



**BENICIA PLANNING COMMISSION
PLANNING COMMISSION AGENDA**

**Council Chamber, 250 East L. Street
July 12, 2018
7:00 PM**

1. OPENING OF MEETING

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL OF COMMISSIONERS

4. REFERENCE TO FUNDAMENTAL RIGHTS OF 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. ADOPTION OF AGENDA

6. OPPORTUNITIES FOR PUBLIC COMMENTS

This portion of the meeting is reserved for persons wishing to address the Commission on any matter not on the agenda that is within the subject jurisdiction of the Planning Commission. State law prohibits the Commission 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 applicable, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

7. PRESENTATIONS

7.A SENATE BILL 35 STREAMLINED MINISTERIAL PERMIT PROCESSES AND REQUIREMENTS UNDER SECTION 65913 OF THE CALIFORNIA GOVERNMENT CODE AND THE ADOPTED OBJECTIVE DESIGN STANDARDS AND USE MORATORIUM

Senate Bill 35 requires ministerial approval process for affordable housing within a defined timeframe. On March 20, 2018, the City Council adopted an interim urgency ordinance that places a moratorium on Work/Live Quarters and establishes objective planning standards for mixed-use and residential housing developments that are subject to streamlined ministerial review pursuant to Senate Bill 35. The Planning Division’s work program for FY 18-19 includes a text amendment to establish the design standards within the zoning regulations of Title 17 BMC.

RECOMMENDATION:

No action is requested of the Planning Commission at this time since the agenda item is a presentation.

[Urgency Ordinance Development Standards Staff Report](#)

[1. Interim Urgency Ord - CC Staff Report](#)

[2. Interim Urgency Ord. 18-11](#)

[3. Development Standards](#)

7.B UPDATE REGARDING ADOPTION OF CANNABIS ORDINANCES AND NEXT STEPS FOR IMPLEMENTATION

The City of Benicia has adopted ordinances to allow personal cannabis cultivation, medicinal and non-medical cannabis sales and microbusiness, as well as testing, and manufacturing, distribution, and delivery businesses. Implementation of the recently adopted ordinance is currently underway; this presentation provides an overview of recent actions and current efforts toward permitting for cannabis uses.

RECOMMENDATION:

No action is requested of the Planning Commission at this time since the agenda item is a presentation.

[Staff Report - Cannabis Update](#)

8. WRITTEN

9. PUBLIC COMMENTS

10. CONSENT CALENDAR - None

Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for discussion or explanation is received from the Planning Commission or a member of the public by submitting a speaker slip for that item.

Any Item identified as Public Hearing has been placed on the Consent Calendar because it as not generated any public interest or dissent. However, if any member of the public wishes to comment on a Public Hearing item, or would like the item placed on the regular agenda, please notify the Community Development Staff either prior to or at the Planning Commission meeting, prior to the reading of the Consent Calendar.

11. REGULAR AGENDA ITEMS - None

12. COMMUNICATION FROM STAFF

13. COMMUNICATION FROM COMMISSIONERS

14. ADJOURNMENT

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

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: 746-4212

Vice Mayor Young: 746-4213

Council Member Campbell: 746-4213

Council Member Hughes: 746-4213

Council Member Schwartzman: 746-4213



**AGENDA ITEM
PLANNING COMMISSION
JULY 12, 2018
PRESENTATIONS**

TO : Planning Commission

SUBJECT : **SENATE BILL 35 STREAMLINED MINISTERIAL PERMIT PROCESSES AND REQUIREMENTS UNDER SECTION 65913 OF THE CALIFORNIA GOVERNMENT CODE AND THE ADOPTED OBJECTIVE DESIGN STANDARDS AND USE MORATORIUM**

EXECUTIVE SUMMARY:

Senate Bill 35 requires ministerial approval process for affordable housing within a defined timeframe. On March 20, 2018, the City Council adopted an interim urgency ordinance that places a moratorium on Work/Live Quarters and establishes objective planning standards for mixed-use and residential housing developments that are subject to streamlined ministerial review pursuant to Senate Bill 35. The Planning Division's work program for FY 18-19 includes a text amendment to establish the design standards within the zoning regulations of Title 17 BMC.

RECOMMENDATION:

No action is requested of the Planning Commission at this time since the agenda item is a presentation.

BACKGROUND:

Senate Bill 35, which took effect on January 1, 2018, requires cities to approve qualifying multi-family housing projects that are consistent with objective planning and design review standards when the California Department of Housing and Community Development (HCD) determines that an agency has issued fewer building permits than its share of the Regional Housing Needs Allocation (RHNA). HCD's determination is based upon progress toward fulfillment of the jurisdiction's RHNA in each of the four income categories for that reporting period; very low, low, moderate, and above moderate. Benicia will be subject to compliance with SB35 due to the rate of housing production thus far in the Housing Element cycle, 2015-2023.

For cities such as Benicia, who have not met adequate housing production, SB35 requires a streamlined path subject only to ministerial approval for multi-family housing which historically may have been subject to public hearings and opportunity for community input. Projects proposed under SB35 would be subject to a pre-application meeting requirement as it would involve new construction. For a more detailed overview of SB35, please refer to attachment 1.

