

Section 1.

Section 17.08.030 (Applicability of land use and development regulations), of Chapter 17.08 (Organization, Applicability, and Interpretation) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

1. Base zoning districts into which the city is divided are established as follows:

Base District Designator	Base District Name	Chapter
RS	Single-Family Residential District	17.24
RM	Medium-Density Residential District	17.24
RH	High-Density Residential District	17.24
<u>MU-I</u>	<u>Mixed Use – Infill</u>	<u>17.26</u>
<u>MU-L</u>	<u>Mixed-Use – Limited</u>	<u>17.26</u>
CC	Community Commercial District	17.28
CO	Community Office District	17.28
CG	General Commercial District	17.28
CW	Waterfront Commercial District	17.32
IL	Limited Industrial District	17.32
IG	General Industrial District	17.32
IW	Water-Related Industrial District	17.32
IP	Industrial Park District	17.32
OS	Open Space District	17.36
PS	Public and Semipublic District	17.40
PD	Planned Development District	17.44

2. Land use regulations and development standards for the Downtown Mixed Use Master Plan area, plus the remaining parcels along First Street south of B Street, are regulated by the Downtown Mixed Use Master Plan.

Section 2.

Section 17.12.030 (Definitions) of Chapter 17.12 (Definitions) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to add new definitions in alphabetical order as follows:

“Arcade” means a building frontage design with a colonnade facing the street at sidewalk level that is covered by upper stories.

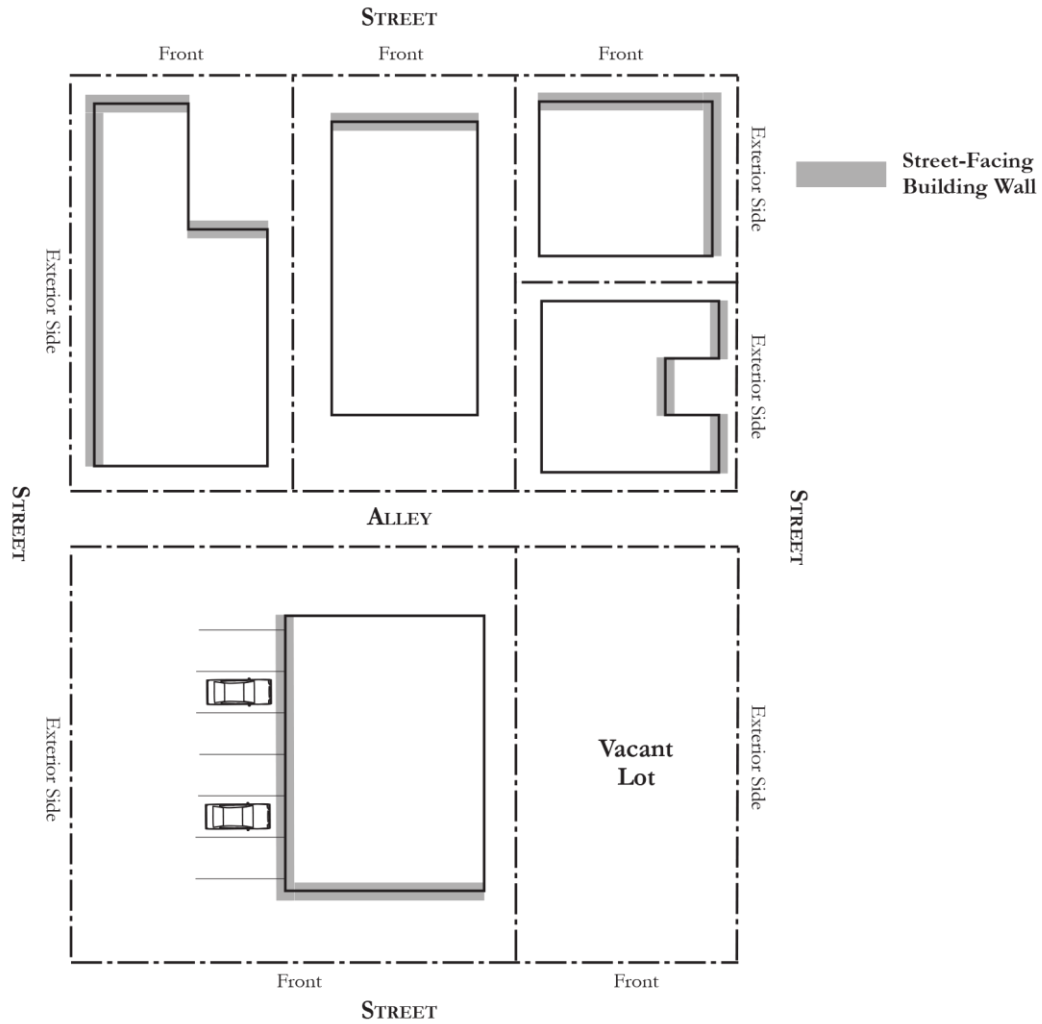
“Main Building Wall” means an exterior wall that encloses building floor area.

“Review Authority” means the City official or body responsible for approving or denying a permit application or other form of requested approval.

“Podium Parking” means a parking structure partially below or at grade underneath a building.

Side, Street. A street adjoining or parallel to a side property line.
“Street-Facing Building Wall” means a building wall that is parallel or substantially parallel to a street. This definition excludes building walls parallel to an interior lot line, a rear lot line, or an alley. See Figure 17.12-1.

Figure 17.12-1: Street-Facing Building Walls.



Section 3.

Chapter 17.26 (Mixed Use Districts) of Title 17 (Zoning) of the Benicia Municipal Code, is hereby repealed and replaced to read as follows:

Sections:

17.26.010 – Mixed Use Districts Purpose

17.26.020 – Mixed Use Infill (MU-I) District

17.26.030 – Mixed Use Limited (MU-L) District

17.26.040 – Additional Standards for All Mixed Use Districts

17.26.010 – Districts Purpose

A. General. The purpose of the mixed use districts is to:

1. Ensure that new development enhances Benicia’s unique sense of place and quality of life;
2. Promote sustainable development patterns through infill development and the development of vacant parcels and underutilized properties;
3. Encourage a mix of residential and commercial uses to promote transportation alternatives, including walking, biking, and transit;
4. Encourage the production of new housing, including housing for seniors, affordable housing, and housing for artists;
5. Create a safe, active, and welcoming environment for pedestrians;
6. Accommodate a diversity of neighborhood-serving businesses, including restaurants, retailers, and personal services; and
7. Ensure high-quality development that is carefully designed to fit into and complement its surrounding context.

B. Specific.

1. Mixed Use-Infill (MU-I) District. In addition to the general purpose in BMC 17.26.010.A (General), the specific purpose of the MU-I district is to:
 - a. Encourage mixed use development to accommodate additional housing while maintaining a critical mass of commercial uses within the district;
 - b. Provide for a mixed use activity center for the use and enjoyment of district residents and surrounding neighborhood;
 - c. Create a lively, pedestrian-friendly public realm with active ground-floor uses facing the street;
 - d. Encourage development that provides community benefits, such as public open

- space, publicly-available parking, infrastructure improvements, and public art; and
- e. Minimize negative impacts on neighboring residential uses, including impacts related to building mass and scale, light/shade, and privacy.
2. Mixed Use Limited (MU-L) District. In addition to the general purpose in BMC 17.26.010.A (General), the specific purpose of the MU-L district is to:
 - a. Provide locations for new housing in proximity to stores, services, and public transportation;
 - b. Facilitate production of housing across a range of housing types, including single-family homes, duplexes, townhomes, and smaller multifamily buildings;
 - c. Allow for small-scale neighborhood-serving commercial uses as part of mixed use residential development; and
 - d. Ensure that the scale and character of new development is compatible with existing residential uses within and adjacent to the district.

17.26.020– Mixed Use Infill (MU-I) District

A. Land Use Regulations.

1. Allowed Uses and Permits Required. Table 17.26-1 establishes allowed land uses and permits required in the MU-I district. If a land use identified in Chapter 17.16 BMC is not listed in Table 17.26-1, the use is not permitted in the MU-I district.

