

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AMENDING CAPITOLA MUNICIPAL CODE TITLE 17 (ZONING), CHAPTER 18.03 (DENSITY BONUS), AND THE ZONING MAP TO IMPLEMENT THE 2023-2031 GENERAL PLAN HOUSING ELEMENT AND MAKE OTHER NECESSARY UPDATES, AS WELL AS AMENDING CHAPTER 9.61 (MARIJUANA SALES, PROCESSING, AND CULTIVATION)

WHEREAS, on August 22, 2024, the City Council adopted amendments to the 2023-2031 Housing Element of the General Plan (Housing Element) and an Addendum to the General Plan Update Final Environmental Impact Report;

WHEREAS, on August 30, 2024, the California Department of Housing and Community Development (HCD) certified the Housing Element;

WHEREAS, while the City is not required to process any rezonings as part of its obligations under the Housing Element, the Housing Element requires the City to amend Municipal Code Title 17 (Zoning Code) and Chapter 18.03 (Density Bonus) to implement Housing Element goals and policies within Housing Element program-established timelines;

WHEREAS, recent state law updates and staff's review of the Municipal Code require further amendments to the Code to ensure consistency with state law and the prevention of any inconsistencies;

WHEREAS, City staff prepared draft amendments to Municipal Code Title 17, Chapter 18.03, and the Zoning Map (collectively, the Zoning Code Amendments) to implement the Housing Element and address additional issues and policy goals that have arisen since the Zoning Code was last updated;

WHEREAS, the Zoning Code Amendments also remove the now-obsolete Affordable Housing Overlay Zone from the Zoning Code and Zoning Map, consistent with Housing Element Programs 1.1 and 1.6 and given that density incentives are now widely available under state density bonus law as well as the Zoning Code Amendments to Municipal Code Chapter 18.03;

WHEREAS, the Planning Commission held work sessions on February 1, February 16, May 2, June 6, July 23, August 15, and September 5, 2024 to consider the draft Zoning Code Amendments, receive public comment, and provide feedback to City staff;

WHEREAS, the City mailed notice of the Zoning Code amendments' availability for public review, and made the public review draft available on August, 6, 2024, in compliance with California Coastal Act public participation requirements;

WHEREAS, a conforming amendment is required for Municipal Code Section 9.61.010(l) (not part of the Zoning Code) to be consistent with the Zoning Code Amendments pertaining to retail cannabis; and

WHEREAS, the Planning commission considered the Zoning Code Amendments at a duly noticed public hearing on September 19, 2024, and October 3, 2024. After taking public comment and closing the public hearing, the Planning Commission voted to adopt Resolution Nos. 2024-02 and 2024-03, recommending the City Council find the Zoning Code Amendments exempt from CEQA and adopt the Zoning Code Amendments.

NOW, HEREBY BE IT ORDAINED by the City of Capitola as follows:

Section 1: The above findings are adopted and incorporated herein. The City Council makes the following additional findings:

1. The Zoning Code Amendments are consistent with and help implement the goals, objectives and policies of the General Plan, including the Housing Element, including as follows:

- Corner Duplexes: Allows duplex homes allowed on corner parcels in the R-1 Zone. (Implementing Housing Element Program 1.6)
- Lot Consolidation: Increases height and floor area ratio (FAR) for housing development projects that consolidate adjacent Housing Element opportunity sites. (Implementing Housing Element Program 1.1)
- Parking: Reduces parking required for multifamily dwellings, single-family homes, group housing, residential care facilities, transitional housing, and senior housing. (Implementing Housing Element Program 1.6)
- Housing on Education and Religious Sites: Allows affordable housing projects on land owned by religious institutions. (Implementing Housing Element Program 1.8)
- Replacement Housing: Language requiring no net loss of housing units and replacement of affordable units (Implementing Housing Element Program 1.1)
- Density Bonus: Establishes density bonus procedures consistent with recent updates to state law. (Implementing Housing Element Programs 1.6, 2.5, 3.6)
- Daycares: Allows daycares with a Minor Use Permit in commercial zones. (Implementing Housing Element Program 3.6)
- Retail Cannabis: Allows retail cannabis in the C-C zones when fronting 41st Avenue. (Consistent with General Plan Policies LU-1.5 (Inclusiveness), LU-1.7 (Economic Viability), LU-3.1 (Land Use Diversity) and LU-9.4 (Retail Protection along the 41st Avenue Corridor), and consistent with the Community Commercial land use designation, which provides for an area for commercial uses primarily serving Capitola residents. Permitted land uses include general retail, personal services, restaurants, offices, and multi-family housing as part of a mixed-use project)

