**BENICIA CITY COUNCIL**
**CITY COUNCIL MEETING AGENDA**

**Benicia City Hall, 250 East L Street**
**February 4, 2020**
**7:00 PM**

**Call To Order (7:00 P.M.)**

1. **Convene Open Session**

2. **Roll Call**

3. **Pledge Of Allegiance**

4. **Reference To The Fundamental Rights Of The Public**

A plaque stating the fundamental rights of each member of the public is posted at the entrance to this meeting room per section 4.04.030 of the City of Benicia's Open Government Ordinance.

5. **Announcements**

**5.A - MAYOR'S OFFICE HOURS**

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's office of City Hall from 6:00 to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through City Hall by calling 707-746-4200.

**5.B - OPENINGS ON BOARDS AND COMMISSIONS**

- Community Sustainability Commission

2 Full Terms, Expiring July 31, 2023

- Open Government Commission
  1 Partial Term, Expiring July 31, 2021

6. **Proclamations**

**6.A - PROCLAMATION - LEAGUE OF WOMEN VOTERS 100TH ANNIVERSARY**

Proclamation - League of Women Voters 100th Anniversary

7. **Appointments**

None

8. **Presentations**

**8.A - INFORMATION ON CENSUS 2020**

**8.B - BENICIA FEATURED IN SAN FRANCISCO BUSINESS TIMES SUPPLEMENT**

9. **Adoption Of Agenda**

10. **Opportunity For Public Comments**

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda. Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

11. **Written Comment**

12. **Public Comment**

13. **Consent Calendar**

Items listed on the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal or explanation is received from a Council Member, Staff or

member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

**13.A - APPROVAL OF CITY COUNCIL MINUTES FROM JANUARY 7, 2020 (City Clerk)**
Recommendation:
Approve the minutes.

January 7, 2020 City Council Meeting Minutes

**13.B - SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING CHAPTERS 17.16 (USE CLASSIFICATIONS), 17.70 (GENERAL REGULATIONS) AND 17.108 (DESIGN REVIEW) OF THE BENICIA MUNICIPAL CODE PERTAINING TO ACCESSORY DWELLING UNITS (PUBLIC HEARING) (Community Development Director)**

The proposed project is an amendment to the Benicia Municipal Code (BMC) regulations for Accessory Dwelling Units (ADUs) (Section 17.70.060) and additional associated amendments to Use Classifications (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.

The City Council conducted a public hearing and introduced the ordinance on January 21, 2020.

Recommendation:
Adopt the ordinance (Attachment 1) amending Chapters 17.16 (Use Classifications), 17.70 (General Regulations) and 17.108 (Design Review) of the Benicia Municipal Code and find that the ordinance is exempt under the California Environmental Quality Act.

Staff Report - ADUs

1. Ordinance Amending Title 17 - Accessory Dwelling Units

**13.C - MODIFICATION OF EXCISE TAX RATES FOR CANNABIS BUSINESSES OPERATING IN BENICIA (Assistant City Manager)**
At the December 17, 2019 meeting, the City Council discussed a two-step request submitted by Councilmember Young and Vice Mayor Strawbridge for consideration of deferring the excise tax rate for cannabis delivery operations for one year. At the January 21, 2020 meeting, the City Council adopted the resolution modifying the cannabis delivery tax rate to defer the excise tax rate for delivery operations for one year. Also discussed at that Council meeting was deferring and modifying other tax rates for cannabis businesses with a similar phased-in rate structure. Of the other types of cannabis businesses with excise taxes, two have amounts phased-in over a period of several years: manufacturing and commercial cultivation.

Recommendation:

Move to adopt a resolution (Attachment 1) to defer the excise tax rates for one year for cannabis manufacturing and commercial cultivation businesses operating in Benicia, and to modify the tax rates to the following:

• Manufacturing businesses based on gross receipts: 2% in 2020 (effective through 12/31/20); 2.5% in 2021 (1/1/21-12/31/21); 3.5% in 2022 (effective 1/1/22) and beyond.

• Commercial cultivation based on per square foot: $5 in 2020 (effective through 12/31/20); $6 in 2021 (1/1/21-12/31/21); $7 in 2022 (1/1/22 – 12/31/22); Beginning 1/1/23, rate will be adjusted each January 1 by San Francisco Area's Consumer Price Index for All Urban Consumers as of previous October.

Staff Report - Cannabis Excise Tax Rates

1. Resolution Modifying Tax Rates for Cannabis Businesses

2. Resolution No. 18-134 Setting Excise Tax Rates for Cannabis Businesses

3. Resolution No. 20-06 Modifying Excise Tax Rates for Cannabis Delivery Businesses

**13.D - APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA (City Attorney)**

## 14. Business Items

**14.A - AMENDMENT TO MASTER FEE SCHEDULE ADDING TOBACCO RETAIL LICENSE FEES (Police Chief)**

An updated Master Fee Schedule for the Police Department is presented to the Council for adoption. On December 3, 2019, the City Council adopted an amendment to the Benicia Municipal Code by adding chapter 5.54 (Tobacco Retailers) to Title 5 (Business Taxes, Licenses and Regulations) to require the licensure of tobacco retailers. The new process requires a tobacco retailer to obtain and maintain a valid tobacco retailer's license.

Recommendation:
Adopt a resolution (Attachment 1) to amend the Master Fee Schedule for the Police Department, effective March 5, 2020, to incorporate the Tobacco Retail License Fees (See Attachment 2).

Staff Report - Amendment to Master Fee Schedule for Tobacco Retail License Fees

1. Resolution - Amendment to Master Fee Schedule for Tobacco Retail License Fee

2. Proposed Master Fee Schedule for Police Department

**14.B - SETTING USE PERMIT AND PUBLIC SAFETY LICENSE APPLICATION FEES FOR ALL CANNABIS OPERATIONS (Assistant City Manager)**

On January 21, 2020, the City Council approved reductions to the fees for cannabis Use Permit applications and Public Safety License applications. The new fees more closely reflect the anticipated staff and/or consultant time required to process these applications.

Recommendation:

Move to adopt the attached resolution (Attachment 1) approving the new cannabis Use Permit application fee and the Public Safety License application fee.

Staff Report - Cannabis Fees

1. Resolution - Cannabis Fees

1A. Proposed Updated City of Benicia Fee Schedule, effective 2-5-20

**15. Adjournment (10:00 P.M.)**



5

## Public Participation

The Benicia City Council and its Boards and Commissions welcome public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

Should you have material you wish to enter into the record, please submit it to the City Manager.

## Disabled Access or Special Needs

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, if you need special assistance to participate in this meeting, please contact Alan Shear, the ADA Coordinator, at (707) 746-4200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting.

## Meeting Procedures

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

## Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the



6

City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council. A complete proceeding of each meeting is also recorded and available through the City Clerk's Office.

## Contact Your Council Members

If you would like to contact the Mayor or a Council Member, please call the number listed below to leave a voicemail message.

Mayor Patterson: 746-4213
Vice Mayor Strawbridge: 746-4213
Council Member Campbell: 746-4213
Council Member Young: 746-4213
Council Member Largaespada: 746-4213



7

# P R O C L A M A T I O N

**IN RECOGNITION OF**

# League of Women Voters
# 100th Anniversary

**WHEREAS**, the League of Women Voters, a nonpartisan political organization, has as its mission to encourage informed and active participation in government, work to increase understanding of major policy issues, and influence public policy through education and advocacy; and

**WHEREAS**, the League was formed from the movement that secured the right to vote for women, and the centerpiece of the League's efforts remains to expand participation and give a voice to all Americans; and

**WHEREAS**, the League's historic commitment to register, educate and mobilize voters is not only stronger, but more effective than ever, as demonstrated by voter registration drives, including the voter preregistration and registration of high school students, and the utilization of such tools as Voter's Edge—a cutting-edge election information website utilized by millions of voters each election cycle; and

**WHEREAS**, the League is an organization fully committed to diversity, equity, and inclusion in principle and in practice; and

**WHEREAS**, the League was formally organized on February 14, 1920, six months before the 19th amendment to the United States constitution, giving women the right to vote, was ratified; and

**WHEREAS**, since its inception, the League has helped millions of women and men become informed participants in government.

**NOW, THEREFORE, BE IT RESOLVED THAT I,** Elizabeth Patterson, Mayor of the City of Benicia, and on behalf of the City Council of the City of Benicia hereby recognize February 14, 2020 as the 100th anniversary of the founding of The League of Women Voters.

_____

Elizabeth Patterson, Mayor
February 4, 2020

**DRAFT**

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
JANUARY 7, 2020
7:00 PM

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

## CALL TO ORDER

Mayor Patterson called the Closed Session to order at 6:30 p.m.

All Council Members were present.

## 1) CLOSED SESSION (6:30 P.M.)

**1.A - CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**
**Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2):**
**Number of potential cases: 1**

## 2) CONVENE OPEN SESSION (7:00 P.M.)

Mayor Patterson called the Open Session to order at 7:10 p.m.

## 3) ROLL CALL

All Council Members were present.

Council Member Campbell arrived at 7:11 p.m.

## 4) PLEDGE OF ALLEGIANCE

## 5) REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC

## 6) ANNOUNCEMENTS

**6.A - ANNOUNCEMENTS FROM CLOSED SESSION, IF ANY**

Nira Doherty, Assistant City Attorney, stated there were no reportable actions taken during closed session.

**6.B - MAYOR'S OFFICE HOURS**

**6.C - OPENINGS ON BOARDS AND COMMISSIONS**

## 7) PROCLAMATIONS

### 7.A - KAI RUSH AND BENJI RYUIJIN

Proclamation - Rush and Ryuijin App Challenge

## 8) APPOINTMENTS

## 9) PRESENTATIONS

### 9.A - UPDATE ON HOUSING (Interim Community Development Director)

Staff Report - Housing Information Session

Public Comment:
1. Larry Fullington - Mr. Fullington spoke on the issue.

