

## SECTION III—LEGAL AUTHORITY

### Requirement<sup>1</sup>

Each Enrollee must demonstrate, through sanitary sewer system use ordinances, service agreements, or other legally binding procedures, that it possesses the necessary legal authority to:

- a. Prevent illicit discharges into its sanitary sewer system;
- b. Require that sewers and connections be properly designed and constructed;
- c. Ensure access for maintenance, inspection, or repairs for portions of the lateral owned or maintained by the Public Agency;
- d. Limit the discharge of fats, oils, and grease and other debris that may cause blockages, and
- e. Enforce any violation of its sewer ordinance.

### Existing Legal Authority

The City possesses the necessary legal authority to prevent, require, ensure, limit and enforce specific features and operations required by the Order. A summary of the relevant sections of the Benicia Municipal Code and other adopted documents is shown in Table 1.

A copy of each document follows the table.

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<sup>1</sup> SWRCB Order No. 2006-0003-DWQ § B.13 (iii)

**TABLE III.1—SUMMARY OF LEGAL AUTHORITY**

<b>Legal Authority To:</b>	<b>Existing Authority</b>
a. Prevent illicit discharges into the sanitary sewer system	BMC 13.50.010 BMC 13.50.040 BMC 13.50.042 BMC 13.50.070
b. Require that sewers and connections be properly designed and constructed	BMC 13.50.150 BMC 13.60 et seq BMC 13.64.020 BMC 15.04.010 BMC 15.12.010 BMC 15.22 et seq
c. Ensure access for maintenance, inspection or repairs for portions of the lateral owned by the City	BMC 13.50.200 BMC 13.60.050 BMC 13.64.040 BMC 8.04 et seq UAC 202.3
d. Limit the discharge of fats, oils and grease and other debris that may cause blockages	BMC 13.50.040 BMC 13.50.050 BMC 13.50.070
e. Enforce any violation of City sewer ordinances	BMC 1.08 et seq BMC 8.04 et seq BMC 13.50.255 through .315 BMC 13.76 et seq

# Excerpts from Benicia Municipal Code

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## Chapter 1.08

### GENERAL PENALTY<sup>1</sup>

#### Sections:

- 1.08.010 Violation declared misdemeanor.
- 1.08.020 Each day considered separate offense.
- 1.08.030 Penalty.
- 1.08.040 Nuisances.
- 1.08.050 Misdemeanor/infraction.

#### **1.08.010 Violation declared misdemeanor.**

No person shall violate any provision or fail to comply with any requirement of this code. A person violating a provision or failing to comply with any of the mandatory requirements of this code is guilty of a misdemeanor. (Prior code § 1-301).

#### **1.08.020 Each day considered separate offense.**

Each person is guilty of a separate offense for each and every day during any portion of which the violation of this code is committed, continued, or permitted by that person. (Prior code § 1-303).

#### **1.08.030 Penalty.**

A person convicted of a misdemeanor under this code, unless specific provision is otherwise made, shall be punished by a fine of not more than \$1,000, or by imprisonment in the county jail for a period of not more than six months, or both. Under Section 36903 of the Government Code, imprisonment in the county jail is prescribed as a place for imprisonment for each violation of this code and of any ordinance. The penalties imposed by this section shall be in addition to any other prescribed penalties, costs, fees or civil actions and the city may recover reasonable attorneys' fees, witness fees, court costs, and fees and all other expenses of litigation incurred by the city and resulting from any action brought against a person violating this code. (Ord. 03-9 § 1; prior code § 1-302).

#### **1.08.040 Nuisances.**

In addition to the penalties provided, any condition caused or permitted to exist in violation of a provision of the code is a public nuisance and may be summarily abated as such. Each day that the condition continues is a new and separate offense. (Prior code § 1-304).

#### **1.08.050 Misdemeanor/infraction.**

A violation of this code may be made an infraction instead of a misdemeanor by:

- A. The city attorney filing a complaint in court specifying that the offense is an infraction;
- B. The issuing of a citation specifying that the violation is an infraction; or
- C. The city attorney making a motion in court to reduce a misdemeanor to an infraction if

such motion is made prior to the trial on the matter. (Ord. 03-9 § 2).

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<sup>1</sup> For statutory provisions authorizing cities to impose fines up to \$500.00 or imprisonment up to six months, or both such fine and imprisonment, see Government Code § 36901; for statutory provisions authorizing the reduction of city ordinance violations to infraction, see Government Code § 36900.

## Chapter 8.04

### ABATEMENT OF NUISANCES<sup>1</sup>

#### Sections:

- 8.04.010 General provisions.
- 8.04.020 Abatement – Notice.
- 8.04.030 Notice – Posting.
- 8.04.040 Effect of failure to receive notice.
- 8.04.050 Noncompliance – Second notice.
- 8.04.060 Hearing.
- 8.04.070 Extension of time.
- 8.04.080 Noncompliance – Abatement by city.
- 8.04.090 Abatement by city – Record of expenses – Statement.
- 8.04.100 Statement of expense – Hearing.
- 8.04.110 Nonpayment of expenses – Assessment and collection.
- 8.04.120 Notice of special assessment.
- 8.04.130 Emergency abatement procedure.

#### **8.04.010 General provisions.**

A. The procedure set forth in this chapter for the abatement of a nuisance and the making of the cost of abatement of a nuisance which exists upon a parcel of land a special assessment against that parcel is adopted under Government Code Section 38773.5. The procedure set forth in this chapter for abatement applies to any nuisance which the city declares is a nuisance either by another provision of this code or any other ordinance which the city may adopt.

B. The procedure set forth in this chapter is not exclusive and is in addition to the procedure for abatement which is conferred upon the city by Civil Code Section 3494, Code of Civil Procedure Section 731, Government Code Section 38773 or other lawful authority. (Prior code § 1-401).

#### **8.04.020 Abatement – Notice.**

When the city council declares that something constitutes a nuisance, it shall mail a notice to the owner of the property and the mortgagee or beneficiary under a recorded deed of trust. The notice shall state the conditions which constitute the public nuisance and shall order the abatement of the nuisance within 30 days after the date of notice. (Prior code § 1-402).

#### **8.04.030 Notice – Posting.**

In addition to the mailed notice under BMC 8.04.020, the city shall post conspicuously at least one copy of the notice upon the property where the nuisance exists. (Prior code § 1-403).

#### **8.04.040 Effect of failure to receive notice.**

The fact that the owner or other person to whom notice is given of the nuisance abatement proceedings does not receive notice does not affect the validity of the proceedings. (Prior code § 1-404).

#### **8.04.050 Noncompliance – Second notice.**

If the nuisance is not abated within the period given in the notice, the council may determine to proceed with the abatement. When it determines to proceed, the council shall give a second notice in the same manner set forth in BMC 8.04.020 and 8.04.030. The second notice shall direct the person to appear before the council or such other person as the council specifies in the notice at a stated time and place and show cause why the nuisance should not be abated.

The notice shall be headed "notice to abate nuisance" in letters of not less than one inch in height and shall be substantially in the following form:

#### NOTICE TO ABATE NUISANCE

\_\_\_\_\_ (name of person to whom notice is given) is notified to appear before \_\_\_\_\_ (insert person designated to conduct hearing) of the City of Benicia at a meeting to be held on \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_ o'clock, at \_\_\_\_\_ (place of meeting), and show cause, if any he has, why the nuisance should not be abated and the cost of abatement of the nuisance upon the parcel of land should not be made a special assessment against that parcel.

Dated: \_\_\_\_\_  
City Council of the City of Benicia

BY: \_\_\_\_\_  
(Prior code § 1-405).

#### **8.04.060 Hearing.**

At the time fixed in the notice, the council or other person specified to hear the matter shall hear the testimony of all competent persons desiring to testify respecting the condition constituting the nuisance, including the estimated cost of its abatement and any other matter which may be pertinent. At the conclusion of the hearing, the council may, by resolution, declare its findings.

If the council so concludes, it may declare the condition existing to be a nuisance and direct the person owning the property upon which the nuisance exists to abate it within 30 days after the date of posting on the premises a notice of the adoption of the resolution. (Prior code § 1-406).

#### **8.04.070 Extension of time.**

The council may grant an extension of time to abate the nuisance if, in its opinion, good cause for an extension exists. (Prior code § 1-407).

#### **8.04.080 Noncompliance – Abatement by city.**

If the person fails to abate the nuisance within the time set forth, the city may proceed to abate the nuisance. (Prior code § 1-408).

#### **8.04.090 Abatement by city – Record of expenses – Statement.**

The city shall keep an itemized account of the expenses involved in abating the nuisance. The city shall post conspicuously on the property and shall also mail to the owner of the property a statement showing the expense of the abatement, together with a notice of the time and place when the statement will be submitted to the council for approval and confirmation and at which time the council shall consider objections or protests to the cost of the work. (Prior code § 1-409).

#### **8.04.100 Statement of expense – Hearing.**

At the time fixed for the hearing on the statement of expense, the council shall consider the statement and protests or objections raised by the person liable to be assessed for the cost of the abatement. The council may revise, correct or modify the statement as it considers just and thereafter shall confirm the statement by motion or resolution. (Prior code § 1-410).

#### **8.04.110 Nonpayment of expenses – Assessment and collection.**

If the property owner does not pay the expense of abating the nuisance within five days after the council confirms the costs of abatement, the cost shall become a special assessment against the real property upon which the nuisance was abated. The assessment shall continue

until it is paid, together with interest, at the rate of six percent a year computed from the date of confirmation of the statement until payment. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to levy, collection and enforcement of municipal taxes apply to this special assessment. (Prior code § 1-411).

**8.04.120 Notice of special assessment.**

The city shall file in the office of the county recorder a certificate substantially in the following form:

**NOTICE OF SPECIAL ASSESSMENT**

Under the authority of Government Code Section 38773.5 and Chapter 8.04 BMC, the city did on \_\_\_\_\_, 20\_\_\_\_, abate a nuisance upon the real property hereafter described and then on \_\_\_\_\_, 20\_\_\_\_, did assess the cost of the abatement upon the real property. The City of Benicia claims a special assessment on the real property for the expense of doing the work in the amount of \$\_\_\_\_\_. This amount is a special assessment against the real property until it is paid, with interest at the rate of six percent a year from \_\_\_\_\_, 20\_\_\_\_, (insert date of confirmation of statement), and discharged of record. The real property referred to above, and upon which the special assessment is claimed is that certain parcel of land situated within the City of Benicia, County of Solano, State of California, more particularly described as follows:

Dated: \_\_\_\_\_, 20\_\_\_\_.

City of Benicia

By: \_\_\_\_\_

(Prior code § 1-412).

**8.04.130 Emergency abatement procedure.**

When the conditions which constitute the nuisance pose an immediate threat to the public peace, health or safety, the council may order the nuisance abated immediately or take steps itself to abate the nuisance after adoption of a resolution declaring the facts which constitute the emergency. The resolution, to be effective, shall be adopted by four-fifths vote of the council. (Prior code § 1-413).

