

SECTION III—LEGAL AUTHORITY

Requirement¹

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.

¹ SWRCB Order No. 2006-0003-DWQ § B.13 (iii)

TABLE III.1—SUMMARY OF LEGAL AUTHORITY

Legal Authority To:	Existing Authority
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

Chapter 1.08 GENERAL PENALTY¹

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).

¹ 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 PROPERTY MAINTENANCE – NUISANCE ABATEMENT

Sections:

- [8.04.010](#) Findings and purpose.
- [8.04.020](#) Definitions.
- [8.04.030](#) Unlawful public nuisances – Defined.
- [8.04.040](#) Nuisance – Unsafe, substandard and dangerous building.
- [8.04.050](#) Declaration of public nuisance.
- [8.04.060](#) Nonexclusive remedies.
- [8.04.070](#) Emergency summary abatement.
- [8.04.080](#) Determination of nuisance – Notice of violation.
- [8.04.090](#) Notice and order to abate or show cause.
- [8.04.100](#) Request for hearing.
- [8.04.110](#) Request for hardship waiver of appeal fee.
- [8.04.120](#) Administrative show cause hearing.
- [8.04.130](#) Decision of the hearing officer.
- [8.04.140](#) Abatement by owner.
- [8.04.150](#) Abatement by city.
- [8.04.160](#) Administrative charges.
- [8.04.170](#) Abatement costs.
- [8.04.180](#) Collection of unpaid costs.
- [8.04.190](#) City council confirmation hearing.
- [8.04.200](#) Nuisance abatement lien.
- [8.04.210](#) Special assessment against property.
- [8.04.220](#) Satisfaction of lien.
- [8.04.230](#) Limitation on filing judicial action.
- [8.04.240](#) Alternative means of enforcement.
- [8.04.250](#) Treble damages.
- [8.04.260](#) No duty on city to enforce.

Prior legislation: Prior code §§ 1-401 – 1-413.

8.04.010 Findings and purpose.

The purpose and intent of this chapter are to promote the health, safety, economic, aesthetic and general welfare of the citizens of the city, and to protect neighborhoods against property-related nuisances, blight and deterioration by establishing requirements for all buildings, whether residential or nonresidential, or structures of whatever kind, and establishing requirements for the maintenance of all land, whether improved or vacant.

The city of Benicia has a history and reputation for well-kept properties. Property values and the general welfare of the community are founded, in part, upon the appearance and maintenance of private properties. When owners and occupants of properties within the city permit conditions to exist which are below the minimum conditions required by this chapter, it is injurious and detrimental to the public health, safety, and welfare of residents of the city and contributes substantially and increasingly to the deterioration of residential neighborhoods and commercial areas. The abatement of continued violations impacts city personnel and resources, requires resources over and above the level of enforcement services normally provided, and constitutes a public nuisance, the costs of which should be paid by the responsible property owners.

This chapter establishes procedures to abate any and all public nuisances which are violations of this code, or which the city has declared to be injurious to the public health, comfort, convenience, safety, welfare, prosperity, peace and quiet of the citizens. (Ord. 18-17 § 2).

8.04.020 Definitions.

As used in this chapter:

“Backyard” means that portion of property between the back of the primary residential structure and the rear property line.

“Building” means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or property.

“City” means the city of Benicia.

“City manager” means the city manager or his or her duly authorized representative.

“Costs or expenses to abate the nuisance” means the actual cost of abatement plus all administrative expenses, including direct and indirect personnel costs; costs incurred in documenting the nuisance; the actual expenses and costs of the city in the preparation and dissemination of notices, specifications, and contracts and in inspecting the work; the costs of printing and mailing the required notices; and the costs of imposing a lien, if a lien becomes necessary.

“Enforcement officer” means any individual employed by the city with primary enforcement authority for this chapter, or his or her duly authorized representative, or any city employee or agent of the city with the authority to enforce a provision of this code.

“Front yard” means that portion of property between the abutting frontal street and the primary building or residential structure.

“Hearing officer” means the individual appointed by the city manager under this chapter to hear all timely appeals described in this chapter. The hearing officer can have no pecuniary interest in the outcome of the hearing, or interest in or bias regarding the case. If the appointee is a city employee, the appointee cannot work in the department that is enforcing the code violations, nor can any decision as the hearing officer be made subject to the employee’s performance evaluation in his/her regular job.

“Junk” means any cast-off, damaged, discarded, junked, obsolete, salvaged, scrapped, unusable, worn-out or wrecked object, thing or material, including but not limited to those composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fiber, glass, plaster, plaster of Paris, rubber, terra cotta, wool, cotton, cloth, canvas, wood, wood chips, tree trimmings or cuttings, metal, sand, organic matter or other substance.

“Junkyard” means any property on which any junk is abandoned, bailed, bartered, bought, brought, bundled, deposited, disassembled, disposed of, exchanged, handled, kept, stored or transported, regardless of whether or not such activity is done for profit.

“Owner” and “property owner,” as used herein, and unless otherwise required by the context, shall be deemed to include any person owning, leasing, renting, occupying or having charge or possession of any property in the city to and including any person identified as owning property as shown on the last equalized assessment roll.

“Person,” as used in this chapter, means any individual, partnership, corporation, limited liability company, association, or other organization, however formed, including heirs in possession, executors, administrators, or assigns.

“Property” or “premises” means any lot or parcel of land, including any alley, sidewalk or parkway abutting such lot or parcel of land, or improvements thereon, or portions thereof, as the case may be.

“Public nuisance” means anything which is, or is likely to become, injurious to health or safety, or is offensive to the senses, or

an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any public park, square, street or highway. All conditions enumerated in BMC [8.04.030](#) are public nuisances by definition and declaration, and said enumerated conditions shall in no way be construed to be exclusive or exhaustive.

“Side yard” means that portion of property between the side of the building or residential structure and the property line.

“Vehicle” references the current definition of same contained at Section [670](#) of the California Vehicle Code, and means any device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks. Vehicles do not include wheelchairs. (Ord. 18-17 § 2).

8.04.030 Unlawful public nuisances – Defined.

It shall be unlawful and a public nuisance for any person owning, renting, leasing, occupying or having charge or possession of any real property in the city to maintain, or allow or permit others to maintain, such property in any of the following conditions:

A. The exterior accumulation of vegetation, weeds, dirt, litter, rubbish or debris on the property which is visible from a public street, sidewalk, alleyway, right-of-way or neighboring property. This includes, but is not limited to:

1. Neglected or improperly maintained landscaping, dead, debris laden, weed infested or overgrown vegetation, such as trees, shrubs, hedges, grass and ground covers, or vegetation dying as a result of physical damage, disease, insect infestation or lack of water or any other vegetation;
2. Vegetation likely to harbor rats, vermin and other nuisances or causing detriment to neighboring properties, or out of conformity with neighboring community standards to such an extent as to result in appreciable diminution of property values;
3. Vegetation growing on the roof or compromising the integrity of any structure, except for rooftop gardens designed and constructed to withstand structural load;
4. The removal or failure to maintain in good condition any landscaping required as a condition of any permit or development approval or included in the project plans or application without city approval. “Good condition” means that plant material is alive, irrigated, and otherwise cared for to ensure survival.

The provision as to dead or dying vegetation due to lack of water shall not be enforced during a drought year, as determined by the city. For purposes of this subsection, a lawn area shall be deemed overgrown if 50 percent or more of its area exceeds four inches in height (not including decorative grasses). (See also Chapter [8.08](#) BMC, Weeds and Rubbish).

B. The accumulation or storage of junk, trash or debris, including but not limited to tires, broken, abandoned or discarded furniture, sinks, toilets, cabinets or other household fixtures, equipment or parts thereof, rubbish, garbage, goods and furnishings, shopping carts, packing boxes, lumber, salvage materials or other materials, accumulations of grease, oil, or petroleum-based products of any kind, animal feces, or other debris and litter, which constitutes a fire hazard or safety hazard and/or is stored or accumulated in such a manner as to constitute visual blight which is visible from the public street, sidewalk or right-of-way, alley, or adjoining property. This includes the dumping, spillage or storage of solids or liquids which may negatively impact the visual or olfactory nature of the area.

C. Buildings, fences or other structures, the exterior walls or windows of which are visible from a public street, sidewalk or right-of-way, which are cracked, broken, leaning, fallen, decayed, deteriorated or defaced, including but not limited to unpainted or untreated exterior wood surfaces (other than natural decay-resistant wood) on any building (or any portion thereof), or structure in which the condition of the paint has become so deteriorated as to permit decay, excessive checking, cracking, peeling,

chalking, dry rot, warping, or insect infestation, including failure to provide adequate weather protection to structures or buildings, including, but not limited to, cracked, peeling, warped, rotted, or severely damaged paint, stucco or other exterior covering.

D. Failure to maintain property, building structure, required fence, driveways, sidewalks or parking areas so that it becomes defective, unsightly, or in such condition of dilapidation or disrepair that it causes or accelerates the deterioration of the property or causes the depreciable diminution of the property values of surrounding properties, or is otherwise materially detrimental to adjacent properties.

E. Building or other structures which are abandoned, partially destroyed, partially constructed or allowed to remain unreasonably in a state of partial construction or neglect.

F. Vacant or abandoned buildings or structures with doorways, windows or other openings left open, unlocked, unsecured or otherwise easily accessible to trespassers, vagrants, vandals or other persons not authorized to enter.

G. Broken windows constituting hazardous conditions, or contributing to neighborhood blight, or resulting in unsecured property inviting trespassers and malicious mischief.

H. Storage or maintenance of packing boxes, storage containers, lumber, pallets, metal storage bins or containers, trash, dirt and other junk deposited or stored for unreasonable periods either inside or outside buildings, visible from the street or nearby property, which constitute visual blight, health and safety issues, are offensive to the senses, or are detrimental to nearby property values.

I. Where visible from a public street, sidewalk or right-of-way, the exterior storage or maintenance of unregistered, dismantled or inoperative vehicles, automotive engines, parts, or machinery of any type or description, unless specifically authorized by city license or permit; building materials or merchandise unless specifically authorized by an active use, building or other city permit; construction equipment or garbage bins except while excavation, construction or demolition operations covered by an active building permit or other city permit are in progress on the subject or adjoining property. (See also Chapter [10.44](#) BMC, Abandoned, Wrecked, Dismantled or Inoperative Vehicles.)

J. The parking or storage of any vehicle, boat, trailer, camper, camper shell, motor home or other mobile equipment, whether or not motorized, or portions thereof, including accumulation or storage of vehicle parts or other mechanical parts and components of a vehicle, boat, trailer, camper, or motor home, on property used or zoned for residential purposes, on any front lawn, front yard, side yard or rear yard, where visible from the public right-of-way; provided, however, that such parking or storage of a legally registered and operable vehicle, boat, trailer, camper, or motor home shall be allowed on required parking spaces or paved driveways leading directly from approved and permitted curb cuts to required garages, carports or other required off-street parking spaces, if such vehicle, boat, trailer, camper or motor home is located totally within private property and does not extend or block any public right-of-way or interfere with a line of sight from a public right-of-way to the extent that it creates a safety hazard. It shall also be prohibited, and a public nuisance, to park any vehicle on any privately owned property if such vehicle would be prohibited from parking on such property pursuant to BMC [10.16.080](#) and [10.16.160](#).