Table 17.26-1: MU-I Allowed Uses and Permits Required

<u>Land Use</u>	<u>Permit</u>	<u>Land Use</u>	<u>Permit</u>	<u>Land Use</u>	<u>Permit</u>
<u>Residential Uses</u>		<u>Commercial Uses [1]</u>		<u>Commercial Uses (cont.) [1]</u>	
Family Day Care, Large	L1	Animal Sales and Services		Personal Services	P
Family Day Care, Small	P	Animal Grooming	P	Research and Development Services	L2
Group Residential	L2	Animal Hospitals	L3	Retail Sales	P
Work/Live Quarters	L2	Artists' Studios	P	Secondhand Appliances/Clothing	P
Multifamily Residential	L2	Banks and Savings and Loans	P	Visitor Accommodations	
Residential Care, Limited	L2	Commercial Filming	U	Bed and Breakfast Inns	L2
Supportive Housing	L2	Commercial Recreation and Entertainment	U	Hotels and Motels	L2
Transitional Housing	L2	Communication Facilities	U	<u>Temporary Uses</u>	
<u>Public and Semipublic Uses</u>		Conference and Meeting Facilities	U	Christmas Tree Sales	P
Adult Day Health Care	U	Eating and Drinking Establishments	P	Commercial Filming, Limited	P
Clubs and Lodges	L2	With Wine and Beer Service	P	Religious Assembly	U
Convalescent Facilities	L2	With Full Alcoholic Beverage Service	L5	Retail Sales, Outdoor	U
Cultural Institutions	P	With Outdoor Entertainment	U		
Day Care Center	U	With Take-Out Service	L6		
Emergency Shelter	L4	Formula Business	P		
Government Offices	L2	Food and Beverage Sales	P		
Parks and Recreation Facilities	P	Laboratories	L2		
Public Safety Facilities	U	Maintenance and Repair Services	U		
Religious Assembly	U	Nurseries	U		
Residential Care, General	U	Offices, Business and Professional	L2		
Schools, Public or Private	U	Outdoor Entertainment	U		
Utilities, Minor	P	Personal Improvement Services	P		

Key: P = Permitted; U = Use Permit; L = Limited (See Notes)

Notes:

[1] See 17.26.020.A.5 for additional permit requirements that apply to commercial uses greater than 3,000 square feet.

L1: Permit requirements for large family day care homes in the mixed use districts are the same as in the residential districts. See 17.24.020.E.

L2: A use permit is required when the use occupies ground floor space facing the street in locations shown in Figure 17.24-1. In all other locations, the use is permitted ("P"). See 17.26.020.A.2 & A.3.

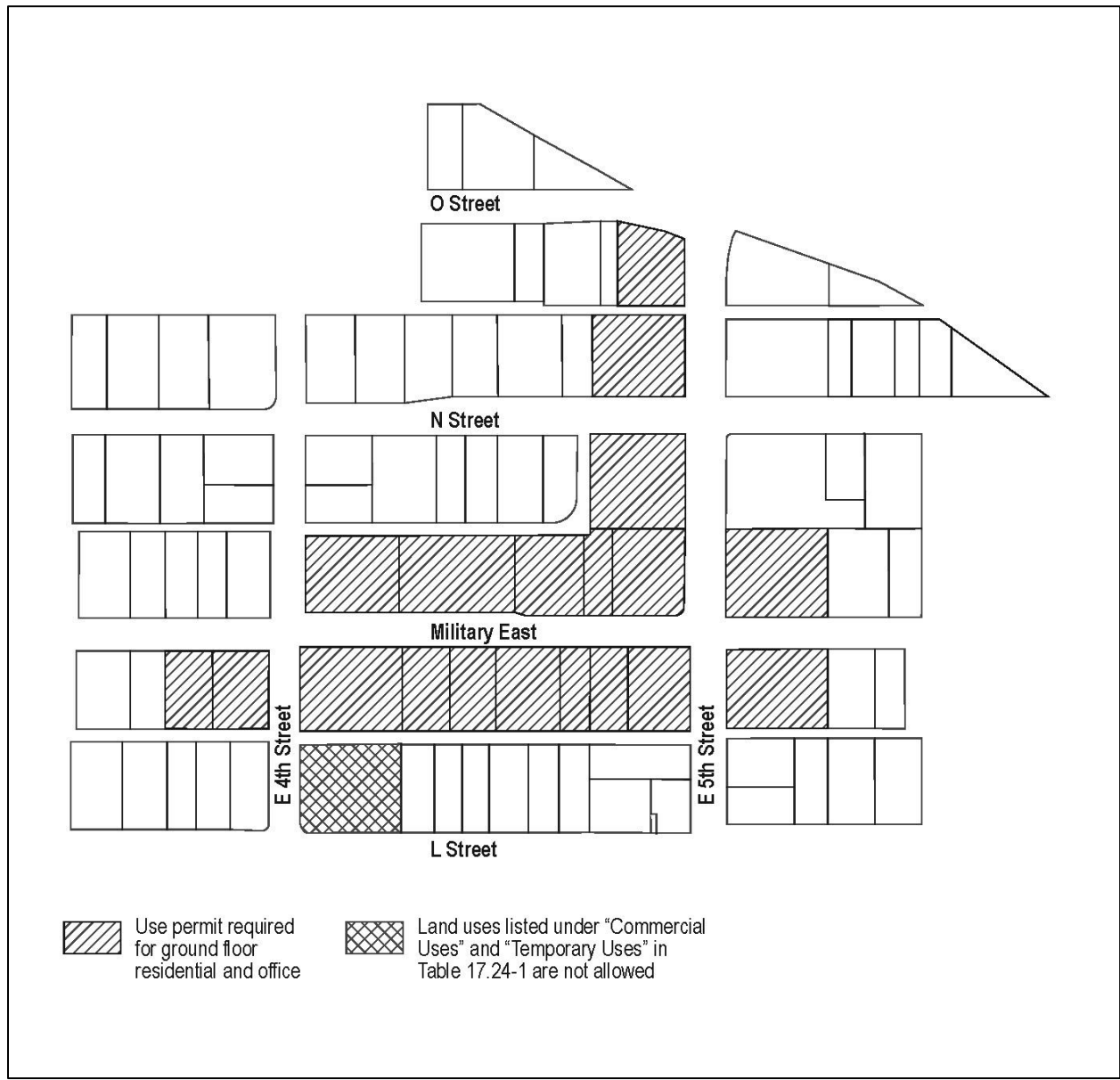
L3: Permit requirements for animal boarding and animal hospitals are the same as in the CG district. See 17.28.020, Note L15.

L4: See BMC 17.70.390.

L5: A bar or tavern which is not part of a larger restaurant and operates between 9 pm and 7 am requires a use permit. All other eating and drinking establishments with full alcoholic beverage service are permitted ("P")

L6: Only Limited Take-Out Service, as defined in BMC 17.16, is allowed. Drive-up take-out service is not allowed.

Figure 17.26-1: MU-I District Allowed Use Limitations



2. Residential-Only Projects.

- a. A use permit is required for ground floor residential uses facing Military East and/or East Fifth Street in locations shown in Figure 17.26-1. Off-street parking located within a garage or other facility on the ground floor as accessory to the residential use shall be considered part of the residential use for the purposes of this section.
- b. The Planning Commission may approve the use permit if the Planning Commission makes the use permit findings in BMC 17.104.060 and also finds that:

- (1) No less than 50 percent of the linear building frontage on parcels requiring a use permit as shown in Figure 17.26-1 contain ground-floor commercial uses; and
 - (2) The project complies with sections 17. 26.040.G (Primary Entrance Design) and 17. 26.040.H (Blank Walls).
 - c. The front yard area between the sidewalk and the street-facing building wall must contain at least two trees per 50 linear feet of parcel street frontage. Tree species must provide minimum 20-foot canopy per tree at maturity.
 3. Ground Floor Office.
 - a. Except as provided in Paragraph (b) below, use permit approval by the Planning Commission is required for ground floor office uses facing the street in locations shown in Figure 17.26-1.
 - b. A use permit is not required to establish a new office use in an existing tenant space that was previously occupied by an office use as of [effective date of ordinance]. In such a case, the office use is not considered a nonconforming use under Chapter 17.98 BMC. A New office use may be established in the existing tenant space at any time, subject to the applicant supplying documentation of the prior office use, without the need to obtain a use permit. An “existing tenant space” means a tenant space that occupies the same building, location and floor area as existed on [effective date of ordinance].
 4. East L and Fourth Street Corner Property. On the parcel on the corner of East L and East Fourth Street shown in Figure 17.26-1, all land uses listed under the “Commercial Uses” and “Temporary Use” headings in Table 17.24-1 are not allowed.
 5. Large Commercial Uses. Proposed commercial uses with a single tenant occupying a space greater than 3,000 square feet require a use permit.
- B. Development Standards.
1. General. Table 17.26-2 identifies development standards in the MU-I district.

Table 17.26-2: Development Standards – MU-I District

Standard	
Development Intensity	
Minimum Site Area per Unit	1,000 sq. ft.
Maximum Floor Area Ratio (FAR)	Residential: 2.0 [1] Commercial: 1.2
Maximum Lot Coverage	75%
Maximum Building Height	
Feet	40 ft. [2]
Stories	3 stories
Yards [3]	
Maximum Front Yard	_____
Commercial and Mixed Use Projects	10 feet from required new sidewalk for a minimum of 50 percent of the parcel's linear street frontage, except that in no case shall this standard require a building to project across a property line into the right-of-way. See Figure 17.26-2.
Residential-only Projects	No maximum
Minimum Front and Street Side Yard	_____
Commercial and Mixed Use Projects	0 ft. from back of required new sidewalk or from property line, whichever is greater.
Residential-only Projects	Main building wall: 15 ft. from back of required new sidewalk or 0 ft. from property line, whichever is greater. Entry features: May extend up to 10 feet into required yard, provided they do not project across the property line. See Figure 17.26-3. [4]
Minimum Interior Side and Rear Yard	None, unless required by BMC 17.26.020.C.4
Minimum Total Open Space	
Private	None required
Shared	100 sq. ft. per unit [5]
Parking	
Number of spaces	As required by BMC 17.74.030
Design	See BMC 17.74

Notes:

[1] Mixed use with at least two-thirds residential floor area may have a floor area of up to 2.0 FAR. All other projects shall be limited to 1.2 FAR.