Objective Planning Standards

Ministerial permits are permits that must be approved if meeting a prescribed set of requirements and involve little or no judgment. Objective design standards are specific or quantifiable design requirements that remove subjective analysis which is often associated with design review. The interim design standards adopted by the City Council on March 20, 2018 (attachment #3) are objective standards that ensure a permit for qualified multi-family housing can be ministerially approved as required by SB35. The interim design standards are adapted, in part, based upon the form-based codes of the Downtown Mixed-Use Master Plan and draft Lower Arsenal Mixed-Use Specific Plan (not yet adopted). The standards apply to projects city-wide that are eligible for streamlining under Senate Bill 35 and are combined with the standards of the underlying zoning district. In the event of a conflict, the more restrictive standard will apply.

Staff fully anticipates that additional information from the community, interested stakeholders, and commissioners will result in refinements to the design standards. The finalized design standards will be brought to the Planning Commission for consideration and recommendation to the City Council as an amendment to the Zoning Ordinance.

Work/Live Quarters Urgency Ordinance

The Benicia Municipal Code identifies Work/Live Quarters as a residential use within Chapter 17.16 Use Classifications. The intent of Work/Live Quarters is to maintain the integrity of industrial areas and allow opportunities for conversion of existing industrial or commercial space for artist communities. These types of units are permitted in the Community Commercial, General Commercial and Waterfront Commercial Districts, as well as the Limited Industrial District. While Benicia is generally “built-out,” there remain some areas of the community with sizeable undeveloped tracts zoned for general commercial and limited industrial uses. There is a risk that application of this new State housing law in combination with the allowance for work-live units could result in a pattern of residential development that is contrary to the intent of the Zoning Ordinance and General Plan. The interim urgency ordinance establishes a temporary moratorium on Work/Live Quarters in order to allow the City to evaluate the potential use and revise the Zoning Ordinance as needed to ensure compatibility with the Code and General Plan.

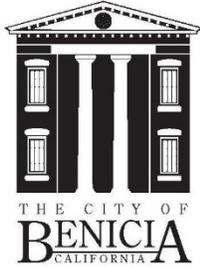
Staff anticipates that the evaluation of Work/Live Quarters will occur following adoption of the Design Standards in order to accommodate current workload capacity.

NEXT STEPS:

Staff is currently developing a web page and public information materials on the SB 35 process in Benicia. In July, staff will also assemble stakeholder information and initiate outreach to residents and professionals in the community to obtain feedback that will inform the development of objective standards within the Zoning Ordinance. Public outreach will be concurrent with a Historic Preservation Review Commission (HPRC) study session in August and subsequent HPRC consideration of the potential objective standards through the remainder of the summer and early fall. A draft amendment with HPRC approved objective design standards, will be presented to Planning Commission in Fall, 2018.

ATTACHMENT:

1. City Council Staff Report, April 17, 2018
2. Urgency Ordinance No.18-11
3. Interim Development Standards



**AGENDA ITEM
CITY COUNCIL MEETING DATE – APRIL 17, 2018
CONSENT CALENDAR**

TO : City Manager

FROM : Community Development Director

SUBJECT : **EXTENSION OF INTERIM URGENCY ORDINANCE NO. 18-7 PROHIBITING WORK/LIVE QUARTERS AND ADOPTING OBJECTIVE PLANNING STANDARDS FOR MIXED-USE AND RESIDENTIAL DEVELOPMENTS THAT ARE SUBJECT TO A STREAMLINED MINISTERIAL PROCESS UNDER CALIFORNIA GOVERNMENT CODE SECTION 65913**

EXECUTIVE SUMMARY:

At the March 20, 2018 City Council meeting, the Council adopted Interim Urgency Ordinance 18-7, creating a temporary moratorium prohibiting Work/Live Quarters and establishing standards for mixed-use and residential housing developments that are subject to streamlined ministerial review pursuant to Senate Bill 35, which amended Section 65913 of the California Government Code. The proposed ordinance extending the moratorium and development standards maintains the status quo to allow more time for the City to consider and analyze the issue and draft appropriate regulations to protect community health, safety and general welfare in keeping with State and Federal law.

RECOMMENDATION:

Adopt the extended interim urgency ordinance to allow time for the City to consider appropriate zoning regulations. A four/fifths vote is required to adopt the ordinance.

BUDGET INFORMATION:

Community Development Department staff time was used to create the interim development standards. A new ordinance may require additional funding for studies.

BACKGROUND:

State housing element law (Government Code § 65580 et. seq.) requires regional Councils of Government (COGs) to identify for each city and county its “fair share” of the Regional Housing Needs Allocation (RHNA) provided by the California Department of Housing and Community Development (HCD). The Association of Bay Area Governments (ABAG) is the COG for the nine-county Bay Area, which includes Solano County. In July 2013, ABAG adopted the RHNA for the period January 1, 2014 to October 31, 2022 accounting for factors such as projected households, job growth, regional income distribution, and location of public transit.

In accordance with state law, Benicia must have the appropriate zoning in place to allow 327 new units to be built through the year 2022. The adopted Housing Element (2015-2023) includes housing programs that meet local housing goals and fulfill State requirements. To date, Benicia has achieved the following progress toward fulfilling its portion of the RHNA:

	Very-Low Income	Low-Income	Moderate-Income	Above Moderate-Income	Total
RHNA (Housing Element)	94	54	56	123	327
Progress (2014-2017)	2	3	0	10	15

While the City has not made significant progress towards constructing units, State law specifically requires local agencies to accommodate, not actually build, units. Therefore, Benicia complies with State law requirements at this time.

