



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT

DATE: JULY 21, 2016

SUBJECT: **Zoning Code Update All Properties within Capitola**

Continuation of Comprehensive Update to the City of Capitola Zoning Code (Municipal Code Chapter 17)

The Zoning Code serves as the Implementation Plan of the City's Local Coastal Program and therefore must be certified by the Coastal Commission.

Environmental Determination: Addendum to the General Plan Update EIR
 Property: The Zoning Code update affects all properties within the City of Capitola.

Representative: Katie Cattan, Senior Planner, City of Capitola

BACKGROUND: The draft zoning code was released on February 4, 2016, for an extended public review and comment period. The Planning Commission began the review of the draft zoning code on March 3 and held subsequent meetings on March 17, April 18, April 21, May 5, May 16, May 19, June 13, and June 27. The draft code, zoning map, and previous staff reports with attachments are available online at:

<http://www.cityofcapitola.org/communitydevelopment/page/zoning-code-update>.

DISCUSSION: The draft zoning code has been reviewed sequentially from beginning to end, except for the glossary, wireless section, and coastal sections. Staff summarized the direction provided by the Planning Commission to date in the minor edits list and discussion list (Attachments 6 and 7).

On June 27, 2016, the Planning Commission reviewed the Planning Commission redlines to Part 1, Part 2, and a portion of Part 3 of the draft zoning code. The Planning Commission will continue with the review of redlines for the remainder of Part 3 and Part 4 (Attachments 1 and 2). Additional edits and/or direction provided at the July 21, 2016 hearing will be incorporated into the code to prepare a final draft for positive recommendation to City Council.

Coastal Chapters

Following the discussion on redlines, staff will present code sections reviewed by the California Coastal Commission (CCC). These sections include redlines and sidebar comments provided by CCC staff along with City staff responses (Attachment 3). During the hearing, staff will present the sections sequentially as done with the previous sections of code.

The City's approach to regulating development within potential geologic hazard zones has been the most challenging issue introduced by CCC staff (Attachment 4). CCC staff has indicated that the City's draft geologic hazard chapter is inadequate and has provided examples of other agencies' regulations rather than redlining the City's draft geologic hazards chapter.

CCC has provided two sets of example regulations which the City could use as a model for its geologic hazard regulations. The first is a draft prepared by CCC for Marin County's consideration. These regulations would include requirements for managed retreat of any area within a 100-year impact zone of a coastal hazard, including bluff retreat, beach erosion, coastal flooding, earthquakes, and tsunamis. The 100-year impact zone would be calculated using a worst-case sea level rise projection without considering any existing or future protective devices (sea walls, revetments, etc.).

The regulations would also introduce new redevelopment limitations which would establish a 50% remodel/repair threshold for any structure in a 100-year coastal hazard zone. The requested redevelopment threshold would be calculated on a cumulative basis accounting for all building improvements since 1973. Marin County has largely rejected the requested regulations and has formerly submitted a significantly revised geologic hazards chapter which is tentatively scheduled for consideration at a CCC public hearing this fall.

The second set of example geologic hazard regulations is from the City of Seaside (Attachment 5). These regulations also include requirements for managed retreat within a 100-year hazard zone; however, the City of Seaside coastal zone is sparsely developed and is separated from the ocean by a wide beach, Highway 1, and open space.

Although managed retreat would not have a significant effect on existing development in Seaside or along undeveloped sections of the Marin County coastline, the requested regulations would have devastating consequences for the City of Capitola. In staff's opinion, the regulations would effectively impose a development moratorium in the Village, the Soquel Creek side of Riverview Drive, and blufftops along Depot Hill, Cliff Drive, and Park Avenue. City staff has expressed these concerns to CCC, who has indicated a willingness to work toward a compromised solution.

Other major issues related to CCC's requested revisions include expanded setbacks for environmentally sensitive habitats; new noticing and appeal provisions for projects exempt from a Coastal Development Permit (CDP); requirements for lot mergers when contiguous, undersized parcels have common ownership; and inclusion of stormwater and water quality regulations within the City's LCP.

It is anticipated that the following sections will be discussed during the July 21 meetings:

Meeting Date	Sections to Be Reviewed
July 21	<u>Redline Review</u> Part 3 Remainder (Attachment 1) Part 4 (Attachment 2) Coastal Chapters (Attachment 5) 17.28 Visitor Serving 17.44 Coastal Overlay Zone 17.64 Environmentally Sensitive Habitat Areas 17.68 Geological Hazards 17.92 Nonconforming Parcels, Uses, and Structures 17.136 Minor Modifications
August 4	17.148 Public Notice and Hearings 17.160 Glossary 17.104 Wireless

CEQA: An Addendum to the General Plan Update Environmental Impact Report has been prepared.

RECOMMENDATION: Accept the staff presentation, discuss Part 3 and Part 4 redlines of the draft zoning code, identify desired code revisions, begin the review of the coastal sections, and continue the public hearing to the August 4, 2016 meeting.

ATTACHMENTS:

1. Part 3 Zoning Code Redlines
2. Part 4 Zoning Code Redlines
3. California Coastal Commission Comments
4. CCC guidance on Geological Hazards.pdf
5. City of Seaside Example
6. PC Discussion List
7. PC Edits List.pdf

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Chapter 17.76 - PARKING AND LOADING

Sections:

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

17.76.010 Purpose

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

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

17.76.020 Applicability

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

A. New Structures and Uses. On-site parking and loading as required by this chapter shall be provided anytime a new structure is constructed or a new land use is established.

B. Replacing Existing Uses.

1. Mixed Use Village Zoning District.

- a. Where an existing residential use is changed to a commercial use in the Village Mixed Use (MU-V) zoning district, or when any use is changed to a restaurant, parking shall be provided for the full amount required by the commercial-new use. No space credit for the previous use may be granted.
- b. In all other changes of use in the Village Mixed Use (MU-V) zoning district, additional parking is required to accommodate the incremental intensification of the new use. Additional parking is not required to remedy parking deficiencies existing prior to the change in use.

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

C. Expansions and Enlargements.

1. Nonresidential Use.

- a. —Where an existing structure with a nonresidential use is expanded or enlarged, additional parking is required to serve only the expanded or enlarged area, except as allowed by subparagraph b below.
- ~~a.~~b. An eating and drinking establishment may expand by 20 percent of the existing floor area of the business without providing additional parking. Permitted expansions include modification of the internal building layout to enlarge the dining area, additions to the size of the business within an existing building footprint, and new outdoor dining areas.

2. **Residential Use.** For an existing structure with a residential use, the full amount of parking to serve the use is required when the floor area is increased by more than ten percent.

17.76.030 Required Parking Spaces

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



Note: Required parking for in the MU-N zoning district in Table 17.76-1 is less than required by the existing Zoning Code. Reduced parking requirements reflect ability for residents in adjacent neighborhoods to walk to destinations in the MU-N zoning district.

TABLE 17.76-1: REQUIRED ON-SITE PARKING IN VILLAGE MIXED USE ZONING DISTRICTS

Land Uses	Number of Required Parking Spaces
	Village Mixed Use (MU-V)
Retail	1 per 240 sq. ft.
Eating and Drinking Establishments	
Bars and Lounges	1 per 60 sq. ft. of floor area for dining <u>and/or drinking</u> ; 1 per 240 sq. ft. for all other floor area
Restaurants and Cafes	1 per 60 sq. ft. of floor area for dining <u>and/or drinking</u> ; 1 per 240 sq. ft. for all other floor area
Take-Out Food and Beverage	1 per 240 sq. ft.
Personal Services	1 per 240 sq. ft.
Hotels	
With more than 20 guest rooms	As determined by a parking demand study
With 20 or less guest rooms	1 per guest room plus additional spaces as required by the Planning Commission

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

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

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

Land Uses	Number of Required Parking Spaces
Residential Land Uses	
Duplex Homes	2 per unit, 1 covered
Elderly and Long Term Care	1 per six beds plus 1 per 300 sq. ft. of office and other nonresidential areas
Group Housing (includes single-room occupancy)	1 per unit plus 1 guest space per 6 units
Mobile Home Parks	1 per unit plus 1 per office
Multi-Family Dwellings	2.5 per unit, 1 covered
Residential Care Facilities, Small	0.5 per bed plus 1 per 300 sq. ft. of office and other nonresidential areas
Residential Care Facilities, Large	0.5 per bed plus 1 per 300 sq. ft. of office and other nonresidential areas
Secondary Dwelling Units	As required by the combined floor area with the primary residence <u>1 per secondary unit in addition to spaces required for primary residence</u>
Single-Family Dwellings	1,500 sq. ft. or less: 2 per unit 1,501-2,000 sq. ft.: 2 per unit, 1 covered 2,001-2,600 sq. ft.: 3 per unit, 1 covered 2,601 sq. ft. or more: 4 per unit, 1 covered
Public and Quasi-Public Land Uses	
Community Assembly	1 per 3 fixed seats, or 1 per 40 sq. ft. of assembly area for uses without fixed seats
Cultural Institutions	As determined by a parking demand study
Day Care Centers	1 per 400 sq. ft. of floor area used for daycare and 1 per employee
Government Offices	1 per 300 sq. ft.
Home Day Care, Large	1 per non-resident employee
Home Day Care, Small	None beyond minimum for residential use
Medical Offices and Clinics	1 per 300 sq. ft.
Parks and Recreational Facilities	As determined by a parking demand study
Public Safety Facilities	As determined by a parking demand study
Schools, Public or Private	2 per classroom

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

Commercial Land Uses	
Banks and Financial Institutions	1 per 300 sq. ft.
Business Services	1 per 300 sq. ft.
Commercial Entertainment and Recreation	1 per 3 fixed seats, or 1 per 40 sq. ft. of assembly area for uses without fixed seats
Eating and Drinking Establishments	
Bars and Lounges	1 per 60 sq. ft. of floor area for dining <u>and/or drinking</u> 1 per 300 sq. ft. for all other floor area
Restaurants and Cafes	1 per 60 sq. ft. of floor area for dining <u>and/or drinking</u> 1 per 300 sq. ft. for all other floor area
Take-Out Food and Beverage	1 per 300 sq. ft. of gross floor area
Food Preparation	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office area
Gas and Service Stations	2 for gas station plus 1 per 100 sq. ft. of retail and as required for vehicle repair
Lodging	
Bed and Breakfast	1 per guest room plus parking required for residential use
Hotel	1 per guest room plus 1 per 300 sq. ft. of office
Maintenance and Repair Services	1 per 600 sq. ft.
Personal Services	1 per 300 sq. ft.
Professional Offices	1 per 300 sq. ft.
Salvage and Wrecking	1 per 500 sq. ft. of building area plus 1 per 0.5 acre of outdoor use area.
Self-Storage	1 per 5,000 sq. ft.
Retail	1 per 300 sq. ft. of customer area
Vehicle Repair	1 per 500 sq. ft. of non-service bay floor area plus 2 per service bay
Vehicle Sales and Rental	1 per 300 sq. ft. for offices plus 1 per 1,000 sq. ft. of display area and requirements for vehicle repair where applicable
Wholesale	1 per 5,000 sq. ft.

Heavy Commercial and Industrial Land Uses	
Construction and Material Yards	1 per 2,500 sq. ft.
Custom Manufacturing	1 per 2,000 sq. ft., plus 1 per 300 sq. ft. of office
Light Manufacturing	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office
Warehouse, Distribution, and Storage Facilities	1 per 1,500 sq. ft.
Transportation, Communication, and Utility Uses	
Utilities, Major	As determined by a parking demand study
Utilities, Minor	None
Recycling Collection Facilities	1 per 1,000 sq. ft. of floor area
Wireless Communications Facilities	None
Other Uses	
Accessory Uses	Same as primary use
Home Occupation	None beyond requirement for residence
Quasi-Public Seating Areas	None
Temporary Uses	As determined by Planning Commission
Urban Agriculture	
Home Gardens	None beyond requirement for residence
Community Gardens	None
Urban Farms	As determined by a parking demand study

C. Calculation of Required Spaces.

1. **Floor Area.** Where a parking requirement is a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated. The floor area of a use shall be calculated as described in Section 17.48.040 (Floor Area and Floor Area Ratio). Pursuant to Section 17.48.040, floor area for garages and other parking facilities are generally not included in the calculation of floor area for the purpose of determining on-site parking requirements.
2. **Employees.** Where a parking requirement is stated as a ratio of parking spaces to employees, the number of employees is based on the largest shift that occurs in a typical week.

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

3. **Seats.** Where a parking requirement is stated as a ratio of parking spaces to seats, each 24 inches of bench-type seating at maximum seating capacity is counted as one seat.
4. **Fractional Spaces.** In determining the number of required parking, fractions of spaces over one-half shall be rounded up to the next whole number.



Note: Subsection E below allows the Community Development Director to determine the parking requirement for an unlisted land use. The existing Zoning Code requires the Planning Commission to make this determination.

- D. **Unlisted Uses.** The parking requirement for land uses not listed in Table 17.76-1 and Table 17.76-2 shall be determined by the Community Development Director based on the requirement for the most comparable similar use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand.
- E. **Sites with Multiple Uses.** Where more than one land use is conducted on a site, the minimum number of required on-site parking spaces shall be the sum of the number of parking spaces required for each individual use.
- F. **Additional Required Parking.** The Planning Commission may require more on-site parking than required by Table 17.76-1 and Table 17.76-2 if the Planning Commission determines that additional parking is needed to serve the proposed use and to minimize adverse impacts on neighboring properties.

17.76.040 General Requirements

A. Availability and Use of Spaces.

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

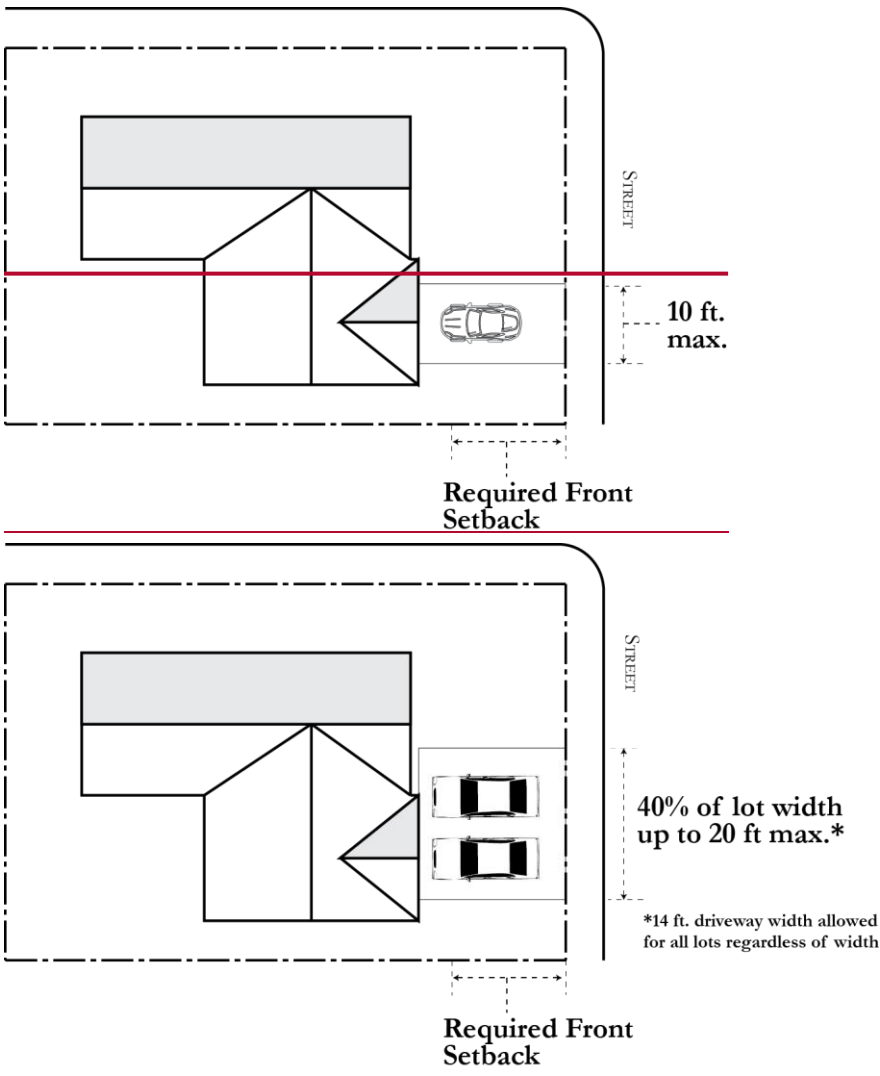
B. Parking in Front and Exterior Side Setback Areas.



Note: Limitations on parking in front and exterior side setback areas in this subsection are new.

- 1. **R-1 Zoning District.** In the R-1 zoning district, the width of a parking space in the required front or exterior side setback area may not exceed ~~10 feet~~ 40 percent of lot width up to a maximum of 20 feet, except that all lots may have a parking space of up to 14 feet in width regardless of lot width. See Figure 17.76-1. The Planning Commission may allow a larger parking area within the required front and exterior side setback areas with a Design Permit if locating this parking outside of the setback areas is infeasible due to unique physical conditions on the site.

FIGURE 17.60-1: PARKING IN FRONT SETBACK AREA IN R-1 ZONING DISTRICT



Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

- 2. **Other Zoning Districts.** In all zoning districts other than the R-1 zoning district, required parking spaces may not be located within required front or exterior side setback areas. In the Mixed Use Neighborhood zoning district, parking may be located in the front or exterior side setback area if approved by the Planning Commission in accordance with Section 17.020.040.E (Parking Location and Buffers).

C. Location of Parking.

- 1. **All Zoning Districts.** Required parking spaces may not be located within any public or private right-of-way unless located in a sidewalk exempt area and Encroachment Permit is granted.
- 2. **R-1 Zoning District.** Required parking spaces in the R-1 zoning district shall be on the same parcel as the use that they serve.
- 3. **MU-V Zoning District.** Required parking spaces for new non-residential development and intensified uses in the MU-V zoning district shall be provided on sites outside of the Village area. These spaces shall be within walking distance of the use which it serves or at remote sites served by a shuttle system. The Planning Commission may approve exceptions to allow on-site parking in the MU-V district for:
 - ~~a. Non historic structures in residential areas bounding the central commercial district of the village;~~
 - b.a. The Capitola Theater site (APN 035-262-04) and Mercantile site (APN 035-221-17) if driveway cuts are minimized to the extent possible and parking areas are located on the interior of the sites; and
 - e.b. If mandated under Federal Emergency Management Agency regulations and as consistent with the certified Local Coastal Program.
- 4. **Other Zoning Districts.** In all zoning districts other than the R-1 and MU-V zoning district, required parking shall be located on the same lot as the use they are intended to serve, except as allowed by Section 17.76.050.C below.



Note: Large vehicle storage requirements in subsection D below are new.

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



Note: Covered parking requirements and carport design standards in subsection E below are new.

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

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

F. Electric Vehicle Charging.

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

G. Parking for Persons with Disabilities.

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

17.76.050 On-site Parking Alternatives



Note: On-site parking reductions in this section are new, except for off-site parking (Subsection C) and fees in lieu of parking in (Subsection I).

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

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

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

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

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

C.D. Off-Site Parking.

1. For multi-family housing and non-residential uses, the Planning Commission may allow off-site parking if the Commission finds that practical difficulties prevent the parking from being located on the same lot it is intended to serve.
2. Off-site parking shall be located within a reasonable distance of the use it is intended to serve, as determined by the Planning Commission.
3. A ~~covenant record~~ deed restriction or other legal instrument, approved by the City Attorney, shall be filed with the County Recorder. The covenant record shall require the owner of the property where the on-site parking is located to continue to maintain the parking space so long as the building, structure, or improvement is maintained in Capitola. This covenant shall stipulate that the title and right to use the parcels shall not be subject to multiple covenant or contract for use without prior written consent of the City.

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

- ~~1. The parking will be shared by non-residential land uses only;~~
- ~~2.1.~~ A parking demand study ~~approved prepared by a specialized consultant contracted by the Community Development Director, paid for by the applicant, and approved by the Planning Commission~~ demonstrates that there will be no substantial conflicts between the land uses' principal hours of operation and periods of peak parking demand;
- ~~3.2.~~ The total number of parking spaces required for the land uses does not exceed the number of parking spaces anticipated at periods of maximum use; and
- ~~3.~~ The proposed shared parking facility is located no further than 400 feet from the primary entrance of the land use which it serves.
4. In the Mixed Use Neighborhood (MU-N) zoning district the reduction for shared parking is no greater than 25 percent of the required on-site parking spaces.

E.F. Valet Parking. The Planning Commission may allow up to 25 percent of the required on-site parking spaces to be valet spaces. Valet parking shall comply with the following standards:

1. Valet parking lots must be staffed ~~at all times~~ when business is open by an attendant who is authorized and able to move vehicles.
2. A valet parking plan shall be reviewed and approved by the Community Development Director in consultation with the Public Works Director.

3. Valet parking may not interfere with or obstruct vehicle or pedestrian circulation on the site or on any public street or sidewalk.
4. The use served by valet parking shall provide a designated drop-off and pick-up area. The drop-off and pick-up area may be located adjacent to the building, but it may not be located within a fire lane, impede vehicular and/or pedestrian circulation, or cause queuing in the right-of-way or drive aisle.

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

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

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

~~**H. Transit Center Credit.** The Planning Commission may reduce the number of required parking spaces by up to 10 percent for non-residential or multiple-family development projects within 400 feet of a regional transit center.~~

I. Fees in Lieu of Parking

1. Within the MU-V zoning district, on-site parking requirements for nonresidential uses may be satisfied by payment of an in-lieu parking fee established by the City Council to provide an equivalent number of parking spaces in a municipal parking lot. Such payment must be made before issuance of a building permit or a certificate of occupancy. Requests to participate in an in-lieu parking program must be approved by the City Council.
2. Fee revenue must be used to provide public parking in the vicinity of the use. In establishing parking districts, the City Council may set limitations on the number of spaces or the maximum percentage of parking spaces required for which an in-lieu fee may be tendered.

17.76.060 Parking Design and Development Standards

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

TABLE 17.76-3: MINIMUM PARKING SPACE DIMENSIONS

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

Notes:

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

- B. Compact Spaces.** A maximum of 30 percent of required on-site parking spaces serving multi-family and non-residential uses may be compact spaces. All parking spaces for compact cars shall be clearly marked with the word “Compact” either on the wheel stop or curb, or on the pavement at the opening of the space.
- C. Parking Lot Dimensions.** The dimensions of parking spaces, maneuvering aisles, and access ways within a parking lot shall conform to the City’s official parking space standard specifications maintained by the Public Works Director and as shown in Figure 17.76-2 and Table 17.76-4.

FIGURE 17.76-2: STANDARD PARKING LOT DIMENSIONS

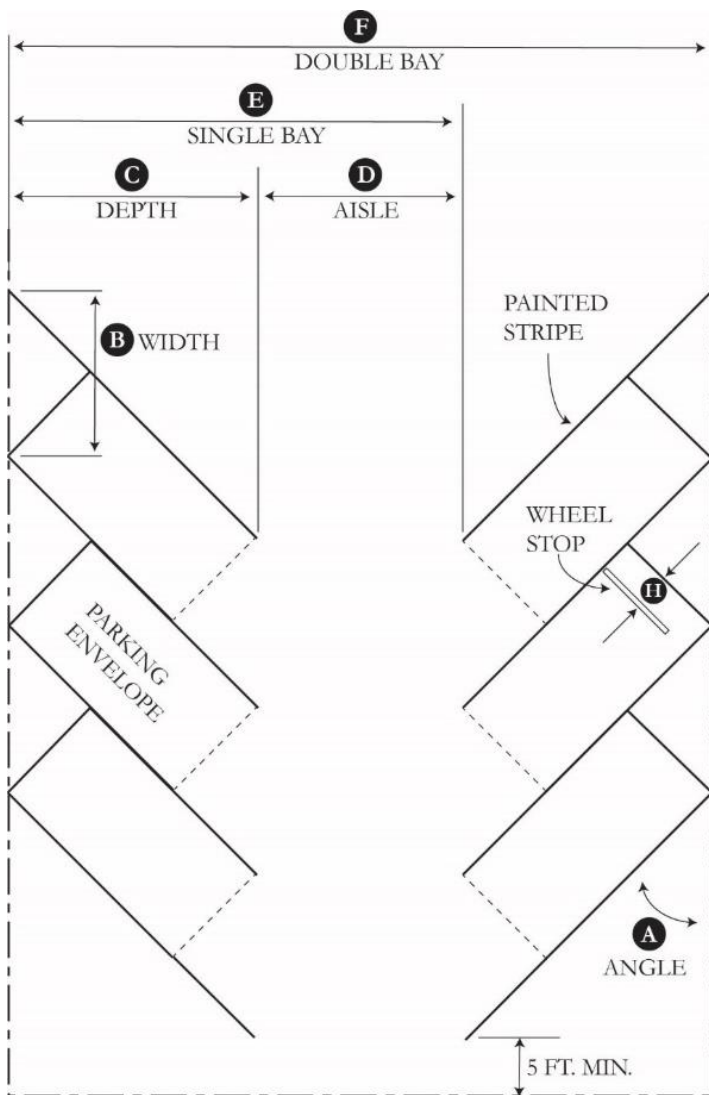


TABLE 17.76-4: STANDARD PARKING LOT DIMENSIONS

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

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

D. Surfacing.

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

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

1. Parking spaces in a tandem configuration shall be reserved for and assigned to a single dwelling unit.
2. For single-family dwellings, tandem parking is permitted for up to two uncovered spaces in front of a garage, with a maximum of three tandem spaces, including the covered space in a single garage.
- 2.3. The minimum width of an uncovered tandem parking space may be reduced to 9 feet.
- 3.4. All required guest parking shall be provided as single, non-tandem parking spaces.
- 4.5. Tandem parking spaces shall not block the use of the driveway to access other parking spaces located within the parking area.
- 5.6. Tandem parking spaces shall be used to accommodate passenger vehicles only.



Note: Allowance for parking lifts in Subsection F below is new.

F. Parking Lifts. Required parking may be provided using elevator-like mechanical parking systems (“lifts”) provided the lifts are located within an enclosed structure or otherwise screened from public view.

G. Lighting.

1. A parking area with six or more parking spaces shall include outdoor lighting that provides a minimum illumination of 1.0 foot candles over the entire parking area.
2. Outdoor lighting as required above shall be provided during nighttime business hours.
3. All parking space area lighting shall be energy efficient and designed so that any glare or spillage is directed away from residential properties.
4. All fixtures shall be hooded and downward facing.

H. Pedestrian Access.

1. Parking lots with more than 30 parking spaces shall include a pedestrian walkway in compliance with ADA requirements.

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

17.76.070 Parking Lot Landscaping

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



Note: Interior landscaping requirement in Subsection C below is new.

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

TABLE 17.76-5: MINIMUM REQUIRED PARKING LOT LANDSCAPING

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

D. Shade Trees.



Note: Minimum number of shade trees reduced from one per two in the existing Zoning Code to one per five in this subsection.

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

E. Concrete Curbs.

1. All landscape areas shall be separated from parking spaces, drive aisles and driveways by a continuous, raised concrete curb. Raised concrete curbs shall be a minimum of 6 inches high by 4 inches deep.
2. The City may approve alternatives to raised concrete curbs as needed to comply with any mandatory stormwater drainage standards.

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

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

G. Timing. Landscaping shall be installed prior to the City's authorization to occupy any buildings served by the parking area, or prior to the final inspection for the parking lot.

~~G.~~



Note: Reduced landscaping requirements for green parking lot design features in Subsection H below is new.

H. Green Parking Exemptions. Parking lots that incorporate solar panels, bioswales, and other similar green features into the parking lot design are eligible for reduced parking lot landscaping requirements with the approval of a Conditional Use Permit.

I. Exceptions. The Planning Commission may grant an exception to the parking lot landscaping requirements in this section with the approve of a Design Permit upon finding that:

1. Full compliance with the requirement is infeasible or undesirable;
2. The project complies with the requirement to the greatest extent possible; and
- 4.3. The project incorporates other features to compensate for the exception and create a high quality design environment.

17.76.080 Bicycle Parking

Note: Bicycle parking requirements in this section are new.



- A. Applicability.** All multi-family developments of 5 units or more and commercial and commercial parking lots of 10 spaces or more shall provide bicycle parking as specified in this section.
- B. Types of Bicycle Parking.**
 - 1. **Short-Term/Class II Bicycle Parking.** Short-term/Class II bicycle parking provides shoppers, customers, messengers and other visitors who generally park for two hours or less a convenient and readily accessible place to park bicycles.
 - 2. **Long-Term/Class I Parking.** Long-term/Class I bicycle parking provides employees, residents, visitors and others who generally stay at a site for several hours a secure and weather-protected place to park bicycles. Long-term parking may be located in garages or other limited access areas for exclusive use by tenants or residents.
- C. Bicycle Parking Spaces Required.** Short-term and long-term bicycle parking spaces shall be provided as specified in Table 17.60-6.

TABLE 17.76-6 REQUIRED BICYCLE PARKING SPACES

Land Use	Required Bicycle Parking Spaces	
	Short-Term Spaces	Long-Term Spaces
Multi-Family Dwellings and Group Housing	10% of required automobile spaces; minimum of 4 spaces	1 per 5 units
Non-Residential Uses	10% of required automobile spaces	1 per 20 required automobile spaces for uses 10,000 sq. ft. or greater

- D. Short-Term/Class II Bicycle Parking Standards.** Short-term bicycle parking shall be located within 100 feet of the primary entrance of the structure or use it is intended to serve.
- E. Long-Term Bicycle Parking Standards.** Following standards apply to long-term bicycle parking:
 - 1. **Location.** Long-term bicycle parking shall be located on or within 750 feet of the use that it is intended to serve.
 - 2. **Security.** Long-term bicycle parking spaces shall be secured. Spaces are considered secured if they are:
 - a. In a locked room or area enclosed by a fence with a locked gate;

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

- b. Within view or within 100 feet of an attendant or security guard;
- c. In an area that is monitored by a security camera; or
- d. Visible from employee work areas.

F. Parking Space Dimensions.

1. Minimum dimensions of 2 feet by 6 feet shall be provided for each bicycle parking space.
2. An aisle of at least 5 feet shall be provided behind all bicycle parking to allow room for maneuvering.
3. 2 feet of clearance shall be provided between bicycle parking spaces and adjacent walls, polls, landscaping, pedestrian paths, and other similar features.
4. 4 feet of clearance shall be provided between bicycle parking spaces and adjacent automobile parking spaces and drive aisles.

G. Rack Design. Bicycle racks must be capable of locking both the wheels and the frame of the bicycle and of supporting bicycles in an upright position.

H. Cover. Required cover for bicycle parking spaces shall be permanent, designed to protect the bicycle from rainfall, and at least 7 feet above the floor or ground. The City may allow creative design solutions to provide cover for bicycles as required by this section.

17.76.090 On-site Loading

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

TABLE 17.60-7: REQUIRED LOADING SPACES

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

C. Location.

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

D. Dimensions.

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

E. Design and Configuration.

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

17.76.100 Visitor Serving Parking

A. Shuttle Program Parking. Parking for the free summer beach shuttle program shall be provided in a remote lot or lots, such as those located on Bay Avenue, Capitola Beach, and the Village public parking lots.

B. Public Parking in the Coastal Zone.

1. Public parking existing as of [date of Zoning Ordinance adoption] in the following locations in the CF zoning district shall be maintained for public parking:
 - a. The Upper City Hall parking lot;
 - b. The Cliff Drive overlook parking; and
 - c. The Cliff Drive Southern Pacific railroad right-of-way parking unless Cliff Drive must be relocated due to cliff erosion.
2. Substantial changes in public parking facilities in the coastal zone require a Local Coastal Program (LCP) amendment.

Chapter 17.80 - SIGNS

Sections:

- [17.80.010 Purpose and Applicability](#)
- [17.80.020 Definitions](#)
- [17.80.030 Permit Requirements](#)
- [17.80.040 Rules of Measurement](#)
- [17.80.050 Signs Allowed Without Permits](#)
- [17.80.060 Prohibited Signs](#)
- [17.80.070 General Sign Standards](#)
- [17.80.080 Standards for Specific Types of Signs](#)
- [17.80.090 Design Standards](#)
- [17.80.100 Residential Signs](#)
- [17.80.110 Temporary Signs](#)
- [17.80.120 Adjustment to Sign Standards](#)
- [17.80.130 Master Sign Program](#)
- [17.80.140 Nonconforming Signs](#)
- [17.80.150 Violations and Enforcement](#)

17.80.010 Purpose and Applicability

- A. **Purpose.** This chapter establishes standards relating to the permitted type, size, height, placement, number, and design of signs. The intent of these standards is to:
1. Support economically viable businesses serving city residents, workers, and visitors.
 2. Allow for signage that identifies businesses in a fair and equitable manner.
 3. Protect and enhance the aesthetic qualities of the city.
 4. Minimize hazards to motorists and pedestrians resulting from excessive, confusing, and distracting signs.
 5. Allow for a simple and streamlined sign permitting process.
- B. **Applicability.** This chapter applies to all signs in Capitola, except for City-installed signs and signs required by a governmental agency to carry out its responsibility to protect the public health, safety, and general welfare.

17.80.020 Definitions

The following definitions apply to this chapter:

- A. **Awning Sign.** A sign incorporated into, attached, or painted on an awning.

- B. Awning Face Sign.** A sign located on the sloping plane face of an awning.
- C. Awning Valance Sign.** A sign located on the valance of an awning perpendicular to the ground.
- D. Center Identification Sign.** A sign identifying the name of a shopping center and that does not include the name of any business within the center. A shopping center is a commercial building or group of buildings operated as a unit on a single parcel, sharing common parking areas or commonly owned adjacent parcels.
- E. Construction Site Sign.** An on-premise sign for an approved construction project that publicizes the future building and occupants as well as the architects, engineers and construction organizations involved in the project.
- F. Directory Sign.** An on-premise sign which shows the direction to or location of a customer entrance to a business.
- G. Flags.** Fabric, textile, or material with colors and/or patterns which display a symbol of a nation, State, company, or idea.
- H. Monument Sign.** An independent, freestanding structure supported on the ground as opposed to being supported on the building.
- I. Projecting Sign.** Any sign permanently attached to a building or wall such that the sign face or faces are perpendicular to the building or wall.
- J. Roof Sign.** Any sign that is mounted on a roof or a parapet, of a building.
- K. Sidewalk Sign.** Movable or permanent business identification signs placed in or attached to a public sidewalk.
- L. Sign.** Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise or announce the purpose of a person or entity, or to communicate information of any kind to the public.
- M. Sign Area.** See Section 17.80.040.A (Calculation of Sign Area).
- N. Sign Copy.** The area of a sign occupied by letters, numbers, graphics, or other content intended to inform, direct, or otherwise transmit information.
- O. Sign Face.** The area of a sign where sign copy is placed.
- P. Wall Sign.** A sign which is attached to or painted on the exterior wall of a structure with the display surface of the sign approximately parallel to the building wall.
- Q. Window Sign.** A sign posted, painted, placed, or affixed in or on a window exposed to public view.

17.80.030 Permit Requirements



Note: This sections allows most signs to be approved by the Community Development Director through an Administrative Sign Permit. The existing Zoning Code requires Planning Commission approval for most signs

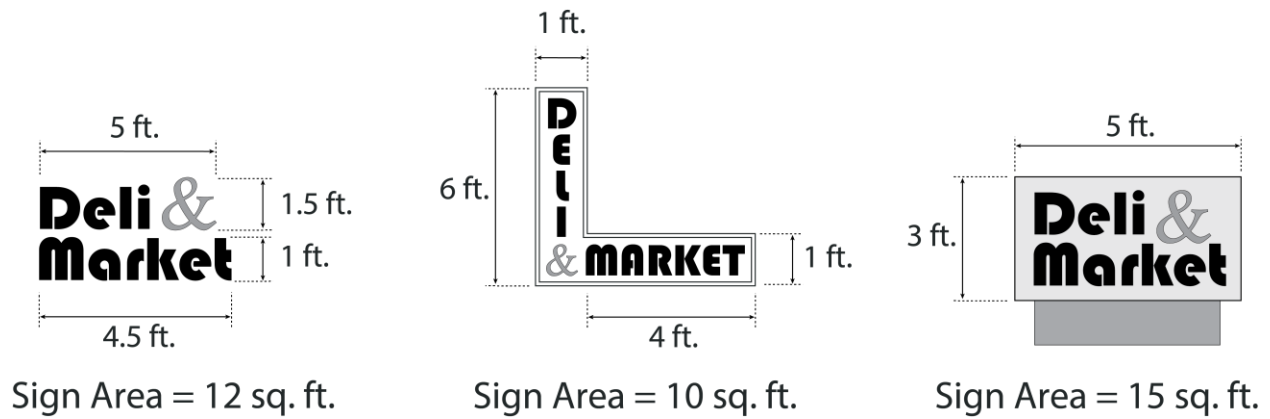
- A. Administrative Sign Permits.** An Administrative Sign Permit (Chapter 17.132) is required to install, construct, or enlarge a sign, except for:
1. Signs allowed without a planning permit, as specified in Section 17.80.050 (Signs Allowed without Permits).
 2. Signs requiring a Sign Permit as identified in Section B below.
- B. Sign Permits.** Planning Commission approval of a Sign Permit (Chapter 17.132) is required for the following types of signs and approvals:
1. Signs in the Mixed Use Village (MU-V) zoning district.
 2. Neon signs.
 3. Monument signs for more than four tenants.
 - ~~4.4.~~ Auto dealership signs in the C-R zoning district (Section 17.80.0890.AB.6) that are not otherwise allowed with an Administrative Sign Permit.
 - ~~2.5.~~ Adjustments to sign standards in low visibility areas in commercial zoning districts (17.80.090.B.7).
 - ~~3.6.~~ Signs that do not conform with permitted sign types and standards in Section 17.80.0890 (Sign Standards for ~~Zoning Districts~~ Specific Types of Signs)
 7. Master sign programs (Section 17.80.130).
- C. City-Installed Signs. City-installed signs in all zoning districts do not require a permit.**

17.80.040 Rules of Measurement

A. Calculation of Sign Area.

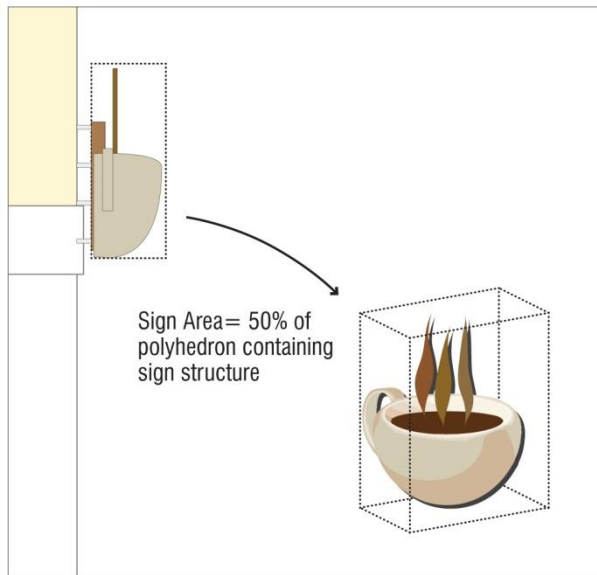
1. Sign area is measured as the area of all sign copy, framing, or other display enclosed within a continuous perimeter forming a single geometric shape with no more than six sides. See Figure 17-80-1.

FIGURE 17-80-1: MEASUREMENT OF SIGN AREA



2. Supporting framework or bracing that is clearly incidental to the display itself shall not be calculated as sign area.
3. The area of a double-faced (back-to-back) sign shall be calculated as a single sign face if the distance between each sign face does not exceed 18 inches and the two faces are parallel with each other
4. The area of spherical, free-form, sculptural or other non-planar signs are measured as 50 percent of the sum of the area enclosed within the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. See Figure 17.80-2.

FIGURE 17.80-2: NON-PLANER SIGN AREA



B. Monument Sign Height Measurement. The height of a monument or other freestanding sign is measured as the vertical distance from the sidewalk or top of curb nearest the base of the sign to the top of the highest element of the sign.

17.80.050 Signs Allowed Without Permits



Note: This section expands the type of signs currently allowed without a permit in Section 17.57.030 of the existing Zoning Code.

- A. Types of Signs.** The following signs are allowed without a planning permit and shall not be counted towards the allowable sign area or number of signs on a parcel:
1. On-site directional signs which do not include commercial messages or images, not to exceed 3 feet in height and 6 square feet in area.
 2. Informational signs which do not include commercial messages or images, displayed for the safety and convenience of the public, providing information such as “restrooms,” “danger,” “impaired clearance,” “no smoking,” “parking in rear,” and other signs of a similar nature.
 - ~~3.~~ Flags bearing noncommercial messages or graphic symbols, ~~as follows:~~
 - ~~4.~~ ~~Maximum pole height: 35 feet in residential zoning districts and 60 feet in all other zoning districts.~~
 - ~~5.3.~~ ~~Maximum flag area: 40 square feet in residential zones and 108 square feet in non-residential zones.~~
 - ~~6.4.~~ One commemorative plaque identifying a building name, date of construction, or similar information that is cut into, carved, or made of stone, concrete, metal, or other similar permanent material.
 - ~~7.5.~~ One bulletin board on a parcel occupied by a noncommercial place of public assembly, with a maximum area of 12 square feet.
 - ~~8.6.~~ Political signs during an election period located outside of a public street, path, or right-of-way. ~~In the R-1 and RM zoning districts~~ Political signs may not exceed 32 square feet per unit.
 - ~~9.7.~~ Signs within a building, or on the premises of a building, that are not visible from the public right-of-way and are intended for interior viewing only.
 - ~~10.8.~~ Murals on the exterior of a building that do not advertise a product, business, or service.
 - ~~11.9.~~ Official or legal notices required by a court order or governmental agency.
 - ~~12.10.~~ Signs installed by a governmental agency within the public right-of-way, including signs advertising local nonprofit, civic, or fraternal organizations.
 - ~~13.11.~~ Signs, postings, or notices required by a governmental agency to carry out its responsibility to protect the public health, safety, and general welfare.
 - ~~14.12.~~ Restaurant menu signs attached to a building, with a maximum area of 3 square feet.
 - ~~15.13.~~ Real estate listings posted in the window of a real estate office, with a maximum area of 25 percent of the total window area.

~~16.14.~~ Residential signs not requiring a building permit as specified in Section 17.80.100 (Residential Signs).

~~17.15.~~ Temporary signs consistent with Section 17.80.110 (Temporary Signs).

- B. Building Permit Review.** Planning Division staff shall review all proposed signs listed in Section A (above) that require a Building Permit to verify compliance with all applicable standards.



Note: Ability to change the face of a sign without approval in Section C below is new to respond to legal requirements for sign regulations to be content neutral.

- C. Changes to Sign Face.** Changes to a sign face that do not structurally alter or enlarge a legally-established sign shall not require a planning permit.
- D. Routine Maintenance.** The painting, cleaning, repair, and normal maintenance of a legally-established sign shall not require a planning permit.

17.80.060 Prohibited Signs



Note: This section expands the types of prohibited signs currently listed in Section 17.57.040 of the existing Zoning Code.

The following signs are prohibited:

- A.** Signs or sign structures which have become a public nuisance or hazard due to inadequate maintenance, dilapidation, or abandonment.
- B.** Portable signs placed on the ground other than sidewalk signs permitted in the MU-V zoning district consistent with Section 17.80.080.~~KG~~ (Sidewalk Signs).
- C.** Roof signs.
- D.** Signs emitting odors, gases, or fluids.
- E.** Signs that feature a flag, pennant, whirligig, or any device which is designed to wave, flutter, rotate or display other movement under the influence of wind, excluding flags and insignia of any government.
- ~~**F.**~~ Digital display and electronic readerboard signs which allow the image on a sign to be changed by electronic control methods, except for digital gas and service station signs consistent with Section 17.80.080.~~HF~~ (Gas and Service Station Signs) and parking garage signs consistent with Section 17.80.080.I (Parking Garage Signs).
- ~~**F.**~~
- G.** Animated signs, with the exception of clocks and barber poles.
- H.** Signs that emit sound.
- I.** Signs which simulate in size, color, lettering, or design a traffic control sign or signal.

- J. Signs which flash, blink, change color, or change intensity.
- K. Beacons.
- L. Signs mounted or attached to a vehicle parked for the purpose of calling attention to or advertising a business establishment.
- M. Signs that have been abandoned, or whose advertised use has ceased to function for a period of 90 days or more.
- N. Signs adversely affecting traffic control or safety.
- O. Signs containing obscene matter.
- P. Signs with exposed raceways.
- Q. Signs attached to trees.
- R. Signs erected or maintained with horizontal or vertical clearance from overhead utilities less than required by State agencies.
- S. Signs erected for the dominant purpose of being seen by travelers on a freeway, except for auto dealership signs as allowed by Section 17.80.0890.B.6A (Auto Dealership Signs).
- T. Signs attached to balloons greater than fifteen inches in diameter.
- U. Signs on public property not placed there by the public entity having the possessory interest in such property.
- V. All other signs not specifically permitted by or exempted from the requirements of this chapter.

17.80.070 General Sign Standards

A. Sign Area. Table 17.80-1 identified the maximum permitted total sign area on a property in each zoning district.

TABLE 17.80-1: SIGN AREA STANDARDS

<u>Zoning District</u>	<u>Area per Linear Foot of Building Frontage</u>
<u>MU-V, MU -N</u>	<u>0.5 sq. ft. up to 36 sq. ft. max</u>
<u>MU-N, C-R, C-C, I</u>	<u>1 sq. ft. up to 50 sq. ft. max</u>
<u>VS, CE, P/OS [1]</u>	<u>As determined through Sign Permit</u>
<u>PD</u>	<u>As determined through the Development Plan</u>

Notes:

Sign requirements in the Visitor Serving overlay zone shall be as required by the base zoning district.

A.B. Maintenance. Signs, including all supports, braces, and anchors, shall be maintained in a state of good repair at all times. Damage to signs, including cracked sign faces, frayed or weathered fabric, and broken lighting, shall be repaired promptly.

B.C. Building Surface Repair. When an existing sign is replaced or modified, any newly exposed portions of a building surface on which the sign is displayed shall be repaired and repainted to restore a uniform appearance to the surface. Compliance with this requirement includes the removal of any excess conduit and supports, and the patching or filling of any exposed holes.

C.D. Illumination.



Note: Limiting internal illumination to lettering, trademark, or logo in paragraph 1 below is new.

1. Non-residential signs may be internally or externally illuminated except where specifically prohibited. Internal illumination is permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo.
2. The light source for externally illuminated signs shall be positioned so that light does not shine directly on adjoining properties or cause glare for motorists or pedestrians.
- ~~3.~~ Exposed bulbs ~~or exposed neon illumination is are~~ not permitted.
- ~~3.4.~~ Internal illumination is prohibited in the Mixed-Use Village (MU-V).

D.E. Materials and Design.

1. Except for interior window signs, all permanent signs shall be constructed of wood, metal, plastic, glass, or similar durable and weatherproof material.
2. The design of signs, including its shape, features, materials, colors, and textures, shall be compatible with the design character of the development or use it identifies and will not have an adverse effect on the character and integrity of the surrounding area.

E.F. Location and Placement.

1. All signs shall be located on the same parcel as the business or use that it serves, except as otherwise allowed by this chapter.
2. Signs shall not obstruct the ingress to, or egress from, a door, window, fire escape, or other required accessway.
3. Signs shall not interfere with visibility at an intersection, public right-of-way, driveway, or other point of ingress/egress. The City may require sign setbacks greater than specified in this chapter as needed to maintain adequate visibility for motorists and pedestrians.

F.G. Signs in the Public Right-of-Way.

1. No sign shall be permitted in the public right-of-way, except for:
 - a. Signs installed or required by a governmental agency.

- b. Signs advertising local nonprofit, civic, or fraternal organizations with City Engineer approval.
 - c. Awning, canopy, marquee, projecting, or suspended signs attached to a building wall subject to the requirements in Section 17.80.080 (Standards for Specific Types of Signs).
 - d. Sidewalk signs in the Village Mixed Use (MU-V) zoning district consistent with Section 17.80.080.G (Sidewalk Signs).
 - e. Shared auto dealership signs consistent with Section 17.80.0890.AB.6 (Auto Dealership Signs).
2. Any sign illegally installed or placed on public property shall be subject to removal and disposal as specified in Section 17.80.150 (Violations and Enforcement). The City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.

17.80.080 Standards for Specific Types of Signs

The following standards for specific types of signs apply in all zoning districts. Signs consistent with the standards in this section are allowed with an Administrative Permit unless Planning Commission approval of a Sign Permit is specifically required. Signs that deviate from the standards in this section may be allowed with Planning Commission approval of a Sign Permit.

