compensation for all personnel, materials, supplies, and equipment used by Consultant in carrying out the work. If Consultant is compensated on an hourly basis, Consultant shall track the number of hours Consultant, and each of Consultant's employees, has worked under this Agreement during each fiscal year (July 1 through June 30) and Consultant shall immediately notify City when the number of hours worked during any fiscal year by any of Consultant's employees reaches 900 hours. In addition each invoice submitted by Consultant to City shall specify the number of hours to date Consultant, and each of Consultant's employees, has worked under this Agreement during the current fiscal year.

SECTION 5
Changes in Work

City may order major changes in scope or character of the work, either decreasing or increasing the scope of Consultant's services. No changes in the Scope of Work as described in Appendix One shall be made without the City's written approval. Any change requiring compensation in excess of the sum specified in Appendix Two shall be approved in advance in writing by the City.

SECTION 6
Time of Beginning and Schedule for Completion

This Agreement will become effective when signed by both parties and will terminate on the earlier of:

- The date Consultant completes the services required by this Agreement, as agreed by the City; or
- The date either party terminates the Agreement as provided below.

Work shall begin on or about October 15, 2020.

In the event that major changes are ordered or Consultant is delayed in performance of its services by circumstances beyond its control, the City will grant Consultant a reasonable adjustment in the schedule for completion provided that to do so would not frustrate the City's objective for entering into this Agreement. Consultant must submit all claims for adjustments to City within thirty calendar days of the time of occurrence of circumstances necessitating the adjustment.

SECTION 7
Termination

City shall have the right to terminate this Agreement at any time upon giving ten days written notice to Consultant. Consultant may terminate this Agreement upon written notice to City should the City fail to fulfill its duties as set forth in this Agreement. In the event of termination, City shall pay the Consultant for all services performed and accepted under this Agreement up to the date of termination.

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

SECTION 8
Insurance

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial Liability coverage (Occurrence Form CG 0001).

2. Insurance Services office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).

3. Workers' Compensation insurance as required by the State of California.

4. Errors and Omissions Liability insurance appropriate to the consultant's profession. Architects' and engineers' coverage shall include contractual liability.

Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1.	General Liability: (including operations, products and completed operations)	**$1,000,000** per occurrence and $2,000,000 in aggregate (including operations, for bodily injury, personal and property damage.
2.	Automobile Liability:	**$1,000,000** per accident for bodily injury and property damage.
3.	Errors and Omissions Liability: Limits	**$1,000,000** per claim and in the aggregate.

Other Insurance Provisions

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Capitola, its officers, officials, employees and volunteers are to be covered as additional insured's as respects: liability arising out of work or operations performed by or on behalf of the Consultant or automobiles owned, leased, hired or borrowed by the Consultant.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers.

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, returned receipt requested, has been given to the City.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements affecting coverage by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

SECTION 9
Indemnification

Consultant agrees to indemnify, defend, and hold harmless the City, its officers, agents and employees, from and against any and all claims, demands, actions, damages, or judgments, including associated costs of investigation and defense arising in any manner from consultant's negligence, recklessness, or willful misconduct in the performance of this agreement.

SECTION 10
Civil Rights Compliance/Equal Opportunity Assurance

Every supplier of materials and services and all consultants doing business with the City of Capitola shall be in compliance with the applicable provisions of the Americans with Disabilities Act of 1990, and shall be an equal opportunity employer as defined by Title VII of the Civil Rights Act of 1964 and including the California Fair Employment and Housing Act of 1980. As such, consultant shall not discriminate against any person on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, age or sex with respect to hiring, application for employment, tenure or terms and conditions of employment. Consultant agrees to abide by all of the foregoing statutes and regulations.

SECTION 11
Legal Action/Attorneys' Fees

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which he or she may be entitled. The laws of the State of California shall govern all matters relating to the validity, interpretation, and effect of this Agreement and any authorized or alleged changes, the performance of any of its terms, as well as the rights and obligations of Consultant and the City.

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

SECTION 12
Assignment

This Agreement shall not be assigned without first obtaining the express written consent of the Director after approval of the City Council.

SECTION 13
Amendments

This Agreement may not be amended in any respect except by way of a written instrument which expressly references and identifies this particular Agreement, which expressly states that its purpose is to amend this particular Agreement, and which is duly executed by the City and Consultant. Consultant acknowledges that no such amendment shall be effective until approved and authorized by the City Council, or an officer of the City when the City Council may from time to time empower an officer of the City to approve and authorize such amendments. No representative of the City is authorized to obligate the City to pay the cost or value of services beyond the scope of services set forth in Appendix Two. Such authority is retained solely by the City Council. Unless expressly authorized by the City Council, Consultant's compensation shall be limited to that set forth in Appendix Two.

SECTION 14
Miscellaneous Provisions

1. *Project Manager.* Director reserves the right to approve the project manager assigned by Consultant to said work. No change in assignment may occur without prior written approval of the City.

2. *Consultant Service.* Consultant is employed to render professional services only and any payments made to Consultant are compensation solely for such professional services.

3. *Licensure.* Consultant warrants that he or she has complied with any and all applicable governmental licensing requirements.

4. *Other Agreements.* This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter, and no other agreement, statement or promise related to the subject matter of this Agreement which is not contained in this Agreement shall be valid or binding.

5. *City Property.* Upon payment for the work performed, or portion thereof, all drawings, specifications, records, or other documents generated by Consultant pursuant to this Agreement are, and shall remain, the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information and reference in connection with the City's use and/or occupancy of the project. The drawings, specifications, records, documents, and Consultant's other work product shall not be used by the Consultant on other projects, except by agreement in writing and with appropriate compensation to the City.

6. *Consultant's Records.* Consultant shall maintain accurate accounting records and other written documentation pertaining to the costs incurred for this project. Such records and documentation shall be kept available at Consultant's office during the period of this Agreement, and after the term of this Agreement for a period of three years from the date of the final City payment for Consultant's services.

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

7. *Independent Contractor.* In the performance of its work, it is expressly understood that Consultant, including Consultant's agents, servants, employees, and subcontractors, is an independent contractor solely responsible for its acts and omissions, and Consultant shall not be considered an employee of the City for any purpose.

8. *Conflicts of Interest.* Consultant stipulates that corporately or individually, its firm, its employees and subcontractors have no financial interest in either the success or failure of any project which is, or may be, dependent on the results of the Consultant's work product prepared pursuant to this Agreement.

9. *Notices.* All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given and fully received when made in writing and deposited in the United States mail, certified and postage prepaid, and addressed to the respective parties as follows:

CITY	CONSULTANT
CITY OF CAPITOLA	D.W. Alley & Associates
420 Capitola Avenue	PO Box 200
Capitola, CA 95010	Brookdale, CA 95007
831-475-7300	831-338-7971

By:_____
Benjamin Goldstein, City Manager

By:_____
Don Alley

Dated:_____

Dated:_____

Approved as to Form:

_____
Samantha Zutler, City Counsel

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

APPENDIX ONE
Scope of Services

Consultant shall complete all Environmental Consulting monitoring and reporting outlined in the attached Permit Condition Summary for the Flume and Jetty Rehabilitation Project.

The estimate time for monitoring and report preparation and fees are based on the attached budget sheets.

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

Permit Condition Summary
Capitola Flume and Jetty Rehabilitation Project

USFWS BO conditions

Number	Condition	Responsible Party: City	Responsible Party: Env Consultant	Responsible Party: Contractor
1	Prior to the start of construction, a Service-approved biologist will survey the lagoon and flume entrance for tidewater goby. If tidewater gobies are encountered during these surveys, the Service-approved biologist may translocate captured individuals to suitable locations upstream at his or her discretion.		X	
2	Prior to the initiation of project activities, the Service-approved biologist will train all construction crew members on the tidewater goby and all relevant conservation measures that are intended to ensure species protection.		X	X
3	A Service-approved biologist will be present to monitor all construction activities that have the potential to affect the tidewater goby and its habitat. This will be determined by the Service-approved biologist.		X	
4	If a flow bypass system is needed, a Service-approved biologist will seine the vicinity of the lagoon periphery to capture and relocate the species. At the discretion of the Service approved biologist, the installation of a block net to prevent fish from re-entering the affected area may be installed.		X	
5	Throughout the duration of project activities, the Service-approved biologist will be present to survey for, capture, and translocate tidewater gobies that may be present in isolated pools.		X	
6	Monitoring of lagoon water quality (i.e., temperature, dissolved oxygen, turbidity) will be conducted by a Service-approved biologist if the flow bypass system is installed.		X	
7	The project proponent will exercise all reasonable precautions to ensure construction byproducts and pollutants do not enter aquatic habitats. All construction vehicles and equipment will be inspected prior to project implementation. All construction vehicles and equipment will be checked daily for leaks or other issues that could result in spills of hazardous materials.	X		X

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

8	All trash within the work site will be properly contained.			X
9	A summary of project activities, and any observed take of the tidewater goby will be incorporated into a post-construction report and provided to the Service.		X	
10	Marine mammal observations will be conducted to determine use of nearby areas prior to the initiation of jetty repairs.		X	
11	A Service-approved biologist will conduct daily marine mammal monitoring during construction on the jetty. The Service-approved biologist has the authority to halt work that could result in injury or mortality of these species.		X	
12	To the maximum extent feasible, jetty rehabilitation work will be conducted at low tides when the work area is exposed, minimizing in-water work.	X		X

CDFW conditions

		Responsible Party		
Number	Condition	City	Env Consultant	Contractor
1.1	Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.	X		X
1.2	Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.	X		X
1.3	Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.	X		X
1.4	Project Site Entry. Permittee agrees that CDFW personnel may enter the project site at any time to verify compliance with the Agreement.	X		

1.5	No Trespass. To the extent that any provisions of this Agreement provide for activities that require the Permittee to traverse another owner's property, such provisions are agreed to with the understanding that the Permittee possesses the legal right to so traverse. In the absence of such right, any such provision is void.	X		
1.6	Unauthorized Take. The Permittee is required to comply with all applicable state and federal laws, including the California Endangered Species Act (CESA) and Federal Endangered Species Act (ESA). This Agreement does not authorize the take of any state or federal endangered or threatened or candidate species. Liability for any take or incidental take of listed or candidate species remains the responsibility of the Permittee for the duration of the project. Any unauthorized take of such listed or candidate species may result in prosecution and nullification of the Agreement.	X	X	X
1.7	CDFW-Approved Qualified Biologist(s). Permittee shall submit to CDFW for written approval within 14 days before project commencement, the names and resumes of all qualified fisheries biologist(s) and qualified biologist(s) involved in conducting surveys and/or monitoring work.	X	X	
2.1	Work Period. Permittee shall begin flume repairs when the flume is not in use, when Soquel Creek lagoon is open and before the lagoon is closed (October 15 to May 31 of each calendar year for the duration of this Agreement). If Soquel Creek lagoon remains closed by January 1, a bypass can be installed and repairs to the flume shall begin on or after January 1 and finish by May 31 of each calendar year for the duration of this Agreement. Permittee shall begin jetty repair on or after October 15 and finish by May 31 of each calendar year for the duration of this Agreement.	X		X
2.2	Work Period Modification. If Permittee needs more time to complete project activities, work may be authorized outside of the work period and extended on a week-by-week basis with approval from CDFW. Permittee shall obtain approval by providing a written request to Monica Oey, Environmental Scientist, by email at monica.oey@wildlife.ca.gov. Permittee shall provide written request for a work period variance to CDFW at least fourteen (14) calendar days prior to May 31. The work period variance request shall: 1) describe the extent of work already completed; 2) detail the activities that remain	X		

	to be completed; 3) detail the time required to complete each of the remaining activities; and 4) provide photographs of both the current work completed and the proposed site for continued work. Work period variances are issued at the discretion of CDFW. CDFW will review the written request to work outside of the established work period and may require additional measures to protect fish and wildlife resources as a condition for granting the variance. Any additional measures shall be considered part of this Agreement.			
2.3	Conduct Work During Daylight Hours. Construction is restricted to daylight hours, one hour after sunrise to sunset.	X		X
2.4	Work During Low Tide. Permittee shall conduct work during low tide when the sea level is below the immediate area of work area.	X		X
2.5	Work Period in Dry Weather Only. Project work shall be restricted to dry weather as allowed during the work period specified in Measure 2.1. Construction shall be timed with awareness of precipitation forecasts and potential increases in stream flow. Construction activities shall cease when the National Weather Service (NWS) 72-hour weather forecast indicates a 30 percent chance or higher of precipitation. All necessary erosion control measures shall be implemented prior to the onset of precipitation. Construction equipment and materials shall be removed if inundation is likely. Construction activities halted due to precipitation may resume when precipitation ceases and the NWS 72-hour weather forecast indicates less than a 30 percent chance of precipitation. No work shall occur during a dry-out period of 24 hours after the above referenced wet weather. Weather forecasts shall be documented upon request by CDFW.	X		X
2.6	Work According to Documents. Except as they are contradicted by measures required by this Agreement, all work shall be conducted in conformance with the project description above and the documents provided in the notification package. Permittee shall notify CDFW of any modifications made to the plans submitted to CDFW that have the potential to impact the lagoon or riparian corridor. At the discretion of CDFW, if substantial modifications to the plans submitted to CDFW are made, Permittee shall submit a new application.	X		X
2.7	Training Session for Personnel. Permittee shall ensure that a CDFW-approved qualified and fisheries biologist conducts an education program for all		X	X

	persons employed on the project prior to performing project activities. Instruction shall consist of a presentation by the designated qualified biologist and fisheries biologist that includes a discussion of the biology and general behavior of any sensitive species which may be in the area, how they may be encountered within the work area, and procedures to follow when they are encountered. The status of CESA-listed species including legal protection, penalties for violations and project specific protective management measures provided in this Agreement shall be discussed. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to on-site project activity. Copies of the Agreement for this project shall be maintained at the worksite with the project supervisor.			
2.8	Special-Status Fish and Wildlife Surveys. Within 48 hours prior to the start of project activities, a CDFW-approved qualified biologist and fisheries biologist (refer to Measure 1.7) shall survey the project area at the appropriate time of day for presence of special-status species that may be present (e.g., steelhead, tidewater goby, sea otters). The qualified biologist* and fisheries biologist** shall record all wildlife species encountered during surveys and submit the record to CDFW within seven (7) days after survey completion (see Measure 3.2). CDFW reserves the right to provide additional measures to this Agreement designed to protect special status species.	X	X	
2.9	No Take of Coho. Handling, hazing, or construction activities that could smother (through release of sediment), crush or otherwise result in injury or mortality to coho salmon are not authorized under this Agreement.	X	X	X
2.10	Qualified Biologist On-site Daily. A CDFW-approved qualified fisheries biologist shall be on-site during all construction that may impact the Soquel Creek lagoon. Construction includes repairs to the jetty and flume and installation and removal of the bypass , if one is used.		X	
2.11	Breeding Bird Nest Take Prohibition. Permittee shall avoid active nests occurring near the project site. Permittee is responsible to comply with the Migratory Bird Treaty Act of 1918 and the Fish & Game Code of California, section 3503.	X		
2.12	Wildlife Allowed to Move on Its Own. If wildlife is encountered during the project, Permittee shall allow wildlife to leave on its own accord. A CDFW-approved	X	X	X

	qualified biologist and fisheries biologist is allowed to rescue and relocate wildlife and fish species only in areas that are subject to dewatering by the project (see measure 2.16 and 2.17).			
2.13	No Vegetation Removal. Permittee shall not remove any vegetation as part of this Agreement.	X	X	X
2.14	**In the Event a Bypass is Needed** Aquatic Species and Fish Exclusion. A CDFW-approved qualified fisheries biologist shall seine the area of the lagoon that will be impacted by construction activities to exclude aquatic species and fish from the construction area. Once seining is complete, the CDFW-approved qualified fisheries biologist shall install block nets to prevent aquatic species and fish from reentering the area.		X	
2.15	**In the Event a Bypass is Needed** Block Net Removal. A CDFW-approved qualified fisheries biologist shall remove block net after the flume is closed for repair.		X	
2.16	**In the Event a Bypass is Needed** Check Hourly for Stranded Aquatic Species. The CDFW-approved qualified fisheries biologist (see Measure 1.7) shall check hourly for stranded aquatic life as lagoon flow is transferred into the bypass and the flume is closed. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas, using the techniques described in Measure 2.17.		X	
2.17	**In the Event a Bypass is Needed** Relocation of Native Fish and Amphibians. During installation of bypass structure, a CDFW-approved qualified fisheries biologist, with the necessary federal authorization, shall capture and relocate native fish, reptile, and amphibian species to suitable habitat to areas not subject to dewatering. Measures shall be taken to avoid harm and mortality resulting from fish, reptile, and amphibian relocation activities, see 2.17.1 through 2.17.8:		X	
2.18	**In the Event a Bypass is Needed** Daily Water Quality Monitoring. Permittee shall monitor Soquel Creek lagoon water quality (e.g ., temperature, dissolved oxygen, turbidity) daily while the bypass is installed. Water quality data shall be submitted to CDFW within 14 days of bypass removal. Upon CDFW determination that water quality levels resulting from project activities are a threat to aquatic life, project activities that are associated with water quality shall stop until effective CDFW-approved control devices are installed or abatement procedures are initiated.		X	
2.19	Removal of Bypass Structure. Permittee shall remove all structures associated with the bypass and fill in	X		X

	trench with beach sand to the same elevation as the surrounding beach.			
2.20	**Concrete Measures** Primary Containment. Permittee shall install the necessary containment structures to control the placement of wet concrete and to prevent it from entering into the Soquel Creek lagoon and out of those structures. No concrete shall be poured if the 10 day weather forecast indicates any chance of rain greater than 30 percent.			X
2.21	**Concrete Measures** Cement Based Products. All cement based products (e.g., concrete, mortar, etc .) · poured or applied wet on-site shall be excluded from Soquel Creek lagoon or areas where they may come into contact with water for a period of 30 days after application. During that time the product shall be kept moist and runoff from the product shall not be allowed to enter the stream. Commercial sealants may be applied to the product surface or mixture where difficulty in excluding flow for a long period may occur. If sealant is used, water shall be excluded from the site until the sealant is cured.			X
2.22	**Concrete Measures** Concrete Designated Monitor. At all times when the Permittee is pouring or working with wet concrete there shall be a designated monitor to inspect the containment structures and ensure that no concrete or other debris enters into the channel outside of those structures.	X		
2.23	Equipment Operation from Beach. Permittee shall only operate equipment from the beach side of Soquel Creek. Permittee shall only move rock in shallow water of less than one foot, during low-tide.			X
2.24	Staging and Storage Areas. Construction equipment, building materials, fuels, lubricants and solvents shall not be stockpiled or stored where they could be washed into State waters or where they will cover aquatic or riparian vegetation.			X
2.25	Equipment Over Drip Pans. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the stream and riparian areas shall be positioned over drip-pans.			X
2.26	Check Equipment for Leaks. Any equipment or vehicles driven and/or operated adjacent to the stream and riparian corridor shall be checked and maintained daily to prevent leaks of materials that if introduced to water could be deleterious to aquatic life, wildlife, or riparian habitat. Permittee shall move			X

	vehicles away from the stream before refueling and lubrication.			
2.27	Hazardous Materials. Any hazardous or toxic materials that could be deleterious to aquatic life that could be washed into State waters or their tributaries shall be contained in water tight containers or removed from the project site.			X
2.28	Proper Disposal of Debris. All construction debris and trash shall be property disposed of appropriately.			X
2.29	Project Access. Permittee shall access to the project area via designated beach areas. In the case that the clean-up of a spill of material deleterious to fish and wildlife is necessary, additional access routes shall be coordinated with CDFW.	X		X
2.30	Toxic Materials. Any hazardous or toxic materials that could be deleterious to aquatic life that could be washed into the stream or its tributaries shall be contained in water tight containers or removed from the project site.			X
2.31	Hazardous Materials. Debris, soil, silt, bark, slash, sawdust, rubbish, creosote treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, wildlife, or riparian habitat resulting from the project related activities shall be prevented from contaminating the soil and/or entering the Waters of the State.	X	X	X
2.32	Spill Kits. Prior to entering the work site, all field personnel shall know the location of spill kits and trained in their appropriate use.			X
2.33	Spill of Material Deleterious to Fish and Wildlife. In the event of a hazardous materials spill into a stream (e.g., concrete or bentonite), Permittee shall immediately notify the California Office of Emergency Services State Warning Center by calling 1-800-852-7550 and immediately provide written notification to CDFW by email at R3 1600Program@wild life.ca.gov. Permittee shall take all reasonable measures to document the extent of the impacts and affected areas including photographic documentation of affected areas, injured fish and wildlife. If dead fish or wildlife are found in the affected area, Permittee shall collect carcasses and immediately deliver them to CDFW. Permittee shall meet with CDFW within ten days of the reported spill in order to develop a resolution including: site clean-up, site remediation and compensatory mitigation for the harm caused to fish , wildlife and the habitats on which they depend as a result of the spill. The Permittee shall be	X	X	X

	responsible for all spill clean-up, site remediation and compensatory mitigation costs. Spill of materials to waters of the state that are deleterious to fish and wildlife are in violation of Fish and Game Code section 5650 et. seq. and are subject to civil penalties for each person responsible. CDFW reserves the right to refer the matter to the District Attorney's Office if a resolution cannot be agreed upon and achieved within a specified timeframe, generally six months from the date of the incident.			
2.34	Spill Containment. All activities performed in or near the river, stream, or lagoon shall have absorbent materials designated for spill containment and cleanup activities on-site for use in an accidental spill. The Permittee shall immediately notify the California Emergency Management Agency at 1-800-852-7550 and immediately initiate the cleanup activities. CDFW shall be notified by the Permittee and consulted regarding clean-up procedures.			X
3.1	CDFW Prior to Project Commencement/Completion. Permittee shall notify CDFW Bay Delta Region in writing, at least five (5) calendar days prior to initiation of project activities and at least five (5) calendar days post completion of project activities. Initial notification shall include the name(s) and contact information of the person(s) overseeing the project site. Notification can be made Monica Oey by email at monica.oey@wildlifea .ca.gov , or by mail:	X		
3.2	Biological Survey Report Submission. Results from special-status and wildlife survey(s) shall be sent to CDFW within seven (7) days after survey completion. Species relocation results shall be sent to CDFW within seven (7) days after relocation efforts is complete.	X	X	
3.3	Photographic Documentation of Work. Prior to commencement of work a minimum of four (4) vantage points that offer representative views of the project site and work areas shall be identified. The Permittee shall photograph the project area from each of the vantage points, noting the direction and magnification of each photo. Upon completion ofwork, the Permittee shall photograph post-project conditions from the vantage points using the same direction and magnification as pre-project photos. A reference key shall be submitted with the photos describing the location of the photo, the direction of the view, and whether the photo is pre- or post-construction. All photos shall be submitted within 30 days of project completion.	X	X	
3.4	Notification to the California Natural Diversity Database (CNDDB). If any listed, rare, or special status species are detected during project surveys or on or around the	X	X	

	project site during project activities , Permittee shall submit CNDDB Field Survey Forms to CDFW in the manner described at the CNDDB website (http://www.dfg.ca.gov/biogeodata/cnddb/) within 30 days of the sightings. Copies of such submittals shall also be submitted to the CDFW regional office as specified below.			

* A qualified fisheries biologist is an individual who shall have a minimum of five years of academic training and professional experience in fisheries and related resource management activities with a minimum of two years conducting surveys for each fish species that may be present within the project area.

** A qualified biologist is an individual who shall have a minimum of five years of academic training and professional experience in biological sciences and related resource management activities with a minimum of two years conducting surveys for each non-fish species that may be present within the project area.

Coastal Commission conditions

		Responsible Party		
Number	Condition	City	Env Consultant	Contractor
SC 1	Approved Project. This CDP authorizes restacking existing jetty rock, and importing and adding approximately 380 cubic yards of new rock, within the jetty configuration shown on the proposed project plans (dated October 10, 2018 and titled "Capitola Beach Jetty Rehabilitation" and dated received in the Coastal Commission's Central Coast District office on.December 18, 2018; see Exhibit 3), and maintaining that configuration over time (see Special Condition 5) subject to the terms and conditions of this CDP.	X		
SC 2	Construction Plan. PRIOR TO CONSTRUCTION, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and written approval. The Construction Plan shall, at a minimum, include and provide for the following: a. Construction Areas. The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the fullest extent feasible in order to have the least impact on public access to and along Capitola Beach, the Pacific Ocean, and other coastal resources. Special attention shall be given to siting and designing construction areas in order to minimize impacts on the ambiance and	X		X

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

	aesthetic values of the shoreline area, including but not limited to public views in the beach area; b. Construction Methods. The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep construction areas separated from public use areas as much as feasible (including through use of unobtrusive fencing and/or other similar measures to delineate construction areas), including verification that equipment operation and equipment and material storage will not significantly degrade public views during construction. The Plan shall limit construction activities to avoid coastal resource impacts as much as possible. c. Construction Timing. Work shall only be allowed between October 15th and May 31st. No work shall occur during weekends, and all work shall take place during daylight hours (i.e., from one hour before sunrise to one hour after sunset). Nighttime work and lighting of the work area is prohibited unless, due to extenuating circumstances, the Executive Director authorizes such work on a case-specific basis. d. Imported Rock Requirements. Imported rock shall be inspected at an inland location and shall not be added to the jetty if it is determined to harbor any potential for leading to introduced species in the Monterey Bay National Marine Sanctuary. The Permittee shall coordinate with Sanctuary staff to ensure compliance with this requirement. e. Construction Best Management Practices (BMPs). The Construction Plan shall identify the type and location of erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality and related coastal resources, including at a minimum all of the following: 1. Equipment BMPs. Equipment washing, refueling, and/or servicing shall take place at an appropriate location inland of the beach to prevent leaks and spills of hazardous materials at the project site, preferably on an existing hard surface area (e.g., a road) or an area where collection of materials is facilitated. All construction equipment shall			

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	also be inspected and maintained at a similar inland location to prevent leaks and spills of hazardous materials at the project site. 2. Good Housekeeping BMPs. The construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the project site; etc.). 3. Rubber-tired Construction Vehicles. Only rubber-tired construction vehicles are allowed on the beach and in the intertidal zone, except track vehicles may be used if the Executive Director determines that they are required to safely carry out construction. 4. Construction Material Storage. All construction materials and equipment placed on or adjacent to the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from these areas by one hour after sunset each day that work occurs. f. Restoration. All sandy beach and other public recreational use areas and all beach access points impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any native materials impacted shall be filtered as necessary to remove all construction debris. g. Construction Site Documents. The Construction Plan shall provide that copies of the signed CDP and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies be available for public review on request. All persons involved with project construction shall be briefed on the content and meaning of the CDP (including explicitly its terms and conditions) and the approved Construction Plan,			

	and the public review requirements applicable to them, prior to commencement of construction. h. Construction Coordinator. The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that his/her contact information (i.e., address, phone numbers, email address, etc.) including, at a minimum, a telephone number (with message capabilities) and an email that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas while still protecting public views as much as possible, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (e.g., address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24.hours of receipt of the complaint or inquiry. All complaints and all actions taken in response shall be summarized and provided to the Executive Director within one week of receipt of the complaints. i. Construction Specifications. The construction specifications and materials shall include appropriate provisions that require remediation for any work done inconsistent with the terms and conditions of the CDP. j. Notification. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least three working days in advance of commencement of construction, and immediately upon completion of construction.			
SC 3	As-Built Plans. WITHIN THREE MONTHS OF COMPLETION OF CONSTRUCTION, the Permittee shall submit two copies of As-Built Plans to the Executive Director for review, and written approval showing all elements of the jetty, including riprap and the interior concrete membrane. The As-Built Plans shall be substantially consistent with the approved project	X		X

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

	identified in Special Condition 1. The As-Built Plans shall include color photographs (in hard copy and jpg format) that clearly show the as-built project, and that are accompanied by a site plan that notes the location of each photographic viewpoint and the date and time of each photograph. At a minimum, the photographs shall be from upcoast, seaward, and downcoast viewpoints on the beach arid/or atop the jetty, and from a sufficient number of viewpoints as to provide complete photographic coverage of the permitted jetty. Such photographs shall be at a scale that allows comparisons to be made with the naked eye between photographs taken in different years and from the same vantage points. The As-Built Plans shall include vertical and horizontal reference markers from inland surveyed benchmarks for use in future monitoring efforts. The As-Built Plans shall be submitted with certification by a licensed civil engineer with experience in coastal structures and processes, acceptable to the Executive Director, verifying that the jetty has been constructed in conformance with the approved project identified in Special Condition 1.			
SC 4	Monitoring and Reporting. The Permittee shall ensure that the condition and performance of the approved as-built project is regularly monitored and maintained. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would adversely impact future performance of the jetty, and identify any structural or other damage or wear and tear requiring repair and/or maintenance (subject to Special Condition 5 below) to maintain the jetty in a structurally sound manner and in its approved state. The monitoring evaluation shall also identify any changes to the as-built project relative to the surveyed vertical and horizontal reference markers described in Special Condition 3 above, and shall include a summary of seasonal (i.e., winter and summer) beach profiles including the approximate size of the beach during these seasons and corresponding photos. The jetty shall be monitored by a licensed civil engineer with experience in coastal structures and processes to ensure structural and cosmetic integrity, including evaluation of movement and slumping of rock. Monitoring reports covering the above-described evaluations, shall be submitted to the Executive Director for review and approval at five year intervals by May 1st of each fifth year measured from the year of approval of this CDP (with the first report due May 1, 2024, and	X		

	subsequent reports due May 1, 2029, May 1, 2034, and so on) for as long as the approved as-built project exists at this location. The reports shall identify the existing configuration and condition of the jetty, and shall recommend actions necessary to maintain the jetty in its approved and/or required state, and shall include photographs with the date and time of the photographs and the location of each photographic viewpoint noted on a site plan. Actions necessary to maintain the approved as-built project in a structurally sound manner and in its approved state, subject to Special Condition 5 below, shall be implemented within 30 days of Executive Director approval, unless a different time frame for implementation is identified by the Executive Director. Any proposed development to the as-built project which is not covered by Special Condition 5 below shall require submission to the Coastal Commission of a CDP amendment application.			
SC 5	Future Repair and Maintenance Authorized. This CDP authorizes future repair and maintenance of the jetty subject to the following: see a-h	X		
SC 6	Other Agency Approvals. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall provide to the Executive Director copies of all permits, permissions, or other required authorizations from the U.S. Army Corps of Engineers, National Marine Fisheries Service, California Department of Fish and Wildlife, Central Coast Regional Water Quality Control Board, Monterey Bay National Marine Sanctuary, and the California State Lands Commission, or evidence that no permits, permissions, or other authorizations from these agencies are required. The Permittee shall inform the Executive Director of any changes to the Commission-approved project required by such agencies. Such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this CDP, unless the Executive Director issues a written determination that no amendment is legally required.	X		

Regional Water Quality Control Board conditions

		Responsible Party		
Number	Condition	City	Env Consultant	Contractor
A 6	A copy of this Certification, the application, and supporting documentation must be available at the Project site during construction for review by site personnel and agencies. A	X		X

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

	copy of this Certification must also be provided to the contractor and all subcontractors who will work at the Project site: All personnel performing work on the proposed Project shall be familiar with the content of this Certification and its posted location on the Project site.			
A 7	The Applicant shall grant Central Coast Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, permission to enter the Project site at reasonable times, to ensure compliance with the terms and conditions of this Certification and/or to determine the impacts the Project may have on waters of the State.	X		
A 8	The Applicant must, at all times, fully comply with the application, engineering plans, specifications, and technical reports submitted to support this Certification; all subsequent submittals required as part of this Certification; and the attached Project Information and Conditions. The conditions within this Certification and attachment(s) supersede conflicting provisions within applicant submittals.	X		X
A 9	The Applicant shall notify the Central Coast Water Board within 24 hours of any unauthorized discharge to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional BMPs or other measures that will be implemented to prevent future discharges.	X		X
A 10	This Certification is not transferable to any person except after notice to the Executive Officer of the Central Coast Water Board. The Applicant shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new responsible party containing a specific date for the transfer of this Certification's responsibility and coverage between the current responsible party and the new responsible party. This agreement shall include an acknowledgement that the existing responsible party is liable for compliance and violations up to the transfer date and that the new responsible party is liable from the transfer date on.	X		
C 1	All personnel who engage in construction activities or their oversight at the project site (superintendent, construction manager, foreman, crew, contractor, biological monitor, etc.) must attend trainings on the conditions of this Certification and how to perform their duties in compliance with those conditions. Every person shall attend an initial training within five working days of their start date. at the project site and follow-up trainings every six months if the project construction time exceeds the predicted 3-4 month duration. Trainings shall be conducted by a qualified individual with expertise in 401 Water Quality Certification conditions and compliance.	X		X
C 2	All work performed within waters of the State shall be completed in a manner that minimizes impacts to beneficial uses and habitat. Measures shall be employed to minimize	X		X

	land disturbances that will adversely impact the water quality of waters of the State. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete Project implementation.			
C 3	Any material stockpiled that is not actively being used during construction shall be covered and surrounded with a linear sediment barrier.			X
C 4	The Applicant shall retain a spill plan and appropriate spill control and clean up materials (e.g., oil absorbent pads) onsite in case spills occur.			X
C 5	The Applicant shall confine all trash and debris in appropriate enclosed bins and dispose of the trash and debris at an approved site at least weekly.			X
C 6	All construction vehicles and equipment used on site shall be well maintained and checked daily for fuel, oil, and hydraulic fluid leaks or other problems that could result in spills of toxic materials.			X
C 7	The Applicant shall designate a staging area for equipment and vehicle fueling and storage at least 100 feet away from waterways, in a location where fluids or accidental discharges cannot flow into waterways.			X
C 8	All vehicle fueling and maintenance activity shall occur at least 100 feet away from waterways and in designated staging areas, unless a requested exception on a case-by case basis granted by prior written approval has been obtained from Central Coast Water Board staff.			X
C 9	Concrete poured to repair the flume shall be placed into forms with plastic sheet lining, to prevent passage of water through the timber formwork. Admixtures shall be added to the concrete to accelerate curing. Forms shall be left on the concrete until the concrete has reached 90 percent of the 28-day max strength to prevent leaching. All protocols for concrete management that are listed in the Supplement Information Document prepared for the Central Coast Water Board must be followed. If aspects of the flume repair with concrete change, the Central Coast Water Board must be notified before construction.			X
C 10	Jetty rehabilitation work shall be conducted at low tide when the work area is exposed, minimizing the contact of construction equipment with water, as detailed in the Supplemental Information Document prepared for the Central Coast Water Board.			X
C 11	The Applicant shall only install a contingency bypass if the 30 cfs flow has not occurred by January 1, 2019. The contingency bypass must be installed according to protocols detailed in the Supplemental Information Document prepared for the Central Coast Water Board. If aspects of the tentative construction of the contingency bypass change, the Central Coast Water Board must be notified before construction.	X		X
C 12	All construction-related equipment, materials, and any temporary BMPs no longer needed shall be removed and cleared from the site upon completion of the project.			X
C 13	Central Coast Water Board staff shall be notified if mitigations as described in the 401 Water Quality	X		

	Certification application for this project are altered by the imposition of subsequent permit conditions by any local, state or federal regulatory authority. The Applicant shall inform Central Coast Water Board staff of any modifications that interfere with compliance with this Certification.			
M 1	**The Applicant shall conduct the following monitoring:** Visually inspect the project site and areas of waters of the State adjacent to project impact areas during project construction and following completion of project construction to ensure the project is not causing water quality impacts. If the project does cause water quality impacts, contact the Central Coast Water Board staff member overseeing the project. You will be responsible for obtaining any additional permits necessary for implementing plans for restoration to prevent further water quality impacts.	X		
R 1	The Applicant shall provide the following reporting to RB3_ 401 Reporting@waterboards.ca.gov [Note: Annual fees are based on submittal of reporting item 3 below]: 1.Construction Commencement Notification - At least seven days in advance of any ground disturbing or grubbing activities, submit notification to the Central Coast Water Board of the date when project construction will begin.	X		
R 2	Contingency Bypass Notification - If rain flows above 30 cfs do not occur and a temporary contingency bypass needs to be installed, the Applicant must submit a notification to the Central Coast Water Board before construction commencement.	X		
R 3	Project Completion Notification -Within seven days of completing all project construction and monitoring, submit notification to the Central Coast Water Board of project construction and monitoring completion. The Project Completion Notification shall include at a minimum: a. The date of construction initiation. b. The date of construction completion. c. A summary of daily activities, monitoring and inspection observations, and problems incurred and actions taken; d. Identification of when site personnel trainings occurred, description of the topics covered during trainings, and confirmation that every person that engaged in construction activities or their oversight at the project site was trained as required. e. A description of the project site and areas of waters of the State adjacent to project impact areas during and after construction, including: i. Flume conditions; ii. Jetty conditions; iii. Contingency Bypass implementation (if constructed); iv. Water quality and beneficial use conditions;	X		

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

	v. Clearly identified photo-documentation of all areas of permanent and temporary impact, prior to and after project construction; and vi. Clearly identified representative photo-documentation of other project areas, prior to and after project construction.			

APPENDIX TWO
Fees and Payments

For the services performed, City will pay consultant on a time-charge plus expense basis, monthly as charges accrue, the sum of consultant's salary expenses and non-salary expenses.

Salary expenses include the actual direct pay of personnel assigned to the project (except for routine secretarial and account services) plus payroll taxes, insurance, sick leave, holidays, vacation, and other fringe benefits. The percentage of compensation attributable to salary expenses includes all of Consultant's indirect overhead costs and fees. For purposes of this Agreement, Consultant's salary expenses and non-salary expenses will be compensated at the rates set forth in the fee schedule attached to this appendix and in accordance with the terms set forth therein. Non-salary expenses include travel, meals and lodging while traveling, materials other than normal office supplies, reproduction and printing costs, equipment rental, computer services, service of subconsultants or subcontractors, and other identifiable job expenses. The use of Consultant's vehicles for travel shall be paid at the current Internal Revenue Service published mileage rate.

Salary payment for personnel time will be made at the rates set forth in the attached fee schedule for all time charged to the project. Normal payroll rates are for 40 hours per week. Consultant shall not charge the City for personnel overtime salary at rates higher than those set forth in the attached fee schedule without the City's prior written authorization.

In no event shall the total fee charged for the scope of work set forth in Appendix One exceed the total budget of $55,000 (Fifty Five Thousand Dollars and Zero Cents), without specific, written advance authorization from the City.

Payments shall be made monthly by the City, based on itemized invoices from the Consultant which list actual costs and expenses. Such payments shall be for the invoice amount. The monthly statements shall contain the following affidavit signed by a principal of the Consultant's firm:

"I hereby certify as principal of the firm of D.W. Alley and Associates, that the charge of $_____ as summarized above and shown in detail on the attachments is fair and reasonable, is in accordance with the terms of the Agreement dated _____ _, __, and has not been previously paid."

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

D.W. ALLEY & Associates- Biological Monitoring for Soquel Creek Flume Repair-
DRAFT Scope and Budget for Contingency Bypass Channel Monitoring*– 1 October 2020

Personnel Rate	Alley $85.00		Biologist I $75.00		Mileage @ $0.65		Total Cost
	Hours	Cost	Hours	Cost	Miles	Cost	
Task A: Seining Fish, Relocation and Block-net Installation for Contingency Bypass and Report to CDFW							
Fieldwork	8	$680	6	$450	70	$45.50	$1,175.50
Equipment Use and Exclusionary Materials						$300.00	$300.00
subtotal Task A:	8	680	6	$450	70	$345.50	$1,475.50
Task B: Biological and Water Quality Monitoring of Bypass Channel Construction, Operation and Dismantling							
Fieldwork**	51	$4,335			210	$136.50	$4,471.50
Water Quality Montiroting***						$2,400.00	$2,400.00
subtotal Task B:	51	$4,335			210	$2,536.50	$6,871.50
Task C. Additional Report Writing with Photo-documentation. (Digitally provided.)							
subtotal Task C.	8	$680				$0.00	$680.00
	8	$680				$0.00	$680.00 **
Total Tasks A, B, & C	67	$5,695	6	$450	280	$2,882.00	**$9,027.00**

* This budget is for one construction season, October 15, 2020 toMay 31, 2021.

**Assumes one 6-day week. If bypass channel requires longer to construct or must be reconstructed, the scope and budget will need to be increased.

*** Assumes 6 weeks of water quality monitoring

Attachment: DW Alley Monitoring Contract (Don Alley Flume and Jetty Monitoring Contract)

D.W. ALLEY & Associates- Biological Monitoring for Soquel Creek Flume Repair-
DRAFT Scope Without Bypass Channel and Budget– 1 October 2020*

Personnel Rate	Alley $85.00 Hours	Cost	Biologist I $75.00 Hours	Cost	Mileage @ $0.65 Miles	Cost	Total Cost
Task A: Pre-Construction Fish Survey and Report to CDFW.							
Fieldwork	5.0	$425			35	$22.75	$447.75
subtotal Task A:	5.0	$425			35	$22.75	$447.75
Task B: On-site environmental traning and preparation.							
	8.0	$680			35	$22.75	$702.75
subtotal Task B:	8.0	$680			35	$22.75	$702.75
Task C. Biological Monitoring of Flume Repair,							
Fieldwork**	255.0	$21,675			1,050	$682.50	$22,357.50
Equipment Use Fee***.						$750	$750.00
Turbidity Meter Purchase						$1,500	$1,500.00
subtotal Task C:	255.0	$21,675				$2,932.50	$24,607.50
Task D. In the event of a toxic spill, collect carcasses, immediately deliver them to CDFW and monitor cleanup.							
Fieldwork	8.0	$680			150	$97.50	$777.50
subtotal Task D.	8.0	$680				$97.50	$777.50
Task E. Post-Construction Biological Monitoring Report of Project Activities and any observed take of tidewater goby and federally protected salmonids.							
Report preparation	40.0	$3,400				0.00	$3,400.00
subtotal Task E.	40.0	$3,400			0	0.00	$3,400.00
Total Tasks A, B, C, D & E	316.0	$26,860	0.0	0.0	70.0	3,075.50	**29,935.50**

*This budget is for one construction season, October 15, 2020 to May 31, 2021.

** Assumes 6-day work week for 5 weeks.
Construction monitoring day is 8.5 hours including travel time and daily pre-construction survey. Any required seining during monitoring will be done by Alley and a Capitola Public Works staff. If the project requires more than 5 weeks, the scope and budget for monitoring and report writing will need to be increased.

*** Equipment Use is for any necessary water quality measurements for 5 weeks at $25/day if the flume work area is not isolated from the outflow channel. Turbidity must also be measured if work area is not isolated, requiring purchase of turbidity meter.

D.W. ALLEY & Associates- Biological Monitoring for Capitola Jetty Repair-
Draft Scope and Budget*– 1 October 2020

Personnel Rate	Alley $85.00		Biologist I $75.00		Mileage @ $0.65		Total Cost
	Hours	Cost	Hours	Cost	Miles	Cost	
Task A: Pre-Construction Reconnaissance Survey of Marine Mammals and Report to CDFW.							
Field Work	4	$340	8	$600	95	$61.75	$1,001.75
subtotal Task A:	4	$340	8	$600	95	$61.75	$1,001.75
Task B: On-site environmental traning and preparation.							
	8	$680	4	$300	65	$42.25	$1,022.25
subtotal Task B:	8	$680	4	$300	65	$42.25	$1,022.25
Task C: Daily Marine Mammal Monitoring During Construction of the Jetty.							
Fieldwork**		$0	153	$11,475	540	$351.00	$11,826.00
subtotal Task C:		$0	153	$11,475	540	$351.00	$11,826.00
Task D. Post-Construction Biological Monitoring Report of Project Activities and any observed take of federally protected Marine Mammals.							
Report Writing with Photo-documentation. (Digitally provided.)							
subtotal Task D.	20	$1,700	8	$600	50	$32.50	$2,332.50
	20	$1,700	8	$600	50	$32.50	$2,332.50
Total Tasks A, B, C and D	32	$2,720	173	$12,975	750	$487.50	$16,182.50

* This budget is for one construction season, October 15, 2020 to May 31, 2021.

** Assumes a 6-day work week, 8.5 hours per day for 3 weeks. If the jetty repair takes longer, the scope and budget will need to be revised. The work day includes travel time and pre-construction survey and any necessary flushing of marine mammals from the jetty prior to work.

CAPITOLA CITY COUNCIL
AGENDA REPORT

MEETING OF OCTOBER 8, 2020

FROM: Finance Department

SUBJECT: Out of School Time Program Budget Amendment

RECOMMENDED ACTION: Authorize amending the Fiscal Year 2020-21 Budget based on the attached budget amendment.

BACKGROUND: On June 11, 2020, City Council adopted the Fiscal Year (FY) 2020-21 Budget. At the time the FY 2020-21 Budget was adopted, recreation staff was still in the process of developing the Outside-of-School-Time (OST) Program and therefore the OST Program budget was not included.

DISCUSSION: Over the last four months, staff has been collaborating with other public agencies and non-profit organizations to develop the OST Program. The program was developed in response to the Coronavirus Pandemic (COVID-19) as a resource for school-aged children with working parent(s) to participate in supervised distance learning. The program has gone through multiple iterations over the last several months and was presented to the City Council at meetings in both July and September.

On September 24, City Council authorized the City Manager to enter into an agreement with Santa Cruz County in which the County has pledged $125,000 of their CARES Act funding toward the OST Program. This pledge from the County will allow the daily rates for participants to be reduced from $34-$37 per day for residents and $43-$46 per day for non-residents to $20 per day for all participants. This charge still allows the program to operate as revenue and expense neutral, while providing a much-needed program to residents at a lower cost to participants than originally anticipated. The table below provides a summary of OST Program revenues and expenses:

	OST Elementary	**OST Middle School**	**Total**
Revenue			
Program Fees	$ 214,500	$ 116,610	$ 331,110
Grant / CARES Act	62,500	62,500	125,000
	277,000	**179,110**	**456,110**
Expenditures			
Personnel	252,844	134,572	387,416
Contract Services	6,650	8,000	14,650

OST budget amendment
October 8, 2020

Training & Memberships	5,613	2,912	8,525
Supplies	28,720	14,690	43,680
	293,827	**160,444**	**454,271**
Income / (Loss)	**($ 16,827)**	**$ 18,666**	**$ 1,839**

FISCAL IMPACT: This action will increase recreation OST revenues by $456,110 and OST expenses by $454,271, for a net anticipated revenue of $1,839. While this budget amendment is for the entire fiscal year, staff anticipates additional changes at the mid-year budget review as we continue to navigate the impacts of COVID-19.

ATTACHMENTS:

1. OST Program Budget (PDF)

Report Prepared By: Jim Malberg
Finance Director

Reviewed and Forwarded by:

Jamie Goldstein, City Manager 10/2/2020

City of Capitola Budget Adjustment Form

Date 10/1/2020

Requesting Department City Manager - Recreation

Administrative [ ]
Council [X]

Item # TBD
Council Date 10/8/2020
Council Approval

Revenues		
Account #	Account Description	Increase/Decrease
1000-50-50-525-3470.025	Recreation Fees - OST	331,110
1000-50-50-525-3350.010	Local Govt/Agency Rev/SC County	125,000
Total		456,110

Expenditures		
Account #	Account Description	Increase/Decrease
1000-50-50-525-4120.100	Wages Temporary & Seasonal	387,416
1000-50-50-525-4305.900	Contract Services-general	14,650
1000-50-50-525-4400.100	Training & Memberships	8,525
1000-50-50-525-4450.500	Supplies	43,680
Total		454,271

Net Impact	1,839

Purpose: FY 2020-21 OST Program Budget

Department Head Approval

Finance Department Approval

City Manager Approval

Attachment: OST Program Budget (OST budget amendment)

CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 8, 2020

FROM: City Manager Department

SUBJECT: Receive Update on the City's Pandemic Response

RECOMMENDED ACTION: 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.

BACKGROUND: On June 24, 2020, the Santa Cruz County Health Officer issued a health order requiring the continued use of face coverings and reaffirming social distancing requirements. This health order is in place indefinitely, and failure of the public to comply is a misdemeanor. Capitola's Emergency Order 5-2020 makes failure to comply with this health order either an infraction or administrative citation subject to fines of $100, $200, and $500 for one, two, and three violations within a calendar year. The County Health Officer has incorporated all Orders of the State Public Health Officer which set baseline statewide restrictions on travel and non-residential business activities.

On August 28, 2020, the State Monitoring List was replaced by the Blueprint for a Safer Economy. In this new system, every county in California is assigned to a tier based on its rate of new cases and positivity. The tiers are: Purple – Widespread; Red – Substantial; Orange – Moderate; Yellow – Minimal.

	Higher Risk → Lower Risk of Community Disease Transmission			
	Widespread Tier 1	Substantial Tier 2	Moderate Tier 3	Minimal Tier 4
Measures*				
New cases**/100,000 population per day (7 day average; 7 day lag)	>7	4-7	1-3.9	<1
Testing % Positivity (7 day average; 7 day lag)	> 8%	5-8%	2-4.9%	<2%

On September 8, 2020, Santa Cruz County moved from the Purple – Widespread tier to the Red – Substantial tier of the Blueprint.

As of October 2, 2020, there are 2,481 cases of COVID-19 in Santa Cruz County and 64 cases in the City of Capitola. There have been twelve deaths due to COVID-19. In Santa Cruz County,

the rate of new cases per day per 100k is at 7.4 (adjusted to 7.0 for tier assignment) and there is a positivity rate of 3.5%.

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

As shown in the chart above, the threshold for the Purple tier is an average new case rate greater than 7.0 per 100,000 population over the span of seven days. The threshold for the Red tier is between 4.0 and 7.0 per 100,000. On Tuesday, September 29, Santa Cruz County's COVID-19 new case count rose to 7.0. The State evaluated the situation and determined that Santa Cruz County will remain in the Red tier for the time being. State evaluations take place weekly on Tuesdays, so the soonest the County could be reassigned tiers is Tuesday, October 6. Reverting to a higher-risk tier requires meeting the tier's criteria for two consecutive weeks. To advance to a less restrictive tier, a county must have been in the current tier for a minimum of three weeks.

As of Friday, October 7, the rate of new cases per 100,0000 is 7.4 (adjusted to 7.0 for tier assignment) and the positivity rate is 3.5%.

If significant changes occur within Santa Cruz County between the date of agenda publication and the City Council meeting, further updates on the regional and local coronavirus response can be provided in a verbal report at the meeting.

FISCAL IMPACT: As previously stated, reductions in Sales Tax and Transient Occupancy Tax as a result of this health crisis is substantial. In our current fiscal year, staff projects an approximate $1.5 million shortfall and has cut nearly $4.5 from the annual budget.

Report Prepared By: Chloe Woodmansee
Interim City Clerk

Reviewed and Forwarded by:

Jamie Goldstein, City Manager 10/1/2020

CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 8, 2020

FROM: Community Development

SUBJECT: First Reading of Inclusionary (Affordable) Housing Ordinance

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BACKGROUND: The City of Capitola's Inclusionary Housing Ordinance (IHO), codified under Capitola Municipal Code Chapter 18.02: Affordable (Inclusionary) Housing, was originally adopted in 2004. The City's IHO was last updated in 2013. Since that time, numerous relevant changes in state law and the housing market have taken place, making it an opportune time to update the ordinance.

On August 26, 2020, the City Council received an update on the City's IHO and provided direction on six policy items related to updating the IHO. The analysis section of this report summarizes the City Council's direction, which provides the basis for the proposed amendments to the IHO.

ANALYSIS/DISCUSSION: Capitola's IHO requires housing developers to include dedicated affordable housing as a component of residential developments. "Affordable housing" means housing capable of being purchased or rented by households at a variety of income levels, including those with very low, low, or moderate incomes. These are defined as households that earn a specified percentage of the Area Median Income (AMI) for Santa Cruz County ranging from 50% of the AMI for very low-income households up to 120% of the AMI for moderate income households. Under the IHO, the affordable housing cost is based on a household's ability to make monthly payments necessary to obtain housing, e.g., for-sale housing is considered affordable when a household pays no more than thirty-five percent of its gross monthly income for housing, including utilities.

Overview of Capitola's Existing IHO. Under CMC §18.02.030, new housing development projects creating seven or more for-sale housing units, residential parcels, mobile home parcels, or converted condominium units are required to reserve and restrict 15% of the units (one unit for every seven proposed) for sale to moderate, low, or very low income households. Housing development projects that would result in a fractional requirement (e.g., propose a unit count that is not evenly divisible by seven) must pay affordable housing fees for the remainder of the units at a cost of $10 per square foot based on the formula shown in the table below. For example, a 10-unit development with 2,000-square-foot units would have to provide one affordable housing unit and pay $60,000 in affordable housing in-lieu fees for the three remaining units (3 units x $10/square foot x 2,000 square feet unit size) or provide an additional affordable unit.

The City of Capitola's in-lieu fee requirements are included in CMC §18.02.050. Housing development projects that consist solely of rental housing units, or fewer than seven for-sale housing units, residential parcels or converted condominiums, or mobile home parcels are required to pay affordable housing in-lieu fees or provide an affordable unit. In addition, a structural addition to an existing housing unit which will result in a fifty percent or greater increase in the housing unit's square footage is required to pay affordable housing in-lieu fees.

Current affordable housing requirements and in-lieu fees are summarized in the table below.

Affordable Housing In-Lieu Fees – CMC §18.02.050		
For Sale New Single-Family Development or Structural Addition >50% of Existing Unit		
Per Unit or Addition		$2.50 per sq. ft.
For Sale Housing Developments of 2-6 units (CMC 18.02/Reso. 3473)		
All Units		$10 per sq. ft.
For Sale Housing Developments of 7+ units – 15% Affordability Requirement		
# of Units	# of Units Built	
7	1	
8-13	1	Total # units minus 7 @ $10/avg. sq. ft./unit
14	2	
15-20	2	Total # units minus 14 @ $10/avg. sq. ft./unit
21	3	
22-27	3	Total # units minus 21 @ $10/avg. sq. ft./unit
28	4	
Rental Multi-Family		$6 per sq. ft.

In addition, Sections 18.02.060 through 18.02.150 define policies and procedures that apply to the administration of the City's affordable housing program applicable to all existing affordable housing in the City. These provisions define procedures for calculating the sale price of affordable housing units, prescribe marketing procedures for the resale of affordable housing units, and include eligibility criteria for identifying households that may purchase affordable housing units.

City Council Policy Direction. On August 26, 2020, the City Council provided direction on six policy items, which is the basis for the IHO update. The Council provided the following direction on each policy question:

Policy 1: Should the City maintain the existing required percentage of affordable units at 15%?

Currently, the IHO requires one out of seven units (15% of units) in a new development to be provided as affordable housing, and it applies this production requirement to projects that propose at least seven units of new housing.

Council Direction: The City Council directed staff to keep the requirement at 15% of new housing developments, but asked that staff address whether seven units was the proper threshold to begin applying the IHO's production requirements.

Draft IHO Amendments: The proposed IHO amendments maintain the 15% requirement (one in seven units) for the production of affordable housing in proposed ownership housing

developments. However, the IHO amendments would apply this production requirement to all proposed developments with two or more new units. Proposed project with fewer than seven units would be given the option of either providing one affordable unit or paying an in-lieu fee. This change is necessary for ongoing implementation of the in-lieu fee, but it has the same economic effect as the current IHO, which simply requires developments with two to six units to pay an in-lieu fee.

Policy 2: Should developments of rental units be exempt from the IHO?

The current IHO requires that all rental development projects pay an in-lieu fee at six dollars per square foot.

Council Direction: The Council requested additional information on the City of Salinas IHO regarding rental and Section 8 housing voucher options and provided general direction that they would consider an exemption for rental developments.

Draft IHO: The draft IHO update exempts rental housing developments to comply with AB 1505, which only permits affordable housing requirements to be imposed on rental housing through provisions in the zoning code.

In response to Council's request for more information about the City of Salinas IHO, staff conducted additional research. The Salinas IHO requires inclusionary housing for for-sale residential developments and for rental residential developments (Attachment 1). For-sale developments have onsite affordable housing unit requirements at 15 to 20%, depending on makeup of affordable units (very low, low, and moderate). The Salinas IHO also includes a requirement for rental developments to provide 12 percent of the rental housing onsite as very low income (8%) and low income (4%) affordable units. There is an alternative to the rental requirement which allows a developer to pay a rental housing impact fees in combination with the requirement that twelve percent of the units within the rental development are for Section 8 housing choice voucher program participants. This allows the developer to collect higher rents than it could otherwise charge for affordable units without Section 8 housing choice vouchers while still ensuring that proposed projects create new affordable rental units.

As analyzed in the August 26, 2020, City Council report, the application of affordable housing requirements and in-lieu fees for new rental housing developments differ within the Santa Cruz region by jurisdiction, as shown in the table below.

Affordable Housing Requirements & In-Lieu Fees (ILF) – Rental Housing Development		
Jurisdiction	**Requirement Threshold**	**IHO Requirement**
City of Capitola	All rental units	ILF - $6/sq. ft.
City of Santa Cruz	5-9 Units 10+ Units	20% Inclusionary 20% + ILF if Fractional >0.7
City of Scotts Valley	None	None
City of Watsonville	7+ Units	20% Affordable
County of Santa Cruz	All Market-Rate Rental Units (Excluding ADUs)	ILF - $2/habitable sq. ft.

Generally, rental housing is one of the more affordable types of housing (when compared to ownership of a condominium, townhouse, or single-family home), but rental housing projects are not often proposed in Capitola. Affordable housing requirements can increase the cost of

providing rental housing, and (especially if applied to smaller rental projects) can make them more challenging to feasibly develop.

However, if City Council desires to continue requiring affordable housing production or the payment of in-lieu fees in connection with new rental housing development, Council would need to adopt these requirements in Municipal Code Title 17 (Zoning) rather than Title 18 (Housing and Development Administration) to comply with AB 1505 (the 2017 law that authorizes inclusionary requirements to be imposed on new rental housing development projects only within the zoning code). The zoning code update would also likely trigger a Local Coastal Plan Amendment before taking effect in the portions of the City within the Coastal Zone.

The City Council can exempt rental housing units, or it can direct staff to initiate a zoning code amendment to mirror the IHO's current requirements for rental housing or to provide an option similar to the Salinas model, where developers can pay an in-lieu fee if they reserve units for tenants with Section 8 vouchers. If the City Council exempt rental housing, it can still pursue affordable housing opportunities in large projects, such as the redevelopment of the Capitola Mall, through a development agreement.

Policy 3: What should the City require of developers of large additions to existing homes and smaller (one to six unit) developments?

The current IHO applies an in-lieu fee requirements to large additions to single family homes and developments with six or fewer new units.

City Council Direction: City Council directed staff to initiate a nexus study on single unit projects. The Council also asked that the study consider an impact fee based on the intended use, such as short-term vacation rentals and second homes.

Draft IHO: Single family homes and structural additions greater than 50% are listed as exempt in the draft IHO. New residential developments proposing two to six units are subject to the standard 15% production requirement, but applicants have the choice of either providing one affordable housing unit or paying an in-lieu fee.

Under the AB1600 "Mitigation Fee Act" of 1987 (Government Code Sections 66000-66025), cities may charge impact fees to new development that offset the impacts new development causes on public services. To comply with the Mitigation Fee Act and the Takings Clause of the U.S. Constitution, there must be an "essential nexus" between the development and the impacts that the fee seeks to mitigate, and a development fee must be "roughly proportional" to the development's impact.

Before adopting an impact fee on development, the City must complete a nexus study to determine what impact development has on the City's affordable housing stock. The impact fee is then based on that study. After preparing and adopting the study, and imposing the fee, the City must prepare an annual report providing specific information about those fees; the nexus study must be updated periodically.

The City applied for a LEAP grant in July 2020, which may be modified to included funding for such a nexus study. The nexus study will be initiated upon award the funding. If the grant funding is not awarded, City staff will request a budget amendment for the study. Once the study is completed, a new impact fee will be added to the fee schedule and collected at time of building permit.

Policy 4: Should the City structure the IHO requirements to allow an option for developers to pay in lieu fees?

The current IHO does not permit developers of seven or more units to pay in-lieu fees.

City Council Direction: The City Council direction on this topic was mixed, with a request for additional information/examples and general support for an option for developers to pay an in-lieu fee upon consideration of the additional information.

Draft IHO: Section 18.02.050 of the draft IHO permits developers with fewer than 7 units to pay an in-lieu fee and introduces an option for developers with seven or more residential units to pay an in-lieu fee upon approval by the City Council. Upon the review of the additional information and examples, the Council may choose whether to keep the in-lieu fee option as drafted or to permit developers of seven or more units to produce 15% of the total units as affordable.

One example is the recent development of 11 units at Tera Court, off 38th Avenue behind Outdoor Supply Hardware. For this development, one affordable unit was produced on site, and the remaining four units were charged an in-lieu fee at $10 per square foot. The average home size was 1,466 square feet. The developer paid $58,654 in in-lieu fees. Had the developer been given the option to pay in-lieu fees rather than produce one unit onsite, that option would have been to pay a total in-lieu fee of $161,274 [$102,620 (7 units) plus $58,654 (4 units)].

A second example is the Capitola Beach Villas development at 1066 41st Avenue, which includes 55 residential units, eight of which were deed restricted as affordable. The development includes 44,666 square feet of habitable residential space. Had the developer been given the option to pay in-lieu fees, the developer would have had the option of paying a total in-lieu fee of $446,660.

There are 21 inclusionary units within six developments in Capitola. The inclusionary units are shown in the following table.

Development	**Total Units**	**Inclusionary Units**
Capitola Beach Villas	55	8
Heritage Lane	12	2
Pearson Court	10	1
Tera Court Commons	11	1
Turner Lane Mobile home Park	79	7
Wharf Road Manor Mobile home Park	36	2
TOTAL	203	21

As analyzed in the August 26, 2020, City Council report, smaller developments requiring onsite affordable units can potentially have a positive impact on local affordable housing stock in the short-term, however that impact has been limited in Capitola as the program has only resulted in the creation of four affordable single-family inclusionary units, eight affordable multi-family inclusionary units, and nine affordable mobile home units since the IHO was adopted in 2004. The current methodology provides more affordable housing units in the short-term but at a higher long-term administrative cost to the city.

Large affordable housing projects such as the 108-unit Bay Avenue Senior Apartments, by contrast, are often created with funding from in-lieu fees paid into the affordable housing fund, which is matched by other state and federal funding sources. For example, the City contributed $1 million in local funding to the Bay Avenue Senior Project or $9,260 per unit. These larger projects are generally managed by a non-profit organization, which handles all monitoring and reporting related to state affordable housing laws. However, opportunities to participate in this kind of development occur infrequently, so they have a lower impact on affordable housing stock in the short-term, though a larger long-term impact. Allowing developers to pay in-lieu fees as an alternative to providing onsite units would build a larger affordable housing fund that could be used for large affordable housing projects.

Policy 5: Does the City Council support modifications to the asset limits?

The current IHO says that to be eligible to purchase an affordable housing unit, a household must satisfy the annual income limit for that unit and have less than 1.5 times the annual household income limit for that unit held as assets.

City Council Direction: The City Council requested additional information on Consumer Price Index (CPI) and supported the recommended modifications to asset limits, which would clarify that the asset limits apply to all affordable housing units in the City and define increased asset limits for senior citizen housing developments.

Draft IHO: Section 18.02.070.C of the draft IHO includes the following requirements for asset limitations.

- Apply the asset limitations to all affordable housing in the City, regardless of when constructed;
- Consolidate all eligibility requirements within the IHO.
- Increase to the existing asset limit for affordable housing units that are designated senior housing (55+) from 1.5 to three times the annual household income limit, and increase the $500,000 exception in qualified retirement accounts to $1,000,000, increased annually according to the Consumer Price Index.

The Consumer Price Index (CPI) is a measure of the average change in prices over time in a fixed market. The CPI is based on prices of food, clothing, shelter, fuels, transportation fares, charges for doctors' and dentists' services, drugs, and the other goods and services that people buy for day-to-day living. The US Bureau of Labor Statistics publishes CPI data for various regions of the Country. Our local index which is most frequently used in City contracts is the “San Francisco All Consumer Price Index.” The index measures price changes from a designated reference date (1982-84) that equals 100.0. Attachment 2 is the CPI index for our region since 2010.

Policy 6: Should the City included additional alternatives to onsite production and in-lieu fees within the IHO?

The existing IHO permits projects with six or fewer proposed units to pay an in-lieu fee but does not include other alternative methods to satisfy its requirements.

City Council Direction: The City Council was open to considering new alternatives but left it up to staff whether to pursue alternatives now or after the housing element update.

Draft IHO: The draft IHO section 18.02.050.C includes new Alternative Compliance Options. The Alternative Compliance Options include:

Option 1: Offsite Development. The developer may provide affordable housing units on another site in the Capitola city limits. Within this option, two or more developers may also jointly propose off-site construction of affordable housing units on a single site, with specific conditions that must be met including adequate financing, not causing residential segregation or concentrations of poverty, and timing of development and occupancy.

Option 2. Land Dedication. The developer may propose to meet the IHO requirements by dedicating property to the City in-lieu of constructing inclusionary units. Conditions tied to this option in include an overall increase in affordable housing units of 10% above what the project could have provided, financing for a future project, suitable property that will not cause residential segregation and concentration of property, and timing for development.

Option 3. Rehabilitation. The developer may propose to meet the IHO requirements by purchasing existing units in the City that need rehabilitation, performing upgrades, and subjecting those units to new, ongoing affordability restrictions to increase the supply of restricted affordable housing in the City.

City staff anticipates being awarded a LEAP grant to fund the IHO update. Within the application for the LEAP grant, staff committed to looking into new alternatives within the updated IHO. Staff recommends considering the alternatives during the current review, rather than returning with alternatives later; however, additional alternatives not addressed below may still be considered in the future. If the City Council directs staff to not include the alternatives, section 18.02.050.C can be removed.

<u>Administrative Modifications to the IHO</u>. Staff also made several minor administrative changes to the IHO for the purpose of creating consistency within the text and clarity for the public. Administrative modifications include:

- Updated findings to reflect Capitola's most recent housing element
- Updated words and phrases to create consistency in definitions
- Updated text to included defined words and phrases
- Removed allowance for decrease size for affordable unit
- Clarified the requirements for marketing affordable housing units to include specific time frames for pricing estimates (90 days) and marketing to Capitola residents and workers (30 days)
- Clarified how the maximum allowable sales price is calculated and referenced administrative policy to be adopted by City Council
- Clarified how substantial improvements to affordable units are calculated
- Updated refinance amount to match the amount allowed during initial purchase (90% of the value of the home).
- Applied asset limitations to all affordable housing in the City, regardless of when constructed;
- Consolidated all eligibility requirements within the IHO

FISCAL IMPACT: There are fiscal impacts associated with the draft ordinance. As written, the City would no longer collect in-lieu fees for rental apartment developments. However, over the last six years the City has only collected $19,587 in rental housing in-lieu fees for two new duplexes within the City. The City anticipates an additional $16,416 for an approved fourplex at 524 Capitola Avenue, although the building permit has not been issued. Additionally, structural alterations and single-family homes would not be charged a fee until a nexus study is complete and an impact fee is adopted by City Council.

ATTACHMENTS:

1. Chapter 18.02 Inclusionary (Affordable) Housing Ordinance (PDF)
2. City of Salinas Municipal Code Chapter 17 Housing (PDF)
3. CPI 2010 - 2020 (PDF)
4. SC County IHO Comparison Chart (PDF)

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Chapter 18.02
AFFORDABLE (INCLUSIONARY) HOUSING

Sections:

18.02.010 Findings.
18.02.020 Words and phrases.
18.02.030 Affordable housing requirements for new housing development projects.
18.02.040 Provision of affordable housing units in new housing development projects.
18.02.050 In-lieu housing fees and alternative compliance options.
18.02.060 For-sale housing units – Sales price and procedures for all affordable housing units.
18.02.070 Eligibility for all affordable housing units.
18.02.080 Marketing of all affordable housing units for sale.
18.02.090 Pre-approved projects – Non-applicability.
18.02.100 Fees.
18.02.110 Default/foreclosure.
18.02.120 Conflicts of interest.
18.02.130 Violations.
18.02.140 Reductions, Adjustments, or Waivers
18.02.150 Appeal.

18.02.010 Findings.

In enacting this chapter of the Capitola Municipal Code pertaining to the provision and protection of affordable housing in the city of Capitola, the city council finds:

A. A decent home and suitable living environment for all Capitola residents and workers is a priority of the highest order. To this end, the housing element of the Capitola general plan discusses and analyzes the need to provide housing for senior citizens, disabled persons, single parent families, homeless persons and homeless families, and families of very low, low and moderate income levels. Similarly, the general plan housing element outlines the extremely high cost of housing both regionally and within the city. With respect to affordable housing in the city, the housing element articulates, among others, Policies 3.4, 3.5 and 3.6 intended to advance the general plan goal to “Encourage New Affordable Housing Opportunities Through Construction Of New Units.” These policies encourage the adoption of an inclusionary housing ordinance, which provides for protection of existing affordable housing, construction of affordable housing units in connection with private market rate for-sale residential development or alternative compliance mechanisms, and further encourage the establishment of a housing trust fund to be used to facilitate the development of new affordable housing in the city.

B. In addition, state Housing Element law (Government Code section 65580 et seq.) and the Mello Act (Government Code section 65590 et seq.) articulates policies and goals, and imposes legal obligations upon California cities and counties relative to the creation, protection, and ongoing provision of affordable housing by communities throughout the state, including the city of Capitola. Accordingly, a paramount goal of the city is to provide and to create a regulatory environment conducive to the development and preservation of both rental and for-sale housing available to all economic sectors of the community with priority given to very low, low and moderate income households currently residing or working within the city.

C. There is currently an inadequate supply of housing in the city which is affordable to very low, low and moderate income households. Federal and state financial assistance and subsidy

programs are not sufficient in themselves to close the gap between the cost of most housing in the city and the ability of very low, low and moderate income households to pay those housing costs.

D. The city, given current zoning regulations and very limited vacant residentially zoned property, is nearly “built out” for purposes of future residential development within the city. The inventory of land available for residential development in the city is at a premium and the inventory of land which can be used for the development of housing for very low, low and moderate income households becomes even more depleted with the development and/or improvement of each market rate housing unit in the city. Accordingly, housing opportunities for very low, low and moderate income households are diminished incrementally with the development of each new market rate housing unit which is constructed, rebuilt or substantially improved in the city. Many of the replaced older units were rentals, or were more accessible to be purchased by moderate income households.

E. According to the city’s most recent Housing Element Update, adopted November 25, 2015, fifty-eight percent of the households living in city have incomes below eighty percent of Santa Cruz County’s median income and are therefore classified as low income households. However, the median home value in the city is higher than in neighboring Santa Cruz County communities, which places a cost burden on many Capitola households and may put home ownership out of reach for a majority of the population. Accordingly, the lowest income households in the city are frequently cost-burdened by housing, and lower income rental households are much more likely to pay more than thirty percent of their incomes for housing than higher-income home owners. The same holds true for moderate-income homeowners in the city; sixty-one percent of all moderate income households that own housing pay more than thirty percent of their incomes for housing costs. This indicates a need both for more housing affordable to the City’s moderate- and lower-income households and also to protect and maintain the affordability of existing affordable housing in the city.

F. If very low, low and moderate income workers cannot find or maintain housing in the city, employers will have difficulty in securing a labor force and employees will be forced to commute. Automobile commuting increases air pollution, unnecessarily creates traffic congestion and develops a population which is separate and distinct from full-time residents, thereby resulting in diverse and often contrasting demands on limited city resources.

G. Protection of existing affordable housing units and construction of residential housing projects which contribute to the city’s very low, low and moderate income housing stock serve to augment the city’s housing mix, increase the supply of housing for all economic sectors of the community and thereby assist in providing for a balanced community which is deemed to be in the public interest.

H. In order to allocate the scarce resource of existing affordable housing units to households that need assistance affording housing in the city, an asset limitation is necessary alongside an income restriction. This is especially true for units reserved for seniors (55+), who may no longer receive income from a current job, but may possess significant assets. Without an asset limitation, the city’s existing affordable housing stock could be transferred to households that are not in need of assistance.

I. Increasing the supply of housing affordable to very low, low and moderate income families through the assistance and cooperation of private residential developers can be achieved only if the provision of such housing by private residential developers becomes more feasible. It is

therefore necessary to provide flexibility in the manner and method by which private residential development contributes its fair share to the city's affordable housing stock.

J. Rental housing can be relatively more affordable than ownership housing; however, the city receives very few applications to develop market rate rental housing. Accordingly, to improve the feasibility of this product type, the affordable housing production requirements defined in this Chapter 18.02 will apply only to new ownership housing developments. Nothing in this Chapter 18.02 is intended to prevent the city from pursuing affordable rental housing development in the city through other mechanisms, such as in connection with a large-scale project subject to a development agreement.

K. Affordable housing is best integrated into the community when that housing is distributed throughout all areas of the city rather than concentrated in a single area.

L. The purpose of this Chapter 18.02 is to enhance the public welfare by establishing policies to maintain and increase the production of housing units affordable to persons and households of very low, low, and moderate-income. These requirements implement the Housing Element of the General Plan through assisting in meeting the city's regional housing obligations, providing funding for the city's affordable housing programs, and affirmatively furthering fair housing by ensuring that affordable housing is maintained and constructed in all parts of the city.

M. The city council desires to provide and maintain affordable housing opportunities in the community through its inclusionary housing program. Therefore, it is the city council's intent that this Chapter 18.02 apply to all affordable housing units in the city, regardless of the date of construction or conversion to an affordable housing unit. The city council finds that such application is necessary to best effectuate the goal of protecting new and existing affordable housing units.

18.02.020 Words and phrases.

For purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Affordable housing cost" means the maximum purchase price that will be cause a household to pay no more than thirty-five percent of its income for housing costs. Regardless of actual purchase terms, the affordable housing cost is calculated assuming a ten percent down payment, and monthly housing payments (which may include interest, principal, mortgage insurance, property taxes, homeowner's insurance, homeowner's association dues, and a reasonable allowance for property maintenance, repairs, and utilities), all as determined by the City.

"Affordable housing unit" means any housing unit subject to a recorded document, unrecorded agreement, or land use requirement applicable to a unit that, for a specified term, requires sale or rent of the unit at an affordable housing cost or affordable rent and/or requires sale or rent of the unit to very low, low, or moderate income households.

"Affordable rent" means the maximum monthly rent, including an allowance for tenant paid utilities, calculated at the specified income level in accordance with the Health and Safety Code Section 50053.

"Household" means all those persons, related or unrelated, who occupy a single housing unit.

"Housing development project" means any development project requiring a land use permit or approval from the city for: the construction of two or more housing units including single-family residences, condominiums, townhouses and apartments; the division of land into two or more residential parcels; the subdivision of mobile home parks; or the conversion of one or more apartments to two or more condominiums.

"Low income household" means a household whose income, with adjustment for household size, is between fifty percent and eighty percent of the Santa Cruz County areawide median income.

"Moderate income household" means a household whose income, with adjustment for household size, is between eighty percent and one hundred twenty percent of the Santa Cruz County areawide median income.

"Qualified retirement plan" means a retirement plan recognized by the Internal Revenue Service (IRS) where investment income accumulates tax-deferred. Common examples include individual retirement accounts (IRAs), pension plans and Keogh plans.

"Senior citizen" means a person 62 years of age or older, or 55 years of age or older in a senior citizen housing development.

"Senior citizen housing development" means a senior citizen housing development as defined in California Civil Code Sections 51.3 and 51.12. A senior citizen housing development must include at least 35 dwelling units or mobile home spaces.

"Unit" means a single-family home, condominium, apartment, mobile home parcel, or residential parcel.

"Very low income household" means a household whose income, with adjustments for household size, is less than fifty percent of the Santa Cruz County areawide median income.

18.02.030 Affordable housing requirements for proposed housing development projects.

A. General affordable housing production requirements.

1. Unless a proposed housing development project is exempt from this chapter or the city approves an alternative means of compliance as provided in 19.02.050, each housing development project creating two or more for-sale housing units, residential parcels for individual sale via a subdivision, mobile home parcels, or converted condominium units shall be required to reserve and restrict fifteen percent of the housing units, residential parcels, or converted condominium units for sale to moderate income households in accordance with the requirements of Section 18.02.040.

2. A proposed housing development project creating fewer than seven for-sale housing units may provide one affordable housing unit or pay an in-lieu fee as provided in Section 18.02.050.

B. The following housing development projects are exempt from Sections 18.02.030 through 18.02.050 of this Chapter 18.02:

1. Housing units that are restricted by deed, regulatory restriction contained in an agreement with a government agency, land use conditions of approval, or other recorded document as affordable housing for persons and families of very low, low, or moderate income.

2. Rental housing units.

3. The development of one for-sale housing unit.

4. The creation of accessory dwelling units, .

5. Structural additions to existing housing development projects that do not result in the creation of two or more residential units.

6. Developments exempted by state law or by final judgment by a court of competent jurisdiction.

18.02.040 Provision of affordable housing units in proposed housing development projects.

When a housing development project is required to construct or provide affordable housing units pursuant to Section of 18.02.030 of this chapter, the housing development project shall comply with the following requirements:

A. In determining the number of affordable housing units required, developments which require fractional contribution pursuant to the requirements of this chapter shall pay affordable housing in-lieu fees in an amount prescribed by the affordable housing in-lieu fee schedule adopted, and from time to time revised, by city council resolution.

B. All affordable housing units shall remain affordable in perpetuity.

C. The housing development project permit application submitted to the city shall specify the number, type, location, size and construction scheduling of all housing units which are part of the project, including the affordable housing units, and shall indicate which housing units are designated as affordable housing units for purposes of complying with this chapter. If an alternative compliance option under Section 18.02.050 is requested, the proposed method of compliance shall be included with the initial application. If a reduction, adjustment, or waiver under Section 18.02.140 is requested, the application shall set forth the basis for the request in accordance with the criteria set forth in that section.

D. Unless otherwise approved by the city planning commission or city council, affordable housing units shall be reasonably dispersed throughout the housing development project and shall be compatible with the design and use of the remaining housing units in the housing development project in terms of appearance, materials and finish quality.

E. The housing development project developer shall have the option of reducing the interior amenity level of affordable housing units provided that all affordable housing units conform to the requirements of the city building and housing codes and further provided that all affordable housing units, at a minimum, shall have interior painting or other finish wall covering, floor covering, a stove, a dishwasher, an oven, built-in kitchen cabinets, washer and dryer hookups, a bath/shower, a toilet, a kitchen sink and a bathroom sink.

F. All affordable housing units in a housing development project shall be constructed concurrently with, or prior to, the construction of the housing development project's market rate housing units and shall be sold concurrently with, or prior to, sale of the market rate housing units.

G. Prior to recordation of the final subdivision map or issuance of building permits for the housing development project, the housing development project developer shall enter into a participation agreement with the city in a form suitable for recordation so as to assure compliance with the provisions of this chapter.

H. A housing development project developer who is a subdivider may propose to comply with the requirements of this chapter by dedicating affordable lots to the city. The city council, at its sole discretion may grant, conditionally grant or deny the request. If the housing development project subdivider's proposal to dedicate affordable lots to the city is approved, the offer of dedication shall be made concurrently with the filing of the final subdivision map.

I. Where the city provides financial assistance to a housing development project in the form of a grant, subsidy, loan, fee waiver or any other action which confers a fiscal benefit on the housing development project developer, the city may condition the financial assistance with a requirement that the housing development project reserve or restrict more than fifteen percent of the housing development project's housing units, residential parcels or converted condominium units for sale to moderate, low or very low income households.

18.02.050 In-lieu housing fees and alternative compliance options.

A. When a housing development project proposes fewer than seven units, the housing development project developer may elect to pay affordable housing in-lieu fees instead of constructing affordable housing units. When a housing development project proposes seven or more units, the housing development project developer may request to pay affordable housing in-lieu fees, which request will be reviewed by the body acting on the other approvals necessary for the housing development project. In either case, affordable housing in-lieu fees shall be paid in accordance with the following requirements:

1. The housing development project developer shall pay affordable housing in-lieu fees in an amount prescribed by the affordable housing in-lieu fee schedule adopted, and from time to time revised, by city council resolution.

2. The housing development project developer shall pay the in-lieu fee amount applicable to each unit prior to issuance of a building permit for that unit by the building department. Upon request of the housing development project developer, the city council may consider and approve a deferred payment until issuance of a certificate of occupancy based on a finding that the deferred fee payment contributes to the project's economic feasibility.

3. Affordable housing in-lieu fees shall be deposited into the city's housing trust fund and all such fees shall be used, at the earliest time feasible, to assist in the construction of new low or very low income housing units with a minimum of fifty-five-year term affordability restrictions, the rehabilitation of low or very low income housing units which, upon rehabilitation, will have fifty-five-year term affordability restrictions, or to assist low or very low income households in purchasing or renting housing units, and for administration and compliance monitoring of the affordable housing program, as approved by the city council.

B. A housing development project developer who is otherwise required to pay an affordable housing in-lieu fee by this chapter may instead provide one or more affordable (not less than fifteen percent) for-sale housing units which shall be deed and time restricted in accordance with the provisions of Section 18.02.040.

C. Alternative Compliance Options.

1. The housing development project developer, or an entity controlled by the developer, or another entity that has entered into an agreement with the developer to provide affordable housing units, may propose to construct the affordable housing units required by Section 18.02.030 on another site in the Capitola city limits. Two or more developers may also jointly propose off-site construction of affordable housing units on a single site. The city may grant a credit for off-site construction if the proposal meets all of the following conditions:

a. Financing or a viable financing plan, which may include public funding, shall be in place for the off-site affordable housing units;

b. The off-site location is suitable for the proposed affordable housing units, consistent with any adopted guidelines and the Housing Element, will not tend to cause residential segregation or concentrations of poverty, and has appropriate infrastructure and services; and

c. Construction of the off-site affordable housing units may not have commenced prior to the first approval of the market rate housing development project.

Final inspections for occupancy of the market-rate units in the housing development project will be granted only after final inspections are completed for the off-site affordable housing units related to those market-rate units. However, the timing requirements set forth in this subsection may be modified by the city council. The city may require that completion of off-site affordable housing units be further secured by the housing development project developer's agreement to pay in-lieu fees in the event the off-site units are not timely completed.

2. The housing development project developer may propose to meet the requirements of Section 18.02.030 by dedicating property to the city in-lieu of constructing inclusionary units within the housing development project. The city may approve property dedication under this subsection only if the proposal meets all of the following conditions:

a. The number of affordable housing units to be constructed on the dedicated property shall be at least 10 percent greater than the number of affordable housing units otherwise required;

b. Financing or a viable financing plan, which may include public funding, shall be in place for construction of the affordable housing units on the dedicated property; and

c. The property to be dedicated is suitable for the proposed affordable housing units, consistent with any adopted guidelines and the Housing Element, will not tend to cause residential segregation or concentrations of poverty, and has appropriate infrastructure and services.