Streamlining

Senate Bill 35, which took effect on January 1, 2018, requires cities to approve qualifying multi-family housing projects that are consistent with objective planning and design review standards when HCD determines that an agency has issued fewer building permits than its share of the RHNA in each of the four income categories for that reporting period.

Under the streamlining provisions of SB35 (Government Code 65913.4), an application for a housing development that contains two or more residential units must be streamlined if the development provides at least 10 percent of units affordable to households earning less than 80 percent of the area median income and pays prevailing wages using a “skilled and trained workforce”. The eligible project must be in an urbanized location, which means that at least 75 percent of the perimeter adjoining parcels are developed with urban uses and are zoned to allow residential uses, including mixed-use development. The following areas are excluded from streamlining:

- Coastal zone;
- Prime farmland or farmland of statewide importance;
- Wetlands;
- Very high or high fire hazard severity zone;
- Delineated earthquake fault zone, unless the development complies with applicable seismic protection building code standards;
- Hazardous waste sites, unless the state Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses;
- Floodplain or floodway, unless the development has been issued a floodplain development permit or received a no-rise certification; and
- Lands under conservation easement.

In addition, development sites are excluded if they would demolish:

- A historic structure;
- Any housing occupied by tenants in the past 10 years; or
- Housing that is subject to rent or price control.

Agencies must issue ministerial (non-discretionary) approval of projects that are eligible for streamlining. This means a local agency cannot subject the project to discretionary design review processes, use permits, or CEQA evaluation. In addition, agencies must comply with the following:

- Approve projects with 150 or fewer housing units within 90 days;
- Approve projects with more than 150 housing units within 180 days;
- Impose a maximum parking standard of one space per dwelling unit.

Parking shall not be required if the development is within one-half mile of public transit, is located within an architecturally and historically significant historic district, when on-street parking permits are required but not offered to occupants of the development or when there is a car share vehicle located within one block of the development.

Work/Live Quarters

The Benicia Municipal Code identifies Work/Live Quarters as a residential use within Chapter 17.16 Use Classifications. The intent of Work/Live Quarters is to maintain the integrity of industrial areas and allow opportunities for conversion of existing industrial or commercial space for artist communities. These types of units are permitted in the Community Commercial, General Commercial and Waterfront Commercial Districts, as well as the Limited Industrial District. While Benicia is generally “built-out”, there remain some areas of the community with sizeable undeveloped tracts zoned for general commercial and limited industrial uses. There is a risk that application of new State housing law in combination with the allowance for work-live units could result in a pattern of residential development that is contrary to the intent of the Zoning Ordinance and General Plan. The interim urgency ordinance would establish a temporary moratorium on Work/Live Quarters in order to allow the City to evaluate the potential use and revise the Zoning Ordinance.

Objective Planning Standards

The proposed objective standards are adapted from the form-based codes of the Downtown Mixed-Use Master Plan and draft Lower Arsenal Mixed-Use Specific Plan (not adopted). The standards would apply to projects city-wide that are eligible for streamlining under Senate Bill 35 and would be combined with the standards of the underlying zoning district. In the event of a conflict, the more restrictive standard shall apply.

Following adoption of the interim urgency ordinance, the standards will be further evaluated and revised as necessary. The eventual adoption of the design standards will be through an amendment to the Zoning Regulations (Title 17) of the Benicia Municipal Code.

Need for Interim Ordinance

The interim ordinance is needed to ensure that any future Work/Live Quarters do not pose a hazard to the public health, safety and general welfare and to provide that residential or mixed-use proposal eligible for streamlining, will be appropriately regulated with regard to size, scale, massing, architectural appearance in a manner, which is consistent with the City of Benicia Municipal Code and general plan.

Absent adoption of the interim urgency ordinance and a subsequent amendment to the Zoning Ordinance, there is the potential that the City of Benicia is obligated to approve development that is inconsistent with the scale and quality of the community.

Staff recommends the Council adopt, by a 4/5 vote, the interim ordinance to enact a moratorium on Work/Live Quarters and establish standards for mixed-use and housing developments that are subject to streamlined, ministerial review pursuant to Senate Bill 35, which amended Section 65913 of the California Government Code, after determining it is exempt from CEQA. A 4/5 vote is required to adopt the ordinance. The interim urgency ordinance will allow the City time to prepare an amendment to the Zoning Ordinance addressing Work/Live Quarters and objective planning standards as an amendment to the Benicia Municipal Code in order to protect the public health, safety and general welfare.

NEXT STEPS:

If there are no changes by the City Council, this Ordinance will go into effect immediately and be in effect for 45 days, but can be extended for an additional 10 months and 15 days. Staff will continue to research the issue and determine what studies are needed to develop appropriate regulations for work/live and development standards to bring back to the City Council for adoption.

ALTERNATIVE ACTIONS:

1. Decline to extend the Interim Urgency Ordinance.

General Plan	<p>Goal 2.1 Preserve Benicia as a small-sized city.</p> <ul style="list-style-type: none"> ➤ 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.
	<p>Goal 2.11: Encourage the retention and continued evolution of the lower Arsenal into a historic/cultural/commercial/industrial center of mutually compatible uses.;</p> <ul style="list-style-type: none"> ➤ Policy 2.11.2: Continue to allow live/work uses in the lower Arsenal where it can be demonstrated that adequate buffers exist, including noise buffers, and that the presence of residents would not significantly constrain industrial operations, including the flow of goods and materials.
	<p>Goal 3.7: Maintain and reinforce Benicia’s small-town visual characteristics.</p> <ul style="list-style-type: none"> ➤ Policy 3.7.1: Ensure that new development is compatible with the surrounding architectural and neighborhood character.
	<p>Goal 4.1: Make community health and safety a high priority for Benicia.</p> <ul style="list-style-type: none"> ➤ Policy 4.1.1: Strive to protect and enhance the safety and health of Benicians when making planning and policy decisions.
	<p>Goal 3.6: Support promote the arts as a major element in Benicia’s community identity.</p> <ul style="list-style-type: none"> ➤ Policy 3.6.2: Continue to allow live/work spaces for artists.

