

Agenda Submittal

Agenda #:	3	Status:	ALUC-Regular-CS
Type:	ALUC-Document	Department:	Airport Land Use Commission
File #:	AC 24-008	Contact:	Nedzlene Ferrario
Agenda date:	03/14/2024	Final Action:	
Title:	ALUC-24-03 (City of Benicia's Municipal Code Amendments)		

Determine that Application No. ALUC-24-03 (City of Benicia's Municipal Code Amendments), located within the Travis Air Force Base (AFB) Compatibility Zone D and E, is consistent with the Travis Air Force Base (AFB) Land Use Compatibility Plan (LUCP)

Governing body: Airport Land Use Commission

District:

Attachments: [A - Airport Compatibility Zones Criteria](#), [B - City of Benicia & Compatibility Zones](#), [C - Benicia City PC Staff Report and Redline](#), [D - Draft Resolution](#)

Date:	Ver.	Action By:	Action:	Result:
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RECOMMENDATION:

Determine that Application No. ALUC-24-03 (City of Benicia's Municipal Code Amendments), located within the Travis Air Force Base (AFB) Compatibility Zone D and E, is consistent with the Travis Air Force Base (AFB) Land Use Compatibility Plan (LUCP)

DISCUSSION:

Section 21676 (d) of the State Aeronautics Act requires Airport Land Use Commission (ALUC) review of zoning regulations amendments within an Airport Influence Area.

City of Benicia proposes text amendments to modify sections of the Benicia Municipal Code Title 17 (Zoning) and Chapter 4 of the Downtown Mixed Use Master Plan (DMUMP) including Use Classifications; Residential, Mixed Use, Open Space, and Commercial Districts; General Regulations; Off-Street Parking and Loading; Reasonable Accommodations; Maximum Dwelling Unit Occupancy; Outdoor Facilities; Hazardous Materials; Animals; Underground Utilities; Youth Centers;

The proposed amendments are limited to the Use Classifications and Districts such as Residential, Mixed-Use Districts, Commercial, Open Space, General Regulations, Off-Street Parking, and Reasonable Accommodations are intended to incorporate language to implement the recently adopted Housing Element. The proposed changes to the Maximum Dwelling Unit Occupancy, Outdoor Facilities, Hazardous Materials, Animals, and Retail Sales Larger than 20, 000 sq ft would update regulations and streamline processes. The proposed amendment to the DMUMP to allow a height of up to four (4) stories (50 feet) in the TC zone via use permit height exception procedure would implement City Council direction received on December 19, 2023. Benicia Planning Commission Staff Report and Redlines to Municipal Code are included as Attachment C.

Zone D and E do not restrict densities or intensities and review of structural heights of objects and/or hazards related to bird attraction, electrical inference, glare and other flight hazards. The proposed amendments do not conflict with the compatibility criteria.

AIRPORT PLANNING CONTEXT & ANALYSIS

Zoning regulations amendments must undergo review by the ALUC for consistency with the applicable LUCPs (State Aeronautics Act section 21676). The proposed amendments would apply City wide, which is located in Compatibility Zones D and E of the Travis AFB LUCP (Attachment B). In general, Compatibility Zones D and E criteria require review of structural heights of objects and/or hazards related to bird attraction, electrical inference, glare and other flight hazards.

Staff evaluated the City's project using the Zone Compatibility criteria for Zone D and E of the Travis AFB LUCP. Staff analysis of the project is summarized in Attachment A.

Analysis Finding

Based on the review, staff finds that the proposed changes comply with the requirements of the zones to protect flight and are consistent with the Travis AFB Land Use Compatibility Plan (LUCP).

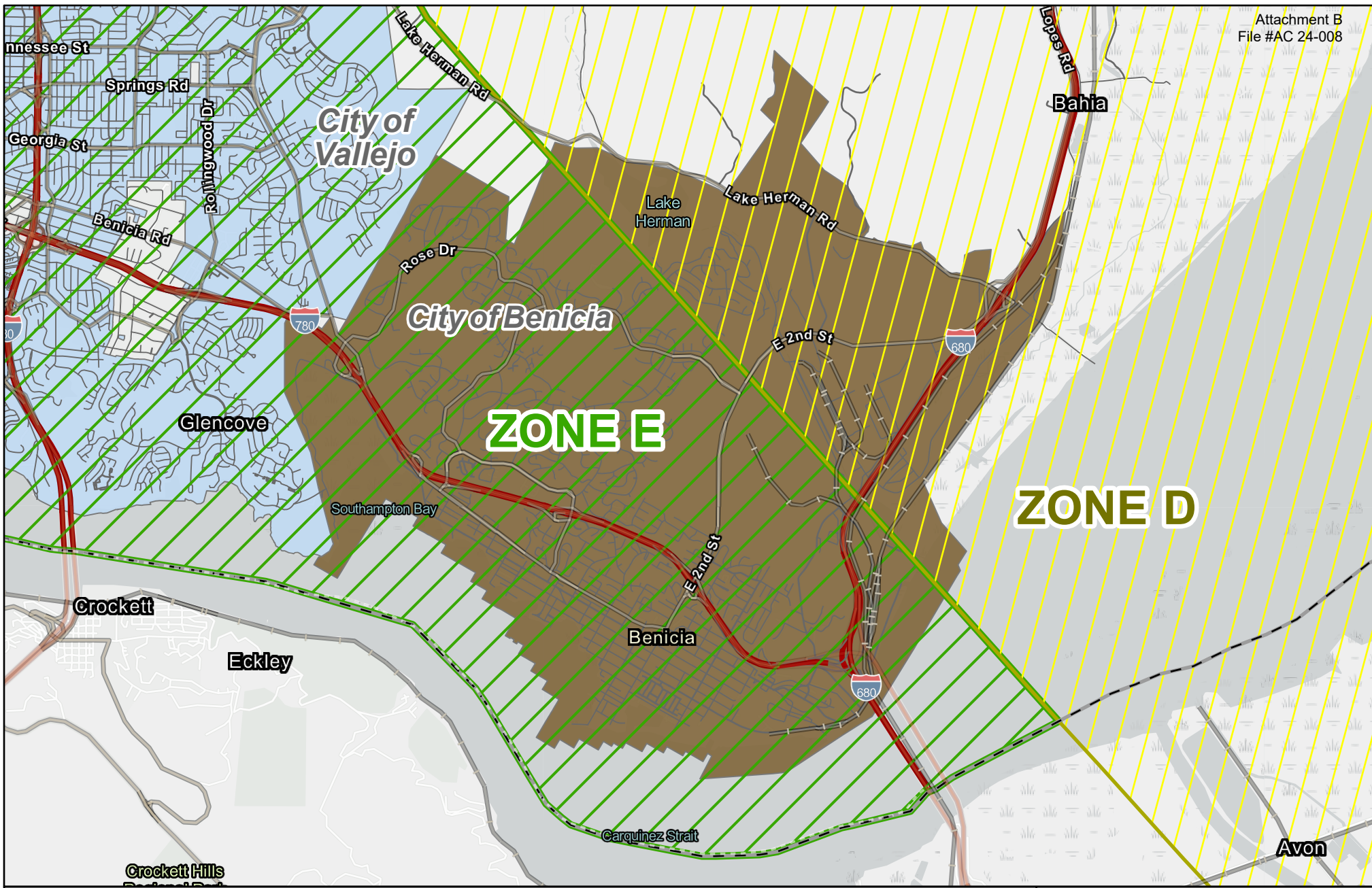
Attachments

- Attachment A: Airport Compatibility Zones Criteria
- Attachment B: City of Benicia and Compatibility Zones
- Attachment C: Benicia City PC Staff Report and Redline
- Attachment D: Resolution






Travis AFB Land Use Compatibility Zone Criteria

ALUC-24-03 (City of Benicia’s Municipal Code Amendments, Title 17 – Zoning and Chapter 4- Downtown Mixed Use Master Plan)

Compatibility Zone Criteria	Consistent	Not Consistent	Comment
Zone D			
Max Densities – No limits	X		The proposed amendments do not conflict with this criteria
Prohibited uses: hazards to flight	X		The proposed amendments do not introduce hazards to flight
ALUC review required for objects > 200 feet AGL	X		No objects above 200 feet tall proposed
All proposed wind turbines must meet line-of-sight criteria in Policy 5.6.1(b)	X		No wind turbines proposed
All new or expanded commercial-scale solar facilities must conduct an SGHAT glint and glare study for ALUC review	X		No commercial solar facilities proposed
All new or expanded meteorological towers > 200 feet AGL, whether temporary or permanent, require ALUC review	X		No meteorological towers proposed
For areas within the Bird Strike Hazard Zone, reviewing agencies shall prepare a WHA for projects that have the potential to attract wildlife that could cause bird strikes. Based on the findings of the WHA, all reasonably feasible mitigation measures must be incorporated into the planned land use.	X		City of Benicia is located outside of the Bird Strike Hazards Zone
For areas outside of the Bird Strike Hazard Zone but within the Outer Perimeter, any new or expanded land use that has the potential to attract the movement of wildlife that could cause bird strikes are required to prepare a WHA.	X		City of Benicia is located outside of the Outer Perimeter.
Zone E			
Max Densities – No limits	X		The proposed amendments do not conflict with this criteria
Prohibited uses - None	X		The proposed amendments are not in conflict
ALUC review required for objects > 200 feet AGL	X		No objects above 200 feet tall proposed
All proposed wind turbines must meet line-of-sight criteria in Policy 5.6.1(b)	X		No wind turbines proposed
All new or expanded commercial-scale solar facilities must conduct an SGHAT glint and glare study for ALUC review	X		No commercial solar proposed
All new or expanded meteorological towers > 200 feet AGL, whether temporary or permanent, require ALUC review	X		No meteorological towers proposed
Outside of the Bird Strike Hazard Zone but within the Outer Perimeter, any new or expanded land use that has the potential to attract the movement of wildlife that could cause bird strikes are required to prepare a WHA.	X		City of Benicia is located outside of the Outer Perimeter

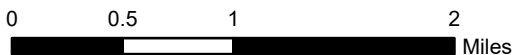


Travis AFB Compatibility Zones in City of Benicia

-  Zone D
-  Zone E
-  City of Benicia
-  City of Vallejo
-  Solano County Boundary



Disclaimer: The information shown is intended to be used for general display only and is not to be used as an official map.