The property shall be dedicated to the city prior to issuance of any building permit for the market rate housing development project.

3. The housing development project developer may propose to meet the requirements of Section 18.02.030 by acquiring existing housing units in the city, performing substantial rehabilitation of the units, and subjecting the units to new affordability restrictions. The city may approve the alternative under this subsection only if the proposal meets all of the following conditions:

a. The number of affordable housing units to be acquired and rehabilitated must equal at least 20 percent of the units in the proposed market-rate development.

b. The rehabilitation satisfies the criteria for "substantial rehabilitation" in Government Code section 65583.1(c)(2)(A)(i).

c. Prior to initial occupancy after rehabilitation, the city shall inspect the units for compliance with all applicable state and local building code and health and safety code requirements.

d. All units must be subject to affordability restrictions that require the sale of the units to eligible moderate income households or below at an affordable housing cost in perpetuity.

18.02.060 For-sale housing units – Sales price and procedures for all affordable housing units.

When an affordable housing unit is sold or re-sold, the following requirements shall apply:

A. In calculating the maximum allowable sales price for housing units which, pursuant to this chapter, are deed restricted as affordable to very low, low or moderate income households, the city or the city's designee shall employ the following formula:

1. Single-Family Residences. Sales prices shall be set to equal the price affordable to a household earning the area median income adjusted for household size, with a household size equal to the number of bedrooms in the unit plus one, and a housing cost ratio equal to thirty-five percent of gross monthly household income, assuming a ten percent downpayment, a 30-year fixed interest rate, homeowner's association dues (if applicable), and other costs as specified in guidelines that may be adopted from time to time under Section 18.02.060.F.

2. Condominiums/Townhouses. Sales prices shall be set to equal the price affordable to median income household earning the area median income adjusted for household size, where household size is equal to the number of bedrooms in the unit plus one, and a housing cost ratio equal to thirty-five percent of gross monthly household income, assuming a ten percent downpayment, a 30-year fixed interest rate, homeowner's association dues and other costs as specified in guidelines that may be adopted from time to time under Section 18.02.060.F

3. Mobile Home Parcels. No sale or resale price will be set for the inclusionary parcels created. Inclusionary parcels in a mobile home park will have initial and subsequent resales restricted to sale to a median income household or below adjusted by household size, assuming costs as specified in guidelines that may be adopted from time to time under Section 18.02.060.F.

4. If the maximum allowable sales price is less than the original purchase price the homeowner paid for the affordable housing unit, the homeowner shall be permitted to sell the affordable housing unit at a price equal to their original purchase price. This provision has no applicability for transactions other than home sales and may not be relied on in connection with a refinance, a home equity loan, or other similar transactions.

B. The re-sale purchase price of any affordable housing unit may be increased by the value of any substantial structural or permanent fixed improvements made by the current owner, subject to the following conditions:

1. The improvements must be incapable of being removed without substantial damage to the premises or substantial or total loss of value of the improvements.

2. The cost of the improvements at the time they were made or installed must equal more than one percent of the original purchase price the homeowner paid for the affordable housing unit, as verified by invoices, receipts, or similar forms of documentation.

3. The improvements must have been approved in writing by the Community Development Director to confirm they are substantial improvements, have conformed to applicable building codes at the time of installation, and received any building permits required.

4. The maximum allowable sales price shall be increased by the present value of qualifying improvements as determined by an appraiser designated by the city up to a maximum value equal to ten percent of the original purchase price the homeowner paid for the affordable housing unit.

5. The 10% limit shall reset upon each transfer to a new homeowner, and each subsequent homeowner shall have the opportunity to benefit from an upward adjustment to the maximum allowable sales price caused by the qualifying improvements they made.

C. If the city finds that the owner, through neglect, abuse or lack of adequate maintenance, has damaged an affordable housing unit, the city may require repairs be made at the owner's expense and be financed prior to sale or through the escrow account.

D. Marketing of a for-sale affordable housing unit shall be performed by the owner or owner's agent, who shall market the affordable housing unit for no more than the maximum sale price established by the city (excluding closing costs in sales transactions), with preference given to households who live or work in Capitola. In cases where the owner or housing developer has made a good faith effort to sell an affordable housing unit at the allowable sales price established by the city, and has failed to sell that unit after two hundred forty days, the seller may request to make a monetary contribution to the affordable housing trust fund in exchange for the city's agreement to release the affordability deed restriction on that unit. The amount of the contribution would be determined by the city council, taking into consideration the then-current cost of developing similar affordable housing units and the remaining amount of time the subject unit was deed restricted for sale to very low, low or moderate income households. The city council in its sole discretion may grant, conditionally grant or deny the request. If the request is granted or conditionally granted, upon the city's receipt of the prescribed housing trust fund contribution, the subject affordable housing deed restriction shall be released and the seller shall be allowed to sell, rent or otherwise use the subject affordable housing unit for residential purposes as the seller deems appropriate.

For purposes of this section, a good faith effort to sell a deed restricted affordable housing unit will, at a minimum, include listing the property in the pertinent multiple listing service for a minimum of two hundred forty days, actively marketing and showing the property in a manner that would be deemed professionally prudent by a full-time real estate agent or broker employed in the Santa Cruz County housing market.

E. Calculations made in accordance with the requirements of this Section shall remain valid for ninety days after the city provides the result of the calculations in writing. After ninety days, an affordable housing unit purchaser or homeowner shall be required to obtain new calculations from the city and may be required to pay additional fees in accordance with Section 18.02.110.

F. The city council may adopt policy guidelines from time to time that are consistent with this Section to provide more specific information about how sales prices shall be calculated.

18.02.070 Eligibility for all affordable housing units.

A. Only households which qualify as very low, low, median or moderate income households, and who meet the asset limit, shall be eligible to purchase affordable housing units as defined by this chapter.

B. To be eligible to purchase affordable housing units that are not in a senior citizen housing development, the total assets of a household shall be less than one and one-half times the current household income limit for that unit. The following assets are excluded from the eligibility calculation:

1. Assets to be used to purchase the affordable housing unit.

2. Assets in a qualified retirement plan up to Five Hundred Thousand Dollars ($500,000), which amount shall be increased on April 1, 2021 and every April 1 thereafter by a percentage equal to the percentage increase in the Consumer Price Index over the same time period.

C. To be eligible to purchase affordable housing units in a senior citizen housing development, the total assets of a household shall be less than three times the current household income limit for that unit. The following assets are excluded from the eligibility calculation:

1. Assets to be used to purchase the affordable housing unit.

2. Assets up to One Million Dollars ($1,000,000), which amount shall be increased on April 1, 2021 and every April 1 thereafter by a percentage equal to the percentage increase in the Consumer Price Index over the same time period.

D. Income eligibility to purchase affordable housing units shall be determined at the time of sale of the affordable housing unit by the city or the city's designee.

E. Applicants may appeal the city's income and asset eligibility determinations within thirty days of the date of their income eligibility letter. Appeals of the city's income and asset eligibility determinations shall first be made to a committee comprised of the city manager, mayor, community development director, and city attorney. Appeals shall be in the form of a letter addressed to the city manager, and should document the reason the applicant believes an exception should be made. Appeals may be granted by the committee upon a finding, based upon documentary evidence produced by the appellant which clearly demonstrates that the subject household's future earning capacity will be significantly impaired in the immediately foreseeable future. The committee's decision may be appealed as set forth in Section 18.02.150.

F. The purchaser of an affordable ownership unit shall occupy the unit as his or her primary place of residence. If the unit ceases to function as a primary residence, it shall be sold according to the requirements of this chapter.

18.02.080 Marketing of all affordable housing units for sale.

A. Any marketing communication advertising an affordable housing unit for sale shall fully disclose the affordable housing sale price and eligibility restrictions contained in this chapter.

B. Marketing of a for-sale affordable housing unit shall be performed by the owner or owner's agent, with preference given to households who live or work in Capitola, who shall market the affordable housing unit for no more than the maximum sale price established by the city (excluding closing costs in sales transactions).

C. The purchaser of an affordable housing unit shall not pay more in closing costs than that which is reasonable and customary in Santa Cruz County.

D. The seller of an affordable housing unit shall pay any real estate sales commission associated with the sales transaction.

E. The owner of an affordable housing unit shall not use the unit as collateral for an amount exceeding ninety percent of the maximum sales price allowed by this chapter unless specifically allowed in writing beforehand by the city. All second mortgages shall require the prior written approval of the city.

18.02.090 Pre-approved projects – Non-applicability.

Sections 18.02.30 through 18.02.50 of this chapter shall not apply to projects for which a development permit was issued by the city prior to the effective date of the ordinance codified in this chapter or to the projects for which an approved tentative map or vesting tentative map existed as of the effective date of said ordinance, provided that such projects must still comply with the terms of Chapter 18.02 as it existed when such projects were approved.

18.02.100 Fees.

Upon resale, application for an equity line of credit, or refinance of an affordable housing unit, the owner or landlord shall pay a fee to the city to cover the city's costs in determining the maximum sales price and any other monitoring and document preparation processes as may be required of the city. The fee shall be established by city council resolution and shall be calculated so as to allow the city to recover the staff costs and administrative overhead incurred by the city in providing these services and preparing these documents. In addition, the city may similarly charge each prospective purchaser of an existing affordable housing unit a fee for determining eligibility.

18.02.110 Default/foreclosure.

A. Option to Purchase. In the event a default notice is recorded against an affordable housing unit, the city or its designee shall have the option to purchase the unit by paying the minimum amount that the owner would have received on the date of the foreclosure sale. Out of this sum, any lien holders shall be paid the amount of funds due them and the owner shall be paid the remaining balance.

B. In the event the city or its designee does not exercise its option to purchase the affordable housing unit prior to the trustee's sale or judicial foreclosure and the owner does not redeem the property by curing the default prior to sale or foreclosure, the unit shall thereafter be free from the restrictions of this chapter and the new owner may occupy, sell or rent the unit without restriction.

C. Notwithstanding subsection B of this section, single-family units that have never been sold to individual owner-occupants and multiple-family dwelling units shall not be released from the restrictions of this chapter through a trustee's sale or judicial foreclosure. In addition, affordable housing units shall not be released under the following circumstances:

1. The city has not been provided a copy of the notice of default within ten days of its service upon the owner;

2. The owner does not allow the city to exercise its option to purchase; or

3. A lender has over-encumbered the property and refuses to release its interest in the property for the maximum allowable sales price.

18.02.120 Conflicts of interest.

The following individuals are ineligible to purchase an affordable housing unit as their residence:

A. The city manager, city attorney, community development director and members of the planning commission and city council;

B. The owner or developer of an affordable housing project or affordable housing unit; and

C. The immediate relatives of persons identified in subsections A and B of this section.

18.02.130 Violations.

It is unlawful and a violation of this chapter for an applicant or owner of an affordable housing unit or any employee or agent of an applicant or owner to:

A. Sell an affordable housing unit to anyone who has not first been qualified as eligible;

B. Sell an affordable housing unit to any person who has a conflict of interest as defined by this chapter;

C. Sell an affordable housing unit for an amount exceeding the maximum sales price;

D. Solicit, require or accept in connection with the sale of an affordable housing unit any payment or other contribution of cash, property or services from a purchaser or tenant the value of which, when added to the purchase price paid for an affordable housing unit, would exceed the maximum sales price or maximum rental prescribed by this chapter;

E. Willfully and knowingly make a false statement or representation, or knowingly fail to disclose a material fact for the purpose of qualifying as eligible to purchase or rent an affordable housing unit under this chapter; or

F. Violate any other provision of this chapter. The city may prosecute any violation of this chapter criminally, civilly or administratively in accordance with Title 4 of this code.

18.02.140 Reductions, Adjustments, or Waivers.

A. Any request for a waiver, adjustment, or reduction under this Chapter 18.02 shall be submitted to the city concurrently with an application for a first approval for a housing development project based upon a showing that applying the requirements of this chapter would result in an unconstitutional taking of property or would result in any other unconstitutional result. The request for a waiver, adjustment, or reduction shall set forth in detail the factual and legal basis for the claim.

B. The request for a waiver, adjustment, or reduction shall be processed concurrently with all other permits required for the housing development project. The body with the authority to approve the housing development project shall have the authority to act on the request for a waiver, adjustment, or reduction, subject to any appeals otherwise authorized for the housing development project.

C. The waiver or modification may be approved only to the extent necessary to avoid an unconstitutional result, based upon legal advice provided by or at the behest of the City Attorney, after adoption of written findings, based on legal analysis and substantial evidence. If a waiver or modification is granted, any change in the project shall invalidate the waiver or modification, and a new application shall be required for a waiver or modification under this section.

18.02.150 Appeal.

Any applicant or other person whose interests are adversely affected by a determination under Section 18.02.070 of this chapter may appeal in accordance with the provisions of that section. Any applicant or other person whose interests are adversely affected by any other determination in regard to the requirements of this chapter may appeal to the city council in accordance with the provisions of Chapter 2.52 of this code.

CHAPTER 17. - HOUSING.*

Sections:

Article I. - Repealed by Ordinance No. 2276 (NCS).

Sec. 17-1. - Repealed by Ordinance No. 2276 (NCS).

Sec. 17-2. - Repealed by Ordinance No. 2276 (NCS).

Article II. - Repealed by Ordinance No. 2276 (NCS).

Sec. 17-3. - Repealed by Ordinance No. 2276 (NCS).

Sec. 17-4. - Repealed by Ordinance No. 2276 (NCS).

Sec. 17-5. - Repealed by Ordinance No. 2276 (NCS).

Article III. - Inclusionary Housing Requirements.[1]

Footnotes:

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Editor's note— Ord. No. 2594(NCS), § 2, adopted June 6, 2017, amended Art. III, §§ 17-6—17-20, in effect repealing and reenacting said article as set out herein. Former Art. III pertained to similar subject matter and derived from Ord. No. 2253(NCS), § 1; Ord. No. 2451(NCS), § 1; and Ord. No. 2561(NCS), § 2, adopted Sept. 1, 2015.

Sec. 17-6. - Purpose.

The purpose of this article is to:

(a) Enhance the public welfare by establishing policies which require the development of housing affordable to households of very low, lower, median, moderate, and workforce incomes.

(b) Assist in meeting the city's share of regional housing needs as mandated by state law.

(c) Offset the demand for affordable housing that is created by new market-rate housing development.

(d) Implement the housing element's goals and objectives.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-7. - Definitions.

Unless specifically defined in this section, words or phrases used in this article shall be interpreted so as to give this article its most reasonable application.

(a) "Affordable housing plan" means a plan submitted in conformance with Section 17-16 specifying the manner in which inclusionary units will be provided in conformance with this article and consistent with the Salinas General Plan and Chapter 37 of the Salinas Municipal Code.

(b) "Affordable ownership cost" means a reasonable down payment and an average monthly housing cost during the first calendar year of occupancy, including mortgage loan principal and interest, mortgage insurance, property taxes and property assessments, homeowners insurance, homeowners association dues, if any, and all other dues and fees assessed as a condition of property ownership, which does not exceed: (1) thirty percent of fifty percent of area median income for very low income households; (2) thirty percent of seventy percent of area median income for lower income households; (3) thirty percent of ninety percent of area median income for median income households; (4) thirty percent of one hundred ten percent of area median income for moderate-income households; (5) thirty percent of one hundred fifty percent of area median income for workforce income households. Area median income shall be adjusted for assumed household size based on unit size as follows: one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, four persons in a three-bedroom unit, five persons in a four-bedroom unit, and six persons in a five-bedroom unit. The inclusionary housing guidelines may incorporate procedures for determining affordable ownership cost in accordance with this section.

(c) "Affordable rent" means monthly rent, including a reasonable utility allowance and all mandatory fees charged for use of the property, which does not exceed: (1) thirty percent of fifty percent of area median income for very low income households; and (2) thirty percent of sixty percent of area median income for lower income households. Area median income shall be adjusted for assumed household size based on unit size as follows: one person in a studio unit, two persons in a one-bedroom unit, three persons in a two-bedroom unit, four persons in a three-bedroom unit, and five persons in a four-bedroom unit. The inclusionary housing guidelines may incorporate procedures for determining affordable rent in accordance with this section.

(d) "Applicant" or "developer" means a person, persons, or entity that applies for a residential development and also includes the owner or owners of the property if the applicant does not own the property on which the development is proposed.

(e) "Area median income" means the annual median income for Monterey County, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision.

(f) "Attached Development" means townhomes, condominiums or unit(s) in which the physical connection of two structures share any part of a common wall or roof with no more than one hundred twenty units.

(g) "Building permit" includes full structural building permits as well as partial permits such as foundation-only permits.

(h) "City Manager" means the city manager of the city or his or her designee.

(i) "Common ownership or control" refers to property owned or controlled (including by an option to purchase or a purchase agreement) by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent or more of the interest in the property.

(j) "Contiguous property" means any parcel of land that is: (1) touching another parcel at any point; (2) separated from another parcel at any point only by a public right-of-way, private street or way, or public or private utility, service, or access easement; or (3) separated from another parcel only by other real property under common ownership or control of the applicant.

(k) "Density bonus units" means dwelling units approved in a residential development under California Government Code section 65915 et seq. that are in excess of the maximum residential density otherwise permitted by the Salinas General Plan or zoning ordinance.

(l) "Downtown Area" means the area within the boundaries of the Central City Overlay District as defined per Zoning Code 37-40.300.

(m) "First approval" means the first of the following approvals to occur with respect to a residential development: development agreement, general plan amendment, specific or area plan adoption or

amendment, zoning, rezoning, pre-zoning, planned development permit, tentative map, parcel map, conditional use permit, special use permit, or building permit.

(n) "For-sale residential development" means any residential development or portion of a residential development that involves the creation of one or more additional dwelling units or lots that may lawfully be sold individually. A for-sale residential development also includes a condominium conversion as described in Article VII of Chapter 31.

(o) "Future Growth Area" is that incorporated area designated by the 2002 General Plan, located north of Boronda Road, and bounded by San Juan Grade Road to the west, Williams Road to the east, and Rogge Road and the future extensions of Russell Road and Old Stage Road to the north.

(p) "Inclusionary housing agreement" means an agreement in conformance with Section 17.16 of this article between the city and an applicant, governing how the residential development shall comply with this article.

(q) "Inclusionary housing guidelines" means the requirements for implementation and administration of this article adopted by city council.

(r) "Inclusionary unit" means a dwelling unit required by this article to be affordable to very low, lower, median, moderate, or workforce income households.

(s) "Lower income households" means those households whose annual income, adjusted for household size, does not exceed the low income limits, adjusted for household size, applicable to Monterey County as defined in California Health and Safety Code Section 50079.5 and published annually in Title 25 of the California Code of Regulations, Section 6932 (or its successor provision).

(t) "Market rate unit" means a new dwelling unit in a residential development that is not an inclusionary unit.

(u) "Median income households" means households whose annual income, adjusted for household size, does not exceed area median income.

(v) "Moderate income households" means households whose annual income, adjusted for household size, does not exceed the moderate income limits applicable to Monterey County as defined in California Health and Safety Code Section 50093 and published annually in Title 25 of the California Code of Regulations, Section 6932 (or its successor provision).

(w) "Planning permit" means any discretionary approval of a residential development, including but not limited to a development agreement, general plan amendment, specific or area plan adoption or amendment, zoning, rezoning, pre-zoning, planned development permit, tentative map, parcel map, conditional use permit, or special use permit.

(x) "Rental residential development" means any residential development or portion of a residential development that creates one or more additional dwelling units that cannot lawfully be sold individually.

(y) "Residential development" means any development project requiring a planning permit or a building permit, if no planning permit is needed, for which an application has been submitted to the city, and where the residential development would either (1) create ten or more additional dwelling units or lots; (2) convert ten or more existing rental dwelling units to condominiums; or (3) is contiguous to property under common ownership or control of the applicant where the combined residential capacity of all of the applicant's property under the general plan designation or zoning is ten or more additional residential units or lots.

(z) "Surplus inclusionary unit" means any inclusionary unit constructed as part of a residential development without city funds or nine percent low income housing tax credits, and which is excess of the numerical requirement for inclusionary units for that residential development. "City funds" include both money which originates directly from the city, such as general fund monies, and that which originates from other sources, such federal and state funds, but that the city allocates. "City funds" also include any waiver of city fees.

(aa) "Unit type" means detached single-family home, duplex, triplex, townhome, or multifamily construction.

(bb) "Very low-income households" means households whose annual income, adjusted for household size, does not exceed the very low income limits applicable to Monterey County as defined in California Health and Safety Code Section 50105 and published annually in Title 25 of the California Code of Regulations, Section 6932 (or its successor provision).

(cc) "Workforce income households" means households whose annual income, adjusted for household size, does not exceed 160 percent of area median income.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-8. - Exemptions.

This article shall not apply to any of the following:

(a) Projects that are not residential developments as defined in Section 17-7(x), including but not limited to those residential developments creating fewer than ten additional dwelling units or lots.

(b) Residential developments which are developed pursuant to the terms of a development agreement executed prior to the effective date of this ordinance or which have otherwise received a vested right to proceed without conforming to this article under state law, provided that such residential developments shall comply with any affordable housing requirements consistent with the development agreement.

(c) Residential developments exempted by Government Code section 66474.2 or 66498.1, provided that such residential developments shall comply with any predecessor ordinance in effect on the date the application for the development was deemed complete.

(d) Residential developments located in the downtown area, unless the city council by resolution determines that, based on market conditions, the provisions of this article will be applied in the downtown area.

(e) Residential developments that have submitted a complete planning or building permit application along with full payment of required application fees to the city prior to the effective date of this ordinance, provided that such residential developments shall comply with any approved affordable housing plan and any predecessor ordinance applicable to the development.

(f) One-hundred percent affordable low-income housing projects with either a recorded deed restriction, restrictive covenant or regulatory agreement of no less than thirty years.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-9. - Basic inclusionary housing options—For-sale residential developments.

An applicant for a for-sale residential development may elect to provide one of the basic options described in this section or elect to propose one of the options described in Section 17-13. The requirements of this section are minimum requirements and do not preclude a residential development from providing additional affordable units or affordable units with lower rents or sales prices than required by this section.

Calculations of the number of required inclusionary units shall exclude any density bonus units that are part of the residential development. Fractions of one-half or greater shall be rounded up to the next highest whole number, and fractions of less than one-half shall be rounded down to the next lowest whole number.

(a) On-Site For-Sale Inclusionary Units. An applicant for a for-sale residential development may elect to provide on-site for-sale inclusionary units at affordable ownership cost as follows:

(1) Option One: A minimum of four percent of the dwelling units in the residential development shall be affordable to very low income households, eight percent shall be affordable to lower income households, four percent shall be affordable to moderate income households, and four percent shall be affordable to workforce income households, for a minimum twenty percent inclusionary units total.

(2) Option Two: A minimum of six percent of the dwelling units in the residential development shall be affordable to median income households, six percent to moderate income households, and three percent to workforce income households, for a minimum fifteen percent inclusionary units total.

(b) On-Site Rental Inclusionary Units. An applicant for a for-sale residential development may elect to provide on-site rental inclusionary units at affordable rent as follows:

(1) Option One: A minimum of eight percent of the dwelling units in the residential development shall be affordable to very low income households and four percent shall be affordable to lower income households, for a minimum twelve percent inclusionary units total.

(2) Option Two: If an applicant elects Option One under Section 17-9(a) above, the applicant may elect to provide the very low income units and the lower income units as rental units rather than for-sale unit, so that a minimum of four percent of the dwelling units in the residential development shall be available to very low income households at affordable rent, eight percent shall be available to lower income households at affordable rent, four percent shall be available to moderate income households at affordable ownership cost, and four percent shall be affordable to workforce income households at affordable ownership cost, for a minimum twenty percent inclusionary units total. Under this option, an applicant may elect to pay rental housing impact fees in order to satisfy the rental obligation.

(3) To ensure compliance with the Costa-Hawkins Residential Rent Control Act (Civil Code Section 1954.50 et seq.), the city may approve on-site rental inclusionary units only if the applicant agrees in a rent regulatory agreement with the city to limit rents in consideration for a direct financial contribution or a form of assistance specified in Density Bonus Law (Government Code Section 65915 et seq.).

(4) Any rent regulatory agreement for rental units in a for-sale residential development shall include provisions for sale of the inclusionary units and relocation benefits for tenants of the inclusionary units if the owner of the residential development later determines to offer the inclusionary units in the residential development for sale at affordable ownership cost.

(c) Payment of In-Lieu Fees. An applicant for a for-sale residential development may elect to pay in-lieu fees as described in Section 17-14 and adopted from time to time by resolution of the city council.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-10. - Basic inclusionary housing options—Rental residential developments.

An applicant for a rental residential development may elect to provide one of the basic options described in this section or elect to propose one of the options described in Section 17-13. The requirements of this section are minimum requirements and do not preclude a residential development from providing additional affordable units or affordable units with lower rents or sales prices than required by this section.

(a) Payment of Rental Housing Impact Fees. An applicant for a rental residential development may elect to pay rental housing impact fees as described in Section 17-14 and adopted from time to time by resolution of the city council. If an applicant chooses to pay rental housing impact fees, the applicant will also make twelve percent of the units within the development available to Section 8 housing choice voucher program participants so long as the Section 8 housing choice voucher program is in effect.

(b) On-Site Rental Inclusionary Units. An applicant for a rental residential development may elect to provide on-site rental inclusionary units at affordable rent as follows:

(1) A minimum of eight percent of the dwelling units in the residential development shall be affordable to very low income households and four percent shall be affordable to lower income households, for a minimum twelve percent inclusionary units total.

(2) Calculations of the required number of inclusionary units shall exclude any density bonus units that are part of the residential development. Fractions of one-half or greater shall be rounded up to the next highest whole number, and fractions of less than one-half shall be rounded down to the next lowest whole number.

(3) To ensure compliance with the Costa-Hawkins Act (Chapter 2.7 of Title 5 of Part 4 of Division 3 of the Civil Code), the city may approve on-site rental inclusionary units only if the applicant agrees in a rent regulatory agreement with the city to limit rents in consideration for a direct financial contribution or a form of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(4) An applicant may submit a request to provide different on-site rental percentages and affordability levels in order to comply and satisfy the requirements of the California tax credit allocation committee four percent or nine percent low-income housing tax credit programs. Submittal of such request must be reviewed and approved by the city.

(c) The city may require on-site rental inclusionary units at such time as current appellate case law in Palmer/Sixth Street Properties, L.P. v. City of Los Angeles (2nd Dist. 2009) 175 Cal.App.4th 1396, is overturned, disapproved, or depublished by a court of competent jurisdiction or modified by the state legislature to authorize control of rents of inclusionary units

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-11. - Timing of construction of inclusionary units.

(a) The city may issue building permits for seventy percent of the market rate units within a residential development before issuing building permits for any inclusionary units. Following issuance of seventy percent of building permits for the market rate units, the inclusionary units shall be constructed in proportion to construction of the market rate units. No building permit shall be issued for any additional market rate unit unless a proportional number of building permits have been issued for inclusionary units, and no certificates of occupancy or final inspections shall be issued for any additional market rate units unless a proportional number of certificates of occupancy or final inspections have been issued for inclusionary units. For example, if inclusionary units constitute twenty percent of the remaining units to be built in the development after seventy percent of the market-rate units are issued building permits, inclusionary units must constitute twenty percent of the remaining building permits issued.

(b) Notwithstanding Section 17-11 (a), the city, at its sole discretion, may issue building permits for one hundred percent of market rate units within a residential development before issuing building permits for any inclusionary units if the developer is partnering with an experienced non-profit affordable housing provider. If the applicant elects to propose one of the alternatives described in Section 17-13, the applicant shall propose a phasing plan for construction of inclusionary and market rate units as part of the affordable housing plan.

(c) Specific proposed timing of construction of inclusionary and market rate units shall be included in all affordable housing plans.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-12. - Standards for inclusionary units.

(a) Inclusionary units shall be dispersed throughout the residential development, with the same unit types as the market rate units, except for the following:

(1) Inclusionary units affordable to workforce income households may have smaller lots than market rate units.

(2) Inclusionary units affordable to moderate and median income households may built in attached developments. However, at least fifty percent of the units in the attached development must be market rate units.

(3) Rental inclusionary units may be clustered as needed in multifamily or other housing types to provide eligibility for state and federal funding, including housing tax credits, if the affordable housing plan includes a management plan satisfactory to the city, and if approved by the city council.

(b) At a minimum, the inclusionary units shall have the same proportion of units with each number of bedrooms as the market rate units (the same proportion of one-bedroom units, of two-bedroom units, etc.).This does not preclude a developer from providing inclusionary units with more bedrooms than is required by this ordinance.

(c) Inclusionary units must meet the following minimum standards:

(1) Single Room Occupancy: two hundred fifty sq. ft., ¾ bath

(2) Studio: five hundred sq. ft., one bath

(3) One bedroom: six hundred fifty sq. ft., one bath

(4) Two bedroom: nine hundred sq. ft., one bath

(5) Three bedroom: one thousand one hundred sq. ft., 1.75 baths

(6) Four bedroom: one thousand two hundred seventy-five sq. ft., 1.75 baths

A full bathroom includes sink, toilet, and tub with shower. A 0.75 bath includes a sink, toilet, and tub or shower.

(d) The quality of exterior design and overall quality of construction of the inclusionary units shall be consistent with the exterior design of the market rate units in the residential development and shall meet all site, design, and construction standards included in Title 17 (Buildings and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this Code, including but not limited to compliance with all design guidelines included in applicable specific plans or otherwise adopted by the city council, and the inclusionary housing guidelines.

(e) inclusionary units may have different interior finishes and features than market rate units in the same residential development, as long as the finishes and features are functionally equivalent to the market rate units and are durable and of good quality and comply with the inclusionary housing guidelines. The city may adopt more detailed interior finish or construction standards in the inclusionary housing guidelines.

(f) The inclusionary units shall have the same access to and enjoyment of common open space and facilities in the residential development as the market rate units.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-13. - Developers' compliance options.

As an alternative to the basic inclusionary housing options described in Sections 17-9 and 17-10 of this article, a developer may elect to propose one of the options included in this section. The city at its sole discretion may offer additional incentives or subsidies to achieve more inclusionary units, greater affordability, or more rental units. All options included in this section must be approved by the city council.

(a) Off-Site Construction. For residential developments within the future growth area, the inclusionary housing requirements of this article may be satisfied by the construction of inclusionary units on a site different from the site of the residential development if the proposal meets all of the following criteria:

(1) The inclusionary units must be built within the future growth area.

(2) The off-site location will not tend to cause racial segregation.

(3) Access to public transportation shall be equal to or better than that available to the residential development.

(4) The proposed site has a general plan and zoning designation that authorizes residential uses and is zoned at a density to accommodate at least the required number of inclusionary units.

(5) The proposed site is suitable for development of the inclusionary units in regard to configuration, physical characteristics, location, access, adjacent uses, and other relevant planning and development criteria.

(6) Any hazardous materials and geological hazards shall be mitigated to the satisfaction of the city. The site shall not be located in a 100-year flood plain. If federal or state funds are proposed to finance the off-site development, the site must meet all required federal or state, as applicable, environmental standards.

(7) The construction schedule for the off-site inclusionary units shall be included in the affordable housing plan and the inclusionary housing agreement. The off-site inclusionary units shall be constructed prior to or concurrently with the market rate units in the residential development consistent with the proposed construction schedule.

(b) Partnership. An applicant may elect to contract with another developer with experience in building and managing affordable housing to construct all or some of the required inclusionary units. The inclusionary housing agreement shall contain specific assurances guaranteeing the timely completion of the required inclusionary units, including satisfactory assurances that construction and permanent financing will be secured for the construction of the units within the schedule shown in the affordable housing plan.

(c) Dedication of Land. The inclusionary housing requirements of this article may be satisfied by the dedication of land in lieu of constructing inclusionary units within the residential development if the proposal meets all of the following criteria:

(1) Marketable title to the site is transferred to the city, or an affordable housing developer approved by the city, prior to the commencement of construction of the residential development.

(2) The location will not tend to cause racial segregation.

(3) Access to public transportation shall be equal to or better than that available to the residential development.

(4) The proposed site has a general plan and zoning designation that authorizes residential uses and is zoned at a density to accommodate at least the required number of inclusionary units.

(5) The proposed site is suitable for development of the inclusionary units in regard to configuration, physical characteristics, location, access, adjacent uses, and other relevant planning and development criteria, including, but not limited to, the cost of construction arising from the nature, condition, or location of the site.

(6) Any hazardous materials have been mitigated to the satisfaction of the city prior to transfer of title. The site is not located in a 100-year flood plain. The site meets all required federal and state environmental standards.

(7) Infrastructure to serve the dedicated site, including but not limited to streets and public utilities, is available at the property line and has adequate capacity to serve the maximum allowable residential development.

(8) If the property is to be transferred to the city, the deed transferring title does not require the city to construct affordable housing on the site, but allows the city to sell, transfer, lease, or otherwise dispose of the dedicated site at the city's sole discretion. Any funds collected as the result of a sale, transfer, lease, or other disposition of sites dedicated to the city shall be deposited into the inclusionary housing trust fund described in Section 17-17. However generally, it is the city's policy to use the dedicated land for affordable housing.

(9) If the site is to be transferred to an affordable housing developer, the construction schedule for the inclusionary units shall be included in the affordable housing plan and the inclusionary housing agreement.

(d) Transfers of Surplus Inclusionary Units. For residential developments within the future growth area, the inclusionary housing requirement of this article may be satisfied by the use of surplus inclusionary units if the proposal meets all of the following criteria:

(1) A developer who completes construction and makes available one or more surplus inclusionary units at an affordable rent or affordable ownership cost may utilize those surplus inclusionary units to satisfy the developer's future inclusionary housing requirements within the future growth area for a period of five years after approval of occupancy for the surplus inclusionary unit. During the last year of the first five-year period, developers may apply for one five-year extension, which may be granted at the sole discretion of the city council.

(2) A developer who completes construction and makes available one or more surplus inclusionary units at an affordable rent or affordable ownership cost may alternatively sell or otherwise transfer the surplus inclusionary credit to another developer within the future growth area in order to satisfy, or partially satisfy, the transferee's inclusionary housing requirements.

(3) Any surplus inclusionary unit proposed to meet the inclusionary housing requirements of another residential development must have the same tenure (rental or ownership) and at least as many bedrooms as the required inclusionary unit and otherwise meets all requirements of Section 17-12.

(4) The city may develop more detailed implementation standards and requirements for credits and transfers as part of the inclusionary housing guidelines.

(e) Other Options. A developer may propose an option not listed above to comply with inclusionary housing requirements. Such proposals shall be made in the affordable housing plan, shall be considered by the city in accordance with this article and the inclusionary housing guidelines, and may be approved by the city if the alternative method of compliance either provides substantially the same or greater level of affordability or the amount of affordable housing as would be required by the basic options listed in Sections 17-9 and 17-10, or provides fewer units with deeper affordability.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-14. - In-lieu fees and rental housing impact fees

(a) The city council may from time to time adopt by resolution housing in-lieu fees for for-sale residential developments and rental housing impact fees for rental residential developments.

(b) Payment of in-lieu fees and rental housing impact fees shall be due at the issuance of building permits for the residential development. The fees shall be calculated based on the fee schedule in effect at the time the building permit is issued.

(c) All in-lieu fees and rental housing impact fees shall be deposited in the inclusionary housing trust fund.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-15. - Continuing affordability and initial occupancy

(a) The city council, by resolution, shall approve standard documents to ensure the continued affordability of the inclusionary units approved in each residential development. Prior to approval of the final or parcel map for any residential development, or issuance of any building permit, the inclusionary housing agreement shall be recorded.

(b) Rental regulatory agreements shall be recorded against all rental inclusionary units prior to occupancy. For for-sale inclusionary units, shared appreciation documents or other documents approved by the city council shall be recorded against each inclusionary unit prior to sale. However, if the price of the market rate units in that phase of the residential development is equal to or below the affordable ownership cost for a median, moderate, or workforce income household, then no documents need be recorded against the inclusionary units in the relevant income category.

(c) The term of affordability for all inclusionary units shall be thirty years. A longer term of affordability may be required if the residential development receives a subsidy of any type, including but not limited to loan, grant, mortgage financing, mortgage insurance, or rental subsidy, and the subsidy program requires a longer term of affordability.

(d) All promissory note repayments, shared appreciation payments, or other payments collected under this section shall be deposited in the city's inclusionary housing trust fund.

(e) Any household that occupies an inclusionary unit must occupy that unit as its principal residence.

(f) No household may begin occupancy of an inclusionary unit until the household has been determined to be eligible to occupy that unit. The city council, by resolution, may establish guidelines for determining household income, affordable ownership cost, affordable rent, provisions for continued monitoring of tenant eligibility, and other eligibility criteria.

(g) Any person who is a member of the city council or the planning commission, and their immediate family members, and any person having any equity interest in the residential development, including but not limited to a developer, partner, investor, or applicant, and their immediate family members, is ineligible to rent, lease, occupy, or purchase an inclusionary unit. The city council, by resolution, may establish guidelines for determination of "immediate family members."

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-16. - Affordable housing plan submittal and inclusionary housing agreement.

(a) An affordable housing plan shall be submitted as part of the application for first approval of any residential development. No application for a first approval for a residential development may be deemed complete unless a complete affordable housing plan is submitted. If the residential development includes fewer than ten units, the affordable housing plan shall include all contiguous property under common ownership and control. However, the applicant shall not be required to construct any dwelling units upon the contiguous property until an application is proposed for that property. No affordable housing plan shall be required if the applicant proposes to pay in-lieu fees or rental housing impact fees to satisfy the requirements of this article.

(b) For each construction phase, the affordable housing plan shall specify, at the same level of detail as the application for the residential development: the inclusionary housing option selected, the number, unit type, tenure, number of bedrooms and baths, approximate location, construction and completion schedule of all inclusionary units, and phasing of inclusionary units in relation to market rate units. If an option listed in Section 17-13 is selected, additional information shall be submitted to verify that the proposal meets the requirements of that section.

(c) The affordable housing plan shall be reviewed as part of the first approval of any residential development. The affordable housing plan shall be approved if it conforms to the provisions of this article. A condition shall be attached to the first approval of any residential development to require recordation of the inclusionary housing agreement described in subsection (e) of this section prior to the approval of any final or parcel map or building permit for the residential development.

(d) A minor modification of an approved affordable housing plan may be granted by the city manager if the modification is substantially in compliance with the original affordable housing plan and conditions of approval. Other modifications to the affordable housing plan shall be processed in the same manner as the original plan.

(e) Following the first approval of a residential development, the city shall prepare an inclusionary housing agreement providing for implementation of the affordable housing plan and consistent with the inclusionary housing guidelines. Prior to the approval of any final or parcel map or issuance of any building permit for a residential development subject to this article, the inclusionary housing agreement shall be executed by the city and the applicant and recorded against the entire residential development property to ensure that the agreement will be enforceable upon any successor in interest. If the affordable housing plan included contiguous property under common ownership or control, and affordable housing will be required on the property under common ownership or control when that contiguous property is developed, the inclusionary housing agreement shall also be recorded against that contiguous property under common ownership or control and shall require compliance with this article upon development of that contiguous property at such time as there are planning permit applications that would authorize a total of ten or more residential units for the residential development and the contiguous property under common ownership or control.

(f) The city council, by resolution, may establish fees for the ongoing administration and monitoring of the inclusionary units, which fees may be updated periodically, as required.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-17. - Inclusionary housing trust fund.

(a) All in-lieu fees, rental housing impact fees, monitoring and other fees, promissory note repayments, shared appreciation payments, or other funds collected under this article shall be deposited into a separate account to be designated as the inclusionary housing trust fund.

(b) The monies in the inclusionary housing trust fund and all earnings from investment of the monies in the inclusionary housing trust fund shall be expended exclusively to provide housing affordable to very low income, lower income, median income, moderate income, and workforce income households in the city of Salinas.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-18. - Waiver

(a) Notwithstanding any other provision of this article, the requirements of this article may be waived, adjusted, or reduced if an applicant shows, based on substantial evidence, that applying the requirements of this article to the proposed residential development would take property in violation of the United States or California Constitutions.

(b) Any request for a waiver, adjustment, or reduction under this section shall be submitted to the city concurrently with the affordable housing plan. The request for a waiver, adjustment, or reduction shall set forth in detail the factual and legal basis for the claim.

(c) The request for a waiver, adjustment, or reduction shall be reviewed and considered in the same manner and at the same time as the affordable housing plan. In making a determination on an application for waiver, adjustment, or reduction, the applicant shall bear the burden of presenting substantial evidence to support the claim. The city may assume each of the following when applicable:

(1) That the applicant will provide the most economical inclusionary units feasible, meeting the requirements of this article and the inclusionary housing guidelines.

(2) That the applicant is likely to obtain housing subsidies when such funds are reasonably available.

(d) The waiver, adjustment or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings based upon the advice of the city attorney and based on substantial evidence.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

Sec. 17-19. - Implementation and enforcement

(a) The city council may adopt inclusionary housing guidelines, by resolution, to assist in the implementation of all aspects of this article.

(b) The city attorney shall be authorized to enforce the provisions of this article and all inclusionary housing agreements, regulatory agreements, covenants, resale restrictions, promissory notes, deed of trust, and other requirements placed on inclusionary units by civil action and any other proceeding or method permitted by law. The city may, at its discretion, take such enforcement action as is authorized under this Code and/or any other action authorized by law or by any regulatory document, restriction, or agreement executed under this article.

(c) Failure of any official or agency to fulfill the requirements of this article shall not excuse any applicant or owner from the requirements of this article. No permit, license, map, or other approval or entitlement for a residential development shall be issued, including without limitation a final inspection or certificate of occupancy, until all applicable requirements of this article have been satisfied.

(d) The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the city from any other remedy or relief to which it otherwise would be entitled under law or equity.

(Ord. No. 2594(NCS), § 2, 6-6-2017)

ARTICLE IV. - Reasonable Accommodation for Persons with Disabilities

Sec. 17.21.010. - Purpose.

The purpose of this section is to provide a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (together, the Acts) in the application of zoning laws and other land use regulations, policies, and procedures.

(Ord. No. 2561 (NCS), § 2, 9-1-2015)

Sec. 17-21.020. - Applicability.

(a) A request for reasonable accommodation may be submitted by any person with a disability, their representative or any entity (such as a developer or provider of housing for individuals with disabilities), when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This section is intended to apply to those persons who are defined as disabled under the Acts.

(b) A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing-related facilities

that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

(c) A reasonable accommodation is granted to the household that needs the accommodation and does not apply to successors in interest to the property.

(d) A reasonable accommodation may be granted in compliance with this section without the need for approval of a variance.

(e) Requests for reasonable accommodation shall be submitted in the manner prescribed in Section 17.21.30 Application Requirements.

(Ord. No. 2561 (NCS), § 2, 9-1-2015)

Sec. 17-21.030. - Requesting reasonable accommodation and application requirements.

(a) *Application*. A request for reasonable accommodation shall be submitted on an application form provided by the community development department. In addition to any other information that is required by the application form, the request for reasonable accommodations shall contain the following information:

(1) Name, address, and telephone number(s) of the individual(s) requesting reasonable accommodation;

(2) Address of the property for which accommodation is requested;

(3) Name, address, and telephone number(s) of the property owner(s);

(4) The current actual use of the property;

(5) The basis for the claim that the individual is considered disabled under the Acts.

(6) The zoning ordinance provision, regulation, or policy for which reasonable accommodation is being requested; and

(7) Why the reasonable accommodation is necessary to accommodate the functional daily needs of the disabled individual.

(b) *Review with Other Land Use Applications*. If the project for which the request for reasonable accommodation is being made requires other approvals, permits, or land use entitlements, then the applicant shall file the information required by Subsection (a) (Application) above, together with the other application.

(c) Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be available for public inspection.

(d) If an applicant needs assistance in submitting the request for reasonable accommodation, the jurisdiction will provide assistance to ensure that the process is accessible.

(e) A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.

(Ord. No. 2561 (NCS), § 2, 9-1-2015)

Sec. 17-21.040. - Reviewing authority.

(a) *Community Development Director.* A request for reasonable accommodation shall be reviewed by the community development director (director), or his/her designee if no approval is sought other than the request for reasonable accommodation.

(b) *Other Review Authority.* Requests for reasonable accommodation submitted for concurrent review with another planning approval, permit or land use entitlement shall be reviewed by the authority reviewing the other land use application.

(Ord. No. 2561 (NCS), § 2, 9-1-2015)

Sec. 17-21.050. - Review procedure.

(a) If an application for reasonable accommodation is filed without any accompanying application for another planning approval, permit or land use entitlement, it shall be processed in the same manner as a conditional use permit for minor exception, pursuant to Section 37-60.490, including notification to the owners of record of all properties which are adjacent to the subject property.

(b) If an application for reasonable accommodation is filed with an application for another discretionary planning approval, permit or land use entitlement, it shall be heard and acted upon at the same time and in the same manner as such other application, and shall be subject to all of the same procedures.

(c) If necessary to reach a determination on the request for reasonable accommodation, the director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. Such request shall occur during the thirty-day review for completeness.

(d) *Director Review*. The director, or director designee, shall provide a written determination within forty-five days of a complete application and, either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with Section 17-21.060 Findings and Decision.

(Ord. No. 2561 (NCS), § 2, 9-1-2015)

Sec. 17-21.060. - Findings and decisions.

(a) *Findings*. The written decision to grant, grant with modifications, or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:

(1) Whether the housing, which is the subject of the request, will be used by an individual with a disability as defined under the Acts.

(2) Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.

(3) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the city.

(4) Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a city program or law, including but not limited to design review, historic preservation, land use and zoning.

(5) Potential impact on surrounding uses.

(6) Physical attributes of the property and structures; and

(7) Alternative reasonable accommodations which may provide an equivalent level of benefit.

(b) *Conditions of Approval*. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Subsection (a) above. The conditions shall also state whether the accommodation granted shall be removed in the event that the person for whom the accommodation was requested no longer resides on the site.

(c) All written decisions shall give notice of the right to appeal by the applicant or an adjacent property owner and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.

(d) The written decision of the director, or director designee, shall be final unless an applicant appeals it to the planning commission.

(e) While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

(Ord. No. 2561 (NCS), § 2, 9-1-2015)

Sec. 17-21.070. - Appeal and determination.

A determination by the director, or director designee, to either grant, grant with modifications, or deny a request for reasonable accommodation may be appealed to the planning commission in compliance with the Salinas Municipal Code Division VI of Section 17, Appeals. If an individual needs assistance in filing an appeal on a decision, the city will provide assistance to ensure that the appeals process is accessible. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant(s) and shall not be made available for public inspection.

(Ord. No. 2561 (NCS), § 2, 9-1-2015)

CPI for All Urban Consumers (CPI-U)
Original Data Value

Series Id: CUURS49BSA0
Not Seasonally Adjusted
Series Title: All items in San Francisco-Oakland-Hayward, CA, all
Area: San Francisco-Oakland-Hayward, CA
Item: All items
Base Period: 1982-84=100
Years: 2010 to 2020

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2010		226.145		227.697		228.110		227.954		228.107		227.658	227.469	226.994	227.944
2011		229.981		234.121		233.646		234.608		235.331		234.327	233.390	232.082	234.698
2012		236.880		238.985		239.806		241.170		242.834		239.533	239.650	238.099	241.201
2013		242.677		244.675		245.935		246.072		246.617		245.711	245.023	243.894	246.152
2014		248.615		251.495		253.317		253.354		254.503		252.273	251.985	250.507	253.463
2015		254.910		257.622		259.117		259.917		261.019		260.289	258.572	256.723	260.421
2016		262.600		264.565		266.041		267.853		270.306		269.483	266.344	263.911	268.777
2017		271.626		274.589		275.304		275.893		277.570		277.414	274.924	273.306	276.542
2018		281.308		283.422		286.062		287.664		289.673		289.896	285.550	282.666	288.435
2019		291.227		294.801		295.259		295.490		298.443		297.007	295.004	293.150	296.859
2020		299.690		298.074		300.032		300.182						299.109	

Attachment: CPI 2010 - 2020 (Amendment to Inclusionary (Affordable) Housing Ordinance)

Locality	IHO/Similar Ordinance?	IHO Applies to Ownership Units, Rental Units, or Both?	Percent Affordability Requirement	Threshold for Application Affordability Requiremen
Santa Cruz County	Yes, County Code 17.10.030	Applies to ownership units. (17.10.030(A).) As an alternative to providing affordable units, an applicant may propose to provide 15% of the dwelling units in the residential project as rental units available at affordable rent for low income households for the life of the unit. (17.10.039.)	15% of the total number of new dwelling units reserved for moderate, low, very low, or extremely low income households. (17.10.030(B); (17.10.020.)	Seven or more new dwelling units. (17.10.010(A).)
Capitola	Yes, Muni Code Ch. 18.02 – Affordable (Inclusionary) Housing	Applies to ownership units only. (18.02.030(A).) Projects creating rental housing units and developments that result in less than 7 for-sale units are required to pay affordable housing in-lieu fees. (18.02.030(B).)	15% affordability requirement for moderate, low, or very low income households. (18.02.030(A).) BUT Ch. 18.02.070(A) and (B) state that only households who qualify as very low, low, median or moderate income households and who meet the asset limit are eligible to purchase affordable units. The asset limit is 1 ½ times the annual household income limit for that unit.	Seven or more for-sale housing units, residential parcels, mobil home parcels, or converted condominium units. (18.02.030(A).)
City of Santa Cruz	Yes, Muni Code Ch. 26.16.010 et seq.	Applies to both ownership and rental units. ((24.16.020(1)(a).) Some exceptions to the requirement: residential developments exempted by Gov. Code §§ 66474.2 or 66498.1; residential developments replacing destroyed dwelling units; ADUs; rental residential developments with 2-4 dwellings. (24.16.020(2)(a)-(f).)	**Ownership Residential Developments with 2-4 units**: 3 options: (a) one unit available for sale at an affordable ownership cost; (b) one unit available at an affordable rent for low-income households; or (c) pay an in-lieu fee. (24.16.020(3).) **All others: 20%** Ownership residential w/ 5 or more: 20% available *to low and moderate income.* (24.16.020(4)(a).) Rental units w/ 5 or more: 20% available to *low income*.	At least 2 units, with differing thresholds depending on type c project. **Ownership Residential:** 2-4 units **All others:** 5 or more units Ownership residential w/ 5 or more: 20% available to *low and moderate income.* (24.16.020(4)(a).) Rental units w/ 5 or more: 20% available to *low income*. (24.16.020(5)(a).) SRO units w/ 5 or more: 20% available to *very low income*. (24.16.020(5)(b).)

Locality	IHO/Similar Ordinance?	IHO Applies to Ownership Units, Rental Units, or Both?	Percent Affordability Requirement	Threshold for Application Affordability Requiremen
			(24.16.020(5)(a).) Continued → SRO units w/ 5 or more: 20% available to *very low income*. (24.16.020(5)(b).)	
Scotts Valley	Yes, Muni Code Ch. 14.01 – Redevelopment Agency Affordable Housing Production Requirements	Applies to both ownership units and rental units. (14.01.040(A).) Some exceptions to requirement: development where an adequate showing of economic hardship upon compliance is demonstrated; addition to a single-family home; construction of non-residential projects; projects where state/federal funds require deed restriction to be affordable; and ADUs. (14.01.040(B).)	15% affordability requirement for very-low, low, and moderate-income households. (14.01.040(C)(2).) If 6 or fewer units (including rentals): City provides calculation for in-lieu fees to be paid to satisfy requirements of IHO. (14.01.040(G).)	All new residential developmen with seven or more units. (14.01.040(C)(2).) If 6 or fewer units (including rentals): City provides calculatio for in-lieu fees to be paid to satisfy requirements of IHO. (14.01.040(G).)
Watsonville	Yes, Muni Code Ch. 14-46 – Affordable Housing Ordinance	Applies to both ownership and rental units. (14-46.040(a).)	15% or 20% depending on number of new units and whether it is an ownership or rental project. Each percentage is broken down into smaller percentage requirements for each level of income.	**Projects with 7-50 new units lots:** Ownership Projects: 15% (with 5% for above moderate, 5% for moderate and 5% for median). (14-46.040(a).) Rental Projects: 20% (with 5% median, 5% for low, 5% for very low, and 5% for section 8.) (14 46.040(a).) **Projects with 50 or more new units or lots:** Ownership Projects: 20% (with 10% for above moderate, 5% fo moderate, and 5% for median). (14-46.040(a).) Rental Projects: 20% (with 5% for median, 5% for low, 5% for very low, and 5% for section 8) (14-46.040(a).)

CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 8, 2020

FROM: City Manager Department

SUBJECT: Solid Waste Disposal agreement with Monterey Regional Waste Management District

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RECOMMENDED ACTION: Authorize the City Manager to enter into an updated agreement with Monterey Regional Waste Management District for solid waste generated in the City of Capitola

BACKGROUND: The City of Capitola has been disposing of solid waste at the Monterey Regional Waste Management District (MRWMD) facility for more than 30-years.

Prior to 2010, the City had no contractual agreement with MRWMD and paid the full gate rate for solid waste disposal.

In 2010, the City and MRWMD entered into an agreement which reduced the rates for Capitola solid waste to the same rate that other jurisdictions in Santa Cruz County were receiving in their agreements.

In 2017, MRWMD gave the City written notice the existing agreement would be terminated in five years. The termination notice was due to the need to increase rates in response to several changes in California law.

At the September 26, 2019, City Council meeting, Council directed staff to negotiate a new waste disposal agreement with MRWMD and then with GreenWaste, Inc, the City's' franchise hauler.

DISCUSSION: The proposed rates in the new agreement will increase the costs for disposal at MRWMD. The District has proposed to increase the disposal rates over time, from the $37.52/ton that is currently being charged to an amount equal to the rate charged to the MRWMD member agencies. Member agencies for MRWMD include Carmel-by-the-Sea, Del Rey Oaks, Marina, Monterey, Pacific Grove, Sand City, and Seaside, as well as some unincorporated area of Monterey County.

	Current	New	7/1/2021	7/1/2022	7/1/2023	7/1/2024	7/1/2025
Member Rates	$65.00	$65.00	TBD	TBD	TBD	TBD	TBD

Capitola Rate	$37.52	$40.00	$45.00	$50.00	$55.00	95% of Member Rate	Member Rate

The proposed agreement with MRWMD is for thirty years. The agreement allows both parties to terminate for convenience after its eleventh year. The City and MRWMD have a long history of working together and staff anticipates this relationship will continue for the term of the contract.

Because the disposal rate is a factor in the collection costs for GreenWaste, the City will need to begin negotiations to update this franchise agreement. The cost for disposal will likely impact the residential and commercial collection rates in the City. Currently, the City of Capitola has the lowest residential collection rates in Santa Cruz County.

FISCAL IMPACT: No fiscal impact to the City.

ATTACHMENTS:

1. 2020 Monetrey Regional Waste Disposal Agreement

Report Prepared By: Larry Laurent
Assistant to the City Manager

Reviewed and Forwarded by:

Jamie Goldstein, City Manager 10/1/2020

AGREEMENT TO CONTINUE WASTE DISPOSAL SERVICES BY AND BETWEEN THE MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT AND THE CITY OF CAPITOLA

THIS AGREEMENT TO CONTINUE WASTE DISPOSAL SERVICES (hereinafter "Agreement") is made and entered into on October _____, 2020 by and between the Monterey Regional Waste Management District, a public entity duly organized pursuant to the provisions of California Health and Safety Code sections 4170 *et seq.* (the "District"), and the City of Capitola, a California general law city (the "City") (collectively, the "Parties"), as follows:

RECITALS

A. On July 29, 2010, District and City entered into "WASTE DISPOSAL AGREEMENT BY AND BETWEEN DISTRICT AND CITY," for a term of thirty years, to facilitate the delivery of waste generated and collected in the City to District's Monterey Peninsula Landfill for disposal. Due to certain legal considerations, including without limitation changes to applicable laws, District has given notice to City of termination for convenience of the 2010 agreement, and the Parties are in accord that the 2010 agreement shall be superseded by this Agreement.

B. The Parties are also in accord that they continue to be satisfied with the performance of each of the parties hereto, with the benefits enjoyed by each of the parties under the terms of the 2010 agreement, and with the facts, principles, and descriptions set out in the Recitals of the 2010 agreement.

C. The District owns, manages, and operates a Class III sanitary landfill for the disposal of municipal solid waste and other acceptable waste streams (the "Monterey Peninsula Landfill"). District jurisdictional boundaries include the cities of Carmel-by-the-Sea, Del Rey Oaks, Marina, Monterey, Pacific Grove, Sand City, Seaside and the unincorporated areas of Big Sur, Carmel Highlands, Carmel Valley, Castroville, Corral de Tierra, Laguna Seca, Moss Landing, Pebble Beach, San Benancio and Toro Park. Municipal solid waste generated within the District historically has been and currently is delivered by commercial waste haulers and by

self-haulers on behalf of the residents of the District for disposal in the Monterey Peninsula Landfill.

D. In constructing, operating, and managing the Monterey Peninsula Landfill, the District is under regulatory obligation with the State of California pertaining to landfill closure, and post closure monitoring and maintenance, and long term debt obligations with related covenants which obligate the District to properly maintain and preserve the system and operate it in an efficient, economical and business-like manner.

E. Monterey County's Integrated Waste Management Plan ("CIWMP") provides for the continued use of the Monterey Peninsula Landfill by the cities and unincorporated areas within the County of Monterey for the disposal of municipal solid waste which is not reused, recycled, or otherwise diverted from landfills pursuant to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code) (the "Act").

F. The District has determined that by accepting municipal solid waste generated outside of the District ("Non-District Waste" or "Out-of-District Waste") the unused capacity in the Monterey Peninsula Landfill can be utilized to generate revenue to assist in rate stabilization for the member entities, and develop alternative waste diversion technologies and practices. Acceptance of Non-District Waste can be accommodated by the existing Monterey Peninsula Landfill without negatively impacting the commercial refuse haulers and self-haulers within the District who deliver waste to the Monterey Peninsula Landfill.

G. The City desires to deliver all of the Non-District waste collected by its franchise hauler to the Monterey Peninsula Landfill. Parties intend that Non-District waste collected shall be disposed of under the provisions of this Agreement.

H. The District has determined that the acceptance for disposal of Non-District Waste would have a minimal impact on the cost of operating the Monterey Peninsula Landfill. The District has further determined that acceptance of Non-District Waste would have a minimal impact on the useful life of the Monterey Peninsula Landfill.

I. District has determined that the execution by District of this Agreement will serve the public health, safety, and welfare of the District by continuing to provide a more stable, predictable and reliable supply of municipal solid waste to optimize the Monterey Peninsula

Landfill, and that the resulting revenue will assist in the District's rate stabilization efforts and waste diversion programs.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, District and City agree to the following Terms and Conditions:

TERMS AND CONDITIONS

1. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below.

1.1 "Acceptable Waste" means all non-hazardous solid wastes such as garbage, refuse, rubbish, and other materials and substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection and which is normally disposed of or collected from residential (single family or multi-family), commercial, industrial, governmental, and institutional establishments by haulers, and which is acceptable at Class III landfills under Applicable Law. "Acceptable Waste" also means solid waste that has been source separated and/or processed with reasonable due diligence to remove the following: reusable and recyclable materials; Unacceptable Waste; Hazardous Substances or Hazardous Materials; Universal Waste (as defined by State law); and Hazardous Waste.

1.2 "Act" means the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded, and replaced from time to time.

1.3 "Applicable Law" means the Act, the Monterey County Code, CERCLA, RCRA, CEQA, any legal entitlement and any other rule, regulation, requirement, guideline, permit, action, determination, or order of any governmental body having jurisdiction, applicable from time to time, relating to the siting, design, permitting, acquisition, construction, equipping, financing, ownership, possession, management, operation, or maintenance of the Monterey Peninsula Landfill or the transfer, handling, transportation, and disposal of Acceptable Waste, Unacceptable Waste, or any other transaction or matter contemplated hereby (including any of the foregoing which concern health, safety, fire, environmental protection, labor relations, mitigation monitoring plans, building codes, non-discrimination and the payment of minimum wages).

1.4 "CEQA" means the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) as amended or superseded, and the regulations promulgated under the statute.

1.5 "CERCLA" means the Comprehensive Environmental Responsibility Compensation and Liability Act (42 U.S.C. Section 9601 *et.seq*.) as amended or superseded, and the regulations promulgated under the statute.

1.6 "Disposal Services" means the solid waste disposal services to be provided to the City by the District under this Waste Disposal Agreement.

1.7 "Hazardous Material" or "Hazardous Substance" has the meaning given such terms in CERCLA, the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code Section 25300 et seq.), and Titles 22 and 26 of the California Code of Regulations, as well as other regulations promulgated under these statutes, as they exist now and as they may be amended from time to time.

1.8 "Hazardous Waste" means (a) any waste which by reason of its quality, concentration, composition or physical, chemical, or infectious characteristic may do any of the following: cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, or pose a substantial threat or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise mismanaged; or any waste which is defined or regulated as a hazardous waste, toxic substance, hazardous chemical substance or mixture, or asbestos under Applicable Law, as amended from time to time including, but not limited to: (1) the Resource Conservation and Recovery Act (RCRA) and the regulations contained in 40 CFR Parts 260-281; (2) the Toxic Substances Control Act (15 U.S.C. Sections 2601 et seq.) and the regulations contained in 40 CFR Parts 761-766; (3) the California Health and Safety Code, Section 25117; (4) the California Public Resources Code, Section 40141; and (5) future additional or substitute Applicable Law pertaining to the indemnification, treatment, storage, or disposal of toxic substances or hazardous wastes; or (b) radioactive materials which are source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.) and the regulations contained in 10 CFR Part 40.

1.9 "Household Hazardous Waste Element" or "HHWE" means a solid waste planning document prepared by each city and unincorporated county pursuant Division 30, Section 41000 et seq. of the Act.

1.10 "Non-District Waste" also "Out-of- District Waste," means solid waste originating outside the jurisdictional boundaries of the District.

1.11 "RCRA" means the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq*., as amended and superseded.

1.12 "Self-Hauler" means any person not engaged commercially in waste cartage that collects and hauls to the Monterey Peninsula Landfill Acceptable Waste generated from residential or business activities.

1.13 "Source Reduction and Recycling Element" or “SRRE" means a solid waste planning document prepared by each city and unincorporated county pursuant to Division 30, Section 41000 et seq. of the Act.

1.14 "Transfer Trucks" means any large, multi-axle vehicle not exceeding 80,000 pounds gross vehicle weight.

1.15 "Unacceptable Waste" means Hazardous Waste; Hazardous Substances; Hazardous Materials; untreated medical waste; Household Hazardous Waste that has been separated from Acceptable Waste; explosives; bombs; ordnance, such as guns and ammunition; highly flammable substances; noxious materials; drums and closed containers; liquid waste, including liquid concrete; oil; human wastes and sewage sludge; machinery and equipment from commercial or industrial sources, such as hardened gears, shafts; motor vehicles or major components thereof; agricultural equipment; trailers; marine vessels and steel cable; hot loads, including hot asphalt, and hot liquid sulfur; loads of whole tires; friable asbestos; and any waste which the Monterey Peninsula Landfill is prohibited from receiving under Applicable Law.

1.16 "Uncontrollable Circumstances” means only the following acts, events or conditions, whether affecting the City, or the District, to the extent that it materially and adversely affects the ability of either party to perform any obligation under the Agreement, if such act, event or condition is beyond the reasonable control and is not also the result of the willful or negligent act, error or omission or failure to exercise reasonable diligence on the part of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Agreement:

1. an act of nature, hurricane, landslide, lightning, pandemic, earthquake, fire, explosion, flood, sabotage or similar occurrence, acts of a public enemy, extortion, war, blockade or insurrection, riot or civil disturbance;
2. a change in law affecting either party's ability to perform an obligation or complying with any condition required of such party under this Agreement;

3. pre-emption of materials or services by a Governmental Body in connection with a public emergency or any condemnation or other taking by eminent domain. Provided, however, that the contesting in good faith or the failure in good faith to contest such action or inaction shall not be construed as willful or negligent action or a lack of reasonable diligence of either party.

2. TERM OF AGREEMENT

2.1 Term of Agreement

The term of this Agreement shall commence on the date first written above and shall continue for thirty years thereafter.

3. DELIVERY OF WASTE

3.1 Commitment to Deliver Waste

The City shall be permitted to annually deliver Acceptable Waste to the Monterey Peninsula Landfill during the term of this Agreement.

Waste shall generally be delivered by refuse collection or transfer vehicles of the City's franchised waste hauler.

Waste shall be delivered to the Monterey Peninsula Landfill during the hours of 5:30 A.M. TO 4:00 P.M. Monday through Friday, and 8:00 A.M. to 4:00 P.M. on Saturdays or as otherwise approved in writing by the District or as modified by a regulatory entity at the time of a permit renewal or issuance of a new permit.

The City shall deliver to the Monterey Peninsula Landfill one hundred percent of the Acceptable Waste generated from residential or business activities within the City and collected by the City's franchised waste hauler or any subcontractor. The delivery to any other landfill of Acceptable Waste generated from residential or business activities within the City by the City's franchised waste hauler or any subcontractor is a default under the terms of this Agreement, in which event, the District shall be entitled to reasonably estimate the amount of Acceptable Waste that would have been delivered to the Monterey Peninsula Landfill and invoice the City for such amount in accordance with Section 4.2.

3.2 City's Authority to Deliver Waste

The City warrants that it has and shall maintain during the term of this Agreement the right, power, and authority to deliver the Acceptable Waste to the District through franchises, contracts, permits, licenses, or other arrangements.

4. PROVISION OF DISPOSAL SERVICES

4.1 Commitment to Provide Disposal Services

The District agrees to provide Disposal Services to the City for the term of the Agreement under the conditions specified in the Agreement. The District warrants that it can receive City's Acceptable Waste at the designated Monterey Peninsula Landfill, under the facility permit for the term of this Agreement.

4.2 Fee for Disposal Services

For the first four years of this Agreement, City shall pay rates for refuse delivered to District according to Exhibit A, Refuse Rates, attached hereto and incorporated herein by this reference. Beginning in Year Five, and for the remainder of the term of this Agreement, City shall pay a rate equal to 95% of District's Posted Rate for Refuse (also known as the "Member Agency Rate" or "Disposal Tip Fee Rate") delivered to District for disposal. For the entirety of this Agreement, all other materials and services shall be paid at rates equal to the District's Posted Rates for such materials and services. All changes to District's Posted Rates are subject to approval by District's Board of Directors, in the exercise of its sole discretion. For the purposes of this Agreement, the first year, or "Year 1", shall begin on July 1, 2020 and end on June 30, 2021.

4.3 Payment for Disposal Services

The City is responsible for payment for Disposal Services and all other fees or charges under this Agreement. The District may, in its discretion, charge and accept payment from the City's franchised waste hauler for Disposal Services but responsibility for payment of any charges not paid by the City's franchised waste hauler remains the City's responsibility. The disposal fee may be paid in cash in advance for each load at the time of delivery, or the District may elect to establish a deferred billing account under a process mutually agreed upon.

4.4 Annual Disposal Fee Increase Adjustment for Provision of Disposal Services

The rate specified in Section 4.2 shall be as specified in Exhibit A. All rate increases through July 1, 2024 shall be effective on July 1 of each year. Thereafter, rate increases shall be effective concurrent with rate increases approved by the District's Board of Directors.

4.5 Increase in Governmental Fees or District Costs Due to New Regulatory or Statutory Mandates

If any fees or charges are imposed or increased by law or regulation after the date first written above and levied on the District by any local, state, or federal government or a local

enforcement agency, the District shall have the right, upon 30-days prior written notice to the City, to increase the then current fee charged to the City hereunder in an equitable manner relative to the services provided to the City under this Agreement. Any increased cost borne by the District due to new regulatory or statutory mandates beyond the District's control shall be allocated based on the percentage of tons of waste delivered to the District by the City compared to all other tons delivered to the District and included in the disposal fee charged.

5. PROCEDURES FOR DELIVERY AND ACCEPTANCE OF WASTE

5.1 Procedures for Delivery and Acceptance of Out-of-District Waste

City shall deliver Acceptable Waste to the Monterey Peninsula Landfill according to the conditions and procedures in **Exhibit B.**) The General Manager of the District and the City's designee may mutually agree to modify **Exhibit B**, provided such modifications are made in writing signed by both parties and subject to the terms and conditions of this Agreement.

The City through its franchised waste hauler shall bear all costs of collection, processing, transfer, transportation, taxes, permits, or impositions assessed by any governmental body related to the delivery of waste to the Monterey Peninsula Landfill. The District assumes all costs incurred as a result of the acceptance of the City's Acceptable Waste.

5.2 Unacceptable Waste

The City shall act with reasonable due diligence to prevent the delivery of any waste to the Monterey Peninsula Landfill that is defined as Unacceptable Waste under this Agreement.

5.3 Out-of-City Waste

Only waste originating inside of the City (with the exception of up to 5% of out-of-City waste per Section 8.4) may be delivered to the Monterey Peninsula Landfill pursuant to this Agreement. City shall maintain records and supporting source documents that adequately identify the origin of all "Acceptable Waste" delivered by the City to the Monterey Peninsula Landfill pursuant to this Agreement. All records and source documentation shall be maintained by the City for a minimum of five years following the termination of this Agreement. Documents shall be maintained in a location mutually acceptable to District and City.

District shall, through its duly authorized agents or representatives, have the right to examine and audit records and supporting source documents maintained by City concerning the origin of waste delivered to the Monterey Peninsula Landfill at any and all reasonable times, upon thirty (30) days written notice, for purposes of determining the accuracy of those records and of the reports provided to District pursuant to this Agreement and of the accuracy of City

payments to District pursuant to this Agreement. If any Audit of the City's or its franchised hauler's invoices or other records reveals any variance from any invoice for waste delivered to the District in excess of three percent of the amount shown on such invoice, or if the City has failed to maintain true and complete books, records and supporting source documents in accordance with this Section, City shall immediately reimburse District for all costs and expenses incurred in conducting such Audit.

5.4 Hazardous Materials, Substances or Waste

The City shall act with reasonable due diligence to prevent the delivery of Unacceptable Wastes, Hazardous Materials, Hazardous Substances, or Hazardous Waste to the Monterey Peninsula Landfill. The City program for detection and removal of Hazardous Materials, Hazardous Waste, Hazardous Substances or Unacceptable Waste from Acceptable Waste ("Hazardous Materials Removal Program") is set out in **Exhibit C**, incorporated herein by this reference as if fully set forth herein.

The City shall notify the General Manager of the District, in writing, at least 30-days prior to making any significant modifications in City's Hazardous Materials Removal Program. The District may object to any such modification in writing within 15-days of receipt. The City shall give reasonable consideration to any District objections. The intentional delivery any quantity of Hazardous Waste shall constitute a material breach of this Agreement.

5.5 Emergency Re-Designation of Facility

The District shall have the right to suspend acceptance of Acceptable Waste to the Monterey Peninsula Landfill at any time for up to 45-days upon the occurrence of a natural disaster or other Uncontrollable Circumstances which affect the ability of the District to accept, under Applicable Law, City's otherwise Acceptable Waste at the Monterey Peninsula Landfill.

The District will make every reasonable effort to provide advance notice; however, exigent circumstances may require re-designation of Acceptable Waste on a temporary basis without prior notice. No adjustments shall be made to the disposal fee of waste redirected due to emergency.

5.6 Mutual Aid

In the event of an emergency, the parties may provide mutual aid to one another through the sharing of resources.

5.7 Weights for Payment

Payment shall be based upon weight provided by the Districts' regular vehicle weighing scale system.

6. REGULATORY COMPLIANCE

6.1 Applicable Law

Throughout the term of this Agreement the parties shall comply with Applicable Law; and shall obtain and maintain any permits, licenses, or approvals which are required for the performance of the party's respective obligations under this Agreement.

6.2 Compatibility with The Act

The actions of the City in entering into this Agreement shall be compatible with the goals, policies, and agreements of the Source Reduction and Recycling Element(s) (SRREs) of the jurisdiction(s) generating the waste which is accepted in the Monterey Peninsula Landfill.

6.3 Disposal Reporting

The City shall supply all information necessary to comply with the District's Disposal Reporting System and any other information required by the District to comply with the Act, or any other Applicable Law.

7. TERMINATION, DEFAULT AND REMEDIES

7.1 Termination for Convenience

Commencing on the first day of the eleventh year of this agreement, either party may terminate this Agreement for convenience during the term hereof by giving a 30-day's written notice to the other party. Upon the expiration of the 30-day notice period, a five-year final term on the same terms and conditions set forth herein shall commence.

7.2 Termination for Cause

Either party may terminate this Agreement for cause for the reasons set forth below, without the commencement of a final 5-year term (as provided in paragraph 7.1). In the case of termination for cause, the terminating party shall not be liable to the non-terminating party for any damages incurred due to early termination, including, but not limited to, consequential damages.

A. Termination for Cause by District

The District may terminate for cause if:

i. The City delivers waste originating outside the City in excess of 5% (paragraph 5.3);

ii. The City intentionally delivers and attempts to deliver Unacceptable Waste; Hazardous Substances or Hazardous Materials or Universal Waste (as defined by State law) (paragraph 5.4); or

iii. The City fails to comply with a Household Hazardous Waste Program that complies with state law (paragraph 8.4).

B. Termination for Cause by City

The City may terminate for cause if the District is unable to accept Acceptable Waste for more than 45-days and the parties are unable to reach a mutually acceptable resolution through modification of this Agreement (paragraph 5.5).

C. Termination for Cause by Either Party

Either party may terminate for cause if:

i. The District is ordered by court of competent jurisdiction to cease providing Disposal Services under the terms and conditions of this Agreement. In such event District will not be liable for actual or consequential damages due to the inability to provide Disposal Services.

ii The other party is determined to be in violation of Applicable Law, despite reasonable due diligence.

D. Opportunity for Cure

If either party fails to perform any of its obligations hereunder, that party shall have 30 business days from receipt of written notice of default from the other party within which to cure such default. However, the City's intentional delivery of industrial or commercial Hazardous Waste (pursuant to paragraph 5.4) or failure to maintain a Household Hazardous Waste (HHW) Management Program that complies with state law (pursuant to paragraph 8.4) may be grounds for termination in the District's discretion. Such default may be subject to termination pursuant to paragraph 7.2. In the case of a default involving HHW under paragraph 5.4 by City, City must cure the default within 24 hours of written notice of the default in compliance with applicable laws and regulations, including District ordinances and established procedures.

7.3 Dispute Resolution

If any dispute arises between the parties as to proper interpretation or application of this Agreement, the parties shall meet and confer in a good faith attempt to resolve the matter between themselves. If a dispute concerns any amounts to be paid to the District by the City,

then the City shall pay the amount demanded on time, under protest, notwithstanding that the City has commenced or proposes to commence the dispute resolution procedures specified herein. If a dispute is not resolved by meeting and conferring within a period of thirty (30) days after the first notice of the dispute is received by the non-disputing party, the matter shall be submitted for formal mediation to a mediator mutually agreed upon by the parties. The expenses of such mediation will be shared equally between the parties. If the dispute is not or cannot be resolved by mediation within one-hundred-twenty (120) days after the notice of the dispute is received by the non-disputing party, then either party may pursue any and all available legal and equitable remedies.

8. GENERAL CONDITIONS

8.1 Uncontrollable Circumstances

Each party will excuse performance by the other in the event of Uncontrollable Circumstances.

8.2 Indemnification and Hold Harmless

A. Indemnification by City. City and District agree that District, its Board of Directors, officers, employees and agents, shall to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorney's fees, litigation cost, defense cost, court cost or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the District. City acknowledges that District would not enter into this agreement in the absence of this commitment to indemnify and protect District as set forth herein.

To the full extent permitted by law, the City shall defend, indemnify and hold harmless District, its Board of Directors, officers, employees and agents from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, actual attorneys' fees incurred by District, court costs, interest, defense costs, including expert witness fees, and any other costs or expenses of any kind whatsoever without restriction or limitation which arise from or are connected with or are caused or claimed to be caused by the sole or active negligence or willful misconduct of the City or its franchised

waste hauler or contractor(s). All obligations under this provision are to be paid by the City as they are incurred by the District.

Without affecting the rights of the District under any provision of this Agreement or this section, the City shall not be required to indemnify and hold harmless District as set forth above for liability attributable to the active negligence of the District, its officers, employees or agents, provided such active negligence is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the District is shown to have been actively negligent and not in instances where the City, or its franchised waste hauler or contractor(s) are solely or partially at fault or in instances where the District's active negligence accounts for only a percentage of the liability involved. In those instances, the obligation of the City will be for that portion or percentage of liability not attributable to the active negligence of the District, as determined by written agreement between the parties or the findings of a court of competent jurisdiction.

The City shall obtain executed indemnity agreements from its franchised waste hauler and any contractor or any other person or entity involved by, for, with or on behalf of the City in the performance or subject matter of this Agreement. In the event the City fails to obtain such indemnity obligations from others as required here, the City shall be fully responsible according to the terms of this section.

Failure of the District to monitor compliance with these requirements imposes no additional obligations on District and will in no way act as a waiver of any rights hereunder and shall survive the termination of this Agreement or this section.

B. Indemnification by District. To the full extent permitted by law, the District shall defend, indemnify and hold harmless the City, its City Council, officers, employees and agents from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, actual attorneys' fees incurred by City, court costs, interest, defense costs, including expert witness fees, and any other costs or expenses of any kind whatsoever without restriction or limitation which arise from or are connected with or are caused or claimed to be caused by the sole or active negligence or the willful misconduct of the District. All obligations under this provision are to be paid by the District as they are incurred by the City.

Without affecting the rights of the City under any provision of this Agreement or this section, the District shall not be required to indemnify and hold harmless City as set forth above for liability attributable to the active negligence of the City, its officers, employees, contractors or agents, provided such active negligence is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City or its franchised waste hauler or contractor(s) are shown to have been actively negligent and not in instances where the District is solely or partially at fault or in instances where the City's active negligence accounts for only a percentage of the liability involved. In those instances, the obligation of the District will be for that portion or percentage of liability not attributable to the active negligence of the City, as determined by written agreement between the parties or the findings of a court of competent jurisdiction.

C. Notice of Claims

A party seeking indemnification shall promptly notify the other party of the assertion of any claim against it for which it seeks to be indemnified, shall give the other party the opportunity to defend such claim, and shall not settle the claim without the approval of the other party. These indemnification provisions are for the protection of the Parties only and shall not establish, of themselves, any liability to third parties. The provisions of this subsection shall survive termination of this Agreement.

8.3 Insurance

City shall require its franchise waste hauler to maintain, and require any of its subcontractors or others hired for this Agreement to maintain, insurance coverage as described hereunder effective the date first written above and such insurance shall remain in full force at all times throughout the full term of this Agreement. Insurers providing coverage as required by this Agreement shall be acceptable to District and must be authorized to do business in the State of California.

Certificates of insurance or other evidence satisfactory to the District shall be furnished in duplicate, evidencing City coverage of Workers' Compensation Insurance, Commercial General Liability, and Comprehensive Auto Liability; such certificates shall show the insurer's name, policy number, limit of coverage, and the period of the policy and cancellation conditions of these specifications. Such certificates shall state that coverage there under shall not be terminated or reduced in coverage until 30 days' written notice is given to General Manager of the District of cancellation or reduction in coverage; allow for severability of interest of District; and be primary and non-contributing with insurance maintained or self-insured by the District.

The District shall be added, by endorsement to the policy for Commercial General Liability, Auto Liability and Employer's Liability coverage, as an additional insured party on the above-described policies, as they pertain to the operations of the named insured performed under this Agreement for the District. The District, as the additional insured party, shall be defined as follows: "Monterey Regional Waste Management District and Agency, its Council, boards and commissions, officers, employees, agents, and volunteers". Entire limits of liability maintained must be certified but in no event shall limits be less than specified herein below:

Coverage	Minimum Limit
Workers' Compensation	Statutory
Employer's Liability	$1,000,000 per accident or disease
Comprehensive General Liability	$1,000,000 Combined
General Aggregate	$2,000,000 Single limit each occurrence
Comprehensive Auto Liability (Including owned, non-owned And hired vehicles)	$1,000,000 Combined Single limit each occurrence

Workers' Compensation Insurance Policy shall include a waiver of all rights of subrogation against the District.

8.4 Solid Waste Origin

City may deliver solid waste collected by City or any other entity under subcontract to City. The District understands and agrees that up to 5% of the City's Acceptable Waste delivered to the Monterey Peninsula Landfill during any twelve-month period may originate outside the City. Waste originating outside City in excess of the 5% cap, may not be delivered without the express prior written consent of the District General Manager. All waste delivered must originate from a municipality or district that has implemented an approved Household Waste Collection Program and has fully implemented its SRRE.

8.5 Non-Assignment of Agreement

City may not assign this Agreement or any of the rights or obligations under this Agreement without the prior written consent of the District, which may be withheld at the District's sole discretion. Any person or entity to whom this Agreement is assigned shall expressly agree to be bound by all provisions of this Agreement. City will remain liable to District for all obligations under this Agreement notwithstanding any assignment made pursuant to this clause.

8.6 Notices

Any notice required or permitted by this Agreement shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, postage prepaid, to the notice address of the respective parties set forth in this Agreement. Any changes to the respective addresses to which notices may be directed, may be made from time to time by any party by notice to the other party. The present addresses of the parties are:

District Monterey Regional Waste Management District
Attn: General Manager
Location for Direct Deliveries and Certified Mail:
14201 Del Monte Blvd., Monterey County, CA
P.O. Box 1670, Marina, CA 93933-1670

City City of Capitola.
Attn: City Manager
420 Capitola Drive
Capitola, CA 95010

8.7 Indemnification for Taxes and Contributions

Each party shall exonerate, indemnify, defend, and hold harmless the other (which for the purpose of this paragraph shall include, without limitation, its officers, agents, employees, and volunteers) from and against:

Any and all Federal, State and Local taxes, charges, fees, or contributions required to be paid with respect each party's officers, employees and agents engaged in the performance of this Agreement (including, without limitation, unemployment insurance, social security, and payroll tax withholding).

8.8 Non-Discrimination

During and in relation to the performance of this Agreement, both parties agree as follows:

Neither party shall discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, sexual orientation, age (over 18), veteran status, gender, pregnancy, or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to, the following: recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training (including apprenticeship),

employment, upgrading, demotion, or transfer. Both parties agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

8.9 Independent Contractor Status

The District and City have reviewed and considered the principal test and secondary factors for determining independent contractor status and agree that this is an independent contractor arrangement and that neither party is an employee of the other. Each party is responsible for its own insurance (workers' compensation, unemployment, etc.) and all payroll-related taxes. Neither party is entitled to any employee benefits from the other. Each party shall have the right to control the manner and means of accomplishing the result contracted for herein.

8.10. Amendment or Modification

This Agreement may be amended, altered or modified only by a writing, specifying such amendment, alteration or modification, executed by authorized representatives of both of the parties hereto.

