

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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Th12a

November 18, 2004

TO: Commissioners and Interested Persons

FROM: Charles Lester, Deputy Director
Rick Hyman, Deputy Chief Planner
Susan Craig, Coastal Planner

RECORD PACKET COPY

SUBJECT: CITY OF CAPITOLA: LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 2-04-Part A. For public hearing and Commission action at its meeting of December 9, 2004.

SYNOPSIS

The City of Capitola is proposing to amend the certified Implementation Plan by: 1) replacing Zoning Chapters 12.12 (Tree Planting - Public Property) and 12.16 (Tree Removal) with new Zoning Section 12.12 (Community Tree & Forest Management Ordinance), and; 2) adding secondary dwelling units as a principal permitted use in the R-1 (Single-Family Residence) zoning district.

SUMMARY OF STAFF RECOMMENDATION

Staff has reviewed the proposed amendment to the Implementation Plan for consistency with the certified Land Use Plan. Potential issues raised (and adequately addressed) by the proposed amendments include parking and community character. As discussed in detail below, Staff recommends **approval** of City of Capitola Implementation Plan Major Amendment No. 2-04-Part A if it is modified as follows: 1) consistent with State Law, eliminate the public hearing requirement for secondary dwelling units; 2) amend the definition of secondary dwelling units to differentiate between attached and detached units.

ANALYSIS CRITERIA

The Commission certified the City of Capitola's Land Use Plan in June 1981 and the City Council accepted this certification action in November 1981. The Implementation Plan was certified in January 1990 and the City accepted this certification action in April 1990. The City has organized and submitted this LCP amendment request in accordance with the standards for amendments to certified LCPs (Coastal Act Sections 30512(c), 30512.2, 30513, and 30514, and California Code of Regulations 13551 through 13553). The proposed amendment affects the Implementation Plan components of the City of Capitola LCP. The standard of review for implementation amendments is that they must be consistent with and adequate to carry out the policies of the certified coastal land use plan.



California Coastal Commission

December 2004 Meeting

Staff: S. Craig Approved by: *SC*

ADDITIONAL INFORMATION

Further information on the submittal may be obtained from Susan Craig at the Central Coast District Office of the Coastal Commission at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

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I. STAFF RECOMMENDATION: MOTIONS AND RESOLUTIONS

Staff recommends adoption of the following resolutions:

Resolution I. (Resolution to approve City of Capitola Implementation Plan Major Amendment No. 2-04-Part A as submitted)

Staff recommends a YES vote on the motion below. Passage of this motion will result in rejection of the Implementation Plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion. I move that the Commission reject Major Amendment #2-04-Part A to the City of Capitola Local Coastal Program Implementation Plan as submitted.

Resolution to reject. The Commission hereby rejects certification of Major Amendment #2-04-Part A to the Implementation Plan of the City of Capitola Local Coastal Program, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan, as submitted, is not in conformity with the certified Land Use Plan. Certification of the Implementation Plan amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan amendment as submitted.



Resolution II. (Resolution to approve City of Capitola Implementation Plan Major Amendment No. 2-04-Part A, if modified)

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the Implementation Plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion. I move that the Commission certify Major Amendment #2-04-Part A to the City of Capitola Local Coastal Program Implementation Plan if modified as suggested by modifications #1-2 in this staff report.

Resolution to certify. The Commission hereby certifies Major Amendment No. 2-04-Part A to the Implementation Plan of the City of Capitola Local Coastal Program, as modified by suggested modifications #1-2, and adopts the findings set forth below on grounds that the Implementation Plan amendment with the suggested modifications will be in conformity with and adequate to carry out the certified land use plan. Certification of the Implementation Plan amendment, if modified as suggested, complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendments, which are necessary to make the requisite findings. If the local government accepts the suggested modifications within six months of Commission action, by formal resolution of the City Council, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

Note: The suggested modifications are shown by deleting existing text with ~~strikethrough~~ and adding text with underline.

Modification #1

Amend Zoning Regulation 17.46.080(A) to add the following language:

- A. Hearing Required. At least one public hearing shall be required prior to approval of a coastal permit ~~-,~~ except for a secondary dwelling unit.

Modification #2

Amend Zoning Regulation 17.99.010(A) to add the following language:

- A. Secondary Dwelling unit. A self-contained living unit, either attached or detached from, and



in addition to, the primary residential unit on a single lot. A secondary unit will be considered as attached to the primary residential unit for the purposes of this chapter when the secondary dwelling unit shares at least one common wall with the primary residential unit. All other secondary dwelling units for purposes of this chapter will be considered detached.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Accessory Dwelling Units

The following City of Capitola Land Use Plan policies encourage residential development in areas designated for this use:

Policy I-2: It shall be the policy of the City of Capitola to encourage mixed commercial/residential development in the Village and to designate certain existing residential areas as exclusively residential.

Policy III-15: Long-term and short-term housing should be maintained and encouraged, consistent with maintaining a balance with permanent resident and visitor's uses of the Village as a special community.

The City proposes to amend the zoning regulations to provide compliance with State Law AB 1866, which addresses a number of housing issues, including a change to the law regarding local jurisdictions' review of second unit applications. State Law AB 1866 prohibits the City from requiring a public hearing for second units and essentially requires the City to issue only ministerial permits (building permits) for second unit applications filed after July 1, 2003. State Law AB 1866 also requires consistency with the Coastal Act.

The proposed amendment adds Chapter 17.99 (Secondary Dwelling Units) to the certified implementation plan. This new chapter defines SDUs, describes the design and development standards for SDUs. Additionally this new chapter notes that SDUs are only allowed in the R-1 zoning district and that proposed SDUs require only an administrative review if they meet the R-1 zoning district development standards, as well as the design and development standards in new section 17.99.060. Proposed Section 17.99.060 addresses parking requirements, allowable unit size and height, setbacks, and design of SDUs. Regarding parking requirements, the amendment states that parking requirements must meet the certified zoning requirement for the combined square footage of habitable space on the property. The amendment also modifies certified section 17.15.040 by adding secondary dwelling units as a principal permitted use in the R-1 zoning district. See Exhibit 1 for the proposed amendment language.

State Law AB 1866 removes the requirement for public hearings for SDUs. The proposed amendment, however, does not change this requirement in certified Chapter 17.46 (Coastal Zone Combining District) of the implementation plan. Therefore, Modification #1 is necessary to amend section 17.46.080 to state that no public hearing is required for secondary dwelling units subject to a coastal permit. In addition,



Modification #2 provides additional language to differentiate between attached and detached secondary dwelling units (this additional language was requested by City planning staff). Both modifications are acceptable to City planning staff.

Although the proposed amendment would remove the coastal hearing requirement for SDUs, owners of neighboring properties of a proposed SDU will continue to receive notification of the pending permit application and a posting notice at the proposed project site will continue to be required. In addition, local approval of SDUs within the Coastal Commission's appeal jurisdiction will continue to be appealable to the Coastal Commission after all local appeals have been exhausted.

Capitola Land Use Plan Policies I-2 and III-15 provide for residential development in the City of Capitola, in balance with visitor-serving uses, and designate certain existing residential areas as exclusively residential. The proposed amendment provides for infill SDU residential development only in areas zoned for single-family residential use. The amendment does not allow development of SDUs in the visitor-serving areas of the City's Central Village. The proposed modifications to the amendment provide clarification regarding the public hearing requirements for SDUs that are subject to coastal permits, as well as defining detached and attached SDUs. As modified, the proposed amendment is consistent with the Land Use Plan policies of the Capitola LCP.

B. Community Tree and Forest Management

Capitola Land Use Plan (LUP) Visual Resources and Special Communities Policy III-1 states (in relevant part):

It shall be the policy of the City of Capitola to maintain the natural features, visual resources, and unique character of the Capitola Village...

LUP Visual Resources and Special Communities Policy III-4 states:

It shall be the policy of the City of Capitola to require the planting of trees in new development and to protect existing trees by allowing removal only in accordance with the City's Tree Ordinance. The City should encourage new developments to be designed to preserve significant vegetation.

LUP Natural Systems Policies VI-2 & VI-3 state (in relevant part):

VI-2. It shall be the policy of the City of Capitola to protect, maintain, and where possible, enhance the environmentally sensitive and locally unique habitats within its coastal zone...

VI-3. It shall be the policy of the City of Capitola to maintain the maximum amount of native vegetation along Soquel Creek and other riparian areas...

LUP Natural Systems Policy VI-10 states:

It shall be the policy of the City of Capitola to protect the winter resting sites of the monarch butterfly in the eucalyptus groves of Escalona Gulch, New Brighton Gulch, and Soquel Creek as



designated on Map VI-2 by requiring detailed analysis of the impacts of development on the habitat.

The City of Capitola is proposing to amend the certified Implementation Plan by replacing Zoning Chapters 12.12 (Tree Planting – Public Property) and 12.16 (Tree Removal) (see Exhibit 2) with new Zoning Section 12.12 (Community Tree & Forest Management Ordinance) (see Exhibit 3). Proposed new Zoning Section 12.12 finds that the protection and enhancement of existing tree cover serves a number of public interests, including reducing local air pollution by absorbing carbon dioxide and producing oxygen, reducing soil erosion, enhancing the visual and aesthetic qualities of the City, and providing habitat for birds and other wildlife. The amended language provides additional goals for the City regarding trees, including: protecting and increasing the level of tree cover on public and private lands within the City; establishing a Community Tree Fund to pay for replacement planting in suitable locations in city parks, sensitive habitat areas, or along city streets; developing a heritage tree program to provide the owners of heritage trees with technical and financial help for the maintenance of such trees, and; encouraging tree planting on public and private property to cultivate a flourishing community forest. These goals are consistent with the Visual Resources and Special Communities policies of the certified Land Use Plan.

The proposed amendment includes a permit process for the removal and pruning of heritage trees, as well as non-heritage trees that have a minimum six-inch diameter at 48 inches above existing grade. The proposed language provides more specificity regarding when trees may be pruned or removed than the certified language. For example, specific findings regarding health and safety must be made before a heritage tree may be removed or pruned more than 25% within a three-year period. For non-heritage trees, the proposed amendment defines the amount of pruning allowable without a permit (e.g., no more than 25% of the tree's height and volume), with exceptions allowed for fruit trees. The proposed amendment also requires the planting of replacement trees at a 2:1 ratio to compensate for each tree removed. The proposed amendment also provides that *all* trees, regardless of size, within an environmentally sensitive habitat area (such as a monarch butterfly roosting site or in a riparian corridor) shall require permits for removal, pruning, cutting, and trimming, consistent with the Natural Systems policies of the Land Use Plan.

The proposed amendment provides adequate goals and standards to provide for the protection of existing tree cover and the enhancement and increase in tree cover in the City of Capitola. Thus, as submitted, the proposed amendment is consistent with the Land Use Plan policies of the Capitola LCP.

IV. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for Local Coastal Programs and amendments to them has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. Approval of the amendments, as modified, will not have significant environmental effects, consistent with the California Environmental Quality Act.



ORDINANCE NO. 858

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
ADDING CHAPTER 17.99 TO THE CAPITOLA MUNICIPAL CODE
PERTAINING TO SECONDARY DWELLING UNITS AND AMENDING
SECTION 17.15.040 OF THE CAPITOLA MUNICIPAL CODE TO INCLUDE
SECONDARY DWELLING UNITS AS A PRINCIPAL PERMITTED USE

BE IT ORDAINED by the City Council of the City of Capitola as follows:

Section 1. Chapter 17.99 Secondary Dwelling Units is hereby added to the City of Capitola Municipal Code to read as follows:

CHAPTER 17.99

SECONDARY DWELLING UNITS

- Section 17.99.010 Definitions
- Section 17.99.020 Purpose
- Section 17.99.030 Locations Permitted
- Section 17.99.040 Permit Procedures
- Section 17.99.050 Findings required for Architecture and Site Review Permitted Secondary Dwelling Units
- Section 17.99.060 Design and Development Standards
- Section 17.99.070 Deed Restrictions
- Section 17.99.080 Zoning Incentives

17.99.010 Definitions.

A. Secondary dwelling unit. A self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on a single lot.

17.99.020 Purpose.

The purpose of secondary dwelling units is to allow for an increase in the supply of affordable housing, in conformance with the goals and policies of the Housing Element of the City of Capitola General Plan, while maintaining the single-family character of the neighborhoods of the City of Capitola.

17.99.030 Locations Permitted.

Notwithstanding any other provisions of the City of Capitola Municipal Code, secondary dwelling units shall be allowed in the Single Family Residence District (R-1).

17.99.040 Permit Procedures.

Any attached or one-story detached secondary dwelling unit meeting the same development standards as permitted for the primary residence in the zoning district and meet the design standards in Section 17.99.060 or any single-story secondary dwelling unit that meet the design standards in Section 17.99.060, shall require administrative review for compliance with Section 17.99.060 from the Community Development Department and a building permit.