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February 8, 2024

Nedzlene Ferrario
Solano County Department of Resource Management
Planning Services Division
675 Texas Street, Suite 5500
Fairfield, CA 94533-6341

RE: Referral of Municipal Code Text Amendments to Airport Land Use Commission

Dear Ms. Ferrario,

Enclosed please find an application to the Solano County Airport Land Use Commission, requesting the Commission's review of proposed text amendments within the City of Benicia for compatibility with the Travis Air Force Base Land Use Compatibility Plan (AFB LUCP). This ordinance would be effective city-wide, pending Council adoption. The majority of the City of Benicia is in Zone E of the Travis AFB LUCP, although the northeastern region of town is located in Zone D. The proposed text amendments modify sections of the Benicia Municipal Code Title 17 (Zoning) and Chapter 4 of the Downtown Mixed Use Master Plan (DMUMP) including Use Classifications; Residential, Mixed Use, Open Space, and Commercial Districts; General Regulations; Off-Street Parking and Loading; Reasonable Accommodations; Maximum Dwelling Unit Occupancy; Outdoor Facilities; Hazardous Materials; Animals; Underground Utilities; Youth Centers; and more. A full list of the amendments is detailed in the enclosed staff report and adjoining resolution.

The City of Benicia hopes that you will review the enclosed application and documents to advise us of the application's completeness and any comments you may have.

Thank you for your assistance and consideration.

Sincerely,

Jason Hade
Planning Manager



Planning Commission Staff Report

February 8, 2024

Project: Zoning Ordinance Amendments & Downtown Mixed Use Master Plan (DMUMP) Amendment

Location: Citywide

Staff Recommendation

Conduct a public hearing and move to adopt a resolution recommending that the City Council of the City of Benicia amend Title 17 (Zoning) of the Benicia Municipal Code (BMC) to modify Use Classifications (BMC Chapter 17.16), Residential Districts (BMC Chapter 17.24), Mixed Use Districts (BMC Chapter 17.26), Commercial Districts (BMC Chapter 17.28), Open Space Districts (BMC Chapter 17.36), Accessory Dwelling Unit (BMC section 17.70.060), Maximum Dwelling Unit Occupancy (BMC section 17.70.120), Outdoor Facilities (BMC section 17.70.200), Underground Utilities (BMC section 17.70.230), Hazardous Materials (BMC section 17.70.260), Animals (BMC section 17.70.300), Retail Sales Larger than 20,000 Square Feet of Gross Floor Area (BMC section 17.70.360), General Regulations (BMC section 17.70.390 Emergency Shelters and 17.70.460), Driveway Widths and Clearances (BMC section 17.74.140), Vehicle Parking – Design and Location in R Districts (BMC section 17.74.190), Trees and Views (BMC Chapter 17.82), Reasonable Accommodations (BMC Chapter 17.132), and Town Core (TC) standards (DMUMP Chapter 4).

Project Description

The proposed amendments to the Use Classifications, Residential Districts, Mixed Use Districts, Commercial Districts, Open Space Districts, General Regulations, Off-Street Parking and Loading Regulations, and Reasonable Accommodations are to incorporate language to implement the recently adopted Housing Element. Specifically, the ordinance would implement the following:

- Program 1.11 (amend the Zoning Ordinance to comply with changes in the state Density Bonus law);
- Program 1.12 (update the Zoning Ordinance to comply with State law regarding Accessory Dwelling Units);
- Program 3.01 (Amend the Zoning Ordinance to allow supportive housing in compliance with AB 2162);
- Program 3.02 (update the Reasonable Accommodation procedure findings);
- Program 3.05 (amend the Zoning Ordinance to comply with the Employee Housing Act);
- Program 3.07 (revise the City's requirements for residential care facilities); and
- Program 3.08 (amend the Zoning Ordinance to clearly define single-room occupancy units).

The proposed amendments to the Maximum Dwelling Unit Occupancy, Outdoor Facilities,

Hazardous Materials, Animals, Retail Sales Larger than 20,000 Square Feet of Gross Floor Area, CC, CO, CG, and CW districts – Land use regulations, Underground Utilities, Youth Centers, Driveway Widths and Clearances, Vehicle Parking – Design and Location in R Districts, and Trees and Views; would update regulations and streamline processes.

The proposed amendment to the DMUMP to allow a height of up to four stories (50 feet) in the TC zone via a use permit height exception procedure would implement City Council direction received on December 19, 2023.

Background

Zoning Ordinance

The City adopted the 2023-2031 6th Cycle Housing Element to the City's General Plan¹ on January 24, 2023. The City adopted amendments to the adopted Housing Element on November 14, 2023. As detailed above, implementation of the Housing Element requires the City to make changes to the Zoning Ordinance.

On September 5, 2023, the City Council considered initiation of amendments to the Zoning Ordinance to repeal the Trees and Views ordinance². Through discussion, the Council directed staff to seek additional amendments that streamline and update zoning regulations and refer the recommendation to the Planning Commission for along with other zoning issues that may be considered.

DMUMP

The Town Core Zone currently establishes the following height standards:

- Town Core: 22-foot minimum; 2½ story and 40-foot maximum building height. The primary intent of this zone is to enhance the vibrant, pedestrian-oriented character of First Street.

There are seven existing three story buildings and no existing four-story buildings in downtown Benicia. No new buildings have been approved or constructed on First Street since adoption of the DMUMP on September 4, 2007 (the most recent development, Harbor Walk, was approved under the prior Downtown Commercial zoning).

In January 2023, the City adopted an ordinance to allow residential uses up to three stories for housing opportunity sites in the TC Zone as designated by the Housing Opportunity Sites zoning overlay.

Subsequently, at a joint City Council/Planning Commission study session on July 25, 2023, the City Council directed staff to investigate options for increasing the maximum building height within the TC zone to facilitate potential hotel development. On December 19, 2023, Council received a report and presentation, and following discussion directed staff to amend the TC development standards allowing a height of up to four stories (50 feet) subject to approval of a use

¹ [City of Benicia 6th Cycle Housing Element](#)

² [September 5, 2023, Agenda Item #4 Tree and View Ordinance](#)

permit, and to identify appropriate measures for massing and building articulation.

Proposed Zoning and DMUMP Amendments

The proposed zoning amendments are attached hereto as Exhibit A to the draft resolution (Attachment 1) and the changes are shown in tracked changes format (additions are shown with underlined text and deletions are show with ~~strikethrough~~ text). The proposed amendments would accomplish the following.

- Employee Housing for Farmworkers. Comply with the Employee Housing Act, specifically, Health and Safety Code Section 17021.5, that requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone, and 17021.6 that requires employee housing/farmworker housing as an accessory use to the permitted agricultural uses in the Open Space District. (BMC Sections 17.16.030, 17.36.030, and 17.70.460; Housing Element Program 3.05)
- Single Room Occupancy. Clearly state that single-room occupancy units are included with the use classification Group Residential housing. (BMC Section 17.16.030C; Housing Element Program 3.08)
- Residential Care Facilities. Make residential care facilities a permitted use in districts that allow residential use in accordance with State law. (BMC Sections 17.16.030 F, 17.16.04, 17.26.020A, 17.26.030.A, 17.28.020, and 17.36.030; Housing Element Program 3.07)
- Supportive Housing. In accordance with State law, allow supportive housing without discretionary review in areas zoned for residential use and non-residential areas where multifamily and mixed uses are permitted. (BMC Sections 17.16.040 and 17.28.020; Housing Element Program 3.01)
- Low-Barrier Navigation Centers. In accordance with State law, define and specifically reference low-barrier navigation centers as permitted without discretionary review in areas zoned for mixed use and nonresidential zones permitting multifamily uses. (BMC Section 17.16.040, 17.26.030.A, 17.28.020; Housing Element Program 3.01)
- Accessory Dwelling Units. Comply with recent amendments to State law regarding Accessory Dwelling Units. (BMC Sections 17.16.080 A, 17.70.060, and 17.70.060; Housing Element Program 1.12)
- Youth Centers. Adding Youth Centers as a permitted use with the approval of a use permit in the RS District. (BMC Section 17.24.020)
- Drive-Up Restaurants. Remove the use permit requirements for drive-up restaurants (i.e., drive-through restaurants) in section 17.28.020 CC, CO, CG, and CW districts – Land use regulations. Where the City has existing restaurants with drive-through facilities built in, any vacancy or discontinuance of the drive-through longer than six months requires a

new use permit, which can result in a delay of occupancy and additional time/cost to authorize the use of the drive-through. Additionally, restaurants with drive-throughs are typical for various retail out lots in a General Commercial zone. Rather than a use permit, drive-up restaurants would be permitted in the General Commercial District only and a new regulation (footnote) would be added to the commercial land use regulations establishing performance standards for queuing. (BMC Section 17.28.020)

- Retail Sales. Delete Chapter 17.70.360 Retail Sales Larger than 20,000 Square Feet of Gross Floor Area and make a corresponding amendment to Commercial Land Use Regulations (section 17.28.020). Most shopping centers have anchor retail tenant spaces (such as grocery stores) that are at or exceeding this floor area. The use permit requirement could create a foreseeable delay in filling a future retail vacancy and/or obstacle to attracting a business that supports local economic development goals (BMC Sections 17.28.020 and 17.70.360)
- Density Bonus. Comply with changes in the state Density Bonus law (Government Code Section 65915, *et seq.*). (BMC Sections 17.28.030 and 17.70.120; Housing Element Program 1.11)
- Dwelling Unit Occupancy. Delete section 17.70.120 Maximum Dwelling Unit Occupancy. Occupancy is governed by the California Building Code; this standard is in conflict and unenforceable. (BMC Sections 17.70.120)
- Outdoor Storage. Modify the use permit requirement for outdoor storage, in Commercial, Mixed Use, Industrial, Public and Semipublic, and Open Space Districts, in Chapter 17.70.200 Outdoor facilities. Many industrial businesses, including businesses with point of sale, involve some extent of outdoor storage. This amendment would only require a use permit for outdoor storage, in industrial districts, exceeding 20,000 square feet. Outdoor storage must still comply with design guidelines, including screening. (BMC Section 17.70.200)
- Underground Utilities. Clarify the application of section 17.70.230 Underground utilities to new development, excluding small site infill development and minor additions. This amendment would focus the undergrounding requirement on new development or site redevelopment resulting from a subdivision of five lots or more, a residential development of five or more units, new commercial or industrial site development of a vacant lot or greater than 20,000 square feet. In an infill setting for smaller residential projects, the only utility that can be undergrounded is the service to the home, in most cases requiring installation of a new pole at the site address. This requirement does not meaningfully address the overhead utilities within an existing block or neighborhood, and it adds substantial cost to the homeowner plus time and cost coordination with PG&E.
- Hazardous Materials. Delete sections A through E of Chapter 17.70.260 Hazardous Materials. The City allows a wide range of industrial uses, many of which handle hazardous materials. The language of this section is out of date and requires significant interpretation to draw relevance to current California Fire Code. Hazardous materials,

including release response plans, storage, management and disposal, are regulated by a variety of laws outside of the City's jurisdiction and are regulated locally by the Benicia Fire Department. This requirement establishes lead times and costs that may be at odds with the City's priorities and resources, given that hazardous materials are already addressed through various layers of State and Federal regulation. (BMC Section 17.70.260)