8.11. Further Actions

Each of the parties shall execute and deliver to the other such documents and instruments, and to take such actions, as may reasonably by required to give effect to the terms and conditions of this Agreement.

8.12. Interpretation

This Agreement has been negotiated by and between the general managers and engineers or principals of both parties, all persons knowledgeable in the subject matter of this Agreement, which was then reviewed and drafted by attorneys representing both parties, in joint consultation with both general managers and engineers or principals. Accordingly, any rule of law (including Civil Code §1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose of the parties and this Agreement.

8.13 Captions

Titles or captions of sections and paragraphs contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision of it.

8.14 Severability

If any of the provisions of this Agreement are determined to be invalid or unenforceable, those provisions shall be deemed severable from the remainder of this Agreement and shall not cause the invalidity or unenforceability of the remainder of this Agreement, unless this Agreement without the severed provision would frustrate a material purpose of either party in entering into this Agreement.

8.15 Attorneys' Fees and Costs

In the event it should become necessary for either party to enforce any of the terms and conditions of this Agreement by means of court action or administrative enforcement, the prevailing party, in addition to any other remedy at law or in equity available to such party, shall be awarded all reasonable costs and reasonable attorney's fees in connection therewith, including the fees and costs of experts reasonably consulted by the attorneys for the prevailing party.

8.16 Relationship of Parties

Nothing in this Agreement shall create a joint venture, partnership or principal-agent relationship between the parties.

8.17 Controlling Law; Jurisdiction

The parties agree that this Agreement and the rights and remedies of the parties hereunder shall be governed by California law. Each party consents to the exclusive jurisdiction of the Superior Court of California in and for the County of Monterey with respect to any dispute which is not otherwise resolved as herein provided and for the enforcement hereof.

8.18 Waiver

No waiver of any right or obligation of either party hereto shall be effective unless made in writing, specifying such waiver, executed by the party against whom such waiver is sought to be enforced. A waiver by either party of any of its rights under this Agreement or any other right at any time shall not be a bar to exercise of the same right on any subsequent or any other right at any time.

8.19 Counterparts

This Agreement may be executed in two counterparts, each of which shall be deemed an original, but both of which shall be deemed to constitute one and the same instrument.

8.20 Entire Agreement

This Agreement constitutes the entire and complete agreement between the parties regarding the subject matter hereof, and supersedes all prior or contemporaneous negotiations, understandings or agreements of the parties, whether written or oral, with respect to such subject matter.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates opposite their respective signatures:

MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

Date:_____ By_____
Chairperson of the Board of Directors

CITY OF CAPITOLA

Date:_____ By_____
City Manager

ATTEST:

Date:_____ By_____
MRWMD Board Secretary

Date:_____ By_____
City Clerk

APPROVED AS TO FORM:

By_____ Date:_____
District Legal Counsel

By_____ Date:_____
City Attorney

APPROVED AS TO INSURANCE:

By_____ Date:_____
City Risk Manager

EXHIBIT A

REFUSE RATES

	Refuse Disposal Rates					
Effective Date of new rates	**Current**	**New**	**7/1/2021**	**7/1/2022**	**7/1/2023**	**7/1/2024**
Posted MRWMD Refuse Rate	$65.00	$65.00	TBD	TBD	TBD	TBD
Contractual Refuse Rates						
City of Capitola	$37.52	$40.00	$45.00	$50.00	$55.00	95% Posted Refuse Rate

EXHIBIT B

CONDITIONS & PROCEDURES FOR DELIVERY OF ACCEPTABLE WASTE BY CITY OF CAPITOLA TO MONTEREY PENINSULA LANDFILL

1. The City will not deliver any Acceptable Waste to the Landfill after 4:00 P.M. Monday-Saturday except in the case of an emergency, or with prior written approval of the District General Manager or his/her designee.
2. The types of vehicles to deliver Acceptable Waste will be Transfer Trucks or Refuse Collection Packer Trucks only.
3. The City will participate in a Household Hazardous Waste Program that complies with state law.

City delivery vehicles shall proceed to the Districts' regular vehicle weighing scale system upon arrival at the Monterey Peninsula Landfill for all loads accepted. District staff will invoice the City monthly based upon weight provided by the Districts' regular vehicle weighing scale system. Terms of payment will be net 30 day's upon receipt of invoice

EXHIBIT C

CITY HAZARDOUS MATERIALS REMOVAL PROGRAM

Attachment: 2020 Monetrey Regional Waste Disposal Agreement (Agreement with MRWMD)

CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 8, 2020

FROM: City Manager Department

SUBJECT: Establish the Personnel Analyst and Deputy City Clerk Classifications

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RECOMMENDED ACTION:

1. Approve the creation of Personnel Analyst and Deputy City Clerk classifications and job descriptions
2. Adopt a resolution amending the City of Capitola Salary Schedule
3. Approve Side Letter with Confidential Employees
4. Authorize staff to recruit and fill Personnel Analyst and Deputy City Clerk positions at 20-hours per week

BACKGROUND: The City has received notice that the Executive Assistant to the City Manager intends to retire from the City by the end of November.

The loss of the Executive Assistant to the City Manager will mean that City Manager's staff will be down three of the six positions at City Hall. The City has not filed the already existing vacancies in the department due to the 2020-21 budget hiring freeze.

DISCUSSION: With the departure of the Executive Assistant to the City Manager, staff has evaluated the existing classifications within the City Manager department to determine the current and future needs of the City.

As a result, staff recommends changes to the organizational structure. Staff is recommending the elimination of both the Executive Assistant to the City Manager and Records Coordinator classifications and replacing them with Personnel Analyst and Deputy City Clerk positions.

Historically the Executive Assistant to the City Manager reported to the City Manager and has served as the City's Deputy City Clerk. Staff is recommending shifting that responsibility to the new Deputy City Clerk position. The Deputy City Clerk will report to the City Clerk, this will assure close coordination between the City Clerk and the Deputy City Clerk. Staff believes the updated titles and job descriptions better reflect the duties of the positions and the City's needs.

The new Personnel Analyst position will now focus on the human resources duties of the Executive Assistant to the City Manager. The position will report to the Assistant to the City Manager to better coordinate the City's personnel functions.

As proposed, the Personnel Analyst classification will have the same salary as the Executive Assistant to the City Manager. Staff is proposing to increase the Deputy City Clerk salary to 5%

more than the past Records Coordinator salary steps, due to the increased responsibilities of the position. The Records Coordinator classification will be removed from the salary schedule immediately and the Executive Assistant to the City Manager classification will be removed when the incumbent employee separates employment with the City.

Staff is requesting approval from the City Council to begin the recruitment process to replace the departing full-time (40-hours) Executive Assistant to the City Manager with a half-time (20 hours) Personnel Analyst and to also recruit for a half-time (20-hours) Deputy City Clerk.

FISCAL IMPACT: Staff anticipates the annual cost for a half-time Personnel Analyst and half-time Deputy City Clerk will not be significantly different than the cost for a full-time Executive Assistant to the City Manager. The salary costs will be lower, but some of the benefits will be higher for two employees.

ATTACHMENTS:

1. Deputy Clerk Job Description (PDF)
2. Confidential Employees Side Letter (PDF)
3. Personnel Analyst Job Description (PDF)

Report Prepared By: Larry Laurent
Assistant to the City Manager

Reviewed and Forwarded by:

Jamie Goldstein, City Manager 10/2/2020

Personnel Analyst and Deputy City Clerk
October 8, 2020

RESOLUTION NO. ____
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AUTHORIZING AND APPROVING PAY RATES AND RANGES (SALARY SCHEDULE) OCTOBER 4, 2020 - DECEMBER 26, 2020

WHEREAS, the City Council establishes the legal current salary range from the salary schedule for each class of position; and

WHEREAS, the California Public Employee's Retirement Law, at Section 570.5 of the California Code of Regulations Title 2, requires the City to publish pay rates and ranges on the City's internet site and the City Council to approve the pay rates and range in its entirety each time a modification is made; and

WHEREAS, City staff believe that the addition of the Personnel Analyst (Exhibit B) and Deputy City Clerk (Exhibit C) Classifications better meet the needs of the City than the Executive Assistant to the City Manager and Records Coordinator classifications; and

WHEREAS, the attached salary schedule includes the addition of the Personnel Analyst and Deputy City Clerk job classification and the removal of the Records Coordinator classification; and

WHEREAS, a salary resolution is adopted by the City Council upon review and recommendation of the City Manager.

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

Authorize and approve City of Capitola pay rates and ranges (salary schedule, Exhibit A) for permanent employees from October 4, 2020 to December 26, 2020.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola on the 8th day of October 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Personnel Analyst and Deputy City Clerk
October 8, 2020

EXHIBIT A

POA SALARY SCHEDULE												
JUNE 28, 2020 - DECEMBER 26, 2020												
2% REDUCTION	Monthly						Hourly					
	Step A	Step B	Step C	Step D	Step E	Step F	Step A	Step B	Step C	Step D	Step E	Step F
Community Service Officer	$4,938.27	$5,187.28	$5,445.46	$5,718.28	$6,005.75	$6,306.04	$28.49	$29.93	$31.42	$32.99	$34.65	$36.38
Police Officer Trainee	$5,941.67											
Police Officer	$6,238.29	$6,551.40	$6,877.32	$7,221.55	$7,584.09	$7,963.11	$35.99	$37.80	$39.68	$41.66	$43.75	$45.94
Records Manager	$5,690.82	$5,976.45	$6,274.91	$6,588.02	$6,919.43	$7,265.49	$32.83	$34.48	$36.20	$38.01	$39.92	$41.92
Sergeant	$7,640.85	$8,023.54	$8,426.36	$8,845.67	$9,290.60	$9,753.85	$44.08	$46.29	$48.61	$51.03	$53.60	$56.27

CAPTAIN SALARY SCHEDULE												
JUNE 28, 2020 - DECEMBER 26, 2020												
6% REDUCTION	Monthly						Hourly					
	Step A	Step B	Step C	Step D	Step E	Step F	Step A	Step B	Step C	Step D	Step E	Step F
Police Captain	$8,778.26	$9,217.49	$9,678.10	$10,163.29	$10,671.98	$11,206.33	$50.64	$53.18	$55.84	$58.63	$61.57	$64.65

ACE SALARY SCHEDULE											
OCTOBER 4, 2020 - DECEMBER 26, 2020	Monthly					Hourly				
6% REDUCTION	Step A	Step B	Step C	Step D	Step E	Step A	Step B	Step C	Step D	Step E
ACCOUNT TECHNICIAN	$4,269.53	$4,482.04	$4,705.09	$4,940.43	$5,188.07	$24.63	$25.86	$27.14	$28.50	$29.93
ACCOUNTANT I	$5,158.21	$5,416.39	$5,686.85	$5,971.37	$6,268.18	$29.76	$31.25	$32.81	$34.45	$36.16
ACCOUNTANT II	$5,688.61	$5,973.13	$6,269.94	$6,584.32	$6,914.50	$32.82	$34.46	$36.17	$37.99	$39.89
ACCOUNTS CLERK	$3,874.37	$4,067.56	$4,269.53	$4,483.80	$4,706.85	$22.35	$23.47	$24.63	$25.87	$27.15
ADMINISTRATIVE ASSISTANT	$3,907.74	$4,104.44	$4,309.93	$4,525.95	$4,752.51	$22.54	$23.68	$24.86	$26.11	$27.42
ADMINISTRATIVE CLERK I	$3,040.13	$3,191.17	$3,349.24	$3,517.84	$3,693.47	$17.54	$18.41	$19.32	$20.30	$21.31
ADMINISTRATIVE CLERK II	$3,517.84	$3,693.47	$3,877.88	$4,072.83	$4,276.56	$20.30	$21.31	$22.37	$23.50	$24.67
ADMINISTRATIVE RECORDS ANALYST	$4,613.76	$4,843.84	$5,084.45	$5,340.87	$5,606.06	$26.62	$27.95	$29.33	$30.81	$32.34
ASSISTANT PLANNER	$4,980.83	$5,228.46	$5,490.15	$5,764.13	$6,052.16	$28.74	$30.16	$31.67	$33.25	$34.92
BUILDING INSPECTOR I	$4,362.61	$4,582.15	$4,808.71	$5,051.08	$5,303.98	$25.17	$26.44	$27.74	$29.14	$30.60
BUILDING INSPECTOR II	$5,089.72	$5,344.38	$5,613.09	$5,892.34	$6,187.40	$29.36	$30.83	$32.38	$33.99	$35.70
DATA ENTRY CLERK	$3,050.67	$3,201.71	$3,363.29	$3,531.89	$3,709.28	$17.60	$18.47	$19.40	$20.38	$21.40
DEPUTY CITY CLERK	$4,104.44	$4,309.93	$4,525.95	$4,752.51	$4,989.61	$23.68	$24.86	$26.11	$27.42	$28.79
DEVELOPMENT SERVICES TECHNICIAN	$4,104.44	$4,309.93	$4,525.95	$4,752.51	$4,989.61	$23.68	$24.86	$26.11	$27.42	$28.79
EQUIPMENT OPERATOR	$4,088.63	$4,292.36	$4,504.87	$4,731.43	$4,968.53	$23.59	$24.76	$25.99	$27.30	$28.66
MAINTENANCE WORKER I	$2,908.41	$3,054.18	$3,206.98	$3,368.56	$3,535.40	$16.78	$17.62	$18.50	$19.43	$20.40
MAINTENANCE WORKER II	$3,893.69	$4,088.63	$4,292.36	$4,508.39	$4,733.19	$22.46	$23.59	$24.76	$26.01	$27.31
MAINTENANCE WORKER III	$4,088.63	$4,292.36	$4,508.39	$4,733.19	$4,970.29	$23.59	$24.76	$26.01	$27.31	$28.67
MECHANIC	$4,273.04	$4,487.31	$4,710.36	$4,945.70	$5,193.34	$24.65	$25.89	$27.18	$28.53	$29.96
MUSEUM CURATOR	$3,874.37	$4,067.56	$4,273.04	$4,485.55	$4,708.60	$22.35	$23.47	$24.65	$25.88	$27.17
PARKING ENFORCEMENT OFFICER	$3,526.62	$3,700.49	$3,886.66	$4,081.61	$4,285.34	$20.35	$21.35	$22.42	$23.55	$24.72
RECEPTIONIST	$3,345.72	$3,512.57	$3,688.20	$3,874.37	$4,067.56	$19.30	$20.26	$21.28	$22.35	$23.47
~~RECORDS COORDINATOR~~	~~$3,907.74~~	~~$4,104.44~~	~~$4,309.93~~	~~$4,525.95~~	~~$4,752.51~~	~~$22.54~~	~~$23.68~~	~~$24.86~~	~~$26.11~~	~~$27.42~~
RECORDS MANAGMENT CLERK	$3,821.68	$4,013.11	$4,215.09	$4,425.84	$4,647.13	$22.05	$23.15	$24.32	$25.53	$26.81
RECORDS TECHNICIAN	$3,767.23	$3,955.16	$4,153.62	$4,360.86	$4,578.64	$21.73	$22.82	$23.96	$25.16	$26.42
RECREATION ASSISTANT	$2,860.99	$3,003.25	$3,156.05	$3,312.36	$3,477.45	$16.51	$17.33	$18.21	$19.11	$20.06
RECREATION COORDINATOR	$3,700.49	$3,884.90	$4,079.85	$4,285.34	$4,497.85	$21.35	$22.41	$23.54	$24.72	$25.95
RECREATION FACILITY CUSTODIAN	$2,764.39	$2,903.14	$3,048.91	$3,201.71	$3,363.29	$15.95	$16.75	$17.59	$18.47	$19.40
RECREATION RECEPTIONIST	$3,101.60	$3,256.15	$3,419.49	$3,589.85	$3,770.75	$17.89	$18.79	$19.73	$20.71	$21.75

CONFIDENTIAL SALARY SCHEDULE										
OCTOBER 4, 2020 - DECEMBER 26, 2020	Monthly					Hourly				
6% SALARY REDUCTION	A	B	C	D	E	A	B	C	D	E
ASSIST TO CITY MGR	$ 6,867.43	$7,210.48	$7,570.63	$7,950.02	$8,347.57	$39.62	$41.60	$43.68	$45.87	$48.16
CITY CLERK	$ 6,341.63	$6,659.04	$6,991.40	$7,340.86	$7,708.49	$36.59	$38.42	$40.33	$42.35	$44.47
EXEC ASSIST TO CITY MGR	$ 4,963.02	$5,210.96	$5,472.79	$5,746.37	$6,033.85	$28.63	$30.06	$31.57	$33.15	$34.81
INFORMATION SYSTEMS SPECIALIST	$ 4,898.90	$5,143.63	$5,400.11	$5,670.49	$5,953.70	$28.26	$29.67	$31.15	$32.71	$34.35
PERSONNEL ANALYST	$ 4,963.02	$5,210.96	$5,472.79	$5,746.37	$6,033.85	$28.63	$30.06	$31.57	$33.15	$34.81

Personnel Analyst and Deputy City Clerk
October 8, 2020

MID-MANAGEMENT SALARY SCHEDULE											
JUNE 28, 2020 - DECEMBER 26,2020	Monthly						Hourly				
6% SALARY REDUCTION	A	B	C	D	E		A	B	C	D	E
ASSOCIATE PLANNER	$5,807.29	$6,097.97	$6,402.55	$6,723.16	$7,059.80		$33.50	$35.18	$36.94	$38.79	$40.73
BUILDING OFFICIAL (CAPITOLA)	$7,678.79	$8,063.46	$8,466.57	$8,889.35	$9,334.25		$44.30	$46.52	$48.85	$51.28	$53.85
BUILDING OFFICIAL (SCOTTS VALLEY)	$8,168.92	$8,578.15	$9,006.99	$9,456.75	$9,930.05		$47.13	$49.49	$51.96	$54.56	$57.29
CIVIL ENGINEER/PROJECT MANAGER	$6,677.20	$7,011.71	$7,362.24	$7,729.87	$8,116.74		$38.52	$40.45	$42.47	$44.60	$46.83
ENVIRONMENTAL PROJECTS MANAGER	$5,807.29	$6,097.97	$6,402.55	$6,723.16	$7,059.80		$33.50	$35.18	$36.94	$38.79	$40.73
MAINTENANCE SUPERINTENDENT	$5,713.20	$6,001.23	$6,299.80	$6,614.17	$6,944.35		$32.96	$34.62	$36.34	$38.16	$40.06
FIELD SUPERVISOR	$5,323.30	$5,588.50	$5,869.51	$6,162.81	$6,468.40		$30.71	$32.24	$33.86	$35.55	$37.32
RECREATION SUPERVISOR	$5,147.67	$5,405.85	$5,678.07	$5,962.59	$6,259.40		$29.70	$31.19	$32.76	$34.40	$36.11
SENIOR PLANNER	$6,677.20	$7,011.71	$7,362.24	$7,729.87	$8,116.74		$38.52	$40.45	$42.47	$44.60	$46.83
SENIOR ACCOUNTANT	$6,677.20	$7,011.71	$7,362.24	$7,729.87	$8,116.74		$38.52	$40.45	$42.47	$44.60	$46.83
SENIOR MECHANIC	$4,945.70	$5,193.34	$5,453.27	$5,725.49	$6,011.77		$28.53	$29.96	$31.46	$33.03	$34.68

MANAGEMENT SALARY SCHEDULE				
JUNE 28, 2020 - DECEMBER 26, 2020				
6% SALARY REDUCTION		Annually	Monthly	Hourly
Admin. Services Director		$97,541.90	$8,128.49	$46.90
City Manager		$190,031.50	$15,835.96	$91.36
Chief of Police		$156,995.76	$13,082.98	$75.48
Director of Public Works		$144,107.07	$12,008.92	$69.28
Director of Finance		$142,510.63	$11,875.89	$68.51
Community Development Director		$139,772.84	$11,647.74	$67.20

City of Capitola

Association of Capitola Employees
Non-Exempt

Deputy City Clerk

GENERAL PURPOSE

Under general direction of the City Clerk, performs clerical and administrative tasks. Serves as Clerk to the Capitola Planning Commission; provides backup to the City Clerk when required. Administers and coordinates the City's centralized records management program. Supports City staff with other administrative needs and performs related duties as required.

SUPERVISION RECEIVED

Reports to and works under the general supervision of the City Clerk.

ESSENTIAL DUTIES AND RESPONSIBILITIES

I. City Clerk Office:

A. Clerk and Administration:

- Clerk for Capitola Planning Commission: attend all meetings, take, and finalize minutes, communicate with Planning staff regarding meeting procedure and virtual or physical meeting set-up
- Clerk for Capitola City Council when City Clerk is unavailable
- Assist the City Clerk in the publication and distribution of City Council agendas
- Staff the front desk as assigned; answer and transfer calls from the public, etc.
- Supply/Create content for the City's social media accounts as necessary
- Perform a variety of administrative duties in support of the City Clerk's office
- Manage office supplies for City Hall.

B. Records Management:

- Coordinate all records management functions for the City, including the receipt, storage, retrieval, and disposition of official City records in accordance with legal requirements and records management policies and procedures
- Respond to public inquiries, and California Public Record Act requests, verbally and in writing, and aids in the use of public records
- Review and monitor legal requests for records
- Assist in the development and implement disaster preparedness plan for City records.
- Assist in the research and development of departmental policies and procedures
- Assist in the maintenance of records management systems
- Develop, implement, and maintain policies and procedures for the recording, indexing, filing, and retrieving of active documents and the storage of inactive documents
- Ensures the effective implementation of the records retention program
- Interpret Federal, State, and other regulations relating to records keeping and retention requirements and ensure compliance with all regulations.

II. City Manager Department:

- Schedule use of City Hall facilities; Council Chambers and Community Room
- Aid in scheduling City Manager's calendar as needed
- Answer City Hall phones; answer questions and transfer calls to correct staff

- Other duties as assigned

DESIRED MINIMUM QUALIFICATIONS

Education and Experience:

Any combination of experience and education that provides the skills, knowledge and abilities shown above is qualifying. A typical way to obtain these requirements would be:

- Successful completion of two years of college-level course work in Business or Public Administration, Office Management or a directly related field, and two years of increasingly responsible record keeping/administrative experience; or
- High school graduation or tested equivalent and four years of increasingly responsible record keeping/administrative experience

Necessary Knowledge, Skills and Abilities:

Knowledge of:

- Standard office procedures, practices, and equipment
- Proper grammar, spelling, punctuation, and business correspondence format
- Computer processing skills (Word, Excel, Power Point, data bases, etc.)
- Updating websites and social media accounts
- Current records management practices and procedures

Skills:

- Effectively operate modern office equipment including computer equipment, copier, scanner
- Effectively develop and coordinate office systems.
- Effectively use word processing and spreadsheet programs.
- Effectively compose correspondence and routine administrative reports.

Ability to:

- Interact effectively with all levels of employees and the public
- Maintain good working relationships with other departments and employees
- Develop and implement division goals, objectives, policies, and procedures
- Communicate effectively both verbally and in writing
- Interpret laws related to records retention and disposition
- Conduct needed analysis to determine the Clerk's Office and City's Records Management needs both on a short and long-term basis
- Anticipate staff's records storage and access needs and work cooperatively with staff to plan accordingly.
- Assist public in person, over phone, and via email
- Direct public to the appropriate City of Capitola staff or office
- Analyze work procedures and determine the correct automation and technologies to streamline procedures and to aid in the effective and efficient operation of City systems
- Meet multiple deadlines

SPECIAL REQUIREMENTS

None.

TOOLS AND EQUIPMENT USED

Personal computer; computer network workstation; telephone; copy machine; fax machine.
Microsoft Office Software Programs (particularly Word, Excel, Power Point, Outlook, etc.)

PHYSICAL DEMANDS

The physical demands described herein are those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to sit and talk or hear, use hands and fingers to handle or feel objects, tools or controls; and reach with hands and arms. The employee is occasionally required to walk.

The employee must occasionally lift and/or move up to 25 pounds. Specific vision abilities required by this job include close vision and the ability to adjust focus.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The noise level in the work environment is usually quiet to moderate.

SELECTION GUIDELINES

Formal application; rating of education and experience; oral interview; reference check and job-related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Effective Date: October 1, 2020

SIDE LETTER BETWEEN CITY OF CAPITOLA AND CAPITOLA CONFIDENTIAL EMPLOYEES

Pursuant the provisions of the Meyers-Milias-Brown Act ("MMBA"), this Side Letter of Agreement ("Side Letter Agreement") is entered between the City of Capitola ("City") and the Capitola Confidential Employees ("CE") (collectively, "the Parties").

WHEREAS, the Parties recognize the impacts of the COVID-19 pandemic on the City's ability to provide essential services; and

WHEREAS, the Parties reaffirm their commitment to collaborative labor relations; and

WHEREAS, in order to better meet City needs, a new Personnel Analyst position needs to be created.

WHEREAS, due to current budget limitations, the City cannot staff the new position full time; and

WHEREAS, the part-time Personnel Analyst position is better classified as FLSA non-exempt; and

WHEREAS, the Parties have met and conferred in good faith, in accordance with the MMBA, concerning the terms and conditions of this Side Letter Agreement;

IT IS HEREBY AGREED AS FOLLOWS:

Section I.3 of the Confidential Employees MOU shall be amended to read:

Overtime

All Confidential employees other than Personnel Analyst, are exempt under FLSA, and therefore not entitled to overtime compensation.

The normal regular work week commences on Sunday and consist of forty (40) hours except that the regular work week of public works department personnel engaged in maintenance activities shall be as approved by the City Manager. Except for employees exempt under the FLSA, overtime will be compensated at the rate of one and one-half times the base rate of pay for all hours worked over 40 hours per week in a workweek. Such additional compensation shall, at the employee's election, be either in cash or compensatory time off, in accordance with Labor Code section 204.3.

With regard to this section "hours worked" shall not include sick leave. Nor shall such a definition include vacation or compensated leave time off not scheduled in advance by at least ten working days. "Hours Worked" shall also not include workers compensation time off unless immediate treatment is required on the

date of injury for the injury incurred, in which case overtime is allowed providing the overtime accrued is an extension of the workday and the hours worked for the week exceed 40 hours.

Section II.3 of the Confidential Employees MOU shall be amended to read:

All Confidential Employees other than Personnel Analyst, are entitled to ten days per year of administrative time off. Administrative Leave is non-cumulative. It may not be converted to cash. One year's worth of Administrative Leave becomes available on the first day of the calendar year. The exception is persons hired mid-year, in which case administrative leave is prorated for the applicable period.

Section V.1 of the Confidential Employees MOU shall be amended to read:

Fair Labor Standards Act

All positions other than Personnel Analyst included in this Compensation Plan are covered by appropriate sections of the Fair Labor Standards Act of 1935, and are specifically subject to Rule No. 54.118 (salaried executive employees are not paid at a higher rate for what might otherwise be labeled "overtime", correspondingly, their salary is not reduced "for any week in which (s)he performs any work without regard to the number of days or hours worked." Accordingly, bi-weekly time sheets will not result in adjustments to the compensation for the period, but merely for yearly evaluation of whether the position is, after factoring in administrative leave, over or under staffed. However, time off for sick leave purposes shall be reported and reflected in the accumulated sick leave calculations.

This Side Letter Agreement is effective October 4, 2020. This Side Letter Agreement shall supersede any inconsistent provisions in the Parties' MOU and shall be incorporated into the MOU by this reference.

Capitola Confidential Employees	City of Capitola
By: _____	By: _____
_____	City Manager
_____	Date: _____

City of Capitola

Confidential Employees Group
FLSA Non-Exempt

PERSONNEL ANALYST

GENERAL PURPOSE

Performs a wide variety of responsible, confidential and complex administrative duties.

The individual is expected to provide excellent and courteous customer service and establish and maintain effective working relationships. Develop and produce clear, concise and descriptive written and oral reports, correspondence, and other communicative materials.

Manages a variety of simultaneous work projects to meet established timetables and commitments. Understand, interpret, explain and apply federal, State, and local legislation regarding equal employment opportunity and City Human Resources policies, programs and procedures.

Also, performs a variety of routine and complex administrative, technical and professional work regarding various components of the personnel system of the organization, including keeping custody of personnel action and medical files for employees, administration of the Classification Plan, applicant screening, examination, selection, MOU administration and benefit administration.

The individual in this position is expected to exercise considerable independent judgment and apply experience in making decisions and providing information in accordance with established policies and procedures.

This individual will be part of the team that answers City Hall phones.

SUPERVISION RECEIVED:
Works under the general supervision of the Assistant to the City Manager.

SUPERVISION EXERCISED:
May supervise temporary and/or part-time clerical employees.

ESSENTIAL DUTIES AND RESPONSIBILITIES

A. Personnel

- Prepares and files personnel action forms and distributes to relevant departments.
- Keeps record of personnel transactions such as hires, promotions, transfers, performance reviews, and terminations.
- Plans and conducts new employee orientation and onboarding.
- Collaborates in the administration of the employee performance appraisal system.
- Collaborates in conducting salary surveys within labor market to determine

competitive wage rate.

- Plans and conducts new employee orientation and onboarding to foster positive attitude toward organizational goals.
- Reviews proposed salary actions to ensure conformance with established guidelines and policies.
- Conducts exit interviews with employees prior to separation.
- Collaborates with staff and legal representation to interpret new legislation and other regulatory changes.
- Prepares new policies, programs, and procedures to comply with regulatory changes.
- Coordinates employee training program to ensure compliance with policies, programs, and procedures.

B. Employee Benefits

- Maintains employee benefits records including
  - Health Insurance (Medical, Dental, Vision)
  - Disability Insurance
  - COBRA
  - Flexible Benefits
  - Deferred Compensation
  - Retirement

- Collaborates in the preparation and distribution of written and verbal information to inform employees of benefits programs such as insurance plans, pension plans, paid time off, bonus pay, and special employer sponsored activities.

- Notifies employees and labor union representatives of changes in benefits programs.

- Collaborates in administration of benefits programs designed to insure employees against loss of income due to illness, injury, layoff, or retirement.

- Administers workers compensation process.
  - Verifies necessary forms are completed.
  - Prepares workers compensation reports for insurance carrier.
  - Works with claims provider to ensure

C. Recruitment and Hiring

- Reviews proposed salary actions to ensure conformance with established guidelines and policies.

- Collaborates in writing job descriptions for review by the Personnel Officer and

develops recommendations to adjust salary structure.

- Develops, posts, and advertises position vacancies; recruits, interviews, and collaborates in the selection of employees to fill vacant positions.

- Conducts or arranges for oral interviews, and skills, intelligence, or psychological testing of applicants, as appropriate and permissible; assists in the development of and administers oral examinations, written examinations, or assessment center examinations.

- Reviews employment applications and evaluates work history, education and training, job skills, compensation needs, and other qualifications of applicants.

- Informs applicants of job duties and responsibilities, compensation and benefits, work schedules and working conditions, company and/or union policies, promotional opportunities, and other related information.

- May administer pre-employment tests to applicants.

- Keeps records of applicants not selected for employment.

D. Liability and Risk Management

- Gathers necessary information to process liability claims.
- Communicates with claimants, insurers, attorneys, investigators, and staff on liability claims.
- Prepares documentation on liability claims.
- Maintains all required documentation for liability claims.
- Collaborates in determining appropriate liability coverages.

DESIRED MINIMUM QUALIFICATIONS

Education and Experience:

(A) Equivalent to the completion of an Associate of Arts degree including or supplemented by college level courses in business administration, human resources or a related field; or
(B) Three (3) years of experience in personnel administration; or
(C) Five (5) years of progressively responsible experience working at an advanced clerical or administration duties; or
(D) Any equivalent combination of education and progressively responsible experience, with additional work experience substituting for the required education on a year for year basis.

Necessary knowledge, skills and abilities:

A) Knowledge of modern policies and practices of public personnel administration;

considerable knowledge of employee classification, compensation and benefits, recruitment, selection, training, and labor relations; working knowledge of the principles and practices of modern public administration and human resource administration; working knowledge of modern records management techniques;

B) Skill in preparing and administering job descriptions, announcements, and examination; skill in analyzing personnel programs and systems; skill in operating the listed tools and equipment;

C) Ability to accurately record and maintain records; ability to analyze and interpret comprehensive job requirements; ability to carry out assigned projects to their completion; ability to communicate effectively verbally and in writing; ability to establish and maintain effective working relationships with applicants, employees, city officials, labor unions and the general public; ability to maintain confidential and sensitive information; ability to understand and follow instructions.

SPECIAL REQUIREMENTS
Possession of a valid California motor vehicle operator's license.

TOOLS AND EQUIPMENT USED
Requires frequent use of personal computer; calculator, telephone, copy machine, postage machine and fax machine.

PHYSICAL DEMANDS
The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to sit and talk or hear. The employee is occasionally required to walk; use hands to finger, handle, or feel objects, tools, or controls; and reach with hands and arms.

The employee must occasionally lift and/or move up to 10 pounds. Specific vision abilities required by this job include close vision and the ability to adjust focus.

WORK ENVIRONMENT
The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The noise level in the work environment is usually moderately quiet.

SELECTION GUIDELINES
Formal application, rating of education and experience; oral interview and reference check; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Effective Date: 10/2020

CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF OCTOBER 8, 2020

FROM: Community Development

SUBJECT: Overview of Zoning Code Public Review in Preparation for Adoption

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RECOMMENDED ACTION: Accept staff presentation on the zoning code update and continue the item to the October 22, 2020, meeting for a first reading of the ordinance.

BACKGROUND: The City Council adopted a comprehensive update to the Zoning Code on January 25, 2018. Since the local adoption, Capitola staff has been working with Coastal Commission staff toward certification. Coastal Commission staff reviewed the 2018 zoning code and proposed modifications for the City to consider before the Coastal Commission takes action to certify the zoning code.

The Capitola Planning Commission reviewed the modifications recommended by Coastal Commission staff during a special meeting on February 21, 2019, and a regular meeting on March 7, 2019. The Planning Commission provided recommendations to the City Council regarding which Coastal Commission revisions to accept.

On April 5, 2019, City staff published an updated draft of the zoning code on the City website, which included the Planning Commission accepted Coastal Commission modifications in “redline form” to show changes from the 2018 zoning code.

Between April 11, 2019, and July 21, 2020, the City Council discussed the Coastal Commission recommended modifications during six public hearings. On July 21, 2020, the City Council directed staff to publish an updated public review draft of the zoning code in preparation for local adoption and California Coastal Commission certification.

The updated zoning code was circulated for a 60-day public review period from July 31, 2020, to September 30, 2020 (Attachment 2). The link to this draft has been accessible on the City’s website and will remain so during the current public hearings and future adoption hearings. As of Friday, Oct. 2, no comments had been received. Two agencies reached out with timing questions but did not submit public comment.

On October 1, 2020, the Planning Commission reviewed the updated zoning code and by a 4 to 1 vote recommend approval to the City Council with two revisions explained in the analysis section of the report. Commissioner Welch expressed concerns with the Coastal Commission revisions to the Coastal Overlay Zone and did not recommend approval of the updated code.

DISCUSSION/ANALYSIS: During the October 8, 2020, Council Meeting, staff will provide an overview of this draft's significant modifications. The October 8 overview has been scheduled as an opportunity for City Council and the public to ask questions and provide comments prior to adoption hearings. Adoption hearings are scheduled for October 22, 2020, and November 12, 2020.

As previously mentioned, the Coastal Commission staff provided redlines to the 2018 zoning code. Many of the modifications were minor. All Planning Commission and City Council zoning code modifications since the 2018 adoption are included as Attachment 1.

Significant Changes to the 2018 Zoning Code. During the October 8, 2020, Council meeting, staff will present the significant changes which have been incorporated into the public review draft of the zoning code update. The following is a summary of those changes:

- *Section 17.28 Visitor Serving Overlay*. Table 17.28-1 and footnotes.
  Pages 28-3 and 28-4.
  Update: The 2018 zoning code listed single-family residential as a conditional use on the Monarch Cove Inn site. The Coastal Commission suggested the site be required to provide visitor serving use in combination with single-family. The updated version has been modified to add Vacation Rental as a Conditional Uses for the Monarch Cove Inn site. Also, single-family dwelling is listed as a conditional use with amended footnote 12 which reads "Allowed in conjunction with overnight accommodation use (at least one property) or grant of public access to a viewpoint."

- *Chapter 17.44 Coastal Overlay Zone*
  Pages 44-1 through 44-27.
  Update: Extensive edits were made to this chapter that comply with the California Coastal Act and the necessary procedures and regulations for Coastal Development Permits.

- *Section 17.76.040.C.3 MU-V Zoning District*
  Pages 76-8 through 76-10 (including figure 17.76-2)
  Update: The zoning code carried over special requirements for new development and intensification of uses within the mixed-use village (MU-V). The standards are complex and difficult to comprehend. The parking standards for the MU-V were updated to clarify the intent of protecting the pedestrian oriented commercial core and avoid curb cuts and simplified to be user friendly through plain English and a map.

- *Section 17.88.050.B Available Incentives – Village Hotel Maximum Height*
  Pages 88-3 through 88-4
  Update: The zoning code introduces incentives in the case of a hotel in the village; increased height in exchange for community benefits. The zoning code as adopted requires that the bluff behind the hotel remain as a visible green edge when viewed from specific locations. Coastal Commission staff suggested that the maximum height be identified as ten feet below the bluff require all architectural elements to be located within the maximum height. The text was updated to require all rooftop architectural elements to be located below the maximum height limit and clarified the location of the viewpoints. At the Council's direction, the quantitative measurement of ten feet below the bluffs was not added.

During the October 1, 2020, Planning Commission meeting, the Commission recommended the following two changes:

- Section 17.24.929.A Table 17.24-1 Commercial Zones Land Use Table
  Page 24-2
  Update: Clarify that the 100 feet is measured from any portion of the outdoor drive-through facility by rewording note 4 for drive-through to read "Prohibited within 100 feet of a residential zoning district or residential use including residential properties outside the City limits. Distance is measured from any site feature designed and/or used for drive-through services (e.g. vehicle aisle, menu board, lighting) to the property line of the residential district or use."

- Section 17.120.030, Table: 17.120-1 Design Permits.
  Page 120-2
  Update table to clarify that a Design Permit is required for any rooftop deck on any commercial or residential building.

FISCAL IMPACT: There are no fiscal impacts to the City to update the zoning code.

ATTACHMENTS:

1. Public Review Draft Zoning Code 7.31.2020 (PDF)

Report Prepared By: Katie Herlihy
Community Development Director

Reviewed and Forwarded by:

Jamie Goldstein, City Manager 10/2/2020

City of Capitola Zoning Code

Planning Commission Review Draft
August, 2020

Attachment: Public Review Draft Zoning Code 7.31.2020 (Overview of Zoning Code Public Review in Preparation for Adoption)

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PART 1

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Chapter 17.04 – PURPOSE AND EFFECT OF ZONING CODE

Sections:

17.04.010 Title and Authority
17.04.020 Purpose of the Zoning Code
17.04.030 Relationship to the General Plan
17.04.040 Relationship to the Local Coastal Program
17.04.050 Applicability of the Zoning Code

17.04.010 Title and Authority

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

17.04.020 Purpose of the Zoning Code

A. General. The purpose of the Zoning Code is to implement the General Plan and the Local Coastal Program Land Use Plan (LUP) and to protect the public health, safety, and welfare.

B. Specific. The Zoning Code is intended to:

1. Preserve and enhance Capitola's small-town feel and coastal village charm.
2. Ensure that all development exhibits high-quality design that supports a unique sense of place.
3. Protect and enhance the quality of life in residential neighborhoods.
4. Encourage active and inviting commercial and mixed-use areas.
5. Support a vibrant, diverse, and dynamic local economy.
6. Allow for a broad range of housing choices that meets the needs of all segments of the community.
7. Protect and enhance natural resources that contribute to Capitola's unique identity and scenic beauty.
8. Maintain and enhance coastal access and visitor-serving facilities and services.
9. Protect and preserve Capitola's historic resources.
10. Support a balanced transportation system that accommodates the needs of automobiles, pedestrians, bicycles, and other forms of transportation.
11. Ensure the protection of coastal resources.

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17.04.030 Relationship to the General Plan

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

17.04.040 Relationship to the Local Coastal Program

A. General. Portions of the Zoning Code are components of Capitola's Local Coastal Program (LCP) prepared in accordance with the California Coastal Act of 1976 (Coastal Act). The LCP consists of the Local Coastal Program Land Use Plan (LUP) and the Local Coastal Program Implementation Plan (IP). The LCP applies to areas within Capitola's coastal zone as generally depicted on the City of Capitola Zoning Map (also part of the IP) and within the LCP.

B. Local Coastal Program Implementation Plan.

1. The Local Coastal Program LUP is a comprehensive long-term plan for land use and physical development within the city's coastal zone. It consists of proposed policies and recommendations for land use in the coastal zone consistent with the Coastal Act. It includes the Coastal Land Use Plan Map, which is the certified General Plan Land Use Map for the area within the coastal zone.

2. The Local Coastal Program IP establishes specific land use and development regulations to implement the Local Coastal Program LUP. The following Zoning Code chapters are a part of Capitola's Local Coastal Program IP:

   a. All chapters in Parts 1 (Enactment and Applicability), 2 (Zoning Districts and Overlay Zones), and 3 (Citywide Standards).

   b. Chapters 17.128 (Variances), 17.136 (Minor Modifications), 17.140 (Reasonable Accommodations), 17.144 (Zoning Code Amendments and Local Coastal Program Amendments, and 17.148 (Public Notice and Hearing) in Part 4 (Permits and Administration).

   c. Chapter 17.160 (Glossary) in Part 5 (Glossary).

3. Any portion of the Zoning Code not specifically identified in subsection (1) above is hereby declared to not be a component of Capitola's Local Coastal Program IP.

4. The Local Coastal Program IP also includes other Municipal Code Chapters and Sections, as follows:

   a. Chapters 9.40 (Signs on Public Property or Rights of Way), 10.36 (Stopping, Standing, and Parking), 12.12 (Community Tree and Forest Management), 12.44 (Limiting Boats on Capitola Beaches During Evening Hours), 15.28 (Excavation and Grading), and 16.68 (Condominium and Community Apartment Conversions).

   b. Title 16 (Subdivisions).

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C. Conflicting Provisions. If provisions of the Local Coastal Program Implementation Plan conflict with provisions of the Local Coastal Program Land Use Plan, and/or if there are any questions regarding intent, the Local Coastal Program Land Use Plan, the California Coastal Act, and applicable state law shall govern.

17.04.050 Applicability of the Zoning Code

A. Applicability to Property. The Zoning Code applies to all land, uses, and development (including structures) within the Capitola city limits.

B. Compliance with Regulations. All uses, structures, and development activity in Capitola shall comply with the Zoning Code.

C. Conflicting Regulations. Where conflict occurs with other city regulations or with state or federal laws, higher law shall control over lower law unless local variation is permitted. Where conflicting laws are of equal stature, the more restrictive shall control unless otherwise specified in the Zoning Code or in state or federal law. In the coastal zone, in case of conflict between the Local Coastal Program and any other City law, regulation, or policy, the Local Coastal Program, the California Coastal Act, and applicable state law shall prevail.

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Chapter 17.08 – INTERPRETATION

Sections:

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

17.08.010 Purpose

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

17.08.020 Authority

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

17.08.030 Rules of Interpretation

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

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

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B. Calendar Days. Numbers of days specified in the Zoning Code are continuous calendar days unless otherwise noted. Where the last of a number of days falls on a holiday or weekend (Saturday or Sunday), time limits are extended to the following working day.

C. Land Use Regulation Tables.

1. **Table Notation.** Land use regulation tables in Part 2 (Zoning Districts and Overlay Zones) establish permitted land uses within each zoning district. Notations within these tables have the following meanings:

   a. **Permitted Uses.** A "P" means that a use is permitted by right in the zoning district and is not subject to discretionary review and approval.

   b. **Administrative Permit**. An "A" means the use is permitted with the approval of an Administrative Permit.

   c. **Minor Use Permit**. An "M" means that a use requires approval of a Minor Use Permit.

   d. **Conditionally Permitted Uses**. A "C" means that a use requires approval of a Conditional Use Permit.

   e. **Uses Not Allowed.** A "-" means that a use is not allowed in the zoning district.

2. **Additional Permits.** Notwithstanding paragraph (1) above, additional permits may be required (including for discretionary review and approval for "P" uses) beyond those identified in the land use regulations tables, including but not limited to Design Permits, Coastal Development Permits, and Historic Alteration Permits.

D. Unlisted Land Uses. If a proposed land use is not listed in the Zoning Code, the use is not permitted except as follows:

1. An unlisted use is not permitted if the use is listed as a permitted use in one or more other zoning districts. In such a case, the absence of the use in the zoning district within the land use table means that the use is prohibited in the zoning district.

2. The Community Development Director may determine that an unlisted proposed use is equivalent to a permitted or conditionally permitted use if all of the following findings can be made:

   a. The use is similar to other uses allowed in the zoning district.

   b. The density or intensity of the use is similar to other uses in the zoning district.

   c. The use is compatible with permitted or conditionally permitted uses in the zoning district.

   d. The use will meet the purpose of the zoning district.

   e. The use is consistent with the goals and policies of the General Plan and the Local Coastal Program Land Use Plan.

   f. The use will not be detrimental to the public health, safety, or welfare.

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3. When the Community Development Director determines that a proposed use is equivalent to a listed use, the proposed use shall be treated in the same manner as the listed use with respect to development standards, permits required, and all applicable requirements of the Zoning Code.

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

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

F. Parcels Containing Two or More Zoning Districts.

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

17.08.040 Procedures for Interpretation/Determinations

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

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

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

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

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

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

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

F. Coastal Zone Interpretations. An applicant may submit to the Director a request for interpretation on matters related to the coastal zone from the Coastal Commission Executive Director for the Director to consider when making an official interpretation of the Zoning Code, ~~including~~ as specified in Chapter 17.44 (Coastal Overlay Zone).

17.08.050 Zoning Code Enforcement

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

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Chapter 17.12 – ZONING DISTRICTS AND MAP

Sections:

17.12.010 Purpose
17.12.020 Zoning Districts
17.12.030 Zoning Map

17.12.010 Purpose

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

17.12.020 Zoning Districts

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

TABLE 17.12-1: BASE ZONING DISTRICTS

Zoning District Symbol	Name of Zoning District	General Plan Land Use Designation
Residential Zoning Districts		
R-1	Residential Single-Family	Single-Family Residential (R-SF)
RM-L	Residential Multi-Family, Low Density	Multi-Family Residential (R-MF)
RM-M	Residential Multi-Family, Medium Density	
RM-H	Residential Multi-Family, High Density	
MH	Mobile Home Park	Mobile Home Park (MH)
Mixed-Use Zoning Districts		
MU-V	Mixed Use, Village	Village Mixed-Use (MU-V)
MU-N	Mixed Use, Neighborhood	Neighborhood Mixed-Use (MU-N)
Commercial and Industrial Zoning Districts		
C-C	Commercial, Community	Community Commercial (C-C)
C-R	Commercial, Regional	Regional Commercial (C-R)
I	Industrial	Industrial (I)

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Zoning District Symbol	Name of Zoning District	General Plan Land Use Designation
Other Zoning Districts		
CF	Community Facility	Public/Quasi-Public Facility (P/QP)
P/OS	Parks and Open Space	Parks and Open Space (P/OS)
PD	Planned Development	N/A

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

TABLE 17.12-2: OVERLAY ZONES

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

17.12.030 Zoning Map

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

B. Incorporation by Reference. The Zoning Map, including all legends, symbols, notations, references, and other information shown on the map, is incorporated by reference and made a part of the Zoning Code.

C. Location. The Zoning Map is kept, maintained, and updated electronically by the Community Development Department, and is available for viewing by the public at the Department.

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PART 2

Zoning Districts and Overlay Zones

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17.16.020 Land Use Regulations
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17.24.040 Residential Mixed Use Development in Commercial Zoning Districts

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17.28.020 Land Use Regulations
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17.32.020 Land Use Regulations
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17.36.020 Where Allowed
17.36.030 Permitted Land Uses
17.36.040 Development Standards
17.36.050 Required Approvals
17.36.060 Conceptual Review
17.36.070 Planned Development Rezoning

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17.36.080 Development Plans

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17.40.020 Affordable Housing (-AH) Overlay Zone
17.40.030 Vacation Rental Use (-VRU) Overlay Zone
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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 CDP Requirements
17.44.080 CDP Exemptions
17.44.090 De Minimis Waiver of CDP
17.44.100 Challenges to City Determination of a CDP
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
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17.44.170 Emergency CDPs
17.44.180 CDP Violations

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Chapter 17.16 – RESIDENTIAL ZONING DISTRICTS

Sections:

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

17.16.010 Purpose of the Residential Zoning Districts

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

B. Specific.

1. **Residential Single-Family (R-1) Zoning District**. The purpose of the R-1 zoning district is to protect and enhance the unique qualities of individual neighborhoods in Capitola. The R-1 zoning district allows for variation in development standards based on the existing development patterns within these neighborhoods. New development will respect the existing scale, density, and character of neighborhoods to strengthen Capitola's unique sense of place.

2. **Residential Multi-Family (RM) Zoning District.** The purpose of the RM zoning district is to accommodate a range of housing types to serve all Capitola residents. The RM zoning districts allows single-family and multi-family housing at higher densities to maintain and increase the supply of affordable housing choices. Housing in the RM zoning districts will be carefully designed to enhance Capitola's unique identity and to minimize impacts on adjacent land uses and structures. The RM zone is divided into three subzones (RM-L, RM-M, and RM-H) allowing for a range of permitted residential densities.

3. **Mobile Home Park (MH) Zoning District.** The MH zone provides areas for exclusive development of mobile home parks. Mobile home parks provide a valuable source of affordable housing serving Capitola's lower-income and senior residents.

17.16.020 Land Use Regulations

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

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

Key **P** Permitted Use **A** Administrative Permit required **M** Minor Use Permit required **C** Conditional Use Permit required **–** Use not allowed	Zoning District			
	R-1	**RM**	**MH**	**Additional Regulations**
Residential Uses				
Duplex Homes	-	P	-	
Elderly and Long Term Care	-	C	-	
Group Housing	-	P	-	
Mobile Home Parks	-	C	P [1]	Chapter 17.100
Multi-Family Dwellings	-	P	-	
Residential Care Facilities, Small	P	P	C [2]	
Residential Care Facilities, Large	C	C	C [2]	Section 17.96.080
Accessory Dwelling Units	A/C	A/C [4]	-	Chapter 17.74
Single-Family Dwellings	P	P	C [2]	
Public and Quasi-Public Uses				
Community Assembly	C	C	C	
Day Care Centers	C	C	C	
Home Day Care, Large	M	M	M	Section 17.96.070
Home Day Care, Small	P	P	P	
Parks and Recreational Facilities	-	C	C	
Public Pathways and Coastal Accessways	C	C	C	
Schools, Public or Private	-	C	C	
Commercial Uses				
Bed and Breakfast	C	C	-	
Vacation Rentals	See Section 17.40.030			
Transportation, Communication, and Utility Uses				
Utilities, Major	C	C	C	
Utilities, Minor	P	P	P	
Wireless Communications Facilities	See Chapter 17.104			
Other Uses				
Accessory Uses and Structure	P [3]	P [3]	P[3]	Chapter 17.52
Home Occupation	A	A	A	Section 17.96.040
Temporary Uses and Structures	M	M	-	Section 17.96.180
Urban Agriculture				
Home Gardens	P	P	P	
Community Gardens	M	M	M	
Urban Farms	C	C	C	

Notes:
[1] May include offices incidental and necessary to conduct a mobile home park use.
[2] Permitted on the mobile home park parcel or on a separate parcel of no less than 5,000 square feet.

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[3] An accessory structure that exceed the development standards of Chapter 17.52 requires a Conditional Use Permit.
[4] Permitted only when there is one single family dwelling on the parcel.

B. Additional Permits. In addition to permits identified in Table 17.16-1, development projects in the residential zoning districts may also require a Design Permit pursuant to Chapter 17.120 (Design Permits). Modifications to a historic resource may require a Historic Alteration Permit pursuant to Chapter 17.84 (Historic Preservation). Development in the coastal zone may require a Coastal Development Permit pursuant to Chapter 17.44 (Coastal Overlay Zone) independent of and in addition to any other required permit or approval.

17.16.030 Development Standards

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

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

	R-1	RM	Additional Standards
Site Requirements			
Parcel Area, Minimum [1]	5,000 sq. ft.	N/A	
Parcel Width, Minimum [1]	30 ft.	N/A	
Parcel Depth, Minimum [1]	80 ft.	N/A	
Floor Area Ratio, Maximum	See Section 17.16.030.B.1	N/A	Section 17.16.030.B Section 17.48.040
Building Coverage, Maximum	N/A	40%	
Open Space	N/A	Section 17.030.C.2	
Parcel Area Per Unit, Minimum	N/A	RM-L: 4,400 sq. ft. RM-M: 2,900 sq. ft. RM-H: 2,200 sq. ft.	
Parking and Loading	See Chapter 17.76		
Structure Requirements			
Setbacks, Minimum			Section 17.48.030.B.2-6
Front	Ground floor: 15 ft. Garage: 20 ft. Second story: 20 ft.	Main structure: 15 ft. Garage: 20 ft.	Section 17.16.030.B.2 Section 17.16.030.B.5 Garage Setback: Section 17.16.030.B.4
Rear	20% of parcel depth; 25 ft. max.	15% of parcel depth	Section 17.16.030.B.5

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	R-1	RM	Additional Standards
Interior Side	Ground floor: 10% of parcel width; 3 ft. min.; 7 ft. max. Second story: 15% of parcel width	10% of parcel width	Section 17.16.030.B.5&6
Street Side, Corner Lots	10 ft.	10 ft.	Section 17.16.030.B.5
Height, Maximum	25 ft.	RM-L: 30 ft. RM-M: 30 ft. RM-H: 35 ft.	Section 17.16.030.B.7&8 Section 17.48.020
Accessory Structures	See Chapter 17.52		

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

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

1. **Floor Area Ratio**. Table 17.16-3 identifies the maximum permitted floor area ratio (FAR) in the R-1 zoning district. See Section 17.48.040.B for floor area calculations.

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

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

2. **Front Setbacks in Riverview Terrace.** Within the areas shown in Figure 17.16-1, the Planning Commission may approve a reduced front setback to reflect existing front setbacks on neighboring properties within 100 feet on the same side of the street. The reduced front setback shall in all cases be no less than 10 feet.

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FIGURE 17.16-1: RIVERVIEW TERRACE

3. **Wharf Road Reduced Setback.** For properties on the east side of Wharf Road from 1820 Wharf Road to 1930 Wharf Road, the Planning Commission may approve a reduced front setback to reflect existing front setbacks on neighboring properties within 100 feet on the same side of the street.

4. **Garage Setbacks.**

   a. Attached garages shall be setback a minimum of 5 feet behind the front or street side building wall of the primary structure. The Planning Commission may reduce this minimum setback to 3 feet in sidewalk exempt areas.

   b. Required setbacks for detached garages are identified in Chapter 17.52 (Accessory Structures).

5. **Corner Lots.**

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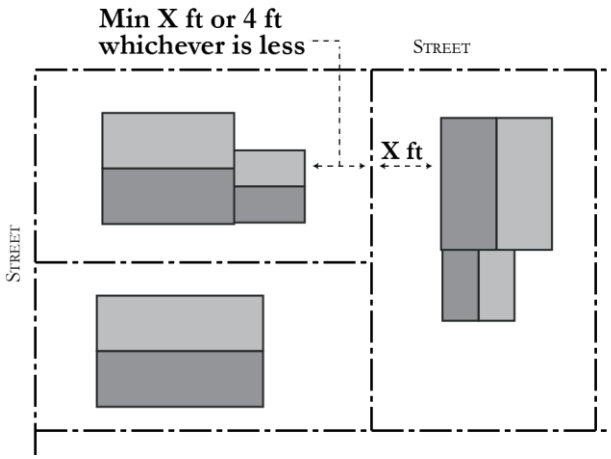
a. The minimum rear setback for reverse corner lots shall be the minimum interior side yard of the adjacent property, but no less than 4 feet. See Figure 17.16-2.

b. On a corner lot, the front line of the lot is ordinarily construed as the least dimension of the parcel facing the street. The Community Development Director has the discretion to determine the location of the front yard based on existing conditions and functions.

FIGURE 17.16-2: REVERSE CORNER LOT REAR SETBACK

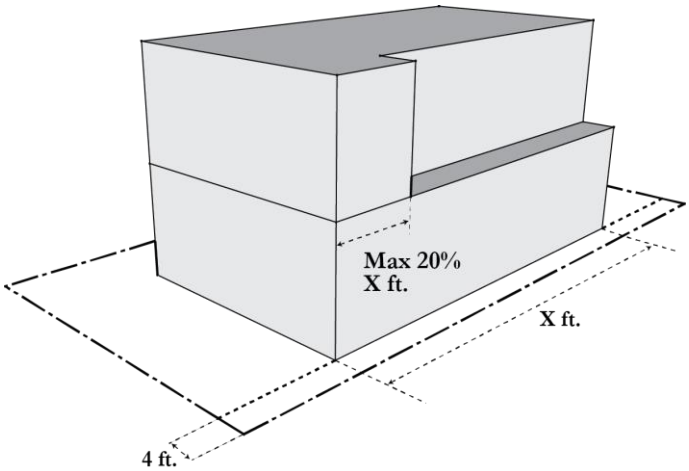


6. **Second Story Setback Exceptions.** Second story additions must comply with increased setback requirements in Table 17.16-2, except in the following cases:

a. For lots 30 feet wide or less, the minimum interior side setback for a second story is the same as the ground floor.

b. Up to 20 percent of the length of an upper story wall may be constructed at the same setback as the first-floor wall if the first-floor wall is at least 4 feet from the side property line. See Figure 17.16-3.

FIGURE 17.16-3: SECOND STORY SETBACK EXCEPTION



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7. **Height Exceptions.** A maximum height of up to 27 feet in the R-1 zoning district is allowed in the following circumstances:

   a. Additions to historic structures that are designed to match the roof pitch of the historic structure within the area of new addition.

   b. Parcels greater than 6,000 sf in size.

   c. Parcels with a width 60 feet or more.

   d. Parcels with an average slope of 25 percent or greater.

   e. When the plate height of structure does not exceed 22 feet.

8. **Landscaping.** See Section 17.72.050.A for residential landscape requirements.

9. **Mini-Bar/Convenience Areas.**

   a. -A single-family home may contain one mini-bar/convenience area in addition to a kitchen, subject to the following standards:

      (1) Fixtures shall be limited to a small refrigerator, a microwave oven, and a small sink with a drain size less than one and one-half inches.

      (2) No gas line or 220-volt electric service is permitted within the area.

      (3) Only one such area is permitted within a ~~dwelling~~ property in addition to the kitchen.

      (4) The mini-bar/convenience area may be located within the home or outside of the home as part of an outdoor kitchen. If located within the home, internal access to the area shall be maintained within the dwelling.

      ~~(4) Internal access to the area shall be maintained within the dwelling.~~

   b. The requirements in paragraph (a) above shall not limit the establishment of an accessory dwelling unit in conformance with Chapter 17.74 (Accessory Dwelling Units).

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

1. **Single-Family Dwellings.** Single-family dwellings in RM zoning districts shall comply with the development standards that apply in the R-1 zoning district.

2. **Open Space.** Common and private open space in the RM zoning district shall be provided as shown in Table 17.16-4 and Figure 17.16-4.

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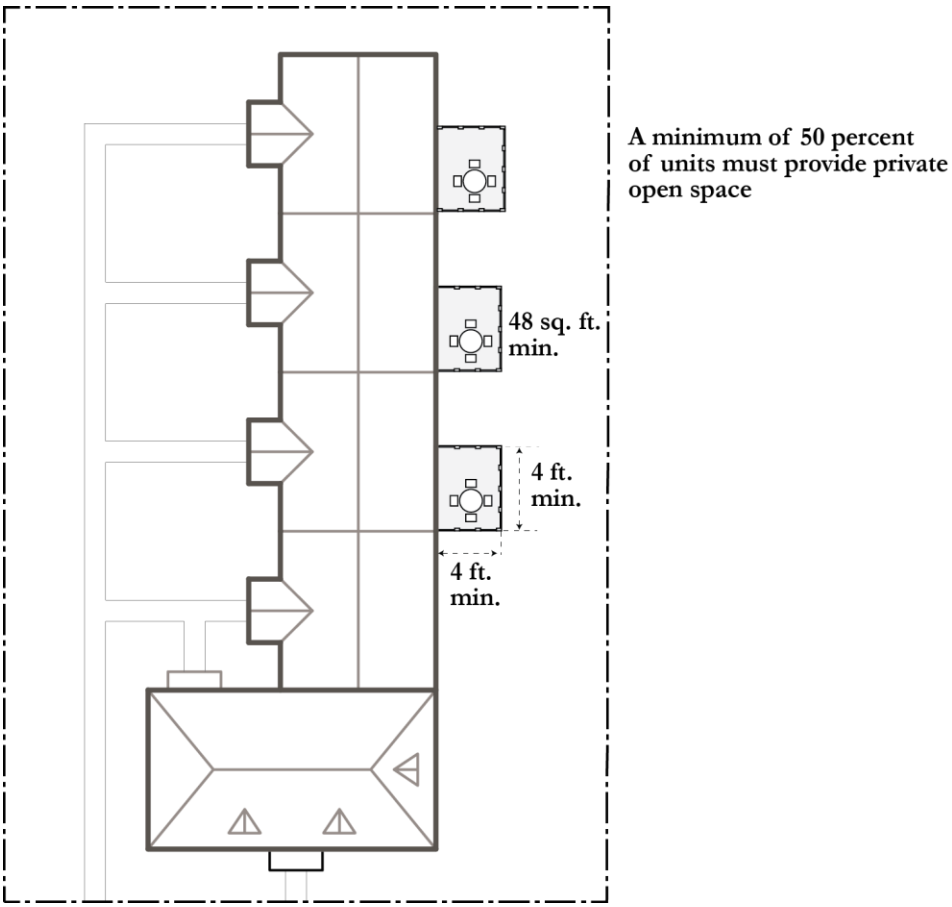
TABLE 17.16-4: USABLE OPEN SPACE IN RM ZONING DISTRICT

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

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

FIGURE 17.16-4: PRIVATE OPEN SPACE



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1. **Landscaping.** See Section 17.72.050.A for residential landscape requirements.

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

TABLE 17.16-5 MH ZONING DISTRICT DEVELOPMENT STANDARDS

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

Notes:
[1] Applies to overall mobile home park area, not sites for individual units.
[2] For vacant property rezoned to MH, the minimum lot area is 5 acres. For existing mobile home parks, the minimum parcel size is 5 acres or the existing parcel size, whichever is less.
[3] Applies only to the perimeter of the mobile home park, not to sites and structures within the interior of the park.

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Chapter 17.20 – MIXED USE ZONING DISTRICTS

Sections:

17.20.010 Purpose of the Mixed Use Zoning Districts
17.20.020 Land Use Regulations
17.20.030 Development Standards – Mixed Use Village Zoning District
17.20.040 Development Standards – Mixed Use Neighborhood Zoning District

17.20.010 Purpose of the Mixed Use Zoning Districts

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

B. Specific.

1. **Mixed Use, Village (MU-V) Zoning District**. The purpose of the MU-V zoning district is to preserve and enhance Capitola Village as the heart of the community. A diversity of commercial, residential, and recreational uses in the MU-V zoning district serve both visitors and residents. Land uses and development shall enhance the vitality of the Village while maintaining a high quality of life for residents. A fine-grain mix of retail, restaurants, services, and recreational amenities in the MU-V zoning district provides a walkable environment, caters to all ages, and supports year-round activity during the day and night.

2. **Mixed Use, Neighborhood (MU-N) Zoning District**. The purpose of MU-N zoning district is to allow for neighborhood-serving mixed use areas that enhance residents' quality of life. The MU-N zoning district contain an eclectic mix of retail, restaurants, and services for residents and visitors. A range of housing types close to non-residential uses increases housing choices and supports a walkable community. Development in the MU-N zoning district will be carefully designed to complement its surroundings and minimize impacts on neighboring properties. Land uses will strengthen connections between destinations in Capitola, including the Village, Bay Avenue, and 41st Avenue.

17.20.020 Land Use Regulations

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

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

Key **P** Permitted Use **A** Administrative Permit required **M** Minor Use Permit required **C** Conditional Use Permit required **–** Use not allowed	**Zoning District**		
	MU-V	**MU-N**	**Additional Regulations**
Residential Uses			Section 17.20.020.B, C & E
Duplex Homes	-/P [1]	P	
Elderly and Long Term Care	C [2]	C	
Group Housing	C [2]	C	
Multi-Family Dwellings	-/P [1]	C	
Residential Care Facilities, Small and Large	See Section 17.20.020.F		
Residential Care Facilities, Large	C [2]	C	Section 17.96.080
Residential Mixed Use	See Section 17.20.020.D & E	C	
Accessory Dwelling Units	–	A/C	Chapter 17.74
Single-Family Dwellings	-/P [1]	P	
Public and Quasi-Public Uses			
Community Assembly	C	C	
Cultural Institutions	C	C	
Day Care Centers	M	M	
Government Offices	P/C [4]	M [5]	
Home Day Care, Large	M	M	Section 17.96.070
Home Day Care, Small	P	P	
Medical Offices and Clinics	-	M [5]	
Parks and Recreational Facilities	C	C	
Public Pathways and Coastal Accessways	C	C	
Public Safety Facilities	C	C	
Schools, Public or Private	-	C	
Commercial Uses			Section 17.20.020.E
Alcoholic Beverage Sales	C	C	
Banks and Financial Institutions	C	P/C [3] [5]	
Commercial Entertainment and Recreation	C	C	
Eating and Drinking Places			
Bars and Lounges	C	C	
Restaurants and Cafes	C	C	
Take-Out Food and Beverage	M	M	
Gas and Service Stations	-	-	
Lodging			

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Key **P** Permitted Use **A** Administrative Permit required **M** Minor Use Permit required **C** Conditional Use Permit required **–** Use not allowed	Zoning District		
	MU-V	**MU-N**	**Additional Regulations**
Bed and Breakfast	C	C	
Hotels and Motels	C	C	
Personal Services	P	P/C [3] [5]	
Professional Offices	P/C [4]	M [5]	
Retail	P	P/C [3] [5]	
Vacation Rental	See Chapter 17.40.030		
Transportation, Communication, and Utility Uses			
Utilities, Major	C	C	
Utilities, Minor	P	P	
Wireless Communications Facilities	See Chapter 17.104		
Other Uses			
Accessory Uses and Structures	See Chapter 17.52		Chapter 17.52
Home Occupations	A	A	Section 17.96.040
Permanent Outdoor Display (Accessory Use)	-	C	Section 17.96.100
Temporary Uses and Structures	See Section 17.96.180		
Urban Agriculture			
Home Gardens	P	P	
Community Gardens	M	M	
Urban Farms	C	C	

Notes:
[1] Allowed only in the Village Residential (-VR) overlay zone. Exclusively residential uses are not allowed outside of the -VR overlay zone.
[2] Allowed only on the second or third story of a mixed-use development outside of the -VR overly zone. Allowed on any story in the -VR overlay zone.
[3] Larger than 3,000 sq. ft. requires a Conditional Use Permit.
[4] Second floor uses permitted by-right. Ground floor uses require a Conditional Use Permit. Prohibited third floor and above.
[5] Conditional Use Permit required for parcels fronting Capitola Road.

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

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

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

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

E. Third-Story Uses in the MU-V Zoning District. Permitted land uses within the third-story of an existing or new building in the MU-V zoning district are limited to residential and hotel uses only.

F. Residential Care Facilities. Residential care facilities shall be allowed with the permits required for dwellings of the same type within the applicable zoning district. For example, a residential care facility in a detached single-family home requires the same permits and is subject to the same use regulations as a detached single-family home.

17.20.030 Development Standards – Mixed Use Village Zoning District

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

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

	MU-V	Additional Standards
Site Requirements		
Floor Area Ratio, Maximum	2.0	Section 17.20.030.C Chapter 17.88 Section 17.48.040
Parking and Loading	See Chapter 17.76	
Structure Requirements		
Setbacks		
Front	Min: 0 ft. Max: 15 ft.	Section 17.20.030.D
Rear	None [1]	
Interior Side	None	
Street Side	Min: 0 ft. Max: 15 ft.	
Height, Maximum	27 ft.	Section 17.20.030.B & C Section 17.48.020 Chapter 17.88
Accessory Structures	See Chapter 17.52	

Notes:

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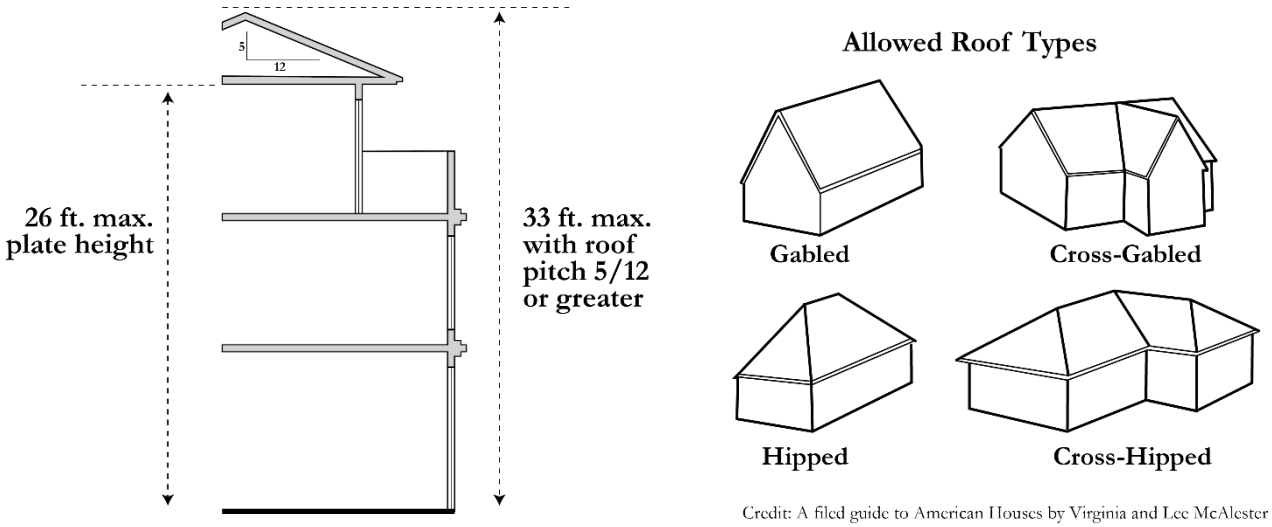
[1] 20% of lot depth for residential use on parcel.

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

1. Up to 33 feet for gabled or hipped roof with a minimum 5:12 roof pitch and a maximum plate height of 26 feet. There shall be no breaks in the roof slope for doors and decks. Exterior doors and decks above the 26-foot plate height are prohibited. See Figure 17.20-1.

2. The 33 feet includes the maximum height of projections for non-habitable decorative features and structures identified in Section 17.48.020.B (Height Exceptions).

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



C. Increased Floor Area and Height for the Capitola Theater Site. As provided in Chapter 17.88 (Incentives for Community Benefits), the City Council may approve exceptions to height and floor area ratio (FAR) limits shown in Table 17.20-2 for the Capitola Theater site (APNs 035-262-04, 035-262-02, 035-262-11, and 035-261-10). These exceptions are intended to facilitate the development of a new hotel in the Capitola Village consistent with the General Plan/Land Use Plan.

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

1. Building should be constructed within 15 feet of the front property line for a minimum of 50 percent of the parcel's linear street frontage. See Figure 17.20-2. The Planning Commission may modify or waive this requirement upon finding that:

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

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

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

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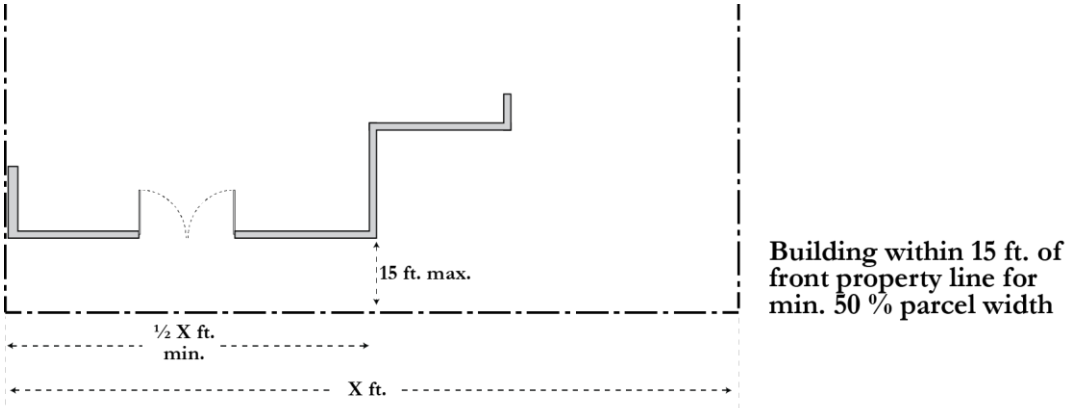
FIGURE 17.20-2: BUILD TO LINE – MU-V ZONING DISTRICT



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

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

E. General Design Standards. The following standards apply to all new buildings and area of new additions within the MU-V zoning districts, excluding the Village Residential Overlay.

1. **Building Orientation**. Buildings should be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk. See Figure 17.20-3.

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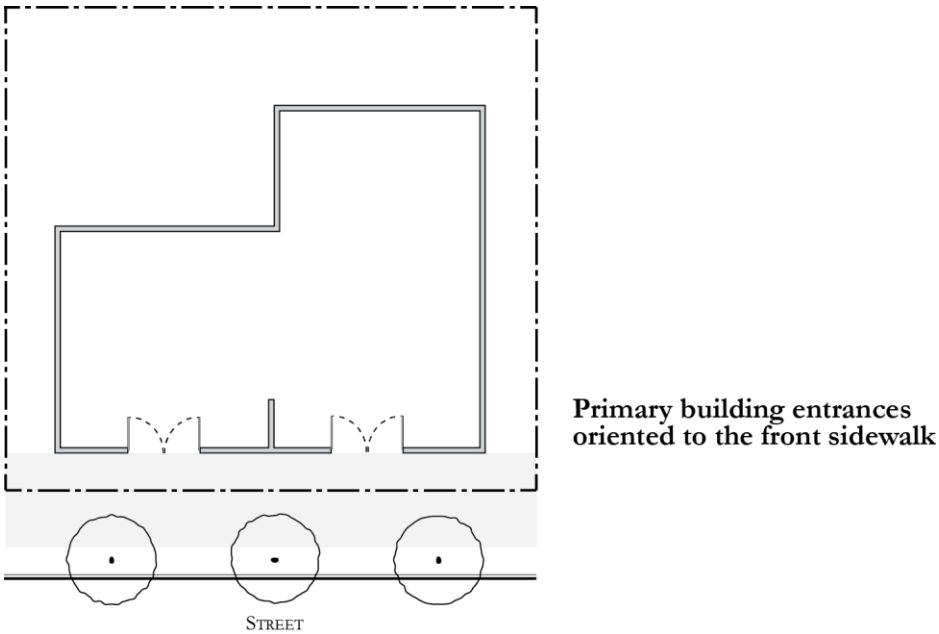
FIGURE 17.20-3: BUILDING ORIENTATION



2. **Blank Walls**. The maximum length of an unarticulated/blank building wall fronting a public street shall be 10 feet. See Figure 17.20-4. Building articulation may be provided by:

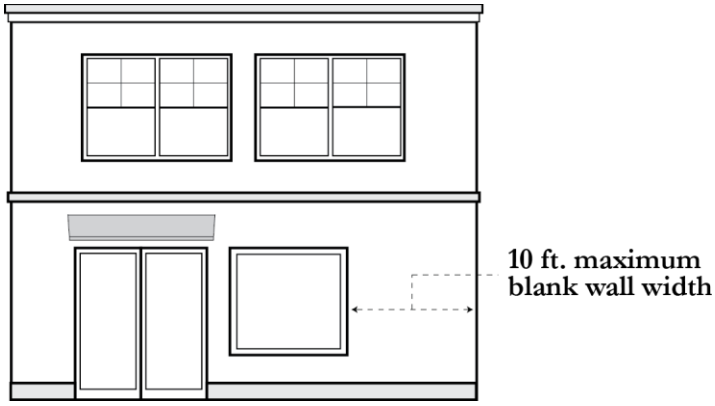
   a. Doors, windows, and other building openings;

   b. Building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest;

   c. Varying wall planes, heights or contrasting materials; and

   d. Awnings, canopies or arcades to reinforce the pedestrian scale and provide shade and cover from the elements.

FIGURE 17.20-4: BLANK WALL LIMITATIONS



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3. **Storefront Width**. The maximum building/storefront width shall be 25 feet. See Figure 17.20-5. Larger buildings shall be broken down into a pedestrian-scale rhythm with differentiated storefront design every 25 feet.

FIGURE 17.20-5: STOREFRONT WIDTH

4. **Ground Floor Building Transparency.**

   a. The ground floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. See Figure 17.20-6. Windows or doors area shall be transparent to allow views into the building.

FIGURE 17.20-6: STOREFRONT TRANSPARENCY

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

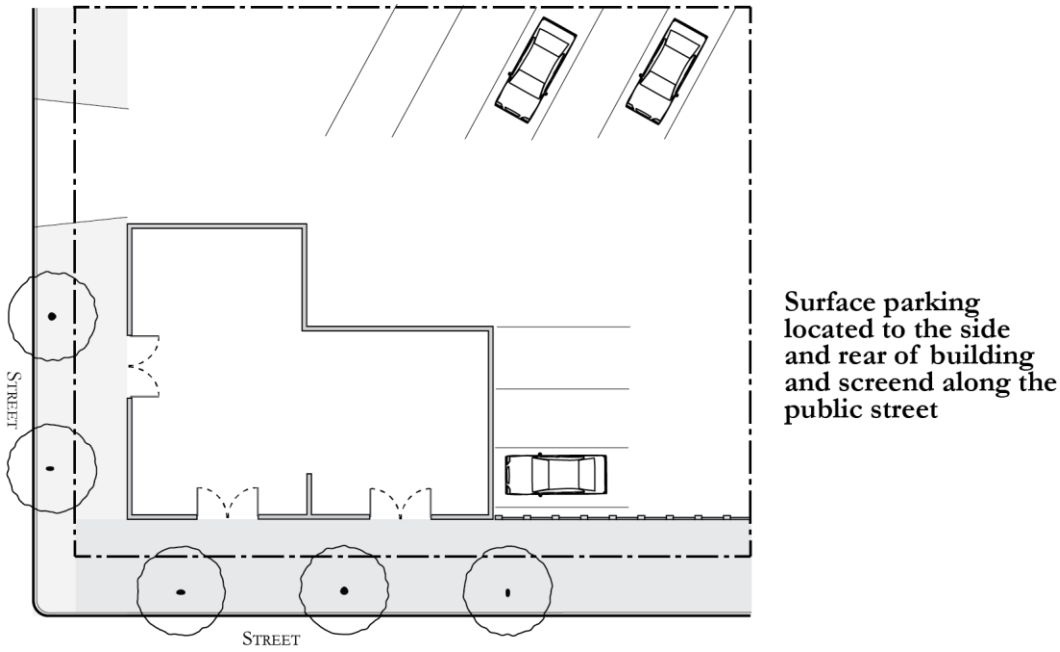
5. **Parking Location and Buffers.**

a. Surface parking shall be located to the rear or side of buildings. Surface parking may not be located between a building and a street-facing property line. See Figure 17.20-7.

b. Surface parking adjacent to a street-facing property line shall be screened along the public right-of-way with a decorative wall, hedge, trellis, and/or landscaping at least 3 feet in height or maximum allowed pursuant to line of sight requirements in Section 17.96.050.

c. Loading areas shall be located to the side and rear of buildings, and shall be sufficiently screened from the public right-of-way, as determined by the Community Development Director.

FIGURE 17.20-7: PARKING LOCATION



6. **Driveways and Curb Cuts.**

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a. The maximum width of a new driveway crossing a public sidewalk may not exceed 40 percent of the parcel width or 20 feet, whichever is less. The Community Development Director may approve an exception to this standard in the case of shared or joint use of driveways and parking lots.

b. New curb cuts, where allowed, shall be located and designed to maximize safety and convenience for pedestrians, bicycles and mass transit vehicles, as determined by the Community Development Director. Considerations for determination include separation between curb cuts, displaced parking, and sight lines.

7. **Paved Site Areas.**

a. The materials, colors, textures, and other design features of on-site paved areas, including courtyards, walkways, and patios, shall complement and enhance the overall design character of development on the site.

b. The use of asphalt for on-site paving is prohibited, except when used for parking areas and vehicle circulation.

8. **Garbage and Recycling.** Facilities for garbage and recycling shall be screened from public right-of-way and either designed into the architecture of the primary building or enclosed in an accessory structure located to the side and/or rear of the primary building.

9. **Landscaping.** See Section 17.72.050.B.

17.20.040 Development Standards – Mixed Use Neighborhood Zoning District

A. General. Table 17.20-3 identifies development standards that apply in the Mixed Use Neighborhood (MU-N) zoning district.

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TABLE 17.20-3: DEVELOPMENT STANDARDS IN THE MIXED USE NEIGHBORHOOD ZONING DISTRICT

	Zoning District	
	MU-N	Additional Standards
Site Requirements		
Parcel Area, Minimum [1]	3,200 sq. ft.	
Parcel Width, Minimum [1]	40 ft.	
Parcel Depth, Minimum [1]	80 ft.	
Floor Area Ratio, Maximum	1.0	Section 17.48.040
Parking and Loading	See Chapter 17.76	
Structure Requirements		
Setbacks		
Front	Min: 0 ft. from property line or 10 ft. from curb, whichever is greater [3] [4] Max: 25 ft.	Section 17.20.040.C
Rear	10 ft. min. from property line [2] [3] [4]	
Interior Side	10% of lot width [3] [4]	
Street Side	Min: 0 ft. from property line or 10 ft. from curb, whichever is greater [3] Max: 25 ft.	
Height, Maximum	27 ft.	Section 17.20.040.D
Accessory Structures	See Chapter 17.52	

Notes:
[1] Parcel area, width, and depth requirements apply only to the creation of new parcels. These requirements do not apply to legally created parcels existing as of [effective date of updated Zoning Code]. See Capitola Municipal Code Title 16 (Subdivisions) for requirements that apply to lot line adjustments to existing parcels that do not comply with the parcel area, width, and depth requirements in this table.
[2] 20% of lot depth for residential use on parcel.
[3] The Planning Commission may approve reduced front, side, and rear setback requirements for properties fronting Capitola Avenue north of the trestle up to and including 431 Capitola Avenue.
[4] The Planning Commission may reduce front, side, and rear setbacks when a parcel is surrounded by commercial properties.