K. Use of property in a residential district for the purpose of performing auto repair for profit. Auto repair including work on any vehicle, boat, trailer, camper, motor home or other mobile or mechanical equipment, whether or not motorized, may be allowed only in accordance with the provisions of BMC [8.32.030](#). In no instance shall more than two permits be issued and active at any one time for any property located in a residentially zoned district. All such auto repair shall only be allowed on or in the approved driveway, garage, carport or other required off-street parking space.

L. Land, the topography, geology or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, that causes erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare or to adjacent properties.

- M. Once commenced, the failure by private property owners to complete, within a reasonable period of time, exterior physical improvements, visible from the public right-of-way, such as streets, curbs, gutters and other improvements whether or not intended to be dedicated to the city.
- N. Obstruction or encroachment upon any public property including, but not limited to, any public street, sidewalk, highway, right-of-way, park or building, without a valid permit. Such obstructions or encroachments include, but are not limited to, overgrown trees and shrubs; building materials; merchandise or other personal property; and buildings or portions of buildings or structures protruding onto public property.
- O. Maintain property in a manner which causes a hazard to the public by obscuring visibility of an intersection.
- P. An attractive nuisance dangerous to children including, but not limited to, abandoned, broken or neglected equipment; machinery; a refrigerator, freezer or other appliance; or hazardous pool, pond or excavation.
- Q. Maintain a building, structure, any artificial alteration of property, any activity or any water that supports the development, attraction or harborage of vectors, or that facilitates the introduction or spread of vectors, or that is a breeding place for vectors. The presence of vectors in their developmental stages on the property is prima facie evidence that the property is a public nuisance. "Vector" means any animal capable of transmitting human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, mites, ticks, other arthropods, rodents and other vertebrates.
- R. Causing, maintaining or permitting graffiti as defined in BMC [8.38.020](#): (1) to remain on exterior walls or facades of buildings, fences, walls, or other structures of whatever nature; or (2) to remain upon the exterior of motor vehicles, vans or trucks which are parked on public streets or driveways or are otherwise visible to the public. (See also Chapter [8.38](#) BMC, Graffiti Control.)
- S. Storage of hazardous materials in such a manner as to be injurious or potentially injurious to the public health, safety and welfare or to adjacent properties.
- T. The existence of any property condition which is unlawful or declared to be a public nuisance pursuant to any other provision in this code. This subsection shall be construed to place an affirmative duty on property owners and occupants to maintain their property in conformity with all applicable codes. The city shall have the power to require property owners and occupants to bring their property into compliance with applicable codes, regardless of whether the building is occupied.
- U. Discharge of any materials other than storm water to the city storm sewer system in violation of Chapter [13.50](#) BMC.
- V. Garbage cans and recycling containers stored in front yards and visible from public streets, other than as permitted by this code.
- W. Heavy commercial vehicles, construction equipment, or machinery of any type or description parked or stored without a permit on property where it is readily visible to the general public, except during excavation, construction or demolition operations pursuant to an active building permit in progress on the subject property or on adjoining property.
- X. Improper maintenance of signs or sign structures, or signs on property relating to uses no longer conducted or products no longer sold on property more than 60 days after business uses or products sold cease, or signs in violation of this code. This does not include historic signs approved by the city.
- Y. The use, in any residential zoning district or residential planned development district of the city, of barbed wire, concertina wire, razor-cut wire or other such similar fencing material, unless specifically approved by the city.
- Z. Throwing or depositing any materials into any creek or channel unless authorized by COB, Army Corps and/or DFW.
- AA. Any fence which is in a condition of dilapidation or disrepair, including, but not limited to, fences with broken slats and

sharp edges, or which severely lean or list more than 15 degrees from perpendicular or are in danger of collapse due to the elements, pest infestation, dry rot, or other damage.

BB. A public nuisance as defined by California Civil Code Section [3479](#) or [3480](#).

CC. Any condition recognized in law or in equity as constituting a public nuisance, or any condition existing on property which constitutes visual blight, or is a health or safety hazard to the community or neighboring properties.

DD. Any violation of the Benicia zoning ordinance or any state or county law violation enforced by the city. (Ord. 18-17 § 2).

8.04.040 Nuisance – Unsafe, substandard and dangerous building.

A building or structure which has one or more of the following conditions is deemed to be a public nuisance and an unsafe, substandard and dangerous building, if the conditions exist to the extent that the life, health, property, or safety of the public or occupants is endangered as determined by the city building official and/or their designee:

A. Inadequate sanitation;

B. Structural hazard;

C. Hazardous electrical wiring;

D. Hazardous plumbing;

E. Hazardous mechanical equipment;

F. Faulty weather protection;

G. Fire hazard;

H. Use of faulty construction materials;

I. Hazardous or unsanitary premises;

J. Inadequate exits;

K. Inadequate fire protection or firefighting equipment;

L. Improper occupancy;

M. Any other violation of the most current adopted building codes;

N. Any other violation which is set forth in the most current edition of any of the following code sections:

1. California Building Code Section 116, Unsafe buildings or structures.

2. California Health and Safety Code Section [17920.3](#), Substandard buildings.

3. Uniform Code for the Abatement of Dangerous Buildings Section 302, Dangerous Building. (Ord. 18-17 § 2).

8.04.050 Declaration of public nuisance.

All property found to be maintained in violation of any one or more of the provisions of this chapter is declared to be a public nuisance and shall be abated by rehabilitation, demolition and/or repair pursuant to the procedures set forth herein. (Ord. 18-17 § 2).

8.04.060 Nonexclusive remedies.

The procedures in this chapter shall not be exclusive and shall not in any manner limit or restrict the city from enforcing other ordinances or abating public nuisances by all other remedies, including by issuing administrative citations in Chapter [1.10](#) BMC, or other administrative, civil or criminal proceedings, or in any other manner provided by law. Nothing contained in this chapter shall be construed as limiting, prejudicing, or adversely affecting the city's ability to concurrently or consecutively use any of those proceedings as the city may deem are appropriate, efficient, effective, and/or practical. (Ord. 18-17 § 2).

8.04.070 Emergency summary abatement.

Notwithstanding any other provisions of this chapter to the contrary, whenever it is determined that a public nuisance is so imminently dangerous to life or adjacent property that such condition must be immediately corrected or isolated, the enforcement officer may institute the following procedures:

A. Notice. To the extent possible, the enforcement officer (or other city official) shall attempt to make contact with the landowner or the person, if any, occupying or otherwise in real or apparent charge and control of the property. In the event contact is made, the enforcement officer shall notify them of the danger involved and require that such condition be immediately removed, repaired or isolated to prevent harm to any person or property.

B. Abatement. In the event the enforcement officer is unable to make contact, or if the appropriate persons after notification by the city do not take action as specified by the city within 72 hours, or a lesser period if deemed necessary, then the enforcement officer may, with the approval of the city manager, take all steps deemed necessary to remove or isolate the dangerous condition or conditions with the use of city forces or a contractor retained pursuant to the provisions of this code.

C. Costs. The enforcement officer shall keep an itemized account of the costs incurred by the city in removing or isolating such condition or conditions. Such costs may be recovered to the same extent and in the same manner that abatement costs are recovered as set forth in this chapter pursuant to Government Code Sections [38773](#) and [38773.1](#). (Ord. 18-17 § 2).

8.04.080 Determination of nuisance – Notice of violation.

A. Whenever an enforcement officer charged with the enforcement of any provision of this chapter determines that a violation of a provision has occurred, the enforcement officer shall have the authority to cause the owner and any responsible party to be notified of the existence of such condition on the premises and shall direct such parties to abate the nuisance.

B. The notice of violation shall contain the following information:

1. The names and addresses of the owner and responsible parties, if any, in violation of this chapter, and the street address, legal description or other description of the premises where the violation is present;
2. A statement specifying the condition(s) which constitute a nuisance and the specific code section(s) which have been violated and the actions needed to abate the violations;
3. A reasonable time limit to correct the violation(s) not less than 10 calendar days or more than 20 calendar days after the date of the notice, based on the type, severity and number of previous violations on the same property, unless the enforcement officer determines there are circumstances of hardship that warrant additional time for abatement;
4. A statement explaining the consequences and range of penalties for not abating the violation within the time specified in the preliminary notice, including but not limited to the imposition of administrative charges, incurring city abatement costs, issuance of administrative citations, and/or other legal remedies available to the city; and
5. The name and phone number of a contact person at the city should the recipient desire to explain why the premises should not be declared a public nuisance and why penalties should not be assessed.

C. A copy of the notice of violation provided for in this section shall be served by personal delivery or by mail to the owner at the address appearing on the last equalized assessment roll of Solano County on the date the notice is prepared and upon any responsible party at their known address, including the occupant of the premises, if any. Service by mail shall be deemed to have been completed at the time of deposit in the United States mail. If the owner is not known, the notice may be posted on the property.

D. In no event does this chapter or its requirements limit the right of the enforcement officer or other city officials to issue informal written or oral notices of code violations to persons specifying shorter compliance periods when appropriate or when abatement by city forces is not the contemplated remedy. (Ord. 18-17 § 2).

8.04.090 Notice and order to abate or show cause.

A. Determination. Whenever the enforcement officer determines that property within the city is being maintained as a public nuisance, and the notice of violation has not resulted in abatement, the enforcement officer shall give a written final notice to the owner by serving a “notice and order to abate or show cause.”

B. Contents of Notice. The notice and order to abate or show cause (“notice to abate”) shall include the following:

1. The names and addresses of the owner and responsible parties, if any, in violation of this chapter and the street address, legal description or other description of the premises where the violation is present;
2. A statement specifying the condition(s) which constitute a nuisance and the specific code section(s) which have been violated and the actions needed to abate the violations;
3. A statement directing the owner to abate the nuisance and establishing the length of time permitted for voluntary abatement of the nuisance, which shall be at least 10 days unless the owner makes other arrangements with the approval of the enforcement officer;
4. The amount of the administrative charge owed the city pursuant to BMC [8.04.160](#) and the time limit not to exceed 30 days to pay the charge, and the consequences of not paying the administrative charge within the time specified in the notice;
5. A statement that if the owner does not voluntarily abate the nuisance or request a hearing within the specified time period, the city will enter the property and abate the nuisance, and the cost of abatement will become a charge against the owner and a lien or assessment against the property, if unpaid;
6. A statement that the owner may, within 10 days of date of the notice and order to abate, file a written request with the city clerk for an administrative hearing to show cause why the condition should not be abated by the city and why administrative charges and other abatement costs should not be charged against the owner;
7. The amount of the appeal fee as established by city council resolution and procedure for requesting an appeal fee hardship waiver pursuant to BMC [8.04.110](#);
8. A statement that failure to seek a hearing as provided shall constitute a waiver of all rights to an administrative hearing and determination of the matter and will waive all rights to maintain an action to set aside or modify the enforcement officer’s notice, order and action.

C. Manner of Giving Notice. The notice and order to abate shall be given to the owner in person or by regular, first class mail, postage prepaid, to the owner’s address as it appears on the last equalized assessment roll or as known to the enforcement officer. Notice is deemed complete at the time notice is personally delivered or deposited in the mail. If the notice is not personally served, in addition to mailed notice, the enforcement officer shall post a copy of the notice in a conspicuous place

upon the property. If the owner of record, after diligent search, cannot be found, the notice may be served by posting a copy of the notice in a conspicuous place upon the property for a period of 10 days and publication in a newspaper of general circulation published in Solano County pursuant to Government Code Section [6062](#). The 10-day period in which to file an appeal shall be extended by the length of time it takes to publish the notice and order to abate pursuant to this section.

