



Agenda Submittal

**Agenda #:** 1 **Status:** ALUC-Regular-CS  
**Type:** ALUC-Document **Department:** Airport Land Use Commission  
**File #:** AC 20-001 **Contact:** Jim Leland 707-784-6765  
**Agenda date:** 1/9/2020 **Final action:**  
**Title:** Conduct a Public Hearing to consider a Consistency Determination ALUC-2019-19 for the proposed amendments to the Benicia Municipal Code pertaining to Accessory Dwelling Units and related matters with the Travis Air Force Base Land Use Compatibility Plan (Sponsor: City of Benicia). (Planner: Jim Leland)  
**Governing body:** Airport Land Use Commission  
**District:**  
**Attachments:** [A Application Benicia ADU Revisions](#)  
[B Vicinity Map](#)  
[C Aerial Map](#)  
[D Travis Context map](#)  
[E HPRC Staff Report](#)  
[F Markup of Proposed Changes to Current Regulations](#)

Date	Ver.	Action By	Action	Result
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Published Notice Required? Yes \_\_\_ No \_\_\_  
Public Hearing Required? Yes \_\_\_ No \_\_\_

**RECOMMENDATION:**

Determine that application ALUC-2019-19 (City of Benicia ADU Ordinance) is consistent with the Travis AFB Land Use Compatibility Plan (Travis Plan).

**DISCUSSION:**

INTRODUCTION

History

On July 12, 2018, the Solano County Airport Land Use Commission conducted a public hearing to consider consistency determination ALUC-18-05, an ordinance of the City of Benicia permitting accessory dwelling units within the Benicia city limits. The Commission concluded that the proposed ordinance was consistent with the Travis AFB Land Use Compatibility Plan (Travis Plan).

The City has submitted a new application to amend the accessory dwelling unit regulations to bring them into consistency

with recent state legislation. (See Attachments A, Attachment A1: Markup of proposed changes to existing regulations)

### **Current Request**

Since the City's adoption of ADU regulations in 2019, state law has been amended to modify existing rules and add new provisions regulating accessory dwelling units. However, upon adoption of these regulations in January 2019, the City Council directed staff to consider future revisions to address concerns including:

1. The quality of living space above ground floor garage (e.g., dormer requirements, allowed height)
2. Allowed lot coverage
3. Setbacks
4. Other comments from architects on the adopted regulations

As a result, the City has drafted a proposed ordinance revision which would bring the City's regulations into compliance with the new laws which went into effect on January 1, 2020.

The proposed project is an amendment to the Benicia Municipal Code (BMC) regulations for:

1. Accessory Dwelling Units (Section 17.70.060) ,and
2. Additional associated amendments to Definitions (Chapter 17.16), and
3. Design Review (Chapter 17.108).

The amendments would bring the City of Benicia into compliance with recent changes to State statute which became effective on January 1, 2020. The amendments would additionally clarify procedures, modify height standards and setback standards, and revise objective design standards for ADUs.

### **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 of the Travis Air Force Base Land Use Compatibility 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*

Staff has reviewed the City of Benicia ADU Ordinance in light of the tests outlined above as well as the specific compatibility factors applicable to lands within the City of Benicia. Our analysis is presented below.

### **ALUC Context**

The City of Benicia ADU Ordinance applies to properties which lie within the area of influence of the Travis AFB Land Use Compatibility Plan (Travis Plan), more particularly within Compatibility Zone D (See Attachments B, C and D).

### **Travis Air Force Base Land Use Compatibility Plan**

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

- **Intensity Limitations**
- **Identification of Prohibited Uses**
- **Open Land Requirements**
- **Infill Development**
- **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
  - Areas within the Bird Strike Hazard Zone must prepare a WHA and incorporate all feasible mitigation measures.
  - 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**
- **Non-conforming Uses and Reconstruction**

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

## **ANALYSIS**

### **Intensity Limitations on Nonresidential Uses**

Within Compatibility Zone D, there are no limitations on intensity for non-residential land uses and as a result the minor changes to the City of Benicia ADU Ordinance are consistent with this provision.

### **Identification of Prohibited Uses**

There are no prohibited uses within Compatibility Zone D. Therefore, the minor changes to City of Benicia ADU Ordinance are consistent with this provision.

### **Open Land Requirements**

Compatibility Zone D has no open land requirements for development. As a result, the minor changes to the City of Benicia ADU Ordinance are consistent with this requirement.

### **Infill Development**

This project is not a part of an infill development. No further consideration is required for this criterion.

### **Height Limitations and Other Hazards to Flight**

The "Height Limitations" and "Other Development Conditions" listed in Compatibility Zone D are as follows:

1. ALUC review required for objects > 200 feet AGL
2. All proposed wind turbines in excess of 100 feet in height must meet line-of-sight criteria in Policy 3.4.4
3. All new or expanded commercial-scale solar facilities must conduct an SGHAT glint and glare study for ALUC review
4. All new or expanded meteorological towers > 200 feet AGL, whether temporary or permanent, require ALUC review
5. 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.
6. For areas outside of the Bird Strike Hazard Zone but within the Outer Perimeter, any new or expanded land use involving discretionary review that has the potential to attract the movement of wildlife that could cause bird strikes

are required to prepare a WHA.

