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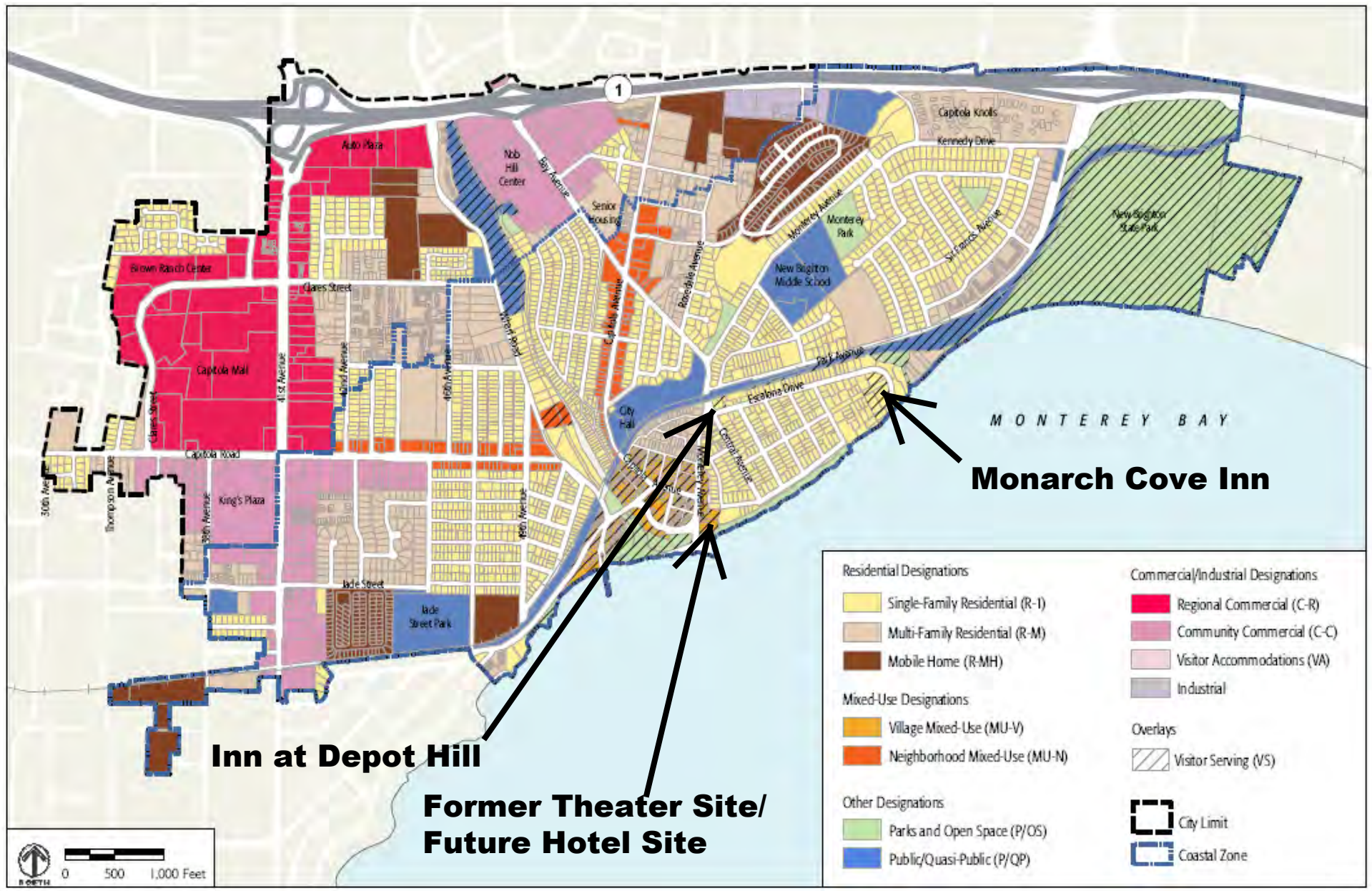
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LCP-3-CAP-20-0082-2 (LAND USE MAP AND ZONING CODE AND MAPS UPDATE)

APRIL 15, 2021 HEARING EXHIBITS

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Source: City of Capitola, 2018.

Title 17

ZONING – COASTAL AREAS

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Chapter 17.03

DEFINITIONS

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17.03.010 — Generally.

Words used in the present tense include the future, words in the singular number include the plural; the word “building” includes the word “structure” and the word “shall” is mandatory, not directory. In the coastal zone the word “structure” shall be defined as provided in Section 17.03.650 of this chapter. The term “city council” when used means the city council of the city of Capitola, and “planning commission” means the city planning commission of the city of Capitola. The word “city” when used shall mean the incorporated city of Capitola. (Ord. 677 § 12(A), 1989; Ord. 388 Art. 1 (part), 1975)

17.03.020 — Accessory building.

“Accessory building” means a portion of the main building or a detached subordinate building located on the same lot, the use of which is purely incidental to that of the main building structure, or to the use of the land, and which shall not contain living or sleeping quarters, except as provided by Chapter 17.99 for secondary dwelling units. (Ord. 873 § 6, 2004; Ord. 388 Art. 1 (part), 1975)

17.03.030 — Accessory structures.

“Accessory structures” means portable buildings, storage sheds, arbors, covered patios and similar buildings and structures constructed and installed as secondary uses to existing principal buildings on a parcel. (Ord. 388 Art. 1 (part), 1975)

17.03.040 — Accessory use.

“Accessory use” means a land use which is permitted on a building site as a secondary use to an existing principal permitted use. (Ord. 388 Art. 1 (part), 1975)

17.03.050 — Agency.

“Agency” means an office or commercial establishment in which goods, material, or equipment is received for servicing, treatment or processing elsewhere. (Ord. 388 Art. 1 (part), 1975)

17.03.060 — Alley.

“Alley” means a public or permanent private way twenty feet or less in width which affords a secondary means of access to abutting property. (Ord. 388 Art. 1 (part), 1975)

17.03.067 — Amusement center.

“Amusement center” means any business, or portion of a business, that operates five or more coin-operated machines for amusement purposes (i.e., pinball machines, electronic games, etc.). (Ord. 536 § 1, 1983)

17.03.068 — Assumed ground surface.

“Assumed ground surface” means a line on each elevation of an exterior wall or vertical surface which connects those points where the perimeter of the structure meets the finished grade, subject to the following exception: if there has been grading or filling on the property within five years preceding the time of the application, or proposed as part of the application, and that grading or filling has or would increase the height of the finished grade at one or more points where it would meet the perimeter of the proposed structure, the planning commission may measure heights from where it estimates the grade is or was before the grading or filling, if the commission determines that such an action is necessary to keep the height of the proposed structure in reasonable relationship to the heights in the neighborhood. (Ord. 642 § 1, 1987)

17.03.070 — Automobile wrecking.

“Automobile wrecking” means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or parts thereof. (Ord. 388 Art. 1 (part), 1975)

17.03.075 — Back flow prevention device.

“Back flow prevention device” means a safety device used to prevent pollution or contamination of water supply due to the reverse flow of water from the irrigation system. (Ord. 744 § 2, 1992)

17.03.080 — Basement.

“Basement” means that portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. (Ord. 388 Art. 1 (part), 1975)

17.03.082 — Bay window.

“Bay window” means a window or series of windows serving as an important element of the building’s architecture; forming an alcove in a room and projecting outward from the wall in a rectangular, polygonal or curved form. (Ord. 776 § 1, 1995)

17.03.085 — Bed and breakfast.

“Bed and breakfast” means a home occupation in which there are guests as defined in Section 17.03.280. In addition the requirements of Section 17.03.310, bed and breakfast home occupations must meet the following requirements:

A. The room(s) are rented for transient (less than thirty days) occupancy;

B. The total number of persons staying within the rented portion of a bed and breakfast premises shall at no time exceed four, regardless of the number of rooms utilized by those four persons;

C. In addition to the regular parking requirements for the premises, one parking space must be provided for each bedroom available to bed and breakfast guests. (Ord. 533 § 1, 1983)

17.03.086 — Bench.

“Bench” means a seat located upon, or adjacent to, public property for the accommodation of the public. (Ord. 775 § 1, 1995)

17.03.090 — Block.

“Block” means all property fronting upon one side of a street between intersecting and intercepting streets or between a street and right of way, waterway, end of dead end street or city boundary. An intercepting street shall determine only the boundary of the block on the side of the street which it intercepts. (Ord. 388 Art. 1 (part), 1975)

17.03.093 — Bluff or cliff.

“Bluff” or “cliff” means the sharp or steep face of rock, decomposed rocks, sediment or soil resulting from erosion, faulting, folding or excavation of land mass and exceeding ten feet in height, and includes what we commonly know as “cliffs.” (Ord. 628 § 1, 1987)

17.03.110 — Building.

“Building” means any structure used or intended for supporting or sheltering any use or occupancy. (Ord. 388 Art. 1 (part), 1975)

17.03.120 — Building coverage.

“Building coverage” means the land area covered by all buildings and accessory structures on a lot. (Ord. 388 Art. 1 (part), 1975)

17.03.125 — Building face.

“Building face” means and includes the general outer surface of a main exterior wall of a building. For example, a building with a rectangular plan has four main exterior walls and four building faces. (Ord. 775 § 1, 1995)

17.03.130 — Building height.

“Building height” means the vertical distance measured from the assumed ground surface of the building to the highest point of the roof, ridge or parapet wall. (Ord. 642 § 2, 1987; Ord. 455, 1979; Ord. 388 Art. 1 (part), 1975)

17.03.135 — Building line.

“Building line” means a line established by ordinance beyond which no building may extend. A building line may be a property line. See curblane. (Ord. 775 § 1, 1995)

17.03.140 — Building site.

“Building site” means the ground area occupied or capable of being occupied under this title by a building or group of buildings together with all open spaces as required by this title. (Ord. 388 Art. 1 (part), 1975)

17.03.150 — Carport.

“Carport” means an accessory building to a residential structure, open on two, three or four sides and attached to, or detached from, a dwelling and established for the convenient loading or unloading of passengers or the storage of an automobile. (Ord. 873 § 7, 2004; Ord. 388 Art. 1 (part), 1975)

17.03.160 — Club.

“Club” means an association of persons for some common nonprofit purpose, but not including groups organized primarily to render a service which is customarily carried on as a business. (Ord. 388 Art. 1 (part), 1975)

17.03.164 — Community care facility.

A “community care facility” is any building which is maintained and operated to provide nonmedical residential care, or day care services for children, adults or children and adults, including, but not limited to, the physically handicapped, mentally impaired, or incompetent persons. All community care facilities shall be appropriately licensed or registered pursuant to state law, unless exempted therefrom by state law. This definition and all other definitions relating to community care facilities shall be interpreted so as to be consistent with definitions found in state law or state administrative regulations. (Ord. 608 § 2, 1986)

17.03.166 — Community care residential facility.

A. A “community care residential facility” is a community care facility, providing twenty four hour nonmedical care of persons in need of personal service, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individuals. It does not include “child day care facility” as that term is defined in Welfare and Institutions Code § 1596.750.

B. A small community care residential facility is one which serves six or fewer persons, not counting the operators.

C. A large community care residential facility has seven or more residents (not counting operators), including retirement homes and boarding homes for the aged but not including nursing homes. (Ord. 608 § 2, 1986)

17.03.170 — Convalescent hospital.

A “convalescent hospital” is a type of hospital which provides bed care for persons suffering chronic illness, or convalescent care for patients who, by reason of illness or physical infirmity, are unable to care for themselves properly. (Ord. 608 § 2, 1986; Ord. 388 Art. 1 (part), 1975)

17.03.180 — Court.

“Court” means an open, unoccupied space, other than a yard, on the same lot with a building or buildings and bounded on two or more sides by such buildings. (Ord. 388 Art. 1 (part), 1975)

17.03.181 — Curblin.

“Curblin” means the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curblin shall be established by the city engineer. See building line. (Ord. 775 § 1, 1995)

17.03.182 — Drip or bubble irrigation.

“Drip or bubble irrigation” means a network of narrow tubes or porous tubing that deliver small amounts of water to individual plants above or below the ground. (Ord. 744 § 2, 1992)

17.03.185 — Drought resistant.

“Drought resistant” means a plant that can survive with little or no water once established. (Ord. 744 § 2, 1992)

17.03.190 — Dwelling.

“Dwelling” means a building or portion thereof designed exclusively for residential occupancy, including one-family, two family, and multiple dwellings, but not including hotels and lodging facilities. (Ord. 661 § 2, 1988; Ord. 388 Art. 1 (part), 1975)

17.03.200 — Dwelling multiple family.

A. ~~“Multiple family dwelling” when used in the context of, or with reference to, the design, development, construction of, or remodeling of a building or portion thereof, means a building designed as a residence to house two or more families, living independently of each other and doing their own cooking in said building, including all necessary employees of each such family, including apartment and group dwellings.~~

B. ~~When used in the context of, or with reference to the use of buildings, “multiple family dwelling” means using buildings or portions thereof as a residence to house two or more families, living independently of each other, and doing their own cooking in said building, including all necessary employees of each such family. “Residence,” as used in this subsection does not include “transient rental use” as defined in Section 17.03.686. (Ord. 687 § 3, 1990; Ord. 388 Art. 1 (part), 1975)~~

17.03.210 — Dwelling, one family.

A. ~~One family dwelling” when used in the context of, or with reference to, design, development, construction, or remodeling means a detached building, containing one kitchen, designed exclusively to house not more than one family, including all necessary employees of such family.~~

B. ~~When used in the context of, or with reference to, the use of a building or portion thereof, “one family dwelling” means used exclusively for residential occupancy by not more than one family, including all necessary employees of such family. “Residential occupancy” as used in this subsection does not include “transient rental use” as defined in Section 17.03.686. (Ord. 687 § 2, 1990; Ord. 388 Art. 1 (part), 1975)~~

17.03.220 — Dwelling unit.

~~“Dwelling unit” means one or more rooms in a dwelling designed for occupancy by one family for living or sleeping purposes and having only one kitchen. (Ord. 388 Art. 1 (part), 1975)~~

17.03.223 — Energy facility.

~~“Energy facility” means any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal or other source of energy. (Ord. 677 § 12(B), 1989)~~

17.03.225 — External appearance.

~~“External appearance” means the architectural style, design, general arrangement, and components of all of the outer surfaces of an improvement, including, but not limited to, color and texture of building material and type and style of all windows, doors, lights, signs, and other fixtures appurtenant to the improvement. (Ord. 515 § 3, 1982)~~

17.03.230 — Factory built housing.

~~“Factory built housing” means any residential building, dwelling unit or habitable room thereof which is either wholly manufactured or is in a substantial part manufactured at an off site location to be wholly or partially assembled on another site for residential or dwelling purposes. (Ord. 388 Art. 1 (part), 1975)~~

17.03.240 — Family.

~~“Family” means a group of persons who live together, whether at one or more addresses, on a relatively permanent basis. However, “single family” or “multiple family” should not be interpreted to prohibit a person, living alone, from residing in R-1 or R-M zones. (Ord. 690 § 1, 1990; Ord. 388 Art. 1 (part), 1975)~~

17.03.242 — Family day care home.

~~“Family day care home” means a home that regularly provides care, protection, and supervision for fourteen or fewer children, in the provider’s own home, for periods of less than twenty four hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home. (See Section 1596.78 of the California Health and Safety Code.)~~

A. ~~“Large family day care home” means a home that provides family day care for up to twelve children, or for up to fourteen children if certain criteria are met, as set forth in California Health and Safety Code Section 1597.465 and as defined in state regulations (see 22 California Administrative Code Sections 102352(f)(1)(B) and 102416.5(e)). These capacities include children under age ten who live in the licensee’s home and the assistant provider’s children under age ten.~~

~~B. “Small family day care home” means a home that provides family day care for up to six children, or for up to eight children if certain criteria are met, as set forth in California Health and Safety Code Section 1597.44 and as defined in regulations (see 22 California Administrative Code Sections 102352(f)(1)(A) and 102416.5(b)). These capacities include children under age ten who live in the licensee’s home. (Ord. 878 § 1, 2004; Ord. 608 § 2, 1986)~~

17.03.245 — Floodplain.

~~“Floodplain” means the land on either side of the creek or other watercourse which may be subject to flooding, and includes but is not necessarily limited to any one-hundred-year floodplain as determined by the Federal Flood Insurance Program. (Ord. 628 § 1, 1987)~~

17.03.246 — Floor area.

~~“Floor area” means the entire floor area in all enclosed structures, without deduction for such features as interior walls, stairways or storage, except as permitted for one and one-half story single family residences pursuant to Section 17.15.100(B). It also includes covered or uncovered upper floor decks; and porches and covered exterior open space in excess of one hundred fifty square feet, including eaves greater than eighteen inches in length. For commercial uses the floor area of patios, courtyards and outside dining areas primarily utilized by a business or group of related businesses, its customers, or its employees, as opposed to the general public. “Floor area ratio” means the gross floor area of all of the buildings on the lot divided by the net lot area. (Ord. 882 § 1, 2005; Ord. 873 § 8, 2004; Ord. 775 § 1, 1995)~~

17.03.247 — Floor area, available for dining.

~~“Floor area, available for dining” means floor area in a restaurant which may be used for the placement of seating for the consumption of food or beverages. (Ord. 947 § 4, 2010)~~

17.03.248 — Freeway.

~~“Freeway” means a highway or expressway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which owners have only limited or restricted right or easement of access. (Ord. 947 § 4, 2010; Ord. 775 § 1, 1995)~~

17.03.250 — Frontage.

~~“Frontage” means that portion of all property abutting on a side of a street between two intersecting or terminating streets, or the end of such street if it does not meet another. (Ord. 388 Art. 1 (part), 1975)~~

17.03.260 — Garage, parking.

~~“Parking garage” means any building or premises, except those described as a private garage, designed and/or used by the general public on a commercial basis for the storage only of motor vehicles. (Ord. 388 Art. 1 (part), 1975)~~

17.03.270 — Garage, private.

~~“Private garage” means a detached accessory building or portion of a main building with capacity for not more than three motor vehicles designed and/or used for the shelter, parking or storage of vehicles owned or operated by the occupants of the main dwelling, including covered parking space or carport; provided, however, a private garage may exceed a three vehicle capacity if the lot whereupon such garage is located contains, in area, not less than one thousand five hundred square feet for each vehicle stored. (See definition of accessory building.) (Ord. 388 Art. 1 (part), 1975)~~

17.03.275 — Geological hazard.

~~“Geological hazard” means a threat to life, property or public safety caused by geological or hydrological processes such as faulting and secondary seismic effects, including but not limited to: liquefaction, landsliding, erosion, flooding, tsunami or storm wave inundation. (Ord. 628 § 1, 1987)~~

17.03.280 — Guest.

~~“Guest” means any person who rents a room for sleeping purposes. (Ord. 388 Art. 1 (part), 1975)~~

17.03.285 — Historic feature.

~~Any improvement, or group of improvements on a single site, of historic significance because of special aesthetic, cultural, architectural, archaeological, paleontological characteristic which has been so designated by the city council upon the recommendation of the planning commission. (Ord. 515 § 3, 1982)~~

17.03.310 — Home occupations.

“Home occupations” means any secondary activity conducted on the premises by the occupant of the dwelling where the home occupation is the applicant’s only place of business; where there are no advertising signs (except a nameplate not to exceed one square foot in size); no display or outside storage; no employee or assistant who is not a resident of the dwelling; no objectionable equipment, noise or odors; no excessive pedestrian, automobile or truck traffic introduced to the neighborhood; normally no goods or commodity sold on the premises; and does not provide a service which normally involves the purchaser being present when a significant portion of the services are performed. (Ord. 747, 1993; Ord. 388 Art. 1 (part), 1975)

17.03.320 — Hotel.

“Hotel” means any building or portion containing six or more guest rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests with no provision for cooking in any individual room or suite, with access to units primarily from interior lobbies, courts or halls (including hotels, public and private clubs and any such buildings of any nature whatsoever so designed or intended to be occupied), except that jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes and similar buildings where human beings are housed or detained under legal restraint, are specifically not included. (Ord. 608 § 2, 1986; Ord. 388 Art. 1 (part), 1975)

17.03.322 — Irrigation audit.

“Irrigation audit” means a process to perform site inspections, evaluate irrigation systems, and develop efficient irrigation schedules. (Ord. 744 § 2, 1992)

17.03.325 — Irrigation system.

“Irrigation system” means a system designed to distribute water to plants artificially. (Ord. 744 § 2, 1992)

17.03.330 — Junkyard.

“Junkyard” means an area of more than three hundred square feet of any lot or of any portion of the front half of any lot for the storage of junk including scrap metals or other scrap materials, and/or for the dismantling or wrecking of automobiles or other vehicles or machinery. (Ord. 388 Art. 1 (part), 1975)

17.03.340 — Kitchen.

“Kitchen” means any room or part of a room used or intended or designed to be used for cooking or the preparation of food for a single dwelling unit, and distinct from a “mini bar/convenience area” which is intended as a supplemental food preparation area within a single family home. Such an area is limited to a small refrigerator, a microwave oven and a small sink with a drain size less than one and one-half inches. No gas line or two hundred twenty electric service is permitted within this area. Only one such area is permitted within a dwelling in addition to the kitchen, and internal access within the dwelling must be maintained. (Ord. 873 § 9, 2004; Ord. 388 Art. 1 (part), 1975)

17.03.345 — Landscaped area.

“Landscaped area” means the entire parcel less the building footprint, driveways, nonirrigated portions of parking lots, and hardscapes. Water features are included in the calculation of the landscaped area. (Ord. 744 § 2, 1992)

17.03.350 — Lodging facility.

“Lodging facility” means a business which rents rooms to the general public for sleeping purposes, but which is neither a hotel nor motel. Lodging facilities may not do any of the following:

- A. Rent rooms in which there are cooking facilities;
- B. Rent to persons who intend to make it their domicile or residence;
- C. Offer leases with terms greater than twenty nine days;
- D. Provide the following services to its guests: (1) medical care, (2) convalescent care, or (3) care, protection or supervision for minors. (Ord. 661 § 1, 1988; Ord. 608 § 2, 1986; Ord. 388 Art. 1 (part), 1975)

17.03.360 — Lot.

~~“Lot” means a parcel of land under one ownership occupied or capable of being occupied by a building and its accessory buildings, together with such open spaces as are required under the regulations of this title, and having its principal frontage upon a street or place, but not including an alley. (Ord. 388 Art. 1 (part), 1975)~~

17.03.370 — Lot area.

~~“Lot area” means the total horizontal area included within the lot lines of the lot, including one half the width of any alley or portion thereof abutting any such lot line. (Ord. 388 Art. 1 (part), 1975)~~

17.03.380 — Lot, corner.

~~“Corner lot” means a lot situated at the junction of two or more intersecting streets, with a lot line thereof bordering on each of the two or more streets. (Ord. 388 Art. 1 (part), 1975)~~

17.03.390 — Lot depth.

~~“Lot depth” means the horizontal distance from the street line or front line of the lot to the rear line, measured in the mean direction of the side lines of the lot. (Ord. 388 Art. 1 (part), 1975)~~

17.03.400 — Lot line.

~~“Lot line” means the lines bounding a lot as defined in this chapter. (Ord. 388 Art. 1 (part), 1975)~~

17.03.410 — Lot line, front.

~~“Front lot line” means that dimension of a lot or portion of a lot, abutting on a street except the side of a corner lot. (Ord. 388 Art. 1 (part), 1975)~~

17.03.420 — Lot line, rear.

~~“Rear lot line” means ordinarily, the line of a lot which is generally opposite the line along the frontage of said lot. In cases in which this definition is not applicable, the planning commission shall designate the rear lot line. (Ord. 388 Art. 1 (part), 1975)~~

17.03.430 — Lot line, side.

~~“Side lot line” means any boundary line not a front line or a rear line. (Ord. 388 Art. 1 (part), 1975)~~

17.03.440 — Lot, reversed corner.

~~“Reversed corner lot” means a corner lot, the side street line of which is substantially a continuation of the front line of the lot upon which it rears. (Ord. 388 Art. 1 (part), 1975)~~

17.03.450 — Lot width.

~~“Lot width” means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines. (Ord. 388 Art. 1 (part), 1975)~~

17.03.455 — Material change.

~~“Material change” means any significant alteration, by private or public action, in the external appearance or surface of an improvement, landscape or vista. This shall not include ordinary maintenance which does not require a permit. (Ord. 515 § 3, 1982)~~

17.03.460 — Modular built housing.

~~“Modular built housing” means any mass produced or manufactured housing in modules or sections that are intended to be reassembled at a housing site. (Ord. 388 Art. 1 (part), 1975)~~

17.03.470 — Motels.

~~“Motels” means a building or group of buildings containing individual sleeping or living units, designed for or used by automobile tourists or transient guests, with parking space conveniently located to each unit, including auto-courts, motels or motor lodges. (Ord. 608 § 2, 1986; Ord. 388 Art. 1 (part), 1975)~~

17.03.475 — Mulch.

~~“Mulch” means any material such as leaves, bark, straw or other materials left loose and applied to the soil surface to reduce evaporation. (Ord. 744 § 2, 1992)~~

17.03.480 — Nonconforming structure.

~~“Nonconforming structure” is defined as a structure which does not meet the current development standards for the district in which the structure is located. Development standards include, but are not limited to setbacks, height or lot coverage regulations of the district, but do not include standards contained in the Uniform Codes, such as the Building Code, adopted in Section 15.04.010 because those codes contain their own specific regulations regarding structures that do not meet current regulations. (Ord. 761 § 2, 1993; Ord. 388 Art. 1 (part), 1975)~~

17.03.490 — Nonconforming activity.

~~“Nonconforming activity” is defined as an activity, business or enterprise which was legal at the time it was established but which is not presently a permitted or conditional use in the zoning district where the activity, business or enterprise is located, or does not conform to current parking requirements. In residential zones it also means having a greater density of dwelling units than is presently allowed in the district. (Ord. 761 § 2, 1993; Ord. 388 Art. 1 (part), 1975)~~

17.03.500 — Nursing home.

~~“Nursing home” is deemed to include any occupancy for the reception and care of persons both ambulatory and nonambulatory which has been duly licensed by the State Health Department and the State Fire Marshal’s Office. (Ord. 388 Art. 1 (part), 1975)~~

17.03.510 — Parking lot.

~~“Parking lot” means an open area of land, a yard or other open space on a lot other than a street or alley, used for or designed for temporary parking for more than four automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers. (Ord. 388 Art. 1 (part), 1975)~~

17.03.520 — Parking space.

~~“Parking space” means land or space privately owned, covered or uncovered, laid out for, surfaced, and used or designed to be used for temporary parking or storage of standard motor vehicles. (Ord. 388 Art. 1 (part), 1975)~~

17.03.525 — Public works.

~~“Public works” means the following:~~

- ~~A. All production, storage, transmission, and recovery facilities for water, sewerage, telephone and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities;~~
- ~~B. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires and other related facilities;~~
- ~~C. All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district;~~
- ~~D. All community college districts. (Ord. 677 § 12(C), 1989)~~

17.03.526 — Rain-sensing override device.

~~“Rain-sensing override device” means a system which automatically shuts off the irrigation system when it rains. (Ord. 744 § 2, 1992)~~

17.03.527 — Residence.

~~“Residence” as used in this title means a dwelling unit, inhabited by an individual or a family, on a non-transient basis. (Ord. 690 § 2, 1990)~~

17.03.530 — Residential care home.

~~“Residential care home” means a family residence in which room, board, and non-medical personal care services including supervision of and assistance with dressing, eating, personal hygiene, daily activity, health maintenance, transportation and protective safeguards for one to six adults are provided. (Ord. 388 Art. 1 (part), 1975)~~

17.03.535 — Restaurant.

“Restaurant” means a retail food service establishment in which food or beverage is prepared and sold for on-site consumption. (Ord. 947 § 5, 2010)

17.03.550 — Schools, elementary, junior, and senior high.

“Elementary, junior and senior high schools” means an institution of learning which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the state. (Ord. 388 Art. 1 (part), 1975)

17.03.570 — Service stations.

“Service stations” means a retail business establishment supplying gasoline and oil and minor accessories for automobiles. (Ord. 388 Art. 1 (part), 1975)

17.03.575 — Sprinkler head.

“Sprinkler head” means a device which sprays water through a nozzle. (Ord. 744 § 2, 1992)

17.03.580 — Stable, private.

“Private stable” means an accessory building with capacity for not more than two horses; provided, however, that the capacity of a private stable may be increased if the lot whereon such stable is located contains area of not less than twenty thousand square feet for each horse stabled, and to be used exclusively by the owners thereof and not kept for remuneration, hire or sale. (Ord. 388 Art. 1 (part), 1975)

17.03.600 — Story.

“Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under floor space is more than six feet above grade as defined in this chapter for more than fifty percent of the total perimeter or is more than twelve feet above grade as defined in this chapter at any point, such basement, cellar or unused under floor space shall be considered as a story. (Ord. 388 Art. 1 (part), 1975)

17.03.610 — Story, half.

“Half story” means a partial story under a gable, hip or gambrel roof, the wall plates of which are at least two opposite exterior walls and which are not more than four feet above the floor plate of the second floor, and may include shed or dormer projections from those walls. Dormers may constitute not more than one third of the length of the wall upon which they are located, whether as a single unit or multiple dormers. (Ord. 882 § 1, 2005; Ord. 873 § 10, 2004; Ord. 388 Art. 1 (part), 1975)

17.03.620 — Street.

“Street” means a public way more than twenty feet in width which affords a primary or principal means of access to abutting property. (Ord. 388 Art. 1 (part), 1975)

17.03.630 — Street, side.

“Side street” means that street bounding a corner lot and which extends in the same general direction as the line determining the length of the lot. (Ord. 388 Art. 1 (part), 1975)

17.03.640 — Structural alterations.

“Structural alterations” means any change in the supporting members of a building, such as bearing walls, columns, beams, girders, floor, ceiling or roof joists and roof rafters, or change in roof exterior lines which would prolong the life of the supporting members of a building. (Ord. 388 Art. 1 (part), 1975)

17.03.650 — Structure.

“Structure” means anything constructed or erected, the use of which requires permanent location on the ground, or attached to something having a permanent location on the ground. Pipelines, poles, wires and similar installations erected or installed by public utility districts or companies shall not be construed as structures requiring a permit under this title.

~~B. In the coastal zone, “structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line. These structures do require a coastal development permit except as exempted under Section 17.46.050 of this title. (Ord. 677 § 12(D), 1989; Ord. 388 Art. 1 (part), 1975)~~

17.03.660 — Supermarket.

~~“Supermarket” means a retail food store with a gross floor area exceeding five thousand square feet. (Ord. 388 Art. 1 (part), 1975)~~

17.03.665 — Supportive housing.

~~“Supportive housing” means housing with no limit on length of stay and that is occupied by a target population as defined in subdivision (d) of Section 53260 of the California Health and Safety Code, and that is linked to on-site or off-site services that assist residents in retaining housing, improving their health status, maximizing their ability to live and, when possible, work in the community. Supportive housing shall be treated as a residential use and shall be subject only to those restrictions that apply to other residential uses of the same residential housing type located in the same zoning district. (Ord. 998 § 1, 2015)~~

17.03.670 — Trailer, automobile.

~~“Automobile trailer” means a vehicle with or without motor power, designed to be drawn by a motor vehicle when necessary and to be used for human habitation and for carrying persons and property, including trailer coach or house trailer. (Ord. 388 Art. 1 (part), 1975)~~

17.03.680 — Trailer park.

~~“Trailer park” means any area or tract of land intended, maintained or designed for the purpose of supplying a location for accommodation for one or more automobile trailers or mobile homes for human habitation, including trailer camps or trailer parks, whether or not a charge is made for the use of the trailer space and park facilities. (Ord. 388 Art. 1 (part), 1975)~~

17.03.686 — Transient rental use.

~~“Transient rental use” means, in R-1 or R-M district, the occupancy for hire of real property or portion thereof for a period of less than thirty consecutive calendar days. “For hire,” for purposes of this section, does not include:~~

~~A. The owner or long term lessee of the property, without consideration, allowing family or friends to use the property;~~

~~B. An arrangement whereby the owner or long term lessee of the property agrees to a short term trade with another property owner or long term lessee whereby the sole consideration is each concurrently using the other’s property. (Ord. 687 § 1, 1990)~~

17.03.688 — Transitional housing.

~~“Transitional housing” means residential units operated under program requirements that call for: (A) the termination of any assistance to an existing program recipient, and (B) the subsequent recirculation of the assisted residential unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months. Transitional housing may be provided in all residential housing types. In all cases, transitional housing is and shall be treated as a residential use and shall be subject only to those restrictions that apply to other residential uses of the same residential housing type located in the same zoning district. (Ord. 998 § 2, 2015)~~

17.03.690 — Use.

~~“Use,” when utilized in reference to a proposal to create or modify a building, means the kinds of intended occupancies for which the building is arranged or designed. In other contexts, “use” refers to the predominant activity or class of activities that will be allowed within a building, or upon a parcel or collection of adjacent parcels. Where it is relevant to distinguish, the phrase “design use” will be utilized to refer to the first meaning above; and “activity use” will be utilized for the second above stated meaning. (Ord. 817 § 1, 2000; Ord. 388 Art 1 (part), 1975)~~

17.03.692 — Valve.

~~“Valve” means a device used to control the flow of water in the irrigation system. (Ord. 744 § 2, 1992)~~

17.03.695 — Vista.

~~“Vista” means a long view, or prospect, especially one through or along an avenue, as between rows of trees; also, the trees, structures, or other forming the avenue or view. (Ord. 515 § 3, 1982)~~

17.03.700 — Warehouse.

~~“Warehouse” means a building used primarily for the more or less temporary storage of commercial goods to be sold elsewhere. (Ord. 388 Art. 1 (part), 1975)~~

17.03.710 — Yard.

~~“Yard” means an open space, other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward, except for such encroachments as provided in the district regulations of this title. (Ord. 388 Art. 1 (part), 1975)~~

17.03.720 — Yard, front.

~~“Front yard” means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front line of the lot and the nearest line of the main building or enclosed or covered porch. On a corner lot the front line of the lot shall ordinarily be construed as the least dimension of the lot fronting on a street. (Ord. 388 Art. 1 (part), 1975)~~

17.03.730 — Yard, rear.

~~“Rear yard” means a yard extending across the full width of the lot, and measured between the rear line of the main building or enclosed or covered porch nearest the rear line of the lot; the depth of the required rear yard shall be measured horizontally. (Ord. 388 Art. 1 (part), 1975)~~

17.03.740 — Yard, side.

~~“Side yard” means a yard on each side of the main building extending from the front yard to the rear yard, the width of each yard being measured between the side line of the lot and the nearest part of the main building or enclosed or covered porch. (Ord. 388 Art. 1 (part), 1975)~~

17.03.750 — Wrecking yard.

~~See “Junkyard.” (Ord. 388 Art. 1 (part), 1975)~~

Chapter 17.06

ESTABLISHMENT AND DESIGNATION OF DISTRICTS

Sections:

- ~~17.06.010 — Purpose.~~
~~17.06.020 — Establishment of land use regulations and city districts.~~
~~17.06.030 — District boundaries.~~
~~17.06.040 — Regulations applicable by districts.~~

17.06.010 — Purpose.

~~The purpose of this title is to designate such land use regulations and a zoning plan for the city as are deemed necessary to encourage the most appropriate use of land; to enhance and stabilize the value of property; to provide open space for light and air and to prevent and fight fires; to prevent undue concentration of population; to promote orderly community development; to lessen congestion on streets; to facilitate adequate provisions for community utilities, such as transportation, schools, parks and other public requirements; and to promote health, safety and the general welfare, all in accordance with a comprehensive plan. (Ord. 388 § 2.01, 1977)~~

17.06.020 — Establishment of land use regulations and city districts.

~~In order to classify land within the city, to regulate and restrict the location and use of buildings, or other purposes, to regulate and limit the height, number of stories, exterior design, size of buildings and other structures hereafter erected or altered; to regulate and determine the size of yards and other open spaces; and to regulate and limit the density of population, and for said purpose to divide the city into districts of such number, shape and area as may be deemed best suited to carry out these regulations and provide for their enforcement, the city creates the following districts:~~

A-P	—	Archaeological/paleontological resource district
R-1	—	Single-family residence district
R-M	—	Multiple-family residence district
C-V	—	Central village district
RRO	—	Riverview Avenue residential overlay district (See Section 17.21.100(B))
CAO	—	Cherry Avenue overlay district (See Section 17.21.100(B))
C-R	—	Commercial/residential district
C-N	—	Neighborhood commercial district (See Ordinance 658 which amends Chapter 17.24)
C-C	—	Community commercial district
P/OS	—	Parks and open space district
V-S	—	Visitor serving
P-O	—	Professional office district
I-P	—	Industrial park district
P-D	—	Planned development district
P-F	—	Public facilities district
C-Z	—	Coastal zone combining district
A-R	—	Automatic review district

G-H	—	Geologic hazard district—
F-P	—	Floodplain combining district—
TRO	—	Transient rental use overlay district (See— municipal code Chapter 17.19)

(Ord. 708 § 1, 1991; Ord. 696 § 1, 1990; Ord. 677 § 13(A), 1989; Ord. 388 § 2.02, 1975)

~~17.06.030—District boundaries.~~

~~Districts aforesaid and the boundaries of such districts for the regulation of the uses of land and buildings are shown upon the zoning map as set forth in Chapter 17.09 of this title. (Ord. 677 § 13(B), 1989; Ord. 388 § 2.03, 1975)~~

~~17.06.040—Regulations applicable by districts.~~

~~Except as provided in Chapter 9.36 regarding temporary activities, no land shall be used, and no building or structure shall be erected, constructed, reconstructed, enlarged, structurally altered, moved or used for any purpose other than is permitted in the district in which such building or land is located, as shown upon the zoning map, except in accordance with the regulations established by this title for said district and in accordance with the general regulations of Chapter 17.81, and nonconforming use provisions of Chapter 17.72. Adjustment and variation of regulations and provisions in this title may be applied for as provided in Chapter 17.66. (Ord. 507 (part), 1981; Ord. 388 § 2.04, 1975)~~

Chapter 17.09

ZONING MAPS

Sections:

~~17.09.010 — Zoning map of the city of Capitola.~~

17.09.010 — Zoning map of the city of Capitola.

A. ~~From and after April 27, 1989, the zoning map (see Section 17.06.030) of the city shall be that certain “City of Capitola Zoning Map” which the community development director has filed with the city clerk and the city clerk has certified and dated April 7, 1989.~~

B. ~~An amendment of the zoning map or of any part, extension, or amendment thereof may be made, and changes in symbols, legends, classifications, notations, references or other matters shown thereon may be made, by the preparation and adoption of a new zoning map or part thereof. Within the coastal zone, revisions of the zoning map shall be subject to the provisions of Section 17.69.120 of this title.~~

C. ~~Each amendment of the zoning map shall be dated and shall be identified as an amendment to this section of the municipal code.~~

D. ~~The zoning map, including all amendments hereafter adopted, shall govern the administration and enforcement of all regulations contained in this title and issuance of permits. (Ord. 677 § 14, 1989; Ord. 388 Art. 3, 1975)~~

Chapter 17.10

GREEN BUILDING REGULATIONS

Sections:

- ~~17.10.010 Purpose and findings.~~
- ~~17.10.020 Definitions.~~
- ~~17.10.030 Standards for compliance.~~
- ~~17.10.040 Exceptions.~~
- ~~17.10.050 Maintenance of document.~~
- ~~17.10.060 Method of compliance.~~
- ~~17.10.070 Exceptional design.~~
- ~~17.10.080 Creation of green building fund.~~

17.10.010 Purpose and findings.

~~The city finds that green building design, construction and operation can have a significant positive effect on energy and resource efficiency, waste and pollution generation, and the health and productivity of a building's occupants over the life of the building. The second purpose is to create healthy work and living environments increasing the productivity of workers and residents and visitors to the city by improving indoor air quality and lighting.~~

~~The intent of this section is to help promote the environmental sustainability of natural resources and improvement of the interior environment by efficiently redirecting the use of recyclable materials away from landfills, by introducing recycled content and materials created with low embodied energy materials in construction, and by reducing the energy consumption needs of structures by making use of efficient construction methods.~~

~~The city also finds that green design and construction decisions made by the city in the construction and remodeling of city buildings can result in significant cost savings to the city over the life of the buildings. The city also recognizes that it must lead by example in order to have the general populace follow suit and therefore commits itself to the practice of green building for all new and remodeling construction on city owned buildings and structures.~~

~~The city additionally finds that water conservation, storm water pollution prevention, and greenhouse gas reductions advance the city's general plan goals to promote resource conservation, clean and healthy air and water, and overall environmental sustainability. (Ord. 996 § 1 (part), 2014; Ord. 930 § 1, 2008)~~

17.10.020 Definitions.

~~"Addition" means a structure expansion that is physically connected to a previously existing building.~~

~~"Interior remodel" means a change or alteration in only the interior of a building that does not increase its net square footage.~~

~~"New construction" means a new building not physically connected to a previously existing building.~~

~~"Nonhabitable residential structure" means a building on a residential property that is not legally habitable, such as a garage or shed.~~

~~"Nonresidential" means not meeting the definition of "residential."~~

~~"Remodel" means a change or alteration in a building that does not increase its net square footage.~~

~~"Residential" means single family, accessory dwelling units, or multifamily residences. (Ord. 996 § 1 (part), 2014; Ord. 930 § 1, 2008)~~

17.10.030 Standards for compliance.

~~Persons constructing a new building, adding to or substantially remodeling a building in the city of Capitola shall participate in the Capitola green building program. In order to obtain a building permit for any new building,~~

~~addition or substantial remodel in excess of those exempted in Section 17.10.040, each project must include elements from the program checklist equal to or exceeding the following:~~

Table 1: Nonresidential (Commercial) Actions and Point Requirements

Total Points Possible	75
Action	Points required to receive action:-
C-1. Receipt of building permit*	7-
C-2. Green building award	40

*— Exceptions: These points are not required for nonresidential additions and remodels totaling less than one thousand square feet, or interior-only nonresidential remodels of any size.

Table 2: Residential New Construction Actions and Point Requirements

Total Points Available	460-	
Action	Points required to receive action:-	
	First 350-square feet	Each additional 100 square feet or fraction thereof
R-N-1. Receipt of building permit	10	1.5-
R-N-2. Green building award	60	3.5

Table 3: Residential Remodel and Addition Action Point Requirements

Total Points Available	464-	
Action	Points required to receive action:-	
	First 350-square feet	Each additional 100 square feet or fraction thereof
R-A/R-1. Receipt of building permit*	5	1.1-
R-A/R-2. Green building award	35	2.5

*— Exception: These points are not required for additions and/or remodels of less than three hundred fifty square feet.

(Ord. 996 § 1 (part), 2014; Ord. 930 § 1, 2008)

17.10.040 — Exceptions.

~~The following are exempt from the provisions of this chapter:~~

~~A. Additions and remodels of less than three hundred fifty square feet of any residential dwelling structure.~~

~~B. Additions and remodels of less than one thousand square feet and interior remodels of any nonresidential structure.~~

~~C. Equipment and nonstructural modifications of any residential or nonresidential structure.~~

~~D. Nonhabitable residential structures of less than one thousand square feet.~~

~~E. General maintenance of any structure.~~

~~F. Historical structures where the historic fabric would be compromised. (Ord. 996 § 1 (part), 2014; Ord. 930 § 1, 2008)~~

17.10.050 — Maintenance of document.

Building and planning staff shall update the green building program documentation and checklist to reflect advances in green building techniques and materials and to make necessary modifications in program implementation on an annual basis. (Ord. 996 § 1 (part), 2014; Ord. 930 § 1, 2008)

17.10.060 — Method of compliance.

The chief building official and/or the community development director shall maintain the following documents for the public:

- City of Capitola: Standards for Green Building Compliance
- New Home Green Points Check List for Residential Buildings
- New Building Green Points Check List for Non-Residential Buildings

These documents shall be to aid in the design and certification of new residential and nonresidential buildings and significant remodels and additions thereto. Every applicant of a building permit not exempted by Section 17.10.040 (Exceptions) shall complete and submit the appropriate check list for their project as well along with the standard application documents. All compliance measures shall be clearly delineated on plan sets. (Ord. 996 § 1 (part), 2014; Ord. 930 § 1, 2008)

17.10.070 — Exceptional design.

Designers and builders employing exceptional design, construction practices and/or maintenance features may have their project modified from the strict interpretation of the program if in the opinion of the community development director or building official such features exhibit at least a twenty percent increase in points over the minimum standards for a green building award as outlined in Section 17.10.030 (Standards for compliance). Exceptional designs shall also be recognized by the city and eligible to receive a plaque that may be displayed on the structure. (Ord. 996 § 1 (part), 2014; Ord. 930 § 1, 2008)

17.10.080 — Creation of green building fund.

Building permits which are required to comply with the green building regulations shall be assessed a fee equal to 0.0025 times the overall valuation of the project. Revenues collected shall be maintained by the finance department as a revolving green building fund and shall be used only for program management, training, publications, public-educational purposes, incentive programs, and materials and supplies necessary to promote sustainable development, water conservation, storm water pollution prevention, and climate action planning activities. (Ord. 996 § 1 (part), 2014; Ord. 930 § 1, 2008)

Chapter 17.11

ARCHAEOLOGICAL/PALEONTOLOGICAL RESOURCES DISTRICT

Sections:

- ~~17.11.010 — Intent.~~
- ~~17.11.020 — Coastal development permit requirements.~~
- ~~17.11.030 — Archaeological survey report requirement.~~
- ~~17.11.040 — Environmental assessment requirement.~~
- ~~17.11.050 — Development standards.~~

17.11.010 — Intent.

~~The purpose of this section is to provide development standards which assure the maintenance and protection of Capitola archaeological/paleontological resources. New land uses and development, both public and private, shall be considered compatible with this purpose only where they incorporate all site planning and design features necessary to avoid or mitigate impacts to archaeological resources. (Ord. 677 § 5 (part), 1989)~~

17.11.020 — Coastal development permit requirements.

~~Development proposed within seven hundred fifty feet of a known archaeological/paleontological resource, as identified through the survey report, or as shown on current Capitola resource maps or other available information, shall be required to obtain a coastal development permit. (Ord. 677 § 5 (part), 1989)~~

17.11.030 — Archaeological survey report requirement.

~~A. An archaeological survey report shall be required for any development located within:~~

- ~~1. “Archaeological/Paleontological Sensitivity Areas” as mapped on city of Capitola resource map (LUP p. 19, Map I-1);~~
- ~~2. Seven hundred fifty feet of a known archaeological resource; or~~
- ~~3. An area with a probability of containing archaeological resources, as determined through the planner’s onsite investigation or other available information.~~

~~B. The survey report shall be required by, submitted to and approved by the city prior to the application being considered complete. Two copies of the report shall be submitted~~

~~C. The survey report shall be prepared, at the applicant’s expense, by a qualified archaeologist, as included on the city’s list of archaeological consultants or by a member of the Society of Professional Archaeologists.~~

~~D. Where construction on, or construction impacts to, an identified archaeological or paleontological site cannot be avoided, as verified in the archaeological report prepared for the project, a mitigation plan shall be required for the project. Prior to the application being considered complete, the plan shall be required by, submitted to and approved by the city. The plan shall be prepared at the applicant’s expense by a qualified archaeologist, either on the city’s list of archaeological consultants or as a member of the Society of Professional Archaeologists. Included in the plan shall be recommended preservation measures in accordance with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission. The consulting archaeologist shall file the report with the State Office of Historic Preservation and where the plan contains recommendations that will impose any continuing restrictions or obligations on the property, an agreement approved by the city attorney, binding the property’s owner to the restrictions or requirements, shall be recorded. Such agreement shall list the official file number of the report and the location of the document.~~

~~E. The recommended mitigation measures contained in the archaeological survey report prepared for the site shall be made condition(s) of approval.~~

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

~~1. The preservation measures shall be undertaken and completed prior to the issuance of building or grading permits; or~~

~~2. Where appropriate according to the recommendations contained in the mitigation plan, the preservation measures shall be undertaken concurrent with grading or other soil disturbing activities and shall be undertaken in accordance with the mitigation plan, as a condition of the grading or building permit; and~~

~~3. The results of the preservation activities shall be compiled into a final report prepared by the archaeologist and submitted to the city prior to the issuance of building or grading permits. Two copies of the report shall be submitted.~~

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

~~H. An archaeological survey report may be waived by the director of planning under the following circumstances:~~

~~1. A previous report was prepared for the site by a qualified archaeologist, as included on the city's list of archaeological consultants or as a member of the Society of Professional Archaeologists; and~~

~~2. The report clearly and adequately included the currently proposed development site within the scope of its survey; or~~

~~3. The proposed development does not involve land clearing or land disturbance. (Ord. 677 § 5 (part), 1989)~~

17.11.040 — Environmental assessment requirement.

~~All development proposed on parcels with known archaeological resources, as identified through the survey report, shall be subject to environmental assessment under the CEQA guidelines. (Ord. 677 § 5 (part), 1989)~~

17.11.050 — Development standards.

~~A. Development proposed on parcels with an identified archeological site shall be designed and located so as to avoid development on or impacts to the site. Alternative siting or location, reduction of project size, and other techniques shall be utilized where that will result in reduced impact to or nondisturbance of the archaeological site.~~

~~B. Development on parcels with an archaeological site, as identified through an archaeological report prepared for the site, shall be subject to the mitigation measures of the archaeological survey report as conditions of approval, to be completed prior to the issuance of building or grading permits. (Ord. 685 § 13, 1989; Ord. 677 § 5 (part), 1989)~~

Chapter 17.12

MHE MOBILE HOME EXCLUSIVE DISTRICT

Sections:

- ~~17.12.010 — Applicability.~~
- ~~17.12.020 — Principal permitted uses.~~
- ~~17.12.030 — Accessory uses.~~
- ~~17.12.040 — Conditional uses.~~
- ~~17.12.050 — Minimum lot area.~~
- ~~17.12.060 — Architectural and site review.~~

~~* — Prior history: Ord. 476.~~

~~17.12.010 — Applicability.~~

~~The regulations in this chapter shall apply in all MHE districts. (Ord. 576 § 1, 1984)~~

~~17.12.020 — Principal permitted uses.~~

~~The following are principal permitted uses in an MHE district: mobile home parks. (Ord. 576 § 1 (part), 1984)~~

~~17.12.030 — Accessory uses.~~

~~The following are accessory uses permitted in an MHE district: accessory uses in buildings customarily appurtenant to any principally permitted use. (Ord. 576 § 1 (part), 1984)~~

~~17.12.040 — Conditional uses.~~

~~The following are conditional uses in an MHE district, subject in each case to the securing of a use permit as provided in Chapter 17.60:~~

~~A. Home occupation;~~

~~B. Offices incidental and necessary to conduct of a mobile home park use, including single family dwellings;~~

~~C. Public facilities and utilities;~~

~~D. Single family dwellings which are located on the mobile home park parcel or on separate parcels of no less than five thousand one hundred square feet;~~

~~E. One sign for each public street upon which the property abuts for purposes of identifying the principal use therein conducted. (Ord. 648, 1988; Ord. 576 § 1, 1984)~~

~~17.12.050 — Minimum lot area.~~

~~For vacant property hereafter rezoned to MHE, the minimum lot shall be five acres. For mobile home parks existing at the time of rezoning to MHE the minimum lot size shall be five acres or the existing lot size, whichever is less. (Ord. 576 § 1 (part), 1984)~~

~~17.12.060 — Architectural and site review.~~

~~Architectural and site review approval shall be secured for any use in an MHE district. (Ord. 576 § 1 (part), 1984)~~

Chapter 17.15

R-1 SINGLE-FAMILY RESIDENCE DISTRICT

Sections:

- ~~17.15.010 — Applicability.~~
- ~~17.15.020 — Purpose.~~
- ~~17.15.030 — Design permit and architectural and site review.~~
- ~~17.15.035 — Design permit approval.~~
- ~~17.15.040 — Principal permitted uses.~~
- ~~17.15.050 — Accessory uses.~~
- ~~17.15.060 — Conditional uses.~~
- ~~17.15.070 — (Reserved)~~
- ~~17.15.080 — Height regulations.~~
- ~~17.15.090 — Lot area.~~
- ~~17.15.100 — Floor area ratio.~~
- ~~17.15.110 — Yards.~~
- ~~17.15.120 — Yard encroachments.~~
- ~~17.15.130 — Parking.~~
- ~~17.15.140 — Garage and accessory buildings.~~

17.15.010 — Applicability.

The regulations set forth in this chapter apply to all R-1 districts. (Ord. 873 § 1 (part), 2004; Ord. 710 § 1 (part), 1991; Ord. 388 Art. 5 (part), 1975)

17.15.020 — Purpose.

The purpose of the R-1 district is to maintain an area which provides the traditional qualities of privacy, landscaping, parking, and character associated with single family residential neighborhoods. Each of the neighborhoods in Capitola is unique in its physical design. Special consideration shall be given to development to insure that it is compatible in size, mass, setbacks, and open space, with existing residential designs in the area. (Ord. 873 § 1 (part), 2004; Ord. 710 § 1 (part), 1991; Ord. 388 Art. 5 (part), 1975)

17.15.030 — Design permit and architectural and site review.

A design permit shall be required for the following improvements:

A. All new single family dwelling units, but not for secondary dwelling units;

B. All improvements to existing single family structures which are not exempt pursuant to subsection C of this section;

C. Exemptions from the requirement for a design permit include:

- ~~1. First floor additions of up to four hundred square feet at the rear of the property or structure, which is not visible to the general public, does not exceed fifteen feet in height (eight feet to the top of the plate), and which uses similar, compatible or upgraded quality building materials;~~
- ~~2. A single accessory structure on the property of eighty square feet in size or less, eight feet or less in height, and with no plumbing or electrical fixtures. (Ord. 882 § 1 (part), 2005; Ord. 873 § 1 (part), 2004; Ord. 710 § 1 (part), 1991; Ord. 448 § 1, 1979)~~

17.15.035 — Design permit approval.

Design permits identified in Section 17.15.030 of this chapter shall be considered at a public hearing as outlined in Section 17.63.080; following review and consideration by the architectural and site review committee as determined necessary by the community development director/zoning administrator.

~~A. The community development director/ zoning administrator shall be authorized to approve or deny design permit applications for:~~

- ~~1. First floor additions up to four hundred square feet are exempt under Section 17.15.030(C)(1);~~
- ~~2. Minor repairs, changes and improvements to existing structures which use similar, compatible or upgraded quality building materials, on residences which are not historic resources;~~
- ~~3. Additional accessory structures beyond the single eighty square foot or less in size accessory structure which is exempt as per Section 17.15.030 (C)(2) of this chapter.~~

~~B. The planning commission shall be authorized to approve or deny design permit applications for:~~

- ~~1. All new residential dwelling unit construction;~~
- ~~2. Upper floor additions;~~
- ~~3. Additions of more than four hundred square feet;~~
- ~~4. Design permits accompanied by a request for conditional use permit, variance, or minor land division;~~
- ~~5. All design permit applications referred by the community development director or appealed from the community development director/zoning administrator's decision. (Ord. 882 § 1 (part), 2005; Ord. 873 § 1 (part), 2004)~~

~~17.15.040 — Principal permitted uses.~~

~~The following are principal permitted uses in an R-1 district:~~

~~A. One family dwellings including secondary dwelling units pursuant to Chapter 17.99;~~

~~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. (Ord. 882 § 1, 2005; Ord. 873 § 1 (part), 2004; Ord. 858 § 2, 2003; Ord. 710 § 1 (part), 1991; Ord. 608 § 3, 1986; Ord. 448 § 2, 1979; Ord. 388 Art. 5 (part), 1975)~~

~~17.15.050 — Accessory uses.~~

~~The following are accessory uses permitted in an R-1 district:~~

~~A. Signs in compliance with the municipal sign code, identifying residences and advertising property as being for sale, lease, or rent;~~

~~B. Accessory uses, structures and buildings customarily appurtenant to a permitted use such as private garages. See Section 17.81.110 for additional regulations. (Ord. 873 § 1 (part), 2004; Ord. 710 § 1 (part), 1991; Ord. 448 § 3 (part), 1979; Ord. 388 Art. 5 (part), 1975)~~

~~17.15.060 — Conditional uses.~~

~~The following are conditional uses in an R-1 district and, with the exception of large family day care homes, are subject to the securing of a use permit as provided in Chapter 17.60:~~

~~A. Private schools which offer instruction in several branches of learning and study required to be taught in the public schools by the Education Code of the state of California, nursery schools, day care centers, and private-nonprofit recreation areas;~~

~~B. Churches and religious institutions;~~

~~C. Golf courses and country clubs;~~

~~D. Temporary real estate offices, construction yards and sheds;~~

~~E. (Reserved);~~

~~F. Large Family Day Care Homes. No person shall operate a large family day care home without obtaining a large family day care home permit in compliance with the standards set forth within this subsection.~~

~~1. Any person seeking a large family day care home permit shall submit an application for such permit to the community development director, including a site plan, setting forth any such reasonably required information that the community development director shall request, on application forms created by the community development director that reflect the standards in subsections (F)(4) and (5) of this section and encourage the applicant to hold an informational neighborhood meeting prior to the submittal of the application. The community development director shall process the permit as economically as possible, and fees charged for review shall not exceed the costs of the review and permit process.~~

~~The community development director shall act on the application within forty five days of the date it is received and deemed complete. If a public hearing is requested pursuant to subsection (F)(3) of this section, the community development director may postpone decision on the application for up to ninety days from the date the application is deemed complete.~~

~~2. At least ten days prior to the date on which the community development director will make a decision on an application for a large family day care home, the community development director shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a one hundred foot radius of the exterior boundaries of the proposed large family day care home and all households within a one hundred foot radius of the exterior boundaries of the proposed large family day care home.~~

~~3. No hearing shall be held before a decision is made on the application, unless a hearing is requested by the applicant or other affected person. (For purposes of this subsection, "affected person" means a person who owns property or lives or works within a one hundred foot radius of the proposed large family day care home.) If a public hearing is requested, it shall be conducted by the planning commission, and the community development director shall give notice of the hearing by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a one hundred foot radius of the exterior boundaries of the proposed large family day care home and all households within a one hundred foot radius of the exterior boundaries of the proposed large family day care home.~~

~~4. The community development director, planning commission, or the city council shall grant a large family day care home permit to the applicant upon finding that the proposed large family day care home:~~

~~a. Conforms with all applicable city restrictions and regulations on yards, building height, setback, and lot coverage standards in the zone in which the residence is located. Legally nonconforming structures and uses shall be deemed to conform for purposes of this finding;~~

~~b. Is either situated on a lot zoned for single family dwellings or meets a minimum standard of seventy-five square feet of outdoor activity space for each child. The outdoor area must be owned or leased by the applicant and cannot be shared with other property owners unless permission is granted by the joint owners. This space requirement can be waived if the applicant can demonstrate that there is a public park or other public open area that is in close proximity to the large family day care home (for purposes of this subsection, "close proximity" means within two blocks);~~

~~c. Is not located within a five hundred foot radius of the exterior boundaries of any existing large family day care home or child day care center;~~

~~d. Provides at least two parking spaces for customers during the family day care home's hours of operation, and provides parking for any employees as required by Section 17.51.130(P) (one off street~~

parking space required for each employee not permanently residing at the house). The parking spaces shall be located in a manner to be readily and safely utilized by the customer(s). The required parking spaces may be located on the street along the property frontage (off-site) or on the driveway (on-site). The following are examples of acceptable parking areas:

- i. ~~On street parking areas along the property frontage,~~
 - ii. ~~Guest parking spaces reserved for the use of the dwelling unit, or~~
 - iii. ~~A private driveway exclusively serving a single dwelling unit such as a single family home,~~
- e. ~~Complies with the following limitations when the dwelling unit is provided with a private driveway and/or garage:~~
- i. ~~If the driveway is specified as the parking area for the use of the large family day care home, the driveway shall remain clear and available for the customer(s) during the hours of operation; the parking spaces shall not be used by the property owner or day care home operator or employees during the hours of operation,~~
 - ii. ~~The garage shall be utilized for the parking of the property owner's and/or day care home operator's vehicles. Use of the garage for the day care home function, such as for a play area, shall not be allowed,~~
- f. ~~Provides procedures for safely loading and unloading children from vehicles without blocking the public sidewalk and/or right of way with vehicles. Double parking in the street to pickup or dropoff children shall be prohibited. The applicant shall distribute a notice of loading and unloading procedures to all persons that utilize the services of the large family day care home,~~
- g. ~~Provides adequate access to the facility with minimal disruption to local traffic and circulation, including safe and adequate drop off/pick up areas, such as curb spaces and driveway areas that are of sufficient size and are located to avoid interference with traffic and to insure the safety of children,~~
- h. ~~Seeks, by design and layout of the site and considerate operational plans, to avoid noise which may be a nuisance to neighbors, consistent with local noise ordinances (see Chapter 9.12) implementing the noise element of the general plan and taking into consideration the noise levels generated by children. Use of the outdoor play area for the day care operation shall be limited to the hours between nine a.m. and six p.m. Site plan revisions may be required by the community development director to minimize noise impacts, such as location of outside play areas, height and location of fences, and similar measures.~~

5. ~~As conditions of approval, the applicant shall be required to:~~

- a. ~~Comply with applicable building codes,~~
- b. ~~Comply with any standards promulgated by the State Fire Marshal pursuant to subdivision (d) of Section 1597.46 of the California Health and Safety Code related to large family day care homes and dwelling units, and submit a letter from the city fire department approving the safety of the structure for use as a large family day care home pursuant to these standards,~~
- c. ~~Be licensed or deemed to be exempt from licensure by the state of California as a large family day care home,~~
- d. ~~Comply with any conditions imposed by the community development director deemed necessary to satisfy the requirements of subsection (F)(4) of this section,~~

6. ~~The applicant or other affected person may appeal the decision. The procedures for appealing the decision shall be as provided for in Sections 17.60.100 and 17.60.110. The appellant shall pay the cost, if any, of the appeal.~~

~~7. If not used, a large family day care home permit may expire pursuant to the standards and procedures provided in Section 17.60.090.~~

~~8. Large family day care home permits may be revoked pursuant to Section 17.60.120;~~

~~G. Large community care residential facility, provided, that in addition to Chapter 17.60 requirements, the following requirements are met:~~

~~1. The applicant shall submit the following:~~

~~a. A letter or certification of final approval from the state or county licensing authority;~~

~~b. A site plan of the property showing parking, outdoor exercise area, and fencing;~~

~~c. A letter from the fire department approving the safety of the structure for the use;~~

~~d. A letter of application describing the type of use, number of residents, age of residents, any special resident care that is provided, and a daily work schedule showing the number of employees at the facility, and~~

~~e. Landscaping and other information as required by the community development director;~~

~~2. A public hearing shall be held by the planning commission with notification made as specified in Section 17.60.080. In addition, not less than ten days prior to the meeting, all property owners within three hundred feet of the outermost boundary of the parcel should be notified of the nature of the application, the name of the applicant, and the time and place of the public hearing before the planning commission;~~

~~H. Any activity which includes any significant alteration of an historic feature;~~

~~I. Bed and breakfasts, subject to the requirements of Section 17.03.085;~~

~~J. TRO: transient rental use overlay district (see Chapter 17.19 of this code.) (Ord. 878 § 2, 2004; Ord. 873 § 1 (part), 2004; Ord. 710 § 1 (part), 1991; Ord. 708 § 2 (part), 1991; Ord. 698 § 1, 1990; Ord. 696 § 2 (part), 1990; Ord. 608 § 4, 1986; Ord. 533 § 3 (part), 1983; Ord. 515 Art. 5 (part), 1982; Ord. 448 § 3 (part), 1979; Ord. 388 Art. 5 (part), 1975)~~

17.15.070 — (Reserved)

17.15.080 — Height regulations.

No structure shall exceed twenty five feet in height to the highest point of the roof, ridge or parapet wall, although a twenty seven foot height limit may be permitted by the planning commission for half story designs and buildings that use historic design elements which meet the applicable side and rear setback standards. No detached accessory structure, including second dwelling units shall exceed fifteen feet, with a nine foot ground to top of wall plate height, unless an exception is granted by the planning commission based on compatible building and roof design on a site with an architecturally or historically significant building. "Building height" means the vertical distance measured from the assumed ground surface of the building. The height of the structure is measured from the assumed ground surface, as specified below:

A. Assumed Ground Surface. "Assumed ground surface" means a line on each elevation of an exterior wall or vertical surface which connects those points where the perimeter of the structure meets the finished grade, subject to the following exception:

~~1. If there has been grading or fill on the property within five years preceding the time of the application, and that grading or filling has or would increase the height of the finished grade at one or more points where it would meet the perimeter of the proposed structure, the planning commission may measure heights from where it estimates the grade is or was before the grading or filling, if the commission determines that such an action is necessary to keep the height of the proposed structure in reasonable relationship to the heights in the neighborhood. (Ord. 873 § 1 (part), 2004; Ord. 710 § 1 (part), 1991; Ord. 448 § 3 (part), 1979; Ord. 388 Art. 5 (part), 1975)~~

17.15.090 — Lot area.

~~Each single family residence together with its accessory buildings shall be located on a legal building lot. The lot area requirements are as follows:~~

~~A. The minimum lot area for any lot hereafter created by any “subdivision” (defined in Government Code Section 66424) shall be five thousand square feet;~~

~~B. The lot area may be less than five thousand square feet for any existing legally created lot;~~

~~C. Except as otherwise provided, there shall be no more than one dwelling on any lot. (Ord. 873 § 1 (part), 2004; Ord. 710 § 1 (part), 1991; Ord. 388 Art. 5 (part), 1975)~~

17.15.100 — Floor area ratio.

~~Building size shall be regulated by the relationship of the building to the lot size, a measurement identified as floor area ratio (FAR). Maximum FAR shall be determined as follows:~~

A.	Lots less than 2,650 sf	58%
-	Lots 2,651 to 3,250 sf	57%
-	Lots 3,251 to 3,500 sf	56%
-	Lots 3,501 to 3,750 sf	55%
-	Lots 3,751 to 4,000 sf	54%
-	Lots 4,001 to 4,250 sf	53%
-	Lots 4,251 to 4,500 sf	52%
-	Lots 4,501 to 4,750 sf	51%
-	Lots 4,751 to 5,000 sf	50%
-	Lots 5,001 to 6,000 sf	49%
-	Lots more than 6,000 sf	48%

~~This calculation includes the gross building area, including covered parking, as further described in subsections B through D of this section:~~

~~B. The following building elements shall be included in the floor area ratio calculation:~~

- ~~1. That portion of the basement which exceeds the first two hundred fifty gross square feet of a basement, including the measurements of the access stairway;~~
- ~~2. All open area below the ceiling or angled walls, greater than sixteen feet in height;~~
- ~~3. All upper floor area greater than four feet in height, measured between the bottom of the upper floor and the top of the ceiling;~~
- ~~4. For one and one half story structures, the area of the stairwell shall be counted on the first floor only;~~
- ~~5. Windows projecting more than twelve inches from the wall;~~

~~6. Covered or uncovered upper floor decks, and covered exterior open space in excess of one hundred fifty square feet, including eaves greater than eighteen inches in length;~~

~~7. All accessory structures other than a single building of eighty square feet or less in size, eight feet or less in height, and without plumbing or electrical fixtures.~~

C. The following shall not be included in the floor area ratio calculation:

~~1. All vehicular rights of way which allow others to use the surface of the property, shall be excluded from the lot area for purposes of this section;~~

~~2. The first two hundred fifty square feet of basement area including the stairway serving that area;~~

~~3. The stairway serving the upper floor in a one and one-half story home;~~

~~4. Chimneys and projecting windows less than twelve inches deep;~~

~~5. First level decks thirty inches or less in height;~~

~~6. One hundred square feet of ancillary area in a detached garage;~~

~~7. The area between the bottom of the floor and the top of the ceiling which is four feet or less in height, on the second level of a one and one-half or two-story home;~~

~~8. All open area between the bottom of the floor and the top of the ceiling or angled wall, which is sixteen feet or less in height;~~

~~9. Unroofed (permeable) trellis structures, including porte-cocheres, which are open on at least three sides and not higher than ten feet to the top of the highest portion. Such structures are not permitted in the front setback and must have a two-foot setback from side or rear property lines.~~

D. The footprint of all structures, except a trellis structure consistent with subsection (C)(9) of this section and one accessory building of eighty or fewer square feet, eight feet or less in height, and without electrical or plumbing fixtures, shall conform to all applicable setback requirements, i.e., for a secondary dwelling unit, detached garage, or principal residential structure. (Ord. 882 § 1 (part), 2005; Ord. 873 § 1 (part), 2004; Ord. 774 § 1, 1995; Ord. 710 § 1 (part), 1991; Ord. 643 § 1, 1987; Ord. 388 Art. 5 (part), 1975)

17.15.110 — Yards.

A. The front yard setback shall be measured from the edge of the public right of way. The setback established in accordance to this section shall be the minimum for any part of the structure, with the exception of permitted encroachments. The front setback shall not be measured as the average setback across the front of the building.

B. Front yards for the first floor shall be not less than fifteen feet in depth, except as provided in subsection (B)(1) of this section.

~~1. In those special areas specified in subsection (B)(2) of this section, the front yard setback may be the average of those lots on the same side of the street within five hundred feet of the subject property; provided, that the front setback is at least ten feet, subject to planning commission approval.~~

~~2. The special areas mentioned above shall include the following areas:~~

~~Sunset/Riverview area consisting of the following streets: Beverly Avenue; Oak Drive; Gilroy Drive; Center Street; Sunset Drive; Riverview Drive to Riverview Avenue, and Riverview Avenue to the north side of the Southern Pacific Railroad trestle.~~

C. Front yard setback for the second floor and attached covered parking shall be twenty feet from the front property line, although the setback to covered parking may be reduced to eighteen feet in sidewalk exempt areas. The front yard setback for detached garages or carports shall be forty feet.

~~D. Front yards area not required for parking shall be landscaped to achieve a fifteen percent tree canopy in accordance with Chapter 12.12 of this code; and including a two foot planter strip between uncovered parking in the front setback and the side property line, and that landscape area maintained in good condition.~~

~~E. Side yards shall be at least ten percent of the property width although not more than seven feet shall be required, and in no case shall less than three feet be permitted, except in the following cases:~~

- ~~1. On a corner lot, the side yard setback on the street side shall be a minimum of ten feet (adjacent to the neighboring front yards); and the minimum rear yard shall be the minimum side yard of the adjacent property, but no less than four feet;~~
- ~~2. When a garage obtains access from a side yard, on a corner parcel, the garage shall be set back twenty feet, although this setback may be reduced to eighteen feet in sidewalk exempt areas;~~
- ~~3. For levels above the first floor, setback shall be at least fifteen percent of the side yard although not more than ten feet shall be required. For half stories, projected building area under/from the roof (e.g., shed or dormer areas) shall also meet the second floor setback requirements. Up to twenty percent of a second floor wall may be at the same setback as a first floor wall with a setback of at least four feet;~~
- ~~4. For detached, covered parking the minimum side setback is three feet;~~
- ~~5. For portions of the structure with setbacks between three and four feet, the maximum wall plate height shall be twelve feet.~~

~~F. Rear yards shall have a depth equal to not less than twenty percent of the depth of the lot to a maximum required depth of twenty five feet for such rear yard, with the exception of rear yards associated with detached, covered parking for which the minimum rear setback is eight feet. The minimum setback between the main structure or other detached accessory structures, with or without a breezeway, shall be three feet, or as required by the Uniform Building Code.~~

~~G. Lot Dimension Determination. For the purpose of chapter, lot depth shall be the average length of the side property lines which run approximately perpendicular to the street, and the lot width shall be the average length of the front and rear property lines. In the case of an oddly shaped lot, the city planner shall determine the lot depth and width using the criteria for normally shaped lots as a guideline. Anyone affected by the city planner's determination may file, within ten days of the determination, a written appeal with the planning commission, which shall consider and decide the matter. No fee shall be required. (Ord. 873 § 1 (part), 2004; Ord. 710 § 1 (part), 1991; Ord. 675, 1987; Ord. 643 § 2, 1987; Ord. 388 Art. 5 (part), 1975)~~

17.15.120 — Yard encroachments.

~~A. Cornices, eaves, canopies, fireplaces and similar architectural features, but not including any flat wall or projecting closet, may extend into any required side yard a distance not exceeding two feet or into any required front or rear yard a distance not exceeding four feet; provided, that these features do not come within three feet of the property side yard boundaries for chimneys and projecting windows with no floor area, and two feet for fire safe eornices, eaves, canopies, and rain gutters on the first floor.~~

~~B. Main entry porches, stairways, fire escapes, or landing places may extend into any required front yard on the ground floor for a distance not to exceed four feet; and into any required rear yard on the ground floor for a distance not to exceed six feet, and into any required side yard on the ground floor for a distance not to exceed one-half the width of the required side yard, provided that these features do not come within three feet of the side property boundaries and ten feet of the front property boundary.~~

~~C. Single story additions to existing single story residential units which do not exceed fifty percent of the length of the average of the two sides of the structure may be constructed at the same setback as the existing structure, as long as a minimum four foot setback remains.~~

~~D. Second story additions must meet setback requirements, except that up to twenty percent of the length of the upper story wall may be constructed at the same setback as the first floor wall, if that wall is at least four feet from the side property line.~~

~~E. Projecting bay windows may extend into any required front or rear yard for a distance not to exceed two feet. The width of the opening required for a bay window which encroaches into any required front or rear yard may not exceed sixty percent of the width of the wall in which it is located. Any bay window which projects more than twelve inches from the wall will be included in the floor area ratio calculation.~~

~~F. Projecting bay windows may extend into any required side yard for a distance not to exceed two feet provided that the bay window is set back at least three feet from the side property lines on the first floor. The width of the opening required for a bay window which encroaches into any required side yard may not exceed sixty percent of the width of the wall in which it is located. Any bay window which projects more than twelve inches from the wall will be included in the floor area ratio calculation.~~

~~G. Rear and side yard decks on the ground level which are thirty inches or less above grade may encroach into the required setbacks; provided, that these features are setback at least three feet from the property line. (Ord. 873 § 1 (part), 2004; Ord. 776 § 2, 1995; Ord. 710 § 1 (part), 1991; Ord. 643 § 3, 1987; Ord. 388 Art. 5 (part), 1975)~~

17.15.130 — Parking.

~~A. The minimum parking requirement for a single family residence of one thousand five hundred square feet or less of floor area shall be two parking spaces, neither of which must be covered.~~

~~B. For single family residences one thousand five hundred one to two thousand square feet, two spaces are required, one of which must be covered; for residences two thousand one to two thousand six hundred square feet three spaces are required, one of which must be covered; for residences two thousand six hundred one to four thousand square feet four spaces are required, one of which must be covered. Residences greater than four thousand one square feet may require additional parking at the discretion of the planning commission beyond the three uncovered and one covered space required for residences up to four thousand square feet, as per subsection D of this section.~~

~~C. Interior (covered) parking spaces shall be a minimum of ten feet by twenty feet clear, as measured from the interior finished wall surfaces.~~

~~D. The planning commission may require more parking spaces for residential units over four thousand square feet, or if a finding can be made that there is a parking problem in the neighborhood.~~

~~E. No additional square footage which exceeds ten percent of the existing gross floor area may be added to an existing single family residence, unless minimum parking requirements are met.~~

~~F. Parking spaces required by this section may not be located in any public or private right of way.~~

~~G. No parking space which is utilized to meet the parking requirements of this chapter, nor the path of access of any such parking space, may, without planning commission approval, be modified in any manner which decreases the utility of the space for parking purposes. All areas shown on architectural and site plans utilized by the property owner are subject to this section, and must be maintained as parking spaces.~~

~~H. Tandem parking is permitted for up to two uncovered spaces in front of a garage, with a maximum of three tandem spaces, including the covered space for a single garage. (Ord. 873 § 1 (part), 2004; Ord. 710 § 1 (part), 1991; Ord. 388 Art. 5 (part), 1975)~~

17.15.140 — Garage and accessory buildings.

~~The following development standards shall apply for garages and accessory buildings:~~

~~A. Garages and accessory buildings other than approved second dwelling units may not be used for human habitation;~~

~~B. In the case of a corner lot, no detached accessory building or detached garage shall be erected, altered or moved so as to occupy any part of the front half of such lot;~~

~~C. The minimum side setback for detached accessory buildings is three feet. The minimum rear setback is eight feet. The minimum front setback is forty feet for detached garages;~~

~~D. Detached garages, carports and other accessory buildings must be set back from the primary residential structure by three feet but may be connected to the main building by a breezeway which shall be located in accordance with the yard regulations and uniform building code for detached buildings;~~

~~E. A single accessory structure of eighty square feet or less and eight feet or less in height, with no plumbing or electrical fixtures, may be allowed in side and rear setback areas;~~

~~F. If a garage is in a rear yard, a driveway of not less than twelve feet in width (which may include side yard or easement and which can consist of ten feet in a paved driveway and two feet of landscaping along the side property line in the front setback) shall be provided and maintained. However, a driveway width of eleven feet may be permitted by the planning commission for additions and remodels, where the paved driveway is nine feet with two feet of landscaping in the front setback.~~

~~Driveway width for residential uses shall not exceed twenty feet unless an exception is granted by the planning commission due to unusual lot configuration, landscaping or site design considerations. Permeable paving materials, and/or paving strips are encouraged for parking and driveway areas.~~

~~G. The width of detached garages or carports in the rear yard is limited to twenty one feet. The height is limited to fifteen feet (nine feet to the top of the wall plate) however the planning commission may approve an exception to allow additional height if necessary to match the architectural style of the existing primary structure.~~

~~H. Attached garages which constitute less than fifty percent of the building frontage are encouraged, as are divided garage doors for double garages.~~

~~I. Trellis structures intended to provide support for plants and shade for cars, hot tubs, etc., will not be permitted in the front setback and will not count toward the covered parking requirement. Such structures may be permitted in the side or rear setback as long as the height is limited to ten feet at the top of the highest portion, the structure roof remains permeable (roof members at least twelve inches apart), and the structure is open on at least three sides. (Ord. 882 § 2, 2005; Ord. 873 § 1 (part), 2004; Ord. 710 § 1 (part), 1991; Ord. 643 § 4, 1987)~~

Chapter 17.18

~~R-M MULTIPLE-FAMILY DISTRICT~~

Sections:

- ~~17.18.010 — Applicability.~~
- ~~17.18.020 — Purpose.~~
- ~~17.18.030 — Architectural and site review.~~
- ~~17.18.040 — Principal permitted uses.~~
- ~~17.18.050 — Accessory uses.~~
- ~~17.18.060 — Conditional use permits.~~
- ~~17.18.070 — Development standards.~~
- ~~17.18.080 — Height regulations.~~
- ~~17.18.090 — Lot area and dimensions.~~
- ~~17.18.100 — Site area per dwelling unit.~~
- ~~17.18.110 — Lot coverage.~~
- ~~17.18.120 — Front yards.~~
- ~~17.18.130 — Side yards.~~
- ~~17.18.140 — Rear yard.~~
- ~~17.18.150 — Landscaping.~~
- ~~17.18.160 — Open space.~~
- ~~17.18.170 — Lot dimension determination.~~
- ~~17.18.180 — Yard encroachments.~~
- ~~17.18.190 — Garages and accessory buildings.~~
- ~~17.18.200 — Parking.~~
- ~~17.18.210 — Loading areas.~~

~~17.18.010 — Applicability.~~

~~The regulations set forth in this chapter apply in all R-M districts, and for multiple residential uses in other districts. (Ord. 388 § 6.01, 1975)~~

~~17.18.020 — Purpose.~~

~~The purpose of the R-M districts is to stabilize the residential area, to encourage urban densities in specific areas, to promote an environment suitable for family life within such densities, and to insure sufficient open space for residential uses of all types. (Ord. 388 § 6.02, 1975)~~

~~17.18.030 — Architectural and site review.~~

~~A design permit for architectural and site review approval shall be secured for the establishment and conduct of any principal permitted, accessory or conditional use in all R-M districts as provided in Chapter 17.63. (Ord. 873 § 2, 2004; Ord. 448 § 4, 1979; Ord. 436, 1978; Ord. 388 § 6.03, 1975)~~

~~17.18.040 — Principal permitted uses.~~

~~The following are principal permitted uses in an R-M district:~~

~~A. Multiple family residential dwellings;~~

~~B. Single family dwellings, subject to the development standards contained in Chapter 17.15, R-1 Single family Residence District including secondary dwelling units as allowed in the R-1 district pursuant to Chapter 17.99;~~

~~C. Small family day care homes;~~

~~D. Small community care residential facilities. (Ord. 882 § 1, 2005; Ord. 873 § 3, 2004; Ord. 608 § 5, 1986; Ord. 388 § 6.04, 1975)~~

~~17.18.050 — Accessory uses.~~

~~The following are accessory uses permitted in an R-M district:~~

~~A. Signs complying with the applicable regulations set forth in the municipal sign ordinance;~~

~~B. Accessory uses and buildings customarily appurtenant to a permitted use such as private garages. (Ord. 388 § 6.05, 1975)~~

~~17.18.060 — Conditional use permits.~~

~~The following are conditional uses in an R-M district and, with the exception of large family day care homes, are subject to the securing of a use permit as provided in Chapter 17.60. Large family day care homes are subject to the securing of a use permit as provided in Section 17.15.060(F):~~

~~A. Private schools which offer instruction in several branches of learning and study required to be taught in the public schools by the Educational Code of the state of California, exclusive of vocational and trade subjects; nursery schools; day care centers and private, nonprofit recreation areas. The total number of occupants shall be established by the conditional use permit;~~

~~B. Churches and religious institutions;~~

~~C. Lodging facilities;~~

~~D. Convalescent hospitals, nursing homes;~~

~~E. Large family day care homes subject to the securing of a permit as provided in Section 17.15.060(F), large community care residential facilities (subject to the special conditions in Section 17.15.060(G));~~

~~F. Children's nursery schools;~~

~~G. Social halls;~~

~~H. Mobile home parks subject to the following special conditions, in addition to those standards specified in Chapter 17.60:~~

~~1. The application fee for conditional use permit for a mobile home park may be determined by resolution of the city council.~~

~~2. The application for a use permit shall be accompanied by a map of the property to be developed at a scale of one inch equals one hundred feet, or similar appropriate scale, and showing and giving the following information and data:~~

~~a. Name and address of applicant;~~

~~b. Graphic scale, north point and date;~~

~~c. A line circumscribed three hundred feet beyond the outermost boundaries of the parcel in question;~~

~~d. Property lines, area and assessment number of all parcels of land which lie within this area;~~

~~e. Public rights of way and public or private easements that lie within this area;~~

~~f. To this map shall be attached a list of the names and addresses of the property owners whose property, or any part or portion thereof, lies within this area, such names and addresses to be keyed to the parcel assessment numbers shown on this map.~~

~~3. A public hearing shall be held by the planning commission with notification made as specified in Section 17.60.070, and in addition, a postal card notice shall be mailed no less than ten days prior to the date of such hearing to the owner or owners of all property, or portions thereof, within a radius of three hundred feet of the outermost boundaries of the parcel in question as above described. Such notices shall consist of the words "NOTICE OF PUBLIC HEARING ON APPLICATION FOR USE PERMIT TO ESTABLISH A MOBILE HOME PARK" and shall set forth the description of the property to be so developed, with the name of the~~

~~applicant and the time and place of the hearing before the planning commission. Upon completion shall submit its recommendation to the city council that the use permit be granted or denied;~~

~~I. Reserved;~~

~~J. Reserved;~~

~~K. Any activity which includes any significant alteration of an historic feature;~~

~~L. Bed and breakfasts, subject to Section 17.03.085 requirements.~~

~~M. "Transient rental use," as defined in Section 17.03.686, on properties located within the TRO transient rental use overlay district, subject to the standard conditions set forth in Chapter 17.19 of this code and any additional conditions as determined by the planning commission:~~

~~1. The maximum number of persons that may occupy the unit shall be determined by the planning commission and may not be exceeded.~~

~~2. Providing adequate parking (as determined by the planning commission), whether on site or by Pacific Cove parking permit.~~

~~3. The conditional use permit holder must designate a person who has authority to control the property and represent the landlord. This "responsible person" must be available at all reasonable times to receive and act on complaints about the activities of the tenants.~~

~~4. A business license and transient occupancy tax registration are obtained.~~

~~5. Only one sign per unit, not to exceed one square foot in size, shall be permitted to advertise the transient rental.~~

~~N. Large community care residential facilities, subject to the special conditions in Section 17.15.060(G). (Ord. 882 § 1, 2005; Ord. 878 § 3, 2004; Ord. 873 § 4, 2004; Ord. 708 § 2, 1991; Ord. 696 § 2, 1990; Ord. 608 § 6, 1986; Ord. 553 (part), 1983; Ord. 515 § 5 (part), 1982; Ord. 421 (part), 1977; Ord. 388 § 6.06, 1975)~~

17.18.070 — Development standards.

~~The development standards set forth in Sections 17.18.080 through 17.18.210 shall apply for the development of multiple units on a single site in an R-M district. The development of a single family home on a site in the R-M district shall be governed by the process and standards contained in Chapter 17.15, "R-1 Single Family Residence District." (Ord. 873 § 5, 2004; Ord. 388 § 6.07 (part), 1975)~~

17.18.080 — Height regulations.

~~A. RM-LM. No structure shall exceed thirty feet in height.~~

~~B. RM-M. No structure shall exceed thirty feet in height.~~

~~C. RM-H. No structure shall exceed thirty five feet in height.~~

~~D. Any structure in excess of three stories or forty feet in height shall be a conditional use in an R-M district subject, in each case, to the securing of a use permit as provided in Chapter 17.60. (Ord. 642 § 2, 1987; Ord. 388 § 6.07(a), 1975)~~

17.18.090 — Lot area and dimensions.

~~A. Except as hereafter provided, the minimum lot area for a structure containing one or more dwelling units shall be five thousand one hundred square feet; the minimum lot width fifty feet; the minimum lot depth one hundred feet.~~

~~B. Lots legally formed prior to June 26, 1969 shall not be subject to the requirements of subsection A of this section. However, such lots shall nevertheless be subject to all other regulations in this title and especially subject to~~

~~subsection A of this section. Nothing contained in this subsection shall affect state law or Capitola ordinances dealing with the merger of contiguously owned lots. (Ord. 420 (part), 1977; Ord. 388 § 6.07(b), 1975)~~

17.18.100 — Site area per dwelling unit.

The minimum site area per dwelling unit for each district shall be as follows:

A. RM LM. Four thousand four hundred square feet (low medium density);

B. RM M. Two thousand nine hundred square feet (medium density) formerly RM 3000 district;

C. RM H. Two thousand two hundred square feet (high density) formerly RM 2000 and RM 1000 district. (Ord. 388 § 6.07(c), 1975)

17.18.110 — Lot coverage.

Maximum lot coverage including accessory buildings and other structures shall be forty percent. The first two hundred fifty gross square feet of a basement, including the measurements of the access stairway, shall not be included when calculating lot coverage. Only the portion of a basement that exceeds two hundred fifty gross square feet shall be included in the lot coverage calculations. (Ord. 774 § 2, 1995; Ord. 388 § 6.07(d), 1975)

17.18.120 — Front yards.

A. Front yard for a one story structure, except as otherwise specified, shall not be less than fifteen feet. For each additional story, the minimum front yard shall be increased two percent of the lot depth to a maximum of twenty percent of the lot depth or twenty feet, whichever is less.

B. In cases where proposed building line for the street(s) upon which any lot faces is established by ordinance, then the front yard(s) shall be measured from the proposed building line.

C. The minimum front yard, except as otherwise specified, shall not be less than twenty feet in depth for the width of a garage or covered carport. (Ord. 388 § 6.07(e) (1, 2, 3), 1975)

17.18.130 — Side yards.

Side yards for a one story structure shall each be not less than ten percent of the lot width. For each additional story, the minimum side yards shall be increased two percent of the lot width to a maximum of twenty percent of the lot width or ten feet, whichever is less. (Ord. 388 § 6.07(e)(4), 1975)

17.18.140 — Rear yard.

Rear yard for a one story structure shall be not less than fifteen percent of the lot depth. For each additional story, the minimum rear yard shall be increased two percent of the lot depth to a maximum of twenty five percent of the lot depth or twenty feet, whichever is less. (Ord. 388 § 6.07(e)(5), 1975)

17.18.150 — Landscaping.

Screen planting and additional landscaping shall be encouraged in all yard areas to insure privacy for all residents. (Ord. 388 § 6.07(e)(6), 1975)

17.18.160 — Open space.

A. Usable Open Space. Not less than fifty percent of the required rear yard shall be developed as usable open space, fully landscaped and accessible to the residents of the structure(s) on the site. The least dimension of this usable open space shall be fifteen feet. Fully developed roof terraces and roof gardens shall be allowed to provide up to one half of the area of usable open space.

B. Private Open Space. In addition to yard requirement and usable open space requirements as provided in this chapter, minimum private open space in the form of screened terraces, decks or balconies shall be provided as follows:

1. Not less than fifty percent of dwelling units shall be provided with individual open space;

2. Each private open space shall have a minimum area of forty eight square feet, with a least dimension of four feet. (Ord. 388 § 6.07(e)(7), 1975)

~~17.18.170 — Lot dimension determination.~~

~~For the purposes of this chapter, lot depth shall be the average length of the side property lines which run approximately perpendicular to the street, and the lot width shall be the average length of the front and rear property lines. In the case of an odd shaped lot, the city planner shall determine the lot depth and width using the criteria for normally shaped lots as a guide line. Anyone affected by the city planner's determination may file within ten days of the determination a written appeal the planning commission, which shall consider and decide the matter. No fee shall be required. (Ord. 388 § 6.07(e)(8), 1975)~~

~~17.18.180 — Yard encroachments.~~

~~Nothing permitted in yard encroachments shall allow an increase in coverage or a decrease in required open space.~~

~~A. Cornices, eaves, fireplaces, stairways, decks, and fire escapes, balconies and similar architectural features, but not including any flat wall or window surface such as bay windows or project closets, may extend into any required side yard a distance not exceeding two feet, or into any required front or rear yard a distance not exceeding four feet.~~

~~B. The development standards set forth in Section 17.18.190 shall apply for detached garages and accessory buildings. (Ord. 388 § 6.07(f), 1975)~~

~~17.18.190 — Garages and accessory buildings.~~

~~Garages and accessory buildings may not be used for human habitation. (Ord. 388 § 6.07(g), 1975)~~

~~17.18.200 — Parking.~~

~~Parking standards shall be as provided in Chapter 17.51. (Ord. 388 § 6.07(h), 1975)~~

~~17.18.210 — Loading areas.~~

~~Loading areas shall be as provided in Chapter 17.51. (Ord. 388 § 6.07(i), 1975)~~

Chapter 17.19

~~TRO TRANSIENT RENTAL USE OVERLAY DISTRICT~~

Sections:

~~17.19.010 Purpose and definition.~~

~~17.19.020 Use permits.~~

~~17.19.010 Purpose and definition.~~

~~The TRO transient rental use overlay district is an overlay district. This means that all regulations of the underlying basic zoning district (R-1 or R-M) are applicable to any property located in the TRO district, except that transient rental use, as defined in Section 17.03.686 may be allowed pursuant to Section 17.19.020. (Ord. 708 § 3, 1991)~~

~~17.19.020 Use permits.~~

~~Properties in TRO districts may apply for conditional use permits to operate as a transient rental use. In addition to such conditions as may be imposed pursuant to Chapter 17.60 (conditional use permits), all such permits shall be subject to the following standard conditions:~~

~~A. The maximum number of persons that may occupy the unit shall be determined by the planning commission and may not be exceeded.~~

~~B. Adequate parking (as determined by the planning commission), whether on site or by Pacific Cove parking permit, must be provided.~~

~~C. The conditional use permit holder must designate a person who has authority to control the property and represent the landlord. This "responsible person" must be available at all reasonable times to receive and act on complaints about the activities of the tenants.~~

~~D. A business license and transient occupancy tax registration must be obtained.~~

~~E. Only one sign per unit, not to exceed one square foot in size, shall be permitted to advertise the transient rental.~~

~~F. No unit may be rented unless the renter is provided, in writing, with a statement of the conditions (such as is provided in subsection A of this section) which are applicable to the renter and his or her guests, and the renter agrees, in writing, to comply with those conditions.~~

~~G. Permits issued under this section shall expire within one year. No permit holder shall have a vested right to a renewal permit.~~

~~H. If there is a history of the permit holder or his or her tenants violating the permit's conditions, the permit shall not be reissued for a least one year following its expiration date, unless good cause is shown. The revoking authority may establish a longer period before which another application may be filed. (Ord. 708 § 3, 1991)~~

Chapter 17.20

~~AHO AFFORDABLE HOUSING OVERLAY DISTRICT~~

Sections:

- ~~17.20.010 Purpose.~~
- ~~17.20.020 Applicability.~~
- ~~17.20.030 Definitions.~~
- ~~17.20.040 Uses permitted with a development agreement.~~
- ~~17.20.050 Development incentives.~~
- ~~17.20.060 Assurance of affordability.~~
- ~~17.20.070 Pre application procedure.~~
- ~~17.20.080 Application Development plans and map required.~~
- ~~17.20.090 Findings.~~

~~17.20.010 Purpose.~~

~~A. The affordable housing overlay (AHO) district is intended to facilitate the provision of affordable housing units as defined in Section 17.20.030 through the retention and rehabilitation of existing units, or the construction of new units. The AHO district is intended to provide the opportunity and means for the city to meet its regional fair share allotment of such units, and to implement the policies and goals of the housing element of the city's general plan.~~

~~B. These regulations are intended to encourage the development of affordable housing units by assisting both the public and private sector in making the provision of these units economically viable, while providing assurances to the city that these units will maintain a high degree of quality and will remain affordable to the target population over a reasonable duration of time.~~

~~C. These regulations are further intended to encourage the provision of affordable housing through the combination of the AHO district with multiple family residential zoning districts within the city where the affordable housing projects are determined to be feasible and are consistent with the city's general plan.~~

~~D. The affordable housing overlay provides a density increase for affordable housing development that in most cases exceeds density bonuses permitted by state law (Government Code Section 65915). Consequently, a development may utilize the affordable housing overlay as an alternative to the use of state density bonus but may not utilize both the affordable housing overlay and state density bonuses.~~

~~E. The affordable housing overlay is intended to provide a means of directing and simplifying the process for creating and maintaining affordable housing.~~

~~F. The affordable housing overlay is also intended to provide incentives to developers whether in new or rehabilitated housing, to maintain rental units for the long term, e.g., not less than fifty five years, and affordable ownership units in perpetuity. (Ord. 950 § 1, 2010)~~

~~17.20.020 Applicability.~~

~~The regulations set forth in this chapter may be applied to specific sites meeting the following criteria:~~

- ~~A. Be located in the multiple family residential zoning districts;~~
- ~~B. Is not located in the R-1 zoning district;~~
- ~~C. One acre in size. (Ord. 950 § 1, 2010)~~

~~17.20.030 Definitions.~~

~~A. "Affordable housing" means housing capable of being purchased or rented by a household with "very low," "low," or "moderate" income levels at an "affordable housing cost" or "affordable rent," as those terms are defined by the state of California.~~

~~B. “Affordable housing overlay district” means a zoning district that applies in addition to existing zoning designation where the city encourages the provision of affordable housing units as described in this chapter.~~

~~C. The “very low,” “low,” and “moderate” income levels are defined by the state of California in Sections 50105, 50079.5, and 50093, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900. These income levels are:~~

- ~~1. Very Low Income. Up to and including fifty percent of the Santa Cruz County median income, adjusted for family size, as defined by the state law;~~
- ~~2. Lower Income. Fifty one percent to eighty percent of Santa Cruz County median income, adjusted for family size, as defined by the state law;~~
- ~~3. Moderate Income. Eighty one percent to one hundred twenty percent of Santa Cruz County median income, adjusted for family size, as defined by state law.~~

~~D. “Affordable housing cost” and “affordable rent” are defined in Sections 50052.5 and 50053, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900.~~

~~E. All of the state laws and regulations referenced above, or their successors, as the same from time to time may be amended, are incorporated herein as though fully set forth. In the event of any inconsistency or discrepancy between the income and affordability levels set forth in this chapter and the levels set in state laws and regulations, the state provisions shall control. (Ord. 950 § 1, 2010)~~

17.20.040 — Uses permitted with a development agreement.

~~The following uses are permitted with the execution of a development agreement by the city and the developer in accordance with the provisions of California Government Code Section 65864 et seq.~~

~~A. Residential developments at a density greater than normally permitted by the underlying, multiple family zoning district (up to twenty units per acre), when the development provides a substantial level of affordable housing units, as defined in Section 17.20.030. A substantial level is defined herein as a minimum of fifty percent of the units in the project be income restricted affordable housing, of which, no less than fifty percent of those units (twenty five percent of the total) shall be affordable to households earning low, very low and extremely low incomes. A greater level of affordability will not allow a greater level of density. The twenty units/acre limit shall be based on a calculation that includes all existing and all new units on the land area that is being included in the calculation.~~

~~B. Accessory uses or structures incidental to the principally permitted use. (Ord. 950 § 1, 2010)~~

17.20.050 — Development incentives.

~~A. General. In order to reduce costs associated with the development and construction of affordable housing, the property development standards set forth in subsection C of this section are established for the AHO district. These property development standards represent a relaxation of standards normally applied to housing in the city and are established in order to facilitate and promote the development of affordable housing in the city and shall be extended upon issuance of a design permit for architectural and site review. As a further inducement to the development of affordable housing beyond the relaxation and flexibility of development standards, the city, where appropriate, may also extend one or more of the development incentives set forth in subsection D, the selection of which shall depend on the quality, size, nature, and scope of the project being proposed. Incentives shall be targeted to improve the project design or to yield the greatest number of affordable units and required level of affordability, so as to permit the city to meet its regional fair share allotment of affordable housing and the goals of the housing element of the city’s general plan. It is also the intent of the city to facilitate affordable housing by encouraging developer involvement with the city’s redevelopment agency and other public and private entities concerned with the provision of affordable housing and by cooperating with such entities.~~

~~B. Eligibility. To be eligible for the property development standards set forth in subsection C of this section requires the developer to propose a housing development containing at least fifty percent affordable units. All affordable~~

~~units can be in a single category or there can be a mixture of affordable unit types (although twenty-five percent of total must be affordable to low, very low or extremely low income households) which include:~~

- ~~1. Moderate income households; or~~
- ~~2. Lower income households; or~~
- ~~3. Very low income households; or~~
- ~~4. Extremely low income households.~~

C. Property Development Standards. The following development standards shall apply to affordable housing units in the AHO district:

~~1. General Design Standards. The affordable housing units shall be designed and developed in a manner compatible with and complementary to existing and potential development in the immediate vicinity of the project site. Site planning on the perimeter shall provide for protection of the property from adverse surrounding influences and shall protect surrounding areas from potentially adverse influences from the property. To the greatest extent possible, the design of the development shall promote privacy for residents and neighbors, security, and use of passive solar heating and cooling through proper placement of walls, windows, and landscaping. Building design and materials shall blend with the neighborhood or existing structures on the site.~~

~~2. Minimum Design Standards. Unless modified by the planning commission, the following design standards shall apply to a project that utilizes the density increases allowed by this section.~~

- ~~a. The front facade and main entrance of dwellings adjacent to the front property line shall face the street and must be clearly articulated through the use of architectural detailing.~~
- ~~b. The front entrance of the dwelling facing the street should be defined by at least one of the following: a porch of at least eight feet in width and depth, roof overhang, or similar architectural element.~~
- ~~c. Except for a basement level garage below grade, any garage, carport or other accessory structure, attached or detached, shall be located at least fifteen feet behind the front of the principal building facing the front property line.~~
- ~~d. Sidewalks shall be installed along all street frontages.~~
- ~~e. Existing vegetation on perimeter shall be preserved to maintain a buffer to existing surrounding structures. Existing significant trees are to remain whenever feasible.~~
- ~~f. The planning commission may waive, or modify, any, or all, of these requirements when the commission finds it is infeasible to comply due to physical or other constraints on the lot.~~

~~3. Minimum Building Site Area and Lot Area Per Dwelling Unit. There shall be no minimum building site area requirement for individual lots or individual dwelling sites in an affordable housing development. The building site area shall be designated on a site plan approved by the planning commission pursuant to Chapter 17.63, Architectural and Site Review.~~

~~4. Density. In multiple family residential districts, overall density of site development within an AHO district shall not exceed twenty units per acre. A development may utilize the affordable housing overlay as an alternative to the use of state density bonus but may not utilize both the affordable housing overlay and state density bonuses. Density averaging may be used to achieve an overall acceptable density level for a project. As used herein, "density averaging" means meeting the density requirements by averaging the density on a project wide basis so as to permit higher density levels in certain project portions in exchange for advantageous project design features. In all zoning districts, density permitted by the AHO district shall not exceed what can be accommodated by the site while meeting parking, unit size, and other development standards.~~

~~5. Building Height. The building height shall not exceed two stories or twenty seven feet from existing grade or finish grade, whichever is more restrictive.~~

~~6. Setbacks. The minimum setbacks from the lot line of the project shall be determined through approval of a design permit/architectural and site review with the exception of setbacks from property lines adjacent to R-1-zoned property, which shall be a minimum of twenty feet for first floors and fifty feet for second floors.~~

~~7. Lot Coverage. The maximum lot coverage for a proposed project shall be determined through the design permit/architectural and site review.~~

~~8. Parking. R-1 parking standards shall apply with a minimum two spaces per unit. In addition, a minimum of one visitor parking space for every seven units shall be required.~~

~~9. Common Open Space. Common open space shall comprise the greater of: (a) ten percent of the total area of the site; or (b) seventy five square feet for each dwelling unit. Land occupied by buildings, streets, driveways, parking spaces, utility units, and trash enclosures shall not be counted in satisfying the open space requirement; land in landscaping and passive and active recreation/open space with a minimum depth/width of five feet shall be counted, and land occupied by recreational buildings and structures shall be counted.~~

~~10. Streets. All public streets within or abutting the proposed planned development shall be dedicated and improved to city specifications for the particular classification of street; all private streets shall meet fire code and access standards.~~

~~11. Accessory Uses and Structures. Accessory uses and structures shall be located as specified on the site plan as approved by the planning commission.~~

~~12. Signs. Signs shall be permitted only to the extent allowed under Chapter 17.57 and must be approved by the planning commission.~~

~~D. Additional Development Incentives. In addition to the relaxed and flexible development standards set forth in subsection C of this section, the city may offer other development incentives should the developer meet the eligibility requirements. For example, exceptions, waivers or modifications of other development standards which would otherwise inhibit density and achievement of affordable housing goals for the development site, including, but not limited to, placement of public works improvements. (Ord. 950 § 1, 2010)~~

17.20.060 — Assurance of affordability.

Affordable housing units developed under this chapter shall remain available to persons and families of very low, low and moderate income, at an affordable housing cost or affordable rental cost, as those income and affordability levels as defined in Section 17.20.030, for a period of not less than fifty five years, unless a longer period is required by a construction or mortgage financing program, mortgage insurance program, California Redevelopment Law, or housing grant, loan or subsidy program. The period of affordability required hereunder shall run concurrently with any period of affordability required by any other agency; provided, however, that the affordability period shall not be less than as set forth in this section. The project developer shall be required to enter into an appropriate agreement with the city to ensure affordability is maintained for the required period. (Ord. 950 § 1, 2010)

17.20.070 — Pre application procedure.

Prior to submitting an application for an affordable housing development, the applicant or prospective developer should hold preliminary consultations with the community development department, redevelopment agency, and other city staff as may be desirable, to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and other data. Such preliminary consultations should include information on potential federal, state, and local affordable housing funding availability, and program requirements in guaranteeing the project's consistency with the objectives of this overlay district. (Ord. 950 § 1, 2010)

17.20.080 — Application — Development plans and map required.

An application for an affordable housing development must be for a parcel or parcels of land, is under the control of the person, corporation, or entity proposing the development. The application shall be accomplished by the submittal of the following plans and maps with the city's standard application form:

A. A boundary survey map of the property or, if the applicant proposes to subdivide the property, a subdivision map;

B. Topography of the property and the preliminary proposed finished ground shown at contour intervals of not to exceed two feet;

C. The gross land area of the development, the present zoning classification and land use of the area surrounding the proposed development, including the location of structures and other improvements;

D. A general development plan with at least the following details shown to scale and dimensions:

1. Location of each existing and each proposed structure in the development area, the use or uses to be contained therein, the number of stories, gross building and floor areas, approximate location of entrances thereof;

2. All streets, curb cuts, driving lanes, parking areas, public transportation points and illumination facilities for the same;

3. All pedestrian walks, malls and open areas for use of occupants and members of the public;

4. Location and height of all walls, fences and screen planting, including a detailed plan for the landscaping of the development and the method by which such landscaping is to be accomplished;

5. Types of surfacing, such as paving or turfing to be used at various locations;

6. A preliminary grading plan of the area;

E. Plans and elevations of building and structures sufficient to indicate the architectural style and construction standards;

F. The proposed means for assuring the continuing existence, maintenance and operation of the project as an affordable housing project;

G. Such other information as may be required by the director to allow for a complete analysis and appraisal of the planned development. (Ord. 950 § 1, 2010)

17.20.090 — Findings.

In approving a development project which utilizes the affordable housing overlay zone, the city council, upon the recommendation of the planning commission, shall make the following findings to ensure that the application is appropriate to the purpose and the location:

A. The concessions granted for density and deviation from design standards, are commensurate with the level of affordability. Specifically, the greater the extent of concessions and incentives, the greater the level of affordability.

B. The design of the proposed project, even with the concessions for density and deviation from design standards, is appropriate for the scale and style of the site (where additional units are being added to an existing development) and surrounding neighborhood. Specifically, the development will provide an attractive visual transition and will not significantly impact the integrity of the surrounding neighborhoods.

C. The developer has agreed to enter into an agreement to maintain the affordability of the project specific to the requirements of the city and any funding sources with greater or longer affordability requirements.

~~D. If located within the coastal zone, the project is found to be in conformity with the Local Coastal Program, including, but not limited to, sensitive habitat, public viewshed, public recreational access and open space protections. (Ord. 950 § 1, 2010)~~

Chapter 17.21

~~C-V CENTRAL VILLAGE DISTRICT~~

Sections:

- ~~17.21.010 — Applicability.~~
- ~~17.21.020 — Purpose.~~
- ~~17.21.030 — Architectural and site review.~~
- ~~17.21.035 — Location of business activities.~~
- ~~17.21.040 — Principal permitted uses.~~
- ~~17.21.045 — Principal permitted uses — Residential overlay district.~~
- ~~17.21.050 — Accessory uses.~~
- ~~17.21.060 — Conditional uses.~~
- ~~17.21.061 — Conditional uses in the residential overlay district.~~
- ~~17.21.070 — Development standards.~~
- ~~17.21.080 — Height regulations.~~
- ~~17.21.090 — Lot area.~~
- ~~17.21.100 — Lot coverage.~~
- ~~17.21.110 — Yards.~~
- ~~17.21.120 — Parking.~~
- ~~17.21.130 — Loading areas.~~
- ~~17.21.140 — Valet Parking.~~

* — Prior ordinance history: Ord. 388, §§ 7.01 — 7.07, as amended by 447, 515, 533 and 608.

~~17.21.010 — Applicability.~~

~~The regulations set forth in this chapter apply in all C-V districts. (Ord. 622 Exhibit A (part), 1987)~~

~~17.21.020 — Purpose.~~

~~The purpose of the C-V zoning district is to promote the family-oriented residential/commercial mix which has created the unique qualities of the village. Commercial activity should serve both Capitola residents and visitors. The balance of coastal visitor-related uses and services with those that serve the permanent residents is critical to maintaining the village as it presently exists. (Ord. 685 § 16, 1989; Ord. 622 Exhibit A (part), 1987)~~

~~17.21.030 — Architectural and site review.~~

~~Architectural and site approval shall be secured for the establishment and conduct of any principal permitted, accessory, or conditional use in C-V districts, as provided in Chapter 17.63, and in the Central Village District Guidelines dated July, 1986, a copy of which are on file with the community development director. (Ord. 671, 1988; Ord. 622 Exhibit A (part), 1987)~~

~~17.21.035 — Location of business activities.~~

~~There shall be no business activities such as the display of merchandise, selling of food, or placing tables and chairs outside the enclosed premises of the business unless a conditional use permit for the outdoor display of merchandise, take-out window or outdoor seating has been obtained from the city. (Ord. 740 § 1, 1992)~~

~~17.21.040 — Principal permitted uses.~~

~~The following are principal permitted uses in the C-V district, not including residential overlay areas:~~

~~A. Residential uses on first or second floor;~~

~~B. Professional, general administrative and business offices on the first or second floor;~~

~~C. New retail business establishment, and small personal service establishment, such as small retail shops and stores, including retail bakeries and beach equipment rental businesses conducted indoors, on the first floor only;~~

~~D. New art galleries on the first floor only;~~

~~E. Vacation rentals of residential units. (Ord. 740 § 2, 1992; Ord. 622 Exhibit A (part), 1987)~~

17.21.045 — Principal permitted uses — Residential overlay district.

The following are principal permitted uses in the residential overlay district:

~~A. Six Sisters District:~~

~~1. Residential uses (including weekly vacation rental) only.~~

~~B. Venetian Court district:~~

~~1. Residential uses (including weekly vacation rental) only with the exception of the existing motel which may not be expanded or intensified.~~

~~C. Lawn Way:~~

~~1. Residential uses (including weekly vacation rentals) only.~~

~~D. Riverview Avenue District:~~

~~1. Residential uses (including weekly vacation rentals) only.~~

~~E. Cliff Drive District:~~

~~1. Residential uses (including weekly vacation rental) only, with the exception of the existing motel which may not be expanded or intensified.~~

~~F. Cherry Avenue District:~~

~~1. Residential uses (including weekly vacation rental) only. (Ord. 740 § 3, 1992; Ord. 622 Exhibit A (part), 1987)~~

17.21.050 — Accessory uses.

The following are accessory uses permitted in a C-V district:

~~A. Signs complying with the applicable regulations set forth in this chapter and the Central Village Design Guidelines;~~

~~B. Accessory uses and buildings customarily appurtenant to a permitted use, provided that no accessory use shall be offensive or objectionable because of odor, dust, smoke, noise or vibration. (Ord. 740 § 4, 1992; Ord. 622 Exhibit A (part), 1987)~~

17.21.060 — Conditional uses.

The following are conditional uses in a C-V district, subject in each case to the securing of a use permit, as provided in Chapter 17.60:

~~A. Restaurants, including take-out restaurants or adding a take-out window to an existing restaurant use;~~

~~B. Motels and hotels;~~

~~C. Commercial entertainment establishments, such as theaters and amusement centers conducted within a closed building;~~

~~D. Business establishments that sell or dispense alcoholic beverages;~~

~~E. Beach equipment rental businesses conducted outdoors;~~

~~F. Any activity which includes any significant alteration of a historic feature;~~

~~G. Bed and breakfast home occupations;~~

~~H. Home occupations;~~

~~I. New limited repair services conducted entirely within enclosed buildings, primarily to serve family needs, on the second floor;~~

~~J. New retail business establishments and small personal service establishments, such as small retail shops and stores, including retail bakeries and beach equipment rental businesses conducted indoors, on the second floor;~~

~~K. New art galleries on the second floor;~~

~~L. Display of merchandise or other outdoor activity such as outdoor seating for a restaurant or other food establishment located in this district. (Ord. 740 § 6, 1992; Ord. 677 § 6(A), 1989; Ord. 622 Exhibit A (part), 1987)~~

17.21.061 — Conditional uses in the residential overlay district.

~~The following are conditional uses in the Riverview Avenue and Cherry Avenue overlay districts (see Section 17.21.100(B):~~

~~A. Home occupations subject to Section 17.03.310; B. Bed and breakfast use subject to Section 17.03.085. (Ord. 677 § 6(B), 1989)~~

17.21.070 — Development standards.

~~Development standards shall be set forth in the Central Village Design Guidelines adopted by the city council on January 22, 1987, for the district. Structures destroyed by fire or natural disaster; provided, that the replacement structure is of the same size and in the same location, shall be given special consideration and may be exempted from Design Guideline requirements. To carry out the purposes of the zoning district first floor commercial uses shall not be converted to residential uses. (Ord. 691 § 2, 1990; Ord. 622 Exhibit A (part), 1987)~~

17.21.080 — Height regulations.

~~No structure shall exceed twenty seven feet in height in the C-V zone, except when a restoration of a historic building of Capitola exceeding the height limitation is proposed and has been recommended for approval by the planning commission. In any case, such structures shall provide for adequate light and air, and shall provide for considerations of view from adjacent properties. (Ord. 740 § 7, 1992; Ord. 622 Exhibit A (part), 1987)~~

17.21.090 — Lot area.

~~There shall be no specific minimum lot area required in the C-V zone, except that there shall be sufficient area to satisfy any off street parking and loading area requirements as established in the city's parking ordinance. (Ord. 622 Exhibit A (part), 1987)~~

17.21.100 — Lot coverage.

~~There shall be no specific maximum lot coverage in the C-V zone, except as follows:~~

~~A. Sufficient space shall be provided to satisfy offstreet parking and loading area requirements, notwithstanding that all parking may be provided within a structure or structures.~~

~~B. In the Riverview Avenue residential overlay district:~~

~~1. The small lots on the north side of Riverview Avenue shall allow ninety percent development of the lot without any specific setback requirements. The ten percent open space shall be located in the front part of the lot.~~

~~2. Lots on the south side of Riverview Avenue which are smaller than one thousand two hundred square feet shall be allowed eighty percent lot coverage. Lots which are greater than one thousand two hundred square feet shall be allowed seventy percent lot coverage. When calculating square footage for development, lot size shall not include parcels on the river side of the pathway.~~

~~“Lot coverage” shall be defined as the footprint of the building and area used to meet the parking requirements of the use. Garages, carports, the portion of any basement that exceeds two hundred fifty gross square feet excluding the access stairway, or open parking spaces used to meet the parking requirements are included as the actual square footage. Driveway approaches and sidewalks are not included in the lot coverage. For example: A thirty foot by one hundred foot lot is three thousand square feet. A seventy percent lot coverage means a two thousand one hundred square foot footprint would be allowed. This typically would provide three foot side yard setbacks (six hundred square feet) and a ten foot front yard setback (three hundred square feet). However, flexibility is allowed in locating the structure.~~

~~C. In the Cherry Avenue residential overlay area:~~

~~1. Lots of less than one thousand square feet shall be allowed ninety percent lot coverage. Lots between one thousand one and two thousand square feet shall be allowed eighty percent lot coverage. Lots over two thousand square feet shall be allowed seventy five percent lot coverage. For example, a thirty foot by seventy foot lot is two thousand one hundred square feet, which allows seventy five percent lot coverage. A building footprint of one thousand five hundred seventy five square feet may be developed, which provides three foot side yard setbacks (four hundred twenty square feet), and a front yard setback of 5.1 feet (one hundred fifty five square feet)~~

~~The definition of “lot coverage” is the footprint of the building and area used to meet the parking requirements of the use. Garages, carports or open space parking used to meet the parking requirements are included as the actual square footage. Driveway approaches and sidewalks are not included in lot coverage. (Ord. 774 § 3, 1995; Ord. 677 § 6(C), 1989; Ord. 622 Exhibit A (part), 1987)~~

~~**17.21.110—Yards.**~~

~~There shall be no yard requirements in the C V zone, except that: (1) ten percent of lot area shall be developed as landscaped open area, at least partially fronting on, and open to, the street. No portion of this landscaped area shall be used for off street parking, and (2) a minimum front open space for the northerly side of the first two hundred fifty feet of Cliff Drive, west of the intersection of Wharf Road, shall be ten feet. (Ord. 757 § 2, 1993; Ord. 622 Exhibit A (part), 1987)~~

~~**17.21.120—Parking.**~~

~~Parking requirements for buildings in the C V zone shall be as provided in Chapter 17.51, and Section 17.21.140 and as required by this chapter:~~

~~A. Parking shall be provided for any change in use from residential to commercial, for the full amount required by the commercial operation. No space credit for the previous use will be granted.~~

~~B. When a substantial remodel or reconstruction of a building is done for reasons other than fire or natural disaster, parking requirements for the entire structure shall be provided.~~

~~C. Required parking for new users shall be provided at sites outside the village area, but within walking distance or at remote sites served by a shuttle system; exceptions to permit on site parking may be made for:~~

~~1. Nonhistoric structures in residential areas bounding the central commercial district of the village; and~~

~~2. For the Capitola Theater site and mercantile site as shown on the village residential overlay zone addendum map and providing that site designs shall provide for minimizing driveway cuts and for ground floor street-frontage commercial development with parking areas/structures on the interior of the sites; and~~

~~3. If mandated under Federal Emergency Management Agency regulations and as consistent with the certified LCP. (Ord. 941 § 1, 2009; Ord. 677 § 6(D), 1989; Ord. 622 Exhibit A (part), 1987)~~

~~**17.21.130—Loading areas.**~~

~~Loading areas in the C V zone shall be as provided in Chapter 17.51. (Ord. 622 Exhibit A (part), 1987)~~

~~17.21.140 — Valet Parking.~~

~~The city may designate two village metered parking spaces, or similar space to allow for the operation of a valet parking program. (Ord. 941 § 2, 2009)~~

Chapter 17.22

C-R COMMERCIAL/RESIDENTIAL DISTRICT

Sections:

- ~~17.22.010 — Applicability.~~
- ~~17.22.020 — Purpose.~~
- ~~17.22.030 — Architectural and site review required.~~
- ~~17.22.040 — Principal permitted uses.~~
- ~~17.22.050 — Conditional uses.~~
- ~~17.22.060 — Development standards.~~
- ~~17.22.070 — Accessory uses.~~

~~17.22.010 — Applicability.~~

~~The regulations set forth in this chapter apply to all commercial/residential (C-R) districts. (Ord. 579 (part), 1985)~~

~~17.22.020 — Purpose.~~

~~The purpose of C-R districts is to implement the harmonious intermingling of pedestrian, commercial and residential activities. The style and scale of development should enhance pedestrian usage of the areas. Mixing residential with commercial in a single development will ordinarily be encouraged. (Ord. 579 (part), 1985)~~

~~17.22.030 — Architectural and site review required.~~

~~Architectural and site approval as provided in Chapter 17.63 of this code shall be secured for the establishment and conduct of any principal permitted, accessory or conditional use in C-R districts. (Ord. 579 (part), 1985)~~

~~17.22.040 — Principal permitted uses.~~

~~The following are permitted uses in a C-R district: residential uses (single family and duplexes). (Ord. 579 (part), 1985)~~

~~17.22.050 — Conditional uses.~~

~~The following are conditional uses in a C-R district, subject in each case to securing a use permit as provided in Chapter 17.60 of this code:~~

~~A. Art galleries;~~

~~B. Restaurants;~~

~~C. Clothing stores;~~

~~D. Antique stores;~~

~~E. Medical and dental offices;~~

~~F. Motels and hotels;~~

~~G. Professional, general, administrative and business offices;~~

~~H. Banks;~~

~~I. Personal service establishments entirely within enclosed buildings, such as barbershops, beauty shops, shoe repair shops, tailor shops, clothes cleaning and laundry agencies and self service laundrettes; retail drycleaning establishments, provided that the solvents used in the cleaning process shall be nonflammable and nonexplosive and are in fluid-tight cleaning units approved by the State Fire Marshal. No drycleaning is permitted of clothes other than those delivered to the establishment by consumers;~~

~~J. Limited repair services conducted entirely within enclosed buildings, such as jewelry, domestic appliance, typewriter and business machine repair shops, primarily to serve family needs; retail business establishments, such as small shops and stores, including retail bakeries, and beach equipment rental businesses conducted indoors;~~

~~K. Lodging facilities, clubs, and indoor restaurants;~~

~~L. Insurance and real estate agencies;~~

~~M. Business establishments that sell or dispense alcoholic beverages for consumption on the premises;~~

~~N. Projects which are in part commercial and also contain at least one dwelling (defined in Section 17.03.190);~~

~~O. Large and small community care residential facilities, subject to the special conditions in Section 17.15.060(G), and large and small family day care homes subject to the special conditions in Section 17.15.060(F);~~

~~P. Other uses similar to the permitted and conditional uses above, not inconsistent with the general purposes of this chapter and the general plan, subject to approval by the city council upon the recommendation of the planning commission;~~

~~Q. Conversion from residential to commercial or commercial to residential;~~

~~R. Bed and breakfasts, subject to Section 17.03.085 requirements;~~

~~S. Reverse vending machines for beverage containers and small collection facilities of five hundred square feet or less, are subject to the requirements of subsections D and E of Section 17.60.030. (Ord. 878 § 4, 2004; Ord. 661 § 2, 1988; Ord. 644 § 1, 1987; Ord. 608 § 8, 1986; Ord. 579 (part), 1985)~~

17.22.060 — Development standards.