A. Auto Dealership Signs. In addition to signs allowed with an Administrative Sign Permit (17.080.030.A), the Planning Commission may allow special auto dealership signage in the C-R zoning district with approval of a Sign Permit subject to the following standards:

1. Location: On or adjacent to an auto dealership land use.
2. Placement: 10 feet minimum setback from property line abutting the public right-of-way.
3. Maximum Height: At or below roof line.
4. Maximum Area: 100 square feet
5. The Planning Commission may allow one shared sign used by multiple auto dealerships at the entry of Auto Plaza Drive which extends into or above the public right-of-way.
6. The Planning Commission may allow temporary auto dealership signage, such as signage on light poles and flags and pennants, that deviate from temporary sign standards in 17.80.110 (Temporary Signs) with the approval of a Sign Permit.

B. Awning Signs.

1. Standards for awning signs in each zoning district are as shown in Table 17.80-2.
- 1.2. Awning signs shall be located on the awning above a display window or the entrance to the business it serves.

3. An awning sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.

TABLE 17.80-2: AWNING SIGN STANDARDS

<u>Zoning District</u>	<u>Awning Face Sign</u>		<u>Awning Valance Sign</u>		
	<u>Maximum Area</u>	<u>Maximum Number</u>	<u>Maximum Area</u>	<u>Maximum Letter Height</u>	<u>Maximum Number</u>
<u>MU-V, MU-N</u>	<u>Sign Permit Required (Chapter 17.132)</u>		<u>75 percent of valance</u>	<u>Two-thirds of valance height</u>	<u>1 sign per awning located on either the awning face or the awning valance</u>
<u>C-R, C-C</u>	<u>30 percent of awning face</u>	<u>1 sign per awning located on either the awning face or the awning valance</u>			
<u>I</u>	<u>20 percent of awning face</u>				

Note: In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for awning signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for awning signs shall be established by the City Council in the Development Plan.

C. Monument Signs.

1. Standards for monument signs in each zoning district are as shown in Table 17.80-3.

TABLE 17.80-3: MONUMENT SIGN STANDARDS

<u>Zoning District</u>	<u>Maximum Area</u>	<u>Maximum Height</u>	<u>Maximum Number</u>
<u>MU-V</u>	<u>12 sq. ft.</u>	<u>4 ft.</u>	<u>1 per property</u>
<u>MU-N</u>	<u>16 sq. ft.</u>		
<u>C-R</u>	<u>60 sq. ft.</u>	<u>8 ft.</u>	<u>1 per building frontage</u>
<u>C-C</u>	<u>35 sq. ft.</u>		
<u>I</u>			<u>4 ft.</u>

Note: In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for monument signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for monument signs shall be established by the City Council in the Development Plan.

2. Monument signs shall be placed on the property of the business associated with the sign.

3. Where two monument signs are allowed on a corner parcel, each sign be placed at least 200 feet from the intersection corner.

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- 2.4. A monument sign for up to four tenants may be approved with an Administrative Sign Permit. Monument signs listing more than four tenants require Planning Commission approval of a Sign Permit.
- 3.5. The area surrounding the base of a monument sign shall be landscaped consistent with Chapter 17.72 (Landscaping).
- 4.6. Monument signs shall be placed at least 5 feet away from any public or private driveway.
- 5.7. Monument signs shall be placed at least 5 feet behind sidewalk or property line, whichever is greater.
- 6.8. The height of a monument sign is measured as the vertical distance from the sidewalk or top of curb nearest the base of the sign to the top of the highest element of the sign.
- 7.9. A maximum of four tenants may be named on a monument sign.
- 8.10. Monument signs are not allowed in conjunction with wall signs on a property with three or fewer businesses.

D. Center Identification Signs.

- 1. Standards for center identification signs in each zoning district are as shown in Table 17.80-4.
- 2. Center identification signs shall identify the name of the center but may not include the name of any business or businesses within the center.
- 3. No more than one freestanding sign is permitted per center street frontage. If a monument sign is located along the center frontage, an addition center identification sign is not permitted.

TABLE 17.80-4: CENTER IDENTIFICATION SIGN STANDARDS

<u>Zoning District</u>	<u>Maximum Area</u>	<u>Maximum Height</u>	<u>Maximum Number</u>
<u>MU-V and MU-N</u>	<u>Not permitted</u>		
<u>C-R</u>	<u>60 sq. ft.</u>	<u>5 ft.</u>	<u>1 per shopping center</u>
<u>C-C</u>	<u>35 sq. ft.</u>		
<u>I</u>	<u>Not permitted</u>		

Note: In the Planned Development (PD) zoning district, standards for center identification signs shall be established by the City Council in the Development Plan.

E. Directory Signs.

1. Standards for directory signs in each zoning district are as shown in Table 17.80-5.
2. Directory signs may not be legible from adjacent public rights-of-way.
3. Directory signs shall identify the names of the occupant of the building or complex.

TABLE 17.80-5: DIRECTORY SIGN STANDARDS

<u>Zoning District</u>	<u>Maximum Area</u>	<u>Maximum Height</u>	<u>Maximum Number</u>
<u>MU-V</u>	<u>12 sq. ft.</u>	<u>4 ft.</u>	<u>1 per property</u>
<u>MU-N</u>	<u>16 sq. ft.</u>		
<u>C-R</u>	<u>30 sq. ft.</u>	<u>5 ft.</u>	
<u>C-C</u>	<u>25 sq. ft.</u>		
<u>I</u>	<u>25 sq. ft.</u>	<u>4 ft.</u>	

Note: In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for directory signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for directory signs shall be established by the City Council in the Development Plan.

D.F. Wall Signs.

1. Standards for wall signs in each zoning district are as shown in Table 17.80-6.
2. Wall signs shall be attached parallel to the exterior wall of the business associated with the sign and may not extend above the top of building wall.
- 1.—
- 2.3. Wall signs may be in cabinets, on wood, or on similar material attached to the wall or painted directly on the wall.
- 3.4. Any portion of a wall sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.
5. Wall signs are not allowed in conjunction with a monument sign on a property with three or fewer businesses.
6. On a corner lot, one wall sign is allowed per street frontage.

TABLE 17.80-6: WALL SIGN STANDARDS

<u>Zoning District [1]</u>	<u>Maximum Area</u>	<u>Maximum Projection from Wall</u>	<u>Maximum Number</u>
<u>MU-V</u>	<u>0.5 sq. ft. per linear foot of shopfront, not to exceed 36 sq. ft. max</u>	<u>4 in.</u>	<u>1 per shopfront</u>
<u>MU-N</u>	<u>1.0 sq. ft. per linear foot of shopfront, not to exceed 36 ft.</u>		
<u>C-R, C-C, I [2]</u>		<u>12 in.</u>	<u>1 per shopfront</u>

Note:

[1] In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for wall signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for wall signs shall be established by the City Council in the Development Plan.

[2] Wall signs are not allowed in conjunction with a monument sign in the Industrial (I) zoning district.

E.G. Projecting Signs.

1. Standards for projecting signs in each zoning district are as shown in Table 17.80-7.
2. Projecting signs shall be attached to the ground floor exterior wall of the business associated with the sign and may not extend above the top of the second story finished floor.
3. Projecting signs shall maintain a minimum 2-foot horizontal clearance from a driveway or street curb.
4. An encroachment permit must be obtained for all signs projecting over a public right-of-way.
5. A projecting sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.

TABLE 17.80-7: PROJECTING SIGN STANDARDS

<u>Zoning District</u>	<u>Maximum Area</u>	<u>Maximum Projection from Wall</u>	<u>Maximum Number</u>
<u>MU-V, MU-N</u>	<u>4 sq. ft.</u>	<u>4 ft.</u>	<u>1 per business entryway or storefront</u>
<u>C-R, C-C, I</u>	<u>8 sq. ft.</u>	<u>4 ft.</u>	<u>1 per business entryway or storefront</u>

Note:

In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for projecting signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for projecting signs shall be established by the City Council in the Development Plan.

F.H. Gas and Service Station Signs. All signs associated with gas and service stations shall comply with the following standards.

1. A maximum of two signs, not exceeding 4 square feet, shall be allowed on each pump island to denote either full service or self-service.

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- 2. No other signs will be allowed to be attached to pumps or islands other than required by State law. (See Business & Professions Code Section 13530.)
- 3. A six-foot-high monument sign which displays prices charged, credit cards accepted or special services rendered shall be allowed on each street frontage.
- 4. Digital changeable copy signs for gasoline pricing is permitted.
- 5. Two additional signs up to a maximum of 1 square foot are permitted to advertise ancillary services such as ATMs and propane. Such signs must be attached to another sign or structure and may not be a portable freestanding sign.

4.—

I. Parking Garage Signs. A maximum of one digital display signs not exceeding four square feet on each street frontage is permitted to show the number of available parking spaces.

G.J. Window Signs

- 1. Standards for window signs in each zoning district are as shown in Table 17.80-8.
- 2. Window signs may be attached only to the inside of a ground floor window of the business associated with the sign.

TABLE 17.80-8: WINDOW SIGN STANDARDS

<u>Zoning District</u>	<u>Maximum Area</u>	<u>Maximum Number</u>
<u>MU-V, MU-N</u>	<u>25 percent of window</u>	<u>1 per storefront</u>
<u>C-R, C-C, I</u>	<u>30 percent of window</u>	<u>1 per window</u>

Note:

[1] In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for window signs shall be established by the Planning Commission through a Sign Permit. In the Planned Development (PD) zoning district, standards for window signs shall be established by the City Council in the Development Plan.

4.—

H.K. Sidewalk Signs in the MU-V Zoning District. The following additional standards apply to sidewalk signs in the MU-V zoning district.

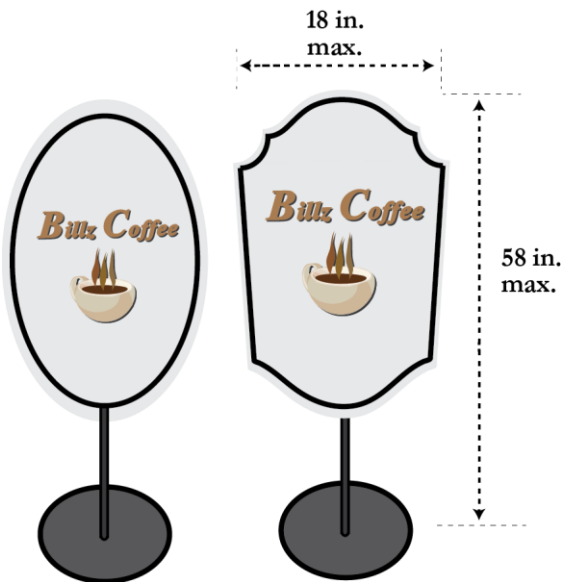
- 1. Sidewalk signs are permitted only in the MU-V zoning district as shown in Table 17.80-9.
- 1-2. Only one two-sided sidewalk sign per business establishment is permitted.
- 2-3. The sidewalk in front of the business must be at least 78 inches in width.
- 4. Sidewalk signs consistent with these standards and as illustrated in Figure 17-80-3 can be issued an over the counter sign permit by the Community Development Director.

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TABLE 17.80-9: SIDEWALK SIGNS STANDARDS

<u>Zoning District</u>	<u>Maximum Area</u>	<u>Maximum Height</u>	<u>Maximum Width</u>
<u>MU-V</u>	4.5 sq. ft.	58 in.	18 in.
<u>All Other Zoning Districts</u>	<u>Not permitted</u>		

FIGURE 17-80-3: SIDEWALK SIGN STANDARDS AND DESIGN CONCEPTS



- 3-5. Sidewalk signs shall be no larger than 18 inches in width and 3 square feet in size and no taller than 58 inches measured from the ground.
- 4-6. The signs may be placed on poles which will either be placed in a hole drilled into the sidewalk or in moveable stand. The moveable stands cannot be more than eighteen inches wide and will need to be approved as part of the sign permit. Lights, banners, flags or similar objects shall not be placed on or adjacent to sidewalk signs.
- 5-7. All sidewalk signs will need to obtain an encroachment permit. The encroachment permit will identify the location and method used to drill a hole in the sidewalk and/or the location of a sign on a base.
- 6-8. Sidewalk signs shall not interfere with pedestrian ingress or egress as required by the building code or obstruct vehicular traffic sight distance requirements. A 48 inch level clear path of travel on concrete or similar material must be maintained where the sign is located.

- ~~7.9.~~ Sidewalk signs shall be spaced a minimum of 30 linear feet from all other permitted sidewalk signs.
- ~~8.10.~~ Sidewalk signs may be used only during the hours when the business is open to the public. At all other times the sign and base must be stored within the business premises.
- ~~9.11.~~ No other temporary advertising signs may be used at the same time as the sidewalk sign is in use. This includes all banners, flags, window signs covering more than one-third of the window or other temporary signage.
- ~~10.12.~~ All other signs on the property must be in conformance with the City's sign regulations prior to a sidewalk sign permit being issued.
- ~~11.13.~~ No sidewalk sign may contain lights of any kind.
- ~~12.~~ No more than thirty sidewalk signs will be allowed in the MU-V zoning district at any time.
- ~~13.14.~~ The owner of any business desiring to place a sidewalk sign on the City right-of-way shall provide an executed City hold harmless waiver and proof of liability insurance to the satisfaction of the City Attorney in the amount of one million dollars prior to placing the sign within said right-of-way.
- ~~14.15.~~ Multi-tenant developments shall be permitted one sidewalk sign per each common exterior public business entrance.
- ~~15.16.~~ Individual signs may advertise more than one business.

17.80.090 ~~Sign Standards for Zoning Districts-Design Standards~~

Note: Sign standards tailored to individual zoning districts in this section are new.

~~A. Mixed Use Zoning Districts:~~

- ~~1. Sign Area. In the mixed use zoning districts a maximum of 0.5 square feet of total sign area is allowed for each linear foot of building frontage to a maximum of 25 square feet.~~
- ~~2. Permitted Signs. The following signs that comply with all applicable standards are permitted in the Village Mixed Use (MU-V) and Neighborhood Mixed Use (MU-N) zoning districts with an Administrative Sign Permit. In addition to the standards in this section, all signs must comply with standards in Section 17.80.070 (General Sign Standards) and Section 17.76.090 (Standards for Specific Types of Signs):~~
 - ~~a. Awning Face Signs:~~
 - ~~(1) Maximum area: 20 percent of awning face.~~
 - ~~(2) Maximum letter height: 18 inches.~~
 - ~~(3) Maximum number: 1 sign per awning.~~
 - ~~b. Awning Valance Signs:~~
 - ~~(1) Maximum area: 75 percent of valance.~~
 - ~~(2) Maximum letter height: two-thirds of valance height.~~

~~(3) Maximum number: 1 per awning~~

~~e. Monument Signs:~~

- ~~(1) Maximum area: 12 square feet.~~
- ~~(2) Maximum height: 4 feet.~~
- ~~(3) Maximum number: 1 sign per property.~~

~~d. Projecting Signs:~~

- ~~(1) Maximum projection from wall: 4 feet.~~
- ~~(2) Maximum area: 4 square feet.~~
- ~~(3) Maximum number: 1 sign per storefront.~~

~~e. Sidewalk Signs~~

- ~~(1) Maximum area: 4.5 square feet.~~
- ~~(2) Maximum height: 58 inches~~
- ~~(3) Maximum width: 18 inches~~
- ~~(4) See Section 17.80.080.G (Sidewalk Signs in the MU-V Zoning District) for additional detailed standards for sidewalk signs.~~

~~f. Wall Signs:~~

- ~~(1) Maximum projection from wall: 4 inches.~~
- ~~(2) Maximum area: 0.5 square feet per linear foot of shopfront.~~
- ~~(3) Maximum number: 1 per storefront.~~

~~g. Window Signs:~~

- ~~(1) Maximum area: 25 percent of window.~~
- ~~(2) Maximum number: 1 per storefront.~~

~~3. Other Signs. Signs that are not listed in Subparagraph 2 (Permitted Signs) above, or that deviate from these standards, may be allowed in the mixed use zoning districts with Planning Commission approval of a Sign Permit.~~

B.A. Design Standards for Mixed Use Zoning Districts. The following design standards apply to all signs in the MU-V and MU-N ~~mixed use~~ zoning districts.

1. Signs shall preserve, complement, or enhance the architectural composition and features of the building to which it is attached. Signs may not cover or obscure significant architectural details of the building to which it is attached.
2. Signs shall be coordinated with the overall façade composition, including ornamental details and other signs on the building to which it is attached.
3. Signs shall be mounted to fit within existing architectural features. The shape of the sign shall be used to reinforce the relationship of moldings and transoms seen along the street.
4. Signs shall be located and designed so that they are legible when viewed from the sidewalk. Sign letter styles and sizes shall be designed for legibility from the sidewalk, not the street.

5. To the extent possible, sign attachment parts shall be reused in their original location (holes in the façade or fixing positions) to protect the original building materials.
6. Internally illuminated signs are not allowed in the MU-V zoning district and permitted in the MU-N zoning district when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo only for individual cut-out letters with only the letter face illuminated. Large panel internally illuminated signs are prohibited. Illumination may not exceed 5 foot-candles of light.
7. Wiring conduit for sign lighting shall be carefully routed to avoid damage to architectural details and to be concealed from view as much as possible.
8. Sign materials and colors shall be compatible with the period and style of building to which it is attached. Sign panels shall avoid the extensive use of primary color or significant areas of white or cream.
9. Letters and logos shall be raised, routed into the sign face, or designed to give the sign variety and depth.
- 9.10. The sign will not have a significant adverse effect on the character and integrity of the surrounding area.
- ~~10. **Residential Signs.** Signs associated with residential uses in the mixed use zoning district shall comply with Section 17.80.100 (Residential Signs).~~

~~C. Commercial Zoning Districts.~~

- ~~1. **Sign Area.** In the commercial zoning districts a maximum of 0.5 square feet of total sign area is allowed for each linear foot of building frontage to a maximum of 50 square feet.~~
- ~~2. **Permitted Signs.** The following signs that comply with all applicable standards are permitted in the Regional Commercial (C-R) and Community Commercial (C-C) zoning districts with an Administrative Sign Permit. In addition to the standards in this section, all signs must comply with standards in Section 17.80.070 (General Sign Standards) and Section 17.80.080 (Standards for Specific Types of Signs):~~
 - ~~a. **Awning Face Signs.**~~
 - ~~(1) Maximum area: 30 percent of awning face.~~
 - ~~(2) Maximum number: 1 sign per awning.~~
 - ~~b. **Awning Valance Signs.**~~
 - ~~(1) Maximum area: 75 percent of valance.~~
 - ~~(2) Maximum number: 1 sign per awning.~~
 - ~~c. **Center Identification Signs.**~~
 - ~~(1) Maximum Area: 30 square feet in the CR zoning district and 25 square feet in the CC zoning district.~~
 - ~~(2) Maximum Height: 5 feet.~~
 - ~~(3) Maximum number: 1 sign per shopping center.~~

d. ~~Directory Sign.~~

- ~~(1) Maximum Area: 30 square feet in the CR zoning district and 25 square feet in the CC zoning district.~~
- ~~(2) Maximum Height: 5 feet.~~
- ~~(3) Maximum number: 1 per property.~~

e. ~~Monument Signs.~~

- ~~(1) Maximum area: 60 square feet in the CR zoning district and 35 sq. ft. in the CC zoning district.~~
- ~~(2) Maximum height: 8 feet.~~
- ~~(3) Maximum number: 1 sign per building frontage.~~

f. ~~Projecting Signs.~~

- ~~(1) Maximum projection from wall: 4 feet.~~
- ~~(2) Maximum area: 12 square feet.~~
- ~~(3) Maximum number: 1 sign per business.~~

g. ~~Wall Signs.~~

- ~~(1) Maximum projection from wall: 12 inches.~~
- ~~(2) Maximum area: 1 square feet per linear foot of building frontage.~~
- ~~(3) Maximum number: 1 sign per building frontage.~~

h. ~~Window Signs.~~

- ~~(1) Maximum area: one-third of window area.~~
- ~~(2) Maximum number: 1 sign per window.~~

~~3. **Other Signs.** Signs that are not listed in Subparagraph 2 (Permitted Signs) above or that deviate from these standards may be allowed in the commercial zoning districts with Planning Commission approval of a Sign Permit.~~

~~4. **Residential Signs.** Signs associated with residential uses in the mixed use zoning district shall comply with Section 17.80.100 (Residential Signs).~~

 **Note:** Auto dealership sign standards in paragraph 5 below are new. —

~~**D. Auto Dealership Signs.** In addition to signs allowed with an Administrative Sign Permit (17.080.030.A), the Planning Commission may allow special auto dealership signage in the CR zoning district with approval of a Sign Permit subject to the following standards:~~

~~**E. Location:** On or adjacent to an auto dealership land use.~~

~~**F. Placement:** 10 feet minimum setback from property line abutting the public right-of-way.~~

~~**G. Maximum Height:** At or below roof line.~~

~~**H. Maximum Area:** 100 square feet~~

~~**I. The Planning Commission may allow one shared sign used by multiple auto dealerships at the entry of Auto Plaza Drive which extends into or above the public right-of-way.**~~

~~J.—Low Visibility Areas.~~

~~K.—Commercial properties in the C-R and C-C zoning districts are eligible for an adjustment to sign standards if signs on the property consistent, with applicable standards, would not be easily visible from a public street.~~

~~L.—Adjustments to sign standards require Planning Commission approval of a Sign Permit.~~

~~M.—Adjustments are allowed to required sign types, height, size, placement, and number. Adjustments may not allow for prohibited signs or monument signs.~~

~~N.—The Planning Commission may approve additional or variations to any type of signage upon making the following findings:~~

~~O.—The special signage, as designed and conditioned, is necessary and appropriate for the subject commercial site, in order to allow the site and the businesses located within it to be competitive with other businesses of a similar nature located elsewhere, and/or to be competitive with industry standards governing sale of the merchandise offered at the site.~~

~~P.—The special signage, as designed and conditioned, will not have a significant adverse effect on the character and integrity of the surrounding area.~~

Q.B. Design Standards for Commercial Zoning Districts. The following design standards apply to all signs in the ~~commercial~~-C-C and C-R zoning districts.

1. Sign design shall conform to and be in harmony with the architectural character of the building.
2. Signs shall be symmetrically located within a defined architectural space.
3. Internally illuminated signs are permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo.~~only for individual cut out letters with only the letter face illuminated or back lit.~~ Large panel internally illuminated signs are prohibited.
4. The design of monument and other freestanding signs relate to the architecture of the building or development they serve. Exterior materials, finishes and colors shall be the same or similar to those of the building or structures on site.
5. Letters and logos shall be raised, routed into the sign face, or designed to give the sign variety and depth.

R.—Design Standards for Industrial Zoning District.

~~S.—Sign Area.—In the Industrial (I) zoning district, a maximum of 0.5 square feet of total sign area is allowed for each linear foot of building frontage to a maximum of 50 square feet.~~

~~T.—Permitted Signs.—The following signs that comply with all applicable standards are permitted in the Industrial (I) zoning districts with an Administrative Sign Permit. In addition to the standards~~

~~in this section, all signs must comply with standards in Section 17.80.070 (General Sign Standards) and Section 17.80.080 (Standards for Specific Types of Signs).~~

~~**U. Awning Face Signs.**~~

~~**V.** Maximum area: 20 percent of awning face.~~

~~**W.** Maximum number: 1 sign per awning.~~

~~**X. Awning Valance Signs.**~~

~~**Y.** Maximum area: 75 percent of valance.~~

~~**Z.** Maximum number: 1 sign per awning.~~

~~**AA. Monument Signs.**~~

~~**BB.** Maximum area: 35 square feet.~~

~~**CC.** Maximum height: 4 feet.~~

~~**DD.** Maximum number: 1 sign per building frontage.~~

~~**EE.** Not allowed in conjunction with a wall sign.~~

~~**FF. Wall Signs.**~~

~~**GG.** Maximum projection from wall: 12 inches.~~

~~**HH.** Maximum area: 1 square foot per linear foot of building frontage.~~

~~**I.** Maximum number: 1 sign per building frontage.~~

~~**JJ.** Not allowed in conjunction with a monument sign.~~

~~**KK. Window Signs.**~~

~~**LL.** Maximum area: 30 percent of window area.~~

~~**MM.** Maximum number: 1 sign per window.~~

~~**NN. Other Signs.** Signs that are not listed in Subparagraph 2 (Permitted Signs) or that deviate from these standards may be allowed in the Industrial (I) zoning district with Planning Commission approval of a Sign Permit.~~

~~**OO.C. Design Standards.** Signs within the Industrial (I) zoning district shall be constructed of metal or other materials consistent with the light industrial character of the zoning district.~~

~~**PP. Visitor Serving, Community Facility, and Parks and Open Space Zoning Districts.** In the Visitor Serving (VS), Community Facility (CF) and Parks and Open Space (P/OS) zoning districts, standards for the permitted type, maximum area, and maximum number of signs shall be established by the Planning Commission through a Sign Permit. In addition to these standards, all signs shall comply with standards in Section 17.80.070 (General Sign Standards) and Section 17.80.080 (Standards for Specific Types of Signs). City installed signs do not require a sign permit.~~

~~QQ. **Planned Development Zoning District.** In the Planned Development (PD) zoning district, standards for the permitted type, maximum area, and maximum number of signs shall be established by the City Council in the Final Development Plan. In addition to these standards, all signs shall comply with standards in Section 17.80.070 (General Sign Standards) and Section 17.80.080 (Standards for Specific Types of Signs).~~

17.80.100 Residential Signs

A. General Standards. Dwelling units may display signs consistent with the following standards:

1. Maximum allowable sign area: 3 square feet per unit.
2. Maximum number of signs: no limit.
3. Permitted sign types: Window and wall signs.
4. The height of signs on fences shall not exceed the maximum permitted fence height in the applicable zone.
5. An Administrative Sign Permit is required if the sign requires a building permit; otherwise, no planning permit is required.
6. Illumination from non-ambient light sources is prohibited. Flashing, neon, and exposed bulb signs are prohibited.
7. Any and all protected non-commercial speech is permitted on a residential sign, including garage sale signs nameplates, identification signs, and warning signs.
8. For home occupations, one single wall-mounted outdoor sign of not more than 1 square foot in area is permitted.

B. Multi-Unit Properties. In addition to the signs allowed for each dwelling unit, multi-unit properties may display one or more master sign subject to the following requirements:

1. Maximum allowable sign area: 20 square feet per property.
2. A master sign for a multi-unit property requires an Administrative Sign Permit.

17.80.110 Temporary Signs

A. Permitted Temporary Signs. Table 17.80-10 (Temporary Sign Standards) identifies temporary signs permitted either by-right or with the approval of an Administrative Sign Permit. The Planning Commission may allow other types of temporary signs or temporary signs that do not comply with the standards in Table 17.80-1 with approval of a Sign Permit.

SIGNS

17.80

| **TABLE 17.80-10** TEMPORARY SIGN STANDARDS

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

Sign Type	Permit Required	Use Restriction	Maximum Number	Maximum Area/ Size	Maximum Duration
Small Commercial <u>Auto Dealership</u> Signs - Flags - Pennants - Painted windows <u>Balloons</u>	None	Non-residential uses only <u>Auto dealerships on Auto Plaza Drive only</u>	No maximum	0.5 sq. ft. per linear business frontage; 30 sq. ft. max; 1/3 of window max	30 continuous calendar days; no more than 1260 days each calendar year
Commercial Banner Signs	Administrative Sign Permit	Non-residential uses only	1 per 500 ft. of linear site frontage; 2 sign maximum	30 sq. ft.	30 continuous calendar days; no more than 60 days each calendar year
Balloon Signs	None	Associated with public, private, or sales event	10 per property	15 inches diameter	30 continuous calendar days; no more than 60 days each calendar year
Construction Site Signs - Residential	Administrative Sign Permit	Non-Residential Residential uses only	1 per 500 ft. of linear site frontage; 2 sign maximum	Height: 5 ft. Area: 12 sq. ft.	From issuance of building permit to completion of construction <u>certificate of occupancy</u>
Construction Site Signs - Non-Residential	Administrative Sign Permit	Commercial and industrial uses only	1 per 500 ft. of linear site frontage; 2 sign maximum	Height: 8 ft.; <u>4 ft. in MU-V</u> Area: 40 sq. ft.; <u>12 sq. ft. in MU-V</u>	From issuance of building permit to <u>certificate of occupancy</u> completion of construction
For Sale, Lease, and Rent Signs, Non-Residential	None	Commercial and industrial uses only	1 per 500 ft. of linear site frontage to a maximum of 2 signs <u>property</u>	Height: 8 ft. Area: 40 sq. ft.	1 year; Director may approve one 180-day extension
For Sale, Lease, and Rent Signs, Residential	None	Residential uses only	1 per property	Height: 4 ft. Area: 6 sq. ft.	180 days; Director may approve one 90-day extension
Open House or model home	None	None	1 per property <u>and 1 on other property with owner consent</u>	Height: 4 ft. Area: 6 ft.	Limited to day of open house.
Residential Subdivision	Administrative Sign Permit	Residential subdivisions and condominiums located in the city	1 per subdivision	Height: 10 ft. Area: 40 sq. ft.	180 days or upon the sale of the last unit, whichever comes first

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

17.80.120 Adjustment to Sign Standards



Note: Ability for the Planning Commission to approve modifications to certain sign standards are new.

This section establishes procedures to allow the Planning Commission to approve signs that deviate from certain standards to provide reasonable flexibility in the administration of the sign ordinance.

- A. Permit Required.** Adjustments to sign standards allowed by this section requires Planning Commission approval of a Sign Permit.
- B. Permitted Adjustments.** The Planning Commission may allow adjustment to the following sign standards:
1. The type of sign allowed in non-residential zoning districts (e.g., awning signs, monument signs).
 2. Requirements for temporary signs.
 3. The maximum permitted sign area up to a 25 percent increase.
 4. The maximum permitted sign height up to 25 percent increase.
- C. Excluded Adjustments.** The Planning Commission may not use the sign standards adjustment process to approve deviations to the following sign standards:
1. Prohibited Signs (Section 17.80.060).
 2. General Sign Standards (Section 17.80.070).
 3. Maximum number of signs allowed per property.
 4. Residential signs (Section 17.80.100).
- D. Findings.** The Planning Commission may approve an adjustment to sign standards as allowed by this section if the following findings can be made in addition to findings required to approve Sign Permit applications:
1. The sign will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.
 2. The sign will not adversely impact neighboring properties or the community at large.
 3. The adjustment is necessary due to unique characteristics of the subject property, structure, or use.
 4. The sign will be consistent with the purpose of the zoning district, the General Plan, Local Coastal Program, and any adopted area or neighborhood plan.
 5. The adjustment will not establish an undesirable precedent.

E. Low Visibility Commercial Properties.

1. In addition to adjustments allowed by subsection A through D above, the Planning Commission may allow additional adjustments to sign standards for low visibility properties in the C-R and C-C zoning districts. A low visibility property means a property where signage consistent with applicable standards would not be easily visible from the street or sidewalk due to the width of street frontage, parcel depth or configuration, placement of buildings on the property, topography, vegetation, or other physical characteristic of the property.
2. Adjustments to sign standards for low visibility properties require Planning Commission approval of a Sign Permit.
3. Adjustments are allowed to required sign types, height, size, placement, and number. Adjustments may not allow for prohibited signs or monument signs.
4. The Planning Commission may approve additional or variations to any type of signage upon making the following findings:
 - a. The special signage, as designed and conditioned, is necessary and appropriate for the subject commercial site, in order to allow the site and the businesses located within it to be competitive with other businesses of a similar nature located elsewhere, and/or to be competitive with industry standards governing sale of the merchandise offered at the site.
 - b. The special signage, as designed and conditioned, will not have a significant adverse effect on the character and integrity of the surrounding area.
- 5.

17.80.130 Master Sign Program

- A. **Purpose.** The purpose of the Master Sign Program is to provide a coordinated approach to signage for multi-family development and multi-tenant commercial developments.
- B. **Applicability.** A Master Sign Program is required for multi-family uses with more than one permanent sign proposed, and any non-residential development with four or more tenants.
- C. **Permit Required.** A Master Sign Program requires Planning Commission approval of a Sign Permit.
- D. **Applications.** Applications shall be filed with the Planning Department on the appropriate City forms, together with all the necessary fees, deposits, exhibits, maps, and other information required by the Department to clearly and accurately describe the proposed Master Sign Program.

E. Master Sign Program Contents. All Master Sign Programs shall identify the materials, color, size, type, placement and general design of signs located on a project or property.



Note: Design standards for master sign programs in Subsection F below which allow variety in the design of individual signs are new.

F. Design Standards.

1. Master Sign Programs shall feature a unified and coordinated approach to the materials, ~~color,~~ size, type, placement and general design of signs proposed for a project or property. Master Sign Programs may allow for variety in the design of individual signs ~~provided that the signs contribute to a consistent visual theme within the property.~~
2. A Master Sign Program may deviate from standards contained in this chapter relating to permitted sign height, number of signs, sign area, and type of sign. A Master Sign Program may not allow a prohibited signs as identified in Section 17.80.060 (Prohibited Signs).

G. Effect of Master Sign Program.

1. All subsequent signs proposed for a development or property subject to an approved Master Sign Program shall comply with the standards and specifications included in the Master Sign Program.
2. Signs consistent with an approved Master Sign Program are allowed with an Administrative Sign Permit.
3. Approval of a Master Sign Program shall supersede the regulations of this chapter. Any aspect of the proposed signs not addressed by the Master Sign Program shall be in compliance with this chapter.

17.80.140 Nonconforming Signs

This section applies to all legally-established signs that do not conform to current requirements in this chapter.

A. Continuation.

1. ~~Except as required by paragraph 2 below, —Aa~~ nonconforming sign may continue its use as a sign if it was legally established in compliance with all applicable regulations in effect at the time it was established. It is the applicant's responsibility to demonstrate that the sign was legally established.
- ~~2. A nonconforming sign must be brought into conformance with this chapter if the existing structure is increased beyond 50 percent of the floor area of the existing structure.~~

B. Allowed Changes.

1. Changes to sign copy/face and repainting of legal nonconforming signs is permitted as long as there is no alteration to the physical structure or support elements of the sign.

2. A legal-nonconforming sign that sustains less than 50-percent damage to its structure may be repaired to its original pre-damaged condition, provided that such repair is completed within 180 days after the date of the damage.



Note: Requirements to bring nonconforming signs into compliance in Subsection C below are new.

C. Required Compliance. A legal nonconforming sign shall be removed or brought into compliance with this chapter in the following situations:

1. The use advertised by the sign has ceased to function for a period of 90 days or more.
2. The sign has sustained at least 50-percent damage to its structure.
3. The sign is located on a remodeled building façade.
4. The sign is relocated to a different lot or building.

17.80.150 Violations and Enforcement



Note: This section adds more detailed procedures for the removal of illegal signs currently addressed in Sections 17.57.130 and 140 of the existing Zoning Code.

A. Illegal Signs. It is unlawful for any person to install, place, construct, repair, maintain, alter or move a sign in a manner that does not comply with the requirements of this chapter.

B. Removal of Illegal Signs.

1. The City may immediately remove or cause the removal of any sign that places the public in immediate peril or that is located within the public right-of-way.
2. For illegal signs that do not place the public in immediate peril and are located on private property, the City shall serve the business owner or person responsible for the sign a written certified notice that:
 - a. Describes the physical characteristics of the subject sign.
 - b. Explains the nature of the violation.
 - c. States that the sign shall be removed or brought into compliance with this article within a specified number of days after the notice is received.
 - d. States that the City will remove the sign if the business owner or person responsible for sign does not correct the violation within the specified number of days after the notice is received.
 - e. States that the City may destroy the illegal sign if it is not retrieved within 20 days of removal by the City.
 - f. States that the business owner or person responsible for all costs associated with the removal, storage, and destruction of the sign.

3. If an illegal sign is not removed or brought into compliance within the specified number of days after a notice is received, the City may issue a citation to the business owner or person responsible for the sign as provided in Municipal Code Title 4 (General Municipal Code Enforcement) and may remove or cause the removal of the sign.
4. Any accessory structures, foundations, or mounting materials which are unsightly or a danger to the public health, safety, and welfare shall be removed at the time of the sign removal.
5. A sign removed by the City shall be stored for a minimum of 20 days. If the sign is not retrieved by the business owner or person responsible for the sign within this 20-day period, the City may destroy the sign.

Chapter 17.84 - HISTORIC PRESERVATION

Style Definition: Title: Level 1

Sections:

- 17.84.010 Purpose
- 17.84.020 Types of Historic Resources
- 17.84.030 Adding or Removing ~~Historic Landmark~~ Designated Historic Resource Designation
- 17.84.040 Maintenance of ~~Historic Structures List~~ Potential Historic Resource
- 17.84.050 Criteria for Designating Historic Resources
- 17.84.060 ~~Certificate of Appropriateness~~ Historic alteration permit
- 17.84.070 ~~Historic Preservation Incentives~~ Demolition of Historic Resources
- 17.84.080 ~~Demolition of Historic Resources~~ Historic Preservation Incentives



Note: This chapter is new to codify current practices and establish clear procedures to approve modifications to historic resources.

17.84.010 Purpose

This chapter establishes procedures for the ~~designation~~ classification of historic resources and requirements for alterations to these resources. These provisions are intended to preserve and enhance Capitola's historic character while maintaining the ability of property owners to reasonably improve and modify historic homes and structures in Capitola.

17.84.020 Types of Historic Resources

The Zoning Code establishes two types of historic resources: ~~Historic Landmark~~ Designated Historic Resources and ~~properties included in the Historic Structures List~~ Potential Historic Resources. ~~The City intends for both types of historic resources to be comprised primarily of structures from the pre-World War II era of Capitola's history.~~

A. ~~Historic Landmark~~ Designated Historic Resources. ~~Historic landmark~~ Designated Historic Resources include the following:

1. Resources listed on the National Register of Historic Places or determined by the State Historical Resources Commission to be eligible for listing on the National Register of Historic Places.
2. Resources listed on the California Register of Historical Resources or determined by the State Historical Resources Commission to be eligible for listing on the California Register of Historical Resources.
3. A contributing structure within a National Register Historic District (Venetian Court, Six Sisters, Lawn Way, and Old Riverview Districts).
4. Other resources officially designated by the City Council as a ~~local historic landmark~~ Designated Historic Resource based on the criteria in Section 17.84.050 (Criteria for Designating Historic Resources).

- B. ~~Historic Structures List~~Potential Historic Resource.** ~~The A Historic Structures List~~Potential Historic Resources is a site, structure, or feature that has previously been identified by the City as potentially historic and is included on a list of potentially historic resources as ~~is the 2005 City of Capitola Historic Structures List as~~ maintained by the Community Development Department consistent with Section 17.84.040 (Maintenance of ~~Historic Structures List~~Potential Historic Resource). The purpose of the ~~list of Historic Structures List~~Potential Historic Resources is to maintain an inventory of properties that are potentially historic for use by City staff when reviewing development project applications.

17.84.030 Adding or Removing ~~Historic Landmark~~Designated Historic Resource ~~Designation Status~~

- A. Initiation.** The City Council, Planning Commission, or property owner may request designating a property as a ~~Historic Landmark~~Designated Historic Resource or removing such ~~designation~~classification from a property.
- B. Application Contents.** An application by a property owner shall be on a form designated by the Community Development Department and shall include the following information:
1. **Photographs – Subject Property, & Context.**
 - a. Photographs of each exterior elevation of all buildings and structures on the site, including retaining walls and fences.
 - b. Photographs of exterior details (façade materials, porches, columns, cornices, window trim, wall materials, and fence materials).
 - c. Historic photographs of original structure if available.
 2. **Physical Condition – Written and Graphic.** A detailed written description on the physical condition of the structure with supporting photographs.
 3. **Property History.** A description of the history of the property, if known.
 4. **Requests to Remove ~~Designation~~Classification.** For requests to remove ~~a Historic Landmark~~Designated Historic Resource ~~designation~~status, a description and photo documentation of the lack of historic significance and major alterations made to the property.
 5. **Additional Information.** Any additional information requested by the Community Development Director necessary to process and evaluate the application.
- C. Application Review.** The Community Development Director shall review applications for adequacy and completeness under the requirements of this section. The application shall be reviewed by ~~the City-contracted~~ State Certified Architectural Historian to assess whether the property exhibits characteristics for ~~designation~~classification as a ~~Historic Landmark~~Designated Historic Resource described in Section 17.84.050 (Criteria for Designating Historic Resources). If the property exhibits characteristics for

~~classification, the City-contracted State Certified Architectural Historian will complete a DPR523 for the City's records.~~ A staff report with a recommendation on the approval, approval with conditions, or denial of the application based upon the evaluation of the proposed historic resource ~~designationclassification~~ shall be prepared by the Community Development Department for Planning Commission consideration.

- D. Planning Commission Recommendation.** The Planning Commission shall review a ~~Historic Landmark Designated Historic Resource~~ application at a noticed public hearing in compliance with Chapter 17.120 (Public Notice and Hearings) and provide a recommendation to approve, conditionally approve, or deny the application.
- E. City Council Action.** The City Council shall approve, conditionally approve, or deny the application by resolution. The action of the City Council is final.
- F. Effect of ~~DesignationClassification~~.** The ~~designationclassification~~ of a ~~Historic Landmark Designated Historic Resource~~ shall run with the land and be binding to subsequent owners of the property. Upon ~~designationclassification~~, the City shall record with the County Recorder a Notice of ~~Historic Landmark Designated Historic Resource~~ Designation.

17.84.040 Maintenance of ~~Historic Structures List~~Potential Historic Resource

- A. Authority to Maintain.** The Community Development Director shall be responsible for maintaining the ~~list of Historic Structures List~~Potential Historic Resources. The Director may add or remove structures from the list based on input from ~~the City-contracted~~ a State Certified Architectural Historian ~~and the City Historian~~.
- B. Additions to List.** Any structure added to the ~~Historic Structures List~~Potential Historic Resource list shall meet one or more of the criteria in Section 17.84.050.B (~~Historic Structures List~~Potential Historic Resource). The property owner shall be notified in writing of a decision to add a property to the list. Decisions of the Community Development Director to add a property to the list may be appealed to the Planning Commission.
- C. Removal of Listed Structures.** A property owner may request the removal of a property from the list Historic Structure List by submitting to the Community Development Department a written request accompanied by a description with photograph documentation explaining the property's lack of historic significance of the property. Decisions of the Community Development Director to maintain a structure on the list despite a request for its removal by the property owner may be appealed to the Planning Commission.

17.84.050 Criteria for Designating Historic Resources

- A. ~~Historic Landmark Designated Historic Resource~~-~~s~~Designation.** ~~Designated Historic Resources represent particularly noteworthy community resources that exemplify the City's unique historic identify, primarily from the pre-World War II era of~~

Capitola's history. Designated Historic Resources possess iconic landmark status that contribute to Capitola's unique sense of place due to physical characteristics of the resource visible from a public place. The City Council may ~~designate~~ classify a property as a ~~Historic Landmark~~ Designated Historic Resource if it meets any of the following criteria:

1. It exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, architectural or natural history.
- ~~2. It is identified with persons or events significant in local, State or national history.~~
- ~~3.2.~~ 3. It embodies distinctive characteristics of a style, type, period or method of construction, or is a valuable example of the uses of indigenous materials or craftsmanship.
- ~~4. It is representative of the work of a notable builder, designer or architect.~~
3. ~~It is an example of a type of building once common in Capitola but now rare.~~
- ~~5.4.~~ 4. It contributes to the significance of an historic area, being a geographically definable area possessing a concentration of historic or scenic properties or thematically related groupings of properties which contribute to each other and are united aesthetically by plan or physical development.

B. ~~Historic Structures List~~ Potential Historic Resource. Based on a recommendation from ~~the City-contracted~~ a State Certified Architectural Historian ~~and the City Historian~~, the Community Development Director may add a structure to the ~~Historic Structures List~~ Potential Historic Resource list if it meets any of the above criteria for ~~designating~~ classifying a ~~Historic Landmark~~ Designated Historic Resource or any of the following criteria:

1. It has a unique location or singular physical characteristic or is a view or vista representing an established and familiar visual feature of a neighborhood, district, or the city.
2. It embodies elements of architectural design, detail, materials or craftsmanship that represent a significant structural or architectural achievement or innovation.
3. It is similar to other distinctive properties, sites, areas or objects based on an historic, cultural or architectural motif.
4. It is one of the few remaining examples in the City, region, State or nation possessing distinguishing characteristics of an architectural or historic type or specimen.

17.84.060 ~~Certificate of Appropriateness~~ Historic Alteration Permit

A. Purpose. A ~~certificate of appropriateness~~ historic alteration permit is an approval required to alter the exterior of a historic resource.

- B. When Required - ~~Historic Landmark~~ Designated Historic Resources.** A ~~certificate of appropriateness~~ historic alteration permit is required for any exterior alteration to a ~~Historic Landmark~~ Designated Historic Resource as defined in Section 17.84.020 (Types of Historic Resources).
- C. When Required - ~~Historic Structures List~~ Potential Historic Resource.** A ~~certificate of appropriateness~~ historic alteration permit is required for an alteration to a ~~property included in the City of Capitola Historic Structures List~~ Potential Historic Resource if:
1. The project requires a discretionary approval (e.g., Design Permit); and
 2. The Community Development Director determines that the project may result in a significant adverse impact of a historic resource as defined in the California Environmental Quality Act (CEQA) Guidelines Section 15064.5. A structure found not to be historically significant through a historic evaluation does not require a ~~certificate of appropriateness~~ historic alteration permit.
- D. Assessment and Consultation - ~~Historic Structures List~~ Potential Historic Resource.**
1. A proposed alteration to a property on the Historic Structures List that requires a discretionary permit will be reviewed by ~~the City-contracted~~ State Certified Architectural Historian to assess if the project may result in a significant adverse impact of a historic resource. The Community Development Director shall use this assessment to determine if a ~~certificate of appropriateness~~ historic alteration permit is required for the proposed project.
 - ~~2. The Community Development Director shall consult with the City Historian on all discretionary applications involving an alteration to a property included in the Historic Structures List.~~
- E. Alteration Defined.** As used in this chapter, “alteration” means any exterior change or modification to a structure, cutting or removal of trees and other natural features, disturbance of archeological sites or areas, and the placement or removal of any accessory structures affecting the exterior visual qualities of the property. Painting is not considered an alteration unless painted features are designated as significant or characteristic of a historic resource.
- F. Exception for In-Kind Minor Replacements.** A ~~certificate of appropriateness~~ historic alteration permit is not required for minor replacements due to damage to windows, doors, trim, or other similar building elements. The replacement shall be in-kind, matching the original design in size, detail, materials, and function. To qualify for this exception, the applicant must provide evidence of original design and details of the in-kind replacement.
- G. Review Authority.** The Planning Commission shall take action on all applications for a ~~certificate of appropriateness~~ historic alteration permit.

- H. Application Requirements.** Applications for a ~~certificate of appropriateness~~historic alteration permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department together with all required application fees.
- I. Public Notice and Hearing.** The Planning Commission shall consider applications for a ~~certificate of appropriateness~~historic alteration permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- J. Findings for Approval.** The Planning Commission may approve a ~~certificate of appropriateness~~historic alteration permit only if all of the following findings can be made:
1. The historic character of a property is retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.
 2. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property are preserved.
 3. Any new additions complement the historic character of the existing structure. New building components and materials for the addition are similar in scale and size to those of the existing structure.
 4. Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials.
 - ~~5. Chemical or physical treatments are undertaken using the gentlest means possible. Treatments that cause damage to historic materials are not used.~~
 - ~~6.5.~~ Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.
 - ~~7.6.~~ The proposed project is consistent with the General Plan, any applicable Specific Plan, and the Zoning Code, and the California Environmental Quality Act (CEQA).
- K. Conditions of Approval.** The Planning Commission may attach conditions of approval to a ~~certificate of appropriateness~~historic alteration permit to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
- L. Appeals.** Decisions on ~~certificate of appropriateness~~historic alteration permit may be appealed as described in Chapter 17.152 (Appeals).