None of the hazards listed above are associated with the lawful use of the property for cannabis business purposes for reasons discussed in the following sections.

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

The minor changes to the City of Benicia ADU Ordinance do not permit any structures taller than 50 feet, so ALUC review of this item is not required.

2. Wind Turbines in Excess of 100 Feet in Height

The minor changes to the City of Benicia ADU Ordinance do not permit any structures taller than 50 feet, so ALUC review of this item is not required.

3. Commercial Scale Solar Projects

The proposed ordinance does not change any provisions pertaining to commercial scale solar projects. As such, the minor changes the City of Benicia ADU Ordinance are consistent with this provision.

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

The zoning ordinance applies to properties which lie outside of the Bird Strike Hazard Zone and the Outer Perimeter Area. As a result, the minor changes the City of Benicia ADU Ordinance are not subject to the bird strike requirements within the Travis Plan.

**Buyer Awareness Measures**

The proposed project lies within Compatibility Zone D and outside of any noise contours of concern. As a result, Buyer Awareness Measures are not required by the Travis Plan.

**Non-conforming Uses and Reconstruction**

The project is a change in zoning rules and does not propose any construction therefore does not trigger any non-conforming use or reconstruction issues.

In light of the above discussion, staff is recommending a consistency finding between the City of Benicia ADU 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-2019-19 (City of Benicia ADU Ordinance) is consistent with the Travis AFB Land Use Compatibility Plan (Travis Plan).

### **Attachments:**

Attachment A: Application

Attachment A1 Markup of proposed changes to existing regulations

Attachment B: Vicinity Map

Attachment C: Aerial Photo

Attachment D: Travis Context Map

Attachment E: Historic Preservation Review Commission Staff Report

Attachment F: Markup of Proposed Changes to the ADU Ordinance

Attachment G: DRAFT Resolution

## 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: 12/4/19
ADDRESS: 250 E. L Street		
E-MAIL ADDRESS: egorman@ci.benicia.ca.us	DAYTIME PHONE: 707-746-4276	FAX:
NAME OF PROPERTY OWNER: N/A		DATE:
ADDRESS: N/A		DAYTIME PHONE:
NAME OF DOCUMENT PREPARER: Evan Gorman, Assistant Planner		DATE: 12/4/19
ADDRESS: 250 E. L Street	DAYTIME PHONE: 707-746-4276	FAX:
NAME OF PROJECT: City of Benicia Zoning Text Amendments		
PROJECT LOCATION:  City of Benicia – City-wide		
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

This application is for amendments to the Benicia Zoning Ordinance including:  
-Amendments to the Accessory Dwelling Unit Ordinance  
-Amendments to the chapter entitled "Use Classifications"  
-Amendments to the Design Review section of the Zoning Ordinance to help implement the new Accessory Dwelling Unit Code.

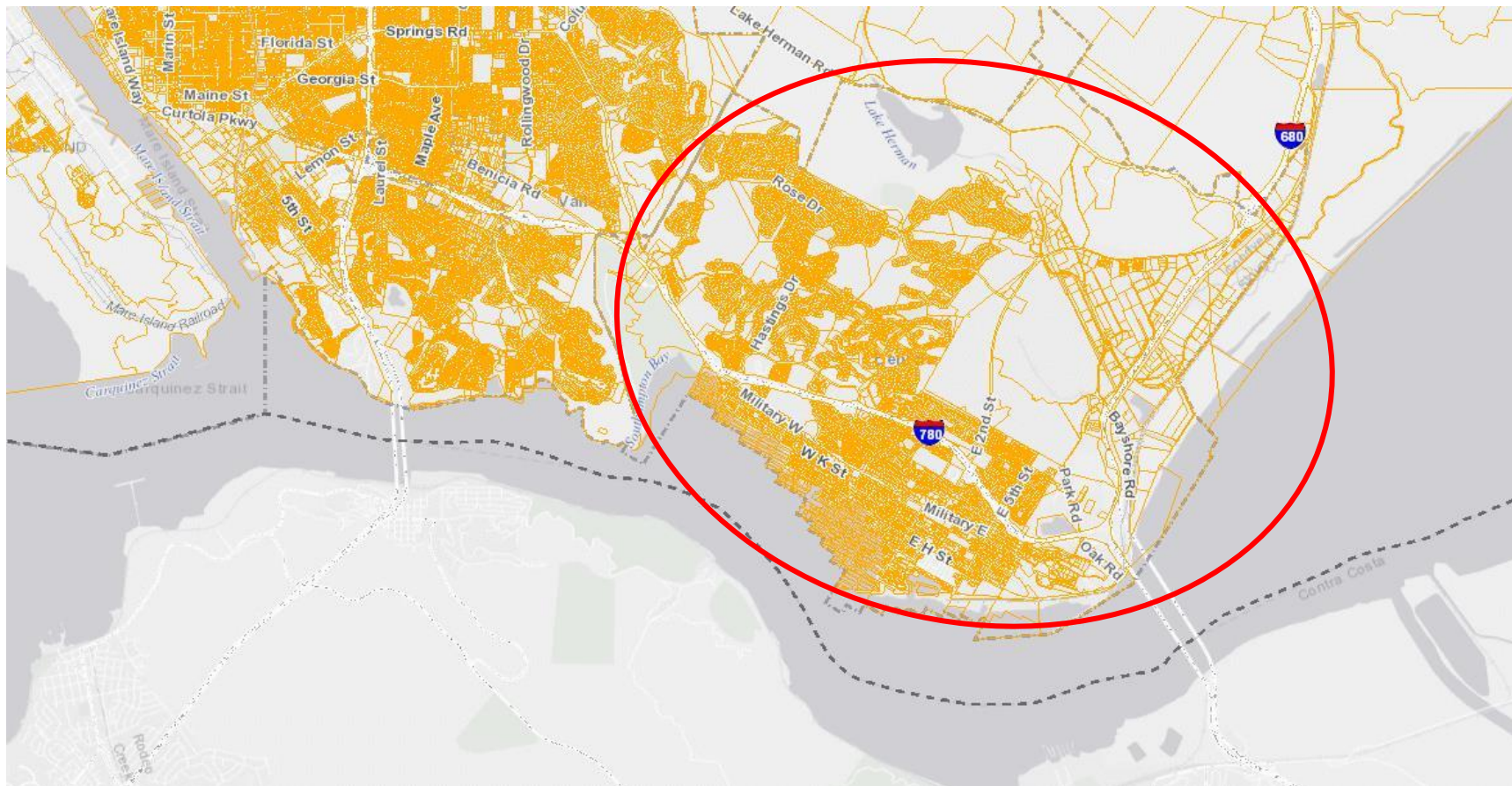
PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.