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<sup>1</sup> For statutory provisions authorizing cities to declare and abate nuisances, see Government Code § 38771 et seq.



## Chapter 13.44 DEFINITIONS

### Sections:

- 13.44.010 Generally.
- 13.44.020 Applicant.
- 13.44.030 BOD.
- 13.44.040 Building.
- 13.44.050 Building sewer.
- 13.44.060 Combined sewer.
- 13.44.070 Contractor.
- 13.44.080 Cost.
- 13.44.090 County health department.
- 13.44.100 Director.
- 13.44.110 Dwelling unit.
- 13.44.120 Garbage.
- 13.44.130 Industrial wastes.
- 13.44.140 Lateral sewer.
- 13.44.150 Main sewer.
- 13.44.160 Natural outlet.
- 13.44.170 Off-site.
- 13.44.180 On-site.
- 13.44.190 Outside sewer.
- 13.44.200 Permit.
- 13.44.210 pH.
- 13.44.220 Plumbing system.
- 13.44.230 Premises.
- 13.44.240 Private sewer.
- 13.44.250 Public sewer.
- 13.44.260 Sanitary sewer.
- 13.44.270 Sewage.
- 13.44.280 Sewage treatment plant.
- 13.44.290 Sewer.
- 13.44.300 Sewerage system.
- 13.44.305 Sewer service unit.
- 13.44.310 Side sewer.
- 13.44.320 Single-family residence.
- 13.44.325 SS.
- 13.44.330 Storm sewer or storm drain.
- 13.44.340 Street.
- 13.44.350 Suspended solids.
- 13.44.360 System extension.
- 13.44.370 Trunk sewer.
- 13.44.380 Watercourse.

### **13.44.010 Generally.**

For the purpose of this division, certain words and phrases are defined in this chapter, and additional terms have the meanings indicated in Chapter 1 of the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, current edition. (Prior code § 7-602(38)).

### **13.44.020 Applicant.**

"Applicant" means the person applying for sewer service, sewer service connection, or sewer

system extension. (Prior code § 7-602(1)).

**13.44.030 BOD.**

"BOD" (denoting "biochemical oxygen demand") means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days of 20 degrees Centigrade, expressed in milligrams per liter. (Prior code § 7-602(2)).

**13.44.040 Building.**

"Building" is a structure, used for any purpose, which contains sanitary facilities. (Prior code § 7-602(4)).

**13.44.050 Building sewer.**

"Building sewer" is that portion of a sewer beginning at the plumbing or drainage outlet of a building or industrial facility and running to the property line or to a private sewer disposal system. (Prior code § 7-602(3)).

**13.44.060 Combined sewer.**

"Combined sewer" is a sewer receiving both surface and run-off sewage. (Prior code § 7-602(5)).

**13.44.070 Contractor.**

"Contractor" means an individual, firm, corporation, partnership, or association licensed by the state to perform the type of work to be done under the permit. (Prior code § 7-602(6)).

**13.44.080 Cost.**

"Cost" means the actual or estimated value of materials, equipment rentals, personnel services, and other expenses incurred, including taxes, engineering and overhead. (Prior code § 7-602(7)).

**13.44.090 County health department.**

"County health department" means the department of public health of Solano County. (Prior code § 7-602(8)).

**13.44.100 Director.**

"Director" means the director of public works or the person designated to perform the responsibilities imposed by this division. (Prior code § 7-602(9)).

**13.44.110 Dwelling unit.**

"Dwelling unit" is a place of habitation which includes a place to cook or prepare food, a toilet and sleeping quarters for one person or a small group of persons constituting a family unit. (Prior code § 7-602(10)).

**13.44.120 Garbage.**

"Garbage" includes solid wastes from preparation, cooking and dispensing of food and from the handling, storage and sale of produce. (Prior code § 7-602(11)).

**13.44.130 Industrial wastes.**

"Industrial wastes" include the liquid wastes from industrial processes as distinct from sanitary sewage. (Prior code § 7-602(12)).

**13.44.140 Lateral sewer.**

"Lateral sewer" is the portion of a sewer lying within a public street or easement connecting a building sewer to the main sewer. (Prior code § 7-602(13)).

**13.44.150 Main sewer.**

"Main sewer" is a public sewer designated to accommodate more than one lateral sewer. (Prior code § 7-602(14)).

**13.44.160 Natural outlet.**

"Natural outlet" is an outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater. (Prior code § 7-602(15)).

**13.44.170 Off-site.**

"Off-site" refers to facilities located outside the site covered by the application for sewer service. (Prior code § 7-602(16)).

**13.44.180 On-site.**

"On-site" refers to facilities located within the area owned or controlled by the applicant for sewer service. (Prior code § 7-602(17)).

**13.44.190 Outside sewer.**

"Outside sewer" is a sanitary sewer beyond the limits of the city and not subject to the control or jurisdiction of the city. (Prior code § 7-602(18)).

**13.44.200 Permit.**

"Permit" is any written authorization required under this division or any regulation of the city for the installation of any sewerage works. (Prior code § 7-602(20)).

**13.44.210 pH.**

"pH" means the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution. (Prior code § 7-602(19)).

**13.44.220 Plumbing system.**

"Plumbing system" includes all plumbing fixtures and traps, soil waste, special waste and vent pipes, and all sanitary sewer pipes within a building and extending to the building sewer connection three feet outside the building wall. (Prior code § 7-602(21)).

**13.44.230 Premises.**

"Premises" is a separate, identifiable and transferable parcel of real property. A portion of a parcel having a well-defined boundary, such as a wall, fence, or hedge which prevents the common use of the property by all occupants, is a separate premises. (Prior code § 7-602(22)).

**13.44.240 Private sewer.**

"Private sewer" is a sewer serving an independent sewage disposal system, not connected with a public sewer, which accommodates one or more buildings or industries. (Prior code § 7-602(23)).

**13.44.250 Public sewer.**

"Public sewer" is a sewer lying within a street or easement and which is controlled by or under the jurisdiction of the city. (Prior code § 7-602(24)).

**13.44.260 Sanitary sewer.**

"Sanitary sewer" is a sewer which carries sewage and to which storm water, surface water and groundwater are not intentionally admitted. (Prior code § 7-602(25)).

**13.44.270 Sewage.**

"Sewage" means a combination of water-carried wastes from residences, business

buildings, institutions, and industrial establishments, together with such groundwater, surface water and storm water as may be present. (Prior code § 7-602(26)).

**13.44.280 Sewage treatment plant.**

"Sewage treatment plant" means any arrangement of devices and structures used for treating sewage. (Prior code § 7-602(27)).

**13.44.290 Sewer.**

"Sewer" is a pipe or conduit for carrying sewage. (Prior code § 7-602(28)).

**13.44.300 Sewerage system.**

"Sewerage system" means all facilities for collecting, pumping, treating and disposing of sewage. (Prior code § 7-602(29)).

**13.44.305 Sewer service unit.**

"Sewer service unit" means any dwelling unit or building, commercial establishment, industry or other improvement which discharges a sewage flow equivalent to one dwelling unit. One dwelling unit is assumed to discharge 250 gallons per day, with a biochemical oxygen demand (BOD) and suspended solids (SS) load of 150 parts per million. (Ord. 80-1 N.S. § 1, 1980; prior code § 7-602(39)).

**13.44.310 Side sewer.**

"Side sewer" is the sewer line beginning at the foundation wall of any building and terminating at the main sewer and includes the building sewer and lateral sewer together. (Prior code § 7-602(30)).

**13.44.320 Single-family residence.**

"Single-family residence" means the place of residence for a single family. Property improved for multifamily purposes is described in terms of the number of dwelling units that the facilities provide for single-family usage. (Prior code § 7-602(31)).

**13.44.325 SS.**

"SS" means suspended solids, a measure of strength of sewage expressed in terms of the quantity of solid material measured in milligrams within a liter of sewage. (Ord. 80-1 N.S. § 1, 1980; prior code § 7-602(40)).

**13.44.330 Storm sewer or storm drain.**

"Storm sewer" or "storm drain" is a sewer which carries storm water and surface water or groundwater and drainage, but excludes sewage and polluted industrial wastes. (Prior code § 7-602(32)).

**13.44.340 Street.**

"Street" means any public highway, road, street, avenue, alley, way, public place, easement, or right-of-way. (Prior code § 7-602(33)).

**13.44.350 Suspended solids.**

"Suspended solids" means solids that either float on the surface of, or are in suspension in, water, sewage or other liquid, and which are removable by laboratory filtering. (Prior code § 7-602(34)).

**13.44.360 System extension.**

"System extension" means extension of public sewage facilities to serve areas to which service is not available from existing sewage collection facilities. (Prior code § 7-602(35)).

**13.44.370 Trunk sewer.**

"Trunk sewer" is a sewer which receives flow from several main sewers and which is designated as a trunk sewer by the director. (Prior code § 7-602(36)).

**13.44.380 Watercourse.**

"Watercourse" means a channel in which the flow of water occurs, either continuously or intermittently, under natural conditions. (Prior code § 7-602(37)).

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## Chapter 13.50

# PRETREATMENT AND SOURCE CONTROL OF WASTE DISPOSAL OR DISCHARGE<sup>1</sup>

### Sections:

- 13.50.010 Purpose and policy.
- 13.50.020 Definitions.
- 13.50.030 Abbreviations.
- 13.50.040 Prohibited discharge – Certain waters or wastes.
- 13.50.041 Hazardous waste notification.
- 13.50.042 Unlawful disposal of wastes.
- 13.50.044 Treatment of wastes required.
- 13.50.046 Unlawful disposal facilities.
- 13.50.050 Federal categorical pretreatment standards.
- 13.50.070 Pollutant limitations and local limits.
- 13.50.080 Excessive discharge.
- 13.50.090 Accidental discharges.
- 13.50.100 Charges and fees.
- 13.50.105 Permit required – Tier 3, minor industrial users.
- 13.50.106 Tier 3 permit – Application.
- 13.50.110 Permit required – Tier 1 and 2, significant industrial users.
- 13.50.120 Permit – Application.
- 13.50.130 Permit – Refusal.
- 13.50.140 Permit – Modifications.
- 13.50.150 Permit conditions.
- 13.50.160 Permit duration.
- 13.50.170 Permit transfer.
- 13.50.180 Reporting and sampling requirements for permittee.
- 13.50.190 Monitoring requirements.
- 13.50.200 Inspection and sampling.
- 13.50.210 Pretreatment.
- 13.50.215 POTW requirements.
- 13.50.220 Confidential information.
- 13.50.230 Emergency suspensions.
- 13.50.240 Wastewater discharge permit – Enforcement – Termination of permit.
- 13.50.250 Notification of violation.
- 13.50.255 Enforcement – Cease and desist orders.
- 13.50.260 Enforcement – Show cause hearing.
- 13.50.265 Enforcement – Consent orders.
- 13.50.266 Enforcement – Compliance orders – Discontinuance of sewer service.
- 13.50.270 Enforcement – Legal action.
- 13.50.275 Enforcement – Injunctive relief.
- 13.50.280 Violations – Public nuisance.
- 13.50.285 Enforcement – Civil remedies – Administrative fines.
- 13.50.290 Repealed.
- 13.50.295 Enforcement – Civil penalties.
- 13.50.300 Violations – Misdemeanor.
- 13.50.310 Penalties – Cumulations.
- 13.50.315 Enforcement – Liability insurance.