17.84.070 — Historic Preservation Incentives

- A. Mills Act Agreement.** Upon request of the owner of a ~~Historic Landmark Designated Historic Resource~~, the City Council may elect to enter into a Mills Act Agreement with the owner. See Government Code Section 50280 et seq. The Mills Act Agreement shall run with the land and be binding upon subsequent owners of the ~~Historic Landmark Designated Historic Resource~~. If the City Council elects to enter into a Mills Act Agreement, the City shall file the Mills Act Agreement for recording with the County Recorder.
- B. California Historical Building Code.** The California Historical Building Code (Title 24, Part 8) shall apply to all properties designated as ~~Historic Landmark Designated Historic Resources~~ to facilitate the preservation and continuing use of the building while providing reasonable safety for the building's occupants and access for persons with disabilities.
- C. Grant or Loan Priority.** The City shall give the highest priority to ~~Historic Landmark Designated Historic Resources~~ when distributing grants or loans whose purpose is historic preservation.
- D. Permitting Fees.** The City Council may ~~shall~~ waive application and review fees for any permit required for development projects ~~that preserve, retain, and rehabilitate~~ involving the substantial preservation or rehabilitation of a ~~historic resource structure~~. Permit fees shall be waived ~~only for significant rehabilitations of noteworthy historic structures, not for remodels or additions to older homes that would not substantially advance the City's historic preservation goals.~~
- E. Modifications to Development Standards.** ~~The City Council may approve modifications to development standards in the applicable zoning district, such as parking and setbacks, if the modification is necessary to allow for the preservation, rehabilitation, or restoration of a historic resource.~~

17.84.080 ~~17.84.070~~ Demolition of Historic Resources

- A. Permit Required.** The demolition of a historic resource requires approval of a Historic Resource Demolition Permit.
- B. Review Authority.**
1. The City Council takes action on Historic Resource Demolition Permits applications to demolish a ~~Historic Landmark Designated Historic Resource~~.
 2. The Planning Commission takes action on Historic Resource Demolition Permit applications to demolish a ~~structure on the Historic Structures List~~ ~~Potential Historic Resource~~.
- C. Application Submittal and Review.** Applications for a Historic Resource Demolition Permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials

required by the Community Development Department together with all required application fees to the satisfaction of the CDD or Planning Commission. The City may require third-party review of these materials at the applicant's expense. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.84.060.5 (Findings for Approval).

- D. Planning Commission Recommendation.** For Historic Resource Demolition Permit applications to demolish a ~~Historic Landmark~~ Designated Historic Resource, the Planning Commission shall provide a recommendation to the City Council on a Historic Resource Demolition Permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The Planning Commission shall base its recommendation on the findings specified in Paragraph F (Findings for approval) below.
- E. Public Notice and Hearing.** The review authority shall review and act on a Historic Resource Demolition Permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- F. Findings for Approval.** To approve a Historic Resource Demolition Permit, the review authority shall make one or more of the following findings:
1. The structure must be demolished because it presents an imminent hazard to public health and safety as determined by a licensed structural engineer.
 2. The structure proposed for demolition is not structurally sound despite evidence of the applicant's efforts to rehabilitate and properly maintain the structure.
 3. The rehabilitation or reuse of the structure is economically infeasible. Economic infeasibility shall be demonstrated by preparing actual project costs and by comparing the estimated market value of the property in its current condition, after rehabilitation and after demolition.
 4. There exist no feasible alternative use of the structure that can earn a reasonable economic return.
- G. Limitations on Findings of Economic Hardship.** The review authority may not approve a Historic Resource Demolition Permit if an economic hardship was caused by any of the following:
1. Willful or negligent acts by the applicant.
 2. Purchasing the property for substantially more than market value.
 3. Failure to perform normal maintenance and repairs.
 4. Failure to diligently solicit and retain tenants.
 5. Failure to prescribe a rental amount which is reasonable for the current market.
 6. Failure to provide normal tenant improvements.

H. Post-Decision Procedures. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Historic Resource Demolition Permit.

17.84.080 Historic Preservation Incentives

- A. Mills Act Agreement.** Upon request of the owner of a Designated Historic Resource, the City Council may elect to enter into a Mills Act Agreement with the owner. See Government Code Section 50280 et seq. The Mills Act Agreement shall run with the land and be binding upon subsequent owners of the Designated Historic Resource. If the City Council elects to enter into a Mills Act Agreement, the City shall file the Mills Act Agreement for recording with the County Recorder.
- B. California Historical Building Code.** The California Historical Building Code (Title 24, Part 8) shall apply to all Designated Historic Resources to facilitate the preservation and continuing use of the building while providing reasonable safety for the building's occupants and access for persons with disabilities.
- C. Grant or Loan Priority.** The City shall give the highest priority to Designated Historic Resources when distributing grants or loans whose purpose is historic preservation.
- D. Permitting Fees.** The City Council shall waive application and review fees for permit required for development projects that preserve, retain, and rehabilitate a historic structure. Permit fees shall be waived only for significant rehabilitations of noteworthy historic structures, not for remodels or additions to older homes that would not substantially advance the City's historic preservation goals.
- E. Modifications to Development Standards.** The City Council may approve modifications to development standards in the applicable zoning district, such as parking and setbacks, if the modification is necessary to allow for the preservation, rehabilitation, or restoration of a historic resource.

Chapter 17.88 – INCENTIVES FOR COMMUNITY BENEFITS

Sections:

17.88.010	Purpose
17.88.020	Incentives Restricted to Added Benefits
17.88.030	Eligibility
17.88.040	Allowable Benefits
17.88.050	Available Incentives
17.88.060	Relationship to State Density Bonus Law
17.88.070	Application Submittal and Review
17.88.080	Findings
17.88.090	Post-Decision Procedures

Note: This chapter is new to implement General Plan policies that allow for increased FAR and height for certain projects on 41st Avenue and the Village Hotel.

17.88.010 Purpose

This chapter establishes incentives for applicants to locate and design development projects in a manner that provides substantial benefits to the community. These incentives are intended to facilitate the redevelopment of underutilized properties along 41st Avenue consistent with the vision for the corridor described in the General Plan and to encourage high the development of a new hotel in the Village as called for by the General Plan.

17.88.020 Incentives Restricted to Added Benefits

The City may grant incentives only when the community benefits or amenities offered are not otherwise required by the Zoning Code or any other provision of local, state, or federal law. Community benefits or amenities must significantly advance General Plan goals and/or incorporate a project feature that substantially exceeds the City's minimum requirements.

17.88.030 Eligibility

A. Eligibility for Incentive. The City may grant incentives for the following projects:

1. As shown in Figure 17.88-1, projects in the Regional Commercial (C-R) and Community Commercial (C-C) zoning districts that:
 - a. Front 41st Avenue or the 41st Avenue/Capitola Road intersection, and/or
 - b. Are located on the Capitola Mall site.
2. A hotel on the former Capitola Theater site (APN 035-262-04) in the Mixed Use Village zoning district.

B. Setback Required – 41st Avenue. Structures on properties fronting the east side of 41st Avenue must be set back a minimum of 100 feet from the property line abutting a residential property.

17.88.030 17.88.040 Allowable Benefits

~~The City may grant incentives for projects fronting 41st Avenue or the 41st Avenue/Capitola Road intersection in the Regional Commercial (C-R) and Community Commercial (C-C) zoning districts that provide one or more of the following community benefits:~~

- A. **All Eligible Projects.** ~~The City may grant incentives to all eligible projects as identified in Section 17.88.030 (Eligibility) that provide one or more of the following community benefits. The public benefit provided shall be of sufficient value as determined by the Planning Commission to justify deviation from the standards of the zoning district that currently applies to the property.~~
1. **Public Open Space.** Public plazas, courtyards, and other public gathering places that provide opportunities for people to informally meet and gather. Open space must be accessible to the general public at all times. Provision must be made for ongoing operation and maintenance in perpetuity. ~~The public space must either exceed the City's minimum requirement for required open space and/or include quality improvements to the public realm to create an exceptional experience.~~
 2. **Public Infrastructure.** Improvements to streets, sidewalks, curbs, gutters, sanitary and storm sewers, street trees, lighting, and other public infrastructure beyond the minimum required by the City or other public agency.
 3. **Pedestrian and Bicycle Facilities.** ~~New or improved pedestrian and bicycle pathways that enhance the property and connectivity to the surrounding neighborhood. Improved walkways and paths within properties, enhanced connections for bicyclists and pedestrians between properties, and new connections to the Rail Trail.~~
 4. **Transportation Options.** ~~Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.~~
 - 3-5. **Historic Resources.** ~~Preservation, restoration, or rehabilitation of a historic resource.~~
 6. **Public Parking Structure.** ~~Public parking structure or lot that provides parking spaces in excess of the required number of parking spaces for use by the surrounding commercial district. Excess parking provided as part of a Village hotel may not be located on the hotel site and must be located outside of the Mixed Use Village zoning district.~~
 - 4- ~~Structured parking made permanently available for public use.~~
 - 5-7. **Green Building.** Green building and sustainable development features that ~~achieve~~ ~~or~~ exceed the City's green building award status.
 - 6-8. **Public Art.** Public art ~~that exceeds the City's minimum public art requirement and is~~ placed in a prominent and publicly accessible location.

~~7.9. **Job Creation.** New employment or expanded business uses that increase the supply of jobs available to Capitola residents of all income levels.~~

10. **Other Community Benefits.** Other community benefits not listed above as proposed by the applicant that are significant and substantially beyond normal requirements.

B. 41st Avenue/Capitola Road Projects. In addition to the community benefits in Subsection A above, the City may grant incentives to eligible projects fronting 41st Avenue or the 41st Avenue/Capitola Road intersection or on the Capitola Mall site that provide one or more of the following community benefits:

~~8.1. **Capitola Mall Block Pattern.** Subdivision of the existing Capitola Mall property into smaller blocks with new intersecting interior streets. May include the extension of 40th Avenue south into the Mall property to form a new pedestrian-friendly private interior street.~~

~~9.2. **Surface Parking Lot Redevelopment.** Redevelopment of existing surface parking lots fronting 41st Avenue and Capitola Road while introducing ~~the~~ new sidewalk-oriented commercial ~~uses~~ buildings that place commercial uses along the street frontage.~~

~~10.3. **Transit Center.** Substantial infrastructure improvements to the transit center on the Capitola Mall property that are integrated with a possible future shuttle system in Capitola. The transit center may be moved to an alternative location consistent with the operational requirements of Santa Cruz Metro.~~

~~11.4. **Affordable Housing.** Affordable housing that meets the income restrictions applicable in the Affordable Housing (-AH) overlay zone.~~

~~17.88.040~~17.88.050 Available Incentives

~~A. **41st Avenue/Capitola Road Projects. Incentives.** The City may grant the following incentives to ~~Aan~~ proposed eligible project fronting 41st Avenue or the 41st Avenue/Capitola Road intersection or on the Capitola Mall site in the Regional Commercial (C-R) or Community Commercial (C-C) zoning district providing benefits is eligible for the following incentives:~~

- ~~1. An increase in the maximum permitted floor area ratio (FAR) to 2.0.~~
- ~~2. An increase in the maximum permitted building height to 50 feet.~~

B. Village Hotel. The City may grant the following incentives to a proposed hotel on the former Capitola Theater site (APN 035-262-04):

1. An increase in the maximum permitted floor area ratio (FAR) to 3.0.

~~Maximum FAR. The City Council may allow a maximum FAR of 3.0 for a proposed hotel on the Capitola Theater site.~~

~~2. Height. The City Council may allow an exception to the 27-foot height limit for a proposed hotel on the Capitola Theater site. An increase to the maximum permitted building height provided that:~~

~~a. The maximum height of the hotel remains below the elevation of the bluff behind the hotel; and~~

~~—The bluff behind the hotel remains visible from the Capitola wharf as a green edge with existing mature trees maintained on site.~~

~~a.b.~~

~~—Setback Requirement. An increase in the maximum permitted FAR or height is permitted on the east side of 41st Avenue only if structures are set back a minimum of 100 feet from the property line abutting a residential property.~~

17.88.060 Relationship to State Density Bonus Law

The incentives allowed by this section are in addition to any development incentive required by Section 65915 of the California Government Code.

17.88.070 Application Submittal and Review

A. **Request Submittal.** A request for an incentive in exchange for benefits shall be submitted concurrently with an application for the discretionary permits required for the project by the Zoning Code. Applications shall be accompanied by the following information:

1. A description of the proposed amenities and how they will benefit the community.
2. All information needed by the City Council to make the required findings described in Section 17.88.080 (Finding) below, including a pro forma analysis demonstrating that the benefit of the proposed amenities to the community is commensurate with the economic value of the requested incentives.

B. **Conceptual Review.** Prior to City action on a request for an incentive, the request shall be considered by the Planning Commission and City Council through the Conceptual Review process as described in Chapter 17.144 (Conceptual Review). Conceptual Review provides the applicant with non-binding input from the City Council and Planning Commission as to whether the request for incentives is worthy of consideration.

C. **Planning Commission Recommendation.** Following Conceptual Review, ~~the~~ Planning Commission shall provide a recommendation to the City Council on the proposed project and requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

D. City Council Action. After receiving the Planning Commission's recommendation, the City Council shall review and act on the ~~proposed project and~~ requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The City Council shall also review and act on other permits required for the project requesting incentives.

~~D. Preliminary Input. At any point prior to a final decision on a proposed project, an applicant may seek~~

~~17.88.080 — Public Notice and Hearing~~

~~A. Planning Commission Recommendation:~~

~~B. City Council Action:~~

~~17.88.090~~17.88.080 Findings

A. All Eligible Projects. The City Council may approve the requested incentives for all eligible projects only if the following findings can be made in addition to the findings required for any other discretionary permit required by the Zoning Code:

1. The proposed amenities will provide a substantial benefit to the community and advance the goals of the General Plan.
2. There are adequate public services and infrastructure to accommodate the increased development potential provided by the incentive.
- ~~3. The benefit of the proposed amenities to the community is commensurate with the economic value of the requested incentive~~
- ~~4. The public benefit exceeds the benefits required by the zoning code or any other provisions of local, state, or federal law.~~
- ~~5. The project minimizes adverse impacts to neighboring properties to the greatest extent possible.~~

B. Village Hotel. In addition to the findings in Subsection A above, the City Council may approve the requested incentives for a proposed hotel on the former Capitola Theater site only if the following findings can be made:

- ~~3-1.~~ The design of the hotel respects the scale and character of neighboring structures and enhances Capitola's unique sense of place.
- ~~4.~~ ~~The additional height and/or FAR allows for a superior project with substantial community benefit.~~
- ~~5-2.~~ The hotel will contribute to the economic vitality of the Village and support an active, attractive, and engaging pedestrian environment.
- ~~6-3.~~ The hotel design minimizes impacts to public views of the beach and Village from vantage points outside of the Village.

~~7.4.~~ Parking for the hotel is provided in a way that minimizes vehicle traffic in the Village and strengthens the Village as a pedestrian-oriented destination.

~~8.— The project is designed to minimize adverse impacts to neighboring properties to the greatest extent possible.~~

~~9.—~~

~~17.88.100~~17.88.090 **Post-Decision Procedures**

Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to decisions on incentives for community benefits.

Chapter 17.92 - NONCONFORMING PARCELS, USES, AND STRUCTURES

Sections:

- 17.92.010 Purpose
- 17.92.020 Applicability
- 17.92.030 General
- 17.92.040 Nonconforming Parcels
- 17.92.050 Nonconforming Use of Land
- 17.92.060 Nonconforming Use of Structures
- 17.92.070 Nonconforming Multi-Family Uses in the R-1 Zoning District
- 17.92.080 Nonconforming Structures
- 17.92.090 Findings

17.92.010 Purpose

This chapter establishes regulations for nonconforming parcels, uses and structures. These regulations are intended to:

- A. Allow for the development and use of legal nonconforming parcels.
- B. Ensure that nonconforming uses and structures do not adversely impact neighboring properties.
- C. Allow for the limited enlargement or intensification of nonconforming uses and structures.
- D. Allow for limited repairs and maintenance to nonconforming structures.
- ~~D.E.~~ Allow for the replication of detached single-family homes to support improvements to the City's housing stock while maintaining Capitola's unique coastal village character.
- ~~E.A. Allow for limited repairs and maintenance to nonconforming structures.~~
- F. Provide for the elimination of nonconforming uses as appropriate due to abandonment, obsolescence, and destruction.

17.92.020 Applicability

This chapter applies to existing parcels, uses, and structures that do not conform to the regulations of the zoning district in which they are located.

17.92.030 General

- A. Continuation.** A nonconforming parcel, use, or structure may be continued if it was legally established in compliance with all applicable regulations in effect at the time it was established.
- B. Legally Established Defined.** To be considered legally established, a legal nonconforming parcel, use, or structure shall have been physically constructed or in existence, not merely approved by the City. Conditional Use Permits, Variances, Building Permits, or other approvals not exercised within the required time do not establish the right to a legal nonconformity.
- C. Burden of Proof.** Any person asserting a right to a nonconforming parcel, use or structure has the burden of proof to demonstrate that the nonconformity was legally established.

17.92.040 Nonconforming Parcels

- A. Development Permitted.** A legally established parcel with nonconforming dimensions (e.g., parcel width and depth) is permitted all development rights of the applicable zoning district.
- B. Conformance with Standards.** New development on legal nonconforming parcels shall comply with all setback, building coverage, parking, and other standards of the applicable zoning district.

17.92.050 Nonconforming Use of Land

- A. Continuation Permitted.** A nonconforming use of land conducted outside of a structure may continue so long as:
1. The nonconforming use is not enlarged, increased, or extended to occupy a greater area of land; and
 2. The nonconforming use is not moved in whole or in part to any other portion of the parcel.
- B. Cessation of Use.** If any such nonconforming use of land ceases for a period of more than 1890 consecutive days, any subsequent use of such land shall conform to the regulations of the applicable zoning district. For the purpose of this section, a use is considered ceased if:
1. The use is not present on the site;
 2. For uses that serve customers (e.g., restaurants), the use no longer serves customers; and/or
 3. For uses with employees, no employees (including the owner) are present on the site.

17.92.060 Nonconforming Use of Structures

- A. Change in Ownership, Tenancy, or Management.** A change in ownership, tenancy, or management of a nonconforming use shall not affect its legal nonconforming status.
- B. Resuming a Nonconforming Use.** A nonconforming use changed to a conforming use shall not return to a nonconforming use.
- C. Replacement of a Nonconforming Use.** A nonconforming use may not be replaced by another nonconforming use.
- D. Intensification of Use.**
1. The enlargement of a structure or parcel occupied by a nonconforming use, or the intensification in any way of the operation of a nonconforming use, requires the approval of a Conditional Use Permit.
 2. To approve a proposed intensification to a nonconforming use, the Planning Commission shall make all Conditional Use Permit findings (Chapter 17.124) in addition to the findings in Section 17.92.080 (Findings).
 3. **Discontinuation of Use.** A nonconforming use discontinued for 90 consecutive days shall not be reestablished and may be replaced only by a conforming use.
- E. Nonconforming Multi-Family Uses.** Nonconforming multi-family uses in the Residential Single Family (R-1) zoning district shall comply Section 17.92.070 (Nonconforming Multi-Family Uses).

17.92.070 Nonconforming Multi-Family Uses in the R-1 Zoning District

This section applies to multi-family uses that are nonconforming due to their location in the Residential Single Family (R-1) zoning district

- A. Amortization.** A nonconforming multi-family use in the R-1 zoning district must be discontinued on June 26, 2019 or 50 years from the date the use first became nonconforming, whichever is later, except as provided in subsections B and C below.
- B. Amortization Extensions.**
1. An owner of a nonconforming multi-family use may apply to the City Council for an extension to the 50-year amortization requirement in Section A above.
 2. The City Council may grant an extension of up to 25 years upon finding that:
 - a. The appearance, condition and management of the property is such that the property is not greatly detrimental to the single-family residential character of the neighborhood in which it is located;
 - b. The extension is necessary in order to prevent a major economic loss to the property owner and to lessen deterioration; and

- c. All reasonable conditions have been imposed for the purpose of repairing dilapidation and bringing, or keeping, the property up to neighborhood standards.
3. The multi-family use must be discontinued upon completion of the extended amortization period granted by the City Council. In such cases, the property may continue as a residential use only if converted to a single-family dwelling. A property may not apply for another extension upon the completion of the amortization period.



Note: Incentives for property improvement in Subsection C below are new.

C. Incentives for Property Improvement.

1. **Incentive Program.** To encourage upgrades and improvements to non-conforming multi-family uses in the R-1 zoning district, the City Council may grant permanent legal status to properties that participate in the City's nonconforming multi-family improvement incentive program. Properties that participate in the incentive program are exempt from the amortization requirement established in Sections A and B above.
2. **Submittal Requirements.** To participate in the incentive program, a property owner shall prepare and submit to the City a property improvement plan that contains the following:
 - a. A general description of the property, including property ownership, current and prior uses on the property, history of property improvements and maintenance, and aspects of the property that do not comply with current zoning regulations.
 - b. Proposed improvements to bring the property into greater compliance with development standards required by the Zoning Code, including parking and landscaping requirements. These improvements may include reduction of the number of units on the property.
 - c. A description of any neighborhood compatibility concerns associated with the property, including parking, noise, property maintenance, and refuse and recycling storage issues.
 - d. Proposed property improvement and maintenance measures to address any neighborhood compatibility concerns.
 - e. Documentation of outreach to neighbors to gather information about neighborhood compatibility concerns and possible methods to address these concerns.
3. **Measures to Compensate for Impacts.** A property owner may also propose additional measures that would provide a ~~community-neighborhood~~ benefit to compensate for impacts from the nonconforming use that cannot be fully

mitigated. For example, a property owner may propose reducing the number of residential units in a building, providing shared parking, screening trash facilities, improving building and site design, adding or upgrading landscaping, providing units as deed-restricted affordable housing, or installing green building upgrades beyond the minimum required by the City or other public agency.

4. **City Review.** The Community Development Director, in consultation with the Public Works Director, shall review the property improvement plan and determine if the plan correctly identifies issues associated with the property and adequately proposes improvements to address these issues. The Community Development Director shall forward to the Planning Commission and City Council a recommendation on the adequacy of the Plan.
5. **Property Improvement Agreement and Schedule.** The property improvement plan shall identify a realistic schedule to complete all proposed improvements within 2 years of City Council approval. The property owner shall enter into a property improvement agreement with the City agreeing to complete all proposed improvements within this established schedule.
6. **Findings.** At a noticed public hearing, the City Council may grant legal nonconforming status to a property upon finding that:
 - a. The property improvement plan, when implemented, will adequately address any neighborhood compatibility concerns previously associated with the property.
 - b. The property improvement plan incorporates adequate monitoring and maintenance provisions to ensure that neighborhood compatibility issues will not reoccur in the future.
 - c. The location and size of the site is suitable and appropriate for a multi-family use.
 - d. The property as improved will feature high quality design elements that complement the aesthetic qualities of the neighborhood.
 - e. The property will not produce unreasonable privacy, noise, light, and air impacts on neighboring properties.
 - f. Sufficient off-street parking is provided to accommodate parking needs of residents and minimize parking impacts on neighboring properties. Vehicles will not be parked in a manner that projects into adjacent sidewalks, streets, or otherwise interferes with vehicle and pedestrian circulation adjacent to the site.
 - g. Refuse and recycling storage facilities are provided on-site and screened from view from neighboring properties and the street.
 - h. The granting of legal status will not result in an excessive concentration of multi-family uses in the immediate vicinity of the property.

- i. Community benefits, if proposed, sufficiently compensate for impacts from the non-conforming use that cannot fully mitigated.
- 7. **Revocation.** The City may at any time revoke the legal status of the property if the property violates the improvement and maintenance agreement. Revocation shall occur in a manner consistent with Section 17.156.110 (Permit Revocation).

17.92.080 Nonconforming Structures

This section identifies allowed modifications to nonconforming structures, summarized in Table 17.92-1.

TABLE 17.92-1: ALLOWED MODIFICATIONS TO NONCONFORMING STRUCTURES

Project Affecting a Nonconforming Structure	Permit Required [1]
Nonstructural repairs, maintenance, and interior alterations	None
Structural repairs, modifications, and additions that do not alter or affect the nonconforming aspect of the structure	None
Structural repairs, modifications, and additions that alter or affect the nonconforming aspect of the structure	Conditional Use Design Permit
Structural repairs, modifications, and additions that increase or exacerbate the nonconforming aspect of the structure	Variance
Replication of a single-family dwelling per 17.92.070.D	Conditional Use Design Permit
Recreation of an involuntarily damaged or destroyed structure	None

Notes:

[1] The proposed project may require permits and approvals for other reasons not related to its nonconforming status. For example, additions or enlargements to a single-family dwelling often requires a Design Permit.

A. Alterations Permitted By Right.

- 1. Maintenance, nonstructural repairs, and nonstructural interior alterations to any portion of a nonconforming structure are permitted if the changes and improvements do not enlarge or extend the structure.
- 2. Structural modifications to a nonconforming structure that do not alter or affect the nonconforming aspect of the structure are permitted. For example, an addition to a structure with a non-conforming setback is permitted if no structural changes are made to the portion of the structure projecting into the required setback, and if the addition complies with all setback, height, floor area ratio, and other applicable development standards.

B. Alterations and Additions Requiring a ~~Conditional Use~~Design Permit.

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

1. Structural repairs and improvements that affect the nonconforming aspect of a nonconforming structure are allowed with a Conditional Use Design Permit if the improvement does not increase or exacerbate the nonconformity. For example, structural repairs to a building wall within a required setback are permitted with a Conditional Use Design Permit if the wall is not moved closer to the property line and the length of the wall within the required setback is not increased.
2. The Planning Commission may approve an alteration or addition to a nonconforming structure that renovates, reconstructs, or replicates the nonconforming aspect of the structure with a Design Permit. The addition may not increase or exacerbate the nonconformity and may not exceed 50 percent of the floor area of the existing structure.
- 2.3. To approve such ~~an~~ alterations and additions, the Planning Commission shall make all Conditional Use Design Permit findings (Chapter 17.1204) in addition to the findings in Section 17.92.090 (Findings).

C. Substantial Demolition.



~~Note: Definition of a substantial demolition based on percent of building material removed replaces existing definition based on value of project in Section 17.72.070 of the existing Zoning Code.~~

1. ~~If a nonconforming structure is substantially demolished as part of an alteration or addition, the structure shall be brought into full compliance with the requirements of the Zoning Code (i.e., legal nonconforming status shall be lost). Replicated single-family dwellings (Section D below) are exempt from this requirement.~~
2. ~~A “substantial demolition” means the removal or replacement of:~~
 - a. ~~50 percent or more of the lineal footage of existing interior and exterior walls;~~
 - or
 - b. ~~50 percent or more of the area of existing floor, ceilings, and roof structures.~~
3. ~~Determination of a substantial demolition shall include all repairs, alterations, and additions cumulatively made to the property over the preceding 5 years.~~

D.C. Replication Reconstruction of Single-Family Dwellings.



~~Note: Ability to replicate-reconstruct nonconforming single-family dwellings in this section is new.~~

1. A nonconforming single-family dwelling may be ~~replicated-reconstructed~~ with the approval of a Conditional Use Design Permit. This provision is intended to allow for improvements to housing in Capitola in a manner that maintains the historic coastal village character of residential neighborhoods.
2. “ReconstructionReplication” as used in this subsection means the replacement of a demolished structure which recreates the original building footprint, mass, floor

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

area, height, and roof lines. Deviation from existing design details such as the arrangement of doors and windows, architectural design, materials, and color may be permitted. and arrangement of doors, windows, roof lines, and significant architectural features of the demolished structure to the greatest extent possible. Exact reconstruction replication may not be possible due to the unavailability of matching materials and/or the necessity to meet current Building Code requirements.

3. A non-conforming single-family dwelling is not eligible for reconstruction replication if the mass and floor area of the existing home can be reconfigured on the parcel in a manner consistent with the development standards of the applicable zoning district. Reconstruction Replication provisions are intended to apply only to homes on constrained parcels where compliance with applicable development standards is not feasible.
4. Deviations from the original building design that would reduce a nonconformity are allowed, and encouraged in cases where the deviation does not adversely impact the architectural integrity of the home.
5. To approve such a reconstruction replication, the Planning Commission shall make all Conditional Use Design Permit findings (Chapter 17.1204) in addition to the findings in Section 17.92.0980 (Findings), and must find that the reconstruction contributes to the preservation of Capitola's coastal village character.
6. No additions or modifications that would increase the mass, floor area or height of a replicated nonconforming single-family dwellings are permitted for up to 10 years following approval of the reconstructed replicated home.

F.D. Involuntary Damage or Destruction.

1. Nonconforming structures damaged or destroyed by earthquake, fire, flood, or other calamity may be repaired or reconstructed provided that the nonconforming aspects of the structure are not increased or exacerbated.
2. "Reconstructed" means rebuilding a damaged or destroyed structure in a manner similar but not identical to the original structure. A reconstructed structure generally recreates the original building footprint, mass, and height, but may deviate from design details such as architectural design and the arrangement of doors, windows, and rooflines.
3. The repair or reconstruction of a nonconforming structure shall begin within one year and shall be completed within three years. The Community Development Director may approve an extension of two additional years to complete reconstruction of the demolished structure if the delay was caused by circumstances over which the applicant has no fault or control.

F.E. Moved Structures. A nonconforming structure that is moved to a new location shall conform to all applicable standards of the applicable zoning district.

17.92.090 Findings

Note: Findings for modifications to a nonconforming structure in this section are new.

The Planning Commission may approve a ~~Conditional Use Permit~~ Design Permit for projects that alter or affect the nonconforming aspect of a structure and for the replication of a single-family dwelling if all of the following findings can be made in addition to the findings in Chapter 17.1204 (~~Use-Design~~ Permits):

- A. Available evidence indicates that the nonconforming use or structure was legally established.
- B. The nonconforming use or structure has not resulted in a notable negative impact or nuisance on neighboring properties or to the surrounding area.
- C. The nonconforming use or structure is compatible with the general character of the surrounding area.
- D. The proposed action is consistent with the purpose and intent of the applicable zoning district.

Chapter 17.96 - SUPPLEMENTAL STANDARDS

Sections:

- 17.96.010 Purpose
- 17.96.020 Animal Keeping
- 17.96.030 Emergency Shelters
- 17.96.040 Home Occupations
- 17.96.050 Intersection Sight Distance
- 17.96.060 Large Commercial Land Uses
- 17.96.070 Large Home Day Care
- 17.96.080 Large Residential Care Facilities
- 17.96.090 Offshore Oil Development Support Facilities
- 17.96.100 Permanent Outdoor Displays
- 17.96.110 Outdoor Lighting
- 17.96.120 Placement of Underground Utilities
- 17.96.130 Recycling Collection Facilities
- ~~17.96.140 Residential Mixed Use Development in Commercial Zoning
— Districts~~
- 17.96.1450 Self-Storage Facilities
- 17.96.1560 Solar Energy Systems
- 17.96.1670 Soquel Creek Pathway, ~~Bulkheads, and Decks~~
- 17.96.1780 -Temporary Sidewalk Dining
- 17.96.1890 -Temporary Uses and Structures
- ~~17.96.200 Unattended Donation Boxes~~

17.96.010 Purpose

This chapter establishes supplemental standards for land uses, activities, and development that apply in all zoning districts.

17.96.020 Animal Keeping



Note: Animal keeping standards in this section remove limitations on the number of permitted indoor domestic pets in existing Zoning Code Section 17.82.060. Subsections D (Honeybees) and E (Prohibited Animals) are new.

A. General Standards. The following standards apply to the keeping of all animals in Capitola.

1. **Public Health and Safety.** It shall be unlawful and shall constitute a nuisance to keep any animal that poses a threat to public health or safety.
2. **Animal Noise.** In addition to those in Municipal Code Chapter 9.12 (Noises), no animal may disturb neighbors with its noise between sunset and one-half hour after sunrise.

3. **Sanitation.** It shall be unlawful and shall constitute a nuisance for any person to keep animals in an unsanitary manner or produce obnoxious odors. All debris, refuse, manure, urine, food waste, or other animal byproduct shall be removed from all the premises every day or more often as necessary.

B. Household Pets.

1. **Compliance with General Standards.** —The keeping of dogs, cats, domesticated birds, rodents, reptiles and amphibians, potbelly pigs less than 150 pounds, and other household pets is permitted provided they comply with Paragraph A above.

B.2. Maximum Number. A maximum of four of each type of household pet with a maximum of eight pets total is permitted in a single dwelling unit. [BN1]

C. Chickens.

1. **Permitted Location.** Keeping of chickens is permitted only on properties of 5,000 square feet or more occupied by a single-family dwelling.

~~4. —~~

2. **Prohibitions on Roosters.** Only hens are permitted pursuant to this chapter. Roosters are prohibited.
3. **Number of Chickens.** A maximum of four chickens are permitted on a single property.
4. **Enclosure Requirement.** Chickens shall be kept in a coop which is sufficient to contain chickens.

5. **Location of Coops.**

a. ——Chicken coops must be located behind the primary structure on the lot.

~~5.b. Chicken coops shall~~ may not be located within a required front and side setback area or closer than 20 feet to dwelling units on adjacent properties.

D. Honeybees.

1. **Permitted Location.** Keeping of beehives is permitted only on properties occupied by a single-family dwelling.
2. **Minimum Lot Size and Number of Hives.** A maximum of one beehive is permitted on properties of at least 5,000 square feet.
3. **Location of Beehives.** Beehives shall be located behind the primary structure on the property. Beehives shall not be located closer than 20 feet to dwellings on adjacent properties or 5 feet from a property line.

E. Prohibited Animals. Keeping the following animals is prohibited:

1. Roosters, fowl other than chickens and ducks, goats, pigs other than potbelly pigs, and other livestock.

2. Wild animals as defined in Section 2118 of the California Fish and Game Code, except when authorized by the State Department of Fish and Game under Fish and Game Code Section 2150 et seq.

17.96.030 Emergency Shelters

Emergency shelters will comply with the following standards:

- A. Lighting.** Adequate external lighting shall be provided for security purposes. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity compatible with the neighborhood.
- B. Physical Characteristics.** Emergency shelters shall comply with applicable State and local housing, building, and fire code requirements.
- C. Security.** Facilities shall have on-site security during hours of operation. Parking and outdoor facilities shall be designed to provide security for residents, visitors and employees.
- D. Laundry Facilities.** Facilities shall provide laundry facilities or services adequate for the number of residents.
- E. Common Facilities.** Facilities shall contain amenities appropriate to the population to be served to include the following:
 1. Central cooking and dining room.
 2. Recreation room.
 3. Counseling services.
 4. Child care facilities.
 5. Other support services.
- F. Outdoor Activity.** For the purpose of noise abatement, organized outdoor activities may only be conducted between the hours of eight a.m. and ten p.m.
- G. Refuse.** Emergency shelters shall provide a refuse storage area that is in accordance with city requirements for accessory refuse structures. The storage area shall accommodate a standard-sized trash bin adequate for use on the parcel, or other enclosures as approved by the Community Development Director. The refuse enclosure shall be accessible to refuse collection vehicles.
- H. Emergency Shelter Provider.** The agency or organization operating the emergency shelter shall comply with the following requirements:
 1. Temporary shelter shall be available to residents for no more than six months.
 2. Staff and services shall be provided to assist residents to obtain permanent shelter and income.

3. The provider shall have a written management plan including, as applicable, provisions for staff training, good neighbor policies, security, transportation, client supervision, food services, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents. Such plan shall be submitted to and approved by the planning, inspections, and permitting department prior to operation of the emergency shelter. The plan shall include a floor plan that demonstrated compliance with the physical standards. The operator of each emergency shelter shall annually submit the management plan to the planning, inspections and permitting department with updated information for review and approval. The City Council may establish a fee by resolution, to cover the administrative cost of review of the required management plan.
 - I. **Limited Terms of Stay.** The maximum term of staying at an emergency shelter is six months in a consecutive twelve-month period.
 - J. **Transportation Plan.** A transportation plan is required.
 - K. **Parking.** The emergency shelter shall provide on-site parking at a rate of one space per staff member plus one space per six occupants allowed at the maximum capacity.
 - L. **Bicycle Parking.** The shelter shall provide secure bicycle parking at a rate of one space per occupant.
 - M. **Development Standards.** An emergency shelter must comply with all development standards in the Industrial (I) zoning district.

17.96.040 Home Occupations

- A. **Required Permit.** An Administrative Permit is required to establish or operate a home occupation.
- B. **Standards.** All home occupations shall comply with the following standards:



Note: Size limitation for home occupations in paragraph 1 below is new.

1. **Size.** Home occupations may not occupy more than 25 percent of the floor area of the dwelling unit or 400 square feet, whichever is less.
2. **Sales and Displays.** Products may not be sold onsite directly to customers within a home occupation. Home occupations may not establish window displays of products to attract customers.
3. **Advertising.** No newspaper, radio, or television service shall be used to advertise the location of business; however, contact information, including phone numbers and email address, are allowed on advertisements.
4. **Signs.** One single, non-illuminated, wall-mounted outdoor sign of not more than 1 square foot in area is permitted.

5. **Vehicle Traffic.** A home occupation may not generate vehicle traffic greater than normally associated with a residential use. No excessive pedestrian, automobile, or truck traffic introduced to the neighborhood as a result of the home occupation.
 6. **Deliveries.** Deliveries and pick-ups for home occupations may not interfere with vehicle circulation, and shall occur only between 8:00 a.m. and 8:00 p.m., Monday through Saturday.
 7. **Mechanical Equipment.** Mechanical equipment that is not normally associated with a residential use is prohibited.
 8. **Performance Standards.** Home occupations shall not generate dust, odors, noise, vibration, or electrical interference or fluctuation that is perceptible beyond the property line.
 9. **Hazardous Materials Prohibited.** The storage of flammable, combustible, or explosive materials is prohibited.
 10. **Employees.** Employees of a home occupation shall be limited to the persons residing in the dwelling unit.
 11. **On-Site Client Contact.** No more than one client/customer at the property at one time. Customer or client visits are limited to three per day, or six per day for personal instruction services (e.g., musical instruction or training, art lessons, academic tutoring)
 12. **Outdoor Storage Prohibited.** Goods, equipment, and materials associated with a home occupation shall be stored within an enclosed structure or in a manner that is not visible from the property line.
- C. Permit Revocation.** An Administrative Permit for a home occupation that violates any of the standards in Paragraph B (Standards) above may be revoked consistent with Section 17.156.010 (Permit Revocation).

17.96.050 Intersection Sight Distance

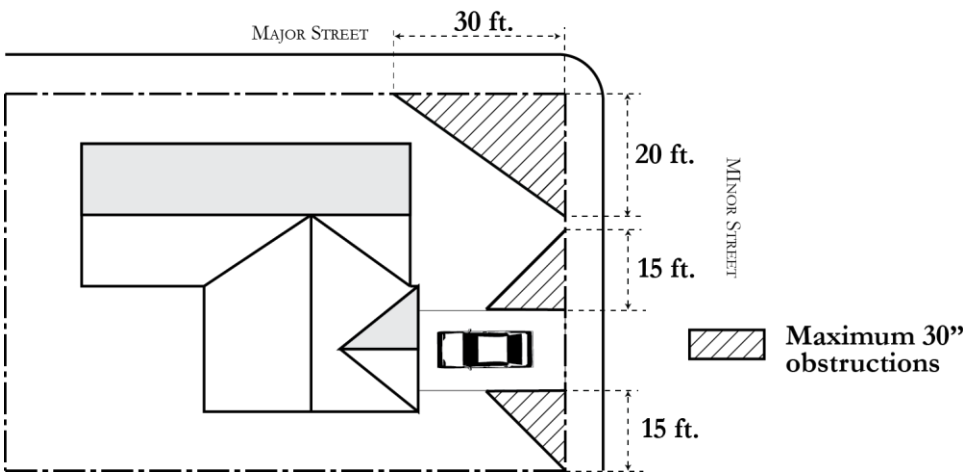
- A. Vision Triangle Required.** In zoning districts which require a front and street side setback for primary structures, all corner parcels shall provide and maintain a clear vision triangle at the intersection of the streets' right-of-way and adjacent to driveways for the purpose of traffic safety.
- B. Vision Triangle Defined.**
 1. **Intersections.** The intersection vision triangle shall be the area formed by measuring 30 feet along the major street front property line and 20 feet along the minor street property line from the point of intersection, and diagonally connecting the ends of the two lines. See Figure 17.96-1.

- 2. **Driveways.** The driveway vision triangle is the area formed by measuring 15 feet along the driveway and the street from the point of intersection, and diagonally connecting the ends of the two lines. See Figure 17.96-1.

C. Maintenance of Sight Lines.

- 1. No structure, vehicle, object, or landscaping over 30 inches in height may be placed within a vision triangle, except as allowed by subsection 2 below.
- 2. Trees pruned at least 8 feet above the established grade of the curb so as to provide clear view by motor vehicle drivers are permitted within a vision triangle.

FIGURE 17-96-1: VISION TRIANGLES



17.96.060 Large Commercial Land Uses

A. Purpose and Applicability. This section establishes special findings that the Planning Commission must make to approve a Conditional Use Permit for commercial land uses with more than ~~1220~~20,000 square feet of floor area within one or more buildings. This requirement applies to all proposed new commercial land uses except for:

- 1. ~~Uses~~ already specifically approved in an applicable Master Conditional Use Permit pursuant to Section 17.124.100 (Master Use Permit); and
- ~~A.2. Uses within a shopping center or mall with a floor area of 300,000 square feet or more.~~



Note: Findings in subsection B below modifies criteria in existing Zoning Code section 17.60.030.D. ~~Definition of large commercial land uses increased from 12,000 sq. ft. to 20,000 sq. ft.~~

B. Findings. To approve a Conditional Use Permit for a commercial land use with ~~1220~~20,000 square feet or more of floor area, the Planning Commission shall make the following findings in addition to the findings in Section 17.124.070 (Findings for Approvals):

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1. Vehicle traffic and parking demand created by the proposed use will not have substantial adverse impacts on properties within the vicinity of the subject property.
2. The structure occupied with the proposed use is compatible with the scale and character of existing structures in the surrounding area.
3. The proposed use is compatible with existing land uses in the surrounding area.
4. The size of the proposed use is similar to the average size of similar uses located in the surrounding area.
5. The use will support the surrounding local economy and attract visitors to the commercial area.

C. Purpose of Findings. The purpose of additional findings for large commercial uses is to enable the Planning Commission to ensure that all new uses and development are consistent with the General Plan and compatible with the character of existing neighborhoods and districts. These findings are not intended to involve the City in the normal competition that arises between similar businesses in Capitola.

17.96.070 Large Home Day Care

As allowed by Health and Safety Code Sections 1597.465 et seq., the City shall approve a large home day care if it complies with the following standards.

- A. Care Provider Occupancy.** The single-family home in which the large home day care is located shall be the principal residence of the care provider. The day care use shall be clearly residential in character and shall be accessory to the use of the property as a residence.
- B. License.** The care provider shall obtain and maintain a license from the State of California Department of Social Services.
- C. Separation.** A large home day care facility within a residential zoning district may not be located within 500 feet of another large day home care.
- D. Yard Requirement.** A large home day care shall either be located within the R-1 zoning district or shall have 75 square feet of outdoor activity space for each child. A large home day care outside the R-1 shall have an outdoor area owned or leased by the applicant and cannot be shared with other property owners unless permission is granted by the joint owners. The City may wave this space requirement if the applicant can demonstrate that there is a public park or other public open area that is in close proximity to the large home day care.
- E. Screening.** A fence or wall shall be located on all property lines or around all outdoor activity areas. The fence or wall shall comply with all applicable standards in Chapter 17.60 (Fences and Walls).

- F. Noise.** Outdoor activities may not occur before 7:00 a.m. or after 8:00 p.m. when the site is located within or adjacent to a residential zoning district.
- G. Parking.** Off-street parking shall be provided as required by Chapter 17.76 (Parking and Loading).
- H. Garage.** The garage shall be utilized for the parking of the property owner's vehicles. Use of the garage for the day care home function, such as for a play area, is not allowed.
- I. Safety Compliance.** The applicant is required to have the home inspected and submit a letter of compliance from the following:
 1. **City Building Division.** The homes shall be inspected and brought into compliance with the building code relative to the proposed use.
 2. **Fire Marshal.** The home shall be inspected and brought into compliance with the California Health and Safety code related to the proposed use.
- J. Pick-Up and Drop-Off Plan.** The Community Development Director shall approve a plan for the pick-up and drop-off of children. The plan shall demonstrate that adequate parking and loading areas are available to minimize congestion and conflict on public streets. The plan shall include an agreement for each parent or client to sign that includes, at a minimum:
 1. A scheduled time for pick-up and drop-off with allowances for emergencies; and
 2. Prohibitions of double-parking, blocking driveways of neighboring properties, or using driveways of neighboring properties to turn around.

17.96.080 Large Residential Care Facilities

Large residential care facilities shall comply with the following standards:

- A. Separation.** A large residential care facility in a residential zoning district shall not be located within 500 feet of another large residential care facility.
- B. Screening and Landscaping.** A minimum six-foot-high solid wall or fence shall be provided for purposes of screening and securing outdoor recreational areas. Chain metal fencing and barbed wire are prohibited.
- C. License.** The care provider shall obtain and maintain a license from the State of California Department of Social Services. Large residential care facilities shall be operated according to all applicable State and local regulations.
- D. Safety Compliance.** The applicant is required to have the facility inspected and submit a letter of compliance from the following:
 1. **City Building Department.** The facility shall be inspected and brought into compliance with the building code relative to the proposed use.
 2. **Fire Marshal.** The facility shall be inspected and brought into compliance with the California Health and Safety code related to the proposed use.

17.96.090 Offshore Oil Development Support Facilities

Note: This section removes findings and other similar commentary from Chapter 17.93 of the existing Zoning Code.



- A. Prohibition.** There shall be no construction, reconstruction, operation, or maintenance of any commercial or industrial offshore oil development support facility within the City of Capitola.
- B. Facilities and Activities Included in Prohibition.** Prohibited facilities and activities include, but are not limited to:
1. Oil or gas storage facilities, pipe and drilling materials, or equipment repair or storage facilities, which operates directly in support of any offshore oil or gas exploration, development, drilling, pumping or production.
 2. Construction, reconstruction, or operation of facilities to process any oil or natural gas taken or removed from any offshore oil or gas drilling or pumping operations.

17.96.100 Permanent Outdoor Displays



Note: Citywide standards for permanent outdoor display of retail goods in this section are new.

- A. Permitted Displays.** A single permanent outdoor display of retail goods that complies with this section is permitted as an accessory use to a primary commercial use in the mixed use, commercial, and industrial zoning districts, except in the MU-V zoning district, where permanent outdoor displays are prohibited.
- ~~**B. Permits Required.**~~
- ~~**1.B. Permanent outdoor displays require Planning Commission approval of Aa Conditional Use Permit, is required for a permanent outdoor display in the MU-V zoning district.**~~
- ~~**2. Permanent outdoor displays located outside of the MU-V zoning district and consistent Paragraph D below are allowed with an Administrative Permit.**~~
- C. Standards.**
1. **Height.** Displayed items shall not exceed 6 feet in height.
 2. **Size.** Display areas are limited to 6 feet wide or 10 percent of the width of the front building elevation. A display area may extend a maximum of 3 feet from the front building wall.
 3. **Goods Permitted.** Displayed items shall be of the same type that are lawfully displayed and sold inside the building occupied by the primary commercial use. Only the business or entity occupying the building may sell merchandise in an outdoor display area.

4. **Hours.** Items shall be displayed only during the operating hours of the primary commercial use. Items shall be removed from display and moved into a permanently enclosed structure upon close of business.
5. **Screening.** If outdoor display areas are proposed as part of a project subject to discretionary review (e.g., Conditional Use or Design Permit) and approval by the City, the review authority may require that display areas be screened from view from neighboring properties with a solid wall, fence, or landscaped berm.

6. **Vending Machines.** Vending machines are not permitted as part of an outdoor display. Vending machines are considered an accessory use requiring Planning Commission approval of a Conditional Use Permit.

6.7. **Design Standards.**

- a. Outdoor displays shall be designed to enhance the shopping environment. The outdoor display shall be designed to complement the architecture of the building and public realm.
- b. Outdoor displays shall be self-supporting, stable, and constructed to withstand wind or contact. The display shall not be permanently affixed to any object, structure or the ground including utility poles, light poles, and trees.
- c. Outdoor displays may not contain any information which would routinely be placed on a business sign located on the building such as the name or type of business, hours of business operation, business logo, brand name information, etc. The outdoor display may include a sign which indicates the price of the display items or simply indicates a "sale" on the items limited in size to 4 square inches.
- d. Outdoor displays shall be continuously maintained in a state of order, security, safety and repair. The display surface shall be kept clean, neatly painted, and free of rust, corrosion, protruding tacks, nails and/or wires.

7.8. **Location.**

- a. All outdoor display area shall be located on the same parcel as the primary commercial use. Outdoor display areas are not permitted within the public right-of-way.
- b. Outdoor display areas may not be placed within any permanent landscaped area, required parking space, or loading area.
- c. No items may be displayed within the public right-of-way, including public sidewalks.
- d. Outdoor display areas may not be placed in a location that would cause a safety hazard, obstruct the entrance to a building, encroach upon driveways, or otherwise create hazards for pedestrian or vehicle traffic.

~~**D.—Exceptions to Standards.** The Planning Commission may grant exceptions to the standards in Paragraph C above with a Conditional Use Permit upon finding that the exception is necessary and that the outdoor display with the exception will comply with the basic intent of the standards. ~~No deviations from the standards in Paragraph D are allowed for permanent outdoor displays in the MU-V zoning district.~~~~

~~**E.D.**~~

17.96.110 Outdoor Lighting



Note: Outdoor lighting standards in this section are new.