Any secondary dwelling unit not meeting the requirements above shall be subject to:

- 1) an architecture and site review permit with a public hearing before the Planning Commission,
- 2) the findings as described in Section 17.99.050, and 3) the development standards as described in Section 17.99.060.

17.99.050 Findings Required for Architecture and Site Review permitted Secondary Dwelling Units.

Before approval or modified approval of an application for a secondary dwelling unit requiring a conditional use permit, the decision making body shall find that:

1. 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.
2. The exterior design is in harmony with, and maintains the scale of, the neighborhood.
3. The secondary dwelling unit does not result in excessive noise, traffic or parking congestion.
4. The property fronts on an adequate water main and sewer line each with the capacity to serve the additional secondary dwelling unit.
5. 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.

6. 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.

7. 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 shall relate to the design of the primary residence and shall not visually dominate it or the surrounding properties.

8. The site plan shall be consistent with physical development policies of the General Plan, any required or optional element of the General Plan, and any area plan or specific plan or other city policy for physical development. If located in the Coastal Zone, a site plan shall also be consistent with policies of the Local Coastal Plan.

9. 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.

10. The site plan is situated and designed to protect 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.

17.99.060 Design and Development Standards. Amended by Urgency Ordinance No. 860 Adopted October 23, 2003.

All secondary dwelling units must conform to the following design and development standards:

1. Parking. Parking requirements shall meet the underlying zoning requirement for the combined square footage of habitable space of the subject property.

2. Unit Size. The floor area for secondary dwelling units shall not exceed five hundred (500) square feet for lots between 5,000 and 7,500 square feet. If a lot exceeds 7,500 square feet, a secondary dwelling unit may be up to 640 square feet and, for lots in excess of 10,000 square feet, a secondary dwelling unit may be up to 800 square feet. In no case may any combination of habitable buildings occupy more than sixty percent (60%) floor area ratio (FAR) of the subject property. No secondary dwelling units shall be allowed on lot sizes less than 5,000 square feet.

3. Existing Development on Lot. A single-family dwelling shall exist on the lot or shall be constructed in conjunction with the secondary dwelling unit.

4. Number of Secondary dwelling units Per Parcel. Only one secondary dwelling unit shall be allowed for each parcel.

5. Setbacks for Detached Secondary Dwelling Units. A minimum five foot (5') side-yard setback and minimum eight foot (8') rear-yard setback are for detached single story structures containing a secondary dwelling unit, and the distance between buildings on the same lot must be a minimum of ten (10) feet. Secondary dwelling units higher than one story shall meet the same setback requirements as the main building in the zoning district. If any portion of a secondary dwelling unit is located in front of the main building, then the front and side yard setbacks shall be the same as a main building in the zoning district. The entrance to the detached secondary dwelling unit shall face the interior of the lot unless the secondary dwelling unit is directly accessible from an alley or a public street. Openings (e.g. doors and windows) on exterior walls that are closest to and face adjacent residentially-zoned properties shall be designed to ensure that privacy and access to light and ventilation is not diminished on adjacent properties.

Amended by Urgency Ordinance No. 860

6. Setbacks for Attached Secondary Dwelling Units. Attached secondary dwelling units shall meet the same setbacks as a main building in the zoning district.

7. Other Code Requirements. The secondary dwelling unit shall meet the requirements of the Uniform Building Code.

8. Occupancy. The property owner must occupy either the primary or secondary dwelling.

9. Building Height and Stories.

A. The maximum building height for detached secondary dwelling units shall be fifteen (15) feet, and the building height of a proposed attached secondary dwelling unit shall not exceed the lesser of either the height of the existing primary residential structure or the maximum height limit of the zoning district in which the project is located.

B. If the design of the main dwelling has special roof features that match the detached secondary dwelling unit, the maximum building height of the secondary dwelling unit may be exceeded to include such similar special roof features subject to review by the Architecture & Site Review Committee and approval of the Planning Commission.

10. Alley Orientation. When a secondary dwelling unit is adjacent to an alley, every effort shall be made to orient the secondary dwelling unit toward the alley with the front access door and windows facing the alley. Parking provided off the alley shall maintain a twenty-four foot back-out area, which may include the alley. Fences shall be three feet six inches along the alley. However, higher fencing up to six feet can be considered in unusual privacy, security or design circumstances subject to review and approval of the Planning Commission.

11. 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. *Amended by Urgency Ordinance No. 860*

12. Open Space and Landscaping. The site plan provides open space and landscaping that is useful for both the secondary dwelling unit and the primary residence. Landscaping shall be provided which provides for the privacy and screening of adjacent properties.

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

17.99.070 Deed Restrictions.

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 present owner and stating that:

1. The secondary dwelling unit shall not be sold separately.
2. The unit is restricted to the approved size.
3. The administrative review or the architecture and site review permit, whichever applies, for the secondary dwelling unit shall be in effect only so long as the owner of record occupies either the main residence or the secondary dwelling unit.
4. 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 administrative review or the architecture and site review permit, whichever applies.
5. The deed restrictions shall lapse upon removal of the secondary dwelling unit.

17.99.080 Zoning Incentives.

The following incentives are to encourage construction of secondary dwelling units.

1. Affordability Requirements for Fee Waivers. Secondary dwelling units proposed to be rented at low or very low income levels, as established by the city, may have development fees waived per the City's Fee Schedule (Resolution No. 3183, adopted 12/13/01, as amended). Landlords of secondary dwelling units shall be relieved of the affordability condition upon payment of fees in the amount previously waived as a result of affordability requirements, subject to an annual CPI increase commencing with the date of application for Building Permit. Applicants of affordable secondary dwelling units must record a deed restriction limiting the rent to low or very low-income levels prior to issuance of a building permit.

2. Historic Properties. Secondary dwelling units proposed on properties that contain local, state, or federal historic building(s) or potentially historic building(s), as identified by a professional architectural historian approved by the City, may be entitled to certain waivers with respect to setbacks, parking, height, unit size, and other design features as deemed appropriate by the Planning Commission, for the purposes of preserving the architectural character of the primary residence.

Section 2. Section 17.15.040 of the Municipal Code is amended to add subparagraph E. to read as follows:

"17.15.040 Principal permitted uses. The following are principal permitted uses in an R-1 district:

- A. One-family dwellings;
- B. Agriculture, horticulture, gardening, but not including commercial nurseries, or the raising of rabbits, dogs, fowl or other animals for commercial purposes or the sale of any products on the premises. See Section 17.81.050 for more specific regulations;
- C. Small community care residential facilities;
- D. Small family day care homes.
- E. Secondary dwelling units.

This ordinance was introduced on the 10th day of July, 2003, passed to a second reading on the 25th day of September 2003, and was finally passed and adopted by the City Council of the City of Capitola on the 9th day of October, 2003 by the following vote:

AYES: Council Members Ortiz, Harlan, Arthur and Mayor Gualtieri

NOES: None

ABSENT: Council Member Norton

ABSTAIN: None

APPROVED: Tony Gualtieri
Tony Gualtieri, Mayor

ATTEST:

Pamela Greeninger, CMC
Pamela Greeninger, City Clerk

THIS IS TO CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 858 PASSED AND ADOPTED BY THE CITY COUNCIL ON THE 9 DAY OF October 2003

Pamela Greeninger
CITY CLERK

COPY³¹⁴⁷

URGENCY ORDINANCE NO. 860

AN URGENCY ORDINANCE OF THE CITY OF CAPITOLA AMENDING SECTION 17.99.060 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO DESIGN AND DEVELOPMENT STANDARDS FOR SECONDARY DWELLING UNITS

WHEREAS, on January 1, 2003, Assembly Bill 1866 was enacted into law requiring all California cities to adopt regulations which authorize the development of secondary dwelling units on residential parcels within their jurisdictions pursuant to a process by which a substantial percentage of permit applications to construct secondary dwelling units might be approved ministerially, i.e. without the benefit of the public review and discretionary findings ordinarily required for the construction of residences in the City of Capitola;

WHEREAS, in order to prompt cities to comply with its mandate, AB 1866 provided that cities which do not have such secondary dwelling unit regulations in effect as of July 1, 2003 must process applications for the construction of secondary dwelling units in accordance with procedures set forth in the state statute and furthermore any such applications are to be considered in light of criteria set forth in the state statute and without reference to criteria that the City of Capitola might otherwise apply to residential construction applications;

WHEREAS, in order to comply with AB 1866, the City Council, on October 9, 2003, finally adopted Ordinance No. 858 which will take effect and be in force on November 8, 2003. As of that date the City, by virtue of Ordinance No. 858, will be authorized to review and approve secondary dwelling unit applications pursuant to procedures, and in accordance with criteria, set forth in Ordinance No. 858 thereby eliminating the possibility of the City being required to consider these applications in a manner otherwise required by state law. Because of the density of residential development in the City of Capitola, as well as other pertinent factors such as the relatively small size of residential parcels in the City and limited off-street parking, it would be difficult, if not impossible, to administer the state statute in a manner which would not

substantially disrupt residential neighborhoods in the City with undue structural and vehicular congestion thereby having a deleterious effect in the City contrary to the City's interest in preserving peace, health, safety and aesthetics. Accordingly, the City Council was quite intent upon finally adopting Ordinance No. 858;

WHEREAS, in its October 9, 2003 discussion and deliberations relative to the final adoption of Ordinance No. 858, the City Council identified a number of revisions to that ordinance which, in the Council's judgment, needed to be made in order to completely achieve the Council's objectives for adopting that ordinance. However, given the concerns articulated above, the Council was reluctant to further delay the final adoption of Ordinance No. 858;

WHEREAS, accordingly, the Council on October 9, 2003 finally adopted Ordinance No. 858 and gave direction to City staff to return to the Council with another ordinance which would serve to implement the final remaining requirements identified by the City Council;

WHEREAS, unless all of the secondary dwelling unit regulations and criteria go into effect simultaneously, and as soon as possible, the peace, health, safety and aesthetic interest to be served by the secondary dwelling unit regulations will not be achieved in time for them to be optimally effective and, in addition, will cause confusion among persons attempting to comply with the regulations that go into effect in phases rather than simultaneously.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CAPITOLA DOES
ORDAIN AS FOLLOWS:

Section 1. Section 17.99.060 of the Capitola Municipal Code is hereby amended to read as follows:

17.99.060 Design and Development Standards.

All secondary dwelling units must conform to the following design and development standards:

1. Parking. Parking requirements shall meet the underlying zoning requirement for the combined square footage of habitable space of the subject property.
2. Unit Size. The floor area for secondary dwelling units shall not exceed five hundred (500) square feet for lots between 5,000 and 7,500 square feet. If a lot exceeds 7,500 square feet, a secondary dwelling unit may be up to 640 square feet and, for lots in excess of 10,000 square feet, a secondary dwelling unit may be up to 800 square feet. In no case may any combination of habitable buildings occupy more than sixty percent (60%) floor area ratio (FAR) of the subject property. No secondary dwelling units shall be allowed on lot sizes less than 5,000 square feet.
3. Existing Development on Lot. A single-family dwelling shall exist on the lot or shall be constructed in conjunction with the secondary dwelling unit.
4. Number of Secondary dwelling units Per Parcel. Only one secondary dwelling unit shall be allowed for each parcel.
5. Setbacks for Detached Secondary Dwelling Units. A minimum five-foot (5') side-yard setback and minimum eight-foot (8') rear-yard setback are required for detached single story structures containing a secondary dwelling unit. Detached secondary dwelling units shall be no higher than one story. If any portion of a secondary dwelling unit is located in front of the main building, then the front and side yard setbacks shall be the same as a main building in the zoning district. The entrance to the detached secondary dwelling unit shall face the interior of the lot unless the secondary dwelling unit is directly accessible from an alley or a public street. Openings (e.g. doors and windows) on exterior walls that are closest to and face adjacent residentially-zoned properties shall be designed to ensure that privacy and access to light and ventilation is not diminished on adjacent properties.

6. Setbacks for Attached Secondary Dwelling Units. Attached secondary dwelling units shall meet the same setbacks as a main building in the zoning district.

7. Other Code Requirements. The secondary dwelling unit shall meet the requirements of the Uniform Building Code.

8. Occupancy. The property owner must occupy either the primary or secondary dwelling.

9. Building Height and Stories.

A. The maximum building height for detached secondary dwelling units shall be fifteen (15) feet, and the building height of a proposed attached secondary dwelling unit shall not exceed the lesser of either the height of the existing primary residential structure or the maximum height limit of the zoning district in which the project is located.

B. If the design of the main dwelling has special roof features that match the detached secondary dwelling unit, the maximum building height of the secondary dwelling unit may be exceeded to include such similar special roof features subject to review by the Architecture & Site Review Committee and approval of the Planning Commission.

10. Alley Orientation. When a secondary dwelling unit is adjacent to an alley, every effort shall be made to orient the secondary dwelling unit toward the alley with the front access door and windows facing the alley. Parking provided off the alley shall maintain a twenty-four foot back-out area, which may include the alley. Fences shall be three feet six inches along the alley. However, higher fencing up to six feet can be considered in unusual privacy, security or design circumstances subject to review and approval of the Planning Commission.