13.50.320 Severability.

13.50.330 Conflict.

13.50.340 Exceptions – Special agreements.

### **13.50.010 Purpose and policy.**

A. This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403).

B. The objectives of this chapter are:

1. To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
2. To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
3. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
4. To provide for equitable distribution of the cost of the municipal wastewater system.

C. This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

D. This chapter shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city POTW. Except as otherwise provided herein, the superintendent of the city POTW shall administer, implement, and enforce the provisions of this chapter. (Ord. 91-1 N.S., 1991).

### **13.50.020 Definitions.**

Unless the context specifically indicates otherwise, the following terms and phrases as used in this chapter shall have the meanings hereafter designated:

1. "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
2. "Approval authority" means the director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.
3. "Authorized representative of industrial user" means an authorized representative of an industrial user may be: (a) a principal executive officer of at least the level of vice-president, if the industrial user is a corporation; (b) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; (c) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.
4. "Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees Centigrade, expressed in terms of weight and concentration (milligrams per liter).
5. "Building sewer" means a sewer conveying wastewater from the premises of a user to the POTW.
6. "Categorical standards" means national categorical pretreatment standards or pretreatment standards.
7. "City" means the city of Benicia or the city council of Benicia.
8. "Cooling water" means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

9. "Control authority" shall refer to the "approval authority," defined hereinabove; or the superintendent if the city has an approved pretreatment program under the provisions of 40 CFR, 403.11.

10. "Direct discharge" means the discharge of treated or untreated wastewater directly to the waters of the state of California.

11. "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

12. "Grab sample" means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

13. "Holding tank waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

14. "Indirect discharge" means the discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

15. "Industrial user" means a source of indirect discharge.

16. "Interference" means the inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of the SWDA) applicable to the method of disposal or use employed by the POTW.

17. "National categorical pretreatment standard" or "pretreatment standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 301(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

18. "National prohibitive discharge standard" or "prohibitive discharge standard" means any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

19. "New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.

20. "National pollution discharge elimination system permit" or "NPDES permit" means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

21. "Pass-through" means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement.

22. "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint venture or other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

23. "pH" means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

24. "Pollution" means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

25. "Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

26. "Pretreatment" or "treatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a

less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes through other means, except as prohibited by 40 CFR, Section 403.6(d).

27. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

28. "Publicly owned treatment works (POTW)" means a treatment works as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

29. "POTW treatment plant" means that portion of the POTW designed to provide treatment to wastewater.

30. "Shall" is mandatory; "may" is permissive.

31. "Significant industrial user" or "significant user" means any industrial user of the city's wastewater disposal system who (a) has a discharge flow of 25,000 gallons or more per average work day, or (b) has a flow equal to or greater than five percent of the POTW's dry weather hydraulic or organic capacity, or (c) is designated by the superintendent to have a reasonable potential to adversely affect the POTW's operation.

32. Significant Noncompliance. The federal regulations establish criteria for publishing that "significant noncompliance" is one or more of the following:

a. Chronic violations (exceeding the daily maximum limit or the average limit 66 percent of the time during a six-month period) of the same pollutant parameter;

b. Technical Review Criteria (TRC) violations (33 percent or more of measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the applicable limit and the TRC value (1.4 times the limit for a conventional pollutant or 1.2 times the limit for a toxic pollutant));

c. A violation of pass-through or interference;

d. A discharge of imminent endangerment to human health, welfare, or the environment, or which required the POTW to use its emergency authorities;

e. Violations of a compliance schedule milestone by 90 days;

f. Violations of report submittal deadlines by 30 days;

g. Failure to report noncompliance; and

h. Any other violation deemed significant by the city.

33. "State" means the state of California.

34. "Standard industrial classification (SIC)" means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

35. "Storm water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.

36. "Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

37. "Superintendent" means the person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this division, or his duly authorized representative.

38. "Toxic pollutant" means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

39. "User" means any person who contributes, causes or permits the contribution of wastewater in the city's POTW.

40. "Wastewater" means the liquid and/or water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

41. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

42. "Wastewater contribution permit" means as set forth in BMC 13.50.110. (Ord. 91-1 N.S., 1991).

### 13.50.030 Abbreviations.

The following abbreviations shall have the designated meanings:

BOD	–	Biochemical Oxygen Demand
CFR	–	Code of Federal Regulations
COD	–	Chemical Oxygen Demand
EPA	–	Environmental Protection Agency
l	–	Liter
mg	–	Milligrams
mg/l	–	Milligrams per liter
NPDES	–	National Pollutant Discharge Elimination System
POTW	–	Publicly Owned Treatment Works
SIC	–	Standard Industrial Classification
SWDA	–	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
USC	–	United States Code
TSS	–	Total Suspended Solids

(Ord. 91-1 N.S., 1991).

### 13.50.040 Prohibited discharge – Certain waters or wastes.

A. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which interferes with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user shall not contribute the following substances to any POTW:

1. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over 10 percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides and any other substances which the city, the state or the EPA has notified the user is a fire hazard or a hazard to the system;

2. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;
3. Any wastewater having a pH less than 5.0, unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW;
4. Any wastewater containing toxic pollutants in sufficient quality, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act;
5. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for life maintenance and repair;
6. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged into the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used;
7. Any substance which will cause the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards;
8. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;
9. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit) unless the POTW treatment plant is designed to accommodate such temperature;
10. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW. The user shall notify the POTW immediately, upon discovery, of any slug loading. If subject pollutants are released, the user must prove it lacked any knowledge that such a discharge would cause interference. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation;
11. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations;
12. Surface water, storm water or seepage, and cooling water or unpolluted process water unless specifically approved by the city;
13. Discharge of the contents of a swimming pool unless specifically approved by the city;
14. Any wastewater which causes a hazard to human life or creates a public nuisance;
15. Discharges which create a fire or explosion hazard, including wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius);

16. Discharges of petroleum oil, nonbiodegradable cutting oil, or products of mineral origin in amounts that cause interference or pass through;

17. Discharges that result in toxic gases, fumes, or vapors in a quantity capable of causing worker health and safety problems.

B. When the superintendent determines that a user(s) is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW the superintendent shall: (1) advise the user(s) of the impact of the contribution on the POTW; and (2) develop effluent limitation(s) for such user to correct the interference with the POTW. (Ord. 91-1 N.S., 1991).

#### **13.50.041 Hazardous waste notification.**

All industrial users are required to notify the EPA, the state and the city within 180 days of the domestic sewage study (DSS) regulation's effective date (or within 180 days for sources commencing discharge after the effective date of the federal regulations) of discharges of listed and characteristic hazardous wastes, the constituents of these wastes, and anticipated discharges of such wastes over a calendar month and over one year. The federal regulations do not apply to discharges of less than 15 kilograms per month of hazardous wastes unless the wastes are acute hazardous wastes. Additionally, notification is not necessary if pollutants are already reported in periodic self-monitoring reports. (Ord. 91-1 N.S., 1991).

#### **13.50.042 Unlawful disposal of wastes.**

It is unlawful for a person to place or deposit in an unsanitary manner upon public or private property within the city any human or animal excrement, garbage or other objectionable waste. (Ord. 91-1 N.S., 1991).

#### **13.50.044 Treatment of wastes required.**

It is unlawful to discharge on land or to any stream or watercourse any sewage, industrial waste, or other polluted water, except where suitable treatment is provided in accordance with this chapter. (Ord. 91-1 N.S., 1991).

#### **13.50.046 Unlawful disposal facilities.**

It is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, seepage pit or other facilities intended or used for the disposal of sewage, except as provided in this chapter. It is unlawful to discharge trucked or hauled wastes to the sanitary sewers except at points designated by the city. (Ord. 91-1 N.S., 1991).

#### **13.50.050 Federal categorical pretreatment standards.**

Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12. (Ord. 91-1 N.S., 1991).

#### **13.50.070 Pollutant limitations and local limits.**

No person shall discharge wastewater containing toxic or poisonous substances in sufficient quantity to injure or interfere with the sewage treatment process, constitute a hazard to humans or animals, degrade water quality, cause a violation in discharge requirements, or create a hazard in the receiving waters of the sewage treatment plant. The city may from time to time by resolution set local limits on other pollutants or on users to control mass emissions. These local limits will be reviewed by the city as deemed necessary by the superintendent. State requirements and limitations of discharges shall apply in any case where they are more stringent than federal requirements and limitations or those set forth or promulgated pursuant to these regulations. (Ord. 91-1 N.S., 1991).

**13.50.080 Excessive discharge.**

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state. (Ord. 91-1 N.S., 1991).

**13.50.090 Accidental discharges.**

A. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review, and shall be approved by the city before construction of the facility. All existing users shall complete such a plan by January 1, 1989. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the city of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

B. Written Notice. Within five days following an accidental discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this regulation or other applicable law.

C. Notice to Employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer any such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. 91-1 N.S., 1991).

**13.50.100 Charges and fees.**

A. It is the purpose of this section to provide for the recovery of costs from users of the city's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the city's schedule of charges and fees.

B. The city may adopt charges and fees which may include:

1. Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
2. Fees for monitoring, inspections and surveillance procedures;
3. Fees for reviewing accidental discharge procedures and construction;
4. Fees for permit applications;
5. Fees for filing appeals;
6. Other fees as the city may deem necessary to carry out the requirements contained herein.

C. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the city. (Ord. 91-1 N.S., 1991).

**13.50.105 Permit required – Tier 3, minor industrial users.**

It shall be unlawful for minor industrial users to discharge without the required permit (Tier 3)

to any natural outlet within the city of Benicia, and/or to the POTW, any wastewater except as authorized by the superintendent in accordance with the provisions of this chapter.

Minor industrial users are distinguished from the significant industrial user classification by having a nondomestic wastestream but not fulfilling the significant industrial user criteria. (Ord. 91-1 N.S., 1991).