B. Building Orientation.

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

C. Setbacks in the MU-N Zoning District. Front setback areas in the MU-N Zoning District not used for vehicle parking or circulation shall be pedestrian oriented and shall

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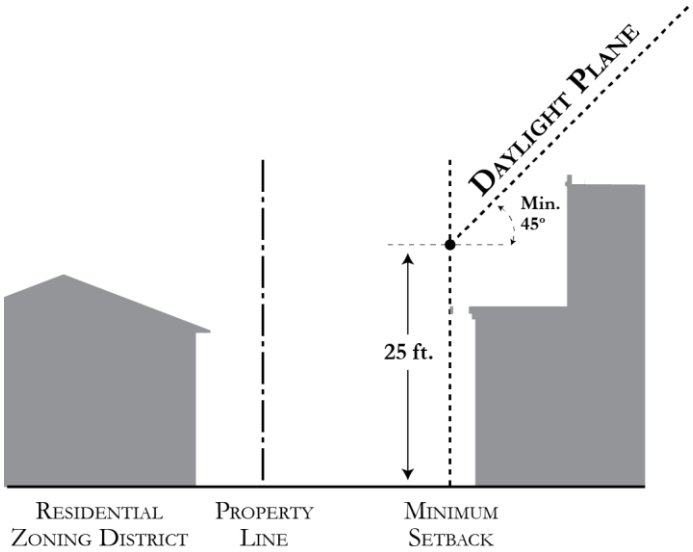
be either landscaped or contain semi-public amenities such as courtyards or outdoor seating areas.

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

FIGURE 17.20-8: RESIDENTIAL TRANSITIONS – DAYLIGHT PLANE



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

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

F. Driveways and Curb Cuts.

1. The maximum width of new driveways crossing a public sidewalk may not exceed 40 percent of the parcel width or 20 feet, whichever is less. The Community Development Director may approve exceptions to these standards in the case of shared or joint use of driveways and parking lots.
2. New curb cuts, where allowed, shall be located and designed to maximize safety and convenience for pedestrians, bicycles and mass transit vehicles, as determined by the Community Development Director. Considerations for determination include adequate separation between curb cuts, displaced parking, and sight lines.

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G. Landscaping. See Section 17.72.050.B.

H. Capitola Road. The following standards apply to new primary buildings constructed in the MU-N zoning district fronting the north side of Capitola Road between 41st Avenue and 45th Avenue as shown in Figure 17.20-9. These standards do not apply to alterations or expansions to existing buildings.

1. Buildings shall feature a gabled or hipped roof with a minimum 5:12 roof pitch.
2. Buildings shall be setback from the curb or street edge in a manner that allows for a minimum 10-foot sidewalk along the property frontage.

FIGURE 17.20-9: CAPITOLA ROAD MU-N SUBJECT TO SPECIAL STANDARDS

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Chapter 17.24 – COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

Sections:

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

17.24.010 Purpose of the Commercial and Industrial Zoning Districts

A. Community Commercial (C-C) Zoning District. The purpose of the C-C zoning district is to provide areas for a variety of commercial uses serving Capitola residents and visitors. The C-C zoning district allows for retail, restaurants, and services that meet the daily needs of the community. The scale, intensity, and design of development in the C-C zoning district shall be compatible with adjacent neighborhoods and contribute to Capitola's unique coastal village character. Interspersed residential and office uses in the C-C zoning district shall support a diverse local economy and range of housing choices.

B. Regional Commercial (C-R) Zoning District. The purpose of the C-R zoning district is to provide areas for commercial uses that serve regional shoppers as well as Capitola residents, workers, and visitors. The C-R zoning district will maintain a critical mass of retail and service uses that maintain 41st Avenue as a successful retail destination. Office, medical, and residential uses will be restricted to protect the long-term economic vitality of the corridor. Incremental redevelopment of underutilized properties in the C-R zoning district will enhance the corridor as a pedestrian-friendly shopping destination that enhance Capitola's unique identity and quality of life.

C. Industrial (I) Zoning District. The purpose of the I zoning district is to provide an area for heavy commercial and light industrial uses in Capitola. The I zoning district allows for non-residential uses which are desired in the community but could be incompatible with land uses in other zoning districts. The I zoning district shall continue to accommodate businesses that contribute to a diverse economy, provide local jobs, and serve the needs of residents and other businesses in Capitola.

17.24.020 Land Use Regulations

A. Permitted Land Uses. Table 17.24-1 identifies land uses permitted in the commercial and industrial zoning districts. The City Council may approve a use not listed in Table 17.24-1 after receiving a recommendation from the Planning Commission and finding the use to be consistent with the General Plan and the purpose of the zoning district.

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

Key **P** Permitted Use **A** Administrative Permit required **M** Minor Use Permit required **C** Conditional Use Permit required **–** Use not allowed	**Zoning District**			
	C-C	**C-R**	**I**	**Additional Requirements**
Residential Uses				
Single-Family Dwellings	-	-	-	
Multi-Family Dwellings	C	C [9]	-	
Residential Mixed Use	C	C [7]	-	Section 17.24.040
Public and Quasi-Public Uses				
Colleges and Trade Schools	C	C	C	
Community Assembly	C	C	-	
Cultural Institutions	C	C	-	
Day Care Centers	C	C	-	
Emergency Shelters	-	-	P	Section 17.96.030
Government Offices	See 17.24.020.C		C	
Medical Offices and Clinics	See 17.24.020.C		-	
Public paths and coastal accessways	C	C	C	
Public Safety Facilities	C	C	C	
Commercial Uses				
Alcoholic Beverage Sales	C	C	C	
Banks	P [2]	P [2]	-	
Financial Institutions	P [2]	P [2]	-	Section 17.24.020.C
Business Services	P [2]	P [2]	P	
Commercial Entertainment and Recreation	M	M	-	
Drive-Through Facilities	-	C [4]	-	
Eating and Drinking Establishments				
Bars and Lounges	C	C	C	
Mobile Food Vendors	-	A [6]/C	A [6]/C	
Restaurants and Cafes	M [2]	M [2]	C	
Take-Out Food and Beverage	M [2]	M [2]	-	
Food Preparation	M [2]	-	P	
Gas and Service Stations	C	C	-	
Liquor Stores	C	C	-	
Lodging				
Bed and Breakfast	C	-	-	
Hotel	C	C	-	

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Maintenance and Repair Services	M	C	P	
Personal Services	P [1]	P [1]	-	
Professional Offices	See 17.24.020.C		P	
Salvage and Wrecking	-	-	P	
Self-Storage	C	-	C	Section 17.96.140
Retail	P	P	-	
Vehicle Repair	C	C	P	
Vehicle Sales and Rental	C [5]	C [5]	-	
Vehicle Sales Display Room [8]	P	P	-	
Wholesaling	-	M [3]	P	
Heavy Commercial and Industrial Uses				
Construction and Material Yards	-	-	P	
Custom Manufacturing	M	M	P	
Light Manufacturing	-	-	P	
Warehousing and Distribution	-	-	P	
Transportation, Communication, and Utility Uses				
Utilities, Major	-	C	C	
Utilities, Minor	P	P	P	
Recycling Collection Facilities	C	C	C	Section 17.96.130
Wireless Communications Facilities	See 17.104			
Other Uses				
Accessory Uses	See 17.52			
Home Occupations	A	A	-	Chapter 17.96.040
Permanent Outdoor Display	C	C	C	Section 17.96.100
Temporary Uses	See 17.76.180			
Urban Agriculture				
Home Garden	P	P	-	
Community Garden	M	M	-	
Urban Farm	C	C	-	

Notes:

[1] Combination of two or more tenant suites within a multi-tenant building or greater than 5,000 sq. ft. requires Minor Use Permit

[2] Combination of two or more tenant suites within a multi-tenant building or greater than 5,000 sq. ft. requires Conditional Use Permit

[3] Without stock. Storage of merchandise limited to samples only.

[4] Prohibited within 100 feet of a residential zoning district or residential use including residential properties outside the City limits.

[5] Majority of vehicles for sale must be new.

[6] Mobile food vendors in one location two times or less per year are regulated as a temporary use in accordance with Section 17.96.180 and are allowed with an Administrative Permit in accordance with Municipal Code Chapter 9.36. Mobile food venders in one location more than two times per year require a Conditional Use Permit.

[7] Residential uses are prohibited on the first story.

[8] Maximum 5,000 square feet.

[9] Allowed only as a part of a mixed-use project integrated with commercial structures located on the same development site.

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B. Additional Permits. In addition to permits identified in Table 17.24-1, development projects in the commercial and industrial zoning districts may also require a Design Permit pursuant to Chapter 17.120 (Design Permits). Modifications to a historic resource may require a Historic Alternation Permit pursuant to Chapter 17.84 (Historic Preservation). Development in the coastal zone may require a Coastal Development Permit pursuant to Chapter 17.32 (Coastal Overlay Zone) independent of and in addition to any other required permit or approval.

C. Office Uses in the C-C and C-R Zoning Districts.

1. **New Office Uses.** In the C-C and C-R zoning districts, permits required for new office uses and conversions of non-office space to office use are shown in Table 17.24-2. Offices include professional, medical, financial institutions and governmental offices.

2. **Existing Office Uses.** Within office building utilized exclusively for office uses as of [effective date of Zoning Ordinance], office uses may continue to occupy ground floor tenant spaces. Within such office building, a new tenant is not subject to the permit requirements in Table 17.24-2 until such time that the building is redeveloped or all office space in the ground floor level is converted to a non-office use.

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

Key **P** Permitted Use **A** Administrative Permit required **M** Minor Use Permit required **C** Conditional Use Permit required **–** Use not allowed	**C-C Zoning District**	**C-R Zoning District**
Location and Size of Office Use		
Ground floor, less than 5,000 sq. ft.	P	-
Ground floor, 5,000 sq. ft. or more	C	-
Upper floor above a ground floor	P	P
Located within a multi-tenant site in which the office space is not located within a storefront and is setback from the front façade.	P	-

D. Retail Cannabis in the C-R Zoning District. A Retail Cannabis Establishment in the C-R zoning district must be in compliance with the following standards.

1. **Permit Requirements**.

   a. **Cannabis Retail License.** Prior to conditional use permit application, an applicant shall obtain a potential Retail Cannabis License from the City, as outlined in Chapter 5.36.

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b. **Conditional Use Permit.** A Retail Cannabis Establishment must obtain a Conditional Use Permit from the Planning Commission. The Retail Cannabis Establishment shall be in compliance with the following standards:

(1) **Distance from Schools and Churches.** Retail Cannabis Establishments are not permitted within a path of travel of 1,000 feet from any schools and churches. The path of travel shall be measured following the shortest path of travel along a public right-of-way from the property line of the proposed Retail Cannabis Establishment parcel to the church or school.

(2) **Distance between Retail Cannabis Establishments.** A retail cannabis establishment shall not be located within a path of travel of 500 feet of another retail cannabis establishment. Path of travel is measured from the retail establishment suite on a multitenant property or the structure for a single tenant property.

(3) **Independent Access.** A retail cannabis establishment shall have an independent exterior entrance that is not shared with any other business or residence.

(4) **Signs.** Notwithstanding other sections of the code for signs, a retail cannabis establishment shall be limited to one exterior building sign per business location to identify the business as a retail cannabis establishment in compliance with the following standards:

a) Sign may include only the name of business and one green cross.

b) Sign area maximum of 15 square feet, or one square foot per linear frontage of the business; whichever is less.

c) Sign may not have any reference, through symbols or language, to cannabis with the exception of one green cross.

d) Sign shall not be directly illuminated except during operating hours

e) Sign shall otherwise be subject to Planning Commission review through a Sign Permit Application in accordance with Section 17.132.

17.24.030 Development Standards

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

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

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

.

B. CC Zoning District Fronting Capitola Road. The following requirements apply to C-C parcels fronting the south side of Capitola Road between 41st Avenue and 45th Avenue as shown in Figure 17.24-1

1. **Maximum Height:** 35 feet.
2. **Minimum Rear Setback:** 40 feet.
3. **Enhanced Application Review.** A proposed project with a height greater than two stories shall comply with the following enhanced application review procedures.
   a. **Conceptual Review.**
      (1) Prior to consideration of a formal application, the Planning Commission and City Council shall provide conceptual review of a proposed project in accordance with Chapter 17.114 (Conceptual review).

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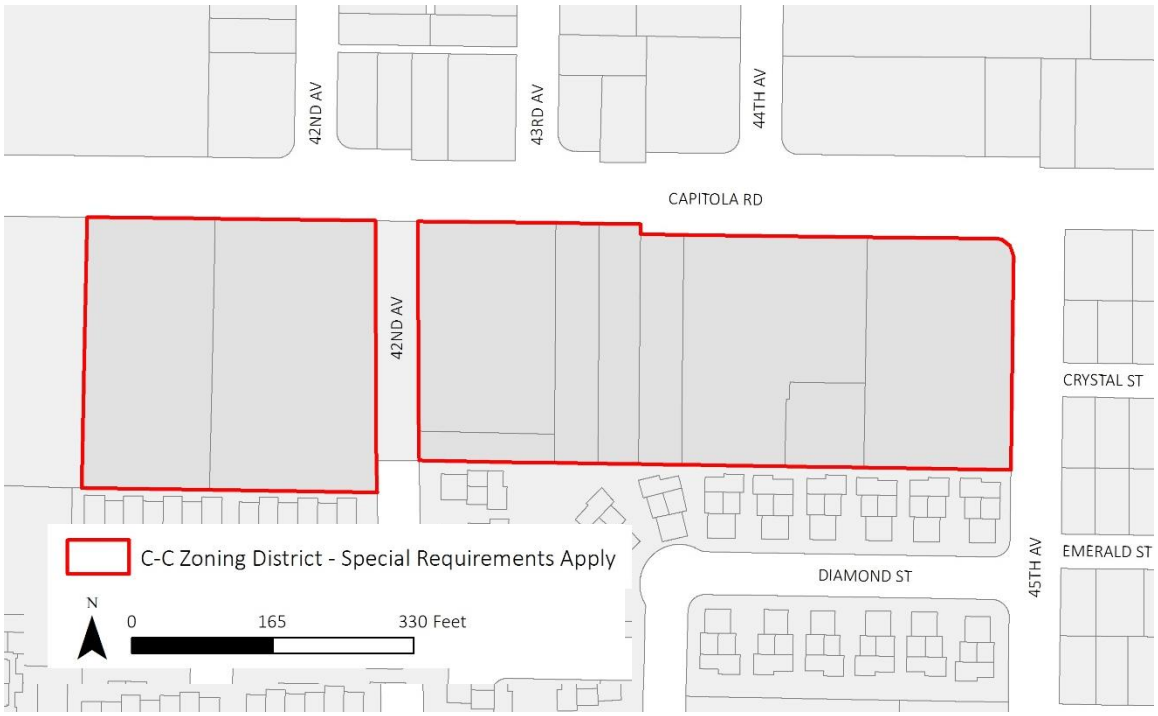
FIGURE 17.24-1: **PARCELS FRONTING CAPITOLA ROAD BETWEEN 41ST AVENUE AND 45TH AVENUE**



(2) Before Planning Commission and City Council review, the applicant shall host at least one community workshop to solicit community input on preliminary project plans.

(3) When reviewed by the Planning Commission and City Council, the applicant shall demonstrate how the project design addresses public input received at the community workshop, as appropriate.

b. **City Council Action.** Following conceptual review, the Planning Commission shall serve as the recommending body and the City Council shall serve as the review authority and take final action on the application.

c. **Findings.** To approve the application, the City Council shall make all of the following findings in addition to findings for the required permits:

(1) The project satisfies applicable Design Review criteria in 17.120.070 (Design Review Criteria).

(2) On-site parking, points of ingress/egress, and internal vehicle accessways are located and designed to minimize parking and traffic impacts on neighboring residential areas to the greatest extent possible.

(3) The project incorporates rear yard setbacks and upper story stepbacks as needed to maintain adequate light and air for abutting residential uses.

(4) The height and intensity of development is compatible with the scale and character of neighboring residential areas.

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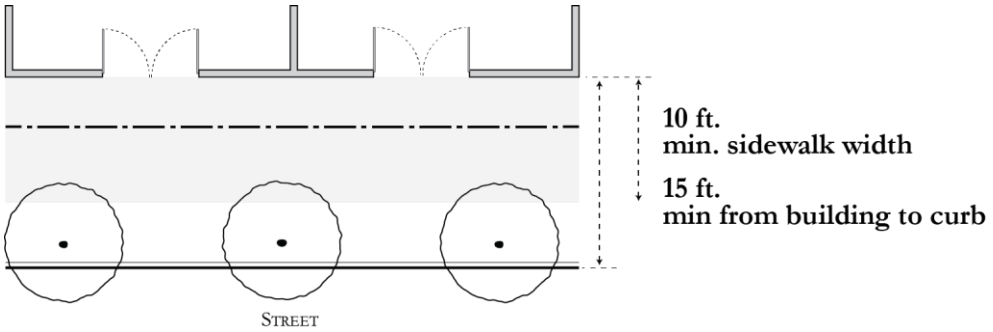
(5) The project incorporates design features to support a safe and welcoming pedestrian environment. Potential features may include, but are not limited to, enhanced sidewalks along the property frontage, internal pedestrian walkways, outdoor public gathering places, unique landscaping treatments, and active ground-floor uses fronting the street.

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

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

FIGURE 17.24-2: FRONT AND STREET SIDE SETBACKS IN THE C-R AND C-C ZONING DISTRICTS



D. Increased Floor Area and Height in C-C and C-R Zoning Districts. As provided in Chapter 17.88 (Incentives for Community Benefits), the City Council may approve exceptions to height and floor area ratio (FAR) limits shown in Table 17.24-3 for proposed projects in the C-C and C-R zoning districts. These exceptions are intended to facilitate the redevelopment of underutilized properties along 41st Avenue consistent with the vision for the corridor described in the General Plan.

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

1. **Setbacks.** The minimum setback from the residential property line shall be 15 feet for interior side yards and 20 feet for rear yards. For lots less than 100 feet wide, the Planning Commission may allow a reduced side yard setback upon finding that potential impacts to adjacent residential properties have been adequately minimized through enhanced building and landscape design.
2. **Daylight Plane.** No structure shall extend above or beyond a daylight plane having a height of 25 feet at the setback from the residential property line and extending

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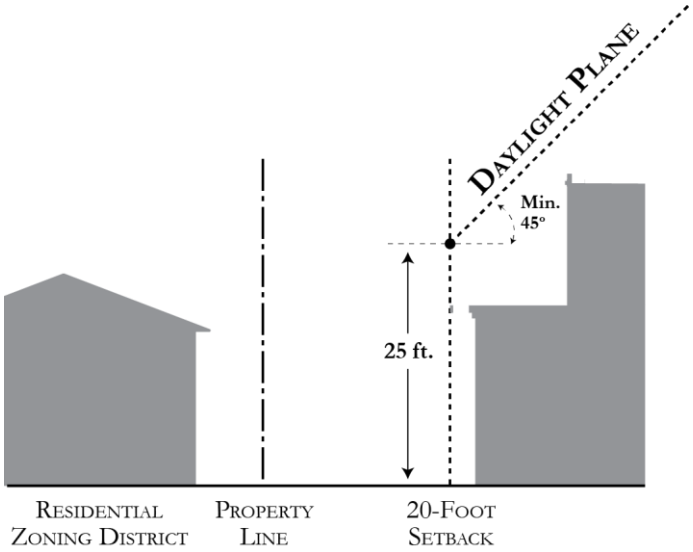
into the parcel at an angle of 45 degrees. See Figure 17.24-3.

FIGURE 17.24-3: RESIDENTIAL TRANSITIONS – DAYLIGHT PLANE



3. **Landscaping**. A landscaped planting area, extending a minimum of 10 feet from the property line, shall be provided along all residential property lines. A tree screen shall be planted in this area with trees planted at a minimum interval of 15 feet.

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

F. Capitola Mall Redevelopment. While the Capitola Mall site has been zoned Regional Commercial (C-R) as part of the Zoning Code Update, it is expected that major redevelopment of the mall property may require a Rezone, Planned Development, Specific Plan, Development Agreement, or similar process to tailor appropriate development standards for the redevelopment project. Where an application submitted pursuant to this section includes fewer than all parcels within the Mall property, the applicant shall demonstrate that the development type and pattern and site design will be compatible and not unreasonably interfere with future redevelopment of the remaining parcels. For the purposes of this section, the mall property is defined as the area bound by 41st Avenue, Clares Street, and Capitola Road.

G. Landscaping. See Section 17.72.050.B for Non-Residential Landscape Requirements.

17.24.040 Residential Mixed Use Development in Commercial Zoning Districts

A. Purpose and Applicability. This section establishes design standards for mixed use

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

B. Standards.

1. **Ground Floor Uses.** Ground floor spaces fronting the primary street shall be occupied by retail, restaurant, and personal service uses that generate pedestrian activity.

2. **Building Placement**. Buildings shall be placed near the edge of the sidewalk. Increased setbacks are permitted if they enhance pedestrian experience and add visual interest.

3. **Building Orientation**. Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk. The Planning Commission may allow buildings and their primary entrances to be oriented toward a public space. The primary entrance to a building shall not be oriented towards surface parking.

4. **Blank Walls.** The length of an unarticulated/blank building wall shall not exceed 10 feet. Architectural articulation should have similar pattern as other adjacent buildings to provide cohesive design in the neighborhood. Building articulation may be provided by:

   a. Doors, windows, and other building openings;

   b. Building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest;

   c. Varying wall planes, heights or contrasting materials and colors; and

   d. Awnings, canopies, or arcades to reinforce the pedestrian scale and provide shade and cover from the elements.

5. **Storefront Width.** The width of a single building/storefront shall not exceed 50 feet. Larger buildings shall be broken down into a pedestrian-scale rhythm with individual storefront widths of 25 to 50 feet.

6. **Ground Floor Building Transparency.** The ground floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. See Figure 17.24-4. Windows or doors area shall be transparent to allow views into the building. Exceptions to this transparency requirement may be allowed if the Planning Commission finds that:

   a. The proposed use has unique operational characteristics which preclude building openings, such as for a cinema or theatre; or

   b. Street-facing building walls will exhibit architectural relief and detail, and will be

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enhanced with landscaping in such a way as to create visual interest at the pedestrian level.

FIGURE 17.24-4: STOREFRONT TRANSPARENCY

7. **Retail Depth.** Ground floor commercial space shall have a depth of at least 45 feet or two-thirds of the parcel depth, whichever is less. Where possible, 60-foot depths are encouraged to accommodate a wider range of tenants, especially food tenants. The Planning Commission may grant an exception to the minimum retail depth requirement if the minimum retail depth is infeasible due to unusual physical conditions on the parcel.

8. **Ground-Floor Height**. Ground floor commercial space shall have a minimum floor-to-floor height of 15 feet. Where possible, 18-foot floor-to-floor heights are encouraged.

9. **Parking Location.** No more than 10 percent of off-street retail parking may be provided -along the side of retail as "teaser" parking. The remainder of the parking shall be behind the building or in underground/structured parking. See Figure 17.24-5

10. **Driveways and Curb Cuts**. Pedestrian and vehicle conflicts shall be minimized by limiting the number of curb cuts to two per block and the width of curb cuts to 24 feet where feasible. To the extent possible, curb cuts shall be designed so pedestrian curb ramps are limited and pathways remain level as they cross the vehicle route.

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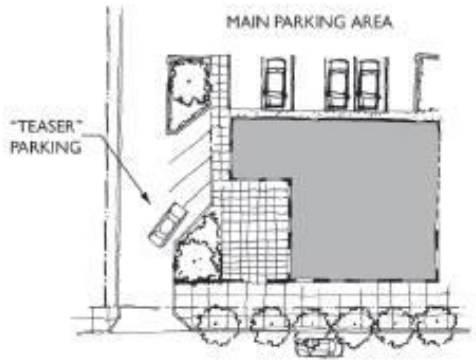
FIGURE 17.24-5: RESIDENTIAL MIXED USE – TEASER PARKING



Small amounts of "teaser" parking can act as a visual cue to direct drivers to additional parking out of view.

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Chapter 17.28 – VISITOR SERVING OVERLAY ZONES

Sections:

17.28.010 Purpose of the Visitor Serving Overlay Zone
17.28.020 Land Use Regulations
17.28.030 Development Standards

17.28.010 Purpose of the Visitor Serving Overlay Zone

A. General. The purpose of the Visitor Serving (-VS) overlay zone is to provide the visiting public with a range of opportunities to enjoy Capitola's coastal location. The -VS overlay zone accommodates a range of visitor serving uses including overnight accommodations, dining establishments, and active and passive recreational facilities. Specific permitted uses depend on the resources present on the site and the surrounding land use and environmental context. The -VS overlay zone implements policies to maintain and enhance visitor serving uses in Capitola consistent with the General Plan and Local Coastal Program (LCP).

B. Visitor Serving Overlay Subzones. The VS overlay zone is divided into five subzones (see Figure 17.128-1) with unique land use and development standards:

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

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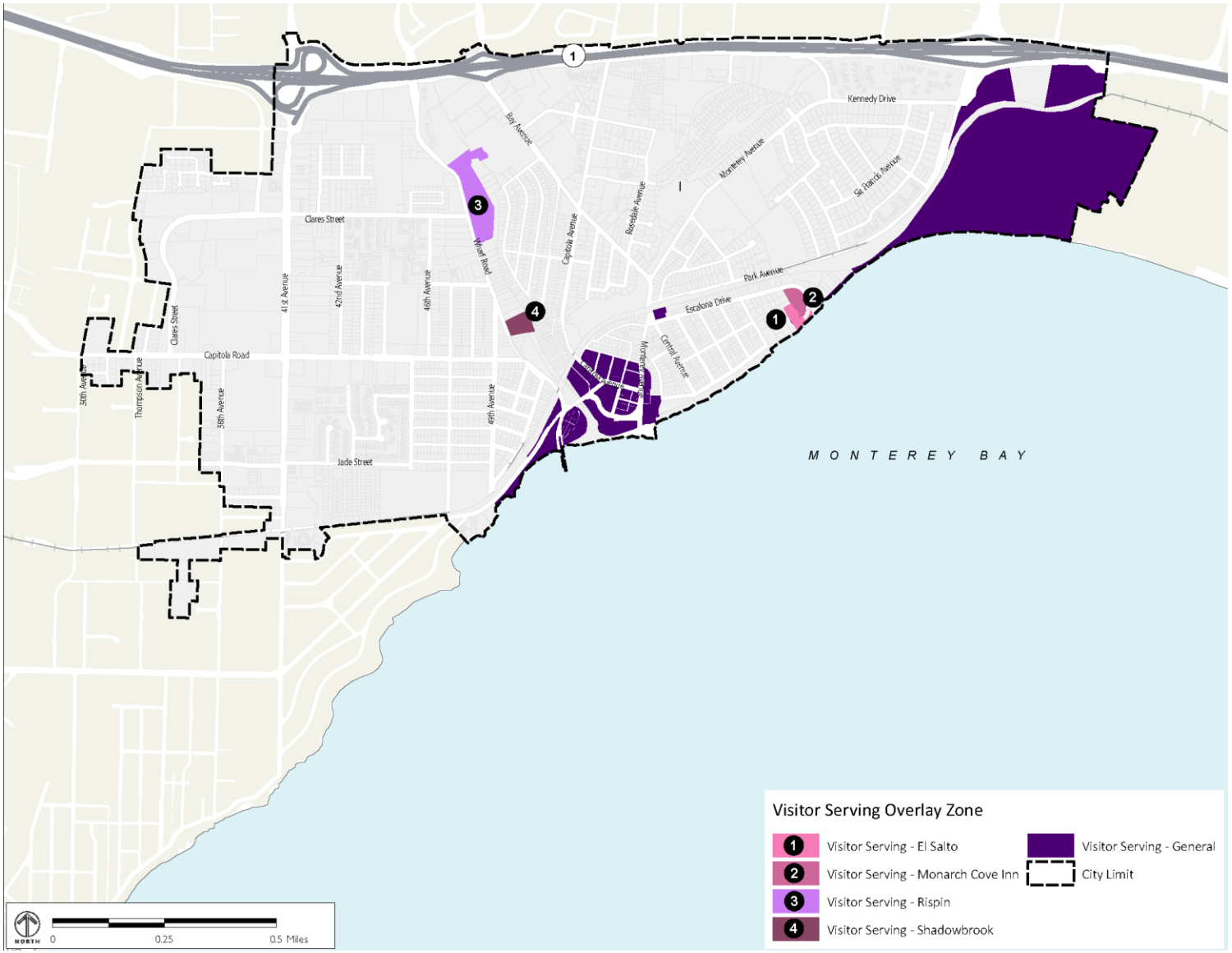
FIGURE 17.28-1: VISITOR-SERVING DISTRICTS



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17.28.020 Land Use Regulations

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

TABLE 17.28-1: PERMITTED LAND USES IN THE VISITOR SERVING OVERLAY ZONE

Key **P** Permitted Use **M** Minor Use Permit required **C** Conditional Use Permit required **–** Use not allowed	VS Subzones					Additional Regulations
	VS-G	**VS-R**	**VS-SB**	**VS-MC**	**VS-ES**	
Residential Uses						
Employee Housing	C [1]	-	-	-	-	
Multi-Family Dwellings	C [2]	-	-	-	C [2]	
One Caretaker Unit for On-Site Security	C	C	C	C	C	
Single-Family Dwellings	C [3]	-	-	C [3][12]	C [3]	
Public and Quasi-Public Uses						
Community Assembly	C	C	-	-	-	
Cultural Institutions	C	C	-	-	-	
Day Care Centers	C	-	-	-	-	
Habitat Restoration and Habitat Interpretive facilities	C	C	C	C	-	
Parks and Recreational Facilities	C	C	-	-	-	
Public Parking Lots	C	C	-	-	-	
Public Paths and Coastal Accessways	C	C	C	C	C	
Public Safety Facilities	C	-	-	-	-	
Public Wharfs	C	-	-	-	-	
Schools, Public or Private	-	-	-	-	-	
Commercial Uses						
Business Establishments that Provide Commercial Places of Amusement or Recreation, Live Entertainment, or Service of Alcoholic Beverage	C [4]	C [4]	C	-	-	
Business Establishments that Sell or Dispense Alcoholic Beverages for On-Site Consumption	C	C	C	C	-	
Restaurants						
Full Service	C [5]	C [5]	C [5]	-	-	
Lodging						
Hotels, Inns, Bed and Breakfast, and Hostels	C	C	-	C	C	
Campgrounds [6]	C	-	-	-	-	
Recreational Vehicle Parks	C	-	-	-	-	
Vacation Rentals	-	-	-	C	-	

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Utilities, Major	C	C	C	C	C	
Utilities, Minor	P	P	P	P	P	
Wireless Communications Facilities	See Chapter 17.104					
Other Uses						
Access Roadways	C	C	C	C	C	
Accessory Structures and Uses, New	C [7]	C	C	C	C	
Accessory Structures and Uses Established Prior to Primary Use or Structure	C	C	-	C	-	
Change of Visitor Serving Commercial Uses within a Structure	C [8]	-	-	-	-	
Food Service Accessory to a Lodging Use [9]	C	C	-	C	C	
Home Occupations	C	-	-	-	-	Section 17.96.040
Expansion of a Legal Nonconforming Use within an Existing Structure	C	-	-	-	-	
Legal Nonconforming Use Changed to a Use of a Similar or More Restricted Nature	C	-	-	-	-	
Live Entertainment	C	C	C	-	-	
Offices Accessory to Visitor Serving Use	C	C	C	C	-	
Parking Areas to Serve the Primary Use	C	C	C	C	C	
Retail Accessory to a Visitor Serving Use	C	C	-	C	-	
Temporary Assemblages of People, such as Festivals, Fairs, and Community Events	C [10]	C [10]	C [10]	C [11]	-	
Weddings	C	C	C	C	-	

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

B. Civic Uses in the VS-R Overlay Subzone. The Planning Commission may allow additional civic uses in the VS-R overlay subzone beyond those specifically identified in Table 17.28-1 if the Planning Commission finds the additional civic use to be consistent

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with the purpose of the VS-R overlay subzone and compatible with existing uses present on the site.

17.28.030 Development Standards

A. General. Table 17.28-2 identifies development standards that apply in the VS overlay zone outside of the Mixed Use Village (MU-V) zoning district

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

	VS Overlay Zone	Additional Standards
Parcel Area, Minimum	5,000 sq. ft	
Impervious Surface, Maximum	VS-R: 25% VS-SB, VS-MC & VS-ES: 50% [1] VS-G: No maximum	
Floor Area Ratio, Maximum	0.25	
Setbacks, Minimum	See Section 17.28.030.B	
Height, Maximum	30 ft.	17.28.030.C

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

B. Setbacks. The following setback requirements apply in the VS overlay zone.

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

C. Height Exceptions. With a recommendation from the Planning Commission, the City Council may approve additional height up to a maximum of 36 feet in the VS overlay zone outside of the MU-V zoning district when all of the following findings can be made:

1. The proposed development and design is compatible with existing land uses in surrounding areas, the General Plan, and the LCP.

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2. Streets and thoroughfares are suitable and adequate to serve the proposed development.
3. The proposed development does not produce shadows which may adversely affect the enjoyment of adjacent streets, buildings, or open space.
4. Major public views of the shoreline, as identified in Capitola's Local Coastal Program, are not blocked by the proposed development.

D. Landscaping. See Table 17.72-2 in Chapter 17.72 (Landscaping) for minimum required landscaping requirements for Visitor Serving Properties.

E. Lighting. In addition to outdoor lighting standards in Section 17.96.110, (Outdoor Lighting), the following lighting requirements apply in the VS overlay zone:

1. All exterior lighting shall be minimized, unobtrusive, down-directed and shielded using the best available dark skies technology, harmonious with the local area, and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled and that light spill, sky glow and glare impacts are minimized.
2. Lighting of natural areas (such as creeks, riparian areas, the beach, etc.) shall be prohibited past the minimum amount that might be necessary for public safety purposes, except when temporarily permitted in conjunction with a temporary event.
3. The location, type and wattage of exterior lighting must be approved by the Community Development Director prior to the issuance of building permits or the establishment of the use.

F. Coastal Development Permit. If a proposed development is located in the coastal zone, it may require a Coastal Development Permit (CDP) as specified in Chapter 17.44 (Coastal Overlay Zone). Approval of a CDP requires conformance with the CDP findings for approval as specified in 17.44.130 (Findings for Approval).

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Chapter 17.32 – SPECIAL PURPOSE ZONING DISTRICTS

Sections:

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

17.32.010 Purpose of the Special Purpose Zoning Districts

A. Community Facility (CF). The CF zoning district provides areas for public and community facilities serving Capitola residents and visitors. Land uses permitted in the CF zoning district include public uses such as governmental offices, police and fire stations, community centers, schools, libraries, and other similar uses. The CF zoning district implements the Public/Quasi-Public land use designation in the General Plan.

B. Parks and Open Space (P/OS). The P/OS zoning district provides parks, recreational facilities, and open space for the use and enjoyment of the community and visitors. The P/OS zoning district also protects and preserves environmentally sensitive natural areas and habitat in Capitola. The P/OS zoning district implements the Parks and Open Space land use designation in the General Plan.

17.32.020 Land Use Regulations

A. Permitted Uses. Table 17.32-1 identifies land uses permitted in the CF and P/OS zoning districts.

B. Commercial Uses in the P/OS Zoning Districts. Commercial uses that are accessory to a permitted use in in the P/OS zoning district are permitted with a Conditional Use Permit as long as the park, recreation, and open space purposes are met by the overall development.

C. Visitor Accommodations in New Brighton State Beach. Visitor accommodations and campground uses are permitted in the New Brighton State beach.

D. P/OS Standards. The following standards apply to uses in the P/OS zoning district.

1. Any structure, land use, or removal of vegetation or natural materials that in the opinion of the Community Development Director is inconsistent with the purpose of the P/OS zoning district is prohibited.

2. Development shall be subordinate to its recreational, scenic, or natural resource purpose consistent with the Local Coastal Program (LCP). Natural resource protection shall include protection of arroyos; creeks, riparian corridors, and other environmentally sensitive habitat; and woodlands.

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3. No new structures are permitted on the open, sandy beach area of Capitola except for appropriate public facilities (e.g. the flume and jetties), required shoreline protective structures (approved beach erosion control structures), and structures required for public health and safety (e.g., lifeguard stands,) if otherwise consistent with the Local Coastal Program.

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

Key **P** Permitted Use **A** Administrative Permit required **M** Minor Use Permit required **C** Conditional Use Permit required **–** Use not allowed	**Zoning District**		
	CF	**P/OS**	**Additional Regulations**
Public and Quasi-Public Uses			
Colleges and Trade Schools	C	-	
Community Assembly	P [1]	-	
Cultural Institutions	P [1]	-	
Day Care Centers	P [1]	-	
Government Offices	P	-	
Parks and Recreational Facilities	P [1]	P [1]	
Public paths and coastal accessways	P	P	
Public Safety Facilities	P	-	
Schools, Public or Private	P	-	
Transportation, Communication, and Utilities Uses			
Recycling Collection Facilities	C	-	17.96.130
Utilities, Major	C	C	
Utilities, Minor	P	P	
Wireless Telecommunications Facilities	See Chapter 17.104		
Other Uses			
Accessory Uses and Structures	See Chapter 17.52		
Temporary Uses and Structures	See Section 17.96.180		
Urban Agriculture			
Community Gardens	M [1]	M [1]	
Urban Farms	C [1]	C [1]	

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

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17.32.030 Development Standards

A. Floor Area Ratio. The maximum permitted floor area ratio (FAR) is 0.25 in the P/OS zoning district and as determined by the Planning Commission through the Design Review process in the CF zoning district.

B. Other Development Standards. Other development standards (e.g., setbacks, height, building coverage) in the CF and P/OS zoning districts shall be determined by the Planning Commission through the Design Review and Coastal Development Permit (if in the coastal zone) process.

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Chapter 17.36 – PLANNED DEVELOPMENT ZONING DISTRICT

Sections:

17.36.010 Purpose of the Planned Development Zoning District
17.36.020 Where Allowed
17.36.030 Permitted Land Uses
17.36.040 Development Standards
17.36.050 Required Approvals
17.36.060 Conceptual Review
17.36.070 Planned Development Rezoning
17.36.080 Development Plans

17.36.010 Purpose of the Planned Development Zoning District

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

17.36.020 Where Allowed

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

17.36.030 Permitted Land Uses

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

17.36.040 Development Standards

A. Established in Development Plan. Development standards (e.g., height, setbacks, building coverage) for each PD zoning district shall be established in the applicable Development Plan.

B. Maximum Intensity. The maximum permitted floor area ratio and residential density shall not exceed maximums established in the General Plan for the applicable land use designation.

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C. Public Improvements. Public infrastructure and improvements in the PD zoning district shall conform to the city's standard specifications as maintained by the Public Works Director.

17.36.050 Required Approvals

A. Development Plan and Zoning Map Amendment. Establishment of a PD zoning district requires approval of a Development Plan, Zoning Map amendment, and LCP Amendment to the Implementation Plan Zoning Map if the proposed PD zoning district is in the coastal zone.

B. Design Review. A proposed development must receive a Design Permit as required by Chapter 17.120 (Design Permits). All development and land uses within a PD zoning district shall be consistent with the approved Development Plan.

C. Coastal Development Permit. 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).

17.36.060 Conceptual Review

Prior to submittal of an application for a PD rezoning and Development Plan, an applicant must complete the Conceptual Review process as described in Chapter 17.114. The Planning Commission and City Council shall each hold at least one noticed public hearing on the project as part of the Conceptual Review process.

17.36.070 Planned Development Rezoning

A. General Procedures and Requirements. Establishing a PD zoning district requires City Council approval of a Zoning Map amendment consistent with Chapter 17.144 (Zoning Code Amendments) and an LCP Amendment to the Implementation Plan Zoning Map if any part of the proposed PD zoning district is in the coastal zone. All procedures and requirements for Zoning Map Amendments in Chapter 17.144 apply to the establishment of a PD zoning district.

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

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

17.36.080 Development Plans

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

B. Timing. A Development Plan application shall be submitted within one year of Conceptual Review for the proposed project. If an application is not submitted within one year of Conceptual Review, the applicant shall complete a second Conceptual Review process prior to submitting the

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Development Plan application.

C. Application Submittal and Review.

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

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

D. Application Materials. It is the responsibility of the applicant to provide evidence in support of the findings required by Paragraph G (Findings) below. Applications for approval of a Development Plan shall include the following information and materials:

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

2. **Community Benefits.** A description of how the proposed development is superior to development that could occur under the standards in the existing zoning districts, and how it will achieve substantial public benefits as defined in Paragraph H below.

3. **Site Plan.** Site plan depicting the existing topography, on-site structures and natural features, mature trees, and other significant vegetation and drainage patterns. The site plan shall show the proposed PD zoning district boundaries and all properties within 500 feet of the site boundary. The site plan shall be to scale and based on a stamped survey prepared by a registered civil engineer or licensed land surveyor.

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

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

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

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

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

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

   a. Land use;

   b. Circulation of traffic;

   c. Landscaping;

   d. Architecture;

   e. Density and/or intensity;

   f. Minimum building site;

   g. Minimum lot dimensions;

   h. Maximum building coverage;

   i. Minimum setbacks;

   j. Maximum building or structure heights;

   k. Maximum height of fences and walls;

   l. Signs;

   m. Off-street parking; and

   n. Other items as deemed appropriate by the Planning Commission and City Council.

E. Planning Commission Review and Recommendation.

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

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

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

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

1. The proposed development is consistent with the General Plan, Local Coastal Program (if applicable), and any applicable specific plan or area plan adopted by the City Council.

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2. The proposed development is superior to the development that could occur under the standards applicable in the existing zoning districts.

3. The proposed project will provide a substantial public benefit as defined in Paragraph H (Substantial Public Benefit Defined) below. The public benefit provided shall be of sufficient value as determined by the Planning Commission to justify deviation from the standards of the zoning district that currently applies to the property.

4. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.

5. Adequate transportation facilities, infrastructure, and public services exist or will be provided to serve the proposed development.

6. The proposed development will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area.

7. ~~If~~For planned developments located ~~in~~adjacent to the ~~coastal zone and subject to a Coastal Development Permit~~coast, the proposed development will protect and/or enhance coastal resources ~~must~~and conform with the findings for approval of a CDP as specified in 17.44.130 (~~Findings~~Finding for Approval).

8. Findings required for the concurrent approval of a Zoning Map Amendment can be made.

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

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

2. Public plazas, courtyards, open space, and other public gathering places that provide opportunities for people to informally meet and gather. The public space must either exceed the city's minimum requirement for required open space and/or include quality improvements to the public realm to create an exceptional experience for the public. Improvements to streets, sidewalks, curbs, gutters, sanitary and storm sewers, street trees, lighting, and other public infrastructure beyond the minimum required by the city or other public agencies.

3. New or improved pedestrian and bicycle pathways that enhance circulation within the property and connectivity to the surrounding neighborhood and surrounding areas.

4. Green building and sustainable development features that substantially exceed the city's

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green building award status.

5. Preservation, restoration, or rehabilitation of a historic resource.

6. Public art that exceeds the city's minimum public art requirement and is placed in a prominent and publicly accessible location.

7. New or enlarged business that increase the supply and/or diversity of jobs available to Capitola residents. Types of jobs may include jobs that improve environmental quality or reduce energy or resource consumption ("green jobs), high-tech sector jobs, and jobs in industries focusing on the generation and utilization of intellectual property ("creative jobs").

8. Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.

9. Public parking lot that provides parking spaces in excess of the required number of parking spaces for use by the surrounding commercial district.

10. Publicly accessible parks, open space, and/or recreational amenities beyond the minimum required by the city or other public agency.

11. Habitat restoration and/or protection of natural resources beyond the minimum required by the city or other public agency.

I. Conditions of Approval.

1. The City Council may attach conditions of approval to a Development Plan to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

2. The City Council shall condition approval of the Development Plan on the completion of public improvements, community benefits and grants of easement shown on the Development Plan.

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

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

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

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

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Chapter 17.40 – RESIDENTIAL OVERLAY ZONES

Sections:

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

17.40.010 Purpose

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

17.40.020 Affordable Housing (-AH) Overlay Zone

A. Purpose. The purpose of the Affordable Housing (-AH) overlay zone is to facilitate the provision of affordable housing units through the retention and rehabilitation of existing affordable units, or the construction of new affordable units. The -AH overlay zone is intended to:

1. Implement the goals and policies of the General Plan Housing Element and provide the opportunity and means for Capitola to meet its regional fair share allotment of affordable units.
2. Encourage the development of affordable units by assisting both the public and private sector in making the provision of these units economically viable.
3. Provide assurances to the City that these units will maintain a high degree of quality and will remain affordable to the target population over a reasonable duration of time.
4. Encourage the provision of affordable housing through the combination of the -AH overlay within the multi-family residential zone where the affordable housing projects are determined to be feasible and are consistent with the General Plan and the Local Coastal Program.
5. Provide a means of directing and simplifying the process for creating and maintaining affordable housing.
6. Provide incentives to developers, whether in new or rehabilitated housing, to maintain rental units for the long term (e.g., not less than 55 years) and affordable ownership units in perpetuity.

B. Applicability. The -AH overlay zone may be applied to parcels located in a multi-family residential or community commercial (C-C) zoning district.

C. Definitions.

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1. "Affordable housing" means housing capable of being purchased or rented by a household with "very low," "low," or "moderate" income levels at an "affordable housing cost" or "affordable rent," as those terms are defined by the State of California.

2. "Affordable housing overlay district" means a zoning district that applies in addition to existing zoning designation where the city encourages the provision of affordable housing units as described in this chapter.

3. The "very low," "low," and "moderate" income levels are defined by the State of California in Sections 50105, 50079.5, and 50093, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900. These income levels are:

   a. Very Low Income. Up to and including fifty percent of the Santa Cruz County median income, adjusted for family size, as defined by the state law;

   b. Lower Income. Fifty-one percent to eighty percent of Santa Cruz County median income, adjusted for family size, as defined by the state law;

   c. Moderate Income. Eighty-one percent to one hundred twenty percent of Santa Cruz County median income, adjusted for family size, as defined by state law.

4. "Affordable housing cost" and "affordable rent" are defined in Sections 50052.5 and 50053, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900.

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

1. In the event of any inconsistency or discrepancy between the income and affordability levels set forth in this chapter and the levels set in state laws and regulations, the state provisions shall control.

2. The -AH overlay zone provides a density increase for affordable housing development that in most cases exceeds density bonuses permitted by state law (Government Code Section 65915).

3. A development may utilize the -AH overlay zone as an alternative to the use of state density bonus but may not utilize both the overlay and state density bonuses.

E. Permits and Approvals Required.

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

2. Affordable housing developments proposed under this chapter require approval of a Design Permit. All requirements in Chapter 17.120 (Design Permits) apply, except

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that the Planning Commission recommends Design Permit approval or denial to the City Council. The City Council may take action on the Design Permit application concurrently with or subsequent to action on the Development Agreement.

3. A proposed affordable housing development that is located in the coastal zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 and the findings for approval of a CDP as specified in 17.44.130. The City Council may take action on the Coastal Development Permit application concurrently with or subsequent to action on the Development Agreement.

F. Permitted Residential Density.

1. Affordable housing developments with up to 20 units per acre are permitted in the -AH overlay zone. The 20 units per acre limit is based on a calculation that includes all existing and new units on the property.

2. Density permitted in the -AH overlay zone may not exceed what can be accommodated by the site while meeting applicable parking, unit size, and other development standards.

G. Income Restrictions.

1. A minimum of 50 percent of the units in an affordable housing development shall be income restricted affordable housing. All affordable units may be in a single category or part of a mixture of affordable unit types which include:

   a. Moderate-income households;

   b. Low-income households;

   c. Very low-income households; or

   d. Extremely low-income households.

2. At minimum 50 percent of income-restricted affordable units (25 percent of the total project units) shall be affordable to low-, very low-, and extremely-low income households. A greater level of affordability will not allow a greater level of density.

H. Development Incentives.

1. **Purpose.**

   a. In order to reduce costs associated with the development and construction of affordable housing, affordable housing developments within the -AH overlay zone shall be eligible for specified development incentives. These incentives allow for the relaxation of development standards normally applied to housing in Capitola and are established in order to facilitate and promote the development of affordable housing in the City.

   b. Incentives shall be targeted to improve the project design or to yield the greatest number of affordable units and required level of affordability, so as to permit

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the City to meet its regional fair share allotment of affordable housing and the goals of the Housing Element of the General Plan.

2. **Relaxed Development Standards.** The City shall allow the following relaxed development standards for projects that comply with the affordability required in Subsection G (Income Restrictions):

   a. **Minimum Building Site Area and Lot Area per Unit.** There shall be no minimum building site area requirement for individual parcels or dwelling sites within the -AH overlay zone. The building site area shall be designated on a site plan as approved by the City through the Design Permit review process.

   b. **Density Averaging.** Project density within the -AH overlay zone may be calculated by averaging the density on a project-wide basis so as to permit higher density levels in certain project portions in exchange for advantageous project design features as determined by the City through the Design Permit review process.

   c. **Setbacks.**
      (1) The minimum setbacks from property lines shall be determined by the City through the Design Permit process.
      (2) Minimum setbacks from property lines adjacent to or across from a single-family residential zone shall be same as underlying zoning district.

   d. **Building Coverage.** The City shall determine the maximum building coverage for the proposed project through the Design Permit process.

3. **Additional Development Incentives.**

   a. As a further inducement to the development of affordable housing beyond the relaxed development standards described in Section 2 (Relaxed Development Standards) above, the City may choose to extend one or more additional development incentives depending on the quality, size, nature, and scope of the project being proposed.

   b. Additional development incentives may be in the form of waivers or modifications of other standards which would otherwise inhibit density and achievement of affordable housing goals for the development site, including, but not limited to, the placement of public works improvements.

I. Design Standards.

1. **Purpose and Applicability.**

   a. The following design standards are intended to ensure high-quality development within the -AH overlay zone that enhances the visual qualities of Capitola and respects adjacent homes and neighborhoods.

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b. Design standards shall apply to all projects receiving development incentives described in Section H (Development Incentives) or residential densities greater than allowed by the applicable base zone.

2. **Neighborhood Compatibility.**

a. Affordable housing developments shall be designed and developed in a manner compatible with and complementary to existing and potential development in the immediate vicinity of the project site.

b. Site planning on the perimeter shall provide for protection of the property from adverse surrounding influences and shall protect surrounding areas from potentially adverse influences from the property.

c. To the greatest extent possible, the design of the development shall promote privacy for residents and neighbors, security, and use of passive solar heating and cooling through proper placement of walls, windows, and landscaping.

d. Building design and materials shall blend with the neighborhood or existing structures on the site.

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

4. **Common Open Space.**

a. Common open space shall comprise the greater of:
(1) 10 percent of the total area of the site; or
(2) 75 square feet for each dwelling unit.

b. Areas occupied by buildings, streets, driveways, parking spaces, utility units, mailboxes, and trash enclosures may not be counted in satisfying the open space requirement.

c. The following areas may be counted in satisfying the open space requirement:
(1) Landscaping and areas for passive and active recreation/open space with a minimum depth and width of 5 feet.
(2) Land occupied by recreational buildings and structures.

5. **Streets.**

a. All public streets within or abutting the proposed development shall be improved to City specifications for the particular classification of street.

b. All private streets shall meet fire code and access standards.

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

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

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J. Assurance of Affordability.

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

K. Pre-Application Consultation.

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

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

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

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

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

17.40.030 Vacation Rental (-VR) Overlay Zone

A. Purpose. The -VR overlay zone identifies locations within residential areas where the short-term rental of dwelling units is permitted.

B. Applicability. Locations where the -VR overlay zone applies are shown on the Zoning Map.

C. Land Use Regulations. Permitted uses in the -VR overlay zone are the same as in the base zoning district, except that vacation rental uses are permitted with an Administrative Permit.

D. Required Permit. Each vacation rental unit is required to obtain a Vacation Rental Permit, as an Administrative Permit, in addition to registering each unit with the City as a business. This includes obtaining a business license, renewable annually, and transient occupancy tax registration.

E. Development and Operations Standards.

1. Vacation rentals in Capitola are prohibited outside of the -VR overlay zone.
2. Transient occupation registration is required for each vacation rental unit. A business license and transient occupancy tax registration must be obtained from the City. The business license shall be renewed annually.
3. Permit holders must submit monthly to the City a completed transient occupancy tax report and payment of all tax owing.
4. One parking space is required per vacation rental unit. Parking may be on site or within the Beach and Village Parking Lot 1 or 2 with proof of permit, if eligible. The

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on-site parking space must be maintained for exclusive use by guests during their stay.

5. The property owner must designate a person who has the authority to control the property and represent the owner. This responsible person must be available at all reasonable times to receive and act on complaints about the activities of the tenants.

6. A maximum of one sign per structure, not to exceed 12 inches by 12 inches in size, is permitted to advertise the vacation rental.

7. Each unit must post the Vacation Rental Permit in a visible location within the unit. The Vacation Rental Permit will include a permit number, the development and operations standards of this section (17.40.030.E), and space to write the contact information for the responsible party.

8. If the unit is advertised on the internet, the first line of the posting must include the Vacation Rental Permit number for City reference.

9. No permit holder shall have a vested right to a renewed permit. If there is a history of the permit holder or tenants violating the permit's conditions, the permit may be revoked consistent with Section 17.156.110 (Permit Revocation). After a permit is revoked, the permit holder may reapply for a new permit one year after the revocation. The Community Development Director may deny an application based on previous code enforcement issues. A decision by the Community Development Director is appealable to the Planning Commission.

10. All vacation rental units shall have smoke detectors and carbon monoxide detectors.

11. Accessory dwelling units may not be used for vacation rentals.

F. Enforcement. It is prohibited for any person (including, but not limited to property owners, property managers or real estate agents) to do any of the following without a Vacation Rental Permit:

1. Rent, sublet, lease, sublease or otherwise for remuneration allow any person or persons to carry on a vacation rental use; or

2. To advertise for a vacation rental use; or

~~11.~~3.For compensation, to arrange, or help to arrange vacation rental uses.

17.40.040 Village Residential (-VR) Overlay Zone

A. Purpose. The purpose of the -VR overlay zone is to limit certain areas within the Village to exclusive residential use, including vacation rentals.

B. Land Use Regulations.

1. **Residential Uses Only.** Within the -VR overlay zone, only residential land uses (including vacation rentals) are permitted. Non-residential land uses, including but

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not limited to restaurants, retail, offices, and personal services, are not permitted in the -VR overlay zone.

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

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

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Chapter 17.44 – COASTAL OVERLAY ZONE

Sections:

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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 CDP Requirements
17.44.080 CDP Exemptions
17.44.090 De Minimis Waiver of CDP
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17.44.110 Application Submittal
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17.44.140 Notice of Final Action
17.44.150 Appeals
17.44.160 Permit Issuance
17.44.170 Emergency CDPs
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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~~, and to ensure~~ (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) and~~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 ~~section shall be given the broadest interpretation possible so as to protect, restore and enhance coastal resources, including that public access to the navigable waters shall be provided and protected~~chapter shall be consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section

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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 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 ~~following implementing ordinances of the City's Municipal Code:~~

~~C.~~B. Zoning Code (Title 17) chapters and Municipal Code ~~Chapters~~chapters as identified in Section 17.04.040 (Relationship to the Local Coastal Program) as well as the zoning districts and maps.

~~1. Chapter 9.40 (Signs on Public Property or Rights of Way)~~

~~2. Chapter 10.36 (Stopping, Standing, and Parking)~~

~~3. Chapter 12.12 (Community Tree and Forest Management)~~

~~4. Chapter 12.44 (Limiting Boats on Capitola Beaches During Evening Hours)~~

~~5. Chapter 15.28 (Excavation and Grading)~~

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~~6. Chapter 16.68 (Condominium and Community Apartment Conversions)~~

~~7. Title 16 (Subdivisions)~~

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, tsunami, tidal scour, coastal

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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:

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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, swales, lagoons, etc.) designed as protection against coastal hazards or resulting in impacts to shoreline processes.

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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~~.~~ (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. ~~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 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~~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~~CDP 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

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the -CZ overlay zone requires a ~~Coastal Development Permit~~CDP except as specified in Section 17.44.080 (~~Coastal Development Permit~~CDP 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

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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. See Section 17.44.180 (CDP Violations) for enforcement provisions that apply to development activity that violates a CDP or the LCP.

2. Development that was not legally established (i.e. with a ~~Coastal Development Permit~~CDP) 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.~~3. 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 ~~or 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~~CDP 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

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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~~ by the Coastal Commission~~, 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

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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~~CDP 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.**

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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:

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(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

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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~~CDP shall be required for temporary events as ~~defined~~ 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~~CDP 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 CDPs) for development allowed with an Emergency CDP.

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17.44.090 De Minimis Waiver of ~~Coastal Development Permit~~CDP

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~~CDP 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~~CDP 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.

~~1.~~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

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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 Determination of a ~~Coastal Development Permit~~CDP ~~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~~CDP 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

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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 112Development 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). ~~The CDP application shall include, at a minimum:~~

~~1. Project plans and supporting materials sufficient to determine whether the project complies with all relevant policies of the Local Coastal Program, including a clear depiction of all existing conditions and development on the site, and all proposed development;~~

~~2. Documentation of the applicant's legal interest in all the property upon which development is proposed to be performed and legal ability to undertake the proposed development, including properties that may be traversed and/or affected by construction.~~

~~3. Documentation of any prior CDPs or other authorizations on the property, including any restrictions from permit conditions,~~

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~~4. Documentation of any deed restrictions, easements, and any other encumbrances affecting potential allowable development and use on the property;~~

~~5. To the extent not covered by subsections (3) and (4) above, all other restrictions that apply to the property, including copies of the legal documents and site plans noting where such restrictions apply;~~

~~6. A description of any unpermitted development on the site, including any violations of existing CDP terms and conditions, and provisions so that all permitting and coastal resource issues associated with the unpermitted development can be resolved (see also Sections 17.44.070(E) and 17.44.180);~~

~~7. A dated signature by or on behalf of each applicant, attesting to the truth, completeness and accuracy of the contents of the application and, if the signatory of the application is not the applicant, written evidence that the signatory is authorized to act as the applicant's representative and to bind the applicant in all matters concerning the application; and~~

~~8. Any additional information deemed by the Community Development Director to be required for specific categories of development or for development proposed for specific geographic areas or in relation to the specific issues raised by the application.~~

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~~Public Notice and Hearings

~~17.44.120~~Public Hearing

A. ~~**Public Hearing Requirements.**~~ **Required**. All Planning Commission and City Council actions on 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 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 the reasons this determination.

~~1.~~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

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~~Permit applications requiring Planning Commission or City Council approval shall require a public hearing~~Department where an interested person 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.

~~B.~~ **Posting ~~and Noticing.~~**

C. ~~CDP applications~~ **.** A printed notice shall be posted at the ~~proposed development~~project site ~~in~~ at least ~~one location that is conspicuously visible to the general public at the time of application submittal.~~ten calendar days prior to the hearing.

D. **Mailing.** Notice ~~of the required public hearing~~ shall be ~~provided~~mailed at least 10 calendar days prior to the hearing ~~on the proposed project by mailing notice~~ 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. ~~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.~~

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~~**C. Content of notice.** The required notice may be combined with other required project permit notice(s), shall be mailed by first class mail 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;~~

~~2. The date of filing of the application;~~

~~3. The name of the applicants and the applicants' agents;~~

~~4. The number assigned to the application;~~

~~5. A description of the proposed project and its location;~~

~~6. A determination of whether the project is appealable to the Coastal Commission and why or why not;~~

~~7. 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 call or visit to obtain additional information or to input on the project;~~

~~8. 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; and~~

~~9. A brief description of the procedures for public comment and decision on the application, including listing what review authority is to decide on the CDP application, as well as the procedure for appealing any action taken; and~~

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

E. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Subsection D 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.**

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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.

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.

~~E.~~I. **Re-noticing ~~required~~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~~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~~CDP 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: adoption of specific written factual findings, as applicable, supporting the conclusion that the proposed development conforms to the certified Local Coastal Program such as: ~~:

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 land uses, including coastal priority development and land 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.

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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.

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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

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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~~CDP**.

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.

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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 Permit~~CDPs

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 designated local

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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.

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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~~CDP approval unless an extension is granted by the City for good cause.

I. **Application for Regular ~~Coastal Development Permit~~CDP.** ~~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 (CDP 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 ~~(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.

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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

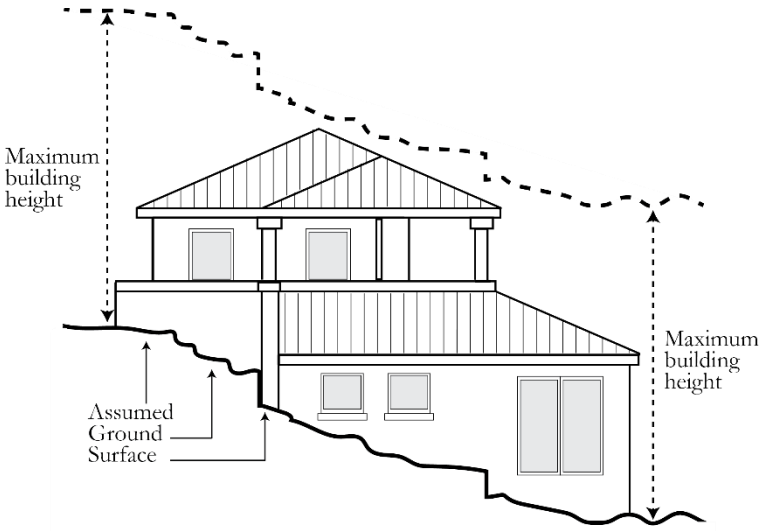
This chapter establishes rules for the measurement of height, setbacks, and floor area, and permitted exceptions to height and setback requirements.

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



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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.

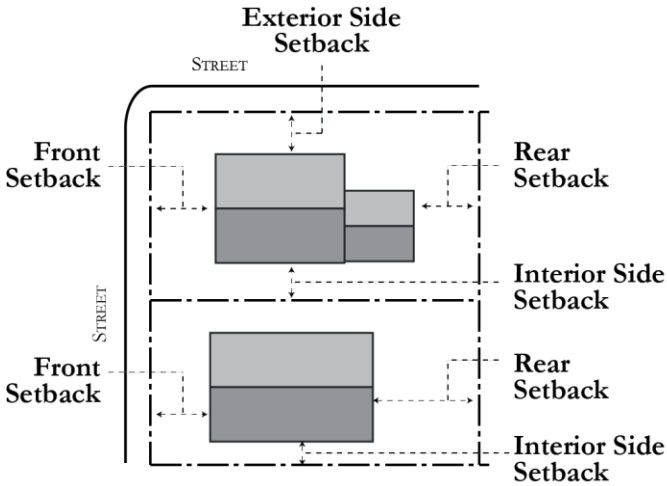
TABLE 17.48-1: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS

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



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B. Yards. When unique circumstances exist, the Community Development Director 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 ESHA are limited to the exceptions of section 17.64.030.F (Setback Exceptions on Developed Lots).

Note: See specific zoning district for required minimum setback

TABLE 17.48-2: ALLOWED PROJECTIONS INTO REQUIRED SETBACKS

	Maximum Projection into Setback				Minimum Distances from Property Lines
	Front	Rear	Interior Side	Exterior Side	
Roof Projections					
Cornices, eaves, canopies, and similar roof projections	4 ft.	4 ft.	2 ft.	2 ft.	All: 3 ft.
Building Wall Projections					
Bay windows, balconies, sills, fireplaces, chimneys, and similar wall projections [1]	2 ft.	2 ft.	2 ft.	2 ft.	All: 3 ft.
Entry Features					
Stairways and fire escapes or similar features	Not allowed	4 ft.	No max	Not allowed	Front: Not allowed Exterior Side: Not allowed Interior Side: 3 ft. Rear: 5 ft.
At grade flatwork such as concreate paving and patios	No max	No max	No max	No max	All: No min
Landing places, patios, and decks 18 inches or less above grade	No max	No max	No max	No max	Front and Exterior Side: 5 ft. Interior Side and Rear: 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.	Front: 10 ft. Exterior Side and Rear: 5 ft. Interior Side: 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.	Front: 10 ft. Exterior side: 5 ft. Interior Side and Rear: Not applicable
Wheelchair ramps and similar features for the disabled	No max	No max	No max	No max	All: 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,

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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.) 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	
Decorative Site Features					
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	All: 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	Rear and Interior Side: No min Front and Exterior Side: Not allowed
Planter boxes and masonry planters with a maximum height of 42 inches	No max	No max	No max	No max	All: 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	All: No min
Entertainment Features					
Hot Tubs	Not allowed	No max	Not allowed	Not allowed	Rear: 2 ft. All Other: Not allowed
Pools	Not allowed	No max	Not allowed	Not allowed	Rear: 5 ft. All Other: Not allowed
Fire pits up to 30 inches in height	No max	No max	No max	No max	All: 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	Rear: 5 ft.
Other Structures and Equipment					
Children's play equipment, movable dog house, and similar moveable objects	No max	No max	No max	No max	All: No min
Rain harvest tanks that do not exceed 8 ft. in height	Not allowed	No max	No max	No max	Front: Not allowed All Other: No min
Screened mechanical equipment including hot water heaters and air conditioning units	Not allowed	No max	No max	Not Allowed	Rear and Interior Side: 3 ft. Front and Exterior Side: Not allowed

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

1. 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.~~

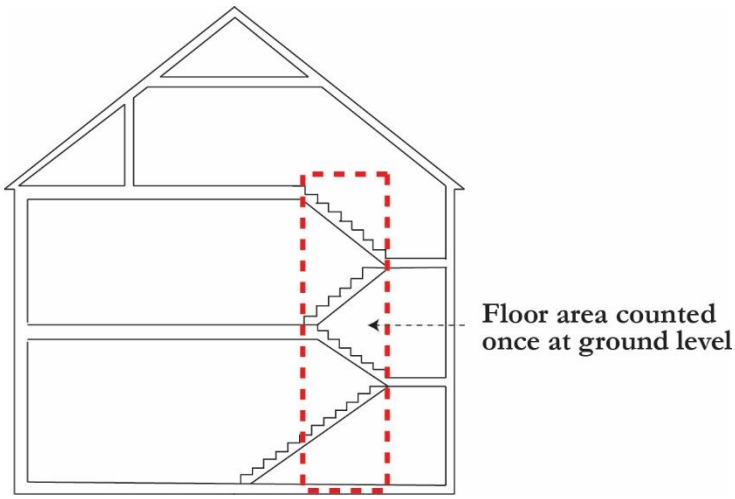
17.48.040 Floor Area and Floor Area Ratio

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~~2,586 square feet or less.

   ~~d.~~e. On a lot between 2,586 and 3,018 square-feet with an enclosed garage, up to the difference between the maximum allowed floor area and 1,750 square feet.

   ~~e.~~f. Underground parking garages not visible from a public street.

   ~~f.~~g. 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:

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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.

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Chapter 17.52 – ACCESSORY STRUCTURES AND USES

Sections:

17.52.010 Purpose and Applicability
17.52.020 Accessory Structures
17.52.030 Accessory Uses

17.52.010 Purpose and Applicability

This chapter establishes requirements for accessory structures and uses in residential and non-residential zoning districts. These requirements do not apply to accessory dwelling units, including two-story accessory dwelling units above a detached garage, which are addressed in Chapter 17.74 (Secondary Dwelling Units).

17.52.020 Accessory Structures

A. All Accessory Structures. The following requirements apply to accessory structures in all zoning districts.

1. Accessory structures shall be clearly incidental and subordinate to the primary structure on the same lot.
2. Accessory structures may not be located on a separate lot from the primary use to which it is incidental and subordinate.
3. A Minor Design Permit is required for garages, sheds and other enclosed buildings with one or more of the following characteristics: an enclosed area of over 120 square feet, a height of over 10 feet, or plumbing fixtures per Section 17.120.030.A.
4. Accessory structures attached to a primary structure are considered a part of the primary structure and shall comply with all standards applicable to the primary structure.
5. Accessory structures may not be designed or used as a bedroom, sleeping area, and/or kitchen, except for accessory dwelling units consistent with Section 17.74 (Accessory Dwelling Units) and outdoor kitchens.
6. In the coastal zone, accessory structures shall be sited and designed so that they do not extend into setbacks associated with coastal resource issues (e.g., ESHA setbacks and coastal hazard setbacks). A proposed accessory structure 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).

B. Accessory Structures in Residential Zoning Districts.

1. **Development Standards**. Accessory structures in residential zoning districts shall comply with the development standards in Table 17.52-1 and in Figure 17.52-1.

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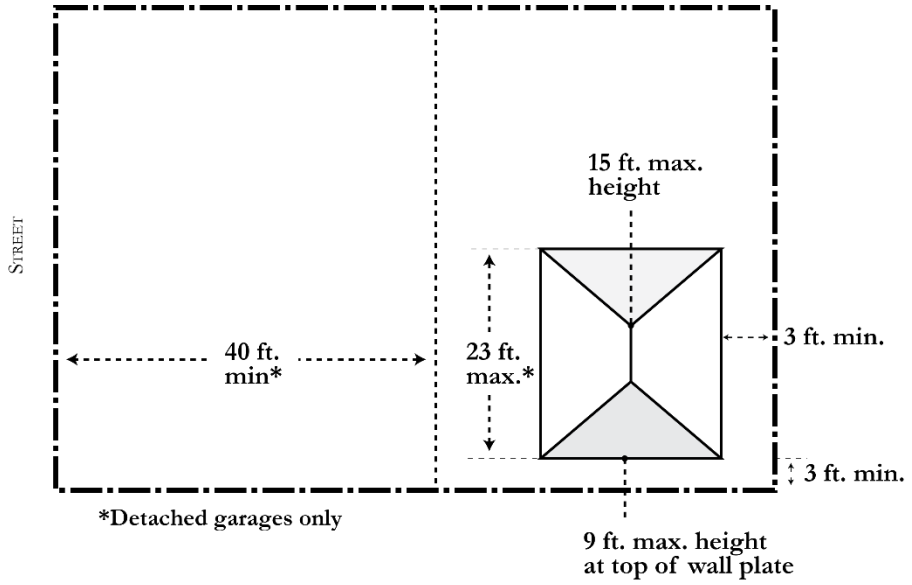
TABLE 17.52-1: ACCESSORY STRUCTURE STANDARDS IN RESIDENTIAL ZONING DISTRICTS

	Single-Family Residential Zoning Districts	Multi-Family Residential Zoning Districts	Additional Standards
Height, Maximum			
Structure	15 ft. [1]	15 ft.	Section 17.52.020.B.2
Top of Wall Plate	9 ft.	9 ft.	
Width, Maximum	23 ft. for detached garages; None for other accessory structures	None	
Setbacks, Minimum			Section 17.52.020.B.3
Front	40 ft. for detached garages; Same as primary structure for other accessory structures	Same as primary structure	
Interior Side	3 ft.	3 ft.	
Street Side	Same as primary structure	3 ft.	
Rear	3 ft.	3 ft.	

Note:
[1] Accessory structures less than 8 feet from a rear or interior side property line may not exceed 12 feet in height.

FIGURE 17.52-1: DETACHED GARAGE STANDARDS IN RESIDENTIAL ZONING DISTRICTS



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C. Height Exception. The Planning Commission may approve an exception to allow additional height of an accessory structure if necessary to match the architectural style of the existing primary structure.

1. **Setback Exceptions.** One accessory structure permanently attached to the ground is allowed in required side and rear setback areas if the structure is less than 10 feet in height, has 120 square feet or less of enclosed area, and has no plumbing. One additional accessory structure is allowed in required side and rear setback areas with an Administrative Permit.

2. **Driveway Standards.** The placement of detached garages shall allow for the design and location of driveways consistent with Chapter 17.76 (Parking and Loading).

3. **Nonconforming Garages**. An existing detached garage in a residential single-family zoning district that does not comply with development standards in Table 17.52-1 is legal nonconforming and may be repaired, renovated, or replaced provided that the nonconformity is not increased or exacerbated.

D. Accessory Structures in Non-Residential Zones. Accessory structures in non-residential zoning districts are subject to the same development standards (e.g., height and setbacks) as primary structures in the applicable zoning district. Accessory structures should be located to the side or rear of buildings and screened from public view.

17.52.030 Accessory Uses

A. Residential Accessory Uses. The following requirements apply to accessory uses in residential zoning district.

1. Accessory uses shall be located on the same parcel as a residence and shall be clearly incidental and subordinate to the residence.

2. Accessory uses shall not change the character of the residential use. Examples of permitted accessory uses include home occupations and personal property sales (i.e., garage or yard sales).

B. Non-Residential Accessory Uses. The following requirements apply to accessory uses in non-residential zoning districts.

1. Accessory uses shall be a part of and clearly incidental and subordinate to the primary use to which it relates.

2. Accessory uses shall be located on the same parcel as the primary use to which it is incidental and subordinate, within the structure.

3. Accessory uses shall be customarily associated with the primary use to which it is incidental and subordinate. Examples of common non-residential accessory uses include ATMs, vending machines, newsstands, and personal service establishments (e.g., child day care, food services) intended to serve employees or customers and that are not visible from public streets.

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4. All exterior vending machines require a Conditional Use Permit.
5. Accessory uses may not necessitate an increase in required number of parking spaces.

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Chapter 17.56 – ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Sections:

17.56.010 Purpose and Intent
17.56.020 Archaeological/Paleontological Survey Report
17.56.030 Environmental Assessment Requirement
17.56.040 Development Standards

17.56.010 Purpose and Intent

This chapter establishes standards to protect Capitola's archaeological and paleontological resources. New land uses and development, both public and private, shall be considered compatible with this purpose only where they incorporate all feasible site planning and design features necessary to avoid or mitigate impacts to archaeological and paleontological resources.

17.56.020 Archaeological/Paleontological Survey Report

A. When Required. An archaeological/paleontological survey report is required for any development located within:

~~1. An Archaeological/Paleontological Sensitivity Areas as shown in the Capitola Resource Map (Local Coastal Program, Map I-1);~~

~~2.~~1. Property within a known archaeological or paleontological resource;

~~3.~~2. Property located within 100 feet of a bluff edge; or

~~4.~~3. An area with a probability of containing archaeological/paleontological resources, as determined through the City's onsite investigation or other available information.

B. Report Preparation. The city will initiate the preparation of the survey report at the applicant's expense utilizing a qualified archaeologist/paleontologist selected by the Community Development Department. The survey report shall be submitted to and accepted by the city prior to deeming the application complete.

C. Mitigation Plan

1. Where construction on, or construction impacts to, an archaeological or paleontological site cannot be avoided, as verified in the archaeological/paleontological report prepared for the project, a mitigation plan shall be prepared for the project. The mitigation plan shall be submitted to and approved by the city prior to deeming the application complete.

2. For archaeological resources, the mitigation plan shall include preservation measures in accordance with the guidelines of the State Office of Historic Preservation and/or the State of California Native American Heritage Commission.

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3. For archaeological resources, the consulting archaeologist shall file both the archaeological survey report and mitigation plan with the State Office of Historic Preservation and where the plan contains recommendations that will impose any continuing restrictions or obligations on the property, an agreement approved by the City Attorney, binding the property's owner to the restrictions or requirements, shall also be recorded with the County Recorder. Such agreement shall list the official file number of the report and the location of the document.

4. For paleontological resources, a consulting paleontologist shall file a paleontological resource report and mitigation plan with the City to minimize on paleontological resources. The mitigation may include re-siting or redesigning the project, excavation, or coving the resources.

D. Mitigation Measures. The recommended mitigation measures contained in the archaeological/paleontological survey report and mitigation plan shall be made a condition of approval.

E. Required Condition. Where a mitigation plan has been prepared for a proposed development, a condition of project approval shall be that:

1. The preservation measures recommended in the mitigation plan shall be undertaken and completed prior to the issuance of building or grading permits, whichever comes first; or

2. Where appropriate, according to the recommendations contained in the mitigation plan, the preservation measures shall be undertaken concurrent with grading or other soil-disturbing activities and shall be undertaken in accordance with the mitigation plan, as a condition of the grading or building permit; and

3. The results of the preservation activities shall be compiled into a final report prepared by the archaeologist/paleontologist and submitted to the City prior to the issuance of building or grading permits. The City shall contract directly with the archaeologist to prepare the final report at the applicant's expense.

F. Report Standards. The archaeological/paleontological survey report, mitigation plan, and final report shall be prepared according to the most professional report standards (e.g.: the Society of Professional Archaeologists) and must include, at a minimum, a field survey by the archaeologist, survey of available state resource information at the Northwest Regional Information Center of the California Archaeological Inventory, description of the site's sensitivity and any identified archaeological resources, appropriate levels of development if any on the site, and recommended mitigation measures. The report may be required to include additional information, according to the circumstances of the particular site.

G. Waiver of Report Requirement. The requirement to prepare an archaeological/paleontological survey report may be waived by the Community Development Director if a previous report was prepared for the site by a qualified archaeologist/paleontologist, as included on the City's list of

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archaeological/paleontological consultants or as a member of the Society of Professional Archaeologists, and accepted by the City, and either of the following apply:

1. The report clearly and adequately included the currently-proposed development site within the scope of its survey; or
2. The proposed development does not involve land clearing, land disturbance, or excavation into native soils.

17.56.030 Grading Monitoring Requirement

The Community Development Director may require grading monitoring by a qualified archaeologist and/or paleontologist for any project which involves grading into native soils within an area identified as having a moderate to high potential to support archaeological or paleontological resources. Archaeological and paleontological monitors shall be commissioned by the City and paid for by the project applicant.

17.56.040 Unexpected Discovery of Archaeological or Paleontological Resources

If archaeological and/or paleontological resources are discovered during grading or construction activities, all work must immediately cease and the project applicant or their designated representatives must immediately contact Community Development Department staff to initiate a resource evaluation by a qualified archaeologist and/or paleontologist, as appropriate. Work shall not resume until the qualified archaeologist and/or paleontologist determines that no significant resources are present or until appropriate avoidance and/or mitigation measures have been implemented to the satisfaction of the Community Development Director.

17.56.050 Environmental Assessment Requirement

All development proposed on parcels with known archaeological and/or paleontological resources, as identified through the survey report, shall be subject to environmental assessment under the California Environmental Quality Act (CEQA) Guidelines. If human remains are discovered during construction, the project shall comply with all applicable State and Federal laws, including California Health and Safety Code Section 7050.5 and CEQA Guidelines Section 15064.5(e).

17.56.060 Development Standards

A. Design and Location. Development proposed within areas identified in Section 17.56.020.A (When Required) shall be designed and located so as to avoid development on or impacts to the site to the extent feasible. Alternative siting or location, reduction of project size, and other techniques shall be required where that technique will result in reduced impact to or non-disturbance of the archaeological/paleontological site.

B. Mitigation Measures. Development proposed within areas identified in Section 17.56.020.A (When Required) shall be subject to the mitigation measures of the

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archaeological/paleontological survey report as conditions of approval, to be completed prior to the issuance of building or grading permits.

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Chapter 17.60 – FENCES AND WALLS

Sections:

17.60.010 Permit Requirements
17.60.020 Measurement of Fence and Wall Height
17.60.030 Height Limits
17.60.040 Fences Adjacent to Soquel Creek Pathway and Grand Avenue Walkway
17.60.050 Materials
17.60.060 Parking Lot Screening
17.60.070 Private Agreements

17.60.010 Permit Requirements

A. Administrative Permit. An Administrative Permit is required to establish a new fence or wall consistent with the height, placement, and material standards in this chapter. Replacement of an existing fence that is in compliance with standards of this chapter does not require a permit.

B. Design Permit. The Planning Commission may allow fences and walls that deviate from height, placement, and material standards with the approval of a Design Permit. The Planning Commission may approve a deviation to a fence standard provided that the deviation will not result in a significant adverse impact for neighboring properties, public access or views or the community at large when one or more of the following apply:

1. Unique circumstances exist on the site, such as a property line abutting a highly trafficked public street or path or historic use of screening for the property; and/or
2. The deviation is necessary for the reasonable use and enjoyment of the property.

C. Building Permit. Fences and walls may require a building permit as required by California Building Code.

D. Encroachment Permit.

1. Improvements located in the public right-of-way may require Public Works Department approval of an Encroachment Permit. See Municipal Code Section 12.56.060(A).

E. Coastal Development Permit. 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).

17.60.020 Measurement of Fence and Wall Height

A. Measurement of Height. The height of a fence or wall is measured from the finished grade at the base of the fence or wall to the top edge of the fence or wall.

B. Fences on Walls. If a fence is atop a wall, the total height is measured from the base of the wall.

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C. Different Finished Grades. If the adjacent finished grade is different on opposite sides of a fence or wall, the height is measured from the side with the lowest finished grade to the highest point on the fence or wall.

17.60.030 Height Limits

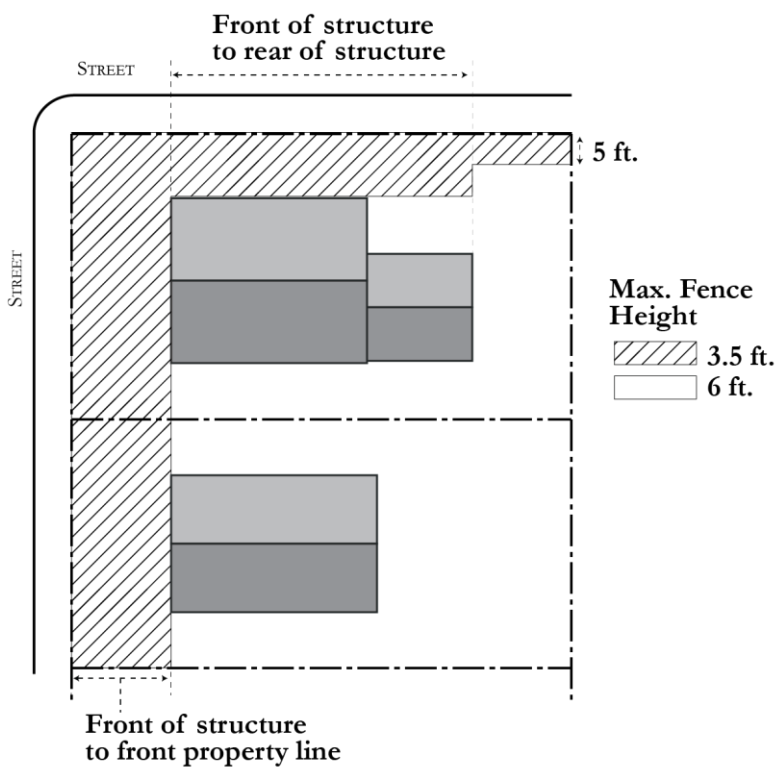
A. Maximum Height. The maximum height of fences and walls in all zoning districts is shown in Table 17.60-1 and Figure 17.60-1.

TABLE 17.60-1: FENCE AND WALL HEIGHT

Location	Maximum Height
Area within front setback from the front property line to the front facade of the primary structure	3 ½ ft.
Areas on a corner lot shown in Figure 17.60-1. [1]	3 ½ ft.
All other locations	6 ft.