11. 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.

12. Open Space and Landscaping. The site plan provides open space and landscaping that is useful for both the secondary dwelling unit and the primary residence. Landscaping shall be provided which provides for the privacy and screening of adjacent properties.

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

Section 2. This Ordinance shall be applied to secondary dwelling unit applications governed by Ordinance No. 858 and to the extent that the requirements of this Ordinance are inconsistent with the requirements of Ordinance No. 858, the requirements of this Ordinance shall control.

Section 3. For the reasons set forth in the recitals to this Ordinance, the City Council hereby finds and declares that this Ordinance is adopted on an urgency basis for the immediate preservation of the public peace, health and safety of the people of the City of Capitola and that, accordingly, this Ordinance shall go into effect immediately upon its adoption by a four-fifths majority vote of the City Council.

PASSED AS AN URGENCY ORDINANCE to take effect immediately on this 23rd day of October, 2003, by the following vote:

AYES: Council Members Norton, Ortiz, Harlan, Arthur and Mayor Gualtieri

NOES: None

ABSENT: None

ABSTAIN: None

APPROVED: Tony Gualtieri
Tony Gualtieri, Mayor

ATTEST:

Pamela Greeninger CMC
Pamela Greeninger, City Clerk

THIS IS TO CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 860 PASSED AND ADOPTED BY THE CITY COUNCIL ON THE 23 DAY OF October 2003
Pamela Greeninger
CITY CLERK

time when the offices of the city are closed. If street cutting is undertaken pursuant to this section, then within four hours after the offices of the city are first opened after the initiation of such work, the person performing the work or causing the work to be performed shall notify the public works department of such work and shall apply for a permit in accordance with the provisions of this chapter. In the discretion of the director of public works, the bond and insurance requirements may be waived if the street has been restored to its original condition at the time the permit is issued, and if the bond or insurance requirement would not serve a purpose at that time. (Ord. 462 §16, 1980).

12.08.150 Violation an infraction. Any work performed in violation of the requirements of this chapter or in violation of any permit issued under this chapter is an infraction. Each day that such violation occurs or continues shall constitute a separate offense. (Ord. 462 §14, 1980).

To be replaced by
new Section 12.12 -
See Exhibit 3

Chapter 12.12

TREE PLANTING

Sections:

- 12.12.010 Purpose.
- 12.12.020 Definitions.
- 12.12.030 Enforcing authority.
- 12.12.040 Master tree list.
- 12.12.050 Jurisdiction over public streets.
- 12.12.060 Prohibited trees.
- 12.12.070 Care and maintenance.
- 12.12.080 Permit--Public utility or agency.
- 12.12.090 License--Tree trimming business.
- 12.12.100 Harming trees unlawful.
- 12.12.110 Hazard removal.
- 12.12.120 Appeals.
- 12.12.130 Penalty for violation.

12.12.010 Purpose. It is for the best interest of the city and of the citizens and public thereof that a comprehensive plan for the planting and maintenance of trees in or which may overhang public streets within the city should be developed and established, and that this chapter is adopted, therefor, for the purpose of developing and providing for such a plan and program and for the purpose of establishing rules and regulations relating to the planting, care and maintenance of such trees. (Ord. 260 §1, 1965).

12.12.020 Definitions. A. Whenever used in this chapter, the singular number includes the plural and the plural includes the singular.

B. "City" means the city of Capitola situated in the county of Santa Cruz, California.

C. "Owner" includes the legal owner of real property fronting on any street of the city and any lessee of such owner.

D. "Park superintendent" or "superintendent" mean the street superintendent of the city.

E. "Person," as used in this chapter, includes an individual, a firm, an association, a corporation, a copartnership and the lessees, trustees, receivers, agents, servants and employees of any such person.

F. "Public street" or "streets" include all roads, streets, avenues, boulevards, alleys, parkways, public rights-of-way or any portion thereof, of the city. (Ord. 260 §§2, 3, 1965).

12.12.030 Enforcing authority. The street superintendent or his duly authorized deputy shall be charged with the enforcement of this chapter. (Ord. 260 §4, 1965).

12.12.040 Master tree list. A. The planning commission is charged with the duty of promptly determining the types and species of trees suitable and desirable for planting and the areas in which and conditions under which such trees shall be planted in or which may overhang the public streets within the city. Such determination shall be made by the planning commission which may consult with those familiar with the subject of such plantings, such as landscape architects, arborists, nurserymen and the like. When such determination has been made, the planning commission shall report its findings in writing to the city council. When approved by the council, said report shall be known as the master tree list and shall be placed on file and shall be thereafter the official determination list. Revisions or changes in said master tree list may be made from time to time by the planning commission in the manner hereinabove described for the development, approval and filing of the original master tree list.

B. All trees hereafter planted in or which may overhang the public streets of the city must be on the master tree list unless a written permit from the planning commission has first been obtained, to plant a tree not on said list. Such permit may be granted by the planning commission upon approval thereof by the city council. (Ord. 260 §5, 1965).

12.12.050 Jurisdiction over public streets. The street superintendent shall have jurisdiction and control of the planting, setting out, location and placement of all trees in the public streets of the city, and shall likewise have

supervision, direction and control of the care, trimming, removal, relocation and replacement thereof. (Ord. 260 §6, 1965).

12.12.060 Prohibited trees. Some types of trees, upon maturing, instead of becoming assets to the community, become liabilities due to structural weaknesses, disease, or insect susceptibility, short life, destructive root systems and rank growing branches requiring excessive maintenance. As a result of one or more of these characteristics, it is unlawful to plant any tree not on the master tree list and/or without written approval as provided heretofore in or where it may overhang any public street. (Ord. 260 §7, 1965).

12.12.070 Care and maintenance. It is unlawful and it is prohibited for any person other than the street superintendent or his duly authorized deputy or agent to cut, trim, prune, spray, brace, plant, move, remove, or replace any tree in any public street within the city, or to cause the same to be done unless and until a written permit to do so has first been obtained from the street superintendent. Any such permit may be declared void by the street superintendent if its terms are violated. (Ord. 260 §8, 1965).

12.12.080 Permit--Public utility or agency. Any person doing business as a public utility subject to the jurisdiction of the Public Utilities Commission of the state and any constituted public agency authorized to provide and providing utility service, shall be given a permit, valid for one year from the date of issuance, permitting such person to trim, brace, remove or perform such other acts with respect to trees growing adjacent to the public streets of the city or which grow upon private property, to the extent that they encroach upon such public streets as may be necessary to comply with the safety regulations of said Commission and as may be necessary to maintain the safe operations of its business. (Ord. 260 §9, 1965).

12.12.090 License--Tree trimming business. No person other than an owner or public utility may do any act for which a permit is required under Section 12.12.080, except a person whose principal business is tree surgery, trimming or maintenance and who, in the opinion of the street superintendent is qualified for such business and who has obtained a license to carry on such business in the city. All permits issued under this chapter shall be granted and valid for a period of one year from the date of issuance. (Ord. 260 §10, 1965).

12.12.100 Harming trees unlawful. It is unlawful for any person to break, injure, deface, mutilate, kill or destroy any tree or set fire or permit any fire to burn where such

Chapter 12.16

TREE REMOVAL

Sections:

- 12.16.010 Purpose.
- 12.16.015 Trimming defined.
- 12.16.020 Trimming allowable without permit.
- 12.16.025 Cutting defined.
- 12.16.030 Cutting of trees prohibited without permit.
- 12.16.040 Killing of trees prohibited without permit.
- 12.16.050 Exceptions.
- 12.16.060 Permit required for excavating or grade altering activities in any areas containing trees.
- 12.16.065 Permit required for certain cutting on commercial property.
- 12.16.070 Application for permits.
- 12.16.080 Planning director determination.
- 12.16.090 Planning commission permission for tree cutting or killing.
- 12.16.100 Replacement trees.
- 12.16.110 Permit time.
- 12.16.120 Removal by city of trees, shrubs and other plants on private property.
- 12.16.130 Appeals.
- 12.16.140 Emergencies.
- 12.16.150 Violation--Penalty.

12.16.010 Purpose. It is not the policy of the city to approve requests for tree trimming or tree removal in order to improve the view of any person, including the applicant. It is the policy of the city, where tree removal is accomplished at the request of a property owner or occupant, to achieve the planting of another tree in a suitable location, whenever good forestry practice so dictates. (Ord. 499 \$2, 1981).

12.16.015 Trimming defined. "Trimming" means the removal of branches or foliage in a manner and to the extent that does not jeopardize the health or longevity of a tree. (Ord. 681 \$1, 1989).

12.16.020 Trimming allowable without permit. A. Property owners or their authorized agents may, without a permit, trim trees as follows: Trees located on lots used solely as a single-family residence or duplex may be trimmed as follows:

1. One third of the tree's height;

2. One third of the volume of its foliage and branches;

3. Within environmentally sensitive habitat areas as described in Chapter 17.95, all degrees of trimming shall be defined as "cutting" and shall require a permit.

B. The foregoing measurements are based on the largest size ever obtained by the tree. If that size cannot be precisely determined, then the Planning Director's best estimate of largest size shall be utilized. (Ord. 691 §1, 1990; Ord. 681 §2, 1989; Ord. 677 §8(A), 1989; Ord. 499 §3, 1981).

12.16.025 Cutting defined. "Cutting" as used in this chapter means the removal, from a living tree, by any method, of foliage, branches or trunks, except for trimming allowable by Section 12.16.020. (Ord. 681 §3, 1989).

12.16.030 Cutting of trees prohibited without permit. Except as herein provided, no person may, in the city, cause the cutting of any tree within the city unless a tree cutting permit has been obtained and has been prominently displayed in the area of the cutting for the time provided in this chapter. (Ord. 499 §4, 1981).

12.16.040 Killing of trees prohibited without permit. Except as herein provided, no person may, in the city, intentionally kill any tree without first obtaining a permit therefor from the city as provided in this chapter. (Ord. 499 §5, 1981).

12.16.050 Exceptions. Fruit-bearing trees are exempted from the provisions of this chapter. Other trees may, by city council resolution, be exempted from the provisions of this chapter, except that within environmentally sensitive habitats no trees may be exempted from the provisions of Chapter 17.95 and from the provisions of this chapter. (Ord. 677 §8(B), 1989; Ord. 525 §1, 1982; Ord. 524 §1, 1982; Ord. 499 §6, 1981).

12.16.060 Permit required for excavating or grade altering activities in any areas containing trees. No person may conduct significant excavating, or grade altering activity in any area containing one or more trees without first obtaining a permit to do so from the public works director. As a condition to granting any such permit, the public works director may require the preparation of, and adherence to, a mitigation plan for such activity. (Ord. 499 §7, 1981).

12.16.065 Permit required for certain cutting on commercial property. Trees located on commercial property may be cut as follows, provided a permit has first been obtained from the planning director:

- A. One third of the height of the tree;
- B. One third of the volume of the tree's foliage or branches.

The foregoing measurements shall be made with reference to the largest size ever obtained by the tree. If that size cannot be precisely determined, then the planning director's best estimate of largest size shall be utilized. (Ord. 681 §5, 1989).

12.16.070 Application for permits. Any person desiring to carry on any of the activities otherwise prohibited by this chapter may make application to the planning director. If the planning director has devised a form for any of these applications, those forms should be completed. Any application shall include a statement of the reason for the request. Application fees shall be as determined by the city council. Within environmentally sensitive habitat area and buffer areas as described in Chapter 17.95, applications for tree removal must be coordinated with and approved by the planning director. Findings must be made that the tree cutting is consistent with Chapter 17.95. (Ord. 677 §8(C), 1989; Ord. 636 (part), 1987; Ord. 499 §8, 1981).

12.16.080 Planning director determination. The planning director shall grant the requested permit only if she or he determines that the tree removal is in the public interest based on one of the following:

- A. Good forestry practices;
- B. Because of the health of the tree;
- C. For safety considerations;
- D. In situations where a tree has caused, or has the potential to cause, unreasonable property damage, as determined by the planning director;
- E. When a developmental permit has been issued which to be effectuated would require removal of the trees, provided that in the proceedings for the developmental permits the fact that the development would require destruction of the trees was brought to the attention of the approving official or body;
- F. In situations where the planning director determines that the removal of the tree would not be contrary to the purposes of this chapter or Chapter 17.95.

When application to remove a tree because of safety considerations or the health of the tree results in a dispute between the planning director and the applicant, the burden of proof would be upon the applicant and at his expense. The applicant shall then hire a professional tree forester to make an analysis and recommendation. Then, based on the report of the tree forester, the planning director would make a decision as to whether or not the tree should be removed.

Whenever a permit has been issued on the basis that the applicant will be planting other trees as a replacement, the applicant must agree to diligently maintain those trees for a period of at least five years and to refrain from destroying such trees regardless of the size of the tree. (Ord. 677 §8(D), 1989; Ord. 636 (part), 1987; Ord. 525 §2, 1982; Ord. 524 §2, 1982; Ord. 499 §9, 1981).

