Chapter 17.74
ACCESSORY DWELLING UNITS Revised 6/20

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17.74.010 Purpose. Revised 6/20
This chapter establishes standards for the location and construction of accessory dwelling units (ADUs) consistent with Government Code Sections 65852.2 through 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. (Ord. 1039 § 2 (part), 2020: Ord. 1017 § 2 (Exh. A) (part), 2018)

17.74.020 Definitions. Revised 6/20
Terms used in this chapter are defined as follows:

A. "Accessory dwelling unit" means a self-contained living unit located on the same parcel as a primary dwelling unit.
B. "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" means an accessory dwelling unit that does not share a common wall with the primary dwelling unit and is not an internal accessory dwelling unit.
D. "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.
E. “Junior accessory dwelling unit” means an accessory dwelling unit no more than five hundred square feet in size and contained entirely within a single-family residence.

F. “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.

G. “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. (Ord. 1039 § 2 (part), 2020: Ord. 1017 § 2 (Exh. A) (part), 2018)

17.74.030 Permitting process. Revised 6/20

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 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 sixty days from the date the city receives a completed application. If the applicant requests a delay in writing, the sixty-day time period shall be tolled for the period of the delay.

a. The city has acted on the application if it:

i. Approves or denies the building permit for the accessory dwelling unit;

ii. Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter; or

iii. 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.

B. Two-Story Units. A two-story accessory dwelling unit (attached or detached) greater than sixteen 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 Section 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 Section 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 17.84 (Historic Preservation). Third-party review of the proposed project may be required as provided in Chapter 17.84.

2. Compliance with Chapter 17.84 is not required for accessory dwelling units approved ministerially with an administrative permit.

(Ord. 1039 § 2 (part), 2020)

17.74.040 General requirements. Revised 6/20

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 Sections 17.74.050(B) (Detached Accessory Dwelling Units), (C) (Nonlivable Multifamily Space), and (D) (Detached Accessory Dwelling Units on Multifamily Parcels).

C. Residential Mixed Use. If one dwelling unit is on a parcel with a nonresidential 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 nonresidential use, the dwelling units are considered a multifamily 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 Chapter 17.160 (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 eight hundred square feet of floor area, up to sixteen 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 eight hundred 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 an existing structure within four 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 to California Health and Safety Code Section 18007, as may be amended from time to time, a manufactured home must:
   a. Provide a minimum of three hundred twenty 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 three linear feet of food preparation counter space and three 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.

(Ord. 1039 § 2 (part), 2020)

17.74.050 Units subject to limited standards. Revised 6/20
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 Sections 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 one hundred fifty 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 Eight Hundred 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 of this section (Internal Accessory Dwelling Units). The accessory dwelling unit must comply with the following:

1. Minimum rear and side setbacks: four feet.
2. Maximum floor area: eight hundred square feet.

C. Nonlivable 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 a maximum of twenty-five 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:

2. Minimum rear and side setbacks: four feet. (Ord. 1039 § 2 (part), 2020)

17.74.060 Units subject to full review standards. Revised 6/20
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 Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards).

B. One-Story Detached Accessory Dwelling Units Between Eight Hundred and One Thousand Two Hundred Square Feet. A one-story detached accessory dwelling unit with a floor area between eight hundred and one thousand two hundred square feet in compliance with
17.74.070 Units requiring a design permit. Revised 6/20
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 sixteen feet in height in compliance with standards in Sections 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 Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards). (Ord. 1039 § 2 (part), 2020)

17.74.080 Development standards. Revised 6/20
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>
<thead>
<tr>
<th>ADU Type/Location</th>
<th>Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Unit Size, Maximum</strong></td>
<td></td>
</tr>
<tr>
<td>Attached ADU, one bedroom or less</td>
<td>50 percent of the existing primary dwelling or 850 sq. ft., whichever is greater</td>
</tr>
<tr>
<td>Attached ADU, more than one bedroom</td>
<td>50 percent of the existing primary dwelling or 1,000 sq. ft., whichever is greater</td>
</tr>
<tr>
<td>Detached ADU</td>
<td>1,200 sq. ft.</td>
</tr>
<tr>
<td>Internal ADU</td>
<td>No maximum</td>
</tr>
<tr>
<td>Junior ADU</td>
<td>500 sq. ft.</td>
</tr>
<tr>
<td><strong>Floor Area Ratio, Maximum [1]</strong></td>
<td>As required by zoning district [2]</td>
</tr>
<tr>
<td><strong>Setbacks, Minimum [3,4]</strong></td>
<td></td>
</tr>
<tr>
<td>Front</td>
<td>Same as primary dwelling [5]</td>
</tr>
<tr>
<td>Interior Side, 1st and 2nd Story</td>
<td>4 ft.</td>
</tr>
<tr>
<td>Exterior Side, 1st and 2nd Story</td>
<td>4 ft.</td>
</tr>
<tr>
<td>Rear, 1st and 2nd Story</td>
<td>4 ft.</td>
</tr>
<tr>
<td><strong>Building Coverage, Maximum</strong></td>
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</tr>
<tr>
<td>R-M zoning district</td>
<td>40% [2]</td>
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<tr>
<td>ADU Type/Location</td>
<td>Standard</td>
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<tr>
<td>---------------------------</td>
<td>----------------------------------------------</td>
</tr>
<tr>
<td>All other zoning districts</td>
<td>No maximum</td>
</tr>
<tr>
<td><strong>Height, Maximum</strong></td>
<td></td>
</tr>
<tr>
<td>[3]</td>
<td></td>
</tr>
<tr>
<td>Attached ADU</td>
<td>Height of primary residence or maximum permitted in zoning district, whichever is less</td>
</tr>
<tr>
<td>Detached ADU, one-story</td>
<td>16 ft.</td>
</tr>
<tr>
<td>Detached ADU, two-story</td>
<td>22 ft.</td>
</tr>
</tbody>
</table>