Note:
[1] See Section 17.96.050 (Intersection Sight Distance) for addition corner lot fence requirements.

FIGURE 17.60-1: FENCE AND WALL HEIGHT



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B. Intersection Sight Distance. Fences on corner parcels and adjacent to driveways shall comply with maximum height requirements as specified in Section 17.96.050 (Intersection Sight Distances) to maintain a clear view for motor vehicle drivers.

C. Decorative Features and Materials.

1. An additional 2 feet of fence height is permitted above a 6 foot high fence for lattice or other similar material that is at least 50 percent transparent.
2. Decorative arches and other similar features above an entry walkway may be up to 10 feet in height within a required front and exterior side setbacks.

D. Use of Parking Spaces. Fences and walls may not be placed in a location that interferes with the use of a required on-site or street parking spaces.

E. Fences Along Arterials and Collectors. The Community Development Director may require additional transparency or reduced heights for fences along arterial and collector streets to maintain public views and/or enhance community design.

F. Noise Walls. The Planning Commission may allow walls along arterial and collector streets to exceed maximum permitted heights as shown in Table 17.60-1 when necessary to mitigate noise impacts on residents.

G. Coastal Access and Public Views to the Coast. Fences and/or walls shall not prevent or obstruct public access to the coast or shoreline. Fences and/or walls also shall not block, obscure, or otherwise adversely impact significant public views of the shoreline, as identified within the LCP Land Use Plan.

17.60.040 Fences Adjacent to Soquel Creek Pathway and Grand Avenue Walkway

All fences adjacent to the pedestrian paths along the east side of Soquel Creek north of Stockton Avenue and along the Grand Avenue Walkway shall comply with the following standards:

A. Maximum height: 3 ½ feet.

B. Required material: wood, ornamental steel or iron, or other similar material.

C. Fences may not be constructed of solid material. Fences shall maintain public views through the use of widely-spaced vertical posts or other techniques. In all cases, such fences shall not adversely impact significant public views of the coastline, as identified within the LCP Land Use Plan.

17.60.050 Materials

A. Permitted Materials. Fences and walls shall be constructed of decorative masonry, ornamental steel or iron, or wood, and shall be of a complementary color and material with the primary building. Other materials may be permitted if the Community

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Development Director determines the design to be compatible with adjacent structures and its surrounding neighborhood.

B. Prohibited Materials.

1. Fences and walls may not be constructed of inappropriate materials such as sheet metal, vehicles, underground/above-ground tanks, garage doors, aluminum siding, corrugated tin, and other similar materials not specifically designed for use as fencing.
2. Barb-wire, razor wire, and electric fences are prohibited in all zoning districts. Chain link fences are prohibited in residential zoning districts, except for temporary use during construction with an active building permit.

17.60.060 Parking Lot Screening

Parking lots of six spaces or more within ten feet of a residential zoning district shall be screened with a fence or wall as required by Subsection 17.76.060.I (Screening). The Planning Commission or City Council may require a fence or wall beyond the maximum height.

17.60.070 Private Agreements

This chapter is not intended to interfere with any agreement between private parties regarding the placement, height, or design of fences and walls. Where conflict occurs between this chapter and such a private agreement, the City shall follow this chapter. The City is not responsible for monitoring or enforcing private agreements or mediating fence and wall disputes between neighbors.

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Chapter 17.64 – ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Sections:

17.64.010 Purpose
17.64.020 Applicability
17.64.030 General Standards
17.64.040 Soquel Creek, Lagoon, and Riparian Corridor
17.64.050 Monarch Butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch

17.64.010 Purpose

This chapter establishes standards to protect and preserve environmentally sensitive habitat areas in Capitola consistent with Capitola's General Plan, Local Coastal Program (LCP), and the requirements of the Coastal Act.

17.64.020 Applicability

This chapter applies to the following environmentally sensitive habitat areas. Environmentally sensitive habitat areas (ESHA) are 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. The ESHA map identifies properties in the general location of sensitive habitats. The precise location of sensitive habitats within a site shall be identified in the biological study as required within Subsection 17.64.030.G (Biological Study). In addition, the following areas are categorically ESHA as identified in Capitola's LCP:

A. Soquel Creek, Lagoon, and Riparian Corridor

B. Noble Gulch Riparian Corridor

C. Tannery Gulch Riparian Corridor

D. Monarch Butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch

17.64.030 General Standards

The following standards apply to all environmentally sensitive habitat areas:

A. Allowable Development within Sensitive Habitat Area. The only allowed development within the sensitive habitat areas as identified in the biological study required in Subsection 17.64.030.G (Biological Study) shall be those uses dependent on the resource (e.g., low-intensity public access and recreation, nature study, restoration). The only new uses allowed in wetlands and streams/riparian areas shall be those specified in Coastal Act Sections 30233 and 30236, respectively.

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B. Impact Prevention. Allowable development within an environmentally sensitive habitat area shall be sited and designed to prevent impacts which would significantly degrade the area.

C. Long-Term Protection. Allowable development shall be sited, designed, and maintained to achieve the long-term protection of the environmentally sensitive habitat areas.

D. Prohibited Areas for Development. With the exception of restoration and resource protection and enhancement activities, no new development may encroach into the waters of Soquel Creek or Lagoon, be sited within the root zone of riparian or butterfly host trees, or require the removal of trees in a Monarch butterfly habitat area which provide roosting habitat or wind protection.

E. Minimum Setbacks.

1. Development may not encroach into required minimum setbacks from environmentally sensitive habitat areas as shown in Table 17.64-1 (Required Setbacks from Environmentally Sensitive Habitat Areas), except as allowed in subparagraph (2) below. The setbacks listed below are minimums and may be increased depending on the findings of the biological study required in 17.64.030(E), below.

TABLE 17.64-1: REQUIRED SETBACKS FROM ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Environmentally Sensitive Habitat Area	Minimum Setback
Soquel Creek Lagoon	35 ft. from the western shoreline of Soquel Creek Lagoon [1]
Soquel Creek Riparian Corridor	25~~35~~ feet from the outer edge of riparian vegetation. On the heavily developed east side of the lagoon and creek (from Stockton Avenue to Center Street) the setback requirement shall be measured from the bank of Soquel Creek. In no case may the setback be located on the west side of the pedestrian path.
Noble Gulch Riparian Corridor	35 feet from the outer edge of riparian vegetation
Tannery Gulch Riparian Corridor	50 feet from the outer edge of riparian vegetation
Other ESHA	A setback sufficient to ensure the protection of ESHA habitat values as identified in the biological study as required within Subsection 17.64.030.G (Biological Study).

Notes:
[1] Does not apply to public facilities outside the coastal zone. Within the coastal zone, applies to public facilities unless otherwise specified in Section 30233 of the Coastal Act.

2. To allow for a minimum level of development on a physically constrained lot, the City may allow a reduction to the required minimum setback provided that a biological study determines that the reduced setback does not have a significant adverse effect on the ESHA and its habitat value.

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F. Setback Exceptions on Developed Lots

1. The City may grant an exception to the minimum setbacks in Section E (Minimum Setbacks) for the following projects on developed lots:

   a. An addition or modifications to an existing single-family home, or an accessory structure, that does not extend closer to the environmentally sensitive habitat area., and provided the addition or modification or accessory structure is compatible with, and will not significantly degrade, the ESHA and/or its habitat values.

2. A developed lot means a lot that is developed or utilized to its ultimate potential use according to the applicable zoning district. For example, an R-1 lot that contains a single-family home or a permitted public/quasi-public use is considered developed. A residential or commercial lot that is vacant or used periodically for temporary uses (e.g., seasonal holiday sales) is not considered developed.

3. The City may grant an exception with the approval of an Administrative Permit, or a Coastal Development Permit for sites located within the coastal zone, upon finding that the project is:

   a. Sited and designed to prevent impacts which would significantly degrade environmentally sensitive habitat areas;

   b. Consistent with the recommendation of the biological study prepared for the proposed development; and

   c. Is compatible with the continuance of habitat and recreation activities within environmentally sensitive habitat areas.

4. The City may attach conditions to the Administrative Permit or Coastal Development Permit to ensure compliance with all City policies and regulations pertaining to the protection of environmentally sensitive habitat areas.

5. City approval of an exception ~~may~~ shall ~~necessarily~~ not require the applicant to prepare a biological study.

G. Biological Study. For any proposed development located on a parcel within the ESHA areas identified above, the City shall contract with a qualified biologist at the applicant's expense to prepare a biological study. Biological studies shall at a minimum include the following:

1. Field surveys to determine the presence and location of any sensitive habitats and sensitive plant and animal species; and

2. A biological report which includes vegetation maps, a list of all observed native plant and animal species, an evaluation of other sensitive species which were not observed but have the potential to occur on the site, an impact analysis, and recommendations for avoiding, minimizing, or mitigating impacts. The biological report shall identify appropriate building and other setbacks, appropriate use, restoration, and

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development standards within setbacks, wetland buffers, landscape recommendations, and mitigation monitoring and reporting requirements as appropriate.

H. Waiver of Biological Study._The City may waive the requirement of a biological study on a developed lot if a project is proposed in a previously developed area of the lot and the project will not degrade, the ESHA and/or its habitat values.

I. Conservation Easements and/or Deed Restrictions. If necessary and appropriate to protect natural areas and ESHA, the City shall require a permanent conservation easement or deed restriction over any portion of the property containing environmentally sensitive habitat areas and their required setbacks.

J. Erosion Control and Water Quality.

1. All development shall conform to erosion control and water quality requirements consistent with federal, state, and local regulations. Within riparian areas, allowed grading shall be minimized within the riparian setback area. Grading shall not be permitted to damage the roots of riparian trees or trees within butterfly habitat areas. Grading shall only take place during the dry season.

2. During construction, erosion control measures shall be implemented, including limiting removal of vegetation, minimizing exposure of bare soils, replanting disturbed soils with suitable native species, controlling runoff, and preventing sedimentation from entering drainages. All areas outside the immediate construction areas shall not be disturbed. The City shall require measures for temporary drainage retention during construction, including mulching, erosion control seeding, and other measures as needed to prevent any sediment from reaching sensitive habitat areas.

K. Removal of Native Riparian Trees. Removal of native riparian trees within riparian corridors is prohibited unless it is determined by the Community Development Director, on the basis of an arborist report, that such removal is in the public interest by reason of good forestry practice, disease of the tree, or safety considerations.

L. Dead Trees in Riparian Corridors. Snags, or standing dead trees, shall not be removed from riparian corridors unless in imminent danger of falling, where same would lead to a public safety issue. Removal shall be consistent with all applicable provisions of Capitola Municipal Code Chapter 12.12 (Community Tree and Forest Management). Any removed tree shall be replaced with a healthy young tree of an appropriate native riparian species or appropriate habitat for Monarch butterflies.

M. Landscaping Plan. A landscaping plan shall be prepared for proposed developments that identifies the location and extent of any proposed modification to existing vegetation and the locations, kinds, and extent of new landscaping. The emphasis of such plans shall be on the maintenance and enhancement of native species, the removal of existing invasive species, and the enhancement of natural habitat. New invasive plant or tree

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species are prohibited, with the exception of species which positively contribute to Monarch butterfly habitat.

N. Wood-Burning Fireplaces. Wood-burning fireplaces shall be prohibited in structures built on sites where Monarch butterflies may be disturbed due to chimney smoke. The City discourages wood-burning fireplaces for residential uses in all other areas of Capitola.

17.64.040 Soquel Creek, Lagoon, and Riparian Corridor

The following standards apply in the Soquel Creek, Lagoon, and Riparian Corridor in addition to the standards in Section 17.64.030 (General Standards):

A. No New Development. No new development is permitted within the riparian corridor along Soquel Creek and Lagoon, except for restoration and resource protection and enhancement activities, and, outside the coastal zone only, public facilities.

B. Division of Land. New divisions of land may be approved only if each new parcel contains adequate area outside the riparian or stream bank setback to accommodate new development.

17.64.050 Monarch Butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch

The following standard applies to both the Rispin - Soquel Creek and the Escalona Gulch Monarch Butterfly Habitat Areas in addition to the standards in Section 17.64.030 (General Standards):

A. Permitted Construction Periods. Construction for otherwise allowable development within or on properties contiguous to the designated butterfly groves shall be prohibited during fall and winter months when the Monarch butterflies are present. Removal or modification of trees (including pruning) within the groves shall not be permitted during these periods except when determined by the Community Development Director, on the basis of an arborist report, to be an emergency necessary to protect human life or property.

B. Tree Protection.

1. Development shall be sited and designed to avoid removal of large trees. New development located immediately adjacent to large trees shall be evaluated by an arborist to ensure that the development will not negatively impact the tree in the future.
2. Trees removed for construction shall be replaced based on a written tree replanting program developed in consultation with a qualified Monarch butterfly expert. The trees shall be sited in strategic locations as identified by the replanting program.
3. Barrier fencing shall be installed around large trees, especially cluster trees, for protection during construction.

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C. Structure Height. The City shall limit structure heights as needed to prevent shading of cluster sites.

D. Construction Involving Heavy Equipment. No construction involving heavy equipment that may bump into the cluster trees or produce heavy plumes of exhaust smoke is permitted during the months in which the Monarch butterflies are in residence (October 1st to March 1st).

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Chapter 17.72 LANDSCAPING

Sections:

17.72.010 Purpose
17.72.020 Applicability
17.72.030 Water Efficient Landscape Design and Installation Ordinance
17.72.040 Landscape Plans
17.72.050 Required Landscape Areas
17.72.060 Landscape Standards
17.72.070 Landscape Maintenance

17.72.010 Purpose

This chapter establishes landscaping standards to enhance the aesthetic appearance of developed areas in Capitola and to promote the efficient use of water resources.

17.72.020 Applicability

A. Multi-Family Residential and Non-Residential Projects. The following multi-family and non-residential projects shall comply with all requirements of this chapter:

1. Construction of new structures.
2. Additions that increase the floor area of a multi-family or non-residential structure by 3,000 square feet or more.

B. Single Family Residential Projects.

1. New single-family homes shall comply with all requirements of this chapter.
2. If existing landscaping is disturbed or new landscaping is added as part of a remodel or addition to an existing single-family home that requires a Design Permit, the new landscaping shall comply with the standards in Section 17.72.060 (Landscape Standards). The City will evaluate compliance with these standards based on the plans and materials submitted as part of the Design Permit applications. Submittal of a Landscape Plan for the entire site in accordance with Section 17.72.040 (Landscape Plans) is not required.

C. Coastal Development Permit. 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).

17.72.030 Water Efficient Landscape Design and Installation Ordinance

In addition to the requirements of this chapter, all applicable development in Capitola shall also comply with the applicable water provider's (i.e., the City of Santa Cruz Water Department or Soquel Creek Water District) Landscape Water Use Efficiency Ordinance. If

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conflicts occur between the applicable water provider's Landscape Water Use Efficiency Ordinance and the Zoning Code, the more restrictive policy to conserve water shall control.

17.72.040 Landscape Plans

A. Landscape Plan Required. Projects subject to the requirements of this chapter shall submit a landscape plan as part of planning permit applications (e.g., Design Permit/Coastal Development Permit applications) and subsequent building permit applications.

B. Required Contents. Landscape plans shall include the following features and information:

1. Site boundaries.
2. Existing conditions on the property, including contours and existing structures.
3. Structures immediately adjacent to the property.
4. New structures and improvements proposed as part of the development project.
5. Existing landscaping, trees, and vegetation to be retained specifying plant location, species, and size. Details of all existing trees shall also include tree diameter measured 48 inches above existing grade and outer limit of tree canopy and a label identifying if the tree will remain or be removed.
6. New landscaping proposed as part of the development project specifying plant location, species, and size.
7. Irrigation plan specifying the location, type, and size of all components of the irrigation system.
8. Proposed grading.
9. Additional information as determined by the Community Development Department to demonstrate compliance with the requirements of this chapter.

C. Review and Approval. The Community Development Department shall review all landscape plans to verify compliance with this chapter. Landscape plans shall be approved by the review authority responsible for approving the planning permits required for the proposed project.

D. Changes to Approved Landscape Plans.

1. Substantial modifications to an approved landscape plan shall be allowed only by the review authority which approved the landscape plan.
2. The Community Development Director may approve minor modifications to a landscape plan previously approved by the Planning Commission. Minor modifications are defined as changes to a landscape plan that do not alter the general design character of the landscaped area or alter a feature of the landscaped `area specifically required by the Planning Commission.

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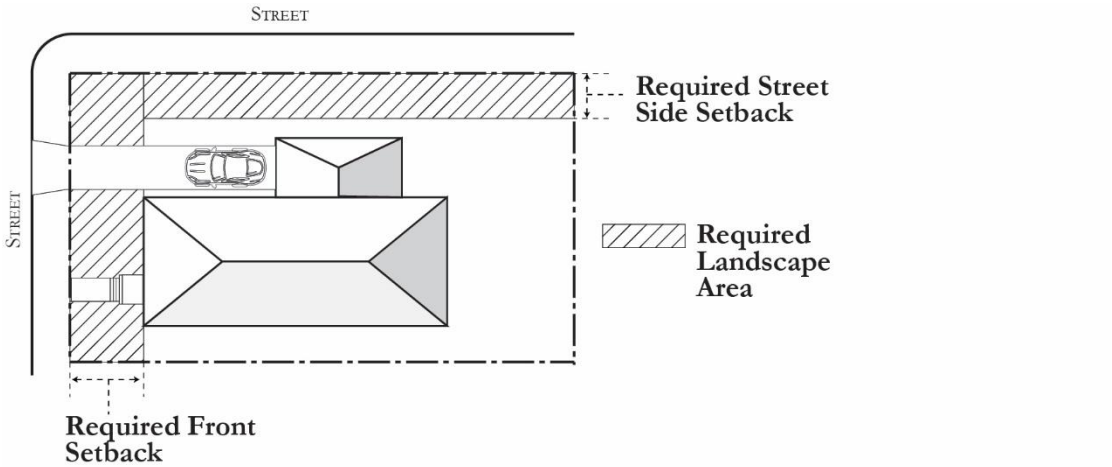
17.72.050 Required Landscape Areas

A. Residential Zoning Districts.

1. All required front and street side setback areas, excluding areas required for access to the property, shall be landscaped and maintained. See Figure 17.72-1.

2. Landscaping may consist of any combination of living plants, such as trees, shrubs and grass with related natural features, such as rock, stone, or mulch; and may include patios, courtyards, and outdoor dining areas. Artificial grass may be used within required landscaping areas. Decorative hardscape featuring pervious materials is permitted within required landscaping areas when combined with natural vegetation.

FIGURE 17.72-1: REQUIRED LANDSCAPE AREA IN R-1 ZONING DISTRICT



B. Non-Residential Zoning Districts.

1. Except in the I zoning district, all required front and street side setback areas shall be landscaped, excluding areas required for access to the property and public or quasi-public open space such as courtyards and outdoor seating.

2. The minimum landscaped area on a site is shown in Table 17.72-1.

3. In the MU-V and MU-N zoning districts, up to 75 percent of the minimum landscaped area may be occupied by outdoor dining areas, courtyards, and other similar quasi-public areas with Planning Commission approval. Hardscape areas counting towards landscaping requirements must contain above-ground planters and other similar features that incorporate greenery and plantings into the space design. In all other zoning districts these areas may not count toward landscaping requirements.

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TABLE 17.72-1: MINIMUM LANDSCAPED AREA IN NON-RESIDENTIAL ZONING DISTRICTS

Zoning Districts	Minimum Landscaped Area
MU-V, MU-N, C-R, C-C, CF, I	5%
P/OS, PD, VS	As determined by the permit approval process

C. Visitor Serving Properties. Minimum required landscaping for certain visitor serving properties are shown in the Table 17.72-2.

TABLE 17.72-2: MINIMUM LANDSCAPED AREA FOR VISITOR SERVING PROPERTIES

Property	Minimum Landscaped Area
Rispin Site	75% as either landscaped areas in developed areas of the site, or unlandscaped natural areas in areas subject to conservation easements
Shadowbrook Restaurant Parcel and visitor-serving El Salto and Monarch Cove parcels	50% landscaped area or undeveloped open space

17.72.060 Landscape Standards

A. General Standards. The following standards apply pursuant to 17.72.020 within all zoning districts.

1. **Plant Selection.** A minimum of 90 percent of plants and trees shall be drought-tolerant as defined by the Water Use Classification of Landscape Species (WUCOLS.) Native plants adapted to the local climate are preferred.

2. **Plant Selection along Blufftop, Beach, or ESHA**. Native plants adapted to the local climate shall be required within 50 feet of the blufftop edge, the beach, or ESHA. See Chapter 17.64 (Environmentally Sensitive Habitat Areas) for habitat requirements.

3. **Storm Water Management.** The landscape plan shall incorporate stormwater management controls in compliance with the Regional State Water Resources Control Board.

4. **Turf Lawns.**

   a. Turf areas shall be limited to 25 percent of the landscaped area. The Planning Commission may approve larger areas if the lawn area provides functional open space.

   b. Drought-tolerant grass species shall be used exclusively.

   c. Turf shall not be used on berms, slopes, or median islands where runoff is a problem.

5. **Slopes.** Turf and high-water-use plants shall not be planted on berms and slopes greater than 25 percent.

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6. **Plant Groupings.** Where irrigation is proposed, plants shall be grouped in separate hydrozones (i.e., plants within each irrigation valve area shall have the same watering requirements).

7. **Water Features.** Decorative water features (e.g., fountains, ponds, waterfalls) must be approved by the Planning Commission and shall have recirculating water systems. Automatic fill valves are not recommended for use within water features

8. **Watering Times.** Watering shall be limited to between eight p.m. and ten a.m.

9. **Public Safety.** Plant species shall be selected and located so that at maturity they do not interfere with pedestrian, bicycle, or vehicular circulation or safety and do not conflict with overhead lights, or utility lines.

B. Irrigation and Water Efficiency. Irrigation systems shall be designed to avoid runoff, low head drainage, overspray, and other similar conditions where water flows outside of landscaped areas. Irrigation systems shall feature the following equipment:

1. Irrigation systems shall meet a minimum irrigation efficiency standard of the applicable water provider.

2. Separate landscape water meters for landscape areas exceeding 10,000 square feet for single-family residential uses and 5,000 square feet for all other uses.

3. Irrigation controllers capable of percent adjustment, multiple programming, and rain sensor.

4. Overhead sprays shall have a precipitation rate of no more than 0.75 inches per hour.

5. Separated valves and circuits based on water use and sun exposure. Separate valves for turf and non-turf and berm areas are required.

6. Sprinkler heads and emitters selected for proper area coverage, application rate, operation pressure, adjustment capability, and ease of maintenance.

7. Rain-sensing override devices are required for all irrigation systems.

8. Drip or bubble irrigation is required for all trees. Bubblers should not exceed a flow rate of 1.5 gallons per minute.

9. State-approved back flow prevention devices shall be installed on all irrigation systems

C. Timing of Installation. Landscaping systems shall be installed prior to final building permit inspection or certification of occupancy.

17.72.070 Landscape Maintenance

The following landscape maintenance requirements apply to multi-family and non-residential properties.

A. General. Landscape areas shall be maintained in a neat and healthful condition at all times.

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B. Mulch. Mulch shall be periodically added to the soil surface in all landscape areas.

C. Replacement of Dead or Dying Plants. Plants that are dead or severely damaged or diseased shall be replaced by the property owner.

D. Removal of Landscaping. Any removed mature landscaping shall be replaced with landscaping of similar size and maturity as that which was removed. Trees may only be removed and/or replaced in accordance with the City's Tree Ordinance, Municipal Code/Local Coastal Program Section 12.12.

E. Irrigation Systems. Irrigation systems shall be maintained in a fully functional manner as approved by the City and required by this chapter. Watering schedules should be adjusted periodically to reflect seasonal variations.

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Chapter 17.74 – ACCESSORY DWELLING UNITS

Sections:

17.74.010 Purpose
17.74.020 Definitions
17.74.030 Permitting Process
17.74.040 General Requirements
17.74.050 Units Subject to Limited Standards
17.74.060 Units Subject to Full Review Standards
17.74.070 Units Requiring a Design Permit
17.74.080 Development Standards
17.74.090 Objective Design Standards
17.74.100 Deviation from Standards
17.74.110 Findings
17.74.120 Deed Restrictions
17.74.130 Incentives

17.74.010 Purpose

This chapter establishes standards for the location and construction of accessory dwelling units (ADUs) consistent with Government Code Sections 65852.2-65852.22. These standards are intended to allow accessory dwelling units as a form of affordable housing in Capitola while maintaining the character and quality of life of residential neighborhoods.

17.74.020 Definitions

Terms used in this chapter are defined as follows:

A. Accessory Dwelling Unit. "Accessory dwelling unit" means a self-contained living unit located on the same parcel as a primary dwelling unit.

B. Attached Accessory Dwelling Unit. "Attached accessory dwelling unit" means an accessory dwelling unit that:

1. Shares at least one common wall with the primary dwelling unit; and
2. Is not fully contained within the existing space of the primary dwelling unit.

C. Detached Accessory Dwelling Unit. "Detached accessory dwelling unit" means an accessory dwelling unit that does not share a common wall with primary dwelling unit and is not an internal accessory dwelling unit.

D. Internal Accessory Dwelling Unit. "Internal accessory dwelling unit" means an accessory dwelling unit that is fully contained within the existing space of the primary dwelling unit or an accessory structure.

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Junior Accessory Dwelling Unit. "Junior accessory dwelling unit" means an accessory dwelling unit no more than 500 square feet in size and contained entirely within a single-family residence.

E. Two-story Attached Accessory Dwelling Unit. "Two-story attached accessory dwelling unit" means an attached accessory dwelling unit that is configured as either:

1. Two stories of living space attached to an existing primary dwelling unit; or
2. Second-story living space above a ground-floor garage or living space in an existing primary dwelling unit.

F. Two-story Detached Accessory Dwelling Unit. "Two-story detached accessory dwelling unit" means a detached accessory dwelling unit that is configured as either:

1. Two stories of living space in a single accessory dwelling unit; or
2. Second story living space above a ground floor garage or other accessory structure.

17.74.030 Permitting Process

A. When Consistent with Standards.

1. Except when a Design Permit is specifically required by this chapter, an accessory dwelling unit that complies with all standards in in this chapter shall be approved ministerially with an Administrative Permit. No discretionary review or public hearing is required. A building permit application may be submitted concurrently with the Administrative Permit application.
2. If an existing single-family or multifamily dwelling exists on the parcel upon which an accessory dwelling unit is proposed, the City shall act on an application to create an accessory dwelling unit within 60 days from the date the City receives a completed application. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay.
   a. The City has acted on the application if it:
      (1) Approves or denies the building permit for the accessory dwelling unit;
      (2) Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter; or
      (3) Determines that the accessory dwelling unit does not qualify for ministerial approval.
   b. If the accessory dwelling unit application is submitted with a permit application to create a new single-family dwelling on the parcel, the City may delay acting on the accessory dwelling unit application until the City acts on the permit application for the new single-family dwelling. The accessory dwelling unit shall be considered without discretionary review or hearing.

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B. Two-Story Units. A two-story accessory dwelling unit (attached or detached) greater than 16 feet in height requires Planning Commission approval of a Design Permit. To approve the Design Permit, the Planning Commission must make the findings in Section 17.74.110. A two-story accessory dwelling unit must comply with the standards in Sections 17.74.080 (Development Standards) and 17.74.090 (Objective Design Standards) unless the Planning Commission allows a deviation through the Design Permit process.

C. When Deviating from Standards. An accessory unit that deviates from any standard in 17.74.080 (Development Standards) or 17.74.090 (Objective Design Standards) may be allowed with Planning Commission approval of a Design Permit. See Section 17.74.100 (Deviation from Standards).

D. When Dependent on Separate Construction. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building which is not a part of the accessory dwelling unit ("separate construction") and is not proposed as part of a permit application to create a new single-family dwelling on the parcel , the City shall either:

1. Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or
2. Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case, the accessory dwelling unit is subject to the same review procedures as the separate construction.

E. Within Coastal Zone.

1. A proposed accessory dwelling unit 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).
2. Nothing in this chapter shall be construed to supersede or in any way alter or lessen the effect of application of the California Coastal Act of 1976 (Division 20, commencing with Section 30000, of the Public Resources Code), except that a public hearing for a CDP application for an accessory dwelling unit shall not be required.

F. Historic Resources.

1. If a Design Permit is required for an accessory dwelling unit on a property with a historic resource, the proposed project is subject to the requirements in Chapter 17.94 (Historic Preservation). Third-party review of the proposed project may be required as provided in Chapter 17.94.
2. Compliance with Chapter 17.94 is not required for accessory dwelling units approved ministerially with an Administrative Permit.

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17.74.040 General Requirements

The following requirements apply to all accessory dwelling units.

A. Where Allowed. An accessory dwelling unit is permitted:

1. In any zoning district where single-family or multifamily dwellings are a permitted use; and
2. On any parcel with an existing or proposed single-family or multifamily dwelling.

B. Maximum Number per Parcel. Not more than one accessory dwelling unit is allowed per parcel except as allowed by subsections 17.74.050.B (Detached Accessory Dwelling Units), 17.74.050.C (Non-livable Multifamily Space), and 17.74.050.D (Detached Accessory Dwelling Units on Multifamily Parcels).

C. Residential Mixed Use. If one dwelling unit is on a parcel with a non-residential use, the dwelling unit is considered a single-family dwelling for the purpose of determining the applicable requirements in this chapter. If two or more dwelling units are on a parcel with a non-residential use, the dwelling units are considered a multi-family dwelling.

D. Utility Connections. Utility connection requirements shall be subject to state law and the serving utility district

E. Fire Sprinklers. The City shall not require accessory dwelling units to provide fire sprinklers if they would not be required for the primary residence under the current Fire Code.

F. Vacation Rentals Prohibited. Accessory dwelling units may not be used for vacation rentals as defined in 17.60 (Glossary).

G. Separate Sale from Primary Dwelling. An accessory dwelling unit shall not be sold or conveyed separately from the primary dwelling.

H. Guaranteed Allowance. Maximum building coverage, floor area ratio, and private open space standards in Section 17.74.080 (Development Standards) shall not prohibit an accessory dwelling unit with up to 800 square feet of floor area, up to16 feet in height, and four-foot side and rear yard setbacks, provided the accessory dwelling unit complies with all other applicable standards. The guaranteed allowance of 800 square feet of floor area is in addition to the maximum floor area of a property.

I. Converting and Replacing Existing Structures.

1. An internal accessory dwelling unit may be constructed regardless of whether it conforms to the current zoning requirement for building separation or setbacks.
2. If an existing structure is demolished and replaced with an accessory dwelling unit, an accessory dwelling unit may be constructed in the same location and to the same dimensions as the demolished structure.
3. If any portion of an existing structure crosses a property line, the structure may not be converted to or replaced with an accessory dwelling unit. For existing structure

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within 4 feet of a property line, the applicant must submit a survey demonstrating that the structure does not cross the property line.

J. Manufactured Homes and Mobile Units.

1. A manufactured home, as defined in California Health and Safety Code Section 18007, is allowed as an accessory dwelling unit. Pursuant California Health and Safety Code Section 18007, as may be amended from time to time, a manufactured home must:
   a. Provide a minimum of 320 square feet of floor area;
   b. Be built on a permanent chassis
   c. Be designed for use as a single-family dwelling with or without a foundation when connected to the required utilities; and
   d. Include the plumbing, heating, air conditioning, and electrical systems contained within the home.
2. Vehicles and trailers, with or without wheels, which do not meet the definition of a manufactured home, are prohibited as accessory dwelling units.
3. A prefabricated or modular home is allowed as an accessory dwelling unit.

K. Junior Accessory Dwelling Units

1. **General.** Junior accessory dwelling units shall comply with all standards in this chapter unless otherwise indicated.
2. **Occupancy.** The property owner must occupy either the primary dwelling unit or the junior accessory dwelling unit on the property.
3. **Sanitation Facilities.** A junior accessory dwelling unit may include sanitation facilities, or may share sanitation facilities with the primary dwelling.
4. **Kitchen.** A junior accessory dwelling unit must include, at a minimum:
   a. A cooking facility with appliances; and
   b. At least 3 linear feet of food preparation counter space and 3 linear feet of cabinet space.

L. Multifamily Homeowners Associations. If a multifamily dwelling is located in a development with a homeowners' association (HOA), an application for an accessory dwelling unit must:

1. Be signed by an authorized officer of the HOA; and
2. Include a written statement from the HOA stating that the application is authorized by the HOA, if such authorization is required.

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17.74.050 Units Subject to Limited Standards

The City shall ministerially approve an application for a building permit within a residential or mixed-use zoning district to create the following types of accessory dwelling units. For each type of accessory dwelling unit, the City shall require compliance only with the development standards in this subsection. Standards in Subsection 17.74.080 (Development Standards) and 17.74.090 (Objective Design Standards) do not apply to these types of accessory dwelling units.

A. Internal Accessory Dwelling Units. One internal accessory dwelling unit or junior accessory dwelling unit per parcel with a proposed or existing single-family dwelling if all of the following apply:

1. The internal accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
2. The unit has exterior access from the proposed or existing single-family dwelling.
3. The side and rear setbacks are sufficient for fire and safety.
4. The junior accessory dwelling unit complies with Government Code Section 65852.22.

B. One-Story Detached Accessory Dwelling Units 800 Square Feet or Less. One detached, new construction, accessory dwelling unit for a parcel with a proposed or existing single-family dwelling. The detached accessory dwelling unit may be combined with a junior accessory dwelling unit described in Subsection A (Internal Accessory Dwelling Units) above. The accessory dwelling unit must comply with the following:

1. Minimum rear and side setbacks: 4 feet.
2. Maximum floor area: 800 square feet.
3. Maximum height: 16 feet.

C. Non-Livable Multifamily Space. One or more internal accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, subject to the following:

1. At least one accessory dwelling unit is allowed within an existing multifamily dwelling up to maximum of 25 percent of the existing multifamily dwelling units; and
2. Each unit shall comply with state building standards for dwellings.

D. Detached Accessory Dwelling Units on Multifamily Parcels. Not more than two detached accessory dwelling units that are located on a parcel that has an existing multifamily dwelling, subject to the following:

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1. Maximum height: 16 feet.
2. Minimum rear and side setbacks: 4 feet.

17.74.060 Units Subject to Full Review Standards

The City shall ministerially approve an application for a building permit to create the following types of accessory dwelling units.

A. One-Story Attached Accessory Dwelling Units. A one-story attached accessory dwelling unit in compliance with standards in Subsection 17.74.080 (Development Standards) and 17.74.090 (Objective Design Standards).

B. One-Story Detached Accessory Dwelling Units Between 800 and 1,200 Square Feet. A one-story detached accessory dwelling unit with a floor area between 800 and 1,200 square feet in compliance with standards in Subsection 17.74.080 (Development Standards) and 17.74.090 (Objective Design Standards).

17.74.070 Units Requiring a Design Permit

The following types of accessory dwelling units require Planning Commission approval of a Design Permit.

A. Two-Story Accessory Dwelling Units. A two-story attached or detached accessory dwelling unit greater than 16 feet in height in compliance with standards in Subsection 17.74.080 (Development Standards) and 17.74.090 (Objective Design Standards).

B. Accessory Dwelling Units Deviating from Standards. Any accessory dwelling unit that deviates from one or more standards in Subsection 17.74.080 (Development Standards) and 17.74.090 (Objective Design Standards).

17.74.080 Development Standards

The standards in this section apply to all accessory dwelling units not approved pursuant to Section 17.74.050 (Units Subject to Limited Standards).

A. General. Table 17.74-1 shows development standards that apply to accessory dwelling units.

Table 17-74-1: Development Standards

ADU Type/Location	Standard
Unit Size, Maximum	
Attached ADU, one bedroom or less	50 percent of the existing primary dwelling or 850 sq. ft., whichever is greater
Attached ADU, more than one bedroom	50 percent of the existing primary dwelling or 1,000 sq. ft., whichever is greater
Detached ADU	1,200 sq. ft.
Internal ADU	No maximum

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Junior ADU	500 sq. ft.
Floor Area Ratio, Maximum [1]	As required by zoning district [2]
Setbacks, Minimum [3,4]	
Front	Same as primary dwelling [5]
Interior Side, 1st and 2nd Story	4 ft.
Exterior Side, 1st and 2nd Story	4 ft.
Rear, 1st and 2nd Story	4 ft.
Building Coverage, Maximum	
R-M zoning district	40 % [2]
All other zoning districts	No maximum
Height, Maximum [3]	
Attached ADU	Height of primary residence or maximum permitted in zoning district, whichever is less
Detached ADU, one-story	16 ft.
Detached ADU, two-story [6]	22 ft.
Private Open Space, Minimum [7]	48 sq. ft. [2]

Notes

[1] Calculated as the total floor area ratio on the site, including both the primary dwelling and accessory dwelling unit. An applicant may request simultaneous approval of a new internal accessory dwelling unit and an addition to the primary residence as part of a single application.

[2] Standard may not prohibit an accessory dwelling unit with at least an 800 square feet of floor area. See Section 17.74.040.H (Guaranteed Allowance).

[3] Setback and height standards apply only to attached and detached accessory dwelling units. Standards do not apply to internal or junior accessory dwelling units.

[4] See also Section 17.74.040.H (Converting and Replacing Existing Structures) for setback exceptions that apply to an accessory dwelling unit created by converting or replacing an existing structure.

[5] See also 17.74.080.B (Front Setbacks).

[6] A two-story detached accessory dwelling unit greater than 16 feet in height requires a Design Permit.

[7] Private open space may include screened terraces, decks, balconies, and other similar areas.

B. Front Setbacks.

1. Any increased front setback requirement that applies to a garage associated with a primary dwelling unit also applies to a garage that serves an accessory dwelling unit.
2. In the R-1 zoning district, front setback exceptions in Riverview Terrace and on Wharf Road as allowed in 17.16.030.B apply to accessory dwelling units.
3. In the mixed use zoning districts, minimum front setbacks in Chapter 17.20 (Mixed Use Zoning Districts) apply to accessory dwelling units. Maximum setbacks or build-to requirements do not apply.

C. Parking.

1. **All Areas.** The following parking provisions apply to accessory dwelling units in all areas in Capitola.

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a. **Required Parking in Addition to Primary Residence.** Parking spaces required for an accessory dwelling unit are in addition to parking required for the primary residence.

b. **Tandem Spaces.** Required off-street parking may be provided as tandem parking on an existing driveway.

c. **Within Setback Areas.**

(1) Required off-street parking may be located within minimum required setback areas from front, side, and rear property lines.

(2) A parking space in a required front setback area shall be a "ribbon" or "Hollywood" design with two parallel strips of pavement. The paving strips shall be no wider than 2.5 feet each and shall utilize permeable paving such as porous concrete/asphalt, open-jointed pavers, and turf grids. Unpaved areas between the strips shall be landscaped with turf or low-growing ground cover.

d. **Alley-Accessed Parking.** Parking accessed from an alley shall maintain a 24-foot back-out area, which may include the alley.

2. **Outside of Coastal Zone and in Cliffwood Heights.** The following parking provisions apply only to accessory dwelling units outside of the Coastal Zone and in the Cliffwood Heights neighborhood as shown in Figure 17.74-1.

a. No additional parking is required for an internal or junior accessory dwelling unit. The floor area of an internal or junior accessory dwelling unit shall not be included in the parking calculation for the primary residence.

b. One off-street parking space is required for an attached or detached accessory dwelling unit, except as provided in Paragraph (c) below.

c. No off-street parking is required for an accessory dwelling unit in the following cases:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit, as defined in Government Code Section 65852.2(j)(10).

(2) The accessory dwelling unit is located within a National Register Historic District or other historic district officially designated by the City Council.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle pick-up/drop-off location within one block of the accessory dwelling unit.

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d. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, replacement parking stalls are not required for the demolished or converted parking structure.

3. **Within Coastal Zone and Outside Cliffwood Heights.** The following parking provisions apply only to accessory dwelling units in the Coastal Zone and outside of the Cliffwood Heights neighborhood as shown in Figure 17.74-1 in accordance with the City's adopted Local Coastal Program.

   a. One off-street parking space is required for any type of accessory dwelling unit except as provided in Paragraph (b) below.

   b. Where the primary residence is served by four or more existing off-street parking spaces, including spaces in a tandem configuration, no off-street parking is required for the accessory dwelling unit.

   c. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, replacement parking stalls are required for the demolished or converted parking structure. Replacement parking space(s) may be covered or uncovered. Replacement parking does not satisfy the one off-street parking requirement for the accessory dwelling unit in Paragraph (a) above.

Figure 17-74-1: Cliffwood Heights ADU Parking Exclusion Area

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17.74.090 Objective Design Standards

The standards in this section apply to all accessory dwelling units not approved pursuant to Section 17.74.050 (Units Subject to Limited Standards).

A. Entrance Orientation – Detached ADU. The primary entrance to a detached accessory dwelling unit shall face the front or interior of the parcel unless the accessory dwelling unit is directly accessible from an alley or a public street.

B. Privacy Impacts. To minimize privacy impacts on adjacent properties, the following requirements apply to walls with windows within 8 feet of an interior side or rear property line abutting a residential use.

1. For a single-story wall or the first story of a two-story wall, privacy impacts shall be minimized by either:
   a. A 6-foot solid fence on the property line; or
   b. Clerestory or opaque windows for all windows facing the adjacent property.
2. For a second story wall, all windows facing the adjacent property shall be clerestory or opaque.

C. Second Story Decks and Balconies. Second story decks and balconies shall be located and designed to minimize privacy impacts on adjacent residential properties, as determined by the Planning Commission through the Design Permit approval process.

D. Architectural Details. Table 17-74-2 shows architectural detail standards for accessory dwelling units.

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Table 17-74-2: Architectural Detail Standards

	Non-Historic Property [1]		Historic Property [1]	
	Attached ADU	**Detached ADU**	**Attached ADU**	**Detached ADU**
Primary Exterior Materials [2]	Same as primary dwelling [3]	No requirement	Same as primary dwelling; or horizontal wood, fiber cement, or board and batten siding or shingles [3]	Horizontal wood, fiber cement, or board and batten siding, or shingles [4]
Window and Door Materials	No requirement		Wood, composite, pre-finished metal with a non-reflective finish	
Window Proportions	No requirement		Windows must be taller than they are wide or match the proportions of the primary dwelling window [5]	
Window Pane Divisions	No requirement		True or simulated divided lights	
Roof Material	Same as primary dwelling [3]	No requirement	Same as primary dwelling [3]	Same as primary dwelling; or architectural composition shingles, clay tile, slate, or non- reflective standing seam metal [3]
Roof Pitch	No requirement	4:12 or greater. [6]	No requirement	4:12 or greater [6]

Notes:
[1] "Historic property" means a designated historic resource or potential historic resource as defined in Section 17.84.020 (Types of Historic Resources).
[2] Standard does not apply to secondary and accent materials.
[3] "Same as primary dwelling" means the type of material must be the same as the primary dwelling. The size, shape, dimensions, and configuration of individual pieces or elements of the material may differ from the primary dwelling.
[4] If primary dwelling is predominantly stucco, stucco is allowed for the accessory dwelling unit.
[5] Bathroom windows may be horizontally oriented.
[6] If the primary dwelling has a roof pitch shallower than 4:12, the accessory dwelling unit roof pitch may match the primary dwelling.

E. Building Additions to Historic Structures. A building addition to a designated historic resource or potential historic resource as defined in Section 17.84.020 (Types of Historic Resources) for an attached accessory dwelling unit shall be inset or separated by a connector that is offset at least 18 inches from the parallel side or rear building wall to distinguish it from the historic structure.

17.74.100 Deviation from Standards

A. When Allowed. The Planning Commission may approve an accessory dwelling unit that deviates from one or more standards in Section 17.74.080 (Development Standards) and 17.74.090 (Objective Design Standards).

B. Permit Required. Deviations allowed under this section require Planning Commission approval of a Design Permit. A Variance is not required. To approve the Design Permit, the Planning Commission must make the findings in Section 17.74.110 (Findings).

17.74.110 Findings

A. When Required. The Planning Commission must make the findings in this section to approve a Design Permit for:

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1. Two-story attached or detached accessory dwelling units greater than 16 feet in height; and
2. Accessory dwelling units that deviate from one or more standards in Section 17.74.080 (Development Standards) and 17.74.090 (Objective Design Standards).

B. Findings. To approve the Design Permit, the Planning Commission shall find that:

1. The exterior design of the accessory dwelling unit is compatible with the primary dwelling on the parcel through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.
2. The exterior design is in harmony with, and maintains the scale of, the neighborhood.
3. The accessory dwelling unit will not create excessive noise, traffic, or parking congestion.
4. The accessory dwelling unit has or will have access to adequate water sewer service as determined by the applicable service provider.
5. Adequate open space and landscaping has been provided that is usable for both the accessory dwelling unit and the primary residence. Open space and landscaping provides for privacy and screening of adjacent properties.
6. The location and design of the accessory dwelling unit maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.
7. The accessory dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the accessory dwelling unit complements the design of the primary residence and does not visually dominate it or the surrounding properties.
8. The site plan is consistent with physical development policies of the General Plan, any area plan or specific plan, or other City policy for physical development. If located in the coastal zone, the site plan is consistent with policies of the Local Coastal Plan. If located in the coastal zone and subject to a coastal development permit, the proposed development will not have adverse impacts on coastal resources.
9. The project would not impair public views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan restores and enhances the visual quality of visually degraded areas.
10. The project deviation (if applicable), is necessary due special circumstances applicable to subject property, including size, shape, topography, location, existing structures, or surroundings, and the strict application of this chapter would deprive

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subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.

17.74.120 Deed Restrictions

A. Before obtaining a building permit for an accessory dwelling unit, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:

1. The accessory dwelling units may not be used for vacation rentals as defined in 17.160 (Glossary).
2. The accessory dwelling unit may not be sold separately from the primary dwelling.
3. For junior accessory dwelling units, restrictions on size, owner occupancy requirement, and attributes in conformance with this chapter.

B. The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement and/or revoking the City's approval of the accessory dwelling unit.

C. The deed restriction shall lapse upon removal of the accessory dwelling unit.

17.74.130 Incentives

A. Fee Waivers for Affordable Units.

1. The City may waive development fees for accessory dwelling units that will be rented at levels affordable to low or very low income households.
2. Applicants of affordable accessory dwelling units shall record a deed restriction limiting the rent to low or very low-income levels prior to issuance of a building permit.
3. Landlords of accessory dwelling units shall be relieved of any affordability condition upon payment of fees in the amount previously waived as a result of affordability requirements, subject to an annual consumer price index increase commencing with the date of application for building permit.

B. Historic Properties. The Planning Commission may allow exceptions to design and development standards for accessory dwelling units proposed on a property that contains a Historic Resource as defined in Chapter 17.84 (Historic Preservation). To allow such an exception, the Planning Commission shall approve a Design Permit and find that the exception is necessary to preserve the architectural character of the primary residence.

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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,

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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~~s~~. All land uses in the Mixed Use Village (MU-V) zoning district~~s~~ 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.

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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
Notes: [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 as determined by the Planning Commission.	

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
Residential Land Uses	
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

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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
Public and Quasi-Public Land Uses	
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
Commercial Land Uses	
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

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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.
Heavy Commercial and Industrial Land Uses	
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.
Transportation, Communication, and Utility Uses	
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

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Other Uses	
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.) and up to 125 square feet of ancillary space 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

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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

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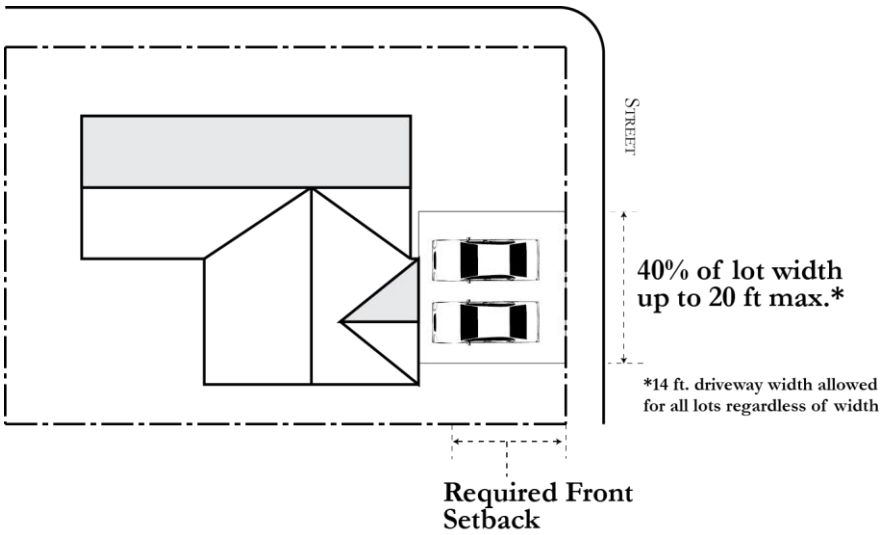

2. **Other Zoning Districts**.

   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~~

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~~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) ~~If~~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 ~~under~~by Federal Emergency Management Agency (FEMA) regulations ~~and as consistent with~~.

b. The Planning Commission may permit off-site parking 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.

4.

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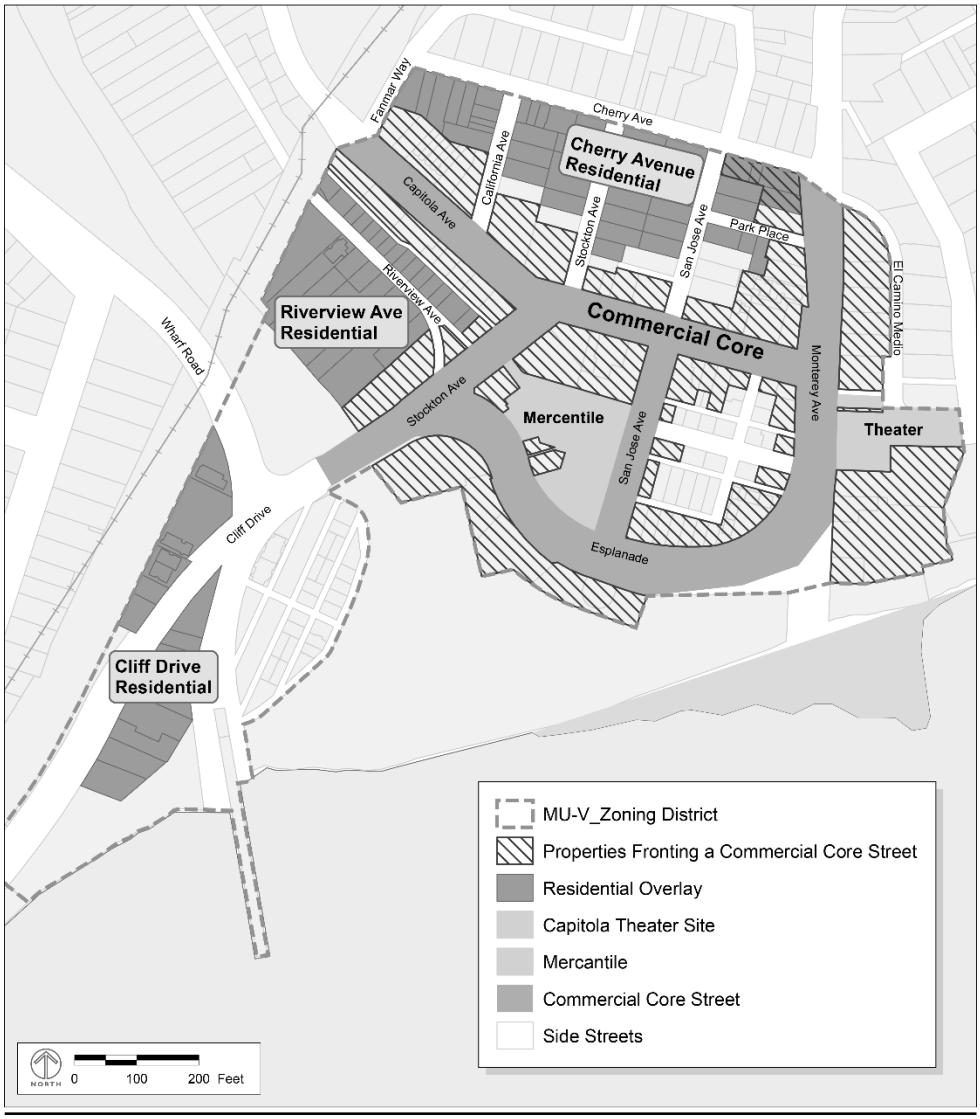
FIGURE 17.76-2: MU-V PARKING LOCATION MAP



5. **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.

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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

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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

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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.

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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 41st Avenue.

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K.

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 17.76-3 and Table 17.76-4.

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FIGURE 17.76-3: STANDARD PARKING LOT DIMENSIONS

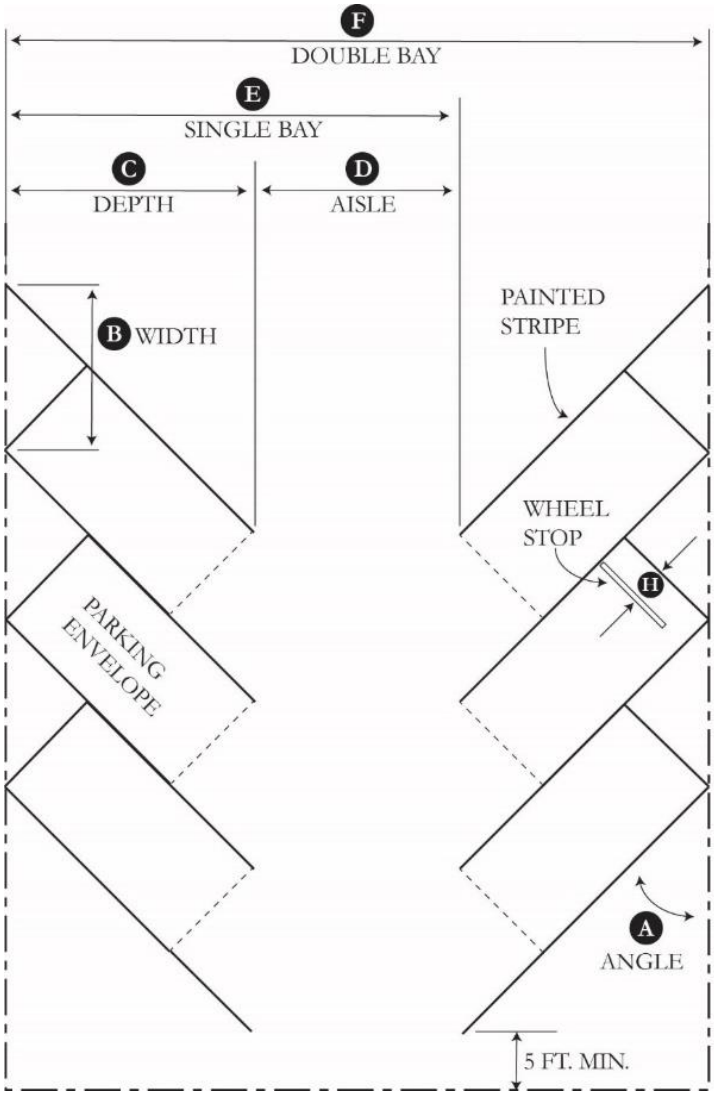

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TABLE 17.76-4: STANDARD PARKING LOT DIMENSIONS

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"	61'-0"~~p~~
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"

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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.

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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.

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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.

1. One shade tree shall be provided for every five parking spaces in a parking lot.
2. Shade trees shall be a minimum 24-inch box in size and shall provide a minimum 30-foot canopy at maturity.
3. 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.
4. 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.
5. 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.

1. 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.
2. 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

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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

	Required Bicycle Parking Spaces	
Land Use	**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

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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. Two feet of clearance shall be provided between bicycle parking spaces and adjacent walls, polls, landscaping, pedestrian paths, and other similar features.
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

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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 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 ~~in~~to 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~~evaluate 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.

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.

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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.

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Chapter 17.80 – SIGNS

Sections:

17.80.010 Purpose and Applicability
17.80.020 Definitions
17.80.030 Permit Requirements
17.80.040 Rules of Measurement
17.80.050 Signs Allowed Without Permits
17.80.060 Prohibited Signs
17.80.070 General Sign Standards
17.80.080 Standards for Specific Types of Signs
17.80.090 Design Standards
17.80.100 Residential Signs
17.80.110 Temporary Signs
17.80.120 Adjustment to Sign Standards
17.80.130 Master Sign Program
17.80.140 Nonconforming Signs
17.80.150 Violations and Enforcement

17.80.010 Purpose and Applicability

A. Purpose. This chapter establishes standards relating to the permitted type, size, height, placement, number, and design of signs. The intent of these standards is to:

1. Support economically viable businesses serving city residents, workers, and visitors.
2. Allow for signage that identifies businesses in a fair and equitable manner.
3. Protect and enhance the aesthetic qualities of the city.
4. Minimize hazards to motorists and pedestrians resulting from excessive, confusing, and distracting signs.
5. Allow for a simple and streamlined sign permitting process.

B. Applicability. This chapter applies to all signs in Capitola, except for City-installed signs and signs required by a governmental agency to carry out its responsibility to protect the public health, safety, and general welfare.

17.80.020 Definitions

The following definitions apply to this chapter:

A. Awning Sign. A sign incorporated into, attached, or painted on an awning.

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B. Awning Face Sign. A sign located on the sloping plane face of an awning.

C. Awning Valance Sign. A sign located on the valance of an awning perpendicular to the ground.

D. Center Identification Sign. A sign identifying the name of a shopping center and that does not include the name of any business within the center. A shopping center is a commercial building or group of buildings operated as a unit on a single parcel, sharing common parking areas or commonly owned adjacent parcels.

E. Commercial Message. Any sign copy that directly or indirectly names, draws attention to, or advertises a business, product, good, service, or other commercial activity, or which proposes a commercial transaction.

F. Commercial Sign. A sign with a commercial message.

G. Construction Site Sign. An on-premise sign for an approved construction project that publicizes the future building and occupants as well as the architects, engineers and construction organizations involved in the project.

H. Directory Sign. An on-premise sign which shows the direction to or location of a customer entrance to a business.

I. Election Period. The period beginning 120 days before and ending 1 day after any national, state, or local election in which city electors may vote..

J. Flags. Fabric, textile, or material with colors and/or patterns which display a symbol of a nation, state, company, or idea.

K. Monument Sign. An independent, freestanding structure supported on the ground as opposed to being supported on the building.

L. Projecting Sign. Any sign permanently attached to a building or wall such that the sign face or faces are perpendicular to the building or wall.

M. Roof Sign. Any sign that is mounted on a roof or a parapet, of a building.

N. Sidewalk Sign. Movable or permanent business identification signs placed in or attached to a public sidewalk.

O. Sign. Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise or announce the purpose of a business or entity, or to communicate information of any kind to the public.

P. Sign Area. See Section 17.80.040.A (Calculation of Sign Area).

Q. Sign Copy. The area of a sign occupied by letters, numbers, graphics, or other content intended to inform, direct, or otherwise transmit information.

R. Sign Face. The area of a sign where sign copy is placed.

S. Wall Sign. A sign which is attached to or painted on the exterior wall of a structure with the display surface of the sign approximately parallel to the building wall.

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T. Window Sign. A sign posted, painted, placed, or affixed in or on a window exposed to public view or within one foot and parallel to a window exposed to public view.

17.80.030 Permit Requirements

A. Administrative Sign Permits. An Administrative Sign Permit (Chapter 17.132) is required to install, construct, or enlarge a sign, except for:

1. Signs exempt from the permit requirements of this chapter as specified in Section 17.80.050 (Signs Allowed without Permits).
2. Signs requiring a Sign Permit as identified in Section B below.

B. Sign Permits. Planning Commission approval of a Sign Permit (Chapter 17.132) is required for the following types of signs and approvals:

1. New signs in the Mixed Use Village (MU-V) zoning district.
2. Exterior neon signs.
3. Monument signs for more than four tenants.
4. Auto dealership signs in the C-R zoning district (Section 17.80.080.A) that are not otherwise allowed with an Administrative Sign Permit.
5. Adjustments to sign standards in low visibility areas in commercial zoning districts (17.80.120.E).
6. Signs that do not conform with permitted sign types and standards in Section 17.80.080 (Standards for Specific Types of Signs)
7. Master sign programs (Section 17.80.130).

C. Noncommercial Signs. Noncommercial signs are allowed wherever commercial signs are permitted and are subject to the same standards and total maximum allowances per site or building of each sign type specified in this chapter.

D. Message Neutrality.

1. It is the City's policy to regulate signs in a constitutional manner that does not favor commercial speech over noncommercial speech, and is content neutral as to noncommercial messages which are within the protections of the First Amendment to the U.S. Constitution and the corollary provisions of the California Constitution.
2. Where necessary, the Director will interpret the meaning and applicability of this chapter in light of this message neutrality policy.

E. Message Substitution.

1. Subject to the property owner's consent, a message of any type may be substituted, in whole or in part, for the message displayed on any legally established sign without consideration of message content.

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2. Message substitutions are allowed by-right without a permit.
3. This message substitution provision does not:
   a. Create a right to increase the total amount of signage beyond that otherwise allowed or existing;
   b. Affect the requirement that a sign structure or mounting device be properly permitted, when a permit requirement applies;
   c. Allow a change in the physical structure of a sign or its mounting device;
   d. Allow the establishment of a prohibited sign as identified in 17.80.060 (Prohibited Signs); or
   e. Nullify or eliminate any contractual obligation through a development agreement or similar agreement that specifies the allowable content of a sign.

F. City-Installed Signs. City-installed signs in all zoning districts do not require a permit.

G. Other Government-Installed Signs. Governmental agency-installed signs to carry out its responsibility to protect the public health, safety, and general welfare in all zoning districts do not require a permit.

H. Signs in the Coastal Zone.

1. If a proposed sign is located in the Coastal Zone, it may require a Coastal Development Permit (CDP) as specified in Chapter 17.44 (Coastal Overlay Zone). Approval of a CDP requires conformance with the CDP findings for approval as specified in 17.44.130 (Findings for Approval).
2. Notwithstanding all applicable standards in this Chapter, any sign that could reduce public coastal access, including signs limiting public parking or restricting use of existing lateral and/or vertical accessways, requires a CDP.

17.80.040 Rules of Measurement

A. Calculation of Sign Area.

1. Sign area is measured as the area of all sign copy, framing, or other display enclosed within a continuous perimeter forming a single geometric shape with no more than six sides. See Figure 17-80-1.

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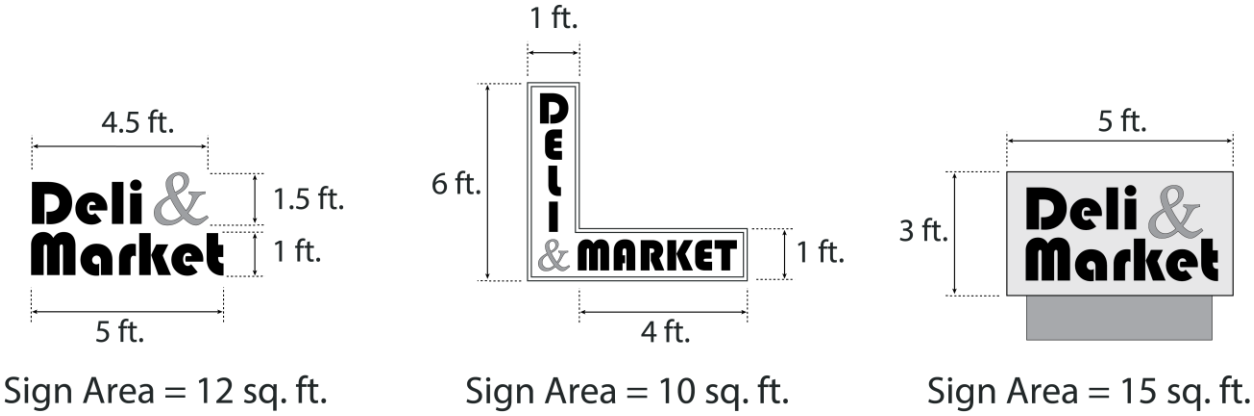
FIGURE 17-80-1: MEASUREMENT OF SIGN AREA

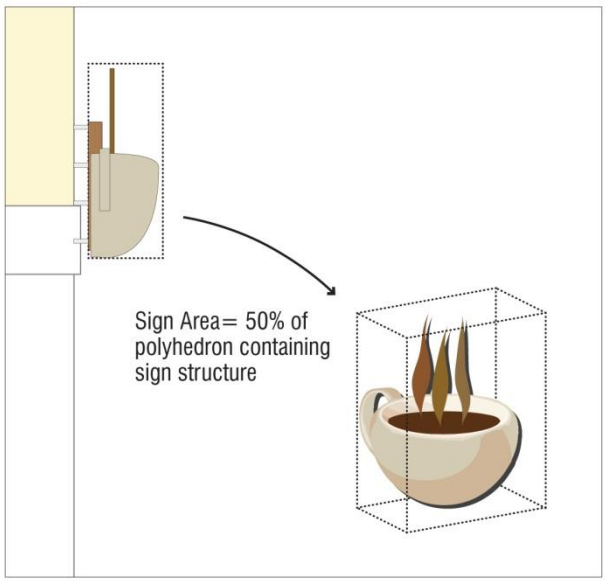


2. Supporting framework or bracing that is clearly incidental to the display itself shall not be calculated as sign area.

3. The area of a double-faced (back-to-back) sign shall be calculated as a single sign face if the distance between each sign face does not exceed 18 inches and the two faces are parallel with each other

4. The area of spherical, free-form, sculptural or other non-planar signs are measured as 50 percent of the sum of the area enclosed within the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. See Figure 17.80-2.

FIGURE 17.80-2: NON-PLANER SIGN AREA



B. Monument Sign Height Measurement. The height of a monument or other freestanding sign is measured as the vertical distance from the sidewalk or top of curb nearest the base of the sign to the top of the highest element of the sign.

Attachment: Public Review Draft Zoning Code 7.31.2020 (Overview of Zoning Code Public Review in Preparation for Adoption)

17.80.050 Signs Allowed Without Permits

A. Types of Signs. The following signs are allowed without a planning permit and shall not be counted towards the allowable sign area or number of signs on a parcel:

1. On-site directional signs which do not include commercial messages or images, not to exceed 3 feet in height and 6 square feet in area.
2. Informational signs which do not include commercial messages or images, displayed for the safety and convenience of the public, providing information such as "restrooms," "danger," "impaired clearance," "no smoking," "parking in rear," "coastal access," and other signs of a similar nature.
3. Flags bearing noncommercial messages or graphic symbols.
4. One commemorative plaque identifying a building name, date of construction, or similar information that is cut into, carved, or made of stone, concrete, metal, or other similar permanent material.
5. One bulletin board on a parcel occupied by a noncommercial organization, with a maximum area of 12 square feet.
6. Political signs during an election period located outside of a public street, path, or right-of-way except to the extent such signs are prohibited by State or Federal law. Political signs may not exceed 6 feet in height and 32 square feet per unit..
7. Constitutionally protected non-commercial message signs not to exceed 3 feet in height, with a maximum of 6 square feet per unit; and 6 square feet per non-residential property.
8. Signs within a building, or on the premises of a building, that are not visible from the public right-of-way and are intended for interior viewing only.
9. Murals on the exterior of a building that do not advertise a product, business, or service.
10. Official or legal notices required by a court order or governmental agency.
11. Signs installed by a governmental agency within the public right-of-way.
12. Signs, postings, or notices required by a governmental agency to carry out its responsibility to protect the public health, safety, and general welfare.
13. Restaurant menu signs attached to a building, with a maximum area of 3 square feet.
14. Real estate listings posted in the window of a real estate office, with a maximum area of 25 percent of the total window area.
15. Residential signs not requiring a building permit as specified in Section 17.80.100 (Residential Signs).
16. Temporary signs allowed without a permit as provided in Section 17.80.110 (Temporary Signs).
17. Vacation rental signs up to 12 inches by 12 inches.

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18. Garage sale signs limited to the day of the garage sale.

B. Building Permit Review. Planning staff shall review all proposed signs listed in Section A (above) that require a Building Permit to verify compliance with all applicable standards.

C. Changes to Sign Face. Changes to a sign face that do not structurally alter or enlarge a legally-established sign and utilize similar materials shall not require a planning permit.

D. Routine Maintenance. The painting, cleaning, repair, and normal maintenance of a legally-established sign shall not require a planning permit.

17.80.060 Prohibited Signs

A. Prohibited Sign Types. The following types of signs are prohibited:

1. Signs or sign structures which have become a public nuisance or hazard due to inadequate maintenance, dilapidation, or abandonment.
2. Portable signs placed on the ground other than sidewalk signs permitted in the MU-V zoning district consistent with Section 17.80.080.K (Sidewalk Signs).
3. Roof signs.
4. Signs emitting odors, gases, or fluids.
5. Signs that feature a flag, pennant, whirligig, or any device which is designed to wave, flutter, rotate or display other movement under the influence of wind, excluding flags and insignia of any government.
6. Digital display and electronic readerboard signs which allow the image on a sign to be changed by electronic control methods, except for digital gas and service station signs consistent with Section 17.80.080.H (Gas and Service Station Signs) and parking garage signs consistent with Section 17.80.080.I (Parking Garage Signs).
7. Animated signs, with the exception of clocks and barber poles.
8. Signs that emit sound.
9. Signs which simulate in size, color, lettering, or design a traffic control sign or signal.
10. Signs which flash, blink, change color, or change intensity.
11. Beacons.
12. Signs mounted or attached to a vehicle parked for the purpose of calling attention to or advertising a business establishment.
13. Signs that have been abandoned, or whose advertised use has ceased to function for a period of 90 days or more.
14. Signs adversely affecting traffic control or safety.
15. Signs with exposed raceways.
16. Signs attached to trees.

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17. Signs erected or maintained with horizontal or vertical clearance from overhead utilities less than required by State agencies.
18. Signs erected for the dominant purpose of being seen by travelers on a freeway, except for auto dealership signs as allowed by Section 17.80.080.A (Auto Dealership Signs).
19. Inflatable signs and balloons greater than fifteen inches in diameter, except for temporary auto dealership signs.
20. Signs on or affecting public property (e.g., 'tenant parking only') not placed there by the public entity having the possessory interest in such property.
21. All other signs not specifically permitted by or exempted from the requirements of this chapter.

B. Prohibited Sign Content.

1. The following sign content is prohibited:
   a. Obscene or indecent text or graphics.
   b. Text or graphics that advertise unlawful activity.
   c. Text or graphics that constitute defamation, incitement to imminent lawless action, or true threats.
   d. Text or graphics that present a clear and present danger due to their potential confusion with signs that provide public safety information (for example, signs that use the words "Caution," or "Danger," or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).
2. The content prohibited by Paragraph (1) above is either not protected by the United States or California Constitutions or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the City Council that each subparagraph of Paragraph (1) above be individually severable in the event that a court of competent jurisdiction were to hold one or more of them to be inconsistent with the United States or California Constitutions.

17.80.070 General Sign Standards

A. Maximum Permitted Sign Area. Table 17.80-1 identifies the maximum cumulative/total sign area permitted on a property in each zoning district. Each business may have a mix of the sign types allowed by Section 17.80.080 (Standards for Specific Sign Types) provided the area of all signs on the property does not exceed the maximum established in Table 17.80-1.

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TABLE 17.80-1: SIGN AREA STANDARDS

Zoning District	Area per Linear Foot of Building Frontage
MU-V, MU -N	0.5 sq. ft. per linear foot 36 sq. ft. max
, C-R, C-C, I	1 sq. ft. per linear foot 50 sq. ft. max
VS, CF, P/OS [1]	As determined through Sign Permit
PD	As determined through the Development Plan

Notes:
Sign requirements in the Visitor Serving overlay zone shall be as required by the base zoning district.

B. Maintenance. Signs, including all supports, braces, and anchors, shall be maintained in a state of good repair at all times. Damage to signs, including cracked sign faces, frayed or weathered fabric, and broken lighting, shall be repaired promptly.

C. Building Surface Repair. When an existing sign is replaced or modified, any newly exposed portions of a building surface on which the sign is displayed shall be repaired and repainted to restore a uniform appearance to the surface. Compliance with this requirement includes the removal of any excess conduit and supports, and the patching or filling of any exposed holes.

D. Illumination.

1. Non-residential signs may be internally or externally illuminated except where specifically prohibited. Internal illumination is permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo. Internally illuminated boxes are prohibited, except that the copy of an existing internally illuminated box sign may be replaced with a change of business.
2. The light source for externally illuminated signs shall be positioned so that light does not shine directly on adjoining properties or cause glare for motorists or pedestrians.
3. Exposed bulbs are not permitted.
4. Internal illumination is prohibited in the Mixed-Use Village (MU-V).

E. Materials and Design.

1. Except for interior window signs, all permanent signs shall be constructed of wood, metal, plastic, glass, or similar durable and weatherproof material.
2. The design of signs, including its shape, features, materials, colors, and textures, shall be compatible with the design character of the development or use it identifies and will not have an adverse effect on the character and integrity of the surrounding area.

F. Location and Placement.

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1. All signs shall be located on the same parcel as the business or use that it serves, except as otherwise allowed by this chapter.
2. Signs shall not obstruct the ingress to, or egress from, a door, window, fire escape, or other required accessway.
3. Signs shall not interfere with visibility at an intersection, public right-of-way, driveway, or other point of ingress/egress. The City may require sign setbacks greater than specified in this chapter as needed to maintain adequate visibility for motorists and pedestrians. See Section 17.96.050 (Intersection Sign Distance).

G. Signs in the Public Right-of-Way.

1. No sign shall be permitted in the public right-of-way, except for:
   a. Signs installed or required by a governmental agency.
   b. Awning, canopy, marquee, projecting, or suspended signs attached to a building wall subject to the requirements in Section 17.80.080 (Standards for Specific Types of Signs).
   c. Sidewalk signs in the Village Mixed Use (MU-V) zoning district consistent with Section 17.80.080.G (Sidewalk Signs).
   d. Shared auto dealership signs consistent with Section 17.80.080.A (Auto Dealership Signs).
2. Any sign illegally installed or placed on public property shall be subject to removal and disposal as specified in Section 17.80.150 (Violations and Enforcement). The City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.
3. Signs in the public right-of-way may require City approval of an Encroachment Permit.

17.80.080 Standards for Specific Types of Signs

Signs consistent with the standards in this section are allowed with an Administrative Permit unless Planning Commission approval of a Sign Permit is specifically required. Signs that deviate from the standards in this section may be allowed with Planning Commission approval of a Sign Permit in accordance with Section 17.80.120 (Adjustment to Sign Standards).

A. Auto Dealership Signs.

1. In addition to signs allowed with an Administrative Sign Permit (17.080.030.A), the Planning Commission may allow special auto dealership signage in the C-R zoning district with approval of a Sign Permit subject to the following standards:
   a. Location: On or adjacent to an auto dealership land use.
   b. Placement: 10 feet minimum setback from property line abutting the public right-of-way.

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c. Maximum Height: At or below roof line.

d. The Planning Commission shall review the Sign Permit application if the total combined sign area on the site exceeds 100 square feet.

e. The Planning Commission may allow one shared sign used by multiple auto dealerships at the entry of Auto Plaza Drive which extends into or above the public right-of-way.

The Planning Commission may allow temporary auto dealership signage, such as signage on light poles and flags and pennants, that deviate from temporary sign standards in 17.80.110 (Temporary Signs) with the approval of a Sign Permit.

B. Awning Signs.

1. Standards for awning signs in each zoning district are as shown in Table 17.80-2.
2. Awning signs shall be located on the awning above a display window or the entrance to the business it serves.
3. An awning sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.

TABLE 17.80-2: AWNING SIGN STANDARDS

<table>
<tr><th></th><th colspan="2">Awning Face Sign</th><th colspan="3">Awning Valance Sign</th></tr>
<tr><th>Zoning District</th><th>Maximum Area</th><th>Maximum Number</th><th>Maximum Area</th><th>Maximum Letter Height</th><th>Maximum Number</th></tr>
<tr><td>MU-V, MU-N</td><td colspan="2">Sign Permit Required (Chapter 17.132)</td><td rowspan="3">75 percent of valance</td><td rowspan="3">Two-thirds of valance height</td><td rowspan="3">1 sign per awning located on either the awning face or the awning valance</td></tr>
<tr><td>C-R, C-C</td><td>30 percent of awning face</td><td rowspan="2">1 sign per awning located on either the awning face or the awning valance</td></tr>
<tr><td>I</td><td>20 percent of awning face</td></tr>
</table>

Note: In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for awning signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for awning signs shall be established by the City Council in the Development Plan.

C. Monument Signs.

1. Standards for monument signs in each zoning district are as shown in Table 17.80-3.

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TABLE 17.80-3: MONUMENT SIGN STANDARDS

Zoning District	Maximum Area	Maximum Height	Maximum Number
MU-V	12 sq. ft.	4 ft.	1 per property
MU-N	16 sq. ft.		
C-R	60 sq. ft.	8 ft.	1 per building frontage
C-C	35 sq. ft.		
I		4 ft.	1 per building frontage

Note: In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for monument signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for monument signs shall be established by the City Council in the Development Plan.

2. Monument signs shall be placed on the property of the business associated with the sign.
3. Where two monument signs are allowed on a corner parcel, each sign shall be placed at least 200 feet from the intersection corner.
4. A monument sign for up to four tenants may be approved with an Administrative Sign Permit. Monument signs listing more than four tenants require Planning Commission approval of a Sign Permit.
5. The area surrounding the base of a monument sign shall be landscaped consistent with Chapter 17.72 (Landscaping).
6. Monument signs shall be placed at least 5 feet away from any public or private driveway.
7. Monument signs shall be placed at least 5 feet behind sidewalk or property line, whichever is greater.
8. The height of a monument sign is measured as the vertical distance from the sidewalk or top of curb nearest the base of the sign to the top of the highest element of the sign.
9. Monument signs are not allowed in conjunction with wall signs on a property with three or fewer businesses.

D. Center Identification Signs.

1. Standards for center identification signs in each zoning district are as shown in Table 17.80-4.
2. Center identification signs shall identify the name of the center but may not include the name of any business or businesses within the center.

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3. No more than one freestanding sign is permitted per center street frontage. If a monument sign is located along the center frontage, an additional center identification sign is not permitted.

TABLE 17.80-4: CENTER IDENTIFICATION SIGN STANDARDS

Zoning District	Maximum Area	Maximum Height	Maximum Number
MU-V and MU-N	Not permitted		
C-R	60 sq. ft.	5 ft.	1 per shopping center
C-C	35 sq. ft.		
I	Not permitted		

Note: In the Planned Development (PD) zoning district, standards for center identification signs shall be established by the City Council in the Development Plan.

E. Directory Signs.

1. Standards for directory signs in each zoning district are as shown in Table 17.80-5.
2. Directory signs may not be legible from adjacent public rights-of-way.
3. Directory signs shall identify the names of the occupant of the building or complex.

TABLE 17.80-5: DIRECTORY SIGN STANDARDS

Zoning District	Maximum Area	Maximum Height
MU-V	12 sq. ft.	4 ft.
MU-N	16 sq. ft.	
C-R	30 sq. ft.	5 ft.
C-C	25 sq. ft.	
I	25 sq. ft.	4 ft.

Note: In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for directory signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for directory signs shall be established by the City Council in the Development Plan.

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F. Wall Signs.

1. Standards for wall signs in each zoning district are as shown in Table 17.80-6.
2. Wall signs shall be attached parallel to the exterior wall of the business associated with the sign and may not extend above the top of building wall.
3. Wall signs may be in cabinets, on wood, or on similar material attached to the wall or painted directly on the wall.
4. Any portion of a wall sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.
5. Wall signs are not allowed in conjunction with a monument sign on a property with three or fewer businesses.
6. On a corner lot, one wall sign is allowed per street frontage.

TABLE 17.80-6: WALL SIGN STANDARDS

Zoning District [1]	**Maximum Area**	**Maximum Projection from Wall**	**Maximum Number**
MU-V	0.5 sq. ft. per linear foot of shopfront, not to exceed 36 sq. ft. max	4 in.	1 per shopfront
MU-N	1.0 sq. ft. per linear foot of shopfront, not to exceed 36 ft.		
C-R, C-C, I [2]		12 in.	1 per shopfront

Note:
[1] In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for wall signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for wall signs shall be established by the City Council in the Development Plan.
[2] Wall signs are not allowed in conjunction with a monument sign in the Industrial (I) zoning district.

G. Projecting Signs.

1. Standards for projecting signs in each zoning district are as shown in Table 17.80-7.
2. Projecting signs shall be attached to the ground floor exterior wall of the business associated with the sign and may not extend above the top of the second story finished floor.
3. Projecting signs shall maintain a minimum 2-foot horizontal clearance from a driveway or street curb.
4. An encroachment permit must be obtained for all signs projecting over a public right-of-way.

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5. A projecting sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.

TABLE 17.80-7: PROJECTING SIGN STANDARDS

Zoning District	Maximum Area	Maximum Projection from Wall	Maximum Number
MU-V, MU-N	4 sq. ft.	4 ft.	1 per business entryway or storefront
C-R, C-C, I	8 sq. ft.	4 ft.	1 per business entryway or storefront

Note:
In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for projecting signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for projecting signs shall be established by the City Council in the Development Plan.

H. Gas and Service Station Signs. In addition to signs allowed with an Administrative Sign Permit (Section 17.080.030.A), the Planning Commission may allow special gas and service station signs that comply with the following standards .

1. A maximum of two signs, not exceeding 4 square feet, shall be allowed on each pump island to denote either full service or self-service.
2. No other signs will be allowed to be attached to pumps or islands other than required by State law. (See Business & Professions Code Section 13530.)
3. A six-foot-high monument sign which displays prices charged, credit cards accepted or special services rendered shall be allowed on each street frontage.
4. Digital changeable copy signs for gasoline pricing is permitted.
5. Two additional signs up to a maximum of 1 square foot are permitted to advertise ancillary services such as ATMs and propane. Such signs must be attached to another sign or structure and may not be a portable freestanding sign.

I. Parking Garage Signs. A maximum of one digital display signs not exceeding four square feet on each street frontage is permitted to show the number of available parking spaces.

J. Window Signs.

1. Standards for window signs in each zoning district are as shown in Table 17.80-8.
2. Window signs may be attached only to the inside of a ground floor window of the business associated with the sign.
3. Interior signs within one foot of a window and publicly visible from outside of the building shall be included in the calculation of sign area for the property.

