Chapter 17.12

ZONING DISTRICTS AND MAP

Sections:

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. (Ord. 1043 § 2 (Att. 2), 2020)

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

Zoning District Symbol	Name of Zoning District	General Plan Land Use Designation
Residential Zoning Districts		
R-1	Residential Single-Family	Single-Family Residential (R-SF)
RM-L	Residential Multifamily, Low Density	Multifamily Residential (R-MF)
RM-M	Residential Multifamily, Medium Density	
RM-H	Residential Multifamily, High Density	
MH	Mobile Home Park	Mobile Home Park (MH)
Mixed Use Zoning Districts		
MU-V	Mixed Use, Village	Village Mixed-Use (MU-V)
MU-N	Mixed Use, Neighborhood	Neighborhood Mixed-Use (MU-N)
Commercial and Industrial Zoning Districts		
C-C	Commercial, Community	Community Commercial (C-C)
C-R	Commercial, Regional	Regional Commercial (C-R)
I	Industrial	Industrial (I)
Other Zoning Districts		
CF	Community Facility	Public/Quasi-Public Facility (P/QP)
P/OS	Parks and Open Space	Parks and Open Space (P/OS)
PD	Planned Development	N/A

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

Overlay Zone Symbol	Name of Overlay Zone
~~-AH~~	~~Affordable Housing~~
-VRU	Vacation Rental Use
-VR	Village Residential
-VS	Visitor Serving
-CZ	Coastal Zone

(Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.16

RESIDENTIAL ZONING DISTRICTS

Sections:

17.16.010 Purpose of the residential zoning districts.

A. General. The purpose of the 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 Multifamily (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 district allows single-family and multifamily housing at higher densities to maintain and increase the supply of affordable housing choices. Housing in the RM zoning district 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. (Ord. 1043 § 2 (Att. 2), 2020)

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		**Zoning District**			
P	Permitted Use				
A	Administrative Permit required				
M	Minor Use Permit required				
C	Conditional Use Permit required				
–	Use not allowed	**R-1**	**RM**	**MH**	**Additional Regulations**
Residential Uses [5]					
Cohousing		P	P	P	

Key		Zoning District			
P	Permitted Use				
A	Administrative Permit required				
M	Minor Use Permit required				
C	Conditional Use Permit required				
–	Use not allowed	**R-1**	**RM**	**MH**	**Additional Regulations**
Duplex Homes		P [4]~~–~~	P	–	
Elderly and Long-Term Care		–	C	–	
Group Housing		–	P	–	
Mobile Home Parks		–	C	P [1]	Chapter 17.100
Multifamily Dwellings		–	P	–	
Residential Care Facilities, Small		P	P	C [2]	
Residential Care Facilities, Large		C	P~~C~~	C [2]	Section 17.96.080
Accessory Dwelling Units		–A	A	–	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		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 Structures		P [3]	P [3]	P [3]	Chapter 17.52
Home Occupation		P~~A~~	P~~A~~	P~~A~~	Section 17.96.040
Temporary Uses and Structures		M	M	–	Section 17.96.180
Urban Agriculture					

Key		Zoning District			
P	Permitted Use				
A	Administrative Permit required				
M	Minor Use Permit required				
C	Conditional Use Permit required				
–	Use not allowed	**R-1**	**RM**	**MH**	**Additional Regulations**
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 five thousand square feet.

[3] An accessory structure that exceeds the development standards of Chapter 17.52 requires a conditional use permit.

[4] Allowed on corner parcels only.

[5] See Section 17.96.210 (Demolition and Replacement of Dwelling Units) for requirements that apply to new residential uses on sites identified as nonvacant in the General Plan Housing Element inventory of land suitable for residential development.

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. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.16.030 Development standards.

A. General Standards – Single-Family and Multifamily 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

	R-1	RM	Additional Standards
Site Requirements			
Parcel Area, Minimum [1]	5,000 sq. ft.	N/A	
Parcel Width, Minimum [1]	30 ft.	N/A	
Parcel Depth, Minimum [1]	80 ft.	N/A	
Floor Area Ratio, Maximum	See Section 17.16.030(B)(1)	N/A	Section 17.16.030(B) Section 17.48.040
Building Coverage, Maximum	N/A	40%	
Open Space	N/A	Section 17.16.030(C)(2)	
Parcel Area per Unit, Minimum	N/A	RM-L: 4,400 sq. ft. RM-M: 2,900 sq. ft. RM-H: 2,200 sq. ft.	

	R-1	RM	Additional Standards
Parking and Loading	See Chapter 17.76		
Structure Requirements			
Setbacks, Minimum			Sections 17.48.030(B)(2) through (5~~6~~)
Front	Ground floor: 15 ft. Garage: 20 ft. Second story: 20 ft.	Main structure: 15 ft. Garage: 20 ft.	Section 17.16.030(B)(2) Section 17.16.030(B)(5) ~~Garage Setback: Section 17.16.030(B)(4)~~
Rear	20% of parcel depth; 25 ft. max.	15% of parcel depth	Section 17.16.030(B)(4~~5~~)
Interior Side	Ground floor: 10% of parcel width [2] Second story: 15% of parcel width	10% of parcel width [2]	Sections 17.16.030(B)(4~~5~~) and (5~~6~~)
Street Side, Corner Lots	10 ft.	10 ft.	Section 17.16.030(B)(4~~5~~)
Height, Maximum	25 ft.	RM-L: 30 ft. RM-M: 30 ft. RM-H: 35 ft.	Sections 17.16.030(B)(6~~7~~) ~~and (8)~~ Section 17.48.020
Accessory Structures and Detached Garages	See Chapter 17.52 [3]		

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 June 9, 2021. See 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] Regardless of parcel width, in no case shall the minimum required interior side ground setback be less than three feet or greater than seven feet.

[3] Chapter 17.52 does not apply to accessory dwelling units, including two-story accessory dwelling units above a detached garage, which are addressed in Chapter 17.74 (Accessory Dwelling Units).

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

Lot Size	Maximum FAR
2,650 sq. ft. or less	0.58
2,651 to 3,250 sq. ft.	0.57
3,251 to 3,500 sq. ft.	0.56
3,501 to 3,750 sq. ft.	0.55
3,751 to 4,000 sq. ft.	0.54
4,001 to 4,250 sq. ft.	0.53
4,251 to 4,500 sq. ft.	0.52

Lot Size	Maximum FAR
4,501 to 4,750 sq. ft.	0.51
4,751 to 5,000 sq. ft.	0.50
5,001 to 6,000 sq. ft.	0.49
More than 6,000 sq. ft.	0.48

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 one hundred feet on the same side of the street. The reduced front setback shall in all cases be no less than ten 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 one hundred feet on the same side of the street.

~~4. Garage Setbacks.~~

~~a. Attached garages shall be set back a minimum of five feet behind the front or street side building wall of the primary structure. The planning commission may reduce this minimum setback to three feet in sidewalk exempt areas.~~

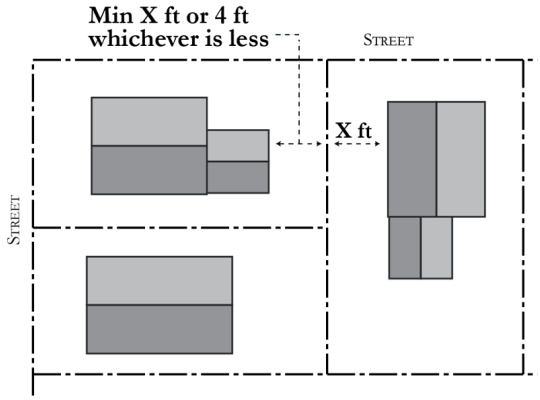
~~b. Required setbacks for detached garages are identified in Chapter 17.52 (Accessory Structures and Uses).~~

~~5~~4. 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 four 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

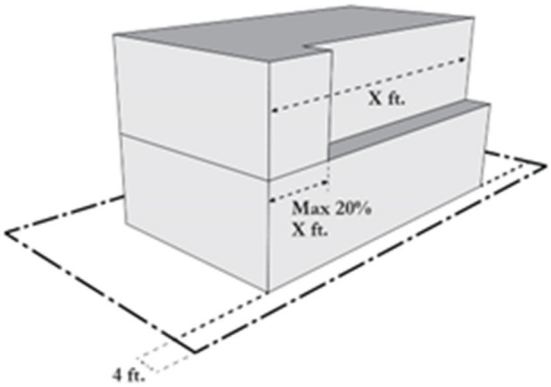


~~5~~6. Second-Story Setback Exceptions. Second-story additions must comply with increased setback requirements in Table 17.16-2, except in the following cases:

a. For lots thirty feet wide or less, the minimum interior side setback for a second story is the same as the ground floor.

b. Up to twenty 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 four feet from the side property line. See Figure 17.16-3.

Figure 17.16-3: Second-Story Setback Exception



~~6~~7. Height Exceptions. A maximum height of up to twenty-seven 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 six thousand square feet in size.

c. Parcels with a width sixty feet or more.

d. Parcels with an average slope of twenty-five percent or greater.

e. When the plate height of structure does not exceed twenty-two feet.

7~~8~~. Landscaping. See Section 17.72.050(A) for residential landscape requirements.

8~~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:

i. 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.

ii. No gas line or two-hundred-twenty-volt electric service is permitted within the area.

iii. Only one such area is permitted within a property in addition to the kitchen.

iv. The mini-bar/convenience area may be located inside or outside of the home. If located inside the home, internal access to the area shall be maintained within the dwelling. A mini-bar/convenience area is permitted in addition to an outdoor kitchen.

b. The requirements in subsection (B)(9)(a) of this section shall not limit the establishment of an accessory dwelling unit in conformance with Chapter 17.74 of this code (Accessory Dwelling Units).

9~~10~~. Outdoor Kitchens. On a lot occupied by a single-family home, an outdoor kitchen is permitted in addition to an indoor kitchen. Outdoor kitchens shall comply with the following standards:

a. The kitchen may include gas, electric and plumbing.

b. Electric service may not be two hundred twenty volts.

c. Drain size may not exceed that allowed for a mini-bar.

d. The kitchen may project into the rear setback area as provided in Table 17.48-3.

10~~1~~. Second-Story Decks and Balconies.

a. ~~An~~ Cumulative upper floor deck area in excess of one hundred fifty square feet is included in the floor area ratio calculation.

b. A second-story deck or balcony may not face an interior side parcel line abutting a lot with a single-family dwelling.

c. A second-story deck or balcony must comply with the ~~following~~ minimum parcel line setback requirements in Table 17.16-4 and as shown in Figure 17.16-3a~~:~~

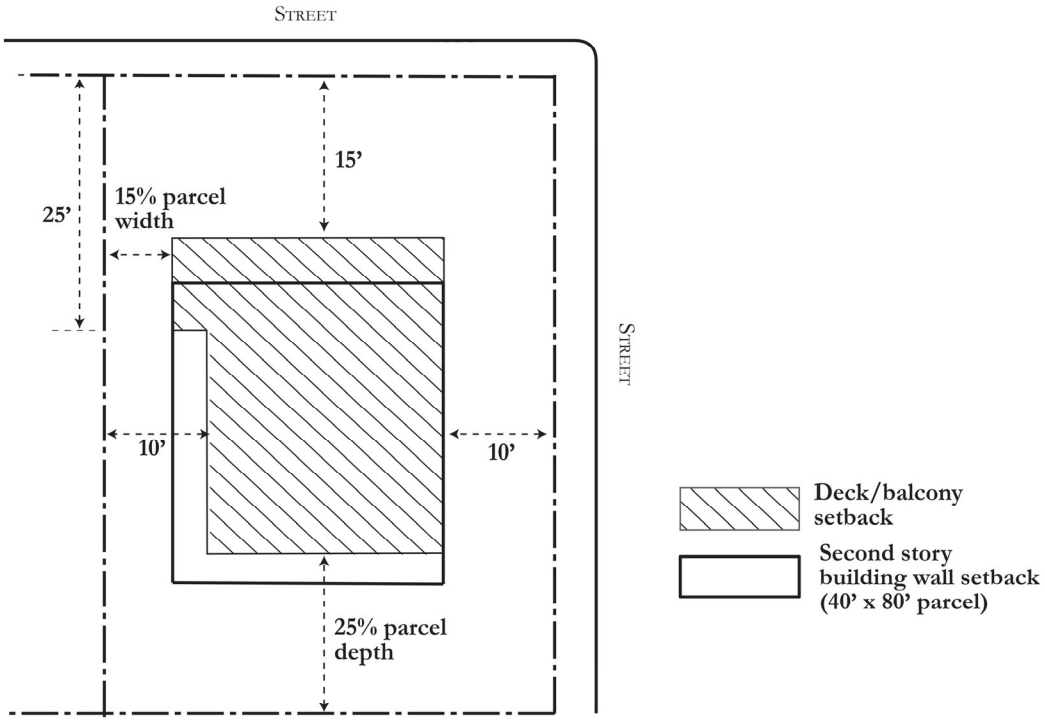
~~i. Rear: twenty-five percent of lot depth.~~

~~ii. Front: twenty feet.~~

~~iii. Interior and street side: ten feet.~~**Table 17.16-4: Second Story Deck and Balcony Setbacks**

Parcel Line	Minimum Setback
Front	15 ft.
Interior Side	
Deck areas located within 25 ft. of front property line	15% of parcel width
All other decks	10 ft.
Street Side	10 ft.
Rear	25% of parcel depth

Figure 17.16-3a: R-1 Second-Story Decks and Balconies



d. To address neighbor privacy impacts, the Planning Commission may require ~~A~~ permanent privacy screening (e.g., opaque glass, solid materials, vegetation) ~~is required~~ for an upper floor deck or balcony. ~~rear deck along the railing parallel to the interior side property line facing a single-family dwelling~~

e. A second-story deck or balcony facing the rear of the parcel may not project further than 10 ~~six~~ feet from the exterior upper-story building wall to which it is attached. For a second story deck or balcony, including staggered or non-linear building walls, the maximum 10-foot projection is measured from the upper floor rear exterior wall.

f. The area of a second-story deck shall not exceed the habitable second-story floor area of the building to which it is attached. For example, if the second story of a home contains 250 square feet of habitable space, the second story deck area may not exceed 250 square feet. The second story deck must also comply with all applicable setback and dimensional standards.

g~~f~~. Roof decks are prohibited in the R-1 zoning district.

h~~g~~. The elevation of a freestanding deck or platform not attached to a building may not exceed thirty-five inches above the adjoining grade.

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 17.16-5~~4~~ and Figure 17.16-4.

Table 17.16-5~~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:

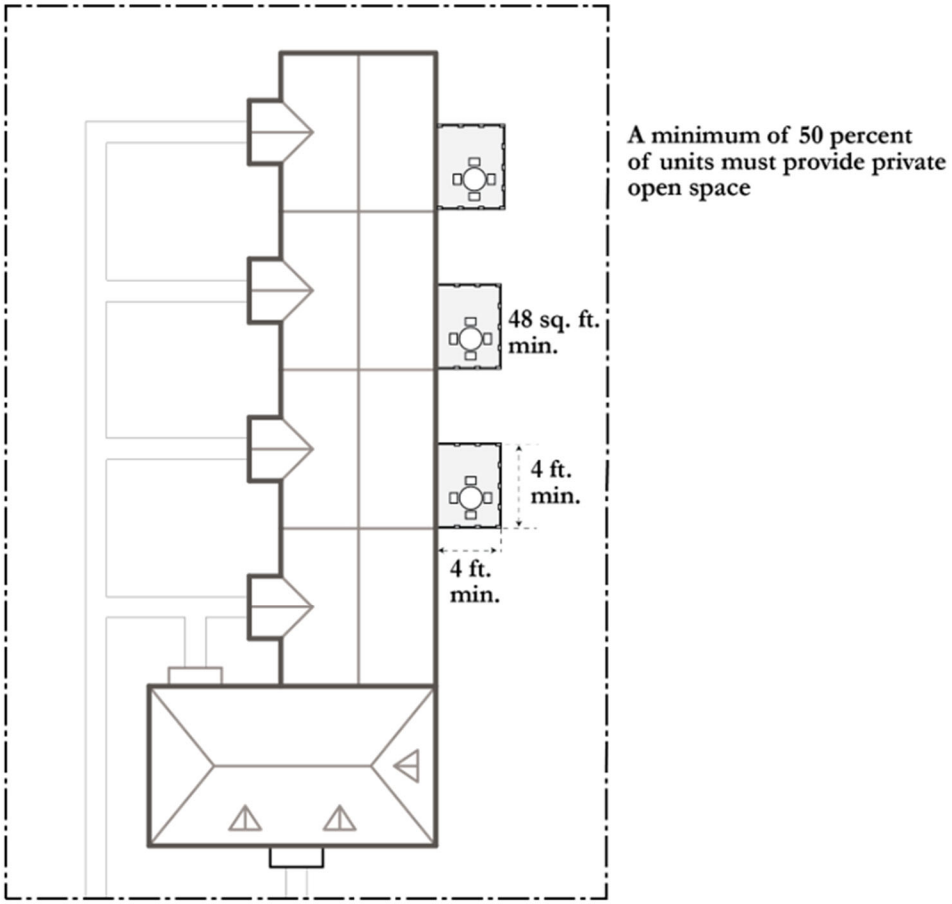
[1] Common open space shall be fully landscaped and accessible to all residents.

[2] See subsection (C)(4) of this section for requirements that apply to rooftop decks used as common open space.

[3] The planning commission may allow reduced common open space to a minimum of ten 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



3. Landscaping. See Section 17.72.050(A) for residential landscape requirements.

4. Objective Standards for Multifamily Dwellings. New multifamily dwellings in the RM zoning district must comply with Chapter 17.82 of this code (Objective Standards for Multifamily and Mixed-Use Residential Development).

5. Upper-Level Decks and Balconies.

a. For parcels that abut the R-1 zoning district, second-story decks and balconies must comply with the standards in subsection (B)(11) of this section (Second-Story Decks and Balconies) and Section 17.82.080(B)(5) of this code (Neighbor Privacy).

b. Roof decks must comply with the following standards:

i. Roof decks are not permitted on parcels that abut the R-1 zoning district.

ii. Roof decks require a design permit.

iii. Roof decks may provide up to fifty percent of the minimum required common open space specified in subsection (C)(2) of this section.

iv. Where permitted, a roof deck must be set back at least five feet from the building wall closest to the property line.

v. Railings to accommodate a roof deck may project forty-two inches above the maximum building height in cases where the roof deck provides open space for residents.

vi. Other than as needed to provide for roof access, no permanent structure that has a solid roof and/or is enclosed on two or more sides may be placed on or attached to a roof deck. Fully transparent glass wind barriers are allowed.

vii. Roof decks may not be placed on building features that project above the maximum building height permitted in the zoning district.

D. Standards for the MH Zoning District. Table 17.16-65 identifies development standards that apply in the mobile home park (MH) zoning district.

Table 17.16-65: MH Zoning District Development Standards

		Additional Standards
Site Area [1]	5 acres [2]	
Residential Density, Maximum	20 units per acre	
Setbacks [3]		17.48.030
Front	15 ft.	
Interior Side	10 ft.	
Exterior Side	10 ft.	
Rear	20 ft.	

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 five acres. For existing mobile home parks, the minimum parcel size is five 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.

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 balances 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 the MU-N zoning district is to allow for neighborhood-serving mixed use areas that enhance residents' quality of life. The MU-N zoning district contains an eclectic mix of retail, restaurants, and services for residents and visitors. A range of housing types close to nonresidential 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. (Res. 4223, 2021; Ord. 1043 § 2 (Att. 2), 2020)

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		**Zoning District**		
P	Permitted Use			
A	Administrative Permit required			
M	Minor Use Permit required			
C	Conditional Use Permit required			
–	Use not allowed	**MU-V**	**MU-N**	**Additional Regulations**
Residential Uses [7]–				Section 17.20.020(B), (C) and (E)
Duplex Homes		–/P [1]	P	

Key		Zoning District		
P	Permitted Use			
A	Administrative Permit required			
M	Minor Use Permit required			
C	Conditional Use Permit required			
–	Use not allowed	**MU-V**	**MU-N**	**Additional Regulations**
Elderly and Long-Term Care		C [2] [6]	C	
Group Housing		C [2] [6]	C	
Multifamily Dwellings		–/P [1] [6]	C	
Residential Care Facilities, Small and Large		See Section 17.20.020(F)		
Residential Care Facilities, Large		P~~C~~ [2] [6]	C	Section 17.96.080
Residential Mixed Use		See Sections 17.20.020(D) and (E) [6]	C	
Accessory Dwelling Units		A	A	Chapter 17.74
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		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				Section 17.20.020(E)
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	

Key		**Zoning District**		
P	Permitted Use			
A	Administrative Permit required			
M	Minor Use Permit required			
C	Conditional Use Permit required			
–	Use not allowed	**MU-V**	**MU-N**	**Additional Regulations**
Gas and Service Stations		–	–	
Lodging				
Bed and Breakfast		C	C	
Hotels and Motels		C	C	
Personal Services		P	P/C [3] [5]	
Professional Offices		P/C [4]	M [5]	
Retail		P	P/C [3] [5]	
Vacation Rental		See Section 17.40.030		
Transportation, Communication, and Utility Uses				
Utilities, Major		C	C	
Utilities, Minor		P	P	
Wireless Communications Facilities		See Chapter 17.104		
Other Uses				
Accessory Uses and Structures		See Chapter 17.52		Chapter 17.52
Home Occupations		P~~A~~	P~~A~~	Section 17.96.040
Permanent Outdoor Display (Accessory Use)		–	C	Section 17.96.100
Temporary Uses and Structures		See Section 17.96.180		
Urban Agriculture				
Home Gardens		P	P	
Community Gardens		M	M	
~~Urban Farms~~		~~C~~	~~C~~	~~–~~

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 three thousand square feet 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.

[6] Residential uses are prohibited on the former Capitola Theater site (APNs 035-262-04, 035-262-02, 035-262-11, and 035-261-10).

[7] See Section 17.96.210 (Replacement Units for Nonvacant Housing Element Sites) for requirements that apply to new residential uses on sites identified as nonvacant in the General Plan Housing Element inventory of land suitable for residential development.