Housing Element	<p>Goal 1: Benicia shall be an active leader in attaining the goals of the City's Housing Element</p> <ul style="list-style-type: none"> ➤ Policy 1.01: To the extent possible and within the City's control, the City shall facilitate the production of housing that is affordable to people with a wide range of incomes. ➤ Policy 1.02: The City will expedite the review of residential development proposals that include affordable housing units. <ul style="list-style-type: none"> ○ Program 1.07: Provide pre-application technical assistance to affordable housing providers to determine project feasibility and address zoning compliance issues in the most cost-effective and expeditious manner possible. ➤ Policy 1.04: The City will review and revise regulatory standards necessary to comply with State housing law.
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Strategic Plan	<p>Strategic Issue 1: Protecting Community Health and Safety</p> <ul style="list-style-type: none"> ➤ Strategy 4: Promote community preservation and prevent nuisances through increased code enforcement, environmental strategies and community education.
	<p>Strategic Issue 5: Maintain and Enhance a High Quality of Life</p> <ul style="list-style-type: none"> ➤ Strategy 5: Provide support to disadvantaged segments of the community.

CEQA Analysis	<p>This interim ordinance is exempt from California Environmental Quality Act (Public Resources Code Section 21000 <i>et seq.</i>; "CEQA") because it will preserve the status quo while the City develops a permanent ordinance. Therefore, it can be seen with certainty that there is no possibility that the interim ordinance may have a significant effect on the environment. (CEQA Guidelines, Section 15061(b)(3).)</p>
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ATTACHMENTS:

1. Interim Urgency Ordinance
2. Development Standards

*For more information contact: Shawna Brekke-Read, Community Development Director
Phone: 707.746.4277
E-mail: sread@ci.benicia.ca.us*

CITY OF BENICIA

ORDINANCE NO. 18- 11

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA PURSUANT TO GOVERNMENT CODE SECTION 65858, EXTENDING INTERIM URGENCY ORDINANCE NO. 18-7 ADOPTING OBJECTIVE PLANNING STANDARDS FOR MIXED-USE AND RESIDENTIAL DEVELOPMENTS THAT ARE SUBJECT TO A STREAMLINED MINISTERIAL PROCESS UNDER SECTION 65913 OF THE CALIFORNIA GOVERNMENT CODE AND PROHIBITING THE FOLLOWING LAND USE WITHIN THE CITY OF BENICIA: WORK/LIVE QUARTERS PENDING ADOPTION OF APPROPRIATE REGULATIONS TO PROTECT COMMUNITY HEALTH, SAFETY AND GENERAL WELFARE

WHEREAS, the State of California recently enacted new laws for affordable housing that mandate approval processes, timelines, and review requirements, which will apply to the City of Benicia for achievement of the “fair share” of the Regional Housing Needs Allocation (RHNA) provided by the California Department of Housing and Community Development (HCD); and

WHEREAS, on March 20, 2018, the City Council adopted Interim Urgency Ordinance No. 18-7 adopting objective planning standards for mixed-use and residential developments and prohibiting certain land uses within the City; and

WHEREAS, California Government Code section 65858 authorizes cities by a four-fifths vote to extend an adopted interim ordinance to prohibit uses in conflict with proposals under consideration by the City.

The City Council of the City of Benicia does ordain as follows:

Section 1. Purpose and Findings. This Ordinance is declared to be an interim urgency Ordinance as defined under California Government Code section 65858. This Ordinance is deemed necessary for the following reasons:

- A. Pursuant to Article XI, section 7 of the California Constitution, the City of Benicia (“City”) may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.
- B. Pursuant to Government Code section 65858, to protect the public safety, health, and welfare, the City may, as an urgency measure, adopt an interim ordinance prohibiting land uses that may be in conflict with contemplated land use regulations that the City is studying, considering, or intends to study within a reasonable time.
- C. Adoption of the interim urgency ordinance will allow the city to re-evaluate the conditions and locations where Work/Live Quarters are permitted and prepare an ordinance establishing objective planning standards for development that is subject to streamlining under California Government Code Section 65913.
- D. Without adoption of the urgency ordinance, there is a current and immediate threat to the public health, safety, and welfare from development that is not subject to

discretionary review for potential impacts, including visual effects and impacts on light, air and open space.

1. There is a risk that Work/Live Quarters, developed without regard to the context of surrounding commercial or industrial uses, or without proper review for environmental impacts, may result in a detrimental impact to the public health, safety and general welfare.
2. There is a risk that poorly designed development will be inconsistent with the City's General Plan and Zoning regulations, which protect the unique aesthetics and characteristics of Benicia and ensure the health and safety of all residents.