TO BE COMPLETED BY THE APPLICANT	
<b>II. DESCRIPTION OF PROJECT (CONT'D)</b>	
POTENTIAL PROJECT EMISSIONS: (i.e. smoke, steam, glare, radio, signals): N/A	
PROJECT AIRPORT LAND USE COMPATIBILITY PLAN: Travis AFB	COMPATIBILITY ZONE: D and E
PERCENTAGE OF LAND COVERAGE:  N/A	MAXIMUM PERSONS PER ACRE:  N/A
THE FOLLOWING INFORMATION MUST BE SUBMITTED AS A MINIMUM REQUIREMENT:	
<input type="checkbox"/> JURISDICTION REFERRAL LETTER: <input type="checkbox"/> ENVIRONMENTAL DOCUMENTATION: <input type="checkbox"/> LOCATION MAP: <input type="checkbox"/> ASSESSOR'S PARCEL MAP, with subject property marked in red: <input type="checkbox"/> SITE PLAN, drawn to scale and fully dimensioned including topographical information, and 8 1/2 x 11 inch reduction(s): <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) : <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.  <input type="checkbox"/> SUPPLEMENTAL INFORMATION: <input type="checkbox"/> FEES: <input type="checkbox"/> ELECTRONIC COPIES OF ALL APPLICATION MATERIALS ON A CD:	
APPLICANT SIGNATURE:  x <i>Emilio G.</i>	DATE:  <i>12/4/19</i>
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:  <div style="text-align: center; font-size: 1.5em;"><i>N/A</i></div>	