## 10) ADOPTION OF AGENDA

Ms. Tinfow requested item 15.C be removed from the agenda. There was an error and Staff would like to correct the issues before it is presented to Council.

On motion of Council Member Largaespada, seconded by Council Member Young, Council approved the Adoption of the Agenda, as amended, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson
Noes: (None)

## 11) OPPORTUNITY FOR PUBLIC COMMENTS

## 12) WRITTEN COMMENT

## 13) PUBLIC COMMENT

Allison Fleck & Barbara Wood - Ms. Fleck and Ms. Wood reviewed the Benicia Tree Foundation's Annual Report.

## 14) CONSENT CALENDAR

### 14.A - FY2018-19 QUARTERLY INVESTMENT REPORTS (Finance Director)

Staff Report - Investment Reports FY2018-19
1. 1st Quarter FY2018-19 Investment Report
2. 2nd Quarter FY2018-19 Investment Report

3. 3rd Quarter FY2018-19 Investment Report
4. 4th Quarter FY2018-19 Investment Report

Council Member Young and Staff discussed not investing in Walmart stocks. Staff indicated they would be updating the City's investment policy and would include a section called responsible investing.

Public Comment:
None

On motion of Council Member Largaespada, seconded by Council Member Young, Council approved the review and filing of the Quarterly Investment Reports for Fiscal Year 2018-19 (Attachments 1-4), on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson
Noes: (None)

**14.B - APPROVAL TO WAIVE THE READING OF ALL ORDINANCES INTRODUCED OR ADOPTED PURSUANT TO THIS AGENDA (City Attorney)**

On motion of Council Member Young, seconded by Vice Mayor Strawbridge, Council approved the Consent Calendar, as amended, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Vice Mayor Strawbridge, Council Member Young, Mayor Patterson
Noes: (None)

Council pulled item 14.A for discussion.

## 15) BUSINESS ITEMS

**15.A - PARKS, LANDSCAPE & LIGHTING ASSESSMENT DISTRICT AND PARKS, TRAILS & OPEN SPACE MASTER PLAN (Public Works Director and Parks & Community Services Director)**

Staff Report - PLLAD and PTOS Master Plan Update
1. Resolution - Citywide Parks, Landscape & Lighting Assessment District Update
2. Resolution - Parks, Trails & Open Space Master Plan Update

**RESOLUTION 20-01 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ALLOCATING $150,000 FROM THE GENERAL FUND'S UNASSIGNED FUND BALANCE TO FUND CONSULTANT SUPPORT FOR THE UPDATE OF THE LANDSCAPE & LIGHTING ASSESSMENT DISTRICT TO A CITYWIDE PARKS, LANDSCAPE & LIGHTING ASSESSMENT**

**DISTRICT, INCLUDING PUBLIC OUTREACH AND THE PROPOSITION 218 BALLOT PROCESS**

**RESOLUTION 20-02 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ALLOCATING $250,000 FROM THE GENERAL FUND'S UNASSIGNED FUND BALANCE TO FUND THE UPDATE OF THE CITY'S 1997 PARKS, TRAILS & OPEN SPACE MASTER PLAN**

Will Tarbox, Public Works Director, and Mike Dotson, Parks and Community Services Director, reviewed the staff report.

Council Member Largaespada and Staff discussed the some of the recommended capital improvements needed throughout the City, funding, the scope of the master plan, whether housing could be considered in areas of parks that are not utilized, and clarification that sidewalk maintenance was outside the scope of the plan (unless an existing tree is causing a problem in the landscaping area.)

Council Member Young and Staff discussed whether zone one could be rolled into the rest of the community and leave zones two and three alone. They also discussed the issue of hiring 5 additional employees shown in scenario #2.

Mayor Patterson and Staff discussed the issue of trees that have damaged sidewalks, the issue of turf replacement, hybrid contracting, natural playing areas in parks, areas that need new streetlights, zones two and three, and the signage conditions on the coast access trails.

Vice Mayor Strawbridge and Staff discussed the issue of cost for the assessment, how the fees are assessed, and what an average cost for five districts would be (approximately $427).

Mayor Patterson suggested adding a comparison to scenarios two and three.

Public Comment:

1. Allison Fleck - Ms. Fleck spoke in support of the proposed action.
2. Citizen - the citizen spoke in support of the proposed action.

Mayor Patterson stated unless there was an objection, she was looking for a motion to add the comparison to scenarios #2 and #3, and adopt Staff's recommendation.

Council Member Young suggested an option combining zones 2, 3, and 5, and making the rest of the City a Citywide District.

On motion of Council Member Largaespada, seconded by Council Member Young, Council approved the adoption of Resolution 20-01 and 20-02, on a roll call by the following vote:

Ayes: Council Member Campbell, Council Member Largaespada, Council Member Young, Mayor Patterson
Noes: Vice Mayor Strawbridge

**15.B - BENICIA OPEN GOVERNMENT COMMISSION'S PROPOSED AMENDMENTS TO BMC CHAPTERS 1.36 (VOLUNTARY CODE OF FAIR CAMPAIGN PRACTICES), 1.40 (DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES IN CANDIDATE AND BALLOT MEASURE ELECTIONS) AND 1.42 (CONTRIBUTION AND VOLUNTARY SPENDING LIMITS) (City Attorney)**

Staff Report - Open Government Committee Recommendations
1. Open Government Commission 10-21-19 Staff Report
2. Open Government Commission Draft Minutes 10-21-19

Nira Doherty, Assistant City Attorney, reviewed the staff report.

Bonnie Silveria, Open Government Commission Chair, reviewed the process they went through to get to tonight's recommendations.

Council Member Campbell and Staff discussed the issue of use of public funds.

Mayor Patterson discussed the issue of not having the Open Government Commission act as enforcers of rules. She would like to see more of an outreach effort rather than an enforcement effort.

Council Member Largaespada asked what happened in the past that made these issues need to be addressed.

Council Member Campbell reviewed his efforts to get the fair campaign ordinance and Open Government Commission started. He reiterated the need for some sort of enforcement tool.

Council Member Largaespada and Staff discussed the issue of disclosing the top three financial donors.

Council Member Young and Staff discussed the issue of regulating persuasive polls, disclosure of push polls that were conducted, changing the reporting language regarding push polls to read 'within 24 hours of the first use of the poll' rather than at the completion of the poll.

Council Member Campbell and Staff discussed the issue of push polls.

Mayor Patterson and Staff discussed steps that could be taken to enforce disclosure of push or persuasive polls. The Open Government Commission could possibly work with the League of Women Voters to help people identify what a push or persuasive poll is.

Vice Mayor Strawbridge and Staff discussed the difference between polling and push polling, how complaints regarding push polls are routed between the City, FPPC, etc.

Public Comment:

1. Danny Bernardini - Mr. Bernardini discussed concern regarding unions being singled out regarding campaign donations and support.
2. Ralph Dennis - Mr. Dennis discussed the process the Open Government Commission and the Ad Hoc Committee went through to come up with the recommendations in tonight's agenda.
3. Citizen - the citizen discussed concern regarding post cards that were mailed out in the 2018 election.
4. Jon Riley - Mr. Riley discussed concern regarding the proposed changes.
5. Kathy Kerridge - Ms. Kerridge suggested requiring people to disclose that a poll is being taken at the beginning of a call.

Council Member Campbell and Staff discussed the issue of requiring disclosure requirements of push polls.

Mayor Patterson polled Council on each of the recommendations. Council majority agreed with all of Staff's recommendations in the staff report.

Council Member Largaespada discussed the need to define what the second candidate forum would be.

**15.C - CITY APPOINTMENTS SUBCOMMITTEE (City Manager)**

Staff Report - City Appointments Subcomittee

## 16) ADJOURNMENT (9:30 P.M.)

Mayor Patterson adjourned the meeting at 10:40 p.m.

**AGENDA ITEM**
**CITY COUNCIL MEETING DATE – FEBRUARY 4, 2020**
**CONSENT ITEM**

**TO** : City Manager

**FROM** : Community Development Director

**SUBJECT** : **SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING CHAPTERS 17.16 (USE CLASSIFICATIONS), 17.70 (GENERAL REGULATIONS) AND 17.108 (DESIGN REVIEW) OF THE BENICIA MUNICIPAL CODE PERTAINING TO ACCESSORY DWELLING UNITS (PUBLIC HEARING)**

**EXECUTIVE SUMMARY:**
The proposed project is an amendment to the Benicia Municipal Code (BMC) regulations for Accessory Dwelling Units (ADUs) (Section 17.70.060) and additional associated amendments to Use Classifications (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.

The City Council conducted a public hearing and introduced the ordinance on January 21, 2020.

**RECOMMENDATION:**
Adopt the ordinance (Attachment 1) amending Chapters 17.16 (Use Classifications), 17.70 (General Regulations) and 17.108 (Design Review) of the Benicia Municipal Code and find that the ordinance is exempt under the California Environmental Quality Act.

**BUDGET INFORMATION:**
Adopting the ordinance will not result in direct impacts to the City's budget.

**BACKGROUND:**

In January 2019, the City of Benicia adopted an updated Accessory Dwelling Unit (ADU) ordinance to align with change to State law, notably streamlining permit procedures to allow second units on all residentially-zoned lots subject to ministerial review. Ministerial review means that if a proposed ADU meets the City's objective standards, it must be approved. At the time of the ordinance adoption, staff was directed to make future revisions concerning quality of living space above a ground floor, setbacks, lot coverage and other community comments. New legislation was passed in late 2019 that further streamlines and clarifies the State's requirements,



*CITY MISSION*
*"SERVING AND ENHANCING OUR COMMUNITY WITH CARE, COMMITMENT AND PRIDE."*

expands opportunities for new ADUs, and limits the applicability of local design criteria for certain ADUs.