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. (Ord. 1057 § 2 (Att. 1), 2022; Res. 4223, 2021; Ord. 1043 § 2 (Att. 2), 2020)~~

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 District

	MU-V	Additional Standards
Site Requirements		
Floor Area Ratio, Maximum	2.0	Section 17.20.030(C) Section 17.48.040 Chapter 17.88
Parking and Loading	See Chapter 17.76	
Structure Requirements		
Setbacks		
Front	Min: 0 ft. Max: 15 ft.	Section 17.20.030(D)
Rear	None [1]	
Interior Side	None	
Street Side	Min: 0 ft. Max: 15 ft.	
Height, Maximum	27 ft.	Section 17.20.030(B) and (C)

	MU-V	Additional Standards
		Section 17.48.020 Chapter 17.88
Accessory Structures	See Chapter 17.52	

Note:

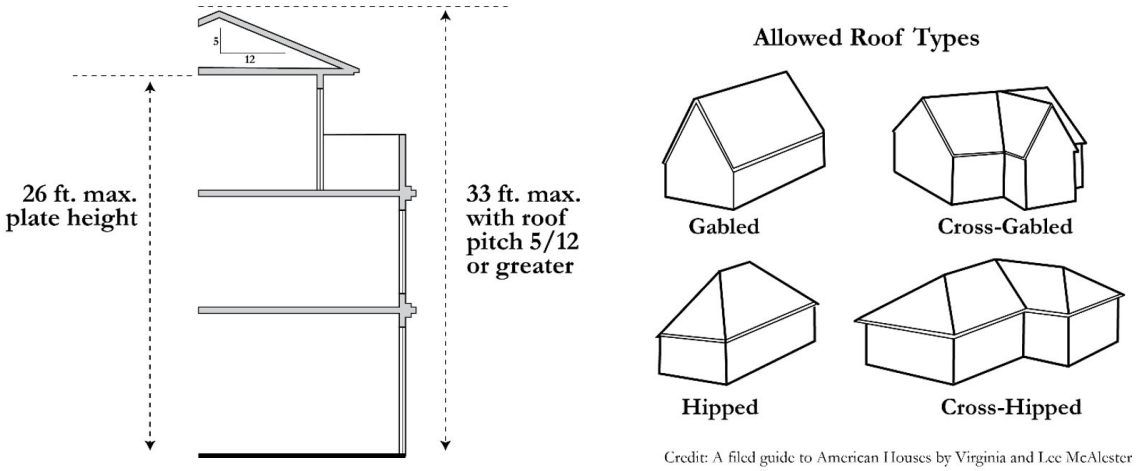
[1] Twenty percent of lot depth for residential use on parcel.

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 thirty-three feet for gabled or hipped roof with a minimum 5:12 roof pitch and a maximum plate height of twenty-six feet. There shall be no breaks in the roof slope for doors and decks. Exterior doors and decks above the twenty-six-foot plate height are prohibited. See Figure 17.20-1.

2. The thirty-three feet includes the maximum height of projections for nonhabitable 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:

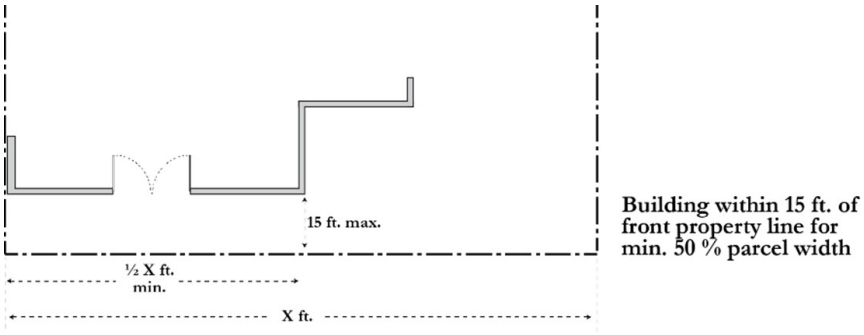
1. Building should be constructed within fifteen feet of the front property line for a minimum of fifty percent of the parcel's linear street frontage. See Figure 17.20-2. The planning commission may modify or waive this requirement upon finding that:

a. Compliance with the build-to width requirement would render the proposed project infeasible;

b. The project incorporates a front-facing courtyard or 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



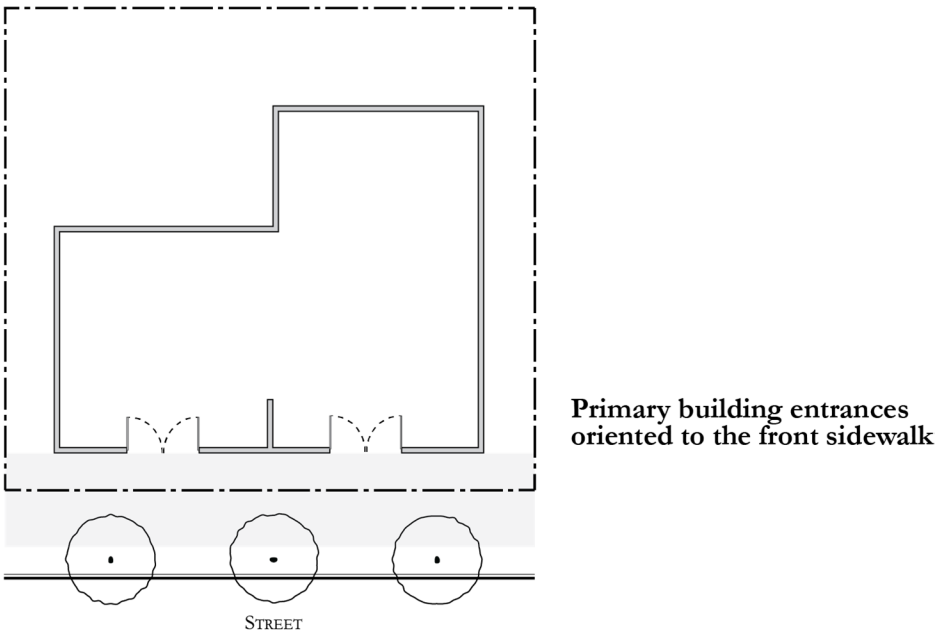
2. Front setback areas shall be pedestrian oriented and contain semi-public amenities such as courtyards or outdoor seating areas.

3. Structures shall be set back a minimum of ten 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 ten feet. See Figure 17.20-4. Building articulation may be provided by:

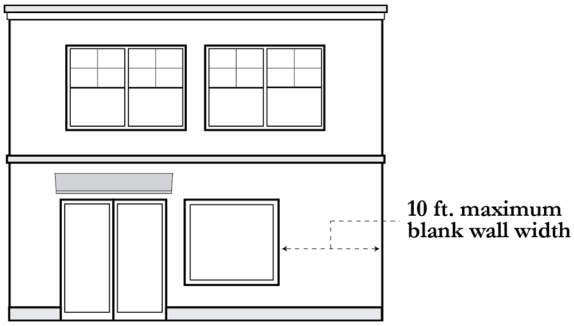
a. Doors, windows, and other building openings;

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 twenty-five feet. See Figure 17.20-5. Larger buildings shall be broken down into a pedestrian-scale rhythm with differentiated storefront design every twenty-five feet.

Figure 17.20-5: Storefront Width

4. Ground-Floor Building Transparency.

a. The ground-floor street-facing building walls of nonresidential uses shall provide transparent windows or doors with views into the building for a minimum of sixty-five percent of the building frontage located between two and one-half and seven 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:

i. The proposed use has unique operational characteristics which preclude building openings, such as for a cinema or theater; and

ii. 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.

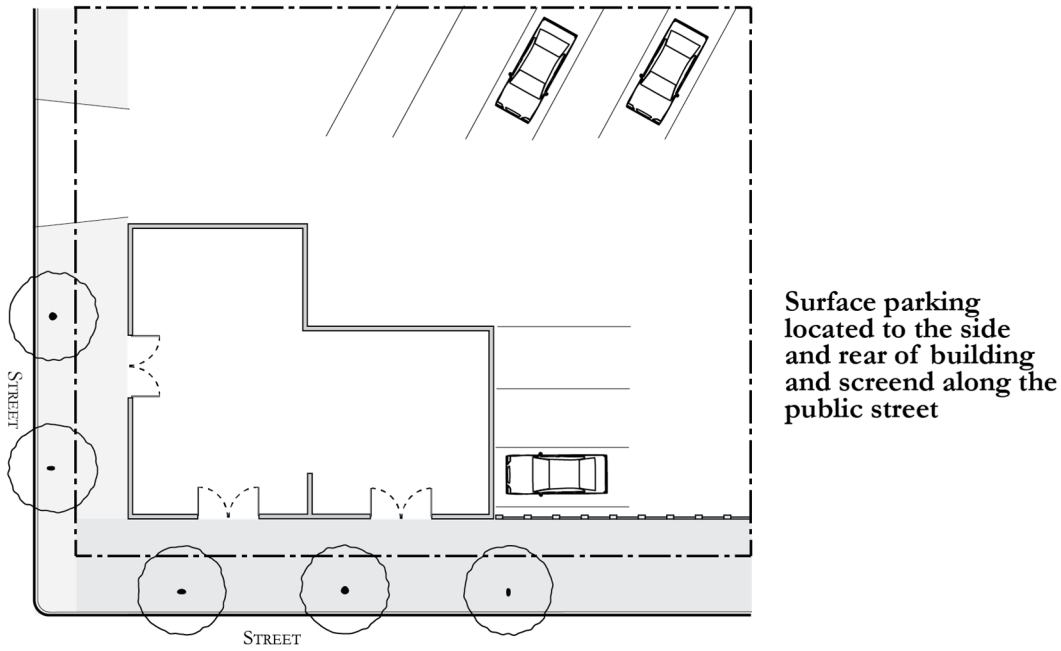
5. Parking Location and Buffers.

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 three 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 forty percent of the parcel width or twenty 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 or to allow for one on-site parking space of up to 14 feet in width.

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).

10. Roof Decks. Roof decks are prohibited in the MU-V zoning district. (Ord. 1057 § 2 (Att. 1), 2022; Res. 4223, 2021; Ord. 1043 § 2 (Att. 2), 2020)

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

	Zoning District	
	MU-N	Additional Standards
Site Requirements		
Parcel Area, Minimum [1]	3,200 sq. ft.	
Parcel Width, Minimum [1]	40 ft.	
Parcel Depth, Minimum [1]	80 ft.	
Floor Area Ratio, Maximum	1.0 [5]	Section 17.48.040
Parking and Loading	See Chapter 17.76	
Structure Requirements		
Setbacks		
Front	Min: 0 ft. from property line or 10 ft. from curb, whichever is greater [3] [4] Max: 25 ft.	Section 17.20.040(C)
Rear	10 ft. min. from property line [2] [3] [4]	
Interior Side	10% of lot width [3] [4]	
Street Side	Min: 0 ft. from property line or 10 ft. from curb, whichever is greater [3] Max: 25 ft.	
Height, Maximum	27 ft. [5]	Section 17.20.040(D)
Accessory Structures	See Chapter 17.52	

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 June 9, 2021. See 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] Twenty percent 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.

[5] Additional building height and FAR allowed for a housing development project that consolidates adjacent Housing Element opportunity sites. See 17.20.040(-K) (Lot Consolidation Incentive).

B. Building Orientation.

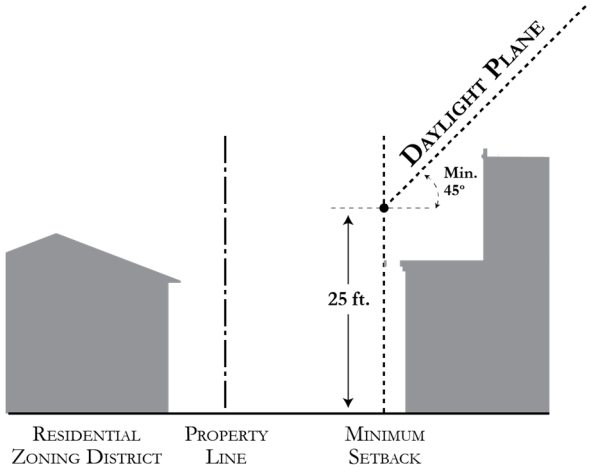
1. Buildings shall be oriented towards a public street with the primary entrance to the site or building directly accessible from an adjacent sidewalk.

2. The planning commission may grant an exception to the requirement in subsection (B)(1) of this section 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 twenty-five feet at the setback from the residential property line and extending into the parcel at an angle of forty-five 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 three 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 forty percent of the parcel width or twenty 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 or to allow for one on-site parking space of up to 14 feet in width.

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, and areas specifically prohibited by Section 17.76.040(C)(3)(i)~~.~~

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 set back from the curb or street edge in a manner that allows for a minimum ten-foot sidewalk along the property frontage.

Figure 17.20-9: Capitola Road MU-N Subject to Special Standards

I. Objective Standards for Multifamily Dwellings and Mixed-Use Residential Development. New multifamily dwellings and mixed-use residential development in the MU-N zoning district must comply with Chapter 17.82 of this code (Objective Standards for Multifamily and Mixed-Use Residential Development).

J. Roof Decks. Roof decks in the MU-N zoning district require a design permit. Roof decks must comply with standards in Section 17.16.030(C)(5)(b). (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1053 § 3, 2022; Res. 4223, 2021; Ord. 1043 § 2 (Att. 2), 2020)

K. Lot Consolidation Incentive. Housing Element Table 4-3 identifies adjacent opportunity sites which are suitable for lot consolidation. Projects in the MU-N zoning district that consolidate two or more opportunity sites identified in Housing Element Table 4-3 into a single parcel as part of a housing development project are permitted maximum building height and floor area ratio (FAR) as identified in Table 17.20-4.

Table 17.20-4: MU-N Lot Consolidation Bonus

Project Type	Baseline MU-N – Standard		Lot Consolidation Allowance	
	Height	FAR	Height	FAR
Residential Only	27 ft.	1.0	35 ft	1.5
Mixed-Use Residential with Ground-Floor Commercial	27 ft.	1.0	40 ft.	1.5

Chapter 17.24

COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

Sections:

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 enhances 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 nonresidential 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. (Ord. 1043 § 2 (Att. 2), 2020)

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		Zoning District			
P	Permitted Use				
A	Administrative Permit required				
M	Minor Use Permit required				
C	Conditional Use Permit required				
–	Use not allowed	**C-C**	**C-R**	**I**	**Additional Requirements**
Residential Uses [12]					
Single-Family Dwellings		–	–	–	
Multifamily Dwellings		C [9]	C [9]	–	
Residential Mixed Use		C	C [7]	–	Section 17.24.040
Large Residential Care Facilities		C [9]	C [9]	–	
Accessory Dwelling Unit		A	A		Chapter 17.74
Public and Quasi-Public Uses					
Colleges and Trade Schools		C	C	C	
Community Assembly		C	C	–	
Cultural Institutions		C	C	–	
Day Care Centers		M~~C~~	M~~C~~	–	
Emergency Shelters		P~~–~~	–	P	Section 17.96.030
Government Offices		See 17.24.020(C)		C	
Home Day Care		P	P	P	
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]	–	
Car Wash		C	C		
Financial Institutions		See 17.24.020(C)~~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					

Key		Zoning District			
P	Permitted Use				
A	Administrative Permit required				
M	Minor Use Permit required				
C	Conditional Use Permit required				
–	Use not allowed	**C-C**	**C-R**	**I**	**Additional Requirements**
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	–	
Maintenance and Repair Services		M	C	P	
Personal Services		P [1]	P [1]	–	
Professional Offices		See 17.24.020(C)		P	
Salvage and Wrecking		–	–	P	
Self-Storage		C	–	C	Section 17.96.140
Retail		P [11]	P [11]	–	
Retail Cannabis Establishment		C [10]	C [10]		Section 17.24.020(D)
Vehicle Repair		C	C	P	
Vehicle Sales and Rental		C [5]	C [5]	–	
Vehicle Sales Display Room [8]		P	P	–	
Wholesaling		–	M [3]	P	
Heavy Commercial and Industrial Uses					
Construction and Material Yards		–	–	P	
Custom Manufacturing		M	M	P	
Light Manufacturing		–	–	P	
Warehousing and Distribution		–	–	P	
Transportation, Communication, and Utility Uses					

Key		**Zoning District**			
P	Permitted Use				
A	Administrative Permit required				
M	Minor Use Permit required				
C	Conditional Use Permit required				
–	Use not allowed	**C-C**	**C-R**	**I**	**Additional Requirements**
Utilities, Major		–	C	C	
Utilities, Minor		P	P	P	
Recycling Collection Facilities		C	C	C	Section 17.96.130
Wireless Communications Facilities		See Chapter 17.104			
Other Uses					
Accessory Uses		See Chapter 17.52			
Home Occupations		P~~A~~	P~~A~~	–	Section 17.96.040
Permanent Outdoor Display		C	C	C	Section 17.96.100
Temporary Uses		See Section 17.96.180			
Urban Agriculture					
	Home Garden	P	P	–	
	Community Garden	M	M	–	
	~~Urban Farm~~	~~C~~	~~C~~	~~–~~	~~–~~

Notes:

[1] Combination of two or more tenant suites within a multi-tenant building or greater than five thousand square feet requires minor use permit.

[2] Combination of two or more tenant suites within a multi-tenant building or greater than five thousand square feet requires conditional use permit.

[3] Without stock. Storage of merchandise limited to samples only.

[4] Prohibited within one hundred 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 four 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 Chapter 9.36 of this code. 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 five thousand square feet.

[9] Allowed only as a part of a mixed use project integrated with commercial structures located on the same development site.

[10] Requires cannabis retail license (Chapter 9.61) and compliance with subsection D of this section.

[11] A retail use twenty thousand square feet or more requires a conditional use permit.

[12] See Section 17.96.210 (Demolition and Replacement of Dwelling Units) for requirements that apply to new residential uses on sites identified as nonvacant in the General Plan Housing Element inventory of land suitable for residential development.

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 17.44 (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 nonoffice space to office use are shown in Table 17.24-2. Offices include professional, medical, financial institutions and governmental offices.

Table 17.24-2: Permitted New Office Uses in the C-C and C-R Zoning Districts

Key			
P	Permitted Use		
A	Administrative Permit required		
M	Minor Use Permit required		
C	Conditional Use Permit required		
–	Use not allowed	**C-C Zoning District**	**C-R Zoning District**
Location and Size of Office Use			
Ground floor, less than 5,000 sq. ft.		P	-/–C [1]
Ground floor, 5,000 sq. ft. or more		P/C [2]	-/C [1]
Upper floor above a ground floor		P	P
~~Located within a multi-tenant site in which the office space is not located within a storefront and is set back from the front facade.~~		~~P~~	~~–~~

Notes:
[1] Allowed with a conditional use permit only in a multi-tenant building if one or more of the following conditions are met: (1) entry doors do not face an adjacent street frontage; or 2) the building does not front 41st Avenue or Clares Street.
[2] ~~Allowed as a~~ Permitted by right~~use~~ where: 1) entry doors do not face an adjacent street frontage; or 2) the building does not front 41st Avenue. Otherwise, a Conditional Use Permit is required.

2. Existing Office Uses. ~~Within office buildings utilized exclusively for office uses as of June 9, 2021, office uses may continue to occupy ground-floor tenant spaces. Within such office buildings, 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 nonoffice use~~.

a. In the C-C and C-R zoning districts, office uses may continue to occupy existing office space. For purposes of this section, "existing office space" means any tenant space legally occupied by an office use; and vacant tenant space where the most recent legal occupant was an office use. The City shall use business license documentation to determine the legal occupancy of tenant space.

b. Offices are a permitted use in existing office space. A new office tenant may occupy existing office spaces without the permit requirements in Table 17.24.

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:

i. Distance from Schools and Churches. Retail cannabis establishments are not permitted within a path of travel of one thousand 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.

ii. Distance Between Retail Cannabis Establishments. A retail cannabis establishment shall not be located within a path of travel of five hundred feet of another retail cannabis establishment. Path of travel is measured from the retail establishment suite on a multi-tenant property or the structure for a single-tenant property.

iii. Independent Access. A retail cannabis establishment shall have an independent exterior entrance that is not shared with any other business or residence.

iv. 41st Avenue Frontage. In the C-C zoning district, a retail cannabis establishment must be on a property fronting 41st Avenue.

(Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

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

	C-C	C-R	I	Additional Standards
Site Requirements				
Parcel Area, Minimum	5,000 sq. ft.			
Parcel Width, Minimum	50 ft.			
Parcel Depth, Minimum	100 ft.			
Floor Area Ratio, Maximum	1.0 [1]	1.5	0.5	Section 17.24.030(D) Chapter 17.88
Structure Requirements				
Setbacks, Minimum				
Front	See Section 17.24.030(C)		0 ft.	
Rear	0 ft. unless adjacent to a residential zoning district (see Section 17.24.030(E))			

	C-C	C-R	I	Additional Standards
Interior Side	0 ft. unless adjacent to a residential zoning district (see Section 17.24.030(E))			
Street Side	See Section 17.24.030(C)		0 ft.	
Height, Maximum	40 ft. [1]	40 ft.	30 ft.	Section 17.24.030(D) and (E) Chapter 17.88
Landscaped Open Space, Minimum	5%			Table 17.72-1
Parking and Loading	See Chapter 17.76			

Notes:
[1] Additional building height and FAR allowed for a housing development project that consolidates adjacent Housing Element opportunity sites. See 17.24.040(J) (Lot Consolidation Incentive).

