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Conduct a Public Hearing to consider a Consistency Determination (ALUC-20-06) for the proposed City of Benicia Carriage Unit Ordinance with the Travis Air Force Base Airport Land Use Compatibility Plan. (Sponsor: County of Solano)

..body

RECOMMENDATION:

Determine that application ALUC-20-06 (City of Benicia Carriage Unit Ordinance) is consistent with the Travis Air Force Base Land Use Compatibility Plan.

DISCUSSION:

Introduction

On January 1, 2018, new state legislation went in to effect mandating certain minimum requirements for any local zoning regulations pertaining to accessory dwelling units. The legislation rendered invalid any local regulations if they were not in complete conformance with the new state rules for secondary dwellings. The legislation also imposed several restrictions and requirements which local government must meet in any local ordinance regulating secondary dwellings. The legislation does permit local agencies to adopt secondary dwelling unit regulations with different size limitations, providing the local ordinances comply with all of the state's other requirements.

Over the past two years, the City of Benicia has adopted local regulations to implement Accessory Dwelling Unit regulations consistent with state law. These regulations were also found consistent with the Travis Plan by the Airport Land Use Commission.

Earlier this year, the Benicia City Council determined that accessory dwelling units constructed above garages required special consideration. As a result, city staff has drafted revisions to the Benicia Municipal Code to accommodate a subgroup of accessory dwelling units defined as Carriage Units. The intent of the City is to streamline the review process for carriage units. The City is seeking a consistency determination for this proposed ordinance from the Airport Land Use Commission as required by the State Aeronautics Act. The proposed ordinance amendments are summarized below:

Summary of ADU Ordinance

The City of Benicia is proposing the following changes to its municipal code to implement the Carriage Unit regulations. (Proposed language in yellow text)

- 1. Section 17.12.030 (Definitions).** Amend the Benicia Municipal Code to insert the following definition:

“Carriage unit” means a detached accessory structure with a ground floor garage, interior stairwell and accessory dwelling unit directly above the garage.

- 2. Section 17.12.030 (Definitions).** Amend the Benicia Municipal Code to modify the definition of “Garage, private” as follows:

“Garage, private” means a building or portion thereof for the private use of the owner or occupant of a ~~principal~~ building situated on the same lot as the principal building for the storage of motor vehicles, with no facilities for mechanical service or repair of a commercial or public nature; see also the definition of “carport.”

3. Subsection A (In General) of Section 17.54.100 (Demolition and design review procedures). Amend the Benicia Municipal Code is to read as follows:

A. In General.

1. Except as modified by an adopted conservation plan, design review in an H district or of a proposed alteration, enlargement or demolition of a designated landmark shall be conducted as prescribed by Chapter 17.108 BMC. Design review and approval shall be the responsibility of the community development director or the historic preservation review commission, as the case may be.

2. The building official shall not issue a permit for construction, alteration, enlargement, or demolition of a building or structure located in an H district or of a designated landmark without the prior approval of the community development director or the historic preservation review commission. Prior approval of the community development director or the historic preservation review commission is not required for permit applications of an emergency nature to rehabilitate an unsafe building or to demolish the structure for the same reasons.

3. Accessory dwelling units not subject to design review. Notwithstanding any provisions of this chapter to the contrary, accessory dwelling units and carriage units shall be exempt from this section, including all demolition and design review procedures set forth herein.

4. Section 17.70.050 (Accessory structures). Amend the Benicia Municipal Code to read as follows:

A. In R Districts.

1. Timing. Accessory structures shall not be established or constructed prior to the start of construction of a principal structure on a site, unless authorized by an exception to criteria to accommodate overall development on a parcel with site constraints. Construction trailers may be placed on a site at the time site clearance and grading begins. Construction trailers shall be removed within 30 days following the issuance of a certificate of occupancy for the structure.

2. Location. Accessory structures shall not occupy a required yard or court, or project beyond the front building line of the principal structure on a site. Subject to an exception to criteria in the RS zone, a detached garage may protrude past the front building line of the principal structure but may not be located within a required front yard; provided, that the design of the detached garage is compatible with the

existing residence in terms of architectural design, building materials, roof slopes, colors, and exterior finishes. No accessory uses may be permitted off site.

3. Maximum Height. The maximum wall height of an accessory structure shall be 12 feet, subject to the provisions of this subsection. Maximum peak height shall be determined on the basis of roof pitch as provided herein.
 - a. Fifteen feet where the roof pitch is below 4:12.
 - b. Eighteen feet where the roof pitch is between 4:12 and 6:12.
 - c. Twenty feet where the roof pitch exceeds 6:12.
 4. Setbacks. An accessory structure in a required rear yard shall be located at least five feet from a rear or side property line. A minimum 10-foot distance shall be maintained between an accessory building and any other building on the site; provided, however, that the community development director may authorize an exception to criteria to reduce the separation between buildings to five feet.
 5. RS Districts. In an RS district, the total gross floor area of accessory structures more than four feet in height shall be counted in computing lot coverage and shall meet the lot coverage requirements of BMC [17.24.030](#), except that the total area of any one accessory building shall not exceed the total area of the primary residential structure on the same site.
 6. Patio Covers. A patio cover open on at least two sides and complying with all other provisions of this subsection may be attached to a principal structure and shall not be subject to requirements for courts opposite required windows.
 7. Swimming Pools. An unenclosed swimming pool, including related equipment, may occupy a required rear yard or side yard but shall not be within five feet of a property line.
 8. Decks. No deck that is 30 inches or more in height shall be located in a required yard.
 9. Decorative Archways. A decorative archway may occupy a required front yard, provided it meets the driveway visibility requirements of BMC [17.74.150](#). No more than one archway per frontage may be constructed. Any decorative archway shall have a maximum height of eight feet, a maximum width of eight feet, and a maximum depth of four feet.
- B. In C, I, OS and PS Districts. Accessory structures shall comply with all regulations applicable to the principal structure on a site. Off-site accessory uses shall be allowed only with a use permit issued by the community development director.
- C. In PD District. The location of accessory structures shall comply with the adopted PD or specific plan for a PD district. (Ord. 19-02 § 3).

- D. In All Districts. A carriage unit shall comply with the permitting process (subsection C), development standards (subsection I) and objective design standards (subsection J.) of section 17.70.060 Accessory dwelling units.

5. Subsection C (Permitting Process) of Section 17.70.060 (Accessory dwelling units).

Amend the Benicia Municipal Code to read as follows:

C. Permitting Process.

1. When Consistent with Standards.

- a. An accessory dwelling unit that complies with all standards in this section shall be approved ministerially upon issuance of a building permit. No other permit, discretionary review, or public hearing is required.
- b. If an existing single-family or multifamily dwelling exists on the lot upon which an accessory dwelling unit is proposed, the City shall act on an application to create an accessory dwelling unit within 60 days from the date the City receives a completed application. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay.
- c. The City has acted on the application if it:
 - (1) Approves or denies the building permit for the accessory dwelling unit;
 - (2) Informs the applicant in writing that changes to the proposed project are necessary to comply with this section or any applicable regulation; or
 - (3) Determines that the accessory dwelling unit does not qualify for ministerial approval.

2. When Deviating from Standards.

- a. A proposed accessory unit that deviates from the standards in subsection J (Objective Design Standards) of this section shall be reviewed and may be approved or denied subject to the design review procedures in Chapter 17.108 (Design Review).
- b. A proposed accessory dwelling unit that deviates from standards in subsection I (Development Standards) or any other applicable physical standard of this section shall be reviewed and may be approved or denied subject to the variance procedures in Chapter 17.104 (Use Permits and Variances).

3. When Dependent on Separate Construction.

- a. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building that is not a part of the accessory dwelling unit ("separate construction"), the City shall either:

- (1) Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or
 - (2) Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case, the accessory dwelling unit is subject to the same review procedures and requirements as the separate construction, which may include design review.
- b. New construction of a carriage unit shall not be considered dependent on separate construction if the footprint of the structure is the minimum size necessary to accommodate a garage up to 500 square foot and an interior stairwell provides direct access to the accessory dwelling unit in compliance with the requirements of the California Building Code.

6. Subsection C (Accessory Dwelling Units) of Section 17.108.020 (Applicability). Amend the Benicia Municipal Code to read as follows:

C. Accessory Dwelling Units. Accessory dwelling units and carriage units shall be exempt from the provisions of this Chapter.

The City of Benicia Carriage Unity Accessory Dwelling Ordinance is statutorily required to come before the ALUC for a consistency determination. These regulations apply to properties in various locations within the City of Benicia. The Travis Air Force Base Land Use Compatibility Plan (Travis Plan) is the only Airport Land Use Compatibility Plan which applies to the City of Benicia and thus the Benicia ADU Ordinance is reviewed in light of the Travis Plan.