Beginning in August 2019, City staff conducted outreach to community members to obtain feedback on the topic areas identified by the City Council, historic preservation concerns, and additional improvements to the ordinance. The outreach effort also addressed revisions needed for compliance with the updates to State law.

The proposed zoning amendments would align with recent changes to State law, amend existing criteria as necessary for compliance with State law and in response to community feedback, and establish procedures for review of ADUs that do not meet the adopted objective planning standards.

The following key amendments are proposed in accordance with State law:

- Allow ADUs in all zoning districts that permit multifamily dwellings. In Benicia, this includes commercial and mixed-use districts.
- Require action on an ADU application within 60 days of receiving the application (e.g., approval, denial, or written comments describing necessary revisions).
- Allow Junior ADUs (smaller than 500 sq. ft.) consistent with State law.
- For certain types of ADUs, require ministerial approval subject only to limited standards prescribed by the State ("Units Subject to Limited Standards").
- On single-family lots, allow one ADU and one Junior ADU if exterior access is available and side and rear setbacks are sufficient for fire and safety.
- On multifamily lots, allow at least one ADU and up to 25% of existing multifamily dwelling units within a building, and up to 2 detached ADUs subject to compliance with 16-foot height and four-foot setback requirements.
- 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.
- Allow a detached ADU of with a maximum floor area of 1,200 square feet.
- Specify that unit size, lot coverage, floor area ratio (FAR), open space, or lot size requirement would not prohibit a detached ADU with16 feet height, 800 square feet of floor area, and four-foot side and rear setbacks ("Guaranteed Allowance").
- Allow an existing structure to be converted to or replaced with an ADU, regardless of whether it conforms with setback or building separation standards and without the replacement of off-street parking.

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. These proposed regulations are consistent with the State ADU laws. 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.

- Require design review for ADUs that do not comply with Objective Design Standards and require a variance for ADUs that do not comply with Development Standards (e.g., floor area, height, setbacks and building separation).
- Clarify that the presence of an ADU would not exempt a project that otherwise requires design review, such as a new garage or new addition with expansion of living area for the primary dwelling ("Dependent on Separate Construction").
- In a historic district, increase permitted wall height to 14 feet and clarify that wall height is measured to top plate, and increase peak height from 15 feet to 16 feet for an ADU with a 4:12 roof pitch. For steeper roofs, clarify that the 20-foot height limitation applies to ADUs with a pitch of 6:12 and greater.
- Outside of a historic district, eliminate the wall height limitation, allow for a peak height of 16 to 20 feet (dependent on roof pitch) if located within five feet of a side or rear property line, and increase the allowed peak height to 20 to 24 feet (dependent on roof pitch) if located seven or more feet from a side or rear property line.
- Reduce the required separation between a detached ADU and primary dwelling from ten feet to five feet, which was the required separation prior to the 2019 amendment.
- Increase the dormer allowance such that dormers would be allowed to occupy up to 66% of the wall expanse below in order to allow wall height and natural light that improves livability above the ground floor.
- Clarify the requirement for roof orientation to prevent shadow effects on adjoining properties.
- Clarify that ground level decks and similar appurtenances may be located four feet from a side or rear property line. Specify that second story decks and balconies must be set back at least ten feet from a side or rear property line adjoining a single-family or two-family dwelling and require that exterior stairs be oriented towards the interior of a lot.
- Revise historic district standards to prevent any alteration of a street-facing façade or a historic structure primary contributing façade (which is the historic front façade of the structure) and relax requirements for building materials.

Staff further proposes that the Municipal Code be amended to revise ADU use classifications for consistency with State statute and for clarity with the zoning regulations, to clarify terms (such as "divided lite" and "stucco") and to improve the objectivity of standards for consistency with the State law.

The City Council conducted a public hearing on the proposed zoning amendments on January 21, 2020. Five community members provided public comment regarding building material requirements in historic district, permitting for ADUs attached to a garage, standards that apply to non-contributing structures in a historic district, the need for new housing in Benicia, permitted height in a historic district, the outreach process and the balancing of standards within historic districts to minimize adverse impacts to historic structures. Following the public hearing, the City Council directed staff to streamline garage permitting and moved to waive the first reading and introduce the ordinance (approved 4-0).

**Streamlined Permitting for Garages**
The proposed ordinance requires that an ADU project that is "Dependent on Separate Construction" would be subject to applicable permit requirements for the non-ADU element (such as the garage portion of a proposed accessory structure.) Applicable permit requirements for the non-ADU element may include design review. For example, an ADU that is proposed along with the construction of a new detached garage and would be located on the second floor above the garage, would be considered an ADU "dependent on separate construction."

During the January 21 public hearing, correspondence and public comment were received requesting that ADUs attached to 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 is done ministerially and is not subject to discretionary review.

Such a revision requires an amendment to the Accessory Dwelling Unit Ordinance (BMC Section 17.70.060) and additional sections of the Zoning Ordinance. This is because the non-ADU portion of such a proposed project, would not be eligible for the review procedures of ADUs and would instead be subject to the review procedures for other accessory structures. Accordingly, the City Council's direction will be proposed in a separate ordinance which amends both BMC section 17.70.060 and applicable sections of the zoning code. This ordinance will be scheduled for public hearing before the Historic Preservation Review Commission (HPRC) on February 27, 2020.

**NEXT STEPS:**
If the proposed ordinance is approved, the amendments would become effective on the 30th day following the second reading.

**ALTERNATIVE ACTIONS**:
The City Council could choose not to amend the Zoning Ordinance for accessory dwelling units or may choose to take an alternative action on amendments to the zoning ordinance. Changes to the proposed ordinance may require a subsequent hearing before the Planning Commission.

| | |
|---|---|
| **General Plan** | Goal 2.1 Preserve Benicia as a small-sized city.<br>➢ 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.<br>➢ 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.<br>➢ Policy 1.04: The City will review and revise regulatory standards necessary to comply with State Housing law. |

| | |
|---|---|
| **Strategic Plan** | No strategic plan policies are directly applicable to the proposed project. |

| | |
|---|---|
| **CEQA Analysis** | 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.<br><br>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. |

**ATTACHMENT:**

1. Ordinance Amending Title 17 – Accessory Dwelling Units

*For more information contact: Brad Misner, Community Development Director*
*Phone: 707.746.4277*
*E-mail: bmisner@ci.benicia.ca.us*

**CITY OF BENICIA**

**ORDINANCE NO. 20-____**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING BENICIA MUNICIPAL CODE CHAPTER 17.16 (USE CLSASIFICATIONS), 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. _____ 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 , 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

**AGENDA ITEM**
**CITY COUNCIL MEETING DATE – FEBRUARY 4, 2020**
**CONSENT CALENDAR**

**TO** : City Manager

**FROM** : Assistant City Manager

**SUBJECT** : **MODIFICATION OF EXCISE TAX RATES FOR CANNABIS BUSINESSES OPERATING IN BENICIA**

## EXECUTIVE SUMMARY:

At the December 17, 2019 meeting, the City Council discussed a two-step request submitted by Councilmember Young and Vice Mayor Strawbridge for consideration of deferring the excise tax rate for cannabis delivery operations for one year. At the January 21, 2020 meeting, the City Council adopted the resolution modifying the cannabis delivery tax rate to defer the excise tax rate for delivery operations for one year. Also discussed at that Council meeting was deferring and modifying other tax rates for cannabis businesses with a similar phased-in rate structure. Of the other types of cannabis businesses with excise taxes, two have amounts phased-in over a period of several years: manufacturing and commercial cultivation.

## RECOMMENDATION:

Move to adopt a resolution (Attachment 1) to defer the excise tax rates for one year for cannabis manufacturing and commercial cultivation businesses operating in Benicia, and to modify the tax rates to the following:

- Manufacturing businesses based on gross receipts: 2% in 2020 (effective through 12/31/20); 2.5% in 2021 (1/1/21-12/31/21); 3.5% in 2022 (effective 1/1/22) and beyond.

- Commercial cultivation based on per square foot: $5 in 2020 (effective through 12/31/20); $6 in 2021 (1/1/21-12/31/21); $7 in 2022 (1/1/22 – 12/31/22); Beginning 1/1/23, rate will be adjusted each January 1 by San Francisco Area's Consumer Price Index for All Urban Consumers as of previous October.

## BUDGET INFORMATION:

As discussed in previous staff reports and determined by previous Council action, new cannabis businesses will generate new tax revenue for the City via the cannabis business excise tax approved by the voters in 2018. However, since the cannabis industry is relatively new and evolving, specific revenue estimates are not available at this time.



*CITY MISSION*
*"SERVING AND ENHANCING OUR COMMUNITY WITH CARE, COMMITMENT AND PRIDE."*

**BACKGROUND:**
On November 6, 2018, the voters of Benicia considered a measure to set the cannabis excise tax for all businesses except commercial cultivation operating within the City at a rate up to 6% of gross revenues; for commercial cultivation the proposed tax was based on square footage and set up to $10 per square foot. The tax measure was overwhelmingly approved by more than 76% of Benicia voters.

On November 29, 2018, the City Council set the initial excise tax rate for the various types of business operations, including retail, delivery, distribution, testing, manufacturing, commercial cannabis cultivation and microbusinesses (see Resolution 18-134 included as Attachment 2).