B. C-C 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: thirty-five feet.

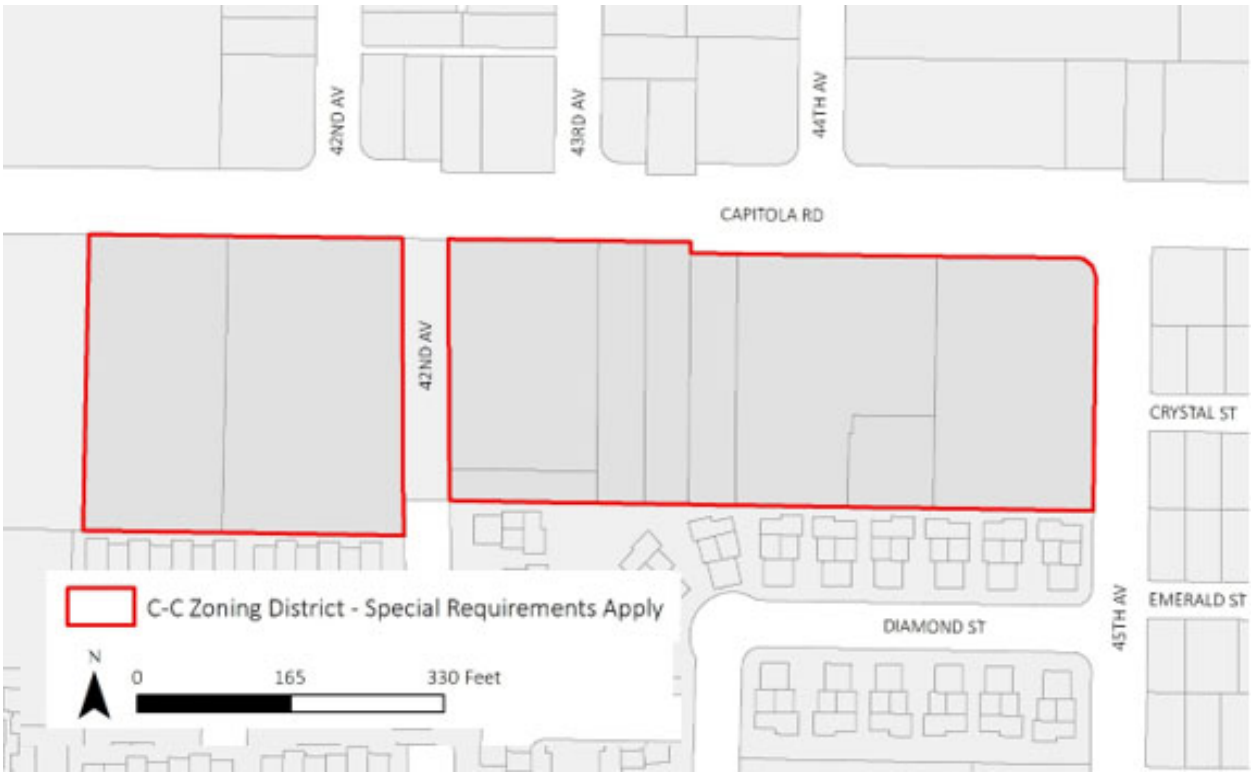
2. Minimum rear setback: forty feet.

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.

i. 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



ii. Before planning commission and city council review, the applicant shall host at least one community workshop to solicit community input on preliminary project plans.

iii. 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:

i. The project satisfies applicable design review criteria in Section 17.120.070 (Design review criteria).

ii. 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.

iii. The project incorporates rear yard setbacks and upper-story stepbacks as needed to maintain adequate light and air for abutting residential uses.

iv. The height and intensity of development is compatible with the scale and character of neighboring residential areas.

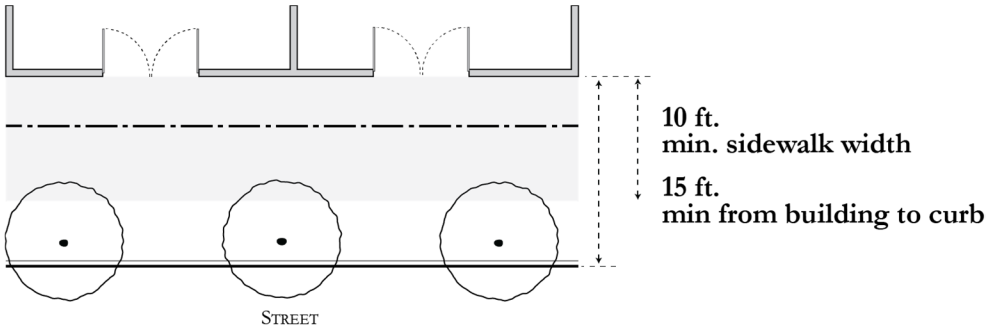
v. The project incorporates design features to support a safe and welcoming pedestrian environment. Potential features may include, but are not limited to, enhanced sidewalks along the property frontage, internal pedestrian walkways, outdoor public gathering places, unique landscaping treatments, and 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 set back from the front and street side property line so that:

1. The building is at least fifteen feet from the curb or street edge; and

2. Building placement allows for a minimum ten-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



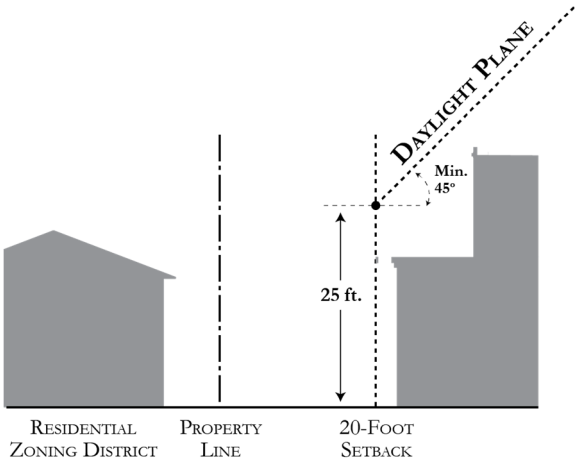
D. Increased Floor Area and Height in C-C and C-R Zoning Districts. As provided in Chapter 17.88 (Incentives for Community Benefits), the city council may approve exceptions to height and floor area ratio (FAR) limits shown in Table 17.24-3 for proposed projects in the C-C and C-R zoning districts. These 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 fifteen feet for interior side yards and twenty feet for rear yards. For lots less than one hundred 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 twenty-five feet at the setback from the residential property line and extending into the parcel at an angle of forty-five degrees. See Figure 17.24-3.

Figure 17.24-3: Residential Transitions – Daylight Plane



3. Landscaping. A landscaped planting area, extending a minimum of ten 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 fifteen 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 to 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 nonresidential landscape requirements.

H. Objective Standards for Multifamily Dwellings and Mixed-Use Residential Development. New multifamily dwellings and mixed-use residential development in the C-C and C-R zoning districts must comply with Chapter 17.82 of this code (Objective Standards for Multifamily and Mixed-Use Residential Development).

I. Roof Decks. Roof decks that provide common open space for residents in the commercial zoning district require a design permit. Roof decks must comply with standards in Section 17.16.030(C)(5)(b). (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1053 § 3, 2022; Ord. 1043 § 2 (Att. 2), 2020)

J. Lot Consolidation Incentive. Housing Element Table 4-3 –identifies adjacent opportunity sites which are suitable for lot consolidation. Projects in the C-C zoning district that consolidate two or more opportunity sites identified in Housing Element Table 4-3 into a single parcel as part of a housing development project are permitted maximum building height and floor area ratio (FAR) as identified in Table 17.24-4.

Table 17.24-4: C-C Lot Consolidation Bonus

Baseline C-C Standard		Lot Consolidation Allowance	
Height	FAR	Height	FAR
40 ft.	1.0	50 ft	1.5

K. Micro-Units. A building with micro-units in the C-C or C-R zoning district is permitted a maximum height of 50 ft. and a maximum FAR of 1.5 only when:

1. The micro-units are within one-quarter mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21064.3 of the Public Resources Code; and

2. The micro-units constitute 50 percent or more of the total number of units in the building.

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 ten feet. Architectural articulation should have a 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 fifty feet. Larger buildings shall be broken down into a pedestrian-scale rhythm with individual storefront widths of twenty-five to fifty feet.

6. Ground-Floor Building Transparency. The ground-floor street-facing building walls of nonresidential uses shall provide transparent windows or doors with views into the building for a minimum of sixty-five percent of the building frontage located between two and one-half and seven 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 theater; 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

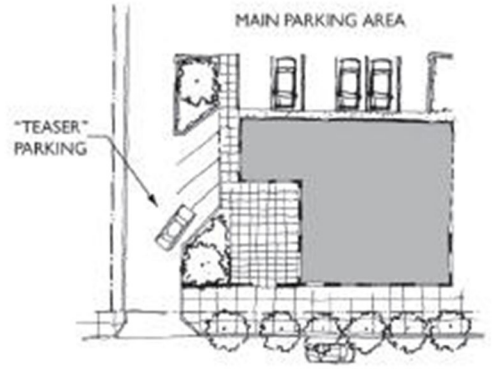
7. Retail Depth. Ground-floor commercial space shall have a depth of at least forty-five feet or two-thirds of the parcel depth, whichever is less. Where possible, sixty-foot depths are encouraged to accommodate a wider range of tenants, especially food tenants. The planning commission may grant an exception 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 fifteen feet. Where possible, eighteen-foot floor-to-floor heights are encouraged.

9. Parking Location. No more than ten 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 twenty-four 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



(Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.32

SPECIAL PURPOSE ZONING DISTRICTS

Sections:

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 District. 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

Key		Zoning District		
P	Permitted Use			
A	Administrative Permit required			
M	Minor Use Permit required			
C	Conditional Use Permit required			
–	Use not allowed	**CF**	**P/OS**	**Additional Regulations**
Public and Quasi-Public Uses				
Colleges and Trade Schools		C	–	
Community Assembly		P [1]	–	
Cultural Institutions		P [1]	–	
Day Care Centers		P [1]	–	
Government Offices		P	–	
Parks and Recreational Facilities		P [1]	P [1]	
Public Paths and Coastal Accessways		P	P	
Public Safety Facilities		P	–	
Schools, Public or Private		P	–	
Transportation, Communication, and Utilities Uses				
Recycling Collection Facilities		C	–	Section 17.96.130
Utilities, Major		C	C	
Utilities, Minor		P	P	
Wireless Telecommunications Facilities		See Chapter 17.104		
Other Uses				
Accessory Uses and Structures		See Chapter 17.52		
Temporary Uses and Structures		See Section 17.96.180		
Urban Agriculture				
	Community Gardens	M [1]	M [1]	
	~~Urban Farms~~	~~C [1]~~	~~C [1]~~	~~–~~

Note:

[1] Publicly owned and/or operated facilities only.

(Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.36

PLANNED DEVELOPMENT ZONING DISTRICT

Sections:

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. (Ord. 1043 § 2 (Att. 2), 2020)

17.36.020 Where allowed.

The PD zoning district may be applied to any property in Capitola with an area of twenty thousand 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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 Section 17.44.130 (Findings for approval). (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 and Local Coastal Program 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. (Ord. 1043 § 2 (Att. 2), 2020)

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 subsection D of this section (Application Materials).

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 subsection G of this section (Findings). 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 subsection H of this section.

3. Site Plan. A 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 five hundred 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).

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 subsection G of this section (Findings).

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 subsection G of this section (Findings) 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 subsection H of this section (Substantial Public Benefit Defined). 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 Section 17.44.130 (Findings 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 applies 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~~with income-restricted affordable units.

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 businesses 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. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.40

RESIDENTIAL OVERLAY ZONES

Sections:

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. (Ord. 1043 § 2 (Att. 2), 2020)

17.40.020 ~~*Affordable housing (-AH) overlay zone*~~*Reserved*.

~~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 sectors 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 multifamily 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 fifty-five years) and affordable ownership units in perpetuity.~~

~~B. Applicability. The -AH overlay zone may be applied to parcels located in a multifamily 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 Section 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 twenty units per acre are permitted in the -AH overlay zone. The twenty 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 fifty 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 fifty percent of income-restricted affordable units (twenty-five 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 of this section (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.

i. The minimum setbacks from property lines shall be determined by the city through the design permit process.

ii. 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 subsection (H)(2) of this section (Relaxed Development Standards), 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 subsection H of this section (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:

i. Ten percent of the total area of the site; or

ii. Seventy-five 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:

i. Landscaping and areas for passive and active recreation/open space with a minimum depth and width of five feet.

ii. 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 subsection C of this section (Definitions), for fifty-five 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 fifty-five 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.40.030 Vacation rental use (-VRU) overlay zone.

A. Purpose. The -VRU overlay zone identifies locations within residential areas where the short-term rental of dwelling units is permitted.

B. Applicability. Locations where the -VRU overlay zone applies is shown on the zoning map.

C. Land Use Regulations. Permitted uses in the -VRU 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 -VRU 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 twelve inches by twelve 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 (this subsection 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. (Ord. 1043 § 2 (Att. 2), 2020)

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. Nonresidential 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 Uses).

C. Development Standards. Development standards in the -VR overlay zone are the same as the mixed use village (MU-V) zoning district. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.44

COASTAL OVERLAY ZONE

Sections:

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 ~~on~~ 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 through 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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

17.44.030 Definitions.

See also Chapter 17.160, Glossary. Specialized terms as used in this chapter are defined as follows:

A. "Aggrieved person" means 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 two hundred years) subject to marine erosion.

b. The toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).

2. "Bluff line or edge" is defined as the upper termination of a bluff, cliff, or sea cliff. 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" means 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" means any use that is dependent on a coastal-dependent development or use.

E. "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.

F. “Coastal hazards” include, but are not limited to, episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, 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, water bodies (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” 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.

I. “Energy facility” means 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 two hundred eighty-three thousand five hundred two dollars 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)” means 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” means 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)” means 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 two hundred eighty-three thousand five hundred two dollars 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” 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.

O. “Shoreline protective device” means 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” means 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” means 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” means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 Section 17.44.030(H), within the -CZ overlay zone require 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 one thousand 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 one thousand 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. 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. (Ord. 1043 § 2 (Att. 2), 2020)

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) of this section 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 fifty 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 fifty 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 subsection (A)(1) 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 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 ten percent or more of internal floor area of an existing structure.

b. An additional improvement of ten 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 the 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 fifty 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 one hundred 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 subsection (B)(1) 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 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 ten percent or more of internal floor area of an existing structure;

b. An additional improvement of ten 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 ten 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:

i. Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

ii. The placement, whether temporary or permanent, of riprap, 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;

iii. The replacement of twenty percent or more of the materials of an existing structure with materials of a different kind; or

iv. The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area, bluff, or environmentally sensitive habitat area, or within twenty feet of coastal waters or streams.

b. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, 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:

i. The placement or removal, whether temporary or permanent, of riprap, rocks, sand, or other beach materials or any other forms of solid materials; or

ii. The presence, whether temporary or permanent, of mechanized equipment or construction materials.

c. 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 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 ten 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 subsection. 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 subsection.

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 seventy-five 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. (Ord. 1043 § 2 (Att. 2), 2020)

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 of this section:

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. Except for accessory dwelling units as provided in Section 17.74.030(E)(2), 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 ten working days prior to the waiver being reported at a city public hearing (see subsection F of this section). 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.44.100 Challenges to city determination of a CDP.

A. City Determination.

1. The determination of whether a development is exempt, nonappealable, 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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 for 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 ten 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 one hundred 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 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 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. Renoticing Required. If a decision on a CDP is continued by the review authority to a date or time not specific, the item shall be renoticed in the same manner and within the same time limits established by this section. If a decision on a CDP is continued to a specific date and time within thirty days of the first hearing, then no renoticing is required. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 of this section).

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 ten 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 ten 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 (B)(3)(a) through (b) of this section, 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 three hundred 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 one hundred feet of any wetland, estuary, or 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.

4. Appeals must be submitted to the Coastal Commission within ten 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 subsection A of this section (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. (Ord. 1043 § 2 (Att. 2), 2020)

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 request 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. (Ord. 1043 § 2 (Att. 2), 2020)

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 an ordinary CDP.

2. The development can and will be completed within thirty days unless otherwise specified by the terms of the permit.

3. Public comment on the proposed emergency action has been reviewed if time allows.

4. The work proposed 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 sixty 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 thirty 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 (CDP 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 thirty days of issuance of the permit.

3. The emergency CDP shall expire sixty 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 thirty 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 time frame 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. (Ord. 1043 § 2 (Att. 2), 2020)

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 through 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. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.74

ACCESSORY DWELLING UNITS

Sections:

17.74.010 Purpose.

A. This chapter establishes standards for the location and construction of accessory dwelling units (ADUs) consistent with Government Code Sections 6631~~05852.2~~ through 6634~~25852.22~~. 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.

B. It is the city's intent for this chapter to be consistent with state law as it is amended from time to time. In case of conflict between this chapter and state law, state law governs unless local variation is permitted. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.020 Definitions.

Terms used in this chapter are defined as follows:

A. "Accessory dwelling unit" means a self-contained living unit located on the same parcel as a primary dwelling unit.

B. "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.

C. "Detached accessory dwelling unit" means an accessory dwelling unit that does not share a common wall with the primary dwelling unit and is not an internal accessory dwelling unit.

D. "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.

E. "Junior accessory dwelling unit" means an accessory dwelling unit no more than five hundred square feet in size and contained entirely within a single-family residence. For purposes of this definition, attached garages and other enclosed uses within the residence are considered a part of a single-family residence.

F. "Multifamily dwelling" means a structure with two or more dwelling units.

F. "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.

G. "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. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.030 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 either approve or deny an application to create an accessory dwelling unit within sixty days from the date the city receives a completed application. If the applicant requests a delay in writing, the sixty-day time period shall be tolled for the period of the delay.

3. If the city denies an application for an accessory dwelling unit, the city shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

4. If the accessory dwelling unit application is submitted with a permit application to create a new single-family or multifamily dwelling on the parcel, the city may delay approving or denying the accessory dwelling unit application until the city approves or denies the permit application for the new single-family dwelling. The accessory dwelling unit shall be considered without discretionary review or hearing.

5. A demolition permit for a detached garage that is to be replaced with an accessory dwelling unit shall be reviewed with the application for the accessory dwelling unit and issued at the same time.

B. Two-Story Units.

1. ~~–~~Planning commission approval of a design permit is required for ~~A~~a two-story accessory dwelling unit (attached or detached) with a height greater than the maximum permitted one-story accessory dwelling unit heights in Table 17.74-1 ~~sixteen feet in height requires planning commission approval of a design permit~~.

2. To approve the design permit, the planning commission must make the findings in Section 17.74.110. A two-story accessory dwelling unit must comply with the standards in Sections 17.74.080 (Development standards) and 17.74.090 (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 Section 17.74.080 (Development standards) or 17.74.090 (Objective design standards) may be allowed with planning commission approval of a design permit. See Section 17.74.100 (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 Section 17.44.130 (Findings for approval).

2. The City may issue a CDP waiver pursuant to Section 17.44.090 (De minimis waiver of a CDP) for a proposed accessory dwelling unit in the coastal zone. The City may issue a CDP waiver for an accessory dwelling unit both within and outside of locations where City decisions are appealable to the Coastal Commission. To be eligible for a CDP waiver, the proposed accessory dwelling unit must comply with all of the following:

a. The accessory dwelling unit complies with all standards in this chapter and may be approved ~~ministerially~~ with no public hearing required.

b. The accessory dwelling is not located:

i. In an area subject to coastal hazards as defined by Section 17.44.040(~~.~~F);

ii. Within 200 feet of a cliff edge; or

iii In an environmentally sensitive habitat area (ESHA) as defined by Section 17.44.040(~~.~~J), including categorical ESHA areas identified in Section 17.64.020 (Applicability).

c. The accessory dwelling unit would not negatively impact coastal resources, public access, or views consistent with the City's certified Local Coastal Program.

3. A CDP waiver for an accessory dwelling unit shall comply with all requirements in Section 17.44.090 that apply to other types of development with the exception that the City may issue a CDP waiver for an accessory dwelling unit both within and outside of locations where City decisions are appealable to the Coastal Commission.

4~~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. ~~a~~A public hearing for a CDP application for an accessory dwelling unit ~~shall~~ is not ~~be~~ required as provided in Section 17.74.030(A)(1); and~~.~~

The City may issue a CDP waiver for an accessory dwelling unit as provided in Section 17.74.030(E)(2)

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 17.84 (Historic Preservation). Third-party review of the proposed project may be required as provided in Chapter 17.84.

2. Compliance with Chapter 17.84 is not required for accessory dwelling units approved ministerially with an administrative permit.~~.~~

G. Correction of Violations. The city shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.

H. Unpermitted Accessory Dwelling Units.

1. Except as provided in subsection (H)(2) of this section, the city shall not deny a permit for an unpermitted accessory dwelling unit that was constructed before January 1, 2018, due to either of the following:

a. The accessory dwelling unit is in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code.

b. The accessory dwelling unit does not comply with Government Code Sections 66314 - 66332 ~~65852.2~~ or this chapter.

2. The city may deny a permit for an unpermitted accessory dwelling unit that was constructed before January 1, 2018, if the local agency makes a finding that correcting the violation is necessary to protect the health and safety of the public or occupants of the structure.

3. This subsection shall not apply to a building that is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.040 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 Sections 17.74.050 (Units subject to limited standards)~~(B) (One-Story Detached Accessory Dwelling Units Eight-Hundred Square Feet or Less), 17.74.050(C) (Nonlivable Multifamily Space), and 17.74.050(D) (Detached Accessory Dwelling Units on Multifamily Parcels)~~.

C. Residential Mixed Use. If one dwelling unit is on a parcel with a nonresidential 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 nonresidential 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. Establishing an accessory dwelling unit in conformance with this chapter does not require placing existing overhead utility lines underground.

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. Establishing an accessory dwelling unit does not require installing fire sprinklers in the existing primary dwelling.

F. Vacation Rentals Prohibited. Accessory dwelling units may not be used for vacation rentals as defined in Chapter 17.160 (Glossary).

G. Separate Sale from Primary Dwelling. An accessory dwelling unit shall not be sold or conveyed separately from the primary dwelling except as provided in Government Code Section 66340-66342.

H. Guaranteed Allowance.

1. –Maximum building coverage, floor area ratio, front setbacks, and private open space standards in Section 17.74.080 (Development standards) shall not prohibit an accessory dwelling unit with up to eight hundred square feet of floor area, ~~up to sixteen 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 eight hundred square feet of floor area is in addition to the maximum floor area of a property.

2. An accessory dwelling unit may deviate from a building coverage, floor area ratio, front setbacks, or private open space standard no more than the minimum necessary to allow for eight hundred square feet of floor area.

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 an existing structure within four 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 to California Health and Safety Code Section 18007, as may be amended from time to time, a manufactured home must:

a. Provide a minimum of three hundred twenty 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 unless the property is owned by a governmental agency, land trust, or housing organization, in which case owner-occupancy is not required.

3. Sanitation Facilities.

a. A junior accessory dwelling unit may include sanitation facilities, or may share sanitation facilities with the primary dwelling.

b. If a junior accessory dwelling unit does not include a separate bathroom, the junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.

4. Kitchen. A junior accessory dwelling unit must include, at a minimum:

a. A cooking facility with appliances; and

b. At least three linear feet of food preparation counter space and three 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.

M. Pursuant to the authority provided by Section 65852.21(f) of the Government Code, no accessory dwelling unit or junior accessory dwelling unit shall be permitted on any lot in a single-family zoning district if: (1) an urban lot split has been approved pursuant to Chapter 16.78 of this code; and (2) an SB 9 residential development with two units has been approved for construction pursuant to Chapter 17.75 of this code. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1052 § 4, 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.050 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 Sections 17.74.080 (Development standards) and 17.74.090 (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 one hundred fifty square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the second story of an 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 Sections 66333 - 66339 ~~65852.22~~.