REQUIRED TESTS FOR CONSISTENCY

ALUC Review Requirements

State law, under Section 21661.5 of the Public Utilities Code, requires that any proposed zoning regulations or revisions to the local zoning ordinance be reviewed for consistency with adopted airport land use compatibility plans.

The ALUC is concerned with those aspects of the proposed zoning changes which have the potential to be incompatible with the Travis Plan.

California Airport Land Use Planning Handbook

The State Department of Aeronautics has published the California Airport Land Use Planning Handbook as a guide for Airport Land Use Commissions in the preparation and implementation of Land Use Compatibility Plans and Procedure Documents. Section 6.4.2 sets forth procedures for the review of local zoning ordinances and directs agencies to consider the topics listed in Table 5A, as follows:

Zoning or Other Policy Documents (from Table 5A, *CalTRANS Airport Land Use Planning Handbook*)

The Handbook lists the following topics for consideration when reviewing zoning or other policy documents.

- *Intensity Limitations on Nonresidential Uses*
- *Identification of Prohibited Uses*
- *Open Land Requirements*
- *Infill Development*
- *Height Limitations and Other Hazards to Flight*
- *Buyer Awareness Measures*
- *Non-conforming Uses and Reconstruction*

The City of Benicia is situated in two compatibility zones – Compatibility Zone D and Compatibility Zone E. The compatibility factors for each zone are provided below.

Compatibility Zone D

The requirements for Compatibility Zone D are limited to the following compatibility factors:

- Intensity Limitations: No limit
- Identification of Prohibited Uses: No limit
- Open Land Requirements: None
- Infill Development: No Special requirements or limitations
- Height Limitations and Other Hazards to Flight:
 - ALUC review required for objects > 200 feet AGL
 - All proposed wind turbines must meet line-of-sight criteria in Policy 3.3.4
 - All new or expanded commercial-scale solar facilities must conduct an SGHAT glint and glare study for ALUC review
 - All new or expanded meteorological towers > 200 feet AGL, whether temporary or permanent, require ALUC review
 - For areas within the Bird Strike Hazard Zone, reviewing agencies shall prepare a WHA for discretionary 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.
 - 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.
- Buyer Awareness Measures: None required
- Non-conforming Uses and Reconstruction: No requirements or limitations

Compatibility Zone E

The requirements for Compatibility Zone E are limited to the following compatibility factors:

- Intensity Limitations: No limit
- Identification of Prohibited Uses: No limit
- Open Land Requirements: None
- Infill Development: No Special requirements or limitations
- Height Limitations and Other Hazards to Flight:

- ALUC review required for objects > 200 feet AGL
- All proposed wind turbines must meet line-of-sight criteria in Policy 3.3.4
- All new or expanded commercial-scale solar facilities must conduct an SGHAT glint and glare study for ALUC review
- All new or expanded meteorological towers > 200 feet AGL, whether temporary or permanent, require ALUC review
- 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.
- Buyer Awareness Measures: None required
- Non-conforming Uses and Reconstruction: No requirements or limitations

CONSISTENCY ANALYSIS

Staff has reviewed the proposed City of Benicia Carriage Unit Ordinance for consistency with the applicable land use compatibility plans and our analysis is presented below.

Intensity Limitations on Nonresidential Uses

Within Compatibility Zones D and/or E, there are no limitations on intensity for non-residential land uses. Furthermore, the proposed City regulations are not changing any residential density limitations or designating any new zoning districts. As a result, the City of Benicia Carriage Unit Ordinance is consistent with this provision.

Identification of Prohibited Uses

There are no prohibited uses within Compatibility Zones D and E. Therefore, the City of Benicia Carriage Unit Ordinance is consistent with this provision.

Open Land Requirements

Compatibility Zones D and E have no open land requirements for development. As a result, the City of Benicia Carriage Unit Ordinance is consistent with this criterion.

Infill Development

The proposed regulations apply throughout the City of Benicia to properties which may or may not be considered infill locations. Infill development is sometimes afforded additional density or intensity when it is surrounded by existing development that does not meet the requirements of the Travis Plan. Since there are no density or intensity limitations within Compatibility Zones D and E, the infill issue is mute. No further consideration is required for this criterion and the regulations would be consistent with these criteria.

Height Limitations and Other Hazards to Flight

1, 2 & 4. Height Review for Objects Greater than 200 Feet in Height

The City of Benicia Carriage Unit Ordinance does not alter any maximum height requirements in the Benicia Municipal Code and so ALUC review of this item is not required.

3. Commercial Scale Solar Projects

The City of Benicia Carriage Unit Ordinance does not alter any Commercial Solar regulations and as such, is consistent with the Travis Plan.

5 & 6 Projects within the Bird Strike Hazard Zone or the Outer Perimeter Area

The project lies outside of the Bird Strike Hazard Zone and the Outer Perimeter Area. As a result, the City of Benicia Carriage Unit Ordinance is not affected by these criteria and is consistent with the requirements of the Travis Plan.

Buyer Awareness Measures

The proposed regulations do not designate any new residential uses and do not involve any properties within Compatibility Zones A, B or C. The proposed project lies within Compatibility Zones D and E and outside of any noise contours of concern. As a result, Buyer Awareness Measures are not required by the Travis Plan, and the proposals are thereby consistent with the Travis Plan.

Non-conforming Uses and Reconstruction

The project is not authorizing any construction, nor does it modify the non-conforming use provisions of the BMC. As a result, Non-conforming uses and reconstruction issues are not involved and the noise and outdoor entertainment proposals are thereby consistent with the Travis Plan.

In light of the above discussion, staff is recommending a consistency finding between the City of Benicia Carriage Unit Ordinance and the Travis Plan.

RECOMMENDATION

Based on the analysis and discussions above, staff recommends that the Solano County Airport Land Use Commission find as follows:

Determination: Determine that application ALUC-20-06 (City of Benicia Carriage Unit Ordinance) is consistent with the Travis Air Force Base Land Use Compatibility Plan.

Attachments:

- Attachment A: Application
- Attachment B: Draft Carriage Unit Ordinance
- Attachment C: Vicinity Map
- Attachment D: Aerial Map
- Attachment E: Travis Context Map

Solano County Airport Land Use Commission

675 Texas Street Suite 5500
Fairfield, CA 94533
Tel 707.784.6765
Fax 707.784.4805

LAND USE COMPATIBILITY DETERMINATION: APPLICATION FORM

| TO BE COMPLETED BY STAFF | | |
|--|--------------------------------|----------------------|
| APPLICATION NUMBER: | FILING FEE: | |
| DATE FILED: | RECEIPT NUMBER: | |
| JURISDICTION: | RECEIVED BY: | |
| PROJECT APN(S): | | |
| TO BE COMPLETED BY THE APPLICANT | | |
| I. GENERAL INFORMATION | | |
| NAME OF AGENCY: City of Benicia | DATE: 8/11/2020 | |
| ADDRESS: 250 East L Street, Benicia CA 94510 | | |
| E-MAIL ADDRESS: sthorsen@ci.benicia.ca.us | DAYTIME PHONE: 707-746-4382 | FAX: 707-747-1637 |
| NAME OF PROPERTY OWNER: N/A | | DATE: |
| ADDRESS: N/A | | DAYTIME PHONE: |
| NAME OF DOCUMENT PREPARER: Suzanne Thorsen, Planning Manager | | DATE: 8/11/2020 |
| ADDRESS: 250 East L Street, Benicia, CA 94510 | DAYTIME PHONE: 707-746-4382 | FAX: 707-747-1637 |
| NAME OF PROJECT: City of Benicia Zoning Text Amendment - Carriage Unit ADUs | | |
| PROJECT LOCATION: City of Benicia - Citywide | | |
| STREET ADDRESS: N/A | | |

PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.

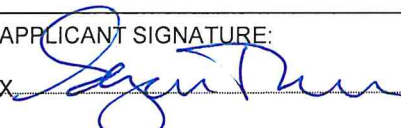
TO BE COMPLETED BY THE APPLICANT

II. DESCRIPTION OF PROJECT

The application includes one amendment to the Benicia Zoning Ordinance.

Please see the enclosed draft zoning text amendment.

PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.

| TO BE COMPLETED BY THE APPLICANT | |
|---|----------------------------------|
| II. DESCRIPTION OF PROJECT (CONT'D) | |
| POTENTIAL PROJECT EMISSIONS: (i.e. smoke, steam, glare, radio, signals): N/A | |
| PROJECT AIRPORT LAND USE COMPATIBILITY PLAN: Travis AFB | COMPATIBILITY ZONE: D&E |
| PERCENTAGE OF LAND COVERAGE: N/A | MAXIMUM PERSONS PER ACRE: N/A |
| <p>THE FOLLOWING INFORMATION MUST BE SUBMITTED AS A MINIMUM REQUIREMENT:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> JURISDICTION REFERRAL LETTER: <input checked="" type="checkbox"/> ENVIRONMENTAL DOCUMENTATION: Exempt - CEQA Guidelines Section 15305 and 15061 <input type="checkbox"/> LOCATION MAP: N/A <input type="checkbox"/> ASSESSOR'S PARCEL MAP, with subject property marked in red: N/A <input type="checkbox"/> SITE PLAN, drawn to scale and fully dimensioned including topographical information, and 8 1/2 x 11 inch reduction(s): N/A <input type="checkbox"/> ELEVATIONS, if located in APZ, clear zones and A,B,C compatibility zones or over 200' in height, plus 8 1/2 x 11 inch reduction(s) : N/A <input type="checkbox"/> WIND TURBINE STUDY, including cumulative impact studies. Such studies shall include an analysis of (1) the individual effects of the proposed project, and (2) as required by law, an analysis of the cumulative effects of the proposed project considered in connection with the effects of past projects, the effects of other current projects and proposed projects, and the effects of probable future projects, including (i) the probable build out for wind energy development of the remaining vacant parcels within the wind resource areas described in the Solano County General Plan and (ii) any probable replacement of existing turbines or meteorological towers with structures having different dimensions. N/A <ul style="list-style-type: none"> <input checked="" type="checkbox"/> SUPPLEMENTAL INFORMATION: Proposed Zoning Text Amendment and Staff Report <input checked="" type="checkbox"/> FEES: \$200 <input checked="" type="checkbox"/> ELECTRONIC COPIES OF ALL APPLICATION MATERIALS ONA CD: <i>via email: JHLeland@SolanoCounty.com</i> | |
| APPLICANT SIGNATURE:  | DATE: 8/12/20 |
| <p>DOES THE PROJECT PROPOSE THE DEMOLITION OR ALTERATION OF ANY EXISTING STRUCTURES ON THE PROJECT SITE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, describe below:</p> | |

PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.



Historic Preservation Review Commission Staff Report

August 10, 2020

Project: Amendments to Title 17 (Zoning) of the Benicia Municipal Code to streamline permitting for carriage units

Staff Recommendation

Move to adopt the resolution (Attachment 1) recommending that the City Council of the City of Benicia adopt an ordinance amending Title 17 (Zoning) of the Benicia Municipal Code to streamline permitting for carriage unit accessory dwelling units, after a public hearing and determination that the project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA).

Project Description

The proposed project is an amendment to the Benicia Municipal Code (BMC) Chapters 17.12 (Definitions), 17.54 (H Historic Overlay District), 17.70 (General Regulations) and 17.108 (Design Review) to create a definition for “carriage unit” as an ADU located above a detached garage, establish a threshold by which carriage units may be subject to the streamlined permitting procedures for ADUs, and ensure consistency amongst various chapters of the Zoning Ordinance. The ordinance would allow for ministerial permitting of an ADU above a garage of up to 500 square feet, subject to compliance with all requirements of the ADU regulations (BMC Section 17.70.060).

Public Noticing

In accordance with Government Code Section 65091, notice of public hearing was posted in Benicia City Hall on July 21, 2020 and published in the Benicia Herald on July 29, 2020.

Project Location

The proposed amendments to the Zoning Ordinance would be effective city-wide.

Background

Prior City Council Action

The City Council adopted Ordinance No. 20-1 on February 4, 2020 amending the City’s accessory dwelling unit (ADU) regulations in order to bring the regulations into compliance with State ADU laws which became effective on January 1, 2020. The ordinance requires that a proposed ADU which is “Dependent on Separate Construction” must be subject to applicable permit requirements for the non-ADU element (such as the garage portion of a proposed accessory structure), pursuant to

BMC section 17.70.060.C.3 Applicable permit requirements for the non-ADU element may include design review in a historic district or on a parcel with commercial or multi-family use, pursuant to BMC Chapter 17.108. For example, an ADU that is proposed along with the construction of a new detached garage and located on the second floor above the garage (i.e., a “carriage unit”), would be considered an ADU “dependent on separate construction.”

During the first reading of the ADU ordinance on January 21, 2020 correspondence and public comment were received requesting that ADUs located above detached garages be exempt from design review. The City Council considered this matter and directed staff to revise the ordinance to provide that permitting for such garages be subject to ministerial rather than discretionary review; in other words, design review would *not* be required for such garages. Staff determined that the proposed revision would require additional amendments to the Municipal Code.

Prior HPRC Feedback

The Historic Preservation Review Commission (HPRC) considered an informational report regarding the proposed amendments at their meeting of February 27, 2020. Commissioners asked clarifying questions about the intent and effect of the proposed changes and received comments from three community members. Mark Hajjar, architect, commented on the practical size of a garage and recommended that stairs be required on the interior of the building. He commented on the cost to build an ADU, including fees and the cost of Building Code compliance. Jerry Hayes asked for clarification about the purpose of the proposed amendment and concurred with Mr. Hajjar regarding fees. Leann Taagepera spoke regarding the historic conservation plans, the procedure for the proposed amendment, and concerns about historic preservation, design criteria and privacy.

The commission spoke about design review procedures for projects such as handrail replacement in comparison to a new ADU or carriage unit. Commissioners expressed concerns about alteration of historical accessory buildings. The topics of building mass, design, lot sizes in the downtown and fees were discussed. Following discussion, commissioners expressed a consensus opinion that stairs be located internal to the carriage unit structure and concurred with a staff recommendation of 500 square feet for streamlined permitting of a garage, noting that larger structures could be evaluated through design review.

Analysis

The proposed revisions require amendments to Benicia Municipal Code as outlined below. The amendments would provide consistency among various chapters of the Zoning Ordinance and respond to the comments received at the February HPRC meeting. The proposed streamlined permitting for carriage units would be limited to new buildings with a garage up to 500 square feet, would require interior stairs accessing the ADU, and would require that the structure comply with all design and

development standards of the ADU ordinance inclusive of the standards for historic districts.

BMC Chapter 17.12. Add and amend definitions to aid in the implementation of the proposed regulations.

- Add a definition for “carriage unit” as follows: “Carriage unit” means a detached accessory structure with a ground floor garage, interior stairwell and accessory dwelling unit directly above the garage.
- Amend the definition of “Garage, private” to reflect contemporary land use patterns (including ADUs) as follows: “Garage, private” means a building or portion thereof for the private use of the owner or occupant of a ~~principal~~ building situated on the same lot as the principal building for the storage of motor vehicles, with no facilities for mechanical service or repair of a commercial or public nature; see also the definition of “carport.”

BMC Chapter 17.54. Clarify and amend section 17.54.100 (Demolition and design review procedures) to reflect existing regulations that exempt ADUs from design review and align with the streamlined permitting for carriage units by adding subsection 1.a as follows. No further amendment to the Downtown or Arsenal Historic Conservation Plan is required.

1. Except as modified by an adopted conservation plan, design review in an H district or of a proposed alteration, enlargement or demolition of a designated landmark shall be conducted as prescribed by Chapter 17.108 BMC. Design review and approval shall be the responsibility of the community development director or the historic preservation review commission, as the case may be.
2. The building official shall not issue a permit for construction, alteration, enlargement, or demolition of a building or structure located in an H district or of a designated landmark without the prior approval of the community development director or the historic preservation review commission. Prior approval of the community development director or the historic preservation review commission is not required for permit applications of an emergency nature to rehabilitate an unsafe building or to demolish the structure for the same reasons.
3. Accessory dwelling units not subject to design review. Notwithstanding any provisions of this chapter to the contrary, accessory dwelling units and carriage units shall be exempt from this section, including all demolition and design review procedures set forth herein.

BMC Chapter 17.70. Amend sections 17.70.050 (Accessory structures) and 17.70.060 (Accessory dwelling units) to specify that a carriage unit shall comply with the permitting process, development standards and objective design standards of the ADU ordinance,

and to limit the exemption to only those carriage units which are new construction, with a footprint that accommodates a 500 foot square foot garage and interior stairwell providing direct access to the ADU above.

- Proposed addition to section 17.70.050 (Accessory structures):

D. In All Districts. A carriage unit shall comply with the permitting process (subsection C), development standards (subsection I) and objective design standards (subsection J.) of section 17.70.060 Accessory dwelling units.

