

RESOLUTION NO. 17- 171

A RESOLUTION OF THE BENICIA CITY COUNCIL APPROVING AMENDMENTS TO THE DOWNTOWN MIXED-USE MASTER PLAN AFTER A DETERMINATION THAT THE PROJECT IS EXEMPT FROM CEQA

WHEREAS, following the passage of Proposition 64 legalizing cannabis related uses, the City Council directed staff to prepare an ordinance that would allow cannabis uses in Benicia; and

WHEREAS, amendments to the Downtown Mixed-Use Master Plan were needed to clarify that cannabis retail uses are not permitted in the Downtown Mixed-Use Master Plan area; and

WHEREAS, the Planning Commission at a regular meeting of October 12, 2017 held a public hearing and did not recommend approval of Amendments to the Downtown Mixed-Use Master Plan (and corresponding sections of the Ordinances modifying Title 17 of the Benicia Municipal Code) and did not recommend allowing cannabis uses in the Downtown Core of Benicia; and

WHEREAS, on December 5, 2017, the City Council held a public hearing and reviewed proposed amendments to the Downtown Mixed-Use Master Plan to prohibit cannabis uses in the downtown area; and

WHEREAS, based on the General Plan and testimony at the various City Council meetings, the City Council finds cannabis uses in the Downtown area are not compatible with existing uses and the City's vision of the Downtown area. Downtown is the "front porch" for the City: it is a tourist attraction and the centerpiece of the City's "Visit Benicia" campaign; the State Capital park and other historical assets downtown attract school buses of children; First Street is regularly walked by residents and tourists; and cannabis retail uses do not need a walk-in storefront in order to be successful; and

WHEREAS, the City Council repealed that portion of Ordinance No. 17-XX which imposed a moratorium on cannabis uses in the Downtown area.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby adopts the Amendments to the Downtown Mixed-Use Master Plan as set forth in Exhibit A.

BE IT FURTHER RESOLVED THAT this resolution will be effective immediately.

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On motion of Council Member **Hughes**, seconded by Council Member **Young**, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 5th day of December, 2107, by the following vote:

Ayes: **Council Members Campbell, Hughes, Schwartzman, Young, and Mayor Patterson**

Noes: **None**

Absent: **None**


Elizabeth Patterson, Mayor

Attest:


Lisa Wolfe, City Clerk

12-8-17
Date

Attachment 1

1. The Downtown Mixed-Use Master Plan, Chapter 4: Form Based Codes, Town Core Standards, is amended to modify the regulations for Cannabis Uses as follows:

Table 4.1: Town Core (TC) Zone Allowed Land Uses and Permit Requirements (page 4-8)

Land Use Type ¹	Permit Required	Specific Use Regulations
Retail		
Cannabis Retail Operation	not permitted	

End Notes

⁴ Allowed only on ground floor or behind ground floor use.

2. The Downtown Mixed-Use Master Plan, Chapter 4: Form Based Codes, Town Core-Open Standards, is amended to add Cannabis Retail Operation as follows:

Table 4.2: Town Core-Open (TC-O) Zone Allowed Land Uses and Permit Requirements (page 4-14)

Land Use Type ¹	Permit Required	Specific Use Regulations
Retail		
Cannabis Retail Operation	not permitted	

3. The Downtown Mixed-Use Master Plan, Chapter 4: Form Based Codes, Neighborhood General Standards, is amended to add Cannabis Retail Operation as follows:

Table 4.4: Neighborhood General (NG) Zone Allowed Land Uses and Permit Requirements (page 4-20)

Land Use Type ¹	Permit Required	Specific Use Regulations
Retail		
Cannabis Retail Operation	NA	

4. The Downtown Mixed-Use Master Plan, Chapter 4: Form Based Codes, Neighborhood General-Open Standards, is amended to add Cannabis Retail Operation as follows:

Table 4.5: Neighborhood General (NG-O) Zone Allowed Land Uses and Permit Requirements (page 4-24)

Land Use Type ¹	Permit Required	Specific Use Regulations
Services: General		
Cannabis Retail Operation	NA	

5. The Downtown Mixed-Use Master Plan, Chapter 4: Form Based Codes, Glossary, is amended as follows:

Cannabis Retail Operation: The retail sale of cannabis or products containing cannabis is not permitted.

General Retail:

Stores and shops intended to serve the City as destination retail, rather than convenience shopping, not including cannabis or cannabis products. Examples of these stores and lines of merchandise include: art galleries, retail, art supplies, including framing services, books, magazines, and newspapers, cameras and photographic supplies, clothing, shoes, and accessories, collectibles (cards, coins, comics, stamps, etc.), drug stores and pharmacies, dry goods, fabrics and sewing supplies, furniture and appliance stores, hobby materials, home and office electronics, jewelry, luggage and leather goods, musical instruments and-carried), parts, accessories, small wares, specialty grocery store, specialty shops, sporting goods and equipment, stationery, toys and games, variety stores, videos, DVD's, records, CD's, including rental stores.

Home Occupation: Residential premises used for the transaction of business or the supply of professional services, not including cannabis or cannabis products. Home occupation shall be limited to the following: agent, architect, artist, broker, consultant, draftsman, dressmaker, engineer, interior decorator, lawyer, notary public, teacher, and other similar occupations, as determined by the Director. Such use shall not simultaneously employ more than 1 person in addition to residents of the dwelling. The total gross area of the home occupation use shall not exceed 25 percent of the gross square footage of the residential unit. The home occupation use shall not disrupt the generally residential character of the neighborhood. The Director shall review the nature of a proposed home occupation use at the time of review of a business license for such use, and may approve, approve with conditions, continue or deny the application.

Neighborhood Market: A neighborhood serving retail store of 3,500 square feet or less in gross floor area, primarily offering food products, not including cannabis or cannabis products, which may also carry a range of merchandise oriented to daily convenience shopping needs, and may be combined with food service (e.g., delicatessen).

Restaurant, Cafe, Coffee Shop: A retail business selling ready-to-eat food and/or beverages for on- or off-premise consumption, not including cannabis. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off premise consumption ("counter service"); and establishments where customers are served food at their tables for on-premise consumption ("table service"), that may also provide food for take-out, but does not include drive-through services.