D. The failure of a person to receive notice shall not affect the validity of proceedings under this chapter. (Ord. 18-17 § 2).

8.04.100 Request for hearing.

The request for a hearing shall be filed with the city clerk within 10 days of the date of the notice and order to abate and must contain the following:

- A. The name, address, telephone and any facsimile numbers of each person appealing the notice and order to abate.
- B. A statement of the reason(s) why notice and order to abate is being contested and to show cause why the city should not abate the violations.
- C. The date and signature of the owner and/or other persons appealing the notice and order to abate.
- D. The appeal fee or hardship waiver form and supporting documentation. (Ord. 18-17 § 2).

8.04.110 Request for hardship waiver of appeal fee.

Any owner who requests a hearing to appeal a notice and order to abate and is financially unable to pay the appeal fee may file a request for a hardship waiver as follows:

- A. The request for waiver shall be made on a form obtained from the city clerk and must be submitted to the city clerk with all supporting documentation within 10 days of the date of the notice and order to abate. Documents suitable for consideration may include, without limitation, accurate, complete and legible copies of state and federal income tax returns, and all schedules for the preceding tax year; financial statements, loan applications, bank account records, income and expense records for the 12 months preceding submittal of the waiver form, as well as other documentation demonstrating the responsible person's finance hardship. The city manager or designee may grant a reasonable extension to the owner to supply supporting documentation. The city may, at a time chosen in its sole discretion and after a citation is final or confirmed, destroy or discard the documents submitted for a hardship waiver without prior notice to the responsible person.
- B. The city manager or designee shall issue a written decision sent by first class mail specifying the reasons for issuing or not issuing the waiver within 10 days of the receipt of the request. The decision of the finance director shall be final.
- C. If the city manager or designee determines a waiver is not warranted, the owner shall remit the appeal fee within 10 days of the date of the written determination. If the city clerk does not receive the appeal fee within this time period, the request for hearing shall not be accepted and shall constitute a failure of the property owner to exhaust his or her administrative remedies. (Ord. 18-17 § 2).

8.04.120 Administrative show cause hearing.

- A. A written request for hearing and appeal fee or hardship waiver must be received by the city clerk within 10 days of the date of the notice and order to abate, except where there has been a delay in the service as set forth in BMC [8.04.090\(C\)](#).
- B. If a timely request for a hearing is received, the appointed hearing officer shall set a time and date for hearing and notify the person requesting the hearing in writing of the time, date, and place. The hearing may be continued once to a reasonable time upon the request of the owner, with the approval of the hearing officer, and by the city for good cause.
- C. The city and owner shall be given the opportunity to testify and present evidence concerning the violation(s) and proposed

rehabilitation, repair and/or demolition of the subject property and timeline for abatement in the notice and order to abate. The owner may represent themselves or be represented by any person of their choice. Although formal rules of evidence and discovery will not apply to the appeal hearing, each party shall have the following rights among others:

1. To call and examine witnesses on any matter relevant to the condition of the premises constituting a nuisance.
2. To introduce documentary and physical evidence.
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing.
4. To impeach any witness, regardless of which party first called that witness to testify.
5. To rebut the evidence against him or her.
6. If a party does not proficiently speak or understand the English language, an interpreter may be utilized, at the party's own expense, to translate for the party. An interpreter shall not have had and shall not have any involvement in the proceeding, unless the hearing officer finds that circumstances warrant an exception to this rule.
7. The proceedings at the hearing shall be recorded by a tape recorder.
8. Either party may provide a certified shorthand or stenographic reporter to maintain a written record of the proceedings at the party's own expense. (When required, preparation of a record of the proceeding shall be governed by California Code of Civil Procedure Section [1094.6](#), as presently written or hereinafter amended.)

D. The city shall bear the burden of proving by a preponderance of the evidence that a violation of the code exists. The notice and order to abate and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents to the extent that the enforcement officer drafting the notice and order or any additional reports need not be the representative for the city presenting the city's evidence.

E. The hearing officer may continue the hearing to request additional information from the city's representative and/or the owner, or to conduct an inspection of the building and/or property involved in the hearing prior to concluding the hearing and issuing a written decision.

F. The hearing officer may inspect the building and/or property involved in the hearing prior to or during the hearing; provided, that the owner consents to the inspection, is given notice of the date and time of the inspection, and is permitted to be present during the inspection. The hearing officer shall state for the record during the hearing the material facts observed and conclusions drawn from the inspection. The city representative and owner shall be afforded an opportunity to rebut or explain the matters so stated by the hearing officer. If the building, structure and/or property can be inspected from areas in which the general public has access, or with permission of other persons authorized to provide access to the building and/or property, then notice to and consent of the owner is not required.

G. Failure of the owner to appear at the hearing after notice of the hearing has been served shall be deemed a waiver of the right to a hearing and a failure to exhaust their administrative remedies. It shall also be deemed an admission by owner of the existence of the nuisance conditions charged. In the event of a failure to appear, the hearing officer may order that the nuisance conditions be abated by the city. There shall be no right to appeal such order. (Ord. 18-17 § 2).

8.04.130 Decision of the hearing officer.

A. Within 10 business days after the conclusion of the hearing, the hearing officer shall issue a written decision to uphold, modify, or deny the violations in the notice and order to abate. The written decision shall state the reasons for the decision, including the factual findings and conclusions made by the administrative hearing officer.

1. If the hearing officer determines that the notice and order to abate should be upheld, the decision shall include an order to correct the violations within 10 days of mailing the decision or within such time as the administrative hearing officer deems reasonable.
2. If the hearing officer determines the notice and order to abate should be modified in terms of methods of abatement and/or time limit for compliance, then the written decision shall include the modified action to correct the violation and/or the date by which correction must be completed. Except under rare, extenuating circumstances, the date of completion should not exceed 60 days from the date the decision is issued.
3. The written determination shall further state that if the nuisance is not abated within the time provided, the nuisance shall be abated by the city at the parties' expense and the expenses may be made a lien or special assessment against the property.
4. If the administrative hearing officer determines that a nuisance exists which is likely to recur after the abatement, the hearing officer's decision may direct the owner to take adequate precautions for a period of time not to exceed 12 months so that the nuisance will not recur.
5. The written decision shall contain a statement of the right to seek judicial review of the hearing officer's decision by filing a petition within 90 days with a court of competent jurisdiction pursuant to California Code of Civil Procedure Sections [1094.5](#) and [1094.6](#).

B. The recipient of the notice and order to abate shall be served a copy of the administrative hearing officer's written decision in the manner set forth in BMC [8.04.080\(C\)](#). Copies of the decision shall be sent to the owner (and any other responsible persons), the enforcement officer and the city clerk.

C. The hearing officer's decision is final for the city of Benicia. (Ord. 18-17 § 2).

8.04.140 Abatement by owner.

The owner or responsible party may, at his or her own expense:

- A. Abate the nuisance in the time and manner presented in the notice of violation, the notice and order to abate, or written determination of the hearing officer, whichever is applicable; or
- B. Prior to the scheduled hearing, abate a declared nuisance in accordance with the provisions of the notice and order to abate; provided, that all necessary permits are first obtained.

If an enforcement officer determines that the nuisance has been properly abated, or that the owner is actively pursuing permits to correct the violation, then proceedings pursuant to this chapter may be terminated; provided, however, that the city may, in its discretion, proceed with recovery of such abatement costs, including incidental expenses, incurred by the city for administration, code enforcement or abatement by the city, as it may have incurred prior to abatement by the owner. Nothing in this chapter shall relieve any owner or other responsible party of the obligation of obtaining any required permit to do any work incidental to such abatement. (Ord. 18-17 § 2).

8.04.150 Abatement by city.

- A. If the nuisance is not completely abated within the time prescribed by the notice and order to abate, or by the date established in the hearing officer's written decision if a hearing is held, the city manager or designee may proceed to abate the nuisance by city personnel or private contractor. No abatement may proceed without first being approved by the city attorney.
- B. The city manager or designee is expressly authorized to contract with or retain persons, contractors or franchisees to provide services necessary to effectuate any abatement action pursued under this chapter. The city personnel and/or private

contractor may enter upon the property with either the owner's consent or a warrant from the court to enter the property, if legally required and after receiving prior approval from the city attorney.

C. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city whenever such person is engaged in the work of abatement, or in performing any necessary act preliminary to or incidental to such work, as authorized or directed pursuant to this chapter. (Ord. 18-17 § 2).

8.04.160 Administrative charges.

If a violation is not abated within the time limit specified in the notice of violation and a notice and order to abate are issued, then the notice and order to abate shall include a charge to recover the administrative costs for the issuance of the notice and order to abate and other city activities related to the abatement of the violation. The amount of the charge shall be established by city council resolution based on an analysis of direct and indirect personnel costs (including attorney fees), costs of documenting the violation and the actual costs of preparing, printing and mailing the notice and order to abate. The administrative charge shall become due and payable 30 days from the effective date of the notice and order to abate. (Ord. 18-17 § 2).

8.04.170 Abatement costs.

A. If a violation is abated by the city pursuant to this chapter, the enforcement officer shall keep an accounting of the costs incurred, including all time spent by city and contract personnel in addressing and abating the nuisance, incidental expenses of such abatement, and attorney fees if the city elects, at the initiation of the abatement proceedings, to seek recovery of its own attorney fees. Upon conclusion of such abatement, the enforcement officer shall submit an itemized statement of costs to the city clerk.

B. Abatement costs shall begin to run from the date of the notice and order to abate, except in cases of summary abatement, in which case costs of abatement shall begin to run from the date the enforcement officer became aware of the nuisance requiring summary abatement.

C. Time spent by city personnel shall, in addition to an employee's hourly rate of pay, include the city's customary overhead expenses for provision of all benefits for that employee as well as the use of office space. Time spent by contract personnel shall be charged at actual cost to the city.

D. The term "incidental expenses," as used in this section, includes, but is not limited to, costs incurred in documenting the nuisance, the actual expenses of the city in the preparation of notices, specifications, and contracts, inspection of the abatement work, and costs of printing and mailings required by this chapter. "Attorney fees" shall include fees and expenses of outside counsel and time spent by the city attorney and his or her staff, calculated like other city personnel as long as it does not include contested abatement proceedings involving third party attorneys.

E. The city may seek reasonable attorney fees incurred for an abatement action and related proceedings in those individual actions or proceedings in which the city elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorney fees. If the city elects to seek recovery of its own attorney fees, attorney fees may be recovered by the prevailing party in said action or proceeding. Pursuant to Government Code Section [38773.5\(b\)](#), an award of attorneys' fees to the prevailing party shall not exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

F. Pursuant to Health and Safety Code Section [17951](#), property owners and/or tenants shall be required to pay to the city reasonable fees as adopted by city council resolution to defray the following costs of code enforcement:

1. For inspections made at any dwelling unit in order to investigate a complaint of a violation of a building, housing, health or safety code;

2. For inspections of a dwelling unit to ensure the correction of a noticed code violation; and
3. For copies of reports and records relating to any code enforcement activity regarding any dwelling unit.

G. The enforcement officer shall send a statement of the costs to the owner or responsible persons receiving the notice and order to abate with a deadline of 30 days in which to pay the costs or make other arrangements for payment with the city. The owner and/or responsible persons receiving the notice and order to abate are liable to the city for all costs incurred in abating the nuisance and it shall constitute a civil debt owing to the city jointly and severally by the owner and/or responsible parties and may be collected pursuant to the procedures in this chapter. (Ord. 18-17 § 2).