~~A. Character. Individual character shall promote a harmonious mix of pedestrian commercial usage and urban residential environment.~~

~~B. Height Regulations. No structure shall exceed twenty seven feet in height.~~

~~C. Lot Coverage. There shall be no specific maximum lot coverage except as follows:~~

- ~~1. Sufficient space shall be provided to satisfy off street parking and loading area requirements, except that all parking may be provided within a structure(s).~~
- ~~2. Front yard and open space requirements shall be satisfied.~~
- ~~3. The first two hundred fifty gross square feet of any basement, including the measurements of the access stairway, shall not be included when calculating lot coverage. Only the portion of a basement that exceeds two hundred fifty gross square feet shall be included in the lot coverage calculations.~~

~~D. Yards.~~

- ~~1. Front yard setback: both new buildings and conversions of existing dwellings are encouraged with design emphasis placed on provision of adequate sidewalk width, street trees, potted plants and front yard landscaping and pedestrian scaled signs. The scale of the building shall determine the required setback.~~
- ~~2. Where a proposed building line for the street(s) upon which any lot faces is established by the street and highway plan of the master plan or is specified by the provisions of this code, then the front yard(s) shall be measured from the proposed building line.~~
- ~~3. Side and rear yards may be required through architectural and site approval in order to provide adequate light and air, assure sufficient distance between adjoining uses to minimize any incompatibility, and to promote excellence of development, except that where a rear yard is provided, it shall be at least ten feet wide.~~

~~E. Parking. Parking standards shall be as provided in Chapter 17.51.~~

~~F. Loading Areas. As provided in Chapter 17.51.~~

~~G. Landscaping. Landscaping should further the creation of a harmonious pedestrian, commercial atmosphere. (Ord. 774 § 4, 1995; Ord. 642 § 2, 1987; Ord. 579 (part), 1985)~~

~~17.22.070 — Accessory uses.~~

~~The following are accessory uses permitted in a C-R district:~~

~~A. Signs complying with the applicable regulations set forth in this code;~~

~~B. Accessory uses and buildings customarily appurtenant to a permitted use, provided that no accessory use shall be offensive or objectionable because of odor, dust, smoke, noise or vibration. (Ord. 579 (part), 1985)~~

Chapter 17.24

CN NEIGHBORHOOD COMMERCIAL DISTRICT

Sections:

- ~~17.24.010 — Applicability.~~
- ~~17.24.020 — Purpose and consistency.~~
- ~~17.24.030 — Architectural and site review.~~
- ~~17.24.040 — Principal permitted uses.~~
- ~~17.24.050 — Accessory uses.~~
- ~~17.24.060 — Conditional uses.~~
- ~~17.24.090 — Height regulations.~~
- ~~17.24.100 — Lot area.~~
- ~~17.24.110 — Lot coverage.~~
- ~~17.24.112 — Side yard setback.~~
- ~~17.24.114 — Front yard setback.~~
- ~~17.24.116 — Rear yard setback.~~
- ~~17.24.130 — Parking.~~
- ~~17.24.140 — Loading areas.~~
- ~~17.24.150 — Landscaping.~~

17.24.010 — Applicability.

The regulations set forth in this chapter apply in all CN districts. (Ord. 388 § 8.01, 1975)

17.24.020 — Purpose and consistency.

The purpose of CN districts is to accommodate, at convenient locations, those limited commercial uses which are necessary to meet frequently occurring basic shopping and service needs of persons residing in adjacent areas and to implement the harmonious intermingling of pedestrian, commercial and residential activities. The style and scale of development should be consistent with the foregoing and the intensity of uses should have low impact on the neighborhood. (Ord. 658 § 1 (part), 1988; Ord. 388 § 8.02, 1975)

17.24.030 — Architectural and site review.

Architectural and site approval shall be secured for the establishment of any principal permitted, accessory, or conditional use in a CN district as provided in Chapter 17.63. (Ord. 388 § 8.03, 1975)

17.24.040 — Principal permitted uses.

The following are principal permitted uses in a CN district:

A. Professional offices;

B. Personal service establishments entirely within enclosed buildings, such as barbershops, beauty parlors, shoe-repair shops, clothes cleaning and laundry agencies and self-service laundrettes; retail dry cleaning establishments; provided, that the solvents used in the cleaning process shall be nonflammable and nonexplosive and are used in fluid-tight cleaning units approved by the State Fire Marshall; no dry cleaning is permitted of clothes other than those delivered to the establishments by consumers;

C. Limited repair services conducted entirely within enclosed buildings, such as jewelry and domestic appliance-repair shops;

D. Small retail businesses conducted entirely within enclosed buildings, such as neighborhood grocery stores, retail bakeries, liquor stores, drug stores, apparel shops, variety stores and hardware stores;

E. Lodges and clubs as subordinate uses in buildings used primarily for permitted uses specified in this section;

F. Single family residential development;

~~G. Residential/commercial mixed development. (Ord. 658 § 1, 1988; Ord. 388 § 8.04, 1975)~~

17.24.050 — Accessory uses.

The following are accessory uses permitted in a CN district:

~~A. Signs complying with the applicable regulations set forth in the sign ordinance;~~

~~B. Accessory uses and buildings customarily appurtenant to a permitted use. (Ord. 388 § 8.05, 1975)~~

17.24.060 — Conditional uses.

The following are conditional uses in a CN district, subject in each case to the securing of a use permit as provided in Chapter 17.60:

~~A. Any activity which includes any significant alteration of an historic feature;~~

~~B. Banks;~~

~~C. Bed and breakfasts, subject to Section 17.03.085;~~

~~D. Business establishments that sell or dispense alcoholic beverages for consumption upon the premises;~~

~~E. Large and small community care residential facilities, subject to the special conditions in Section 17.15.060(G), and large and small family day care homes, subject to the special conditions in Section 17.15.060(F);~~

~~F. Lodging facilities;~~

~~G. Medical/dental offices;~~

~~H. Motels or hotels meeting the following requirements:~~

- ~~1. The size should not be out of scale with, nor the appearance out of character with, the neighborhood;~~
- ~~2. No kitchen facilities in the rooms;~~
- ~~3. No food served on premises except breakfast, during breakfast hours (six a.m. to eleven a.m.);~~
- ~~4. The daily operations are managed by persons residing on the property.~~

~~I. Multiple dwellings and groups or combinations thereof;~~

~~J. Restaurants;~~

~~K. Reverse vending machines for beverage containers and small collection facilities of five hundred square feet or less, are subject to the requirements of subsections (D) and (E) of Section 17.60.030.~~

~~L. Other uses similar to the permitted and conditional uses above, not inconsistent with the general purposes of this chapter and the general plan, subject to approval by the city council upon recommendation of the planning commission. (Ord. 878 § 5, 2004; Ord. 658 § 1, 1988; Ord. 661 § 2, 1988; Ord. 644 § 2, 1987; Ord. 608 § 9, 1986; Ord. 536 § 1(part), 1983; Ord. 533 § 2, 1983; Ord. 515 § 5 (part), 1982; Ord. 388 § 8.06, 1975)~~

17.24.090 — Height regulations.

No structure shall exceed twenty seven feet in height. (Ord. 642 § 2, 1987; Ord. 388 § 8.08(a), 1975)

17.24.100 — Lot area.

There shall be no specific minimum lot area required except that there shall be sufficient area to satisfy any off-street parking and loading area requirements. (Ord. 388 § 8.08(b), 1975)

17.24.110 — Lot coverage.

There shall be no specific maximum lot coverage, except as follows:

~~A. Sufficient space shall be provided to satisfy offstreet parking and loading area requirements, except that all parking may be provided within a structure(s);~~

~~B. Front yard and open space requirements shall be satisfied;~~

~~C. The first two hundred fifty gross square feet of a basement, including the measurements of the access stairway, shall not be included when calculating lot coverage. Only the portion of a basement that exceeds two hundred fifty gross square feet shall be included in the lot coverage calculations. (Ord. 774 § 5, 1995; Ord. 388 § 8.08(e), 1975)~~

~~17.24.112 — Side yard setback.~~

~~The side yard setbacks shall be ten percent of the lot width for the first floor and fifteen percent of the lot width for the second floor. (Ord. 658 § 3, 1988)~~

~~17.24.114 — Front yard setback.~~

~~The front yard setback shall allow for a fifteen foot landscape strip. (Ord. 658 § 3, 1988)~~

~~17.24.116 — Rear yard setback.~~

~~For commercial development all rear yards adjacent to residential areas will provide a ten foot landscape strip and solid masonry wall to protect the adjacent residential development. Rear yard for residential development shall be twenty percent of the lot depth. (Ord. 658 § 3, 1988)~~

~~17.24.130 — Parking.~~

~~Parking standards shall be as provided in Chapter 17.51 and parking spaces shall not be in the front yard landscape area. (Ord. 658 § 1, 1988; Ord. 388 § 8.08(e), 1975)~~

~~17.24.140 — Loading areas.~~

~~Loading areas shall be as provided in Chapter 17.51. (Ord. 388 § 8.08(f), 1975)~~

~~17.24.150 — Landscaping.~~

~~Landscaping shall cover five percent of the lot area to insure harmony with adjacent development, in accordance with architectural and site approval standards. (Ord. 677 § 17, 1989)~~

Chapter 17.27

CC COMMUNITY COMMERCIAL DISTRICT

Sections:

- ~~17.27.010 — Applicability.~~
- ~~17.27.020 — Purpose.~~
- ~~17.27.030 — Architectural and site approval.~~
- ~~17.27.040 — Principal permitted uses.~~
- ~~17.27.050 — Accessory uses.~~
- ~~17.27.060 — Conditional uses.~~
- ~~17.27.070 — Development standards.~~
- ~~17.27.080 — Height.~~
- ~~17.27.090 — Lot area.~~
- ~~17.27.100 — Lot coverage.~~
- ~~17.27.110 — Yards.~~
- ~~17.27.120 — Parking.~~
- ~~17.27.130 — Loading areas.~~
- ~~17.27.140 — Landscaping.~~

17.27.010 — Applicability.

The regulations set forth in this chapter apply in all CC districts. (Ord. 388 § 9.01, 1975)

17.27.020 — Purpose.

The purpose of CC districts is to provide at readily accessible locations for a wide variety of retail, service and administrative establishments which are required to serve a large trading area population. Principal uses should be conducted within an enclosed building. No residential uses are anticipated in this district. (Ord. 388 § 9.02, 1975)

17.27.030 — Architectural and site approval.

Architectural and site approval shall be secured for the establishment and conduct of any principal permitted, accessory, or conditional use in a CC district as provided in Chapter 17.63. (Ord. 388 § 9.03, 1975)

17.27.040 — Principal permitted uses.

The following are principal permitted uses in a CC district:

A. Department stores;

B. Furniture, appliance or home furnishing stores;

C. Other retail uses when contained in a shopping center with a minimum of three hundred thousand square feet gross floor area;

D. Retail businesses conducted entirely within enclosed building;

E. Personal service establishments entirely within enclosed buildings that occupy less than three thousand square feet of building area, such as barbershops, beauty parlors, shoe repair shops, clothes cleaning and laundry agencies and self service laundrettes; retail dry cleaning establishments; provided, that the solvents used in the cleaning process shall be nonflammable and nonexplosive and are used in fluid tight cleaning units approved by the state fire marshal; no dry cleaning is permitted of clothes other than those delivered to the establishments by consumers;

F. Limited repair services conducted entirely within enclosed buildings that occupy less than three thousand square feet of building area, such as jewelry and domestic appliance repair shops;

G. Professional, general administrative and medical offices that occupy less than three thousand square feet of building area;

~~H. Banks and financial services that occupy less than three thousand square feet of building area. (Ord. 947 § 1, 2010; Ord. 556 § 1, 1984; Ord. 388 § 9.04, 1975)~~

17.27.050 — Accessory uses.

The following are accessory uses permitted in a CC district:

A. Signs complying with the applicable regulations set forth in the sign ordinance;

B. Accessory uses and buildings customarily appurtenant to a permitted use. (Ord. 388 § 9.05, 1975)

17.27.060 — Conditional uses.

~~The following are conditional uses in a CC district, subject in each case to the securing of a use permit as provided in Chapter 17.60:~~

A. Bakeries and supermarkets;

B. Professional, general administrative and business offices that occupy more than three thousand square feet of building area;

C. Banks and financial services that occupy more than three thousand square feet of building area;

D. Personal service establishments entirely within enclosed buildings that occupy more than three thousand square feet of building area, such as barbershops, beauty parlors, shoe repair shops, tailor shops, clothes cleaning and laundry agencies and self service laundrettes, retail dry cleaning establishments provided the solvents used in the cleaning process shall be nonflammable and nonexplosive and are in fluid tight cleaning units approved by the state fire marshal; no dry cleaning is permitted of clothes other than those delivered to the establishment by consumers;

E. Limited repair services conducted entirely within enclosed buildings that occupy more than three thousand square feet of building area, such as jewelry, domestic appliances, typewriter and business machine repair shops;

F. Lodges, clubs and restaurants, not including restaurants with drive up windows or car service;

G. New car sales;

H. Vocational and specialized schools;

I. Auditoriums, assembly halls and exhibition halls;

J. Commercial entertainment establishments such as theaters, bowling alleys, billiard and pool parlors, dancehalls and skating rinks, and amusement centers;

K. Limited food preparation with retail outlets on the same premises, such as bakeries;

L. Business establishments that sell or dispense alcoholic beverages for consumption upon the premises;

M. Motels and hotels;

N. Service stations;

O. Wholesale without stock, where the storage of merchandise is limited to samples only;

P. Home equipment rental establishments conducted within a closed building;

Q. Caterers;

R. Other uses similar to the above, not inconsistent with the general purposes of this chapter and the general plan, subject to approval by the city council upon the recommendation of the planning commission;

S. Any activity which includes any significant alteration of a historic feature;

~~T. Auto repair shops as a secondary use to a primary use;~~

~~U. Reverse vending machines for beverage containers and small collection facilities of five hundred square feet or less, are subject to the requirements of subsections D and E of Section 17.60.030;~~

~~V. Self storage facilities located outside of the Coastal Zone Boundary, subject to the considerations in Section 17.60.030(F);~~

~~W. Multiple family residences provided the residential use is secondary to a principle permitted use on the same lot subject to the following limitations within the coastal zone:~~

~~1. First floor uses shall be commercial uses,~~

~~2. Commercial ceiling height shall be greater in height than any residential ceiling height located above commercial uses,~~

~~3. First floor ceiling heights shall be a minimum of fifteen feet or one hundred twenty percent of the maximum ceiling height of the residential units located above the commercial uses, whichever is greater,~~

~~4. Commercial entrances shall be the primary building entries and shall be accented with strong architectural definition. Residential entrances shall be secondary and de-emphasized (e.g., located at the rear of the building, visually unobtrusive, etc.),~~

~~5. Adequate separation of different types of uses shall be maintained in order to avoid potential adverse impacts from one use on another due to noise, lighting, odors, vibration, and general nuisances,~~

~~6. Adequate separation of different types of uses shall be maintained to protect the aesthetic values and primary uses of the site. (Ord. 949 § 1, 2010; Ord. 947 § 2, 2010; Ord. 946 § 1, 2010; Ord. 644 § 3, 1987; Ord. 556 § 1, 1984; Ord. 536 § 1, 1983; Ord. 515 § 5, 1982; Ord. 388 § 9.06, 1975)~~

17.27.070 — Development standards.

~~The development standards set forth in Sections 17.27.080 through 17.27.140 shall apply in a CC district. (Ord. 388 § 9.07, 1975)~~

17.27.080 — Height.

~~No structures shall exceed forty feet in height. Exceptions may be granted subject to approval by the city council upon the recommendation of the planning commission when the following findings can be made:~~

~~A. The proposed development is compatible with existing land uses of surrounding areas and the general plan;~~

~~B. Streets and thoroughfares are suitable and adequate to serve the proposed development;~~

~~C. The proposed development does not produce shadows which may adversely affect the enjoyment of adjacent streets, buildings or open space;~~

~~D. Major views from other structures or public vantage points are not blocked by the proposed development;~~

~~E. The structures of the proposed development are compatible with the existing scale of the adjacent buildings and surrounding areas. (Ord. 556 § 1, 1984; Ord. 388 § 9.07(a), 1975)~~

17.27.090 — Lot area.

~~There shall be no specific minimum lot area required except that there shall be sufficient area to satisfy any landscaping and off street parking and loading area requirements. (Ord. 388 § 9.07(b), 1975)~~

17.27.100 — Lot coverage.

~~There shall be no specific maximum lot coverage set except as follows:~~

~~A. Sufficient space shall be provided to satisfy off street parking and loading area requirements, notwithstanding that all parking may be provided within a structure(s);~~

~~B. Front yard and open space requirements shall be satisfied;~~

~~C. The first two hundred fifty gross square feet of a basement, including the measurements of the access stairway, shall not be included when calculating lot coverage. Only the portion of a basement that exceeds two hundred fifty gross square feet shall be included in the lot coverage calculations. (Ord. 774 § 6, 1995; Ord. 388 § 9.07(c), 1975)~~

17.27.110 — Yards.

~~A. Landscaped areas of front yards shall be set back fifteen feet in accordance with the 41st Avenue design guidelines.~~

~~B. Side and rear yard setbacks may be required through architectural and site approval in order to provide adequate light and air, assure sufficient distance between adjoining uses to minimize any incompatibility and to promote excellence of development; except that where a side or rear yard is provided it shall be at least ten feet wide.~~

~~C. Front yards and corner lot side yards shall not be used for required parking facilities. (Ord. 757 § 3, 1993; Ord. 556 § 1, 1984; Ord. 388 § 9.07(d), 1975)~~

17.27.120 — Parking.

~~Parking standards shall be as provided in Chapter 17.51 except that Section 17.51.130(J), (L), (M), and (O) are replaced with the following:~~

Use	Parking Standard
Retail	1/300 sf
Restaurant, including all prepared food service	1/60 sf floor area available for dining 1/300 sf all other floor area
Office	1/300 sf

~~Each regular space must be a minimum of nine feet by eighteen feet. Thirty percent of the spaces may be compact spaces of eight feet by sixteen feet. (Ord. 947 § 3, 2010; Ord. 388 § 9.07(e), 1975)~~

17.27.130 — Loading areas.

~~Loading areas shall be as provided in Chapter 17.51. (Ord. 388 § 9.07(f), 1975)~~

17.27.140 — Landscaping.

~~Five percent of the lot area shall be landscaped to ensure harmony with adjacent development in accordance with architectural and site approval standards. (Ord. 388 § 9.07(g), 1975)~~

Chapter 17.29

P/OS PARKS AND OPEN SPACE DISTRICT

Sections:

- ~~17.29.010 — Applicability.~~
- ~~17.29.020 — Description and purpose.~~
- ~~17.29.030 — Architectural and site review required.~~
- ~~17.29.040 — Principal permitted uses.~~
- ~~17.29.050 — Conditional uses.~~
- ~~17.29.060 — Property development standards.~~
- ~~17.29.070 — New Brighton State Beach special development standards.~~

~~17.29.010 — Applicability.~~

~~The regulations set forth in this chapter apply in all parks and open space districts. (Ord. 677 § 16 (part), 1989)~~

~~17.29.020 — Description and purpose.~~

~~The purpose of this chapter is to provide a zone for those areas which:~~

~~A. Are to be set aside or have been previously set aside as permanent scenic easements, forest preserves, riparian corridors, public waterfront or beach areas, public parks, or similar public open space; or~~

~~B. Are to be set aside by the owners as buffer areas separating district from recreational, open space/scenic or natural resource areas; or~~

~~C. Should be retained in their existing and undeveloped open character because of excessive danger from flood, fire and erosion. (Ord. 677 § 16 (part), 1989)~~

~~17.29.030 — Architectural and site review required.~~

~~Architectural and site approval as provided in Chapter 17.63 of this code shall be secured for the establishment and conduct of any principal permitted, accessory or conditional use in parks and open space districts. (Ord. 677 § 16 (part), 1989)~~

~~17.29.040 — Principal permitted uses.~~

~~The principal permitted uses for parks and open space districts are: publicly owned recreation areas, parks, playgrounds, wildlife preserves, forest preserves, waterfront areas, and such building, structures and parking facilities as are related and incidental thereto. (Ord. 691 § 3, 1990; Ord. 677 § 16 (part), 1989)~~

~~17.29.050 — Conditional uses.~~

~~Conditional use permits are required in the P/OS district, subject to Chapter 17.60 for buildings, accessory to any permitted use, which are to be used for commercial purposes. (Ord. 677 § 16 (part), 1989)~~

~~17.29.060 — Property development standards.~~

~~The development standards for parks and open space districts are:~~

~~A. Architectural and site review committee approval is required for all buildings and structures which are accessory to permitted uses of the land;~~

~~B. Any structure or use or removal of any vegetation or natural materials that, in the opinion of the planning commission, would defeat the purpose of this district is prohibited;~~

~~C. Development in this district shall be subordinate to its recreational, scenic, or natural resource purpose consistent with all applicable local coastal program policies. Natural resource protection shall include protection of arroyos, creeks and riparian corridors, woodlands and other environmentally sensitive habitats; and~~

~~D. No new permanent structures shall be permitted on the open, sandy beach area of Capitola except for facilities required for public health and safety (i.e., lifeguard stands, approved beach erosion control structures). (Ord. 677 § 16 (part), 1989)~~

~~17.29.070 — New Brighton State Beach special development standards.~~

~~Special development standards for New Brighton Beach include:~~

~~A. Designated Uses. Active/passive open space, public recreational facilities, visitor accommodations/campgrounds: three units/gross area.~~

~~B. Development shall be subordinate to its recreational uses and protect natural resources, including special attention to riparian corridors, woodlands and critical habitat. (Ord. 677 § 16 (part), 1989)~~

Chapter 17.30

~~V-S VISITOR SERVING DISTRICT~~

Sections:

- ~~17.30.010 — Applicability.~~
- ~~17.30.020 — Purpose.~~
- ~~17.30.030 — Architectural and site approval.~~
- ~~17.30.040 — Conditionally permitted uses.~~
- ~~17.30.042 — Conditional visitor serving uses — Rispin.~~
- ~~17.30.045 — Conditional visitor serving uses — Shadowbrook.~~
- ~~17.30.047 — Conditionally permitted uses — Monarch Cove Inn.~~
- ~~17.30.048 — Conditionally permitted uses — El Salto.~~
- ~~17.30.050 — Accessory uses.~~
- ~~17.30.070 — Development standards.~~
- ~~17.30.080 — Height.~~
- ~~17.30.090 — Lot area.~~
- ~~17.30.100 — Lot coverage.~~
- ~~17.30.110 — Yards.~~
- ~~17.30.120 — Parking.~~
- ~~17.30.130 — Loading areas.~~
- ~~17.30.140 — Landscaping and lighting.~~

~~* — Prior ordinance history: Ord. 677.~~

~~17.30.010 — Applicability.~~

~~The regulations set forth in this chapter apply in all V-S districts, except that Section 17.30.040 does not apply to the Rispin, Shadowbrook, and El Salto Resort parcels; Sections 17.30.042 and 17.30.045 apply only to the Rispin and Shadowbrook sites, respectively. Sections 17.30.047 and 17.30.048 apply to the visitor serving designated El Salto Resort parcels. (Ord. 886 § 2, 2005; Ord. 868 § 1, 2004)~~

~~17.30.020 — Purpose.~~

~~The purpose of V-S districts is to accommodate the visiting public with a range of opportunities to enjoy the city of Capitola's coastal location. (Ord. 868 § 1, 2004)~~

~~17.30.030 — Architectural and site approval.~~

~~Architectural and site approval shall be secured for the establishment and conduct of any conditional or accessory use in a V-S district as provided in Chapter 17.63. (Ord. 868 § 1, 2004)~~

~~17.30.040 — Conditionally permitted uses.~~

~~The following are conditional uses in a V-S district (except for the Shadowbrook, Rispin and El Salto parcels) subject in each case to the securing of a use permit as provided in Chapter 17.60:~~

- ~~A. Accessory structures and accessory uses appurtenant to any conditionally allowed use provided there is no intensification of the permitted use;~~
- ~~B. Hotels, motels, hostels, inns, bed and breakfast lodging;~~
- ~~C. Restaurants, not including restaurants with drive up windows or car service;~~
- ~~D. Recreational vehicle parks;~~
- ~~E. Employee housing, accessory to an allowed use;~~
- ~~F. Day care centers;~~

~~G. Assemblages of people, such as carnivals, festivals, races and circuses not exceeding ten days, and not involving construction of permanent facilities;~~

~~H. Accessory structures and uses established prior to establishment of main use or structure;~~

~~I. Legal nonconforming use of a portion of a structure extended throughout the structure;~~

~~J. Legal nonconforming use changed to a use of a similar or more restricted nature;~~

~~K. Habitat restoration; and habitat interpretive facility;~~

~~L. Single family consistent with R-1 standards;~~

~~M. Multi family consistent with RM-LM standards;~~

~~N. Live entertainment;~~

~~O. Public and quasi-public uses including, wharfs, churches, parks, playgrounds, schools, public safety facilities, public utility facilities, and parking lots;~~

~~P. Business establishments that provide commercial places of amusement or recreation, live entertainment, or service of alcoholic beverages and that are located within two hundred feet of the boundary of a residential district;~~

~~Q. Weddings;~~

~~R. Campgrounds and moderate intensity recreational use, including tent platforms, cabins, parks, stables, bicycle-paths, restrooms, and interpretive facilities;~~

~~S. Business establishments that sell or dispense alcoholic beverages for consumption upon the premises;~~

~~T. Other visitor serving uses of a similar character, density and intensity as those listed in this section determined by the planning commission to be consistent and compatible with the intent of this chapter and the applicable land use plan;~~

~~U. Retail stores and offices accessory to visitor serving uses;~~

~~V. Change of visitor serving commercial uses within a structure provided the new use will not change the nature or intensity of the commercial use of the structure;~~

~~W. One caretaker unit for the purpose of providing on-site security. (Ord 886 § 2, 2005; Ord. 868 § 1, 2004)~~

~~17.30.042 — Conditional visitor serving uses — Rispin.~~

~~The following are conditional visitor serving uses on the Rispin site:~~

~~A. Accessory structures and accessory uses appurtenant to any conditionally allowed use;~~

~~B. Hotels, motels, hostels, inns, bed and breakfast lodging;~~

~~C. On-site food service or restaurant, not including restaurants with drive-up windows or car service;~~

~~D. Assemblages of people, such as festivals, not exceeding ten days and not involving construction of permanent facilities;~~

~~E. Accessory structures and uses established prior to establishment of main use or structure;~~

~~F. Habitat restoration; habitat interpretive facility;~~

~~G. Live entertainment;~~

- ~~H. Public and quasi-public uses including paths, public parks/gardens, public utility facilities, parking areas;~~
- ~~I. Business establishments that provide commercial places of amusement or recreation, live entertainment, or service of alcoholic beverages and that are located within two hundred feet of the boundary of a residential district;~~
- ~~J. Weddings;~~
- ~~K. Business establishments that sell or dispense alcoholic beverages for consumption upon the premises;~~
- ~~L. Other visitor serving uses of a similar character, density, and intensity as those listed in this section and determined by the planning commission to be consistent and compatible with the intent of this chapter and the applicable land use plan;~~
- ~~M. Retail shops and offices accessory to visitor serving uses;~~
- ~~N. One caretaker unit for the purpose of providing on-site security. (Ord. 886 § 3, 2005)~~

~~17.30.045 — Conditional visitor serving uses — Shadowbrook.~~

~~The following are conditional visitor serving uses on the Shadowbrook parcels:~~

- ~~A. Restaurants, not including restaurants with drive-up windows or car service;~~
- ~~B. Assemblages of people, such as festivals, not exceeding ten days and not involving construction of permanent facilities;~~
- ~~C. Habitat restoration; habitat interpretive facility;~~
- ~~D. Public paths;~~
- ~~E. Live entertainment;~~
- ~~F. Parking areas to serve the main facility;~~
- ~~G. Business establishments that provide commercial places of amusement or recreation, live entertainment, or service of alcoholic beverages and that are located within two hundred feet of the boundary of a residential district;~~
- ~~H. Weddings;~~
- ~~I. Business establishments that sell or dispense alcoholic beverages for consumption upon the premises;~~
- ~~J. Other visitor serving uses of a similar character, density, and intensity as those listed in this section determined by the planning commission to be consistent and compatible with the intent of this chapter and the applicable land use plan;~~
- ~~K. Offices accessory to visitor serving uses;~~
- ~~L. One caretaker unit for the purposes of providing on-site security. (Ord. 886 § 3, 2005)~~

~~17.30.047 — Conditionally permitted uses — Monarch Cove Inn.~~

~~The following are the conditionally permitted uses allowed on the Monarch Cove Inn parcels and the portion of parcel 036-142-28 that is located between the two Monarch Cove Inn parcels:~~

- ~~A. Accessory structures and accessory uses appurtenant to any conditionally allowed use;~~
- ~~B. Hotels, motels, hostels, inns; bed and breakfast lodging;~~
- ~~C. Food service related to lodging;~~

~~D. Assemblages of people, such as festivals, not exceeding ten days and not involving construction of permanent facilities;~~

~~E. Accessory structures and uses established prior to establishment of main use or structure;~~

~~F. Habitat restoration; habitat interpretive facility;~~

~~G. Live entertainment;~~

~~H. Public paths;~~

~~I. Business establishments that provide commercial places of amusement or recreation, live entertainment, or service of alcoholic beverages and that are located within two hundred feet of the boundary of a residential district;~~

~~J. Weddings;~~

~~K. Business establishments that sell or dispense alcoholic beverages for consumption upon the premises;~~

~~L. Other visitor serving uses of a similar character, density, and intensity as those listed in this section and determined by the planning commission to be consistent and compatible with the intent of this chapter and the applicable land use plan;~~

~~M. Offices and limited retail use, accessory to visitor serving uses;~~

~~N. One caretaker unit for the purpose of providing on-site security;~~

~~O. Access roadway;~~

~~P. Residential use by the owners and their family members of up to one unit per parcel on the three parcels, as long as a minimum of six guest bedrooms are available for visitor serving use within the three parcels;~~

~~Q. Non-family residential use during the off-season months (November through April). (Ord. 886 § 3, 2005)~~

17.30.048 — Conditionally permitted uses — El Salto.

The following are the conditionally permitted uses allowed on El Salto parcels 036-142-26, 036-143-30, and the portion of parcel 036-142-28 located outside the Monarch Cove Inn properties:

~~A. Accessory structures and accessory uses appurtenant to any conditionally allowed use;~~

~~B. Hotels, motels, hostels, inns, bed and breakfast lodging;~~

~~C. Food service related to lodging use;~~

~~D. Single-family residential use consistent with R-1 standards;~~

~~E. Multi-family residential use consistent with RM-LM standards;~~

~~F. Public paths;~~

~~G. One caretaker unit for the purpose of providing on-site security. (Ord. 886 § 3, 2005)~~

17.30.050 — Accessory uses.

The following are accessory uses permitted in a V-S district:

~~A. Signs complying with the applicable regulations set forth in the sign ordinance;~~

~~B. Accessory uses and buildings customarily appurtenant to a permitted use. (Ord. 868 § 1, 2004)~~

17.30.070—Development standards.

The V-S (visitor serving) district may be the only zoning district applicable to a property, but at times it is applied along with other zoning districts to a property, such as “VS/R-1,” or “VS/PF” dual zoning. Dual zoning means that the uses and development standards of the V-S district apply, although uses allowed by the other district may also be permitted through approval of a conditional use permit, and the planning commission may apply development standards from the other zoning district in lieu of or as well as the V-S district, as determined through architectural and site review. (Ord. 868 § 1, 2004)

17.30.080—Height.

No structures shall exceed thirty feet in height. Exceptions up to thirty-six feet in height may be granted subject to approval by the city council upon the recommendation of the planning commission when the following findings can be made:

A. The proposed development and design are compatible with existing land uses of surrounding areas and the general plan;

B. Streets and thoroughfares are suitable and adequate to serve the proposed development;

C. The proposed development does not produce shadows which may adversely affect the enjoyment of adjacent streets, buildings or open space;

D. Major public views are not blocked by the proposed development. (Ord. 886 § 2, 2005; Ord. 868 § 1, 2004)

17.30.090—Lot area.

The minimum lot area required shall be five thousand square feet. (Ord. 868 § 1, 2004)

17.30.100—Lot coverage.

There shall be no specific maximum lot coverage set except as follows:

A. Sufficient space shall be provided to satisfy off-street parking and loading area requirements, notwithstanding that all parking may be provided within a structure(s);

B. Front yard and open space requirements shall be satisfied;

C. For the Rispin site, the maximum allowable impervious site coverage (e.g., buildings, paving, decks, etc.) is twenty-five percent;

D. For the visitor serving El Salto Resort parcels (except for the portion of parcel 036-142-28 that is located outside of the Monarch Cove Inn) and the Shadowbrook Restaurant parcel located directly adjacent to Soquel Creek, the allowable impervious site coverage (e.g., buildings, paving, decks, etc.) is fifty percent. (Ord. 886 § 2, 2005; Ord. 868 § 1, 2004)

17.30.110—Yards.

A. Front, side and rear yard setbacks may be required through architectural and site approval in order to provide adequate light and air, assure sufficient distance between adjoining uses to minimize any incompatibility and to promote excellence of development. Where a side or rear yard abuts residential property a setback of at least ten feet shall be provided.

B. Front yards and corner lot side yards shall not be used for required parking facilities.

C. For the visitor serving El Salto properties located adjacent to the bluff top, new development shall adhere to the setback and development provisions provided in the LUP's natural hazards policies and in certified zoning Chapter 17.48 (Geologic Hazards District).

D. To protect the waters and riparian habitat of Soquel Creek, new development on the Shadowbrook Restaurant and Rispin parcels shall adhere to the LUP's natural systems policies and to certified zoning Chapter 17.95 (Environmentally Sensitive Habitats). (Ord. 886 § 2, 2005; Ord. 868 § 1, 2004)

17.30.120 — ~~Parking.~~

~~Parking standards shall be as provided in Chapter 17.51. (Ord. 868 § 1, 2004)~~

17.30.130 — ~~Loading areas.~~

~~Loading areas shall be as provided in Chapter 17.51. (Ord. 868 § 1, 2004)~~

17.30.140 — ~~Landscaping and lighting.~~

~~A minimum of five percent of the lot area shall be landscaped to ensure harmony with adjacent development in accordance with architectural and site approval standards. Exceptions to this standard are as follows: for the Rispin site, seventy five percent of the site shall consist of either landscaped areas located within the developed areas of the site, or unlandscaped natural areas for those portions of the site subject to conservation easements. For the Shadowbrook Restaurant parcel that is adjacent to Soquel Creek, fifty percent of the site shall consist of landscaped or open space areas. For the visitor serving El Salto parcels, fifty percent of the parcels shall consist of landscaped or open space areas. The planting of invasive plant species is prohibited. All exterior lighting shall be unobtrusive, harmonious with the local area and constructed or located so that only the area intended is illuminated and off site glare is fully controlled. The location, type and wattage of the exterior lighting must be approved by the community development director prior to the issuance of building permits or the establishment of the use. (Ord. 886 § 3, 2005; Ord. 868 § 1, 2004)~~

Chapter 17.33

PO PROFESSIONAL OFFICE DISTRICT

Sections:

- ~~17.33.010 — Applicability.~~
- ~~17.33.020 — Purpose.~~
- ~~17.33.030 — Architectural and site approval.~~
- ~~17.33.040 — Principal permitted uses.~~
- ~~17.33.050 — Accessory uses.~~
- ~~17.33.060 — Conditional uses.~~
- ~~17.33.070 — Development standards — Residential uses.~~
- ~~17.33.080 — Development standards — Nonresidential uses.~~
- ~~17.33.090 — Height regulations.~~
- ~~17.33.100 — Lot area.~~
- ~~17.33.110 — Lot coverage.~~
- ~~17.33.120 — Yards.~~
- ~~17.33.130 — Parking.~~
- ~~17.33.140 — Loading areas.~~
- ~~17.33.150 — Landscaping.~~

~~17.33.010 — Applicability.~~

~~The regulations set forth in this chapter apply in all PO districts. (Ord. 388 § 11.01, 1975)~~

~~17.33.020 — Purpose.~~

~~The purpose of PO districts is to accommodate a demonstrated need for the development of office space together with necessary landscaping and off street parking facilities in locations served by primary access, yet inappropriate for commercial development because of close proximity to purely residential uses. It is intended that the professional office uses established in this district shall be designed and landscaped so as to be in harmony with such adjacent residential uses. (Ord. 388 § 11.02, 1975)~~

~~17.33.030 — Architectural and site approval.~~

~~Architectural and site approval shall be secured for the establishment and conduct of any principal permitted, accessory, or conditional use in a PO district as provided in Chapter 17.63. (Ord. 388 § 11.03, 1975).~~

~~17.33.040 — Principal permitted uses.~~

~~The following are principal permitted uses in a PO district:~~

~~A. Residential uses specified in the regulations for RM districts with the density as determined by the city council upon planning commission recommendation;~~

~~B. Administrative or executive offices similar to and including those pertaining to the management of office operations or the direction of enterprises but not including merchandising or sales services;~~

~~C. Professional offices such as those pertaining to the practice of the professions and arts including, but not limited to, architecture, dentistry, engineering, law and medicine. (Ord. 388 § 11.04, 1975)~~

~~17.33.050 — Accessory uses.~~

~~The following are accessory uses permitted in a PO district:~~

~~A. Signs complying with the applicable regulations set forth in the sign ordinance;~~

~~B. Accessory uses and buildings customarily appurtenant to a permitted use. (Ord. 388 § 11.05, 1975)~~

~~17.33.060 — Conditional uses.~~

~~The following are conditional uses in a PO district, subject in each case to the securing of a use permit, as provided in Chapter 17.60:~~

~~A. Research laboratories, such as those pertaining to investigation, analysis or experimentation to establish new or revised findings and standards;~~

~~B. Pharmacies, opticians, medical and dental laboratories, not including the manufacture of pharmaceutical or other products for general sale or distribution;~~

~~C. Schools and studios for arts and crafts, photography, music and dance, and children's nursery schools;~~

~~D. Public and quasi-public uses appropriate to the district, such as hospitals, churches and professional and business schools;~~

~~E. Any activity which includes any significant alteration of an historic feature. (Ord. 515 § 5 (part), 1982; Ord. 388 § 11.06, 1975)~~

~~17.33.070 — Development standards — Residential uses.~~

~~The development standards for any residential use in PO districts shall be as specified for R-M districts in Chapter 17.18 with the city council setting density and other development standards upon planning commission recommendation. (Ord. 388 § 11.07, 1975)~~

~~17.33.080 — Development standards — Nonresidential uses.~~

~~The minimum development standards set forth in Sections 17.33.090 through 17.33.150 are established as a guide to the issuance of an architectural and site approval subject, in each case, to more restrictive requirements as may be appropriate in order to ensure harmony with adjacent uses of land. (Ord. 388 § 11.08 (part), 1975)~~

~~17.33.090 — Height regulations.~~

~~No structure shall exceed either three stories or thirty five feet in height. (Ord. 388 § 11.08(a), 1975)~~

~~17.33.100 — Lot area.~~

~~There shall be no specific minimum lot area required except that there shall be sufficient area to satisfy any off-street parking and loading area requirements. (Ord. 388 § 11.08(b), 1975)~~

~~17.33.110 — Lot coverage.~~

~~Maximum lot coverage shall be as follows:~~

~~A. Forty percent for one-story structure;~~

~~B. Thirty five percent for two-story structure;~~

~~C. Thirty percent for three-story structure;~~

~~D. The first two hundred fifty gross square feet of a basement, including the measurements of the access stairway, shall not be included when calculating lot coverage. Only the portion of a basement that exceeds two hundred fifty gross square feet shall be included in the lot coverage calculations. (Ord. 774 § 7, 1995; Ord. 388 § 11.08(c), 1975)~~

~~17.33.120 — Yards.~~

~~A. Front yard, except as otherwise specified, shall not be less than five percent of lot area, no portion of which may be used for required off-street parking;~~

~~B. In the case where a building line for the street(s) upon which any lot faces is established by the street and highway plan of the master plan or is specified by the provision of this title, then the fronting yard(s) on such lot shall have a depth of not less than the distance from the street line specified for such building line;~~

~~C. Side and rear yards shall be not less than those required in nearest adjacent residential district. (Ord. 388 § 11.08(d), 1975)~~

~~17.33.130 — Parking.~~

~~Parking standards shall be as provided in Chapter 17.51. (Ord. 388 § 11.08(e), 1975)~~

~~17.33.140 — Loading areas.~~

~~Loading areas shall be as provided in Chapter 17.51. (Ord. 388 § 11.08(f), 1975)~~

~~17.33.150 — Landscaping.~~

~~A minimum of five percent of lot area shall be landscaped to ensure harmony with adjacent residential districts in accordance with architectural and site approval procedure. (Ord. 388 § 11.08(g), 1975)~~

Chapter 17.36

IP INDUSTRIAL PARK DISTRICT

Sections:

- ~~17.36.010 — Applicability.~~
- ~~17.36.020 — Purpose.~~
- ~~17.36.030 — Architectural and site approval.~~
- ~~17.36.040 — Principal permitted uses.~~
- ~~17.36.050 — Accessory uses.~~
- ~~17.36.060 — Conditional uses.~~
- ~~17.36.070 — Development standards.~~
- ~~17.36.080 — Height regulations.~~
- ~~17.36.090 — Lot coverage.~~
- ~~17.36.100 — Yards.~~
- ~~17.36.110 — Parking.~~
- ~~17.36.120 — Loading areas.~~
- ~~17.36.130 — Other required conditions.~~

17.36.010 — Applicability.

The regulations set forth in this chapter apply in all IP districts. (Ord. 388 § 12.01, 1975)

17.36.020 — Purpose.

The purpose of IP districts is to provide an environment exclusively for and conducive to the development and protection of modern administrative facilities, research institutions and specialized manufacturing organizations. (Ord. 388 § 12.02, 1975)

17.36.030 — Architectural and site approval.

Architectural and site approval shall be secured for the establishment and conduct of any use in IP districts as provided in Chapter 17.63. (Ord. 388 § 12.03, 1975)

17.36.040 — Principal permitted uses.

The following are principal permitted uses in an IP district:

A. Administrative, executive and financial offices;

B. Experimental, film or testing laboratories;

C. Manufacture, assembly or packaging of products from previously prepared materials such as cloth, plastic, paper, leather, precious or semi-precious metals or stones, but not including such operations as saw and planing mills, any manufacturing uses involving primary production of wood, metal or chemical products from raw materials;

D. Manufacture of food products, pharmaceuticals and the like, but not including the production of fish or meat products, sauerkraut, vinegar or the like, or the rendering or refining of fats and oils;

E. Manufacture of electric and electronic instruments and devices such as television sets, radios, and television, radio and phonographic equipment;

F. Any other research or light manufacturing use which the planning commission finds not to be inconsistent with the purpose of this chapter and which will not impair the present or potential use of adjacent properties;

G. Agriculture, horticulture, gardening but not including the raising of rabbits, dogs, fowl or other animals for commercial purposes, or the sale of any products on the premises;

H. One emergency shelter with a maximum of thirteen beds. Emergency shelters will comply with the following development standards:

~~1. Lighting. Adequate external lighting shall be provided for security purposes. The lighting shall be stationary, directed away from adjacent properties and public rights of way, and of an intensity compatible with the neighborhood.~~

~~2. Physical Characteristics. Compliance with applicable state and local housing, building, and fire code requirements.~~

~~3. Security. Facility shall have on-site security during hours of operation. Parking and outdoor facilities shall be designed to provide security for residents, visitors and employees.~~

~~4. Laundry Facilities. The development shall provide laundry facilities or services adequate for the number of residents.~~

~~5. Common Facilities. Facility shall contain amenities appropriate to the population to be served to include the following:~~

- ~~a. Central cooking and dining room;~~
- ~~b. Recreation room;~~
- ~~c. Counseling services;~~
- ~~d. Child care facilities;~~
- ~~e. Other support services.~~

~~6. Outdoor Activity. For the purpose of noise abatement, organized outdoor activities may only be conducted between the hours of eight a.m. and ten p.m.~~

~~7. Refuse. Emergency shelters shall provide a refuse storage area that is in accordance with city requirements for accessory refuse structures. The storage area shall accommodate a standard sized trash bin adequate for use on the parcel, or other enclosures as approved by the planning director. The refuse enclosure shall be accessible to refuse collection vehicles.~~

~~8. Emergency Shelter Provider. The agency or organization operating the shelter shall comply with the following requirements:~~

- ~~a. Temporary shelter shall be available to residents for no more than six months.~~
- ~~b. Staff and services shall be provided to assist residents to obtain permanent shelter and income.~~
- ~~c. The provider shall have a written management plan including, as applicable, provisions for staff training, good neighbor policies, security, transportation, client supervision, food services, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents. Such plan shall be submitted to and approved by the planning, inspections, and permitting department prior to operation of the emergency shelter. The plan shall include a floor plan that demonstrated compliance with the physical standards. The operator of each emergency shelter shall annually submit the management plan to the planning, inspections and permitting department with updated information for review and approval. The city council may establish a fee by resolution, to cover the administrative cost of review of the required management plan.~~

~~9. Limited Terms of Stay. The maximum term of staying at an emergency shelter is six months in a consecutive twelve month period.~~

~~10. Transportation Plan. A transportation plan is required.~~

~~11. Parking. The emergency shelter shall provide on-site parking at a rate of one space per staff member plus one space per six occupants allowed at the maximum capacity.~~

~~12. Bicycle Parking. The shelter shall provide secure bicycle parking at a rate of one space per occupant.~~

~~13. Development Standards. An emergency shelter must comply with all development standards in the industrial park zone district. (Ord. 968 § 1, 2012; Ord. 388 § 12.04, 1975)~~

~~17.36.050 — Accessory uses.~~

~~The following are accessory uses permitted in an IP district:~~

~~A. Signs complying with the applicable regulations set forth in the sign ordinance;~~

~~B. Accessory uses and buildings customarily appurtenant to a permitted use. (Ord. 388 § 12.05, 1975)~~

~~17.36.060 — Conditional uses.~~

~~The following are conditional uses in an IP district, subject in each case to the securing of a use permit, as provided in Chapter 17.60:~~

~~A. Public and quasi-public uses of an educational or recreational nature;~~

~~B. Public utility building and service yards;~~

~~C. Retail commercial and service uses such as restaurants and service stations necessary to serve and appropriate to the IP district;~~

~~D. Residential uses (single family and multiple family);~~

~~E. Warehouses and distribution depot facilities which the planning commission finds not to be inconsistent with the purpose of this chapter and which will not impair the present or potential use of adjacent properties;~~

~~F. Any activity which includes any significant alteration of an historic feature;~~

~~G. Reverse vending machines for beverage containers and small collection facilities of five hundred square feet or less, are subject to the requirements of subsections D and E of Section 17.60.030. (Ord. 644 § 4, 1987; Ord. 515 § 5, 1982; Ord. 501, 1981; Ord. 388 § 12.06, 1975)~~

~~17.36.070 — Development standards.~~

~~The development standards set out in Sections 17.36.080 through 17.36.120 shall apply in an IP district. (Ord. 388 § 12.07, 1975)~~

~~17.36.080 — Height regulations.~~

~~No structure shall exceed thirty feet in height. (Ord. 736, 1992; Ord. 388 § 12.07(a), 1975)~~

~~17.36.090 — Lot coverage.~~

~~Maximum lot coverage shall be as follows:~~

~~A. Forty percent for one story structure;~~

~~B. Thirty five percent for two story structure;~~

~~C. Thirty percent for three story structure;~~

~~D. The first two hundred fifty gross square feet of a basement, including the measurements of the access stairway, shall not be included when calculating lot coverage. Only the portion of a basement that exceeds two hundred fifty gross square feet shall be included in the lot coverage calculations. (Ord. 774 § 8, 1995; Ord. 388 § 12.07(b), 1975)~~

~~17.36.100 — Yards.~~

~~A. Front yard area shall be not less than ten percent of lot area, no portion of which should be used for off street parking, to be determined at the time of architectural and site approval;~~

~~B. In the case where a proposed building line for the street(s) upon which any lot faces is established by the street and highway plan of the master plan, or is specified by the provisions of this title, then the front yard(s) shall be measured from proposed building line;~~

~~C. Special yard requirements adjacent to an R district, where a lot in an IP district fronts, sides or rears upon property in an R district, there shall be a yard at least twenty feet deep adjacent to said street. The first ten feet of any such yard nearest the lot lines shall be used and maintained as a landscaped area only, except for accessways. This area shall be fully landscaped with suitable planting for screening purposes and shall be fully maintained. The remainder of such yard space may be used only for off street parking. (Ord. 388 § 12.07(e), 1975)~~

~~17.36.110 — Parking:~~

~~Parking standards shall be as provided in Chapter 17.51. (Ord. 388 § 12.07(d), 1975)~~

~~17.36.120 — Loading areas:~~

~~Loading areas shall be as provided in Chapter 17.51. (Ord. 388 § 12.07(e), 1975)~~

~~17.36.130 — Other required conditions:~~

~~The following additional conditions shall apply in an IP district:~~

~~A. All uses shall be conducted wholly within a completely enclosed building, except for gas pumps, and offstreet parking and loading facilities, public and quasipublic uses and public utility service yards.~~

~~B. Manufacturing and industrial processes shall use only gas or electricity as a fuel; provided, however, that equipment using other fuel may be installed for standby purposes only. (Ord. 388 § 12.08, 1975)~~

Chapter 17.39

PD PLANNED DEVELOPMENT DISTRICT

Sections:

- ~~17.39.010 — Purpose.~~
- ~~17.39.020 — Standards and requirements.~~
- ~~17.39.030 — Preliminary development plan approval.~~
- ~~17.39.040 — General development plan and schedule approval.~~
- ~~17.39.050 — Findings required.~~
- ~~17.39.060 — Planning commission and city council action.~~
- ~~17.39.070 — Architectural and site approval.~~
- ~~17.39.080 — Conditional uses.~~
- ~~17.39.090 — Utilities underground.~~
- ~~17.39.100 — Amendments.~~
- ~~17.39.110 — Appeals.~~

17.39.010 — Purpose.

The purpose of PD districts is to encourage and provide a means for effectuating desirable development, redevelopment, rehabilitation, and conservation in the city, which features variation in siting, mixed land uses and/or varied dwelling types. The amenities and compatibility of PD districts is to be insured through adoption of a general development plan, showing proper orientation, desirable design character and compatible land uses. (Ord. 388 § 13.01, 1975)

17.39.020 — Standards and requirements.

The following provisions shall apply in a PD district:

A. A PD district may be established on parcels of land which are suitable for, and of sufficient size to be planned and developed in a manner consistent with the purposes of this chapter and the objectives of this title. No PD district shall include less than four acres of contiguous land unless the planning commission, or the city council on appeal from the planning commission, finds that property of less than four acres is suitable as a PD district by virtue of its unique historical character, topography, land use or landscaping features.

B. No ordinance establishing a PD district shall be adopted by the city council unless there is on file with the city written consent of every property owner within such district at the time of adoption of the ordinance.

C. Standard for area, coverage, density, yard requirements, parking and screening for PD district uses shall be governed by the standards of the residential, commercial, or industrial zoning district(s) most similar in nature and function to the proposed PD district use(s), as determined by the planning commission, or the city council on appeal from the planning commission. Standards for public improvements shall be governed by the applicable ordinances and laws of the city. Exceptions to these standards may be granted by the planning commission, or the city council on appeal from the planning commission, upon a finding that such exceptions encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof. (Ord. 981 § 1, 2013; Ord. 388 § 13.02, 1975)

17.39.030 — Preliminary development plan approval.

The applicant shall submit a preliminary development plan to the planning commission for approval in principle and the planning commission shall consider the preliminary development plan at a public hearing, prior to the submission of a PD district rezoning application. The planning commission's decision to approve, conditionally approve or disapprove the preliminary development plan shall be appealable to the city council. The PD district rezoning application will not be considered absent a prior preliminary development plan approval. The filing fee for approval in principle shall be established by city council resolution. The tentative written consent of all property owners within the proposed PD district shall be on file with the city before staff study of a preliminary development plan is commenced. Approval in principle of the preliminary development plan shall be limited to general acceptability of the land uses proposed and their interrelationship, and shall not be construed to endorse precise

~~location of uses, configuration of parcels, or engineering feasibility. Any preliminary development plan and text shall be prepared and endorsed by an architect, landscape architect or qualified urban planner and shall include the following information, as applicable, presented in a general, schematic method:~~

- ~~A. Proposed land uses, population densities and building intensities;~~
- ~~B. Proposed circulation pattern, indicating both public and private streets;~~
- ~~C. Proposed parks, playgrounds, school sites, general landscaping and other open spaces;~~
- ~~D. A market analysis or other acceptable data or statement of proposed commercial uses, if the property is not zoned for commercial purposes at the time of submittal of the preliminary development;~~
- ~~E. Delineation of the units to be constructed in progression, if any;~~
- ~~F. Relation to future land use in surrounding area and general plan. (Ord. 981 § 2, 2013; Ord. 388 § 13.03, 1975)~~

17.39.040 — General development plan and schedule approval.

~~A. If from the facts presented, the planning commission or the city council on appeal from the planning commission is able to approve, in principle, the preliminary plan, with modifications as required by the planning commission or the city council on appeal from the planning commission, the applicant may submit for rezoning classification. Otherwise, the preliminary development plan shall be denied.~~

~~B. Together with the application for rezoning classification, the applicant shall submit the following documents and supporting evidence, prepared and endorsed by the qualified professional team, which shall include an architect, civil engineer and landscape architect as appropriate:~~

- ~~1. A map with seven prints of a survey of the property showing existing features of the property, including specimen trees, structures, streets, easements, utility lines and land use;~~
- ~~2. A map with twelve prints of a general development plan which shall be in conformance with the approved preliminary development plan, showing, as appropriate, all the information required on the preliminary development plan; the approximate locations and proposed density of dwelling units; nonresidential building intensity; and the land use considered suitable in accordance with adjacent properties;~~
- ~~3. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and street scapes; estimated residential population by type of dwelling for each unit in the PD district; estimated nonresidential population; proposed retail sales area and economic justification; anticipated timing for each unit; and standards for height, open space, building intensity, population density, and public improvements proposed for each unit of development;~~
- ~~4. Proposed type of construction, building height and area of each building or structure, and proposed distances between buildings and structures and distances to property lines shall be submitted in the general development plan;~~
- ~~5. Evidence that the applicant has sufficient control over the land to effectuate the proposed plan;~~
- ~~6. Site development and engineering feasibility studies as necessary. (Ord. 981 § 3, 2013; Ord. 388 § 13.04, 1975)~~

17.39.050 — Findings required.

~~The planning commission, after a public hearing, shall make a recommendation to approve, conditionally approve or deny establishment of a PD district. The city council, after a public hearing, may by ordinance establish a PD district, provided the city council finds that the facts submitted with the application and presented at the hearings establish that:~~

- ~~A. The proposed PD district, or a given unit thereof, can be substantially completed within two years of the establishment of the PD district;~~

~~B. That the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;~~

~~C. That any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the general development plan;~~

~~D. That the PD district and general development plan are compatible with the general plan of the city and the city's local coastal program;~~

~~E. In formulating its recommendation to the city council, the planning commission shall advise the city council with respect to each of the above listed findings.~~

~~F. Standard for area, coverage, density, yard requirements, parking and screening for PD district uses shall be governed by the standards of the residential, commercial, or industrial zoning district(s) most similar in nature and function to the proposed PD district use(s), as determined by the planning commission. Standards for public improvements shall be governed by the applicable ordinances and laws of the city. Exceptions to these standards by the planning commission and the city council are possible when these bodies find that such exceptions encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof. (Ord. 981 § 4, 2013; Ord. 685 § 4, 1989; Ord. 388 § 13.05, 1975)~~

17.39.060 — Planning commission and city council action.

~~A. If from the facts presented, the planning commission, or the city council on appeal from the planning commission, is unable to make the necessary findings, the application shall be denied.~~

~~B. In taking action, the planning commission may recommend denial of the general development plan and general development schedule as submitted, may recommend approval of said plan and schedule subject to specific amendments, or may recommend approval.~~

~~C. Major changes in the general development plan shall be considered the same as a change in the zoning map and shall be made in accordance with the provisions of this chapter.~~

~~D. If no development has occurred to effectuate a PD district development within two years after the district is created, the planning commission shall review the PD approval and determine whether or not the continuation of the subject PD district is in the public interest. The planning commission's determination may be appealed to the city council. Absent affirmative action by the planning commission, or the city council on appeal from the planning commission, the PD approval shall automatically expire.~~

~~E. At the time of adopting any ordinance establishing a PD district, the city council shall make appropriate arrangements with the applicant to ensure the accomplishment, at the scheduled times, of the public improvements and grants of easement shown on the approved general development plan.~~

~~F. Fire zones shall be designated at the time of rezoning and such zones shall be delineated on the general development plan. (Ord. 981 § 5, 2013; Ord. 388 § 13.06, 1975)~~

17.39.070 — Architectural and site approval.

~~An architectural and site approval shall be secured for the establishment and conduct of any use in a PD district, as provided in Chapter 17.63. (Ord. 388 § 13.07, 1975)~~

17.39.080 — Conditional uses.

~~All uses in a PD district are conditional uses, subject to the securing of a use permit as provided in Chapter 17.60. Use permit plans shall be prepared and endorsed by a qualified professional team, which shall include an architect, landscape architect and civil engineer as appropriate. The use permit application shall include but not necessarily be limited to the following:~~

~~A. Site plan, showing building(s), various functional use areas, circulation, and their relationships;~~

~~B. Preliminary building plans including floor plans and exterior elevations;~~

~~C. Landscaping plans;~~

~~D. Engineering plans, including site grading, street improvements, drainage and public utility extensions, as necessary;~~

~~E. Minor changes may be approved by the planning commission or the city council on appeal from the planning commission, provided the changes are in accord with the intent expressed in the general development plan;~~

~~F. Notation of any activity which includes any significant alteration of an historic feature;~~

~~G. Within the coastal zone, any change in regulations concerning use or intensity of use for the planned development district shall require an LCP amendment. (Ord. 981 § 6, 2013; Ord. 685 § 5, 1989; Ord. 525 § 5 (part), 1982; Ord. 388 § 13.08, 1975)~~

17.39.090 — Utilities underground.

~~Underground utilities, including telephone and electric systems, are required within the limits of all PD districts. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the planning commission finds that such exemption will not violate the intent or character of the proposed PD districts. (Ord. 388 § 13.09, 1975)~~

17.39.100 — Amendments.

~~Amendments to any approval or permit in the planned development procedure shall be made by filing new applications as required. (Ord. 388 § 13.10, 1975)~~

17.39.110 — Appeals.

~~All appeals to the city council taken pursuant to this chapter shall be subject to the requirements, and conducted in accordance with the procedures, set forth in Chapter 2.52 of this code. (Ord. 981 § 7, 2013)~~

Chapter 17.42

PF PUBLIC FACILITIES DISTRICT

Sections:

- ~~17.42.010 — Applicability.~~
- ~~17.42.020 — Purpose.~~
- ~~17.42.030 — Architectural and site review.~~
- ~~17.42.040 — Principal permitted uses.~~
- ~~17.42.050 — Accessory uses.~~
- ~~17.42.060 — Conditional uses.~~
- ~~17.42.070 — Development standards.~~
- ~~17.42.080 — Height regulations and lot coverage.~~
- ~~17.42.090 — Lot area.~~
- ~~17.42.100 — Yards.~~
- ~~17.42.110 — Parking.~~
- ~~17.42.120 — Loading area.~~
- ~~17.42.130 — Landscaping.~~

17.42.010 — Applicability.

~~A. The regulations set forth in this chapter apply in all PF districts.~~

~~B. In the coastal zone, in addition to the regulations set forth in this chapter, for consistency with the Capitola parking program, the following PF districts shall be maintained for public parking: the Pacific Cove parking lot; the Cliff Drive overlook parking and the Cliff Drive Southern Pacific RR right of way parking unless Cliff Drive must be relocated due to cliff erosion. Changes in public facilities in the coastal zone will require LUP amendment. (Ord. 941 § 1, 2009; Ord. 691 § 4, 1990; Ord. 685 § 1, 1989; Ord. 388 § 14.01, 1975)~~

17.42.020 — Purpose.

~~This district is designed to accommodate governmental, public utility and educational facilities and to provide that they be compatible and harmonious with the districts which they adjoin. (Ord. 388 § 14.02, 1975)~~

17.42.030 — Architectural and site review.

~~An architectural and site approval shall be secured for the establishment and conduct of any use in PF districts as provided in Chapter 17.63. (Ord. 388 § 14.03, 1975)~~

17.42.040 — Principal permitted uses.

~~The following are principal permitted uses in a PF district:~~

~~A. All facilities owned, leased or operated by the city, the county, the state, the government of the United States, the school district or any other district;~~

~~B. Public or private schools and colleges and universities, and facilities incidental or appurtenant thereto. (Ord. 388 § 14.04, 1975)~~

17.42.050 — Accessory uses.

~~The following are accessory uses permitted in PF district:~~

~~A. Signs complying with the applicable regulations set forth in the sign ordinance;~~

~~B. Accessory uses and buildings customarily appurtenant to a permitted use. (Ord. 388 § 14.05, 1975)~~

17.42.060 — Conditional uses.

~~The following are conditional uses in a PF district, subject in each case to the securing of a use permit, as provided in Chapter 17.60:~~

~~A. The facilities of all public utilities, as defined by the Public Utilities Code of the state of California and corporations or other organizations whose activities are under the jurisdiction of the Federal Communications Commission or the Interstate Commerce Commission;~~

~~B. Any activity which includes any significant alteration of an historic feature. (Ord. 515 § 5 (part), 1982; Ord. 388 § 14.06, 1975)~~

17.42.070 — Development standards.

The minimum development standards set forth in Sections 17.42.080 through 17.42.130 are established as a guide to the issuance of an architectural and site approval; subject, in each case, to more restrictive requirements as may be appropriate in order to ensure harmony with adjacent uses of land. (Ord. 388 § 14.07 (part), 1975)

17.42.080 — Height regulations and lot coverage.

Building height and lot coverage as determined by architectural and site review. (Ord. 388 § 14.07(a), 1975)

17.42.090 — Lot area.

There shall be no specific minimum lot area required except that there shall be sufficient area to satisfy any landscaping, off street parking and loading requirements. (Ord. 388 § 14.07(b), 1975)

17.42.100 — Yards.

The front, side and rear yard shall be as determined by architectural and site review. (Ord. 388 § 14.07(c), 1975)

17.42.110 — Parking.

Parking standards shall be as provided in Chapter 17.51. (Ord. 388 § 14.07(d), 1975)

17.42.120 — Loading area.

Loading areas shall be as provided in Chapter 17.51. (Ord. 388 § 14.07(e), 1975)

17.42.130 — Landscaping.

Landscaping shall be such as to ensure harmony with adjacent residential districts in accordance with architectural and site approval procedures. (Ord. 388 § 14.07(f), 1975)

Chapter 17.45

AR AUTOMATIC REVIEW DISTRICT

Sections:

~~17.45.010 — Applicability.~~

~~17.45.020 — Purpose.~~

~~17.45.030 — Establishment criteria.~~

~~17.45.040 — Use permits.~~

~~17.45.050 — Architectural and site review.~~

17.45.010 — Applicability.

~~The following regulations shall apply in all automatic review districts and, except as provided in this chapter, shall be subject to the provisions of Chapter 17.60. (Ord. 388 § 15.01, 1975)~~

17.45.020 — Purpose.

~~A. It is the intent of this chapter to fulfill the general plan in those special cases where no other zoning district could effectively accomplish this same task. It is not the intent of this chapter to grant development privileges beyond the guidelines of the general plan.~~

~~B. Within the coastal zone, the AR district is an overlay district wherein the uses and intensities shall be consistent with the underlying basic zoning district, except that due to constraints, additional conservation is needed to fulfill the goals of the local coastal program land use plan. (Ord. 685 § 3, 1989; Ord. 388 § 15.02, 1975)~~

17.45.030 — Establishment criteria.

~~In order to establish a particular AR district, at least one of the following findings must be made:~~

~~A. That the current zoning classification for the area is not best suited to fulfill the goals of the general plan;~~

~~B. That due to timing, parcel size, parcel shape, topography, makes the proposed district a special case, no other zoning district classification is appropriate. (Ord. 388 § 15.03, 1975)~~

17.45.040 — Use permits.

~~Use permits in AR districts are required for all except agricultural uses, subject to Chapter 17.60. The general plan shall be the principle guiding element in considering the use permit application. A use permit maybe granted if the following findings can be made:~~

~~A. That the proposed use is consistent with the general plan;~~

~~B. That the proposed use will not be detrimental to the health, safety, peace, morals, comfort and general welfare of the neighborhood and the city. (Ord. 388 § 15.04, 1975)~~

17.45.050 — Architectural and site review.

~~Architectural and site approval shall be secured for any use in an AR district. (Ord. 388 § 15.05, 1975)~~

Chapter 17.46

CZ COASTAL ZONE COMBINING DISTRICT

Sections:

- ~~17.46.010 — Purpose.~~
- ~~17.46.020 — General provision.~~
- ~~17.46.030 — Definitions.~~
- ~~17.46.040 — Development requiring a coastal permit/jurisdiction.~~
- ~~17.46.050 — Coastal permit exemptions.~~
- ~~17.46.055 — Coastal exclusion zones.~~
- ~~17.46.060 — Permit application requirements and fees.~~
- ~~17.46.070 — Application review.~~
- ~~17.46.080 — Hearing and noticing procedures.~~
- ~~17.46.090 — Coastal permit approval.~~
- ~~17.46.100 — Notice of final action.~~
- ~~17.46.110 — Appeals.~~
- ~~17.46.120 — Permit issuance.~~
- ~~17.46.130 — Emergency permits.~~
- ~~17.46.140 — Amendments.~~
- ~~17.46.150 — Consistency required.~~

17.46.010 — Purpose.

~~A. The purpose of this chapter is to establish review and permit procedures for the implementation of Capitola's local coastal program, and to ensure that all private and public development projects within the city's coastal zone are consistent with the city's adopted and certified local coastal land use plan and implementation program and:~~

- ~~1. To achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act codified at Sections 30000 through 30900 of the California Public Resources Code. Section 30001.5(c) states that public access both to and along the shoreline shall be maximized consistent with sound resource conservation principles and constitutionally protected rights of private property owners;~~
- ~~2. To implement the public access and recreation policies of Chapter 3 of the Coastal Act (Sections 30210 — 30255).~~

~~B. In achieving these purposes, this section shall be given the most liberal construction possible so that public access to the navigable waters shall always be provided and protected consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution. (Ord. 691 § 5, 1990; Ord. 627-Exhibit A (part), 1987)~~

17.46.020 — General provision.

~~This chapter establishes the coastal zone district (CZ) as a combining district, to be used in addition to and in conjunction with, existing zoning districts established to regulate land use within Capitola's coastal zone. Principal permitted uses and conditional uses allowed in the CZ district are those uses allowed in the basic underlying zoning district. The regulations of this chapter shall apply in addition to those of the underlying district. In case of a conflict between regulations, the regulations of this chapter shall take precedence over those of the underlying district. (Ord. 627-Exhibit A (part), 1987)~~

17.46.030 — Definitions.

~~For purposes of this chapter, the following definitions shall apply:~~

~~A. Access, Types: Types of access are as follows:~~

- ~~1. Lateral public access provides public access and use along or parallel to the sea.~~

- ~~2. Bluff top access provides public access and coastal viewing along a coastal bluff top area.~~
- ~~3. Vertical access provides a public access connection between the first public road, trail, or public use area nearest the sea and the publicly owned tidelands or established lateral access.~~
- ~~4. Trail access provides public access along a coastal recreational path, including to and along lakes, rivers, streams, freshwater marshes, significant habitat and open space areas or similar resource areas, and which also may link inland recreational facilities to the shoreline.~~
- ~~5. Recreational access provides public access to coastal recreational resources through means other than those listed above, including, but not limited to, parking facilities, viewing platforms and blufftop parks.~~

~~B. Access, Character:~~

- ~~1. Pass and repass refers to the right of the public to walk and run along an accessway. Because this use limitation can substantially restrict the public's ability to enjoy adjacent publicly owned tidelands by restricting the potential use of lateral accessways, it will be applied only in connection with vertical access or other types of access where the findings required by Section 17.46.090 establish that the limitation is necessary to protect natural habitat values, topographic features (such as eroding bluffs), or privacy of the landowner.~~
- ~~2. Passive recreational use refers to the right of the public to conduct activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, surfing, picnicking, but not including organized sports, campfires, or vehicular access other than for emergencies or maintenance.~~
- ~~3. Active recreational use refers to the right of the public to conduct the full range of beach oriented activities, not including horseback riding and use of motorized vehicles unless specifically authorized.~~

~~C. "Aggrieved person" means for the purposes of a coastal permit appeal to the coastal commission, any person who, in person or through a representative, appeared at a city public hearing in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing informed the city of the nature of their concerns, or who for good cause was unable to do either.~~

~~D. "Applicant" means the person, partnership, corporation, or state or local public agency applying for a coastal permit.~~

~~E. "Coastal Commission" means the California Coastal Commission.~~

~~F. "Coastal emergency" means a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.~~

~~G. "Coastal permit" means a permit issued by the city in accordance with provisions of this chapter, approving a project in the coastal zone combining district as being in conformance with the Local Coastal Program. A coastal permit includes all application materials, plans and conditions on which the approval is based.~~

~~H. "Combining district" means a zone district established pursuant to city zoning regulations, the regulations of which apply to a property in addition to the requirement of the basic zone district on the property. The coastal zone district is a combining district.~~

~~I. "Development" means any of the following, whether on land or in or under water:~~

- ~~1. The placement or erection of any solid material or structure;~~
- ~~2. Discharge or disposal of any dredged material or of any gaseous, liquid, solid or thermal waste;~~
- ~~3. Grading, removing, dredging, mining or extraction of any materials;~~

~~4. Change in the density or intensity of use of land, including, but not limited to, subdivisions, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use;~~

~~5. Change in the intensity of use of water, or access thereto;~~

~~6. Construction, reconstruction, demolition or alteration in the size of any structure, including any facility of any private, public or municipal utility;~~

~~7. The removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg Nejedly Forest Practice Act of 1973.~~

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

~~J. “Local Coastal Program” means the city’s land use plan, zoning ordinance, zoning maps and implementing ordinance, and actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.~~

~~K. “Major energy facility” means within the coastal zone any public or private processing, producing, generating, storing, transmitting or receiving facility for electricity, natural gas, petroleum, coal, or other source of energy for which the estimated construction costs exceed twenty five thousand dollars.~~

~~L. “Major public works facility” means in the coastal zone, any public works project located within an area for which coastal permits are appealable, and that cost more than twenty five thousand dollars except where service by a public agency is required to protect life and public property from imminent danger, or to restore, repair or maintain public works, utilities or services destroyed, damaged, or interrupted by natural disaster or serious accident.~~

~~M. “New development.” For purposes of implementing the public access requirements of Public Resources Code Section 30212 and of this title, “new development” includes “development as defined above except the following:~~

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

~~2. Demolition and Reconstruction. The demolition and reconstruction of a single family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than ten percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.~~

~~3. Improvements. Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height or bulk of the structure by more than ten percent, which do not block or impede access, and which do not result in a seaward encroachment by the structure.~~

~~4. Repair and Maintenance. Repair or maintenance activity which, pursuant to Public Resources Code Section 30610, requires no permit unless the activity will have an adverse impact on lateral public access along the beach.~~

~~5. Reconstruction and Repair. The reconstruction or repair of any seawall; provided, that the reconstructed or repaired seawall is not seaward of the location of the former structure. As used in this section, “reconstruction or repair” of a seawall shall not include replacement by a different type of structure or other modification design or construction which results in different or greater impacts to shoreline resources than those of the existing structure.~~

N. “Notice of categorical exclusion” means a form signed by the community development director stating that a development meets the requirements for exclusion and is exempt from the coastal permit requirement.

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

P. “Working day” means any day on which city offices are open for business.

Q. “Structure,” as used in this chapter, includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line and electrical power transmission and distribution line. (Ord. 743 § 2, 1992; Ord. 727 § 1, 1992; Ord. 691 § 6, 1990; Ord. 685 § 12, 1989; Ord. 677 § 1(A), 1989; Ord. 627 Exhibit A (part), 1987)

17.46.040 — Development requiring a coastal permit/jurisdiction:

A. All development undertaken after November 8, 1972, within the coastal zone as defined in the Coastal Initiative of 1972, or after January 1, 1977, within the coastal zone as defined by the Coastal Act of 1976, shall have a valid coastal development permit issued by the California Coastal Commission or by the city pursuant to its LCP. Such requirement pertains to both public and private development, except for the exemptions set forth in Section 17.46.050.

Such requirement is in addition to any other city required permits. Coastal permit applications shall be processed concurrently with any other required permit applications.

B. The following principles control whether an application comes under city or coastal commission jurisdiction:

Development authorized by a coastal commission issued permit remains under the jurisdiction of the commission for the purposes of condition compliance, amendment and revocation. An addition to development completed under the authority of a commission issued permit shall be reviewed by the city pursuant to an application for a new permit, provided that the commission determines that the addition is not contrary to any term or condition of the Commission issued permit.

C. The following principles are applicable to proposals pending at time of LCP certification:

1. Any development proposal which the city approved before certification of the local coastal program, but which has not been submitted to the commission for approval, shall be resubmitted to the city through an application for a permit pursuant to this chapter. Decision on the application shall be based solely on the requirements of city’s LCP.

2. Any development proposal which the city has approved before certification of the local coastal program, and for which an application has been filed with the commission, will return to the city for completion of review if the commission has not heard the application. Decision on the application will be based solely on the city’s local coastal plan. (Ord. 691 § 7, 1990; Ord. 677 § 1(B), 1989; Ord. 627 Exhibit A (part), 1987)

17.46.050 — Coastal permit exemptions:

A. The following types of development are exempt from the coastal permit requirement pursuant to the Coastal Act Section 30610. Requirements for any other type of permit are unaffected by this section.

1. Improvements to existing single family residences, except as required by subsection 2 of this subsection:

a. For purposes of this subsection, where there is an existing single family residential building, the following shall be considered a part of that structure:

i. All fixtures and other structures directly attached to a residence,

- ~~ii. Structures on the property normally associated with a single family residence, such as garages, swimming pools, fences and storage sheds; but not including guest houses or self-contained residential units, and~~
 - ~~iii. Landscaping on the lot;~~
 - ~~b. The following classes of development require a coastal development permit because they involve a risk of adverse environmental effects:~~
 - ~~i. Improvements to a single family structure if the structure or improvement is located on a beach, in a wetland, seaward of the mean high tide line, in an environmentally sensitive habitat area, in an area designated as highly scenic in a certified land use plan; or, in an area within fifty feet of the edge of a coastal bluff;~~
 - ~~ii. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland or sand dune, or within fifty feet of the edge of a coastal bluff or in environmentally sensitive habitat areas as defined in the Coastal Act;~~
 - ~~iii. The expansion or construction of water wells or septic systems;~~
 - ~~iv. On property not included in subsection (A)(1)(b)(i) of this section that is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach above the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resource areas as designated by the Coastal Commission;~~
 - ~~(A) An improvement that would result in an increase of ten percent or more of internal floor area of the existing structure;~~
 - ~~(B) An additional improvement of ten percent or less where an improvement to the structure has previously been undertaken pursuant to Public Resources Code Section 30610(a);~~
 - ~~(C) An increase in height of more than ten percent of an existing structure, and/or~~
 - ~~(D) Any significant nonattached structure such as garages, fences, shoreline protective works or docks;~~
 - ~~v. In areas which the commission or regional commission has previously declared by resolution after the public hearing to have a critically short water supply that must be maintained for protection of coastal recreational or public recreational use, the construction of any specified major water using development not essential to residential use including, but not limited to, swimming pools or the construction or extension of any landscaping irrigation system;~~
 - ~~vi. Any addition to a single family residence where the development permit issued for the original structure by the commission or the city indicated that any future improvements would require a development permit;~~
- ~~2. Improvements to a structure other than a single family residence or a public works facility, except as required by subsection (A)(1)(b) of this section;~~
 - ~~a. For purposes of compliance with Public Resources Code Section 30610(b) where there is an existing structure, other than a single family residence or public works facility, the following shall be considered a part of that structure:~~
 - ~~i. All fixtures and other structures directly attached to the structure;~~
 - ~~ii. Landscaping on the lot;~~

~~b. The following classes of development require a coastal development permit because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use contrary to the policy of Division 20 of the Public Resources Code:~~

~~i. Improvements to any structure on a beach, in a wetland, stream or lake, seaward of the mean high tide line; or within fifty feet of the edge of a coastal bluff;~~

~~ii. Any significant alteration of land forms including removal or placement of vegetation on a beach, or sand dune, in a wetland or stream; within one hundred feet of the edge of a coastal bluff, in an environmentally sensitive habitat area as defined in the Coastal Act;~~

~~iii. The expansion or construction of water wells or septic systems;~~

~~iv. On property not included in subsection (A)(2)(b)(i) of this section that is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach above the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resource areas as designated by the commission or regional commission:~~

~~(A) An improvement that would result in an increase of ten percent or more of internal floor area of the existing structure, or~~

~~(B) An additional improvement of ten percent or less where an improvement to the structure has previously been undertaken pursuant to Public Resources Code Section 30610(b), and~~

~~(C) An increase in height of more than ten percent of an existing structure;~~

~~v. In areas which the commission or regional commission has previously declared by resolution after public hearing to have a critically short water supply that must be maintained for protection of coastal recreational or public recreational use, the construction of any specified major water using development including, but not limited to, swimming pools or the construction or extension of any landscaping irrigation system;~~

~~vi. Any improvement to a structure where the development permit issued for the original structure by the commission or the city indicated that any future additions would require a development permit;~~

~~vii. Any improvement to a structure which changes the intensity of use of the structure;~~

~~viii. Any improvement made pursuant to a conversion of an existing structure from a visitor serving commercial use to a use involving a fee ownership or long term leasehold including, but not limited to, a condominium conversion, stock cooperative or motel/hotel time sharing conversion;~~

~~3. Repair and maintenance activities requiring a coastal development permit:~~

~~a. For purposes of compliance with the Public Resources Code Section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:~~

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

~~(A) Repair or maintenance involving substantial alteration of the foundation of the protective work, including pilings and other surface or subsurface structures;~~

~~(B) The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;~~

~~(C) The placement of twenty percent or more of the materials of an existing structure with materials of a different kind, or~~

~~(D) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or environmentally sensitive habitat area as defined by the Coastal Act, or within twenty feet of coastal waters or streams;~~

~~ii. Any method of routine maintenance dredging that involves:~~

~~(A) The dredging of one hundred thousand cubic yards or more within a twelve month period;~~

~~(B) The placement of dredged spoils of any quantity within an environmentally sensitive habitat area as defined by the Coastal Act, on any sand area, within fifty feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams, or~~

~~(C) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use;~~

~~iii. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area as defined by the Coastal Act, any sand area, within fifty feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams that include:~~

~~(A) The placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach material or any other forms of solid materials;~~

~~(B) The presence, whether temporary or permanent, of mechanized equipment, or construction materials.~~

~~The provisions of this section shall not be applicable to those activities specifically described in the document entitled repair, maintenance and utility hookups, adopted by the coastal commission on September 5, 1978, unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views of the ocean.~~

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

~~e. In any particular case, even though a method of repair and maintenance is identified in subsection (A)(3)(a) of this section, the executive director of the coastal commission may, where he or she finds the impact of development on coastal resources or coastal access to be insignificant, waive the requirement of a permit; provided, however, that any such waiver shall not be effective until it is reported to the commission at its next regularly scheduled meeting. If any three commissioners object to the waiver, the proposed improvement shall not be undertaken without a permit. (Authority PRC S. 30333)~~

~~B. The following types of developments are exempt from the coastal permit requirement pursuant to Public Resources Code, Division 20, California Coastal Act, Chapter 7, Development Controls, Sections 30610, 30610.1, and 30610.5, except as required by subsection A of this section:~~

~~1. Exempted improvements to existing single family residences:~~

~~a. Properties within the city of Capitola appealable area as designated in the LCP, with less than ten percent increase of internal floor area; unless a previous improvement to the structure has been undertaken~~

~~pursuant to this section or Public Resources Code Section 30610(a), or the improvement result in an increase in height by ten percent or less.~~

~~b. Categorically Excluded Development. Projects or activities specifically identified in a categorical exclusion order, per Section 17.46.055 of this chapter, certified by the California Coastal Commission and consistent with Public Resources Code Section 30610(e).~~

~~c. Properties located in the nonappealable area; provided they have adequate water supply and do not affect coastal access and coastal resources.~~

~~2. Exempted improvements to a structure other than a single family residence or a public works facility:~~

~~a. Properties within the appealable area but with less than ten percent increase of internal floor, unless an improvement to the structure has previously been undertaken pursuant to this section or Public Resources Code Section 30610(a), or the improvement result in an increase in height by ten percent or less.~~

~~b. Properties located in the nonappealable area; provided they have adequate water supply and do not affect coastal access and coastal resources.~~

~~c. Any improvement made pursuant to a conversion of an existing multiple unit structure from residential rental use to a use involving a fee ownership or long term leasehold including, but not limited to, condominium conversions or stock cooperative conversions, but not including motel/hotel time sharing conversions. As defined in Section 11003.5 of the Business and Professions Code, "Condominium conversion" is not considered a timeshare for purposes of this subdivision.~~

~~3. Exempted repair and maintenance activities:~~

~~a. On going routine repair and maintenance activities of the city, involving shoreline works protecting transportation roadways;~~

~~b. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this chapter; provided, however, that the city may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources;~~

~~c. Maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers;~~

~~d. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities, not including extraordinary methods of repair and maintenance per subsection (A)(3) of this section. (Ord. 868 § 2, 2004; Ord. 727 §§ 2—5, 1992; Ord. 691 § 8, 1990; Ord. 677 § 1(C), 1989; Ord. 627 Exhibit A (part), 1987)~~

17.46.055 Coastal exclusion zones.

~~Projects that will not result in a potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast are excluded from the requirements of coastal development permit processing as authorized by and in accordance with the procedures certified by the California Coastal Commission.~~

~~Projects listed in this section have been approved as categorical exclusions by the California Coastal Commission for the exclusion zones as designated geographically by the coastal commission. Excluded projects as delineated below do not need to obtain a coastal permit, provided that a notice of exclusion is issued pursuant to this section. Requirements for any other city permit are unaffected by this section. Challenges to determination of exclusion may be made pursuant to subsection F of this section.~~

~~The Coastal Commission original jurisdiction and areas of deferred certification are not subject to local government coastal permit jurisdiction and, hence, are not excludable. In addition to this limitation and pursuant to Coastal Act~~

~~Section 30610.5(b), tide and submerged land, beaches, and lots immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, and all lands and waters subject to the public trust, shall not be excluded from coastal permit requirements.~~

~~This section does not exclude development in environmental sensitive habitat areas, except for Exclusion Zone B, the coastal appeal zone.~~

~~A. Coastal Exclusion Zone A is the Capitola nonappealable coastal area, as identified in the Capitola "Permit and Appeal Jurisdiction" Map, and illustrated in Exhibit A, incorporate herein by reference. Within Coastal Exclusion Zone A, the following categories of development are excluded from a coastal development permit:~~

~~1. Residential Development Exclusions.~~

~~a. The construction of new, including construction of second family dwellings (SDU), reconstruction, demolition, repair, relocation, alteration or addition of the size of any residential project (one to four units) on existing lots at densities specified in the land use plan, on lots of record or lot combinations legal as of the date of local coastal program certification.*~~

~~*—The city of Capitola adopted a second family unit ordinance No. 858, and an urgency ordinance No. 860 in compliance with state law AB 1866. Section 17.15.040 Principal Permitted Uses, was amended by Ordinance No. 858 to include secondary dwelling units (SDU) as a principally permitted use in the R-1 district, provided standards in Ordinance No. 860 are met. The city council finds that SDU exclusion will facilitate the provision of affordable housing infill development that is consistent with the scale, size and character of the surrounding community, with no adverse impacts to coastal access or coastal resources.~~

~~b. The installation of fixtures and other structures directly attached or not to the main residence, including but not limited to patio covers, swimming pools, garages, greenhouses, gazebos, fences, pre-fabricated storage sheds, and non-habitable accessory structures.~~

~~2. Commercial, Industrial, Public and Quasi-Public Development Exclusions.~~

~~a. Except as indicated in subsection b of this section, the exclusion for commercial, industrial, public and quasi-public development includes the following:~~

~~i. The construction of new, reconstruction, demolition, relocation or alteration of the size of any commercial structure less than five thousand square feet in size legal lots of record zoned for commercial use; this exclusion also applies to additions to existing structures where the resulting size is five thousand square feet or less;~~

~~ii. Change of use from commercial, industrial, public or quasi-public use in an existing structure;~~

~~iii. Outdoor sales, commercial sidewalk/ parking lot sales and outdoors display of merchandise;~~

~~b. This exclusion for commercial, industrial, public or quasi-public development does not include:~~

~~i. Any improvement made pursuant to a conversion of an existing structure occupied by visitor serving hotels, motels or other accommodations.~~

~~3. Land Clearing Exclusions. When consistent with the city community tree and forest Ordinance No. 863.~~

~~4. Boundary Adjustments Exclusions. Boundary adjustments not resulting in an increase in the number of building sites, buildable lots, or density of permitted development.~~

~~5. Grading and Filling Exclusions. Grading and filling in conjunction with an approved project; or grading and filling consistent with the local coastal program provisions.~~

~~6. Temporary Structures Exclusions. All temporary (six months or less; non-renewable) structures and uses consistent with regulations and do not conflict with public access and access policies.~~

~~7. Other Excluded Development/ Applications. Provided the following projects have no potential for environmental adverse effects individually and cumulatively, do not adversely affect public access to the coast and coastal resources, including scenic resources, and the use is consistent with the Coastal Act Policies, other exclusions include:~~

- ~~a. Abatement of dangerous buildings and other nuisances pursuant to the city of Capitola Municipal Code;~~
- ~~b. Any project undertaken by a federal agency;~~
- ~~c. Bikeways. Construction of new bikeways (within existing rights of ways), except if new construction reduces parking in the beach areas;~~
- ~~d. Development requiring land use determinations with no potential for adverse impacts, and not including or affecting any visitor serving (VS) uses;~~
- ~~e. Driveway width modification requests which are in accordance with the provisions contained in Chapter 12.32 of this code;~~
- ~~f. Encroachment permits type projects;~~
- ~~g. Home based business;~~
- ~~h. Interior remodels and tenant improvements. Interior remodels in residential and commercial structures when no intensification of the use and no loss of visitor serving use is taking place;~~
- ~~i. Lot mergers, certificates of compliance, and reversions not resulting in a net increase in the number of building sites or potential building sites;~~
- ~~j. Public signs and other equipment installation in the public right of way, including but not limited to parking meters;~~
- ~~k. Projects with valid permit from the California Coastal Commission;~~
- ~~l. Signs Installations and Modifications to Signs. The installation of new or replacement signs and modifications to existing signs, provided the sign meets the requirements of the city of Capitola sign ordinance and/or LUP Implementation Plan, and excluding those signs governing shoreline areas;~~
- ~~m. Temporary Events. Temporary, special events are excluded upon a consistency determination by the community development director with the following criteria:~~
 - ~~i. The event will result in no adverse impact on opportunities for access to the area due to the proposed location and or timing of the event either individually or together with other temporary events scheduled before or after the particular event;~~
 - ~~ii. There will be no direct or indirect impacts from the event and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in this chapter;~~
- ~~n. Tree removals consistent with Chapter 12.12, the community tree and forest management ordinance.~~

~~B. Coastal Exclusion Zone B is the city of Capitola appealable area, as identified in the Capitola "Permit and Appeal Jurisdiction" Map, and illustrated in Exhibit A. Within Coastal Exclusion Zone B, the following categories of development are excluded from a coastal development permit:~~

- ~~1. Bikeways Exclusions. Construction of new bikeways (within existing rights of ways), except if new construction reduces parking in the beach areas.~~
- ~~2. Fence permits exclusions up to six feet in height per the Capitola development standards.~~

~~3. Fixtures attached and accessory structures up to one hundred twenty square feet.~~

~~4. Improvements to single family residences or minor residential remodels, not located in the Environmental Sensitive Habitat Zone, including additions up to thirty percent of living area or not exceeding four hundred square feet, whichever is less, and with less than ten percent increase in height, with architectural materials and colors to match the existing house.~~

~~5. Public signs and other equipment installation in the public right of way, including but not be limited to parking meters.~~

~~6. Second family dwellings exclusions (SDU) consistent with development standards in Chapter 17.99 including SDU as a principally permitted use.~~

~~7. Sign installations and modifications to signs exclusions. The installation of new or replacement signs and modifications to existing signs, provided the sign meets the requirements of the city of Capitola sign ordinance and/or LUP Implementation Plan, and excluding those signs governing shoreline areas.~~

~~8. Temporary events exclusions. Special events shall be evaluated for exclusion status per subsection (A)(7)(m) of this section.~~

~~9. Temporary structures exclusions. All temporary (six months or less; non-renewable) structures and uses consistent with regulations and do not conflict with public access and access policies.~~

~~C. Determination of Excludability. This exclusion shall apply to the permit requirements of the Coastal Act of 1976, pursuant to Public Resources Code Sections 30610(e) and 30610.5(b), and shall not be construed to exempt any person from the permit requirements of any other federal, state or local government agency.~~

~~The determination of whether a development is categorically excluded or not, for purposes of notice, hearings and appeals shall be made by the community development director or zoning administrator at the time the application for development within the coastal zone is submitted. This determination shall be made with reference to the certified local coastal program, including any maps, categorical exclusions, land use designations and zoning ordinances which are adopted as part of the local coastal program. Only developments that fully comply with the policies and ordinances of the certified local coastal program may be excluded under this categorical exclusion.~~

~~D. Notice of Exclusion. Notices of exclusion shall be issued on forms prepared for that purpose by the community development department, and shall indicate the developer's name, street address, if any, and assessor's parcel number(s) of the project site, a brief description of the development, and the date(s) of application for any other permit(s). A copy of the notice of exclusion shall be provided to the Coastal Commission and to any person who has requested such notice within five working days of issuance. The notice of exclusion may be issued at the time of project application but shall not become effective until all other approvals and permits required for the project are obtained. A copy of all terms and conditions imposed by the city shall be provided to the Coastal Commission, per Section 13315 of the California Code of Regulations.~~

~~E. Effect of a Categorical Exclusion Order. Per the California Code of Regulations Section 13247, an order granting an exclusion for a category of development removes that category of development from the permit requirements of Chapter 7 of the California Coastal Act of 1976 to the extent and in the manner specifically provided in the exclusion order. No development inconsistent with such order may take place unless the order is amended or terminated or a final development permit is issued.~~

~~F. Challenges. Where an applicant, interested person, coastal commission, the community development director (CDD) or zoning administrator (ZA) has a question as to the appropriate designation for the development the following procedures shall established whether a development is categorically excluded:~~

~~1. The CDD or the ZA shall make a determination as to what type of development is being proposed (i.e., categorically excluded) and shall inform the applicant of the notice and hearing requirements for that particular development.~~

~~2. If the determination of the CDD or ZA is challenged or if he or she wishes to have the Coastal Commission determine the appropriate designation, he or she shall notify the Commission by telephone of the dispute/question and shall request an executive director's opinion.~~

~~3. The executive director of the Coastal Commission shall, within two working days of the CDD or zoning administrator's request (or upon completion of a site inspection where such inspection is warranted), transmit determination as to whether the development is categorically excluded.~~

~~4. Where, after investigation, the executive director's determination is not in accordance with the CDD or zoning administrator's determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Coastal Commission shall schedule the hearing on the determination for the next practicable Commission meeting in the appropriate geographic region of the state following the CDD or zoning administrator's request.~~

~~5. Exclusion shall not be approved until the determination process provided in subsections (F)(1) through (4) have been completed.~~

~~G. Waive of Public Hearing for "Minor Development." This subdivision does not provide for a full exclusion from the requirement for a coastal development permit, however, it provides for waive of a required public hearing, allowing administrative review of a project. To qualify for this waive of public hearing requirement, the project shall be considered "minor development," according to PRC Section 30624.9.~~

~~"Minor development" means a development that requires no other discretionary approval by the jurisdiction other than a coastal development permit. A local government may waive the public hearing requirement provided the project has no potential for adverse effects, either individually or cumulatively on coastal resources or public access to the shoreline, and it is consistent with the certified LCP, subject to special noticing as follows:~~

~~1. Notice that a public hearing would be held upon request is to be sent to all persons who would otherwise be required and any other persons who have shown interest;~~

~~2. No request for a public hearing is received within fifteen working days from the date notice was mailed out; and~~

~~3. The notice shall disclose that the failure to request a public hearing triggers the loss of appeal power on the matter being considered for administrative approval. (Ord. 868 § 3, 2004)~~

17.46.060 — Permit application requirements and fees.

Application for a coastal permit shall be made concurrently with application for any other permits or approvals required for the project that are administered by the planning department. The coastal permit application fee shall be accompanied by:

A. A filing fee set by resolution of city council;

B. Evidence that the applicant is the owner or purchaser under contract, of the property involved, or has written permission of the owner to make the application;

C. Any necessary maps, drawings or supplementary information, as indicated on the application form; and

D. Materials required for notifying interested/affected parties, including assessor's parcel map(s) showing the applicant's property and all other properties within one hundred feet of the property lines of the project site; and stamped envelopes addressed to each owner and occupant of property situated within one hundred feet of the property lines of the project site (excluding roads), along with a list containing the addresses and assessor's parcel numbers of same on a form provided by the city. (Ord. 627 Exhibit A (part), 1987)

17.46.070 — Application review.

The city planning department shall review the submitted coastal permit application and notify the applicant of any additional application requirements within thirty days of receipt of the application. For the purposes of notice, hearing and appeals procedures, the city shall, at the time of submittal of coastal permit application, make a

determination of whether the development is categorically excluded, exempted, appealable, or nonappealable. Upon determination, the city shall inform the applicant of the notice and hearing requirements for that development. If the determination is challenged by the applicant or interested person, the matter shall be referred to the Executive Director of the California Coastal Commission for resolution. (Ord. 627 Exhibit A (part), 1987)

17.46.080 — Hearing and noticing procedures.

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

B. ~~Hearing Date.~~ A public hearing date on a coastal permit application shall be set within ten working days upon completion of environmental review. If action on other permits or approvals is required for the project, the city shall act concurrently on the coastal permit.

C. ~~Hearing Notice.~~ Not less than ten calendar days nor more than forty-five calendar days prior to a public hearing, the city shall send notice by first class mail to the property owner or duly authorized agent, to all city libraries to be posted or kept in a public file, to a newspaper of general circulation, to all property owners and residents within one hundred feet of the project site, the California Coastal Commission, and to all other persons who request such notice. In addition, a notice will be posted and maintained on the project site by the applicant. Failure to adequately post or maintain the notice shall be cause for continuance of the hearing.

D. ~~Hearing Continuance.~~ If a decision upon a permit is continued to a time which was neither previously stated in the notice, nor announced at the hearing as being continued to a certain time, the city shall provide notice of further hearings as described above.

E. ~~Notice Contents.~~ All hearing notices shall contain at a minimum:

1. A statement that the development is within the coastal zone;
2. Name of the applicant;
3. Date of filing;
4. Project location and description;
5. Application number;
6. Statement of the coastal status;
7. The date, time and place of the public hearing;
8. A brief description of the city's general procedure concerning the hearing process; and
9. A description of the appeal process. (Ord. 886 § 1, 2005; Ord. 627 Exhibit A (part), 1987)

17.46.090 — Coastal permit approval.

A. ~~Approving Authority.~~ Action on a coastal permit shall be taken by the planning commission or city council on appeal concurrent with other required permit applications.

B. ~~Right to Comment.~~ Prior to the time set for any public hearing, any person having any interest affected by the pending application may file with the planning department a written statement either approving or objecting to the application. Any person may also appear at the hearing to present oral testimony.

C. ~~Permit Approval.~~ Following a completion of testimony at the public hearing and consideration of all evidence, the planning commission shall approve, conditionally approve, partially approve, deny, or continue a coastal permit application consistent with the city's Local Coastal Program.

~~D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:~~

- ~~1. a. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to subsection (D)(2) of this section. The type of affected public access and recreation opportunities shall be clearly described;~~
- ~~b. An analysis based on applicable factors identified in subsection (D)(2) of this section of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act;~~
- ~~c. A description of the legitimate governmental interest furthered by any access conditioned required;~~
- ~~d. An explanation of how imposition of an access dedication requirement alleviates the access burdens identified.~~

~~2. Require Project Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D)(2)(a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.~~

~~a. Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative buildout. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;~~

~~b. Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;~~

~~c. Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the~~

~~nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);~~

~~d. Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;~~

~~e. Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.~~

3. Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F)(2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;

b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;

c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an accessway on the subject land.

4. Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;

b. Topographic constraints of the development site;

c. Recreational needs of the public;

d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;

e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;

f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.

5. Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);

6. Project complies with visitor serving and recreational use policies;

- ~~7. Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;~~
- ~~8. Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site-review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;~~
- ~~9. Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;~~
- ~~10. Demonstrated availability and adequacy of water and sewer services;~~
- ~~11. Provisions of minimum water flow rates and fire response times;~~
- ~~12. Project complies with water and energy conservation standards;~~
- ~~13. Provision of park dedication, school impact, and other fees as may be required;~~
- ~~14. Project complies with coastal housing policies, and applicable ordinances including condominium-conversion and mobile home ordinances;~~
- ~~15. Project complies with natural resource, habitat, and archaeological protection policies;~~
- ~~16. Project complies with Monarch butterfly habitat protection policies;~~
- ~~17. Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;~~
- ~~18. Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;~~
- ~~19. All other geological, flood and fire hazards are accounted for and mitigated in the project design;~~
- ~~20. Project complies with shoreline structure policies;~~
- ~~21. The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;~~
- ~~22. Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures; and~~
23. Project complies with the Capitola parking permit program as follows:
 - ~~a. The village area preferential parking program areas and conditions as established in Resolution No. 2596 and no permit parking of any kind shall be allowed on Capitola Avenue.~~
 - ~~b. The neighborhood preferential parking program areas are as established in Resolution Numbers 2433 and 2510.~~
 - ~~c. The village area preferential parking program shall be limited to three hundred fifty permits.~~
 - ~~d. Neighborhood permit areas are only in force when the shuttle bus is operating except that:~~
 - ~~i. The Fanmar area (Resolution No. 2436) program may operate year round, twenty four hours a day on weekends;~~
 - ~~ii. The Burlingame, Cliff Avenue/Grand Avenue area (Resolution No. 2435) have year round, twenty four hour per day "no public parking."~~

~~e. Except as specifically allowed under the village parking program, no preferential residential parking may be allowed in the Cliff Drive parking areas.~~

~~f. Six Depot Hill twenty four minute “Vista” parking spaces (Resolution No. 2510) shall be provided as corrected in Exhibit A attached to the ordinance codified in this section and found on file in the office of the city clerk.~~

~~g. A limit of fifty permits for the Pacific Cove parking lot may be issued to village permit holders and transient occupancy permit holders.~~

~~h. No additional development in the village that intensifies use and requires additional parking shall be permitted. Changes in use that do not result in additional parking demand can be allowed and exceptions for onsite parking as allowed in the land use plan can be made.~~

~~E. Conditions. Approval of a coastal permit shall be conditioned as necessary to ensure conformance with and implementation of Capitola’s certified local coastal program. The approving authority may require modification and resubmittal of project plans, drawings and specifications to insure conformance with said program.~~

~~F. Access Requirements. Offers to dedicate or grant public access easements shall be made in accordance with the provisions of the local coastal land use plan and Section 17.46.010. The offer of dedication or granting should ordinarily be made on forms provided by the city. Access easements shall be provided in accordance with the following provisions of the local coastal land use plan.~~

~~Provisions regarding implementation of access easement requirements are included within subsection G of this section.~~

~~1. Access easements shall be provided in accordance with provisions of the local coastal program land use plan and the following:~~

~~As a condition of approval and prior to issuance of a permit or other authorization for any new development identified in subsection (F)(1)(a) through (d) of this section, except as provided in subsection (F)(2), an offer of dedicate an easement (or other legal mechanism) for one or more of the types of access identified in Section 17.46.030 shall be required and shall be supported by findings required by Section 17.46.090(D); provided, that no such condition of approval shall be imposed if the analysis required by Section 17.46.090(D)(1)(a) and (b) establishes that the development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources.~~

~~a. New development on any parcel or location identified in the land use plan including but not limited to the Park Avenue/Southern Pacific Railroad right of way along the bluff top between Capitola Village and New Brighton Beach;~~

~~b. New development between the nearest public roadway and the sea;~~

~~c. New development on any site where there is substantial evidence of a public right of access to the sea acquired through use or a public right of access through legislative authorization;~~

~~d. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access.~~

~~2. Exceptions. Subsection (F)(1) of this section shall apply except in the following instances:~~

~~a. Projects excepted from the definition of “new development” in Section 17.46.030;~~

~~b. Where findings required by subsection (D)(1) and (2) of this section establish any of the following:~~

~~i. Public access is inconsistent with the public safety, military security needs, or protection of fragile coastal resources;~~

- ~~ii. Adequate access exists nearby; or~~
- ~~iii. Agriculture would be adversely affected;~~
- ~~e. Exceptions identified in subsection (F)(2)(b) shall be supported by written findings required by subsection (D)(3) of this section.~~

~~3. A condition to require vertical public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to subsection (F)(1) of this section shall provide the public with the permanent right of access, (1) located in specific locations identified in the certified local coastal program for future vertical access, or (2) located in a site for which the city has reviewed an application for a development permit and has determined a vertical accessway is required pursuant to the access and recreation policies of the Coastal Act or the applicable provisions of the local coastal program.~~

~~A condition to require vertical access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to subsection (F)(1) of this section shall provide the public with the permanent right of vertical access and be limited to the public right of passive recreational use unless another character of use is specified as a condition of the development. In determining whether another character of use is appropriate, findings shall be made on the specific factors identified in subsection (D)(2) of this section.~~

~~Each vertical accessway shall be legally described as required in subsection (G) of this section. If a residential structure is proposed, the accessway should be sited closer than ten feet to the structure (or another distance if specified in the certified LUP).~~

~~4. A condition to require lateral access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to subsection (F)(1) of this section shall provide the public with the permanent right of lateral public access and passive recreational use along the shoreline (or public recreational area, bikeway, or blufftop area, as applicable); provided that in some cases controls on the time, place and manner of uses may be justified by site characteristics including sensitive habitat values or fragile topographic features, or by the need to protect the privacy of residential development.~~

~~Active recreational use may be appropriate in many cases where the development is determined to be especially burdensome on public access. Examples include cases where the burdens of the proposed project would severely impact public recreational use of the shoreline, where the proposed development is not one of the priority uses specified in Public Resources Code Section 30222, where active recreational uses reflect the historic public use of the site, where active recreational uses would be consistent with the use of the proposed project and where such uses would not significantly interfere with the privacy of the landowner. In determining the appropriate character of public use, findings shall be made on the specific factors enumerated in subsection (D)(2) of this section. Lateral access shall be legally described as required in subsection (G) of this section.~~

~~5. A condition to require public access along a bluff top as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to subsection (F)(1) of this section shall provide the public with the permanent right of scenic and visual access from the bluff top to the public tidelands.~~

~~The bluff top access shall be limited to passive recreational use and coastal viewing purposes unless another character of use is specified as a condition of development. In determining the appropriate character of use findings shall be made on the specific factors identified in subsection (D)(2) of this section.~~

~~Each bluff top accessway shall be described in the conditions of approval of the coastal development permit as an area beginning at the current bluff edge extending twenty five feet inland (or a different standard, greater or lesser as determined to be necessary for public safety or geologic stability, if specified in the certified LUP). However, the accessway shall not extend any closer than ten feet from an occupied residential structure. Due to the potential for erosion of the bluff edge, the condition shall include a mechanism that will cause the accessway to be adjusted inland as the edge recedes. Any permanent improvements should be set back from the accessway by a distance derived by multiplying the annual rate of blufftop retreat by the life expectancy in years of the improvements.~~

~~The accessway shall be legally described as required in subsection (G) of this section, with the furthest inland extent of the area possible referenced as a distance from a fixed monument in the following manner:~~

~~Such easement shall be _____ feet wide located along the bluff top as measured inland from the daily bluff edge. As the daily bluff top edge may vary and move inland, the location of this right of way will change over time with the then current bluff edge, but in no case shall it extend any closer than feet from (a fixed inland point, such as the centerline of a public road or other easement monument).~~

~~6. A condition to require public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) required pursuant to subsection (F)(1) of this section shall provide the public with the permanent right of access and active recreational use, (1) along a designated alignment of a coastal recreational path or trail in specific locations identified in the LCP for implementation of trail access, or (2) in locations where it has been determined that a trail access is required to link recreational areas to the shoreline or provide alternative recreation and access opportunities pursuant to the access and recreation policies of the LCP and Coastal Act, consistent with other provisions of this chapter. In determining if another character of use is appropriate, findings shall be made on the specific factors enumerated in subsection (D)(2) of this section. The trail access shall be legally described as required by subsection (G) of this section.~~

~~7. A condition to require public recreational access as a condition of approval of a coastal development permit (or some other authorization to proceed with development) required pursuant to subsection (F)(1) of this section shall provide the public with the permanent right of access and use within a designated recreational access area. Conditions required pursuant to this section shall specify the location and extent of the public access area. The form and content should take the form of requirements in subsection (F)(3) through (6) of this section as applicable. The accessway shall be legally described as required in subsection (G) of this section.~~

~~G. Review of Legal Documents. Prior to issuance of a coastal permit, all legal documents pertaining to public access and open space or conservation easements which are conditions of approval of a coastal permit, shall be forwarded to the Executive Director of the California Coastal Commission for review and approval of the legal adequacy and consistency with the requirements of potential accepting agencies.~~

~~An access dedication required pursuant to subsection (F)(1) of this section shall be described in the condition of approval of the permit or other authorization for development in a manner that provides the public, the property owner, and the accepting agency with the maximum amount of certainty as to the location of the accessway. As part of the condition of approval, easements shall be described as follows: (1) for lateral access: along the entire width of the property from the mean high tide line to (as applicable) the toe of the bluff, the toe of the seawall, or other appropriate boundary such as stringline or dripline; (2) for blufftop access or trail access: extending inland from the bluff edge or along the alignment of a recreational trail; (3) for vertical access: extending from the road to the shoreline (or bluff edge). A privacy buffer provided pursuant to subsection (J) of this section shall be described, as applicable.~~

~~Prior to the issuance of the coastal development permit or other authorization for development, the landowner shall (except as precluded by *Nolan v. California Coastal Commission*, 483 U.S. 825) execute and record a document in a form and content acceptable to the coastal commission (or local agency authorized pursuant to Title 14 California Code of Regulations 113574(b)), irrevocably offering to dedicate to a public agency or private association approved by the coastal commission (or local agency authorized pursuant to Title 14 California Code of Regulations 113574(b)) an easement for a specific type of access as described in Section 17.46.030 and a specific character of use as described in Section 17.46.030, as applicable to the particular condition.~~

~~The recorded document shall provide that the offer to dedicate shall not be used or construed to allow anyone, prior to acceptance of the dedication, to interfere with the rights of public access acquired through use which may exist on the property.~~

~~The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area and a map to scale. The offer shall be recorded free of prior liens and any other encumbrances which the coastal commission (or local agency authorized by the commission) determines may affect the interest being conveyed. The~~

~~offer to dedicated shall run with the land in favor of the people of the state, binding all successors and assignees, and shall be irrevocable for a period of twenty one years, such period running from the date of recording.~~

~~The commission shall have fifteen working days from the receipt of the documents where review is requested and thirty working days where preparation is requested, to complete the review or preparation and notify the applicant and local government of recommended revisions, if any.~~

~~If the local government does not receive notification of the inadequacy of documents it has prepared within the fifteen working day period, the documents are deemed approved and the permit may be issued upon proof that the documents have been recorded free of prior liens and encumbrances which the executive director determines may affect the interest being conveyed, in accordance with the provisions of the local government's local coastal program.~~

~~Where the commission prepares the legal documents, the local government may issue the permit after the thirty day preparation period has expired, or the applicant has signed a document that meets the standards of this section, and the document has been recorded free of prior liens and encumbrances which the executive director determines may affect the interest being conveyed, in accordance with the provisions of the local governments' local coastal program.~~

~~As a requirement for any public access condition, prior to the issuance of the permit or other authorization for development, the applicant shall be required to furnish a title report and all necessary subordination agreement. Title insurance may also be required where easements are being granted. The amount of all reflect the estimated cost to acquire an equivalent accessway or recreational use elsewhere in the vicinity. All offers shall be made free of all encumbrances which the approving authority pursuant to this subsection determines may affect the interest being conveyed. If any such interest exists which could erase the access easement, it must be subordinated through a written and recorded document.~~

~~H. Protection of Historic Public Use. Development shall be sited and designed in a manner which does not interfere with or diminish any public right of access which may have been established based on historic public use. Only when site constraints are so severe that siting of the accessway or recreational use area in its historic location would significantly impair the proposed development and alternative development siting is not feasible, development may be sited in the area of public right of access based on historic use provided that the applicant provides an equivalent area of public access or recreation to and along the same destination and including the same type and intensity of public use as previously existed on the site. Mechanisms for guaranteeing the continued public use of the area or equivalent area shall be required in accordance with subsections (F)(3) through (7) of this section.~~

~~An access condition shall not serve to extinguish or waive, public prescriptive rights. In permits where evidence shows the possibility of such prescriptive rights, the following language shall be added to the access condition:~~

~~Nothing in this condition shall be construed to constitute a waiver of any prescriptive rights which may exist on the parcel itself or on the designated condition.~~

~~I. Management Plan. A management plan may be required in conjunction with a dedication of public access in any case where there is substantial evidence of potential conflicts between public access use and other uses on or immediately adjacent to the site. Examples include access in areas of sensitive habitats, agricultural resources, or significant hazards, or adjoining residential neighborhoods or military security areas. The plan shall be prepared by the accepting agency and approved by the city prior to the opening of the access to public use. Where applicable, the plan should specify management controls on time and intensity of uses, standards for privacy buffers, and requirements for maintenance of aesthetic values through such measures as litter control.~~

~~J. Privacy Buffers. Separation between a public accessway and adjacent residential use may be provided when necessary to protect the landowner's privacy or security as well as the public's right to, use of the accessway. Any such buffer shall be provided within the development area. Access should not be sited closer to any residential structure than the distance specified in the certified LUP, or where there is not distance specified, no closer than ten feet. The buffer can be reduced where separation is achieved through landscaping fences or grades separation.~~

~~K. Implementation. A dedicated accessway shall not be required to be opened to public use until a public agency or private association approved in accordance with subsection (G) of this section agrees to accept responsibility for maintenance and liability of the access, except in cases where immediate public access is implemented through a deed restriction.~~

~~In any case where the size and character of a development would impose very substantial burdens on public access, such as a large resort development on the shoreline and where the applicant has the capacity to operate and maintain the accessway or recreation area, deed restriction may be required instead of an offer to dedicate in order to ensure immediate public use of the area and maintenance of the area by the applicant and successors in interest. In any such case, all other, applicable provisions of this chapter shall apply.~~

~~Access facilities constructed on access easements (e.g., walkways, paved paths, boardwalk, etc.) should be no wider than necessary to accommodate the numbers and types of users that can reasonably be expected and in accordance with standards in subsection (F) of this section.~~

~~As a requirement for any public access condition, prior to the issuance of the permit or other authorization for development, the applicant shall be required to furnish a title report and all necessary subordination agreements. Title insurance may also be required where easements are being granted. The amount of insurance shall reflect the estimated cost to acquire an equivalent accessway or recreational use elsewhere in the vicinity. All offers shall be made free of all encumbrances which the approving authority pursuant to subsection G of this section determines may affect the interest being conveyed. If any such interest exists which could erase the access easement, it must be subordinated through a written and recorded agreement.~~

~~Where revisions are required to meet the standards of this section, the permit shall not be issued until the local government has been notified that all issues of adequacy, uniformity and consistency have been resolved and the documents has been recorded free of prior liens and encumbrances, in accordance with the provisions of the certified local coastal program. (Ord. 941 § 1, 2009; Ord. 754, 1993; Ord. 727 §§ 6, 7, 1992; Ord. 691 §§ 9—13, 1990; Ord. 685 § 11, 1989; Ord. 677 § 1(D), (E), 1989; Ord. 627 Exhibit A (part), 1987)~~

17.46.100 — Notice of final action.

~~A. Within seven calendar days of a final local decision on a coastal permit application, the city shall provide notice of its action by first class mail to the applicant, the state Coastal Commission, and any other persons who have requested such notice by submitting a self-addressed, stamped envelope to the city. The notice shall contain the city's adopted findings, conditions of approval, indication of whether the project is appealable to the Coastal Commission, and procedures for appeal to the Commission. A local decision on a coastal permit application shall be deemed final when all local rights of appeal have been exhausted as defined below.~~

B. Failure to Act — Notice.

~~1. Notification by Applicant. If the city has failed to act on an application within the time limits set forth in Government Code Sections 65950 to 65957.1, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Sections 65950 to 65957.1 shall notify, in writing, the community development director and the commission of his or her claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved and shall be delivered to city within sixty days of the day the application was allegedly approved by law.~~

~~2. Notification by Local Government. When the city determines that the time limits established pursuant to Government Code Sections 65950 to 65957.1 have expired, the community development director shall, within seven calendar days of such determination, notify any person entitled to receive notice pursuant to Section 13571(a) of Title 14 of the California Administrative Code that the application has been approved by operation of law pursuant to Government Code Sections 65950 to 65957.1 and the application may be appealed to the commission pursuant to Section 13110 et seq., of Title 14 of the California Administrative Code. (This section shall apply equally to a city determination that the project has been approved by operation of law and to a judicial determination that the project has been approved by operation of law.) (Ord. 677 § 1(F), 1989; Ord. 627 Exhibit A (part), 1987)~~

17.46.110—Appeals.