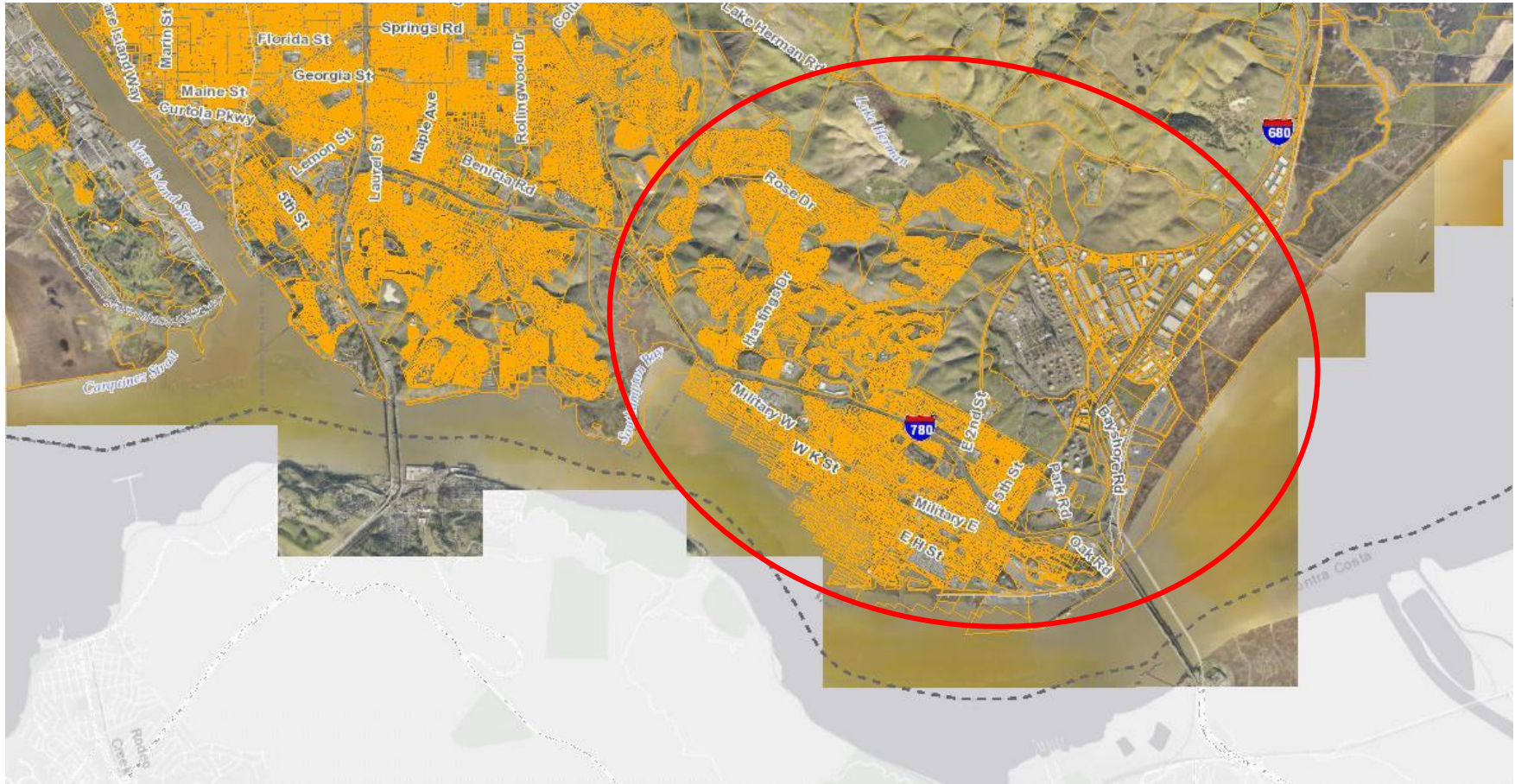
PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.

# Attachment B: Vicinity Map



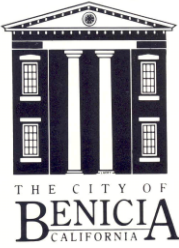


# Attachment C: Aerial Map



# Travis AFB LUCP Context Map





## **Historic Preservation Review Commission Staff Report**

December 19, 2019

**Project:** Amendments to Title 17 (Zoning) of the Benicia Municipal Code pertaining to regulations for accessory dwelling units (ADUs), after a determination that the project is exempt from CEQA.

### **Staff Recommendation**

Move to adopt the resolution (Attachment 1) recommending that the City Council of the City of Benicia adopt an ordinance amending Consider the proposed zoning text amendments, conduct the public hearing, and adopt the resolution recommending that the City Council adopt an ordinance amending Chapter 17.16 (Use Classifications), Chapter 17.70 (General Regulations) and Chapter 17.108 (Design Review) of the Benicia Municipal Code (BMC), 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) regulations for Accessory Dwelling Units (Section 17.70.060) and additional associated amendments to Definitions (Chapter 17.16) and Design Review (Chapter 17.108). The amendments would bring the City of Benicia into compliance with recent changes to State statute. The amendments would additionally clarify procedures, modify height standards and setback standards, and revise objective design standards for ADUs.

### **Public Noticing**

In accordance with Government Code Section 65091, notice of public hearing was posted in Benicia City Hall on December 4, 2019 and published in the Benicia Herald on December 8, 2019.

### **Project Location**

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

### **Background**

#### *Prior Amendment to ADU Ordinance (2019)*

In 2016, revisions to State law required local agencies to streamline permitting to allow second units on all residentially-zoned lots with only ministerial review. Ministerial review means that if a proposed ADU meets the City's objective standards, it must be approved. The City is not allowed to require design review or any other type of

discretionary approval for an ADU that complies with objective standards.

In 2017, State law further limited the scope of allowable local agency zoning controls for second units. In response to these changes, the City of Benicia adopted an updated Accessory Dwelling Unit (ADU) ordinance in January 2019 which included the following key revisions:

- Ministerial review process for all ADUs including those within historic districts
- Streamlined permitting process for conversion of existing structures into ADUs
- Elimination of on-site parking requirements for ADUs.
- Increased height and floor area allowances for attached and detached ADUs and simplified setback standards.
- Adoption of objective design standards for ADUs citywide, with specific standards for ADUs in historic districts.

