



CAPITOLA CITY COUNCIL SPECIAL MEETING AGENDA REPORT

MEETING OF AUGUST 18, 2016

FROM: Community Development

SUBJECT: Zoning Code Update

RECOMMENDED ACTION: Receive the staff presentation, discuss the proposed draft Zoning Code Update, identify desired Code revisions, and continue the public hearing to the September 15, 2016 Special City Council meeting.

BACKGROUND: The City of Capitola initiated an effort in 2014 to comprehensively update its 1975 Zoning Code. To begin the process, staff solicited input from a variety of stakeholders to identify issues with the current Zoning Code and opportunities for improvement. Staff used this feedback to develop an issues and options paper which served as the basis for eight public hearings with the Planning Commission and City Council to provide staff with policy direction prior to drafting an updated Code. Staff completed a Draft Zoning Code Update based on policy direction received during the issues and options hearings.

The Draft Zoning Code was released on February 4, 2016, for an extended public review and comment period. The Draft Code, Zoning Map, and previous staff reports with attachments are available online at: <http://www.cityofcapitola.org/communitydevelopment/page/zoning-code-update>. The Planning Commission began their review of the Draft Zoning Code on March 3, 2016, and to date has held ten public hearings to discuss the Code. Once the Planning Commission recommends a final draft, staff will make that draft document available to the City Council.

DISCUSSION: The City Council requested a hybrid approach to the review the Draft Zoning Code, whereby staff presents significant changes and Planning Commission revisions in a sequential, chapter-by-chapter manner beginning with scheduled special meetings. The Draft Code is separated into 5 parts, as follows:

- Part 1: Enactment and Applicability
- Part 2: Zoning Districts and Overlay Zones
- Part 3: Citywide Standards
- Part 4: Permits and Administration
- Part 5: Glossary

The City Council received a complete Draft Zoning Code on February 11, 2016. Part 3 and Part 4 of the updated Draft Code containing the Planning Commission modifications in redlines are

Zoning Code Update
August 18, 2016

included as Attachments 1 and 2. Part 5, the glossary, is included as Attachment 3 but has not been undergone final review by Planning Commission. Comments and edits received from the California Coastal Commission are included in Attachment 4. Part 1 and Part 2 of the updated Draft Code containing the Planning Commission modifications in redlines was included in the August 11, 2016, Agenda Packet and available online. As the City Council reviews the redlined draft and provides modifications, the draft will be updated to reflect the City Council edits.

The City Council approved the following special meeting schedule for the review of the Draft Zoning Code:

- Thursday, August 11th at 6 pm
- Thursday, August 18th at 7 pm
- Thursday, September 15th at 6 pm
- Thursday, September 29th at 6 pm

During the August 11th meeting, the City Council provided limited comments on Part 1: Enactment and Applicability. Part 1 is an overview of the purpose and effect of a Zoning Code, interpretation, and applicability to the Zoning Districts and Zoning Map. The City Council focused the meeting discussion on Part 2: Zoning Districts and Overlay Zones. This section contains land use tables, development standards, and specific regulations for each Zoning District. During the August 18th meeting, staff will continue where the City Council adjourned on the 11th.

FISCAL IMPACT: None.

ATTACHMENTS:

1. Part 3 with Planning Commission Redlines
2. Part 4 with Planning Commission Redlines
3. Part 5: Glossary
4. Coastal Chapters with Coastal Commission comments

Report Prepared By: Katie Cattan
Senior Planner

Reviewed and Forwarded by:

Jamie Goldstein, City Manager

8/12/2016

Chapter 17.48 – HEIGHT, SETBACKS, AND FLOOR AREA

Sections:

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

17.48.010 Purpose

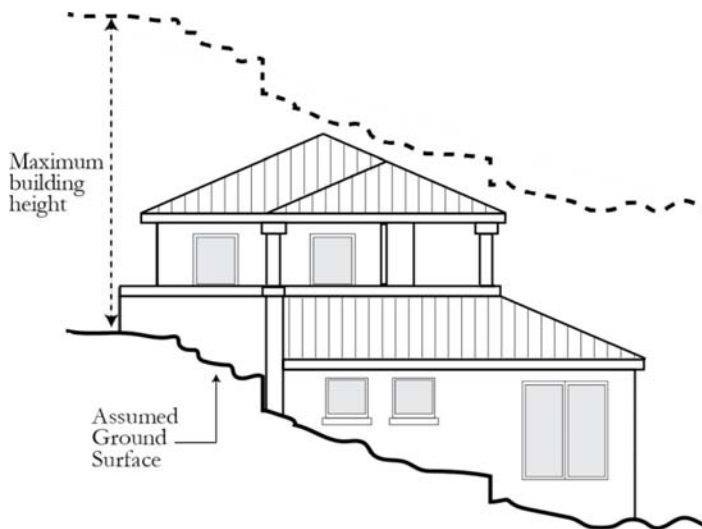
This chapter establishes rules for the measurement of height, setbacks, and floor area, and permitted exceptions to height and setback requirements.

17.48.020 Height Measurement and Exceptions

A. Measurement of Height.

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

FIGURE 17.48-1: MEASUREMENT OF MAXIMUM PERMITTED BUILDING HEIGHT



B. Height Exceptions. Buildings may exceed the maximum permitted height in the applicable zoning district as shown in Table 17.48-1.



Note: Height exceptions in Table 17.48-1 below add detail to height exceptions in Section 17.81.070 of the existing Zoning Code.

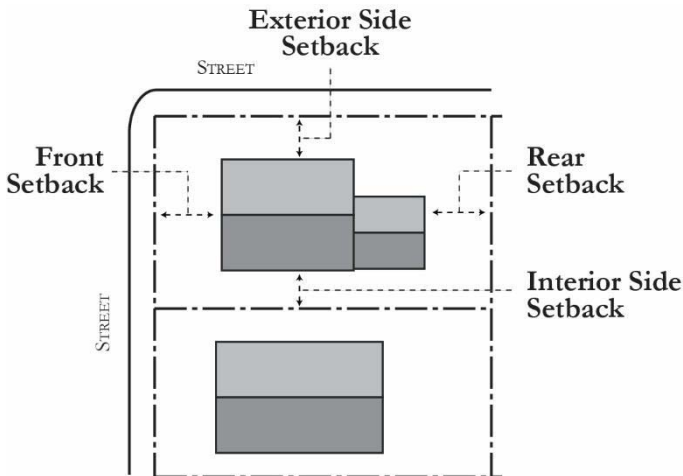
TABLE 17.48-1: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS

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

17.48.030 Setback Measurement and Exceptions

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

FIGURE 17.48-2: SETBACK MEASUREMENT



Note: See specific zoning district for required minimum setback

Attachment: Part 3 with Planning Commission Redlines (1570 : Zoning Code Update)

B. Projections over Property Lines. Structures may not extend beyond a property line or into the public right-of-way, except when allowed with an Encroachment Permit.

C. Projections into Required Setback. Features of the primary structure on a lot may project into required setback areas as shown in Table 17.48-2, subject to the requirements of the Building Code. See Chapter 17.52 (Accessory Structures and Uses) for setback requirements that apply to accessory structures.

TABLE 17.48-2: ALLOWED PROJECTIONS INTO REQUIRED SETBACKS

Projecting Features	Maximum Projection into Required Setback	Minimum Distances from Property Lines
Cornices, eaves, canopies, and similar roof projections	<u>Interior Side:</u> 2 ft. <u>Front, Rear, Exterior Side:</u> 4 ft.	<u>All property lines:</u> 3 ft.
Bay windows, balconies, sills, fireplaces, chimneys, and similar wall projections [1]	<u>All setbacks:</u> 2 ft.	<u>All property lines:</u> 3 ft.
Open and unenclosed entry porches, stairways, fire escapes, landing places, patio, and similar entry features [2]	<u>Front and Exterior Side:</u> 4 ft. <u>Rear:</u> 6 ft. <u>Interior Side:</u> 1/2 of required setback	<u>Interior side:</u> 3 ft. <u>Front:</u> 10 ft.
<u>Walls and fences used as a landscaping feature for decoration or screening</u>	<u>Interior Side and Rear:</u> 2 ft. <u>Front and Exterior Side:</u> Not permitted	<u>Interior side and rear:</u> 3 ft.
Decks, 30 inches or less above grade	<u>Interior Side and Rear:</u> No maximum <u>Front and Exterior Side:</u> Not permitted	<u>Interior side and rear:</u> 3 ft.
Wheelchair ramps and similar features for the disabled	No maximum	No minimum

Notes:

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

[2] Ground floor only; maximum railing height 30 inches.

[3] Limited to 50 percent of the length of the average of the two sides of the structure.

D. Accessory Structures in Setback Areas. The following accessory structures and site improvements are permitted within required setback areas:

1. Trellis structures that provide support for plants and shade are allowed in all required setback areas if the structure does not exceed 10 feet in height, the

structure roof remains permeable (roof members at least 12 inches apart), and the structure is open on at least three sides.

2. Planter boxes and masonry planters with a maximum height of 42 inches are allowed within all required setback areas.
3. Screened mechanical equipment including hot water heaters and air conditioning units.
4. Pools and hot tubs are allowed within required rear setback areas provided a minimum setback of 5 feet for pools and 2 feet for hot tubs ~~or setback~~ is maintained from all property lines.
5. Fire pits are allowed in required setback areas provided a minimum 5-foot setback is maintained from all property lines.
6. Children's play equipment, movable dog houses, movable trash enclosures, and similar moveable objects are allowed in all required setback areas.
7. Rain harvesting tanks that do not exceed 8 feet in height are allowed in required side and rear setback areas.



Note: Section D above clarifies structures allowed in minimum setback areas, and establishes new limitations on these allowed encroachments.

17.48.040 Floor Area and Floor Area Ratio

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

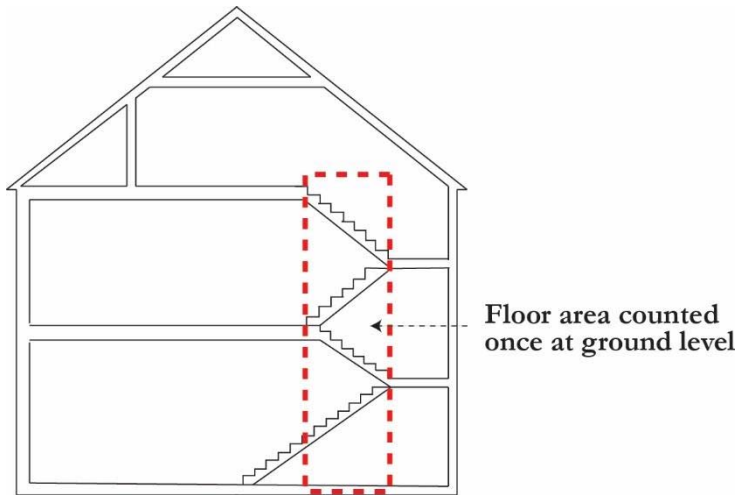
B. Floor Area Calculation.



Note: Calculation of floor area no longer includes residential decks, decks on restaurants and hotels, basements not visible from the public right-of-way, and internal parking structures. The horizontal area for staircases in multi-story structures is counted once when calculating FAR.

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

FIGURE 17.48-3: FAR MEASUREMENT FOR STAIRWAYS



4. Interior area of a building with a floor-to-ceiling height of greater than 16 feet are counted twice in the floor area calculation.
5. The following features are included in the floor area calculation:
 - a. All upper floor area greater than 4 feet in height, measured between the bottom of the upper floor and the top of the ceiling.
 - b. All accessory structures other than a single building of 80 square feet or less in size, 8 feet or less in height, and without plumbing or electrical fixtures.
6. For all uses, the following features are excluded from the floor area calculation:
 - a. Covered or uncovered decks, patios, trellises, and similar outdoor space which are open on at least three sides, not including carports.
 - b. Bay windows, chimneys, and other similar wall projections.
 - c. Up to 250 square feet of an enclosed garage on a lot 3,000 square feet or less.
 - d. Underground parking garages not visible from a public street.
 - e. Basements when all walls are below grade and not visible. Basements are included in calculations of required on-site parking to serve the use.
7. For non-residential uses, the following features are excluded from the floor area calculation:
 - a. Outdoor improvements such as patios, decks, courtyards, outdoor dining areas, and other areas used by customers and employees. These features are included in calculations of required on-site parking to serve the use.

- b. Arcades, porticoes, and similar open areas that are located at or near street level and are accessible to the general public but are not designed or used as sales, display, storage, service, or production areas.
- c. Quasi-public seating areas located in a privately owned shopping center which is open to all of the patrons of all of the businesses of the shopping center and which consists of a seating area or similar area where there are tables, chairs, benches or landscaping or other similar amenities.

C. Floor Area Ratio.

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

Chapter 17.52 – ACCESSORY STRUCTURES AND USES

Sections:

- 17.52.010 Purpose and Applicability
- 17.52.020 Accessory Structures
- 17.52.030 Accessory Uses

17.52.010 Purpose and Applicability

This chapter establishes requirements for accessory structures and uses in residential and non-residential zoning districts. These requirements do not apply to secondary dwelling units, including two-story secondary dwelling units above a detached garage, which are addressed in Chapter 17.74 (Secondary Dwelling Units).

17.52.020 Accessory Structures

A. All Accessory Structures. The following requirements apply to accessory structures in all zoning districts.

1. Accessory structures shall be clearly incidental and subordinate to the primary structure on the same lot.
2. Accessory structures may not be located on a separate lot from the primary use to which it incidental and subordinate.
3. A Design Permit ~~and a building permit are~~ required for accessory structures with one or more of the following characteristics: an enclosed area of over 80 square feet, a height of over 8 feet, or plumbing ~~or electrical~~ fixtures.
- ~~4. Accessory structures shall be set back a minimum of 3 feet from primary structures and other accessory structures or as otherwise required by the California Building Code.~~
- ~~5.4.~~ Accessory structures attached to a primary structure are considered a part of the primary structure and shall comply with all standards applicable to the primary structure.
- ~~6.5.~~ Accessory structures may not be designed or used ~~for human habitation as a~~ bedroom, sleeping area, and/or kitchen, except for secondary dwelling units consistent with Section 17.74 (Secondary Dwelling Units).

B. Accessory Structures in Residential Zoning Districts.

1. **Development Standards.** Accessory structures in residential zoning districts shall comply with the development standards in Table 17.52-1 and in Figure 17.52-1.



Note: Minimum rear setback for accessory structures has been decreased from 8 feet in Chapter 17.15.140 of the existing Zoning Code to 4 feet in Table 17.52-1 below.

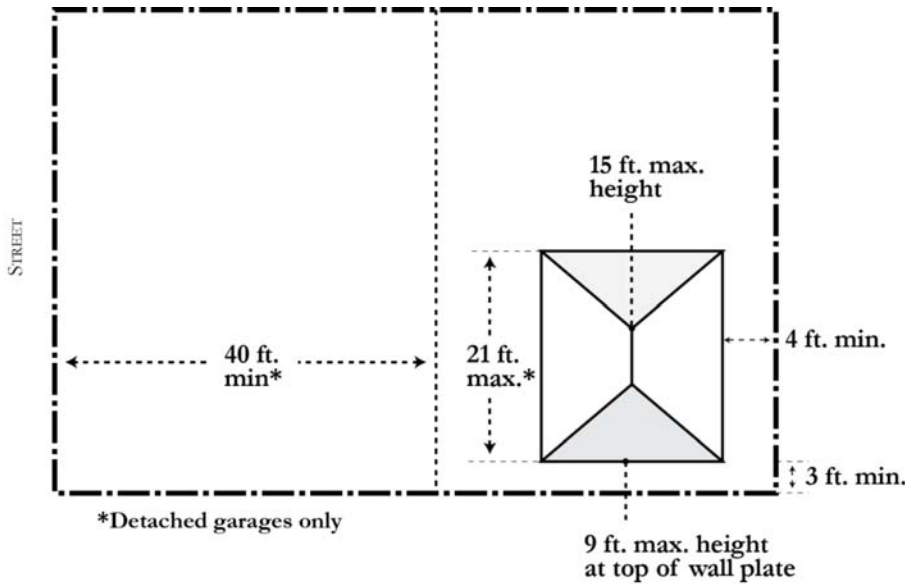
TABLE 17.52-1: ACCESSORY STRUCTURE STANDARDS IN RESIDENTIAL ZONING DISTRICTS

	Single-Family Residential Zoning Districts	Multi-Family Residential Zoning Districts	Additional Standards
Height, Maximum			
Structure	15 ft. [1]	15 ft.	Section 17.52.020.B.2
Top of Wall Plate	9 ft.	9 ft.	
Width, Maximum	21 ft. for detached garages; None for other accessory structures	None	
Setbacks, Minimum			Section 17.52.020.B.3
Front	40 ft. for detached garages; Same as primary structure for other accessory structures	Same as primary structure	
Side (interior and street)	3 ft.	3 ft.	
Rear	4 ft.	4 ft.	

Note:

[1] Accessory structures less than 8 feet from an interior side property line may not exceed 12 feet in height.

FIGURE 17.52-1: DETACHED GARAGE STANDARDS IN RESIDENTIAL ZONING DISTRICTS



Attachment: Part 3 with Planning Commission Redlines (1570 : Zoning Code Update)

2. **Height Exception.** The Planning Commission may approve an exception to allow additional height if necessary to match the architectural style of the existing primary structure.



Note: Allowance for an additional accessory structure in a required setback with an Administrative Permit in paragraph 3 below is new.

3. **Setback Exceptions.** One accessory structure permanently attached to the ground is allowed by-right in required side and rear setback areas if the structure is less than 8 feet in height, has 80 square feet or less of enclosed area, and has no plumbing ~~or electrical fixtures~~. One additional accessory structure is allowed in required side and rear setback areas with an Administrative Permit.
 4. **Driveway Standards.** The placement of detached garages shall allow for the design and location of driveways consistent with Chapter 17.76 (Parking and Loading).
 5. **Nonconforming Garages.** An existing detached garage in a residential single-family zoning district that does not comply with development standards in Table 20.52-1 is legal nonconforming and may be repaired, renovated, or replaced provided that the nonconformity is not increased or exacerbated
- C. Accessory Structures in Non-Residential Zones.** Accessory structures in non-residential zoning districts are subject to the same development standards (e.g., height and setbacks) as primary structures in the applicable zoning district.