~~A. Local Appeals. The city council shall have jurisdiction on coastal permit appeals from a planning commission decision. An appeal must be filed within ten calendar days after the decision. An appeal shall be filed with the planning department in the form of a letter requesting the appeal. A public hearing on an appeal shall be held within forty-five days after the department of planning receives a completed appeal form. A notice of the public hearing on the appeal shall be mailed by the planning department to the applicant and any known aggrieved person not less than ten calendar days prior to the hearing. Such notice shall contain the same information as the original notice except that it shall also give the appellant's name and state that the hearing is an appeal. All decisions on appeal shall be based upon the same findings of fact required in the original proceeding. Except for appeals to the Coastal Commission for projects located seaward of the appealable area boundary, there shall be no further local appeals after a decision on appeal.~~

~~B. Appeals to the California Coastal Commission.~~

~~1. Local actions on coastal permits may be appealed by an aggrieved person to the California Coastal Commission. All developments approved or approved with conditions may be appealed if they are located within the appealable area as designated by map or ordinance. Decision on major energy facilities or major public works may be appealed if approved, approved with conditions or denied. Appeals shall be according to the procedures of this section, provided that:~~

- ~~a. All local appeals of city actions provided for by this section have been exhausted and no fee was charged for such appeal; and~~
- ~~b. The appeal is filed (to) with the coastal commission within the commission's ten working day appeal period which begins upon receipt of a valid notice of final action from the city.~~
- ~~c. Any coastal commission appeal by two or more coastal commissioners, when the local appeals of city actions provided for by this section have not been exhausted, shall constitute a local appeal which has not been exhausted. Any local action to modify or reverse the appealed action shall require that a new coastal commission appeal by two or more coastal commissioners be filed in order to constitute a complete coastal commission appeal.~~

~~2. An appeal to the state Coastal Commission may be made for the following types of development:~~

- ~~a. Developments approved located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or three hundred feet of the mean high tide line of the sea where there is no beach, whichever is the greater distance;~~
- ~~b. Approved developments, not included in subsection (B)(2)(a) of this section located on tidelands, submerged lands, public trust lands, within one hundred feet of any wetland, estuary, stream or within three hundred feet of the top of the seaward face of any coastal bluff;~~
- ~~c. Any development which constitutes a major public works project or a major energy facility.~~

~~3. All appealable developments may be appealed by an applicant, any two members of the state Coastal Commission, or any aggrieved person. Grounds for appeal of an approved coastal permit for developments described in subsection (B)(2) of this section, are limited to the following:~~

- ~~a. The development fails to provide adequate physical access, public or private commercial use, or interferes with such uses;~~
- ~~b. The development fails to protect public views from any public road or from a recreational area to and along the coast;~~
- ~~c. The development is not compatible with the established physical scale of the area;~~
- ~~d. The development may significantly alter existing natural landforms;~~

~~e. The development does not comply with shoreline erosion and geologic setback requirements.~~

~~C. The grounds for appeal for development described in subsections (B)(2)(b) and (c) of this section are limited to consideration of whether or not the proposed development is in conformance with the certified local coastal program. (Ord. 685 § 7, 1989; Ord. 677 § 1(G), 1989; Ord. 627 Exhibit A(part), 1987)~~

17.46.120—Permit issuance.

~~A. Effective Date of a Coastal Permit. A coastal development permit shall be effective as follows:~~

- ~~1. Outside the Coastal Commission Appeal Area. The coastal permit shall become effective ten working days after the city's final decision;~~
- ~~2. Within the Coastal Commission Appeal Area. Decisions on applications for appealable developments shall become effective after a ten working day appeal period to the coastal commission has expired and no appeal has been filed. The ten day appeal period shall start the day after receipt by the coastal commission of adequate notice of the final local action.~~

~~B. Expiration of Permits.~~

- ~~1. Except as otherwise provided for in conditions of approval, every right or privilege authorized under this chapter shall terminate two years after granting the request, if such right or privilege has not been exercised in good faith within that time. Such termination will take effect without further city action if a timely request for extension of time has not been made or is denied. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privilege.~~
- ~~2. Upon written request received prior to the expiration of the permit, a one year extension of such right or privilege may be granted by the city council or planning commission, whichever granted the permit. Such request may be granted upon a finding that no substantial change of circumstances has occurred and that such extension would not be detrimental to the purpose of the certified local coastal program and zoning ordinance.~~

~~C. Revocation of Permits. Except as otherwise provided, upon determination that there has been a violation of the conditions of any permit or approval provided by this chapter, the community development director shall schedule a public hearing before the city council or planning commission, whichever granted the permit, to determine if such permit or approval should be revoked. At such hearing, the community development director shall present evidence of such violation. If the hearing body finds that the conditions have been violated and that the property owner has not made a good faith effort to comply, the permit or approval shall be revoked. The property owner shall have the same right of appeal as would have been applicable if the initial application had been denied by the person or body granting the permit.~~

~~D. Limiting Resubmission. Whenever a request under the provisions of this section has been denied and such denial has become final, no new application for the same or similar request may be accepted within one year of the denial date, unless the community development director finds that a sufficient change in circumstances has occurred to warrant a new application. (Ord. 873 § 22, 2004; Ord. 627 Exh. A (part), 1987)~~

17.46.130—Emergency permits.

~~A. Emergency coastal permits may be granted at the discretion of the community development director or a local official designated by the city council for projects normally requiring coastal permit approval, which must be undertaken as emergency measures to prevent loss or damage to life, health or property, or to restore, repair or maintain public works, utilities and services during and immediately following a natural disaster or serious accident.~~

~~B. Application in cases of emergencies shall be made to the city by letter if time allows, and by telephone or in person if time does not allow. The applicant shall submit the appropriate fees at the time of application for an emergency permit.~~

~~C. The information to be reported during the emergency, if it is possible to do so, or to be fully reported after the emergency, shall include the following:~~

- ~~1. The nature of the emergency;~~

- ~~2. The cause of the emergency, insofar as this can be established;~~
- ~~3. The location of the emergency;~~
- ~~4. The remedial, protective or preventive work required to deal with the emergency; and~~
- ~~5. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action.~~

~~D. The community development director or other designated local official shall verify the facts, including the existence and nature of the emergency, insofar as time allows. Upon the issuance of an emergency permit, the applicant shall submit a completed coastal permit application and any required technical reports within a time specified by the community development director, not to exceed thirty days.~~

~~E. The emergency work authorized under approval of an emergency permit shall be limited to activities necessary to protect the endangered structure or essential public structure. The emergency approval shall be voided if the approved activity is not exercised within fifteen days of issuance of the emergency permit. The approval shall expire sixty days after issuance. Any work completed outside of these time periods requires a regular coastal permit approval unless an extension is granted by the city.~~

~~F. Criteria for Granting Permit. The community development director shall provide public notice of the proposed emergency action, with the extent and type of notice determined on the basis of the nature of the emergency itself. The community development director may grant an emergency permit upon reasonable terms and conditions, including an expiration date and the necessity for a regular permit application later, if the director finds that:~~

- ~~1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary permits and the development can and will be completed within thirty days unless otherwise specified by the terms of the permit;~~
- ~~2. Public comment on the proposed emergency action has been reviewed if time allows; and~~
- ~~3. The work proposed would be consistent with the requirements of the certified LCP.~~

~~G. Reporting of Emergency Permits. The community development director shall report emergency permits to the city council planning commission at their next regular meeting and to the Coastal Commission. The decision to issue an emergency permit is solely at the discretion of the community development director, although subsequent coastal permits required for the project are subject to all applicable hearing requirements in accordance with the Coastal Act.~~

~~H. Emergency Waivers Granted by the Coastal Commission. The Coastal Commission retains authority for granting emergency waivers for those events which threaten life of public property (Coastal Act Section 30611) and for all development located within the Commission's original jurisdiction. (Ord. 691 § 13, 1990; Ord. 685 §§ 6, 15, 1989; Ord. 677 § 1(H), (I), 1989; Ord. 627 Exhibit A (part), 1987)~~

17.46.140—Amendments.

~~An applicant may petition to amend a coastal permit by filing a new application pursuant to the requirements of this chapter. Any amendment approved for development in the coastal zone shall be found consistent with all applicable local coastal program requirements, and this chapter with regards to requirements of jurisdiction, hearings, notices and findings for approval. (Ord. 677 § 1 (J), 1989; Ord. 627 Exhibit A (part), 1987)~~

17.46.150—Consistency required.

~~The approving body (or the Coastal Commission on appeal) may approve a density greater than allowed by the underlying land use and zone district designations for affordable residential projects if the following criteria are met:~~

- ~~A. The proposed increased density is consistent with the Coastal Act Section 30604(f), Government Code Section 65915, and Chapter 18.03 of the Capitola Municipal Code.~~

~~B. If located within the coastal zone, the project is found to be in conformity with the Local Coastal Program (including, but not limited to, sensitive habitat, public viewshed, public recreational access and open space protections), with the exception of the density provisions. (Ord. 950 § 2, 2010)~~

Chapter 17.48

GH GEOLOGIC HAZARDS DISTRICT

Sections:

- 17.48.010 Definitions.
- 17.48.020 Applicability.
- 17.48.030 Purpose.
- 17.48.040 Combining district.
- 17.48.050 Principal permitted uses.
- 17.48.060 Accessory uses.
- 17.48.070 Conditional uses.
- 17.48.080 Development standards.
- 17.48.090 Beach area regulations.
- 17.48.100 Bluff and cliff area regulations.
- 17.48.110 Earthquake fault areas.
- 17.48.120 Floodplain.
- 17.48.130 Landslide areas.
- 17.48.140 Steep slope areas.
- 17.48.150 Other geologic hazard areas.
- 17.48.160 Contents of geologic/engineering reports.
- 17.48.170 Appeals.
- 17.48.180 Requirement of disclosure of property location by seller to seller's agent.
- 17.48.190 Report to be noted on subdivision maps.

* Prior ordinance history: Ords. 472, 562.

17.48.010 Definitions.

For purposes of this chapter the following definitions shall apply:

A. "Bluff or cliff" means the scarp or steep face of rock, decomposed rocks, sediment or soil resulting from erosion, faulting, folding or excavation of land mass and exceeding ten feet in height, and includes what we commonly know as "cliffs."

B. "Floodplain" means the land on either side of the creek or other watercourse which may be subject to flooding, includes but is not necessarily limited to any one-hundred year floodplain, as determined by the Federal Flood Insurance Program.

C. "Geological hazard" means a threat to life, property or public safety caused by geological or hydrological processes such as faulting and secondary seismic effects, including but not limited to: liquefaction, landsliding, erosion, flooding, tsunami, or storm wave inundation. (Ord. 628 § 2, 1987)

17.48.020 Applicability.

The regulations set forth in this chapter apply in all GH districts. (Ord. 628 § 2, 1987)

17.48.030 Purpose.

The GH district is designed to inform property owners and potential property owners of lands which are located in areas containing geological hazards, including, but not limited to, floodplains, fault zones, known landslide areas, bluffs, tsunami inundation areas, and high liquefaction areas. (Ord. 628 § 2, 1987)

17.48.040 Combining district.

Land classified GH shall also have a basic zoning classification as defined in Chapters 17.12 through 17.45. For example, R-1-GH means that the R-1 district regulations apply as well as the GH regulations. (Ord. 628 § 2, 1987)

17.48.050 Principal permitted uses.

The following are principal permitted uses the GH district:

A. All uses permitted in the basic zoning district. (Ord. 628 § 2, 1987)

17.48.060 Accessory uses.

The following are accessory uses permitted in the GH district:

A. All accessory uses permitted in the basic zoning district. (Ord. 628 § 2, 1987)

17.48.070 Conditional uses.

The following are conditional uses in the GH district:

A. All conditional uses in the basic zoning district. (Ord. 628 § 2, 1987)

17.48.080 Development standards.

The development standards in the GH district shall be the same as the basic zoning district except in those instances when more restrictive standards are necessary to provide assurance that stability and structural integrity can be maintained for the economic life of the project (fifty years). (Ord. 628 § 2, 1987)

17.48.090 Beach area regulations.

In the GH district:

A. A geologic/engineering report shall be required for all developments located on a beach, including shoreline protective measures. "Shoreline protective measures" includes the installation, in an area where coastal process operate, of any structure or material, including but not limited to riprap or a seawall, for the purpose of protecting a structure, road, utility or transmission line. Shoreline protection structures shall be permitted only when they are:

1. Necessary to protect existing development other than accessory structures; or
2. Necessary to protect public beaches in danger from erosion, and only if nonstructural solutions (i.e., artificial beach nourishment, relocation of structures, have proven to be infeasible; and
3. Designed so as to eliminate or mitigate adverse impacts on local shoreline sand supply, public access, marine habitats and paleontological resources; and
4. Designed to provide vertical access where feasible. (Ord. 628 § 2, 1987)

17.48.100 Bluff and cliff area regulations.

In the GH district:

A. Bluff and cliff top development shall be permitted only if the design and setback provisions are designed to assure stability and structural integrity for the expected life of the development (at least fifty years) and if the development (including storm runoff, foot traffic, grading and irrigation) will neither create nor contribute significantly to erosion problems or geological instability of the site or surrounding areas.

B. A geologic/engineering report shall be required for any blufftop or cliff development which is proposed within two hundred feet of the cliff edge. In specific areas of known geological stability or where adequate protective devices already exist, a lesser area of demonstration may be designated. The city may designate a greater area of demonstration or exclude development entirely in areas of known high instability. (Ord. 677 § 15(A), 1989; Ord. 628 § 2, 1987)

17.48.110 Earthquake fault areas.

In any area determined by the State Geologist, pursuant to Public Resources Code Section 2622, to be a special studies zone, a geologic/ engineering report shall be required before any developmental permit may be issued. Nothing in this section shall diminish the duties of any person arising out of the Alquist-Priolo Special Studies Zone Act (Public Resources Code Section 2621 and following). (Ord. 628 § 2, 1987)

17.48.120 Floodplain.

Any development in the GH district which is proposed to be located within the one-hundred year floodplain of Soquel Creek or Noble Creek shall be constructed so as to conform to the Federal Flood Insurance program guidelines for development control. (Ord. 628 § 2, 1987)

17.48.130 Landslide areas.

In areas determined by the community development director, the public works director, the building inspector or the planning commission to have a landslide potential, a geologic/ engineering report shall be required. (Ord. 628 § 2, 1987)

17.48.140 Steep slope areas.

Any development in the G-H district which is designed to be built on a slope in excess of thirty percent shall require a geologic/engineering report. The report shall include methods of achieving structural stability as well as any mitigation measures for preventing erosion. (Ord. 677 § 15(B), 1989; Ord. 628 § 2, 1987)

17.48.150 Other geologic hazard areas.

The planning commission may require a geologic/engineering report in other areas of geologic hazards. (Ord. 628 § 2, 1987)

17.48.160 Contents of geologic/engineering reports.

All geologic/engineering reports required by this chapter shall be prepared according to the guidelines for practice issued by the California Division of Mines and Geology, specifically, No. 37 Guidelines for Preparing Engineering Geological Reports and Coastal Commission Guidelines for Bluff Top Development. The required geological reports for all developments shall be prepared by a registered geologist or professional engineer with expertise in soils or foundations engineering, or by a certified engineering geologist. Because the city staff may not contain the expertise necessary to evaluate the adequacy of a report, the city may employ, at the applicant's expense, an appropriate expert to evaluate the adequacy of the report. (Ord. 628 § 2, 1987)

17.48.170 Appeals.

Planning commission determination made pursuant to this chapter may be appealed to the city council as provided in Chapter 2.56. (Ord. 628 § 2, 1987)

17.48.180 Requirement of disclosure of property location by seller to seller's agent.

A person who is acting as an agent for a seller of real property which is located within a GH district, or the seller if he or she is acting without an agent, shall disclose any prospective purchaser the fact that the property is located within a GH district. The community development director may adopt methods of informing owners and real estate salespersons of this requirement. (Ord. 628 § 2, 1987)

17.48.190 Report to be noted on subdivision maps.

All geologic/engineering reports prepared in conjunction with an application to subdivided property shall be noted on the map as provided in Government Code Section 66434(f). (Ord. 628 § 2, 1987)

Chapter 17.50

FLOODPLAIN DISTRICT

Sections:

- ~~17.50.010 Statutory authorization.~~
- ~~17.50.020 Findings of fact.~~
- ~~17.50.030 Statement of purpose.~~
- ~~17.50.040 Methods of reducing flood losses.~~
- ~~17.50.050 Abrogation and greater restrictions.~~
- ~~17.50.060 Interpretation.~~
- ~~17.50.070 Warning and disclaimer of liability.~~
- ~~17.50.080 Severability.~~
- ~~17.50.090 Basis for establishing the areas of special flood hazard.~~
- ~~17.50.100 Definitions.~~
- ~~17.50.110 Designation of the floodplain administrator.~~
- ~~17.50.120 Duties and responsibilities of the floodplain administrator.~~
- ~~17.50.130 Combining district.~~
- ~~17.50.140 Compliance.~~
- ~~17.50.150 Principal permitted uses.~~
- ~~17.50.160 Accessory uses.~~
- ~~17.50.170 Conditional uses.~~
- ~~17.50.180 Development standards.~~
- ~~17.50.190 Development permit.~~
- ~~17.50.200 Appeals.~~
- ~~17.50.210 Standards of construction.~~
- ~~17.50.220 Standards for utilities.~~
- ~~17.50.230 Standards for subdivisions.~~
- ~~17.50.240 Development standards for manufactured homes and manufactured home parks and subdivisions in floodplain area.~~
- ~~17.50.250 Standards for recreational vehicles.~~
- ~~17.50.260 Standards within floodways.~~
- ~~17.50.270 Coastal high hazard areas.~~
- ~~17.50.280 Variance procedure.~~
- ~~17.50.290 Conditions for variances.~~
- ~~17.50.300 Approval of variances.~~
- ~~17.50.310 Nonconforming structures in floodplain.~~
- ~~17.50.320 Variance appeal procedure.~~
- ~~17.50.330 Disclosure requirement.~~

~~* Prior ordinance history: Ords. 575, 609, 619, 647, 656 and 755.~~

17.50.010 Statutory authorization.

The Legislature of the state of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city of Capitola does hereby adopt the following floodplain management regulations. (Ord. 970 § 1, 2012)

17.50.020 Findings of fact.

The flood hazard areas of the city of Capitola are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

~~These flood losses are caused by uses that are inadequately elevated, flood proofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses. (Ord. 970 § 1, 2012)~~

17.50.030 — Statement of purpose.

~~It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide (i.e., mudflow) or flood related erosion areas. These regulations are designed to:~~

- ~~A. Protect human life and health;~~
- ~~B. Minimize expenditure of public money for costly flood control projects;~~
- ~~C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;~~
- ~~D. Minimize prolonged business interruptions;~~
- ~~E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;~~
- ~~F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;~~
- ~~G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and~~
- ~~H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 970 § 1, 2012)~~

17.50.040 — Methods of reducing flood losses.

~~In order to accomplish its purposes, this chapter includes regulations to:~~

- ~~A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;~~
- ~~B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;~~
- ~~C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;~~
- ~~D. Control filling, grading, dredging, and other development which may increase flood damage; and~~
- ~~E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 970 § 1, 2012)~~

17.50.050 — Abrogation and greater restrictions.

~~This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 970 § 1, 2012)~~

17.50.060 — Interpretation.

~~In the interpretation and application of this chapter, all provisions shall be:~~

- ~~A. Considered as minimum requirements;~~
- ~~B. Liberally construed in favor of the governing body; and~~

~~C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 970 § 1, 2012)~~

~~17.50.070 — Warning and disclaimer of liability.~~

~~The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Capitola, any officer or employee thereof, the state of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 970 § 1, 2012)~~

~~17.50.080 — Severability.~~

~~This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ord. 970 § 1, 2012)~~

~~17.50.090 — Basis for establishing the areas of special flood hazard.~~

~~The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of, the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated June 3, 1986 and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs) dated June 3, 1986, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. The FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city by the floodplain administrator. The study, FIRMS and FBFMs are on file at 420 Capitola Avenue, city of Capitola. (Ord. 970 § 1, 2012)~~

~~17.50.100 — Definitions.~~

~~For the purposes of this chapter, the following words, phrases and terms shall have the meanings ascribed to them by this section:~~

~~“A zone.” See “Special flood hazard area.”~~

~~“Accessory structure” means a structure that is either:~~

- ~~1. Solely for the parking of no more than two cars; or~~
- ~~2. A small, low cost shed for limited storage, less than one hundred fifty square feet and one thousand five hundred dollars in value.~~

~~“Accessory use” means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.~~

~~“Alluvial fan” means a geomorphologic feature characterized by cone or fan-shaped deposit of boulders, gravel and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.~~

~~“Apex” means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.~~

~~“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this chapter.~~

~~“Area of shallow flooding” means a designation A or AH zone on the Flood Insurance Rate Map (FIRM) where: the base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

~~“Area of special flood hazard.” See “Special flood hazard area.”~~

~~“Area of special flood related erosion hazard” is the land within a community which is most likely to be subject to severe flood related erosion losses. The area may be designated a zone E on the Flood Insurance Rate Map (FIRM).~~

~~“Base flood” means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the “one hundred year flood”). Base flood is the term used throughout this chapter.~~

~~“Base flood elevation (BFE)” means the elevation shown on the Flood Insurance Rate Map for zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year.~~

~~“Basement” means any area of the building having its floor subgrade, i.e., below ground level, on all sides.~~

~~“Breakaway walls” are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:~~

- ~~1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and~~
- ~~2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.~~

~~“Building.” See “Structure.”~~

~~“Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as zone V1-V30, VE, or V.~~

~~“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.~~

~~“Encroachment” means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.~~

~~“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before August 14, 1984.~~

~~“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).~~

~~“Flood,” “flooding” or “floodwater” means:~~

- ~~1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and~~
- ~~2. The condition resulting from flood related erosion.~~

~~“Flood Boundary and Floodway Map (FBFM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.~~

~~“Flood Hazard Boundary Map” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.~~

~~“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.~~

~~“Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map and the water surface elevation of the base flood.~~

~~“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source, see “Flood.”~~

~~“Floodplain administrator” is the individual appointed to administer and enforce the floodplain management regulations.~~

~~“Floodplain area” means the land on either side of a creek or other watercourse which may be subject to flooding.~~

~~“Floodplain area” includes the one hundred year floodplain as determined by the Federal Flood Insurance Program and shown on both the Flood Insurance Rate Map and Flood Boundary and Floodway map, each dated June 3, 1986.~~

~~“Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, when possible natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations and open space plans.~~

~~“Floodplain management regulations” means this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.~~

~~“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.~~

~~“Flood related erosion” means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.~~

~~“Flood related erosion area” means a land area adjoining the shore of a lake or other body of water which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.~~

~~“Flood related erosion area management” means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.~~

~~“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “regulatory floodway.”~~

~~“Floodway encroachment lines” means the lines marking the limits of floodways on federal, state and local floodplain maps.~~

~~“Floodway fringe” is the area of the floodplain on either side of the “regulatory floodway” where encroachment may be permitted.~~

~~“Fraud and victimization” means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the city of Capitola will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.~~

~~“Functionally dependent use” means a use, the intended purpose of which cannot be performed unless the use is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo and passengers, and ship building and ship repair facilities, but does not include long term storage or related manufacturing facilities.~~

~~“Habitable floor” means floors usable for living purposes, which includes working, sleeping, eating or recreation, or combination thereof. A floor used only for storage purposes is not a habitable floor.~~

~~“Hardship” means the exceptional hardship that would result from a failure to grant the requested variance. The city of Capitola requires that the variance must be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbor likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.~~

~~“Highest adjacent grade” means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.~~

~~“Historic structure” means any structure that is:~~

- ~~1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;~~
- ~~2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;~~
- ~~3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or~~
- ~~4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.~~

~~“Levee” means a man made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.~~

~~“Levee system” means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.~~

~~“Lowest floor” means the lowest floor of the lowest enclosed area, including basement (see “Basement” definition).~~

~~1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building’s lowest floor provided it conforms to applicable non elevation design requirements, including, but not limited to:~~

- ~~a. The flood openings standard in Section 17.50.210(C)(3);~~
- ~~b. The anchoring standards in Section 17.50.210(A);~~
- ~~c. The construction materials and methods standards in Section 17.50.210(B); and~~
- ~~d. The standards for utilities in Section 17.50.220.~~

~~2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see “Basement” definition). This prohibition includes below grade garages and storage areas.~~

~~“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”~~

~~“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.~~

~~“Market value” is defined in the city of Capitola substantial damage/improvement procedures. See Section 17.50.120(B)(1).~~

~~“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.~~

~~“Mudslide” describes a condition where there is river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.~~

~~“Mudslide prone area” means an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.~~

~~“New construction,” for floodplain management purposes, means structures for which the “start of construction” commenced on or after August 14, 1984, and includes any subsequent improvements to such structures.~~

~~“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 14, 1984.~~

~~“Obstruction” includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protective, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.~~

~~“One hundred year flood” or “100 year flood.” See “Base flood.”~~

~~“Primary frontal dune” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.~~

~~“Program deficiency” means a defect in a community’s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.~~

~~“Public safety and nuisance” as related to Section 17.50.280 means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.~~

~~“Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing water surface elevation more than one foot.~~

~~“Sand dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.~~

~~“Sheet flow area.” See “Area of shallow flooding.”~~

~~“Special flood hazard area (SFHA)” means an area having special flood, mudslide or flood related erosion hazards and shown on the FFBM or FIRM as zone A, AO, A1-A30, AE, A99, AH, E, M, V1-V30, VE or V.~~

~~“Start of construction” includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

~~“Structure” means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.~~

~~“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.~~

~~“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:~~

- ~~1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or~~
- ~~2. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”~~

~~“V zone.” See “Coastal high hazard area.”~~

~~“Variance” means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.~~

~~“Violation” means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.~~

~~“Watercourse” means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.~~

~~“Water surface elevation” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplain or coastal or riverine areas. (Ord. 970 § 1, 2012)~~

17.50.110 — Designation of the floodplain administrator.

~~The building official is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions. (Ord. 970 § 1, 2012)~~

17.50.120 — Duties and responsibilities of the floodplain administrator.

~~The duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:~~

~~A. Permit Review. Review all development permits to determine:~~

- ~~1. Permit requirements of this chapter have been satisfied, including determination of substantial improvement and substantial damage of existing structures;~~
- ~~2. All other required state and federal permits have been obtained;~~
- ~~3. The site is reasonably safe from flooding;~~
- ~~4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the city of Capitola; and~~
- ~~5. All letters of map revision (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the “start of construction” definition.~~

~~B. Development of Substantial Improvement and Substantial Damage Procedures.~~

- ~~1. Using FEMA publication FEMA 213, “Answers to Questions About Substantially Damaged Buildings,” develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining “Market Value.”~~
- ~~2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.~~

~~C. Review, Use and Development of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 17.50.090, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Sections 17.50.210 through 17.50.270.~~

~~Note: A base flood elevation may be obtained using one of two methods from the FEMA publication FEMA 265, “Managing Floodplain Development in Approximate Zone A Areas—A Guide for Obtaining and Developing Base (100-year) Flood Elevations” dated July 1995.~~

~~D. Notification of Other Agencies.~~

~~1. Alteration or Relocation of a Waterecourse.~~

- ~~a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;~~
- ~~b. Submit evidence of such notification to the Federal Emergency Management Agency; and~~
- ~~c. Assure that the flood carrying capacity within the altered or relocated portion of said waterecourse is maintained.~~

~~2. Base Flood Elevation Changes due to Physical Alterations.~~

- ~~a. Within six months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a letter of map revision (LOMR).~~
- ~~b. All LOMRs for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.~~

~~Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.~~

- ~~3. Changes in Corporate Boundaries. Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.~~

~~E. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:~~

- ~~1. Certification required by Section 17.50.210(C)(1) and Section 17.50.240 (lowest floor elevations);~~
- ~~2. Certification required by Section 17.50.210(C)(2) (elevation or floodproofing of nonresidential structures);~~
- ~~3. Certification required by Section 17.50.210(C)(3) (wet floodproofing standard);~~
- ~~4. Certification of elevation required by Section 17.50.230(A)(3) (subdivisions and other proposed development standards);~~
- ~~5. Certification required by Section 17.50.260(B) (floodway encroachments);~~
- ~~6. Information required by Section 17.50.270(F) (coastal construction standards); and~~
- ~~7. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.~~

~~F. Map Determination. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 17.50.200.~~

~~G. Remedial Action. Take action to remedy violations of this chapter as specified in Section 17.50.140.~~

~~H. Biennial Report. Complete and submit biennial report to FEMA.~~

~~I. Planning. Assure community's general plan is consistent with floodplain management objectives herein. (Ord. 970 § 1, 2012)~~

17.50.130 — Combining district.

~~Land classified FP shall also have a basic classification as set forth elsewhere in this title. For example, R-1 FP means that the R-1 district regulations apply as well as the FP regulations. (Ord. 970 § 1, 2012)~~

17.50.140 — Compliance.

~~No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 970 § 1, 2012)~~

17.50.150 — Principal permitted uses.

~~The following are principal permitted uses in the FP district: All uses permitted in the basic zoning district. (Ord. 970 § 1, 2012)~~

17.50.160 — Accessory uses.

~~The following are accessory uses permitted in the FP district: All accessory uses permitted in the basic zoning district. (Ord. 970 § 1, 2012)~~

17.50.170 — Conditional uses.

~~The following are conditional uses in the FP district: All conditional uses in the basic zoning district. (Ord. 970 § 1, 2012)~~

17.50.180 — Development standards.

~~The development standards shall be the same as the basic zoning district except in those instances when more restrictive standards are necessary to provide assurance of conforming with this chapter. (Ord. 970 § 1, 2012)~~

17.50.190 — Development permit.

~~A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 17.50.090. Application for a development permit shall be made on forms furnished by the city of Capitola. The applicant shall provide the following minimum information:~~

~~A. Plans in duplicate, drawn to scale, showing:~~

- ~~1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;~~
- ~~2. Proposed locations of water supply, sanitary sewer, and other utilities;~~
- ~~3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;~~
- ~~4. Location of the regulatory floodway when applicable;~~
- ~~5. Base flood elevation information as specified in Section 17.50.090 or 17.50.120(C);~~
- ~~6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and~~
- ~~7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 17.50.210(C)(2) and detailed in FEMA Technical Bulletin TB 3-93.~~

~~B. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 17.50.210(C)(2).~~

~~C. For a crawl space foundation, location and total net area of foundation openings as required in Section 17.50.210(C)(3) and detailed in FEMA Technical Bulletins 1-93 and 7-93.~~

~~D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.~~

~~E. All appropriate certifications listed in Section 17.50.120(E). (Ord. 970 § 1, 2012)~~

17.50.200 — Appeals.

~~The city of Capitola shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter. (Ord. 970 § 1, 2012)~~

17.50.210 — Standards of construction.

~~In all areas of special flood hazards the following standards are required:~~

~~A. Anchoring. All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.~~

~~B. Construction Materials and Methods. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:~~

- ~~1. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;~~
- ~~2. Using methods and practices that minimize flood damage;~~
- ~~3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and~~
- ~~4. Within zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.~~

~~C. Elevation and Floodproofing.~~

~~1. Residential Construction. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:~~

- ~~a. In AE, AH, A1-30 zones, elevated to or above the base flood elevation;~~
- ~~b. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified;~~
- ~~c. In an A zone, without BFEs specified on the FIRM (unnumbered A zone), elevated to or above the base flood elevation; as determined under Section 17.50.120(C).~~

~~Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.~~

~~2. Nonresidential Construction. All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with subsection (C)(1) or:~~

- ~~a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under subsection (C)(1), so that the structure is watertight with walls substantially impermeable to the passage of water;~~

~~b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and~~

~~e. Be certified by a registered civil engineer or architect that the standards of subsections (C)(2)(a) and (b) are satisfied. Such certification shall be provided to the floodplain administrator.~~

~~3. Flood Openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:~~

~~a. For nonengineered openings:~~

~~i. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;~~

~~ii. The bottom of all openings shall be no higher than one foot above grade;~~

~~iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and~~

~~iv. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or~~

~~b. Be certified by a registered civil engineer or architect.~~

~~4. Manufactured Homes. See Section 17.50.240.~~

~~5. Garages and Low Cost Accessory Structures.~~

~~a. Attached Garages.~~

~~i. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See subsection (C)(3). Areas of the garage below the BFE must be constructed with flood resistant materials. See subsection B.~~

~~ii. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.~~

~~b. Detached Garages and Accessory Structures.~~

~~i. "Accessory structures" used solely for parking (two car detached garages or smaller) or limited storage (small, low cost sheds), as defined in Section 17.50.100, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:~~

~~(A) Use of the accessory structure must be limited to parking or limited storage;~~

~~(B) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;~~

~~(C) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;~~

~~(D) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;~~

~~(E) The accessory structure must comply with floodplain encroachment provisions in Section 17.50.260; and~~

~~(F) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with subsection (C)(3).~~

~~ii. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Sections 17.50.210 through 17.50.270. (Ord. 970 § 1, 2012)~~

17.50.220 — Standards for utilities.

~~A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:~~

- ~~1. Infiltration of flood waters into the systems; and~~
- ~~2. Discharge from the systems into flood waters.~~

~~B. On-site waste disposal systems are prohibited per Chapter 13.04, Sewers. (Ord. 970 § 1, 2012)~~

17.50.230 — Standards for subdivisions.

~~A. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is the lesser, shall:~~

- ~~1. Identify the special flood hazard areas (SFHAs) and base flood elevations (BFEs).~~
- ~~2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.~~
- ~~3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a letter of map revision based on fill (LOMR-F) to the floodplain administrator:~~
 - ~~a. Lowest floor elevation;~~
 - ~~b. Pad elevation;~~
 - ~~c. Lowest adjacent grade.~~

~~B. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.~~

~~C. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.~~

~~D. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards. (Ord. 970 § 1, 2012)~~

17.50.240 — Development standards for manufactured homes and manufactured home parks and subdivisions in floodplain area.

~~A. All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred “substantial damage” as the result of a flood, shall:~~

- ~~1. Within zones A1-30, AH, and AE on the community’s Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~

~~2. Within zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Section 17.50.270.~~

~~B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of subsection A will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:~~

- ~~1. Lowest floor of the manufactured home is at or above the base flood elevation; or~~
- ~~2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade.~~

~~Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain administrator. (Ord. 970 § 1, 2012)~~

~~17.50.250 — Standards for recreational vehicles.~~

~~A. All recreational vehicles placed in zones A1-30, AH, AE, V1-30 and VE will either:~~

- ~~1. Be on the site for fewer than one hundred eighty consecutive days; or~~
- ~~2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or~~
- ~~3. Meet the permit requirements of Section 17.50.190 and the elevation and anchoring requirements for manufactured homes in Section 17.50.240.~~

~~B. Recreational vehicles placed on sites within zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of subsection A and Section 17.50.270. (Ord. 970 § 1, 2012)~~

~~17.50.260 — Standards within floodways.~~

~~Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:~~

~~A. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than one foot at any point within the city of Capitola.~~

~~B. Within an adopted regulatory floodway, the city of Capitola shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.~~

~~C. If subsections A and B are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Sections 17.50.210 through 17.50.270. (Ord. 970 § 1, 2012)~~

~~17.50.270 — Coastal high hazard areas.~~

~~Within coastal high hazard areas, zones V, V1-30, and VE, as established under Section 17.50.090, the following standards shall apply:~~

~~A. All new residential and nonresidential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist~~

~~flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.~~

~~B. All new construction and other development shall be located on the landward side of the reach of mean high tide.~~

~~C. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 17.50.100. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.~~

~~D. Fill shall not be used for structural support of buildings.~~

~~E. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.~~

~~F. The floodplain administrator shall obtain and maintain the following records:~~

- ~~1. Certification by a registered engineer or architect that a proposed structure complies with subsection A; and~~
- ~~2. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement. (Ord. 970 § 1, 2012)~~

17.50.280 — Variance procedure.

~~The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.~~

~~The variance criteria set forth in this section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.~~

~~It is the duty of the city of Capitola to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate. (Ord. 970 § 1, 2012)~~

17.50.290 — Conditions for variances.

~~A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 17.50.110 through 17.50.200 and 17.50.210 through 17.50.270 have been fully considered. As the lot size increases beyond one half acre, the technical justification required for issuing the variance increases.~~

~~B. Variances may be issued for the repair or rehabilitation of “historic structures” (as defined in Section 17.50.100) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.~~

~~C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.~~

~~D. Variances shall only be issued upon a determination that the variance is the “minimum necessary” considering the flood hazard, to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from~~

~~the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the city of Capitola need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the city of Capitola believes will both provide relief and preserve the integrity of the local ordinance.~~

~~E. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:~~

- ~~1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty five dollars for one hundred dollars of insurance coverage; and~~
- ~~2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the floodplain administrator in the office of the Santa Cruz County recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.~~

~~F. The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency. (Ord. 970 § 1, 2012)~~

17.50.300 — Approval of variances.

~~A. In passing upon requests for variances, the city of Capitola shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:~~

- ~~1. Danger that materials may be swept onto other lands to the injury of others;~~
- ~~2. Danger of life and property due to flooding or erosion damage;~~
- ~~3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;~~
- ~~4. Importance of the services provided by the proposed facility to the community;~~
- ~~5. Necessity to the facility of a waterfront location, where applicable;~~
- ~~6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
- ~~7. Compatibility of the proposed use with existing and anticipated development;~~
- ~~8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
- ~~9. Safety of access to the property in time of flood for ordinary and emergency vehicles;~~
- ~~10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and~~
- ~~11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.~~

~~B. Variances shall only be issued upon a:~~

- ~~1. Showing of good and sufficient cause;~~
- ~~2. Determination that failure to grant the variance would result in exceptional “hardship” to the applicant; and~~

~~3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "Public safety and nuisance"), cause "fraud and victimization" of the public, or conflict with existing local laws or ordinances.~~

~~C. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsections A, B and D are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.~~

~~D. Upon consideration of the factors of Section 17.50.290(A) and the purposes of this chapter, the city of Capitola may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 970 § 1, 2012)~~

~~17.50.310 — Nonconforming structures in floodplain.~~

~~A structure which was lawful before enactment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued as a nonconforming structure subject to the following condition: if any nonconforming structure is destroyed by flood, earthquake, tsunami or, for another cause to the extent of fifty percent or more of its fair market value immediately prior to the destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. (Ord. 970 § 1, 2012)~~

~~17.50.320 — Variance appeal procedure.~~

~~A. Appeal procedure for all decisions made under this chapter shall be in conformance with standard appeal procedures of Chapter 2.52 of this code.~~

~~B. The director of public works shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.~~

~~C. Any applicant to whom a variance is granted should be given written notice that the structure will be permitted to be built in variance with these rules and that the cost of flood insurance will be commensurate with the increased risk resulting from such variance. (Ord. 970 § 1, 2012)~~

~~17.50.330 — Disclosure requirement.~~

~~A person, who is acting as an agent for a seller of real property which is located within a FP district or the seller if he or she is acting without an agent, shall disclose to any prospective purchaser the fact that the property is located within a FP district. The community development director may adopt methods of informing owners and real estate sales persons of this requirement. (Ord. 970 § 1, 2012)~~

Chapter 17.51

PARKING AND LOADING

Sections:

- ~~17.51.015 General provisions.~~
- ~~17.51.040 Obligation continuing.~~
- ~~17.51.050 Development and maintenance of parking areas.~~
- ~~17.51.055 Parking lot design.~~
- ~~17.51.060 Screening and landscaping.~~
- ~~17.51.063 Irrigation.~~
- ~~17.51.066 Landscape protection.~~
- ~~17.51.080 Surfacing.~~
- ~~17.51.090 Lighting.~~
- ~~17.51.100 Floor area defined.~~
- ~~17.51.105 Quasi-public seating areas.~~
- ~~17.51.110 Fractional measurements.~~
- ~~17.51.120 Location of required parking and loading facilities.~~
- ~~17.51.130 Number of parking spaces required.~~
- ~~17.51.135 Nonconforming parking Requirements.~~
- ~~17.51.140 Off-street loading spaces required.~~
- ~~17.51.150 Exceptions.~~
- ~~17.51.160 Open space and screening required for loading areas adjacent to residential districts.~~
- ~~17.51.170 Size of loading space.~~
- ~~17.51.180 Size of nonresidential parking spaces.~~
- ~~17.51.190 Plan of required off-street parking and/or loading area.~~
- ~~17.51.200 Use of required off-street parking by another building or use.~~
- ~~17.51.210 Uses not specifically mentioned.~~
- ~~17.51.220 Shuttle program parking.~~

17.51.015 General provisions.

~~Off-street parking facilities shall be provided for new uses and expansions of existing uses in order to meet the demand of all activities on the parcel. The minimum requirements for each particular land use are included in this chapter. Parking spaces over and above the minimum number specified by this chapter may be required by the planning commission when reviewing each specific application.~~

~~A. A certificate of occupancy for any change in use or new construction, structure or premises shall not be issued until all of the required parking facilities and landscaping for the use have been completed in conformance with the requirements of this chapter.~~

~~B. Parking spaces within an integrated complex shall not be designated for exclusive use of any individual commercial tenant.~~

~~C. Any existing use of property which is nonconforming only as to off-street parking facilities may be continued in the same manner, except at the time of expansion or change in use, parking shall be provided for the expansion or as required for the new use. A change in use for this chapter is a change to a use which has a higher parking requirement.~~

~~D. Residential Structures. In the case of residential structures in any district, no additional parking shall be required for reconstruction or structural alteration of existing residential structures, so long as the habitable floor space of the structure is not increased by more than ten percent. If the structure is enlarged by more than ten percent, the minimum parking requirements according to Sections 17.15.130 and 17.51.130 shall be required.~~

~~E. A drainage plan for all parking lots shall be approved by the public works director.~~

~~F. No parking or loading facility may be reduced in capacity unless sufficient replacement capacity is provided in compliance with this chapter.~~

~~G. Each parking and loading facility shall be located on the same site as the project for which it is required by this chapter. The planning commission may, by use permit in zoning districts where parking lots are permitted or conditional uses, authorize the location of the facility on a different site when such a location is determined to adequately serve the project.~~

~~H. All parking lots shall have ten percent of the front yard lot in landscaping, in addition to the fifteen foot perimeter landscaping requirements.~~

~~I. All handicapped parking shall comply with state law or regulations.~~

~~J. All commercial parking lots of more than ten spaces and all residential developments of more than ten units, shall provide for bicycle parking. Bicycle racks must be capable of locking both the wheels and the frame of the bicycle and of supporting bicycles in an upright position.~~

~~K. Parking spaces shall have the dimensions and specifications set forth in the "Parking Space Standard Specifications" adopted by the planning commission on January 15, 1987. (Ord. 873 § 12, 2004; Ord. 623, 1987)~~

17.51.040 — Obligation continuing.

The schedule of requirements for off-street parking space and off-street loading space applicable to newly erected or substantially altered structures shall be a continuing obligation of the owner of the real estate on which any such structure is located so long as the structure is in existence and its use requiring vehicle parking or vehicle loading facilities continues, and it shall be unlawful for an owner of any building affected by this chapter to discontinue, change, or dispense with, or cause the discontinuance or change of the required vehicle parking or loading space apart from the discontinuance, sale or transfer of such structure, without establishing alternate parking or loading space which meets with the requirements of and is in compliance with this chapter, or for any person to use such building without acquiring such land for vehicle parking or loading space which meets the requirements of and is in compliance with this chapter. (Ord. 388 § 17.04, 1975)

17.51.050 — Development and maintenance of parking areas.

Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot and also an automobile or trailer sales lot, shall be developed and maintained in accordance with the requirements set out in Sections 17.51.055 through 17.51.090. (Ord. 623, 1987; Ord. 388 § 17.05 1975)

17.51.055 — Parking lot design.

Parking lot design shall be reviewed through the architectural and site review process to assure that the design is coordinated with the site and the uses in the project, that adequate ingress and egress is provided, and that the design meets the minimum standards of the city. When it is determined that minimum standards are not sufficient for the project, the planning commission may require more than minimum allowable standards. (Ord. 623, 1987)

17.51.060 — Screening and landscaping.

A. Commercial parking lots shall be screened from public streets and residential neighborhoods with a landscaping strip. Commercial parking shall not be closer than ten feet to an R zone, unless a six-foot masonry wall is constructed. All commercial parking lots of more than ten cars shall be screened from any R zone with a minimum six-foot high masonry wall.

B. In off-street parking areas for more than four vehicles, one twenty-four-inch box tree shall be planted for each two parking spaces. (See 41st Avenue Design Guidelines Landscape Requirements.)

C. Additional landscaping of two feet, consisting of low shrubs or ground cover, may be planted between a parking stall and the required landscape area, but such landscaping shall not count toward the percentage mandated by the 41st Avenue Design Guidelines. This method will allow vehicles to extend over the additional landscape areas, as well as reduce the required length of the parking space from eighteen feet to sixteen feet. (Ord. 623, 1987; Ord. 388 § 17.05(a), 1975)

17.51.063 — Irrigation.

All landscape areas must have automatic irrigation systems designed to provide complete coverage to promote and sustain healthy plant life, unless an exception is approved by the planning commission. (Ord. 873 § 13, 2004; Ord. 623, 1987)

17.51.066 — Landscape protection.

Landscaping should usually be protected from vehicles and pedestrian damage by a six inch high, four inch wide cement curb. (Ord. 623, 1987)

17.51.080 — Surfacing.

Every off-street parking area shall be surfaced with asphalt, concrete or other dustfree surface approved by the planning commission. (Ord. 623, 1987; Ord. 388 § 17.05(e), 1975)

17.51.090 — Lighting.

All parking space area lighting shall be energy efficient and designed so that any glare is directed away from residential properties. No light source shall be visible to residential areas or create any hazardous traffic condition. Security lighting shall be provided in areas used by the public during nighttime hours. (Ord. 623, 1987; Ord. 388 § 17.05(e), 1975)

17.51.100 — Floor area defined.

For purposes of calculating the nonresidential parking requirements of this chapter, “floor area” means the entire floor area in all enclosed structures, without deduction for such features as interior walls, stairways or storage. It also includes the floor area of patios, courtyards and outside dining areas primarily utilized by a business or group of related businesses, its customers, or its employees, as opposed to the general public. In shopping centers it does not include quasi-public seating areas as defined in Section 17.51.105. (Ord. 873 § 14, 2004; Ord. 756 § 1, 1993; Ord. 623, 1987; Ord. 388 § 17.06, 1975)

17.51.105 — Quasi-public seating areas.

For purposes of this chapter, “quasi-public seating area” means an area located in a privately owned shopping center which is open to all of the patrons of all of the businesses of the shopping center and which consists of a seating area or similar area where there are tables, chairs, benches or landscaping or other similar amenities. The fact that such areas are exempt from the parking requirements of this chapter shall not in any sense be construed to exempt such areas from architectural and site review or use permit requirements. This section shall not be construed as in any way authorizing the conversion of areas devoted to landscaping (in any landscape plan utilized to obtain approval of a city permit) to a quasi-public seating area. (Ord. 756 § 2, 1993)

17.51.110 — Fractional measurements.

In determining the number of required parking, fractions of spaces over one-half shall be rounded up to the next whole number. (Ord. 623, 1987; Ord. 388 § 17.07, 1975)

17.51.120 — Location of required parking and loading facilities.

The off-street parking facilities required for the uses mentioned in this chapter, and for other similar uses, shall be on the same lot or parcel of land as the structure they are intended to serve. When practical difficulties as determined by the planning commission, prevent their establishment upon the same or immediate adjacent lot, they may be located within reasonable distance of the premises to which the parking requirement pertains, and may be located in a residential zone if the land lies adjacent to any building being erected in a commercial or industrial zone. The off-street loading facilities required for the uses mentioned in this chapter, and for similar uses, shall in all cases be on the same or immediately adjacent lot or parcel of land as the structure they are intended to serve. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements of this chapter. Space for required off-street parking and loading shall not occupy any part of a required open space for a rear or side yard. On corner or through lots, parking space may not be included as part of required yards lying adjacent to either street. (Ord. 388 § 17.08, 1975)

17.51.130 — Number of parking spaces required.

The number of off-street parking spaces required for each use shall be as follows:

Residential.

~~A. Residential Structures, Single Family Detached.~~

- ~~1. The minimum parking requirement for single family residential units up to one thousand five hundred square feet shall be two uncovered spaces.~~
- ~~2. For single family residential units one thousand five hundred one square feet to two thousand square feet, the minimum requirement shall be two spaces, one of which must be covered.~~
- ~~3. For single family residential units two thousand one square feet to two thousand six hundred square feet, the minimum parking requirement shall be three spaces, one of which must be covered.~~
- ~~4. For single family residential units two thousand six hundred one square feet to four thousand square feet, the minimum parking requirement shall be four spaces, one of which must be covered.~~
- ~~5. For single family residential units four thousand one square feet and larger, the minimum parking requirement shall be one covered space and three uncovered spaces unless the planning commission determines that additional parking is needed based on house size, location, and/or conditions in the neighborhood.~~
- ~~6. For single room occupancy units with kitchen facilities (studio apartments) which are four hundred square feet or less, the parking requirement shall be one space per unit and one guest space for each six units.~~
- ~~7. Interior (covered) parking spaces shall be a minimum of ten feet by twenty feet clear, as measured from the interior finished wall surfaces. An additional one hundred square feet of ancillary activity area, e.g., laundry, workshop, or storage, which is not included in the area subject to additional parking requirements, is permitted in conjunction with the first required covered space provided in a detached garage.~~
- ~~8. The planning commission may require additional uncovered parking spaces beyond the minimum requirement for residential units over four thousand square feet, or if a finding can be made that there is a parking problem in the neighborhood.~~
- ~~9. No additional square footage exceeding ten percent of the existing gross floor area may be added to an existing single family residential unit, unless minimum parking requirements are met.~~
- ~~10. Uncovered parking spaces for single family residential units shall be ten feet by twenty feet in the front setback (or eighteen feet minimum for lots located in sidewalk exempt areas), i.e., on the driveway apron, with two feet of landscaping provided along the side property line, except that for existing homes and remodels, uncovered parking spaces may be nine feet wide. Uncovered spaces provided in tandem on a single width driveway beyond the front setback shall also be located within an eleven foot (for remodels and additions) or twelve foot (for new units) area that includes two feet of required landscaping adjacent to the side property line. Tandem spaces outside the front setback may be eighteen feet in length.~~
- ~~11. Two feet of landscape planting is required in the front yard setback between the parking area and the side property line.~~
- ~~12. Maximum width of driveways serving attached or detached garages is twenty feet, not including the landscaped area.~~
- ~~13. A twelve foot driveway is required to access attached or detached single garages beyond the front setback for new homes; an eleven foot driveway may be permitted for remodels and additions. Two cars may be parked in tandem in the driveway in front of a garage or carport.~~
- ~~14. Permeable driveway materials other than gravel are encouraged, as well as paved wheel strips for driveways, to increase extent of pervious surfaces on site.~~

~~B. Dwellings duplex or triplex, two for each unit, one space for each unit must be covered, tandem parking is permitted if the tandem parking is for an individual unit, each space must be a minimum of nine feet by eighteen feet.~~

~~C. Dwellings, apartments and condominiums (townhouse) of more than four units, one covered space for each unit, plus one and one half additional spaces on the site for each dwelling unit. Each regular space must be a minimum of nine feet by eighteen feet. Forty percent of the spaces may be compact spaces of eight feet by sixteen feet.~~

~~D. Hotels and motels, one space for each guest room. Such additional spaces as the planning commission determines are necessary for the owners and employees. Each regular space must be a minimum of nine feet by eighteen feet. Thirty percent of the spaces may be compact spaces of eight feet by sixteen feet.~~

~~E. Bed and breakfast, one space for each bedroom rented, in addition to the spaces required for the single family residence, each regular space must be a minimum of nine feet by eighteen feet. Fifty percent of the spaces may be compact spaces of eight feet by sixteen feet.~~

~~Quasi Public:~~

~~F. Churches, clubs, lodges, theaters, one space for each forty square feet of floor area usable for seating or one for each three seats each regular space must be a minimum of nine feet by eighteen feet. Thirty percent of the spaces may be compact spaces of eight feet by sixteen feet.~~

~~G. Schools, one space for each employee, including teachers and administrators, plus additional spaces as determined by the planning commission to be adequate for student and visitor parking. Each regular space must be a minimum of nine feet by eighteen feet. Forty percent of the spaces may be compact spaces of eight feet by sixteen feet.~~

~~H. Sanitariums and nursing homes, one space for each six beds plus one space for each three employees, all nine feet by eighteen feet.~~

~~I. Medical office and clinics, one space for each three hundred square feet of gross floor area or five spaces per doctor, whichever is greater, all nine feet by eighteen feet.~~

~~Commercial:~~

~~J. Retail use and restaurants/take out food establishments with six or fewer seats, one space for every two hundred forty square feet of gross floor area, each regular space must be a minimum of nine feet by eighteen feet. Thirty percent of the spaces may be compact spaces of eight feet by sixteen feet.~~

~~K. Wholesale establishments or warehouses, including mini storage, one space per each five thousand square feet. Each space must be a minimum of nine feet by eighteen feet. No compact spaces are allowed.~~

~~L. Restaurants, one space per sixty square feet of gross floor area, each regular space must be a minimum of nine feet by eighteen feet. Fifty percent of the spaces may be compact spaces of eight feet by sixteen feet.~~

~~M. Bakeries, one space per two hundred forty square feet of gross floor area, each regular space must be a minimum of nine feet by eighteen feet. Thirty percent of the spaces may be compact spaces of eight feet by sixteen feet.~~

~~N. Bowling alleys, one space per five lanes, plus parking required for restaurant or retail uses associated with the facility, each regular space must be a minimum of nine by eighteen feet. Thirty percent of the spaces may be compact spaces of eight feet by sixteen feet.~~

~~O. Offices, corporate, administrative, real estate, one space per two hundred forty square feet of gross building space. Each regular space must be a minimum of nine feet by eighteen feet. Thirty percent of the spaces may be compact spaces of eight feet by sixteen feet.~~

~~P. Large community care residential facility or large family day care house, one for each employee not permanently residing at the facility or house. Parking requirements not specifically mentioned shall be determined by the planning commission. (Ord. 967 § 1, 2012; Ord. 873 § 15, 2004; Ord. 718 § 1, 1991; Ord. 700, 1990; Ord. 695, 1990; Ord. 623, 1987; Ord. 608 § 10, 1986; Ord. 388 § 17.09, 1975)~~

17.51.135 — Nonconforming parking — Requirements.

A. Nonresidential Structures. In the case of nonresidential structures in any district, which are reconstructed, enlarged, structurally altered, changed in occupancy to a more intensive use category or otherwise increased in capacity according to Section 17.51.130, such off street parking facilities need be provided only for that portion of the structure constituting an increase in capacity.

B. Residential Structures. In the case of residential structures in any district, no additional parking shall be required for reconstruction or structurally altering an existing residential structure so long as the floor area of the structure is not increased by more than ten percent of the existing gross floor area. If the structure is enlarged by more than ten percent of the existing gross floor area, parking requirements according to Section 17.51.130 shall be required. (Ord. 718 § 1, 1991; Ord. 563, 1984)

17.51.140 — Off street loading spaces required.

In any district, in connection with every building or part thereof hereafter erected and having a gross floor area of ten thousand square feet or more, which is to be occupied for manufacturing, storage, warehousing, goods display, retail sales, a hotel, a hospital, a mortuary, a laundry, a dry cleaning establishment or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained, on the same lot with such building, at least one off street loading space plus one additional such loading for each additional twenty thousand square feet. (Ord. 388 § 17.10, 1975)

17.51.150 — Exceptions.

In all districts, in connection with every use in said districts, there shall be provided at the time a building or structure is erected, enlarged or increased in capacity, or at the time of any change in use of any property, off street parking spaces for automobiles in accordance with the requirements of this chapter. (Ord. 645 § 1, 1987; Ord. 542, 1983; Ord. 443, 1979; Ord. 388 § 17.11, 1975)

17.51.160 — Open space and screening required for loading areas adjacent to residential districts.

No loading space shall be located closer than fifty feet to any lot in any R district, unless wholly within a completely enclosed building or screened by a fence or wall not less than eight feet in height. (Ord. 388 § 17.12, 1975)

17.51.170 — Size of loading space.

Each loading space shall be not less than ten feet in width and twenty five feet in length and fourteen feet in height. (Ord. 388 § 17.13, 1975)

17.51.180 — Size of nonresidential parking spaces.

A. Each off street parking space shall be not less than nine feet in width and twenty feet in length for diagonal parking and ten by twenty feet for right angle parking, and shall be of usable shape and condition.

B. Parking spaces of less dimensions may be allowed if specifically authorized by the planning commission in an architectural and site approval. The smaller spaces shall be designed to accommodate compact automobiles. (Ord. 873 § 16, 2004; Ord. 388 § 17.14, 1975)

17.51.190 — Plan of required off street parking and/or loading area.

For the purpose of converting parking and/or loading spaces into the required parking and/or loading areas, plans must be submitted to the city engineer to show how the required parking and/or loading spaces shall be arranged in the area supplied for that purpose and to indicate sufficient space for parking maneuvers, as well as adequate ingress and egress to and from public rights of way to and from the parking and/or loading area. (Ord. 388 § 17.15, 1975)

17.51.200 — Use of required off street parking by another building or use.

No part of an off street parking area required for any building or use for the purpose of complying with the provisions of this chapter shall be included as part of an off street parking area similarly required for another building or use, unless the type of structure indicates, in the opinion of the planning commission, that the periods of usage of such structures will not be simultaneous with each other. (Ord. 388 § 17.16, 1975)

~~17.51.210 — Uses not specifically mentioned.~~

~~In the case of any building, structure or premises the use of which is not specifically mentioned in this chapter, the provisions for a use which is so mentioned and to which such use is similar, as determined by the planning commission, shall apply. (Ord. 388 § 17.17, 1975)~~

~~17.51.220 — Shuttle program parking.~~

~~Parking for the free summer beach shuttle program shall be provided in a remote lot or lots, such as those located on Bay Avenue. (Ord. 941 § 3, 2009)~~

Chapter 17.54

FENCES

Sections:

- ~~17.54.010 — Defined.~~
- ~~17.54.020 — Permit requirements.~~
- ~~17.54.030 — Fire or vehicle hazard prohibited.~~
- ~~17.54.040 — Appeal.~~
- ~~17.54.050 — Appeal to council.~~
- ~~17.54.060 — Temporary or construction fences.~~
- ~~17.54.070 — Penalty for violation.~~
- ~~17.54.080 — Permit fee.~~

17.54.010 — Defined.

The term “fence” as used in this chapter, includes the following materials: wood, masonry, metal and other permanent materials, but does not include living plants. (Ord. 955 § 14, 2011; Ord. 711 § 1, 1991; Ord. 112 § 1, 1957; Ord. 64 § 4A, 1951)

17.54.020 — Permit requirements.

A. The planning department shall issue fence permits, upon application from the property owner, in the following instances:

- ~~1. Between that portion of any private property in front of the setback line established by the zoning ordinance or other ordinances of the city, and that portion in front of the front line of any residence or other principal building now erected on any private property, to a maximum height of three feet six inches;~~
- ~~2. On that part of the property back of the front line of any building or capital building now on the premises, to a maximum height of eight feet; provided, that the top two feet of the fence be made of lattice or other open material;~~
- ~~3. On corner lots, the fence shall be set back at least five feet from the property line on that side of the lot which has the greatest length along the street.~~

B. Alternative locations, height, and material for fences shall be approved by the planning commission. (Ord. 711 § 2, 1991; Ord. 64 § 1, 1951)

17.54.030 — Fire or vehicle hazard prohibited.

The building inspector shall not grant a permit for the erection of any fence or structure in the nature of a fence which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with the access in case of fire by the fire department to buildings in the vicinity or which will constitute a hazard to street traffic or to pedestrians, including the hazard resulting from motor vehicles crossing streets by private driveways. (Ord. 64 § 2, 1951)

17.54.040 — Appeal.

A. Any person, firm or corporation to whom a permit for the erection of a fence under the terms of this chapter has been refused by the building inspector, shall have an appeal to the city planning commission from such refusal.

B. Such appeal shall be in writing, and shall state the name of the owner of the property involved, and shall contain a sufficient description of the property to enable it to be identified upon the city maps, and shall state the ground of such appeal.

C. Such appeal shall be taken within fifteen days after the refusal of the building inspector to grant a permit.

~~D. In the event that no appeal is taken within the time provided in this chapter, the ruling of the building inspector upon such appeal, the ruling of the city planning commission, after hearing such appeal, shall be final and conclusive unless an appeal be taken to the council as in Section 17.54.050. (Ord. 64 § 3, 1951)~~

~~17.54.050 — Appeal to council.~~

~~An appeal may be taken to the council from the action of the city planning commission. Such appeal must be in writing and shall be taken within fifteen days from the refusal of the commission to grant a permit. Appeals to the council shall be in the same form as appeals to the commission. The ruling of the council upon such appeals shall be final and conclusive. (Ord. 64 § 3A, 1951)~~

~~17.54.060 — Temporary or construction fences.~~

~~Nothing contained in this chapter shall be deemed to interfere with the erection of temporary fences around construction works, erected or maintained pursuant to building ordinances of the city. (Ord. 64 § 4, 1951)~~

~~17.54.070 — Penalty for violation.~~

~~Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than five hundred dollars or by imprisonment of not more than six months, or by both such fine and imprisonment. (Ord. 64 § 6, 1951)~~

~~17.54.080 — Permit fee.~~

~~The application fee may be established and changed from time to time by city council resolution. (Ord. 711 § 3, 1991)~~

Chapter 17.57

SIGNS

Sections:

17.57.010	Purpose and Applicability
17.57.020	Definitions
17.57.030	Permit Requirements
17.57.040	Rules of Measurement
17.57.050	Signs Allowed Without Permits
17.57.060	Prohibited Signs
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17.57.080	Standards for Specific Types of Signs
17.57.090	Design Standards
17.57.100	Residential Signs
17.57.110	Temporary Signs
17.57.120	Adjustment to Sign Standards
17.57.130	Master Sign Program
17.57.140	Nonconforming Signs
17.57.150	Violations and Enforcement

17.57.010 Purpose and Applicability

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

17.57.020 Definitions

The following definitions apply to this chapter:

- A. Awning Sign.** A sign incorporated into, attached, or painted on an awning.
- B. Awning Face Sign.** A sign located on the sloping plane face of an awning.
- C. Awning Valance Sign.** A sign located on the valance of an awning perpendicular to the ground.
- D. Center Identification Sign.** A sign identifying the name of a shopping center and that does not include the name of any business within the center. A shopping center is a commercial building or group of buildings operated as a unit on a single parcel, sharing common parking areas or commonly owned adjacent parcels.
- E. Commercial Message.** Any sign copy that directly or indirectly names, draws attention to, or advertises a

business, product, good, service, or other commercial activity, or which proposes a commercial transaction.

- F. Commercial Sign.** A sign with a commercial message.
- G. Construction Site Sign.** An on-premise sign for an approved construction project that publicizes the future building and occupants as well as the architects, engineers and construction organizations involved in the project.
- H. Directory Sign.** An on-premise sign which shows the direction to or location of a customer entrance to a business.
- I. Election Period.** The period beginning 120 days before and ending 1 day after any national, state, or local election in which city electors may vote.
- J. Flags.** Fabric, textile, or material with colors and/or patterns which display a symbol of a nation, state, company, or idea.
- K. Monument Sign.** An independent, freestanding structure supported on the ground as opposed to being supported on the building.
- L. Projecting Sign.** Any sign permanently attached to a building or wall such that the sign face or faces are perpendicular to the building or wall.
- M. Roof Sign.** Any sign that is mounted on a roof or a parapet, of a building.
- N. Sidewalk Sign.** Movable or permanent business identification signs placed in or attached to a public sidewalk.
- O. Sign.** Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise or announce the purpose of a business or entity, or to communicate information of any kind to the public.
- P. Sign Area.** See Section 17.57.040.A (Calculation of Sign Area).
- Q. Sign Copy.** The area of a sign occupied by letters, numbers, graphics, or other content intended to inform, direct, or otherwise transmit information.
- R. Sign Face.** The area of a sign where sign copy is placed.
- S. Wall Sign.** A sign which is attached to or painted on the exterior wall of a structure with the display surface of the sign approximately parallel to the building wall.
- T. Window Sign.** A sign posted, painted, placed, or affixed in or on a window exposed to public view or within one foot and parallel to a window exposed to public view.

17.57.030 Permit Requirements

- A. Administrative Sign Permits.** An Administrative Sign Permit (Chapter 17.132) is required to install, construct, or enlarge a sign, except for:
 - 1. Signs exempt from the permit requirements of this chapter as specified in Section 17.57.050 (Signs Allowed without Permits).
 - 2. Signs requiring a Sign Permit as identified in Section B below.
- B. Sign Permits.** Planning Commission approval of a Sign Permit (Chapter 17.132) is required for the following types of signs and approvals:
 - 1. New signs in the Central Village (CV) zoning district.
 - 2. Exterior neon signs.

3. Monument signs for more than four tenants.
4. Auto dealership signs in the Community Commercial (CC) zoning district (Section 17.57.080.A) that are not otherwise allowed with an Administrative Sign Permit.
5. Adjustments to sign standards in low visibility areas in commercial zoning districts (17.57.120.E).
6. Signs that do not conform with permitted sign types and standards in Section 17.57.080 (Standards for Specific Types of Signs)
7. Master sign programs (Section 17.57.130).

C. Noncommercial Signs. Noncommercial signs are allowed wherever commercial signs are permitted and are subject to the same standards and total maximum allowances per site or building of each sign type specified in this chapter.

D. Message Neutrality.

1. It is the City's policy to regulate signs in a constitutional manner that does not favor commercial speech over noncommercial speech, and is content neutral as to noncommercial messages which are within the protections of the First Amendment to the U.S. Constitution and the corollary provisions of the California Constitution.
2. Where necessary, the Director will interpret the meaning and applicability of this chapter in light of this message neutrality policy.

E. Message Substitution.

1. Subject to the property owner's consent, a message of any type may be substituted, in whole or in part, for the message displayed on any legally established sign without consideration of message content.
2. Message substitutions are allowed by-right without a permit.
3. This message substitution provision does not:
 - a. Create a right to increase the total amount of signage beyond that otherwise allowed or existing;
 - b. Affect the requirement that a sign structure or mounting device be properly permitted, when a permit requirement applies;
 - c. Allow a change in the physical structure of a sign or its mounting device;
 - d. Allow the establishment of a prohibited sign as identified in 17.57.060 (Prohibited Signs); or
 - e. Nullify or eliminate any contractual obligation through a development agreement or similar agreement that specifies the allowable content of a sign.

F. City-Installed Signs. City-installed signs in all zoning districts do not require a permit.

G. Other Government-Installed Signs. Governmental agency-installed signs to carry out its responsibility to protect the public health, safety, and general welfare in all zoning districts do not require a permit.

H. Signs in the Coastal Zone.

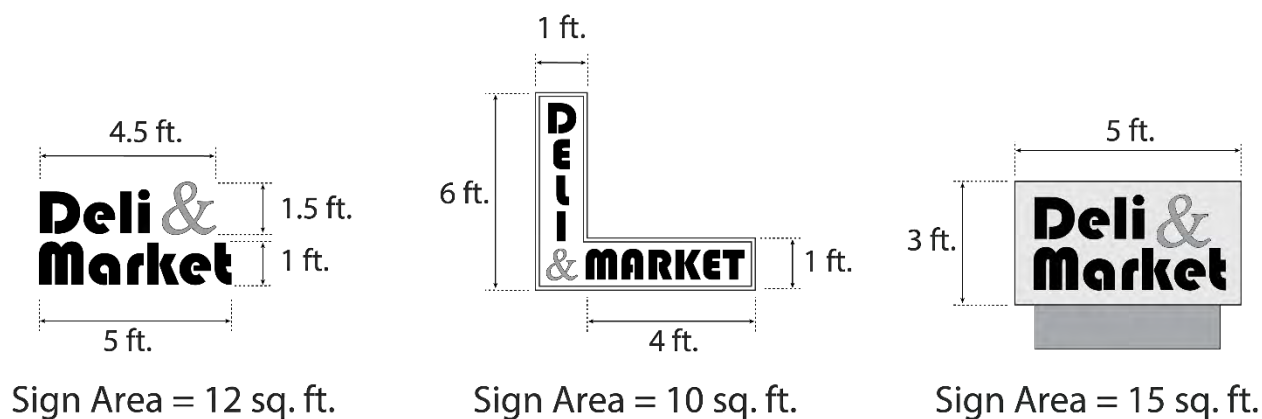
1. If a proposed sign is located in the Coastal Zone, it may require a Coastal Development Permit (CDP) as specified in Chapter 17.44 (Coastal Overlay Zone). Approval of a CDP requires conformance with the CDP findings for approval as specified in 17.44.130 (Findings for Approval).
2. Notwithstanding all applicable standards in this Chapter, any sign that could reduce public coastal access, including signs limiting public parking or restricting use of existing lateral and/or vertical accessways, requires a coastal development permit.

17.57.040 Rules of Measurement

A. Calculation of Sign Area.

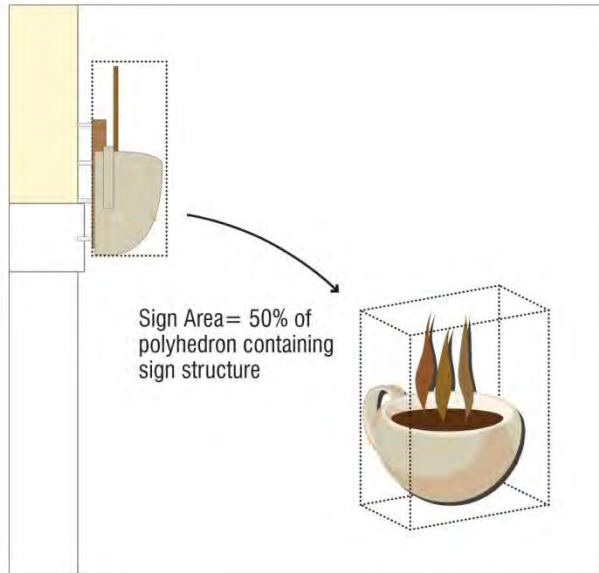
1. Sign area is measured as the area of all sign copy, framing, or other display enclosed within a continuous perimeter forming a single geometric shape with no more than six sides. See Figure 17-80-1.

FIGURE 17-80-1: MEASUREMENT OF SIGN AREA



2. Supporting framework or bracing that is clearly incidental to the display itself shall not be calculated as sign area.
3. The area of a double-faced (back-to-back) sign shall be calculated as a single sign face if the distance between each sign face does not exceed 18 inches and the two faces are parallel with each other
4. The area of spherical, free-form, sculptural or other non-planar signs are measured as 50 percent of the sum of the area enclosed within the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. See Figure 17.57-2.

FIGURE 17.57-2: NON-PLANER SIGN AREA



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

17.57.050 Signs Allowed Without Permits

- A. Types of Signs.** The following signs are allowed without a planning permit and shall not be counted towards the allowable sign area or number of signs on a parcel:
1. On-site directional signs which do not include commercial messages or images, not to exceed 3 feet in height and 6 square feet in area.
 2. Informational signs which do not include commercial messages or images, displayed for the safety and convenience of the public, providing information such as “restrooms,” “danger,” “impaired clearance,” “no smoking,” “parking in rear,” “coastal access,” and other signs of a similar nature.
 3. Flags bearing noncommercial messages or graphic symbols.
 4. One commemorative plaque identifying a building name, date of construction, or similar information that is cut into, carved, or made of stone, concrete, metal, or other similar permanent material.
 5. One bulletin board on a parcel occupied by a noncommercial organization, with a maximum area of 12 square feet.
 6. Political signs during an election period located outside of a public street, path, or right-of-way except to the extent such signs are prohibited by State or Federal law. Political signs may not exceed 6 feet in height and 32 square feet per unit.
 7. Constitutionally protected non-commercial message signs not to exceed 3 feet in height, with a maximum of 6 square feet per unit; and 6 square feet per non-residential property.
 8. Signs within a building, or on the premises of a building, that are not visible from the public right-of-way and are intended for interior viewing only.

9. Murals on the exterior of a building that do not advertise a product, business, or service.
 10. Official or legal notices required by a court order or governmental agency.
 11. Signs installed by a governmental agency within the public right-of-way.
 12. Signs, postings, or notices required by a governmental agency to carry out its responsibility to protect the public health, safety, and general welfare.
 13. Restaurant menu signs attached to a building, with a maximum area of 3 square feet.
 14. Real estate listings posted in the window of a real estate office, with a maximum area of 25 percent of the total window area.
 15. Residential signs not requiring a building permit as specified in Section 17.57.100 (Residential Signs).
 16. Temporary signs allowed without a permit as provided in Section 17.57.110 (Temporary Signs).
 17. Vacation rental signs up to 12 inches by 12 inches.
 18. Garage sale signs limited to the day of the garage sale.
- B. Building Permit Review.** Planning staff shall review all proposed signs listed in Section A (above) that require a Building Permit to verify compliance with all applicable standards.
- C. Changes to Sign Face.** Changes to a sign face that do not structurally alter or enlarge a legally-established sign and utilize similar materials shall not require a planning permit.
- D. Routine Maintenance.** The painting, cleaning, repair, and normal maintenance of a legally-established sign shall not require a planning permit.

17.57.060 Prohibited Signs

- A. Prohibited Sign Types.** The following types of signs are prohibited:
1. Signs or sign structures which have become a public nuisance or hazard due to inadequate maintenance, dilapidation, or abandonment.
 2. Portable signs placed on the ground other than sidewalk signs permitted in the CV zoning district consistent with Section 17.57.080.K (Sidewalk Signs).
 3. Roof signs.
 4. Signs emitting odors, gases, or fluids.
 5. Signs that feature a flag, pennant, whirligig, or any device which is designed to wave, flutter, rotate or display other movement under the influence of wind, excluding flags and insignia of any government.
 6. Digital display and electronic readerboard signs which allow the image on a sign to be changed by electronic control methods, except for digital gas and service station signs consistent with Section 17.57.080.H (Gas and Service Station Signs) and parking garage signs consistent with Section 17.57.080.I (Parking Garage Signs).
 7. Animated signs, with the exception of clocks and barber poles.
 8. Signs that emit sound.
 9. Signs which simulate in size, color, lettering, or design a traffic control sign or signal.
 10. Signs which flash, blink, change color, or change intensity.

11. Beacons.
12. Signs mounted or attached to a vehicle parked for the purpose of calling attention to or advertising a business establishment.
13. Signs that have been abandoned, or whose advertised use has ceased to function for a period of 90 days or more.
14. Signs adversely affecting traffic control or safety.
15. Signs with exposed raceways.
16. Signs attached to trees.
17. Signs erected or maintained with horizontal or vertical clearance from overhead utilities less than required by State agencies.
18. Signs erected for the dominant purpose of being seen by travelers on a freeway, except for auto dealership signs as allowed by Section 17.57.080.A (Auto Dealership Signs).
19. Inflatable signs and balloons greater than fifteen inches in diameter, except for temporary auto dealership signs.
20. Signs on or affecting public property (e.g., 'tenant parking only') not placed there by the public entity having the possessory interest in such property.
21. All other signs not specifically permitted by or exempted from the requirements of this chapter.

B. Prohibited Sign Content.

1. The following sign content is prohibited:
 - a. Obscene or indecent text or graphics.
 - b. Text or graphics that advertise unlawful activity.
 - c. Text or graphics that constitute defamation, incitement to imminent lawless action, or true threats.
 - d. Text or graphics that present a clear and present danger due to their potential confusion with signs that provide public safety information (for example, signs that use the words "Caution," or "Danger," or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).
2. The content prohibited by Paragraph (1) above is either not protected by the United States or California Constitutions or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the City Council that each subparagraph of Paragraph (1) above be individually severable in the event that a court of competent jurisdiction were to hold one or more of them to be inconsistent with the United States or California Constitutions.

17.57.070 General Sign Standards

- A. Maximum Permitted Sign Area.** Table 17.57-1 identifies the maximum cumulative/total sign area permitted on a property in each zoning district. Each business may have a mix of the sign types allowed by Section 17.57.080 (Standards for Specific Sign Types) provided the area of all signs on the property does not exceed the maximum established in Table 17.57-1.

TABLE 17.57-1: SIGN AREA STANDARDS

Zoning District	Area per Linear Foot of Building Frontage
CV, CN, CR	0.5 sq. ft. per linear foot 36 sq. ft. max
CC, PO, IP	1 sq. ft. per linear foot 50 sq. ft. max
VS, P-F, P/OS [1]	As determined through Sign Permit
PD	As determined through the Development Plan

Notes:

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

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

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

D. Illumination.

1. Non-residential signs may be internally or externally illuminated except where specifically prohibited. Internal illumination is permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo. Internally illuminated boxes are prohibited, except that the copy of an existing internally illuminated box sign may be replaced with a change of business.
2. The light source for externally illuminated signs shall be positioned so that light does not shine directly on adjoining properties or cause glare for motorists or pedestrians.
3. Exposed bulbs are not permitted.
4. Internal illumination is prohibited in the Central Village (CV) district.

E. Materials and Design.

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

F. Location and Placement.

1. All signs shall be located on the same parcel as the business or use that it serves, except as otherwise allowed by this chapter.
2. Signs shall not obstruct the ingress to, or egress from, a door, window, fire escape, or other required accessway.
3. Signs shall not interfere with visibility at an intersection, public right-of-way, driveway, or other point of ingress/egress. The City may require sign setbacks greater than specified in this chapter as needed to maintain adequate visibility for motorists and pedestrians. See Section 17.96.050 (Intersection Sign Distance).

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

1. No sign shall be permitted in the public right-of-way, except for:
 - a. Signs installed or required by a governmental agency.
 - b. Awning, canopy, marquee, projecting, or suspended signs attached to a building wall subject to the requirements in Section 17.57.080 (Standards for Specific Types of Signs).
 - c. Sidewalk signs in the Central Village (CV) zoning district consistent with Section 17.57.080.G (Sidewalk Signs).
 - d. Shared auto dealership signs consistent with Section 17.57.080.A (Auto Dealership Signs).
2. Any sign illegally installed or placed on public property shall be subject to removal and disposal as specified in Section 17.57.150 (Violations and Enforcement). The City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.
3. Signs in the public right-of-way may require City approval of an Encroachment Permit.

17.57.080 Standards for Specific Types of Signs

Signs consistent with the standards in this section are allowed with an Administrative Permit unless Planning Commission approval of a Sign Permit is specifically required. Signs that deviate from the standards in this section may be allowed with Planning Commission approval of a Sign Permit in accordance with Section 17.57.120 (Adjustment to Sign Standards).

A. Auto Dealership Signs.

1. In addition to signs allowed with an Administrative Sign Permit (17.080.030.A), the Planning Commission may allow special auto dealership signage in the CC zoning district with approval of a Sign Permit subject to the following standards:
 - a. Location: On or adjacent to an auto dealership land use.
 - b. Placement: 10 feet minimum setback from property line abutting the public right-of-way.
 - c. Maximum Height: At or below roof line.
 - d. The Planning Commission shall review the Sign Permit application if the total combined sign area on the site exceeds 100 square feet.
 - e. The Planning Commission may allow one shared sign used by multiple auto dealerships at the entry of Auto Plaza Drive which extends into or above the public right-of-way.

The Planning Commission may allow temporary auto dealership signage, such as signage on light poles and flags and pennants, that deviate from temporary sign standards in 17.57.110 (Temporary Signs) with the approval of a Sign Permit.

B. Awning Signs.

1. Standards for awning signs in each zoning district are as shown in Table 17.57-2.
2. Awning signs shall be located on the awning above a display window or the entrance to the business it serves.
3. An awning sign that projects over any public walkway or walk area shall have an overhead clearance of at

least 8 feet.

TABLE 17.57-2: AWNING SIGN STANDARDS

Zoning District	Awning Face Sign		Awning Valance Sign		
	Maximum Area	Maximum Number	Maximum Area	Maximum Letter Height	Maximum Number
CV, CN, CR	Sign Permit Required (Chapter 17.132)		75 percent of valance	Two-thirds of valance height	1 sign per awning located on either the awning face or the awning valance
CC, PO	30 percent of awning face	1 sign per awning located on either the awning face or the awning valance			
IP	20 percent of awning face				

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

C. Monument Signs.

- Standards for monument signs in each zoning district are as shown in Table 17.57-3.

TABLE 17.57-3: MONUMENT SIGN STANDARDS

Zoning District	Maximum Area	Maximum Height	Maximum Number
CV	12 sq. ft.	4 ft.	1 per property
CN, CR	16 sq. ft.		
CC	60 sq. ft.	8 ft.	1 per building frontage
PO	35 sq. ft.		
IP		4 ft.	1 per building frontage

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

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

3. Where two monument signs are allowed on a corner parcel, each sign shall be placed at least 200 feet from the intersection corner.
4. A monument sign for up to four tenants may be approved with an Administrative Sign Permit. Monument signs listing more than four tenants require Planning Commission approval of a Sign Permit.
5. The area surrounding the base of a monument sign shall be landscaped consistent with Chapter 17.72 (Landscaping).
6. Monument signs shall be placed at least 5 feet away from any public or private driveway.
7. Monument signs shall be placed at least 5 feet behind sidewalk or property line, whichever is greater.
8. The height of a monument sign is measured as the vertical distance from the sidewalk or top of curb nearest the base of the sign to the top of the highest element of the sign.
9. Monument signs are not allowed in conjunction with wall signs on a property with three or fewer businesses.

D. Center Identification Signs.

1. Standards for center identification signs in each zoning district are as shown in Table 17.57-4.
2. Center identification signs shall identify the name of the center but may not include the name of any business or businesses within the center.
3. No more than one freestanding sign is permitted per center street frontage. If a monument sign is located along the center frontage, an additional center identification sign is not permitted.

TABLE 17.57-4: CENTER IDENTIFICATION SIGN STANDARDS

Zoning District	Maximum Area	Maximum Height	Maximum Number
CV, CN, CR	Not permitted		
CC	60 sq. ft.	5 ft.	1 per shopping center
PO	35 sq. ft.		
I	Not permitted		

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

E. Directory Signs.

1. Standards for directory signs in each zoning district are as shown in Table 17.57-5.
2. Directory signs may not be legible from adjacent public rights-of-way.
3. Directory signs shall identify the names of the occupant of the building or complex.

TABLE 17.57-5: DIRECTORY SIGN STANDARDS

Zoning District	Maximum Area	Maximum Height
CV	12 sq. ft.	4 ft.
CN, CR	16 sq. ft.	
CC	30 sq. ft.	5 ft.
PO	25 sq. ft.	
IP	25 sq. ft.	4 ft.

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

F. Wall Signs.

- Standards for wall signs in each zoning district are as shown in Table 17.57-6.
- Wall signs shall be attached parallel to the exterior wall of the business associated with the sign and may not extend above the top of building wall.
- Wall signs may be in cabinets, on wood, or on similar material attached to the wall or painted directly on the wall.
- Any portion of a wall sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.
- Wall signs are not allowed in conjunction with a monument sign on a property with three or fewer businesses.
- On a corner lot, one wall sign is allowed per street frontage.

TABLE 17.57-6: WALL SIGN STANDARDS

Zoning District [1]	Maximum Area	Maximum Projection from Wall	Maximum Number
CV	0.5 sq. ft. per linear foot of shopfront, not to exceed 36 sq. ft. max	4 in.	1 per shopfront
CN, CR	1.0 sq. ft. per linear foot of shopfront, not to exceed 36 ft.		
CC, PO, IP [2]		12 in.	1 per shopfront

Notes:

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

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

G. Projecting Signs.

1. Standards for projecting signs in each zoning district are as shown in Table 17.57-7.
2. Projecting signs shall be attached to the ground floor exterior wall of the business associated with the sign and may not extend above the top of the second story finished floor.
3. Projecting signs shall maintain a minimum 2-foot horizontal clearance from a driveway or street curb.
4. An encroachment permit must be obtained for all signs projecting over a public right-of-way.
5. A projecting sign that projects over any public walkway or walk area shall have an overhead clearance of at least 8 feet.

TABLE 17.57-7: PROJECTING SIGN STANDARDS

Zoning District	Maximum Area	Maximum Projection from Wall	Maximum Number
CV, CN, CR	4 sq. ft.	4 ft.	1 per business entryway or storefront
CC, PO, IP	8 sq. ft.	4 ft.	1 per business entryway or storefront

Note:

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

H. Gas and Service Station Signs. In addition to signs allowed with an Administrative Sign Permit (Section 17.080.030.A), the Planning Commission may allow special gas and service station signs that comply with the following standards .

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

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

J. Window Signs.

1. Standards for window signs in each zoning district are as shown in Table 17.57-8.
2. Window signs may be attached only to the inside of a ground floor window of the business associated with the sign.
3. Interior signs within one foot of a window and publicly visible from outside of the building shall be included in the calculation of sign area for the property.

TABLE 17.57-8: WINDOW SIGN STANDARDS

Zoning District	Maximum Area
CV, CN, CR	25 percent of window
CC, PO, IP	30 percent of window

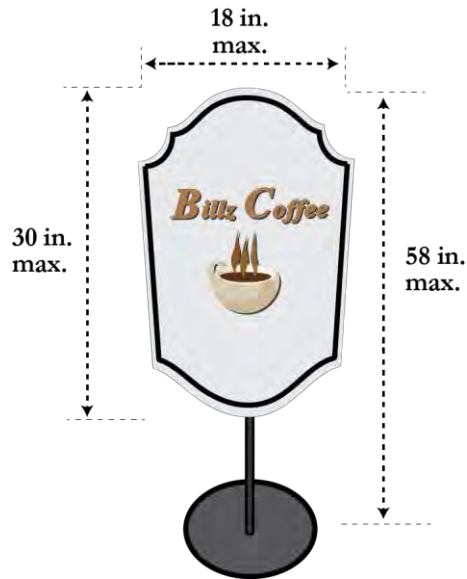
Note:

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

K. Sidewalk Signs.

1. Where Allowed. Sidewalk signs are permitted only in the CV zoning district consistent with the requirements of this section.
2. Permits Required.
 - a. Sidewalk signs consistent with this section and the approved BIA design as illustrated in Figure 17-80-3 can be issued an over the counter sign permit by the Community Development Director.
 - b. All sidewalk signs shall obtain an encroachment permit. The encroachment permit will identify the location and method used to drill a hole in the sidewalk and/or the location of a sign on a base.
 - c. The owner of any business desiring to place a sidewalk sign on the City right-of-way shall provide an executed City hold harmless waiver and proof of liability insurance to the satisfaction of the City Attorney in the amount of one million dollars prior to placing the sign within said right-of-way.

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



3. Dimensions. Sidewalk signs shall comply with the dimension standards in Table 17.57-9.

TABLE 17.57-9: SIDEWALK SIGNS STANDARDS

Zoning District	Sign Face			Entire Sign
	Maximum Area	Maximum Width	Maximum Height	Maximum Height [1]
CV	3.75 sq. ft.	18 in.	32 in.	58 in.
All Other Zoning Districts	Not permitted			

Note:

[1] Measured from sidewalk to top of sign

4. Number of Signs.

- Only one two-sided sidewalk sign per business establishment is permitted.
- Multi-tenant developments are permitted one sidewalk sign per each common exterior public business entrance.

5. Materials and Design.

- Sidewalk signs shall be attached to metal poles. Poles may be either drilled into the sidewalk or inserted into a moveable base. Moveable bases shall be constructed of metal, form a circle with a diameter of no more than 18 inches, and must be approved as part of the sign permit.
- Lights, banners, flags or similar objects shall not be placed on or adjacent to sidewalk signs.

- c. Signs faces shall be constructed of solid wood, metal or similar durable and weatherproof material.
 - d. No sidewalk sign may contain lights of any kind.
- 6. Sidewalk Clearance.
 - a. The sidewalk in front of the business must be at least 78 inches in width.
 - b. Sidewalk signs shall not interfere with pedestrian ingress or egress as required by the building code or obstruct vehicular traffic sight distance requirements. A 48-inch level clear path of travel on concrete or similar material must be maintained where the sign is located.
- 7. Separation from Other Sidewalk Signs. Sidewalk signs shall be spaced a minimum of 30 linear feet from all other permitted sidewalk signs.
- 8. Display During Open Hours. Sidewalk signs may be used only during the hours when the business is open to the public. At all other times the sign and base must be stored within the business premises.
- 9. Advertising Multiple Businesses. Individual signs may advertise more than one business.
- 10. Other Business Signage.
 - a. No other temporary advertising signs (Section 17.57.110) may be used at the same time as the sidewalk sign is in use.
 - b. All other signs on the property must be in conformance with the City's sign regulations prior to a sidewalk sign permit being issued.

17.57.090 Design Standards

A. Design Standards for Mixed Use Zoning Districts. The following design standards apply to all signs in the CV, CN and CR zoning districts.

- 1. Signs shall preserve, complement, or enhance the architectural composition and features of the building to which it is attached. Signs may not cover or obscure significant architectural details of the building to which it is attached.
- 2. Signs shall be coordinated with the overall façade composition, including ornamental details and other signs on the building to which it is attached.
- 3. Signs shall be mounted to fit within existing architectural features. The shape of the sign shall be used to reinforce the relationship of moldings and transoms seen along the street.
- 4. Signs shall be located and designed so that they are legible when viewed from the sidewalk. Sign letter styles and sizes shall be designed for legibility from the sidewalk, not the street.
- 5. To the extent possible, sign attachment parts shall be reused in their original location (holes in the façade or fixing positions) to protect the original building materials.
- 6. Internally illuminated signs are prohibited in the CV, CN, and CR zoning districts.
- 7. Wiring conduit for sign lighting shall be carefully routed to avoid damage to architectural details and to be concealed from view as much as possible.
- 8. Sign materials and colors shall be compatible with the period and style of building to which it is attached. Sign panels shall avoid the extensive use of primary color or significant areas of white or cream.
- 9. Letters and logos shall be raised, routed into the sign face, or designed to give the sign variety and depth.

10. The sign will not have a significant adverse effect on the character and integrity of the surrounding area.

B. Design Standards for Commercial Zoning Districts. The following design standards apply to all signs in the CC, CN and PO zoning districts.

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

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

17.57.100 Residential Signs – Multi-Unit Properties

Multi-unit properties may display one or more master signs subject to the following requirements:

- A.** A master sign program (17.57.130) has been approved for the multi-unit property.
- B.** Maximum allowable sign area: 20 square feet per property.
- C.** A master sign for a multi-unit property requires an Administrative Sign Permit.

17.57.110 Temporary Signs

- A. Permitted Temporary Signs.** Table 17.57-10 (Temporary Sign Standards) identifies temporary signs permitted either by-right or with the approval of an Administrative Sign Permit. The Planning Commission may allow other types of temporary signs or temporary signs that do not comply with the standards in Table 17.57-1 with approval of a Sign Permit.

TABLE 17.57-10 TEMPORARY SIGN STANDARDS

Sign Type	Permit Required	Use Restriction	Maximum Number	Maximum Area/ Size	Maximum Duration
Auto Dealership Signs - Flags - Pennants - Balloons	None	Auto dealerships on Auto Plaza Drive only	No maximum	0.5 sq. ft. per linear business frontage; 30 sq. ft. max; 1/3 of window max	Year-round; must be maintained in good condition
Commercial Banner Signs	Administrative Sign Permit	Non-residential uses only	1 per 500 ft. of linear building frontage; 2 sign maximum	30 sq. ft.	30 continuous calendar days; no more than 60 days each calendar year
Construction Site Signs - Residential	Administrative Sign Permit	Residential uses only	1 per 500 ft. of linear building frontage; 2 sign maximum	Height: 5 ft. Area: 12 sq. ft.	From issuance of building permit to certificate of occupancy
Construction Site Signs - Non-Residential	Administrative Sign Permit	Commercial and industrial uses only	1 per 500 ft. of linear building frontage; 2 sign maximum	Height: 8 ft.; 4 ft. in CV Area: 40 sq. ft.; 12 sq. ft. in CV	From issuance of building permit to certificate of occupancy
For Sale, Lease, and Rent Signs, Non-Residential	None	Commercial and industrial uses only	1 per property	Height: 8 ft. Area: 40 sq. ft.	1 year; Director may approve extension
For Sale, Lease, and Rent Signs, Residential	None	Residential uses only	1 per property	Height: 4 ft. Area: 6 sq. ft.	180 days; Director may approve extension
Open House or model home	None	None	1 per property and 1 on other property with owner consent	Height: 4 ft. Area: 6 ft.	Limited to day of open house.
Special Event	None	Special events.	1 per property and 1 on other property with owner consent	Height: 4 ft. Area: 6 ft.	Limited to day of special event.
Residential Subdivision	Administrative Sign Permit	Residential subdivisions and condominiums located in the city	1 per subdivision	Height: 10 ft. Area: 40 sq. ft.	180 days or upon the sale of the last unit, whichever comes first

17.57.120 Adjustment to Sign Standards

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

- A. Permit Required.** Adjustments to sign standards allowed by this section requires Planning Commission approval of a Sign Permit.
- B. Permitted Adjustments.** The Planning Commission may allow adjustment to the following sign standards:
 - 1. The type of sign allowed in non-residential zoning districts (e.g., awning signs, monument signs).
 - 2. Requirements for temporary signs.
 - 3. The maximum permitted sign area up to a 25 percent increase.
 - 4. The maximum permitted sign height up to 25 percent increase.
- C. Excluded Adjustments.** The Planning Commission may not use the sign standards adjustment process to approve deviations to the following sign standards:
 - 1. Prohibited Signs (Section 17.80.060).
 - 2. All general Sign Standards (Section 17.80.070) except maximum permitted sign area (17.80.70.A).
 - 3. Maximum number of signs allowed per property.
 - 4. Residential signs (Section 17.80.100).
- D. Findings.** The Planning Commission may approve an adjustment to sign standards as allowed by this section if the following findings can be made in addition to findings required to approve Sign Permit applications:
 - 1. The sign will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.
 - 2. The sign will not adversely impact neighboring properties or the community at large.
 - 3. The adjustment is necessary due to unique characteristics of the subject property, structure, or use.
 - 4. The sign will be consistent with the purpose of the zoning district, the General Plan, Local Coastal Program, and any adopted area or neighborhood plan.
 - 5. The adjustment will not establish an undesirable precedent.
- E. Low Visibility Commercial Properties.**
 - 1. In addition to adjustments allowed by subsection A through D above, the Planning Commission may allow additional adjustments to sign standards for low visibility properties in the CC, CN, and PO zoning districts. A low visibility property means a property where signage consistent with applicable standards would not be easily visible from the street or sidewalk due to the width of street frontage, parcel depth or configuration, placement of buildings on the property, topography, vegetation, or other physical characteristic of the property.
 - 2. Adjustments to sign standards for low visibility properties require Planning Commission approval of a Sign Permit.
 - 3. Adjustments are allowed to required sign types, height, size, placement, and number. Adjustments may not allow for prohibited signs or monument signs.
 - 4. The Planning Commission may approve additional or variations to any type of signage upon making the following findings:

- a. The special signage, as designed and conditioned, is necessary and appropriate for the subject commercial site, in order to allow the site and the businesses located within it to be competitive with other businesses of a similar nature located elsewhere, and/or to be competitive with industry standards governing sale of the merchandise offered at the site.
- b. The special signage, as designed and conditioned, will not have a significant adverse effect on the character and integrity of the surrounding area.

17.57.130 Master Sign Program

- A. Purpose.** The purpose of the Master Sign Program is to provide a coordinated approach to signage for multi-family development and multi-tenant commercial developments.
- B. Applicability.** A Master Sign Program is required for multi-family uses with more than one permanent sign proposed, and any non-residential development with four or more tenants.
- C. Permit Required.** A Master Sign Program requires Planning Commission approval of a Sign Permit.
- D. Applications.** Applications shall be filed with the Planning Department on the appropriate City forms, together with all the necessary fees, deposits, exhibits, maps, and other information required by the Department to clearly and accurately describe the proposed Master Sign Program.
- E. Master Sign Program Contents.** All Master Sign Programs shall identify the materials, color, size, type, placement and general design of signs located on a project or property.
- F. Design Standards.**
 1. Master Sign Programs shall feature a unified and coordinated approach to the materials, size, type, placement and general design of signs proposed for a project or property. Master Sign Programs may allow for variety in the design of individual signs.
 2. A Master Sign Program may deviate from standards contained in this chapter relating to permitted sign height, number of signs, sign area, and type of sign. A Master Sign Program may not allow a prohibited signs as identified in Section 17.80.060 (Prohibited Signs).
- G. Effect of Master Sign Program.**
 1. All subsequent signs proposed for a development or property subject to an approved Master Sign Program shall comply with the standards and specifications included in the Master Sign Program.
 2. Signs consistent with an approved Master Sign Program are allowed with an Administrative Sign Permit.
 3. Approval of a Master Sign Program shall supersede the regulations of this chapter. Any aspect of the proposed signs not addressed by the Master Sign Program shall be in compliance with this chapter.

17.57.140 Nonconforming Signs

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

- A. Continuation.**
 1. Except as required by paragraph 2 below, a nonconforming sign may continue its use as a sign if it was legally established in compliance with all applicable regulations in effect at the time it was established. It is the applicant's responsibility to demonstrate that the sign was legally established.
 2. At time of review of a Design Permit application for a property with a non-conforming sign on the site, the Planning Commission shall review the existing non-conforming sign in conjunction with the Design Permit. The Planning Commission may allow the continuation of the nonconforming sign only upon finding the

sign is compatible with the design character and scale of the surrounding area and does not adversely impact the public health, safety, or general welfare.

B. Allowed Changes.

1. Changes to sign copy/face and repainting of legal nonconforming signs is permitted as long as there is no alteration to the physical structure or support elements of the sign.
2. A legal-nonconforming sign that sustains less than 50-percent damage to its structure may be repaired to its original pre-damaged condition, provided that such repair is completed within 180 days after the date of the damage.

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

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

17.57.150 Violations and Enforcement

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

B. Removal of Illegal Signs.

1. The City may immediately remove or cause the removal of any sign that places the public in immediate peril or that is located within the public right-of-way.
2. For illegal signs that do not place the public in immediate peril and are located on private property, the City shall serve the business owner, property owner, or person responsible for the sign a written certified notice that:
 - a. Describes the physical characteristics of the subject sign.
 - b. Explains the nature of the violation.
 - c. States that the sign shall be removed or brought into compliance with this article within a specified number of days after the notice is received.
 - d. States that the City will remove the sign if the business owner or person responsible for sign does not correct the violation within the specified number of days after the notice is received.
 - e. States that the City may destroy the illegal sign if it is not retrieved within 20 days of removal by the City.
 - f. States that the business owner or person responsible for all costs associated with the removal, storage, and destruction of the sign.
3. If an illegal sign is not removed or brought into compliance within the specified number of days after a notice is received, the City may issue a citation to the business owner or person responsible for the sign as provided in Municipal Code Title 4 (General Municipal Code Enforcement) and may remove or cause the removal of the sign.
4. Any accessory structures, foundations, or mounting materials which are unsightly or a danger to the public health, safety, and welfare shall be removed at the time of the sign removal.

5. A sign removed by the City shall be stored for a minimum of 20 days. If the sign is not retrieved by the business owner or person responsible for the sign within this 20-day period, the City may destroy the sign.

Chapter 17.60

CONDITIONAL USE PERMITS

Sections:

- ~~17.60.010 Purpose.~~
- ~~17.60.020 Required.~~
- ~~17.60.030 Considerations.~~
- ~~17.60.040 Application.~~
- ~~17.60.050 Fee.~~
- ~~17.60.060 Accompanying maps and drawings.~~
- ~~17.60.070 Hearing Required.~~
- ~~17.60.080 Hearing Notice.~~
- ~~17.60.090 Expiration.~~
- ~~17.60.100 Appeal Fee.~~
- ~~17.60.110 Appeal Procedure.~~
- ~~17.60.120 Revocation of permits.~~
- ~~17.60.130 Council review.~~
- ~~17.60.140 Amendments.~~
- ~~17.60.150 Requirements for conversion of mobile home parks.~~
- ~~17.60.160 Master conditional use permits Tenant use permits.~~

~~17.60.010 Purpose.~~

~~The purpose of a conditional use permit or master use permit is to allow review of uses which may only be suitable in specific locations in the zoning district or which may need special site planning or operating conditions to assure the use does not adversely impact other uses in the zone. (Ord. 713 § 1, 1991; Ord. 388 § 18.01, 1975)~~

~~17.60.020 Required.~~

~~A conditional use permit is required prior to:~~

~~A. The issuance of a building permit for the construction of any structure that requires a building permit, unless the design use is a "permitted use" under the zoning classification for the property; and~~

~~B. The commencement of any new activity use, or the change of one activity use to another activity use set forth in the conditional use permit regulations for the zoning district, except that activity uses may be established without an additional conditional use permit where an existing master conditional use permit explicitly so allows. (Ord. 817 § 2, 2000; Ord. 713 § 1, 1991; Ord. 388 § 18.02, 1975)~~

~~17.60.030 Considerations.~~

~~A. In considering an application for a conditional use, the planning commission shall give due regard to the nature and condition of all adjacent uses and structures. In issuing a conditional use permit, the commission may impose requirements and conditions with respect to location, design, siting, maintenance and operation of the use in addition to those expressly provided in this chapter for the particular use, as may be necessary for the protection of the adjacent properties and in the public interest.~~

~~B. In approving a use permit, the commission may include such conditions as the commission deems reasonable and necessary under the circumstances to preserve the integrity and character of the district and to secure the general purposes of this title, the general plan, and the local coastal program. Such conditions, without limiting the discretion and authority of the commission, may include time limitations, further architectural and site review, street dedication, and street and drainage improvements.~~

~~C. In considering an application for a conditional use involving a material change of an historic feature the planning commission shall weigh the benefits of the proposed change against the detriment to the public welfare caused by a change in the feature. In approving any such change, the commission shall make one of the following findings:~~

- ~~1. The action proposed will not be significantly detrimental to the historic feature in which the change in use is to occur; or~~
- ~~2. The applicant has demonstrated that denial of the application would result in hardship that is so substantial as to outweigh the corresponding benefit to the public of maintenance to the historic feature or structure.~~

~~D. In considering an application for a conditional use permit that proposes a new activity use that will occupy in excess of twelve thousand square feet within one or more buildings, the planning commission will approve, conditionally approve, or deny the proposed activity use after considering the following factors:~~

- ~~1. Scale and character of the surrounding area;~~
- ~~2. Traffic generation;~~
- ~~3. Parking impacts;~~
- ~~4. Compatibility to surrounding activity uses;~~
- ~~5. The size of the proposed activity use compared to the average size of similar activity uses located in the surrounding area.~~

~~The purpose of this subsection D is to enable and to require the planning commission to apply the above criteria in considering a proposed activity use; its purpose is not to involve the city in the normal competition that arises between similar businesses.~~

~~This subsection D is not applicable:~~

- ~~1. In the area described in municipal Code Section 17.27.040 (“...in a shopping center with a minimum of three hundred thousand square feet gross floor area”); and~~
- ~~2. When the proposed use/activity has already been specifically approved in an applicable master conditional use permit pursuant to Section 17.60.160.~~

~~E. Small collection facilities sited in a commercial or industrial zone:~~

- ~~1. May be established only in conjunction with an existing commercial or industrial use which complies with the zoning, building and fire codes for the city;~~
- ~~2. Shall be no larger than five hundred square feet and shall provide parking for removal of the materials and for customers depositing the materials;~~
- ~~3. Shall accept only glass, metal or plastic containers, papers and reusable items. Used motor oil may be accepted with a permit from the Santa Cruz County Environmental Health Department and the Hazardous Wastes Commission;~~
- ~~4. Shall use no power driven processing equipment, except reverse vending machines;~~
- ~~5. Mobile vending facilities shall be located in a designated area without eliminating the required parking or landscaping;~~
- ~~6. Shall be maintained free of litter and any other undesirable materials. Mobile facilities, at which trucks or containers are removed at the end of each collection day, shall be swept at the end of each collection day;~~
- ~~7. Shall not exceed noise levels of sixty dBA as measured from the property line of residentially zoned or occupied property or otherwise shall not exceed seventy dBA;~~
- ~~8. Attended facilities located within one hundred feet of a property zoned or occupied for residential use shall operate only during the hours of between nine a.m. and seven p.m.;~~

~~9. Containers for the twenty-four-hour donation of materials shall be at least thirty feet from any property zoned or occupied for residential use, unless there is a recognized service corridor and acoustical shielding between the containers and the residential use;~~

~~10. Containers shall be clearly marked to identify the type of materials which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers;~~

~~11. Signs may be provided as follows:~~

~~a. Recycling facilities may have identification signs with a maximum of ten square feet, in addition to informational signs required by the city.~~

~~b. Signs must be consistent with the character of the location and require city approval;~~

~~12. The facility shall not impair the landscaping required by local ordinances for any concurrent use by this title or any permit issued pursuant thereto;~~

~~13. Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary host use, unless a study shows that existing parking capacity is not already fully utilized during the time the recycling facility will be on the site.~~

~~F. In considering an application for a conditional use permit for a self-storage facility, the planning commission will approve, conditionally approve, or deny the use after considering the following factors:~~

~~1. The proposed use location may be unsuitable for traditional retail due to access or visibility from the street;~~

~~2. The facility is not conducive to traditional retail uses;~~

~~3. The proposed development is compatible with the existing land uses in surrounding area; and~~

~~4. Streets and thoroughfares are suitable and adequate to serve the proposed development. (Ord. 946 § 2, 2010; Ord. 817 § 3, 2000; Ord. 713 § 1, 1991; Ord. 677 § 4(A), 1989; Ord. 644 § 5, 1987; Ord. 515 § 6 (part), 1982; Ord. 388 § 18.03, 1975)~~

~~17.60.040 — Application.~~

~~Application for a conditional use permit shall be made by the property owner, or agent thereof, with written approval of the property owner, to the planning commission, on a form prescribed by the commission. (Ord. 388 § 18.04, 1975)~~

~~17.60.050 — Fee.~~

~~The application fee for a conditional use permit shall be established by resolution of the city council. (Ord. 388 § 18.05, 1975)~~

~~17.60.060 — Accompanying maps and drawings.~~

~~The application under this chapter shall be accompanied by maps and drawings necessary to demonstrate that conditions set forth in this chapter shall be fulfilled. (Ord. 388 § 18.06, 1975)~~

~~17.60.070 — Hearing Required.~~

~~A public hearing shall be held to consider all conditional use permit applications, including master use permit applications, but is not required for community development director determinations regarding tenant use permits under Section 17.60.160(E). (Ord. 713 § 1, 1991; Ord. 388 § 18.07, 1975)~~

~~17.60.080 — Hearing Notice.~~

~~Notice of hearing shall be given as provided in Government Code Section 65091(a). (Ord. 721 § 1, 1991; Ord. 713 § 1, 1991; Ord. 651 § 1, 1988; Ord. 388 § 18.08, 1975)~~

17.60.090 — Expiration.

~~A. In any case where a conditional use permit has not been used within two years after the date of granting thereof, (or within such other period of time which may be prescribed in the permit) or within any extension granted pursuant to Section 17.81.160, then without further action the permit will expire. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privilege.~~

~~B. For the purposes of this section, a permit shall be deemed to have been “used” when actual substantial, continuous activity has taken place upon the land pursuant to the permit, or in the event the erection of the structure or structures is involved, when sufficient building activity has occurred to cause vested rights to occur under the general principles of state law relating to the vesting of rights in connection with building permits generally. Any issue, doubt or controversy respecting whether or not a permit has been “used” shall be referred to the commission for decision and determination. (Ord. 873 § 24, 2004; Ord. 724 (part), 1991; Ord. 388 § 18.09, 1975)~~

17.60.100 — Appeal — Fee.

~~A. A determination of the planning commission with respect to a conditional use permit is appealable to the city council, upon written request for a hearing before the council. The written appeal shall give reasons for the appeal and specifically state where the planning commission’s findings or procedures were in error.~~

~~B. The fee for filing appeals shall be established by city council resolution. In the absence of such a request being filed within ten days after determination by the planning commission, such determination is final.~~

~~C. Within the coastal zone the appeal process shall be consistent with Chapter 17.46 of this title. (Ord. 713 § 1, 1991; Ord. 677 § 4(B), 1989; Ord. 388 § 18.10, 1975)~~

17.60.110 — Appeal — Procedure.

~~All appeals shall be heard by the city council, as provided in Chapter 2.52. (Ord. 713 § 1, 1991; Ord. 388 § 18.11, 1975)~~

17.60.120 — Revocation of permits.

~~In any case where the conditions to the granting of a permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefor, the planning commission may revoke the permit. (Ord. 713 § 1, 1991; Ord. 698 § 2, 1990; Ord. 608 § 11, 1986; Ord. 388 § 18.12, 1975)~~

17.60.130 — Council review.

~~Notwithstanding any other provisions of this chapter, the actions of the planning commission are subject to review and modification by the city council unless rights have vested under the permit. The same is true of community development director determinations made under Section 17.60.160E (tenant use permits). (Ord. 713 § 1, 1991; Ord. 388 § 18.13, 1975)~~

17.60.140 — Amendments.

~~Amendments to a use permit shall be made by new application. (Ord. 388 § 18.14, 1975)~~

17.60.150 — Requirements for conversion of mobile home parks.

~~For requirements pertinent to subdivisions which will result in the conversion of a mobile home park to another use, see Chapter 17.90 of this code and Government Code Section 66427.4. (Ord. 576 § 4, 1984)~~

17.60.160 — Master conditional use permits — Tenant use permits.

~~The following requirements pertain to master conditional use permits and tenant use permits:~~

~~A. To qualify for a master use permit, more than ten thousand square feet of building must be located upon a parcel, or multiple adjoining parcels under one ownership, at the time the first tenant use permit is utilized.~~

~~B. The property must conform to city parking and landscaping requirements.~~

C. The holder of the master use permit will be renting space to a number of tenants (or itself will be carrying on various businesses), all of which will be using their space for one of the uses allowed in the master use permit. When approving any application the planning commission shall determine the uses allowed by the master use permit by selecting from those principal permitted uses and conditional uses, as listed in the zoning district regulations, which are (without the imposition of conditions not in the master use permit) compatible with the master use and the surrounding properties.

D. Hereafter, prior to the leasing of any space upon the subject property, the holder of the master use permit must inform all prospective tenants, or tenants renewing or extending leases, of the conditions of the master use permit and of the requirements of this section.

E. At the time the master use permit is originally issued, tenant use permits need not be obtained by tenants occupying space on the subject property unless such a requirement is made a precondition of the master use permit approval. After a master use permit has been issued, tenant use permits shall be approved by the community development director upon inspection of the property, and verification that it and its landscaping are in good repair, and that all other conditions of the master use permit are being met. Any adverse determination made by the community development director under this section may be appealed by the applicant to the planning commission within ten calendar days of receipt of notice from the community development director. Such appeals shall be heard de novo. Favorable determinations of either the community development director or planning commission will be so listed on the consent calendar portion of the agenda for the next city council meeting. No tenant use permit will be issued prior to such city council meeting. At such meeting, any member of the council who believes that the application (in order to satisfy the considerations set forth in Section 17.60.030A and B, may need rejection or additional conditions) may demand a de novo review of the application. That review shall occur at such time as is then set by the council. Unless waived by the applicant, at least seven calendar days notice (measured from the date of mailing) shall be given to the applicant prior to the council's de novo review. If no council member so demands such de novo review, the community development director may forthwith issue the tenant use permit.

F. A tenant use permit may be revoked in the manner provided in Section 17.60.120 if the tenant is the cause of violation of a condition of the master use permit.

G. Any approval of a master use permit may include size limitations for each category of allowable tenant use permits, subject to the following limitations: For master use permits issued after April 15, 2000, no tenant use permits may be issued for any activity use that will occupy over twelve thousand square feet of building area; for master use permits issued before April 15, 2000, no tenant use permits may be issued for any activity use that will exceed one thousand five hundred square feet. Above those limits, activity uses must obtain an ordinary conditional use permit.

H. The planning commission may deny a master conditional use to all, or a portion of, any area described in subsection A, if the planning commission finds that particular circumstances of the property, its existing use, or its proposed use, are such that the ordinary conditional use permit process is necessary for adequate protection of the community's land use interests. (Ord. 817 § 4, 2000; Ord. 713 § 2, 1991)

Chapter 17.63

ARCHITECTURAL AND SITE REVIEW

Sections:

- ~~17.63.010 Purpose.~~
- ~~17.63.020 Architectural and site review committee.~~
- ~~17.63.030 Required when.~~
- ~~17.63.035 Exemptions from design permit requirement.~~
- ~~17.63.040 Application.~~
- ~~17.63.050 Maps and drawings.~~
- ~~17.63.055 Visualization requirements.~~
- ~~17.63.060 Fee.~~
- ~~17.63.070 Design permit approval.~~
- ~~17.63.080 Hearing and notice.~~
- ~~17.63.090 Considerations in review of applications.~~
- ~~17.63.100 Conditions.~~
- ~~17.63.110 Findings and decision.~~
- ~~17.63.120 Notification of approval.~~
- ~~17.63.130 Time limitations on approval.~~
- ~~17.63.140 Transfer of approval upon change in use.~~
- ~~17.63.150 Conformance to approval and site supervision.~~
- ~~17.63.160 Appeal to city council.~~
- ~~17.63.170 Hearing on appeal.~~
- ~~17.63.180 Revocation.~~
- ~~17.63.190 Council review.~~
- ~~17.63.200 Amendments.~~

~~* Prior ordinance history: Ords. 388, 448, 494, 515, 517, 556, 564, 575, 589, 613, 659, 677, 718, 724, 757, 762, 767, 794, 809 and 853.~~

17.63.010 Purpose.

~~The intent of architectural and site review is to secure the general purposes of this title and the general plan and to maintain the character and integrity of the neighborhood by promoting excellence of development, preventing undue traffic hazards or congestion, encouraging the utilization of solar energy, and encouraging the most appropriate development and use of land in harmony with the neighborhood. In fulfilling its intent, architectural and site approval may result in the placement of reasonable conditions which exceed the basic development standards listed elsewhere in this title, on the design permit which accompanies the architectural and site review process. (Ord. 873 § 21 (part), 2004)~~

17.63.020 Architectural and site review committee.

~~A. The architectural and site review committee shall consist of six members as follows:~~

- ~~1. Architect;~~
- ~~2. Landscape architect;~~
- ~~3. Building official;~~
- ~~4. Community development director or designated planning staff;~~
- ~~5. Public works director;~~
- ~~6. Historian.~~

~~B. The architect, historian, and landscape architect members of the architectural and site review committee shall be appointed by the mayor; however, a majority of the city council may remove the architect, historian, or landscape architect. At the first meeting of the city council following the effective date of the ordinance codified or amended in this section, the mayor should appoint the architect, historian, and landscape architect members, whose terms will expire one month after the certification of any regular election of city council members. The mayor, at his or her discretion, may appoint an alternate architect, alternate historian, and alternate landscape architect member to serve in the absence of the regular architect or landscape architect. A majority of the city council may remove the alternate architect, alternate historian, and alternate landscape architect. The terms of the alternate architect, alternate historian, and alternate landscape architect will expire at the same time as the terms of the regular architect and landscape architect. (Ord. 873 § 21 (part), 2004)~~

17.63.030 — Required when.

~~A design permit for architectural and site review is required for the following structures, uses or significant building changes:~~

~~A. Any use or structure requiring architectural and site review in the applicable district regulations;~~

~~B. Any use requiring a conditional use permit or variance;~~

~~C. Any use requiring architectural and site review by a condition of a previous permit;~~

~~D. Any use of factory built or modular built housing in a district;~~

~~E. The establishment of solar energy systems as provided in Sections 17.81.120 and 17.81.130;~~

~~F. Any dish type antenna which is larger than twenty four inches in diameter, except the following:~~

~~1. Those located in a rear or side yard which are: (a) not visible either from the public right of way upon which the property fronts; or (b) not visible from the ground level of the adjacent properties;~~

~~2. Those located upon flat roofs which: (a) do not exceed twenty four inches in height above the roof and have no dimension which exceeds twenty four inches;~~

~~3. Those located on sloping roofs where: (a) no part of which exceeds the height of the highest part of the roof; and (b) no dimension of which exceeds twenty four inches;~~

~~4. Those entirely prohibited by Section 17.81.140. (Ord. 873 § 21 (part), 2004)~~

17.63.035 — Exemptions from design permit requirement.

