

RESOLUTION NO. 22- 98

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
CALLING AND GIVING NOTICE OF THE HOLDING OF AN ELECTION TO ASK
VOTERS TO EXTEND THE DURATION OF THE CITY OF BENICIA URBAN GROWTH
BOUNDARY TO DECEMBER 31, 2043, CLARIFY USES PERMITTED BEYOND THE
URBAN GROWTH BOUNDARY, AUTHORIZING AND REQUESTING THE COUNTY OF
SOLANO CONDUCT AND CONSOLIDATE THE ELECTION WITH THE GENERAL
ELECTION TO BE HELD NOVEMBER 8, 2022, ESTABLISHING THE SCHEDULE FOR
SUBMISSION OF BALLOT ARGUMENTS AND REQUESTING THE CITY ATTORNEY
TO PREPARE AND FILE AN IMPARTIAL ANALYSIS OF THE PROPOSED BALLOT
MEASURE**

WHEREAS, Benicia voters approved ballot initiative “Measure K” on November 4, 2003 to establish a 20-year Urban Growth Boundary (“UGB”) and related amendments to the Benicia General Plan; and

WHEREAS, by its terms, Measure K sunsets on December 31, 2023; and

WHEREAS, the City Council has expressed intent to place a measure on the ballot to extend the duration of the UGB until December 31, 2043 and clarify those uses historically permitted historically permitted beyond and consistent with the established UGB; and

WHEREAS, Measure K precluded urban development beyond the UGB; “urban development” was defined as “development requiring one or more basic municipal services including, but not limited to water service, sewer, improved storm drainage facilities, fire hydrants and other physical public facilities and services;” and

WHEREAS, Urban development does not include uses such as wind turbines, solar facilities, and water conveyance pipelines to the City Water Treatment Plant, which uses have been historically permitted beyond the UGB due to such uses not requiring one or more basic municipal services; and

WHEREAS, the City Council considered a CEQA Exemption Analysis prepared under the California Environmental Quality Act for this proposed ballot measure and determines that the proposed ballot measure is exempt from CEQA pursuant to CEQA Guidelines sections 15307 and 15308 as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment; and

WHEREAS, the City Council is authorized by statute (Elections Code section 9222) to submit the proposed ordinance to the voters.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia does resolve, declare, determine and order as follows:

Section 1. Call for Election. Pursuant to California Elections Code Section 9222, the City Council hereby calls a special election at which it shall submit to the qualified voters of the City of Benicia a measure that, if approved, would extend the duration of the City of Benicia Urban Growth Boundary (UGB) to December 31, 2043, and clarify the uses permitted beyond and consistent with the established UGB. This measure shall be designated by letter by the Solano County Registrar of Voters.

Section 2. Ballot Language. The City Council, pursuant to its right and authority, does hereby order the following question submitted to the voters at the consolidated special election to be held on November 7, 2022:

<p>To continue the existing protections provided by the current Urban Growth Boundary (“UGB”), such as preventing urban sprawl, and preserving agricultural land and open space, shall the City of Benicia extend the existing UGB until December 31, 2043, clarify the uses permitted beyond the UGB, and require that future changes to the UGB be approved by the voters?</p>	<p>YES</p>
	<p>NO</p>

Section 3. Text of Measure. The complete text of the measure to be submitted to the voters for approval is attached hereto as Exhibit A. The City Council hereby approves the proposed ordinance, in the form thereof, and its submission to the voters of the City at the November 8, 2022, election. The text of the measure shall be printed in the ballot materials and be available for public inspection in the City Clerk’s office and on the City’s website at www.ci.benicia.ca.us.

Section 4. Notice of Measure. In accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in a newspaper of general circulation, printed, published, and circulated in the City of Benicia and hereby designated for that purpose by the City Council of the City of Benicia. The City Clerk may request that the County of Solano Elections Department prepare and publish the required notice.

Section 5. Request to Consolidate and Conduct Election and Canvass Returns.

