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17.108.010 Purpose
17.108.020 Planning Agency
17.108.030 Review and Decision-Making Authority
17.108.040 Design Review Committee

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.

Note: Table 17.108-1 includes the following new types of permits and approvals: Administrative Permits, Minor Design Permits, Historic Resource Demolition Permits, Minor Use Permits, Minor Modifications, Certificates of Appropriateness, and Reasonable Accommodations. The purpose and requirements for these permits are described in subsequent chapters.

<table>
<thead>
<tr>
<th>Type of Action</th>
<th>Community Development Director</th>
<th>Planning Commission</th>
<th>City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislative Actions</td>
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<tr>
<td>Development Agreements</td>
<td>Recommend</td>
<td>Recommend</td>
<td>Decision</td>
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<tr>
<td>General Plan Amendments</td>
<td>Recommend</td>
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<td>Decision</td>
</tr>
<tr>
<td>Zoning Code Amendments</td>
<td>Recommend</td>
<td>Recommend</td>
<td>Decision</td>
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<tr>
<td>Permits</td>
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<tr>
<td>Administrative Permits</td>
<td>Decision</td>
<td>Appeal</td>
<td>Appeal</td>
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<tr>
<td>Type of Action</td>
<td>Role of Authority [1]</td>
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<td></td>
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<tr>
<td>--------------------------------------------</td>
<td>------------------------------------------</td>
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<td></td>
</tr>
<tr>
<td>Administrative Sign Permits</td>
<td>Decision  Appeal  Appeal</td>
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</tr>
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<td>Sign Permits</td>
<td>Recommend  Decision  Appeal</td>
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<td></td>
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<tr>
<td>Design Permits</td>
<td>Recommend  Decision  Appeal</td>
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<td></td>
</tr>
<tr>
<td>Minor Design Permits</td>
<td>Decision  Appeal  Appeal</td>
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<td></td>
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<tr>
<td>Coastal Permits</td>
<td>See 17.44.060 (Coastal Permit Requirements)</td>
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<tr>
<td>Conditional Use Permits</td>
<td>Recommend  Decision  Appeal</td>
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<tr>
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<td>Recommend  Decision  Appeal</td>
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<td></td>
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<tr>
<td>Minor Use Permits</td>
<td>Decision  Appeal  Appeal</td>
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<td></td>
</tr>
<tr>
<td>Tenant Use Permits</td>
<td>Decision  Appeal  Appeal</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Other Approvals and Actions**

| Conceptual Review                          | See 17.114 (Conceptual Review)            |
| Certificate of Appropriateness 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).


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**17.108.040 Design Review Committee Process**

*Note:* The Design Review Committee Process described in Section 17.108.040 replaces the existing Architecture and Site Review Committee. The role and membership of the Design Review Committee is similar but not identical to that of the Architecture and Site Review Committee.

A. **Role.** The role of the Design Review Committee is to review Design Permit applications and provide preliminary recommendations to the applicant prior to Planning Commission review. The Design Review Committee does not approve Design Permit applications or provide a...
recommendation to the Planning Commission. Instead, the Design Review Committee works with applicants to achieve the best possible project design consistent with City policies and regulations prior to a hearing before the Planning Commission. The Design Review Committee only reviews Design Permit applications acted upon by the Planning Commission—the Committee does not review Minor Design Permit applications acted upon by the Community Development Director.

B. Membership. The Design Review Committee consists of seven members: two architects, a landscape architect, a historian, and City staff representing the Planning, Public Works, and Building Departments.

C. Appointment.

1. The Mayor appoints one architect, the landscape architect, and the historian members of the Design Review Committee. The Mayor may also appoint alternate architect, landscape architect, and historian members to serve in the absence of the regular members.

2. The second architect member of the Design Review Committee shall be a consultant to the City selected by the Community Development Director. The second architect member participates only in the review of multi-family projects, non-residential projects, and other significant projects as determined by the Community Development Director.

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.

2. A City-contracted landscape architect and a City-contracted architect 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.
Chapter 17.112 – PERMIT APPLICATION AND REVIEW

Sections:
17.112.010 Purpose
17.112.020 Application Preparation and Filing
17.112.030 Application Fees
17.112.040 Application Review
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

Note: This chapter adds new procedural requirements not in the existing Zoning Code to codify and standardize current City practice and comply with State law.

