

**RESOLUTION NO. 19- 2**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA THE DOWNTOWN MIXED USE PLAN PERTAINING TO ACCESSORY DWELLING UNITS**

**WHEREAS**, in 2016 and 2017, Section 65852.2 of the California Government Code was amended to facilitate the production of new Accessory Dwelling Units (ADUs) statewide, including a requirement that local agencies allow such units on all residentially-zoned lots without requiring discretionary review; and

**WHEREAS**, the California State Legislature finds that ADUs are an essential component of California’s housing supply that provide additional rental stock and housing for family members, students, the elderly, in-home health care providers, people with disabilities and others at below market prices within existing neighborhoods; and

**WHEREAS**, the City of Benicia’s regulations for ADUs are currently inconsistent with State housing law; and

**WHEREAS**, Benicia Housing Element Policy 1.04 states that the City will review and revise regulatory standards necessary to comply with State Housing law; and

**WHEREAS**, Benicia Housing Element Program 1.10 states that the City will amend the Zoning Ordinance for second units (accessory dwelling units) including the allowance of ADUs above a garage, modification of parking requirements and modification of fees; and

**WHEREAS**, the Historic Preservation Review Commission at a regular meeting on May 24, 2018, conducted a hearing, heard public comment and reviewed the draft text amendments and recommended approval as provided in Resolution No. 18-5 (HPRC); and

**WHEREAS**, the Planning Commission at a regular meeting on June 14, 2018, conducted a hearing, heard public comment and reviewed the draft amendments, and found them consistent with the City of Benicia General Plan and Housing Element as provided in Resolution No. 18-6 (PC); and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA HEREBY AMENDS THE DOWNTOWN MIXED USE MASTER PLAN AS FOLLOWS:**

**Section 1.**

<b>Table 4.1: Town Core (TC) Zone Allowed Land Uses and Permit Requirements</b>		
<b>Land Use Type</b>	<b>Permit Required</b>	<b>Specific Use Regulations</b>
<b>Residential</b>		
Home occupation		
< 300 sf, 2 or fewer employees	P <sup>2</sup>	

> 300 sf, 3 or fewer employees	P <sup>2</sup>	
> 300 sf, 3 or more employees	NA	
Mixed use project residential component	P <sup>2</sup>	
Dwelling: Multi-Family - Rowhouse	P <sup>2</sup>	
Dwelling: Multi-Family – Duplex	P <sup>2</sup>	
Dwelling: Multi-Family – Triplex	P <sup>2</sup>	
Dwelling: Multi-Family - Fourplex	P <sup>2</sup>	
<u>Accessory Dwelling Unit</u>	<u>P<sup>2</sup></u>	<u>A</u>
Ancillary Building	P	
Residential Care, 7 or more clients	P <sup>2</sup>	
Residential Care, 6 or fewer clients	P <sup>2</sup>	
Supportive Housing	P	
Transitional Housing	P	
<u>Specific Use Regulations</u>		
<u>A – Accessory Dwelling Units shall comply with the provisions of BMC 17.70.060.</u>		

**Section 2.**

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

Land Use Type	Permit Required	Specific Use Regulations
<u>Residential</u>		
<u>Home occupation</u>		
< 300 sf, 2 or fewer employees	P	
> 300 sf, 3 or fewer employees	P	
Live/work unit	P	
Mixed use project residential component	P	
Dwelling: Multi-Family - Rowhouse	P	
Dwelling: Multi-Family – Duplex	P	
Dwelling: Multi-Family – Triplex	P	
Dwelling: Multi-Family - Fourplex	P	
<u>Accessory Dwelling Unit</u>	<u>P</u>	<u>A</u>
Ancillary Building	P	
Residential Care, 7 or more clients	UP	
Residential Care, 6 or fewer clients	MUP	
Supportive Housing	P	
Transitional Housing	P	
<u>Specific Use Regulations</u>		
<u>A – Accessory Dwelling Units shall comply with the provisions of BMC 17.70.060.</u>		

AB - Use shall be limited to the hours of 8 am to 7 pm unless a MUP has been obtained. Such businesses are required to conform to any applicable noise standards and lighting restrictions as set forth in any adopted local or State codes that regulate public health and safety.

**Section 43.**

**Neighborhood General (NG) Standards**

<b>Height</b>	
Building Max.	2.5 stories and 30' max.
Ancillary Building Max.	<del>1.5 stories and 15' max.</del> 15 feet max. where the roof pitch is below 4:12. 18 feet max. where the roof pitch is between 4:12 and 6:12. 20 feet max. where the roof pitch exceeds 6:12.
Finish Ground Floor Level	18" min. above sidewalk* ( <u>primary building</u> )
First Floor Ceiling Height	10' min. clear ( <u>primary building</u> )
Upper Floor Ceiling Height	8' min. clear ( <u>primary building</u> )
*6" on downslope lots.	
<b>Parking</b>	
Location (Distance from Property Line)	
Front Setback	20'
Side Setback	0'
Side Street Setback	5'
Rear Setback	5'
<b>Required Spaces</b>	
Residential Uses	
Studio unit	½ space
1-2 bedroom unit	1 space
3+ bedroom unit	1 space plus additional ½ space for every bedroom over two
Other uses	
Uses < 3,000 sf	No off-street parking required
<del>On lots without alley access, a one-unit ancillary structure up to 400 sf may be built without requiring additional parking.</del>	