[2] See BMC 17.70.180 for building features that may project above the permitted building height. Roof decks must comply with BMC 17.26.040.F (Roof Decks).

[3] See BMC 17.70.150 for allowed projections into required yards.

[4] Includes covered and uncovered porches, terraces, platforms, decks, patios, stairs, and other similar features. Projections into yards allowed in 17.70.150.B do not also apply.

[5] Shared open space not required for units with private open space. See BMC 17.26.040.D. Shared open space may be located within required yards.

Figure 17.26-2: MU-I Development Standards for Commercial and Mixed Use Residential Projects



Figure 17.26-3: MU-I Development Standards for Residential Projects



2. Projects Incorporating Community Benefits. Projects participating in the City's voluntary Community Benefits Program, set forth in BMC 17.70.430, may be entitled to greater site area per unit, lot coverage, and height standards than those in Table 17.26-2.
3. Building Massing.
 - a. All Buildings. All buildings in the MU-I district must incorporate at least one of the following features:
 - (1) Upper floor modulation of at least 4 feet in depth (either recess or projection) for at least 30 percent of the front facade length. See Figure 17.26-4; or
 - (2) A vertical facade break for all floors with a minimum depth of 6 feet for a minimum of 15 percent of the front facade length. Non-recessed building walls shall not exceed a width of 50 feet. See Figure 17.26-5.

- b. Buildings Exceeding Three Stories. In addition to features required for all building in Paragraph (a) above, buildings exceeding three stories in the MU-I district must incorporate at least one of the following additional features:
- (1) A fourth story recessed step back facing the primary street of at least 4 feet for the entire facade length. See Figure 17.26-6. Recessed area may be used as a balcony, terrace, or other usable open space.
 - (2) A fourth story recessed step back facing the primary street of at least 10 feet for a minimum of 35 percent of the facade length. See Figure 17.26-7. Recessed area may be used as a balcony, terrace, or other usable open space.
 - (3) Other comparable method, as determined by the review authority through the use permit or development agreement process, to break down the massing of large building facades and complement the surrounding context.

Figure 17.26-4: Upper Floor Modulation

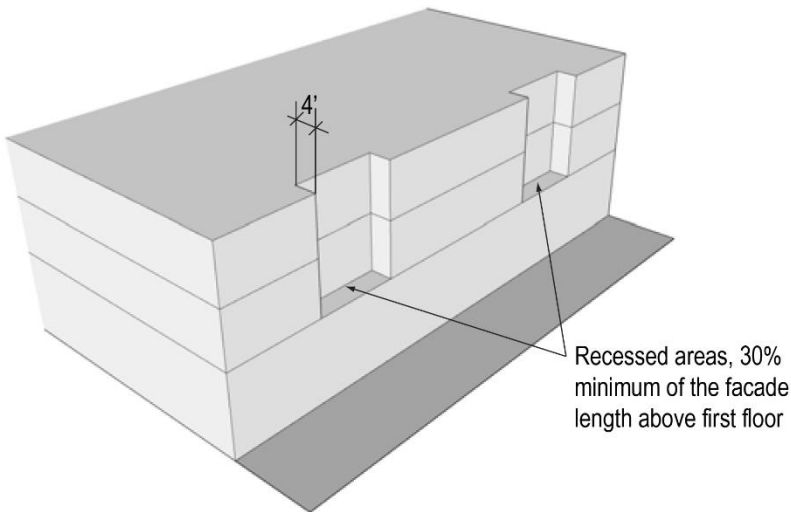


Figure 17.26-5: Vertical Façade Break

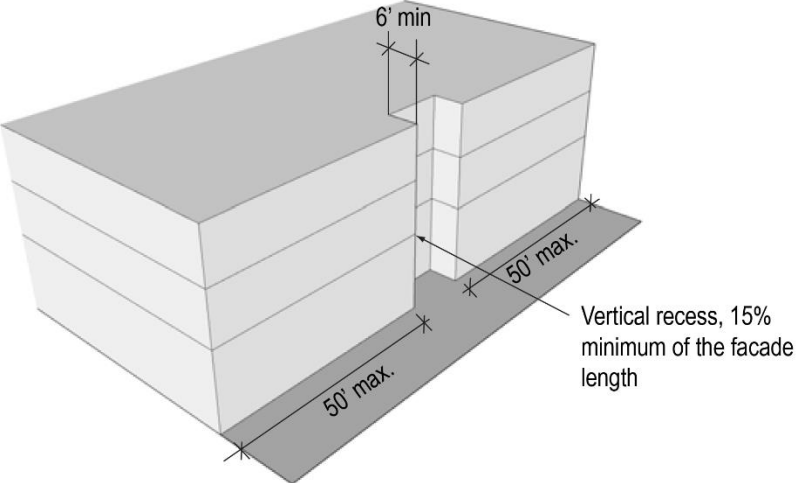
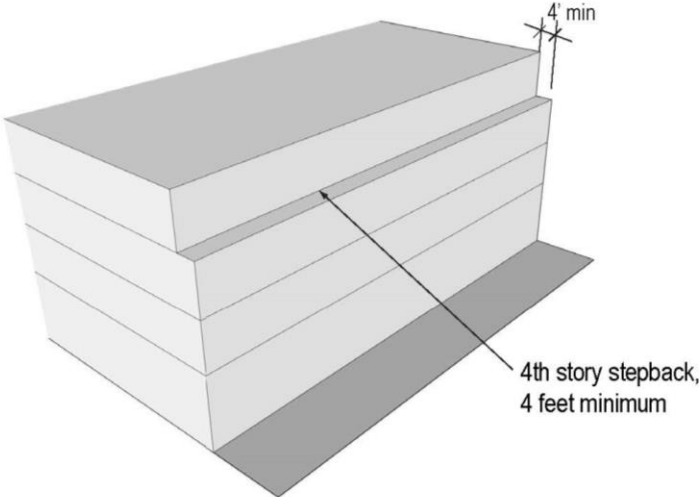
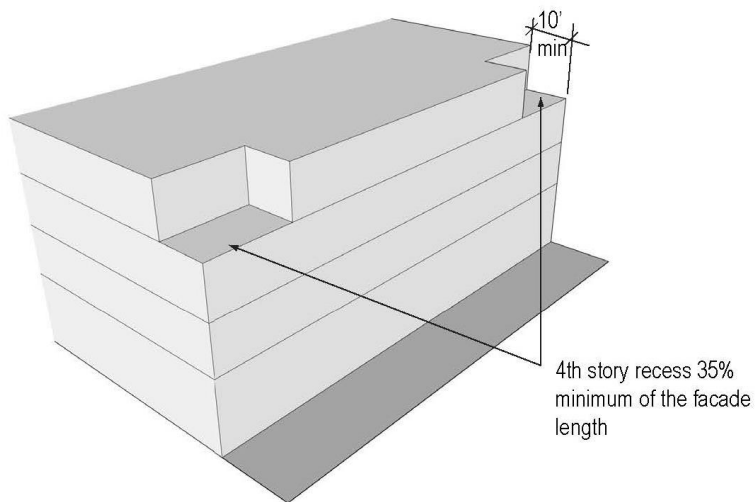


Figure 17.26-6: Upper Story Step Back



Note: Figure does not show additional building massing standards required for all buildings

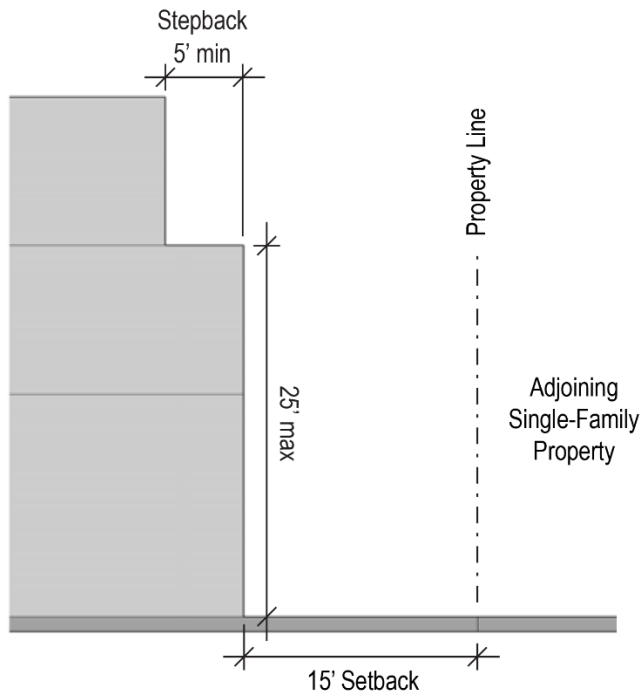
Figure 17.26-7: Four Story Wall Limitation



Note: Figure does not show additional building massing standards required for all buildings

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4. Residential Transitions. The following standards apply to new development projects adjoining a parcel outside of the MU-I district with an existing single-family use.
 - a. Wall or Fence. A sight-obscuring wall or fence six feet high shall be provided along the adjoining residential property line. A sight-obscuring fence must have an opacity of at least 85 percent. Bushes, vines, and other vegetation may be incorporated into the design of a required fence.
 - b. Yard. Buildings shall be located a minimum of 15 feet from the adjoining single-family residential property line.
 - c. Building Stepback. Buildings adjoining a single-family residential property line shall be no taller than two stories or 25 feet at the required 15-foot setback line. If proposed, third stories shall be stepped back a minimum of 5 feet from the setback line (i.e., 20 feet from the adjoining property line). Recessed area may not be used as a balcony, terrace, or other usable open space. See Figure 17.26-8.