- A. Purpose.** This section establishes standards for outdoor lighting to minimize light pollution, maintain enjoyment of the night sky, and reduce light impacts on adjacent properties.
- B. Applicability.** The standards in this section apply to all outdoor lighting in Capitola except for:
 - 1. Lighting installed and maintained by the City of Capitola or other public agency;
 - 2. Athletic field lights used within a school campus or public or private park;
 - 3. Temporary construction and emergency lighting; and
 - 4. Seasonal lighting displays related to cultural or religious celebrations.
- C. Maximum Height.** Lighting standards shall not exceed the maximum heights specified in the Table 17.76-1.

TABLE 17.96-1 MAXIMUM LIGHT STANDARD HEIGHT

Zoning District	Maximum Height
Residential Zoning Districts	16 ft.
Mixed Use and Commercial Zoning Districts	16 ft. within 100 ft. of any street frontage; 20 ft. in any other location
Industrial Zoning Districts	16 ft. within 100 ft. of any street frontage; 25 ft. in any other location
Community Facility and Parks/Open Space Zoning Districts	25 ft., or as necessary for safety and security

- D. Prohibited Lighting.** The following types of exterior lighting are prohibited:
 - 1. ~~Drop-down~~ Exposed bulbs and/or lenses;
 - 2. Mercury vapor lights; and

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3. Searchlights, laser lights, or any other lighting that flashes, blinks, alternates, or moves.
- E. Fixture Types.** All lighting fixtures shall be shielded so as not to produce obtrusive glare onto the public right-of-way or adjoining properties. All luminaires shall meet the most recently adopted criteria of the Illuminating Engineering Society of North America (IESNA) for cutoff or full cutoff luminaires
- F. Light Trespass.** Lights shall be placed to deflect light away from adjacent lots and public streets, and to prevent adverse interference with the normal operation or enjoyment of surrounding properties.
1. Direct or sky-reflected glare from floodlights shall not be directed into any other parcel or street.
 2. No light or activity may cast light exceeding one foot-candle onto a public street, with the illumination level measured at the centerline of the street.
 3. No light or activity may cast light exceeding one-half foot-candle onto a residentially zoned parcel or any parcel containing residential uses.
- G. Required Documentation.** Prior to issuance of building permits, project applicants shall submit to the City photometric data from lighting manufacturers demonstrating compliance with the requirements of this section.

17.96.120 Placement of Underground Utilities

- A. When Required.** New construction or additions that increase existing floor area by 25 percent or more shall place existing overhead utility lines underground to the nearest utility pole.
- B. Exceptions.** The Planning Commission may approve exceptions to this requirement if it determines a hardship exists. The Planning Commission may grant an exception due to unique physical conditions on the site or environmental considerations such as tree preservation or proximity to a watercourse, archaeological site, or other environmental resources. The Planning Commission may not grant an exception due to financial hardship.

17.96.130 Recycling Collection Facilities

All recycling collection facilities where permitted shall comply with the standards in this section.

- A. Accessory Use.** Recycling collection facilities may be established only as an accessory use in conjunction with an existing commercial or industrial use which complies with the Zoning Code and the Capitola Building and Fire Codes.

B. Permit Required. Where allowed by Part 2 (Zoning Districts and Overlays), a recycling collection facility requires Planning Commission approval of a Conditional Use Permit.

B.C. Maximum Size. Recycling collection facilities may occupy no more than 5,000 square feet of area on a property.

C.D. Parking Areas.

1. Recycling collection facilities shall provide parking for removal of the materials and for customers depositing the materials.
2. Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary host use, unless a study shows that existing parking capacity is not already fully utilized during the time the recycling facility will be on the site.

D.E. Accepted Items. Recycling collection facilities may accept only glass, metal or plastic containers, papers and reusable items. Used motor oil may be accepted with a permit from the Santa Cruz County Environmental Health Department and the Hazardous Wastes Commission.

E.F. Power-driven Processing Equipment. Except for reverse vending machines, recycling collection facilities may not use power-driven processing equipment.

F.G. Location.

1. Mobile vending facilities shall be located in a designated area without eliminating the required parking or landscaping;
2. Containers for the 24-hour donation of materials shall be at least 30 feet from any property zoned or occupied for residential use, unless there is a recognized service corridor and acoustical shielding between the containers and the residential use.

G.H. Maintenance. The site shall be maintained free of litter and any other undesirable materials. Mobile facilities, at which trucks or containers are removed at the end of each collection day, shall be swept at the end of each collection day.

H.I. Noise. Shall not exceed noise levels of 60 dBA as measured from the property line of residentially zoned or occupied property or otherwise shall not exceed seventy dBA.

I.J. Hours of Operation. Attended facilities located within 100 feet of a property zoned or occupied for residential use shall operate only during the hours of between nine a.m. and seven p.m.

J.K. Facility Information and Display.

1. Containers shall be clearly marked to identify the type of materials which may be deposited.

2. The facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers.

K.L. Signs. Signs may be provided as follows:

1. Recycling facilities may have identification signs with a maximum of 10 square feet, in addition to informational signs required by subsection J above.

L.M. Landscaping. The facility shall not violate any landscaping standards required by the Zoning Code or other City ordinance.

~~17.96.140 Residential Mixed Use Development in Commercial Zoning Districts~~



~~17.96.150 — Note: Standards for residential mixed use development in commercial zoning districts in this section are new.~~

~~17.96.160 Purpose. This section establishes design standards for vertical mixed use development with housing above ground floor commercial uses in the commercial zoning districts. These standards are intended to promote successful mixed use development that is pedestrian friendly and contributes to the vitality of commercial districts in Capitola.~~

~~17.96.170 Applicability. This section applies to all residential mixed use development in the Community Commercial (C-C) and Regional Commercial (C-R) zoning districts.~~

~~17.96.180 Standards.~~

~~17.96.190 Ground Floor Uses. Ground floor spaces fronting the primary street shall be occupied by retail, restaurant, and personal service uses that generate pedestrian activity.~~

~~17.96.200 — Building Placement. Buildings shall be placed near the edge of the sidewalk. At all times there shall be at least 10 feet between the building wall and edge of sidewalk. Increased setbacks are permitted if they enhance pedestrian experience and add visual interest.~~

~~17.96.210 Building Orientation. Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk. The Planning Commission may allow buildings and their primary entrances to be oriented toward a public space. The primary entrance to a building shall not be oriented towards surface parking.~~

~~17.96.220 — Blank Walls. The length of an unarticulated/blank building wall shall not exceed 10 feet. Architectural articulation should have similar pattern as other adjacent buildings to provide cohesive design in the neighborhood. Building articulation may be provided by:~~

~~17.96.230 — Doors, windows, and other building openings;~~

- ~~17.96.240 — Building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest;~~
- ~~17.96.250 — Varying wall planes, heights or contrasting materials and colors; and~~
- ~~17.96.260 — Awnings, canopies, or arcades to reinforce the pedestrian scale and provide shade and cover from the elements.~~
- ~~17.96.270 — Storefront Width. The width of a single building/storefront shall not exceed 50 feet. Larger buildings shall be broken down into a pedestrian-scale rhythm with individual building bay width of 25 to 50 feet.~~
- ~~17.96.280 — Ground Floor Building Transparency. The ground floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. 65 percent of the transparent windows or doors area shall remain clear to allow views into the building. Exceptions to this transparency requirement may be allowed if the Planning Commission finds that:~~
- ~~17.96.290 — The proposed use has unique operational characteristics which preclude building openings, such as for a cinema or theatre; or~~
- ~~17.96.300 — Street-facing building walls will exhibit architectural relief and detail, and will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.~~
- ~~17.96.310 Retail Location. Retail shall be located in places that provide the highest likelihood of retail success over time. Visibility, accessibility, and proximity to existing retail all contribute to retail success in mixed use development.~~
- ~~17.96.320 — Retail Depth. Ground floor commercial space shall have a depth of at least 45 feet or two-thirds of the parcel depth, whichever is less. Where possible, 60-foot depths are encouraged to accommodate a wider range of tenants, especially food tenants. The Planning Commission may grant an exception to the minimum retail depth requirement if the minimum retail depth is infeasible due to unusual physical conditions on the parcel.~~

~~17.96.330 — Ground Floor Height. Ground floor commercial space shall have a minimum floor-to-floor height of 15 feet. Where possible, 18-foot floor-to-floor heights are encouraged.~~

~~17.96.340 — Parking Location. No more than 10 percent of retail parking may be provided at the curb or adjacent to retail as “teaser” parking. The remainder of the parking shall be behind the building or in underground/structured parking.~~

~~Driveways and Curb Cuts. Pedestrian and vehicle conflicts shall be minimized by limiting the number of curb cuts to two per block and the width of curb cuts to 24 feet where feasible. To the extent possible, curb cuts shall be designed so pedestrian curb ramps are limited and pathways remain level as they cross the vehicle route.~~

~~17.96.350~~17.96.140 Self-Storage Facilities

- A. Purpose and Applicability.** This section establishes special findings for the Planning Commission to approve self-storage facilities in the Community Commercial (C-C) ~~and Regional Commercial (C-R) zoning districts~~. These findings are intended to ensure that new self-storage facility will not adversely impact the economic vitality of Capitol’s commercial districts.
- B. Required Findings.** In addition to the findings in Chapter 17.124 (Use Permits), the Planning Commission must make the following findings to approve a self-storage facility in the Community Commercial (C-C) ~~and Regional Commercial (C-R) zoning districts~~:
1. The location of the proposed self-storage facility is not conducive /better suited as self-storage rather than to traditional retail due to limited access to or poor visibility from the street.
 2. The proposed self-storage facility would be compatible with existing land uses in the surrounding area.
 3. Streets and other means of egress are adequate to serve the proposed self-storage facility.

~~17.96.360~~17.96.150 Solar Energy Systems

- A. Required Permits.**
1. **Rooftop Systems.** Rooftop solar energy systems are permitted by-right in all zoning districts. No permit or approval other than a building permit is required.
 2. **Other Systems.** Solar energy systems that are not located on the rooftop of a primary structure require a Conditional Use Permit.

- B. Height Exceptions.** Rooftop solar energy systems may project up to 4 feet above the maximum permitted structure height in the applicable zoning district. This exception is applicable to the solar energy system only, not the structure on which it is located.
- C. Mixed Use Village Zoning District.** Rooftop solar facilities in the Mixed Use Village zoning district shall be located and design to minimize visibility from a street or other public place to the greatest extent possible.
- D. Building Permit Review and Approval.** Building permit applications for rooftop solar energy systems shall be reviewed and approved in compliance with Municipal Code Chapter 15.10 (Expedited Solar Permitting Ordinance).

17.96.37017.96.160 Soquel Creek ~~Pathway~~^[BN2], ~~Bulkheads, and Decks~~

~~A. Soquel Creek Riverview Pedestrian Pathway.~~ The following standards apply to the Soquel Creek Riverview Pedestrian Pathway, which extends from the Stockton Avenue Bridge along the eastern side of Soquel Creek, under the Railroad Trestle, to 427 Riverview Avenue, where it follows a drainage easement to Riverview Avenue. As used in this section, “pathway” means the undeveloped area within which the pedestrian walking surface (comprised of brick, decomposed granite and other surface materials) is located.

- ~~1.A.~~ The pathway shall be maintained at a minimum of either the existing pathway width shown in the March 2005 survey maintained by the City of Capitola, or 4 feet, whichever is greater.
- ~~2.B.~~ Primary structures east of the pathway shall be setback a minimum of 5 feet from the edge of the pathway.
- ~~3.C.~~ New development, decks, fencing, landscaping and other improvements may not encroach into the pathway.
- ~~4.D.~~ Property owners shall trim and maintain landscaping so that it does not encroach into the pathway to less than 4 feet.
- ~~E.~~ Surface variations (i.e., brick, decomposed granite and other surfaces) are permitted.
- ~~F.~~ Deck handrails adjacent to Soquel Creek may not exceed 42 inches in height. The space between the deck and the handrails may not be filled in to create a solid appearance.

~~5.—~~

- ~~B. Bulkheads and Decks.~~** ~~The following standards apply to bulkheads and decks adjacent to Soquel Creek:~~
 - ~~1.— All bulkheads shall be constructed in a rustic manner and finished in wood.~~
 - ~~2.— Deck handrails may not exceed 42 inches in height. The space between the deck and the handrails may not be filled in to create a solid appearance.~~
 - ~~3.— Only two freestanding lights up to 8 feet in height are allowed for each deck.~~

Attachment: Part 3 Zoning Code Redlines (1536 : Zoning Code Update)

~~17.96.380~~17.96.170 Temporary Sidewalk Dining



Note: Standards for temporary sidewalk dining in this section are new.

This section establishes requirements for temporary outdoor dining areas located on a public sidewalk or other area within the public right-of-way.

A. Required Permits. Temporary sidewalk dining within the public right-of-way requires an Administrative Permit and an Encroachment Permit.

B. Permitted Zoning Districts. Temporary outdoor dining within the public right of way is allowed in the Commercial Community (C-C), Commercial Regional (C-R), and Mixed Use, Neighborhood (MU-N) zoning districts. Temporary outdoor dining within the public right of way is not permitted in the Mixed Use Village (MU-V) zoning district.

B.C. Standards. [BN3] Temporary sidewalk dining shall comply with the following standards.

1. **Location.** Outside dining is permitted on the public sidewalk:
 - ~~a. Only in a zoning district that allows restaurants;~~
 - ~~b.a.~~ When incidental to and part of a restaurant; and
 - ~~e.b.~~ Along the restaurant's frontage.
2. **Number of Dining Areas.** An indoor restaurant may operate only one outside dining area confined to a single location.
3. **Safe Passage.**
 - a. Temporary sidewalk dining is permitted only where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the outside dining area.
 - b. The sidewalk immediately adjacent to the restaurant shall have adequate space to accommodate tables and chairs and shall provide adequate safe passage along the sidewalk for pedestrian and wheelchair users of the sidewalk. Safe and adequate passage of 4 feet width shall be provided along the sidewalk and from the curb to the sidewalk. No tables or chairs shall be placed or allowed to remain on any sidewalk that inhibit passage.
4. **Furniture and Signage Location.**
 - a. Tables and chairs in a sidewalk dining area shall be set back at least 2 feet from any curb and from any sidewalk or street barrier, including a bollard, and at least 8 feet from a bus stop.
 - b. All outdoor dining furniture, including tables, chairs, umbrellas, and planters, shall be movable.

- c. All temporary improvements to separate the outdoor dining area from the sidewalk, such as a railing, shall relate to the architectural design of the primary restaurant structure in color, materials, and scale.
 - d. Umbrellas shall be secured with a minimum base of not less than 60 pounds.
 - e. ~~Signage—All signs are subject to Chapter 17.80, is prohibited within an outside dining area except for the name of the establishment on an awning or umbrella fringe and as required by this section when alcoholic beverages are served.~~
5. **Food and Beverages.** The service of alcoholic beverages within the sidewalk dining area requires a Conditional Use Permit, and shall comply with the following requirements:
- a. The outside dining area shall be situated immediately adjacent to and abutting the indoor restaurant which provides it with food and beverage service.
 - b. The outside dining area shall be clearly separate and delineated from the areas of the sidewalk which remains open to pedestrian traffic.
 - c. One or more signs shall be posted during hours of operation stating that alcohol is prohibited outside of the dining area.
 - d. The outside dining area shall receive all licenses required for on-site consumption of alcoholic beverages from State authorities.
6. **Trash and Maintenance.**
- a. Storage of trash is prohibited within or adjacent to the sidewalk dining area. All trash and litter shall be removed as it accumulates or otherwise becomes a public nuisance.
 - b. The sidewalk dining area, including the sidewalk surface and furniture, shall be maintained in a clean and safe condition.
7. **Hours of Operation.** Sidewalk dining may occur between 7 a.m. and 10 p.m. seven days a week. Tables, chairs, and all other outdoor dining furniture shall be removed from the sidewalk and stored indoors at night and when the sidewalk dining area is not in operation.
- ~~8. **Conversion of On-Street Parking Spaces.**~~
- ~~a. On-street parking spaces in the MU-V zoning district may be converted to an outdoor dining area with Planning Commission approval of a Conditional Use Permit and City Council approval of an Encroachment Permit.~~
 - ~~b. Outdoor dining areas replacing a parking space must be open to the general public. Access may not be limited to customers of businesses immediately adjacent to the outdoor dining area.~~
 - ~~c. No more than two parking spaces in a single location may be converted to an outdoor dining area.~~

- ~~d. To approve the Conditional Use Permit and Encroachment Permit, the City must find that the conversion of the parking space to outdoor dining will enhance the vitality of Village and will not diminish public access to and enjoyment of coastal resources in Capitola.~~

~~17.96.390~~17.96.180 Temporary Uses and Structures



Note: This section adds new detail to the types of temporary uses and structures allowed by right and those allowed with an Administrative Permit.

- A. Purpose.** This section establishes requirements for the establishment and operation of temporary uses and structures. These requirements allow for temporary uses and structures in Capitola while limiting impacts on neighboring properties and the general public.
- B. Temporary Uses Allowed By Right.** The following temporary uses are permitted by right. No permits or approvals from the Community Development Department are required.
1. **Garage Sales.** Garage sales for individual residences limited to three, one- to two-day events per calendar year. One block or neighborhood sale per calendar year is allowed in addition to individual sales.
 2. **Storage Containers.** Storage containers delivered to a home, loaded by residents, and delivered to another location, for a maximum of two weeks on private property. Storage containers on a residential property for more than two weeks may be approved by the Planning Commission with a Conditional Use Permit.
 3. **Outdoor Fund Raising Events.** Outdoor fund raising events on commercial sites when sponsored by a non-profit organization directly engaged in civic or charitable efforts. Outdoor fund raising events with property owner permission are limited to two days each month for each sponsoring organization.
 4. **On-Site Construction Yards.** Temporary construction yards and office trailers that are located on-site, less than 1 acre in size, and established in conjunction with an approved project. The construction yard and trailer shall be immediately removed within 10 days of completion of the construction project or expiration of the building permit.
- C. Temporary Uses Requiring a Permit.** An Administrative Permit is required for the following temporary uses.
1. **Seasonal Sales.** Seasonal sales (e.g., Christmas trees, pumpkins) for a maximum of 45 calendar days, no more than four times per year on a single property. Seasonal sales are prohibited on residentially zoned property.
 2. **Temporary Outdoor Displays of Merchandise and Parking Lot Sales.** Temporary outdoor displays of merchandise and parking lot sales on private

property for a maximum of three days no more than two times per year on a single property. Following the completion of the temporary display, all signs, stands, poles, electrical wiring, or any other fixtures, appurtenances or equipment associated with the display shall be removed from the premises.

3. **Farmer's Markets.** Farmer's markets for a maximum of one day per week in a non-residential zoning district. Farmer's markets for more than one day per week in a non-residential are permitted with a Conditional Use Permit. Farmer's markets in a residential zoning district are permitted with a Conditional Use Permit.
 4. **Off-Site Construction Yards.** Construction yards located off-site in conjunction with an approved project. The construction yard shall be immediately removed within 10 days of completion of the construction project or expiration of the building permit.
 5. **Employee Trailers.** Trailer or commercial modular units used as a work site for employees of a business displaced during construction, for a maximum of 12 months.
 6. **Real Estate Offices.** Real estate offices used exclusively for the sale of homes or other real estate units located within an approved multi-unit development project for a maximum of three years or within 30 days when the last home is sold, whichever comes first.
 7. **Other Similar Activities.** Similar temporary activities determined by the Community Development Director to be compatible with the applicable zoning district and surrounding uses.
- D. Temporary, Publicly Attended Activities.** Temporary, publicly attended activities such as festivals, outdoor entertainment, and other similar events may be permitted pursuant to Municipal Code Chapter 9.36 (Temporary, Publicly Attended Activities).
- E. Conditions of Approval.** Upon the approval of a permit for a temporary use, the City may attach the following conditions when necessary in connection with the temporary use:
1. Hours of operation.
 2. Maintenance of accessibility for the disabled.
 3. Protection of fire lanes and access.
 4. Preservation of adequate on-site circulation.
 5. Preservation of adequate on-site parking or a parking management plan to temporarily park off-site.
 6. Cleanup of the location or premises.
 7. Use of lights or lighting or other means of illumination.

8. Operation of any loudspeaker or sound amplification in order to prevent the creation of any nuisance or annoyance to the occupants of or commercial visitors to adjacent buildings or premises.

~~17.96.400 — Unattended Donation Boxes~~



Note: Standards for unattended donation boxes in this section are new.

- ~~**A. Purpose and Applicability.** This section establishes standards for unattended donation boxes to allow for the convenient donation of personal property in a manner that maintains a safe and attractive environment. An unattended donation boxes is any unattended container, receptacle, or similar device used for soliciting and collecting donations of clothing or other salvageable personal property. Recycle bins for the collection of recyclable materials are not included in this definition of an unattended donation boxes.~~
- ~~**B. Required Permits.** An Administrative Permit is required to establish, operate, or maintain an unattended donation box. The Community Development Department may forward applications to the Chief of Police for review and comment prior to issuance of permit.~~
- ~~**C. Location.** Unattended donation boxes are permitted only in the Regional Commercial (C-R) and Community Commercial (C-C) zoning districts.~~
- ~~**D. Standards.** All unattended donation boxes shall comply with the following standards.~~
- ~~1. **Condition.** Unattended donation boxes shall be maintained in good condition and appearance with no structural damage, holes, or visible rust.~~
 - ~~2. **Securing of Boxes.** Unattended donation boxes shall be locked or otherwise secured.~~
 - ~~3. **Emptying of Boxes.** Unattended donation boxes shall be serviced and emptied as needed, but at least once per month, or within five business days of a request by the Community Development Director.~~
 - ~~4. **Number per Property.** A maximum of one unattended donation box is permitted per property.~~
 - ~~5. **Minimum Lot Size.** Unattended donation boxes are permitted only on lots of 20,000 square feet or more.~~
 - ~~6. **Separation.** Unattended donation boxes may not be placed within 400 feet of another unattended donation box.~~
 - ~~7. **Placement.** Unattended donation box may not be placed on required on-site parking spaces or within the vision triangle as defined in Section 17.96.040 (Intersection Site Distance).~~

~~E. Permit Revocation. The Administrative Permit for an unattended donation box that violates the standards in this section or constitutes a public nuisance may be revoked pursuant to Section 17.156.110 (Permit Revocation).~~

Chapter 17.100 - MOBILE HOME PARK CONVERSIONS

Sections:

- 17.100.010 Purpose and Intent
- 17.100.020 Applicability
- 17.100.030 Definitions
- 17.100.040 Relocation Impact Report
- 17.100.050 Notice to Prospective Occupants of Pending Change in Park Status
- 17.100.060 Exemptions from Relocation Assistance Obligations
- 17.100.070 Application for Change of Use – Public Hearing – Findings
- 17.100.080 Measures to Prevent Avoidance of Relocation Assistance Obligations
- 17.100.090 Compliance with Relocation Assistance
- 17.100.100 Modification and Revocation of Approved Closure or Conversion
- 17.100.110 Expiration and Extension of Approval
- 17.100.120 Preemption
- 17.100.130 Severability

17.100.010 Purpose and Intent

This chapter establishes standards for the closure of a mobile home park and addresses the impact of such closures upon the ability of displaced residents to find adequate housing in another mobile home park. Mobile home parks are an important source of affordable housing within Capitola. The purpose of this chapter is to provide financial compensation and relocation assistance to displaced residents and provide mobile home park owners with protection from unreasonable relocation costs, in compliance with Government Code Sections 65863.7 and 66427.4. Nothing in this chapter shall be construed to mean that the City supports any change of use of any mobile home park.

17.100.020 Applicability

This chapter applies to the closure of any mobile home park or the conversion of a mobile home park to a different use.

17.100.030 Definitions

As used in this chapter, the following words and phrases shall have the following meanings:

- A. “Applicant” means a person or entity who has filed an application for change of use of a mobile home park.
- B. “Change of use” includes all activities specified in Section 798.10 of the California Civil Code and amendments to the General Plan or any applicable specific plan, rezoning of property, land use permits, such as a Conditional Use Permit or a Variance, Tentative

Parcel or Tentative Tract Maps, and building permits when the effect of the change will be to decrease the number of spaces available for mobile home habitation.

- C. “Change without new use” refers to what Civil Code Section 798.56(g)(2) describes as a “change of use [requiring] no local governmental permit” [other than approval of the RIR].
- D. “Comparable housing” means housing which, on balance, is comparable in floor area, number of bedrooms, and amenities, proximity to public transportation, shopping, schools, employment opportunities and medical services and other relevant factors to the mobile home to which comparison is being made.
- E. “Comparable mobile home park” means a mobile home park substantially equal in terms of park condition, amenities and other relevant factors, including, but not limited to, proximity to public transportation, shopping, medical services, employment opportunities and schools.
- F. “Director” means the Community Development Director.
- G. “Eligible mobile home resident” or “eligible resident” means a mobile home resident whose mobile home was located in a mobile home park on the date of an application for change of use. Eligible resident includes the spouse, parents, children and grandchildren of the eligible resident when those persons resided in the mobile home on the date of the application.
- H. “Legal owner” means any person or entity having an ownership interest in a mobile home other than the registered owner, such as a lender or mortgagor.
- I. “Mobile home” has the meaning set forth in Section 798.3 of the California Civil Code.
- J. “Mobile home owner” means the registered owner or registered owners of a mobile home, regardless of the number of such owners or the form of such ownership.
- K. “Mobile home park” or “park” has the meaning set forth in Section 798.4 of the California Civil Code.
- L. “Mobile home park owner” or “park owner” means the person, persons or entity that owns a mobile home park and includes any person authorized by the park owner to seek approval of an application for change of use or respond to a rent review petition filed pursuant to this chapter.
- M. “Mobile home owner” means a mobile home owner who resides in the mobile home he or she owns. Unless the context indicates otherwise, it includes the mobile home owner’s spouse, parents, children and grandchildren who reside in the mobile home.
- N. “Mobile home tenant” or “tenant” is a person who occupies a mobile home within a mobile home park pursuant to a bona fide lease or rental agreement and who, during his or her tenancy, was not the owner of that mobile home.
- O. “Handicapped mobile home resident” means a mobile home resident with any medically determinable physical or mental impairment as demonstrated by a finding of a

state or federal agency or a medical certificate, or who requires special care facilities in the mobile home or special care equipment, such as, but not limited to, a wheelchair.

- P.** “Low income” means an income of eighty percent or less of current median income as established annually by the United States Department of Housing and Urban Development (“HUD”) for the statistical area in which Capitola is located, as adjusted for household size.

17.100.040 Relocation Impact Report

A. Submittal to Director. Prior to a change of use of a mobile home park, a Relocation Impact Report (RIR) complying with the requirements of this chapter must be filed with the Director. It is the park owner’s responsibility to comply with the notice requirements of subsections g(1) and (2) of Civil Code Section 798.56. Because the Civil Code Section 798.56(g)(2) notice cannot be given until after the approval of both the project and the sufficiency of the (RIR), the park owner is encouraged to consult with staff (especially if any waiver of Municipal Code Section 17.90.030 requirements will be requested) early in the process about the contents of the RIR.

B. Required Information. The RIR shall be prepared by an independent agent acceptable to the City at the applicant’s expense and shall include the following information unless the Director determines the information is not necessary:

1. A detailed description of the proposed or change of use, or change without new use.
2. A timetable for conversion of the mobile home park.
3. A legal description of the mobile home park.
4. The number of spaces in the park, length of occupancy by the current occupant of each space and current rental rate for each space.
5. The date of manufacture and size of each mobile home.
6. Appraisals addressing relevant issues identified by the Director. A qualified appraiser shall be selected by the City and the cost of the appraisals shall be borne by the applicant. The appraisals shall identify those mobile homes which cannot be moved due to type, age or other considerations. Appraisal information shall be provided on the effect upon the homeowner’s investment in the mobile home, such as the change in value of effected mobile homes that would result from the proposed change of use.
7. The results of questionnaires to all homeowners/occupants regarding the following: whether the occupant owns or rents, whether this is the only residence, occupants’ ages, whether the occupants have disabilities that would be aggravated by the moving process, the purchase date and price paid by the mobile home owner, the costs incurred by the mobile home owner in improving the home, and

the amount and relevant terms of any remaining mortgage. Answering such questionnaire shall be voluntary.

8. The name and mailing address of each eligible resident, mobile home tenant, mobile home resident, resident mobile home owner and legal owner of a mobile home in the park.
 9. The purchase price of condominiums similar in size to the mobile homes within a reasonable distance, and the rental rates and moving costs involved in moving to an apartment or other rental unit within a reasonable distance including, but not limited to, fees charged by moving companies and any requirement for payment of the first and last month's rent and security deposits.
 10. A list of comparable mobile home parks within a 20 mile radius and a list of comparable mobile home parks within a radius of 25 to 50 miles of the applicant's mobile home park. For each comparable park, the list should, if possible, state the criteria of that park for accepting relocated mobile homes, rental rates and the name, address and telephone number of the park representative having authority to accept relocated homes, including any written commitments from mobile home park owners willing to accept displaced mobile homes. The purpose of this requirement is to provide information necessary to create appropriate relocation compensation. It is not meant to suggest that the City, in any sense, favors tenants relocating out of any mobile home park in Capitola.
 11. Estimates from two moving companies as to the minimum and per mile cost of moving each mobile home, including tear-down and set-up of mobile homes and moving of improvements such as porches, carports, patios and other moveable amenities installed by the residents. Said moving companies shall be approved by the director prior to inclusion in the final RIR.
 12. Proposed measures to mitigate the adverse impacts of the conversion upon the mobile home park residents.
 13. Identification of a relocation specialist to assist residents in finding relocation spaces and alternate housing. The specialist shall be selected by the applicant, subject to the City's approval, and shall be paid for by the applicant.
- C. Filing of Relocation Impact Report.** The City shall not consider an RIR to be filed, within the meaning of Government Code Section 65863.7, until the applicant has submitted to the Community Development Department both a draft RIR which applicant believes meets the requirements of Municipal Code Section 17.90.030, and a written statement that such draft RIR has been filed pursuant to Government Code Section 65863.7.
- D. Refusal to Review Relocation Impact Report.** If the City Attorney determines that the proposed conversion or closure of the mobile home park would be illegal, the Community Development Director shall not process the RIR unless a court of competent jurisdiction rules that the proposed use would be legal.

17.100.050 Notice to Prospective Occupants of Pending Change in Park Status

After an application for change of use of a mobile home park (or for City approval of a RIR) has been filed with the Director, the applicant shall give notice to all known prospective mobile home purchasers and tenants that the application for change of use has been filed. Notice shall be given in addition to notices required by Civil Code Section 798.56 (g) (1) and in all cases shall be given prior to execution of any new rental agreement. The park owner shall obtain a signed acknowledgment of receipt of such notice from each prospective purchaser or tenant and file it with the Director. If the prospective purchaser or tenant refuses to sign, a dependable record of delivery of notice shall be maintained by the park owner.

17.100.060 Exemptions from Relocation Assistance Obligations

- A. Exemption Available.** Any person who files an application for change of use may file an application for total or partial exemption from the obligation to provide relocation assistance.
- B. Notice of Application.** Notice of an application for exemption shall be given pursuant to Section 17.90.070.B and C. Notices shall contain the information in provided in the exemption application.
- C. Basis for Application.**
1. **Total Exemption.** An application for total exemption may be made on one of two grounds:
 - a. The imposition of any relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses; or
 - b. The park is exempt from the requirement of relocation assistance under state law governing changes of use of mobile home parks.
 2. **Partial Exemption.** An application for partial may be made on one of two grounds:
 - a. The imposition of particular relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses; or
 - b. The obligation would exceed limitations imposed by Government Code Section 65863.7(e). The application shall specify the particular relocation obligations which would cause this result.
- D. Application Contents.**
1. An application for exemption made pursuant to subsections (1)(a) and (2)(a) above shall contain, at a minimum, an estimate of the value of the subject property by a qualified real estate appraiser if the park were permitted to be developed for the use proposed in the application for change of use, or other use consistent with

applicable zoning, and an estimate of the value of such park by such appraiser if use of the property as a mobile home park is continued.

2. An application for exemption pursuant to subsection (1)(b) and (2)(b) above shall specify the provisions of state law providing the claimed exemption and documentation demonstrating entitlement to such exemption.

E. Notice of Approval. If the City grants an exemption after the applicant provides notice consistent with Civil Code Section 798.56(g)(2) notice, renoticing will be required.

17.100.070 Application for Change of Use – Public Hearing – Findings

- A. City Review of RIR.** Upon the filing of an RIR, the Director shall examine the RIR and advise the applicant in writing within 30 days whether it is complete. When an application and RIR have been accepted as complete, the Director shall set a time, date and place for a hearing before the Planning Commission not later than 60 days after the date of acceptance. Because certain required information in an RIR (e.g., appraisals, tenant data) cannot be obtained until after filing an application for change of use, the initial application for change of use and RIR shall contain all pertinent available information to start the process of obtaining the information required for a complete application and RIR.
- B. Owner and Resident Notice.** Not less than 30 days prior to the scheduled public hearing before the Planning Commission, the park owner shall deliver to the each mobile home owner and resident within the park a copy of the approved RIR and the notice of the date, time and place of the public hearing on the application. Notice shall be delivered by certified mail or personal delivery.
- C. Verification of Notice Requirements.** Not less than 15 days prior to the scheduled public hearing before the Planning Commission on the RIR, the park owner shall file with the Director a verification of noticing required by this chapter and Government Code Section 65863.7. The form and manner of such verification shall be approved by the City Attorney.
- D. Planning Commission Recommendation.**
 1. **Public Hearing.** The Planning Commission shall hold a public hearing on the application for a change of use and the RIR within 95 days of the date the application and RIR were accepted as complete. The Planning Commission shall provide a recommendation to the City Council on the approval of the change of use and RIR and may recommend measures to mitigate adverse impacts on residents impacted by the change of use.
 2. **Mitigation Measures.** Measures to mitigate adverse impacts on residents shall not exceed reasonable cost and may include, but are not limited to, the following:

- a. Payment of the cost of physically moving the mobile home to a new site, including tear-down and setup of mobile homes, including, but not limited to, movable improvements such as patios, carports and porches.
- b. Payment of a lump sum based on consideration of any increase in security deposit at the new mobile home park which the resident or tenant lacks the ability to pay.
- c. Payment of a lump sum based on consideration of any differential between rental rates at the closing mobile home park and the new mobile home park during the first year of the new tenancy.
- d. For those mobile home residents who move to apartments or other rental housing alternatives, payment of a lump sum based on consideration of any differential in the rental rate between the closing park and the comparable housing, requirements for payment of security deposits and cleaning fees. Mobile home households may be compensated based on the number of bedrooms in the mobile home so that a one bedroom mobile home may be compensated based on a one bedroom apartment, a two bedroom mobile home based on a two bedroom apartment, etc.
- e. Provision of a replacement space within a reasonable distance of the closing mobile home park.
- f. For residents whose mobile home cannot be relocated to a comparable park within a 50-mile radius of the closing mobile home park, payment of a lump sum based upon consideration of the value of the mobile home, including resident improvements (e.g., landscaping, porches, carports), any increase in mortgage obligations of the resident on the mobile home, and the costs of purchasing a mobile home on-site in a comparable park or acquiring other comparable replacement housing.
- g. The park owner shall make the monetary payments contemplated in this subsection a reasonable period of time (to be set by the City Council) in advance of the actual relocation of a resident or homeowner. The resident or homeowner shall not be under a legal obligation to relocate by the method used to measure mitigation costs.

E. City Council Decision.

1. **Hearing and Decision.** The City Council shall hold a noticed public hearing on an application for a change of use within 45 days of the Planning Commission's recommendation. The City Council shall take action on the application within 80 days of the Planning Commission's recommendation.
2. **Mitigation Measures.** The City Council may impose reasonable measures not exceeding the reasonable costs of relocation to mitigate the adverse impacts of the change of use on eligible mobile home residents pursuant to Paragraphs D and G of this section.

3. **Statue of Limitations.** The decision of the City Council is final. Pursuant to Code of Civil Procedure 1094.6, the statute of limitations for bringing a judicial challenge to any decision concerning a change of use of mobile home park is 90 days. Notice of the City's decision to the applicant, park owner and affected residents shall include notice that the 90 day statute of limitations in 1094.6 applies.

F. Extension of Time Periods. Time periods in this section may be extended as necessary to comply with the California Environmental Quality Act (CEQA) or the California Coastal Act.

G. Cost of Mitigation Measures. Notwithstanding any other provision in this section, the cost of mitigation measures shall comply with Government Code Section 65863.7 which states that "the steps taken to mitigate shall not exceed the reasonable costs of relocation."

17.100.080 Measures to Prevent Avoidance of Relocation Assistance Obligations

A. Notice. If any change of use or RIR approval application is withdrawn or denied, those previously given notices or announcements shall be so informed in writing by the mobile home park owner.

B. No Waiver of Rights. No prospective mobile home resident or existing mobile home resident may be required to sign a waiver, or a lease or rental agreement which includes a waiver, of their rights under this chapter. Any waiver of rights under this chapter by such a mobile home resident shall be deemed invalid unless the resident or prospective resident and the park owner obtain the prior approval of the waiver from the Director, who may grant such approval only upon a finding that the waiver is voluntary and was made after being fully informed of the terms of this chapter.

17.100.090 Compliance with Relocation Assistance

A. Acceptance of Mitigation Measures.

1. The applicant shall execute and record a certificate, and file proof with the Director, accepting the mitigation measures imposed on the approval of a closure or conversion within 90 days of the final City Council action approving the change of use. The applicant shall give the six- or twelve-month notice of the termination of tenancy and closure of the park required by Civil Code Section 798.56(g) within 120 days of that action.

2. An approval of a change of use shall automatically become null and void if the certificate accepting the conditions is not filed and executed within 90 days of the date of the approval of the change of use and the notice of termination of tenancy has not been given within 120 days of that resolution.

B. Timing of Mitigation. All mitigation measures imposed on the approval of a change of use shall be fully performed for each resident prior to that resident's required vacation of the mobile home park, unless otherwise provided in the mitigation measure.

No eligible resident shall be required to vacate a mobile home space unless the applicant is in full compliance with all mitigation measures pertaining to the resident, and has otherwise fulfilled the notice requirements of the California Mobile Home Residency Law relating to termination of tenancy.

- C. Issuance of Building Permits.** The City may not issue any building permit for the development within a converted or closed mobile home park until the City has adopted a resolution approving the change of use and the mobile home park owner has fully complied with the relocation assistance required by that resolution.

17.100.100 Modification and Revocation of Approved Closure or Conversion

A. Modification.

1. After a change of use has been approved and after the applicant has executed and recorded a certificate of acceptance of the conditions of any approval, the City may consider modification of the mitigation measures imposed upon the filing of a written application by the applicant. The City may approve modifications on the grounds that there has been a change in circumstances or that new information which could not reasonably have been known or considered at the time of the hearings on the application has become available. Examples of such new information or changed circumstances include, but are not limited to, revised plans by the applicant and a change in the availability of relocation spaces. Modifications may not be approved when it would unreasonably prejudice the ability of the residents to relocate to comparable spaces or comparable alternate housing.
2. Any application for modification shall be subject to the notice and hearing procedures set forth in Sections 17.100.070 (Application for Change of Use – Public Hearing – Findings). The decision in connection with a modification request shall take place as with the initial approval.

B. Revocation.

1. The City Council may initiate revocation proceedings on the grounds that the mobile home park owner or applicant has violated this chapter or the terms of the approval of the change of use. Action to initiate revocation proceedings shall specify the grounds for revocation and shall set a hearing before the City Council to consider the revocation not sooner than 45 and not later than 60 days after the action to initiate proceedings.
2. Notice of revocation proceeding shall be sent to the mobile home park owner by certified mail or personal delivery together with notice that any response from the owner must be filed at least 20 days prior to the date set for the revocation hearing.
3. The City Council shall render its findings and decision concerning revocation within 90 days after initiating revocation proceedings.

17.100.110 Expiration and Extension of Approval

A. Expiration. Approval of a change of use shall become null and void if the notice of termination of tenancy has not been given within the time provided in Section 17.90.090 (Compliance with Relocation Assistance) and relocation pursuant to the conditions of approval has not occurred within twelve months of the effective date of the approval of the change of use, unless otherwise extended as provided in Paragraph B below, or unless otherwise provided in the resolution approving it.

B. Extensions.

1. The City Council may approve an extension to the date of giving notice and/or to the approval of the change of use. Applications for an extension shall be submitted in writing by the mobile home park owner to the Community Development Department. Applications must be submitted on or before the date to give the notice of termination or the expiration of the approval of the change of use.
2. The City Council may deny the request upon finding that the mobile home park owner has unreasonably delayed implementation of the mitigation measures or that further delay will result in prejudice or further adverse impacts upon eligible residents remaining in the mobile home park. Approval of an extension may be conditioned on reasonable measures designed to mitigate the adverse impacts resulting from the delay. The application for extension shall be subject to the notice and hearing procedures set forth in Section 17.100.100(B).

17.100.120 Preemption

In the event the provisions of this chapter conflict with any code, ordinance or regulation of the City, the provisions of this chapter shall govern. In the event any provisions of this chapter conflict with a provision of state law, this chapter shall be interpreted and applied in conformity with state law.

17.100.130 Severability

If any part or provision of this chapter, or the application of such to any person or circumstance is held invalid, the remainder of the chapter, including the application of such part or provision to other persons or circumstances, shall not be effected and shall continue in full force and effect. To this end the provisions of this chapter are severable.

Chapter 17.114 - CONCEPTUAL REVIEW

Sections:

- 17.114.010 Purpose
- 17.114.020 When Required/Eligibility
- 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 n applicant may also request provide input on the Conceptual Review application upon the applicant's request, 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^a 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 17.108 - ADMINISTRATIVE RESPONSIBILITY

Sections:

17.108.010 Purpose

17.108.020 Planning Agency

17.108.030 Review and Decision-Making Authority

~~17.108.040 Design Review Committee~~ 17.108.040Design Review Process

17.108.010 Purpose

This chapter describes the authority and responsibilities of the City Council, Planning Commission, and the Community Development Director in the administration of the Zoning Code.

17.108.020 Planning Agency

The City Council, Planning Commission, and Community Development Director function as the Planning Agency and as the Advisory Agency in compliance with Government Code Section 65100.

17.108.030 Review and Decision-Making Authority

Table 17.108-1 shows the review and decision-making authority of the City Council, Planning Commission, and Community Development Director in the administration of the Zoning Code.



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 17.108-1: REVIEW AND DECISION-MAKING AUTHORITY

Type of Action	Role of Authority [1]		
	Community Development Director	Planning Commission	City Council
Legislative Actions			
Development Agreements	Recommend	Recommend	Decision
General Plan Amendments	Recommend	Recommend	Decision
Zoning Code Amendments	Recommend	Recommend	Decision
Permits			

Attachment: Part 4 Zoning Code Redlines (1536 : Zoning Code Update)

Type of Action	Role of Authority [1]		
	Community Development Director	Planning Commission	City Council
Administrative Permits	Decision	Appeal	Appeal
Administrative Sign Permits	Decision	Appeal	Appeal
Sign Permits	Recommend	Decision	Appeal
Design Permits	Recommend	Decision	Appeal
Minor Design Permits	Decision	Appeal	Appeal
Coastal Permits	See 17.44.060 (Coastal Permit Requirements)		
Conditional Use Permits	Recommend	Decision	Appeal
Historic Resource Demolition Permits [2]	Recommend	Recommend/Decision	Decision/Appeal
Master Use Permits	Recommend	Decision	Appeal
Minor Use Permits	Decision	Appeal	Appeal
Tenant Use Permits	Decision	Appeal	Appeal
Other Approvals and Actions			
<u>Conceptual Review</u>	<u>See 17.114 (Conceptual Review)</u>		
Certificates of Appropriateness <u>Historic Alteration Permit</u>	Recommend	Decision	Appeal
Minor Modifications	Recommend	Decision	Appeal
Preliminary and Final Development Plans (PD)	Recommend	Recommend	Decision
Reasonable Accommodations	Decision	Appeal	Appeal
Variances	Recommend	Decision	Appeal

Notes:

[1] “Recommend” means that the review authority makes a recommendation to a higher decision-making body; “Decision” means that the review authority makes the final decision on the matter; “Appeal” means that the review authority shall consider and decide appeals of decisions of an earlier decision-making body, in compliance with Chapter 17.152 (Appeals).

[2] The Planning Commission is the decision-making authority on Historic Resource Demolition Permits applications for properties on the Historic Structures List. The City Council is the decision authority on Historic Resource Demolition Permits applications for Historic Landmarks.

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

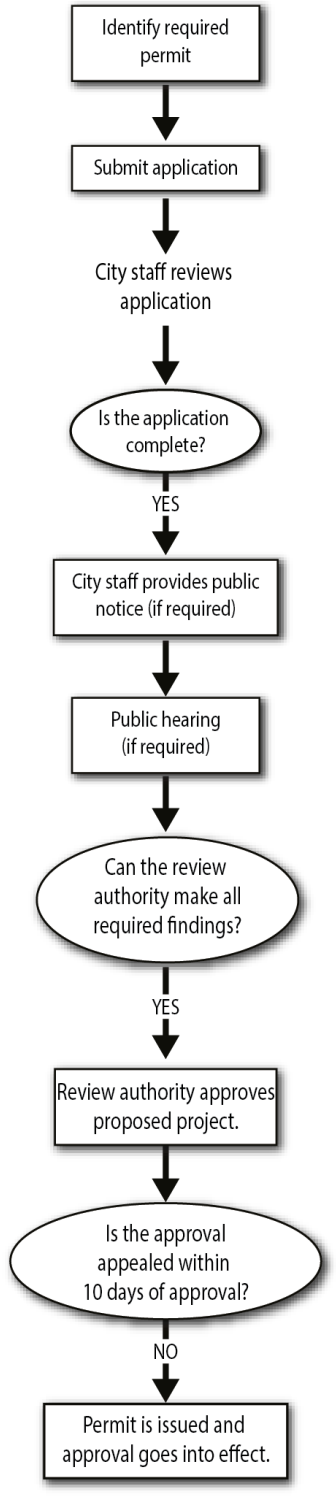
This chapter establishes procedures for the preparation, filing, and processing of permits required by the Zoning Code. The term “permit” when used in this chapter refers to any action, permit, or approval listed in Table 17.108-1 (Review and Decision-Making Authority).

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



Attachment: Part 4 Zoning Code Redlines (1536 : Zoning Code Update)

~~3.4.~~

4.5. 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 17.116 - ADMINISTRATIVE PERMITS

Sections:

- 17.116.010 Purpose
- 17.116.020 When Required
- 17.116.030 Review Authority
- 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

Sections:

- 17.120.010 Purpose
- 17.120.020 Types of Design Permits
- 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 17.120-1: PROJECTS REQUIRING DESIGN PERMITS

Type of Project	Type of Permit
Single-Family Residential Projects	
Ground floor additions to existing single-family homes where the addition is visible from a public street and does not exceed 15 ft. in height, except for exempt additions (Section 17.120.030.B)	Minor Design Permit
Accessory structures greater than 8 ft. in height and/or 80 sq. ft. <u>to 300 sq. ft.</u>	Minor Design Permit
<u>Accessory structures greater than 300 sq. ft.</u>	<u>Design Permit</u>
Upper floor decks and balconies on the side or rear of a home that <u>are not adjacent to public open space</u>	Design Permit
Upper floor additions to an existing single-family homes	Design Permit
New single-family homes	Design Permit
Multi-Family Residential Projects	
Ground-floor additions less than 3,000 sq. ft. to <u>15% of total floor area of</u> -an existing multi-family structure	Minor Design Permit
Upper floor decks and balconies on the side or rear of a structure that <u>are not adjacent to public open space do not comply with standards in Section 17.16.030.B.8 (Decks and Balconies)</u>	Design Permit
Accessory structures including garbage and recycling enclosures	Minor Design Permit
Ground-floor additions 3,000 sq. ft. to <u>15% of total floor area</u> or more to an existing multi-family structure	Design Permit
Upper floor additions to an existing multi-family structure	Design Permit
New multi-family residential structures	Design Permit
Non-Residential Projects (Including Mixed-Use)	
Exterior modifications to an existing structure that do not increase the floor area of the structure	Minor Design Permit
Accessory structures greater than 80 sq. ft. to <u>300 sq. ft.</u> including garbage and recycling enclosures	Minor Design Permit
<u>Accessory structures greater than 300 sq. ft. including garbage and recycling enclosures</u>	<u>Design Permit</u>
Additions less than 3,000 sq. ft. to <u>15% of the floor area of</u> -an existing non-residential structure where the addition is not visible from the primary street frontage	Minor Design Permit
Additions <u>15% or more of the floor area less than 3,000 sq. ft. to of</u> an existing non-residential structure where the addition is visible from the primary street frontage	Design Permit
Additions to an existing non-residential structure of 3,000 sq. ft. or more	Design Permit
New non-residential structures	Design Permit
Other Projects	
Fully screened building-concealed, facade-mounted, or roof-mounted wireless communication facility	Minor Design Permit
Other wireless communication facilities not eligible for a Minor Design Permit	Design Permit

Attachment: Part 4 Zoning Code Redlines (1536 : Zoning Code Update)

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.
- 5.6. Minor exterior modification or replacement of materials on an existing structure including siding, windows, doors, and roof.
- 6.7. 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. 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 a specified in Part 2 (Zoning Districts and Overlay Zones).
 2. Reduce the minimum lot size for single-family dwellings or minimum site area per dwelling unit requirements for multi-family developments.
 3. Reduce the protection of an environmentally sensitive habitat area except as specifically provided in Chapter 17.64 (Environmentally Sensitive Habitat Areas).
 4. Allow deviation from a requirement of the General Plan.