#### **13.50.106 Tier 3 permit – Application.**

A. Minor industrial users required to obtain a Tier 3 wastewater contribution permit shall complete and file with the city an application in the form prescribed by the city and accompanied by a fee to be set from time to time by resolution of the city council. In support of the application the minor user shall submit, in units and terms appropriate for evaluation, the following information:

1. Name, address, and location (if different from the address);
2. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
3. Wastewater constituents and characteristics including, but not limited to, those mentioned in BMC 13.50.070 as determined by a reliable analytical laboratory sampling; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;
4. Time and duration of contribution;
5. Average daily and maximum daily wastewater flow rates, including daily, monthly and seasonal variations, if any;
6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
7. Description of activities, facilities, and plant processes on the premises including all constituents which are or could be discharged;
8. Any other information as may be deemed by the city to be necessary to evaluate the permit application.

B. The application shall be signed by an authorized representative of the minor user. The city will evaluate the data furnished by the minor user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a Tier 3 wastewater contribution permit subject to terms and conditions provided herein. (Ord. 91-1 N.S., 1991).

#### **13.50.110 Permit required – Tier 1 and 2, significant industrial users.**

It is unlawful for significant users to discharge, without the required permit, to any natural outlet within the city or in any area under the jurisdiction of the city, and/or to the POTW any wastewater except as authorized by the superintendent in accordance with the provisions of this chapter.

All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater contribution permit before connecting to or contributing to the POTW. All existing significant users connected to or contributing to the POTW shall obtain a wastewater contribution permit within 180 days after the effective date of the ordinance codified in this chapter. (Ord. 91-1 N.S., 1991).

#### **13.50.120 Permit – Application.**

A. Users required to obtain a wastewater contribution permit shall complete and file with the city an application in the form prescribed by the city and accompanied by a fee to be set from time to time by resolution of the city council. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least 60 days prior to connecting to or contributing to the POTW. In support of the application the user shall submit, in units and terms appropriate for evaluation, the following information:

1. Name, address, and location (if different from the address);

2. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

3. Wastewater constituents and characteristics including, but not limited to, those mentioned in BMC 13.50.070 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;

4. Time and duration of contribution;

5. Average daily, maximum daily, and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by size, location and elevation;

7. Description of activities, facilities, and plant processes on the premises including all materials which are or could be discharged;

8. Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

9. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing a contract for major components, commencing construction, completing construction, etc.).

b. No increment referred to in subsection (A)(9)(a) of this section shall exceed nine months.

c. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the superintendent;

10. Each product produced by type, amount, process or processes, and rate of production;

11. Type and amount of raw materials processed (average and maximum per day);

12. Number and type of employees, hours of operation of plant, and proposed or actual hours of operation of pretreatment system;

13. Any other information as may be deemed by the city to be necessary to evaluate the permit application.

B. The application shall be signed by an authorized representative of the user. The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater contribution permit subject to the terms and conditions provided herein. (Ord. 91-1 N.S., 1991).

### **13.50.130 Permit – Refusal.**

The city may refuse to grant any permit upon a determination that one or more of the following conditions apply:

A. The user has not submitted information required;

- B. The application contains false statements or misrepresentations;
- C. The applicant's existing or proposed discharge does not conform to this chapter;
- D. The granting of a permit would result in the establishment of a use or occupancy of land which violates any land use regulation of the city;
- E. The granting of a permit would result in an occupancy or use which would result in the creation or maintenance of a public nuisance. (Ord. 91-1 N.S., 1991).

#### **13.50.140 Permit – Modifications.**

Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit as required by BMC 13.50.110, the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by BMC 13.50.120(A)(8) and (9). (Ord. 91-1 N.S., 1991).

#### **13.50.150 Permit conditions.**

Wastewater contribution permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city. Permits shall contain the following:

- A. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- B. Limits on the average and maximum wastewater constituents and characteristics;
- C. Limits on the average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- D. Requirements for installation and maintenance of inspection and sampling facilities;
- E. Specifications for monitoring programs which may include sampling locations; frequency of sampling; number, types and standards for tests; and reporting schedule;
- F. Compliance schedules;
- G. Requirements for submission of technical reports or discharge reports (see BMC 13.50.180);
- H. Requirements for maintaining and retaining plant records relating to wastewater discharge for a minimum period of three years, unless a longer time period is specified by the city, and affording the city access thereto;
- I. Requirements for advance notification to the city of any new introduction of wastewater constituents, including hazardous wastes, or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system. It shall be unlawful to introduce new wastewater constituents or to substantially change the volume or character of wastewater constituents released into the wastewater treatment system without prior approval by the city;
- J. Requirements for notification of slug discharges. Installation and maintenance, by the user at his own expense, of detention tanks or other facilities or equipment for reducing the maximum rates of discharge of sewage or industrial waste to such a percentage of the 24-hour rate as the superintendent may require;
- K. Installation and maintenance, by the user at his own expense, of preliminary treatment facilities necessary to meet the quality limits set forth in this chapter or as the city may require;
- L. The installation and maintenance by the user at his own expense of a suitable control manhole in the portion of the side sewer located on private property to facilitate observation, sampling and measurement of the waste. When required, the manhole must be accessible and safely located and shall be constructed as approved by the city;

M. The installation and maintenance, by the user at his own expense, of grease, oil and sand interceptors or traps necessary for the proper handling of liquid wastes containing grease and excessive amounts of any inflammable waste, and other harmful ingredients. All interceptors or traps shall be of an approved type and capacity and must be so located as to be readily and easily accessible for cleaning and inspection;

N. The submission to and approval by the city of plans for any of the facilities or equipment required to be installed and maintained by the user. The city approval does not relieve the applicant from demonstrating the successful performance of the facilities or complying with the terms of this division;

O. After commencement of operation of preliminary treatment facilities, the duty of the user to make periodic reports at his expense setting forth adequate data upon which the acceptability of the sewage, industrial waste or other waste, after treatment, may be determined;

P. Submission to and approval by the city of plans, facilities and operating procedures to prevent accidental discharge of prohibited materials;

Q. Other conditions as deemed appropriate by the city to ensure compliance with this chapter;

R. Control mechanisms that contain a statement of permit duration and nontransferability, applicable effluent limits, applicable monitoring and reporting requirements, and a statement of applicable penalties. (Ord. 91-1 N.S., 1991).

#### **13.50.160 Permit duration.**

Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than five years or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit shall be subject to modification by the city during the term of the permit as limitations or requirements as identified in BMC 13.50.150 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. (Ord. 91-1 N.S., 1991).

#### **13.50.170 Permit transfer.**

Wastewater contribution permits are issued to a specific user for a specific operation. A wastewater contribution permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. (Ord. 91-1 N.S., 1991).

#### **13.50.180 Reporting and sampling requirements for permittee.**

A. Compliance Date Report. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process, which are limited by pretreatment standards and requirements, and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user and certified to by a qualified professional.

B. Periodic Compliance Reports.

1. Any user subject to a pretreatment standard, after the compliance date of such

pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent, which are limited by such pretreatment standards. In addition, this report shall include a record of all average and maximum daily flows for these process units. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the significant user and certified by a qualified professional. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

2. The superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (B)(1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator.

C. Baseline Reports. Within 180 days after the effective date of a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination submission, whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the superintendent a baseline report (BMR) which contains the information required in 40 CFR, Section 403.12(b).

D. Statement Required. Each report requires a statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

The following certification shall be included in the statement:

I have personally examined and am familiar with the information submitted in the attached document, and I hereby certify under penalty of law that this information was obtained in accordance with the requirements of 40 CFR, Section 403.6(a). Moreover, based upon my inquiry of those individuals immediately responsible for obtaining the information reported herein, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

E. Sampling Requirements. All significant and noncategorical industrial users are required to sample their effluent at least twice a year and submit the results to the city. (Ord. 91-1 N.S., 1991).

### **13.50.190 Monitoring requirements.**

The city shall require to be provided and operated at the user's own expense monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship

on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city. (Ord. 91-1 N.S., 1991).

#### **13.50.200 Inspection and sampling.**

The city may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city, or their representative, ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and photocopying, or the performance of any of their duties. The city, approval authority, and EPA (where the NPDES state is the approval authority) shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (Ord. 91-1 N.S., 1991).

#### **13.50.210 Pretreatment.**

Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

The city shall annually publish in the Benicia Herald newspaper a list of the users which were in significant noncompliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months.

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or the approval authority upon request. (Ord. 91-1 N.S., 1991).

#### **13.50.215 POTW requirements.**

A. Within 30 days of receiving approval authority of its list of significant industrial users (SIU), the city is required to notify the user of applicable pretreatment standards and requirements.

B. The city will inspect and sample the effluent from each SIU at least once per year. The city will evaluate, at least once every two years, whether each SIU needs a plan to control slug discharges.

C. The city will develop and implement an enforcement response plan. The plan must

describe how the control authority will investigate noncompliance, the types of escalating enforcement responses, time periods for responses, and the responsible personnel.

D. The city will prepare a list of industrial users which meet the definition of "significant," identifying the criteria that placed the SIU on the list, and submit the list to the approval authority indicating which industrial users should not be considered significant. (Ord. 91-1 N.S., 1991).

#### **13.50.220 Confidential information.**

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. (Ord. 91-1 N.S., 1991).

#### **13.50.230 Emergency suspensions.**

A. The superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

B. Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The superintendent shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in BMC 13.50.240 are initiated against the user.

C. An industrial user which is responsible in whole or in part for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the superintendent prior to the date of the hearing described in subsection (B) of this section. (Ord. 92-1 N.S. § 1, 1992; Ord. 91-1 N.S., 1991).

#### **13.50.240 Wastewater discharge permit – Enforcement – Termination of permit.**

Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the control authority. Any user who violates the following conditions of this chapter, a wastewater discharge permit, or order of any applicable state and federal law is subject to permit revocation and termination:

- A. Violation of permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater constituents and characteristics;

D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling. Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under BMC 13.50.260 why the proposed action should not be taken. (Ord. 92-1 N.S. § 2, 1992; Ord. 91-1 N.S., 1991).

#### **13.50.250 Notification of violation.**

Whenever the superintendent finds that any industrial user has violated or is violating this chapter, or a wastewater permit or order issued hereunder, the superintendent or his duly authorized representative may serve upon said user written notice of the violation. Within 10 days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. (Ord. 92-1 N.S. § 3, 1992; Ord. 91-1 N.S., 1991).

#### **13.50.255 Enforcement – Cease and desist orders.**

When the superintendent finds that an industrial user has violated or continues to violate this chapter or any permit or order issued hereunder, the superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

A. Comply forthwith;

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. (Ord. 92-1 N.S. § 4, 1992).

#### **13.50.260 Enforcement – Show cause hearing.**

A. The superintendent may order any industrial user which causes or contributes to violation of this chapter, or wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

B. The city council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee to:

1. Issue in the name of the city council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

2. Take the evidence;

3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.

C. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

D. After the city council has reviewed the evidence, it may issue an order to the user responsible for the discharge. This order may direct that, following a specified time period, the sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Further orders and directives as are necessary and appropriate may be issued. (Ord. 92-1 N.S. § 5, 1992; Ord. 91-1 N.S., 1991).