Figure 17.26-8: Residential Transitions



5. Additional Standards. Development in the MU-I district must also comply with standards in BMC 17.26.040 (Additional Standards for All Mixed Use Districts).

17.26.020– Mixed Use Limited (MU-L) District

C. Land Use Regulations.

1. Allowed Uses and Permits Required. Table 17.26-3 shows allowed land uses and permits required in the MU-L district. If a land use identified in Chapter 17.16 BMC is not listed in Table 17.26-3, the use is not permitted in the MU-L district.

Table 17.26-3: MU-L Allowed Uses and Permits Required

<u>Land Use</u>	<u>Permit</u>	<u>Land Use</u>	<u>Permit</u>
<u>Residential Uses</u>		<u>Public and Semipublic Uses (cont.)</u>	
<u>Family Day Care, Large</u>	<u>L1</u>	<u>Day Care Center</u>	<u>U</u>
<u>Family Day Care, Small</u>	<u>P</u>	<u>Government Offices</u>	<u>U</u>
<u>Group Residential</u>	<u>P</u>	<u>Parks and Recreation Facilities</u>	<u>P</u>
<u>Work/Live Quarters</u>	<u>P</u>	<u>Residential Care, General</u>	<u>U</u>
<u>Multifamily Residential</u>	<u>P</u>	<u>Schools, Public or Private</u>	<u>U</u>
<u>Residential Care, Limited</u>	<u>P</u>	<u>Utilities, Minor</u>	<u>P</u>
<u>Single-Family Residential</u>	<u>P</u>	<u>Public Safety Facilities</u>	<u>U</u>
<u>Supportive Housing</u>	<u>P</u>	<u>Commercial Uses</u>	
<u>Transitional Housing</u>	<u>P</u>	<u>Artists' Studios</u>	<u>P</u>
<u>Public and Semipublic Uses</u>		<u>Offices, Business and Professional</u>	<u>L2</u>
<u>Adult Day Health Care</u>	<u>U</u>	<u>Personal Improvement Services</u>	<u>L2</u>
<u>Clubs and Lodges</u>	<u>U</u>	<u>Personal Services</u>	<u>L2</u>
<u>Convalescent Facilities</u>	<u>U</u>	<u>Bed and Breakfast Inns</u>	<u>U</u>
<u>Cultural Institutions</u>	<u>P</u>		

Key: P = Permitted; U = Use Permit; L = Limited (See Notes)

Notes:

L1: Permit requirement the same as in the residential districts. See 17.24.020.E.

L2: Community Development Director Use Permit required.

2. Multifamily Uses. For a parcel legally existing as of [effective date of ordinance], four multifamily dwelling units are permitted on the parcel regardless of the parcel size, provided the project complies with all other applicable standards.
3. Commercial Uses. The following requirements apply to allowed commercial uses as identified in Table 17.26-3.
 - a. A commercial use must be located on a property with a residential use.
 - b. The floor area of a commercial use may not exceed 50 percent of the residential floor area on the property or 2,000 square feet, whichever is less.

D. Development Standards.

1. General. Table 17.26-4 identifies development standards in the MU-L district.

Table 17.26-4: Development Standards – MU-L District

Standard	
Development Intensity	
Minimum Site Area per Unit	1,452 sq. ft. [1]
Maximum Floor Area Ratio (FAR)	1.0 [2]
Maximum Lot Coverage	75%
Maximum Building Height [3]	
Feet	35 ft. [4]
Stories	3 stories
Minimum Yards [5]	
Front and Street Side	
Main Building Wall	15 ft. from required sidewalk or 0 ft. from property line, whichever is greater. See Figure 17.26-9.
Entry Features	May extend up to 10 feet into required yard, provided they do not project across a property line and are no closer than 5 ft. from required sidewalk. See Figure 17.26-9. [6]
Interior Side	5 ft from property line or 10 ft. from adjacent structure, whichever is greater
Rear	
Abutting an alley	None
Not abutting an alley	15 ft.
Minimum Open Space	
Private	None required
Shared	100 sq. ft. per unit [7]
Parking	
Number of spaces	As required by BMC 17.74.030
Design	See 17.26.040.C

Notes:

[1] See BMC 17.26.030.A.2 for additional density allowance.

[2] Maximum 1.5 FAR allowed for 4-story building when allowed under BMC 17.26.030.B.2.

[3] See BMC 17.26.030.B.2 for additional height allowed in specified locations.

[4] See BMC 17.70.180 for building features that may project above the permitted building height. Roof decks must comply with BMC 17.26.040.F (Roof Decks)

[5] See BMC 17.70.150 for allowed projections into required yards.

[6] Includes covered and uncovered porches, terraces, platforms, decks, patios, stairs, and other similar features. Projections into yards allowed in 17.70.150.B do not also apply.

[7] Shared open space not required for units with private open space. See BMC 17.26.040.D. Shared open space may be located within required yards.

Figure 17.26-9: MU-L Development Standards



2. Additional Height Allowance.

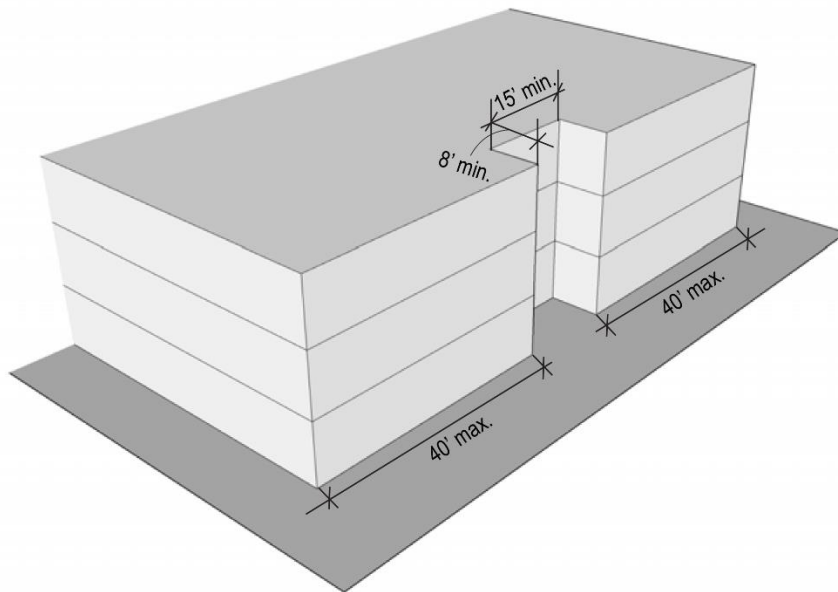
- a. A building height of up to 45 feet and four stories is allowed on parcels 15,000 square-feet or greater in size where any portion of the parcel is within 150 feet of the I-780 right-of-way.
- b. The fourth-story building wall must be set back a minimum of 15 feet from an adjoining property line containing an existing single-family residential use.
 - (1) If the building wall below the fourth story is 15 feet or more from the property line, the fourth-story building wall may be aligned with the lower wall.
 - (2) If the building wall below the fourth story is less than 15 feet from the property line, the fourth-story wall must be stepped back from the lower wall.
- c. For buildings greater than 35 feet in height, the review authority may not allow a deviation from building width and third-story massing standards in BMC

17.26.030.B.3.d.1 & d.2 otherwise allowed by 17.26.030.B.3.c (Allowed Deviation).