E. It is the intent of this interim ordinance to enact a moratorium on Work/Live Quarters and establish temporary objective design standards for residential and mixed-use developments that are subject to streamlining under Government Code Section 65913 in order to allow sufficient time to develop an amendment to the Benicia Municipal Code that would adopt such standards consistent with the General Plan and State law, and to protect the community health, safety and general welfare.

Section 2. Definitions.

For purposes of this interim ordinance, the definitions established in Title 17 Zoning of the Benicia Municipal Code shall apply.

Section 3. Interim Prohibition of Work/Live Quarters.

From and after the date of this ordinance, no work/live quarters shall be established or constructed within the City of Benicia. No use or other permit, variance, building permit, business license, encroachment permit, or any other entitlement or license or approval shall be granted for work/live quarters either on public or private land within the City.

Section 4. Urgent Need and Effective Period.

This interim ordinance is urgently needed for the immediate preservation of the public health, safety, and general welfare. It shall take effect immediately upon adoption and shall be of no further force and effect 10 months and 15 days following the date of its adoption, unless extended in accordance with the provisions set forth in California Government Code section 65858.

Section 5. Authority.

California Government Code section 65858 provides that an urgency measure in the form of an interim zoning ordinance may be adopted by a four-fifths vote of the city council, which shall be initially effective for only 45 days following its date of adoption, but can be extended for an additional 10 months and 15 days following the date of its adoption. The extended interim ordinance may be extended for an additional period of time in compliance with Government Code section 65858.

Section 6. Penalties.

The definitions and penalties for land use violations that are prescribed in Chapter 17.128 of the Benicia Municipal Code shall apply to violations of the provisions of this interim ordinance.

Section 7. Severability.

If any provision of this interim ordinance or the application of it to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision or application, and to this end the provisions of the interim ordinance are declared to be severable.

Section 8. Exemption from the California Environmental Quality Act

This interim ordinance is exempt from California Environmental Quality Act (Public Resources Code §21000 *et seq.*; "CEQA") because it will preserve the status quo while the City develops a permanent ordinance. Therefore, it can be seen with certainty that there is no possibility that the interim ordinance may have a significant effect on the environment. (CEQA Guidelines, § 15061(b)(3).)

* * * * *

On motion of Council Member **Campbell**, seconded by Council Member **Schwartzman**, he foregoing urgency ordinance was passed and adopted at a regular meeting of the City Council on the 17th day of April, 2018, by the following vote:

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

Noes: Vice Mayor Young

Absent: None


Elizabeth Patterson, Mayor

Attest:


Lisa Wolfe, City Clerk

4-23-18
Date

Planning and Design Standards for Streamlined Housing Development

The form-based objective planning and design standards apply to mixed-use and residential development projects that will be subject to streamlined review procedures specified in Senate Bill 35 (Government Code Section 65400 and 65913.4).

The Design Standards supplement the requirements of the Benicia Municipal Code and, where in conflict, the more restrictive standard shall control. The standards are organized into three primary sections:

1. Definitions.
2. Building Form and Site Standards. These standards allocate plan zones and their corresponding land uses, buildable areas, required frontage conditions and allowed building types.
3. Architectural Standards. These standards designate allowable building types and provide regulations for design of massing, composition, exterior elements, building grounds, materials and colors.

DEFINITIONS

Building Type means the physical form of the building prescribed herein, primarily focused on the relation of the building to the front property line.

Floor Area Ratio means the gross floor area of a building or buildings on a lot divided by the lot area or site area.

Half story means a story that contains a maximum of 50% of the total floor area of the story directly underneath.

Lot Coverage means the percentage of a site covered by roofs, soffits, or overhangs extending more than two and one-half feet from a wall and by decks more than 30 inches in height.

Primary frontage refers to that façade of a building which adjoins the front setback or build-to-line.

Site Landscaping means the percentage of a site covered by live plant material and specifically excluding hardscape features (e.g., pavers, concrete, etc).

Zoning standard refers to the established standards of the Benicia Municipal Code (BMC) and/or adopted Downtown Mixed Use Master Plan Form-Based Code, including standards specific to the underlying district in which the property is located.

BUILDING FORM AND SITE STANDARDS**1. Building Placement**

- | | |
|--|---|
| A. Front Build-to-Line / Setback | <p>1. <i>Mixed Use Districts:</i> See Zoning standard.</p> <p>2. <i>All Other Districts:</i> See Zoning standard. A building shall not be set back more than five (5) feet from the minimum front yard line (e.g., if the required front yard is 20', then the building shall be located within 20' to 25' of the front property line).</p> |
| B. Side Yard | <p>1. <i>Residential and Mixed Use Districts:</i> See Zoning Standard</p> <p>2. <i>All Other Districts:</i> Minimum 10'; structures shall not intercept a 45-degree daylight plane inclined inward from a height of 12 feet above existing grade at the property line (see BMC 17.28.030(E)).</p> |
| C. Corner Side Yard | <p>1. <i>Residential and Mixed Use Districts:</i> See Zoning Standard</p> <p>2. <i>All Other Districts:</i> Minimum 10'; Maximum 15'</p> |
| D. Rear Yard | <p>1. <i>Residential and Mixed Use Districts:</i> See Zoning Standard</p> <p>2. <i>All Other Districts:</i> Minimum 15'</p> |
| E. Portion of Front BTL or Front Yard to be defined by a building: | <p>1. <i>Mixed Use District:</i> see Zoning Standard</p> <p>2. <i>All Other Districts:</i> 80%</p> |
| F. Portion of Corner Side Yard to be defined by a building: | <p>1. <i>Mixed Use District:</i> see Zoning Standard</p> <p>2. <i>All Other Districts:</i> 60%</p> |

