Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: Community and Economic Development Department

Subject: Citywide Municipal Code Amendments

Recommended Action: 1) Introduce for first reading, by title only, waiving further reading, an ordinance amending Capitola Municipal Code Title 17 (Zoning) to repeal and replace Chapter 17.88: Incentives for Community Benefits, relocate existing village hotel incentives to Chapter 17.90: Incentives for a Village Hotel with Community Benefits, amend Chapter 17.74: Accessory Dwelling Units, Repeal Chapter 9.08: Tattoo Establishments, make related amendments for Body Art Studios to Chapter 17.20: Mixed Use, Chapter 17.24: Commercial and Industrial Zoning Districts, Chapter 17.96: Supplemental Regulations, and Chapter 17.160 Glossary, and finding that adoption of the ordinance is exempt from CEQA; 2) adopt a resolution authorizing submittal of the proposed changes to the California Coastal Commission for the certification of an amendment to the Local Coastal Program; and 3) approve an administrative policy for the selection of body art service providers.

Background: In 2024, the City Council adopted the 2023-2031 Housing Element of the General Plan (Housing Element). The Housing Element establishes goals and policies for housing production in Capitola as required by state law. The Housing Element also contains programs with required City actions to implement Housing Element policies. The City must complete these actions by the dates specified for each program.

Since adopting the 2023-2031 Housing Element, the City has completed a number of Zoning Code amendments required by the Housing Element, including updating the Residential Multifamily (RM) Zone and the Capitola Mall Zoning Code. One remaining Zoning Code amendment required by Housing Element Program 1.4 calls for changes to Chapter 17.88, Incentives for Community Benefits, to facilitate residential development on commercial corridors.

In addition, amendments to the City's accessory dwelling unit (ADU) regulations are needed to maintain consistency with recent changes in state law. Staff also recommends amendments relating to tattoo establishments ("body art studios") to address legal considerations associated with the City's existing prohibition and to establish appropriate zoning, permitting, and operational standards for this use.

During the Planning Commission's regular meeting on June 4, 2026, the Planning Commission discussed amendments to Chapter 17.88 (Incentives for Community Benefits), Chapter 17.74 (Accessory Dwelling Units), and Chapter 9.08 (Tattoo Establishments) and provided feedback on the topics.

On August 20, 2026, the Planning Commission held a public hearing to consider the proposed amendments and recommended the City Council adopt these amendments. A link to the August 20, 2026, Planning Commission staff report is included as Attachment 4.

Discussion: The proposed municipal code amendments apply to incentives for community benefits, ADU regulations, and body art studios.

Updates to Incentives for Community Benefits: Currently, Capitola Municipal Code Chapter 17.88 (Incentives for Community Benefits) provides incentives for applicants to locate and design development projects in a manner that provides substantial benefits to the community. Eligible projects are limited to 1) projects in the regional commercial (C-R) or community commercial (C-C) zoning districts on a property that fronts 41st Avenue (excluding the Capitola Mall property) or Capitola Road between Clares Street and 42nd Avenue; or 2) a hotel in the former Capitola Theater site in the Mixed-Use Village zoning district.

The Housing Element identifies Chapter 17.88 as a constraint to housing production and calls for the City to establish objective requirements for projects to receive increased height and FAR. In addition, Program

1.4 calls for the City to "expand the incentivized zone for increased FAR and height to facilitate mixed-use development, targeting commercial corridors where key sites are identified for RHNA, in exchange for an expanded list of community benefits that complement mixed use residential development (such as childcare facilities, recreation areas, etc.)."

Redevelopment of the Capitola Mall was previously a community benefit listed in Chapter 17.88 and subject to the incentives of additional height (50 feet) and floor area (2.0). The Housing Element anticipated the Capitola Mall zoning code updates to remain in Chapter 17.88; however, due to the extensiveness of the new incentives and objective standards, redevelopment of the Capitola Mall was removed from Chapter 17.88 and incorporated into Chapter 17.24 (the C-R Zone District), and a new stand-alone chapter was created (Chapter 17.57: Objective Design Standards for Capitola Mall Redevelopment). The updated code allows expanded heights up to 85 feet and excludes parking garages from the FAR on the Capitola Mall property.

At the recommendation of Coastal Commission staff, the proposed Chapter 17.88 amendments (Attachment 1, Exhibit A) move all content pertaining to the Village hotel to a new chapter (Chapter 17.90), with no substantive changes made to this content at this time.

Chapter 17.88, as amended, would apply to the existing "incentivized zone" on 41st Avenue and Capitola Road and includes the following changes:

- Modernizes allowable community benefits to include public open space, land for a transit center, structured public parking, land for a public facility, new commercial space, and a hotel.
- Establishes objective standards for qualifying community benefits.
- To incentivize hotel development, increases allowed hotel height to 60 feet, reduces minimum on-site parking, excludes meeting space from floor area ratio calculation, and replaces the requirement of a conditional use permit with newly established objective design and operational standards for hotels. Planning Commission approval of a design permit remains a requirement for a hotel.
- Incentivizes affordable housing development by allowing one additional concession or waiver for projects that use state density bonus law and provide a qualifying community benefit.
- Replaces subjective approval criteria with reliance on objective findings.
- Requires City Council conceptual review only for projects with a community benefit that must be dedicated to the City (e.g., land for a public facility).