12.16.090 Planning commission permission for tree cutting or killing. As part of any developmental application considered by it, the planning commission may allow tree cutting or killing. In no case shall any such tree cutting or killing approval be implied from other terms of any planning commission approval. Any tree cutting or killing activity must be specifically allowed in the permit. (Ord. 499 §10, 1981).

12.16.100 Replacement trees. A. An approval for tree removal under this chapter shall be conditioned upon the applicant planting, at some location on the subject property, a replacement tree for each tree removed, whose type and size shall be determined by the planning director. Trees located upon properties zoned or used in whole or in part for commercial purposes should be replaced by twenty-four-inch box or larger trees. Those located upon residential properties should be replaced by fifteen gallon or larger trees. Permits for tree removal shall not be issued until five hundred dollars has been deposited with the city to secure the applicant's obligation of planting the replacement tree in a way that will provide the maximum viability. If the replacement tree is not planted within thirty days (or such other reasonable time as is specified in the permit), the city may utilize the money for the expenses (including, but not limited to, staff time) in effecting the planting of the replacement trees. The planning director may require a larger deposit, for a permit pertaining to more than one tree, when necessary to secure the applicant's obligation.

B. In situations where it is determined by the planning director that because of special conditions of the subject property, related to basic forestry practices, a replacement tree cannot be replanted on the subject property, the applicant shall donate the retail cost of the replacement tree to the city tree program.

C. The planning commission, as a result of a development permit, may condition the granting of a tree removal permit upon the replanting of a replacement tree at a location, of a kind and of a size, designated by the planning director or planning commission. (Ord. 681 §4, 1989; Ord. 636 (part), 1987; Ord. 499 §11, 1981).

~~12.16.110 Permit time.~~ In order to allow appeals, no cutting or killing shall be allowed, unless the permit itself specifically provides otherwise, until at least five days have elapsed from the time the permit has been posted and has continuously remained since the time of the posting. (Ord. 499 §12, 1981).

12.16.120 Removal by the city of trees, shrubs and other plants on private property. A. All trees, shrubs and other plants growing on private property, when infested by any insect or infected by reason of such infestation or infection endangers the life or growth or healthful existence of other trees, shrubs, or other plants within the city not so infested or infected, or any trees determined by the planning director to be a danger to persons or property may be declared, by resolution of the city council, to be a public nuisance and thereafter abated as provided for in this section.

B. After the passage of such resolution, the planning director shall cause to be conspicuously posted on the property upon which such public nuisance is alleged to exist, not less than three notices headed "Notice to Abate Public Nuisance," such heading to be in letters not less than one inch in height and substantially in the following form:

NOTICE TO ABATE PUBLIC NUISANCE

Notice is hereby given that on the --- day of ---, 19--, the City Council of the City of Capitola passed a resolution declaring that certain (trees, shrubs, or other plants) located upon (description of property) are infested with insects, infected with disease, or a clear and present danger to persons or property), and that the same constitute a public nuisance which must be abated by the removal of the same, otherwise they will be removed and the nuisance abated by the City, in which case the cost of such removal shall be assessed upon the property from which such (trees, shrubs, or other plants) are removed, and such cost will constitute a lien upon such property until paid. Reference is hereby made to said resolution for further particulars.

Any person objecting to the proposed removal, as aforesaid, is hereby notified to attend the meeting of said City Council to be held in the Council Chambers in City Hall at (time) on the --- day of ---, 19--.

(Ord. 636 (part), 1987: Ord. 499 §13, 1981).

12.16.130 Appeals. All appeals must be in writing, state the reasons therefor, and must be made within ten days of the time the permit is first posted and/or the permit approval is first granted, whichever is later. All appeals should be delivered to the office of the city clerk. Planning director decisions are appealable to the planning commission. Planning Commission decisions are appealable to the city council. However, the city council, at its sole discretion, may determine whether to hear or not to hear any such appeal

If the council decides not to hear or consider the appeal, the planning commission decision shall be final. All appeal hearings shall be de novo. The criteria listed in Section 12.16.080 shall form the basis of determination. Any permit which has been issued and which has been appealed shall, during any appeal period, be suspended. (Ord. 636 (part), 1987: Ord. 499 §14, 1981).

12.16.140 Emergencies. No permit or application shall be required for either:

A. Situations determined by the public works director or designated alternate to present an immediate danger to persons or property;

B. Where it is necessary for public utilities regulated by the public utilities commission to take action necessary to protect the safety of persons or property endangered by trees. (Ord. 499 §16, 1981).

12.16.150 Violation--Penalty. Unless otherwise determined by a court of competent jurisdiction, the penalty for cutting, killing or removing trees contrary to the provisions of this chapter shall be as follows:

A. Two hundred dollars per tree for trees less than ten inches in diameter;

B. Three hundred dollars per tree for trees between 10.01 inches and twenty inches;

C. Five hundred dollars per tree for any tree over twenty inches in diameter;

as measured two feet from the ground. Violations of any other provision of this chapter shall be subject to the penalty provisions of Section 1.08.010, except that first violations charged as an infraction may be subject to a penalty of one hundred dollars. (Ord. 681 §6, 1989: Ord. 636 (part), 1987: Ord. 499 §15, 1981).

Chapter 12.20

ADVERTISING BENCHES

Sections:

- 12.20.010 Definitions.
- 12.20.020 Conformance required.
- 12.20.030 Franchise--Bidding.
- 12.20.040 Franchise--Fee.
- 12.20.050 Plan approval.
- 12.20.060 Franchise--Conditions.
- 12.20.070 Advertising standards.
- 12.20.080 Location approval.
- 12.20.090 Approval of property owner required.

COPY

ORDINANCE NO. 863

2191

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AMENDING THE MUNICIPAL CODE AND LOCAL COASTAL PROGRAM TO
REPLACE CHAPTERS 12.12 (TREEPLANTING-PUBLIC PROPERTY) AND 12.16
(TREE REMOVAL) WITH A NEW CHAPTER 12.12 PERTAINING TO
COMMUNITY TREE AND FOREST MANAGEMENT

BE IT ORDAINED by the City Council of the City of Capitola as follows:

Section 1. Chapters 12.12 and 12.16 of the Capitola Municipal Code are hereby repealed.

Section 2. A new Chapter 12.12 is hereby added to the Capitola Municipal Code to read as follows:

**“CHAPTER 12.12
COMMUNITY TREE AND FOREST MANAGEMENT**

PURPOSE, GOALS, AND AUTHORITY

- 12.12.010 Purpose.
- 12.12.020 Goals and policies.
- 12.12.030 Definitions.
- 12.12.040 Authority and duties.

TREE PLANTING

- 12.12.050 Community forest program.
- 12.12.060 Description of existing tree canopy coverage.
- 12.12.070 Tree planting.
- 12.12.080 Environmental, and socio-economic benefits of trees

MAINTENANCE AND PROTECTION STRATEGY

- 12.12.090 Heritage tree historic context.
- 12.12.100 Heritage tree list and nomination
- 12.12.110 Permit process for removal and pruning of heritage trees.
- 12.12.120 Harming street trees unlawful
- 12.12.130 Tree protection, management and maintenance.
- 12.12.140 License--tree pruning business.
- 12.12.150 Educational programs.

TREE REMOVAL AND REPLACEMENT

- 12.12.160 Permit requirements.
- 12.12.170 Exceptions.
- 12.12.180 Permit process for removal of non-heritage trees.
- 12.12.190 Tree replacement.
- 12.12.200 Removal by the city of hazardous trees on private property.
- 12.12.210 Emergency removals.
- 12.12.220 Americans with Disabilities Act compliance.

ENFORCEMENT AND EVALUATION

- 12.12.230 Enforcement.
- 12.12.240 Monitoring conditions of approval
- 12.12.250 Citizen complaints
- 12.12.260 Tree trimmers
- 12.12.270 Penalty for violation
- 12.12.280 Performance evaluation

PURPOSE, GOALS, AND AUTHORITY**12.12.010 Purpose.**

The City Council finds that protection and enhancement of existing tree cover throughout the City serves several public interests: reducing local air pollution by absorbing carbon dioxide and producing oxygen; reducing soil erosion; enhancing the visual and aesthetic qualities of the City that attract visitors and businesses and serve as a source of community image and pride; and providing habitat for birds and other wildlife.

The City Council finds that trees are a valuable asset and have a positive economic effect on the City of Capitola by enhancing property values and making the City a more attractive place to visit and do business. The protection and enhancement of trees helps safeguard and enhance the property values of public and private investments, and preserves and protects the unique identity and environment of Capitola. Healthy trees of the appropriate size and species, growing in the appropriate places, enhance the value and marketability of property and promote the stability of desirable neighborhoods.

In order to protect existing tree cover, increase tree cover, and enhance the natural beauty of the City, the City Council, therefore, adopts this chapter in the interest of public health and safety. The purpose of this chapter is to establish regulations relating to the protection, planting, maintenance, removal, and replacement of trees, and to set forth the process for development of a comprehensive plan for the planting and maintenance of a sustained community forest within the City.

12.12.020 Goals and policies.

A. The overall goals of this chapter are to: protect and increase the level of tree cover on public and private lands within the City, maintain trees in a healthy and non-hazardous condition, and promote planting of additional trees to increase tree cover (hereby referred to as canopy coverage) throughout the City.

B. It is the policy of the city to protect the locally significant, scenic and mature trees as listed in the Heritage Tree List to be adopted pursuant to this chapter, in order to protect the character of Capitola.

C. It is the policy of the city to encourage new tree planting on public and private property and to cultivate a flourishing community forest.

D. It is the goal of the city to maintain and enhance the tree canopy coverage existing at the time of adoption of this ordinance (as determined through aerial photography taken within 12 months from adoption of this ordinance), and to increase flowering tree canopy to help identify and beautify city streets and neighborhoods.

E. On individual lots, it is the goal of the City to maintain 15% coverage of tree canopy, consisting of flowering, deciduous, and evergreen trees, to be enforced on an on-going basis via the design review process.

F. It is the goal of the city to establish a Community Tree Fund to pay for tree replacement planting in suitable locations in city parks, sensitive habitat areas, or along city streets, as set forth in a "Community Forest Program," to be completed and adopted within three (3) years from adoption of this ordinance.

G. It is the goal of the City to develop partnerships with the owners of heritage trees to provide technical and financial help for the maintenance of such trees, as funds become available in the Community Tree Fund.

H. It is the policy of the city to pursue grants to fund a monitoring program to evaluate the performance of this Community Forest Management Ordinance, every three (3) years after the adoption of this ordinance.

I. It is the policy of the city to encourage community efforts such as the "Heritage Tree Walk", and promote education programs to increase the awareness of trees and their benefits.

J. It is the policy of the city to help counteract carbon dioxide (CO₂) emissions by planting trees, as trees absorb CO₂ from the air, and store it in their branches, roots and trunks and then release oxygen into the atmosphere.

K. It is the policy of the city that the regulations of this chapter regarding tree planting, maintenance, removal and replacement take into consideration the protection of view sheds and solar orientation and exposure, in relation to all affected properties.

12.12.030 Definitions.

A. "Canopy coverage" shall mean the area covered by the projection of branches and leaves of a tree over the drip-line or the outermost area of canopy.

B. "Certified Arborist" shall mean an individual who has demonstrated knowledge and competency through obtainment of the current International Society of Arboriculture (ISA) Arborist Certification, and/or who is a member of the American Society of Consulting Arborists and has achieved a level of knowledge in the art and science of tree care through at least three years of experience and continued education.

C. "City" shall mean the City of Capitola situated in the County of Santa Cruz, California.

D. "Commission" shall mean the City of Capitola Planning Commission.

E. "Community forest" shall mean all public or private trees within the City of Capitola.

F. "Community Forest Program" shall mean a program implemented by the Public Works Director, to guide the tree planting on public properties, streets, parks, and sensitive habitat areas. Refer to Section 12.12.050 for specific provisions.

G. "Community Tree and Forest Management Account" shall mean a fund or account where tree and canopy coverage in-lieu fees are deposited. This account is created for the specific function of accumulating funds to pay for replacement of trees, to provide incentive for the maintenance of heritage trees, and related canopy coverage purposes, by the Public Works Department. This account is being established upon approval of this ordinance.

H. "Council" shall mean the City of Capitola City Council.

I. "Cutting" shall mean the removal, from a living tree, by any method, of foliage, branches or trunks, including removal of the entire tree, except for pruning allowable by Section 12.12.160 Permit Requirements.

J. "Damage" shall mean any action undertaken which may cause the death or significant injury, or which places a tree in a hazardous conditions or in an irreversible state of decline. This includes, but is not limited to, tree cutting, excessive foliar crown removal, topping/cropping, girdling, or poisoning of, or trenching, excavating or compacting within the tree's root zone.