2. Building Height

- | | |
|--------------------------------|--|
| A. Building Max. | 2.5 stories and 35' |
| B. Max. to Eave/Top of Parapet | 30' |
| C. First Floor Plate Height | 12' min. |
| D. Upper Floor(s) plate height | 9' min. |
| E. Porch | 1 story max.; height of porch shall not exceed first floor plate height. |

3. Site Development

- | | |
|------------------------|--|
| A. Density | Residential housing development shall be provided at the density identified within the adopted Housing Element. |
| B. Lot Coverage | <ol style="list-style-type: none"> 1. <i>Residential and Mixed Use Districts</i>: See Zoning Standard 2. <i>All Other Districts</i>: 50% maximum |
| C. Floor Area Ratio | <ol style="list-style-type: none"> 1. <i>Residential and Mixed Use Districts</i>: See Zoning Standard 2. <i>All Other Districts</i>: 2.0 maximum |
| D. Site Landscaping | <ol style="list-style-type: none"> 1. <i>Residential and Mixed Use Districts</i>: See Zoning Standard 2. <i>All Other Districts</i>: 30% minimum |
| E. Outdoor Living Area | <ol style="list-style-type: none"> 1. Each dwelling unit shall be provided a dedicated outdoor living area equivalent to eighty (80) square feet per unit; individual dedicated outdoor living area shall have minimum dimensions of eight (8) foot depth by ten (10) foot width. 2. Outdoor living area may include balconies, patios, courtyards and similar types of outdoor space. |
| F. Grading | <ol style="list-style-type: none"> 1. Site development shall not substantially alter the topography of the site. Substantial alteration is defined as the amount of excavation or fill that would meet any of the following criteria: <ol style="list-style-type: none"> a. Excavate to a depth of more than two feet at any given point; b. Cut a slope greater than four feet in height and steeper than one horizontal to one vertical; c. Fill more than two feet in depth on a slope flatter than five horizontal to one vertical d. Exceeds 200 cubic yards of either excavation or fill. 2. Top of Cut Slope. The top of cut slopes shall not be made nearer to a property line than one-fifth of the height of cut with a minimum of two feet and a maximum of ten feet. 3. Toe of Fill Slope. The toe of the fill slope shall not be made nearer the property line than one-half the height of the slope with a minimum of two feet and maximum of twenty feet. 4. Site grading and clearing is not permitted on slopes of thirty percent (30%) or more. |

G. Fences and Walls

1. Fences shall not exceed six (6) feet in height along any side or rear property line; nor shall they exceed three (3) feet in height within 15 feet of the front property line.
2. Approved fence materials are solid wood and masonry; vinyl and chain link fence materials are disallowed.
3. Retaining walls shall not exceed four (4) feet in height as measured from the lowest point of grade on either side of the wall. Retaining walls that are installed in a terrace fashion shall be separated horizontally by a distance of 4 feet; ground surface between retaining walls shall be landscaped with live plant material.
4. All retaining walls shall be located at least 6 feet from the exterior building wall to allow for adequate landscaping and/or a walkway areas.
5. Retaining walls shall be constructed of masonry material such as concrete or paver block.

H. Refuse Storage and Mechanical Screening

1. Refuse and service areas shall be located to the rear or side of the property and shall not abut an adjacent single family residential property line.
2. Refuse containers shall be located in a building or screened by a solid masonry enclosure.
3. Mechanical equipment, including vents and stacks shall be fully screened by an architectural feature, such as a parapet wall, in addition to the requirements of BMC 17.70.210.
4. Ground-mounted air conditioning condensers shall not be placed along the front or corner side façade and shall be located at least ten (10) feet from an adjoining single-family property line.
5. Backflow prevention devices shall not be placed in front of the building but may be located in a side location of the front yard. This equipment shall be screened by a combination of fencing and perennial landscaping.
6. No mechanical equipment shall be permitted in the front or corner side yard.

- I. Mail
 - 1. Group or cluster mailboxes may be located within a required front or corner side yard.
 - 2. Such mailboxes shall be screened on three sides by a wall or trellis feature, and shall be situated in a landscape bed with at least two (2) feet of planting area on all sides of the mailbox. Approved plant materials include annual and perennial flowers, low growing ground-cover, and shrubs not exceeding three (3) feet in height at time of maturity.
- J. Utilities
 - 1. Utilities shall be placed underground as provided in BMC 17.70.230
 - 2. Utility meters shall not be placed on a front or corner side façade.