**13.50.265 Enforcement – Consent orders.**

The superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued. (Ord. 92-1 N.S. § 6, 1992).

**13.50.266 Enforcement – Compliance orders – Discontinuance of sewer service.**

When the superintendent finds that an industrial user has violated or continues to violate this chapter or a permit or order issued hereunder, he may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices. (Ord. 92-1 N.S. § 7, 1992).

**13.50.270 Enforcement – Legal action.**

If any user discharges sewage, industrial wastes or other wastes into the wastewater disposal system contrary to the provisions of this chapter, or any order or permit issued hereunder, the superintendent, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the Solano County superior court or the municipal court for Solano County. (Ord. 92-1 N.S. § 8, 1992; Ord. 91-1 N.S., 1991).

**13.50.275 Enforcement – Injunctive relief.**

Whenever an industrial user has violated or continues to violate the provisions of this chapter, or any permit or order issued hereunder, the superintendent, through counsel, may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user. The superintendent shall have such remedies to collect these fees as it has to collect other sewer service charges. (Ord. 92-1 N.S. § 9, 1992).

**13.50.280 Violations – Public nuisance.**

It is prohibited and a public nuisance for any user to violate an order of the city council or wilfully or negligently fail to comply with any provision of these regulations, and the orders, rules, regulations and permits issued hereunder. The nuisance shall be abated as provided by this code or state law. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. The city may recover reasonable attorney's fees, witness fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated these regulations or the orders, rules, regulations, and permits issued hereunder. (Ord. 91-1 N.S., 1991).

**13.50.285 Enforcement – Civil remedies – Administrative fines.**

Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined in an amount not to exceed \$1,000 per violation. Each day on which noncompliance occurs or continues shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the superintendent shall have such other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines or enforcement actions (limited to permit revocation, cease and desist

orders, and compliance orders) must file a request for the superintendent to reconsider the fine or the applicable enforcement action within 10 days of being notified of the fine. The superintendent shall convene a hearing on the matter within 15 days of receiving the request from the industrial user. If the user is still aggrieved by the superintendent's decision after reconsideration of the matter, the user shall have the right to appeal to the city council, at a regularly scheduled meeting of the council, to show cause why a proposed enforcement action should not be taken. (Ord. 92-1 N.S. § 10, 1992).

#### **13.50.290 Violations – Penalties.**

Repealed by Ord. 03-9. (Ord. 91-1 N.S., 1991).

#### **13.50.295 Enforcement – Civil penalties.**

A. Any industrial user who has violated or continues to violate this chapter, or any order or permit issued hereunder, shall be liable to the city, through the superintendent, for a civil penalty of not more than \$1,000 plus actual damages incurred by the POTW per violation, per day for as long as the violation continues. In addition to the above described penalty and damages, the superintendent may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities including sampling and monitoring.

B. The superintendent shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation. (Ord. 92-1 N.S. § 11, 1992).

#### **13.50.300 Violations – Misdemeanor.**

A. Any person to knowingly make any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to these regulations, or wastewater contribution permit, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under these regulations, is guilty of a misdemeanor.

B. Any user who violates an order of the city council or who wilfully or negligently fails to comply with any provision of these regulations and the orders, rules, regulations and permits issued hereunder is guilty of a misdemeanor.

C. Each person is guilty of a misdemeanor for each and every day during any portion of which the violation(s) set forth in subsection (A) or (B) of this section is committed, continued or permitted by that person. (Ord. 91-1 N.S., 1991).

#### **13.50.310 Penalties – Cumulations.**

The penalties set forth above are not exclusive and are cumulative to each other as well as to other penalties under other federal, state and local laws and regulations. (Ord. 91-1 N.S., 1991).

#### **13.50.315 Enforcement – Liability insurance.**

The superintendent may decline to reissue a permit to any user which has failed to comply with the provisions of this chapter, or any order or previous permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge. (Ord. 92-1 N.S. § 12, 1992).

#### **13.50.320 Severability.**

If any provision, paragraph, word, section or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections or articles shall not be affected and shall continue in full force and effect. (Ord. 91-1 N.S., 1991).

#### **13.50.330 Conflict.**

All other chapters and parts of other chapters inconsistent or conflicting with any part of this

chapter are hereby repealed to the extent of such inconsistency or conflict. Should there be any conflict between this chapter and the general pretreatment regulations (40 CFR, Part 403), the general pretreatment regulations shall control. (Ord. 91-1 N.S., 1991).

**13.50.340 Exceptions – Special agreements.**

The city may enter into a special agreement with a person or establishment whereby an industrial waste of unusual strength or character may be accepted by the city for treatment subject to payment and to such terms and conditions as the city may fix. Under no circumstances shall the agreement include any waiver of national categorical pretreatment standards. (Ord. 91-1 N.S., 1991).

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<sup>1</sup> Prior ordinance history: Ords. 88-13 N.S. and 90-11 N.S.

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## Chapter 13.60

### BUILDING SEWERS AND SEWER LATERALS

#### Sections:

- 13.60.001 Connection required.
- 13.60.010 Permit required.
- 13.60.020 Design and construction requirements.
- 13.60.030 Connection to public sewer.
- 13.60.040 Testing.
- 13.60.050 Maintenance generally.
- 13.60.060 Separate side sewers.
- 13.60.070 Use of old building sewers.
- 13.60.080 Cleanouts.
- 13.60.090 Elevation of sewers.

#### **13.60.001 Connection required.**

A. The owner of a building within the city is required at his expense to connect the building to the proper public sewer in accordance with this division within 90 days after notice of the director to do so, if a public sewer is within 300 feet of a single building or, in the case of several buildings, within 200 additional feet distant for every additional building. Distance is measured along the route of the required sewer extension as determined by the director.

B. The owner of a berthing facility serving temporarily moored vessels containing sewage holding tanks shall, within 120 days after notice of the director to do so, provide approved sewage receiving facilities and connection to the city sewer system. (Ord. 88-13 N.S. § 1, 1988; prior code § 7-615; Ord. 1260 M.C.).

#### **13.60.010 Permit required.**

No person may construct a building sewer or lateral sewer or make a connection with a public sewer without first obtaining a written permit from the city and paying all fees and connection charges. (Prior code § 7-641; Ord. 1260 M.C.).

#### **13.60.020 Design and construction requirements.**

The design and construction of a building sewer and lateral sewer shall be in accordance with the requirements of the plumbing code in effect at the time and in accordance with city standard specifications. A lateral sewer shall be at least of four-inch diameter and shall be equal in size or larger than the connected building sewer. (Prior code § 7-642; Ord. 1260 M.C.).

#### **13.60.030 Connection to public sewer.**

The connection of the lateral sewer into the public sewer shall be made in accordance with city standard specifications and at the applicant's expense. The connection to the public sewer shall be made under the supervision, direction and control of the director. The applicant is responsible for the repair of damage to the public sewer in conformance with city standard specifications. (Prior code § 7-647; Ord. 1260 M.C.).

#### **13.60.040 Testing.**

The building sewer and lateral sewer shall be tested in accordance with city standard specifications. (Prior code § 7-648; Ord. 1260 M.C.).

#### **13.60.050 Maintenance generally.**

A. The owner shall maintain the building sewer and all other sewage facilities located on his

property. The city shall maintain lateral sewers if all of the following conditions are met:

1. The lateral is constructed in accordance with city requirements and is approved by the city for maintenance;
2. There is an approved cleanout located within five feet of the property boundary and the cleanout is accessible;
3. Normal maintenance work can be conducted without moving or damaging private property.

B. Where these conditions do not exist, the owner of the property served by the lateral sewer shall maintain it. In no event is the city responsible for damage or inconvenience resulting from stoppage or other malfunction of a side sewer. (Prior code § 7-649; Ord. 1260 M.C.).

**13.60.060 Separate side sewers.**

Separate premises shall be served by a separate side sewer. Multiple dwelling units in the same structure may be served by a single side sewer if approved by the director. Each separate multiple dwelling structure shall be served separately. The director may permit adjacent commercial and industrial structures located on a single parcel of land and served under a single account to be served by a single side sewer. Upon the subdivision and sale of a portion of the parcel, the portion not directly connected to the public sewer shall be separately connected to a public sewer. It is unlawful for the owner or occupant to continue to use or maintain the indirect connection. (Prior code § 7-643; Ord. 1260 M.C.).

**13.60.070 Use of old building sewers.**

An old building sewer may be used in connection with the new buildings only when the city finds upon examination and test that it meets the requirements of the city. (Prior code § 7-644; Ord. 1260 M.C.).

**13.60.080 Cleanouts.**

The owners shall provide a cleanout in the building sewer in accordance with the plumbing code in effect at the time and city standard specifications. The owner shall maintain the cleanouts watertight. In locations that the director designates, the owner shall install an approved pressure relief connection on each building sewer adjacent to its connection with the lateral sewer. (Prior code § 7-645; Ord. 1260 M.C.).

**13.60.090 Elevation of sewers.**

In a building in which the building sewer is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building sewer shall be lifted by artificial means approved by the director and then discharged to the public sewer at the expense of the owner. (Prior code § 7-646; Ord. 1260 M.C.).



## Chapter 13.64 CONSTRUCTION AND EXTENSIONS

### Sections:

- 13.64.010 Permit required.
- 13.64.020 Design and construction standards.
- 13.64.030 Subdivisions.
- 13.64.040 Rights-of-way and easements.
- 13.64.050 As-constructed drawings.
- 13.64.060 Extensions.
- 13.64.070 Extension as subdivision improvement.
- 13.64.080 Reimbursable cost.
- 13.64.090 Reimbursement terms and agreement.
- 13.64.100 Completion of sewerage works – Acceptance by city.

#### **13.64.010 Permit required.**

No person may construct, extend or connect to a public sewer without first obtaining a written permit from the city, paying all fees and connection charges and meeting all other requirements imposed by the city. This requirement does not apply to a contractor constructing sewers and appurtenances under contract entered into with the city. (Prior code § 7-651).

#### **13.64.020 Design and construction standards.**

The director shall prescribe standard specifications for minimum standards for the design and construction of sewers. Such specifications shall include provisions governing materials, workmanship, testing and warranty of sewerage facilities. The director may permit minor modification or may require higher standards where unusual conditions exist. The minimum size main sewer is six-inch diameter. (Prior code § 7-652).

#### **13.64.030 Subdivisions.**

A person who constructs, extends, or connects to a public sewer in a subdivision shall comply with the rules and regulations application to subdivisions. (Prior code § 7-653).

#### **13.64.040 Rights-of-way and easements.**

All sewers constructed in rights-of-way or easements shall be conveyed to and owned by the city. (Prior code § 7-654).