(a) Pursuant to Elections Code commencing with Section 10400, the City Council hereby requests, consents, and agrees that the County of Solano shall take all actions which are necessary or appropriate in connection with the election, including, but not limited to, printing and mailing sample ballots, arguments and applications for absentee ballots, canvassing election returns and certifying the results of the election to the Council. Pursuant to Elections Code Section 10002, the Board of Supervisors of Solano County is requested to permit the Registrar of Voters to render all services specified by Elections Code Section 10418 relating to the election. The City hereby agrees to reimburse Solano County in full for any services performed by each for the City upon presentation of an invoice to the City.

(b) The election on the measure shall be held and conducted, the voters canvassed, and the returns made, and the results ascertained and determined as provided herein. The election shall be held

in accordance with the Elections Code of the State of California. As required by Elections Code section 10403, the City of Benicia acknowledges that the consolidated election will be held and conducted in the manner prescribed in Section 10418 of the Elections Code.

(c) The election on the measure shall be held in the City of Benicia in the County of Solano on November 8, 2022, as required by law, and the Board of Supervisors of Solano County is authorized to canvass the returns of the election with respect to the votes cast in the City of Benicia and certify the results to the City Council of the City of Benicia.

(d) At the next regular meeting of the City Council of the City Benicia occurring after the returns of the election for the Initiative have been canvassed and the results have been certified to the City Council, or at a special meeting called for such purpose if required by law, the City Council shall cause to be entered in its minutes a statement of the results of the election.

Section 6. Notice of Election. The notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

Section 7. Submission of Ballot Arguments and Impartial Analysis.

(a) The City Council hereby adopts provisions for the filing of ballot arguments and rebuttal arguments for the Initiative set forth in California Elections Code sections 9282 *et seq.* All arguments for and against the measure shall be filed with the City Clerk pursuant to the timelines set forth in the County of Solano's Election Calendar for the November 8, 2022 General Election which is attached hereto as Exhibit B. All arguments for and against the measure shall be signed, with printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

(b) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against it, and copies of the argument against it to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut.

(c) The City Attorney is directed to prepare an Impartial Analysis in accordance with statute (E.C. 9280).

Section 8. Appropriation of Necessary Funds. The City of Benicia recognizes that additional costs will be incurred by the County by reason of this special election and agrees to reimburse the County for any costs. The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the measure on the election ballot.

Section 9. Services of City Clerk. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters of the County of Solano on or before August 9, 2022 and enter this resolution into the book of original resolutions. The City

Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voter upon request.

Section 10. Canvass Returns of the Election. The Solano County Elections Department is hereby authorized to canvass the returns of the election, including this ballot measure.

Section 11. Filing of Copy of Resolution. The City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the Election Department of the County of Solano

Section 12. Election Held Pursuant to Law. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 13. Effective Date. This Resolution shall take effect upon its adoption.

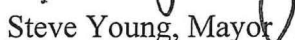
On motion of Council Member **Largaespada**, seconded by Council Member **Macenski**, the above Resolution was adopted by the City Council of the City of Benicia at a regular meeting of said Council held on the 19th day of July 2022 by the following vote:

Ayes: **Council Members Campbell, Largaespada, Macenski, Strawbridge, and Mayor Young**

Noes: **None**

Absent: **None**

Abstain: **None**


Steve Young, Mayor

Attest:

—
Lisa Wolfe, City Clerk

—
Date

I, Lisa Wolfe, City Clerk of the City of Benicia, County of Solano, State of California, hereby certify that the foregoing Resolution was adopted by the City Council of the City of Benicia at a regular meeting held the 19th day of July 2022

Lisa Wolfe, City Clerk

Exhibit A
Draft Ordinance with Text of Measure
[see next page]

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF BENICIA, CALIFORNIA AMENDING THE CITY OF BENICIA GENERAL PLAN TO RENEW AND EXTEND THE EXISTING URBAN GROWTH BOUNDARY

THE PEOPLE OF THE CITY OF BENICIA DO HEREBY ORDAIN AS FOLLOWS:

Section A. Statement of Purpose and Findings.

