

# Capitola Planning Commission

## Agenda Report



**Meeting:** October 20, 2022

**From:** Community Development Department

**Subject:** 2022 Zoning Code Amendments

---

**Permit Number:** 22-0441

**APN:** All Zoning Districts

Project description: Draft ordinance to adopt clean-up amendments to the Zoning Code

Environmental Determination: Categorically Exempt under Section 15061(b)(3)

Property Owner: Effects all Zoning Districts

Representative: Ben Noble, Ben Noble Planning

**Background:** In 2020, the City of Capitola adopted a comprehensive Zoning Code update that applied to areas outside of the coastal zone. In 2021, the Coastal Commission certified the Zoning Code resulting in the updated code applying throughout the city, including in the coastal zone.

Since the updated Zoning Code was adopted, staff has identified a number of necessary amendments to the new code. Some amendments are needed to correct drafting errors and resolve ambiguities without substantive changes. Other changes are proposed to improve code organization or address new issues that have arisen since the updated code was adopted.

The proposed amendments include edits to the following Zoning Code chapters:

- 17.16: Residential Zoning Districts
- 17.20: Mixed Use Zoning Districts
- 17.24: Commercial and Industrial Zoning Districts
- 17.28: Visitor Serving Overlay Zone
- 17.48: Height, Setbacks, and Floor Area
- 17.72: Landscaping
- 17.74: Accessory Dwelling Units
- 17.76: Parking and Loading
- 17.80: Signs
- 17.96: Supplemental Standards
- 17.20: Design Permits
- 17.36: Minor Modifications
- 17.160: Glossary

The proposed amendments are included with the draft ordinance (Attachment 2).

Attachment 1 lists the proposed amendments in a summary table. The summary table identifies each proposed amendment and the reason for the change. Please note the page numbers for each amendment listed in the summary table refer to the page number in the top header of the zoning code amendments, not the meeting packet page number.

**Discussion:** The following is a discussion of proposed amendments of interest with requests for Planning Commission feedback.

### **Second Story Decks and Balconies**

Section 17.16.030.B.10 contains standards for second story decks and balconies in the R-1 zoning district. Under these proposed standards, second story decks and balconies in the R-1 zoning district:

- May not face an interior side parcel line abutting a single-family dwelling;
- Must be setback back 25 percent of the lot depth from the rear property line, 20 feet from the front property line, 15 percent of the lot width from the interior side property line, and 10 feet from the street side property line; and
- May not project further than 6 feet from the exterior building wall to which it is attached.

These proposed standards reflect prior Planning Commission input on second story decks and balconies. Staff requests and further Planning Commission feedback on these standards.

### **Roof Decks**

The proposed amendments add a new roof deck definition to Chapter 17.160 that defines a roof deck as “a walkable exterior floor system located above and supported by the roof of a building.” As drafted, a roof deck would be prohibited in the R-1 district. In zoning districts that allow multifamily and mixed-use residential development (RM, MU-V, MU-N, CC, CR), roof decks would be allowed on parcels that do not abut the R-1 district. Section 17.16.030.C4.b contains standards that apply to all roof decks where permitted, including a minimum 5-foot setback from the building wall closest to the property line, an allowance for railings to project above the maximum building height, and limitations on structures within a roof deck. Staff requests Planning Commission feedback on roof deck standards and locations (e.g., within the Village).

### **Large Retail Uses**

“Retail” is an allowed land use category defined in Chapter 17.160 as “stores and shops selling merchandise to the general public. Includes drug stores, general merchandise stores, convenience shops, pet stores, department stores, grocery stores and other similar retail establishments.” Proposed amendments add grocery store to the definition as an example of a retail land use.

As found in Table 17.24-1, a retail establishment is a Permitted Use that does not require a Minor Use Permit or Conditional Use Permit. Proposed amendments to table 17.24-1 add a Conditional Use Permit requirement for retail uses 20,000 square feet or more to allow for Planning Commission review and public input on proposed large retail uses, such as grocery stores, that may generate adverse impacts on adjacent properties and the surrounding neighborhood.