- Animals. Remove the staff level use permit requirement for animals exceeding the limits set forth in Title 6 (Animal Control Regulations) in Chapter 17.70.300 Animals. The use permit creates an unnecessary requirement beyond the more specific regulations and procedures of the Animal Keeper's Permit and Commercial Animal Permit (both administered by the Police Department under Title 6). (BMC Section 17.70.300)
- Emergency Shelters. This proactively removes language pertaining to management plans for emergency shelters to proactively ensure compliance with State law and updates parking requirements. (BMC Sections 17.70.390F and 17.74.030; Housing Element Program 3.01)
- Driveway Widths. Streamline review authority and create internal consistency by amending Chapter 17.74.140 to reflect the allowed driveway widths in Chapter 12.16.240. (BMC Section 17.74.140)
- Carports. Delete the portion of Chapter 17.74.190 that pertains to carport design, as this requirement is not objective and is challenging to implement in light of common residential parking practices (e.g., vehicles parked in driveways or on the street). (BMC Section 17.74.190)
- Trees and Views. Delete Chapter 17.82 Trees and Views. This Chapter creates an administrative burden to resolve neighbor conflicts concerning private views and sets up expectations that are inconsistent with the City's tree preservation ordinance. The tree preservation ordinance will remain in place. (BMC Chapter 17.82)
- Reasonable Accommodation. Update the reasonable accommodation procedure findings in Chapter 17.132 to address constraints and conflicts with State law (BMC Section 17.132.070; Housing Element Program 3.02)
- Town Core Height. Establish an exception that would allow building height to be increased from 2.5 stories (40 feet) up to four stories (50 feet) within the TC zone via a use permit to be considered by the Planning Commission. Establish standards for building massing and articulation in association with increased height. (Chapter 4 of the Downtown Mixed Use Master Plan)

Consistency with the General Plan

- Goal 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while

maintaining health, safety, and quality of life. *The proposed amendments further Goal 2.5 because they would broaden the potential land uses and modify existing regulations in a way that encourages new development that is compatible with the community.*

- Goal 2.12: Strengthen the Downtown as the City's central commercial zone. *The DMUMP amendment would enhance opportunities for existing and prospective hotels to expand, or modify, their operations within the TC zone and result in a possible increase to city tax revenues, such as sales and transient occupancy taxes.*
- Goal 4.2: Improve access to medical, mental health, and social services for all Benicians, including the elderly and low-income. *These amendments further Goal 4.2 by allowing group homes as a permitted use in residential districts. This will expand the ability for Benicians to access medical, mental health, and social services and ensure that these facilities are located in their community.*
- HE Program 1.12 The City will update the Zoning Ordinance to comply with State law regarding Accessory Dwelling Units. *Amendments have been proposed to BMC Chapters 17.16 Use Classifications and 17.70.060 Accessory Dwelling Unit.*
- HE Program 3.01 The City will amend the Zoning Ordinance to permit supportive housing in accordance with AB 2162. This law mandates the allowance of supportive housing in residential zones without discretionary review, particularly in areas zoned for multifamily and mixed uses, including non-residential zones that permit multifamily uses. Additionally, to align with AB 101, the City will amend the Zoning Ordinance to explicitly define and reference low-barrier navigation centers, permitting them without discretionary review in mixed-use areas and nonresidential zones allowing multifamily uses. *Amendments have been proposed to BMC Chapters 17.16 Use Classifications, 17.26 Mixed Use Districts, 17.28 Commercial Districts, and 17.74 Off-Street Parking and Loading Regulations.*
- HE Program 3.02 The City will review and update the reasonable accommodation procedure findings in Chapter 17.132 of the Zoning Ordinance for constraints and conflicts with State law. *Amendments have been proposed to BMC Chapter 17.132 Reasonable Accommodations.*
- HE Program 3.05 The City will amend the Zoning Ordinance to comply with the Employee Housing Act, specifically Health and Safety Code Section 17021.5. This section mandates that employee housing for six or fewer individuals be treated as a single-family structure, permitted in the same manner as other dwellings of the same type in the corresponding zone. The City will explicitly define this category of employee housing in the Zoning Ordinance and permit it in all zoning districts that allow single-family residences. Additionally, adjustments will be made to the Zoning Ordinance to align with Health and Safety Code Section 17021.6. This modification will enable employee housing/farmworker housing as an accessory use to the permitted agricultural uses in the Open Space District. *Amendments have been proposed to BMC Chapters 17.36 Open Space Districts and 17.70.390 and 17.70.460 General Regulations.*

- HE Program 3.07 The City will review and update its requirements for residential care facilities accommodating less than seven or seven or more persons. Such facilities will be permitted for residential use, subject only to those uses. State licensing requirements remain applicable to facilities necessitating state licensure. *Amendments have been proposed to BMC Chapters 17.16 Use Classifications, 17.24 Residential Districts, 17.26 Mixed Use Districts, 17.28 Commercial Districts, and 17.36 Open Space Districts.*
- HE Program 3.08 The City will amend the Zoning Ordinance to comply with State law and to explicitly define single-room occupancy units as a use within the definition for Group Residential Housing. *Amendments have been proposed to BMC Chapter 17.16 Use Classifications.*

California Environmental Quality Act

This project is categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15301, 15305, and 15332 which apply to existing facilities, minor alterations to land use limitations, and infill development, respectively. The proposed zoning amendments are minor changes to implement the housing element and to streamline development processes. The proposed text amendments do not have the potential to result in environmental impacts. Additionally, the proposed amendments to implement the Housing Element are covered by the Environmental Impact Report (SCH Number 2022060021) (EIR) for the City of Benicia Housing Element and Safety Element Updates certified by the City on January 24, 2023, pursuant to the California Environmental Quality Act (CEQA) (Pub. Res. Code § 21000 *et seq.*; 14 Cal. Code Regs. §15000 *et seq.*

Public Noticing

Public notice was posted at City Hall and published in the Benicia Herald on January 26, 2024.

Next Steps

Solano Airport Land Use Commission

Pursuant to the Public Utilities Code (PUC) Section 21676, any local agency whose general plan includes areas covered by an airport land use compatibility plan shall refer a proposed zoning ordinance or building regulation to the airport land use commission for review. The airport land use commission shall determine whether the proposal is consistent with the adopted airport land use compatibility plan. Benicia falls within the jurisdiction of the Travis Air Force Base Airport Land Use Compatibility Plan; therefore, proposed zoning amendments must be reviewed by the Solano County Airport Land Use Commission (ALUC).

The City of Benicia anticipates that the proposed amendments will be heard by the ALUC on March 14, 2024. The purpose of the hearing would be to evaluate the consistency of the proposed zoning amendments with the Travis Air Force Base Airport Land Use Plan.

City Council Hearings

Adoption of an amendment to the Zoning Ordinance requires a noticed public hearing and recommendation of the Planning Commission pursuant to Government Code Section 65854 and 65855. The Planning Commission's recommendation will be presented to City Council and they must conduct two readings on the proposed amendment. If adopted at the second reading, the amendments would become effective 30 days later. If recommended by the Planning Commission, these amendments would be considered by the City Council in March, 2024.

Attachments:

1. Draft Resolution with Exhibit A – Draft Zoning Text Amendments

For more information contact: Jason Hade, AICP, Planning Manager

Phone: 707.746.4277

E-mail: JHade@ci.benicia.ca.us

RESOLUTION NO. 24- (PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING TITLE 17 ZONING OF THE BENICIA MUNICIPAL CODE (BMC) TO IMPLEMENT PROGRAMS FROM THE 2023- 2031 HOUSING ELEMENT AND TO UPDATE STREAMLINE REGULATIONS AND AMENDING THE HEIGHT LIMIT OF THE TOWN CORE ZONE IN THE DOWNTOWN MIXED USE MASTER PLAN (DMUMP)

WHEREAS, on November 14, 2023, the City of Benicia City Council adopted amendments to the 2023-2031 6th Cycle Housing Element to the City's General Plan; and

WHEREAS, the City of Benicia recognizes the need for updates to the zoning regulations in order to align with the goals, policies, and programs outlined in the 2023-2031 6th Cycle Housing Element of the General Plan; and

WHEREAS, the City of Benicia requests to modify Title 17 Zoning of the Benicia Municipal Code (BMC), including but not limited to BMC Chapter 17.16 (Use Classifications), BMC Chapter 17.24 (Residential Districts), BMC Chapter 17.26 (Mixed Use Districts), BMC Chapter 17.28 (Commercial Districts), BMC Section 17.28.020 (CC, CO, CG, and CW Districts - Land Use Regulations), BMC Chapter 17.36 (Open Space Districts), BMC Section 17.70.060 (Accessory Dwelling Unit), BMC Section 17.70.120 (Maximum Dwelling Unit Occupancy), BMC Section 17.70.200 (Outdoor Facilities), BMC Section 17.70.230 (Underground Utilities), BMC Section 17.70.260 (Hazardous Materials), BMC Section 17.70.300 (Animals), BMC Section 17.70.360 (Retail Sales Larger Than 20,000 Square Feet of Gross Floor Area), BMC Sections 17.70.390 and 17.70.460 (General Regulations), BMC Chapter 17.74 (Off-Street Parking and Loading Regulations), BMC Section 17.74.140 (Driveway Widths and Clearances), BMC Section 17.74.190 (Vehicle Parking - Design and Location in R Districts), BMC Chapter 17.82 (Trees and Views), and BMC Chapter 17.132 (Reasonable Accommodations); and

WHEREAS, the City of Benicia recognizes the need to amend the Town Core (TC) Zone building height standards within the DMUMP to facilitate opportunities for existing and prospective hotels to expand, or modify, their operations within the TC zone and to support the vitality of the downtown; and