- Proposed amendment to section 17.70.060.C (Accessory dwelling units, Permitting process):

3. When Dependent on Separate Construction.

a. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building that is not a part of the accessory dwelling unit ("separate construction"), the City shall either:

(1) Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or

(2) Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case, the accessory dwelling unit is subject to the same review procedures and requirements as the separate construction, which may include design review.

b. New construction of a carriage unit shall not be considered dependent on separate construction if the footprint of the structure is the minimum size necessary to accommodate a garage up to 500 square foot and an interior stairwell provides direct access to the accessory dwelling unit in compliance with the requirements of the California Building Code.

BMC Chapter 17.108. Amend section 17.108.020 (Applicability) of the Design Review chapter to cross reference the ADU regulations and establish an exemption for carriage units as follows:

C. Accessory Dwelling Units. Accessory dwelling units and carriage units shall be exempt from the provisions of this Chapter.

The City evaluated comments regarding a need to modify the adopted conservation plans pertaining to design review procedures. The Conservation Plans currently require

discretionary review and approval, including design review, of accessory structures for all properties in the Arsenal Historic District and for non-historic properties outside of the Eastern Residential Exclave and landmark properties in the Downtown Historic District. The Downtown Historic Conservation Plan notes that second units pursuant to the Government Code are ministerial. The Benicia Municipal Code provides in Chapter 17.70 (General Regulations) and Chapter 17.108 (Design Review) that accessory dwelling units are exempt from design review.

The Zoning Ordinance (Chapter 17.54) establishes the authority for establishment of Conservation Plans and the purposes of conservation plans. BMC Section 17.54.100 states that procedures for design review shall be conducted as prescribed in Chapter 17.108 (Design Review), except as modified by an adopted conservation plan. For consistency amongst chapters within the Zoning Ordinance as well as the conservation plans, the proposed amendment would create an exception within BMC Chapter 17.54 for ADUs and carriage units.

Consistency with the General Plan

The proposed amendments to the Benicia Municipal Code are consistent with the following Goals and Policies of the Benicia General Plan:

- Goal 2.1 Preserve Benicia as a small-sized city.
 - Policy 2.1.1: Ensure that new development is compatible with adjacent existing development and does not detract from Benicia's small town qualities and historic heritage.
- Goal 3.7: Maintain and reinforce Benicia's small-town visual characteristics.
 - Policy 3.7.1: Ensure that new development is compatible with the surrounding architectural and neighborhood character.
- Housing Element Goal 1: Benicia shall be an active leader in attaining the goals of the City's Housing Element.
 - Policy 1.04: The City will review and revise regulatory standards necessary to comply with State Housing law.

California Environmental Quality Act

The project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations. The proposed ordinance would apply citywide to parcels with multi-family and mixed-use development as well as in the historic district, where accessory structures and other site alterations require design review. The proposed ordinance would not authorize any density or land use beyond that which is permitted in the underlying zoning district or pursuant to State laws. Further, the amendments are exempt pursuant to Section 15061(b), the "General Rule", which states that a project is exempt from CEQA where it can be seen with certainty that there is no possibility that

the project would have a significant effect on the environment. The proposed amendments clarify the application of State and local regulations for an ADU located above a ground-floor garage within the physical parameters already in place for a two-story ADU, and would not alter the physical environment in any manner that would result in a significant effect on the environment.

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).

A hearing date before the ALUC has not yet been set. 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.

Local Adoption Hearings

Adoption of an amendment to the Zoning Ordinance requires a noticed public hearing and recommendation of the Planning Commission pursuant to Government Code Sections 65854 and 65855. A public hearing on the proposed ordinance has been tentatively scheduled for April 2020.

Subsequent to the Planning Commission's recommendation, the City Council must conduct two readings on the proposed amendment. If adopted at the second reading, the amendments would become effective 30 days later.

Attachments:

1. Draft Resolution with Exhibit A
2. Ordinance No. 20-1

For more information contact: Suzanne Thorsen, Principal Planner

Phone: 707.746.4382

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

RESOLUTION NO. 19- (HPRC)

A RESOLUTION OF THE HISTORIC PRESERVATION REVIEW COMMISSION OF THE CITY OF BENICIA RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO THE BENICIA MUNICIPAL CODE TITLE 17 (ZONING) TO AMEND REGULATIONS FOR CARRIAGE UNITS

WHEREAS, the California State Legislature finds that Accessory Dwelling Units (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, during the first reading and public hearing for an amendment to the ADU ordinance on January 21, 2020 the Benicia City Council directed further updates to streamline permitting for an ADU above a garage; and

WHEREAS, the City of Benicia intends to amend its regulations to provide that a carriage unit, which is an ADU above a garage, may be exempt from applicable design review requirements subject to compliance with the ADU regulations of BMC section 17.70.060; 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 special meeting on August 10, 2020, conducted a hearing, heard public comment and reviewed the draft ordinance found it to be consistent with the City of Benicia General Plan and Housing Element;

NOW, THEREFORE, BE IT RESOLVED that the Historic Preservation Review Commission of the City of Benicia hereby recommends the City Council approve an Ordinance amending the Benicia Municipal Code to streamline permitting for carriage units.

BE IT FURTHER RESOLVED THAT the Historic Preservation Review Commission of the City of Benicia finds that:

- a) The proposed amendments are exempt from environmental review under California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations. The

proposed ordinance would apply citywide to parcels with multi-family and mixed-use development as well as in the historic district, where accessory structures and other site alterations require design review. The proposed ordinance would not authorize any density or land use beyond that which is permitted in the underlying zoning district or pursuant to State laws. Further, the amendments are exempt pursuant to Section 15061(b), the “General Rule”, which states that a project is exempt from CEQA where it can be seen with certainty that there is no possibility that the project would have a significant effect on the environment. The proposed amendments clarify the application of State and local regulations for an ADU located above a ground-floor garage within the physical parameters already in place for a two-story ADU, and would not alter the physical environment in any manner that would result in a significant effect on the environment.

On motion of Commissioner , seconded by Commissioner , the above Resolution is introduced by the Historic Preservation Review Commission of the City of Benicia at a special meeting of the Commission held on the 10th day of August 2020 and adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Tim Reynolds, Chair

Date

CITY OF BENICIA

ORDINANCE NO. 20-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING BENICIA MUNICIPAL CODE TITLE 17 (ZONING) TO STREAMLINE PERMITTING OF CARRIAGE UNITS, AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the California State Legislature finds that Accessory Dwelling Units (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, new legislation for ADUs took effect on January 1, 2020 that necessitating revisions to the Benicia Municipal Code for consistency with State housing law which were adopted locally on February 4, 2020; and

WHEREAS, on January 21, 2020 the City Council provided direction regarding the further amendments to the Zoning Ordinance that would streamline permitting for ADUs located above detached garage (“carriage units”); 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, including amendment of the Zoning Ordinance to allow ADUs above a garage (Program 1.10); and

WHEREAS, the Historic Preservation Review Commission conducted a duly noticed public hearing on August 10, 2020, and recommended approval of the ordinance amending Title 17 (Zoning) pertaining to accessory dwelling units to the City Council; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on _____, and recommended approval of the ordinance amending Title 17 (Zoning) pertaining to accessory dwelling units to the City Council; and

WHEREAS, the City Council of the City of Benicia held a duly noticed public hearing on the proposed amendments and introduced Ordinance No. _____ on _____ 2020.

NOW, THEREFORE, the City Council of the City of Benicia does hereby ordain as follows:

Section 1. Section 17.12.030 (Definitions) of Chapter 17.12 (Definitions) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to insert the following definition in alphabetical orders as follows:

“Carriage unit” means a detached accessory structure with a ground floor garage, interior stairwell and accessory dwelling unit directly above the garage.

Section 2. Section 17.12.030 (Definitions) of Chapter 17.12 (Definitions) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the definition of “Garage, private” as follows:

“Garage, private” means a building or portion thereof for the private use of the owner or occupant of a ~~principal~~ building situated on the same lot as the principal building for the storage of motor vehicles, with no facilities for mechanical service or repair of a commercial or public nature; see also the definition of “carport.”

Section 3. Subsection A (In General) of Section 17.54.100 (Demolition and design review procedures) of Chapter 17.54 (H Overlay District) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

A. In General.

1. Except as modified by an adopted conservation plan, design review in an H district or of a proposed alteration, enlargement or demolition of a designated landmark shall be conducted as prescribed by Chapter 17.108 BMC. Design review and approval shall be the responsibility of the community development director or the historic preservation review commission, as the case may be.

2. The building official shall not issue a permit for construction, alteration, enlargement, or demolition of a building or structure located in an H district or of a designated landmark without the prior approval of the community development director or the historic preservation review commission. Prior approval of the community development director or the historic preservation review commission is not required for permit applications of an emergency nature to rehabilitate an unsafe building or to demolish the structure for the same reasons.