17.52.030 Accessory Uses

- A. Residential Accessory Uses.** The following requirements apply to accessory uses in residential zoning district.
1. Accessory uses shall be located on the same parcel as a residence and shall be clearly incidental and subordinate to the residence.
 2. Accessory uses shall not change the character of the residential use. Examples of permitted accessory uses include home occupations and personal property sales (i.e., garage or yard sales).
- B. Non-Residential Accessory Uses.** The following requirements apply to accessory uses in non-residential zoning districts.
1. Accessory uses shall be a part of and clearly incidental and subordinate to the primary use to which it relates.
 2. Accessory uses shall be located on the same parcel as the primary use to which it is incidental and subordinate, within the structure.
 3. Accessory uses shall be customarily associated with the primary use to which it is incidental and subordinate. Examples of common non-residential accessory uses include ATMs, vending machines, newsstands, and personal service establishments

(e.g., child day care, food services) intended to serve employees or customers and that are not visible from public streets.



Note: Conditional Use Permit requirement for vending machines in paragraph 4 below is new.

4. All vending machines are allowed through an amendment to the Conditional Use Permit for the primary use, or through a Conditional Use Permit if no discretionary approval was required for the primary use.
5. Accessory uses may not necessitate an increase in required number of parking spaces.

Chapter 17.56 – ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Sections:

- 17.56.010 Purpose and Intent
- 17.56.020 Coastal Permit
- 17.56.030 Archaeological Survey Report
- 17.56.040 Environmental Assessment Requirement
- 17.56.050 Development Standards



Note: Chapter 17.11 in the existing Zoning Code has been revised to apply archaeological and paleontological resource protection measures as city-wide standards rather than an overlay zone.

17.56.010 Purpose and Intent

This chapter establishes standards to protect Capitola’s archaeological and paleontological resources. New land uses and development, both public and private, shall be considered compatible with this purpose only where they incorporate all site planning and design features necessary to avoid or mitigate impacts to archaeological and paleontological resources.

17.56.020 Coastal Permit

Within the -CZ overlay zone, a Coastal Permit is required for all development proposed within 750 feet of a known archaeological or paleontological resource as identified through a survey report, or as shown on current Capitola resource maps or other available information.

17.56.030 Archaeological Survey Report

- A. When Required.** An archaeological survey report is required for any development located within:
1. An Archaeological/Paleontological Sensitivity Areas as shown in the Capitola Resource Map (Local Coastal Program, Map I-1);
 2. 750 feet of a known archaeological resource; or
 3. An area with a probability of containing archaeological resources, as determined through the planner’s onsite investigation or other available information.
- B. Report Preparation.** The City will initiate the preparation of the survey report at the applicant’s expense utilizing a qualified archaeologist selected by the Community Development Department. The survey report shall be submitted to and accepted by the City prior to deeming the application complete.

C. Mitigation Plan

1. Where construction on, or construction impacts to, an identified archaeological or paleontological site cannot be avoided, as verified in the archaeological report prepared for the project, a mitigation plan shall be prepared for the project. Prior to deeming the application complete, the City shall approve the mitigation plan.
2. The mitigation plan shall include be recommended preservation measures in accordance with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.
3. The consulting archaeologist shall file the report with the State Office of Historic Preservation and where the plan contains recommendations that will impose any continuing restrictions or obligations on the property, an agreement approved by the City Attorney, binding the property's owner to the restrictions or requirements, shall be recorded. Such agreement shall list the official file number of the report and the location of the document.

D. Mitigation Measures. The recommended mitigation measures contained in the archaeological survey report shall be made a condition of approval.

E. Required Condition. Where a mitigation plan has been prepared for a proposed development, a condition of project approval shall be that:

1. The preservation measures shall be undertaken and completed prior to the issuance of building or grading permits, whichever comes first; or
2. Where appropriate, according to the recommendations contained in the mitigation plan, the preservation measures shall be undertaken concurrent with grading or other soil-disturbing activities and shall be undertaken in accordance with the mitigation plan, as a condition of the grading or building permit; and
3. The results of the preservation activities shall be compiled into a final report prepared by the archaeologist and submitted to the City prior to the issuance of building or grading permits. The City shall contract directly with the archaeologist to prepare the final report at the applicant's expense.

F. Report Standards. The report shall be prepared according to the report standards of the Society of Professional Archaeologists and must include, at a minimum, a field survey by the archaeologist, survey of available state resource information at the Northwest Regional Information Center of the California Archaeological Inventory, description of the site's sensitivity and any identified archaeological resources, appropriate levels of development on the site, and recommended mitigation measures. The report may be required to include additional information, according to the circumstances of the particular site.

G. Waiver of Report Requirement. Requirement to prepare an archaeological survey report may be waived by the Community Development Director under the following circumstances:

1. A previous report was prepared for the site by a qualified archaeologist, as included on the City's list of archaeological consultants or as a member of the Society of Professional Archaeologists; and
2. The report clearly and adequately included the currently-proposed development site within the scope of its survey; or
3. The proposed development does not involve land clearing, land disturbance, or excavation into native soils.

17.56.040 Environmental Assessment Requirement

All development proposed on parcels with known archaeological resources, as identified through the survey report, shall be subject to environmental assessment under the California Environmental Quality Act (CEQA) Guidelines.

17.56.050 Development Standards

- A. Design and Location.** Development proposed on parcels with an identified archeological site shall be designed and located so as to avoid development on or impacts to the site. Alternative siting or location, reduction of project size, and other techniques shall be utilized where that will result in reduced impact to or non-disturbance of the archaeological site.
- B. Mitigation Measures.** Development on parcels with an archaeological site, as identified through an archaeological report prepared for the site, shall be subject to the mitigation measures of the archaeological survey report as conditions of approval, to be completed prior to the issuance of building or grading permits.

Chapter 17.60 – FENCES AND WALLS

Sections:

- 17.60.010 Permit Requirements
- 17.60.020 Measurement of Fence and Wall Height
- 17.60.030 Height Limits
- 17.60.040 Fences Adjacent to Soquel Creek Pathway and Grand Avenue Walkway
- 17.60.050 Materials
- 17.60.060 Parking Lot Screening
- 17.60.070 Private Agreements
- ~~17.60.070 Nonconforming Fences and Walls~~

17.60.010 Permit Requirements

- A. Administrative Permit.** An Administrative Permit is required to establish a new fence or wall consistent with the height, placement, and material standards in this chapter. Replacement of an existing fence that is in compliance with standards of this chapter does not require a permit.
- B. Design Permit.** The Planning Commission may allow fences and walls that deviate from height, placement, and material standards with the approval of a Design Permit. The Planning Commission may approve a deviation to a fence standard provided that the deviation will not result in a significant adverse impact for neighboring properties or the community at large when one or more of the following apply:
1. Unique circumstances exist on the site, such as a property line abutting a highly trafficked public street or path or historic use of screening for the property; and/or
 2. The deviation is necessary for the reasonable use and enjoyment of the property.
- B.C. Building Permit.** Fences and walls may require a building permit as required by California Building Code.
- C.D. Encroachment Permit.**
1. A fence in the public right-of-way requires Public Works Department approval of a Minor Revocable Encroachment Permit. See Municipal Code Section 12.56.060(A).
 2. A wall in the public right of way requires Planning Commission approval of a Major Revocable Encroachment Permit. See Municipal Code Section 12.56.060(B).

17.60.020 Measurement of Fence and Wall Height

Note: Rules for the measurement of fence and wall height in this section are new.



- A. Measurement of Height.** The height of a fence or wall is measured from the finished grade at the base of the fence or wall to the top edge of the fence or wall.
- B. Fences on Walls.** If a fence is atop a wall, the total height is measured from the base of the wall.
- C. Different Finished Grades.** If the adjacent finished grade is different on opposite sides of a fence or wall, the height is measured from the side with the lowest finished grade to the highest point on the fence or wall.

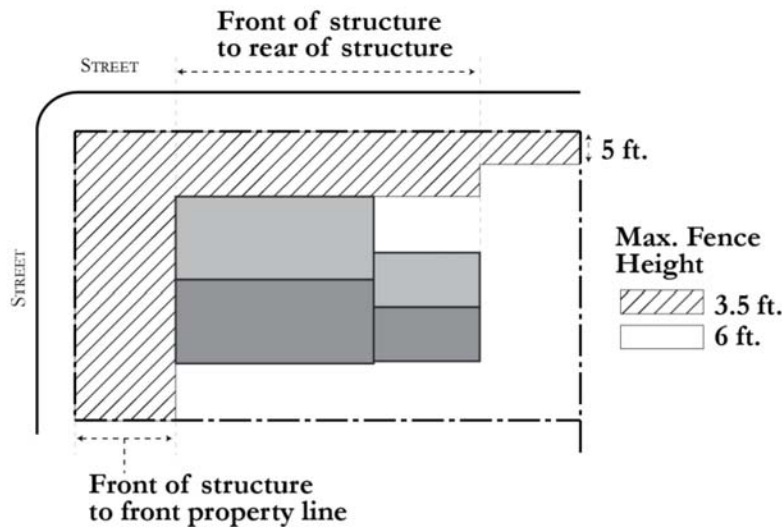
17.60.030 Height Limits

- A. Maximum Height.** The maximum height of fences and walls in all zoning districts is shown in Table 17.60-1 and Figure 17.60-1.

TABLE 17.60-1: FENCE AND WALL HEIGHT

Location	Maximum Height
Area from the front property line to the front facade of the primary structure	3 ½ ft.
Areas on a corner lot shown in Figure 17.60-1.	3 ½ ft.
All other locations	6 ft.
Alley	3 ½ ft.

FIGURE 17.60-1: FENCE AND WALL HEIGHT



B. Fences and Walls as Landscape Feature. A fences or wall used as a landscape feature which does not ~~to~~ enclose the perimeter of the property may exceed the height limits in side and rear setback areas shown in ~~Table~~Figure 17.60-1 up to a maximum of 6 feet.

B.C. Decorative Features and Materials.

1. An additional 2 feet of fence height is permitted above a 6 foot high fence for lattice or other similar material that is at least 50 percent transparent.
2. Decorative arches and other similar features above an entry walkway may be up to 108 feet in height within a required front and exterior side setbacks.



Note: Allowance for decorative arches in paragraph 2 above is new. Requirement that fences not interfere with use of parking spaces in subsection C below is new.

C.D. Use of Parking Spaces. Fences and walls may not be placed in a location that interferes with the use of a required on-site or street parking spaces.

17.60.040 Fences Adjacent to Soquel Creek Pathway and Grand Avenue Walkway

All fences adjacent to the pedestrian paths along the east side of Soquel Creek north of Stockton Avenue and along the Grand Avenue Walkway shall comply with the following standards:

- A. Maximum height: 3 ½ feet.
- B. Required material: wood, ornamental steel or iron, or other similar material.
- C. Fences may not be constructed of solid material. Fences shall maintain public views through the use of widely-spaced vertical posts or other techniques.

17.60.050 Materials



Note: Material standards in this section are new.

- A. **Permitted Materials.** Fences and walls shall be constructed of decorative masonry, ornamental steel or iron, or wood, and shall be of a complementary color and material with the primary building. Other materials may be permitted if the Community Development Director determines the design to be compatible with adjacent structures and its surrounding neighborhood.
- B. **Prohibited Materials.**
 1. Fences and walls may not be constructed of inappropriate materials such as sheet metal, vehicles, underground/above-ground tanks, garage doors, aluminum siding,

corrugated tin, and other similar materials not specifically designed for use as fencing.

- 2. Barb-wire, razor wire, and electric fences are prohibited in all zoning districts. Chain link fences are prohibited in residential zoning districts, except for temporary use during construction with an active building permit.

17.60.060 Parking Lot Screening

Parking lots of six spaces or more shall be screened with a fence or wall as required by Subsection 17.76.060.I (Screening).

17.60.070 Private Agreements

This chapter is not intended to interfere with any agreement between private parties regarding the placement, height, or design of fences and walls. Where conflict occurs between this chapter and such a private agreement, the City shall follow this chapter. The City is not responsible for monitoring or enforcing private agreements or mediating fence and wall disputes between neighbors.

Nonconforming Fences and Walls

Note: Nonconforming fence and wall provisions in this section are new.

~~A legally established fence or wall that does not conform to current requirements in this chapter shall be removed or brought into compliance with this chapter if 50 percent or more of the lineal footage of the fence or wall is removed or replaced.~~

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 as identified in Capitola's LCP:

- 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

17.64.030 General Standards

The following standards apply to all environmentally sensitive habitat areas:

- A. **Impact Prevention.** Development in areas adjacent to an environmentally sensitive habitat area shall be sited and designed to prevent impacts which would significantly degrade the area.
- B. **Long-Term Protection.** Development shall be located, designed, and maintained to achieve the long-term protection of the environmentally sensitive habitat areas.
- C. **Prohibited Areas for Development.** New development may not encroach into the waters of Soquel Creek or Lagoon, be sited within the root zone of riparian or butterfly host trees, or require the removal of trees in a Monarch butterfly habitat area which provide roosting habitat or wind protection.

D. Minimum Setbacks.

1. Development may not encroach into required minimum setbacks from environmentally sensitive habitat areas as shown in Table 17.64-1 (Required Setbacks from Environmentally Sensitive Habitat Areas), except as allowed in subparagraph (2) below.

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

Environmentally Sensitive Habitat Area	Minimum Setback
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 and oak woodland 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.

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 the reduced setback does not have a significant adverse effect on the natural area.

E. Biological Study. The 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. If necessary and appropriate to protect natural areas, the City shall require a permanent conservation easements over portions of the property containing environmentally sensitive habitat areas. All environmentally sensitive habitat areas and their buffer zones shall be protected by conservation easements or deed restrictions.

G. Erosion Control and Water Quality.

1. All development shall conform to erosion control and water quality requirements consistent with federal, state, and local regulations. Within riparian areas, grading shall be minimized within the riparian setback area. Grading shall not be permitted to damage the roots of riparian trees or trees within butterfly habitat areas. Grading shall only take place during the dry season.

2. During construction, erosion control measures shall be implemented, including limiting removal of vegetation, minimizing exposure of bare soils, replanting disturbed soils with suitable native species, controlling runoff, and preventing sedimentation from entering drainages. All areas outside the immediate construction areas shall not be disturbed. The City shall require measures for temporary drainage retention during construction, including mulching, erosion control seeding, and other measures as needed to prevent any sediment from reaching sensitive habitat areas.

H. Removal of Native Riparian Trees. Removal of native riparian trees within riparian corridors is prohibited unless it is determined by the Community Development Director that such removal is in the public interest by reason of good forestry practice, disease of the tree, or safety considerations.

I. Dead Trees in Riparian Corridors. 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. 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, with the exception of species which positively contribute to Monarch butterfly habitat.

K. Wood-Burning Fireplaces. Wood-burning fireplaces shall be prohibited in structures built on site where Monarch butterflies may be disturbed due to chimney smoke. The City discourages wood-burning fireplaces for residential uses in all other areas of Capitola.

17.64.040 Soquel Creek 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 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 accommodate new development.

17.64.050 Rispin - Soquel Creek and Escalona Gulch Monarch Butterfly Habitat Areas

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

- A. Permitted Construction Periods.** Construction within or on properties contiguous to the designated butterfly groves shall be prohibited during fall and winter months when the Monarch butterflies are present. Removal or modification of trees within the groves shall not be permitted during these periods except when determined by the Community Development Director to be an emergency necessary to protect human life or property.

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 maintained on file in the office of the City Clerk.
- 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 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.
- 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.
- 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 should be planted based on a list of landscape suggestions written by a qualified Monarch butterfly biologist.
- F. Butterfly Monitoring.**
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.

G. Tree Protection.

1. Development shall be located and designed to avoid removal of large trees. Large trees to be protected immediately adjacent to buildings should be evaluated by an arborist to assure that they will not pose a hazard in the future.
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. Wood-burning fireplaces shall be prohibited in structures built on site where Monarch butterflies may be disturbed due to chimney smoke. [The City discourages wood-burning fireplaces for residential uses in all other areas of Capitola.](#)

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 17.72 LANDSCAPING

Sections:

- 17.72.010 Purpose
- 17.72.020 Applicability
- 17.72.030 Water Efficient Landscape Design and Installation Ordinance
- 17.72.040 Landscape Plans
- 17.72.050 Required Landscape Areas
- 17.72.060 Landscape Standards

17.72.010 Purpose

This chapter establishes landscaping standards to enhance the aesthetic appearance of developed areas in Capitola and to promote the efficient use of water resources.

17.72.020 Applicability



Note: Thresholds for additions to existing development in Subsections B and C are new. Existing Zoning Code Section 17.97.010 states standards apply to new construction and to remodels of commercial, industrial, multi-family, and planned development.

~~The following projects shall comply with the requirements of this chapter:~~

~~**A. Multi-Family and Non-Residential Projects.** The following multi-family and non-residential projects shall comply with all requirements of this chapter:~~

- ~~1. Construction of new primary structures.~~
- ~~1.2. Additions that increase the floor area of a multi-family or non-residential structure by 3,000 square feet or more.~~
- ~~2. Additions that increase the floor area of a single family dwelling by 10 percent or more.~~

~~**B. Singly Family Projects.**~~

- ~~1. New single-family homes shall comply with all requirements of this chapter.~~
- ~~3.2. Additions that increase the floor area of a multi-family or non-residential structure by 3,000 square feet or more. If existing landscaping is disturbed or new landscaping is added as part of a remodel or addition to an existing single-family home that requires a Design Permit, the new landscaping shall comply with the standards in Section 17.72.060 (Landscape Standards). The City will evaluate compliance with these standards based on the plans and materials submitted as part of the Design Permit application. Submittal of a Landscape Plan for the entire site in accordance with Section 17.72.040 (Landscape Plans) is not required.~~

17.72.030 Water Efficient Landscape Design and Installation Ordinance

Note: This section is new as required by State law.



In addition to the requirements of this chapter, all applicable development in Capitola shall also comply with the Model Water Efficient Landscaping Ordinance prepared by the California Department of Water Resources (DWR), when required by the California Water Conservation in Landscaping Act (Government Code Section 65591 et seq.) If conflicts occur between the Model Water Efficient Landscaping Ordinance and the Zoning Code, the more restrictive shall control.