On January 21, 2020, since no delivery businesses were operating in 2019, the City Council adopted Resolution 20-06 (Attachment 3) to modify and defer the cannabis delivery tax rates so that the tax rates shall be the following:

- 2% in 2020 (through 12/31/20)
- 3% in 2021 (1/1/21 - 12/31/21)
- 4% in 2022 (effective 1/1/22) and beyond

Also, on January 21, 2020, the City Council directed staff to return to modify and defer the other excise tax rates that had similar phased-in rate structure over time. Of the other types of cannabis businesses with excise taxes, two have amounts phased-in over a period of several years: manufacturing and commercial cultivation.

The current tax rates are as follows:

- Manufacturing businesses based on gross receipts: 2% in 2020 (effective through 12/31/19); 2.5% in 2021 (1/1/20-12/31/20); 3.5% in 2022 (effective 1/1/21) and beyond.

- Commercial cultivation based on per square foot: $5 in 2020 (effective through 12/31/19); $6 in 2021 (1/1/20-12/31/20); $7 in 2022 (1/1/21 – 12/31/21); Beginning 1/1/22, rate will be adjusted each January 1 by San Francisco Area's Consumer Price Index for All Urban Consumers as of previous October.

The attached resolution defers and modifies the excise tax rates as follows:

- Manufacturing businesses based on gross receipts: 2% in 2020 (effective through 12/31/20); 2.5% in 2021 (1/1/21-12/31/21); 3.5% in 2022 (effective 1/1/22) and beyond.

- Commercial cultivation based on per square foot: $5 in 2020 (effective through 12/31/20); $6 in 2021 (1/1/21-12/31/21); $7 in 2022 (1/1/22 – 12/31/22); Beginning 1/1/23, rate will be adjusted each January 1 by San Francisco Area's Consumer Price Index for All Urban Consumers as of previous October.

**NEXT STEPS:**
With Council adoption of the resolution tonight, staff will modify the tax rates shown in cannabis information and implement the changes.

**ALTERNATIVE ACTIONS**:
Provide alternate direction.

| | |
|---|---|
| **General Plan** | Goal 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life.<br>Program 2.5.C: Evaluate future uses on a cost/revenue basis, taking into account economic diversity for the long term and environmental and community costs and benefits. |
| | Goal 2.6: Attract and retain a balance of different kinds of industrial uses to Benicia.<br>o Policy 2.6.1: Preserve industrial land for industrial purposes and certain compatible "service commercial" and ancillary on-site retail uses.<br>o Policy 2.6.2: Other land uses should not adversely affect existing industrial and commercial land uses. |
| | Goal 2.13: Support the economic viability of existing commercial centers.<br>Policy 2.12.1: Direct new commercial ventures first, towards Downtown, and second, to other existing economic centers (instead of dispersing resources to new areas). |
| | Goal 4.4: Reduce the incidence of substance abuse and strive for a drug-free community. |
| | Goal 4.6: Prevent and reduce crime in the community. |
| **Strategic Plan** | |
| | Strategy 5: Promote community and personal health |
| | Strategic Issue 3: Strengthening Economic and Fiscal Conditions |
| **CEQA Analysis** | The actions under consideration are not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15060, subd. (c)(2) because they will not result in a direct or reasonably foreseeable indirect physical change in the environment and pursuant to CEQA Guidelines section 15061, subd. (b)(3) because there is no possibility the activity in question may have a significant effect on the environment. Furthermore, Business and Professions Code Section 26055(h) exempts from Division 13 of the Public Resources Code, the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity whereby the discretionary review in any such law, |

| | |
|---|---|
| | ordinance, rule, or regulation includes any applicable environmental review pursuant to Division 13. |

**ATTACHMENTS:**

1. Resolution Modifying Tax Rates for Cannabis Businesses
2. Resolution No. 18-134 Setting Excise Tax Rates for Cannabis Businesses
3. Resolution No. 20-06 Modifying Excise Tax Rates for Cannabis Delivery Businesses

*For more information contact: Alan Shear, Assistant City Manager*
*Phone: 707.746.4300*
*E-mail: ashear@ci.benicia.ca.us*

**RESOLUTION NO. 20 -**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA MODIFYING THE EXCISE TAX RATES FOR CANNABIS MANUFACTURING BUSINESSES AND COMMERCIAL CANNABIS CULTIVATION BUSINESSES OPERATING IN BENICIA**

**WHEREAS,** following the passage of Measure 64 in November 2016 that legalized cannabis in the State of California, many cities, including Benicia, began the process of considering whether or not to allow cannabis business operations within their boundaries and if so, how to do so; and

**WHEREAS,** on November 6, 2018, the voters of Benicia overwhelmingly approved a measure to set the cannabis excise tax for all businesses except commercial cultivation operating within the City at a rate up to 6% of gross revenues; for commercial cultivation the proposed tax was based on square footage and set up to $10 per square foot; and

**WHEREAS,** on November 29, 2018, the City Council set the initial excise tax rates for the various types of business operations including retail, delivery, distribution, testing, manufacturing, commercial cannabis cultivation and microbusinesses per Resolution 18-134; and

**WHEREAS**, on January 21, 2020, since no delivery businesses were operating in 2019, the City Council desired to modify the delivery tax rate so that the tax rate is 2% in 2020, 3% in 2021, and 4% in 2022 and beyond per Resolution 20-06; and

**WHEREAS**, the City Council desires to modify the tax rate for cannabis manufacturing and commercial cannabis cultivation.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Benicia does hereby amend Resolution 18-134 and modify the excise tax rates for all cannabis manufacturing businesses and commercial cannabis cultivation operating in Benicia as follows:

| Business Type | Excise Tax Rate | Unit |
|---|---|---|
| Manufacturing | 2% in 2020 (effective through 12/31/20);<br>2.5% in 2021 (1/1/21-12/31/21);<br>3.5% in 2022 (effective 1/1/22) and beyond. | Gross Receipts |
| Commercial cannabis cultivation | $5 in 2020 (effective through 12/31/20);<br>$6 in 2021 (1/1/21-12/31/21);<br>$7 in 2022 (1/1/22 – 12/31/22);<br>Beginning 1/1/23, rate will be adjusted each January 1 by San Francisco Area's Consumer Price Index for All Urban Consumers as of previous October. | Per square foot |

**BE IT FURTHER RESOLVED THAT** all other excise tax rates contained in Resolution 18-134 and Resolution 20-06 remain in effect.

*****

On motion of Council Member , seconded by Council Member , the above resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 4th day of February, 2020 by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

# RESOLUTION NO. 18- 134

## A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA SETTING THE EXCISE TAX RATES FOR ALL CANNABIS BUSINESSES OPERATING IN BENICIA

**WHEREAS,** following the passage of Measure 64 in November 2016 that legalized cannabis in the State of California, many cities, including Benicia, began the process of considering whether or not to allow cannabis business operations within their boundaries and if so, how to do so; and

**WHEREAS,** over the course of more than a year, the City Council worked to determine where to allow and not allow cannabis businesses in town, the number of various business types to permit to operate (ultimately deciding on two retail, one microbusiness, and unlimited other types), and set the proposal processes and criteria for scoring the proposals for the competitive, limited business types (retail and microbusiness); and

**WHEREAS,** on June 19, 2018, Council acted to place a tax measure for voter consideration on the November 2018 ballot; and

**WHEREAS,** on November 6, 2018, the voters of Benicia considered a measure to set the cannabis excise tax for all businesses except commercial cultivation operating within the City at a rate up to 6% of gross revenues; for commercial cultivation the proposed tax was based on square footage and set up to $10 per square foot; and

**WHEREAS**, the tax measure was overwhelmingly approved by more than 76% of Benicia voters and now the City Council is asked to set the initial excise tax rate for the various types of business operations including retail, delivery, distribution, testing, manufacturing, commercial cannabis cultivation and microbusinesses; and

**WHEREAS,** Benicia was just one of 73 agencies (cities and counties) that passed a cannabis tax measure for voter consideration during this last election; and

**WHEREAS**, as shown in the accompanying staff report, those tax rates and ways of assessing them vary greatly from agency to agency and Council may set the tax rate for different business activities at different rates; and

**WHEREAS**, staff is recommending that Council adopt the maximum tax rates included in the November 2018 measure due to the following: the limited competition of cannabis businesses in the Bay Area; Benicia's attractiveness to cannabis businesses as evidenced by the recent initial round of proposals received for two retail opportunities; the ease to administer, understand, and adjust the rates downward in the future; and it achieves Council's intent to allow cannabis in order to increase City revenues; and

**WHEREAS**, the Council acted to set excise tax rates for all cannabis businesses operating in Benicia as follows:

| Business Type | Excise Tax Rate | Unit |
|---|---|---|
| Retail | 5% | Gross Receipts |
| Delivery | 2% in Year 1 (11/6/18 through 12/31/19);<br>3% in Year 2 (1/1/20 – 12/31/20);<br>4% in Year 3 (effective 1/1/21) and beyond | Gross Receipts |
| Distribution | 1% | Gross Receipts |
| Testing | 1% | Gross Receipts |
| Manufacturing | 2% in Year 1 (11/6/18 through 12/31/19);<br>2.5% in Year 2 (1/1/20 – 12/31/20);<br>3.5% in Year 3 (effective 1/1/21) and beyond | Gross Receipts |
| Microbusiness | 5% | Gross Receipts |
| Commercial cannabis cultivation | $5 in Year 1 (11/6/18 through 12/31/19);<br>$6 in Year 2 (1/1/20 – 12/31/20);<br>$7 in Year 3 (1/1/21 – 12/31/21);<br>Beginning 1/1/22, rate will be adjusted each January 1 by San Francisco Area's Consumer Price Index for All Urban Consumers as of previous October. | Per square foot |

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia does hereby set the excise tax rates for all cannabis businesses operating in Benicia as presented within this resolution.

