

**17.70.060 Accessory dwelling units.**

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

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

C. General standards. An accessory dwelling unit shall comply with the following general standards.

1. Public utility and services, including emergency access, shall be adequate to serve both the primary dwelling and accessory dwelling unit.
2. Either the primary dwelling or the accessory dwelling unit shall be owner-occupied.
3. The accessory dwelling unit may be rented but shall not be sold or otherwise conveyed separately from the primary dwelling.
4. The rented unit shall not be leased for any period less than thirty days.
5. An executed deed restriction, on a form provided by the city, shall be required pursuant to subsection (G) of this section.
6. An existing primary dwelling unit may be designated as an accessory dwelling unit if a new primary dwelling unit is built in compliance with applicable standards and requirements of this title.

D. Development Standards.

1. Floor area

- a. Attached units. The floor area of an attached accessory dwelling unit shall not exceed 50 percent of the floor area of the primary dwelling unit or 1,200 square feet, whichever is less.

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

2. Bulk standards.

a. An accessory dwelling unit shall conform to the applicable floor area ratio, lot coverage and site landscaping standards of the district in which it is located.

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

c. A detached accessory dwelling unit shall conform to the applicable yard, setback, build-to line and building separation standards for accessory structures or ancillary buildings; provided, however, that the required side and rear setback shall not exceed 5 feet.

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

3. Height.

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

b. A detached accessory dwelling unit shall conform to the applicable height standards for accessory or ancillary structures, but shall not exceed the height of the primary dwelling.

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

E. Design Standards.

1. The exteriors of accessory dwelling units shall be compatible with existing development in the immediate neighborhood by using building materials, window styles, roof slopes, colors, and exterior finishes that are the same or visually similar to those on the primary dwelling unit. Reflective metal finishes are prohibited.

2. In a mixed use district, the accessory dwelling unit shall conform to the standards of the Downtown Mixed Use Master Plan form-based code.

3. All utility distribution lines serving an accessory dwelling unit shall be placed underground as provided in BMC Section 17.70.320.
4. For a detached accessory dwelling unit, no deck or platform shall exceed thirty inches above grade.
5. For lots containing a contributing or landmark building in the H historic overlay district, an accessory dwelling unit shall conform to the following additional requirements:
  - a. Detached accessory dwellings and building additions shall be located behind the primary dwelling and shall not exceed the height or footprint of the primary dwelling.
  - b. Exterior building materials shall be horizontal wood or fiber cement (e.g., Hardi-board) siding or shingles. However, if stucco is the predominant finish for the primary residence, then a stucco exterior shall also be applied to the accessory dwelling.
  - d. The exterior walls of an accessory dwelling shall utilize same base and trim colors as the primary residence.
  - e. Window frames shall be painted or factory-finished. No metallic finishes such as silver or bronze anodized aluminum are permitted.
  - f. The roof pitch for an accessory dwelling unit shall be 2:12 or greater. However, if the primary residence has a predominantly flat roof, a similar pitch may be employed on the accessory dwelling.

F. Parking standards.

1. The minimum number of required parking spaces for the primary dwelling shall be provided in accordance with Chapter 17.74.
2. One additional parking space is required for an accessory dwelling unit, unless the unit meets any of the following criteria:
  - a. The accessory dwelling unit is located within one-half mile of a public transit facility, as measured by the distance a person would have to walk to the public transit using public streets.
  - b. The accessory dwelling unit is located within an H Historic Overlay District.
  - c. The accessory dwelling unit is part of a proposed or existing primary residence, or part of an accessory structure lawfully existing as of January 1, 2018.

- d. On-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
  - e. A car share vehicle is located within one block of the accessory dwelling unit.
3. Off-street parking that is required for an accessory dwelling unit may be permitted as a tandem stall. The required parking space may be provided within the required front yard on a driveway, provided that any parking space constructed in the required front yard shall be uncovered and shall not be located within 10 feet of the front property line.
  4. The community development director may approve an exception to criteria to waive off-street parking for an accessory dwelling unit, if off-street parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
  5. When a garage, carport or covered parking structure is demolished in conjunction with construction of an accessory dwelling unit, or converted to an accessory dwelling unit, the required parking spaces for the primary dwelling unit shall be maintained or replaced. Replacement parking spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

#### G. Recordation of Deed Restriction on Property with Accessory Dwelling Unit.

1. An executed deed restriction, on a form provided by the city, shall be submitted to the city prior to issuance of a building permit and shall be recorded prior to final occupancy. The deed restriction shall stipulate all of the following:
  - a. That the property owner must occupy either the principal dwelling or accessory dwelling unit;
  - b. That the rented unit shall not be rented for any period less than thirty days at a time; and
  - c. That the accessory dwelling shall not be sold separately from the primary dwelling.
2. The community development director, or designee, may suspend this requirement to allow for occupancy by a disabled person and primary caretaker(s) pursuant to the reasonable accommodation procedures of Chapter 17.132.