~~A. First floor additions at the rear of a home which are not visible to the general public; do not exceed four hundred square feet; do not exceed fifteen feet in height (eight feet maximum plate height); and which utilize matching or compatible building materials.~~

~~B. A single accessory structure of less than eighty square feet, less than nine feet in height, with no electrical or plumbing fixtures. (Ord. 882 § 3, 2005)~~

17.63.040 — Application.

~~Application for architectural and site review shall be filed with the community development department, which shall prescribe the form of application and data to be filed with the application. The application shall be signed by the property owner. Except where such information is obviously of no use to the community development department staff or planning commission, such applications should include an evaluation of whether the proposed project:~~

~~A. Makes maximum use of solar energy potential;~~

~~B. Totally or partially blocks sunlight to the south roof and wall of adjacent buildings;~~

~~C. Utilizes most appropriate placement of solar energy systems;~~

~~D. All plans for development or any other type of building and planning for four or more residential units or for any commercial use shall be designed or produced by a licensed architect or civil engineer. All such building or architectural design drawings shall be stamped and signed by a licensed architect or civil engineer. (Ord. 873 § 21 (part), 2004)~~

17.63.050 — Maps and drawings.

Maps and drawings shall be submitted to indicate the following:

A. ~~A topographic map and site development plans or a staged development master plan showing:~~

- ~~1. The siting of all structures on subject property and on adjoining properties to show that privacy, light and air are preserved, so as not to be detrimental to the orderly and harmonious development of the city;~~
- ~~2. Landscaping and/or fencing of yards and setback areas and use of landscaping and/or walls or fencing for screening purposes;~~
- ~~3. Design of ingress and egress so as not to interfere with normal traffic flow on abutting streets;~~
- ~~4. Off street parking and loading facilities;~~
- ~~5. Disposition of drainage on the site and in the sidewalk exempt easement areas;~~
- ~~6. Designation of areas to be computed as usable open space, including balconies, roof decks, patios and other spaces or areas at grade, as appropriate;~~
- ~~7. Designation of location of existing fire hydrants;~~

~~B. Drawings to scale of the exterior elevations and/or perspective drawings of the buildings or structures under consideration;~~

~~C. Preliminary floor plans, to scale, of the buildings under consideration;~~

~~D. Calculation and identification on the plans of all areas included in the FAR. (Ord. 873 § 21 (part), 2004)~~

17.63.055 — Visualization requirements.

The city of Capitola shall have the authority to require an applicant to carry out certain visualization techniques in order to assist with city and public review of a proposed project. Projects subject to the visualization requirements includes those designated pursuant to visualization guidelines adopted by resolution of the city council. Projects proposed for major development sites, or within or adjacent to defined vista points or visually sensitive areas, or which request a height variance, or for which the city determines that carrying out visualization will assist with the development review process, shall carry out visualization techniques for the proposed development in accordance with guidelines adopted by resolution of the city council. (Ord. 873 § 21 (part), 2004)

17.63.060 — Fee.

An application fee for architecture and site review, culminating in approval or denial of a design permit, shall be established by the city council resolution. (Ord. 873 § 21 (part), 2004)

17.63.070 — Design permit approval.

Design permits identified in Section 17.63.030 of this chapter shall be considered at a public hearing as outlined in Section 17.63.080; following review and consideration by the architectural and site review committee as determined necessary by the community development director/zoning administrator.

A. The community development director/ zoning administrator shall be authorized to approve or deny design permit applications for:

- ~~1. First floor additions up to four hundred square feet (although certain single family residential additions of this type are exempt under Section 17.15.030(C)(1);~~

~~2. Minor repairs, changes and improvements to existing structures which use similar, compatible or upgraded quality building materials, on structures which are not historic resources;~~

~~3. Additional accessory structures beyond the single eighty square foot or less in size accessory structure which is exempt as per Section 17.15.030(C)(2).~~

~~B. The planning commission shall be authorized to approve or deny design permit applications for:~~

~~1. All new residential dwelling unit construction;~~

~~2. Upper floor additions;~~

~~3. Additions of more than four hundred square feet;~~

~~4. Design permits accompanied by a request for conditional use permit, variance, or minor land division;~~

~~5. All design permit applications referred by the community development director or appealed from the community development director/zoning administrator's decision. (Ord. 882 § 1, 2005; Ord. 873 § 21 (part), 2004)~~

17.63.080 — Hearing and notice.

~~Design permit applications for architectural and site review may be heard by the architecture and site review committee without the notice required by other provisions of this title. The city planner shall arrange with the applicant a time and place of meeting between the applicant and the committee.~~

~~A. Consideration of design permits for architectural and site review by the community development director/zoning administrator, shall be carried out at a duly noticed public hearing for which neighboring properties (both owner and occupant) within one hundred feet of the subject property are notified, ten days in advance of the hearing, by mail and by posting the site with the time and date of the meeting.~~

~~B. Consideration of design permits for architectural and site review by the planning commission, shall be carried out at a duly noticed public hearing for which neighboring properties (both owner and occupant) within three hundred feet are notified by mail and the site is posted with the time and date of the meeting. (Ord. 873 § 21 (part), 2004)~~

17.63.090 — Considerations in review of applications.

~~The considerations of the architectural and site review committee, community development department, and/or planning commission shall include, but not be limited to, the following:~~

~~A. Considerations relating to traffic circulation, safety and congestion;~~

~~B. Considerations relating to outdoor advertising:~~

~~1. The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and the appearance and harmony with adjacent development;~~

~~C. Considerations relating to landscaping:~~

~~1. The location, height and materials of walls, fences, hedges, trees and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations or other unsightly development;~~

~~2. The planting of groundcover or other landscape surfacing to prevent dust and erosion;~~

~~3. The prevention of unnecessary destruction of existing healthy trees;~~

~~4. Usable open space shall be reviewed both with respect to area and quality of landscape development;~~

~~D. Considerations relating to site layout:~~

~~1. The orientation and location of buildings, decks or balconies, and open spaces in relation to the physical characteristics of the site, the character of the neighborhood and the appearance and harmony of the buildings with adjacent development such that privacy of adjacent properties is maintained;~~

~~E. Considerations relating to drainage:~~

- ~~1. The effect of the site development plan on the adequacy of the storm and surface water drainage to both the site and adjacent property;~~
- ~~2. Connection to existing drainage systems;~~
- ~~3. Incorporation of permeable driveway materials and other means of retaining stormwater runoff on site and reducing non point source pollution through use of grassy swales and other water quality enhancement measures;~~

~~F. Considerations relating to architectural character:~~

- ~~1. The suitability of the building for its purpose;~~
- ~~2. The appropriate use of materials to insure compatibility with the intent of the title;~~

~~G. Considerations relating to fire prevention:~~

- ~~1. Sufficient and suitable access to all areas for emergency vehicles;~~
- ~~2. Proper location and spacing of fire hydrants;~~

~~H. Considerations relating to excavation and grading;~~

~~I. Consideration relating to landscape maintenance:~~

- ~~1. The proper maintenance of landscape planting to encourage healthy growth and the replacement of dead plants until all plants are established;~~
- ~~2. The committee may require a one thousand dollar performance bond for a period of one year beginning from the date of final inspection;~~

~~J. Protection of historic features and vistas;~~

~~K. Considerations related to encouraging utilization and protection of solar energy, including:~~

- ~~1. The orientation of the lot;~~
- ~~2. Height of proposed building;~~
- ~~3. Distance between proposed building and south wall of adjacent structure(s);~~
- ~~4. Extent to which adjacent building(s) will have solar access to south roof and/or wall;~~
- ~~5. Extent to which adjacent south facing wall(s), roof top(s), and solar collector(s) are shaded by the proposed structure(s);~~

~~L. Consideration of design guidelines for special commercial or residential areas contained in the general plan, coastal plan, area plans or other approved design policies;~~

~~M. Review of floodplain areas as designated on the flood boundary map in accord with the standards of Chapter 17.50 and with this title;~~

~~N. The committee will require enclosed garbage areas of an adequate size to provide for garbage and recycling storage and collection for the project, unless an exception is made for individual containers in small residential projects. (Ord. 873 § 21 (part), 2004)~~

~~17.63.100 — Conditions.~~

~~The community development director/zoning administrator or planning commission shall consider all recommendations of the architectural and site review committee. The granting of a design permit for architectural and site approval by the community development director, zoning administrator or planning commission may include such conditions as deemed reasonable and necessary to carry out the intent of this chapter, the zoning ordinance and the general plan. (Ord. 873 § 21 (part), 2004)~~

~~17.63.110 — Findings and decision.~~

~~Upon a finding by the community development director, zoning administrator or planning commission that the application subject to conditions imposed will:~~

~~A. Secure the general purposes of this title and the general plan;~~

~~B. Maintain the character and integrity of the neighborhood; the design permit for architectural and site approval shall be granted subject to such conditions as deemed necessary; otherwise, it shall be continued or denied. (Ord. 873 § 21 (part), 2004)~~

~~17.63.120 — Notification of approval.~~

~~Upon grant of a design permit for architectural and site approval, the community development director/zoning administrator shall prepare and deliver to the applicant a formal notice stating the fact of the grant and any conditions attached thereto. Such notice shall not be delivered until the period for appeal has expired. (Ord. 873 § 21 (part), 2004)~~

~~17.63.130 — Time limitations on approval.~~

~~A. In any case where an approved design permit has not been activated by the issuance of a building permit or otherwise used, within two years after the date of granting thereof (or within such other period of time which may be prescribed in the permit), or within any extension granted pursuant to Section 17.82.160, then without further action, the permit will expire. Such termination will take effect without further city action if a timely request for extension of time has not been made or is denied. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privileges.~~

~~B. For purposes of this section, “used” has the definition set forth in Section 17.60.090(B). (Ord. 873 § 21 (part), 2004)~~

~~17.63.140 — Transfer of approval upon change in use.~~

~~A design permit for architectural and site approval may transfer to subsequent tenant(s) of the site/structure if the use for which the approval was granted is changed, however the community development director shall not approve transfer the approval to a new use if he or she finds that the changed use does not meet the requirements of this section. If the director does not reissue the approval, a new application must be filed. (Ord. 873 § 21 (part), 2004)~~

~~17.63.150 — Conformance to approval and site supervision.~~

~~The city planner shall perform site supervision as part of the building permit procedure for developments for which architectural and site approval has been granted, and the city planner shall follow through to ensure that all provisions and conditions of the architectural and site approval are complied with. (Ord. 873 § 21 (part), 2004)~~

~~17.63.160 — Appeal to city council.~~

~~A determination of the community development director/zoning administrator with respect to a design permit for architectural and site review may be appealed to the planning commission. A determination of the planning commission with respect to a design permit for an architectural and site review is appealable to the city council. The appeal shall be in writing and shall give reasons for the appeal and specifically state where the findings or procedures were in error. If the appeal is by the applicant, there shall be no fee for filing such appeal. If the appeal is by others from an approval by the community development director/zoning administrator or planning commission, the fee for filing such appeal shall be set by city council resolution. In the absence of such a request being filed with~~

~~the planning commission or city council within ten working days after determination by the community development director/zoning administrator or planning commission, such determination is final. (Ord. 873 § 21 (part), 2004)~~

17.63.170 — Hearing on appeal.

~~In any appeal before the city council in an architectural and site review matter, consideration by the council shall be limited to the evidence and matters presented at the original hearing before the planning commission; provided, that the city council may, by motion duly passed, elect in its discretion to grant a hearing de novo. (Ord. 873 § 21 (part), 2004)~~

17.63.180 — Revocation.

~~A. The planning commission may, after holding a public hearing, revoke or amend a design permit for architectural and site approval for either of the following reasons:~~

- ~~1. That the approval of the permit was based upon false information submitted by the applicant;~~
- ~~2. That the permit is being exercised contrary to the terms or conditions of approval, or in violation of this title.~~

~~B. The violation of any of the conditions imposed by the community development director/zoning administrator or planning commission in connection with the granting of a design permit for any architectural and site approval shall constitute a violation of this title, and shall be subject to the same penalties as any other violation of this title. (Ord. 873 § 21 (part), 2004)~~

17.63.190 — Council review.

~~Notwithstanding any other provision of this chapter, the actions of the planning commission are subject to review by the city council at its discretion. (Ord. 873 § 21 (part), 2004)~~

17.63.200 — Amendments.

~~A property owner may petition to amend a design permit for architectural and site approval by filing a new application. (Ord. 873 § 21 (part), 2004)~~

Chapter 17.66

VARIANCES

Sections:

- ~~17.66.010 Purpose.~~
- ~~17.66.020 Variance in use prohibited.~~
- ~~17.66.030 Application.~~
- ~~17.66.040 Fee.~~
- ~~17.66.050 Accompanying maps and drawings.~~
- ~~17.66.060 Hearing Required.~~
- ~~17.66.070 Hearing Notice.~~
- ~~17.66.080 Conditions.~~
- ~~17.66.090 Findings and decision.~~
- ~~17.66.100 Notice of grant.~~
- ~~17.66.110 Expiration.~~
- ~~17.66.120 Appeal Fee.~~
- ~~17.66.130 Appeal Hearing.~~
- ~~17.66.140 Revocation.~~
- ~~17.66.150 Council review.~~
- ~~17.66.160 Amendments.~~

17.66.010 Purpose.

The purpose of the variance is to allow variation from the strict application of the terms of this title where by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of the ordinance codified in this title, or by reason of exceptional topographic conditions, of location and surroundings where the literal enforcement of the requirements of this title would involve practical difficulties, would cause undue hardship unnecessary to carry out the spirit and purpose of this title, and would deprive such property from privileges enjoyed by similarly situated properties. (Ord. 388 § 20.01, 1975)

17.66.020 Variance in use prohibited.

In no case shall a variance be granted to permit a use other than a use permitted in that district, nor to the minimum site area per dwelling unit requirements for multiple family residential dwellings, nor shall a variance be granted that could lessen the protection of an environmentally sensitive habitat area except as specifically provided in Section 17.95 of this title. (Ord. 677 § 11, 1989; Ord. 466, 1980; Ord. 388 § 20.02, 1975)

17.66.030 Application.

Application for a variance shall be made by the property owner, or agent thereof (with the property owner's written permission) to the planning commission, on a form prescribed by the commission. (Ord. 388 § 20.03, 1975)

17.66.040 Fee.

The application fee for a variance shall be established by city council resolution. (Ord. 388 § 20.04, 1975)

17.66.050 Accompanying maps and drawings.

Maps and drawings which demonstrate that the conditions set forth in this chapter apply to subject property, together with precise and accurate legal descriptions and sealed drawings of the parcel and existing buildings and other data required, shall be submitted with the application. (Ord. 388 § 20.05, 1975)

17.66.060 Hearing Required.

A public hearing shall be required to consider a variance application. (Ord. 388 § 20.06, 1975)

17.66.070 Hearing Notice.

Notice of hearing shall be as provided in Government Code Section 65091(a). (Ord. 721 § 2, 1991; Ord. 388 § 20.07, 1975)

17.66.080 — Conditions.

~~In approving a variance permit, the planning commission may include such conditions as it deems reasonable and necessary under the circumstances to preserve the integrity and character of the district and to secure the general purposes of this title and the general plan. Such conditions, without limiting the discretion and authority of the planning commission in this regard, may include time limitations, architectural and site review, street dedication, and street drainage improvements. (Ord. 388 § 20.08, 1975)~~

17.66.090 — Findings and decision.

~~The planning commission, on the basis of the evidence submitted at the hearing, may grant a variance permit when it finds:~~

~~A. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;~~

~~B. That the grant of a variance permit would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated. (Ord. 388 § 20.09, 1975)~~

17.66.100 — Notice of grant.

~~Upon the grant of an application for a variance permit, the planning commission shall prepare and deliver to the applicant a formal statement thereof stating the fact of the grant and any conditions attached thereto. No decision of the planning commission shall become final upon an application for a variance permit until the time in which an appeal may be filed with the city council elapses without an appeal having been filed. (Ord. 388 § 20.10, 1975)~~

17.66.110 — Expiration.

~~Every right or privilege authorized under this chapter shall terminate two years after granting the request, if such right or privilege has not been exercised in good faith within that time. Such termination will take effect without further city action if a timely request for extension of time has not been made or is denied. Any interruption or cessation beyond the control of the property owner shall not result in the termination of such right or privilege. (Ord. 873 § 23, 2004; Ord. 388 § 20.11, 1975)~~

17.66.120 — Appeal — Fee.

~~A determination of the planning commission with respect to a variance permit is appealable to the city council, upon written request for a hearing before the council. If the appeal is by the applicant from a denial by the planning commission there shall be no fee for such appeal. If the appeal is by others from a grant by the planning commission, the fee for filing such appeal shall be established by city council resolution. The written appeal shall give reasons for the appeal and specifically state where the planning commission's findings or procedures were in error. In the absence of such a request being filed within ten days after determination by the planning commission, such determination is final. (Ord. 388 § 20.12, 1975)~~

17.66.130 — Appeal — Hearing.

~~In any appeal before the city council in a variance permit matter, consideration by the council shall be limited to the evidence and matters presented at the original hearing before the planning commission; provided, that the city council may, by motion duly passed, elect in its discretion to grant a hearing de novo. (Ord. 388 § 20.13, 1975)~~

17.66.140 — Revocation.

~~A. The planning commission may, after holding a public hearing, revoke or amend a variance for either of the following reasons:~~

- ~~1. That the approval of the permit was based upon false information submitted by the applicant;~~
- ~~2. That the permit is being exercised contrary to the terms or conditions of approval, or in violation of this title.~~

~~B. The violation of any of the conditions imposed by the planning commission in connection with the granting of any variance shall constitute a violation of this title, and shall be subject to the same penalties as any other violation of this title. (Ord. 388 § 20.14, 1975)~~

~~17.66.150 — Council review.~~

~~Notwithstanding any other provision of this chapter, the actions of the planning commission are subject to review by the city council at its discretion. (Ord. 388 S20.15, 1975)~~

~~17.66.160 — Amendments.~~

~~A property owner may petition to amend a variance by filing a new application. (Ord. 388 § 20.16, 1975)~~

Chapter 17.69

AMENDMENTS

Sections:

~~17.69.010 — Amendments covered by this chapter.~~
~~17.69.020 — Initiation.~~
~~17.69.030 — Application.~~
~~17.69.040 — Hearing Notice.~~
~~17.69.050 — Hearing Conduct.~~
~~17.69.060 — Decision and report.~~
~~17.69.070 — Failure to report.~~
~~17.69.080 — Council hearing and decision.~~
~~17.69.090 — Withdrawal of petition.~~
~~17.69.100 — Refiling.~~
~~17.69.110 — Remedial action.~~
~~17.69.120 — Amendments to the local coastal program.~~

17.69.010 — Amendments covered by this chapter.

Government Code Section 65853 reads in pertinent part as follows:

~~A zoning ordinance or an amendment to a zoning ordinance, which amendment changes any property from one zone to another or imposes any regulation listed in Section 65850 not theretofore imposed or removes or modifies any such regulation theretofore imposed shall be adopted in the manner set forth in Sections 65854 to 65857, inclusive.~~

~~Provisions of this chapter apply to amendments described in the above quoted passage from Government Code Section 65853. (Ord. 689 § 1, 1990; Ord. 388 § 21.01, 1975)~~

17.69.020 — Initiation.

~~Such amendment may be initiated by the planning commission or the city council, the owner(s) or authorized representative of the affected property. Later may be charged a set fee as the council, from time to time, may, by resolution, set. (Ord. 689 § 2, 1990; Ord. 388 § 21.02, 1975)~~

17.69.030 — Application.

~~Applications for any change of district boundaries or reclassification of districts shall be filed with the secretary of the planning commission upon forms and accompanied by such data and information as may be prescribed for that purpose by the commission so as to assure the fullest practical presentation of the facts for permanent record. Each such application presented by an owner of property desirous of reclassification of property within the area proposed to be changed shall present to the planning commission a petition requesting an amendment, supplement, or change of the regulations prescribed for the particular district, and such petition shall be affirmed by said owner or owners regarding the truth and correctness of all facts and information presented with the application. (Ord. 388 § 21.03, 1975)~~

17.69.040 — Hearing Notice.

~~Upon the filing of such petition or the adoption of such resolution of intention by the council, the matter shall be referred to the commission for report and recommendation. The planning commission shall hold at least one public hearing. Notice of the time and place of hearing of the proposed amendment shall be given by one publication in a newspaper of general circulation in the city, designated for that purpose by the council. Said notice shall be published at least ten days before the date of the hearing stated in such notice. In case the proposed amendment consists of a change of boundaries of a zone or a district thereof, the planning commission shall give additional notice of the time and place of such hearings and the purpose thereof by:~~

~~A. Posting public notice thereof not less than ten days prior to the date of such hearing. Such notices shall be placed not more than one hundred feet apart along each and every street upon which the property proposed to be reclassified abuts and such posting shall extend along said street or streets a distance of not less than three hundred feet from the exterior limits of such properties as are proposed for reclassification. Such notice shall consist of the~~

~~words “Notice of Proposed Change of Zone” printed in plain type with letters not less than one and one half inches in height and, in addition thereto, a statement in small type setting forth a description of the property involved in the proposed change of zone and time and place at which the public hearing on the proposed change will be held; and by~~

~~B. Mailing a notice not less than ten days prior to the date of the hearing to the owner or owners of all property within the posting area above defined, using for this purpose the last known name and address of such owner or owners as shown upon the records of the city clerk or of the assessment roll of the county assessor. Such notice shall contain the same information as required in a posted notice as described in this section.~~

~~C. In the case of a hearing concerning only the amending, supplementing or change of the text of this title in any district, the published notice of public hearing, as provided in this section, shall suffice. Resolutions of intention of the city council and the planning commission shall follow the same procedure as set forth in this section. (Ord. 388 § 21.04, 1975)~~

17.69.050 — Hearing — Conduct.

~~A. Investigation. The planning commission may cause to be made by its own members, or members of its staff, such investigation of facts bearing upon such application set for hearing, including an analysis of precedent cases as will serve to provide all necessary information to assure action on each case consistent with the purpose of this title and with previous amendments.~~

~~B. Quorum Required. Public hearings by the planning commission shall be conducted before a quorum of the planning commission.~~

~~C. Administering Oaths. The commission may establish its own rules for the conduct of public hearings and the member of the commission presiding at such public hearing is empowered to administer oath to any persons testifying before the commission.~~

~~D. Summary of Hearing to be Recorded. A summary of all pertinent testimony offered at the public hearing and the names of persons testifying shall be recorded and made part of the permanent files of the case.~~

~~E. Continuance Procedure of Notice. If for any reason testimony on any case set for public hearing cannot be completed on the date set for such hearing, the commissioner presiding at such public hearing may, before the adjournment or recess thereof, publicly announce the time and place to and at which said hearing will be continued and such announcement shall serve as sufficient notice of such continuance and without recourse to the form of public notice as provided for in the first instance. (Ord. 388 § 21.05, 1975)~~

17.69.060 — Decision and report.

~~Upon completion of the hearing the facts presented, the planning commission finds that public necessity, convenience, general welfare or good zoning practice require the change or reclassification involved, or any portion thereof, the planning commission shall make a report on its findings and recommendations with respect to the proposed amendment, supplement, or change of regulations prescribed for such district or part thereof, and shall file with the city council an attested copy of such report within sixty days after the filing of the petition or the adoption of the resolution as aforesaid. (Ord. 388 § 21.06, 1975)~~

17.69.070 — Failure to report.

~~Failure of the planning commission to so report to the city council within said sixty days after the filing of the petition or the adoption of the resolution of intention, as aforesaid, shall serve to automatically and immediately refer the whole matter to the city council for such action as it deems warranted under the circumstances and the secretary of the planning commission shall immediately deliver to the city council all the records of the matter involved. Such failure on the part of the planning commission to so report within said time limit shall be deemed to be approval of the proposed amendment by the commission. (Ord. 388 § 21.07, 1975)~~

17.69.080 — Council hearing and decision.

~~Upon receipt of such report from the planning commission or upon the expiration of such sixty days, as aforesaid, the city council shall set the matter for public hearing after notice thereof, and on the proposed amendment, published at least one time in a newspaper of general circulation in the city, not less than ten days prior to the date of such hearing. At the conclusion of such hearing the city council may adopt the report of the planning commission or~~

~~any part thereof as set forth in the original petition or in the resolution of intention, and may pass an ordinance adopting same. (Ord. 388 § 21.08, 1975)~~

~~17.69.090 — Withdrawal of petition.~~

~~Any petition for amendment may be withdrawn upon the written application of a majority of all persons who signed such petition. The city council or the planning commission, as the case may be, may abandon any proceeding for an amendment initiated by its own resolution of intention; provided, that such abandonment may be made only when such proceedings are before such body for action and provided that any hearing of which public notice has been given shall be held. (Ord. 388 § 21.09, 1975)~~

~~17.69.100 — Refiling.~~

~~If the petition for the change or reclassification is denied, no part of the fee is returnable to the applicant(s). No other petition for the change, amendment or reclassification of the same property, or any portion thereof, shall be filed within a period of one year from the date of the denial, except upon the recommendation of the planning commission or upon the initiative of the city council. (Ord. 388 § 21.10, 1975)~~

~~17.69.110 — Remedial action.~~

~~Applicants for permits or zoning map changes, which have been found to be inconsistent with the general plan, may file an application for amendment of the general plan. Application fees shall be established by city council resolution. The review procedures shall follow as closely as possible the procedures outlined in this chapter for amendments to the zoning ordinance. (Ord. 388 § 21.11, 1975)~~

~~17.69.120 — Amendments to the local coastal program.~~

~~Amendment proposals shall be processed consistent with the requirements of Title 14, Article 15, Section 13551 et seq., of the California Administrative Code. Amendment submittals to the California Coastal Commission are limited to three per calendar year. The number of individual amendments contained in each submittal is not limited. (Ord. 677 § 2, 1989)~~

Chapter 17.70

PROCEDURE FOR REASONABLE ACCOMMODATION

Sections:

- ~~17.70.010 Purpose.~~
- ~~17.70.020 Applicability.~~
- ~~17.70.030 Notice to the public of availability of accommodation process.~~
- ~~17.70.040 Application requirements.~~
- ~~17.70.050 Review authority.~~
- ~~17.70.060 Review procedure.~~
- ~~17.70.070 Findings and decision.~~
- ~~17.70.080 Appeal of determination.~~
- ~~17.70.090 Severability.~~

17.70.010 Purpose.

This chapter provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures. (Ord. 965 § 1, 2011)

17.70.020 Applicability.

A. A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a zoning law or other land use regulation, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This chapter is intended to apply to those persons who are defined as disabled under the Acts.

B. A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice. A request for reasonable accommodation shall comply with Section 17.70.040 (Application requirements). (Ord. 965 § 1, 2011)

17.70.030 Notice to the public of availability of accommodation process.

Notice of the availability of reasonable accommodation shall be prominently displayed at public information counters in the planning, zoning and building departments, advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall be available to the public in the planning and building and safety departments. (Ord. 965 § 1, 2011)

17.70.040 Application requirements.

A. Application. A request for reasonable accommodation shall be submitted on an application form provided by the department, or in the form of a letter, to the community development department, and shall contain the following information:

1. The applicant's name, address and telephone number;
2. The name and address of the property owner;
3. The address of the property for which the request is being made;
4. The current actual use of the property;
5. The basis for the claim that the individual is considered disabled under the Acts;
6. Description of the requested accommodation and the regulation(s), policy or procedure for which accommodation is sought;

~~7. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.~~

~~B. Review with Other Land Use Applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (including conditional use permit, design review, general plan amendment, zone change, annexation, etc.), then the applicant shall file the information required by subsection A together for concurrent review with the application for discretionary approval.~~

~~C. A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligation to comply with other applicable regulations not at issue in the requested accommodation.~~

~~D. If an individual needs assistance in making the request for reasonable accommodation, the jurisdiction will provide assistance to ensure that the process is accessible. (Ord. 965 § 1, 2011)~~

17.70.050 — Review authority.

~~A. Community Development Director. A request for reasonable accommodation shall be reviewed by the community development director (director) if no approval is sought other than the request for reasonable accommodation.~~

~~B. Other Review Authority. A request for reasonable accommodation submitted for concurrent review with another discretionary land use application shall be reviewed by the authority reviewing the discretionary land use application. (Ord. 965 § 1, 2011)~~

17.70.060 — Review procedure.

~~A. Director Review. The director, or designee, shall make a written determination within forty five days and either grant, grant with modifications, or deny a request for reasonable accommodation in compliance with Section 17.70.070 (Findings and decision).~~

~~If necessary to reach a determination on the request for reasonable accommodation, the reviewing authority may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the forty five day period to issue a decision is stayed until the applicant responds to the request.~~

~~B. Other Review Authority. The written determination on whether to grant or deny the request for reasonable accommodation shall be made by the authority responsible for reviewing the discretionary land use application in compliance with the applicable review procedure for the discretionary review. The written determination to grant or deny the request for reasonable accommodation shall be made in compliance with Section 17.70.070 (Findings and decision). (Ord. 965 § 1, 2011)~~

17.70.070 — Findings and decision.

~~A. Findings. The written decision to grant or deny a request for reasonable accommodation will be consistent with the Acts and shall be based on consideration of the following factors:~~

- ~~1. Whether the housing, which is the subject of the request, will be used by an individual disabled under the Acts;~~
- ~~2. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts;~~
- ~~3. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the city;~~
- ~~4. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a city program or law, including but not limited to land use and zoning;~~
- ~~5. Potential impact on surrounding uses;~~

6. Physical attributes of the property and structures; and

7. Other reasonable accommodations that may provide an equivalent level of benefit.

~~B. Conditions of Approval. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by subsection A. (Ord. 965 § 1, 2011)~~

17.70.080 — Appeal of determination.

~~A determination by the reviewing authority to grant or deny a request for reasonable accommodation may be appealed to the planning commission. All appeals must be made within ten working days of the reviewing authority's decision and must be in writing. All appeals shall contain a statement of the grounds of the appeal.~~

~~If an individual needs assistance in filing an appeal on an adverse decision, the jurisdiction will provide assistance to ensure that the appeals process is accessible. (Ord. 965 § 1, 2011)~~

17.70.090 — Severability.

~~If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. (Ord. 965 § 1, 2011)~~

Chapter 17.72

NONCONFORMING USES

Sections:

- 17.72.010 Purpose.
- 17.72.020 Applicability.
- 17.72.030 Definitions.
- 17.72.040 Nonconforming activity regulations for unimproved lots.
- 17.72.050 Continuing nonconforming activities (except in R-1 zones) on improved lots.
- 17.72.060 Nonconforming activities and structures on improved R-1 parcels.
- 17.72.070 Permissible structural alterations.
- 17.72.080 Destruction by fire, explosion, flood or other disaster.
- 17.72.090 Transient rental uses.

* Prior ordinance history: Ords. 388, 563, 594 and 692.

17.72.010 Purpose.

The purpose of zoning is to confine certain classes of structures and activities to particular areas and to bring structures or activities into conformance with zoning designations. The purpose of this chapter is to further that general objective while at the same time, respecting constitutional property rights, preventing disproportionate loss of investment, and preventing deterioration of structures or areas which often occurs because repair and maintenance is not cost effective towards the end of an amortization period. (Ord. 761 § 1, 1993)

17.72.020 Applicability.

The regulations set forth in this chapter apply to all zoning districts. (Ord. 761 § 1, 1993)

17.72.030 Definitions.

“Nonconforming activity (use)” is defined as an activity, business or enterprise which was legal at the time it was established but which is not presently a permitted or conditional use in the zoning district where the activity, business or enterprise is located or does not conform to current parking requirements. In residential zones it also means having a greater density of dwelling units than is presently allowed in the district.

“Nonconforming structure” is defined as a structure which does not meet the current development standards for the district in which the structure is located. Development standards include, but are not limited to: setbacks, height or lot coverage regulations of the district, but do not include standards contained in the Uniform Codes, such as the Building Code, adopted in Section 15.14.010, because those codes contain their own specific regulations regarding structures that do not meet current requirements. (Ord. 761 § 1, 1993)

17.72.040 Nonconforming activity regulations for unimproved lots.

A nonconforming activity (as defined in Section 17.72.030(A)) on a parcel which does not involve structures totaling over four hundred square feet, will be allowed to continue for five years from the time it became nonconforming. If the activity stops for more than ninety days, the activity may not be reinstated. A determination regarding the ninety-day time period shall be made by the community development director based on the evidence presented. (Ord. 761 § 1, 1993)

17.72.050 Continuing nonconforming activities (except in R-1 zones) on improved lots.

A nonconforming activity, as defined in Section 17.72.030(A), involving structures totaling over four hundred square feet on a parcel in any zoning district but R-1, shall be allowed to continue but the area in which the activity is carried out may not be enlarged. However, if the nonconformity is confined to not meeting current parking standards, Section 17.51.135 applies. Nonconforming uses/activities which are inactive for a period of ninety days shall be deemed to have ended and may not be reinstated. (See Section 17.72.080.) A determination of the ninety-day cessation shall be made by the community development director based on the evidence presented. (Ord. 761 § 1, 1993)

17.72.060 Nonconforming activities and structures on improved R-1 parcels.

A. Amortization. Nonconforming activities in R-1 zones must be discontinued on June 26, 2019 or fifty years from the date the activity first became nonconforming, whichever is later, except as provided in subsections B and C below:

B. Duplex Activity. Nonconforming duplex activities may continue indefinitely but the structures cannot be enlarged. They may be structurally altered or rebuilt only as allowed under Sections 17.72.070 and 17.72.080.

C. Residential Projects With More Than Two Units. Owners of parcels having more than two dwelling units which are nonconforming only because they exceed the current density standard may apply to the city council for one or more extensions of the fifty-year amortization period. The city council shall only grant an extension if able to make findings that: in this particular situation, the appearance, condition and management of the property is such that the property is not greatly detrimental to the single-family residential character of the neighborhood in which it is located; the extension is necessary in order to prevent a major economic loss to the property owner and to lessen deterioration; and that all reasonable conditions have been imposed for the purpose of repairing dilapidation and bringing, or keeping, the property up to neighborhood standards. Extensions granted under this section shall be at least fifty years from the date the application is granted. (Ord. 764 § 1, 1994; Ord. 761 § 1, 1993)

17.72.070 Permissible structural alterations.

Structural alterations of nonconforming structures, as defined in Section 17.03.640, shall be limited as follows: at the time application for a structural alteration is made, the building official shall determine the cost at prevailing contractor rates of the total work of the improvements involved, excluding permit costs, landscaping costs and architectural costs. If that cost, added to the costs (similarly calculated) of other work involving structural alterations, commenced in the preceding five years, exceeds eighty percent of the present fair market value of the structure (as it would be without any of the structural alterations), the proposed structural alterations may not be made. (Ord. 873 § 11 (part), 2004; Ord. 761 § 1, 1993)

17.72.080 Destruction by fire, explosion, flood or other disaster.

Buildings which are destroyed by fire, explosion, flood or other disaster will be allowed to be rebuilt as long as there is no increase in size of structures or intensity of activity and the cost of repair, excluding permits and architectural costs, measured by prevailing contractor rates, does not exceed ninety percent of the fair market value of the structure as it existed before the disaster. (Ord. 873 § 11 (part), 2004; Ord. 761 § 1, 1993)

17.72.090 Transient rental uses.

Transient rental uses (defined in Section 17.03.686) are prohibited in residential zones. By virtue of Ordinance No. 692, the amortization period has expired for any transient rental uses which were nonconforming when Ordinance No. 692 was adopted in 1990. (Ord. 761 § 1, 1993)

~~Chapter 17.75~~

~~ZONING ANNEXED TERRITORY~~

Sections:

~~17.75.010 — Procedure.~~

~~17.75.010 — Procedure.~~

~~Upon the completion of proceedings for the annexation of new territory to the city, the areas thus annexed to the city after the effective date of the ordinance codified in this title shall be and become immediately subject to the zoning regulations of the city. The ordinance providing for the annexation of new territory shall designate the zone or zones for the territory to be annexed. (Ord. 388 § 23.01, 1975)~~

Chapter 17.81

GENERAL REGULATIONS

Sections:

- ~~17.81.010 — Applicability.~~
- ~~17.81.020 — Planning commission records and amendments duties.~~
- ~~17.81.030 — Rules governing use of maps and symbols.~~
- ~~17.81.040 — Rules governing open spaces.~~
- ~~17.81.050 — Public facilities.~~
- ~~17.81.060 — Animals.~~
- ~~17.81.070 — Height exceptions.~~
- ~~17.81.080 — Area exceptions.~~
- ~~17.81.090 — Sale of copies.~~
- ~~17.81.100 — Service station lot area.~~
- ~~17.81.105 — Self service and partial service gasoline stations.~~
- ~~17.81.110 — Accessory structures.~~
- ~~17.81.120 — Solar energy systems as a permitted use.~~
- ~~17.81.130 — Solar energy systems as a conditional use.~~
- ~~17.81.140 — Dish antennae prohibited.~~
- ~~17.81.150 — Recovery of monitoring or deposit expenses.~~
- ~~17.81.160 — Extension of permit expiration dates.~~
- ~~17.81.170 — Notice of public hearing.~~
- ~~17.81.180 — Placement of utilities underground.~~
- ~~17.81.190 — Yard/garage sales.~~
- ~~17.81.200 — Home occupation permits and limitations.~~

17.81.010 — Applicability.

The general regulations set forth in this chapter shall govern in all cases not specifically covered by district regulations. (Ord. 388 Art. 25 (part), 1975)

17.81.020 — Planning commission records and amendments duties.

The planning commission shall maintain a public record of its administrative rulings and policy decisions, and shall from time to time prepare and recommend to the city council such amendments as it may deem necessary to improve the administration of this title. (Ord. 388 § 25.01, 1975)

17.81.030 — Rules governing use of maps and symbols.

Where uncertainty exists as to the boundaries of any district as shown on the zoning map accompanying and made a part of this title, the following rules shall apply:

A. The district boundaries are either streets, alleys, or as otherwise shown, and where the designations on the zoning map accompanying and made a part of this title indicate the various districts are approximately bounded by streets or alleys, said streets and alleys shall be construed to be the boundaries of such district.

B. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations of the zoning map accompanying and made part of this title indicating the various districts are approximately bounded by lot lines, said lot lines shall be construed to be boundaries of said districts, unless said boundaries are indicated on the map.

C. In unsubdivided property and where a district boundary divides a lot, the locations of such boundaries, unless the same are indicated by dimensions, shall be determined by use of the scale appearing on the zoning map.

D. A symbol indicating the classification of property on the zoning map shall in each instance apply to the whole of the area within the district boundaries.

~~E. Where a public street or alley is officially vacated or abandoned, the property formerly in said street or alley shall be included within the district or adjoining property thereto and shall be subject to the regulations applicable to said district. In the event said street or alley was a boundary between two or more different districts, the new district boundary shall be the former centerline of such vacated street or alley and shall be subject to the regulations applicable to the abutting properties.~~

~~F. Where uncertainty exists, the planning commission shall, by written decision, determine the location of the zone boundary and shall so advise the city council of its decision. (Ord. 388 § 25.02, 1975)~~

17.81.040 — Rules governing open spaces.

~~Except as provided by the adjustment procedure set forth in Article 20 the following rules shall govern the provisions of open spaces about buildings:~~

~~A. A building site as defined in this title is established on each usable lot, each such building site being surrounded on all sides by open spaces in the form of yards, the minimum widths and dimensions of which are set forth in the regulations of the district in which such lot is located. Each dwelling and all necessary buildings hereafter erected, rebuilt, altered, enlarged or moved upon any lot shall be so planned or placed as to occupy only the building site established by these regulations for such lot.~~

~~B. Any lot or parcel of land in one ownership having an area sufficient for more than one dwelling, or any lot shown upon a subdivision map of record in the office of the county recorder prior to adoption of the ordinance codified in this title, may be used for a dwelling and a building permit may be issued for such use, provided the owner thereof who changes or intends to change any existing lot line or lines or to establish new lot lines obtains approval of the city planning commission pursuant to the Subdivision Map Act and the city regulations.~~

~~C. No building, structure or land shall be used, nor shall any building or other structure be erected, moved, raised, altered, enlarged, reconstructed, extended, or rebuilt, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner, except in conformity with the open space and area requirements established by this title for the district in which such building is located or as permitted by a variance duly authorized by the planning commission.~~

~~D. No yard or other open space provided about any building for the purpose of complying with the regulations of this title shall be considered as providing a yard or open space for any other building or structure.~~

~~E. In the Soquel Creek area within the city limits, the following shall apply: All bulkheads shall be constructed in a rustic manner and finished in wood. All handrails on decks shall not exceed forty two inches in height, nor shall the space between the deck and the handrails be filled in creating a solid appearance. Only two freestanding lights shall be allowed for each deck and to a maximum height of eight feet.~~

~~F. The Soquel Creek Riverview Pedestrian Pathway, which extends from the Stockton Avenue Bridge along the eastern side of Soquel Creek, under the Railroad Trestle, to 427 Riverview Avenue, where it follows a drainage easement out to Riverview Avenue shall be maintained as a public pathway at the existing width as documented by the March 2005 survey completed by the city of Capitola, which is on file with the city clerk or no less than four feet in width, whichever is greater. On or after the effective date of the ordinance codified in this subsection, new development, decks, fencing, landscaping and other improvements shall not encroach on the Soquel Creek Riverview Pathway. Surface variations (i.e., brick, decomposed granite and other surfaces) are acceptable. Property owners shall trim and maintain landscaping so that it does not encroach upon or narrow the width of the pathway to less than four feet. As used in this subsection the term "pathway" shall refer to that undeveloped area within which the pedestrian walking surface (comprised of brick, decomposed granite and other surface materials) is located. (Ord. 885 § 1, 2005; Ord. 388 § 25.03, 1975)~~

17.81.050 — Public facilities.

~~A. Outside the coastal zone public facilities as listed in Sections 17.42.040, 17.42.050 and 17.42.060 are conditional uses in all zoning districts.~~

~~B. Within the coastal zone, public facilities should generally be restricted to the PF public facilities district. In the parks/open space, central village, and visitor serving districts, no public facilities shall be permitted except those—~~

~~which are dependent on the specific resources of the site or are related to the enhancement of the basic zoning-district uses and are consistent with the land use plan. (Ord. 691 § 14, 1990; Ord. 685 § 2, 1989; Ord. 388 § 25.04, 1975)~~

17.81.060 — Animals.

~~Every animal shall be kept in a manner so as not to offend or endanger any neighbor. Animals including fowl, reptiles, and amphibians may be kept only as provided in this section:~~

~~A. In the agricultural district, all normally domesticated animals, including bees, are permitted.~~

~~B. At a single family dwelling which solely occupies a parcel of land, each household is permitted four of the following animals as pets, not for commercial purposes:~~

- ~~1. Dogs, however, no more than two dogs over the age of four months may be kept;~~
- ~~2. Cats;~~
- ~~3. Rabbits;~~
- ~~4. Guinea pigs and other smaller animals;~~
- ~~5. Fowl, which doesn't quack or crow;~~
- ~~6. Non-poisonous reptiles and amphibians;~~

~~Any number of indoor birds may be kept, as long as no nuisance is created.~~

~~C. In all other cases, such as apartments and mobile homes, two of the above mentioned animals may be kept. Any number of indoor birds may be kept as long as no nuisance is created.~~

~~D. In commercial districts, kennels and pet shops which have obtained the proper permits are excluded from complying with subsection C of this section.~~

~~E. No pen, paddock, stable, or yard for housing animals shall be closer than twenty five feet to any restaurant, school, or neighboring residence.~~

~~F. No site where animals are kept shall be maintained in unsanitary conditions as determined by the health officer. (Ord. 388 § 25.05, 1975)~~

17.81.070 — Height exceptions.

~~Roof structures for the housing of elevators, stairways, ventilating fans or similar equipment required to operate and maintain the building, chimneys, smokestacks, radio aerials, television antennas and utility structures and necessary mechanical appurtenances may be built to exceed the height limit established for the district in which the structures are located; provided, however, that no such utility structure or roof structure in excess of the allowable building-height shall be used for commercial purposes or habitation. (Ord. 642 § 2, 1987; Ord. 388 § 25.06, 1975)~~

17.81.080 — Area exceptions.

~~Any lot shown upon an official subdivision map duly approved and recorded prior to the date of the adoption of the ordinance codified in this title, or any lot for which a deed is of record in the office of the county recorder prior to the date of the adoption of the ordinance codified in this title, may be used but shall be subject to the regulations of the district as shown in this title in which it is situated and to the general rules set forth in this section. (Ord. 503, 1981; Ord. 388 § 25.07, 1975)~~

17.81.090 — Sale of copies.

~~Copies of the zoning and land use ordinance may be sold by the city clerk by the cost of reproduction. (Ord. 388 § 25.08, 1975)~~

~~17.81.100 — Service station lot area.~~

~~Service station sites shall have a minimum of twenty thousand net square feet of lot area, with one hundred twenty-foot minimum frontage, with appropriate increases for those operations which include nonautomotive sales or rental activity on the same premises. (Ord. 388 § 25.09, 1975)~~

~~17.81.105 — Self service and partial service gasoline stations.~~

~~A. “Full service gas stations” means stations offering: gas, air, water, oil, and window washing performed by a service station attendant, light mechanical repairs; public restrooms; and replacement supplies such as fan belts, water hoses, windshield wiper blades, tires, transmission oil and brake fluid.~~

~~B. “Completely self-service gas stations” means stations which offer neither attendant gas pumping and window washing, nor light mechanical repairs.~~

~~C. “Partial service gas stations” means stations which offer either the services of a mechanic, or attendant gas pumping and window washing, but less than the full range of services and supplies available at a full service gas station.~~

~~D. “Split island” means an island of gas pumps in a full service or partial service station where attendants are not available to perform services such as pumping gas, washing windows, or checking fluid levels.~~

~~E. No full service station may convert to a partial service station, or to a self service station, or to a station wherein more than fifty percent of its pumps are at split islands, without first securing a conditional use permit.~~

~~F. No partial service station may convert to a self service station or to a station wherein more than fifty percent of its pumps are at split islands without first securing conditional use permits.~~

~~G. In any application to convert under subsections E or F, or in any application to establish a new gas service station the planning commission, (in addition to district regulations and the requirements of Chapter 17.60) shall consider whether the proposal would adversely affect public health, safety and welfare by diminishing the level of repair services, attendant services, or restrooms available to the public. (Ord. 577, 1984)~~

~~17.81.110 — Accessory structures.~~

~~A. All accessory structures eighty or more square feet or with electrical or plumbing fixtures shall require building permits.~~

~~B. One accessory structure eighty square feet or less and eight feet or less in height shall be permitted without a building or design permit and may be located in the side or rear setback of a residential lot. Any additional accessory structures on any parcel shall comply with the development standards for the district in which they are located. The variance procedure, as provided in Chapter 17.66, shall only apply to the second or more accessory structure(s). (Ord. 882 § 1, 2005; Ord. 873 § 17, 2004; Ord. 388 § 25.10, 1975)~~

~~17.81.120 — Solar energy systems as a permitted use.~~

~~The use of solar systems, including solar collectors, storage facilities, and distribution components for the purpose of providing energy for space heating and cooling and domestic hot water heating, is a permitted use in all zones within the city so long as those systems are a part of the main structure. (Ord. 517 § 1, 1982)~~

~~17.81.130 — Solar energy systems as a conditional use.~~

~~Solar energy systems which are not part of the main structure and are incidental to one or a group of structures in a nearby vicinity shall be a conditional use in all zones within the city. (Ord. 517 § 1, 1982)~~

~~17.81.140 — Dish antennae prohibited.~~

~~No dish type antennae may be placed or erected (a) in front yards or in corner lot side yards in residential zones; or (b) at any location in other zones except those antennae which receive architectural and site approval pursuant to Section 17.63.030. (Ord. 589 § 2, 1985)~~

~~17.81.150 — Recovery of monitoring or deposit expenses.~~

~~Whenever a cash deposit is necessary to ensure the performance of any condition as a part of any approval, or whenever staff time is required to monitor compliance with any such condition, such as a requirement of landscape~~

~~maintenance, a fee may be imposed equal to the actual or estimated cost (including but not limited to staff time) to the city of handling of a deposit or monitoring compliance with a condition. (Ord. 668, 1988)~~

17.81.160 — Extension of permit expiration dates.

~~A. Purpose of Extensions. As the California Court of Appeal has observed at 204 Cal. App. 3rd 1124, the purpose of providing for automatic expiration of development permits is mainly “to prevent the reservation of land for future purposes when the permittee has no good faith intent to presently commence upon the proposed use. Such reservations would cripple the city’s ability to change requirements as circumstances or planning policies change.~~

~~B. Permit Period Extension. Permittees, either at the time of originally obtaining the permit, or at some time prior to its expiration, may apply for an extension of the expiration period. The application to extend shall be made to the body which actually approved the permit. When the original permit was, by appeal or otherwise, heard by the city council, such applications shall be made to the city council.~~

~~C. Extensions Related to City-imposed Conditions. The city may grant an extension of the otherwise applicable expiration date if it is imposing a condition which significantly delays the applicant from commencing the proposed use. The period of any such extension shall be reasonably related to the cause of the delay.~~

~~D. Coastal Permit Extensions. See Section 17.46.120(B).~~

~~E. Other Permit Extensions. For other situations than those covered by subsections B or C of this section, the applicant may apply for one or more extension(s), each of which shall be for one year. Such requests may be granted upon a finding that there has been no relevant substantial change of circumstances, regulations or planning policies. (Ord. 722, 1991; Ord. 707, 1991)~~

17.81.170 — Notice of public hearing.

~~A. Government Code Section 65090 requires notice pursuant to Government Code Section 6061 (publication in at least one newspaper of general circulation within the city at least ten days prior to the hearing). That method of notice shall be given in the following situations:~~

- ~~1. General and specific plan adoption or amendment (Government Code Sections 65353, 65355, 65750-65763, 65919.4, 65962);~~
- ~~2. Zoning ordinance amendments (Government Code Sections 65854 and 65856);~~
- ~~3. Interim urgency zoning ordinances (Government Code Section 65858).~~

~~B. Notice pursuant to Government Code Section 65091(a) should be given for the following matters: variances, conditional use permits, or equivalent development permits (Government Code Section 65905); and zoning which affects permitted uses of property (Government Code Section 65854).~~

~~C. Notice pursuant to Government Code Section 6062 (each day, during a ten-day period, that the newspaper is published) should be given for the following matters: adoption of, or increase of those development fees for which Government Code Section 66018 is applicable.~~

~~D. As provided in Government Code Section 65094, “notice of public hearing” means a notice that includes the date, time and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing. The city may additionally give notice in any other manner it deems necessary or desirable.~~

~~E. Additional notice requirements otherwise imposed by this code shall also be followed. For instance, see Section 17.46.080 for hearings involving coastal permits.~~

~~F. Defects in providing notice shall not, unless specifically required by law, invalidate any decision made at the hearing. (Ord. 721 § 3, 1991)~~

~~17.81.180 — Placement of utilities underground.~~

~~A. New residential construction or any residential remodels that result in an increase of twenty five percent or greater of the existing square footage shall be required to place existing overhead utility lines underground to the nearest utility pole.~~

~~B. Exceptions to this requirement can be made by the planning commission if it is determined that a hardship exists. Financial hardships are not the basis for exceptions, which may be granted primarily for environmental reasons, such as tree preservation, proximity to watercourses or archaeological sites, and similar considerations. (Ord. 873 § 18, 2004)~~

~~17.81.190 — Yard/garage sales.~~

~~A. Yard/garage sales for individual residences shall be limited to not more than three, one to two day events per calendar year. Block or neighborhood sales would be allowed annually in addition to individual sales. (Ord. 873 § 19, 2004)~~

~~17.81.200 — Home occupation permits and limitations.~~

~~A. Home occupations are permitted subject to Section 17.03.310 requirements, and approval of a home occupation permit by the community development director or designated zoning administrator. Neighboring property owners and residents within one hundred foot radius will be provided notification that a permit has been issued, with the notice to describe the nature of the home occupation and the limitations imposed.~~

~~B. All home occupations must comply with the following restrictions and limitations:~~

- ~~1. No advertising signs or banners other than a nameplate, not to exceed one square foot;~~
- ~~2. No display or outside storage of goods, materials, or equipment;~~
- ~~3. No commodities sold on the premises in the normal course of operation;~~
- ~~4. No employees other than the residents of the dwelling;~~
- ~~5. No objectionable noise, odor or equipment and materials;~~
- ~~6. No excessive pedestrian, auto, or truck traffic introduced to the neighborhood as a result of the home-occupation;~~
- ~~7. No more than one client/customer at the dwelling at any one time, by appointment only, and not more than three such clients, customers per day;~~
- ~~8. No use of required covered or uncovered parking;~~
- ~~9. Does not provide a service which normally involves the client being present when a significant portion of the services are performed;~~
- ~~10. Automotive repair or detailing services are specifically prohibited.~~

~~C. Community development director retains the discretion to forward any home occupation permit application to the planning commission for approval or termination in response to legitimate complaints regarding noncompliance with home occupation permit limitations. (Ord. 873 § 20, 2004)~~

Chapter 17.84

ENFORCEMENT

Sections:

~~17.84.010 — Penalty for violation.~~

~~17.84.020 — Coastal Act violation.~~

~~17.84.030 — Allowing, advertising or arranging transient rental uses prohibited.~~

17.84.010 — Penalty for violation.

~~A. It shall be the duty of the city planner to issue permits and to enforce the provisions of this title. It shall also be the duty of the police department of the city and of all officers of the city otherwise charged with the enforcement of the law, to enforce the provisions of this title. Any person, firm or corporation violating any provisions of this title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars, or imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which such violation of this title is committed after official notice thereof, or continued or permitted by such person, firm or corporation, and shall be punishable as provided in this section.~~

~~B. Any building set up, erected, built, moved or maintained, and/or any use of property contrary to the provisions of this title shall be and the same is declared to be unlawful and a public nuisance, and the city attorney shall, upon order of the city council, immediately institute any necessary action or actions, legal proceeding or proceeding to enforce the provisions of this title, for the abatement, removal and enjoinder thereof in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate and remove such building or use, and restrain and enjoin any person, firm or corporation from setting up, erecting, building, moving or maintaining any such building or using any property, contrary to the provisions of this title.~~

~~C. All remedies provided for in this section shall be cumulative and not exclusive. (Ord. 388 Art. 26, 1975)~~

17.84.020 — Coastal Act violation.

~~A violation of this title may also constitute a violation of the California Coastal Act of 1976 (Public Resources Code Section 30000 et seq.) and may subject the violator to the remedies, fines and penalties set forth in Chapter 9 of the California Coastal Act of 1976 (Public Resources Code Section 30800 et seq.). (Ord. 677 § 3, 1989)~~

17.84.030 — Allowing, advertising or arranging transient rental uses prohibited.

~~It is prohibited for any person (including, but not limited to property owners, property managers or real estate agents) to:~~

~~A. Rent, sublet, lease, sublease or otherwise for remuneration allow any person or persons to carry on a transient rental use (as defined in Section 17.03.686); or~~

~~B. To advertise for transient rental uses; or~~

~~C. For compensation, to arrange, or help to arrange transient rental uses. (Ord. 687 54, 1990)~~

Chapter 17.87

HISTORIC FEATURES

Sections:

- ~~17.87.010 — Procedure for establishing or designating historic feature designation.~~
- ~~17.87.020 — Notice of hearing.~~
- ~~17.87.030 — Hearing.~~
- ~~17.87.040 — Notice of designation.~~
- ~~17.87.050 — Entry in the register of historic features.~~

~~17.87.010 — Procedure for establishing or designating historic feature designation.~~

~~The planning commission, on its own initiative, or by the directive of the city council, or upon application of the owner of any feature, may consider whether a feature should be designated as an historic feature, or whether a feature designated as an historic feature should have that designation dropped and thereby be removed from the register of historic features. Applications submitted by owners or their agents shall be upon such forms as designated by the community development director, shall contain a description of the feature and any proposed alterations of the feature, and such other information as the community development director shall specify. (Ord. 515 § 4 (part), 1982)~~

~~17.87.020 — Notice of hearing.~~

~~Ten days prior to either planning commission or city council hearing, written notice shall be mailed to the owner of the feature. The community development director may also notify any other persons whom the community development director determines may be interested. (Ord. 515 § 4 (part), 1982)~~

~~17.87.030 — Hearing.~~

~~The planning commission and city council deliberation shall take place at a public hearing. In making the determination whether a particular feature should be designated as an historic feature the commission or council, in order to have a feature designated as historic, must make the following findings:~~

~~A. That the potential historic feature evidences one or more of the following qualities:~~

- ~~1. The proposed feature is particularly representative of a distinct historic period, type, style, or way of life;~~
- ~~2. The proposed feature is an example of a type of building once common in Capitola but now rare;~~
- ~~3. The proposed feature is of greater age than most other features serving the same function;~~
- ~~4. The proposed feature is connected with a business or use which was once common but is now rare;~~
- ~~5. The architect or builder is historically important;~~
- ~~6. The site is the location of an important historic event;~~
- ~~7. The proposed feature is identified with historic persons or important events in local, state, or national history;~~
- ~~8. The architecture, the materials used in construction, or the difficulty or ingenuity of construction associated with the proposed feature are significantly unusual or remarkable;~~
- ~~9. The proposed historic feature by its location and setting materially contributes to the historic character of the city;~~
- ~~10. The proposed historic feature is a long established feature of the city;~~
- ~~11. The proposed historic feature is a long established feature of the city, or is a prominent and identifying feature of the landscape and is of sufficient aesthetic importance to be preserved;~~

~~B. That the designation, as an historic feature, will not deprive the owner of all reasonable use of his or her property;~~

~~C. That after weighing the detriments of the designation to the owner against the value of the public interest in the designation, the designation is worthwhile. (Ord. 515 § 4 (part), 1982)~~

~~17.87.040 — Notice of designation.~~

~~After any feature has been designated by the city council as an historic feature, the community development director shall, in writing, notify the owner at the owner's last known address, or if such address is not reasonably available to the community development director, then the notice shall be directed to the address of the feature. (Ord. 515 § 4 (part), 1982)~~

~~17.87.050 — Entry in the register of historic features.~~

~~On final city council determination, the city clerk shall add or delete the feature from the register of historic features. (Ord. 515 § 4 (part), 1982)~~

Chapter 17.90

MOBILE HOME PARKS

Sections:

- ~~17.90.010 Findings and declarations of purpose.~~
- ~~17.90.020 Definitions.~~
- ~~17.90.025 Application and relocation impact report (RIR) — Duty to file.~~
- ~~17.90.030 Contents of relocation impact report.~~
- ~~17.90.040 Filing of relocation impact report.~~
- ~~17.90.045 Refusal to review relocation impact report.~~
- ~~17.90.050 Notice to new occupants regarding pending change in status of park.~~
- ~~17.90.060 Application for exemption from relocation assistance obligations.~~
- ~~17.90.070 Application for change of use — Public hearing — Findings.~~
- ~~17.90.080 Measures to prevent avoidance of relocation assistance obligations.~~
- ~~17.90.090 Compliance with relocation assistance required as a condition of approval of a change of use.~~
- ~~17.90.100 Modification and revocation of approved change of use.~~
- ~~17.90.110 Expiration and extension of approval.~~
- ~~17.90.120 Change without new use.~~
- ~~17.90.130 Preemption.~~
- ~~17.90.140 Severability.~~

* — Prior ordinance history: Ord. 576.

17.90.010 Findings and declarations of purpose.

~~A. Mobile home owners make considerable investments in purchasing, maintaining, and improving their mobile homes, but must rent a space for the home in a mobile home park and cannot easily move the mobile home due to the shortage of mobile home spaces and the high cost and risk of damage involved in moving a mobile home. In recognition of the unique situation and vulnerability of mobile home owners created by these facts, the State Mobile Home Residency Law, Civil Code Section 798, et seq., and Government Code Sections 65863.7 and 66427.4, limit the grounds on which mobile home owners may be evicted from a mobile home park, protect their right to sell their mobile homes in a place in a mobile home park and authorize local jurisdictions to impose reasonable measures to mitigate the adverse impacts on displaced mobile home owners when a mobile home park closes or converts to another use. Pursuant to these state laws, this chapter provides a procedure and standards for reviewing applications for change of use or closure of mobile home parks, determining reasonable mitigation measures and protecting residents from tactics such as intimidation and excessive rent increases, designed to pressure mobile home owners to relocate without receiving assistance pursuant to this chapter. Without such assistance mobile home owners may lose the investment in their homes, which may be their only asset, and may not be able to relocate to decent, affordable housing.~~

~~B. Nothing in this chapter shall be construed to mean that the city supports any change of use of any mobile home park. (Ord. 759 (part), 1993)~~

17.90.020 Definitions.

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

~~“Applicant” means a person or entity who has filed an application for change of use of a mobile home park.~~

~~“Change of use” includes all activities specified in Section 798.10 of the California Civil Code and amendments to the general plan or any applicable specific plan, rezoning of property, land use permits, such as a conditional use permit or a variance, tentative parcel or tentative tract maps, and building permits when the effect of the change will be to decrease the number of spaces available for mobile home habitation.~~

~~“Change without new use” refers to what Civil Code Section 798.56(g)(2) describes as a “change of use [requiring] no local governmental permit” [other than approval of the RIR].~~

~~“Comparable housing” means housing which, on balance, is comparable in floor area, number of bedrooms, and amenities, proximity to public transportation, shopping, schools, employment opportunities and medical services and other relevant factors to the mobile home to which comparison is being made.~~

~~“Comparable mobile home park” means a mobile home park substantially equal in terms of park condition, amenities and other relevant factors, including, but not limited to, proximity to public transportation, shopping, medical services, employment opportunities and schools.~~

~~“Director” means the community development director.~~

~~“Eligible mobile home resident” or “eligible resident” means a mobile home resident whose mobile home was located in a mobile home park on the date of an application for change of use. Eligible resident includes the spouse, parents, children and grandchildren of the eligible resident when those persons resided in the mobile home on the date of the application.~~

~~“Legal owner” means any person or entity having an ownership interest in a mobile home other than the registered owner, such as a lender or mortgagor.~~

~~“Mobile home” has the meaning set forth in Section 798.3 of the California Civil Code.~~

~~“Mobile home owner” means the registered owner or registered owners of a mobile home, regardless of the number of such owners or the form of such ownership.~~

~~“Mobile home park” or “park” has the meaning set forth in Section 798.4 of the California Civil Code.~~

~~“Mobile home park owner” or “park owner” means the person, persons or entity that owns a mobile home park and includes any person authorized by the park owner to seek approval of an application for change of use or respond to a rent review petition filed pursuant to this chapter.~~

~~“Mobile home owner” means a mobile home owner who resides in the mobile home he or she owns. Unless the context indicates otherwise, it includes the mobile home owner’s spouse, parents, children and grandchildren who reside in the mobile home.~~

~~“Mobile home tenant” or “tenant” is a person who occupies a mobile home within a mobile home park pursuant to a bona fide lease or rental agreement and who, during his or her tenancy, was not the owner of that mobile home.~~

~~“Handicapped mobile home resident” means a mobile home resident with any medically determinable physical or mental impairment as demonstrated by a finding of a state or federal agency or a medical certificate, or who requires special care facilities in the mobile home or special care equipment, such as, but not limited to, a wheelchair.~~

~~“Low income” means an income of eighty percent or less of current median income as established annually by the United States Department of Housing and Urban Development (“HUD”) for the statistical area in which Capitola is located, as adjusted for household size. (Ord. 759 (part), 1993)~~

~~17.90.025 — Application and relocation impact report (RIR) — Duty to file.~~

~~Prior to a change of use of a mobile home park, a relocation impact report (RIR) complying with the requirements of this chapter must be filed with the director. It is the park owner’s responsibility to comply with the notice requirements of subsections g(1) and (2) of Civil Code Section 798.56. Because the Civil Code Section 798.56(g)(2) notice cannot be given until after the approval of both the project and the sufficiency of the (RIR), the park owner is encouraged to consult with staff (especially if any waiver of Municipal Code Section 17.90.030 requirements will be requested) early in the process about the contents of the RIR. (Ord. 759 (part), 1993)~~

~~17.90.030 — Contents of relocation impact report.~~

~~All relocation impact reports (RIRs) required by this chapter, Civil Code Section 798.56 or Government Code Section 65863.7 shall contain the following information, unless the director determines that any of the following is unduly burdensome to produce when weighed against its informative value:~~

~~A. A detailed description of any proposed or change of use, or change without new use;~~

~~B. A timetable for conversion of the park;~~

~~C. A legal description of the park;~~

~~D. The number of spaces in the park, length of occupancy by the current occupant of each space and current rental rate for each space;~~

~~E. The date of manufacture and size of each mobile home;~~

~~F. Appraisals addressing relevant issues identified by the director. A qualified appraiser shall be selected by the city and the cost of the appraisals shall be borne by the applicant. The appraisals shall identify those mobile homes which cannot be moved due to type, age or other considerations. Appraisal information shall be provided on the effect upon the homeowner's investment in the mobile home, such as the change in value of effected mobile homes that would result from the proposed change in use;~~

~~G. The results of questionnaires to all homeowners/occupants regarding the following: whether the occupant owns or rents, whether this is the only residence, occupants' ages, whether the occupants have disabilities that would be aggravated by the moving process, the purchase date and price paid by the mobile home owner, the costs incurred by the mobile home owner in improving the home, and the amount and relevant terms of any remaining mortgage. Answering such questionnaire shall be voluntary;~~

~~H. The name and mailing address of each eligible resident, mobile home tenant, mobile home resident, resident-mobile home owner and legal owner of a mobile home in the park;~~

~~I. The purchase price of condominiums similar in size to the mobile homes within a reasonable distance, and the rental rates and moving costs involved in moving to an apartment or other rental unit within a reasonable distance including, but not limited to, fees charged by moving companies and any requirement for payment of the first and last month's rent and security deposits;~~

~~J. A list of comparable mobile home parks within a twenty mile radius and a list of comparable mobile home parks within a radius of twenty five to fifty miles of the applicant's mobile home park. For each comparable park, the list should, if possible, state the criteria of that park for accepting relocated mobile homes, rental rates and the name, address and telephone number of the park representative having authority to accept relocated homes, including any written commitments from mobile home park owners willing to accept displaced mobile homes. The purpose of the requirements in this subsection are to provide information necessary to create appropriate relocation compensation. It is not meant to suggest that the city, in any sense, favors tenants having to move out of any mobile home park in Capitola.~~

~~K. Estimates from two moving companies as to the minimum and per mile cost of moving each mobile home, including tear down and set up of mobile homes and moving of improvements such as porches, carports, patios and other moveable amenities installed by the residents. Said moving companies shall be approved by the director prior to inclusion in the final RIR.~~

~~L. Proposed measures to mitigate the adverse impacts of the conversion upon the mobile home park residents.~~

~~M. Identification of a relocation specialist to assist residents in finding relocation spaces and alternate housing. The specialist shall be selected by the applicant, subject to the city's approval, and shall be paid for by the applicant. (Ord. 759 (part), 1993)~~

17.90.040 — Filing of relocation impact report.

An RIR shall not be considered filed, within the meaning of Government Code Section 65863.7, until the applicant has caused to be submitted to the director both a draft RIR which applicant believes meets the requirements of Municipal Code Section 17.90.030, and a written statement that such draft RIR is being filed pursuant to Government Code Section 65863.7. (Ord. 759 (part), 1993)

17.90.045 — Refusal to review relocation impact report.

~~If the city attorney determines that the proposed change of use or change without new use would be illegal, the director shall not process the RIR until and unless a court of competent jurisdiction rules that the proposed use would be legal. (Ord. 759 (part), 1993)~~

17.90.050 — Notice to new occupants regarding pending change in status of park.

~~When an application for change of use of a mobile home park (or for city approval of a RIR) has been filed with the director, the applicant shall thereafter, in addition to Civil Code Section 798.56 (g) (1) notices, give notice to all known prospective mobile home purchasers and prospective mobile home tenants within the park, and in all cases prior to execution of any new rental agreement, that the application for change of use has been filed. The park owner shall obtain a signed acknowledgment of receipt of such notice from each prospective purchaser or tenant and file it with the director. If the prospective purchaser or tenant refuses to sign, a dependable record of delivery of notice shall be maintained by the park owner. (Ord. 759 (part), 1993)~~

17.90.060 — Application for exemption from relocation assistance obligations.

~~A. Any person who files an application for change of use may file an application for total or partial exemption from the obligation to provide relocation assistance.~~

~~B. If such application for exemption is filed, notice thereof, containing the information contained in the application, shall be given pursuant to subsections B and C of Section 17.90.070.~~

~~C. An application for total exemption may be made on one of two grounds.~~

~~1. That imposition of any relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses;~~

~~2. The park is exempt from the requirement of relocation assistance under state law governing changes of use of mobile home park.~~

~~D. Any application for partial exemption shall state that it is made on grounds either:~~

~~1. That imposition of particular relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses; or~~

~~2. That it would exceed limitations imposed by Government Code Section 65863.7(e). The application shall specify the particular relocation obligations which would cause this result.~~

~~E. An application for exemption made pursuant to subsections (C)(1) and (D)(1) of this section shall contain, at a minimum, an estimate of the value of the subject property by a qualified real estate appraiser if the park were permitted to be developed for the use proposed in the application for change of use, or other use consistent with applicable zoning, and an estimate of the value of such park by such appraiser if use of the property as a mobile home park is continued. An application for exemption pursuant to subsection (C) (2) of this section shall specify the provisions of state law providing the claimed exemption and documentation demonstrating entitlement to such exemption.~~

~~F. If an exemption is granted after the applicant has purportedly provided Civil Code Section 798.56(g)(2) notice, renoticing will be necessary. (Ord. 759 (part), 1993)~~

17.90.070 — Application for change of use — Public hearing — Findings.

~~A. Upon the filing of an RIR, the director shall examine the same and advise the applicant in writing within thirty days after receipt thereof whether it is complete. When an application and RIR have been accepted as complete, the director shall set a time, date and place for a hearing before the planning commission not later than sixty days after the date of acceptance. Because certain required information in an RIR (e.g., appraisals, tenant data) cannot be obtained until after filing an application for change of use, the initial application for change of use and RIR should contain all pertinent available information in order to start the process of obtaining the information required for a complete application and/or RIR.~~

~~B. Not less than thirty days prior to the scheduled public hearing before the planning commission, the park owner shall, by certified mail or personal delivery, transmit to the registered and legal owner of each mobile home occupying a site within the mobile home park and to each resident a copy of the approved RIR and notice (in form approved by the director) of the date, time and place of the public hearing on the application.~~

~~C. Not less than fifteen days prior to the scheduled public hearing before the planning commission on the RIR, the park owner shall file with the director a verification that he or she has complied with the requirements of this section pertaining to notices and transmittal of copies of the RIR and with all notice requirements in Government Code Section 65863.7, et seq. The form and manner of such verification shall be subject to approval by the city attorney.~~

~~D. Planning Commission Hearing, Findings and Advisory Decision. Upon review of an application for change of use or exemption and the RIR and consideration of the written and oral evidence received at the hearing, the commission shall render its findings and recommendation to the city council by resolution within ninety five days of the date the application and RIR were accepted as complete. In rendering its advisory decision, the commission may recommend reasonable measures not exceeding the reasonable costs, or estimates thereof, of relocation to mitigate the adverse impacts on eligible residents displaced by the change of use or mobile home owners who may have to move their mobile homes, which may include, but are not limited to the following:~~

- ~~1. Payment of the cost of physically moving the mobile home to a new site, including tear down and setup of mobile homes, including, but not limited to, movable improvements such as patios, carports and porches;~~
- ~~2. Payment of a lump sum based on consideration of any increase in security deposit at the new mobile home park which the resident or tenant lacks the ability to pay;~~
- ~~3. Payment of a lump sum based on consideration of any differential between rental rates at the closing mobile home park and the new mobile home park during the first year of the new tenancy;~~
- ~~4. For those mobile home residents who move to apartments or other rental housing alternatives, payment of a lump sum based on consideration of any differential in the rental rate between the closing park and the comparable housing, requirements for payment of security deposits and cleaning fees. Mobile home households may be compensated based on the number of bedrooms in the mobile home so that a one bedroom mobile home may be compensated based on a one bedroom apartment, a two bedroom mobile home based on a two bedroom apartment, etc.;~~
- ~~5. Provision of a replacement space within a reasonable distance of the closing mobile home park;~~
- ~~6. For residents whose mobile home cannot be relocated to a comparable park within a fifty mile radius of the closing mobile home park, payment of a lump sum based upon consideration of the value of the mobile home, including resident improvements (i.e., landscaping, porches, carports, etc.), any increase in mortgage obligations of the resident on the mobile home, and the costs of purchasing a mobile home on site in a comparable park or acquiring other comparable replacement housing;~~
- ~~7. The park owner shall make the monetary payments contemplated in this subsection a reasonable period of time (to be set by the city council) in advance of the actual relocation of a resident or homeowner. The resident or homeowner shall not be under a legal obligation to relocate by the method used to measure mitigation costs.~~

~~E. Time periods in this chapter may be extended as necessary to comply with C.E.Q.A. or the Coastal Act.~~

~~F. Notwithstanding any other provision in this section, the total of the mitigation measures required shall be subject to and shall not exceed the limitation in Government Code Section 65863.7 which provides: "the steps taken to mitigate shall not exceed the reasonable costs of relocation."~~

~~G. City Council Hearing, Findings and Decision.~~

- ~~1. The application for change of use and any application for exemption shall be set for hearing before the city council within forty five days of the date of the planning commission decision recommending the mitigation measures to be imposed on the change of use of a park or exemption from the provision of relocation assistance.~~

~~2. The city council, after review and consideration of the application, the RIR and the written and oral evidence received at the hearing, shall by resolution render its findings and decision within eighty days of the date of the planning commission decision.~~

~~3. The city council may impose reasonable measures not exceeding the reasonable costs of relocation to mitigate the adverse impacts of the change of use on eligible mobile home residents pursuant to subsections (D) and (E) of this section. The decision of the city council shall be final. Pursuant to Code of Civil Procedure 1094.6, the statute of limitations for bringing a judicial challenge to any decision concerning a change of use of mobile home park shall be ninety days and notice of the city's decision to the applicant, park owner and affected residents shall include notice that the ninety day statute of limitations in 1094.6 is applicable. (Ord. 759 (part), 1993)~~

17.90.080 — Measures to prevent avoidance of relocation assistance obligations.

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

~~B. No prospective mobile home resident or existing mobile home resident may be required to sign a waiver, or a lease or rental agreement which includes a waiver, of their rights under this chapter. Any waiver of rights under this chapter by such a mobile home resident shall be deemed invalid unless the resident or prospective resident and the park owner obtain the prior approval of the waiver from the director, who may grant such approval only upon a finding that the waiver is voluntary and was made after being fully informed of the terms of this chapter. (Ord. 759 (part), 1993)~~

17.90.090 — Compliance with relocation assistance required as a condition of approval of a change of use.

~~A. The applicant shall execute and record a certificate, and file proof thereof with the director, accepting the mitigation measures imposed on the approval of a change of use within ninety days of the final council action approving the change of use and shall give the six or twelve month notice of the termination of tenancy and closure of the park required by Civil Code Section 798.56(g) within one hundred twenty days of that action. An approval of a change of use shall automatically become null and void if the certificate accepting the conditions is not filed and executed within ninety days of the date of the approval of the change of use and the notice of termination of tenancy has not been given within one hundred twenty days of that resolution. All mitigation measures imposed on the approval of a change of use shall be fully performed as to each resident prior to that resident's required vacation of the mobile home park, unless otherwise provided in the mitigation measure. No eligible resident shall be required to vacate a mobile home space unless the applicant is in full compliance with all mitigation measures imposed pertaining to such resident, and has otherwise fulfilled the notice requirements of the California Mobile Home Residency Law relating to termination of tenancy.~~

~~B. No building permit shall be issued for the development of any real property which has been, or is being, converted from a mobile home park pursuant to this chapter unless and until the city has adopted a resolution approving the change of use and the park owner has fully complied with the relocation assistance required by that resolution. (Ord. 759 (part), 1993)~~

17.90.100 — Modification and revocation of approved change of use.

~~A. Modification.~~

~~1. After a change of use has been approved and after the applicant has executed and recorded a certificate of acceptance of the conditions of any approval, modification of the mitigation measures imposed, including additions and deletions, may be considered upon the filing of a written application by the applicant. Modification may be granted on the grounds that there has been a change in circumstances or new information, which could not reasonably have been known or considered at the time of the hearings on the application, has become available. Examples of such new information or changed circumstances include, but are not limited to, revised plans by the applicant and a change in the availability of relocation spaces. Modification shall not be granted when it would unreasonably prejudice the ability of the residents to relocate to comparable spaces or comparable alternate housing.~~

~~2. Any application for modification shall be subject to the notice and hearing procedures set forth in Sections 17.90.070 and 17.90.080. The decision in connection with a modification request shall take place as with the initial approval.~~

~~B. Revocation.~~

~~1. The city council may initiate revocation proceedings on the grounds that the park owner or applicant has violated the provisions of this chapter or the terms of the approval of the change of use. The approval shall specify the grounds asserted for revocation of the approval of the change of use by the park and shall set a hearing before the city council to consider the revocation not sooner than forty five and not later than sixty days after the date of the approval.~~

~~2. Notice of revocation proceeding shall be sent to the park owner by certified mail or personal delivery together with notice that any response by the park must be filed at least twenty days prior to the date set for the revocation hearing.~~

~~3. The city council shall render its findings and decision concerning revocation within ninety days after initiating revocation proceedings. (Ord. 759 (part), 1993)~~

17.90.110 — Expiration and extension of approval.

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

B. Upon application by the park owner filed with the director on or before the time provided for giving the notice of termination or the expiration of the approval of the change of use, the date for giving notice and the approval may be extended by the city council upon a showing of good cause. The request may be denied if the council finds that the park owner has unreasonably delayed implementation of the mitigation measures or that further delay will result in prejudice or further adverse impacts upon eligible residents remaining in the park. Approval of an extension may be conditioned on reasonable measures designed to mitigate the adverse impacts resulting from the delay. The application for extension shall be subject to the notice and hearing procedures set forth in Section 17.90.100(B). (Ord. 759 (part), 1993)

17.90.120 — Change without new use.

Government Code Section 65863.7 and Civil Code Section 798.56 require submission and approval of an RIR even in situations where no other local government permit is required for the contemplated change of use or change without new use. It is the park owner's responsibility to file the RIR in time for the review required by this chapter. (Ord. 759 (part), 1993)

17.90.130 — Preemption.

In the event the provisions of this chapter conflict with any code, ordinance or regulation of the city, the provisions of this chapter shall govern. In the event any provisions of this chapter conflict with a provision of state law, this chapter shall be interpreted and applied in conformity with state law. (Ord. 759 (part), 1993)

17.90.140 — Severability.

If any part or provision of this chapter, or the application of such to any person or circumstance is held invalid, the remainder of the chapter, including the application of such part or provision to other persons or circumstances, shall not be effected and shall continue in full force and effect. To this end the provisions of this chapter are severable. (Ord. 759 (part), 1993)

Chapter 17.93

PROHIBITION OF OFFSHORE OIL DEVELOPMENT SUPPORT FACILITIES

Sections:

- ~~17.93.010 — Purpose.~~
- ~~17.93.020 — Findings.~~
- ~~17.93.030 — Implementation.~~
- ~~17.93.040 — Zoning changes.~~
- ~~17.93.050 — Effect of adoption.~~
- ~~17.93.060 — Severability.~~

17.93.010 — Purpose.

~~It is the purpose of this chapter to prevent the city of Capitola from becoming a logistical base for offshore oil drilling. (Ord. 632 § 1 (part), 1987)~~

17.93.020 — Findings.

~~The city has long opposed efforts to open the central California coast to offshore drilling. Onshore support of offshore oil drilling would be detrimental to the economy and environment of the city. The city is a tourist attraction and thus its resources and beauty are shared with people from all over the United States. If offshore drilling were to commence with onshore facilities located within the city, much of the resources and beauty that is shared with the people of our great nation would be lost.~~

~~A. Effect on Economy. The city is partly dependent upon retail and visitor serving trades. A recent study by Economic Research Associates of San Francisco found that the beaches in the greater Santa Cruz area were the main attraction for eighty percent of all visitors. The U.S. Department of Interior's Five Year Impact Statement states, conservatively, that there is a forty percent chance of two oil spills in this area of one thousand barrel magnitude and ocean currents would bring oil to Capitola beaches, which would, therefore, have significant economic consequences for the city.~~

~~B. Oil Spills. The technology does not exist to contain or clean up an oil slick on the water. Oil is likely to land on Capitola beaches, as stated in the above report, requiring massive cleanup efforts which would include a large expenditure of city funds and staff time, and volunteer time from city residents.~~

~~C. Endangered or Threatened Species. There are at least twenty six endangered or threatened species that reside on the central California coast including the Southern Sea Otter. Oil spills, routine discharges or toxic byproducts, air pollution, and noise impacts will pose a danger to these species.~~

~~D. Infrastructure. The city does not have the infrastructure available to handle increased traffic, especially large trucks, associated with onshore facilities. Traffic is already a problem.~~

~~E. Ambience of the Village. There is significant historical, educational and economic value to the Capitola Village. Recently, utilities were undergrounded to help preserve the charm of the village. Offshore drilling and onshore facilities associated with it would dramatically alter the nature and ambience of the village, thereby causing significant effects on the city.~~

~~F. Space Availability in the City. There is a relatively small amount of space available with the city (approximately two and one half square miles). Among these parcels are the Rispin Mansion and others, which are inappropriate for onshore facilities and cannot be adapted for onshore facilities without ruining them.~~

~~G. The federal government has proposed to open up virtually the entire California coastline to offshore oil and gas exploration and development, including the coastline off of Santa Cruz County.~~

~~H. Coastal areas off central California have been determined high priority areas for offshore oil and gas exploration and development by various multinational oil companies.~~

~~I. Offshore oil and gas development off the coast of Capitola would have the following significant effects upon the city:~~

~~J. If offshore oil and gas development occurs off the Capitola coast, significant new air pollution is inevitable. One drill ship produces approximately the same amount of air pollution as twenty three thousand cars driving fifty miles per day. Despite this fact, the federal government does not presently require that offshore oil and gas developments comply with state and local air pollution.~~

~~K. Offshore oil and gas development off the Capitola coast would inevitably result in the discharge of large volumes of highly toxic drilling muds into the ocean floor. These toxic materials would degrade the sensitive marine environment, put all forms of marine life at greater risk, and pose a threat to human beings who may later eat the fish contaminated with accumulated toxic material.~~

~~L. Offshore oil and gas development off the Capitola coast would put the existing local economy in jeopardy because such development would significantly and substantially interfere with the operation of the local fishing industry.~~

~~M. Noisy helicopter traffic would become a significant irritant to Capitola residents.~~

~~N. The coastal zone is subject to earthquake hazards. Geologic and historic records indicate that earthquakes have and will occur in this area. An earthquake could be accompanied by a surface rupture, ground shaking and ground failure. The location of oil and gas support facilities in this geologically unstable area would well result in an environmental disaster.~~

~~1. Rather than consuming offshore oil and gas resources now, our nation should conserve these resources, since they are nonrenewable. Moreover, the accelerated production and expenditure of hydrocarbon fuels aggravates the global warming trend, a trend which may have long term adverse impacts on Capitola and, in particular, on coastal communities which could be subject to an inundation if global oceans continue to rise as a result of polar icecap melting. Our nation should develop a national energy strategy based on energy conservation emphasizing the increasing use of renewable energy sources such as geothermal production and reinjection. Instead, the federal government has presently reduced or eliminated efforts to increase energy conservation and to develop renewable energy sources, at the same time that it is attempting to increase the development of nonrenewable energy sources like offshore oil and gas. The citizens of Capitola are willing and able to do their part in conserving energy and in developing a society less dependent on nonrenewable fossil fuel resources. (Ord. 632 § 1 (part), 1987)~~

17.93.030 — Implementation.

~~There shall be no construction, reconstruction, operation or maintenance of any commercial or industrial facility within the city, including, but not limited to, oil or gas storage facilities, pipe and drilling materials, or equipment repair or storage facilities, which operates directly in support of any offshore oil or gas exploration, development, drilling, pumping or production; nor shall there be any construction, reconstruction, or operation of facilities to process any oil or natural gas taken or removed from any offshore oil or gas drilling or pumping operations. (Ord. 632 § 1, 1987)~~

17.93.040 — Zoning changes.

~~The city council in adopting this chapter suggests that:~~

~~A. This chapter shall not be amended nor repealed without a vote of the people.~~

~~B. No zoning changes to accommodate onshore support facilities for offshore oil or gas exploration, development, drilling or pumping or production shall be enacted without a vote of the people of the city of Capitola. (Ord. 632 § 1, 1987)~~

17.93.050 — Effect of adoption.

~~Adoption of this chapter by the people does not amend or rescind any consistent provisions of the general plan, local coastal program or zoning ordinances, but does strengthen and define such consistent provisions. (Ord. 632 § 1, 1987)~~

~~17.93.060 Severability.~~

~~If any section, sentence, clause, phrase, or part of this chapter is held to be invalid, the remainder of the chapter shall be given full effect consistent with the intent and purpose of the chapter. (Ord. 632 § 1, 1987)~~

Chapter 17.95

ENVIRONMENTALLY SENSITIVE HABITATS

Sections:

- ~~17.95.005 — General provisions.~~
- ~~17.95.010 — General regulations.~~
- ~~17.95.020 — Soquel Creek and lagoon.~~
- ~~17.95.030 — Soquel Creek riparian corridor regulations.~~
- ~~17.95.040 — Noble Gulch riparian corridor regulations.~~
- ~~17.95.050 — Tannery Gulch riparian corridor regulations.~~
- ~~17.95.060 — Soquel Creek — Escalona Gulch Monarch butterfly habitat regulations.~~
- ~~17.95.061 — Escalona Gulch Monarch Butterfly Habitat — Additional regulations.~~

17.95.005 — General provisions.

The regulations set forth in this chapter apply to the environmentally sensitive habitat district as shown on the habitat maps and in all other areas identified by qualified professionals as sensitive habitat. Land classified ESH shall also have a basic classification as set forth elsewhere in this title. The regulations of this chapter shall apply in addition to those of the underlying district. (Ord. 677 § 7(A), 1989)

17.95.010 — General regulations.

~~In ruling on development applications concerning properties located within environmentally sensitive habitats dealt with in this chapter or as may be identified in the future, the following regulations shall be applicable:~~

~~A. Siting, design, and other development conditions should be utilized to achieve the long term protection of the environmentally sensitive habitats.~~

~~B. New development shall not be permitted to encroach into the waters of Soquel Creek or lagoon, nor be sited within the root zone of riparian or butterfly host trees, or require the removal of the trees.~~

~~C. For new development the city shall maintain maximum setbacks from natural areas.~~

~~D. In limited circumstances, where a vacant parcel lacking structure siting flexibility exists, a reduction of the standard setback may be permitted in order to allow for a minimum level of development, providing that it can be ensured that encroachment into the setback area will not have a significant effect on the natural area.~~

~~E. In order to provide technical expertise concerning specific habitat protection issues, the city shall require the services of a biologist, botanist, forester, or other qualified professional to assist in determining such questions as the precise location or boundary of a designated natural area, or the effect of the proposed development project on the immediate and long term health and viability of the natural area. This may be required through the environmental impact review process. Mitigation measures as contained in the professional evaluations shall be made conditions of approval where needed to minimize impact.~~

~~F. If necessary and appropriate to protect natural areas, consideration should be given to requesting or requiring permanent conservation easements over portions of property containing designated natural areas. All environmentally sensitive habitat areas and their buffer zones shall be protected by conservation easements or deed restrictions. (Ord. 677 § 7(B), 1989; Ord. 634 § 1, 1987)~~

17.95.020 — Soquel Creek and lagoon.

~~In the Soquel Creek and lagoon area the following are required:~~

~~A. No new development shall be permitted within the banks of Soquel Creek and lagoon.~~

~~B. New development shall be set back at least thirty five feet from the western shoreline of Soquel Creek lagoon. (Outside the coastal zone, subsections A and B of this section do not apply to public facilities. Within the coastal zone, subsections A and B do apply to public facilities, except as allowed under Section 30233 of the Coastal Act.)~~

~~C. New divisions of land shall not be approved that do not contain adequate area outside the riparian or stream bank setback for each parcel proposed.~~

~~D. Conformance to the Capitola erosion control ordinance (Chapter 15.28) shall be required for all new development. Sand and grease traps and other measures suitable to reduce erosion from the project site and maintain water quality in Soquel Creek shall be required. Grading shall be minimized within the setback areas and shall not be permitted to damage roots of riparian trees. (Ord. 685 § 8, 1989; Ord. 677 § 7(C), 1989; Ord. 634 § 1, 1987)~~

17.95.030 — Soquel Creek riparian corridor regulations.

~~In the Soquel Creek riparian corridor the following are required:~~

~~A. Development in areas adjacent to the Soquel Creek riparian corridor shall be sited and designed to prevent impacts which would significantly degrade the area.~~

~~B. A minimum thirty five foot setback from the outer edge of riparian vegetation shall be required for all new development. On the heavily developed east side of the lagoon and creek (from Stockton Avenue to Center Street) the setback requirement shall be measured from the bank of Soquel Creek.~~

~~C. The applicant shall be required to retain a qualified professional to determine the location of the outer edge of riparian vegetation on the site and to evaluate the potential impact of development on riparian vegetation and report to the city his or her findings before final action on the application is made. Mitigation measures, as contained in the evaluation, shall be made conditions of approval when needed to minimize impacts.~~

~~D. Removal of native riparian trees within the Soquel Creek riparian corridor shall be prohibited unless it is determined by the community development director that such removal is in the public interest by reason of good forestry practice; disease of the tree; or safety considerations.~~

~~E. Snags, or standing dead trees have high value as nesting sites and shall not be removed unless in imminent danger of falling. Removal shall be consistent with all applicable provisions of the Capitola tree cutting ordinance. Any such tree removal shall require replacement with a healthy young tree of an appropriate native riparian species.~~

~~F. Coastal development permit applications within or adjacent to the Soquel Creek riparian corridor shall contain a landscaping plan which sets forth the location and extent of any proposed modification to existing vegetation and the locations, kinds, and extent of new landscaping. The emphasis of such plans shall be on the maintenance and enhancement of native riparian species and the removal of existing invasive species. New invasive plant or tree species shall not be permitted.~~

~~G. Conformance to the Capitola erosion control ordinance (Chapter 15.28) shall be required. A drainage plan shall be provided for all projects adjacent to or in the riparian corridor. Grading shall be minimized within the riparian setback area. Grading shall not be permitted to damage the roots of riparian trees. Grading shall only take place during the dry season. (Ord. 677 § 7(D), 1989; Ord. 634 § 1, 1987)~~

17.95.040 — Noble Gulch riparian corridor regulations.

~~In the Noble Gulch riparian corridor the following are required:~~

~~A. Development in areas adjacent to the Noble Gulch riparian corridor shall be sited and designed to prevent impacts which would significantly degrade the area.~~

~~B. A minimum thirty five foot setback from the outer edge of riparian vegetation shall be required for all new development.~~

~~C. The applicant shall be required to retain a qualified professional to determine the location of the outer edge of riparian vegetation on the site and to evaluate the potential impact of development on the riparian area and report to the city in writing of his or her findings before final action is taken.~~

~~D. Removal of native riparian trees within the Noble Creek riparian corridor shall be prohibited unless it is determined by the community development director that such removal is in the public interest by reason of good forestry practice; disease of the tree; or safety considerations.~~

~~E. Snags, standing dead trees have high value as nesting sites and shall not be removed unless in imminent danger of falling. Removal shall be consistent with all applicable provisions of the Capitola tree cutting ordinance. Any such tree removal shall require replacement with a healthy young tree of an appropriate native riparian species.~~

~~F. Coastal development permit applications within or adjacent to the Noble Gulch riparian corridor shall be accompanied by landscaping plans which set forth the location and extent of any proposed modification to existing vegetation and the locations, kinds, and extent of new landscaping. The emphasis of such plans shall be on the maintenance and enhancement of native riparian species and the removal of existing invasive species. New invasive plant or tree species shall not be permitted.~~

~~G. Conformance to the Capitola erosion control ordinance (Chapter 15.28) shall be required. A drainage plan shall be provided for all projects adjacent to or in the riparian corridor. Grading shall be minimized within the riparian setback area and shall not be permitted to damage roots of riparian trees. Grading shall only take place during the dry season. (Ord. 685 § 9, 1989; Ord. 677 § 7(E), 1989; Ord. 634 § 1, 1987)~~

~~17.95.050 — Tannery Gulch riparian corridor regulations.~~

~~In the Tannery Gulch riparian corridor the following are required:~~

~~A. Development in areas adjacent to the Tannery Gulch riparian corridor shall be sited and designed to prevent impacts which would significantly degrade the area.~~

~~B. A fifty foot setback from the outer edge of riparian and oak woodland vegetation shall be required for all new development.~~

~~C. The applicant may be required to retain a qualified professional to determine the location of the outer edge of riparian or oak woodland vegetation on the site and to evaluate the potential impact of development on the riparian area and report to the city in writing of his or her findings before final action on the setback is taken.~~

~~D. Removal of native riparian trees within the Tannery Gulch riparian corridor shall be prohibited unless it is determined by the community development director that such removal is in the public interest by reason of good forestry practice; disease of the tree; or safety considerations.~~

~~E. Snags, or standing dead trees have high value as nesting sites and shall not be removed unless in imminent danger of falling. Removal shall be consistent with all applicable provisions of the Capitola tree cutting ordinance. Any such tree removal shall require replacement with a healthy young tree of an appropriate native riparian species.~~

~~F. Coastal development permit applications within or adjacent to the Tannery Gulch riparian corridor shall contain landscaping plans which set forth the location and extent of any proposed modification to existing vegetation and the locations, kinds, and extent of new landscaping. The emphasis of such plans shall be on the maintenance and enhancement of native riparian species and the removal of existing invasive species. New invasive plant or tree species shall not be permitted.~~

~~G. Conformance to the Capitola erosion control ordinance shall be required. A drainage plan shall be required for all development in the riparian area. Grading shall not be permitted within the riparian setback areas. Grading shall only take place during the dry season. (Ord. 634 § 1, 1987)~~

~~17.95.060 — Soquel Creek — Escalona Gulch Monarch butterfly habitat regulations.~~

~~In the habitat described in subsection A, the requirements of subsections B and following must be met:~~

~~A. Habitat Description. The Soquel Creek grove is located east of the intersection of Wharf Road and Clares Street, on the west side of the creek. The wintering site is part of the former Rispin Mansion property. Monterey pines, redwoods, and acacia are interspersed within the grove.~~

~~Escalona Gulch is located between the Southern Pacific railroad tracks and the ocean and is bounded on the immediate west side by a residential area and El Salto Resort. To the east is a residential area. The gulch is a steep-sided, deeply incised ravine with a small intermittent stream. A dense stand of eucalyptus trees with some Monterey pines and Monterey cypress completely fills the gulch. There is little native vegetation except for poison oak. The understory is overgrown with nonnative vines.~~

~~B. Development in areas adjacent to the butterfly groves shall be sited and designed to prevent impacts which would significantly degrade the areas.~~

~~C. The applicant shall be required to retain a qualified professional to determine the location of the outer edge of the Monarch habitat and to report to the city potential impacts and mitigation measures for proposed development.~~

~~D. Removal of trees within the perimeter of the habitat areas shall be prohibited unless it is determined by the community development director that such removal is necessary by reason of good forestry practice, disease of the tree, or safety considerations. Any such determinations, including tree maintenance or trimming, shall be accompanied by a written evaluation of the impacts of the proposed action on habitat resources by a qualified expert on the Monarch butterfly. Such report and investigations shall be arranged by the city and paid for by the applicant as part of environmental review.~~

~~E. Construction within or on properties contiguous to the designated butterfly groves shall be prohibited during fall and winter months when the Monarch butterflies are present. Removal or modification of trees within the groves shall not be permitted during these periods except when determined by the community development director to be a necessary emergency to protect human life or property.~~

~~F. Coastal development permit applications within or adjacent to the Soquel Creek Escalona Gulch Monarch butterfly habitats shall contain landscaping plans which set forth the location and extent of any proposed modifications to existing vegetation and the locations, kinds, and extent of new landscaping. The emphasis of such landscaping plans shall be on the maintenance and enhancement of the butterfly habitats.~~

~~G. Conformance to the Capitola erosion control ordinance shall be required. Grading shall be minimized within the riparian setback area. Grading shall not be permitted to damage the roots of trees within the butterfly habitat areas. Grading shall only take place during the dry season. (Ord. 677 § 7(F), 1989; Ord. 634 § 1, 1987)~~

17.95.061 — Escalona Gulch Monarch Butterfly Habitat — Additional regulations.

The following are additional regulations regarding the Escalona Gulch Monarch Butterfly Habitat:

On the Escalona Gulch properties (APNs 26 141 13 through 18) development shall be confined to Lots 2, 3 and 4 shown on Exhibit “A” attached to the ordinance codified in this section and found on file in the office of the city clerk (derived from Figure 3 of EIR for Residential Development on Robert Blodgett Property, March 1991).

To provide for the least environmentally damaging alternative, future construction of buildings, driveways and Escalona Drive shall minimize removal of trees and site coverage. Total building square footage shall be limited to six thousand square feet and building coverage shall not have a total footprint of more than four thousand square feet. The building(s) shall be located and designed so that they do not have a significant adverse impact on the Monarch butterfly habitat. The habitat, and area around it necessary to preserve the habitat, shall be placed in a conservation easement at the time of development.

Up to an additional six hundred square feet of footprint for driveway only may be allowed if a redesigned site plan, e.g., fewer buildings, relocated building(s) (including the six hundred square feet of driveway coverage), results in reduced impacts to the monarch grove habitat.

Prohibit development and removal of trees, understory and other vegetation on all lands outside the identified roadway and building envelopes through use of a conservation easement(s). The easement should be held by a government agency or organization authorized to monitor and enforce easement restrictions. Other trees and ground vegetation adjacent to the building envelopes shall not be trimmed or altered in any way unless reviewed by a qualified arborist and Monarch butterfly expert and approved by the city community development director.

Trees and vegetation within the Escalona Drive right of way, but outside any planned paved area, should be retained in their existing condition.

Building pads and driveways shall be designed to avoid removal of large trees. Large trees to be protected immediately adjacent to buildings should be evaluated by an arborist to assure that they will not pose a hazard in the future. Trees which are seriously diseased or hazardous should be trimmed or removed during the building process,

~~rather than having to disturb the habitat during some future winter season when falling limbs are the most likely to occur. If removal is deemed necessary, replanting shall be implemented in conjunction with the site replanting program.~~

~~Implement a tree replanting program for replacement of trees removed for construction developed in consultation with a qualified monarch butterfly expert and the California Department of Fish and Game. The trees shall be sited in strategic locations as identified by the replanting program.~~

~~Limit landscaping at future homesites to areas within identified building envelopes. Shrubs which flower in the early fall and could provide a good source of flower nectar for the butterflies should be planted based on a list of landscape suggestions written by a qualified Monarch butterfly biologist. Such a list shall be made available to homeowners.~~

~~Due to lack of a quantified data base and some disagreement among butterfly specialists, microclimatic measurements shall be taken before and after construction to help develop a data base regarding environmental parameters associated with butterfly behavior. Such monitoring shall be funded by the applicant and be conducted by a qualified Monarch butterfly expert. Monitoring shall include measurements of wind direction and velocity, temperature and humidity profiles and light intensity. Monitoring shall be conducted for three years after final construction on the property. Measurements of height, diameter, and age of cluster trees shall be taken the first year.~~

~~Utilize barrier fencing around large trees, especially cluster trees, for protection during construction.~~

~~Limit structure heights as needed to prevent shading of cluster sites.~~

~~Prohibit wood burning fireplaces in structures built on site where Monarch butterflies may be disturbed due to chimney smoke.~~

~~No construction involving heavy equipment that might bump into the cluster trees or produce heavy plumes of exhaust smoke should take place during the months in which the Monarchs are in residence (October 1st to March 1st).~~

~~Prepare and implement a drainage and erosion control plan which incorporates drainage devices (e.g., subsurface pipes, energy dissipators) to prevent long term erosion of side slopes leading to Escalona Gulch, as well as erosion control during construction. Erosion control measures should include limiting removal of vegetation, minimizing exposure of bare soils, replanting disturbed soils with suitable native species, controlling runoff, preventing sedimentation from entering drainages, and limiting construction to dry season. All areas outside immediate construction areas should not be disturbed. Require measures for temporary drainage retention during construction, mulching, erosion control seeding, and other measures as needed to prevent any sediment from reaching Escalona Gulch. (Ord. 752, 1993)~~

Chapter 17.97

~~WATER-EFFICIENT LANDSCAPING~~

Sections:

- ~~17.97.010 — Applicability.~~
- ~~17.97.020 — Purpose.~~
- ~~17.97.030 — Architectural and site review required.~~
- ~~17.97.040 — Landscape design plan.~~
- ~~17.97.050 — Irrigation design plan.~~
- ~~17.97.060 — Plant selection.~~
- ~~17.97.070 — Use of turf.~~
- ~~17.97.080 — Soil conditioning and mulching.~~
- ~~17.97.090 — Watering times.~~
- ~~17.97.100 — Water consumption.~~
- ~~17.97.110 — Decorative use of water.~~
- ~~17.97.120 — Provisions for existing landscapes.~~

~~17.97.010 — Applicability.~~

~~The regulations set forth in this chapter apply to all new construction and remodels for the following:~~

- ~~A. Commercial development;~~
- ~~B. Industrial development;~~
- ~~C. Multifamily development, excluding mobile home parks;~~
- ~~D. Planned development. (Ord. 744 § 1, 1992)~~

~~17.97.020 — Purpose.~~

~~The purpose of the water efficient landscaping ordinance is to promote the conservation and efficient use of water while respecting the economic, environmental, aesthetic and lifestyle choices of individuals and property owners in Capitola. (Ord. 744 § 1, 1992)~~

~~17.97.030 — Architectural and site review required.~~

~~Architectural and site approval shall be secured for the establishment of any new landscaping for commercial, industrial, multifamily and planned developments. (Ord. 744 § 1, 1992)~~

~~17.97.040 — Landscape design plan.~~

~~All landscape design plans shall include the following:~~

- ~~A. Existing and proposed walks;~~
- ~~B. Driveways;~~
- ~~C. Fences and retaining walls~~
- ~~D. Pools, ponds and other water bodies;~~
- ~~E. Location of existing and proposed planting zones. (Ord. 744 § 1, 1992)~~

~~17.97.050 — Irrigation design plan.~~

~~A. All irrigation systems shall be designed to avoid runoff, low head drainage, overspray or other similar conditions where water flows onto adjacent property, nonirrigated areas, walks, roadways or structures.~~

~~B. The following proper irrigation equipment shall be utilized where appropriate:~~

- ~~1. Separate landscape water meters for landscape areas exceeding five thousand square feet;~~
- ~~2. Irrigation controllers which are capable of percent adjustment, multiple programming and rain sensor;~~
- ~~3. Valves and circuits shall be separated based on water use and sun exposure. Separate valves for turf and nonturf and berm areas shall be installed;~~
- ~~4. Sprinkler heads and emitters shall be selected for proper area coverage, application rate, operation pressure, adjustment capability and ease of maintenance;~~
- ~~5. Rain-sensing override devices shall be required for all irrigation systems;~~
- ~~6. Drip or bubble irrigation shall be required for all trees;~~
- ~~7. State of California approved back flow prevention devices shall be installed on all irrigation systems. (Ord. 744 § 1, 1992)~~

17.97.060 — Plant selection.

- A. Plants shall be selected from the community development director's approved planting list on file in the office of the community development director. Other plant materials may be used, subject to approval by planning staff.
- B. ~~Ninety percent of the introduced plants shall be drought resistant.~~
- C. ~~Ten percent of the introduced plants need not be drought resistant.~~
- D. ~~Plants which are not drought resistant must be grouped together and irrigated separately from the drought-resistant plants.~~
- E. ~~Plants shall require minimal water once established. (Ord. 744 § 1, 1992)~~

17.97.070 — Use of turf.

- A. ~~Turf areas shall be limited to twenty five percent of the landscaped area.~~
- B. ~~The planning commission may approve larger areas if the lawn area provides functional open space.~~
- C. ~~Drought resistant grass species shall be used exclusively.~~
- D. ~~Turf shall not be used on berms or slopes where runoff is a problem.~~
- E. ~~Turf shall not be used for median islands where runoff is a problem. (Ord. 744 § 1, 1992)~~

17.97.080 — Soil conditioning and mulching.

~~Mulch shall be added to the soil surface in all landscape areas periodically. (Ord. 744 § 1, 1992)~~

17.97.090 — Watering times.

~~Watering shall start after six p.m. and end before ten a.m. (Ord. 744 § 1, 1992)~~

17.97.100 — Water consumption.

~~A five year plan for estimated total water use shall be submitted. (Ord. 744 § 1, 1992)~~

17.97.110 — Decorative use of water.

~~The planning commission may approve fountains and other types of decorative water bodies which use recirculated water and demonstrate to be a reasonably efficient water user. (Ord. 744 § 1, 1992)~~

17.97.120 — Provisions for existing landscapes.

~~All existing landscaped areas to which the city provides water that are one acre or more, including green belts, common areas, multifamily housing other than mobile home parks, schools, businesses, parks and publicly owned landscapes shall have a landscape irrigation audit at least every five years. (Ord. 744 § 1, 1992)~~

Chapter 17.98

WIRELESS COMMUNICATIONS FACILITIES

Sections:

- 17.98.010 Purpose and intent.
- 17.98.020 Definitions.
- 17.98.030 Applicability and exemptions.
- 17.98.040 Permit requirements.
- 17.98.050 Standard conditions of approval.
- 17.98.060 Preferred siting and location.
- 17.98.070 Development standards.
- 17.98.080 Operation and maintenance requirements.
- 17.98.090 Temporary wireless communications facilities.
- 17.98.100 Limited exemption from standards.
- 17.98.110 Severability.

17.98.010 Purpose and intent.

A. Purpose. This chapter establishes requirements for the development, siting, collocation, installation, modification, relocation, and operation of wireless communications facilities consistent with applicable state and federal laws. These requirements aim to protect public health, safety, and welfare while balancing the benefits of robust wireless services with the unique community character, aesthetics, and local values of the city of Capitola.

B. Intent. This chapter does not intend to, and shall not be interpreted or applied to:

1. Prohibit or effectively prohibit personal wireless services;
2. Unreasonably discriminate among wireless communications providers of functionally equivalent personal wireless services;
3. Regulate the installation, operation, collocation, modification, or removal of wireless facilities on the basis of the environmental effects of radio frequency (RF) emissions to the extent that such emissions comply with all applicable Federal Communications Commission (FCC) regulations;
4. Prohibit or effectively prohibit any collocation or modification that the city may not deny under state or federal law; or
5. Preempt any applicable state or federal law. (Ord. 1012 § 1 (part), 2017: Ord. 1009 § 1 (part), 2017: Ord. 862 § 1, 2003)

17.98.020 Definitions.

A. Terms Defined. Terms used in this chapter are defined as follows:

1. "Amateur radio facilities" are antennas and related equipment for the purpose of self-training, intercommunication, or technical investigations carried out by an amateur radio operator who operates without commercial interest, and who holds a written authorization from the Federal Communications Commission to operate an amateur radio facility.
2. "Antenna" means a device or system of wires, poles, rods, dishes, discs, or similar devices used to transmit and/or receive radio or electromagnetic waves.
3. "Applicable FCC decisions" means the same as defined by California Government Code Section 65964.1(d)(1), as may be amended, which defines that term as "In re Petition for Declaratory Ruling, 24 FCC Rcd. 13994 (2009) and In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd. 12865 (2014)."

4. “Array” means one or more antennas mounted at approximately the same level above ground on tower or base station.
5. “Base station” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(1), as may be amended, which defines that term as follows:
 - a. A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. Section 1.40001(b)(9) or any equipment associated with a tower.
 - b. “Base station” includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - c. “Base station” includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).
 - d. “Base station” includes any structure other than a tower that, at the time the relevant application is filed with the state or local government under 47 C.F.R. Section 1.40001, supports or houses equipment described in paragraphs (b)(1)(i) through (ii) of 47 C.F.R. Section 1.40001 that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
 - e. “Base station” excludes any structure that, at the time the relevant application is filed with the state or local government under 47 C.F.R. Section 1.40001, does not support or house equipment described in paragraphs (b)(1)(i) through (ii) of 47 C.F.R. Section 1.40001.
6. “Collocation” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(2), as may be amended, which defines that term as “[t]he mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.” As an illustration and not a limitation, the FCC’s definition effectively means “to add” new equipment to an existing facility and does not necessarily refer to more than one wireless facility installed at a single site.
7. “Eligible facilities request” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(3), as may be amended, which defines that term as “[a]ny request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) Collocation of new transmission equipment; (ii) Removal of transmission equipment; or (iii) Replacement of transmission equipment.”
8. “Eligible support structure” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(4), as may be amended, which defines that term as “[a]ny tower or base station as defined in [47 C.F.R. Section 1.40001], provided that it is existing at the time the relevant application is filed with the State or local government under [47 C.F.R. Section 1.40001].”
9. “Existing” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(5), as may be amended, which provides that “[a] constructed tower or base station is existing for purposes of the [FCC rules implementing Section 6409 of the Spectrum Act] if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.”
10. “FCC” means the Federal Communications Commission or its successor agency.

11. "Personal wireless services" has the same meaning as provided in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which defines the term as "commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services."
12. "Section 6409(a)" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. Section 1455(a), as may be amended.
13. "Service provider" means a wireless communications provider, company or organization, or the agent of a company or organization that provides wireless communications services.
14. "Significant gap" is a gap in the service provider's own wireless telecommunications facilities, as defined in federal case law interpretations of the Federal Telecommunications Act of 1996.
15. "Site" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(6), as may be amended, which provides that "[f]or towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground."
16. "Stealth facility" is any facility designed to blend into the surrounding environment, and is visually unobtrusive. Examples of stealth facilities may include architecturally screened roof-mounted antennas, facade-mounted antennas painted and treated as architectural elements to blend with the existing building, or elements designed to appear as vegetation or trees. Also referred to as concealed communications facilities.
17. "Substantial change" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(7), as may be amended, which defines that term differently based on the particular facility type and location. For clarity, the definition in this chapter organizes and paraphrases the FCC's criteria and thresholds for a substantial change according to the facility type and location. The definition of substantial change contained in this section shall be interpreted and applied so as to be consistent with 47 C.F.R. Section 1.40001(b)(7) (as may be amended) and the applicable FCC decisions, rules and orders and court rulings relating to the same. In the event of any conflict between the definition of substantial change contained in this section and the definition contained in 47 C.F.R. Section 1.40001(b)(7) (as may be amended), 47 C.F.R. Section 1.40001(b)(7) (as may be amended) shall govern and control.
 - a. For towers outside the public right-of-way, a substantial change occurs when:
 - i. The proposed collocation or modification increases the overall height more than ten percent or the height of one additional antenna array not to exceed twenty feet (whichever is greater); or
 - ii. The proposed collocation or modification involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance (whichever is greater); or
 - iii. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four cabinets; or
 - iv. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
 - b. For towers in the public right-of-way and for all base stations, a substantial change occurs when:
 - i. The proposed collocation or modification increases the overall height more than ten percent or ten feet (whichever is greater); or
 - ii. The proposed collocation or modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet; or

- iii. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four cabinets; or
 - iv. The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no pre-existing ground cabinets associated with the structure; or
 - v. The proposed collocation or modification involves the installation of any ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure; or
 - vi. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
- c. In addition, for all towers and base stations wherever located, a substantial change occurs when:
- i. The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the community development director; or
 - ii. The proposed collocation or modification violates a prior condition of approval; provided, however, that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets, or excavation that is inconsistent with the thresholds for a substantial change described in this section.
- d. Interpretation of Thresholds.
- i. The thresholds for a substantial change described above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur.
 - ii. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).
18. “Temporary wireless communications facility” means a wireless communications facility located on a parcel of land and consisting of a vehicle-mounted facility, a building-mounted antenna, or a similar facility, and associated equipment, that is used to provide temporary coverage for a large-scale event or an emergency, or to provide temporary replacement coverage due to the removal of an existing permitted, permanent wireless communications facility necessitated by the demolition or major alteration of a nearby property.
19. “Tower” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(9), as may be amended, which defines that term as “[a]ny structure built for the sole or primary purpose of supporting any [FCC]-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.” Examples include, but are not limited to, monopoles, mono-trees, and lattice towers.
20. “Transmission equipment” means the same as defined by the FCC in 47 C.F.R. Section 140001(b)(8), as may be amended, which defines that term as “[e]quipment that facilitates transmission for any [FCC]-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.”
21. “Wireless” means any FCC-licensed or authorized wireless communications service transmitted over frequencies in the electromagnetic spectrum.

22. “Wireless communications facility” is a facility that sends and/or receives radio frequency signals, AM/FM, microwave, and/or electromagnetic waves for the purpose of providing voice, data, images or other information, including, but not limited to, cellular and/or digital telephone service, personal communications services, and paging services. Wireless communications facilities include antennas and all other types of equipment for the transmission or receipt of such signals; towers or similar structures built to support such equipment; equipment cabinets, base stations, and other accessory development; and screening and concealment elements. (Also referred to as “facility.”)

23. “Wireless communications provider” is any company or organization that provides or who represents a company or organization that provides wireless communications services. (Also referred to as “service provider.”)

24. “Zoning code” means the city of Capitola zoning code.

B. Terms Not Defined. Terms not defined in this section shall be interpreted to give this chapter its most reasonable meaning and application, consistent with applicable state and federal law. (Ord. 1012 § 1 (part), 2017: Ord. 1009 § 1 (part), 2017: Ord. 862 § 1, 2003)

17.98.030 Applicability and exemptions.

A. Applicability. This chapter applies to all new facilities and all modifications to existing facilities proposed after the effective date of this chapter unless exempted by subsection B of this section (Exemptions).

B. Exemptions. This chapter does not apply to:

1. Amateur radio facilities;
2. Direct-to-home satellite dishes, TV antennas, wireless cable antennas, and other OTARD antennas covered by the over-the-air reception devices rule in 47 Code of Federal Regulations (C.F.R.) Section 1.4000 et seq.;
3. Noncommercial wireless communications facilities owned and operated by a public agency, including but not limited to the city of Capitola; and
4. All antennas and wireless facilities identified by the FCC or the California Public Utilities Commission (CPUC) as exempt from local regulations. (Ord. 1012 § 1 (part), 2017: Ord. 1009 § 1 (part), 2017: Ord. 862 § 1, 2003)

17.98.040 Permit requirements.

A. Required Permits. Wireless communications facilities are grouped into four tiers, each with its own permit requirement as shown in Table 17.98-1.

TABLE 17.98-1: WIRELESS COMMUNICATIONS FACILITY TIERS AND REQUIRED PERMITS*

	Types of Facilities	Permit Required
Tier 1	Modifications to an existing facility that qualify as an “eligible facility request” as defined in Section 17.98.020(A)(7).	Section 6409(a) Permit
Tier 2	Building- and facade-mounted facilities in the C-C, C-R, or I zoning district when the proposed facility (1) is a stealth facility, (2) does not generate noise in excess of the city’s noise regulations and (3) does not exceed the applicable height limit in the applicable zoning district.	Administrative Permit
	Pole-mounted facilities in the public right-of-way consistent with Section 17.98.070(D) when the facility is either (1) incorporated into a steel pole with all antennas, equipment, and cabling entirely concealed from view, or (2) mounted to a wood pole with all equipment other than antennas located substantially underground and pole-mounted equipment, where necessary, extends no more than two feet horizontally and five feet vertically from the pole.	
	A collocation that is not a Tier 1 facility.	
	A modification to an eligible support structure that is not a Tier 1 facility.	

	Types of Facilities	Permit Required
Tier 3	Building- and facade-mounted facilities in the C-C, C-R, or I zoning district that are not Tier 2 facilities.	Minor Use Permit
	Building- and facade-mounted facilities in the MU-V, MU-N, VA, or CF zoning district.	
	Pole-mounted facilities in the public right-of-way consistent with Section 17.98.070(D) that are not Tier 2 facilities.	
Tier 4	New towers in any zoning district.	Conditional Use Permit
	Any facility in the R-1, RM, or MH zoning district. ¹	
	Any facility within a public park or open space.	
	Any facility that is not a Tier 1, 2, or 3 facility.	

¹ Except pole-mounted facilities located in a public right-of-way that qualify as either a Tier 2 or 3 facility.

* Any wireless communications facility located in the city's coastal zone may also require a coastal development permit per Chapter 17.46 (CZ Coastal Zone Combining District), in which case the public notice and hearing requirements (and required findings) set forth in Chapter 17.46 will also apply.

B. Review Authority.

1. Tier 1 and Tier 2 Facilities. The community development director shall review and take action on all Section 6409(a) permit applications for Tier 1 facilities and administrative permit applications for Tier 2 facilities.

2. Tier 3 Facilities. The community development director shall review and take action on minor use permit applications for Tier 3 facilities. If a member of the public requests a public hearing in accordance with subsection (H)(3) of this section (Tier 3 Facilities (Minor Use Permit)), the community development director may refer the application to the planning commission for review and final decision.