17.72.040 Landscape Plans

- A. Landscape Plan Required.** Projects subject to the requirements of this chapter shall submit a landscape plan as part of planning permit applications (e.g., Design Permit applications) and subsequent building permit applications.
- B. Required Contents.** Landscape plans shall include the following features and information:
1. Site boundaries.
 2. Existing conditions on the property, including contours and existing structures.
 3. Structures immediately adjacent to the property.
 4. New structures and improvements proposed as part of the development project.
 5. Existing landscaping, trees, and vegetation to be retained specifying plant location, species, and size. Details of existing trees shall also include tree diameter measured 48 inches above existing grade and outer limit of tree canopy.
 6. New landscaping proposed as part of the development project specifying plant location, species, and size.
 7. Irrigation plan specifying the location, type, and size of all components of the irrigation system.
 8. Proposed grading.
 9. Additional information as determined by the Community Development Department to demonstrate compliance with the requirements of this chapter.
- C. Review and Approval.** The Community Development Department shall review all landscape plans to verify compliance with this chapter. Landscape plans shall be approved by the review authority responsible for approving the planning permits required for the proposed project.
- D. Changes to Approved Landscape Plans.**
1. Substantial modifications to an approved landscape plan shall be allowed only by the review authority which approved the landscape plan.

2. The Community Development Director may approve minor modifications to a landscape plan previously approved by the Planning Commission. Minor modifications are defined as changes to a landscape plan that do not alter the general design character of the landscaped area or alter a feature of the landscaped area specifically required by the Planning Commission.

17.72.050 Required Landscape Areas

A. Residential Zoning Districts.

1. All required front and street side setback areas, excluding areas required for access to the property, shall be landscaped and maintained. See Figure 17.72-1.
2. Landscaping may consist of any combination of living plants, such as trees, shrubs and grass or related natural features, such as rock, stone, or mulch; and may include patios, courtyards, and outdoor dining areas. Decorative hardscape featuring pervious materials is permitted within required landscaping areas.

B. Non-Residential Zoning Districts.

1. The minimum landscaped area on a site is shown in Table 17.72-1.
2. In the MU-V and MU-N zoning districts, outdoor dining areas, courtyards, and other similar quasi-public areas may count toward landscaping requirements. In all other zoning districts these areas may not count toward landscaping requirements.

FIGURE 17.72-1: REQUIRED LANDSCAPE AREA IN R-1 ZONING DISTRICT

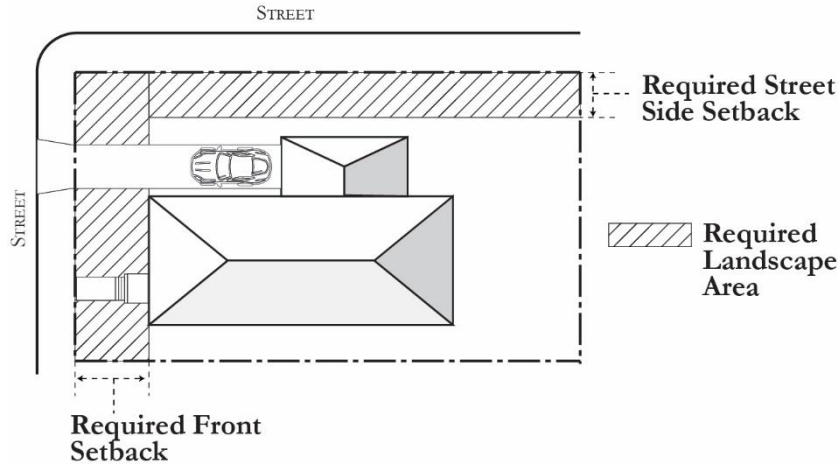


TABLE 17.72-1: MINIMUM LANDSCAPED AREA IN NON-RESIDENTIAL ZONING DISTRICTS

Zoning Districts	Minimum Landscaped Area
MU-V, MU-N, C-R, C-C, CF	5%
I	<u>Up to 5%, asAs determined by the permit approval process</u> None

Attachment: Part 3 with Planning Commission Redlines (1570 : Zoning Code Update)

Zoning Districts	Minimum Landscaped Area
P/OS, PD, VA	As determined by the permit approval process

3. Except in the I zoning district, all required front and street side setback areas shall be landscaped, excluding areas required for access to the property and public or quasi-public open space such as courtyards and outdoor seating.

C. Visitor Serving Properties. Minimum required landscaping for certain visitor serving properties are shown in the Table 17.72-2.

TABLE 17.72-2: MINIMUM LANDSCAPED AREA FOR VISITOR SERVING PROPERTIES

Property	Minimum Landscaped Area
Rispin Site	75% as either landscaped areas in developed areas of the site, or unlandscaped natural areas in areas subject to conservation easements
Shadowbrook Restaurant Parcel and visitor-serving El Salto and Monarch Cove parcels	50% landscaped area or undeveloped open space

17.72.060 Landscape Standards

A. General Standards. The following standards apply pursuant to 17.72.020 within all zoning districts.

1. **Plant Selection.** A minimum of 90 percent of plants and trees shall be drought-tolerant as defined by the Water Use Classification of Landscape Species (WUCOLS.) Native plants adapted to the local climate are preferred.
2. **Turf Lawns.**
 - a. Turf areas shall be limited to 25 percent of the landscaped area. The Planning Commission may approve larger areas if the lawn area provides functional open space.
 - b. Drought-tolerant grass species shall be used exclusively.
 - c. Turf shall not be used on berms, slopes, or median islands where runoff is a problem.
3. **Slopes.** Turf and high water use plants shall not be planted on berms and slopes greater than 25 percent.
4. **Plant Groupings.** Where irrigation is proposed, plants shall be grouped in separate hydrozones (i.e., plants within each irrigation valve area shall have the same watering requirements).

- 5. **Water Features.** Decorative water features (e.g., fountains, ponds, waterfalls) must be approved by the Planning Commission and shall have recirculating water systems.
- 6. **Watering Times.** Watering shall start after eight p.m. and end before ten a.m.
- 7. **Public Safety.** Plant species shall be selected and located so that at maturity they do not interfere with pedestrian, bicycle, or vehicular circulation and do not conflict with overhead lights, or utility lines.



Note: Watering times in existing Zoning Code is six p.m. to ten a.m. changed to eight p.m. to ten a.m. as suggested by the Water District.

- B. **Irrigation and Water Efficiency.** Irrigation systems shall be designed to avoid runoff, low head drainage, overspray, and other similar conditions where water flows outside of landscaped areas. Irrigation systems shall feature the following equipment:
 - 1. Irrigation systems shall meet a minimum irrigation efficiency of 75 percent.
 - 2. Separate landscape water meters for landscape areas exceeding 5,000 square feet.
 - 3. Irrigation controllers capable of percent adjustment, multiple programming, and rain sensor.
 - 4. Overhead sprays shall have a precipitation rate of no more than 0.75 inches per hour.
 - 5. Separated valves and circuits based on water use and sun exposure. Separate valves for turf and non-turf and berm areas are required.
 - 6. Sprinkler heads and emitters selected for proper area coverage, application rate, operation pressure, adjustment capability, and ease of maintenance.
 - 7. Rain-sensing override devices are required for all irrigation systems.
 - 8. Drip or bubble irrigation are required for all trees.
 - 9. State-approved back flow prevention devices shall be installed on all irrigation systems



Note: Standards for irrigation efficiency in paragraph 1 and overhead spray precipitation rate in paragraph 4 are new as suggested by the water District.

- C. **Timing of Installation.** Landscaping systems shall be installed prior to final building permit inspection or certification of occupancy.

17.72.070 Landscape Maintenance:

The following landscape maintenance requirements apply to multi-family and non-residential properties.

- A. **General.** Landscape areas shall be maintained in a neat and healthful condition at all times.
- B. **Mulch.** Mulch shall be periodically added to the soil surface in all landscape areas.
- C. **Replacement of Dead or Dying Plants.** Plants that are dead or severely damaged or diseased shall be replaced by the property owner.
- D. **Removal of Landscaping.** Any removed mature landscaping shall be replaced with landscaping of similar size and maturity as that which was removed. Trees shall be replaced in accordance with the City's Tree Ordinance, Municipal Code Section 12.12
- E. **Irrigation Systems.** Irrigation systems shall be maintained in a fully functional manner as approved by the City and required by this chapter. Watering schedules should be adjusted periodically to reflect seasonal variations.

Chapter 17.74 – SECONDARY DWELLING UNITS

Sections:

- 17.60.010 Purpose
- 17.60.020 Permitted Location
- 17.60.030 Required Permits
- 17.60.040 Design and Development Standards
- 17.60.050 Findings
- 17.60.060 Deed Restrictions
- 17.60.070 Incentives

17.74.010 Purpose

This chapter establishes standards for the location and construction of secondary dwelling units consistent with Government Code Section 65852.2. These standards are intended to allow secondary dwelling units as a form of affordable housing in Capitola while maintaining the character and quality of life of residential neighborhoods.

17.74.020 Permitted Location



Note: This section allows secondary dwelling units in the R-1, RM, MU-V and MU-N zoning districts on parcels occupied by a single-family dwelling. The existing Zoning Code allows secondary dwelling units only in the R-1 zoning district.

Secondary dwelling units are permitted in:

- A. The Single-Family Residential (R-1) zoning district; and
 - B. The Multi-Family Residential (RM) and Neighborhood Mixed Use (MU-N) zoning districts on lot of 5,000 square feet or more occupied by one single-family dwelling.
- ~~the Single-Family Residential (R-1), Multi-Family Residential (RM), Village Mixed Use (MU-V), and Neighborhood Mixed Use (MU-N) zoning districts.~~

17.74.030 Required Permits

- A. Administrative Permit.** Secondary dwelling units consistent with Section 17.74.040 (Design and Development Standards) are allowed with an Administrative Permit.
- B. Design Permit and Conditional Use Permit.**



Note: Paragraph 1 below prohibits deviations from certain design and development standards. Section 17.99.040 in the existing Zoning Code allows for deviation from all design and development standards with a Conditional Use Permit and Design Permit.

1. With the approval of a Design Permit and a Conditional Use Permit, the Planning Commission may allow secondary dwelling units that deviate from the standards in

Subsections D (Unit Size) through K (Open Space and Landscaping) in Section 17.74.040.

4.2. All two-story secondary dwelling units require Planning Commission approval of a Design Permit and Conditional Use Permit.

2.3. To approve a Conditional Use Permit for a secondary dwelling unit, the Planning Commission must make all of the findings in Section 17.74.050 (Findings).

17.74.040 Design and Development Standards



Note: The requirement that the property owner occupy either the primary residence or the secondary dwelling unit in Section 17.99.060 of the existing Zoning Code is removed from this section.

- A. Minimum Lot Size.** Secondary dwelling units are permitted only on parcels 5,000 square feet or greater.
- B. One Primary Residence on Parcel.** A secondary dwelling unit is permitted only when not more than one a primary single-family dwelling is present on a parcel or is constructed concurrently with the secondary dwelling unit.
- C. Occupancy.** The property owner must occupy either the primary or secondary dwelling. The Planning Commission may grant an exception to this requirement in the case of unique hardship with the approval of Conditional Use Permit.
- D. Maximum Number per Parcel.** Only one secondary dwelling unit is allowed on a single lot.
- E. Unit Size.** Table 17.74-1 shows the maximum permitted floor area for a secondary dwelling unit, based on the size of the parcel in which it is located.

TABLE 17.74-1: MAXIMUM SECONDARY DWELLING UNIT SIZE

Parcel Size	Maximum Floor Area
5,000 – 7,500 sq. ft.	500 sq. ft.
7,501 – 10,000 sq. ft.	640 sq. ft.
Greater than 10,000 sq. ft.	800 sq. ft.

- F. Maximum Floor Area Ratio.** The combined floor area ratio of a lot with a primary residence and a secondary dwelling unit shall not exceed 0.60
- G. Height and Setback Standards.**



Note: Table 17.80-2 allows two-story secondary dwelling units and requires a minimum 4-foot rear setback from single-story secondary dwelling units. Section 17.99.060.5 in the existing

Zoning Code prohibits two-story secondary dwelling units and requires a minimum 8-foot rear setback from single-story secondary dwelling units.

1. Height and setbacks standards for secondary dwelling units are shown in Table 17.74-2.
2. The Planning Commission may allow a detached secondary dwelling unit to exceed the height limits in Table 17.74-2 to accommodate a roof design that matches special roof features of the primary residence. Such a height exception requires Planning Commission approval of a Conditional Use Permit.

TABLE 17.80-2: SECONDARY DWELLING UNIT SETBACK AND HEIGHT STANDARDS

	Type of Secondary Dwelling Unit	
	Detached	Attached
Setbacks, Minimum		
Interior Side	5 ft.	Same as required for primary residence
Exterior Side	Same as required for primary residence	
Rear	<u>One story unit:</u> 4-8 ft. <u>Two story unit:</u> 10 ft.	
Front	Same as required for primary residence	
Height, Maximum		
One story	<u>One story unit:</u> 15 ft. [1] <u>Two story unit:</u> 22 ft.	Height of primary residence or minimum permitted in zoning district, whichever is less

Notes:

[1] Maximum height when 4 – 10 feet from property line is 12 feet.

H. Two-Story Secondary Dwelling Units

1. A two-story secondary dwelling unit may be configured as either:
 - a. Two levels of living space as part of a single secondary dwelling unit; or
 - b. Upper level living space located above a ground floor garage (“carriage house”).
2. All two-story secondary dwelling units require Planning Commission approval of a Design Permit and Conditional Use Permit.

H.I. Doors and Windows.

Attachment: Part 3 with Planning Commission Redlines (1570 : Zoning Code Update)

1. The entrance to a detached secondary dwelling unit shall face the interior of the parcel unless the secondary dwelling unit is directly accessible from an alley or a public street.
2. Openings (e.g., doors and windows) on exterior walls that are closest to and face adjacent residentially-zoned properties shall be designed to minimize privacy impacts and maintain access to light and ventilation on adjacent properties.

I.J. Parking. One off-street parking space shall be provided for a secondary dwelling unit in addition to any off-street parking required for the primary residence.

J.K. Alley Orientation.

1. The secondary dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized.
- ~~1. When a secondary dwelling unit is adjacent to an alley, the secondary dwelling unit shall be oriented toward the alley with the front access door and windows facing the alley. The Planning Commission may allow an exception to this requirement with a Conditional Use Permit upon finding that an alley orientation is not feasible due to unique circumstances on the property.~~
2. Parking accessed from an alley shall maintain a 24-foot back-out area, which may include the alley.

K.L. Design. The design of the secondary dwelling unit shall relate to the design of the primary residence by use of the similar exterior wall materials, window types, door and window trims, roofing materials and roof pitch.

L.M. Open Space and Landscaping. The site plan shall provide open space and landscaping that is useful for both the secondary dwelling unit and the primary residence. Landscaping maintain privacy and provide screening for adjacent properties.

M.N. Mobile Units. Vehicles and trailers of any kind, with or without wheels, are prohibited as secondary dwelling units.

N.O. Building Code Compliance. The secondary dwelling unit shall meet the requirements of the Uniform Building Code.

17.74.050 Findings

To approve a Conditional Use Permit for a secondary dwelling unit, the Planning Commission shall find that:

- A.** The exterior design of the secondary dwelling unit is compatible with the existing residence on the lot through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.

- B. The exterior design is in harmony with, and maintains the scale of, the neighborhood.
- C. The secondary dwelling unit will not create excessive noise, traffic, or parking congestion.
- D. The property fronts on an adequate water main and sewer line each with the capacity to serve the secondary dwelling unit.
- E. The site plan provides adequate open space and landscaping that is useful for both the secondary dwelling unit and the primary residence. Open space and landscaping provides for privacy and screening of adjacent properties.
- F. The location and design of the secondary dwelling unit maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.
- G. The secondary dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the secondary dwelling unit relates to the design of the primary residence and does not visually dominate it or the surrounding properties.
- H. The site plan is consistent with physical development policies of the General Plan, any area plan or specific plan, or other City policy for physical development. If located in the coastal zone, the site plan is consistent with policies of the Local Coastal Plan.
- I. The orientation and location of buildings, structures, open spaces and other features of the site plan are such that they maintain natural resources including significant trees and shrubs to the extent feasible and minimize alteration of natural land forms.
- J. The site plan protects views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan restores and enhances the visual quality of visually degraded areas.

17.74.060 Deed Restrictions

- A. Before obtaining a building permit for a secondary dwelling unit, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:
 1. The secondary dwelling unit may not be sold separately.
 2. The secondary dwelling unit is restricted to the approved size.
- B. The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement and/or revoking the City's approval of the secondary dwelling unit.
- C. The deed restriction shall lapse upon removal of the secondary dwelling unit.

17.74.070 Incentives**A. Fee Waivers for Affordable Units.**

1. The City may waive development fees for secondary dwelling units that will be rented at levels affordable to low or very low income households.
2. Applicants of affordable secondary dwelling units shall record a deed restriction limiting the rent to low or very low-income levels prior to issuance of a building permit.
3. Landlords of secondary dwelling units shall be relieved of any affordability condition upon payment of fees in the amount previously waived as a result of affordability requirements, subject to an annual consumer price index increase commencing with the date of application for building permit.

B. Historic Properties. The Planning Commission may allow exceptions to design and development standards for secondary dwelling units proposed on a property that contains a Historic Resource as defined in Chapter 17.84 (Historic Preservation). To allow such an exception, the Planning Commission shall approve a Conditional Use Permit and find that the exception is necessary to preserve the architectural character of the primary residence.

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, 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

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

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.

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.