*****

On motion of Council Member **Young**, seconded by Council Member **Schwartzman**, the above Resolution was adopted by the City Council of the City of Benicia at a special meeting of said Council held on the 29th day of November, 2018 by the following vote:

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

Noes: **Council Members Campbell and Hughes**

Absent: **None**

Elizabeth Patterson, Mayor

Attest:

Lisa Wolfe, City Clerk

12-11-18

Date

# RESOLUTION NO. 20 - 06

## A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA MODIFYING THE EXCISE TAX RATES FOR CANNABIS DELIVERY BUSINESSES OPERATING IN BENICIA

**WHEREAS,** following the passage of Measure 64 in November 2016 that legalized cannabis in the State of California, many cities, including Benicia, began the process of considering whether or not to allow cannabis business operations within their boundaries and if so, how to do so; and

**WHEREAS,** on November 6, 2018, the voters of Benicia overwhelmingly approved a measure to set the cannabis excise tax for all businesses except commercial cultivation operating within the City at a rate up to 6% of gross revenues; for commercial cultivation the proposed tax was based on square footage and set up to $10 per square foot; and

**WHEREAS,** on November 29, 2018 the City Council set the initial excise tax rates for the various types of business operations including retail, delivery, distribution, testing, manufacturing, commercial cannabis cultivation and microbusinesses per Resolution 18-134; and

**WHEREAS,** since no delivery businesses were operating in 2019, the City Council desires to modify the delivery tax rate so that the tax rate is 2% in 2020, 3% in 2021, and 4% in 2022 and beyond; and

**NOW, THEREFORE, BE IT RESOLVED,** the City Council of the City of Benicia does hereby amend Resolution 18-134 and modify the excise tax rates for all cannabis delivery businesses operating in Benicia as follows:

| Business Type | Excise Tax Rate | Unit |
|---|---|---|
| Delivery | 2% in 2020 (through 12/31/20);<br>3% in 2021 (1/1/21 – 12/31/21);<br>4% in 2022 (effective 1/1/22) and beyond | Gross Receipts |

**BE IT FURTHER RESOLVED THAT** all other excise tax rates contained in Resolution 18-134 remain in effect.

*****

On motion of Council Member **Strawbridge**, seconded by Council Member **Young**, the above resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 21st day of January, 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

1-29-2020

Date

**AGENDA ITEM**
**CITY COUNCIL MEETING DATE – FEBRUARY 4, 2020**
**BUSINESS ITEM**

**TO** : City Manager

**FROM** : Police Chief

**SUBJECT** : **AMENDMENT TO MASTER FEE SCHEDULE ADDING TOBACCO RETAIL LICENSE FEES**

**EXECUTIVE SUMMARY:**
An updated Master Fee Schedule for the Police Department is presented to the Council for adoption. On December 3, 2019, the City Council adopted an amendment to the Benicia Municipal Code by adding chapter 5.54 (Tobacco Retailers) to Title 5 (Business Taxes, Licenses and Regulations) to require the licensure of tobacco retailers. The new process requires a tobacco retailer to obtain and maintain a valid tobacco retailer's license.

**RECOMMENDATION:**
Adopt a resolution (Attachment 1) to amend the Master Fee Schedule for the Police Department, effective March 5, 2020, to incorporate the Tobacco Retail License Fees (See Attachment 2).

**BUDGET INFORMATION:**
The proposed fee amendment for the Police Department will add a fee of $500.00 for the initial license, and a $450.00 annual renewal license. The City is anticipated to receive $8,000 in the first year. The fee will cover direct and indirect expenses related to issuing the license, supervising the program, compliance checks, inspections, regulating license, educational meetings and trainings, processing renewals, educational materials, publications, and follow up on violations.

**BACKGROUND:**
On December 3, 2020, the City Council adopted the amendment to the Benicia Municipal Code requiring all tobacco retailers operating within the City of Benicia to acquire a Tobacco Retail License. The amendment also prohibits the sale of flavored tobacco products and of electronic smoking devices and fluids. The license shall be prominently displayed in a publicly visible location at the licensed location and can be suspended or revoked if the retailer is found to be in violation of the requirement, conditions or prohibitions of the ordinance. The majority of the license fees will offset the resources that are required to ensure compliance of the retailers. There will be four spontaneous compliance checks within the year, comprised of two officers and a supervisor, which will take place outside of their regular hours to accommodate their other responsibilities. Each check typically takes about four hours. The supervisor will only spend



*CITY MISSION*
*"SERVING AND ENHANCING OUR COMMUNITY WITH CARE, COMMITMENT AND PRIDE."*

approximately one hour to brief and oversee the results of the check. The average overtime hourly rate including benefits for an officer is $77.00, while the average regular hourly rate with benefits for a supervisor is $100.00. Each check will approximately cost $716.00, totaling $2,864.00 per year. There will also be a yearly thorough inspection conducted by a staff member and consultant. Each inspection will take about one hour and there are 16 retailers currently in the City of Benicia. The hourly rate of these personnel is approximately $50.00 on average, totaling $1,600.00 for the yearly inspection. The City is anticipated to receive $8,000 in the first year from the initial license fees. The balance of the fees will be used for other personnel time to administer the license, including the initial visits, processing renewals, following up on violations, educational meetings and trainings as well as other publication and administrative materials.

**NEXT STEPS:**
Staff will incorporate changes to the Master Fee Schedule as suggested if approved by Council.

**ALTERNATIVE ACTIONS**:
Make no changes to the fees, and the City will not be able to process Tobacco Retail Licenses, and thus not be able to enforce the newly adopted and soon to be enacted ordinance regarding regulating tobacco retailers in the City of Benicia.

| | |
|---|---|
| **General Plan** | The overarching goal of the General Plan is Sustainability. |

| | |
|---|---|
| **Strategic Plan** | Strategic Issue # 3: Strengthening Economic and Fiscal Conditions<br>Strategy #4: Manage City finances prudently |

| | |
|---|---|
| **CEQA Analysis** | Adoption of the Master Fee Schedule and the associated Benicia Municipal Code amendments do not constitute a project as defined by the California Environmental Quality Act (CEQA) Guidelines Section 15378 (b) (4) which excludes government fiscal activities which do not involve commitment to a specific project which may have a direct or indirect effect on the physical environment. Therefore, the Master Fee Schedule is not subject to environmental review pursuant to CEQA Guidelines Section 15060 (c) (3). |

**ATTACHMENTS:**
1. Resolution – Amendment to Master Fee Schedule for Tobacco Retail License Fees
2. Proposed Master Fee Schedule for Police Department

*For more information contact: Erik Upson, Police Chief*
*Phone: 707.746.4265*
*E-mail: eupson@ci.benicia.ca.us*

**RESOLUTION NO. 20-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING THE MASTER FEE SCHEDULE TO ADD TOBACCO RETAIL LICENSE FEES**

**WHEREAS,** the City Council repealed and added Benicia Municipal Code Chapter 5.54 to Title 5 on December 3, 2019; and

**WHEREAS,** notice of the time and place of the meeting, including a general explanation of the matter to be considered, was published in the Benicia Herald, a newspaper of general circulation, on January 19, 2020 and January 24, 2020, in accordance with Government Code §6062a; and

**WHEREAS,** the amendment to the Benicia Municipal Code requires all tobacco retailers to acquire a Tobacco Retail License to sell tobacco products; and

**WHEREAS**, the adoption of new processing fees does not constitute a project as defined by §15378(b)(4) of the California Environmental Quality Act Guidelines.

**NOW, THEREFORE,** the City Council of the City of Benicia hereby resolves that the Police Department Master Fee Schedule will be amended to include the initial and renewal Tobacco Retail License fees as presented on February 4, 2020.

**BE IT FURTHER RESOLVED THAT** this resolution shall become effective March 5, 2020 to meet the required a 30-day waiting period.

*****

On motion of Council Member , seconded by Council Member , the above resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 4th day of February, 2020, by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 3/4/20 |
|---|---|---|
| | | |
| **SERVICES & CHARGES** | | |
| **Cassette Tapes, Audio & Video** | | |
| Per Tape/CD/DVD | | $ 35 |
| | | |
| **False Alarm Charge** | | |
| Registration Fee | [3] | $ 25 |
| First false alarm in calendar year | [3] | $ - |
| Second false alarm in calendar year | [3] | $ 100 |
| Third false alarm in calendar year | | $ 200 |
| Fourth and subsequent false alarm in calendar year | | $ 300 |
| Response to non-registered alarm | [15] | $ 100 |
| Late Fee for invoice over 30 days | [3] | 10% of invoice |
| | | |
| **Fingerprinting** | | |
| DOJ Live Scan | [2, 17] | $ 32 |
| FBI Live Scan | [2, 17] | $ 17 |
| Live Scan (Non- profit employees, school employees, volunteers, foster/adoptive parent applicants, POST Napa Police Academy students) | | $ 27 |
| Live Scan (All others) | | $ 69 |
| | | |
| **Parking Violation** | | |
| Benicia Municipal Code Violations | [4] | $ 51 |
| Disabled Parking Violation | [4] | $ 375 |
| | | |
| **Photographs** | | |
| Per Compact Disk (CD) | | $ 84 |
| | | |
| **Reports** | | |
| Traffic Collision Report | | |
| First Five Pages | | $ 16 |
| Each Additional Page | | $ 1 |
| Crime Reports | [14] | |
| First Fifty Pages | | $ 16 |
| Each Additional Page | [14] | $ 0 |