3. Accessory dwelling units not subject to design review. Notwithstanding any provisions of this chapter to the contrary, accessory dwelling units and carriage units shall be exempt from this section, including all demolition and design review procedures set forth herein.

Section 4. Section 17.70.050 (Accessory structures) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

A. In R Districts.

1. Timing. Accessory structures shall not be established or constructed prior to the start of construction of a principal structure on a site, unless authorized by an exception to criteria to accommodate overall development on a parcel with site constraints. Construction trailers may be placed on a site at the time site clearance and grading begins. Construction trailers shall be removed within 30 days following the issuance of a certificate of occupancy for the structure.

2. Location. Accessory structures shall not occupy a required yard or court, or project beyond the front building line of the principal structure on a site. Subject to an exception to criteria in the RS zone, a detached garage may protrude past the front building line of the principal structure but may not be located within a required front yard; provided, that the design of the detached garage is compatible with the existing residence in terms of architectural design, building materials, roof slopes, colors, and exterior finishes. No accessory uses may be permitted off site.
3. Maximum Height. The maximum wall height of an accessory structure shall be 12 feet, subject to the provisions of this subsection. Maximum peak height shall be determined on the basis of roof pitch as provided herein.
 - a. Fifteen feet where the roof pitch is below 4:12.
 - b. Eighteen feet where the roof pitch is between 4:12 and 6:12.
 - c. Twenty feet where the roof pitch exceeds 6:12.
4. Setbacks. An accessory structure in a required rear yard shall be located at least five feet from a rear or side property line. A minimum 10-foot distance shall be maintained between an accessory building and any other building on the site; provided, however, that the community development director may authorize an exception to criteria to reduce the separation between buildings to five feet.
5. RS Districts. In an RS district, the total gross floor area of accessory structures more than four feet in height shall be counted in computing lot coverage and shall meet the lot coverage requirements of BMC 17.24.030, except that the total area of any one accessory building shall not exceed the total area of the primary residential structure on the same site.
6. Patio Covers. A patio cover open on at least two sides and complying with all other provisions of this subsection may be attached to a principal structure and shall not be subject to requirements for courts opposite required windows.
7. Swimming Pools. An unenclosed swimming pool, including related equipment, may occupy a required rear yard or side yard but shall not be within five feet of a property line.
8. Decks. No deck that is 30 inches or more in height shall be located in a required yard.
9. Decorative Archways. A decorative archway may occupy a required front yard, provided it meets the driveway visibility requirements of BMC 17.74.150. No more than one archway per frontage may be constructed. Any decorative archway shall have a maximum height of eight feet, a maximum width of eight feet, and a maximum depth of four feet.

EXHIBIT A

B. In C, I, OS and PS Districts. Accessory structures shall comply with all regulations applicable to the principal structure on a site. Off-site accessory uses shall be allowed only with a use permit issued by the community development director.

C. In PD District. The location of accessory structures shall comply with the adopted PD or specific plan for a PD district. (Ord. 19-02 § 3).

D. In All Districts. A carriage unit shall comply with the permitting process (subsection C), development standards (subsection I) and objective design standards (subsection J.) of section 17.70.060 Accessory dwelling units.

Section 5. Subsection C (Permitting Process) 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:

C. Permitting Process.

1. When Consistent with Standards.

a. An accessory dwelling unit that complies with all standards in this section shall be approved ministerially upon issuance of a building permit. No other permit, discretionary review, or public hearing is required.

b. If an existing single-family or multifamily dwelling exists on the lot upon which an accessory dwelling unit is proposed, the City shall act on an application to create an accessory dwelling unit within 60 days from the date the City receives a completed application. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay.

c. The City has acted on the application if it:

(1) Approves or denies the building permit for the accessory dwelling unit;

(2) Informs the applicant in writing that changes to the proposed project are necessary to comply with this section or any applicable regulation; or

(3) Determines that the accessory dwelling unit does not qualify for ministerial approval.

2. When Deviating from Standards.

a. A proposed accessory unit that deviates from the standards in subsection J (Objective Design Standards) of this section shall be reviewed and may be approved or denied subject to the design review procedures in Chapter 17.108 (Design Review).

b. A proposed accessory dwelling unit that deviates from standards in subsection I (Development Standards) or any other applicable physical standard of this section shall be reviewed and may be approved or denied subject to the variance procedures in Chapter 17.104 (Use Permits and Variances).

3. When Dependent on Separate Construction.

a. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building that is not a part of the accessory dwelling unit (“separate construction”), the City shall either:

(1) Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or

(2) Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case, the accessory dwelling unit is subject to the same review procedures and requirements as the separate construction, which may include design review.

b. New construction of a carriage unit shall not be considered dependent on separate construction if the footprint of the structure is the minimum size necessary to accommodate a garage up to 500 square foot and an interior stairwell provides direct access to the accessory dwelling unit in compliance with the requirements of the California Building Code.

Section 6. Subsection C (Accessory Dwelling Units) of Section 17.108.020 (Applicability) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

C. Accessory Dwelling Units. Accessory dwelling units and carriage units shall be exempt from the provisions of this Chapter.

Section 7. 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, phrase or clauses be declared unconstitutional on their face or as applied.

Section 8. Compliance with CEQA. The project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations. The proposed ordinance would apply citywide to parcels with multi-family and mixed-use development as well as in the historic district, where accessory structures and other site alterations require design review. The

proposed ordinance would not authorize any density or land use beyond that which is permitted in the underlying zoning district or pursuant to State laws. Further, the amendments are exempt pursuant to Section 15061(b), the “General Rule”, which states that a project is exempt from CEQA where it can be seen with certainty that there is no possibility that the project would have a significant effect on the environment. The proposed amendments clarify the application of State and local regulations for an ADU located above a ground-floor garage within the physical parameters already in place for a two-story ADU, and would not alter the physical environment in any manner that would result in a significant effect on the environment. The City Clerk shall file a Notice of Exemption with the County.

Section 9. Publication. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Benicia, California and cause the same to be published in accordance with State law.

Section 10. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the _____ day of _____, 2020, and adopted at a regular meeting of the Council held on the _____ day of _____, 2020, by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

CITY OF BENICIA

ORDINANCE NO. 20- 1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING BENICIA MUNICIPAL CODE CHAPTER 17.16 (USE CLASSIFICATIONS), CHAPTER 17.70 (GENERAL REGULATIONS) AND CHAPTER 17.108 (DESIGN REVIEW) OF TITLE 17 (ZONING), ALL PERTAINING TO THE REGULATION OF ACCESSORY DWELLING UNITS, AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the California State Legislature finds that Accessory Dwelling Units (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, new legislation for ADUs took effect on January 1, 2020 that necessitates revisions to the Benicia Municipal Code for consistency 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, the Historic Preservation Review Commission conducted a duly noticed public hearing on December 19, 2019, and recommended approval of the ordinance amending Title 17 (Zoning) pertaining to accessory dwelling units to the City Council; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on January 9, 2020, and recommended approval of the ordinance amending Title 17 (Zoning) pertaining to accessory dwelling units to the City Council; and

WHEREAS, the City Council of the City of Benicia held a duly noticed public hearing on the proposed amendments and introduced Ordinance No. 20-1 on January 21, 2020.

NOW, THEREFORE, the City Council of the City of Benicia does hereby ordain as follows:

Section 1. 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 read 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 Section 18007 of the Health and Safety Code.

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.

2. Donation and Collection Bin. An unstaffed drop-off box, receptacle or other similar container used to accept donated clothing or other salvageable personal property, including but not limited to books, shoes, canned goods, and small household items to be used by a nonprofit or for-profit operator for distribution, resale, or recycling. (Ord. 19-04 § 1; Ord. 19-02 § 2).

Section 2. Section 17.70.060 (Accessory dwelling units) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby repealed and replaced to read as follows:

17.70.060 Accessory dwelling units.

A. Purpose. This section is intended to achieve the goals of the city's housing element and of the California Government Code by permitting accessory dwelling units, thereby increasing housing opportunities for the community through use of existing housing resources and infrastructure.

B. Where Allowed. An accessory dwelling unit is permitted:

a. In any district where single-family or multifamily dwellings are a permitted use; and

b. On any lot with an existing or proposed single-family or multifamily dwelling.