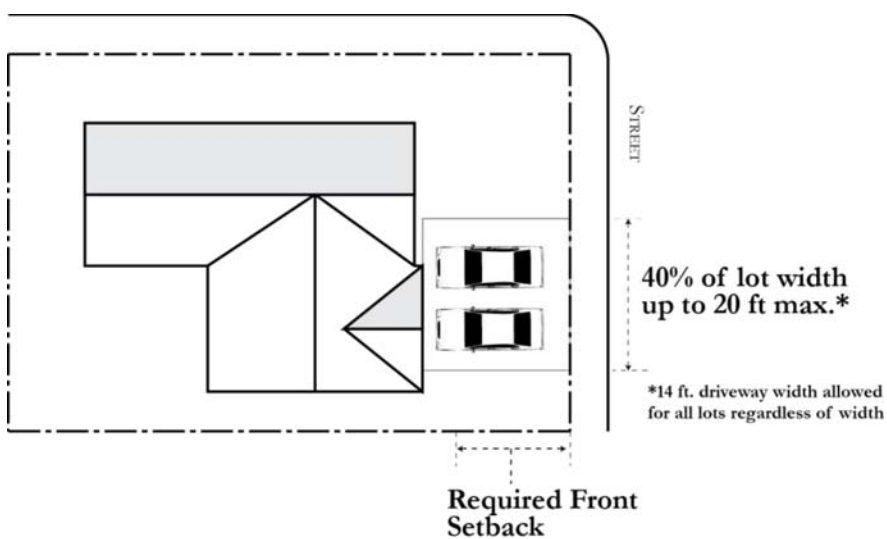
B. Parking in Front and Exterior Side Setback Areas.



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 the larger parking area incorporates design features, such as impervious materials and enhanced landscaping, that minimize visual impacts to the neighborhood, 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



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.~~ 3. 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 on- or off-site 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

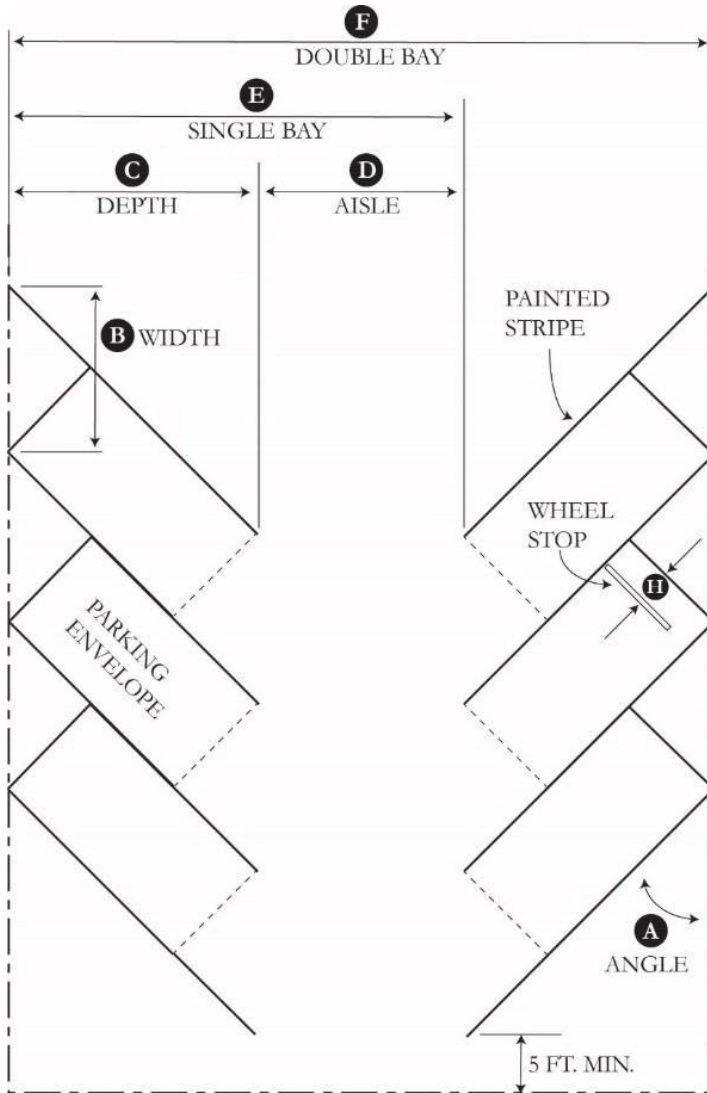


TABLE 17.76-4: STANDARD PARKING LOT DIMENSIONS

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 with Planning Commission Redlines (1570 : 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 by 18 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.

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 uses served by parking lots of 10 spaces or more shall provide bicycle parking as specified in this section.

B. Types of Bicycle Parking.

1. **Short-Term/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 publicly accessible areas or in garages or other limited access areas for exclusive use by tenants or residents.

C. Bicycle Parking Spaces Required. Short-term and long-term bicycle parking spaces shall be provided as specified in Table 17.60-6.

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;
 - 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. If bicycle parking spaces are covered, the 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.

H.I.Creative Design Solutions. The Planning Commission may allow creative approaches to providing required bicycle parking spaces (e.g., vertical wall-mounted bicycle racks) if physical site constraints render compliance with bicycle parking design standards impractical or undesirable.

17.76.090 Visitor Serving Parking

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

17.76.100 On-site Loading

A. Applicability. All retail, hotel, warehousing, manufacturing, and similar uses that involve the frequent receipt or delivery of materials or merchandise shall provide on-site loading spaces consistent with the requirements of this section.

B. Number of Loading Spaces. The minimum number of required loading spaces shall be as specified in Table 17.76-7.

TABLE 17.60-7: 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.

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~~business 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 or within one foot and parallel to 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

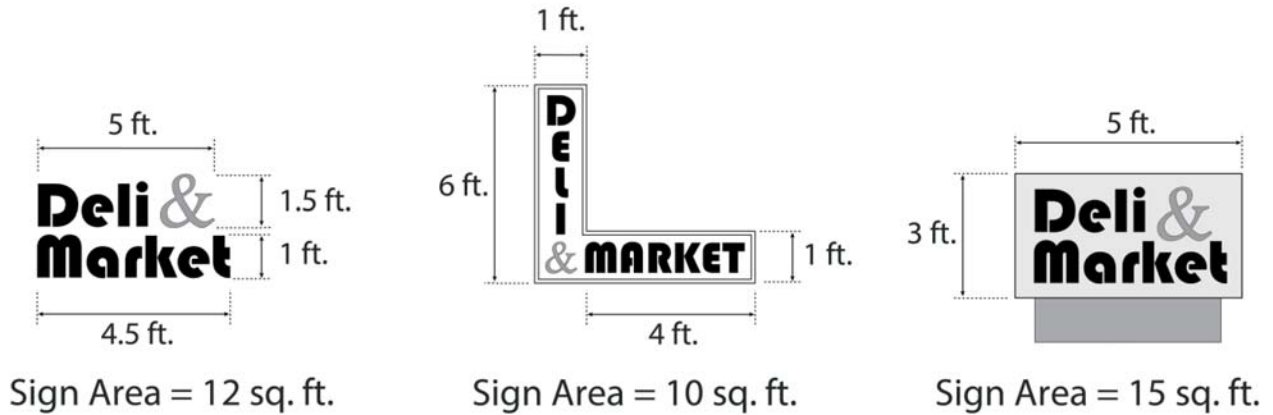
- A. Administrative Sign Permits.** An Administrative Sign Permit (Chapter 17.132) is required to install, construct, or enlarge a sign, except for:
1. Signs ~~allowed without a planning permit~~ exempt from the permit requirements of this chapter as specified in Section 17.80.050 (Signs Allowed without Permits).
 2. Signs requiring a Sign Permit as identified in Section B below.
- B. Sign Permits.** Planning Commission approval of a Sign Permit (Chapter 17.132) is required for the following types of signs and approvals:
1. Signs in the Mixed Use Village (MU-V) zoning district.
 2. Exterior 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.~~A~~B.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.

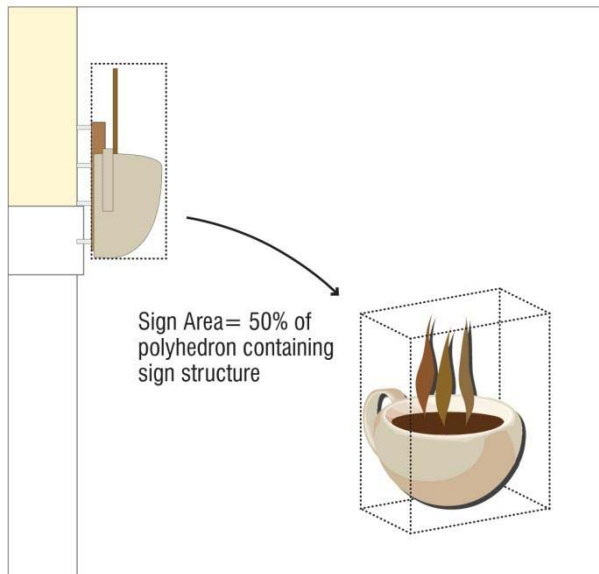
1. Sign area is measured as the area of all sign copy, framing, or other display enclosed within a continuous perimeter forming a single geometric shape with no more than six sides. See Figure 17-80-1.

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 pPolitical 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).

15. Temporary signs consistent with Section 17.80.110 (Temporary Signs).

17.16. Vacation rental signs up to one square foot.

- 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.~~K~~G (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.~~H~~E (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, CF, 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.

4.2. 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.

4.2. 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.
- ~~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>MU-V</u>	<u>12 sq. ft.</u>	<u>4 ft.</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.

F.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.
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.

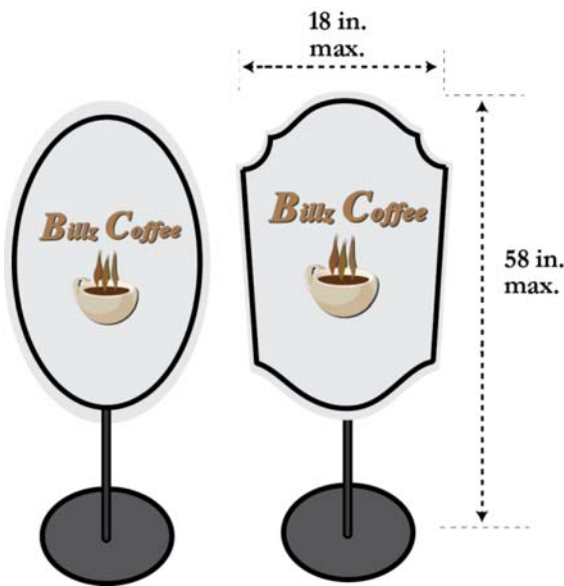
1. Sidewalk signs are permitted only in the MU-V zoning district as shown in Table 17.80-9.
- 4.2. Only one two-sided sidewalk sign per business establishment is permitted.
- 2.3. The sidewalk in front of the business must be at least 78 inches in width.

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.

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>	<u>4.5 sq. ft.</u>	<u>58 in.</u>	<u>18 in.</u>
<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~~

~~c. 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 feet per linear foot of building frontage.~~

~~**II.**—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 and vacation rentals, 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.

TABLE 17.80-10 TEMPORARY SIGN STANDARDS

Sign Type	Permit Required	Use Restriction	Maximum Number	Maximum Area/ Size	Maximum Duration
Small Commercial Auto Dealership Signs - Flags - Pennants - Painted windows Balloons	None	Non-residential uses only Auto dealerships on <u>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 120 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 certificate of occupancy
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 certificate of occupancy 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 property	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

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.
- ~~4.2. 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

PLACEHOLDER:

The redlines of Chapter 17.84 Historic Preservation are pending final review by the Planning Commission.

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, sState, 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.

17.88.03017.88.040 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 ~~it~~ 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.~~

17.88.04017.88.050 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.~~

~~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.~~

~~17.88.050~~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.

~~17.88.060~~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~~

~~17.88.070 — Public Notice and Hearing~~

~~A. Planning Commission Recommendation.~~

~~B. City Council Action.~~

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.~~

17.88.090 _____ Post-Decision Procedures

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

Attachment: Part 3 with Planning Commission Redlines (1570 : Zoning Code Update)

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.

- 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.
- 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.

- 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. ~~“Reconstruction~~Replication” ~~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.

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~~
- 17.96.145 Self-Storage Facilities
- 17.96.156 Solar Energy Systems
- 17.96.167 Soquel Creek Pathway, ~~Bulkheads, and Decks~~
- 17.96.178 -Temporary Sidewalk Dining
- 17.96.189 -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, rabbits, 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.

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.

~~1. —~~

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

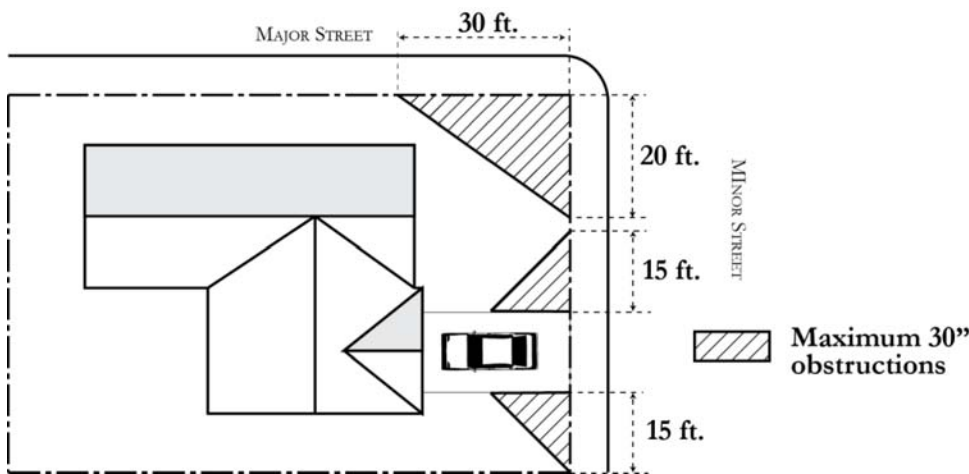
- A. Vision Triangle Required.** In zoning districts which require a front and street side setback for primary structures, all corner parcels shall provide and maintain a clear vision triangle at the intersection of the streets' right-of-way and adjacent to driveways for the purpose of traffic safety.
- 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):

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 waive 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

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 Capitola’s commercial districts.

B. Required Findings. In addition to the findings in Chapter 17.124 (Use Permits), the Planning Commission must make the following findings to approve a self-storage facility in the Community Commercial (C-C) ~~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).

~~17.96.370~~17.96.160 **Soquel Creek Pathway, ~~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.~~

17.96.38017.96.170 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. 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
 - ~~c.~~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 17.108 – 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~~ 17.108.040.....Design Review Process

17.108.010 Purpose

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

17.108.020 Planning Agency

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

17.108.030 Review and Decision-Making Authority

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



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			
Administrative Permits	Decision	Appeal	Appeal

Type of Action	Role of Authority [1]		
	Community Development Director	Planning Commission	City Council
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 Potential properties on the Historic Structures List Resources. The City Council is the decision authority on Historic Resource Demolition Permits applications for Designated Historic Landmarks Resources.

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

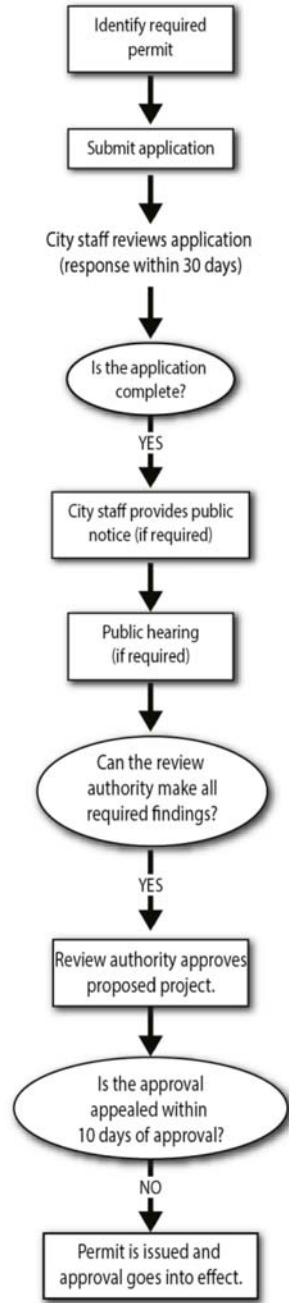
This chapter establishes procedures for the preparation, filing, and processing of permits required by the Zoning Code. The term “permit” when used in this chapter refers to any action, permit, or approval listed in Table 17.108-1 (Review and Decision-Making Authority).

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 with Planning Commission Redlines (1570 : Zoning Code Update)

4. Failure by City staff to identify all permit requirements shall not constitute a waiver of those requirements.

B. Application Contents.

1. All permit applications shall be filed with the Community Development Department on an official City application form.
2. Applications shall be filed with all required fees, information, and materials as specified by the Community Development Department.

C. Eligibility for Filing.

1. An application may only be filed by the property owner or the property owner's authorized agent.
2. The application shall be signed by the property owner or the property owner's authorized agent if written authorization from the owner is filed concurrently with the application.

17.112.030 Application Fees

A. Fee Schedule. Fees required to process permit applications are identified in the Planning Fee Schedule approved by the City Council.

B. Requirement of Payment.

1. The City may deem an application complete and begin processing the application only after all required fees have been paid.
2. Failure to pay any required supplemental application fees is a basis for denial or revocation of a permit application.

C. Refunds and Withdrawals.

1. Application fees cover City costs for public hearings, mailings, staff and consultant time, and the other activities involved in processing applications. Consequently, the City will not refund fees for a denied application.
2. In the case of an application withdrawal, the Community Development Director may authorize a partial refund of a deposit account based upon the pro-rated costs to date and the status of the application at the time of withdrawal.
3. Flat fees submitted in conjunction with a permit application are non-refundable.

17.112.040 Application Review

A. Review for Completeness.

1. **Initial Review.** The Community Development Department shall review each application for completeness and accuracy before it is accepted as being complete and officially filed.

2. **Basis for Determination.** The Community Development Department's determination of completeness shall be based on the City's list of required application contents and any additional written instructions provided to the applicant in a pre-application conference and during the initial application review period.
3. **Notification of Applicant.** Within 30 calendar days of application filing, the Community Development Department shall inform the applicant in writing that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information is required.
4. **Appeal of Determination.** When the Community Development Department has determined that an application is incomplete, and the applicant believes that the application is complete or that the information requested by the Community Development Department is not required, the applicant may appeal the Community Development Department's determination in compliance with Chapter 17.152 (Appeals).
5. **Submittal of Additional Information.**
 - a. When the Community Development Department determines that an application is incomplete, the time used by the applicant to submit the required additional information is not considered part of the time within which the determination of completeness for resubmitted materials shall occur.
 - b. Additional required information shall be submitted in writing.
 - c. The Community Development Department's review of information resubmitted by the applicant shall be in compliance with subsection 'a' above, along with another 30-day period of review for completeness.
6. **Environmental Information.** After the Community Development Department has accepted an application as complete, the Department may require the applicant to submit additional information for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA).