K. "Department" shall mean the City Community Development Department.

L. "Director" shall mean the Community Development Department Director of the City of Capitola or his/her designee.

M. "Environmental and Socio-Economic Benefits of Trees" shall mean a city brochure that may be available at the Community Development Department, including current statistical figures, results of scientific studies and of surveys to show the benefits of an urban forest.

N. "Heritage tree" shall mean any locally significant, scenic and mature tree growing on public or private property that is listed on the City's adopted Heritage Tree List as set forth in sections 12.12.090-12.12.110.

O. "Heritage Tree List" shall mean a list of those "Heritage Trees" approved by the City Council to be protected for future generations. Refer to Section 12.12.100 for the nomination process for heritage status.

P. "List of Certified Arborists, Certified Tree Climbers and Landscape Contractors", shall mean a list of tree experts, contractors and landscape businesses who provide tree work service in the city that have received certification in accordance to the provisions of this ordinance, and/or a City Permit to operate in Capitola according to requirements as described in the Community Forest Program.

Q. "Owner" shall mean the legal owner of real property as shown on the most recent County Assessor's role.

R. "Person" shall mean any individual, firm, business, partnership, association, public Utility, corporation, legal entity, and/or agent, employee or representative thereof.

S. "Planting, Pruning and Maintaining Trees" shall mean a city brochure that may be available at the Community Development Department, to provide specific guidelines on how and where to plant and take care of trees.

T. "Private property" shall mean all property within the boundaries of the City of Capitola, as shown on the most recent County Assessor's roll to be owned by persons, firms, corporations other than the City of Capitola, or another public agency.

U. "Pruning" shall mean the removal of branches or foliage in a manner and to the extent that does not jeopardize the health or longevity of a tree.

V. "Public property" shall mean all property owned by any governmental agency, except those legally exempt from this chapter, within the boundaries of the City of Capitola including those noncontiguous areas incorporated by the City of Capitola.

W. "Public Street" or "streets" shall mean all roads, streets, avenues, boulevards, alleys, park ways, public rights of way or any portion thereof, of the city.

X. "Recommended Tree List" shall mean a list of suitable trees for Capitola, available at the Community Development Department to help property owners select new trees for their property. The list shall be consistent with Chapter 17.97 Water – Efficient Landscaping. The list should reflect different city natural habitats and neighborhoods, and may be included into the Community Forest Program.

Y. "Tree." For the purpose of this chapter, "tree" shall mean a usually tall woody plant, distinguished from a shrub by having, at maturity, comparatively greater height and characteristically, a single trunk rather than several stems, and a minimum six (6) inch diameter measured at forty-eight (48) inches above existing grade or at average breast height (dbh). Exception: Within the boundaries of a "biologist certified environmentally sensitive habitat area" identified pursuant to Chapter 17.95, all sizes of trees, even seedlings, are subject to this chapter and all degrees of trimming shall be defined as "cutting" and shall require a permit. A healthy sensitive habitat has young and small, medium size, large and/or old samples of each species.

Z. "Topping" shall mean the reduction of a tree's size using heading cuts that shorten limbs or branches back to stubs. Topping is not an acceptable pruning practice. Refer to Section 12.12.160 C1 and C2.

AB. "Stub" shall mean an undesirable short length of a branch remaining after a break or incorrect pruning cut is made. Refer to Section 12.12.130 C 7.

AC. "Utility" shall mean a public utility or private utility and includes any pipeline corporation, gas company, electrical corporation, telephone, telegraph or other communications corporation, water corporation, sewer system or heat corporation, or railroad and power companies, the services of which are performed for, or the commodity delivered to, the general public or any portion thereof.

12.12.040 Authority and duties.

A. Community Development Director. The Community Development Director or designee shall be responsible for administering and enforcing this chapter. The Community Development Director or designee shall have the following powers and duties:

1. Grant or deny applications for non-heritage tree removal permits as set forth in section 12.12.180 and make recommendations on permit applications involving heritage trees that are reviewed by the Planning Commission.
2. Provide technical information to assist owners in maintaining heritage trees on private property.

3. Review all development and construction applications for the purpose of determining canopy coverage requirements and any development impacts on the community forest.
4. Make recommendations to the Planning Commission pertaining to the management of the City's community forest.
5. Help process and pursue grants to implement the Community Forest Program.

B. Public Works Director. The Public Works Director shall have the following powers and duties:

1. Abate public nuisances pursuant to Title 4 - Municipal Code Enforcement of the City of Capitola Municipal Code;
2. Develop the Community Forest Program in conjunction with the Community Development Director;
3. Order the alteration or removal of hazardous trees when they are found to pose a threat to other trees or to the community, as set forth in section 12.12.210; and administer tree replacement and planting per the Community Forest Program, for the planting, sitting, location and placement of all trees along the public streets or on public property of the city, and shall likewise have supervision, direction and control of the care, protection, pruning, removal, relocation and replacement thereof.

C. Planning Commission Powers and Duties. The Planning Commission shall have the following powers and duties:

1. Grant or deny applications for heritage tree removal permits pursuant to Section 12.12.110 Permit process for removal and pruning of heritage trees of this chapter.
2. Grant or deny permit applications on appeal pursuant to section 12.12.180 Permit process for removal of non-heritage trees of this chapter.
3. Make recommendations to the City Council concerning policies, programs and decisions relating to the city's urban forest, and regarding all related matters, documents, and policies; and
4. Approve nominations for heritage tree status.

D. City Council.

1. Review appeals of Planning Commission decisions.
2. Approve the Heritage Tree List, and removals of trees from the list.
3. Approve Capitola Recommended Tree List.
4. Approve the program and implementation of the Community Forest Program.

TREE PLANTING**12.12.050 Community Forest Program.**

The Director with the advice and participation of the Public Works Director, Planning Commission, and City Council, may prepare a "Community Forest Program" to guide tree replanting efforts throughout the City, including planting on public properties, streets, parks and sensitive habitat areas. This program would be established as a result from the collection of fees and potential grant funding.

A. Program elements. The program shall incorporate the following elements: mapping identification of tree planting sites; prioritized planting plan and schedule; standards and lists of trees for tree selection, including the Capitola Recommended Tree List; guidelines for sitting, planting and pruning of trees on public property; maintenance plan; inspection requirements and specific licensing requirements for tree trimmers.

B. Program incentives. The Community Forest Program should provide for financial and technical incentives, and eligibility criteria, for activities such as:

1. Maintenance and problem solving for heritage trees, such as arborists' evaluations re possible mitigations to save a heritage tree, including selective removal of roots, branches and/or special trimming;
2. Planting incentives to encourage increased canopy coverage and neighborhood identity;
3. Other incentives to encourage educational efforts similar to the Heritage Tree Walk.

C. Program Provisions. The Community Forest Program should include several planting and maintenance items including but not limited to:

1. Specific City Permit requirements for Tree Trimmers/Tree Climbers needed to obtain a "City Permit to Operate", such as relationship with or employment of a certified arborist and certified Tree Climber; insurance and contractor's license; low noise producing equipment; and commitment to follow provisions of city ordinance.
2. Retain a certified arborist under a city contract to perform tree evaluation and reports on a heritage and non-heritage trees for a flat fee, paid for by the applicant. The contract Certified Arborist should be retained as soon as this ordinance is effective.
3. Specific provisions for Public Works Department staff to monitor compliance with project conditions of approval and supervise/monitor replacement trees on public property.

D. Flowering trees. The program would encourage the planting of large and/or small flowering trees, according to different neighborhoods. Deciduous flowering trees would allow sun exposure in the winter months and provide color in the spring and other seasons. Flowering trees can create neighborhood identity. A tree expert should review the program prior to its adoption.

E. Neighborhood entries. The program would incorporate a section regarding the selection of at least two suggested flowering trees per neighborhood, and provisions for a neighborhood entry sign with a few of those colored trees being planted around the sign to establish the neighborhood program. Property owners would be encouraged to plant similar trees on their properties with the objective of creating a special identity for their neighborhood. Suggested flowering trees would reflect specific neighborhood characteristics, such as view shed issues, character protection, and soils. The City may provide an incentive to property owners, by supplying young trees for "free" to accelerate the show of specific neighborhood colors. The approval of the selected neighborhood flowering trees shall be subject to a regularly scheduled public hearing so as to inform the residents and welcome participation. There is no obligation on the part of the resident to plant a selected tree.

F. Funding. In addition to resources of the tree and canopy replacement in-lieu fees to be deposited in the Community Tree and Forest Management Account, the program would pursue potential grant funding to pay for educational efforts, monitoring and evaluation of the Community Tree and Forest Management Ordinance.

12.12.060 Description of existing canopy coverage.

The canopy coverage throughout the City includes all trees on public and private properties, including street trees, parks, and habitat areas. Habitat areas include riparian corridors and Monarch butterfly habitat, as identified in the General Plan, Local Coastal Program and the City's Environmentally Sensitive Habitats ordinance (Chapter 17.95).

On individual lots, canopy coverage shall be evaluated as part of tree removal permit or development application requests as set for in section 12.12.190.

12.12.070 Tree Planting.

A. Recommended Tree List.

1. Development of the Capitola Recommended Tree List. The Director with the advice and participation of the Planning Commission and City Council shall prepare a "Capitola Recommended Tree List" to identify types and species of trees suitable and desirable for planting along streets and on private property, and determine the areas in which and conditions under which such trees shall be planted in or which may overhang the public streets or public property. The list should reflect the different city natural habitats and neighborhoods; and should encourage use of California natives and drought-tolerant species. Such determination shall be made by the Planning Commission, which may consult with landscape architects and arborists. The Planning Commission may report its findings in writing to the City Council, and the Council may approve the "Capitola Recommended Tree List," which may be filed and available to the public from the Community Development Department, or as part of the Community Forest Program. Exhibit 3
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2. Purpose. The purpose of the Capitola Recommended Tree List is to help property owners to select new trees for their properties. The list shall include, but not be limited to the following information: botanical and common names; suitability as a street tree; height; physical characteristics (deciduous or evergreen, required exposure); decorative features (flowering and/or scented); and tolerances to drought, insects, diseases, saline environment, and irrigation watering. Recommended flowering trees for identified neighborhoods may also be included.

B. Trees discouraged from planting. Please refer to the Capitola Recommended Tree List.

C. Considerations related to Solar Orientation. The planting, and replacement of trees shall take into consideration solar orientation for the benefit of the property in question as well as adjacent properties. For more information, please refer to Brochures available at the Community Development Department regarding considerations related to solar orientation and planting locations for trees in order to maximize sun exposure in the winter and shaded areas in the summer.

12.12.080 Environmental, and socio-economic benefits of trees

Tree provisions covering planting, maintenance, and removal of trees on public and private land help to maintain maximum tree cover/canopy coverage. As tree size and canopy coverage increase the benefits derived from the urban forest increase. The benefit/cost ratio of urban trees for a community is as high as 7.9 to 1, and well worth the investment. Property values of landscaped homes are 5-20% higher than those of non-landscaped homes (International Society of Arboriculture.) A City Brochure on the "Environmental and Socio-Economic Benefits of Trees" is available to provide information regarding energy conservation, air quality, prevention of water run off, flooding and soil erosion, enhancement of community identity and well being, and protection of city hardscape.

MAINTENANCE AND PROTECTION STRATEGY

12.12.090 Heritage tree historic context.

Capitola has a rich heritage in its trees. Residents have been committed to their cultivation and preservation since the City's inception as Camp Capitola in 1874 on lands owned by Frederick A. Hihn, on which tree removal was prohibited and an extensive tree-planting program was undertaken. Heritage trees help define the character of the City. By virtue of their historic significance, size, beauty, age or value to wildlife, heritage trees offer intrinsic benefits to the entire City as well as individual properties.

12.12.100 Heritage tree list and nomination process.

A. Definition. "Heritage tree" shall mean any locally significant, historic, scenic and/or mature tree growing on public or private property, that is listed on the City's adopted Heritage Tree List as set forth in this section, that is supported by the property owner and by the City Council.. A Heritage Tree List should be adopted no longer than 6 months from the approval of this ordinance.

B. Heritage tree list.

1. Nomination. Nominations of trees for inclusion on the Heritage Tree List may be made from any person to the Community Development Department if it meets one or more of the following criteria. Upon receiving consent of the owner of the property on which the tree is located, the Community Development Director submits the nominated tree(s) to the Planning Commission for consideration and approval.
 - a. Any tree which has a trunk with a circumference of forty-four (44) inches approximately fourteen (14) inches in diameter or more, measured at forty-eight (48) inches above existing grade or at average breast height (dbh);
 - b. Any tree, or grove of trees, which has historical significance, including but not limited to those which were/are:
 - i) Planted as a commemorative;
 - ii) Planted during a particularly significant historical era; or
 - iii) Marking the spot of a historical event.
 - c. Any tree, or grove of trees, which has horticultural significance, including but not limited to those which are:
 - i) Unusually beautiful or distinctive;
 - ii) Old (determined by comparing the age of the tree in question with other trees of its species within the city);
 - iii) Distinctive specimen in size or structure for its species (determined by comparing the tree to average trees of its species within the City);
 - iv) A rare or unusual species for the Capitola area (to be determined by the number of similar trees of the same species within the city);
 - v) Providing a valuable wild life habitat; or
 - vi) Identified by the City Council as having significant arboricultural value to the citizens of the City of Capitola.
2. Property owner support. No tree shall be considered by the Planning Commission or included on the Heritage Tree List by the Planning Commission unless written property owner consent has been obtained, agreeing to the nomination and designation.
3. Approval of heritage trees. The Planning Commission shall review and approve nominations for heritage trees via a Public Hearing properly noticed. The main function of the Public Hearing is to announce the trees nominated and to educate the community regarding heritage trees.
4. Removal of tree from heritage tree list. A tree or trees shall be removed from the heritage tree list upon approval of a heritage tree removal permit by the Planning Commission, and/or the adoption of a resolution by the City Council in case a removal permit is not applicable, based on findings by a qualified arborist that:
 - a. The tree is a hazard to public health and safety or to other trees as

- b. The tree no longer retains or holds the values and the community interest for which it was placed upon the heritage tree list.