The adopted regulations, found in Zoning Ordinance Sections 17.70.050 (Accessory Uses and Structures) and 17.70.060 (Accessory Dwelling Units) of the Benicia Municipal Code (BMC), are consistent with the State regulations. However, upon adoption of these regulations in January 2019, the City Council directed staff to consider future revisions to address concerns including:

- The quality of living space above ground floor garage (e.g., dormer requirements, allowed height)
- Allowed lot coverage
- Setbacks
- Other comments from architects on the adopted regulations

The City's updated regulations have coincided with an increase in the number of ADUs seeking permit approval. In 2018, the City issued permits for three ADUs. To date, in 2019 the City has issued permits for eight ADUs; two additional ADU building permits are in review or ready to issue.

New legislation was passed in 2019 that further streamlines and clarifies the State's requirements for ADUs. A summary of revisions to the statute is provided as Attachment 2 and a markup of the State's updated regulations, which take effect on January 1, 2020, is provided as Attachment 3.

### *Stakeholder Outreach*

In preparation for the ADU zoning amendments, staff conducted an outreach meeting with local architects engaged in permitting for ADUs to obtain feedback on the topic areas identified by the City Council and to obtain additional comments on additional design and processing input on August 2, 2019. Staff also consulted with representatives of the Benicia Historical Society to provide information and obtain feedback (August 2 and October 4). A summary of comments from both groups is provided as Attachment 4; comments from architect Brandon Marshall is provided as Attachment 5.



The feedback of stakeholder meeting participants was considered and compiled into preliminary recommendations, which were discussed in a joint meeting on November 14, 2019. A summary of comments is provided in Attachment 6; analysis of how comments were considered is detailed in the body of this report.

Participants recommended that the City establish a grandfathering/amnesty process for ADUs that were constructed or converted without building permits.

## **Analysis**

The State's new requirements for ADUs further streamline ADU approval, expand opportunities for new ADUs, and limit the applicability of local design criteria for certain ADUs. In the Historic District, this means that some standards (such as height limitations and location requirements) must be modified to align with new State standards. The limitations on local review, both in terms of timing and ministerial permitting, require that the City must act on an ADU application within 60 days, and that an ADU which conforms to the standards of the Zoning Ordinance shall be approved. The City cannot require any commission-level review for an ADU that meets the criteria of the Zoning Ordinance. However, the draft ordinance would establish procedures why which ADUs that exceed these standards can be reviewed through a discretionary process such as design review or zoning variance.

In addition to aligning the ordinance with the State requirements, staff incorporated feedback from local design professionals and historic preservation advocates to adjust the regulations for clarity, livability and compatibility within the Historic District. Key amendments to the ordinance in response to recent legislation and community feedback are described below, along with analysis of additional amendments that were suggested by stakeholders through the outreach process.

The proposed ordinance amending the ADU regulations is provided as Exhibit A of Attachment 1. A mark-up of the current regulations is provided as Attachment 6.

### *Proposed Amendments in Compliance with Recent Legislation*

The 2019 housing legislative package signed by the Governor in October 2019 included five bills updating the State ADU legislation, which take effect on January 1, 2020. Although the new legislation retains the ability for local standards to establish standards that prevent adverse impacts to property on the California Register of Historic Resources, it precludes consideration of lot coverage and establishes mandatory standards for setback and height requirements.

Key areas of amendment for Benicia include the following:

1. Where Allowed.
  - o ADUs must be allowed in all zoning districts that permit multifamily dwellings. In Benicia, this includes commercial and mixed-use districts. Gov't Code 65852.2(a)(1)(D)(ii).

- See draft ordinance Section 17.70.060.B
2. Approval Process.
    - The City must act on an ADU application within 60 days of receiving the application. Gov't Code 65852.2(a)(3).
    - See draft ordinance Section 17.70.060.C
  3. Junior ADUs.
    - The City must allow Junior ADUs (less than 500 sq. ft.) consistent with state law. Junior ADU provisions are no longer optional. Gov't Code 65852.2(a)(3).
    - See draft ordinance Section 17.70.060.D
  4. ADUs Subject to Limited Standards.
    - For certain types of ADUs, the City must ministerially approve the project subject to limited standards. The City may not require compliance with other standards that otherwise would apply. Gov't Code Section 65852.2(e)
    - See draft ordinance Section 17.70.060.G
  5. Number of ADUs per Lot.
    - On single-family lots, the City must allow one ADU and one junior ADU p if exterior access is available; and side and rear setbacks are sufficient for fire and safety. On multi-family lots, the City must allow at least one ADU and up to 25% of existing multi-family dwelling units within a building, and up to 2 detached ADUs subject to compliance with 16 foot height and 4 foot setback requirements (Gov't Code 6585.52.2(e)).
    - See draft ordinance Section 17.70.060.G
  6. Floor Area.
    - The City must allow an attached ADU with a floor area of 50 percent of the primary dwelling and at least 850 square feet for an ADU with one bedroom or less and 1,000 square feet for an ADU with more than one bedroom. The City must allow a detached ADU of at least 1,200 square feet. Gov't Code 65852.2(a)(1)(D) and 65852.2(c)(2)(B).
    - See draft ordinance Section 17.70.060.I
  7. Minimum Size/Placement Guarantee.
    - The City may not impose unit size, lot coverage, FAR, open space, or lot size requirement that would prohibit a detached ADU with four-foot side and rear setbacks, 16 feet of height, and 800 square feet of floor area. Gov't Code 65852.2(c)(2).
    - See draft ordinance Section 17.70.060.I