C. Permitting Process.

1. When Consistent with Standards.

- a. An accessory dwelling unit that complies with all standards in this section shall be approved ministerially upon issuance of a building permit. No other permit, discretionary review, or public hearing is required.
- b. If an existing single-family or multifamily dwelling exists on the lot upon which an accessory dwelling unit is proposed, the City shall act on an application to create an accessory dwelling unit within 60 days from the date the City receives a completed application. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay.
- c. The City has acted on the application if it:
 - (1) Approves or denies the building permit for the accessory dwelling unit;
 - (2) Informs the applicant in writing that changes to the proposed project are necessary to comply with this section or any applicable regulation; or
 - (3) Determines that the accessory dwelling unit does not qualify for ministerial approval.

2. When Deviating from Standards.

- a. A proposed accessory unit that deviates from the standards in subsection J (Objective Design Standards) of this section shall be reviewed and may be approved or denied subject to the design review procedures in Chapter 17.108 (Design Review).
- b. A proposed accessory dwelling unit that deviates from standards in subsection I (Development Standards) or any other applicable physical standard of this section shall be reviewed and may be approved or denied subject to the variance procedures in Chapter 17.104 (Use Permits and Variances).

3. When Dependent on Separate Construction. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building that is not a part of the accessory dwelling unit (“separate construction”), the City shall either:

- a. Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or
- b. Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case,

the accessory dwelling unit is subject to the same review procedures and requirements as the separate construction.

D. Junior Accessory Dwelling Units.

1. General. Junior accessory dwelling units shall comply with all standards in this section unless otherwise indicated.
2. Sanitation Facilities. A junior accessory dwelling unit may include sanitation facilities, or may share sanitation facilities with the existing structure.
3. Kitchen. A junior accessory dwelling unit must include, at a minimum:
 - a. A cooking facility with appliances; and
 - b. At least three linear feet of food preparation counter space and three linear feet of cabinet space.

E. Maximum Number per Lot. Not more than one accessory dwelling unit is allowed per lot except as allowed by subsections G.2 (Detached Accessory Dwelling Units), G.3 (Non-livable multifamily space) and G.4 (Detached Accessory Dwelling Units on Multifamily Lots) of this section.

F. Accessory Use. An accessory dwelling unit that conforms to this section:

1. Is considered an accessory use or accessory structure;
2. Is not considered to exceed the allowable density for the lot upon which it is located; and
3. Is considered a residential use consistent with the general plan and zoning designation for the lot.

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) do not apply to these types of accessory dwelling units.

1. Internal Accessory Dwelling Units. One accessory dwelling unit or 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 section 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 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). The accessory dwelling unit must comply with the following:

- a. Maximum floor area: 800 square feet.
- b. Maximum height: 16 feet.
- c. Minimum rear and side setbacks: four 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: 16 feet
- 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.
- 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.

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

1. Floor Area. The floor area of an accessory dwelling unit shall not exceed the maximums shown in Table 1.

Table 1: Maximum Floor Area

| ADU Type | Maximum ADU Floor Area |
|-----------------------|--|
| Attached | |
| One bedroom or less | 50 percent of the existing primary dwelling or 850 sq. ft., whichever is greater |
| More than one bedroom | 50 percent of the existing primary dwelling or 1,000 sq. ft., whichever is greater |
| Detached | 1,200 sq. ft. |
| Internal | 50 percent of the existing primary dwelling |
| Junior | 500 sq. ft. |

2. Bulk Standards.

- a. An accessory dwelling unit shall conform to the applicable floor area ratio and site landscaping standards of the district in which it is located, except when otherwise allowed by subsection J.4 (Guaranteed Allowance) of this section.
- b. An accessory dwelling unit is exempt from maximum lot coverage standards.

3. Guaranteed Allowance. Maximum floor area, floor area ratio, and open space standards shall not prohibit an accessory dwelling unit with at least an 800 square feet of floor area, a height of at least 16 feet, and four-foot side and rear yard setbacks, provided the accessory dwelling unit complies with all other applicable standards.

4. Property Line Setbacks.

- a. All Accessory Dwelling Units. An accessory dwelling unit shall be setback from property lines as required by Table 2.
- b. Detached Accessory Dwelling Units.

(1) A detached accessory dwelling unit shall not occupy a required court or front yard, nor project beyond the front building line of the principal structure on the site. In an H historic overlay district, the detached accessory dwelling unit shall not project beyond the primary contributing façade, defined as the building face of a designated landmark or contributing building which is parallel to a street or former right-of-way and provides a front entrance leading to a foyer or lobby.

(2) A ground-floor deck, balcony or platform attached to or associated with a detached accessory dwelling unit shall be located at least four feet from a rear or side property line. See subsection J.1 (Second story Decks and Balconies) of this section for second-story deck and balcony setback standards.

Table 2: Minimum Property Line Setbacks

| Property Line | ADU Type | | | |
|---------------|---------------------------------|----------|---------------|--------|
| | Attached | Detached | Internal | Junior |
| Front | Same as primary dwelling [1] | | None required | |
| Side | 4 ft. | 4 ft. | | |
| Rear | 4 ft. | 4 ft. | | |

Note:

[1] For detached accessory dwelling units, see also 17.70.060.I.4.b (Detached Accessory Dwelling Units). For detached accessory structures in an H historic overlay district, see also 17.70.060.J.6 (Historic District Standards).

5. Building Separation. A minimum five-foot distance shall be maintained between a detached accessory dwelling unit the primary building on the site. A detached accessory structure shall be set back from other structures on the site as required by the building code.

6. Converting and Replacing Existing Structures.

- a. An internal ADU may be constructed regardless of whether it conforms to the current zoning requirement for building separation or setbacks.
- b. If an internal ADU is proposed to be constructed within an existing accessory structure, the city shall ministerially permit an expansion of the existing accessory structure by up to 150 square feet for the purpose of accommodating ingress and egress.
- c. If an existing structure is demolished and replaced with an accessory dwelling unit, an accessory dwelling unit may be constructed in the same location and to the same dimensions as the demolished structure.

7. Height.

a. Historic Districts. The height of an accessory dwelling unit in an H historic overlay district shall not exceed the maximums shown in Table 3.

Table 3: Maximum Height in Historic Districts

| ADU Type | Maximum ADU Height [1] |
|---------------------------------|---------------------------------------|
| Attached | Same as required for primary dwelling |
| Detached | |
| Exterior building wall [2] | 14 ft. |
| Roof peak (based on roof pitch) | |
| Below 4:12 | 16 ft. |
| 4:12 to less than 6:12 | 18 ft. |
| 6:12 or greater | 20 ft. |
| Internal | Not applicable |
| Junior | Not applicable |

Note:

[1] For detached accessory structures in an H historic overlay district, see also 17.70.060.K.6 (Historic District Standards).

[2] Measured to the top plate.

b. Outside Historic Districts. The roof peak of a detached accessory dwelling unit outside of an H historic overlay district shall not exceed the maximums shown in Table 4. The maximum allowed height for attached accessory dwelling units is the same as required for the primary dwelling. Height standards do not apply to internal and junior accessory dwelling units.

Table 4: Detached Accessory Dwelling Unit Maximum Height Outside Historic Districts

| Maximum Roof Peak Height Based on Roof Pitch | Exterior Building Wall Distance from Rear or Side Property Line | | |
|--|---|--------------------------|---------------|
| | 4 ft. to less than 5 ft. | 5 ft. to less than 7 ft. | 7 ft. or more |
| Below 4:12 | 16 ft. | 18 ft. | 20 ft. |
| 4:12 to less than 6:12 | 18 ft. | 20 ft. | 22 ft. |
| 6:12 or greater | 20 ft. | 22 ft. | 24 ft. |

8. Foundation. An accessory dwelling unit shall be constructed on a permanent foundation.

J. Objective Design Standards. Except as provided in subsection G (Units Subject to Limited Standards) of this section, an accessory dwelling unit shall comply with the following design standards.

1. Second Story Decks and Balconies. Second story decks and balconies shall be set back a minimum of 10 feet from a side or rear property line adjoining a lot occupied by a single-family or two-family dwelling.

2. Outdoor stairs. Outdoor stairs providing access to a second story accessory dwelling unit shall adjoin an exterior wall that faces the interior of the lot, rather than an exterior wall nearest a side or rear property line.

3. Dormers. The side wall of a dormer shall be set back a minimum of two feet from the parallel side wall below. The cumulative width of a dormer or dormers on any side of an accessory dwelling unit shall not occupy more than 66 percent of the building face below.

4. Gables. If a gable roof or turned gable roof is present, the gable ridge shall be oriented in a direction parallel to the side property line in order to minimize shadow effects on the adjoining lot.

5. Roof Pitch. The roof pitch for an accessory dwelling unit shall be 4:12 or greater. However, if the primary residence has a roof pitch shallower than 4:12, a similar pitch may be employed on the accessory dwelling.