#### **13.64.050 As-constructed drawings.**

As a condition of final acceptance by the city, three sets of "as-constructed" drawings showing the actual locations of all mains, structures, wyes, laterals, and other changes to construction drawings shall be filed with the city. (Prior code § 7-655).

#### **13.64.060 Extensions.**

A. An extension to the sewer system may be made:

1. As a general city improvement;
2. As an improvement under assessment district proceeding;
3. By application for system extension as part of subdivision improvements; or
4. By application for system extension by an individual applicant.

B. The charges for a sewer system extension made under application are set forth in BMC 13.52.040 and 13.52.050.

C. For an extension made to serve premises not contiguous to an existing adequate main

sewer, the applicant may be required to advance the estimated cost of the intervening facilities or shall construct such facilities. The city shall reimburse the applicant for a portion of the cost of such improvements to the extent that the extension benefits property other than that belonging to the applicant.

D. The applicant shall pay the applicable charges in advance of construction.

E. The city may construct or contract for construction of sewer system extensions on public rights-of-way and easements except in a subdivision. A system extension made as part of subdivision improvements or required to serve a new subdivision shall be constructed by the applicant. (Prior code § 7-681).

#### **13.64.070 Extension as subdivision improvement.**

In addition to the requirements of applicable state law and city ordinances, rules and regulations, an applicant for construction of a sewer system extension as part of the subdivision improvements shall construct the sewer system extension as part of the subdivision improvements in accordance with the following:

A. Pay all applicable fees and charges;

B. Contract for construction of facilities for which a reimbursement agreement is to be prepared under BMC 13.64.090;

C. Have the surveying and staking of alignment and necessary grades performed by a licensed civil engineer or land surveyor;

D. Prepare and submit accurate "as-constructed" drawings in reproducible form;

E. Submit a statement of the project cost prepared in sufficient detail to be recorded in the sewer system accounts. (Prior code § 7-682).

#### **13.64.080 Reimbursable cost.**

Reimbursable cost is the actual cost approved by the city of off-site facilities plus on-site trunk sewers less the computed connection charges for the area to be served under the application. For purposes of this computation, the cost of a trunk sewer which also serves as a main sewer shall be taken as the increment of cost over that of an eight-inch diameter main sewer. (Prior code § 7-683).

#### **13.64.090 Reimbursement terms and agreement.**

Upon completion and acceptance of facilities for which costs are reimbursable, the city shall provide a reimbursement agreement approved by the director. The reimbursement agreement shall include a detailed description of the facilities for which costs are reimbursable, an exhibition of cost data and calculation of reimbursable costs, and the terms of reimbursement. Minimum reimbursement shall be equal to the frontage and connection charges levied for service connections to the reimbursable facilities. No interest shall be paid on reimbursable amounts. The term of all reimbursable agreements is 10 years. (Prior code § 7-684).

#### **13.64.100 Completion of sewerage works – Acceptance by city.**

Before the city may accept sewerage works by the city and admit sewage into the system, the sewerage works shall be tested to the satisfaction of the director and shall meet all requirements of the city's specifications. (Prior code § 7-656).





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## Chapter 13.76 VIOLATION AND PENALTY

### Sections:

- 13.76.010 Violation.
- 13.76.020 Repealed.
- 13.76.030 Repealed.
- 13.76.040 Violation – Nuisance.

#### **13.76.010 Violation.**

It is a violation of this code to violate, or fail to comply with, a rule or regulation of the system or a condition of sewer service or to damage city property used in the operation and maintenance of the sewer system. (Ord. 03-9 § 32; prior code §§ 7-603, 7-607).

#### **13.76.020 Separate offenses.**

Repealed by Ord. 03-9. (Prior code § 7-605).

#### **13.76.030 Violation – Penalty.**

Repealed by Ord. 03-9. (Prior code § 7-604).

#### **13.76.040 Violation – Nuisance.**

In addition to the penalties provided in this chapter, any condition caused or permitted to exist in violation of a provision of this division is a public nuisance and may be summarily abated as such. Each day that the condition continues is a new and separate offense. (Prior code § 7-606).

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## Division I. Construction Standards and Structure Relocation

### Chapter 15.04 CALIFORNIA BUILDING CODE

#### Sections:

- 15.04.010 Adoption by reference.
- 15.04.020 Copies on file.
- 15.04.030 Amendments generally.
- 15.04.040 Addition – Section 106.3.2 – Standard plans.
- 15.04.050 Section 106.4.4 amended – Building permit.
- 15.04.060 Addition – Section 220 – Swimming pool.
- 15.04.067 Addition – Sections 502.1, 502.2, 502.3, 502.4 – Premises identification.
- 15.04.088 Addition – New Section 310.17 – Swimming Pools.
- 15.04.089 Amendment – Section 2310.4 – Shingles and shakes.
- 15.04.098 Amendment – Section 1900.4.4 – Minimum slab thickness.
- 15.04.110 Amendment – Section 1503 – Shingles and shakes.
- 15.04.111 Addition – Section 3102.1.1 – Wood burning stove appliances.
- 15.04.115 Addition – Appendix Section 1514 – Shingles and shakes.
- 15.04.121 Amendment – Introduction to Uniform Building Code Standard 9-1.
- 15.04.130 Repealed.

#### **15.04.010 Adoption by reference.**

The California Building Code, 2001 Edition, Volumes 1 and 2, published by the International Conference of Building Officials, Appendices 15, 18, 31, Division III, Chapter 34, Division III and the 1997 Uniform Building Code, Volume 3, and the update to the structural standards in the 2001 California Building Code published by the State of California Building Standards Commission in Building Standards Bulletin 01-03, is adopted by reference the same as though fully set forth in this chapter. (Ord. 07-07 § 1; Ord. 02-4 N.S., Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

#### **15.04.020 Copies on file.**

One copy of the California Building Code and Appendix as adopted by BMC 15.04.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public. (Ord. 02-4 N.S.; Ord. 99-11; Ord. 87-6 N.S. § 2, 1987).

#### **15.04.030 Amendments generally.**

The California Building Code as adopted is amended as set forth in BMC 15.04.040 through 15.04.121. (Ord. 99-11; Ord. 93-6 N.S. § 1, 1993; Ord. 87-6 N.S. § 2, 1987).

#### **15.04.040 Addition – Section 106.3.2 – Standard plans.**

A Section 106.3.2.1 is added to California Building Code Section 106.3.2, to read as follows:

106.3.2.1 Standard Plans. The Building Official may approve a set of plans for a building or structure as a "standard plan," provided the applicant has made proper application, submitted complete sets of plans, and paid the plan checking fee as required by Benicia Municipal Code Chapter 15.26. When it is desired to use an approved "standard plan" for an identical structure, three plot plans shall be submitted, and a plan-checking fee equal to one-half of the full plan-checking fee required by Benicia Municipal Code Chapter 15.26 shall be paid at the time application is made for such identical structure. Such duplicate plans shall be compared, stamped, and kept on the job as required by California Building Code Section 106.4.2. In case of

any deviation whatsoever from this standard plan, complete plans, together with a full plan-checking fee, shall be submitted for the proposed work, as required by California Building Code Section 106.3. Standard plans shall be valid for a period of one year from the date of approval. This period may be extended by the Building Official when there is evidence that the plan may be used again.

(Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

#### **15.04.050 Section 106.4.4 amended – Building permit.**

A. Section 106.4.4 is amended as follows:

Every permit issued by the Building Official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit or if the building or work authorized by such a permit has not been completed within two years.

B. Subsections 107.1 and 107.3 are amended as follows:

Fees shall be assessed in accordance with fees established in Chapter 15.26 of the Benicia Municipal Code.

(Ord. 99-11).

#### **15.04.060 Addition – Section 220 – Swimming pool.**

The following definition is added to California Building Code Section 220, to read as follows:

Swimming Pool: Any outside body of water created by artificial means, which is designated or used for swimming or immersion purposes, any portion of which exceeds eighteen inches (18") in depth except portable swimming pools.

(Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

#### **15.04.067 Addition – Sections 502.1, 502.2, 502.3, 502.4 – Premises identification.**

Sections 502.1, 502.2, 502.3 and 502.4 are added to California Building Code Section 502 to read as follows:

Section 502.1: Apartment, Condominium and Townhouse Complexes – An illuminated, diagrammatic representation of the complex shall be installed at the primary vehicular and walkway entrance to each complex. This diagram shall be of sufficient size to be easily visible from said vehicular and walkway entrance.

(1) An apartment, condominium, or townhouse complex shall be defined as a group of three or more separate, nonconnecting buildings, all located on common ground where each building contains two or more living units.

(2) Each building shall be marked at a location clearly visible from the nearest vehicular access with the street address, building number/letter and numbers of units located in that building.

Example: 2237 Address  
Bldg. "B" Building designation  
Units 1 – 8 Units in building

Minimum numeral size shall be 6" high with a stroke of 1" and shall contrast with the background.

Section 502.2: Commercial – Individual units shall be addressed front and back. Minimum numeral size shall be 6" high with a stroke of 1" and shall contrast with the background. Units with entrances on both the front and rear of the building shall have identical addresses at both locations.

Section 502.3: Industrial – Individual units within a building shall be addressed front and back. Individual buildings shall be marked at a point clearly visible from the street. Minimum numeral

size shall be 12" high with a 3" wide stroke and shall contrast with the background. Units with entrances on both the front and rear of the building shall have identical addresses at both locations.

Section 502.4: Lighting of Building Addresses – The building address for all new buildings constructed after the date of this ordinance shall be automatically lighted at night.  
(Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 93-6 N.S.; Ord. 88-15 N.S.; Ord. 87-6 N.S.)

#### **15.04.088 Addition – New Section 310.17 – Swimming Pools.**

Section 310.17 is added to the California Building Code to read as follows:

(1) Any body of water to which a permit issued after March 19, 1998, shall comply with the following: An outdoor swimming pool, spa, hot tub or manmade body of water such as decorative fountains or ponds over 18" deep, shall be provided with a barrier that shall be installed, inspected and approved prior to plastering or filling with water. The barrier shall comply with the following:

A. The top of the barrier shall be at least 60 inches above grade measured on the side of the barrier which faces away from the pool. The vertical clearance between grade and the bottom of the barrier shall not be more than 2 inches measured on the side of the barrier which faces away from the swimming pool. Any decorative design work on the side away from the swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited.

B. Openings in the barrier shall not allow passage of a 4" diameter sphere.

C. Chain link fences used as the barrier shall be substantial and shall not be less than 11 gage.

D. Access gates shall comply with the requirements of Items A through C. Pedestrian access gates shall be self-closing and have a self-latching device with the latching service at least 60" above grade. Pedestrian gates shall swing away from the pool area. Any gates other than pedestrian access gates shall be equipped with attached lockable hardware or padlocks and shall remain locked at all times when not in use. This gate must have only occasional use.

E. All doors of a dwelling or garage providing direct access to the water area shall provide a separation fence and gate meeting the requirements of Items A, B, C and D.