8. Setbacks.

- The City must allow four-foot setbacks from side and rear property lines. Gov't Code 65852.2(c)(2). Gov't Code 65852.2(c)(2)(C) and 65852.2(e)(1)(B).
- See draft ordinance Section 17.70.060.I

9. Converting and Replacement Existing Structures.

- The City must allow an existing structure to be converted to or replaced with an ADU, regardless of whether it conforms with setback or building separation standards. Gov't Code 65852.2(a)(1)(D)(vii).
- See draft ordinance Section 17.70.060.I

10. Height.

- The City must allow an ADU height of at least 16 feet. Gov't Code 65852.2(c)(2)(C) and 65852.2(e)(1)(A).
- See draft ordinance Section 17.70.060.I

11. Replacement Parking.

- The City may not require replacement parking for existing structure converted into or demolished to accommodate an ADU. Gov't Code 65852.2(a)(1)(D)(xi)
- See draft ordinance Section 17.70.060.K

*Proposed Amendments in Response to Community Feedback*

Through the course of several meetings with local design professionals and community members, the City received suggestions for ordinance revisions to improve the livability and feasibility of ADUs, as well as to improve protection of historic district resources. Community members also asked for clarification on the procedures and language of the ordinance. A summary of comments and corresponding amendments is provided below.

1. Deviations from Standards.

- Comment: Clarify the process to approve an ADU that deviates from standards. Clarify the review process for an ADU that is part of a broader project (such as a new garage).
- Response: Design review would be required for ADUs that do not comply with Objective Design Standards (including H District design standards), and variance would be required for ADUs that do not comply with Development Standards (such as floor area, height, setbacks and building separation). The presence of an ADU would not exempt a project that otherwise requires design review (such as a new garage, new addition with expansion of living area for the primary dwelling). See draft ordinance Section 17.70.060.C.

## 2. Development Standards: Height

- Comment: Clarify height limitation for an ADU with a 6:12 roof pitch. Clarify measurement of wall height and consider increasing permitted wall height to 14 feet to allow adequate headroom for an ADU constructed above a garage.
- Response: The ordinance would increase the permitted wall height in an H District to 14 feet, clarify that wall height is measured to top plate, and maintain a peak height of 16 feet (for an ADU with a 4:12 roof pitch). For steeper roofs, the ordinance clarifies that the 20 foot height limitation applies to ADUs with a pitch of 6:12 and greater. See draft ordinance Section 17.70.060.H.

## 3. Development Standards: Height outside of H Districts

- Comment: Outside of a historic district, allow 2-story ADUs; eliminate the wall height standards and allow increased height that scales in relation to the property line setback.
- Response: This feedback was incorporated into the draft ordinance which eliminates the wall height standard for ADUs outside of a historic district and allows for a peak height of 16-20 feet if located within five feet of a side or rear property line, and peak height of 20-24 feet if located seven or more feet from a side or rear property line. See draft ordinance Section 17.70.060.H.

## 4. Separation between Buildings.

- Comment: the requirement for a 10 feet separation between buildings causes hardships, and the criteria to allow a reduction to 5 feet should be clarified.
- Response: the required separation is reduced to 5 feet, which was the required separation prior to the 2019 amendment. See draft ordinance Section 17.70.060.I

## 5. Design Standards: Height in Relation to Primary Structure (outside of H District)

- Comment: The restriction that prevents the height of an ADU from exceeding that of the home is unclear and questioned if it is necessary.
- Response: This requirement would be eliminated for ADUs outside of an H District.

## 6. Design Standards: Dormers.

- Comment: The limitation of dormers limited to 30% of the wall expanse below hinders the livability of ADUs above a garage.
- Response: This limitation would be increased to 66%; see draft ordinance Section 17.70.060.J

## 7. Design Standards: Gable Orientation

- Comment: The current language about orientation of gable ends is confusing and vague.

- Response: The proposed ordinance clarifies this design standard to address the orientation of the ridge; see draft ordinance Section 17.70.060.J
8. Decks and Balconies.
- Comment: clarify if decks and similar appurtenances can project into required yards; address privacy concerns related to second story balconies or decks.
  - Proposed ordinance allows ground level decks and similar appurtenances to be located four feet from side or rear property line. Second story decks and balconies would be setback at least ten feet from a side or rear property line adjoining a single-family or two-family dwelling. See draft ordinance Section 17.70.060.I and J.
9. Design Standards: Historic Districts
- Comment: The design standards do not adequately protect historic resources.
  - Response: An additional standard was added that prevents any alteration of historic structure facade that faces a public street; see draft ordinance Section 17.70.060.J.6

#### *Further Amendments Proposed*

In addition to amendments required for alignment with State law and in response to community feedback, the following additional amendments are proposed:

1. Amendments to Accessory Use Classifications. The current ADU classification is revised for consistency with the State statute, and four sub-classifications of ADUs are defined in order to clarify the applicability of zoning regulations.
2. Building Materials. Staff proposes amending the H District Design Standards to allow fiber-cement siding in addition to wood, as this type of materials closely replicates the appearance of wood (particularly as viewed from a distance) and is highly durable, with lower long-term maintenance costs.