3. Tier 4 Facilities. The planning commission shall review and take action on conditional use permit applications for Tier 4 facilities.

C. Conflicting Provisions. Conditional use permits required for a wireless communications facility shall be processed in compliance with Chapter 17.60 (Conditional Use Permits) and with this chapter. In the event of any conflict between this chapter and Chapter 17.60 (Conditional Use Permits), this chapter shall govern and control.

D. Coastal Zone. A coastal development permit may also be required for any wireless communications facility located (or proposed to be located) in the city's coastal zone. Coastal development permits required for wireless communications facilities shall be processed in conformance with Chapter 17.46 (CZ Coastal Zone Combining District, as may be amended) and with this chapter. In the event of any conflict between this chapter and Chapter 17.46 (as may be amended), Chapter 17.46 shall govern and control, to the extent consistent with applicable federal law (including, but not limited to, the Telecommunications Act of 1996, Section 6409(a), and applicable FCC decisions, rules and orders) and not preempted by applicable state or federal law.

E. Other Permits. A permit issued under this chapter is not in lieu of any other permit required under the municipal code (including, but not limited to, coastal development permits, encroachment permits, building permits, etc.), except as specifically provided in this chapter. In addition to any Section 6409(a) permit, administrative use permit, minor use permit, or conditional use permit that may be required under this chapter, the applicant must obtain all other required permits and/or approvals from other city departments, and/or state or federal agencies.

F. Pre-Application Conference.

1. The city encourages prospective applicants to request a pre-application conference with the community development department before completing and filing a permit application.

2. The purpose of this conference is to:

a. Inform the applicant of city requirements as they apply to the proposed project;

- b. Inform the applicant of the city's review process;
 - c. Identify information and materials the city will require with the application; and
 - d. Provide guidance to the applicant of possible project alternatives or modifications.
3. The pre-application conference and any information provided to prospective applicants by city staff shall not be construed as a recommendation for approval or denial of an application.
4. Failure by city staff to identify all permit requirements shall not constitute a waiver of those requirements.

G. Permit Application and Review.

1. Application Required. All permits granted under this chapter shall require an application filed and reviewed in compliance with this chapter. All permit applications shall be filed with the community development department on an official city application form. Applications shall be filed with all required fees, information, and materials as specified by the community development department.
2. Eligibility for Filing.
- a. An application may only be filed by the property owner or the property owner's authorized agent.
 - b. The application shall be signed by the property owner or the property owner's authorized agent if written authorization from the owner is filed concurrently with the application.
3. Application Contents. All applications shall include the following:
- a. The applicable application fee(s) established by the city. Fees required to process permit applications are identified in the planning fee schedule approved by the city council;
 - b. A fully completed and executed application using an official city application form;
 - c. The application must state what approval is being sought (i.e., conditional use permit, minor use permit, administrative permit, or Section 6409(a) permit). If the applicant believes the application is for a Section 6409(a) permit, the applicant must provide a detailed explanation as to why the applicant believes that the application qualifies as an eligible facilities request subject to a Section 6409(a) permit;
 - d. A completed and signed application checklist available from the city, including all the information, materials, and fees specified in the city's application checklist for proposed wireless communications facilities;
 - e. If the proposed facility is to be located on a city-owned building or structure, the application must be signed by an authorized representative of the city;
 - f. For Section 6409(a) permits and administrative permits involving a collocation or modification to an eligible support structure, the application must be accompanied by all prior approvals for the existing facility (including but not limited to all conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment), as well as all permit applications with required application materials for each separate permit required by the city for the proposed facility, including but not limited to a building permit and an encroachment permit (if applicable); and
 - g. All other materials and information required by the community development director as publicly stated in the application checklist(s).
4. Application Fees.
- a. The city may deem an application complete only after all required fees have been paid.

- b. Failure to pay any required supplemental application fees is a basis for denial or revocation of a permit application.
- c. The city will not refund fees for a denied application.

5. Application Review.

- a. The application processing time for applications subject to this chapter shall be in conformance with the time periods and procedures established by applicable FCC decisions, adjusted for any tolling due to incomplete application notices or mutually agreed upon extensions of time.
- b. The community development department shall review each application for completeness and accuracy before it is accepted as being complete. The community development department's determination of completeness shall be based on the city's list of required application contents and any additional written instructions provided to the applicant in a pre-application conference and during the initial application review period.
- c. Within thirty calendar days of the community development department's receipt of an application, the community development department shall inform the applicant in writing that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information is required.
- d. When an application is incomplete as filed, the applicable time frame for the city's review and action on such application does not include the time that the applicant takes to respond to the community development department's request for additional information. The applicable time frame for the city's review and action on the application shall be tolled until the applicant makes a supplemental submission, responding to the community development department's request for additional information. The time frame for review begins running again when the applicant makes a supplemental submission in response to the community development department's notice of incompleteness.
- e. Additional required information shall be submitted in writing.
- f. After an applicant responds to an incomplete notice and submits additional information, the community development department will notify the applicant within ten days of the community development department's receipt of the supplemental submission if the additional information failed to complete the application. The applicable time frame for the city's review and action on the application shall be tolled until the applicant makes a supplemental submission, responding to the community development department's request for additional information.

6. Project Evaluation and Staff Report.

- a. The community development department shall review all applications to determine if they comply with this chapter, the zoning code, the general plan, and other applicable federal and state laws and city policies and regulations.
- b. For all applications requiring review by the planning commission, the community development department shall prepare a staff report describing the proposed project and including, where appropriate, a recommendation to approve, approve with conditions, or deny the application.

7. Applications Deemed Withdrawn.

- a. If an applicant does not pay required supplemental fees or provide information requested in writing by the community development department within nine months following the date of the letter requesting such fees and/or information, the application shall expire and be deemed withdrawn without any further action by the city.
- b. After the expiration of an application, future city consideration shall require the submittal of a new complete application and associated filing fees.

H. Public Notice and Hearing.

1. All Facilities. Public notice of pending decision or hearing for all facilities shall contain the following:
 - a. A description of the proposed facility, collocation, or modification.
 - b. The location of the subject property.
 - c. Required permits and approvals.
 - d. How the public can obtain additional information on the proposed project.
2. Tier 1 Facilities (Section 6409(a) Permit) and Tier 2 Facilities (Administrative Permit).
 - a. City approval or denial of a Tier 1 or Tier 2 facility is a ministerial action which does not require a public hearing.
 - b. The applicant shall post notice of pending action on a Tier 1 or Tier 2 facility application on the subject property at least ten calendar days prior to the city taking action on the application.
 - c. In addition to the information identified in subsection (H)(1) of this section (All Facilities), the notice of a pending action for Tier 1 facilities shall contain the following statement: "Federal law may require approval of this application. Further, Federal Communications Commission Regulations may deem this application granted by the operation of law unless the city timely approves or denies the application, or the city and applicant reach a mutual tolling agreement."
3. Tier 3 Facilities (Minor Use Permit).
 - a. A public hearing for a Tier 3 facility is required only if the community development director receives a written request for a public hearing from the public.
 - b. The city shall mail public notice of a pending action on a Tier 3 facility to the owners of the real property located within a radius of one hundred feet from the exterior boundaries of the subject property at least ten calendar days prior to the city taking action on the application.
 - c. In addition to the information identified in subsection (H)(1) of this section (All Facilities), the notice of a pending action shall contain a statement that the city is considering the application and that the community development director will hold a public hearing for the application only upon receiving by a specified date written request for a hearing.
 - d. If the city receives a request for a public hearing by the specified date, the community development director shall hold a noticed public hearing on the application or refer the application to the planning commission for review and final decision. Public notice of the requested public hearing will be mailed to the owners of real property located within a radius of one hundred feet from the exterior boundaries of the subject property.
 - e. If no written request for a public hearing is received by the specified date, the community development director shall act on the application without a public hearing.
4. Tier 4 Facilities. (Conditional Use Permit).
 - a. The planning commission shall review and take action on Tier 4 facility applications at a noticed public hearing in conformance with this chapter and Chapter 17.60 (Conditional Use Permits), as may be amended from time to time.
 - b. At least ten calendar days prior to the scheduled hearing date, the city shall provide public notice of the hearing by:

i. Mailing public notice of the hearing to the following recipients:

- (A) The owners of the subject property or the owner's authorized agent and the applicant;
- (B) The owners of the real property located within a radius of six hundred feet from the exterior boundaries of the subject property;
- (C) Each local agency expected to provide essential facilities or services to the subject property;
- (D) Any person who has filed a written request for notice with the community development department; and
- (E) Any other person, whose property, in the judgment of the community development department, might be affected by the proposed project; and

ii. Posting a printed notice at the project site.

c. If the number of property owners to whom notice would be mailed in compliance with subsection (H)(4)(b)(i) of this section is more than one thousand, the community development department may choose to provide notice by placing a display advertisement of at least one-eighth page in one or more local newspapers of general circulation at least ten calendar days prior to the scheduled hearing date.

d. In addition to the types of notice required above, the community development department may provide additional notice as determined necessary or desirable.

e. The validity of the hearing shall not be affected by the failure of any resident, property owner, or community member to receive a mailed notice.

f. In addition to the information identified in subsection (H)(1) of this section (All Facilities), the notice of a public hearing shall identify the date, location, and time of the hearing.

I. Applicant Notifications for Deemed Granted Remedies. Under state and/or federal law, the city's failure to act on a wireless communications facility permit application within a reasonable period of time in accordance with the time periods and procedures established by applicable FCC decisions, accounting for tolling, may result in the permit being deemed granted by operation of law. To the extent federal or state law provides a "deemed granted" remedy for wireless communications facility applications not timely acted upon by the city, no such application shall be deemed granted unless and until the applicant satisfies the following requirements:

1. For all Tier 2, Tier 3 and Tier 4 facility applications:

a. Completes all public noticing required pursuant to subsection H of this section (Public Notice and Hearings) and California Government Code Section 65091 to the community development director's satisfaction.

b. No more than thirty days before the date by which the city must take final action on the application (as determined in accordance with the time periods and procedures established by applicable FCC decisions and accounting for tolling), the applicant must provide the following written notice to the city and other specified recipients as follows:

i. For Tier 2 facilities, the written notice shall be delivered to the city and posted on the subject property.

ii. For Tier 3 facilities, the written notice shall be delivered to the city and mailed to the owners of the subject property (or the owner's authorized agent), and the owners of the real property located within a radius of one hundred feet from the exterior boundaries of the subject property and any person who has filed a written request for notice with the community development department.

- iii. For Tier 4 facilities, the written notice shall be delivered to the city and mailed to the owners of the subject property (or the owner's authorized agent), the owners of the real property located within a radius of six hundred feet from the exterior boundaries of the subject property, each local agency expected to provide essential facilities or services to the subject property, any person who has filed a written request for notice with the community development department, and any other person identified by the community development department as a person whose property might be affected by the proposed project.
 - iv. The notice shall be delivered to the city in person or by certified United States mail.
 - v. The notice must state that the applicant has submitted an application to the city, describe the location and general characteristics of the proposed facility, and include the following statement: "Pursuant to California Government Code Section 65964.1, state law may deem the application approved in thirty days unless the city approves or denies the application, or the city and applicant reach a mutual tolling agreement."
2. For all facility applications:
- a. Submits a complete application package consistent with the application procedures specified in this chapter and applicable federal and state laws and regulations.
 - b. Following the date by which the city must take final action on the application (as determined in accordance with the time periods and procedures established by applicable FCC decisions and accounting for tolling), the applicant must provide notice to the city that the application is deemed granted by operation of law.

J. Basis for Approval—Tier 1 Facilities.

1. This subsection shall be interpreted and applied so as to be consistent with the Telecommunications Act of 1996, Section 6409(a), and the applicable FCC and court decisions and determinations relating to the same. In the event that a court of competent jurisdiction invalidates all or any portion of Section 6409(a) or a FCC rule or regulation that interprets Section 6409(a), such that federal law would not mandate approval for any eligible facilities request, then all proposed modifications to existing facilities subject to this section must be approved by an administrative permit, minor use permit, or conditional use permit, as applicable, and subject to the discretion of the community development director.
2. To the extent required by applicable state and/or federal law, the community development director shall approve a Section 6409(a) permit for a Tier 1 facility upon finding that the proposed facility qualifies as an eligible facilities request and does not cause a substantial change as defined in Section 17.98.020 (Definitions).
3. In addition to any other alternative recourse permitted under federal law, the community development director may deny a Section 6409(a) permit upon finding that the proposed facility:
 - a. Defeats the effect of existing concealment elements of the support structure;
 - b. Violates any legally enforceable standard or permit condition related to compliance with generally applicable building, structural, electrical and/or safety codes;
 - c. Violates any legally enforceable standard or permit condition reasonably related to public health and/or safety; or
 - d. Otherwise does not qualify for mandatory approval under Section 6409(a) for any lawful reason.

K. Basis for Approval—Tier 2 Facilities. To approve an administrative permit for a Tier 2 facility, the community development director must find that the proposed facility complies with the requirements of this chapter and all other applicable requirements of the zoning code.

L. Basis for Approval—Tier 3 and 4 Facilities. To approve a minor use permit or conditional use permit for a proposed Tier 3 or Tier 4 facility, the review authority must make all of the following findings:

1. The facility is consistent with the requirements of this chapter.
2. The facility is allowed in the applicable zoning district.
3. The facility is consistent with the general plan, local coastal program, zoning code, and any applicable specific plan or area plan adopted by the city council.
4. The location, size, design, and operating characteristics of the facility will be compatible with the existing and planned land uses in the vicinity of the property.
5. The facility will not be detrimental to the public health, safety, and welfare.
6. The facility is properly located within the city and adequately served by existing or planned services and infrastructure.

M. Appeals.

1. Tier 1 Facilities. Community development director decisions on a Section 6409(a) permit are final and may not be appealed.
2. Tier 2 and 3 Facilities. Community development director decisions on an administrative permit for a Tier 2 facility and a minor use permit for a Tier 3 facility may be appealed to the planning commission in a manner consistent with the process described in Chapter 2.52 (Appeals to City Council). Planning commission decisions on such an appeal may be appealed to the city council.
3. Tier 4 Facilities. Planning commission decisions on a conditional use permit for a Tier 4 facility may be appealed to the city council in accordance with Chapter 2.52 (Appeals to City Council).

N. Permit Revocation.

1. Basis for Revocation. The city may revoke a permit for a wireless communications facility for noncompliance with any enforceable permit, permit condition, or law applicable to the facility.
2. Revocation Procedures.
 - a. When the community development director finds reason to believe that grounds for permit revocation exist, the director shall send written notice to the permit holder that states the nature of the violation or noncompliance and a means to correct the violation or noncompliance. The permit holder shall have a reasonable time from the date of the notice (not to exceed sixty calendar days from the date of the notice or a lesser period if warranted by a public emergency) to correct the violation or cure the noncompliance, or show that the violation has not occurred or the facility is in full compliance.
 - b. If after receipt of the notice and opportunity to cure described in subsection (N)(2)(a) of this section, the permit holder does not correct the violation or cure the noncompliance (or demonstrate full compliance), the community development director may schedule a public hearing before the planning commission at which the planning commission may modify or revoke the permit.
 - c. For permits issued by the community development director, the community development director may revoke the permit without such public hearing. The community development director decision to revoke may be appealed to the planning commission.
 - d. The planning commission may revoke the permit upon making one or more of the following findings:
 - i. The permit holder has not complied with any enforceable permit, permit condition, or law applicable to the facility.

- ii. The wireless communications provider has failed to comply with the conditions of approval imposed.
- iii. The permit holder and/or wireless communications provider has failed to submit evidence that the wireless communications facility complies with the current FCC radio frequency standards.
- iv. The wireless communications facility fails to comply with the requirements of this chapter.
- e. The planning commission's decision may be appealed to the city council in accordance with Chapter 2.52 (Appeals to City Council).
- f. Upon revocation, the city may take any legally permissible action or combination of actions necessary to protect public health, safety and welfare.

O. Cessation of Operations.

1. Notice to City. Wireless communications providers shall provide the city with a notice of intent to vacate a site a minimum of thirty days prior to the vacation.
2. New Permit Required. A new permit shall be required if a site is to be used again for the same purpose as permitted under the original permit if a consecutive period of six months has lapsed since cessation of operations.
3. Removal of Equipment. The service provider or property owner shall remove all obsolete and/or unused facilities and associated equipment from the site within one hundred eighty days of the earlier of:
 - a. Termination of the lease with the property owner; or
 - b. Cessation of operations.

P. Abandonment.

1. To promote the public health, safety and welfare, the community development director may declare a facility abandoned or discontinued when:
 - a. The permit holder or service provider abandoned or discontinued the use of a facility for a continuous period of ninety days; or
 - b. The permit holder or service provider fails to respond within thirty days to a written notice from the community development director that states the basis for the community development director's belief that the facility has been abandoned or discontinued for a continuous period of ninety days; or
 - c. The permit expires and the permit holder or service provider has failed to file a timely application for renewal.
2. After the community development director declares a facility abandoned or discontinued, the permit holder or service provider shall have sixty days from the date of the declaration (or longer time as the community development director may approve in writing as reasonably necessary) to:
 - a. Reactivate the use of the abandoned or discontinued facility subject to the provisions of this chapter and all conditions of approval; or
 - b. Remove the facility and all improvements installed in connection with the facility (unless directed otherwise by the community development director), and restore the site to its original pre-construction condition in compliance with all applicable codes and consistent with the previously existing surrounding area.

3. If the permit holder and/or service provider fail to act as required in subsection (P)(2) of this section within the prescribed time period, the following shall apply:

- a. City may but is not obligated to remove the abandoned facility, restore the site to its original pre-construction condition, and repair any and all damages that occurred in connection with such removal and restoration work.
- b. The city may but is not obligated to store the removed facility or any part thereof, and may use, sell or otherwise dispose of it in any manner the city deems appropriate.
- c. The last-known permit holder (or its successor-in-interest), the service provider (or its successor-in-interest), and, if on private property, the real property owner shall be jointly liable for all costs and expenses incurred by the city in connection with its removal, restoration, repair and storage, and shall promptly reimburse the city upon receipt of a written demand, including, without limitation, any interest on the balance owing at the maximum lawful rate.
- d. The city may but is not obligated to use any financial security required in connection with the granting of the facility permit to recover its costs and interest.
- e. Until the costs are paid in full, a lien shall be placed on the facility, all related personal property in connection with the facility and, if applicable, the real private property on which the facility was located for the full amount of all costs for removal, restoration, repair and storage (plus applicable interest). The city clerk shall cause the lien to be recorded with the county of Santa Cruz recorder's office. Within sixty days after the lien amount is fully satisfied including costs and interest, the city clerk shall cause the lien to be released with the county of Santa Cruz recorder's office.

4. If a permit holder, service provider, and/or private property owner fails to comply with any provisions of this subsection P (Abandonment), the city may elect to treat the facility as a nuisance to be abated as provided in Title 4 (General Municipal Code Enforcement).

Q. Relocation for Facilities in the Right-of-Way.

1. The public works director may require a permit holder to relocate and/or remove a facility in the public right-of-way as the city deems necessary to:
 - a. Change, maintain, repair, protect, operate, improve, use, and/or reconfigure the right-of-way for other public projects; or
 - b. Take any actions necessary to protect the public health, safety and welfare.
2. The public works director shall provide the permit holder with adequate written notice identifying a specified date by which the facility must be relocated and/or removed.
3. The relocation and/or removal of the facility shall be at the permit holder's sole cost and expense and in accordance with the standards in this chapter applicable to the facility.

R. Transfer of Ownership.

1. Notice. Any wireless communications provider that is buying, leasing, or is considering a transfer of ownership of a previously approved facility shall submit a letter of notification of intent to the community development director a minimum of thirty days prior to the transfer.
2. Responsibilities. In the event that the original permit holder sells its interest in a wireless communications facility, the succeeding carrier shall assume all facility responsibilities and liabilities and shall be held responsible for maintaining consistency with all permit requirements and conditions of approval.

3. Contact Information. A new contact name for the facility shall be provided by the succeeding provider to the community development department within thirty days of transfer of interest of the facility. (Ord. 1012 § 1 (part), 2017; Ord. 1009 § 1 (part), 2017)

17.98.050 Standard conditions of approval.

All wireless communications facilities approved through a city permit or deemed granted by operation of law shall comply with the following standard conditions of approval. Standard conditions of approval shall apply in addition to other conditions of approval attached to the project by the review authority in compliance with the zoning code and as allowed by state and federal law.

A. All Facilities. The following standard conditions of approval apply to all facilities and shall be included in all administrative permits, minor use permits, and conditional use permits:

1. Compliance with Chapter. The facility shall comply with the requirements of this chapter, including but not limited to requirements in Sections 17.98.070 (Development standards) and 17.98.080 (Operation and maintenance requirements).
2. Compliance with Applicable Laws. The permit holder and service provider shall at all times comply with all applicable provisions of the zoning code, any permit issued under the zoning code, and all other applicable federal, state and local laws, rules and regulations. Failure by the city to enforce compliance with applicable laws shall not relieve any applicant of its obligations under the municipal code (including, but not limited to, the zoning code), any permit issued under the zoning code, or any other applicable laws, rules, and regulations.
3. Compliance with Approved Plans. The facility shall be built in compliance with the approved plans on file with the community development department.
4. Approval Term. The validly issued administrative permit, minor use permit, or conditional use permit for the wireless communications facility shall be valid for an initial maximum term of ten years, except when California Government Code Section 65964(b), as may be amended, authorizes the city to issue a permit with a shorter term. The approval may be administratively extended by the community development director from the initial approval date for a subsequent five years and may be extended by the director every five years thereafter upon verification that the facility continues to comply with this chapter and conditions of approval under which the facility was originally approved. Costs associated with the review process shall be borne by the service provider, permit holder, and/or property owner.
5. Inspections—Emergencies. The city or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the permit holder. The permit holder and service provider shall cooperate with all inspections. The city reserves the right to enter or direct its designee the facility and support, repair, disable, or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
6. Contact Information for Responsible Parties. The permit holder and service provider shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address, and email address for at least one person. All such contact information for responsible parties shall be provided to the community development director upon request.
7. Graffiti Removal. All graffiti on facilities must be removed at the sole expense of the permit holder within forty-eight hours after notification from the city.
8. FCC (Including, but Not Limited to, RF Exposure) Compliance. All facilities must comply with all standards and regulations (including, but not limited to, those relating to RF exposure) of the FCC and any other state or federal government agency with the authority to regulate such facilities. The city may require submission on an ongoing basis of documentation evidencing that the facility and any collocated facilities complies with applicable RF exposure standards and exposure limits and affirmations, under penalty of perjury, that the subject facilities are FCC compliant and will not cause members of the general public to be exposed to RF levels that exceed the maximum permissible exposure (MPE) levels deemed safe by the FCC.

9. Implementation and Monitoring Costs. The permit holder and service provider (or their respective successors) shall be responsible for the payment of all reasonable costs associated with the monitoring of the conditions of approval, including, without limitation, costs incurred by the community development department, the public works department, the city manager's department, the office of the city attorney and/or any other appropriate city department or agency. The community development department shall collect costs on behalf of the city.

10. Indemnities. The permit holder, service provider, and, if applicable, the nongovernment owner of the private property upon which the facility, tower and/or base station is installed (or is to be installed) shall defend (with counsel satisfactory to the city), indemnify and hold harmless the city of Capitola, its officers, officials, directors, agents, representatives, and employees (a) from and against any and all damages, liabilities, injuries, losses, costs and expenses and from and against any and all claims, demands, lawsuits, judgments, writs of mandamus and other actions or proceedings brought against the city or its officers, officials, directors, agents, representatives, or employees to challenge, attack, seek to modify, set aside, void or annul the city's approval of the permit, and (b) from and against any and all damages, liabilities, injuries, losses, costs and expenses and any and all claims, demands, lawsuits, judgments, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of, in connection with or relating to the acts, omissions, negligence, or performance of the permit holder, the service provider, and/or, if applicable, the private property owner, or any of each one's agents, representatives, employees, officers, directors, licensees, contractors, subcontractors or independent contractors. It is expressly agreed that the city shall have the right to approve (which approval shall not be unreasonably withheld) the legal counsel providing the city's defense, and the property owner, service provider, and/or permit holder (as applicable) shall reimburse city for any and all costs and expenses incurred by the city in the course of the defense.

B. Tier 1 Facilities. In addition to the applicable conditions in subsection A of this section (All Facilities), all Tier 1 facilities shall comply with and all Section 6409(a) permits shall include the following standard conditions of approval:

1. No Permit Term Extension. The city's grant or grant by operation of law of a Section 6409(a) permit constitutes a federally mandated modification to the underlying permit or approval for the subject tower or base station. The city's grant or grant by operation of law of a Section 6409(a) permit will not extend the permit term for any conditional use permit, minor use permit, administrative permit or other underlying regulatory approval and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station. If requested in writing by the applicant at the time of application submittal, the permit term for the underlying conditional use permit, minor use permit, administrative permit or other underlying regulatory approval may be administratively extended by the community development director (at his/her discretion) from the initial approval date upon verification that the facility continues to comply with this chapter and conditions of approval under which the facility was originally approved.

2. No Waiver of Standing. The approval of a Section 6409(a) permit (either by express approval or grant by operation of law) does not waive, and shall not be construed to waive, any standing by the city to challenge Section 6409(a), any FCC rules that interpret Section 6409(a), or any eligible facilities request. (Ord. 1012 § 1 (part), 2017; Ord. 1009 § 1 (part), 2017)

17.98.060 Preferred siting and location.

The following siting and location preferences apply to all proposed new facilities and substantial changes to existing facilities.

A. Preferred Siting. To the extent feasible, all proposed facilities should be sited according to the following preferences, ordered from most preferred to least preferred:

1. Sites on a city owned or controlled parcel (excluding public parks and/or open spaces); then
2. Collocations on eligible support structures in the public right-of-way; then
3. Collocations on eligible support structures outside of the public right-of-way; then

4. New base stations in the public right-of-way; then
5. New base stations outside of the public right-of-way; then
6. New towers in the public right-of-way; then
7. New towers outside the public right-of-way.

B. Discouraged Siting—Utility Poles in Planned Utility Undergrounding Project Areas. The city discourages the placement of new facilities on utility poles within the public right-of-way in areas where there is a planned utility undergrounding project. In such cases, new facilities should be placed on utility poles within the planned utility undergrounding project area only if an alternative placement is infeasible or undesirable based on the standards and/or criteria contained in this chapter. If a utility undergrounding project is initiated, the city may require the removal of any facilities on utility poles in the public right-of-way in accordance with Section 17.98.040(Q) (Relocation for Facilities in the Right-of-Way).

C. Preferred Locations—General. All applicants should, to the extent feasible, locate proposed facilities in nonresidential zoning districts.

D. Preferred Locations—Nonresidential Zoning Districts. To the extent feasible, all proposed facilities in nonresidential zoning districts should be located according to the following preferences, ordered from most preferred to least preferred:

1. Parcels in the industrial park (I-P) zoning district; then
2. Parcels in the commercial (C-N, C-R, and C-C) zoning districts; then
3. Parcels in all other nonresidential zoning districts.

E. Preferred Locations—Residential Zoning Districts. If a facility is proposed in a residential (R-1, R-M, MHE) zoning district, all facilities should be located according to the following preferences, ordered from most preferred to least preferred:

1. Parcels that contain approved nonresidential uses and do not contain residential uses; then
2. Parcels that contain approved nonresidential uses and also contain residential uses; then
3. All other parcels.

F. Coastal Zone Siting. In addition to the preferred and discouraged siting considerations described in subsections A through E of this section, new wireless communications facilities in the coastal zone shall avoid being sited between the sea and the first road paralleling the sea, within one hundred feet of Soquel Creek, within New Brighton State Beach, or within any environmentally sensitive habitat area to the extent feasible and consistent with federal and state law.

G. Additional Alternative Sites Analysis. If an applicant proposes to locate a new facility or substantial change to an existing facility on a parcel that contains a single-family or multi-family residence, or a site located in the city's coastal zone on the seaward side of the first through public road parallel to the sea, the applicant shall provide an additional alternative sites analysis that at a minimum shall include a meaningful comparative analysis of all the alternative sites in the more preferred locations that the applicant considered and states the underlying factual basis for concluding why each alternative in a more preferred location was (1) technically infeasible, (2) not potentially available and/or (3) more intrusive. (Ord. 1012 § 1 (part), 2017; Ord. 1009 § 1 (part), 2017)

17.98.070 Development standards.

A. General Design Standards. All new facilities and substantial changes to existing facilities shall conform to the following design standards:

1. Concealment. To the maximum extent feasible, all facilities shall incorporate concealment measures and/or techniques appropriate for the proposed location and design. All ground-mounted equipment on private property shall be completely concealed to the maximum extent feasible according to the following preferences, ordered from most preferred to least preferred:

- a. Within an existing structure including, but not limited to, an interior equipment room, mechanical penthouse or dumpster corral; then
- b. Within a new structure designed to integrate with or mimic the adjacent existing structure; then
- c. Within an underground equipment vault if no other feasible above-ground design that complies with subsection (A)(1)(a) or (b) of this section exists.

2. Underground Equipment. To the extent feasible, power and telecommunication lines servicing wireless communications facilities must be placed underground. Additional expense to install and maintain such lines underground does not exempt an applicant from this requirement, except where the applicant demonstrates by clear and convincing evidence that this requirement will effectively prohibit the provision of personal wireless services.

3. Height.

- a. All facilities may not exceed the height limit in the applicable zoning district except as allowed in subsection (b) or (c) of this section.
- b. The review authority may approve a height exception up to eight feet above the height limit when a proposed facility is:
 - i. Mounted on the rooftop of an existing building;
 - ii. Completely concealed; and
 - iii. Architecturally integrated into the underlying building; and
 - iv. If located (or proposed to be located) in the city's coastal zone, does not impact public views to and along the ocean and scenic coastal areas.
- c. The review authority may approve a height exception for towers or utility poles when:
 - i. The proposed facility is no taller than the minimum necessary to meet service objectives;
 - ii. The height exception is necessary to address a significant gap in the applicant's existing service coverage;
 - iii. The applicant has demonstrated to the satisfaction of the planning commission, through a detailed alternatives analysis, that there are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites, facility types, siting techniques, and/or designs) that comply with the height standard and meet service objectives; and
 - iv. The proposed facility complies with design standards and preferences in subsection B of this section (Tower-Mounted Facilities) to the maximum extent feasible.

4. Setbacks. All facilities shall comply with all setback requirements in the applicable zoning district.

5. Collocation. Facilities shall be designed, installed, and maintained to accommodate future collocated facilities to the extent feasible.

6. Landscaping. Landscaping shall be installed and maintained as necessary to conceal or screen the facility from public view.

7. Lights. Security lighting shall be down-shielded and controlled to minimize glare or light levels directed at adjacent properties.

8. Noise. All transmission equipment and other equipment (including but not limited to air conditioners, generators, and sump pumps) associated with the facility must not emit sound that exceeds the applicable limit established in Chapter 9.12 (Noises).

9. Public Right-of-Way.

a. Facilities located within or extending over the public right-of-way require city approval of an encroachment permit.

b. To conceal the nonantenna equipment, applicants shall install all nonantenna equipment underground to the extent feasible and appropriate for the proposed location. Additional expense to install and maintain equipment underground does not exempt an applicant from these requirements, except where the applicant demonstrates by clear and convincing evidence that the requirement will effectively prohibit the provision of personal wireless services.

c. Applicants must install ground-mounted equipment so that it does not obstruct pedestrian or vehicular traffic or incommode the public use of the right-of-way.

10. Signage.

a. A facility may not display any signage or advertisements unless expressly allowed by the city in a written approval, recommended under FCC regulations, or required by law or permit condition.

b. Every facility shall at all times display signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center.

11. Advertising. No advertising signage or identifying logos shall be displayed on wireless communications facilities, except for small identification plates used for emergency notification or hazardous or toxic materials warning, unless expressly allowed by the city in a written approval, recommended under FCC regulations, or required by law or permit condition.

12. Historic Features. A facility which modifies the exterior of a historic feature as defined in Chapter 17.87 (Historic Features) shall comply with the requirements of Chapter 17.87.

13. Coastal Zone Considerations. Facilities in any portion of the city's coastal zone shall be consistent with applicable policies of the city's local coastal program (LCP) and the California Coastal Act. To the extent technically feasible and legally permissible, all facilities located in the city's coastal zone must be designed, installed, mounted, and maintained so that no portion of a facility extends onto or impedes access to a publicly used beach.

B. Tower-Mounted Facilities.

1. General Design Preferences. To the extent feasible and appropriate for the proposed location, all new towers should be designed according to the following preferences, ordered from most preferred to least preferred:

a. Faux architectural features (examples include, but are not limited to, bell towers, clock towers, lighthouses, obelisks and water tanks); then

b. Faux trees; then

c. Monopoles that do not conceal the antennas within a concealment device.

2. Tower-Mounted Equipment. All tower-mounted equipment shall be mounted as close to the vertical support structure as possible to reduce its visual profile. Applicants should mount nonantenna, tower-mounted

equipment (including, but not limited to, remote radio units/heads, surge suppressors, and utility demarcation boxes) directly behind the antennas to the maximum extent feasible.

3. Ground-Mounted Equipment. Ground-mounted equipment shall be concealed with opaque fences or other opaque enclosures. The city may require additional design and/or landscape features to blend the equipment or enclosure into the surrounding environment.

4. Concealment Standards for Faux Trees. All faux tree facilities shall comply with the following standards:

- a. The canopy shall completely envelop all tower-mounted equipment and extend beyond the tower-mounted equipment at least eighteen inches.
- b. The canopy shall be naturally tapered to mimic the particular tree species.
- c. All tower-mounted equipment, including antennas, equipment cabinets, cables, mounts and brackets, shall be painted flat natural colors to mimic the particular tree species.
- d. All antennas and other tower-mounted equipment cabinets shall be covered with broadleaf or pine needle “socks” to blend in with the faux foliage.
- e. The entire vertical structure shall be covered with permanently affixed three-dimensional faux bark cladding to mimic the particular tree species.

C. Building- and Facade-Mounted Facilities.

1. General Design Preferences. To the extent feasible and appropriate for the proposed location, all new building- and facade-mounted facilities should be designed according to the following preferences, ordered from most preferred to least preferred:

- a. Completely concealed and architecturally integrated facade- or rooftop-mounted base stations which are not visible from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials); then
- b. Completely concealed new structures or appurtenances designed to mimic the support structure’s original architecture and proportions (examples include, but are not limited to, cupolas, steeples, and chimneys); then
- c. Facade-mounted facilities incorporated into “pop-out” screen boxes designed to be architecturally consistent with the original support structure.

2. Ground-Mounted Equipment. Outdoor ground-mounted equipment associated with base stations must be avoided whenever feasible. In locations visible or accessible to the public, outdoor ground-mounted equipment shall be concealed with opaque fences or landscape features that mimic the adjacent structures (including, but not limited to, dumpster corrals and other accessory structures).

D. Pole-Mounted Facilities in the Public Right-of-Way.

1. All Facilities. All facilities mounted to steel light poles and wood utility poles in the public right-of-way shall comply with the following design standards:

- a. Antennas, brackets, and cabling shall all be painted a single color that matches the pole color.
- b. Unnecessary equipment manufacturer decals shall be removed or painted over.
- c. The facility shall not alter vehicular circulation or parking within the public right-of-way or impede vehicular or pedestrian access or visibility along the public right-of-way.

d. All pole-mounted transmission equipment (including, but not limited to, antennas) shall be installed as close to the pole as technically and legally feasible to minimize impacts to the visual profile.

e. Colors and materials for facilities shall be chosen to minimize visibility. All visible exterior surfaces shall be constructed with nonreflective materials and painted and/or textured to match the support pole. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the maximum extent feasible.

f. An applicant may request an exemption from one or more standards in this subsection D (Pole-Mounted Facilities in the Public Right-of-Way) on the basis that such exemption is necessary to comply with Public Utilities Commission General Order 95. The applicant bears the burden to demonstrate why such exemption should be granted.

2. Steel Pole Facilities. Facilities mounted to a steel light pole in the public right-of-way shall comply with the following design standards:

a. All equipment and cabling shall be located in the pole and concealed from view.

b. Antennas shall be located on the top of the pole as a vertical extension of the pole. Antennas and equipment may not be mounted onto the side of the pole.

c. To the extent technically feasible, antennas shall be contained within a maximum fourteen-inch-wide enclosure on the top of the pole.

3. Wood Pole Facilities. Facilities mounted to a wood utility pole in the public right-of-way shall comply with the following design standards:

a. Equipment enclosures shall be as narrow as feasible with a vertical orientation to minimize its visibility when attached to the pole. The equipment mounting base plates may be no wider than the pole.

b. Side-mounted equipment may extend no more than five feet horizontally from the side of the pole.

c. Equipment shall be stacked close together on the same side of the pole.

d. A line drop (no electric meter enclosure) shall be used if allowed by the utility company.

e. Shrouds, risers, or conduit shall be used to reduce the appearance of cluttered or tangled cabling.

f. Side-mounted antennas shall be attached to the pole using an arm with flanges/channels that reduces the visibility of cabling and passive RF gear.

g. To the extent technically feasible, top-mounted antennas may be no wider than the width of the pole top.

4. Undergrounding of Cabling between Pole-Mounted Facilities in the Coastal Zone. For new pole-mounted facilities located in the city's coastal zone, any proposed cable between such facilities shall be placed underground to the extent feasible. (Ord. 1012 § 1 (part), 2017; Ord. 1009 § 1 (part), 2017)

17.98.080 Operation and maintenance requirements.

All wireless communications facilities approved through a city permit or deemed granted by operation of law shall comply with the following operation and maintenance requirements:

A. General Compliance. All facilities shall comply with all applicable goals, objectives and policies of the general plan/local coastal program, area plans, zoning regulations and development standards; the California Coastal Act; and the California Environmental Quality Act (CEQA).

B. Access Control. All facilities shall be designed to be resistant to and minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or

attractive nuisances. The community development director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, antenna facilities have the potential to become an attractive nuisance.

C. Noise. All facilities shall be constructed and operated in such a manner as to minimize the amount of noise impacts to adjacent uses and activities. At any time, noise attenuation measures may be required by the community development director when deemed necessary. Facilities shall comply with all applicable noise standards in the general plan and municipal code. Testing and maintenance activities of wireless communications facilities which generate audible noise shall occur between the hours of eight a.m. and five p.m., weekdays (Monday through Friday, nonholiday) excluding emergency repairs, unless allowed at other times by the community development director.

D. General Maintenance. The site and the facility, including but not limited to all landscaping, fencing, transmission equipment, antennas, towers, equipment, cabinets, structures, accessory structures, signs, and concealment and/or stealth features and standards, shall be maintained in a state of good repair, in a neat and clean manner, and in accordance with all approved permits and conditions of approval. Damage to the site and the facility shall be repaired promptly. This shall include keeping all wireless communications facilities graffiti free and maintaining security fences in good condition.

E. Change in Federal or State Regulations. All facilities shall meet the current standards and regulations of the FCC, the California Public Utilities Commission, and any other agency of the federal or state government with the authority to regulate wireless communications providers. If such standards and/or regulations are changed, the wireless communications provider shall bring its facilities into compliance with such revised standards and regulations within ninety days of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to bring a wireless communications facility into compliance with revised standards and regulations shall constitute grounds for the immediate removal of the facility at the wireless communications provider's expense.

F. Service after Natural Disaster. All wireless communications facilities providing service to the government or general public shall be designed to survive a natural disaster without interruption in operation. (Ord. 1012 § 1 (part), 2017; Ord. 1009 § 1 (part), 2017)

17.98.090 Temporary wireless communications facilities.

A. A temporary wireless communications facility, such as a "cell-on-wheels" (COW), may be used to replace wireless communications facility services during the relocation or rebuilding process of an existing facility, during festivals or other temporary events and activities that otherwise require a permit under this chapter, and during public emergencies.

B. A temporary wireless communications facility shall be processed as an administrative use permit under a proposed or existing permit when used during the relocation or rebuilding process of an existing wireless communications facility, or when used for a festival or other temporary event or activity.

C. A temporary wireless communications facility to protect public health, safety or welfare during an emergency shall be processed as a Tier 2 administrative permit. The applicant shall submit an application for a temporary emergency use permit before installation of such temporary wireless communications facility.

D. The community development director may approve a temporary wireless communications facility for no more than ninety days.

E. A temporary wireless facility may be approved for a period of up to one year if the following requirements are met:

1. The planning commission determines that the temporary wireless communications facility shall be sited and constructed so as to:
 - a. Avoid proximity to residential dwellings to the maximum extent feasible;
 - b. Be no taller than needed;

- c. Be screened to the maximum extent feasible; and
- d. Be erected for no longer than reasonably required, based on the specific circumstances.

2. Permits and/or authorizations in excess of ninety days for temporary wireless communications facilities shall be subject to the notice and review procedures required by Section 17.98.040(H) (Public Notice and Hearing).

F. The property owner and service provider of the temporary wireless communications facility installed pursuant to this section (Temporary wireless communications facilities) shall immediately remove such facility from the site at the end of the specified term or the conclusion of the relocation or rebuilding process, temporary event, or emergency, whichever occurs first. The property owner and service provider of the temporary wireless communications facility shall be jointly and severally liable for timely removal of such temporary facility. The city may (but is not obligated to) remove any temporary wireless communications facility installed pursuant to this section (Temporary wireless communications facilities) at the owner and provider's cost immediately at the end of the specified term or conclusion of the relocation or rebuilding process, temporary event, or emergency, whichever occurs first. (Ord. 1012 § 1 (part), 2017; Ord. 1009 § 1 (part), 2017)

17.98.100 Limited exemption from standards.

A. Request for Exemption. An applicant may request an exemption from one or more requirements in this chapter on the basis that a permit denial would effectively prohibit personal wireless services in the city of Capitola.

B. Basis for Approval. For the city to approve such an exemption, the applicant must demonstrate with clear and convincing evidence all of the following:

- 1. A significant gap in the applicant's service coverage exists;
- 2. All alternative sites identified in the application review process are either technically infeasible or not potentially available; and
- 3. Permit denial would effectively prohibit personal wireless services in the city of Capitola.

C. Applicant Must Demonstrate Basis for Approval. The applicant always bears the burden to demonstrate why an exemption should be granted. (Ord. 1012 § 1 (part), 2017; Ord. 1009 § 1 (part), 2017)

17.98.110 Severability.

If any section or portion of this chapter is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of the chapter, which shall continue in full force and effect. (Ord. 1012 § 1 (part), 2017; Ord. 1009 § 1 (part), 2017; Ord. 862 § 1, 2003. Formerly 17.98.280)

ACCESSORY DWELLING UNITS

Sections:

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17.99.020	Definitions
17.99.030	Permitting Process
17.99.040	General Requirements
17.99.050	Units Subject to Limited Standards
17.99.060	Units Subject to Full Review Standards
17.99.070	Units Requiring a Design Permit
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17.99.010 Purpose

This chapter establishes standards for the location and construction of accessory dwelling units (ADUs) consistent with Government Code Sections 65852.2-65852.22. These standards are intended to allow accessory dwelling units as a form of affordable housing in Capitola while maintaining the character and quality of life of residential neighborhoods.

17.99.020 Definitions

Terms used in this chapter are defined as follows:

- D. Accessory Dwelling Unit.** “Accessory dwelling unit” means a self-contained living unit located on the same parcel as a primary dwelling unit.
- E. Attached Accessory Dwelling Unit.** “Attached accessory dwelling unit” means an accessory dwelling unit that:
 - 1. Shares at least one common wall with the primary dwelling unit; and
 - 2. Is not fully contained within the existing space of the primary dwelling unit.
- F. Detached Accessory Dwelling Unit.** “Detached accessory dwelling unit” means an accessory dwelling unit that does not share a common wall with primary dwelling unit and is not an internal accessory dwelling unit.
- G. Internal Accessory Dwelling Unit.** “Internal accessory dwelling unit” means an accessory dwelling unit that is fully contained within the existing space of the primary dwelling unit or an accessory structure.
Junior Accessory Dwelling Unit. “Junior accessory dwelling unit” means an accessory dwelling unit no more than 500 square feet in size and contained entirely within a single-family residence.
- H. Two-story Attached Accessory Dwelling Unit.** “Two-story attached accessory dwelling unit” means an attached accessory dwelling unit that is configured as either:
 - 1. Two stories of living space attached to an existing primary dwelling unit; or
 - 2. Second-story living space above a ground-floor garage or living space in an existing primary dwelling unit.
- I. Two-story Detached Accessory Dwelling Unit.** “Two-story detached accessory dwelling unit” means a detached accessory dwelling unit that is configured as either:

1. Two stories of living space in a single accessory dwelling unit; or
2. Second story living space above a ground floor garage or other accessory structure.

17.99.030 Permitting Process

A. When Consistent with Standards.

1. Except when a Design Permit is specifically required by this chapter, an accessory dwelling unit that complies with all standards in this chapter shall be approved ministerially with an Administrative Permit. No discretionary review or public hearing is required. A building permit application may be submitted concurrently with the Administrative Permit application.
2. If an existing single-family or multifamily dwelling exists on the parcel upon which an accessory dwelling unit is proposed, the City shall act on an application to create an accessory dwelling unit within 60 days from the date the City receives a completed application. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay.
 - a. The City has acted on the application if it:
 - (1) Approves or denies the building permit for the accessory dwelling unit;
 - (2) Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter; or
 - (3) Determines that the accessory dwelling unit does not qualify for ministerial approval.
 - b. If the accessory dwelling unit application is submitted with a permit application to create a new single-family dwelling on the parcel, the City may delay acting on the accessory dwelling unit application until the City acts on the permit application for the new single-family dwelling. The accessory dwelling unit shall be considered without discretionary review or hearing.

B. Two-Story Units. A two-story accessory dwelling unit (attached or detached) greater than 16 feet in height requires Planning Commission approval of a Design Permit. To approve the Design Permit, the Planning Commission must make the findings in Section 17.99.110. A two-story accessory dwelling unit must comply with the standards in Sections 17.99.080 (Development Standards) and 17.99.090 (Objective Design Standards) unless the Planning Commission allows a deviation through the Design Permit process.

C. When Deviating from Standards. An accessory unit that deviates from any standard in 17.99.080 (Development Standards) or 17.99.090 (Objective Design Standards) may be allowed with Planning Commission approval of a Design Permit. See Section 17.99.100 (Deviation from Standards).

D. When Dependent on Separate Construction. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building which is not a part of the accessory dwelling unit (“separate construction”) and is not proposed as part of a permit application to create a new single-family dwelling on the parcel, the City shall either:

1. Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or
2. Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case, the accessory dwelling unit is subject to the same review procedures as the separate construction.

E. Within Coastal Zone.

1. A proposed accessory dwelling unit that is located in the Coastal Zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).
2. Nothing in this chapter shall be construed to supersede or in any way alter or lessen the effect of application of the California Coastal Act of 1976 (Division 20, commencing with Section 30000, of the Public Resources Code), except that a public hearing for a CDP application for an accessory dwelling unit shall not be required.

F. Historic Resources.

1. If a Design Permit is required for an accessory dwelling unit on a property with a historic resource, the proposed project is subject to the requirements in Chapter 17.94 (Historic Preservation). Third-party review of the proposed project may be required as provided in Chapter 17.94.
2. Compliance with Chapter 17.94 is not required for accessory dwelling units approved ministerially with an Administrative Permit.

17.99.040 General Requirements

The following requirements apply to all accessory dwelling units.

A. Where Allowed. An accessory dwelling unit is permitted:

1. In any zoning district where single-family or multifamily dwellings are a permitted use; and
2. On any parcel with an existing or proposed single-family or multifamily dwelling.

B. Maximum Number per Parcel. Not more than one accessory dwelling unit is allowed per parcel except as allowed by subsections 17.99.050.B (Detached Accessory Dwelling Units), 17.99.050.C (Non-livable Multifamily Space), and 17.99.050.D (Detached Accessory Dwelling Units on Multifamily Parcels).

C. Residential Mixed Use. If one dwelling unit is on a parcel with a non-residential use, the dwelling unit is considered a single-family dwelling for the purpose of determining the applicable requirements in this chapter. If two or more dwelling units are on a parcel with a non-residential use, the dwelling units are considered a multifamily dwelling.

D. Utility Connections. Utility connection requirements shall be subject to state law and the serving utility district

E. Fire Sprinklers. The City shall not require accessory dwelling units to provide fire sprinklers if they would not be required for the primary residence under the current Fire Code.

F. Vacation Rentals Prohibited. Accessory dwelling units may not be used for vacation rentals as defined in 17.60 (Glossary).

G. Separate Sale from Primary Dwelling. An accessory dwelling unit shall not be sold or conveyed separately from the primary dwelling.

H. Guaranteed Allowance. Maximum building coverage, floor area ratio, and private open space standards in Section 17.99.080 (Development Standards) shall not prohibit an accessory dwelling unit with up to 800 square feet of floor area, up to 16 feet in height, and four-foot side and rear yard setbacks, provided the accessory dwelling unit complies with all other applicable standards. The guaranteed allowance of 800 square feet of floor area is in addition to the maximum floor area of a property.

I. Converting and Replacing Existing Structures.

1. An internal accessory dwelling unit may be constructed regardless of whether it conforms to the current zoning requirement for building separation or setbacks.
2. If an existing structure is demolished and replaced with an accessory dwelling unit, an accessory dwelling unit may be constructed in the same location and to the same dimensions as the demolished structure.
3. If any portion of an existing structure crosses a property line, the structure may not be converted to or replaced with an accessory dwelling unit. For existing structure within 4 feet of a property line, the applicant must submit a survey demonstrating that the structure does not cross the property line.

J. Manufactured Homes and Mobile Units.

1. A manufactured home, as defined in California Health and Safety Code Section 18007, is allowed as an accessory dwelling unit. Pursuant California Health and Safety Code Section 18007, as may be amended from time to time, a manufactured home must:
 - a. Provide a minimum of 320 square feet of floor area;
 - b. Be built on a permanent chassis
 - c. Be designed for use as a single-family dwelling with or without a foundation when connected to the required utilities; and
 - d. Include the plumbing, heating, air conditioning, and electrical systems contained within the home.
2. Vehicles and trailers, with or without wheels, which do not meet the definition of a manufactured home, are prohibited as accessory dwelling units.
3. A prefabricated or modular home is allowed as an accessory dwelling unit.

K. Junior Accessory Dwelling Units

1. **General.** Junior accessory dwelling units shall comply with all standards in this chapter unless otherwise indicated.
2. **Occupancy.** The property owner must occupy either the primary dwelling unit or the junior accessory dwelling unit on the property.
3. **Sanitation Facilities.** A junior accessory dwelling unit may include sanitation facilities, or may share sanitation facilities with the primary dwelling.
4. **Kitchen.** A junior accessory dwelling unit must include, at a minimum:
 - a. A cooking facility with appliances; and
 - b. At least 3 linear feet of food preparation counter space and 3 linear feet of cabinet space.

L. Multifamily Homeowners Associations. If a multifamily dwelling is located in a development with a homeowners' association (HOA), an application for an accessory dwelling unit must:

1. Be signed by an authorized officer of the HOA; and
2. Include a written statement from the HOA stating that the application is authorized by the HOA, if such authorization is required.

17.99.050 Units Subject to Limited Standards

The City shall ministerially approve an application for a building permit within a residential or mixed-use zoning district to create the following types of accessory dwelling units. For each type of accessory dwelling unit, the City shall require compliance only with the development standards in this subsection. Standards in Subsection 17.99.080 (Development Standards) and 17.99.090 (Objective Design Standards) do not apply to these types of accessory dwelling units.

- A. Internal Accessory Dwelling Units.** One internal accessory dwelling unit or junior accessory dwelling unit per parcel with a proposed or existing single-family dwelling if all of the following apply:
1. The internal accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
 2. The unit has exterior access from the proposed or existing single-family dwelling.
 3. The side and rear setbacks are sufficient for fire and safety.
 4. The junior accessory dwelling unit complies with Government Code Section 65852.22.
- B. One-Story Detached Accessory Dwelling Units 800 Square Feet or Less.** One detached, new construction, accessory dwelling unit for a parcel with a proposed or existing single-family dwelling. The detached accessory dwelling unit may be combined with a junior accessory dwelling unit described in Subsection A (Internal Accessory Dwelling Units) above. The accessory dwelling unit must comply with the following:
1. Minimum rear and side setbacks: 4 feet.
 2. Maximum floor area: 800 square feet.
 3. Maximum height: 16 feet.
- C. Non-Livable Multifamily Space.** One or more internal accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, subject to the following:
1. At least one accessory dwelling unit is allowed within an existing multifamily dwelling up to maximum of 25 percent of the existing multifamily dwelling units; and
 2. Each unit shall comply with state building standards for dwellings.
- D. Detached Accessory Dwelling Units on Multifamily Parcels.** Not more than two detached accessory dwelling units that are located on a parcel that has an existing multifamily dwelling, subject to the following:
1. Maximum height: 16 feet.
 2. Minimum rear and side setbacks: 4 feet.

17.99.060 Units Subject to Full Review Standards

The City shall ministerially approve an application for a building permit to create the following types of accessory dwelling units.

- A. One-Story Attached Accessory Dwelling Units.** A one-story attached accessory dwelling unit in compliance with standards in Subsection 17.99.080 (Development Standards) and 17.99.090 (Objective Design Standards).
- B. One-Story Detached Accessory Dwelling Units Between 800 and 1,200 Square Feet.** A one-story detached accessory dwelling unit with a floor area between 800 and 1,200 square feet in compliance with standards in Subsection 17.99.080 (Development Standards) and 17.99.090 (Objective Design Standards).

17.99.070 Units Requiring a Design Permit

The following types of accessory dwelling units require Planning Commission approval of a Design Permit.

- A. Two-Story Accessory Dwelling Units.** A two-story attached or detached accessory dwelling unit greater than 16 feet in height in compliance with standards in Subsection 17.99.080 (Development Standards) and 17.99.090 (Objective Design Standards).
- B. Accessory Dwelling Units Deviating from Standards.** Any accessory dwelling unit that deviates from one or more standards in Subsection 17.99.080 (Development Standards) and 17.99.090 (Objective Design Standards).

17.99.080 Development Standards

The standards in this section apply to all accessory dwelling units not approved pursuant to Section 17.99.050 (Units Subject to Limited Standards).

- A. General.** Table 17.99-1 shows development standards that apply to accessory dwelling units.

Table 17.99-1: Development Standards

ADU Type/Location	Standard
Unit Size, Maximum	
Attached ADU, one bedroom or less	50 percent of the existing primary dwelling or 850 sq. ft., whichever is greater
Attached ADU, more than one bedroom	50 percent of the existing primary dwelling or 1,000 sq. ft., whichever is greater
Detached ADU	1,200 sq. ft.
Internal ADU	No maximum
Junior ADU	500 sq. ft.
Floor Area Ratio, Maximum [1]	As required by zoning district [2]
Setbacks, Minimum [3,4]	
Front	Same as primary dwelling [5]
Interior Side, 1 st and 2 nd Story	4 ft.
Exterior Side, 1 st and 2 nd Story	4 ft.
Rear, 1 st and 2 nd Story	4 ft.
Building Coverage, Maximum	
R-M zoning district	40 % [2]
All other zoning districts	No maximum
Height, Maximum [3]	
Attached ADU	Height of primary residence or maximum permitted in zoning district, whichever is less
Detached ADU, one-story	16 ft.
Detached ADU, two-story [6]	22 ft.
Private Open Space, Minimum [7]	48 sq. ft. [2]

Notes

[1] Calculated as the total floor area ratio on the site, including both the primary dwelling and accessory dwelling unit. An applicant may request simultaneous approval of a new internal accessory dwelling unit and an addition to the primary residence as part of a single application.

[2] Standard may not prohibit an accessory dwelling unit with at least an 800 square feet of floor area. See Section 17.99.040.H (Guaranteed Allowance).

[3] Setback and height standards apply only to attached and detached accessory dwelling units. Standards do not apply to internal or junior accessory dwelling units.

[4] See also Section 17.99.040.H (Converting and Replacing Existing Structures) for setback exceptions that apply to an accessory dwelling unit created by converting or replacing an existing structure.

[5] See also 17.99.080.B (Front Setbacks).

[6] A two-story detached accessory dwelling unit greater than 16 feet in height requires a Design Permit.

[7] Private open space may include screened terraces, decks, balconies, and other similar areas.

B. Front Setbacks.

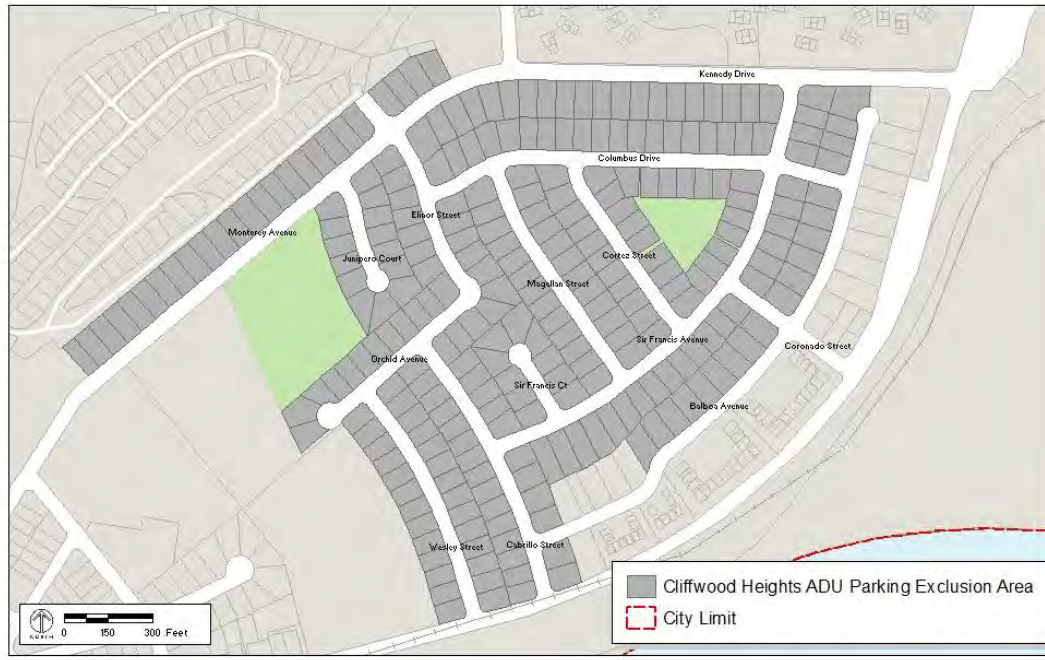
1. Any increased front setback requirement that applies to a garage associated with a primary dwelling unit also applies to a garage that serves an accessory dwelling unit.
2. In the R-1 zoning district, front setback exceptions in Riverview Terrace and on Wharf Road as allowed in 17.16.030.B apply to accessory dwelling units.
3. In the mixed use zoning districts, minimum front setbacks in Chapter 17.20 (Mixed Use Zoning Districts) apply to accessory dwelling units. Maximum setbacks or build-to requirements do not apply.

C. Parking.

1. **All Areas.** The following parking provisions apply to accessory dwelling units in all areas in Capitola.
 - a. **Required Parking in Addition to Primary Residence.** Parking spaces required for an accessory dwelling unit are in addition to parking required for the primary residence.
 - b. **Tandem Spaces.** Required off-street parking may be provided as tandem parking on an existing driveway.
 - c. **Within Setback Areas.**
 - (1) Required off-street parking may be located within minimum required setback areas from front, side, and rear property lines.
 - (2) A parking space in a required front setback area shall be a “ribbon” or “Hollywood” design with two parallel strips of pavement. The paving strips shall be no wider than 2.5 feet each and shall utilize permeable paving such as porous concrete/asphalt, open-jointed pavers, and turf grids. Unpaved areas between the strips shall be landscaped with turf or low-growing ground cover.
 - d. **Alley-Accessed Parking.** Parking accessed from an alley shall maintain a 24-foot back-out area, which may include the alley.
2. **Outside of Coastal Zone and in Cliffwood Heights.** The following parking provisions apply only to accessory dwelling units outside of the Coastal Zone and in the Cliffwood Heights neighborhood as shown in Figure 17.99-1.
 - a. No additional parking is required for an internal or junior accessory dwelling unit. The floor area of an internal or junior accessory dwelling unit shall not be included in the parking calculation for the primary residence.
 - b. One off-street parking space is required for an attached or detached accessory dwelling unit, except as provided in Paragraph (c) below.
 - c. No off-street parking is required for an accessory dwelling unit in the following cases:

- (1) The accessory dwelling unit is located within one-half mile walking distance of public transit, as defined in Government Code Section 65852.2(j)(10).
 - (2) The accessory dwelling unit is located within a National Register Historic District or other historic district officially designated by the City Council.
 - (3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
 - (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - (5) When there is a car share vehicle pick-up/drop-off location within one block of the accessory dwelling unit.
 - d. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, replacement parking stalls are not required for the demolished or converted parking structure.
3. **Within Coastal Zone and Outside Cliffwood Heights.** The following parking provisions apply only to accessory dwelling units in the Coastal Zone and outside of the Cliffwood Heights neighborhood as shown in Figure 17.99-1 in accordance with the City's adopted Local Coastal Program.
- a. One off-street parking space is required for any type of accessory dwelling unit except as provided in Paragraph (b) below.
 - b. Where the primary residence is served by four or more existing off-street parking spaces, including spaces in a tandem configuration, no off-street parking is required for the accessory dwelling unit.
 - c. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, replacement parking stalls are required for the demolished or converted parking structure. Replacement parking space(s) may be covered or uncovered. Replacement parking does not satisfy the one off-street parking requirement for the accessory dwelling unit in Paragraph (a) above.

FIGURE 17.74-1



17.99.090 Objective Design Standards

The standards in this section apply to all accessory dwelling units not approved pursuant to Section 17.99.050 (Units Subject to Limited Standards).

- A. Entrance Orientation – Detached ADU.** The primary entrance to a detached accessory dwelling unit shall face the front or interior of the parcel unless the accessory dwelling unit is directly accessible from an alley or a public street.
- B. Privacy Impacts.** To minimize privacy impacts on adjacent properties, the following requirements apply to walls with windows within 8 feet of an interior side or rear property line abutting a residential use.
 - 1. For a single-story wall or the first story of a two-story wall, privacy impacts shall be minimized by either:
 - a. A 6-foot solid fence on the property line; or
 - b. Clerestory or opaque windows for all windows facing the adjacent property.
 - 2. For a second story wall, all windows facing the adjacent property shall be clerestory or opaque.
- C. Second Story Decks and Balconies.** Second story decks and balconies shall be located and designed to minimize privacy impacts on adjacent residential properties, as determined by the Planning Commission through the Design Permit approval process.
- D. Architectural Details.** Table 17.99-2 shows architectural detail standards for accessory dwelling units.

Table 17.99-2: Architectural Detail Standards

	Non-Historic Property [1]	Historic Property [1]
--	---------------------------	-----------------------

	Attached ADU	Detached ADU	Attached ADU	Detached ADU
Primary Exterior Materials [2]	Same as primary dwelling [3]	No requirement	Same as primary dwelling; or horizontal wood, fiber cement, or board and batten siding or shingles [3]	Horizontal wood, fiber cement, or board and batten siding, or shingles [4]
Window and Door Materials	No requirement		Wood, composite, pre-finished metal with a non-reflective finish	
Window Proportions	No requirement		Windows must be taller than they are wide or match the proportions of the primary dwelling window [5]	
Window Pane Divisions	No requirement		True or simulated divided lights	
Roof Material	Same as primary dwelling [3]	No requirement	Same as primary dwelling [3]	Same as primary dwelling; or architectural composition shingles, clay tile, slate, or non-reflective standing seam metal [3]
Roof Pitch	No requirement	4:12 or greater. [6]	No requirement	4:12 or greater [6]

Notes:

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

[2] Standard does not apply to secondary and accent materials.

[3] “Same as primary dwelling” means the type of material must be the same as the primary dwelling. The size, shape, dimensions, and configuration of individual pieces or elements of the material may differ from the primary dwelling.

[4] If primary dwelling is predominantly stucco, stucco is allowed for the accessory dwelling unit.

[5] Bathroom windows may be horizontally oriented.

[6] If the primary dwelling has a roof pitch shallower than 4:12, the accessory dwelling unit roof pitch may match the primary dwelling.

- E. Building Additions to Historic Structures.** A building addition to a designated historic resource or potential historic resource as defined in Section 17.84.020 (Types of Historic Resources) for an attached accessory dwelling unit shall be inset or separated by a connector that is offset at least 18 inches from the parallel side or rear building wall to distinguish it from the historic structure.

17.99.100 Deviation from Standards

- A. When Allowed.** The Planning Commission may approve an accessory dwelling unit that deviates from one or more standards in Section 17.99.080 (Development Standards) and 17.99.090 (Objective Design Standards).
- B. Permit Required.** Deviations allowed under this section require Planning Commission approval of a Design Permit. A Variance is not required. To approve the Design Permit, the Planning Commission must make the findings in Section 17.99.110 (Findings).

17.99.110 Findings

A. When Required. The Planning Commission must make the findings in this section to approve a Design Permit for:

1. Two-story attached or detached accessory dwelling units greater than 16 feet in height; and
2. Accessory dwelling units that deviate from one or more standards in Section 17.99.080 (Development Standards) and 17.99.090 (Objective Design Standards).

B. Findings. To approve the Design Permit, the Planning Commission shall find that:

1. The exterior design of the accessory dwelling unit is compatible with the primary dwelling on the parcel through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.
2. The exterior design is in harmony with, and maintains the scale of, the neighborhood.
3. The accessory dwelling unit will not create excessive noise, traffic, or parking congestion.
4. The accessory dwelling unit has or will have access to adequate water sewer service as determined by the applicable service provider.
5. Adequate open space and landscaping has been provided that is usable for both the accessory dwelling unit and the primary residence. Open space and landscaping provides for privacy and screening of adjacent properties.
6. The location and design of the accessory dwelling unit maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.
7. The accessory dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the accessory dwelling unit complements the design of the primary residence and does not visually dominate it or the surrounding properties.
8. The site plan is consistent with physical development policies of the General Plan, any area plan or specific plan, or other City policy for physical development. If located in the coastal zone, the site plan is consistent with policies of the Local Coastal Plan. If located in the coastal zone and subject to a coastal development permit, the proposed development will not have adverse impacts on coastal resources.
9. The project would not impair public views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan restores and enhances the visual quality of visually degraded areas.
10. The project deviation (if applicable), is necessary due special circumstances applicable to subject property, including size, shape, topography, location, existing structures, or surroundings, and the strict application of this chapter would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.

17.99.120 Deed Restrictions

A. Before obtaining a building permit for an accessory dwelling unit, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:

1. The accessory dwelling units may not be used for vacation rentals as defined in 17.160 (Glossary).
2. The accessory dwelling unit may not be sold separately from the primary dwelling.

3. For junior accessory dwelling units, restrictions on size, owner occupancy requirement, and attributes in conformance with this chapter.
- B.** The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement and/or revoking the City's approval of the accessory dwelling unit.
- C.** The deed restriction shall lapse upon removal of the accessory dwelling unit.

17.99.130 Incentives

A. Fee Waivers for Affordable Units.

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

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

City of Capitola Zoning Code



Coastal Commission Submittal
February, 2021



Exhibit 2
LCP-3-CAP-20-0082-2
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Chapter 17.04 - PURPOSE AND EFFECT OF ZONING CODE

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- 17.04.010 Title and Authority
- 17.04.020 Purpose of the Zoning Code
- 17.04.030 Relationship to the General Plan
- 17.04.040 Relationship to the Local Coastal Program
- 17.04.050 Applicability of the Zoning Code

17.04.010 Title and Authority

Title 17 of the Capitola Municipal Code shall be known and cited as the “Capitola Zoning Code” and referred to in this title as “the Zoning Code.” The Zoning Code is adopted pursuant to the authority in Section 65850 of the California Government Code.

17.04.020 Purpose of the Zoning Code

- A. General.** The purpose of the Zoning Code is to implement the General Plan and the Local Coastal Program Land Use Plan (LUP) and to protect the public health, safety, and welfare.
- B. Specific.** The Zoning Code is intended to:
 - 1. Preserve and enhance Capitola’s small-town feel and coastal village charm.
 - 2. Ensure that all development exhibits high-quality design that supports a unique sense of place.
 - 3. Protect and enhance the quality of life in residential neighborhoods.
 - 4. Encourage active and inviting commercial and mixed-use areas.
 - 5. Support a vibrant, diverse, and dynamic local economy.
 - 6. Allow for a broad range of housing choices that meets the needs of all segments of the community.
 - 7. Protect and enhance natural resources that contribute to Capitola’s unique identity and scenic beauty.
 - 8. Maintain and enhance coastal access and visitor-serving facilities and services.
 - 9. Protect and preserve Capitola’s historic resources.
 - 10. Support a balanced transportation system that accommodates the needs of automobiles, pedestrians, bicycles, and other forms of transportation.
 - 11. Ensure the protection of coastal resources.

17.04.030 Relationship to the General Plan

The Zoning Code implements the General Plan by regulating the use of land and structures in Capitola. If the Zoning Code conflicts with the General Plan, the General Plan governs.

17.04.040 Relationship to the Local Coastal Program

A. General. Portions of the Zoning Code are components of Capitola's Local Coastal Program (LCP) prepared in accordance with the California Coastal Act of 1976 (Coastal Act). The LCP consists of the Local Coastal Program Land Use Plan (LUP) and the Local Coastal Program Implementation Plan (IP). The LCP applies to areas within Capitola's coastal zone as generally depicted on the City of Capitola Zoning Map (also part of the IP) and within the LCP.

B. Local Coastal Program Implementation Plan.

1. The Local Coastal Program LUP is a comprehensive long-term plan for land use and physical development within the city's coastal zone. It consists of proposed policies and recommendations for land use in the coastal zone consistent with the Coastal Act. It includes the Coastal Land Use Plan Map, which is the certified General Plan Land Use Map for the area within the coastal zone.
2. The Local Coastal Program IP establishes specific land use and development regulations to implement the Local Coastal Program LUP. The following Zoning Code chapters are a part of Capitola's Local Coastal Program IP:
 - a. All chapters in Parts 1 (Enactment and Applicability), 2 (Zoning Districts and Overlay Zones), and 3 (Citywide Standards).
 - b. Chapters 17.128 (Variances), 17.136 (Minor Modifications), 17.140 (Reasonable Accommodations), 17.144 (Zoning Code Amendments and Local Coastal Program Amendments, and 17.148 (Public Notice and Hearing) in Part 4 (Permits and Administration).
 - c. Chapter 17.160 (Glossary) in Part 5 (Glossary).
3. Any portion of the Zoning Code not specifically identified in subsection (1) above is hereby declared to not be a component of Capitola's Local Coastal Program IP.
4. The Local Coastal Program IP also includes other Municipal Code Chapters and Sections, as follows:
 - a. Chapters 9.40 (Signs on Public Property or Rights of Way), 10.36 (Stopping, Standing, and Parking), 12.12 (Community Tree and Forest Management), 12.44 (Limiting Boats on Capitola Beaches During Evening Hours), 15.28 (Excavation and Grading), and 16.68 (Condominium and Community Apartment Conversions).
 - b. Title 16 (Subdivisions).

- C. **Conflicting Provisions.** If provisions of the Local Coastal Program Implementation Plan conflict with provisions of the Local Coastal Program Land Use Plan, and/or if there are any questions regarding intent, the Local Coastal Program Land Use Plan, the California Coastal Act, and applicable state law shall govern.

17.04.050 Applicability of the Zoning Code

- A. **Applicability to Property.** The Zoning Code applies to all land, uses, and development (including structures) within the Capitola city limits.
- B. **Compliance with Regulations.** All uses, structures, and development activity in Capitola shall comply with the Zoning Code.
- C. **Conflicting Regulations.** Where conflict occurs with other city regulations or with state or federal laws, higher law shall control over lower law unless local variation is permitted. Where conflicting laws are of equal stature, the more restrictive shall control unless otherwise specified in the Zoning Code or in state or federal law. In the coastal zone, in case of conflict between the Local Coastal Program and any other City law, regulation, or policy, the Local Coastal Program, the California Coastal Act, and applicable state law shall prevail.

Chapter 17.08 - INTERPRETATION

Sections:

17.08.010 Purpose

17.08.020 Authority

17.08.030 Rules of Interpretation

17.08.040 Procedures for Interpretation/Determinations

17.08.050 Zoning Code Enforcement

17.08.010 Purpose

This chapter establishes rules and procedures for interpreting the Zoning Code to ensure that it is applied and enforced in a consistent manner.

17.08.020 Authority

The City Council delegates to the Community Development Director and the Director's designees authority in accordance with 17.08.040 to interpret the meaning and applicability of all provisions in the Zoning Code.

17.08.030 Rules of Interpretation

A. General Rules. Rules of interpretation in Municipal Code Chapter 1.04 (General Provisions) apply to the Zoning Code. The following general rules also apply to the interpretation and application of the Zoning Code.

1. In the event of any conflict between the provisions of this Zoning Code, the most restrictive requirement shall control.
2. Where there is a conflict between text and any figure, illustration, graphic, heading, map, table, or caption, the text governs.
3. The words "shall," "will," "is to," and "are to" are mandatory. "Should" means a regulation that is not mandatory, but must be either fulfilled or the applicant must demonstrate an alternative that fulfills the intent of the regulation or that a non-economic hardship makes compliance infeasible. "May" is permissive.
4. The following conjunctions are interpreted as follows
 - a. "And" means that all items or provisions so connected apply.
 - b. "Or" means that all items or provisions so connected apply singularly or in any combination.
 - c. "Either . . . or" means that one of the items or provisions so connected apply singularly, but not in combination.
5. All officials, bodies, agencies, ordinances, policies, and regulations referred to in the Zoning Code are those of Capitola unless otherwise noted.

B. Calendar Days. Numbers of days specified in the Zoning Code are continuous calendar days unless otherwise noted. Where the last of a number of days falls on a holiday or weekend (Saturday or Sunday), time limits are extended to the following working day.

C. Land Use Regulation Tables.

1. **Table Notation.** Land use regulation tables in Part 2 (Zoning Districts and Overlay Zones) establish permitted land uses within each zoning district. Notations within these tables have the following meanings:

- a. **Permitted Uses.** A “P” means that a use is permitted by right in the zoning district and is not subject to discretionary review and approval.
- b. **Administrative Permit.** An “A” means the use is permitted with the approval of an Administrative Permit.
- c. **Minor Use Permit.** An “M” means that a use requires approval of a Minor Use Permit.
- d. **Conditionally Permitted Uses.** A “C” means that a use requires approval of a Conditional Use Permit.
- e. **Uses Not Allowed.** A “-” means that a use is not allowed in the zoning district.

2. **Additional Permits.** Notwithstanding paragraph (1) above, additional permits may be required (including for discretionary review and approval for “P” uses) beyond those identified in the land use regulations tables, including but not limited to Design Permits, Coastal Development Permits, and Historic Alteration Permits.

D. Unlisted Land Uses. If a proposed land use is not listed in the Zoning Code, the use is not permitted except as follows:

- 1. An unlisted use is not permitted if the use is listed as a permitted use in one or more other zoning districts. In such a case, the absence of the use in the zoning district within the land use table means that the use is prohibited in the zoning district.
- 2. The Community Development Director may determine that an unlisted proposed use is equivalent to a permitted or conditionally permitted use if all of the following findings can be made:
 - a. The use is similar to other uses allowed in the zoning district.
 - b. The density or intensity of the use is similar to other uses in the zoning district.
 - c. The use is compatible with permitted or conditionally permitted uses in the zoning district.
 - d. The use will meet the purpose of the zoning district.
 - e. The use is consistent with the goals and policies of the General Plan and the Local Coastal Program Land Use Plan.
 - f. The use will not be detrimental to the public health, safety, or welfare.

3. When the Community Development Director determines that a proposed use is equivalent to a listed use, the proposed use shall be treated in the same manner as the listed use with respect to development standards, permits required, and all applicable requirements of the Zoning Code.

E. Zoning Map Boundaries. Where uncertainty exists as to the boundaries of zoning districts as shown on the Zoning Map, the following rules apply:

1. Boundaries shown as approximately following the centerlines of streets, highways, or alleys are construed to follow the centerlines.
2. Boundaries shown as approximately following platted lot lines are construed as following the lot lines.
3. Boundaries shown as approximately following city limits are construed as following city limits.
4. Boundaries shown following railroad lines are construed to be midway between the main tracks.
5. In unsubdivided property or where a zoning district boundary divides a parcel, the location of the boundary is determined by the use of the scale appearing on the Zoning Map.
6. In case further uncertainty exists, the Community Development Director shall determine the exact location of the boundaries. The Director's decision may be appealed to the Planning Commission to determine the exact location of the boundaries.

F. Parcels Containing Two or More Zoning Districts.

1. For parcels containing two or more zoning districts ("split zoning"), the location of the zoning district boundary shall be determined by the Community Development Director. The Director's decision may be appealed to the Planning Commission to determine the exact location of the boundaries.
2. For parcels containing two or more zoning districts, the regulations for each zoning district shall apply within the zoning district boundaries as identified on the Zoning Map.

17.08.040 Procedures for Interpretation/Determinations

A. Request for Interpretation. The Community Development Director shall respond in writing to written requests for interpretation of the Zoning Code if the requested interpretation would substantially clarify an ambiguity which interferes with the effective administration of the Zoning Code. The following procedures apply for a request for interpretation:

1. The request shall be in writing, shall identify the provision to be interpreted, and shall be accompanied by the fee identified in the latest Fee Schedule.

2. The request shall provide any information that the Director requires to assist in its review.
 3. The Director shall respond to an interpretation request within 30 days of receiving the request.
- B. Form and Content of Interpretation.** Official interpretations prepared by the Director shall be in writing, and shall quote the Zoning Code provisions being interpreted. The interpretation shall describe the circumstance that caused the need for the interpretation.
- C. Official Record of Interpretations.** An official record of interpretations shall be kept and updated regularly by the Community Development Department. The record of interpretations shall be indexed by the number of the section that is the subject of the interpretation and made available for public inspection during normal business hours.
- D. Referral to Planning Commission.** The Director may refer any request for interpretation of the Zoning Code to the Planning Commission for review and interpretation.
- E. Appeals.** Any official interpretation prepared by the Director may be appealed to the Planning Commission. The Planning Commission's interpretation may be appealed to the City Council. Appeals shall be accompanied by the fee identified in the latest Fee Schedule.
- F. Coastal Zone Interpretations.** An applicant may submit to the Director a request for interpretation on matters related to the coastal zone from the Coastal Commission Executive Director for the Director to consider when making an official interpretation of the Zoning Code, including as specified in Chapter 17.44 (Coastal Overlay Zone).

17.08.050 Zoning Code Enforcement

Enforcement of the Zoning Code shall occur in a manner consistent with Capitola Municipal Code Title 4 (General Municipal Code Enforcement).

Chapter 17.12 - ZONING DISTRICTS AND MAP

Sections:

17.12.010 Purpose

17.12.020 Zoning Districts

17.12.030 Zoning Map

17.12.010 Purpose

This chapter identifies the zoning districts that apply to land within the Capitola city limits and establishes the official Capitola Zoning Map.

17.12.020 Zoning Districts

- A. **Base Zoning Districts.** Capitola is divided into zoning districts that implement the General Plan Land Use Map as shown in Table 17.12-1. Within the coastal zone, the General Plan Land Use Map is the certified Coastal Land Use Plan Map.

TABLE 17.12-1: BASE ZONING DISTRICTS

<u>Zoning District Symbol</u>	<u>Name of Zoning District</u>	<u>General Plan Land Use Designation</u>
<u>Residential Zoning Districts</u>		
<u>R-1</u>	<u>Residential Single-Family</u>	<u>Single-Family Residential (R-SF)</u>
<u>RM-L</u>	<u>Residential Multi-Family, Low Density</u>	<u>Multi-Family Residential (R-MF)</u>
<u>RM-M</u>	<u>Residential Multi-Family, Medium Density</u>	
<u>RM-H</u>	<u>Residential Multi-Family, High Density</u>	
<u>MH</u>	<u>Mobile Home Park</u>	<u>Mobile Home Park (MH)</u>
<u>Mixed-Use Zoning Districts</u>		
<u>MU-V</u>	<u>Mixed Use, Village</u>	<u>Village Mixed-Use (MU-V)</u>
<u>MU-N</u>	<u>Mixed Use, Neighborhood</u>	<u>Neighborhood Mixed-Use (MU-N)</u>
<u>Commercial and Industrial Zoning Districts</u>		
<u>C-C</u>	<u>Commercial, Community</u>	<u>Community Commercial (C-C)</u>
<u>C-R</u>	<u>Commercial, Regional</u>	<u>Regional Commercial (C-R)</u>
<u>I</u>	<u>Industrial</u>	<u>Industrial (I)</u>

<u>Zoning District Symbol</u>	<u>Name of Zoning District</u>	<u>General Plan Land Use Designation</u>
<u>Other Zoning Districts</u>		
<u>CF</u>	<u>Community Facility</u>	<u>Public/Quasi-Public Facility (P/QP)</u>
<u>P/OS</u>	<u>Parks and Open Space</u>	<u>Parks and Open Space (P/OS)</u>
<u>PD</u>	<u>Planned Development</u>	<u>N/A</u>

- B. Overlay Zones.** The Zoning Code and Zoning Map include the overlay zones shown in Table 17.12-2. Overlay zones impose additional regulations on properties beyond what is required by the underlying base zoning district.

TABLE 17.12-2: OVERLAY ZONES

<u>Overlay Zone Symbol</u>	<u>Name of Overlay Zone</u>
<u>-AH</u>	<u>Affordable Housing</u>
<u>-VRU</u>	<u>Vacation Rental Use</u>
<u>-VR</u>	<u>Village Residential</u>
<u>-VS</u>	<u>Visitor Serving</u>
<u>-CZ</u>	<u>Coastal Zone</u>

17.12.030 Zoning Map

- A. Adoption.** The City Council hereby adopts the Capitola Zoning Map (“Zoning Map”), which establishes the boundaries of all base zoning districts and overlay zones provided for in the Zoning Map.
- B. Incorporation by Reference.** The Zoning Map, including all legends, symbols, notations, references, and other information shown on the map, is incorporated by reference and made a part of the Zoning Code.
- C. Location.** The Zoning Map is kept, maintained, and updated electronically by the Community Development Department, and is available for viewing by the public at the Department.

PART 2

Zoning Districts and Overlay Zones

Chapter 17.16 - Residential Zoning Districts..... 16-1

- 17.16.010 Purpose of the Residential Zoning Districts
- 17.16.020 Land Use Regulations
- 17.16.030 Development Standards

Chapter 17.20 - Mixed Use Zoning Districts..... 20-1

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- 17.20.030 Development Standards – Mixed Use Village Zoning District
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- 17.24.020 Land Use Regulations
- 17.24.030 Development Standards
- 17.24.040 Residential Mixed Use Development in Commercial Zoning Districts

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- 17.28.020 Land Use Regulations
- 17.28.030 Development Standards

Chapter 17.32 - Special Purpose Zoning Districts..... 32-1

- 17.32.010 Purpose of the Special Purpose Zoning Districts
- 17.32.020 Land Use Regulations
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17.44.020 Local Coastal Program Components

17.44.030 Definitions (see also Chapter 17.160 - Glossary)

17.44.040 Relationship to Base Zoning Districts

17.44.050 Allowed Land Uses

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17.44.100 Challenges to City Determination of a CDP

17.44.110 Application Submittal

17.44.120 Public Notice and Hearings

17.44.130 Findings for Approval

17.44.140 Notice of Final Action

17.44.150 Appeals

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Chapter 17.16 - RESIDENTIAL ZONING DISTRICTS

Sections:

17.16.010 Purpose of the Residential Zoning Districts

17.16.020 Land Use Regulations

17.16.030 Development Standards

17.16.010 Purpose of the Residential Zoning Districts

A. General. The purpose of residential zoning districts is to support attractive, safe, and friendly neighborhoods consistent with Capitola's intimate small-town feel and coastal village charm. Development within the residential zoning districts will feature high quality design that enhances the visual character of the community. The mass, scale, and design of new homes shall be compatible with existing homes in neighborhoods and carefully designed to minimize impacts to existing homes. Residential zoning districts contain a range of housing types and community facilities to support diverse and complete neighborhoods with a high quality of life for residents.

B. Specific.

1. **Residential Single-Family (R-1) Zoning District.** The purpose of the R-1 zoning district is to protect and enhance the unique qualities of individual neighborhoods in Capitola. The R-1 zoning district allows for variation in development standards based on the existing development patterns within these neighborhoods. New development will respect the existing scale, density, and character of neighborhoods to strengthen Capitola's unique sense of place.
2. **Residential Multi-Family (RM) Zoning District.** The purpose of the RM zoning district is to accommodate a range of housing types to serve all Capitola residents. The RM zoning districts allows single-family and multi-family housing at higher densities to maintain and increase the supply of affordable housing choices. Housing in the RM zoning districts will be carefully designed to enhance Capitola's unique identity and to minimize impacts on adjacent land uses and structures. The RM zone is divided into three subzones (RM-L, RM-M, and RM-H) allowing for a range of permitted residential densities.
3. **Mobile Home Park (MH) Zoning District.** The MH zone provides areas for exclusive development of mobile home parks. Mobile home parks provide a valuable source of affordable housing serving Capitola's lower-income and senior residents.

17.16.020 Land Use Regulations

A. Permitted Land Uses. Table 17.16-1 identifies land uses permitted in the residential zoning districts.

TABLE 17.16-1: PERMITTED LAND USES IN THE RESIDENTIAL ZONING DISTRICTS

Key P Permitted Use A Administrative Permit required M Minor Use Permit required C Conditional Use Permit required = Use not allowed	Zoning District			Additional Regulations
	R-1	RM	MH	
Residential Uses				
Duplex Homes	=	P	=	
Elderly and Long Term Care	=	C	=	
Group Housing	=	P	=	
Mobile Home Parks	=	C	P [1]	Chapter 17.100
Multi-Family Dwellings	=	P	=	
Residential Care Facilities, Small	P	P	C [2]	
Residential Care Facilities, Large	C	C	C [2]	Section 17.96.080
Accessory Dwelling Units	A/C	A/C [4]	=	Chapter 17.74
Single-Family Dwellings	P	P	C [2]	
Public and Quasi-Public Uses				
Community Assembly	C	C	C	
Day Care Centers	C	C	C	
Home Day Care, Large	M	M	M	Section 17.96.070
Home Day Care, Small	P	P	P	
Parks and Recreational Facilities	=	C	C	
Public Pathways and Coastal Accessways	C	C	C	
Schools, Public or Private	=	C	C	
Commercial Uses				
Bed and Breakfast	C	C	=	
Vacation Rentals	See Section 17.40.030			
Transportation, Communication, and Utility Uses				
Utilities, Major	C	C	C	
Utilities, Minor	P	P	P	
Wireless Communications Facilities	See Chapter 17.104			
Other Uses				
Accessory Uses and Structure	P [3]	P [3]	P[3]	Chapter 17.52
Home Occupation	A	A	A	Section 17.96.040
Temporary Uses and Structures	M	M	=	Section 17.96.180
Urban Agriculture				
Home Gardens	P	P	P	
Community Gardens	M	M	M	
Urban Farms	C	C	C	

Notes:

[1] May include offices incidental and necessary to conduct a mobile home park use.

[2] Permitted on the mobile home park parcel or on a separate parcel of no less than 5,000 square feet.

[3] An accessory structure that exceed the development standards of Chapter 17.52 requires a Conditional Use Permit.

[4] Permitted only when there is one single family dwelling on the parcel.

B. Additional Permits. In addition to permits identified in Table 17.16-1, development projects in the residential zoning districts may also require a Design Permit pursuant to Chapter 17.120 (Design Permits). Modifications to a historic resource may require a Historic Alteration Permit pursuant to Chapter 17.84 (Historic Preservation). Development in the coastal zone may require a Coastal Development Permit pursuant to Chapter 17.44 (Coastal Overlay Zone) independent of and in addition to any other required permit or approval.

17.16.030 Development Standards

A. General Standards - Single-Family and Multi-Family Zoning Districts. Table 17.16-2 identifies development standards that apply in the R-1 and RM zoning districts.

TABLE 17.16-2: DEVELOPMENT STANDARDS IN THE R-1 AND RM ZONING DISTRICTS

	<u>R-1</u>	<u>RM</u>	<u>Additional Standards</u>
<u>Site Requirements</u>			
<u>Parcel Area, Minimum [1]</u>	<u>5,000 sq. ft.</u>	<u>N/A</u>	
<u>Parcel Width, Minimum [1]</u>	<u>30 ft.</u>	<u>N/A</u>	
<u>Parcel Depth, Minimum [1]</u>	<u>80 ft.</u>	<u>N/A</u>	
<u>Floor Area Ratio, Maximum</u>	<u>See Section 17.16.030.B.1</u>	<u>N/A</u>	<u>Section 17.16.030.B</u> <u>Section 17.48.040</u>
<u>Building Coverage, Maximum</u>	<u>N/A</u>	<u>40%</u>	
<u>Open Space</u>	<u>N/A</u>	<u>Section 17.030.C.2</u>	
<u>Parcel Area Per Unit, Minimum</u>	<u>N/A</u>	<u>RM-L: 4,400 sq. ft.</u> <u>RM-M: 2,900 sq. ft.</u> <u>RM-H: 2,200 sq. ft.</u>	
<u>Parking and Loading</u>	<u>See Chapter 17.76</u>		
<u>Structure Requirements</u>			
<u>Setbacks, Minimum</u>			<u>Section 17.48.030.B.2-6</u>
<u>Front</u>	<u>Ground floor: 15 ft.</u> <u>Garage: 20 ft.</u> <u>Second story: 20 ft.</u>	<u>Main structure: 15 ft.</u> <u>Garage: 20 ft.</u>	<u>Section 17.16.030.B.2</u> <u>Section 17.16.030.B.5</u> <u>Garage Setback: Section 17.16.030.B.4</u>
<u>Rear</u>	<u>20% of parcel depth:</u> <u>25 ft. max.</u>	<u>15% of parcel depth</u>	<u>Section 17.16.030.B.5</u>

	<u>R-1</u>	<u>RM</u>	<u>Additional Standards</u>
<u>Interior Side</u>	<u>Ground floor: 10% of parcel width; 3 ft. min.; 7 ft. max.</u> <u>Second story: 15% of parcel width</u>	<u>10% of parcel width</u>	<u>Section 17.16.030.B.5&6</u>
<u>Street Side, Corner Lots</u>	<u>10 ft.</u>	<u>10 ft.</u>	<u>Section 17.16.030.B.5</u>
<u>Height, Maximum</u>	<u>25 ft.</u>	<u>RM-L: 30 ft.</u> <u>RM-M: 30 ft.</u> <u>RM-H: 35 ft.</u>	<u>Section 17.16.030.B.7&8</u> <u>Section 17.48.020</u>
<u>Accessory Structures</u>	<u>See Chapter 17.52</u>		

Notes:

[1] Parcel area, width, and depth requirements apply only to the creation of new parcels. These requirements do not apply to legally created parcels existing as of [effective date of updated Zoning Code]. See Capitola Municipal Code Title 16 (Subdivisions) for requirements that apply to lot line adjustments to existing parcels that do not comply with the parcel area, width, and depth requirements in this table.

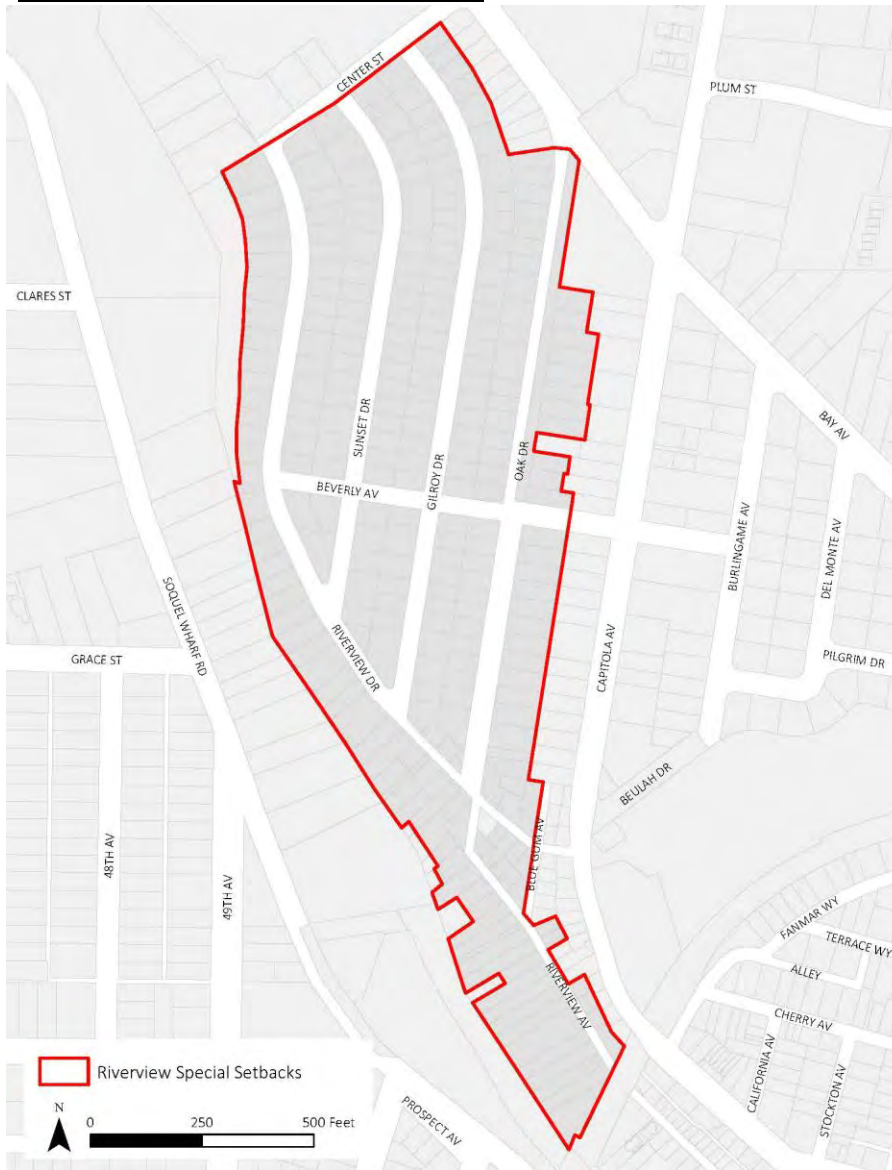
B. Additional Standards in the R-1 Zoning District. The following additional standards apply in the R-1 zoning district.

1. **Floor Area Ratio.** Table 17.16-3 identifies the maximum permitted floor area ratio (FAR) in the R-1 zoning district. See Section 17.48.040.B for floor area calculations.

TABLE 17.16-3: MAXIMUM FLOOR AREA RATIO IN THE R-1 ZONING DISTRICT

<u>Lot Size</u>	<u>Maximum FAR</u>
<u>2,650 sq. ft. or less</u>	<u>0.58</u>
<u>2,651 to 3,250 sq. ft.</u>	<u>0.57</u>
<u>3,251 to 3,500 sq. ft.</u>	<u>0.56</u>
<u>3,501 to 3,750 sq. ft.</u>	<u>0.55</u>
<u>3,751 to 4,000 sq. ft.</u>	<u>0.54</u>
<u>4,001 to 4,250 sq. ft.</u>	<u>0.53</u>
<u>4,251 to 4,500 sq. ft.</u>	<u>0.52</u>
<u>4,501 to 4,750 sq. ft.</u>	<u>0.51</u>
<u>4,751 to 5,000 sq. ft.</u>	<u>0.50</u>
<u>5,001 to 6,000 sq. ft.</u>	<u>0.49</u>
<u>More than 6,000 sq. ft.</u>	<u>0.48</u>

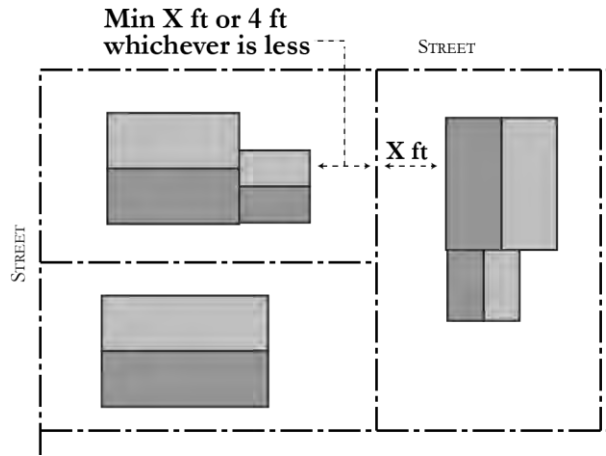
2. **Front Setbacks in Riverview Terrace.** Within the areas shown in Figure 17.16-1, the Planning Commission may approve a reduced front setback to reflect existing front setbacks on neighboring properties within 100 feet on the same side of the street. The reduced front setback shall in all cases be no less than 10 feet.

FIGURE 17.16-1: RIVERVIEW TERRACE

3. **Wharf Road Reduced Setback.** For properties on the east side of Wharf Road from 1820 Wharf Road to 1930 Wharf Road, the Planning Commission may approve a reduced front setback to reflect existing front setbacks on neighboring properties within 100 feet on the same side of the street.
4. **Garage Setbacks.**
 - a. Attached garages shall be setback a minimum of 5 feet behind the front or street side building wall of the primary structure. The Planning Commission may reduce this minimum setback to 3 feet in sidewalk exempt areas.
 - b. Required setbacks for detached garages are identified in Chapter 17.52 (Accessory Structures).
5. **Corner Lots.**

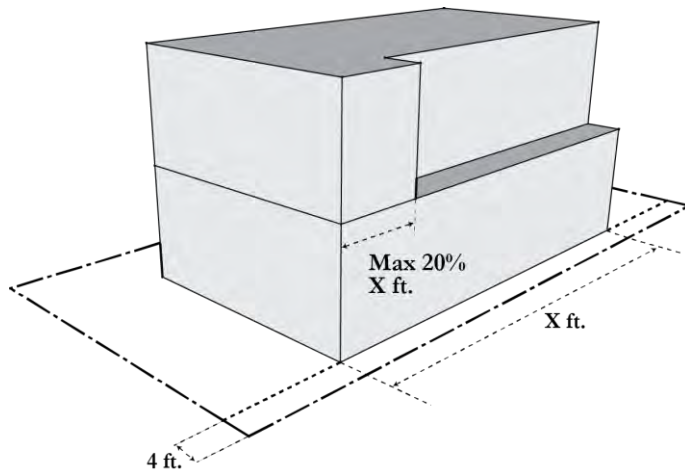
- a. The minimum rear setback for reverse corner lots shall be the minimum interior side yard of the adjacent property, but no less than 4 feet. See Figure 17.16-2.
- b. On a corner lot, the front line of the lot is ordinarily construed as the least dimension of the parcel facing the street. The Community Development Director has the discretion to determine the location of the front yard based on existing conditions and functions.

FIGURE 17.16-2: REVERSE CORNER LOT REAR SETBACK



6. **Second Story Setback Exceptions.** Second story additions must comply with increased setback requirements in Table 17.16-2, except in the following cases:
 - a. For lots 30 feet wide or less, the minimum interior side setback for a second story is the same as the ground floor.
 - b. Up to 20 percent of the length of an upper story wall may be constructed at the same setback as the first-floor wall if the first-floor wall is at least 4 feet from the side property line. See Figure 17.16-3.

FIGURE 17.16-3: SECOND STORY SETBACK EXCEPTION



7. **Height Exceptions.** A maximum height of up to 27 feet in the R-1 zoning district is allowed in the following circumstances:

- a. Additions to historic structures that are designed to match the roof pitch of the historic structure within the area of new addition.
- b. Parcels greater than 6,000 sf in size.
- c. Parcels with a width 60 feet or more.
- d. Parcels with an average slope of 25 percent or greater.
- e. When the plate height of structure does not exceed 22 feet.

8. **Landscaping.** See Section 17.72.050.A for residential landscape requirements.

9. **Mini-Bar/Convenience Areas.**

- a. A single-family home may contain one mini-bar/convenience area in addition to a kitchen, subject to the following standards:
 - (1) Fixtures shall be limited to a small refrigerator, a microwave oven, and a small sink with a drain size less than one and one-half inches.
 - (2) No gas line or 220-volt electric service is permitted within the area.
 - (3) Only one such area is permitted within a property in addition to the kitchen.
 - (4) The mini-bar/convenience area may be located within the home or outside of the home as part of an outdoor kitchen. If located within the home, internal access to the area shall be maintained within the dwelling.
- b. The requirements in paragraph (a) above shall not limit the establishment of an accessory dwelling unit in conformance with Chapter 17.74 (Accessory Dwelling Units).

C. **Additional Standards for RM Zoning Districts.** The following additional standards apply in the RM zoning district.

- 1. **Single-Family Dwellings.** Single-family dwellings in RM zoning districts shall

comply with the development standards that apply in the R-1 zoning district.

2. **Open Space.** Common and private open space in the RM zoning district shall be provided as shown in Table 17.16-4 and Figure 17.16-4.

TABLE 17.16-4: USABLE OPEN SPACE IN RM ZONING DISTRICT

Common Open Space [1]	
Minimum area (percent of site area)	15% [2] [3]
Minimum horizontal dimension	15 ft.
Private Open Space [4]	
Minimum percentage of units with private open space	50%
Minimum area (for individual unit)	48 sq. ft.
Minimum horizontal dimension	4 ft.

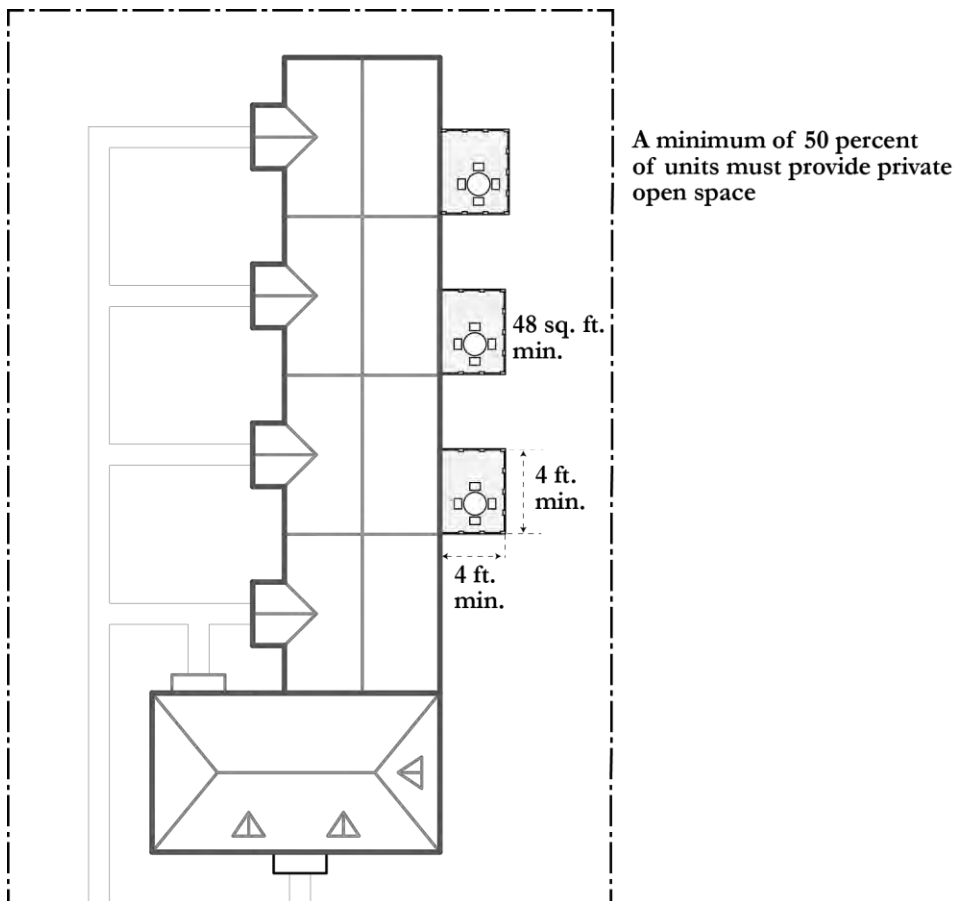
Notes:

[1] Common open space shall be fully landscaped and accessible to all residents.

[2] Roof terraces and roof gardens may provide up to 50 percent of the required common open space area if the Planning Commission finds that roof terraces and roof gardens provide quality open space for residents and minimize noise, privacy and other potential impacts on neighboring properties.

[3] The Planning Commission may allow reduced common open space to a minimum of 10 percent for projects less than one acre in size or for projects that provide additional private open space equal to or greater than the amount of reduced common open space.

[4] Private open space may include screened terraces, decks, balconies, and other similar areas

FIGURE 17.16-4: PRIVATE OPEN SPACE

1. **Landscaping.** See Section 17.72.050.A for residential landscape requirements.

D. Standards for the MH Zoning District. Table 17.16-5 identifies development standards that apply in the Mobile Home (MH) zoning district.

TABLE 17.16-5 MH ZONING DISTRICT DEVELOPMENT STANDARDS

		<u>Additional Standards</u>
<u>Site Area [1]</u>	<u>5 acres [2]</u>	
<u>Residential Density, Maximum</u>	<u>20 units per acre</u>	
<u>Setbacks [3]</u>		<u>17.48.030</u>
<u>Front</u>	<u>15 ft.</u>	
<u>Interior Side</u>	<u>10 ft.</u>	
<u>Exterior Side</u>	<u>10 ft.</u>	
<u>Rear</u>	<u>20 ft.</u>	

Notes:

[1] Applies to overall mobile home park area, not sites for individual units.

[2] For vacant property rezoned to MH, the minimum lot area is 5 acres. For existing mobile home parks, the minimum parcel size is 5 acres or the existing parcel size, whichever is less.

[3] Applies only to the perimeter of the mobile home park, not to sites and structures within the interior of the park.

Chapter 17.20 - MIXED USE ZONING DISTRICTS

Sections:

17.20.010 Purpose of the Mixed Use Zoning Districts

17.20.020 Land Use Regulations

17.20.030 Development Standards – Mixed Use Village Zoning District

17.20.040 Development Standards – Mixed Use Neighborhood Zoning District

17.20.010 Purpose of the Mixed Use Zoning Districts

A. General. The purpose of the mixed use zoning districts is to provide for active and inviting destinations in Capitola with a diversity of residential and commercial land uses. In the mixed use zoning districts, development shall support a lively, pedestrian-friendly public realm with inviting storefronts facing the sidewalk. A diversity of local and independent businesses, recreational amenities, and public spaces balance the needs of residents and visitors. New development shall respect Capitola's history and reflect its unique coastal village character. The diversity of land uses, pedestrian-friendly development, and general level of activity in the mixed use zoning districts shall support a range of transportation choices, including walking, biking, and transit.

B. Specific.

1. **Mixed Use, Village (MU-V) Zoning District.** The purpose of the MU-V zoning district is to preserve and enhance Capitola Village as the heart of the community. A diversity of commercial, residential, and recreational uses in the MU-V zoning district serve both visitors and residents. Land uses and development shall enhance the vitality of the Village while maintaining a high quality of life for residents. A fine-grain mix of retail, restaurants, services, and recreational amenities in the MU-V zoning district provides a walkable environment, caters to all ages, and supports year-round activity during the day and night.
2. **Mixed Use, Neighborhood (MU-N) Zoning District.** The purpose of MU-N zoning district is to allow for neighborhood-serving mixed use areas that enhance residents' quality of life. The MU-N zoning district contain an eclectic mix of retail, restaurants, and services for residents and visitors. A range of housing types close to non-residential uses increases housing choices and supports a walkable community. Development in the MU-N zoning district will be carefully designed to complement its surroundings and minimize impacts on neighboring properties. Land uses will strengthen connections between destinations in Capitola, including the Village, Bay Avenue, and 41st Avenue.

17.20.020 Land Use Regulations

A. Permitted Land Uses. Table 17.20-1 identifies land uses permitted in the mixed use

zoning districts.

TABLE 17.20-1: PERMITTED LAND USES IN THE MIXED USE ZONING DISTRICTS

Key <u>P</u> Permitted Use <u>A</u> Administrative Permit required <u>M</u> Minor Use Permit required <u>C</u> Conditional Use Permit required <u>=</u> Use not allowed	Zoning District		
	<u>MU-V</u>	<u>MU-N</u>	<u>Additional Regulations</u>
Residential Uses			<u>Section 17.20.020.B, C & E</u>
Duplex Homes	-/P [1]	P	
Elderly and Long Term Care	C [2]	C	
Group Housing	C [2]	C	
Multi-Family Dwellings	-/P [1]	C	
Residential Care Facilities, Small and Large	See Section 17.20.020.F		
Residential Care Facilities, Large	C [2]	C	<u>Section 17.96.080</u>
Residential Mixed Use	See Section 17.20.020.D & E	C	
Accessory Dwelling Units	=	A/C	<u>Chapter 17.74</u>
Single-Family Dwellings	-/P [1]	P	
Public and Quasi-Public Uses			
Community Assembly	C	C	
Cultural Institutions	C	C	
Day Care Centers	M	M	
Government Offices	P/C [4]	M [5]	
Home Day Care, Large	M	M	<u>Section 17.96.070</u>
Home Day Care, Small	P	P	
Medical Offices and Clinics	=	M [5]	
Parks and Recreational Facilities	C	C	
Public Pathways and Coastal Accessways	C	C	
Public Safety Facilities	C	C	
Schools, Public or Private	=	C	
Commercial Uses			<u>Section 17.20.020.E</u>
Alcoholic Beverage Sales	C	C	
Banks and Financial Institutions	C	P/C [3] [5]	
Commercial Entertainment and Recreation	C	C	
Eating and Drinking Places			
Bars and Lounges	C	C	
Restaurants and Cafes	C	C	
Take-Out Food and Beverage	M	M	
Gas and Service Stations	=	=	

Key P Permitted Use A Administrative Permit required M Minor Use Permit required C Conditional Use Permit required = Use not allowed	Zoning District		
	MU-V	MU-N	Additional Regulations
Lodging			
<u>Bed and Breakfast</u>	<u>C</u>	<u>C</u>	
<u>Hotels and Motels</u>	<u>C</u>	<u>C</u>	
<u>Personal Services</u>	<u>P</u>	<u>P/C [3] [5]</u>	
<u>Professional Offices</u>	<u>P/C [4]</u>	<u>M [5]</u>	
<u>Retail</u>	<u>P</u>	<u>P/C [3] [5]</u>	
<u>Vacation Rental</u>	<u>See Chapter 17.40.030</u>		
Transportation, Communication, and Utility Uses			
<u>Utilities, Major</u>	<u>C</u>	<u>C</u>	
<u>Utilities, Minor</u>	<u>P</u>	<u>P</u>	
<u>Wireless Communications Facilities</u>	<u>See Chapter 17.104</u>		
Other Uses			
<u>Accessory Uses and Structures</u>	<u>See Chapter 17.52</u>		<u>Chapter 17.52</u>
<u>Home Occupations</u>	<u>A</u>	<u>A</u>	<u>Section 17.96.040</u>
<u>Permanent Outdoor Display (Accessory Use)</u>	<u>=</u>	<u>C</u>	<u>Section 17.96.100</u>
<u>Temporary Uses and Structures</u>	<u>See Section 17.96.180</u>		
Urban Agriculture			
<u>Home Gardens</u>	<u>P</u>	<u>P</u>	
<u>Community Gardens</u>	<u>M</u>	<u>M</u>	
<u>Urban Farms</u>	<u>C</u>	<u>C</u>	

Notes:

[1] Allowed only in the Village Residential (-VR) overlay zone. Exclusively residential uses are not allowed outside of the -VR overlay zone.

[2] Allowed only on the second or third story of a mixed-use development outside of the -VR overlay zone. Allowed on any story in the -VR overlay zone.

[3] Larger than 3,000 sq. ft. requires a Conditional Use Permit.

[4] Second floor uses permitted by-right. Ground floor uses require a Conditional Use Permit. Prohibited third floor and above.

[5] Conditional Use Permit required for parcels fronting Capitola Road.

B. Village Residential Overlay. Pursuant to Section 17.40.040 (Village Residential (-VR) Overlay Zone), only residential uses are permitted in the -VR overlay zone. The Village Residential (-VR) overlay zone applies to the following areas within the MU-V zoning district as shown on the Zoning Map: Six Sisters, Venetian Court, Lawn Way, and portions of Wharf Road, Riverview Avenue, Cliff Drive, Cherry Avenue, San Jose Avenue, Park Place, and California Avenue.

C. Ground Floor Conversions to Residential. Existing ground floor commercial uses in the MU-V zoning district may not be converted to a residential use unless located in the

Village Residential (-VR) overlay zone.

D. Residential Mixed Use in the MU-V Zoning District.

1. If a proposed residential mixed use project in the MU-V zoning district contains any use that requires a Conditional Use Permit, the entire project, including the residential use, requires a Conditional Use Permit.
2. If a proposed residential use replaces an existing upper floor commercial use, the residential use is allowed by-right.

E. Third-Story Uses in the MU-V Zoning District. Permitted land uses within the third-story of an existing or new building in the MU-V zoning district are limited to residential and hotel uses only.

F. Residential Care Facilities. Residential care facilities shall be allowed with the permits required for dwellings of the same type within the applicable zoning district. For example, a residential care facility in a detached single-family home requires the same permits and is subject to the same use regulations as a detached single-family home.

17.20.030 Development Standards – Mixed Use Village Zoning District

A. General. Table 17.20-2 identifies development standards that apply in the Mixed Use Village (MU-V) zoning district.

TABLE 17.20-2: DEVELOPMENT STANDARDS IN THE MIXED USE VILLAGE (MU-V) ZONING DISTRICTS

	<u>MU-V</u>	<u>Additional Standards</u>
<u>Site Requirements</u>		
<u>Floor Area Ratio, Maximum</u>	<u>2.0</u>	<u>Section 17.20.030.C</u> <u>Chapter 17.88</u> <u>Section 17.48.040</u>
<u>Parking and Loading</u>	<u>See Chapter 17.76</u>	
<u>Structure Requirements</u>		
<u>Setbacks</u>		
<u>Front</u>	<u>Min: 0 ft.</u> <u>Max: 15 ft.</u>	<u>Section 17.20.030.D</u>
<u>Rear</u>	<u>None [1]</u>	
<u>Interior Side</u>	<u>None</u>	
<u>Street Side</u>	<u>Min: 0 ft.</u> <u>Max: 15 ft.</u>	
<u>Height, Maximum</u>	<u>27 ft.</u>	<u>Section 17.20.030.B & C</u> <u>Section 17.48.020</u> <u>Chapter 17.88</u>

Accessory Structures	See Chapter 17.52	
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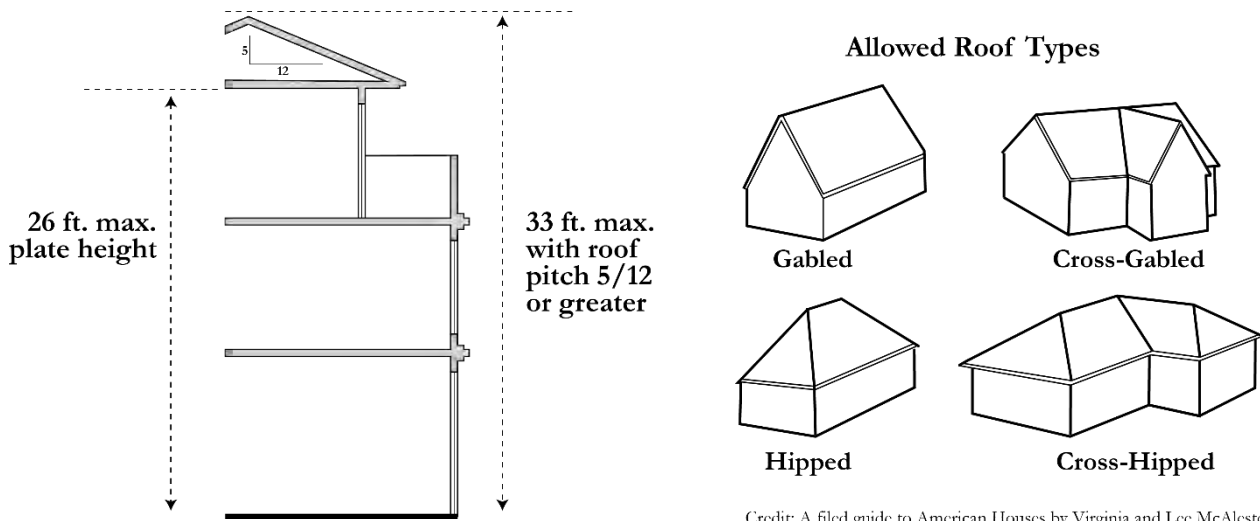
Notes:

[1] 20% of lot depth for residential use on parcel.