EXCEPTION: When approved by the building official, one of the following may be used:

1. Self-closing and self-latching devices installed on all doors with direct access to the pool with the release mechanism located a minimum of 60 inches (1524 mm) above the floor.

2. An alarm installed on all doors with direct access to the pool. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door and its screen, if present, are opened, and be capable of providing a sound pressure level of not less than 85 dBA when measured indoors at 10 feet (3048 mm). The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual device, such as a touchpad or switch to temporarily deactivate the alarm for a single opening. Such deactivations shall last no longer than 15 seconds. The deactivation switch shall be located at least 60 inches (1524 mm) above the threshold of the door.

3. Hot tubs or spas with locking safety covers complying with ASTM-Standard F 1346-91 shall be considered in compliance with Pool Enclosure Requirements.

Indoor Swimming Pool. For an indoor swimming pool, protection shall comply with the requirements of Item E.

(2) Any pool, spa or hot tub for which a building permit was issued prior to March 19, 1998 shall

comply with the following. Every swimming pool shall be completely enclosed by a wall, fence or other substantial structure not less than four feet (4') in height measured on the outside of the enclosure. No openings other than doors and gates with any dimension greater than four inches (4") shall be permitted therein except that a picket fence may be erected or maintained having horizontal spacing between pickets not more than four inches (4"). All gates or door openings through such enclosures shall be equipped with self closing and self-latching devices designed to keep and are capable of keeping such door or gate securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped. Any self-latching device accessible from the outside of the pool enclosure shall be located at least four feet (4') above the ground or otherwise equally inaccessible to small children. This requirement applies to any manmade body of water over 18" deep, including decorative fountains or ponds.  
(Ord. 99-11; Ord. 98-2 N.S.; Ord. 95-15 N.S.; Ord. 93-6 N.S. § 25, 1993; Ord. 87-6 N.S. § 2, 1987).

#### **15.04.089 Amendment – Section 2310.4 – Shingles and shakes.**

A paragraph is added to the end of Section 2310.4 of the California Building Code:

Wood shingles or shakes may be used for exterior wall covering, provided the wood shingles or shakes meet one of the following two conditions:

1. A class B or better fire-treated shingle or shake is used.
  2. Pre-fabricated shingle or shake assemblies which has a class II flame spread classification as defined in Table 8A of the California Building Code.
- (Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 93-6 N.S. § 30, 1993; Ord. 87-6 N.S., 1987).

#### **15.04.098 Amendment – Section 1900.4.4 – Minimum slab thickness.**

Section 1900.4.4 of the California Building Code is added as follows:

A minimum of four inches (4") of gravel shall be required under all non-engineered concrete floor slabs supported directly on the ground in all occupancies except "M" occupancies that are not attached to another structure.

Non-engineered concrete floor slabs on grade shall be reinforced with welded wire mesh (6-6-10) or deform reinforcing bars not less than three-eighths inch (3/8") at twenty-four inch (24") each way.  
(Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 93-6 N.S. § 34, 1993; Ord. 87-6 N.S. § 2, 1987).

#### **15.04.110 Amendment – Section 1503 – Shingles and shakes.**

A paragraph is added to Section 1503 of the California Building Code to read as follows:

All new roof coverings shall be a class B or better roof covering assembly as defined by UBC Standard 15-2.  
(Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-25 N.S. § 1, 1987; Ord. 87-6 N.S. § 2, 1987).

#### **15.04.111 Addition – Section 3102.1.1 – Wood burning stove appliances.**

Section 3102.1.1 of the California Building Code is added as follows:

Any new wood burning appliance must be one of the following:

1. A pellet-fueled wood heater; or
2. An EPA certified wood heater.

Any new masonry fireplace is permitted only by following an EPA fireplace certification program, should one be developed. Existing masonry fireplaces may be maintained and repaired as required in this Chapter.

(Ord. 02-4).

**15.04.115 Addition – Appendix Section 1514 – Shingles and shakes.**

Appendix Section 1514 is added to the California Building Code to read as follows:

All roof coverings for reroofing shall be a class B or better covering assembly as defined by UBC Standard 15-2.

(Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

**15.04.121 Amendment – Introduction to Uniform Building Code Standard 9-1.**

Amend introduction to Uniform Building Code Standard 9-1 to read:

This standard with certain exceptions is based on the National Fire Protection Association Standard per installation of sprinkler systems, NFPA 13 – most current edition.

(Ord. 99-11; Ord. 95-15 N.S.).

**15.04.130 Violation – Penalty.**

Repealed by Ord. 03-9. (Ord. 99-11; Ord. 95-15 N.S.; Ord. 93-6 N.S. § 45, 1993; Ord. 87-6 N.S. § 2, 1987).



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## Chapter 15.12 CALIFORNIA PLUMBING CODE

### Sections:

- 15.12.010 Adoption by reference.
- 15.12.020 Copies on file.
- 15.12.025 Section 610.1.1 – Sizing of water lines.
- 15.12.026 Section 604.13 – Metal water piping.
- 15.12.027 Section 604.0 – Materials.
- 15.12.030 Repealed.

### **15.12.010 Adoption by reference.**

The California Plumbing Code, 2001 Edition, including the Appendices B, C, D, G, H, I, J and L except Administration Sections 102, 103.3.4, 103.4.1, 103.4.2, 103.4.3, 103.4.4, 103.4.5, and Table 1-1 which shall be governed by Administration provisions included in the California Building Code and the Uniform Administration Code is adopted by reference the same as though fully set forth in this chapter. (Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

### **15.12.020 Copies on file.**

One copy of the California Plumbing Code and Appendix as adopted by BMC 15.12.010, and all amendments thereto, shall be kept on file in the building official's office for inspection by the public (in accordance with SB 127 signed September 30, 1983). (Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

### **15.12.025 Section 610.1.1 – Sizing of water lines.**

Section 610.1.1 – Sizing of water lines, is amended as follows:

Sizing of water lines shall be done in accordance with nationally recognized standards as approved by the building official.

(Ord. 99-11).

### **15.12.026 Section 604.13 – Metal water piping.**

Section 604.13 – Metal water piping, is amended as follows:

Metal water piping is not permitted buried under any structure except as permitted in individual circumstances and approved by the building official.

(Ord. 02-4 N.S.).

### **15.12.027 Section 604.0 – Materials.**

Section 604.0 – Materials, is amended as follows:

Water distribution pipe, building supply water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel, or other approved materials. Asbestos-cement, CPVC, PE, PVC, or PEX water pipe manufactured to recognized standards may be used for cold water distribution systems outside a building. CPVC, PEX water pipe, tubing, and fittings, manufactured to recognized standards may be used for hot and cold water distribution systems within a building. All materials used in the water supply system, except valves and similar devices shall be of a like material, except where otherwise approved by the Administrative Authority.

Section 604.11 – PEX. Cross-linked polyethylene (PEX) tubing shall be marked with the appropriate standard designation(s) listed in Table 14-1 for which the tubing has been listed or approved. PEX tubing shall be installed in compliance with the provisions of this section.

Section 604.11.1 – PEX Fittings. Metal Insert Fittings and Metal Compression Fittings used with PEX tubing shall be manufactured to and marked in accordance with the standards for the fittings in Table 1401.

Section 604.11.2 – Water Heater Connections. PEX tubing shall not be installed within the first eighteen (18) inches (457 mm) of piping connected to a water heater.  
(Ord. 02-4 N.S.).

**15.12.030 Violation – Penalty.**

Repealed by Ord. 03-9. (Ord. 02-4 N.S.; Ord. 99-11; Ord. 95-15 N.S.; Ord. 87-6 N.S. § 2, 1987).

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## Chapter 15.22 UNIFORM ADMINISTRATIVE CODE

Sections:

15.22.010 Adoption by reference.

15.22.020 Copies on file.

15.22.030 Repealed.

**15.22.010 Adoption by reference.**

The 1997 Edition of the Uniform Administrative Code, published by the International Conference of Building Officials, is adopted by reference. All fees are referred to Chapter 15.26 BMC. (Ord. 99-11).

**15.22.020 Copies on file.**

One copy of the Uniform Administrative Code as adopted by BMC 15.22.010, and all amendments thereto, shall be kept on file in the public works office for inspection by the public. (Ord. 99-11).

**15.22.030 Violation – Penalty.**

Repealed by Ord. 03-9. (Ord. 99-11).



6-22-07

Building official says CBC and UAC  
Share same admin sections and he  
uses the UAC. *W*

# Excerpts from Uniform Administrative Code

## Chapter 1

### TITLE, SCOPE AND GENERAL

#### SECTION 101 — TITLE, PURPOSE AND SCOPE

**101.1 Title.** These regulations shall be known as the *Uniform Administrative Code*, may be cited as such and will be referred to herein as "this code."

**101.2 Purpose.** The purpose of this code is to provide for the administration and enforcement of the technical codes adopted by this jurisdiction.

**101.3 Scope.** The provisions of this code shall serve as the administrative, organizational and enforcement rules and regulations for the technical codes which regulate site preparation and construction, alteration, moving, demolition, repair, use and occupancy of buildings, structures and building service equipment within this jurisdiction.

#### SECTION 102 — APPLICATION TO EXISTING BUILDINGS AND BUILDING SERVICE EQUIPMENT

**102.1 General.** Buildings, structures and their building service equipment to which additions, alterations or repairs are made shall comply with all the requirements of the technical codes for new facilities, except as specifically provided in this section.

**102.2 Additions, Alterations or Repairs.** Additions, alterations or repairs may be made to a building or its building service equipment without requiring the existing building or its building service equipment to comply with all the requirements of the technical codes, provided the addition, alteration or repair conforms to that required for a new building or building service equipment.

Additions or alterations shall not be made to an existing building or building service equipment which will cause the existing building or building service equipment to be in violation of the provisions of the technical codes nor shall such additions or alterations cause the existing building or building service equipment to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or building service equipment to become structurally unsafe or overloaded; will not provide adequate egress in compliance with the provisions of the Building Code or will obstruct existing exits; will create a fire hazard; will reduce required fire resistance; will cause building service equipment to become overloaded or exceed their rated capacities; will create a health hazard or will otherwise create conditions dangerous to human life. A building so altered, which involves a change in use or occupancy, shall not exceed the height, number of stories and area permitted by the Building Code for new buildings. A building plus new additions shall not exceed the height, number of stories and area specified by the Building Code for new buildings.

Additions or alterations shall not be made to an existing building or structure when the existing building or structure is not in full compliance with the provisions of the Building Code except when the addition or alteration will result in the existing building or structure being no more hazardous based on life safety, firesafety and sanitation, than before such additions or alterations are undertaken.