17.112.050 Multiple Permit Applications

- A. **Concurrent Filing.** An applicant for a development project that requires the filing of more than one application (e.g., Zoning Map Amendment and a Conditional Use Permit) shall file all related applications concurrently unless the concurrent filing requirements are waived by the Community Development Director.
- B. **Concurrent Processing.** The Community Development Department shall process multiple applications for the same project concurrently. Projects requiring multiple permit applications shall be reviewed and acted upon by the highest review authority designated by the Zoning Code for any of the applications (e.g., a project requiring a Zoning Map Amendment and a Conditional Use Permit shall have both applications decided by the City Council, instead of the Planning Commission acting on the

Conditional Use Permit). The Planning Commission shall provide a recommendation to the City Council on permits and approvals ordinarily acted upon by the Planning Commission.

17.112.060 Project Evaluation and Staff Reports

- A. Staff Evaluation.** The Community Development Department shall review all permit applications to determine if they comply with the Zoning Code, the General Plan, and other applicable City policies and regulations.
- B. Staff Report.** For all permit applications requiring review by the Planning Commission or City Council, the Community Development Department shall prepare a staff report describing the proposed project and including, where appropriate, a recommendation to approve, approve with conditions, or deny the application.
- C. Report Distribution.** Staff reports shall be furnished to the applicant at the same time as they are provided to the review authority before action on the application.

17.112.070 Environmental Review

- A. CEQA Review.** After acceptance of a complete application, the Community Development Department shall review the project in compliance with the California Environmental Quality Act (CEQA) to determine whether:
 1. The proposed project is exempt from the requirements of CEQA;
 2. The proposed project is not a project as defined by CEQA;
 3. A Negative Declaration may be issued;
 4. A Mitigated Negative Declaration may be issued; or
 5. An Environmental Impact Report (EIR) is required.
- B. Compliance with CEQA.** These determinations and, where required, the preparation of appropriate environmental documents shall be in compliance with CEQA and any adopted City CEQA guidelines.
- C. Special Studies Required.** Special studies, paid for in advance by the applicant, may be required to supplement the City's CEQA compliance review.

17.112.080 Applications Deemed Withdrawn

- A. Response Required.** If an applicant does not pay required supplemental fees or provide information requested in writing by the Community Development Department within nine months following the date of the letter, the application shall expire and be deemed withdrawn without any further action by the City.
- B. Resubmittal.** After the expiration of an application, future City consideration shall require the submittal of a new complete application and associated filing fees.

Chapter 17.114 – CONCEPTUAL REVIEW

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 additional to application materials required by paragraph 1 above, Conceptual Review applications for Planned Development projects shall also include the following:

1. A statement describing the proposed project and how it complies with the findings required for the approval of a Planned Development project in Section 17.36.080.G (Findings).
2. Project plans, diagrams, and graphics as needed to illustrate the overall development concept, including proposed land uses, buildings, circulation, open space, and any other significant elements in the project.

17.114.050 Application Review

A. Completeness Review.

The Community Development Department shall review each Conceptual Review application for completeness and accuracy. The Department may request additional information if necessary for consideration of the Planning Commission and/or City Council.

B. Staff Report.

The Community Development Department shall prepare a staff report describing the proposed project and including, where appropriate, an analysis of project compliance with applicable City policies and regulations. Staff reports shall be furnished to the applicant at the same time as they are provided to the review authority before consideration of the application.

17.114.060 Environmental Review

Conceptual Review applications are not defined as a project pursuant to the California Environmental Quality Act (CEQA) and as such are not subject to environmental review process as required by CEQA.

17.114.070 Permit Streamlining Act

Conceptual Review applications are not subject to the requirements of the California Permit Streamlining Act (Act). An application that receives Conceptual Review shall not be considered complete pursuant to the requirements of the Act unless and until the Director has received an application for approval of a development project, reviewed it, and determined it to be complete under Chapter 17.112 (Permit Application and Review).

17.114.080 Noticed Public Meeting

- A. Noticed Public Meeting Required.** The Planning Commission or City Council (“review authority”) shall consider a Conceptual Review application at a public meeting noticed in accordance with Section 17.148.020 (Notice of Hearing).
- B. Information Received.** At the meeting the review authority shall receive information from staff and the applicant and receive public comment on the proposed project.
- C. Preliminary Input.** The review authority shall provide the applicant with preliminary input on the proposed project, including the project compliance with applicable City policies and regulations.
- D. Input on Planned Development Projects.** For Planned Development projects, the review authority shall provide preliminary input on project compliance with findings required for the approval of a Planned Development project in Section 17.36.080.G (Findings).

17.114.090 Non-Binding Input

Review authority input on the Conceptual Review application shall not be construed as a recommendation for City approval or denial of the project. Any recommendation that results from Conceptual Review is advisory only and shall not be binding on either the applicant or the City.

Chapter 17.116 – ADMINISTRATIVE PERMITS

Sections:

- 17.116.010 Purpose
- 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 <u>and/or 80 sq. ft. 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 <u>3,000 sq. ft. to 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 <u>3,000 sq. ft. 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 <u>greater than 80 sq. ft. to 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 <u>3,000 sq. ft. to 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

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. Substantial changes to the exterior of An existing structure.
 - 4.5. The Community Development Director determines that enhanced visualization is necessary to determine if the findings for approval can be made for the proposed project.

17.120.050 Design Review ~~Committee~~Process

- A. Review Required.** All Design Permit applications shall be reviewed by City staff and City-contracted design professionals as specified in the Design Review Committee ~~(Section 17.108.040)~~ prior to review and action on the application by the Planning Commission.
- B. Purpose of Review.** The purpose of the Design Review ~~Committee~~process is to provide recommendations to the applicant on the design of the project based on Design Review criteria in Section 17.120.070. Applicants are encouraged to consider comments from the Design Review ~~Committee~~process and modify the project design as needed prior to Planning Commission consideration of the application.

17.120.060 Public Notice and Hearing

- A. Design Permits.** The Planning Commission shall review and act on a Design Permit application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).



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

- B. Minor Design Permits.** Public notice of a pending action on a Minor Design Permit application shall be provided in compliance with Chapter 17.148 (Public Notice and Hearings). The Community Development Director shall hold a public hearing for a Minor Design Permit application only upon receiving a written request for a public hearing as provided in Section 17.148.030 (Notice of Pending Action).

17.120.070 Design Review Criteria



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

When considering Design Permit applications, the City shall evaluate applications to ensure that they satisfy the following criteria, comply with the development standards of the zoning district, conform to policies of the General Plan and any applicable specific plan, and are consistent with any other policies or guidelines the City Council may adopt for this purpose. To obtain Design Permit approval, projects must satisfy these criteria to the extent they apply.

- A. Community Character.** The overall project design including site plan, height, massing, architectural style, materials, and landscaping contribute to Capitola's unique coastal village character and distinctive sense of place.
- B. Neighborhood Compatibility.** The project is designed to respect and complement adjacent properties. The project height, massing, and intensity is compatible with the

scale of nearby buildings. The project design incorporates measures to minimize traffic, parking, noise, and odor impacts on nearby residential properties.

- C. Historic Character.** Renovations and additions respect and preserve existing historic structure. New structures and additions to non-historic structures reflect and complement the historic character of nearby properties and the community at large.
- D. Sustainability.** The project supports natural resource protection and environmental sustainability through features such as on-site renewable energy generation, passive solar design, enhanced energy efficiency, water conservation measures, and other green building techniques.
- E. Pedestrian Environment.** The primary entrances are oriented towards and visible from the street to support an active public realm and an inviting pedestrian environment.
- F. Privacy.** The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimizes privacy impacts on adjacent properties and provides adequate privacy for project occupants.
- G. Safety.** The project promotes public safety and minimizes opportunities for crime through design features such as property access controls (e.g., placement of entrances, fences), increased visibility and features that promote a sense of ownership of outdoor space.
- H. Massing and Scale.** The massing and scale of buildings complement and respect neighboring structures and correspond to the scale of the human form. Large volumes are divided into small components through varying wall planes, heights, and setbacks. Building placement and massing avoids impacts to public views and solar access.
- I. Architectural Style.** Buildings feature an architectural style that is compatible with the surrounding built and natural environment, is an authentic implementation of appropriate established architectural styles, and reflects Capitola's unique coastal village character.
- J. Articulation and Visual Interest.** Building facades are well articulated to add visual interest, distinctiveness, and human scale. Building elements such as roofs, doors, windows, and porches are part of an integrated design and relate to the human scale. Architectural details such as trim, eaves, window boxes, and brackets contribute to the visual interest of the building.
- K. Materials.** Building facades include a mix of natural, high-quality, and durable materials that are appropriate to the architectural style, enhance building articulation, and are compatible with surrounding development.
- L. Parking and Access.** Parking areas are located and designed to minimize visual impacts and maintain Capitola's distinctive neighborhoods and pedestrian-friendly environment. Safe and convenient connections are provided for pedestrians and bicyclists.

- M. Landscaping.** Landscaping is an integral part of the overall project design, is appropriate to the site and structures, and enhances the surrounding area.
- N. Drainage.** The site plan is designed to maximize efficiency of on-site drainage with runoff directed towards permeable surface areas and engineered retention.
- O. Open Space and Public Places.** Single-family dwellings feature inviting front yards that enhance Capitola's distinctive neighborhoods. Multi-family residential projects include public and private open space that is attractive, accessible, and functional. Non-residential development provides semi-public outdoor spaces, such as plazas and courtyards, which help support pedestrian activity within an active and engaging public realm.
- P. Signs.** The number, location, size, and design of signs complement the project design and are compatible with the surrounding context.
- Q. Lighting.** Exterior lighting is an integral part of the project design with light fixtures designed, located, and positioned to minimize illumination of the sky and adjacent properties.
- R. Accessory Structures.** The design of detached garages, sheds, fences, walls, and other accessory structures relate to the primary structure and are compatible with adjacent properties.
- S. Mechanical Equipment, Trash Receptacles, and Utilities.** Mechanical equipment, trash receptacles, and utilities are contained within architectural enclosures or fencing, sited in unobtrusive locations, and/or screened by landscaping.

17.120.080 Findings for Approval



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

To approve a Design Permit application, the review authority shall make all of the following findings:

- A.** The proposed project is consistent with the General Plan, Local Coastal Program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the City Council.
- B.** The proposed project complies with all applicable provisions of the Zoning Code and Municipal Code.
- C.** The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).
- D.** The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

E. The proposed project complies with all applicable Design Review criteria in Section 17.120.070 (Design Review Criteria)

E.F. For projects in residential neighborhoods, the proposed project maintains the character, scale, and development pattern of the neighborhood.

17.120.090 Conditions of Approval

The Planning Commission or Community Development Director may attach conditions of approval to a Design Permit to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

17.120.100 Appeals and Post-Decision Procedures

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

Chapter 17.124 – USE PERMITS

Sections:

- 17.124.010 Purpose
- 17.124.020 When Required
- 17.124.030 Review Authority
- 17.124.040 Application Submittal and Review
- 17.124.050 Public Notice and Hearing
- 17.124.060 Considerations
- 17.124.070 Findings for Approval
- 17.124.080 Conditions of Approval
- 17.124.090 Appeals and Post-Decision Procedures
- 17.124.100 Master Use and Tenant Use Permits

17.124.010 Purpose

This chapter describes the process to obtain Use Permits, which include Conditional Use Permits, Minor Use Permits, Master Use Permits, and Tenant Use Permits. A Use Permit is required for land uses that are generally appropriate within a zoning district, but potentially undesirable on a particular parcel or in large numbers. A Use Permit is a discretionary action that enables the City to ensure that a proposed use is consistent with the General Plan and will not create negative impacts to adjacent properties or the general public.

17.124.020 When Required

- A. Land uses that require a Conditional Use Permit or a Minor Use Permit are shown in the land use regulation tables for each zoning district found in Part 2 (Zoning Districts and Overlay Zones).
- B. Land uses eligible for a Master Use Permit or a Tenant Use Permit are described in Section 17.124.100 (Master Use and Tenant Use Permits).

17.124.030 Review Authority

- A. The Planning Commission takes action on Conditional Use Permit and Master Use Permit applications.
- B. The Community Development Director takes action on Minor Use Permit and Tenant Use Permit applications.
- C. The Community Development Director may refer any Minor Use Permit and Tenant Use Permit application to the Planning Commission for review and final decision.

17.124.040 Application Submittal and Review

Use Permit applications shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.124.070 (Findings for Approval).

17.124.050 Public Notice and Hearing

- A. The Planning Commission shall review and act on a Conditional Use Permit or a Master Use Permit application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- B. Public notice of a pending action on a Minor Use Permit application shall be provided in compliance with Chapter 17.148 (Public Notice and Hearings). The Community Development Director shall hold a public hearing for a Minor Use Permit application only upon receiving a written request for a public hearing as provided in Section 17.148.030 (Notice of Pending Action).
- C. No public hearing is required for a Tenant Use Permit.

17.124.060 Considerations

When evaluating a Conditional Use Permit, Minor Use Permit, or Master Use Permit application, the review authority shall consider the following characteristic of the proposed use:

- A. Operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).
- B. Availability of adequate public services and infrastructure.
- C. Potential impacts to the natural environment.
- D. Physical suitability of the subject site for the proposed use in terms of design, location, operating characteristics, shape, size, topography.

17.124.070 Findings for Approval

To approve a Conditional Use Permit, Minor Use Permit, or Master Use Permit, the review authority shall make all of the following findings:

- A. The proposed use is allowed in the applicable zoning district.
- B. The proposed use is consistent with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
- C. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and planned land uses in the vicinity of the property.

- D. The proposed use will not be detrimental to the public health, safety, and welfare.
- E. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

17.124.080 Conditions of Approval

The Planning Commission or Community Development Director may attach conditions of approval to a use permit to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

17.124.090 Appeals and Post-Decision Procedures

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

17.124.100 Master Use and Tenant Use Permits

- A. **Purpose.** A Master Use Permit is a type of Conditional Use Permit that identifies permitted land uses within a commercial property occupied by multiple tenants. Tenant Use Permits are issued by the Community Development Director for individual tenants that comply with a Master Use Permit.
- B. **Master Use Permit Eligibility.** To be eligible for a Master Use Permit, a property must:
 1. Contain more than 10,000 square feet of floor area on a single parcel or on multiple adjoining parcels under one ownership;
 2. Conform to all applicable parking and landscaping requirements; and
 3. Contain leasable space for two or more tenants.
- C. **Permitting Process and Restrictions.** The process to review and approve a Master Use Permit is the same as for a Conditional Use Permit, except as follows:
 1. When approving a Master Use Permit, the Planning Commission shall specify the uses allowed on the property. Allowed uses are limited to uses permitted or conditionally permitted in the applicable zoning district.
 2. The Planning Commission may establish a maximum size for an individual tenant and/or use.

3. A change of tenant larger than 12,000 square feet in a property with a Master Use Permit requires Planning Commission approval of an amendment to the existing Master Use Permit. A change in tenant larger than 12,000 square feet may not be approved with a Tenant Use Permit.
4. The Planning Commission may deny a Master Use Permit upon finding that particular circumstances of the property, including an existing or proposed use, require a standard Conditional Use Permit process to protect the public health, safety, and welfare.

D. Tenant Use Permits.

1. A land use proposed within a property subject to a Master Use Permit may be established with a Tenant Use Permit, except for tenants 12,000 square or more as described in paragraph 3 above.
2. Tenant Use Permits are approved by the Community Development Director. The Director shall approve a Tenant Use Permit if the proposed use is consistent with the conditions of the Master Use Permit and the requirements of this section.

- E. Tenant Notification.** Prior to leasing space on a property with a Master Use Permit, the permit holder shall inform the prospective tenant of the conditions of approval attached to the Master Use Permit and the requirements of this section.

Chapter 17.128 – VARIANCES

Sections:

- 17.128.010 Purpose
- 17.128.020 When Allowed
- 17.128.030 Review Authority
- 17.128.040 Application Submittal and Review
- 17.128.050 Public Notice and Hearing
- 17.128.060 Findings for Approval
- 17.128.070 Conditions of Approval
- 17.128.080 Precedent
- 17.128.090 Appeals and Post-Decision Procedures

17.128.010 Purpose

This chapter identifies the process to obtain a Variance. A Variance is a discretionary permit that allows for deviation from physical development standards in the Zoning Code. The City may grant a Variance only when the strict application of development standards creates a unique hardship due to unusual circumstances associated with the property.

17.128.020 When Allowed

- A. Allowable Variances.** The City may grant a Variance to allow for deviation from any physical development standard that applies to the subject property. Examples of physical development standards include height, setbacks, open space, floor area ratio (FAR), and off-street parking requirements.
- B. Variances Not Allowed.** A Variance may not be granted to:
1. Permit a use other than a use permitted in the zoning district 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.~~ 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 17.148 – PUBLIC NOTICE AND HEARINGS

PLACEHOLDER:

The redlines of Chapter 17.148 Historic Preservation are pending final review by the Planning Commission.

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 received 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. Fences and walls if consistent with Chapter 17.60 (Fences and Walls).
- ~~f.~~ f. Landscaping if consistent with Chapter 17.72 (Landscaping).
- ~~g.~~ g. Exterior lighting if consistent with Chapter 17.96 (Supplemental Standards).
- ~~h.~~ h. Roof forms and materials provided there is no increase in structure height.
- ~~i.~~ i. Facade articulation such as porch columns, shutters, tile work, and other architectural details. Modifications that fundamentally alter the architectural style of a structure are not considered a minor change.
- ~~j.~~ j. The number, location, and size of decks and patios provide no new noise or privacy impacts would be created.
- ~~k.~~ k. The number, size, type, and location of skylights.
- ~~l.~~ l. 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 17.160 – GLOSSARY

Sections:

17.160.010 Purpose

17.160.020 Definitions

17.160.010 Purpose

This chapter provides definitions of terms and phrases used in the Zoning Code that are technical or specialized, or which may not reflect common usage. If any of the definitions in this chapter conflict with others in the Municipal Code, these definitions shall control for only the provisions of this Zoning Code. If a word is not defined in this chapter or in other chapters of the Zoning Code, the Community Development Director shall determine the appropriate definition.