B. One-Story Detached Accessory Dwelling Units Eight Hundred Square Feet or Less. One detached 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 of this section (Internal Accessory Dwelling Units). The accessory dwelling unit must comply with the following:

1. Minimum rear and side setbacks: four feet.

2. Maximum floor area: eight hundred square feet.

3. Maximum height: sixteen feet or 18 feet as allowed by Government Code Section 66321(b) (4).

C. Nonlivable 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 a maximum of twenty-five 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.

1. Not more than two detached accessory dwelling units that are located on a parcel that has an existing or proposed multifamily dwelling, subject to the following:

a. Maximum height: eighteen feet.

b. Minimum rear and side setbacks: four feet.

2. If the existing multifamily dwelling has a rear or side setback of less than four feet, the city shall not require any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subsection. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.060 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 Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards).

B. One-Story Detached Accessory Dwelling Units Between Eight Hundred and One Thousand Two Hundred Square Feet. A one-story detached accessory dwelling unit with a floor area between eight hundred and one thousand two hundred square feet in compliance with standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards). (Ord. 1043 § 2 (Att. 2), 2020)

17.74.070 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~~ than the maximum permitted one-story accessory dwelling unit heights in Table 17.74-1 in compliance with standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards).

B. Accessory Dwelling Units Deviating from Standards. Any accessory dwelling unit that deviates from one or more standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards), except for accessory dwelling units approved pursuant to Section 17.74.050 (Units subject to limited standards). (Ord. 1043 § 2 (Att. 2), 2020)

17.74.080 Development standards.
The standards in this section apply to all accessory dwelling units not approved pursuant to Section 17.74.050 (Units subject to limited standards).

A. General. Table 17.74-1 shows development standards that apply to accessory dwelling units.

Table 17.74-1: 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

ADU Type/Location	Standard
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, 1st and 2nd Story	4 ft.
Exterior Side, 1st and 2nd Story	4 ft.
Rear, 1st and 2nd Story	4 ft.
Building Coverage, Maximum	
R-M zoning district	40% [2]
All other zoning districts	No maximum
Height, Maximum [3]	
Attached ADU	25 ft. or maximum permitted in zoning district, whichever is less
One-story detached ADU on lot with existing or proposed single-family dwelling	16 ft. [8]
One-story detached ADU on lot with existing or proposed multifamily and multi-story dwelling	18 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 eight hundred square feet of floor area. See Section 17.74.040(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 17.74.040(I) (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 subsection B of this section (Front Setbacks).
[6] A two-story detached accessory dwelling unit greater than sixteen feet in height requires a design permit.
[7] Private open space may include screened terraces, decks, balconies, and other similar areas.
[8] A maximum height of 18 feet is allowed for a detached accessory dwelling unit on a lot with an existing or proposed single family dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. An additional 2 feet in height is allowed to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

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, except that increased front setback requirements do not apply to an accessory dwelling unit created by converting or replacing an existing structure.

2. In the R-1 zoning district, front setback exceptions in Riverview Terrace and on Wharf Road as allowed in Section 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.

i. Required off-street parking may be located within minimum required setback areas from front, side, and rear property lines.

ii. 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 two and one-half 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 twenty-four-foot back-out area, which may include the alley.

2. Outside of Coastal Zone or~~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 17.74-1.

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 subsection (C)(2)(c) of this section.

c. No off-street parking is required for an accessory dwelling unit in the following cases:

i. The accessory dwelling unit is located within one-half mile walking distance of public transit, as defined in Government Code Section 6~~6313(l)~~~~5852.2(j)(10)~~.

ii. The accessory dwelling unit is located within a National Register Historic District or other historic district officially designated by the city council.

iii. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

v. 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.

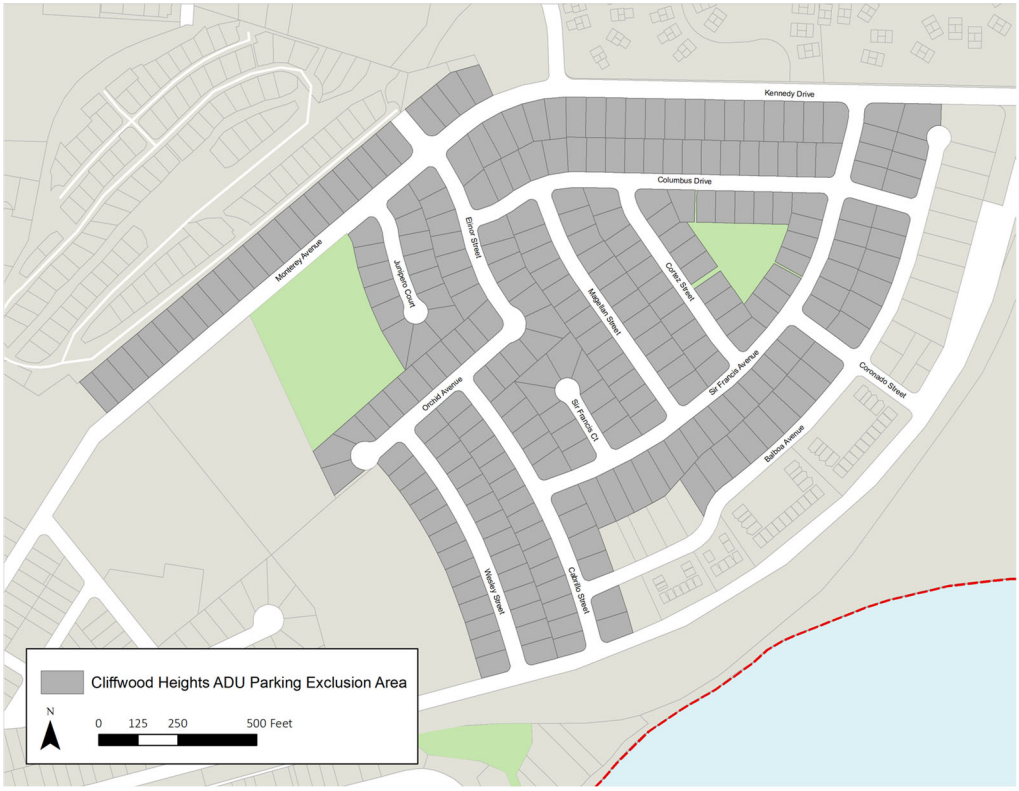
3. Within Coastal Zone and Outside Cliffwood Heights. The following parking provisions apply only to accessory dwelling units in the coastal zone and outside of the Cliffwood Heights neighborhood as shown in Figure 17.74-1 in accordance with the city's adopted local coastal program.

a. One off-street parking space is required for any type of accessory dwelling unit except as provided in subsection (C)(3)(b) of this section.

b. Where the primary residence is served by ~~four~~three 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 subsection (C)(3)(a) of this section.

Figure 17.74-1: Cliffwood Heights ADU Parking Exclusion Area



(Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.090 Objective design standards.

The standards in this section apply to all accessory dwelling units not approved pursuant to Section 17.74.050 (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 eight 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 six-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 17.74-2 shows architectural detail standards for accessory dwelling units.

Table 17.74-2: 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 nonreflective 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 nonreflective 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 eighteen inches from the parallel side or rear building wall to distinguish it from the historic structure. (Ord. 1043 § 2 (Att. 2), 2020)

17.74.100 Deviation from standards.

A. When Allowed. The planning commission may approve an accessory dwelling unit that deviates from one or more standards in Sections 17.74.080 (Development standards) and 17.74.090 (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 17.74.110 (Findings). (Ord. 1043 § 2 (Att. 2), 2020)

17.74.110 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 sixteen feet in height; and

2. Accessory dwelling units that deviate from one or more standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards), except for accessory dwelling units approved pursuant to Section 17.74.050 (Units subject to limited 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 and sewer service as determined by the applicable service provider.

5. Adequate open space and landscaping have been provided that are usable for both the accessory dwelling unit and the primary residence. Open space and landscaping provide for privacy and screening of adjacent properties.

6. The location and design of the accessory dwelling unit maintain a compatible relationship to adjacent properties and do 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 to 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.74.120 Deed restrictions.

A. ~~Before obtaining a building permit~~Prior to issuing a certificate of occupancy 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 unit may not be used for vacation rentals as defined in Chapter 17.160 (Glossary).

2. The accessory dwelling unit may not be sold separately from the primary dwelling except as provided in Government Code Section 66340-66342.

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. (Ord. 1043 § 2 (Att. 2), 2020)

17.74.130 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. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.76

PARKING AND LOADING

Sections:

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 any time 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 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.

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 subsection (C)(1)(b) of this section.

b. Within the mixed use village (MU-V) zoning district, an eating and drinking establishment may expand by up to twenty 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. This provision applies only to a single expansion of floor area. Subsequent expansions must provide additional parking.

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. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

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

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

Note:

[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.

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

Land Uses	Number of Required Parking Spaces
Residential Land Uses	
Duplex Homes	2 per unit, 1 covered
Elderly and Long-Term Care	1 per 6 beds plus 1 per 300 sq. ft. of office
Group Housing (includes single-room occupancy)	1 per unit ~~plus 1 guest space per 6 units~~
Micro-units	0.5 per unit within one-quarter mile walking distance of a major transit stop or a high-quality transit corridor, as defined in Public Resources Code Section 21064.3; 1 per unit all other locations
Mobile Home Parks	1 per unit plus 1 per office and 1 guest space per 10 units
Multifamily Dwellings	500 sq. ft. or less: 1 per unit 501 – 750 sq. ft.: 1.5 per unit 751 sq. ft. or more: 2 per unit ~~2.5 per unit, 1 covered~~
Residential Care Facilities~~, Small~~	~~0.5 per~~1 per 3 beds plus 1 per 300 sq. ft. of office. None required for transitional housing located one-half mile of a public transit stop
~~Residential Care Facilities, Large~~	~~0.5 per bed plus 1 per 300 sq. ft. of office~~
Accessory Dwelling Units	See Chapter 17.74 (Accessory Dwelling Units)
Single-Family Dwellings	~~1,500 sq. ft. or less:~~ 2 per unit ~~1,501 – 2,000 sq. ft. or more : 2 per unit, 1 covered~~ ~~2,001 – 2,600 sq. ft.: 3 per unit, 1 covered~~ ~~2,601 sq. ft. or more: 4 per unit, 1 covered~~
All other age-restricted senior housing (excludes elderly and long-term care, group housing, and residential care facilities)	1.5 per unit
Public and Quasi-Public Land Uses	
Community Assembly	1 per 3 fixed seats, or 1 per 40 sq. ft. of assembly area for uses without fixed seats. See also 17.76.030(G) (Religious Institution Affiliated Housing Development Projects)
Cultural Institutions	As determined by a parking demand study
Day Care Centers	1 per 400 sq. ft. of floor area used for daycare and 1 per employee
Government Offices	1 per 300 sq. ft.
Home Day Care, Large	1 per each nonresident employee
Home Day Care, Small	None beyond minimum for residential use
Medical Offices and Clinics	1 per 300 sq. ft.
Parks and Recreational Facilities	As determined by a parking demand study
Public Safety Facilities	As determined by a parking demand study
Schools, Public or Private	2 per classroom
Commercial Land Uses	
Banks and Financial Institutions	1 per 300 sq. ft.
Business Services	1 per 300 sq. ft.

Land Uses	Number of Required Parking Spaces
Commercial Entertainment and Recreation	1 per 3 fixed seats, or 1 per 40 sq. ft. of assembly area for uses without fixed seats
Eating and Drinking Establishments	
Bars and Lounges	1 per 60 sq. ft. of floor area for dining and/or drinking 1 per 300 sq. ft. for all other floor area
Restaurants and Cafes	1 per 60 sq. ft. of floor area for dining and/or drinking 1 per 300 sq. ft. for all other floor area
Take-Out Food and Beverage	1 per 300 sq. ft. of gross floor area
Food Preparation	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office area
Gas and Service Stations	2 for gas station plus 1 per 100 sq. ft. of retail and as required for vehicle repair
Lodging	
Bed and Breakfast	1 per guest room plus parking required for residential use
Hotel	1 per guest room plus 1 per 300 sq. ft. of office
Maintenance and Repair Services	1 per 600 sq. ft.
Personal Services	1 per 300 sq. ft.
Professional Offices	1 per 300 sq. ft.
Salvage and Wrecking	1 per 500 sq. ft. of building area plus 1 per 0.5 acre of outdoor use area
Self-Storage	1 per 5,000 sq. ft.
Retail	1 per 300 sq. ft. of customer area
Vehicle Repair	1 per 500 sq. ft. of nonservice bay floor area plus 2 per service bay
Vehicle Sales and Rental	1 per 300 sq. ft. for offices plus 1 per 1,000 sq. ft. of display area and requirements for vehicle repair where applicable
Wholesale	1 per 5,000 sq. ft.
Heavy Commercial and Industrial Land Uses	
Construction and Material Yards	1 per 2,500 sq. ft.
Custom Manufacturing	1 per 2,000 sq. ft., plus 1 per 300 sq. ft. of office
Light Manufacturing	1 per 1,500 sq. ft. of use area plus 1 per 300 sq. ft. of office
Warehouse, Distribution, and Storage Facilities	1 per 1,500 sq. ft.
Transportation, Communication, and Utility Uses	
Utilities, Major	As determined by a parking demand study
Utilities, Minor	None
Recycling Collection Facilities	1 per 1,000 sq. ft. of floor area
Wireless Communications Facilities	None
Other Uses	
Accessory Uses	Same as primary use
Home Occupation	None beyond requirement for residence

Land Uses	Number of Required Parking Spaces
Quasi-Public Seating Areas	None
Temporary Uses	As determined by review authority
Urban Agriculture	
Home Gardens	None beyond requirement for residence
Community Gardens	None
~~Urban Farms~~	~~As determined by a parking demand study~~

C. Calculation of Required Spaces.

1. Floor Area. Where a parking requirement is a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated. The floor area of a use shall be calculated as described in Section 17.48.040 (Floor area and floor area ratio). Floor area for the area of the required parking space (i.e., ten feet by twenty feet) and up to one hundred twenty-five 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 twenty-four 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 Tables 17.76-1 and 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 Tables 17.76-1 and 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. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

G. **Religious Institution Affiliated Housing Development Projects**. See Section 17.96.230 (Housing on Religious Facilities Sites) for parking requirements for a religious institution affiliated housing development project.

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.

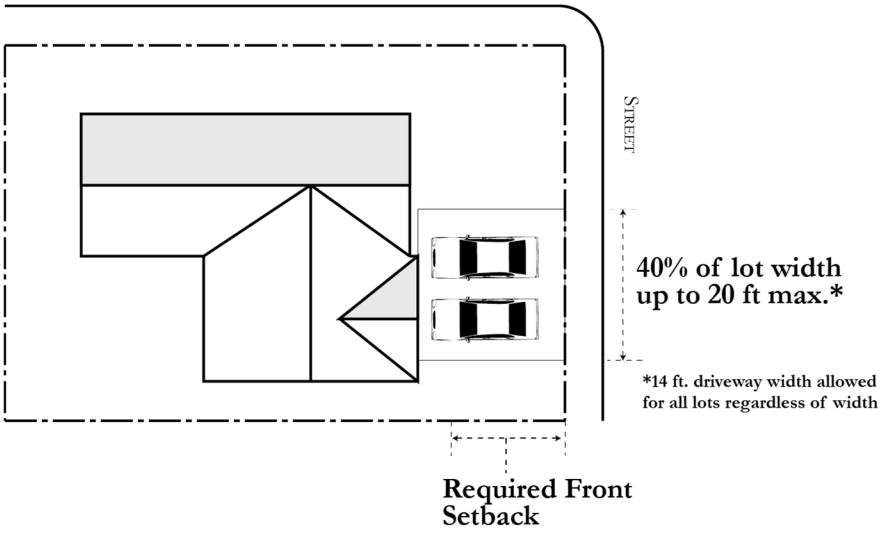
3. A conditional use permit is required to designate parking spaces for exclusive use by an individual tenant within an integrated commercial complex.

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 forty percent of lot width up to a maximum of twenty feet, except that all lots may have a parking space of up to fourteen 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.

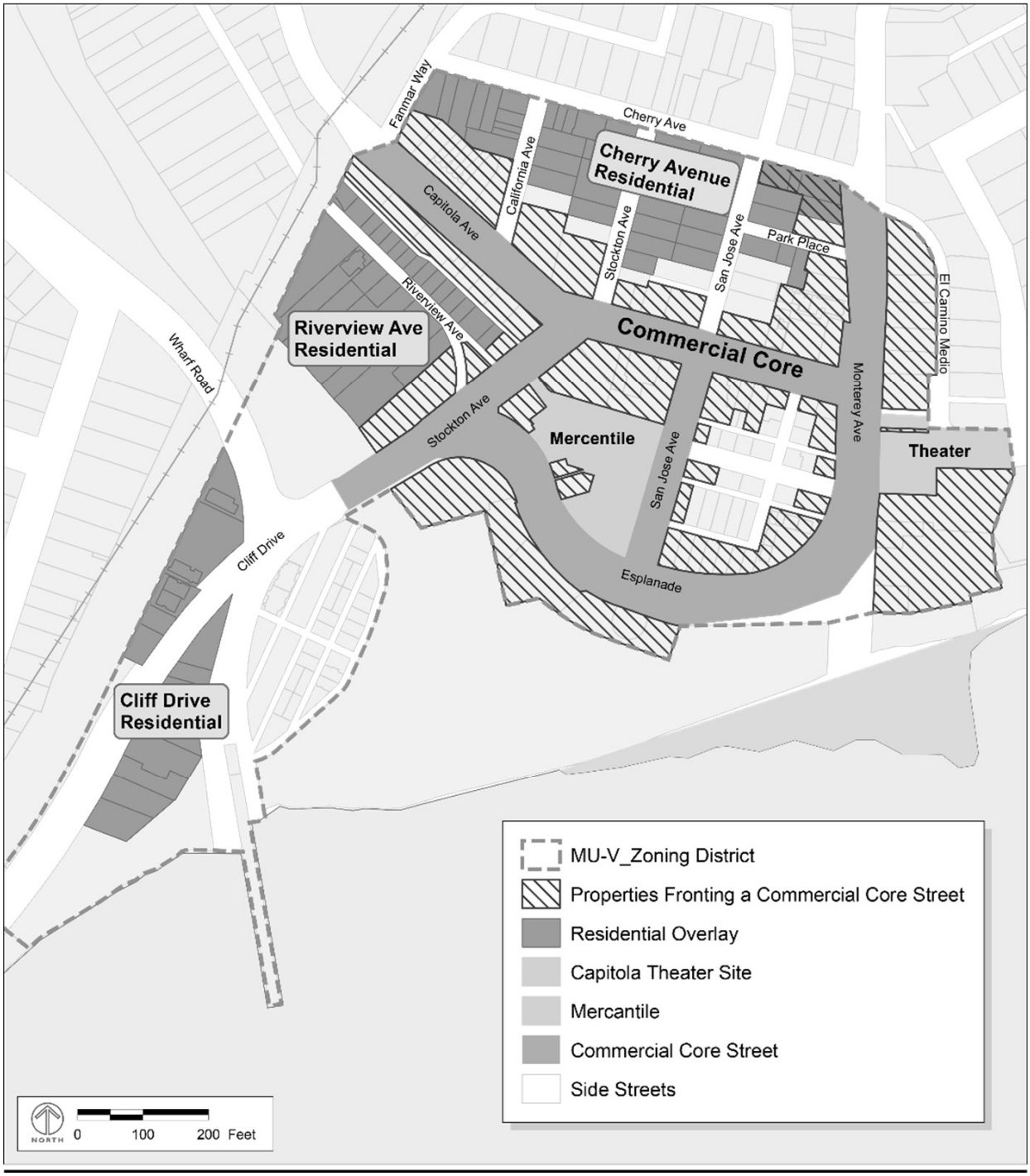
2. R-1 Zoning District. Required parking spaces in the R-1 zoning district shall be on the same parcel as the use that they serve.

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 on-site parking as follows:

i. For property fronting a Commercial Core street shown in Figure 17.76-2, on-site 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.

Figure 17.76-2: MU-V Parking Location Map



ii. For the Capitola Theater and Mercantile sites, on-site 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 on-site parking are limited to one cut per site; however, the planning commission may approve

additional driveway cuts if (A) a parking and circulation study shows that additional access is necessary to reasonably serve the use; and (B) driveway cuts are located and designed to preserve or enhance pedestrian and vehicle safety.

iii. Within the Riverview Avenue, Cherry Avenue, and Cliff Drive residential overlays.

iv. On properties that do not front a Commercial Core street.

v. 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.

c. New driveways and curb cuts shall comply with Section 17.20.030(~~,E,~~)(6) (Driveways and Curb Cuts)

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).

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 thirteen and one-half feet in height, eight and one-half feet in width, and twenty-five 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 spaces for the covered parking space requirement.

F. Electric Vehicle Charging Stations.

1. Building Code Requirements. Electric vehicle charging stations shall be provided in accordance with the requirements of the California Green Building Standards Code.

2. Use of Space Signage. Signage shall be installed designating electric vehicle charging spaces for the exclusive purpose of charging and parking an electric vehicle.

3. Digital Operation Screens.

a. “Digital operation screens” are defined for the purposes of this section as interactive digital displays used solely for the operation and required for the functionality of the electric vehicle charging station.

b. Digital operation screens are permitted and are limited to a maximum screen size of two square feet. The community development director may allow for a larger screen size of up to of four square feet upon determining that the larger screen is necessary for the functionality of the charging station.

4. Placement on Lot. Electric vehicle charging equipment must be located outside of minimum required property line setbacks.

5. Screening. Electric vehicle charging stations on lots with six spaces or more (including spaces not used for electric vehicle charging) are subject to the screening requirements in Section 17.76.060(I).

6. Impacts on Required Parking Spaces. If an electric vehicle charging station and any associated equipment interfere with, reduce, eliminate, or in any way impact the required parking spaces for existing uses on the property, the number of required parking spaces for the existing uses shall be reduced by the amount necessary to accommodate the electric vehicle charging station and any associated equipment.

7. Permits Required.

a. An application for an electric vehicle charging station that complies with all applicable requirements shall be approved ministerially with a building permit. A design permit or other type of planning permit is not required.

b. The process to review and act on the application shall be as provided in Government Code Sections 65850.7 and 65850.71.

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 Tables 17.76-1 and 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. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

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 of this section) which is available in all zoning districts, including the mixed use village zoning district; and

2. Fees in lieu of parking (subsection I of this section), which are 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 multifamily housing and nonresidential 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 covenants or contracts 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 four hundred 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 twenty-five percent of the required on-site parking spaces.

F. Valet Parking. The planning commission may allow up to twenty-five percent of the required on-site parking spaces to be off-site valet spaces (except for a hotel on the former Village Theater 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 twenty-five or more employees.