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.
Figure 17.112-1: Typical Permit Review and Approval Process

1. Identify required permit
2. Submit application
3. City staff reviews application (response within 30 days)
4. Is the application complete?
   - YES
      5. City staff provides public notice (if required)
      6. Public hearing (if required)
      7. Can the review authority make all required findings?
         - YES
            8. Review authority approves proposed project.
            9. Is the approval appealed within 10 days of approval?
               - NO
                  Permit is issued and approval goes into effect.
               - YES
                  Review authority approves proposed project.
            10. Review authority approves proposed project.
               11. Is the approval appealed within 10 days of approval?
                   - NO
                      Permit is issued and approval goes into effect.
                   - YES
                      Review authority approves proposed project.
4. Failure by City staff to identify all permit requirements shall not constitute a waiver of those requirements.

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.

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 filing, 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.

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, and other applicable City policies and regulations.

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.
Chapter 17.114 – CONCEPTUAL REVIEW

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17.114.030 Review Authority
17.114.040 Application Submittal Requirements
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.

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, upon the applicant’s request, may also request provide input on the Conceptual Review application from the Planning Commission, the City Council, or both.
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 addition 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.

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.
Chapter 17.116 – ADMINISTRATIVE PERMITS

Sections:
17.116.010 Purpose
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17.116.040 Application Submittal, Review, and Action
17.116.050 Public Notice and Hearing
17.116.060 Conditions of Approval
17.116.070 Appeals and Post-Decision Procedures

Note: Administrative Permits are a new type of permit.

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.

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.
Chapter 17.120 – DESIGN PERMITS

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17.120.010 Purpose
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17.120.030 When Required
17.120.040 Application Submittal and Review
17.120.050 Design Review Committee
17.120.060 Public Notice and Hearing
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

Note: The types of projects requiring a Design Permit and the review authority for these projects shown in Table 17.120-1 are different from current requirements in Section 17.63.070 of the existing Zoning Code.

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.
<table>
<thead>
<tr>
<th>Type of Project</th>
<th>Type of Permit</th>
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<tr>
<td>Single-Family Residential Projects</td>
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<tr>
<td>Ground floor additions to existing single-family homes where the addition is</td>
<td>Minor Design Permit</td>
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<tr>
<td>visible from a public street and does not exceed 15 ft. in height, except for</td>
<td></td>
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<tr>
<td>exempt additions (Section 17.120.030.B)</td>
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<tr>
<td>Accessory structures greater than 8 ft. in height and/or 80 sq. ft. to 300 sq.</td>
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<tr>
<td>ft.</td>
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<tr>
<td>Accessory structures greater than 300 sq. ft.</td>
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<td>Upper floor decks and balconies on the side or rear of a home that are not</td>
<td>Design Permit</td>
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<tr>
<td>adjacent to public open space</td>
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</tr>
<tr>
<td>Upper floor additions to an existing single-family homes</td>
<td>Design Permit</td>
</tr>
<tr>
<td>New single-family homes</td>
<td>Design Permit</td>
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<tr>
<td>Multi-Family Residential Projects</td>
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</tr>
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<td>Ground-floor additions less than 3,000 sq. ft. to 15% of total floor area of an</td>
<td>Minor Design Permit</td>
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<td>existing multi-family structure</td>
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<td>Upper floor decks and balconies on the side or rear of a structure that are not</td>
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<td>adjacent to public open space do not comply with standards in Section</td>
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<tr>
<td>17.16.030.B.8 (Decks and Balconies)</td>
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<tr>
<td>Accessory structures including garbage and recycling enclosures</td>
<td>Minor Design Permit</td>
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<tr>
<td>Ground-floor additions 3,000 sq. ft. to 15% of total floor area or more to an</td>
<td>Design Permit</td>
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<tr>
<td>existing multi-family structure</td>
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<tr>
<td>Upper floor additions to an existing multi-family structure</td>
<td>Design Permit</td>
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<tr>
<td>New multi-family residential structures</td>
<td>Design Permit</td>
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<tr>
<td>Non-Residential Projects (Including Mixed-Use)</td>
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<tr>
<td>Exterior modifications to an existing structure that do not increase the floor</td>
<td>Minor Design Permit</td>
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<td>area of the structure</td>
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<tr>
<td>Accessory structures greater than 80 sq. ft. to 300 sq. ft., including garbage</td>
<td>Minor Design Permit</td>
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<td>and recycling enclosures</td>
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<tr>
<td>Accessory structures greater than 300 sq. ft., including garbage and recycling</td>
<td>Design Permit</td>
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<td>enclosures</td>
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<tr>
<td>Additions less than 3,000 sq. ft. to 15% of the floor area of an existing non-</td>
<td>Minor Design Permit</td>
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<tr>
<td>residential structure where the addition is not visible from the primary street</td>
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<td>frontage</td>
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<tr>
<td>Additions 15% or more of the floor area less than 3,000 sq. ft. to of an existing</td>
<td>Design Permit</td>
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<td>non-residential structure where the addition is visible from the primary street</td>
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<td>frontage</td>
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<tr>
<td>Additions to an existing non-residential structure of 3,000 sq. ft. or more</td>
<td>Design Permit</td>
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<tr>
<td>New non-residential structures</td>
<td>Design Permit</td>
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<tr>
<td>Other Projects</td>
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<tr>
<td>Fully screened building-concealed, facade-mounted, or roof-mounted wireless</td>
<td>Minor Design Permit</td>
</tr>
<tr>
<td>communication facility</td>
<td></td>
</tr>
<tr>
<td>Other wireless communication facilities not eligible for a Minor Design Permit</td>
<td>Design Permit</td>
</tr>
</tbody>
</table>
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.
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 80 square feet in floor area and 8 feet in height with no connection to electricity, 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.