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-E.~~ F-E. The proposed signs are restrained in character and no larger than necessary for adequate identification.

17.132.080 Conditions of Approval

The review authority may attach conditions of approval to a Sign Permit to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

17.132.090 Post-Decision Procedures

- A. Planning Commission decisions on Sign Permits may be appealed to the City Council as described in Chapter 17.152 (Appeals).
- B. Community Development Director decisions on Administrative Sign Permits may be appealed to the Planning Commission as described in Chapter 17.152 (Appeals).
- C. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to Sign Permits.

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;~~
- ~~3.1.~~ Minimum required on-site open space and landscaping;
- ~~4.2.~~ Dimensional standards and setbacks for parking spaces, driveways, garages, parking lots, and loading areas; and
- ~~5.3.~~ 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;~~
- ~~4.3.~~ 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 disable resident.

17.140.020 When Allowed

- A. Eligible Applicants.** A request for reasonable accommodation may be made by any person with a disability, their representative, or any entity, when the application of the Zoning Code or other land use regulations, policy, or practice acts as a barrier to fair housing opportunities.
- B. Definition.** A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment.
- C. Eligible Request.** A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

17.140.030 Review Authority

- A. Community Development Director.** The Community Development Director shall take action on reasonable accommodation applications if the application is not filed for concurrent review with an application for discretionary review by the Planning Commission or City Council.
- 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 17.152 - 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.~~ 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.
- ~~e.~~ e. Exterior paint and color.
- ~~f.~~ f. Fences and walls if consistent with Chapter 17.60 (Fences and Walls).
- ~~f.~~ g. Landscaping if consistent with Chapter 17.72 (Landscaping).
- ~~g.~~ h. Exterior lighting if consistent with Chapter 17.96 (Supplemental Standards).
- ~~h.~~ i. Roof forms and materials provided there is no increase in structure height.
- ~~i.~~ j. Facade articulation such as porch columns, shutters, tile work, and other architectural details. Modifications that fundamentally alter the architectural style of a structure are not considered a minor change.
- ~~j.~~ k. The number, location, and size of decks and patios provide no new noise or privacy impacts would be created.
- ~~k.~~ l. The number, size, type, and location of skylights.
- ~~l.~~ m. 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).

Chapter 17.28 - VISITOR SERVING ZONING DISTRICTS

Sections:

- 17.28.010 Purpose of the Visitor Serving Zoning Districts
- 17.28.020 Dual Zoning
- 17.28.030 Land Use Regulations
- 17.28.040 Development Standards

17.28.010 Purpose of the Visitor Serving Zoning Districts

- A. General.** The purpose of the Visitor Serving (VS) ~~overlay zoning district~~ is to provide the visiting public with a range of opportunities to enjoy Capitola’s coastal location. These VS ~~overlay zoning district~~ accommodates a range of visitor serving uses including overnight accommodations, dining establishments, and recreational ~~(both active and passive)~~ facilities, ~~with specific uses dependent on the resources on the ground and the locational context of the particular site.~~ The VS ~~overlay zoning district~~ implements policies to maintain and enhance visitor serving uses in Capitola consistent with the General Plan and Local Coastal Program (LCP).
- B. Subzones.** The VS ~~overlay zoning district~~ is divided into five subzones (see Figure 17.128-1) with unique land use and development standards:
1. **Visitor Serving - Rispin (VS-R).** Applies to the Rispin site (APN 035-371-01 & 02).
 2. **Visitor Serving - Shadowbrook (VS-SB).** Applies to the Shadowbrook site (APN035-111-04).
 3. **Visitor Serving - Monarch Cove Inn (VS-MC).** Applies to the Monarch Cove Inn site (APN 036-143-31 & 036-142-27) and the portion of parcel 036-142-28 that is located between the two Monarch Cove Inn parcels.
 4. **Visitor Serving - El Salto (VS-ES).** Applies to the El Salto site (APN 036-143-35).
 5. **Visitor Serving – General (VS-G).** Applies to all other parcels ~~with the zone~~ Visitor Serving ~~overlay~~ in Capitola.

Commented [KK1]: The zoning map shows this as an overlay zone, not a zoning district. Let’s make this change throughout.

Commented [GR2R1]: The existing and proposed codes have both a VS zone and a VS overlay. This change (globally) should be deleted unless we want to eliminate the VS zone and only apply an overlay designation.

17.28.020 Dual Zoning

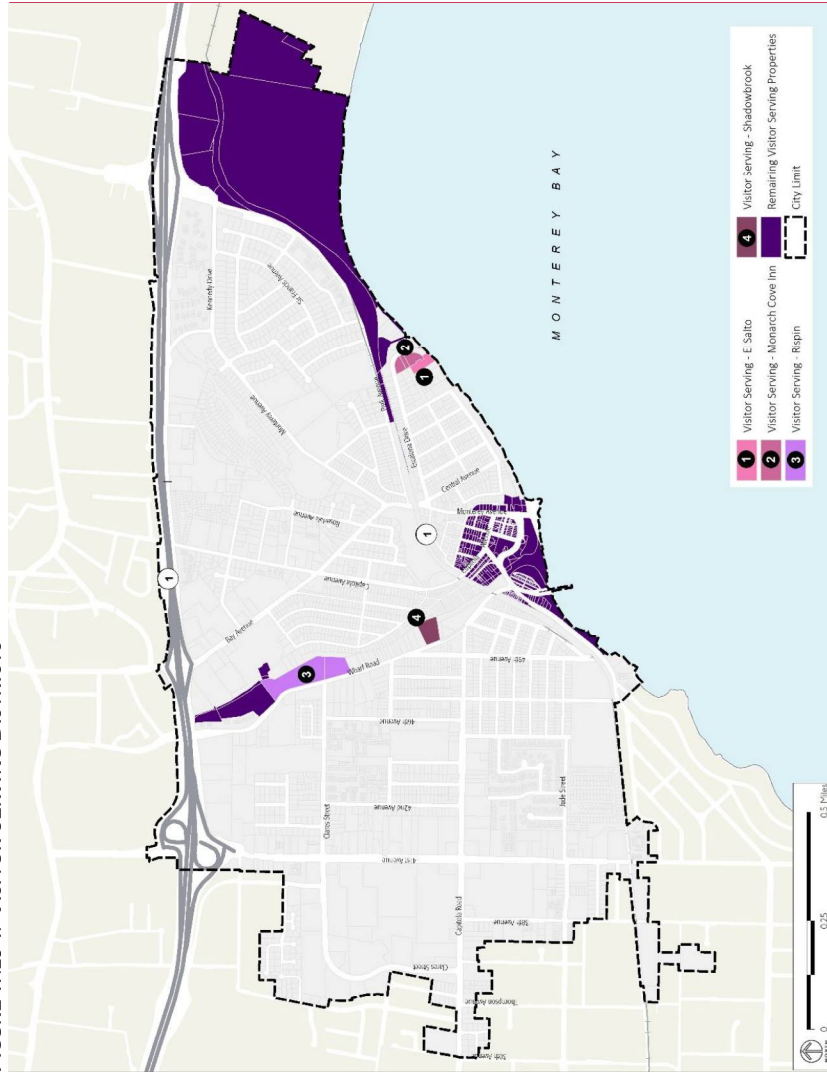
The VS ~~overlay zoning districts~~ may be the only zoning districts applicable to a property, but at times it is applied along with other zoning districts to a property, such as “VS/R-1” or “VS/P/OS” dual zoning. ~~Dual zoning means that the uses and development standards of the VS zoning district apply, although uses allowed by another district may also be permitted through approval of a Conditional Use Permit. The Planning Commission may apply development standards from the other zoning district in lieu of or as well as the VS district.~~

Commented [KK3]: Is this true? It appears that every property has an underlying base zoning district, with VS overlay.

Commented [KK4]: We should talk about this. Seems like the overlay should take precedence in case of conflict.

Commented [GR5R4]: Yes, this is the case with both the existing and proposed codes. Standard zoning practice is to apply the standards of an overlay zone in case of conflict (most restrictive applies). We can clarify.

FIGURE 17.28-1: VISITOR-SERVING DISTRICTS



Commented [GR6]: Map will be revised to correctly show VS base zoned and VS overlay properties

VISITOR SERVING ZONING DISTRICTS

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17.28.030 Land Use Regulations

A. Permitted Land Uses. Table 17.28-1 identifies land uses permitted in the VS zoning district.



Note: Permitted land uses on the Monarch Cove property have been revised to prohibit festivals, live entertainment, and commercial places of amusement or recreation, and to allow multi-family uses with a Conditional Use Permit.

TABLE 17.28-1: PERMITTED LAND USES IN THE VISITOR SERVING ZONING DISTRICTS

Commented [RM7]: This may present consistency problem w/ LUP/CA for properties in CZ.

Commented [CK(8R7)]: This is in error. MF will be removed from MC.

Attachment: California Coastal Commission Comments (1536 : Zoning Code Update)

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VISITOR SERVING ZONING DISTRICTS

Key P Permitted Use M Minor Use Permit required C Conditional Use Permit required - Use not allowed <u>Note: In the coastal zone, a coastal development permit (CDP) may also be required, in addition to and independent of any other required permits and authorizations, per Section 17.xxx.</u>	VS Subzones					Additional Regulations
	VS-G	VS-R	VS-SB	VS-MC	VS-ES	
Residential Uses						
Employee Housing	C [1]	-	-	-	-	
Multi-Family Dwellings	C [2]	-	-	C [2]	C [2]	
One Caretaker Unit for On-Site Security	C	C	C	C	C	
Single-Family Dwellings	C [3]	-	-	C [3]	C [3]	
Public and Quasi-Public Uses						
Community Assembly	C	-	-	-	-	
Day Care Centers	C	-	-	-	-	
Habitat Restoration and Habitat Interpretive facilities	C	C	C	C	-	
Parks and Recreational Facilities	C	C	-	-	-	
Public Parking Lots	C	C	-	-	-	
Public Paths	C	C	C	C	C	
Public Safety Facilities	C	-	-	-	-	
Public Wharfs	C	-	-	-	-	
Schools, Public or Private	C	-	-	-	-	
Commercial Uses						
Business Establishments that Provide Commercial Places of Amusement or Recreation, Live Entertainment, or Service of Alcoholic Beverage	C [4]	C [4]	C [4]	-	-	
Business Establishments that Sell or Dispense Alcoholic Beverages for On-Site Consumption	C	C	C	C	-	
Restaurants						
Full Service	C [5]	C [5]	C [5]	-	-	
Lodging						
Hotels, Inns, Bed and Breakfast, and Hostels	C	C	-	C	C	
Campgrounds [6]	C	-	-	-	-	
Key						
P Permitted Use	VS Subzones					Additional Regulations
M Minor Use Permit required	VS-G	VS-G	VS-G	VS-G	VS-G	
C Conditional Use Permit required						
- Use not allowed						
Recreational Vehicle Parks	C	-	-	-	-	
Transportation, Communication, and Utility Uses						

Commented [GR9]: This is specified in the coastal chapter. It would be redundant and unnecessary to repeat that a CDP may be required in every land use table throughout the code.

Commented [KK10]: Many of these uses, particularly residential and large-scale commercial uses, shouldn't be allowed in New Brighton. It may make sense to separate New Brighton from the Village, where it does make sense to have a broad range of uses.

Commented [GR11R10]: The City has no land use authority over state parks. Adding development standards for New Brighton would have no effect on the State's ability to develop their property more appropriate alternative would be to eliminate all zoning references to New Brighton and add a paragraph to note the City's lack of land use authority.

Commented [KK12]: It jumps out to me that the only area that should have a broad range of uses potentially allowed here is the Village, since that area is the primary core and can accommodate commercial and residential uses. The other areas are very specific geographic areas, including individual parcels, and thus the overlay would appear to be the opportune time to really identify the specific uses envisioned for those particular sites. In other words, use this overlay to really pinpoint the specific uses envisioned for each subarea.

Commented [RM14]: Potential consistency issue.

Commented [GR15R14]: MF is currently allowed VS-G and VS-ES zones.

Commented [CK(16R14): MF will be removed from MC.

Commented [RM17]: Potential consistency issue.

Commented [GR18R17]: SF is currently allowed in VS-G, VS-MC, and VS-ES, although severely limited on Monarch Cove. Per previous discussions, the City requests that current restrictions be relaxed to allow the existing Inn to be used as a residence should it be closed in the future.

Utilities, Major	C	C	C	C	C	
Utilities, Minor	P	P	P	P	P	
Wireless Communications Facilities	See Chapter 17.104					
Other Uses						
Access Roadways	C	C	C	C	C	
Accessory Structures and Uses, New	C [7]	C	C	C	C	
Accessory Structures and Uses Established Prior to Primary Use or Structure	C	C	-	C	-	
Change of Visitor Serving Commercial Uses within a Structure	C [8]	-	-	-	-	
Food Service Accessory to a Lodging Use [9]	C	C	-	C	C	
Home Occupations	C	-	-	-	-	Section 17.96.030
Expansion of a Legal Nonconforming Use within an Existing Structure	C	-	-	-	-	
Legal Nonconforming Use Changed to a Use of a Similar or More Restricted Nature	C	-	-	-	-	
Live Entertainment	C	C	C	-	-	
Offices Accessory to Visitor Serving Use	C	C	C	C	-	
Parking Areas to Serve the Primary Use	C	C	C	C	C	
Retail Accessory to a Visitor Serving Use	C	C	-	C	-	
Temporary Assemblages of People, such as Festivals, Fairs, and Community Events	C [10]	C [10]	C [10]	C [11]	-	
Weddings	C	C	C	C	-	

Notes:

- [1] Permitted only as an accessory use.
- [2] Multi-family dwellings shall comply with development standards in the Multi-Family Residential, Medium Density (RM-M) zoning district.
- [3] Single-family dwellings shall comply with development standards in the Single-Family Residential (R-1) zoning district.
- [4] May not be located within 200 feet of the boundary of a residential zoning district.
- [5] Drive up and car service is not allowed.
- [6] May include moderate intensity recreational uses, including tent platforms, cabins, parks, stables, bicycle paths, restrooms, and interpretive facilities.
- [7] Intensification of the primary use is not allowed.
- [8] The new use may not change the nature or intensity of the commercial use of the structure.
- [9] Permitted only to serve guests of the lodging use.
- [10] Events may not exceed 10 days and may not involve construction of permanent facilities.
- [11] Limited to a single one-day event per year.

~~B. Additional Visitor Serving Uses. In the VS-G, VS-MC, and VS-SB zoning districts, the Planning Commission may allow other visitor serving uses of a similar character, density, and intensity as those listed in Table 17.28-1 if the Planning Commission finds~~

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VISITOR SERVING ZONING DISTRICTS

the other uses to be consistent and compatible with the intent of this chapter, the General Plan, and the Local Coastal Program.

17.28.040 Development Standards

A. General. Table 17.28-2 identifies development standards that apply in the VS zoning districts.

TABLE 17.28-2: DEVELOPMENT STANDARDS IN THE VISITOR SERVING ZONING DISTRICTS

	VS Zoning Districts	Additional Standards
Parcel Area, Minimum	5,000 sq. ft	
Impervious Surface, Maximum	VS-R: 25% VS-SB, VS-MC & VS-ES: 50% [1] VS-G: No maximum	
Floor Area Ratio, Maximum	0.25	
Setbacks, Minimum	See Section 17.28.040.B	
Height, Maximum	30 ft.	17.28.040.C

Notes:

[1] In the VS-SB zoning district, the impervious surface requirement applies to the parcel located directly adjacent to Soquel Creek. In the VS-ES zoning district, the impervious surface calculation excludes the portion of parcel 036-142-28 located outside of the Monarch Cove Inn.

B. Setbacks. The following setback requirements apply in the VS zoning districts.

- The Planning Commission may require front, side and rear setbacks through the Design Review process to provide adequate light and air, ensure sufficient distance between adjoining uses to minimize any incompatibility, and to promote excellence of development. Where a side or rear yard abuts residential property, a setback of at least 10 feet shall be provided.
- Front and exterior side yards shall not be used for required parking facilities.
- For the visitor-serving El Salto parcels located adjacent to the bluff top, new development shall adhere to the setback and development provision provided in the LCP natural hazards policies and in Chapter 17.68 (Geologic Hazards).
- To protect the waters and riparian habitat of Soquel Creek, new development on the Shadowbrook Restaurant and Rispin parcels shall adhere to the LCP natural systems policies and Chapter 17.64 (Environmentally Sensitive Habitat Areas).

C. Height Exceptions. With a recommendation from the Planning Commission, the City Council may approve additional height up to a maximum of 36 feet in the VS zoning districts when the following findings can be made:

- The proposed development and design is compatible with existing land uses in surrounding areas, and the General Plan, and the Local Coastal Program.

Commented [KK19]: This is a bit too vague. It seems like the purpose of the overlay is to really pinpoint the specific uses envisioned for the particular area. I would delete this.

Commented [GR20R19]: Any development would require a CDP, which would enable CCC review. It seems like we would want a catch-all clause acknowledging that other VS uses could be allowed through a CDP rather than prohibiting them?

Commented [KK21]: Again, I think that this is the opportunity to get specific about the individual overlay zones and what development standards apply to each of them. These standards are traditional urban zoning standards that don't translate well to New Brighton or even along Soquel Creek.

Commented [GR22R21]: See previous comments regarding New Brighton. The only VS parcels along Soquel Creek are the Village, Shadowbrook and Rispin. These standards are in the current code. Development in any of these areas would be reviewed with a CDP. Not sure what additional level of specificity is desired?

Commented [KK23]: This would be good to describe heights in the Village, including that structures cannot silhouette over the bluff Depot Hill.

Commented [GR24R23]: This is addressed in the Village Mix Use chapter. We also have a General Plan policy which prohibits a structure from being built over the top of the bluff or to obstruct the view to/from the bluff.

Commented [RM25]: Does this mean no setback unless PC imposes them?

Commented [GR26R25]: There is a minimum 10-ft side and rear setback for properties adjacent to residential uses. The Village other VS properties do not currently have other setback requirements.

Attachment: California Coastal Commission Comments (1536 : Zoning Code Update)

- 2. Streets and thoroughfares are suitable and adequate to serve the proposed development.
- 3. The proposed development does not produce shadows which may adversely affect the enjoyment of adjacent streets, buildings, or open space.
- 4. Major public views are not blocked by the proposed development.

D. Landscaping. See Table 17.72-2 in Chapter 17.72 (Landscaping).

E. Lighting. In addition to outdoor lighting standards in Section 17.96.100, (Outdoor Lighting), the following lighting requirements apply in the VS zoning district:

- 1. All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled.
- 2. The location, type and wattage of exterior lighting must be approved by the Community Development Director prior to the issuance of building permits or the establishment of the use.

Commented [RM27]: Is this term defined somewhere? Even so how would this finding be applied?

Commented [GR28R27]: This is from the current code and is not defined. An example would be the Village hotel site (not blocking views to/from the cliff). It seems like a standard the CCC would want to protect significant public views, but we could delete it if preferred.

Chapter 17.32 - COASTAL OVERLAY ZONE

Sections:

- 17.32.010 Purpose
- 17.32.020 Definitions
- 17.32.030 Relationship to Base Zoning Districts
- 17.32.040 Permitted Land Uses
- 17.32.050 Development Standards
- 17.32.060 Coastal Permit Requirements
- 17.32.070 Coastal Permit Exemptions
- 17.32.080 Categorical Exclusions
- 17.32.090 Application Submittal
- 17.32.100 Public Notice and Hearing
- 17.32.110 Findings for Approval
- 17.32.120 Notice of Final Action
- 17.32.130 Appeals
- 17.32.140 Permit Issuance
- 17.32.150 Emergency Permits
- 17.32.160 Coastal Permit Amendments

17.32.010 Purpose

This chapter establishes requirements for the Coastal (-CZ) overlay zone which applies to all areas within the City of Capitola coastal zone. The -CZ overlay zone implements the City's Local Coastal Program (LCP) in a manner consistent with the requirements of the California Coastal Act and all associated State regulations. This chapter contains requirements for coastal permits to ensure that development projects in the -CZ overlay zone are consistent with the City's Land Use Plan and Local Coastal Implementation Program (LCIP), which together constitute the City's Local Coastal Program (LCP). ~~The City of Capitola Local Coastal Program shall consist of the following components:~~

- (1) ~~The Land Use Plan (LUP), consisting of the policy text and the adopted land use, resource, constraint, and shoreline access maps and charts. The land use plan, including all adopted tables, maps and definitions, shall be adopted as an element of the County General Plan and become an integral part thereof pursuant to Chapter 13.01 SCCG. The land use plan policies and maps shall take precedence over any previously adopted for the Coastal Zone portion of the County.~~
- (2) ~~The Implementation Plan (IP), consisting of the following implementing ordinances consisting of the following of the City's Municipal Code chapters/sections:~~
 - a) ~~XXX~~
 - a)b) ~~_____~~

17.32.020 Definitions

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

Commented [KK1]: The City can elaborate on all of the content of the LUP.

Commented [GR2R1]: Staff can provide additional detail

Commented [RM3]: See County Code section 13.03.050 for example. I have attached a table indicating what we understand the current IP to include.

Commented [GR4R3]: City staff will add the contents of the

Commented [KK5]: There are a bunch of other Coastal Act and regs-defined terms that may be appropriate to include here, including "bluff", "wetland", "stream", "environmentally sensitive area", "feasible", etc. We might also want definitions of other commonly used terms, including "shoreline protective device" and "coastal resources". We have tons of examples of these that we could easily plug in.

Commented [GR6R5]: City staff will add requested definition appropriate

A. **Aggrieved Person.** Any person who, in person or through a representative, appeared at a City public hearing in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing informed the City of the nature of their concerns, or who for good cause was unable to do either. “Aggrieved Person” includes the applicant for a coastal development permit.

B. Coastal Bluff. Coastal bluff shall mean:

(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).

B-C. **Coastal Emergency.** A sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.

C-D. **Development.** Any of the following, whether on land or in or under water:

1. The placement or erection of any solid material or structure;
2. Discharge or disposal of any dredged material or of any gaseous, liquid, solid or thermal waste;
3. Grading, removing, dredging, mining or extraction of any materials;
4. Change in the density or intensity of use of land, including, but not limited to, subdivisions, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use;
5. Change in the intensity of use of water, or access thereto;
6. Construction, reconstruction, demolition or alteration in the size of any structure, including any facility of any private, public or municipal utility;
7. The removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973.

Development does not include the replacement of a mobile home with one which is not more than ten percent larger in floor area, nor equipping a mobile home with removable fixtures such as a porch, the total area of which does not exceed ten percent of the square footage of the mobile home itself.

D. Development, New. All development as defined above except the following:

1. Structures Destroyed by Natural Disaster. The replacement of any structure, other than a public works facility, destroyed by a disaster; provided, that the replacement structure conforms to applicable existing zoning requirements, is for the same use as the destroyed structure, does not exceed either the floor area, height, or bulk of the destroyed structure by more than ten percent, and is sited in the same location on the affected property as the destroyed structure. As used in this section, “disaster” means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owners.

Commented [GR7]: The suggested definitions are unclear, particularly to the lay reader. City staff prefers the definition proposed by Marin County: “A high bank or bold headland with a broad, precipitous, sometimes rounded cliff face overlooking a plain or body of water. A bluff may consist of a steep cliff face below and a more sloping upper bluff above.”

Commented [RM8]: 17.46.030 - shows Definitions modified by Ord 743 S2, in 1992, but Ord 743 never processed through LCPA, so changes not certified.

Commented [GR9R8]: The City would like to include language which specifies that replacement of mobile homes and minor ancillary additions are not subject to a CDP (similar to single-family residential exemptions). CA HCD has jurisdiction over mobile home parks in Capitola. The City is typically not aware of minor projects in mobile home parks and it seems overly burdensome to require low income, often elderly residents to submit a CDP for minor alterations which typically exempt on SF lots. City staff agrees this language should be the exemption section rather than in the definition section.

Commented [KK10]: Yes, this should be removed.

- 2. ~~Demolition and Reconstruction. The demolition and reconstruction of a single family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than ten percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.~~
- 3. ~~Improvements. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than ten percent, which do not block or impede access, and which do not result in a seaward encroachment by the structure.~~
- 4. ~~Repair and Maintenance. Repair or maintenance activity which, pursuant to Public Resources Code Section 30610, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.~~
- 5. ~~Reconstruction and Repair. The reconstruction or repair of any seawall; provided, that the reconstructed or repaired seawall is not seaward of the location of the former structure. As used in this section, "reconstruction or repair" of a seawall shall not include replacement by a different type of structure or other modification design or construction which results in different or greater impacts to shoreline resources than those of the existing structure.~~

~~E. **Emergency:** a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.~~

~~E. **Environmentally Sensitive Area.** "Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.~~

~~F. **Local Coastal Program (LCP).** The City's ~~Use Plan and Implementation Plan, Zoning Code, Zoning Map and actions~~ certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.~~

~~G. **Major Energy Facility.** Any public or private processing, producing, generating, storing, transmitting or receiving facility for electricity, natural gas, petroleum, coal, or other source of energy, for which the estimated construction costs exceed twenty five thousand dollars. A "major energy facility" means any of the previously listed facilities that costs more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624.~~

~~H. **Major Public Works Facility.**~~

~~(a) All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.~~

~~(b) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.~~

~~(c) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.~~

~~(d) All community college facilities.~~

Commented [RM11]: Seems like the exceptions and exclusion should be governed by stand alone sections below - not in definition

Commented [GR12R11]: agreed

Commented [KK13]: Agreed. It's not that these activities aren't "development", but rather that they are exempt from CDP requirements per the Act. This should be deleted. And I'm not sure why it's called "New Development".

Commented [RM14]: May want to add def for emergency 14 CCR 13009

Commented [KK15]: This should be deleted since we already have a definition for "coastal emergency", which is the same definition. Use one or the other, but not both.

Commented [GR16R15]: okay

Commented [KK17]: It may also be good to include habitat type that the LCP categorically calls out as ESHA.

Commented [GR18R17]: We'll add this detail

Commented [KK19]: The IP consists more than just the Zoning Code, yes? I think this definition should match 30108.6, and then have a description of what constitutes the Capitola LCP, including a list of all the ordinances that comprise the IP.

Commented [GR20R19]: We'll add this detail as previously noted

Commented [RM21]: I suggested putting this in the purpose section above, but here could work also.

Commented [RM22]: See attached table outlining current certified IP.

A "major public works facility" means any of the above listed facilities costs more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624. Notwithstanding the above criteria, a "major public works facility" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.

Any public works project located within an area for which coastal permits are appealable, and that cost more than \$25,000 except where service by a public agency is required to protect life and public property from imminent danger, or to restore, repair or maintain public works, utilities or services destroyed, damaged, or interrupted by natural disaster or serious accident.

H. ~~Notice of Categorical Exclusion.~~ A form signed by the Community Development Director stating that a development meets the requirements for exclusion and is exempt from the coastal permit requirement.

I. ~~Shoreline Protective Device Structure.~~ "Shoreline protective on device structure" means any device structure or material, including but not limited to riprap or such as a seawall, revetment, riprap, bulkhead, deep pier/caisson, bluff retention device, etc., built for the purpose of serving a coastal-dependent use, or protecting an existing structure or public beach in danger from erosion placed in an area where coastal processes operate.

J. ~~Sea.~~ The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels. "Sea" does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, including any river, stream, tributary, creek or flood control or drainage channel flowing directly or indirectly into such area.

K. ~~Structure.~~ Any improvement permanently attached to the ground, including, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line and electrical power transmission and distribution line.

L. ~~Wetland.~~ "Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

17.32.030 Relationship to Base Zoning Districts

The -CZ overlay zone applies to property in conjunction with the base zoning districts. In case of a conflict between regulations, the regulations in this chapter shall take precedence over those of the base zoning district.

17.32.040 Allowed Land Uses

Allowed land uses in the -CZ overlay zone are the same as in the underlying base zoning district. Permits required for these uses (e.g., Conditional Use Permit, Administrative Permit) are the same as in the underlying base zoning district, and are required in addition to and independent of any required coastal development permit.

Commented [RM23]: May want to follow current CA definition § 13012. Major Public Works and Energy Facilities. (a) "Major public works" and "Major energy facilities" mean facilities that cost more than one hundred thousand dollars (\$100,000) with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624. (b) Notwithstanding the criteria in (a), "major public works" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.
Commented [KK24]: Agreed. Done for both definitions, and differentiated between "major" and other types. All of these definitions have to match the Act and regs.
Commented [GR25R24]: okay
Commented [GR26]: piers/caissons are not shoreline protective devices

Commented [GR27]: The word permanent helps distinguish temporary structures. We don't want to regulate dog houses, children play structures, pre-fab garden sheds, etc.

Commented [GR28]: There was a comment in the VS chapter about adding language to describe how to handle conflicts between overlay zone regs and base zone regs. Here it is...we would prefer to repeat in multiple chapters.

Commented [CK(29)]: Do we need to add administrative or minor use permits.

Commented [rg30]: I don't think so... a minor use permit would be a form of CUP and an admin permit would qualify as a permitted use (subject to performance standards)

Commented [GR31]: Coastal permits and other land use permits are processed concurrently – not independently (i.e., a project cannot be approved without all necessary permits)

17.32.050 Development Standards

- A. **General.** Development standards (e.g., structure height, setbacks) that apply to property in the -CZ overlay zone are the same as in the underlying base zoning district.
- B. **Affordable Housing Density.** The City may approve a density greater than allowed by the base zoning district for affordable residential projects in the -CZ overlay zone if the following criteria are met:
 1. The proposed increased density is consistent with ~~the Coastal Act Section 30604(f), and Government Code Section 65915, and Chapter 18.03 of the Capitola Municipal Code.~~
 2. The project is found to be in conformity with the Local Coastal Program (including, but not limited to, sensitive habitat, public viewshed, public recreational access and open space protections), with the exception of the density provisions.

Commented [KK32]: Not sure this section on affordable housing needs to be here. Seems like it should be located elsewhere in the LCZ where it discusses housing and/or density.

Commented [GR33R32]: agreed

Commented [KK34]: Is this part of the IP?

Commented [RM35]: Does not appear to be.

Commented [KK36]: Then the cross-reference should be deleted.

Commented [GR37R36]: We'll remove as requested

17.32.060 Coastal Permit Requirements

- A. **Permit Required.** All ~~activities that constitute development, as defined in 17.32.020,~~ within the -CZ overlay zone requires a coastal permit except as specified in Section 17.32.070 (Coastal Permit Exemptions) ~~and Section 17.32.080 (Coastal Permit Exclusions).~~
- B. **Review Authority.**
 1. The ~~Planning Commission~~ shall take action on all coastal permit applications that require other discretionary approval by the City.
 2. The ~~Community Development Director~~ shall take action on all coastal permit applications for projects that require no other discretionary approval by the City.
 3. The City Council ~~may~~ take action on coastal permit applications for public works projects that require no other discretionary permit approvals from the City other than funding approval.
 4. Development authorized by a Coastal Commission-issued ~~coastal~~ permit remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment and revocation. ~~Any additional development proposed, addition on a parcel with a - to development completed under the authority of a Coastal Commission-issued coastal permit shall be reviewed by the City pursuant to an application for a new coastal permit, provided that the Coastal Commission determines that the development addition is not contrary to any terms or conditions of the Commission-issued permit.~~
- C. **Additional Permits.** The review of a coastal permit application shall be processed concurrently with any other discretionary permit applications required by the City. The City may not grant any discretionary approval for a proposed project that conflicts with this chapter. Discretionary approvals become effective only after a coastal permit is approved as required by this chapter.
- D. **Legal Development and Permitting Processes.** Development that legally occurred prior to the effective date of the Coastal Act of 1976 ~~(or the Coastal Initiative of 1972, whichever is applicable)~~ is considered lawfully established development. Improvements, repair, modification, or additions subject to such existing development requires a coastal permit in accordance with the provisions of this chapter. The coastal permit may be approved if the proposed development is consistent with the policies and standards of the City's LCP.

Commented [KK38]: All appealable development requires at least one public hearing. If the PC is the entity that provides that public hearing, as opposed to a Zoning Administrator, then this section also needs to say that the PC shall take action on all CDPs that require other discretionary review, AND/OR if the CDP is appealable to the Coastal Commission.

Commented [GR39R38]: This is addressed in public notice and hearings and appeals chapters. Would prefer not to repeat it here - could cross reference as an alternative.

Commented [KK40]: Same here. The CDD can only take an action on a non-appealable development.

Commented [GR41R40]: Our proposal is that CDD determinations would be made in a public hearing and decisions could be appealed to the PC and ultimately the City Council. This seems like a widely accepted process in other jurisdictions, except they often title the CDD as a "hearing officer" or "zoning administrator".

Commented [KK42]: How would this be decided? Who would review the CDP if the Council decided not to take action?

Commented [GR43R42]: The intent is to allow the City Council to approve a CDP which otherwise requires no actions by the Planning Commission so that there would be one hearing instead of two. The word 'may' is intended to acknowledge that the Council could conceivably direct the PC to consider the CDP independently. We will add language to clarify.

Commented [GR44]: If a development was permitted following the 1972 ballot initiative, but before the coastal act went into effect in 1976, would CCC consider it illegal? What standards would a project be subject to during the interim period when there weren't any adopted regulations?

Attachment: California Coastal Commission Comments (1536 : Zoning Code Update)

E. Illegal Development and Permitting Processes. Development that occurred after the effective date of the Coastal Act of 1976 ~~for the Coastal Initiative of 1972, whichever is applicable~~ and that did not receive a coastal permit or was not otherwise authorized under the Coastal Act, is not lawfully established or authorized development. No improvements, repair, modification, or additions to such existing development may be approved unless a coastal permit is approved that authorizes the existing development ~~and any potential violations are abated~~. The coastal permit shall only be approved if the existing and proposed development is consistent with the policies and standards of the City's LCP.

Commented [GR45]: See above question

Commented [GR46]: We agree that violations would need to be corrected – but they would need to be verifiable violations – not potential, or speculative violations

17.32.070 Coastal Permit Exemptions

The following projects are exempt from the requirement to obtain a coastal permit.

A. Existing Single-Family Residences. In accordance with PRC §30610(a) and 14 CCR §13250, improvements to an existing single-family residence, including fixtures and structures directly attached to a residence, landscaping, and structures normally associated with a single-family residence, such as garages, swimming pools, fences and storage sheds, but not including guest houses or self-contained residential units. This exemption does not include:

1. Improvements to a single-family residence if the residence and/or improvement is located on a beach, in a wetland, seaward of the mean high-tide line, within an environmentally sensitive habitat area, in an area designated highly scenic in the LCP, or within 50 feet of the edge of a coastal bluff.
2. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, within 50 feet of the edge of a coastal bluff, or within an environmentally sensitive habitat area.
3. The expansion or construction of water wells or septic systems.
4. On property not included in Subparagraph A.1 above that is located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in a significant public viewshed, when one of the following circumstances apply:
 - a. Improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure; or
 - b. An additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to this section; or
 - c. An increase in height by more than ten percent of an existing structure; and/or ~~any~~ significant non-attached structure such as garages, fences, shoreline protective works or docks.
5. In areas having a critically short water supply as declared by resolution of the Coastal Commission, construction of major water-using development not essential to residential use such as swimming pools, or construction or extension of landscape irrigation systems.
6. Any improvement to a single-family residence where the coastal permit issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a coastal permit.

Commented [KK47]: The regs use the language “or in significant scenic resources areas as designated by the commission or regional commission”. Does the City want to include areas designated as “significant public viewshed” for purposes of this reg? If not, I'd delete.

Commented [GR48R47]: We can delete

B. Other Existing Structures. In accordance with PRC §30610(b) and 14 CCR §13253, ~~Improvements~~ to an existing structure, other than a single-family residence or public works facility, including landscaping, and fixtures, and other structures directly attached to the structure. This exemption does not include:

1. Improvements to a structure if the structure and/or improvement is located on a beach; in a wetland, or stream, or lake seaward of the mean high-tide line; in an area designated highly scenic in the LCP; or within 50 feet of the edge of a coastal bluff.
2. Any significant alteration of land forms including removal or placement of vegetation, on a beach or sand dune; in a wetland or stream; within 100 feet of the edge of a coastal bluff, in a highly scenic area, or in an environmentally sensitive habitat area.
3. The expansion or construction of water wells or septic systems.
4. On property not included in subparagraph B.1 above that is located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in a significant public viewshed, when one of the following circumstances apply:
 - a. Improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure;
 - b. An additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to this section;
 - c. An increase in height by more than 10 percent of an existing structure; ~~or~~ Any significant non-attached structure such as garages, fences, shoreline protective works or docks.
5. In areas having a critically short water supply as declared by resolution of the Coastal Commission construction of major water-using development ~~not essential to residential use~~ such as swimming pools, or construction or extension of landscape irrigation systems.
6. Any improvement to a structure where the coastal permit issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a coastal permit.
7. Any improvement to a structure which changes the intensity of use of the structure.
8. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including, but not limited to, a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.

Commented [GR49]: There are no lakes in Capitola

Commented [KK50]: Ditto

Commented [GR51R50]: We'll delete

C. Maintenance Dredging of Navigation Channels. In accordance with PRC §30610(c), ~~Maintenance~~ dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.

D. Public Roads. Repair and maintenance of existing public roads, including resurfacing and other comparable development necessary to maintain the existing public road facility as it was constructed, provided that:

1. There is no excavation or disposal of fill outside the existing roadway prism; and

2. There is no addition to and no enlargement or expansion of the existing public road.

E. Public Parks. Routine maintenance of existing public parks, including repair or modification of existing public facilities and landscaping where the level or type of public use or the size of structures will not be altered.

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

G-F. Repair or Maintenance Activities. In accordance with PRC §30610(d) and 14 CCR §13252.

Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities. This exemption does not include:

1. Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:

- a. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;
- b. The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;
- c. The replacement of twenty percent or more of the materials of an existing structure with materials of a different kind; or
- d. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams.

2. Any method of routine maintenance dredging that involves:

- a. The dredging of 100,000 cubic yards or more within a twelve month period;
- b. The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, on any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams; or
- c. The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.

3. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:

- a. The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials.
- b. The presence, whether temporary or permanent, of mechanized equipment or construction materials.

Commented [KK52]: These don't match our regs, but you can cross-reference our 1978 Repair, Maintenance and Utility Hookup document, which addresses some of this.

Commented [RM53]: RM to attach. See, e.g. County Code Section 13.20.064 Public roads, parks, utilities and industrial facilities exemption.

Subject to SCCC 13.20.060, and provided there is not a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views, as further detailed in the document "Repair, Maintenance and Utility Hook-up Exclusions from Permit Requirements" adopted by the Coastal Commission on September 5, 1978, no coastal development permit is required for:

(A) Public Roads. Repair and maintenance of existing public roads including resurfacing and other comparable development necessary to maintain the existing public road facility as it was constructed; provided, that: (a) there is no excavation or disposal of fill outside the existing roadway prism; and (b) there is no addition to and no enlargement or expansion of the existing public road.

(B) Public Parks. Routine maintenance of existing public parks, including repair or modification of existing public facilities and landscaping where the level or type of public use or the size of structures will not be altered.

(C) Public Utilities. Repair, maintenance, replacement, and minor alterations of existing public water, sewer, natural gas, electrical, telephone, television, and flood control infrastructure.

(D) Industrial Facilities. Routine repair, maintenance, and minor alterations to existing industrial facilities necessary for ongoing production that do not expand the area of operation of the existing facility, including minor modifications of existing structures required for governmental safety and environmental regulations where necessary to maintain existing production capacity, where located within existing structures, and where the height and bulk of existing structures are not altered.

Commented [GR54R53]: The proposed and suggested language is identical – except we eliminated the industrial facility exemption since there are none in Capitola's coastal zone.

Commented [CK(55)]: Shouldn't this move up under C.

Commented [KK56]: Yes, I think that would make it easier to understand what types of dredging requires a CDP.

Commented [rg57]: I'm not sure if this is the right section for this (exemptions)? Might be okay to leave out and ask CCC for guidance on how they would like to see it addressed?

Commented [KK58]: Agreed. Let's discuss where to put this.

Commented [RM59]: Seems like Geo Hazards Section would be more appropriate?

4. Unless destroyed by natural disaster, the replacement of 50 percent or more of a single family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure that is not repair and maintenance under Coastal Act Section 30610(d) but instead constitutes a replacement structure requiring a coastal permit.

~~5. In any particular case, even though a method of repair and maintenance is identified above, the Executive Director of the Coastal Commission may, where the Director finds the impact of development on coastal resources or coastal access to be insignificant, waive the requirement of a permit. The waiver shall not be effective until it is reported to the Coastal Commission at its next regularly scheduled meeting. If any three commissioners object the waiver, the proposed improvement may not be undertaken without a permit.~~

H.G. Replacement of Destroyed Structures. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this section, "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner; "bulk" means total interior cubic volume as measures from the exterior surface of the structure; and "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

H.H. Conversion of Existing Multi-Unit Residential Structures. The conversion of any existing multi-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this chapter, no coastal permit is required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multi-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, is be considered a time-share project, estate, or use for purposes of this paragraph.

H.I. Temporary Events. Temporary events as defined in this section and which meet all of the following criteria:

1. The event will not occur between the Saturday of Memorial Day weekend through Labor Day, or if proposed in this period will be of less than one day in duration including setup and take-down; and
2. The event will not occupy any portion of a publicly or privately owned sandy beach or park area, public pier, public beach parking area and there is no potential for adverse effect on sensitive coastal resources; and
3. A fee will not be charged for general public admission and/or seating where no fee is currently charged for use of the same area (not including booth or entry fees); or if a fee is charged, it is for preferred seating only and more than 75 percent of the provided seating capacity is available free of charge for general public use; and
4. The proposed event has been reviewed in advance by the City and it has been determined that it meets the following criteria:

Commented [KK60]: Let's talk about waivers. For now, I'd delete.

Commented [GR61R60]: We can add waiver provisions

Commented [GR62]: City staff disagrees that landscaping should be defined as a structure. We can qualitatively state that replacemen landscaping should be comparable to and/or not exceed pre-existin conditions as an alternative, but trying to measure would be an exer in futility. Also, what type of erosion control structures are contemplated here? Storm drain inlets, sand bags, bioswales? Not: I understand the intent...

Commented [GR63]: The City has a few long-standing public events which last 2-3 days -- the Begonia Festival (3 days), Art and Wine Festival (2 days) and car show (2 days). We would like an allowance to continue these events without processing annual CDP.

- a. The event will result in no adverse impact on opportunities for public use of or access to the area due to the proposed location and or timing of the event either individually or together with other development or temporary events scheduled before or after the particular event;
- b. There will be no direct or indirect impacts from the event and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources;
- c. The event has not previously required a coastal permit to address and monitor associated impacts to coastal resources.

~~K.J.~~ **Emergency Work.** Immediate emergency work necessary to protect life or property, or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

~~17.32.080~~ **Categorical Exclusions**

~~A. Coastal Exclusion Zone A.~~ Within Coastal Exclusion Zone A, as shown in the Capitola Permit and Appeal Jurisdiction Map, the following projects do not require a coastal permit:

~~1. Residential Projects:~~

- a. ~~The construction of new residential projects, including accessory dwelling units, and the reconstruction, demolition, repair, relocation, alteration or addition to a residential project of one to four units on existing lots at densities specified in the LCP, on lots of record or lot combinations legal as of the date of LCP certification.~~
- b. ~~The installation of fixtures and other structures accessory to the main residence, including but not limited to patio covers, swimming pools, garages, greenhouses, gazebos, fences, pre-fabricated storage sheds, and non-habitable accessory structures.~~

~~2. Non-Residential Projects:~~

- a. ~~The construction, reconstruction, demolition, relocation, or alteration of the size of a commercial structure less than 5,000 square feet in size located on legal lots of record zoned for commercial use.~~
- b. ~~Additions to existing structures where the resulting size is 5,000 square feet or less.~~
- c. ~~Change of use from commercial, industrial, public or quasi-public use in an existing structure.~~
- d. ~~Outdoor sales, commercial sidewalk/parking lot sales and outdoors display of merchandise.~~
- e. ~~Exclusions are not permitted for any improvement associated with the conversion of an existing structure occupied by visitor-serving hotels, motels or other accommodations.~~

~~3. Land Clearing.~~ When consistent with the City Community Tree and Forest Ordinance No. 863.

Commented [RM64]: We do not believe that there are any approved categorical exclusions that have been approved by Commission. This is separate process for establishing CE Zones. We can discuss in more detail at meeting.

Commented [GR65R64]: City staff reviewed our files and als cannot find any evidence that categorical exclusion provisions were certified by CCC.

- ~~4. **Boundary Adjustments.** Boundary adjustments not resulting in an increase in the number of building sites, buildable lots, or density of permitted development.~~
- ~~5. **Grading and Filling.** Grading and filling in conjunction with an approved project, or grading and filling consistent with the local coastal program provisions.~~
- ~~6. **Temporary Structures.** All temporary (six months or less; non renewable) structures and uses consistent with City regulations and that do not conflict with public access and access policies.~~
- ~~7. **Other Excluded Development and Activities.**~~
- ~~a. Abatement of dangerous buildings and other nuisances pursuant to the Municipal Code.~~
- ~~b. Any project undertaken by a federal agency.~~
- ~~c. Construction of new bikeways (within existing rights-of-ways), except if new construction reduces parking in the beach areas.~~
- ~~d. Development requiring land use determinations with no potential for adverse impacts, and not including or affecting any visitor serving uses.~~
- ~~e. Driveway width modification requests which are in accordance with the provisions contained in Municipal Chapter 12.32.~~
- ~~f. Encroachment permits.~~
- ~~g. Home occupations.~~
- ~~h. Interior remodels and tenant improvements in residential and commercial structures when no intensification of the use and no loss of visitor serving use is taking place.~~
- ~~i. Lot mergers, certificates of compliance, and reversions not resulting in a net increase in the number of building sites or potential building sites.~~
- ~~j. Public signs and other equipment installation in the public right-of-way, including but not limited to parking meters.~~
- ~~k. Projects with valid permit from the California Coastal Commission.~~
- ~~l. The installation of new or replacement signs and modifications to existing signs, provided the sign meets the requirements of the City of Capitola sign ordinance and/or LUP Implementation Plan, and excluding those signs governing shoreline areas.~~
- ~~m. Tree removals consistent with Municipal Code Chapter 12.12 (Community Tree and Forest Management).~~
- ~~**B. Coastal Exclusion Zone B.** Within Coastal Exclusion Zone B, as shown in the Capitola Permit and Appeal Jurisdiction Map, the following projects do not require a coastal permit:~~
- ~~1. **Bikeways.** Construction of new bikeways (within existing rights of ways), except if new construction reduces parking in the beach areas.~~
- ~~2. **Fences.** Fence up to six feet in height with an additional two feet of lattice, per the Capitola development standards.~~

- ~~3. **Fixtures and Accessory Structures.** Attached fixtures and accessory structures up to 120 square feet.~~
- ~~4. **Residential Remodels.** Improvements to single family residences or minor residential remodels, not located in the environmentally sensitive habitat areas, including additions up to thirty percent of living area or not exceeding 400 square feet, whichever is less, and with less than ten percent increase in height, with architectural materials and colors to match the existing house.~~
- ~~5. **Public Signs and Equipment.** Public signs and other equipment installation in the public right-of-way, including but not be limited to parking meters.~~
- ~~6. **Secondary Dwellings Units.** Secondary dwelling units consistent with Chapter 17.60 (Secondary Dwelling Units).~~
- ~~7. **Signs.** The installation of new or replacement signs and modifications to existing signs consistent with Chapter 17.64 (Signs), and excluding those signs governing shoreline areas.~~
- ~~8. **Temporary Structures.** All temporary (six months or less; non-renewable) structures and uses consistent with regulations and do not conflict with public access and access policies.~~

~~C. **Determination of Excludability.**~~

- ~~1. The determination of whether a development is categorically excluded or not, for purposes of notice, hearings, and appeals, shall be made by the Community Development Director at the time the coastal permit application is submitted.~~
- ~~2. This determination shall be made with reference to the certified LCP, including any maps, categorical exclusions, land use designations and zoning regulations adopted as part of the LCP. Only developments that fully comply with the certified LCP may be allowed under a categorical exclusion.~~

~~D. **Notice of Exclusion.**~~

- ~~1. Notices of exclusion shall be issued on forms prepared for that purpose by the Community Development Department, and shall indicate the developer's name, street address, if any, and assessor's parcel number of the project site, a brief description of the development, a description of the reasons for why the development meets the standards for the applicable specific exclusion order, and the date of application for any other permit.~~
- ~~2. A copy of the notice of exclusion shall be provided to the Coastal Commission and to any person who has requested such notice within five working days of issuance. The notice of exclusion may be issued at the time of project application but shall not become effective until all other approvals and permits required for the project are obtained. A copy of all terms and conditions imposed by the City shall be provided to the Coastal Commission, pursuant to Section 13315 of the California Code of Regulations.~~

- ~~E. **Effect of a Categorical Exclusion Order.** Pursuant to the California Code of Regulations Section 13247, an order granting an exclusion for a category of development removes that category of development from the permit requirements of Chapter 7 of the California Coastal Act of 1976 to the extent and in the manner specifically provided in the exclusion order. Only development consistent with such order may take place unless the order is amended or terminated or a coastal permit is issued.~~

~~17.32.090~~ **17.32.080 Challenges to City Determinations**

~~In the case of disputes over the City's determination of Coastal Permit requirement, exclusion or applicable hearing and appeals procedures, the Community Development Director shall request an opinion of the Executive Director of the Coastal Commission. Local acceptance for filing and/or processing of the permit application shall cease until the Community Development Department receives the determination of appropriate process from the Executive Director of the Coastal Commission or the Coastal Commission~~

~~The determination of whether a development is ~~exempt, categorically excluded, nonappealable, or appealable~~ for purposes of notice, hearing, and appeals procedures shall be made by the ~~local government~~Community Development Director at the time the coastal permit application for development within the Coastal Zone is submitted or as soon thereafter as possible, and in all cases prior to the application being deemed complete for processing. This determination shall be made with reference to the certified Local Coastal Program, including any maps, ~~categorical exclusions, land use designations and zoning ordinances~~ which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or the Community Development Director ~~a local government~~ has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is ~~categorically excluded, exempt, nonappealable, or appealable~~:~~

~~(A) The ~~local government~~Community Development Director shall make its determination as to what type of development is being proposed and shall inform the applicant of the notice and hearing requirements for that particular development (i.e., ~~categorically excluded, exempt, appealable, nonappealable~~). The local determination may be made by any designated local government employee(s) or any local body as provided in local government procedures.~~

~~(B) If the determination of the local government is challenged by the applicant or an interested person, or if the ~~local government~~Community Development Director wishes to have a Commission determination as to the appropriate designation, the ~~local government~~Community Development Director shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion;~~

~~(C) The Executive Director shall, within two working days of the ~~local government~~ request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is ~~categorically excluded, exempt, nonappealable or appealable~~.~~

~~(D) Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the ~~local government~~Community Development Director's determination, the Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the ~~local government~~Community Development Department request.~~

~~17.32.100~~ **17.32.090 Application Submittal**

A. Coastal permit applications shall be filed and reviewed in compliance with ~~Chapter 17.90~~ (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

Commented [RM66]: These suggested changes track our regs CCR 13569.)