WHEREAS, the Planning Commission finds that modifications to the aforementioned zoning regulations are necessary to facilitate the implementation of programs outlined in the 2023-2031 Housing Element and to update and streamline regulations; and

WHEREAS, pursuant to Benicia Municipal Code (BMC) Section 17.108.040 (Notice and Public Hearing) and California Government Code Section 65091 (Notification

Procedures), notice of the public hearing for the proposed zoning amendments and DMUMP amendment was duly published in the Benicia Herald, a newspaper of general circulation, and displayed at City Hall on Friday, January 26, 2024; and

WHEREAS, the Planning Commission, at a regular meeting on February 8, 2024, conducted a public hearing, accepted public comment, and reviewed the proposed zoning text amendments and amendment to the DMUMP.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Benicia does hereby find that the proposed zoning text amendments are consistent with the purposes of Title 17, and the following goals and programs of the Benicia General Plan:

- Goal 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life. These amendments further Goal 2.5 because it broadens the potential land uses in a way that could encourage new development that is compatible with the existing community.
- Goal 2.12: Strengthen the Downtown as the City's central commercial zone.
- Goal 4.2: Improve access to medical, mental health, and social services for all Benicians, including the elderly and low-income. These amendments further Goal 4.2 by allowing group homes as a permitted use in residential districts. This will expand the ability for Benicians to access medical, mental health, and social services and ensure that these facilities are located in their community.
- HE Program 1.12 The City will update the Zoning Ordinance to comply with State law regarding Accessory Dwelling Units. Amendments have been proposed to BMC Chapters 17.16 Use Classifications and 17.70.060 Accessory Dwelling Unit.
- HE Program 3.01 The City will amend the Zoning Ordinance to permit supportive housing in accordance with AB 2162. This law mandates the allowance of supportive housing in residential zones without discretionary review, particularly in areas zoned for multifamily and mixed uses, including non-residential zones that permit multifamily uses. Additionally, to align with AB 101, the City will amend the Zoning Ordinance to explicitly define and reference low-barrier navigation centers, permitting them without discretionary review in mixed-use areas and nonresidential zones allowing multifamily uses. Amendments have been proposed to BMC Chapters 17.16 Use Classifications, 17.26 Mixed Use Districts, 17.28 Commercial Districts, and 17.74 Off-Street Parking and Loading Regulations.
- HE Program 3.02 The City will review and update the reasonable accommodation procedure findings in Chapter 17.132 of the Zoning

Ordinance for constraints and conflicts with State law. Amendments have been proposed to BMC Chapter 17.132 Reasonable Accommodations.

- HE Program 3.05 The City will amend the Zoning Ordinance to comply with the Employee Housing Act, specifically Health and Safety Code Section 17021.5. This section mandates that employee housing for six or fewer individuals be treated as a single-family structure, permitted in the same manner as other dwellings of the same type in the corresponding zone. The City will explicitly define this category of employee housing in the Zoning Ordinance and permit it in all zoning districts that allow single-family residences. Additionally, adjustments will be made to the Zoning Ordinance to align with Health and Safety Code Section 17021.6. This modification will enable employee housing/farmworker housing as an accessory use to the permitted agricultural uses in the Open Space District. Amendments have been proposed to BMC Chapters 17.36 Open Space Districts and 17.70.390 and 17.70.460 General Regulations.
- HE Program 3.07 The City will review and update its requirements for residential care facilities accommodating less than seven or seven or more persons. Such facilities will be permitted for residential use, subject only to those uses. State licensing requirements remain applicable to facilities necessitating state licensure. Amendments have been proposed to BMC Chapters 17.16 Use Classifications, 17.24 Residential Districts, 17.26 Mixed Use Districts, 17.28 Commercial Districts, and 17.36 Open Space Districts.
- HE Program 3.08 The City will amend the Zoning Ordinance to comply with State law and to explicitly define single-room occupancy units as a use within the definition for Group Residential Housing. Amendments have been proposed to BMC Chapter 17.16 Use Classifications.

BE IT FURTHER RESOLVED, that the Planning Commission of the City of Benicia does hereby recommend that the City Council find this project to be categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15301, 15305, and 15332 which apply to existing facilities, minor alterations to land use limitations, and infill development, respectively. The proposed zoning amendments are minor changes to implement the housing element and to streamline processes. The proposed text amendments do not have the potential to result in environmental impacts. Additionally, the proposed amendments to implement the Housing Element are covered by the Environmental Impact Report (SCH Number 2022060021) (EIR) for the City of Benicia Housing Element and Safety Element Updates certified by the City on January 24, 2023, pursuant to the California Environmental Quality Act (CEQA) (Pub. Res. Code § 21000 *et seq.*; 14 Cal. Code Regs. §15000 *et seq.*

BE IT FURTHER RESOLVED, that the Planning Commission of the City of Benicia does hereby recommend that the City Council adopt the zoning text amendments attached hereto as Exhibit A and incorporated herein by reference.

On motion of Commissioner _____, seconded by Commissioner _____, the above Resolution is introduced and passed by the Planning Commission of the City of Benicia at a regular meeting of the Commission held on the 8th day of February 2024 and adopted by the following vote:

Ayes: Commissioners

Noes: Commissioners

Absent: Commissioners

Abstain: Commissioners

Terry Mollica, Chair

Date

EXHIBIT A

SECTION 1. Section 17.16.030 (Residential Use Classifications) of Chapter 17.16 (Use Classifications) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the use classifications for Group Residential and Residential Care, Limited as follows:

- A.** Employee Housing. Shall have the meaning set forth in Health and Safety Code Section 17008a1 as it currently exists or is hereinafter amended. As of the adoption of this section, “Employee Housing” means accommodations consisting of any living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobilehome, manufactured home, recreational vehicle, travel trailer, or other housing accommodations, maintained in one or more buildings or one or more sites, and the premises upon which they are situated or the area set aside and provided for parking of mobilehomes or camping of five or more employees by the employer.
- AB.** Family Day Care, Large. Licensed home that provides nonmedical care and supervision for nine to 14 children on a less than 24-hour basis.
- BC.** Family Day Care, Small. Licensed home that provides nonmedical care and supervision for eight or fewer children on a less than 24-hour basis.
- CD.** Group Residential. Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes boardinghouses, dormitories, fraternities, sororities, ~~and~~ private residential clubs, and single room occupancy units.
- DE.** Work/Live Quarters. An area comprised of one or more rooms or floors in a building originally designed for industrial or commercial occupancy that includes cooking space and sanitary facilities and working space for artists, artisans and similarly situated individuals.
- EF.** Multifamily Residential. Two or more dwelling units on a site. This classification includes mobile home and factory-built housing.
- FG.** Residential Care, Limited. Twenty-four hour nonmedical care for six or fewer persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. ~~This classification includes only those services and facilities licensed by the state of California.~~
- GH.** Single-Family Residential. Buildings containing one dwelling unit located on a single lot. This classification includes mobile home and factory-built housing.
- HI.** Supportive Housing. Housing with no limit on length of stay that is occupied by the target population and is linked to an on-site or off-site service that assists 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. The dwelling type is of the same type as that found within the zoning district.

H. Transitional Housing. Buildings configured as rental housing developments but operated under program requirements that require the termination of assistance and recirculation of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. The dwelling type is of the same type as that found within the zoning district.

SECTION 2. Section 17.16.040 (Public and semipublic use classifications) of Chapter 17.16 (Use Classifications) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the use classifications for Emergency shelter and Residential Care, General, and to add the use classification for “Low barrier navigation centers” in alphabetical order as follows:

“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. No individual or household may be denied emergency shelter because of an inability to pay. Such a facility may have individual rooms, but does not have individual dwelling units. Emergency shelters also include other interim interventions, including but not limited to, navigation centers, bridge housing, and respite or recuperative care.

* * *

“Low barrier navigation center” shall have the meaning set forth in Government Code Section 65660a as it currently exists or is hereinafter amended. As of the adoption of this section “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.

* * *

“Residential care, general” means 24-hour nonmedical care for seven or more persons, including wards of the juvenile court, in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. ~~This classification includes only those services and facilities licensed by the state of California.~~

SECTION 3. Section 17.16.080 Accessory use classifications) of Chapter 17.16 (Use Classifications) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the use classification for Accessory Dwelling Unit as follows:

A. Accessory Uses and Structures. Uses and structures that are incidental to the principal permitted or conditionally permitted use or structure on a site and are customarily found on the same site. This classification includes accessory dwelling units, home occupations, and construction trailers.

1. Accessory Dwelling Unit. An attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes an efficiency unit and a manufactured home, as defined in California Health and Safety Code Sections [17958.1](#) and 18007.
 - a. Attached Accessory Dwelling Unit. An accessory dwelling unit that shares at least one common wall with the primary dwelling and is not fully contained within the existing space of the primary dwelling or an accessory structure.
 - b. Detached Accessory Dwelling Unit. An accessory dwelling unit that does not share a common wall with the primary dwelling and is not fully contained within the existing space of an accessory structure.
 - c. Internal Accessory Dwelling Unit. An accessory dwelling unit that is fully contained within the existing space of the primary dwelling or an accessory structure.
 - d. Junior Accessory Dwelling Unit. A unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities or may share sanitation facilities with the existing structure.

SECTION 4. Section 17.24.020 (RS, RM, and RH districts – Land use regulations) of Chapter 17.24 (Residential Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify land use regulations for Public and Semipublic Uses as follows:

RS, RM, and RH Districts: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	RS	RM	RH	Additional Regulations
*	*	*	*	
Public and Semipublic				
Adult Day Health Care	U	U	U	
Bed and Breakfast Inns	L3	L3	L3	

Clubs and Lodges	L6	U	U	
Convalescent Facilities	-	U	U	
Cultural Institutions	-	U	U	
Day Care Center	U	U	U	
Emergency Shelter	-	L4	-	
Park and Recreation Facilities	L2	L2	L2	(F)
Public Safety Facilities	U	U	U	
Religious Assembly	U	U	U	(O)
Residential Care, General	P-	PU	PU	
Schools, Public or Private	U	U	U	
Utilities, Major				
Waste Facility	-	-	-	
Utilities, Minor	P	P	P	
Visitor Accommodation				(E)
*	*	*	*	

RS, RM, and RH Districts: Additional Use Regulations

* * *

L-6 Only youth centers may be permitted with approval of a use permit, if operated by a public or non-profit organization and located within a half-mile of a secondary school.