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 applicant City may require shall submit enhanced project visualization materials (e.g., 3-D renderings, photo-simulations, physical models, expanded streetscape diagrams, viewpoint analysis) 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.
17.120.050 Design Review Committee Process

A. Review Required. All Design Permit applications shall be reviewed by City staff and City-contracted design professionals as specified in the Design Review Committee (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 Committee 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 Committee 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).

Note: The public notice of a pending action for Minor Design Permit applications in Subsection B below is new.

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

Note: The Design Review Criteria in this section replace Design Review considerations in Section 17.63.090 of the existing Zoning Code.

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 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.

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.

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**

*Note:* The Design Permit findings in this section replace Design Permit findings in Section 17.63.110 of the existing Zoning Code.

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)

**E.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 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.
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 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.
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.
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 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.
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 physical 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).

17.128.030 Review Authority
The Planning Commission takes action on all Variance applications.

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). 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

Note: The findings for approval of a Variance in this section are different from current findings in Section 17.66.090 of the existing Zoning Code.

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.

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.

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.
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 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).
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

**Note:** The findings for approval of a sign permit in this section are new and replace standards of review for sign applications in Section 17.57.015 of the existing Zoning Code.

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. If the property is located within or near a residential area, the proposed signs are harmonious with the character of the residential neighborhood.

F. 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.
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

Note: The Minor Modification is a new type of approval not in the existing Zoning Code.

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 do not negatively impact neighboring properties or the community at large.

17.136.020 When Allowed
A. Permitted Modifications. The Planning Commission City 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. Maximum height of buildings, fences, walls, and other structures;
2. Minimum and maximum setbacks from property lines;
3. Minimum required on-site open space and landscaping;
4. Dimensional standards and setbacks for parking spaces, driveways, garages, parking lots, and loading areas; and
5. Other similar dimensional standards as determined by the Community Development Director.

B. Excluded Modifications. The City may not approve Minor Modifications for:

1. Maximum height of buildings, fences, walls, and other structures;
2. Minimum and maximum setbacks from property lines;
3. Lot area, width, or depth;
2.4. Minimum number of off-street parking spaces;
3.5. Maximum residential density; or
4.6. Maximum floor area ratio (FAR).

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). 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 an undesirable precedent.
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.
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

Note: This chapter is new and required by federal and State law.

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

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concurrent review with an application for discretionary review by the Planning Commission or City Council.

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), 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 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.
Chapter 17.144 – ZONING CODE 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

Note: This chapter revises Zoning Code amendment provisions in Chapter 17.69 of the existing Zoning Code to comply with State law and reflect administrative procedures in other chapters of the updated Zoning Code.

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, 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. General. The Planning Commission shall hold a public hearing on a proposed Zoning Map Amendment and Zoning Code Amendment 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 appeal zone, in which case the City Council’s decision may be appealed to the Coastal Commission.

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.

**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 becomes effective 30 days following the adoption of the ordinance by the City Council.
Chapter 17.148 – PUBLIC NOTICE AND HEARINGS

Sections:
17.148.010 Purpose
17.148.020 Notice of Hearing
17.148.030 Notice for Minor Use Permits and Administrative Design Permits
17.148.040 Notice for Administrative Permits and Section 6409(a) Permits
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 any applicable sections of 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.
B. **Method of Notice Distribution.** Notice of a public hearing required by the Zoning Code shall be given at least 40 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**