Commented [GR67]: Projects which are exempt pursuant to Coastal Act are not appealable and thus should not be subject to challenges or other processes outlined in this section.

Commented [GR68]: Does this mean it may not be heard until the Commission holds a hearing in the central coast region? If so, t would be problematic from a timing perspective since CCC general only meets on the central coast once per year.

Commented [KK69]: Is this part of the IP? All procedures shd be specified in 17.32 as opposed to cross-referenced.

Commented [GR70R69]: The City would prefer not to dupli language in multiple code sections. This is bad practice which often leads to inconsistent language or future code amendments which change one section and overlook the other. All zoning code chapter will be in the IP.

Commented [RM71]: Not sure, old Chapter 17.90 was.

Attachment: California Coastal Commission Comments (1536 : Zoning Code Update)

responsibility of the applicant to provide evidence in support of the findings required by Section 17.32.110 (Findings for Approval).

- B. Application for a coastal permit shall be made concurrently with application for any other permits or approvals required by the Zoning Code.
- C. At time of submittal of coastal permit application, the City shall make a determination of whether the development is categorically excluded, exempted, appealable, or non-appealable in accordance with Section 17.32.080. The determination shall be sent to the applicant, the Coastal Commission, and any known interested parties.

Commented [KK72]: See my comment above. This needs to be fleshed out, including who makes the determination and when.

Commented [GR73]: This is new and would significantly add the administrative workload. The City will continue to notify applicants if a CDP is required, but it doesn't seem to be a good use of City or CCC time to send and review every determination of the CIL (can CCC really handle reviewing all member agency determinations a timely fashion?). Moreover, exempt projects are not subject to any noticing procedures in the coastal act and providing notices for every building permit, business license, entertainment permit, etc. would require hundreds of staff hours annually.

Commented [KK74]: 13560-13574 describe the minimum standards for local government CDP procedures, including hearing noticing procedures. This must be included here, including what boards hears the type of CDP, who receives notice, etc.

Commented [GR75R74]: We can do this, but as mentioned previously, it's bad practice to repeat regulations in multiple code sections.

17.32.110 **Public Notice and Hearing**

A. **Planning Commission Review.** The Planning Commission shall review and act on a coastal permit application at a noticed public hearing in compliance with Chapter 17.120 (Public Notice and Hearings). However, processing at levels other than the Planning Commission shall apply in the following cases:

- 1. **City Council Review.** The proposed development requires other discretionary permit approvals to be reviewed and acted upon by the City Council, in which case the coastal permit application will be reviewed and acted on by the City Council; or
- 2. **Minor Development.** The City may waive the public hearing requirement for appealable development that qualifies as "minor development". Such development shall that requires no other discretionary approval by the City. A public hearing may be waived if the project has no potential for adverse effects on coastal resources or public access to the shoreline, is consistent with the certified LCP, and if the following apply:
 - a. Notice that a public hearing would be held upon request is sent to all persons who would otherwise be required to be notified of a public hearing and any other persons who have shown interest;
 - b. No request for a public hearing is received within fifteen working days from the date notice was mailed out; and
 - c. The notice discloses that the failure to request a public hearing triggers the loss of appeal power on the matter being considered for administrative approval.

17.32.120 **Findings for Approval**

To approve a coastal permit, the review authority shall make all of the following findings:

- A. The project is consistent with the General Plan, the LUCP, and the Local Coastal Implementation Program.
- B. The project maintains public views between the sea and the first public roadway parallel to the sea.
- C. The project protects vegetation, natural habitats and natural resources consistent with LCP.
- D. The design, location, size, and operating characteristics of the proposed development is consistent with any applicable design plans and/or area plans incorporated into the LCP.
- E. The project maintains public access to the coast along any coastline as set forth in the LCP.
- F. The project supports the LCP goal of providing visitor-serving needs as appropriate.

- G. The project is consistent with the LCP goal of encouraging appropriate coastal development uses.
- H. The proposed development protects and where feasible enhances coastal resources.

17.32.13017.32.120 Notice of Final Action

The City's action on a coastal permit shall become final when all local rights of appeal have been exhausted per Section 17.32.130. Within seven calendar days of a final decision on a coastal permit application, the City shall provide notice of its action by first class mail to the applicant, the Coastal Commission, and any other persons who have requested such notice by submitting a self-addressed, stamped envelope to the City. The notice shall contain the City's approved staff report, plans, adopted findings, conditions of approval, indication of whether the project is appealable to the Coastal Commission and the reasons for why it is or is not, and procedures for appeal to the Commission. The City's decision on a coastal permit application shall be deemed final when all local rights of appeal have been exhausted as defined in Section 17.32.130 (Appeals).

17.32.14017.32.130 Appeals

A. Local Appeals. Planning Commission decisions on coastal permits may be appealed to the City Council as described in Chapter 17.124 (Appeals and Calls for Review).

B. Appeals to the Coastal Commission.

1. In accordance with PRC §30603. Any approval decision by the City on a coastal permit in the geographic areas defined in subsection 3(a-c), below, or any approval or denial decision by the City on a coastal permit for a major public works project (including a publicly financed recreational facility and/or a special district development) or a major energy facility located anywhere in the coastal zone, may be appealed to the Coastal Commission.
2. Appeals to the Coastal Commission may be filed by the project applicant, any aggrieved person, or any two members of the Coastal Commission.
3. The following types of projects may be appealed to the Coastal Commission.
 - a. Projects located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - b. Projects located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
 - c. Projects in a sensitive coastal resource area as defined in the LCP.
 - d. Any development which constitutes a major public works project or a major energy facility.
4. Appeals must be submitted to the Coastal Commission within 10 calendar-working days of Coastal Commission receipt of a complete notice of final action.
5. City decisions may be appealed to the Coastal Commission only after an appellant has exhausted all local appeals, except that exhaustion of all local appeals is not required if any of the following occur:

Commented [KK76]: What about Director approvals? Can they be appealed locally?

Commented [GR77R76]: Yes, they would be appealable to the PC and City Council as indicated in the appeals chapter.

Commented [KK78]: Cross-reference. Include all appeal procedures (including the timing for appeals, who can appeal, and the grounds for the appeal) in this Chapter. This is particularly important for understanding when the City's action is final (i.e. there hasn't been any appeals within the prescribed appeal time clock) and when the Notice of Final Action is to be sent to us.

Commented [GR79R78]: It seems like we provided these details below – if not, please specify what's missing.

Commented [KK80]: Do you propose to define a specific sensitive coastal resource area for purposes of appeal?

Commented [GR81R80]: This is existing language from the current code which is also used in the coastal act - 30603(a)(3). We delete if preferred.

Commented [KK82]: These three criteria are the location-based appealability criteria, where an appeal can only be made for approval (d) is a use-based criterion that applies anywhere.

Commented [GR83R82]: Is there a revision requested here?

- a. The City requires an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for coastal permits in the coastal zone.
- b. An appellant was denied the right of the initial local appeal by a City ordinance which restricts the class of persons who may appeal a local decision.
- c. An appellant was denied the right of local appeal because City notice and hearing procedures for the development did not comply with the provisions of this title.
- d. The City required an appeal fee for the filing or processing of the appeal.
- 6. **Grounds for appeal of an approved coastal permit are limited to the following:**
 - a. The development fails to provide adequate physical access, public or private commercial use, or interferes with such uses;
 - b. The development fails to protect public views from any public road or from a recreational area to and along the coast, as identified in the certified local coastal program;
 - c. The development is not compatible with the established physical scale of the area, as identified in the certified local coastal program;
 - d. The development may significantly alter existing natural landforms;
 - e. The development does not comply with shoreline erosion and geologic setback requirements.

Commented [KK84]: Is this supposed to apply to local appeal (i.e. appeals to the Council)? If not, then the grounds for appeals to Coastal Commission is listed in 30603(b)(1-2).

Commented [GR85R84]: We can revise as requested

~~17.32.150~~17.32.140 Permit Issuance

A. Effective Date of a Coastal Permit.

- 1. In areas outside the Coastal Commission appeal area, coastal permits shall become effective seven working days after the City's final decision.
- 2. In areas within the Coastal Commission appeal area, coastal permits shall become effective after ten working days if no appeal has been filed. The ten-day appeal period shall start the day after the Coastal Commission receives adequate notice of the final local action.

B. Expiration of Permits. A coastal permit not exercised within two years shall expire and become void, except where an extension of time is approved as allowed by **Section 17.128.060.C (Extension of Time)**.

Commented [KK86]: Cross-reference.

C. Revocation of Permits. Coastal permits may be revoked as provided for in **Section 17.128.090 (Permit Revocation)**.

Commented [GR87R86]: okay

D. Resubmittals. For a period of twelve months following the denial or revocation of a coastal 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.

Commented [KK88]: Cross-reference

Commented [GR89R88]: okay

~~17.32.160~~17.32.150 Emergency Permits

A. Purpose. Emergency coastal permits may be granted at the discretion of the Community Development Director or a local official designated by the City Council for projects normally requiring coastal permit approval. To be eligible for an emergency permit, a project must be

undertaken as an emergency measure to prevent loss or damage to life, health or property, or to restore, repair, or maintain public works, utilities and services during and immediately following a natural disaster or serious accident.

- B. Application.** Application for an emergency permit shall be made to the City by letter if time allows, and by telephone or in person if time does not allow. The applicant shall submit the appropriate fees at the time of application for an emergency permit.
- C. Required Information.** The information to be reported during the emergency, if it is possible to do so, or to be fully reported after the emergency, shall include all of the following:
1. The nature of the emergency.
 2. The cause of the emergency, insofar as this can be established.
 3. The location of the emergency.
 4. The remedial, protective or preventive work required to deal with the emergency.
 5. The circumstances during the emergency that appeared to justify the course of action taken, including the probable consequences of failing to take action.
- D. Verification of Facts.** The Community Development Director or other designated local official shall verify the facts, including the existence and nature of the emergency, as time allows.
- E. Public Notice.** If time allows, the Community Development Director shall provide public notice of the proposed emergency action, with the extent and type of notice determined on the basis of the nature of the emergency itself.
- F. Criteria for Granting Permit.** The Community Development Director may grant an emergency permit upon making all of the following findings:
1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary permits.
 2. The development can and will be completed within thirty days unless otherwise specified by the terms of the permit.
 3. Public comment on the proposed emergency action has been reviewed if time allows.
 4. The work proposed would be consistent with the requirements of the certified LCP.
- G. Conditions.** The Community Development Director may attached reasonable terms and conditions to the granting of an emergency permit, including an expiration date and the necessity for a regular permit application by a specified date.
- H. Limitations.**
1. The emergency work authorized under approval of an emergency permit shall be limited to activities necessary to protect the endangered structure or essential public structure.
 2. The emergency approval shall be voided if the approved activity is not exercised within 15 days of issuance of the emergency permit.
 3. The approval shall expire 60 days after issuance. Any work completed outside of these time periods requires a regular coastal permit approval unless an extension is granted by the City.

COASTAL OVERLAY ZONE

17.32

- I. **Application for Regular Coastal Permit.** Upon the issuance of an emergency permit, the applicant shall submit a completed coastal permit application and any required technical reports within a time specified by the Community Development Director, not to exceed 30 days.
- J. **Reporting of Emergency Permits.** The Community Development Director shall report emergency permits to the Coastal Commission and to the City Council and Planning Commission.

~~17.32.170~~17.32.160 **Coastal Permit Amendments**

- A. **New Application.** An applicant may request an amendment a coastal permit by filing a new application pursuant to the requirements of this chapter.
- B. **Consistency Required.** Any amendment approved for development in the coastal zone shall be found consistent with all applicable local coastal program requirements and this chapter with regards to requirements of jurisdiction, hearings, notices and findings for approval.

Chapter 17.64 - ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Sections:

- 17.64.010 Purpose
- 17.64.020 Applicability
- 17.64.030 General Standards
- 17.64.040 Soquel Creek and Lagoon
- 17.64.050 Soquel Creek and Escalona Gulch Monarch Butterfly Habitat Areas
- 17.64.060 Escalona Gulch Monarch Butterfly Habitat Areas

17.64.010 Purpose

This chapter establishes standards to protect and preserve environmentally sensitive habitat areas in Capitola consistent with Capitola's General Plan, Local Coastal Program (LCP), and the requirements of the Coastal Act.

17.64.020 Applicability

This chapter applies to the following environmentally sensitive habitat areas. Environmentally sensitive habitat areas (ESHA) are any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. ESHA includes wetlands, coastal streams and riparian vegetation, and terrestrial ESHA, including habitats of plant and animal species listed under the Federal or California Endangered Species Act and existing populations of the plants listed as 1b or 2 by the California Native Plant Society. In addition, the following areas are ESHA as [GR1] identified in Capitola's [LCP][RM2][GR3][KK4][GR5]:

- A. Soquel Creek and Lagoon
- B. Soquel Creek Riparian Corridor
- C. Noble Gulch Riparian Corridor
- D. Tannery Gulch Riparian Corridor
- E. Soquel Creek – Escalona Gulch Monarch Butterfly Habitat Areas
- F. Escalona Gulch Monarch Butterfly Habitat Area [KK6][GR7]

17.64.030 General Standards

The following standards apply to all environmentally sensitive habitat areas:

- A. **Impact Prevention.** Development within in areas adjacent to an environmentally sensitive habitat area shall be sited and designed to prevent impacts which would significantly degrade the area. Only development dependent on the resource, including

restoration and resource protection and enhancement activities, shall be allowed within environmentally sensitive habitat areas. [GR8]

B. Long-Term Protection. Development shall be ~~located~~sited, designed, and maintained to achieve the long-term protection of the environmentally sensitive habitat areas.

C. Prohibited Areas for Development. Notwithstanding subsections A and B, above, and with the exception of restoration and resource protection and enhancement activities, no ~~New~~ development may ~~not~~ encroach into the waters of Soquel Creek or Lagoon, be sited within the root zone of riparian vegetation [GR9] or butterfly host trees, [KK10] [GR11] or require the removal of trees in a Monarch butterfly habitat area which provide roosting habitat or wind protection [KK12] [GR13].

D. Minimum Setbacks.

1. Development ~~may~~shall not encroach into the required minimum setbacks from environmentally sensitive habitat areas as shown in Table 17.64-1 (Required Setbacks from Environmentally Sensitive Habitat Areas), except as allowed in subparagraph (2) below and as allowed in the ESHA itself [GR14]. The setbacks listed below are minimums and shall [GR15] be increased depending on the findings of the Biological Study required in 17.64.030(E), below.

TABLE 17.64-1: REQUIRED SETBACKS FROM ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Environmentally Sensitive Habitat Area	Minimum Setback [RM16] [GR17] [KK18]
Soquel Creek and Lagoon	35 ft. from the western shoreline of Soquel Creek Lagoon [1]
Soquel Creek Riparian Corridor	35 feet from the outer edge of riparian vegetation. On the heavily developed east side of the lagoon and creek (from Stockton Avenue to Center Street) the setback requirement shall be measured from the bank of Soquel Creek. In no case may the setback be located on the west side of the pedestrian path.
Noble Gulch Riparian Corridor	35 feet from the outer edge of riparian vegetation
Tannery Gulch Riparian Corridor	50 feet from the outer edge or riparian <u>and oak woodland</u> [GR19] vegetation

Notes:

[1] Does not apply to public facilities outside the coastal zone. Within the coastal zone, applies to public facilities unless otherwise specified in Section 30233 of the Coastal Act [KK20] [GR21].

2. To allow for a minimum level of development on a physically constrained lot, the City may allow a reduction to the required minimum setback provided that a biological study determines that the reduced setback does not have a significant adverse effect on the natural area However, in no case shall the setback be less than ~~XX~~. [RM22] [GR23]

E. Biological Study. [KK24] [GR25] For any proposed development within the ESHA areas identified above, ~~T~~he City shall contract with a qualified biologist at the applicant's

expense to prepare a biological study that identifies the precise location of the environmentally sensitive habitat area and required setbacks, potential impacts on the habitat area, and measures to mitigate the impacts to the greatest extent possible.

- F. Conservation Easements and/or Deed Restrictions.** ~~If necessary and appropriate~~ Whenever feasible [GR26] to protect natural areas, the City shall require a permanent conservation easements or deed restriction over any portions of the property containing environmentally sensitive habitat areas. ~~All environmentally sensitive habitat areas~~ and their required setbacks ~~buffer zones~~ [RM27][GR28] ~~shall be protected by conservation easements or deed restrictions.~~ The conservation easement/deed restriction shall ensure that the habitat values of the associated resource are protected in perpetuity.
- G. Erosion Control and Water Quality.** [KK29][GR30]
1. All development shall conform to erosion control and water quality requirements consistent with federal, state, and local regulations. Within riparian areas, grading shall be ~~minimized~~ prohibited [GR31] within the riparian setback area. Grading shall not be permitted to damage the roots of riparian trees or trees within butterfly habitat areas. Grading shall only take place during the dry season.
 2. During construction, erosion control measures shall be implemented, including limiting removal of vegetation, minimizing exposure of bare soils, replanting disturbed soils with suitable native species, controlling runoff, and preventing sedimentation from entering drainages. All areas outside the immediate construction areas shall not be disturbed. The City shall require measures for temporary drainage retention during construction, including mulching, erosion control seeding, and other measures as needed to prevent any sediment from reaching sensitive habitat areas. [RM32][GR33]
- H. Removal of Native Riparian Trees.** Removal of native riparian trees within riparian corridors [KK34][GR35] is prohibited unless it is determined by the Community Development Director, on the basis of an arborist report, that such removal is in the public interest by reason of ~~good forestry practice~~, disease of the tree, or safety considerations [KK36][GR37].
- I. Dead Trees in Riparian Corridors.** [KK38] Snags, or standing dead trees, shall not be removed from riparian corridors unless in imminent danger of falling. Removal shall be consistent with all applicable provisions of Capitola Municipal Code Chapter 12.12 (Community Tree and Forest Management). Any removed tree shall be replaced with a healthy young tree of an appropriate native riparian species.
- J. Landscaping Plan.** [KK39] A landscaping plan shall be prepared for proposed developments that identifies the location and extent of any proposed modification to existing vegetation and the locations, kinds, and extent of new landscaping. The emphasis of such plans shall be on the maintenance and enhancement of native species, the removal of existing invasive species, and the enhancement of natural habitat. New invasive plant or tree species are ~~not permitted~~ prohibited, with the exception of species which positively contribute to Monarch butterfly habitat.

17.64.040 Soquel Creek and Lagoon

The following standards apply in the Soquel Creek and Lagoon area in addition to the standards in Section 17.64.030 (General Standards):

- A. **No New Development.** No new development is permitted within the banks of Soquel Creek and Lagoon, except for restoration and resource protection and enhancement activities, and, outside the coastal zone only, public facilities ~~outside of the coastal zone~~.
- B. **Division of Land.** New divisions of land may be approved only if each new parcel contains adequate area outside the riparian or stream bank setback to meet the minimum zoning requirements ~~accommodate new development~~.

17.64.050 Soquel Creek and Escalona Gulch Monarch Butterfly Habitat Areas

The following standard applies to both the Soquel Creek and the Escalona Gulch Monarch Butterfly Habitat Areas in addition to the standards in Section 17.64.030 (General Standards):

- A. **Permitted Construction Periods.** Construction for otherwise allowable development within or on properties contiguous to the designated ~~KK40~~ ~~GR41~~ butterfly groves shall be prohibited during fall and winter months when the Monarch butterflies are present. Removal or modification of trees within the groves shall not be permitted during these periods except when determined by the Community Development Director, on the basis of an arborist report, to be an emergency necessary to protect human life or property ~~KK42~~ ~~GR43~~.

17.64.060 Escalona Gulch Monarch Butterfly Habitat Areas

The following standards apply to the Escalona Gulch Monarch Butterfly Habitat Area in addition to the standards in Section 17.64.030 (General Standards):

- A. **Permitted Development Location.** On the Escalona Gulch properties (APN 036-141-26, 27, & 28)) development shall be confined to Lots 2, 3 and 4 shown on the Escalona Gulch Monarch Butter Habitat Area Map dated XXX and maintained on file in the office of the City Clerk ~~KK44~~ ~~GR45~~.
- B. **Maximum Floor Area and Building Coverage.** Total building floor area shall be limited to 6,000 square feet and building coverage shall be limited to 4,000 square feet. Buildings shall be located ~~sited~~ and designed so that they do not have a significant adverse impact on the Monarch butterfly habitat.
- C. **Additional Driveway Area.** Up to an additional 600 square feet of footprint for a driveway may be allowed if a redesigned site plan with fewer or relocated buildings results in reduced impacts to the Monarch grove habitat. ~~RM46~~
- D. **Conservation Easement.** Conservation easements shall be established on lands outside the identified roadway and building envelopes where development and tree removal is prohibited. The easement shall also establish that modifications to the understory including trimming and alteration must be reviewed by a qualified arborist and Monarch

butterfly expert and approved by the Community Development Director. The easement shall be held by a government agency or organization authorized to monitor and enforce easement restrictions as required by Civil Code Section 815.3.

E. Landscaping. Landscaping at future homesites shall be limited to areas within identified building envelopes. Shrubs which flower in the early fall and could provide a good source of flower nectar for the butterflies ~~shall only~~ ^[GR47] be planted based on a list of landscape suggestions written by a qualified Monarch butterfly biologist.

F. Butterfly Monitoring and Reporting.

1. Due to lack of quantified data base and some disagreement among butterfly specialists, microclimatic measurements shall be taken before and after construction to help develop a data base regarding environmental parameters associated with butterfly behavior. Such monitoring shall be funded by the applicant and be conducted by a qualified Monarch butterfly expert.

2. Monitoring shall include measurements of wind direction and velocity, temperature and humidity profiles and light intensity. Monitoring shall be conducted for three years after final construction on the property. Measurements of height, diameter, and age of cluster trees shall be taken the first year.

2-3. Reporting requirement?

G. Tree Protection. ^{[RM48][GR49]}

1. Development shall be ~~sited~~ ^{located} and designed to avoid removal of large trees. New development Large trees to be protected immediately adjacent to large trees buildings should be evaluated by an arborist to assure that the developmenty will not negatively impact the tree pose a hazard in the future. ^[GR50]

2. Trees and vegetation within the Escalona Drive right-of-way, but outside any planned paved area, shall be retained in their existing condition.

3. Trees and ground vegetation adjacent to the building envelopes shall not be trimmed or altered in any way unless reviewed by a qualified arborist and Monarch butterfly expert and approved by the Community Development Director.

4. Trees which are seriously diseased or hazardous should be trimmed or removed during the building process, rather than having to disturb the habitat during some future winter season when falling limbs are the most likely to occur. If removal is deemed necessary, replanting shall be implemented in conjunction with the site replanting program.

5. Trees removed for construction shall be replaced based on a tree replanting program developed in consultation with a qualified Monarch butterfly expert and the California Department of Fish and Game. The trees shall be sited in strategic locations as identified by the replanting program.

6. Barrier fencing shall be installed around large trees, especially cluster trees, for protection during construction.
- H. **Structure Height.** The City shall limit structure heights as needed to prevent shading of cluster sites.
- I. **Wood-Burning Fireplaces.** ~~New or redeveloped~~^{GR51} ~~W~~ood-burning fireplaces shall be prohibited in structures built on site where Monarch butterflies may be disturbed due to chimney smoke.
- J. **Construction Involving Heavy Equipment.** No construction involving heavy equipment that may bump into the cluster trees or produce heavy plumes of exhaust smoke is permitted during the months in which the Monarch butterflies are in residence (October 1st to March 1st).

Chapter 17.92 ? NONCONFORMING PARCELS, USES, AND STRUCTURES

Sections:

- 17.92.010 Purpose
- 17.92.020 Applicability
- 17.92.030 General
- 17.92.040 Nonconforming Parcels
- 17.92.050 Nonconforming Use of Land
- 17.92.060 Nonconforming Use of Structures
- 17.92.070 Nonconforming Multi-Family Uses in the R-1 Zoning District
- 17.92.080 Nonconforming Structures
- 17.92.090 Findings

17.92.010 Purpose

This chapter establishes regulations for nonconforming parcels, uses and structures. These regulations are intended to:

- A. Allow for the development and use of legal nonconforming parcels.
- B. Ensure that nonconforming uses and structures do not adversely impact neighboring properties.
- C. Allow for the limited enlargement or intensification of nonconforming uses and structures.
- D. Allow for the replication of detached single-family homes to support improvements to the City's housing stock while maintaining Capitola's unique coastal village character.
- E. Allow for limited repairs and maintenance to nonconforming structures.
- F. Provide for the elimination of nonconforming uses and structures as appropriate over time due to abandonment, obsolescence, and destruction, and/or redevelopment.

17.92.020 Applicability

This chapter applies to existing parcels, uses, and structures that do not conform to the regulations of the zoning district in which they are located. Any policies that are inconsistent shall be interpreted in the manner that is more protective of coastal resources.

17.92.030 General

- A. **Continuation.** A nonconforming parcel, use, or structure may be continued if it was legally established in compliance with all applicable regulations in effect at the time it was established.

Commented [BR1]: May need to add a section to address the Nonconforming uses/structures in the Coastal Zone because some of the standards in 17.92.080 don't mesh with CDP requirements. See note KK15.

Commented [KK2]: How is this related to nonconforming uses/structures?

Commented [GR3R2]: This provision would allow a SFR to be demolished and replaced within its current footprint. A replicated SFR could be re-built with pre-existing setback encroachments provided findings can be made that the encroachments do not create significant adverse impacts to neighboring properties.

Commented [GR4]: The City disagrees with the suggested new redevelopment regulations

Commented [KK5]: Is this section also to apply to structures that are nonconforming with respect to resource setbacks (setbacks from bluffs, wetlands, ESHA, etc.)? Or would these nonconformities be addressed in other sections? This should be made clear here. If it does, then we should add references back to hazards policies and allowable redevelopment, and/or insert specific provisions about wetland/stream encroachment, etc.

Commented [GR6R5]: We would suggest addressing coastal non-conformities in the coastal chapter.

Commented [GR7]: We can add this statement to the coastal chapter (if it's not already there), but we would prefer not to restate it in every zoning chapter.

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NONCONFORMING PARCELS, USES, AND STRUCTURES

- B. **Legally Established Defined.** ~~To be considered legally established, a~~ legal nonconforming parcel ~~or~~ use ~~shall have been in existence~~ or a structure shall have been physically constructed ~~or in existence~~, not merely approved by the City, ~~in order to be considered legally established~~. Conditional Use Permits, Variances, Building Permits, Coastal Development Permits, or other approvals not exercised within the ~~time limits specified in such approval~~ ~~required time~~ do not establish the right to a legal nonconformity.
- C. **Burden of Proof.** Any person asserting a right to a nonconforming parcel, use or structure has the burden of proof to demonstrate that the nonconformity was legally established.

Commented [RM8]: These suggested edits are intended for clarification, not LCP consistency.

Commented [BR9]: Add a definition for repair and maintenance, new development/redevelopment, and intensification of use?

Commented [GR10R9]: Definitions for repair and maintenance and coastal development are in the coastal chapter and can be added to the glossary. Repeating definitions in multiple chapters is unnecessary and is bad practice. Coastal redevelopment is not defined in the Coastal Act and the City does not agree with proposed coastal redevelopment definition or regulations.

17.92.040 **Nonconforming Parcels**

- A. **Development Permitted.** A legally established parcel with nonconforming dimensions (e.g., parcel width and depth ~~and size~~) is permitted all development rights of the applicable zoning district.
- B. **Conformance with Standards.** New development on legal nonconforming parcels shall comply with all setback, building coverage, parking, and other standards of the applicable zoning district ~~as well as all applicable geologic and environmentally sensitive habitat setbacks~~.

Commented [KK11]: There should be a policy about requiring merger of substandard parcels if under common ownership before allowing development on a substandard parcel. Are there any in the City?

Commented [GR12R11]: There are many undersized parcels in Capitola; however, they are all developed and therefore the City could not legally mandate a merger under the subdivision map act (66451.10 et seq).

Commented [GR13]: This is fine, but it unnecessarily bloat the document by repeating coastal standards in multiple places.

17.92.050 **Nonconforming Use of Land**

- A. **Continuation Permitted.** A nonconforming use of land conducted outside of a structure may continue so long as:
 1. The nonconforming use is not enlarged, increased, or extended to occupy a greater area of land; and
 2. The nonconforming use is not moved in whole or in part to any other portion of the parcel.
- B. **Cessation of Use.** If any such nonconforming use of land ceases for a period of more than 90 consecutive days, any subsequent use of such land shall conform to the regulations of the applicable zoning district.

17.92.060 **Nonconforming Use of Structures**

- A. **Change in Ownership, Tenancy, or Management.** A change in ownership, tenancy, or management of a nonconforming ~~use~~ ~~structure~~ shall not affect its legal nonconforming status.
- B. **Resuming a Nonconforming Use.** A nonconforming use changed to a conforming use shall not return to a nonconforming use.
- C. **Replacement of a Nonconforming Use.** A nonconforming use may not be replaced by another nonconforming use.

Commented [KK14]: I presume this means the nonconforming use within a conforming structure? If so, then this should be made clear.

Commented [GR15R14]: It applies to any nonconforming use – which could be located within either a conforming or non-conforming structure. We'll clarify.

Commented [RM16]: Wouldn't the change of ownership be with the structure/land?

Commented [GR17R16]: Not necessarily – a business owner could and operate a non-conforming use in a leased space/structure.

Commented [KK18]: Or we just say "use or structure" as neither change would trigger the loss of legal nonconforming status, yes?

D. Intensification of Use.

- 1. The enlargement of a structure or parcel occupied by a nonconforming use, or the intensification in any way of the operation of a nonconforming use, requires the approval of a Conditional Use Permit, except that structures that do not conform to a geologic setback or ESHA setback may not be enlarged in such a way that would increase the nonconformity.
- 2. ~~To approve a proposed intensification to a nonconforming use,~~ The Planning Commission ~~shall be required to~~ make all Conditional Use Permit findings (Chapter 17.124) in addition to the findings in Section 17.92.080 (Findings), in order to approve a proposed intensification to a nonconforming use.
- 3. **Discontinuation of Use.** A nonconforming use discontinued for 90 consecutive days shall not be reestablished and may be replaced only by a conforming use.

Commented [KK19]: A CDP may also be required if the activity constitutes development, in addition to and independent of a CUP.

Commented [GR20R19]: Agreed, but the intent is to require a CUP for any expansion of a non-conforming use or structure. I don't believe a CDP would be required for any/all expansions (e.g., an addition to an existing SFR which is less than 10% and outside any geologic or ESHA area buffer). Similarly, an expansion of a non-conforming structure may require a Design Permit if certain criteria are met – but we don't list this because it wouldn't apply in all cases.

Commented [KK21]: I think this whole section applies to nonconforming uses within conforming structures, so the structure would be conforming and thus not impacting ESHA, etc. If so, then we should add something saying that the nonconforming use cannot be expanded.

Commented [GR22R21]: Not necessarily. This chapter applies to both non-conforming uses and structures, which may or may not coincide with each other. Also – this would be covered in the coastal, geologic hazard, and ESHA chapters – we do not want to repeat standards in multiple sections.

E. **Nonconforming Multi-Family Uses.** Nonconforming multi-family uses in the Residential Single Family (R-1) zoning district shall comply with Section 17.92.076 (Nonconforming Multi-Family Uses).

17.92.070 Nonconforming Multi-Family Uses in the R-1 Zoning District

This section applies to multi-family uses that are nonconforming due to their location in the Residential Single Family (R-1) zoning district

A. **Amortization.** A nonconforming multi-family use in the R-1 zoning district must be discontinued on June 26, 2019 or 50 years from the date the use first became nonconforming, whichever is later, except as provided in subsections B and C below.

B. **Amortization Extensions.**

- 1. An owner of a nonconforming multi-family use may apply to the City Council for permit authorizing an extension to the 50-year amortization requirement in Section A above.
- 2. The City Council may grant a permit authorizing an extension of up to 25 years upon finding that:
 - a. The appearance, condition and management of the property is such that the property is not greatly detrimental to the single-family residential character of the neighborhood in which it is located;
 - b. The extension is necessary in order to prevent a major economic loss to the property owner and to lessen deterioration; and
 - c. All reasonable conditions have been imposed for the purpose of repairing dilapidation and bringing, or keeping, the property up to neighborhood standards.
 - e.d. The extension will not impair coastal resources.

Commented [BR23]: And requires a coastal permit, if in the coastal zone

Commented [GR24R23]: Which coastal regulation requires a CDP to continue a legally established non-conforming use (or that non-conforming uses be amortized)?

Commented [GR25]: The City does not propose an accompanying permit requirement

Commented [GR26]: We feel some type of qualifier is necessary here – whether greatly, significantly, substantially, etc.

Commented [RM27]: Seems like there needs to be a permit in order to impose appropriate conditions (as suggested above). Or are the conditions attached to the "extension" itself?

Commented [GR28R27]: Conditions would be added to an extension agreement executed between the City and property owner.

- 3. The multi-family use must be discontinued upon completion of the extended amortization period granted by the City Council. In such cases, the property may continue as a residential use only if converted to a single-family dwelling. A property may not apply for another extension upon the completion of the amortization period.



Note: Incentives for property improvement in Subsection C below are new.

C. Incentives for Property Improvement.

- 1. **Incentive Program.** To encourage upgrades and improvements to non-conforming multi-family uses in the R-1 zoning district, the City Council may grant permanent legal status to properties that ~~participate in~~ satisfy the requirements of the City's nonconforming multi-family improvement incentive program. Properties that ~~participate in~~ satisfy the requirements of the incentive program are ~~exempt from the amortization~~ requirement established in Sections A and B above.
- 2. **Submittal Requirements.** To participate in the incentive program, a property owner shall prepare and submit to the City a property improvement plan that contains the following:
 - a. A general description of the property, including property ownership, current and prior uses on the property, history of property improvements and maintenance, and aspects of the property that do not comply with current zoning regulations.
 - b. Proposed improvements to bring the property into greater compliance with development standards required by the Zoning Code, including parking and landscaping requirements or habitat restoration measures. These improvements may include reduction of the number of units on the property.
 - c. A description of any neighborhood compatibility concerns associated with the property, including parking, noise, property maintenance, and refuse and recycling storage issues.
 - d. Proposed property improvement and maintenance measures to address any neighborhood compatibility concerns.
 - e. Documentation of outreach to neighbors to gather information about neighborhood compatibility concerns and possible methods to address these concerns.
 - e.f. A description of the measures to be taken to mitigate for any impacts to coastal resources.
- 3. **Measures to Compensate for Impacts.** A property owner may also propose additional measures that would provide a community benefit to compensate for impacts from the nonconforming use that cannot be fully mitigated. For example, a property owner may propose providing units as deed-restricted affordable housing

Commented [BR29]: An exemption requires a coastal permit for nonconforming multi-family residences in the coastal zone. Also, improvement plans that are approved in the Coastal Zone require a coastal permit.

Commented [GR30R29]: Which coastal act regulation triggers a CDP to allow continuation an existing, legally established MF use in a SF zone (or requires amortization? Similarly, which section requires a CDP for improvement plans? The City believes most, if not all, improvements would qualify for a coastal exemption (façade improvements, enclosing carports, adding garbage enclosures, landscaping, etc.)

Commented [GR31]: We can keep this, but staff is unaware of any MF uses in SF zones within or adjacent to an ESHA – it wouldn't apply.

or installing green building upgrades beyond the minimum required by the City or other public agency.

4. **City Review.** The Community Development Director, in consultation with the Public Works Director, shall review the property improvement plan and determine if the plan correctly identifies issues associated with the property and adequately proposes improvements to address these issues. The Community Development Director shall forward to the Planning Commission and City Council a recommendation on the adequacy of the Plan.
5. **Property Improvement Agreement and Schedule.** The property improvement plan shall identify a realistic schedule to complete all proposed improvements within 2 years of City Council approval. The property owner shall enter into a property improvement agreement with the City agreeing to complete all proposed improvements within this established schedule.
6. **Findings.** At a noticed public hearing, the City Council may grant legal nonconforming status to a property upon finding that:
 - a. The property improvement plan, when implemented, will adequately address any neighborhood compatibility concerns previously associated with the property.
 - b. The property improvement plan incorporates adequate monitoring and maintenance provisions to ensure that neighborhood compatibility issues will not reoccur in the future.
 - c. The location and size of the site is suitable and appropriate for a multi-family use.
 - d. The property as improved will feature high quality design elements that complement the aesthetic qualities of the neighborhood.
 - e. The property will not produce unreasonable privacy, noise, light, and air impacts on neighboring properties.
 - f. Sufficient off-street parking is provided to accommodate parking needs of residents and minimize parking impacts on neighboring properties. Vehicles will not be parked in a manner that projects into adjacent sidewalks, streets, or otherwise interferes with vehicle and pedestrian circulation adjacent to the site.
 - g. Refuse and recycling storage facilities are provided on-site and screened from view from neighboring properties and the street.
 - h. The granting of legal status will not result in an excessive concentration of multi-family uses in the immediate vicinity of the property.
 - i. Community benefits, if proposed, sufficiently compensate for impacts from the non-conforming use that cannot fully mitigated.

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i. ~~Retaining the multi-family residence will result in an improvement to coastal resources.~~

- 7. **Revocation.** The City may at any time revoke the legal status of the property if the property violates the ~~improvement and maintenance~~ property improvement agreement, including with respect to completing all proposed improvements within the established schedule. Revocation shall occur in a manner consistent with Section 17.156.110 (Permit Revocation).

Commented [GR32]: I don't think this is a reasonable finding. I'm not sure how retaining an existing MF use in a SF zone would be either beneficial or harmful to coastal resources?

Commented [GR33]: City staff disagrees with the edit – the agreement should also cover maintenance.

17.92.080 Nonconforming Structures

This section identifies allowed modifications to nonconforming structures, summarized in Table 17.92-1.

TABLE 17.92-1: ALLOWED MODIFICATIONS TO NONCONFORMING STRUCTURES

Project Affecting a Nonconforming Structure	Permit Required [1]
Nonstructural repairs, maintenance, and interior alterations	None
Structural repairs, modifications, and additions that do not alter or affect the nonconforming aspect of the structure	None
Structural repairs, modifications, and additions that alter or affect the nonconforming aspect of the structure	Conditional Use Permit
Structural repairs, modifications, and additions that increase or exacerbate the nonconforming aspect of the structure	Variance
Replication of a single-family dwelling per 17.92.070.D	Conditional Use Permit
Recreation of an involuntarily damaged or destroyed structure	None

Commented [KK34]: Some of this is problematic in terms of CDP requirements, including that any improvement within 50 feet of the edge of a bluff requires a CDP, etc. Also, generally, we say that alteration to 50% or more of the major structural components, including floor, roof, walls, foundation, is constitutes new development requiring the entire structure to conform with the LCP.

Perhaps we add a separate section that discusses how to deal with nonconforming structures with respect to CDPs, and the allowable structural alterations and additions to them? That may be an easier approach than to parse out each individual section and explain CDP requirements.

Commented [GR35R34]: I agree that this would be best covered elsewhere – likely the coastal chapter. The City recognizes that certain activities may require a CDP even if they are exempt from other city permits; however it is unnecessary and bad practice to repeat this each and every time the code discusses a different permit requirement which may/may not trigger a CDP.

Additionally, the City disagrees that any improvements within 50-feet of a bluff requires a CDP. Painting? Interior repairs? Neither the City nor CCC has discretionary authority over ministerial building permits or minor improvements which don't even trigger a building permit.

The City also does not agree with the new 'coastal redevelopment' regulations for reasons previously stated.

Notes:

[1] The proposed project may require permits and approvals for other reasons not related to its nonconforming status. For example, additions or enlargements to a single-family dwelling often requires a Design Permit.

A. Alterations Permitted By Right.

- 1. Maintenance, nonstructural repairs, and nonstructural interior alterations to any portion of a nonconforming structure are permitted if the changes and improvements do not enlarge or ~~extend~~ the structure.
- 2. Structural modifications to a nonconforming structure that do not alter or affect the nonconforming aspect of the structure are permitted. For example, an addition to a structure with a non-conforming setback is permitted if no structural changes are made to the portion of the structure projecting into the required setback, and if the addition complies with all setback, height, floor area ratio, and other applicable development ~~standards.~~

Commented [BR36]: This is inconsistent with Coastal Act 30106 which identifies development that needs a coastal permit. This is also inconsistent with Title 14, Division 5.5, Coastal Commission Administrative Regulation 13252 "Repair and maintenance activities requiring a coastal permit"

Commented [GR37R36]: Development as defined by the coastal act is covered in the coastal zone chapter. Activities described in #1 would almost always qualify for a coastal exemption. Activities in #2 could conceivably trigger a CDP, in which case, the coastal chapter would apply.

Commented [RM38]: Not sure that this means?

Commented [GR39R38]: We can change to "expand" if that clarifies?

Commented [BR40]: Wouldn't this perpetuate nonconforming uses and fail to amortize them?

Commented [GR41R40]: This pertains to non-conforming structures – the City does not propose to amortize non-conforming structures

B. Alterations Requiring a Conditional Use Permit.

1. Structural repairs and improvements that affect the nonconforming aspect of a nonconforming structure are allowed with a Conditional Use Permit if the improvement does not increase or exacerbate the nonconformity. For example, structural repairs to a building wall within a required setback are permitted with a Conditional Use Permit if the wall is not moved closer to the property line and the length of the wall within the required setback is not increased.
2. To approve such an alteration, the Planning Commission shall make all Conditional Use Permit findings (Chapter 17.124) in addition to the findings in Section 17.92.090 (Findings).

C. Substantial Demolition.



Note: Definition of a substantial demolition based on percent of building material removed replaces existing definition based on value of project in Section 17.72.070 of the existing Zoning Code.

1. If a nonconforming structure is substantially demolished as part of an alteration or addition, the structure shall be brought into full compliance with the requirements of the Zoning Code (i.e., legal nonconforming status shall be lost). Replicated single-family dwellings (Section D below) are exempt from this requirement.
2. A "substantial demolition" means the removal or replacement of:
 - a. 50 percent or more of the lineal footage of existing interior and exterior walls; or
 - b. 50 percent or more of the area of existing floor, ceilings, and roof structures.
3. Determination of a substantial demolition shall include all repairs, alterations, and additions cumulatively made to the property over the preceding 5 years.

D. Replication of Single-Family Dwellings.



Note: Ability to replicate nonconforming single-family dwellings in this section is new.

1. A nonconforming single-family dwelling may be replicated with the approval of a Conditional Use Permit. This provision is intended to allow for improvements to housing in Capitola in a manner that maintains the historic coastal village character of residential neighborhoods.
2. "Replication" means replacement of a demolished structure which recreates the original building footprint, mass, floor area, height, architectural design, materials, and arrangement of doors, windows, roof lines, and significant architectural features of the demolished structure to the greatest extent possible. Exact replication may not be possible due to the unavailability of matching materials and/or the necessity to meet current Building Code requirements.

Commented [RM42]: Might make sense to parse out different standards that apply generally, versus within geologic/flood hazard areas.

Coastal Redevelopment. Coastal redevelopment must be found consistent with all applicable LCP policies. Coastal redevelopment is development that is located on top of bluffs or at or near the ocean-sand interface and/or at very low lying elevations along the shoreline that consists of alterations including (1) additions to an existing structure, (2) exterior and/or interior renovations, and/or (3) demolition of an existing bluff home or other principal structure, or portions thereof, which results in:

(1) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LUP.

(2) Demolition, renovation or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LUP; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area, taking into consideration previous additions approved on or after the date of certification of the LUP.

Commented [GR43R42]: The City strongly disagrees with these standards as it amounts to imminent forced retreat of the Village, Riverview Terrace, and portions of Depot Hill.

Commented [RM44]: Same comment. This seems problematic for SFDs located in geologic hazard or ESHA setbacks. May want to consider exception for those situations.

Commented [GR45R44]: Geological hazard and ESHA standards should be located in those subject area chapters.

Commented [KK46]: I'm a little confused about what this section is trying to accomplish/allow.

Commented [GR47R46]: The intent is to allow homes to be rebuilt in their existing footprint even if there are certain non-conformities such as property line setbacks provided findings can be made that continuation of the non-conformities does not adversely affect neighboring properties.

Commented [BR48]: But would require a coastal permit.

Commented [GR49R48]: Agreed – this would be new construction subject to a CDP. However, it is unnecessary to repeat the applicability of a CDP or coastal act compliance for every possible development scenario (similarly, we do not repeat CUP or design permit standards everywhere even though they could apply in some cases)

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- 3. A non-conforming single-family dwelling is not eligible for replication if the mass and floor area of the existing home can be reconfigured on the parcel in a manner consistent with the development standards of the applicable zoning district. Replication provisions are intended to apply only to homes on constrained parcels where compliance with applicable development standards is not feasible.
- 4. Deviations from the original building design that would reduce a nonconformity are allowed, and encouraged in cases where the deviation does not adversely impact the architectural integrity of the home.
- 5. To approve such a replication, the Planning Commission shall make all Conditional Use Permit findings (Chapter 17.124) in addition to the findings in Section 17.92.080 (Findings).
- 6. No additions or modifications that would increase the mass, floor area or height of a replicated nonconforming single-family dwellings are permitted for up to 10 years following approval of the replicated home.

E. Involuntary Damage or Destruction.

- 1. Nonconforming structures damaged or destroyed by earthquake, fire, flood, or other calamity may be repaired or reconstructed provided that the nonconforming aspects of the structure are not increased or exacerbated.
- 2. "Reconstructed" means rebuilding a damaged or destroyed structure in a manner similar but not identical to the original structure. A reconstructed structure generally recreates the original building footprint, mass, and height, but may deviate from design details such as architectural design and the arrangement of doors, windows, and rooflines.
- 3. The repair or reconstruction of a nonconforming structure shall begin within one year and shall be completed within three years. The Community Development Director may approve an extension of two additional years to complete reconstruction of the demolished structure if the delay was caused by circumstances over which the applicant has no fault or control.