#### *Suggestions Considered but not Incorporated*

The City received a number of comments and suggestions which were considered but not reflected in the draft ordinance. A summary of comments and rationale is provided below.

1. Allow two-story ADUs
  - Comment: The City should either allow a 2-story ADU or not. The dormer requirements etc. can result in tortured or bad design.
  - Response: There seems to be a strong community preference to retain the form and appearance of a 1 or 1.5 story ADU in the historic districts. This objective may be achieved with the proposed wall height and peak

height limitations. Outside of H Districts, standards would be revised to allow two-story ADUs subject to certain setback requirements.

2. Aesthetic Requirements for ADUs in an H District.
  - Comment: The City should not require ADUs to match or copy the primary dwelling, as it stifles originality and dilutes the historic fabric of the neighborhood.
  - Response: This comment was considered and requirements were relaxed for areas outside of a Historic District. In the absence of design review, however, criteria that ensure a compatible form and materials can help to minimize adverse impacts to historic resources and the character of the historic district, and do not necessarily preclude original design.
3. Screening ADUs in a Historic District.
  - Comment: Require or encourage screening for an ADU in the historic district that is located to the side of a primary structure.
  - Response: This suggestion was considered but was not included in the draft ordinance. Staff is concerned about the potential for unanticipated consequences such as failed or overgrown landscaping, inappropriate fencing, and property maintenance concerns. Further, landscaping is unlikely to fully screen a new building addition or structure measuring at least 16 feet tall and could have the reverse effect of drawing attention to the ADU.
4. Findings of Consistency with Secretary of Interior's Standards (H District).
  - Comment: The City should conduct a review of an ADUs compliance with the Secretary of Interior's Standards, within the confines of the law.
  - Response: If an ADU is proposed that does not comply with the design or development standards, it would be subject discretionary review either through design review or a zoning variance. In such an instance, if located within an H District, the ADU may be reviewed for compliance with the Secretary of Interior's Standards. However, such a review is not permitted for a ministerial permit, as issuance of the permit is contingent on compliance with adopted objective standards and would not be affected by staff findings.

### **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: 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 California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15282(h) 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.

### **Next Steps**

#### *Solano Airport Land Use Commission*

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

The City of Benicia anticipates that the proposed amendments will be heard by the ALUC in January 2019; however, a hearing date 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 Section 65854 and 65855. A public hearing on the proposed ordinance has been

tentatively scheduled for the Planning Commission's regular meeting of January 9, 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. Summary of Revisions to State Statute
3. Updates to State legislation for ADUs (Government Code Section 65852.2 and 65852.22)
4. Summary of Stakeholder Feedback, August and October 2019.
5. Correspondence from Brandon Marshall,
6. Summary of Stakeholder Feedback, November 14, 2019
7. Mark-up of Current Regulations

*For more information contact: Suzanne Thorsen, Principal Planner*

*Phone: 707.746.4382*

*E-mail: [sthorsen@ci.benicia.ca.us](mailto:sthorsen@ci.benicia.ca.us)*

### **17.16.080 Accessory use classifications.**

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 ~~permanent, complete, independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence,~~ including facilities for living, sleeping, food preparation and cooking, eating and sanitation, for one or more persons, on the same parcel as a primary dwelling. 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. This classification is also inclusive of “junior accessory dwelling unit,” as such term is defined in Government Code Section ~~65852.22~~. 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).

### **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.

~~B. Zoning. One accessory dwelling unit per parcel is permitted by right in all residential districts (RS, RM, and RH) and mixed use districts of the downtown mixed use master plan, and on lots with a primary single-family dwelling, subject to compliance with the requirements of this section. An accessory dwelling unit that conforms to this section shall be deemed to be an accessory use or accessory structure and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the general plan and zoning designation for the lot.~~

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 which that 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 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.G. 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. Public utility and services, including emergency access, shall be adequate to serve both the primary dwelling and the accessory dwelling unit.~~

12. Rental.

a. The An accessory dwelling unit may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling.

b3. The rented unit shall not be leased for any period less than 30 days.

~~4. An executed deed restriction, on a form provided by the city, shall be required pursuant to subsection (G) of this section.~~

25. 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 a~~ 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.

ID. 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**

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

~~a. Attached Units. The floor area of an attached accessory dwelling unit shall not exceed 50 percent of the total floor area of the primary dwelling unit or 1,200 square feet, whichever is less. However, if the primary dwelling has an existing floor area of less than 1,200 square feet, an attached accessory dwelling unit may have a maximum floor area of 600 square feet subject to compliance with all other zoning standards.~~

~~b. Detached Units. The total floor area for a detached accessory dwelling unit shall not exceed 1,000 square feet or the size of the existing primary dwelling unit, whichever is less.~~

2. Bulk Standards.

a. An accessory dwelling unit shall conform to the applicable floor area ratio, ~~lot coverage~~ 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. For lots less than 6,000 square feet in area, a five percent increase in lot coverage over the base allowance is permitted subject to an exception to criteria if such increase is necessary to accommodate additional floor area for a new accessory dwelling unit.