1. **Purpose.** For the last 20 years, the Benicia Urban Growth Boundary (“UGB”) encouraged a cohesive pattern of urbanization, promoted efficient and orderly growth patterns, supported stability and certainty in long term planning, ensured that lands outside the UGB are not prematurely or unnecessarily converted to urban uses, and protected what is unique about Benicia including its surrounding agricultural and open space lands. This ordinance will renew and extend the existing UGB until December 31, 2043. This ordinance will further clarify those uses permitted beyond the UGB based on historical practice and the intent to continue to preserve agricultural and open space lands.

2. Findings.

- Since approval by the voters in 2002, the City’s UGB has encouraged efficient growth patterns and protected the quality of life in Benicia by concentrating future development within existing developed areas;
- The UGB concentrates growth within the boundary in order to limit the extent of required City services and restrain increases in their costs;
- The UGB allows housing needs for all economic segments of the population to be met, especially lower and moderate income households, by directing the development of housing into areas where services and infrastructure can be provided more cost effectively and with fewer environmental impacts.
- When approved by the voters in 2002, the UGB was established so as to preclude urban development beyond the UGB; “urban development” was defined as “development requiring one or more basic municipal services including, but not limited to water service, sewer, improved storm drainage facilities, fire hydrants and other physical public facilities and services.”
- Urban development does not include wind turbines, solar facilities, and water conveyance pipeline to the City Water Treatment Plant, which uses have been historically permitted beyond the UGB due to such uses not requiring one or more basic municipal services.
- The UGB continues to foster and protect lands to the north of the City that are dominated by hills, open space, agricultural land and fields.

Section B. Measure K Extension.

The People of the City of Benicia hereby adopt and render effective upon the December 31, 2023 expiration of the current UGB, an extension of the UGB until December 31, 2043, by approving the following amendment to the City of Benicia General Plan:

General Plan Policy 2.1.8 is hereby amended to read as follows (deletions in ~~strikethrough~~ and additions in underline.)

Prior to December 31, ~~2023~~ 2043, the Urban Growth Boundary designated on the Land Use Diagram, this policy, policies 2.1.5, 2.1.6, and 2.1.7 and the definition of Urban Growth Boundary, in the Glossary may be amended only by a vote of the people or pursuant to the procedures set forth below:

Exception I –Takings. The City Council may amend the Urban Growth Boundary if it finds, by at least a four-fifths vote and based on substantial evidence in the record, that:

(1) The application of the Urban Growth Boundary policies would constitute an unconstitutional taking of a landowner's property, and

(2) The amendment and associated land use designation will allow additional land uses only as necessary to avoid said unconstitutional taking of the landowner's property.

Exception II - Housing Supply. The City may grant an exception from the requirements of the Initiative where it determines that doing so is necessary to comply with State law governing the provision of housing, the City may do so only if it first makes each of the following findings based on substantial evidence in the record:

(1) State law requires the City to accommodate the proposed housing, and

(2) No feasible alternative exists that would allow for the required units to be built without siting some or all of them outside the Urban Growth Boundary,

Exception III - Reorganization. The General Plan may be reorganized, readopted in different text and/or format, and individual provisions may be renumbered or reordered, in the course of ongoing updates of the General Plan in accordance with the requirements of state law, but Land Use Element policies relating to the Urban Growth Boundary shall continue to be included in the General Plan until December 31, ~~2023~~ 2043, unless earlier repealed or amended pursuant to the procedures set forth above or by the voters of the City.

Section C. Amendment or Repeal.

Except as otherwise provided herein, no part of this General Plan Amendment may be amended or repealed except by a vote of the voters of the City of Benicia at a regularly scheduled general election or at a special election called for that purpose.

Section D. Interpretation.

This measure shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. This measure shall be broadly construed and interpreted in order to achieve the purposes stated herein.

Section E. Effective Date.

This ordinance shall take effect upon certification of the results of the November 8, 2022 election to the City Council of the City of Benicia if a majority of the voters, voting on the ordinance, vote in favor of its adoption. Upon the effective date of this ordinance, the provisions of Section B are hereby inserted into the General Plan of the City of Benicia as an amendment thereof and all other amendments to the General Plan approved by voters of the City of Benicia by approving Measure K on November 4, 2003, shall continue in force and effect until the expiration of this ordinance on December 31, 2043.

Section E. Severability.