C. Protection of Heritage Trees. No person shall allow any condition to exist, which may be harmful to any heritage tree, including but not limited to any of the following conditions:

1. Existence of any tree, heritage or otherwise, within the City limits that is irretrievably infested or infected with insects, scale or disease detrimental to the health of any heritage tree;
2. Paving and/or filling up the ground area around any heritage tree so as to shut off air, light or water to its roots;
3. Piling building materials, parking equipment and/or pouring any substance, which may be detrimental to the health of any heritage tree;
4. Posting any sign, poster, notice or similar device on any heritage tree;
5. Driving metal stakes, tying ropes, wire or metal braces and similar restricting devices, into the heritage tree or their root area for any purpose other than supporting and healing the heritage tree, except if recommended by a certified arborist;
6. Causing a fire to burn near any heritage tree;
7. Excessive pruning of the tree to cause its death.
8. "Choking" trees with undergrowth (heavy ivy).

E. Incentives. It is the goal of the City to develop partnerships with owners of heritage trees and provide incentives for maintenance, such as technical and financial assistance to maintain heritage trees as funds accumulate in the Community Tree and Forest Management Account. Owners of Heritage Trees are eligible, according to certain criteria, to apply for City financial incentives/grants from the Community Tree and Forest Management Account for maintenance and preservation of heritage trees. These criteria include but are not limited to: having the tree listed on the adopted Heritage Tree List; needing the services of an arborist to address invasive root problems; needing special pruning services to clear tree branches due to utility lines; needing to diagnose disease problems, and having no code violations within the subject property; as listed in the Community Forest Program.

12.12.110 Permit process for removal and pruning of heritage trees.

A. Permit required. No person shall prune, trim, cut off, or perform any work, on a single occasion or cumulatively, over a three (3) year period, affecting twenty-five percent (25%) or more of the crown and/or the volume of foliage and branches of any heritage tree without first obtaining a permit pursuant to this section. No person shall root prune, relocate or remove any heritage tree without first obtain a permit pursuant to this section. No permits are required for maintenance trimming.

B. Application. All persons, utilities and any department or agency located in the City of Capitola shall submit a permit application, together with the appropriate fee as set forth by City Council resolution, to the Community Development Department prior to performing any work requiring a permit as set forth in this section. The permit application shall include the number, species, size, and location of each subject tree, a clear description of the work being proposed, and the reason for the requested action. An Arborist Report must also be submitted.

C. Process. Permits for heritage tree removal or pruning over 25% within a three (3) year period are discretionary and are approved by the Planning Commission only in accordance with CEQA and if the findings in this section can be made.

D. Findings and Conditions.

1. The tree removal is in the public interest based on one of the following:
 - a. Because of the health or condition of the tree, with respect to disease, infestation, or danger of falling on persons or property; or
 - b. For safety considerations; or
 - c. In situations where a tree has caused, or has the potential to cause, unreasonable property damage.
2. Pruning, root removal, and all other feasible alternatives to removal have been applied and were not sufficient to resolve the problem.
3. Replacement trees and locations have been identified, and as a last resort in-lieu fees were paid as a condition of the permit in accordance with section 12.12.190, especially D and E.
4. The removal of the tree would not be contrary to the purposes of this chapter or Chapter 17.95.
5. The approved pruning of heritage trees shall be conducted in the presence of a licensed Certified Arborist.

E. Hearing notice. All public hearing notices for a heritage tree removal permit shall be posted in three public places, including the site, at least ten (10) working days prior to hearing date, and shall be published in at least one local newspaper.

12.12.120 Harming trees unlawful.

It is unlawful for any person to break, injure, deface, mutilate, kill or destroy any street tree (heritage or non-heritage tree) or set fire or permit any fire to burn where such fire or the heat thereof will injure any portion of any tree in any public street in the city, nor shall any person place, apply, attach or keep attached to any such tree or to the guard of stake intended for the protection thereof any wire, rope, (other than one used to support a young or broken tree) sign, paint, or any other substance, structure, thing or device of any kind whatsoever, without having first obtained a permit so to do.

12.12.130 Tree protection, management and maintenance.

A. Protection of Trees. New residential or commercial development, including driveways and parking areas, shall be sited and designed to minimize cutting of trees, especially trees that provide screening from neighboring properties or provide buffer between different uses. A plan for tree protection and preservation may be required at the time the development application is submitted.

B. Tree Planting, pruning and maintenance. The city may make available to the public a "Planting, Pruning, and Maintenance Brochure," and may provide technical assistance as funds become available in the Community Tree and Forest Management Account. This brochure should also include guidelines for where not to plant trees, such as under power lines, too close to the neighboring property lines, and so forth.

C. Safeguarding Trees During Construction, Demolition or Tree Removal. For the purpose of safeguarding trees during construction, demolition or tree removal, the following conditions should apply to all trees other than trees for which a removal permit has been issued:

1. Pre-Construction Guidelines. Prior to the commencement of construction, demolition or tree removal, all trees on the building site should be inventoried by the owner or contractor or Project Arborist as to size, species and location on the lot, and the inventory should be submitted on a topographical map to the Community Development Director. This condition may be waived by the Community Development Director for tree removal and minor demolition.
2. The property owner, contractor or Project Arborist shall be required to erect protective barricades around the dripline of all trees to be retained on the site to provide protection during construction. These barricades must be in place prior to the start of any construction or demolition activities. Under certain conditions where soil compaction is probable, fences may also be required around a tree or grouping of trees.
3. Earth surfaces within the dripline of any tree should not be changed or compacted. All equipment, construction material, and soil storage shall be kept beyond the dripline of trees.
4. Wires, signs and other similar items should not be attached to trees.
5. Cutting and filling around the base of trees should be done only after consultation with a certified arborist. Wherever cuts are made in the ground near the roots of trees, appropriate measures shall be taken to prevent exposed soil from drying out and causing damage to tree roots.
7. Pruning cuts shall conform to ANSI arboricultural standards and should not cut into the branch bark ridge or collar, or leave a stub. Please refer to the "Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Pruning)" published by the American National Standards Institute, Inc. (ANSI) for pruning practices. In cases of conflict between pruning standards, the standards in this ordinance shall apply.

8. Damage to any tree during construction, demolition or tree removal should be immediately reported by the person causing the damage, the responsible contractor or the property owner to the Community Development Director, and the contractor and/or owner should treat the tree for damage in the manner specified by the City's Contract Arborist, and/or Public Works Director.
9. The property owner is responsible for care of all trees that are to remain on the site.
10. Failure to protect or maintain trees on construction/demolition sites is a violation of the municipal code and grounds for suspension of the building permit.

D. Safeguarding trees that are required to be planted as a condition of tree removal permit approval.

1. Trees required to be kept on a building site and trees required to be planted as a condition of tree-removal permit approval shall be maintained according to accepted arboricultural practices. If the tree dies the applicant shall be required to replace the tree as many times as necessary.
2. At no time shall these trees be moved without the issuance of a valid permit.
3. Nothing contained in this section shall be deemed to replace or revoke any requirements for the safeguarding of trees found elsewhere in this municipal code or in the ordinances and procedures of the City.

12.12.140 License--Tree pruning business.

Any tree service company employed by an owner or public utility to carry out any act for which a permit is required under section 12.12.110 or section 12.12.180 shall comply with the City's tree pruning guidelines, obtain a City Operation Permit, a clearance from the Community Development Director, and shall include the services of Certified Arborist, a Certified Tree Climber/Trimmer, proof of contractor's license and insurance. Refer to list of City-approved tree pruning businesses, tree trimmers, licensed Contractors and Certified Arborists. Property owners pruning their own trees shall also comply with the provision of this ordinance.

12.12.150 Educational Programs.

The Community Development Director may make available to interested persons, copies of:

- A. The Community Forest Management Ordinance
- B. Summary handouts regarding the ordinance,
- C. The "Capitola Recommended Tree Planting List,"
- D. The "Capitola Heritage Tree List,"
- E. The "Heritage Tree Walk" brochure

- F. The Community Forest Program,
- G. Pamphlets describing where, when, how and what tree to plant. Listing the various choices for size, architectural, structural, leaf and bark color, and other elements of the trees,
- H. The city's "List of Certified Arborists, tree trimmers, and licensed contractors,"
- I. The "Planting, Pruning and Maintaining Trees" brochure; and,
- J. The "Environmental and Socio-Economic Benefits of Trees" brochure.

TREE REMOVAL AND REPLACEMENT

12.12.160 Permit requirements.

A. Permit Required. Except as herein provided, no person may, in the City, cause the cutting or intentional killing of any tree within the city unless a Tree Removal Permit has been obtained and has been prominently displayed in the area of the cutting for the time provided in this chapter. As part of any development application considered by it, the Planning Commission, or the Community Development Director, may allow tree removal or pruning, as applicable. All trees within environmentally sensitive habitat areas shall require a Tree Removal Permit, and issuance of such permits for tree removals, pruning, cutting and trimming shall be consistent with Chapter 17.95, the Environmentally Sensitive Habitats ordinance. Any tree removal or pruning activity must be specifically allowed in the permit. Refer to Section 12.12.110 for Permit process for removal and pruning of heritage trees.

B. Pruning allowable without permit.

1. Non-heritage trees located on lots used solely as a single-family residence or duplex and not located within environmentally sensitive habitat areas may be pruned as follows:
 - a. One fourth or not more than 25% of the tree's height;
 - b. One fourth or not more than 25% of the volume of its foliage and branches;
 - c. Within environmentally sensitive habitat areas as described in Chapter 17.95 Environmental Sensitive Habitats, all degrees of pruning shall be defined as "cutting" and shall require a permit.
2. The foregoing measurements are based on the largest size ever obtained by the existing tree. If that size cannot be precisely determined, then the Community Development Director's best estimate of largest size shall be utilized. In the later case, the Community Development Director would utilize average tree size information from standard landscape books, such as the Sunset Book and take into consideration local soil and other circumstances to make the final decision.
3. Pruning of trees should be done only as needed, but not more often than every two (2) years, to ensure pruning is not causing a hardship for the tree.

C. Topping/heading cuts prohibited. Topping, heading cuts to public and private trees is prohibited. Topping/heading cuts are often done to reduce a tree's size by shortening of limbs or branches back to a predetermined crown limit. It can result in indiscriminate cutting back of major limbs to stubs or to lateral branches that are not large enough to assume the terminal/leader role. It weakens the tree structure, causes inappropriate and rapid growth, and may result in reduced vigor, disease, decay, decline, or sudden death of the tree

1. Alternative to topping/heading. There are times when a tree must be reduced in height or spread. Pruning methods approved by the International Society of Arboriculture such as *crown reduction* is recommended in these instances. *Crown reduction* is the selective removal or reduction of major limbs to proper lateral branches to decrease height and spread. *Thinning cuts*, *drop-crotch pruning* and *end weight reduction* are used to reduce the length and weight on the ends of branches. These pruning methods result in a healthier more natural appearing trees, where new branches will not be hanging and attached only to the outside of the tree trunk but will structurally grow from the tree itself.
2. Providing clearance for utility lines. There are recommended techniques for line clearance by the ISA, such as *directional pruning*. This method includes the removal of branches with proper cuts to direct the growth of the crown and limbs away from and around conductors. If a branch must be shortened, it should be cut back to a significant lateral that is large enough to assume the terminal role or the "leader" role. A rule of thumb for this is to cut back to a lateral that is at least 1/3 the diameter of the limb being removed, so the lateral can take over the structural role of the central or lateral leader. For more information refer to Brochures from the International Society of Arboriculture available at the Community Development Department.

D. Permit—Public utility or agency. Any person doing business as a public utility subject to the jurisdiction of the Public Utilities Commission of the State and constituted public agency authorized to provide and providing utility service, shall apply for an annual permit for trimming and/or other tree related work; such permit shall include specific guidelines and conditions reflecting requirements in this chapter, permitting such person to trim, brace, remove or perform such other acts with respect to trees growing adjacent to the public streets of the city or which grow upon private property, to the extent that they encroach upon such public streets as may be necessary to comply with the safety regulations of said Commission and as may be necessary to maintain the safe operations of its business, as well as be in compliance with the provisions of this ordinance.