* * *

SECTION 5. Section 17.26.020.A (Land Use Regulations, Mixed use infill (MU-I) district) of Chapter 17.26 (Mixed Use Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify land use regulations for Public and Semipublic Uses as follows:

Table 17.26-1: MU-I Allowed Uses and Permits Required

Land Use	Permit
* * *	
Public and Semipublic Uses	
Adult Day Health Care	U
Clubs and Lodges	L2
Convalescent Facilities	L2

Cultural Institutions	P
Day Care Center	U
Emergency Shelter	L4
Government Offices	L2
Park and Recreation Facilities	P
Public Safety Facilities	U
Religious Assembly	U
Residential Care, General	PU
Schools, Public or Private	U
Utilities, Minor	P
*	*
*	*
*	*

SECTION 6. Section 17.26.030.A (Land Use Regulations, Mixed use limited (MU-L) district) of Chapter 17.26 (Mixed Use District) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the allowed uses and permits required for Public and Semipublic

Uses as follows, the allowed uses and permits required in Table 17.26-3 for Residential Uses and Commercial Uses remain unchanged:

Table 17.26-3: MU-L Allowed Uses and Permits Required

Land Use	Permit
* * *	
Public and Semipublic Uses	
Adult Day Health Care	U
Clubs and Lodges	U
Convalescent Facilities	U
Cultural Institutions	P
Day Care Center	U
Government Offices	U
<u>Low-Barrier Navigation Centers</u>	<u>P</u>
Parks and Recreation Facilities	P
Residential Care, General	<u>P U</u>
Schools, Public or Private	U
Utilities, Minor	P
Public Safety Facilities	U
* * *	

SECTION 7. Section 17.28.020 (CC, CO, CG, and CW districts – Land use regulations) of Chapter 17.28 (C Commercial Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify land use regulations for Residential, and Public and Semipublic and

Commercial Uses as follows the land use regulations in section 17.28.020 for Accessory Uses, Temporary Uses, Nonconforming, and Other Uses remain unchanged:

CC, CO, CG, and CW Districts: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	CC	CO	CG	CW	Additional Regulations
Residential					(A)
Group Residential	–	–	U	–	
Work/Live Quarters	P	–	P	P	
Multifamily Residential	L1	L1	–	P	
Residential Care, Limited	<u>L1</u>	<u>L1</u>	–	P	
Single-Family Residential	L1	L1	–	L1	
Supportive Housing	<u>P L1</u>	<u>P L1</u>	–	<u>P L21</u>	
Transitional Housing	L1	L1	–	L21	
Public and Semipublic					
Adult Day Health Care	U	U	–	U	
Clubs and Lodges	U	U	P	P	
Cultural Institutions	U	U	P	P	
Day Care Center	U	U	–	U	
Emergency Shelter	–	L20	L20	–	
Government Offices	P	P	P	P	
Hospitals	–	U	U	–	
<u>Low-Barrier Navigation Centers</u>	<u>P</u>	<u>P</u>	<u>–</u>	<u>P</u>	
Park and Recreation Facilities	–	–	–	P	(B)
Public Safety Facilities	U	U	U	U	
Religious Assembly	P	U	U	U	(K)
Residential Care, General	<u>U L1</u>	<u>U L1</u>	–	<u>– L1</u>	
Schools, Public or Private	U	–	–	–	

CC, CO, CG, and CW Districts: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	CC	CO	CG	CW	Additional Regulations
Utilities, Major	U	U	U	U	
Waste Facility	–	–	–	–	
Utilities, Minor	P	P	P	P	
Commercial Uses					(A)
Adult Businesses	–	–	P	–	(C)
Ambulance Services	–	–	P	–	
Animal Sales and Services					
Animal Boarding	–	–	L15	–	
Animal Grooming	L15	–	P	–	
Animal Hospitals	–	L15	L15	–	
Animals – Retail Sales	–	–	P	P	
Artists’ Studios	P	P	P	P	
Banks and Savings and Loans	–	P	P	–	
Banks and Savings and Loans with Drive-Up Service	–	U	U	–	
Building Materials and Services	–	–	P	–	
Catering Services	P	P	P	P	
Commercial Filming	U	U	U	U	
Commercial Recreation and Entertainment	U	L12	U	U	
Card Room, Game Center, Billiard Parlor	–	–	U	U	(D)
Communication Facilities	–	–	P	–	
Conference and Meeting Facilities	U	U	L17	L17	
Eating and Drinking Establishments	P	P	P	P	
With Wine and Beer Service	P	P	P	P	

CC, CO, CG, and CW Districts: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	CC	CO	CG	CW	Additional Regulations
With Full Alcoholic Beverage Service	U	U	U	U	
With Live Entertainment	–	–	U	U	
With Take-Out Service	U	–	P	P	(E)
Drive-Up	–	–	P U	–	(Q)
Formula Business	U	–	L19	–	(L)
Limited	P	P	P	P	
Truck Stop	–	–	U	–	
Food and Beverage Sales	L4	–	L4	L4	
Funeral and Interment Services	L7	L6	L7	–	
Laboratories	–	P	P	–	
Maintenance and Repair Services	–	–	P	–	
Marinas	–	–	–	P	
Marine Sales and Services	–	–	–	P	
Nurseries	U	–	P	–	
Offices, Business and Professional	P	P	P	P	
Outdoor Entertainment	U	U	U	U	(O)
Pawn Shops	–	–	P	–	
Personal Improvement Services	L8	U	L8	–	
Personal Services	P	L13	P	P	
Research and Development Services	–	–	P	–	
Retail Sales	P	–	P	P	
Establishment of more than 20,000 square feet	U	–	U	–	(M)
Secondhand Appliances/Clothing	–	–	P	–	
Swap Meet, Recurring	–	–	U	–	

CC, CO, CG, and CW Districts: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	CC	CO	CG	CW	Additional Regulations
Vehicle/Equipment Sales and Services					
Automobile Rentals	–	–	L10	–	
Automobile Washing	–	–	U	–	
Service Stations	L11	–	U	–	(F)
Vehicle/Equipment Repair	–	–	L16	–	
Vehicle/Equipment Sales and Rentals	–	–	P	–	
Visitor Accommodations					
Bed and Breakfast Inns	L16	L16	P	P	
Hotels and Motels	–	–	P	P	

CC, CO, CG, and CW Districts: Additional Use Regulations

~~(M) — See BMC 17.70.360, Retail sales larger than 20,000 square feet of gross floor area.~~

* * *

(Q) Eating and Drinking Establishments with Drive Up Facilities shall be designed to comply with the following requirements for vehicle stacking:

- 1) Each stacking lane shall be separated from the circulation route necessary for ingress and/or egress from the property, or access to any parking space.
- 2) Stacking lanes shall not cross or pass through off street parking areas or marked pedestrian accessways.
- 3) Stacking lanes for drive-through facilities shall have the following minimum widths: one lane -twelve (12) feet; two (2) or more lanes – ten (10) feet per lane.
- 4) Stacking lanes for drive-through facilities shall not be located in the required front or corner side yard.

SECTION 8. Additional Regulation (G) of Section 17.28.030 (Property Development Regulations) of Chapter 17.28 (Commercial Districts) of Title 17 (Zoning) of the Benicia Municipal Code is hereby stricken:

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	CC	CO	CG	CW	Additional Regulations
* * *					
Accessory Uses	P/U	P/U	P/U	P/U	(G) (H)
Donation and Collection Bins	L22	L22	P	L22	(P)
* * *					

* * *

~~(G)-See BMC 17.70.170, Measurement of height. Buildings fronting on First Street shall not exceed three stories Intentionally omitted.~~

SECTION 9. Section 17.36.030 (Land use regulations) of Chapter 17.36 (OS Open Space District) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the land use regulations for Residential, Public and Semipublic, and Agricultural and Extractive Uses as follows,, the land use regulations in section 17.36.030 for Commercial Uses, Accessory Uses, Temporary Uses, Nonconforming, and Other Uses remain unchanged :

OS District: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	OS	Additional Regulations
Residential		
<u>Employee Housing (for farmworkers)</u>	<u>P</u>	<u>(K)</u>
<u>Residential Care, Limited</u>	<u>P</u>	<u>(A)(B)</u>
Single-Family Residential	P	(A)(B)
Supportive Housing	P	(A)
Transitional Housing	P	(A)

OS District: Land Use Regulations

- P – Permitted
- U – Use Permit
- L – Limited (See “Additional Use Regulations”)
- – Not Permitted

	OS	Additional Regulations
Public and Semipublic¹		
Cemetery	U	(F)
Day Care Center	U	(J)
Government Offices	L1	(F)
Parks and Recreation Facilities	P	(G)
Public Safety Facilities	P	(F)
Religious Assembly	U	(F)
<u>Residential Care, General</u>	<u>P</u>	<u>(A)(B)</u>
Utilities, Major	U	(F)
Waste Facility	U	(F)
Utilities, Minor	P	
Utilities, Solar	U	(I)

OS District: Additional Use Regulations

* * *

(K) See BMC 17.70.460, Employee Housing (for farmworkers)

SECTION 10. Subsections Section G (Units Subject to Limited Standards), H (General Standards), and L (Recordation of Deed Restriction) of Section 17.70.060 (Accessory dwelling units) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

* * *

G. Units Subject to Limited Standards. The city shall ministerially approve an application for a building permit within a residential or mixed-use 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

subsections (I), Development Standards, and (J), Objective Design Standards, of this section do not apply to these types of accessory dwelling units.

1. Internal Accessory Dwelling Units. One accessory dwelling unit ~~or~~ and junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

- a. The accessory dwelling unit or junior accessory dwelling unit, as such use is classified in BMC [17.16.080](#), is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
- b. The space has exterior access from the proposed or existing single-family dwelling.
- c. The side and rear setbacks are sufficient for fire and safety.
- d. The junior accessory dwelling unit complies with the requirements of California Government Code Section [65852.22](#).

2. Detached Accessory Dwelling Units. One detached, new construction, accessory dwelling unit for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subsection (G)(1), Internal Accessory Dwelling Units, of this section. The accessory dwelling unit must comply with the following:

- a. Maximum floor area: 800 square feet.
- b. Maximum height: ~~16 feet~~.
 - i. 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family unit.
 - ii. An additional two feet in height shall be allowed to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.
- c. Minimum rear and side setbacks: 4 feet.

3. Non-Livable Multifamily Space. Multiple 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:

a. At least one accessory dwelling unit is allowed within an existing multifamily dwelling up to maximum of 25 percent of the existing multifamily dwelling units; and

b. Each accessory dwelling unit shall comply with building code standards for dwellings.