If any section, subsection, sentence, clause, phrase or word of this resolution is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the

remaining portions of this resolution. The voters hereby declare that they would have passed and adopted this resolution, and each and all provisions hereof, irrespective of the fact that one or more of the provisions, either alone or as applied in connection with other provisions, may be declared invalid.

Section F. Project Approvals.

Upon the effective date of this ordinance, the City, its departments, boards, commissions, officers, and employees shall not grant, or by inaction allow to be approved by operation of law, any General Plan amendment, rezoning, specific plan, tentative or final subdivision map, conditional use permit, building permit, or any other ministerial or discretionary entitlement, which is inconsistent with this ordinance. Nothing in this ordinance shall prevent the City from redesignating or relabeling the maps or the policies described herein, so long as the text of the amended policies is not changed, and the geographical scope of the Urban Growth Boundary is not changed. Nothing in this ordinance shall be construed to prohibit the City from complying with State laws requiring density bonuses and/or other incentives for affordable housing development projects, as defined by State law.

Section G. Exemptions for Certain Projects.

This ordinance shall not apply to any development project that has obtained a vested right pursuant to state law as of the effective date of this ordinance.

Section H. Amended or Repeal.

Except as specifically provided herein, this ordinance may be amended or repealed only by the voters of the City of Benicia at a City election.

Section I. Publication.

The Clerk of the City of Benicia is hereby directed to cause the following summary of the ordinance to be published by a newspaper of general circulation, published and circulated in the City of Benicia:

Contingent upon majority voter approval, this ordinance will renew the City's existing urban growth boundary until December 31, 2043, and clarify the uses permitted beyond the UGB.