4. Building Form

- A. Courtyard
 - 1. A courtyard is required on the primary frontage in the Arsenal Historic District.
 - a. Minimum Width: 55'
 - b. Minimum Depth: 50'
 - 2. Courtyard must be defined by a building on three sides with windows and entrance doorways facing the courtyard.
- B. Roof
 - 1. *Mixed Use Districts:* Refer to Zoning Standards
 - 2. *All Other Districts:*
 - a. Roofs shall have a minimum 2:12 pitch.
 - b. Mansard and gambrel roof forms are not allowed.
 - c. Faux variations of hip roofs are permitted where necessary to accommodate concealment of rooftop mechanical units in a roof well or similar recessed area.
 - d. Eaves shall have a minimum overhang depth of twenty-four (24) inches.
- C. Balconies
 - 1. *Mixed Use Districts:* Refer to Zoning Standards
 - 2. *All Other Districts:*
 - a. 8' min. clear depth
 - b. 10' min. clear width
- D. Decks
 - 1. Decks and wooden platforms are not permitted on the front façade.
 - 2. Two-story and rooftop decks are not permitted.
- E. Building Type
 - Mixed-Use Districts:* Refer to Zoning Standards

5. Parking

- A. Residential 1 space/unit unless exempt by Government Code 65913.4

- B. Non-Residential 1. *Mixed Use Districts:* Refer to Zoning Standards
 2. *All Other Districts:* See BMC Chapter 17.74

- C. Parking Lot Access 1. On a corner lot, the main parking lot and loading access shall be from a secondary roadway.
 2. Except in the Town Core District, the main parking lot access shall be provided from a public street when the property adjoins single-family residential homes along an alley.
 3. Parking lots shall provide adequate space for vehicle turnaround and shall not require backing across a street property line.

- D. Covered Parking Covered parking or garages that are attached to the structure shall be recessed a minimum of three (3) feet from the wall plane.

- E. Illumination 1. Lights shall use cut-off shields and be downward directed. Sag, convex and drop lenses are prohibited.
 2. Wall-mounted lights shall be provided for security purposes. Lights shall be directed down and shielded to avoid glare impacts.

- F. Loading One dedicated off-street loading berth shall be provided for a building with more than four (4) units; loading shall not be permitted to occupy any portion of the front yard or required parking spaces, or to block the public street for the purposes of occupant move-in or move-out.

- G. Landscaping 1. *Mixed Use Districts:* Refer to Zoning Standards
 2. *All Other Districts:* In addition to the requirements of BMC 17.70.190, parking lots shall be screened on all sides by a minimum 3'6" evergreen hedge, wall or similar feature in order to avoid headlight impacts to adjoining properties.

ARCHITECTURAL STANDARDS**1. Façade Composition & Elements**

- | | |
|---|---|
| A. Base, Middle, Cap | <p>1. The building shall have a base, middle, and cap; these elements shall be distinguished as prescribed herein:</p> <ul style="list-style-type: none"> a. Base: Use stone, concrete masonry materials along the base of the building to “ground” the structure. b. Middle: This element establishes the vertical proportion and will be constructed of the primary building material. c. Cap: This is the roof or parapet of the building. Cornice or fascia trim shall be incorporated along the roofline. |
| B. Entrances | <p>1. Building entrances must be provided on the primary frontage. A pedestrian walkway, minimum five (5) foot width, shall provide a connection between the public street and building entrance.</p> <p>2. Low-voltage, shielded pedestrian walkway lights shall be provided from the sidewalk to the front entrance(s).</p> |
| C. Alignment of Features | Windows, cornices, copings and moldings shall be aligned horizontally on the building front. |
| D. Wall Modulation | A minimum three (3) foot offset is required for any wall plane that exceeds thirty (30) feet in length. |
| E. Façade Transparency
(i.e., clear glass windows and doors) | <p>1. Retail/Commercial portion of mixed use: Minimum 50% transparent</p> <p>2. Residential: Minimum 35% transparent</p> |
| F. Bay Windows and Projections | Bay windows and similar window projections may be one or two stories in height and shall be limited to the side and rear facades. |

2. Building Materials and Colors

- | | |
|----------------------|--|
| A. Primary materials | <p>1. Permitted materials include: horizontal siding (wood or fiber cement i.e., “Hardi board”), smooth concrete, brick, stucco.</p> <p>2. Brick shall be set in mortar. Formliner or painted concrete applications that simulate the appearance of brick are disallowed.</p> <p>3. Synthetic stucco (EIFS or DryVit) is not allowed. Tilt up concrete panels are not permitted in a Mixed Use District.</p> |
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- B. Secondary and accent materials
1. Permitted materials include all primary exterior wall materials in addition to wood, smooth or split face concrete block, and stone.
 2. Faux stone (e.g., “permastone” or painted concrete applications that simulate the appearance of stone), heavy timbers, rough hewn wood beams, stucco textured foam, vinyl or vinyl clad materials and aluminum siding are disallowed.
- C. Roofing
1. Architectural composition shingles, clay tile, or slate are permitted.
 2. Non-reflective standing seam metal roofs in shades of brown, black or grey are allowed only in the Arsenal Historic District.
 3. Clay tile roofs are not permitted in the Downtown Historic District.
- D. Gutters and downspouts
- Permitted materials include galvanized steel or painted aluminum. Plastic and PVC materials are disallowed.
- E. Windows and Doors
1. Windows and doors shall framed in wood, simulated wood (i.e., composite or fiber cement) or non-reflective metal with a factory-applied finish.
 2. Windows shall be vertically composed with a height to width ratio of 8:5 or 2:1.
 3. Windows and doors may be constructed of wood, composite, vinyl or metal. Material selection and style shall be consistent on all sides of the building.
 4. Where pane divisions are provided on a window, they shall be true or simulated divided lites (muntins applied to both the interior and exterior of the glass). Snap in grilles or grilles between glass panes are not permitted.
 5. Front doors shall provide minimum 3’ panels and/or window openings. Flush door styles are not permitted for front entrances.
- F. Railings
- Railings shall be constructed of wood, wrought iron, non-reflective metal or fiber cement/composite material.
- G. Colors
1. Primary colors shall be earth tone shades of off-white, cream, beige, brown and grey.
 2. Not more than four colors shall be applied to the building façade: 1 primary color and 2-3 trim or accent colors.