17.160.020 Definitions

A. “A” Terms.

1. **Abandon.** “Abandon” means to cease or discontinue a use or activity, excluding temporary or short-term interruptions during periods of remodeling, maintenance, emergency repairs, or during normal periods of vacation or seasonal closure.
2. **Abutting.** “Abutting” or “adjoining” means having a common boundary, except that parcels having no common boundary other than a common corner shall not be considered abutting.
- ~~3.~~**3. Accessory Structure.** “Accessory structure” means a structure that is incidental and subordinate to a primary structure or use located on the same parcel.
- ~~2.~~**4. Accessory Use.** “Accessory use” means a land use which is incidental and subordinate to a primary land use located on the same parcel.
- ~~3.~~**5. Addition.** “Addition” means any development or construction activity that expands the footprint or increases the habitable floor area of a building.
6. **Adjacent.** “Adjacent” means directly abutting, having a boundary or property line(s) in common or bordering directly, or contiguous to.
- ~~4.~~**7. Alcoholic Beverage Sales.** “Alcoholic beverage sales” means the sale of alcoholic beverages for on-site consumption at a restaurant, bar, nightclub or other establishment, or the retail sale of alcoholic beverages for off-site consumption.
- ~~5.~~**8. Alteration.** See “Modification.”
- ~~6.~~**9. Applicant.** “Applicant” means any person, firm, partnership, association, joint venture, corporation, or an entity or combination of entities which seeks City permits and approvals.

7.10. Assumed Ground Surface. “Assumed ground surface” means a line on each elevation of an exterior wall or vertical surface which connects those points where the perimeter of the structure meets the finished grade.

8.11. Average Slope. “Average slope” means the average slope of a parcel calculated using the formula: $S = 100(I)(L)/A$, where:

- a. S = Average slope (in percent);
- b. I = Contour interval (in feet);
- c. L = Total length of all contour lines on the parcel (in feet); and
- d. A = Area of subject parcel (in square feet).

9.12. Automobile Dealership. “Automobile dealership” means a use primarily engaged in the sale or lease of new and used automobiles. Other accessory services incidental to auto sales include auto repair and servicing, auto body repair, car wash, auto rentals, and similar services.

B. “B” Terms.

1. Balcony. “Balcony” means a platform that projects from the wall of a building thirty inches or more above grade that is accessible from the building’s interior, is not accessible from the ground and is not enclosed by walls on more than two sides.”

4.2. Banks and Financial Institutions. “Banks and financial institutions” means a financial institutions providing retail banking services. Includes only those institutions serving walk-in customers or clients, including banks, savings and loan institutions, check-cashing services, and credit unions.

2.3. Base Zoning District. “Base zoning district” means the primary zoning, as distinguished from an overlay zone, that applies to a parcel of land as shown on the Zoning Map.

4. Basement. “Basement” means that portion of a building between floor and ceiling, which is partly or all below ~~and partly above~~ grade, ~~and where more but located so that the vertical distance from grade to the floor below is less~~ than the vertical distance from grade to ceiling is below the average ground contact level of the exterior walls of the building.

1.—

2.5. Block. “Block” means the property abutting on one side of a street and lying between the two nearest intersecting streets.”

3.6. Bluff or Cliff. “Bluff” or “cliff” means the scarp or steep face of rock, decomposed rocks, sediment or soil resulting from erosion, faulting, folding or excavation of land mass and exceeding ten feet in height, and includes what are commonly known as “cliffs.”

- 4.7. Building.** “Building” means any structure used or intended for supporting or sheltering any use or occupancy.
- 5.8. Building Coverage.** “Building coverage” means the land area covered by all buildings and accessory structures on a parcel.
- 6.9. Building Face.** “Building face” means and includes the general outer surface of a main exterior wall of a building. For example, a building with a rectangular plan has four main exterior walls and four building faces.
- 7.10. Building Height.** “Building height” means the vertical distance measured from the assumed ground surface of the building to the highest point of the roof, ridge, or parapet wall.
- 11. Business Services.** “Business Services” means an establishment that provides services to other businesses on a fee or contract basis. Includes computer rental and repair, catering, printing and duplicating services, outdoor advertising services, package delivery services, equipment rental and leasing, and other similar land uses.
- 8.12. Business or Trade School.** “Business or trade school” means a use, except a college or university, providing education or training in business, commerce, language, or other similar vocational activity, and not otherwise defined as a home occupation or private educational facility.
- 9.13. By-Right.** “By-right” means permitted without any form of discretionary approval.

C. “C” Terms.

1. **Capitola Village.** “Capitola Village” means the central core of Capitola generally bounded by the Monterey Bay shoreline to the south, the railroad trestle to the north and west, and Cliff Avenue and Depot Hill to the east.
2. **Caretaker Quarters.** “Caretaker quarters” means a residence that is accessory to a nonresidential primary use of the site, where needed for security, or 24-hour care or supervision.
3. **Carport.** “Carport” means an accessory building to a residential structure, open on two, three or four sides and attached to, or detached from, a dwelling and established for the loading or unloading of passengers or the storage of an automobile.
- 3.4. Change of Use.** “Change of use” means the replacement of an existing use to a new use, or a change in the intensity or nature of an existing use, not including a change in ownership, tenancy, or management where the previous use remains the same.
- 4.5. Coastal Zone.** “Coastal zone” means the area of land and water extending from the state’s outer seaward limit of jurisdiction inland to the boundary as shown in Capitola’s Local Coastal Program (LCP) as certified by the California Coastal Commission.

- 5.6. Colleges and Trade Schools.** “Colleges and trade schools” means institutions of higher education providing curricula of a general, religious or professional nature, typically granting recognized degrees. Includes junior colleges, business and computer schools, management training, vocational education, and technical and trade schools.
- 6.7. Community Assembly.** “Community assembly” means a facility that provides space for public or private meetings or gatherings. Includes places of worship, community centers, meeting space for clubs and other membership organizations, social halls, union halls, banquet centers, and other similar facilities.
- 7.8. Community Benefit.** “Community benefit” means a public amenity offered by a project applicant that advances General Plan goals but is not required by the Zoning Code or any other provision of local, State, or federal law.
- 8.9. Commercial Entertainment and Recreation.** “Commercial entertainment and recreation” means an establishment that provides entertainment or recreation activities or services for a fee or admission charge. Includes bowling alleys, electronic game arcades, billiard halls, pool halls, sports clubs, commercial gymnasiums, dancehalls, and movie theatres.
- 9.10. Community Development Director.** “Community Development Director” means the Community Development Director of the City of Capitola or his or her designee.
- 10.11. Construction and Material Yards.** “Construction and material yards” means storage of construction materials or equipment on a site other than a construction site. Includes public utility buildings and service yards used by a governmental agency.
- 12. Cultural Institution.** “Cultural institution” means a public or nonprofit institution that engages in cultural, scientific, and/or educational enrichment. Includes libraries, museums, performing art centers, aquariums, environmental education centers, non-profit art centers and galleries, botanical gardens, and other similar uses.
- 14.13. Custom Manufacturing.** See “Manufacturing, Custom.”

D. “D” Terms

1. **Day Care Center.** “Day care center” means a facility that provides non-medical care and supervision of minors for periods of less than 24 hours. Includes nursery schools, day nurseries, child care centers, infant day care centers, cooperative day care centers, and similar uses.
2. **Daylight Plane.** “Daylight plane” means the imaginary line beginning at a height of 20 feet at the setback from a property line and extending into the parcel at an angle of 45 degrees.
3. **Deck.** “Deck” means an outdoor a platform, either freestanding or attached to a building, that is supported by pillars or posts.

- ~~3.4.~~ **Density.** “Density” means the number of dwelling units per acre of land, excluding street rights-of-way, public easements, public open space, land under water, and certified wetlands and floodplains.
- ~~5.~~ **Design Review.** “Design Review” means that process for the City to review and act on a Design Permit application.
- ~~4.6.~~ **Designated Historic Resource.** See Section 17.84.020.A (Designated Historic Resources).
- ~~5.7.~~ **Development.** “Development” means any human-caused change to land that requires a permit or approval from the City.
- ~~6.8.~~ **Development Standards.** “Development standards” means regulations in the Zoning Code that limit the size, bulk, or placement of structures or other improvements and modifications to a site.
- ~~7.9.~~ **Discretionary Approval.** “Discretionary approval” means an action by the City by which individual judgment is used as a basis to approve or deny a proposed project.
- ~~10.~~ **Drive-Through Facility.** “Drive-Through Facility” means a facility where a customer is permitted or encouraged, either by the design of physical facilities or by the service procedures offered, to be served while remaining seated within a vehicle. Includes drive-through restaurants, coffee shops, pharmacies, banks, automatic car washes, and other similar land uses.
- ~~8.11.~~ **Driveway.** “Driveway” means an accessway that provides vehicular access between a street and the parking or loading facilities of a property.
- ~~9.12.~~ **Duplex Home.** “Duplex home” means a residential structure that contains two dwelling units, each with its own entrance. Each unit within a duplex home provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- ~~10.13.~~ **Dwelling Unit.** “Dwelling unit” means a building or a portion of a building containing one or more habitable rooms used or designed for occupancy by one family for living and sleeping purposes, including kitchen and bath facilities.

E. “E” Terms.

1. **Eating and Drinking Establishments.** “Eating and drinking establishments” means businesses primarily engaged in serving prepared food and/or beverages for consumption on or off the premises.
 - a. “Bars and Lounges” means a business devoted to serving alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Includes cocktail lounges, nightclubs, taverns, and other similar uses.
 - b. “Restaurants and Cafes” means a business establishment serving food and beverages to customers where the food and beverages may be consumed on the

premises or carried out and where more than 160 square feet of public area is open to customers. Includes full service restaurants, fast-food restaurants, coffee shops, cafes, and other similar eating and drinking establishments.

c. “Take-Out Food and Beverage” means establishments where food and beverages may be consumed on the premises, taken out, or delivered, but where the area open to customers is limited to no more than 160 square feet. Includes take-out restaurants, take-out sandwich shops, limited service pizza parlors and delivery shops, and snack bars. Also includes catering businesses or bakeries that have a storefront retail component.

4.2. Easement. “Easement” means a portion of land created by grant or agreement for specific purposes. An easement provides a property right, privilege, interest, or restriction over a property in favor of the easement holder.

2.3. Elderly and Long-Term Care. “Elderly and Long Term Care” means establishments that provide twenty-four-hour medical, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves, and is licensed as a skilled nursing facility by the State of California, including but not limited to rest homes and convalescent hospitals, but not residential care, hospitals, or clinics

3.4. Emergency Shelter. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person, as defined in Section 50801 of the California Health and Safety Code.

F. “F” Terms

1. Façade. A “façade” means the face of the exterior wall of a building exposed to public view or that wall viewed by persons not within the building. The portion of any exterior elevation of a building extending vertically from grade to the top of the parapet wall or eave and horizontally across the entire width of the building elevation.

4.2. Farmers’ Market. “Farmers’ market” means a market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, locally produced arts and crafts items but excludes second-hand goods. Food and beverages dispensed from booths located on site is permitted as an accessory use.

2.3. Fence. “Fence” means a structure connected by boards, masonry, rails, panels, or other similar permanent building material for the purpose of enclosing space or separating parcels of land. This definition includes gates but excludes hedges and other living plants.

4. Fitness Centers and Gyms, Large. “Fitness centers and gyms, large” means a commercial establishment 2,500 square feet or more which houses exercise equipment, sports facilities, and/or provides group classes for the purpose of physical exercise. This definition excludes yoga studios, dance studios, martial arts

studios, and small fitness centers less than 2,500 square feet which are included within the “personal services” definition.

- ~~3.5.~~ **Floor Area.** “Floor area” means the sum of the horizontal areas of all floors of an enclosed structure, measured from the outside perimeter of the exterior walls as described in Section 17.48.040 (Floor Area and Floor Area Ratio).
- ~~4.6.~~ **Floor Area Ratio.** “Floor area ratio” means the gross floor area of all of the buildings on the parcel divided by the net parcel area.
- ~~5.7.~~ **Food Preparation.** “Food Preparation” means a businesses preparing and/or packaging food for off-site consumption, excluding those of an industrial character in terms of processes employed, waste produced, water used, and traffic generation. Includes catering kitchens, and small-scale specialty food production.
- ~~6.8.~~ **Frontage.** “Frontage” means that portion of all property abutting on a side of a street between two intersecting or terminating streets, or the end of such street if it does not meet another.

G. “G” Terms

- ~~1.~~ **Garage.** “Garage” means an enclosed structure or a part of a building designed or used for the storage of automobiles and other motor vehicles.
- ~~a.~~ **Subterranean Garage.** “Subterranean garage” means a parking area entirely underground, except for openings for ingress and egress.
- ~~1.2.~~ **Garage Sale.** “Garage Sale” means a temporary sale for the purpose of selling, trading or otherwise disposing of household furnishings, personal goods or other tangible properties of a resident of the premises on which the sale is conducted.
- ~~3.~~ **Gas and Service Stations.** “Gas and service stations” means a retail business establishment supplying gasoline and oil and minor accessories for automobiles. Included in this definition are incidental food and beverage and car wash facilities.
- ~~4.~~ **Grade.** “Grade” means the location of the ground surface.
- ~~a.~~ **Existing Grade.** “Existing grade”, or natural grade, means the elevation of the ground at any point on a parcel.
- ~~b.~~ **Finished Grade.** “Finished grade” means the final surface elevation of the ground, paving, lawn, or other improved surface.
- ~~3.5.~~ **Group Housing.** “Group housing” means shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. Includes rooming and boarding houses, single-room occupancy housing, dormitories, and other types of organizational housing, and extended stay hotels intended for long-term occupancy (30 days or more). Excludes hotels, motels, ~~break~~ and breakfasts, and residential care facilities.

4.6. Geological Hazard. “Geological hazard” means a threat to life, property or public safety caused by geological or hydrological processes such as faulting and secondary seismic effects, including but not limited to: liquefaction, landsliding, erosion, flooding, tsunami or storm wave inundation.

5.7. Government Offices. “Government offices” means a place of employment occupied by governmental agencies and their employees. Includes offices for administrative, clerical, and public contact functions but excludes corporation yards, equipment service centers, and similar facilities that primarily provide maintenance and repair services and storage facilities for vehicles and equipment

6.8. Grading. “Grading” means Any and all activities involving earthwork, including placement or fill and/or excavation.

1. **Ground Floor.** “Ground floor” means the first floor of a building other than a cellar or basement that is closest to finished grade.

H. “H” Terms

1. **Height.** See “building height.” For structures other than buildings, “height” means the vertical distance from grade to the highest point of the structure directly above.

4.2. **Home Day Care.** “Home day care” means a facility providing daytime supervision and care for adults, children, or elderly located in the provider’s own home.

a. “Home day care facilities, large” means a day care home facility supervising 9 to 14 ~~8~~ persons ~~or less~~.

b. “Home day care facilities, small” means a day care home facility supervising 8 persons ~~for less-9 to 14 persons~~.

3. **Historic Resource.** “Historic Resource” means either a Designated Historic Resource as defined in Section 17.84.020 (Types of Historic Resources), a contributing structure to a Designated Historic District, Landmark or a designated non-structural elements such as landscape features or prehistoric sites ~~a structure, site, or landscape feature determined by a State Certified Architectural Historian to meet the City’s historical significance criteria in Section 17.84.050 (Criteria for Designating Historic Resources. Potential Historic Resource structure included in the Historic Structures List as defined in Section 17.84.020 (Types of Historic Resources).~~

2.4. **Historic Alteration Permit.** “Historic alteration permit” means the City permit required to alter the exterior of a historic resource in accordance with Section 17.84.060 (Historic Alteration Permit).

3.5. **Home Occupation.** “Home occupation” means the conduct of a business within a dwelling unit or residential site, with the business activity being subordinate to the residential use of the property.

I. “I” Terms.”

1. **Impervious Surface.** “Impervious surface” means any surface that does not permit the passage of water. Impervious surfaces include buildings, hardscaped parking areas, and all paved surfaces.

J. “J” Terms. None.

K. “K” Terms”

1. **Kitchen.** “Kitchen” means any room or part of a room used or intended or designed to be used for cooking or the preparation of food for a single dwelling unit, and distinct from a “mini-bar/convenience area” and outdoor barbeque and bars -which is-are intended as a supplemental food preparation area within a single-family home.

L. “L” Terms.

1. **Land Use.** An activity conducted on a site or in a structure, or the purpose for which a site or structure is designed, arranged, occupied, or maintained. The meaning of the term “use” is identical to “land use.”
2. **Landscaping.** “Landscaping” means the planting and maintenance of living plant material, including the installation, use, and maintenance of any irrigation system for the plant material, as well as nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, fountains, trellises, sculptures, or decorative paving materials).
3. Liquor Store. “Liquor store” means a business selling alcoholic beverages for off-site consumption with the sale of alcoholic beverages constituting its primary source of revenue.
4. Loading Space. “Loading space” means an off-street space or berth on the same parcel with a building for the temporary parking of a vehicle while loading or unloading goods and materials.
- 3.5. **Local Coastal Program (LCP).** “Local Coastal Program” means the City’s land use plan, Zoning Code, Zoning Map and actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.
6. Light Manufacturing. See “Manufacturing, Light.”
- 4.7. **Lodging.** “Lodging” means an establishment providing overnight accommodations to transient patrons for payment for periods of less than 30 consecutive days.
 - a. “Bed and breakfast” means a residential structure that is in residential use with one or more bedrooms rented for overnight lodging and where meals may be provided.
 - b. “Hotel” means an establishment providing overnight lodging to transient patrons. Hotels and motels may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. Includes motor lodges, motels, extended-stay hotels,

and tourist courts, but does not include group housing or bed and breakfast establishments, which are separately defined and regulated.

8. **Lot.** See “Parcel.”

9. **Lot Coverage.** “Lot coverage” means the total area of a parcel occupied by permanent structures.

5-10. **Lot of Record.** “Lot of record”, or legal lot, means a parcel which was legally created pursuant to the California Subdivision Map Act.