8.04.180 Collection of unpaid costs.

A. Cumulative Remedies. At its discretion, the city may pursue any and all legal and equitable remedies for the recovery of abatement costs and/or administrative charges owed to the city. Pursuit of one remedy does not preclude the pursuit of any other remedies until the total of administrative and abatement charges have been recovered. Any property owner who fails to pay any abatement costs or administrative charges owed to the city shall be liable in any action brought by the city for costs incurred in securing payment of the delinquent amount. The city's collection costs may include, but are not limited to, those for personnel, materials, overhead, attorneys' fees and any other city expenditure required to collect unpaid abatement costs or administrative charges.

B. Liens. In the event the amount of any administrative costs and the total costs for abating a nuisance are not paid in full within 30 days of the date of invoice from the city and no other payment arrangements have been made and approved, the city may elect to place a nuisance lien against the real property on which the violation occurred, or the city may elect to levy a special assessment lien against the property on which the violation occurred. Any administrative or recording costs charged by the county shall also become a debt of the owner. (Ord. 18-17 § 2).

8.04.190 City council confirmation hearing.

A. The enforcement officer shall present the cost report and a resolution for a nuisance abatement lien or special assessment to the city council for approval.

B. At least 10 days before the council meeting at which the cost report and resolution of lien or special assessment are considered, the enforcement officer shall mail the owner a copy of the report and proposed resolution, together with a notice of the time and place of the council meeting at which the report will be considered, and advising the owner that he or she may appear and protest any cost item contained in the report. The report and notice shall also be posted conspicuously on the property. Failure to receive the notice shall not invalidate the proceedings.

C. At the time fixed for hearing on the report of expenses, the city council shall consider the report and protests or objections raised by the person liable to be assessed for the cost of abatement. The council may revise, correct or modify the report as it considers just.

D. The city council hearing is limited to the amount of costs and shall not include the validity of the abatement which is determined by the procedures set forth in BMC [8.04.080](#) and [8.04.090](#).

E. Upon conclusion of the hearing, the city council shall adopt a resolution accepting the cost report (with any modifications) which shall become a personal debt of the person liable for the costs of abatement. The city council shall also require, by resolution, that the costs be a nuisance abatement lien or special assessment upon the subject property as provided for in BMC [8.04.200](#) and [8.04.210](#). Any administrative or recording costs charged by the county shall also become a debt of the owner. The decision of the city council shall be final and conclusive. (Ord. 18-17 § 2).

8.04.200 Nuisance abatement lien.

A. The nuisance abatement lien shall specify the amount of the lien, the name and address of the city (on whose behalf the lien is imposed), the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel. The lien shall also state that the lien accrues interest at the legal rate of interest.

B. The city clerk shall serve a copy of the resolution and the nuisance abatement lien on the owner in accordance with Government Code Section [38773.1\(b\)](#) and Code of Civil Procedure Section [415.10](#) by having it personally served, or, if the owner of record cannot be found after diligent search, by posting a copy in a conspicuous place on the property for a period of 10 days and publishing it in a newspaper of general circulation in the county pursuant to Government Code Section [6062](#).

C. The city clerk shall record a certified copy of the resolution and nuisance abatement lien in the Solano County recorder's office. From the date of recording, the lien has the force, effect and priority of a judgment lien.

D. Interest shall accrue on the principal amount of the judgment remaining unsatisfied pursuant to law.

E. The city may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

F. A nuisance abatement lien may be foreclosed by an action brought by the city for money judgment. (Ord. 18-17 § 2).

8.04.210 Special assessment against property.

A. The notice of special assessment shall specify the amount of the assessment, the name and address of the city (on whose behalf the assessment is imposed), the date of the abatement order and city council resolution making the cost of abatement a special assessment, the street address, legal description and assessor's parcel number of the parcel on which the assessment is imposed, and the name and address of the recorded owner of the parcel and the fact that owner has failed to pay city the cost of the abatement.

B. The notice of special assessment shall be sent by certified mail to the property owner pursuant to Government Code Section [38773.5\(c\)](#). The notice shall be given at the time of imposing the assessment and shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments.

C. The notice of special assessment shall be filed with the Solano County recorder. Upon recordation in the office of the county recorder of a notice of assessment lien, a copy of the lien may be turned over to the county auditor, who shall then enter the amount of the lien on the assessment rolls as a special assessment. Thereafter, the amount shall 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 under foreclosure and sale in case of delinquency as provided by California Government Code Section [38773.5](#) and as provided for ordinary municipal taxes. (Ord. 18-17 § 2).

8.04.220 Satisfaction of lien.

If the nuisance abatement lien or special assessment is discharged, released or satisfied, either through payment or foreclosure, the city shall record a notice of satisfaction of lien in the county recorder's office or provide the property owner with a notice of satisfaction so they may record the notice with the county recorder's office. The notice shall include all of the information set forth in BMC [8.04.200\(A\)](#) or [8.04.210\(A\)](#). Such notice of satisfaction shall cancel the city's lien. (Ord. 18-17 § 2).

8.04.230 Limitation on filing judicial action.

Pursuant to Code of Civil Procedure Sections [1094.5](#) and [1094.6](#), any action appealing the city's final decision and order shall be commenced within 90 calendar days of the date the decision becomes final. (Ord. 18-17 § 2).

8.04.240 Alternative means of enforcement.

A. Nothing in this chapter prevents the city council from authorizing the commencement of any other available civil or criminal proceeding to abate a public nuisance under applicable provisions of state or federal law.

B. Any person violating or causing the violation of this chapter shall be guilty of a misdemeanor as provided for in BMC [1.08.010](#) in addition to any other remedies provided for in this chapter, in the code, or under applicable law.

C. The citing officer is authorized and directed to issue criminal citations to persons maintaining or permitting the maintenance of nuisance as declared in this chapter or in any other ordinance adopted by the city council.

D. It is a misdemeanor to refuse to sign a citation prepared by a citing officer for the city that acknowledges receipt of a copy and includes a promise to appear at a hearing authorized by this chapter. (Ord. 18-17 § 2).

8.04.250 Treble damages.

Upon entry of a second or subsequent civil or criminal judgment within a two-year period that determines an owner of property is responsible for a condition that may be abated in accordance with the provisions of this chapter, the court may order the owner to pay treble the costs of the abatement, as authorized by Government Code Section [38773.7](#). (Ord. 18-17 § 2).

8.04.260 No duty on city to enforce.

Nothing in this chapter shall be construed as imposing a duty on the city to enforce the prohibitions in this chapter against any or all properties which may violate this chapter. This chapter may be enforced, in the city's prosecutorial discretion, only as resources permit. (Ord. 18-17 § 2).

The Benicia Municipal Code is current through Ordinance 18-21, passed November 20, 2018.

Disclaimer: The City Clerk's Office has the official version of the Benicia Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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.
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- [13.44.130](#) Industrial wastes.
- [13.44.140](#) Lateral sewer.
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- [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)).

The Benicia Municipal Code is current through Ordinance 18-21, passed November 20, 2018.

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Chapter 13.50 PRETREATMENT AND SOURCE CONTROL OF WASTEWATER DISPOSAL OR DISCHARGE¹

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.
- [13.50.043](#) Prohibited discharge locations.
- [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.
- [13.50.075](#) Best management practices (BMPs).
- [13.50.080](#) Prohibition against dilution as treatment.
- [13.50.085](#) Deny/condition new or increased contributions.
- [13.50.089](#) Reports of changed conditions.
- [13.50.090](#) Accidental and slug discharges.
- [13.50.095](#) Slug discharge control plans.
- [13.50.100](#) Charges and fees.
- [13.50.105](#) Permit required.
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- [13.50.360](#) Publication of industrial users in significant noncompliance.

13.50.010 Purpose and policy.

A. This chapter sets forth uniform requirements for direct and indirect discharges into the wastewater collection and treatment system pursuant to authority conferred by law including, but not limited to, the California Health and Safety Code, Sections [5400](#) through [5474](#), the California Government Code, Sections [54725](#) through [54740.6](#) and [66000](#) through [66003](#), the California Code of Regulations, Title 22, the Porter-Cologne Water Quality Control Act (California Water Code Division 7), the Federal Clean Water Act, [33](#) USC [1251](#) et seq., the Code of Federal Regulations, [40](#) CFR Parts [400](#) through [699](#), the Resource Conservation and Recovery Act (RCRA), [42](#) USC [6901](#) et seq., and the National Pollutant Discharge Elimination System permits issued by the Regional Water Quality Control Board, San Francisco Bay Region, to the city of Benicia.

B. The objectives of this chapter are:

1. To prevent the introduction of pollutants into the municipal wastewater system, which may 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 may pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the municipal wastewater system;
3. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
4. To provide for equitable distribution of the cost of the municipal wastewater system; and
5. To protect both municipal wastewater personnel who may be affected by wastewater and sludge in the course of their employment and the general public.

C. This chapter provides for the regulation of all users of the municipal wastewater system or publicly owned treatment works (POTW). The chapter authorizes the issuance of individual or general wastewater discharge

permits; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting, assumes that existing customers' 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. Any powers granted to or duties imposed upon the superintendent may be delegated by the superintendent to a duly authorized city employee. (Ord. 10-02 § 1; 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:

“Act” or “the Act” means the Federal Clean Water Act, formerly known as the Federal Water Pollution Control Act, as amended, [33 USC 1251](#) et seq.

“Approval authority” means the director of the California State Water Resources Control Board (SWRCB) Division of Water Quality NPDES Unit which conducts an approved state pretreatment program.

“Authorized or duly authorized representative of industrial or other user” means:

1. If the user is a corporation:
 - a. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
3. If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
4. The individuals described in subsections (1) through (3) of this definition may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the facility, and the written authorization is submitted to the city.

“Best management practices (BMPs)” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in BMC [13.50.040](#)(A) and (B) ([40 CFR 403.5](#)(a)(1) and (b)). BMPs include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

“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, usually expressed as a concentration (e.g., milligrams per liter) but may be converted to organic loading, expressed as pounds per day.

“Building sewer” means a sewer conveying wastewater from the premises of a user to the POTW.

“Bypass” means the intentional diversion of waste streams from any portion of a user’s treatment facility.

“Categorical industrial user” (CIU) means any industrial users subject to categorical pretreatment standards under [40 CFR 403.6](#) and [40 CFR](#) Chapter I, Subchapter N.

“Categorical standard” or “categorical pretreatment standard” means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307 (b) and (c) of the Act ([33 USC 1317](#)) that apply to a specific category of users and that appear in [40 CFR](#) Chapter I, Subchapter N, Parts [405](#) through [471](#).

“Chemical oxygen demand (COD)” is a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

“City” means the city of Benicia or the city council of Benicia.

“Control authority” means the city of Benicia or the superintendent given that the city has an approved pretreatment program under the provisions of [40 CFR 403.11](#).

“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.

“Daily maximum limit” means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of a day. Where daily maximum limits are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

“Direct discharge” means the discharge of treated or untreated wastewater directly to the waters of the state of California.

“Domestic user” means a user that discharges wastewater from a single or multi-family residence.

“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.

“Existing source” means any source of discharge that is not a new source.

“Grab sample” means a sample which is taken from a waste stream on a one-time basis with no regard to the

flow volume of the waste stream and over a period of time not to exceed 15 minutes.