12.12.170 Exceptions.

A. Fruit-bearing trees are exempted from the provisions of this chapter, with exception of large and mature fruit trees that could fit the definition of a heritage tree.

12.12.180 Permit process for removal of non-heritage trees.

A. Application. All persons, utilities and any department or agency located in the City of Capitola shall submit a permit application, together with the appropriate fee as set forth by City Council resolution, to the Community Development Department prior to performing any **Exhibit 3** requiring a permit as set forth in section 12. **CAPM 12-204 Permit Application shall include the number of 24** species, size, and location of each subject tree, description of replacement trees, location and **16**

schedule of planting, and the reason for the requested action. An arborist report may be required, and if approved, notice of the tree removal shall be posted on site and at City Hall 10 working days prior to the removal.

B. Process. Permits for non-heritage tree removal or pruning are ministerial and are approved by the Community Development Director or designee. A staff in the Public Works Department can approve the removal of a non-heritage tree only if the findings one (1) through four (4) listed below can be made. If these finding cannot be made the application shall be transferred to the planning staff for further review and canopy coverage evaluation. The city may require the applicant to pay for services of an arborist under contract to the city, to provide recommendations and/or a written evaluation or report regarding the tree. Then, based on the city's evaluation or report, the Director would make a decision as to whether or not the tree should be removed. The Community Development Director shall make all findings listed bellow prior to a tree removal determination. The Director may require Planning Commission review and approval of the permit.

C. Findings.

1. The tree removal is in the public interest based on one of the following:
 - a. Because of the health or condition of the tree, with respect to disease infestation, or danger of falling;
 - b. Safety considerations; or
 - c. In situations where a tree has caused, or has the potential to cause, unreasonable property damage and/or interference with existing utility services.
2. All possible and feasible alternatives to tree removal have been evaluated, including, but not limited to under-grounding of utilities, selective root cutting, trimming and relocation.
3. The type, size and schedule for planting replacement trees is specified and shall be concurrent with the tree removal or prior to it, in accordance with Section 12.12.190 F and G.
4. The removal of the tree would not be contrary to the purposes of this chapter, and Chapter 17.95.
5. Replacement trees in a ratio of two to one as needed to ensure that with replacement trees a canopy coverage of at least 15% will result, and location(s) for tree replanting are selected, and/or as a last resort, in-lieu fees have been paid as a condition of the permit in accordance with section 12.12.190. Replacement trees and/or in-lieu fees are not required if post-removal tree canopy coverage on the site or parcel will be 30% or more.

D. Canopy Coverage Review. On individual lots, it is the goal of the City to maintain a 15% coverage of tree canopy, consisting of flowering, deciduous trees and evergreen trees. Canopy coverage goals shall be evaluated as part of: a) tree removal requests for trees that are not found to be diseased, infested, or hazardous; b) as part of review of development applications **Exhibit 8** properties; and c) as part of tree replacement requirements that cannot be met onsite. **Fig. 17.95-24** requests may be approved for trees that do not meet the findings in relation to canopy coverage as

stated in 12.12.180 C.5., if it is determined that the site canopy coverage goal will be maintained or exceeded with removal of the tree. Replacement trees and/or in-lieu fees are not required if post-removal tree canopy coverage on the site or parcel will be 30% or more. If other city regulations such as the 41st Avenue Design Guidelines establish a different and/or higher tree-planting standard than the requirement of 15% canopy coverage, the higher standard shall apply.

E. Effective Date of Permit. The decision of the Community Development Director shall be final unless appealed to the Planning Commission by the permit applicant or any other aggrieved person pursuant to this section. Unless appealed, the permit shall take effect ten (10) working days after it is issued, except where the tenth day occurs on a Saturday, Sunday or holiday, in which case the effective date shall be extended to the next following business day. All work performed on any trees, including designated heritage trees pursuant to a permit as provided in this section shall be completed within forty-five (45) days from the effective date of the permit, or within such longer period as the Director may specify, and in case of replacement trees work shall be completed in accordance with Section 12.12.190 F.

F. Appeals Any person aggrieved by any act or determination, contained, provided or granted in this chapter shall have the right to appeal the Director's decision within 10 working days from approval or denial, to the Planning Commission, and the Planning Commission's decision to the City Council of the city, whose decision, after public hearing on said matter, shall be final.

All appeals must be in writing, state the reasons therefore, and must be made within ten (10) working days of permit approval and delivered to the office of the City Clerk. Community Development Director decisions are appealable to the Planning Commission. Planning Commission decisions are appealable to the City Council. However, the City Council, at its sole discretion, may determine whether to hear or not to hear any such appeal. If the council decides not to hear or consider the appeal, the Planning Commission decision shall be final. All appeal hearings shall be De Novo. Any tree related permit which has been issued and which has been appealed shall, during any appeal period, be suspended.

12.12.190 Tree Replacement.

A. Tree Replacement Ratio. An approval for tree removal under this chapter shall be conditioned upon the applicant planting, at some other location on the subject property, replacement trees to compensate for the removed tree(s) on a ratio of at least two (2) trees or more for each one (1) tree removed, as determined by the Director. Replacement trees and/or in-lieu fees are not required if post-removal tree canopy coverage on the site or parcel will be 30% or more.

B. Tree replacement size to be planted on site. The Community Development Director and/or his/her designee shall approve the type and size of replacement trees. Generally, twenty-four-inch box or larger trees should replace trees located upon properties zoned or used in whole or in part for commercial purposes. Fifteen gallon or larger trees should replace those located upon residential properties. Size of tree could vary per recommendation of a Certified Arborist and acceptance by the Community Development Director and/or his/her designee. For replacement selection the applicant should refer to Chapter 17.97 Water-efficient Landscaping and/or to the Community Forest Program. Trees to be planted on public property or on sensitive habitat zone shall be based on the Community Forest Program guidelines and performance standards developed pursuant to Section 12.12.050 Community Forest Program. Replacement of canopy coverage calculations can be determined on the basis of the size of the subject trees removed ~~as provided on said~~ landscape guides, such as the ~~of~~ **Exhibit 3** **of 24** **18**
Sunset Book.

C. Replacement of Canopy Coverage related to Development Applications. New construction and major remodels of residential and commercial structures shall trigger a canopy coverage review. The goal of the City is to reach and maintain at least 15% percent tree coverage per lot on an on-going basis. Project conditions of approval shall require planting or replacement of all or part of the trees necessary to meet the City goal per discretion of the Community Development Director and/or the Planning Commission as applicable. Planting and replacement should be done within the same lot, possibly in different locations. As a last resort, should tree planting on site not be possible due to existing, non self-imposed hardship and/or topographic conditions, a variation of this requirement may be considered with the payment of in-lieu fees.

Non-self imposed hardship shall mean the unusual form or shape of a lot, existing rock outcroppings on the property, or other topographic feature desired to be protected, or any site physical circumstance that does not allow the applicant to enjoy the same privileges as neighbors have by planting a tree, and/or a circumstance which negatively affects adjacent properties. Circumstances may also include needed sun exposure, visibility of business signs, and other such fundamental reasons that would not justify the planting of a replacement tree on site. If the trees are found to be diseased, infested or hazardous, then canopy coverage replacement is not activated. Replacement trees and/or in-lieu fees are not required if post-removal tree canopy coverage on the site or parcel will be 30% or more.

D. In-lieu fees for trees and canopy coverage replacement. An approval for tree removal under this chapter is conditioned upon the applicant planting, at some location on the subject property, replacement trees and canopy coverage, or as a last resort if all other locations on site are found infeasible, pay in-lieu fees to compensate for the planting and maintenance of those trees by the Public Works Director somewhere else off-site.

E. In-lieu fee structure. The applicant shall pay the in-lieu fees in effect at the time as established by City Council resolution. In-lieu fees would include a deposit and be based on a cost recovery system for the planting and maintenance of trees and canopy percentage to be planted and/or replaced. The cost recovery system is to be approved by the Public Works Director and/or be based on the Tree Guide published by the International Society of Arboriculture. The fees shall be deposited in the Community Tree and Forest Management Account administered by the Public Works Director.

In-lieu fees shall be established by City resolution and include the following:

1. For tree replacements off site; and,
2. For canopy coverage replacements in relation to healthy trees removed or to conditions on new development applications.

F. Time limits for replacement. Permits for tree removal shall not be issued until five hundred dollars (\$500.00) have been deposited with the city to secure the applicant's obligation of planting the replacement tree, unless the Director receives proof that the replacement tree has been planted prior to tree removal or will be planted at the same time as tree removal. If the replacement tree is not planted as required, the city may utilize the money for the expenses (including, but not limited to, staff time) in effecting the planting of the replacement trees.

G. Maintenance of replacement trees. Whenever a permit has been issued on the basis that the applicant will be planting a replacement tree, the applicant must agree to maintain those trees, and to refrain from destroying such trees regardless of the size of the tree. If the tree dies, the applicant shall be required to replace the tree as many times as necessary.

H. Tree Removal and Replacement Fees. The applicant shall pay a permit fee for tree removals and in-lieu fees as applicable, and set forth in the City Council Fee Resolution. The fees would include a deposit and would recover all staff costs for processing, planting, and maintaining trees to replace lost canopy coverage.

12.12.200 Removal by the city of hazardous trees on private property.

A. Declaration of public nuisance. Based on recommendations of the Community Development Director or the Public Works Director, the City Council by resolution may declare tree (heritage and non-heritage tree) to be a public nuisance to be abated as set forth in this section if it is found that any tree growing on private property, when infested by any insect or infected by reason of such infestation or infection, endangers the life or growth or healthful existence of other trees within the city not so infested or infected, or any trees determined to be a danger to persons or property.

B. Notice to abate public nuisance. After the passage of such resolution, the Community Development Director shall cause to be conspicuously posted on the property upon which such public nuisance is alleged to exist, not less than ten (10) working days prior to abatement, not less than three notices headed "Notice to Abate Public Nuisance," such heading to be in letters not less than one inch in height and substantially in the following form:

NOTICE TO ABATE PUBLIC NUISANCE

Notice is hereby given that on the ---day of ---, 20---, the City Council of the City of Capitola passed a resolution declaring that certain (trees) located upon (description of property) are infested with insects, infected with disease, or a clear and present danger to persons or property, and that the same constitute a public nuisance which must be abated by the removal of the same, otherwise they will be removed and the nuisance abated by the City, in which case the cost of such removal shall be assessed upon the property from which such (trees, or other plants) are removed, and such cost will constitute a lien upon such property until paid. Reference is hereby made to said resolution for further particulars.

Any person objecting to the proposed removal, as aforesaid, is hereby notified to attend the meeting of said City Council to be held in the Council Chambers in City Hall at (time) on the ---day of---, 20---.

C. Nothing contained in this section shall be deemed to impose any liability upon the city, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree upon his property or under his control in such a condition as to prevent it from constituting a public nuisance as defined in this section.

12.12.210 Emergency Removal.

In the event of an emergency whereby immediate action is required because of disease or because of imminent danger to life or property, a non-heritage and a heritage tree may be pruned, altered or removed by order of the Public Works Director, or by order of the Police Chief. The person ordering the pruning, alteration or removal shall file a report listing findings to justify the tree removal as follows:

A. Removal Findings for heritage trees. That the emergency removal of the heritage tree is in the public interest because of the health condition of the tree with respect to disease, infestation, or danger of falling on persons or property; that other feasible and safe alternatives to removal have already been explored or applied and would not or did not resolve the problem; that replacement trees and locations have been identified and scheduled for planting. The report shall also include photos and tree documentation for heritage trees and trees in the sensitive habitat areas,

B. Removal Findings for non-heritage trees, that the emergency removal of non-heritage trees is in the public interest because of the health conditions of the tree with respect to disease, infestation or danger of falling on persons or property; that other feasible and safe alternatives have been evaluated and that replacement trees and locations have been identified and scheduled for planting.

C. The report shall be filed within five (5) days from removal with the Community Development Director. The Community Development Director shall forward copies of the report to the Planning Commission and Council for their information.

12.16.220 Americans with Disabilities Act compliance.

The removal and replacement of any trees, including Heritage Trees, shall be in compliance with the Americans with Disabilities Act regulations, such as for path of access and cross slope. This would avoid creating barriers to disabled access.

ENFORCEMENT AND EVALUATION**12.12.230 Enforcement.**

The Community Development Director is hereby charged with the responsibility for the enforcement of this ordinance as soon as it is adopted, and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the City Attorney is hereby authorized to institute appropriate proceedings to that tend.

12.12.240 Monitoring conditions of approval.

Monitoring Conditions of Approval. The Community Development Director and/or his or her designee, with the help of the Public Works Department, shall enforce conditions of approval, monitor replacement tree planting and maintenance to ensure the city regulations are being implemented.