Exhibit A

Map Showing Location of Urban Growth Boundary

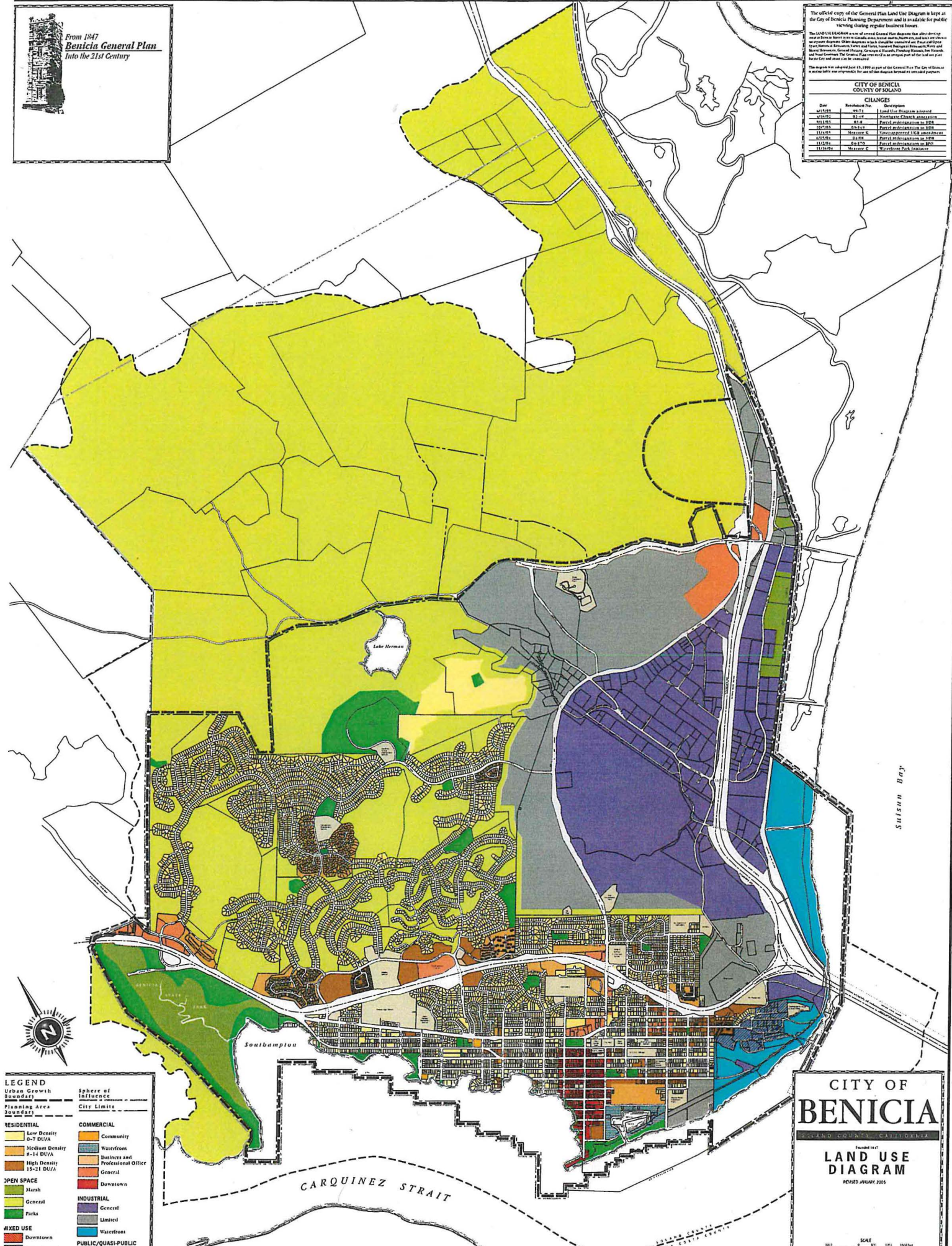


The official copy of the General Plan Land Use Diagram is kept at the City of Benicia Planning Department and is available for public viewing during regular business hours.

The 2005 LAND USE DIAGRAM is a visual representation of the plan for the City of Benicia. It is a technical drawing that shows the location and extent of various land uses and their relationship to each other. It is not a map of the City of Benicia and does not show the location of individual lots or parcels. It is a plan for the future and is subject to change.

The diagram was adopted on June 15, 1999 as part of the General Plan. The City of Benicia is a city in Solano County, California.