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

“Indirect discharge” means the introduction of pollutants into the POTW from any nondomestic source.

“Industrial user” or “IU” means a source of indirect discharge.

“Instantaneous limit” means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

“Interference” means a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the typical operation of the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, may cause 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 SWDA) applicable to the method of disposal or use employed by the POTW.

“Local limit” means specific discharge limits developed and enforced by the city upon industrial or commercial user facilities to implement the general and specific discharge prohibitions listed in [40 CFR 403.5\(a\)\(1\)](#) and (b).

“Medical waste” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

“Monthly average” means the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

“Monthly average limit” means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

“New source” means:

1. 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 that will be applicable to such source, if such standards are thereafter promulgated in accordance with that section; provided, that:

- a. The building, structure, facility or installation is constructed at a site at which no other source is located; or

- b. The building, structure, facility, or installation completely replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

- c. The production or wastewater-generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining

whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)(b) or (c) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a new source as defined under this definition has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous on-site construction program:

i. Any placement, assembly, or installation of facilities or equipment; or

ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

“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](#)).

“Noncontact cooling water” means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

“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 of the city’s NPDES permit, including an increase in the magnitude or duration of a violation.

“Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity, or other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

“pH” means a measure of the acidity or alkalinity of a solution, expressed in standard units.

“Pollutant” means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, certain medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

“Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to or in lieu of discharging or otherwise introducing such

pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes, or by other means, except by diluting the concentration of the pollutants, unless allowed by an applicable pretreatment standard.

“Pretreatment requirements” means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

“Pretreatment standards” or “standards” means prohibited discharge standards, categorical pretreatment standards, and local limits.

“Publicly owned treatment works (POTW)” means a treatment works, as defined by Section 212 of the Act ([33 USC 1292](#)), which is owned 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.

“POTW treatment plant” means that portion of the POTW designed to provide treatment to wastewater.

“Shall” is mandatory; “may” is permissive.

Significant Industrial User (SIU). Except as provided in subsections (3) and (4) of this definition, a significant industrial user is:

1. An industrial user subject to categorical pretreatment standards; or
2. An industrial user that:
 - a. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - b. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.
3. The city may determine that an industrial user subject to categorical pretreatment standards is a nonsignificant categorical industrial user rather than an SIU on a finding that the IU never discharges more than 100 gallons per calendar day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
 - a. The IU, prior to the city’s finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - b. The IU annually submits the certification statement required in [40 CFR 403.12\(q\)](#) or [BMC 13.50.180\(E\)\(2\)](#), together with any additional information necessary to support the certification statement; and
 - c. The IU never discharges any untreated concentrated wastewater.

4. Upon a finding that a user meeting the criteria in BMC [13.50.040](#) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in [40 CFR 403.8\(f\)\(6\)](#), determine that such user should not be considered an SIU.

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

1. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in BMC [13.50.040](#);
2. Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits as defined by BMC [13.50.040](#), multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
3. Any other violation of a pretreatment standard or requirement as defined in this chapter (daily maximum, monthly average, instantaneous limit, or narrative standard) that the superintendent determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);
4. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide within 45 days after the due date any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; and
8. Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

"Slug load" or "slug discharge" means any pollutant release (of a nonroutine, episodic nature including, but not limited to, an accidental spill or a noncustomary batch discharge) in a discharge at a flow rate and/or pollutant concentration which has a reasonable potential to cause interference or upset of the sewerage system operations, or in any other way violate the POTW's regulations, local limits or permit conditions.

"State" means the state of California.

"Standard industrial classification (SIC)" means a classification pursuant to the 1987 SIC Manual and "North

American Industry Classification System (NAICS)" means classification pursuant to the 2007 NAICS Manual, both issued by the Executive Office of the President, Office of Management and Budget.

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

"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. This term also refers to the total filterable residue test.

"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 chapter, or his duly authorized representative.

"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.

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

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

"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. (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.030 Abbreviations.

The following abbreviations shall have the designated meanings:

Act	–	Clean Water Act
BOD	–	Biochemical Oxygen Demand
BMC	–	Benicia Municipal Code
BMP	–	Pest Management Practices
BMR	–	Baseline Monitoring Report
CFR	–	Code of Federal Regulations
CIU	–	Categorical Industrial User
COD	–	Chemical Oxygen Demand
CWA	–	Clean Water Act
EPA	–	Environmental Protection Agency
gpd	–	gallons per day
IU	–	Industrial User
l	–	Liter

ug/l	–	Micrograms per liter
mg/l	–	Milligrams per liter
NAICS	–	North American Industrial Classification System (1997)
NPDES	–	National Pollutant Discharge Elimination System
NSCIU	–	Nonsignificant Categorical Industrial User
POTW	–	Publicly Owned Treatment Works
RCRA	–	Resource Conservation and Recovery Act
SIC	–	Standard Industrial Classification (replaced by NAICS)
SIU	–	Significant Industrial User
SNC	–	Significant Noncompliance
SWDA	–	Solid Waste Disposal Act, 42 USC 6901 et seq.
TSS	–	Total Suspended Solids
U.S.C.	–	United States Code

(Ord. 10-02 § 1; 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. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in [40](#) CFR [26.1.21](#). 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;
2. Solid or viscous substances which may cause obstruction to the flow in the POTW 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 nor more than 11.0 or other 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 permit requirements 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);

10. Any pollutants, including oxygen-demanding pollutants (BOD, COD, etc.) released at a flow rate and/or pollutant concentration which may cause interference, pass-through, or process upset 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 concentrations or qualities of pollutants that cause interference within the POTW;

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 superintendent;

13. Discharge of wastewater causing, alone or in conjunction with other sources, the POTW's effluent to fail toxicity tests;

14. Any wastewater which has any corrosive or detrimental characteristics that may cause damage to the city's sewer system or causes a hazard to service personnel, maintenance personnel or human life or

creates a public nuisance;

15. Discharges which create a fire or explosion hazard including waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius);

16. Any amounts of petroleum oil, nonbiodegradable cutting oil, or products of mineral origin in amounts that cause interference or pass-through, or form persistent water emulsions;

17. Fats, oils, or greases of animal or vegetable origin in concentrations that would cause, or contribute to cause, obstruction to the flow in the POTW or other interference with the operation of the wastewater treatment facilities; or

18. 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: (a) advise the user(s) of the impact of the contribution on the POTW; and (b) develop effluent limitation(s) for such user to correct the interference with the POTW. (Ord. 10-02 § 1; 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 commencing discharge 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. Any notification under this section need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under BMC [13.50.089](#). In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. (Ord. 10-02 § 1; 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. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.043 Prohibited discharge locations.

It is unlawful for a user, except city personnel involved in maintenance functions of the sewerage system, to discharge any wastewater directly into a manhole or other opening in a sewer other than through an approved building sewer, unless approved by the superintendent upon written application by the user and payment of any applicable fees and charges established herein. No user shall circumvent or obviate the intent or purpose of this chapter by discharging, or causing to be discharged, into any storm drain, storm water channel, storm water drainage system facility, or natural watercourse, whether currently carrying water or not, or into any

pipe, public street, or waterway leading to such drain, channel, facility, or natural watercourse any material, waste, or wastewater, not including unpolluted water, which is prohibited or restricted as to its discharge into the public sewer system. (Ord. 10-02 § 1).

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. 10-02 § 1; 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. 10-02 § 1; 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. Users must comply with the categorical pretreatment standards found at [40 CFR Chapter I, Subchapter N, Parts 405-471](#).

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the city may impose equivalent concentration or mass limits in accordance with subsections (E) and (F) of this section.
- B. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the superintendent may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentrations for purposes of calculating effluent limitations applicable to individual industrial users.
- C. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the city shall impose an alternate limit in accordance with [40 CFR 403.6\(e\)](#).
- D. A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following subsections of this section:
1. Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with this section. Any industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the industrial user, the applicable standard will be calculated on a net basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of subsection (D)(2) of this section are met.
 2. Criteria.
 - a. Either (i) the applicable categorical pretreatment standards contained in [40 CFR Subchapter N](#) specifically provide that they shall be applied on a net basis; or (ii) the industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.

b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

c. Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.

d. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The city may waive this requirement if it finds that no environmental degradation will result.

E. When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the city convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the city. The city may establish equivalent mass limits only if the industrial user meets all the conditions set forth in subsections (E)(1)(a) through (e) of this section.

1. To be eligible for equivalent mass limits, the industrial user must:

a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;

c. Provide sufficient information to establish the facility's actual average daily flow rate for all waste streams, based on data from a continuous effluent flow-monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and,

e. Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

2. An industrial user subject to equivalent mass limits must:

a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

b. Continue to record the facility's flow rates through the use of a continuous effluent flow-monitoring device;

c. Continue to record the facility's production rates and notify the superintendent whenever production rates are expected to vary by more than 20 percent from its baseline production rates

determined in subsection (E)(1)(c) of this section. Upon notification of a revised production rate, the city will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsection (E)(1)(a) of this section so long as it discharges under an equivalent mass limit.

3. When developing equivalent mass limits, the city:

a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

c. May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as for treatment pursuant to BMC [13.50.080](#). The industrial user must also be in compliance with the regulations regarding the prohibition of bypass.

F. The superintendent may convert the mass limits of the categorical pretreatment standards of [40 CFR Parts 414, 419, and 455](#) to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the superintendent. In addition, the superintendent will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available (see [40 CFR 403.6\(c\)\(7\)](#)).

G. Once included in its permit, the industrial user must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical pretreatment standard from which the equivalent limitations were derived.

H. Many categorical pretreatment standards specify one limit for calculating daily maximum discharge limitations and a second limit for calculating maximum monthly average, or four-day average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both average and the maximum equivalent limitations.

I. Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the superintendent within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the superintendent of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate. (Ord. 10-02 § 1; 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 POTW, constitute a hazard to human or animal, degrade water quality, cause a violation in

discharge requirements, or create a hazard in the receiving waters of the POTW. 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. When IUs discharge in excess of a local limit, they are subject to enforcement actions. The superintendent may develop BMPs, by ordinance or in wastewater discharge permits or general permits, in order to achieve compliance with local limits and the requirements of BMC [13.50.040](#). (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.075 Best management practices (BMPs).

The superintendent may develop best management practices (BMPs), by ordinance or in wastewater discharge permits or general permits, to achieve compliance with local limits and the requirements of BMC [13.50.040](#). (Ord. 10-02 § 1).

13.50.080 Prohibition against dilution as treatment.

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. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.085 Deny/condition new or increased contributions.

The city may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit. (Ord. 10-02 § 1).

13.50.089 Reports of changed condition.

Each user must notify the superintendent of any changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 14 days before the change.

A. The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under BMC [13.50.105](#), [13.50.120](#) and [13.50.125](#).

B. The superintendent may issue a wastewater discharge permit or general permit under BMC [13.50.165](#) or modify an existing wastewater discharge permit or general permit under BMC [13.50.140](#) in response to changed conditions or anticipated changed conditions. (Ord. 10-02 § 1).

13.50.090 Accidental and slug discharges.

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 or user's own cost and expense.

A. In the case of any discharge, including, but not limited to, accidental discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems to the POTW, it is the responsibility of the user to immediately telephone and notify the superintendent of the incident. The notification shall include location and time of discharge, type of waste, concentration and

volume, if known, and corrective actions taken by the user.