M. “M” Terms.

1. **Maintenance and Repair Services.** “Maintenance and repair services” means businesses which provide construction, maintenance and repair services off-site, but which store equipment and materials or perform fabrication or similar work on-site. Includes off-site plumbing shops, general contractors, contractor’s storage yards, appliance repair, janitorial services, electricians, pest control, heating and air conditioning, roofing, painting, landscaping, septic tank service, and other similar uses.
2. **Manufacturing, Custom.** “Manufacturing, custom” means establishments primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment and the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, candle making shops, woodworking, and custom jewelry manufacturers.
3. **Manufacturing, Light.** “Manufacturing, Light” means the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing.
4. **Material Change.** “Material change” means any significant alteration, by private or public action, in the external appearance or surface of an improvement, landscape or vista. This shall not include ordinary maintenance which does not require a permit.
5. **Medical Offices and Clinics.** “Medical offices and clinics” means a facility where medical, mental, dental, or other personal health services are provided on an outpatient basis using specialized equipment. Includes offices for physicians, dentists, and optometrists, diagnostic centers, blood banks and plasma centers, and emergency medical clinics offered exclusively on an out-patient basis. Hospitals are excluded from this definition.
- 5-6. **Ministerial Action.** “Ministerial action” means a City decision on a planning permit which involves only the use of fixed standards or objective measurements and does not require the exercise of discretion

~~6.1. **Medical Offices and Clinics.** “Medical offices and clinics” means a facility where medical, mental, dental, or other personal health services are provided on an outpatient basis using specialized equipment. Includes offices for physicians, dentists, and optometrists, diagnostic centers, blood banks and plasma centers, and emergency medical clinics offered exclusively on an out-patient basis. Hospitals are excluded from this definition.~~

7. **Mixed Use.** “Mixed use” means two or more different land uses located in one structure or on one parcel or development sites.

8. **Mobile Food Vendors.** “Mobile Food Vendors” means businesses selling food or drinks from temporary and semi-permanent structures or mobile equipment such as food trucks or pushcarts.

8.9. **Mobile Home Park.** See Section 17.100.030 (Definitions) of Chapter 17.100 (Mobile Home Park Conversions).

9.10. **Modification.** “Modification” means any construction or physical change in the internal arrangement of rooms or the supporting members of a structure, or a change in the external appearance of any structure, not including painting.

10.11. **Multi-Family Dwelling.** Multi-family dwelling” means a building that contains three or more dwelling units, with each unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

N. “N” Terms.

1. **Nonconforming Parcel.** “Nonconforming parcel” means a parcel that was lawfully established but that no longer conforms with the parcel size or dimension standards of the zoning district in which it is located.

1.2. **Nonconforming Structure.** “Nonconforming structure” means a structure which does not meet the current development standards for the district in which the structure is located. Development standards include, but are not limited to setbacks, height or lot coverage regulations of the zoning district, but do not include standards contained in the Uniform Codes, such as the Building Code.

2.3. **Nonconforming Use.** “Nonconforming use” “means a use that lawfully occupied a building or land at the time the use was established, but that no longer conforms with the use regulations of the zoning district in which it is located.

O. “O” Terms.

1. **Open Space, Private.** “Open space, private” means open areas for outdoor living and recreation that are adjacent and directly accessible to a single dwelling unit, reserved for the exclusive use of residents of the dwelling unit and their guests.

2. **Open Space, Common.** “Open space, common” means areas for outdoor living and recreation that are intended for the use of residents and guests of more than one dwelling unit.
3. **Overlay Zone.** “Overlay zone” means an additional zoning district as shown on the Zoning Map that prescribes special regulations to a parcel in combination with the base zoning district.

P. “P” Terms.

1. **Parcel.** “Parcel” means a lot, tract, or area of land whose boundaries have been established by a legal instrument such as a deed or map recorded with the County of Santa Cruz, and which is recognized as a separate legal entity for purposes of transfer of title, except public easements or rights-of-way. The meaning of “lot” is identical to “parcel.”
2. **Parcel Area.** “Parcel area” means the total horizontal area included within the parcel lines of the parcel, including one-half the width of any alley or portion thereof abutting a parcel line.
 - a. ~~**Parcel Area, Gross.**~~ “~~Parcel Area, Gross~~” means the total size of a parcel from lot line to lot line.
 - ~~b. **Parcel Area, Net.**~~ “~~Parcel Area, Net~~” means the Gross Parcel Area minus the total area occupied by street rights-of-way, access easements, or a creek channel.
3. **Parcel, Corner.** “Corner parcel” means a parcel situated at the junction of two or more intersecting streets, with a parcel line bordering on each of the two or more streets.
4. **Parcel Depth.** “Parcel depth” means the horizontal distance from the street line or front line of the parcel to the rear line, measured in the mean direction of the side lines of the parcel.
5. **Parcel Line.** “Parcel line” means the lines bounding a parcel.
6. **Parcel Line, Front.** “Front parcel line” means that dimension of a parcel or portion of a parcel, abutting on a street except the side of a corner parcel.
7. **Parcel Line, Rear.** “Rear-parcel line” means ordinarily, the line of a parcel which is generally opposite the line along the frontage of said parcel. In cases in which this definition is not applicable, the Community Development Director shall designate the rear parcel line.
8. **Parcel Line, Interior Side.** “Interior side parcel line” means any boundary line not a front line or a rear line shared with another parcel.
9. **Parcel Line, Exterior Side.** “Exterior side parcel line” means any boundary line not a front line or a rear line adjacent to a street.

10. **Parcel, Reversed Corner.** “Reversed corner parcel” means a corner parcel, the side street line of which is substantially a continuation of the front line of the parcel upon which it rears.
11. **Parcel Width.** “Parcel width” means the horizontal distance between the side parcel lines, measured at right angles to the parcel depth at a point midway between the front and rear parcel lines.
12. **Parking Lot.** “Parking lot” means an open area of land, a yard or other open space on a parcel other than a street or alley, used for or designed for temporary parking for more than four automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.
13. **Parking Space.** “Parking space” means land or space privately owned, covered or uncovered, laid out for, surfaced, and used or designed to be used for temporary parking or storage of standard motor vehicles.
14. **Parks and Recreational Facilities.** “Parks and recreational facilities” means non-commercial public facilities that provide open space and/or recreational opportunities. Includes parks, community gardens, community centers, passive and active open space, wildlife preserves, playing fields, tennis courts, swimming pools, gymnasiums, and other similar facilities.
15. **Personal Services.** “Personal services” means an establishment that provides services to individuals and that may provide accessory retail sales of products related to the services provided. Includes barber shops and beauty salons, nail salons, dry cleaning establishments, self-service laundromats, tailors, tanning salons, State-licensed massage therapists, small fitness studios less than 2,500 square feet, yoga studios, dance studios, pet grooming services, veterinary clinics, and other similar land uses. Also includes establishments that offer specialized programs in personal growth and development such as music, martial arts, vocal, fitness and dancing instruction. “Fitness Centers and Gyms, Large” are excluded from this definition.
16. **Planning Permit.** “Planning permit” means any permit or approval required by the Zoning Code authorizing an applicant to undertake certain land use activities.
17. Potential Historic Resource. See Section 17.84.020.B (Potential Historic Resources).
- 17.18. Primary Use. “Primary use” means the main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.
- 18.19. Primary Structure. “Primary structure” means a structure that accommodates the primary use of the site.
- 19.20. Professional Office. “Professional office” means a place of employment occupied by businesses providing professional, executive, management, or administrative services. Includes offices for accountants, architects, advertising

agencies, insurance agents, attorneys, commercial art and design services, non-retail financial institutions, real estate agents, news services, photographers, engineers, employment agencies, real-estate agents, and other similar professions. Also includes research and development facilities that engages in research, testing, and development of commercial products or services in technology-intensive fields.

20.21. Public Safety Facility. “Public safety facility” means a facility operated by a governmental agency for the purpose of protecting public safety. Includes fire stations and other fire-fighting facilities, police stations, public ambulance dispatch facilities, and other similar land uses.

Q. “Q” Terms. None.

R. “R” Terms.

1. **Recreational Vehicle (RV).** “Recreational vehicle” means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, originally designed for human habitation for recreational, emergency, or other occupancy, which meets all of the following criteria:
 - a. Contains less than 320 square feet of internal living room area, excluding built-in equipment, including wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms;
 - b. Contains 400 square feet or less of gross area measured at maximum horizontal projections;
 - c. Is built on a single chassis; and
 - d. Is either self-propelled, truck-mounted, or permanently towable on the highways without a towing permit.
2. **Recycling Collection Facility.** A center for the acceptance by donation, redemption, or purchase, of recyclable materials from the public.
3. **Remodel.** “Remodel” means a change or alteration in a building that does not increase the building’s net square footage.
4. **Residential Care Facility.** “Residential care facility” means a state-licensed residential facility providing social and personal care for residents. Includes children’s homes, homes for the elderly, orphanages, self-help group homes, and transitional housing for the homeless. Excludes facilities where medical care is a core service provided to residents, such as nursing and convalescent homes.
 - a. “Residential care facility, large” means a residential care facility for 7 or more persons.
 - b. “Residential care facility, small” means a residential care facility for 6 or fewer persons.
5. **Residential Mixed Use.** “Residential mixed use” means one or more structures on a single parcel that contains both dwelling units and non-residential uses such as

retail, restaurants, offices, or other commercial uses. Different land uses may be within a single structure (vertical mixed use) or in separate structures on a single parcel (horizontal mixed use).

6. **Retail.** “Retail” means stores and shops selling merchandise to the general public. Includes drug stores, general merchandise stores, convenience shops, pet stores, department stores, and other similar retail establishments.
7. **Review Authority.** “Review authority” means the City official or City body that is responsible, under the provisions of the Zoning Code, for approving or denying a permit application or other request for official City approval.
8. **Right-of-Way.** “Right-of-Way means a strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a road, public sidewalk, railroad, utility systems, or other similar uses.
- 7.9. **Roof Deck.** “Roof deck” means a platform located on the flat portion of a roof or setback of a building that is used for outdoor space.

S. “S” Terms.

1. **Salvage and Wrecking.** “Salvage and wrecking” means storage and dismantling of vehicles and equipment for sale of parts, as well as their collection, storage, exchange or sale of goods including, but not limited to, any used building materials, used containers or steel drums, used tires, and similar or related articles or property.
2. **Schools, Public or Private.** “Schools, Public or Private” means public or private facilities for education, including elementary, junior high, and high schools, providing instruction and study required in public schools by the California Education Code.
- 2.3. **Screening.** “Screening” means buffering or concealing a building, structure, or activity from neighboring areas of from public vantage points with a wall, fence, landscaping, berm, architectural feature, or other similar means.
- 3.4. **Secondary Dwelling Unit.** “Secondary dwelling unit” means a self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on a single parcel.
 - a. “Secondary dwelling unit, attached,” means a secondary dwelling unit that shares at least one common wall with the primary residential unit.
 - b. “Secondary dwelling unit, detached,” means a secondary dwelling unit that does not share a common will with the primary residential unit.
- 3.5. **Secretary of the Interior’s Standards for Historic Rehabilitation.** “Secretary of the Interior’s Standards for Historic Rehabilitation” means the Secretary of the United States Department of the Interior’s Standards for Rehabilitation of Historic Buildings, issued by the National Park Service (36 Code of Federal Regulations Part 67), together with the accompanying interpretive Guidelines for Rehabilitating Historic Buildings, as amended.

- 6. Setback.** “Setback” means the minimum allowable horizontal distance from a given point or line of reference such as a street right-of-way to the nearest vertical wall or other element of a building or structure as defined in this chapter.
- 4.7. Shared Parking.** “Shared parking” means the management of parking spaces so they can be used by multiple users. Shared parking may be utilized by multiple users on the same parcel, between multiple users on different parcels, or in dedicated shared parking facilities such as public parking lots.
- 8. Sign.** See Chapter 17.80 (Signs).
- 5.9. Single-Family Dwelling.** “Single-family dwelling” means a residential structure designed for occupancy by one household. A single-family home provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- 6.10. Site.** “Site” means a parcel or adjoining parcels that are under single ownership or single control, and that are considered a unit for the purposes of development or other use.
- 7.11. Site Area.** “Site area” means the total area included within the boundaries of a site.
- 12. Self-Storage.** “Self-storage” means a structure or group of structures with controlled access that contains individual and compartmentalized stalls or lockers for storage of customers’ goods.
- 8.13. Solar Energy System.** “Solar energy system” means any solar collector or other solar energy device, certified pursuant to State law, along with ancillary equipment, used to collect, store, and distribute solar energy for heating, cooling, electricity, and/or water heating.
- 9.14. Split Zoning.** “Split zoning” means a parcel on which two or more zoning districts apply due to zoning district boundaries crossing or otherwise not following the parcel boundaries.
- 10.15. Story.** “Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than 6 feet above grade as defined in this chapter for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined in this chapter at any point, such basement, cellar or unused under-floor space shall be considered as a story.
- 11.16. Story, Half.** “Half story” means a partial story under a gable, hip or gambrel roof, the wall plates of which are at least two opposite exterior walls and which are not more than four feet above the floor plate of the second floor, and may include shed or dormer projections from those walls. Dormers may constitute not more than

one-third of the length of the wall upon which they are located, whether as a single unit or multiple dormers.

~~12.17.~~ **Street.** “Street” means a public way more than 20 feet in width which affords a primary or principal means of access to abutting property.

~~13.18.~~ **Structural Alterations.** “Structural alterations” means any change in the supporting members of a building, such as bearing walls, columns, beams, girders, floor, ceiling or roof joists and roof rafters, or change in roof exterior lines which would prolong the life of the supporting members of a building.

19. Structure. “Structure” means anything constructed or erected that requires attachment to the ground, or attachment to something located on the ground. Objects which are temporarily attached to the ground, or which are easily moved, including but not limited to dog houses, picnic tables, patio furniture, and children’s play structures are not considered regulated structures. Pipelines, poles, wires, and similar installations erected or installed by public utility districts or companies are not included in the definition of “structure.” In the coastal zone, “structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

~~14.20.~~ **Supportive Housing.** “Supportive housing” means housing with no limit on length of stay and that is occupied by a target population as defined in subdivision (d) of Section 53260 of the California Health and Safety Code, and that is linked to on-site or off-site services that assist residents in retaining housing, improving their health status, maximizing their ability to live and, when possible, work in the community. Supportive housing shall be treated as a residential use and shall be subject only to those restrictions that apply to other residential uses of the same residential housing type located in the same zoning district.

T. “T” Terms.

1. Tandem Parking. “Tandem parking” means an arrangement of parking spaces such that one or more spaces must be driven across in order to access another space or spaces.

1.2. Temporary Structure. “Temporary structure” means a structure that is erected for a limited period of time, typically no longer than 180 days, and that does not permanently alter the character or physical facilities of a property.

3. Temporary Use. “Temporary use” means a short-term activity that may or may not meet the normal development or use standards of the applicable zone, but that occurs for a limited period of time, typically less than 12 months and does not permanently alter the character or physical facilities of a property.

4. Transitional Housing. “Transitional housing” means residential units operated under program requirements that call for: (A) the termination of any assistance to an existing program recipient, and (B) the subsequent recirculation of the assisted residential unit to another eligible program recipient at some predetermined future

point in time, which shall be no less than six months. Transitional housing may be provided in all residential housing types. In all cases, transitional housing is and shall be treated as a residential use and shall be subject only to those restrictions that apply to other residential uses of the same residential housing type located in the same zoning district.

2.5. Trash Enclosure. “Trash enclosure” means a permanent, immobile structure designed to screen and store trash, recycling, and compost containers.

3.6. Trellis. “Trellis” means a structure made from an open framework or lattice of interwoven or intersecting pieces of wood, bamboo or metal made to support and display climbing plants.

U. “U Terms.

1. Upper Floor. “Upper floor” means any story of a building above the ground floor.

4.—Unattended Donation Box. “Unattended donation box” means 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.

2.

2.3. Urban Agriculture. “Urban agriculture” means activities involving the raising, cultivation, processing, marketing, and distribution of food in urban areas.

- a. “Home garden” means the property of a single-family or multifamily residence used for the cultivation of fruits, vegetables, plants, flowers, or herbs by the residents of the property, guests of the property owner, or a gardening business hired by the property owner.
- b. “Community garden” means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by group members.
- c. “Urban farm” means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by an individual, organization, or business with the primary purpose of growing food for sale.

3.4. Use. See “Land Use.”

4.5. Utilities, Major. “Utilities, major” means generating plants, electric substations, solid waste collection, including transfer stations and materials recovery facilities, solid waste treatment and disposal, water or wastewater treatment plants, and similar facilities of public agencies or public utilities

5.6. **Utilities, Minor.** “Utilities, Minor” means infrastructure facilities that are necessary to serve development within the immediate vicinity such as electrical distribution lines and underground water and sewer lines.

V. “V” Terms.

1. **Vacation Rental Use.** “Vacation rental~~use~~” means the occupancy for hire of real property or portion thereof for a period of less than 30 consecutive calendar days. “For hire,” for purposes of this section, does not include:

- a. The owner or long term lessee of the property, without consideration, allowing family or friends to use the property;
- b. An arrangement whereby the owner or long term lessee of the property agrees to a short term trade with another property owner or long term lessee whereby the sole consideration is each concurrently using the other’s property.

2. **Valet Parking Service.** “Valet parking service” means a parking service provided to accommodate patrons of one or more businesses that is accessory and incidental to the business and by which an attendant on behalf of the business takes temporary custody of a patron’s motor vehicle and moves, parks, stores or retrieves the vehicle for the patron’s convenience.

2.3. **Vehicle Repair.** Vehicle repair means an establishment for the repair, alteration, restoration, or finishing of any vehicle, including body repair, collision repair, painting, tire and battery sales and installation, motor rebuilding, tire recapping and retreading, and towing. Repair shops that are incidental to a vehicle sales or rental establishment on the same site are excluded from this definition.

3.4. **Vehicle Sales and Rental.** “Vehicle sales and rental” means an establishment for the retail sales or rental of new or used vehicles. Includes the sale of vehicle parts and vehicle repair, provided that these activities are incidental to the sale of vehicles.

W. “W” Terms.

1. **Wall.** “Wall” means a permanent upright linear structure made of stone, concrete, masonry, or other similar material.