### **Cannabis Retail Signs**

Section 17.24.020.D.1.b.iv contains sign standards for cannabis retail establishments. The existing standards are more restrictive for cannabis with a limit of one sign per business location of up to fifteen square feet or one square foot per linear frontage of business which ever is less. Also, content is limited to the name of business and one green cross, no additional references to cannabis through symbols or language, and limit illumination to operating hours. Staff has received a request from the Apothecarium to modify the standards for cannabis to remove the single sign limit and the 15 feet sign area to allow increased visibility. Ultimately, the cannabis retailer would prefer to be subject to the sign limitation of the sign code within Chapter 17.132.

## **Pergolas**

The proposed amendments clarify definitions and standards for pergolas, trellises, and arbors. Chapter 17.160 includes the following definitions:

- “Pergola” means an unenclosed structure with vertical posts or pillars that supports cross beams and/or an open lattice. A pergola may be freestanding or attached to a building.
- “Arbor” means a freestanding unenclosed structure with vertical latticework on two sides for climbing plants and cross beams or lattice forming a covering connecting the sides. The space between the vertical latticework may be open or contain a bench for sitting.
- “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. A trellis may be freestanding or attached to a building wall or other structure.

Amendments to Table 17.48-2 specify that a pergola attached to a building wall may project 5 feet into the front setback area and 4 feet into the exterior side setback area. Previously, there was no allowance for an attached pergola. Amendments to Table 17.48-3 replace the term trellis with pergola but keep the existing standards for allowances within setbacks.

## **Accessory Dwelling Units**

The proposed amendments include a number of changes to standards for accessory dwelling units in Chapter 17.74 consistent with new state law (SB 897 and AB 2221) that will go into effect January 1, 2023. Section 17.74.030.A updates the permitting process to require approval or denial of a permit within 60 days. New Sections 17.74.030.G and H address correction of violations and unpermitted accessory dwelling units. Edits to Section 17.74.040.D clarify that establishing an ADU does not require placing existing overhead utility lines underground. Section 17.74.040.E adds fires sprinkler exceptions for establishing an ADU within an existing structure. Edits to Section 17.74.050.A allows, as a class of ADU subject to limited standards, second floor expansions of up to 150 square feet to accommodate an internal ADU. Edits to Section 17.74.050.B also allow as an ADU subject to limited standards the conversion of an existing accessory structure less than 800 square feet. Both changes exceed minimum state requirements to encourage internal ADUs and new detached ADUs created by converting existing accessory structures. Also, the height limits for an attached ADU to a single-family home and for detached ADUs on multifamily parcels were increased to 25 feet and 18 feet respectively, to be in compliance with state law.

## **Parking in R-1 Front Setback Area**

Section 17.76.040.B.1 contains standards limiting parking in the required front and exterior side setback area in the R-1 zoning district. Currently, parking spaces in these setback areas are limited a maximum of 40 percent of lot width up to maximum of 20 feet, except that all lots may have a parking space of up to 14 feet in width regardless of lot width. The Planning Commission may allow a larger parking area within the 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.

The proposed amendments change this existing standard to work better for typical R-1 lot widths (40 feet) and standard parking space dimensions. The proposed new standard allows, regardless of lot width, a width of 10 feet for a single space or 18 feet for two side-by-side spaces. If two spaces are provided, the spaces must be a “ribbon” or “Hollywood” design with two parallel strips of permeable pavement for each space. The maximum driveway apron width at the curb is limited to 14 feet to help preserve existing on-street parking.

## **Electric Vehicle Charging Stations**

Standards for electric vehicle charging stations are found in 17.76.040.F (Electric Vehicle Charging Stations). Existing standards require electric vehicle charging stations for new structures or uses required to provide at least 25 parking spaces and additions or remodels that increase an existing parking lot of 50 or more space by ten percent or more. If charging stations are required, one charging station must be provided in parking lots with 25 to 49 parking spaces, with one additional charging station required for each increment of 50 additional parking spaces.