B. Height Exceptions. The following exceptions are permitted to the maximum permitted height in the MU-V zoning district as shown in Table 17.20-2:

1. Up to 33 feet for gabled or hipped roof with a minimum 5:12 roof pitch and a maximum plate height of 26 feet. There shall be no breaks in the roof slope for doors and decks. Exterior doors and decks above the 26-foot plate height are prohibited. See Figure 17.20-1.
2. The 33 feet includes the maximum height of projections for non-habitable decorative features and structures identified in Section 17.48.020.B (Height Exceptions).

FIGURE 17.20-1: INCREASED HEIGHT IN THE MU-V ZONING DISTRICT



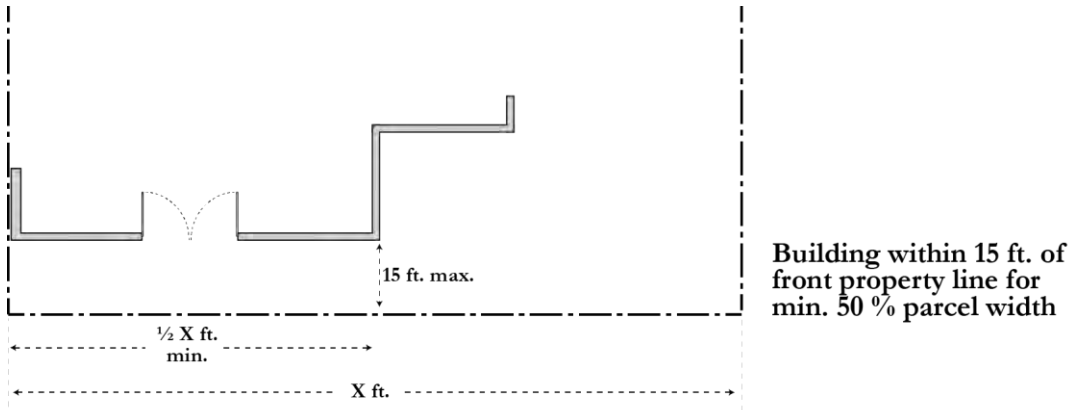
C. Increased Floor Area and Height for the Capitola Theater Site. As provided in Chapter 17.88 (Incentives for Community Benefits), the City Council may approve exceptions to height and floor area ratio (FAR) limits shown in Table 17.20-2 for the Capitola Theater site (APNs 035-262-04, 035-262-02, 035-262-11, and 035-261-10). These exceptions are intended to facilitate the development of a new hotel in the Capitola Village consistent with the General Plan/Land Use Plan.

D. Setbacks in the MU-V Zoning District. The following setback standards apply to all new structures in the MU-V zoning district.

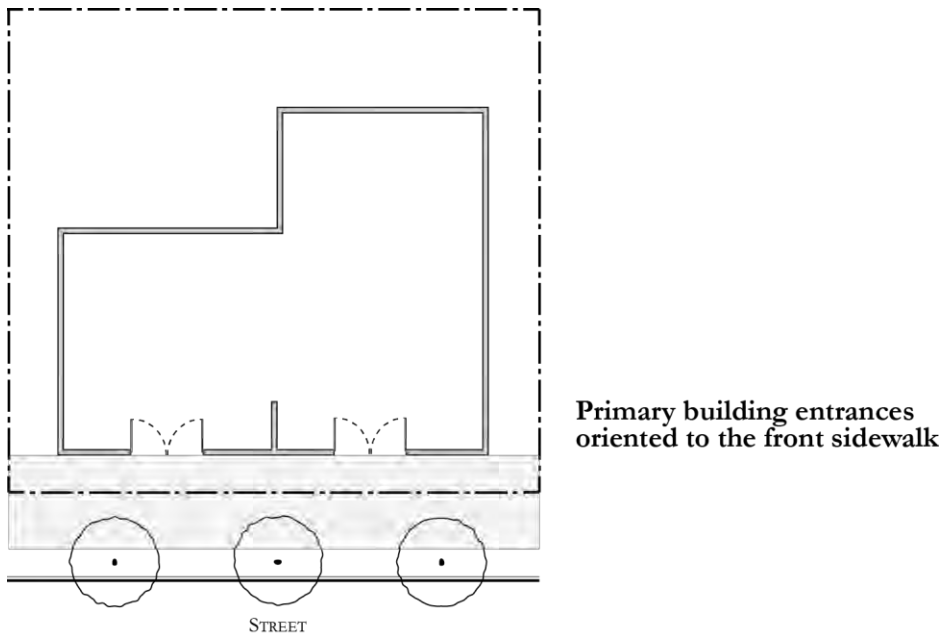
1. Building should be constructed within 15 feet of the front property line for a minimum of 50 percent of the parcel's linear street frontage. See Figure 17.20-2. The Planning Commission may modify or waive this requirement upon finding that:
 - a. Compliance with the build-to width requirement would render the proposed project infeasible;

- b. The project incorporates a front-facing courtyard of public seating area; or
- c. An alternative site design would result in an enhanced pedestrian experience.

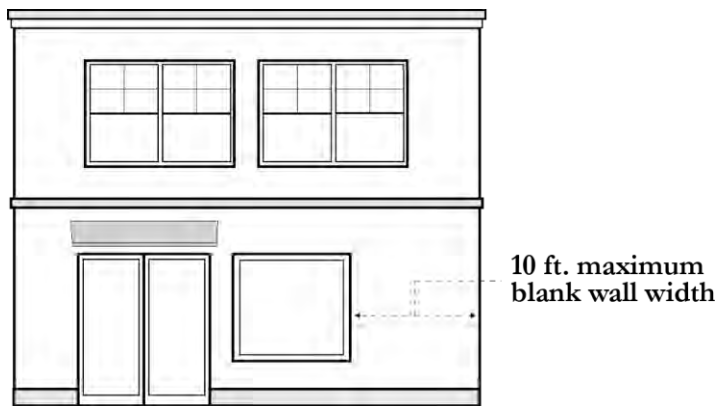
FIGURE 17.20-2: BUILD TO LINE – MU-V ZONING DISTRICT



2. Front setback areas shall be pedestrian oriented and contain semi-public amenities such as courtyards or outdoor seating areas.
 3. Structures shall be setback a minimum of 10 feet from the property line on the northerly side of the first two hundred fifty feet of Cliff Drive, west of the intersection of Wharf Road.
- E. General Design Standards.** The following standards apply to all new buildings and area of new additions within the MU-V zoning districts, excluding the Village Residential Overlay.
1. **Building Orientation.** Buildings should be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk. See Figure 17.20-3.

FIGURE 17.20-3: BUILDING ORIENTATION

2. **Blank Walls.** The maximum length of an unarticulated/blank building wall fronting a public street shall be 10 feet. See Figure 17.20-4. Building articulation may be provided by:
 - a. Doors, windows, and other building openings;
 - b. Building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest;
 - c. Varying wall planes, heights or contrasting materials; and
 - d. Awnings, canopies or arcades to reinforce the pedestrian scale and provide shade and cover from the elements.

FIGURE 17.20-4: BLANK WALL LIMITATIONS

3. **Storefront Width.** The maximum building/storefront width shall be 25 feet. See Figure 17.20-5. Larger buildings shall be broken down into a pedestrian-scale rhythm with differentiated storefront design every 25 feet.

FIGURE 17.20-5: STOREFRONT WIDTH



4. **Ground Floor Building Transparency.**
- a. The ground floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. See Figure 17.20-6. Windows or doors area shall be transparent to allow views into the building.

FIGURE 17.20-6: STOREFRONT TRANSPARENCY

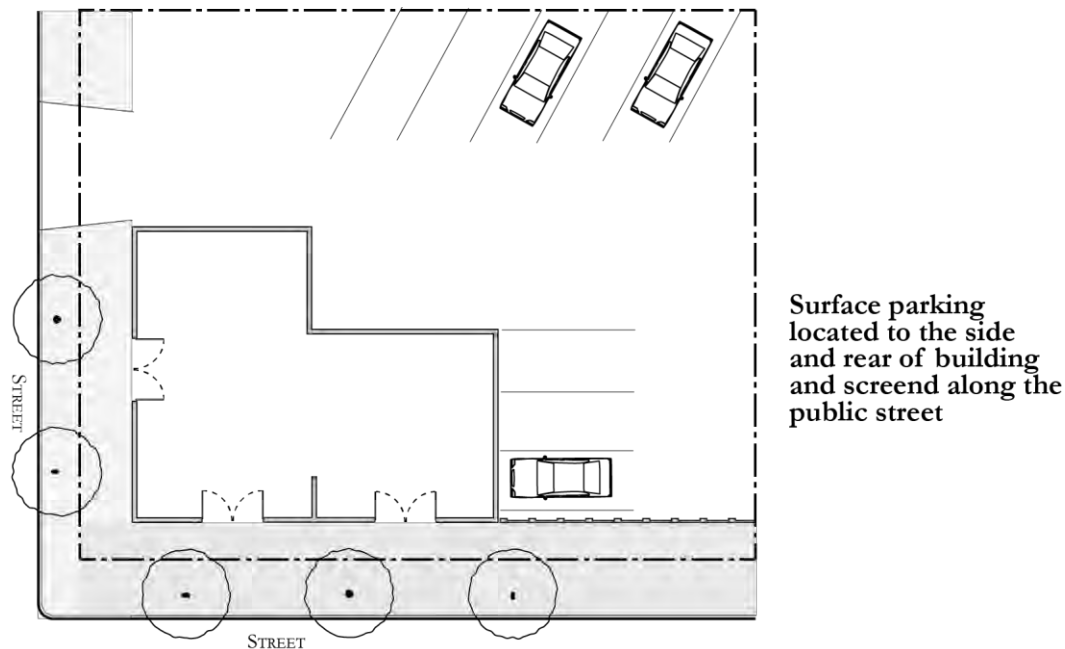


- b. Exceptions to this transparency requirement may be allowed with a Design Permit if the Planning Commission finds that:
 - (1) The proposed use has unique operational characteristics which preclude building openings, such as for a cinema or theatre; and
 - (2) Street-facing building walls will exhibit architectural relief and detail, and will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.

5. **Parking Location and Buffers.**

- a. Surface parking shall be located to the rear or side of buildings. Surface parking may not be located between a building and a street-facing property line. See Figure 17.20-7.
- b. Surface parking adjacent to a street-facing property line shall be screened along the public right-of-way with a decorative wall, hedge, trellis, and/or landscaping at least 3 feet in height or maximum allowed pursuant to line of sight requirements in Section 17.96.050.
- c. Loading areas shall be located to the side and rear of buildings, and shall be sufficiently screened from the public right-of-way, as determined by the Community Development Director.

FIGURE 17.20-7: PARKING LOCATION



6. **Driveways and Curb Cuts.**

- a. The maximum width of a new driveway crossing a public sidewalk may not exceed 40 percent of the parcel width or 20 feet, whichever is less. The Community Development Director may approve an exception to this standard in the case of shared or joint use of driveways and parking lots.
- b. New curb cuts, where allowed, shall be located and designed to maximize safety and convenience for pedestrians, bicycles and mass transit vehicles, as determined by the Community Development Director. Considerations for determination include separation between curb cuts, displaced parking, and sight lines.

7. **Paved Site Areas.**

- a. The materials, colors, textures, and other design features of on-site paved areas, including courtyards, walkways, and patios, shall complement and enhance the overall design character of development on the site.
- b. The use of asphalt for on-site paving is prohibited, except when used for parking areas and vehicle circulation.

8. **Garbage and Recycling.** Facilities for garbage and recycling shall be screened from public right-of-way and either designed into the architecture of the primary building or enclosed in an accessory structure located to the side and/or rear of the primary building.

9. **Landscaping.** See Section 17.72.050.B.

17.20.040 Development Standards – Mixed Use Neighborhood Zoning District

- A. **General.** Table 17.20-3 identifies development standards that apply in the Mixed Use Neighborhood (MU-N) zoning district.

TABLE 17.20-3: DEVELOPMENT STANDARDS IN THE MIXED USE NEIGHBORHOOD ZONING DISTRICT

	<u>Zoning District</u>	<u>Additional Standards</u>
	<u>MU-N</u>	
<u>Site Requirements</u>		
Parcel Area, Minimum [1]	<u>3,200 sq. ft.</u>	
Parcel Width, Minimum [1]	<u>40 ft.</u>	
Parcel Depth, Minimum [1]	<u>80 ft.</u>	
Floor Area Ratio, Maximum	<u>1.0</u>	<u>Section 17.48.040</u>
Parking and Loading	<u>See Chapter 17.76</u>	
<u>Structure Requirements</u>		
<u>Setbacks</u>		
<u>Front</u>	<u>Min: 0 ft. from property line or 10 ft. from curb, whichever is greater [3] [4]</u> <u>Max: 25 ft.</u>	<u>Section 17.20.040.C</u>
<u>Rear</u>	<u>10 ft. min. from property line [2] [3] [4]</u>	
<u>Interior Side</u>	<u>10% of lot width [3] [4]</u>	
<u>Street Side</u>	<u>Min: 0 ft. from property line or 10 ft. from curb, whichever is greater [3]</u> <u>Max: 25 ft.</u>	
<u>Height, Maximum</u>	<u>27 ft.</u>	<u>Section 17.20.040.D</u>
<u>Accessory Structures</u>	<u>See Chapter 17.52</u>	

Notes:

[1] Parcel area, width, and depth requirements apply only to the creation of new parcels. These requirements do not apply to legally created parcels existing as of [effective date of updated Zoning Code]. See Capitola Municipal Code Title 16 (Subdivisions) for requirements that apply to lot line adjustments to existing parcels that do not comply with the parcel area, width, and depth requirements in this table.

[2] 20% of lot depth for residential use on parcel.

[3] The Planning Commission may approve reduced front, side, and rear setback requirements for properties fronting Capitola Avenue north of the trestle up to and including 431 Capitola Avenue.

[4] The Planning Commission may reduce front, side, and rear setbacks when a parcel is surrounded by commercial properties.

B. Building Orientation.

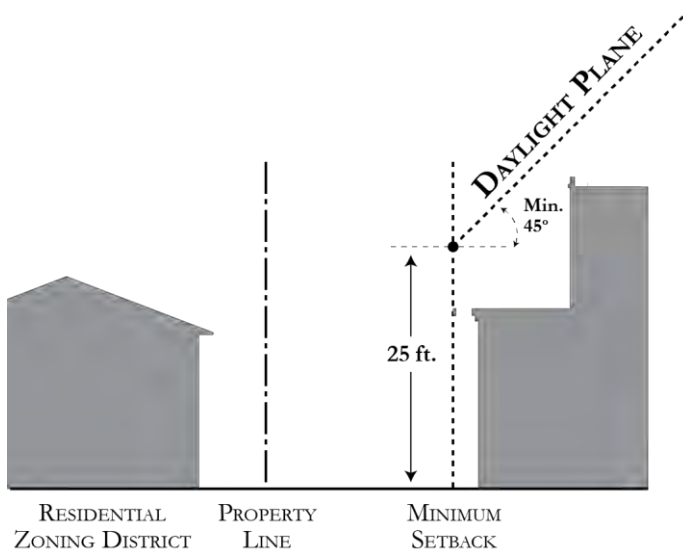
1. Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk.
2. The Planning Commission may grant an exception to the requirement in paragraph 1 above upon finding that unique conditions on the site require an alternative building orientation and that the proposed project would maintain a pedestrian-friendly and active street frontage to the greatest extent possible.

C. Setbacks in the MU-N Zoning District. Front setback areas in the MU-N Zoning District not used for vehicle parking or circulation shall be pedestrian oriented and shall

be either landscaped or contain semi-public amenities such as courtyards or outdoor seating areas.

- D. Residential Transitions – Daylight Plane.** When a property abuts a residential zoning district, no structure shall extend above or beyond a daylight plane having a height of 25 feet at the setback from the residential property line and extending into the parcel at an angle of 45 degrees. See Figure 17.20-8.

FIGURE 17.20-8: RESIDENTIAL TRANSITIONS – DAYLIGHT PLANE



- E. Parking Location and Buffers.** Surface parking shall be located to the rear or side of buildings where possible. When parking is located between a building and a street-facing property line, the parking shall be either:

1. Screened along the street with a decorative wall, hedge, trellis, and/or landscaping at least 3 feet in height; or
2. Designed to minimize visual impacts and support a pedestrian-friendly environment to the greatest extent possible as determined by the Planning Commission.

F. Driveways and Curb Cuts.

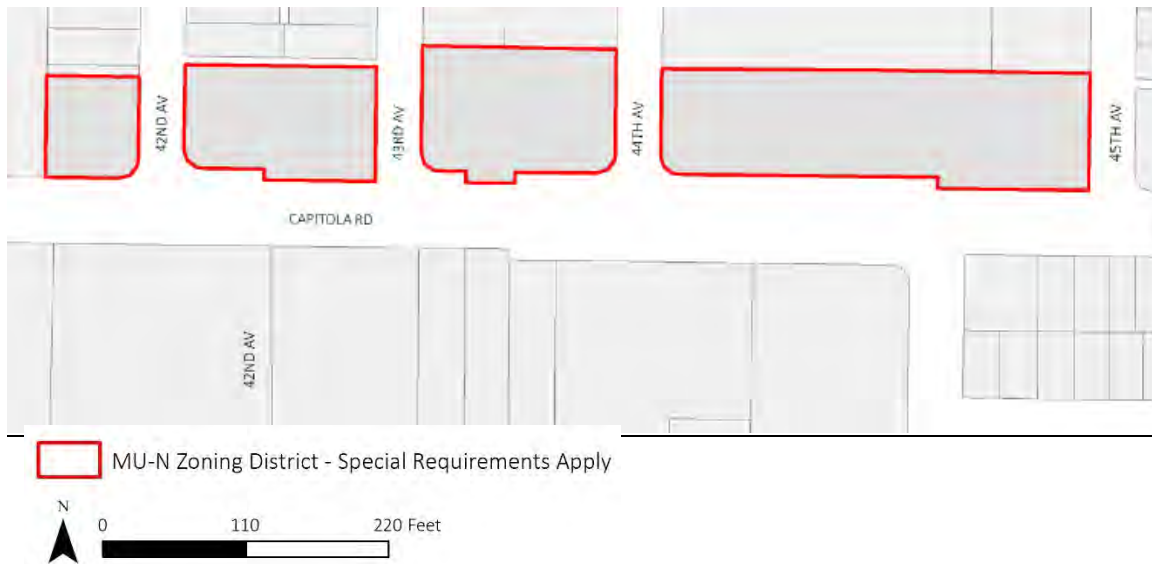
1. The maximum width of new driveways crossing a public sidewalk may not exceed 40 percent of the parcel width or 20 feet, whichever is less. The Community Development Director may approve exceptions to these standards in the case of shared or joint use of driveways and parking lots.
2. New curb cuts, where allowed, shall be located and designed to maximize safety and convenience for pedestrians, bicycles and mass transit vehicles, as determined by the Community Development Director. Considerations for determination include adequate separation between curb cuts, displaced parking, and sight lines.

G. Landscaping. See Section 17.72.050.B.

H. Capitola Road. The following standards apply to new primary buildings constructed in the MU-N zoning district fronting the north side of Capitola Road between 41st Avenue and 45th Avenue as shown in Figure 17.20-9. These standards do not apply to alterations or expansions to existing buildings.

1. Buildings shall feature a gabled or hipped roof with a minimum 5:12 roof pitch.
2. Buildings shall be setback from the curb or street edge in a manner that allows for a minimum 10-foot sidewalk along the property frontage.

FIGURE 17.20-9: CAPITOLA ROAD MU-N SUBJECT TO SPECIAL STANDARDS



Chapter 17.24 - COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

Sections:

17.24.010 Purpose of the Commercial and Industrial Zoning Districts

17.24.020 Land Use Regulations

17.24.030 Development Standards

17.24.040 Residential Mixed Use Development in Commercial Zoning Districts

17.24.010 Purpose of the Commercial and Industrial Zoning Districts

- A. **Community Commercial (C-C) Zoning District.** The purpose of the C-C zoning district is to provide areas for a variety of commercial uses serving Capitola residents and visitors. The C-C zoning district allows for retail, restaurants, and services that meet the daily needs of the community. The scale, intensity, and design of development in the C-C zoning district shall be compatible with adjacent neighborhoods and contribute to Capitola's unique coastal village character. Interspersed residential and office uses in the C-C zoning district shall support a diverse local economy and range of housing choices.
- B. **Regional Commercial (C-R) Zoning District.** The purpose of the C-R zoning district is to provide areas for commercial uses that serve regional shoppers as well as Capitola residents, workers, and visitors. The C-R zoning district will maintain a critical mass of retail and service uses that maintain 41st Avenue as a successful retail destination. Office, medical, and residential uses will be restricted to protect the long-term economic vitality of the corridor. Incremental redevelopment of underutilized properties in the C-R zoning district will enhance the corridor as a pedestrian-friendly shopping destination that enhance Capitola's unique identity and quality of life.
- C. **Industrial (I) Zoning District.** The purpose of the I zoning district is to provide an area for heavy commercial and light industrial uses in Capitola. The I zoning district allows for non-residential uses which are desired in the community but could be incompatible with land uses in other zoning districts. The I zoning district shall continue to accommodate businesses that contribute to a diverse economy, provide local jobs, and serve the needs of residents and other businesses in Capitola.

17.24.020 Land Use Regulations

- A. **Permitted Land Uses.** Table 17.24-1 identifies land uses permitted in the commercial and industrial zoning districts. The City Council may approve a use not listed in Table 17.24-1 after receiving a recommendation from the Planning Commission and finding the use to be consistent with the General Plan and the purpose of the zoning district.

TABLE 17.24-1: PERMITTED LAND USES IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

Key P Permitted Use A Administrative Permit required M Minor Use Permit required C Conditional Use Permit required = Use not allowed	Zoning District			Additional Requirements
	C-C	C-R	I	
Residential Uses				
Single-Family Dwellings	=	=	=	
Multi-Family Dwellings	C	C [9]	=	
Residential Mixed Use	C	C [7]	=	Section 17.24.040
Public and Quasi-Public Uses				
Colleges and Trade Schools	C	C	C	
Community Assembly	C	C	=	
Cultural Institutions	C	C	=	
Day Care Centers	C	C	=	
Emergency Shelters	=	=	P	Section 17.96.030
Government Offices	See 17.24.020.C		C	
Medical Offices and Clinics	See 17.24.020.C		=	
Public paths and coastal accessways	C	C	C	
Public Safety Facilities	C	C	C	
Commercial Uses				
Alcoholic Beverage Sales	C	C	C	
Banks	P [2]	P [2]	=	
Financial Institutions	P [2]	P [2]	=	Section 17.24.020.C
Business Services	P [2]	P [2]	P	
Commercial Entertainment and Recreation	M	M	=	
Drive-Through Facilities	=	C [4]	=	
Eating and Drinking Establishments				
Bars and Lounges	C	C	C	
Mobile Food Vendors	=	A [6]/C	A [6]/C	
Restaurants and Cafes	M [2]	M [2]	C	
Take-Out Food and Beverage	M [2]	M [2]	=	
Food Preparation	M [2]	=	P	
Gas and Service Stations	C	C	=	
Liquor Stores	C	C	=	
Lodging				
Bed and Breakfast	C	=	=	
Hotel	C	C	=	

<u>Maintenance and Repair Services</u>	<u>M</u>	<u>C</u>	<u>P</u>	
<u>Personal Services</u>	<u>P [1]</u>	<u>P [1]</u>	<u>=</u>	
<u>Professional Offices</u>	<u>See 17.24.020.C</u>		<u>P</u>	
<u>Salvage and Wrecking</u>	<u>=</u>	<u>=</u>	<u>P</u>	
<u>Self-Storage</u>	<u>C</u>	<u>=</u>	<u>C</u>	<u>Section 17.96.140</u>
<u>Retail</u>	<u>P</u>	<u>P</u>	<u>=</u>	
<u>Vehicle Repair</u>	<u>C</u>	<u>C</u>	<u>P</u>	
<u>Vehicle Sales and Rental</u>	<u>C [5]</u>	<u>C [5]</u>	<u>=</u>	
<u>Vehicle Sales Display Room [8]</u>	<u>P</u>	<u>P</u>	<u>=</u>	
<u>Wholesaling</u>	<u>=</u>	<u>M [3]</u>	<u>P</u>	
<u>Heavy Commercial and Industrial Uses</u>				
<u>Construction and Material Yards</u>	<u>=</u>	<u>=</u>	<u>P</u>	
<u>Custom Manufacturing</u>	<u>M</u>	<u>M</u>	<u>P</u>	
<u>Light Manufacturing</u>	<u>=</u>	<u>=</u>	<u>P</u>	
<u>Warehousing and Distribution</u>	<u>=</u>	<u>=</u>	<u>P</u>	
<u>Transportation, Communication, and Utility Uses</u>				
<u>Utilities, Major</u>	<u>=</u>	<u>C</u>	<u>C</u>	
<u>Utilities, Minor</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Recycling Collection Facilities</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>Section 17.96.130</u>
<u>Wireless Communications Facilities</u>	<u>See 17.104</u>			
<u>Other Uses</u>				
<u>Accessory Uses</u>	<u>See 17.52</u>			
<u>Home Occupations</u>	<u>A</u>	<u>A</u>	<u>=</u>	<u>Chapter 17.96.040</u>
<u>Permanent Outdoor Display</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>Section 17.96.100</u>
<u>Temporary Uses</u>	<u>See 17.76.180</u>			
<u>Urban Agriculture</u>				
<u>Home Garden</u>	<u>P</u>	<u>P</u>	<u>=</u>	
<u>Community Garden</u>	<u>M</u>	<u>M</u>	<u>=</u>	
<u>Urban Farm</u>	<u>C</u>	<u>C</u>	<u>=</u>	

Notes:

[1] Combination of two or more tenant suites within a multi-tenant building or greater than 5,000 sq. ft. requires Minor Use Permit

[2] Combination of two or more tenant suites within a multi-tenant building or greater than 5,000 sq. ft. requires Conditional Use Permit

[3] Without stock. Storage of merchandise limited to samples only.

[4] Prohibited within 100 feet of a residential zoning district or residential use including residential properties outside the City limits. Distance is measured from any site feature designed and/or used to provide drive-through service (e.g., vehicle aisle, menu board, lighting) to the property of the residential district or use.

[5] Majority of vehicles for sale must be new.

[6] Mobile food vendors in one location two times or less per year are regulated as a temporary use in accordance with Section 17.96.180 and are allowed with an Administrative Permit in accordance with Municipal Code Chapter 9.36. Mobile food vendors in one location more than two times per year require a Conditional Use Permit.

[7] Residential uses are prohibited on the first story.

[8] Maximum 5,000 square feet.

[9] Allowed only as a part of a mixed-use project integrated with commercial structures located on the same development site.

B. Additional Permits. In addition to permits identified in Table 17.24-1, development projects in the commercial and industrial zoning districts may also require a Design Permit pursuant to Chapter 17.120 (Design Permits). Modifications to a historic resource may require a Historic Alteration Permit pursuant to Chapter 17.84 (Historic Preservation). Development in the coastal zone may require a Coastal Development Permit pursuant to Chapter 17.32 (Coastal Overlay Zone) independent of and in addition to any other required permit or approval.

C. Office Uses in the C-C and C-R Zoning Districts.

1. **New Office Uses.** In the C-C and C-R zoning districts, permits required for new office uses and conversions of non-office space to office use are shown in Table 17.24-2. Offices include professional, medical, financial institutions and governmental offices.
2. **Existing Office Uses.** Within office building utilized exclusively for office uses as of [effective date of Zoning Ordinance], office uses may continue to occupy ground floor tenant spaces. Within such office building, a new tenant is not subject to the permit requirements in Table 17.24-2 until such time that the building is redeveloped or all office space in the ground floor level is converted to a non-office use.

TABLE 17.24-2: PERMITTED NEW OFFICE USES IN THE C-C AND C-R ZONING DISTRICTS

<u>Key</u> <u>P</u> Permitted Use <u>A</u> Administrative Permit required <u>M</u> Minor Use Permit required <u>C</u> Conditional Use Permit required <u>-</u> Use not allowed		
	<u>C-C Zoning District</u>	<u>C-R Zoning District</u>
<u>Location and Size of Office Use</u>		
<u>Ground floor, less than 5,000 sq. ft.</u>	<u>P</u>	<u>-</u>
<u>Ground floor, 5,000 sq. ft. or more</u>	<u>C</u>	<u>-</u>
<u>Upper floor above a ground floor</u>	<u>P</u>	<u>P</u>
<u>Located within a multi-tenant site in which the office space is not located within a storefront and is setback from the front façade.</u>	<u>P</u>	<u>-</u>

D. Retail Cannabis in the C-R Zoning District. A Retail Cannabis Establishment in the C-R zoning district must be in compliance with the following standards.

1. **Permit Requirements.**
 - a. **Cannabis Retail License.** Prior to conditional use permit application, an applicant shall obtain a potential Retail Cannabis License from the City, as outlined in Chapter 5.36.

- b. **Conditional Use Permit.** A Retail Cannabis Establishment must obtain a Conditional Use Permit from the Planning Commission. The Retail Cannabis Establishment shall be in compliance with the following standards:
- (1) **Distance from Schools and Churches.** Retail Cannabis Establishments are not permitted within a path of travel of 1,000 feet from any schools and churches. The path of travel shall be measured following the shortest path of travel along a public right-of-way from the property line of the proposed Retail Cannabis Establishment parcel to the church or school.
 - (2) **Distance between Retail Cannabis Establishments.** A retail cannabis establishment shall not be located within a path of travel of 500 feet of another retail cannabis establishment. Path of travel is measured from the retail establishment suite on a multitenant property or the structure for a single tenant property.
 - (3) **Independent Access.** A retail cannabis establishment shall have an independent exterior entrance that is not shared with any other business or residence.
 - (4) **Signs.** Notwithstanding other sections of the code for signs, a retail cannabis establishment shall be limited to one exterior building sign per business location to identify the business as a retail cannabis establishment in compliance with the following standards:
 - a) Sign may include only the name of business and one green cross.
 - b) Sign area maximum of 15 square feet, or one square foot per linear frontage of the business; whichever is less.
 - c) Sign may not have any reference, through symbols or language, to cannabis with the exception of one green cross.
 - d) Sign shall not be directly illuminated except during operating hours
 - e) Sign shall otherwise be subject to Planning Commission review through a Sign Permit Application in accordance with Section 17.132.

17.24.030 **Development Standards**

- A. **General.** Table 17.24-3 identifies development standards that apply in the commercial and industrial zoning districts.

TABLE 17.24-3: DEVELOPMENT STANDARDS IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

	<u>C-C</u>	<u>C-R</u>	<u>I</u>	<u>Additional Standards</u>
Site Requirements				
<u>Parcel Area, Minimum</u>	5,000 sq. ft.			
<u>Parcel Width, Minimum</u>	50 ft.			
<u>Parcel Depth, Minimum</u>	100 ft.			
<u>Floor Area Ratio, Maximum</u>	<u>1.0</u>	<u>1.5</u>	<u>0.5</u>	<u>17.24.030.C</u> <u>17.88</u>
Structure Requirements				
<u>Setbacks, Minimum</u>				
<u>Front</u>	<u>See 17.24.030.C</u>		<u>0 ft.</u>	
<u>Rear</u>	<u>0 ft. unless adjacent to a residential zoning district (see 17.24.030.E)</u>			
<u>Interior Side</u>	<u>0 ft. unless adjacent to a residential zoning district (see 17.24.030.E)</u>			
<u>Street Side</u>	<u>See 17.24.030.C</u>		<u>0 ft.</u>	
<u>Height, Maximum</u>	<u>40ft.</u>	<u>40 ft.</u>	<u>30 ft.</u>	<u>17.24.030.D&E</u> <u>17.88</u>
<u>Landscaped Open Space, Minimum</u>	<u>5%</u>		<u>5%</u>	<u>Table 17.72-1</u>
<u>Parking and Loading</u>	<u>See 17.76</u>			

B. CC Zoning District Fronting Capitola Road. The following requirements apply to C-C parcels fronting the south side of Capitola Road between 41st Avenue and 45th Avenue as shown in Figure 17.24-1

1. **Maximum Height:** 35 feet.
2. **Minimum Rear Setback:** 40 feet.
3. **Enhanced Application Review.** A proposed project with a height greater than two stories shall comply with the following enhanced application review procedures.
 - a. **Conceptual Review.**
 - (1) Prior to consideration of a formal application, the Planning Commission and City Council shall provide conceptual review of a proposed project in accordance with Chapter 17.114 (Conceptual review).

FIGURE 17.24-1: PARCELS FRONTING CAPITOLA ROAD BETWEEN 41ST AVENUE AND 45TH AVENUE



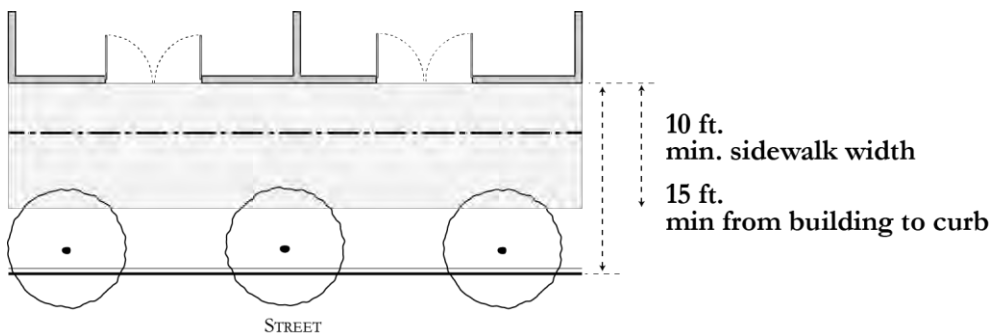
- (2) Before Planning Commission and City Council review, the applicant shall host at least one community workshop to solicit community input on preliminary project plans.
- (3) When reviewed by the Planning Commission and City Council, the applicant shall demonstrate how the project design addresses public input received at the community workshop, as appropriate.
- b. **City Council Action.** Following conceptual review, the Planning Commission shall serve as the recommending body and the City Council shall serve as the review authority and take final action on the application.
- c. **Findings.** To approve the application, the City Council shall make all of the following findings in addition to findings for the required permits:
 - (1) The project satisfies applicable Design Review criteria in 17.120.070 (Design Review Criteria).
 - (2) On-site parking, points of ingress/egress, and internal vehicle accessways are located and designed to minimize parking and traffic impacts on neighboring residential areas to the greatest extent possible.
 - (3) The project incorporates rear yard setbacks and upper story setbacks as needed to maintain adequate light and air for abutting residential uses.
 - (4) The height and intensity of development is compatible with the scale and character of neighboring residential areas.

- (5) The project incorporates design features to support a safe and welcoming pedestrian environment. Potential features may include, but are not limited to, enhanced sidewalks along the property frontage, internal pedestrian walkways, outdoor public gathering places, unique landscaping treatments, and active ground-floor uses fronting the street.

C. Front and Street Side Setbacks in the C-R and C-C Zoning Districts. In the C-R and C-C zoning districts, buildings shall be setback from the front and street side property line so that:

1. The building is at least 15 feet from the curb or street edge; and
2. Building placement allows for a minimum 10-foot sidewalk along the property frontage. See Figure 17.24-2.

FIGURE 17.24-2: FRONT AND STREET SIDE SETBACKS IN THE C-R AND C-C ZONING DISTRICTS



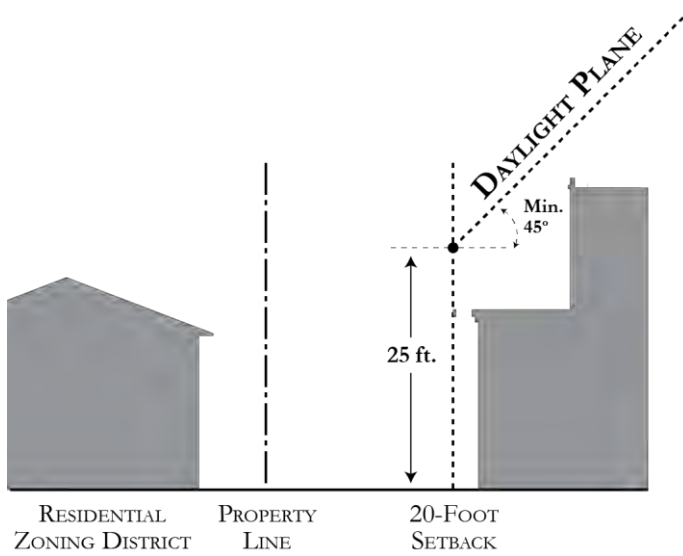
D. Increased Floor Area and Height in C-C and C-R Zoning Districts. As provided in Chapter 17.88 (Incentives for Community Benefits), the City Council may approve exceptions to height and floor area ratio (FAR) limits shown in Table 17.24-3 for proposed projects in the C-C and C-R zoning districts. These exceptions are intended to facilitate the redevelopment of underutilized properties along 41st Avenue consistent with the vision for the corridor described in the General Plan.

E. Residential Transition Standards. Where a commercial or industrial zoning district abuts a residential zoning district, the following standards apply.

1. **Setbacks.** The minimum setback from the residential property line shall be 15 feet for interior side yards and 20 feet for rear yards. For lots less than 100 feet wide, the Planning Commission may allow a reduced side yard setback upon finding that potential impacts to adjacent residential properties have been adequately minimized through enhanced building and landscape design.
2. **Daylight Plane.** No structure shall extend above or beyond a daylight plane having a height of 25 feet at the setback from the residential property line and extending

into the parcel at an angle of 45 degrees. See Figure 17.24-3.

FIGURE 17.24-3: RESIDENTIAL TRANSITIONS – DAYLIGHT PLANE



3. **Landscaping.** A landscaped planting area, extending a minimum of 10 feet from the property line, shall be provided along all residential property lines. A tree screen shall be planted in this area with trees planted at a minimum interval of 15 feet.
 4. **Loading.** Loading and unloading shall be designed to have the least amount of impact on neighboring residential uses. When feasible, loading and unloading shall be provided from the commercial frontage rather than from areas adjacent residential uses.
- F. **Capitola Mall Redevelopment.** While the Capitola Mall site has been zoned Regional Commercial (C-R) as part of the Zoning Code Update, it is expected that major redevelopment of the mall property may require a Rezone, Planned Development, Specific Plan, Development Agreement, or similar process to tailor appropriate development standards for the redevelopment project. Where an application submitted pursuant to this section includes fewer than all parcels within the Mall property, the applicant shall demonstrate that the development type and pattern and site design will be compatible and not unreasonably interfere with future redevelopment of the remaining parcels. For the purposes of this section, the mall property is defined as the area bound by 41st Avenue, Clares Street, and Capitola Road.
- G. **Landscaping.** See Section 17.72.050.B for Non-Residential Landscape Requirements.

17.24.040 **Residential Mixed Use Development in Commercial Zoning Districts**

- A. **Purpose and Applicability.** This section establishes design standards for mixed use

development with housing above ground floor commercial uses in the Community Commercial (C-C) and Regional Commercial (C-R) zoning districts. These standards are intended to promote successful mixed use development that is pedestrian-friendly and contributes to the vitality of commercial districts in Capitola.

B. Standards.

1. **Ground Floor Uses.** Ground floor spaces fronting the primary street shall be occupied by retail, restaurant, and personal service uses that generate pedestrian activity.
2. **Building Placement.** Buildings shall be placed near the edge of the sidewalk. Increased setbacks are permitted if they enhance pedestrian experience and add visual interest.
3. **Building Orientation.** Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk. The Planning Commission may allow buildings and their primary entrances to be oriented toward a public space. The primary entrance to a building shall not be oriented towards surface parking.
4. **Blank Walls.** The length of an unarticulated/blank building wall shall not exceed 10 feet. Architectural articulation should have similar pattern as other adjacent buildings to provide cohesive design in the neighborhood. Building articulation may be provided by:
 - a. Doors, windows, and other building openings;
 - b. Building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest;
 - c. Varying wall planes, heights or contrasting materials and colors; and
 - d. Awnings, canopies, or arcades to reinforce the pedestrian scale and provide shade and cover from the elements.
5. **Storefront Width.** The width of a single building/storefront shall not exceed 50 feet. Larger buildings shall be broken down into a pedestrian-scale rhythm with individual storefront widths of 25 to 50 feet.
6. **Ground Floor Building Transparency.** The ground floor street-facing building walls of non-residential uses shall provide transparent windows or doors with views into the building for a minimum of 65 percent of the building frontage located between 2½ and 7 feet above the sidewalk. See Figure 17.24-4. Windows or doors area shall be transparent to allow views into the building. Exceptions to this transparency requirement may be allowed if the Planning Commission finds that:
 - a. The proposed use has unique operational characteristics which preclude building openings, such as for a cinema or theatre; or
 - b. Street-facing building walls will exhibit architectural relief and detail, and will be

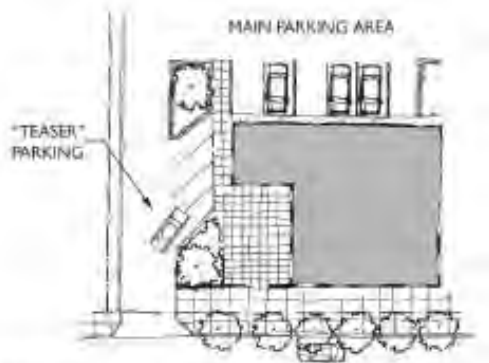
enhanced with landscaping in such a way as to create visual interest at the pedestrian level.

FIGURE 17.24-4: STOREFRONT TRANSPARENCY



7. **Retail Depth.** Ground floor commercial space shall have a depth of at least 45 feet or two-thirds of the parcel depth, whichever is less. Where possible, 60-foot depths are encouraged to accommodate a wider range of tenants, especially food tenants. The Planning Commission may grant an exception to the minimum retail depth requirement if the minimum retail depth is infeasible due to unusual physical conditions on the parcel.
8. **Ground-Floor Height.** Ground floor commercial space shall have a minimum floor-to-floor height of 15 feet. Where possible, 18-foot floor-to-floor heights are encouraged.
9. **Parking Location.** No more than 10 percent of off-street retail parking may be provided -along the side of retail as “teaser” parking. The remainder of the parking shall be behind the building or in underground/structured parking. See Figure 17.24-5
10. **Driveways and Curb Cuts.** Pedestrian and vehicle conflicts shall be minimized by limiting the number of curb cuts to two per block and the width of curb cuts to 24 feet where feasible. To the extent possible, curb cuts shall be designed so pedestrian curb ramps are limited and pathways remain level as they cross the vehicle route.

FIGURE 17.24-5: RESIDENTIAL MIXED USE – TEASER PARKING



Small amounts of "teaser" parking can act as a visual cue to direct drivers to additional parking out of view.

Chapter 17.28 - VISITOR SERVING OVERLAY ZONES

Sections:

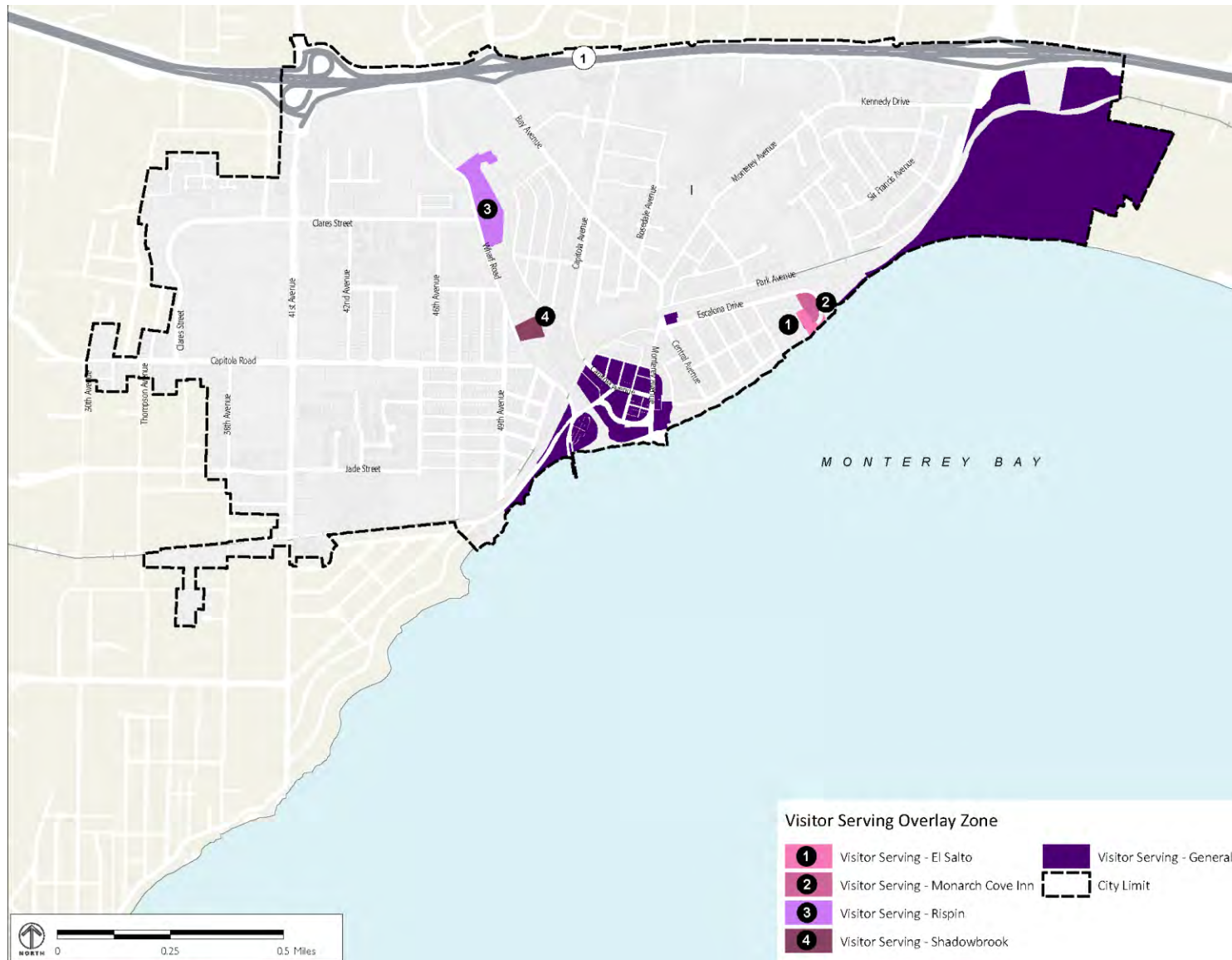
17.28.010 Purpose of the Visitor Serving Overlay Zone

17.28.020 Land Use Regulations

17.28.030 Development Standards

17.28.010 Purpose of the Visitor Serving Overlay Zone

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

FIGURE 17.28-1: VISITOR-SERVING DISTRICTS

17.28.020 Land Use Regulations

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

TABLE 17.28-1: PERMITTED LAND USES IN THE VISITOR SERVING OVERLAY ZONE

Key P Permitted Use M Minor Use Permit required C Conditional Use Permit required – Use not allowed	VS Subzones					Additional Regulations
	VS-G	VS-R	VS-SB	VS-MC	VS-ES	
Residential Uses						
Employee Housing	C [1]	=	=	=	=	
Multi-Family Dwellings	C [2]	=	=	=	C [2]	
One Caretaker Unit for On-Site Security	C	C	C	C	C	
Single-Family Dwellings	C [3]	=	=	C [3][12]	C [3]	
Public and Quasi-Public Uses						
Community Assembly	C	C	=	=	=	
Cultural Institutions	C	C	=	=	=	
Day Care Centers	C	=	=	=	=	
Habitat Restoration and Habitat Interpretive facilities	C	C	C	C	=	
Parks and Recreational Facilities	C	C	=	=	=	
Public Parking Lots	C	C	=	=	=	
Public Paths and Coastal Accessways	C	C	C	C	C	
Public Safety Facilities	C	=	=	=	=	
Public Wharfs	C	=	=	=	=	
Schools, Public or Private	=	=	=	=	=	
Commercial Uses						
Business Establishments that Provide Commercial Places of Amusement or Recreation, Live Entertainment, or Service of Alcoholic Beverage	C [4]	C [4]	C	=	=	
Business Establishments that Sell or Dispense Alcoholic Beverages for On-Site Consumption	C	C	C	C	=	
Restaurants						
Full Service	C [5]	C [5]	C [5]	=	=	
Lodging						
Hotels, Inns, Bed and Breakfast, and Hostels	C	C	=	C	C	
Campgrounds [6]	C	=	=	=	=	
Recreational Vehicle Parks	C	=	=	=	=	
Vacation Rentals	=	=	=	C	=	

<u>Utilities, Major</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<u>Utilities, Minor</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Wireless Communications Facilities</u>	<u>See Chapter 17.104</u>					
<u>Other Uses</u>						
<u>Access Roadways</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<u>Accessory Structures and Uses, New</u>	<u>C [7]</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<u>Accessory Structures and Uses Established Prior to Primary Use or Structure</u>	<u>C</u>	<u>C</u>	=	<u>C</u>	=	
<u>Change of Visitor Serving Commercial Uses within a Structure</u>	<u>C [8]</u>	=	=	=	=	
<u>Food Service Accessory to a Lodging Use [9]</u>	<u>C</u>	<u>C</u>	=	<u>C</u>	<u>C</u>	
<u>Home Occupations</u>	<u>C</u>	=	=	=	=	<u>Section 17.96.040</u>
<u>Expansion of a Legal Nonconforming Use within an Existing Structure</u>	<u>C</u>	=	=	=	=	
<u>Legal Nonconforming Use Changed to a Use of a Similar or More Restricted Nature</u>	<u>C</u>	=	=	=	=	
<u>Live Entertainment</u>	<u>C</u>	<u>C</u>	<u>C</u>	=	=	
<u>Offices Accessory to Visitor Serving Use</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	=	
<u>Parking Areas to Serve the Primary Use</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	
<u>Retail Accessory to a Visitor Serving Use</u>	<u>C</u>	<u>C</u>	=	<u>C</u>	=	
<u>Temporary Assemblages of People, such as Festivals, Fairs, and Community Events</u>	<u>C [10]</u>	<u>C [10]</u>	<u>C [10]</u>	<u>C [11]</u>	=	
<u>Weddings</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	=	

Notes:

[1] Permitted only as an accessory use.

[2] Multi-family dwellings shall comply with development standards in the Multi-Family Residential, Medium Density (RM-M) zoning district.

[3] Single-family dwellings shall comply with development standards in the Single-Family Residential (R-1) zoning district.

[4] May not be located within 200 feet of the boundary of a residential zoning district.

[5] Drive up and car service is not allowed.

[6] May include moderate intensity recreational uses, including tent platforms, cabins, parks, stables, bicycle paths, restrooms, and interpretive facilities.

[7] Intensification of the primary use is not allowed.

[8] The new use may not change the nature or intensity of the commercial use of the structure.

[9] Permitted only to serve guests of the lodging use.

[10] Events may not exceed 10 days and may not involve construction of permanent facilities.

[11] Limited to a single two-day or less event per year.

[12] Allowed in conjunction with overnight accommodation use (at least one on property) or grant of public access to a viewpoint.

B. Civic Uses in the VS-R Overlay Subzone. The Planning Commission may allow additional civic uses in the VS-R overlay subzone beyond those specifically identified in Table 17.28-1 if the Planning Commission finds the additional civic use to be consistent

with the purpose of the VS-R overlay subzone and compatible with existing uses present on the site.

17.28.030 Development Standards

- A. General.** Table 17.28-2 identifies development standards that apply in the VS overlay zone outside of the Mixed Use Village (MU-V) zoning district

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

	VS Overlay Zone	Additional Standards
<u>Parcel Area, Minimum</u>	5,000 sq. ft	
<u>Impervious Surface, Maximum</u>	VS-R: 25% VS-SB, VS-MC & VS-ES: 50% [1] VS-G: No maximum	
<u>Floor Area Ratio, Maximum</u>	0.25	
<u>Setbacks, Minimum</u>	See Section 17.28.030.B	
<u>Height, Maximum</u>	30 ft.	17.28.030.C

Notes:

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

- B. Setbacks.** The following setback requirements apply in the VS overlay zone.

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

- C. Height Exceptions.** With a recommendation from the Planning Commission, the City Council may approve additional height up to a maximum of 36 feet in the VS overlay zone outside of the MU-V zoning district when all of the following findings can be made:

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

2. Streets and thoroughfares are suitable and adequate to serve the proposed development.
 3. The proposed development does not produce shadows which may adversely affect the enjoyment of adjacent streets, buildings, or open space.
 4. Major public views of the shoreline, as identified in Capitola's Local Coastal Program, are not blocked by the proposed development.
- D. **Landscaping.** See Table 17.72-2 in Chapter 17.72 (Landscaping) for minimum required landscaping requirements for Visitor Serving Properties.
- E. **Lighting.** In addition to outdoor lighting standards in Section 17.96.110, (Outdoor Lighting), the following lighting requirements apply in the VS overlay zone:
1. All exterior lighting shall be minimized, unobtrusive, down-directed and shielded using the best available dark skies technology, harmonious with the local area, and constructed or located so that only the area intended is illuminated and off-site glare is fully controlled and that light spill, sky glow and glare impacts are minimized.
 2. Lighting of natural areas (such as creeks, riparian areas, the beach, etc.) shall be prohibited past the minimum amount that might be necessary for public safety purposes, except when temporarily permitted in conjunction with a temporary event.
 3. The location, type and wattage of exterior lighting must be approved by the Community Development Director prior to the issuance of building permits or the establishment of the use.
- F. **Coastal Development Permit.** If a proposed development is located in the coastal zone, it may require a Coastal Development Permit (CDP) as specified in Chapter 17.44 (Coastal Overlay Zone). Approval of a CDP requires conformance with the CDP findings for approval as specified in 17.44.130 (Findings for Approval).

Chapter 17.32 - SPECIAL PURPOSE ZONING DISTRICTS

Sections:

17.32.010 Purpose of the Special Purpose Zoning Districts

17.32.020 Land Use Regulations

17.32.030 Development Standards

17.32.010 Purpose of the Special Purpose Zoning Districts

- A. **Community Facility (CF).** The CF zoning district provides areas for public and community facilities serving Capitola residents and visitors. Land uses permitted in the CF zoning district include public uses such as governmental offices, police and fire stations, community centers, schools, libraries, and other similar uses. The CF zoning district implements the Public/Quasi-Public land use designation in the General Plan.
- B. **Parks and Open Space (P/OS).** The P/OS zoning district provides parks, recreational facilities, and open space for the use and enjoyment of the community and visitors. The P/OS zoning district also protects and preserves environmentally sensitive natural areas and habitat in Capitola. The P/OS zoning district implements the Parks and Open Space land use designation in the General Plan.

17.32.020 Land Use Regulations

- A. **Permitted Uses.** Table 17.32-1 identifies land uses permitted in the CF and P/OS zoning districts.
- B. **Commercial Uses in the P/OS Zoning Districts.** Commercial uses that are accessory to a permitted use in the P/OS zoning district are permitted with a Conditional Use Permit as long as the park, recreation, and open space purposes are met by the overall development.
- C. **Visitor Accommodations in New Brighton State Beach.** Visitor accommodations and campground uses are permitted in the New Brighton State beach.
- D. **P/OS Standards.** The following standards apply to uses in the P/OS zoning district.
 - 1. Any structure, land use, or removal of vegetation or natural materials that in the opinion of the Community Development Director is inconsistent with the purpose of the P/OS zoning district is prohibited.
 - 2. Development shall be subordinate to its recreational, scenic, or natural resource purpose consistent with the Local Coastal Program (LCP). Natural resource protection shall include protection of arroyos; creeks, riparian corridors, and other environmentally sensitive habitat; and woodlands.

3. No new structures are permitted on the open, sandy beach area of Capitola except for appropriate public facilities (e.g. the flume and jetties), required shoreline protective structures (approved beach erosion control structures), and structures required for public health and safety (e.g., lifeguard stands,) if otherwise consistent with the Local Coastal Program.

TABLE 17.32-1: PERMITTED LAND USES IN THE CF AND P/OS ZONING DISTRICTS

<u>Key</u> <u>P</u> Permitted Use <u>A</u> Administrative Permit required <u>M</u> Minor Use Permit required <u>C</u> Conditional Use Permit required <u>=</u> Use not allowed	<u>Zoning District</u>		
	<u>CF</u>	<u>P/OS</u>	
<u>Additional Regulations</u>			
<u>Public and Quasi-Public Uses</u>			
<u>Colleges and Trade Schools</u>	<u>C</u>	<u>=</u>	
<u>Community Assembly</u>	<u>P [1]</u>	<u>=</u>	
<u>Cultural Institutions</u>	<u>P [1]</u>	<u>=</u>	
<u>Day Care Centers</u>	<u>P [1]</u>	<u>=</u>	
<u>Government Offices</u>	<u>P</u>	<u>=</u>	
<u>Parks and Recreational Facilities</u>	<u>P [1]</u>	<u>P [1]</u>	
<u>Public paths and coastal accessways</u>	<u>P</u>	<u>P</u>	
<u>Public Safety Facilities</u>	<u>P</u>	<u>=</u>	
<u>Schools, Public or Private</u>	<u>P</u>	<u>=</u>	
<u>Transportation, Communication, and Utilities Uses</u>			
<u>Recycling Collection Facilities</u>	<u>C</u>	<u>=</u>	<u>17.96.130</u>
<u>Utilities, Major</u>	<u>C</u>	<u>C</u>	
<u>Utilities, Minor</u>	<u>P</u>	<u>P</u>	
<u>Wireless Telecommunications Facilities</u>	<u>See Chapter 17.104</u>		
<u>Other Uses</u>			
<u>Accessory Uses and Structures</u>	<u>See Chapter 17.52</u>		
<u>Temporary Uses and Structures</u>	<u>See Section 17.96.180</u>		
<u>Urban Agriculture</u>			
<u>Community Gardens</u>	<u>M [1]</u>	<u>M [1]</u>	
<u>Urban Farms</u>	<u>C [1]</u>	<u>C [1]</u>	

Notes:

[1] Publicly owned and/or operated facilities only.

17.32.030 Development Standards

- A. **Floor Area Ratio.** The maximum permitted floor area ratio (FAR) is 0.25 in the P/OS zoning district and as determined by the Planning Commission through the Design Review process in the CF zoning district.
- B. **Other Development Standards.** Other development standards (e.g., setbacks, height, building coverage) in the CF and P/OS zoning districts shall be determined by the Planning Commission through the Design Review and Coastal Development Permit (if in the coastal zone) process.

Chapter 17.36 - PLANNED DEVELOPMENT ZONING DISTRICT

Sections:

17.36.010 Purpose of the Planned Development Zoning District

17.36.020 Where Allowed

17.36.030 Permitted Land Uses

17.36.040 Development Standards

17.36.050 Required Approvals

17.36.060 Conceptual Review

17.36.070 Planned Development Rezoning

17.36.080 Development Plans

17.36.010 Purpose of the Planned Development Zoning District

The purpose of the Planned Development (PD) zoning district is to allow for high quality development that deviates from standards and regulations applicable to the other zoning districts in Capitola. The PD zoning district is intended to promote creativity in building design, flexibility in permitted land uses, and innovation in development concepts. The PD zoning district provides land owners with enhanced flexibility to take advantage of unique site characteristics and develop projects that will provide public benefits for residents, employees, and visitors. Development within each PD zoning district is regulated by a Development Plan approved by the City Council.

17.36.020 Where Allowed

The PD zoning district may be applied to any property in Capitola with an area of 20,000 square feet or more except for those designated as Single-Family Residential on the Zoning Map and General Plan Land Use Map. Planned developments are prohibited in the Single-Family Residential zoning district.

17.36.030 Permitted Land Uses

Permitted land uses in each PD zoning district shall conform to the applicable General Plan land use designation and to the Development Plan that applies to the property.

17.36.040 Development Standards

- A. Established in Development Plan.** Development standards (e.g., height, setbacks, building coverage) for each PD zoning district shall be established in the applicable Development Plan.
- B. Maximum Intensity.** The maximum permitted floor area ratio and residential density shall not exceed maximums established in the General Plan for the applicable land use designation.

- C. **Public Improvements.** Public infrastructure and improvements in the PD zoning district shall conform to the city's standard specifications as maintained by the Public Works Director.

17.36.050 Required Approvals

- A. **Development Plan and Zoning Map Amendment.** Establishment of a PD zoning district requires approval of a Development Plan, Zoning Map amendment, and LCP Amendment to the Implementation Plan Zoning Map if the proposed PD zoning district is in the coastal zone.
- B. **Design Review.** A proposed development must receive a Design Permit as required by Chapter 17.120 (Design Permits). All development and land uses within a PD zoning district shall be consistent with the approved Development Plan.
- C. **Coastal Development Permit.** A proposed development that is located in the coastal zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).

17.36.060 Conceptual Review

Prior to submittal of an application for a PD rezoning and Development Plan, an applicant must complete the Conceptual Review process as described in Chapter 17.114. The Planning Commission and City Council shall each hold at least one noticed public hearing on the project as part of the Conceptual Review process.

17.36.070 Planned Development Rezoning

- A. **General Procedures and Requirements.** Establishing a PD zoning district requires City Council approval of a Zoning Map amendment consistent with Chapter 17.144 (Zoning Code Amendments) and an LCP Amendment to the Implementation Plan Zoning Map if any part of the proposed PD zoning district is in the coastal zone. All procedures and requirements for Zoning Map Amendments in Chapter 17.144 apply to the establishment of a PD zoning district.
- B. **Timing.** The City Council shall act on the Zoning Map Amendment concurrently with the Development Plan. A PD zoning district may be established only with concurrent approval of a Development Plan.
- C. **Reference to Development Plan.** The ordinance adopted by the City Council establishing a PD zoning district shall reference the Development Plan approved concurrently with the Zoning Map Amendment.

17.36.080 Development Plans

- A. **Review Authority.** The City Council takes action on Development Plan applications following recommendation from the Planning Commission.
- B. **Timing.** A Development Plan application shall be submitted within one year of Conceptual Review for the proposed project. If an application is not submitted within one year of Conceptual Review, the applicant shall complete a second Conceptual Review process prior to submitting the

Development Plan application.

C. Application Submittal and Review.

1. Development Plan applications shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department and the information required by Paragraph D (Application Materials) below.
2. If the property is not under a single ownership, all owners must join the application, and a map showing the extent of ownership shall be submitted with the application.

D. Application Materials. It is the responsibility of the applicant to provide evidence in support of the findings required by Paragraph G (Findings) below. Applications for approval of a Development Plan shall include the following information and materials:

1. **Project Description.** A written description of the project proposed within the PD zoning district. The project description shall include a narrative statement of the project objectives and a statement of how the proposed project will comply with General Plan goals and policies for the applicable land use designation. An overview of the proposed land use, densities, open space, and parking should be included in the project description.
2. **Community Benefits.** A description of how the proposed development is superior to development that could occur under the standards in the existing zoning districts, and how it will achieve substantial public benefits as defined in Paragraph H below.
3. **Site Plan.** Site plan depicting the existing topography, on-site structures and natural features, mature trees, and other significant vegetation and drainage patterns. The site plan shall show the proposed PD zoning district boundaries and all properties within 500 feet of the site boundary. The site plan shall be to scale and based on a stamped survey prepared by a registered civil engineer or licensed land surveyor.
4. **Concept Plan.** An overall diagram of the project concept. This diagram shall illustrate the overall development concept, including proposed land uses, buildings, circulation, open space, and any other significant elements in the proposed project. Phases shall be clearly indicated if multiple phases are proposed.
5. **Land Use.** A map showing the location of each land use proposed within the site, including open space and common areas. The land use map shall be accompanied by a narrative description of permitted land uses, allowable accessory uses, and uses allowed by-right or with a Conditional Use Permit.
6. **Subdivision Map.** If the project involves the subdivision of land, a tentative parcel map or tentative map required by Title 16 (Subdivisions) of the Capitola Municipal Code.
7. **Circulation.** A map and descriptions of the major circulation features within the site including vehicular, bicycle, pedestrian facilities; traffic flow of internal traffic; and existing and proposed public streets and sidewalk improvements.

8. **Public Facilities and Open Space.** The amount (in square feet or acres) and percentage of site area that will be dedicated for all types of open space, including proposed recreational facilities and amenities; and any public facilities, including public utility easements, public buildings and public land uses.
9. **Development Standards.** All development standards that apply within the project, including:
 - a. Land use;
 - b. Circulation of traffic;
 - c. Landscaping;
 - d. Architecture;
 - e. Density and/or intensity;
 - f. Minimum building site;
 - g. Minimum lot dimensions;
 - h. Maximum building coverage;
 - i. Minimum setbacks;
 - j. Maximum building or structure heights;
 - k. Maximum height of fences and walls;
 - l. Signs;
 - m. Off-street parking; and
 - n. Other items as deemed appropriate by the Planning Commission and City Council.

E. Planning Commission Review and Recommendation.

1. The Planning Commission shall hold a public hearing on the Development Plan application as required by Chapter 17.148 (Public Notice and Hearings).
2. The Planning Commission shall recommend to the City Council the approval, approval with modification, or denial of the Development Plan application. The recommendation shall be based on the findings in Paragraph G (Findings) below.

F. City Council Review and Decision. Upon receipt of the Planning Commission's recommendation, the City Council shall conduct a public hearing and either approve, approve in modified form, or deny the Development Plan. The City Council may approve the application only if all of the findings in Paragraph G (Findings) below can be made.

G. Findings. The City Council may approve an application for a Development Plan if all of the following findings can be made:

1. The proposed development is consistent with the General Plan, Local Coastal Program (if applicable), and any applicable specific plan or area plan adopted by the City Council.

2. The proposed development is superior to the development that could occur under the standards applicable in the existing zoning districts.
3. The proposed project will provide a substantial public benefit as defined in Paragraph H (Substantial Public Benefit Defined) below. The public benefit provided shall be of sufficient value as determined by the Planning Commission to justify deviation from the standards of the zoning district that currently applies to the property.
4. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.
5. Adequate transportation facilities, infrastructure, and public services exist or will be provided to serve the proposed development.
6. The proposed development will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area.
7. For planned developments located adjacent to the coast, the proposed development will protect and/or enhance coastal resources and conform with the findings for approval of a CDP as specified in 17.44.130 (Finding for Approval).
8. Findings required for the concurrent approval of a Zoning Map Amendment can be made.

H. Substantial Public Benefit Defined. When used in this chapter, “substantial public benefit” means a project feature not otherwise required by the Zoning Code or any other provision of local, state, or federal law that substantially exceeds the city’s minimum development standards and significantly advances goals of the General Plan, and the Local Coastal Program if in the coastal zone. A project must include one or more substantial public benefits to be rezoned as a planned development. The public benefit provided shall be of sufficient value as determined by City Council to justify deviation from the standards of the zoning district that currently apply to the property. Examples of substantial public benefits include but are not limited to:

1. Affordable housing that meets the income restrictions applicable in the Affordable Housing (-AH) overlay zone.
2. Public plazas, courtyards, open space, and other public gathering places that provide opportunities for people to informally meet and gather. The public space must either exceed the city's minimum requirement for required open space and/or include quality improvements to the public realm to create an exceptional experience for the public. Improvements to streets, sidewalks, curbs, gutters, sanitary and storm sewers, street trees, lighting, and other public infrastructure beyond the minimum required by the city or other public agencies.
3. New or improved pedestrian and bicycle pathways that enhance circulation within the property and connectivity to the surrounding neighborhood and surrounding areas.
4. Green building and sustainable development features that substantially exceed the city’s

green building award status.

5. Preservation, restoration, or rehabilitation of a historic resource.
6. Public art that exceeds the city's minimum public art requirement and is placed in a prominent and publicly accessible location.
7. New or enlarged business that increase the supply and/or diversity of jobs available to Capitola residents. Types of jobs may include jobs that improve environmental quality or reduce energy or resource consumption ("green jobs), high-tech sector jobs, and jobs in industries focusing on the generation and utilization of intellectual property ("creative jobs").
8. Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.
9. Public parking lot that provides parking spaces in excess of the required number of parking spaces for use by the surrounding commercial district.
10. Publicly accessible parks, open space, and/or recreational amenities beyond the minimum required by the city or other public agency.
11. Habitat restoration and/or protection of natural resources beyond the minimum required by the city or other public agency.

I. Conditions of Approval.

1. The City Council may attach conditions of approval to a Development Plan to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
2. The City Council shall condition approval of the Development Plan on the completion of public improvements, community benefits and grants of easement shown on the Development Plan.

J. Post-Decision Procedures. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Development Plans.

K. Effect of Development Plan. All future development and land uses within a PD zoning district shall comply with the approved Development Plan.

1. **Land Uses.** New land uses may be added in a PD zoning district provided the Development Plan identifies the use as a permitted or conditionally permitted land use. Establishing a land use not specifically permitted by the Development Plan would require an amendment to the PD zoning district.
2. **Structures.** New structures may be added in a PD zoning district provided the structures comply with development standards established in the Development Plan (e.g., height, setback, floor area ratio). Design Review consistent with Chapter 17.120 (Design Permits) is required for all new development that was not approved with the Development Plan. Development that exceeds development standards in the Development Plan is allowed only with an amendment to the PD zoning district.

Chapter 17.40 - RESIDENTIAL OVERLAY ZONES

Sections:

17.40.010 Purpose

17.40.020 Affordable Housing (-AH) Overlay Zone

17.40.030 Vacation Rental Use (-VRU) Overlay Zone

17.40.040 Village Residential (-VR) Overlay Zone

17.40.010 Purpose

This chapter contains requirements for overlay zones that primarily apply to residential uses and residential areas. Overlay zones establish additional standards and regulations to specific areas, in addition to the requirements of the underlying base zoning district.

17.40.020 Affordable Housing (-AH) Overlay Zone

A. Purpose. The purpose of the Affordable Housing (-AH) overlay zone is to facilitate the provision of affordable housing units through the retention and rehabilitation of existing affordable units, or the construction of new affordable units. The -AH overlay zone is intended to:

1. Implement the goals and policies of the General Plan Housing Element and provide the opportunity and means for Capitola to meet its regional fair share allotment of affordable units.
2. Encourage the development of affordable units by assisting both the public and private sector in making the provision of these units economically viable.
3. Provide assurances to the City that these units will maintain a high degree of quality and will remain affordable to the target population over a reasonable duration of time.
4. Encourage the provision of affordable housing through the combination of the -AH overlay within the multi-family residential zone where the affordable housing projects are determined to be feasible and are consistent with the General Plan and the Local Coastal Program.
5. Provide a means of directing and simplifying the process for creating and maintaining affordable housing.
6. Provide incentives to developers, whether in new or rehabilitated housing, to maintain rental units for the long term (e.g., not less than 55 years) and affordable ownership units in perpetuity.

B. Applicability. The -AH overlay zone may be applied to parcels located in a multi-family residential or community commercial (C-C) zoning district.

C. Definitions.

1. “Affordable housing” means housing capable of being purchased or rented by a household with “very low,” “low,” or “moderate” income levels at an “affordable housing cost” or “affordable rent,” as those terms are defined by the State of California.
2. “Affordable housing overlay district” means a zoning district that applies in addition to existing zoning designation where the city encourages the provision of affordable housing units as described in this chapter.
3. The “very low,” “low,” and “moderate” income levels are defined by the State of California in Sections 50105, 50079.5, and 50093, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900. These income levels are:
 - a. Very Low Income. Up to and including fifty percent of the Santa Cruz County median income, adjusted for family size, as defined by the state law;
 - b. Lower Income. Fifty-one percent to eighty percent of Santa Cruz County median income, adjusted for family size, as defined by the state law;
 - c. Moderate Income. Eighty-one percent to one hundred twenty percent of Santa Cruz County median income, adjusted for family size, as defined by state law.
4. “Affordable housing cost” and “affordable rent” are defined in Sections 50052.5 and 50053, respectively, of the California Health and Safety Code, and in Subchapter 2 of Chapter 6.5 of Division 1 of Title 25 of the California Code of Regulations, commencing with Section 6900.

D. Relationship with State Density Bonus Law and Other State Laws.

1. In the event of any inconsistency or discrepancy between the income and affordability levels set forth in this chapter and the levels set in state laws and regulations, the state provisions shall control.
2. The -AH overlay zone provides a density increase for affordable housing development that in most cases exceeds density bonuses permitted by state law (Government Code Section 65915).
3. A development may utilize the -AH overlay zone as an alternative to the use of state density bonus but may not utilize both the overlay and state density bonuses.

E. Permits and Approvals Required.

1. Affordable housing developments proposed under this chapter require the execution of a Development Agreement by the City and the developer. The Development Agreement shall be prepared in accordance with the provisions of California Government Code Section 65864 et seq.
2. Affordable housing developments proposed under this chapter require approval of a Design Permit. All requirements in Chapter 17.120 (Design Permits) apply, except

that the Planning Commission recommends Design Permit approval or denial to the City Council. The City Council may take action on the Design Permit application concurrently with or subsequent to action on the Development Agreement.

3. A proposed affordable housing development that is located in the coastal zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 and the findings for approval of a CDP as specified in 17.44.130. The City Council may take action on the Coastal Development Permit application concurrently with or subsequent to action on the Development Agreement.

F. Permitted Residential Density.

1. Affordable housing developments with up to 20 units per acre are permitted in the -AH overlay zone. The 20 units per acre limit is based on a calculation that includes all existing and new units on the property.
2. Density permitted in the -AH overlay zone may not exceed what can be accommodated by the site while meeting applicable parking, unit size, and other development standards.

G. Income Restrictions.

1. A minimum of 50 percent of the units in an affordable housing development shall be income restricted affordable housing. All affordable units may be in a single category or part of a mixture of affordable unit types which include:
 - a. Moderate-income households;
 - b. Low-income households;
 - c. Very low-income households; or
 - d. Extremely low-income households.
2. At minimum 50 percent of income-restricted affordable units (25 percent of the total project units) shall be affordable to low-, very low-, and extremely-low income households. A greater level of affordability will not allow a greater level of density.

H. Development Incentives.

1. **Purpose.**
 - a. In order to reduce costs associated with the development and construction of affordable housing, affordable housing developments within the -AH overlay zone shall be eligible for specified development incentives. These incentives allow for the relaxation of development standards normally applied to housing in Capitola and are established in order to facilitate and promote the development of affordable housing in the City.
 - b. Incentives shall be targeted to improve the project design or to yield the greatest number of affordable units and required level of affordability, so as to permit

the City to meet its regional fair share allotment of affordable housing and the goals of the Housing Element of the General Plan.

2. **Relaxed Development Standards.** The City shall allow the following relaxed development standards for projects that comply with the affordability required in Subsection G (Income Restrictions):

- a. **Minimum Building Site Area and Lot Area per Unit.** There shall be no minimum building site area requirement for individual parcels or dwelling sites within the -AH overlay zone. The building site area shall be designated on a site plan as approved by the City through the Design Permit review process.
- b. **Density Averaging.** Project density within the -AH overlay zone may be calculated by averaging the density on a project-wide basis so as to permit higher density levels in certain project portions in exchange for advantageous project design features as determined by the City through the Design Permit review process.
- c. **Setbacks.**
 - (1) The minimum setbacks from property lines shall be determined by the City through the Design Permit process.
 - (2) Minimum setbacks from property lines adjacent to or across from a single-family residential zone shall be same as underlying zoning district.
- d. **Building Coverage.** The City shall determine the maximum building coverage for the proposed project through the Design Permit process.

3. **Additional Development Incentives.**

- a. As a further inducement to the development of affordable housing beyond the relaxed development standards described in Section 2 (Relaxed Development Standards) above, the City may choose to extend one or more additional development incentives depending on the quality, size, nature, and scope of the project being proposed.
- b. Additional development incentives may be in the form of waivers or modifications of other standards which would otherwise inhibit density and achievement of affordable housing goals for the development site, including, but not limited to, the placement of public works improvements.

I. **Design Standards.**

1. **Purpose and Applicability.**

- a. The following design standards are intended to ensure high-quality development within the -AH overlay zone that enhances the visual qualities of Capitola and respects adjacent homes and neighborhoods.

- b. Design standards shall apply to all projects receiving development incentives described in Section H (Development Incentives) or residential densities greater than allowed by the applicable base zone.
- 2. **Neighborhood Compatibility.**
 - a. Affordable housing developments shall be designed and developed in a manner compatible with and complementary to existing and potential development in the immediate vicinity of the project site.
 - b. Site planning on the perimeter shall provide for protection of the property from adverse surrounding influences and shall protect surrounding areas from potentially adverse influences from the property.
 - c. To the greatest extent possible, the design of the development shall promote privacy for residents and neighbors, security, and use of passive solar heating and cooling through proper placement of walls, windows, and landscaping.
 - d. Building design and materials shall blend with the neighborhood or existing structures on the site.
- 3. **Building Height.** Maximum building height shall be the same as in the underlying base zoning district.
- 4. **Common Open Space.**
 - a. Common open space shall comprise the greater of:
 - (1) 10 percent of the total area of the site; or
 - (2) 75 square feet for each dwelling unit.
 - b. Areas occupied by buildings, streets, driveways, parking spaces, utility units, mailboxes, and trash enclosures may not be counted in satisfying the open space requirement.
 - c. The following areas may be counted in satisfying the open space requirement:
 - (1) Landscaping and areas for passive and active recreation/open space with a minimum depth and width of 5 feet.
 - (2) Land occupied by recreational buildings and structures.
- 5. **Streets.**
 - a. All public streets within or abutting the proposed development shall be improved to City specifications for the particular classification of street.
 - b. All private streets shall meet fire code and access standards.
- 6. **Accessory Uses and Structures.** Accessory uses and structures shall be permitted as allowed by Chapter 17.52 (Accessory Structures and Uses) and as required through the Design Permit process.
- 7. **Signs.** Signs shall be permitted as allowed by Chapter 17.80 (Signs) and as required through the Design Review process.

J. Assurance of Affordability.

1. Affordable housing units developed under this section shall remain available to persons and families of very low, low, and moderate income, at an affordable housing cost or affordable rental cost, at those income and affordability levels as defined in Section 17.40.020.C (Definitions), for 55 years or the natural life of the unit, whichever is greater, unless a longer period is required by a construction or mortgage financing program, mortgage insurance program, state law, or housing grant, loan or subsidy program.
2. The required period of affordability shall run concurrently with any period of affordability required by any other agency; provided, however, that the affordability period shall not be less than 55 years or the natural life of the unit, whichever is greater.
3. The project developer shall be required to enter into an appropriate agreement with the City to ensure affordability is maintained for the required period.

K. Pre-Application Consultation.

1. Prior to submitting an application for an affordable housing development within the -AH overlay zone, the applicant or prospective developer should request preliminary consultation meetings with the Community Development Department and other City staff as appropriate, to obtain information and guidance before incurring substantial expense in the preparation of plans, surveys and other data.
2. Preliminary consultations with City staff should address potential local, state, and federal affordable housing funding availability, and program requirements in guaranteeing project consistency with the objectives and requirements of the -AH overlay zone.

L. Additional Application Requirements. An application for an affordable housing development within the -AH overlay zone shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review) and shall also include the following materials and information:

1. Breakdown of affordable and market rate units including unit number, unit size, affordable designation of each unit (very low, low, or moderate), and rental rate or sale price.
2. The proposed means for assuring the continuing existence, maintenance and operation of the project as an affordable housing project.
3. Such other information as may be required by the Community Development Department to allow for a complete analysis and appraisal of the proposed project.

M. Findings. To approve or recommend approval of an affordable housing development, the review authority shall make all of the following findings, in addition to the findings required by Chapter 17.120 (Design Permits):

1. The incentives granted for density and deviation from development and design standards, are commensurate with the level of affordability. Specifically, the greater the extent of concessions and incentives, the greater the level of affordability, quality, size, nature, and scope of the project being proposed.
2. The design of the proposed project, even with the concessions for density and deviation from development and design standards, is appropriate for the scale and style of the site and surrounding neighborhood. Specifically, the development will provide an attractive visual transition and will not significantly impact the integrity of the surrounding neighborhoods.
3. The developer has agreed to enter into an agreement to maintain the affordability of the project specific to the requirements of the City and any funding sources with greater or longer affordability requirements.
4. If located within the coastal zone, the project is found to be in conformity with the Local Coastal Program, including, but not limited to, sensitive habitat, public viewshed, public recreational access and open space protections.

17.40.030 Vacation Rental (-VR) Overlay Zone

- A. **Purpose.** The -VR overlay zone identifies locations within residential areas where the short-term rental of dwelling units is permitted.
- B. **Applicability.** Locations where the -VR overlay zone applies are shown on the Zoning Map.
- C. **Land Use Regulations.** Permitted uses in the -VR overlay zone are the same as in the base zoning district, except that vacation rental uses are permitted with an Administrative Permit.
- D. **Required Permit.** Each vacation rental unit is required to obtain a Vacation Rental Permit, as an Administrative Permit, in addition to registering each unit with the City as a business. This includes obtaining a business license, renewable annually, and transient occupancy tax registration.
- E. **Development and Operations Standards.**
 1. Vacation rentals in Capitola are prohibited outside of the -VR overlay zone.
 2. Transient occupation registration is required for each vacation rental unit. A business license and transient occupancy tax registration must be obtained from the City. The business license shall be renewed annually.
 3. Permit holders must submit monthly to the City a completed transient occupancy tax report and payment of all tax owing.
 4. One parking space is required per vacation rental unit. Parking may be on site or within the Beach and Village Parking Lot 1 or 2 with proof of permit, if eligible. The

- on-site parking space must be maintained for exclusive use by guests during their stay.
5. The property owner must designate a person who has the authority to control the property and represent the owner. This responsible person must be available at all reasonable times to receive and act on complaints about the activities of the tenants.
 6. A maximum of one sign per structure, not to exceed 12 inches by 12 inches in size, is permitted to advertise the vacation rental.
 7. Each unit must post the Vacation Rental Permit in a visible location within the unit. The Vacation Rental Permit will include a permit number, the development and operations standards of this section (17.40.030.E), and space to write the contact information for the responsible party.
 8. If the unit is advertised on the internet, the first line of the posting must include the Vacation Rental Permit number for City reference.
 9. No permit holder shall have a vested right to a renewed permit. If there is a history of the permit holder or tenants violating the permit's conditions, the permit may be revoked consistent with Section 17.156.110 (Permit Revocation). After a permit is revoked, the permit holder may reapply for a new permit one year after the revocation. The Community Development Director may deny an application based on previous code enforcement issues. A decision by the Community Development Director is appealable to the Planning Commission.
 10. All vacation rental units shall have smoke detectors and carbon monoxide detectors.
 11. Accessory dwelling units may not be used for vacation rentals.
- F. Enforcement.** It is prohibited for any person (including, but not limited to property owners, property managers or real estate agents) to do any of the following without a Vacation Rental Permit:
1. Rent, sublet, lease, sublease or otherwise for remuneration allow any person or persons to carry on a vacation rental use; or
 2. To advertise for a vacation rental use; or
 3. For compensation, to arrange, or help to arrange vacation rental uses.

17.40.040 Village Residential (-VR) Overlay Zone

- A. Purpose.** The purpose of the -VR overlay zone is to limit certain areas within the Village to exclusive residential use, including vacation rentals.
- B. Land Use Regulations.**
1. **Residential Uses Only.** Within the -VR overlay zone, only residential land uses (including vacation rentals) are permitted. Non-residential land uses, including but

not limited to restaurants, retail, offices, and personal services, are not permitted in the -VR overlay zone.

2. **Existing Hotels and Motels.** Alterations and modifications to existing hotels and motels shall occur in a manner consistent with Chapter 17.92 (Nonconforming Lots, Uses and Structures).

- C. **Development Standards.** Development standards in the -VR overlay zone are the same as the Mixed Use Village (MU-V) zoning district.

Chapter 17.44 - COASTAL OVERLAY ZONE

Sections:

- 17.44.010 Purpose
- 17.44.020 Local Coastal Program Components
- 17.44.030 Definitions (see also Chapter 17.160 - Glossary)
- 17.44.040 Relationship to Base Zoning Districts
- 17.44.050 Allowed Land Uses
- 17.44.060 Development Standards
- 17.44.070 CDP Requirements
- 17.44.080 CDP Exemptions
- 17.44.090 De Minimis Waiver of CDP
- 17.44.100 Challenges to City Determination of a CDP
- 17.44.110 Application Submittal
- 17.44.120 Public Notice and Hearings
- 17.44.130 Findings for Approval
- 17.44.140 Notice of Final Action
- 17.44.150 Appeals
- 17.44.160 Permit Issuance
- 17.44.170 Emergency CDPs
- 17.44.180 CDP Violations

17.44.010 Purpose

- A. The purpose of this chapter is to establish review and permit procedures for the implementation of Capitola's Local Coastal Program (LCP). This chapter ensures that all private and public development within the City's coastal zone (as depicted by the -CZ overlay zone) is consistent with the City's certified LCP Land Use Plan and Implementation Program, which together constitute the City's certified LCP including:
 - 1. To achieve the basic State goals of maximizing public access to the coast and public recreational opportunities, as set forth in the California Coastal Act and codified in Sections 30000 through 30900 of the California Public Resources Code. Section 30001.5(c) states that public access both to and along the shoreline shall be maximized consistent with sound resource conservation principles and constitutionally protected rights of private property owners; and
 - 2. To implement the public access and recreational policies of Chapter 3 of the Coastal Act (Sections 30210- 30224).
- B. In achieving these purposes, this chapter shall be consistent with the goals, objectives and policies of the California Coastal Act and Article X, Section 4, of the California Constitution. This chapter shall be interpreted and applied in a manner that:
 - 1. Protects, maintains, and where feasible, enhances and restores the overall quality of the coastal zone environment and its natural and artificial resources;

2. Allows the City to adopt and enforce additional regulations, not in conflict with the Coastal Act or otherwise limited by State law, imposing further conditions, restrictions, or limitations with respect to any land or water use or other activity which might adversely affect the resources of the coastal zone; and
3. Resolves conflicting provisions in a manner which balances the utilization and conservation of coastal zone resources, taking into account the social and economic needs of the people of Capitola and the state.

17.44.020 Local Coastal Program Components

The City of Capitola LCP consists of the Land Use Plan (LUP) and Implementation Plan (IP) as described below.

- A. **Land Use Plan.** The LCP Land Use Plan (LUP) generally consists of descriptive text and policies as well as the adopted land use, resource, constraint, and shoreline access maps, graphics, and charts. The City's LUP (originally certified in June 1981) is divided into six components as follows:
 1. Locating and Planning New or Intensified Development and Public Works Facilities Component.
 2. Public Access Component.
 3. Visual Resources and Special Communities Component.
 4. Recreation and Visitor-Serving Facilities Component.
 5. Natural Systems Component.
 6. Natural Hazards Component.
- B. **Implementation Plan.** The Implementation Plan (IP) (first certified in January 1990), consists of the Zoning Code (Title 17) chapters and Municipal Code chapters as identified in Section 17.04.040 (Relationship to the Local Coastal Program) as well as the zoning districts and maps.

17.44.030 Definitions (see also Chapter 17.160 - Glossary)

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

- A. **Aggrieved Person.** Any person who, in person or through a representative, appeared at a City public hearing in connection with the decision or action on a Coastal Development Permit (CDP) that is appealed, or who, by other appropriate means prior to a hearing informed the City of the nature of their concerns, or who for good cause was unable to do either. "Aggrieved Person" includes the applicant for a CDP.
- B. **Coastal Bluff.**
 1. A landform that includes a scarp or steep face of rock adjacent to the bay or ocean and meeting one of the following two parameters:

- a. The toe is now or was historically (generally within the last 200 years) subject to marine erosion.
 - b. The toe of which lies within an area otherwise identified in Public Resources Code Sections 30603(a)(1) or (a)(2).
2. Bluff line or edge is defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge is defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a step-like feature at the top of the cliff face, the landward edge of the topmost riser is taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, is defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet is the minimum length of bluff line or edge to be used in making these determinations.
- C. **Coastal-Dependent Development or Use.** Any development or use which requires a site on, or adjacent to, the sea to be able to function at all.
- D. **Coastal-Related Development.** Any use that is dependent on a coastal-dependent development or use.
- E. **Coastal Emergency.** A sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.
- F. **Coastal Hazards.** Include, but are not limited to, episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, liquefaction, sea level rise, and the interaction of same.
- G. **Coastal Resources.** Include, but are not limited to, public access and public access facilities and opportunities, recreation areas and recreational facilities and opportunities (including for recreational water-oriented activities), public views, natural landforms, marine resources, watercourses (e.g., rivers, streams, creeks, etc.) and their related corridors, waterbodies (e.g., wetlands, estuaries, lakes, etc.) and their related uplands, ground water resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological and paleontological resources.
- H. **Development.** Any of the following, whether on land or in or under water:
 1. The placement or erection of any solid material or structure.
 2. Discharge or disposal of any dredged material or of any gaseous, liquid, solid or thermal waste.
 3. Grading, removing, dredging, mining or extraction of any materials.

4. Change in the density or intensity of use of land, including, but not limited to, subdivisions, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use.
 5. Change in the intensity of use of water, or access thereto.
 6. Construction, reconstruction, demolition or alteration in the size of any structure, including any facility of any private, public or municipal utility.
 7. The removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973.
- I. **Energy Facility.** Any public or private processing, producing, generating, storing, transmitting, or receiving facility for electricity, natural gas, petroleum, coal, or other source of energy. A “major energy facility” means any of the previously listed facilities that costs more than \$283,502 as of 2019 with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624.
- J. **Environmentally Sensitive Habitat Areas (ESHA).** Any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. ESHA includes wetlands, coastal streams and riparian vegetation, and terrestrial ESHA, including habitats of plant and animal species listed under the Federal or California Endangered Species Act. In addition, the following areas are categorically ESHA as identified in Capitola’s LCP:
1. Soquel Creek, Lagoon, and Riparian Corridor.
 2. Noble Gulch Riparian Corridor.
 3. Tannery Gulch Riparian Corridor.
 4. Monarch Butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch.
- K. **Feasible.** That which is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.
- L. **Local Coastal Program (LCP).** The City’s Land Use Plan and Implementation Plan (including land use and zoning maps) certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.
- M. **Public Works Facility.**
1. Any of the following:
 - a. All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or

- by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.
- b. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.
 - c. All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.
 - d. All community college facilities.
2. A "major public works facility" means any of the above listed facilities that costs more than \$283,502 as of 2019, with an automatic annual increase in accordance with the Engineering News Record Construction Cost Index except for those governed by the provisions of Public Resources Code Section 30610, 30610.5, 30611, or 30624. Notwithstanding the above criteria, a "major public works facility" also means publicly financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.
- N. **Sea.** The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding non-estuarine rivers, streams, tributaries, creeks, and flood control and drainage channels.
- O. **Shoreline Protective Device.** Any structure (including but not limited to a seawall, revetment, riprap, bulkhead, deep piers/caissons, bluff retaining walls, groins, swales, lagoons, etc.) designed as protection against coastal hazards or resulting in impacts to shoreline processes.
- P. **Stream.** Streams in the coastal zone, perennial or intermittent, which are mapped by the United States Geological Survey (USGS) in the National Hydrographic Dataset.
- Q. **Structure.** Any improvement permanently attached to the ground, including, but not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.
- R. **Wetland.** Lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

17.44.040 Relationship to Base Zoning Districts

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

17.44.050 Allowed Land Uses

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

17.44.060 Development Standards

Development standards (e.g., structure height, setbacks) that apply to property in the -CZ overlay zone are the same as in the underlying base zoning district. These standards are maximums (or minimums as applicable) and are not an entitlement or guaranteed allowance. Where the Zoning Code allows for discretion in the application of development standards, the decision-making body may impose more stringent requirements to the extent permitted by state law to protect and enhance coastal resources.

17.44.070 CDP Requirements

- A. **Permit Required.** Notwithstanding any other exemptions for other permits or authorizations, all activities that constitute development, as defined in 17.44.030.H, within the -CZ overlay zone requires a CDP except as specified in Section 17.44.080 (CDP Exemptions).
- B. **Review Authority.**
 - 1. The Community Development Director shall take action on all CDP applications for projects that are not appealable to the Coastal Commission and do not require other discretionary approval by the Planning Commission or City Council.
 - 2. The Community Development Director shall, in a properly noticed public hearing, take action on all CDP applications for projects that are appealable to the Coastal Commission and do not require other discretionary approval by the Planning Commission or City Council.
 - 3. The Planning Commission shall, in a properly-noticed public hearing, take action on all CDP applications that are appealable and/or require other discretionary approval by the City.
 - 4. The Planning Commission or the City Council shall, in a properly-noticed public hearing, take action on CDP applications for public works projects that require no other discretionary permit approvals from the City other than funding approval.
 - 5. Development already authorized by a Coastal Commission-issued CDP, Amendment, or Waiver remains under the jurisdiction of the Coastal Commission for the purposes of condition compliance, amendment, and revocation. Any additional development proposed on a parcel with a Coastal Commission-issued CDP, Amendment, or Waiver shall be reviewed by the City as a new CDP application, provided that:

- a. The Coastal Commission determines that the development is not contrary to any terms or conditions of the Commission-issued CDP, Amendment, or Waiver; or
 - b. The development is not located within a location where the Coastal Commission is required to retain jurisdiction under the Coastal Act.
- C. **Additional Permits.** The review of a CDP application shall be processed concurrently with any other discretionary permit application required by the City. The City may not grant any other discretionary approvals for a proposed project that conflict with this chapter. Other discretionary approvals become effective only after a CDP is approved and becomes effective as required by this chapter.
- D. **Legal Development and Permitting Processes.** Development that was legally established prior to the effective date of Proposition 20 (i.e., February 1, 1973) for property within 1,000 yards of the mean high tide or the Coastal Act of 1976 (i.e., January 1, 1977) for all coastal zone property, whichever is applicable, is considered lawfully established development that does not require a CDP in order to continue as it legally existed prior to those dates. Any additional development since those dates (including improvements, repair, modification, and/or additions) requires a CDP or a determination that such development is excluded from CDP requirements in accordance with the provisions of this chapter.
- E. **Illegal Development and Permitting Processes.**
 1. See Section 17.44.180 (CDP Violations) for enforcement provisions that apply to development activity that violates a CDP or the LCP.
 2. Development that was not legally established (i.e. with a CDP) after the effective date of Proposition 20 (i.e., February 1, 1973) for property within 1,000 yards of the mean high tide, or the Coastal Act of 1976 (i.e., January 1, 1977) for all coastal zone property, whichever is applicable, constitutes “unpermitted development” for purposes of this Chapter 17.44. In addition, development undertaken inconsistent with the terms and conditions of an approved CDP (or an approved waiver or amendment) is also not lawfully established or authorized development (i.e., it constitutes unpermitted development). Both categories of unpermitted development may be subject to enforcement action by the City of Capitola and/or the Coastal Commission.
 3. If development is proposed on a site with unpermitted development, then such application may only be approved if it resolves all permitting and coastal resource issues associated with the unpermitted development, including through removal of all or part of the unpermitted development or retention of such development if it can be found consistent with the policies and standards of the LCP and the public access and recreation policies of the Coastal Act, if applicable. If the unpermitted development cannot be found consistent, the unpermitted development must be

abated and any affected areas restored to the condition before the unpermitted development was undertaken or pursuant to the terms of a valid restoration order.

17.44.080 CDP Exemptions

The following projects are exempt from the requirement to obtain a CDP unless any one of the criteria listed in subsections A (1 through 6), B (1 through 8), C (1 through 3), or F (1 through 4) are met, in which case a CDP is required.

A. Improvements to Existing Single-Family Residences. In accordance with Public Resources Code Section 30610(a) and 14 CCR Section 13250, where there is an existing single-family residential structure, the following shall be considered as part of that structure: fixtures and structures directly attached to a residence; landscaping; and structures normally associated with a single-family residence, such as garages, swimming pools, fences and storage sheds, but not including guest houses or self-contained residential units. This exemption also applies to replacement of a mobile home with one which is not more than ten percent larger in floor area, or equipping a mobile home with removable fixtures such as a porch, the total area of which does not exceed ten percent of the square-footage of the mobile home itself. Improvements to existing single-family residences do not require a CDP except for the following classes of development, which require a CDP because they involve a risk of adverse environmental effects:

1. Improvements to a single-family residence if the residence and/or improvement is located on a beach, in a wetland, seaward of the mean high-tide line, within an environmentally sensitive habitat area, in an area designated highly scenic in the LCP, or within 50 feet of the edge of a coastal bluff.
2. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, within 50 feet of the edge of a coastal bluff, or within an environmentally sensitive habitat area.
3. The expansion or construction of water wells or septic systems.
4. On property not included in Subparagraph A.1 above that is located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated within the Land Use Plan, when one of the following circumstances apply:
 - a. Improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure.
 - b. An additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to this section.
 - c. An increase in height by more than ten percent of an existing structure and/or any significant non-attached structure such as garages, shoreline protective works, or docks.

5. In areas which the Coastal Commission has previously declared by resolution, after public hearing, as having a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water-using development not essential to residential use including, but not limited to, swimming pools or the construction or extension of landscape irrigation systems.
6. Any improvement to a single-family residence where CDP issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a CDP.

B. Improvements to Other Existing Structures. In accordance with Public Resources Code Section 30610(b) and 14 CCR Section 13253, where there is an existing structure, other than a single-family residence or public works facility, the following shall be considered part of the structure: all fixtures and other structures directly attached to the structure; landscaping on the lot. Improvements to other existing structures do not require a CDP except for the following classes of development, which require a CDP because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use:

1. Improvements to a structure if the structure and/or improvement is located on a beach, in a wetland or stream, seaward of the mean high-tide line, in an area designated highly scenic in the Land Use Plan, or within 50 feet of the edge of a coastal bluff.
2. Any significant alteration of land forms including removal or placement of vegetation on a beach or sand dune, in a wetland or stream, within 100 feet of the edge of a coastal bluff, in a highly scenic area, or in an environmentally sensitive habitat area.
3. The expansion or construction of water wells or septic systems.
4. On property not included in subparagraph B.1 above that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated in the Land Use Plan, when one of the following circumstances apply:
 - a. Improvement that would result in an increase of 10 percent or more of internal floor area of an existing structure;
 - b. An additional improvement of 10 percent or less where an improvement to the structure has previously been undertaken pursuant to this section; or
 - c. An increase in height of an existing structure of more than 10 percent.
5. In areas which the Coastal Commission has previously declared by resolution, after public hearing, as having a critically short water supply that must be maintained for the protection of coastal recreation or public recreational use, the construction of any specified major water-using development including, but not limited to,

swimming pools or the construction or extension of any landscape irrigation system.

6. Any improvement to a structure where the CDP issued for the original structure by the Coastal Commission or City indicated that any future improvements would require a CDP.
7. Any improvement to a structure which changes the intensity of use of the structure.
8. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including, but not limited to, a condominium conversion, stock cooperative conversion, or motel/hotel timesharing conversion.

C. Repair and Maintenance Activities.

1. Repair and maintenance of existing public roads, including resurfacing and other comparable development necessary to maintain the existing public road facility as it was constructed, provided that:
 - a. There is no excavation or disposal of fill outside the existing roadway prism; and
 - b. There is no addition to and no enlargement or expansion of the existing public road.
2. Routine maintenance of existing public parks, including repair or modification of existing public facilities and landscaping where the level or type of public use or the size of structures will not be altered.
3. Repair, maintenance, replacement, and minor alterations of existing public water, sewer, natural gas, electrical, telephone, television, and flood control infrastructure.
4. No CDP shall be required for repair and maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities, except that (in accordance with Public Resources Code Section 30610(d) and 14 CCR Section 13252) the following extraordinary methods of repair or maintenance shall require a CDP because they involve a risk of substantial adverse environmental impact:
 - a. Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:
 - (1) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;
 - (2) The placement, whether temporary or permanent, of rip-rap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal waters, streams, wetlands, estuaries and lakes or on a shoreline protective work except for agricultural dikes within enclosed bays or estuaries;
 - (3) The replacement of 20 percent or more of the materials of an existing structure with materials of a different kind; or

- (4) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams.
 - b. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:
 - (1) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand, or other beach materials or any other forms of solid materials;
or
 - (2) The presence, whether temporary or permanent, of mechanized equipment or construction materials.
 - c. Unless destroyed by natural disaster, the replacement of 50 percent or more of a single-family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under Public Resources Code Section 30610(d) but instead constitutes a replacement structure requiring a CDP.
 - d. The provisions of this section shall not be applicable to those activities specifically described in the document entitled "Repair, Maintenance and Utility Hookups," adopted by the Coastal Commission on September 5, 1978 unless the Community Development Director determines that a proposed activity will have a risk of substantial adverse impact on public access, an environmentally sensitive habitat area, wetlands, or public views to the ocean.
- D. **Replacement of Destroyed Structures.** No CDP shall be required for the replacement of any structure, other than a public works facility, destroyed by a disaster that meets the following criteria: The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this section, "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner; "bulk" means total interior cubic volume as measured from the exterior surface of the structure.
- E. **Conversion of Existing Multi-Unit Residential Structures.** No CDP shall be required for the conversion of any existing multi-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this chapter, no CDP is required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multi-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, is considered a time-share project, estate, or use for purposes of this

paragraph.

F. **Temporary Events.** No CDP shall be required for temporary events as described in this subsection and which meet all of the following criteria:

1. The event will not occur between the Saturday of Memorial Day weekend through Labor Day, or if proposed in this period will be of less than two days in duration including setup and take-down.
2. The event will not occupy any portion of a publicly or privately-owned sandy beach or park area, public pier, public beach parking area and there is no potential for adverse effect on sensitive coastal resources.
3. A fee will not be charged for general public admission and/or seating where no fee is currently charged for use of the same area (not including booth or entry fees); or if a fee is charged, it is for preferred seating only and more than 75 percent of the provided seating capacity is available free of charge for general public use.
4. The proposed event has been reviewed in advance by the City and it has been determined that it meets the following criteria:
 - a. The event will result in no adverse impact on opportunities for public use of or access to the area due to the proposed location and or timing of the event either individually or cumulatively considered together with other development or temporary events scheduled before or after the particular event;
 - b. There will be no direct or indirect impacts from the event and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources; and
 - c. The event has not previously required a CDP to address and monitor associated impacts to coastal resources.

G. **Emergency Work.** See Section 17.44.170 (Emergency CDPs) for development allowed with an Emergency CDP.

17.44.090 De Minimis Waiver of CDP

The Community Development Director may waive the requirement for a CDP through a De Minimis CDP Waiver in compliance with this section upon a written determination that the development meets all of the criteria and procedural requirements set forth in subsections A through G below:

- A. **No Adverse Coastal Resource Impacts.** The development has no potential for adverse effects, either individually or cumulatively, on coastal resources.
- B. **LCP Consistency.** The development is consistent with the LCP.
- C. **Not Appealable to Coastal Commission.** The development is not of a type or in a location where an action on the development would be appealable to the Coastal

Commission.

- D. **Notice.** Public notice of the proposed De Minimis CDP Waiver and opportunities for public comment shall be provided as required by Section 17.44.120 (Public Notice and Hearings), including provision of notice to the Coastal Commission.
- E. **Executive Director Determination.** The Community Development Director shall provide a notice of determination to issue a De Minimis CDP Waiver to the Executive Director of the Coastal Commission no later than 10 working days prior to the waiver being reported at a City public hearing (see subsection F below). If the Executive Director notifies the Community Development Director that a waiver should not be issued, the applicant shall be required to obtain a CDP if the applicant wishes to proceed with the development.
- F. **Review and Concurrence.**
1. The Community Development Director's determination to issue a De Minimis CDP waiver shall be subject to review and concurrence by the decision makers (i.e. Planning Commission or City Council, as applicable).
 2. The Community Development Director shall not issue a De Minimis CDP Waiver until the public comment period, including at a minimum through and including the required reporting of the waiver at a public hearing, has expired. At such public hearing, the public shall have the opportunity to testify and otherwise participate in a hearing on the De Minimis CDP Waiver. If two or more decision makers object to the waiver, the De Minimis CDP Waiver shall not be issued and, instead, an application for a CDP shall be required and processed in accordance with the provisions of this chapter. Otherwise, the De Minimis CDP Waiver shall be deemed approved, effective, and issued the day of the public hearing.
 3. In addition to the noticing requirements above, within seven calendar days of effective date of a De Minimis CDP Waiver, the Community Development Director shall send a Notice of Final Action (via first class mail) describing the issuance and effectiveness of the De Minimis CDP waiver to the Coastal Commission and any persons who specifically requested notice of such action.
- G. **Waiver Expiration.** A De Minimis Waiver shall expire and be of no further force and effect if the authorized development is not completed within two years of the effective date of the waiver. In this event, either a new De Minimis Waiver or a regular CDP shall be required for the development.

17.44.100 Challenges to City Determination of a CDP

A. **City Determination.**

1. The determination of whether a development is exempt, non-appealable, or appealable to the Coastal Commission shall be made by the Community Development Director at the time the CDP application is submitted or as soon

thereafter as possible, and in all cases prior to the application being deemed complete for processing.

2. This determination shall be made with reference to the LCP, including any maps, land use designations, and zoning ordinances which are adopted as part of the LCP.

B. Notification of Decision.

1. The Community Development Director shall inform the applicant and the Coastal Commission district office in writing of the determination prior to:
 - a. Providing notice of any potential permit action; or
 - b. Allowing any activity without a permit for exemptions or exclusions.
2. The Community Development Director's written notification shall also identify the City's notice and hearing requirements for the proposed project, if any.

C. Coastal Commission Review.

1. If the Coastal Commission Executive Director chooses to review the Community Development Director's determination, the City shall provide the Executive Director with a copy of the application and determination of permit requirement.
2. If the Executive Director's determination of permit requirement is the same as the Community Development Director's determination, that determination shall become final and no further challenge is available.
3. If the Executive Director's determination conflicts with the Community Development Director's determination and the conflict cannot be resolved in a reasonable time, the Coastal Commission will hold a hearing to resolve the dispute in accordance with Coastal Commission regulations.

17.44.110 Application Submittal

- A. **Submittal Requirements.** CDP application submittals shall include all the information and materials required by the Community Development Department. It is the responsibility of the applicant to provide all necessary and requested evidence to allow for the reviewing authority to make a decision regarding whether the proposed development is consistent with the LCP, including with respect to the findings required by Section 17.44.130 (Findings for Approval).
- B. **Concurrent with Other Permits.** The application for a CDP shall be made concurrently with application for any other non-CDP permits or approvals required by the City.

17.44.120 Public Notice and Hearings

- A. **Public Hearing Required.** All Planning Commission and City Council actions on CDP applications require a noticed public hearing.

- B. **Content of Notice.** The notice of public hearing may be combined with other required project permit notice and shall include the following information:
1. A statement that the project is within the coastal zone, and that the project decision will include a determination on a CDP.
 2. The name of the applicant, the City's file number assigned to the application, a general explanation of the matter to be considered, a general description of the location of the subject property, and any recommendation from a prior hearing body.
 3. A determination of whether the project is appealable to the Coastal Commission and the reasons this determination.
 4. The date, time and place of the hearing and/or decision on the application, and the phone number, email address, and street address of the Community Development Department where an interested person may call or visit to obtain additional information or to provide input on the project.
 5. A statement that the proposed project is determined to be exempt from the California Environmental Quality Act (CEQA), or that a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project. The hearing notice shall state that the hearing body will consider approval of the CEQA determination or document prepared for the proposed project.
- C. **Posting.** A printed notice shall be posted at the project site at least ten calendar days prior to the hearing.
- D. **Mailing.** Notice shall be mailed at least 10 calendar days prior to the hearing to:
1. The owner(s) and owner's agent of all properties for which development is proposed, the applicant, and any applicant representatives;
 2. Each local agency expected to provide essential facilities or services to the project;
 3. Any person who has filed a request for notice (e.g., for the site or for the particular development) with the Community Development Director;
 4. All owners and all occupants of parcels of real property located within 100 feet (not including roads) of the perimeter of the real property on which the development is proposed, but at a minimum all owners and all occupants of real property adjacent to the property on which the development is proposed;
 5. All agencies for which an approval for the proposed development may be required (e.g., USFWS, CDFW, RWQCB, etc.), including the State Lands Commission and the Monterey Bay National Marine Sanctuary when an application for a CDP is submitted to the City on property that is potentially subject to the public trust;
 6. All known interested parties that have submitted a request in writing to the Community Development Director to receive notice on a specific property;
 7. The California Coastal Commission Central Coast office;

8. Any other person whose property, in the judgment of the Community Development Department, might be affected by the proposed project.
- E. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Subsection D above is more than 1,000, the Community Development Department may choose to provide notice by placing a display advertisement of at least one-eighth page in one or more local newspapers of general circulation at least ten days prior to the hearing.
- F. **Newspaper Publication.** Notice shall be published in at least one newspaper of general circulation at least ten calendar days before the hearing.
- G. **Additional Notice.**
 1. In addition to the types of notice required above, the Community Development Department may provide additional notice as determined necessary or desirable.
 2. Whenever a hearing is held regarding a permit for a drive-through facility, or modification of an existing drive-through facility permit, notice procedures shall incorporate the blind, aged, and disabled communities in order to facilitate their participation.
- H. **Failure to Receive Notice.** The validity of the hearing shall not be affected by the failure of any resident, property owner, or community member to receive a mailed notice.
- I. **Re-noticing Required.** If a decision on a CDP is continued by the review authority to a date or time not specific, the item shall be re-noticed in the same manner and within the same time limits established by this section. If a decision on CDP is continued to a specific date and time within 30 90 days of the first hearing, then no re-noticing is required.

17.44.130 Findings for Approval

- A. **Conformance with LCP Required.** A CDP shall be granted only upon finding that the proposed project is consistent with the LCP. As applicable to the proposed project, the review authority shall consider whether:
 1. The project is consistent with the LCP Land Use Plan, and the LCP Implementation Program.
 2. The project maintains or enhances public views.
 3. The project maintains or enhances vegetation, natural habitats and natural resources.
 4. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.
 5. The project maintains or enhances opportunities for visitors.
 6. The project maintains or enhances coastal resources.

7. The project, including its design, location, size, and operating characteristics, is consistent with all applicable design plans and/or area plans incorporated into the LCP.
 8. The project is consistent with the LCP goal of encouraging appropriate coastal development and land uses, including coastal priority development and land uses (i.e., visitor-serving development and public access and recreation).
- B. **Basis for Decision.** The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record.

17.44.140 Notice of Final Action

The City's action on a CDP shall become final when all local rights of appeal have been exhausted per Section 17.44.150.A (Local Appeals). Within seven calendar days of a final decision on a CDP application, the City shall provide notice of its action by first class mail to the applicant, the Coastal Commission, and any other persons who have requested notice. The notice shall contain, at a minimum the following:

- A. **Cover Sheet/Memo.** The cover sheet/memo shall be dated and shall clearly identify the following information:
1. All project applicants and project representatives, their address(es), and other contact information.
 2. Project description and location.
 3. All local appeal periods and disposition of any local appeals filed.
 4. Whether the City's decision is appealable to the Coastal Commission, the reasons for why it is or is not, and procedures for appeal to the Coastal Commission.
 5. A list of all additional supporting materials provided to the Coastal Commission (see Subsection B below).
 6. All recipients of the notice.
- B. **Additional Supporting Materials to the Coastal Commission.** The additional supporting materials shall include at a minimum the following:
1. The final adopted findings and final adopted conditions.
 2. The final staff report.
 3. The approved project plans.
 4. All other substantive documents cited and/or relied upon in the decision including CEQA documents, technical reports (e.g., geologic, geotechnical, biological), correspondence, and similar documents.

17.44.150 Appeals

- A. **Local Appeals.** Community Development Director decisions on CDPs may be appealed to the Planning Commission and Planning Commission decisions may be appealed to the City Council as follows:
1. **Community Development Director Decisions.** Any decision of the Community Development Director may be appealed to the Planning Commission within 10 calendar days of the Community Development Director's decision.
 2. **Planning Commission Decisions.** Any decision of the Planning Commission may be appealed to the City Council within 10 calendar days of the Planning Commission's decision.
- B. **Appeals to the Coastal Commission.**
1. In accordance with Public Resources Code Section 30603, any final approval decision by the City on a CDP in the geographic areas defined in subsections 3(a)-(b), below, or any final approval or denial decision by the City on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development), or a major energy facility located anywhere in the coastal zone, may be appealed to the Coastal Commission.
 2. Appeals to the Coastal Commission may be filed by the project applicant, any aggrieved person, or any two members of the Coastal Commission.
 3. The following types of projects may be appealed to the Coastal Commission:
 - a. Projects located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - b. Projects located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
 - c. Any development which constitutes a major public works project or a major energy facility.
 4. Appeals must be submitted to the Coastal Commission within 10 working days of Coastal Commission receipt of a complete notice of final action.
 5. City decisions may be appealed to the Coastal Commission only after an appellant has exhausted all local appeals pursuant to Section 17.44.150.A (Local Appeals), except that exhaustion of all local appeals is not required if any of the following occur:
 - a. The City requires an appellant to appeal to more local appellate bodies than have been certified as appellate bodies for CDPs in the coastal zone.
 - b. An appellant was denied the right of the initial local appeal by a City ordinance which restricts the class of persons who may appeal a local decision.
 - c. An appellant was denied the right of local appeal because City notice and hearing

procedures for the development did not comply with this title.

- d. The City required an appeal fee for the filing or processing of the appeal.
6. Grounds for appeal of an approved or denied CDP are limited to the following:
 - a. For approval, that the development does not conform to the standards set forth in the LCP, or the development does not conform to the public access policies of the Coastal Act;
 - b. An appeal of a denial of a permit for a major public works shall be limited to an allegation that the development conforms to the standards set forth in the LCP and the public access policies of the Coastal Act.

17.44.160 Permit Issuance

A. Effective Date of a CDP.

1. For City actions on CDPs that are not appealable to the Coastal Commission, a CDP shall become effective seven working days after the City's final decision.
2. For development within the Coastal Commission appeal area, CDPs shall become effective after ten working days if no appeal has been filed. The ten working day appeal period starts the day after the Coastal Commission receives adequate notice of the City's final decision.

B. Expiration of Permits and Extensions.

1. A CDP not exercised within two years shall expire and become void, unless the permittee applies for an extension of the expiration deadline prior to the permit expiration.
2. An extension request may only be granted for good cause, and only if there are no changed circumstances that may affect the consistency of the development with the LCP (and the Coastal Act, if applicable). In cases where an extension is not granted, the CDP shall be considered expired and the applicant shall be required to apply for a new CDP to undertake the proposed development.
3. Any extension request shall be in writing by the applicant or authorized agent prior to expiration of the two-year period. The City will not consider the extension request if received after the CDP expiration deadline. Public notice and hearing requirements for an extension requests shall be the same as for a CDP amendment.
4. De Minimis CDP Waivers may not be extended beyond the two-year authorization period.

C. CDP Amendment.

1. Provided the CDP has been exercised prior to expiration, or has not yet expired, an applicant may request a CDP amendment by filing an application to amend the CDP

- pursuant to the requirements of this chapter that apply to new CDP applications, including, but not limited to, public notice and hearing requirements.
2. Any approved CDP amendment must be found consistent with all applicable LCP requirements and the Coastal Act if applicable.
 3. Any CDP amendment shall be processed as appealable to the Coastal Commission if the base CDP was also processed as appealable, or if the development that is the subject of the amendment makes the amended project appealable to the Coastal Commission.
- D. **Revocation of Permits.** Where one or more of the terms and conditions of a CDP have not been, or are not being, complied with, or when a CDP was granted on the basis of false material information, the original review authority (Community Development Director, Planning Commission or City Council) may revoke or modify the CDP following a public hearing. Notice of such public hearing shall be the same as would be required for a new CDP application.
- E. **CDP Application Resubmittals.** For a period of twelve months following the denial or revocation of a CDP, the City shall not accept a CDP application for the same or substantially similar project for the same site, unless for good cause the denial or revocation action includes an explicit waiver of this provision.

17.44.170 Emergency CDPs

- A. **Purpose.** An Emergency CDP may be granted at the discretion of the Community Development Director for projects normally requiring CDP approval. To be eligible for an Emergency CDP, a project must be undertaken as an emergency measure to prevent loss or damage to life, health or property, or to restore, repair, or maintain public works, utilities and services during and immediately following a natural disaster or serious accident.
- B. **Application.** Application for an Emergency CDP shall be made to the City in writing if time allows, and by telephone or in person if time does not allow. The applicant shall submit the appropriate fees at the time of application for an Emergency CDP.
- C. **Required Information.** The information to be reported during the emergency, if it is possible to do so, or to be fully reported after the emergency, shall include all of the following:
1. The nature of the emergency.
 2. The cause of the emergency, to the extent this can be established.
 3. The location of the emergency.
 4. The remedial, protective, or preventive work required to deal with the emergency.
 5. The circumstances during the emergency that appeared to justify the course of action taken, including the probable consequences of failing to take action.