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 eight hundred 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(I) (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).


[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 Section 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.

   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.
i. Required off-street parking may be located within minimum required setback areas from front, side, and rear property lines.

ii. 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 two and one-half 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 twenty-four-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 subsection (C)(2)(c) of this section.

c. No off-street parking is required for an accessory dwelling unit in the following cases:

   i. 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).

   ii. The accessory dwelling unit is located within a National Register Historic District or other historic district officially designated by the city council.

   iii. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

   iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

   v. When there is a car share vehicle pick-up/drop-off location within one block of the accessory dwelling unit.

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. 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 subsection (C)(3)(a) of this section.

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 subsection (C)(3)(b) of this section.

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 subsection (C)(3)(a) of this section.

Figure 17.74-1
17.74.090 Objective design standards. Revised 6/20
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 eight 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 six-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.

<table>
<thead>
<tr>
<th>Table 17.74-2: Architectural Detail Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attached ADU</td>
</tr>
</tbody>
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(Ord. 1039 § 2 (part), 2020)
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Attached ADU</td>
<td>Detached ADU</td>
</tr>
<tr>
<td>Window and Door Materials</td>
<td>No requirement</td>
<td>Wood, composite, pre-finished metal with a nonreflective finish</td>
</tr>
<tr>
<td>Window Proportions</td>
<td>No requirement</td>
<td>Windows must be taller than they are wide or match the proportions of the primary dwelling window [5]</td>
</tr>
<tr>
<td>Window Pane Divisions</td>
<td>No requirement</td>
<td>True or simulated divided lights</td>
</tr>
<tr>
<td>Roof Material</td>
<td>Same as primary dwelling [3]</td>
<td>No requirement</td>
</tr>
</tbody>
</table>

Notes:

[1] “Historic property” means a designated historic resource or potential historic resource as defined in Section 17.84.020 (Types of historic resources).


[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 eighteen inches from the parallel side or rear building wall to distinguish it from the historic structure. (Ord. 1039 § 2 (part), 2020)

17.74.100 Deviation from standards. Revised 6/20

A. When Allowed. The planning commission may approve an accessory dwelling unit that deviates from one or more standards in Sections 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). (Ord. 1039 § 2 (part), 2020)

17.74.110 Findings. Revised 6/20

A. When Required. The planning commission must make the findings in this section to approve a design permit for:
1. Two-story attached or detached accessory dwelling units greater than sixteen feet in height; and

2. Accessory dwelling units that deviate from one or more standards in Sections 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 and 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 to special circumstances applicable to subject property, including size, shape, topography, location, existing structures, or surroundings, and the strict application of this chapter would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification. (Ord. 1039 § 2 (part), 2020; Ord. 1017 § 2 (Exh. A) (part), 2018. Formerly 17.74.060)

17.74.120 Deed restrictions. Revised 6/20
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 unit may not be used for vacation rentals as defined in Chapter 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. (Ord. 1039 § 2 (part), 2020: Ord. 1017 § 2 (Exh. A) (part), 2018. Formerly 17.74.070)

17.74.130 Incentives. Revised 6/20
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. (Ord. 1039 § 2 (part), 2020: Ord. 1017 § 2 (Exh. A) (part), 2018. Formerly 17.74.080)

The Capitola Municipal Code is current through Ordinance 1040, passed March 26, 2020.

Disclaimer: The city clerk’s office has the official version of the Capitola Municipal Code. Users should contact the city clerk’s office for ordinances passed subsequent to the ordinance cited above.

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City Telephone: (831) 475-7300

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