2. **Warehousing and Distribution.** “Warehousing and distribution” means an establishment used primarily for the storage and/or distributing goods to retailers, contractors, commercial purchasers or other wholesalers, or to the branch or local offices of a company or organization. Includes vehicle storage, moving services, general delivery services, refrigerated locker storage facilities, and other similar land uses.

3. **Wholesaling.** “Wholesaling” means indoor storage and sale of goods to other firms for resale. Wholesalers are primarily engaged in business-to-business sales, but may sell to individual consumers through mail or Internet orders. Wholesalers normally operate from a warehouse or office having little or no display of merchandise, and are not designed to solicit walk-in traffic.

~~3.4. **Wireless Communication Facilities.** See Chapter 17.014 (Wireless Communication Facilities).~~

X. “X” Terms. None.

Y. “Y” Terms.

1. **Yard.** “Yard” means an open space, other than a court, on the same parcel with a building, unoccupied and unobstructed from the ground upward, except for such encroachments allowed by the Zoning Code.
2. **Yard, Front.** “Front yard” means a yard extending across the full width of the parcel, the depth of which is the minimum horizontal distance between the front line of the parcel and the nearest line of the main building or enclosed or covered porch. On a corner parcel the front line of the parcel is ordinarily construed as the least dimension of the parcel fronting on a street.
3. **Yard, Rear.** “Rear yard” means a yard extending across the full width of the parcel, and measured between the rear line of the main building or enclosed or covered porch nearest the rear line of the parcel; the depth of the required rear yard shall be measured horizontally.
4. **Yard, Side.** “Side yard” means a yard on each side of the main building extending from the front yard to the rear yard, the width of each yard being measured between the side line of the parcel and the nearest part of the main building or enclosed or covered porch.
5. ~~**Wireless Communications Facility.** “Wireless Communications Facility” means a facility that transmits or receives electromagnetic signals for the purpose of transmitting voice or data communications.~~

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.

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

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

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

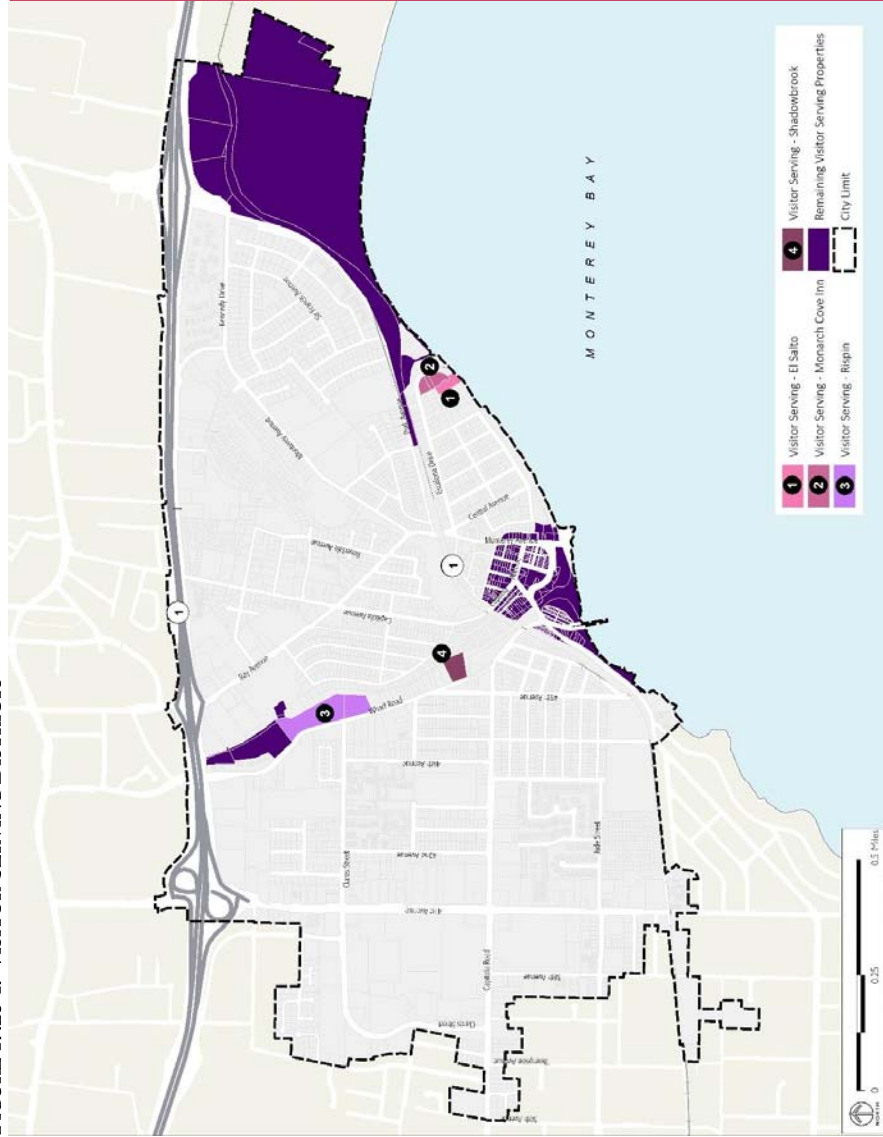
Commented [KK4]: We should talk about this. Seems like the VS overlay should take precedence in case of conflict.

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.

VISITOR SERVING ZONING DISTRICTS

17.28

FIGURE 17.28-1: VISITOR-SERVING DISTRICTS



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

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 prob LUP/CA for properties in CZ.

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

Key P Permitted Use M Minor Use Permit required C Conditional Use Permit required - Use not allowed <i>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.</i>	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 M Minor Use Permit required C Conditional Use Permit required - Use not allowed	VS Subzones					Additional Regulations
	VS-G	VS-G	VS-G	VS-G	VS-G	
Recreational Vehicle Parks	C	-	-	-	-	
Transportation, Communication, and Utility Uses						

Commented [GR9]: This is specified in the coastal chapter and 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 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 parks. A more appropriate alternative would be to eliminate all zoning references to New Brighton and add a paragraph to note the lack of land use authority.

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

Commented [RM14]: Potential consistency issue.

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

Commented [CK(16R14): MF will be removed from VS-G and VS-ES zones.

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. In 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.

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

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~~

~~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.

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

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

1. 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 for the particular area. I would delete this.

Commented [GR20R19]: Any development would require CDP, which would enable CCC review. It seems like we would 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 zoning standards that don't translate well to New Brighton or 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 code. Development in any of these areas would be reviewed through CDP. Not sure what additional level of specificity is desired.

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

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

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

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

Attachment: Coastal Chapters with Coastal Commission comments (1570 : 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? how would this finding be applied?

Commented [GR28R27]: This is from the current code not defined. An example would be the Village hotel site (not views to/from the cliff). It seems like a standard the CCC would use 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 implement's 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 SCCC. 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
 - 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 of the LUP.

Commented [GR2R1]: Staff can provide additional det

Commented [RM3]: See County Code section 13.03.05 example. I have attached a table indicating what we understand current IP to include.

Commented [GR4R3]: City staff will add the contents

Commented [KK5]: There are a bunch of other Coastal 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 plug in.

Commented [GR6R5]: City staff will add requested definitions 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 by Marin County: “A high bank or bold headland with a broad precipitous, sometimes rounded cliff face overlooking a plain of water. A bluff may consist of a steep cliff face below and sloping upper bluff above.”

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

Commented [GR9R8]: The City would like to include language which specifies that replacement of mobile homes and minor additions are not subject to a CDP (similar to single-family residential exemptions). CA HCD has jurisdiction over mobile home projects in Capitola. The City is typically not aware of minor projects in home parks and it seems overly burdensome to require low-income elderly residents to submit a CDP for minor alterations 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 ~~U~~ ~~and~~ ~~u~~ ~~s~~ ~~e~~ ~~p~~ ~~l~~ ~~a~~ ~~n~~ ~~and~~ ~~I~~ ~~m~~ ~~p~~ ~~l~~ ~~e~~ ~~m~~ ~~e~~ ~~n~~ ~~t~~ ~~a~~ ~~t~~ ~~i~~ ~~o~~ ~~n~~ ~~P~~ ~~l~~ ~~a~~ ~~n~~ ~~and~~ ~~Z~~ ~~o~~ ~~n~~ ~~i~~ ~~n~~ ~~g~~ ~~C~~ ~~o~~ ~~d~~ ~~e~~ ~~Z~~ ~~o~~ ~~n~~ ~~i~~ ~~n~~ ~~g~~ ~~M~~ ~~a~~ ~~p~~ ~~and~~ ~~a~~ ~~c~~ ~~t~~ ~~i~~ ~~o~~ ~~n~~s 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 ex should be governed by stand alone sections below - not in de

Commented [GR12R11]: agreed

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

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

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

Commented [GR16R15]: okay

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

Commented [GR18R17]: We'll add this detail

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

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

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

Commented [RM22]: See attached table outlining currc 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 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 c § 13012. Major Public Works and Energy Facilities.

(a) "Major public works" and "Major energy facilities" mean that cost more than one hundred thousand dollars (\$100,000) automatic annual increase in accordance with the Engineering Record Construction Cost Index, except for those governed provisions of Public Resources Code Sections 30610, 30610.5, or 30624.

(b) Notwithstanding the criteria in (a), "major public works" means publicly financed recreational facilities that serve, affect otherwise impact regional or statewide use of the coast by increasing public recreational opportunities or facilities.

Commented [KK24]: Agreed. Done for both definition differentiated between "major" and other types. All of these have to match the Act and regs.

Commented [GR25R24]: okay

Commented [GR26]: piers/caissons are not shoreline p devices

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

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

Commented [CK29]: Do we need to add administrative minor use permits.

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

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

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

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.

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 [KK32]: Not sure this section on affordable needs to be here. Seems like it should be located elsewhere in 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

Commented [GR37R36]: We'll remove as requested

Commented [KK38]: All appealable development require one public hearing. If the PC is the entity that provides that hearing, as opposed to a Zoning Administrator, then this section 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 hearings and appeals chapters. Would prefer not to repeat it could cross reference as an alternative.

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

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

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

Commented [GR43R42]: The intent is to allow the City to approve a CDP which otherwise requires no action by the Coastal 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. I will add language to clarify.

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

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

E. Illegal Development and Permitting Processes. Development that occurred after the effective date of the Coastal Act of 1976 (or 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 – 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, ~~Im~~provements 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 ~~A~~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 a significant public viewshed” for scenic resources areas as designated by the commission or request for a coastal permit commission”. Does the City want to include areas designated “significant public viewshed” for purposes of this reg? If not, delete.

Commented [GR48R47]: We can delete

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

- 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.
- 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

Commented [GR49]: There are no lakes in Capitola

Commented [KK50]: Ditto

Commented [GR51R50]: We'll delete

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 cross-reference our 1978 Repair, Maintenance and Utility Hook-up 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 Exclusion 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 on 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 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 facility, including minor modifications of existing structures required for governmental safety and environmental regulations where necessary to maintain existing production capacity, where located within an environmentally sensitive habitat area, and where the height and bulk of existing structures are not altered.

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

Commented [CK55]: 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 it.

Commented [RM59]: Seems like Geo Hazards Section might 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 to 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 delete.

Commented [GR61R60]: We can add waiver provision

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

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

- 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 approved categorical exclusions that have been approved by Commission. This is separate process for establishing CE Zo can discuss in more detail at meeting.

Commented [GR65R64]: City staff reviewed our files cannot find any evidence that categorical exclusion provision 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. ~~Eroachment 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 Dwelling 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.~~

17.32.09017.32.080 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.~~

17.32.10017.32.090 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 of CCR 13569.)

Commented [GR67]: Projects which are exempt pursuant to the 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 if the Commission holds a hearing in the central coast region? This would be problematic from a timing perspective since CCC only meets on the central coast once per year.

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

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

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

Attachment: Coastal Chapters with Coastal Commission comments (1570 : 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 ~~category 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.]

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 LCP, 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.

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 increase 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 appeal (can CCC really handle reviewing all member agency determinations in a timely fashion?). Moreover, exempt projects are not subject to the same noticing procedures in the coastal act and providing notices for 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 and noticing procedures. This must be included here, including who 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 sections.

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

- 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.

17.32.130 17.32.120 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).

17.32.140 17.32.130 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, grounds for the appeal) in this Chapter. This is particularly important for understanding when the City's action is final (i.e. there have 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 that 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)(2) delete if preferred.

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

Commented [GR83R82]: Is there a revision requested?

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

- 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.

~~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).

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

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.

~~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

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

Commented [GR85R84]: We can revise as requested

Commented [KK86]: Cross-reference.

Commented [GR87R86]: okay

Commented [KK88]: Cross-reference

Commented [GR89R88]: okay

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

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.

- 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 [GRI] 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 ~~N~~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

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

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 development 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 17.68 - 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.

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 Nonconforming uses/structures in the Coastal Zone because the standards in 17.92.080 don't mesh with CDP requirements. note KK15.

Commented [KK2]: How is this related to nonconforming uses/structures?

Commented [GR3R2]: This provision would allow a SFR demolished and replaced within its current footprint. A replica could be re-built with pre-existing setback encroachments providing findings can be made that the encroachments do not create significant adverse impacts to neighboring properties.

Commented [GR4]: The City disagrees with the suggested redevelopment regulations

Commented [KK5]: Is this section also to apply to structures are nonconforming with respect to resource setbacks (setbacks for bluffs, wetlands, ESHA, etc.)? Or would these nonconformities be addressed in other sections? This should be made clear here. If it then we should add references back to hazards policies and allow redevelopment, and/or insert specific provisions about wetland, 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 rest it in every zoning chapter.

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

17.92

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.

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.~~

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 [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.

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 does not legally mandate a merger under the subdivision map act (66C et seq).

Commented [GR13]: This is fine, but it unnecessarily bloats the document by repeating coastal standards in multiple places.

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 structure which could be located within either a conforming or nonconforming structure. We'll clarify.

Commented [RM16]: Wouldn't the change of ownership trigger the structure/land?

Commented [GR17R16]: Not necessarily – a business could and operate a non-conforming use in a leased space/structure.

Commented [KK18]: Or we just say "use or structure" as a change would trigger the loss of legal nonconforming status, yes

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

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.

E. Nonconforming Multi-Family Uses. Nonconforming multi-family uses in the Residential Single Family (R-1) zoning district shall comply with 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 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 [KK19]: A CDP may also be required if the CUP 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 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 a 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, 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 geologic hazard, and ESHA chapters – we do not want to repeat standards in multiple sections.

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 other non-conforming uses) to be amortized?

Commented [GR25]: The City does not propose an accompanying permit requirement

Commented [GR26]: We feel some type of qualifier is needed here – whether greatly, significantly, substantially, etc.

Commented [RM27]: Seems like there needs to be a permit order to impose appropriate conditions (as suggested above). Or the conditions attached to the “extension” itself?

Commented [GR28R27]: Conditions would be added to the extension agreement executed between the City and property owner

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

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 CDP to allow continuation of an existing, legally established MF use in an SF zone (or requires amortization)? Similarly, which section requires 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 if any MF uses in SF zones within or adjacent to an ESHA – it would 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.

17.92

NONCONFORMING PARCELS, USES, AND STRUCTURES

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 find 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 an 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 handled elsewhere – likely the coastal chapter. The City recognizes that certain activities may require a CDP even if they are exempt from other permits; however it is unnecessary and bad practice to repeat that and every time the code discusses a different permit requirement 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 which identifies development that needs a coastal permit. This is 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 act is covered in the coastal zone chapter. Activities described in the act would almost always qualify for a coastal exemption. Activities that are not covered in the act 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

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

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 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 shoreline that consists of alterations including (1) additions to existing structure, (2) exterior and/or interior renovations, and demolition of an existing bluff home or other principal structure portions thereof, which results in:

(1) Alteration of 50% or more of major structural components including exterior walls, floor and roof structure, and foundation 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 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 standards as it amounts to imminent forced retreat of the Villages 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 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 re-evaluate the applicability of a CDP or coastal act compliance for every project development scenario (similarly, we do not repeat CUP or design permit standards everywhere even though they could apply in some cases)

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

17.92

NONCONFORMING PARCELS, USES, AND STRUCTURES

- 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 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 parcel 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 the owner.
 - (B) "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.
 - (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/erosion setback requirements would be to put them into these findings. 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 chapters for geo hazards/ESHA and deal with those specific situations in those chapters.

Commented [GR53R52]: City staff believes geologic hazard/ESHA standards should be located in those subject area chapters

Attachment: Coastal Chapters with Coastal Commission comments (1570 : 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 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 variance findings cannot be met. This would be a particularly useful tool in Capitola's older neighborhoods where properties have developed very differently over time. For example, some neighborhoods have varying front yard setbacks from property and a minor FY setback encroachment from zoning may be warranted when it conforms to the development pattern surrounding lots. We also have many cases where a 1-2 foot 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 defeat the entire purpose of the minor modification process.

Commented [KK2]: I'm ok with giving them some extra 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

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

17.136

MINOR MODIFICATIONS

~~4.2. Minimum setbacks for geologic hazards, flood hazards, or ESHA, wetlands, and streams;~~

~~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.~~

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.~~

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.~~

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.

136-2

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

Commented [KK5]: Is there ag in Capitola?

Commented [GR6R5]: No ag in Capitola. Also, This p is redundant with #2 above. We can keep here or the above but repeating it is unnecessary

Commented [GR7]: This language is fine, but it's unnecessary to repeat CDP requirements in every zoning chapter and section

Commented [KK8]: We may want to add a new section 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 explain this for the universe of possible permit combinations alternative, could we note that CDP processing procedures are followed regardless of other companion permits which may be associated with the CDP in the coastal chapter rather than repeat this multiple times in several zoning chapters?

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)

- 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.

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.

Commented [GR10]: This is a variance finding – minor modifications are intended to allow modest deviations when findings cannot be made.

Commented [GR11]: I think this finding would be part and would therefore be redundant. If we need to keep it, I would suggest rewording to find that it would not adversely affect – modification to a parking dimension, for instance, would not coastal resources – although it also wouldn't adversely affect resource/view.

Commented [GR12]: This would be unattainable in my opinion. I don't think it would be reasonable to ask a SFR project to provide an extraordinary public benefit in exchange for 1-2 foot setback encroachment or a minor reduction in driveway width.

Attachment: Coastal Chapters with Coastal Commission comments (1570 : Zoning Code Update)