F. Moved Structures. A nonconforming structure that is moved to a new location shall conform to all applicable standards of the applicable zoning district.

17.92.090 Findings

Note: Findings for modifications to a nonconforming structure in this section are new.

The Planning Commission may approve a Conditional Use Permit for projects that alter or affect the nonconforming aspect of a structure and for the replication of a single-family dwelling if all of the following findings can be made in addition to the findings in Chapter 17.124 (Use Permits):

Commented [RM50]: This is coastal act standard: PRC 30610:
 (g) (1) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.
 (2) As used in this subdivision:
 (A) "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
 (B) "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.
 111
 (C) "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

Commented [GR51R50]: Coastal damage criteria and definitions is located in the coastal chapter.

Commented [RM52]: One way to deal with geo/hazard/ esha setback requirements would be to put them into these findings e.g. "For properties located in geologic hazards areas/ESHA, the geologic/biotic report determines that the project complies..." Alternatively, this chapter could cross-reference the respective chapter for geo hazards/ESHA and deal with those specific situations in those chapter.s

Commented [GR53R52]: City staff believes geologic hazard/ESHA standards should be located in those subject area chapters

Attachment: California Coastal Commission Comments (1536 : Zoning Code Update)



- A. Available evidence indicates that the nonconforming use or structure was legally established.
- B. The nonconforming use or structure has not resulted in a notable negative impact or nuisance on neighboring properties or to the surrounding area.
- C. The nonconforming use or structure is compatible with the general character of the surrounding area.
- D. The proposed action is consistent with the purpose and intent of the applicable zoning district.

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; provide a public benefit greater than that which would ordinarily be allowed or required; are consistent with the purpose of the Zoning Code, ~~and~~ General Plan, and Local Coastal Program; and do not negatively impact neighboring properties or the community at large or coastal resources.

17.136.020 When Allowed

A. **Permitted Modifications.** The 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 for parking spaces, driveways, 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. Lot coverage area, size, width, or depth;

Commented [GR1]: The proposed minor modification process is different than a variance, planned development, or development agreement – all of which require findings of either a special circumstance which deprives a property right enjoyed by others in the same zoning district/vicinity (variance) or the provision of an extraordinary public benefit (planned development, development agreement). The minor modification process is intended to allow modest adjustments to limited development standards when necessary variance findings cannot be met. This would be a particularly useful tool in Capitola's older neighborhoods where properties have been developed very differently over time. For example, some neighborhoods have varying front yard setbacks from property to property and a minor FY setback encroachment from zoning standards may be warranted when it conforms to the development pattern of surrounding lots. We also have many cases where a 1-2 foot deviation from parking dimensions is necessary, but there are no unusual circumstances related to the property's size, topography, or configuration that warrant a variance. Therefore, this sentence would defeat the entire purpose of the minor modification process.

Commented [KK2]: I'm ok with giving them some extra cover but let's make clear that size isn't allowable to modify. That is particularly important for subdivisions.

Commented [GR3R2]: Agreed - this can be clarified

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MINOR MODIFICATIONS

~~1.2. Minimum setbacks for geologic hazards, flood hazards, or ESHA, wetlands, and streams;~~

Commented [GR4]: There are currently no setback requirements for flood hazards – the standard approach to flood hazards is to elevate structure above the flood line

~~2.3. Minimum number of off-street parking spaces;~~

~~3.4. Maximum residential density; or~~

~~5. Maximum floor area ratio (FAR).~~

Minor exceptions apply only to the zoning site standards noted above, and do not apply to or supersede limits or building setbacks required in other sections or chapters of the City Code, such as for riparian corridors, geologic hazards, sensitive habitats, or agricultural buffers.

Commented [KK5]: Is there ag in Capitola?

Commented [GR6R5]: No ag in Capitola. Also, this paragraph is redundant with #2 above. We can keep here or the above section but repeating it is unnecessary

17.136.030 Review Authority

The Planning Commission takes action on Minor Modifications applications, concurrently with any other required permit authorization, including any required coastal development permit.

Commented [GR7]: This language is fine, but it's unnecessary repeat CDP requirements in every zoning chapter and section.

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).

For projects located in the Coastal Zone, the proposed minor modification shall be processed as part of and pursuant to the coastal development permit process (Chapter 17.44), including that hearing requirements, noticing, appeal procedures, etc., shall be as are required for coastal development permits, and all required coastal development permit findings shall also be required.

Commented [KK8]: We may want to add a new section and include this, as it's really important.

Commented [GR9R8]: We agree that a CDP which includes a minor modification would still need to follow CDP processing/noticing procedures –but is it necessary to repeat and explain this for the universe of possible permit combinations? As an alternative, could we note that CDP processing procedures must be followed regardless of other companion permits which may be associated with the CDP in the coastal chapter rather than repeating this multiple times in several zoning chapters?

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.

MINOR MODIFICATIONS

17.136

C. The modification is necessary due to unique characteristics of the subject property, structure, or use.

~~C.D.~~ The modification does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which it is situated.

~~D.E.~~ 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.F.~~ The modification is consistent with the General Plan, Local Coastal Program, and any applicable specific plan or area plan adopted by the City Council.

G. The modification will not establish an undesirable precedent.

H. The modification is the minimum deviation necessary to facilitate the proposed project.

I. The modification protects coastal resources, including public coastal views.

~~F.J.~~ The modification offers a greater public benefit than would be otherwise required by the underlying zoning requirements.

Commented [GR10]: This is a variance finding – minor modifications are intended to allow modest deviations when variance findings cannot be made.

Commented [GR11]: I think this finding would be part of a C and would therefore be redundant. If we need to keep it, I would suggest rewording to find that it would not adversely affect – a minor modification to a parking dimension, for instance, would not “protect coastal resources – although it also wouldn’t adversely affect a coast resource/view.

Commented [GR12]: This would be unattainable in most cases. I don’t think it would be reasonable to ask a SFR project to provide extraordinary public benefit in exchange for 1-2 foot setback encroachment or a minor reduction in driveway width

17.136.070 Conditions of Approval

The Planning Commission may ~~attach~~impose 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.

Attachment: California Coastal Commission Comments (1536 : Zoning Code Update)

From: Moroney, Ryan@Coastal
Sent: Friday, March 04, 2016 12:35 PM
To: 'Cattan, Katie (kcattan@ci.capitola.ca.us)'
Cc: Grunow, Richard@City of Capitola; Craig, Susan@Coastal; Kahn, Kevin@Coastal; Graeven, Rainey@Coastal
Subject: Chapter 17.68 comments

Hi Katie:

We have reviewed the City's draft IP Section on geologic hazards (17.68). At this point, we think it's best that we provide you with recent example IP hazards standards, as well as our recent Sea-Level Rise Policy Guidance, for you to get a sense of the type of issues and language the Commission has seen in recent LCPs. The Guidance document is here: [Sea-level Rise Policy Guidance](#). Attached please find the Marin County draft IP chapter on hazards. You will note that it references back to the detailed Commission-approved LUP hazard policies (also attached for reference), but the key part of this as it pertains to the City's IP relates to process, application requirements, and hazards reports/findings. The City of Seaside IP is another recent example of what the Commission is looking for with regard to geologic hazards: <http://ci.seaside.ca.us/Modules/ShowDocument.aspx?documentid=9767>. (See, **specifically, 2.7 (E) at pp. 2-33-2-35.**) This IP also references back to LUP policies and the Local Hazard Mitigation Plan, so we will ultimately need to ensure that the Capitola IP is sufficient to address these broader policies since Capitola is updating the IP before the LUP. We would suggest that the City use these two examples as templates and then modify 17.68 accordingly for the specific issues related to Capitola (e.g. bluff redevelopment and village vulnerability/flooding). We can definitely help with additional language refinement.

Again, thank you for the opportunity to provide these preliminary comments.

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 California Coastal Commission
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Chapter 17.68 - GEOLOGICAL HAZARDS

Sections:

- 17.68.010 Purpose and Applicability
- 17.68.020 Geologic/Engineering Report
- 17.68.030 Shoreline Protection Measures
- 17.68.040 Development in Bluff and Cliff Areas



Note: This chapter carries forward requirements for the Geologic Hazards overlay zone in Chapter 17.48 of the existing Zoning Code as citywide standards that apply wherever geological hazards may be present. Existing requirements in Chapter 17.48 that are not applicable in Capitola (e.g., earthquake fault rupture zones) or that do not apply as citywide standards have been removed.

17.68.010 Purpose and Applicability

This chapter establishes standards for development in areas with geological hazards, including beach, shoreline, and bluff areas.

17.68.020 Geologic/Engineering Report

A. When Required. A geologic/engineering report shall be prepared for the following:

1. Developments located on a beach, including shoreline protective measures. “Shoreline protective measures” includes the installation of any structure or material for the purpose of protecting a structure, road, utility or transmission line in an area where coastal process operate. Shoreline protective measures include but not limited to riprap or a seawall.
2. Any blufftop or cliff development which is proposed within 200 feet of the cliff edge. In specific areas of known geological stability or where adequate protective devices already exist, a smaller area of analysis may be designated. The City may designate a greater area of analysis or exclude development entirely in areas of known high instability.
3. In areas determined by the Community Development Director, the Public Works Director, the Building Inspector, or the Planning Commission to have a landslide potential.
4. Any development built on a slope in excess of 30 percent.
5. Other areas with potential geologic hazards as determined by the Planning Commission.

B. Contents of Geologic/Engineering Reports.

1. All geologic/engineering reports shall be prepared according to the guidelines for practice issued by the California Geological Survey, specifically, No. 37 Guidelines for Preparing Engineering Geological Reports and Coastal Commission Guidelines for Bluff Top Development.
 2. Geological/engineering reports shall be prepared by a registered geologist or professional engineer with expertise in soils or foundations engineering, or by a certified engineering geologist.
- C. Expert Review.** The City may employ, at the applicant's expense, an appropriate expert to evaluate the adequacy of the report.
- D. Report Noted on Subdivision Maps.** All geologic/engineering reports prepared in conjunction with an application to subdivided property shall be noted on the map as provided in Government Code Section 66434(f).

17.68.030 Shoreline Protection Measures

- A. Primary Structures.** Shoreline protection structures may be permitted only when necessary to protect existing development other than accessory structures.
- B. Beach Erosion.** Shoreline protection structures may be permitted to protect public beaches in danger from erosion only when:
1. Nonstructural solutions (e.g., artificial beach nourishment, relocation of structures) are infeasible;
 2. Structure design eliminates or mitigates adverse impacts on local shoreline sand supply, public access, marine habitats and paleontological resources; and
 3. Vertical beach access is provided where feasible.

17.68.040 Development in Bluff and Cliff Areas

- A. Permitted Location.** Bluff and cliff top development is permitted only when the development is designed to assure stability and structural integrity for the expected life of the project (at least fifty years).
- B. Prohibited Impacts.** Cliff top development, including storm runoff, foot traffic, grading, and irrigation, may not create nor contribute significantly to erosion problems or geological instability of the site or surrounding areas.

22.64.060 – Environmental Hazards

A. Application requirements.

1. Environmental Hazards Evaluation.

a. Initial Site Assessment. The reviewing authority shall conduct an initial site assessment screening of all Coastal Permit applications to determine whether the site is or will be subject to geologic or other hazards over a timeframe of a minimum of 100 years. Geological or other hazards are defined to include Alquist-Priolo earthquake hazards zones; areas subject to tsunami runup, landslides, liquefaction, episodic and long-term shoreline retreat (including beach or bluff erosion), high seas, ocean waves, tidal scour, flooding; steep slopes averaging greater than 35 percent; unstable slopes regardless of steepness; and flood hazard areas, including those areas potentially inundated by future sea level rise. The screening shall include a review of reports, resource maps, aerial photographs, site inspection, and the County's hazards maps. The County's hazard mapping program can be used as a resource for identification of hazard areas; however, absence of mapping cannot alone be considered absence of hazard, and local site conditions must be examined at the time of permit application using the best available science. Best available science with respect to sea-level rise means peer-reviewed and well-documented climate science using empirical and evidence based data that establishes a range of locally-relevant future sea-level rise projections. At the time of this LCP certification (2015), the best available science on sea-level rise in California is the 2012 National Research Council (NRC) Report, *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future* (NRC, 2012). However, any other document that meets the above definition may be used for planning purposes in Marin's coastal zone.

b. Environmental Hazards Report. Where the initial site assessment reveals that the proposed development is "Blufftop Development (as defined in subsection (2)(b), below, "Shoreline Development" (as defined in subsection (2)(c), below), or within 100 feet of an area potentially subject to geologic or other hazards over the 100 year assessment time frame, the project shall include an Environmental Hazards Report prepared by a qualified registered civil or structural engineer or licensed geologist or engineering geologist. The Report shall describe the extent of potential environmental hazards on the site over the minimum 100 year timeframe, and recommend construction, siting and other techniques to avoid and minimize possible environmental hazards. Reports addressing tsunami runup, beach or bluff erosion, wave impacts and flood hazards shall include evaluation of potential changes to the hazard due to sea level rise that might occur over the life of the development and the 100 year assessment time frame. Existing shoreline protective devices shall not be factored into the required analyses. The Report shall be required to demonstrate that, subject to the Report's recommended measures, all of the following findings can be made: (1) that the development will be sited and designed to assure stability and structural integrity for the development's lifetime and a minimum of 100 years, (2) that the development will be set back a sufficient distance from identified hazard areas so as to not create a hazard or diminish the stability of the area, and (3) that the development will not require the construction of shoreline protective devices during its lifetime, including at the time of the initial development proposal. All development located within hazardous areas, including all "Blufftop Development" and "Shoreline Development", shall also comply with the requirements of Section 22.64.060.B.8. In addition to the Environmental Hazards Report requirement of this subsection A(1), "Blufftop Development" and "Shoreline Development" must also meet the requirements of subsections A(2) and A(3), below, including requiring supplementary analyses within the Environmental Hazards Report. (Land Use Plan Policy C-EH-2)

2. Additional Coastal Hazards Analysis for Blufftop and Shoreline Development.

a. Additional Application Requirements. All Coastal Permit applications for alterations to existing structures (including additions, exterior and/or interior renovations, repair and maintenance, and demolition) shall clearly identify: (1) all major structural components that are being altered; and (2) the cost of the alteration project and the market value of the existing structure being altered before construction. Major structural components are defined and identified in the definition of “Redevelopment, Coastal (coastal)” in Article VIII. The application must also identify any previous changes to such major structural components since February 1973, including identifying all associated Coastal Permits.

b. Blufftop Development. In addition to the requirements for the Environmental Hazards Report identified in subsection A(1) above, Coastal Permit applications for development, including coastal redevelopment and additions to existing structures proposed: 1) on a blufftop; or 2) on a site located in stability zone 2, 3, or 4 as indicated on the Slope Stability of the Bolinas Peninsula Study Area map which accompanies Wagner’s 1977 report, “Geology for Planning, Western Marin County” (hereby incorporated by reference as part of this Development Code), shall be required to supplement the Environmental Hazards Report with an analysis that evaluates the effect of geologic and other hazards at the site to ensure the proposed development’s stability and structural integrity, and to ensure that the blufftop development is safe from bluff retreat, without the need for shoreline protective devices for the development’s lifetime and a minimum of 100 years. The supplementary analysis shall include an evaluation of the long-term average annual bluff erosion rate, and shall include a quantitative slope stability analysis demonstrating a minimum factor of safety against sliding of 1.5 (static) or 1.2 (pseudostatic, $k = 0.15$ or determined through analysis by the geotechnical engineer). The erosion rate and slope stability shall be determined using the best available science, including being based upon an examination of the historic and projected rates of bluff retreat associated with wave, wind and/or surface runoff erosion, continued and future sea level rise and, to the maximum extent feasible, to take into account the effect of strong seismic shaking. Existing shoreline protective devices shall not be factored into the required analyses. The erosion rate and slope stability information shall be used to determine the appropriate blufftop setback as specified in Section 22.64.060.B.2 below. The supplementary analysis shall also list the required Coastal Permit conditions necessary to ensure that the structure is relocated and/or removed (and the site restored) whenever the development is deemed hazardous and unsafe for human occupancy, as specified in subsection (d), below. (Policy C-EH-5)

c. Shoreline Development. In addition to the requirements for the Environmental Hazards Report identified in subsection A(1) above, Coastal Permit applications for shoreline development (defined as development located at or near the ocean-sand interface, and/or at very low-lying elevations along the intersection of the ocean or sea with land, that may be inundated by environmental hazards in the 100 year evaluation timeframe), including new development on vacant/undeveloped lots, additions to existing structures, and coastal redevelopment shall be required to supplement the Environmental Hazards Report with an analysis that demonstrates that the proposed development will be set back a sufficient distance from the shoreline to ensure stability and structural integrity for the development’s lifetime and a minimum of 100 years without the need for shoreline protective devices, and such analysis shall not factor in the presence of any existing shoreline protective devices. For coastal redevelopment, if there is insufficient space on a property to feasibly meet the setback requirements, then such development may meet the minimum 100-year stability and structural integrity requirement through setting back as far as feasible in tandem with the use of caisson/pier foundations and elevation (including if elevation of the structure is necessary to meet Federal Emergency Management Agency

(FEMA) flood requirements) but no other type of shoreline protective device is allowed. The supplementary analysis shall also evaluate the effect of the project over time (including in response to sea level rise) on coastal resources (including protection of public access, shoreline dynamics, natural landforms, and public views). The analysis shall consider not only the primary structure, but also the effects of related development, such as required ingress/egress to structures and the provision of services (e.g., water, wastewater, etc.). The supplementary analysis shall also list the required Coastal Permit conditions necessary to ensure that the structure is relocated and/or removed (and the site restored) whenever the development is deemed hazardous and unsafe for human occupancy, as specified in subsection (d), below. The provisions of this subsection allowing the use of caisson/pier foundations and elevation for shoreline redevelopment in certain circumstances shall apply until April 30, 2017 or until this subsection is amended, whichever occurs first. If a complete LCP amendment to amend this subsection is not submitted as of April 30, 2017 (including where subsequent withdrawal of such LCP amendment will deem it to have not been submitted), then shoreline redevelopment will no longer be allowed to meet minimum 100-year stability and structural integrity requirements through the use of caisson/pier foundations and elevation. The April 30, 2017 deadline may be extended for good cause by the Executive Director of the Coastal Commission.

d. **Removal and Restoration.** Development located on bluffs and/or near the shoreline shall be sited, designed, and built in a manner that facilitates removal and/or relocation of the development (including its foundation, and all other related development (e.g., utilities and driveways)) before a shoreline protective device is needed. In addition to the requirements for the Environmental Hazards Report identified in subsection A(1) above, Coastal Permit applications for development located on bluffs and/or near the shoreline shall identify all measures to be taken to facilitate such future removal and/or relocation. All Coastal Permits shall be conditioned to require the approved development to be relocated and/or removed outside of the area subject to coastal hazards if an appropriate government agency determines that any portion of the approved development is not to be occupied or used due to any coastal hazards, and such hazard concerns cannot be abated by ordinary repair and/or maintenance. The Coastal Permit conditions shall require that, prior to removal/relocation, the Applicant shall prepare a Removal and Restoration Plan for review and approval by the Reviewing Authority. If the Reviewing Authority determines that an amendment to the Coastal Permit or a separate Coastal Permit is legally required, the Applicant shall immediately submit the required application, including all necessary supporting information to ensure it is complete. The Removal and Restoration Plan shall clearly describe the manner in which such development is to be relocated and/or removed and the affected area restored so as to best protect coastal resources, and shall be implemented immediately upon Reviewing Authority approval, or approval of the Coastal Permit or amendment application, if necessary.

3. **Drainage plan for blufftop development.** Coastal Permit applications for development proposed on a blufftop parcel shall include a drainage plan prepared by a civil engineer, which indicates how rainwater and irrigation runoff will be directed away from the top of the bluff or handled in a manner which prevents damage to the bluff by surface and percolating water. Blufftop landscaping shall be required to use drought tolerant native species with minimal irrigation.
4. **Engineering report for shoreline protective devices.** Coastal Permit applications for the construction or reconstruction of any shoreline protective device, including revetments, breakwaters, groins, seawalls, bluff retention devices, deep piers/caissons, or other artificial structures for coastal erosion control and hazards protection shall include a report from a professional civil engineer or certified engineering geologist experienced with coastal processes

and structures verifying that the device is necessary and explaining how the device will perform its intended function and the extent to which it will meet the criteria and standards contained in Section 22.64.060.B.7 below. The report shall include information on the existing structure/public beach that is being threatened by erosion; likely time period when the structure/public beach will be in danger from erosion; and an analysis of alternatives to a shoreline protective device that are capable of protecting existing threatened structures/beaches from erosion including: no action, involvement in regional beach nourishment, a different type of shore protection, options for bioengineering and groundwater controls, and modification to, resizing or relocation of the threatened structure. In addition, the report shall include the following information:

- (a) For the shoreline in question: long term and seasonal erosion trends, the effects of future sea level rise on future erosion rates, and the potential effects of infrequent storm events, such as a 100-year storm;
- (b) The amount of beach that will be covered by the shoreline protective device;
- (c) The amount of beach that will be lost through passive erosion over the life of the shoreline protective device;
- (d) The amount of sand generating materials that will be contained and not allowed into the shoreline system over the life of the shoreline protective device;
- (e) Total lineal feet of shoreline protective devices within the littoral zone where the device is proposed;
- (f) The cumulative impact of added shoreline protective devices to the littoral cell within which the proposed device will be located;
- (g) Measures to reduce or minimize visual impacts for the shoreline protective device;
- (h) Measures to modify or adapt the shoreline protective device in the event it is not adequate to provide protection in the future due to changes in sea level or storm conditions;
- (i) Impacts to beach access, recreation, beach habitat, and shoreline ecosystems from the shoreline protective device; and
- (j) Provision for future maintenance of the shoreline protective device, for future removal of the shoreline protective device if and when it reaches the end of its economic or functional life, and for changes in the shoreline protective device if needed to respond to alterations in the development for which the device was installed.

5. New development and fire safety. Coastal Permit applications shall demonstrate that the new development meets all applicable fire safety standards, including accounting for all necessary defensible space within the developable area of a site.

B. Environmental Hazard standards. Development shall be consistent with the Environmental Hazard Policies of the LUP, including but not limited to:

1. Blufftop setbacks. Proposed structures, including accessory structures, shall be set back a sufficient distance from coastal blufftop edges to ensure that they will not be threatened by bluff

retreat within their expected lifetime (the evaluation timeframe shall be a minimum of 100 years) and will not require shoreline protection per Land Use Plan Policy C-EH-5.

2. **Determination of blufftop setbacks.** The geologic setback, as measured from the bluff edge, shall be sufficient to maintain a minimum factor of safety against sliding of at least 1.5 for the expected life of the development, or a minimum of 100 years. Thus the distance from the bluff edge where a minimum factor of safety of 1.5 is achieved today shall be added to the expected bluff retreat over the next 100 years.
3. **Shoreline access facilities on blufftop parcels.** Shoreline access facilities, such as stairways and ramps, may only be permitted per Land Use Plan Policy C-EH-7 and C-EH-16.
4. **Bolinas Bluff Erosion Zone setback exceptions and waivers.** Within established Bluff Erosion Zones on the Bolinas Mesa, no new construction shall be permitted on vacant lots. Residential additions no greater than 10 percent of the existing floor area or 120 square feet (whichever is greater) may be permitted on a one-time basis so long as such additions conform with all applicable LCP policies.
5. **Shoreline Development.** New shoreline development (including new development on vacant/undeveloped lots, additions to existing structures, and coastal redevelopment) shall be consistent with Land Use Policy C-EH-5, including being set back a sufficient distance from the shoreline to ensure stability and structural integrity for the development's lifetime and a minimum of 100 years without the need for shoreline protective devices.
6. **Drainage on Blufftop Parcels.** Surface and subsurface drainage associated with development of any kind shall not contribute to the erosion of the bluff face or the stability of the bluff itself consistent with Land Use Policy C-EH-6.
7. **Criteria and design standards for shoreline protective devices.** Shoreline protective devices in the Coastal Zone are discouraged due to their visual impacts, obstruction of public access, interference with natural shoreline processes and water circulation, and effects on marine habitats and water quality. The construction or reconstruction of shoreline protective devices shall only be allowed subject to the criteria contained in Land Use Plan Policies C-EH-13, C-EH-14, and C-EH-18. Emergency Coastal Permit applications for shoreline protective devices may be considered in compliance with Section 22.70.130 (Emergency Coastal Permits) consistent with the Land Use Plan Policy C-EH-21.
6. **Accessory structures in hazardous areas.** Accessory structures on blufftop/shoreline parcels shall be designed and constructed in conformance with Land Use Plan Policy C-EH-15.
7. **Seismic safety standards.** Development shall meet the seismic safety standards of the Alquist-Priolo Act (Land Use Plan Policy C-EH-4).
8. **Applicant's assumption of risk.** The owner of property proposed for development in hazardous areas shall be required to record a Liability Waiver and Acknowledgement exempting the County from liability for any personal or property damage caused by geologic or other hazards per Land Use Plan Policy C-EH-3. In addition, for blufftop and shoreline development, the owner shall be required to record a deed restriction acknowledging that future shoreline protective devices to protect structures authorized by such Coastal Permit are prohibited per Land Use Plan Policy C-EH-3 and waiving any right that may exist to construct such devices.

9. **Prohibition on Creation of new parcels abutting coastal waters.** Creation of new parcels on lands abutting the shoreline shall be prohibited unless the new parcel can be developed consistent with all applicable LCP provisions, including that development on the created parcel will not require a shoreline protective device during its lifetime.

- a. Proposals for development identified by the City to be within a visually sensitive area shall include a map and an analysis prepared by a qualified professional identifying the development's visual impacts including potential impacts on critical views and viewsheds identified on Figure 2-4 of the LUP.
- b. Permitted development shall demonstrate that it is sited and designed to protect, and where feasible enhance, public views to Roberts Lake, Laguna Grande, Monterey Bay, and the Pacific Ocean, including from Highway 1, that it has minimized the alteration of the natural land forms, and that it is visually compatible with the character of the surrounding areas.
- c. Landscaping shall be sited and installed to screen and/or reduce the impact associated with visually intrusive elements, such as parking and utility areas, in relation to public views (including views from the water and other recreation areas).
- d. Permitted outdoor lighting and signs shall be designed to protect sensitive habitats, public recreation areas, public views, and night sky from intrusion, by prohibiting signs with moving parts or flashing lights, minimizing glare, shielding, and directing lighting downward within the development areas.
- e. Determination of an adverse effect shall be made by the Zoning Administrator after review and comment by the Resource Management Services Department and Public Works Division. Development determined to have an adverse effect on a visual resource shall not be allowed.

E. Natural Hazard Areas

1. **Designation of Natural Hazard Areas.** The hazard areas identified on Figure 2-5, Flood Hazard Areas, Figure 2-6, Faults and Wildland Fire Threat Categories, and Figure 2-7, Tsunami Evacuation Areas, of the LUP shall represent a preliminary mapping of potential hazards within the LCP area.
2. **Protection from Natural Hazards**
 - a. Proposed development shall include an analysis of hazards or hazardous constraints associated with the project, any necessary mitigation measures, and a determination that the site is suitable for the proposed development and that it will be safe from hazard over the lifetime of the development without reliance on seawalls, deep piers, or similar engineering measures (**Policy NCR-CA 5.1.B.iii**). All proposed development shall identify its expected lifetime (**Policy NCR-CA 5.1.B.ii**).
 - b. Mitigation of hazards shall be demonstrated by detailed technical reports specific to the hazard type in question (e.g., soils, geologic, geotechnical, erosion control, fire hazard, etc.) that are prepared by persons who are appropriately qualified in the hazard field in question (e.g., civil engineers and engineering geologists familiar with coastal processes, geotechnical engineers, etc.) and that are submitted as part of any permit application. All technical reports and analyses shall accompany development applications and/or be part of any required environmental documentation.
 - c. Proposed development shall be consistent with policies and mitigation outlined in the City of Seaside Hazard Mitigation Plan (adopted September 2005), as applicable (refer to **Policy NCR-CA 5.1.B.iv**).
 - d. Geologic engineering reports prepared by qualified professionals, for any development to be located within seismic hazard areas or on fill, shall be required. Reports shall address stability of the structure as well as of the fill.
 - e. Geologic reports submitted to the City shall be in conformance with guidelines established for such reports by the California Division of Mines and Geology including the following:
 - (1) Geologic reports shall include information on the regional and local geologic setting, topography, significant landforms, soil types and thickness of soil or depth to bedrock, geologic hazards, soil/rock types, geologic structures, groundwater conditions, and other relevant properties, such as

erosion potential and mineral economic resources. The geologic report shall, at a minimum, contain the following ten major sections:

- Summary
 - Description of Project Alternatives
 - Impacts
 - Geology of the Project Area
 - Geologic and Seismic Impacts
 - Mitigation of Impacts
 - Coordination with Other Agencies, Groups, or Consultants
 - Conclusions and Recommendations
 - Report Preparer's Qualifications
 - References
- (2) All development that would be affected by coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, coastal flooding, landslides, bluff and geologic instability, and the interaction of same, shall also include:
- Regional and local geologic setting including topography, significant landforms, soil types and thickness of soil or depth to bedrock, geologic hazards, soil/rock types, geologic structures, groundwater conditions, and other relevant properties, such as erosion potential and mineral economic resources;
 - Historic, current and foreseeable erosion, including investigation of recorded land surveys and tax assessment records in addition to the use of historic maps and photographs where available, and possible changes in shore configuration and transport, including in relation to generally accepted estimates of accelerated future sea level rise over 100 years or the development's lifetime, whichever is greater;
 - Bluff geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site and the proposed development. The extent of the bluff top considered should at a minimum include the area between the face of the bluff and a line described on the bluff top by the intersection of a plane inclined at a 20 degree angle from the horizontal passing through the toe of the bluff or cliff, or 50 feet inland from the edge of the cliff or bluff, whichever is greater;
 - Geologic conditions, including soil, sediment, and rock types and characteristics in addition to structural features such as bedding, joints and faults;
 - Evidence of past or potential landslide conditions, the implications of such conditions for the proposed development, and the potential effects of the development on landslide activity both on-site and off-site;
 - Wave and tidal action, including effects of erosion on bluffs, and identification of extreme scour platform elevation seaward of the site as well as expected maximum wave up rush elevation for the site, all in relation to generally accepted estimates of accelerated future sea level rise over 100 years or the development's lifetime, whichever is greater;
 - Ground and surface water conditions and variations, including hydrologic changes caused by the development (e.g., introduction of sewage effluent and irrigation water to the groundwater system, and alterations in surface drainage);
 - Potential effects of seismic forces resulting from a maximum credible earthquake;
 - Effect of the proposed development including siting and design of structures, septic system, landscaping, drainage, and grading, and impacts of construction activity on the stability of the site and the adjacent area;
 - A quantitative slope stability analysis, including identification of factors of safety for the site and structures and any other factors that may affect slope stability;

- Potential erodibility of site and mitigating measures to be used to ensure minimized erosion problems during and after construction without reliance on shoreline armoring and/or other such shoreline altering development (i.e., landscaping and drainage design), including analysis of the ability of the development to withstand storms comparable to the winter storms of 1982-83 on the California Coastline;
 - Any other recommended mitigation measures; and,
 - When development of shoreline protection structures is proposed, in addition to the above items, the following topics shall also be addressed:
 - a. Design wave height;
 - b. Maximum expected wave height;
 - c. Frequency of overtopping;
 - d. Normal and maximum tidal ranges;
 - e. Erosion rate with/without protection device;
 - f. Effect of structure on adjoining property;
 - g. Potential/effect of scouring at base;
 - h. Sand supply impacts (beach encroachment, passive erosion, and retention of beach material);
 - i. Design life of structure/maintenance provisions;
 - j. Alternatives to the chosen design method including "no project"; and,
 - k. Maintenance provisions including methods and materials.
- f. All development proposed within an area that is subject to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, coastal flooding, landslides, bluff and geologic instability, and the interaction of same shall be sited and designed to minimize risks to life and property over the development's lifetime, including by ensuring it is sited and designed in such a manner as to avoid the need for hazard response, including shoreline armoring, that leads to coastal resource impacts over the development's lifetime, and shall include enforceable provisions for addressing any future hazard dangers to the development without such resource impacting hazard response (e.g., moving the development, removing the development, etc.).
- g. Development shall be adequately set back from the area of hazard, including those which have been identified by a supporting technical report, in such a way as to assure stability and structural integrity over 100 years or the development's lifetime whichever is greater, without creating nor contributing significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way requiring the construction of protective devices that would substantially alter natural landforms along the shoreline.
- h. Development shall be sited to avoid any area that would be affected by a 100-year flood, including both inland flooding and ocean flooding and an interaction of the two, as much as feasible. Development allowed in such areas shall be limited to projects that provide a significant public benefit and where appropriate measures have been included to address the flooding hazard, including flood elevation, criteria for modification/removal of endangered elements over time, etc. No habitable structure shall be allowed at an elevation lower than 12 feet above mean sea level. A structure may be allowed in the 100-year floodplain only where it meets the above criteria and the standards mandated by the City's participation in the Federal Flood Insurance Program.
- i. **Sea Level Rise.** Permitted development shall consider potential sea level rise impacts identified in the update to the Local Hazard Mitigation Plan (required by **Policy NCR-CZ 5.2.C** of the LUP).
- F. Vegetation Management Report.** For proposed development within the coastal zone, a Vegetation Management Report prepared by a qualified biologist shall be required. The report shall be tiered off the Vegetation Management

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Zoning Map	Zoning map	<p>a. Modify map from VA zoning to P/OS for the bluff parcel along Depot Hill from Monarch Cove Inn to Livermore Avenue.</p> <p>b. 3945 Melton Street. Owner would like to maintain CC zoning on Melton. Planning Commission support for request. Change zoning map to CC. Change General Plan Land Use map to Commercial.</p> <p>c. Format map to be more legible. Also, add more labels to the map to avoid confusion, change legend to reflect revised zoning district names, and remove "Overlay" from "Affordable Housing Overlay" in legend.</p>
1	Chapter 17.16.030. A – Page 16-3. General Standards – Single Family and Multi-Family Zoning Districts (Smith)	Table 17.16-2: Development Standards in the R-1 and RM Zoning Districts – discuss min lot size	Minimum lot size to remain as drafted. 5000 sf
2	Chapter 17.16.030.B.2 Page 16-4. Front Setbacks in Riverview Terrace (Westman)	<ul style="list-style-type: none"> Define distance of neighboring properties. Current code states 500 feet. . Draft code states neighboring properties. Request to identify appropriate area. 	Modify language of 17.16.030.B.2 to state "the Planning Commission may approve a reduced front setback to reflect existing front setbacks of properties within 100 feet on the same side of the street"
3	Chapter 17.16.030.B.2. Page 16-5. Front Setbacks in Riverview Terrace (Westman)	<ul style="list-style-type: none"> General comment that the sidewalk exempt designations should be updated to make sure they are valid and appropriate. The sidewalk exempt map should be made available for the public. 	Map will be made available to public.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
4	Chapter 17.16.030.7. Page 16-7. Plate Height in Side Setback Areas.	This is from the existing code but should be removed due to the new allowance for narrow lots not to have a second story setback. The setback exception is listed under 16.16.030.B.5.	Remove standard for plate height in side setback areas.
5	17.16.030.B.8.a(1) Page 16-7. Decks and Balconies (Westman)	Discuss distance of setbacks for administrative review of upper floor decks and balconies. Proposed at 10 feet from property line and 20 feet from single-family dwelling	Require Planning Commission review of a Design Permit for all upper floor decks and balconies except when facing a street or adjacent to a public open space.
6	Chapter 17.16.030.C.2. Table 17.16-4 "Usable Open Space in RM Zoning District. Footnote 2. (Westman)	Footnote 2 – "Roof terraces and roof gardens may provide up to 50 percent of the required common open space area" – This applies to the Common Open Space minimum area requirement of 15%. Common open space is accessible to all residents of a multi-family development. Request to discuss.	Require Planning Commission approval with findings or criteria for approval of roof terraces and roof gardens utilized as common open space
7	Chapter 17.20 - Page 20-1 - Mixed Use Zoning District (Westman)	We should discuss separating the MU-V and MU-N districts. The goals and development standards for the two districts are different and the current chapter is confusing.	Chapter to be revised to include subchapters separating the MU-V from the MU-N as appropriate
Added	Chapter 17.20.020 - Page 20-2 - Land Use Regulations.	Planning Commission discussed permit for daycare and secondary dwelling units relative to review process.	Change Secondary Dwelling Units to require minor use permit in the land use table. Keep daycare as minor use permit

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
8a MU-V	Chapter 17.20.030 – Page 20-4. Development Standards Table 17.20-2 – Development Standards in the Mixed Use Zoning Districts (Newman)	Remove parcel width & minimum dimensions in MU-V. They do not work.	Mixed use village Minimum lot size and lot dimensions will be removed.
8b MU-N	Chapter 17.20.030 – Page 20-4. Development Standards Table 17.20-2 – Development Standards in the Mixed Use Zoning Districts (Newman)	Remove parcel width & minimum dimensions in MU-N. They do not work.	Mixed Use Neighborhood. CHANGE: Minimum Parcel Size 3200 square feet; Minimum Width 40 feet; and minimum depth 80 feet. Add note that these standards apply only to new parcels within a subdivision application
Add	Chapter 17.20.030 – Page 20-4. Development Standards Table 17.20-2 – Development Standards in the Mixed Use Zoning Districts	Concern for minimum lot size and dimensions on existing parcels.	Add language the minimum lot size and dimesions only apply to new subdivisions.
9	Chapter 17.20.30.A - Page 20-4 General Development Standards (Smith)	How do we meet the new minimum parcel dimensions and maximum front setbacks today? How many nonconforming structures are we creating with these new specifics?	
10	29) Chapter 17.20.030.C. Page 20-5 General Design Standards. (Westman)	Section C should not apply to residential development.	Design standards are geared to commercial. Clarify that standards do not apply to the village-residential overlay district. Revise standards so the design requirements for the MU-V and MU-N are treated differently.
11	Chapter 17.20.030.C.5 – Page 20-8 – Parking Location and Buffers (Smith)	Standard may prevent residential on-site parking under living. Example 321 Capitola Ave	Modify so standard only applies to the MU-V district.
Add	Chapter 17.20.030.D - Setback in MU-V	shall to may	Modify language to allow more of the building to be setback from the front property line.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
12	Chapter 17.20.030.E – Page 20-10. Setbacks in the MU-N Zoning District (Westman)	Should not apply to residential. “Front setback areas for commercial and mixed use buildings in the MU-N Zoning District	Maximum setback in the MU-N is 25 feet. These standards will be separated to clarify the differences between the zones. Standard will not be changed.
Add	Chapter 17.20.030.F Height and FAR Standards for the Village Hotel	Change heading to remove "the village hotel"	Change heading in 030.F to read “Height and FAR Standards for the Capitola Theater Site” and reference as such in the text.
13	Chapter 17.24 - Commercial and Industrial Zoning Districts (Westman)	The autoplaaza should be an overlay zone to eliminate automobile repairs, used car sales, etc. on 41st avenue.	No change to draft code. Keep Vehicle Repair and Vehicle Sales and Rental as a Conditional Use in the CC and CR zones. And as Permitted within the Industrial zone.
13.B	Chapter 17.24 - Commercial and Industrial Zoning Districts (Westman)	Drive through. Should they be limited to Regional Commercial	Change: Limit drive through to regional commercial district. Prohibit from CC.
14	Chapter 17.36 – Planned Development Zoning District (Westman)	Request discussion of PD	<p>Change: Modify process. Remove requirement of a preliminary development plan. Replace with a required conceptual review that is more informal. Within the conceptual review, require noticing, review by Planning Commission, and review by City Council. The rest of the process should remain as proposed.</p> <p>Add standard of 20,000 sf minimum parcel size to qualify for PD.</p> <p>Additional note: A separate section must be created in the code for Conceptual Reviews outlining purpose, process, and noticing.</p>

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
15	Chapter 17.36.040.G - Page 36-4 - Substantial Public Benefit Defined (Westman)	Planning commission should discuss Substantial Public Benefit Definitions as they apply to Planned Developments	Staff provided redline changes to better define substantial benefit, method to quantify substantial benefits, and improve descriptions of the options. The redlines were acceptable to the Planning Commission. Redlines will be incorporated into draft code.
16	Chapter 17.40.20.I.3(a-f) – Page 40-5 – Design Standards – Pedestrian Orientation (Westman)	This is more restrictive than underlying zoning. Suggest removing.	Remove 17.40.020.I.3 Pedestrian Orientation
17	Chapter 17.40.20.I.5 – Page 40-6 - Affordable Housing Open Space. (Westman)	This is more restrictive the open space standard for multi-family. In general, affordable housing development standards should either be equal to the zoning regulation or less stringent as an incentive.	No change to 17.40.020.I.5 Common Open Space
Added	Chapter 17.40.030 Vacation Rental Use Overlay Zone. Development and Operations Standards. Added during Planning Commission hearing on April 18, 2016	Modification to Development and Operation standards based on recent Vacation Rental code enforcement sweep. Staff provided modifications during meeting.	Change: Replace proposed Development and Operations Standards with those provided during meeting. Within the permit revocation standard, change to clarify that CDD determination can be appealed to PC. Also remove "or for a greater time period as established by the Community Development Director.
18	Chapter 17.52.020.A.3 - Page 52-1 - All Accessory Structures (Smith)	Should all Accessory Structures be allowed basic electric (light) fixture and outlet without additional requirements for design review and floor area calculation. Also reference in Section 17.120.030.B.5 page 120-3)	Updated 17.52.020.A.3 to delete electrical

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Chapter 17.52.020.A.3 - Page 52-1 - All Accessory Structures	Discussion that accessory structures may be utilized as an office	The Commission also discussed that accessory structures may be utilized as an office and commented the standard shall remain that they are not for human habitation. This is confusing as an office would likely meet the definition of habitation. Reword to be clear that the space may not be utilized as a bedroom, sleeping area, and/or kitchen. Updated 17.52.020.A.6 to "Accessory structure may not be deigned or used as a bedroom, sleeping area, and/or kitchen, except for secondary dwelling units consistent with Section 17.74.
19 9)	Chapter 17.52. 020. B.1 – Page 52-2. Development Standards. Table 17.51-1: Accessory Structure Standards in Residential Zoning Districts (Smith)	Could you have an apartment on top of a garage if the garage was not located in setbacks?	The answer to the question is yes, but not stated clearly in the code. Staff will clarify code (Section 17.74: Secondary Dwelling Units) that a 2 story secondary dwelling unit may include a garage in the first story. Updated 17.52.010 to "These requiremetns do not apply to secondary dwelling units, including two story secondary dwelling units above a detached garage, which are addressed in Chapter 17.74 (Secondary Dwelling Units). Also updated 17.74.040.H with new standards for 2 story secondary dwellings.
Added	Chapter 17.60 Fences and Walls:17.60.010.B	Exceptions to height	Add criteria for Planning Commission exceptions to address areas in which the fences are typically taller than normal. Example is Wharf Road. Updated 17.60.010.B to include 1 - 3.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Chapter 17.60 Fences and Walls:17.60.070 Non-Conforming Fences and Walls	Concern for regulating replacement fences.	Remove non-conforming fences and walls. Also, allow fences to be replaced without a permit. Updated by removing 17.60.070 non conforming fences. Updated 17.60.010 to "Replacemnt of an existing fence that is in compliance with the standards of this chapter does not require a permit.
Added	Fences and Walls as encroachments into Side yard Table (17.48-2).	screening and decorative fences should be allowed in side and rear yard.	The Commission discussed allowed encroachments into setbacks. Directed to allow fences and walls to encroach into the side and rear yards that may be utilized as screening or decoration. Fences may encroach in front yard if at regulated height. Update with addition of 17.60.030.B Fences and Walls as Landscape features. A fence or wall used as a landscape feature which does not enclose the perimeter of the property may exceed the height limits in side and rear setback areas shown in Figure 17.60-1 up to a maximum of 6 feet.
Added	17.64.060.I Wood burning fireplace	Discourage wood burning fireplaces due to environmental and health impacts	Add language that wood burning fireplaces are discouraged. Updated 17.64.060.I with "The City discourages wood-buring fireplaces for residential uses in all other areas of Capitola". Updated in 17.64.030.K and 17.64.060.I

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Chapter 17.72.020. B – Applicability	Concern that requirement goes too far.	Remove B “additions that increase the floor area of a single-family dwelling by 10 percent or more” Add a second section under applicability to require Landscape that is removed during a remodel must comply with section 17.72.060 Landscape Standards. Updated 17.72.020.B to note existing landscaping that is disturbe of ne landscapign must comply with 17.72.060 but a full landscape plan is not required.
Added	17.72.070	Applicability of maintenance requirements will be a challenge for single family homes	Applicability should also specify that only multi-family and commercial are subject to the Maintenance requirements. Updated 17.72.070 to state "The following landscape maintenance requiremetns apply to multi-family and non-residential properties."
Added	17.72.050.A.1	the allowance for outdoor dining areas and courtyards should also apply to single-family. Social features that support interactive communities.	17.72.050.A.2 allow residential to have outdoor dining areas and courtyards that count toward the landscape area requirements. Updated 17.72.050.A.2 to include "and may include patios,
Added	Table 17.72-1	Industrial requirement is incorrect and not in synch with 17.24-030.	Updated Table 17.72-1 Minimum Landscape Area in Non-Residential Zoning Districts. Modified Industrial to remove “none” and add “As determined by the permit approval process” Also modified development standard table 17.24-030 to change the required 10% in the Industrial Zone to also state “as determined by the permit approval process”
Added	17.72.060.A.1 & 3	Plan should be plant in 2 sentences.	17.72.060.A.1 and A.3. The word “plan” should be “plants”. This edit is in two different lines. A.1 and A.3. Updated to "plants"

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Chapter 17.74 Secondary Dwelling Units	Modify proposed regulations	Updated 17.74 to include: <ol style="list-style-type: none"> 1. Add stipulation that only SDU is only allowed when there is one single family home on the property. 2. Remove from MU-V zoning 3. Require all 2 story secondary dwellings to get a conditional use permit 4. Keep owner occupied requirement with an waiver for hardship 5. Require an extra parking space for Secondary Dwelling Units 6. Increase rear yard setback to 8 feet.
20	Chapter 17.76.030.A – Table 17.76-1 – Page 76-2 - Required Parking Spaces – Mixed Use Zoning Districts (Westman)	Request discussion of parking for mixed use.	Updated to remove unique standards for MU-N in table 17.76.030. MU-N is included in other zoning districts table 17.76-2
Added	17.76.020. C.1 Expansions and Enlargements. Discuss options to allow existing restaurants modest expansions within existing building footprint	Return with scenario of decreasing restaurant scenario in the Village for 300 sf for kitchen. What will the allowed in term of expansions if a commercial space has onsite parking? Bring back Mercantile example for existing restaurants. Figure out if there is a percentage that correlates for change in parking to allow existing businesses some flexibility to expand a little bit.	Current draft states “Additional parking is required to serve only the expanded or enlarged area”. Allow an exception for expansion of dining area up to 20% of the existing floor area of the business” Expansions include modification of internal layout to expand dining area, additions to restaurant within the existing footprint of the building, and new outdoor dining areas.” (Note: Commissioner Newman did not support the modification.) Section modified to reflect request.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	17.76.020.B.1 Replacing existing uses in Village. Discuss option to apply the standards of B.1. to restaurants	New restaurants replacing other land use in village	Conversions of any space from another land use to restaurants should be required to provide parking for the entire amount of parking required by the code, without a "credit" of the parking demand of the existing use. Updated to make restaurants subject to same standard as 17.76.020.B.1 instead of B.2.
21	Chapter 17.76.030.B – Table 17.76-2 – Page 76-3 - Required Parking Spaces – Other Zoning Districts (Westman)	Secondary Dwelling Units should require a 3rd parking space. Discussion requested.	modified to require one additional space for secondary dwelling unit in addition to spaces required for primary residence.
22	Chapter 17.76.040.C.3 – Page 76-8 – Location of Parking MU-V Zoning District (Westman)	Track ordinances. Why does the code require off-site parking in village for historic? If they have adequate space we should allow more onsite parking for residences.	Modified to allow residential to provide parking onsite in the Village. Note: will require modification to LCP.
23	Chapter 17.76.040.D – Page 76-8 – Large Vehicle Storage in the R-1 Zoning District (Westman)	Add maximum width	Revised to add 8.5 foot maximum width
24	Chapter 17.76. 040. D – Page 76-8. Large Vehicle Storage in the R-1 Zoning District (Smith)	Too restrictive, suggest removing second sentence	Did not remove. Majority of Planning Commission directed staff to keep as drafted.
25	Chapter 17.76.050.E.1 Shared Parking (page 76-10) (Welch and Newman)	Discuss the exclusion of residential land uses from shared parking (Welch) Too rigid (Newman)	Removed E1. Updated new E1 to state prepared by a specialized consultant contract by the Community Development Director, paid for by applicant, and approved by the Planning Commission...