3. Multifamily and Mixed Use Residential Projects.

- a. Applicability. The standards in this subsection apply to multifamily and mixed use residential development in the MU-L district.
- b. Required Compliance. A two-story project that is exempt from design review pursuant to BMC 17.108.020.B must conform with the standards of this section, in addition to other applicable standards in the Zoning Ordinance and Objective Planning and Standards.
- c. Allowed Deviation. For projects that require discretionary design review, the review authority may allow deviation from one or more of these standards through the design review process.
- d. Standards.
 - (1) Building Width. To reflect the existing scale and rhythm of buildings in the MU-L district, buildings shall comply with one of the following:
 - (i) The width of the building measured parallel to the primary street frontage does not exceed 50 feet.
 - (ii) The street-facing building wall is modulated so that building wall segments closest to the street do not exceed a width of 40 feet. The facade break area (i.e., building frontage inset area) must have a minimum depth of 8 feet and minimum width of 15 feet. See Figure 17.26-10.
 - (2) Upper Story Massing. A third story (and fourth story for four-story buildings) must be stepped back from the primary street at least 10 feet for a minimum of 35 percent of the facade length. Recessed area may be used as a balcony, terrace, or other usable open space.
 - (3) Balconies. Balconies above the ground floor facing an adjacent residential property are prohibited. This prohibition applies only to balconies with a platform that extends more than three feet from the exterior building wall.
 - (4) Neighbor Privacy. Windows facing adjacent dwellings must be staggered to limit visibility into neighboring units. The vertical centerline of a window may not intersect the window of an adjacent dwelling.
 - (5) Garages. Garage doors facing the street:
 - (i) May occupy no more than 40 percent of a building's street frontage; and
 - (ii) Shall be recessed a minimum of 5 feet from the primary front or street side building wall.

Figure 17.26-10: Street-facing Building Wall Modulation – MU-L District



1. Additional Standards. Development in the MU-L district must also comply with standards in BMC 17.26.040 (Additional Standards for All Mixed Use Districts).

17.26.020– Additional Standards for All Mixed Use Districts

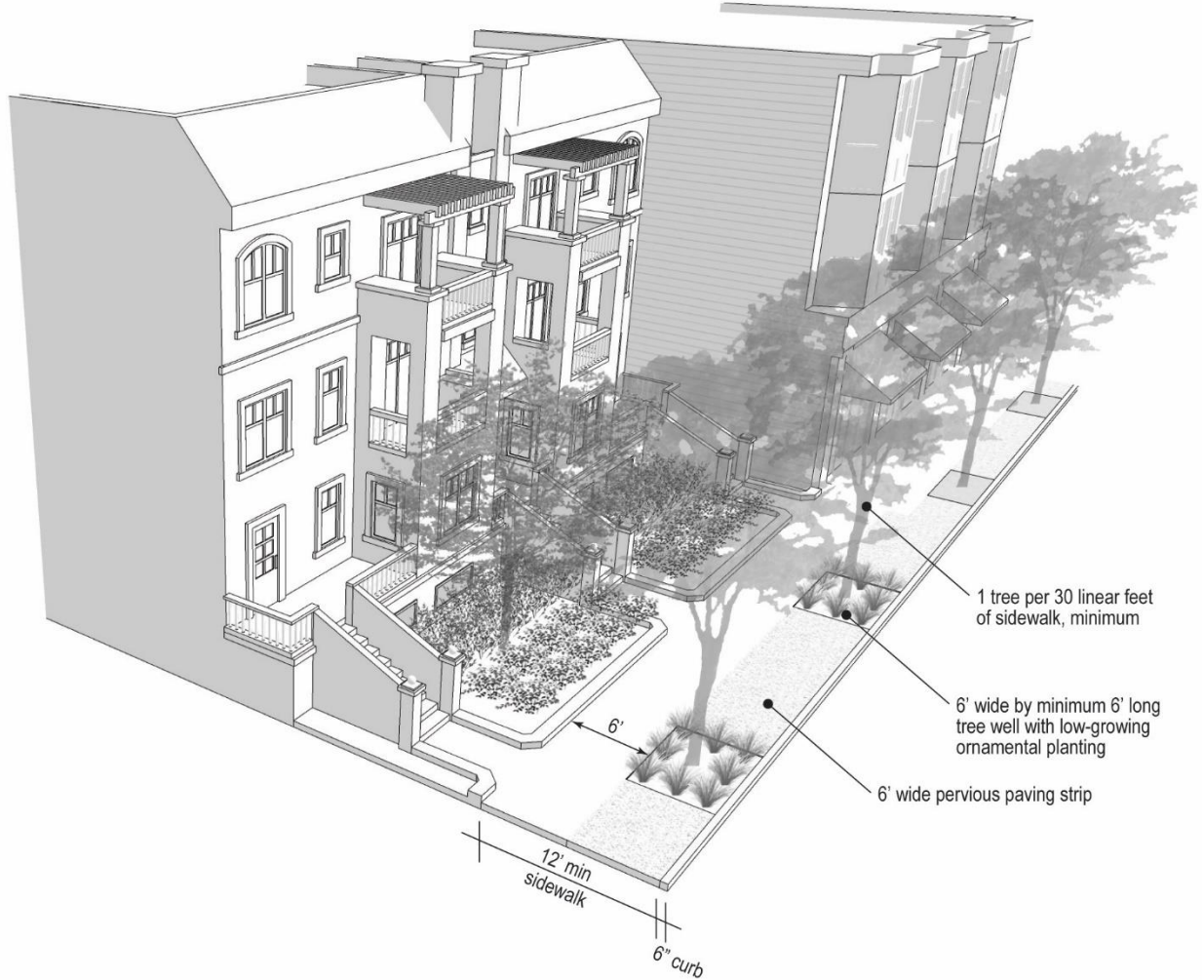
- A. Objective Planning Standards. Multifamily residential, transitional housing, and supportive housing development projects are subject to the City’s Objective Planning and Design Standards for Mixed-Use Residential and Multifamily Development. (See BMC 17.70.430, Objective planning and design standards for mixed-use residential and multifamily development projects.)
- B. Ground Floor Residential Elevation. The finished floor elevation of development with residential ground floor uses facing the street shall be elevated a minimum of 18 inches above the sidewalk.
- C. Sidewalks and Street Trees.
 1. Public sidewalks abutting a development parcel shall have a minimum sidewalk width (curb to back of walk) of at least 12 feet as measured from back of curb. The sidewalk shall contain at least one irrigated curbside street tree for every 30 linear feet of sidewalk.
 - a. Non-Residential Ground Floor Uses. The following standards apply to development with non-residential ground floor uses facing the street, as shown in Figure 17.26-11:
 - (1) If right-of-way conditions require buildings to be set back from the street by more than 12 feet, the sidewalk shall be extended to the building.

- (2) Curbside sidewalk tree wells shall be 4 feet in width by 8 feet in length minimum, 6 feet by 12 feet maximum, with a corresponding zone of pervious paving aligned with and extending between tree wells.
 - (3) A minimum clear width of 8 feet shall be provided between tree wells and the building frontage.
- b. Residential Ground Floor Uses. The following standards apply to development with residential ground floor uses facing the street, as shown in Figure 17.26-12:
- (1) If right-of-way conditions require buildings to be set back from back of sidewalk by more than 15 feet, required frontage landscaping shall be expanded to fill the excess area.
 - (2) Curbside sidewalk tree wells shall be 6 feet in width by 6 feet or more in length, with a corresponding zone of pervious paving aligned with and extending between tree wells.
 - (3) Tree wells shall include additional low-growing ornamental planting to enhance residential frontages.
2. If the existing public right-of-way area between the curb and the property line is insufficient to meet the minimum standard above, extension of the sidewalk onto the property, with corresponding public access easement, shall be provided.

Figure 17.26-11: Streetscape Standards – Non-residential Ground-floor Uses



Figure 17.26-12: Streetscape Standards – Residential Ground-floor Uses



D. Open Space.

1. Units with at least 36 square feet of private open space (e.g., balconies, courtyards) are excluded from the required shared open space calculation.
2. Shared open space shall be designed so that a horizontal rectangle within it has no dimension less than 10 feet, shall be open to the sky, and shall not include driveways or parking areas.

E. Landscaping.

1. All areas between a building and adjoining sidewalk shall be landscaped with live plant materials, except for:
 - a. Areas required for vehicular or pedestrian access to the property; and
 - b. Courtyards, outdoor seating areas, and other similar outdoor spaces for residents, customers and/or the general public.

2. Landscaping shall consist of any combination of trees and shrubs, and may include grass or related natural features, such as rock, stone, or mulch. At maturity, plantings must comprise a minimum of 75 percent of the total landscape area.
3. Up to 65 percent of the tree canopy (at maturity) above ground amenities such as seating and public art may be included in the landscape area calculation.
4. In all cases the front yard area between the sidewalk and the street-facing building wall must be landscaped with live plant materials as shown in Table 17.26-5.

Table 17.26-5: Minimum Front Yard Landscaping

<u>Ground floor use facing the street</u>	<u>Percent of front yard area that must be landscaped</u>
Non-residential	15% [1]
Residential	35%

[1] Only for projects where building is set back from edge of sidewalk. May be provided with upright growing shrubs or small trees in raised planters and/or pots.