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 3/4/20 |
|---|---|---|
| Stolen Vehicle Reports | [14] | |
| First Two Pages | | $ 16 |
| Each Additional Page | [14] | $ 0 |
| | | |
| **Storage of Firearm(s)** | | |
| Administration Fee | | $ 208 |
| Daily Storage Fee after Owner Notification | [9] | n/a |
| | | |
| **Vehicle Tow Releases** | | |
| Involving an Arrest, 14601 VC or 12500 VC Violation | | $ 184 |
| All Other Towed Vehicles | | $ 184 |
| Traffic Collision or Victim of Crime | | $ 184 |
| | | |
| **Other Services & Charges** | | |
| ABC Letters (for-profit) | | $ 509 |
| ABC Letters (non-profit) | [18] | $ 5 |
| Local Records Check | | $ 69 |
| Repossessed Vehicle Release | | $ 35 |
| VIN Verification | [16] | $ 84 |
| | | |
| **LICENSES & PERMITS** | | |
| **Adult Business** | | |
| Initial Application Fee | | $ 715 |
| Annual regulatory license renewal fee | | $ 103 |
| | | |
| **Adult Business Non-Performer** | | |
| Initial Application Fee | | $ 257 |
| Annual license renewal | | $ 103 |
| | | |
| **Adult Performer** | | |
| Initial Application Fee | | $ 257 |
| Annual license renewal | | $ 103 |
| | | |
| **Bingo Permit** | | |
| (Per BMC 5.12.040) Not to Exceed | | $ 69 |
| Renewal Permit | | $ 35 |

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 3/4/20 |
|---|---|---|
| | | |
| **Bicycle License & Registration** | | |
| Initial License | | $ 35 |
| Renewal | | $ 35 |
| | | |
| **Cardroom Employees Permit** | [8] | |
| Initial Permit | | $ 257 |
| Renewal Permit | | $ 101 |
| Permit Transfer | | $ 35 |
| | | |
| **Concealed Weapons Permit** | [1] | |
| | | |
| **Fortune Telling Permit** | [8] | |
| Initial Permit | | $ 257 |
| Renewal Permit | | $ 101 |
| | | |
| **Massage Registration Certificate** | | |
| Registration Fee | New | $ 49 |
| | | |
| **Massage Owner/Operator Permit** | [8] | |
| Initial Permit | | $ 257 |
| Renewal Permit | | $ 103 |
| | | |
| **Massage Therapist Permit** | [8] | |
| Initial Permit | | $ 257 |
| Renewal Permit | | $ 103 |
| | | |
| **Mobile Food Vendor's Permit** | [8] | |
| Initial Permit | | $ 257 |
| Renewal Permit | | $ 101 |
| | | |
| **Solicitor Permit** | [8] | |
| Initial Permit | | $ 257 |
| Renewal Permit | | $ 102 |

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 3/4/20 |
|---|---|---|
| | | |
| **Taxi Permit** | [8] | |
| Initial Permit | | $ 257 |
| Renewal Permit | | $ 101 |
| | | |
| **Tobacco Retail License** | | |
| Initial Permit | | $ 500 |
| Renewal Permit | | $ 450 |
| | | |
| | | |
| **Equivalent Fees and Charges** | [5] | |
| Determined by Director | | Varies |
| | | |
| **Related Fee Reduction** | [5] | |
| Determined by Director | | Varies |
| | | |
| **ANIMAL CONTROL** | | |
| **Dog Licensing Fees** | [6,13] | |
| Dog License - Unaltered Dog | [12] | |
| 1 Year | | $ 60 |
| 2 Years | | $ 120 |
| 3 Years | | $ 180 |
| Dog License - Altered Dog | | |
| 1 Year | | $ 25 |
| 2 Years | | $ 40 |
| 3 Years | | $ 60 |
| Dog License - Unaltered Dog - Senior (65+) Rate | | |
| 1 Year | | $ 30 |
| 2 Years | | $ 60 |
| 3 Years | | $ 90 |
| Dog License - Altered Dog - Senior (65+) Rate | | |
| First Dog | | $ 0 |
| Additional Dogs - 1 Year | | $ 15 |
| Additional Dogs - 2 Years | | $ 20 |
| Additional Dogs - 3 Years | | $ 25 |
| Dog License - Late Fees | [4] | |
| After 30 days | | $ 16 |

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 3/4/20 |
|---|---|---|
| After 60 Days | | $ 27 |

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 3/4/20 |
|---|---|---|
| | | |
| **Mini Pig Licensing Fees** | | |
| Mini Pig License - Unaltered | [11] | |
| 1 Year | | $ 64 |
| 2 Years | | $ 122 |
| 3 Years | | $ 181 |
| Mini Pig License - Altered | [11] | |
| 1 Year | | $ 24 |
| 2 Years | | $ 43 |
| 3 Years | | $ 63 |
| | | |
| **Other Animal Control Fees** | | |
| Pick Up Trapped Animals (Domestic) | | $ 208 |
| Dog Redemption | [4] | |
| 1st Offense | | 43 |
| 2nd Offense | | 64 |
| 3rd Offense | | 80 |
| Future Offenses | [5] | $75 plus $15 Per Additional Violation |
| Animal Disposal | | $ 104 |
| Pick Up for Surrender | | $ 208 |
| Bee Keeping Permit | | $ 54 |
| | | |

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 3/4/20 |
|---|---|---|

**[Notes]**

[1] Handled by County Sheriff.
[2] Pass through fees.
[3] Punitive, set per City Ordinance.
[4] Punitive, set per City Municipal Code.
[5] The Police Chief shall determine an appropriate fee or fee reduction when conditions exist to warrant such an action.
[6] Results do not include County costs. City costs only.
[7] City no longer provides this service. Fee item should be deleted.
[8] DOJ and FBI fees apply separately. Analysis includes City costs and fees only.
[9] Charge for storage established per City policy, not evaluated by NBS as part of study.
[10] Fees from other City departments may apply. See Finance and Planning fee schedul
[11] Fee not analyzed by NBS, rates provided by Resolution No. 17-66, provided by the City of Benicia.
[12] City permit tracking system does not provide breakout of what type of license is issued, total of all licenses permitted included here.
[13] City is choosing a cost recovery of over 100%, for justification see City staff report dated June 20, 2017 and Resolution 17-133.
[14] Reports to victims are given at no charge.
[15] Fee not analyzed by NBS.
[16] Benicia residents receive one free VIN verification per year.
[17] Fee set by other agency.
[18] Fee justified in NBS 2017 study but inadvertently omitted.

**AGENDA ITEM**
**CITY COUNCIL MEETING DATE – FEBRUARY 4, 2020**
**BUSINESS ITEMS**

**TO** : City Manager

**FROM** : Assistant City Manager

**SUBJECT** : **SETTING USE PERMIT AND PUBLIC SAFETY LICENSE APPLICATION FEES FOR ALL CANNABIS OPERATIONS**

**EXECUTIVE SUMMARY:**
On January 21, 2020, the City Council approved reductions to the fees for cannabis Use Permit applications and Public Safety License applications. The new fees more closely reflect the anticipated staff and/or consultant time required to process these applications.

**RECOMMENDATION:**
Move to adopt the attached resolution (Attachment 1) approving the new cannabis Use Permit application fee and the Public Safety License application fee.

**BUDGET INFORMATION:**
As discussed in previous staff reports, new cannabis businesses will impact the City's budget in terms of increased costs that should be offset by established application and renewal fees.

**BACKGROUND:**
On June 5, 2018, the City Council approved Resolution 18-56 adopting fees and charges into the City's Master Fee Schedule related to cannabis Use Permit applications and cannabis Public Safety Licenses. The fee to process a Use Permit for the establishment of any cannabis operation was adopted as a fixed fee of $19,000 and the fee to process or renew a Public Safety License application was adopted as a fixed fee of $16,200.

On December 17, 2019 the City Council directed staff to return on January 21, 2020 with reconsideration of the adopted cannabis Use Permit application fee and the Public Safety License application. Council considered two options: (1) reduce the fixed fee amount, or (2) require the applications to be processed on an hourly rate basis. Under both options, any external service provider costs that are expended to process these applications, such as CEQA review, would also be charged to the applicant.

**ANALYSIS**:
The cannabis regulations adopted by the City Council on February 20, 2018 requires all commercial cannabis uses to obtain a Public Safety License (PSL) and a Use Permit. Additionally, the Use Permit must be reviewed by staff annually and the PSL must be renewed



*CITY MISSION*
*"SERVING AND ENHANCING OUR COMMUNITY WITH CARE, COMMITMENT AND PRIDE."*

annually. The PSL is administered by the Police Department and reviews the security plan for the business and requires background reporting of employees, owners and managers. The Use Permit is administered by the Community Development Department and required Planning Commission approval following a public hearing.

Based on the testimony and information received at the January 21st meeting, the City Council directed staff to reduce the fixed fee rate to process a Use Permit application for a cannabis operation to $5,361 and reduce the fixed fee rate to process a PSL application or an annual renewal of a PSL to $11,610. Additionally, the City will continue to pass-through to the applicant any third-party costs incurred from the use of external service providers if required to process the specific application. For example, if environmental studies, outside consultants, or other costs are incurred, the applicant would pay these costs with the standard 15% surcharge added to all outside consulting fees.

**NEXT STEPS:**
If the Council adopts the proposed fees this evening, the new fees will go into effect on February 5, 2020.