2. Required on-site parking spaces may be reduced by no more than fifteen 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 the plan has not been implemented as required or that the plan has not produced the reduction in 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 ten percent for residential mixed use projects in the Capitola Mall property bounded by Clares Street, Capitola Road, and 41st Avenue. (Ord. 1043 § 2 (Att. 2), 2020)

17.76.060 Parking design and development standards.

A. Minimum Parking Space Dimensions. Minimum dimensions of parking spaces shall be as shown in Table 17.76-3.

Table 17.76-3: Minimum Parking Space Dimensions

Type of Space	Minimum Space Dimensions
Spaces Serving Single-Family Dwellings	
Uncovered and covered (garage) spaces	10 ft. by 20 ft. [1]
In sidewalk exempt areas	10 ft. by 18 ft.
Spaces Serving Multifamily and Nonresidential Uses	
Standard Spaces	9 ft. by 18 ft.
Compact Spaces	8 ft. by 16 ft.
Tandem Spaces [2]	9 ft. by 18 ft.

Notes:

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

[2] See subsection (E)(3) of this section (Tandem Parking Spaces).

B. Compact Spaces. A maximum of thirty percent of required on-site parking spaces serving multifamily and nonresidential 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

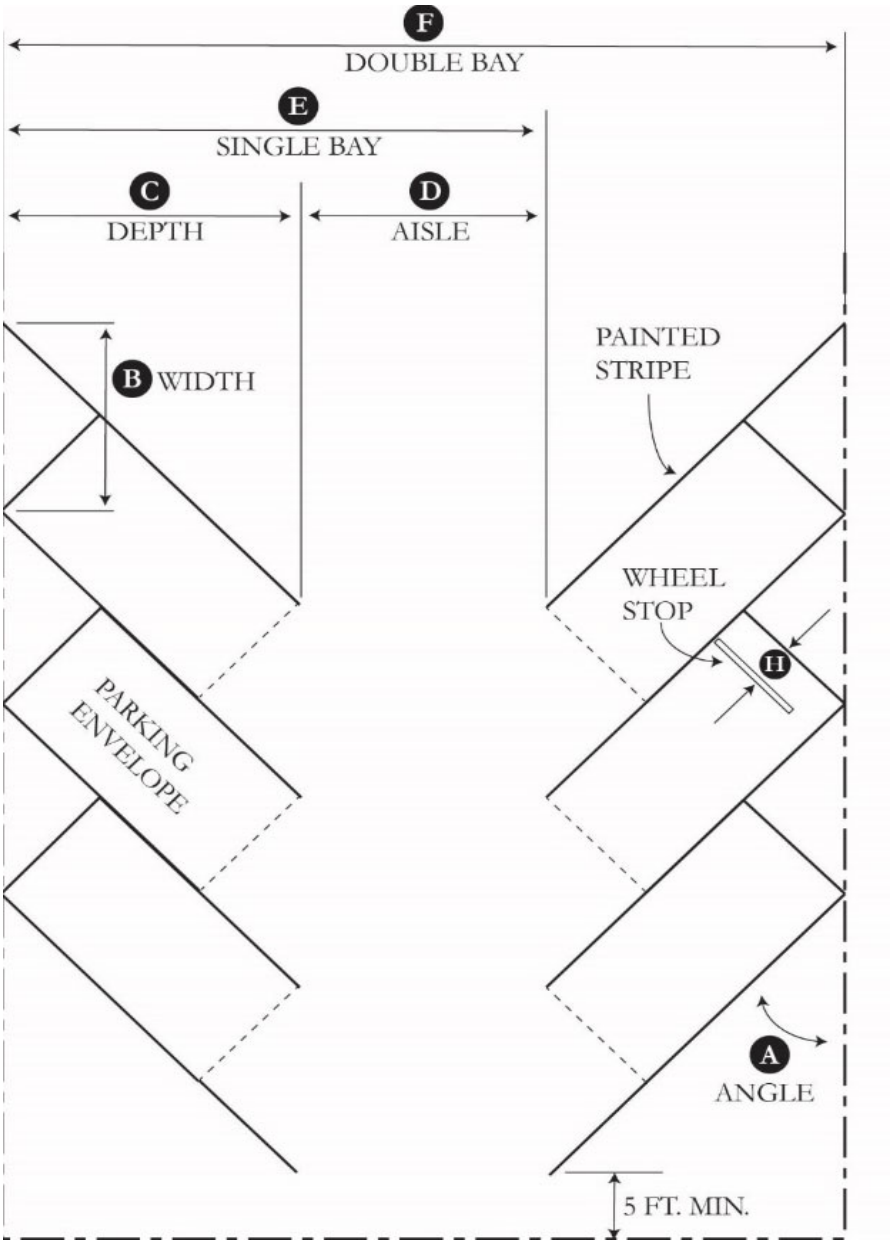


Table 17.76-4: Standard Parking Lot Dimensions

A	B		C		D			E			F		
Parking Angle	Width		Depth		Aisle			Single Bay			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 nine feet by eighteen feet.

4. All required guest parking shall be provided as single, nontandem 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 thirty 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 three feet.

b. For parking lots within ten feet of a residential zoning district, screening shall have a minimum height of six 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 ten 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). (Ord. 1043 § 2 (Att. 2), 2020)

17.76.070 Parking lot landscaping.
See Section 17.72.055 (Parking lot landscaping). (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.76.080 Bicycle parking.
A. Applicability. All new multifamily developments of five units or more and commercial uses served by parking lots of ten 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

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

D. Short-Term Bicycle Parking Standards. Short-term bicycle parking shall be located within one hundred 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 seven hundred fifty 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 one hundred 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 two feet by six feet shall be provided for each bicycle parking space.

2. An aisle of at least five 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, poles, 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 the bicycles from rainfall. (Ord. 1043 § 2 (Att. 2), 2020)

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 June 9, 2021, 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. (Ord. 1043 § 2 (Att. 2), 2020)

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

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

C. Location.

1. Required loading spaces shall be located on the same lot as the use they are intended to serve.

2. No loading space shall be located closer than fifty 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 eight feet in height.

D. Dimensions.

1. Each loading space shall have minimum dimensions of ten feet wide, twenty-five feet long, and fourteen feet in vertical clearance.

2. Deviations from the minimum dimension 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. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.80

SIGNS

Sections:

17.80.010 Purpose and applicability.

A. Purpose. This chapter establishes standards relating to the permitted type, size, height, placement, number, and design of signs. The intent of these standards is to:

1. Support economically viable businesses serving city residents, workers, and visitors.

2. Allow for signage that identifies businesses in a fair and equitable manner.

3. Protect and enhance the aesthetic qualities of the city.

4. Minimize hazards to motorists and pedestrians resulting from excessive, confusing, and distracting signs.

5. Allow for a simple and streamlined sign permitting process.

B. Applicability. This chapter applies to all signs in Capitola, except for city-installed signs and signs required by a governmental agency to carry out its responsibility to protect the public health, safety, and general welfare. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.020 Definitions.

The following definitions apply to this chapter:

A. “Awning sign” means a sign incorporated into, attached, or painted on an awning.

B. “Awning face sign” means a sign located on the sloping plane face of an awning.

C. “Awning valance sign” means a sign located on the valance of an awning perpendicular to the ground.

D. “Center identification sign” means 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” means 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” means a sign with a commercial message.

G. “Construction site sign” means an on-premises 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” means an on-premises sign which shows the direction to or location of a customer entrance to a business.

I. “Election period” means the period beginning one hundred twenty days before and ending one day after any national, state, or local election in which city electors may vote.

J. “Flags” means fabric, textile, or material with colors and/or patterns which display a symbol of a nation, state, company, or idea.

K. “Monument sign” means an independent, freestanding structure supported on the ground as opposed to being supported on the building.

L. “Projecting sign” means 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” means any sign that is mounted on a roof or a parapet of a building.

N. “Sidewalk sign” means movable or permanent business identification signs placed in or attached to a public sidewalk.

O. “Sign” means 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 17.80.040(A) (Calculation of Sign Area).

Q. “Sign copy” means the area of a sign occupied by letters, numbers, graphics, or other content intended to inform, direct, or otherwise transmit information.

R. “Sign face” means the area of a sign where sign copy is placed.

S. “Wall sign” means 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” means 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.030 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 17.80.050 (Signs allowed without permits).

2. Signs requiring a sign permit as identified in subsection B of this section.

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 mixed use village (MU-V) zoning district.

2. Exterior neon signs.

3. Monument signs for more than four tenants.

4. Auto dealership signs in the C-R zoning district (Section 17.80.080(A)) that are not otherwise allowed with an administrative sign permit.

5. Adjustments to sign standards in low visibility areas in commercial zoning districts (Section 17.80.120(E)).

6. Signs that do not conform with permitted sign types and standards in Section 17.80.080 (Standards for specific types of signs).

7. Master sign programs (Section 17.80.130).

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 Section 17.80.060 (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 Section 17.44.130 (Findings for approval).

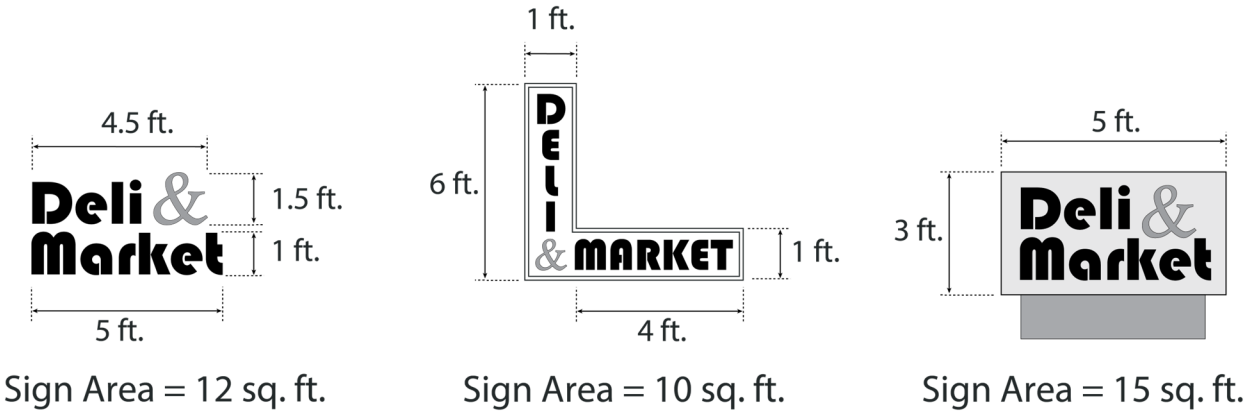
2. Notwithstanding all applicable standards in this chapter, any sign that could reduce public coastal access, including signs limiting public parking or restricting use of existing lateral and/or vertical accessways, requires a CDP. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.040 Rules of measurement.

A. Calculation of Sign Area.

1. Sign area is measured as the area of all sign copy, framing, or other display enclosed within a continuous perimeter forming a single geometric shape with no more than six sides. See Figure 17.80-1.

Figure 17.80-1: Measurement of Sign Area

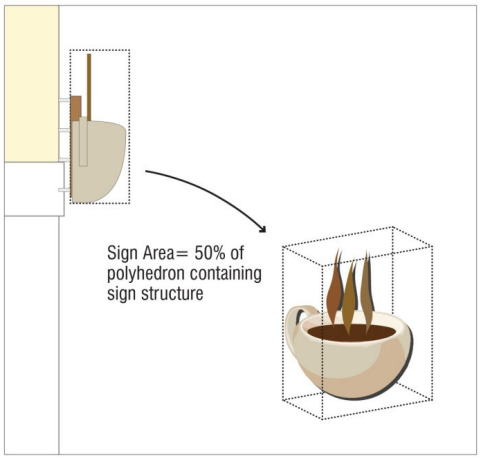


2. Supporting framework or bracing that is clearly incidental to the display itself shall not be calculated as sign area.

3. The area of a double-faced (back-to-back) sign shall be calculated as a single sign face if the distance between each sign face does not exceed eighteen inches and the two faces are parallel with each other.

4. The area of spherical, free-form, sculptural or other nonplanar signs are measured as fifty percent of the sum of the area enclosed within the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. See Figure 17.80-2.

Figure 17.80-2: Nonplanar 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.050 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 three feet in height and six 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 twelve 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 six feet in height and thirty-two square feet per unit.

7. Constitutionally protected noncommercial message signs not to exceed three feet in height, with a maximum of six square feet per unit; and six square feet per nonresidential 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 three square feet.

14. Real estate listings posted in the window of a real estate office, with a maximum area of twenty-five percent of the total window area.

15. Residential signs not requiring a building permit as specified in Section 17.80.100 (Residential signs – Multi-unit properties).

16. Temporary signs allowed without a permit as provided in Section 17.80.110 (Temporary signs).

17. Vacation rental signs up to twelve inches by twelve 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 subsection A of this section 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.060 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 MU-V zoning district consistent with Section 17.80.080(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 17.80.080(H) (Gas and Service Station Signs) and parking garage signs consistent with Section 17.80.080(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 ninety 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 17.80.080(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 subsection (B)(1) of this section is either not protected by the United States or California Constitution or is 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 subsection of subsection (B)(1) of this section 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 Constitution. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.070 General sign standards.

A. Maximum Permitted Sign Area. Table 17.80-1 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 17.80.080 (Standards for specific types of signs) provided the area of all signs on the property does not exceed the maximum established in Table 17.80-1.

Table 17.80-1: Sign Area Standards

Zoning District	Area per Linear Foot of Building Frontage
MU-V, MU-N	0.5 sq. ft. per linear foot 36 sq. ft. max
C-R, C-C, I	1 sq. ft. per linear foot 50 sq. ft. max
-VS, CF, P/OS [1]	As determined through sign permit
PD	As determined through the development plan

Note:

[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. Nonresidential 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 mixed use village (MU-V) and mixed use neighborhood (MU-N) zoning districts.

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 17.80.080 (Standards for specific types of signs).

c. Sidewalk signs in the village mixed use (MU-V) zoning district consistent with Section 17.80.080(K) (Sidewalk Signs).

d. Shared auto dealership signs consistent with Section 17.80.080(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 17.80.150 (Violations and enforcement). The city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.

3. Signs in the public right-of-way may require city approval of an encroachment permit. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.80.080 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 17.80.120 (Adjustment to sign standards).

A. Auto Dealership Signs.

1. In addition to signs allowed with an administrative sign permit (Section 17.80.030(A)), the planning commission may allow special auto dealership signage in the C-R zoning district with approval of a sign permit subject to the following standards:

a. Location: on or adjacent to an auto dealership land use.

b. Placement: ten 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 one hundred 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 deviates from temporary sign standards in Section 17.80.110 (Temporary signs) with the approval of a sign permit.

B. Awning Signs.

1. Standards for awning signs in each zoning district are as shown in Table 17.80-2.

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 eight feet.

Table 17.80-2: Awning Sign Standards

	Awning Face Sign		Awning Valance Sign		
Zoning District	**Maximum Area**	**Maximum Number**	**Maximum Area**	**Maximum Letter Height**	**Maximum Number**
MU-V, MU-N	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
C-R, C-C	30 percent of awning face	1 sign per awning located on either the awning face or the awning valance			
I	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.

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

Table 17.80-3: Monument Sign Standards

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

Zoning District	Maximum Area	Maximum Height	Maximum Number
I		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.

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

3. Where two monument signs are allowed on a corner parcel, each sign shall be placed at least two hundred 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 five feet away from any public or private driveway.

7. Monument signs shall be placed at least five 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 17.80-4.

2. Center identification signs shall identify the name of the center but may not include the name of any business or businesses within the center.

3. No more than one freestanding sign is permitted per center street frontage. If a monument sign is located along the center frontage, an additional center identification sign is not permitted.

Table 17.80-4: Center Identification Sign Standards

Zoning District	Maximum Area	Maximum Height	Maximum Number
MU-V and MU-N	Not permitted		
C-R	60 sq. ft.	5 ft.	1 per shopping center
C-C	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 17.80-5.

2. Directory signs may not be legible from adjacent public rights-of-way.

3. Directory signs shall identify the names of the occupants of the building or complex.

Table 17.80-5: Directory Sign Standards

Zoning District	Maximum Area	Maximum Height
MU-V	12 sq. ft.	4 ft.
MU-N	16 sq. ft.	
C-R	30 sq. ft.	5 ft.
C-C	25 sq. ft.	
I	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.

1. Standards for wall signs in each zoning district are as shown in Table 17.80-6.

2. Wall signs shall be attached parallel to the exterior wall of the business associated with the sign and may not extend above the top of building wall.

3. Wall signs may be in cabinets, on wood, or on similar material attached to the wall or painted directly on the wall.

4. Any portion of a wall sign that projects over any public walkway or walk area shall have an overhead clearance of at least eight feet.

5. Wall signs are not allowed in conjunction with a monument sign on a property with three or fewer businesses.

6. On a corner lot, one wall sign is allowed per street frontage.

Table 17.80-6: Wall Sign Standards

Zoning District [1]	Maximum Area	Maximum Projection from Wall	Maximum Number
MU-V, MU-N ~~MU-N~~	0.5 sq. ft. per linear foot of shopfront, not to exceed 36 sq. ft. max ~~1.0 sq. ft. per linear foot of shopfront, not to exceed 36 sq. ft.~~	4 in.	1 per shopfront
C-R, C-C, I [2]	1.0 sq. ft. per linear foot of shopfront, not to exceed 36 sq. ft.	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 17.80-7.

2. Projecting signs shall be attached to the ground-floor exterior wall of the business associated with the sign and may not extend above the top of the second-story finished floor.

3. Projecting signs shall maintain a minimum two-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 eight feet.

Table 17.80-7: Projecting Sign Standards

Zoning District	Maximum Area	Maximum Projection from Wall	Maximum Number
MU-V, MU-N	4 sq. ft.	4 ft.	1 per business entryway or storefront
C-R, C-C, I	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 17.80.030(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 four 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 and 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 are permitted.

5. Two additional signs up to a maximum of one 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 sign 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 17.80-8.

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 17.80-8: Window Sign Standards

Zoning District	Maximum Area
MU-V, MU-N	25 percent of window
C-R, C-C, I	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 MU-V zoning district consistent with the requirements of this section.

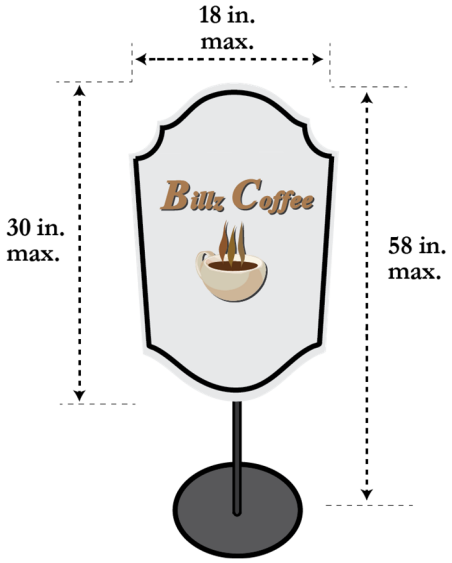
2. Permits Required.

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 17.80-9.

Table 17.80-9: Sidewalk Sign Standards

Zoning District	Sign Face			Entire Sign
	Maximum Area	Maximum Width	Maximum Height	Maximum Height [1]
MU-V	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.

a. Only one two-sided sidewalk sign per business establishment is permitted.

b. Multi-tenant developments are permitted one sidewalk sign per each common exterior public business entrance.

5. Materials and Design.

a. 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 eighteen inches, and must be approved as part of the sign permit.

b. Lights, banners, flags or similar objects shall not be placed on or adjacent to sidewalk signs.

c. Sign 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 seventy-eight 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 forty-eight-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 thirty 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 17.80.110) 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.090 Design standards.

A. Design Standards for Mixed Use Zoning Districts. The following design standards apply to all signs in the MU-V and MU-N 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 facade 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 facade or fixing positions) to protect the original building materials.

6. Internally illuminated signs are prohibited in the MU-V and MU-N 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 is it is attached. Sign panels shall avoid the extensive use of primary colors 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 C-C and C-R zoning districts:

1. Sign design shall conform to and be in harmony with the architectural character of the building.

2. Signs shall be symmetrically located within a defined architectural space.

3. Internally illuminated signs are permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo. 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.100 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 (Section 17.80.130) has been approved for the multi-unit property.

B. Maximum allowable sign area: twenty square feet per property.

C. A master sign for a multi-unit property requires an administrative sign permit. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.110 Temporary signs.

A. Permitted Temporary Signs. Table 17.80-10 (Temporary Sign Standards) identifies temporary signs permitted either by right or with the approval of an administrative sign permit. The planning commission may allow other types of temporary signs or temporary signs that do not comply with the standards in Table 17.80-10 with approval of a sign permit.

Table 17.80-10: Temporary Sign Standards

Sign Type	Permit Required	Use Restriction	Maximum Number	Maximum Area/Size	Maximum Duration
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	Nonresidential uses only	1 per 500 ft. of linear building frontage; 2 signs 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 signs maximum	Height: 5 ft. Area: 12 sq. ft.	From issuance of building permit to certificate of occupancy
Construction Site Signs – Nonresidential	Administrative Sign Permit	Commercial and industrial uses only	1 per 500 ft. of linear building frontage; 2 signs maximum	Height: 8 ft.; 4 ft. in MU-V Area: 40 sq. ft.; 12 sq. ft. in MU-V	From issuance of building permit to certificate of occupancy
For Sale, Lease, and Rent Signs, Nonresidential	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 sq. 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 sq. 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

(Ord. 1043 § 2 (Att. 2), 2020)

17.80.120 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 require 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 nonresidential zoning districts (e.g., awning signs, monument signs).

2. Requirements for temporary signs.

3. The maximum permitted sign area up to a twenty-five percent increase.

4. The maximum permitted sign height up to a twenty-five 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 (Section 17.80.070(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 subsections A through D of this section, the planning commission may allow additional adjustments to sign standards for low visibility properties in the C-R and C-C zoning districts. A low visibility property means a property where signage consistent with applicable standards would not be easily visible from the street or sidewalk due to the width of street frontage, parcel depth or configuration, placement of buildings on the property, topography, vegetation, or other physical characteristic of the property.

2. Adjustments to sign standards for low visibility properties require planning commission approval of a sign permit.

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

4. The planning commission may approve additional or variations to any type of signage upon making the following findings:

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

b. The special signage, as designed and conditioned, will not have a significant adverse effect on the character and integrity of the surrounding area. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.130 Master sign program.

A. Purpose. The purpose of the master sign program is to provide a coordinated approach to signage for multifamily development and multi-tenant commercial developments.