B. **Written Notice.** Within five days following an accidental or slug 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 an accidental or slug discharge. Employers shall ensure that all employees who may cause or suffer any such a discharge to occur are advised of the emergency notification procedure.

D. **Significant industrial users** shall notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge. (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.095 Slug discharge control plans.

The superintendent will evaluate whether each SIU or IU is required to develop and implement a slug discharge plan within one year of becoming an SIU. If the city decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

A. Description of discharge practices, including nonroutine batch discharges.

B. Description of stored chemicals.

C. Procedures for immediately notifying the city of slug discharges, including any discharge that would violate a prohibition under [40 CFR 403.5\(b\)](#), with procedures for follow-up written notification within five days.

D. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response. (Ord. 10-02 § 1).

13.50.100 Charges and fees.

It is the purpose of this section to provide for the recovery of costs from users of the city's POTW for the implementation of the program established herein. The applicable charges or fees shall be established by city council resolution.

A. Such charges and fees 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.

B. These fees relate solely to the matter covered by this chapter and are separate from all other fees chargeable by the city. (Ord. 17-10 § 17; Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.105 Permit required.

To provide for the maximum public benefit for the use of the city POTW, written authorization to use said facilities is required. This written authorization shall be in the form of an individual or general wastewater discharge permit. No vested right shall be given by issuance of permits provided for in this section.

A. Wastewater Discharge Permit Types. Wastewater discharge permits will be issued in one of four forms dependent on the type of discharger, volume, and discharge characteristics. The four discharge permit types are:

1. Tier 1 wastewater discharge permits are issued to:

a. Any user subject to federal categorical pretreatment standards.

2. Tier 2 wastewater discharge permits are issued to:

a. Any user having a process waste stream greater than 25,000 gallons per day;

b. Any user that has a reasonable potential for adversely affecting the operation of the POTW or for violating any pretreatment standard or requirement.

3. Tier 3 wastewater discharge permits are issued to:

a. Any user subject to categorical pretreatment standards that does not discharge industrial waste and only discharges domestic waste into the sewerage system;

b. Any user discharging wastewater other than domestic waste only;

c. Any user that implements best management practices as an alternative means (i.e., management plans) of complying with, or in place of, certain established categorical pretreatment standards and effluent limits;

d. Any group of users discharging nondomestic waste (general permits).

4. Temporary wastewater discharge permits are issued to:

a. Any user discharging wastewater temporarily from industrial or other operations;

b. Any user who has a discharge of unpolluted water whereby no alternative method of disposal is available.

B. No user requiring a permit shall discharge wastewater without obtaining a wastewater discharge permit.

C. All users proposing to discharge directly or indirectly into the POTW shall obtain a wastewater discharge permit by filing an application pursuant to BMC [13.50.120](#) and paying the applicable fees pursuant to Chapter [13.52](#) BMC.

D. All permits shall be expressly subject to all provisions of this chapter and all other regulations, charges for use, and fees established by the city. Wastewater discharge permit conditions shall be enforced by the city in

accordance with this chapter and applicable state and federal regulations. (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.106 Tier 3 permit – Application.

Repealed by Ord. 10-02. (Ord. 91-1 N.S., 1991).

13.50.110 Special discharge permit.

A special discharge permit (SDP) is required for a one-time disposal of wastewater to the POTW. The wastewater must comply with local pretreatment standards and be conveyed or transported to the POTW for disposal. An SDP application must be completed for approval along with appropriate fees before permission is granted. A pretreatment charge and volume charge will be assessed to the final bill after the discharge is completed. (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.120 Permit – Application.

A. Users seeking to obtain a wastewater discharge permit or general permit shall complete and file with the city, prior to commencing discharge, an application and survey on the forms prescribed by the city. The applicant may be required to submit, in units and terms appropriate for evaluation and in sufficient time to allow proper and thorough evaluation, the following information:

1. Name and address of the facility, SIC number(s) and/or NAICS number(s), and a description of the manufacturing process or service activity.
2. Contact information, including the name of the operator and principals/owners (whichever is applicable) of the company; city of Benicia business license.
3. Description of Operations.
 - a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;
 - b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - d. Type and amount of raw materials processed (average and maximum per day);
 - e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
4. Time and duration of discharges.
5. The location for monitoring all wastes covered by the permit.
6. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in Section 2.2C ([40 CFR 403.6\(e\)](#)).

7. Measurement of Pollutants.

- a. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.
 - c. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in BMC [13.50.175](#). Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.
 - e. Sampling shall be performed in accordance with procedures set out in BMC [13.50.180](#).
8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on BMC [13.50.180](#)(C)(4).
 9. Any request to be covered by a general permit based on BMC [13.50.125](#).
 10. EPA hazardous waste generator number, if applicable.
 11. Any other information as specified.
 12. Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, spill containment, clarifiers, pretreatment equipment, and appurtenances by size, location, and elevation for evaluation.
 13. Applicants may also be required to submit information related to the applicant's business operations, processes, and potential discharge as may be requested by the city to properly evaluate the permit application.

B. The application shall be signed by an authorized representative of the user and contain the certification statement in BMC [13.50.180](#)(E). 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 terms and conditions provided herein. The permit application may be denied if the applicant fails to establish to the city's satisfaction that adequate pretreatment equipment is included within the applicant's plans to ensure that the discharge limits will be met or if the applicant has, in the past, demonstrated an inability to comply with applicable discharge limits. (Ord. 91-1 N.S., 1991).

13.50.125 General permit.

A. At the discretion of the superintendent, the superintendent may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or best management practices;

4. Require the same or similar monitoring; and

5. In the opinion of the superintendent, be more appropriately controlled under a general permit than under individual wastewater discharge permits.

B. To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with BMC [13.50.180\(C\)\(4\)](#) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the superintendent has provided written notice to the SIU that such a waiver request has been granted in accordance with BMC [13.50.180\(C\)\(4\)](#).

C. The superintendent will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in subsection (A)(1) through (5) of this section and applicable state regulations, and a copy of the user's written request for coverage for three years after the expiration of the general permit.

D. The superintendent may not control an SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the combined waste stream formula (BMC [13.50.050\(C\)](#)) or net/gross calculations (BMC [13.50.050\(D\)](#)). (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.130 Permit revocation.

The superintendent may revoke an individual wastewater discharge permit or general permit for good cause including, but not limited to, the following reasons:

A. Failure to notify the city of significant changes to the wastewater prior to the changed discharge;

B. Failure to provide prior notification to the city of changed conditions pursuant to BMC [13.50.140](#) (Permit – Modifications);

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

D. Falsifying self-monitoring reports and certification statements;

E. Tampering with monitoring equipment;

F. Refusing to allow the city timely access to the facility premises and records;

G. Failure to meet effluent limitations or comply with best management practices;

H. Failure to pay fines;

I. Failure to pay sewer charges;

J. Failure to meet compliance schedule;

K. Failure to complete a wastewater survey or the wastewater discharge permit application;

L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or general permit or any provisions of this chapter.

Wastewater discharge permits or general permits shall be voidable upon cessation of operations or transfer of business ownership. All individual or general wastewater discharge permits issued to a user are void upon the issuance of a new individual or general wastewater discharge permit to that user. (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.140 Permit – Modifications.

The city or superintendent may modify an individual wastewater discharge permit or general permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised federal, state, or local pretreatment standards or requirements or best management practices;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual or general wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;
- E. Violation of any terms or conditions of the individual wastewater discharge permit or general permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to [40 CFR 403.13](#);
- H. To correct typographical or other errors in the individual wastewater discharge permit or general permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with BMC [13.50.170](#) (Permit transfer). (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.150 Permit conditions.

Users issued a wastewater discharge permit or general permit shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

- A. The baseline equivalent dwelling unit assigned the user, 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 average and maximum flow rate and time of discharge or requirements for flow regulations and equalization;
- D. Requirements for installation and maintenance of inspection and sampling facilities, pH control, and/or flow-monitoring systems;

- E. Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants (or BMP) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
- F. Requirements for submission of technical reports, production data, waste manifests, or discharge reports (see BMC [13.50.180](#));
- G. 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 city access thereto;
- H. 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;
- I. Requirements for notification of accidental or slug discharges;
- J. Installation and maintenance by the user at his own expense of pretreatment facilities necessary to meet the quality limits set forth in this chapter or as the city may require;
- K. 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;
- L. 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;
- M. 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 part;
- N. After commencement of operation of pretreatment 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;
- O. Submission to and approval by the city of plans, facilities and operating procedures to prevent accidental discharge of prohibited materials;
- P. Other conditions as deemed appropriate by the city to ensure compliance with this chapter;
- Q. A statement of permit duration and nontransferability, applicable effluent limits, applicable monitoring and reporting requirements, and a statement of applicable penalties;
- R. Effluent limits, including BMPs, based on applicable pretreatment standards;
- S. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state or local law;

T. Requirements to control accidental or slug discharges, if determined by the superintendent to be necessary;

U. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with BMC [13.50.180\(C\)\(4\)](#). (Ord. 10-02 § 1; 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 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. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.165 Permit reissuance.

A user with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with BMC [13.50.105](#) and [13.50.120](#), a minimum of 180 days prior to the expiration of the user's existing individual wastewater discharge permit or general permit. (Ord. 10-02 § 1).

13.50.170 Permit transfer.

Wastewater discharge permits and general permits are issued to a specific user for a specific operation. A wastewater discharge permit or general 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. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.175 Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in [40 CFR Part 136](#) using a state or national certified lab and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If [40 CFR Part 136](#) does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by the EPA. (Ord. 10-02 § 1).

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 as described in subsection (D)(5) and BMC [13.50.120\(A\)\(3\)](#) and (6). For users subject to equivalent mass or concentration limits established in accordance with the procedures in [40 CFR](#)

[403.6\(c\)](#), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. The compliance reports must be signed by an authorized representative of the industrial user, and certified in accordance with subsection (E) of this section.

B. Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by subsection (D)(7) of this section or BMC [13.50.150\(F\)](#):

1. The schedule shall contain progress increments 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 (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).
2. No increment referred to above shall exceed nine months.
3. The user shall submit a progress report to the superintendent no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.
4. In no event shall more than nine months elapse between such progress reports to the superintendent.

C. Periodic Compliance Reports.

1. All SIUs (except a nonsignificant categorical user), and any IUs designated by the superintendent, at a frequency determined by the city, shall submit no less than twice per year reports indicating the nature and concentration of pollutants in the effluent discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. Each report is due to the superintendent within 30 days of the last day of the reporting period, one reporting period representing January through June and the other July through December. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the user must submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user. 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 is appropriate. In such cases, the report required by subsection (C)(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 must be performed by a state-certified laboratory using methods approved in [40 CFR Part 136](#) and amendments thereto or with any other test procedures approved by the superintendent or approval authority. Sampling shall be performed in accordance with the techniques approved by the superintendent or designee.
3. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the

appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in BMC [13.50.175](#), the results of this monitoring shall be included in the report.