3. Signage

A. Monument or Freestanding Signs

1. *Mixed Use District:* Not permitted

2. *All other Districts:* One monument or freestanding sign shall be permitted with a maximum height dimension of four (4) feet and maximum sign area of 20 square feet, unless otherwise restricted by the Sign Ordinance (BMC Title 18).

The monument or freestanding sign shall be constructed of wood or stucco on a masonry base. Internally illuminated vinyl signs are not permitted. The sign face shall be black, cream, beige or similar earth tone color.

B. Wall Signs

1. Wall signs are permitted for buildings with a mixed-use commercial component. Sign area shall conform to the requirements of the Sign Ordinance (BMC Title 18) but shall not exceed 45 square feet on any frontage.

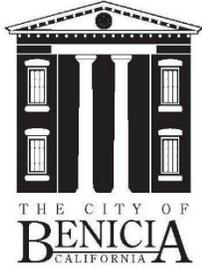
2. Box and cabinet signs are disallowed. No form of internally illuminated vinyl signage is allowed.

3. Sign lettering and logos shall be individual channel or pin-mounted characters.

C. Other Signs

1. *Mixed Use District:* The objective standards of the Downtown Historic Conservation Plan are adopted by reference and shall be applied to any commercial signage proposed on a mixed-use building.

2. *All Other Districts:* Not permitted.



**AGENDA ITEM
PLANNING COMMISSION
JULY 12, 2018
PRESENTATIONS**

TO : Planning Commission

SUBJECT : **UPDATE REGARDING ADOPTION OF CANNABIS
ORDINANCES AND NEXT STEPS FOR IMPLEMENTATION**

EXECUTIVE SUMMARY:

The City of Benicia has adopted ordinances to allow personal cannabis cultivation, medicinal and non-medical cannabis sales and microbusiness, as well as testing, and manufacturing, distribution, and delivery businesses. Implementation of the recently adopted ordinance is currently underway; this presentation provides an overview of recent actions and current efforts toward permitting for cannabis uses.

RECOMMENDATION:

No action is requested of the Planning Commission at this time since the agenda item is a presentation.

DISCUSSION:

On February 20, 2018, the City Council adopted four ordinances to allow cannabis uses in Benicia. Together, the ordinances have the following effect:

- Allow personal cultivation of cannabis for private use within private residences in Benicia, subject to limitations allowed under State and local law;
- Allow commercial and industrial cannabis uses in Benicia, subject to limitations and conditions allowed under State and local law;
- Require all commercial and industrial cannabis uses in Benicia to obtain two approvals prior to operation:
 - Cannabis Public Safety License - Administered by the Police Department. Applicants shall submit security plans and site plans, and all personnel including employees, owners, and operators, must submit to background checks. This is subject to annual renewal.
 - Cannabis Use Permit - Administered by the Community Development Department. Applicants shall submit documentation for business plans, location, site design, and operational plans. A site visit and in-person meetings will also be required. This is subject to an annual review, not renewal.
- Require all commercial and industrial cannabis operators to submit a Pre-Application and attend a Pre-Application meeting, to do preliminary project vetting.
- Allow a maximum of two retail locations in Benicia, subject to a competitive process; and

- Allow one microbusiness location in Benicia, subject to a competitive process and with retail limited to delivery only.

Additional information about the cannabis program has been posted to the City of Benicia website, www.ci.benicia.ca.us/cannabis. The city has also established an email distribution list to provide timely information to those parties interested in further information.

Subsequent Council Action.

Scoring Criteria. On March 20, 2018 the City Council approved scoring and evaluation criteria for commercial cannabis uses. The criteria will be applied to all commercial cannabis uses, including non-retail and non-microbusiness uses based upon the following categories:

- Location
- Business Plan
- Community Benefits
- Enhanced Product Safety
- Environmental Benefits
- Labor & Employment
- Local Enterprise
- Neighborhood Compatibility Plan
- Qualifications of Owners
- Safety and Security Plan
- Air Quality Plan

Fees. The City Council adopted permit fees on June 5, 2018. The fees provide for full cost recovery and include application fees for the Public Safety License and Use Permit. The cost of annual review and renewal fees will be evaluated within one year of licensing and be subject to approval by the City Council.

Pre-Application Meetings:

The City Council adopted a policy in March, 2018 that requires pre-application meetings for certain types of project applications, which include cannabis businesses. Pre-Application Meetings offer applicants the chance to meet with multiple departments after City staff reviews preliminary and/or conceptual design applications. These meetings are designed to help applicants better understand the City's permitting process and receive initial feedback. Enhanced information about pre-application meetings, procedures and submittal requirements has recently been posted to the City of Benicia website.

Request for Proposals:

City staff is in the process of finalizing the Request for Proposals (RFP) for retail and microbusiness uses. Proposals/submissions will be comprised of a Public Safety License application, which will address police and fire requirements, and a Preliminary Cannabis

Application, which will address the pre-application requirement for a Cannabis Use Permit. The RFP will be released by mid-July.

NEXT STEPS:

The City of Benicia is accepting Pre-Application requests and expects to begin processing Cannabis Use Permit applications in late 2018. These applications will be forwarded to the Planning Commission for public hearing in accordance with the procedures adopted in the Benicia Municipal Code.