**ALTERNATIVE ACTIONS**:
Provide alternate direction.

| | |
|---|---|
| **General Plan** | Goal 2.5: Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life.<br>• Program 2.5.C: Evaluate future uses on a cost/revenue basis, taking into account economic diversity for the long term and environmental and community costs and benefits. |
| | Goal 2.6: Attract and retain a balance of different kinds of industrial uses to Benicia.<br>• Policy 2.6.1: Preserve industrial land for industrial purposes and certain compatible "service commercial" and ancillary on-site retail uses.<br>• Policy 2.6.2: Other land uses should not adversely affect existing industrial and commercial land uses. |
| | Goal 2.13: Support the economic viability of existing commercial centers.<br>• Policy 2.12.1: Direct new commercial ventures first, towards Downtown, and second, to other existing economic centers (instead of dispersing resources to new areas). |
| | Goal 4.4: Reduce the incidence of substance abuse and strive for a drug-free community. |
| | Goal 4.6: Prevent and reduce crime in the community. |
| **Strategic Plan** | Strategic Issue 1: Protecting Community Health and Safety |

| | |
|---|---|
| | • Strategy 5: Promote community and personal health |
| | Strategic Issue 3: Strengthening Economic and Fiscal Conditions |

| | |
|---|---|
| **CEQA Analysis** | The actions under consideration are not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15060, subd. (c)(2) because they will not result in a direct or reasonably foreseeable indirect physical change in the environment and pursuant to CEQA Guidelines section 15061, subd. (b)(3) because there is no possibility the activity in question may have a significant effect on the environment. Furthermore, Business and Professions Code Section 26055(h) exempts from Division 13 of the Public Resources Code, the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity whereby the discretionary review in any such law, ordinance, rule, or regulation includes any applicable environmental review pursuant to Division 13. |

**ATTACHMENTS:**

1. Resolution Approving Cannabis Fees
   A. Proposed Updated City of Benicia Fee Schedule, effective 2/5/20.

*For more information contact: Alan Shear, Assistant City Manager*
*Phone: 707.746.4300*
*E-mail: ashear@ci.benicia.ca.us*

**RESOLUTION NO. 20-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ADOPTING FEES AND CHARGES RELATED TO CANNABIS USE PERMITS AND CANNABIS PUBLIC SAFETY LICENSES**

**WHEREAS,** the City Council has adopted ordinances to allow cannabis businesses in Benicia subject to a Public Safety License and a Use Permit; and

**WHEREAS**, the ordinances require annual review of the Use Permit and annual approval of the Public Safety License; and

**WHEREAS**, on June 5, 2018, the City Council adopted fees to process Use Permit and Public Safety License applications; and

**WHEREAS**, on December 17, 2019, the City Council directed a reconsideration of the adopted cannabis Use Permit application fee and the Public Safety License application fee; and

**WHEREAS**, staff has estimated the actual costs of processing new Use Permit and Public Safety License applications; and

**WHEREAS**, the City Council has determined that the proposed fees are appropriate for the various types of applications; and

**WHEREAS**, the proposed fees do not exceed the estimated reasonable costs of providing the services in accordance with Government Code Secs. 66013 and 66014; and

**WHEREAS**, the adoption of new application processing fees does not constitute a project as defined by Sec. 15378 (b)(4) of the California Environmental Quality Act Guidelines.

**NOW, THEREFORE, BE IT RESOLVED THAT** the City Council of the City of Benicia hereby resolves as follows:

1. That with respect to the fees listed in red on Attachment A, except for the fees that are not being changed, that there is a reasonable relationship between the amount of the fee and the estimated reasonable cost of providing the type of service for which the fee is imposed; the allocation of the cost to each fee payor bears a fair and reasonable relationship to the fee payor's burdens on, and the benefits received from, the City; and the fees do not exceed the reasonable cost of providing the service for which the fee is charged; and hereby adopts and authorizes such fees as listed in red on Attachment A; and

2. Hereby incorporates the previously adopted fees, with the previously approved automatic escalator, in the Master Fee Schedule for ease of reference and without modifying or amending such fees or the underlying fee approvals in any manner.

**BE IT FURTHER RESOLVED THAT**, the City Council of the City of Benicia hereby resolves as follows:

1. That the fees for cannabis Use Permits and Public Safety Licenses and other various fees and charges be incorporated into the revised Master Fee Schedule approved for the processing of applications, as follows:

    a. Public Safety License application: $11,610;
    b. Cannabis Use Permit application: $5,361;

2. That the revised Master Fee Schedule will become effective on February 5, 2020;

*****

On motion of Council Member , seconded by Council Member , the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 4th day of February, 2020 by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

# City of Benicia
# Planning Fee Schedule

| Fee Description | Notes | Effective 9/1/19 | Effective 2/5/20 |
|---|---|---|---|
| | | | |
| **Planning Applications** | | | |
| General Plan Amendment | | $ 17,163 | |
| Zone Change (including map) | | $ 8,578 | |
| Annexation | | $ 8,578 | |
| Condominium Conversion | | $ 9,246 | |
| Development Agreement | [1] | $ 5,361 | |
| Ordinance Revision (text amendment) | | $ 5,897 | |
| Overlay District Plan | | $ 8,578 | |
| Planned Development | | $ 8,042 | |
| | | | |
| **Use Permit** | | | |
| Office Projects up to 7,500 sq. ft. | | $ 5,361 | |
| Residential Projects up to 6 units | | $ 5,361 | |
| Commercial/industrial up to 7,500 sq. ft. | | $ 5,361 | |
| Officer projects 2,501-7,500 sq. ft. | | $ 5,361 | |
| Residential Projects 7 or more units | | $ 14,515 | |
| Commercial/Industrial more than 7,501 sq. ft. | | $ 14,515 | |
| Cannabis Use Permit | [4] | ~~$ 19,000~~ | $ 5,361 |
| All other projects | | $ 5,361 | |
| Use Permit (staff level) | | $ 2,144 | |
| Use Permit (temporary) | | $ 536 | |
| | | | |
| **Variance** | | | |
| Variance (Staff-Single Family Residences) | | $ 2,144 | |
| Variance (Commission) | | $ 5,361 | |
| | | | |
| **Design Review** | | | |
| Residential Design Review - Commission Level- Outside H District; Single Family Exempt | | $ 2,681 | |
| Commercial Design Review - Staff Level | | $ 1,286 | |
| Residential Design Review-Commission level Minor (H District Only) | | $ 858 | |
| Commercial Design Review- Commission Level | | $ 2,681 | |
| Commercial Design Review (Commission or staff level, Minor) | | $ 1,286 | |
| Design Review Exemption or Exception to Criteria | [5] | $ 118 | |

# City of Benicia
# Planning Fee Schedule

| Fee Description | Notes | Effective 9/1/19 | Effective 2/5/20 |
|---|---|---|---|
| | | | |
| **Miscellaneous** | | | |
| Accessory Dwelling Unit (Ministerial) | [2,4] | $ 181 | |
| Appeal/Rehearing/Review | | $ 536 | |
| Extension of Approval (Staff) | | $ 214 | |
| Extension of Approval (Commission) | | $ 858 | |
| Home Occupation Permit | | $ 107 | |
| Building Permit Review (1 check/1 re-check) | | $ 107 | |
| Field Inspection (Associated with Building Permit) | [5] | $ 118 | |
| Mills Act Contract | | $ 1,608 | |
| Sign Permit (Per Site) | | $ 161 | |
| Sign Program (Multi-tenant Building) | | $ 3,217 | |
| New Sign under the existing sign program | | $ 54 | |
| | | | |
| **Zoning Compliance Letter** | | | |
| Standard Letter (Applicant provides template) | | $ 322.09 | |
| Detailed Letter | | $ 536.12 | |
| Each additional hour after the first 6 hours | | $ 107.02 | |
| Zoning Permit | | $ 107.02 | |
| Donation Bin Not-for Profit (Zoning Permit) | | $ 259.75 | |
| Donation Bin For Profit (Zoning Permit) | | $ 519.50 | |
| | | | |
| **Environmental Review** | | | |
| Exemption from CEQA (filed) | | $ 268 | |
| Initial Study/ND | | $ 5,361 | |
| Initial Study/Mitigated Negative Declaration | | $ 10,722 | |
| Mitigation Monitoring and Reporting Program | | $ 2,289 | |
| IS/EIR/EIS-Outsourced | [3,4] | 15% of total contract cost | |
| | | | |
| **Subdivision Applications** | | | |
| Parcel Map - 4 or fewer lots | [4] | $ 10,573 | |
| Tentative Map - 4 or fewer lots | | $ 13,960 | |
| Tentative Map - 5 or more lots | | $ 13,960 | |
| Each additional 5 lots | [6] | $ 2,288 | |
| Vesting Parcel Map - 4 or fewer lots | | $ 13,273 | |
| Vesting Tentative Map - 4 or fewer lots | | $ 16,249 | |

# City of Benicia
# Planning Fee Schedule

| Fee Description | Notes | Effective 9/1/19 | Effective 2/5/20 |
|---|---|---|---|
| Vesting Tentative Map - 5 or more lots | | $ 16,249 | |
| Each Additional 5 lots | | $ 2,289 | |
| Lot Line adjustment | | $ 2,144 | |
| Certificate of Compliance | | $ 1,374 | |
| Parcel Merger/Split | | $ 4,289 | |
| Waiver of Parcel Map | | $ 2,289 | |
| Reversion to Acreage | | $ 10,299 | |
| Mobile Home Park Conversion | | $ 10,722 | |
| Certificate of Correction- Minor Corrections approved by staff | | $ 2,289 | |
| Amendment to Approved Map or Agreement needing Council/Commission action | | $ 6,866 | |
| Extension of Approved Map | | $ 687 | |
| | | | |
| **Mobile Food Vendor's Permit** | | | |
| New | | $ 596 | |
| Renewal | | $ 107 | |
| | | | |
| **Water Efficient Landscape Ordinance (WELO) Plan Check Fees** | | | |
| WELO P.C. Single Family | | $ 804 | |
| WELO P.C. for multi-unit dwelling (4 or more units) | | $ 1,126 | |
| | | | |
| **Other Fees and Charges** | | | |
| Pre-Application Review (per meeting) | [1] | $ 1,140 | |
| In-Lieu Parking Fee | [4] | Varies | |
| Consultant Services | [3] | Cost of Service plus 15% of project cost for city administrative fees | |
| ALUC Review | | $ 536 | |
| Contract Management- Administrative Fee (per contract) | [4] | 15% of Consultant Cost | |
| Annual Permit | [4] | 15% of Consultant Cost | |