- Office in Commercial Zones: Expands allowed location for ground floor office uses in the C-R and C-C zones. (Consistent General Plan Policies LU-1.6 (Balanced Community), LU-1.7 (Economic Viability), and LU-3.1 (Land Use Diversity), and consistent with the Regional Commercial and Community Commercial land use designations, which allow for office uses);
2. The Zoning Code Amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the City;
 3. The Zoning Code Amendments are internally consistent with other applicable provisions of the Zoning Code; and
 4. The Zoning Map amendment sites are physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the permitted land uses and development will comply with the Zoning Code and General Plan and contribute to the health, safety, and welfare of the property, surrounding properties, and the community at large.

Section 2: Title 17 (Zoning) and Chapter 18.03 of the Capitola Municipal Code are amended as set forth in Attachments 1 and 3, attached hereto and incorporated herein by this reference.

Section 3: The official Zoning Map of the City of Capitola is amended as set forth in Attachment 2, attached hereto and incorporated herein by this reference.

Section 4: Section 9.61.010(l) of the Capitola Municipal Code is amended as follows (additions shown in underline, deletions shown in ~~strikeout~~):

9.61.010 Findings

I. The City regulates commercial cannabis activities, requiring consistency with Chapter 5.36 of this code, Retail Cannabis Licenses, a licensing structure of cannabis retail businesses, and Chapter 17.24 of this code, Commercial and Industrial Zoning Districts, Section 17.24.020, authorizing retail cannabis sales in specified locations.
~~On December 13, 2018, Ordinance 1021 became effective, adding Chapter 5.36 of this code, Retail Cannabis Licenses, establishing a licensing structure for cannabis retail businesses, and amending Chapter 17.24 of this code, Commercial and Industrial Zoning Districts, Section 17.24.020, to authorize retail cannabis sales in the CR (Regional Commercial) zoning district.~~

Section 5: Environmental Review.

The City Council finds and determines that adoption of this Ordinance is exempt from CEQA, pursuant to CEQA Guidelines Section 15061(b)(3), which provides that a project is exempt from CEQA if the activity is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

The Ordinance is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 – the Community Plan exemption. The proposed Zoning Code Amendments are

consistent with and implement the densities established in the General Plan as analyzed in the General Plan EIR, as well as Housing Element programs that were analyzed in the Addendum to the General Plan EIR. These amendments do not increase development potential beyond levels analyzed in the EIR and the Addendum. The amendments make changes to the Zoning Code to comply with state housing laws and bring the Zoning Code into compliance with state requirements that already apply to proposed development. The Zoning Code Amendments do not involve any peculiar environmental effects or effects, including cumulative impacts, that were not analyzed as significant effects in the General Plan EIR and its Addendum. No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified or its Addendum was adopted as complete, has been submitted to the City.

The City Council further finds that the action to adopt this Ordinance was considered within the General Plan EIR and the Addendum to the General Plan EIR for the Housing Element, adopted August 22, 2024. No supplemental or subsequent EIR is required because none of the circumstances requiring a supplemental or subsequent EIR exist (CEQA Guidelines Section 15162):

(a) No substantial changes are proposed in the project which will require major revisions of the previous EIR or its Addendum due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The Zoning Code and Zoning Map amendments do not create any additional environmental impacts;

(b) No substantial changes have occurred with respect to the circumstances under which the project is undertaken. The General Plan EIR Update Addendum was adopted in August 2024, and no substantial evidence has been submitted showing any change in the circumstances applicable to the project; and

(c) No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified or its Addendum was adopted as complete, has been submitted to the City.

Section 6: Effective Date.

This Ordinance shall be in full force and effect thirty (30) days from its adoption except that it will not take effect within the coastal zone until certified by the California Coastal Commission. Upon its adoption by the City Council, the Community Development Director shall cause this Ordinance to be transmitted to the California Coastal Commission. This Ordinance shall take effect in the coastal zone immediately upon certification by the California Coastal Commission or upon the concurrence of the Commission with a determination by the Coastal Commission Executive Director that the Ordinance adopted by the City is legally adequate.

Section 7: Severability.

The City Council hereby declares every section, paragraph, sentence, cause, and phrase of this Ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this Ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

Section 8: Certification.

The City Clerk shall cause this Ordinance to be posted and/or published in the manner required by law.

This Ordinance was introduced at the meeting of the City Council on the 24th day of October, 2024, and was adopted at a regular meeting of the City Council on the ___ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Kristin Brown, Mayor

Attest: _____
Julia Gautho, City Clerk