4. Detached Accessory Dwelling Units on Multifamily Lots. Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling, are subject to the following:

a. Maximum height:

i. A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily dwelling unit.

ii. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

b. Minimum rear and side setbacks: four feet.

H. General Standards. Except as provided in subsection (G), Units Subject to Limited Standards, of this section, an accessory dwelling unit shall comply with the following general standards:

1. Rental.

a. An accessory dwelling unit may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling unless of the provisions outlined in California Government Code Section 65852.26 (a) are met.

b. The rented unit shall not be leased for any period less than 30 days.

2. Primary and Accessory Designations. An existing primary dwelling unit may be designated as an accessory dwelling unit if:

a. The existing dwelling to be designated as an accessory dwelling unit complies with all standards in this section; and

b. The new primary dwelling unit is built in compliance with applicable standards and requirements of this title that apply to primary dwellings.

3. Nonconforming Uses and Structures. In conformance with BMC [17.98.020](#) and [17.98.030](#), the city shall not require, as a condition for approval of a permit application, the correction of nonconforming zoning conditions.

* * *

L. Recordation of Deed Restriction. An executed deed restriction, on a form provided by the city, shall be submitted to the city prior to issuance of a building permit and shall be recorded prior to final occupancy. The deed restriction shall stipulate all of the following:

1. That the rented unit shall not be rented for any period less than 30 days at a time;
2. That the accessory dwelling shall not be sold separately from the primary dwelling unless of the provisions outlined in California Government Code Section 65852.26 (a) are met; and
3. For junior accessory dwelling units, restrictions on size and attributes are in conformance with this section.

* * *

SECTION 11. Section 17.70.120 (Maximum dwelling unit occupancy) of Chapter 17.70 (General regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby deleted in its entirety:

~~To ensure consistency with the density policies of the general plan and with the rights of individuals living as a household but not related by blood or marriage, occupancy by persons living as a single household in a dwelling unit shall be limited as follows:~~

~~A. A dwelling unit shall have 150 square feet of gross floor area for each of the first 10 occupants and 300 square feet for each additional occupant to a maximum of 20. In no case shall a dwelling unit be occupied by more than 20 persons.~~

~~B. A zoning permit shall be required for occupancy of a dwelling unit by more than 10 persons 18 years or older. The community development director shall not issue a zoning permit unless evidence is presented that all vehicles used by occupants will be stored on the site in conformance with the provisions of this title. (Ord. 87-4 N.S., 1987).~~

SECTION 12. Section 17.70.200 (Outdoor facilities) of Chapter 17.70 (General regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

- A. Where Permitted. Outdoor storage and display of merchandise, materials, or equipment, not including cannabis or cannabis products, shall require approval of a community development director use permit in the Commercial, Mixed Use, Industrial, Public and Semipublic and Open Space Districts subject to the following:
 1. ~~Shall be permitted in the CC, CW, CG, MU-I, MU-L, IL, IG, PS and OS districts, subject to approval of a use permit by the community development director.~~ Outdoor food service accessory to an eating and drinking establishment may be permitted subject to approval of a use zoning permit by the community development director in any Industrial or Commercial, ~~OS, or PS~~ district, provided

that adequate refuse facilities are provided, adequate off-street parking spaces are provided pursuant to Chapter 17.74, and there will be ~~but~~ no outdoor preparation of food or beverages shall be permitted.

2. Outdoor storage up to 20,000 square feet may be permitted in an Industrial district subject to a zoning permit and compliance with the applicable design guidelines.

~~23. Approval of a use permit may require A use permit for outdoor storage, display, or food service may require~~ yards, screening, or planting areas necessary to prevent adverse impacts on surrounding properties and the visual character of scenic corridors as identified in the general plan. If such impacts cannot be prevented, the use permit application shall be denied.

- B. Exceptions. Notwithstanding the provisions of subsection (A) of this section, outdoor storage and display shall be permitted in conjunction with the following use classifications in districts where they are permitted or conditionally permitted:
1. Nurseries, provided outdoor storage and display is limited to plants only, not including cannabis;
 2. Vehicle/equipment sales and rentals, provided outdoor storage and display shall be limited to vehicles or equipment offered for sale only.
- C. Screening. In districts where outdoor storage and display is permitted, and except for the use classifications excepted by subsection (B) of this section, outdoor storage areas shall be screened from view of streets by a solid fence or wall. The height of merchandise, materials, and equipment stored shall not exceed the height of the screening fence or wall. The community development director may require additional screening in highly visible areas and may impose reasonable restrictions on the type of storage or display or the location of outdoor storage and display areas to avoid adverse visual effects.

SECTION 13. Section 17.70.230 (Underground utilities) of Chapter 17.70 (General regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

A. For all new development or site redevelopment resulting from: 1) a subdivision of five lots or more, 2) residential development of five or more units, and 3) new commercial or industrial site development of a vacant lot or over 20,000 square feet, all electrical, telephone, CATV, and similar distribution lines providing direct service to a development site shall be installed underground within the site.

B. Off-site utilities along a project frontage where required pursuant to Title 16 for all new commercial, multifamily, or industrial development shall be undergrounded, unless a deferral is granted by the planning commission for those projects over which it has approval authority or by the community development director for those projects over which the director has approval authority, in accordance with the deferral requirements of BMC 16.36.020(G)(2).

SECTION 14. Section 17.70.260 (Hazardous materials) of Chapter 17.70 (General regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

~~A. Purpose. The following supplemental regulations are intended to ensure that the use, handling, storage and transport of hazardous substances comply with all applicable requirements of the California Health and Safety Code and that the city is notified of emergency response plans, unauthorized releases of hazardous substances, and any substantial changes in facilities or operations that could affect the public health, safety or welfare. It is not the intent of these regulations to impose additional restrictions on the management of hazardous wastes, which would be contrary to state law, but only to require reporting of information to the city that must be provided to other public agencies.~~

~~B. Definitions. For purposes of this section, "hazardous substances" shall include all substances on the comprehensive master list of hazardous substances compiled and maintained by the California Department of Health Services pursuant to Section 25282 of the California Health and Safety Code.~~

~~C. Permit Required. A use permit shall be required for any new commercial, industrial, or institutional use, accessory use, or major addition or alteration to an existing use that involves the manufacture, storage, handling, transport, or processing of hazardous substances in sufficient quantities that would require permits as hazardous chemicals under the Uniform Fire Code adopted by the city, with the following exceptions:~~

- ~~1. Underground storage of bulk flammable and combustible liquids is permitted, subject to the provisions of subsection (E) of this section; and~~
- ~~2. Hazardous substances in container sizes of 10 gallons or less stored or maintained for the purposes of retail or wholesale sales are exempt from these regulations. The community development director or the planning commission may request information on the procedures to be used to process, transport, and store hazardous substances in a safe manner prior to approval of a use permit.~~

~~D. Hazardous Materials Release Response Plans. All businesses located in the city and required by Chapter 6.95 of the California Health and Safety Code to prepare hazardous materials release response plans shall submit copies of all such plans, including any corrected plans or revised plans, to the fire department at the same time these plans are submitted to the public agency administering these provisions of the California Health and Safety Code. These submittal requirements shall be a condition of approval of a zoning permit for (1) new development where space may be occupied by such a business, and (2) any alteration or addition to an existing building or structure occupied by a business subject to these provisions of the California Health and Safety Code.~~

~~E. Underground Storage Tanks. Underground storage of hazardous substances shall comply with all applicable requirements of Chapter 6.7 of the California Health and Safety Code and Section 79.1113(a) of the Uniform Fire Code. Any business located in the city that uses underground storage tanks shall:~~

~~1. Notify the city dispatcher of any unauthorized release of hazardous substances immediately after the release has been detected. Such notification shall include the steps being taken to control the release; and~~

~~2. Notify the fire chief of any proposed abandoning, closing or ceasing operation of an underground storage tank and the actions to be taken to dispose of any hazardous substances.~~

~~These notification requirements shall be a condition of approval of a zoning permit for (1) new development that involves installation of underground tanks, and (2) any alteration or addition to an existing building or structure on a site where underground storage tanks exist.~~

~~F. A.~~ Aboveground Storage Tanks. Aboveground storage tanks for any flammable liquid shall be allowed only in the IL and IG zoning districts.

SECTION 15. Section 17.70.300 (Animals) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

A. Purpose. Supplemental regulations governing the care and keeping of animals are intended to provide for the compatibility between such animals and neighboring land uses. These are in addition to the general requirements governing animals established by BMC Title 6.

B. Domestic and Exotic Animals. In an R district, or in conjunction with any residential uses in any other district, domestic and exotic animals, as defined by this title, are subject to the following requirements in addition to the regulations of BMC Title 6.

1. Such animals, except cats, shall not be permitted to run at large, but shall be, at all times, confined within a suitable enclosure or otherwise be under the control of the owner of the property; and

2. Any enclosure shall be located in an interior side or rear yard and set back at least five feet from the property line; and

3. The number of allowed animals, as defined by this title, may not exceed the limits set forth in BMC Title 6 unless the property owner has obtained an animal keepers permit ~~and a staff level use permit.~~

C. Other Animals.

1. In an R district, or in conjunction with any residential use in a C district, one horse, as defined in BMC Title 6, may be kept for each 20,000 square feet of open space, subject to securing a use permit. Paddock and corral areas shall be at least 20 feet from the property line, and stables shall be at least 40 feet from the property line.

2. In an OS district, livestock, farm animals, domestic animals and exotic animals may be kept on a lot 20,000 square feet or more in area, subject to the following requirements:

- a. The number of domestic or exotic animals shall not exceed six;
- b. Such animals shall not be permitted to run at large, but shall be, at all times, confined within a suitable enclosure; and
- c. Any enclosure shall be set back at least 25 feet from the property line. (Ord. 08-02 § 1; Ord. 87-4 N.S., 1987).