6. All available technical reports and project plans.
- D. **Verification of Facts.** The Community Development Director or other designated local official shall verify the facts, including the existence and nature of the emergency, as time allows. The Community Development Director may request, at the applicant's expense, verification by a qualified professional of the nature of the emergency and the range of potential solutions to the emergency (including identifying how the proposed solutions meet the criteria for granting the Emergency CDP). The Community Development Director may consult with the Coastal Commission as time allows to determine whether to issue an Emergency CDP.
- E. **Public Notice.** The Community Development Director shall provide public notice, including notice to the Coastal Commission, as soon as reasonably possible, of the proposed emergency action, with the extent and type of notice determined on the basis of the nature of the emergency itself.
- F. **Criteria for Granting Permit.** The Community Development Director may grant an Emergency CDP upon making all of the following findings:
 1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary CDP.
 2. The development can and will be completed within 30 days unless otherwise specified by the terms of the permit.
 3. Public comment on the proposed emergency action has been reviewed if time allows.
 4. The work proposed will be consistent with the requirements of the LCP.
- G. **Conditions.** The Community Development Director may attach reasonable terms and conditions to the granting of an Emergency CDP, including an expiration date and the necessity for a regular CDP application by a specified date. At a minimum, all Emergency CDPs shall include the following conditions:
 1. The Emergency CDP shall be voided if the approved activity is not undertaken within a reasonable time period as determined by the Community Development Director.
 2. The Emergency CDP shall expire 60 days following its issuance, or alternative time period as determined by the Community Development Director. Any work completed outside of this time period requires a regular CDP approval unless an extension is granted by the City for good cause.
 3. The emergency development authorized by the Emergency CDP is only temporary, and may remain only with approval of a regular CDP.
 4. The applicant shall submit an application for a regular CDP within 30 days of completion of construction authorized by the Emergency CDP, or alternative time period as determined by the Community Development Director. The application shall include all information and materials required by the Department, including

photographs (if available) showing the project site before, during, and after emergency construction.

5. If the applicant does not apply for or obtain a regular CDP within the specified time period, the emergency development may be subject to enforcement action in accordance with Section 17.44.180 (Coastal Development Permit Violations).

H. Limitations.

1. The emergency work authorized under approval of an Emergency CDP shall be limited to activities necessary to protect the endangered structure or essential public infrastructure.
2. The Emergency CDP shall be voided if the approved Emergency CDP is not exercised within 30 days of issuance of the permit.
3. The Emergency CDP shall expire 60 days after issuance. Any work completed outside of these time periods requires a regular CDP approval unless an extension is granted by the City for good cause.

- I. **Application for Regular CDP.** After the issuance of an Emergency CDP, the applicant shall submit a completed CDP application and any required technical reports within a time specified by the Community Development Director, but not to exceed 30 days. All emergency development approved pursuant to this section is considered temporary and shall be subject to enforcement action in accordance with Section 17.44.180 (CDP Violations) if an application to recognize the development is not submitted within the timeframe specified in the Emergency CDP, unless the Community Development Director authorizes an extension of time for good cause.

- J. **Reporting of Emergency Permits.** The Community Development Director shall inform (within five working days) the Executive Director of the Coastal Commission that an Emergency CDP has been issued, and shall report the Emergency CDP to the City Council and Planning Commission at the first scheduled meeting after the Emergency CDP has been issued.

17.44.180 CDP Violations

A. Enforcement of Violations.

1. The City will actively investigate and enforce any development activity that occurs within the coastal zone without a CDP pursuant to the requirements of the LCP. The City will work to resolve any alleged violations of the LCP in a timely manner, including through the use of appropriate enforcement actions.
2. In addition to all other available remedies, the City may seek to enforce the LCP and the Coastal Act pursuant to Public Resources Code Sections 30800-30822.
3. If the City does not resolve violations in a timely manner, the Coastal Commission retains the authority to enforce the requirements of the LCP through its own enforcement actions pursuant to Coastal Act Sections 30809 and 30810.

- B. **Civil Liability.** Any person who performs or undertakes development in violation of the LCP or inconsistent with a previously issued CDP may, in addition to any other penalties, be civilly liable in accordance with Public Resources Code Section 30820.
- C. **Legal Lot Required.** Development may only be undertaken on a legally-established lot.
- D. **Removal of Existing Violations.** No CDP application (including CDPs, CDP exclusions and exemptions, and De Minimis CDP waivers) shall be approved unless all unpermitted development on the property that is functionally related to the proposed development is proposed to be removed (and the area restored) or retained consistent with the requirements of the LCP.

PART 3

Citywide Standards

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Chapter 17.48 - HEIGHT, SETBACKS, AND FLOOR AREA

Sections:

17.48.010 Purpose

17.48.020 Height Measurement and Exceptions

17.48.030 Setback Measurement and Exceptions

17.48.040 Floor Area and Floor Area Ratio

17.48.010 Purpose

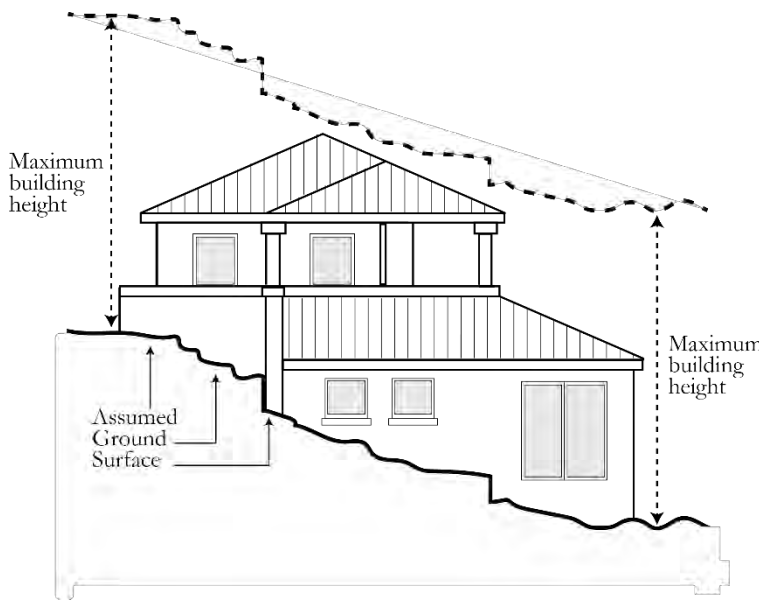
This chapter establishes rules for the measurement of height, setbacks, and floor area, and permitted exceptions to height and setback requirements.

17.48.020 Height Measurement and Exceptions

A. Measurement of Height.

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

FIGURE 17.48-1: MEASUREMENT OF MAXIMUM PERMITTED BUILDING HEIGHT



- B. Height Exceptions.** Buildings may exceed the maximum permitted height in the applicable zoning district as shown in Table 17.48-1. These exceptions may not be combined with any other height exceptions, including but not limited to allowances for additional height in the MU-V zone or for historic structures.

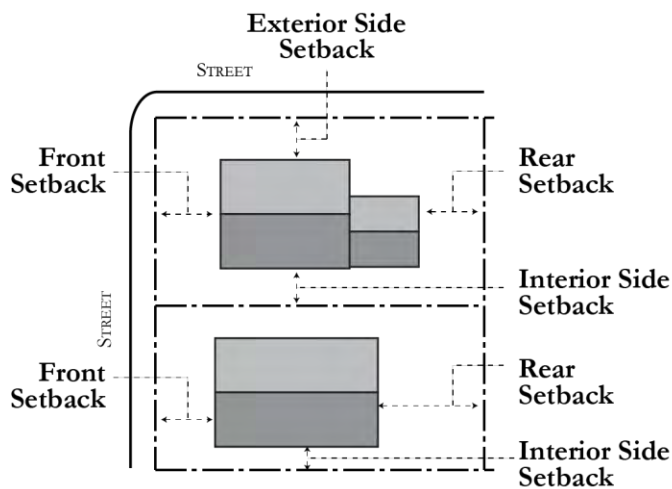
TABLE 17.48-1: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS

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

17.48.030 Setback Measurement and Exceptions

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

FIGURE 17.48-2: SETBACK MEASUREMENT



Note: See specific zoning district for required minimum setback

- B. Yards.** When unique circumstances exist, the Community Development Director has the authority to determine the lot configuration based on existing conditions and function of the lot.
- C. Projections over Property Lines.** Structures may not extend beyond a property line or into the public right-of-way, except when allowed with an Encroachment Permit.
- D. Projections into Required Setback.** Features of the primary structure on a lot may project into required setback areas as shown in Table 17.48-2, subject to the requirements of the Building Code. See Chapter 17.52 (Accessory Structures and Uses) for setback requirements that apply to accessory structures. New projections into setbacks associated with ESHA are limited to the exceptions of section 17.64.030.F (Setback Exceptions on Developed Lots).

TABLE 17.48-2: ALLOWED PROJECTIONS INTO REQUIRED SETBACKS

	<u>Maximum Projection into Setback</u>				<u>Minimum Distances from Property Lines</u>
	<u>Front</u>	<u>Rear</u>	<u>Interior Side</u>	<u>Exterior Side</u>	
<u>Roof Projections</u>					
<u>Cornices, eaves, canopies, and similar roof projections</u>	<u>4 ft.</u>	<u>4 ft.</u>	<u>2 ft.</u>	<u>2 ft.</u>	<u>All: 3 ft.</u>
<u>Building Wall Projections</u>					
<u>Bay windows, balconies, sills, fireplaces, chimneys, and similar wall projections [1]</u>	<u>2 ft.</u>	<u>2 ft.</u>	<u>2 ft.</u>	<u>2 ft.</u>	<u>All: 3 ft.</u>
<u>Entry Features</u>					
<u>Stairways and fire escapes or similar features</u>	<u>Not allowed</u>	<u>4 ft.</u>	<u>No max</u>	<u>Not allowed</u>	<u>Front: Not allowed</u> <u>Exterior Side: Not allowed</u> <u>Interior Side: 3 ft.</u> <u>Rear: 5 ft.</u>
<u>At grade flatwork such as concrete paving and patios</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>All: No min</u>
<u>Landing places, patios, and decks 18 inches or less above grade</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>Front and Exterior Side: 5 ft.</u> <u>Interior Side and Rear: 3 ft.</u>
<u>Open and unenclosed entry porches and decks 19 to 30 inches above grade</u>	<u>4 ft.</u>	<u>6 ft.</u>	<u>½ of required setback</u>	<u>4 ft.</u>	<u>Front: 10 ft.</u> <u>Exterior Side and Rear: 5 ft.</u> <u>Interior Side: 3 ft.</u>
<u>Covered entry porch and decks 19 to 30 inches above grade including roof and roof overhang</u>	<u>5 ft.</u>	<u>Not Applicable</u>	<u>Not Applicable</u>	<u>4 ft.</u>	<u>Front: 10 ft.</u> <u>Exterior side: 5 ft.</u> <u>Interior Side and Rear: Not applicable</u>
<u>Wheelchair ramps and similar features for the disabled</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>All: No min</u>

Notes:

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

E. Allowed Encroachments in Setback Areas. The following accessory structures and site improvements may project into required setback areas as shown in Table 17.48-3, subject to the requirements of the Building Code. New encroachments into setbacks associated with specific coastal resource issues (e.g., ESHA setbacks, coastal hazard setbacks, etc.) are limited to the exceptions of Section 17.64.030.F (Setback Exceptions on Developed Lots).

TABLE 17.48-2: ALLOWED ENCROACHMENTS INTO REQUIRED SETBACKS

	<u>Maximum Projection into Setback</u>				<u>Minimum Distances from Property Lines</u>
	<u>Front</u>	<u>Rear</u>	<u>Interior Side</u>	<u>Exterior Side</u>	
<u>Decorative Site Features</u>					
<u>Trellis structure up to 10 ft. in height open on all sides; Arbors with a minimum of two open sides utilized over a walkway</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>All: No min</u>
<u>Trellis structure up to 10 ft. in height open on at least three sides, and the walls of the structure are at least 50 percent transparent</u>	<u>Not Allowed</u>	<u>No max</u>	<u>No max</u>	<u>Not Allowed</u>	<u>Rear and Interior Side: No min</u> <u>Front and Exterior Side: Not allowed</u>
<u>Planter boxes and masonry planters with a maximum height of 42 inches</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>All: No min</u>
<u>Decorative ornamental features up to a maximum height of 6 ft. which does not enclose the perimeter of the property</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>All: No min</u>
<u>Entertainment Features</u>					
<u>Hot Tubs</u>	<u>Not allowed</u>	<u>No max</u>	<u>Not allowed</u>	<u>Not allowed</u>	<u>Rear: 2 ft.</u> <u>All Other: Not allowed</u>
<u>Pools</u>	<u>Not allowed</u>	<u>No max</u>	<u>Not allowed</u>	<u>Not allowed</u>	<u>Rear: 5 ft.</u> <u>All Other: Not allowed</u>
<u>Fire pits up to 30 inches in height</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>All: 5 ft.</u>
<u>Outdoor kitchens. The kitchen may include gas, electric and plumbing, except electric service may not be 220 volts and drain size may not exceed that allowed for a mini bar. Includes pizza ovens.</u>	<u>Not allowed</u>	<u>No max</u>	<u>Not allowed</u>	<u>Not allowed</u>	<u>Rear: 5 ft.</u>
<u>Other Structures and Equipment</u>					
<u>Children's play equipment, movable dog house, and similar moveable objects</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>All: No min</u>
<u>Rain harvest tanks that do not exceed 8 ft. in height</u>	<u>Not allowed</u>	<u>No max</u>	<u>No max</u>	<u>No max</u>	<u>Front: Not allowed</u> <u>All Other: No min</u>

	<u>Maximum Projection into Setback</u>				<u>Minimum Distances from Property Lines</u>
	<u>Front</u>	<u>Rear</u>	<u>Interior Side</u>	<u>Exterior Side</u>	
<u>Screened mechanical equipment including hot water heaters and air conditioning units</u>	<u>Not allowed</u>	<u>No max</u>	<u>No max</u>	<u>Not Allowed</u>	<u>Rear and Interior Side: 3 ft.</u> <u>Front and Exterior Side: Not allowed</u>

F. Encroachments in the Public Right-of-Way.

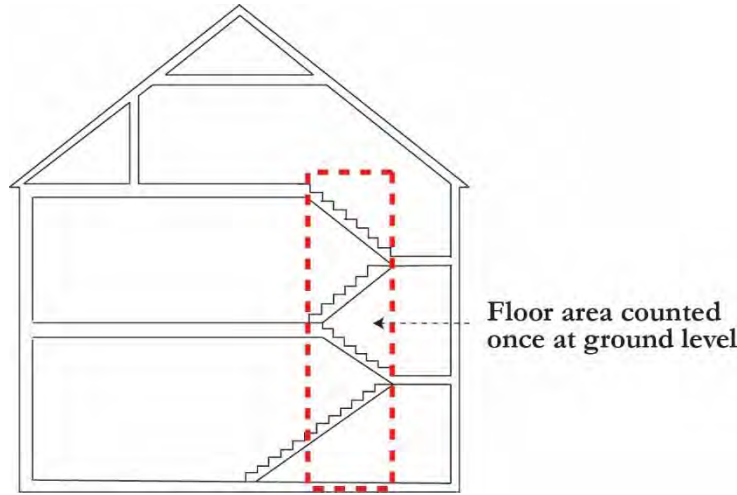
1. A privately-installed structure may encroach into the public right-of-way only when the encroachment is authorized by the Public Works Director or Planning Commission as provided in Municipal Code Chapter 12.56 (Privately Installed Improvements on Public Property or Easements).
2. In the coastal zone, a privately-installed structure encroaching into the public right-of-way may require via a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval), with the additional findings that the encroachment does not restrict lateral and vertical public coastal access, does not obstruct public coastal views, and does not impact ESHA, as identified in the Local Coastal Program. To the extent the encroachment is allowed, all encroachments shall be revocable.

17.48.040 Floor Area and Floor Area Ratio

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

B. Floor Area Calculation.

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

FIGURE 17.48-3: FAR MEASUREMENT FOR STAIRWAYS

4. Interior area of a building with a floor-to-ceiling height of greater than 16 feet are counted twice in the floor area calculation.
5. The following features are included in the floor area calculation:
 - a. All upper floor area greater than 4 feet in height, measured between the bottom of the upper floor and the top of the ceiling.
 - b. All accessory structures other than a single building 120 square feet or less, 10 feet or less in height, and without plumbing fixtures.
 - c. Carports.
6. For all uses, the following features are excluded from the floor area calculation:
 - a. Covered or uncovered decks; and patios.
 - b. Trellises, porte-cocheres not more than 10 feet in height, and similar outdoor space which are open on at least three sides, not including carports.
 - c. Bay windows, chimneys, and other similar wall projections.
 - d. Up to 250 square feet of an enclosed garage on a lot 2,586 square feet or less.
 - e. On a lot between 2,586 and 3,018 square-feet with an enclosed garage, up to the difference between the maximum allowed floor area and 1,750 square feet.
 - f. Underground parking garages not visible from a public street.
 - g. Basements when all walls are below grade and not visible. Basements are included in calculations of required on-site parking to serve the use.
7. For non-residential uses, the following features are excluded from the floor area calculation:

- a. Outdoor improvements such as patios, decks, courtyards, outdoor dining areas, and other areas used by customers and employees. These features are included in calculations of required on-site parking to serve the use.
- b. Arcades, porticoes, and similar open areas that are located at or near street level and are accessible to the general public but are not designed or used as sales, display, storage, service, or production areas.
- c. Quasi-public seating areas located in a privately owned shopping center which is open to all of the patrons of all of the businesses of the shopping center and which consists of a seating area or similar area where there are tables, chairs, benches or landscaping or other similar amenities.

C. Floor Area Ratio.

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

Chapter 17.52 - ACCESSORY STRUCTURES AND USES

Sections:

17.52.010 Purpose and Applicability

17.52.020 Accessory Structures

17.52.030 Accessory Uses

17.52.010 Purpose and Applicability

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

17.52.020 Accessory Structures

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

1. Accessory structures shall be clearly incidental and subordinate to the primary structure on the same lot.
2. Accessory structures may not be located on a separate lot from the primary use to which it is incidental and subordinate.
3. A Minor Design Permit is required for garages, sheds and other enclosed buildings with one or more of the following characteristics: an enclosed area of over 120 square feet, a height of over 10 feet, or plumbing fixtures per Section 17.120.030.A.
4. Accessory structures attached to a primary structure are considered a part of the primary structure and shall comply with all standards applicable to the primary structure.
5. Accessory structures may not be designed or used as a bedroom, sleeping area, and/or kitchen, except for accessory dwelling units consistent with Section 17.74 (Accessory Dwelling Units) and outdoor kitchens.
6. In the coastal zone, accessory structures shall be sited and designed so that they do not extend into setbacks associated with coastal resource issues (e.g., ESHA setbacks and coastal hazard setbacks). A proposed accessory structure that is located in the coastal zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).

B. Accessory Structures in Residential Zoning Districts.

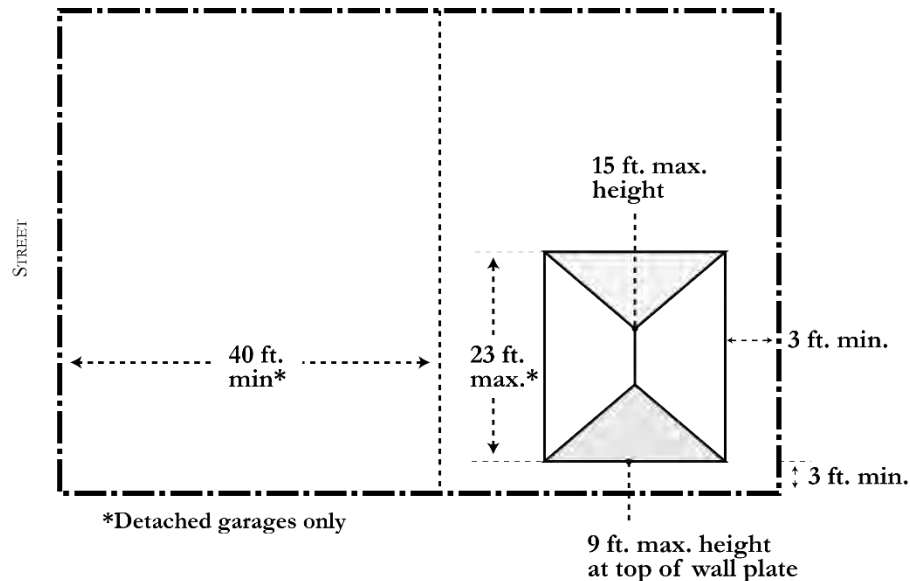
1. **Development Standards.** Accessory structures in residential zoning districts shall comply with the development standards in Table 17.52-1 and in Figure 17.52-1.

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

	<u>Single-Family Residential Zoning Districts</u>	<u>Multi-Family Residential Zoning Districts</u>	<u>Additional Standards</u>
<u>Height, Maximum</u>			
<u>Structure</u>	15 ft. [1]	15 ft.	<u>Section 17.52.020.B.2</u>
<u>Top of Wall Plate</u>	9 ft.	9 ft.	
<u>Width, Maximum</u>	23 ft. for detached garages; None for other accessory structures	None	
<u>Setbacks, Minimum</u>			<u>Section 17.52.020.B.3</u>
<u>Front</u>	40 ft. for detached garages; Same as primary structure for other accessory structures	Same as primary structure	
<u>Interior Side</u>	3 ft.	3 ft.	
<u>Street Side</u>	Same as primary structure	3 ft.	
<u>Rear</u>	3 ft.	3 ft.	

Note:

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

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

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

1. **Setback Exceptions.** One accessory structure permanently attached to the ground is allowed in required side and rear setback areas if the structure is less than 10 feet in height, has 120 square feet or less of enclosed area, and has no plumbing. One additional accessory structure is allowed in required side and rear setback areas with an Administrative Permit.
2. **Driveway Standards.** The placement of detached garages shall allow for the design and location of driveways consistent with Chapter 17.76 (Parking and Loading).
3. **Nonconforming Garages.** An existing detached garage in a residential single-family zoning district that does not comply with development standards in Table 17.52-1 is legal nonconforming and may be repaired, renovated, or replaced provided that the nonconformity is not increased or exacerbated.

D. Accessory Structures in Non-Residential Zones. Accessory structures in non-residential zoning districts are subject to the same development standards (e.g., height and setbacks) as primary structures in the applicable zoning district. Accessory structures should be located to the side or rear of buildings and screened from public view.

17.52.030 Accessory Uses

A. Residential Accessory Uses. The following requirements apply to accessory uses in residential zoning district.

1. Accessory uses shall be located on the same parcel as a residence and shall be clearly incidental and subordinate to the residence.
2. Accessory uses shall not change the character of the residential use. Examples of permitted accessory uses include home occupations and personal property sales (i.e., garage or yard sales).

B. Non-Residential Accessory Uses. The following requirements apply to accessory uses in non-residential zoning districts.

1. Accessory uses shall be a part of and clearly incidental and subordinate to the primary use to which it relates.
2. Accessory uses shall be located on the same parcel as the primary use to which it is incidental and subordinate, within the structure.
3. Accessory uses shall be customarily associated with the primary use to which it is incidental and subordinate. Examples of common non-residential accessory uses include ATMs, vending machines, newsstands, and personal service establishments (e.g., child day care, food services) intended to serve employees or customers and that are not visible from public streets.

4. All exterior vending machines require a Conditional Use Permit.
5. Accessory uses may not necessitate an increase in required number of parking spaces.

Chapter 17.56 - ARCHAEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Sections:

- 17.56.010 Purpose and Intent
- 17.56.020 Archaeological/Paleontological Survey Report
- 17.56.030 Environmental Assessment Requirement
- 17.56.040 Development Standards

17.56.010 Purpose and Intent

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

17.56.020 Archaeological/Paleontological Survey Report

- A. When Required.** An archaeological/paleontological survey report is required for any development located within:
 - 1. Property within a known archaeological or paleontological resource;
 - 2. Property located within 100 feet of a bluff edge; or
 - 3. An area with a probability of containing archaeological/paleontological resources, as determined through the City's onsite investigation or other available information.
- B. Report Preparation.** The city will initiate the preparation of the survey report at the applicant's expense utilizing a qualified archaeologist/paleontologist selected by the Community Development Department. The survey report shall be submitted to and accepted by the city prior to deeming the application complete.
- C. Mitigation Plan**
 - 1. Where construction on, or construction impacts to, an archaeological or paleontological site cannot be avoided, as verified in the archaeological/paleontological report prepared for the project, a mitigation plan shall be prepared for the project. The mitigation plan shall be submitted to and approved by the city prior to deeming the application complete.
 - 2. For archaeological resources, the mitigation plan shall include preservation measures in accordance with the guidelines of the State Office of Historic Preservation and/or the State of California Native American Heritage Commission.
 - 3. For archaeological resources, the consulting archaeologist shall file both the archaeological survey report and mitigation plan with the State Office of Historic

Preservation and where the plan contains recommendations that will impose any continuing restrictions or obligations on the property, an agreement approved by the City Attorney, binding the property's owner to the restrictions or requirements, shall also be recorded with the County Recorder. Such agreement shall list the official file number of the report and the location of the document.

4. For paleontological resources, a consulting paleontologist shall file a paleontological resource report and mitigation plan with the City to minimize on paleontological resources. The mitigation may include re-siting or redesigning the project, excavation, or coving the resources.

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

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

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

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

G. Waiver of Report Requirement. The requirement to prepare an archaeological/paleontological survey report may be waived by the Community Development Director if a previous report was prepared for the site by a qualified archaeologist/paleontologist, as included on the City's list of archaeological/paleontological consultants or as a member of the Society of Professional Archaeologists, and accepted by the City, and either of the following apply:

1. The report clearly and adequately included the currently-proposed development site within the scope of its survey; or
2. The proposed development does not involve land clearing, land disturbance, or excavation into native soils.

17.56.030 Grading Monitoring Requirement

The Community Development Director may require grading monitoring by a qualified archaeologist and/or paleontologist for any project which involves grading into native soils within an area identified as having a moderate to high potential to support archaeological or paleontological resources. Archaeological and paleontological monitors shall be commissioned by the City and paid for by the project applicant.

17.56.040 Unexpected Discovery of Archaeological or Paleontological Resources

If archaeological and/or paleontological resources are discovered during grading or construction activities, all work must immediately cease and the project applicant or their designated representatives must immediately contact Community Development Department staff to initiate a resource evaluation by a qualified archaeologist and/or paleontologist, as appropriate. Work shall not resume until the qualified archaeologist and/or paleontologist determines that no significant resources are present or until appropriate avoidance and/or mitigation measures have been implemented to the satisfaction of the Community Development Director.

17.56.050 Environmental Assessment Requirement

All development proposed on parcels with known archaeological and/or paleontological resources, as identified through the survey report, shall be subject to environmental assessment under the California Environmental Quality Act (CEQA) Guidelines. If human remains are discovered during construction, the project shall comply with all applicable State and Federal laws, including California Health and Safety Code Section 7050.5 and CEQA Guidelines Section 15064.5(e).

17.56.060 Development Standards

- A. **Design and Location.** Development proposed within areas identified in Section 17.56.020.A (When Required) shall be designed and located so as to avoid development on or impacts to the site to the extent feasible. Alternative siting or location, reduction of project size, and other techniques shall be required where that technique will result in reduced impact to or non-disturbance of the archaeological/paleontological site.
- B. **Mitigation Measures.** Development proposed within areas identified in Section 17.56.020.A (When Required) shall be subject to the mitigation measures of the archaeological/paleontological survey report as conditions of approval, to be completed prior to the issuance of building or grading permits.

Chapter 17.60 - FENCES AND WALLS

Sections:

17.60.010 Permit Requirements

17.60.020 Measurement of Fence and Wall Height

17.60.030 Height Limits

17.60.040 Fences Adjacent to Soquel Creek Pathway and Grand Avenue Walkway

17.60.050 Materials

17.60.060 Parking Lot Screening

17.60.070 Private Agreements

17.60.010 Permit Requirements

- A. **Administrative Permit.** An Administrative Permit is required to establish a new fence or wall consistent with the height, placement, and material standards in this chapter. Replacement of an existing fence that is in compliance with standards of this chapter does not require a permit.
- B. **Design Permit.** The Planning Commission may allow fences and walls that deviate from height, placement, and material standards with the approval of a Design Permit. The Planning Commission may approve a deviation to a fence standard provided that the deviation will not result in a significant adverse impact for neighboring properties, public access or views or the community at large when one or more of the following apply:
 - 1. Unique circumstances exist on the site, such as a property line abutting a highly trafficked public street or path or historic use of screening for the property; and/or
 - 2. The deviation is necessary for the reasonable use and enjoyment of the property.
- C. **Building Permit.** Fences and walls may require a building permit as required by California Building Code.
- D. **Encroachment Permit.**
 - 1. Improvements located in the public right-of-way may require Public Works Department approval of an Encroachment Permit. See Municipal Code Section 12.56.060(A).
- E. **Coastal Development Permit.** A proposed development that is located in the coastal zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).

17.60.020 Measurement of Fence and Wall Height

- A. **Measurement of Height.** The height of a fence or wall is measured from the finished grade at the base of the fence or wall to the top edge of the fence or wall.

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

17.60.030 Height Limits

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

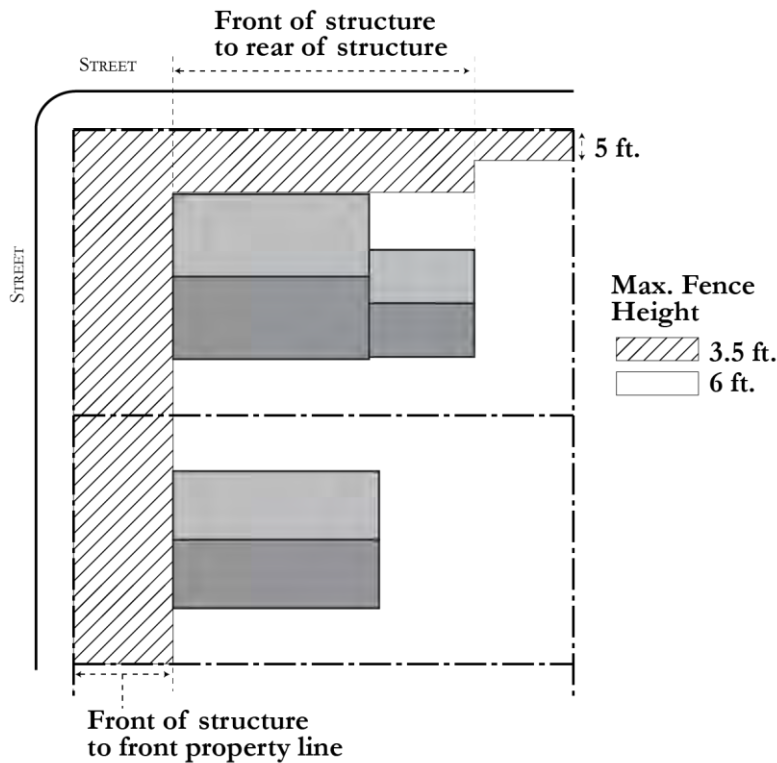
TABLE 17.60-1: FENCE AND WALL HEIGHT

<u>Location</u>	<u>Maximum Height</u>
<u>Area within front setback from the front property line to the front facade of the primary structure</u>	<u>3 ½ ft.</u>
<u>Areas on a corner lot shown in Figure 17.60-1. [1]</u>	<u>3 ½ ft.</u>
<u>All other locations</u>	<u>6 ft.</u>

Note:

[1] See Section 17.96.050 (Intersection Sight Distance) for addition corner lot fence requirements.

FIGURE 17.60-1: FENCE AND WALL HEIGHT



- B. Intersection Sight Distance.** Fences on corner parcels and adjacent to driveways shall comply with maximum height requirements as specified in Section 17.96.050 (Intersection Sight Distances) to maintain a clear view for motor vehicle drivers.
- C. Decorative Features and Materials.**
 - 1. An additional 2 feet of fence height is permitted above a 6 foot high fence for lattice or other similar material that is at least 50 percent transparent.
 - 2. Decorative arches and other similar features above an entry walkway may be up to 10 feet in height within a required front and exterior side setbacks.
- D. Use of Parking Spaces.** Fences and walls may not be placed in a location that interferes with the use of a required on-site or street parking spaces.
- E. Fences Along Arterials and Collectors.** The Community Development Director may require additional transparency or reduced heights for fences along arterial and collector streets to maintain public views and/or enhance community design.
- F. Noise Walls.** The Planning Commission may allow walls along arterial and collector streets to exceed maximum permitted heights as shown in Table 17.60-1 when necessary to mitigate noise impacts on residents.
- G. Coastal Access and Public Views to the Coast.** Fences and/or walls shall not prevent or obstruct public access to the coast or shoreline. Fences and/or walls also shall not block, obscure, or otherwise adversely impact significant public views of the shoreline, as identified within the LCP Land Use Plan.

17.60.040 Fences Adjacent to Soquel Creek Pathway and Grand Avenue Walkway

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

- A. Maximum height: 3 ½ feet.**
- B. Required material: wood, ornamental steel or iron, or other similar material.**
- C. Fences may not be constructed of solid material. Fences shall maintain public views through the use of widely-spaced vertical posts or other techniques. In all cases, such fences shall not adversely impact significant public views of the coastline, as identified within the LCP Land Use Plan.**

17.60.050 Materials

- A. Permitted Materials.** Fences and walls shall be constructed of decorative masonry, ornamental steel or iron, or wood, and shall be of a complementary color and material with the primary building. Other materials may be permitted if the Community

Development Director determines the design to be compatible with adjacent structures and its surrounding neighborhood.

B. Prohibited Materials.

1. Fences and walls may not be constructed of inappropriate materials such as sheet metal, vehicles, underground/above-ground tanks, garage doors, aluminum siding, corrugated tin, and other similar materials not specifically designed for use as fencing.
2. Barb-wire, razor wire, and electric fences are prohibited in all zoning districts. Chain link fences are prohibited in residential zoning districts, except for temporary use during construction with an active building permit.

17.60.060 Parking Lot Screening

Parking lots of six spaces or more within ten feet of a residential zoning district shall be screened with a fence or wall as required by Subsection 17.76.060.I (Screening). The Planning Commission or City Council may require a fence or wall beyond the maximum height.

17.60.070 Private Agreements

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

Chapter 17.64 - ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Sections:

17.64.010 Purpose

17.64.020 Applicability

17.64.030 General Standards

17.64.040 Soquel Creek, Lagoon, and Riparian Corridor

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

17.64.010 Purpose

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

17.64.020 Applicability

This chapter applies to the following environmentally sensitive habitat areas. Environmentally sensitive habitat areas (ESHA) are any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. ESHA includes wetlands, coastal streams and riparian vegetation, and terrestrial ESHA, including habitats of plant and animal species listed under the Federal or California Endangered Species Act. The ESHA map identifies properties in the general location of sensitive habitats. The precise location of sensitive habitats within a site shall be identified in the biological study as required within Subsection 17.64.030.G (Biological Study). In addition, the following areas are categorically ESHA as identified in Capitola’s LCP:

- A. Soquel Creek, Lagoon, and Riparian Corridor
- B. Noble Gulch Riparian Corridor
- C. Tannery Gulch Riparian Corridor
- D. Monarch Butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch

17.64.030 General Standards

The following standards apply to all environmentally sensitive habitat areas:

- A. Allowable Development within Sensitive Habitat Area. The only allowed development within the sensitive habitat areas as identified in the biological study required in Subsection 17.64.030.G (Biological Study) shall be those uses dependent on the resource (e.g., low-intensity public access and recreation, nature study, restoration). The only new uses allowed in wetlands and streams/riparian areas shall be those specified in Coastal Act Sections 30233 and 30236, respectively.

- B. Impact Prevention.** Allowable development within an environmentally sensitive habitat area shall be sited and designed to prevent impacts which would significantly degrade the area.
- C. Long-Term Protection.** Allowable development shall be sited, designed, and maintained to achieve the long-term protection of the environmentally sensitive habitat areas.
- D. Prohibited Areas for Development.** With the exception of restoration and resource protection and enhancement activities, no new development may encroach into the waters of Soquel Creek or Lagoon, be sited within the root zone of riparian or butterfly host trees, or require the removal of trees in a Monarch butterfly habitat area which provide roosting habitat or wind protection.
- E. Minimum Setbacks.**
1. Development may not encroach into required minimum setbacks from environmentally sensitive habitat areas as shown in Table 17.64-1 (Required Setbacks from Environmentally Sensitive Habitat Areas), except as allowed in subparagraph (2) below. The setbacks listed below are minimums and may be increased depending on the findings of the biological study required in 17.64.030(E), below.

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

<u>Environmentally Sensitive Habitat Area</u>	<u>Minimum Setback</u>
<u>Soquel Creek Lagoon</u>	<u>35 ft. from the western shoreline of Soquel Creek Lagoon [1]</u>
<u>Soquel Creek Riparian Corridor</u>	<u>25 feet from the outer edge of riparian vegetation.</u> <u>On the heavily developed east side of the lagoon and creek (from Stockton Avenue to Center Street) the setback requirement shall be measured from the bank of Soquel Creek.</u> <u>In no case may the setback be located on the west side of the pedestrian path.</u>
<u>Noble Gulch Riparian Corridor</u>	<u>35 feet from the outer edge of riparian vegetation</u>
<u>Tannery Gulch Riparian Corridor</u>	<u>50 feet from the outer edge of riparian vegetation</u>
<u>Other ESHA</u>	<u>A setback sufficient to ensure the protection of ESHA habitat values as identified in the biological study as required within Subsection 17.64.030.G (Biological Study).</u>

Notes:

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

2. To allow for a minimum level of development on a physically constrained lot, the City may allow a reduction to the required minimum setback provided that a biological study determines that the reduced setback does not have a significant adverse effect on the ESHA and its habitat value.

F. Setback Exceptions on Developed Lots

1. The City may grant an exception to the minimum setbacks in Section E (Minimum Setbacks) for the following projects on developed lots:
 - a. An addition or modifications to an existing single-family home, or an accessory structure, that does not extend closer to the environmentally sensitive habitat area., and provided the addition or modification or accessory structure is compatible with, and will not significantly degrade, the ESHA and/or its habitat values.
2. A developed lot means a lot that is developed or utilized to its ultimate potential use according to the applicable zoning district. For example, an R-1 lot that contains a single-family home or a permitted public/quasi-public use is considered developed. A residential or commercial lot that is vacant or used periodically for temporary uses (e.g., seasonal holiday sales) is not considered developed.
3. The City may grant an exception with the approval of an Administrative Permit, or a Coastal Development Permit for sites located within the coastal zone, upon finding that the project is:
 - a. Sited and designed to prevent impacts which would significantly degrade environmentally sensitive habitat areas;
 - b. Consistent with the recommendation of the biological study prepared for the proposed development; and
 - c. Is compatible with the continuance of habitat and recreation activities within environmentally sensitive habitat areas.
4. The City may attach conditions to the Administrative Permit or Coastal Development Permit to ensure compliance with all City policies and regulations pertaining to the protection of environmentally sensitive habitat areas.
5. City approval of an exception shall not require the applicant to prepare a biological study.

G. Biological Study. For any proposed development located on a parcel within the ESHA areas identified above, the City shall contract with a qualified biologist at the applicant's expense to prepare a biological study. Biological studies shall at a minimum include the following:

1. Field surveys to determine the presence and location of any sensitive habitats and sensitive plant and animal species; and
2. A biological report which includes vegetation maps, a list of all observed native plant and animal species, an evaluation of other sensitive species which were not observed but have the potential to occur on the site, an impact analysis, and recommendations for avoiding, minimizing, or mitigating impacts. The biological report shall identify appropriate building and other setbacks, appropriate use, restoration, and

development standards within setbacks, wetland buffers, landscape recommendations, and mitigation monitoring and reporting requirements as appropriate.

- H. **Waiver of Biological Study.** The City may waive the requirement of a biological study on a developed lot if a project is proposed in a previously developed area of the lot and the project will not degrade, the ESHA and/or its habitat values.
- I. **Conservation Easements and/or Deed Restrictions.** If necessary and appropriate to protect natural areas and ESHA, the City shall require a permanent conservation easement or deed restriction over any portion of the property containing environmentally sensitive habitat areas and their required setbacks.
- J. **Erosion Control and Water Quality.**
1. All development shall conform to erosion control and water quality requirements consistent with federal, state, and local regulations. Within riparian areas, allowed grading shall be minimized within the riparian setback area. Grading shall not be permitted to damage the roots of riparian trees or trees within butterfly habitat areas. Grading shall only take place during the dry season.
 2. During construction, erosion control measures shall be implemented, including limiting removal of vegetation, minimizing exposure of bare soils, replanting disturbed soils with suitable native species, controlling runoff, and preventing sedimentation from entering drainages. All areas outside the immediate construction areas shall not be disturbed. The City shall require measures for temporary drainage retention during construction, including mulching, erosion control seeding, and other measures as needed to prevent any sediment from reaching sensitive habitat areas.
- K. **Removal of Native Riparian Trees.** Removal of native riparian trees within riparian corridors is prohibited unless it is determined by the Community Development Director, on the basis of an arborist report, that such removal is in the public interest by reason of good forestry practice, disease of the tree, or safety considerations.
- L. **Dead Trees in Riparian Corridors.** Snags, or standing dead trees, shall not be removed from riparian corridors unless in imminent danger of falling, where same would lead to a public safety issue. Removal shall be consistent with all applicable provisions of Capitola Municipal Code Chapter 12.12 (Community Tree and Forest Management). Any removed tree shall be replaced with a healthy young tree of an appropriate native riparian species or appropriate habitat for Monarch butterflies.
- M. **Landscaping Plan.** A landscaping plan shall be prepared for proposed developments that identifies the location and extent of any proposed modification to existing vegetation and the locations, kinds, and extent of new landscaping. The emphasis of such plans shall be on the maintenance and enhancement of native species, the removal of existing invasive species, and the enhancement of natural habitat. New invasive plant or tree

species are prohibited, with the exception of species which positively contribute to Monarch butterfly habitat.

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

17.64.040 Soquel Creek, Lagoon, and Riparian Corridor

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

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

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

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

- A. **Permitted Construction Periods.** Construction for otherwise allowable development within or on properties contiguous to the designated butterfly groves shall be prohibited during fall and winter months when the Monarch butterflies are present. Removal or modification of trees (including pruning) within the groves shall not be permitted during these periods except when determined by the Community Development Director, on the basis of an arborist report, to be an emergency necessary to protect human life or property.
- B. **Tree Protection.**
1. Development shall be sited and designed to avoid removal of large trees. New development located immediately adjacent to large trees shall be evaluated by an arborist to ensure that the development will not negatively impact the tree in the future.
 2. Trees removed for construction shall be replaced based on a written tree replanting program developed in consultation with a qualified Monarch butterfly expert. The trees shall be sited in strategic locations as identified by the replanting program.
 3. Barrier fencing shall be installed around large trees, especially cluster trees, for protection during construction.

- C. **Structure Height.** The City shall limit structure heights as needed to prevent shading of cluster sites.
- D. **Construction Involving Heavy Equipment.** No construction involving heavy equipment that may bump into the cluster trees or produce heavy plumes of exhaust smoke is permitted during the months in which the Monarch butterflies are in residence (October 1st to March 1st).

Chapter 17.72 LANDSCAPING

Sections:

17.72.010 Purpose

17.72.020 Applicability

17.72.030 Water Efficient Landscape Design and Installation Ordinance

17.72.040 Landscape Plans

17.72.050 Required Landscape Areas

17.72.060 Landscape Standards

17.72.070 Landscape Maintenance

17.72.010 Purpose

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

17.72.020 Applicability

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

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

B. Single Family Residential Projects.

1. New single-family homes shall comply with all requirements of this chapter.
2. If existing landscaping is disturbed or new landscaping is added as part of a remodel or addition to an existing single-family home that requires a Design Permit, the new landscaping shall comply with the standards in Section 17.72.060 (Landscape Standards). The City will evaluate compliance with these standards based on the plans and materials submitted as part of the Design Permit applications. Submittal of a Landscape Plan for the entire site in accordance with Section 17.72.040 (Landscape Plans) is not required.

C. Coastal Development Permit. A proposed development that is located in the Coastal Zone may require a Coastal Development Permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in 17.44.130 (Findings for Approval).

17.72.030 Water Efficient Landscape Design and Installation Ordinance

In addition to the requirements of this chapter, all applicable development in Capitola shall also comply with the applicable water provider's (i.e., the City of Santa Cruz Water Department or Soquel Creek Water District) Landscape Water Use Efficiency Ordinance. If

conflicts occur between the applicable water provider's Landscape Water Use Efficiency Ordinance and the Zoning Code, the more restrictive policy to conserve water shall control.

17.72.040 Landscape Plans

A. Landscape Plan Required. Projects subject to the requirements of this chapter shall submit a landscape plan as part of planning permit applications (e.g., Design Permit/Coastal Development Permit applications) and subsequent building permit applications.

B. Required Contents. Landscape plans shall include the following features and information:

1. Site boundaries.
2. Existing conditions on the property, including contours and existing structures.
3. Structures immediately adjacent to the property.
4. New structures and improvements proposed as part of the development project.
5. Existing landscaping, trees, and vegetation to be retained specifying plant location, species, and size. Details of all existing trees shall also include tree diameter measured 48 inches above existing grade and outer limit of tree canopy and a label identifying if the tree will remain or be removed.
6. New landscaping proposed as part of the development project specifying plant location, species, and size.
7. Irrigation plan specifying the location, type, and size of all components of the irrigation system.
8. Proposed grading.
9. Additional information as determined by the Community Development Department to demonstrate compliance with the requirements of this chapter.

C. Review and Approval. The Community Development Department shall review all landscape plans to verify compliance with this chapter. Landscape plans shall be approved by the review authority responsible for approving the planning permits required for the proposed project.

D. Changes to Approved Landscape Plans.

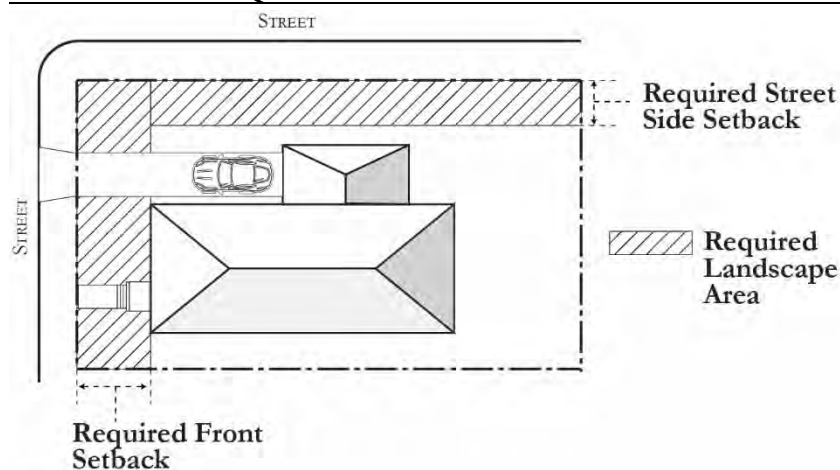
1. Substantial modifications to an approved landscape plan shall be allowed only by the review authority which approved the landscape plan.
2. The Community Development Director may approve minor modifications to a landscape plan previously approved by the Planning Commission. Minor modifications are defined as changes to a landscape plan that do not alter the general design character of the landscaped area or alter a feature of the landscaped area specifically required by the Planning Commission.

17.72.050 Required Landscape Areas

A. Residential Zoning Districts.

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

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



B. Non-Residential Zoning Districts.

1. Except in the I zoning district, all required front and street side setback areas shall be landscaped, excluding areas required for access to the property and public or quasi-public open space such as courtyards and outdoor seating.
2. The minimum landscaped area on a site is shown in Table 17.72-1.
3. In the MU-V and MU-N zoning districts, up to 75 percent of the minimum landscaped area may be occupied by outdoor dining areas, courtyards, and other similar quasi-public areas with Planning Commission approval. Hardscape areas counting towards landscaping requirements must contain above-ground planters and other similar features that incorporate greenery and plantings into the space design. In all other zoning districts these areas may not count toward landscaping requirements.

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

<u>Zoning Districts</u>	<u>Minimum Landscaped Area</u>
<u>MU-V, MU-N, C-R, C-C, CF, I</u>	<u>5%</u>
<u>P/OS, PD, VS</u>	<u>As determined by the permit approval process</u>

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

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

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

17.72.060 Landscape Standards

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

1. **Plant Selection.** A minimum of 90 percent of plants and trees shall be drought-tolerant as defined by the Water Use Classification of Landscape Species (WUCOLS.) Native plants adapted to the local climate are preferred.
2. **Plant Selection along Blufftop, Beach, or ESHA.** Native plants adapted to the local climate shall be required within 50 feet of the blufftop edge, the beach, or ESHA. See Chapter 17.64 (Environmentally Sensitive Habitat Areas) for habitat requirements.
3. **Storm Water Management.** The landscape plan shall incorporate stormwater management controls in compliance with the Regional State Water Resources Control Board.
4. **Turf Lawns.**
 - a. Turf areas shall be limited to 25 percent of the landscaped area. The Planning Commission may approve larger areas if the lawn area provides functional open space.
 - b. Drought-tolerant grass species shall be used exclusively.
 - c. Turf shall not be used on berms, slopes, or median islands where runoff is a problem.
5. **Slopes.** Turf and high-water-use plants shall not be planted on berms and slopes greater than 25 percent.

6. **Plant Groupings.** Where irrigation is proposed, plants shall be grouped in separate hydrozones (i.e., plants within each irrigation valve area shall have the same watering requirements).
 7. **Water Features.** Decorative water features (e.g., fountains, ponds, waterfalls) must be approved by the Planning Commission and shall have recirculating water systems. Automatic fill valves are not recommended for use within water features
 8. **Watering Times.** Watering shall be limited to between eight p.m. and ten a.m.
 9. **Public Safety.** Plant species shall be selected and located so that at maturity they do not interfere with pedestrian, bicycle, or vehicular circulation or safety and do not conflict with overhead lights, or utility lines.
- B. Irrigation and Water Efficiency.** Irrigation systems shall be designed to avoid runoff, low head drainage, overspray, and other similar conditions where water flows outside of landscaped areas. Irrigation systems shall feature the following equipment:
1. Irrigation systems shall meet a minimum irrigation efficiency standard of the applicable water provider.
 2. Separate landscape water meters for landscape areas exceeding 10,000 square feet for single-family residential uses and 5,000 square feet for all other uses.
 3. Irrigation controllers capable of percent adjustment, multiple programming, and rain sensor.
 4. Overhead sprays shall have a precipitation rate of no more than 0.75 inches per hour.
 5. Separated valves and circuits based on water use and sun exposure. Separate valves for turf and non-turf and berm areas are required.
 6. Sprinkler heads and emitters selected for proper area coverage, application rate, operation pressure, adjustment capability, and ease of maintenance.
 7. Rain-sensing override devices are required for all irrigation systems.
 8. Drip or bubble irrigation is required for all trees. Bubblers should not exceed a flow rate of 1.5 gallons per minute.
 9. State-approved back flow prevention devices shall be installed on all irrigation systems
- C. Timing of Installation.** Landscaping systems shall be installed prior to final building permit inspection or certification of occupancy.

17.72.070 Landscape Maintenance

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

- A. General.** Landscape areas shall be maintained in a neat and healthful condition at all times.

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

Chapter 17.76 - PARKING AND LOADING

Sections:

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

17.76.010 Purpose

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

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

17.76.020 Applicability

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

- A. **New Structures and Uses.** On-site parking and loading as required by this chapter shall be provided anytime a new structure is constructed or a new land use is established.
- B. **Replacing Existing Uses.**
 - 1. **Mixed Use Village Zoning District.**
 - a. Where an existing residential use is changed to a commercial use in the Mixed Use Village (MU-V) zoning district, parking shall be provided for the full amount required by the new use. No space credit for the previous use may be granted.
 - b. In all other changes of use in the Mixed Use Village (MU-V) zoning district,

additional parking is required to accommodate the incremental intensification of the new use. Additional parking is not required to remedy parking deficiencies existing prior to the change in use.

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

C. Expansions and Enlargements.

1. **Nonresidential Use.**

- a. Where an existing structure with a nonresidential use is expanded or enlarged, additional parking is required to serve only the expanded or enlarged area, except as allowed by subparagraph b below.
 - b. Within the Mixed Use Village (MU-V) zoning district, an eating and drinking establishment may expand by up to 20 percent of the existing floor area of the business without providing additional parking. Permitted expansions include modification of the internal building layout to enlarge the dining area, additions to the size of the business within an existing building footprint, and new outdoor dining areas.
2. **Residential Use.** For an existing structure with a residential use, the full amount of parking to serve the use is required when the floor area is increased by more than ten percent.

17.76.030 Required Parking Spaces

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

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

<u>Land Uses</u>	<u>Number of Required Parking Spaces</u>
	<u>Mixed Use Village (MU-V)</u>
<u>Retail</u>	<u>1 per 240 sq. ft.</u>
<u>Eating and Drinking Establishments</u>	
<u>Bars and Lounges</u>	<u>1 per 60 sq. ft. of floor area for dining and/or drinking;</u> <u>1 per 240 sq. ft. for all other floor area</u>
<u>Restaurants and Cafes</u>	<u>1 per 60 sq. ft. of floor area for dining and/or drinking</u> <u>1 per 240 sq. ft. for all other floor area</u>
<u>Take-Out Food and Beverage</u>	<u>1 per 240 sq. ft.</u>
<u>Personal Services</u>	<u>1 per 240 sq. ft.</u>
<u>Hotels</u>	
<u>With more than 20 guest rooms</u>	<u>As determined by a parking demand study [1]</u>
<u>With 20 or fewer guest rooms</u>	<u>1 per guest room plus additional spaces as required by the Planning Commission</u>
<u>Notes:</u> <u>[1] The Parking Demand Study shall be paid for by the applicant, contracted by the City, and approved by the Planning Commission. In the coastal zone, in all cases, hotel development shall provide adequate parking as determined by the Planning Commission.</u>	

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

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

<u>Land Uses</u>	<u>Number of Required Parking Spaces</u>
<u>Residential Land Uses</u>	
<u>Duplex Homes</u>	<u>2 per unit, 1 covered</u>
<u>Elderly and Long-Term Care</u>	<u>1 per six beds plus 1 per 300 sq. ft. of office and other nonresidential areas</u>
<u>Group Housing (includes single-room occupancy)</u>	<u>1 per unit plus 1 guest space per 6 units</u>
<u>Mobile Home Parks</u>	<u>1 per unit plus 1 per office and 1 guest space per 10 units</u>
<u>Multi-Family Dwellings</u>	<u>2.5 per unit, 1 covered</u>
<u>Residential Care Facilities, Small</u>	<u>0.5 per bed plus 1 per 300 sq. ft. of office and other nonresidential areas</u>

<u>Residential Care Facilities, Large</u>	<u>0.5 per bed plus 1 per 300 sq. ft. of office and other nonresidential areas</u>
<u>Accessory Dwelling Units</u>	<u>See Chapter 17.74 (Accessory Dwelling Units)</u>
<u>Single-Family Dwellings</u>	<u>1,500 sq. ft. or less: 2 per unit</u> <u>1,501-2,000 sq. ft.: 2 per unit, 1 covered</u> <u>2,001-2,600 sq. ft.: 3 per unit, 1 covered</u> <u>2,601 sq. ft. or more: 4 per unit, 1 covered</u>
<u>Public and Quasi-Public Land Uses</u>	
<u>Community Assembly</u>	<u>1 per 3 fixed seats, or 1 per 40 sq. ft. of assembly area for uses without fixed seats</u>
<u>Cultural Institutions</u>	<u>As determined by a parking demand study</u>
<u>Day Care Centers</u>	<u>1 per 400 sq. ft. of floor area used for daycare and 1 per employee</u>
<u>Government Offices</u>	<u>1 per 300 sq. ft.</u>
<u>Home Day Care, Large</u>	<u>1 per each non-resident employee</u>
<u>Home Day Care, Small</u>	<u>None beyond minimum for residential use</u>
<u>Medical Offices and Clinics</u>	<u>1 per 300 sq. ft.</u>
<u>Parks and Recreational Facilities</u>	<u>As determined by a parking demand study</u>
<u>Public Safety Facilities</u>	<u>As determined by a parking demand study</u>
<u>Schools, Public or Private</u>	<u>2 per classroom</u>
<u>Commercial Land Uses</u>	
<u>Banks and Financial Institutions</u>	<u>1 per 300 sq. ft.</u>
<u>Business Services</u>	<u>1 per 300 sq. ft.</u>
<u>Commercial Entertainment and Recreation</u>	<u>1 per 3 fixed seats, or 1 per 40 sq. ft. of assembly area for uses without fixed seats</u>
<u>Eating and Drinking Establishments</u>	
<u>Bars and Lounges</u>	<u>1 per 60 sq. ft. of floor area for dining and/or drinking</u> <u>1 per 300 sq. ft. for all other floor area</u>
<u>Restaurants and Cafes</u>	<u>1 per 60 sq. ft. of floor area for dining and/or drinking</u> <u>1 per 300 sq. ft. for all other floor area</u>
<u>Take-Out Food and Beverage</u>	<u>1 per 300 sq. ft. of gross floor area</u>

<u>Food Preparation</u>	<u>1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office area</u>
<u>Gas and Service Stations</u>	<u>2 for gas station plus 1 per 100 sq. ft. of retail and as required for vehicle repair</u>
<u>Lodging</u>	
<u>Bed and Breakfast</u>	<u>1 per guest room plus parking required for residential use</u>
<u>Hotel</u>	<u>1 per guest room plus 1 per 300 sq. ft. of office</u>
<u>Maintenance and Repair Services</u>	<u>1 per 600 sq. ft.</u>
<u>Personal Services</u>	<u>1 per 300 sq. ft.</u>
<u>Professional Offices</u>	<u>1 per 300 sq. ft.</u>
<u>Salvage and Wrecking</u>	<u>1 per 500 sq. ft. of building area plus 1 per 0.5 acre of outdoor use area.</u>
<u>Self-Storage</u>	<u>1 per 5,000 sq. ft.</u>
<u>Retail</u>	<u>1 per 300 sq. ft. of customer area</u>
<u>Vehicle Repair</u>	<u>1 per 500 sq. ft. of non-service bay floor area plus 2 per service bay</u>
<u>Vehicle Sales and Rental</u>	<u>1 per 300 sq. ft. for offices plus 1 per 1,000 sq. ft. of display area and requirements for vehicle repair where applicable</u>
<u>Wholesale</u>	<u>1 per 5,000 sq. ft.</u>
<u>Heavy Commercial and Industrial Land Uses</u>	
<u>Construction and Material Yards</u>	<u>1 per 2,500 sq. ft.</u>
<u>Custom Manufacturing</u>	<u>1 per 2,000 sq. ft., plus 1 per 300 sq. ft. of office</u>
<u>Light Manufacturing</u>	<u>1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office</u>
<u>Warehouse, Distribution, and Storage Facilities</u>	<u>1 per 1,500 sq. ft.</u>
<u>Transportation, Communication, and Utility Uses</u>	
<u>Utilities, Major</u>	<u>As determined by a parking demand study</u>
<u>Utilities, Minor</u>	<u>None</u>
<u>Recycling Collection Facilities</u>	<u>1 per 1,000 sq. ft. of floor area</u>
<u>Wireless Communications Facilities</u>	<u>None</u>

<u>Other Uses</u>	
<u>Accessory Uses</u>	<u>Same as primary use</u>
<u>Home Occupation</u>	<u>None beyond requirement for residence</u>
<u>Quasi-Public Seating Areas</u>	<u>None</u>
<u>Temporary Uses</u>	<u>As determined by review authority</u>
<u>Urban Agriculture</u>	
<u>Home Gardens</u>	<u>None beyond requirement for residence</u>
<u>Community Gardens</u>	<u>None</u>
<u>Urban Farms</u>	<u>As determined by a parking demand study</u>

C. Calculation of Required Spaces.

1. **Floor Area.** Where a parking requirement is a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated. The floor area of a use shall be calculated as described in Section 17.48.040 (Floor Area and Floor Area Ratio). Floor area for the area of the required parking space (i.e. 10 ft. x 20 ft.) and up to 125 square feet of ancillary space within garages and other parking facilities are not included in the calculation of floor area for the purpose of determining on-site parking requirements.
2. **Employees.** Where a parking requirement is stated as a ratio of parking spaces to employees, the number of employees is based on the largest shift that occurs in a typical week.
3. **Seats.** Where a parking requirement is stated as a ratio of parking spaces to seats, each 24 inches of bench-type seating at maximum seating capacity is counted as one seat.
4. **Fractional Spaces.** In determining the number of required parking, fractions of spaces over one-half shall be rounded up to the next whole number.

D. Unlisted Uses. The parking requirement for land uses not listed in Table 17.76-1 and Table 17.76-2 shall be determined by the Community Development Director based on the requirement for the most comparable similar use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand.

E. Sites with Multiple Uses. Where more than one land use is conducted on a site, the minimum number of required on-site parking spaces shall be the sum of the number of parking spaces required for each individual use.

F. Additional Required Parking. The Planning Commission may require more on-site parking than required by Table 17.76-1 and Table 17.76-2 if the Planning Commission determines that additional parking is needed to serve the proposed use and to minimize

adverse impacts on neighboring properties.

17.76.040 General Requirements

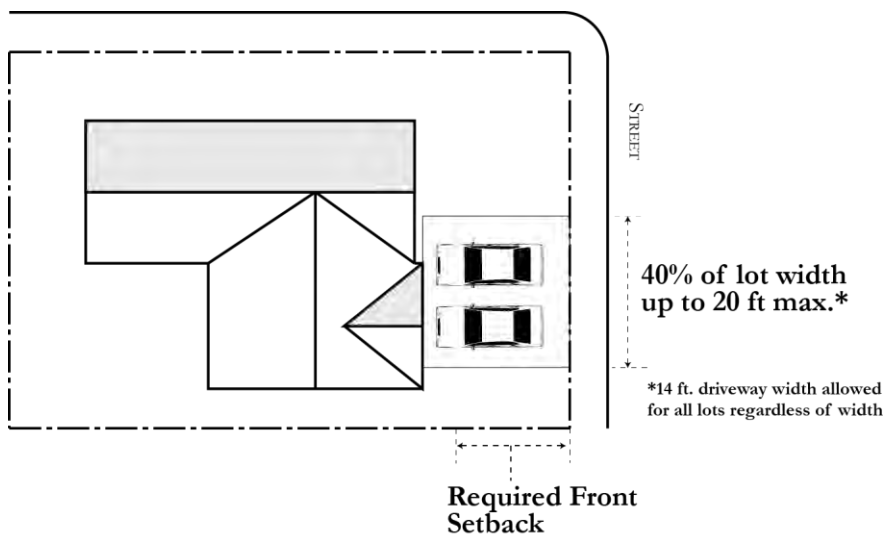
A. Availability and Use of Spaces.

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

B. Parking in Front and Exterior Side Setback Areas.

1. **R-1 Zoning District.** In the R-1 zoning district, the width of a parking space in the required front or exterior side setback area may not exceed 40 percent of lot width up to a maximum of 20 feet, except that all lots may have a parking space of up to 14 feet in width regardless of lot width. See Figure 17.76-1. The Planning Commission may allow a larger parking area within the required front and exterior side setback areas with a Design Permit if the larger parking area incorporates design features, such as impervious materials and enhanced landscaping, which minimize visual impacts to the neighborhood.

FIGURE 17.76-1: PARKING IN FRONT SETBACK AREA IN R-1 ZONING DISTRICT



2. **Other Zoning Districts.**

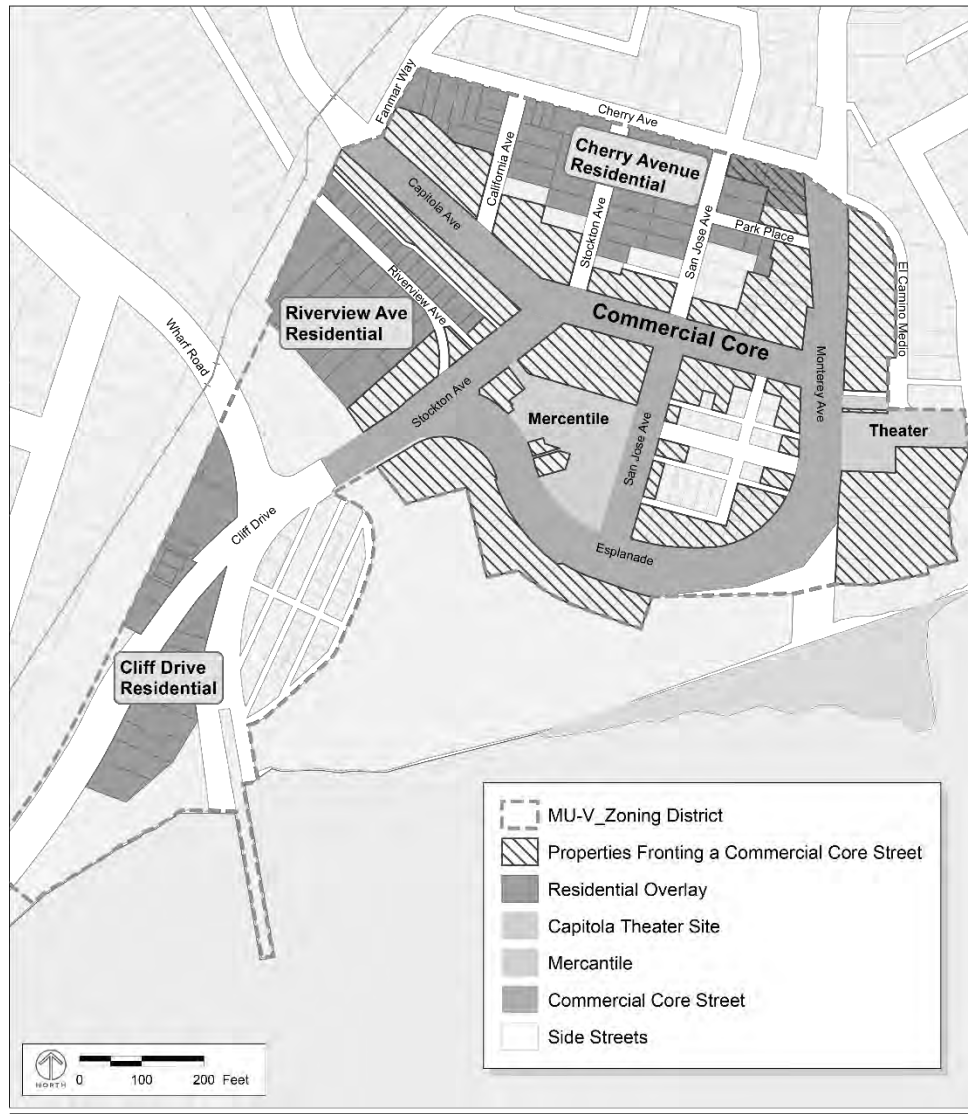
- a. In all zoning districts other than the R-1 zoning district, required parking spaces may not be located within required front or exterior side setback areas.
- b. In the Mixed Use Village zoning district, parking may be located adjacent to the street-facing property line in accordance with Section 17.20.030.E.5 (Parking Location and Buffers).
- c. In the Mixed Use Neighborhood zoning district, parking may be located in the front or exterior side setback area if approved by the Planning Commission in accordance with Section 17.20.040.E (Parking Location and Buffers).

C. **Location of Parking.**

1. **All Zoning Districts.** Required parking spaces may not be located within any public or private right-of-way unless located in a sidewalk exempt area and if an Encroachment Permit is granted.
2. **R-1 Zoning District.** Required parking spaces in the R-1 zoning district shall be on the same parcel as the use that they serve.
3. **MU-V Zoning District.** Required parking in the MU-V district for new development and intensified uses shall be provided in compliance with the following:
 - a. The Planning Commission may approve onsite parking as follows:
 - (1) For property fronting a Commercial Core street shown in Figure 17.76-2, onsite parking is allowed if access to parking is from a side street, alleyway, or existing driveway cut. New driveway cuts are prohibited along a Commercial Core street frontage.
 - (2) For the Capitola Theater and Mercantile sites, onsite parking is allowed if parking areas are located on the interior of the site(s) and do not directly abut a Commercial Core street. Driveway cuts to serve onsite parking are limited to one cut per site; however, the Planning Commission may approve additional driveway cuts if 1) a parking and circulation study shows that additional access is necessary to reasonably serve the use; and 2) driveway cuts are located and designed to preserve or enhance pedestrian and vehicle safety.
 - (3) Within the Riverview Avenue, Cherry Avenue, and Cliff Drive residential overlays.
 - (4) On properties that do not front a Commercial Core street.
 - (5) As mandated by Federal Emergency Management Agency (FEMA) regulations.

- b. The Planning Commission may permit off-site parking if the space(s) are within walking distance of the use which it serves or located at a remote site served by a shuttle system.

FIGURE 17.76-2: MU-V PARKING LOCATION MAP



4. **Other Zoning Districts.** In all zoning districts other than the R-1 and MU-V zoning districts, required parking shall be located on the same lot as the use the parking is intended to serve, except as allowed by Section 17.76.050.D below.
- D. **Large Vehicle Storage in the R-1 Zoning District.** In addition to the required on-site parking spaces for a single-family dwelling, one additional on-site parking or storage space may be provided on a parcel in the R-1 zoning district for a recreational vehicle, boat, camper, or similar vehicle. This space may not be located in a required front or exterior

side setback area and may be utilized only to store a vehicle that does not exceed 13.5 feet in height, 8.5 feet in width, and 25 feet in length. Such parking or storage spaces shall be finished in concrete, asphalt, semi-permeable pavers, or a similar paved surface.

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

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

F. Electric Vehicle Charging.

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

G. Parking for Persons with Disabilities.

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

H. Curb-side Service.

1. Curb-side (drive-up) service for retail uses is allowed in all commercial and mixed-use zoning districts.
2. Restaurant curb-side service requires a Conditional Use Permit in the Regional Commercial (C-R) zoning district and is prohibited in all other zoning districts.

17.76.050 On-site Parking Alternatives**A. Purpose.** This section identifies alternatives to required on-site parking to:

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

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

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

C. Required Approval. All reductions in on-site parking described in this section require Planning Commission approval of a Conditional Use Permit.**D. Off-Site Parking.**

1. For multi-family housing and non-residential uses, the Planning Commission may allow off-site parking if the Commission finds that practical difficulties prevent the parking from being located on the same lot it is intended to serve.
2. Off-site parking shall be located within a reasonable distance of the use it is intended to serve, as determined by the Planning Commission.
3. A deed restriction or other legal instrument, approved by the City Attorney, shall be filed with the County Recorder. The covenant record shall require the owner of the property where the on-site parking is located to continue to maintain the parking space so long as the building, structure, or improvement is maintained in Capitola. This covenant shall stipulate that the title and right to use the parcels shall not be

subject to multiple covenant or contract for use without prior written consent of the City.

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

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

F. Valet Parking. The Planning Commission may allow up to 25 percent of the required on-site parking spaces to be off-site valet spaces (except for a hotel on the former Village theatre site (APNs 035-262-04, 035-262-02, and 035-261-10) for which there is no maximum limit of off-site valet spaces). Valet parking shall comply with the following standards:

1. Valet parking lots must be staffed when business is open by an attendant who is authorized and able to move vehicles.
2. A valet parking plan shall be reviewed and approved by the Community Development Director in consultation with the Public Works Director.
3. Valet parking may not interfere with or obstruct vehicle or pedestrian circulation on the site or on any public street or sidewalk.
4. The use served by valet parking shall provide a designated drop-off and pick-up area. The drop-off and pick-up area may be located adjacent to the building, but it may not be located within a fire lane, impede vehicular and/or pedestrian circulation, or cause queuing in the right-of-way or drive aisle.

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

H. Transportation Demand Management Plan. The Planning Commission may reduce

the number of required on-site parking spaces for employers that adopt and implement a Transportation Demand Management (TDM) Plan subject to the following requirements and limitations:

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

I. Fees in Lieu of Parking

1. Within the MU-V zoning district, on-site parking requirements for hotel uses may be satisfied by payment of an in-lieu parking fee established by the City Council to provide an equivalent number of parking spaces in a municipal parking lot. Such payment must be made before issuance of a building permit or a certificate of occupancy. Requests to participate in an in-lieu parking program must be approved by the City Council. A proposed hotel may require a Coastal Development Permit as specified by Chapter 17.44 (Coastal Overlay Zones) if any part of the site is located in the Coastal Zone. A parking plan shall be reviewed within a CDP, to ensure the development will not have adverse impacts on coastal resources.
2. Fee revenue must be used to provide public parking in the vicinity of the use. In establishing parking districts, the City Council may set limitations on the number of spaces or the maximum percentage of parking spaces required for which an in-lieu fee may be tendered.

- J. Transit Center Credit.** Provided a regional transit center is located within the Capitola Mall property, the Planning Commission may reduce the number of required parking spaces by up to 10 percent for residential mixed-use projects in the Capitola Mall property bounded by Clare's Street, Capitola Road, and 41st Avenue.

17.76.060 Parking Design and Development Standards

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

TABLE 17.76-3: MINIMUM PARKING SPACE DIMENSIONS

<u>Type of Space</u>	<u>Minimum Space Dimensions</u>
<u>Spaces Serving Single-Family Dwellings</u>	
<u>Uncovered and covered (garage) spaces</u>	<u>10 ft. by 20 ft. [1]</u>
<u>In sidewalk exempt areas</u>	<u>10 ft. by 18 ft.</u>
<u>Spaces Serving Multi-Family and Non-Residential Uses</u>	
<u>Standard Spaces</u>	<u>9 ft. by 18 ft.</u>
<u>Compact Spaces</u>	<u>8 ft. by 16 ft.</u>
<u>Tandem Spaces [2]</u>	<u>9 ft. by 18 ft.</u>

Notes:

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

[2] See Section 17.76.060.E.3 (Tandem Parking Spaces).

- B. Compact Spaces.** A maximum of 30 percent of required on-site parking spaces serving multi-family and non-residential uses may be compact spaces. All parking spaces for compact cars shall be clearly marked with the word “Compact” either on the wheel stop or curb, or on the pavement at the opening of the space.
- C. Parking Lot Dimensions.** The dimensions of parking spaces, maneuvering aisles, and access ways within a parking lot shall conform to the City’s official parking space standard specifications maintained by the Public Works Director and as shown in Figure 17.76-3 and Table 17.76-4.

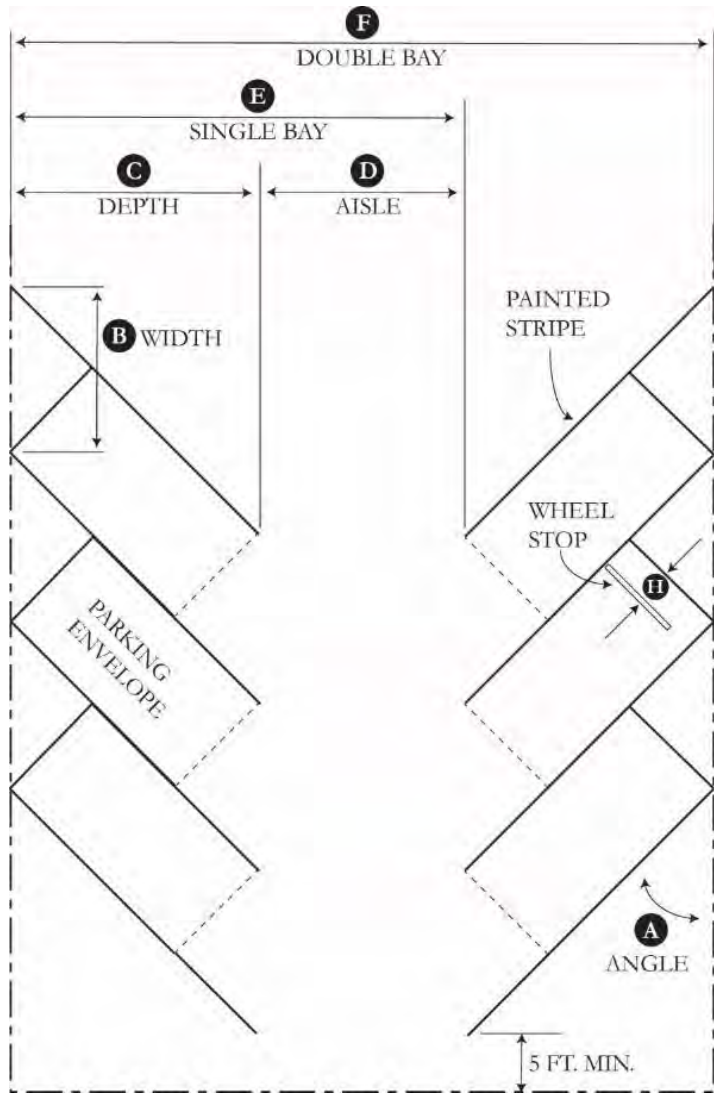
FIGURE 17.76-3: STANDARD PARKING LOT DIMENSIONS

TABLE 17.76-4: STANDARD PARKING LOT DIMENSIONS

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

D. Surfacing.

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

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

1. Parking spaces in a tandem configuration shall be reserved for and assigned to a single dwelling unit.
2. For single-family dwellings, tandem parking is permitted for up to two uncovered spaces in front of a garage, with a maximum of three tandem spaces, including the covered space in a single garage. Tandem parking spaces of three spaces or more require Planning Commission approval.
3. The minimum size of an uncovered tandem parking space may be reduced to 9 feet by 18 feet.
4. All required guest parking shall be provided as single, non-tandem parking spaces.
5. Tandem parking spaces shall not block the use of the driveway to access other parking spaces located within the parking area.
6. Tandem parking spaces shall be used to accommodate passenger vehicles only.

F. Parking Lifts. Required parking may be provided using elevator-like mechanical parking systems (“lifts”) provided the lifts are located within an enclosed structure or otherwise screened from public view. Parking lifts shall be maintained and operable through the life of the project.**G. Lighting.**

1. A parking area with six or more parking spaces shall include outdoor lighting that provides adequate illumination for public safety over the entire parking area.
2. Outdoor lighting as required above shall be provided during nighttime business hours.
3. All parking space area lighting shall be energy efficient and directed away from residential properties to minimize light trespass.
4. All fixtures shall be hooded and downward facing so the lighting source is not directly visible from the public right-of-way or adjoining properties.
5. All fixtures shall meet the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light (“dark sky compliant”).

H. Pedestrian Access.

1. Parking lots with more than 30 parking spaces shall include a pedestrian walkway in compliance with ADA requirements.
 2. The design of the pedestrian walkway shall be clearly visible and distinguished from parking and circulation areas through striping, contrasting paving material, or other similar method as approved by the Community Development Director.
- I. Screening.** Parking lots of six spaces or more shall comply with the following screening standards.
1. **Location.** Screening shall be provided along the perimeter of parking lots fronting a street or abutting a residential zoning district.
 2. **Height.**
 - a. Screening adjacent to streets shall have a minimum height of 3 feet.
 - b. For parking lots within 10 feet of a residential zoning district, screening shall have a minimum height of 6 feet, with additional height allowed with Planning Commission approval.
 3. **Materials – General.** Required screening may consist of one or more of the following materials (see Section 17.76.070 (Parking Lot Landscaping) for landscaping screening requirements):
 - a. Low-profile walls constructed of brick, stone, stucco or other durable material
 - b. Evergreen plants that form an opaque screen.
 - c. An open fence combined with landscaping to form an opaque screen.
 - d. A berm landscaped with ground cover, shrubs, or trees.
 4. **Materials – Adjacent Residential.** Parking lots within 10 feet of a residential zoning district shall be screened by a masonry wall.
- J. Drainage.** A drainage plan for all parking lots shall be approved by the Public Works Director.
- K. Adjustments to Parking Design and Development Standards.** The Planning Commission may allow adjustments to parking design and development standards in this section through the approval of a Minor Modification as described in Chapter 17.136 (Minor Modifications).

17.76.070 Parking Lot Landscaping

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

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

TABLE 17.76-5: MINIMUM REQUIRED PARKING LOT LANDSCAPING

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

D. Shade Trees.

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

E. Concrete Curbs.

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

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

- G. Timing.** Landscaping shall be installed prior to the City's authorization to occupy any

buildings served by the parking area, or prior to the final inspection for the parking lot.

- H. Green Parking Exemptions.** Parking lots that incorporate solar panels, bioswales, and other similar green features into the parking lot design are eligible for reduced parking lot landscaping requirements with Planning Commission approval of a Design Permit.
- I. Exceptions.** The Planning Commission may grant an exception to the parking lot landscaping requirements in this section with the approval of a Design Permit upon finding that:
1. Full compliance with the requirement is infeasible or undesirable;
 2. The project complies with the requirement to the greatest extent possible; and
 3. The project incorporates other features to compensate for the exception and create a high quality design environment.

17.76.080 Bicycle Parking

- A. Applicability.** All new multi-family developments of 5 units or more and commercial uses served by parking lots of 10 spaces or more shall provide bicycle parking as specified in this section.
- B. Types of Bicycle Parking.**
1. **Short-Term Bicycle Parking.** Short-term bicycle parking provides shoppers, customers, messengers and other visitors who generally park for two hours or less a convenient and readily accessible place to park bicycles.
 2. **Long-Term Parking.** Long-term bicycle parking provides employees, residents, visitors and others who generally stay at a site for several hours or more a secure and weather-protected place to park bicycles. Long-term parking may be located in publicly accessible areas or in garages or other limited access areas for exclusive use by tenants or residents.
- C. Bicycle Parking Spaces Required.** Short-term and long-term bicycle parking spaces shall be provided as specified in Table 17.76-6.

TABLE 17.76-6 REQUIRED BICYCLE PARKING SPACES

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

- D. Short-Term Bicycle Parking Standards.** Short-term bicycle parking shall be located within 100 feet of the primary entrance of the structure or use it is intended to serve.
- E. Long-Term Bicycle Parking Standards.** The following standards apply to long-term bicycle parking:
1. **Location.** Long-term bicycle parking shall be located within 750 feet of the use that it is intended to serve.
 2. **Security.** Long-term bicycle parking spaces shall be secured. Spaces are considered secured if they are:
 - a. In a locked room or area enclosed by a fence with a locked gate;
 - b. Within view or within 100 feet of an attendant or security guard;
 - c. In an area that is monitored by a security camera; or
 - d. Visible from employee work areas.
- F. Parking Space Dimensions.**
1. Minimum dimensions of 2 feet by 6 feet shall be provided for each bicycle parking space.
 2. An aisle of at least 5 feet shall be provided behind all bicycle parking to allow room for maneuvering.
 3. Two feet of clearance shall be provided between bicycle parking spaces and adjacent walls, polls, landscaping, pedestrian paths, and other similar features.
 4. Four feet of clearance shall be provided between bicycle parking spaces and adjacent automobile parking spaces and drive aisles.
- G. Rack Design.** Bicycle racks must be capable of locking both the wheels and the frame of the bicycle and of supporting bicycles in a fixed position. The Planning Commission may allow creative approaches to rack design (e.g., vertical wall-mounted bicycle racks) if physical site constraints render compliance with bicycle parking design standards impractical or undesirable.
- H. Cover.** If bicycle parking spaces are covered, the covers shall be permanent and designed to protect bicycles from rainfall.

17.76.090 Visitor Serving Parking

- A. Shuttle Program Parking.** Parking for the free summer beach shuttle program shall be provided in a remote lot or lots, such as those located on Bay Avenue and the Village public parking lots. The free shuttle shall operate, at a minimum, on weekends and holidays between Memorial Day weekend and Labor Day weekend.
- B. Public Parking in the Coastal Zone.**
1. Public parking existing as of [date of Zoning Ordinance adoption] in the following

locations in the CF zoning district shall be maintained for public parking:

- a. The Upper City Hall parking lot;
 - b. The Cliff Drive overlook parking; and
 - c. The Cliff Drive Southern Pacific railroad right-of-way parking unless Cliff Drive must be relocated due to cliff erosion.
2. Substantial changes in public parking facilities in the coastal zone require a Local Coastal Program (LCP) amendment.
 3. Expansion of any existing legally established residential parking programs and/or new residential parking programs in the coastal zone require an amendment to Coastal Development Permit 3-87-42 and consistency with the LCP Land Use Plan.
 4. The City shall evaluate the potential impact on public coastal access when considering a Coastal Development Permit application for any development that would reduce public parking spaces near beach access points, shoreline trails, or parklands, including any changes to the residential parking program established under Coastal Development Permit 3-87-42. When parking is reduced, the City shall evaluate alternative opportunities for public coastal access as needed to ensure existing levels of public access are maintained, or if possible enhanced. Such opportunities may include bicycle lanes and bicycle parking, pedestrian trails, relocated vehicular parking spaces, and enhanced shuttle/transit service.
 - 5.

17.76.100 On-site Loading

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

TABLE 17.76-7: REQUIRED LOADING SPACES

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

C. Location.

1. Required loading spaces shall be located on the same lot as the use they are intended to serve.

2. No loading space shall be located closer than 50 feet to a residential zoning district, unless the loading space is wholly enclosed within a building or screened by a solid wall not less than 8 feet in height.

D. Dimensions.

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

E. Design and Configuration.

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

Chapter 17.84 - HISTORIC PRESERVATION

Sections:

- 17.84.010 Purpose
- 17.84.020 Types of Historic Resources
- 17.84.030 Architectural Historian
- 17.84.040 Adding or Removing Designated Historic Resource Status
- 17.84.050 Maintenance of Potential Historic Resource List
- 17.84.060 Criteria for Designating Historic Resources
- 17.84.070 Historic Alteration Permit
- 17.84.080 Demolition of Historic Resources
- 17.84.090 Historic Preservation Incentives

17.84.010 Purpose

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

17.84.020 Types of Historic Resources

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

A. Designated Historic Resources. Designated Historic Resources include the following:

1. Resources listed on the National Register of Historic Places or determined by the State Historical Resources Commission to be eligible for listing on the National Register of Historic Places.
2. Resources listed on the California Register of Historical Resources or determined by the State Historical Resources Commission to be eligible for listing on the California Register of Historical Resources.
3. A contributing structure within a National Register Historic District (Venetian Court, Six Sisters, Lawn Way, and Old Riverview Districts).
4. Other resources officially designated by the City Council as a Designated Historic Resource based on the criteria in Section 17.84.060 (Criteria for Designating Historic Resources).

B. Potential Historic Resource. A Potential Historic Resource is a site, structure, or feature that has previously been identified by the City as potentially historic and is included on a list of potentially historic resources as maintained by the Community

Development Department consistent with Section 17.84.050 (Maintenance of Potential Historic Resource List). The purpose of the list of Potential Historic Resources is to maintain an inventory of properties that are potentially historic for use by City staff when reviewing development project applications.

17.84.030 Architectural Historian

A. General.

1. The City of Capitola shall utilize the services of an Architectural Historian as specified in this chapter to assist with the review of development project applications and to advise on other matters associated with historic preservation in the City of Capitola.
2. The Architectural Historian must be certified by the State of California as a historic preservation professional and must be familiar with the history and architecture of the City of Capitola.
3. When the services of the Architectural Historian are needed to assist with a development project application, all costs associated with the Architectural Historian's services shall be paid for by the applicant.

B. Role. The Architectural Historian shall assist the City in the administration and enforcement of this chapter. Specific duties may include:

1. Reviewing applications to add or remove Designated Historic Resource status in accordance with Section 17.84.040 (Adding or Removing Designated Historic Resource Status).
2. Recommending to the Community Development Director additions or removal of structures from the City's list of Potential Historic Resources in accordance with Section 17.84.050 (Maintenance of Potential Historic Resource List).
3. Completing DPR523 forms or equivalent documentation to record the historic significance of historic resources.
4. Reviewing Historic Alteration Permit applications, Design Permit applications, and other applications involving a modification or potential impact to a historic resource.
5. Advising the City on other matters related to historic preservation in the City of Capitola.

17.84.040 Adding or Removing Designated Historic Resource Status

A. Initiation. The City Council, Planning Commission, or property owner may request to designate a property as a Designated Historic Resource or remove such designation from a property.

B. Application Contents. An application by a property owner shall be on a form designated by the Community Development Department and shall include the following information:

1. **Photographs – Subject Property & Context.**
 - a. Photographs of each exterior elevation of all buildings and structures on the site, including retaining walls and fences.
 - b. Photographs of exterior details (façade materials, porches, columns, cornices, window trim, wall materials, and fence materials).
 - c. Historic photographs of original structure if available.
 2. **Physical Condition – Written and Graphic.** A detailed written description on the physical condition of the structure with supporting photographs.
 3. **Property History.** A description of the history of the property, if known.
 4. **Requests to Remove Classification.** A property owner may request to remove the Designated Historic Resource status by submitting to the Community Development Department a written request accompanied by a description with photograph documentation explaining the property's lack of historic significance.
 5. **Additional Information.** Any additional information requested by the Community Development Director necessary to process and evaluate the application.
- C. **Application Review.** The Community Development Director shall review applications for adequacy and completeness under the requirements of this section. The application shall be reviewed by the City's Architectural Historian to assess whether the property exhibits characteristics for classification as a Designated Historic Resource described in Section 17.84.060 (Criteria for Designating Historic Resources). If the property exhibits characteristics for classification, the Architectural Historian will complete a DPR523 or equivalent for the City's records. A staff report with a recommendation on the approval, approval with conditions, or denial of the application based upon the evaluation of the proposed historic resource classification, shall be prepared by the Community Development Department for Planning Commission consideration.
- D. **Planning Commission Recommendation.** The Planning Commission shall review a Designated Historic Resource application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings) and provide a recommendation to approve, conditionally approve, or deny the application.
- E. **City Council Action.** The City Council shall approve, conditionally approve, or deny the application by resolution. The action of the City Council is final.
- F. **Effect of Classification.** The classification of a Designated Historic Resource shall run with the land and be binding to subsequent owners of the property. Upon classification, the City shall add the structure to the City's Designated Historic Resource list.

17.84.050 Maintenance of Potential Historic Resource List

- A. **Authority to Maintain.** The Community Development Director shall be responsible for maintaining the list of Potential Historic Resources. The Director may add or remove structures from the list based on input from an Architectural Historian.
- B. **Additions to List.** Any structure added to the Potential Historic Resource list shall meet one or more of the criteria in Section 17.84.060.B (Potential Historic Resource). The property owner shall be notified in writing of a decision to add a property to the list. Decisions of the Community Development Director to add a property to the list may be appealed to the Planning Commission.
- C. **Removal of Listed Structures.** A property owner may request the removal of a property from the Historic Structure List by submitting to the Community Development Department a written request accompanied by a description with photograph documentation explaining the property's lack of historic significance. Decisions of the Community Development Director to maintain a structure on the list despite a request for its removal by the property owner may be appealed to the Planning Commission.

17.84.060 Criteria for Designating Historic Resources

- A. **Designated Historic Resources.** Designated Historic Resources represent particularly noteworthy community resources that exemplify the City's unique historic identity, primarily from the pre-World War II era of Capitola's history. Designated Historic Resources possess iconic landmark status that contribute to Capitola's unique sense of place due to physical characteristics of the resource visible from a public place. The City Council may classify a property as a Designated Historic Resource if it meets any of the following criteria:
1. It exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, architectural or natural history.
 2. It embodies distinctive characteristics of a style, type, period or method of construction, or is a valuable example of the uses of indigenous materials or craftsmanship.
 3. It is an example of a type of building once common in Capitola but now rare.
 4. It contributes to the significance of an historic area, being a geographically definable area possessing a concentration of historic or scenic properties or thematically related groupings of properties which contribute to each other and are united aesthetically by plan or physical development.
- B. **Potential Historic Resource.** Based on a recommendation from the City's Architectural Historian, the Community Development Director may add a structure to the Potential Historic Resource list if it meets any of the above criteria for classifying a Designated Historic Resource or any of the following criteria:

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

17.84.070 Historic Alteration Permit

- A. **Purpose.** A historic alteration permit is an approval required to alter the exterior of a historic resource.
- B. **Requirement for Designated Historic Resources.** A historic alteration permit is required for any exterior alteration to a Designated Historic Resource as defined in Section 17.84.020 (Types of Historic Resources).
- C. **Requirement for Potential Historic Resource.**
1. **When Permit is Required.** A historic alteration permit is required for an alteration to a Potential Historic Resource if:
 - a. The project requires a discretionary approval (e.g., Design Permit, Coastal Development Permit, etc.); and
 - b. The Community Development Director determines that the project may result in a significant adverse impact of a historic resource as defined in the California Environmental Quality Act (CEQA) Guidelines Section 15064.5. A structure found not to be historically significant through a historic evaluation does not require a historic alteration permit.
 2. **Historic Resource Assessment and Consultation.** A proposed alteration to a Designated Historic Resource or a Potential Historic Resource that requires a discretionary permit will be reviewed by the City's Architectural Historian to assess if the project may result in a significant adverse impact of a historic resource. The Community Development Director shall use this assessment to determine if the findings of approval for the historic alteration permit can be made. Review by the City's Architectural Historian is not required for in-kind repairs in accordance with subsection E (Exception for Preservation and in-Kind Rehabilitation) below.
- D. **Alteration Defined.** As used in this chapter, "alteration" means any exterior change or modification to a structure, cutting or removal of trees and other natural features, disturbance of archeological sites or areas, and the placement or removal of any accessory structures affecting the exterior visual qualities of the property. Painting is not considered

an alteration unless painted features are designated as significant or characteristic of a historic resource.

- E. Exception for Preservation and In-Kind Rehabilitation.** A historic alteration permit is not required for preservation or rehabilitation due to damage to windows, doors, trim, or other similar building elements. The rehabilitation shall be in-kind, matching the original design in size, detail, materials, and function. To qualify for this exception, the applicant must provide evidence of original design and details of the in-kind replacement.
- F. Review Authority.** The Planning Commission shall take action on all applications for a historic alteration permit.
- G. Application Requirements.** Applications for a historic alteration permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department together with all required application fees.
- H. Public Notice and Hearing.** The Planning Commission shall consider applications for a historic alteration permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- I. Findings for Approval.** The Planning Commission may approve a historic alteration permit only if all of the following findings can be made:
1. The historic character of a property is retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property is avoided.
 2. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize a property are preserved.
 3. Any new additions complement the historic character of the existing structure. New building components and materials for the addition are similar in scale and size to those of the existing structure.
 4. Deteriorated historic features are repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials.
 5. Archeological resources are protected and preserved in place. If such resources must be disturbed, mitigation measures are undertaken.
 6. The proposed project is consistent with the General Plan, the Local Coastal Program, any applicable Specific Plan, the Zoning Code, and the California Environmental Quality Act (CEQA).
 7. If a proposed development is located in the coastal zone and requires a Coastal Development Permit (CDP) as specified in Chapter 17.44 (Coastal Overlay zone), approval of a CDP requires compliance listed in 17.84.070.I and the CDP findings as specified in 17.44.060 (Findings for Approval).

- J. **Conditions of Approval.** The Planning Commission may attach conditions of approval to a historic alteration permit to achieve consistency with the General Plan, Local Coastal Program, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
- K. **Appeals.** Decisions on historic alteration permit may be appealed as described in Chapter 17.152 (Appeals).

17.84.080 Demolition of Historic Resources

- A. **Permit Required.** The demolition of a historic resource requires approval of a Historic Resource Demolition Permit.
- B. **Review Authority.**
1. The Planning Commission takes action on Historic Resource Demolition Permit applications to demolish a Potential Historic Resource.
 2. The Planning Commission recommends and the City Council takes action on Historic Resource Demolition Permits applications to demolish a Designated Historic Resource.
- C. **Application Submittal and Review.** Applications for a Historic Resource Demolition Permit shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department together with all required application fees to the satisfaction of the CDD or Planning Commission. The City may require third-party review of these materials at the applicant's expense. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.84.080.F (Findings for Approval).
- D. **Planning Commission Recommendation.** For Historic Resource Demolition Permit applications to demolish a Designated Historic Resource, the Planning Commission shall provide a recommendation to the City Council on a Historic Resource Demolition Permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The Planning Commission shall base its recommendation on the findings specified in Paragraph F (Findings for approval) below.
- E. **Public Notice and Hearing.** The review authority shall review and act on a Historic Resource Demolition Permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- F. **Findings for Approval.** To approve a Historic Resource Demolition Permit, the review authority shall make one or more of the following finding:
1. The structure must be demolished because it presents an imminent hazard to public health and safety as determined by a licensed structural engineer.
 2. The structure proposed for demolition is not structurally sound despite evidence of the applicant's efforts to rehabilitate and properly maintain the structure.

3. The rehabilitation or reuse of the structure is economically infeasible. Economic infeasibility shall be demonstrated by preparing actual project costs and by comparing the estimated market value of the property in its current condition, after rehabilitation and after demolition.
 4. No feasible alternative use of the structure exists that can earn a reasonable economic return.
- G. Limitations on Findings of Economic Hardship.** The review authority may not approve a Historic Resource Demolition Permit if an economic hardship was caused by any of the following:
1. Willful or negligent acts by the applicant.
 2. Purchasing the property for substantially more than market value.
 3. Failure to perform normal maintenance and repairs.
 4. Failure to diligently solicit and retain tenants.
 5. Failure to prescribe a rental amount which is reasonable for the current market.
 6. Failure to provide normal tenant improvements.
- H. Post-Decision Procedures.** Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Historic Resource Demolition Permit.

17.84.090 Historic Preservation Incentives

- A. Mills Act Agreement.** Upon request of the owner of a Designated Historic Resource, the City Council may elect to enter into a Mills Act Agreement with the owner. See Government Code Section 50280 et seq. The Mills Act Agreement shall run with the land and be binding upon subsequent owners of the Designated Historic Resource. If the City Council elects to enter into a Mills Act Agreement, the City shall file the Mills Act Agreement for recording with the County Recorder.
- B. California Historical Building Code.** The California Historical Building Code (Title 24, Part 8) shall apply to all Designated Historic Resources to facilitate the preservation and continuing use of the building while providing reasonable safety for the building's occupants and access for persons with disabilities.
- C. Grant or Loan Priority.** The City shall give the highest priority to Designated Historic Resources when distributing grants or loans whose purpose is historic preservation.
- D. Permitting Fees.** The City Council shall waive application and review fees for Planning permits required for development projects that preserve, retain, and rehabilitate a historic structure. Planning permit fees shall be waived only for significant rehabilitations of noteworthy historic structures, not for remodels or additions to older homes that would not substantially advance the City's historic preservation goals. Required third-party reviews shall be paid for by the applicant.

- E. **Modifications to Development Standards.** The City Council may approve modifications to development standards in the applicable zoning district, such as parking and setbacks, if the modification is necessary to allow for the preservation, rehabilitation, or restoration of a historic resource, and if coastal resources are protected. Modifications associated with specific coastal resource standards (e.g., ESHA setbacks, geologic hazard setbacks, etc.) are not allowed.

Chapter 17.88 - INCENTIVES FOR COMMUNITY BENEFITS

Sections:

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

17.88.010 Purpose

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

17.88.020 Incentives Restricted to Added Benefits

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

17.88.030 Eligibility

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

1. Projects in the Regional Commercial (C-R) and Community Commercial (C-C) zoning districts that:
 - a. Front 41st Avenue; or
 - b. Front Capitola Road between Clares Street and 42nd Avenue, or
 - c. Are located on the Capitola Mall site.
2. A hotel on the former Capitola Theater site (APN 035-262-04, 035-262-02, 035-262-11, 035-261-10) in the Mixed Use Village zoning district.

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

17.88.040 Allowable Benefits

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

11. **Other Community Benefits.** Other community benefits not listed above, such as entertainment destinations, as proposed by the applicant that are significant and substantially beyond normal requirements.
- B. **41st Avenue/Capitola Road Projects.** In addition to the community benefits in Subsection A above, the City may grant incentives to eligible projects fronting 41st Avenue or Capitola Road between Clares Street and 42nd Avenue or on the Capitola Mall site that provide one or more of the following community benefits:
 1. **Capitola Mall Block Pattern.** Subdivision of the existing Capitola Mall property into smaller blocks with new intersecting interior streets. May include the extension of 40th Avenue south into the Mall property to form a new pedestrian-friendly private interior street.
 2. **Surface Parking Lot Redevelopment.** Redevelopment of existing surface parking lots fronting 41st Avenue and Capitola Road while introducing new sidewalk-oriented commercial buildings that place commercial uses along the street frontage.
 3. **Transit Center.** Substantial infrastructure improvements to the transit center on the Capitola Mall property that are integrated with a possible future shuttle system in Capitola. The transit center may be moved to an alternative location consistent with the operational requirements of Santa Cruz Metro.
 4. **Affordable Housing.** Affordable housing that meets the income restrictions applicable in the Affordable Housing (-AH) overlay zone.

17.88.050 **Available Incentives**

- A. **41st Avenue/Capitola Road Projects.** The City may grant the following incentives to an eligible project fronting 41st Avenue, Capitola Road between Clares Street and 42nd Avenue, or on the Capitola Mall site:
 1. An increase in the maximum permitted floor area ratio (FAR) to 2.0.
 2. An increase in the maximum permitted building height to 50 feet.
- B. **Village Hotel.** The City may grant the following incentives to a proposed hotel on the former Capitola Theater site (APN 035-262-04, 035-262-02, 035-262-11, 035-261-10):
 1. An increase in the maximum permitted floor area ratio (FAR) to 3.0.
 2. An increase to the maximum permitted building height provided that:
 - a. The maximum height of the hotel (including all rooftop architectural elements such as chimneys, cupolas, etc., and all mechanical appurtenances such as elevator shafts, HVAC units, etc.) remains below the elevation of the bluff behind the hotel; and

- b. The bluff behind the hotel remains visible as a green edge when viewed from the southern parking lot along the bluff of Cliff Drive and the Capitola wharf. Existing mature trees shall be maintained on the site, except that trees that are unhealthy or unsafe may be removed.

17.88.060 Relationship to State Density Bonus Law

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

17.88.070 Application Submittal and Review

- A. **Request Submittal.** A request for an incentive in exchange for benefits shall be submitted concurrently with an application for the discretionary permits required for the project by the Zoning Code. Applications shall be accompanied by the following information:
 - 1. A description of the proposed amenities and how they will benefit the community.
 - 2. All information needed by the City Council to make the required findings described in Section 17.88.080 (Finding) below, including a pro forma analysis demonstrating that the benefit of the proposed amenities to the community is commensurate with the economic value of the requested incentives.
- B. **Conceptual Review.** Prior to City action on a request for an incentive, the request shall be considered by the Planning Commission and City Council through the Conceptual Review process as described in Chapter 17.114 (Conceptual Review). Conceptual Review provides the applicant with non-binding input from the City Council and Planning Commission as to whether the request for incentives is worthy of consideration.
- C. **Theater Site Story Poles.** Prior to City action on a proposed hotel on the former Capitola Theater site the Planning Commission or City Council may require the applicant to install poles and flagging on the site to demonstrate the height and mass of the proposed project.
- D. **Planning Commission Recommendation.** Following Conceptual Review, the Planning Commission shall provide a recommendation to the City Council on the proposed project and requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- E. **City Council Action.** After receiving the Planning Commission's recommendation, the City Council shall review and act on the requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The City Council shall also review and act on other permits required for the project requesting incentives.

17.88.080 Findings

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

1. The proposed amenities will provide a substantial benefit to the community and advance the goals of the General Plan.
2. There are adequate public services and infrastructure to accommodate the increased development potential provided by the incentive.
3. The public benefit exceeds the minimum requirements of the zoning code or any other provisions of local, state, or federal law.
4. The project minimizes adverse impacts to neighboring properties to the greatest extent possible.
5. If in the coastal zone and subject to a Coastal Development Permit, the project enhances coastal resources.

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

1. The design of the hotel respects the scale and character of neighboring structures and enhances Capitola's unique sense of place.
2. The hotel will contribute to the economic vitality of the Village and support an active, attractive, and engaging pedestrian environment.
3. The hotel design minimizes impacts to public views of the beach and Village from vantage points outside of the Village, and in particular as seen from the top of the bluff behind the hotel, and does not adversely impact significant public views of the coastline as identified in the LCP Land Use Plan.
4. Parking for the hotel is provided in a way that minimizes vehicle traffic in the Village, strengthens the Village as a pedestrian-oriented destination, and protects public parking options.

17.88.090 Post-Decision Procedures

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

Chapter 17.96 - SUPPLEMENTAL STANDARDS

Sections:

- 17.96.010 Purpose
- 17.96.020 Animal Keeping
- 17.96.030 Emergency Shelters
- 17.96.040 Home Occupations
- 17.96.050 Intersection Sight Distance
- 17.96.060 Large Commercial Land Uses
- 17.96.070 Large Home Day Care
- 17.96.080 Large Residential Care Facilities
- 17.96.090 Offshore Oil Development Support Facilities
- 17.96.100 Permanent Outdoor Displays
- 17.96.110 Outdoor Lighting
- 17.96.120 Placement of Underground Utilities
- 17.96.130 Recycling Collection Facilities
- 17.96.140 Self-Storage Facilities
- 17.96.150 Solar Energy Systems
- 17.96.160 Soquel Creek Pathway
- 17.96.170 Temporary Sidewalk Dining
- 17.96.180 Temporary Uses and Structures

17.96.010 Purpose

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

17.96.020 Animal Keeping

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

1. **Public Health and Safety.** It shall be unlawful and shall constitute a nuisance to keep any animal that poses a threat to public health or safety.
2. **Animal Noise.** In addition to the standards in Municipal Code Chapter 9.12 (Noises), no animal may disturb neighbors with its noise between sunset and one-half hour after sunrise.
3. **Sanitation.** It shall be unlawful and shall constitute a nuisance for any person to keep animals in an unsanitary manner or produce obnoxious odors. All debris, refuse, manure, urine, food waste, or other animal byproduct shall be removed from all the premises every day or more often as necessary.

4. **Property Confinement.** Animals other than household pets, where allowed, shall be confined to the property within a fenced yard.

B. Household Pets.

1. **Compliance with General Standards.** The keeping of dogs, cats, domesticated birds, rabbits, rodents, reptiles and amphibians, potbelly pigs less than 150 pounds, and other household pets is permitted provided they comply with Paragraph A above.
2. **Maximum Number.** A maximum of four of each type of household pet with a maximum of eight pets total is permitted in a single dwelling unit.

C. Chickens.

1. **Permitted Location.** Keeping of chickens is permitted only on properties of 5,000 square feet or more occupied by a single-family dwelling.
2. **Prohibitions on Roosters.** Only hens are permitted pursuant to this chapter. Roosters are prohibited.
3. **Number of Chickens.** A maximum of four chickens are permitted on a single property.
4. **Enclosure Requirement.** Chickens shall be kept in a coop which is sufficient to contain chickens. When outside of a coop, chickens shall be confined to the property within a fenced yard.
5. **Location of Coops.**
 - a. Chicken coops must be located behind the primary structure on the lot.
 - b. Chicken coops may not be located within a required front and side setback area or closer than 20 feet to dwelling units on adjacent properties.

D. Honeybees.

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

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

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

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

17.96.030 Emergency Shelters

Emergency shelters will comply with the following standards:

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

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

17.96.040 **Home Occupations**

- A. **Required Permit.** An Administrative Permit is required to establish or operate a home occupation.
- B. **Standards.** All home occupations shall comply with the following standards:
 1. **Size.** Home occupations may not occupy more than 25 percent of the floor area of the dwelling unit or 400 square feet, whichever is less.
 2. **Sales and Displays.** Products may not be sold onsite directly to customers within a home occupation. Home occupations may not establish window displays of products to attract customers.
 3. **Advertising.** No newspaper, radio, or television service shall be used to advertise the location of business; however, contact information, including phone numbers and email address, are allowed on advertisements.
 4. **Signs.** One single, non-illuminated, wall-mounted outdoor sign of not more than 1 square foot in area is permitted.
 5. **Vehicle Traffic.** A home occupation may not generate vehicle traffic greater than normally associated with a residential use. No excessive pedestrian, automobile, or

- truck traffic may be introduced to the neighborhood as a result of the home occupation.
6. **Deliveries.** Deliveries and pick-ups for home occupations may not interfere with vehicle circulation, and shall occur only between 8:00 a.m. and 8:00 p.m., Monday through Saturday.
 7. **Mechanical Equipment.** Mechanical equipment that is not normally associated with a residential use is prohibited.
 8. **Performance Standards.** Home occupations shall not generate dust, odors, noise, vibration, or electrical interference or fluctuation that is perceptible beyond the property line.
 9. **Hazardous Materials Prohibited.** The storage of flammable, combustible, or explosive materials is prohibited.
 10. **Employees.** Employees of a home occupation shall be limited to the persons residing in the dwelling unit.
 11. **On-Site Client Contact.** No more than one client/customer at the property at one time. Customer or client visits are limited to three per day, or six per day for personal instruction services (e.g., musical instruction or training, art lessons, academic tutoring)
 12. **Outdoor Storage Prohibited.** Goods, equipment, and materials associated with a home occupation shall be stored within an enclosed structure or in a manner that is not visible from the property line.
- C. **Permit Revocation.** An Administrative Permit for a home occupation that violates any of the standards in Paragraph B (Standards) above may be revoked consistent with Section 17.156.110 (Permit Revocation).

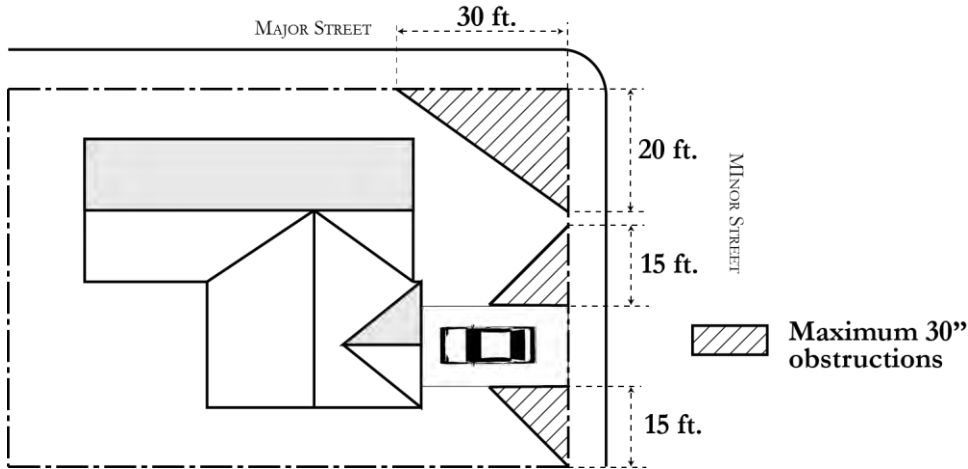
17.96.050 **Intersection Sight Distance**

- A. **Vision Triangle Required.** In zoning districts which require a front and street side setback for primary structures, all corner parcels shall provide and maintain a clear vision triangle at the intersection of the streets' right-of-way and adjacent to driveways for the purpose of traffic safety.
- B. **Vision Triangle Defined.**
1. **Intersections.** The intersection vision triangle shall be the area formed by measuring 30 feet along the major street front property line and 20 feet along the minor street property line from the point of intersection, and diagonally connecting the ends of the two lines. See Figure 17.96-1.
 2. **Driveways.** The driveway vision triangle is the area formed by measuring 15 feet along the driveway and the street from the point of intersection, and diagonally connecting the ends of the two lines. See Figure 17.96-1.

C. Maintenance of Sight Lines.

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

FIGURE 17-96-1: VISION TRIANGLES



17.96.060 Large Commercial Land Uses

- A. Purpose and Applicability.** This section establishes special findings that the Planning Commission must make to approve a Conditional Use Permit for commercial land uses with more than 12,000 square feet of floor area within one or more buildings. This requirement applies to all proposed new commercial land uses except for:
1. Uses already specifically approved in an applicable Master Conditional Use Permit pursuant to Section 17.124.100 (Master Use Permit); and
 2. Uses within a shopping center or mall with a floor area of 300,000 square feet or more.
- B. Findings.** To approve a Conditional Use Permit for a commercial land use with 12,000 square feet or more of floor area, the Planning Commission shall make the following findings in addition to the findings in Section 17.124.070 (Findings for Approvals):
1. Vehicle traffic and parking demand created by the proposed use will not have substantial adverse impacts on properties within the vicinity of the subject property.
 2. The structure occupied with the proposed use is compatible with the scale and character of existing structures in the surrounding area.
 3. The proposed use is compatible with existing land uses in the surrounding area.

4. The size of the proposed use is similar to the average size of similar uses located in the surrounding area.
 5. The use will support the surrounding local economy and attract visitors to the commercial area.
- C. **Purpose of Findings.** The purpose of additional findings for large commercial uses is to enable the Planning Commission to ensure that all new uses and development are consistent with the General Plan and compatible with the character of existing neighborhoods and districts. These findings are not intended to involve the City in the normal competition that arises between similar businesses in Capitola.

17.96.070 Large Home Day Care

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

- A. **Care Provider Occupancy.** The single-family home in which the large home day care is located shall be the principal residence of the care provider. The day care use shall be clearly residential in character and shall be accessory to the use of the property as a residence.
- B. **License.** The care provider shall obtain and maintain a license from the State of California Department of Social Services.
- C. **Separation.** A large home day care facility within a residential zoning district may not be located within 500 feet of another large home day care.
- D. **Yard Requirement.** A large home day care shall either be located within the R-1 zoning district with outdoor play space or shall have 75 square feet of outdoor activity space for each child. A large home day care outside the R-1 shall have an outdoor area owned or leased by the applicant and cannot be shared with other property owners unless permission is granted by the joint owners. The City may wave this space requirement if the applicant can demonstrate that there is a public park or other public open area that is in close proximity to the large home day care.
- E. **Screening.** A fence or wall shall be located on all property lines or around all outdoor activity areas. The fence or wall shall comply with all applicable standards in Chapter 17.60 (Fences and Walls).
- F. **Noise.** Outdoor activities may not occur before 7:00 a.m. or after 8:00 p.m. when the site is located within or adjacent to a residential zoning district.
- G. **Parking.** Off-street parking shall be provided as required by Chapter 17.76 (Parking and Loading).
- H. **Garage.** The garage shall be utilized for the parking of the property owner's vehicles. Use of the garage for the day care home function, such as for a play area, is not allowed.

- I. **Safety Compliance.** The applicant is required to have the home inspected and submit a letter of compliance from the following:
 1. **City Building Division.** The homes shall be inspected and brought into compliance with the building codes relative to the proposed use.
 2. **Fire Marshal.** The home shall be inspected and brought into compliance with the California Health and Safety code and Fire code relative to the proposed use.
- J. **Pick-Up and Drop-Off Plan.** The Community Development Director shall approve a plan for the pick-up and drop-off of children. The plan shall demonstrate that adequate parking and loading areas are available to minimize congestion and conflict on public streets. The plan shall include an agreement for each parent or client to sign that includes, at a minimum:
 1. A scheduled time for pick-up and drop-off with allowances for emergencies; and
 2. Prohibitions of double-parking, blocking driveways of neighboring properties, or using driveways of neighboring properties to turn around.

17.96.080 **Large Residential Care Facilities**

Large residential care facilities shall comply with the following standards:

- A. **Separation.** A large residential care facility in a residential zoning district shall not be located within 500 feet of another large residential care facility.
- B. **Screening and Landscaping.** A wall or fence shall be provided for purposes of screening and securing outdoor recreational areas in compliance with Chapter 17.60 (Fences and Walls).
- C. **License.** The care provider shall obtain and maintain a license from the State of California Department of Social Services. Large residential care facilities shall be operated according to all applicable State and local regulations.
- D. **Safety Compliance.** The applicant is required to have the facility inspected and submit a letter of compliance from the following:
 1. **City Building Department.** The facility shall be inspected and brought into compliance with the building codes relative to the proposed use.
 2. **Fire Marshal.** The facility shall be inspected and brought into compliance with the California Health and Safety code and Fire code relative to the proposed use.

17.96.090 **Offshore Oil Development Support Facilities**

- A. **Prohibition.** There shall be no construction, reconstruction, operation, or maintenance of any commercial or industrial offshore oil development support facility within the City of Capitola.

B. Facilities and Activities Included in Prohibition. Prohibited facilities and activities include, but are not limited to:

1. Oil or gas storage facilities, pipe and drilling materials, or equipment repair or storage facilities, which operates directly in support of any offshore oil or gas exploration, development, drilling, pumping or production.
2. Construction, reconstruction, or operation of facilities to process any oil or natural gas taken or removed from any offshore oil or gas drilling or pumping operations.

17.96.100 Permanent Outdoor Displays

A. Permitted Displays. A single permanent outdoor display of retail goods that complies with this section is permitted as an accessory use to a primary commercial use in the mixed use, commercial, and industrial zoning districts, except in the MU-V zoning district, where permanent outdoor displays are prohibited.

B. Permits Required. Permanent outdoor displays require Planning Commission approval of a Conditional Use Permit.

C. Standards.

1. **Height.** Displayed items shall not exceed 6 feet in height.
2. **Size.** Display areas are limited to 6 feet wide or 10 percent of the width of the front building elevation. A display area may extend a maximum of 3 feet from the front building wall.
3. **Goods Permitted.** Displayed items shall be of the same type that are lawfully displayed and sold inside the building occupied by the primary commercial use. Only the business or entity occupying the building may sell merchandise in an outdoor display area.
4. **Hours.** Items shall be displayed only during the operating hours of the primary commercial use. Items shall be removed from display and moved into a permanently enclosed structure upon close of business.
5. **Screening.** If outdoor display areas are proposed as part of a project subject to discretionary review (e.g., Conditional Use or Design Permit) and approval by the City, the review authority may require that display areas be screened from view from neighboring properties with a solid wall, fence, or landscaped berm.
6. **Vending Machines.** Vending machines are not permitted as part of an outdoor display. Vending machines are considered an accessory use requiring Planning Commission approval of a Conditional Use Permit.
7. **Design Standards.**
 - a. Outdoor displays shall be designed to enhance the shopping environment. The outdoor display shall be designed to complement the architecture of the building and public realm.