F. Roof Decks.

1. Features to accommodate a roof deck, including railings, terraces, and other similar structures, may project above the maximum building height in cases where the roof deck provides common open space for residents.
2. Other than as needed to provide for roof access, no permanent structure that has a solid roof and/or is enclosed on two or more sides may be placed on or attached to a roof deck. Fully transparent glass wind barriers are allowed.
3. Roof decks may not be placed on building features that project above the maximum permitted building height as allowed by BMC 17.70.180.

G. Primary Entrance Design.

1. Residential-Only Projects.

- a. The primary entrance to a dwelling unit facing a public street must feature a porch or covered entry.
- b. For residential buildings with a primary entrance that provides interior access to multiple dwelling units, the primary entry must feature a porch, covered entry, or recessed entry. A recessed entry must include one or more design elements that call attention to the entrance such as ridged canopies, contrasting materials, crown molding, decorative trim, or a 45-degree cut away entry.
- c. Front porches, when required by this section, must comply with the following:
 - (1) The front porch must be part of the primary entrance, connected to the front yard and in full view of the street-way.
 - (2) Minimum dimensions: 6 feet by 5 feet.

- (3) The porch or covered entry must have open-rung railings or landscaping defining the space.
2. Mixed Use Residential and Non-Residential Projects. Primary entrances to non-residential and mixed use buildings must be emphasized and clearly recognizable from the street utilizing one or more of the following methods:
 - a. Projecting awnings or canopies above an entry (covered entry);
 - b. Taller building mass above an entry that protrudes from the rest of the building surface;
 - c. Special corner building treatments integrated into a corner entrance, such as rounded or angled facets or an embedded corner tower;
 - d. Special architectural elements, such as columns, porticos, and ornamental light fixtures;
 - e. Projecting entries or projecting bays in the facade;
 - f. Recessed entries or recessed bays in the facade; and
 - g. Changes in roofline or articulation in the surface of the wall in the area surrounding the entrance.

H. Blank Walls.

1. The area of a blank building wall fronting a public street may not exceed a square area where the height and width are both 10 feet.
2. A break in a blank building wall may be provided by any of the following:
 - a. Doors, windows, or other building openings.
 - b. Building projections or recesses, doorway and window trim, or other details that provide architectural articulation and design interest.
 - c. Varying wall planes where the wall plane projects or is recessed at least six inches.
 - d. Non-fabric awnings or canopies over a window or door, or arcades.
 - e. Substantial variations in building material. For example, adding brick or stone veneer to a stucco building or changing from vertically-oriented board and batten style siding to horizontally-oriented lap siding.
 - f. A permanently attached trellis or architectural feature for landscaping.
 - g. A living wall.
 - h. A mural or public art attached to the building wall.
3. The following do not qualify as a break in blank wall:
 - a. Variation in exterior building wall color.
 - b. Stand-alone planted vegetation or landscaping not attached to a building wall.

- c. Commercial signs.
- d. Mechanical appurtenances such as water heaters, vents, or utility meters.
- e. Gutters and downspouts.

Section 4.

Section 17.70.200 (Outdoor facilities) of Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code, subsection A is hereby amended to read as follows:

- A. Where Permitted. Outdoor storage and display of merchandise, materials, or equipment, not including cannabis or cannabis products, shall be permitted in the CC, CW, CG, MU-I, MU-L, IL, IG, PS and OS districts subject to approval of a use permit by the community development director. Outdoor food service accessory to an eating and drinking establishment may be permitted subject to approval of a use permit by the community development director in any I, C, OS, or PS district, but no outdoor preparation of food or beverages shall be permitted. A use permit for outdoor storage, display, or food service may require yards, screening, or planting areas necessary to prevent adverse impacts on surrounding properties and the visual character of scenic corridors as identified in the general plan. If such impacts cannot be prevented, the use permit application shall be denied.

Section 5.

Chapter 17.70 (General Regulations) of Title 17 (Zoning) of the Benicia Municipal Code, is hereby amended to add new section 17.70.430 (Community Benefits Program) to read as follows:

17.70.430 – Community Benefits Program

- A. Purpose. The community benefits program allows applicants to incorporate community benefits into proposed development projects in exchange for increased development potential. This program is intended to facilitate the production of new multifamily and mixed-use residential development with amenities that benefit the general public.
- B. Relationship to State Density Bonus Law. If an applicant requests a density bonus pursuant to Section 65915 of the California Government Code, the proposed project may not also utilize incentives provided in this section.
- C. Eligibility.
 - 1. MU-I District. Multifamily and mixed-use residential projects in the MU-I district are eligible for participation in the community benefits program.
 - 2. Residential Floor Area in Mixed Use Residential Projects. To be eligible for incentives, at least two-thirds of the total floor area of a mixed-use residential project must be

occupied by a residential use.

3. Incentive Tiers. The community benefits program allows developers to propose a development project which is entitled to “incentives” in exchange for the provision of certain community benefits.
 - a. Tier 1 and Tier 2 incentives are available to all properties in the MU-I district.
 - b. Tier 3 incentives are available only to parcels in the MU-I district abutting the I-780 right-of-way. If a parcel abutting the I-780 right-of-way is enlarged with a parcel merger or lot line adjustment, the entire resulting parcel area is eligible for Tier 3 incentives.

D. Incentives.

1. Table 17.70-1 identifies the available incentives for each tier, the required community benefit, and the required approvals.
2. The City may grant incentives only when the community benefits or amenities offered are not otherwise required by the Zoning Ordinance or any other provision of local, state, or federal law.

Table 17.70-1: Community Benefits Program

	<u>Tier 1</u>	<u>Tier 2</u>	<u>Tier 3</u>
<u>Required Benefit</u>	<u>2 community benefits</u>	<u>3 community benefits</u>	<u>4 community benefits</u>
<u>Incentives</u>			
<u>Site Area per Unit, Min.</u>	<u>No min.</u>	<u>No min.</u>	<u>No min.</u>
<u>Lot Coverage, Max.</u>	<u>75%</u>	<u>80%</u>	<u>85%</u>
<u>Building Height, Max.</u>	<u>40 ft. and 3 stories</u>	<u>45 ft. and 4 stories</u>	<u>60 ft. and 5 stories</u>
<u>Required Approvals</u>			
<u>Approval Type</u>	<u>Design Review</u>	<u>Use Permit [1]</u>	<u>Development Agreement [1]</u>
<u>Review Authority</u>	<u>Community Development Director</u>	<u>Planning Commission</u>	<u>City Council</u>

[1] For Tier 2 projects, the Planning Commission conducts design review as part of the use permit process. For Tier 3 projects, the Planning Commission and City Council conduct design review as part of the Development Agreement review process. See BMC Chapter 17.108 (Design Review).

E. Benefits.

1. All Projects. Development may choose from community benefits in Table 17.70-2 to satisfy the required benefit contribution set forth in Table 17.70-1. A project may use each benefit only once to satisfy the contribution requirement.
2. Tier 3 Projects.
 - a. As one of the required benefits, a Tier 3 project must exceed the inclusionary housing requirement in BMC 17.70.320 (Inclusionary Housing) by 10 percent. Additional affordable units shall comply with all requirements of BMC 17.70.320.
 - b. All other required community benefits for a Tier 3 project may be selected from

Table 17.70-2.

3. Affordable Projects. A project that is 100 percent affordable, as defined in BMC 17.70.320, is entitled to Tier 1, 2, and 3 incentives, subject to the specified approval, without providing additional community benefits.
4. Timing. Unless an alternative timing is provided for in a Development Agreement, community benefits must be provided:
 - a. Prior to issuance of building permit for the payment of fees; and
 - b. Prior to final inspection for the construction of improvements.