The proposed amendments replace the required number of charging stations with language requiring charging stations in accordance with the California Green Building Standards Code (CALGreen). Existing standards in 17.76.040.F are inconsistent with current state requirements, and state requirements are likely to further evolve as the state further promotes use of electric vehicles. CALGreen currently requires “*EV capable*” status for all new single-family residential, 10 percent of new multifamily dwellings, and all commercials/mixed use based on the total number of parking spaces. Attachment 3 is a guide for electric vehicle infrastructure requirements in CALGreen Building Code which was produced by the City of Sacramento.

A major difference between Capitola’s existing standard and CalGreen requirements is that CALGreen has different thresholds for when EV is required and has different EV compliance levels. CALGreen requires developments to be “*EV Capable*” whereas Capitola’s code holds developers to a higher standard to install the electric vehicle chargers. An alternative approach to the proposed amendment is to establish in the zoning code the specific number of required charging stations and periodically amend the zoning code so that the number of required stations remains equal to or greater than the number required by state law.

The proposed amendments also include new standards that prohibit digital screens that display advertisements and limit the size of digital screens used to operate equipment to 2 square feet. These standards are proposed in response to recent inquiries and industry trends that incorporate large digital advertisement displays into electric vehicle charging stations.

The proposed amendments require screening for electric vehicle charging stations on lots with six or more spaces in line with existing parking lot screening requirements. Staff requests Planning Commission feedback on this screening requirement given the need for drivers to easily locate charging stations.

State law requires cities and counties to approve electric vehicle charging stations ministerially with a building permit. The proposed amendments require the City to review and act on electric vehicle charging station applications as provided in Government Code Section 65850.7 and 65850.71. An alternative approach is to codify a specific application review process as other jurisdictions have done. Staff recommends referencing the Government Code sections rather than codifying a specific process to avoid future code amendments if state law changes.

## **Generators**

Section 17.96.190 (Generators) contains new standards for home generators that provide backup electricity in case of a power outage. These standards prohibit generators in required front and side setbacks and allow generators to project a maximum of 5 feet into a rear setback if necessary to locate the generator behind the rear wall of the home. The standards also limit generator testing hours to 8 a.m. to 8 p.m. and prohibit using freestanding generators to supply service to recreational vehicles or trailers. These standards are intended to allow for the use and testing of home generators in a manner that minimizes impacts on adjacent neighbors.

## **Minor Modifications**

A minor modification is a type of approval that allows for small deviations from specific development standards, including dimensions and setbacks for parking spaces, driveways, garages, parking lots, and loading areas; minimum and maximum setbacks from property lines; and other similar dimensional standards as determined by the community development director. As stated in Section 17.136.010, the purpose of the minor modification is to accommodate projects which meet the needs of property owners and do not negatively impact neighboring properties or the community at large. A minor modification allows up to a ten percent deviation to a physical dimensional standard (e.g., setbacks). A deviation to a dimensional standard greater than ten percent, or an adjustment to any other type of standard, requires a variance.

Currently, all minor modifications require Planning Commission review and approval. The proposed amendment would allow for community development director action on minor modification applications if the application is not filed for concurrent review with an application for discretionary review by the Planning Commission or City Council. If a project requesting a minor modification also requires Planning Commission review for another type of permit (e.g., Design Permit), the Planning Commission would also take action on the minor modification.

Staff recently received an inquiry on an application for small additions to single-family homes in which a minor modification was required to allow a deviation for the existing garage dimensions. The application could have been approved administratively except that a minor modification is required for the parking dimension. Allowing the Community Development Director to approve minor modifications to administrative applications would benefit residents in terms of process and costs.

**CEQA:** CEQA: The Zoning Code Clean-up Amendments is exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), the common sense exception that CEQA applies only to projects which have the potential for causing a significant effect on the environment and 15183, projects consistent with a community plan, general plan or zoning.

**Recommendation:** Accept presentation on the Zoning Code Clean-up Amendments and consider forwarding a positive recommendation on the ordinance to the City Council.

### **Attachments:**

1. Summary Table of Proposed Zoning Code Clean-up Amendments
2. Draft Ordinance Adopting the Zoning Code Clean-up Amendments
3. City of Sacramento Guide for Electric Vehicle Infrastructure Requirements in the CALGreen Building Code