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

8. **Location.**

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

D. **Exceptions to Standards.** The Planning Commission may grant exceptions to the standards in Paragraph C above with a Conditional Use Permit upon finding that the exception is necessary and that the outdoor display with the exception will comply with the basic intent of the standards.

17.96.110 **Outdoor Lighting**

- A. **Purpose.** This section establishes standards for outdoor lighting to minimize light pollution, maintain enjoyment of the night sky, and reduce light impacts on adjacent properties.
- B. **Applicability.** The standards in this section apply to all outdoor lighting in Capitola except for:
 - 1. Lighting installed and maintained by the City of Capitola or other public agency;
 - 2. Athletic field lights used within a school campus or public or private park;
 - 3. Temporary construction and emergency lighting; and
 - 4. Seasonal lighting displays related to cultural or religious celebrations.

- C. Maximum Height.** Lighting standards shall not exceed the maximum heights specified in the Table 17.96-1.

TABLE 17.96-1 MAXIMUM LIGHT STANDARD HEIGHT

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

- D. Prohibited Lighting.** The following types of exterior lighting are prohibited:
- Exposed bulbs and/or lenses;
 - Mercury vapor lights; and
 - Searchlights, laser lights, or any other lighting that flashes, blinks, alternates, or moves.
- E. Fixture Types.** All lighting fixtures shall be shielded so the lighting source is not directly visible from the public right-of-way or adjoining properties. All fixtures shall meet the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light ("dark sky compliant").
- F. Light Trespass.** Lights shall be placed to direct downward and deflect light away from adjacent lots and public streets, and to prevent adverse interference with the normal operation or enjoyment of surrounding properties.
- Direct or sky-reflected glare from floodlights shall not be directed into any other parcel or street, or onto any beach.
 - No light or activity may cast light exceeding one foot-candle onto a public street, with the illumination level measured at the centerline of the street.
 - No light or activity may cast light exceeding one-half foot-candle onto a residentially zoned parcel or any parcel containing residential uses.
- G. Required Documentation.** Prior to issuance of building permits, project applicants shall submit to the City photometric data from lighting manufacturers demonstrating compliance with the requirements of this section.
- H. Coastal Development Permit.** In the coastal zone, and notwithstanding the other provisions of this section, all lighting shall be sited and designed to limit lighting to the

minimum necessary to provide for adequate public safety. All lighting shall be sited and designed so that it limits the amount of light or glare visible from public viewing areas (including but not limited to the beach and other such natural areas) to the maximum extent feasible (including through uses of lowest luminosity possible, directing lighting downward, directing lighting away from natural areas, etc.). In addition, exterior lighting adjacent to habitat areas shall be wildlife-friendly and shall use lamps that minimize the blue end of the spectrum. All lighting that requires a CDP shall also be subject to a CDP finding that such lighting does not adversely impact significant public views.

17.96.120 Placement of Underground Utilities

New construction or additions that increase existing floor area by 25 percent or more shall place existing overhead utility lines underground to the nearest utility pole.

17.96.130 Recycling Collection Facilities

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

- A. **Accessory Use.** Recycling collection facilities may be established only as an accessory use in conjunction with an existing commercial or industrial use which complies with the Zoning Code and the Capitola Building and Fire Codes.
- B. **Permit Required.** Where allowed by Part 2 (Zoning Districts and Overlays), a recycling collection facility requires Planning Commission approval of a Conditional Use Permit.
- C. **Attendant Required.** Facilities may accept materials for recycling only when an attendant is present on site.
- D. **Maximum Size.** Recycling collection facilities may occupy no more than 5,000 square feet of area on a property.
- E. **Parking Areas.**
 - 1. Recycling collection facilities shall provide parking for removal of the materials and for customers depositing the materials.
 - 2. Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary host use, unless a study shows that existing parking capacity is not already fully utilized during the time the recycling facility will be on the site.
- F. **Accepted Items.** Recycling collection facilities may accept only glass, metal or plastic containers, papers and reusable items. Used motor oil may be accepted with a permit from the Santa Cruz County Environmental Health Department and the Hazardous Materials Advisory Commission.
- G. **Power-driven Processing Equipment.** Except for reverse vending machines, recycling collection facilities may not use power-driven processing equipment.

H. Location.

1. Mobile vending facilities shall be located in a designated area without eliminating the required parking or landscaping;
2. Facilities shall be at least 100 feet from any property zoned or occupied for residential use, unless there is a recognized service corridor and acoustical shielding between the containers and the residential use.

I. Maintenance. The site shall be maintained free of litter and any other undesirable materials. Mobile facilities, at which trucks or containers are removed at the end of each collection day, shall be swept at the end of each collection day.**J. Noise.** Facilities shall not exceed noise levels of 60 dBA as measured from the property line of a residentially zoned property or a residential use. Facilities shall not exceed noise levels of 70 dBA measured from all other property lines.**K. Hours of Operation.** Facilities shall operate only between the hours of nine a.m. and seven p.m.**L. Facility Information and Display.**

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

M. Signs. Signs may be provided as follows:

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

N. Landscaping. The facility shall comply with all landscaping standards required by Chapter 17.72 (Landscaping) and other City ordinance.**17.96.140 Self-Storage Facilities****A. Purpose and Applicability.** This section establishes special findings for the Planning Commission to approve self-storage facilities in the Community Commercial (C-C). These findings are intended to ensure that new self-storage facility will not adversely impact the economic vitality of Capitola's commercial districts.**B. Required Findings.** In addition to the findings in Chapter 17.124 (Use Permits), the Planning Commission must make the following findings to approve a self-storage facility in the Community Commercial (C-C) zoning districts:

1. The location of the proposed self-storage facility is conducive/better suited as self-storage rather than traditional retail due to limited access to or poor visibility from the street.

2. The proposed self-storage facility would be compatible with existing land uses in the surrounding area.
3. Streets and other means of egress are adequate to serve the proposed self-storage facility.

17.96.150 Solar Energy Systems

A. Required Permits.

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

B. Height Exceptions. Rooftop solar energy systems may project up to 4 feet above the maximum permitted structure height in the applicable zoning district. This exception is applicable to the solar energy system only, not the structure on which it is located.

C. Mixed Use Village Zoning District. Rooftop solar facilities in the Mixed Use Village zoning district shall be located and design to minimize visibility from a street or other public place to the greatest extent possible.

D. Building Permit Review and Approval. Building permit applications for rooftop solar energy systems shall be reviewed and approved in compliance with Municipal Code Chapter 15.10 (Expedited Solar Permitting Ordinance).

E. Coastal Development Permit. A proposed solar energy system may require a Coastal Development Permit as specified by Chapter 17.44 (Coastal Overlay Zone) if any part of the site is located in the coastal zone and the proposed development shall conform with the Coastal Development Permit findings for approval as specified in 17.44.130 (Findings for Approval).

17.96.160 Soquel Creek Riverview Pedestrian Pathway

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

- A. The pathway shall be maintained at a minimum of either the existing pathway width shown in the March 2005 survey maintained by the City of Capitola, or 4 feet, whichever is greater.
- B. The pathway shall have a minimum overhead clearance of 8 feet.

- C. Structures east of the pathway shall be setback a minimum of 5 feet from the edge of the pathway.
- D. Development, including decks, fencing, landscaping and other improvements shall not encroach into the pathway.
- E. Property owners shall trim and maintain landscaping so that it does not encroach into the pathway.
- F. Permeable surface variations (i.e., brick, decomposed granite and other surfaces) are permitted.
- G. Deck handrails may not exceed 42 inches in height. The space between the deck and the handrails may not be filled in to create a solid appearance.
- H. Signage indicating that the pathway is open to the public is **allowed**.
- I. All bulkheads shall be constructed in a rustic manner and finished in wood.
- J. A maximum of two freestanding lights are allowed for each deck to a maximum height of 8 feet.

17.96.170 Temporary Outdoor Dining

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

- A. **Required Permits.** Temporary outdoor dining within the public right-of-way requires an Administrative Permit and an Encroachment Permit. Temporary outdoor dining may require a Coastal Development Permit as specified by Chapter 17.44 (Coastal Overlay Zone) if any part of the site is located in the coastal zone and the proposed development shall conform with the CDP findings for approval as specified in 17.44.130 (Findings for Approval).
- B. **Permitted Zoning Districts.** Temporary outdoor dining within the public right of way is allowed in the Commercial Community (C-C), Commercial Regional (C-R), and Mixed Use, Neighborhood (MU-N) zoning districts. Temporary outdoor dining within the public right of way is not permitted in the Mixed Use Village (MU-V) zoning district.
- C. **Standards.** Temporary sidewalk dining shall comply with the following standards.
 - 1. **Location.** Outside dining is permitted on the public sidewalk:
 - a. When incidental to and part of a restaurant; and
 - b. Along the restaurant's frontage.
 - 2. **Number of Dining Areas.** An indoor restaurant may operate only one outside dining area confined to a single location.
 - 3. **Safe Passage.**

- a. Temporary sidewalk dining is permitted only where the sidewalk is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the outside dining area.
 - b. The sidewalk immediately adjacent to the restaurant shall have adequate space to accommodate tables and chairs and shall provide adequate safe passage along the sidewalk for pedestrian and wheelchair users of the sidewalk. Safe and adequate passage of at least 4 feet in width shall be provided along the sidewalk and from the curb to the sidewalk. No tables or chairs or any other objects shall be placed or allowed to remain on any sidewalk that inhibit such passage.
4. **Furniture and Signage Location.**
 - a. Tables and chairs in a sidewalk dining area shall be set back at least 2 feet from any curb and from any sidewalk or street barrier, including a bollard, and at least 8 feet from a bus stop.
 - b. All outdoor dining furniture, including tables, chairs, umbrellas, and planters, shall be movable.
 - c. All temporary improvements to separate the outdoor dining area from the sidewalk, such as a railing, shall relate to the architectural design of the primary restaurant structure in color, materials, and scale.
 - d. Umbrellas shall be secured with a minimum base of not less than 60 pounds.
 - e. All signs are subject to Chapter 17.80.
5. **Food and Beverages.** The service of alcoholic beverages within the sidewalk dining area requires a Conditional Use Permit, and shall comply with the following requirements:
 - a. The outside dining area shall be situated immediately adjacent to and abutting the indoor restaurant which provides it with food and beverage service.
 - b. The outside dining area shall be clearly separate and delineated from the areas of the sidewalk which remains open to pedestrian traffic.
 - c. One or more signs shall be posted during hours of operation stating that alcohol is prohibited outside of the dining area.
 - d. The outside dining area shall receive all licenses required for on-site consumption of alcoholic beverages from State authorities.
6. **Trash and Maintenance.**
 - a. Storage of trash is prohibited within or adjacent to the sidewalk dining area. All trash and litter shall be removed as it accumulates or otherwise becomes a public nuisance.
 - b. The sidewalk dining area, including the sidewalk surface and furniture, shall be maintained in a clean and safe condition.

7. **Hours of Operation.** Sidewalk dining may occur between 7 a.m. and 10 p.m. seven days a week. Tables, chairs, other outdoor dining furniture, and all other structures and materials associated with the outdoor dining area shall be removed from the sidewalk and stored indoors at night and when the sidewalk dining area is not in operation.

17.96.180 Temporary Uses and Structures

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

wiring, or any other fixtures, appurtenances or equipment associated with the display shall be removed from the premises.

3. **Farmer's Markets.** Farmer's markets for a maximum of one day per week in a non-residential zoning district. Farmer's markets for more than one day per week in a non-residential zoning district are permitted with a Conditional Use Permit. Farmer's markets in a residential zoning district are permitted with a Conditional Use Permit.
 4. **Off-Site Construction Yards.** Construction yards located off-site in conjunction with an approved project. The construction yard shall be immediately removed within 10 days of completion of the construction project or expiration of the building permit.
 5. **Employee Trailers.** Trailer or commercial modular units used as a work site for employees of a business displaced during construction, for a maximum of 12 months. The Community Development Director may grant up to two 12-month extensions for ongoing construction activity requiring more than 12 months to complete
 6. **Mobile Food Vendors.** Mobile food vendors in one location four times or less per year in accordance with Municipal Code Chapter 9.36. Mobile food vendors in one location more than four times per year require a Conditional Use Permit.
 7. **Real Estate Offices.** Real estate offices used exclusively for the sale of homes or other real estate units located within an approved multi-unit development project for a maximum of three years or within 30 days when the last home is sold, whichever comes first.
 8. **Other Similar Activities.** Similar temporary activities determined by the Community Development Director to be compatible with the applicable zoning district and surrounding uses.
- D. Temporary, Publicly Attended Activities/Events.** Temporary, publicly attended activities such as festivals, outdoor entertainment, and other similar events may be permitted pursuant to Municipal Code Chapter 9.36 (Temporary, Publicly Attended Activities). If in the coastal zone, see Subsection 17.44.080.H (Temporary Events) to determine if a Temporary Event requires a Coastal Development Permit.
- E. Conditions of Approval.** Upon the approval of a permit for a temporary use, the City may attach the following conditions when necessary in connection with the temporary use:
1. Hours of operation.
 2. Maintenance of accessibility for the disabled.
 3. Protection of fire lanes and access.
 4. Preservation of adequate on-site circulation.

5. Preservation of adequate on-site parking or a parking management plan to temporarily park off-site.
6. Cleanup of the location or premises.
7. Use of lights or lighting or other means of illumination.
8. Operation of any loudspeaker or sound amplification in order to prevent the creation of any nuisance or annoyance to the occupants of or commercial visitors to adjacent buildings or premises.

Chapter 17.100 - MOBILE HOME PARK CONVERSIONS

Sections:

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

17.100.010 Purpose and Intent

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

17.100.020 Applicability

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

17.100.030 Definitions

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

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

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

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

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

17.100.040 Relocation Impact Report

- A. **Submittal to Director.** Prior to a change of use of a mobile home park, a Relocation Impact Report (RIR) complying with the requirements of this chapter must be filed with the Director. It is the park owner’s responsibility to comply with the notice requirements of subsections g(1) and (2) of Civil Code Section 798.56. Because the Civil Code Section 798.56(g)(2) notice cannot be given until after the approval of both the project and the sufficiency of the (RIR), the park owner is encouraged to consult with staff (especially if any waiver of Municipal Code Section 17.100.040.B requirements will be requested) early in the process about the contents of the RIR.
- B. **Required Information.** The RIR shall be prepared by an independent agent acceptable to the City at the applicant’s expense and shall include the following information unless the Director determines the information is not necessary:
1. A detailed description of the proposed or change of use, or change without new use.
 2. A timetable for conversion of the mobile home park.
 3. A legal description of the mobile home park.
 4. The number of spaces in the park, length of occupancy by the current occupant of each space and current rental rate for each space.
 5. The date of manufacture and size of each mobile home.
 6. Appraisals addressing relevant issues identified by the Director. A qualified appraiser shall be selected by the City and the cost of the appraisals shall be borne by the applicant. The appraisals shall identify those mobile homes which cannot be moved due to type, age or other considerations. Appraisal information shall be provided on the effect upon the homeowner’s investment in the mobile home, such as the change in value of effected mobile homes that would result from the proposed change of use.
 7. The results of questionnaires to all homeowners/occupants regarding the following: whether the occupant owns or rents, whether this is the only residence, occupants’ ages, whether the occupants have disabilities that would be aggravated by the moving process, the purchase date and price paid by the mobile home owner, the costs incurred by the mobile home owner in improving the home, and the amount and relevant terms of any remaining mortgage. Answering such questionnaire shall be voluntary.

8. The name and mailing address of each eligible resident, mobile home tenant, mobile home resident, resident mobile home owner and legal owner of a mobile home in the park.
 9. The purchase price of condominiums similar in size to the mobile homes within a reasonable distance, and the rental rates and moving costs involved in moving to an apartment or other rental unit within a reasonable distance including, but not limited to, fees charged by moving companies and any requirement for payment of the first and last month's rent and security deposits.
 10. A list of comparable mobile home parks within a 20 mile radius and a list of comparable mobile home parks within a radius of 25 to 50 miles of the applicant's mobile home park. For each comparable park, the list should, if possible, state the criteria of that park for accepting relocated mobile homes, rental rates and the name, address and telephone number of the park representative having authority to accept relocated homes, including any written commitments from mobile home park owners willing to accept displaced mobile homes. The purpose of this requirement is to provide information necessary to create appropriate relocation compensation. It is not meant to suggest that the City, in any sense, favors tenants relocating out of any mobile home park in Capitola.
 11. Estimates from two moving companies as to the minimum and per mile cost of moving each mobile home, including tear-down and set-up of mobile homes and moving of improvements such as porches, carports, patios and other moveable amenities installed by the residents. Said moving companies shall be approved by the director prior to inclusion in the final RIR.
 12. Proposed measures to mitigate the adverse impacts of the conversion upon the mobile home park residents.
 13. Identification of a relocation specialist to assist residents in finding relocation spaces and alternate housing. The specialist shall be selected by the applicant, subject to the City's approval, and shall be paid for by the applicant.
- C. **Filing of Relocation Impact Report.** The City shall not consider an RIR to be filed, within the meaning of Government Code Section 65863.7, until the applicant has submitted to the Community Development Department both a draft RIR which applicant believes meets the requirements of Municipal Code Section 17.100.040.B, and a written statement that such draft RIR has been filed pursuant to Government Code Section 65863.7.
- D. **Refusal to Review Relocation Impact Report.** If the City Attorney determines that the proposed conversion or closure of the mobile home park would be illegal, the Community Development Director shall not process the RIR unless a court of competent jurisdiction rules that the proposed use would be legal.

17.100.050 Notice to Prospective Occupants of Pending Change in Park Status

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

17.100.060 Exemptions from Relocation Assistance Obligations

A. Exemption Available. Any person who files an application for change of use may file an application for total or partial exemption from the obligation to provide relocation assistance.

B. Notice of Application. Notice of an application for exemption shall be given pursuant to Section 17.100.070.B and C. Notices shall contain the information in provided in the exemption application.

C. Basis for Application.

1. **Total Exemption.** An application for total exemption may be made on one of two grounds:
 - a. The imposition of any relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses; or
 - b. The park is exempt from the requirement of relocation assistance under state law governing changes of use of mobile home parks.
2. **Partial Exemption.** An application for partial exemption may be made on one of two grounds:
 - a. The imposition of particular relocation obligations would eliminate substantially all reasonable use or economic value of the property for alternate uses; or
 - b. The obligation would exceed limitations imposed by Government Code Section 65863.7(e). The application shall specify the particular relocation obligations which would cause this result.

D. Application Contents.

1. An application for exemption made pursuant to subsections (1)(a) and (2)(a) above shall contain, at a minimum, an estimate of the value of the subject property by a qualified real estate appraiser if the park were permitted to be developed for the use proposed in the application for change of use, or other use consistent with applicable zoning, and an estimate of the value of such park by such appraiser if use of the property as a mobile home park is continued.

2. An application for exemption pursuant to subsection (1)(b) and (2)(b) above shall specify the provisions of state law providing the claimed exemption and documentation demonstrating entitlement to such exemption.
- E. **Notice of Approval.** If the City grants an exemption after the applicant provides notice consistent with Civil Code Section 798.56(g)(2) notice, renoticing will be required.

17.100.070 Application for Change of Use – Public Hearing – Findings

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

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

E. City Council Decision.

- 1. **Hearing and Decision.** The City Council shall hold a noticed public hearing on an application for a change of use within 45 days of the Planning Commission's recommendation. The City Council shall take action on the application within 80 days of the Planning Commission's recommendation.
- 2. **Mitigation Measures.** The City Council may impose reasonable measures not exceeding the reasonable costs of relocation to mitigate the adverse impacts of the change of use on eligible mobile home residents pursuant to Paragraphs D and G of this section.
- 3. **Statute of Limitations.** The decision of the City Council is final. Pursuant to Code of Civil Procedure 1094.6, the statute of limitations for bringing a judicial challenge to any decision concerning a change of use of mobile home park is 90 days. Notice

of the City's decision to the applicant, park owner and affected residents shall include notice that the 90 day statute of limitations in 1094.6 applies.

- F. Extension of Time Periods.** Time periods in this section may be extended as necessary to comply with the California Environmental Quality Act (CEQA) or the California Coastal Act.
- G. Cost of Mitigation Measures.** Notwithstanding any other provision in this section, the cost of mitigation measures shall comply with Government Code Section 65863.7 which states that "the steps taken to mitigate shall not exceed the reasonable costs of relocation."

17.100.080 Measures to Prevent Avoidance of Relocation Assistance Obligations

- A. Notice.** If any change of use or RIR approval application is withdrawn or denied, those previously given notices or announcements shall be so informed in writing by the mobile home park owner.
- B. No Waiver of Rights.** No prospective mobile home resident or existing mobile home resident may be required to sign a waiver, or a lease or rental agreement which includes a waiver, of their rights under this chapter. Any waiver of rights under this chapter by such a mobile home resident shall be deemed invalid unless the resident or prospective resident and the park owner obtain the prior approval of the waiver from the Director, who may grant such approval only upon a finding that the waiver is voluntary and was made after being fully informed of the terms of this chapter.

17.100.090 Compliance with Relocation Assistance

- A. Acceptance of Mitigation Measures.**
 - 1. The applicant shall execute and record a certificate, and file proof with the Director, accepting the mitigation measures imposed on the approval of a closure or conversion within 90 days of the final City Council action approving the change of use. The applicant shall give the six- or twelve-month notice of the termination of tenancy and closure of the park required by Civil Code Section 798.56(g) within 120 days of that action.
 - 2. An approval of a change of use shall automatically become null and void if the certificate accepting the conditions is not filed and executed within 90 days of the date of the approval of the change of use and the notice of termination of tenancy has not been given within 120 days of that resolution.
- B. Timing of Mitigation.** All mitigation measures imposed on the approval of a change of use shall be fully performed for each resident prior to that resident's required vacation of the mobile home park, unless otherwise provided in the mitigation measure. No eligible resident shall be required to vacate a mobile home space unless the applicant is in full compliance with all mitigation measures pertaining to the resident, and has otherwise fulfilled the notice requirements of the California Mobile Home Residency Law relating to termination of tenancy.

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

17.100.100 Modification and Revocation of Approved Closure or Conversion

A. Modification.

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

B. Revocation.

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

17.100.110 Expiration and Extension of Approval

- A. Expiration.** Approval of a change of use shall become null and void if the notice of termination of tenancy has not been given within the time provided in Section 17.100.090 (Compliance with Relocation Assistance) and relocation pursuant to the conditions of approval has not occurred within twelve months of the effective date of the approval of

the change of use, unless otherwise extended as provided in Paragraph B below, or unless otherwise provided in the resolution approving it.

B. Extensions.

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

17.100.120 Preemption

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

17.100.130 Severability

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

PART 4

Permits and Administration

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17.128.010 Purpose

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

17.128.020 When Allowed

- A. Allowable Variances.** The City may grant a Variance to allow for deviation from any physical development standard that applies to the subject property. Examples of physical development standards include height, setbacks, open space, floor area ratio (FAR), and off-street parking requirements.
- B. Variances Not Allowed.** A Variance may not be granted to:
1. Permit a use other than a use permitted in the zoning district as specified in Part 2 (Zoning Districts and Overlay Zones).
 2. Reduce the minimum lot size for single-family dwellings or minimum site area per dwelling unit requirements for multi-family developments.
 3. Reduce the protection of an environmentally sensitive habitat area except as specifically provided in Chapter 17.64 (Environmentally Sensitive Habitat Areas).
 4. Reduce a geologic setback as provided in Chapter 17.68 (Geologic Hazards).
 5. Allow deviation from a requirement of the General Plan or Local Coastal Program Land Use Plan.

17.128.030 Review Authority

The Planning Commission takes action on all Variance applications.

17.128.040 Application Submittal and Review

An application for a Variance shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review) and, in the coastal zone, in compliance with Chapter 17.44 (Coastal Overlay Zone) as part of the Coastal Development Permit application. The application shall include the information and materials required by the Community Development Department for Variance applications, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.128.060 (Findings for Approval).

17.128.050 Public Notice and Hearing

The Planning Commission shall review and act on a Variance application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

17.128.060 Findings for Approval

To approve a Variance application, the Planning Commission shall make all of the following findings:

- A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.
- B. The strict application of the Zoning Code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.
- C. The Variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.
- D. The Variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity or in the same zone as the subject property.
- E. The Variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.
- F. The Variance will not have adverse impacts on coastal resources.

17.128.070 Conditions of Approval

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

17.128.080 Precedent

The approval of a Variance shall not set the precedent for the granting of any future Variance. Each application shall be considered only on its individual merits.

17.128.090 Appeals and Post-Decision Procedures

- A. Planning Commission decisions on Variances may be appealed to the City Council as described in Chapter 17.152 (Appeals)
- B. Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to Variances.

Chapter 17.136 - MINOR MODIFICATIONS

Sections:

- 17.136.010 Purpose
- 17.136.020 When Allowed
- 17.136.030 Review Authority
- 17.136.040 Application Submittal and Review
- 17.136.050 Public Notice and Hearing
- 17.136.060 Findings for Approval
- 17.136.070 Conditions of Approval
- 17.136.080 Appeals and Post-Decision Procedures

17.136.010 Purpose

This chapter establishes the process to obtain a Minor Modification. A Minor Modification allows for small deviations from development standards to accommodate projects which meet the needs of property owners, are consistent with the purpose of the Zoning Code and General Plan and Local Coastal Program Land Use Plan, and do not negatively impact neighboring properties or the community at large.

17.136.020 When Allowed

- A. **Permitted Modifications.** The Planning Commission may approve a Minor Modification to allow for a maximum 10 percent deviation from a physical development standard that applies to the subject property. Types of physical development standards eligible for a Minor Modification include:
 - 1. Dimensional standards and setbacks for parking spaces, driveways, garages, parking lots, and loading areas; and
 - 2. Minimum and maximum setbacks from property lines;
 - 3. Other similar dimensional standards as determined by the Community Development Director.
- B. **Excluded Modifications.** The City may not approve Minor Modifications for:
 - 1. Minimum required on-site open space and landscaping;
 - 2. Maximum height of buildings, fences, walls, and other structures;
 - 3. Lot area, width, or depth;
 - 4. Minimum number of off-street parking spaces;
 - 5. Maximum residential density; or
 - 6. Maximum floor area ratio (FAR).

7. Setbacks from ESHA or geologic hazards.

17.136.030 Review Authority

The Planning Commission takes action on Minor Modifications applications.

17.136.040 Application Submittal and Review

An application for a Minor Modification shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review) or, in the coastal zone, Chapter 17.44 (Coastal Overlay Zone) with a Coastal Development Permit. The application shall include the information and materials required by the Community Development Department for Minor Modification applications, together with all required application fees. It is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.136.060 (Findings for Approval).

17.136.050 Public Notice and Hearing

The Planning Commission shall review and act on a Minor Modification application at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

17.136.060 Findings for Approval

To approve a Minor Modification application, the Planning Commission shall make all of the following findings:

- A. The modification will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.
- B. The modification will not adversely impact neighboring properties or the community at large.
- C. The modification is necessary due to unique characteristics of the subject property, structure, or use.
- D. The modification will be consistent with the purpose of the zoning district, the General Plan, Local Coastal Program, and any adopted area or neighborhood plan.
- E. The modification is consistent with the General Plan, Local Coastal Program, and any applicable specific plan or area plan adopted by the City Council.
- F. The modification will not establish a precedent.
- G. The modification will not adversely impact coastal resources.

17.136.070 Conditions of Approval

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

17.136.080 Appeals and Post-Decision Procedures

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

Chapter 17.140 - REASONABLE ACCOMMODATIONS

Sections:

- 17.140.010 Purpose
- 17.140.020 When Allowed
- 17.140.030 Review Authority
- 17.140.040 Public Notice of Process Availability
- 17.140.050 Application Requirements
- 17.140.060 Review Procedure
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- 17.140.080 Conditions of Approval
- 17.140.090 Appeals and Post-Decision Procedures

17.140.010 Purpose

This chapter establishes a procedure for requesting reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act. A reasonable accommodation is typically an adjustment to physical design standards to accommodate the placement of wheelchair ramps or other exterior modifications to a dwelling in response to the needs of a disabled resident.

17.140.020 When Allowed

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

17.140.030 Review Authority

- A. Community Development Director.** The Community Development Director shall take action on reasonable accommodation applications if the application is not filed for concurrent review with an application for discretionary review by the Planning Commission or City Council.

- B. Other Review Authority.** If a reasonable accommodation application is submitted concurrently with a permit application reviewed by the Planning Commission or City Council, the reasonable accommodation application shall be reviewed by the Planning Commission or City Council.
- C. Referral to Planning Commission.** The Community Development Director may refer any reasonable accommodation application to the Planning Commission for review and final decision.

17.140.040 Public Notice of Process Availability

Notice of the availability of the reasonable accommodation process shall be publicly displayed at City Hall. Forms for requesting reasonable accommodation shall be available to the public at the Community Development Department at City Hall.

17.140.050 Application Requirements

- A. Application.** A request for reasonable accommodation shall be submitted on an application form provided by the Community Development Department along with any fees required by the Planning Fee Schedule.
- B. Review with Other Land Use Applications.** If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (e.g., Conditional Use Permit, Design Review, Coastal Development Permit), then the applicant shall file the reasonable accommodation application materials together for concurrent review with the application for discretionary approval.
- C. Application Timing.** A request for reasonable accommodation may be filed at any time that the accommodation is necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligation to comply with other applicable regulations not at issue in the requested accommodation.
- D. Application Assistance.** If an individual needs assistance in making the request for reasonable accommodation, the City will provide assistance to ensure that the process is accessible to the individual.

17.140.060 Review Procedure

- A. Director Review.**
1. The Community Development Director shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation.
 2. If necessary to reach a determination on the request for reasonable accommodation, the Community Development Director may request further information from the applicant consistent with fair housing laws. In the event that a request for additional

information is made, the forty-five-day period to issue a decision is stayed until the applicant submits the requested information.

- B. Other Review Authority.** The determination on whether to grant or deny the request for reasonable accommodation submitted concurrently with a discretionary permit application shall be made by the Planning Commission or City Council in compliance with the review procedure for the discretionary review.

17.140.070 Criteria for Decision

The review authority shall make a written decision and either approve, approve with modifications, or deny a request for reasonable accommodation based on consideration of all of the following factors:

- A. Whether the housing which is the subject of the request will be used by an individual defined as disabled under the Americans with Disabilities Act.**
- B. Whether the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Americans with Disabilities Act.**
- C. Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.**
- D. Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.**
- E. Potential impacts on surrounding uses.**
- F. Physical attributes of the property and structures.**
- G. Other reasonable accommodations that may provide an equivalent level of benefit.**

17.140.080 Conditions of Approval

In approving a request for reasonable accommodation, the review authority may impose conditions of approval to ensure that the reasonable accommodation will comply with the criteria required by Section 17.140.070 (Criteria for Decision)

17.140.090 Appeals and Post-Decision Procedures

- A. Appeals.** Reasonable accommodation decisions may be appealed consistent with Chapter 17.152 (Appeals). If an applicant needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure that the appeals process is accessible.
- B. Other Post-Decision Procedures.** Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) apply to reasonable accommodation decisions.

Chapter 17.144 - ZONING CODE AND LOCAL COASTAL PROGRAM AMENDMENTS

Sections:

- 17.144.010 Purpose
- 17.144.020 Initiation
- 17.144.030 Application
- 17.144.040 Planning Commission Hearing and Action
- 17.144.050 City Council Hearing and Action
- 17.144.060 Findings for Approval
- 17.144.070 Effective Dates
- 17.144.080 Local Coastal Program Amendments

17.144.010 Purpose

This chapter establishes procedures for amending the Zoning Code and Zoning Map. All amendments to the Zoning Code shall be processed as set forth in Government Code Section 65853 et seq. and as specified in this chapter.

17.144.020 Initiation

A. Zoning Map Amendment. A request for an amendment to the Zoning Map may be initiated by:

1. The City Council;
2. The Planning Commission;
3. The Community Development Director; or
4. One or more owners of the property for which the amendment is sought.

B. Zoning Code Text Amendment. A request for an amendment to the text of the Zoning Code may be initiated by the following:

1. The City Council;
2. The Planning Commission;
3. The Community Development Director; or
4. Any resident, property owner, or business owner in the city.

17.144.030 Application

An application for a Zoning Code Amendment shall be filed and reviewed in compliance with Chapter 17.112 (Permit Application and Review). The application shall include the information and materials required by the Community Development Department, together with all required application fees. For amendments submitted by a resident, property owner,

or business owner, it is the responsibility of the applicant to provide evidence in support of the findings required by Section 17.144.060 (Findings for Approval).

17.144.040 Planning Commission Hearing and Action

- A. **Public Notice and Hearing.** The Planning Commission shall review and act on a proposed Zoning Map Amendment and Zoning Code Amendment at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- B. **Recommendation of Approval.** The Planning Commission may recommend to the City Council the approval or conditional approval of the proposed Zoning Map Amendment or Zoning Code Amendment, based upon the findings specified in Section 17.144.060 (Findings for Approval). The Planning Commission shall forward a written recommendation, and the reasons for the recommendation, to the City Council within 90 days after the date the hearing was closed to the public. A recommendation for approval shall be made by a majority vote of the total membership of the Planning Commission.
- C. **Denial.** The Planning Commission may deny the proposed Zoning Code Amendment based upon the findings specified in Section 17.144.060 (Findings for Approval). For a Zoning Map Amendment, if the action of the Planning Commission is to recommend denial, the City Council is not required to take further action on the proposed amendment unless an interested party requests a hearing in writing with the City Clerk within ten days after the Planning Commission recommendation is filed with the City Council.

17.144.050 City Council Hearing and Action

- A. **General.** After receipt of the Planning Commission's recommendation to approve a proposed Zoning Code Amendment or Zoning Map Amendment, the City Council shall hold a public hearing on the proposal in compliance with Chapter 17.148 (Public Notice and Hearings).
- B. **Approval or Denial.** The City Council may approve, conditionally approve, or deny the proposed Zoning Code Amendment or Zoning Map Amendment based upon the findings specified in Section 17.144.060 (Findings for Approval).
- C. **Finality of Action.** The action by the City Council shall be made by a majority vote of the total membership of the City Council and shall be final and conclusive except for amendments within the coastal zone, in which case the City shall submit the Zoning Code Amendment or the Zoning Map Amendment to the Coastal Commission for certification (see Section 17.144.080 (Local Coastal Program Amendments)).
- D. **Referral to Planning Commission.** If the City Council proposes to adopt a substantial modification to the Zoning Code Amendment not previously considered by the Planning Commission, the proposed modification shall be first referred to the Planning Commission for its recommendation.

- E. Failure to Report.** The failure of the Planning Commission to report back to the City Council within 40 days after the reference, or within the time set by the City Council, shall be deemed a recommendation of approval.

17.144.060 Findings for Approval

The City Council may approve a Zoning Code Amendment or Zoning Map Amendment only if all of the following findings are made:

- A. Findings for all Zoning Code and Zoning Map Amendments.**
1. The proposed amendment is consistent with the General Plan and any applicable specific plan as provided by Government Code Section 65860.
 2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
- B. Additional Finding for Zoning Code Text Amendments.** The proposed amendment is internally consistent with other applicable provisions of the Zoning Code.
- C. Additional Finding for Zoning Map Amendments.** The affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the permitted land uses and development will comply with the Zoning Code and General Plan and contribute to the health, safety, and welfare of the property, surrounding properties, and the community at large.

17.144.070 Effective Dates

A Zoning Code Amendment or Zoning Map Amendment becomes effective 30 days following the adoption of the ordinance by the City Council unless the Zoning Code Amendment affects a component of the certified Local Coastal Program Implementation Plan or if a Zoning Map Amendment affects property in the coastal zone (see Section 17.44.080 (Local Coastal Program Amendments) below).

17.44.080 Local Coastal Program Amendments

Upon adoption by the City Council of amendments to the Local Coastal Program (LCP) Land Use Plan (LUP) and/or the LCP Implementation Plan (IP), the City shall submit the amendments to the Coastal Commission for certification.

- A. Adopted Resolution.** All LCP Amendment submittals must include a City Council Resolution that:
1. Is signed and dated by an authorized member of the City Council;
 2. Indicates that the LCP Amendment is intended to be carried out in a manner fully consistent with the Coastal Act;

3. Indicates whether the proposed LCP Amendment will take effect automatically upon final Coastal Commission certification or will require formal City Council review/adoption after final Coastal Commission certification.
- B. Copy of the Proposed LCP Amendment.** The submittal shall include a copy of the relevant document (LUP/community plan/ordinance) in strikethrough and underline format. If the LCP Amendment proposes a change to an approved map, the submittal must include a graphic depiction of how the map is being changed.
- C. Local Government Staff Report.** The submittal shall include copies of the local government staff reports, as these are necessary to demonstrate consistency of the LCP Amendment with Chapter 3 of the Coastal Act (for LUP amendments) or to demonstrate conformity with and adequacy to carry out the certified Land Use Plan (for IP amendments).
1. The staff report should include a discussion of the LCP Amendments relationship and effect on other section of the LCP.
 2. For LUP Amendments:
 - i. The staff report should include an analysis of how the amendment is consistent with the Chapter 3 policies of the Coastal Act.
 - ii. The staff report should also indicate what zoning measures or implementation actions will be used to carry out the LUP amendment.
 3. For IP (zoning/municipal code) amendments, the staff report should include an analysis of how the amendment is in conformity with and adequate to carry out the certified LUP.
 4. In addition, if the affected area or application of an ordinance would involve land situated between the ocean and first public through road, or overall intensity of development, the local government staff report should address any potential effects that the proposed amendment will have on public access.
- D. Supplementary Information/Environmental Review Documents.** In addition to the City's staff reports, the submittal should include any supplementary analysis or information prepared or relied on (e.g. vulnerability assessments, hazard mitigation plans, biological studies, traffic analyses, geotechnical reports, etc.) and a copy of any environmental document.
- E. Local Hearing Dates and Notices.**
1. The submittal must include a listing of the local hearing dates and copies of all local hearing notices.
 2. These materials must document that:
 - i. The LCP Amendment was properly noticed (i.e. the notices must indicate the item involves an LCP amendment and is not effective until or and unless approved by the Coastal Commission);

- ii. The notices of availability were mailed and public review drafts were available at least six weeks prior to the City's final action date, and;
- iii. The City's hearing notices to all interested parties and public agencies were distributed no less than ten working days before the hearing and that the hearing was also noticed by general publication.

- F. Copies of Speaker Slips, Written Comments and Adopted Minutes.** The submittal must include copies of all speaker slips, all written correspondence received, and the Planning Commission/City Council minutes for the item. The copies should be accompanied by a separate list of each speaker or written correspondence received, and their contact information.
- G. Mailing/Noticing List.** The submittal must include a copy of the mailing/noticing list used by the City. Notices for local LCP Amendment hearings must be sent to: 1) anyone who requests it; 2) each contiguous local government; 3) any local government, special district or port district that could be affected by the LCP Amendment; 4) local libraries and media; 5) and any regional or federal agencies that may have an interest in or be affected by the LCP Amendment.

Chapter 17.148 - PUBLIC NOTICE AND HEARINGS

Sections:

17.148.010 Purpose

17.148.020 Notice of Hearing

17.148.030 Notice of Pending Action for Minor Use Permits and Administrative
Design Permits

17.148.040 Notice for Wireless Communication Facility Applications

17.148.050 Scheduling of Hearing

17.148.060 Hearing Procedure

17.148.070 Recommendations

17.148.080 Decision and Notice

17.148.010 Purpose

This chapter establishes procedures for public notices and hearings required by the Zoning Code.

17.148.020 Notice of Hearing

When the Zoning Code requires a noticed public hearing, the City shall provide notice of the hearing as required by this section and by the California Government Code.

A. Content of Notice. Notice of a public hearing shall include all of the following information, as applicable.

1. **Hearing Information.** The date, time, and place of the hearing; the name of the hearing body; and the phone number, email address, and street address of the Community Development Department where an interested person could call or visit to obtain additional information.
2. **Project Information.** The name of the applicant, the City's file number assigned to the application, a general explanation of the matter to be considered, a general description of the location of the subject property, and any recommendation from a prior hearing body.
3. **Statement on Environmental Document.** A statement that the proposed project is determined to be exempt from the California Environmental Quality Act (CEQA), or that a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project. The hearing notice shall state that the hearing body will consider approval of the CEQA determination or document prepared for the proposed project.
4. **Zoning Map Amendments (Rezoning).** Public notices posted onsite for proposed Zoning Map Amendments (rezoning) shall consist of the words "Notice of Proposed Change of Zone" printed in plain type with letters not less than 1½ inches in height.

- B. Method of Notice Distribution.** Notice of a public hearing required by the Zoning Code shall be given at least ten calendar days before the hearing date in compliance with Sections 1 through 5 below and as summarized in Table 17.148-1.

TABLE 17.148-1: METHOD OF NOTICE DISTRIBUTION

<u>Type of Permit or Approval Hearing</u>	<u>Mailed notice</u>	<u>Printed notice posted at site</u>	<u>Notice published in newspaper</u>
<u>Conceptual Review</u> <u>Design Permit & Appeal</u> <u>Major Revocable Encroachment Permit & Appeal</u> <u>Minor Modification & Appeal</u> <u>Minor Design Permit Appeal</u> <u>Minor Use Permit Appeal</u> <u>Removal of Structure from Designated Historic Structure List</u> <u>Sign Permit & Appeal</u> <u>Historic Alteration Permit</u> <u>Historic Resource Demolition Permit</u> <u>Tenant Use Permit Appeal</u>	<u>Yes</u> <u>300-foot radius for adjacent property owners</u>	<u>Yes</u>	<u>No</u>
<u>Development Agreement</u> <u>Variance & Appeal</u> <u>Conditional Use Permit & Appeal</u> <u>Master Use Permit, Amendment, & Appeal</u> <u>Condominium Conversion & Appeal</u> <u>Subdivision & Appeal</u> <u>Development Plans (PD Zones)</u>	<u>Yes</u> <u>300-foot radius for adjacent property owners</u>	<u>Yes</u>	<u>Yes</u>
<u>Zoning Code and Map Amendment</u> <u>General Plan Amendment</u> <u>Coastal Land Use Plan Amendment</u>	<u>Determined by type of proposed amendment. See California Government Code.</u>	<u>Determined by type of proposed amendment. See California Government Code.</u>	<u>Yes</u>
<u>Coastal Development Permit & Appeal</u>	<u>Yes</u> <u>100-foot radius for adjacent property owners</u>	<u>Yes</u>	<u>Yes</u>
<u>Notice of Administrative Review for Minor Design Permit and Minor Use Permit</u>	<u>Yes</u> <u>100-foot radius</u>	<u>Yes</u>	<u>No</u>

<u>Wireless Communication Facility Permits and Approvals</u>	<u>See Chapter 17.104 (Wireless Communication Facilities)</u>
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1. **Newspaper Publication.** Where required by Table 17.148-1, notice shall be published in at least one newspaper of general circulation at least ten calendar days before the hearing.
2. **Mailing.** Where required by Table 17.148-1, notice shall be mailed at least ten calendar days before the scheduled hearing to the following recipients:
 - a. **Project Site Owners and the Applicant.** The owners of the subject property or the owner's authorized agent, and the applicant.
 - b. **Adjacent Property Owners.** For all hearings before the Planning Commission and appeals thereof with the exception of solely Coastal Development Permits, the owners of the real property located within a radius of 300 feet from the exterior boundaries of the subject property.
 - c. **California Coastal Commission.** For applications including a Coastal Development Permit, a notice shall be mailed to the California Coastal Commission Central Coast office.
 - d. **Local Agencies.** Each local agency expected to provide roads, schools, sewerage, streets, water, or other essential facilities or services to the subject property, whose ability to provide those facilities and services may be significantly affected.
 - e. **Persons Requesting Notice.** Any person who has filed a written request for notice with the Community Development Department.
 - f. **Blind, Aged, and Disabled Communities.** Whenever a hearing is held regarding a permit for a drive-through facility, or modification of an existing drive-through facility permit, notice procedures shall incorporate the blind, aged, and disabled communities in order to facilitate their participation.
 - g. **Other Persons.** Any other person whose property, in the judgment of the Community Development Department, might be affected by the proposed project.
3. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Subsection 2 above is more than 1,000, the Community Development Department may choose to provide notice by placing a display advertisement of at least one-eighth page in one or more local newspapers of general circulation at least ten days prior to the hearing.
4. **Posting.** A printed notice shall be posted at the project site at least ten calendar days prior to the hearing.

5. **Additional Notice.** In addition to the types of notice required above, the Community Development Department may provide additional notice as determined necessary or desirable.
6. **Failure to Receive Notice.** The validity of the hearing shall not be affected by the failure of any resident, property owner, or community member to receive a mailed notice.

17.148.030 Notice of Pending Action for Minor Use Permits and Minor Design Permits

- A. For Minor Use Permit and Administrative Design Review applications, public notice of a pending action shall be mailed to the owners of the real property located within a radius of 100 feet from the exterior boundaries of the subject property at least ten calendar days prior to the City taking action on the application.
- B. In addition to information required by Section 17.148.020.A, the notice of a pending action shall state that the City is considering the application and that the Community Development Director will hold a public hearing for the application only if a member of the public submits to the City a written request for a hearing within ten calendar days of the notice being sent.
- C. If the City receives a request for a public hearing within ten calendar days of the notice being sent, the Community Development Director shall hold a noticed public hearing on the application consistent with this chapter. Public notice of the requested public hearing will be mailed to the owners of real property located within a radius of 100 feet from the exterior boundaries of the subject property.
- D. If no request for a public hearing is received by the specified date, the Community Development Director shall act on the application without a public hearing.

17.148.040 Notice for Wireless Communication Facility Applications

Public notice for wireless communication facility applications shall be given in accordance with Section 17.104.040 (Public Notice and Hearing).

17.148.050 Scheduling of Hearing

After the completion of any environmental document required by the California Environmental Quality Act (CEQA), and a Community Development Department staff report, a matter requiring a public hearing shall be scheduled on the next available agenda reserved for public hearings, but no sooner than any minimum time period established by State law.

17.148.060 Hearing Procedure

- A. **General.** Hearings shall be conducted in a manner consistent with the procedures adopted or endorsed by the hearing body and consistent with the open meeting requirements of the Ralph M. Brown Act.
- B. **Time and Place of Hearing.** A hearing shall be held at the date, time, and place for which notice was given, unless the required quorum of hearing body members is not present.
- C. **Continued Hearing.** Any hearing may be continued without further public notice, provided that the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
- D. **Motion of Intent.** The hearing body may announce a tentative decision, and defer action on a final decision until appropriate findings and conditions of approval have been prepared.

17.148.070 Recommendations

After a public hearing resulting in a recommendation to another hearing body, the recommendation shall be forwarded to the other hearing body. A copy of the staff report to other hearing body with the recommendation shall be provided to applicant.

17.148.080 Decision and Notice

- A. **Date of Action.** The hearing body shall take action on the matter being considered following the close of the public hearing. The hearing body shall also take action on projects within the following timeframe as required by the California Environment Quality Act (CEQA):
 - 1. Within 60 days of the date a Negative Declaration or Mitigated Negative Declaration has been adopted for project approval, the City shall take action on the accompanying discretionary project.
 - 2. Within 180 days from the date the decision-making authority certifies a final Environmental Impact Report (EIR), the City shall take action on the accompanying discretionary project.
- B. **Decision.**
 - 1. The hearing body may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing, or make a motion of intent and continue the matter to a later meeting agenda.
 - 2. At the conclusion of a hearing conducted by the Community Development Director, the Community Development Director may choose to refer the matter to the Planning Commission for review and final decision. Referral to the Planning

Commission may be chosen in cases of unusual public sensitivity, controversy, or complexity relating to the requested approval.

C. Notice of Decision.

1. If the review authority denies a permit, notice shall be mailed to the applicant and property owner the next day and shall include procedures for appeal, if applicable.
2. Following a final decision granting a permit and conclusion of the appeal period as described in Section 17.152, the Community Development Department shall provide notice of the final action to the applicant and to any person who specifically requested notice of the final action.
 - a. Notice of an approved final action shall contain applicable findings, conditions of approval, reporting and monitoring requirements, and the expiration date of the permit.
 - b. Notice of final actions that include a Coastal Development Permit that may be appealed to the California Coastal Commission will include notice that they are subject to an additional ten-working-day appeal period.

PART 5
Glossary

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Chapter 17.160 - GLOSSARY

Sections:

17.160.010 Purpose

17.160.020 Definitions

17.160.010 Purpose

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

17.160.020 Definitions

A. "A" Terms.

1. **Abutting.** "Abutting" or "adjoining" means having a common boundary, except that parcels having no common boundary other than a common corner shall not be considered abutting.
2. **Accessory Dwelling Unit.** "Accessory dwelling unit" means a self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on a single parcel.
 - a. "Accessory dwelling unit, attached," means an accessory dwelling unit that shares at least one common wall with the primary residential unit.
 - b. "Accessory dwelling unit, detached," means a secondary dwelling unit that does not share a common will with the primary residential unit.
3. **Accessory Structure.** "Accessory structure" means a structure that is incidental and subordinate to a primary structure or use located on the same parcel.
4. **Accessory Use.** "Accessory use" means a land use which is incidental and subordinate to a primary land use located on the same parcel.
5. **Addition.** "Addition" means any development or construction activity that expands the footprint or increases the habitable floor area of a building.
6. **Adjacent.** "Adjacent" means directly abutting, having a boundary or property line(s) in common or bordering directly, or contiguous to.
7. **Alcoholic Beverage Sales.** "Alcoholic beverage sales" means the sale of alcoholic beverages for on-site consumption at a restaurant, bar, nightclub or other establishment, or the retail sale of alcoholic beverages for off-site consumption.
8. **Alteration.** See "Modification."

9. **Applicant.** “Applicant” means any person, firm, partnership, association, joint venture, corporation, or an entity or combination of entities which seeks City permits and approvals.
10. **Assumed Ground Surface.** “Assumed ground surface” means a line on each elevation of an exterior wall or vertical surface which connects those points where the perimeter of the structure meets the finished grade.
11. **Average Slope.** “Average slope” means the average slope of a parcel calculated using the formula: $S = 100(I)(L)/A$, where:
 - a. S = Average slope (in percent);
 - b. I = Contour interval (in feet);
 - c. L = Total length of all contour lines on the parcel (in feet); and
 - d. A = Area of subject parcel (in square feet).

B. “B” Terms.

1. **Balcony.** “Balcony” means a platform that projects from the wall of a building thirty inches or more above grade that is accessible from the building’s interior, is not accessible from the ground and is not enclosed by walls on more than two sides.”
2. **Banks.** “Banks” means a commercial establishment providing retail banking services. Includes only establishments serving walk-in customers or clients, including banks, savings and loan institutions, check-cashing services, and credit unions.
3. **Base Zoning District.** “Base zoning district” means the primary zoning, as distinguished from an overlay zone, that applies to a parcel of land as shown on the Zoning Map.
4. **Basement.** “Basement” means that portion of a building between floor and ceiling, which is partly or all below grade, and where more than the vertical distance from grade to ceiling is below the average ground contact level of the exterior walls of the building.
5. **Bay Window.** “Bay Window” means a window or series of windows serving as an important element of the building’s architecture; forming an alcove in a room and projecting outward from the wall in a rectangular, polygonal, or curved form.
6. **Block.** “Block” means the property abutting on one side of a street and lying between the two nearest intersecting streets.”
7. **Bluff or Cliff.** “Bluff” or “cliff” means the scarp or steep face of rock, decomposed rocks, sediment or soil resulting from erosion, faulting, folding or excavation of land mass and exceeding ten feet in height, and includes what are commonly known as “cliffs.” See also the definition of “Coastal Bluff” in Section 17.44.030.
8. **Building.** “Building” means any structure used or intended for supporting or sheltering any use or occupancy.

9. **Building Coverage.** “Building coverage” means the land area covered by all buildings and accessory structures on a parcel.
10. **Building Face.** “Building face” means and includes the general outer surface of a main exterior wall of a building. For example, a building with a rectangular plan has four main exterior walls and four building faces.
11. **Building Height.** “Building height” means the vertical distance measured from the assumed ground surface of the building to the highest point of the roof, ridge, or parapet wall.
12. **Business Services.** “Business Services” means an establishment that provides services to other businesses on a fee or contract basis. Includes computer rental and repair, catering, printing and duplicating services, outdoor advertising services, package delivery services, equipment rental and leasing, and other similar land uses.
13. **By-Right.** “By-right” means permitted without any form of discretionary approval.

C. **“C” Terms.**

1. **California Environmental Quality Act (CEQA).** California Environmental Quality Act (CEQA) means California State law (Public Resources Code Section 2100 et seq.) requiring government agencies to consider the environmental consequences of their actions before taking action on a proposed project.
2. **Capitola Village.** “Capitola Village” means the central core of Capitola generally bounded by the Monterey Bay shoreline to the south, the railroad trestle to the north and west, and Cliff Avenue and Depot Hill to the east.
3. **Caretaker Quarters.** “Caretaker quarters” means a residence that is accessory to a nonresidential primary use of the site, where needed for security, or 24-hour care or supervision.
4. **Carport.** “Carport” means an accessory building to a residential structure, open on two, three or four sides and attached to, or detached from, a dwelling and established for the loading or unloading of passengers or the storage of an automobile.
5. **Coastal Zone.** “Coastal zone” means the area of land and water extending from the state’s outer seaward limit of jurisdiction inland to the boundary as shown in Capitola’s Local Coastal Program (LCP) as certified by the California Coastal Commission.
6. **Colleges and Trade Schools.** “Colleges and trade schools” means institutions of higher education providing curricula of a general, religious or professional nature, typically granting recognized degrees. Includes junior colleges, business and computer schools, management training, vocational education, and technical and trade schools.
7. **Community Assembly.** “Community assembly” means a facility that provides space for public or private meetings or gatherings. Includes places of worship,

- community centers, meeting space for clubs and other membership organizations, social halls, union halls, banquet centers, and other similar facilities.
8. **Community Benefit.** “Community benefit” means a public amenity offered by a project applicant that advances General Plan goals but is not required by the Zoning Code or any other provision of local, State, or federal law.
 9. **Commercial Entertainment and Recreation.** “Commercial entertainment and recreation” means an establishment that provides entertainment or recreation activities or services for a fee or admission charge. Includes bowling alleys, electronic game arcades, billiard halls, pool halls, sports clubs, commercial gymnasiums, dancehalls, and movie theatres.
 10. **Community Development Director.** “Community Development Director” means the Community Development Director of the City of Capitola or his or her designee.
 11. **Construction and Material Yards.** “Construction and material yards” means storage of construction materials or equipment on a site other than a construction site. Includes public utility buildings and service yards used by a governmental agency.
 12. **Cultural Institution.** “Cultural institution” means a public or nonprofit institution that engages in cultural, scientific, and/or educational enrichment. Includes libraries, museums, performing art centers, aquariums, environmental education centers, non-profit art centers and galleries, botanical gardens, and other similar uses.
 13. **Curb-side Service.** “Curb-side service” or “drive-up service” means service provided by a commercial establishment while a customer remains waiting within a vehicle.
 14. **Custom Manufacturing.** See “Manufacturing, Custom.”

D. “D” Terms

1. **Dark Sky Compliant.** “Dark sky compliant” means a lighting fixture that meets the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light.
2. **Day Care Center.** “Day care center” means a facility that provides non-medical care and supervision of minors for periods of less than 24 hours. Includes nursery schools, day nurseries, child care centers, infant day care centers, cooperative day care centers, and similar uses.
3. **Daylight Plane.** “Daylight plane” means the imaginary line beginning at a height of 20 feet at the setback from a property line and extending into the parcel at an angle of 45 degrees.
4. **Deck.** “Deck” means an outdoor a platform, either freestanding or attached to a building, which is supported by pillars or posts.

5. **Demolition, Substantial.** “Substantial demolition” means the removal or replacement of either 50 percent or more of the lineal footage of existing interior and exterior walls or 50 percent or more of the area of existing floor, ceilings, and roof structures.
6. **Density.** “Density” means the number of dwelling units per acre of land, excluding street rights-of-way, public easements, public open space, land under water, and certified wetlands and floodplains.
7. **Design Review.** “Design Review” means that process for the City to review and act on a Design Permit application.
8. **Designated Historic Resource.** See Section 17.84.020.A (Designated Historic Resources).
9. **Development.** “Development” means any human-caused change to the land or a structure that requires a permit or approval from the City, including construction, rehabilitation, and reconstruction. See Section 17.44.030 for the definition of “Development” that applies in the coastal zone.
10. **Development Standards.** “Development standards” means regulations in the Zoning Code that limit the size, bulk, or placement of structures or other improvements and modifications to a site.
11. **Discretionary Approval.** “Discretionary approval” means an action by the City by which individual judgment is used as a basis to approve or deny a proposed project.
12. **Drive-Through Facility.** “Drive-Through Facility” means a facility where a customer is permitted or encouraged, either by the design of physical facilities or by the service procedures offered, to be served while remaining seated within a vehicle. Includes drive-through restaurants, coffee shops, pharmacies, banks, automatic car washes, drive-up windows, and other similar land uses and services.
13. **Duplex Home.** “Duplex home” means a residential structure that contains two dwelling units, each with its own entrance. Each unit within a duplex home provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
14. **Dwelling Unit.** “Dwelling unit” means a building or a portion of a building containing one or more habitable rooms used or designed for occupancy by one family for living and sleeping purposes, including kitchen and bath facilities.

E. “E” Terms.

1. **Eating and Drinking Establishments.** “Eating and drinking establishments” means businesses primarily engaged in serving prepared food and/or beverages for consumption on or off the premises.
 - a. **“Bars and Lounges”** means a business devoted to serving alcoholic beverages for consumption by guests on the premises and in which the serving of food is

- only incidental to the consumption of such beverages. Includes cocktail lounges, nightclubs, taverns, and other similar uses.
- b. “Restaurants and Cafes” means a business establishment serving food and beverages to customers where the food and beverages may be consumed on the premises or carried out and where more than 160 square feet of public area is open to customers. Includes full service restaurants, fast-food restaurants, coffee shops, cafes, and other similar eating and drinking establishments.
 - c. “Take-Out Food and Beverage” means establishments where food and beverages may be consumed on the premises, taken out, or delivered, but where the area open to customers is limited to no more than 160 square feet. Includes take-out restaurants, take-out sandwich shops, limited service pizza parlors and delivery shops, and snack bars. Also includes catering businesses or bakeries that have a storefront retail component.
2. **Elderly and Long-Term Care.** “Elderly and Long Term Care” means establishments that provide twenty-four-hour medical, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves, and is licensed as a skilled nursing facility by the State of California, including but not limited to rest homes and convalescent hospitals, but not residential care, hospitals, or clinics
 3. **Emergency Shelter.** Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person, as defined in Section 50801 of the California Health and Safety Code.

F. “F” Terms

1. **Farmers’ Market.** “Farmers’ market” means a market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, locally produced arts and crafts items but excludes second-hand goods. Food and beverages dispensed from booths located on site is permitted as an accessory use.
2. **Financial Institution.** “Financial institution” means a professional office conducting businesses within the financial industry. Excludes commercial establishments providing retail banking services to walk-in customers or clients (see “banks”).
3. **Fence.** “Fence” means a structure connected by boards, masonry, rails, panels, or other similar permanent building material for the purpose of enclosing space or separating parcels of land. This definition includes gates but excludes hedges and other living plants.
4. **Floor Area.** “Floor area” means the sum of the horizontal areas of all floors of an enclosed structure, measured from the outside perimeter of the exterior walls as described in Section 17.48.040 (Floor Area and Floor Area Ratio).

5. **Floor Area Ratio.** “Floor area ratio” means the gross floor area of all of the buildings on the parcel divided by the net parcel area.
6. **Food Preparation.** “Food Preparation” means a businesses preparing and/or packaging food for off-site consumption, excluding those of an industrial character in terms of processes employed, waste produced, water used, and traffic generation. Includes catering kitchens, and small-scale specialty food production.
7. **Frontage.** “Frontage” means that portion of all property abutting a street.

G. “G” Terms

1. **Garage.** “Garage” means an enclosed structure or a part of a building designed or used for the storage of automobiles and other motor vehicles.
2. **Garage Sale.** “Garage Sale” means a temporary sale for the purpose of selling, trading or otherwise disposing of household furnishings, personal goods or other tangible properties of a resident of the premises on which the sale is conducted.
3. **Gas and Service Stations.** “Gas and service stations” means a retail business establishment supplying gasoline and oil and minor accessories for automobiles. Included in this definition are incidental food and beverage and car wash facilities.
4. **Group Housing.** “Group housing” means shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. Includes rooming and boarding houses, single-room occupancy housing, dormitories, and other types of organizational housing, and extended stay hotels intended for long-term occupancy (30 days or more). Excludes hotels, motels, bread and breakfasts, and residential care facilities.
5. **Geological Hazard.** “Geological hazard” means a threat to life, property or public safety caused by geological or hydrological processes such as faulting and secondary seismic effects, including but not limited to: liquefaction, landsliding, erosion, flooding, tsunami or storm wave inundation.
6. **Government Offices.** “Government offices” means a place of employment occupied by governmental agencies and their employees. Includes offices for administrative, clerical, and public contact functions but excludes corporation yards, equipment service centers, and similar facilities that primarily provide maintenance and repair services and storage facilities for vehicles and equipment
7. **Grading.** “Grading” means any and all activities involving earthwork, including placement or fill and/or excavation.
8. **Ground Floor.** “Ground floor” means the first floor of a building other than a cellar or basement that is closest to finished grade.

H. “H” Terms

1. Habitable Space. “Habitable space” means an area within a building that is conditioned (heated or cooled) with a finished floor and a ceiling height of at least 7 feet 6 inches. Excludes unfinished attics, cellars, crawl spaces, and other similar utility areas.
2. Height. See “building height.” For structures other than buildings, “height” means the vertical distance from grade to the highest point of the structure directly above.
3. Home Day Care. “Home day care” means a facility providing daytime supervision and care for adults, children, or elderly located in the provider’s own home.
 - a. “Home day care facilities, large” means a day care home facility supervising 9 to 14 persons.
 - b. “Home day care facilities, small” means a day care home facility supervising 8 persons for less.
4. Historic Resource. “Historic Resource” means either a Designated Historic Resource or a Potential Historic Resource as defined in Section 17.84.020 (Types of Historic Resources).
5. Historic Alteration Permit. “Historic alteration permit” means the City permit required to alter the exterior of a historic resource in accordance with Section 17.84.060 (Historic Alteration Permit).
6. Home Occupation. “Home occupation” means the conduct of a business within a dwelling unit or residential site, with the business activity being subordinate to the residential use of the property.

I. “I” Terms.

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

J. “J” Terms. None.

K. “K” Terms

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

L. “L” Terms.

1. Land Use. An activity conducted on a site or in a structure, or the purpose for which a site or structure is designed, arranged, occupied, or maintained. The meaning of the term “use” is identical to “land use.”
2. Landscaping. “Landscaping” means the planting and maintenance of living plant material, including the installation, use, and maintenance of any irrigation system for

the plant material, as well as nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

3. **Liquor Store.** “Liquor store” means a business selling alcoholic beverages for off-site consumption with the sale of alcoholic beverages constituting its primary source of revenue.
4. **Local Coastal Program (LCP).** “Local Coastal Program” means the City’s Land Use Plan and Implementation Plan which includes portions of municipal code, portions of the Zoning Code, Zoning Map (as more specifically identified in Chapter 17.44 (Coastal Overlay) and actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.
5. **Light Manufacturing.** See “Manufacturing, Light.”
6. **Lodging.** “Lodging” means an establishment providing overnight accommodations to transient patrons for payment for periods of less than 30 consecutive days.
 - a. “Bed and breakfast” means a residential structure that is in residential use with one or more bedrooms rented for overnight lodging and where meals may be provided.
 - b. “Hotel” means an establishment providing overnight lodging to transient patrons. Hotels and motels may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. Includes motor lodges, motels, extended-stay hotels, and tourist courts, but does not include group housing or bed and breakfast establishments, which are separately defined and regulated.
7. **Lot.** See “Parcel.”

M. “M” Terms.

1. **Maintenance and Repair Services.** “Maintenance and repair services” means businesses which provide construction, maintenance and repair services off-site, but which store equipment and materials or perform fabrication or similar work on-site. Includes off-site plumbing shops, general contractors, contractor’s storage yards, appliance repair, janitorial services, electricians, pest control, heating and air conditioning, roofing, painting, landscaping, septic tank service, and other similar uses.
2. **Manufacturing, Custom.** “Manufacturing, custom” means establishments primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment and the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, candle making shops, woodworking, and custom jewelry manufacturers.
3. **Manufacturing, Light.** “Manufacturing, Light” means the manufacture, predominantly from previously prepared materials, of finished products or parts,

including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing.

4. **Material Change.** “Material change” means any significant alteration, by private or public action, in the external appearance or surface of an improvement, landscape or vista. This shall not include ordinary maintenance which does not require a permit.
5. **Ministerial Action.** “Ministerial action” means a City decision on a planning permit which involves only the use of fixed standards or objective measurements and does not require the exercise of discretion.
6. **Mini-Bar/Convenience Area.** “Mini-bar/convenience area” means a supplemental food preparation area within a single-family home subject to the standards in Section 17.16.030.B.9 (Mini-Bar/Convenience Areas).
7. **Medical Offices and Clinics.** “Medical offices and clinics” means a facility where medical, mental, dental, or other personal health services are provided on an outpatient basis using specialized equipment. Includes offices for physicians, dentists, and optometrists, diagnostic centers, blood banks and plasma centers, and emergency medical clinics offered exclusively on an out-patient basis. Hospitals are excluded from this definition.
8. **Mixed Use.** “Mixed use” means two or more different land uses located in one structure or on one parcel or development sites.
9. **Mobile Food Vendors.** “Mobile Food Vendors” means businesses selling food or drinks from temporary and semi-permanent structures or mobile equipment such as food trucks or pushcarts.
10. **Mobile Home Park.** See Section 17.100.030 (Definitions) of Chapter 17.100 (Mobile Home Park Conversions).
11. **Modification.** “Modification” means any construction or physical change in the internal arrangement of rooms or the supporting members of a structure, or a change in the external appearance of any structure, not including painting.
12. **Multi-Family Dwelling.** “Multi-family dwelling” means a building that contains three or more dwelling units, with each unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

N. “N” Terms.

1. **Nonconforming Parcel.** “Nonconforming parcel” means a parcel that was lawfully established but that no longer conforms with the parcel size or dimension standards of the zoning district in which it is located.
2. **Nonconforming Structure.** “Nonconforming structure” means a structure which does not meet the current development standards for the district in which the

structure is located. Development standards include, but are not limited to setbacks, height or lot coverage regulations of the zoning district, but do not include standards contained in the Uniform Codes, such as the Building Code.

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

O. “O” Terms.

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

P. “P” Terms.

1. **Parcel.** “Parcel” means a lot, tract, or area of land whose boundaries have been established by a legal instrument such as a deed or map recorded with the County of Santa Cruz, and which is recognized as a separate legal entity for purposes of transfer of title, except public easements or rights-of-way. The meaning of “lot” is identical to “parcel.”
2. **Parcel Area, Gross.** “Gross parcel area” means the total horizontal area included within the parcel lines of the parcel, including one-half the width of any alley or portion thereof abutting a parcel line.
3. **Parcel Area, Net.** “Net parcel area” means the gross parcel area excluding: a) any recorded easements to allow others to use the surface of the property for necessary access to an adjacent property or other similar use such as a shared driveway or public access agreement (excludes utility easements), and b) any area under the high water mark that extends into a waterway.
4. **Parcel, Corner.** “Corner parcel” means a parcel situated at the junction of two or more intersecting streets, with a parcel line bordering on each of the two or more streets.
5. **Parcel Depth.** “Parcel depth” means the average distance from the front parcel line to the rear parcel line, measured in the general direction of the side parcel lines.
6. **Parcel Line.** “Parcel line” means the lines bounding a parcel.
7. **Parcel Line, Front.** “Front parcel line” means that dimension of a parcel or portion of a parcel, abutting on a street except the side of a corner parcel. On a corner parcel

the narrowest street frontage is considered the front parcel line. The Community Development Director may designate the front parcel line for irregularly shaped parcels with unusual development patterns.

8. **Parcel Line, Rear.** “Rear-parcel line” means ordinarily, the line of a parcel which is generally opposite the front parcel line of said parcel. The Community Development Director may designate the rear parcel line for irregularly shaped parcels with unusual development patterns.
9. **Parcel Line, Interior Side.** “Interior side parcel line” means any boundary line not a front line or a rear line shared with another parcel.
10. **Parcel Line, Exterior Side.** “Exterior side parcel line” means any boundary line not a front line or a rear line adjacent to a street.
11. **Parcel, Reversed Corner.** “Reversed corner parcel” means a corner parcel, the side street line of which is substantially a continuation of the front line of the parcel upon which it rears.
12. **Parcel Width.** “Parcel width” means the average distance between the side parcel lines, measured at right angles to the parcel depth.
13. **Parking Lot.** “Parking lot” means an open area of land, a yard or other open space on a parcel other than a street or alley, used for or designed for temporary parking for more than four automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.
14. **Parking Space.** “Parking space” means land or space privately owned, covered or uncovered, laid out for, surfaced, and used or designed to be used for temporary parking or storage of standard motor vehicles.
15. **Parks and Recreational Facilities.** “Parks and recreational facilities” means non-commercial public facilities that provide open space and/or recreational opportunities. Includes parks, community gardens, community centers, passive and active open space, wildlife preserves, playing fields, tennis courts, swimming pools, gymnasiums, and other similar facilities.
16. **Personal Services.** “Personal services” means an establishment that provides services to individuals and that may provide accessory retail sales of products related to the services provided. Includes barber shops and beauty salons, nail salons, dry cleaning establishments, self-service laundromats, tailors, tanning salons, State-licensed massage therapists, fitness studios, yoga studios, dance studios, pet grooming services, veterinary clinics, and other similar land uses. Also includes establishments that primarily offer specialized classes in personal growth and development such as music, martial arts, vocal, fitness and dancing instruction. This does not include professional office that offer classes in addition to the professional office spaces.

17. **Planning Permit.** “Planning permit” means any permit or approval required by the Zoning Code authorizing an applicant to undertake certain land use activities.
18. **Potential Historic Resource.** See Section 17.84.020.B (Potential Historic Resources).
19. **Primary Use.** “Primary use” means the main purpose for which a site is developed and occupied, including the activities that are conducted on the site a majority of the hours during which activities occur.
20. **Primary Structure.** “Primary structure” means a structure that accommodates the primary use of the site.
21. **Professional Office.** “Professional office” means a place of employment occupied by businesses providing professional, executive, management, or administrative services. Includes offices for accountants, architects, advertising agencies, insurance agents, attorneys, commercial art and design services, non-retail financial institutions, real estate agents, news services, photographers, engineers, employment agencies, , and other similar professions. Also includes research and development facilities that engage in research, testing, and development of commercial products or services in technology-intensive fields.
22. **Public Safety Facility.** “Public safety facility” means a facility operated by a governmental agency for the purpose of protecting public safety. Includes fire stations and other fire-fighting facilities, police stations, public ambulance dispatch facilities, and other similar land uses.

Q. “Q” Terms. None.

R. “R” Terms.

1. **Recreational Vehicle (RV).** “Recreational vehicle” means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, originally designed for human habitation for recreational, emergency, or other occupancy, which meets all of the following criteria:
 - a. Contains less than 320 square feet of internal living room area, excluding built-in equipment, including wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms;
 - b. Contains 400 square feet or less of gross area measured at maximum horizontal projections;
 - c. Is built on a single chassis; and
 - d. Is either self-propelled, truck-mounted, or permanently towable on the highways without a towing permit.
2. **Recycling Collection Facility.** A center for the acceptance by donation, redemption, or purchase, of recyclable materials from the public.

3. **Remodel.** “Remodel” means a change or alteration in a building that does not increase the building’s net square footage.
4. **Residential Care Facility.** “Residential care facility” means a state-licensed residential facility providing social and personal care for residents. Includes children’s homes, homes for the elderly, orphanages, self-help group homes, and transitional housing for the homeless. Excludes facilities where medical care is a core service provided to residents, such as nursing and convalescent homes.
 - a. “Residential care facility, large” means a residential care facility for 7 or more persons.
 - b. “Residential care facility, small” means a residential care facility for 6 or fewer persons.
5. **Residential Mixed Use.** “Residential mixed use” means one or more structures on a single parcel that contains both dwelling units and non-residential uses such as retail, restaurants, offices, or other commercial uses. Different land uses may be within a single structure (vertical mixed use) or in separate structures on a single parcel (horizontal mixed use).
6. **Retail.** “Retail” means stores and shops selling merchandise to the general public. Includes drug stores, general merchandise stores, convenience shops, pet stores, department stores, and other similar retail establishments.
7. **Review Authority.** “Review authority” means the City official or City body that is responsible, under the provisions of the Zoning Code, for approving or denying a permit application or other request for official City approval.

S. **“S” Terms.**

1. **Salvage and Wrecking.** “Salvage and wrecking” means storage and dismantling of vehicles and equipment for sale of parts, as well as their collection, storage, exchange or sale of goods including, but not limited to, any used building materials, used containers or steel drums, used tires, and similar or related articles or property.
2. **Schools, Public or Private.** “Schools, Public or Private” means public or private facilities for education, including elementary, junior high, and high schools, providing instruction and study required in public schools by the California Education Code.
3. **Setback.** “Setback” means the minimum allowable distance from a given point or line of reference such as a property line to the nearest vertical wall or other element of a building or structure as defined in this chapter, or from a natural feature such as a bluff edge or an environmentally sensitive habitat area. Setbacks for buildings or structures shall be measured at right angles from the nearest property line establishing a setback area line parallel to that parcel line. Where a property line is located within a street, the setback shall be measured from the edge of the right-of-way containing the street.
4. **Sign.** See Chapter 17.80 (Signs).

5. **Single-Family Dwelling.** “Single-family dwelling” means a residential structure designed for occupancy by one household. A single-family dwelling provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
6. **Single-Room Occupancy.** Housing consisting of a single room dwelling unit that is the primary residence of its occupants. A single-room occupancy must include either food preparation or sanitary facilities (or both) and must be 400 square feet or less.
7. **Site.** “Site” means a parcel or adjoining parcels that are under single ownership or single control, and that are considered a unit for the purposes of development or other use.
8. **Site Area.** “Site area” means the total area included within the boundaries of a site.
9. **Self-Storage.** “Self-storage” means a structure or group of structures with controlled access that contains individual and compartmentalized stalls or lockers for storage of customers’ goods.
10. **Split Zoning.** “Split zoning” means a parcel on which two or more zoning districts apply due to zoning district boundaries crossing or otherwise not following the parcel boundaries.
11. **Story.** “Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than 6 feet above grade as defined in this chapter for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined in this chapter at any point, such basement, cellar or unused under-floor space shall be considered as a story.
12. **Story, Half.** “Half story” means a partial story under a gable, hip or gambrel roof, the wall plates of which are at least two opposite exterior walls and which are not more than four feet above the floor plate of the second floor, and may include shed or dormer projections from those walls. Dormers may constitute not more than one-third of the length of the wall upon which they are located, whether as a single unit or multiple dormers.
13. **Street.** “Street” means a public way more than 20 feet in width which affords a primary or principal means of access to abutting property. “Streets” includes private roads and highways.
14. **Structural Alterations.** “Structural alterations” means any change in the supporting members of a building, such as bearing walls, columns, beams, girders, floor, ceiling or roof joists and roof rafters, or change in roof exterior lines which would prolong the life of the supporting members of a building.

15. **Structure.** “Structure” means anything constructed or erected that requires attachment to the ground, or attachment to something located on the ground. Pipelines, poles, wires, and similar installations erected or installed by public utility districts or companies are not included in the definition of “structure.” In the coastal zone, “structure” includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

T. **“T” Terms.**

1. **Tandem Parking.** “Tandem parking” means an arrangement of parking spaces such that one or more spaces must be driven across in order to access another space or spaces.
2. **Temporary Structure.** “Temporary structure” means a structure that is erected for a limited period of time, typically no longer than 180 days, and that does not permanently alter the character or physical facilities of a property.
3. **Temporary Use.** “Temporary use” means a short-term activity that may or may not meet the normal development or use standards of the applicable zone, but that occurs for a limited period of time, typically less than 12 months and does not permanently alter the character or physical facilities of a property.
4. **Trellis.** “Trellis” means a structure made from an open framework or lattice of interwoven or intersecting pieces of wood, bamboo or metal made to support and display climbing plants.

U. **“U Terms.**

1. **Upper Floor.** “Upper floor” means any story of a building above the ground floor.
2. **Urban Agriculture.** “Urban agriculture” means activities involving the raising, cultivation, processing, marketing, and distribution of food in urban areas.
 - a. “Home garden” means the property of a single-family or multifamily residence used for the cultivation of fruits, vegetables, plants, flowers, or herbs by the residents of the property, guests of the property owner, or a gardening business hired by the property owner.
 - b. “Community garden” means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by group members.
 - c. “Urban farm” means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by an individual, organization, or business with the primary purpose of growing food for sale.
3. **Use.** See “Land Use.”

4. **Utilities, Major.** “Utilities, major” means generating plants, electric substations, solid waste collection, including transfer stations and materials recovery facilities, solid waste treatment and disposal, water or wastewater treatment plants, and similar facilities of public agencies or public utilities
5. **Utilities, Minor.** “Utilities, Minor” means infrastructure facilities that are necessary to serve development within the immediate vicinity such as electrical distribution lines and underground water and sewer lines.

V. **“V” Terms.**

1. **Vacation Rental.** “Vacation rental” means the occupancy for hire of residential property or a portion thereof for a period of less than 30 consecutive calendar days. See Section 17.40.030 (Vacation Rental Overlay Zone) “For hire,” for purposes of this section, does not include:
 - a. The owner or long-term lessee of the property, without consideration, allowing family or friends to use the property;
 - b. An arrangement whereby the owner or long-term lessee of the property agrees to a short-term trade with another property owner or long-term lessee whereby the sole consideration is each concurrently using the other’s property.
2. **Valet Parking Service.** “Valet parking service” means a parking service provided to accommodate patrons of one or more businesses that is accessory and incidental to the business and by which an attendant on behalf of the business takes temporary custody of a patron’s motor vehicle and moves, parks, stores or retrieves the vehicle for the patron’s convenience.
3. **Vehicle Repair.** Vehicle repair means an establishment for the repair, alteration, restoration, or finishing of any vehicle, including body repair, collision repair, painting, tire and battery sales and installation, motor rebuilding, tire recapping and retreading, and towing. Repair shops that are incidental to a vehicle sales or rental establishment on the same site are excluded from this definition.
4. **Vehicle Sales and Rental.** “Vehicle sales and rental” means an establishment for the retail sales or rental of new or used vehicles. Includes the sale of vehicle parts and vehicle repair, provided that these activities are incidental to the sale of vehicles.
5. **Vehicle Sales Display Room.** “Vehicle sales display room” means an establishment for the retail sales of new vehicles conducted entirely within an enclosed building. Outdoor storage and display of vehicles are not permitted.

W. **“W” Terms.**

1. **Wall.** “Wall” means a permanent upright linear structure made of stone, concrete, masonry, or other similar material.
2. **Warehousing and Distribution.** “Warehousing and distribution” means an establishment used primarily for the storage and/or distributing goods to retailers,

contractors, commercial purchasers or other wholesalers, or to the branch or local offices of a company or organization. Includes vehicle storage, moving services, general delivery services, refrigerated locker storage facilities, and other similar land uses.

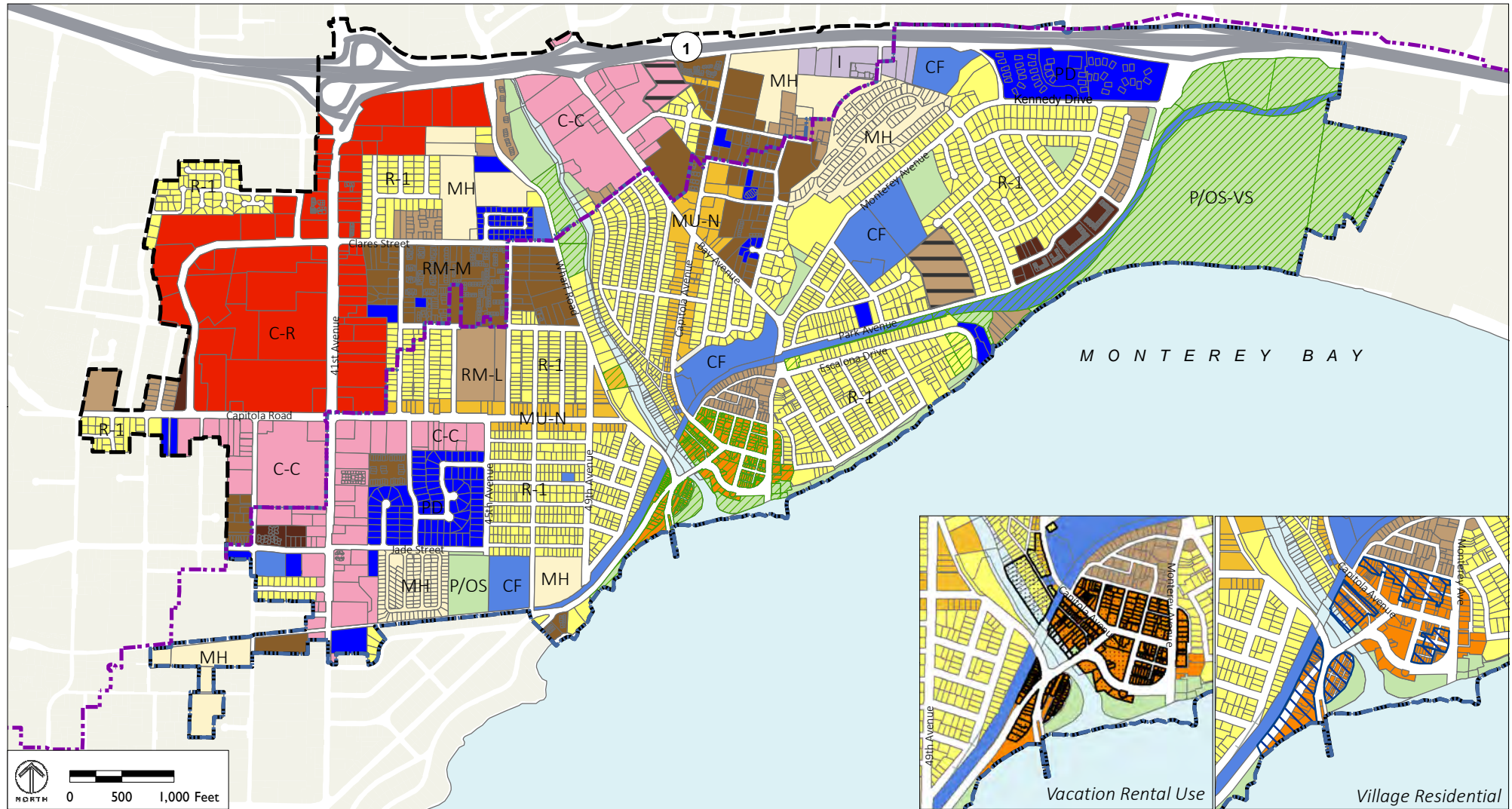
3. **Wholesaling.** “Wholesaling” means indoor storage and sale of goods to other firms for resale. Wholesalers are primarily engaged in business-to-business sales, but may sell to individual consumers through mail or Internet orders. Wholesalers normally operate from a warehouse or office having little or no display of merchandise, and are not designed to solicit walk-in traffic.
4. **Wireless Communication Facilities.** “Wireless Communications Facility” means a facility that transmits or receives electromagnetic signals for the purpose of transmitting voice or data communications. See Chapter 17.114. (Wireless Communication Facilities).

X. “X” Terms. None.

Y. “Y” Terms.

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

CITY OF CAPITOLA
ZONING CODE UPDATE



Residential Zoning Districts

- R-1 - Single-Family Residential
- RM-L - Multi-Family Residential, Low Density
- RM-M - Multi-Family Residential, Medium Density
- RM-H - Multi-Family Residential, High Density
- MH - Mobile Home Park

Mixed-Use Zoning Districts

- MU-V - Mixed Use Village
- MU-N - Mixed Use Neighborhood

Commercial and Industrial Zoning Districts

- C-R - Regional Commercial
- C-C - Community Commercial

I - Industrial

Other Zoning Districts

- P/OS - Parks and Open Space
- CF - Community Facility
- PD - Planned Development

Overlay Zones*

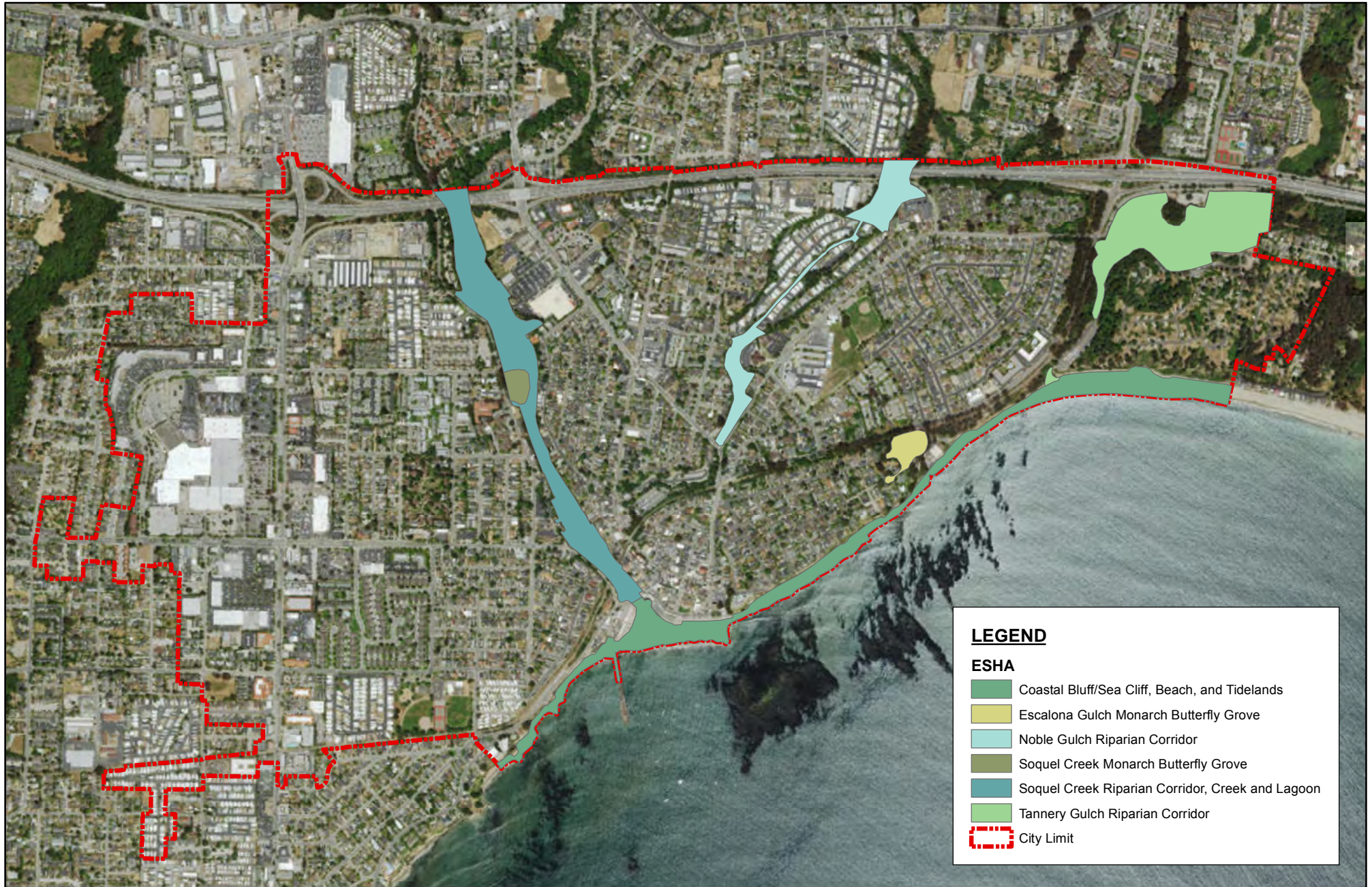
- AHO - Affordable Housing Overlay
- CZ - Coastal Zone
- VRU - Vacation Rental Use
- VR - Village Residential
- VS - Visitor Serving

- City Limit
- Santa Cruz Coastal Zone Boundary

Source: ESRI, 2017; PlaceWorks, 2017.

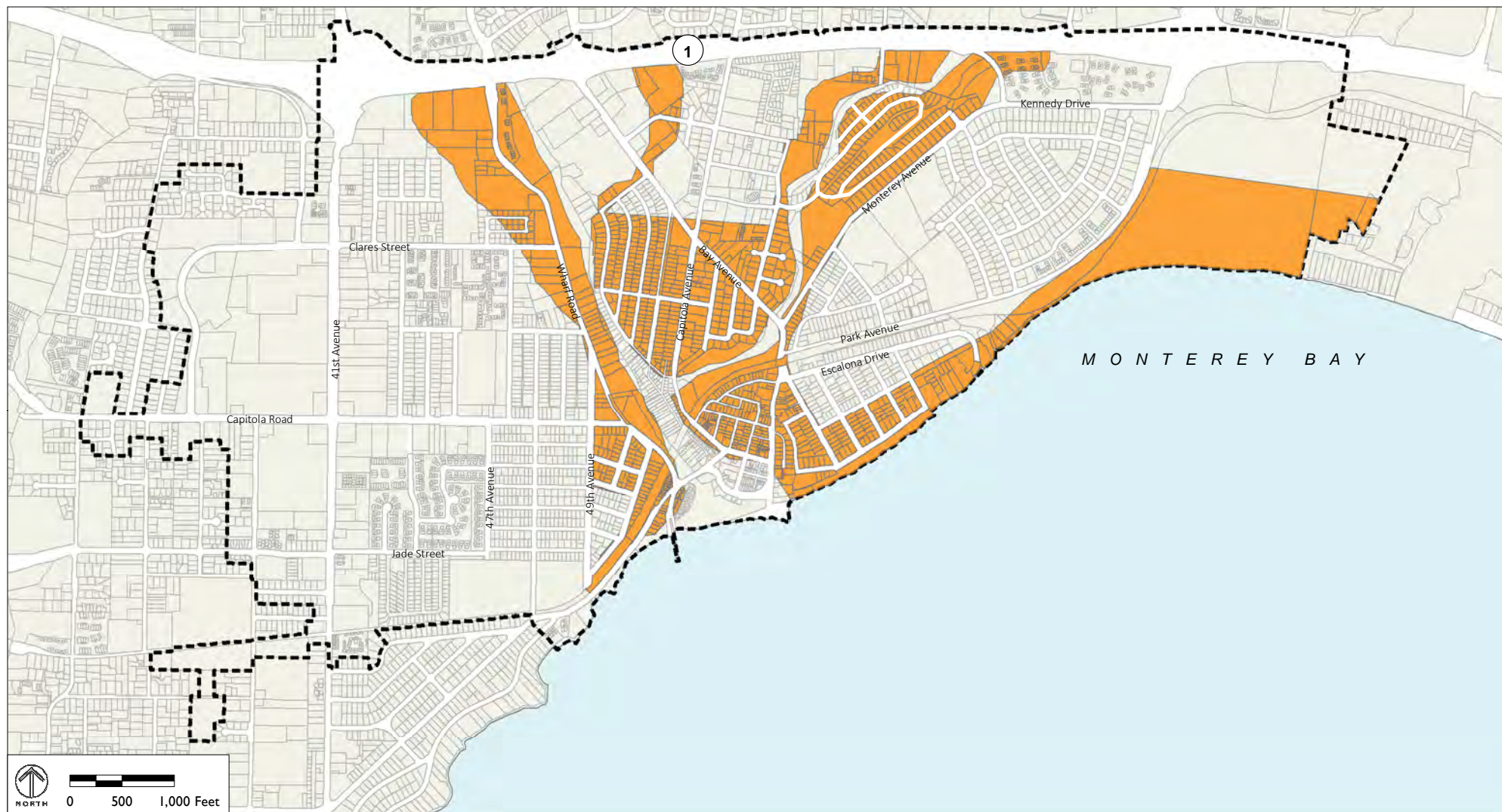
*See Local Coastal Program Habitats Map for boundaries of Environmentally Sensitive Habitats Area Overlay Zone.

CITY OF CAPITOLA
ENVIRONMENTALLY SENSITIVE HABITAT



0 465 930 1,860
Feet

Source: ESRI, 2017; Kimley-Horn, 2017.



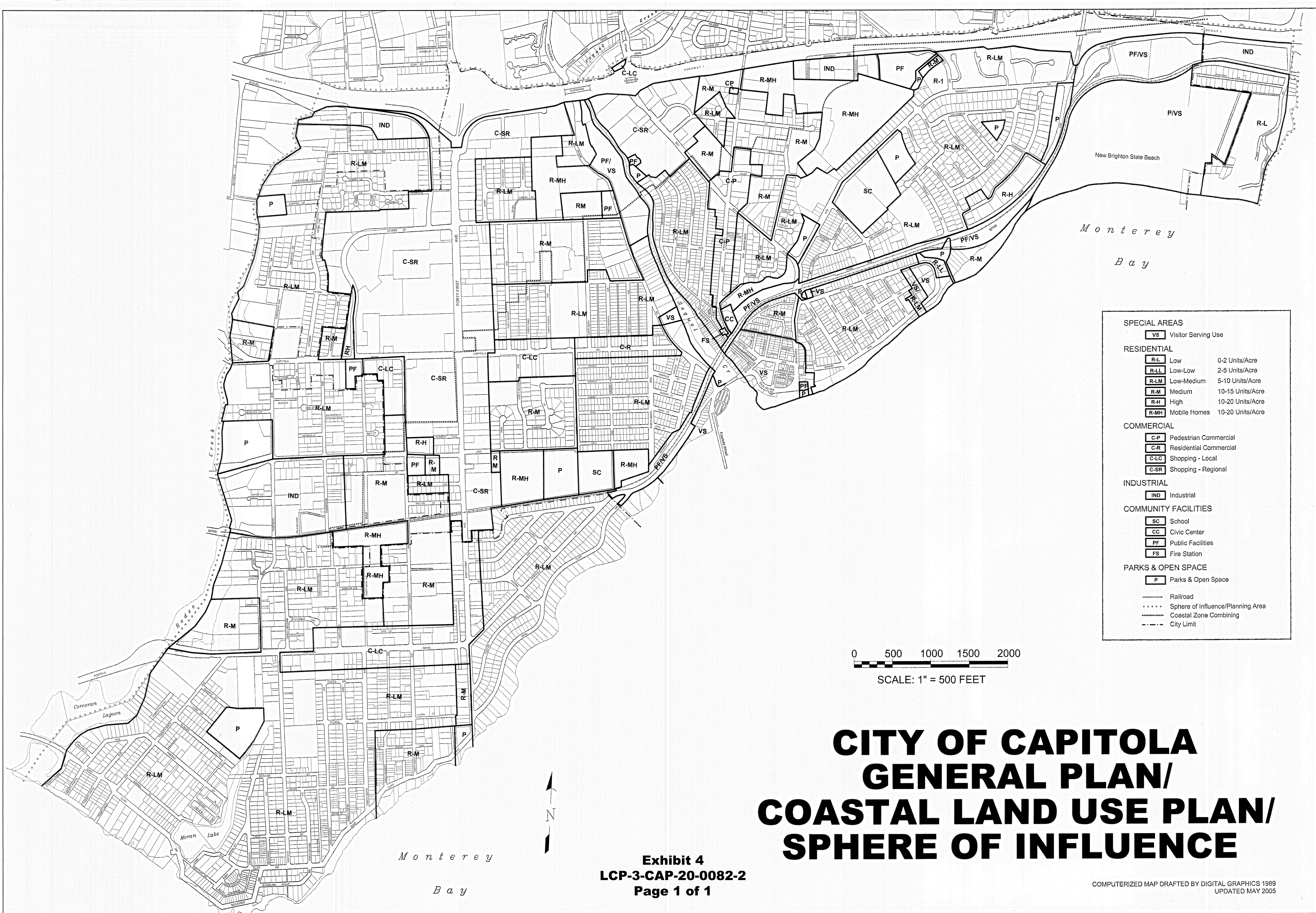
High Sensitivity Prehistoric Resources

City Limit

Source: ESRI, 2017; PlaceWorks, 2017.

ARCHAEOLOGICAL SENSITIVE AREAS

JANUARY 24, 2017



SPECIAL AREAS

VS Visitor Serving Use

RESIDENTIAL

R-L Low 0-2 Units/Acre
R-L-L Low-Low 2-5 Units/Acre
R-LM Low-Medium 5-10 Units/Acre
R-M Medium 10-15 Units/Acre
R-H High 10-20 Units/Acre
R-MH Mobile Homes 10-20 Units/Acre

COMMERCIAL

C-P Pedestrian Commercial
C-R Residential Commercial
C-LC Shopping - Local
C-SR Shopping - Regional

INDUSTRIAL

IND Industrial

COMMUNITY FACILITIES

SC School
CC Civic Center
PF Public Facilities
FS Fire Station

PARKS & OPEN SPACE

P Parks & Open Space

— Railroad
..... Sphere of Influence/Planning Area
..... Coastal Zone Combining
- - - City Limit

0 500 1000 1500 2000

SCALE: 1" = 500 FEET

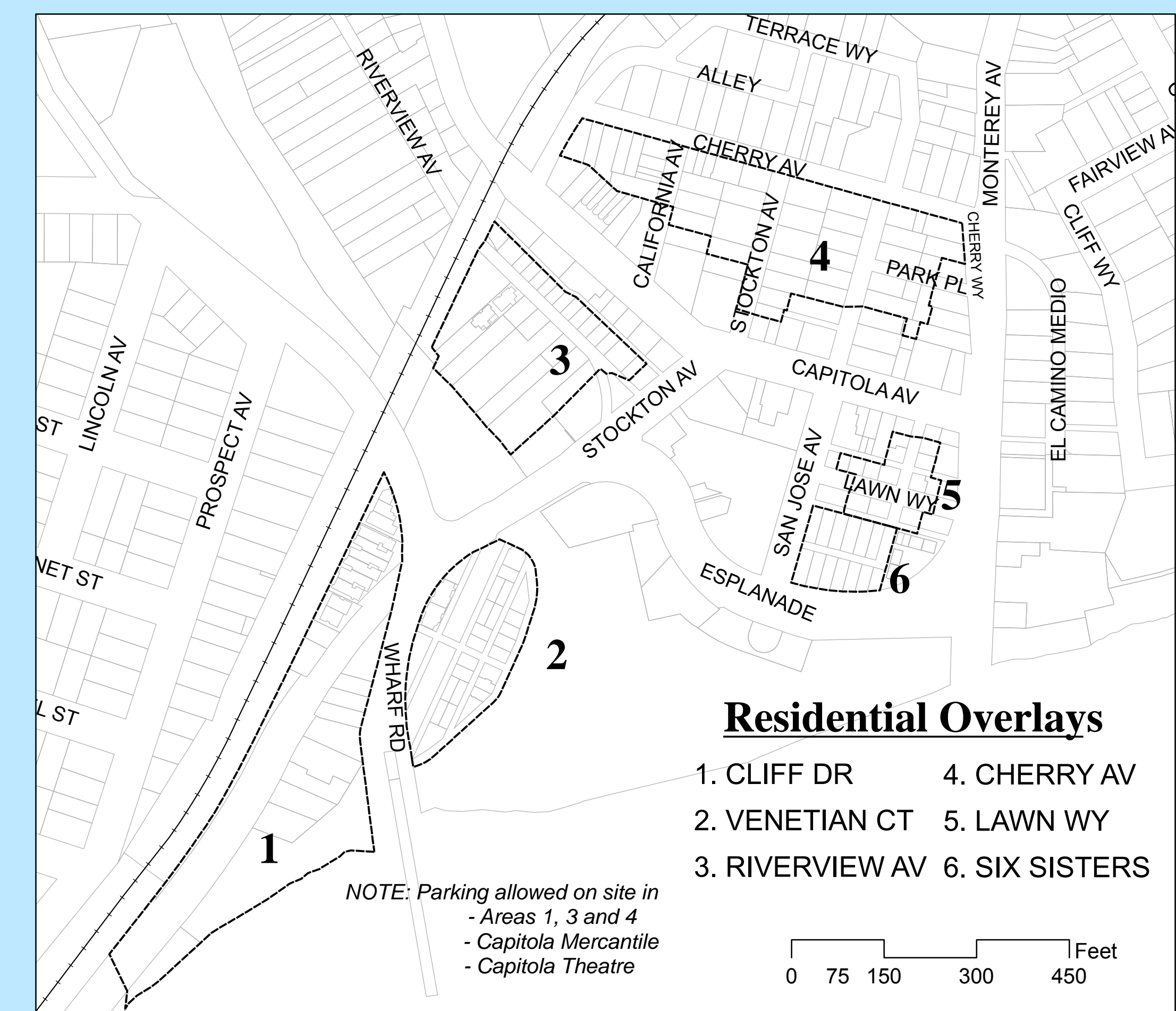
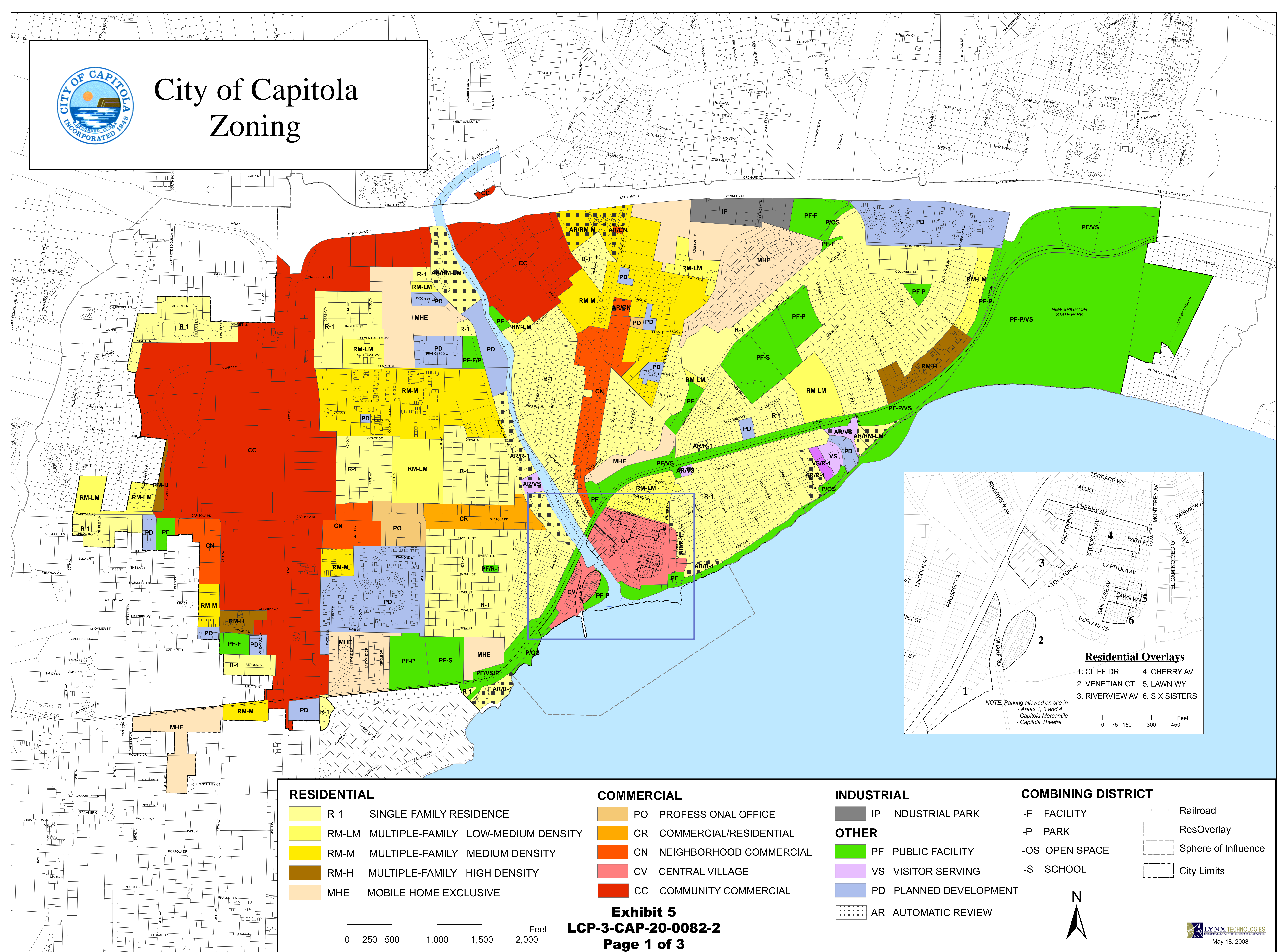
CITY OF CAPITOLA GENERAL PLAN/ COASTAL LAND USE PLAN/ SPHERE OF INFLUENCE

Exhibit 4
LCP-3-CAP-20-0082-2
Page 1 of 1

COMPUTERIZED MAP DRAFTED BY DIGITAL GRAPHICS 1989
UPDATED MAY 2005



City of Capitola Zoning



RESIDENTIAL

- R-1 SINGLE-FAMILY RESIDENCE
- RM-LM MULTIPLE-FAMILY LOW-MEDIUM DENSITY
- RM-M MULTIPLE-FAMILY MEDIUM DENSITY
- RM-H MULTIPLE-FAMILY HIGH DENSITY
- MHE MOBILE HOME EXCLUSIVE

COMMERCIAL

- PO PROFESSIONAL OFFICE
- CR COMMERCIAL/RESIDENTIAL
- CN NEIGHBORHOOD COMMERCIAL
- CV CENTRAL VILLAGE
- CC COMMUNITY COMMERCIAL

INDUSTRIAL

- IP INDUSTRIAL PARK

OTHER

- PF PUBLIC FACILITY
- VS VISITOR SERVING
- PD PLANNED DEVELOPMENT
- AR AUTOMATIC REVIEW

COMBINING DISTRICT

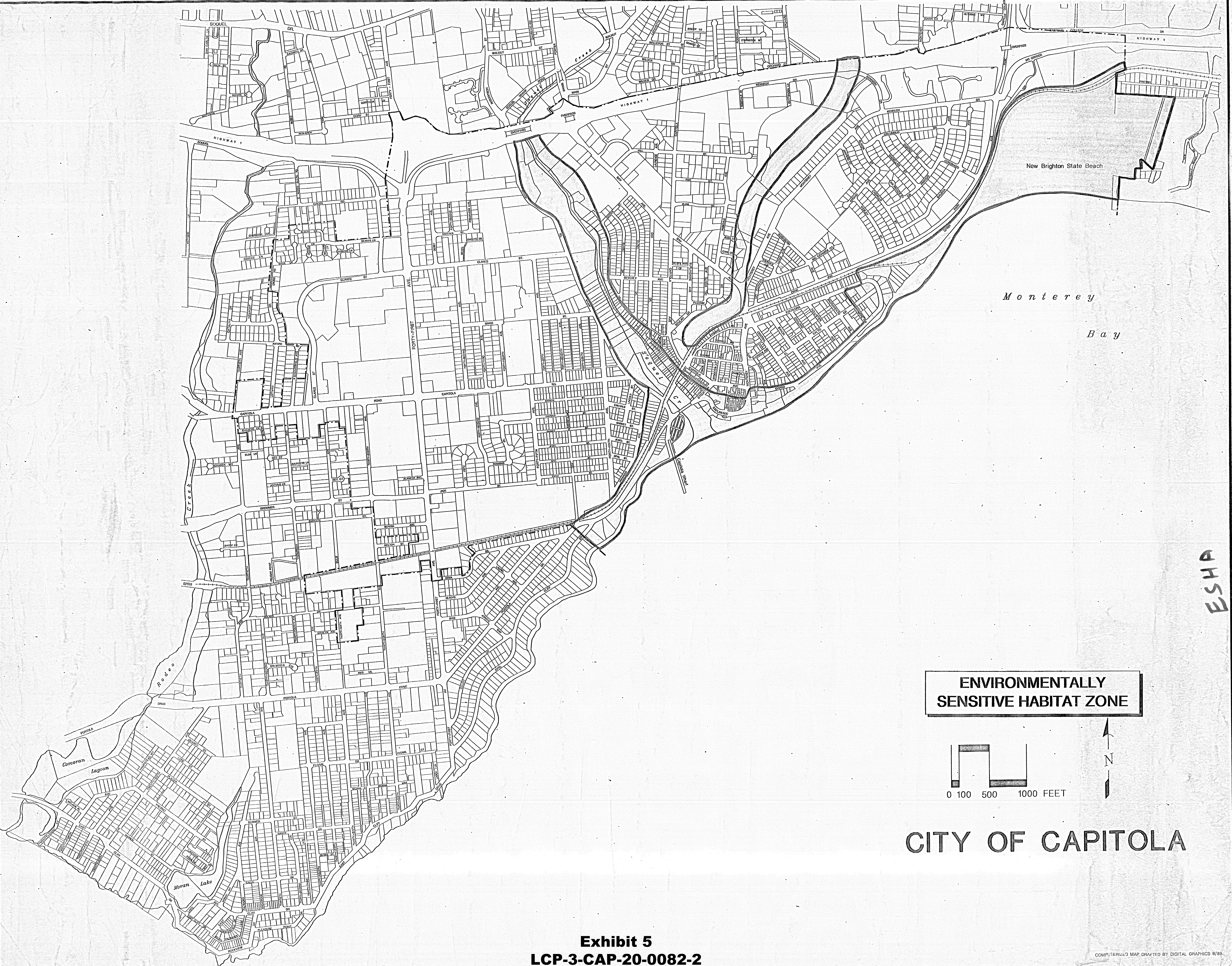
- F FACILITY
- P PARK
- OS OPEN SPACE
- S SCHOOL

- Railroad
- ResOverlay
- Sphere of Influence
- City Limits

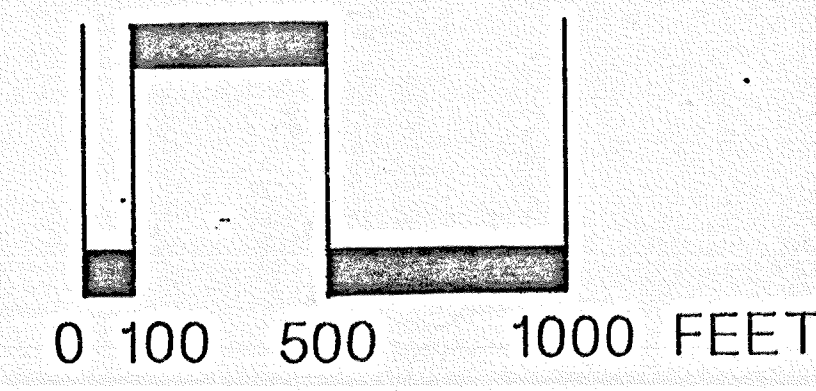
Exhibit 5
LCP-3-CAP-20-0082-2
Page 1 of 3

0 250 500 1,000 1,500 2,000 Feet

LYNX TECHNOLOGIES
May 18, 2008

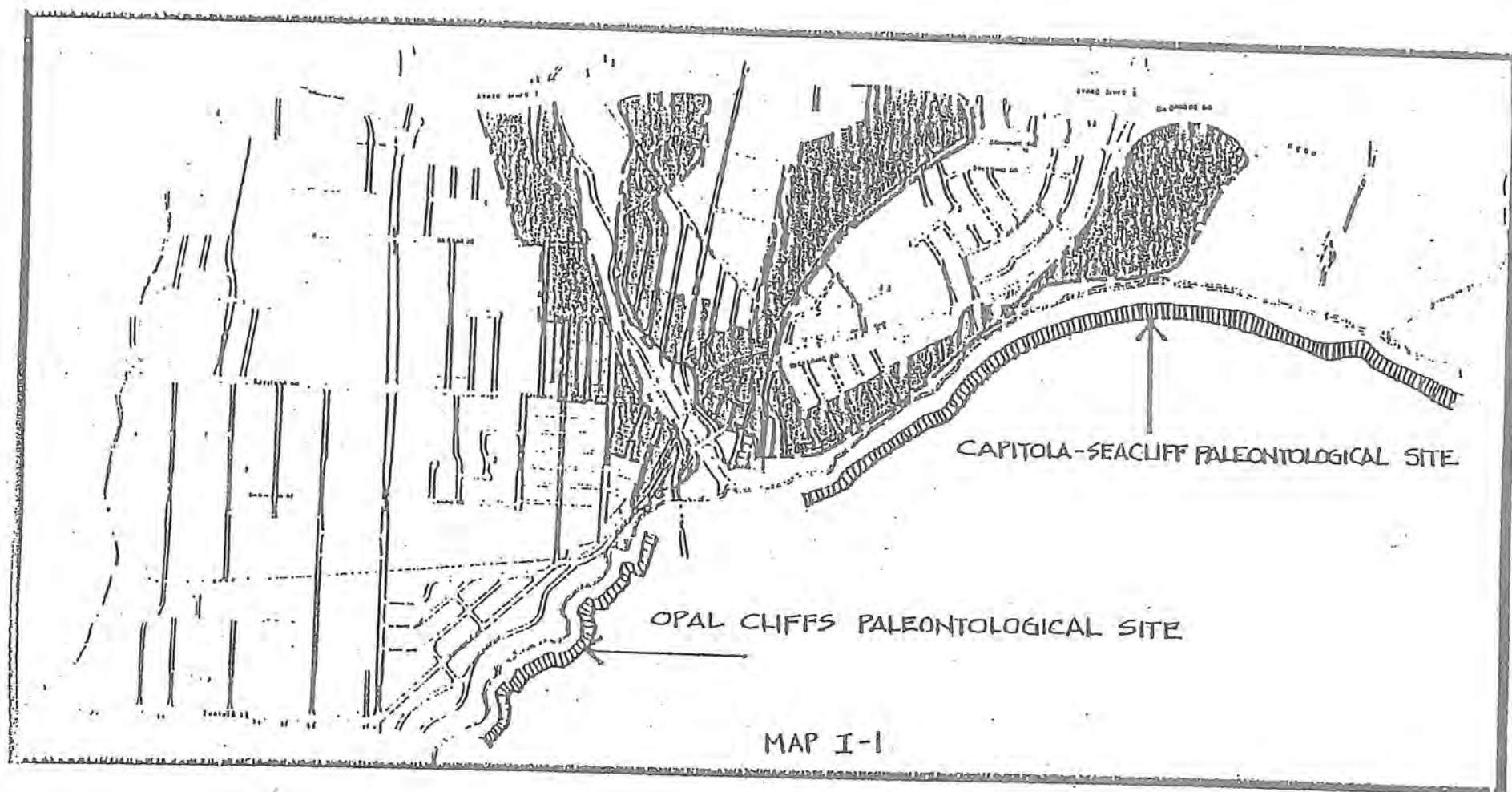


ENVIRONMENTALLY
SENSITIVE HABITAT ZONE



CITY OF CAPITOLA

ESHA



NORTH

ARCHAEOLOGICAL/PALEONTOLOGICAL SENSITIVITY AREAS CITY OF CAPITOLA

NOTE: SHADED PORTIONS OF MAP INDICATE AREAS OF ARCHAEOLOGICAL SENSITIVITY

SOURCE: CALIFORNIA ARCHAEOLOGICAL SURVEY & FRANK E. PERRY

0 1750
1" = 1750'

Exhibit 5
LCP-3-CAP-20-0082-2

Page 3 of 3



Monarch Cove Inn



Monarch Cove Inn

Exhibit 6
LCP-CP-2008-2
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Monarch Cove Inn



A scenic view of Monterey Bay from the Monarch Cove Inn. The image is framed by the dark, silhouetted branches of a large tree on the left and top. The bay is a deep blue, with a small white boat visible in the distance. The coastline is visible in the background under a clear blue sky with a few wispy clouds. The text "View of Monterey Bay from Monarch Cove Inn" is overlaid in large, white, bold letters at the bottom.

View of Monterey Bay from Monarch Cove Inn



Inn at Depot Hill



Capitola Theater Site/ Future Village Hotel Site

A photograph of a hillside under a clear blue sky. At the top of the hill, a modern, multi-story building with large windows and balconies is partially obscured by tall, leafy trees. A stone retaining wall runs across the middle of the hill. In the foreground, a paved parking lot contains several vehicles: a white hatchback, a dark red pickup truck, and a silver SUV. To the left, a small white building with a red roof is visible on the hillside. The text "Capitola Theater Site/ Future Village Hotel Site" is overlaid in large white letters across the center of the image.

Capitola Theater Site/ Future Village Hotel Site



Capitola Theater Site/ Future Village Hotel Site

Former Capitola Theater Site/ Future Village Hotel Site



View of Capitola Village & Beach

Former Capitola Theater Site/ Future Village Hotel Site



View of “Green Edge” from Capitola Wharf

Former Capitola Theater Site/ Future Village Hotel Site



**View of “Green Edge” from Cliff
Drive Parking Lot**