Table 17.70-2: Community Benefits

<u>Community Benefit</u>	<u>Description</u>
<u>On-Site Affordable Units</u>	<u>The project provides on-site affordable units in compliance with BMC 17.70.320 (Inclusionary Housing). Units must remain affordable for the minimum duration required by BMC 17.70.320.</u>
<u>Additional On-Site Affordable Units</u>	<u>The project exceeds Inclusionary Housing requirement BMC Section 17.70.320 (Inclusionary Housing) by 10 percent. [1]</u>
<u>Older-Adult Housing</u>	<u>All units are age-restricted for persons 55 and older. Units must remain age-restricted for a period of not less than 30 years. The project must include an elevator.</u>
<u>Housing for Artists</u>	<u>At least 20 percent of units contain working space for artists, artisans, and similarly situated individuals. For units with working space, the working space must constitute 50 percent of the floor area of the unit, must be a clearly defined area within the unit, and must be reserved for and regularly used as artistic working space by the resident. Retail studio space open to the general public is allowed but not required.</u>
<u>Public Parking</u>	<u>Parking spaces available to the general public equal to 10% of the required number of on-site parking spaces. Parking spaces must be in addition to spaces required for the use.</u>
<u>Public Open Space</u>	<u>On-site public open space with an improvement cost equal to or exceeding 1.5% of total project construction costs. Includes public plazas, courtyards, and other public gathering places that provide opportunities for people to informally meet and gather. Applicant shall grant an easement or other property interest for the perpetual benefit of the public for said open space. Open space must be accessible to the general public. Provisions must be made for ongoing operation and maintenance in perpetuity. [2]</u>
<u>Additional Park Fee</u>	<u>Pay additional park fee equal to 1.5% of total project construction costs. Fee collected must be used for physical park and open space improvements located within one-third mile of the project site. [2]</u>
<u>Public Infrastructure</u>	<u>Public infrastructure improvements equal to 1.5% of total project construction costs. Includes improvements to streets, sidewalks, bicycle facilities, curbs, gutters, sanitary and storm sewers, street trees, lighting, and other public infrastructure beyond the minimum required by the City or other public agency. Improvement may be located on or off-site. If improvement is outside of the project site, the improvement must be located within one-third mile of the project site and must be identified in a Specific Plan, equivalent infrastructure plan, or the City’s Capital Improvement Plan (CIP). [2]</u>
<u>Public Infrastructure In-lieu Fee</u>	<u>Payment of in-lieu fee for public infrastructure improvements equal to 1.5% of total project construction costs. This benefit is available only if the City has adopted a Specific Plan or equivalent infrastructure plan for the area containing the project site, or if fee collected will be used for a specific physical infrastructure improvement identified in the City’s Capital Improvement Plan (CIP). Fee collected must be used for improvements located within one-third mile of the project site. [2]</u>
<u>Neighborhood-serving Commercial Use</u>	<u>Minimum 1,500 sq. ft. of on-site space for one or more of the following commercial uses: eating and drinking establishment, food and beverage sales, personal services, retail sales.</u>
<u>Public Art</u>	<u>The project includes a public art component equal to 1.5% of total project construction costs. Public art must be permanent, subject to approval through the public art process, and placed in a prominent and publicly accessible location. [2]</u>
<u>Public Art Fund</u>	<u>Pay into City public art fund equal to 1.5% of total project construction costs. Fee collected must be used for artwork located within one-third mile of the project site. [2]</u>
<u>Other Community Benefits [1]</u>	<u>Other community benefits not listed above as proposed by the applicant that are significant and substantially beyond normal requirements as determined by the review authority through the permit approval process.</u>

Notes:

[1] Available only for Tier 2 and 3 projects.

[2] Total project construction costs shall be estimated at time of building permit issuance and shall not be less than the Building Cost Index for Solano County.

F. Required Approvals.

1. Tier 1. Projects requesting Tier 1 incentives require Design Review conducted by the Community Development Director consistent with Chapter 17.108 BMC (Design Review).
2. Tier 2. Projects requesting Tier 2 incentives require Planning Commission approval of use permit. As provided in Chapter 17.108 BMC (Design Review), the Planning Commission conducts design review as part of the use permit process.
3. Tier 3. Projects requesting Tier 3 incentives require City Council approval of a Development Agreement at a noticed public hearing. The Development Agreement shall be prepared and approved consistent with Chapter 17.116 BMC (Development Agreements) and Government Code Sections 65864 through 65869.5 The Planning Commission must make a recommendation to the City Council on the Development Agreement at a noticed public hearing. The Planning Commission and City Council conduct design review as part of the Development Agreement review process.

Section 6.

Subsection F (Location and Ownership) of Section 17.74.020 (Basic requirements for off-street parking and loading) of Chapter 17.74 (Parking) of Title 17 (Zoning) of the Benicia Municipal Code, is hereby amended to read as follows:

- F. Location and Ownership. Parking in an R district required to serve a residential use shall be on the same site as the use served. Parking required to serve a residential or nonresidential use in any other district may be on the same or a different site under the same or different ownership as the use served; provided, that parking shall be within the following distances of the use served, measured from the near corner of the parking facility to the entrance of the use served via the shortest pedestrian route:

Customer/Visitor Spaces	<u>Residential Spaces</u>	Employee Spaces
200 feet	<u>300 feet</u>	400 feet

~~Facilities for off-site parking shall be restricted to that use by a recorded deed, lease, or agreement for a minimum period of 10 years from the date a zoning permit requiring the parking is issued; provided, that the community development director may lift the restriction upon finding that substitute parking facilities meeting the requirements of this chapter are provided. No use may be continued if the parking is removed unless substitute parking facilities are provided.~~

Prior to establishing the off-site parking, a covenant record, approved by the City, must be filed with the County Recorder guaranteeing that off-site parking will be maintained exclusively for the use served for the duration of the use.

Section 7.

Section 17.74.020 (Basic requirements for off-street parking and loading) of Chapter 17.74 (Parking) of Title 17 (Zoning) of the Benicia Municipal Code, is hereby amended to add new subsections L (New On-Street Parking – Mixed Use Districts) and M (Use of On-Street Parking), which read as follows:

L. New On-Street Parking – Mixed Use Districts.

1. If a mixed-use residential development in the MU-I or MU-L district creates new publicly-available on-street parking, the number of off-street parking spaces required for the commercial use shall be reduced by the number of new on-street parking spaces. For example, if a commercial use otherwise requires four off-street spaces, and the project creates two new on-street spaces within excess street right-of-way or be dedicating to the City right-of-way, the commercial use would be required to provide two (not four) off-street spaces.
2. A development may create new on-street parking within the public right-of-way only after the City Council has adopted a plan or policy specifying where this new parking is allowed and additional standards and requirements that apply.
2. The Engineering Division must review and approve all new on-street parking within the public right-of-way.

M. Use of On-Street Parking.

1. The Planning Commission may reduce required off-street parking for commercial uses in a mixed use residential project where on-street parking is available to serve the commercial use.
2. The applicant must submit a parking study prepared by a qualified professional, documenting existing on-street parking conditions and demonstrating that the Use Permit findings in BMC 17.104.060 (Required Findings) can be made.
3. On-Street parking must comply with the following:
 - i. The on-street parking space must be located no more than 300 feet away from the use it serves, measured from the near corner of the parking space to the primary entrance of the use served via the shortest pedestrian route.
 - ii. For a commercial use that requires ten or more parking spaces, no more than 50 percent of the required parking may be served by on-street spaces.
 - iii. On-street parking spaces must be designated as limited time parking in accordance with the California Vehicle Code.

Section 8.

Subsection B (Reduced Parking) and C (Special Conditions) of Section 17.74.040 (Collective Provision of Parking) of Chapter 17.74 (Parking) of Title 17 (Zoning) of the Benicia Municipal Code, are hereby amended to read as follows:

- B. Reduced Parking. A use permit for collective off-street parking may reduce the total number of spaces required by this chapter. Any applicant shall submit data prepared by a qualified professional substantiating a request for reduced parking requirements. A use permit may reduce the number of collective parking spaces required if the following additional findings are made:
1. That parking demand will be less than the requirement in Table 1 or Schedule A in BMC 17.74.030; and
 2. That the probable long-term occupancy of the building or structure, based on its design, will not generate additional parking demand.
- C. Special Conditions. In lieu of or in combination with all or a part of the parking provided under subsection (A) of this section, approval of the use permit may include conditions requiring the payment of fees, the participation in a future or existing parking district, implementation of transportation demand management (TDM) provisions, and/or other mechanisms deemed appropriate by the city to promote the collective provision of parking. The replacement of parking space requirements by such in-lieu fees shall not be considered a reduction in parking or a reduction in the number of spaces required by this chapter.

Section 9.

Section 17.74.060 (Reduced parking for other uses) of Chapter 17.74 (Parking) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

17.74.060 Reduced parking for other uses.

A use permit may be approved reducing the number of spaces to less than the number specified in the schedules in BMC 17.74.030; provided, that the following findings are made:

- A. The parking demand will be less than the requirement in Schedule A or B of BMC 17.74.030; and
- B. The probable long-term occupancy of the building or structure, based on its design, will not generate additional parking demand.

In reaching a decision, the planning commission shall consider survey data, prepared by a qualified professional, submitted by an applicant or collected at the applicant's request and expense.

Section 10.

Chapter 17.74 (Parking) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to add new Section 17.74.075 (Electric vehicle charging) to read as follows:

17.74.075 Electric vehicle charging

- A. New Single-family Dwellings and Townhouses. A UL-listed raceway to accommodate a dedicated 208/240-volt branch circuit shall be provided for each required parking space.
- B. New Multifamily Building.

1. A minimum of ten percent of the total number of required parking spaces on the site shall be electric vehicle charging spaces (EV spaces) equipped with an EV charger or electric socket to connect to EV charging cables.
2. An additional 20 percent of the required parking spaces (rounded up to the nearest whole number) shall be equipped with electric vehicle supply equipment (EVSE) capable of supporting future EV charging equipment, including a branch circuit overcurrent protective device.
3. All required parking spaces not equipped with EVSE shall be provided with conduit, raceway, or a combination of both, providing future access to EVSE.

D. California Green Building Code. In case of conflict between this section and the California Green Building Code, the California Green Building Code governs.

Section 11.