B. Applicability. A master sign program is required for multifamily uses with more than one permanent sign proposed, and any nonresidential 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 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.140 Nonconforming signs.

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

A. Continuation.

1. Except as required by subsection (A)(2) of this section, 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 nonconforming sign on the site, the planning commission shall review the existing nonconforming 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 are 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 fifty percent damage to its structure may be repaired to its original pre-damaged condition; provided, that such repair is completed within one hundred eighty 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 ninety days or more.

2. The sign has sustained at least fifty percent damage to its structure.

3. The sign is located on a remodeled building facade.

4. The sign is relocated to a different lot or building. (Ord. 1043 § 2 (Att. 2), 2020)

17.80.150 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 chapter 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 the 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 twenty days of removal by the city.

f. States that the business owner or person responsible for the sign is liable 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 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 twenty days. If the sign is not retrieved by the business owner or person responsible for the sign within this twenty-day period, the city may destroy the sign. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.84

HISTORIC PRESERVATION

Sections:

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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 and 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 (facade 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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 a 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 a 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. (Ord. 1043 § 2 (Att. 2), 2020)

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:

1~~a~~. The project requires a discretionary approval (e.g., design permit, coastal development permit); and

2~~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.

D~~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 F~~E~~ of this section (Exception for Preservation and In-Kind Rehabilitation).

E~~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 archaeological sites or areas, and the placement or removal of any accessory structures affecting the exterior visual qualities of the property. Painting is not considered an alteration unless painted features are designated as significant or characteristic of a historic resource.

F~~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.

G~~F~~. Review Authority. The planning commission shall take action on all applications for a historic alteration permit.

H~~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.

I~~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).

J~~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. Archaeological 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 this subsection I and the CDP findings as specified in Section 17.44.130 (Findings for approval).

KJ. 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.

LK. Appeals. Decisions on historic alteration permits may be appealed as described in Chapter 17.152 (Appeals). (Ord. 1043 § 2 (Att. 2), 2020)

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 permit 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 community development directorCDD 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 subsection F of this section (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 subsection F of this section (Findings for Approval).

E. Public Notice and Hearing. The review authority shall review and act on a historic resource demolition permit at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

F. Findings for Approval. To approve a historic resource demolition permit, the review authority shall make one or more of the following findings:

1. The structure must be demolished because it presents an imminent hazard to public health and safety as determined by a licensed structural engineer.

2. The structure proposed for demolition is not structurally sound despite evidence of the applicant's efforts to rehabilitate and properly maintain the structure.

3. The rehabilitation or reuse of the structure is economically infeasible. Economic infeasibility shall be demonstrated by preparing actual project costs and by comparing the estimated market value of the property in its current condition, after rehabilitation and after demolition.

4. 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 permits. (Ord. 1043 § 2 (Att. 2), 2020)

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.

1. ~~The city council~~City ~~shall~~ may ~~waive~~ reimburse application and review fees for planning permits required for development projects that preserve, retain, and rehabilitate a historic structure.

2. ~~–~~Planning ~~permit~~ application and review fees ~~shall~~ may be ~~waived~~ reimbursed only for significant rehabilitations of noteworthy historic structures. Fee reimbursements are not permitted~~,~~ ~~not~~ for remodels or additions to older ~~homes~~ structures that would not substantially advance the city's historic preservation goals. Fee reimbursements are permitted only for listed historic resources as defined in Section 17.84.020 (Types of Historic Resources). Fee reimbursements shall be approved by the permit review authority when acting on the permit application.

4. ~~–~~Required third-party reviews to determine eligibility for fee waivers 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. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.96

SUPPLEMENTAL STANDARDS

Sections:

17.96.010 Purpose.

This chapter establishes supplemental standards for land uses, activities, and development that apply in all zoning districts. (Ord. 1043 § 2 (Att. 2), 2020)

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 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 one hundred fifty pounds, and other household pets is permitted provided they comply with subsection A of this section.

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 five thousand 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 is 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 twenty 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 five thousand square feet.

3. Location of Beehives. Beehives shall be located behind the primary structure on the property. Beehives shall not be located closer than twenty feet to dwellings on adjacent properties or five 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.96.030 Emergency shelters.

In addition to development standards in the applicable zoning district, ~~E~~emergency shelters ~~will~~ shall comply with the following standards:

A. Maximum Number of Persons/Beds. An emergency shelter shall contain a maximum of 35 beds and shall serve no more than 35 homeless persons at any one time.

B. Parking. The emergency shelter shall provide on-site parking at a rate of one space per staff member when the greatest number of employees are on duty, not to exceed 1 space per 300 square feet of facility floor area.

C. Waiting and Intake Areas. All waiting and intake areas shall be located completely within the building.

D. Onsite Management. The emergency shelter shall provide onsite management during all hours of operation.

E. Proximity to Other Shelters. No emergency shelter shall be located within 300 feet of another emergency shelter.

F. Length of Stay. The maximum term of staying at an emergency shelter is six months in a consecutive twelve-month period.

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

HB. ~~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 ensure 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. (Ord. 1043 § 2 (Att. 2), 2020)~~

17.96.040 Home occupations.

A. ~~Required Permit~~By Right Use. ~~An administrative permit is required to establish or operate a~~A home occupation that complies with this section is permitted by right. No permits or approvals from the community development department are required.

B. Standards. All home occupations shall comply with the following standards:

1. Size. Home occupations may not occupy more than twenty-five percent of the floor area of the dwelling unit or four hundred square feet, whichever is less.

2. Sales and Displays. Products may not be sold on site 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, nonilluminated, wall-mounted outdoor sign of not more than one 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 eight a.m. and eight 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 subsection B of this section (Standards) may be revoked consistent with Section 17.156.110 (Permit revocation). (Ord. 1043 § 2 (Att. 2), 2020)~~

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 thirty feet along the major street front property line and twenty 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.

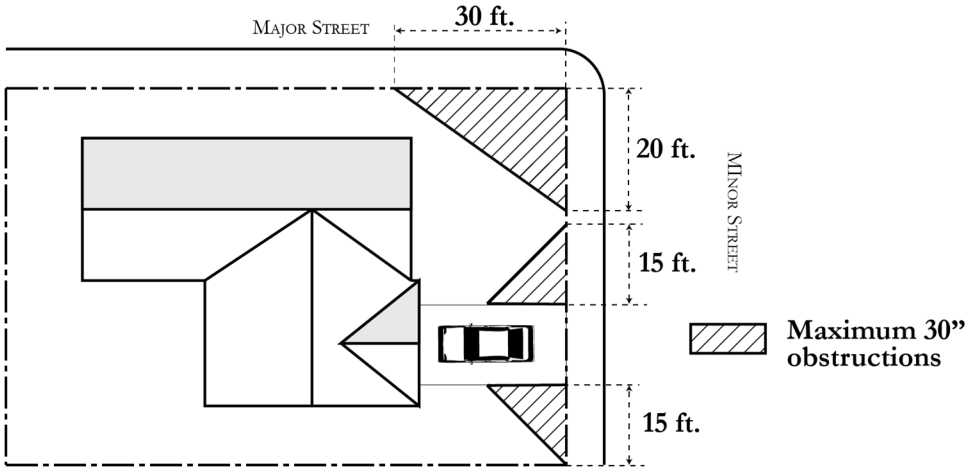
2. Driveways. The driveway vision triangle is the area formed by measuring fifteen feet along the driveway and the street from the point of intersection, and diagonally connecting the ends of the two lines. See Figure 17.96-1.

C. Maintenance of Sight Lines.

1. No structure, vehicle, object, or landscaping over thirty inches in height may be placed within a vision triangle, except as allowed by subsection (C)(2) of this section.

2. Trees pruned at least eight 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



(Ord. 1043 § 2 (Att. 2), 2020)

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 twelve thousand 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 and tenant use permits); and

2. Uses within a shopping center or mall with a floor area of three hundred thousand square feet or more.

B. Findings. To approve a conditional use permit for a commercial land use with twelve thousand 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 approval):

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. (Ord. 1043 § 2 (Att. 2), 2020)

17.96.070 ~~Large home day care~~Supportive Housing.

Supportive housing is allowed by right in all zones where multiple-family and mixed uses are permitted, including nonresidential zones permitting multiple-family uses, provided that the use satisfies all requirements in Government Code Section 65651.

~~*Repealed by Ord. 1057.* (Ord. 1043 § 2 (Att. 2), 2020)~~

17.96.080 ~~Large residential care facilities.~~Reserved

~~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 five hundred 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. (Ord. 1043 § 2 (Att. 2), 2020)~~

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 operate 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. (Ord. 1043 § 2 (Att. 2), 2020)

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 six feet in height.

2. Size. Display areas are limited to six feet wide or ten percent of the width of the front building elevation. A display area may extend a maximum of three 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 four 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 subsection C of this section 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. (Ord. 1043 § 2 (Att. 2), 2020)

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 Table 17.96-1.

Table 17.96-1: Maximum Light Standard Height

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

D. Prohibited Lighting. The following types of exterior lighting are prohibited:

1. Exposed bulbs and/or lenses;

2. Mercury vapor lights; and

3. Searchlights, laser lights, or any other lighting that flashes, blinks, alternates, or moves.

E. Fixture Types. All lighting fixtures shall be shielded so 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.

1. Direct or sky-reflected glare from floodlights shall not be directed into any other parcel or street, or onto any beach.

2. No light or activity may cast light exceeding one foot-candle onto a public street, with the illumination level measured at the centerline of the street.

3. No light or activity may cast light exceeding one-half foot-candle onto a residentially zoned parcel or any parcel containing residential uses.

G. Required Documentation. Prior to issuance of building permits, project applicants shall submit to the city photometric data from lighting manufacturers demonstrating compliance with the requirements of this section.

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. (Ord. 1043 § 2 (Att. 2), 2020)

17.96.120 Placement of underground utilities.

New construction or additions that increase existing floor area by twenty-five percent or more shall place existing overhead utility lines underground to the nearest utility pole. Establishing an accessory dwelling unit in conformance with Chapter 17.74 of this code (Accessory Dwelling Units) does not require placing existing overhead utility lines underground. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

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 of this title (Zoning Districts and Overlay Zones), 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 five thousand 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 one hundred 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 sixty dBA as measured from the property line of a residentially zoned property or a residential use. Facilities shall not exceed noise levels of seventy 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 ten square feet, in addition to informational signs required by subsection L of this section.

N. Landscaping. The facility shall comply with all landscaping standards required by Chapter 17.72 (Landscaping) and other city ordinances. (Ord. 1043 § 2 (Att. 2), 2020)

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) zoning district. These findings are intended to ensure that new self-storage facilities 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 district:

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 four 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 designed 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 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 Section 17.44.130 (Findings for approval). (Ord. 1043 § 2 (Att. 2), 2020)

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 four feet, whichever is greater.

B. The pathway shall have a minimum overhead clearance of eight feet.

C. Structures east of the pathway shall be set back a minimum of five 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 forty-two 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 eight feet. (Ord. 1043 § 2 (Att. 2), 2020)

17.96.170 Outdoor dining in public right-of-way.

A. Purpose. This section establishes standards and permit requirements for outdoor dining in the public right-of-way.

B. Definitions.

1. Outdoor Dining. "Outdoor dining" means both sidewalk dining and street dining decks.

2. Sidewalk Dining. "Sidewalk dining" means the use of an outdoor sidewalk area within the public-right-of-way, by a private business that is an eating and drinking establishment, for eating and drinking activities.

3. Street Dining Deck. A "street dining deck" means a platform or similar level surface within the public right-of-way and extending beyond the curb and into a roadway or on-street parking area for use by a private business that is an eating or drinking establishment.

a. Custom Street Dining Deck. A "custom street dining deck" is a street dining deck designed by the applicant.

b. Prototype Street Dining Deck. A “prototype street dining deck” is a street dining deck utilizing a design that has been authorized by the city and has received all necessary permits and authorizations.

C. Where Allowed.

1. Sidewalk Dining.

a. Sidewalk dining is allowed in the MU-N, MU-V, C-C, and C-R zoning districts.

b. In the MU-V zoning district, sidewalk dining is allowed only on Monterey Avenue, Capitola Avenue, and on the Capitola Wharf immediately adjacent to the restaurant it serves.

2. Street Dining Decks. Street dining decks are allowed only in the MU-V zoning district and only on the Esplanade, Monterey Avenue, Capitola Avenue, and San Jose Avenue.

D. Maximum Number of On-Street Parking Spaces. A maximum of twenty-five total on-street parking spaces may be used for street dining decks. Spaces shall be allocated by the city manager in accordance with administrative policies issued pursuant to this section. On-street parking spaces utilized for in-lieu bicycle parking shall count toward the maximum twenty-five spaces.

E. Permits and Approvals.

1. Required Permits. Table 17.96-2 shows permits required for sidewalk dining and street dining decks.

Table 17.96-2: Permits Required for Outdoor Dining in Public Right-of-Way

Type of Outdoor Dining	Permit Required [2] [3]	Zoning Code Chapter
Sidewalk Dining	Design Permit	17.116
Street Dining Decks		
Prototype Street Dining Deck [1]	Administrative Permit	17.116
Custom Street Dining Deck	Design Permit	17.120

[1] Prototype dining deck designs are identified in the adopted Village Outdoor Dining Program Administrative Policy No. I-36 and as specified by an approved coastal development permit.
[2] Outdoor dining in the public right-of-way also requires an encroachment permit pursuant to Chapter 12.56 of this code. Minor encroachment permits for applications for prototype street dining decks may be issued by the public works director and major encroachment permits for custom street dining decks may be issued by the planning commission.
[3] A street dining deck or sidewalk dining area located in the coastal zone may also require a coastal development permit (CDP) as specified in Chapter 17.44 of this code (Coastal Overlay Zone).

2. Administrative Permit Standards. All applications for an administrative permit are reviewed and acted on by the community development director and must comply with the following standards:

a. The street dining deck must be designed consistent with a prototype design approved by the city and received all necessary permits and authorizations.

b. The street dining deck must comply with all applicable requirements of this section, the zoning code, and all other applicable laws, administrative policies, rules, and regulations.

c. If located in the coastal zone, the street dining deck is consistent with the local coastal program and will not adversely impact coastal resources, coastal access, and coastal views.

d. The street dining deck must utilize high-quality, durable materials that are compatible with surrounding development and can withstand inclement weather.

e. The street dining decks must use the prototype street dining deck design authorized by a valid coastal development permit and shall be subject to the prototype street dining deck coastal development permit findings and conditions.

3. Design Permit Findings. All applications for a design permit (and any required coastal development permit) are viewed and acted on by the planning commission. Notwithstanding Section 17.120.080 (Findings for approval), for design permits issued pursuant to this section, the planning commission shall make the following findings and need not make those findings set forth in Section 17.120.080:

a. The sidewalk dining area or street dining deck complies with all applicable requirements of this section, the zoning code, and all other applicable laws, administrative policies, rules, and regulations.

b. If located in the coastal zone, the sidewalk dining area or street dining deck is consistent with the local coastal program and will not adversely impact coastal resources, coastal access, and coastal views, and has been authorized through a valid coastal development permit.

c. The design of the sidewalk dining area or street dining deck supports a safe, inviting, and lively public realm consistent with the purpose of the MU-V zoning district as provided in Section 17.20.040 (purpose of the mixed use zoning districts).

d. The sidewalk dining area or street dining deck materials include high-quality, durable materials that are compatible with surrounding development and can withstand inclement weather.

4. Good Standing. An applicant must be in good standing to apply for a permit for outdoor dining. For purposes of this section, “good standing” shall mean that within the twenty-four months directly preceding submission of a complete application for an administrative permit or design permit, the applicant has not been issued a notice of abatement, violation, or been subject to any code enforcement proceedings related to an ABC license, entertainment permit, or use permit by the city or any other regulatory or permitting agency. Any courtesy code enforcement notice received by the applicant was corrected by the applicant within the date specified on the courtesy notice retains the applicant’s good standing.

5. Other Permits and Approvals.

a. Sidewalk and street dining decks are subject to all other applicable permits, licenses and/or entitlements required by state or local law.

b. A street dining deck or sidewalk dining area located in the coastal zone shall require a coastal development permit (CDP) as specified in Chapter 17.44 of this code (Coastal Overlay Zone). Approval of a CDP requires conformance with the CDP findings for approval as specified in Section 17.44.130 (Findings for approval), as well as conformance with the requirements specified in this section.

c. CDP Recertification Requirement. All CDPs issued for outdoor dining permits shall require recertification by the city council no later than three years after the CDP is issued, and every five years thereafter. Recertification shall require a public hearing before the city council. City staff will initiate the recertification process by providing notice to the applicant of the hearing date, at least thirty days in advance of the public hearing.

For a CDP to be recertified, the city council must find that the subject project is operating in compliance with the findings and conditions of the CDP and in compliance with the LCP. The city council may recertify, modify, or revoke the CDP. The city council’s decision shall be a final action.

The project applicant, any aggrieved person, or any two members of the Coastal Commission may appeal the city council decision. Appeal procedures for coastal development permits shall be as specified in Section 17.44.150.

F. Administrative Policies.

1. The city council is authorized to issue administrative policies regarding the administration and leasing of the public right-of-way for sidewalk dining and street dining decks, including but not limited to the application and selection process for applicants, maintenance requirements, and other related policies.

2. In the event of any conflict between the provisions of this chapter and the administrative policy, the more restrictive requirement shall control.

G. Operating and Development Standards. All sidewalk dining and street dining decks shall comply with the following standards:

1. Must Serve Eating and Drinking Establishment. Outdoor dining in the public right-of-way is allowed only when incidental to and a part of an "eating and drinking establishment" as defined in Chapter 17.160 of this code (Glossary).

2. One Facility Only. An eating establishment may have either sidewalk dining or a street dining deck. An eating establishment may not have both sidewalk dining and a street dining deck.

3. Limited to Eating Establishment Frontage.

a. Sidewalk dining is allowed on the sidewalk directly adjacent to the eating establishment street frontage.

b. Street dining decks in the public right-of-way are only allowed on parking spaces that are:

i. Wholly or partially located in the right-of-way; and

ii. Directly adjacent to the eating establishment street frontage unless authorized by subsection (G)(3)(c) of this section.

c. The city may allow an outdoor dining area to extend beyond the eating and drinking establishment frontage if:

i. Due to the road and parking space layout, the outdoor dining area cannot be designed without extending the area beyond immediately adjacent parking spaces;

ii. Extending the outdoor dining area will not have significant impact on adjoining businesses as determined by the permit review authority; and

iii. Extending the outdoor dining area will not adversely impact coastal access.

4. Sidewalk Width. Outdoor dining areas in the public right-of-way shall provide a minimum clear width within the sidewalk of at least:

a. Five feet in the MU-V zoning district; and

b. Four feet in all other zoning districts.

5. Sidewalk Dining Areas. Sidewalk dining areas shall be limited to the placement of tables and chairs. In addition, design elements required for ABC permit compliance for separation (fences, ropes, planters, etc.) may be included in the design but shall not exceed thirty-six inches in height.

6. Signs.

a. Commercial signs are not permitted in or on any portion of the improvements of a sidewalk dining area or street dining deck, except as specified in subsection (G)(6)(b) of this section.

b. One business identification sign and one menu sign each not to exceed two square feet are allowed.

7. Stormwater Drainage. All street dining decks must allow for adequate stormwater drainage.

a. Dining decks shall not block the drainage flow along the gutter line.

b. Dining decks shall not block access into any drain inlet or other drainage/stormwater facility.

8. Utilities. All outdoor dining shall not interfere with utility boxes, water hydrants, storm drains, and all other related facilities.

9. Trash and Maintenance. An outdoor dining area in the public right-of-way shall be maintained in a clean and safe condition as determined by the city, including as follows:

a. All trash shall be picked up and properly disposed of.

b. All flower boxes and planters shall contain live, healthy vegetation.

c. All tables, chairs, equipment, and structures must be kept clean and operational.

10. Sound. Music and amplified sound are not allowed in an outdoor dining area.

11. Bicycle Parking for Street Dining Decks.

a. A street dining deck that eliminates an on-street parking space must include a bicycle parking rack integrated in the street dining deck design or within the private property of the eating or drinking establishment.

b. The bicycle parking rack must provide a minimum of two bicycle parking spaces for each eliminated vehicle parking space.

c. As an alternative to providing the bicycle parking rack, the city may allow an applicant to pay an in-lieu fee which fee shall be deposited into the city's in-lieu bike fund to create a central bicycle parking location.

12. Hours of Operation.

a. Outdoor dining in the public right-of-way may occur between seven a.m. and ten p.m. seven days a week.

b. The city may allow extended hours for street dining decks for special events and holidays.

13. Open for Use. All outdoor dining in the public right-of-way must be open for use a minimum of five days per week, except in cases of inclement weather. "Open for use" means that the eating or drinking establishment must allow customers to use the outdoor dining area when the establishment is open for business.

14. Materials. Allowed materials include finished or painted wood, glass, ornamental steel or iron, and decorative masonry. Street dining decks where the primary visible material is plastic, fabric, woven bamboo, or chain link/wire fencing are discouraged.

H. Enforcement.

1. General.

a. The city shall have all enforcement remedies permitted by law, including but not limited to those in Administrative Policy I-36 in Title 4 (General Municipal Code Enforcement).

b. Any outdoor dining facility may be subject to inspection by the city on an annual basis or as needed to ensure compliance with this section, conditions of approval, and administrative procedures. (Ord. 1050 § 2, 2021)

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 nonprofit 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 one acre in size, and established in conjunction with an approved project. The construction yard and trailer shall be immediately removed within ten 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 forty-five 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. Farmers' Markets. Farmers' markets for a maximum of one day per week in a nonresidential zoning district. Farmers' markets for more than one day per week in a nonresidential zoning district are permitted with a conditional use permit. Farmers' 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 ten 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 twelve months. The community development director may grant up to two twelve-month extensions for ongoing construction activity requiring more than twelve months to complete.

6. Mobile Food Vendors. Mobile food vendors in one location four times or less per year in accordance with 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 thirty days of 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 Chapter 9.36 (Temporary, Publicly Attended Activities). If in the coastal zone, see Section 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.96.190 Generators

Home generators to provide backup electricity in case of a power outage must comply with the following:

A. Noise. Generators may not exceed noise levels of sixty-five dBA as measured from the property line of a residentially zoned property or a residential use.

B. Allowed Use. Other than periodic testing as required by the manufacturer, a generator may be operated only in case of a power outage or emergency,

C. Testing Hours. A generator may be tested only during the hours of eight a.m. and eight p.m.

D. Placement on Lot.

1. Generators are prohibited in required front and side setback areas.

2. A generator may project a maximum of five feet into a rear setback if necessary to locate the generator behind the rear wall of the home.