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TABLE 17.80-8: WINDOW SIGN STANDARDS

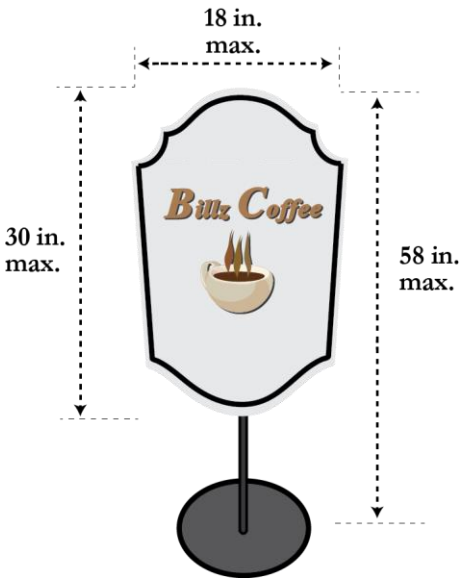
Zoning District	Maximum Area
MU-V, MU-N	25 percent of window
C-R, C-C, I	30 percent of window

Note:
[1] In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for window signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for window signs shall be established by the City Council in the Development Plan.

K. Sidewalk Signs.

1. **Where Allowed.** Sidewalk signs are permitted only in the MU-V zoning district consistent with the requirements of this section.
2. **Permits Required.**
   a. Sidewalk signs consistent with this section and the approved BIA design as illustrated in Figure 17-80-3 can be issued an over the counter sign permit by the Community Development Director.
   b. All sidewalk signs shall obtain an encroachment permit. The encroachment permit will identify the location and method used to drill a hole in the sidewalk and/or the location of a sign on a base.
   c. The owner of any business desiring to place a sidewalk sign on the City right-of-way shall provide an executed City hold harmless waiver and proof of liability insurance to the satisfaction of the City Attorney in the amount of one million dollars prior to placing the sign within said right-of-way.

FIGURE 17-80-3: SIDEWALK SIGN STANDARDS AND DESIGN CONCEPTS



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3. **Dimensions.** Sidewalk signs shall comply with the dimension standards in Table 17.80-9.

TABLE 17.80-9: SIDEWALK SIGNS STANDARDS

Zoning District	Sign Face			Entire Sign
	Maximum Area	Maximum Width	Maximum Height	Maximum Height [1]
MU-V	3.75 sq. ft.	18 in.	32 in.	58 in.
All Other Zoning Districts	Not permitted			

Note:
[1] Measured from sidewalk to top of sign

4. **Number of Signs.**
   a. Only one two-sided sidewalk sign per business establishment is permitted.
   b. Multi-tenant developments are permitted one sidewalk sign per each common exterior public business entrance.
5. **Materials and Design.**
   a. Sidewalk signs shall be attached to metal poles. Poles may be either drilled into the sidewalk or inserted into a moveable base. Moveable bases shall be constructed of metal, form a circle with a diameter of no more than 18 inches, and must be approved as part of the sign permit.
   b. Lights, banners, flags or similar objects shall not be placed on or adjacent to sidewalk signs.
   c. Signs faces shall be constructed of solid wood, metal or similar durable and weatherproof material.
   d. No sidewalk sign may contain lights of any kind.
6. **Sidewalk Clearance.**
   a. The sidewalk in front of the business must be at least 78 inches in width.
   b. Sidewalk signs shall not interfere with pedestrian ingress or egress as required by the building code or obstruct vehicular traffic sight distance requirements. A 48-inch level clear path of travel on concrete or similar material must be maintained where the sign is located.
7. **Separation from Other Sidewalk Signs.** Sidewalk signs shall be spaced a minimum of 30 linear feet from all other permitted sidewalk signs.

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8. **Display During Open Hours.** Sidewalk signs may be used only during the hours when the business is open to the public. At all other times the sign and base must be stored within the business premises.

9. **Advertising Multiple Businesses.** Individual signs may advertise more than one business.

10. **Other Business Signage.**

    a. No other temporary advertising signs (Section 17.80.110) may be used at the same time as the sidewalk sign is in use.

    b. All other signs on the property must be in conformance with the City's sign regulations prior to a sidewalk sign permit being issued.

17.80.090 Design Standards

A. Design Standards for Mixed Use Zoning Districts. The following design standards apply to all signs in the MU-V and MU-N zoning districts.

1. Signs shall preserve, complement, or enhance the architectural composition and features of the building to which it is attached. Signs may not cover or obscure significant architectural details of the building to which it is attached.

2. Signs shall be coordinated with the overall façade composition, including ornamental details and other signs on the building to which it is attached.

3. Signs shall be mounted to fit within existing architectural features. The shape of the sign shall be used to reinforce the relationship of moldings and transoms seen along the street.

4. Signs shall be located and designed so that they are legible when viewed from the sidewalk. Sign letter styles and sizes shall be designed for legibility from the sidewalk, not the street.

5. To the extent possible, sign attachment parts shall be reused in their original location (holes in the façade or fixing positions) to protect the original building materials.

6. Internally illuminated signs are prohibited in the MU-V and MU-N zoning districts.

7. Wiring conduit for sign lighting shall be carefully routed to avoid damage to architectural details and to be concealed from view as much as possible.

8. Sign materials and colors shall be compatible with the period and style of building to which is it is attached. Sign panels shall avoid the extensive use of primary color or significant areas of white or cream.

9. Letters and logos shall be raised, routed into the sign face, or designed to give the sign variety and depth.

10. The sign will not have a significant adverse effect on the character and integrity of the surrounding area.

B. Design Standards for Commercial Zoning Districts. The following design standards apply to all signs in the C-C and C-R zoning districts.

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1. Sign design shall conform to and be in harmony with the architectural character of the building.
2. Signs shall be symmetrically located within a defined architectural space.
3. Internally illuminated signs are permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo. Large panel internally illuminated signs are prohibited.
4. The design of monument and other freestanding signs shall relate to the architecture of the building or development they serve. Exterior materials, finishes and colors shall be the same or similar to those of the building or structures on site.
5. Letters and logos shall be raised, routed into the sign face, or designed to give the sign variety and depth.

C. Design Standards for Industrial Zoning District. Signs within the Industrial (I) zoning district shall be constructed of metal or other materials consistent with the light industrial character of the zoning district.

17.80.100 Residential Signs – Multi-Unit Properties

Multi-unit properties may display one or more master signs subject to the following requirements:

A. A master sign program (17.80.130) has been approved for the multi-unit property.

B. Maximum allowable sign area: 20 square feet per property.

C. A master sign for a multi-unit property requires an Administrative Sign Permit.

17.80.110 Temporary Signs

A. Permitted Temporary Signs. Table 17.80-10 (Temporary Sign Standards) identifies temporary signs permitted either by-right or with the approval of an Administrative Sign Permit. The Planning Commission may allow other types of temporary signs or temporary signs that do not comply with the standards in Table 17.80-1 with approval of a Sign Permit.

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TABLE 17.80-10 TEMPORARY SIGN STANDARDS

Sign Type	Permit Required	Use Restriction	Maximum Number	Maximum Area/ Size	Maximum Duration
Auto Dealership Signs - Flags - Pennants - Balloons	None	Auto dealerships on Auto Plaza Drive only	No maximum	0.5 sq. ft. per linear business frontage; 30 sq. ft. max; 1/3 of window max	Year-round; must be maintained in good condition
Commercial Banner Signs	Administrative Sign Permit	Non-residential uses only	1 per 500 ft. of linear building frontage; 2 sign maximum	30 sq. ft.	30 continuous calendar days; no more than 60 days each calendar year
Construction Site Signs - Residential	Administrative Sign Permit	Residential uses only	1 per 500 ft. of linear building frontage; 2 sign maximum	Height: 5 ft. Area: 12 sq. ft.	From issuance of building permit to certificate of occupancy
Construction Site Signs - Non-Residential	Administrative Sign Permit	Commercial and industrial uses only	1 per 500 ft. of linear building frontage; 2 sign maximum	Height: 8 ft.; 4 ft. in MU-V Area: 40 sq. ft.; 12 sq. ft. in MU-V	From issuance of building permit to certificate of occupancy
For Sale, Lease, and Rent Signs, Non-Residential	None	Commercial and industrial uses only	1 per property	Height: 8 ft. Area: 40 sq. ft.	1 year; Director may approve extension
For Sale, Lease, and Rent Signs, Residential	None	Residential uses only	1 per property	Height: 4 ft. Area: 6 sq. ft.	180 days; Director may approve extension
Open House or model home	None	None	1 per property and 1 on other property with owner consent	Height: 4 ft. Area: 6 ft.	Limited to day of open house.
Special Event	None	Special events.	1 per property and 1 on other property with owner consent	Height: 4 ft. Area: 6 ft.	Limited to day of special event.
Residential Subdivision	Administrative Sign Permit	Residential subdivisions and condominiums located in the city	1 per subdivision	Height: 10 ft. Area: 40 sq. ft.	180 days or upon the sale of the last unit, whichever comes first

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17.80.120 Adjustment to Sign Standards

This section establishes procedures to allow the Planning Commission to approve signs that deviate from certain standards to provide reasonable flexibility in the administration of the sign ordinance.

A. Permit Required. Adjustments to sign standards allowed by this section requires Planning Commission approval of a Sign Permit.

B. Permitted Adjustments. The Planning Commission may allow adjustment to the following sign standards:

1. The type of sign allowed in non-residential zoning districts (e.g.., awning signs, monument signs).
2. Requirements for temporary signs.
3. The maximum permitted sign area up to a 25 percent increase.
4. The maximum permitted sign height up to 25 percent increase.

C. Excluded Adjustments. The Planning Commission may not use the sign standards adjustment process to approve deviations to the following sign standards:

1. Prohibited Signs (Section 17.80.060).
2. All general Sign Standards (Section 17.80.070) except maximum permitted sign area (17.80.70.A).
3. Maximum number of signs allowed per property.
4. Residential signs (Section 17.80.100).

D. Findings. The Planning Commission may approve an adjustment to sign standards as allowed by this section if the following findings can be made in addition to findings required to approve Sign Permit applications:

1. The sign will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.
2. The sign will not adversely impact neighboring properties or the community at large.
3. The adjustment is necessary due to unique characteristics of the subject property, structure, or use.
4. The sign will be consistent with the purpose of the zoning district, the General Plan, Local Coastal Program, and any adopted area or neighborhood plan.
5. The adjustment will not establish an undesirable precedent.

E. Low Visibility Commercial Properties.

1. In addition to adjustments allowed by subsection A through D above, the Planning Commission may allow additional adjustments to sign standards for low visibility properties

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in the C-R and C-C zoning districts. A low visibility property means a property where signage consistent with applicable standards would not be easily visible from the street or sidewalk due to the width of street frontage, parcel depth or configuration, placement of buildings on the property, topography, vegetation, or other physical characteristic of the property.

2. Adjustments to sign standards for low visibility properties require Planning Commission approval of a Sign Permit.
3. Adjustments are allowed to required sign types, height, size, placement, and number. Adjustments may not allow for prohibited signs or monument signs.
4. The Planning Commission may approve additional or variations to any type of signage upon making the following findings:
   a. The special signage, as designed and conditioned, is necessary and appropriate for the subject commercial site, in order to allow the site and the businesses located within it to be competitive with other businesses of a similar nature located elsewhere, and/or to be competitive with industry standards governing sale of the merchandise offered at the site.
   b. The special signage, as designed and conditioned, will not have a significant adverse effect on the character and integrity of the surrounding area.

17.80.130 Master Sign Program

A. Purpose. The purpose of the Master Sign Program is to provide a coordinated approach to signage for multi-family development and multi-tenant commercial developments.

B. Applicability. A Master Sign Program is required for multi-family uses with more than one permanent sign proposed, and any non-residential development with four or more tenants.

C. Permit Required. A Master Sign Program requires Planning Commission approval of a Sign Permit.

D. Applications. Applications shall be filed with the Planning Department on the appropriate City forms, together with all the necessary fees, deposits, exhibits, maps, and other information required by the Department to clearly and accurately describe the proposed Master Sign Program.

E. Master Sign Program Contents. All Master Sign Programs shall identify the materials, color, size, type, placement and general design of signs located on a project or property.

F. Design Standards.

1. Master Sign Programs shall feature a unified and coordinated approach to the materials, size, type, placement and general design of signs proposed for a project or property. Master Sign Programs may allow for variety in the design of individual signs.

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2. A Master Sign Program may deviate from standards contained in this chapter relating to permitted sign height, number of signs, sign area, and type of sign. A Master Sign Program may not allow a prohibited signs as identified in Section 17.80.060 (Prohibited Signs).

G. Effect of Master Sign Program.

1. All subsequent signs proposed for a development or property subject to an approved Master Sign Program shall comply with the standards and specifications included in the Master Sign Program.
2. Signs consistent with an approved Master Sign Program are allowed with an Administrative Sign Permit.
3. Approval of a Master Sign Program shall supersede the regulations of this chapter. Any aspect of the proposed signs not addressed by the Master Sign Program shall be in compliance with this chapter.

17.80.140 Nonconforming Signs

This section applies to all legally-established signs that do not conform to current requirements in this chapter.

A. Continuation.

1. Except as required by paragraph 2 below, a nonconforming sign may continue its use as a sign if it was legally established in compliance with all applicable regulations in effect at the time it was established. It is the applicant's responsibility to demonstrate that the sign was legally established.
2. At time of review of a Design Permit application for a property with a non-conforming sign on the site, the Planning Commission shall review the existing non-conforming sign in conjunction with the Design Permit. The Planning Commission may allow the continuation of the nonconforming sign only upon finding the sign is compatible with the design character and scale of the surrounding area and does not adversely impact the public health, safety, or general welfare.

B. Allowed Changes.

1. Changes to sign copy/face and repainting of legal nonconforming signs is permitted as long as there is no alteration to the physical structure or support elements of the sign.
2. A legal-nonconforming sign that sustains less than 50-percent damage to its structure may be repaired to its original pre-damaged condition, provided that such repair is completed within 180 days after the date of the damage.

C. Required Compliance. A legal nonconforming sign shall be removed or brought into compliance with this chapter in the following situations:

1. The use advertised by the sign has ceased to function for a period of 90 days or more.

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2. The sign has sustained at least 50-percent damage to its structure.
3. The sign is located on a remodeled building façade.
4. The sign is relocated to a different lot or building.

17.80.150 Violations and Enforcement

A. Illegal Signs. It is unlawful for any person to install, place, construct, repair, maintain, alter or move a sign in a manner that does not comply with the requirements of this chapter.

B. Removal of Illegal Signs.

1. The City may immediately remove or cause the removal of any sign that places the public in immediate peril or that is located within the public right-of-way.
2. For illegal signs that do not place the public in immediate peril and are located on private property, the City shall serve the business owner, property owner, or person responsible for the sign a written certified notice that:
   a. Describes the physical characteristics of the subject sign.
   b. Explains the nature of the violation.
   c. States that the sign shall be removed or brought into compliance with this article within a specified number of days after the notice is received.
   d. States that the City will remove the sign if the business owner or person responsible for sign does not correct the violation within the specified number of days after the notice is received.
   e. States that the City may destroy the illegal sign if it is not retrieved within 20 days of removal by the City.
   f. States that the business owner or person responsible for all costs associated with the removal, storage, and destruction of the sign.
3. If an illegal sign is not removed or brought into compliance within the specified number of days after a notice is received, the City may issue a citation to the business owner or person responsible for the sign as provided in Municipal Code Title 4 (General Municipal Code Enforcement) and may remove or cause the removal of the sign.
4. Any accessory structures, foundations, or mounting materials which are unsightly or a danger to the public health, safety, and welfare shall be removed at the time of the sign removal.
5. A sign removed by the City shall be stored for a minimum of 20 days. If the sign is not retrieved by the business owner or person responsible for the sign within this 20-day period, the City may destroy the sign.

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Chapter 17.84 – HISTORIC PRESERVATION

Sections:

17.84.010 Purpose
17.84.020 Types of Historic Resources
17.84.030 Architectural Historian
17.84.040 Adding or Removing Designated Historic Resource Status
17.84.050 Maintenance of Potential Historic Resource List
17.84.060 Criteria for Designating Historic Resources
17.84.070 Historic Alteration Permit
17.84.080 Demolition of Historic Resources
17.84.090 Historic Preservation Incentives

17.84.010 Purpose

This chapter establishes procedures for the classification of historic resources and requirements for alterations to these resources. These provisions are intended to preserve and enhance Capitola's historic character while maintaining the ability of property owners to reasonably improve and modify historic homes and structures in Capitola.

17.84.020 Types of Historic Resources

The Zoning Code establishes two types of historic resources: Designated Historic Resources and Potential Historic Resources identified in the City's list of potential historic resources. The City intends for both types of historic resources to be comprised primarily of structures from the pre-World War II era of Capitola's history.

A. Designated Historic Resources. Designated Historic Resources include the following:

1. Resources listed on the National Register of Historic Places or determined by the State Historical Resources Commission to be eligible for listing on the National Register of Historic Places.
2. Resources listed on the California Register of Historical Resources or determined by the State Historical Resources Commission to be eligible for listing on the California Register of Historical Resources.
3. A contributing structure within a National Register Historic District (Venetian Court, Six Sisters, Lawn Way, and Old Riverview Districts).
4. Other resources officially designated by the City Council as a Designated Historic Resource based on the criteria in Section 17.84.060 (Criteria for Designating Historic Resources).

B. Potential Historic Resource. A Potential Historic Resource is a site, structure, or feature that has previously been identified by the City as potentially historic and is included on a list of potentially historic resources as maintained by the Community

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Development Department consistent with Section 17.84.050 (Maintenance of Potential Historic Resource List). The purpose of the list of Potential Historic Resources is to maintain an inventory of properties that are potentially historic for use by City staff when reviewing development project applications.

17.84.030 Architectural Historian

A. General.

1. The City of Capitola shall utilize the services of an Architectural Historian as specified in this chapter to assist with the review of development project applications and to advise on other matters associated with historic preservation in the City of Capitola.
2. The Architectural Historian must be certified by the State of California as a historic preservation professional and must be familiar with the history and architecture of the City of Capitola.
3. When the services of the Architectural Historian are needed to assist with a development project application, all costs associated with the Architectural Historian's services shall be paid for by the applicant.

B. Role. The Architectural Historian shall assist the City in the administration and enforcement of this chapter. Specific duties may include:

1. Reviewing applications to add or remove Designated Historic Resource status in accordance with Section 17.84.040 (Adding or Removing Designated Historic Resource Status).
2. Recommending to the Community Development Director additions or removal of structures from the City's list of Potential Historic Resources in accordance with Section 17.84.050 (Maintenance of Potential Historic Resource List).
3. Completing DPR523 forms or equivalent documentation to record the historic significance of historic resources.
4. Reviewing Historic Alteration Permit applications, Design Permit applications, and other applications involving a modification or potential impact to a historic resource.
5. Advising the City on other matters related to historic preservation in the City of Capitola.

17.84.040 Adding or Removing Designated Historic Resource Status

A. Initiation. The City Council, Planning Commission, or property owner may request to designate a property as a Designated Historic Resource or remove such designation from a property.

B. Application Contents. An application by a property owner shall be on a form designated by the Community Development Department and shall include the following information:

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1. **Photographs – Subject Property & Context.**
   a. Photographs of each exterior elevation of all buildings and structures on the site, including retaining walls and fences.
   b. Photographs of exterior details (façade materials, porches, columns, cornices, window trim, wall materials, and fence materials).
   c. Historic photographs of original structure if available.
2. **Physical Condition – Written and Graphic.** A detailed written description on the physical condition of the structure with supporting photographs.
3. **Property History**. A description of the history of the property, if known.
4. **Requests to Remove Classification**. A property owner may request to remove the Designated Historic Resource status by submitting to the Community Development Department a written request accompanied by a description with photograph documentation explaining the property's lack of historic significance.
5. **Additional Information.** Any additional information requested by the Community Development Director necessary to process and evaluate the application.

C. Application Review. The Community Development Director shall review applications for adequacy and completeness under the requirements of this section. The application shall be reviewed by the City's Architectural Historian to assess whether the property exhibits characteristics for classification as a Designated Historic Resource described in Section 17.84.060 (Criteria for Designating Historic Resources). If the property exhibits characteristics for classification, the Architectural Historian will complete a DPR523 or equivalent for the City's records. A staff report with a recommendation on the approval, approval with conditions, or denial of the application based upon the evaluation of the proposed historic resource classification, shall be prepared by the Community Development Department for Planning Commission consideration.

D. Planning Commission Recommendation. The Planning Commission shall review a Designated Historic Resource application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings) and provide a recommendation to approve, conditionally approve, or deny the application.

E. City Council Action. The City Council shall approve, conditionally approve, or deny the application by resolution. The action of the City Council is final.

F. Effect of Classification. The classification of a Designated Historic Resource shall run with the land and be binding to subsequent owners of the property. Upon classification, the City shall add the structure to the City's Designated Historic Resource list.

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17.84.050 Maintenance of Potential Historic Resource List

A. Authority to Maintain. The Community Development Director shall be responsible for maintaining the list of Potential Historic Resources. The Director may add or remove structures from the list based on input from an Architectural Historian.

B. Additions to List. Any structure added to the Potential Historic Resource list shall meet one or more of the criteria in Section 17.84.060.B (Potential Historic Resource). The property owner shall be notified in writing of a decision to add a property to the list. Decisions of the Community Development Director to add a property to the list may be appealed to the Planning Commission.

C. Removal of Listed Structures. A property owner may request the removal of a property from the Historic Structure List by submitting to the Community Development Department a written request accompanied by a description with photograph documentation explaining the property's lack of historic significance. Decisions of the Community Development Director to maintain a structure on the list despite a request for its removal by the property owner may be appealed to the Planning Commission.

17.84.060 Criteria for Designating Historic Resources

A. Designated Historic Resources. Designated Historic Resources represent particularly noteworthy community resources that exemplify the City's unique historic identify, primarily from the pre-World War II era of Capitola's history. Designated Historic Resources possess iconic landmark status that contribute to Capitola's unique sense of place due to physical characteristics of the resource visible from a public place. The City Council may classify a property as a Designated Historic Resource if it meets any of the following criteria:

1. It exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, architectural or natural history.
2. It embodies distinctive characteristics of a style, type, period or method of construction, or is a valuable example of the uses of indigenous materials or craftsmanship.
3. It is an example of a type of building once common in Capitola but now rare.
4. It contributes to the significance of an historic area, being a geographically definable area possessing a concentration of historic or scenic properties or thematically related groupings of properties which contribute to each other and are united aesthetically by plan or physical development.

B. Potential Historic Resource. Based on a recommendation from the City's Architectural Historian, the Community Development Director may add a structure to the Potential Historic Resource list if it meets any of the above criteria for classifying a Designated Historic Resource or any of the following criteria:

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1. It has a unique location or singular physical characteristic or is a view or vista representing an established and familiar visual feature of a neighborhood, district, or the city.
2. It embodies elements of architectural design, detail, materials or craftsmanship that represent a significant structural or architectural achievement or innovation.
3. It is similar to other distinctive properties, sites, areas or objects based on an historic, cultural or architectural motif.
4. It is one of the few remaining examples in the City, region, State or nation possessing distinguishing characteristics of an architectural or historic type or specimen.

17.84.070 Historic Alteration Permit

A. Purpose. A historic alteration permit is an approval required to alter the exterior of a historic resource.

B. Requirement for Designated Historic Resources. A historic alteration permit is required for any exterior alteration to a Designated Historic Resource as defined in Section 17.84.020 (Types of Historic Resources).

C. Requirement for Potential Historic Resource.

1. **When Permit is Required.** A historic alteration permit is required for an alteration to a Potential Historic Resource if:
   a. The project requires a discretionary approval (e.g., Design Permit, Coastal Development Permit~~, etc.~~); and
   b. The Community Development Director determines that the project may result in a significant adverse impact of a historic resource as defined in the California Environmental Quality Act (CEQA) Guidelines Section 15064.5. A structure found not to be historically significant through a historic evaluation does not require a historic alteration permit.
2. **Historic Resource Assessment and Consultation.** A proposed alteration to a Designated Historic Resource or a Potential Historic Resource that requires a discretionary permit will be reviewed by the City's Architectural Historian to assess if the project may result in a significant adverse impact of a historic resource. The Community Development Director shall use this assessment to determine if the findings of approval for the historic alteration permit can be made. Review by the City's Architectural Historian is not required for in-kind repairs in accordance with subsection E (Exception for Preservation and in-Kind Rehabilitation) below.

D. Alteration Defined. As used in this chapter, "alteration" means any exterior change or modification to a structure, cutting or removal of trees and other natural features, disturbance of archeological sites or areas, and the placement or removal of any accessory structures affecting the exterior visual qualities of the property. Painting is not considered

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an alteration unless painted features are designated as significant or characteristic of a historic resource.

E. Exception for Preservation and In-Kind Rehabilitation. A historic alteration permit is not required for preservation or rehabilitation due to damage to windows, doors, trim, or other similar building elements. The rehabilitation shall be in-kind, matching the original design in size, detail, materials, and function. To qualify for this exception, the applicant must provide evidence of original design and details of the in-kind replacement.

F. Review Authority. The Planning Commission shall take action on all applications for a historic alteration permit.

G. Application Requirements. Applications for a historic alteration permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department together with all required application fees.

H. Public Notice and Hearing. The Planning Commission shall consider applications for a historic alteration permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

I. Findings for Approval. The Planning Commission may approve a historic alteration permit only if all of the following findings can be made:

1. The historic character of a property is retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.
2. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property are preserved.
3. Any new additions complement the historic character of the existing structure. New building components and materials for the addition are similar in scale and size to those of the existing structure.
4. Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials.
5. Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.
6. The proposed project is consistent with the General Plan, the Local Coastal Program, any applicable Specific Plan, the Zoning Code, and the California Environmental Quality Act (CEQA).
7. If a proposed development is located in the coastal zone and requires a Coastal Development Permit (CDP) as specified in Chapter 17.44 (Coastal Overlay zone), approval of a CDP requires compliance listed in 17.84.070.I and the CDP findings as specified in 17.44.060 (Findings for Approval).

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J. Conditions of Approval. The Planning Commission may attach conditions of approval to a historic alteration permit to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

K. Appeals. Decisions on historic alteration permit may be appealed as described in Chapter 17.152 (Appeals).

17.84.080 Demolition of Historic Resources

A. Permit Required. The demolition of a historic resource requires approval of a Historic Resource Demolition Permit.

B. Review Authority.

1. The Planning Commission takes action on Historic Resource Demolition Permit applications to demolish a Potential Historic Resource.
2. The Planning Commission recommends and the City Council takes action on Historic Resource Demolition Permits applications to demolish a Designated Historic Resource.

C. Application Submittal and Review. Applications for a Historic Resource Demolition Permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department together with all required application fees to the satisfaction of the CDD or Planning Commission. The City may require third-party review of these materials at the applicant's expense. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.84.080.F (Findings for Approval).

D. Planning Commission Recommendation. For Historic Resource Demolition Permit applications to demolish a Designated Historic Resource, the Planning Commission shall provide a recommendation to the City Council on a Historic Resource Demolition Permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The Planning Commission shall base its recommendation on the findings specified in Paragraph F (Findings for approval) below.

E. Public Notice and Hearing. The review authority shall review and act on a Historic Resource Demolition Permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

F. Findings for Approval. To approve a Historic Resource Demolition Permit, the review authority shall make one or more of the following finding:

1. The structure must be demolished because it presents an imminent hazard to public health and safety as determined by a licensed structural engineer.
2. The structure proposed for demolition is not structurally sound despite evidence of the applicant's efforts to rehabilitate and properly maintain the structure.

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3. The rehabilitation or reuse of the structure is economically infeasible. Economic infeasibility shall be demonstrated by preparing actual project costs and by comparing the estimated market value of the property in its current condition, after rehabilitation and after demolition.

4. No feasible alternative use of the structure exists that can earn a reasonable economic return.

G. Limitations on Findings of Economic Hardship. The review authority may not approve a Historic Resource Demolition Permit if an economic hardship was caused by any of the following:

1. Willful or negligent acts by the applicant.

2. Purchasing the property for substantially more than market value.

3. Failure to perform normal maintenance and repairs.

4. Failure to diligently solicit and retain tenants.

5. Failure to prescribe a rental amount which is reasonable for the current market.

6. Failure to provide normal tenant improvements.

H. Post-Decision Procedures. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Historic Resource Demolition Permit.

17.84.090 Historic Preservation Incentives

A. Mills Act Agreement. Upon request of the owner of a Designated Historic Resource, the City Council may elect to enter into a Mills Act Agreement with the owner. See Government Code Section 50280 et seq. The Mills Act Agreement shall run with the land and be binding upon subsequent owners of the Designated Historic Resource. If the City Council elects to enter into a Mills Act Agreement, the City shall file the Mills Act Agreement for recording with the County Recorder.

B. California Historical Building Code. The California Historical Building Code (Title 24, Part 8) shall apply to all Designated Historic Resources to facilitate the preservation and continuing use of the building while providing reasonable safety for the building's occupants and access for persons with disabilities.

C. Grant or Loan Priority. The City shall give the highest priority to Designated Historic Resources when distributing grants or loans whose purpose is historic preservation.

D. Permitting Fees. The City Council shall waive application and review fees for Planning permits required for development projects that preserve, retain, and rehabilitate a historic structure. Planning permit fees shall be waived only for significant rehabilitations of noteworthy historic structures, not for remodels or additions to older homes that would not substantially advance the City's historic preservation goals. Required third-party reviews shall be paid for by the applicant.

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E. Modifications to Development Standards. The City Council may approve modifications to development standards in the applicable zoning district, such as parking and setbacks, if the modification is necessary to allow for the preservation, rehabilitation, or restoration of a historic resource, and if coastal resources are protected. Modifications associated with specific coastal resource standards (e.g., ESHA setbacks, geologic hazard setbacks, etc.) are not allowed.

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Chapter 17.88 – INCENTIVES FOR COMMUNITY BENEFITS

Sections:

17.88.010 Purpose
17.88.020 Incentives Restricted to Added Benefits
17.88.030 Eligibility
17.88.040 Allowable Benefits
17.88.050 Available Incentives
17.88.060 Relationship to State Density Bonus Law
17.88.070 Application Submittal and Review
17.88.080 Findings
17.88.090 Post-Decision Procedures

17.88.010 Purpose

This chapter establishes incentives for applicants to locate and design development projects in a manner that provides substantial benefits to the community. These incentives are intended to facilitate the redevelopment of underutilized properties along 41st Avenue consistent with the vision for the corridor described in the General Plan and to encourage the development of a new hotel in the Village as called for by the General Plan and the Local Coastal Program (LCP).

17.88.020 Incentives Restricted to Added Benefits

The City may grant incentives only when the community benefits or amenities offered are not otherwise required by the Zoning Code or any other provision of local, state, or federal law. Community benefits or amenities must significantly advance General Plan and/or LCP goals and/or incorporate a project feature that substantially exceeds the City's minimum requirements.

17.88.030 Eligibility

A. Eligibility for Incentive. The City may grant incentives for the following projects:

1. Projects in the Regional Commercial (C-R) and Community Commercial (C-C) zoning districts that:
   a. Front 41st Avenue; or
   b. Front Capitola Road between Clares Street and 42nd Avenue, or
   c. Are located on the Capitola Mall site.
2. A hotel on the former Capitola Theater site (APN 035-262-04, 035-262-02, 035-262-11, 035-261-10) in the Mixed Use Village zoning district.

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B. Setback Required – 41st Avenue. Structures on properties fronting the east side of 41st Avenue must be set back a minimum of 100 feet from the property line abutting a residential property.

17.88.040 Allowable Benefits

A. All Eligible Projects. The City may grant incentives to all eligible projects as identified in Section 17.88.030 (Eligibility) that provide one or more of the following community benefits. The public benefit provided shall be of sufficient value as determined by the Planning Commission to justify deviation from the standards of the zoning district that currently applies to the property.

1. **Public Open Space.** Public plazas, courtyards, and other public gathering places that provide opportunities for people to informally meet and gather. Open space must be accessible to the general public at all times. Provision must be made for ongoing operation and maintenance in perpetuity. The public space must either exceed the City's minimum requirement for required open space and/or include quality improvements to the public realm to create an exceptional experience.
2. **Public Infrastructure.** Improvements to streets, sidewalks, curbs, gutters, sanitary and storm sewers, street trees, lighting, and other public infrastructure beyond the minimum required by the City or other public agency.
3. **Pedestrian and Bicycle Facilities.** New or improved pedestrian and bicycle pathways that enhance the property and connectivity to the surrounding neighborhood.
4. **Low-Cost Visitor Serving Amenities.** New or improved low-cost visitor-serving recreational opportunities or accommodations within the Central Village area.
5. **Transportation Options.** Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.
6. **Historic Resources**. Preservation, restoration, or rehabilitation of a historic resource.
7. **Public Parking.** A public parking structure that provides parking spaces in excess of the required number of parking spaces for use by the surrounding commercial district. Excess parking provided as part of a Village hotel may not be located on the hotel site and must be located outside of the Mixed Use Village zoning district.
8. **Green Building.** Green building and sustainable development features that exceed the City's green building award status.
9. **Public Art.** Public art that exceeds the City's minimum public art requirement and is placed in a prominent and publicly accessible location.

~~9.~~10. **Child Care Facilities.** Child care centers and other facilities providing daytime care and supervision to children.

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~~10.~~11. **Other Community Benefits.** Other community benefits not listed above, such as entertainment destinations, as proposed by the applicant that are significant and substantially beyond normal requirements.

B. 41st Avenue/Capitola Road Projects. In addition to the community benefits in Subsection A above, the City may grant incentives to eligible projects fronting 41st Avenue or Capitola Road between Clares Street and 42nd Avenue or on the Capitola Mall site that provide one or more of the following community benefits:

1. **Capitola Mall Block Pattern.** Subdivision of the existing Capitola Mall property into smaller blocks with new intersecting interior streets. May include the extension of 40th Avenue south into the Mall property to form a new pedestrian-friendly private interior street.
2. **Surface Parking Lot Redevelopment.** Redevelopment of existing surface parking lots fronting 41st Avenue and Capitola Road while introducing new sidewalk-oriented commercial buildings that place commercial uses along the street frontage.
3. **Transit Center.** Substantial infrastructure improvements to the transit center on the Capitola Mall property that are integrated with a possible future shuttle system in Capitola. The transit center may be moved to an alternative location consistent with the operational requirements of Santa Cruz Metro.
4. **Affordable Housing.** Affordable housing that meets the income restrictions applicable in the Affordable Housing (-AH) overlay zone.

17.88.050 Available Incentives

A. 41st Avenue/Capitola Road Projects. The City may grant the following incentives to an eligible project fronting 41st Avenue, Capitola Road between Clares Street and 42nd Avenue, or on the Capitola Mall site:

1. An increase in the maximum permitted floor area ratio (FAR) to 2.0.
2. An increase in the maximum permitted building height to 50 feet.

B. Village Hotel. The City may grant the following incentives to a proposed hotel on the former Capitola Theater site (APN 035-262-04, 035-262-02, 035-262-11, 035-261-10):

1. An increase in the maximum permitted floor area ratio (FAR) to 3.0.
2. An increase to the maximum permitted building height provided that:
   a. The maximum height of the hotel (including all rooftop architectural elements such as chimneys, cupolas, etc., and all mechanical appurtenances such as elevator shafts, HVAC units, etc.) remains below the elevation of the bluff behind the hotel; and

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b. The bluff behind the hotel remains visible as a green edge ~~with existing mature trees maintained on site~~ when viewed from the southern parking lot along the bluff of Cliff Drive and the Capitola wharf. Existing mature trees shall be maintained on the site, except that trees that are unhealthy or unsafe may be removed.

17.88.060 Relationship to State Density Bonus Law

The incentives allowed by this section are in addition to any development incentive required by Section 65915 of the California Government Code.

17.88.070 Application Submittal and Review

A. **Request Submittal.** A request for an incentive in exchange for benefits shall be submitted concurrently with an application for the discretionary permits required for the project by the Zoning Code. Applications shall be accompanied by the following information:

1. A description of the proposed amenities and how they will benefit the community.
2. All information needed by the City Council to make the required findings described in Section 17.88.080 (Finding) below, including a pro forma analysis demonstrating that the benefit of the proposed amenities to the community is commensurate with the economic value of the requested incentives.

B. **Conceptual Review.** Prior to City action on a request for an incentive, the request shall be considered by the Planning Commission and City Council through the Conceptual Review process as described in Chapter 17.114 (Conceptual Review). Conceptual Review provides the applicant with non-binding input from the City Council and Planning Commission as to whether the request for incentives is worthy of consideration.

C. ~~Theatre~~**Theater Site Story Poles.** Prior to City action on a proposed hotel on the former Capitola Theater site the ~~applicant~~ Planning Commission or City Council may ~~shall~~ require the applicant to install poles and flagging on the site to demonstrate the height and mass of the proposed project.

D. **Planning Commission Recommendation.** Following Conceptual Review, the Planning Commission shall provide a recommendation to the City Council on the proposed project and requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

E. **City Council Action.** After receiving the Planning Commission's recommendation, the City Council shall review and act on the requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The City Council shall also review and act on other permits required for the project requesting incentives.

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17.88.080 Findings

A. All Eligible Projects. The City Council may approve the requested incentives for all eligible projects only if all of the following findings can be made in addition to the findings required for any other discretionary permit required by the Zoning Code:

1. The proposed amenities will provide a substantial benefit to the community and advance the goals of the General Plan.
2. There are adequate public services and infrastructure to accommodate the increased development potential provided by the incentive.
3. The public benefit exceeds the minimum requirements of the zoning code or any other provisions of local, state, or federal law.
4. The project minimizes adverse impacts to neighboring properties to the greatest extent possible.
5. If in the coastal zone and subject to a Coastal Development Permit, the project enhances coastal resources.

B. Village Hotel. In addition to the findings in Subsection A above, the City Council may approve the requested incentives for a proposed hotel on the former Capitola Theater site only if the following findings can be made:

1. The design of the hotel respects the scale and character of neighboring structures and enhances Capitola's unique sense of place.
2. The hotel will contribute to the economic vitality of the Village and support an active, attractive, and engaging pedestrian environment.
3. The hotel design minimizes impacts to public views of the beach and Village from vantage points outside of the Village, and in particular as seen from the top of the bluff behind the hotel, and does not adversely impact significant public views of the coastline as identified in the LCP Land Use Plan.
4. Parking for the hotel is provided in a way that minimizes vehicle traffic in the Village, strengthens the Village as a pedestrian-oriented destination, and protects public parking options.

17.88.090 Post-Decision Procedures

Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to decisions on incentives for community benefits.

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Chapter 17.96 – SUPPLEMENTAL STANDARDS

Sections:

17.96.010 Purpose
17.96.020 Animal Keeping
17.96.030 Emergency Shelters
17.96.040 Home Occupations
17.96.050 Intersection Sight Distance
17.96.060 Large Commercial Land Uses
17.96.070 Large Home Day Care
17.96.080 Large Residential Care Facilities
17.96.090 Offshore Oil Development Support Facilities
17.96.100 Permanent Outdoor Displays
17.96.110 Outdoor Lighting
17.96.120 Placement of Underground Utilities
17.96.130 Recycling Collection Facilities
17.96.140 Self-Storage Facilities
17.96.150 Solar Energy Systems
17.96.160 Soquel Creek Pathway
17.96.170 Temporary Sidewalk Dining
17.96.180 Temporary Uses and Structures

17.96.010 Purpose

This chapter establishes supplemental standards for land uses, activities, and development that apply in all zoning districts.

17.96.020 Animal Keeping

A. General Standards. The following standards apply to the keeping of all animals in Capitola.

1. **Public Health and Safety**. It shall be unlawful and shall constitute a nuisance to keep any animal that poses a threat to public health or safety.

2. **Animal Noise**. In addition to the standards in Municipal Code Chapter 9.12 (Noises), no animal may disturb neighbors with its noise between sunset and one-half hour after sunrise.

3. **Sanitation**. It shall be unlawful and shall constitute a nuisance for any person to keep animals in an unsanitary manner or produce obnoxious odors. All debris, refuse, manure, urine, food waste, or other animal byproduct shall be removed from all the premises every day or more often as necessary.

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4. **Property Confinement.** Animals other than household pets, where allowed, shall be confined to the property within a fenced yard.

B. Household Pets.

1. **Compliance with General Standards.** The keeping of dogs, cats, domesticated birds, rabbits, rodents, reptiles and amphibians, potbelly pigs less than 150 pounds, and other household pets is permitted provided they comply with Paragraph A above.

2. **Maximum Number.** A maximum of four of each type of household pet with a maximum of eight pets total is permitted in a single dwelling unit.

C. Chickens.

1. **Permitted Location**. Keeping of chickens is permitted only on properties of 5,000 square feet or more occupied by a single-family dwelling.

2. **Prohibitions on Roosters**. Only hens are permitted pursuant to this chapter. Roosters are prohibited.

3. **Number of Chickens**. A maximum of four chickens are permitted on a single property.

4. **Enclosure Requirement**. Chickens shall be kept in a coop which is sufficient to contain chickens. When outside of a coop, chickens shall be confined to the property within a fenced yard.

5. **Location of Coops.**

   a. Chicken coops must be located behind the primary structure on the lot.

   b. Chicken coops may not be located within a required front and side setback area or closer than 20 feet to dwelling units on adjacent properties.

D. Honeybees.

1. **Permitted Location**. Keeping of beehives is permitted only on properties occupied by a single-family dwelling.

2. **Minimum Lot Size and Number of Hives**. A maximum of one beehive is permitted on properties of at least 5,000 square feet.

3. **Location of Beehives**. Beehives shall be located behind the primary structure on the property. Beehives shall not be located closer than 20 feet to dwellings on adjacent properties or 5 feet from a property line.

E. Prohibited Animals. Keeping the following animals is prohibited:

1. Roosters, fowl other than chickens and ducks, goats, pigs other than potbelly pigs, and other livestock.

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2. Wild animals as defined in Section 2118 of the California Fish and Game Code, except when authorized by the State Department of Fish and Game under Fish and Game Code Section 2150 et seq.

17.96.030 Emergency Shelters

Emergency shelters will comply with the following standards:

A. Lighting. Adequate external lighting shall be provided for security purposes. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity compatible with the neighborhood.

B. Physical Characteristics. Emergency shelters shall comply with applicable State and local housing, building, and fire code requirements.

C. Security. Facilities shall have on-site security during hours of operation. Parking and outdoor facilities shall be designed to provide security for residents, visitors and employees.

D. Laundry Facilities. Facilities shall provide laundry facilities or services adequate for the number of residents.

E. Common Facilities. Facilities shall contain amenities appropriate to the population to be served to include the following:

1. Central cooking and dining room.
2. Recreation room.
3. Counseling services.
4. Child care facilities.
5. Other support services.

F. Outdoor Activity. For the purpose of noise abatement, organized outdoor activities may only be conducted between the hours of eight a.m. and ten p.m.

G. Refuse. Emergency shelters shall provide a refuse storage area that is in accordance with city requirements for accessory refuse structures. The storage area shall accommodate a standard-sized trash bin adequate for use on the parcel, or other enclosures as approved by the Community Development Director. The refuse enclosure shall be accessible to refuse collection vehicles.

H. Emergency Shelter Provider. The agency or organization operating the emergency shelter shall comply with the following requirements:

1. Temporary shelter shall be available to residents for no more than six months.
2. Staff and services shall be provided to assist residents to obtain permanent shelter and income.

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3. The provider shall have a written management plan including, as applicable, provisions for staff training, good neighbor policies, security, transportation, client supervision, food services, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents. Such plan shall be submitted to and approved by the planning, inspections, and permitting department prior to operation of the emergency shelter. The plan shall include a floor plan that demonstrated compliance with the physical standards. The operator of each emergency shelter shall annually submit the management plan to the planning, inspections and permitting department with updated information for review and approval. The City Council may establish a fee by resolution, to cover the administrative cost of review of the required management plan.

I. Limited Terms of Stay. The maximum term of staying at an emergency shelter is six months in a consecutive twelve-month period.

J. Transportation Plan. A transportation plan is required.

K. Parking. The emergency shelter shall provide on-site parking at a rate of one space per staff member plus one space per six occupants allowed at the maximum capacity.

L. Bicycle Parking. The shelter shall provide secure bicycle parking at a rate of one space per occupant.

M. Development Standards. An emergency shelter must comply with all development standards in the Industrial (I) zoning district.

17.96.040 Home Occupations

A. Required Permit. An Administrative Permit is required to establish or operate a home occupation.

B. Standards. All home occupations shall comply with the following standards:

1. **Size.** Home occupations may not occupy more than 25 percent of the floor area of the dwelling unit or 400 square feet, whichever is less.

2. **Sales and Displays.** Products may not be sold onsite directly to customers within a home occupation. Home occupations may not establish window displays of products to attract customers.

3. **Advertising.** No newspaper, radio, or television service shall be used to advertise the location of business; however, contact information, including phone numbers and email address, are allowed on advertisements.

4. **Signs.** One single, non-illuminated, wall-mounted outdoor sign of not more than 1 square foot in area is permitted.

5. **Vehicle Traffic.** A home occupation may not generate vehicle traffic greater than normally associated with a residential use. No excessive pedestrian, automobile, or

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truck traffic may be introduced to the neighborhood as a result of the home occupation.

6. **Deliveries.** Deliveries and pick-ups for home occupations may not interfere with vehicle circulation, and shall occur only between 8:00 a.m. and 8:00 p.m., Monday through Saturday.

7. **Mechanical Equipment.** Mechanical equipment that is not normally associated with a residential use is prohibited.

8. **Performance Standards.** Home occupations shall not generate dust, odors, noise, vibration, or electrical interference or fluctuation that is perceptible beyond the property line.

9. **Hazardous Materials Prohibited.** The storage of flammable, combustible, or explosive materials is prohibited.

10. **Employees.** Employees of a home occupation shall be limited to the persons residing in the dwelling unit.

11. **On-Site Client Contact**. No more than one client/customer at the property at one time. Customer or client visits are limited to three per day, or six per day for personal instruction services (e.g., musical instruction or training, art lessons, academic tutoring)

12. **Outdoor Storage Prohibited.** Goods, equipment, and materials associated with a home occupation shall be stored within an enclosed structure or in a manner that is not visible from the property line.

C. Permit Revocation. An Administrative Permit for a home occupation that violates any of the standards in Paragraph B (Standards) above may be revoked consistent with Section 17.156.110 (Permit Revocation).

17.96.050 Intersection Sight Distance

A. Vision Triangle Required. In zoning districts which require a front and street side setback for primary structures, all corner parcels shall provide and maintain a clear vision triangle at the intersection of the streets' right-of-way and adjacent to driveways for the purpose of traffic safety.

B. Vision Triangle Defined.

1. **Intersections**. The intersection vision triangle shall be the area formed by measuring 30 feet along the major street front property line and 20 feet along the minor street property line from the point of intersection, and diagonally connecting the ends of the two lines. See Figure 17.96-1.

2. **Driveways**. The driveway vision triangle is the area formed by measuring 15 feet along the driveway and the street from the point of intersection, and diagonally connecting the ends of the two lines. See Figure 17.96-1.

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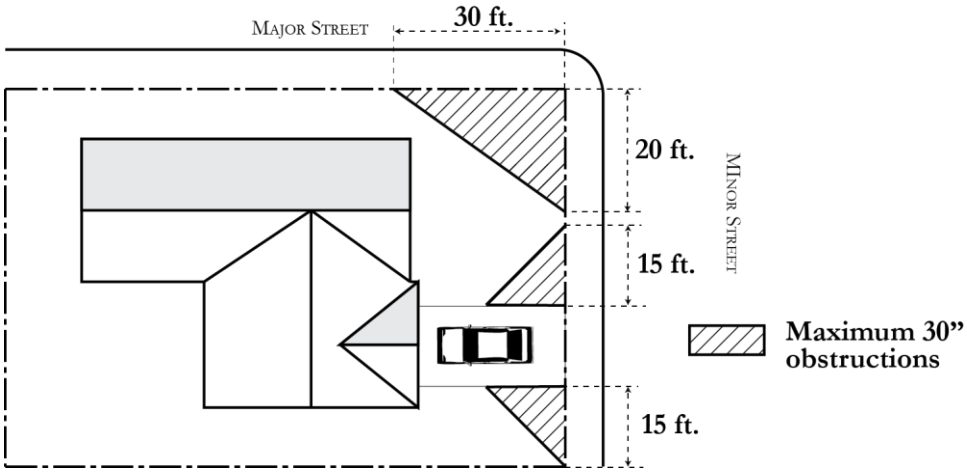
C. Maintenance of Sight Lines.

1. No structure, vehicle, object, or landscaping over 30 inches in height may be placed within a vision triangle, except as allowed by subsection 2 below.

2. Trees pruned at least 8 feet above the established grade of the curb so as to provide clear view by motor vehicle drivers are permitted within a vision triangle.

FIGURE 17-96-1: VISION TRIANGLES



17.96.060 Large Commercial Land Uses

A. Purpose and Applicability. This section establishes special findings that the Planning Commission must make to approve a Conditional Use Permit for commercial land uses with more than 12,000 square feet of floor area within one or more buildings. This requirement applies to all proposed new commercial land uses except for:

1. Uses already specifically approved in an applicable Master Conditional Use Permit pursuant to Section 17.124.100 (Master Use Permit); and

2. Uses within a shopping center or mall with a floor area of 300,000 square feet or more.

B. Findings. To approve a Conditional Use Permit for a commercial land use with 12,000 square feet or more of floor area, the Planning Commission shall make the following findings in addition to the findings in Section 17.124.070 (Findings for Approvals):

1. Vehicle traffic and parking demand created by the proposed use will not have substantial adverse impacts on properties within the vicinity of the subject property.

2. The structure occupied with the proposed use is compatible with the scale and character of existing structures in the surrounding area.

3. The proposed use is compatible with existing land uses in the surrounding area.

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4. The size of the proposed use is similar to the average size of similar uses located in the surrounding area.
5. The use will support the surrounding local economy and attract visitors to the commercial area.

C. Purpose of Findings. The purpose of additional findings for large commercial uses is to enable the Planning Commission to ensure that all new uses and development are consistent with the General Plan and compatible with the character of existing neighborhoods and districts. These findings are not intended to involve the City in the normal competition that arises between similar businesses in Capitola.

17.96.070 Large Home Day Care

As allowed by Health and Safety Code Sections 1597.465 et seq., the City shall approve a large home day care if it complies with the following standards.

A. Care Provider Occupancy. The single-family home in which the large home day care is located shall be the principal residence of the care provider. The day care use shall be clearly residential in character and shall be accessory to the use of the property as a residence.

B. License. The care provider shall obtain and maintain a license from the State of California Department of Social Services.

C. Separation. A large home day care facility within a residential zoning district may not be located within 500 feet of another large home day care.

D. Yard Requirement. A large home day care shall either be located within the R-1 zoning district with outdoor play space or shall have 75 square feet of outdoor activity space for each child. A large home day care outside the R-1 shall have an outdoor area owned or leased by the applicant and cannot be shared with other property owners unless permission is granted by the joint owners. The City may wave this space requirement if the applicant can demonstrate that there is a public park or other public open area that is in close proximity to the large home day care.

E. Screening. A fence or wall shall be located on all property lines or around all outdoor activity areas. The fence or wall shall comply with all applicable standards in Chapter 17.60 (Fences and Walls).

F. Noise. Outdoor activities may not occur before 7:00 a.m. or after 8:00 p.m. when the site is located within or adjacent to a residential zoning district.

G. Parking. Off-street parking shall be provided as required by Chapter 17.76 (Parking and Loading).

H. Garage. The garage shall be utilized for the parking of the property owner's vehicles. Use of the garage for the day care home function, such as for a play area, is not allowed.

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I. Safety Compliance. The applicant is required to have the home inspected and submit a letter of compliance from the following:

1. **City Building Division.** The homes shall be inspected and brought into compliance with the building codes relative to the proposed use.
2. **Fire Marshal.** The home shall be inspected and brought into compliance with the California Health and Safety code and Fire code relative to the proposed use.

J. Pick-Up and Drop-Off Plan. The Community Development Director shall approve a plan for the pick-up and drop-off of children. The plan shall demonstrate that adequate parking and loading areas are available to minimize congestion and conflict on public streets. The plan shall include an agreement for each parent or client to sign that includes, at a minimum:

1. A scheduled time for pick-up and drop-off with allowances for emergencies; and
2. Prohibitions of double-parking, blocking driveways of neighboring properties, or using driveways of neighboring properties to turn around.

17.96.080 Large Residential Care Facilities

Large residential care facilities shall comply with the following standards:

A. Separation. A large residential care facility in a residential zoning district shall not be located within 500 feet of another large residential care facility.

B. Screening and Landscaping. A wall or fence shall be provided for purposes of screening and securing outdoor recreational areas in compliance with Chapter 17.60 (Fences and Walls).

C. License. The care provider shall obtain and maintain a license from the State of California Department of Social Services. Large residential care facilities shall be operated according to all applicable State and local regulations.

D. Safety Compliance. The applicant is required to have the facility inspected and submit a letter of compliance from the following:

1. **City Building Department.** The facility shall be inspected and brought into compliance with the building codes relative to the proposed use.
2. **Fire Marshal.** The facility shall be inspected and brought into compliance with the California Health and Safety code and Fire code relative to the proposed use.

17.96.090 Offshore Oil Development Support Facilities

A. Prohibition. There shall be no construction, reconstruction, operation, or maintenance of any commercial or industrial offshore oil development support facility within the City of Capitola.

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B. Facilities and Activities Included in Prohibition. Prohibited facilities and activities include, but are not limited to:

1. Oil or gas storage facilities, pipe and drilling materials, or equipment repair or storage facilities, which operates directly in support of any offshore oil or gas exploration, development, drilling, pumping or production.
2. Construction, reconstruction, or operation of facilities to process any oil or natural gas taken or removed from any offshore oil or gas drilling or pumping operations.

17.96.100 Permanent Outdoor Displays

A. Permitted Displays. A single permanent outdoor display of retail goods that complies with this section is permitted as an accessory use to a primary commercial use in the mixed use, commercial, and industrial zoning districts, except in the MU-V zoning district, where permanent outdoor displays are prohibited.

B. Permits Required. Permanent outdoor displays require Planning Commission approval of a Conditional Use Permit.

C. Standards.

1. **Height**. Displayed items shall not exceed 6 feet in height.
2. **Size**. Display areas are limited to 6 feet wide or 10 percent of the width of the front building elevation. A display area may extend a maximum of 3 feet from the front building wall.
3. **Goods Permitted**. Displayed items shall be of the same type that are lawfully displayed and sold inside the building occupied by the primary commercial use. Only the business or entity occupying the building may sell merchandise in an outdoor display area.
4. **Hours**. Items shall be displayed only during the operating hours of the primary commercial use. Items shall be removed from display and moved into a permanently enclosed structure upon close of business.
5. **Screening**. If outdoor display areas are proposed as part of a project subject to discretionary review (e.g., Conditional Use or Design Permit) and approval by the City, the review authority may require that display areas be screened from view from neighboring properties with a solid wall, fence, or landscaped berm.
6. **Vending Machines.** Vending machines are not permitted as part of an outdoor display. Vending machines are considered an accessory use requiring Planning Commission approval of a Conditional Use Permit.
7. **Design Standards**.
   a. Outdoor displays shall be designed to enhance the shopping environment. The outdoor display shall be designed to complement the architecture of the building and public realm.

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b. Outdoor displays shall be self-supporting, stable, and constructed to withstand wind or contact. The display shall not be permanently affixed to any object, structure or the ground including utility poles, light poles, and trees.

c. Outdoor displays may not contain any information which would routinely be placed on a business sign located on the building such as the name or type of business, hours of business operation, business logo, brand name information, etc. The outdoor display may include a sign which indicates the price of the display items or simply indicates a "sale" on the items limited in size to 4 square inches.

d. Outdoor displays shall be continuously maintained in a state of order, security, safety and repair. The display surface shall be kept clean, neatly painted, and free of rust, corrosion, protruding tacks, nails and/or wires.

8. **Location.**

a. All outdoor display areas shall be located on the same parcel as the primary commercial use.

b. Outdoor display areas may not be placed within any permanent landscaped area, required parking space, or loading area.

c. No items may be displayed within the public right-of-way, including public sidewalks.

d. Outdoor display areas may not be placed in a location that would cause a safety hazard, obstruct the entrance to a building, encroach upon driveways, or otherwise create hazards for pedestrian or vehicle traffic.

D. Exceptions to Standards. The Planning Commission may grant exceptions to the standards in Paragraph C above with a Conditional Use Permit upon finding that the exception is necessary and that the outdoor display with the exception will comply with the basic intent of the standards.

17.96.110 Outdoor Lighting

A. Purpose. This section establishes standards for outdoor lighting to minimize light pollution, maintain enjoyment of the night sky, and reduce light impacts on adjacent properties.

B. Applicability. The standards in this section apply to all outdoor lighting in Capitola except for:

1. Lighting installed and maintained by the City of Capitola or other public agency;
2. Athletic field lights used within a school campus or public or private park;
3. Temporary construction and emergency lighting; and
4. Seasonal lighting displays related to cultural or religious celebrations.

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C. Maximum Height. Lighting standards shall not exceed the maximum heights specified in the Table 17.76-1.

TABLE 17.96-1 MAXIMUM LIGHT STANDARD HEIGHT

Zoning District	Maximum Height
Residential Zoning Districts	16 ft.
Mixed Use and Commercial Zoning Districts	16 ft. within 100 ft. of any street frontage or residential property line; 20 ft. in any other location
Industrial Zoning Districts	16 ft. within 100 ft. of any street frontage or residential property line; 25 ft. in any other location
Community Facility and Parks/Open Space Zoning Districts	25 ft., or as necessary for safety and security

D. Prohibited Lighting. The following types of exterior lighting are prohibited:

1. Exposed bulbs and/or lenses;
2. Mercury vapor lights; and
3. Searchlights, laser lights, or any other lighting that flashes, blinks, alternates, or moves.

E. Fixture Types. All lighting fixtures shall be shielded so the lighting source is not directly visible from the public right-of-way or adjoining properties. All fixtures shall meet the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light ("dark sky compliant").

F. Light Trespass. Lights shall be placed to direct downward and deflect light away from adjacent lots and public streets, and to prevent adverse interference with the normal operation or enjoyment of surrounding properties.

1. Direct or sky-reflected glare from floodlights shall not be directed into any other parcel or street, or onto any beach.
2. No light or activity may cast light exceeding one foot-candle onto a public street, with the illumination level measured at the centerline of the street.
3. No light or activity may cast light exceeding one-half foot-candle onto a residentially zoned parcel or any parcel containing residential uses.

G. Required Documentation. Prior to issuance of building permits, project applicants shall submit to the City photometric data from lighting manufacturers demonstrating compliance with the requirements of this section.

H. Coastal Development Permit. In the coastal zone, and notwithstanding the other provisions of this section, all lighting shall be sited and designed to limit lighting to the

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minimum necessary to provide for adequate public safety. All lighting shall be sited and designed so that it limits the amount of light or glare visible from public viewing areas (including but not limited to the beach and other such natural areas) to the maximum extent feasible (including through uses of lowest luminosity possible, directing lighting downward, directing lighting away from natural areas, etc.). In addition, exterior lighting adjacent to habitat areas shall be wildlife-friendly and shall use lamps that minimize the blue end of the spectrum. All lighting that requires a CDP shall also be subject to a CDP finding that such lighting does not adversely impact significant public views.

17.96.120 Placement of Underground Utilities

New construction or additions that increase existing floor area by 25 percent or more shall place existing overhead utility lines underground to the nearest utility pole.

17.96.130 Recycling Collection Facilities

All recycling collection facilities where permitted shall comply with the standards in this section.

A. Accessory Use. Recycling collection facilities may be established only as an accessory use in conjunction with an existing commercial or industrial use which complies with the Zoning Code and the Capitola Building and Fire Codes.

B. Permit Required. Where allowed by Part 2 (Zoning Districts and Overlays), a recycling collection facility requires Planning Commission approval of a Conditional Use Permit.

C. Attendant Required. Facilities may accept materials for recycling only when an attendant is present on site.

D. Maximum Size. Recycling collection facilities may occupy no more than 5,000 square feet of area on a property.

E. Parking Areas.

1. Recycling collection facilities shall provide parking for removal of the materials and for customers depositing the materials.
2. Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary host use, unless a study shows that existing parking capacity is not already fully utilized during the time the recycling facility will be on the site.

F. Accepted Items. Recycling collection facilities may accept only glass, metal or plastic containers, papers and reusable items. Used motor oil may be accepted with a permit from the Santa Cruz County Environmental Health Department and the Hazardous Materials Advisory Commission.

G. Power-driven Processing Equipment. Except for reverse vending machines, recycling collection facilities may not use power-driven processing equipment.

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H. Location.

1. Mobile vending facilities shall be located in a designated area without eliminating the required parking or landscaping;
2. Facilities shall be at least 100 feet from any property zoned or occupied for residential use, unless there is a recognized service corridor and acoustical shielding between the containers and the residential use.

I. Maintenance. The site shall be maintained free of litter and any other undesirable materials. Mobile facilities, at which trucks or containers are removed at the end of each collection day, shall be swept at the end of each collection day.

J. Noise. Facilities shall not exceed noise levels of 60 dBA as measured from the property line of a residentially zoned property or a residential use. Facilities shall not exceed noise levels of 70 dBA measured from all other property lines.

K. Hours of Operation. Facilities shall operate only between the hours of nine a.m. and seven p.m.

L. Facility Information and Display.

1. Containers shall be clearly marked to identify the type of materials which may be deposited.
2. The facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers.

M. Signs. Signs may be provided as follows:

1. Recycling facilities may have identification signs with a maximum of 10 square feet, in addition to informational signs required by subsection J above.

N. Landscaping. The facility shall comply with all landscaping standards required by Chapter 17.72 (Landscaping) and other City ordinance.

17.96.140 Self-Storage Facilities

A. Purpose and Applicability. This section establishes special findings for the Planning Commission to approve self-storage facilities in the Community Commercial (C-C). These findings are intended to ensure that new self-storage facility will not adversely impact the economic vitality of Capitola's commercial districts.

B. Required Findings. In addition to the findings in Chapter 17.124 (Use Permits), the Planning Commission must make the following findings to approve a self-storage facility in the Community Commercial (C-C) zoning districts:

1. The location of the proposed self-storage facility is conducive/better suited as self – storage rather than traditional retail due to limited access to or poor visibility from the street.

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2. The proposed self-storage facility would be compatible with existing land uses in the surrounding area.
3. Streets and other means of egress are adequate to serve the proposed self-storage facility.

17.96.150 Solar Energy Systems

A. Required Permits.

1. **Rooftop Systems.** Rooftop solar energy systems and solar water heaters are permitted by-right in all zoning districts. No permit or approval is required other than a building permit and fire department review.
2. **Other Systems.** Solar energy systems that are not located on the rooftop of a primary structure require a Conditional Use Permit.

B. Height Exceptions. Rooftop solar energy systems may project up to 4 feet above the maximum permitted structure height in the applicable zoning district. This exception is applicable to the solar energy system only, not the structure on which it is located.

C. Mixed Use Village Zoning District. Rooftop solar facilities in the Mixed Use Village zoning district shall be located and design to minimize visibility from a street or other public place to the greatest extent possible.

D. Building Permit Review and Approval. Building permit applications for rooftop solar energy systems shall be reviewed and approved in compliance with Municipal Code Chapter 15.10 (Expedited Solar Permitting Ordinance).

E. Coastal Development Perm it. A proposed solar energy system may require a Coastal Development Permit as specified by Chapter 17.44 (Coastal Overlay Zone) if any part of the site is located in the coastal zone and the proposed development shall conform with the Coastal Development Permit findings for approval as specified in 17.44.130 (Findings for Approval).

17.96.160 Soquel Creek Riverview Pedestrian Pathway

The following standards apply to the Soquel Creek Riverview Pedestrian Pathway, which extends from the Stockton Avenue Bridge along the eastern side of Soquel Creek, under the Railroad Trestle, to 427 Riverview Avenue, where it follows a drainage easement to Riverview Avenue. As used in this section, "pathway" means the area within which the pedestrian walking surface (comprised of brick, decomposed granite and other surface materials) and any related public amenities are located.

A. The pathway shall be maintained at a minimum of either the existing pathway width shown in the March 2005 survey maintained by the City of Capitola, or 4 feet, whichever is greater.

B. The pathway shall have a minimum overhead clearance of 8 feet.

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C. Structures east of the pathway shall be setback a minimum of 5 feet from the edge of the pathway.

D. Development, including decks, fencing, landscaping and other improvements shall not encroach into the pathway.

E. Property owners shall trim and maintain landscaping so that it does not encroach into the pathway.

F. Permeable surface variations (i.e., brick, decomposed granite and other surfaces) are permitted.

G. Deck handrails may not exceed 42 inches in height. The space between the deck and the handrails may not be filled in to create a solid appearance.

H. ~~Adequate signage shall be provided~~ Signage indicating that the pathway is open to the public is allowed.

I. All bulkheads shall be constructed in a rustic manner and finished in wood.

J. A maximum of two freestanding lights are allowed for each deck to a maximum height of 8 feet.

17.96.170 Temporary Outdoor Dining

This section establishes requirements for temporary outdoor dining areas located on a public sidewalk or other area within the public right-of-way.

A. Required Permits. Temporary outdoor dining within the public right-of-way requires an Administrative Permit and an Encroachment Permit. Temporary outdoor dining may require a Coastal Development Permit as specified by Chapter 17.44 (Coastal Overlay Zone) if any part of the site is located in the coastal zone and the proposed development shall conform with the CDP findings for approval as specified in 17.44.130 (Findings for Approval).

B. Permitted Zoning Districts. Temporary outdoor dining within the public right of way is allowed in the Commercial Community (C-C), Commercial Regional (C-R), and Mixed Use, Neighborhood (MU-N) zoning districts. Temporary outdoor dining within the public right of way is not permitted in the Mixed Use Village (MU-V) zoning district.

C. Standards. Temporary sidewalk dining shall comply with the following standards.

1. **Location**. Outside dining is permitted on the public sidewalk:
   a. When incidental to and part of a restaurant; and
   b. Along the restaurant's frontage.
2. **Number of Dining Areas**. An indoor restaurant may operate only one outside dining area confined to a single location.
3. **Safe Passage**.

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a. Temporary sidewalk dining is permitted only where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the outside dining area.

b. The sidewalk immediately adjacent to the restaurant shall have adequate space to accommodate tables and chairs and shall provide adequate safe passage along the sidewalk for pedestrian and wheelchair users of the sidewalk. Safe and adequate passage of at least 4 feet in width shall be provided along the sidewalk and from the curb to the sidewalk. No tables or chairs or any other objects shall be placed or allowed to remain on any sidewalk that inhibit such passage.

4. **Furniture and Signage Location**.

a. Tables and chairs in a sidewalk dining area shall be set back at least 2 feet from any curb and from any sidewalk or street barrier, including a bollard, and at least 8 feet from a bus stop.

b. All outdoor dining furniture, including tables, chairs, umbrellas, and planters, shall be movable.

c. All temporary improvements to separate the outdoor dining area from the sidewalk, such as a railing, shall relate to the architectural design of the primary restaurant structure in color, materials, and scale.

d. Umbrellas shall be secured with a minimum base of not less than 60 pounds.

e. All signs are subject to Chapter 17.80.

5. **Food and Beverages**. The service of alcoholic beverages within the sidewalk dining area requires a Conditional Use Permit, and shall comply with the following requirements:

a. The outside dining area shall be situated immediately adjacent to and abutting the indoor restaurant which provides it with food and beverage service.

b. The outside dining area shall be clearly separate and delineated from the areas of the sidewalk which remains open to pedestrian traffic.

c. One or more signs shall be posted during hours of operation stating that alcohol is prohibited outside of the dining area.

d. The outside dining area shall receive all licenses required for on-site consumption of alcoholic beverages from State authorities.

6. **Trash and Maintenance**.

a. Storage of trash is prohibited within or adjacent to the sidewalk dining area. All trash and litter shall be removed as it accumulates or otherwise becomes a public nuisance.

b. The sidewalk dining area, including the sidewalk surface and furniture, shall be maintained in a clean and safe condition.

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7. **Hours of Operation**. Sidewalk dining may occur between 7 a.m. and 10 p.m. seven days a week. Tables, chairs, other outdoor dining furniture, and all other structures and materials associated with the outdoor dining area shall be removed from the sidewalk and stored indoors at night and when the sidewalk dining area is not in operation.

17.96.180 Temporary Uses and Structures

A. Purpose. This section establishes requirements for the establishment and operation of temporary uses and structures. These requirements allow for temporary uses and structures in Capitola while limiting impacts on neighboring properties and the general public.

B. Temporary Uses Allowed By Right. The following temporary uses are permitted by right. No permits or approvals from the Community Development Department are required.

1. **Garage Sales.** Garage sales for individual residences limited to three, one- to two-day events per calendar year. One block or neighborhood sale per calendar year is allowed in addition to individual sales.

2. **Storage Containers.** Storage containers delivered to a home, loaded at the residence, and delivered to another location, for a maximum of two weeks on private property. Storage containers on a residential property for more than two weeks may be approved by the Planning Commission with a Conditional Use Permit.

3. **Outdoor Fund Raising Events.** Outdoor fund raising events on commercial sites when sponsored by a non-profit organization directly engaged in civic or charitable efforts. Outdoor fund raising events are limited to two days each month for each sponsoring organization.

4. **On-Site Construction Yards.** Temporary construction yards and office trailers that are located on-site, less than 1 acre in size, and established in conjunction with an approved project. The construction yard and trailer shall be immediately removed within 10 days of completion of the construction project or expiration of the building permit.

C. Temporary Uses Requiring a Permit. An Administrative Permit is required for the following temporary uses.

1. **Seasonal Sales**. Seasonal sales (e.g., Christmas trees, pumpkins) for a maximum of 45 calendar days, no more than four times per year on a single property. Seasonal sales are prohibited on residentially zoned property.

2. **Temporary Outdoor Displays of Merchandise and Parking Lot Sales.** Temporary outdoor displays of merchandise and parking lot sales on private property for a maximum of three days no more than two times per year on a single property. Following the completion of the temporary display, all signs, stands, poles, electrical

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wiring, or any other fixtures, appurtenances or equipment associated with the display shall be removed from the premises.

3. **Farmer's Markets**. Farmer's markets for a maximum of one day per week in a non-residential zoning district. Farmer's markets for more than one day per week in a non-residential zoning district are permitted with a Conditional Use Permit. Farmer's markets in a residential zoning district are permitted with a Conditional Use Permit.

4. **Off-Site Construction Yards**. Construction yards located off-site in conjunction with an approved project. The construction yard shall be immediately removed within 10 days of completion of the construction project or expiration of the building permit.

5. **Employee Trailers.** Trailer or commercial modular units used as a work site for employees of a business displaced during construction, for a maximum of 12 months. The Community Development Director may grant up to two 12-month extensions for ongoing construction activity requiring more than 12 months to complete

6. **Mobile Food Vendors**. Mobile food vendors in one location four times or less per year in accordance with Municipal Code Chapter 9.36. Mobile food venders in one location more than four times per year require a Conditional Use Permit.

7. **Real Estate Offices.** Real estate offices used exclusively for the sale of homes or other real estate units located within an approved multi-unit development project for a maximum of three years or within 30 days when the last home is sold, whichever comes first.

8. **Other Similar Activities**. Similar temporary activities determined by the Community Development Director to be compatible with the applicable zoning district and surrounding uses.

D. Temporary, Publicly Attended Activities/Events. Temporary, publicly attended activities such as festivals, outdoor entertainment, and other similar events may be permitted pursuant to Municipal Code Chapter 9.36 (Temporary, Publicly Attended Activities). If in the coastal zone, see Subsection 17.44.080.H (Temporary Events) to determine if a Temporary Event requires a Coastal Development Permit.

E. Conditions of Approval. Upon the approval of a permit for a temporary use, the City may attach the following conditions when necessary in connection with the temporary use:

1. Hours of operation.

2. Maintenance of accessibility for the disabled.

3. Protection of fire lanes and access.

4. Preservation of adequate on-site circulation.

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5. Preservation of adequate on-site parking or a parking management plan to temporarily park off-site.
6. Cleanup of the location or premises.
7. Use of lights or lighting or other means of illumination.
8. Operation of any loudspeaker or sound amplification in order to prevent the creation of any nuisance or annoyance to the occupants of or commercial visitors to adjacent buildings or premises.

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Chapter 17.100 – Mobile Home Park Conversions

Sections:

17.100.010 Purpose and Intent
17.100.020 Applicability
17.100.030 Definitions
17.100.040 Relocation Impact Report
17.100.050 Notice to Prospective Occupants of Pending Change in Park Status
17.100.060 Exemptions from Relocation Assistance Obligations
17.100.070 Application for Change of Use – Public Hearing – Findings
17.100.080 Measures to Prevent Avoidance of Relocation Assistance Obligations
17.100.090 Compliance with Relocation Assistance
17.100.100 Modification and Revocation of Approved Closure or Conversion
17.100.110 Expiration and Extension of Approval
17.100.120 Preemption
17.100.130 Severability

17.100.010 Purpose and Intent

This chapter establishes standards for the closure of a mobile home park and addresses the impact of such closures upon the ability of displaced residents to find adequate housing in another mobile home park. Mobile home parks are an important source of affordable housing within Capitola. The purpose of this chapter is to provide financial compensation and relocation assistance to displaced residents and provide mobile home park owners with protection from unreasonable relocation costs, in compliance with Government Code Sections 65863.7 and 66427.4. Nothing in this chapter shall be construed to mean that the City supports any change of use of any mobile home park.

17.100.020 Applicability

This chapter applies to the closure of any mobile home park or the conversion of a mobile home park to a different use.

17.100.030 Definitions

As used in this chapter, the following words and phrases shall have the following meanings:

A. "Applicant" means a person or entity who has filed an application for change of use of a mobile home park.

B. "Change of use" includes all activities specified in Section 798.10 of the California Civil Code and amendments to the General Plan or any applicable specific plan, rezoning of property, land use permits, such as a Conditional Use Permit or a Variance, Tentative

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Parcel or Tentative Tract Maps, and building permits when the effect of the change will be to decrease the number of spaces available for mobile home habitation.

C. "Change without new use" refers to what Civil Code Section 798.56(g)(2) describes as a "change of use [requiring] no local governmental permit" [other than approval of the RIR].

D. "Comparable housing" means housing which, on balance, is comparable in floor area, number of bedrooms, and amenities, proximity to public transportation, shopping, schools, employment opportunities and medical services and other relevant factors to the mobile home to which comparison is being made.

E. "Comparable mobile home park" means a mobile home park substantially equal in terms of park condition, amenities and other relevant factors, including, but not limited to, proximity to public transportation, shopping, medical services, employment opportunities and schools.

F. "Director" means the Community Development Director.

G. "Eligible mobile home resident" or "eligible resident" means a mobile home resident whose mobile home was located in a mobile home park on the date of an application for change of use. Eligible resident includes the spouse, parents, children and grandchildren of the eligible resident when those persons resided in the mobile home on the date of the application.

H. "Legal owner" means any person or entity having an ownership interest in a mobile home other than the registered owner, such as a lender or mortgagor.

I. "Mobile home" has the meaning set forth in Section 798.3 of the California Civil Code.

J. "Mobile home owner" means the registered owner or registered owners of a mobile home, regardless of the number of such owners or the form of such ownership.

K. "Mobile home park" or "park" has the meaning set forth in Section 798.4 of the California Civil Code.

L. "Mobile home park owner" or "park owner" means the person, persons or entity that owns a mobile home park and includes any person authorized by the park owner to seek approval of an application for change of use or respond to a rent review petition filed pursuant to this chapter.

~~**M.** "Mobile home owner" means a mobile home owner who resides in the mobile home he or she owns. Unless the context indicates otherwise, it includes the mobile home owner's spouse, parents, children and grandchildren who reside in the mobile home.~~

~~**N.**~~**M.** "Mobile home tenant" or "tenant" is a person who occupies a mobile home within a mobile home park pursuant to a bona fide lease or rental agreement and who, during his or her tenancy, was not the owner of that mobile home.

~~**O.**~~**N.** "Handicapped mobile home resident" means a mobile home resident with any medically determinable physical or mental impairment as demonstrated by a finding of a

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state or federal agency or a medical certificate, or who requires special care facilities in the mobile home or special care equipment, such as, but not limited to, a wheelchair.

~~P.~~O. "Low income" means an income of eighty percent or less of current median income as established annually by the United States Department of Housing and Urban Development ("HUD") for the statistical area in which Capitola is located, as adjusted for household size.

17.100.040 Relocation Impact Report

A. Submittal to Director. Prior to a change of use of a mobile home park, a Relocation Impact Report (RIR) complying with the requirements of this chapter must be filed with the Director. It is the park owner's responsibility to comply with the notice requirements of subsections g(l) and (2) of Civil Code Section 798.56. Because the Civil Code Section 798.56(g)(2) notice cannot be given until after the approval of both the project and the sufficiency of the (RIR), the park owner is encouraged to consult with staff (especially if any waiver of Municipal Code Section 17.100.04~~3~~0.B requirements will be requested) early in the process about the contents of the RIR.

B. Required Information. The RIR shall be prepared by an independent agent acceptable to the City at the applicant's expense and shall include the following information unless the Director determines the information is not necessary:

1. A detailed description of the proposed or change of use, or change without new use.
2. A timetable for conversion of the mobile home park.
3. A legal description of the mobile home park.
4. The number of spaces in the park, length of occupancy by the current occupant of each space and current rental rate for each space.
5. The date of manufacture and size of each mobile home.
6. Appraisals addressing relevant issues identified by the Director. A qualified appraiser shall be selected by the City and the cost of the appraisals shall be borne by the applicant. The appraisals shall identify those mobile homes which cannot be moved due to type, age or other considerations. Appraisal information shall be provided on the effect upon the homeowner's investment in the mobile home, such as the change in value of effected mobile homes that would result from the proposed change of use.
7. The results of questionnaires to all homeowners/occupants regarding the following: whether the occupant owns or rents, whether this is the only residence, occupants' ages, whether the occupants have disabilities that would be aggravated by the moving process, the purchase date and price paid by the mobile home owner, the costs incurred by the mobile home owner in improving the home, and the amount and relevant terms of any remaining mortgage. Answering such questionnaire shall be voluntary.

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8. The name and mailing address of each eligible resident, mobile home tenant, mobile home resident, resident mobile home owner and legal owner of a mobile home in the park.

9. The purchase price of condominiums similar in size to the mobile homes within a reasonable distance, and the rental rates and moving costs involved in moving to an apartment or other rental unit within a reasonable distance including, but not limited to, fees charged by moving companies and any requirement for payment of the first and last month's rent and security deposits.

10. A list of comparable mobile home parks within a 20 mile radius and a list of comparable mobile home parks within a radius of 25 to 50 miles of the applicant's mobile home park. For each comparable park, the list should, if possible, state the criteria of that park for accepting relocated mobile homes, rental rates and the name, address and telephone number of the park representative having authority to accept relocated homes, including any written commitments from mobile home park owners willing to accept displaced mobile homes. The purpose of this requirement is to provide information necessary to create appropriate relocation compensation. It is not meant to suggest that the City, in any sense, favors tenants relocating out of any mobile home park in Capitola.

11. Estimates from two moving companies as to the minimum and per mile cost of moving each mobile home, including tear-down and set-up of mobile homes and moving of improvements such as porches, carports, patios and other moveable amenities installed by the residents. Said moving companies shall be approved by the director prior to inclusion in the final RIR.

12. Proposed measures to mitigate the adverse impacts of the conversion upon the mobile home park residents.

13. Identification of a relocation specialist to assist residents in finding relocation spaces and alternate housing. The specialist shall be selected by the applicant, subject to the City's approval, and shall be paid for by the applicant.

C. Filing of Relocation Impact Report. The City shall not consider an RIR to be filed, within the meaning of Government Code Section 65863.7, until the applicant has submitted to the Community Development Department both a draft RIR which applicant believes meets the requirements of Municipal Code Section 17.100.04~~3~~0.B, and a written statement that such draft RIR has been filed pursuant to Government Code Section 65863.7.

D. Refusal to Review Relocation Impact Report. If the City Attorney determines that the proposed conversion or closure of the mobile home park would be illegal, the Community Development Director shall not process the RIR unless a court of competent jurisdiction rules that the proposed use would be legal.

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17.100.050 Notice to Prospective Occupants of Pending Change in Park Status

After an application for change of use of a mobile home park (or for City approval of a RIR) has been filed with the Director, the applicant shall give notice to all known prospective mobile home purchasers and tenants that the application for change of use has been filed. Notice shall be given in addition to notices required by Civil Code Section 798.56 (g) (1) and in all cases shall be given prior to execution of any new rental agreement. The park owner shall obtain a signed acknowledgment of receipt of such notice from each prospective purchaser or tenant and file it with the Director. If the prospective purchaser or tenant refuses to sign, a dependable record of delivery of notice shall be maintained by the park owner.

17.100.060 Exemptions from Relocation Assistance Obligations

A. Exemption Available. Any person who files an application for change of use may file an application for total or partial exemption from the obligation to provide relocation assistance.

B. Notice of Application. Notice of an application for exemption shall be given pursuant to Section 17.100.070.B and C. Notices shall contain the information in provided in the exemption application.

C. Basis for Application.

1. **Total Exemption**. An application for total exemption may be made on one of two grounds:

   a. The imposition of any relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses; or

   b. The park is exempt from the requirement of relocation assistance under state law governing changes of use of mobile home parks.

2. **Partial Exemption**. An application for partial exemption may be made on one of two grounds:

   a. The imposition of particular relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses; or

   b. The obligation would exceed limitations imposed by Government Code Section 65863.7(e). The application shall specify the particular relocation obligations which would cause this result.

D. Application Contents.

1. An application for exemption made pursuant to subsections (1)(a) and (2)(a) above shall contain, at a minimum, an estimate of the value of the subject property by a qualified real estate appraiser if the park were permitted to be developed for the use proposed in the application for change of use, or other use consistent with applicable zoning, and an estimate of the value of such park by such appraiser if use of the property as a mobile home park is continued.

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2. An application for exemption pursuant to subsection (1)(b) and (2)(b) above shall specify the provisions of state law providing the claimed exemption and documentation demonstrating entitlement to such exemption.

E. Notice of Approval. If the City grants an exemption after the applicant provides notice consistent with Civil Code Section 798.56(g)(2) notice, renoticing will be required.

17.100.070 Application for Change of Use – Public Hearing – Findings

A. City Review of RIR. Upon the filing of an RIR, the Director shall examine the RIR and advise the applicant in writing within 30 days whether it is complete. When an application and RIR have been accepted as complete, the Director shall set a time, date and place for a hearing before the Planning Commission not later than 60 days after the date of acceptance. Because certain required information in an RIR (e.g., appraisals, tenant data) cannot be obtained until after filing an application for change of use, the initial application for change of use and RIR shall contain all pertinent available information to start the process of obtaining the information required for a complete application and RIR.

B. Owner and Resident Notice. Not less than 30 days prior to the scheduled public hearing before the Planning Commission, the park owner shall deliver to the each mobile home owner and resident within the park a copy of the approved RIR and the notice of the date, time and place of the public hearing on the application. Notice shall be delivered by certified mail or personal delivery.