SECTION 16. Section 17.70.360 (Retail sales larger than 20,000 square feet of gross floor area) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby deleted in its entirety:

~~Approval of a use permit for a retail sales establishment larger than 20,000 square feet requires that the planning commission find that the proposed establishment will:~~

~~A. Complement existing uses and enhance the economic health of the surrounding area;~~

~~B. Be operated in a nonobtrusive manner that preserves the city's or area's distinctive character and ambiance;~~

~~C. Not result in a concentration of formula and/or retail sales establishments larger than 20,000 square feet in the vicinity or citywide;~~

~~D. Promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations;~~

~~E. Contribute to an appropriate balance of local, regional or national-based businesses and small-sized, medium-sized and large-sized businesses in the community; and~~

~~F. Avoid an appearance commonly associated with strip retail or shopping centers. (Ord. 07-15 § 2).~~

SECTION 17. Subsection F (Standards) of Section 17.70.390 (Emergency Shelter) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

* * *

F. Standards.

1. Proximity to Other Emergency Shelters. Emergency shelters shall be located at least 300 feet apart as measured from closest property lines.

2. Site Improvements. Site landscaping, exterior lighting and parking facilities shall comply with the provisions of Chapters [17.70](#) and [17.74](#) BMC.

3. Outdoor Facilities. Outdoor recreational facilities shall be enclosed by a fence or a natural barrier (e.g., hedge). If smoking is allowed on site, there shall be a designated outside smoking area and the facility shall conform to the provisions of Chapter [9.06](#) BMC. Outdoor telephone facilities are not permitted.

4. Length of Stay. The length of stay per individual shall not exceed six months.

5. Shelter Capacity. The maximum permitted capacity of an emergency shelter shall be equivalent to the homeless census identified in the most recent adopted Housing Element, less any emergency shelter capacity currently provided within the city. However, the community development director may increase the permitted capacity to serve homeless individuals based upon updated data that is compiled or verified by a qualified individual or community organization, if the data demonstrates an increase in the city's homeless population. Any proposed shelter that exceeds the permitted capacity shall require a use permit in accordance with subsection (C) of this section.

6. On-Site Waiting and Intake Areas. Client waiting and intake areas shall be screened or enclosed, and clients shall not be allowed to form a queue outside the facility. Hours of client intake shall be posted.

7. Support Facilities. The following facilities shall be provided for the exclusive use of residents and staff:

- a. Shower and restroom facilities.
- b. Food preparation and/or dining.
- c. Laundry.
- d. Secure storage for personal belongings.

The facility may also provide recreation, computer, counseling, child day care or other support facilities as appropriate based upon the demonstrated need of the client population.

~~8. Management Plan. The applicant shall provide a management plan that includes the following components:~~

- ~~a. Homeless outreach plan.~~
- ~~b. Client intake and check-out procedures.~~
- ~~c. Description of supportive services that will be provided.~~
- ~~d. Identification of management personnel and designation of a 24-hour contact person. Facility management and security must be provided on-site during hours of operation. Contact information for manager and/or a designated contact person~~

~~authorized to act on behalf of the manager shall be posted both inside and outside the facility for emergency purposes.~~

~~e. Description of neighborhood outreach and communication strategies.~~

~~f. Staff training program.~~

~~g. Clear operational standards and rules (e.g., standards governing expulsions, designated meal times, and lights-out) necessary to ensure compatibility with surrounding uses, including those applicable to use or possession of controlled substances, the use or possession of alcohol, and loitering.~~

~~h. Site upkeep and maintenance, including provisions to ensure that the site is maintained free of litter and debris.~~

~~i. A statement that the provider will not require participation by clients in any religious or philosophical ritual, service meeting or rite as a condition of eligibility. (Ord. 14-11 § 9).~~

SECTION 18. Section 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to add a new Chapter 17.70.460 (Employee Housing (for farmworkers)) to read as follow:

A. Purpose. This section establishes regulations for employee housing for farmworkers when accessory to a permitted agricultural use.

B. Standards for employee housing for farmworkers:

1. Six or Fewer Employees. Employee housing providing accommodations for six or fewer employees shall be deemed to be a single-unit structure with a residential land use, and shall be treated the same as a single unit dwelling of the same type in the same zoning district.
2. Districts Where Agriculture Uses Are Allowed. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located, and may consist of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household on land zoned for agricultural uses. Such employee housing shall be considered to be an activity that in no way differs from an agricultural use.

SECTION 19. Section 17.74.030 (Off-street parking and loading spaces required) of Chapter 17.74 (Off-street parking and loading regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify parking requirements for emergency shelters as follows:

Table 1: Number of Off-Street Parking Spaces Required

Use Classification	Off-Street Parking Spaces: Schedule A	Off-Street Parking Spaces: Schedule B Group Number
	*	*
Public and Semipublic		
Emergency Shelters	1 per 5 beds or <u>1 per employee, or as based upon the demonstrated need.</u>	
	*	*

SECTION 20. Section 17.74.140 (Driveway widths and clearances) of Chapter 17.74 (Off-street parking and loading regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

~~Driveways shall have the following widths plus a minimum of one foot additional clearance on each side of a vertical obstruction exceeding 0.5 foot in height.~~

A. Serving a residential use	6 or fewer spaces	8 ft.
	7 or 25 spaces	12 ft.
	26 or more spaces	12 ft. 1-way
	-	20 ft. 2-way
B. Serving a nonresidential use	14 or fewer spaces	12 ft.
	15 or more spaces	12 ft. 1-way
	-	20 ft. 2-way

Except as required for fire department access roads and fire lanes, the maximum width of any driveway shall be not more than 20 feet as measured at the curbing.

~~In addition, all driveways shall comply with the fire department's standards for access roads and fire lanes.~~

SECTION 21. Section 17.74.190 (Off-street parking – Design and locations in R districts) of Chapter 17.74 (Off-street parking and loading regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

The following provisions shall apply to vehicle parking in an R District:

A. Vehicle Parking Surfaces. Parking surfaces for vehicles shall be constructed of concrete, asphalt or permeable paving materials (e.g., porous pavement, vehicle-rated driveway pavers, decomposed granite, and similar materials as approved by the city engineer).

B. Driveways. Driveways shall be paved and shall have widths and clearances prescribed by BMC 17.74.140, subject to the visibility requirements of BMC 17.74.150. Any driveway for which a special permit is issued pursuant to section 12.16.240 (Driveway specifications) may maintain the widths and clearances specified in that permit.

~~C. Carports. Carports shall be designed and located to minimize the visibility of parked vehicles from a public street.~~

SECTION 22. Chapter 17.82 (Trees and View) of Title 17 (Zoning) of the Benicia Municipal Code is hereby deleted in its entirety:

~~17.82.010 Specific purposes.~~

~~The general plan recognizes the contribution of scenic resources, including both trees and views, to the character and view of the city. Views are important to residents and visitors, contributing to the enjoyment and value of property and providing vistas of Southampton Bay, Suisun Bay, Carquinez Strait and the hillsides. Trees also produce benefits for residents and visitors, contributing to the natural environment by modifying temperatures and winds, replenishing oxygen, controlling soil erosion and providing wildlife habitat; and to the visual environment by providing scale, color, and visual buffers between land uses. However, trees and views, and the benefits derived from each, may come into conflict. The intent of these regulations is to provide guidelines and standards to resolve disputes between neighbors, balancing tree and view related values in the interest of public health, safety and welfare. (Ord. 87-4 N.S., 1987).~~

~~17.82.020 Definitions.~~

~~A. "Hedge" means any plant material, trees, stump growth, or shrubbery planted or growing in a dense continuous line so as to form a thicket barrier or living fence.~~

~~B. "Tree" means a woody perennial plant which usually, but not necessarily, has a single trunk and a height of 15 feet or more, or has a diameter of 12 inches measured at 24 inches above the ground; references herein to "tree" shall include the plural, "any tree or trees."~~

~~C. "View" means a vista of Southampton Bay, Suisun Bay, Carquinez Strait, neighboring communities, surrounding hills, or a nearby or distant wooded area. (Ord. 87-4 N.S., 1987).~~

~~17.82.030 Authority of planning commission.~~

~~The planning commission shall be responsible for review of all view complaints filed with the city which cannot be satisfactorily resolved at the staff level. The commission is~~

~~authorized to consult with city officials and with specialists, such as landscape architects or tree surgeons, as the occasion may require; provided, however, that any such consultation be done at no expense to the city. (Ord. 89-1 N.S. § 38, 1989; Ord. 87-4 N.S., 1987).~~

~~17.82.040 Unreasonable obstruction of view or sunlight.~~

~~A tree, shrub, hedge or other vegetation shall not be maintained on public or private property in the city in such manner as to unreasonably obstruct the view from or the sunlight reaching other property. (Ord. 87-4 N.S., 1987).~~

~~17.82.050 Complaint.~~

~~A property owner may file with the community development director a written complaint that the view from or sunlight reaching his property is unreasonably obstructed by a tree, shrub, hedge or other vegetation, and that efforts to settle the problem amicably have failed. The complainant shall deposit the required fee with the community development director as a deposit, to be returned in any amount not used, against the expense incurred by the community development director under provisions of this section and the expense of advice obtained by the commission from a landscape architect or tree surgeon, and shall agree in writing to pay in full the reasonable amount of such expense. (Ord. 89-1 N.S. § 39, 1989; Ord. 87-4 N.S., 1987).~~

~~17.82.060 Settlement efforts.~~

~~Within 30 days after receipt of a complaint, the community development director shall take action he deems appropriate to try to resolve the problem by means of conciliation. If within 60 days after receipt of a complaint the community development director has not resolved the problem, he shall give notice in writing to the parties involved and set the matter for public hearing. The 60 day time limit may be extended at the request of the property owners involved. (Ord. 89-1 N.S. § 40, 1989; Ord. 87-4 N.S., 1987).~~

~~17.82.070 Notice and hearing.~~

~~The community development director shall give 10 days' notice of the hearing by certified mail, return receipt requested, to the owner of the tree or other obstructing vegetation. Notice shall also be given to other individuals involved, to owners of property adjacent to the property on which the tree is located, and to other persons who, in the community development director's judgment, might be affected. The notice shall state the location of the tree or other vegetation, and the time and place of hearing, and shall invite written comments to be submitted at or before the hearing. Each party involved may appear on his own behalf or be represented by another person and may present evidence at the hearing. The hearing shall not proceed in the absence of proof that the owner of the tree or other vegetation received notice as provided herein. (Ord. 89-1 N.S. § 41, 1989; Ord. 87-4 N.S., 1987).~~

~~17.82.080 Findings required.~~

~~The commission may require correction of an unreasonable obstruction of view or sunlight if it finds:~~

~~A. That the view from or the sunlight reaching the property of the complainant is unreasonably obstructed;~~

~~B. That such obstruction adversely affects the value or enjoyment of the property of the complainant; and~~