Updates to Accessory Dwelling Units: In 2025, the state of California enacted Assembly Bill 1154 and Senate Bill 543, which amend state ADU and junior ADU (JADU) law. A JADU is a type of ADU with 500 square feet or less created entirely within the walls of an existing single-family home.

The proposed ADU amendments (Attachment 1, Exhibit B) maintain City conformance with state law with the following changes to Chapter 17.74 (Accessory Dwelling Units):

- Clarifies the City's process for reviewing and acting on ADU and JADU applications.
- Requires JADU owner-occupancy only if JADU has shared sanitation facilities with primary dwelling.
- Allows combining two ADUs and one JADU (subject to limited standards) on a single-family lot.

Updates Related to Body Art Studios: Capitola Municipal Code Chapter 9.08 (Tattoo Establishments) currently states that "It is unlawful to maintain or conduct a tattoo establishment or to maintain and conduct a tattooing business in the City." This prohibition was established in 1962.

The proposed body art studio amendments (Attachment 1, Exhibit C) repeals Municipal Code Chapter 9.08 (Tattoo Establishments) and amends the Zoning Code as follows:

- Allows body art studios in the C-C, C-R, and MU-V Zoning Districts with a conditional use permit.
- Limits the number of body art studios to two in the C-C and C-R Zoning Districts and one in the MU-V Zoning District, for a total of three studios Citywide.

- Establish an initial 30-day period (after the ordinance becomes effective) for the City to accept applications for a body art studio selection lottery. If the number of applications received exceeds the maximum number of body art studios permitted, the City will hold a lottery to determine which applications may proceed to conditional use permit review. If openings remain after the 30-day period, the City will accept applications on a first-come, first-served basis. The qualification criteria and lottery process are included in a new administrative policy (Attachment 5).
- Establishes standards for hours of operation; minimum separation from schools, places of religious assembly, and other body art studios; visibility of procedures; indoor procedures; prohibits alcohol consumption; age restrictions; and temporary/mobile facilities.

The Zoning Code is part of Capitola's Local Coastal Program (LCP), and as such, Zoning Code Amendments must be certified by the Coastal Commission before they become effective in the Coastal Zone. When adopting LCP amendments, the Coastal Commission requires cities to consider consistency with the LCP Land Use Plan and potential impacts on public access to the coast. This required analysis is provided in Attachment 2. Attachment 3 contains a draft resolution authorizing City staff to submit the Zoning Code Amendments to the Coastal Commission for certification.

Environmental Determination: The Chapter 17.88 amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code 21080.085, which states that "this division does not apply to a rezoning that implements the schedule of actions contained in an approved housing element pursuant to subdivision (c) of Section 65583 of the Government Code." Here, the Housing Element's Program 1.4 calls for the City to update the Zoning Code to facilitate housing production by removing constraints in the City's community benefits program and establishing new objective standards and approval criteria. Because the proposed Chapter 17.88 amendments implement this action, its adoption is exempt from CEQA. The body art studio amendments restricts zoning and cap a highly specific type of retail/service business to a maximum of three storefronts. Currently, personal service uses are allowed in commercial and mixed use zoning districts, and the proposed amendments add body art establishments as a similar allowed use subject to operational standards. Individual body art establishment projects will be evaluated under CEQA.

The proposed ADU Amendments are exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h), which exempts adoption of ordinances implementing state law regarding accessory dwelling units. The proposed body art studios amendments are categorically exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of the proposed amendments will have a significant effect on the environment (CEQA Guidelines, 14 Cal. Code of Regs. Section 15061(b)(3)). Currently, personal service uses are allowed in commercial and mixed-use zoning districts, and the proposed amendments add body art establishments as a similar allowed use subject to operational standards.

Fiscal Impact: There are no fiscal impacts associated with the recommended action.

Attachments:
1. Draft Ordinance
    a. Exhibit A: New Chapter 17.88 (Incentives for Community Benefits) and new Chapter 17.90 (Incentives for a Village Hotel with Community Benefits)
    b. Exhibit B: Amendments to Chapter 17.74 (Accessory Dwelling Units)
    c. Exhibit C: Repeal of Chapter 9.08 (Tattoo Establishments), New Section 17.96.080 (Body Art Studios), and amendments to 17.20 (Mixed Use Zoning Districts), Chapter 17.24 (Commercial and Industrial Zoning Districts), and define body art studios in Chapter 17.160 (Glossary)
2. LCP Consistency Analysis
3. LCP Amendment Application Resolution
4. August 20, 2026 Planning Commission staff report and attachments may be viewed at: https://meetings.municode.com/adaHtmlDocument/index?cc=CAPITOLACA&me=175e29389ef74ee09af4226f91a6bda5&ip=True
5. Administrative Policy for Body Art Studio Qualification and Lottery

Alignment with 2025-2029 Strategic Plan Priority: Accountable Government; Attainable Housing; Community Safety; Economic Opportunity; Healthy Families, Community, and Environment

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Approved By: Jamie Goldstein, City Manager