# City of Benicia
# Planning Fee Schedule

| Fee Description | Notes | Effective 9/1/19 | Effective 2/5/20 |
|---|---|---|---|
| For services requested of City staff which have no fee listed in this fee schedule, the City Manager or the City Manager's designee shall determine the appropriate fee based on the established hourly rates for this division. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers if required to process the specific application. | | | |

**[Notes]**

[1] Actual cost significantly higher than NBS Study
[2] CA State law changed; Ministerial permit
[3] Initial deposit will be 25% of contract value
[4] Maintain status quo fee amount
[5] Fee in previous schedule was inadvertently omitted
[6] Fee incresed by less than CPI of 3.9% because fee amount caps at full cost recovery

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 11/18/19 | Effective 2/5/20 |
|---|---|---|---|
| | | | |
| **SERVICES & CHARGES** | | | |
| **Cassette Tapes, Audio & Video** | | | |
| Per Tape/CD/DVD | | $ 35 | |
| | | | |
| **False Alarm Charge** | | | |
| Registration Fee | [3] | $ 25 | |
| First false alarm in calendar year | [3] | $ - | |
| Second false alarm in calendar year | [3] | $ 100 | |
| Third false alarm in calendar year | | $ 200 | |
| Fourth and subsequent false alarm in calendar year | | $ 300 | |
| Response to non-registered alarm | [15] | $ 100 | |
| Late Fee for invoice over 30 days | [3] | 10% of invoice | |
| | | | |
| **Fingerprinting** | | | |
| DOJ Live Scan | [2, 17] | $ 32 | |
| FBI Live Scan | [2, 17] | $ 17 | |
| Live Scan (Non- profit employees, school employees, volunteers, foster/adoptive parent applicants, POST Napa Police Academy students) | | $ 27 | |
| Live Scan (All others) | | $ 69 | |
| | | | |
| **Parking Violation** | | | |
| Benicia Municipal Code Violations | [4] | $ 51 | |
| Disabled Parking Violation | [4] | $ 375 | |
| | | | |
| **Photographs** | | | |
| Per Compact Disk (CD) | | $ 84 | |
| | | | |
| **Reports** | | | |
| Traffic Collision Report | | | |
| First Five Pages | | $ 16 | |
| Each Additional Page | | $ 1 | |
| Crime Reports | [14] | | |
| First Fifty Pages | | $ 16 | |
| Each Additional Page | [14] | $ 0 | |

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 11/18/19 | Effective 2/5/20 |
|---|---|---|---|
| Stolen Vehicle Reports | [14] | | |
| First Two Pages | | $ 16 | |
| Each Additional Page | [14] | $ 0 | |
| | | | |
| **Storage of Firearm(s)** | | | |
| Administration Fee | | $ 208 | |
| Daily Storage Fee after Owner Notification | [9] | n/a | |
| | | | |
| **Vehicle Tow Releases** | | | |
| Involving an Arrest, 14601 VC or 12500 VC Violation | | $ 184 | |
| All Other Towed Vehicles | | $ 184 | |
| Traffic Collision or Victim of Crime | | $ 184 | |
| | | | |
| **Other Services & Charges** | | | |
| ABC Letters (for-profit) | | $ 509 | |
| ABC Letters (non-profit) | [18] | $ 5 | |
| Local Records Check | | $ 69 | |
| Repossessed Vehicle Release | | $ 35 | |
| VIN Verification | [16] | $ 84 | |
| | | | |
| **LICENSES & PERMITS** | | | |
| **Adult Business** | | | |
| Initial Application Fee | | $ 715 | |
| Annual regulatory license renewal fee | | $ 103 | |
| | | | |
| **Adult Business Non-Performer** | | | |
| Initial Application Fee | | $ 257 | |
| Annual license renewal | | $ 103 | |
| | | | |
| **Adult Performer** | | | |
| Initial Application Fee | | $ 257 | |
| Annual license renewal | | $ 103 | |
| | | | |
| **Bingo Permit** | | | |
| (Per BMC 5.12.040) Not to Exceed | | $ 69 | |
| Renewal Permit | | $ 35 | |

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 11/18/19 | Effective 2/5/20 |
|---|---|---|---|
| | | | |
| **Bicycle License & Registration** | | | |
| Initial License | | $ 35 | |
| Renewal | | $ 35 | |
| | | | |
| **Cardroom Employees Permit** | [8] | | |
| Initial Permit | | $ 257 | |
| Renewal Permit | | $ 101 | |
| Permit Transfer | | $ 35 | |
| | | | |
| **Concealed Weapons Permit** | [1] | | |
| | | | |
| **Fortune Telling Permit** | [8] | | |
| Initial Permit | | $ 257 | |
| Renewal Permit | | $ 101 | |
| | | | |
| **Massage Registration Certificate** | [8] | | |
| Registration Certificate | | $ 49 | |
| | | | |
| **Mobile Food Vendor's Permit** | [8] | | |
| Initial Permit | | $ 257 | |
| Renewal Permit | | $ 101 | |
| | | | |
| **Public Safety License** | | | |
| Cannabis Public Safety License | | ~~$ 16,200~~ | $ 11,610 |
| | | | |
| **Solicitor Permit** | [8] | | |
| Initial Permit | | $ 257 | |
| Renewal Permit | | $ 102 | |
| | | | |
| **Taxi Permit** | [8] | | |
| Initial Permit | | $ 257 | |
| Renewal Permit | | $ 101 | |
| | | | |
| **Equivalent Fees and Charges** | [5] | | |
| Determined by Director | | Varies | |
| | | | |
| **Related Fee Reduction** | [5] | | |
| Determined by Director | | Varies | |

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 11/18/19 | Effective 2/5/20 |
|---|---|---|---|
| | | | |
| **ANIMAL CONTROL** | | | |
| **Dog Licensing Fees** | [6,13] | | |
| Dog License - Unaltered Dog | [12] | | |
| 1 Year | | $ 60 | |
| 2 Years | | $ 120 | |
| 3 Years | | $ 180 | |
| Dog License - Altered Dog | | | |
| 1 Year | | $ 25 | |
| 2 Years | | $ 40 | |
| 3 Years | | $ 60 | |
| Dog License - Unaltered Dog - Senior (65+) Rate | | | |
| 1 Year | | $ 30 | |
| 2 Years | | $ 60 | |
| 3 Years | | $ 90 | |
| Dog License - Altered Dog - Senior (65+) Rate | | | |
| First Dog | | $ 0 | |
| Additional Dogs - 1 Year | | $ 15 | |
| Additional Dogs - 2 Years | | $ 20 | |
| Additional Dogs - 3 Years | | $ 25 | |
| Dog License - Late Fees | [4] | | |
| After 30 days | | $ 16 | |
| After 60 Days | | $ 27 | |
| | | | |
| **Mini Pig Licensing Fees** | | | |
| Mini Pig License - Unaltered | [11] | | |
| 1 Year | | $ 64 | |
| 2 Years | | $ 122 | |
| 3 Years | | $ 181 | |
| Mini Pig License - Altered | [11] | | |
| 1 Year | | $ 24 | |
| 2 Years | | $ 43 | |
| 3 Years | | $ 63 | |

# City of Benicia
# Police Department Fee Schedule

| Fee Description | Notes | Effective 11/18/19 | Effective 2/5/20 |
|---|---|---|---|
| | | | |
| **Other Animal Control Fees** | | | |
| Pick Up Trapped Animals (Domestic) | | $ 208 | |
| Dog Redemption | [4] | | |
| 1st Offense | | 43 | |
| 2nd Offense | | 64 | |
| 3rd Offense | | 80 | |
| Future Offenses | [5] | $75 plus $15 Per Additional Violation | |
| Animal Disposal | | $ 104 | |
| Pick Up for Surrender | | $ 208 | |
| Bee Keeping Permit | | $ 54 | |

**[Notes]**

[1] Handled by County Sheriff.
[2] Pass through fees.
[3] Punitive, set per City Ordinance.
[4] Punitive, set per City Municipal Code.
[5] The Police Chief shall determine an appropriate fee or fee reduction when conditions exist to warrant such an action.
[6] Results do not include County costs. City costs only.
[7] City no longer provides this service. Fee item should be deleted.
[8] DOJ and FBI fees apply separately. Analysis includes City costs and fees only.
[9] Charge for storage established per City policy, not evaluated by NBS as part of study.
[10] Fees from other City departments may apply. See Finance and Planning fee schedules.
[11] Fee not analyzed by NBS, rates provided by Resolution No. 17-66, provided by the City of Benicia.
[12] City permit tracking system does not provide breakout of what type of license is issued, total of all licenses permitted included here.
[13] City is choosing a cost recovery of over 100%, for justification see City staff report dated June 20, 2017 and Resolution 17-133.
[14] Reports to victims are given at no charge.
[15] Fee not analyzed by NBS.
[16] Benicia residents receive one free VIN verification per year.
[17] Fee set by other agency.
[18] Fee justified in NBS 2017 study but inadvertently omitted.