~~C. That correction of the obstruction in the manner determined by the commission will not unreasonably detract from the value, privacy or enjoyment of the property on which the tree, shrub, hedge or other vegetation is located, or adjacent properties.~~

~~In making the findings for subsections (A) and (B) of this section, it is the intent of this section that values of privacy and quiet shall receive equal consideration with values of view and sunlight. (Ord. 89-1 N.S. § 42, 1989; Ord. 87-4 N.S., 1987).~~

~~17.82.090 Decision.~~

~~After the hearing, the commission shall render its decision, and the community-development director shall send a copy forthwith to each party involved. The decision shall be that correction either is or is not authorized, and shall specify the method of correction, whether by removal or by cutting back, pruning or other alteration of the tree, shrub, hedge or other vegetation. The authorized work of correction shall be done by a licensed tree surgeon if required by the owner of the tree or other vegetation at a time approved by the owner. (Ord. 89-1 N.S. § 42, 1989; Ord. 87-4 N.S., 1987).~~

~~17.82.100 Payment of cost of correction.~~

~~The complainant shall pay the entire cost of the authorized correction unless the commission makes an express finding that:~~

~~A. The tree or other vegetation constitutes a hazard to the safety of the complainant or his property, and is being maintained by the owner in disregard for the safety of others, in which case the owner may be required to pay up to 100 percent of the cost of correction; or~~

~~B. The owner is maintaining a hedge 15 feet or more in height, in which case the commission may allocate the cost of correction; provided, that the owner of the land on which the hedge exists shall not be required to pay more than 25 percent of the cost of such correction. Allocation of costs shall not apply to work done on public property. The city shall not be required to pay for improvement of the view from any private property. (Ord. 89-1 N.S. § 42, 1989; Ord. 87-4 N.S., 1987).~~

~~17.82.110 Obligation of the owner.~~

~~Thirty days after the date of the decision of the commission or, if appealed, the decision of the city council, authorizing the correction of an obstruction, it shall be unlawful for the owner of the property on which the trees or other vegetation is located not to allow~~

~~correction of the obstruction. After the correction is made, the tree or other vegetation shall be maintained as corrected. (Ord. 89-1 N.S. § 43, 1989; Ord. 87-4 N.S., 1987).~~

~~17.82.120 Effective date of committee decision—Right of appeal.~~

~~The commission’s decision shall become final on the tenth business day following its action unless appealed to the city council in accordance with Chapter 1.44 BMC. (Ord. 07-61 § 1; Ord. 89-1 N.S. § 44, 1989; Ord. 87-4 N.S., 1987).~~

SECTION 23. Section 17.132.070 (Required findings for reasonable accommodation) of Chapter 17.132 (Reasonable accommodation) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

In making a determination regarding the reasonableness of a requested reasonable accommodation, the approving authority shall make the following findings:

- A. The housing which is the subject of the request for reasonable accommodation will be used for an individual(s) with a disability protected under the Act.
- B. The request for reasonable accommodation is necessary to make specific housing available to an individual(s) with a disability protected under the Act.
- C. The requested reasonable accommodation does not impose an undue financial or administrative burden on the city.
- D. The requested accommodation will not require a fundamental alteration of the zoning and building laws, policies and/or procedures of the city.
- ~~E. There are no other reasonable alternatives that would provide an equivalent level of benefit without requiring a modification or exception to the city’s applicable rules, standards and practices.~~
- ~~F. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.~~

SECTION 24. The height standards for the Town Core Zone of Chapter 4 (Form Based Code) of the Downtown Mixed Use Master Plan is hereby amended to read as follows and shall be inserted into the document in a format consistent with its publication:

Height		
Building Min.	22'	
Building Max.	2.5 stories and 40'	K

Max. to Eave/Top of Parapet	35'	K
Ancillary Building Max.	2 stories and 25'	
Finish Ground Floor Level	6" max. above sidewalk	L
First Floor Ceiling Height	12' min. clear	M
Upper Floor(s) Ceiling Height	8' min. clear	N
Notes		O

Mansard roof forms are not allowed.

Any section along the BTL not defined by a building must be defined by a 2'6" to 4'6" high fence or stucco or masonry wall.

Any building over 50' wide must be broken down to read as a series of buildings no wider than 50' each.

A height exception may be authorized by a use permit to allow structures up to four stories and 50' in the Town Core (TC), subject to the following standards:

Building Massing. at least one of the following features shall be incorporated:

- Upper floor modulation of at least four feet in depth (either recess or projection) for at least 30 percent of the front facade length. See Figure 17.26-4 in the Benicia Municipal Code; or
- A vertical facade break for all floors with a minimum depth of six feet for a minimum of 15 percent of the front facade length. Non-recessed building walls shall not exceed a width of 50 feet. See Figure 17.26-5 in the Benicia Municipal Code.

Buildings Exceeding Three Stories. Buildings exceeding three stories must incorporate at least one of the following additional features:

- A fourth story recessed stepback facing the primary street of at least four feet for the entire facade length. See Figure 17.26-6 in the Benicia Municipal Code. Recessed area may be used as a balcony, terrace, or other usable open space.
- A fourth story recessed stepback facing the primary street of at least 10 feet for a minimum of 35 percent of the facade length. See Figure 17.26-7 in the Benicia Municipal Code. Recessed area may be used as a balcony, terrace, or other usable open space.
- Other comparable method, as determined by the review authority through the use permit or development agreement process, to break down the massing of large building facades and complement the surrounding context.

Residential Transitions. In addition to the foregoing, all of the following standards apply to new development of three or more stories that adjoin a single-family residence in the TC-O, NG or NG-O zone:

a. Wall or Fence. A sight-obscuring wall or fence six feet high shall be provided along the adjoining residential property line. A sight-obscuring fence must have an opacity of at least 85 percent. Bushes, vines, and other vegetation may be incorporated into the design of a required fence.

b. Yard. Buildings shall be located a minimum of 15 feet from the adjoining single-family residential property line.

c. Building Stepback. Buildings adjoining a single-family residential property line shall be no taller than 25 feet at the required rear setback. If proposed, third or fourth stories shall be stepped back a minimum of five feet from the setback line. Recessed area(s) may not be used as a balcony, terrace, or other usable open space. See Figure 17.26 in the Benicia Municipal Code.

**SOLANO COUNTY AIRPORT LAND USE COMMISSION
RESOLUTION NO. 24-__**

**RESOLUTION REGARDING CONSISTENCY WITH
AIRPORT LAND USE COMPATIBILITY PLANS
(City of Benicia Municipal Code Amendments– City of Benicia)**

WHEREAS, pursuant to California Public Utilities Code section 21675 the Solano County Airport Land Use Commission (“**Commission**”) has the responsibility to prepare and adopt airport land use plans for any public and military airports within Solano County and to amend any such adopted plan as necessary; and

WHEREAS, pursuant to such authority, the Commission has adopted airport land use compatibility plans for Travis Air Force Base, Rio Vista Municipal Airport, and the Nut Tree Airport, and the Solano County Airport Land Use Compatibility Review Procedures (the “**Compatibility Plans**”); and

WHEREAS, in enacting the sections within the State Aeronautics Act (the “**Act**”) that provide for airport land use commissions, the California Legislature has declared that the purposes of the legislation include: (1) to provide for the orderly development of each public use airport in this state; (2) to provide for the orderly development of the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards; (3) to provide for the orderly development of the area surrounding these airports so as to prevent the creation of new noise and safety problems; (4) to protect the public health, safety, and welfare by ensuring the orderly expansion of airports; and (5) to protect the public health, safety, and welfare by the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses (Pub. Util. Code, § 21670, subd. (a)); and

WHEREAS, the Act provides that an airport land use commission's powers and duties include: (a) to assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses; (b) to coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare; (c) to prepare and adopt an airport land use compatibility plan pursuant to Public Utilities Code section 21675; and (d) to review the plans, regulations, and other actions of local agencies and airport operators pursuant to Public Utilities Code section 21676 (Pub. Util. Code, § 21674); and

WHEREAS, the Act provides that the purpose of compatibility plans is to provide for the orderly growth of the airports and the area surrounding the airports, and to safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general (Pub. Util. Code, § 21675, subd. (a)); and

WHEREAS, Public Utilities Code section 21675, subdivision (a), authorizes the Commission, in formulating a compatibility plan, to develop height restrictions on buildings, specify the use of land, and determine building standards, including sound-proofing adjacent to airports; and

WHEREAS, Public Utilities Code section 21675, subdivision (b), directs the Commission to prepare a compatibility plan for areas surrounding military airports, and the Legislature's intent in enacting subdivision (b) was to protect the continued viability of military installations in California,

to protect the operations of military airports from encroachment by development, and to encourage land use policies that reflect the contributions military bases make to their communities, as well as their vital importance in the state’s economy and in the defense of our nation; and

WHEREAS, pursuant to such authorities, the Compatibility Plans set forth criteria to be applied by the Commission when evaluating local land use plans and specific development proposals; and

WHEREAS, Public Utilities Code section 21676, subdivision (b), requires that prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the Commission, local agencies within Solano County are required to first refer the proposed action to the Commission for a consistency determination; and

WHEREAS, the City of Benicia (“**Local Agency**”) is considering approving the following project (the “**Project**”), as set forth in greater detail in the Staff Report and its Attachments concerning “Item AC 24-008” of the Commission’s March 14, 2024 Regular Meeting (“**Staff Report**”): “Determine that Application No. ALUC-24-03 (City of Benicia Municipal Code Amendments) is consistent with the Travis Air Force Base (AFB) Land Use Compatibility Plan (LUCP); and

WHEREAS, the Commission has duly considered the Project, at a noticed public meeting, in order to ensure consistency of the Project with the Compatibility Plans.

RESOLVED, that after due consideration and based upon the administrative record, the Commission does adopt and incorporate by this reference as its findings and determinations the analysis, conclusions, and recommended findings of the Staff Report.

RESOLVED, that after due consideration and based upon the administrative record, the Commission does find and determine that the Project is consistent with the provisions of the Travis Air Force Base Land Use Compatibility Plan.

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RESOLVED, that after adoption of this Resolution Staff is authorized to correct any clerical errors in this Resolution or the Staff Report.

I certify that the foregoing resolution was adopted at a regular meeting of the Solano County Airport Land Use Commission on March 14, 2024 by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSTAIN: Commissioners _____

ABSENT: Commissioners _____

By _____
Ross Sagun, Chair
Solano County Airport Land Use Commission

Attest:

By: _____
James Bezek, Secretary to the Commission