C. Verification of Notice Requirements. Not less than 15 days prior to the scheduled public hearing before the Planning Commission on the RIR, the park owner shall file with the Director a verification of noticing required by this chapter and Government Code Section 65863.7. The form and manner of such verification shall be approved by the City Attorney.

D. Planning Commission Recommendation.

1. **Public Hearing**. The Planning Commission shall hold a public hearing on the application for a change of use and the RIR within 95 days of the date the application and RIR were accepted as complete. The Planning Commission shall provide a recommendation to the City Council on the approval of the change of use and RIR and may recommend measures to mitigate adverse impacts on residents impacted by the change of use.

2. **Mitigation Measures**. Measures to mitigate adverse impacts on residents shall not exceed reasonable cost and may include, but are not limited to, the following:

   a. Payment of the cost of physically moving the mobile home to a new site, including tear-down and setup of mobile homes, including, but not limited to, movable improvements such as patios, carports and porches.

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b. Payment of a lump sum based on consideration of any increase in security deposit at the new mobile home park which the resident or tenant lacks the ability to pay.

c. Payment of a lump sum based on consideration of any differential between rental rates at the closing mobile home park and the new mobile home park during the first year of the new tenancy.

d. For those mobile home residents who move to apartments or other rental housing alternatives, payment of a lump sum based on consideration of any differential in the rental rate between the closing park and the comparable housing, requirements for payment of security deposits and cleaning fees. Mobile home households may be compensated based on the number of bedrooms in the mobile home so that a one bedroom mobile home may be compensated based on a one bedroom apartment, a two bedroom mobile home based on a two bedroom apartment, etc.

e. Provision of a replacement space within a reasonable distance of the closing mobile home park.

f. For residents whose mobile home cannot be relocated to a comparable park within a 50-mile radius of the closing mobile home park, payment of a lump sum based upon consideration of the value of the mobile home, including resident improvements (e.g., landscaping, porches, carports), any increase in mortgage obligations of the resident on the mobile home, and the costs of purchasing a mobile home on-site in a comparable park or acquiring other comparable replacement housing.

g. The park owner shall make the monetary payments contemplated in this subsection a reasonable period of time (to be set by the City Council) in advance of the actual relocation of a resident or homeowner. The resident or homeowner shall not be under a legal obligation to relocate by the method used to measure mitigation costs.

E. City Council Decision.

1. **Hearing and Decision**. The City Council shall hold a noticed public hearing on an application for a change of use within 45 days of the Planning Commission's recommendation. The City Council shall take action on the application within 80 days of the Planning Commission's recommendation.

2. **Mitigation Measures**. The City Council may impose reasonable measures not exceeding the reasonable costs of relocation to mitigate the adverse impacts of the change of use on eligible mobile home residents pursuant to Paragraphs D and G of this section.

3. ~~Statue~~Statute **of Limitations**. The decision of the City Council is final. Pursuant to Code of Civil Procedure 1094.6, the statute of limitations for bringing a judicial challenge to any decision concerning a change of use of mobile home park is 90 days.

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Notice of the City's decision to the applicant, park owner and affected residents shall include notice that the 90 day statute of limitations in 1094.6 applies.

F. Extension of Time Periods. Time periods in this section may be extended as necessary to comply with the California Environmental Quality Act (CEQA) or the California Coastal Act.

G. Cost of Mitigation Measures. Notwithstanding any other provision in this section, the cost of mitigation measures shall comply with Government Code Section 65863.7 which states that "the steps taken to mitigate shall not exceed the reasonable costs of relocation."

17.100.080 Measures to Prevent Avoidance of Relocation Assistance Obligations

A. Notice. If any change of use or RIR approval application is withdrawn or denied, those previously given notices or announcements shall be so informed in writing by the mobile home park owner.

B. No Waiver of Rights. No prospective mobile home resident or existing mobile home resident may be required to sign a waiver, or a lease or rental agreement which includes a waiver, of their rights under this chapter. Any waiver of rights under this chapter by such a mobile home resident shall be deemed invalid unless the resident or prospective resident and the park owner obtain the prior approval of the waiver from the Director, who may grant such approval only upon a finding that the waiver is voluntary and was made after being fully informed of the terms of this chapter.

17.100.090 Compliance with Relocation Assistance

A. Acceptance of Mitigation Measures.

1. The applicant shall execute and record a certificate, and file proof with the Director, accepting the mitigation measures imposed on the approval of a closure or conversion within 90 days of the final City Council action approving the change of use. The applicant shall give the six- or twelve-month notice of the termination of tenancy and closure of the park required by Civil Code Section 798.56(g) within 120 days of that action.

2. An approval of a change of use shall automatically become null and void if the certificate accepting the conditions is not filed and executed within 90 days of the date of the approval of the change of use and the notice of termination of tenancy has not been given within 120 days of that resolution.

B. Timing of Mitigation. All mitigation measures imposed on the approval of a change of use shall be fully performed for each resident prior to that resident's required vacation of the mobile home park, unless otherwise provided in the mitigation measure. No eligible resident shall be required to vacate a mobile home space unless the applicant is in full compliance with all mitigation measures pertaining to the resident, and has otherwise fulfilled the notice requirements of the California Mobile Home Residency Law relating to termination of tenancy.

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C. Issuance of Building Permits. The City may not issue any building permit for the development within a converted or closed mobile home park until the City has adopted a resolution approving the change of use and the mobile home park owner has fully complied with the relocation assistance required by that resolution.

17.100.100 Modification and Revocation of Approved Closure or Conversion

A. Modification.

1. After a change of use has been approved and after the applicant has executed and recorded a certificate of acceptance of the conditions of any approval, the City my consider modification of the mitigation measures imposed upon the filing of a written application by the applicant. The City may approve modifications on the grounds that there has been a change in circumstances or that new information which could not reasonably have been known or considered at the time of the hearings on the application has become available. Examples of such new information or changed circumstances include, but are not limited to, revised plans by the applicant and a change in the availability of relocation spaces. Modifications may not be approved when it would unreasonably prejudice the ability of the residents to relocate to comparable spaces or comparable alternate housing.
2. Any application for modification shall be subject to the notice and hearing procedures set forth in Sections 17.100.070 (Application for Change of Use – Public Hearing – Findings). The decision in connection with a modification request shall take place as with the initial approval.

B. Revocation.

1. The City Council may initiate revocation proceedings on the grounds that the mobile home park owner or applicant has violated this chapter or the terms of the approval of the change of use. Action to initiate revocation proceedings shall specify the grounds for revocation and shall set a hearing before the City Council to consider the revocation not sooner than 45 and not later than 60 days after the action to initiate proceedings.
2. Notice of revocation proceeding shall be sent to the mobile home park owner by certified mail or personal delivery together with notice that any response from the owner must be filed at least 20 days prior to the date set for the revocation hearing.
3. The City Council shall render its findings and decision concerning revocation within 90 days after initiating revocation proceedings.

17.100.110 Expiration and Extension of Approval

A. Expiration. Approval of a change of use shall become null and void if the notice of termination of tenancy has not been given within the time provided in Section 17.100.090 (Compliance with Relocation Assistance) and relocation pursuant to the conditions of approval has not occurred within twelve months of the effective date of the approval of

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the change of use, unless otherwise extended as provided in Paragraph B below, or unless otherwise provided in the resolution approving it.

B. Extensions.

1. The City Council may approve an extension to the date of giving notice and/or to the approval of the change of use. Applications for an extension shall be submitted in writing by the mobile home park owner to the Community Development Department. Applications must be submitted on or before the date to give the notice of termination or the expiration of the approval of the change of use.

2. The City Council may deny the request upon finding that the mobile home park owner has unreasonably delayed implementation of the mitigation measures or that further delay will result in prejudice or further adverse impacts upon eligible residents remaining in the mobile home park. Approval of an extension may be conditioned on reasonable measures designed to mitigate the adverse impacts resulting from the delay. The application for extension shall be subject to the notice and hearing procedures set forth in Section 17.100.100.B (Revocation).

17.100.120 Preemption

In the event the provisions of this chapter conflict with any code, ordinance or regulation of the City, the provisions of this chapter shall govern. In the event any provisions of this chapter conflict with a provision of state law, this chapter shall be interpreted and applied in conformity with state law.

17.100.130 Severability

If any part or provision of this chapter~~,~~ or the application of such to any person or circumstance is held invalid, the remainder of the chapter, including the application of such part or provision to other persons or circumstances, shall not be effected and shall continue in full force and effect. To this end the provisions of this chapter are severable.

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Chapter 17.104 – WIRELESS COMMUNICATIONS FACILITIES

Sections:

17.104.010 Purpose and Intent
17.104.020 Definitions
17.104.030 Applicability and Exemptions
17.104.040 Permit Requirements
17.104.050 Standard Conditions of Approval
17.104.060 Preferred Siting and Location
17.104.070 Development Standards
17.104.080 Operation and Maintenance Requirements
17.104.090 Temporary Wireless Communications Facilities
17.104.100 Limited Exemption from Standards
17.104.110 Severability

17.104.010 Purpose and Intent

A. Purpose. This chapter establishes requirements for the development, siting, collocation, installation, modification, relocation, and operation of wireless communications facilities consistent with applicable state and federal laws. These requirements aim to protect public health, safety, and welfare while balancing the benefits of robust wireless services with the unique community character, aesthetics, and local values of the City of Capitola.

B. Intent. This chapter does not intend to, and shall not be interpreted or applied to:

1. Prohibit or effectively prohibit personal wireless services;
2. Unreasonably discriminate among wireless communications providers of functionally equivalent personal wireless services;
3. Regulate the installation, operation, collocation, modification, or removal of wireless facilities on the basis of the environmental effects of radio frequency (RF) emissions to the extent that such emissions comply with all applicable Federal Communications Commission (FCC) regulations;
4. Prohibit or effectively prohibit any collocation or modification that the City may not deny under state or federal law; or
5. Preempt any applicable state or federal law.

17.104.020 Definitions

A. Terms Defined. Terms used in this chapter are defined as follows:

1. "Amateur radio facilities" are antennas and related equipment for the purpose of self-training, intercommunication, or technical investigations carried out by an amateur radio operator who operates without commercial interest, and who holds a

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written authorization from the Federal Communications Commission to operate an amateur radio facility.

2. "Antenna" means a device or system of wires, poles, rods, dishes, discs, or similar devices used to transmit and/or receive radio or electromagnetic waves.

3. "Applicable FCC decisions" means the same as defined by California Government Code Section 65964.1(d)(1), as may be amended, which defines that term as "In re Petition for Declaratory Ruling, 24 FCC Rcd. 13994 (2009) and In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd. 12865 (2014)."

4. "Array" means one or more antennas mounted at approximately the same level above ground on tower or base station.

5. "Base station" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(1), as may be amended, which defines that term as follows:

   a. A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. Section 1.40001(b)(9) or any equipment associated with a tower.

   b. "Base station" includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

   c. "Base station" includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

   d. "Base station" includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under 47 C.F.R. Section 1.40001, supports or houses equipment described in paragraphs (b)(1)(i) through (ii) of 47 C.F.R. Section 1.40001 that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

   e. "Base station" excludes any structure that, at the time the relevant application is filed with the State or local government under 47 C.F.R. Section 1.40001, does not support or house equipment described in paragraphs (b)(1)(i)-(ii) of 47 C.F.R. Section 1.40001.

6. "Collocation" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(2), as may be amended, which defines that term as "[t]he mounting or installation of transmission equipment on an eligible support structure for the

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purpose of transmitting and/or receiving radio frequency signals for communications purposes." As an illustration and not a limitation, the FCC's definition effectively means "to add" new equipment to an existing facility and does not necessarily refer to more than one wireless facility installed at a single site.

7. "Eligible facilities request" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(3), as may be amended, which defines that term as "[a]ny request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) Collocation of new transmission equipment; (ii) Removal of transmission equipment; or (iii) Replacement of transmission equipment."

8. "Eligible support structure" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)4), as may be amended, which defines that term as "[a]ny tower or base station as defined in [47 C.F.R. Section 1.40001], provided that it is existing at the time the relevant application is filed with the State or local government under [47 C.F.R. Section 1.40001]."

9. "Existing" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(5), as may be amended, which provides that "[a] constructed tower or base station is existing for purposes of the [FCC rules implementing Section 6409 of the Spectrum Act] if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition."

10. "FCC" means the Federal Communications Commission or its successor agency.

11. "Personal wireless services" has the same meaning as provided in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which defines the term as "commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services."

12. "Section 6409(a)" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. Section 1455(a), as may be amended.

13. "Service provider" means a wireless communications provider, company or organization, or the agent of a company or organization that provides wireless communications services.

14. "Significant gap" is a gap in the service provider's own wireless telecommunications facilities, as defined in federal case law interpretations of the Federal Telecommunications Act of 1996.

15. "Site" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(6), as may be amended, which provides that "[f]or towers other than towers in the public

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rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground."

16. "Stealth facility" is any facility designed to blend into the surrounding environment, and is visually unobtrusive. Examples of stealth facilities may include architecturally screened roof-mounted antennas, facade mounted antennas painted and treated as architectural elements to blend with the existing building, or elements designed to appear as vegetation or trees. Also referred to as concealed communications facilities.

17. "Substantial change" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(7), as may be amended, which defines that term differently based on the particular facility type and location. For clarity, the definition in this chapter organizes and paraphrases the FCC's criteria and thresholds for a substantial change according to the facility type and location. The definition of substantial change contained in this section shall be interpreted and applied so as to be consistent with 47 C.F.R. Section 1.40001(b)(7) (as may be amended) and the applicable FCC decisions, rules and orders and court rulings relating to the same. In the event of any conflict between the definition of substantial change contained in this section and the definition contained in 47 C.F.R. Section 1.40001(b)(7) (as may be amended), 47 C.F.R. Section 1.40001(b)(7) (as may be amended) shall govern and control.

    a. For towers outside the public right-of-way, a substantial change occurs when:

        (1) The proposed collocation or modification increases the overall height more than 10 percent or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or

        (2) The proposed collocation or modification involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance (whichever is greater); or

        (3) The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four cabinets; or

        (4) The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.

    b. For towers in the public right-of-way and for all base stations, a substantial change occurs when:

        (1) The proposed collocation or modification increases the overall height more than 10 percent or 10 feet (whichever is greater); or

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(2) The proposed collocation or modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 feet; or

(3) the proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four 4cabinets; or

(4) The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no pre-existing ground cabinets associated with the structure; or

(5) The proposed collocation or modification involves the installation of any ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure; or

(6) The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

c. In addition, for all towers and base stations wherever located, a substantial change occurs when:

(1) The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the Community Development Director; or

(2) The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets, or excavation that is inconsistent with the thresholds for a substantial change described in this section.

d. Interpretation of Thresholds.

(1) The thresholds for a substantial change described above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur.

(2) The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

18. "Temporary wireless communications facility" means a wireless communications facility located on a parcel of land and consisting of a vehicle-mounted facility, a building mounted antenna, or a similar facility, and associated equipment, that is used

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to provide temporary coverage for a large-scale event or an emergency, or to provide temporary replacement coverage due to the removal of an existing permitted, permanent wireless communications facility necessitated by the demolition or major alteration of a nearby property.

19. "Tower" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(9), as may be amended, which defines that term as "[a]ny structure built for the sole or primary purpose of supporting any [FCC]-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site." Examples include, but are not limited to, monopoles, mono-trees, and lattice towers.

20. "Transmission equipment" means the same as defined by the FCC in 47 C.F.R. Section 140001(b)(8), as may be amended, which defines that term as "[e]quipment that facilitates transmission for any [FCC]-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul."

21. "Wireless" means any FCC-licensed or authorized wireless communications service transmitted over frequencies in the electromagnetic spectrum.

22. "Wireless communications facility" is a facility that sends and/or receives radio frequency signals, AM/FM, microwave, and/or electromagnetic waves for the purpose of providing voice, data, images or other information, including, but not limited to, cellular and/or digital telephone service, personal communications services, and paging services. Wireless communications facilities include antennas and all other types of equipment for the transmission or receipt of such signals; towers or similar structures built to support such equipment; equipment cabinets, base stations, and other accessory development; and screening and concealment elements. (Also referred to as "facility").

23. "Wireless communications provider" is any company or organization that provides or who represents a company or organization that provides wireless communications services. (Also referred to as "service provider").

24. "Zoning Code" means the City of Capitola Zoning Code.

B. Terms Not Defined. Terms not defined in this section shall be interpreted to give this chapter its most reasonable meaning and application, consistent with applicable state and federal law.

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17.104.030 Applicability and Exemptions

A. Applicability. This chapter applies to all new facilities and all modifications to existing facilities proposed after the effective date of this chapter unless exempted by Subsection B (Exemptions) below.

B. Exemptions. This chapter does not apply to:

1. Amateur radio facilities;
2. Direct-to-home satellite dishes, TV antennas, wireless cable antennas, and other OTARD antennas covered by the Over-the-Air Reception Devices rule in 47 Code of Federal Regulations (C.F.R.) Section 1.4000 et seq.;
3. Non-commercial wireless communications facilities owned and operated by a public agency, including but not limited to the City of Capitola; and
4. All antennas and wireless facilities identified by the FCC or the California Public Utilities Commission (CPUC) as exempt from local regulations.

17.104.040 Permit Requirements

A. Required Permits. Wireless communications facilities are grouped into four tiers, each with its own permit requirement as shown in Table 17.104-1.

TABLE 17.104-1: WIRELESS COMMUNICATIONS FACILITY TIERS AND REQUIRED PERMITS*

	Types of Facilities	Permit Required
Tier 1	Modifications to an existing facility that qualify as an "eligible facility request" as defined in Section 17.104.020.A.7	Section 6409(a) Permit
Tier 2	Building- and facade-mounted facilities in the C-C, C-R, or I zoning district when the proposed facility (1) is a stealth facility, (2) does not generate noise in excess of the City's noise regulations and (3) does not exceed the applicable height limit in the applicable zoning district. Pole-mounted facilities in the public right-of-way consistent with Section 17.104.070.D when the facility is either (1) incorporated into a steel pole with all antennas, equipment, and cabling entirely concealed from view, or (2) mounted to a wood pole with all equipment other than antennas located substantially underground and pole-mounted equipment, where necessary, extends no more than 2 feet horizontally and 5 feet vertically from the pole. A collocation that is not a Tier 1 Facility. A modification to an eligible support structure that is not a Tier 1 Facility.	Administrative Permit
Tier 3	Building- and facade-mounted facilities in the C-C, C-R, or I zoning district that are not Tier 2 Facilities.	Minor Use Permit

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	Types of Facilities	Permit Required
	Building- and facade-mounted facilities in the MU-V, MU-N, VS, or CF zoning district. Pole-mounted facilities in the public right-of-way consistent with Section 17.104.070.D that are not Tier 2 Facilities.	
Tier 4	New towers in any zoning district Any facility in the R-1, RM, or MH zoning district [1] Any facility within a public park or open space Any facility that is not a Tier 1, 2, or 3 Facility	Conditional Use Permit

Notes:
[1] Except pole-mounted facilities located in a public right-of-way that qualify as either a Tier 2 or 3 Facility.
* Any wireless communications facility located in the City's coastal zone may also require a Coastal Development Permit per Zoning Code Chapter 17.46 (CZ Coastal Zone Combining District), in which case the public notice and hearing requirements (and required findings) set forth in Chapter 17.46 will also apply.

B. Review Authority.

1. **Tier 1 and Tier 2 Facilities.** The Community Development Director shall review and take action on all Section 6409(a) Permit applications for Tier 1 facilities and Administrative Permit applications for Tier 2 facilities.

2. **Tier 3 Facilities.** The Community Development Director shall review and take action on Minor Use Permit applications for Tier 3 facilities. If a member of the public requests a public hearing in accordance with Subsection G.3 (Tier 3 Facilities (Minor Use Permit)) below, the Community Development Director may refer the application to the Planning Commission for review and final decision.

3. **Tier 4 Facilities.** The Planning Commission shall review and take action on Conditional Use Permit applications for Tier 4 facilities.

C. Conflicting Provisions. Conditional Use Permits required for a wireless communications facility shall be processed in compliance with Chapter 17.124 (Use Permits) and with this chapter. In the event of any conflict between this chapter and Chapter 17.124 (Use Permits), this chapter shall govern and control.

D. Coastal Zone. A Coastal Development Permit may also be required for any wireless communications facility located (or proposed to be located) in the City's coastal zone. Coastal Development Permits required for wireless communications facilities shall be processed in conformance with chapter 17.44 (Coastal Overlay Zone, as may be amended) and with this chapter. In the event of any conflict between this chapter and Chapter 17.44 (as may be amended), Chapter 17.44 shall govern and control, to the extent consistent with applicable federal law (including, but not limited to, the

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Telecommunications Act of 1996, Section 6409(a), and applicable FCC decisions, rules and orders) and not preempted by applicable state or federal law.

E. Other Permits. A permit issued under this chapter is not in lieu of any other permit required under the Municipal Code (including, but not limited to, coastal development permits, encroachment permits, building permits, etc.), except as specifically provided in this chapter. In addition to any Section 6409(a) permit, administrative use permit, minor use permit, or conditional use permit that may be required under this chapter, the applicant must obtain all other required permits and/or approvals from other City departments, and/or state or federal agencies. **Pre-Application Conference**. The City encourages prospective applicants to request a pre-application conference with the Community Development Department in accordance with Section 17.112.020.A (Pre-application Conference) before completing and filing a permit application.

F. Permit Application and Review.

1. **Application Required.** All permits granted under this chapter shall require an application filed in compliance with this chapter and Chapter 17.112 (Permit Application and Review).

2. **Application Contents.** All applications shall include the following:

   a. The applicable application fee(s) established by the City. Fees required to process permit applications are identified in the Planning Fee Schedule approved by the City Council.

   b. A fully completed and executed application using an official City application form.

   c. The application must state what approval is being sought (i.e., Conditional Use Permit, Minor Use Permit, Administrative Permit, or Section 6409(a) Permit). If the applicant believes the application is for a Section 6409(a) Permit, the applicant must provide a detailed explanation as to why the applicant believes that the application qualifies as an eligible facilities request subject to a Section 6409(a) Permit.

   d. A completed and signed application checklist available from the City, including all the information, materials, and fees specified in the City's application checklist for proposed wireless communications facilities.

   e. If the proposed facility is to be located on a City-owned building or structure, the application must be signed by an authorized representative of the City.

   f. For Section 6409(a) Permits and Administrative Permits involving a collocation or modification to an eligible support structure, the application must be accompanied by all prior approvals for the existing facility (including but not limited to all conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment), as well as all permit applications with required application materials for each

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separate permit required by the City for the proposed facility, including but not limited to a building permit and an encroachment permit (if applicable).

g. All other materials and information required by the Community Development Director as publicly stated in the application checklist(s).

3. **Application Review.**

a. The Community Development Department shall review applications in accordance with Chapter 17.112 (Permit Application and Review). In the event of any conflict between this chapter and Chapter 17.112 (Permit Application and Review), this chapter shall govern and control.

b. The application processing time for applications subject to this chapter shall be in conformance with the time periods and procedures established by applicable FCC decisions, adjusted for any tolling due to incomplete application notices or mutually agreed upon extensions of time.

G. Public Notice and Hearing.

1. **All Facilities.** Public notice of pending decision or hearing for all facilities shall contain the following:

a. A description of the proposed facility, collocation, or modification.

b. The location of the subject property.

c. Required permits and approvals.

d. How the public can obtain additional information on the proposed project.

2. **Tier 1 Facilities (Section 6409(a) Permit) and Tier 2 Facilities (Administrative Permit).**

a. City approval or denial of a Tier 1 or Tier 2 facility is a ministerial action which does not require a public hearing.

b. The applicant shall post notice of pending action on a Tier 1 or Tier 2 facility application on the subject property at least ten (10) calendar days prior to the City taking action on the application.

c. In addition to the information identified in Subsection F.1 (All Facilities) above, the notice of a pending action for Tier 1 facilities shall contain the following statement: "Federal law may require approval of this application. Further, Federal Communications Commission Regulations may deem this application granted by the operation of law unless the City timely approves or denies the application, or the City and applicant reach a mutual tolling agreement."

3. **Tier 3 Facilities (Minor Use Permit).**

a. A public hearing for a Tier 3 facility is required only if the Community Development Director receives a written request for a public hearing from the public.

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b. The City shall mail public notice of a pending action on a Tier 3 facility to the owners of the real property located within a radius of 100 feet from the exterior boundaries of the subject property at least ten (10) calendar days prior to the City taking action on the application.

c. In addition to the information identified in Subsection G.1 (All Facilities) above, the notice of a pending action shall contain a statement that the City is considering the application and that the Community Development Director will hold a public hearing for the application only upon receiving by a specified date written request for a hearing.

d. If the City receives a request for a public hearing by the specified date, the Community Development Director shall hold a noticed public hearing on the application or refer the application to the Planning Commission for review and final decision. Public notice of the requested public hearing will be mailed to the owners of real property located within a radius of 100 feet from the exterior boundaries of the subject property.

e. If no written request for a public hearing is received by the specified date, the Community Development Director shall act on the application without a public hearing.

4. **Tier 4 Facilities (Conditional Use Permit).**

a. The Planning Commission shall review and take action on Tier 4 facility applications at a noticed public hearing in conformance with this chapter and Chapter 17.124 (Use Permits), as may be amended from time to time.

b. At least ten (10) calendar days prior to the scheduled hearing date, the City shall provide public notice of the hearing by:

(1) Mailing public notice of the hearing to the following recipients:

a) The owners of the subject property or the owner's authorized agent and the applicant;

b) The owners of the real property located within a radius of 600 feet from the exterior boundaries of the subject property;

c) Each local agency expected to provide essential facilities or services to the subject property;

d) Any person who has filed a written request for notice with the Community Development Department; and

e) Any other person, whose property, in the judgment of the Community Development Department, might be affected by the proposed project; and

(2) Posting a printed notice at the project site.

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c. If the number of property owners to whom notice would be mailed in compliance with Subsection 4.b.1 above is more than 1,000, the Community Development Department may choose to provide notice by placing a display advertisement of at least one-eight page in one or more local newspapers of general circulation at least ten (10) calendar days prior to the scheduled hearing date.

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

e. 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.

f. In addition to the information identified in Subsection G.1 (All Facilities) above, the notice of a public hearing shall identify the date, location, and time of the hearing.

H. Applicant Notifications for Deemed Granted Remedies. Under state and/or federal law, the City's failure to act on a wireless communications facility permit application within a reasonable period of time in accordance with the time periods and procedures established by applicable FCC decisions, accounting for tolling, may result in the permit being deemed granted by operation of law. To the extent federal or state law provides a "deemed granted" remedy for wireless communications facility applications not timely acted upon by the City, no such application shall be deemed granted unless and until the applicant satisfies the following requirements:

1. For all Tier 2, Tier 3 and Tier 4 Facility applications:

a. Completes all public noticing required pursuant to Section 17.104.040.G (Public Notice and Hearings) and California Government Code Section 65091 to the Community Development Director's satisfaction.

b. No more than 30 days before the date by which the City must take final action on the application (as determined in accordance with the time periods and procedures established by applicable FCC decisions and accounting for tolling), the applicant must provide the following written notice to the City and other specified recipients as follows:

(1) For Tier 2 Facilities, the written notice shall be delivered to the City and posted on the subject property.

(2) For Tier 3 Facilities, the written notice shall be delivered to the City and mailed to the owners of the subject property (or the owner's authorized agent), and the owners of the real property located within a radius of 100 feet from the exterior boundaries of the subject property and any person who has filed a written request for notice with the Community Development Department.

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(3) For Tier 4 Facilities, the written notice shall be delivered to the City and mailed to the owners of the subject property (or the owner's authorized agent), the owners of the real property located within a radius of 600 feet from the exterior boundaries of the subject property, each local agency expected to provide essential facilities or services to the subject property, any person who has filed a written request for notice with the Community Development Department, and any other person identified by the Community Development Department as a person whose property might be affected by the proposed project.

(4) The notice shall be delivered to the City in person or by certified United States mail.

(5) The notice must state that the applicant has submitted an application to the City, describe the location and general characteristics of the proposed facility, and include the following statement: "Pursuant to California Government Code Section 65964.1, state law may deem the application approved in 30 days unless the City approves or denies the application, or the City and applicant reach a mutual tolling agreement."

2. For all facility applications:

a. Submits a complete application package consistent with the application procedures specified in this chapter and applicable federal and state laws and regulations.

b. Following the date by which the City must take final action on the application (as determined in accordance with the time periods and procedures established by applicable FCC decisions and accounting for tolling), the applicant must provide notice to the City that the application is deemed granted by operation of law.

I. Basis for Approval – Tier 1 Facilities.

1. This subsection shall be interpreted and applied so as to be consistent with the Telecommunications Act of 1996, Section 6409(a), and the applicable FCC and court decisions and determinations relating to the same. In the event that a court of competent jurisdiction invalidates all or any portion of Section 6409(a) or a FCC rule or regulation that interprets Section 6409(a), such that federal law would not mandate approval for any eligible facilities request, then all proposed modifications to existing facilities subject to this section must be approved by an Administrative Permit, Minor Use Permit, or Conditional Use Permit, as applicable, and subject to the discretion of the Community Development Director.

2. The Community Development Director shall approve a Section 6409(a) Permit for a Tier 1 facility upon finding that the proposed facility qualifies as an eligible facilities request and does not cause a substantial change as defined in Section 17.104.020 (Definitions).

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3. In addition to any other alternative recourse permitted under federal law, the Community Development Director may deny a Section 6409(a) Permit upon finding that the proposed facility:

   a. Defeats the effect of existing concealment elements of the support structure;

   b. Violates any legally enforceable standard or permit condition related to compliance with generally applicable building, structural, electrical and/or safety codes;

   c. Violates any legally enforceable standard or permit condition reasonably related to public health and/or safety; or

   d. Otherwise does not qualify for mandatory approval under Section 6409(a) for any lawful reason.

J. Basis for Approval – Tier 2 Facilities. To approve an Administrative Permit for a Tier 2 facility, the Community Development Director must find that the proposed facility complies with the requirements of this chapter and all other applicable requirements of the Zoning Code.

K. Basis for Approval – Tier 3 and 4 Facilities. To approve a Minor Use Permit or Conditional Use Permit for a proposed Tier 3 or Tier 4 facility, the review authority must make all of the following findings:

1. The facility is consistent with the requirements of this chapter.

2. All the findings required for the Minor Use Permit or Conditional Use Permit as specified in Chapter 17.124 (Use Permits) can be made for the proposed facility.

L. Appeals.

1. **Tier 1 Facilities:** Community Development Director decisions on a Section 6409(a) Permit are final and may not be appealed.

2. **Tier 2 and 3 Facilities.** Community Development Director decisions on an Administrative Permit for a Tier 2 Facility and a Minor Use Permit for a Tier 3 Facility may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals). Planning Commission decisions on such an appeal may be appealed to the City Council.

3. **Tier 4 Facilities.** Planning Commission decisions on a Conditional Use Permit for a Tier 4 facility may be appealed to the City Council in accordance with Chapter 18.112 (Appeals).

M. Permit Revocation.

1. **Basis for Revocation.** The City may revoke a permit for a wireless communications facility for noncompliance with any enforceable permit, permit condition, or law applicable to the facility.

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2. **Revocation Procedures.**

a. When the Community Development Director finds reason to believe that grounds for permit revocation exist, the Director shall send written notice to the permit holder that states the nature of the violation or non-compliance and a means to correct the violation or non-compliance. The permit holder shall have a reasonable time from the date of the notice (not to exceed 60 calendar days from the date of the notice or a lesser period if warranted by a public emergency) to correct the violation or cure the noncompliance, or show that the violation has not occurred or the facility is in full compliance.

b. If after receipt of the notice and opportunity to cure described in Section 17.104.040.M.2.a above, the permit holder does not correct the violation or cure the noncompliance (or demonstrate full compliance), the Community Development Director may schedule a public hearing before the Planning Commission at which the Planning Commission may modify or revoke the permit.

c. For permits issued by the Community Development Director, the Community Development Director may revoke the permit without such public hearing. The Community Development Director decision to revoke may be appealed to the Planning Commission.

d. The Planning Commission may revoke the permit upon making one or more of the following findings:

(1) The permit holder has not complied with any enforceable permit, permit condition, or law applicable to the facility.

(2) The wireless communications provider has failed to comply with the conditions of approval imposed.

(3) The permit holder and/or wireless communications provider has failed to submit evidence that the wireless communications facility complies with the current FCC radio frequency standards.

(4) The wireless communications facility fails to comply with the requirements of this chapter.

e. The Planning Commission's decision may be appealed to the City Council in accordance with Chapter 18.112 (Appeals).

f. Upon revocation, the City may take any legally permissible action or combination of actions necessary to protect public health, safety and welfare.

N. Cessation of Operations

1. **Notice to City.** Wireless communications providers shall provide the City with a notice of intent to vacate a site a minimum of 30 days prior to the vacation.

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2. **New Permit Required.** A new permit shall be required if a site is to be used again for the same purpose as permitted under the original permit if a consecutive period of six months have lapsed since cessation of operations.

3. **Removal of Equipment.** The service provider or property owner shall remove all obsolete and/or unused facilities and associated equipment from the site within 180 days of the earlier of:

   a. Termination of the lease with the property owner; or

   b. Cessation of operations.

O. Abandonment

1. To promote the public health, safety and welfare, the Community Development Director may declare a facility abandoned or discontinued when:

   a. The permit holder or service provider abandoned or discontinued the use of a facility for a continuous period of 90 days; or

   b. The permit holder or service provider fails to respond within 30 days to a written notice from the Community Development Director that states the basis for the Community Development Director's belief that the facility has been abandoned or discontinued for a continuous period of 90 days; or

   c. The permit expires and the permit holder or service provider has failed to file a timely application for renewal.

2. After the Community Development Director declares a facility abandoned or discontinued, the permit holder or service provider shall have 60 days from the date of the declaration (or longer time as the Community Development Director may approve in writing as reasonably necessary) to:

   a. Reactivate the use of the abandoned or discontinued facility subject to the provisions of this chapter and all conditions of approval; or

   b. Remove the facility and all improvements installed in connection with the facility (unless directed otherwise by the Community Development Director), and restore the site to its original pre-construction condition in compliance with all applicable codes and consistent with the previously-existing surrounding area.

3. If the permit holder and/or service provider fail to act as required in Section 17.104.040.O.2 within the prescribed time period, the following shall apply:

   a. City may but is not obligated to remove the abandoned facility, restore the site to its original per-construction condition, and repair any and all damages that occurred in connection with such removal and restoration work.

   b. The City may but is not obligated to store the removed facility or any part thereof, and may use, sell or otherwise dispose of it in any manner the City deems appropriate.

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c. The last-known permit holder (or its successor-in-interest), the service provider (or its successor-in-interest), and, if on private property, the real property owner shall be jointly liable for all costs and expenses incurred by the City in connection with its removal, restoration, repair and storage, and shall promptly reimburse the City upon receipt of a written demand, including, without limitation, any interest on the balance owing at the maximum lawful rate.

d. The City may but is not obligated to use any financial security required in connection with the granting of the facility permit to recover its costs and interest.

e. Until the costs are paid in full, a lien shall be placed on the facility, all related personal property in connection with the facility and, if applicable, the real private property on which the facility was located for the full amount of all costs for removal, restoration, repair and storage (plus applicable interest). The City Clerk shall cause the lien to be recorded with the County of Santa Cruz Recorder's Office. Within 60 days after the lien amount is fully satisfied including costs and interest, the City Clerk shall cause the lien to be released with the County of Santa Cruz Recorder's Office.

4. If a permit holder, service provider, and/or private property owner fails to comply with any provisions of this Section 17.104.040.O (Abandonment), the City may elect to treat the facility as a nuisance to be abated as provided in Municipal Code Title 4 (General Municipal Code Enforcement).

P. Relocation for Facilities in the Right-of-Way.

1. The Public Works Director may require a permit holder to relocate and/or remove a facility in the public right-of-way as the City deems necessary to:

   a. Change, maintain, repair, protect, operate, improve, use, and/or reconfigure the right-of-way for other public projects; or

   b. Take any actions necessary to protect the public health, safety and welfare.

2. The Public Works Director shall provide the permit holder with adequate written notice identifying a specified date by which the facility must be relocated and/or removed.

3. The relocation and/or removal of the facility shall be at the permit holder's sole cost and expense and in accordance with the standards in this chapter applicable to the facility.

Q. Transfer of Ownership.

1. **Notice**. Any wireless communications provider that is buying, leasing, or is considering a transfer of ownership of a previously approved facility shall submit a letter of notification of intent to the Community Development Director a minimum of 30 days prior to the transfer.

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2. **Responsibilities**. In the event that the original permit holder sells its interest in a wireless communications facility, the succeeding carrier shall assume all facility responsibilities and liabilities and shall be held responsible for maintaining consistency with all permit requirements and conditions of approval.

3. **Contact Information**. A new contact name for the facility shall be provided by the succeeding provider to the Community Development Department within 30 days of transfer of interest of the facility.

17.104.050 Standard Conditions of Approval

All wireless communications facilities approved through a City permit or deemed granted by operation of law shall comply with the following standard conditions of approval. Standard conditions of approval shall apply in addition to other conditions of approval attached to the project by the review authority in compliance with the Zoning Code and as allowed by state and federal law.

A. All Facilities. The following standard conditions of approval apply to all facilities and shall be included in all Administrative Permits, Minor Use Permits, and Conditional Use Permits:

1. **Compliance with Chapter.** The facility shall comply with the requirements of this chapter, including but not limited to requirements in Section 17.104.070 (Development Standards) and Section 17.104.080 (Operation and Maintenance Requirements).

2. **Compliance with Applicable Laws.** The permit holder and service provider shall at all times comply with all applicable provisions of the Zoning Code, any permit issued under the Zoning Code, and all other applicable federal, state and local laws, rules and regulations. Failure by the City to enforce compliance with applicable laws shall not relieve any applicant of its obligations under the Municipal Code (including, but not limited to, the Zoning Code), any permit issued under the Zoning Code, or any other applicable laws, rules, and regulations.

3. **Compliance with Approved Plans.** The facility shall be built in compliance with the approved plans on file with the Community Development Department.

4. **Approval Term.** The validly issued Administrative Permit, Minor Use Permit, or Conditional Use Permit for the wireless communications facility shall be valid for an initial maximum term of ten years, except when California Government Code Section 65964(b), as may be amended, authorizes the City to issue a permit with a shorter term. The approval may be administratively extended by the Community Development Director from the initial approval date for a subsequent five years and may be extended by the Director every five years thereafter upon verification that the facility continues to comply with this chapter and conditions of approval under which the facility was originally approved. Costs associated with the review process shall be borne by the service provider, permit holder, and/or property owner.

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5. **Inspections; Emergencies**. The City or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the permit holder. The permit holder and service provider shall cooperate with all inspections. The City reserves the right to enter or direct its designee to enter the facility and support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.

6. **Contact Information for Responsible Parties**. The permit holder and service provider shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address, and email address for at least one person. All such contact information for responsible parties shall be provided to the Community Development Director upon request.

7. **Graffiti Removal**. All graffiti on facilities must be removed at the sole expense of the permit holder within 48 hours after notification from the City.

8. **FCC (including, but not limited to, RF Exposure) Compliance**. All facilities must comply with all standards and regulations (including, but not limited to, those relating to RF exposure) of the FCC and any other state or federal government agency with the authority to regulate such facilities. The City may require submission on an ongoing basis of documentation evidencing that the facility and any collocated facilities complies with applicable RF exposure standards and exposure limits and affirmations, under penalty of perjury, that the subject facilities are FCC compliant and will not cause members of the general public to be exposed to RF levels that exceed the maximum permissible exposure (MPE) levels deemed safe by the FCC.

9. **Implementation and Monitoring Costs**. The permit holder and service provider (or their respective successors) shall be responsible for the payment of all reasonable costs associated with the monitoring of the conditions of approval, including, without limitation, costs incurred by the Community Development Department, the Public Works Department, the City Manager's Department, the office of the City Attorney and/or any other appropriate City department or agency. The Community Development Department shall collect costs on behalf of the City

10. **Indemnities.** The permit holder, service provider, and, if applicable, the non-government owner of the private property upon which the facility, tower and/or base station is installed (or is to be installed) shall defend (with counsel satisfactory to the City), indemnify and hold harmless the City of Capitola, its officers, officials, directors, agents, representatives, and employees (i) from and against any and all damages, liabilities, injuries, losses, costs and expenses and from and against any and all claims, demands, lawsuits, judgments, writs of mandamus and other actions or proceedings brought against the City or its officers, officials, directors, agents, representatives, or employees to challenge, attack, seek to modify, set aside, void or annul the City's approval of the permit, and (ii) from and against any and all damages, liabilities, injuries, losses, costs and expenses and any and all claims, demands,

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lawsuits, judgments, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of, in connection with or relating to the acts, omissions, negligence, or performance of the permit holder, the service provider, and/or, if applicable, the private property owner, or any of each one's agents, representatives, employees, officers, directors, licensees, contractors, subcontractors or independent contractors. It is expressly agreed that the City shall have the right to approve (which approval shall not be unreasonably withheld) the legal counsel providing the City's defense, and the property owner, service provider, and/or permit holder (as applicable) shall reimburse City for any and all costs and expenses incurred by the City in the course of the defense.

B. Tier 1 Facilities. In addition to the applicable conditions in Subsection A (All Facilities), all Tier 1 facilities shall comply with and all Section 6409(a) Permits shall include the following standard conditions of approval:

1. **No Permit Term Extension.** The City's grant or grant by operation of law of a Section 6409(a) Permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. The City's grant or grant by operation of law of a Section 6409(a) Permit will not extend the permit term for any Conditional Use Permit, Minor Use Permit, Administrative Permit or other underlying regulatory approval and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station. If requested in writing by the applicant at the time of application submittal, the permit term for the underlying Conditional Use Permit, Minor Use Permit, Administrative Permit or other underlying regulatory approval may be administratively extended by the Community Development Director (at his/her discretion) from the initial approval date upon verification that the facility continues to comply with this chapter and conditions of approval under which the facility was originally approved.

2. **No Waiver of Standing.** The approval of a Section 6409(a) Permit (either by express approval or grant by operation of law) does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a), or any eligible facilities request.

17.104.060 Preferred Siting and Location

The following siting and location preferences apply to all proposed new facilities and substantial changes to existing facilities. The Community Development Director may require the applicant to submit an alternative sites analysis and evidence to demonstrate that a proposed facility could not be feasibly installed in a preferred site or location.

A. Preferred Siting. To the extent feasible, all proposed facilities should be sited according to the following preferences, ordered from most preferred to least preferred:

1. Sites on a City owned or controlled parcel (excluding public parks and/or open spaces); then

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2. Collocations on eligible support structures in the public right-of-way; then
3. Collocations on eligible support structures outside of the public right-of-way; then
4. New base stations in the public right-of-way; then
5. New base stations outside of the public right-of-way; then
6. New towers in the public right-of-way, then
7. New towers outside the public right-of-way.

B. Discouraged Siting – Utility Poles in Planned Utility Undergrounding Project Areas. The City discourages the placement of new facilities on utility poles within the public right-of-way in areas where there is a planned utility undergrounding project. In such cases, new facilities should be placed on utility poles within the planned utility undergrounding project area only if an alternative placement is infeasible or undesirable based on the standards and/or criteria contained in this chapter. If a utility undergrounding project is initiated, the City may require the removal of any facilities on utility poles in the public right-of-way in accordance with Section 17.104.040.P (Relocation for Facilities in the Right-of-Way).

C. Preferred Locations – General. All applicants should, to the extent feasible, locate proposed facilities in non-residential zoning districts.

D. Preferred Locations – Non-Residential Zoning Districts. To the extent feasible, all proposed facilities in non-residential zoning districts should be located according to the following preferences, ordered from most preferred to least preferred:

1. Parcels in the industrial (I) zoning district; then
2. Parcels in the commercial (C-R, and C-C) zoning districts; then
3. Parcels in all other non-residential zoning districts.

E. Preferred Locations – Residential Zoning Districts. If a facility is proposed in a residential (R-1, RM, MH) zoning district, all facilities should be located according to the following preferences, ordered from most preferred to least preferred:

1. Parcels that contain approved non-residential uses and do not contain residential uses; then
2. Parcels that contain approved non-residential uses and also contain residential uses; then
3. All other parcels.

F. Coastal Zone Siting. In addition to the preferred and discouraged siting considerations described in subsections A through E above, new wireless communications facilities in the coastal zone shall avoid being sited between the sea and the first road paralleling the sea, within 100 feet of Soquel Creek, within New Brighton State Beach, or within any environmentally sensitive habitat area to the extent feasible and consistent with federal and state law.

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G. Additional Alternative Sites Analysis. If an applicant proposes to locate a new facility or substantial change to an existing facility on a parcel that contains a single-family or multi-family residence, or a site located in the City's coastal zone on the seaward side of the first through public road parallel to the sea, the applicant shall provide an additional alternative sites analysis that at a minimum shall include a meaningful comparative analysis of all the alternative sites in the more preferred locations that the applicant considered and states the underlying factual basis for concluding why each alternative in a more preferred location was (i) technically infeasible, (ii) not potentially available and/or (iii) more intrusive.

17.104.070 Development Standards

A. General Design Standards. All new facilities and substantial changes to existing facilities shall conform to the following design standards:

1. **Concealment.** To the maximum extent feasible, all facilities shall incorporate concealment measures and/or techniques appropriate for the proposed location and design. All ground-mounted equipment on private property shall be completely concealed to the maximum extent feasible according to the following preferences, ordered from most preferred to least preferred:

   a. Within an existing structure including, but not limited to, an interior equipment room, mechanical penthouse or dumpster corral; then

   b. Within a new structure designed to integrate with or mimic the adjacent existing structure; then

   c. Within an underground equipment vault if no other feasible above-ground design that complies with subsections (a) or (b) exists.

2. **Underground Equipment.** To the extent feasible, power and telecommunication lines servicing wireless communications facilities must be placed underground. Additional expense to install and maintain such lines underground does not exempt an applicant from this requirement, except where the applicant demonstrates by clear and convincing evidence that this requirement will effectively prohibit the provision of personal wireless services.

3. **Height.**

   a. All facilities may not exceed the height limit in the applicable zoning district except as allowed in subsections (b) or (c) below.

   b. The review authority may approve a height exception up to 8 feet above the height limit when a proposed facility is:

      (1) Mounted on the rooftop of an existing building;

      (2) Completely concealed; and

      (3) Architecturally integrated into the underlying building; and

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(4) If located (or proposed to be located) in the City's coastal zone, does not impact public views to and along the ocean and scenic coastal areas.

c. The review authority may approve a height exception for towers or utility poles when:

(1) The proposed facility is no taller than the minimum necessary to meet service objectives;

(2) The height exception is necessary to address a significant gap in the applicant's existing service coverage;

(3) The applicant has demonstrated to the satisfaction of the Planning Commission through a detailed alternatives analysis, that there are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites, facility types, siting techniques, and/or designs) that comply with the height standard and meet service objectives ; and

(4) The proposed facility complies with design standards and preferences in Section B (Tower-Mounted Facilities) below to the maximum extent feasible.

4. **Setbacks.** All facilities shall comply with all setback requirements in the applicable zoning district.

5. **Collocation.** Facilities shall be designed, installed, and maintained to accommodate future collocated facilities to the extent feasible.

6. **Landscaping.** Landscaping shall be installed and maintained as necessary to conceal or screen the facility from public view. All landscaping shall be installed, irrigated, and maintained consistent with Chapter 17.72 (Landscaping) for the life of the permit.

7. **Lights.** Security lighting shall be down-shielded and controlled to minimize glare or light levels directed at adjacent properties.

8. **Noise**. All transmission equipment and other equipment (including but not limited to air conditioners, generators, and sump pumps) associated with the facility must not emit sound that exceeds the applicable limit established in Municipal Code Chapter 9.12 (Noise).

9. **Public Right-of-Way.**

a. Facilities located within or extending over the public right-of-way require City approval of an encroachment permit.

b. To conceal the non-antenna equipment, applicants shall install all non-antenna equipment underground to the extent feasible and appropriate for the proposed location. Additional expense to install and maintain equipment underground does not exempt an applicant from these requirements, except where the

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applicant demonstrates by clear and convincing evidence that the requirement will effectively prohibit the provision of personal wireless services.

c. Applicants must install ground-mounted equipment so that it does not obstruct pedestrian or vehicular traffic or incommode the public use of the right-of-way.

10. **Signage.**

a. A facility may not display any signage or advertisements unless expressly allowed by the City in a written approval, recommended under FCC regulations, or required by law or permit condition.

b. Every facility shall at all times display signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center.

11. **Advertising.** No advertising signage or identifying logos shall be displayed on wireless communications facilities, except for small identification plates used for emergency notification or hazardous or toxic materials warning, unless expressly allowed by the City in a written approval, recommended under FCC regulations, or required by law or permit condition.

12. **Historic Features.** A facility which modifies the exterior of a historic feature as defined in Chapter 17.84.020 (Types of Historic Resources) shall comply with the requirements of Chapter 17.84 (Historic Preservation).

13. **Coastal Zone Considerations.**_Facilities in any portion of the City's coastal zone shall be consistent with applicable policies of the City's Local Coastal Program (LCP) and the California Coastal Act. To the extent technically feasible and legally permissible, all facilities located in the City's coastal zone must be designed, installed, mounted, and maintained so that no portion of a facility extends onto or impedes access to a publicly used beach.

B. Tower-Mounted Facilities.

1. **General Design Preferences.** To the extent feasible and appropriate for the proposed location, all new towers should be designed according to the following preferences, ordered from most preferred to least preferred:

a. Faux architectural features (examples include, but are not limited to, bell towers, clock towers, lighthouses, obelisks and water tanks); then

b. Faux trees; then

c. Monopoles that do not conceal the antennas within a concealment device.

2. **Tower-mounted Equipment.** All tower-mounted equipment shall be mounted as close to the vertical support structure as possible to reduce its visual profile. Applicants should mount non-antenna, tower-mounted equipment (including, but

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not limited to, remote radio units/heads, surge suppressors, and utility demarcation boxes) directly behind the antennas to the maximum extent feasible.

3. **Ground-mounted Equipment.** Ground-mounted equipment shall be concealed with opaque fences or other opaque enclosures. The City may require additional design and/or landscape features to blend the equipment or enclosure into the surrounding environment.

4. **Concealment Standards for Faux Trees.** All faux tree facilities shall comply with the following standards:

   a. The canopy shall completely envelop all tower-mounted equipment and extend beyond the tower-mounted equipment at least 18 inches.

   b. The canopy shall be naturally tapered to mimic the particular tree species.

   c. All tower-mounted equipment, including antennas, equipment cabinets, cables, mounts and brackets, shall be painted flat natural colors to mimic the particular tree species.

   d. All antennas and other tower-mounted equipment cabinets shall be covered with broadleaf or pine needle "socks" to blend in with the faux foliage.

   e. The entire vertical structure shall be covered with permanently-affixed three-dimensional faux bark cladding to mimic the particular tree species.

C. Building and Facade Mounted Facilities.

1. **General Design Preferences.** To the extent feasible and appropriate for the proposed location, all new building and facade mounted facilities should be designed according to the following preferences, ordered from most preferred to least preferred:

   a. Completely concealed and architecturally integrated facade or rooftop mounted base stations which are not visible from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials); then

   b. Completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions (examples include, but are not limited to, cupolas, steeples, and chimneys); then

   c. Facade-mounted facilities incorporated into "pop-out" screen boxes designed to be architecturally consistent with the original support structure.

2. **Ground-mounted Equipment.** Outdoor ground-mounted equipment associated with base stations must be avoided whenever feasible. In locations visible or accessible to the public, outdoor ground-mounted equipment shall be concealed with opaque fences or landscape features that mimic the adjacent structures (including, but not limited to, dumpster corrals and other accessory structures).

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D. Pole-Mounted Facilities in the Public Right-of-Way.

1. **All Facilities**. All facilities mounted to steel light poles and wood utility poles in the public right-of-way shall comply with the following design standards:

   a. Antennas, brackets, and cabling shall all be painted a single color that matches the pole color.

   b. Unnecessary equipment manufacturer decals shall be removed or painted over.

   c. The facility shall not alter vehicular circulation or parking within the public right-of-way or impede vehicular or pedestrian access or visibility along the public right-of-way.

   d. All pole-mounted transmission equipment (including, but not limited to, antennas) shall be installed as close to the pole as technically and legally feasible to minimize impacts to the visual profile.

   e. Colors and materials for facilities shall be chosen to minimize visibility. All visible exterior surfaces shall be constructed with non-reflective materials and painted and/or textured to match the support pole. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the maximum extent feasible.

   f. An applicant may request an exemption from one or more standards in this Section 17.104.070.D (Pole-Mounted Facilities in the Public Right-of-Way) on the basis that such exemption is necessary to comply with Public Utilities Commission General Order 95. The applicant bears the burden to demonstrate why such exemption should be granted.

2. **Steel Pole Facilities**. Facilities mounted to a steel light pole in the public right-of-way shall comply with the following design standards:

   a. All equipment and cabling shall be located in the pole and concealed from view.

   b. Antennas shall be located on the top of the pole as a vertical extension of the pole. Antennas and equipment may not be mounted onto the side of the pole.

   c. To the extent technically feasible, antennas shall be contained within a maximum 14-inch wide enclosure on the top of the pole.

3. **Wood Pole Facilities**. Facilities mounted to a wood utility pole in the public right-of-way shall comply with the following design standards:

   a. Equipment enclosures shall be as narrow as feasible with a vertical orientation to minimize its visibility when attached to the pole. The equipment mounting base plates may be no wider than the pole.

   b. Side-mounted equipment may extend no more than five feet horizontally from the side of the pole.

   c. Equipment shall be stacked close together on the same side of the pole.

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d. A line drop (no electric meter enclosure) shall be used if allowed by the utility company.

e. Shrouds, risers, or conduit shall be used to reduce the appearance of cluttered or tangled cabling.

f. Side-mounted antennas shall be attached to the pole using an arm with flanges/channels that reduces the visibility of cabling and passive RF gear.

g. To the extent technically feasible, top-mounted antennas may be no wider than the width of the pole top.

4. **Undergrounding of Cabling between Pole Mounted Facilities in the Coastal Zone.** For new pole mounted facilities located in the City's coastal zone, any proposed cable between such facilities shall be placed underground to the extent feasible.

17.104.080 Operation and Maintenance Requirements

All wireless communications facilities approved through a City permit or deemed granted by operation of law shall comply with the following operation and maintenance requirements.

A. General Compliance. All facilities shall comply with all applicable goals, objectives and policies of the General Plan/Local Coastal Program, area plans, zoning regulations and development standards; the California Coastal Act; and the California Environmental Quality Act (CEQA).

B. Access Control. All facilities shall be designed to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances. The Community Development Director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, antenna facilities have the potential to become an attractive nuisance.

C. Noise. All facilities shall be constructed and operated in such a manner as to minimize the amount of noise impacts to adjacent uses and activities. At any time, noise attenuation measures may be required by the Community Development Director when deemed necessary. Facilities shall comply with all applicable noise standards in the General Plan and Municipal Code. Testing and maintenance activities of wireless communications facilities which generate audible noise shall occur between the hours of eight a.m. and five p.m., weekdays (Monday through Friday, non-holiday) excluding emergency repairs, unless allowed at other times by the Community Development Director.

D. General Maintenance. The site and the facility, including but not limited to all landscaping, fencing, transmission equipment, antennas, towers, equipment, cabinets, structures, accessory structures, signs, and concealment and/or stealth features and standards shall be maintained in a state of good repair, in a neat and clean manner, and in accordance with all approved permits and conditions of approval. Damage to the site

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and the facility shall be repaired promptly. This shall include keeping all wireless communications facilities graffiti free and maintaining security fences in good condition.

E. Change in Federal or State Regulations. All facilities shall meet the current standards and regulations of the FCC, the California Public Utilities Commission, and any other agency of the federal or state government with the authority to regulate wireless communications providers. If such standards and/or regulations are changed, the wireless communications provider shall bring its facilities into compliance with such revised standards and regulations within 90 days of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to a bring wireless communications facility into compliance with revised standards and regulations shall constitute grounds for the immediate removal of the facility at the wireless communications provider's expense.

F. Service after Natural Disaster. All wireless communications facilities providing service to the government or general public shall be designed to survive a natural disaster without interruption in operation.

17.104.090 Temporary Wireless Communications Facilities.

A. A temporary wireless communications facility, such as a "cell-on-wheels" (COW), may be used to replace wireless communications facility services during the relocation or rebuilding process of an existing facility, during festivals or other temporary events and activities that otherwise require a permit under this chapter, and during public emergencies.

B. A temporary wireless communications facility shall be processed as an administrative use permit under a proposed or existing permit when used during the relocation or rebuilding process of an existing wireless communications facility, or when used for a festival or other temporary event or activity.

C. A temporary wireless communications facility to protect public health, safety or welfare during an emergency shall be processed as a Tier 2 Administrative Permit. The applicant shall submit an application for a temporary emergency use permit before installation of such temporary wireless communications facility.

D. The Community Development Director may approve a temporary wireless communications facility for no more than ninety (90) days.

E. A temporary wireless facility may be approved for a period of up to one year if the following requirements are met:

1. The Planning Commission determines that the temporary wireless communications facility shall be sited and constructed so as to:

   a. Avoid proximity to residential dwellings to the maximum extent feasible;

   b. Be no taller than needed;

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c. Be screened to the maximum extent feasible; and

d. Be erected for no longer than reasonably required, based on the specific circumstances.

2. Permits and/or authorizations in excess of ninety (90) days for temporary wireless communications facilities shall be subject to the notice and review procedures required by Section 17.104.040.G (Public Notice and Hearing).

F. The property owner and service provider of the temporary wireless communications facility installed pursuant to this Section 17.104.090 (Temporary Wireless Communications Facilities) shall immediately remove such facility from the site at the end of the specified term or the conclusion of the relocation or rebuilding process, temporary event, or emergency, whichever occurs first. The property owner and service provider of the temporary wireless communications facility shall be jointly and severally liable for timely removal of such temporary facility. The City may (but is not obligated to) remove any temporary wireless communications facility installed pursuant to this Section 17.140.090 (Temporary Wireless Communications Facilities) at the owner and provider's cost immediately at the end of the specified term or conclusion of the relocation or rebuilding process, temporary event, or emergency, whichever occurs first.

17.104.100 Limited Exemption from Standards

A. Request for Exemption. An applicant may request an exemption from one or more requirements in this chapter on the basis that a permit denial would effectively prohibit personal wireless services in Capitola.

B. Basis for Approval. For the City to approve such an exemption, the applicant must demonstrate with clear and convincing evidence all of the following:

1. A significant gap in the applicant's service coverage exists;
2. All alternative sites identified in the application review process are either technically infeasible or not potentially available; and
3. Permit denial would effectively prohibit personal wireless services in Capitola.

C. Applicant Must Demonstrate Basis for Approval. The applicant always bears the burden to demonstrate why an exemption should be granted.

17.104.110 Severability

If any section or portion of this chapter is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of the chapter, which shall continue in full force and effect.

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PART 4

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Chapter 17.108 – ADMINISTRATIVE RESPONSIBILITY

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17.108.030 Review and Decision-Making Authority
17.108.040 Design Review Process

17.108.010 Purpose

This chapter describes the authority and responsibilities of the City Council, Planning Commission, and the Community Development Director in the administration of the Zoning Code.

17.108.020 Planning Agency

The City Council, Planning Commission, and Community Development Director function as the Planning Agency and as the Advisory Agency in compliance with Government Code Section 65100.

17.108.030 Review and Decision-Making Authority

Table 17.108-1 shows the review and decision-making authority of the City Council, Planning Commission, and Community Development Director in the administration of the Zoning Code.

TABLE 17.108-1: REVIEW AND DECISION-MAKING AUTHORITY

Type of Action	Role of Authority [1]		
	Community Development Director	Planning Commission	City Council
Legislative Actions			
Development Agreements	Recommend	Recommend	Decision
General Plan/Coastal Land Use Plan Amendments	Recommend	Recommend	Decision
Zoning Code/Municipal Code Chapter 17 Amendments	Recommend	Recommend	Decision
Permits			
Administrative Permits	Decision	Appeal	Appeal
Administrative Sign Permits	Decision	Appeal	Appeal
Sign Permits	Recommend	Decision	Appeal
Design Permits	Recommend	Decision	Appeal
Minor Design Permits	Decision	Appeal	Appeal

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Type of Action	Role of Authority [1]		
	Community Development Director	**Planning Commission**	**City Council**
Coastal Development Permits	See 17.44.070(B) (Coastal Development Permit Requirements)		
Conditional Use Permits	Recommend	Decision	Appeal
Historic Resource Demolition Permits [2]	Recommend	Recommend/ Decision	Decision/Appeal
Master Use Permits	Recommend	Decision	Appeal
Minor Use Permits	Decision	Appeal	Appeal
Tenant Use Permits	Decision	Appeal	Appeal
Other Approvals and Actions			
Conceptual Review	See 17.114 (Conceptual Review)		
Historic Alteration Permit	Recommend	Decision	Appeal
Minor Modifications	Recommend	Decision	Appeal
Preliminary and Final Development Plans (PD)	Recommend	Recommend	Decision
Reasonable Accommodations	Decision	Appeal	Appeal
Variances	Recommend	Decision	Appeal

Notes:
[1] "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority shall consider and decide appeals of decisions of an earlier decision-making body, in compliance with Chapter 17.152 (Appeals).
[2] The Planning Commission is the decision-making authority on Historic Resource Demolition Permits applications for Potential Historic Resources. The City Council is the decision authority on Historic Resource Demolition Permits applications for Designated Historic Resources.

17.108.040 Design Review Process

A. Purpose.

1. The Design Review process allows for City staff and City-contracted design professionals to provide preliminary recommendations to the applicant on Design Permit applications prior to Planning Commission review.
2. Through the Design Review process, City staff and City-contracted design professionals shall work with applicants to produce the best possible project design consistent with City policies and regulations prior to a hearing before the Planning Commission. The Design Review process does not result in a Design Permit approval or a specific recommendation to the Planning Commission for approval or denial of a Design Permit application.

B. Participating Staff and Consultants

1. City staff involved in the Design Review process include City staff representing the Planning, Public Works, and Building Departments.

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2. A City-contracted landscape architect, architect, and architectural historian may also participate in the Design Review process for significant and/or sensitive projects as determined by the Community Development Director. A City-contracted architect shall participate in the Design Review process for all new proposed multi-family and non-residential construction projects.

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Chapter 17.112 – PERMIT APPLICATION AND REVIEW

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17.112.050 Multiple Permit Applications
17.112.060 Project Evaluation and Staff Reports
17.112.070 Environmental Review
17.112.080 Applications Deemed Withdrawn

17.112.010 Purpose

This chapter establishes procedures for the preparation, filing, and processing of permits required by the Zoning Code. The term "permit" when used in this chapter refers to any action, permit, or approval listed in Table 17.108-1 (Review and Decision-Making Authority).

17.112.020 Application Preparation and Filing

A. Pre-Application Conference.

1. The City encourages prospective applicants to request a pre-application conference with the Community Development Department before completing and filing a permit application.
2. The purpose of this conference is to:
   a. Inform the applicant of City requirements as they apply to the proposed project;
   b. Inform the applicant of the City's review process;
   c. Identify information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project; and
   d. Provide guidance to the applicant of possible project alternatives or modifications.
3. The pre-application conference and any information provided to prospective applicants by City staff shall not be construed as a recommendation for approval or denial of an application.
4. Failure by City staff to identify all permit requirements shall not constitute a waiver of those requirements

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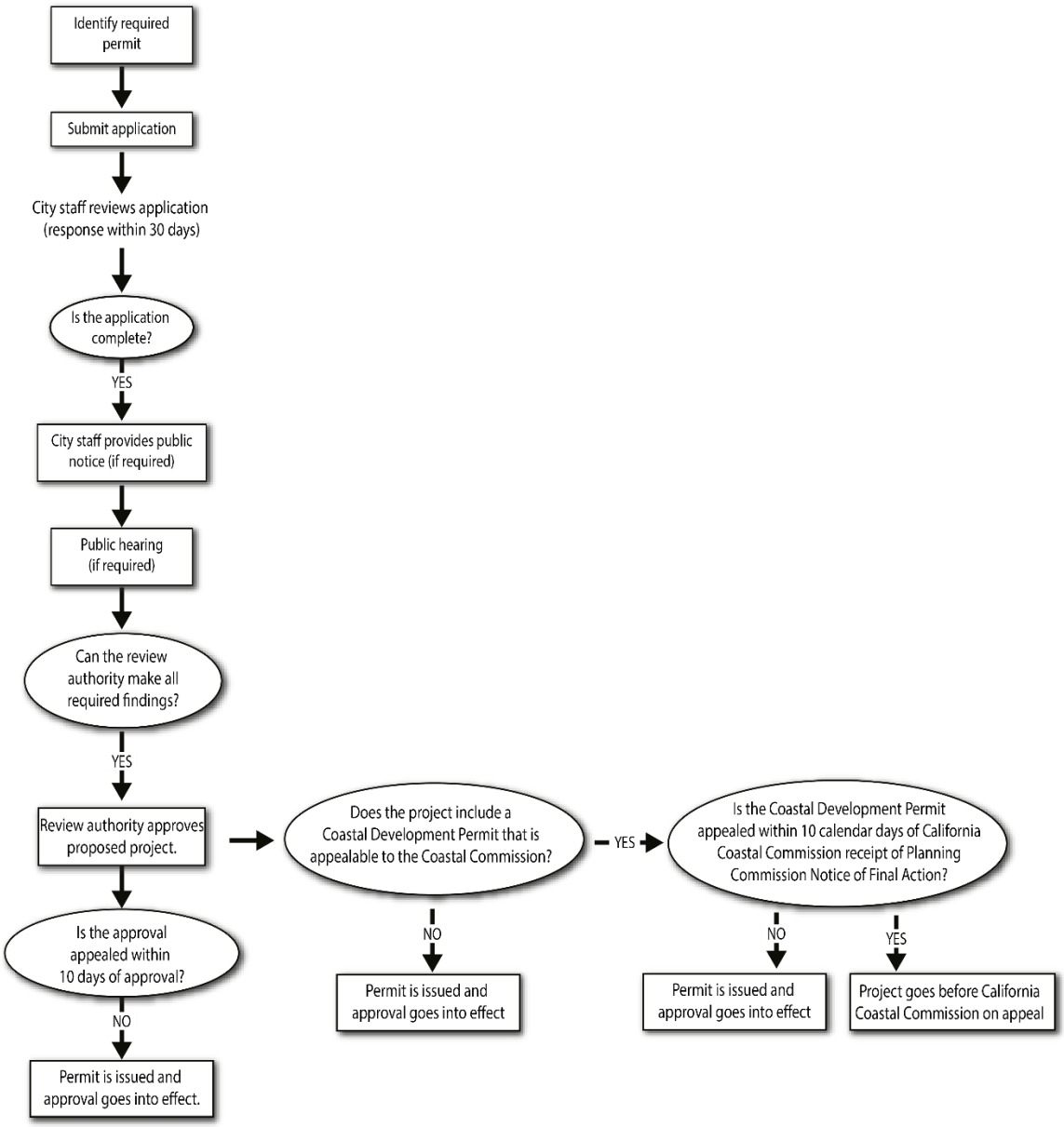
Figure 17.112-1: Typical Permit Review and Approval Process



B. Application Contents.

1. All permit applications shall be filed with the Community Development Department on an official City application form.
2. Applications shall be filed with all required fees, information, and materials as specified by the Community Development Department.

C. Eligibility for Filing.

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1. An application may only be filed by the property owner or the property owner's authorized agent.
2. The application shall be signed by the property owner or the property owner's authorized agent if written authorization from the owner is filed concurrently with the application.

17.112.030 Application Fees

A. Fee Schedule. Fees required to process permit applications are identified in the Planning Fee Schedule approved by the City Council.

B. Requirement of Payment.

1. The City may deem an application complete and begin processing the application only after all required fees have been paid.
2. Failure to pay any required supplemental application fees is a basis for denial or revocation of a permit application.

C. Refunds and Withdrawals.

1. Application fees cover City costs for public hearings, mailings, staff and consultant time, and the other activities involved in processing applications. Consequently, the City will not refund fees for a denied application.
2. In the case of an application withdrawal, the Community Development Director may authorize a partial refund of a deposit account based upon the pro-rated costs to date and the status of the application at the time of withdrawal.
3. Flat fees submitted in conjunction with a permit application are non-refundable.

17.112.040 Application Review

A. Review for Completeness.

1. **Initial Review.** The Community Development Department shall review each application for completeness and accuracy before it is accepted as being complete and officially filed.
2. **Basis for Determination.** The Community Development Department's determination of completeness shall be based on the City's list of required application contents and any additional written instructions provided to the applicant in a pre-application conference and during the initial application review period.
3. **Notification of Applicant.** Within 30 calendar days of application submittal, the Community Development Department shall inform the applicant in writing that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information is required.

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4. **Appeal of Determination.** When the Community Development Department has determined that an application is incomplete, and the applicant believes that the application is complete or that the information requested by the Community Development Department is not required, the applicant may appeal the Community Development Department's determination in compliance with Chapter 17.152 (Appeals).

5. **Submittal of Additional Information.**

   a. When the Community Development Department determines that an application is incomplete, the time used by the applicant to submit the required additional information is not considered part of the time within which the determination of completeness for resubmitted materials shall occur.

   b. Additional required information shall be submitted in writing.

   c. The Community Development Department's review of information resubmitted by the applicant shall be in compliance with subsection 'a' above, along with another 30-day period of review for completeness.

6. **Environmental Information.** After the Community Development Department has accepted an application as complete, the Department may require the applicant to submit additional information for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA).

17.112.050 Multiple Permit Applications

A. Concurrent Filing. An applicant for a development project that requires the filing of more than one application (e.g., Zoning Map Amendment and a Conditional Use Permit) shall file all related applications concurrently unless the concurrent filing requirements are waived by the Community Development Director.

B. Concurrent Processing. The Community Development Department shall process multiple applications for the same project concurrently. Projects requiring multiple permit applications shall be reviewed and acted upon by the highest review authority designated by the Zoning Code for any of the applications (e.g., a project requiring a Zoning Map Amendment and a Conditional Use Permit shall have both applications decided by the City Council, instead of the Planning Commission acting on the Conditional Use Permit). The Planning Commission shall provide a recommendation to the City Council on permits and approvals ordinarily acted upon by the Planning Commission.

17.112.060 Project Evaluation and Staff Reports

A. Staff Evaluation. The Community Development Department shall review all permit applications to determine if they comply with the Zoning Code, the General Plan, the Local Coastal Program, and other applicable City policies and regulations.

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B. Staff Report. For all permit applications requiring review by the Planning Commission or City Council, the Community Development Department shall prepare a staff report describing the proposed project and including, where appropriate, a recommendation to approve, approve with conditions, or deny the application.

C. Report Distribution. Staff reports shall be furnished to the applicant at the same time as they are provided to the review authority before action on the application.

17.112.070 Environmental Review

A. CEQA Review. After acceptance of a complete application, the Community Development Department shall review the project in compliance with the California Environmental Quality Act (CEQA) to determine whether:

1. The proposed project is exempt from the requirements of CEQA;
2. The proposed project is not a project as defined by CEQA;
3. A Negative Declaration may be issued;
4. A Mitigated Negative Declaration may be issued; or
5. An Environmental Impact Report (EIR) is required.

B. Compliance with CEQA. These determinations and, where required, the preparation of appropriate environmental documents shall be in compliance with CEQA and any adopted City CEQA guidelines.

C. Special Studies Required. Special studies, paid for in advance by the applicant, may be required to supplement the City's CEQA compliance review.

17.112.080 Applications Deemed Withdrawn

A. Response Required. If an applicant does not pay required supplemental fees or provide information requested in writing by the Community Development Department within nine months following the date of the letter, the application shall expire and be deemed withdrawn without any further action by the City.

B. Resubmittal. After the expiration of an application, future City consideration shall require the submittal of a new complete application and associated filing fees.

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Chapter 17.114 – CONCEPTUAL REVIEW

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17.114.050 Application Review
17.114.060 Environmental Review
17.114.070 Permit Streamlining Act
17.114.080 Noticed Public Meeting
17.114.090 Non-Binding Input

17.114.010 Purpose

This chapter describes the process for Conceptual Review of a proposed project. Conceptual Review allows an applicant to receive preliminary non-binding input from the Planning Commission and/or City Council on a proposed project prior to City action on a formal permit application.

17.114.020 When Required/Eligibility

A. Planned Development Projects. Conceptual Review is required for proposed Planned Development projects in accordance with Chapter 17.36 (Planned Development Zoning District).

B. Other Projects. Conceptual Review is not required for projects other than a Planned Development project, but may be requested by an applicant. Conceptual Review is intended for complex or controversial projects that would benefit from preliminary input prior to City action on a permit application. An applicant may also request conceptual review to receive input on policy interpretations and sensitive community issues that would benefit from early input from the Planning Commission.

17.114.030 Review Authority

A. Planned Development Projects. Both the Planning Commission and the City Council shall provide input on a Conceptual Review application for a Planned Development project.

B. Other Projects.

1. For a project other than a Planned Development project that requires Planning Commission approval, the Planning Commission shall provide input on the Conceptual Review application.

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2. For projects other than a Planned Development project that requires both Planning Commission and City Council approval, the Planning Commission shall provide input on the Conceptual Review application; the City Council may also provide input on the application upon the applicant's request.

17.114.040 Application Submittal Requirements

A. All Projects.

1. An applicant requesting Conceptual Review shall file an application with the Community Development Department on an official City application form.
2. Applications shall be filed with all required fees, information, and materials as specified by the Community Development Department. Application fees for Conceptual Review are subject to the requirements specified in Section 17.112.030 (Application Fees).

B. Planned Development Projects. In additional to application materials required by paragraph 1 above, Conceptual Review applications for Planned Development projects shall also include the following:

1. A statement describing the proposed project and how it complies with the findings required for the approval of a Planned Development project in Section 17.36.080.G (Findings).
2. Project plans, diagrams, and graphics as needed to illustrate the overall development concept, including proposed land uses, buildings, circulation, open space, and any other significant elements in the project.

17.114.050 Application Review

A. Completeness Review. The Community Development Department shall review each Conceptual Review application for completeness and accuracy. The Department may request additional information if necessary for consideration of the Planning Commission and/or City Council.

B. Staff Report. The Community Development Department shall prepare a staff report describing the proposed project and including, where appropriate, an analysis of project compliance with applicable City policies and regulations. Staff reports shall be furnished to the applicant at the same time as they are provided to the review authority before consideration of the application.

17.114.060 Environmental Review

Conceptual Review applications are not defined as a project pursuant to the California Environmental Quality Act (CEQA) and as such are not subject to environmental review process as required by CEQA.

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17.114.070 Permit Streamlining Act

Conceptual Review applications are not subject to the requirements of the California Permit Streamlining Act (Act). An application that receives Conceptual Review shall not be considered complete pursuant to the requirements of the Act unless and until the Director has received an application for approval of a development project, reviewed it, and determined it to be complete under Chapter 17.112 (Permit Application and Review).

17.114.080 Noticed Public Meeting

A. Noticed Public Meeting Required. The Planning Commission or City Council ("review authority") shall consider a Conceptual Review application at a public meeting noticed in accordance with Section 17.148.020 (Notice of Hearing).

B. Information Received. At the meeting the review authority shall receive information from staff and the applicant and receive public comment on the proposed project.

C. Preliminary Input. The review authority shall provide the applicant with preliminary input on the proposed project, including the project compliance with applicable City policies and regulations.

D. Input on Planned Development Projects. For Planned Development projects, the review authority shall provide preliminary input on project compliance with findings required for the approval of a Planned Development project in Section 17.36.080.G (Findings).

17.114.090 Non-Binding Input

Review authority input on the Conceptual Review application shall not be construed as a recommendation for City approval or denial of the project. Any recommendation that results from Conceptual Review is advisory only and shall not be binding on either the applicant or the City.

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Chapter 17.116 – ADMINISTRATIVE PERMITS

Sections:

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17.116.060 Conditions of Approval
17.116.070 Appeals and Post-Decision Procedures

17.116.010 Purpose

This chapter identifies the process to obtain an Administrative Permit. An Administrative Permit is required for uses permitted by-right yet subject to specific Zoning Code standards. An Administrative Permit is a ministerial procedure for the City to verify that a proposed use complies with all applicable standards and to ensure that the applicant understands and accepts these standards.

17.116.020 When Required

Uses that require an Administrative Permit are specified in the land use regulation tables for each zoning district found in Part 2 (Zoning Districts and Overlay Zones).

17.116.030 Review Authority

The Community Development Director takes action on all Administrative Permit applications.

17.116.040 Application Submittal, Review, and Action

A. An application for an Administrative Permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review).

B. Community Development Department staff shall review the application to verify compliance with the Zoning Code. If the project complies with the Zoning Code, the Community Development Director shall approve the application.

17.116.050 Public Notice and Hearing

No public notice or hearing is required for an Administrative Permit.

17.116.060 Conditions of Approval

No conditions of approval may be attached to the approval of an Administrative Permit.

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17.116.070 Appeals and Post-Decision Procedures

A. Community Development Director decisions on Administrative Permits may be appealed to the Planning Commission as described in Chapter 17.152 (Appeals).

B. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Administrative Permits.

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Chapter 17.120 – DESIGN PERMITS

Sections:

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17.120.070 Design Review Criteria
17.120.080 Findings for Approval
17.120.090 Conditions of Approval
17.120.100 Appeals and Post-Decision Procedures

17.120.010 Purpose

This chapter establishes the process to obtain a Design Permit. A Design Permit is a discretionary action that enables the City to ensure that proposed development exhibits high quality design that enhances Capitola's unique identity and sense of place. The Design Permit process is also intended to ensure that new development and uses are compatible with their surroundings and minimize negative impacts on neighboring properties.

17.120.020 Types of Design Permits

The Zoning Code establishes two types of Design Permits: Design Permits reviewed and approved by the Planning Commission and Minor Design Permits reviewed and approved by the Community Development Director.

17.120.030 When Required

A. Types of Projects. The types of projects that require a Design Permit, and the type of Design Permit for each project, are listed in Table 17.120-1. If a type of development project or activity is not specifically listed in Table 17.120-1, a Design Permit is not required.

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TABLE 17.120-1: PROJECTS REQUIRING DESIGN PERMITS

Type of Project	Type of Permit
Single-Family Residential Projects	
Ground floor additions to existing single-family homes where the addition is visible from a public street and does not exceed 15 ft. in height, except for exempt additions (Section 17.120.030.B)	Minor Design Permit
Accessory structures greater than 10 ft. in height and/or 120 sq. ft. to 300 sq. ft.	Minor Design Permit
Accessory structures greater than 300 sq. ft.	Design Permit
Upper floor decks and balconies on the side or rear of a home that are not adjacent to public open space	Design Permit
Upper floor additions to an existing single-family homes	Design Permit
New single-family homes	Design Permit
Multi-Family Residential Projects	
Ground-floor additions less than 15% of total floor area of an existing multi-family structure	Minor Design Permit
Upper floor decks and balconies on the side or rear of a structure that are not adjacent to public open space	Design Permit
Accessory structures including garbage and recycling enclosures	Minor Design Permit
Ground-floor additions 15% of total floor area or more to an existing multi-family structure	Design Permit
Upper floor additions to an existing multi-family structure	Design Permit
New multi-family residential structures	Design Permit
Non-Residential Projects (Including Mixed-Use)	
Exterior modifications to an existing structure that do not increase the floor area of the structure	Minor Design Permit
Accessory structures 120 sq. ft. to 300 sq. ft. including garbage and recycling enclosures	Minor Design Permit
Accessory structures greater than 300 sq. ft. including garbage and recycling enclosures	Design Permit
Additions less than 15% of the floor area of an existing non-residential structure where the addition is not visible from the primary street frontage	Minor Design Permit
Additions 15% or more of the floor area of an existing non-residential structure where the addition is visible from the primary street frontage	Design Permit
Additions to an existing non-residential structure of 3,000 sq. ft. or more	Design Permit
New non-residential structures	Design Permit

B. Single-Family Exemptions. The following additions to a single-family dwelling are exempt from the Design Permit requirement:

1. Ground-floor single-story additions up to 400 square feet at the rear of the home.
2. Enclosure of an existing recessed entrance up to 25 square feet.

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3. Enclosure of an existing open porch up to 50 square feet.
4. Installation of bay windows.
5. A single accessory structures that does not exceed 120 square feet in floor area and 10 feet in height with no connection to water or sewer.
6. Minor exterior modification or replacement of materials on an existing structure including siding, windows, doors, and roof.
7. Other similar minor additions to a single-family dwelling as determined by the Community Development Director.
8. Upper floor decks and balconies immediately adjacent to a street or public open space.

17.120.040 Application Submittal and Review

A. General. An application for a Design Permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information required by the Community Development Department with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.120.080 (Findings for Approval).

B. Streetscape Illustration. For all proposed new buildings, the applicant shall submit streetscape illustrations that includes neighboring structures within 100 feet of the side property lines.

C. Enhanced Visualization. The City may require enhanced project visualization materials (e.g., 3-D renderings, photo-simulations, physical models, expanded streetscape diagrams, viewpoint analysis, story poles) when any of the following apply:

1. The project is proposed within a prominent or highly visible development site as determined by the Community Development Director.
2. The project would be located within or adjacent to vista points or visually-sensitive areas as identified in the General Plan.
3. The applicant is requesting a Variance for height.
4. Substantial changes to the exterior of an existing structure.
5. The Community Development Director determines that enhanced visualization is necessary to determine if the findings for approval can be made for the proposed project.
6. Story poles shall only be required by the Planning Commission or City Council.

D. Review by Architectural Historian. Proposed projects that involve an exterior alteration to a Designated Historic Resource or a Potential Historic Resource as defined in Section 17.84.020 (Types of Historic Resources) shall be reviewed by an Architectural

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Historian and may require a Historic Alteration Permit as provided in Section 17.84.070 (Historic Alteration Permit).

17.120.050 Design Review Process

A. Review Required. All Design Permit applications shall be reviewed by City staff and City-contracted design professionals as specified in Section 17.108.040 prior to review and action on the application by the Planning Commission.

B. Purpose of Review. The purpose of the Design Review process is to provide recommendations to the applicant on the design of the project based on Design Review criteria in Section 17.120.070. Applicants are encouraged to consider comments from the Design Review process and modify the project design as needed prior to Planning Commission consideration of the application.

17.120.060 Public Notice and Hearing

A. Design Permits. The Planning Commission shall review and act on a Design Permit application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

B. Minor Design Permits. Public notice of a pending action on a Minor Design Permit application shall be provided in compliance with Chapter 17.148 (Public Notice and Hearings). The Community Development Director shall hold a public hearing for a Minor Design Permit application only upon receiving a written request for a public hearing as provided in Section 17.148.030 (Notice of Pending Action).