6. Historic District Standards. In an H historic overlay district, an accessory dwelling unit shall conform to the following additional requirements:

- a. Except as provided in subsection I.6 of this section, a detached accessory dwelling unit shall be set back from the primary contributing façade and/or front property line such that the entirety of the accessory dwelling unit is behind the rear wall of the principal structure on the lot.
- b. The elevation of the highest point of a detached accessory dwelling shall not exceed the elevation of the highest point of the primary dwelling, except that in all cases a detached accessory dwelling unit at least 16 feet in height is allowed.
- c. An attached accessory dwelling unit shall not result in a rooftop addition or any alteration to the existing roofline of a designated historic contributing or landmark structure.
- d. An accessory dwelling unit shall not result in any increase in building height for a designated historic contributing or landmark structure, except that in all cases an attached accessory dwelling unit at least 16 feet in height is allowed.
- e. An accessory dwelling unit shall not result in any exterior alteration to the primary contributing façade nor the existing wall or façade of a designated historic contributing or landmark structure where such wall or façade is parallel to a public street.
- f. A building addition to a designated historic contributing or landmark structure to accommodate an attached accessory dwelling unit shall be inset or separated by a connector that is offset at least 18 inches from the parallel side or rear building wall to distinguish it from the primary dwelling. Such building addition shall not extend beyond the side wall of the primary dwelling.
- g. For an attached accessory dwelling unit, the exterior building and trim materials shall be wood or smooth fiber cement siding or f shingles. However, if Portland cement plaster (stucco) is the predominant finish for the primary residence, then stucco may also be applied to the accessory dwelling. Synthetic stucco (e.g., EIFS or DryVit) and faux wood grains are prohibited.
- h. For a detached accessory dwelling unit, the following exterior building materials are prohibited: pressed board, vinyl, synthetic stucco and any composite or fiber cement material with a faux wood grain.
- i. The exterior walls of an accessory dwelling shall utilize the same base and trim colors as the primary residence.
- j. The roof shall utilize the same material and color as the primary residence and shall match the primary residence in overall appearance.

k. Windows shall be taller than they are wide or shall match the proportions of the primary dwelling's windows. Windows in bathrooms, basements and crawl spaces, kitchens and laundry rooms may be horizontally oriented.

l. Window pane divisions shall be true or simulated divided lites (i.e., individual panes set within muntins or muntins applied to both the interior and exterior of the glass).

m. Window frames shall be painted or factory-finished. No metallic finishes such as silver or bronze anodized aluminum are permitted.

n. For designated contributing and landmark structures, vinyl windows are not permitted on an attached ADU.

K. Parking.

1. No additional off-street parking stalls shall be required for an accessory dwelling unit.

2. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, replacement parking stalls are not required for the demolished parking structure.

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; and

2. That the accessory dwelling shall not be sold separately from the primary dwelling.

3. For junior accessory dwelling units, restrictions on size and attributes in conformance with this section.

Section 3. Subsection C (Exceptions to Criteria) of Section 17.108.060 (Review responsibilities) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

C. Exceptions to Criteria. The community development director may authorize minor deviations from the zoning standards specified herein: timing of construction for an accessory structure, projection of detached garage in the RS district, separation between buildings per BMC 17.70.050; and modifications in vehicle space size requirements per BMC 17.74.100.

Section 4. 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, phrase or clauses be declared unconstitutional on their face or as applied.

Section 5. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15282(b) that exempts the adoption of an ordinance regarding second units in a single family or multifamily residential zone to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code. The additional clean-up amendments are exempt pursuant to Section 15061(b), the “General Rule”, which states that a project is exempt from CEQA where it can be seen with certainty that there is no possibility that the project would have a significant effect on the environment. The proposed clean-up amendments merely clarify and align existing Code and would not alter the physical environment in any manner that would result in a significant effect on the environment. The City Clerk shall file a Notice of Exemption with the County.

Section 5. Publication. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Benicia, California and cause the same to be published in accordance with State law.


Section 6. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

On motion of Council Member **Largaespada**, seconded by Council Member **Strawbridge**, the foregoing ordinance was introduced at a regular meeting of the City Council on the 21st day of January, 2020, and adopted at a regular meeting of the Council held on the 4th day of February, 2020, by the following vote:

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

Noes: **None**

Absent: **None**



Elizabeth Patterson, Mayor

Attest:



Lisa Wolfe, City Clerk

2-11-2020
Date

CITY OF BENICIA

ORDINANCE NO. 20-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING BENICIA MUNICIPAL CODE TITLE 17 (ZONING) TO STREAMLINE PERMITTING OF CARRIAGE UNITS, AND FINDING ADOPTION OF THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the California State Legislature finds that Accessory Dwelling Units (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, new legislation for ADUs took effect on January 1, 2020 that necessitating revisions to the Benicia Municipal Code for consistency with State housing law which were adopted locally on February 4, 2020; and

WHEREAS, on January 21, 2020 the City Council provided direction regarding the further amendments to the Zoning Ordinance that would streamline permitting for ADUs located above detached garage (“carriage units”); 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, including amendment of the Zoning Ordinance to allow ADUs above a garage (Program 1.10); and

WHEREAS, the Historic Preservation Review Commission conducted a duly noticed public hearing on August 10, 2020, and recommended approval of the ordinance amending Title 17 (Zoning) pertaining to accessory dwelling units to the City Council; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing on _____, and recommended approval of the ordinance amending Title 17 (Zoning) pertaining to accessory dwelling units to the City Council; and

WHEREAS, the City Council of the City of Benicia held a duly noticed public hearing on the proposed amendments and introduced Ordinance No. _____ on _____ 2020.

NOW, THEREFORE, the City Council of the City of Benicia does hereby ordain as follows:

Section 1. Section 17.12.030 (Definitions) of Chapter 17.12 (Definitions) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to insert the following definition in alphabetical orders as follows:

“Carriage unit” means a detached accessory structure with a ground floor garage, interior stairwell and accessory dwelling unit directly above the garage.

Section 2. Section 17.12.030 (Definitions) of Chapter 17.12 (Definitions) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to modify the definition of “Garage, private” as follows:

“Garage, private” means a building **or portion thereof** for the private use of the owner or occupant of a **principal** building situated on the same lot as the principal building for the storage of motor vehicles, with no facilities for mechanical service or repair of a commercial or public nature; see also the definition of “carport.”

Section 3. Subsection A (In General) of Section 17.54.100 (Demolition and design review procedures) of Chapter 17.54 (H Overlay District) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

A. In General.

1. Except as modified by an adopted conservation plan, design review in an H district or of a proposed alteration, enlargement or demolition of a designated landmark shall be conducted as prescribed by Chapter 17.108 BMC. Design review and approval shall be the responsibility of the community development director or the historic preservation review commission, as the case may be.

2. The building official shall not issue a permit for construction, alteration, enlargement, or demolition of a building or structure located in an H district or of a designated landmark without the prior approval of the community development director or the historic preservation review commission. Prior approval of the community development director or the historic preservation review commission is not required for permit applications of an emergency nature to rehabilitate an unsafe building or to demolish the structure for the same reasons.

3. **Accessory dwelling units not subject to design review. Notwithstanding any provisions of this chapter to the contrary, accessory dwelling units and carriage units shall be exempt from this section, including all demolition and design review procedures set forth herein.**

Section 4. Section 17.70.050 (Accessory structures) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

A. In R Districts.

1. Timing. Accessory structures shall not be established or constructed prior to the start of construction of a principal structure on a site, unless authorized by an exception to criteria to accommodate overall development on a parcel with site constraints. Construction trailers may be placed on a site at the time site clearance and grading begins. Construction trailers shall be removed within 30 days following the issuance of a certificate of occupancy for the structure.

2. Location. Accessory structures shall not occupy a required yard or court, or project beyond the front building line of the principal structure on a site. Subject to an exception to criteria in the RS zone, a detached garage may protrude past the front building line of the principal structure but may not be located within a required front yard; provided, that the design of the detached garage is compatible with the existing residence in terms of architectural design, building materials, roof slopes, colors, and exterior finishes. No accessory uses may be permitted off site.

3. Maximum Height. The maximum wall height of an accessory structure shall be 12 feet, subject to the provisions of this subsection. Maximum peak height shall be determined on the basis of roof pitch as provided herein.

- a. Fifteen feet where the roof pitch is below 4:12.
- b. Eighteen feet where the roof pitch is between 4:12 and 6:12.
- c. Twenty feet where the roof pitch exceeds 6:12.

4. Setbacks. An accessory structure in a required rear yard shall be located at least five feet from a rear or side property line. A minimum 10-foot distance shall be maintained between an accessory building and any other building on the site; provided, however, that the community development director may authorize an exception to criteria to reduce the separation between buildings to five feet.