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
27	Chapter 17.76.050.G – Page 76-11 - Transportation Demand Management Plan (Westman)	Add standards for parking studies	Updated as Follows: B. Mixed Use Village: No decrease in parking standards allowed (except valet and in-lieu E.4. Shared Parking in MUN: 25% max decrease H.2. Transportation Demand Management Plan: 15% max decrease H. Transit Center: REMOVED
28	Chapter 17.76.050.H – Page 76-11 - Transit Center Credit (Westman)	Discuss	Removed Transit Center Credit
29	Chapter 17.76.060.H – Page 76-15 - Pedestrian Access (Westman)	Applicable to village? Discuss.	Directed to leave as is.
Added	Chapter 17.80 Signs.	Discussion on signs in the Mixed Use Village. Directed to Create a separate subchapter for sign standards in the Mixed Use Village.	Updated to create unique standards for individual zones.
Added	Chapter 17.80 Signs	City Installed SignsAdd exemption that City installed signs do not require permits within all zoning district. There is a section exempting VS, CF, and P/OS but the exemption should be Citywide.	Added 17.80.010.B. "Applicability. This chapter applies to all signs in Capitola, except for City-installed signs and signs required by a governmental agency to carry out its responsibility to protect the public health, safety, and general welfare."
Added	Chapter 17.80.030. B	Permit Requirements - Sign Permits	Add all signs in the Mixed Use Village require Planning Commission approval. Added 17.80.040.B.1
30	Chapter 17.80.050.B - Flag Signs (Westman)	Discuss new allowance for flag signs	Removed #3 a and b for Flags

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
31	Chapter 17.80.060.F - Page 80-6 - Digital display and electronic reader board signs (Westman)	Discuss. Possible use to show number of parking places.	Updated to Create allowance within parking garages similar to gas station allowance
Added	Chapter 17.50.030.B Signs Allowed Without Permits. A. Types of Signs.	Discussion on restaurant menu signs.	Modified #12 to add "Restaurant menu signs, with a maximum area of 3 square feet <u>attached to building.</u> "
32	Chapter 17.80.070.C - Page 80-6 - Illumination (Westman)	Discuss neon signs. Beer signs.	Modified 17.80.070.C.1 to read "Non-residential signs may be internally or externally illuminated. Internal illumination is permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo. Also added this standard to 17.80.090.B.3 Updated 17.080.090.A.6 to Not allow internal illumination in the Mixed Use Village. Do not prohibit neon signs. Modify so all neon signs require Planning Commission approval.
Added	Chapter 17.80.070.D.1.	Edit	Revised 17.80.070.D.1 to "Except for <u>interior windows signs</u> , all permanent signs shall..." Revised 17.80.070.D.1 to "The design of signs, including its shape, features, materials, colors, and textures, shall be compatible with the design character of the development or use it identifies <u>and will not have an adverse effect on the character and integrity of the surrounding area.</u> "

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Chapter 17.80.070.F.1.b.	Exceptions for signs in the public right-of-way.	Staff Clarification: This exception is necessary to carry out City Council Policy Number I -17 for Capitola Village Street Banner Program policy. The policy allows nonprofit groups, public and governmental agencies, and public information campaigns to display promotional street banners for charitable, educational, arts, community, and public interest activities, regulations, and events. Banners under this policy may be displayed only at the Capitola Avenue/Riverview Drive and Monterey Avenue/Park Place intersections.
Added	Chapter 17.80.80	Standards for Specific Types of Sign 17.80.080 and 17.80.090 Sign Standards for zoning Districts	Combine the two sections so it is easier for the user. After each standard have a table that states the specifics for the zone. The back and forth is confusing.
Added	Chapter 17.80.80	Standards for Specific Types of Signs	Updated to include the following: Sign Standards for Center Identification Signs and Directory Signs are missing from this section. Add Center Identification Sign Standards. Make sure to include that one freestanding sign per frontage. More specifically, if there is a monument sign along the frontage a center identification sign is not allowed. Add Directory Sign standards to reflect the existing code.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Chapter 17.80.080.A	Awning Signs	Updated: In the MU-V and MU-N: Awning signs only allowed on Valance. Anything beyond requires Planning Commission approval. In the CR and CC district: Specify either/or. An awning may have signage in either the valance or the sign face. Not both. To go beyond the limits within the sign valance or sign face, Planning Commission approval is required.
Added	<u>Chapter 17.80.080.B</u>	Monument Sign The setbacks for monument signs may be in conflict with the CR zone.	Reviewed 17.24.030B and made sure they are not in conflict.
Added	<u>Chapter 17.80.080.B</u>	Monument Sign	Updated to Increase max area of Monument Sign in MU-N to 16 ft. Keep MU-V at 12 feet.
33	Chapter 17.80.080.B. 7 - Monument Signs limit to 4 tenants (Westman)	Max limit of 4 tenants on Monument sign	Updated: Can go beyond with PC approval. This allowance will have to be noted within the section on what the Planning Commission can approve.
Added	Chapter 17.80.080.C and 17.80.090.	Wall Signs	Revised 17.80.080.F to include create max area in MU-V at 0.5 sf per linear foot of storefront. Increase MU-N to 1 sf per linear foot of storefront. Max area is 36 square feet otherwise requires Planning Commission approval. Add corner lot standard of two signs.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Chapter 17.80.080.D and 17.80.090.C	Projecting Signs	Updated 17.80.080.G to apply Commercial standards to Industrial Zoning District. Decreased Maximum area to 8 sf in the commercial and industrial zoning districts.
Added	Chapter 17.80.080.E	Gas and Service Station Signs	Updated 17.80.080.H to allow gas station to list services within permitted signs for propane and ATMs to avoid all the additional small a-frame signs that do not comply with code. Created additional standard that "two additional signs up to a maximum of 1 square foot are permitted to advertise ancillary services such as ATMs and propane. Such signs must be attached to another sign or structure and may not be a portable freestanding sign."
34	Chapter 17.80.080.F	Window Signs	Modified table 17.80-8 to Remove maximum of 1 sign per window. Modified table 17.80-8 to allow 30% of window in C-R, CC, and I.
35	Chapter 17.80.080.G.13 - Page 80-11 - Sidewalk signs in MU-V zoning district (Newman)	Suggest removing max limit of sidewalk signs for fairness.	Modified 17.80.080.K to remove maximum of 30 sidewalk signs in village.
Added	Chapter 17.80.090.A.4.	Edit to emphasize compatibility	Updated 17.80.090.A.10. "The signs will not have a significant adverse effect on the character and integrity of the surrounding area."

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Chapter 17.80.090.A.4.F	Internal Illumination in Village	Updated 17.80.090.A..6 to specify that internal illumination is not allowed in the village. Backlit signs are allowed. Only allowed in MU-N. Added maximum illumination standard lumens or foot-candles for all illuminated signs.
Added	Chapter 17.80.090.B.5	Auto dealership signs	Updated 17.80.080.A.6 to allow the dealerships for more frequent temporary sign permits, signs on light poles throughout the autoplaaza, etc. "The Planning Commission may allow temporary auto dealership signage, such as signage on light poles and flags and pennants, that deviate from temporary sign standards in 17.80. 110 (Temporary Signs) with the approval of a Sign Permit.
Added	Chapter 17.80.090.B.6	Low Visibility Areas. Definition	Updated 17.80.012.E.1 to define Low Visibility Areas.
Added	17.80.090.B.7.C	match standard for illumination utilized previously.	Updated 17.80.090.A.6 and B.3 to read " Internal illumination is permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo"
Added	Chapter 17.80.090 A4 and B7 and C4	Design Standards	Updated to 17.80.090.A, B, and C to add zone name in title. Design Standards for Commercial, Design Standards for Mixed Use, etc.
Added	Chapter 17.80.090.D:	<u>Visitor Servng</u>	This should not apply to VS overlay. Updated to clarify, signs installed by the City are exempt citywide. Reference in beginning of chapter and remove VS section.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
36	Chapter 17.80.110. - Page 80-17 - Temporary Signs (Westman)	Discussion temporary signs	<p>Updated temporary sign chart as follows: 1.</p> <p>Delete Small Commercial Signs within Use Restriction delete “non-residential uses only” and write in Autodealerships on Autoplaza Drive Only. Create a row for Auto Dealers that allows these signs and allows balloon. Increase frequency of allowance.</p> <p>2. Remove Balloon Signs</p> <p>3. Under Construction Site Signs- Residential change Use Restrictions to Residential Uses only.</p> <p>4. For Construction Site Signs both residential and non-residential – change maximum duration to state “to certificate of occupancy”</p> <p>5. For Construction Site Signs non-residential and for sale lease and rent sign non-residential – require that the signs are smaller in the Central Village.</p> <p>6. For Sale, Lease, and Rent Signs, Non-residential specify 1 per property on site and revise maximum duration to state “180 days; director may approve extensions” remove 90 days.</p> <p>7. For open house add allowance that 1 on property and one on a different private property with the consent of private property owner.</p>
37	Chapter 17.88.030.J - Page 88-2 - Public Art (Westman)	Already required. Must go beyond requirement	Discussed on 3/3/2016. Reword/strengthen language in 17.88.020. Add to descriptions of allowable benefits.
38	Chapter 17.92 - Page 92-1 - Non- Conforming Parcels, Uses, and Structures (Westman)	Discussion	

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Chapter 17.80.130.F.1	Master Sign Program	Planning Commission Direction: Remove "color" and remove provided that the signs contribute to a consistent visual theme within the property.
Added	Chapter 17.80.140	Non-conforming signs. A. Continuation	Planning Commission: Add to continuation that if there is a remodel (more than 50%) the non-conforming sign must come into compliance.
Added	Chapter 17.84	Throughout Chapter Reference to "A state certified architectural historian" should be changed to "the city contracted state certified architectural historian" throughout chapter so that there is only one historian that is contracted by the City that reviews proposals.	Modified throughout Chapter to specify "the city-contracted State Certified Architectural Historian"
Added	Chapter 17.84	Also, delete all references to City Historian.	Removed references to City Historian
Added	17.84.030	Adding or Removing Historic Landmark Designation. Planning Commission Direction: Add that the City may require a DPR to be drafted by the City Contracted State Certified Architectural Historian if a structure is found to be historic.	Modified 17.84.030.C to specify "If the property exhibits characteristics for classification, the City-contracted State Certified Architectural Historian will complete a DPR523 for the City's records."

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	17.84.010 Purpose Statement	Planning Commission Direction: Elaborate on period of significance.	Modified 17.84.020 to specify "The Zoning Code establishes two types of historic resources: Designated Historic Resources and Potential Historic Resources. The City intends for both types of historic resources to be comprised primarily of structures from the pre-World War II era of Capitola's history."
Added	17.84.010.A. Historic Landmarks	Planning Commission Direction: Change "Historic Landmarks" to "Designated Historic Resources"	Section 17.84.020.A modified to Designated Historic Resources.
Added	17.84.010.B Reference to the 2005 Historic Structures List	Remove "is the 2005 City of Capitola Historic Structures List". Change "Historic Structures List" to "Potentially Historic Resources List"	17.84.020.B removed reference to 2005 List and referred to "list of potentially historic resources"
Added	17.84.050.A.2 Criteria for Designation of Historic Resources	Planning Commission Direction: Remove #2 "It is identified with a persons or events significant in local, state, or national history." Add the previous criteria of "an example of a type of building once common in Capitola but now rare."	Updated 17.84.050.A to remove #2 and add #3 "It is an example of a type of building once common in Capitola but now rare."
Added	Chapter 17.84.060 Certificate of Appropriateness	Planning Commission Direction: Modify "Certificate of Appropriateness" to "Historic Alteration Permit"	Modified to Historic Alteration Permit
Added	Chapter 17.84.060.J.5	Planning Commission Direction: Remove #5	Removed

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Chapter 17.84.070.D Permitting Fees	Planning Commission Direction: When City Council reviews, clarify that Planning Commission supports fee waivers. Also, amend draft code to better define what qualifies for fee waivers to allow true preservation but not projects that add onto historic structures.	Updated as follows: The City Council shall waive application and review fees for permit required for development projects that preserve, retain, and rehabilitate a historic structure. Permit fees shall be waived only for significant rehabilitations of noteworthy historic structures, not for remodels or additions to older homes that would not substantially advance the City's historic preservation goals.
Added	Chapter 17.84.070.E	Planning Commission Direction: include "such as setback and parking"	Modified to add "such as parking and setbacks"
Added	Chapter 17.84.070. Demolition of Historic Homes	Planning Commission Direction: Section for demolition is out of order. Put before Incentives. Also, have City Attorney review demolition section.	Corrected order.
Added	Chapter 17.84.080.C	Planning Commission Direction: Add "to the satisfaction to the CDD or PC" and "the city can require review of application and findings by a third party".	Updated to include "The application shall include the information and materials required by the Community Development Department together with all required application fees to the satisfaction of the CDD or Planning Commission. The City may require third-party review of these materials at the applicant's expense. "
Added	17.88.030 Allowable Benefits.	Move Central Village from MU-V chapter to 17.88.	Updated 17.88.030.A.2 to include "A hotel on the former Capitola Theater site.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	17.88.030 Allowable Benefits	Discussion on revised allowable benefit list. PC Direction to Clarify 17.88.040.B.2 what "sidewalk oriented commercial uses" means. The idea is to bring the building up to the street/sidewalk. Update to be clearer of intent.	Revised list is improvement. Reworded as "Redevelopment of existing surface parking lots fronting 41st Avenue and Capitola Road while introducing ith new sidewalk-oriented commercial uses buildings that place commercial uses along the street frontage."
Added	17.88.040 Available Incentives	Move the Central Village Theater Site from MU-V to 17.88	Updated 17.88.040.A.2 to include "A hotel on the former Capitola Theater site.
Added	17.88.060	Application Submittal and Review. The organization of this section is confusing. Revise A: The application must go before Planning Commission for a recommendation to the City Council. Remove B. Separate chapter for Conceptual Review will be added	Revised section to clarify process.
Added	17.88.080	Findings	Delete Finding C. Add finding that the Public Benefit exceeds the benefits required by the zoning code or any other provisions of local, state, or federal law.
Added	17.92.010	Purpose Move purpose E after purpose C	Moved purpose E after purpose C

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	17.92.050.B	Cessation of Use. Define “Cessation of Use” and specify what operating and non-operating means. Business closed. Extend to 180 consecutive days.	<p>If any such nonconforming use of land ceases for a period of more than 1890 consecutive days, any subsequent use of such land shall conform to the regulations of the applicable zoning district. For the purpose of this section, a use is considered ceased if:</p> <ol style="list-style-type: none"> 1. The use is not present on the site; 2. For uses that serve customers (e.g., restaurants), the use no longer serves customers; and/or B.3. For uses with employees, no employees (including the owner) are present on the site.
Added	17.92.070.C.3	Measures to Compensate for Impacts. Language is too weak. Change provide a community benefit to “neighborhood” benefit. For examples include: reducing number of residential units in a building, providing shared parking, screening trash facilities, improved building design, screening and landscaping.	A property owner may also propose additional measures that would provide a community neighborhood benefit to compensate for impacts from the nonconforming use that cannot be fully mitigated. For example, a property owner may propose reducing the number of residential units in a building, providing shared parking, screening trash facilities, improving building and site design, adding or upgrading landscaping, providing units as deed-restricted affordable housing, or installing green building upgrades beyond the minimum required by the City or other public agency.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
39	Chapter 17.92.080.C.2 - Page 92-7 - Substantial Demolition (Smith)	Discussion on removal of substantial demolition. Remove the substantial demolition. Instead, require all additions to a non-conforming structure that require a design permit to be approved by Planning Commission and limit additions to 50% of existing non-conforming structure.	17.92.080.B.2The Planning Commission may approve an alteration or addition to a nonconforming structure that renovates, reconstructs, or replicates the nonconforming aspect of the structure with a Design Permit. The addition may not increase or exacerbate the nonconformity and may not exceed 50 percent of the floor area of the existing structure.
Added	17.92.080.D	Replication of Single Family Dwellings. Change replication to reconstruction. Keep recreates the original building footprint, mass, floor area, height, and roof lines but allow deviation in arrangement of doors, windows, and exterior finishes. Similar to reconstruction as included under 17.92.080.E.2 which allows minor changes to arrangement of doors, windows, and rooflines. Add finding that modification to the non-conforming structure preserves the beach cottage character of the city.	Updated 17.92.080.C "2. "ReconstructionReplication" as used in this subsection means the replacement of a demolished structure which recreates the original building footprint, mass, floor area, height, and roof lines. Deviation from existing design details such as the arrangement of doors and windows, architectural design, materials, and color may be permitted. and arrangement of doors, windows, roof lines, and significant architectural features of the demolished structure to the greatest extent possible. Exact reconstruction replication may not be possible due to the unavailability of matching materials and/or the necessity to meet current Building Code requirements. "
	17.92.080 D.5	Finding reference	Fixed Reference to findings should be 17.92.090.
40	Chapter 17.96.020. B – Page 96-2 – Household Pets (Westman and Smith)	Limit max number.	Updated Maximum Number: Add maximum of 4 of each type of pet with a maximum of 8 pets total.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	17.96.020.C. Chickens	Chickens	Updated to add minimum lot size of 5000 sf. Location of coops shall specify they are not allowed in front or side yard. Must be located behind primary structure. Allowed within rear yard. Keep 20 feet requirement from dwelling units on adjacent properties.
Added	17.96.020.D. Prohibited Animals	Prohibited Animals	Updated to add the word ducks as follows "1. Roosters, fowl other than chickens and ducks, goats ...
Added	17.96.040	Home Occupation	Updated to add word "onsite". Minor Edit: 17.96.040.B.2 Sales and Displays. Add the word onsite as follows. "Products may not be sold onsite directly to customers..."
Added	17.96.060.A	Large Commercial Land Uses: Purpose and Applicability	Updated to keep standard for applicability at 12,000 sf and remove 20,000 sf. Also, reinsert previous code exception for commercial properties within a 300,000 sf shopping center.
41	Chapter 17.96.100. Page 96-9 Permanent Outdoor Displays (Welch)	Permanent Outdoor Displays will become a management/code enforcement issue. Do we want to create a path to allow these in the code or prohibit?	Do not allow in the MU-V. Add that permanent outdoor display requires approval of a conditional use permit by Planning Commission. Add that vending machines are not allowed as permanent outdoor displays. Make sure it is clear in draft code that redbox and vending machines located outside a building require a CUP for an accessory use. Define discretionary review.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	17.96.110.D.1	Outdoor Lighting. Prohibited Lighting. Drop-down lenses. Better define drop down lenses and input image	Changed "drop-down" to expose bulbs and/or lenses"
Added	17.96.140	Residential Mixed Use Development in Commercial Zoning Districts	Moved to CC and CR Zones. Remove 17.96.120.C.7 retail location. Rephrase 17.96.120.C.10 to clarify parking along curb. Clarify if this is parking along frontage. Curb suggests public street parking.
added	17.96.150.	Self-storage should have a dash in the regional commercial zone. Update 17.96.150 to reflect that the self storage are only applicable in the CC.	Updated to remove C-R zone and only allowed in C-C.
added	17.96.150.B.1	Self Storage Facilities. Change to required findings	Updated B.1 to "The location of the proposed self-storage facility is not conducive better suited as self-storage rather than traditional retail due to limited access to or poor visibility from the street."
added	17.96.160.B	Solar Energy Systems – Height exceptions	Updated to Specify that height exception is for the solar system not the structure.
added	17.96.170.B.	Soquel Creek Pathway, Bulkheads, and Decks: Bulkheads and Decks	Moved B.2. under 17.96.170.A. Removed all of section B.
42	20) Chapter 17.96.180 – Page 96-16. Temporary Sidewalks Dining (Smith)	Conversion of on-street parking might need discussion - probably OK as is, but do we want to add any limitations to times and/or presence of street closures/events?	Staff to add tighter regulations.
Added	17.96.180	Temporary Sidewalk Dining	Do not allow in MU-V. Within other commercial zones allow with tighter regulations.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
43	Chapter 17.96.200 – Page 96-20 – Unattended Donation Boxes (Westman)	Unattended Donation Boxes	Removed section on unattended donation boxes City-wide. Prohibit.
Added	Table 17.108.-1	Review and Decision-Making Authority: Conceptual Review	Added conceptual review application
Added	17.108.040	Change title Design Review Committee	Changed from Design Review Committee to Design Review Process
Added	17.108.040.B	Membership: Modify membership	Highlight as a change for City Council. Under membership remove historian; include one contracted landscape architect; and decrease contracted architect from two to one. No appointments. Historian is removed and only applicable within the Historic section of code. Within the historic section of code the Contracted Historic Architect shall review application prior to design review process.
Added	17.112.020 & 30 & 40	Application Preparation and Filing: add flow chart	Added a flow chart
Added	17.112.050.B	Concurrent Application: Planning Commission role	Added that Planning Commission makes a recommendation to City Council.
Added	17.114.030.B.2 Conceptual Review: Review Authority	Planning Commission Direction: All conceptual reviews should go to Planning Commission first then have the option to go to City Council based on the type of development.	Updated as follows: 2. For projects other than a Planned Development project that requires both Planning Commission and City Council approval, the Planning Commission shall provide input on the Conceptual Review application; the City Council may also provide input on the Conceptual Review application upon the applicant’s request.
Added	<u>17.114.040.B Typo</u>	Planning Commission Direction: Change “additional” to “in addition to”.	Updates to "in addition to"

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	Table 17.120-1 Permits Requiring Design Permits	Single-Family Residential Projects	Updated to create a maximum threshold in size for accessory structures up to 300 square feet with minor design permit. Beyond 300 sf is a design permit and requires Planning Commission approval.
Added	Table 17.120-1 Permits Requiring Design Permits	Single-Family Residential Projects	Modified: Upper floor decks to an existing sign-family home that do not back up to open-space
Added	Table 17.120-1 Permits Requiring Design Permits	Multi-family Residential Projects	Modified as follows: Upper floor decks and balconies on the side or rear of a structure that are not adjacent to public open space
Added	Table 17.120-1 Permits Requiring Design Permits	Multi-family Residential Projects	Modified: Ground-floor additions 15% or more of the existing floor area of individual unit. Design Permit
Added	Table 17.120-1 Permits Requiring Design Permits	Multi-family Residential Projects	Modified: to repeat: Modify upper floor decks to an existing sign-family home that do not back up to open-space, pursuant to Section 17.16.030.B.8. Design Permit
Added	Table 17.120-1 Permits Requiring Design Permits	Non-residential Projects (Including Mixed Use)	Added maximum threshold in size for accessory structures up to 300 square feet with minor design permit. Beyond 300 sf is a design permit and requires Planning Commission approval.
Added	Table 17.120-1 Permits Requiring Design Permits	Non-residential Projects (Including Mixed Use)	Modifie as follows: Additions less than 3,000 sq. ft. to an existing multi-family structure 15% of the existing floor area of a non-residential structure where the addition is not visible from the primary street frontage. Minor Design Permit
Added	Table 17.120-1 Permits Requiring Design Permits	Non-residential Projects (Including Mixed Use)	Modified as follows: Additions of 15% or more of the existing floor area of a non-residential structure. Design Permit

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
Added	17.110.030.B	Single Family Exemptions	Added exemption for “Minor exterior modification or replacement of materials on an existing structure including siding, windows, doors, and roof.”
44	Chapter 17.120. 030. B. 5 –Page 120-3. Single-Family Exemptions (Smith)	Single Family Exemptions	Removed "electricity"
Added	17.120.040.C	Application Submittal and Review: Enhanced Visualization	Changed shall to “May require” then explain “enhanced visualization” with examples such as: 3-D renderings, models, expanded streetscapes, viewpoint analysis, etc.
Added	17.120.080	Findings for Approval	Added additional Finding of Approval as follows: “Maintains the character, scale, and development pattern of the neighborhood.”
Added	17.132.070.E	Sign Permits- Findings for Approval	Removed Finding E
Added	17.136.020.A	Minor Modifications: Permit Modifications	Changed “city” to “Planning Commission” in first sentence.
Added	17.136.020.A	Minor Modifications: Permit Modifications	Moved A.1 and A. 2 into section B. Excluded Modifications.
Added	17.136.020.A	Minor Modifications: Permit Modifications	#4 changed to “Dimension standards and setbacks for parking spaces, driveways, garages, parking lots, and loading areas; and”
Added	17.136.060	Findings for Approval	Removed “undesirable” from sentence
Added	Chapter 17.148	Public Notice and Hearing	Staff to add a table for each type of permit and the required noticing and appeal period. Standardized noticing even if it means a longer noticing than required by state law to create consistency.
Added	Chapter 17.148	Public Notice and Hearing	Add conceptual review to noticing.

#	LOCATION IN DRAFT CHANGE	REQUESTED DISCUSSION	IMPLEMENTATION
45	Chapter 17.148.020 Notice of Hearing (Smith)	The requirement for prominent posting on site is not listed, shouldn't it be? Also would like to discuss electronic posting to social media sites / email as alternatives to supplement newspaper posting under item 3. Would like to add notice requirements to conceptual review hearings so that the affected public is aware of these discussions.	Request to remove newspaper noticing in the future because outdated. Understand it is a state requirement but would like to see Capitola support changes to legislation. Public noticing should be on website rather than newspaper.

	A	B	C
	REQUESTED MODIFICATION/EDIT		
	IMPLEMENTATION		
1	LOCATION IN DRAFT CHANGE		
1	Throughout Document (Newman)	Consistency in Capitalization: Coastal, Local, State, Federal	Correct capitalization of Coastal, Local, State, and Federal throughout code.
2	Chapter 17.04.020.B.10 - Page 04-1. Purpose and Effect of Zoning Code; (Westman)	Support a balanced transportation system that accommodates the needs of automobiles, pedestrians, bicycles and <u>other forms of transportation</u> "	17.04.020.B.10: Modified to add "and other forms of transportation"
3	Chapter 17.08.020 - Page 08-1. Interpretation; Section 020 - Authority (Westman and Newman)	The City Council delegates to the Community Development Director and the Director's designees the authority, <u>in accordance with 17.08.040</u> , to interpret the meaning and applicability of all provisions in the Zoning Code".	17.08.020 Updated to add "in accordance with 17.08.040"
4	Chapter 17.12.030.C - Page 12-3. Zoning Districts and Map; Zoning Map, Subsection C - Location (Westman)	The Zoning Map is kept, maintained, and updated electronically by the Community Development Department, and is available for viewing by the public at the Department's the official City of Capitola website"	17.12.030.C Update and removed "and on the official City of Capitola website"
5	Chapter 17.16.010.B.2 - Page 16-1. Specific (Westman)	B.2. Multi-Family Residential (RM) Zoning District - Housing in the RM zoning indistrict carefully designed to enhance Capitola's unique identity and to minimize impacts on adjacent land uses and structures".	17.16.010.B.2 Updated to replace "is" with "will be"
6	Chapter 17.16.020 Land Use Regulations. Table 17.16-1	Vacation Rentals. Reference is incorrect	Change vacation rental reference to 17.40.030
7			

	A	B	C
	REQUESTED MODIFICATION/EDIT		IMPLEMENTATION
	LOCATION IN DRAFT CHANGE		
1	Chapter 17.16.030.A. - Page 16-3. Development Standards and Site Requirements (Westman)	Add language to clarify that Site requirements are for purposes of future subdivisions. Existing legal lots of record may be developed including substandard lots.	Table 17.16-2 Updated to include note 1.
8	Chapter 17.16.030.A. Page 16-3. Table 1716-2. (Westman)	Add front yard setback for garage in table. It is listed under 17.16.030.B.3 but would be easier for reader to also be included in the table. Add garage reference under Additional Standards column (17.16.030.B.3). Chapter 17.16.030.A. Table 1716-2.	Table 17.16-2 Updated to include garage setback of 20 feet
9	Chapter 17.16.030.3.A - Page 16-5 - Garage Setback (Smith)	Clarify. Should garage setback be measured from property line or setback rather than building wall?	No change to standard.
10	Chapter 17.20.010.B.2 - Page 20-1. Specific. (Westman)	2 - Development in the MU-N zoning district is will be carefully designed to complement its surrounding and minimize impacts on neighboring properties".	Sentence to be changed from "is" to "will be"
11	Chapter 17.20.010.B - Page 20-1. Purpose of the Mixed Use Zoning Districts; Subsection B (Welch)	Suggest renaming to follow nomenclature. 1 - Village Mixed Use (MU-V) change to "Mixed Use - Village" Zoning District"; 2 - "Neighborhood Mixed Use (MU-N) change to "Mixed Use - Neighborhood" Zoning District"	Mixed Use-Village (MU-V) and Mixed Use Neighborhood (MU-N) will be incorporated into code and map.
12			

	A	B	C
	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
1	Chapter 17.20.020.A. Permitted land uses. Table 17.20.020 page 20-3 (Staff)	Vacation rental. Reference See Chapter 17.40.030"	Reference for vacation rentals will be updated to 17.40.030
13	Chapter 17.20.030.D.1 - Page 20-9 - Setbacks in the MU-V Zoning District (Welch)	The Planning Commission may <u>may</u> modify or waive this requirement upon finding that:	Change "way" to "may"
14	Chapter 17.20.030. D.1 – Page 20-9 - Setbacks in the MU-V Zoning district (Newman)	Loosen standard building within 0-10' of property line.	Standard will remain as proposed. Language will be modified from shall to should
15	Chapter 17.20.30.F Page 20-10 - Height and FAR Standards for the Village Hotel (Westman)	Request legal review to ensur this is not spot zoning	Moved to 17.88
16	Chapter 17.24.010.B. Page 24-1 - Regional Commercial (C-R) Zoning Districts (Westman)	Office, medical, and residential uses are restricted in prime retail locations to protect the long-term economic vitality of the corridor. There is no definition for "prime retail location" .	17.24.010.B removed "in prime retail locations"
17	Chapter 17.24.020 Permitted Land Use - Page 24-2 (Westman)	Table 17.24-1 - Permitted Land Uses in Commercial and Industrial Zoning Districts. Footnote 5. Permitted only on a mixed use site with the residential use secondary to the primary commercial uses on the site. Residential uses on the site are limited to less than 50 percent of the floor area of buildings on the site. Residential uses shall be located and designed to maintain a primarily commercial character and function of the site." - reword for clarity.	
18			

	A	B	C
	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
1			
19	Chapter 17.24-1 - Page 24-2 - Land Use Table (Smith)	Need to define custom manufacturing vs. light manufacturing.	
20	Chapter 17.24-1 - Page 24-2 - Land Use Table (Added during April 18, 2016 PC meeting)	Recycling Collection Facilities. List as a conditional use permit for CC, CR, and I zone. Correct reference to 17.96.130	Updated Table 17.24-1 to add CUP requirement for Recycling Collection Facilities in CC, CR, and I zone. Correct reference to 17.96.130
21	Chapter 17.24.030 Development Standards. Table 17.24.030 Added by staff	There is a footnote [1] with an explanation but no reference within the table.	Updated Table 17.24-3 to remove footnote 1
22	Chapter 17.24.030.D.2 - Page 24-6 - Daylight Plane (Westman)	Figure 17.24-2 - Residential Transitions - Daylight Plane - Include in MU-N district	Added to 17.20.040.D Development Standards for mixed use neighborhood zoning district
23	Chapter 17.24.030.B. - Page 24-5 - Front and Street Side Setbacks in CR and CC. (Westman)	Inconsistent with the sign ordinance setbacks for monument signs.	Review both sections of code and did not identify an issue as drafted. To clarify, a monument sign is required to be at least 5 feet behind sidewalk or property line, whichever is greater. If a building is along property line they will not need a monument sign and will likely utilize a wall sign and/or projecting sign.
24	Chapter 17.24.030.D.2 and Figure 17.24.2 - Page 24-6 - Daylight plane (Smith)	There is a conflict. Text says Daylight Plane is 20' high. Figure shows 25' high.	Updated 17.24.030.D.2 to 25 feet to match figure.
25	Chapter 17.28.010.B.5 - Page 28-1 - Visitor Serving - General (Smith)	add (VS-G)	
26	15)Chapter 17.28.030 - Visitor Serving Land Use Regulation Table 17.28-1: Permitted Land Uses in the Visitor Serving Zoning Districts Page 28-3 (Westman)	Schools, Public or Private - Subzone VS-G - Draft code: Conditional Use. Suggest Change to Prohibit.	

	A	B	C
	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
1			
27	15)Chapter 17.28.030 - Visitor Serving Land Use Regulation Table 17.28-1: Permitted Land Uses in the Visitor Serving Zoning Distcts Page 28-3 (Westman)	VS Subzones - Typo. Top of columns should be "VS-G, R, SB, MC, ES"	
28	15)Chapter 17.28.030 - Visitor Serving Land Use Regulation Table 17.28-1: Permitted Land Uses in the Visitor Serving Zoning Distcts Page 28-3 (Westman)	Footnote 10 - Events may not exceed 10 days; Comment - Long but reflects current code.	
29	15)Chapter 17.28.030 - Visitor Serving Land Use Regulation Table 17.28-1: Permitted Land Uses in the Visitor Serving Zoning Distcts Page 28-3 (Westman and Smith)	Footnote 11 - Limited to single one-day event per year; Suggest modifying to two-days. Current rule prohibits Car Show during the summer months Begonia festival is 3 days	Modify Footnote 11 to 2 days.
30	15)Chapter 17.28.030 - Visitor Serving Land Use Regulation Table 17.28-1: Permitted Land Uses in the Visitor Serving Zoning Districts Page 28-3Added on April 18 PC meeting	Within the shadow brook, the reference to footnote [4] should be removed.	

	A	B	C
	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
1	Chapter 17.28.040.A. Page 28-5. Standards in the Visitor Serving Zoning District (Westman)	Table 17.28-2: Development Standards in the Visitor Serving Zoning Districts - Add heights for subzones. Staff comment: as written, the new code reflects the existing code. The individual subzones do not have special height standards. Table 17.28 says that all new subdivision in the Village or any other Visitor Serving location can have a building height of 30 feet. The other section on Village height says that you can only have 30 feet is you have a 5/12 pitch or greater. Which is correct?	Incorporate existing code language from 17.30.070 "The V-S (visitor serving) district may be the only zoning district applicable to a property, but at times it is applied along with other zoning districts to a property, such as "VS/R-1," or "VS/PF" dual zoning. Dual zoning means that the uses and development standards of the V-S district apply, although uses allowed by the other district may also be permitted through approval of a conditional use permit, and the planning commission may apply development standards from the other zoning district in lieu of or as well as the V-S district, as determined through architectural and site review."
31	Chapter 17.32.020.C - Page 32-1. Visitor Accommodations in New Brighton State Beach (Westman)	Section sets maximum intensity of three units per gross lot area. State regulated. Check with Coastal Commission if we can remove from code.	
32	Chapter 17.32.020.E - Page 32-3 Public Parking in the Coastal Zone (Westman)	Not necessary to have in zoning code. Remove section	Updated and removed 17.32.020.E. Public Parking in the Coastal Zone subsection # has been moved to Chapter 17.76 (Parking and Loading)
33	Chapter 17.36.060.B. 1-3 – Page 36-2. Application Submittal & Review (Newman)	Clarify two-step process and that preliminary approval does not give development rights.	Updated to require conceptual review first.
34	Chapter 17.40.020.G - Page 40-3 - Income Restrictions (Westman)	Rewrite to make the requirement clear.	
35			

	A	B	C
	IMPLEMENTATION		
	REQUESTED MODIFICATION/EDIT		
	LOCATION IN DRAFT CHANGE		
1			
36	Chapter 17.40.020.L - Page 40-7 - AH Overlay - Additional Application Requirements (Westman)	An application for an affordable housing development within the -AH overlay zone shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application & Review) - wrong reference.	Reviewed and found reference to 17.112 is correct.
37	Chapter 17.40.030.E.5 - Page 40-8 - Permit Revocation (Smith)	after a Minor Permit is reevoked, the permit holder may <u>not</u> reapply for a new permit <u>for one</u> year after revocation	Updated 17.40.030.E.5 to 17.040.030.E.9 to clarify.
38	Chapter 17.44.020.G - Page 44-3 - Major Public Works Facility. (Westman)	Justify raising number based on value amount. Check coastal acknowledgment.	
39	Chapter 17.44.040.J.1 - Page 44-9 - Temporary Events (Westman)	"The event will not occur between the Saturday of Memorial Day weekend through Labor Day, or if proposed in this period will be of less than one <u>three</u> day in duration including setup and take-down;" - change to 2 days (car show)	
40	Chapter 17.44.070. I - Page 44-9. Conversion of Existing Multi-Unit Residential Structures (Newman)	"The conversion of any existing multi-unit residential structure to a time-share <u>condominium</u> project, estate, or use as defined in Section 11212 of the Business and Professions Code".	
41	Chapter 17.44.080 - Page 44-10 - Coastal Boundary (Smith)	Should note where the "Capitola Permit and Appeal Jurisdiction Map" can be found or at least identify Zone A and Zone B on a map in the Zoning Code for reference	

	A	B	C
	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
1			
42	Chapter 17.44.110.A – Page 44-13 - Public Notice and Hearing – Planning Commission Review (Westman)	Check reference to 17.148	Correct reference
43	Chapter 17.44.120.B – Page 44-14 – Coastal Overlay Zone – Findings for Approval (Westman)	Remove finding B for views.	
44	3) Chapter 17.48.020. B – Page 48-2. Height Exceptions: Table 17.48-1: Allowed Projections Above Height Limits (Smith)	“Flagpoles not over 8 inches in <u>width/diameter</u> ”.	Updated 17.48.020.B and changed width to diameter.
45	17.48.030.C table 17.48-2 walls and fences as features for decoration or screening	Add allowance for walls and fences used as a landscaping feature for decoration or screening into the side and rear yard	Updated table 17.48-2 to allow walls and fences used as a landscaping feature for decoration or screening in the interior side and rear yard.
46	Chapter 17.48.030. A – Page 48-2. Setback Measurement - Figure 14.48-2: Setback Measurement (Smith)	Add note to "See specific zones for required zone setbacks"	Update 17.48.030 to include a note under the figure that states "Note: See specific zoning district for required minimum setback"
47	Chapter 17.48.030. D – Page 48-4. Accessory Structures in Setback Areas (Smith)	<ul style="list-style-type: none"> Modify. Keep 4. Pool setback as is. Add a separate line for hot tub with 2 foot setback. 	Updated 17.48.030.D to establish setback of 5 feet for pools and 2 feet for hot tubs
48	Chapter 17.52. 020. A.4 –Page 52-1. All Accessory Structures (Smith)	Is three feet necessary? Check with Building official and remove if ok	Checked with Building Official. Remove separation requirement from zoning. Will be looked at during building permit stage and can be mitigated through sprinklers and firewalls.

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1	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
49	Chapter 17.52.020.A.6 – All Accessory Structures (Westman)	Make distinction, can you use as office but not as a dwelling? Clarify –	Updated 17.52.020.A.6 to "Accessory structures may not be designed or used for human habitation as a <u>bedroom, sleeping area, and/or kitchen</u> , except for secondary dwelling units consistent with Section 17.74 (Secondary Dwelling Units).

	A LOCATION IN DRAFT CHANGE	B REQUESTED MODIFICATION/EDIT	C IMPLEMENTATION
1	Chapter 17.52.020.B.1 – Table 17.52.1.1 – Page 52-2 (Westman)	Is this consistent with Issues and Options direction?	<p>Issues and Options Direction: Secondary Structure in Rear Yard</p> <ul style="list-style-type: none"> o Decrease rear yard setback from 8 feet to 4 feet. o Maintain 17.15.140.G “The width of detached garages or carports in the rear yard is limited to twenty-one feet. The height is limited to fifteen feet (nine feet to the top of the wall plate) for secondary structures located a minimum of 8 feet from the rear property line. However, the planning commission may approve an exception to allow additional height if necessary to match the architectural style of the existing primary structure.” o ADDED: Secondary Structures less than 8 feet from the side yard may not exceed 12 feet in height. o Maintain required 2 foot landscape buffer between driveway and property line. o Maintain front setback (40 feet), side yard setback (3 feet) and setback from primary structure (3 feet) o Add statement in residential zoning districts an existing garage located within the required setback areas are legal non-conforming structures that may be updated but the non-conformity may not be expanded.
50			
51	Chapter 17.56.020 - Page 56-1 - Coastal permit	Make sure to reference this chapter in the Coastal Zone	

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	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
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52	Chapter 17.60.030.B.2 – Page 60-2 – Decorative Features and Materials (Smith)	Edit to be consistent with allowance of 10' Trellis.	“Decorative arches and other similar features above an entry walkways may be up to 8 10 feet in height within a required front and exterior side setback”
53	Chapter 17.64.030.D - Table 17.64-1 - Page 64 (Westman)	Tannery Gulch Riparian Corridor setback is from Riparian Corridor not the oak woodland vegetation. Previous error in code that should be removed.	Update Table 17.64-1 Tannery Gulch Riparian Corridor to 50 feet from outer edge of riparian vegetation
54	Chapter 17.64.040 - Page 64-3 - Soquel Creek and Lagoon (Westman)	There was a previous allowance for docks that is not in the existing code or the update. Suggest adding standard.	No change to standard.
55	Chapter 17.64.050 – Page 64-3 – butterfly habitat (Westman)	Add “Rispin”/Soquel Creek to better describe area.	Updated to Rispin - Soquel Creek
56	Chapter 17.68.020.B.1 - Page 68-2 - Geological Report (Westman)	Too specific. Make more general. Report reference will likely change over the years.	
57	Chapter 17.72.060. A – Page 72-4. Landscape Standard: General Standards (Newman)	Should clarify that the standards are only required subject to 17.72.020 A-C. “The following standards shall be in compliance within all zoning districts within applicable development as outlined in 17.72.020 A-C”	Updated to specify applicability of 17.72.060 tied to 17.72.020.
58	Chapter 17.74.040.I.1 - Page 74-3- Alley Orientation (Smith)	<ul style="list-style-type: none"> • “Alley Orientation” • This is within existing code; suggest to remove alley orientation and update with language that reflects finding 17.74.050.G 	Updated 17.74.040.I to remove Alley an include orientation standards from finding 17.74.050.G.

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	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
1	Chapter 17.76.020 – Page 76-1 – Applicability (Westman)	Add description after applicability title stating that section applies to 3 different development scenarios.	Updated to state “This chapter establishes parking requirements for three development scenarios: establishment of new structures and uses, replacement of existing uses, and expansion and enlargement of existing structures and uses.”
59	Chapter 17-76.030.A (page 76-2) Parking in Mixed Use Zoning Districts (Welch)	Table 17.76-1: Required on-site Parking in Mixed Use Zoning Districts i. Rename Village Mixed Use" to "Mixed Use - Village" AND "Rename "Neighborhood Mixed Use" to "Mixed Use - Neighborhood"	Updated to Mixed Use Village (MU-V)
60	Chapter 17.76.040.B.1 – Figure 17.60-1 – Page 76-7 - Parking in Front Setback Area in R-1 (Westman and Smith)	10 feet too narrow; change to 20 ft. wide max. (Westman and Smith) also limits perpendicular parking (Smith)	Updated to Reflect existing code with max width of 40% of lot width up to a maximum of 20 feet. Narrow lots may have a minimum of 14' driveway width.
61	Chapter 17.76.040.B.2 0 Page 76-7 - Other Zoning Districts (Smith)	MU-N – address parking in front yard in mixed use neighborhood; Clarify to allow limited area of parking that may be in the front yard.	Added " In the Mixed Use Neighborhood zoning district, parking may be located in the front or exterior side setback area if approved by the Planning Commission in accordance with Section 17.020.040.E (Parking Location and Buffers)."
62	Chapter 17.76. 050. D.2 – Page 76-10. Off-site Parking (Newman)	Typo. “ Off Off-site parking shall be located within a reasonable distance of the use it is intended to serve, as determined by the Planning Commission”.	Corrected typo
63			

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	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
1	Chapter 17.76.050. C.3 – Page 76-10. Off-site Parking (Newman)	A sovereign record deed restriction or other legal instrument, approved by the City Attorney, shall be filed with the County Recorder”	Updated to "deed restriction or other legal instrument"
64	Chapter 17.76.040.E.1 Page 76-10 - Valet Parking (Westman)	Code states to be staffed at all times. Only needs to be staffed when business is open	Revised "Valet parking lots must be staffed <u>when business is open</u> at all times by an attendant who is authorized and able to move vehicles"
65	Chapter 17.76.050.D.2 Shared Parking (page 76-10) (Welch)	Clarify that parking study is required. Deposit paid by applicant and study contracted by City, reviewed by Community Development Director, and ultimately approved by Planning Commission	Updated as follows "2.1. A parking demand study approved prepared by a specialized consultant contracted by the Community Development Director, paid for by the applicant, and approved by the Planning Commission demonstrates that there will be no substantial conflicts between the land uses' principal hours of operation and periods of peak parking demand;"
66	Chapter 17.76.070 – Page 76-16 – Parking Lot Landscaping (Westman and Smith)	Add exceptions (Westman) Add flexibility to regulate canopy without requiring too many trees. (Smith)	Added: 4.5. The Planning Commission may grant an exception to the required tree plantings if the 50% shade coverage exists within the parking lot.
67	Chapter 17.76.050. G.5 – Page 76-11. Transportation Demand Management Plan (Smith)	Clarify program coordination	No change to standard.
68	Chapter 17.76.080. H – Page 76-19. Bicycle Parking Cover (Smith)	Allow flexibility for creative designer and function	Added "The City may allow creative design solutions to provide cover for bicycles as required by this section"
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	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
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70	Chapter 17.84.030 – Page 84-3 - Authority to Maintain (Westman)	“The Director may add or remove structures from the list based on input from the State Certified Architectural Historian and the City Historian ”	Removed the City Historian throughout the chapter.
71	Chapter 17.84.060.D.1	Planning Commission Direction: Structures is misspelled.	Corrected typo
72	Chapter 17.92	Refers to the R-1 through-out	Change R-1 to R-SF
73	Chapter 17.96.020. C.1 – Page 96-2. Chickens (Smith)	Location of Chicken Coops; not in front yard or exterior street	Modified to not allow in front or side yard.
74	Chapter 17.96.020.E – Page 96-2 – Prohibited Animals (Westman)	Add ducks	“Roosters, fowl other than chickens and ducks, goats pigs other than potbelly pigs, and other livestock”.
75	Chapter 17.96.100.D – Page 96-9 – Standards for permanent outdoor display (Westman)	Add standard for location on private property and not allowed in public R.O.W.	Added
76	17.96.040.B.2.	"sold directly" is in conflict with online office sales	Modify to "may not be sold onsite"
77	Chapter 17.96.110.D.1 – Page 96-11 – Prohibited Lighting (Westman)	What is a drop down lens? Clarify or remove.	modified language.
78	Chapter 17.96.180.B.4.e - Temporary Sidewalk Dining (page 96-17) (Welch)	Furniture and Signage Location; e - Is the allowance for signs on awnings and umbrellas consistent with the sign section of the code?	All signs are subject to Chapter 17.80.
79	Chapter 17.96.180.B.7 -Temporary Sidewalk Dining (page 96-18) (Welch)	Hours of Operation - Add days of week: Sidewalk dining may occur between 7 a.m. and 10 p.m. 7 days a week	Added 7 days a week.

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	LOCATION IN DRAFT CHANGE	REQUESTED MODIFICATION/EDIT	IMPLEMENTATION
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80	Chapter 17.108.030 – Page 108-1. Review and Decision Making: Table 17.108-1: Review and Decision Making Authority (Smith)	Define 'Reasonable Accommodations' under Other Approvals	Clarified.
81	Chapter 17.156.070. C. 5 – Page 156-3. Minor Changes (Smith)	"A feature of the project that was a specific consideration of approval." Does this mean if we talk about it at the public hearing it fits?	
82	Chapter 17.156.080. C.3 – Page 156-5. Extension of Time (Smith)	Define '...up to expiration date of a valid tentative for projects...' What is a valid tentative?	
83	Chapter 17.160.020. B.3 – Page 160-2. "B" Terms (Smith)	Basement – portion below grade	
84	Chapter 17.160.020. H – Page 160-7. "H" Terms (Smith)	<ul style="list-style-type: none"> • Home Day Care <ul style="list-style-type: none"> i. "Home day care facilities, large" means a day care home facility supervising 8 persons or less 9 to 14 persons. ii. "Home day care facilities, small" means a day care home facility supervising 9 to 14 persons 8 persons or less. 	
85	Definition	Need to define custom manufacturing vs. light manufacturing.	