E. Recreational Vehicle Use Prohibited. Freestanding generators shall not be used to supply service to recreational vehicles or trailers. Generators attached to recreational vehicles or trailers shall not be operated on or adjacent to residential properties. (Ord. 1057 § 2 (Att. 1), 2022)

17.96.200 Low Barrier Navigation Centers

A low barrier navigation center that meets the operational requirements specified in Government Code Section 65662 is allowed by right in the commercial and mixed use zoning districts. As defined in Government Code Section 65660, "Low Barrier Navigation Center" means a housing first, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

17.96.210 Demolition and Replacement of Dwelling Units

A. Demolished Units. A housing development project that demolishes one or more residential dwelling unit must:

1. Create at least as many residential dwelling units as will be demolished pursuant to subdivision (a) of Government Code Section 66300.6; and

2. Replace demolished units as required by Subsection B (Replacement of Units) below.

B. Replacement of Units.

1. Protected Units. A development project that eliminates protected units as defined in subdivision (h) of Government Code Section 66300.5,must replace these units consistent with subdivision (b) of Government Code Section 66300.6.

2. Nonvacant Housing Element Sites. For a development project on a site identified as nonvacant in the General Plan Housing Element inventory of land suitable for residential development ("nonvacant site"), units shall also be replaced consistent with paragraph (3) of subdivision (c) of Government Code Section 65915.

C. Application Materials. A permit application to create new units on a site with existing dwelling units shall include the following information:

1. A description of all dwelling units existing on the site in the five-year period preceding the application submittal date and identification of any units:

a. Rented in the five-year period;

b. Subject to a recorded covenant, ordinance, or law restricting rents to levels affordable to households of low or very low income;

c. Subject to any form of rent or price control; and

d. Occupied lower-income households earning 80 percent or less of the Santa Cruz County area median income (AMI) as identified by the California Department of Housing and Community Development, if known.

e. Withdrawn from rent or lease in accordance with Government Code Chapter 12.75 (commencing with Section 7060) within the past 10 years

2. Identification of units that will be vacated or demolished as a result of the proposed project, or that have been vacated or demolished in the five-year period preceding the application submittal date.

3. For units that have or will be vacated or demolished, the size and income of all households occupying the units in the five-year period preceding the application submittal date, if known.

4, Other information as required by the Community Development Department to verify project compliance with Government Code Sections 66300.6 and 65915.

17.96.220 No Net Loss of Housing Element Sites

A. **Purpose**. This section establishes procedures to comply with Government Code Section 65863 which requires the City to maintain adequate sites to accommodate its remaining unmet regional housing need allocation (RHNA) for the Housing Element planning period.

B. **Applicability**. This section applies to any development project application on a site identified in the General Plan Housing Element inventory of land suitable for residential development.

C. **Approval of Units**.

1. City staff shall review all development project applications to determine if the project proposes to reduce the residential density, allow development at a lower residential density, or develop fewer units by income category than identified for the site in the Housing Element.

2. Reduced Density.

a. If a project proposes to reduce the residential density of or allow development at a lower residential density on a parcel identified to meet the City's RHNA, the City may approve the application only if it makes a written finding supported by substantial evidence that:

i. the reduction is consistent with the General Plan; and

ii. the remaining sites identified in the Housing Element are adequate to meet the requirements of Government Code Section 65583.2 and to accommodate the City's RHNA.

b. The finding shall include a quantification of the remaining unmet need for the City's RHNA at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.

3. Fewer Units by Income Category.

a. If a project proposes fewer units by income category than identified for the site in Housing Element, the City may approve the application only if it makes a written finding supported by substantial evidence as to whether or not the remaining sites identified in the Housing Element are adequate to meet the requirements of Government Code Section 65583.2 and to accommodate the City's RHNA pursuant to Government Code Section 65584.

b. The finding shall include a quantification of the remaining unmet need for the City's RHNA at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.

E. **Additional Sites**.

1. If the City approves an application reducing the residential density for any parcel that would result in the remaining sites in the Housing Element not being adequate to meet the requirements of Government Code Section 65583.2 and to accommodate the City's RHNA, the City must identify sufficient additional, adequate, and available sites with an equal or greater residential density so that there is no net loss of residential unit capacity.

2. If the City approves an application with fewer units by income category than identified for the site in the Housing Element and remaining sites are inadequate to accommodate the unmet need by income category, the City shall, within 180 days of project approval, identify and make available additional adequate sites to accommodate the remaining unmet housing need for each income category.

3. The City shall report to the California Department of Housing and Community Development in the Annual Progress Report any replacement sites identified and made available pursuant to this section.

4. Consistent with Government Code Section 65863(e), a project applicant who requests a lower density as described herein, must comply with this section.

17.96.230 Housing on Religious Facilities Sites

This section allows for housing development projects on land owned by a religious institution consistent with

Government Code Section 65913.16. Terms used in this section have the same meaning as in Government Code Section 65913.16.

A~~B~~. By Right Use. A housing development project on land owned by a religious institution is permitted by right if the project complies with all requirements in this section and Government Code section 65913.16.

B~~C~~. Project Eligibility. A housing development project is permitted by right only if it meets all requirements in Government Code Section 65913.16, including but not limited to the following:

1. **Affordability.** All of the development project's total units, exclusive of a manager's unit or units, shall be for lower income households, except as follows:

a. Up to 20 percent of the units may be for moderate-income households.

b. Up to 5 percent of the units which may be for staff of the religious institution that owns the land.

2. **Labor Requirements**. The project shall comply with ~~the~~ prevailing wage, apprenticeship, and other labor requirements specified in Government Code Section 65913.16.

C. **Standards**.

1. Zoning District Standards. A housing development project on land owned by a religious institution shall comply with all applicable objective standards of the zoning district in which it is located except as modified by this section or Government Code Section 65913.16.

2. **General Development Standards**. The following development standards apply to a housing development project on land owned by a religious institution in all locations.

a. **Multifamily Objective Standards.** A housing development project shall comply with objective standards in Chapter 18.82 (Objective Standards for Multifamily and Mixed-Use Residential Development).

b. **Nonresidential Space**. The total square footage of nonresidential space on the site shall ~~not~~ exceed the amount previously existing or permitted in a conditional use permit.

c. **Density**.

i. In the R-1 zoning district, the maximum density is 20 dwelling units per acre or the density of an adjoining parcel if that parcel allows for a density greater than 20 dwelling units per acre.

ii. In other zoning districts, the maximum density is as specified in Government Code Section 65913.16(j).

d. **Height**. The maximum allowed height is one story above the maximum height allowed in the applicable zoning district.

e. **Parking**. Parking shall be as provided in Government Code Sections 65913.6 and 65913.16, as follows:

i. Up to 50 percent of religious use parking spaces may be eliminated as part of the housing development project.

ii. One parking space is required per dwelling unit, except that no parking is required if:

(a) The parcel is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop as defined in subdivision (b) of Section 21155 of the Public Resources Code; or

(b) There is a car share vehicle located within one block of the parcel.

f. **Housing Type**. All housing types, including single-family dwellings, duplex homes, and multifamily dwellings, are permitted.

3. **Site-Specific Standards**.

a. **Saint Josephs Catholic Church** (APN 03607248). The following standards apply to a housing development project with buildings located between an existing church building and the front property line abutting Monterey Avenue.

i. **Building Placement**. The front building wall shall be placed between 20 and 40 feet of the property line abutting Monterey Avenue.

ii. **Entry Orientation**. Each building with frontage on Monterey Avenue shall have a ground floor primary entrance that faces Monterey Avenue. ~~.~~

iii. ~~–~~**M~~m~~assing**. The width of buildings within 40 feet of Monterey Avenue shall not exceed 75 feet.

b. **Shorelife Community Church** (APN 03604126, 03604128, 03604127, 03619502).

i. **Parking Placement**. Surface parking is prohibited between Kennedy Drive and a new building.

ii. **Orientation**. If a ground floor unit has a wall that faces a street, the primary entrance to the unit shall face the street. For units that do not front the street, entrances may face the interior of the lot

D. **Application Review and Action.**

1. **Conflicts with Standards.** If the community development department determines that a proposed housing development project conflicts with any applicable objective standard, the department shall notify the applicant as required by Government Code Section 65913.16(l).

2. **Ministerial Design Review**.

a. The Planning Commission shall conduct ministerial design review of a proposed housing development project. Ministerial design review shall be objective and strictly focused on assessing project compliance with objective standards.

b. Project conformance with objective standards is the sole basis to approve or deny the application. The Planning Commission may not consider project conformance with subjective policies or requirements when acting on the application.

c. Public notice and hearing for ministerial design review shall be the same as required for design permits.

Chapter 17.104

WIRELESS COMMUNICATIONS FACILITIES

Sections:

17.104.010 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. 1043 § 2 (Att. 2), 2020)

17.104.020 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~~1.6100(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~~1.6100(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~~1.6100, supports or houses equipment described in paragraphs (b)(1)(i) through (ii) of 47 C.F.R. Section ~~1.40001~~1.6100 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~~1.6100, does not support or house equipment described in paragraphs (b)(1)(i) through (ii) of 47 C.F.R. Section ~~1.40001~~1.6100.

6. “Collocation” means the same as defined by the FCC in 47 C.F.R. Section ~~1.40001~~1.6100(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~~1.6100(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~~1.6100(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~~1.6100]; 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~~1.6100].”

9. “Existing” means the same as defined by the FCC in 47 C.F.R. Section ~~1.40001~~1.6100(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~~1.6100(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~~1.6100(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~~1.6100(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~~1.6100(b)(7) (as may be amended), 47 C.F.R. Section ~~1.40001~~1.6100(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~~1.6100(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 ~~1.40001~~1.6100(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. 1043 § 2 (Att. 2), 2020)

17.104.030 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 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. 1043 § 2 (Att. 2), 2020)

17.104.040 Permit requirements.

A. Required Permits. Wireless communications facilities are grouped into four tiers, each with its own permit requirement as shown in Table 17.104-1.

Table 17.104-1: 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 17.104.020(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. Pole-mounted facilities in the public right-of-way consistent with Section 17.104.070(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 2 feet horizontally and 5 feet vertically from the pole.	Administrative Permit

	Types of Facilities	Permit Required
	A collocation that is not a Tier 1 facility. A modification to an eligible support structure that is not a Tier 1 facility.	
Tier 3	Building- and facade-mounted facilities in the C-C, C-R, or I zoning district that are not Tier 2 facilities. Building- and facade-mounted facilities in the MU-V, MU-N, -VS, or CF zoning district. Pole-mounted facilities in the public right-of-way consistent with Section 17.104.070(D) that are not Tier 2 facilities.	Minor Use Permit
Tier 4	New towers in any zoning district. 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.	Conditional Use Permit

Notes:

[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 17.44 (Coastal Overlay Zone), in which case the public notice and hearing requirements (and required findings) set forth in Chapter 17.44 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 17.124 (Use Permits) and with this chapter. In the event of any conflict between this chapter and Chapter 17.124 (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 17.44 (Coastal Overlay Zone), as may be amended, and with this chapter. In the event of any conflict between this chapter and Chapter 17.44 (as may be amended), Chapter 17.44 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. The city encourages prospective applicants to request a pre-application conference with the community development department in accordance with Section 17.112.020(A) (Pre-Application Conference) before completing and filing a permit application.

G. Permit Application and Review.

1. Application Required. All permits granted under this chapter shall require an application filed in compliance with this chapter and Chapter 17.112 (Permit Application and Review).

2. 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).

g. All other materials and information required by the community development director as publicly stated in the application checklist(s).

3. Application Review.

a. The community development department shall review applications in accordance with Chapter 17.112 (Permit Application and Review). In the event of any conflict between this chapter and Chapter 17.112 (Permit Application and Review), this chapter shall govern and control.

b. 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.

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 17.124 (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 Hearing) 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 30 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. 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 17.104.020 (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. All the findings required for the minor use permit or conditional use permit as specified in Chapter 17.124 (Use Permits) can be made for the proposed facility.

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 accordance with Chapter 17.152 (Appeals). 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 17.152 (Appeals).

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 17.152 (Appeals).

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. 1043 § 2 (Att. 2), 2020)

17.104.050 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 Section 17.104.070 (Development standards) and Section 17.104.080 (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 to enter 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 comply 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. 1043 § 2 (Att. 2), 2020)

17.104.060 Preferred siting and location.

The following siting and location preferences apply to all proposed new facilities and substantial changes to existing facilities. The community development director may require the applicant to submit an alternative sites analysis and evidence to demonstrate that a proposed facility could not be feasibly installed in a preferred site or location.

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 17.104.040(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 (I) zoning district; then

2. Parcels in the commercial (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, RM, MH) 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 multifamily 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. 1043 § 2 (Att. 2), 2020)

17.104.070 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 aboveground 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 (A)(3)(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;

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. All landscaping shall be installed, irrigated, and maintained consistent with Chapter 17.72 (Landscaping) for the life of the permit.

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 Section 17.84.020 (Types of historic resources) shall comply with the requirements of Chapter 17.84 (Historic Preservation).

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. 1043 § 2 (Att. 2), 2020)

17.104.080 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. 1043 § 2 (Att. 2), 2020)

17.104.090 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 17.104.040(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's 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. 1043 § 2 (Att. 2), 2020)

17.104.100 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 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 Capitola.

C. Applicant Must Demonstrate Basis for Approval. The applicant always bears the burden to demonstrate why an exemption should be granted. (Ord. 1043 § 2 (Att. 2), 2020)

17.104.110 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. 1043 § 2 (Att. 2), 2020)

Chapter 17.112

PERMIT APPLICATION AND REVIEW

Sections:

17.112.010 Purpose.

This chapter establishes procedures for the preparation, filing, and processing of permits required by the zoning code. The term "permit" when used in this chapter refers to any action, permit, or approval listed in Table 17.108-1 (Review and Decision-Making Authority). (Ord. 1043 § 2 (Att. 2), 2020)

17.112.020 Application preparation and filing.

A. Pre-Application Conference.

1. The city encourages prospective applicants to request a pre-application conference with the community development department before completing and filing a permit application.

2. The purpose of this conference is to:

a. Inform the applicant of city requirements as they apply to the proposed project;

b. Inform the applicant of the city's review process;

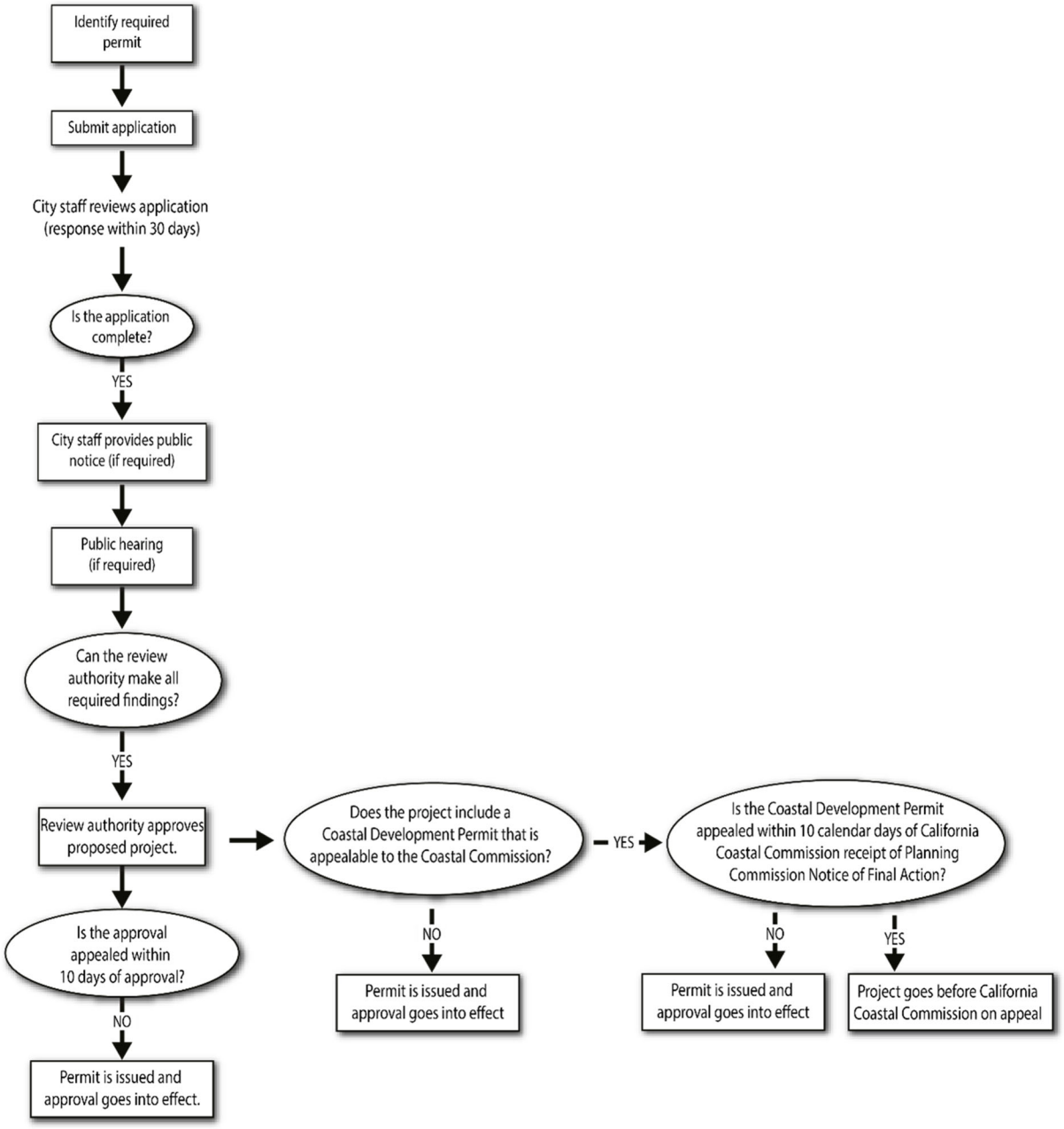
c. Identify information and materials the city will require with the application, and any necessary technical studies and information relating to the environmental review of the project; and

d. Provide guidance to the applicant of possible project alternatives or modifications.

3. The pre-application conference and any information provided to prospective applicants by city staff shall not be construed as a recommendation for approval or denial of an application.

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

Figure 17.112-1: Typical Permit Review and Approval Process



B. Application Contents.

1. All permit applications shall be filed with the community development department on an official city application form.

2. Applications shall be filed with all required fees, information, and materials as specified by the community development department.

C. Eligibility for Filing.

1. An application may only be filed by the property owner or the property owner's authorized agent.

2. The application shall be signed by the property owner or the property owner's authorized agent if written authorization from the owner is filed concurrently with the application. (Ord. 1043 § 2 (Att. 2), 2020)

3. The city shall not accept an application for a property subject to an active code enforcement action pursuant to Municipal Code Title 4 (General Municipal Code Enforcement) unless correction of the code violation is included as part of the proposed project.

17.112.030 Application fees.

A. Fee Schedule. Fees required to process permit applications are identified in the planning fee schedule approved by the city council.

B. Requirement of Payment.

1. The city may deem an application complete and begin processing the application only after all required fees have been paid.

2. Failure to pay any required supplemental application fees is a basis for denial or revocation of a permit application.

C. Refunds and Withdrawals.

1. Application fees cover city costs for public hearings, mailings, staff and consultant time, and the other activities involved in processing applications. Consequently, the city will not refund fees for a denied application.

2. In the case of an application withdrawal, the community development director may authorize a partial refund of a deposit account based upon the pro-rated costs to date and the status of the application at the time of withdrawal.

3. Flat fees submitted in conjunction with a permit application are nonrefundable. (Ord. 1043 § 2 (Att. 2), 2020)

17.112.040 Application review.

A. Review for Completeness.

1. Initial Review. The community development department shall review each application for completeness and accuracy before it is accepted as being complete and officially filed.

2. Basis for Determination. The community development department's determination of completeness shall be based on the city's list of required application contents and any additional written instructions provided to the applicant in a pre-application conference and during the initial application review period.

3. Notification of Applicant. Within thirty calendar days of application submittal, the community development department shall inform the applicant in writing that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information is required.

4. Appeal of Determination. When the community development department has determined that an application is incomplete, and the applicant believes that the application is complete or that the information requested by the community development department is not required, the applicant may appeal the community development department's determination in compliance with Chapter 17.152 (Appeals).

5. Submittal of Additional Information.

a. When the community development department determines that an application is incomplete, the time used by the applicant to submit the required additional information is not considered part of the time within which the determination of completeness for resubmitted materials shall occur.

b. Additional required information shall be submitted in writing.

c. The community development department's review of information resubmitted by the applicant shall be in compliance with subsection (A)(5)(a) of this section, along with another thirty-day period of review for completeness.

6. Environmental Information. After the community development department has accepted an application as complete, the department may require the applicant to submit additional information for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA). (Ord. 1043 § 2 (Att. 2), 2020)

17.112.050 Multiple permit applications.

A. Concurrent Filing. An applicant for a development project that requires the filing of more than one application (e.g., zoning map amendment and a conditional use permit) shall file all related applications concurrently unless the concurrent filing requirements are waived by the community development director.

B. Concurrent Processing. The community development department shall process multiple applications for the same project concurrently. Projects requiring multiple permit applications shall be reviewed and acted upon by the highest review authority designated by the zoning code for any of the applications (e.g., a project requiring a zoning map amendment and a conditional use permit shall have both applications decided by the city council, instead of the planning commission acting on the conditional use permit). The planning commission shall provide a recommendation to the city council on permits and approvals ordinarily acted upon by the planning commission. (Ord. 1043 § 2 (Att. 2), 2020)

17.112.060 Project evaluation and staff reports.

A. Staff Evaluation. The community development department shall review all permit applications to determine if they comply with the zoning code, the general plan, the local coastal program, and other applicable city policies and regulations.

B. Staff Report. For all permit applications requiring review by the planning commission or city council, the community development department shall prepare a staff report describing the proposed project and including, where appropriate, a recommendation to approve, approve with conditions, or deny the application.

C. Report Distribution. Staff reports shall be furnished to the applicant at the same time as they are provided to the review authority before action on the application. (Ord. 1043 § 2 (Att. 2), 2020)

17.112.070 Environmental review.

A. CEQA Review. After acceptance of a complete application, the community development department shall review the project in compliance with the California Environmental Quality Act (CEQA) to determine whether:

1. The proposed project is exempt from the requirements of CEQA;

2. The proposed project is not a project as defined by CEQA;

3. A negative declaration may be issued;

4. A mitigated negative declaration may be issued; or

5. An environmental impact report (EIR) is required.

B. Compliance with CEQA. These determinations and, where required, the preparation of appropriate environmental documents shall be in compliance with CEQA and any adopted city CEQA guidelines.