17.120.070 Design Review Criteria

When considering Design Permit applications, the City shall evaluate applications to ensure that they satisfy the following criteria, comply with the development standards of the zoning district, conform to policies of the General Plan, the Local Coastal Program, and any applicable specific plan, and are consistent with any other policies or guidelines the City Council may adopt for this purpose. To obtain Design Permit approval, projects must satisfy these criteria to the extent they apply.

A. Community Character. The overall project design including site plan, height, massing, architectural style, materials, and landscaping contribute to Capitola's unique coastal village character and distinctive sense of place.

B. Neighborhood Compatibility. The project is designed to respect and complement adjacent properties. The project height, massing, and intensity is compatible with the scale of nearby buildings. The project design incorporates measures to minimize traffic, parking, noise, and odor impacts on nearby residential properties.

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C. Historic Character. Renovations and additions respect and preserve existing historic structure. New structures and additions to non-historic structures reflect and complement the historic character of nearby properties and the community at large.

D. Sustainability. The project supports natural resource protection and environmental sustainability through features such as on-site renewable energy generation, passive solar design, enhanced energy efficiency, water conservation measures, and other green building techniques.

E. Pedestrian Environment. The primary entrances are oriented towards and visible from the street to support an active public realm and an inviting pedestrian environment.

F. Privacy. The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimizes privacy impacts on adjacent properties and provides adequate privacy for project occupants.

G. Safety. The project promotes public safety and minimizes opportunities for crime through design features such as property access controls (e.g., placement of entrances, fences), increased visibility and features that promote a sense of ownership of outdoor space.

H. Massing and Scale. The massing and scale of buildings complement and respect neighboring structures and correspond to the scale of the human form. Large volumes are divided into small components through varying wall planes, heights, and setbacks. Building placement and massing avoids impacts to public views and solar access.

I. Architectural Style. Buildings feature an architectural style that is compatible with the surrounding built and natural environment, is an authentic implementation of appropriate established architectural styles, and reflects Capitola's unique coastal village character.

J. Articulation and Visual Interest. Building facades are well articulated to add visual interest, distinctiveness, and human scale. Building elements such as roofs, doors, windows, and porches are part of an integrated design and relate to the human scale. Architectural details such as trim, eaves, window boxes, and brackets contribute to the visual interest of the building.

K. Materials. Building facades include a mix of natural, high-quality, and durable materials that are appropriate to the architectural style, enhance building articulation, and are compatible with surrounding development.

L. Parking and Access. Parking areas are located and designed to minimize visual impacts and maintain Capitola's distinctive neighborhoods and pedestrian-friendly environment. Safe and convenient connections are provided for pedestrians and bicyclists.

M. Landscaping. Landscaping is an integral part of the overall project design, is appropriate to the site and structures, and enhances the surrounding area.

N. Drainage. The site plan is designed to maximize efficiency of on-site drainage with runoff directed towards permeable surface areas and engineered retention.

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O. Open Space and Public Places. Single-family dwellings feature inviting front yards that enhance Capitola's distinctive neighborhoods. Multi-family residential projects include public and private open space that is attractive, accessible, and functional. Non-residential development provides semi-public outdoor spaces, such as plazas and courtyards, which help support pedestrian activity within an active and engaging public realm.

P. Signs. The number, location, size, and design of signs complement the project design and are compatible with the surrounding context.

Q. Lighting. Exterior lighting is an integral part of the project design with light fixtures designed, located, and positioned to minimize illumination of the sky and adjacent properties.

R. Accessory Structures. The design of detached garages, sheds, fences, walls, and other accessory structures relate to the primary structure and are compatible with adjacent properties.

S. Mechanical Equipment, Trash Receptacles, and Utilities. Mechanical equipment, trash receptacles, and utilities are contained within architectural enclosures or fencing, sited in unobtrusive locations, and/or screened by landscaping.

17.120.080 Findings for Approval

To approve a Design Permit application, the review authority shall make all of the following findings:

A. The proposed project is consistent with the General Plan, Local Coastal Program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the City Council.

B. The proposed project complies with all applicable provisions of the Zoning Code and Municipal Code.

C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

D. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

E. The proposed project complies with all applicable Design Review criteria in Section 17.120.070 (Design Review Criteria)

F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.

17.120.090 Conditions of Approval

The Planning Commission or Community Development Director may attach conditions of approval to a Design Permit to achieve consistency with the General Plan, Local Coastal

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Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

17.120.100 Appeals and Post-Decision Procedures

A. Planning Commission decisions on Design Permits may be appealed to the City Council as described in Chapter 17.152 (Appeals).

B. Community Development Director decisions on Minor Design Permits may be appealed to the Planning Commission as described in Chapter 17.152 (Appeals).

C. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to Design Permits.

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Chapter 17.124 – USE PERMITS

Sections:

17.124.010 Purpose
17.124.020 When Required
17.124.030 Review Authority
17.124.040 Application Submittal and Review
17.124.050 Public Notice and Hearing
17.124.060 Considerations
17.124.070 Findings for Approval
17.124.080 Conditions of Approval
17.124.090 Appeals and Post-Decision Procedures
17.124.100 Master Use and Tenant Use Permits

17.124.010 Purpose

This chapter describes the process to obtain Use Permits, which include Conditional Use Permits, Minor Use Permits, Master Use Permits, and Tenant Use Permits. A Use Permit is required for land uses that are generally appropriate within a zoning district, but potentially undesirable on a particular parcel or in large numbers. A Use Permit is a discretionary action that enables the City to ensure that a proposed use is consistent with the General Plan and Local Coastal Program Land Use Plan and will not create negative impacts to adjacent properties or the general public.

17.124.020 When Required

A. Land uses that require a Conditional Use Permit or a Minor Use Permit are shown in the land use regulation tables for each zoning district found in Part 2 (Zoning Districts and Overlay Zones).

B. Land uses eligible for a Master Use Permit or a Tenant Use Permit are described in Section 17.124.100 (Master Use and Tenant Use Permits).

17.124.030 Review Authority

A. The Planning Commission takes action on Conditional Use Permit and Master Use Permit applications.

B. The Community Development Director takes action on Minor Use Permit and Tenant Use Permit applications.

C. The Community Development Director may refer any Minor Use Permit and Tenant Use Permit application to the Planning Commission for review and final decision.

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17.124.040 Application Submittal and Review

Use Permit applications shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.124.070 (Findings for Approval).

17.124.050 Public Notice and Hearing

A. The Planning Commission shall review and act on a Conditional Use Permit or a Master Use Permit application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

B. Public notice of a pending action on a Minor Use Permit application shall be provided in compliance with Chapter 17.148 (Public Notice and Hearings). The Community Development Director shall hold a public hearing for a Minor Use Permit application only upon receiving a written request for a public hearing as provided in Section 17.148.030 (Notice of Pending Action).

C. No public hearing is required for a Tenant Use Permit.

17.124.060 Considerations

When evaluating a Conditional Use Permit, Minor Use Permit, or Master Use Permit application, the review authority shall consider the following characteristic of the proposed use:

A. Operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

B. Availability of adequate public services and infrastructure.

C. Potential impacts to the natural environment.

D. Physical suitability of the subject site for the proposed use in terms of design, location, operating characteristics, shape, size, topography.

17.124.070 Findings for Approval

To approve a Conditional Use Permit, Minor Use Permit, or Master Use Permit, the review authority shall make all of the following findings:

A. The proposed use is allowed in the applicable zoning district.

B. The proposed use is consistent with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.

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D. The proposed use will not be detrimental to the public health, safety, and welfare.

E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

17.124.080 Conditions of Approval

The Planning Commission or Community Development Director may attach conditions of approval to a use permit to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

17.124.090 Appeals and Post-Decision Procedures

A. Planning Commission decisions on Conditional Use Permits may be appealed to the City Council as described in Chapter 17.152 (Appeals).

B. Community Development Director decisions on Minor Use Permits or Tenant Use Permits may be appealed to the Planning Commission as described in Chapter 17.152 (Appeals).

C. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to Use Permits.

17.124.100 Master Use and Tenant Use Permits

A. Purpose. A Master Use Permit is a type of Conditional Use Permit that identifies permitted land uses within a commercial property occupied by multiple tenants. Tenant Use Permits are issued by the Community Development Director for individual tenants that comply with a Master Use Permit.

B. Master Use Permit Eligibility. To be eligible for a Master Use Permit, a property must:

1. Contain more than 10,000 square feet of floor area on a single parcel or on multiple adjoining parcels under one ownership;
2. Conform to all applicable parking and landscaping requirements; and
3. Contain leasable space for two or more tenants.

C. Permitting Process and Restrictions. The process to review and approve a Master Use Permit is the same as for a Conditional Use Permit, except as follows:

1. When approving a Master Use Permit, the Planning Commission shall specify the uses allowed on the property. Allowed uses are limited to uses permitted or conditionally permitted in the applicable zoning district.
2. The Planning Commission may establish a maximum size for an individual tenant and/or use.
3. A change of tenant larger than 12,000 square feet in a property with a Master Use Permit requires Planning Commission approval of an amendment to the existing

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Master Use Permit. A change in tenant larger than 12,000 square feet may not be approved with a Tenant Use Permit.

4. The Planning Commission may deny a Master Use Permit upon finding that particular circumstances of the property, including an existing or proposed use, require a standard Conditional Use Permit process to protect the public health, safety, and welfare.

D. Tenant Use Permits.

1. A land use proposed within a property subject to a Master Use Permit may be established with a Tenant Use Permit, except for tenants 12,000 square or more as described in paragraph 3 above.

2. Tenant Use Permits are approved by the Community Development Director. The Director shall approve a Tenant Use Permit if the proposed use is consistent with the conditions of the Master Use Permit and the requirements of this section.

E. Tenant Notification. Prior to leasing space on a property with a Master Use Permit, the permit holder shall inform the prospective tenant of the conditions of approval attached to the Master Use Permit and the requirements of this section.

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Chapter 17.128 – VARIANCES

Sections:

17.128.010 Purpose
17.128.020 When Allowed
17.128.030 Review Authority
17.128.040 Application Submittal and Review
17.128.050 Public Notice and Hearing
17.128.060 Findings for Approval
17.128.070 Conditions of Approval
17.128.080 Precedent
17.128.090 Appeals and Post-Decision Procedures

17.128.010 Purpose

This chapter identifies the process to obtain a Variance. A Variance is a discretionary permit that allows for deviation from development standards in the Zoning Code. The City may grant a Variance only when the strict application of development standards creates a unique hardship due to unusual circumstances associated with the property.

17.128.020 When Allowed

A. Allowable Variances. The City may grant a Variance to allow for deviation from any physical development standard that applies to the subject property. Examples of physical development standards include height, setbacks, open space, floor area ratio (FAR), and off-street parking requirements.

B. Variances Not Allowed. A Variance may not be granted to:

1. Permit a use other than a use permitted in the zoning district as specified in Part 2 (Zoning Districts and Overlay Zones).
2. Reduce the minimum lot size for single-family dwellings or minimum site area per dwelling unit requirements for multi-family developments.
3. Reduce the protection of an environmentally sensitive habitat area except as specifically provided in Chapter 17.64 (Environmentally Sensitive Habitat Areas).
4. Reduce a geologic setback as provided in Chapter 17.68 (Geologic Hazards).
5. Allow deviation from a requirement of the General Plan or Local Coastal Program Land Use Plan.

17.128.030 Review Authority

The Planning Commission takes action on all Variance applications.

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17.128.040 Application Submittal and Review

An application for a Variance shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review) and, in the coastal zone, in compliance with Chapter 17.44 (Coastal Overlay Zone) as part of the Coastal Development Permit application. The application shall include the information and materials required by the Community Development Department for Variance applications, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.128.060 (Findings for Approval).

17.128.050 Public Notice and Hearing

The Planning Commission shall review and act on a Variance application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings.

17.128.060 Findings for Approval

To approve a Variance application, the Planning Commission shall make all of the following findings:

A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.

B. The strict application of the Zoning Code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.

C. The Variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.

D. The Variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity or in the same zone as the subject property.

E. The Variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.

F. The Variance will not have adverse impacts on coastal resources.

17.128.070 Conditions of Approval

The Planning Commission may attach conditions of approval to a Variance to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

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17.128.080 Precedent

The approval of a Variance shall not set the precedent for the granting of any future Variance. Each application shall be considered only on its individual merits.

17.128.090 Appeals and Post-Decision Procedures

A. Planning Commission decisions on Variances may be appealed to the City Council as described in Chapter 17.152 (Appeals)

B. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Variances.

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Chapter 17.132 – SIGN PERMITS

Sections:

17.132.010 Purpose
17.132.020 Types of Sign Permits
17.132.030 When Required
17.132.040 Review Authority
17.132.050 Application Submittal and Review
17.132.060 Public Notice and Hearing
17.132.070 Findings for Approval
17.132.080 Conditions of Approval
17.132.090 Post-Decision Procedures

17.132.010 Purpose

This chapter establishes the process for obtaining a Sign Permit. A Sign Permit is a discretionary action that enables the City to ensure that a proposed sign is consistent with all General Plan and Local Coastal Program Land Use Plan goals and policies and will not create negative impacts to adjacent properties or the general public.

17.132.020 Types of Sign Permits

The Zoning Code establishes two types of Sign Permits: Sign Permits reviewed and approved by the Planning Commission and Administrative Sign Permits reviewed and approved by the Community Development Director.

17.132.030 When Required

A Sign Permit is required for types of signs identified in Chapter 17.80.030 (Permit Requirements).

17.132.040 Review Authority

A. The Planning Commission takes action on all Sign Permit applications.

B. The Community Development Direction takes action on all Administrative Sign Permit applications.

17.132.050 Application Submittal and Review

An application for a Sign Permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.132.060 (Findings for Approval).

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17.132.060 Public Notice and Hearing

A. The Planning Commission shall review and act on a Sign Permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

B. No public hearing is required for an Administrative Sign Permit.

17.132.070 Findings for Approval

The reviewing authority may approve a Sign Permit if all of the following findings can be made:

A. The proposed signs are consistent with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

B. The proposed signs comply with all applicable standards in Chapter 17.80 (Signs).

C. The proposed sign will not adversely impact the public health, safety, or general welfare.

D. The number, size, placement, design, and material of the proposed signs are compatible with the architectural design of buildings on the site.

E. The proposed signs are restrained in character and no larger than necessary for adequate identification.

17.132.080 Conditions of Approval

The review authority may attach conditions of approval to a Sign Permit to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

17.132.090 Post-Decision Procedures

A. Planning Commission decisions on Sign Permits may be appealed to the City Council as described in Chapter 17.152 (Appeals).

B. Community Development Director decisions on Administrative Sign Permits may be appealed to the Planning Commission as described in Chapter 17.152 (Appeals).

C. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to Sign Permits.

Attachment: Public Review Draft Zoning Code 7.31.2020 (Overview of Zoning Code Public Review in Preparation for Adoption)

Chapter 17.136 – MINOR MODIFICATIONS

Sections:

17.136.010 Purpose
17.136.020 When Allowed
17.136.030 Review Authority
17.136.040 Application Submittal and Review
17.136.050 Public Notice and Hearing
17.136.060 Findings for Approval
17.136.070 Conditions of Approval
17.136.080 Appeals and Post-Decision Procedures

17.136.010 Purpose

This chapter establishes the process to obtain a Minor Modification. A Minor Modification allows for small deviations from development standards to accommodate projects which meet the needs of property owners, are consistent with the purpose of the Zoning Code and General Plan and Local Coastal Program Land Use Plan, and do not negatively impact neighboring properties or the community at large.

17.136.020 When Allowed

A. **Permitted Modifications.** The Planning Commission may approve a Minor Modification to allow for a maximum 10 percent deviation from a physical development standard that applies to the subject property. Types of physical development standards eligible for a Minor Modification include:

1. Dimensional standards and setbacks for parking spaces, driveways, garages, parking lots, and loading areas; and
2. Minimum and maximum setbacks from property lines;
3. Other similar dimensional standards as determined by the Community Development Director.

B. **Excluded Modifications**. The City may not approve Minor Modifications for:

1. Minimum required on-site open space and landscaping;
2. Maximum height of buildings, fences, walls, and other structures;
3. Lot area, width, or depth;
4. Minimum number of off-street parking spaces;
5. Maximum residential density; or
6. Maximum floor area ratio (FAR).

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7. Setbacks from ESHA or geologic hazards.

17.136.030 Review Authority

The Planning Commission takes action on Minor Modifications applications.

17.136.040 Application Submittal and Review

An application for a Minor Modification shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review) or, in the coastal zone, Chapter 17.44 (Coastal Overlay Zone) with a Coastal Development Permit. The application shall include the information and materials required by the Community Development Department for Minor Modification applications, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.136.060 (Findings for Approval).

17.136.050 Public Notice and Hearing

The Planning Commission shall review and act on a Minor Modification application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

17.136.060 Findings for Approval

To approve a Minor Modification application, the Planning Commission shall make all of the following findings:

A. The modification will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.

B. The modification will not adversely impact neighboring properties or the community at large.

C. The modification is necessary due to unique characteristics of the subject property, structure, or use.

D. The modification will be consistent with the purpose of the zoning district, the General Plan, Local Coastal Program, and any adopted area or neighborhood plan.

E. The modification is consistent with the General Plan, Local Coastal Program, and any applicable specific plan or area plan adopted by the City Council.

F. The modification will not establish a precedent.

G. The modification will not adversely impact coastal resources.

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17.136.070 Conditions of Approval

The Planning Commission may attach conditions of approval to a Minor Modification to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

17.136.080 Appeals and Post-Decision Procedures

A. Planning Commission decisions on Minor Modifications may be appealed to the City Council as described in Chapter 17.152 (Appeals)

B. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to Minor Modifications

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Chapter 17.140 – REASONABLE ACCOMMODATIONS

Sections:

17.140.010 Purpose
17.140.020 When Allowed
17.140.030 Review Authority
17.140.040 Public Notice of Process Availability
17.140.050 Application Requirements
17.140.060 Review Procedure
17.140.070 Criteria for Decision
17.140.080 Conditions of Approval
17.140.090 Appeals and Post-Decision Procedures

17.140.010 Purpose

This chapter establishes a procedure for requesting reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act. A reasonable accommodation is typically an adjustment to physical design standards to accommodate the placement of wheelchair ramps or other exterior modifications to a dwelling in response to the needs of a disabled resident.

17.140.020 When Allowed

A. Eligible Applicants. A request for reasonable accommodation may be made by any person with a disability, their representative, or any entity, when the application of the Zoning Code or other land use regulations, policy, or practice acts as a barrier to fair housing opportunities.

B. Definition. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment.

C. Eligible Request. A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

17.140.030 Review Authority

A. Community Development Director. The Community Development Director shall take action on reasonable accommodation applications if the application is not filed for concurrent review with an application for discretionary review by the Planning Commission or City Council.

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B. Other Review Authority. If a reasonable accommodation application is submitted concurrently with a permit application reviewed by the Planning Commission or City Council, the reasonable accommodation application shall be reviewed by the Planning Commission or City Council.

C. Referral to Planning Commission. The Community Development Director may refer any reasonable accommodation application to the Planning Commission for review and final decision.

17.140.040 Public Notice of Process Availability

Notice of the availability of the reasonable accommodation process shall be publicly displayed at City Hall. Forms for requesting reasonable accommodation shall be available to the public at the Community Development Department at City Hall.

17.140.050 Application Requirements

A. Application. A request for reasonable accommodation shall be submitted on an application form provided by the Community Development Department along with any fees required by the Planning Fee Schedule.

B. Review with Other Land Use Applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (e.g., Conditional Use Permit, Design Review, Coastal Development Permit), then the applicant shall file the reasonable accommodation application materials together for concurrent review with the application for discretionary approval.

C. Application Timing. A request for reasonable accommodation may be filed at any time that the accommodation is necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligation to comply with other applicable regulations not at issue in the requested accommodation.

D. Application Assistance. If an individual needs assistance in making the request for reasonable accommodation, the City will provide assistance to ensure that the process is accessible to the individual.

17.140.060 Review Procedure

A. Director Review.

1. The Community Development Director shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation.
2. If necessary to reach a determination on the request for reasonable accommodation, the Community Development Director may request further information from the applicant consistent with fair housing laws. In the event that a request for additional

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information is made, the forty-five-day period to issue a decision is stayed until the applicant submits the requested information.

B. Other Review Authority. The determination on whether to grant or deny the request for reasonable accommodation submitted concurrently with a discretionary permit application shall be made by the Planning Commission or City Council in compliance with the review procedure for the discretionary review.

17.140.070 Criteria for Decision

The review authority shall make a written decision and either approve, approve with modifications, or deny a request for reasonable accommodation based on consideration of all of the following factors:

A. Whether the housing which is the subject of the request will be used by an individual defined as disabled under the Americans with Disabilities Act.

B. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Americans with Disabilities Act.

C. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.

D. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.

E. Potential impacts on surrounding uses.

F. Physical attributes of the property and structures.

G. Other reasonable accommodations that may provide an equivalent level of benefit.

17.140.080 Conditions of Approval

In approving a request for reasonable accommodation, the review authority may impose conditions of approval to ensure that the reasonable accommodation will comply with the criteria required by Section 17.140.070 (Criteria for Decision~~)~~

17.140.090 Appeals and Post-Decision Procedures

A. Appeals. Reasonable accommodation decisions may be appealed consistent with Chapter 17.152 (Appeals). If an applicant needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure that the appeals process is accessible.

B. Other Post-Decision Procedures. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to reasonable accommodation decisions.

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Chapter 17.144 – ZONING CODE AND LOCAL COASTAL PROGRAM AMENDMENTS

Sections:

17.144.010 Purpose
17.144.020 Initiation
17.144.030 Application
17.144.040 Planning Commission Hearing and Action
17.144.050 City Council Hearing and Action
17.144.060 Findings for Approval
17.144.070 Effective Dates
17.144.080 Local Coastal Program Amendments

17.144.010 Purpose

This chapter establishes procedures for amending the Zoning Code and Zoning Map. All amendments to the Zoning Code shall be processed as set forth in Government Code Section 65853 et seq. and as specified in this chapter.

17.144.020 Initiation

A. Zoning Map Amendment. A request for an amendment to the Zoning Map may be initiated by:

1. The City Council;
2. The Planning Commission;
3. The Community Development Director; or
4. One or more owners of the property for which the amendment is sought.

B. Zoning Code Text Amendment. A request for an amendment to the text of the Zoning Code may be initiated by the following:

1. The City Council;
2. The Planning Commission;
3. The Community Development Director; or
4. Any resident, property owner, or business owner in the city.

17.144.030 Application

An application for a Zoning Code Amendment shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department, together with all required application fees. For amendments submitted by a resident, property owner,

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or business owner, it is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.144.060 (Findings for Approval).

17.144.040 Planning Commission Hearing and Action

A. Public Notice and Hearing. The Planning Commission shall review and act on a proposed Zoning Map Amendment and Zoning Code Amendment at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

B. Recommendation of Approval. The Planning Commission may recommend to the City Council the approval or conditional approval of the proposed Zoning Map Amendment or Zoning Code Amendment, based upon the findings specified in Section 17.144.060 (Findings for Approval). The Planning Commission shall forward a written recommendation, and the reasons for the recommendation, to the City Council within 90 days after the date the hearing was closed to the public. A recommendation for approval shall be made by a majority vote of the total membership of the Planning Commission.

C. Denial. The Planning Commission may deny the proposed Zoning Code Amendment based upon the findings specified in Section 17.144.060 (Findings for Approval). For a Zoning Map Amendment, if the action of the Planning Commission is to recommend denial, the City Council is not required to take further action on the proposed amendment unless an interested party requests a hearing in writing with the City Clerk within ten days after the Planning Commission recommendation is filed with the City Council.

17.144.050 City Council Hearing and Action

A. General. After receipt of the Planning Commission's recommendation to approve a proposed Zoning Code Amendment or Zoning Map Amendment, the City Council shall hold a public hearing on the proposal in compliance with Chapter 17.148 (Public Notice and Hearings).

B. Approval or Denial. The City Council may approve, conditionally approve, or deny the proposed Zoning Code Amendment or Zoning Map Amendment based upon the findings specified in Section 17.144.060 (Findings for Approval).

C. Finality of Action. The action by the City Council shall be made by a majority vote of the total membership of the City Council and shall be final and conclusive except for amendments within the coastal zone, in which case the City shall submit the Zoning Code Amendment or the Zoning Map Amendment to the Coastal Commission for certification (see Section 17.144.080 (Local Coastal Program Amendments)).

D. Referral to Planning Commission. If the City Council proposes to adopt a substantial modification to the Zoning Code Amendment not previously considered by the Planning Commission, the proposed modification shall be first referred to the Planning Commission for its recommendation.

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E. Failure to Report. The failure of the Planning Commission to report back to the City Council within 40 days after the reference, or within the time set by the City Council, shall be deemed a recommendation of approval.

17.144.060 Findings for Approval

The City Council may approve a Zoning Code Amendment or Zoning Map Amendment only if all of the following findings are made:

A. Findings for all Zoning Code and Zoning Map Amendments.

1. The proposed amendment is consistent with the General Plan and any applicable specific plan as provided by Government Code Section 65860.
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

B. Additional Finding for Zoning Code Text Amendments. The proposed amendment is internally consistent with other applicable provisions of the Zoning Code.

C. Additional Finding for Zoning Map Amendments. The affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the permitted land uses and development will comply with the Zoning Code and General Plan and contribute to the health, safety, and welfare of the property, surrounding properties, and the community at large.

17.144.070 Effective Dates

A Zoning Code Amendment or Zoning Map Amendment becomes effective 30 days following the adoption of the ordinance by the City Council unless the Zoning Code Amendment affects a component of the certified Local Coastal Program Implementation Plan or if a Zoning Map Amendment affects property in the coastal zone (see Section 17.44.080 (Local Coastal Program Amendments) below).

17.44.080 Local Coastal Program Amendments

Upon adoption by the City Council of amendments to the Local Coastal Program (LCP) Land Use Plan (LUP) and/or the LCP Implementation Plan (IP), the City shall submit the amendments to the Coastal Commission for certification.

A. Adopted Resolution. All LCP Amendment submittals must include a City Council Resolution that:

1. Is signed and dated by an authorized member of the City Council;
2. Indicates that the LCP Amendment is intended to be carried out in a manner fully consistent with the Coastal Act;

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3. Indicates whether the proposed LCP Amendment will take effect automatically upon final Coastal Commission certification or will require formal City Council review/adoption after final Coastal Commission certification,

B. Copy of the Proposed LCP Amendment. The submittal shall include a copy of the relevant document (LUP/community plan/ordinance) in strikethrough and underline format. If the LCP Amendment proposes a change to an approved map, the submittal must include a graphic depiction of how the map is being changed.

C. Local Government Staff Report. The submittal shall include copies of the local government staff reports, as these are necessary to demonstrate consistency of the LCP Amendment with Chapter 3 of the Coastal Act (for LUP amendments) or to demonstrate conformity with and adequacy to carry out the certified Land Use Plan (for IP amendments).

1. The staff report should include a discussion of the LCP Amendments relationship and effect on other section of the LCP.
2. For LUP Amendments:
   i. The staff report should include an analysis of how the amendment is consistent with the Chapter 3 policies of the Coastal Act.
   ii. The staff report should also indicate what zoning measures or implementation actions will be used to carry out the LUP amendment.
3. For IP (zoning/municipal code) amendments, the staff report should include an analysis of how the amendment is in conformity with and adequate to carry out the certified LUP.
4. In addition, if the affected area or application of an ordinance would involve land situated between the ocean and first public through road, or overall intensity of development, the local government staff report should address any potential effects that the proposed amendment will have on public access.

D. Supplementary Information/Environmental Review Documents. In addition to the City's staff reports, the submittal should include any supplementary analysis or information prepared or relied on (e.g. vulnerability assessments, hazard mitigation plans, biological studies, traffic analyses, geotechnical reports, etc.) and a copy of any environmental document.

E. Local Hearing Dates and Notices.

1. The submittal must include a listing of the local hearing dates and copies of all local hearing notices.
2. These materials must document that:
   i. The LCP Amendment was properly noticed (i.e. the notices must indicate the item involves an LCP amendment and is not effective until or and unless approved by the Coastal Commission);

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ii. The notices of availability were mailed and public review drafts were available at least six weeks prior to the City's final action date, and;

iii. The City's hearing notices to all interested parties and public agencies were distributed no less than ten working days before the hearing and that the hearing was also noticed by general publication.

F. Copies of Speaker Slips, Written Comments and Adopted Minutes. The submittal must include copies of all speaker slips, all written correspondence received, and the Planning Commission/City Council minutes for the item. The copies should be accompanied by a separate list of each speaker or written correspondence received, and their contact information.

G. Mailing/Noticing List. The submittal must include a copy of the mailing/noticing list used by the City. Notices for local LCP Amendment hearings must be sent to: 1) anyone who requests it; 2) each contiguous local government; 3) any local government, special district or port district that could be affected by the LCP Amendment; 4) local libraries and media; 5) and any regional or federal agencies that may have an interest in or be affected by the LCP Amendment.

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Chapter 17.148 – PUBLIC NOTICE AND HEARINGS

Sections:

17.148.010 Purpose
17.148.020 Notice of Hearing
17.148.030 Notice of Pending Action for Minor Use Permits and Administrative Design Permits
17.148.040 Notice for Wireless Communication Facility Aplications
17.148.050 Scheduling of Hearing
17.148.060 Hearing Procedure
17.148.070 Recommendations
17.148.080 Decision and Notice

17.148.010 Purpose

This chapter establishes procedures for public notices and hearings required by the Zoning Code.

17.148.020 Notice of Hearing

When the Zoning Code requires a noticed public hearing, the City shall provide notice of the hearing as required by this section and by the California Government Code.

A. Content of Notice. Notice of a public hearing shall include all of the following information, as applicable.

1. **Hearing Information.** The date, time, and place of the hearing; the name of the hearing body; and the phone number, email address, and street address of the Community Development Department where an interested person could call or visit to obtain additional information.

2. **Project Information.** 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. **Statement on Environmental Document.** 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.

4. **Zoning Map Amendments (Rezoning).** Public notices posted onsite for proposed Zoning Map Amendments (rezoning) shall consist of the words "Notice of Proposed Change of Zone" printed in plain type with letters not less than 1½ inches in height.

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B. Method of Notice Distribution. Notice of a public hearing required by the Zoning Code shall be given at least ten calendar days before the hearing date in compliance with Sections 1 through 5 below and as summarized in Table 17.148-1.

TABLE 17.148-1: METHOD OF NOTICE DISTRIBUTION

Type of Permit or Approval Hearing	Mailed notice	Printed notice posted at site	Notice published in newspaper
Conceptual Review Design Permit & Appeal Major Revocable Encroachment Permit & Appeal Minor Modification & Appeal Minor Design Permit Appeal Minor Use Permit Appeal Removal of Structure from Designated Historic Structure List Sign Permit & Appeal Historic Alteration Permit Historic Resource Demolition Permit Tenant Use Permit Appeal	Yes 300-foot radius for adjacent property owners	Yes	No
Development Agreement Variance & Appeal Conditional Use Permit & Appeal Master Use Permit, Amendment, & Appeal Condominium Conversion & Appeal Subdivision & Appeal Development Plans (PD Zones)	Yes 300-foot radius for adjacent property owners	Yes	Yes
Zoning Code and Map Amendment General Plan Amendment Coastal Land Use Plan Amendment	Determined by type of proposed amendment. See California Government Code.	Determined by type of proposed amendment. See California Government Code.	Yes
Coastal Development Permit & Appeal	Yes 100-foot radius for adjacent property owners	Yes	Yes
Notice of Administrative Review for Minor Design Permit and Minor Use Permit	Yes 100-foot radius	Yes	No

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Wireless Communication Facility Permits and Approvals	See Chapter 17.104 (Wireless Communication Facilities)

1. **Newspaper Publication.** Where required by Table 17.148-1, notice shall be published in at least one newspaper of general circulation at least ten calendar days before the hearing.
2. **Mailing.** Where required by Table 17.148-1, notice shall be mailed at least ten calendar days before the scheduled hearing to the following recipients:
   a. **Project Site Owners and the Applicant.** The owners of the subject property or the owner's authorized agent, and the applicant.
   b. **Adjacent Property Owners.** For all hearings before the Planning Commission and appeals thereof with the exception of solely Coastal Development Permits, the owners of the real property located within a radius of 300 feet from the exterior boundaries of the subject property.
   c. **California Coastal Commission.** For applications including a Coastal Development Permit, a notice shall be mailed to the California Coastal Commission Central Coast office.
   d. **Local Agencies.** Each local agency expected to provide roads, schools, sewerage, streets, water, or other essential facilities or services to the subject property, whose ability to provide those facilities and services may be significantly affected.
   e. **Persons Requesting Notice.** Any person who has filed a written request for notice with the Community Development Department.
   f. **Blind, Aged, and Disabled Communities.** 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. **Other Persons.** Any other person whose property, in the judgment of the Community Development Department, might be affected by the proposed project.
3. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Subsection 2 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.
4. **Posting.** A printed notice shall be posted at the project site at least ten calendar days prior to the hearing.

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

6. **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.

17.148.030 Notice of Pending Action for Minor Use Permits and Minor Design Permits

A. For Minor Use Permit and Administrative Design Review applications, public notice of a pending action shall be mailed to the owners of the real property located within a radius of 100 feet from the exterior boundaries of the subject property at least ten calendar days prior to the City taking action on the application.

B. In addition to information required by Section 17.148.020.A, the notice of a pending action shall state that the City is considering the application and that the Community Development Director will hold a public hearing for the application only if a member of the public submits to the City a written request for a hearing within ten calendar days of the notice being sent.

C. If the City receives a request for a public hearing within ten calendar days of the notice being sent, the Community Development Director shall hold a noticed public hearing on the application consistent with this chapter. Public notice of the requested public hearing will be mailed to the owners of real property located within a radius of 100 feet from the exterior boundaries of the subject property.

D. If no request for a public hearing is received by the specified date, the Community Development Director shall act on the application without a public hearing.

17.148.040 Notice for Wireless Communication Facility Applications

Public notice for wireless communication facility applications shall be given in accordance with Section 17.104.040 (Public Notice and Hearing).

17.148.050 Scheduling of Hearing

After the completion of any environmental document required by the California Environmental Quality Act (CEQA), and a Community Development Department staff report, a matter requiring a public hearing shall be scheduled on the next available agenda reserved for public hearings, but no sooner than any minimum time period established by State law.

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17.148.060 Hearing Procedure

A. General. Hearings shall be conducted in a manner consistent with the procedures adopted or endorsed by the hearing body and consistent with the open meeting requirements of the Ralph M. Brown Act.

B. Time and Place of Hearing. A hearing shall be held at the date, time, and place for which notice was given, unless the required quorum of hearing body members is not present.

C. Continued Hearing. Any hearing may be continued without further public notice, provided that the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.

D. Motion of Intent. The hearing body may announce a tentative decision, and defer action on a final decision until appropriate findings and conditions of approval have been prepared.

17.148.070 Recommendations

After a public hearing resulting in a recommendation to another hearing body, the recommendation shall be forwarded to the other hearing body. A copy of the staff report to other hearing body with the recommendation shall be provided to applicant.

17.148.080 Decision and Notice

A. Date of Action. The hearing body shall take action on the matter being considered following the close of the public hearing. The hearing body shall also take action on projects within the following timeframe as required by the California Environment Quality Act (CEQA):

1. Within 60 days of the date a Negative Declaration or Mitigated Negative Declaration has been adopted for project approval, the City shall take action on the accompanying discretionary project.
2. Within 180 days from the date the decision-making authority certifies a final Environmental Impact Report (EIR), the City shall take action on the accompanying discretionary project.

B. Decision.

1. The hearing body may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing, or make a motion of intent and continue the matter to a later meeting agenda.
2. At the conclusion of a hearing conducted by the Community Development Director, the Community Development Director may choose to refer the matter to the Planning Commission for review and final decision. Referral to the Planning

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Commission may be chosen in cases of unusual public sensitivity, controversy, or complexity relating to the requested approval.

C. Notice of Decision.

1. If the review authority denies a permit, notice shall be mailed to the applicant and property owner the next day and shall include procedures for appeal, if applicable.

2. Following a final decision granting a permit and conclusion of the appeal period as described in Section 17.152, the Community Development Department shall provide notice of the final action to the applicant and to any person who specifically requested notice of the final action.

   a. Notice of an approved final action shall contain applicable findings, conditions of approval, reporting and monitoring requirements, and the expiration date of the permit.

   b. Notice of final actions that include a Coastal Development Permit that may be appealed to the California Coastal Commission will include notice that they are subject to an additional ten-working-day appeal period.

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Chapter 17.152 – APPEALS

Sections:

17.152.010 Purpose
17.152.020 Appeal Subjects and Jurisdiction
17.152.030 Filing and Processing of Appeals
17.152.040 Judicial Review

17.152.010 Purpose

This chapter establishes procedures for the appeal and call for review of actions and decisions made by the Planning Commission and the Community Development Director. This chapter supplements general procedures for appeals to the City Council in Municipal Code Chapter 2.52 (Appeals to the City Council). In the case of any conflict between this chapter and Chapter 2.52, this chapter governs.

17.152.020 Appeal Subjects and Jurisdiction

A. Community Development Director Decisions. Any decision of the Community Development Director may be appealed to the Planning Commission.

B. Planning Commission Decisions. Any decision of the Planning Commission may be appealed to the City Council.

C. Coastal Development Permits. Appeal procedures for Coastal Development Permits shall be as specified in Chapter 17.44.150 (Appeals).

17.152.030 Filing and Processing of Appeals

A. Eligibility. Any person may submit an appeal of a decision by the Community Development Director and the Planning Commission.

B. Timing of Appeal. An appeal shall be filed within ten calendar days following the date the decision was rendered, unless a longer appeal period is specified as part of the project approval. In the event the completion of the appeal period falls on a weekend or holiday, the decision shall become effective after 5:00 pm on the first business day following the completion of the appeal period.

C. Form of Appeal.

1. An appeal shall be submitted in writing on an official City application form together with all required application fees.
2. The appeal application shall state the pertinent facts and the basis for the appeal.
3. The whole decision or part of the decision may be appealed. If an appellant chooses, an appeal may be taken solely from any finding, action, or condition.

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D. Effect of Appeal. Once an appeal is filed, any action on the associated project is suspended until the appeal is processed and a final decision is rendered by the review authority.

E. Report and Scheduling of Hearing.

1. When an appeal has been filed, the Community Development Department shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority within 90 days of receiving the appeal.
2. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 17.148 (Public Notice and Hearings).
3. Any interested person may appear and be heard regarding the appeal.
4. All appeals on a single project shall be considered together at the same hearing.

F. Hearing and Decision.

1. During the appeal hearing, the review authority may take action on any aspect of the appealed project (de novo review). The review authority shall make its own decision supported by findings.
2. The review authority's decision may:
   a. Affirm, affirm in part, or reverse the action that is the subject of the appeal;
   b. Adopt additional conditions of approval that address the matter appealed; or
   c. Remand the appeal for further review, recommendation, or action to the previous review authority.
3. The review authority's action shall be based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal and verify the compliance of the subject of the appeal with the Zoning Code.
4. A matter being heard on appeal may be continued for good cause (e.g. additional California Environmental Quality Act (CEQA) review is required).
5. If the hearing body is unable to reach a decision on the matter appealed, the appeal and the decision of the previous review authority shall remain in effect.

G. Effective Date of Appeal Decision.

1. **City Council's Decision.** A decision of the City Council on an appeal is final and shall be effective on the date the decision is rendered.
2. **Other Decisions.** A decision of the Planning Commission is final and effective after 5:00 p.m. on the tenth calendar day following the date the decision is rendered, when no appeal to the decision or call for review has been filed in compliance with this chapter. In the event the completion of the appeal period falls on a weekend or

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holiday, the decision shall become effective after 5:00 pm on the first business day following the completion of the appeal period.

17.152.040 Judicial Review

No person may seek judicial review of a City decision on a permit or other matter in compliance with the Zoning Code until all appeals to the Planning Commission and City Council have been first exhausted in compliance with this chapter.

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Chapter 17.156 – POST-DECISION PROCEDURES

Sections:

17.156.010 Purpose
17.156.020 Issuance of Permits
17.156.030 City Council Decisions
17.156.040 Effective Date of Decision
17.156.050 Conformance to Approved Plans
17.156.060 Performance Guarantees
17.156.070 Changes to an Approved Project
17.156.080 Time Limits and Extensions
17.156.090 Resubmittals
17.156.100 Permits to Run with the Land
17.156.110 Permit Revocation

17.156.010 Purpose

This chapter establishes procedures and requirements that apply following a City decision on a permit required by the Zoning Code.

17.156.020 Issuance of Permits

Permits shall not be issued until the effective date, provided that no appeal of the review authority's decision has been filed in compliance with Chapter 17.152 (Appeals).

17.156.030 City Council Decisions

All decisions of the City Council on appeals, legislative actions, and other matters are final and conclusive except for decisions which may be appealed to the Coastal Commission.

17.156.040 Effective Date of Decision

A. City Council Decisions.

1. A decision of the City Council on a project outside of the Coastal Zone is final and shall be effective on the date the decision is rendered.
2. A decision of the City Council on a project within the Coastal Zone that is not appealable to the Coastal Commission is final and shall be effective on the date the Coastal Commission receives a Notice of Final Action consistent with Section 17.44.130 (Notice of Final Action).
3. A decision of the City Council on a project within the coastal zone that is appealable to the Coastal Commission is final and shall be effective after 5:00 p.m. on the tenth working day following the Coastal Commission's receipt of the Notice of Final

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Action when no appeal of the decision has been filed with the Coastal Commission in compliance with Chapter 17.44.150 (Appeals).

B. Other Decisions. The decision of the Community Development Director or Planning Commission is final and effective after 5:00 p.m. on the tenth day following the date the decision is rendered, when no appeal of the decision has been filed in compliance with Chapter 17.152 (Appeals).

17.156.050 Conformance to Approved Plans

A. Compliance. All work performed under an approved permit shall be in compliance with the approved drawings and plans and any conditions of approval imposed by the review authority.

B. Changes. Changes to an approved project shall be submitted and processed in compliance with Section 17.156.070 (Changes to an Approved Project).

17.156.060 Performance Guarantees

A. Security Required. The Community Development Director may require an applicant to provide adequate security to guarantee the proper completion of any approved work or compliance with any conditions of approval.

B. Form of Security. The security shall be in the form of cash, a certified or cashier's check, or a performance bond executed by the applicant and a corporate surety authorized to do business in California and approved by the City.

C. Amount of Security. The Community Development Director shall determine the amount of the security necessary up to 150 percent of project cost to ensure proper completion of the approved work or compliance with any conditions of approval.

D. Duration of Security. The security shall remain in effect until all work has been completed and conditions fulfilled to the satisfaction of the Community Development Director or until a specified warranty period has elapsed.

E. Release of Security. The security deposit shall be released upon completion of the approved work or compliance with any conditions of approval.

F. Failure to Comply.

1. Upon failure to complete any work or comply with conditions, the City may complete the work or fulfill the condition, and may collect from the applicant or surety all costs incurred, including administrative, engineering, legal, and inspection costs.
2. Any unused portion of the security shall be refunded to the funding source.

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17.156.070 Changes to an Approved Project

An approved project shall be established only as approved by the review authority, except when changes to the project are approved in compliance with this section.

A. Request for a Change. An applicant shall request desired changes in writing, and shall submit appropriate supporting materials and an explanation for the request.

B. Notice and Hearing. If the original approval required a noticed public hearing, a noticed public hearing is required for the requested change, except as allowed by Subsection C (Minor Changes).

C. Minor Changes. The Community Development Director may authorize minor changes to an approved project if the changes comply with all of the following criteria:

1. The requested changes are consistent with the Zoning Code.
2. The requested changes are consistent with the spirit and intent of the original approval.
3. The requested changes do not involve a feature of the project that was a basis for findings in a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report for the project.
4. The requested changes do not involve a feature of the project that was a basis for conditions of approval for the project.
5. The requested changes do not involve a feature of the project that was a specific consideration by the review authority in granting the approval.
6. The requested changes do not involve any expansion, intensification, or increase in size of the land use or structure.
7. The requested changes comply with the criteria above and involve a minor change to the project design that maintains the essential elements of the project as originally approved. Minor changes to a project design include but are not limited to modifications to:
    a. The location, size, or design of a surface parking area if consistent with Chapter 17.76 (Parking and Loading).
    b. The location or design of an accessory structure 120 square feet and 10 feet in height or less.
    c. The size, placement, or number of doors and windows provided the changes affect fewer than 25 percent of the structure's doors and windows and no new privacy impacts would be created.
    d. Materials affecting less than 25 percent of the building facade provided the changes maintain the approved architectural style of the structure.
    e. Fences and walls if consistent with Chapter 17.60 (Fences and Walls).

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f. Landscaping if consistent with Chapter 17.72 (Landscaping).

g. Exterior lighting if consistent with Chapter 17.96 (Supplemental Standards).

h. Roof forms and materials provided there is no increase in structure height.

i. Facade articulation such as porch columns, shutters, tile work, and other architectural details. Modifications that fundamentally alter the architectural style of a structure are not considered a minor change.

j. The number, location, and size of decks and patios provide no new noise or privacy impacts would be created.

k. The number, size, type, and location of skylights.

l. Other similar minor changes to project design as determined by the Community Development Director.

17.156.080 Time Limits and Extensions

A. Expiration of Permit.

1. A permit not exercised within two years shall expire and become void, except where an extension of time is approved as allowed by Subsection C (Extension of Time) below.

2. A permit shall expire and become void if the permitted land use is abandoned or discontinued for one year or longer.

B. Exercised Defined. A permit or approval shall be considered exercised when:

1. A building permit is issued and construction has commenced;

2. A certificate of occupancy is issued; or

3. The land use is established.

C. Extension of Time. The Community Development Director may approve extensions to a permit in the following manner:

1. Extensions to a permit may be approved by the review authority which originally approved the permit.

2. In instances where the Community Development Director was the approval authority, the Community Development Director may choose to refer any action to extend a permit to the Planning Commission for review and final decision.

3. The review authority may approve up to two two-year extensions (four years total) to a permit. The review authority may also approve an extension up to the expiration date of a valid tentative map as allowed by the Subdivision Map Act for projects involving a subdivision of land if such an extension is necessary to prevent a substantial hardship for the project applicant.

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4. The applicant shall submit to the Community Development Department a written request for an extension of time no later than ten days before the expiration of the permit.
5. The review authority may extend the permit if the applicant has proceeded in good faith and has exercised due diligence in efforts to exercise the permit in a timely manner.
6. The burden of proof is on the applicant to demonstrate that the permit should be extended.

17.156.090 Resubmittals

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

B. Determination. The Community Development Director shall determine whether the new application is for a permit which is the same or substantially similar to the previously denied or revoked permit.

C. Appeal. The determination of the Community Development Director may be appealed to the Planning Commission, in compliance with Chapter 17.112 (Permit Application and Review).

17.156.100 Permits to Run with the Land

Permits issued in compliance with the Zoning Code remain valid upon change of ownership of the site, structure, or land use that was the subject of the permit application.

17.156.110 Permit Revocation

Any discretionary permit may be revoked as provided for in this section.

A. Review Authority.

1. A permit may be revoked by the review authority which originally approved the permit.
2. In instances where the Community Development Director was the approval authority, the Community Development Director may choose to refer any action to revoke a permit to the Planning Commission for review and final decision.

B. Property Owner Notification. Prior to initiating proceedings to revoke a permit, the Community Development Director shall notify the property owner of the permit violations, identify necessary corrections, and establish a reasonable period within which the property owner shall correct the violations. If the property owner has not corrected

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the violation within the specified period of time, the City may proceed with the process to revoke the permit.

C. Public Notice and Hearing. Public notice and hearing for any action to revoke a permit shall be provided in compliance with Chapter 17.148 (Public Notice and Hearings).

D. Findings. The review authority may revoke a permit only if one or more of the following findings can be made:

1. The applicant or property owner has altered the circumstances under which the permit was granted to a degree that one or more of the findings required to grant the original permit can no longer be made.
2. Permit issuance was based on misrepresentation by the applicant, either through the omission of a material statement in the application, or in public hearing testimony.
3. One or more conditions of approval have been violated, or have not been complied with or fulfilled.
4. The use or structure for which the permit was granted no longer exists or has been discontinued for a continuous period of at least twelve months.
5. The applicant or property owner has failed or refused to allow inspections for compliance.
6. Improvements authorized by the permit are in violation of the Zoning Code or any law, ordinance, regulation, or statute.
7. The use or structure is being operated or maintained in a manner which constitutes a nuisance.

E. Effect of Revocation. The revocation of a permit shall have the effect of terminating the approval and denying the privileges granted by the permit.

F. Appeals. A decision on a permit revocation may be appealed in accordance with Chapter 17.152 (Appeals).

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PART 5

Glossary

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Chapter 17.160 – GLOSSARY

Sections:

17.160.010 Purpose
17.160.020 Definitions

17.160.010 Purpose

This chapter provides definitions of terms and phrases used in the Zoning Code that are technical or specialized, or which may not reflect common usage. If any of the definitions in this chapter conflict with others in the Municipal Code, these definitions shall control for only the provisions of this Zoning Code. If a word is not defined in this chapter or in other chapters of the Zoning Code, the Community Development Director shall determine the appropriate definition.

17.160.020 Definitions

A. "A" Terms.

1. **Abutting.** "Abutting" or "adjoining" means having a common boundary, except that parcels having no common boundary other than a common corner shall not be considered abutting.
2. **Accessory Dwelling Unit.** "Accessory dwelling unit" means a self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on a single parcel.
   a. "Accessory dwelling unit, attached," means an accessory dwelling unit that shares at least one common wall with the primary residential unit.
   b. "Accessory dwelling unit, detached," means a secondary dwelling unit that does not share a common will with the primary residential unit.
3. **Accessory Structure**. "Accessory structure" means a structure that is incidental and subordinate to a primary structure or use located on the same parcel.
4. **Accessory Use**. "Accessory use" means a land use which is incidental and subordinate to a primary land use located on the same parcel.
5. **Addition**. "Addition" means any development or construction activity that expands the footprint or increases the habitable floor area of a building.
6. **Adjacent.** "Adjacent" means directly abutting, having a boundary or property line(s) in common or bordering directly, or contiguous to.
7. **Alcoholic Beverage Sales**. "Alcoholic beverage sales" means the sale of alcoholic beverages for on-site consumption at a restaurant, bar, nightclub or other establishment, or the retail sale of alcoholic beverages for off-site consumption.
8. **Alteration**. See "Modification."

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9. **Applicant.** "Applicant" means any person, firm, partnership, association, joint venture, corporation, or an entity or combination of entities which seeks City permits and approvals.

10. **Assumed Ground Surface**. "Assumed ground surface" means a line on each elevation of an exterior wall or vertical surface which connects those points where the perimeter of the structure meets the finished grade.

11. **Average Slope.** "Average slope" means the average slope of a parcel calculated using the formula: S = 100(I)(L)/A, where:

    a. S = Average slope (in percent);

    b. I = Contour interval (in feet);

    c. L = Total length of all contour lines on the parcel (in feet); and

    d. A = Area of subject parcel (in square feet).

B. "B" Terms.

1. **Balcony.** "Balcony" means a platform that projects from the wall of a building thirty inches or more above grade that is accessible from the building's interior, is not accessible from the ground and is not enclosed by walls on more than two sides."

2. **Banks**. "Banks" means a commercial establishment providing retail banking services. Includes only establishments serving walk-in customers or clients, including banks, savings and loan institutions, check-cashing services, and credit unions.

3. **Base Zoning District**. "Base zoning district" means the primary zoning, as distinguished from an overlay zone, that applies to a parcel of land as shown on the Zoning Map.

4. **Basement**. "Basement" means that portion of a building between floor and ceiling, which is partly or all below grade, and where more than the vertical distance from grade to ceiling is below the average ground contact level of the exterior walls of the building.

5. **Bay Window**. "Bay Window" means a window or series of windows serving as an important element of the building's architecture; forming an alcove in a room and projecting outward from the wall in a rectangular, polygonal, or curved form.

6. **Block.** "Block" means the property abutting on one side of a street and lying between the two nearest intersecting streets."

7. **Bluff or Cliff**. "Bluff" or "cliff" means the scarp or steep face of rock, decomposed rocks, sediment or soil resulting from erosion, faulting, folding or excavation of land mass and exceeding ten feet in height, and includes what are commonly known as "cliffs." See also the definition of "Coastal Bluff" in Section 17.44.030.

8. **Building**. "Building" means any structure used or intended for supporting or sheltering any use or occupancy.

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9. **Building Coverage**. "Building coverage" means the land area covered by all buildings and accessory structures on a parcel.

10. **Building Face**. "Building face" means and includes the general outer surface of a main exterior wall of a building. For example, a building with a rectangular plan has four main exterior walls and four building faces.

11. **Building Height**. "Building height" means the vertical distance measured form the assumed ground surface of the building to the highest point of the roof, ridge, or parapet wall.

12. **Business Services**. "Business Services" means an establishment that provides services to other businesses on a fee or contract basis. Includes computer rental and repair, catering, printing and duplicating services, outdoor advertising services, package delivery services, equipment rental and leasing, and other similar land uses.

13. **By-Right**. "By-right" means permitted without any form of discretionary approval.

C. "C" Terms.

1. **California Environmental Quality Act (CEQA).** California Environmental Quality Act (CEQA) means California State law (Public Resources Code Section 2100 et seq.) requiring government agencies to consider the environmental consequences of their actions before taking action on a proposed project.

2. **Capitola Village**. "Capitola Village" means the central core of Capitola generally bounded by the Monterey Bay shoreline to the south, the railroad trestle to the north and west, and Cliff Avenue and Depot Hill to the east.

3. **Caretaker Quarters.** "Caretaker quarters" means a residence that is accessory to a nonresidential primary use of the site, where needed for security, or 24-hour care or supervision.

4. **Carport**. "Carport" means an accessory building to a residential structure, open on two, three or four sides and attached to, or detached from, a dwelling and established for the loading or unloading of passengers or the storage of an automobile.

5. **Coastal Zone**. "Coastal zone" means the area of land and water extending from the state's outer seaward limit of jurisdiction inland to the boundary as shown in Capitola's Local Coastal Program (LCP) as certified by the California Coastal Commission.

6. **Colleges and Trade Schools**. "Colleges and trade schools" means institutions of higher education providing curricula of a general, religious or professional nature, typically granting recognized degrees. Includes junior colleges, business and computer schools, management training, vocational education, and technical and trade schools.

7. **Community Assembly**. "Community assembly" means a facility that provides space for public or private meetings or gatherings. Includes places of worship,

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community centers, meeting space for clubs and other membership organizations, social halls, union halls, banquet centers, and other similar facilities.

8. **Community Benefit.** "Community benefit" means a public amenity offered by a project applicant that advances General Plan goals but is not required by the Zoning Code or any other provision of local, State, or federal law.

9. **Commercial Entertainment and Recreation**. "Commercial entertainment and recreation" means an establishment that provides entertainment or recreation activities or services for a fee or admission charge. Includes bowling alleys, electronic game arcades, billiard halls, pool halls, sports clubs, commercial gymnasiums, dancehalls, and movie theatres.

10. **Community Development Director**. "Community Development Director" means the Community Development Director of the City of Capitola or his or her designee.

11. **Construction and Material Yards**. "Construction and material yards" means storage of construction materials or equipment on a site other than a construction site. Includes public utility buildings and service yards used by a governmental agency.

12. **Cultural Institution**. "Cultural institution" means a public or nonprofit institution that engages in cultural, scientific, and/or educational enrichment. Includes libraries, museums, performing art centers, aquariums, environmental education centers, non-profit art centers and galleries, botanical gardens, and other similar uses.

13. **Curb-side Service**. "Curb-side service" or "drive-up service" means service provided by a commercial establishment while a customer remains waiting within a vehicle.

14. **Custom Manufacturing**. See "Manufacturing, Custom."

D. "D" Terms

1. **Dark Sky Compliant.** "Dark sky compliant" means a lighting fixture that meets the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light.

2. **Day Care Center**. "Day care center" means a facility that provides non-medical care and supervision of minors for periods of less than 24 hours. Includes nursery schools, day nurseries, child care centers, infant day care centers, cooperative day care centers, and similar uses.

3. **Daylight Plane.** "Daylight plane" means the imaginary line beginning at a height of 20 feet at the setback from a property line and extending into the parcel at an angle of 45 degrees.

4. **Deck.** "Deck" means an outdoor a platform, either freestanding or attached to a building, which is supported by pillars or posts.

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5. **Demolition, Substantial.** "Substantial demolition" means the removal or replacement of either 50 percent or more of the lineal footage of existing interior and exterior walls or 50 percent or more of the area of existing floor, ceilings, and roof structures.

6. **Density.** "Density" means the number of dwelling units per acre of land, excluding street rights-of-way, public easements, public open space, land under water, and certified wetlands and floodplains.

7. **Design Review.** "Design Review" means that process for the City to review and act on a Design Permit application.

8. **Designated Historic Resource.** See Section 17.84.020.A (Designated Historic Resources).

9. **Development.** "Development" means any human-caused change to the land or a structure that requires a permit or approval from the City, including construction, rehabilitation, and reconstruction. See Section 17.44.030 for the definition of "Development" that applies in the coastal zone.

10. **Development Standards.** "Development standards" means regulations in the Zoning Code that limit the size, bulk, or placement of structures or other improvements and modifications to a site.

11. **Discretionary Approval.** "Discretionary approval" means an action by the City by which individual judgment is used as a basis to approve or deny a proposed project.

12. **Drive-Through Facility.** "Drive-Through Facility" means a facility where a customer is permitted or encouraged, either by the design of physical facilities or by the service procedures offered, to be served while remaining seated within a vehicle. Includes drive-through restaurants, coffee shops, pharmacies, banks, automatic car washes, drive-up windows, and other similar land uses and services.

13. **Duplex Home.** "Duplex home" means a residential structure that contains two dwelling units, each with its own entrance. Each unit within a duplex home provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

14. **Dwelling Unit.** "Dwelling unit" means a building or a portion of a building containing one or more habitable rooms used or designed for occupancy by one family for living and sleeping purposes, including kitchen and bath facilities.

E. "E" Terms.

1. **Eating and Drinking Establishments**. "Eating and drinking establishments" means businesses primarily engaged in serving prepared food and/or beverages for consumption on or off the premises.

   a. "Bars and Lounges" means a business devoted to serving alcoholic beverages for consumption by guests on the premises and in which the serving of food is

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only incidental to the consumption of such beverages. Includes cocktail lounges, nightclubs, taverns, and other similar uses.

b. "Restaurants and Cafes" means a business establishment serving food and beverages to customers where the food and beverages may be consumed on the premises or carried out and where more than 160 square feet of public area is open to customers. Includes full service restaurants, fast-food restaurants, coffee shops, cafes, and other similar eating and drinking establishments.

c. "Take-Out Food and Beverage" means establishments where food and beverages may be consumed on the premises, taken out, or delivered, but where the area open to customers is limited to no more than 160 square feet. Includes take-out restaurants, take-out sandwich shops, limited service pizza parlors and delivery shops, and snack bars. Also includes catering businesses or bakeries that have a storefront retail component.

2. **Elderly and Long-Term Care**. "Elderly and Long Term Care" means establishments that provide twenty-four-hour medical, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves, and is licensed as a skilled nursing facility by the State of California, including but not limited to rest homes and convalescent hospitals, but not residential care, hospitals, or clinics

3. **Emergency Shelter**. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person, as defined in Section 50801 of the California Health and Safety Code.

F. "F" Terms

1. **Farmers' Market**. "Farmers' market" means a market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, locally produced arts and crafts items but excludes second-hand goods. Food and beverages dispensed from booths located on site is permitted as an accessory use.

2. **Financial Institution**. "Financial institution" means a professional office conducting businesses within the financial industry. Excludes commercial establishments providing retail banking services to walk-in customers or clients (see "banks").

3. **Fence**. "Fence" means a structure connected by boards, masonry, rails, panels, or other similar permanent building material for the purpose of enclosing space or separating parcels of land. This definition includes gates but excludes hedges and other living plants.

4. **Floor Area**. "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 as described in Section 17.48.040 (Floor Area and Floor Area Ratio).

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5. **Floor Area Ratio.** "Floor area ratio" means the gross floor area of all of the buildings on the parcel divided by the net parcel area.

6. **Food Preparation**. "Food Preparation" means a businesses preparing and/or packaging food for off-site consumption, excluding those of an industrial character in terms of processes employed, waste produced, water used, and traffic generation. Includes catering kitchens, and small-scale specialty food production.

7. **Frontage**. "Frontage" means that portion of all property abutting a street.

G. "G" Terms

1. **Garage.** "Garage" means an enclosed structure or a part of a building designed or used for the storage of automobiles and other motor vehicles.

2. **Garage Sale.** "Garage Sale" means a temporary sale for the purpose of selling, trading or otherwise disposing of household furnishings, personal goods or other tangible properties of a resident of the premises on which the sale is conducted.

3. **Gas and Service Stations**. "Gas and service stations" means a retail business establishment supplying gasoline and oil and minor accessories for automobiles. Included in this definition are incidental food and beverage and car wash facilities.

4. **Group Housing**. "Group housing" means shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. Includes rooming and boarding houses, single-room occupancy housing, dormitories, and other types of organizational housing, and extended stay hotels intended for long-term occupancy (30 days or more). Excludes hotels, motels, bread and breakfasts, and residential care facilities.

5. **Geological Hazard**. "Geological hazard" means a threat to life, property or public safety caused by geological or hydrological processes such as faulting and secondary seismic effects, including but not limited to: liquefaction, landsliding, erosion, flooding, tsunami or storm wave inundation.

6. **Government Offices**. "Government offices" means a place of employment occupied by governmental agencies and their employees. Includes offices for administrative, clerical, and public contact functions but excludes corporation yards, equipment service centers, and similar facilities that primarily provide maintenance and repair services and storage facilities for vehicles and equipment

7. **Grading.** "Grading" means any and all activities involving earthwork, including placement or fill and/or excavation.

8. **Ground Floor.** "Ground floor" means the first floor of a building other than a cellar or basement that is closest to finished grade.

H. "H" Terms

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1. Habitable Space. "Habitable space" means an area within a building that is conditioned (heated or cooled) with a finished floor and a ceiling height of at least 7 feet 6 inches. Excludes unfinished attics, cellars, crawl spaces, and other similar utility areas.

2. **Height.** See "building height." For structures other than buildings, "height" means the vertical distance from grade to the highest point of the structure directly above.

3. **Home Day Care**. "Home day care" means a facility providing daytime supervision and care for adults, children, or elderly located in the provider's own home.

   a. "Home day care facilities, large" means a day care home facility supervising 9 to 14 persons.

   b. "Home day care facilities, small" means a day care home facility supervising 8 persons for less.

4. **Historic Resource**. "Historic Resource" means either a Designated Historic Resource or a Potential Historic Resource as defined in Section 17.84.020 (Types of Historic Resources).

5. **Historic Alteration Permit**. "Historic alteration permit" means the City permit required to alter the exterior of a historic resource in accordance with Section 17.84.060 (Historic Alteration Permit).

6. **Home Occupation**. "Home occupation" means the conduct of a business within a dwelling unit or residential site, with the business activity being subordinate to the residential use of the property.

I. "I" Terms."

1. **Impervious Surface**. "Impervious surface" means any surface that does not permit the passage of water. Impervious surfaces include buildings, parking areas, and all paved surfaces.

J. "J" Terms. None.

K. "K" Terms"

1. **Kitchen**. "Kitchen" means any room or part of a room used or intended or designed to be used for cooking or the preparation of food for a single dwelling unit, and distinct from a "mini-bar/convenience area" which is intended as a supplemental food preparation area within a single-family home.

L. "L" Terms.

1. **Land Use**. An activity conducted on a site or in a structure, or the purpose for which a site or structure is designed, arranged, occupied, or maintained. The meaning of the term "use" is identical to "land use."

2. **Landscaping**. "Landscaping" means the planting and maintenance of living plant material, including the installation, use, and maintenance of any irrigation system for

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the plant material, as well as nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

3. **Liquor Store.** "Liquor store" means a business selling alcoholic beverages for off-site consumption with the sale of alcoholic beverages constituting its primary source of revenue.

4. **Local Coastal Program (LCP)**. "Local Coastal Program" means the City's Land Use Plan and Implementation Plan which includes portions of municipal code, portions of the Zoning Code, Zoning Map (as more specifically identified in Chapter 17.44 (Coastal Overlay) and actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

5. **Light Manufacturing.** See "Manufacturing, Light."

6. **Lodging**. "Lodging" means an establishment providing overnight accommodations to transient patrons for payment for periods of less than 30 consecutive days.

   a. "Bed and breakfast" means a residential structure that is in residential use with one or more bedrooms rented for overnight lodging and where meals may be provided.

   b. "Hotel" means an establishment providing overnight lodging to transient patrons. Hotels and motels may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. Includes motor lodges, motels, extended-stay hotels, and tourist courts, but does not include group housing or bed and breakfast establishments, which are separately defined and regulated.

7. **Lot**. See "Parcel."

M. "M" Terms.

1. **Maintenance and Repair Services**. "Maintenance and repair services" means businesses which provide construction, maintenance and repair services off-site, but which store equipment and materials or perform fabrication or similar work on-site. Includes off-site plumbing shops, general contractors, contractor's storage yards, appliance repair, janitorial services, electricians, pest control, heating and air conditioning, roofing, painting, landscaping, septic tank service, and other similar uses.

2. **Manufacturing, Custom**. "Manufacturing, custom" means establishments primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment and the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, candle making shops, woodworking, and custom jewelry manufacturers.

3. **Manufacturing, Light**. "Manufacturing, Light" means the manufacture, predominantly from previously prepared materials, of finished products or parts,

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including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing.

4. **Material Change**. "Material change" means any significant alteration, by private or public action, in the external appearance or surface of an improvement, landscape or vista. This shall not include ordinary maintenance which does not require a permit.

5. **Ministerial Action**. "Ministerial action" means a City decision on a planning permit which involves only the use of fixed standards or objective measurements and does not require the exercise of discretion.

6. **Mini-Bar/Convenience Area.** "Mini-bar/convenience area" means a supplemental food preparation area within a single-family home subject to the standards in Section 17.16.030.B.9 (Mini-Bar/Convenience Areas).

7. **Medical Offices and Clinics**. "Medical offices and clinics" means a facility where medical, mental, dental, or other personal health services are provided on an outpatient basis using specialized equipment. Includes offices for physicians, dentists, and optometrists, diagnostic centers, blood banks and plaza centers, and emergency medical clinics offered exclusively on an out-patient basis. Hospitals are excluded from this definition.

8. **Mixed Use**. "Mixed use" means two or more different land uses located in one structure or on one parcel or development sites.

9. **Mobile Food Vendors.** "Mobile Food Vendors" means businesses selling food or drinks from temporary and semi-permanent structures or mobile equipment such as food trucks or pushcarts.

10. **Mobile Home Park.** See Section 17.100.030 (Definitions) of Chapter 17.100 (Mobile Home Park Conversions).

11. **Modification.** "Modification" means any construction or physical change in the internal arrangement of rooms or the supporting members of a structure, or a change in the external appearance of any structure, not including painting.

12. **Multi-Family Dwelling**. Multi-family dwelling" means a building that contains three or more dwelling units, with each unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

N. "N" Terms.

1. **Nonconforming Parcel**. "Nonconforming parcel" means a parcel that was lawfully established but that no longer conforms with the parcel size or dimension standards of the zoning district in which it is located.

2. **Nonconforming Structure**. "Nonconforming structure" means a structure which does not meet the current development standards for the district in which the

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structure is located. Development standards include, but are not limited to setbacks, height or lot coverage regulations of the zoning district, but do not include standards contained in the Uniform Codes, such as the Building Code.

3. **Nonconforming Use**. "Nonconforming use" means a use that lawfully occupied a building or land at the time the use was established, but that no longer conforms with the use regulations of the zoning district in which it is located.

O. "O" Terms.

1. **Open Space, Private**. "Open space, private" means open areas for outdoor living and recreation that are adjacent and directly accessible to a single dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests.

2. **Open Space, Common**. "Open space, common" means areas for outdoor living and recreation that are intended for the use of residents and guests of more than one dwelling unit.

3. **Overlay Zone**. "Overlay zone" means an additional zoning district as shown on the Zoning Map that prescribes special regulations to a parcel in combination with the base zoning district.

P. "P" Terms.

1. **Parcel**. "Parcel" means a lot, tract, or area of land whose boundaries have been established by a legal instrument such as a deed or map recorded with the County of Santa Cruz, and which is recognized as a separate legal entity for purposes of transfer of title, except public easements or rights-of-way. The meaning of "lot" is identical to "parcel."

2. **Parcel Area, Gross.** "Gross parcel area" means the total horizontal area included within the parcel lines of the parcel, including one-half the width of any alley or portion thereof abutting a parcel line.

3. **Parcel Area, Net.** "Net parcel area" means the gross parcel area excluding: a) any recorded easements to allow others to use the surface of the property for necessary access to an adjacent property or other similar use such as a shared driveway or public access agreement (excludes utility easements), and b) any area under the high water mark that extends into a waterway.

4. **Parcel, Corner**. "Corner parcel" means a parcel situated at the junction of two or more intersecting streets, with a parcel line bordering on each of the two or more streets.

5. **Parcel Depth**. "Parcel depth" means the average distance from the front parcel line to the rear parcel line, measured in the general direction of the side parcel lines.

6. **Parcel Line**. "Parcel line" means the lines bounding a parcel.

7. **Parcel Line, Front**. "Front parcel line" means that dimension of a parcel or portion of a parcel, abutting on a street except the side of a corner parcel. On a corner parcel

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the narrowest street frontage is considered the front parcel line. The Community Development Director may designate the front parcel line for irregularly shaped parcels with unusual development patterns.

8. **Parcel Line, Rear**. "Rear-parcel line" means ordinarily, the line of a parcel which is generally opposite the front parcel line of said parcel. The Community Development Director may designate the rear parcel line for irregularly shaped parcels with unusual development patterns.

9. **Parcel Line, Interior Side**. "Interior side parcel line" means any boundary line not a front line or a rear line shared with another parcel.

10. **Parcel Line, Exterior Side**. "Exterior side parcel line" means any boundary line not a front line or a rear line adjacent to a street.

11. **Parcel, Reversed Corner**. "Reversed corner parcel" means a corner parcel, the side street line of which is substantially a continuation of the front line of the parcel upon which it rears.

12. **Parcel Width**. "Parcel width" means the average distance between the side parcel lines, measured at right angles to the parcel depth.

13. **Parking Lot**. "Parking lot" means an open area of land, a yard or other open space on a parcel other than a street or alley, used for or designed for temporary parking for more than four automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.

14. **Parking Space**. "Parking space" means land or space privately owned, covered or uncovered, laid out for, surfaced, and used or designed to be used for temporary parking or storage of standard motor vehicles.

15. **Parks and Recreational Facilities.** "Parks and recreational facilities" means non-commercial public facilities that provide open space and/or recreational opportunities. Includes parks, community gardens, community centers, passive and active open space, wildlife preserves, playing fields, tennis courts, swimming pools, gymnasiums, and other similar facilities.

16. **Personal Services**. "Personal services" means an establishment that provides services to individuals and that may provide accessory retail sales of products related to the services provided. Includes barber shops and beauty salons, nail salons, dry cleaning establishments, self-service laundromats, tailors, tanning salons, State-licensed massage therapists, fitness studios, yoga studios, dance studios, pet grooming services, veterinary clinics, and other similar land uses. Also includes establishments that primarily offer specialized classes in personal growth and development such as music, martial arts, vocal, fitness and dancing instruction. This does not include professional office that offer classes in addition to the professional office spaces.

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17. **Planning Permit**. "Planning permit" means any permit or approval required by the Zoning Code authorizing an applicant to undertake certain land use activities.

18. **Potential Historic Resource**. See Section 17.84.020.B (Potential Historic Resources).

19. **Primary Use**. "Primary use" means the main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.

20. **Primary Structure**. "Primary structure" means a structure that accommodates the primary use of the site.

21. **Professional Office.** "Professional office" means a place of employment occupied by businesses providing professional, executive, management, or administrative services. Includes offices for accountants, architects, advertising agencies, insurance agents, attorneys, commercial art and design services, non-retail financial institutions, real estate agents, news services, photographers, engineers, employment agencies, ~~real estate agents~~, and other similar professions. Also includes research and development facilities that engage in research, testing, and development of commercial products or services in technology-intensive fields.

22. **Public Safety Facility**. "Public safety facility" means a facility operated by a governmental agency for the purpose of protecting public safety. Includes fire stations and other fire-fighting facilities, police stations, public ambulance dispatch facilities, and other similar land uses.

Q. "Q" Terms. None.

R. "R" Terms.

1. **Recreational Vehicle (RV)**. "Recreational vehicle" means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, originally designed for human habitation for recreational, emergency, or other occupancy, which meets all of the following criteria:

   a. Contains less than 320 square feet of internal living room area, excluding built-in equipment, including wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms;

   b. Contains 400 square feet or less of gross area measured at maximum horizontal projections;

   c. Is built on a single chassis; and

   d. Is either self-propelled, truck-mounted, or permanently towable on the highways without a towing permit.

2. **Recycling Collection Facility**. A center for the acceptance by donation, redemption, or purchase, of recyclable materials from the public.

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3. **Remodel**. "Remodel" means a change or alteration in a building that does not increase the building's net square footage.

4. **Residential Care Facility**. "Residential care facility" means a state-licensed residential facility providing social and personal care for residents. Includes children's homes, homes for the elderly, orphanages, self-help group homes, and transitional housing for the homeless. Excludes facilities where medical care is a core service provided to residents, such as nursing and convalescent homes.

   a. "Residential care facility, large" means a residential care facility for 7 or more persons.

   b. "Residential care facility, small" means a residential care facility for 6 or fewer persons.

5. **Residential Mixed Use**. "Residential mixed use" means one or more structures on a single parcel that contains both dwelling units and non-residential uses such as retail, restaurants, offices, or other commercial uses. Different land uses may be within a single structure (vertical mixed use) or in separate structures on a single parcel (horizontal mixed use).

6. **Retail**. "Retail" means stores and shops selling merchandise to the general public. Includes drug stores, general merchandise stores, convenience shops, pet stores, department stores, and other similar retail establishments.

7. **Review Authority**. "Review authority" means the City official or City body that is responsible, under the provisions of the Zoning Code, for approving or denying a permit application or other request for official City approval.

S. "S" Terms.

1. **Salvage and Wrecking**. "Salvage and wrecking" means storage and dismantling of vehicles and equipment for sale of parts, as well as their collection, storage, exchange or sale of goods including, but not limited to, any used building materials, used containers or steel drums, used tires, and similar or related articles or property.

2. **Schools, Public or Private**. "Schools, Public or Private" means public or private facilities for education, including elementary, junior high, and high schools, providing instruction and study required in public schools by the California Education Code.

3. **Setback**. "Setback" means the minimum allowable distance from a given point or line of reference such as a property line to the nearest vertical wall or other element of a building or structure as defined in this chapter, or from a natural feature such as a bluff edge or an environmentally sensitive habitat area. Setbacks for buildings or structures shall be measured at right angles from the nearest property line establishing a setback area line parallel to that parcel line. Where a property line is located within a street, the setback shall be measured from the edge of the right-of-way containing the street.

4. **Sign.** See Chapter 17.80 (Signs).

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5. **Single-Family Dwelling**. "Single-family dwelling" means a residential structure designed for occupancy by one household. A single-family dwelling provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

6. **Single-Room Occupancy.** Housing consisting of a single room dwelling unit that is the primary residence of its occupants. A single-room occupancy must include either food preparation or sanitary facilities (or both) and must be 400 square feet or less.

~~6.~~7. **Site**. "Site" means a parcel or adjoining parcels that are under single ownership or single control, and that are considered a unit for the purposes of development or other use.

~~7.~~8. **Site Area**. "Site area" means the total area included within the boundaries of a site.

~~8.~~9. **Self-Storage**. "Self-storage" means a structure or group of structures with controlled access that contains individual and compartmentalized stalls or lockers for storage of customers' goods.

~~9.~~10. **Split Zoning**. "Split zoning" means a parcel on which two or more zoning districts apply due to zoning district boundaries crossing or otherwise not following the parcel boundaries.

~~10.~~11. **Story**. "Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than 6 feet above grade as defined in this chapter for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined in this chapter at any point, such basement, cellar or unused under-floor space shall be considered as a story.

~~11.~~12. **Story, Half**. "Half story" means a partial story under a gable, hip or gambrel roof, the wall plates of which are at least two opposite exterior walls and which are not more than four feet above the floor plate of the second floor, and may include shed or dormer projections from those walls. Dormers may constitute not more than one-third of the length of the wall upon which they are located, whether as a single unit or multiple dormers.

~~12.~~13. **Street**. "Street" means a public way more than 20 feet in width which affords a primary or principal means of access to abutting property. "Streets" includes private roads and highways.

~~13.~~14. **Structural Alterations**. "Structural alterations" means any change in the supporting members of a building, such as bearing walls, columns, beams, girders, floor, ceiling or roof joists and roof rafters, or change in roof exterior lines which would prolong the life of the supporting members of a building.

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~~14.~~15. **Structure**. "Structure" means anything constructed or erected that requires attachment to the ground, or attachment to something located on the ground. Pipelines, poles, wires, and similar installations erected or installed by public utility districts or companies are not included in the definition of "structure." In the coastal zone, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

T. "T" Terms.

1. **Tandem Parking.** "Tandem parking" means an arrangement of parking spaces such that one or more spaces must be driven across in order to access another space or spaces.

2. **Temporary Structure**. "Temporary structure" means a structure that is erected for a limited period of time, typically no longer than 180 days, and that does not permanently alter the character or physical facilities of a property.

3. **Temporary Use**. "Temporary use" means a short-term activity that may or may not meet the normal development or use standards of the applicable zone, but that occurs for a limited period of time, typically less than 12 months and does not permanently alter the character or physical facilities of a property.

4. **Trellis.** "Trellis" means a structure made from an open framework or lattice of interwoven or intersecting pieces of wood, bamboo or metal made to support and display climbing plants.

U. "U Terms.

1. **Upper Floor.** "Upper floor" means any story of a building above the ground floor.

2. **Urban Agriculture**. "Urban agriculture" means activities involving the raising, cultivation, processing, marketing, and distribution of food in urban areas.

   a. "Home garden" means the property of a single-family or multifamily residence used for the cultivation of fruits, vegetables, plants, flowers, or herbs by the residents of the property, guests of the property owner, or a gardening business hired by the property owner.

   b. "Community garden" means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by group members.

   c. "Urban farm" means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by an individual, organization, or business with the primary purpose of growing food for sale.

3. **Use**. See "Land Use."

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4. **Utilities, Major**. "Utilities, major" means generating plants, electric substations, solid waste collection, including transfer stations and materials recovery facilities, solid waste treatment and disposal, water or wastewater treatment plants, and similar facilities of public agencies or public utilities

5. **Utilities, Minor**. "Utilities, Minor" means infrastructure facilities that are necessary to serve development within the immediate vicinity such as electrical distribution lines and underground water and sewer lines.

V. "V" Terms.

1. **Vacation Rental**. "Vacation rental" means the occupancy for hire of residential property or a portion thereof for a period of less than 30 consecutive calendar days. See Section 17.40.030 (Vacation Rental Overlay Zone) "For hire," for purposes of this section, does not include:

   a. The owner or long-term lessee of the property, without consideration, allowing family or friends to use the property;

   b. An arrangement whereby the owner or long-term lessee of the property agrees to a short-term trade with another property owner or long-term lessee whereby the sole consideration is each concurrently using the other's property.

2. **Valet Parking Service.** "Valet parking service" means a parking service provided to accommodate patrons of one or more businesses that is accessory and incidental to the business and by which an attendant on behalf of the business takes temporary custody of a patron's motor vehicle and moves, parks, stores or retrieves the vehicle for the patron's convenience.

3. **Vehicle Repair**. Vehicle repair means an establishment for the repair, alteration, restoration, or finishing of any vehicle, including body repair, collision repair, painting, tire and battery sales and installation, motor rebuilding, tire recapping and retreading, and towing. Repair shops that are incidental to a vehicle sales or rental establishment on the same site are excluded from this definition.

4. **Vehicle Sales and Rental**. "Vehicle sales and rental" means an establishment for the retail sales or rental of new or used vehicles. Includes the sale of vehicle parts and vehicle repair, provided that these activities are incidental to the sale of vehicles.

5. **Vehicle Sales Display Room**. "Vehicle sales display room" means an establishment for the retail sales of new vehicles conducted entirely within an enclosed building. Outdoor storage and display of vehicles are not permitted.

W. "W" Terms.

1. **Wall.** "Wall" means a permanent upright linear structure made of stone, concrete, masonry, or other similar material.

2. **Warehousing and Distribution**. "Warehousing and distribution" means an establishment used primarily for the storage and/or distributing goods to retailers,

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contractors, commercial purchasers or other wholesalers, or to the branch or local offices of a company or organization. Includes vehicle storage, moving services, general delivery services, refrigerated locker storage facilities, and other similar land uses.

3. **Wholesaling.** "Wholesaling" means indoor storage and sale of goods to other firms for resale. Wholesalers are primarily engaged in business-to-business sales, but may sell to individual consumers through mail or Internet orders. Wholesalers normally operate from a warehouse or office having little or no display of merchandise, and are not designed to solicit walk-in traffic.

4. **Wireless Communication Facilities.** "Wireless Communications Facility" means a facility that transmits or receives electromagnetic signals for the purpose of transmitting voice or data communications. See Chapter 17.114. (Wireless Communication Facilities).

X. "X" Terms. None.

Y. "Y" Terms.

1. **Yard**. "Yard" means an open space, other than a court, on the same parcel with a building, unoccupied and unobstructed from the ground upward, except for such encroachments allowed by the Zoning Code.

2. **Yard, Front**. "Front yard" means a yard extending across the full width of the parcel, the depth of which is the minimum horizontal distance between the front line of the parcel and the nearest line of the main building or enclosed or covered porch. On a corner parcel the front line of the parcel is ordinarily construed as the least dimension of the parcel fronting on a street.

3. **Yard, Rear**. "Rear yard" means a yard extending across the full width of the parcel, and measured between the rear line of the main building or enclosed or covered porch nearest the rear line of the parcel; the depth of the required rear yard shall be measured horizontally.

4. **Yard, Side**. "Side yard" means a yard on each side of the main building extending from the front yard to the rear yard, the width of each yard being measured between the side line of the parcel and the nearest part of the main building or enclosed or covered porch.

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