4. The city may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

- a. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility; provided, that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
- b. The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit or general permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit or general permit. See BMC [13.50.120\(A\)\(8\)](#).
- c. In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
- d. The request for a monitoring waiver must be signed in accordance with BMC [13.50.020\(C\)](#), and include the certification statement in subsection (E)(1) of this section.
- e. Nondetectable sample results may be used only as a demonstration that a pollutant is not present if the EPA-approved method from [40 CFR Part 136](#) with the lowest minimum detection level for that pollutant was used in the analysis.
- f. Any grant of the monitoring waiver by the superintendent must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the superintendent for three years after expiration of the waiver.
- g. Upon approval of the monitoring waiver and revision of the user's permit by the superintendent, the industrial user must certify on each report with the statement in subsection (F) of this section that there has been no increase in the pollutant in its waste stream due to activities of the industrial user.
- h. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of subsection (C)(1) of this section, or other more frequent monitoring requirements imposed by the superintendent, and notify the superintendent.
- i. This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

5. The city may reduce the requirement for periodic compliance reports to report no less frequently than once a year, unless required more frequently in the pretreatment standard or by the state, where the

industrial user's total categorical wastewater flow does not exceed any of the following:

- a. The POTW's value for 0.01 percent of the design dry-weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow-monitoring device unless the industrial user discharges in batches;
- b. The POTW's value for 0.01 percent of the design dry-weather organic treatment capacity of the POTW; and
- c. The POTW's value for 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standard for which approved local limits were developed in accordance with BMC [13.50.075](#).

Reduced reporting is not available to industrial users that have in the last two years been in significant noncompliance, as defined in BMC [13.50.020](#). In addition, reduced reporting is not available to an industrial user with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the superintendent, decreasing the reporting requirement for this industrial user would result in data that are not representative of conditions occurring during the reporting period.

D. 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 under [40 CFR 403.6\(a\)\(4\)](#), 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 403.12\(b\)](#), including but not limited to the following.

1. Identifying information including name, address of the facility, operator and owners.
2. A list of any environmental control permits held by or for the facility.
3. A brief description of the nature, average rate of production, and SIC/NAICS codes of the operation(s) carried out by the industrial user. The description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.
4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams as necessary to allow use of the combined waste stream formula in [40 CFR 403.6\(e\)](#). The superintendent may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.
5. Measurement of Pollutants.
 - a. The user shall identify the pretreatment standards applicable to each regulated process.
 - b. The user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the superintendent) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard requires compliance with a BMP, the user shall submit documentation as required by the superintendent or applicable standards to determine compliance with the standard.
 - c. The user shall take a minimum of one representative sample to compile that data necessary to

comply with the requirements of this subsection.

d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentration necessary to allow use of the combined waste stream formula in [40 CFR 403.6\(e\)](#) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with [40 CFR 403.6\(e\)](#) this adjusted limit along with supporting data shall be submitted to the superintendent.

e. Sampling and analysis shall be performed in accordance with BMC [13.50.175](#).

f. The superintendent may allow the submission of a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

g. The baseline report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

6. Compliance Certification. A statement, reviewed by the user's authorized representative as defined in BMC [13.50.020](#) 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 to meet the pretreatment standards and requirements.

7. Compliance Schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or operation and maintenance must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule must meet the requirements in [40 CFR 403.12\(b\)\(7\)](#).

8. All baseline monitoring reports must be certified in accordance with subsection (E) of this section and signed by an authorized representative as defined in BMC [13.50.020](#).

E. Statement Required/Data Accuracy Certification.

1. Each report requires a statement, reviewed by an authorized representative of the industrial user, as defined in BMC [13.50.020](#), 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 reports to the city:

I have personally examined and am familiar with the information submitted in the attached document, and I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

2. A facility determined to be a nonsignificant categorical industrial user by the superintendent pursuant to BMC [13.50.020](#) must annually submit the signed certification statement as follows:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under [40 CFR](#) _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial user as described in BMC [13.50.020](#); (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

F. Certification of Pollutants Not Present. Users that have an approved monitoring waiver based on subsection (C)(4) of this section must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for [40 CFR](#) _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 13.50.180C.

G. 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.

H. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge. (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.183 Sample Collection.

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in subsections (B) and (C) of this section, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW. Where time-proportional composite sampling or grab sampling is authorized by the POTW, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in [40 CFR Part 136](#) and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the POTW, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in BMC [13.50.180](#)(A) and (D), a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the POTW may authorize a lower minimum. For the reports required by BMC [13.50.180](#)(C), the user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements. (Ord. 10-02 § 1).

13.50.185 Recordkeeping requirements.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established by the city in its chapter, in general permits or in individual wastewater discharge permits, to implement local limits and the requirements of BMC [13.50.040](#). Recordkeeping requirements are as follows:

A. Industrial users shall maintain records of all information resulting from any monitoring activities required. Such records shall include for all samples:

1. The date, exact place, method, and time of sampling and the names of the person or persons taking the samples or chain of custody;
2. The dates analyses were performed;
3. Who performed the analyses;
4. The analytical techniques/methods used; and
5. The results of such analyses.

B. Industrial users are required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required) and shall make such records available for inspection and copying by the city. This period shall be automatically extended for the duration of any unresolved litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the city. (Ord. 10-02 § 1).

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, 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 ninety days following written notification by the city. (Ord. 10-02 § 1;

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

13.50.200 Right of entry – Inspection and sampling.

The superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. The superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated according to manufacturer's specification to ensure accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.

E. Unreasonable delays in allowing the superintendent access to the user's premises shall be a violation of this chapter. (Ord. 10-02 § 1; 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.

All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request. (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.215 POTW requirements.

A. The city will notify users 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 maintain a list of industrial users that meet the definition of “significant” or “nonsignificant,” identifying the criteria that placed the user on the list, and submit the list periodically to the approval authority indicating which industrial users should not be considered significant. (Ord. 10-02 § 1; 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, in accordance with [40 CFR Part 2](#) 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 and other effluent data, as defined in [40 CFR 403.14\(b\)](#), shall not be recognized as confidential information and shall be available to the public without restriction. (Ord. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.230 Emergency suspensions.

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

B. Any user notified of a suspension of the water service, wastewater treatment service, and/or the wastewater discharge permit or general 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. Any user that 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. 10-02 § 1; Ord. 92-1 N.S. § 1, 1992; Ord. 91-1 N.S., 1991).

13.50.240 Permit – Enforcement – Termination of permit.

Any user who violates the following conditions is subject to water service suspension or permit 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;
- E. Violation of the pretreatment standards and applicable state and federal law.

Noncompliant industrial users will be notified of the proposed termination of their wastewater discharge permit or general permit and be offered an opportunity to show cause or appeal under BMC [13.50.260](#) why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the IU. (Ord. 10-02 § 1; 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 user has violated or is violating this chapter, or a wastewater discharge permit or general permit or order issued hereunder, the superintendent or his duly authorized representative may serve upon said user written notice of 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. 10-02 § 1; Ord. 92-1 N.S. § 3, 1992; Ord. 91-1 N.S., 1991).

13.50.251 Notice of violation and repeat sampling.

If sampling performed by a wastewater discharge permittee indicates a violation, the user must notify the superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis within five days of becoming aware of the violation and submit the results of the repeat analysis to the superintendent within 30 days after becoming aware of the violation. Resampling by the user is not required if the city performs sampling at the user's facility at least once per month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the IU. (Ord. 10-02 § 1).

13.50.252 Enforcement – Administrative orders.

The superintendent is hereby empowered to issue administrative orders or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders will include specific action to be taken by the user including, but not limited to, installation of pretreatment equipment, or adoption of BMPs, or need for additional operation and maintenance personnel to correct the noncompliance within a time period also specified by the order. Administrative orders shall have the same force and effect as consent orders issued. (Ord. 10-02 § 1).

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. 10-02 § 1; 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 a violation of this chapter or wastewater discharge permit or general 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 thereof.

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. 10-02 § 1; 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. 10-02 § 1; 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. 10-02 § 1; 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. 10-02 § 1; 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 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. 10-02 § 1; 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 willfully 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. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.285 Enforcement – Civil/criminal remedies – Administrative fines.

Notwithstanding any other section of this chapter, any person who discharges any wastes or pollutants, as defined in California Water Code Section [13050](#), except as permitted by waste discharge requirements, or who is found to have violated any provision of this chapter or permits and orders issued hereunder, or who refuses to comply with the requirements adopted pursuant to Section [13385](#) or [13387](#) of the Water Code, shall be subject to a civil/criminal penalty at least in the amount of \$250.00, but not to exceed \$25,000, for each day in which such discharge, violation, or refusal occurs. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, witness fees, court costs, court reporter fees, sample collection costs, and all other expenses of litigation incurred by the city and resulting from any action brought against a person found to have violated this part, or the orders, rules, regulations, and permits issued hereunder. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires. A lien against the user's property shall be sought for any unpaid charges, fees, or penalties. (Ord. 10-02 § 1; 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 – Appeal process.

Users desiring to dispute such fines or enforcement actions (including, but not limited to, notifications of violation, 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 or enforcement action. The superintendent shall convene a hearing on the matter within 15 days of receiving the request from the 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. 10-02 § 1; Ord. 92-1 N.S. § 11, 1992).

13.50.300 Violations – Misdemeanor.

A. Any person who knowingly makes 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 discharge permit or general permit, or who falsifies, tampers with, or knowingly renders 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 willfully 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. 10-02 § 1; 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. 10-02 § 1; 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. 10-02 § 1; 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. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.325 Enforcement.

The remedies provided for in this chapter are not exclusive. The city may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. (Ord. 10-02 § 1).

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. 10-02 § 1; 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. 10-02 § 1; Ord. 91-1 N.S., 1991).

13.50.360 Publication of industrial users in significant noncompliance.

The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the IUs which, at any time during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment standards and requirements. The term “SNC” shall be applicable to all SIUs (or any other IU that violates subsections (C), (D) or (H) of this section), and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in [BMC 13.50.040](#);
- B. Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits as defined by [BMC 13.50.040](#), multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a pretreatment standard or requirement as defined in this chapter (daily maximum, monthly average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment

program. (Ord. 10-02 § 1).

¹ Prior ordinance history: Ords. 88-13 N.S. and 90-11 N.S.

The Benicia Municipal Code is current through Ordinance 18-21, passed November 20, 2018.

Disclaimer: The City Clerk's Office has the official version of the Benicia Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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](#).

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).

The Benicia Municipal Code is current through Ordinance 18-21, passed November 20, 2018.

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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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Chapter 15.04 CALIFORNIA BUILDING CODE¹

Sections:

- [15.04.010](#) Adoption by reference.
- [15.04.020](#) Copies on file.
- [15.04.030](#) Amendments made in the California Building Code.

15.04.010 Adoption by reference.

The 2016 Edition of the California Building Code, Volumes 1 and 2, which incorporate the 2015 Edition of the International Building Code, including Appendix Chapters G (Flood Resistive Construction), H (Signs) and I (Patio Covers), as published by the International Code Council and as adopted by the California Building Standards Commission in Title 24, Part 2 of the California Code of Regulations, is adopted by reference as though fully set forth in this chapter.

Chapter 1, Division II of the 2016 California Building Code is adopted in its entirety as the administrative provision of this division and is applicable to all codes enlisted in this division, unless specifically modified and amended. (Ord. 17-11 § 4; Ord. 13-14 § 4; Ord. 10-05 § 1; Ord. 08-08 § 1).

15.04.020 Copies on file.

One copy of the California Building Code and appendices 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. 13-14 § 4; Ord. 10-05 § 1; Ord. 08-08 § 1).

15.04.030 Amendments made in the California Building Code.

The 2016 California Building Code, Volume 1, is amended by the changes, additions, and deletions set forth as follows (section numbers used below are those of the 2016 California Building Code):

A. Section 101.1 (Title) of Part 1 (Scope and Application) of Division II (Scope and Administration) is amended in its entirety to read as follows:

Section 101.1 Title. These regulations shall be known as the Building Code of the City of Benicia, herein after referred to as "this code."