**EXCEPTION:** Alterations of existing structural elements, or additions of new structural elements, which are not required by Section 102.4 and which are initiated for the purpose of increasing the lateral-force-resisting strength or stiffness of an existing structure need not be designed for forces conforming to these regulations provided that an engineering analysis is submitted to show that:

1. The capacity of existing structural elements required to resist forces is not reduced, and
2. The lateral loading to required existing structural elements is not increased beyond their capacity, and
3. New structural elements are detailed and connected to the existing structural elements as required by these regulations, and
4. New or relocated nonstructural elements are detailed and connected to existing or new structural elements as required by these regulations, and
5. An unsafe condition as defined above is not created.

Alterations or repairs to an existing building or structure which are nonstructural and do not adversely affect a structural member or a part of the building or structure having required fire resistance may be made with the same materials of which the building or structure is constructed, subject to approval by the building official. Installation or replacement of glass shall be as required for new installations.

Minor additions, alterations and repairs to existing building service equipment installations may be made in accordance with the technical code in effect at the time the original installation was made, subject to approval of the building official, and provided such additions, alterations and repairs will not cause the existing building service equipment to become unsafe, insanitary or overloaded.

**102.3 Existing Installations.** Building service equipment lawfully in existence at the time of the adoption of the technical codes may have their use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and a hazard to life, health or property has not been created by such building service equipment.

**102.4 Existing Occupancy.** Buildings in existence at the time of the adoption of the Building Code may have their existing use or occupancy continued if the use or occupancy was legal at the time of the adoption of the Building Code, and provided continued use is not dangerous to life, health and safety.

A change in the use or occupancy of any existing building or structure shall comply with the provisions of Section 309 of this code and Section 3405 of the Building Code.

**102.5 Maintenance.** Buildings, structures and building service equipment, existing and new, and parts thereof shall be maintained in a safe and sanitary condition. Devices or safeguards which are required by the technical codes shall be maintained in conformance with the technical code under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and their building service equipment. To determine compliance with this section, the building official may cause a structure to be reinspected.

**102.6 Moved Buildings.** Buildings, structures and their building service equipment moved into or within this jurisdiction shall comply with the provisions of the technical codes for new buildings or structures and their building service equipment.

**102.7 Temporary Structures.** Temporary structures such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around and in conjunction with construction work may be erected by special permit from the building official for a limited period of time. Buildings or structures erected under a special permit need not comply with the type of construction or fire-resistive time periods required by the Building Code. Temporary buildings or structures

## Chapter 2 ORGANIZATION AND ENFORCEMENT

### SECTION 201 — AUTHORITY

**201.1 Creation of Enforcement Agency.** There is hereby established in this jurisdiction a code enforcement agency which shall be under the administrative and operational control of the building official.

**201.2 General.** Whenever the term or title "administrative authority," "responsible official," "building official," "chief inspector," "code enforcement officer," or other similar designation is used herein or in any of the technical codes, it shall be construed to mean the building official designated by the appointing authority of this jurisdiction.

### SECTION 202 — POWERS AND DUTIES OF BUILDING OFFICIAL

**202.1 General.** The building official is hereby authorized and directed to enforce all the provisions of this code and the referenced technical codes. For such purposes, the building official shall have the powers of a law enforcement officer.

The building official shall have the power to render interpretations of this code and the referenced technical codes, and to adopt and enforce rules and regulations supplemental to this code as may be deemed necessary to clarify the application of the provisions of this code. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code.

**202.2 Deputies.** In accordance with prescribed procedures and with the approval of the appointing authority, the building official may appoint such number of technical officers and inspectors and other employees as shall be authorized from time to time. The building official may deputize such inspectors or employees as may be necessary to carry out the functions of the code enforcement agency.

**202.3 Right of Entry.** When necessary to make an inspection to enforce any of the provisions of this code and the technical codes, or when the building official has reasonable cause to believe that there exists in any building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at all reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied, that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. Should entry be refused, the building official shall have recourse to the remedies provided by law to secure entry.

**202.4 Stop Orders.** When work is being done contrary to the provisions of this code, the technical codes, or other pertinent laws or ordinances implemented through the enforcement of this code, the building official may order the work stopped by notice in writing served on persons engaged in the doing or causing such work to be done, and such persons shall forthwith stop the work until authorized by the building official to proceed with the work.

**202.5 Occupancy Violations.** When a building or structure or building service equipment therein regulated by this code and the technical codes is being used contrary to the provisions of such codes, the building official may order such use discontinued by

written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the building official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of such codes.

**202.6 Authority to Disconnect Utilities.** The building official or the building official's authorized representative shall have the authority to disconnect a utility service or energy supplied to the building, structure or building service equipment therein regulated by this code or the technical codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection immediately thereafter.

**202.7 Authority to Condemn Building Service Equipment.** When the building official ascertains that building service equipment regulated in the technical codes has become hazardous to life, health or property, or has become insanitary, the building official shall order in writing that such equipment either be removed or restored to a safe or sanitary condition, as appropriate. The written notice itself shall fix a time limit for compliance with such order. Defective building service equipment shall not be maintained after receiving such notice.

When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefor shall be given within 24 hours to the serving utility, the owner and occupant of such building, structure or premises.

When any building service equipment is maintained in violation of the technical codes and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute appropriate action to prevent, restrain, correct or abate the violation.

**202.8 Connection after Order to Disconnect.** Persons shall not make connections from an energy, fuel or power supply nor supply energy or fuel to building service equipment which has been disconnected or ordered to be disconnected by the building official or the use of which has been ordered to be discontinued by the building official until the building official authorizes the reconnection and use of such equipment.

**202.9 Liability.** The building official charged with the enforcement of this code and the technical codes, acting in good faith and without malice in the discharge of his duties, shall not thereby be rendered personally liable for damage that may accrue to persons or property as a result of an act or omission in the discharge of the assigned duties. A suit brought against the building official or employee because of such act or omission performed by the building official or employee in the enforcement of the provisions of such codes or other pertinent laws or ordinances implemented through the enforcement of this code or enforced by the code enforcement agency shall be defended by this jurisdiction until final termination of such proceedings, and any judgment resulting therefrom, shall be assumed by this jurisdiction.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling a building, structure or building service equipment therein for damages to persons or property caused by defects, nor shall the code

enforcement agency or its parent jurisdiction be held as assuming such liability by reason of the inspections authorized by this code or permits or certificates issued under this code.

**202.10 Cooperation of Other Officials and Officers.** The building official may request, and shall receive, the assistance and cooperation of other officials of this jurisdiction so far as is required in the discharge of the duties required by this code or other pertinent laws or ordinances.

### **SECTION 203 — UNSAFE BUILDINGS, STRUCTURES OR BUILDING SERVICE EQUIPMENT**

Buildings or structures regulated by this code and the technical codes which are structurally inadequate or have inadequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe buildings.

Building service equipment regulated by such codes, which constitutes a fire, electrical or health hazard, or an insanitary condition, or is otherwise dangerous to human life is, for the purpose of this section, unsafe. Use of buildings, structures or building service equipment constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use.

Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Code are hereby designated as unsafe building appendages.

Unsafe buildings, structures or appendages and building service equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in

accordance with the procedures set forth in the Dangerous Buildings Code or such alternate procedure as may be adopted by this jurisdiction. As an alternative, the building official or other employee or official of this jurisdiction as designated by the governing body may institute other appropriate action to prevent, restrain, correct or abate the violation.

### **SECTION 204 — BOARD OF APPEALS**

**204.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of the technical code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and building service equipment and who are not employees of the jurisdiction. The building official shall be an ex officio member and shall act as secretary to said board but shall have no vote upon any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

**204.2 Limitations of Authority.** The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code or the administrative provisions of the technical codes nor shall the board be empowered to waive requirements of either this code or the technical codes.

### **SECTION 205 — VIOLATIONS**

It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building, structure or building service equipment, or cause or permit the same to be done in violation of this code and the technical codes.

## Chapter 3 PERMITS AND INSPECTIONS

### SECTION 301 — PERMITS

**301.1 Permits Required.** Except as specified in Section 301.2, no building, structure or building service equipment regulated by this code and the technical codes shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the building official.

**301.2 Work Exempt from Permit.** A permit shall not be required for the types of work in each of the separate classes of permit as listed below. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of the technical codes or any other laws or ordinances of this jurisdiction.

**301.2.1 Building permits.** A building permit shall not be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15 m<sup>2</sup>).
2. Fences not over 6 feet (1829 mm) high.
3. Oil derricks.
4. Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) high.
5. Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding flammable liquids.
6. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18 925 L) and the ratio of height to diameter or width does not exceed 2:1.
7. Platforms, walks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below.
8. Painting, papering and similar finish work.
9. Temporary motion picture, television and theater stage sets and scenery.
10. Window awnings supported by an exterior wall of Group R, Division 3, and Group U Occupancies when projecting not more than 54 inches (1372 mm).
11. Prefabricated swimming pools accessory to a Group R, Division 3 Occupancy in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed 5,000 gallons (18 925 L).

Unless otherwise exempted by this code, separate plumbing, electrical and mechanical permits will be required for the above exempted items.

**301.2.2 Plumbing permits.** A plumbing permit shall not be required for the following:

1. The stopping of leaks in drains, soil, waste or vent pipe, provided, however, that should any concealed trap, drain pipe, soil, waste or vent pipe become defective and it becomes necessary to remove and replace the same with new material, the same shall be considered as new work and a permit shall be procured and inspection made as provided in this code.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, nor for the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

**301.2.3 Electrical permits.** An electrical permit shall not be required for the following:

1. Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when that cord or cable is permitted by the Electrical Code.
2. Repair or replacement of fixed motors, transformers or fixed approved appliances of the same type and rating in the same location.
3. Temporary decorative lighting.
4. Repair or replacement of current-carrying parts of any switch, contactor or control device.
5. Reinstallation of attachment plug receptacles, but not the outlets therefor.
6. Repair or replacement of any overcurrent device of the required capacity in the same location.
7. Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems.
8. Taping joints.
9. Removal of electrical wiring.
10. Temporary wiring for experimental purposes in suitable experimental laboratories.
11. The wiring for temporary theater, motion picture or television stage sets.
12. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.
13. Low-energy power, control and signal circuits of Class II and Class III as defined in the Electrical Code.
14. A permit shall not be required for the installation, alteration or repair of electrical wiring, apparatus or equipment or the generation, transmission, distribution or metering of electrical energy or in the operation of signals or the transmission of intelligence by a public or private utility in the exercise of its function as a serving utility.

**301.2.4 Mechanical permits.** A mechanical permit shall not be required for the following:

1. A portable heating appliance.
2. Portable ventilating equipment.
3. A portable cooling unit.
4. A portable evaporative cooler.
5. A closed system of steam, hot or chilled water piping within heating or cooling equipment regulated by the Mechanical Code.
6. Replacement of any component part of assembly of an appliance which does not alter its original approval and complies with other applicable requirements of the technical codes.
7. Refrigerating equipment which is part of the equipment for which a permit has been issued pursuant to the requirements of the technical codes.