<table>
<thead>
<tr>
<th>Type of Permit or Approval Hearing</th>
<th>Mailed notice required at least 10 days prior</th>
<th>Printed notice posted at site</th>
<th>Notice published in newspaper of record at least 10 days prior</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conceptual Review</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Design Permit &amp; Appeal</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Major Revocable Encroachment Permit &amp; Appeal</td>
<td></td>
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<tr>
<td>Minor Modifications &amp; Appeal</td>
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<tr>
<td>Minor Design Permit Appeal</td>
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<tr>
<td>Minor Use Permit Appeal</td>
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<tr>
<td>Removal of Structure from Designated Historic Structure List</td>
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<tr>
<td>Sign Permit &amp; Appeal</td>
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<tr>
<td>Historic Alteration Resource Permit</td>
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<tr>
<td>Historic Resource Demolition Permit</td>
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<tr>
<td>Tenant Use Permit Appeal</td>
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<tr>
<td>Development Agreement</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>General Plan Amendment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Change in Zoning Designation/Zoning Map Code Amendment &amp; Appeal</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Variance &amp; Appeal</td>
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<tr>
<td>Conditional Use Permit &amp; Appeal</td>
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<tr>
<td>Master Use Permit, Amendment, -&amp; Appeal</td>
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<tr>
<td>Condominium Conversion &amp; Appeal</td>
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<tr>
<td>Subdivision &amp; Appeal</td>
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<tr>
<td>Preliminary Development Plans (PD Zones)</td>
<td></td>
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</tr>
<tr>
<td>Coastal Development Permit &amp; Appeal</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Notice of Administrative Review for Minor Design Permit and Minor Use Permit

<table>
<thead>
<tr>
<th>Notice of Administrative Review for Minor Design Permit and Minor Use Permit</th>
<th>Yes</th>
<th>100-foot radius</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

1. **Newspaper Publication.** Where required by Table 17.148-1, for Zoning Code Amendments, Zoning Changes, Variances, Conditional Use Permits, Coastal Development Permits, Master Use Permits, Subdivisions, Condominium Conversions and appeals thereof, notice of public hearing shall be published in at least one newspaper of general circulation at least 40 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. **Publication and Posting.** A printed notice shall be posted at the project site at least ten calendar days prior to the hearing. If notice is mailed or delivered as described in Subsection 2, above, the notice shall also either be:

5. Published at least once in a newspaper of general circulation in Capitola at least ten days before the scheduled hearing; or

6.4. Posted at least ten days before the scheduled hearing in at least three public places within Capitola, including one public place in the area affected by the proceeding.

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

8.6. **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 Administrative 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 3100 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 upon receiving by a specified date written request for a hearing.

C. 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 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 Administrative Permits and Section 6409(a) Permits**

A. For Administrative Permits, Section 6409(a) Permits and other ministerial permits requiring public notice, a notice of a pending action shall be posted on the subject property at least 10 days prior to the City taking action on the application.
B. The notice of a pending action shall contain the following:
   1. A description of the proposed project, including the location of the subject property.
   2. Required permits and approvals.
   3. How the public can obtain additional information on the proposed project.
   4. Date after which the Community Director will take action on the application.
   4.5. A statement explaining that the proposed project is allowed by-right with a ministerial permit and will be approved by the Community Development Director if the project complies with all applicable standards and regulations.

17.148.04017.148.050 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.

17.148.05017.148.060 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 from time to time 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.

17.148.06017.148.070 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.
### 17.148.070 17.148.080 Decision and Notice

#### A. Date of Action.

With the exception of appeals to the City Council, 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 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 procedure for appeal of the decision, 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.
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 Permits. Appeal procedures for Coastal Permits shall be as specified in Chapter 17.44.140 (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.
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 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.
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

Note: Subsection A below adds new language clarifying the effective date of City Council decisions within the Coastal Zone.

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 has receive 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 day following the date the decision is rendered, when no appeal to the decision has been filed with the Coastal Commission in compliance with Chapter 17.44.140 (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 to 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**

Note: This section is new.

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.

17.156.070 Changes to an Approved Project

Note: Subsection C below establishes new criteria for Community Development Director approval of a minor change 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 80 square feet and 9 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 and colors of affecting less than 25 percent of the building facade provided the changes maintain the approved architectural style of the structure.

d. Fences and walls if consistent with Chapter 17.60 (Fences and Walls).

d. Landscaping if consistent with Chapter 17.72 (Landscaping).

d. Exterior lighting if consistent with Chapter 17.96 (Supplemental Standards).

d. Roof forms and materials provided there is no increase in structure height.

d. 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.

d. The number, location, and size of decks and patios provide no new noise or privacy impacts would be created.

d. The number, size, type, and location of skylights.

d. Other similar minor changes to project design as determined by the Community Development Director.

17.156.080 Time Limits and Extensions

Note: This section replaces Section 17.81.160 in the existing Zoning Code to clarify procedures and codify current practice.

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.

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

**Note:** This section establishes a new standard permit revocation procedure that applies to all discretionary permits, replacing revocation procedures for each type of permit in the existing Zoning Code (e.g., 17.60.120 and 17.66.140 in the existing Zoning Code).

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 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.

**E.F. Appeals.** A decision on a permit revocation may be appealed in accordance with Chapter 17.152 (Appeals).