5. RS Districts. In an RS district, the total gross floor area of accessory structures more than four feet in height shall be counted in computing lot coverage and shall meet the lot coverage requirements of BMC [17.24.030](#), except that the total area of any one accessory building shall not exceed the total area of the primary residential structure on the same site.

6. Patio Covers. A patio cover open on at least two sides and complying with all other provisions of this subsection may be attached to a principal structure and shall not be subject to requirements for courts opposite required windows.

7. Swimming Pools. An unenclosed swimming pool, including related equipment, may occupy a required rear yard or side yard but shall not be within five feet of a property line.

8. Decks. No deck that is 30 inches or more in height shall be located in a required yard.

9. Decorative Archways. A decorative archway may occupy a required front yard, provided it meets the driveway visibility requirements of BMC [17.74.150](#). No more than one archway per frontage may be constructed. Any decorative archway shall have a maximum height of eight feet, a maximum width of eight feet, and a maximum depth of four feet.

B. In C, I, OS and PS Districts. Accessory structures shall comply with all regulations applicable to the principal structure on a site. Off-site accessory uses shall be allowed only with a use permit issued by the community development director.

EXHIBIT A

C. In PD District. The location of accessory structures shall comply with the adopted PD or specific plan for a PD district. (Ord. 19-02 § 3).

D. In All Districts. A carriage unit shall comply with the permitting process (subsection C), development standards (subsection I) and objective design standards (subsection J.) of section 17.70.060 Accessory dwelling units.

Section 5. Subsection C (Permitting Process) 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:

C. Permitting Process.

1. When Consistent with Standards.

- a. An accessory dwelling unit that complies with all standards in this section shall be approved ministerially upon issuance of a building permit. No other permit, discretionary review, or public hearing is required.
- b. If an existing single-family or multifamily dwelling exists on the lot upon which an accessory dwelling unit is proposed, the City shall act on an application to create an accessory dwelling unit within 60 days from the date the City receives a completed application. If the applicant requests a delay in writing, the 60-day time period shall be tolled for the period of the delay.
- c. The City has acted on the application if it:
 - (1) Approves or denies the building permit for the accessory dwelling unit;
 - (2) Informs the applicant in writing that changes to the proposed project are necessary to comply with this section or any applicable regulation; or
 - (3) Determines that the accessory dwelling unit does not qualify for ministerial approval.

2. When Deviating from Standards.

- a. A proposed accessory unit that deviates from the standards in subsection J (Objective Design Standards) of this section shall be reviewed and may be approved or denied subject to the design review procedures in Chapter 17.108 (Design Review).
- b. A proposed accessory dwelling unit that deviates from standards in subsection I (Development Standards) or any other applicable physical standard of this section shall be reviewed and may be approved or denied subject to the variance procedures in Chapter 17.104 (Use Permits and Variances).

EXHIBIT A

3. When Dependent on Separate Construction.

a. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building that is not a part of the accessory dwelling unit (“separate construction”), the City shall either:

(1) Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or

(2) Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case, the accessory dwelling unit is subject to the same review procedures and requirements as the separate construction, which may include design review.

b. New construction of a carriage unit shall not be considered dependent on separate construction if the footprint of the structure is the minimum size necessary to accommodate a garage up to 500 square foot and an interior stairwell provides direct access to the accessory dwelling unit in compliance with the requirements of the California Building Code.

Section 6. Subsection C (Accessory Dwelling Units) of Section 17.108.020 (Applicability) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

C. Accessory Dwelling Units. Accessory dwelling units and carriage units shall be exempt from the provisions of this Chapter.

Section 7. 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, phrase or clauses be declared unconstitutional on their face or as applied.

Section 8. Compliance with CEQA. The project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations. The proposed ordinance would apply citywide to parcels with multi-family and mixed-use development as well as in the historic district, where accessory structures and other site alterations require design review. The proposed ordinance would not authorize any density or land use beyond that which is permitted in the underlying zoning district or pursuant to State laws. Further, the amendments are exempt pursuant to Section 15061(b), the “General Rule”, which states that a project is exempt from CEQA where it can be seen with certainty that there is no possibility that the project would have a significant effect on the environment. The proposed amendments clarify the application of

State and local regulations for an ADU located above a ground-floor garage within the physical parameters already in place for a two-story ADU and would not alter the physical environment in any manner that would result in a significant effect on the environment. The City Clerk shall file a Notice of Exemption with the County.

Section 9. Publication. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Benicia, California and cause the same to be published in accordance with State law.

Section 10. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

On motion of Council Member _____, seconded by Council Member _____, the foregoing ordinance was introduced at a regular meeting of the City Council on the _____ day of _____, 2020, and adopted at a regular meeting of the Council held on the _____ day of _____, 2020, by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

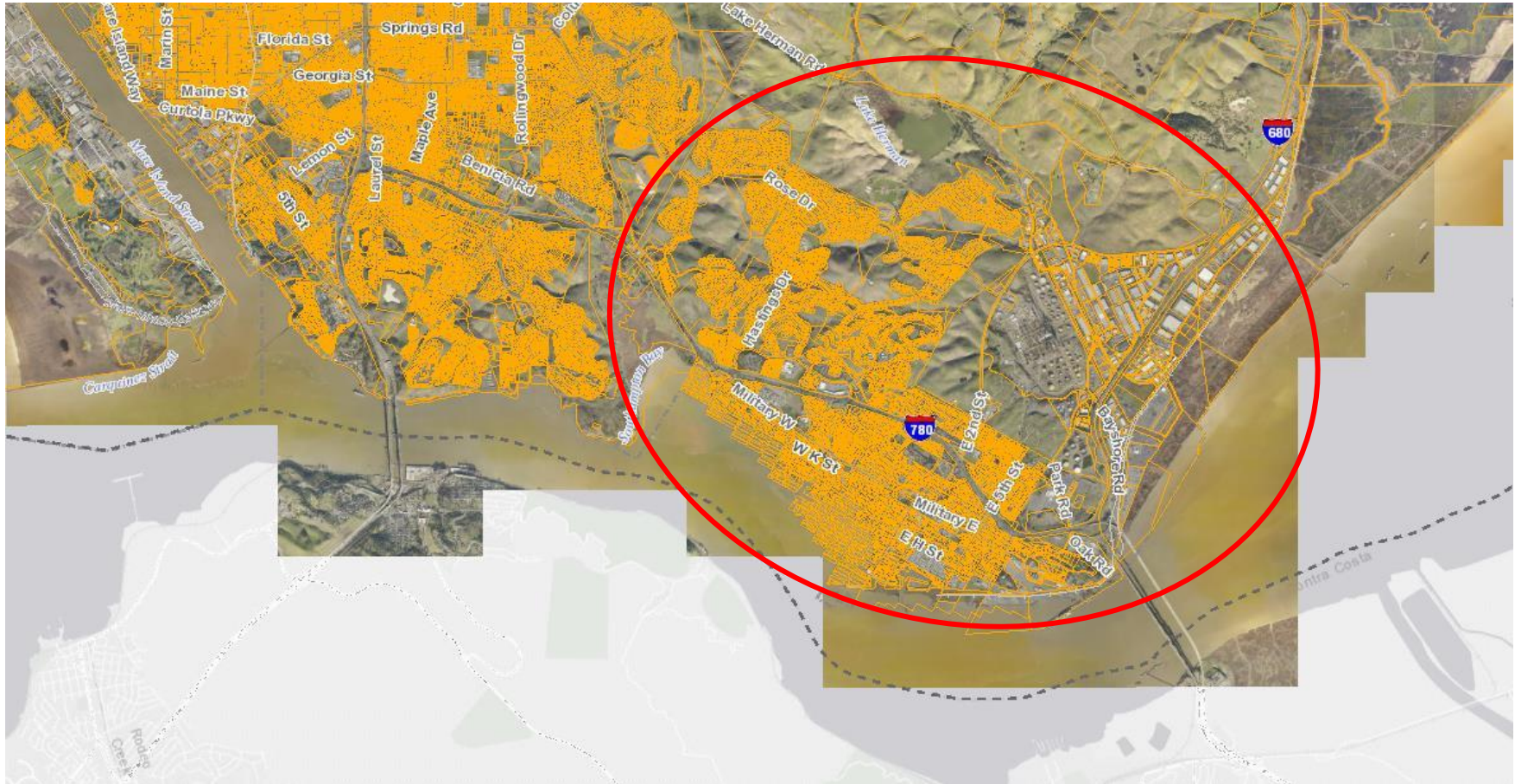
Attest:

Lisa Wolfe, City Clerk

Attachment C: Vicinity Map



Attachment D: Aerial Map



Attachment E: Travis AFB LUCP Context Map