Section 17.74.100 (Application of dimensional requirements) of Chapter 17.74 (Parking) of Title 17 (Zoning) of the Benicia Municipal Code, subsection A is hereby amended to read as follows:

A. Up to 50 percent of required spaces may be small-car spaces. The Community Development Director may grant an exception to criteria to allow all required parking spaces to be small-car spaces upon finding that the small-car spaces will provide adequate parking facilities for the uses that they serve.

A. By Use Type:

~~1. Residential. For multifamily residential uses, all reserved resident spaces shall be large-car spaces. Up to 30 percent of nonreserved resident spaces may be small-car spaces. The community development director may approve an exception to criteria authorizing up to half of the required resident spaces to be small-car spaces if such spaces are not assigned.~~

~~2. Nonresidential. Up to 30 percent of all spaces may be small-car spaces. Customers or visitors shall be deemed to occupy the following proportions of spaces serving nonresidential uses:~~

~~a. Visitor accommodations: 90 percent;~~

~~b. Manufacturing, distribution, and wholesaling: 10 percent;~~

~~c. Offices other than public, medical, banks and savings and loans; other financial services: 15 percent;~~

~~d. All other nonresidential: 80 percent.~~

~~The community development director may authorize an exception to criteria to adjust parking space size requirements for a specific use based on evidence presented by the applicant.~~

Section 12.

Section 17.74.120 (Specific parking area design) of Chapter 17.74 (Parking) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

17.74.120 Specific parking area design.

Where an applicant can demonstrate to the satisfaction of the community development director that variations on the dimensions otherwise required by this chapter are warranted, to accommodate tandem spaces, for example, a specific parking area design may be approved under the following limitations:

A. Tandem Parking.

1. Tandem parking spaces are permitted for residential uses and designated employee parking.
2. Parking spaces in a tandem configuration for residential uses must be reserved for and assigned to a single dwelling unit.
3. Tandem parking spaces may not conflict with required parking spaces or aisles providing access to other parking spaces located within the parking area.

B. Parking Lifts. Required parking may be provided using elevator-like mechanical parking systems (“parking lifts”) provided the lifts are located within an enclosed structure.

C. Valet Parking. Required parking for non-residential uses may be provided with valet parking. Where provided, valet parking shall comply with the following standards:

1. Valet parking lots must be staffed at all times by an attendant who is authorized and able to move vehicles.
2. A valet parking plan shall be reviewed and approved by the Community Development Director in consultation with the City Engineer.
3. Valet parking may not interfere with or obstruct vehicle or pedestrian circulation on the site or on any public street or sidewalk.
4. The use served by valet parking shall provide a designated drop-off and pick-up area. The drop-off and pick-up area may be located adjacent to the building, but it may not be located within a fire lane, impede vehicular and/or pedestrian circulation, or cause queuing in the right-of-way or drive aisle.
5. Valet parking spaces may be located on or off-site. If off-site, parking must comply with BMC 17.74.040.

~~A. The area affected by the specific design shall be for parking by persons employed on the site only. Visitor parking stalls shall meet the dimensions required, with variations permitted only for a valet parking program.~~

~~B. The surface area available for parking shall not be less than would be required to accommodate the minimum required number of stalls for large and small cars, with reductions permitted only for tandem parking and valet parking programs.~~

D. No use for which a tandem or valet parking program has been approved shall

be continued if such a program is abandoned unless the parking area is reconfigured to provide the number of independently accessible spaces required by this chapter.

Section 13.

Section 17.74.130 (Parking access from street) of Chapter 17.74 (Parking) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

17.74.130 Parking access from street.

G. General.

1. Access to parking spaces, other than four or fewer spaces serving a residential use in an R district, shall not require backing across a street property line. An alley may be used as maneuvering space for access to off-street parking.
2. All spaces in a parking facility shall be accessible without reentering a public right-of-way unless it is physically impossible to provide for such access.

H. Mixed-Use Districts. The following requirements apply in the MU-I and MU-L districts.

1. Parking Placement and Alley Access.

- a. Surface parking spaces may not be located between a building and a front or street side lot line. Parking must be located to the rear or side of buildings.
- b. For lots served by an existing paved alley, vehicle access to parking must be from the alley. The review authority may allow exceptions to this requirement where:
 - (1) Use of the alley is shared with one or more existing single-family residential homes; and
 - (2) The alley dimensions and other existing physical site conditions (e.g., building location) conflict with City standards for alley width, sight distance, emergency vehicle access or other objective standards.
- c. If an applicant paves and improves the alley consistent with City standards, parking access may be provided from the alley.

2. Driveways.

- a. No more than one driveway may serve any parcel less than 150 feet wide and no more than two driveways may serve any parcel exceeding 150 feet in width.
- b. The number of driveways allowed for a corner parcel is calculated using either the front or the side dimension of the parcel, whichever is larger.

Section 14.

Chapter 17.74 (Parking) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to add new Section 17.74.220 (Podium Parking) to read as follows:

17.74.220 Podium Parking.

A. Landscaping Strip. Podium parking adjacent to a street must include a landscaped planter between the street and podium at least 4 feet wide with a planting height and vegetative cover sufficient to fully screen the podium edge and ventilation openings from view. At maturity, plantings must comprise a minimum of 75 percent of the total landscape planter.

B. Residential-only Projects.

1. The maximum height of a parking podium adjacent to the street is 5 feet from finished grade.
2. Units above a street-facing podium must feature entries with stoops and stairs providing direct access to the adjacent sidewalk.

C. Mixed -Use and Commercial Projects. The podium parking entry shall be recessed a minimum of 4 feet from the street-facing building facade.

Section 15.

Section 17.104.020 (Authority of planning commission and community development director) of Chapter 17.104 (Use Permits and Variances) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

17.104.020 Authority of planning commission and community development director.

A. Planning Commission. The planning commission shall approve, conditionally approve, or disapprove applications for use permits or variances subject to the general purposes of this title, the specific purposes of the base or overlay zoning district in which a development site is located, and the provisions of this chapter, unless authority for a decision on a use permit is specifically assigned to the community development director in the individual chapters of this title.

B. Community Development Director.

1. The community development director shall approve, conditionally approve or disapprove applications for variances related to single-family residences subject to the general purposes of this title, the specific purposes of the base or overlay zone in which a development site is located, and the provisions of this chapter.
2. The community development director may refer any application to the Planning Commission for review and final decision.

Section 16.

Section 17.108.020 (Applicability) of Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to read as follows:

17.108.020 Applicability.

- A. In an H Historic Overlay District. Design approval shall be required prior to issuance of a zoning permit for all projects that involve demolition, construction, or changes in exterior colors or materials, except signs.
- B. In All Other Districts. Design approval shall be required prior to issuance of a zoning permit for all projects in all other zones that involve new construction or exterior alterations and additions, except:
 - 1. Single-family residences and related accessory buildings;
 - 2. Multifamily and mixed-use residential development up to two stories in the MU-L and MU-I districts consistent with applicable standards in Chapter 17.26 BMC.
 - 3. Buildings in the IL, IG, IW, and IP districts that are less than 50,000 square feet;
 - 4. Emergency shelters subject to BMC 17.70.390(D), and
 - 5. Signs.
- C. Accessory Dwelling Units. Accessory dwelling units and carriage units shall be exempt from the provisions of this chapter.

Section 17.

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:

Section 17.108.060 Review responsibilities

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

- A. By the Community Development Director.
 - 1. The community development director shall be responsible for design review for:
 - a. Projects greater than 50,000 square feet of gross floor area in the IG, IL, IW and IP districts ~~and for~~;
 - b. Projects outside the industrial districts that involve construction of less than 2,500 square feet of floor area.
 - c. Projects utilizing Tier 1 incentives under the City's community benefit program per BMC 17.70.430.
 - 2. The community development director may refer any application to the Historic Preservation Review Commission for review and final decision; except that a project

submitted pursuant to BMC 17.108.060.A.1.c, above, may be referred to the Planning Commission.

- B. By the Historic Preservation Review Commission. The historic preservation review commission shall be responsible for design review in the RS (nonresidential structures only), RM, RH, C, OS, PS, PD and the H overlay districts, for projects not subject to community development director review. The historic preservation review commission shall hold a public hearing, as provided in BMC 17.108.080, and shall approve, conditionally approve, or disapprove applications for design approval. Decisions of the design review commission may be appealed to the planning commission in accordance with Chapter 1.44 BMC.
- C. By the Planning Commission. The Planning Commission shall be responsible for design review for projects utilizing Tier 2 or Tier 3 incentives under the City's community benefit program per BMC 17.70.430.
- ~~D.~~ 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 18.

Chapter 17.108 (Design Review) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended to add new Section 17.108.085 (Notice of pending decision by Community Development Director) to read as follows:

17.108.085 Notice of pending decision by Community Development Director

- A. Notice of a pending design review decision by the community development director shall be given to owners of property located within 100 feet of the subject property and shall be posted on the project site.
- B. Notice shall be provided at least 10 days prior to the administrative action on a form set by the community development director and shall include the project location, a description of the project, a reference to materials on file in the community development department, a statement that any interested party may provide comment, and a date on which the decision is to be made.