### **17.12.030 Definitions.**

“Car share” means the rental or sharing of vehicle(s) by an organization or company, on a limited-term hourly basis, to individual drivers in order to increase access to vehicles as an alternative to personal car ownership.

“Construction trailer” means a temporary movable trailer which is used for the storage of construction materials or tools, for supervising construction activity, for a sales office or other office needed for the development of a site, and which is temporarily located on a site during construction.

“Public transit facility” means a station, stop or similar location, designated by a public transit agency and located on a transportation route, by which individuals gain access to public transit services (e.g., bus stop).

“Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

“Vehicle” means a device by which any person or property may be propelled, moved, or pulled.

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

A. Accessory Uses and Structures. Uses and structures that are incidental to the principal permitted or conditionally permitted use or structure on a site and are customarily found on the same site. This classification includes accessory dwelling units, home occupations, and construction trailers.

1. Accessory Dwelling Unit. An attached or detached residential dwelling unit that provides permanent, complete independent living facilities, including facilities for living, sleeping, food preparation and cooking, eating and sanitation, for one or more persons, on the same parcel as a single-family dwelling. (Ord. 04-2 § 1; Ord. 87-4 N.S., 1987).

### **17.24.030 Property development regulations.**

(Q) No portion of a driveway located in a front setback area shall be used for required parking, except as provided in Section 17.70.060 Accessory dwelling units. See Chapter [17.74](#) BMC, Off-Street Parking and Loading Regulations.

**17.74.090 Parking space dimensions.**

Required parking spaces shall have the following minimum dimensions:

<b>Use</b>	<b>Type of Space</b>	<b>Large Car (ft.)</b>	<b>Small Car (ft.)</b>
Residential	In separate garage or carport housing 6 or fewer cars, or with door at rear of each space	9 x 19	n/a
Residential	In garage or carport housing more than 6 cars with access via aisle, for multifamily residential, or for accessory dwelling unit	9 x 18	7.5 x 15
Nonresidential	All spaces	9 x 18	7.5 x 15
All	Parallel spaces	8 x 22	n/a

**17.74.100 Application of dimensional requirements.**

A. Residential.

1. 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 allowing up to half of the required resident spaces to be small-car spaces if such spaces are not assigned.

2. For accessory dwelling units, the required parking space may be provided as a small car space,

B. 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:

1. Visitor accommodations: 90 percent;
2. Manufacturing, distribution, and wholesaling: 10 percent;
3. Offices other than public, medical, banks and savings and loans; other financial services: 15 percent;
4. 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.

**17.74.190 Vehicle parking – Design and location in R districts.**

The following provisions shall apply to vehicle parking in an R District:

A. Vehicle parking surfaces. Parking surfaces for vehicles shall be constructed of concrete, asphalt or permeable paving materials (e.g., porous pavement, vehicle-rated driveway pavers, decomposed granite, and similar materials as approved by the City Engineer).

B. Driveways. Driveways shall be paved and shall have widths and clearances prescribed by BMC [17.74.140](#), subject to the visibility requirements of BMC [17.74.150](#). No portion of a driveway located in a front setback area shall be used for required parking, except as provided in Section 17.70.060 Accessory dwelling units.

C. Carports. Carports shall be designed and located to minimize the visibility of parked vehicles from a public street.

**17.108.020 Applicability.**

A. In an H Historic Overlay District. Design approval shall be required prior to issuance of a 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 permit for all projects that involve new construction, exterior alterations and additions or requests for an exception to criteria .

D. Exemptions. The following projects are exempt from design review:

1. Single-family residences and related accessory buildings unless otherwise specified in an adopted conservation plan or planned development plan;
2. Site alterations and buildings in the IL, IG, IW, and IP districts that are less than 50,000 square feet in gross floor area;
3. Emergency shelters;
4. Accessory dwelling units; and
5. Signs.

(Ord. 14-11 § 11; Ord. 13-15 § 10; Ord. 07-21 § 11; Ord. 01-6 N.S., 2001; Ord. 89-1 N.S. § 49, 1989; Ord. 87-4 N.S., 1987).

**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. The community development director shall be responsible for design review for the following applications:

1. In the industrial districts: for projects greater than 50,000 square feet of gross floor area;
2. Outside the industrial districts: for projects that involve construction of less than 2,500 square feet of floor area;
3. Exceptions to criteria: for requests for exceptions to authorize reductions in stall size per BMC 17.74.100 B; timing of construction for an accessory structure, projection of detached garage in the RS District, and separation between buildings per BMC 17.70.050 A.