C. Special Studies Required. Special studies, paid for in advance by the applicant, may be required to supplement the city's CEQA compliance review. (Ord. 1043 § 2 (Att. 2), 2020)

17.112.080 Applications deemed withdrawn.

A. Response Required. If an applicant does not pay required supplemental fees or provide information requested in writing by the community development department within nine months following the date of the letter, the application shall expire and be deemed withdrawn without any further action by the city.

B. Resubmittal. After the expiration of an application, future city consideration shall require the submittal of a new complete application and associated filing fees. (Ord. 1043 § 2 (Att. 2), 2020)

17.112.090 Referrals to Planning Commission

The community development director may refer any application involving a discretionary action 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.

Chapter 17.140

REASONABLE ACCOMMODATIONS

Sections:

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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

17.140.060 Review procedure.

A. Director Review.

1. The community development director shall make a written determination within forty-five 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. (Ord. 1043 § 2 (Att. 2), 2020)

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.~~

E~~G~~. Other reasonable accommodations that may provide an equivalent level of benefit. (Ord. 1043 § 2 (Att. 2), 2020)

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). (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.148

PUBLIC NOTICE AND HEARINGS

Sections:

17.148.010 Purpose.

This chapter establishes procedures for public notices and hearings required by the zoning code. (Ord. 1043 § 2 (Att. 2), 2020)

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 on site 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 one ~~and one-half~~ inch~~es~~ 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 subsections (B)(1) through (5) of this section and as summarized in Table 17.148-1.

Table 17.148-1: Method of Notice Distribution

Type of Permit or Approval Hearing	Mailed Notice	Printed Notice Posted at Site	Notice Published in Newspaper
Conceptual Review	Yes	Yes	No
Design Permit and Appeal			

Type of Permit or Approval Hearing	Mailed Notice	Printed Notice Posted at Site	Notice Published in Newspaper
Major Revocable Encroachment Permit and Appeal Minor Modification and Appeal Minor Design Permit Appeal Minor Use Permit Appeal Removal of Structure from Designated Historic Structure List Sign Permit and Appeal Historic Alteration Permit Historic Resource Demolition Permit Tenant Use Permit Appeal	300-foot radius for adjacent property owners		
Development Agreement Variance and Appeal Conditional Use Permit and Appeal Master Use Permit, Amendment, and Appeal Condominium Conversion and Appeal Subdivision and Appeal Development Plans (PD Zones)	Yes 300-foot radius for adjacent property owners	Yes	Yes
Zoning Code and Map Amendment General Plan Amendment Coastal Land Use Plan Amendment	Determined by type of proposed amendment. See California Government Code.	Determined by type of proposed amendment. See California Government Code. [1]	Yes
Coastal Development Permit and Appeal	Yes 100-foot radius for adjacent property owners	Yes	Yes
Notice of Administrative Review for Minor Design Permit and Minor Use Permit	Yes 100-foot radius	Yes	No
Wireless Communications Facility Permits and Approvals	See Chapter 17.104 (Wireless Communications Facilities)		

Note:
[1] See 17.148.020(A)(4) for Zoning Map Amendment notice font size requirement.

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 three hundred 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 (B)(2) 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 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. (Ord. 1043 § 2 (Att. 2), 2020)

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 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.

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 one hundred 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. (Ord. 1043 § 2 (Att. 2), 2020)

17.148.040 Notice for wireless communications facility applications.
Public notice for wireless communications facility applications shall be given in accordance with Section 17.104.040(H) (Public Notice and Hearing). (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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. (Ord. 1043 § 2 (Att. 2), 2020)

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 the other hearing body with the recommendation shall be provided to applicant. (Ord. 1043 § 2 (Att. 2), 2020)

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 time frame as required by the California Environment Quality Act (CEQA):

1. Within sixty 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 one hundred eighty 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 Chapter 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. (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.156

POST-DECISION PROCEDURES

Sections:

17.156.010 Purpose.

This chapter establishes procedures and requirements that apply following a city decision on a permit required by the zoning code. (Ord. 1043 § 2 (Att. 2), 2020)

17.156.020 Issuance of permits.

Permits shall not be issued until the effective date; provided, that no appeal of the review authority's decision has been filed in compliance with Chapter 17.152 (Appeals). (Ord. 1043 § 2 (Att. 2), 2020)

17.156.030 City council decisions.

All decisions of the city council on appeals, legislative actions, and other matters are final and conclusive except for decisions which may be appealed to the Coastal Commission. (Ord. 1043 § 2 (Att. 2), 2020)

17.156.040 Effective date of decision.

A. City Council Decisions.

1. A decision of the city council on a project outside of the coastal zone is final and shall be effective on the date the decision is rendered.

2. A decision of the city council on a project within the coastal zone that is not appealable to the Coastal Commission is final and shall be effective on the date the Coastal Commission receives a notice of final action consistent with Section 17.44.140 (Notice of final action).

3. A decision of the city council on a project within the coastal zone that is appealable to the Coastal Commission is final and shall be effective after five p.m. on the tenth working day following the Coastal Commission's receipt of the notice of final action when no appeal of the decision has been filed with the Coastal Commission in compliance with Section 17.44.150 (Appeals).

B. Other Decisions. The decision of the community development director or planning commission is final and effective after five p.m. on the tenth day following the date the decision is rendered, when no appeal of the decision has been filed in compliance with Chapter 17.152 (Appeals). (Ord. 1043 § 2 (Att. 2), 2020)

17.156.050 Conformance to approved plans.

A. Compliance. All work performed under an approved permit shall be in compliance with the approved drawings and plans and any conditions of approval imposed by the review authority.

B. Changes. Changes to an approved project shall be submitted and processed in compliance with Section 17.156.070 (Changes to an approved project). (Ord. 1043 § 2 (Att. 2), 2020)

17.156.060 Performance guarantees.

A. Security Required. The community development director may require an applicant to provide adequate security to guarantee the proper completion of any approved work or compliance with any conditions of approval.

B. Form of Security. The security shall be in the form of cash, a certified or cashier's check, or a performance bond executed by the applicant and a corporate surety authorized to do business in California and approved by the city.

C. Amount of Security. The community development director shall determine the amount of the security necessary up to one hundred fifty percent of project cost to ensure proper completion of the approved work or compliance with any conditions of approval.

D. Duration of Security. The security shall remain in effect until all work has been completed and conditions fulfilled to the satisfaction of the community development director or until a specified warranty period has elapsed.

E. Release of Security. The security deposit shall be released upon completion of the approved work or compliance with any conditions of approval.

F. Failure to Comply.

1. Upon failure to complete any work or comply with conditions, the city may complete the work or fulfill the condition, and may collect from the applicant or surety all costs incurred, including administrative, engineering, legal, and inspection costs.

2. Any unused portion of the security shall be refunded to the funding source. (Ord. 1043 § 2 (Att. 2), 2020)

17.156.070 Changes to an approved project.

An approved project shall be established only as approved by the review authority, except when changes to the project are approved in compliance with this section.

A. Request for a Change. An applicant shall request desired changes in writing, and shall submit appropriate supporting materials and an explanation for the request.

B. Notice and Hearing. If the original approval required a noticed public hearing, a noticed public hearing is required for the requested change, except as allowed by subsection C of this section (Minor Changes).

C. Minor Changes. The community development director may authorize minor changes to an approved project if the changes comply with all of the following criteria:

1. The requested changes are consistent with the zoning code.

2. The requested changes are consistent with the spirit and intent of the original approval.

3. The requested changes do not involve a feature of the project that was a basis for findings in a negative declaration, mitigated negative declaration, or environmental impact report for the project.

4. The requested changes do not involve a feature of the project that was a basis for conditions of approval for the project.

5. The requested changes do not involve a feature of the project that was a specific consideration by the review authority in granting the approval.

6. The requested changes do not involve any expansion, intensification, or increase in size of the land use or structure.

7. The requested changes comply with the criteria above and involve a minor change to the project design that maintains the essential elements of the project as originally approved. Minor changes to a project design include but are not limited to modifications to:

a. The location, size, or design of a surface parking area if consistent with Chapter 17.76 (Parking and Loading).

b. The location or design of an accessory structure one hundred twenty square feet and ten feet in height or less.

c. The size, placement, or number of doors and windows provided the changes affect fewer than twenty-five percent of the structure's doors and windows and no new privacy impacts would be created.

d. Materials affecting less than twenty-five percent of the building facade provided the changes maintain the approved architectural style of the structure.

e. Fences and walls if consistent with Chapter 17.60 (Fences and Walls).

f. Landscaping if consistent with Chapter 17.72 (Landscaping).

g. Exterior lighting if consistent with Chapter 17.96 (Supplemental Standards).

h. Roof forms and materials provided there is no increase in structure height.

i. Facade articulation such as porch columns, shutters, tile work, and other architectural details. Modifications that fundamentally alter the architectural style of a structure are not considered a minor change.

j. The number, location, and size of decks and patios provided no new noise or privacy impacts would be created.

k. The number, size, type, and location of skylights.

l. Other similar minor changes to project design as determined by the community development director. (Ord. 1043 § 2 (Att. 2), 2020)

17.156.080 Time limits and extensions.

A. Expiration of Permit.

1. A permit not exercised within two years shall expire and become void, except where:

a. The ~~P~~planning ~~C~~commission or ~~C~~city ~~C~~council establishes an alternative expiration date when initially approving the permit; or

b. ~~a~~An extension of time is approved as allowed by subsection C of this section (Extension of Time).

2. A permit shall expire and become void if the permitted land use is abandoned or discontinued for one year or longer.

B. Exercised Defined. A permit or approval shall be considered exercised when:

1. A building permit is issued and construction has commenced;

2. A certificate of occupancy is issued; or

3. The land use is established.

C. Extension of Time. ~~The community development director may approve e~~Extensions to a permit may be approved in the following manner:

1. Extensions to a permit may be approved by the review authority which originally approved the permit.

2. In instances where the community development director was the approval authority, the community development director may choose to refer any action to extend a permit to the planning commission for review and final decision.

3. The ~~review authority~~community development director may approve up to two two-year extensions (four years total) to a permit. The planning commission and ~~C~~city ~~C~~council may approve up to two four-year extensions (eight years total) to a permit. The review authority may also approve an extension up to the expiration date of a valid tentative map as allowed by the Subdivision Map Act for projects involving a subdivision of land if such an extension is necessary to prevent a substantial hardship for the project applicant.

4. The applicant shall submit to the community development department a written request for an extension of time no later than ten days before the expiration of the permit.

5. The review authority may extend the permit if the applicant has proceeded in good faith and has exercised due diligence in efforts to exercise the permit in a timely manner.

6. The burden of proof is on the applicant to demonstrate that the permit should be extended. (Ord. 1043 § 2 (Att. 2), 2020)

17.156.090 Resubmittals.
A. Resubmittals Prohibited. For a period of twelve months following the denial or revocation of a permit, the city shall not accept an application for the same or substantially similar permit for the same site, unless the denial or revocation was made without prejudice, and so stated in the record.

B. Determination. The community development director shall determine whether the new application is for a permit which is the same or substantially similar to the previously denied or revoked permit.

C. Appeal. The determination of the community development director may be appealed to the planning commission, in compliance with Chapter 17.112 (Permit Application and Review). (Ord. 1043 § 2 (Att. 2), 2020)

17.156.100 Permits to run with the land.
Permits issued in compliance with the zoning code remain valid upon change of ownership of the site, structure, or land use that was the subject of the permit application. (Ord. 1043 § 2 (Att. 2), 2020)

17.156.110 Permit revocation.
Any discretionary permit may be revoked as provided for in this section.

A. Review Authority.

1. A permit may be revoked by the review authority which originally approved the permit.

2. In instances where the community development director was the approval authority, the community development director may choose to refer any action to revoke a permit to the planning commission for review and final decision.

B. Property Owner Notification. Prior to initiating proceedings to revoke a permit, the community development director shall notify the property owner of the permit violations, identify necessary corrections, and establish a reasonable period within which the property owner shall correct the violations. If the property owner has not corrected the violation within the specified period of time, the city may proceed with the process to revoke the permit.

C. Public Notice and Hearing. Public notice and hearing for any action to revoke a permit shall be provided in compliance with Chapter 17.148 (Public Notice and Hearings).

D. Findings. The review authority may revoke a permit only if one or more of the following findings can be made:

1. The applicant or property owner has altered the circumstances under which the permit was granted to a degree that one or more of the findings required to grant the original permit can no longer be made.

2. Permit issuance was based on misrepresentation by the applicant, either through the omission of a material statement in the application, or in public hearing testimony.

3. One or more conditions of approval have been violated, or have not been complied with or fulfilled.

4. The use or structure for which the permit was granted no longer exists or has been discontinued for a continuous period of at least twelve months.

5. The applicant or property owner has failed or refused to allow inspections for compliance.

6. Improvements authorized by the permit are in violation of the zoning code or any law, ordinance, regulation, or statute.

7. The use or structure is being operated or maintained in a manner which constitutes a nuisance.

E. Effect of Revocation. The revocation of a permit shall have the effect of terminating the approval and denying the privileges granted by the permit.

F. Appeals. A decision on a permit revocation may be appealed in accordance with Chapter 17.152 (Appeals). (Ord. 1043 § 2 (Att. 2), 2020)

Chapter 17.160

GLOSSARY

Sections:

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. (Ord. 1043 § 2 (Att. 2), 2020)

17.160.020 Definitions.

A. "A" Terms.

1. "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" 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" means a structure that is incidental and subordinate to a primary structure or use located on the same parcel. Includes garages, sheds, hot tubs, pergolas, and other similar structures.

4. "Accessory use" means a land use which is incidental and subordinate to a primary land use located on the same parcel.

5. "Addition" means any development or construction activity that expands the footprint or increases the floor area of a building.

6. "Adjacent" means directly abutting, having a boundary or property line(s) in common or bordering directly, or contiguous to.

7. "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" means any person, firm, partnership, association, joint venture, corporation, or an entity or combination of entities which seeks city permits and approvals.

10. "Arbor" means a freestanding unenclosed structure with vertical latticework on two sides for climbing plants and crossbeams or lattice forming a covering connecting the sides. The space between the vertical latticework may be open or contain a bench for sitting.

11. "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.

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

7. “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” means any structure used or intended for supporting or sheltering any use or occupancy.

9. “Building coverage” means the land area covered by all buildings and accessory structures on a parcel.

10. “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” 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” 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” means permitted without any form of discretionary approval.

C. “C” Terms.

1. “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” 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. “Car wash” means a commercial facility for the washing, waxing, or cleaning of automobiles or similar light vehicles.

4. “Caretaker quarters” means a residence that is accessory to a nonresidential primary use of the site, where needed for security, or twenty-four-hour care or supervision.

5. “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.

6. “Clerestory Window” means a window where the bottom of the glass is at least six feet above the finished floor height.

7~~6~~. “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.

8. “Cohousing” means an intentional, collaborative neighborhood that combines private homes with shared indoor and outdoor spaces designed to support an active and interdependent community life.

9~~8~~7. “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.

10~~9~~8. “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.

11~~0~~9. “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.

12~~1~~10. “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 theaters.

13~~2~~11. “Community development director” means the community development director of the city of Capitola or his or her designee.

14~~3~~12. “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.

15~~4~~13. “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, nonprofit art centers and galleries, botanical gardens, and other similar uses.

16~~5~~14. “Curb-side service” or “drive-up service” means service provided by a commercial establishment while a customer remains waiting within a vehicle.

17~~6~~15. Custom Manufacturing. See “Manufacturing, custom.”

D. “D” Terms.

1. “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” means a facility that provides nonmedical care and supervision of minors for periods of less than twenty-four hours. Includes nursery schools, day nurseries, child care centers, infant day care centers, cooperative day care centers, and similar uses.

3. “Daylight plane” means the imaginary line beginning at a height of twenty feet at the setback from a property line and extending into the parcel at an angle of forty-five degrees.

4. “Deck” means an outdoor 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 fifty percent or more of the lineal footage of existing interior and exterior walls or fifty percent or more of the area of existing floor, ceilings, and roof structures.

6. “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” 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” 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” 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” 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” 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” 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” 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” 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. Also includes tasting rooms with more than one hundred sixty square feet of floor area accessible to the public.

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 one hundred

sixty 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 one hundred sixty 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 and tasting rooms with one hundred sixty square feet or less of floor area accessible to the public. Excludes "bars and lounges."

2. "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 are 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" means 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. An emergency shelter may include other interim interventions, including, but not limited to, a navigation center, bridge housing, and respite or recuperative care.

F. "F" Terms.

1. "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" 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" 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" 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" means the gross floor area of all of the buildings on the parcel divided by the net parcel area.

6. "Food preparation" means 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" means that portion of all property abutting a street.

G. "G" Terms.

1. "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" 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" 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” 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 (thirty days or more). Excludes hotels, motels, bed and breakfasts, and residential care facilities.

5. “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” 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” means any and all activities involving earthwork, including placement of fill and/or excavation.

8. “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” means an area within a building that is conditioned (heated or cooled) with a finished floor and a ceiling height of at least seven feet six 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” means a facility providing daytime supervision and care for up to fourteen children located in the provider’s own home. Includes both small and large home day care facilities as defined in California Health and Safety Code Sections 1597.44 and 1597.465.

4. “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” means the city permit required to alter the exterior of a historic resource in accordance with Section 17.84.070 (Historic alteration permit).

6. “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. Does not include “vacation rental” as defined by this chapter.

I. “I” Terms.

1. “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” 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” means 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” 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” 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)” means the city’s land use plan and implementation plan which includes portions of the municipal code, portions of the zoning code, zoning map (as more specifically identified in Chapter 17.44 (Coastal Overlay Zone) 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” means an establishment providing overnight accommodations to transient patrons for payment for periods of less than thirty 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” 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” 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” 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” 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. “Micro-Unit’ means a multifamily dwelling unit 350 square feet or less with a fully functioning kitchen and bathroom.

6~~5~~. “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.

76. “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)(89) (Mini-Bar/Convenience Areas).

87. “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 plaza centers, and emergency medical clinics offered exclusively on an out-patient basis. Hospitals are excluded from this definition.

98. “Mixed use” means two or more different land uses located in one structure or on one parcel or development site.

109. “Mobile food vendors” means businesses selling food or drinks from temporary and semi-permanent structures or mobile equipment such as food trucks or pushcarts.

110. Mobile Home Park. See Section 17.100.030 (Definitions).

121. “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.

132. “Multifamily 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” 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” 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” 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” 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” means areas for outdoor living and recreation that are intended for the use of residents and guests of more than one dwelling unit.

3. “Outdoor kitchen” means an outdoor space used or intended or designed to be used for cooking or the preparation of food for a single dwelling unit subject to the standards in Section 17.16.030(B)(910). Outdoor pizza ovens are included in the definition of an outdoor kitchen.

4. “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” 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" 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" 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 has the authority to determine and designate the front parcel line based on existing conditions and function of the lot.

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 has the authority to determine and designate the front parcel line based on existing conditions and function of the lot.

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" means the average distance between the side parcel lines, measured at right angles to the parcel depth.

13. "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" 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" means noncommercial 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. "Pergola" means an unenclosed structure with vertical posts or pillars that supports crossbeams and/or an open lattice. A pergola may be freestanding or attached to a building.

17. "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 offices that offer classes in addition to the professional office spaces.

18. “Planning permit” means any permit or approval required by the zoning code authorizing an applicant to undertake certain land use activities.

19. Potential Historic Resource. See Section 17.84.020(B) (Potential Historic Resource).

20. “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.

21. “Primary structure” means a structure that accommodates the primary use of the site.

22. “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, nonretail 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.

23. “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)” 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 three hundred twenty 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 four hundred 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” means a center for the acceptance by donation, redemption, or purchase, of recyclable materials from the public.

3. “Remodel” means a change or alteration in a building that does not increase the building’s net square footage.

4. “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, supportive housing, 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 seven or more persons.

b. “Residential care facility, small” means a residential care facility for six or fewer persons.

5. “Residential mixed use” means one or more structures on a single parcel that contains both dwelling units and nonresidential 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. “Residential use” means any legal use of a property as a place of residence, including but not limited to dwelling units, group housing, and the residential component of a mixed-use residential building.

7. “Retail” means 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.

8. “Retail cannabis establishment” means a retail store in which cannabis or cannabis products are sold for adult use and/or medicinal use.

98. “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.

109. “Roof deck” means an occupied roof space created by a ~~a~~ walkable exterior floor system located above the top story of a structure, not including access, and supported by the roof of a building.

S. “S” Terms.

1. “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” 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” 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” 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. ~~The “term S~~single-family dwelling” includes employee housing for six or fewer persons as defined in Health and Safety Code Section 17008.

6. “Single-room occupancy” means 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 four hundred square feet or less.

7. “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” means the total area included within the boundaries of a site.

9. “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” 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” 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.

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” means a public way more than twenty feet in width which affords a primary or principal means of access to abutting property. “Streets” includes private roads and highways.

14. “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” 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.

16. “Supportive housing” means housing with no limit on length of stay, that is occupied by low income adults with disabilities, and that is linked to on-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

T. “T” Terms.

1. “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. “Tasting room” means a room or rooms, open to the general public, primarily used for the retail marketing of winery, brewery, distillery, and/or food products.

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

4. “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 twelve months, and does not permanently alter the character or physical facilities of a property.

5. “Transitional housing” means temporary housing, generally provided for a period of six months to several years, with supportive services that prepare individuals or families to transition from emergency or homeless shelters to permanent housing. Such housing may be configured for specialized needs groups such as people with substance abuse problems, mental illness, domestic violence victims, veterans, or people with specified illnesses. Such housing may be provided in apartment complexes, boarding house complexes, or in single-family homes.

6~~5~~. “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.

U. “U” Terms.

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

2. “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 non-commercial 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” 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” 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” means the occupancy for hire of residential property or a portion thereof for a period of less than thirty consecutive calendar days. See Section 17.40.030 (Vacation rental use (-VRU) 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” 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” 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” 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” 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” means a permanent upright linear structure made of stone, concrete, masonry, or other similar material.

2. “Warehousing and distribution” means an establishment used primarily for the storage and/or distributing of 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” 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 communications facility” means a facility that transmits or receives electromagnetic signals for the purpose of transmitting voice or data communications. See Chapter 17.104 (Wireless Communications Facilities).

X. “X” Terms. None.

Y. “Y” Terms.

1. “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. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)