B. Subsection 101.4.3 (Plumbing) of Part 1 (Scope and Application) of Division II (Scope and Administration) is amended in its entirety to read as follows:

101.4.3 Plumbing. The provisions of the California Plumbing Code shall apply to the installation, alteration, repair, and replacement of plumbing systems, including equipment, appliance, fixtures, fittings and appurtenances, and where connection to a water or sewage system and all aspects of a medical gas system.

C. Subsection 101.4.4 (Property maintenance) of Part 1 (Scope and Application) of Division II (Scope and Administration) is amended in its entirety to read as follows:

101.4.4 Property maintenance The provisions of Title [8](#) (Health and Safety) and its chapters shall apply to existing structures and premises; equipment and facilities, light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

D. Section 102.6 (Existing structures) of Part 1 (Scope and Application) of Division II (Scope and Administration) is amended in its entirety to read as follows:

Section 102.6 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as otherwise specifically provided in this code, the California Existing Building Code, Title 8 (Health and Safety) of the Benicia Municipal Code or the California Fire Code.

E. Subsection 102.6.2 (Buildings previously occupied) of Part 1 (Scope and Application) of Division II (Scope and Administration) is amended in its entirety to read as follows:

102.6.2 Buildings previously occupied. The legal occupancy of any building existing on the date of adoption of this code shall be permitted to continue without change, except as otherwise specifically provided in this code, the California Fire Code or Title 8 (Health and Safety) of the Benicia Municipal Code.

F. Section 103.3 (Deputies) of Part 1 (Scope and Application) of Division II (Scope and Administration) is amended in its entirety to read as follows:

Section 103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plans examiners and other employees. Such employees shall have powers as delegated by the building official. For the maintenance of existing properties, see Title 8 (Health and Safety) of the Benicia Municipal Code.

G. Subsection 104.8.1 (Liability of City) is added to Section 104.8 (Liability) of Part 1 (Scope and Application) of Division II (Scope and Administration) to read as follows:

104.8.1 Liability of City. This Title shall not be construed to impose on the City any liability or responsibility for damage resulting from defective building, plumbing, mechanical or electrical work; nor shall the City, or any official or employee of the city, be held to assume this liability or responsibility because of the inspection authorized under this title. The issuance of a building permit under this title shall not be construed as a determination by the City that the permittee has legally sufficient proprietary rights to perform the work on the property for which the permit has been issued nor shall it be construed as permission or license to enter on, occupy or otherwise utilize private or non-City property without the express consent of the owner or agent in possession thereof.

H. Section 105.5 (Expiration) of Part 1 (Scope and Application) of Division II (Scope and Administration) is amended in its entirety to read as follows:

Section 105.5 Expiration. 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, structure, equipment or work authorized by such permit is not commenced within 180 days from the date of issuance of such permit, or if the building, structure, equipment or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work. In order to renew action on a permit after expiration, the permittee shall pay one-half of the full fee for a new permit as adopted by city council resolution.

Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time frame required by this section for good and satisfactory reasons. The building official is authorized to grant, in

writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated and a fee adopted by city council resolution shall be required.

I. Section 107.6 (Standard plans) is added to Part 1 (Scope and Application) of Division II (Scope and Administration) to read as follows:

107.6 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 check fee established by city council resolution. When it is desired to use an approved "standard plan" for an identical structure, three plot plans shall be submitted, and plan-checking fee equal to one-half of the full plan-checking fee established by resolution of the City Council 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 [A] 107.3.1. 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 [A] 107. 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. The code in effect when the plan review application is submitted and the plan review fee paid shall be the governing code.

J. Subsection 111.5 (Occupancy violations) is added to Section 111 (Certificate of occupancy) of Part 1 (Scope and Application) of Division II (Scope and Administration) to read as follows:

111.5 Occupancy violations. Whenever any building or residential dwelling, structure or equipment regulated by this code is being used contrary to the provisions of this code, the building official may order such use discontinued and the structure, building or equipment, or portion thereof vacated by serving notice on any person causing or responsible for the violation. Such person shall discontinue the use within the time prescribed by the building official and shall take all necessary steps to make the structure, building or equipment, or portion thereof, comply with the requirements of this code.

K. Section 113 (Board of appeals) of Part 1 (Scope and Application) of Division II (Scope and Administration) is amended to add the following subsections:

113.4 Right to appeal. Statements regarding rights of appeal shall include:

a. That any person having any record title or legal interest in the building may appeal from notice and order or any action of the building official, fire code official or health officer to the Building Board of Appeals, provided the appeal is made in writing and filed with the building official in accordance with Benicia Municipal Code Section 1.44; and

b. That failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

113.4.1 Extension of time to perform work. Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

113.4.2 Summary abatement.

a. If a declared dangerous building is not completely abated by the owner of the property within the time prescribed by the Director of the Community Development Department or authorized agent, city staff may request from City Council the authority and funding to cause the dangerous building to be abated by city personnel or private contract. In furtherance of this section, the Director of the Community Development Department or designated agent is expressly authorized to enter upon the premises for the purpose of abating the dangerous building.

b. Where required by state or federal law, a warrant shall be obtained prior to entry onto the premises for the purpose of abating the nuisance, unless written consent to enter is received from the owner or occupant of the premises or warrantless entry is otherwise permissible under state or federal law. Where a warrant is required, notice shall be given to the owner or occupant of the issuance of the warrant twenty-four (24) hours prior to the entry, unless the warrant provides otherwise.

113.4.3 Cost of abatement.

a. The Director of the Community Development Department or designee shall keep an accounting of the costs and expenses of abating such dangerous building, and shall render a statement of such costs to the person or persons receiving the notice and order.

b. Such person or persons receiving the notice and order shall be liable to the City for any and all costs and expenses to the City involved in abating the violation.

c. Costs and expenses as referred to in these Sections shall include but are not limited to, any and all direct costs related to personnel salaries and benefits, operational overhead, fees for experts, consultants or contractors, legal costs or expenses including attorney fees, claims against the City arising as a consequence of the dangerous building and procedures associated with collecting moneys due hereunder.

113.4.4 Assessment of Costs-Lien against property. The total cost of abating a dangerous building shall constitute a special assessment against the premises to which it relates, and upon recordation in the office of the County Recorder of a notice of lien, shall constitute a lien on the property for the amount of such assessment.

After such recordation, a copy of the lien may be turned over to the County Assessor, who shall then enter the amount of the lien on the assessment rolls as a special assessment. Thereafter, said amount shall 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 under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

After such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

113.4.5 Alternative enforcement. Nothing in this chapter shall be deemed to prevent the City Attorney or District Attorney from commencing with any other available civil or criminal proceedings to abate a dangerous building under applicable provision of state law as an alternative to the proceedings set forth in this chapter.

L. Section [A] 114 (Unlawful Act) of Part 1 (Scope and Application) of Division II (Scope and Administration) is amended to add the following subsection:

114.5 Violation a Public Nuisance. It is declared that any violation of Title [15](#) (including the CBC, CPC, CMC, CRC, CEC) or other state building codes constitutes a public nuisance. In addition to any other remedies this code provides for enforcement, the city may bring civil suit to enjoin violation of its provisions, or use any other remedy provided by law.

M. Section 115.3 (Unlawful continuance) of Part 1 (Scope and Application) of Division II (Scope and Administration) is amended as follows:

Section 115.3 Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to a fine of not more than what is prescribed in City of Benicia Municipal Code, Title 1, Chapter 8 (General Penalty) Section [1.08.030](#) (Penalty).

N. Section 501.2 of Chapter 5 (General building heights and areas) is amended to read as follows:

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.

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.

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.

O. Subsection 1505.15 (Shingles and Shakes) is added to Chapter 15 (Roof Assemblies and Roof Top Structures) to read as follows:

1505.15 Shingles and shakes. All new roof coverings shall be a class B or better roof covering assembly as defined by CBC 1505.

P. Subsection 2509.3 (Gypsum board in showers and water closets) of Chapter 25 (Gypsum board and plaster) is amended by adding the following:

4. Gypsum board in showers and water closets. Paper-backed gypsum board products shall not be used as a backer for tile in showers and bathtub areas.

(Ord. 17-11 § 5; Ord. 16-03 § 1; Ord. 13-14 § 4; Ord. 10-05 § 1; Ord. 08-08 § 1).

¹ Prior legislation: Ords. 87-6, 87-25, 88-15, 93-6, 95-15, 98-2, 99-11, 02-4 and 07-07.

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Chapter 15.12

CALIFORNIA PLUMBING CODE¹

Sections:

- [15.12.010](#) Adoption by reference.
- [15.12.020](#) Copies on file.
- [15.12.030](#) Amendments made in the California Plumbing Code.

15.12.010 Adoption by reference.

The 2016 Edition of the California Plumbing Code, which incorporates the 2015 Uniform Plumbing Code, including Appendix Chapter I (Installation Standard for PEX Tubing Systems for Hot-and-Cold-Water Distribution), which incorporates the International Plumbing Code, as published by the International Code Council and as adopted by the California Building Standards Commission in Title 24, Part 5 of the California Code of Regulations, is adopted by reference the same as though fully set forth in this chapter. (Ord. 17-11 § 8; Ord. 13-14 § 6; Ord. 10-05 § 1; Ord. 08-10 § 1).

15.12.020 Copies on file.

One copy of the California Plumbing Code and appendices 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. (Ord. 13-14 § 6; Ord. 10-05 § 1; Ord. 08-10 § 1).

15.12.030 Amendments made in the California Plumbing Code.

The 2016 California Plumbing Code is amended by the changes, additions, and deletions set forth below (section numbers used below are those of the 2016 California Plumbing Code):

A. Subsection 101.4 (Conflicts Between Codes) of Section 101 (General) of Chapter 1 (Administration), Division II (Administration), is amended in its entirety to read as follows:

101.4 Conflicts Between Codes. Where the requirements within the jurisdiction of this plumbing code conflict with the requirements of the mechanical code, this code shall prevail. In instances where the code, applicable standards, or the manufacturer's installation instructions conflict, the more stringent provisions shall prevail. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall prevail.

When conflicts occur between the administrative provisions of this code and the adopted provisions of California Building Code Chapter 1 (Scope and Administration), Division II (Administration), the provisions which have greater specificity shall apply.

Where conflicts occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

B. Chapter 710 (Sanitary drainage) is amended by adding subsection 710.1 (Sewage backwater) to read as follows:

710.1 Sewage backwater. Where a fixture is installed on a floor level that is lower than the next upstream manhole cover of the public or private sewer, serving such drainage piping, such fixtures shall be protected from backflow of sewage by installing an approved type of backwater valve or mushroom type device or other fixtures approved by the Building Official. Fixtures on floor levels above such level elevation shall not be discharged through the backwater valve. Cleanouts for drains that pass through a backwater valve shall

be clearly identified with a permanent label stating "Backwater Valve Downstream."

(Ord. 17-11 § 9; Ord. 13-14 § 6; Ord. 10-05 § 1; Ord. 08-10 § 1).

¹ Prior legislation: Ords. 87-6, 95-15, 99-11 and 02-4.

**The Benicia Municipal Code is current through Ordinance
18-21, passed November 20, 2018.**

Disclaimer: The City Clerk's Office has the official version of the Benicia Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.



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 m²).
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.