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.

(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**

<u>Property Line</u>	<u>ADU Type</u>			
	<u>Attached</u>	<u>Detached</u>	<u>Internal</u>	<u>Junior</u>
<u>Front</u>	<u>Same as primary dwelling [1]</u>		<u>None required</u>	
<u>Side</u>	<u>4 ft.</u>	<u>4 ft.</u>		
<u>Rear</u>	<u>4 ft.</u>	<u>4 ft.</u>		

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).

c. ~~An attached accessory dwelling unit shall conform to the applicable minimum yard, build to line and setback standards of the district in which it is located.~~

~~d. A detached accessory dwelling unit shall conform to the applicable yard, setback, build to line and building separation standards for accessory structures or ancillary buildings; provided, however, that the required minimum side and rear setback shall not exceed five feet.~~

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.

~~e. Any existing accessory structure or ancillary building may be converted to an accessory dwelling unit regardless of whether it conforms to the current zoning requirement for building separation or setbacks; provided, however, that any expansion of the structure shall conform to the current applicable zoning standards.~~

73. 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**

<b><u>ADU Type</u></b>	<b><u>Maximum ADU Height [1]</u></b>
<u>Attached</u>	<u>Same as required for primary dwelling</u>
<u>Detached</u>	
<u>Exterior building wall [2]</u>	<u>14 ft.</u>
<u>Roof peak (based on roof pitch)</u>	

<u>Below 4:12</u>	<u>16 ft.</u>
<u>4:12 to less than 6:12</u>	<u>18 ft.</u>
<u>6:12 or greater</u>	<u>20 ft.</u>
<u>Internal</u>	<u>Not applicable</u>
<u>Junior</u>	<u>Not applicable</u>

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**

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

~~a. An attached accessory dwelling unit shall conform to the height standards of the district in which it is located, subject to compliance with the design standards of this section.~~

~~b. A detached accessory dwelling unit shall conform to the applicable height standards for accessory structures provided in BMC 17.70.050 or ancillary structures as provided in the downtown mixed use master plan, but shall not exceed the height of the primary dwelling.~~

~~c. The community development director may grant an exception to criteria to increase the wall and/or peak height of a detached accessory dwelling unit up to five feet if the structure would comply with all other applicable design~~

~~standards, and the director finds that such increase is necessary to support the feasible construction of an accessory dwelling unit.~~

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

JE. 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. In a mixed use district, an accessory dwelling unit shall conform to the standards of the downtown mixed use master plan form-based code.~~

12. 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. A deck, balcony or platform attached to or associated with a detached accessory dwelling unit shall be oriented away from an adjoining residential side yard.

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. ~~Dormers~~ The side wall of a dormer shall be set back a minimum of three 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 and shall not cumulatively occupy more than 30 percent on any side of the building.

4. Gables. If a gable roof or turned gable roof is present, the gable end 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 predominantly flat roof, a similar pitch may be employed on the accessory dwelling.

6. Historic District Standards. In the 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 front property line such that the entirety of the accessory dwelling unit is behind the rear wall of the principal structure on the lot. ~~Detached accessory dwellings and building additions~~



~~shall be located behind the primary dwelling and shall not exceed the height or footprint of the primary dwelling.~~

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 any increase in building height.

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 existing wall or façade of a designated historic contributing or landmark structure where such wall or façade is parallel to a public street.

fe. A building addition for 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 A building addition for an attached ADU shall not extend beyond the side wall of the primary dwelling.

gd. Exterior building and trim materials shall be horizontal wood siding or fiber cement siding or shingles. However, if Portland cement plaster (stucco) is the predominant finish for the primary residence, then a stucco exterior may also be applied to the accessory dwelling. Synthetic stucco (e.g., EIFS or DryVit) is prohibited.

he. The exterior walls of an accessory dwelling shall utilize the same base and trim colors as the primary residence.

if. The roof shall utilize the same material and color as the primary residence and shall match the primary residence in overall appearance.

g. Gutters shall not be constructed of plastic or PVC materials and shall apply a similar profile as gutters located on the primary residence.

jh. 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 Windows in small spaces, such as bathroom windows, may be horizontally oriented.

ki. 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).

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

~~k. Dormers shall not face an adjoining side yard.~~

#### KF. 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.

LG. 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.

#### **17.108.060 Review responsibilities.**

Except as modified by an adopted conservation plan the following review responsibilities will apply:

\* \* \*

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; ~~increased height for an ADU and increased lot~~

Attachment 8 – Accessory Dwelling Units  
Mark-up of Current Regulations

~~coverage for an ADU per BMC 17.70.060; and modifications in vehicle space size requirements per BMC 17.74.100.~~