B. By the Historic Preservation Review Commission. The historic preservation review commission shall be responsible for design review of 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. (Ord. 13-15 § 10; Ord. 13-07 § 2; Ord. 07-67 § 1; Ord. 07-21 § 12; Ord. 01-6 N.S., 2001; Ord. 99-1 N.S.; Ord. 92-15 N.S. § 20, 1992; Ord. 92-9 N.S. § 24, 1992; Ord. 89-1 N.S. § 51, 1989; Ord. 87-4 N.S., 1987).

#### **17.70.050 Accessory structures.**

A. In R Districts.

1. Timing. Accessory structures shall not be established or constructed prior to the start of construction of a principal structure on a site, unless authorized by an exception to criteria to accommodate overall development on a parcel with site constraints. Construction trailers may be placed on a site at the time site clearance and grading begins. Construction trailers shall be removed within 30 days following the issuance of a certificate of occupancy for the structure.
2. Location. Accessory structures shall not occupy a required yard or court, or project beyond the front building line of the principal structure on a site. Subject to an exception to criteria in the RS zone, a detached garage may protrude past the front building line of the principal structure, but may not be located within a required front yard; provided, that the design of the detached garage is compatible with the existing residence in terms of architectural design, building materials, roof slopes, colors, and exterior finishes. No accessory uses may be permitted off-site.
3. Maximum Height. The maximum height of an accessory structure shall be 12 feet, subject to the provisions of this subsection; provided, that pitched roofs shall not exceed a height of 15 feet. For any lot containing a single-family residence, a



pitched roof on an accessory structure may extend to 20 feet in height to match the roof pitch of the existing or proposed residence on the site.

4. Relation to Property Lines and Buildings. An accessory structure in a required rear yard shall be located at least five feet from a rear or side property line. A minimum ten-foot distance shall be maintained between an accessory building and any other building on the site; provided, however, that the Community Development Director may authorize an exception to criteria to reduce the separation between buildings to five feet .

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

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

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

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

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

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

C. In PD District. The location of accessory structures shall comply with the adopted PD or specific plan for a PD district. (Ord. 92-9 N.S. §§ 10 – 13, 1992; Ord. 89-1 N.S. §§ 27, 28, 1989; Ord. 87-4 N.S., 1987

### **17.70.280 Manufactured homes.**

A. Purpose. Manufactured homes are part of the housing stock of the city of Benicia. It is the intent of the city to provide opportunities for the placement of manufactured homes as residential uses and in manufactured home parks, and to ensure that such manufactured homes are designed and located so as to be harmonious within the context of the surrounding houses and neighborhood. No provision contained herein shall be applied in contradiction to state law.

B. General Requirements. Manufactured homes may be used for residential purposes as follows:

1. If such manufactured homes are located in an approved manufactured home park in conformity with the conditions imposed upon development and use of the manufactured home park; or
2. If such manufactured homes are located in a district that permits single family dwellings; or
3. If such manufactured homes have been approved by the community development director for a location in an OS district or an I district as caretaker housing.

All manufactured home parks shall have a minimum lot area of four acres and may be allowed only through approval of a PD district under the provisions of Chapter [17.44](#) BMC. Manufactured homes also may be used for temporary uses, subject to the requirements of a temporary use permit issued under Chapter [17.104](#) BMC.

4. Design Criteria. A manufactured home shall be compatible in design and appearance with structures in the vicinity and shall meet the following standards:
  - a. It must be built on a permanent foundation approved by the building official;
  - b. It must have been constructed in compliance with all City of Benicia permit requirements, subject to permitting by the California Department of Housing and Community Development;
  - c. The unit's skirting must extend to the finished grade;
  - d. The exterior materials of a manufactured home shall be compatible with existing development in the immediate neighborhood by using building materials, window styles, roof slopes, colors, and exterior finishes that are the same or visually similar to those on the primary dwelling unit. Reflective metal finishes are prohibited
  - e. The roof must be of concrete or asphalt tile, shakes or shingles, or non-reflective standing seam metal complying with the most recent editions of the California Building Code fire rating approved in the city of Benicia;

f. The roof must have a minimum 2:12 pitch and eaves or overhangs of not less than one foot;

g. Required covered parking shall be compatible with the manufactured home design and with other buildings in the area.

C. Cancellation of State Registration. Whenever a manufactured home is installed on a permanent foundation, any registration of said manufactured home with the state of California shall be canceled, pursuant to state laws and regulations. Before any occupancy certificate may be issued for use of such a manufactured home, the owner shall provide to the building official satisfactory evidence showing that the state registration of the manufactured home has been or will, with certainty, be canceled; if the home is new and has never been registered with the state, the owner shall provide the building official with a statement to that effect from the dealer selling the home. (Ord. 92-9 N.S. § 20, 1992; Ord. 89-1 N.S. § 32, 1989; Ord. 87-4 N.S., 1987).