**Section 4.**

**Table 4.3-4: Neighborhood General (NG) Zone Allowed Land Uses and Permit Requirements**

Land Use Type <sup>1</sup>	Permit Required	Specific Use Regulations
Residential		
Dwelling: Single family	P	
Home occupation		
< 300 sf, 2 or fewer employees	P	
> 300 sf, 3 or fewer employees	P	
Dwelling: Multi-family - Duplex	P	
<u>Accessory Dwelling Unit</u>	<u>P</u>	<u>A</u>
Ancillary Building	P	
Supportive Housing	P	
Transitional Housing	P	

**Specific Use Regulations**

A – Accessory Dwelling Units shall comply with the provisions of BMC 17.70.060.

AB - Use shall be limited to the hours of 8 am to 7 pm unless a MUP has been obtained. Such businesses are required to conform to any applicable noise standards and lighting restrictions as set forth in any adopted local or State codes that regulate public health and safety.

**Section 5.**

**Neighborhood General-Open (NG-O) Standards**

<b>Height</b>	
Building Max.	2.5 stories and 30' max.
Ancillary Building Max.	<del>1.5 stories and 15' max.</del> 15 feet max. where the roof pitch is below 4:12. 18 feet max. where the roof pitch is between 4:12 and 6:12. 20 feet max. where the roof pitch exceeds 6:12.
Finish Ground Floor Level	18" min. above sidewalk* (primary building)
First Floor Ceiling Height	10' min. clear (primary building)
Upper Floor Ceiling Height	8' min. clear (primary building)
*6" on downslope lots.	

**Parking**

Location (Distance from Property Line)	
Front Setback	20'
Side Setback	0'
Side Street Setback	5'
Rear Setback	5'
Required Spaces	
Residential Uses	
Studio unit	½ space
1-2 bedroom unit	1 space
3+ bedroom unit	1 space plus additional ½ space for every bedroom over two
Other uses	1 space/1,000 sf
<del>On lots without alley access, a one-unit ancillary structure up to 400 sf may be built without requiring additional parking.</del>	

**Section 6.**

**Table 4.4.5: Neighborhood General (NG) Zone Allowed Land Uses and Permit Requirements**

Land Use Type <sup>1</sup>	Permit Required	Specific Use Regulations
Residential		
Dwelling: Single family	P	
Home occupation		
< 300 sf, 2 or fewer employees	P	
> 300 sf, 3 or fewer employees	P	
> 300 sf, 3 or more employees	P	
Live/work unit	P	
Dwelling: Multi-family - Duplex	P	
<u>Accessory Dwelling Unit</u>	<u>P</u>	<u>A</u>
Ancillary Building	P	
Residential Care, 7 or more clients	UP	
Residential Care, 6 or fewer clients	MUP	
Supportive Housing	P	
Transitional Housing	P	

**Specific Use Regulations**

A – Accessory Dwelling Units shall comply with the provisions of BMC 17.70.060.

AB - Use shall be limited to the hours of 8 am to 7 pm unless a MUP has been obtained. Such businesses are required to conform to any applicable noise standards

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and lighting restrictions as set forth in any adopted local or State codes that regulate public health and safety.

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## **Section 7.**

### **GLOSSARY**

Accessory Dwelling Unit. An attached or detached residential dwelling unit that provides permanent, complete, independent living facilities, including facilities for living, sleeping, food preparation and cooking, eating and sanitation, for one or more persons, on the same parcel as a primary dwelling.

~~Carriage Unit: A Carriage unit is an auxiliary housing unit located above or adjacent to the garage of the primary housing unit on the lot, with the front door and access directed towards an alley. A carriage unit constitutes a residential second unit in compliance with the Government Code Section 65852.2 and, as provided by the Government Code, is not included in the maximum density limitations.~~

~~Secondary Building: A building that accommodates the secondary use of the site.~~

## **Section 8.**

This Resolution shall be in full force and effect on the effective date of the Ordinance amending Title 17 (Zoning) to amend Section 17.70.060 (Accessory Dwelling Units).

## **Section 9.**

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared unconstitutional on their face or as applied.

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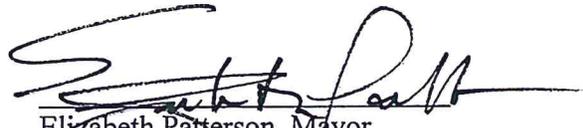
On a motion of Council Member **Young** , seconded by Council Member **Largaespada**, the foregoing Resolution was adopted at a regular meeting of the City Council on the 15<sup>th</sup> day of January 2019, and by the following vote:

Ayes: **Council Members Largaespada, Young, and Mayor Patterson**

Noes: **None**

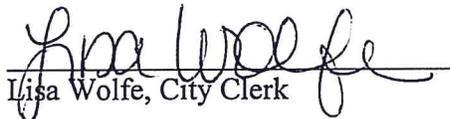
Absent: **None**

Abstain: **Council Members Campbell and Strawbridge**



Elizabeth Patterson, Mayor

Attest:



Lisa Wolfe, City Clerk

1-28-19  
Date