A. Conditions of Approval for Sick and Hazardous Trees. In general the staff member who issues tree permits for sick or hazardous trees will monitor planting and enforce conditions related to those replacement trees planted in the public property.

B. Conditions of Approval for Healthy and Heritage Trees. The Community Development Department staff will monitor planting and enforce conditions related to healthy trees, heritage trees, and for replacement trees planted on private property that were part of a removal permit issued by the Public Works Department staff.

12.12.250 Citizen complaints.

The Public Works Department will respond to citizen complaints regarding dangerous, diseased, and hazardous trees. The Community Development Department will respond to complaints related to illegal removal, harm or excessive pruning and similar problems occurring to healthy trees and heritage trees. When such complaint calls are received during the weekends by the Police Department, a Police Officer would inspect the site, order a Stop Work Notice, and report to the Community Development Department staff on the first working day of the week. In case of an emergency situation the officer would follow provisions as stated in Section 12.12.210.

12.12.260 Tree trimmers.

Tree trimmers are required to perform according to city regulations as set forth in this ordinance and in the Community Forest Program. Violation of these regulations is reason for revocation of the City Permit to Operate within Capitola, and removal from the city list of certified tree trimmers and arborists.

12.12.270 Penalty for violation.

A. Criminal Penalty. Any person alone, or through an agent, employee or representative, who violates any provision of this Chapter shall be guilty of a separate offense for each act constituting a violation of this Chapter. Persons criminally liable for a violation of this Chapter include, but are not limited to, a property owner, an arborist, a tree trimming business, or contractor who perform work or cause work to be performed in violation of this ordinance. The City Attorney shall have the discretion to prosecute any violation of this Chapter as either a misdemeanor or an infraction punishable by a fine in the maximum amount authorized by the California Penal Code for misdemeanors and infractions.

B. Civil Penalty. As an alternative to criminally prosecuting violations of this Chapter, the City may seek civil penalties as herein below set forth.

1. Non-Heritage Tree Violations:

- a. Eight hundred dollars (\$800) per tree for trees between six inches and ten inches in diameter measured forty-eight inches from the ground;
- b. Twelve hundred dollars (\$1,200) per tree for trees between ten inches and twenty inches measured forty-eight inches from the ground;
- c. Two thousand dollars (\$2,000) per tree for any tree over twenty inches in diameter measured forty-eight inches from the ground;

- d. Double penalty for second violation within one year;
 - e. In addition to the civil penalty herein above prescribed, the City shall also recover the cost of staff time, attorney fees and court proceedings incurred in connection with the violation.
2. For Heritage Trees. A penalty be charged of two thousand five hundred dollars (\$2,500) for a first offense and in doubling increments for each successive violation within one year of the prior violation. In addition to the penalty herein prescribed, the City shall also recover the cost of staff time, attorney fees and court proceedings incurred in connection with the violation.

C. Restitution. As an alternative, or in addition to criminal or civil penalties the City may require restitution of any person unlawfully removing, destroying or damaging any trees as prohibited in this Chapter as follows:

- 1. Replace the unlawfully removed tree with one or more trees that, in the opinion of the Community Development Director, will provide equivalent aesthetic quality and other values in terms of size, height, location, appearance, age and other characteristics of the unlawfully removed tree. Such trees may be required to be located either on or off site where the tree was removed.
- 2. Where similar replacement trees cannot be planted on site, in lieu fees shall be paid into the Community Tree Fund to compensate for the planting and maintenance of the tree and the canopy coverage removed.

D. Disqualification. In the event a violation is committed by or under the direction of a Certified Arborist, a "permitted" Tree Trimmer or other contractor included in the City's list, he/she will be removed from the City's list for a minimum of one year. A person or company may petition to be re-listed. The Community Development Director may grant the petition if he or she concludes that the petitioner will follow this Chapter's regulations in the future.

12.12.280 Performance evaluation.

The Community Development Director may collect and maintain all records and data necessary to objectively evaluate whether progress is being made toward the stated goals of this ordinance. Evaluation methods may include, and may not be limited to:

- 1. Aerial photos taken periodically to develop citywide base maps for canopy coverage evaluation, sensitive habitat zones area evaluation, parks and street/transportation corridor landscaping.
- 2. An annual summary and analysis of the tree removal and replacement trees planted on lots evaluated, may be prepared by the Director at the direction of the Planning Commission, and may include but not be limited to the:
 - a) Canopy coverage removed,
 - b) Canopy coverage replaced,
 - c) Flowering trees replaced.

- d) Large trees planted, and,
- e) The amount of in-lieu fees collected over a 1-3 year period as specified by the Commission.

Section 3. This Ordinance shall take effect and be in force upon approval by the California Coastal Commission.

This ordinance was introduced on the 25th day of September, 2003, was modified on the 9th day of October and the 8th day of January, 2004, and passed to a second reading, and was finally passed and adopted by the City Council of the City of Capitola on the 22nd day of January, 2004 by the following vote:

AYES: Council Members Norton, Ortiz, Gualtieri, Arthur and Mayor Harlan

NOES: None

ABSENT: None

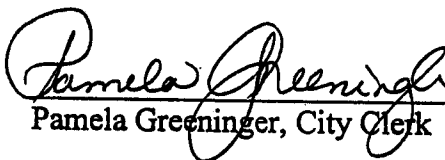
ABSTAIN: None

APPROVED:

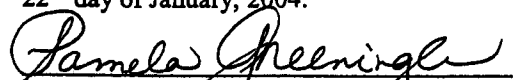


 Stephanie Harlan, Mayor

ATTEST:


 _____ CMC
 Pamela Greeninger, City Clerk

This is to certify that the above and foregoing is a true and correct copy of Ordinance No. 863 passed and adopted by the City Council on the 22nd day of January, 2004.



 Pamela Greeninger, CMC, City Clerk

COPY

RESOLUTION NO. 3355

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AUTHORIZING THE CITY MANAGER TO SUBMIT THE CURRENT AND PREVIOUS CITY LOCAL COASTAL PROGRAM AMENDMENTS TO THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION

WHEREAS, the City's Local Coastal Program was certified by the California Coastal Commission on June 1981, and updated in October of 2001; and

WHEREAS, the Planning Commission conducted a public hearing on February 19 and March 4, 2004; and the City Council held a public hearing on March 11 and took action on March 25, 2004, for amendments to the City's Local Coastal Program as part of a Coastal Commission grant completed in March 2004, and forthwith collectively referred to as the Coastal Commission Grant LCP Amendment, which include the following:

1. A Zoning Ordinance amendment to revise Chapter 17.30 Visitor Serving (VS) and Section 17.46.50 Permit Exemptions, and adding a new Section 17.46.55 Exclusionary Areas (Ordinance No. 868);
2. Amendment to the Local Coastal Program to include within the City of Capitola Coastal Zone boundary three areas formally designated as "Areas of Deferred Certification," namely Rispin Mansion, Shadowbrook Restaurant, and Blodgett/Dodds' Properties (Resolution No. 3353);
3. An ordinance to amend the Blodgett/Dodds' Properties Zoning Map designation from AR/VS/R-1 to VS/R-1 for Assessor's Parcel Numbers 036-142-26, 036-142-27, 036-143-31, 036-142-28, and 036-143-29; and from AR/VS/R-1 to VS/RM-LM for Assessor's Parcel Number 036-143-30 (passed to a second reading on March 25, 2004);
4. Amend the General Plan Map/Local Coastal Program Land Use Plan and Implementation Program to Designate Property located at 620, 720, and 723 El Salto Drive (Assessor's Parcel Numbers 036-142-26, 036-142-27, 036-142-28, 036-143-29, 036-143-30 and 036-143-30) for Visitor Serving / Residential-Low Medium (VS/R-LM) (Resolution No. 3354);
5. Authorization to forward these above amendments as well as previous Local Coastal Program amendments listed below to the California Coastal Commission for certification of the City's Local Coastal Program (this Resolution No. 3355):

Ord. No. 587 Amending Section 10.36.195 of the Municipal Code concerning areas of no weekend or holiday parking.

Ord. No. 755 Amending Sections 17.50.010 and 17.50.100 and adding Sections 17.50.035 and 17.50.045 to the municipal code regarding flood regulations.

Ord. No. 756 Amending Section 17.51.100 (Floor Area Defined) and Adding Section 17.51.035 (Quasi-Public Seating Area).

Ord. No. 757 Deleting Chapter 17.48 re Future Width and Special Building Lines, Amending Section 17.21.110 and Section 17.27.110, and Adding Subsection N. to Section 17. 63.090.

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- Ord. No. 759 Amending Chapter 17.90 of the Capitola Municipal Code pertaining to changes of use of Mobilehome Parks.
- Ord. No. 795 Amending Chapter 17.57, and Land Use Map re off-site Real Estate for Sale signs.
- Ord. No. 799 Amending Zoning Map of Zoning Ordinance for APN 034-182-01 (3790 Brommer Street) from RM-M to PD District (Habitat).
- Ord. No. 798 and Res. No. 2896 Amending GP/LCP Land Use Map from PF/VS (Public Facilities/Visitor Serving) to R-MH (Residential- Mobile Homes) for the Surf and Sand MHP.
- Ord. No. 805 Amending the zoning map of the Zoning Ordinance for APN: 034-161-12, at 1255 41st Avenue, by way of rezoning a portion of the parcel from the "RM-M" (Multiple Family Residential-Medium) district to the "PD" (Planned Development) District.
- Ord. No. 809 and Res. No. 2989 Adding Section 17.63.055 to Chapter 17.63 Architectural and Site Review re: Visualization Requirements.
- Ord. No. 817 Amending Sections 17.03.690 defining "use," 17.60.020 re CUP requirements, 17.60.030 adding criteria to evaluate Use Permits for uses in excess of 12,000 sf., and 17.60.100 for Master Use Permits.
- Ord. No. 819 Amending the Zoning Ordinance for APN 036-062-07, (409 Pine Street) from RM-M to PD District.
- Ord. No. 837 Repealing Ordinance 586 and Section 10.36.045 pertaining to parking meter zones and parking meter rates, and adding a new Section 10.36.045 and Section 10.36.055 to the Municipal Code regarding the same.
- Ord. No. 853 Amending Section 17.63.020 pertaining to the Architectural and Site Review Board.
- ★ Ord. No. 858 Secondary Dwelling Units (SDU) Ordinance amending Section 17.15.040 to include SDU as a Principally Permitted Use. Added Chapter 17.99 pertaining to SDU.
- ★ Ord. No. 860 Urgency Ordinance re Secondary Dwelling Units.
- Ord. No. 862 Ordinance adding Chapter 17.98 to Capitola Municipal Code pertaining to Wireless Communications Facilities.
- ★ Ord. No. 863 Amendment replacing Chapters 12.12, and 12.16 with a new Chapter 12.12 Community Tree and Forest Ordinance.

WHEREAS, the City Council conducted a public hearing on March 11, 2004, and took final action on March 25, 2004, for these Coastal Commission Grant Amendments; and

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WHEREAS, this Coastal Commission LCP Grant Amendment is Statutorily Exempt under CEQA Section 15265 (a) (1); and

WHEREAS, this Coastal Commission LCP Grant Amendment is intended to bring the City's Local Coastal Program into conformance with the Coastal Act; and

WHEREAS, This Coastal Commission LCP Grant Amendment provides the Coastal Commission with the benefit of viewing the proposed changes as a comprehensive package; and

WHEREAS, a Notice of Availability was prepared six weeks prior to final action by the City Council.

NOW, THEREFORE, the City Council of the City of Capitola hereby finds:

1. This Coastal Commission LCP Grant Amendment is Categorical Exempted, and in conformance with the under CEQA Section 15265 (a) (1).
2. This Coastal Commission LCP Grant Amendment is consistent with the Local Coastal Land Use Plan, and the Coastal Act.
3. This Coastal Commission Grant Amendment, as drafted, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Program.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that this Coastal Commission LCP Grant Amendment is hereby adopted and are in full conformity with the City of Capitola Local Coastal Program and provisions of the California Coastal Act.

BE IT FURTHER RESOLVED, that the City Manager or his designee is directed to submit the said Coastal Commission LCP Grant Amendment to the California Coastal Commission for its review and certification. If the Coastal Commission approves the amendment package, it will take effect automatically upon Coastal Commission approval. If the Coastal Commission modifies the amendment package, only the modifications will require formal action by the City of Capitola.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 25th day of March, 2004, by the following vote:

AYES: Council Members Norton, Ortiz, Arthur and Mayor Harlan
 NOES: None
 ABSENT: Council Member Gualtieri
 ABSTAIN: None

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Stephanie Harlan
Stephanie Harlan, Mayor

ATTEST:
Pamela Greeninger, CMC
Pamela Greeninger, City Clerk

This is to certify that the above and foregoing is a true and correct copy of Resolution No. 3355 passed and adopted by the Capitola City Council on the 25th day of March, 2004.

Pamela Greeninger City Clerk
Pamela Greeninger, CMC

CAP-MAJ-2-04-A