CHANGES		
Date	Resolution No.	Description
11/15/99	81-1	Northgate Church annexation
11/15/99	81-2	Parcel reclassification to 2008
10/17/00	83-1	Parcel reclassification to 2008
11/15/01	85-1	Parcel reclassification to 2008
11/15/01	85-2	Parcel reclassification to 2008
11/15/01	85-3	Parcel reclassification to 2008
11/15/01	85-4	Parcel reclassification to 2008
11/15/01	85-5	Parcel reclassification to 2008
11/15/01	85-6	Parcel reclassification to 2008
11/15/01	85-7	Parcel reclassification to 2008
11/15/01	85-8	Parcel reclassification to 2008
11/15/01	85-9	Parcel reclassification to 2008
11/15/01	85-10	Parcel reclassification to 2008
11/15/01	85-11	Parcel reclassification to 2008
11/15/01	85-12	Parcel reclassification to 2008
11/15/01	85-13	Parcel reclassification to 2008
11/15/01	85-14	Parcel reclassification to 2008
11/15/01	85-15	Parcel reclassification to 2008
11/15/01	85-16	Parcel reclassification to 2008
11/15/01	85-17	Parcel reclassification to 2008
11/15/01	85-18	Parcel reclassification to 2008
11/15/01	85-19	Parcel reclassification to 2008
11/15/01	85-20	Parcel reclassification to 2008
11/15/01	85-21	Parcel reclassification to 2008
11/15/01	85-22	Parcel reclassification to 2008
11/15/01	85-23	Parcel reclassification to 2008
11/15/01	85-24	Parcel reclassification to 2008
11/15/01	85-25	Parcel reclassification to 2008
11/15/01	85-26	Parcel reclassification to 2008
11/15/01	85-27	Parcel reclassification to 2008
11/15/01	85-28	Parcel reclassification to 2008
11/15/01	85-29	Parcel reclassification to 2008
11/15/01	85-30	Parcel reclassification to 2008
11/15/01	85-31	Parcel reclassification to 2008
11/15/01	85-32	Parcel reclassification to 2008
11/15/01	85-33	Parcel reclassification to 2008
11/15/01	85-34	Parcel reclassification to 2008
11/15/01	85-35	Parcel reclassification to 2008
11/15/01	85-36	Parcel reclassification to 2008
11/15/01	85-37	Parcel reclassification to 2008
11/15/01	85-38	Parcel reclassification to 2008
11/15/01	85-39	Parcel reclassification to 2008
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11/15/01	85-42	Parcel reclassification to 2008
11/15/01	85-43	Parcel reclassification to 2008
11/15/01	85-44	Parcel reclassification to 2008
11/15/01	85-45	Parcel reclassification to 2008
11/15/01	85-46	Parcel reclassification to 2008
11/15/01	85-47	Parcel reclassification to 2008
11/15/01	85-48	Parcel reclassification to 2008
11/15/01	85-49	Parcel reclassification to 2008
11/15/01	85-50	Parcel reclassification to 2008
11/15/01	85-51	Parcel reclassification to 2008
11/15/01	85-52	Parcel reclassification to 2008
11/15/01	85-53	Parcel reclassification to 2008
11/15/01	85-54	Parcel reclassification to 2008
11/15/01	85-55	Parcel reclassification to 2008
11/15/01	85-56	Parcel reclassification to 2008
11/15/01	85-57	Parcel reclassification to 2008
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11/15/01	85-62	Parcel reclassification to 2008
11/15/01	85-63	Parcel reclassification to 2008
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11/15/01	85-65	Parcel reclassification to 2008
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11/15/01	85-75	Parcel reclassification to 2008
11/15/01	85-76	Parcel reclassification to 2008
11/15/01	85-77	Parcel reclassification to 2008
11/15/01	85-78	Parcel reclassification to 2008
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11/15/01	85-82	Parcel reclassification to 2008
11/15/01	85-83	Parcel reclassification to 2008
11/15/01	85-84	Parcel reclassification to 2008
11/15/01	85-85	Parcel reclassification to 2008
11/15/01	85-86	Parcel reclassification to 2008
11/15/01	85-87	Parcel reclassification to 2008
11/15/01	85-88	Parcel reclassification to 2008
11/15/01	85-89	Parcel reclassification to 2008
11/15/01	85-90	Parcel reclassification to 2008
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11/15/01	85-92	Parcel reclassification to 2008
11/15/01	85-93	Parcel reclassification to 2008
11/15/01	85-94	Parcel reclassification to 2008
11/15/01	85-95	Parcel reclassification to 2008
11/15/01	85-96	Parcel reclassification to 2008
11/15/01	85-97	Parcel reclassification to 2008
11/15/01	85-98	Parcel reclassification to 2008
11/15/01	85-99	Parcel reclassification to 2008
11/15/01	85-100	Parcel reclassification to 2008



LEGEND

Urban Growth Boundary
Sphere of Influence
Planning Area Boundary
City Limits

RESIDENTIAL

- Low Density 0-7 DU/A
- Medium Density 8-14 DU/A
- High Density 15-21 DU/A

OPEN SPACE

- Marsh
- General
- Parks

MIXED USE

- Downtown
- Lower Arcata

COMMERCIAL

- Community
- Waterfront
- Business and Professional Office
- General
- Downtown

INDUSTRIAL

- General
- Limited
- Waterfront

PUBLIC/QUASI-PUBLIC

- Waterfront

CITY OF BENICIA
SOLANO COUNTY, CALIFORNIA

LAND USE DIAGRAM
REVISED JANUARY, 2005

SCALE: 1" = 1/4" (AS SHOWN)

Exhibit B

Readoption of Text from Page 32 of the City of Benicia General Plan

The Urban Growth Boundary shown on the Land Use Diagram of the 1999 General Plan is hereby readopted:

A line coterminous with the city limit line around the property at the end of Bantry Way (Zocchi property) to Lake Herman Road; it then follows Lake Herman Road east to the western edge of the Northgate Christian Fellowship's 20- acre property, then turns northwest and traces the church's property line back to Lake Herman Road, then follows Lake Herman Road east to Interstate 680. At Interstate 680, the boundary turns north along the freeway, then west around the area identified as Area 9 on the Land Use Changes diagram. It then continues north on Interstate 680, then turns east to the north end of the 1999 City Limit on Goodyear Road.